
Delaware Register of Regulations

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IN THIS ISSUE:

Regulations:

- Errata
- Emergency
- Proposed
- Final

General Notices

Calendar of Events &



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, 2020.

INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

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The *Delaware Register* will publish any regulations that are proposed to be adopted, amended or repealed and any emergency regulations promulgated.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
 - Agency Hearing and Meeting Notices
 - Other documents considered to be in the public interest.
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CITATION TO THE DELAWARE REGISTER

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

19 **DE Reg.** 1100 (06/01/16)

Refers to Volume 19, page 1100 of the *Delaware Register* issued on June 1, 2016.

SUBSCRIPTION INFORMATION

The cost of a yearly subscription (12 issues) for the *Delaware Register of Regulations* is \$135.00. Single copies are available at a cost of \$12.00 per issue, including postage. For more information contact the Division of Research at 302-744-4114 or 1-800-282-8545 in Delaware.

CITIZEN PARTICIPATION IN THE REGULATORY PROCESS

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and other interested parties may participate in the process by which administrative regulations are adopted, amended or repealed, and may initiate the process by which the validity and applicability of regulations is determined.

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file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the *Register of Regulations* pursuant to §1134 of this title.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

INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

953

The opportunity for public comment shall be held open for a minimum of 30 days after the proposal is published in the *Register of Regulations*. At the conclusion of all hearings and after receipt, within the time allowed, of all written materials, upon all the testimonial and written evidence and information submitted, together with summaries of the evidence and information by subordinates, the agency shall determine whether a regulation should be adopted, amended or repealed and shall issue its conclusion in an order which shall include: (1) A brief summary of the evidence and information submitted; (2) A brief summary of its findings of fact with respect to the evidence and information, except where a rule of procedure is being adopted or amended; (3) A decision to adopt, amend or repeal a regulation or to take no action and the decision shall be supported by its findings on the evidence and information received; (4) The exact text and citation of such regulation adopted, amended or repealed; (5) The effective date of the order; (6) Any other findings or conclusions required by the law under which the agency has authority to act; and (7) The signature of at least a quorum of the agency members.

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

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

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

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

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

CLOSING DATES AND ISSUE DATES FOR THE DELAWARE REGISTER OF REGULATIONS

ISSUE DATE	CLOSING DATE	CLOSING TIME
July 1	June 15	4:30 p.m.
August 1	July 15	4:30 p.m.
September 1	August 17	4:30 p.m.
October 1	September 15	4:30 p.m.
November 1	October 15	4:30 p.m.
December 1	November 16	4:30 p.m.

DIVISION OF RESEARCH STAFF

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TABLE OF CONTENTS

Cumulative Tables.....	956
------------------------	-----

ERRATA

DEPT. OF SAFETY AND HOMELAND SECURITY, Delaware Council on Police Training	
801 Regulations of the Delaware Council on Police Training.....	963

EMERGENCY

DEPT. OF AGRICULTURE, Delaware Nutrient Management Commission	
1201 Nutrient Management Certification Regulations.....	964
DEPT. OF HEALTH AND SOCIAL SERVICES, Division of Health Care Quality	
3201 Skilled and Intermediate Care Nursing Facilities.....	966
3225 Assisted Living Facilities.....	968
3230 Rest (Residential) Home Regulations.....	970
DEPT. OF LABOR, Division of Unemployment Insurance	
1202 Unemployment Insurance Regulations.....	972
DEPT. OF STATE, Division of Professional Regulation	
3300 Board of Veterinary Medicine.....	974

PROPOSED

DEPT. OF EDUCATION, Office of the Secretary	
401 Major Capital Improvement Programs.....	976
405 Minor Capital Improvement Programs.....	981
1150 School Transportation.....	984
Professional Standards Board	
1521 Elementary Teacher.....	986
1573 Teacher of Students with Autism or Students with Severe Intellectual Disabilities.....	992
DEPT. OF INSURANCE, Office of the Commissioner	
902 Prohibited Unfair Claim Settlement Practices.....	997
DEPT. OF LABOR, Division of Unemployment Insurance	
1202 Unemployment Insurance Regulations.....	1000
DEPT. OF NAT. RESOURCES AND ENVIRON. CONTROL, Division of Fish and Wildlife	
3503 Striped Bass Recreational Fishing Seasons; Methods of Take; Creel Limit; Possession Limit	1001
3504 Striped Bass Possession Size Limit; Exceptions.....	1001
DEPT. OF STATE, Division of Professional Regulation	
1900 Board of Nursing.....	1004
Public Service Commission	
8003 Natural Gas Service Reliability and System Planning Standards.....	1004
DEPT. OF TRANSPORTATION, Division of Transportation Solutions	
2404 Delaware Traffic Calming Design Manual.....	1007

TABLE OF CONTENTS

955

FINAL

DEPT. OF EDUCATION, Office of the Secretary

240 Recruiting and Training of Professional Educators for Critical Curricular Areas.....	1008
410 Satellite School Agreements.....	1014
615 School Attendance.....	1017
775 New Teacher Hiring Data Reporting.....	1018
804 Immunizations.....	1020
1006 Delaware Interscholastic Athletic Association (DIAA).....	1024
Professional Standards Board	
1508 Special Institute for Teacher Licensure and Certification.....	1025
1509 Meritorious New Teacher Candidate Designation.....	1028
1582 School Nurse.....	1031

DEPT. OF HEALTH AND SOCIAL SERVICES, Division of Health Care Quality

4469 Personal Assistance Services Agencies.....	1033
---	------

DEPT. OF NAT. RESOURCES AND ENVIRON. CONTROL, Division of Climate, Coastal, & Energy

2101 Regulations for State Energy Conservation Code.....	1036
Division of Fish and Wildlife	
3502 Striped Bass Spawning Season and Area Restrictions.....	1040
3516 Bluefish Possession Limits.....	1043

DEPT. OF STATE, Public Service Commission

4001 Rules for the Provision of Telecommunications Services (Dockets 10 and 45).....	1045
4005 Regulations for the Implementation of the Telecommunications Technology Investment Act (Docket 41).....	1048

GENERAL NOTICES

DEPT. OF STATE, Division of Professional Regulation

100 Board of Accountancy.....	1051
2000 Board of Occupational Therapy Practice.....	1051

CALENDAR OF EVENTS/HEARING NOTICES

Delaware River Basin Commission, Notice of Public Hearing and Business Meeting.....	1052
Dept. of Education, Notice of Monthly Meeting.....	1052
Dept. of Insurance; Office of the Commissioner; Notice of Public Hearing and Public Comment Period.....	1052
Dept. of Labor; Division of Unemployment Insurance; Notice of Public Comment Period.....	1053
Dept. of Nat. Resources and Environ. Control; Notice of Public Hearing and Public Comment Period.....	1053
Dept. of State; Division of Professional Regulation; Public Service Commission; Notice of Public Hearing and Public Comment Period.....	1054
Dept. of Transportation; Division of Transportation Solutions; Notice of Public Comment Period.....	1054

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

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

DELAWARE CRIMINAL JUSTICE INFORMATION SYSTEM

1301 Delaware Criminal Justice Information System Rules and Regulations..... 23 **DE Reg.** 144 (Prop.)

DELAWARE STATE FIRE PREVENTION COMMISSION

710 Ambulance Service Regulations..... 23 **DE Reg.** 504 (Prop.)

DEPARTMENT OF AGRICULTURE**Delaware Nutrient Management Commission**

1201 Nutrient Management Certification Regulations..... 23 **DE Reg.** 601 (Prop.)

23 **DE Reg.** 851 (Final)

Harness Racing Commission

501 Harness Racing Rules and Regulations..... 23 **DE Reg.** 340 (Prop.)

23 **DE Reg.** 556 (Final)

Plant Industries Section

805 Rules and Regulations for Delaware Domestic Hemp Production Program 23 **DE Reg.** 494 (Emer.)

23 **DE Reg.** 704 (Emer.)

Thoroughbred Racing Commission

1001 Thoroughbred Racing Rules and Regulations..... 23 **DE Reg.** 806 (Prop.)

DEPARTMENT OF EDUCATION**Office of the Secretary**

240 Recruiting and Training of Professional Educators for Critical Curricular Areas..... 23 **DE Reg.** 607 (Prop.)

251 Family Educational Rights and Privacy Act (FERPA)..... 23 **DE Reg.** 416 (Prop.)

258 Federal Programs General Complaint Procedures*..... 23 **DE Reg.** 645 (Final)

23 **DE Reg.** 343 (Prop.)

23 **DE Reg.** 557 (Final)

290 Approval of Educator Preparation Programs..... 23 **DE Reg.** 505 (Prop.)

23 **DE Reg.** 748 (Final)

292 Post Secondary Institutions and Degree Granting Institutions of Higher Education..... 23 **DE Reg.** 506 (Prop.)

23 **DE Reg.** 858 (Final)

410 Satellite cool Agreements..... 23 **DE Reg.** 708 (Prop.)

508 Multi-Tiered System of Support (MTSS)..... 23 **DE Reg.** 613 (Prop.)

545 K to 12 School Counseling Programs..... 23 **DE Reg.** 299 (Final)

603 Compliance with the Gun Free Schools Act..... 23 **DE Reg.** 147 (Prop.)

23 **DE Reg.** 368 (Final)

605 Student Rights and Responsibilities..... 23 **DE Reg.** 345 (Prop.)

23 **DE Reg.** 559 (Final)

609 District and School Based Intervention Services..... 23 **DE Reg.** 109 (Final)

611 Consortium Discipline Alternative Programs for Treatment of Severe Discipline Problems..... 23 **DE Reg.** 149 (Prop.)

23 **DE Reg.** 370 (Final)

614 Uniform Definitions for Student Conduct Which May Result in Alternative Placement or Expulsion..... 23 **DE Reg.** 507 (Prop.)

23 **DE Reg.** 751 (Final)

615 School Attendance..... 23 **DE Reg.** 347 (Prop.)

624 School District/Charter School Policy Prohibiting Cyberbullying.....	23 DE Reg. 263 (Prop.) 23 DE Reg. 561 (Final)
705 Leave for Training Camp or Special Duty in the National Guard or the Military Reserves of the United States.....	23 DE Reg. 111 (Final)
714 Professional Employee Work Stoppage or Strike.....	23 DE Reg. 153 (Prop.) 23 DE Reg. 375 (Rep.)
718 Health Examinations for Employees of School Districts, Charter Schools, and Alternative Programs.....	23 DE Reg. 265 (Prop.) 23 DE Reg. 447 (Rep.) 23 DE Reg. 154 (Prop.)
725 School Administrator Contracts and Agreements.....	23 DE Reg. 154 (Prop.)
734 Financial Responsibility Training for District School Board, Charter School Board and Citizen Budget Oversight Committee Members.....	23 DE Reg. 266 (Prop.) 23 DE Reg. 648 (Final) 23 DE Reg. 349 (Prop.) 23 DE Reg. 563 (Final)
735 Standardized Financial Reporting and Transparency.....	23 DE Reg. 563 (Final)
742 Compensation of School District and Charter School Personnel Under Federal Projects.....	23 DE Reg. 351 (Prop.) 23 DE Reg. 565 (Final) 23 DE Reg. 711 (Prop.)
775 New Teacher Hiring Date Reporting.....	23 DE Reg. 713 (Prop.)
804 Immunizations.....	23 DE Reg. 269 (Prop.)
805 The School Health Tuberculosis (TB) Control Program.....	23 DE Reg. 448 (Final) 23 DE Reg. 6 (Prop.) 23 DE Reg. 208 (Final) 23 DE Reg. 353 (Prop.) 23 DE Reg. 756 (Final) 23 DE Reg. 419 (Prop.) 23 DE Reg. 651 (Final)
815 Health Examinations and Screening.....	23 DE Reg. 651 (Final)
851 K to 12 Comprehensive Health Education Program.....	23 DE Reg. 356 (Prop.)
877 Tobacco Policy.....	23 DE Reg. 33 (Final)
881 Releasing Students to Persons Other Than Their Parent, Guardian or Relative Caregiver.....	23 DE Reg. 273 (Prop.) 23 DE Reg. 568 (Final) 23 DE Reg. 301 (Final) 23 DE Reg. 357 (Prop.) 23 DE Reg. 653 (Final) 23 DE Reg. 617 (Prop.)
901 Education of Homeless Children and Youth.....	23 DE Reg. 618 (Prop.)
902 Gifted or Talented Education Plan.....	23 DE Reg. 275 (Prop.)
917 Accelerated Academic Programs.....	23 DE Reg. 452 (Final) 23 DE Reg. 113 (Final) 23 DE Reg. 376 (Final) 23 DE Reg. 114 (Final) 23 DE Reg. 122 (Final) 23 DE Reg. 123 (Final) 23 DE Reg. 361 (Prop.) 23 DE Reg. 513 (Prop.) 23 DE Reg. 860 (Final) 23 DE Reg. 516 (Prop.) 23 DE Reg. 863 (Final)
920 Educational Programs for English Language Learners (ELLs).....	23 DE Reg. 617 (Prop.)
922 Children with Disabilities Subpart A, Purposes and Definitions.....	23 DE Reg. 618 (Prop.)
925 Children with Disabilities Subpart D, Evaluations, Eligibility Determination, Individualized Education Programs.....	23 DE Reg. 275 (Prop.)
930 Supportive Instruction (Homebound).....	23 DE Reg. 452 (Final) 23 DE Reg. 113 (Final) 23 DE Reg. 376 (Final) 23 DE Reg. 114 (Final) 23 DE Reg. 122 (Final) 23 DE Reg. 123 (Final) 23 DE Reg. 361 (Prop.) 23 DE Reg. 513 (Prop.) 23 DE Reg. 860 (Final) 23 DE Reg. 516 (Prop.) 23 DE Reg. 863 (Final)
1001 Participation in Extra Curricular Activities.....	23 DE Reg. 113 (Final)
1006 Delaware Interscholastic Athletic Association (DIAA).....	23 DE Reg. 376 (Final)
1007 DIAA Sportsmanship.....	23 DE Reg. 114 (Final)
1008 DIAA Junior High and Middle School Interscholastic Athletics.....	23 DE Reg. 122 (Final)
1009 DIAA High School Interscholastic Athletics.....	23 DE Reg. 123 (Final)
1150 School Transportation.....	23 DE Reg. 361 (Prop.)
1206 Speech Language Pathologist Incentive Loan Program.....	23 DE Reg. 513 (Prop.) 23 DE Reg. 860 (Final) 23 DE Reg. 516 (Prop.) 23 DE Reg. 863 (Final)
1207 Delaware Nursing Incentive Program.....	23 DE Reg. 863 (Final)
Professional Standards Board	
1501 Knowledge, Skills, and Responsibility Based Salary Supplements for Educators.....	23 DE Reg. 155 (Prop.) 23 DE Reg. 571 (Final) 23 DE Reg. 717 (Prop.)
1508 Special Institute for Teacher Licensure and Certification.....	23 DE Reg. 717 (Prop.)

1509 Meritorious New Teacher Candidate Designation.....	23 DE Reg. 719 (Prop.)
1510 Issuance of Initial License	23 DE Reg. 38 (Final)
1511 Issuance and Renewal of Continuing License.....	23 DE Reg. 40 (Final)
1513 Denial of Licenses and Permits.....	23 DE Reg. 760 (Final)
1515 Hearing Procedures and Rules.....	23 DE Reg. 764 (Final)
1516 Professional Standards Board Standing Committees.....	23 DE Reg. 572 (Final)
1521 Elementary Teacher.....	23 DE Reg. 421 (Prop.)
	23 DE Reg. 601 (Errata)
1522 Elementary School Counselor.....	23 DE Reg. 866 (Final)
	23 DE Reg. 278 (Prop.)
1545 Secondary School Counselor.....	23 DE Reg. 574 (Final)
	23 DE Reg. 285 (Prop.)
1549 Dance Teacher.....	23 DE Reg. 576 (Final)
1558 Theater Teacher.....	23 DE Reg. 162 (Prop.)
1563 Music Teacher.....	23 DE Reg. 167 (Prop.)
1571 Special Education Teacher of Students with Disabilities.....	23 DE Reg. 173 (Prop.)
1572 Teacher of Students Who Are Gifted or Talented.....	23 DE Reg. 808 (Prop.)
1582 School Nurse.....	23 DE Reg. 914 (Prop.)
1595 Certification Programs for Leaders in Education.....	23 DE Reg. 721 (Prop.)
	23 DE Reg. 771 (Final)

DEPARTMENT OF ELECTIONS**Office of the State Election Commissioner**

101 Procedures for Addressing Post-Election Voting Machine Audit Discrepancies.....	23 DE Reg. 727 (Prop.)
--	------------------------

DEPARTMENT OF FINANCE**Office of the State Lottery**

204 Delaware Sports Lottery Rules and Regulations.....	23 DE Reg. 42 (Final)
--	-----------------------

DEPARTMENT OF HEALTH AND SOCIAL SERVICES**Delaware Health Care Commission**

Delaware Health Insurance Individual Market Stabilization Reinsurance Program and Fund.....	23 DE Reg. 178 (Prop.)
	23 DE Reg. 455 (Final)

Division of Developmental Disabilities Services

2103 Reportable Incident Management and Corrective Measures.....	23 DE Reg. 182 (Prop.)
--	------------------------

Division of Health Care Quality

3320 Intensive Behavioral Support and Educational Residence.....	23 DE Reg. 43 (Final)
3325 Financial Capability Reporting.....	23 DE Reg. 45 (Final)
	23 DE Reg. 814 (Prop.)
3335 Office-Based Surgery.....	23 DE Reg. 125 (Final)
4404 Free Standing Emergency Centers.....	23 DE Reg. 9 (Prop.)
	23 DE Reg. 817 (Prop.)
4469 Personal Assistance Services Agencies.....	23 DE Reg. 818 (Prop.)

Division of Medicaid and Medical Assistance

Acute Inpatient Hospital Readmission Claims.....	23 DE Reg. 186 (Prop.)
Documentation of State Residency: DSSM 14110 and 14340.....	23 DE Reg. 83 (Prop.)
	23 DE Reg. 303 (Final)
DSSM 80000 - Authorization and Regulation of Medicaid/CHIP Accountable Care Organizations.....	23 DE Reg. 428 (Prop.)
	23 DE Reg. 659 (Final)
Medicaid Long Term Care Program - Community Spouse: DSSM 20910.....	23 DE Reg. 526 (Prop.)
	23 DE Reg. 871 (Final)
Over-the-Counter Drugs Without a Prescription.....	23 DE Reg. 10 (Prop.)
	23 DE Reg. 211 (Final)

PRTFs – Provision of EPSDT Services.....	23 DE Reg. 46 (Final)
SSI Related Programs: DSSM 17000.....	23 DE Reg. 127 (Final)
Title XIX Medicaid State Plan - Adult Dental.....	23 DE Reg. 523 (Prop.)
Title XIX Medicaid State Plan - Drug Utilization Review (DUR).....	23 DE Reg. 184 (Prop.) 23 DE Reg. 427 (Prop.) 23 DE Reg. 657 (Final)
Title XIX Medicaid State Plan - Excluded Earnings of Temporary Census Workers.....	23 DE Reg. 193 (Prop.) 23 DE Reg. 466 (Final)
Title XIX Medicaid State Plan - Licensed Chemical Dependency Professionals & Art Therapist.....	23 DE Reg. 820 (Prop.)
Title XIX Medicaid State Plan - Non-Emergency Medical Transportation (NEMT)	23 DE Reg. 519 (Prop.)
Title XIX Medicaid State Plan - Prescribed Drugs - Obesity Drugs.....	23 DE Reg. 191 (Prop.) 23 DE Reg. 464 (Final)
Title XIX Medicaid State Plan - Telehealth Services Originating Site Fees.....	23 DE Reg. 188 (Prop.) 23 DE Reg. 461 (Final)
Title XXI Delaware Healthy Children Program State Plan - Children’s Health Insurance Program (CHIP).....	23 DE Reg. 51 (Final)
Title XXI Delaware Healthy Children’s Program State Plan - Health Services Initiatives - Vision Services - School-Based Initiative.....	23 DE Reg. 528 (Prop.)
Division of Public Health	
4107 Screening of Newborn Infants for Metabolic, Hematologic, Endocrinologic, and Certain Structural Disorders.....	23 DE Reg. 195 (Prop.) 23 DE Reg. 378 (Final)
4202 Control of Communicable and Other Disease Conditions.....	23 DE Reg. 431 (Prop.) 23 DE Reg. 665 (Final)
4452 Clean Indoor Air Act.....	23 DE Reg. 12 (Prop.) 23 DE Reg. 213 (Final)
4455 Delaware Regulations Governing a Detailed Plumbing Code.....	23 DE Reg. 200 (Prop.) 23 DE Reg. 384 (Final)
4458 State of Delaware Food Code Regulations.....	23 DE Reg. 432 (Prop.)
4458A Cottage Food Regulations.....	23 DE Reg. 52 (Final)
4463 Licensing and Registration of Operators of Public Water Supply Systems	23 DE Reg. 729 (Prop.) 23 DE Reg. 928 (Final)
4465 Delaware Radiation Control Regulations.....	23 DE Reg. 89 (Prop.) 23 DE Reg. 306 (Final)
4470 State of Delaware Medical Marijuana Code.....	23 DE Reg. 362 (Prop.) 23 DE Reg. 433 (Prop.) 23 DE Reg. 667 (Final)
Division of Social Services	
Case Processing Procedures - Burial Assistance & Fraudulent Receipt of Benefits in Multiple States: DSSM 2020 and 2024.....	23 DE Reg. 827 (Prop.)
Child Care Subsidy Program Terms: DSSM 11002.....	23 DE Reg. 539 (Prop.)
Child Care Subsidy Program: DSSM 11006.....	23 DE Reg. 624 (Prop.) 23 DE Reg. 878 (Final)
Determination of Child Care - Parents Under Age 18: DSSM 11003.9.4.....	23 DE Reg. 292 (Prop.) 23 DE Reg. 577 (Final)
Determining Special Needs and Income Eligibility for Child Care: DSSM 11003	23 DE Reg. 531 (Prop.)
DSS Application Process: DSSM 2000.....	23 DE Reg. 53 (Final)
Income Reporting Requirements for Child Care: DSSM 11003.....	23 DE Reg. 60 (Final)
POC - Determining and Reviewing Child Care: DSSM 11004.11.....	23 DE Reg. 98 (Prop.) 23 DE Reg. 388 (Final)
Supplemental Nutrition Assistance Program Employment and Training (SNAP E&T): DSSM 10001.....	23 DE Reg. 619 (Prop.) 23 DE Reg. 873 (Final)
TANF CMR School Attendance Requirement: DSSM 3012.....	23 DE Reg. 89 (Prop.) 23 DE Reg. 384 (Final)

TANF and GA Eligibility - Excluded Income: DSSM 4006.....	23 DE Reg. 92 (Prop.)
Temporary Assistance for Needy Families (TANF) - CMR: DSSM 3000.....	23 DE Reg. 308 (Final) 23 DE Reg. 63 (Final)
DEPARTMENT OF INSURANCE	
Office of the Commissioner	
606 Proof of Automobile Insurance.....	23 DE Reg. 628 (Prop.) 23 DE Reg. 929 (Final)
802 Delaware Workplace Safety Regulation.....	23 DE Reg. 434 (Prop.) 23 DE Reg. 676 (Final)
902 Prohibited Unfair Claim Settlement Practices.....	23 DE Reg. 920 (Prop.)
903 Prompt Payment of Settled Claims [Formerly Regulation 81].....	23 DE Reg. 730 (Prop.) 23 DE Reg. 831 (Prop.)
1101 Listed Surplus Lines Carriers Intending to Establish an Office in Delaware	23 DE Reg. 102 (Prop.) 23 DE Reg. 310 (Final)
1313 Arbitration of Health Insurance Disputes Between Carriers and Providers	23 DE Reg. 312 (Final)
1319 Arbitration of Disputes Between Carriers and Primary Care and Chronic Care Management Providers.....	23 DE Reg. 314 (Final) 23 DE Reg. 922 (Prop.)
1410 Reporting Medical Management Protocols for Insurance Coverage for Serious Mental Illness and Drug And Alcohol Dependency.....	23 DE Reg. 316 (Final)
1411 Registration of Pharmacy Benefits Managers.....	23 DE Reg. 834 (Prop.)
1801 Insurance Holding Company System Regulation With Reporting Forms and Instructions.....	23 DE Reg. 317 (Final)
2001 Insurance Premium Finance Companies.....	23 DE Reg. 129 (Final)
DEPARTMENT OF JUSTICE	
Fraud and Consumer Protection Division	
Rules Pursuant to the Delaware Securities Act.....	23 DE Reg. 540 (Prop.) 23 DE Reg. 776 (Final)
DEPARTMENT OF LABOR	
Division of Unemployment Insurance	
1201 Unemployment Insurance Appeal Board Regulations.....	23 DE Reg. 802 (Emer.)
DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL	
Division of Air Quality	
1124 Control of Volatile Organic Compound Emissions.....	23 DE Reg. 438 (Prop.)
1125 Requirements for Preconstruction Review.....	23 DE Reg. 201 (Prop.) 23 DE Reg. 579 (Final)
1150 Outer Continental Shelf Air Regulations.....	23 DE Reg. 319 (Final)
1151 Prohibitions on Use of Certain Hydrofluorocarbons in Specific End-Uses	23 DE Reg. 841 (Prop.)
Division of Climate, Coastal & Energy	
2101 Regulations for State Energy Conservation Code.....	23 DE Reg. 363 (Prop.)
Division of Fish and Wildlife	
3300 Non-Tidal Finfish: 3301 Definitions.....	23 DE Reg. 543 (Prop.) 23 DE Reg. 882 (Final)
3502 Striped Bass Spawning Season and Area Restrictions.....	23 DE Reg. 633 (Prop.)
3503 Striped Bass Recreational Fishing Seasons; Methods of Take; Creel Limit; Possession Limit.....	23 DE Reg. 705 (Emer.)
3504 Striped Bass Possession Size Limit; Exception.....	23 DE Reg. 705 (Emer.)
3505 Striped Bass Commercial Fishing Seasons; Quotas; Tagging and Reporting Requirements.....	23 DE Reg. 910 (Emer.)
3550 Cobia (<i>Rachycentron canadum</i>).....	23 DE Reg. 635 (Prop.) 23 DE Reg. 936 (Final)

3723 Jonah Crab (<i>Cancer Borealis</i>).....	23 DE Reg. 217 (Final)
3755 Lobsters.....	23 DE Reg. 217 (Final)
Division of Waste and Hazardous Substances	
1351 Underground Storage Tank Systems.....	23 DE Reg. 104 (Prop.)
Office of the Secretary	
101 Regulations Governing Delaware's Coastal Zone.....	23 DE Reg. 222 (Final)
	23 DE Reg. 322 (Final)
DEPARTMENT OF SAFETY AND HOMELAND SECURITY	
Delaware Council on Police Training	
801 Regulations of the Delaware Council on Police Training.....	23 DE Reg. 637 (Prop.)
	23 DE Reg. 939 (Final)
803 COPT Firearms Instructors Standards and Requirements.....	23 DE Reg. 638 (Prop.)
	23 DE Reg. 941 (Final)
Division of State Police	
1300 Board of Examiners of Private Investigators & Private Security Agencies	23 DE Reg. 440 (Prop.)
	23 DE Reg. 469 (Final)
2400 Board of Examiners of Constables.....	23 DE Reg. 226 (Final)
	23 DE Reg. 842 (Prop.)
5500 Bail Enforcement Agents.....	23 DE Reg. 72 (Final)
DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES	
Division of Family Services	
201 Child Placing Agencies.....	23 DE Reg. 233 (Final)
DEPARTMENT OF STATE	
Division of Corporations	
102 Business Entity Name Standards and Procedures.....	23 DE Reg. 105 (Prop.)
102 Business Entity Name Standards and Process.....	23 DE Reg. 323 (Final)
Division of Historical and Cultural Affairs	
901 Historic Preservation Tax Credit Program.....	23 DE Reg. 294 (Prop.)
	23 DE Reg. 470 (Final)
Division of Professional Regulation	
100 Board of Accountancy.....	23 DE Reg. 843 (Prop.)
1100 Board of Dentistry and Dental Hygiene.....	23 DE Reg. 844 (Prop.)
1770 Respiratory Care Practice Advisory Council.....	23 DE Reg. 366 (Prop.)
1900 Board of Nursing.....	23 DE Reg. 130 (Final)
	23 DE Reg. 296 (Prop.)
2000 Board of Occupational Therapy Practice.....	23 DE Reg. 682 (Final)
2900 Real Estate Commission.....	23 DE Reg. 733 (Prop.)
	23 DE Reg. 738 (Prop.)
2925 Real Estate Commission Education Committee.....	23 DE Reg. 443 (Prop.)
	23 DE Reg. 777 (Final)
2930 Council on Real Estate Appraisers.....	23 DE Reg. 846 (Prop.)
3100 Board of Funeral Services.....	23 DE Reg. 742 (Prop.)
Controlled Substance Advisory Committee	
Uniform Controlled Substance Act Regulations.....	23 DE Reg. 16 (Prop.)
Office of the State Bank Commissioner	
701 Procedures for Applications to Form a Bank, Bank and Trust Company or Limited Purpose Trust Company Pursuant to Chapter 7 of Title 5 of the Delaware Code.....	23 DE Reg. 17 (Prop.)
1103 Instructions for Preparation of Franchise Tax.....	23 DE Reg. 21 (Prop.)
	23 DE Reg. 236 (Final)
1110 Instructions for Preparation of Franchise Tax for Resulting Branches in this State of Out-of-State Banks.....	23 DE Reg. 26 (Prop.)

1110 Instructions for Preparation of Franchise Tax for Resulting Branches in this State of Out-of-State Banks.....	23 DE Reg. 241 (Final)
2301 Operating Regulation.....	23 DE Reg. 641(Prop.) 23 DE Reg. 885 (Final)
Public Service Commission	
1001 Rules of Practice and Procedure of the Delaware Public Service Commission.....	23 DE Reg. 778 (Final)
3007 Electric Service Reliability and Quality Standards.....	23 DE Reg. 444 (Prop.) 23 DE Reg. 888 (Final)
4001 Rules for the Provision of Telecommunications Services (Dockets 10 and 45).....	23 DE Reg. 545 (Prop.)
4005 Regulations for the Implementation of the Telecommunications Technology Investment Act (Docket 41).....	23 DE Reg. 552 (Prop.)
DEPARTMENT OF TRANSPORTATION	
Division of Planning	
2309 Development Coordination Manual.....	23 DE Reg. 203 (Prop.) 23 DE Reg. 392 (Final)
2312 Regulations Governing the Practice and Procedure for Administering the Transportation Infrastructure Investment Fund.....	23 DE Reg. 204 (Prop.) 23 DE Reg. 400 (Final)
Division of Transportation Solutions	
2405 Oversize/Overweight Hauling Permit Policy and Procedures Manual.....	23 DE Reg. 107 (Prop.) 23 DE Reg. 326 (Final)
OFFICE OF THE STATE TREASURER	
Division of Debt and Cash Management	
1201 Statement of Objectives and Guidelines for the Investment of State of Delaware Funds.....	23 DE Reg. 297 (Prop.) 23 DE Reg. 584 (Final)

DEPARTMENT OF SAFETY AND HOMELAND SECURITY DELAWARE COUNCIL ON POLICE TRAINING

Statutory Authority: 11 Delaware Code, Sections 8402 & 8404(a)(14) (11 Del.C. §§8402, 8404(a)(14))
1 DE Admin. Code 801

ERRATA

801 Regulations of the Delaware Council on Police Training

***Please Note:** The final regulation for 801 Regulations of the Delaware Council on Police Training as published in the May 1, 2020 issue of the *Delaware Register of Regulations* (23 DE Reg. 939) contained typographical errors in subsections 15.24.1 and 15.24.2. The existing regulatory language should have appeared as plain text, however it was inadvertently published as stricken text. The subsections are reprinted below with the error corrected.

801 Regulations of the Delaware Council on Police Training (Break in Continuity of Sections)

~~46-0~~ 15.0 Basic Curriculum

(Break in Continuity Within Section)

~~15.24~~ 15.24 Laws of Arrest, Laws of Evidence, and Search and Seizure - 40 Hours.

~~46-24.1~~ 15.24.1 This training covers the legal foundation of laws governing and limiting the police officer's authority in the areas of arrest. This treatment shall be afforded with respect to: (1) the laws of arrest with or without warrants, arrest for misdemeanors and arrest for felonies, the elements of probable cause, and the disposition of persons after lawfully arrested; (2) the law applicable to criminal interrogation and resultant confessions under the 5th, 6th, and 14th Amendments of the Federal Constitution and; (3) the application of constitutional safeguards to electronic surveillance, chemical, and serological evidence.

~~46-24.2~~ 15.24.2 The purpose of this course is to acquaint the recruit with the rules and law of evidence exercised in a court of law so that he/she may recognize what is legally admissible. He/she must be able to differentiate between the various types of evidence and be familiar with the rules concerning maintaining the chain of evidence. This course covers the laws of search and seizure under the provisions of the 4th and 14th Amendments including the exclusionary rule and the elements of a "reasonable" search and seizure of persons (a) incidental to arrest; (b) under a search warrant; (c) with consent.

***Please Note:** The full text of the final regulation is not being republished. Please see 23 DE Reg. 939 for the final amendments to 801 Regulations of the Delaware Council on Police Training. A copy of the final regulation is available at:

<http://regulations.delaware.gov/register/may2020/final/23 DE Reg 939 05-01-20.htm>

Symbol Key

Arial 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.

Emergency Regulations

Under 29 **Del.C.** §10119 an agency may promulgate a regulatory change as an Emergency under the following conditions:

§ 10119. Emergency regulations.

If an agency determines that an imminent peril to the public health, safety or welfare requires the adoption, amendment or repeal of a regulation with less than the notice required by § 10115, the following rules shall apply:

(1) The agency may proceed to act without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable;

(2) The order adopting, amending or repealing a regulation shall state, in writing, the reasons for the agency's determination that such emergency action is necessary;

(3) The order effecting such action may be effective for a period of not longer than 120 days and may be renewed once for a period not exceeding 60 days;

(4) When such an order is issued without any of the public procedures otherwise required or authorized by this chapter, the agency shall state as part of the order that it will receive, consider and respond to petitions by any interested person for the reconsideration or revision thereof; and

(5) The agency shall submit a copy of the emergency order to the Registrar for publication in the next issue of the *Register of Regulations*. (60 Del. Laws, c. 585, § 1; 62 Del. Laws, c. 301, § 2; 71 Del. Laws, c. 48, § 10.)

DEPARTMENT OF AGRICULTURE

DELAWARE NUTRIENT MANAGEMENT COMMISSION

Statutory Authority: 3 Delaware Code, Section 101(2) and (3); 29 Delaware Code, Sections 8103(8) and 10119) (3 **Del.C.** §101(2) & (3) & 29 **Del.C.** §§8103(8) & 10119)
3 **DE Admin. Code** 1201

ORDER

1201 Nutrient Management Certification Regulations

WHEREAS, the Department of Agriculture (the "Department") has been charged by the Delaware legislature pursuant to 3 Del. C. § 101(2) & (3) with the power to devise and execute measures necessary for the development of the agricultural interests of the State and to make and adopt rules for the government of the Department of Agriculture; and

WHEREAS, the Centers for Disease Control and Prevention has determined that a novel coronavirus ("COVID-19") presents a serious public health threat, and on March 12, 2020 the Governor declared a State of Emergency due to the public health threat of COVID-19, which the Governor has since modified (the "COVID-19 State of Emergency"); and

WHEREAS, many Delaware poultry growers recently experienced catastrophic poultry mortalities, necessitating the implementation of a treatment system to adequately complete the composting of catastrophic poultry mortalities intended for future land application; and

WHEREAS, to provide an adequate supply of grown chickens to the poultry processing plants during the COVID-19 State of Emergency, Delaware poultry growers must be able to deviate from the State Technical Standards pertaining to Temporary Field Staging, Animal Mortality Facility, and Manure Incorporation that are incorporated by reference into the Delaware Nutrient Management Commission's regulations at 3 *Del. Admin.* § 1201.3.0; and

WHEREAS, the Secretary finds that adoption of an emergency regulation to govern the deviation from the State Technical Standards must occur on an emergency basis in order to properly protect the agricultural interests

of the State during the COVID-19 State of Emergency; and

WHEREAS, the Secretary will accept, consider and respond to petitions by any interested person for the reconsideration or revision of this regulation by addressing the same to the attention of Delaware Nutrient Management Commission, Department of Agriculture, 2320 South DuPont Highway, Dover, Delaware 19901; and

WHEREAS, in accordance with the provisions of 29 Del. C. § 10119(3), this Order shall be effective for 120 days from the date of execution and may be renewed once for a period not exceeding 60 days; and

WHEREAS, a copy of this Order will be submitted to the Registrar for publication in the next issue of the *Delaware Register of Regulations*.

NOW, THEREFORE, IT IS ORDERED this 13th day of May 2020 that the following "COVID-19 Emergency Provisions for Nutrient Management Program" shall take effect immediately.

1.1 COVID-19 Emergency Provisions for Nutrient Management Program.

The prohibition under the Temporary Field Staging, Animal Mortality Facility, and Manure Incorporation State Technical Standards against field staging or land applying uncured compost shall be suspended so long as such movement complies with the following directives:

1.1.1. Site selection.

The area for stockpiling should be well-drained with no standing water. Delaware regulations require that the specific field location of the poultry litter pile be used no more than once every two years, be located on high ground, and adhere to the following setback requirements:

1.1.1.1 100 feet from any public road and any surface water; and

1.1.1.2 200 feet from any home not located on the property and any domestic well; and

1.1.1.3 300 feet from any public water supply well.

1.1.2. Pile construction.

Proper piling, covering, and securing of composted material will improve the composting process and lessen the chances of odors, flies, and scavengers. Piles must adhere to the following requirements:

1.1.2.1 The base of the pile should have a 4" to 6" base of carbon or dry litter, free of compost material, that will serve to minimize leachate or seepage issues; and

1.1.2.2 The pile is to be conical in shape and should be no taller than 6' high with a base that should be 12' to 14' wide; and

1.1.2.3 The pile is to be capped with manure or carbon to insulate composting heat and ensure coverage of remaining tissue; and

1.1.2.4 The pile is to be covered with tarpaulin or compost fleece with the cover secured to withstand weather.

1.1.3. Maintenance

Compost material may be in a state of decomposition requiring more than a single composting heat. As such, following the initial two-week heat, the pile may need to be mixed and reformed onsite or in an adjacent pile according to the approved field staging regulations for manure.

1.1.4. Duration

Delaware regulations authorize temporary field staging to occur for up to 120 days, but authorization for longer periods (up to 180 days) will be permitted on a case by case basis. This will allow the compost material to be best utilized as a soil amendment. Any farmer or landowner that is likely to have composting material field staged for a period longer than 120 days must obtain written permission from the Delaware Department of Agriculture at least 5 days before the expiration of the staging period.

1.1.5. Mitigation of negative impacts

When moving partially composted material from the poultry house to field storage, careful site selection should be made to mitigate negative impacts of odor, flies, scavengers and adverse aesthetics near or in view of the pile.

1.1.6. Hauling of composted material without spillage.

When moving partially composted material from the poultry house to field storage, material needs to be hauled and delivered without spillage by covering loads to prevent manure loss.

APPROVED this 13th day of May 2020.

Michael T. Scuse
Secretary of Agriculture

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF HEALTH CARE QUALITY

Statutory Authority: 16 Delaware Code, Section 1119C and 29 Delaware Code, Section 10119
(16 Del.C. §1119C & 29 Del.C. §10119)
16 DE Admin. Code 3201

SECRETARY'S ORDER

Pursuant to 16 Del.C. §1119C and 29 Del.C. §10119 to Paragraph 2(d) of the Governor's Eighth Modification of the Declaration of a State of Emergency for the State of Delaware Due to a Public Health Threat, and pursuant

3201 Skilled and Intermediate Care Nursing Facilities

AUTHORITY

Pursuant to 16 Del.C. §1119C and 29 Del.C. §10119 and pursuant to Paragraph 2(d) of the Governor's Eighth Modification of the Declaration of a State of Emergency for the State of Delaware Due to a Public Health Threat ("Governor's Emergency Declaration,"), the Department of Health and Social Services ("Department") is adopting emergency regulatory amendments to 16 Del. Admin. C. § 3201: *Skilled and Intermediate Care Nursing Facilities*. Additionally, 29 Del.C. §10119 authorizes the Department to adopt emergency regulations where an agency determines that an imminent peril to the public health, safety or welfare requires the amendment of a regulation with less than the notice required by 29 Del.C. §10115. Moreover, 16 Del.C. §1119C authorizes the Department to adopt, amend, repeal, or issue regulations for long-term care facilities and services.

REASON FOR THE EMERGENCY ORDER

Rapid and widespread transmission of COVID-19 is of significant concern within congregate settings, particularly within nursing facilities, assisted living facilities, rest (residential) facilities, and intermediate care facilities for persons with intellectual disabilities.

Because asymptomatic or presymptomatic residents and staff might play an important role in transmission in facilities, additional prevention measures merit consideration, including using testing to guide the use of transmission-based precautions, isolation, and cohorting strategies.

The ability to test large numbers of residents and staff may significantly decrease transmission of COVID-19 within facilities.

EFFECTIVE DATE OF ORDER

It is hereby ordered, that 16 Del. Admin. C. § 3201: *Skilled and Intermediate Care Nursing Facilities*, specifically, lines 2.21, 5.5.9, 8.3.1 and Section 6.11, which expand definitions, documentation, emergency preparedness, and testing requirements, is temporarily modified as shown by underline as follows:

2.21 Vendor – Any individual who is not employed by the facility but provides direct services to one or more facility resident.

5.5.9 Results of COVID-19 testing6.11 Specific Requirements for COVID-196.11.1 Residents

6.11.1.1 All residents should be tested upon identification of another resident with symptoms consistent with COVID-19, or if facility staff have tested positive for COVID-19.

6.11.1.2 All other resident testing should be consistent with Division of Public Health guidance for the duration of the public health emergency.

6.11.1.3 All testing and test results must be documented in the resident medical record.

6.11.1.4 Facilities must report all resident testing and test results, to the Delaware Division of Public Health.

6.11.2 Staff, vendors and volunteers

6.11.2.1 All staff, vendors and volunteers who have not previously tested positive for COVID-19 must receive a baseline COVID-19 test within 2 weeks of the effective date of this regulation.

6.11.2.2 All new staff, vendors and volunteers who cannot provide proof of previous positive testing must be tested prior to their start date.

6.11.2.3 All staff, vendors and volunteers who test negative must be retested consistent with Division of Public Health guidance for the duration of the public health emergency.

6.11.2.4 Facilities must report all staff, vendor and volunteer testing and test results, to the Delaware Division of Public Health.

6.11.2.5 Facilities must follow recommendations of the Centers for Disease Control and Prevention of the U.S. Department of Health and Human Services and the Division of Public Health regarding the provision of care or services to residents by staff, vendor or volunteer found to be positive for COVID-19 in an infectious stage.

6.11.2.6 Facilities shall amend their policies and procedures for communicable disease to include:

6.11.2.6.1 Work exclusion and return to work protocols for staff tested positive for COVID-19

6.11.2.6.2 Staff refusals to participate in COVID-19 testing

6.11.2.6.3 Staff refusals to authorize release of their testing results to the nursing facility

6.11.2.6.4 Procedures to obtain staff authorizations for release of laboratory test results to the facility so as to inform infection control and prevention strategies

6.11.2.6.5 Plans to address staffing shortages and facility demands should a COVID-19 outbreak occur.

8.3.1 The all-hazard emergency plan must include plans to address staffing shortages and facility demands.

This Emergency Order shall take effect on June 1, 2020 and shall remain in effect for 120 days. At the expiration of 120 days, the Department may choose to renew this Emergency Order once for a period not exceeding 60 days, consistent with 29 *Del.C.* §10119(3).

PETITION FOR RECOMMENDATIONS

The Department will receive, consider, and respond to petitions by any interested person for recommendations or revisions of this Order. Petitions should be presented to the Division of Health Care Quality, 3 Mill Road, Suite 308, Wilmington, DE 19806, by email to Yrene.Waldron@Delaware.gov, or by fax to 302-421-7401.

ORDER

It is hereby ordered, this 26th day of May, 2020, that the above referenced amendment to 16 *Del. Admin. C.* § 3201: *Skilled and Intermediate Care Nursing Facilities*, a copy of which is hereby attached, is adopted, pursuant to the Governor's Emergency Declaration, 16 *Del.C.* §1119C, and 29 *Del.C.* §10119, as referenced above, and supported by the evidence contained herein.

Kara Odom Walker, MD, MPH, MSHS
Secretary

***Please Note: Due to the size of the regulation, it is not being published here. A copy of the regulation is available at:**

3201 Skilled and Intermediate Care Nursing Facilities

DIVISION OF HEALTH CARE QUALITY

Statutory Authority: 16 Delaware Code, Section 1119C and 29 Delaware Code, Section 10119
(16 Del.C. §1119C & 29 Del.C. §10119)
16 DE Admin. Code 3225

SECRETARY'S ORDER

Pursuant to 16 Del.C. §1119C and 29 Del.C. §10119, and pursuant to Paragraph 2(d) of the Governor's Eighth Modification of the Declaration of a State of Emergency for the State of Delaware Due to a Public Health Threat

3225 Assisted Living Facilities

AUTHORITY

Pursuant to 16 Del.C. §1119C and 29 Del.C. §10119 and pursuant to Paragraph 2(d) of the Governor's Eighth Modification of the Declaration of a State of Emergency for the State of Delaware Due to a Public Health Threat ("Governor's Emergency Declaration,"), the Department of Health and Social Services ("Department") is adopting emergency regulatory amendments to 16 Del. Admin. C. 3225: *Assisted Living Facilities*. Additionally, 29 Del.C. §10119 authorizes the Department to adopt emergency regulations where an agency determines that an imminent peril to the public health, safety or welfare requires the amendment of a regulation with less than the notice required by 29 Del.C. §10115. Moreover, 16 Del.C. §1119C authorizes the Department to adopt, amend, repeal, or issue regulations for long-term care facilities and services.

REASON FOR THE EMERGENCY ORDER

Rapid and widespread transmission of COVID-19 is of significant concern within congregate settings, particularly within nursing facilities, assisted living facilities, rest (residential) facilities, and intermediate care facilities for persons with intellectual disabilities.

Because asymptomatic or presymptomatic residents and staff might play an important role in transmission in facilities, additional prevention measures merit consideration, including using testing to guide the use of transmission-based precautions, isolation, and cohorting strategies.

The ability to test large numbers of residents and staff may significantly decrease transmission of COVID-19 within facilities.

EFFECTIVE DATE OF ORDER

It is hereby ordered, that 16 Del. Admin. C. § 3225: *Assisted Living Facilities*, specifically, line 18.3.1 and Sections 3.0 and 9.8 which expand definitions, documentation, emergency preparedness, and testing requirements, is temporarily modified as shown by underline as follows:

"Vendor" – Any individual who is not employed by the facility but provides direct services to one or more facility residents.

9.8 Specific Requirements for COVID-19:

9.8.1 Residents

9.8.1.1 All residents should be tested upon identification of another resident with symptoms consistent with COVID-19, or if facility staff have tested positive for COVID-19.

9.8.1.2 All other resident testing should be consistent with Division of Public Health guidance for the duration of the public health emergency.

9.8.1.3 All testing and test results must be documented in the resident medical record.

9.8.1.4 Facilities must report all resident testing and test results, to the Delaware Division of Public Health.

9.8.2 Staff, vendors and volunteers

9.8.2.1 All staff, vendors and volunteers who have not previously tested positive for COVID-19 must receive a baseline COVID-19 test within 2 weeks of the effective date of this regulation.

9.8.2.2 All new staff, vendors and volunteers who cannot provide proof of previous positive testing must be tested prior to their start date.

9.8.2.3 All staff, vendors and volunteers who test negative must be retested consistent with Division of Public Health guidance for the duration of the public health emergency.

9.8.2.4 Facilities must report all staff, vendor and volunteer testing and test results, to the Delaware Division of Public Health.

9.8.2.5 Facilities must follow recommendations of the Centers for Disease Control and Prevention of the U.S. Department of Health and Human Services and the Division of Public Health regarding the provision of care or services to residents by staff, vendor or volunteer found to be positive for COVID-19 in an infectious stage.

9.8.2.6 Facilities shall amend their policies and procedures to include:

9.8.2.6.1 Work exclusion and return to work protocols for staff tested positive for COVID-19

9.8.2.6.2 Staff refusals to participate in COVID-19 testing

9.8.2.6.3 Staff refusals to authorize release of their testing results to the facility

9.8.2.6.4 Procedures to obtain staff authorizations for release of laboratory test results to the facility so as to inform infection control and prevention strategies

9.8.2.6.5 Plans to address staffing shortages and facility demands should a COVID-19 outbreak occur.

18.3.1 The all-hazard emergency plan must include plans to address staffing shortages and facility demands.

This Emergency Order shall take effect on June 1, 2020 and shall remain in effect for 120 days. At the expiration of 120 days, the Department may choose to renew this Emergency Order once for a period not exceeding 60 days, consistent with 29 *Del.C.* §10119(3).

PETITION FOR RECOMMENDATIONS

The Department will receive, consider, and respond to petitions by any interested person for recommendations or revisions of this Order. Petitions should be presented to the Division of Health Care Quality, 3 Mill Road, Suite 308, Wilmington, DE 19806, by email to Yrene.Waldron@Delaware.gov, or by fax to 302-421-7401.

ORDER

It is hereby ordered, this 26th day of May, 2020, that the above referenced amendment to 16 *Del. Admin. C.* § 3225: *Assisted Living Facilities*, a copy of which is hereby attached, is adopted, pursuant to the Governor's Emergency Declaration, 16 *Del.C.* §1119C, and 29 *Del.C.* §10119, as referenced above, and supported by the evidence contained herein.

Kara Odom Walker, MD, MPH, MSHS
Secretary

***Please Note: Due to the size of the regulation, it is not being published here. A copy of the regulation is available at:**

3225 Assisted Living Facilities

EMERGENCY REGULATIONS

DIVISION OF HEALTH CARE QUALITY

Statutory Authority: 16 Delaware Code, Section 1119C and 29 Delaware Code, Section 10119
(16 Del.C. §1119C & 29 Del.C. §10119)
16 DE Admin. Code 3230

SECRETARY'S ORDER

Pursuant to 16 Del.C. §1119C and 29 Del.C. §10119, and pursuant to Paragraph 2(d) of the Governor's Eighth Modification of the Declaration of a State of Emergency for the State of Delaware Due to a Public Health Threat

3230 Rest (Residential) Home Regulations**AUTHORITY**

Pursuant to 16 Del.C. §1119C and 29 Del.C. §10119 and pursuant to Paragraph 2(d) of the Governor's Eighth Modification of the Declaration of a State of Emergency for the State of Delaware Due to a Public Health Threat ("Governor's Emergency Declaration,"), the Department of Health and Social Services ("Department") is adopting emergency regulatory amendments to 16 Del. Admin. C. § 3230: *Rest (Residential) Home Regulations*. Additionally, 29 Del.C. §10119 authorizes the Department to adopt emergency regulations where an agency determines that an imminent peril to the public health, safety or welfare requires the amendment of a regulation with less than the notice required by 29 Del.C. §10115. Moreover, 16 Del.C. §1119C authorizes the Department to adopt, amend, repeal, or issue regulations for long-term care facilities and services.

REASON FOR THE EMERGENCY ORDER

Rapid and widespread transmission of COVID-19 is of significant concern within congregate settings, particularly within nursing facilities, assisted living facilities, rest (residential) facilities, and intermediate care facilities for persons with intellectual disabilities.

Because asymptomatic or presymptomatic residents and staff might play an important role in transmission in facilities, additional prevention measures merit consideration, including using testing to guide the use of transmission-based precautions, isolation, and cohorting strategies.

The ability to test large numbers of residents and staff may significantly decrease transmission of COVID-19 within facilities.

EFFECTIVE DATE OF ORDER

It is hereby ordered, that 16 DE Admin Code 3230: *Rest (Residential) Home Regulations*, specifically, line 6.3.1 and Sections 2.0 and 9.3 which expand definitions, documentation, emergency preparedness, and testing requirements, is temporarily modified as shown by underline as follows:

"Vendor" means any individual who is not employed by the facility but provides direct services to one or more facility residents.

6.3.1 The all-hazard emergency plan must include plans to address staffing shortages and facility demands.

9.3 Specific Requirements for COVID-19

9.3.1 Residents

9.3.1.1 All residents should be tested upon identification of another resident with symptoms consistent with COVID-19, or if facility staff have tested positive for COVID-19.

9.3.1.2 All other resident testing should be consistent with Division of Public Health guidance for the duration of the public health emergency.

9.3.1.3 All testing and test results must be documented in the resident medical record.

9.3.1.4 Facilities must report all resident testing and test results, to the Delaware Division of Public Health. 9.3.2Staff, vendors and volunteers

9.3.2.1 All staff, vendors and volunteers who have not previously tested positive for COVID-19 must receive a baseline COVID-19 test within 2 weeks of the effective date of this regulation.

9.3.2.2 All new staff, vendors and volunteers who cannot provide proof of previous positive testing must be tested prior to their start date.

9.3.2.3 All staff, vendors and volunteers who test negative must be retested consistent with Division of Public Health guidance for the duration of the public health emergency.

9.3.2.4 Facilities must report all staff, vendor and volunteer testing and test results, to the Delaware Division of Public Health.

9.3.2.5 Facilities must follow recommendations of the Centers for Disease Control and Prevention of the U.S. Department of Health and Human Services and the Division of Public Health regarding the provision of care or services to residents by staff, vendor or volunteer found to be positive for COVID-19 in an infectious stage.

9.3.2.6 Facilities shall amend their policies and procedures for communicable disease to include:

9.3.2.6.1 Work exclusion and return to work protocols for staff tested positive for COVID-19

9.3.2.6.2 Staff refusals to participate in COVID-19 testing

9.3.2.6.3 Staff refusals to authorize release of their testing results to the facility

9.3.2.6.4 Procedures to obtain staff authorizations for release of laboratory test results to the facility so as to inform infection control and prevention strategies

9.3.2.6.5 Plans to address staffing shortages and facility demands should a COVID-19 outbreak occur.

This Emergency Order shall take effect on June 1, 2020 and shall remain in effect for 120 days. At the expiration of 120 days, the Department may choose to renew this Emergency Order once for a period not exceeding 60 days, consistent with 29 *Del.C.* §10119(3).

PETITION FOR RECOMMENDATIONS

The Department will receive, consider, and respond to petitions by any interested person for recommendations or revisions of this Order. Petitions should be presented to the Division of Health Care Quality, 3 Mill Road, Suite 308, Wilmington, DE 19806, by email to Yrene.Waldron@Delaware.gov, or by fax to 302-421-7401.

ORDER

It is hereby ordered, this 26th day of May, 2020, that the above referenced amendment to 16 *Del. Admin. C.* § 3230: *Rest (Residential) Home Regulations*, a copy of which is hereby attached, is adopted, pursuant to the Governor's Emergency Declaration, 16 *Del.C.* §1119C, and 29 *Del.C.* §10119, as referenced above, and supported by the evidence contained herein.

Kara Odom Walker, MD, MPH, MSHS
Secretary

***Please Note: Due to the size of the regulation, it is not being published here. A copy of the regulation is available at:**

3230 Rest (Residential) Home Regulations

**DEPARTMENT OF LABOR
DIVISION OF UNEMPLOYMENT INSURANCE**

Statutory Authority: 19 Delaware Code, Sections 3122 and 3317(a) and 29 Delaware Code, Section 10119(5) (19 **Del.C.** §§3122 & 3317(a) & 29 **Del.C.** §10119(5))
19 **DE Admin. Code** 1202

ORDER**EMERGENCY REGULATION AMENDING SECTION 5.0 OF THE UNEMPLOYMENT INSURANCE
REGULATIONS RELATING TO EMPLOYERS NOTIFYING EMPLOYEES OF UNEMPLOYMENT RIGHTS AT
TIME OF UNEMPLOYMENT****1202 Unemployment Insurance Regulations**

WHEREAS, the Delaware Department of Labor (the "Department") has been charged by the Delaware legislature pursuant to 19 *Del.C.* §§ 3122 and 3317(a) with the power to make regulations necessary for the internal administration of the Department and to make and adopt regulations for making claims for unemployment insurance benefits; and

WHEREAS, the Secretary of the Delaware Department of Labor has designated the authority to make regulations related to the Division of Unemployment Insurance to the Director of the Division of Unemployment Insurance; and

WHEREAS, on March 12, 2020, Governor Carney declared a State of Emergency and thereafter enacted modifications that shut down portions of the State's economy in response to the Coronavirus public health emergency, which lead to a substantial increase in the volume of initial claims for unemployment benefits; and

WHEREAS, the federal government responded to the public health emergency and the economic impact on the unemployment system by enacting the Families First Coronavirus Relief Act ("FFCRA"), in part to assist the Division of Unemployment Insurance with responding to the substantial increase in claims; and

WHEREAS, the FFCRA conditioned the funding to be provided to the State on the State requiring employers to notify employees upon separation of their rights to unemployment insurance benefits, as well as how to apply for those benefits; and

WHEREAS, the Division of Unemployment Insurance has developed a proposed revised regulation (the "Proposed Revised Regulation") for publication in the *Register of Regulations* to establish procedures for employers in the State of Delaware to notify employees how to file a claim for unemployment benefits when they become unemployed, but the Proposed Revised Regulation will take some time to be finally enacted; and

WHEREAS, the Director of the Division of Unemployment Insurance finds that adoption of an emergency regulation to require employers to notify employees of how to file a claim for unemployment benefits when they become unemployed must occur on an emergency basis, as it is a requirement for federal funding to the State under the FFCRA and is necessary to be able to properly process and pay the incredible volume of claims for unemployment insurance and to protect the economic interests of the unemployed citizens of this State during the Coronavirus pandemic and the State of Emergency, until such time as the Proposed Revised Regulation becomes effective; and

WHEREAS, in the interest of protecting the unemployed public and ensuring the Division of Unemployment Insurance can properly process the high volume of claims and provide benefits in a timely manner during this economic and public health crisis, the Division of Unemployment Insurance finds that adoption of this regulation must occur on an emergency basis because the economic impact of this public health and economic crisis presents an imminent peril to the public health, safety or welfare of the public; and

WHEREAS, the Director of the Division of Unemployment Insurance will accept, consider and respond to petitions by any interested person for the reconsideration or revision of this regulation by mail to: Director of the Division of Unemployment Insurance, Darryl Scott, Delaware Division of Unemployment Insurance, P.O. Box 9950, Wilmington, DE 19809-0950, or by email to: Darryl.Scott@delaware.gov; and

WHEREAS, in accordance with the provisions of 29 *Del.C.* § 10119(3), this Order shall be effective for 120 days from the date of execution and may be renewed once for a period not exceeding 60 days; and

WHEREAS, a copy of this Order will be submitted to the Registrar for publication in the next issue of the *Delaware Register of Regulations*.

NOW, THEREFORE, IT IS ORDERED that the following "Regulation 5.0 of 19 DE Admin. Code 1202 - Unemployment Insurance Regulations" shall take effect immediately.

1. Regulation 5.0 of the Delaware Unemployment Insurance Regulations entitled "Posting of Placards" is amended as follows:

5.0 Posting of Placards and Notice to Employee Required in all Separations

5.1 Every employer subject to the provisions of Part III Title 19, **Delaware Code**, shall post and maintain printed notices to his employees informing them that he is covered by Part III, Title 19, **Delaware Code**, and has been so registered by the Delaware Division of Unemployment Insurance. Such notices shall be in the form prescribed by the Delaware Division of Unemployment Insurance (Form UC-6), of such design and in such numbers as prescribed by the Delaware Division of Unemployment Insurance, and shall be posted in a conspicuous place in the plant, shop, office, room, or place where employees are employed and where they may readily be seen by them. No such notice shall be posted by any person, employing unit, or employer who has not complied with the provisions of Part III, Title 19, **Delaware Code**, and to whom an unemployment insurance account number has not been assigned by the Delaware Division of Unemployment Insurance, or who, in accordance with the provisions of the **Delaware Code**, has ceased to be an employer as defined in the **Delaware Code**.

5.2 Each employer shall deliver to each employee separated from its employ (permanently, for an indefinite period or for an expected duration of 7 days or more) at the time of such separation, or, if in person delivery is impossible or impracticable, shall mail to such employee's last known address, within 24 hours, a copy of Form UC-300, which shall instruct such former employee how to file a claim for unemployment benefits and how to contact the Delaware Division of Unemployment Insurance with questions about unemployment benefits.

2. In accordance with the provisions of 29 *Del.C.* § 10119(3), this Emergency Order shall be effective for 120 days from the date of execution. At the end of 120 days, the Division of Unemployment Insurance may choose to renew this Emergency Order once for a period not exceeding 60 days, consistent with 29 *Del. C.* § 10119(3).

IT IS SO ORDERED this 14th day of May, 2020.

Darryl Scott
Director, Division of Unemployment Insurance
Department of Labor

**1202 Unemployment Insurance Regulations
(Break in Continuity of Sections)**

5.0 Posting of Placards and Notice to Employee Required in all Separations

5.1 Every employer subject to the provisions of Part III Title 19, **Delaware Code**, shall post and maintain printed notices to his employees informing them that he is covered by Part III, Title 19, **Delaware Code**, and has been so registered by the Delaware Division of Unemployment Insurance. Such notices shall be in the form prescribed by the Delaware Division of Unemployment Insurance (Form UC-6), of such design and in such numbers as prescribed by the Delaware Division of Unemployment Insurance, and shall be posted in a conspicuous place in the plant, shop, office, room, or place where employees are employed and where they may readily be seen by them. No such notice shall be posted by any person, employing unit, or employer who has not complied with the provisions of Part III, Title 19, **Delaware Code**, and to whom an unemployment insurance account number has not been assigned by the Delaware Division of Unemployment Insurance, or who, in accordance with the provisions of the Delaware Code, has ceased to be an employer as defined in the Delaware Code.

5.2 Each employer shall deliver to each employee separated from its employ (permanently, for an indefinite period or for an expected duration of 7 days or more) at the time of such separation, or, if in person delivery is impossible or impracticable, shall mail to such employee's last known address, within 24 hours, a copy of Form UC-300, which shall instruct such former employee how to file a claim for unemployment benefits and how to contact the Delaware Division of Unemployment Insurance with questions about unemployment benefits.

***Please Note: As the rest of the sections were not amended, they are not being published. A copy of the regulation is available at:**

1202 Unemployment Insurance Regulations

**DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
3300 BOARD OF VETERINARY MEDICINE**

Statutory Authority: 24 Delaware Code, Section 3306(a)(1) and 29 Delaware Code, Section 10119 (24 **Del.C.** §3306(a)(1) & 29 **Del.C.** §10119)
24 **DE Admin. Code** 3300

ORDER

3300 Board of Veterinary Medicine

WHEREAS, the Board of Veterinary Medicine (the "Board") has been charged by the Delaware legislature pursuant to 24 **Del.C.** §3301 to protect the general public from unsafe practices with respect to the practice of veterinary medicine; and

WHEREAS, subsection 3.1.15 of the Board's rules and regulations prohibits a veterinarian from "[p]rescribing medication without examining the animal(s) within a period of one year"; and

WHEREAS, in light of the current State of Emergency in Delaware related to COVID-19, in-person visits to a veterinarian should not be required for a medication renewal needed for an animal's health; and

WHEREAS, for the safety of animals, the examination requirement should not be open-ended; and

WHEREAS, amending subsection 3.1.15 to state "within a period of eighteen months" will serve to protect both the clients and their animals; and

WHEREAS, the Board finds that adoption of an emergency regulation to govern the prescribing of medications must occur on an emergency basis to avoid imminent peril to the public health, safety or welfare; and

WHEREAS, consistent with the requirements of 29 **Del.C.** §10119(4), the Board will accept, consider and respond to petitions by any interested person for the reconsideration or revision of this regulation by addressing the same to the attention of Monique Pruitt, the Board of Veterinary Medicine, 861 Silver Lake Boulevard, Dover, Delaware 19904; and

WHEREAS, in accordance with the provisions of 29 **Del.C.** §10119(3), this Emergency Order shall be effective for 120 days from the date of execution and may be renewed once for a period not exceeding 60 days; and

WHEREAS, a copy of this Emergency Order will be submitted to the Registrar for publication in the next issue of the *Delaware Register of Regulations*.

NOW, the Rules and Regulations of the Board of Veterinary Medicine, attached hereto as Exhibit A, shall take effect immediately.

IT IS SO ORDERED this 28th day of April 2020 by the Delaware Board of Veterinary Medicine.

/s/ Danielle Downs, D.V.M., President

/s/ Alanna Mallory, L.V.T.

/s/ Lisa Garrison, L.V.T., Vice President

/s/ Mary Jo Verdery

/s/ Craig Stonesifer, D.V.M.

Bruce Cavanaugh (Absent)

/s/ Erin Whaley, D.V.M.

***Please Note: Electronic signatures ("/s/") were accepted pursuant to 6 Del.C. §12A-107(d).**

3300 Board of Veterinary Medicine
(Break in Continuity of Sections)

3.0 Unprofessional Conduct for Veterinarians

(24 Del.C. §3313(a)(1))

- 3.1 Unprofessional conduct in the practice of veterinary medicine shall include, but not be limited to, the following;

(Break in Continuity Within Section)

- 3.1.15 Prescribing medication without examining the animal(s) within a period of ~~one year~~ eighteen months.

***Please Note: As the rest of the sections were not amended, they are not being published. A copy of the regulation is available at:**

3300 Board of Veterinary Medicine

Symbol Key

Arial 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 EDUCATION
OFFICE OF THE SECRETARY**

Statutory Authority: 14 Delaware Code, Section 122(b) and 29 Delaware Code, Section 7528
(14 **Del.C.** §122(b) & 29 **Del.C.** §7528)
14 **DE Admin. Code** 401

PUBLIC NOTICE**Education Impact Analysis Pursuant to 14 Del.C. Section 122(d)****401 Major Capital Improvement Programs****A. TYPE OF REGULATORY ACTION REQUIRED**

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF THE REGULATION

Pursuant to 14 **Del.C.** §122(b) and 29 **Del.C.** §7528, the Secretary of Education intends to amend 14 **DE Admin. Code** 401 Major Capital Improvement Programs. This amendment is needed to provide clarity to local school districts regarding the Major Capital Improvement Program and individual major capital improvement projects, and to edit the regulation to comply with the *Delaware Administrative Code Drafting and Style Manual*.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before July 3, 2020 to Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or email to DOEregulations.comment@doe.k12.de.us. A copy of this regulation may be viewed online at the Registrar of Regulation's website, http://regulations.delaware.gov/services/current_issue.shtml, or obtained at the Department of Education, located at the address listed above.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation does not specifically address the improvement of student achievement as measured against state achievement standards.
2. Will the amended regulation help ensure that all students receive an equitable education? The amended

regulation will help ensure all students receive an equitable education.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation will help ensure all students' health and safety are adequately protected.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation continues to help ensure that all students' legal rights are respected.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation does not change the decision making at the local board and school level.

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

7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The amended regulation does not change the decision making authority and accountability for addressing the subject to be regulated.

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

9. Is there a less burdensome method for addressing the purpose of the regulation? There is no less burdensome method for addressing the purpose of the amended regulation.

10. What is the cost to the State and to the local school boards of compliance with the regulation? There are no material costs to implementing this amended regulation.

***Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/june2020/proposed/23 DE Reg 976RFA 06-01-20.pdf>

401 Major Capital Improvement Programs Program

1.0 Purpose and Definitions

1.1 ~~The Major Capital Improvement Programs are~~ Program consists of one or more construction projects having a cost of \$750,000 or more.

1.1.1 The Secretary of Education may annually review the current cost per square foot for construction and make necessary adjustments as required.

1.1.2 ~~Projects~~ Multiple projects may be considered together to form a single Major Capital Improvement ~~Project~~ Program project. ~~However, the~~ The consolidation of ~~major capital~~ Major Capital Improvement Program projects should be for one location.

1.1.3 All Major Capital Improvement Program projects shall use standard bid and contract documents as developed by the Office of Management and Budget, Division of Facilities Management.

1.1.3.1 ~~Districts~~ Local school districts may enhance the standard bid and contract documents with additional contractual or project specific requirements as long as the enhancements do not diminish and are not in conflict with the provisions of the standard documents.

1.1.3.2 The Department of Education, in consultation with the Office of Management and Budget, Division of Facilities Management shall approve any modifications or changes to the provisions of the standard bid and contract documents before a local school district may use or enhance the modified documents.

1.2 Definitions

The following words and terms, when used in this regulation, have the following meaning unless the context clearly indicates otherwise:

"Certificate of Necessity":—A means a document issued by the Department of Education which certifies that a construction project is necessary and sets the scope and cost limits for that project. The Certificate of Necessity authorizes the local school district to hold a referendum for the Major Capital

PROPOSED REGULATIONS

Improvement Program identified and authorizes the school district to sell bonds to pay the local portion in the event of a successful referendum ~~identified, if required.~~

“Certificate of Occupancy”: ~~A~~ means a document issued by a local code enforcement official/office official or office attesting that a Facility meets building codes and is fit for human occupancy.

“Change Orders”: ~~Documents~~ means documents that change the construction contract and are negotiated between the owner and contractor ~~in order~~ to correct design omissions, address unforeseen circumstances which arise during the construction process, and improve upon designs based on project progress.

“Completion of Construction” means the local school district, with the concurrence of the architect, accepts the facility as complete, meaning that all punch list items are resolved, release of liens has been received, and funds held in retainage have been released.

“Design Development Plans”: ~~Design~~ means documents that denote mechanical functions, placement of windows and doors, pedestrian traffic circulation both interior and exterior, utilities, service areas and structure. ~~Design development documents~~ Development Plans are at a 40% to 60% completion stage.

“Educational Specifications”: ~~A document~~ means documents which ~~explains~~ explain how the educational spaces relate to the educational programs as well as the requirements of an educational Facility to house and implement the educational philosophy and institutional program.

“Facility”: ~~Long lived~~ means a long-lived capital assets to include asset including, but not limited to ~~to~~ school buildings; athletic buildings; athletic fields and appurtenances; playgrounds; maintenance, operations and storage structures; office buildings and all other buildings and capital assets associated with the operation and management of a local school district or school system.

“Final Construction Plans”: ~~Plans~~ means documents that show the complete Facility design including mechanical, electrical, water, sewer, site plans, storm water conveyance and structural systems, complete bid documents and specifications.

“Schematic Design Plans”: ~~Documents~~ means documents that present a proposed Facility in its earliest stages denoting the approximate size and relationship of areas to each other. Detailed utilities or mechanical functions are not typically shown at this stage.

“Signed and Sealed Plans”: ~~Plans~~ means design documents that have the architect's ~~and/or~~ or engineer's professional seal and signature affixed.

2.0 Certificates of Necessity

- 2.1 ~~Districts~~ Local school districts shall submit local school board approved projects to the Department of Education by August 31 of each fiscal year ~~in order~~ to be considered for a Certificate of Necessity and capital funding in the following fiscal year.
- 2.2 The Certificate of Necessity shall be quoted in the advertisement for the referendum.
- 2.3 Projects proposing the construction of a new Facility or for an addition to an existing Facility shall be issued a separate Certificate of Necessity. Funds issued for the construction of a new Facility or for an addition to an existing Facility shall not be transferred ~~between projects or~~ to projects in a separate Certificate of Necessity.
- 2.4 Additions and renovations to existing Facilities that are done in connection with other renovations may be issued a single Certificate of Necessity. However, when such a multiple project Certificate of Necessity is issued, it shall identify each Facility in the program and describe the work to be done at that Facility including the dollar amount state and local share of the total cost for that work. Funds may be transferred between projects issued under the same Certificate of Necessity in accordance with Section 8.0 below of this regulation.
- 2.5 The Department of Education will complete and forward the Certificate of Necessity to the local school district superintendent for ~~his/her~~ that superintendent's signature.
- 2.6 A copy of the final Certificate of Necessity will be returned to the local school district within ten (10) working days following final approval by the Department of Education.

3.0 Procedures for Approval of a Site for School Construction

- 3.1 ~~Local school districts shall notify the Department of Education by letter to schedule a site review when they propose to purchase a site for school purposes; or when they propose to use a currently owned site for school purposes; or when they propose to obtain a site through donation, gift or condemnation.~~
- ~~3.23.1~~ The local school board shall forward all prospective sites to the Office of State Planning Coordination for consideration and comment through the Planning Land use Use Service (PLUS) review process.
- 3.2 Local school districts shall notify the Department of Education in writing to schedule a site review when they propose to purchase a site for school purposes; when they propose to use a currently owned site for school purposes; or when they propose to obtain a site through donation, gift or condemnation. Depending on the outcome of the PLUS review process, the Department of Education may conduct a site review.
- 3.3 The acquisition of lands for school construction shall comply with 29 Del.C. §7525.

4.0 Approval of Educational Specifications, Schematic Design Plans, Design Development Plans, and Construction Drawings

- 4.1 Educational Specifications shall be approved by the local school board and forwarded to the Department of Education for informational purposes. The Department of Education may provide comments on Educational Specifications at its discretion.
- 4.2 All Schematic Design Plans, Design Development Plans and Final Construction Drawings shall be approved by the local school board and the Department of Education. The Department of Education requires one (1) set of each, including a signed and sealed Final Construction Drawings and specifications.
- 4.3 The local school district must involve all applicable ~~State, Local and Municipal~~ state, local and municipal regulatory agencies in reviewing Final Construction Drawings ~~prior to~~ before the start of construction. Copies of all applicable ~~State, Local and Municipal~~ state, local and municipal agency approvals shall be maintained in the local school district construction files. Required ~~State~~ state agency approvals ~~include but may not be limited to:~~ are noted in the *State of Delaware School Construction Technical Assistance Manual*, which is available on the Department of Education's website.
- ~~4.3.1 Fire Marshal to review the plans for fire safety.~~
- ~~4.3.2 Division of Public Health for swimming pools, and kitchens and cafeterias.~~
- ~~4.3.3 Division of Facilities Management for compliance with building codes.~~
- ~~4.3.4 Department of Transportation for review of the Site Plan showing entrances and exits as well as required transportation infrastructure improvements.~~
- ~~4.3.5 Architectural Accessibility Board to ensure that the building environment is safely accessible to, and usable by all persons.~~
- ~~4.3.6 Department of Natural Resources and Environmental Control for wastewater, storm water management and erosion control.~~
- 4.4 Exemptions: Major Capitol Projects Capital Improvement Program projects that do not include structural changes or wall modifications such as, but not limited to, window replacement, HVAC, electrical or plumbing infrastructure upgrades do not require submission of construction specifications or plans to the Department of Education.

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

- 5.1 The local school district shall submit to the Department of Education and the Office of Management and Budget a construction schedule, showing start dates, intermediate stages and final completion dates.
- 5.2 The local school district shall notify the Department of Education, Office of Management and Budget and Insurance Coverage Office at the completion of the construction, ~~which is defined as when the school district, with the concurrence of the architect, accepts the Facility as complete. Completion~~

PROPOSED REGULATIONS

~~means that the following have occurred: punch list items are resolved, release of liens has been received and funds held in retainage have been released.~~

- 5.3 ~~The local school district shall record capital assets (buildings) in accordance with the State of Delaware Budget and Accounting Manual which requires capital assets (buildings) to be recorded when the asset is ready for its intended use State of Delaware Budget and Accounting Manual. As an example, the capital asset (building) should be recorded when it has received an occupancy certificate or the building is ready for its intended use.~~
- 5.4 ~~The local school district shall notify the Department of Education, Division of Accounting, State Auditor, and Office of Management and Budget upon approval of ~~Occupancy~~ occupancy.~~
- 5.5 ~~Local school districts shall submit to the Department of Education a copy of the electronic ~~autocad~~ files in a format approved by the Department of Education. Electronic ~~autocad~~ files shall be submitted no later than ~~30~~ thirty (30) calendar days after the completion of any major renovation, addition to an existing Facility, new school or replacement school.~~

6.0 Purchase Orders

All purchase orders for ~~any Major Capital~~ Capital Improvement Project ~~Program projects~~ shall be approved by ~~both~~ the Department of Education and Office of Management and Budget ~~prior to~~ before submission to the Division of Accounting.

7.0 Change Orders

- 7.1 All Change Orders must be agreed upon by the architect, local school district and contractor, and shall be forwarded to the Department of Education.
- 7.1.1 Submission of a Change Order must include the following documents:
- 7.1.1.1 A completed purchase order as applicable and ~~in accordance with~~ following the local school board approved change order approval and authorization process and procedure;
- 7.1.1.2 ~~local~~ Local school board of education minutes identifying and approving the changes;
- 7.1.1.3 ~~completed and in accordance with the local school board approved change order approval and authorization process and procedure~~ AIA American Institute of Architects (AIA) document G701-Change Order Form, Form; and
- 7.1.1.4 ~~correspondence~~ Correspondence which gives a breakdown in ~~materials~~ mark-up materials, mark-up, and other expenses.

8.0 Percentage of Funds Transferable Between Projects within a Certificate of Necessity

- 8.1 ~~School~~ Local school districts may request the transfer of funds between projects during the bidding and construction process in writing to the Department of Education. Acceptability of the transfer of funds will meet the following criteria:
- 8.1.1 No project may have any portion of its funding moved to another project without the approval of the Secretary of the Department of Education, the Director of the Office of Management and Budget and the Controller General.
- 8.1.2 No project may have any funding added to its initial funding without the approval of the Secretary of the Department of Education, the Director of the Office of Management and Budget and the Controller General.
- 8.1.3 No transfer of funds shall be executed between projects authorized through and by separate Certificates of Necessity.

9.0 Educational Technology

All school facilities being constructed or renovated under the Major Capital Improvement Program shall include wiring for technology that meets the current Department of Technology and Information Wiring ~~Standards~~ Standards, and is appropriate to the grade level and educational requirements of the

Facility type, such as high school, administration, etc. The cost of such wiring shall be borne by project funds when no other technology funds are available.

10.0 ~~Playground Construction:~~ **Construction**

~~Effective July 1, 2010, all~~ All playgrounds constructed or renovated pursuant to a ~~major capital improvement~~ Major Capital Improvement Program project shall comply with the most current editions of ~~of~~ the American Society of Testing Materials (ASTM) Designation F-1487 and the Consumer Products Safety Commission (CPSC) Publication Number 325.

11.0 **Administration of the New School**

An administrator of a new school may be hired for up to one (1) year prior to student occupancy to organize and hire staff. The ~~State~~ state portion of salary and benefits may be paid from Major Capital Improvement Programs Program funding.

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) and 29 Delaware Code, Section 7528
(14 Del.C. §122(b) & 29 Del.C. §7528)
14 DE Admin. Code 405

PUBLIC NOTICE

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

405 Minor Capital Improvement Programs

A. TYPE OF REGULATORY ACTION REQUIRED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF THE REGULATION

Pursuant to 14 Del.C. §122(b) and 29 Del.C. §7528, the Secretary of Education intends to amend 14 DE Admin. Code 405 Minor Capital Improvement Programs. This amendment is needed to provide clarity to local school districts regarding the Minor Capital Improvement Program and individual minor capital improvement projects, and to edit the regulation to comply with the *Delaware Administrative Code Drafting and Style Manual*.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before July 3, 2020 to Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or email to DOEregulations.comment@doe.k12.de.us. A copy of this regulation may be viewed online at the Registrar of Regulation's website, http://regulations.delaware.gov/services/current_issue.shtml, or obtained at the Department of Education, located at the address listed above.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation does not specifically address the improvement of student achievement as measured against state achievement standards.

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

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation will help ensure all students' health and safety are adequately protected.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation continues to help ensure that all students' legal rights are respected.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation does not change the decision making at the local board and

school level.

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

7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The amended regulation does not change the decision making authority and accountability for addressing the subject to be regulated.

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

9. Is there a less burdensome method for addressing the purpose of the regulation? There is no less burdensome method for addressing the purpose of the amended regulation.

10. What is the cost to the State and to the local school boards of compliance with the regulation? There are no material costs to implementing this amended regulation.

***Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/june2020/proposed/23 DE Reg 981RFA 06-01-20.pdf>

405 Minor Capital Improvement Programs Program

1.0 Minor Capital Improvement Program Purpose

- 1.1 ~~The Minor Capital Improvement (MCI) Program is a program which provides for the planned and programmed maintenance and repair of the school plant. The program's primary purpose is to keep real property assets in their original condition of completeness and efficiency on a scheduled basis. It is not for increasing the plant inventory or changing its composition. Minor Capital Improvement projects cost less than \$750,000 unless the project is for roof repair. The MCI program shall be reviewed annually by the school district and should be comprised of work necessary for good maintenance practice.~~
- 1.2 ~~Minor Capital Improvement Purchase Orders shall be reviewed and approved by both the Department of Education and the Office of Management and Budget prior to submission to the Division of Accounting. (One copy of the approved purchase order should be retained by the district for their information and record.)~~
- 1.3 ~~Use of Funds: The following areas are authorized for the expenditure of MCI funds: maintenance, repairs, modernization, inspections, testing, maintenance agreements and service contracts related to: roofs, heating systems, ventilation and air conditioning systems, plumbing and water systems, electrical systems, windows, doors, floors, ceilings, masonry, structural built in equipment, painting, fire suppression and life safety systems, security systems installation and maintenance, school grounds, athletic facilities and playgrounds, office equipment used for instructional purposes only and renovations, alterations and modernizations that do not require major structural changes.~~
- 1.4 ~~Exclusions: Funds allocated for a specific project shall be used only for that project. Program funds may not be used for the following: movable equipment other than office equipment used for instructional purposes that is transported from one location to another, routine janitorial supplies, new construction that increases the area of a building or extends any of its component systems, site improvements that add to or extend the existing roadways or sidewalks, surfacing a non-surfaced area for parking, completing major construction projects or specific items omitted or deleted from major construction projects or floor space allocated according to formula and used otherwise.~~
- 1.5 ~~Invoices: Invoices shall be approved by both the Department of Education and the Office of Management and Budget prior to submission to the Division of Accounting for processing. Payments may be made as the project progresses or after work has been completed and accepted, as warranted by the nature and scope of the individual project(s).~~

The Minor Capital Improvement Program's primary purpose is to keep real property assets in their original

condition of completeness and efficiency on a scheduled basis. It is not for increasing the plant inventory or changing its composition. Minor Capital Improvement Program projects cost less than \$750,000 unless the project is for roof repair. The Minor Capital Improvement Program shall be reviewed annually by the school district and should be comprised of work necessary for good maintenance practice.

2.0 Definitions

The following words and terms, when used in this regulation, have the following meaning unless the context clearly indicates otherwise:

“Career Technical Program Equipment” means either a movable or fixed unit but not a built-in unit. In addition, the equipment shall retain its original shape and appearance with use, be nonexpendable, and represent an investment which makes it feasible and advisable to capitalize and not lose its identity through incorporation into a different or more complex unit. Computers and computer peripheral equipment may be purchased using Minor Capital Improvement Vocational Education Equipment Replacement Funds provided such equipment purchased with such funds is used in a vocational education setting for the service life of said equipment.

“Minor Capital Improvement Program” means a program which provides for the planned and programmed maintenance and repair of the school plant.

3.0 Use of Funds

- 3.1 The expenditure of Minor Capital Improvement Program funds are authorized for the following areas, including but not limited to: maintenance and maintenance equipment, repairs, inspections, testing, maintenance agreements and service contracts related to: roofs, heating systems, ventilation and air conditioning systems, plumbing and water systems, electrical systems, windows, doors, floors, ceilings, masonry, structural built-in equipment, painting, fire suppression and life safety systems, security systems installation and maintenance, school grounds, athletic facilities and playgrounds, as well as renovations, alterations and modernizations that do not require major structural changes. Maintenance equipment may include specialized vehicles for maintaining buildings and grounds and attachments or accessories for general purpose vehicles where the attachments or accessories are for maintenance of buildings and grounds.
- 3.2 Funds allocated for a specific project shall be used only for that project. Program funds may not be used for the following: motorized vehicles not identified in subsection 3.1, routine janitorial supplies, new construction that increases the area of a building or extends any of its component systems, site improvements that add to or extend the existing roadways or sidewalks, surfacing a non-surfaced area for parking, completing major construction projects or specific items omitted or deleted from major construction projects or floor space allocated according to formula and used otherwise.

4.0 Invoices

Invoices shall be approved by the Department of Education and the Office of Management and Budget before submission to the Division of Accounting for processing. Payments may be made as the project progresses or after work has been completed and accepted, as warranted by the nature and scope of the individual project or projects.

2-05.0 Career Technical Program Equipment Replacement Requests

- 2-45.1 Replacement of Career Technical Program Equipment may be accomplished using MCI Minor Capital Improvement Vocational Education Replacement funds Funds.
- 2-2 ~~Career Technical Program Equipment is defined as either a movable or fixed unit but not a built in unit. In addition, the equipment shall retain its original shape and appearance with use, be nonexpendable, and represent an investment which makes it feasible and advisable to capitalize and not lose its identity through incorporation into a different or more complex unit. Computers and computer peripheral equipment may be purchased using MCI Vocational Education Equipment Replacement Funds provided such equipment purchased with such funds is used in a vocational education setting for the service life of said equipment.~~

PROPOSED REGULATIONS

~~2.2.15.2~~ In order to To replace Career Technical Program Equipment, the equipment must have a unit cost of \$500 or more, be obsolete or more than five (5) years old, and be purchased with ~~state, state and local~~ or local funds.

2.35.3 Funds shall be allocated based on the percentage of a district's Vocational Division II Units to the total of such units of all participating districts. This percentage is applied to the total funds available in a given year for Career Technical Program Equipment. Allocations for technical school districts do not require a local match.

~~3.06.0~~ Purchase Orders

6.1 Minor Capital Improvement Program project purchase orders shall be reviewed and approved by the Department of Education and the Office of Management and Budget before submission to the Division of Accounting.

6.2 Funds may be expended as long as the appropriation is active and continuing as authorized through legislation, usually a three (3) year period. Appropriations may be accumulated over those three (3) years and expended for a major replacement when a sufficient balance is attained. Funds unexpended when the appropriation expires shall revert to the ~~State~~ state unless properly continued through ~~legislation, and in accordance with~~ legislation and Office of Management and Budget requirements.

4.0 Cost Limitations

~~The maximum cost of a MCI project is \$750,000 except roof repairs and replacements which are not cost limited. Non roof projects exceeding the ceiling shall be requested through the Major Capital request process.~~

~~5.07.0~~ Temporary Employees

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

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Chapter 29 (14 **Del.C.** Ch. 29)
14 **DE Admin. Code** 1150

PUBLIC NOTICE

Education Impact Analysis Pursuant To 14 Del.C. §122(d) & Chapter 29

1150 School Transportation

A. TYPE OF REGULATORY ACTION REQUIRED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF THE REGULATION

Pursuant to 14 **Del.C.** Chapter 29, the Delaware Department of Education ("Department") intends to amend 14 **DE Admin. Code** 1150 School Transportation. This regulation is being amended to clarify safety procedures and protocols for school bus drivers, aides and supervisors; to align with federal requirements per the Federal Motor Carrier Safety Administration's Entry Level Driver Training; to align with requirements for commercial licensed drivers per the Commercial Driver's License Drug and Alcohol Clearinghouse; and to make grammatical and style corrections per the *Delaware Administrative Code Drafting and Style Manual*. On November 1, 2019, the above amendments were published. In response to comments received, subsection 12.10 was amended to clarify that transportation benefits are based upon the *pupil's individual need* as specified in a 504 Plan or Individualized

Education Program (IEP). Such change is substantive under 29 **Del. C. § 10118(c)**. Therefore, at this time the Department repropose 14 **DE Admin. Code 1150 School Transportation** which includes the original amendments and the revised subsection 12.10. In accordance with 14 **Del.C. §2901(a)**, the Department sought the advice of the Director of the Division of Motor Vehicles regarding the amendments to subsections 3.1.20, 3.1.24, 10.6, 10.8.1, 10.11.1, 10.19, 10.22, 10.25, and 12.11.

Persons wishing to present their views regarding this matter may do so in writing by the close of business (4:30 p.m.) on or before July 3, 2020 to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or email to DOEregulations.comment@doe.k12.de.us. A copy of this regulation may be viewed online at the Registrar of Regulation's website, http://regulations.delaware.gov/services/current_issue.shtml or obtained at the Department of Education's Office of the Secretary, located at the address above.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation does not specifically address the improvement of student achievement as measured against state achievement standards.

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

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation does help to ensure that all students' health and safety are adequately protected by ensuring bus drivers are properly adhering to school transportation training requirements and laws.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation continues to help ensure that all student's legal rights are respected.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulations does not change the decision making at the local board and school level.

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

7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The amended regulation does not change the decision making authority and accountability for addressing the subject to be regulated.

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

9. Is there a less burdensome method for addressing the purpose of the regulation? There is no less burdensome method for addressing the purpose of the amended regulation.

10. What is the cost to the State and to the local school boards of compliance with the regulation? There are no material costs to implementing this amended regulation.

***Please Note:**

(1) The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 **Del.C. Ch. 104**, is available at:

[http://regulations.delaware.gov/register/june2020/proposed/23 DE Reg 984RFA 06-01-20.pdf](http://regulations.delaware.gov/register/june2020/proposed/23%20DE%20Reg%20984RFA%2006-01-20.pdf)

(2) Due to the size of the proposed regulation, it is not being published here. A copy of the regulation is available at:

1150 School Transportation

PROPOSED REGULATIONS

PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b) (14 Del.C. §§1203 and 1205(b))

14 DE Admin. Code 1521

PUBLIC NOTICE

Educational Impact Analysis Pursuant to 14 Del.C. Section 122(d)

1521 Elementary Teacher

A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

Pursuant to 14 Del.C. §§1203 and 1205(b), the Professional Standards Board, acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 DE Admin. Code 1521 Elementary Teacher. The regulation concerns the requirements for an Elementary Teacher Standard Certificate in accordance with 14 Del.C. §1220.

The proposed amendments include striking subsection 4.1.1.5 because the option to earn a degree in any content area and complete 15 credits or the equivalent in professional development in the area of the certificate does not apply to elementary teachers as they provide instruction in core content areas (14 Del.C. §1210(a)(1)). In addition, the proposed additional language in subsection 4.1.2.2 aligns with the date through which the assessment (ETS Test Code #7801) will be offered by ETS and the proposed amendment to subsection 4.1.2.4.3 is to strike an erroneous reference to ETS Test Code #7815. Other proposed amendments include clarifying changes in Section 1.0; striking two defined terms from Section 2.0 because the terms do not appear elsewhere in the regulation as a result of striking subsection 4.1.1.5; clarifying changes and removing the reference to Meritorious New Teacher Candidate Designation, which was through a reciprocal licensing agreement with other states that no longer exists, in Section 3.0; and clarifying changes in Sections 4.0, 5.0, 6.0, 7.0, and 9.0.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before August 3, 2020 to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or to DOEregulations.comment@doe.k12.de.us. A copy of this regulation may be viewed online at the Registrar of Regulation's website, http://regulations.delaware.gov/services/current_issue.shtml or obtained at the Department of Education's Office of the Secretary, located at the address above.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation will help to improve student achievement as measured against state achievement standards.
2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation will help ensure that all students receive an equitable education.
3. Will the amended regulation help to ensure all students' health and safety are adequately protected? The amended regulation addresses a standard certificate for educators, not students' health and safety.
4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses a standard certificate for educators, not students' legal rights.
5. Will the amended regulation preserve the necessary authority and flexibility of decision-makers at the local board and school level? The amended regulation does not change authority and flexibility of decision makers at the local board and school level.
6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels.
7. Will decision making authority and accountability for addressing the subject to be regulated be placed in

the same entity? The Department implements the rules and regulations promulgated and adopted pursuant to 14 Del.C. Ch. 12 relating to licensure and certification of educators.

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

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

10. What is the cost to the state and to the local school boards of compliance with the adopted regulation? There is no expected cost to the state and to the local school boards of complying with this amended regulation.

***Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/june2020/proposed/23 DE Reg 986RFA 06-01-20.pdf>

1521 Elementary Teacher

1.0 Content

1.1 This regulation shall apply to the issuance of ~~a Standard Certificate~~, an Elementary Teacher Standard Certificate pursuant to 14 Del.C. §1220(a), ~~for Elementary Teacher~~. This Certification is required for grades K to 6.

1.1.1 Notwithstanding subsection 1.1, the Early Childhood Teacher ~~Certification~~ Standard Certification may be used for K to grade 2 in lieu of this Certification.

2.0 Definitions

The following words and terms, when used in this regulation, shall have the following meaning ~~unless the context clearly indicates otherwise~~:

"Certification" means the issuance of a certificate, which may occur regardless of a recipient's assignment or employment status.

"Department" means the Delaware Department of Education.

"Educator" means a person licensed and certified by the State under 14 Del.C. Ch. 12 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Professional Standards Board and approved by the State Board of Education. The term 'educator' does not include substitute teachers.

"Employing Authority" means any entity which employs educators, and includes, but is not limited to, school districts, charter schools, boards of directors, and management companies.

~~**"Fifteen (15) Credits or the Equivalent in Professional Development"** means college credits or an equivalent number of hours with one (1) credit equating to fifteen (15) hours taken either as part of a degree program or in addition to a degree program from a regionally accredited college or university or a professional development provider approved by the Department. College credit means undergraduate or graduate level coursework and continuing education units (CEUs) completed at or through a regionally accredited college or university or other Department approved provider.~~

"Immorality" means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator's effectiveness by reason of his or her unfitness or otherwise.

"License" means a credential which authorizes the holder to engage in the practice for which the license is issued.

PROPOSED REGULATIONS

"Major or Its Equivalent" means a minimum of ~~thirty (30)~~ 30 semester hours of course work in a particular content area.

"Passing Score" means a minimum score as established by the Professional Standards Board, in consultation with the Department, and with the approval of the State Board of Education.

"Professional Development" ~~means a combination of focused, in-depth learning, practice, feedback, reflection, and expert support experiences designed to change participants' attitudes, insights, and/or perspectives; and ultimately results in improved professional practice. Effective professional development programs include ample opportunities for knowledge acquisition, skill mastery, descriptive feedback, and refinement of practice in the work setting.~~

"Standard Certificate" means a credential issued to certify that an educator has the prescribed knowledge, skill or education to practice in a particular area, teach a particular subject, or teach a category of students.

"Standards Board" means the Professional Standards Board established pursuant to 14 Del.C. §1201.

"Valid and Current License or Certificate from Another State" means a current full or permanent certificate or license issued by another state or jurisdiction. This means the educator is fully credentialed by having met all of the requirements for full licensure or certification in another state or jurisdiction. It does not include temporary, emergency, conditional certificates of eligibility or expired certificates or licenses issued from another state or jurisdiction.

3.0 Issuance of a Standard Certificate

- 3.1 In accordance with 14 Del.C. §1220(a), the Department shall issue an Elementary Teacher Standard Certificate to an Educator who:
- 3.1.1 Holds a valid Delaware Initial, Continuing, or Advanced License, ~~or a~~ or a Standard or Professional Status Certificate issued by the Department prior to August 31, 2003 and meets the requirements set forth in Section 4.0 of this regulation; or
 - 3.1.2 Has met the requirements for licensure and holds a Valid and Current License or Certificate ~~from Another State~~ in elementary education; or education.
 - 3.1.3 ~~Has met the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C. §1203.~~
- 3.2 Notwithstanding any provision to the contrary herein, the Department shall not act on an application for Certification an Elementary Teacher Standard Certificate if the applicant is under official investigation by any national, state, or local authority with the power to issue educator licenses or certifications. The Department shall not act where the ~~alleged conduct involves allegations of~~ allegations include but are not limited to conduct such as Immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty, or falsification of credentials, until the applicant provides evidence of the investigation's resolution.

4.0 Prescribed Education, Knowledge, and Skill Requirements

- 4.1 For an applicant who ~~is applying for his or her first Standard Certificate~~ does not hold a content area Standard Certificate, the applicant shall have satisfied the requirements in subsections 4.1.1 and 4.1.2.
- 4.1.1 The applicant shall have:
 - 4.1.1.1 Obtained and currently maintain an Early Childhood/Generalist certificate from the National Board for Professional Teaching Standards; or
 - 4.1.1.2 ~~Completed~~ Earned a bachelor's degree from a regionally accredited college or university with a Major or Its Equivalent in elementary education from an educator preparation program approved or recognized by the National Council for the Accreditation of Teacher Education (NCATE), the Council for the Accreditation of Educator Preparation (CAEP), or a state where the state approval body employed the appropriate standards; or
 - 4.1.1.3 Satisfactorily completed an alternative routes for licensure or certification program to teach grades K to 6 as provided in ~~14 DE Admin. Code 1507~~ 14 Del.C. §§1260 - 1266; or

- 4.1.1.4 Satisfactorily completed a Department-approved educator preparation program in elementary education; or education.
- 4.1.1.5 ~~Completed a bachelor's degree from a regionally accredited college or university in any content area and satisfactory completion of fifteen (15) credits or the equivalent in Department approved Professional Development related to elementary education of which at least six (6) credits must focus on pedagogy.~~
 - 4.1.1.5.1 ~~The applicant, in consultation with the applicant's Employing Authority, shall select the Fifteen (15) Credits or the Equivalent in Professional Development subject to the Department's approval.~~
 - 4.1.1.5.2 ~~If the applicant does not have an Employing Authority or is applying for a Standard Certificate outside of the applicant's current spectrum of employment, the applicant shall select the Fifteen (15) Credits or the Equivalent in Professional Development in consultation with the Department and subject to the Department's approval.~~
- 4.1.2 The applicant shall have achieved a Passing Score on one of the following examinations:
 - 4.1.2.1 On the Praxis Subject Assessment - Elementary Education: Multiple Subjects (ETS Test Code # 5001), the applicant shall have achieved a Passing Score on each of the following subtests:
 - 4.1.2.1.1 Reading and Language Arts Subtest (ETS Test Code # 5002) a Passing Score of 157; and
 - 4.1.2.1.2 Mathematics Subtest (ETS Test Code # 5003) a Passing Score of 157; and
 - 4.1.2.1.3 Social Studies Subtest (ETS Test Code # 5004) a Passing Score of 155; and
 - 4.1.2.1.4 Science Subtest (ETS Test Code # 5005) a Passing Score of 159; or
 - 4.1.2.2 On the Praxis Elementary Education: Content Knowledge for Teaching (ETS Test Code # 7801), the applicant shall have achieved a Passing Score on each of the following subtests prior to August 31, 2020:
 - 4.1.2.2.1 Reading and Language Arts CKT Subtest (ETS Test Code # 7802) a Passing Score of 156; and
 - 4.1.2.2.2 Mathematics CKT Subtest (ETS Test Code # 7803) a Passing Score of 143; and
 - 4.1.2.2.3 Science CKT Subtest (ETS Test Code # 7804) a Passing Score of 144; and
 - 4.1.2.2.4 Social Studies Subtest (ETS Test Code # 7805) a Passing Score of 155; or
 - 4.1.2.3 On the Praxis Elementary Education: Content Knowledge for Teaching (ETS Test Code # 7811), the applicant shall have achieved a Passing Score on each of the following subtests:
 - 4.1.2.3.1 Reading and Language Arts CKT Subtest (ETS Test Code # 7812) a Passing Score of 156; and
 - 4.1.2.3.2 Mathematics CKT Subtest (ETS Test Code # 7813) a Passing Score of 143; and
 - 4.1.2.3.3 Science CKT Subtest (ETS Test Code # 7814) a Passing Score of 144; and
 - 4.1.2.3.4 Social Studies CKT Subtest (ETS Test Code # 7815) a Passing Score of 153; or
 - 4.1.2.4 The applicant shall have achieved a Passing Score on each of the following subtests:
 - 4.1.2.4.1 Praxis Subject Assessment - Elementary Education: Reading Language Arts Subtest (ETS Test Code # 5002) a Passing Score of 157 or Praxis Elementary Education: Content Knowledge for Teaching Reading and Language Arts CKT Subtest (ETS Test Code # 7802 or 7812) a Passing Score of 156; and
 - 4.1.2.4.2 Praxis Subject Assessment - Elementary Education: Mathematics Subtest (ETS Test Code # 5003) a Passing Score of 157 or Praxis Elementary Education: Content Knowledge for Teaching Mathematics CKT Subtest (ETS Test Code # 7803 or 7813) a Passing Score of 143; and
 - 4.1.2.4.3 Praxis Subject Assessment - Elementary Education: Social Studies Subtest (ETS Test Code # 5004) a Passing Score of 155 or Praxis Elementary Education: Content Knowledge for Teaching Social Studies Subtest (ETS Test Code #7805 ~~or 7815~~) a

PROPOSED REGULATIONS

Passing Score of 155 or Social Studies CKT Subtest (ETS Test Code # 7815) a Passing Score of 153; and

- 4.1.2.4.4 Praxis Subject Assessment - Elementary Education: Science Subtest (ETS Test Code # 5005) a Passing Score of 159 or Praxis Elementary Education: Content Knowledge for Teaching Science CKT Subtest (ETS Test Code # 7804 or 7814) a Passing Score of 144.

- 4.2 For an applicant who is applying for his or her second or subsequent holds at least one content area Standard Certificate, the applicant shall have achieved a Passing Score on ~~one of the following examinations:~~ an examination as provided in subsection 4.1.2.

4.2.1 ~~On the Praxis Subject Assessment - Elementary Education: Multiple Subjects (ETS Test Code # 5001), the applicant shall have achieved a Passing Score on each of the subtests as provided in subsection 4.1.2.1; or~~

4.2.2 ~~On the Praxis Elementary Education: Content Knowledge for Teaching (ETS Test Code # 7801), the applicant shall have achieved a Passing Score on each of the subtests as provided in subsection 4.1.2.2; or~~

4.2.3 ~~On the Praxis Elementary Education: Content Knowledge for Teaching (ETS Test Code # 7811), the applicant shall have achieved a Passing Score on each of the subtests as provided in subsection 4.1.2.3; or~~

4.2.4 ~~The applicant shall have achieved a Passing Score on each of the subtests as provided in subsection 4.1.2.4.~~

5.0 Application Requirements

- 5.1 If an applicant is applying for an Initial License, a Standard Certificate must be applied for simultaneously with the application for ~~an~~ the Initial License, and the applicant shall also provide all required documentation for the License.

- 5.2 ~~For applicants who are applying for their first~~ an applicant who does not hold a content area Standard Certificate, the following documentation is required with the application for an Elementary Teacher Standard Certificate:

5.2.1 Evidence of obtaining and maintaining an Early Childhood/Generalist certificate from the National Board for Professional Teaching Standards, if applicable; and

5.2.2 Official transcript from the applicant's ~~regionally accredited~~ Regionally Accredited college or university.

5.2.2.1 Electronic transcripts may be submitted by the Employing Authority or by the applicant's ~~regionally accredited~~ Regionally Accredited college or university; or

5.2.2.2 Sealed paper transcripts may be submitted.

5.2.2.3 The Department will not accept copies of transcripts; and

5.2.3 ~~If applicable, documents verifying successful completion of Professional Development; and~~

5.2.4 ~~5.2.3~~ Official scores on the Praxis Subject Assessment or Praxis Elementary Education: Content Knowledge for Teaching as provided in subsection 4.1.2; and

5.2.5 ~~If applicable, an experience form must be completed in full and signed by the applicant; and~~

5.2.6 ~~5.2.4~~ Additional documentation as required by the Department.

- 5.3 ~~For applicants who are applying for their second or subsequent~~ an applicant who holds at least one content area Standard Certificate, the following documentation is required in the application for a ~~Standard Certificate for Elementary Teacher~~ an Elementary Teacher Standard Certificate:

5.3.1 Official scores on the Praxis Subject Assessment or Praxis Elementary Education: Content Knowledge for Teaching as provided in subsection 4.2; and

5.3.2 Additional documentation as required by the Department.

- 5.4 For applicants who have met the requirements for licensure and hold a Valid and Current License or Certificate ~~from Another State~~ in elementary education, the following documentation is required in the

application for a ~~Standard Certificate for Elementary Teacher~~ an Elementary Teacher Standard Certificate:

- 5.4.1 An official copy of the ~~valid and current educator license or certificate from another state or professional license.~~ Valid and Current License or Certificate; and
- 5.4.2 Additional documentation as required by the Department.

6.0 **Validity of a Standard Certificate**

- 6.1 ~~A Standard Certificate for Elementary Teacher~~ An Elementary Teacher Standard Certificate is valid regardless of the assignment or employment status of the holder provided that the Educator's License remains current and valid.
- 6.2 ~~A Standard Certificate for Elementary Teacher~~ An Elementary Teacher Standard Certificate is not subject to renewal.

7.0 **~~Revocation of a Standard Certificate~~ Disciplinary Action**

- 7.1 An Educator's Elementary Teacher Standard Certificate may be revoked, suspended, or limited for cause as provided in 14 DE Admin. Code 1514 Limitation, Suspension, and Revocation of Licenses, Certificates, and Permits.
- 7.2 An Educator's Elementary Teacher Standard Certificate shall be revoked ~~in the event~~ if the Educator's Initial, Continuing, or Advanced License or Standard or Professional Status Certificate is revoked or the Educator made a materially false or misleading statement in the Educator's ~~Standard Certificate~~ application in accordance with 14 **Del.C.** §1222.
- ~~7.2~~ 7.3 An Educator whose ~~Standard Certificate~~ certificate is noticed for ~~revocation~~ disciplinary action is entitled to a full and fair hearing before the Standards Board.
- ~~7.2.4~~ Hearings shall be conducted in accordance with the 14 **DE Admin. Code** 1515 Hearing Procedures and Rules.

8.0 **Secretary of Education Review**

The Secretary of Education may, upon the written request of a local school district or charter school, review credentials submitted in an application for an Elementary Teacher Standard Certificate on an individual basis and grant such a Standard Certificate to an applicant who otherwise does not meet the requirements for an Elementary Teacher Standard Certificate but whose effectiveness is documented by the local school district or charter school.

9.0 **Past Certificate Recognized**

The Department shall recognize an Elementary Teacher Standard Certificate that was issued by the Department prior to the effective date of this regulation. An educator holding such a Standard Certificate ~~issued by the Department before the effective date of this regulation~~ shall be considered certified as an elementary teacher to teach elementary education.

PROPOSED REGULATIONS

PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b) (14 Del.C. §§1203 & 1205(b))
14 DE Admin. Code 1573

PUBLIC NOTICE

Educational Impact Analysis Pursuant to 14 Del.C. Section 122(d)

1573 Teacher of Students with Autism or Students with Severe Intellectual Disabilities

A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

Pursuant to 14 Del.C. §§1203 and 1205(b), the Professional Standards Board, acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 DE Admin. Code 1573 Teacher of Students with Autism or Students with Severe Intellectual Disabilities. The regulation concerns the requirements for a Teacher of Students with Autism or Students with Severe Intellectual Disabilities Standard Certificate in accordance with 14 Del.C. §1220. The proposed amendments include adding clarifying language regarding category certificates in Section 1.0; adding defined terms to Section 2.0; clarifying the requirements for issuing a Teacher of Students with Autism or Students with Severe Intellectual Disabilities Standard Certificate in Section 3.0; specifying the education, knowledge, and skill requirements for obtaining a Teacher of Students with Autism or Students with Severe Intellectual Disabilities Standard Certificate in Section 4.0; specifying the application requirements in Section 5.0; adding Section 6.0, which concerns the validity of a Teacher of Students with Autism or Students with Severe Intellectual Disabilities Standard Certificate; adding Section 7.0, which concerns disciplinary actions; adding Section 8.0, which concerns requests for the Secretary of Education to review standard certificate applications; and adding Section 9.0, which concerns recognizing past certificates.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before August 3, 2020 to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or to DOERegulations.comment@doe.k12.de.us. A copy of this regulation may be viewed online at the Registrar of Regulation's website, http://regulations.delaware.gov/services/current_issue.shtml or obtained at the Department of Education's Office of the Secretary, located at the address above.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation will help to improve student achievement as measured against state achievement standards.
2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation will help ensure that all students receive an equitable education.
3. Will the amended regulation help to ensure all students' health and safety are adequately protected? The amended regulation addresses a standard certificate for educators, not students' health and safety.
4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses a standard certificate for educators, not students' legal rights.
5. Will the amended regulation preserve the necessary authority and flexibility of decision-makers at the local board and school level? The amended regulation does not change authority and flexibility of decision makers at the local board and school level.
6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels.
7. Will decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The Department implements the rules and regulations promulgated and adopted pursuant to 14

Del.C. Ch. 12 relating to licensure and certification of educators.

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

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

10. What is the cost to the state and to the local school boards of compliance with the adopted regulation? There is no expected cost to the state and to the local school boards of complying with this amended regulation.

***Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/june2020/proposed/23 DE Reg 992RFA 06-01-20.pdf>

1573 Teacher of Students with Autism or Students with Severe Intellectual Disabilities

1.0 Content

- 1.1 This regulation shall apply to the issuance of a ~~Standard Certificate, a Teacher of Students with Autism or Students with Severe Intellectual Disabilities Standard Certificate~~ pursuant to 14 ~~Del.C. §1220(a)~~, for a ~~Teacher of Students with Autism or Students with Severe Intellectual Disabilities~~. Eighteen (18) months from the effective date of this regulation, this certification shall be required for all educators within the Delaware public school system whose primary assignment is teaching children with autism or children with severe intellectual disabilities and for educators teaching in an Approved Program.
- 1.1.1 ~~This Certification is required for an Educator whose primary assignment is teaching students with Autism or Severe Intellectual Disabilities in an Approved Program or in Delaware public schools.~~
- 1.1.2 ~~This Certification is a category Standard Certificate and does not certify an Educator to practice in a particular area or teach a particular subject. A category Standard Certificate only establishes that an educator has met the prescribed education, knowledge, or skill to instruct a particular category of students. This Certification is limited to the category of students with Autism or Severe Intellectual Disabilities.~~
- 1.1.3 ~~An Educator shall hold at least one content area Standard Certificate.~~
- 1.2 ~~Except as otherwise provided, the requirements set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~

2.0 Definitions

- 2-1 ~~The definitions set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto, are incorporated herein by reference.~~
- 2-2 The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:
- "15 Credits or the Equivalent in Professional Development"** means college credits or an equivalent number of hours with one credit equating to 15 hours taken either as part of a degree program or in addition to a degree program from a Regionally Accredited college or university or a professional development provider approved by the Department. College credit means undergraduate or graduate level coursework and continuing education units (CEUs) completed at or through a Regionally Accredited college or university or other Department-approved provider.
- "Approved Program"** means a program encompassing or within a public school designated by the Department and the State Board of Education as a component of the Delaware Autism Program.

PROPOSED REGULATIONS

"**Autism**" shall have the same meaning as provided in 14 **DE Admin. Code** 922, ~~§3-0~~ Section 3.0 and 14 **DE Admin. Code** 925, ~~§6-6~~ subsection 6.6.

"**Certification**" means the issuance of a Standard Certificate, which may occur regardless of a recipient's assignment or employment status.

"**Department**" means the Delaware Department of Education.

"**Educator**" means a person licensed and certified by the State under 14 **Del.C.** Ch. 12 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Professional Standards Board and approved by the State Board of Education. The term 'educator' does not include substitute teachers.

"**Employing Authority**" means any entity which employs educators, and includes, but is not limited to, school districts, charter schools, boards of directors, and management companies.

"**Immorality**" means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator's effectiveness by reason of the educator's unfitness or otherwise.

"**Intellectual Disability**" shall have the same meaning as provided in 14 **DE Admin. Code** 922, ~~§3-0~~ Section 3.0 and 14 **DE Admin. Code** 925, ~~§6-12~~ subsection 6.12.

"**License**" means a credential which authorizes the holder to engage in the practice for which the license is issued.

"**Major or Its Equivalent**" means a minimum of 30 semester hours of coursework in a particular content area.

"**Professional Development**" means a combination of focused, in-depth learning, practice, feedback, reflection, and expert support experiences designed to change participants' attitudes, insights, and perspectives and ultimately results in improved professional practice. Effective professional development programs include ample opportunities for knowledge acquisition, skill mastery, descriptive feedback, and refinement of practice in the work setting.

"**Regionally Accredited**" means educational accreditation by a regional accrediting agency that is recognized by the U.S. Secretary of Education as a reliable authority concerning the quality of education offered by the institutions of higher education it accredits, including Middle States Commission on Higher Education.

"**Severe Intellectual Disability**" shall have the same meaning as provided in ~~14 DE Admin. Code~~ 922, ~~§3-0~~ and 14 **DE Admin. Code** 925, ~~§6-12~~ subsection 6.12.

"**Standard Certificate**" means a credential issued to certify that an educator has the prescribed knowledge, skill or education to practice in a particular area, teach a particular subject, or teach a category of students.

"**Standards Board**" means the Professional Standards Board established pursuant to 14 **Del.C.** §1201.

"**Valid and Current License or Certificate**" means a current full or permanent certificate or license issued by another state or jurisdiction. This means the educator is fully credentialed by having met all of the requirements for full licensure or certification in another state or jurisdiction. It does not include temporary, emergency, conditional certificates of eligibility or expired certificates or licenses issued from another state or jurisdiction.

3.0 Issuance of a Standard Certificate

- 3.1 In accordance with 14 **Del.C.** §1220(a), the Department shall issue a Teacher of Students with Autism or Students with Severe Intellectual Disabilities Standard Certificate ~~as a Teacher of Students with Autism or Students with Severe Intellectual Disabilities~~ to an educator applicant who has met the following:
- 3.1.1 Holds a valid Delaware Initial, Continuing, or Advanced ~~License~~; License or a Standard or Professional Status Certificate issued by the Department prior to August 31, 2003; ~~and,~~ and meets the requirements set forth in Section 4.0 of this regulation; or

~~3.1.2~~ ~~Has met the requirements as set forth in 14 DE Admin. Code 1505 Standard Certificate, including any subsequent amendment or revision thereto; and, Has met the requirements for licensure and holds a Valid and Current License or Certificate in teaching students with Autism or Severe Intellectual Disabilities.~~

~~3.1.3~~ ~~Has satisfied the additional requirements in this regulation.~~

3.2 Notwithstanding any provision to the contrary herein, the Department shall not act on an application for a Teacher of Students with Autism or Students with Severe Intellectual Disabilities Standard Certificate if the applicant is under official investigation by any national, state, or local authority with the power to issue educator licenses or certifications. The Department shall not act where the allegations include but are not limited to conduct such as Immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty, or falsification of credentials until the applicant provides evidence of the investigation's resolution.

4.0 **Additional Requirements Prescribed Education, Knowledge, and Skill Requirements**

~~4.1~~ ~~An educator shall also have satisfied at least one (1) of the following additional education requirements:~~

~~4.1.1~~ ~~Graduating with a bachelor's or a master's degree, with a major in special education and with a concentration in autism and severe intellectual disabilities, from an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program, offered by a regionally accredited college or university. The state approval body shall employ the appropriate NASDTEC or NCATE specialty organization standard; or~~

~~4.1.2~~ ~~Graduating with a bachelor's or master's degree from a regionally accredited college or university with a major in special education; and~~

~~4.1.2.1~~ ~~Completion of a minimum of fifteen (15) credits from a regionally accredited college or university or their equivalent in professional development as approved by the Department, with a focus in autism and severe intellectual disabilities in the following content areas:~~

~~4.1.2.1.1~~ ~~Introduction to Autism and Severe Intellectual Disabilities (three credits);~~

~~4.1.2.1.2~~ ~~Methods of Instruction in Academic Standards and Functional Skills (three credits);~~

~~4.1.2.1.3~~ ~~Functional Communication Training (three credits);~~

~~4.1.2.1.4~~ ~~Applied Behavior Analysis for Educators (three credits); and~~

~~4.1.2.1.5~~ ~~Competency-Based Practicum in Behaviorally Based Teaching Techniques (three credits)~~

4.1 An applicant shall have satisfied one of the following education requirements:

4.1.1 Obtained and currently maintain an Exceptional Needs Specialist certificate in the specialty area of Mild/Moderate Disabilities or Severe and Multiple Disabilities from the National Board for Professional Teaching Standards; or

4.1.2 Earned a bachelor's or master's degree from a Regionally Accredited college or university with a Major or Its Equivalent in special education with a concentration in autism and severe intellectual disabilities from an educator preparation program approved or recognized by the National Council for the Accreditation of Teacher Education (NCATE), the Council for the Accreditation of Educator Preparation (CAEP), or a state where the state approval body employed the appropriate standards; or

4.1.3 Satisfactorily completed an alternative routes for licensure or certification program to teach students with autism and severe intellectual disabilities as provided in 14 Del.C. §§1260 - 1266; or

4.1.4 Satisfactorily completed a Department-approved educator preparation program to teach students with autism and severe intellectual disabilities; or

4.1.5 Earned a bachelor's or master's degree from a Regionally Accredited college or university with a Major or its Equivalent in special education and satisfactorily completed 15 Credits or the Equivalent in Professional Development with a focus in Autism and Severe Intellectual Disabilities in the following areas:

PROPOSED REGULATIONS

- 4.1.5.1 Introduction to Autism and Severe Intellectual Disabilities (three credits);
- 4.1.5.2 Methods of Instruction in Academic Standards and Functional Skills (three credits);
- 4.1.5.3 Functional Communication Training (three credits);
- 4.1.5.4 Applied Behavior Analysis for Educators (three credits); and
- 4.1.5.5 Competency-Based Practicum in Behaviorally Based Teaching Techniques (three credits);

or

- 4.1.6 Currently hold a Special Education Teacher of Students with Disabilities Standard Certificate (14 **DE Admin. Code** 1571) and satisfactorily completed 15 Credits or the Equivalent in Professional Development with a focus in teaching students with Autism and Severe Intellectual Disabilities in the areas provided in subsections 4.1.5.1 through 4.1.5.5.

5.0 Application Requirements

- 5.1 If an applicant is applying for an Initial License, a Standard Certificate must be applied for simultaneously with the application for the Initial License, and the applicant shall also provide all required documentation for the License.
- 5.2 The following documentation is required with the application for a Teacher of Students with Autism or Students with Severe Intellectual Disabilities Standard Certificate:
 - 5.2.1 Evidence of obtaining and maintaining an Exceptional Needs Specialist certificate from the National Board for Professional Teaching Standards, if applicable; and
 - 5.2.2 Official transcript from the applicant's Regionally Accredited college or university.
 - 5.2.2.1 Electronic transcripts may be submitted by the applicant's Employing Authority or Regionally Accredited college or university; or
 - 5.2.2.2 Sealed paper transcripts may be submitted by the applicant, the applicant's Employing Authority, or the applicant's Regionally Accredited college or university.
 - 5.2.2.3 The Department will not accept copies of transcripts; and
 - 5.2.3 Evidence of completing the 15 Credits or the Equivalent in Professional Development as provided in subsections 4.1.5 and 4.1.6, if applicable; and
 - 5.2.4 Additional documentation as required by the Department.
- 5.3 For applicants who have met the requirements for licensure and hold a Valid and Current License or Certificate in teaching students with Autism or Severe Intellectual Disabilities, the following documentation is required in the application for a Teacher of Students with Autism or Students with Severe Intellectual Disabilities Standard Certificate:
 - 5.3.1 An official copy of the Valid and Current License or Certificate; and
 - 5.3.2 Additional documentation as required by the Department.

6.0 Validity of a Standard Certificate

- 6.1 A Teacher of Students with Autism or Students with Severe Intellectual Disabilities Standard Certificate is valid regardless of the assignment or employment status of the holder provided that the Educator's License remains current and valid.
- 6.2 A Teacher of Students with Autism or Students with Severe Intellectual Disabilities Standard Certificate is not subject to renewal.

7.0 Disciplinary Action

- 7.1 An Educator's Teacher of Students with Autism or Students with Severe Intellectual Disabilities Standard Certificate may be revoked, suspended, or limited for cause as provided in 14 **DE Admin. Code** 1514 Limitation, Suspension, and Revocation of Licenses, Certificates, and Permits.
- 7.2 An Educator's Teacher of Students with Autism or Students with Severe Intellectual Disabilities Standard Certificate shall be revoked if the Educator's Initial, Continuing, or Advanced License or

Standard or Professional Status Certificate is revoked or the Educator made a materially false or misleading statement in the Educator's application in accordance with 14 Del.C. §1222.

- 7.3 An Educator whose certificate is noticed for disciplinary action is entitled to a full and fair hearing before the Standards Board. Hearings shall be conducted in accordance with 14 DE Admin. Code 1515 Hearing Procedures and Rules.

8.0 Secretary of Education Review

The Secretary of Education may, upon the written request of a local school district or charter school, review credentials submitted in an application for a Teacher of Students with Autism or Students with Severe Intellectual Disabilities Standard Certificate on an individual basis and grant such a Standard Certificate to an applicant who otherwise does not meet the requirements for a Teacher of Students with Autism or Students with Severe Intellectual Disabilities Standard Certificate but whose effectiveness is documented by the local school district or charter school.

5-09.0 Past Certification Certificate Recognized

- 5-19.1 The Department shall recognize a Standard Teacher of the Autistic Child or Professional Status Certificate issued by the Department between January 1, 1982 and August 31, 2005, if otherwise valid. A teacher An Educator holding a Standard Teacher of the Autistic Child or a Professional Status Certificate issued between January 1, 1982 and August 31, 2005 shall be considered certified to teach classes for children with autism or severe intellectual disabilities instruct students with Autism or Severe Intellectual Disabilities.
- 5-29.2 The Department shall recognize a Standard Certificate Teacher of Students with Autism or Students with Severe Intellectual Disabilities Standard Certificate issued by the Department between September 1, 2005 and prior to the effective date of this regulation. A teacher An Educator holding such a Standard Certificate Teacher of Students with Autism or Severe Disabilities issued between October 1, 2005 and the effective date of this regulation shall be considered certified to teach classes for children with autism or severe intellectual disabilities instruct students with Autism or Severe Intellectual Disabilities.

DEPARTMENT OF INSURANCE OFFICE OF THE COMMISSIONER

Statutory Authority: 18 Delaware Code, Sections 311 and 2312 (18 Del.C. §§311 & 2312)
18 DE Admin. Code 902

PUBLIC NOTICE

902 Prohibited Unfair Claim Settlement Practices

A. Type of Regulatory Action Required

Re-proposal of amendments to Regulation 902 - Prohibited Unfair Claim Settlement Practices [Formerly Regulation 26].

B. Synopsis of Subject Matter of the Regulation

In the May 1, 2020 edition of the *Register of Regulations*, the Department published a proposal to update and clarify requirements concerning prohibited unfair claim settlement practices that are set forth in Regulation 902 (see 23 DE Reg. 920 (05/01/2020)). In that proposal, the Department proposed adding new subsection 3.1.14, which included a failure to promptly settle a claim as required under Regulation 903 as an unfair claim settlement practice. The Department also took the opportunity of the proposal to make grammatical and formatting edits throughout the regulation.

Upon further review, the Department has determined not to proceed with proposed new subsection 3.1.14 and

is hereby withdrawing that proposal, as violations of Regulation 903 are already a defined unfair claims settlement practice.

Instead, the Department proposes to add new subsection 3.2, which would specifically provide that three instances of an insurer's commission of a prohibited claim settlement practice within a 36 month period, as listed in subsection 1.2.1 (to be recodified at subsection 3.1), shall give rise to a rebuttable presumption that the insurer is in violation of this regulation and 18 **Del.C.** §2304(16)f. The Department is again taking the opportunity of this re-proposal to make grammatical and formatting edits throughout the regulation.

The Delaware Code authority for the regulation is 18 **Del.C.** §§311 and 2312.

C. Notice and Public Comment

The Department has determined to hold a virtual public hearing on the proposed amendments to Regulation 902 on **Monday, June 22, 2020 at 9:00 a.m.** The hearing will be facilitated through WebEx at <https://stateofdelaware.webex.com/stateofdelaware/j.php?MTID=mdc3082cf09b007a81f58a8a9886c92a1> meeting number (access code): 712 562 634 and meeting password: wsES2uneP24.

Holding a virtual public meeting is specifically permitted by Paragraph 5 of the Declaration of a State of Emergency for the State of Delaware due to a Public Health Threat issued by Governor John Carney on March 12, 2020 and extended without modification on April 10, 2020 and May 8, 2020.

The proposed amendments appear below and may also be viewed at the Department of Insurance website at <http://insurance.delaware.gov/information/proposedregs/>.

Any person may file written comments, suggestions, briefs, and compilations of data or other materials concerning the proposed amendments to the regulation. Any written submission in response to this notice and relevant to the proposed amendments must be received by the Department of Insurance no later than 4:30 p.m. EST, the 7th day of July 2020. Any such requests and any questions concerning connecting to the public hearing should be directed to:

Leslie W. Ledogar, Regulatory Specialist
 Delaware Department of Insurance
 ATTN: Docket 4259-2020
 1351 West North Street, Suite 101
 Dover, DE 19904
 (302) 674-7379
 Email: Leslie.Ledogar@delaware.gov

***Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/june2020/proposed/23 DE Reg 997RFA 06-01-20.pdf>

902 Prohibited Unfair Claim Settlement Practices [Formerly Regulation 26]

~~Claim Settlement Practices Which, When Committed Or Performed with Such Frequency as to Indicate a General Business Practice, Are Prohibited~~

1.0 Purpose

The purpose of this regulation is to set forth unfair claim settlement practices which, when committed or performed with such frequency as to indicate a general business practice, are prohibited.

2.0 Authority

This regulation is adopted by the Commissioner pursuant to the authority granted by 18 **Del.C.** §§311 and 2312, and promulgated in accordance with the Delaware Administrative Procedures Act, 29 **Del.C.** Ch. 101.

~~4.0~~ 3.0 Authority for Regulation; Basis for Regulation Prohibited Unfair Claims Settlement Practices

- 4.1 ~~18 Del.C. §314~~ authorizes the Insurance Commissioner to "...make reasonable rules and regulations necessary for or as an aid to the administration or effectuation of any provision of this title."
- 4.2 ~~18 Del.C. Ch. 23 entitled "Unfair Business Practices in the Insurance Business," 18 Del.C. §2304(16) Unfair Claim Settlement Practices; 18 Del.C. §2304(17) Failure to Maintain Complaint Handling Procedures; and 18 Del.C. §2304(18) Misrepresentation in Insurance Applications,~~ provide the basis for this regulation:
- 4.2.1 ~~3.1~~ The Following Claim Settlement Practices When Committed or Performed following unfair claim settlement practices when committed or performed with such Frequency frequency as to Indicate a General Practice are Prohibited indicate a general business practice are prohibited:
- 4.2.1.1 ~~3.1.1~~ Misrepresenting pertinent facts or insurance policy provisions relating to coverage at issue.
- 4.2.1.2 ~~3.1.2~~ Failing to acknowledge and respond within 15 working days, upon receipt by the insurer, to communications with respect to claims by insureds arising under insurance policies.
- 4.2.1.3 ~~3.1.3~~ Failing to implement prompt investigation of claims arising under insurance policies within 10 working days upon receipt of the notice of loss by the insurer.
- 4.2.1.4 ~~3.1.4~~ Refusing to pay claims without conducting an investigation based upon all available information when the notice of loss received by the insurer indicates that such an investigation is necessary to properly determine such a denial of payment.
- 4.2.1.5 ~~3.1.5~~ Failing to affirm or deny coverage or a claim or advise the person presenting the claim, in writing, or other proper legal manner, of the reason for the inability to do so, within 30 days after proof of loss statements have been received by the insurer.
- 4.2.1.6 ~~3.1.6~~ Not attempting in good faith to effectuate prompt, fair and equitable settlement of claims in which liability has become clear.
- 4.2.1.7 ~~3.1.7~~ Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts which they might be entitled to under normal fair claims evaluations.
- 4.2.1.8 ~~3.1.8~~ Attempting to settle a claim for less than the amount to which a reasonable man would have believed he was entitled by reference to written or printed advertising material accompanying or made part of an application.
- 4.2.1.9 ~~3.1.9~~ Attempting to settle claims on the basis of an application which was altered without notice to, or knowledge of the insured.
- 4.2.1.10 ~~3.1.10~~ Making claims payments to insured or beneficiaries not accompanied by a statement setting forth the coverage under which the payment has been made.
- 4.2.1.11 ~~3.1.11~~ Delaying the investigation or payment of claims by requiring an insured, claimant, or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of a formal proof of loss form, both of which submissions contain substantially the same information, unless the formal proof of loss is required by law, prevailing rules, or the policy.
- 4.2.1.12 ~~3.1.12~~ Failing to promptly settle claims, where liability has become clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage.
- 4.2.1.13 ~~3.1.13~~ Failing when requested to promptly provide an explanation of the basis in the insurance policy in relation to facts or applicable law for denial of a claim or for the offer of a compromise settlement. Such explanation may be made verbally but when given, must be documented in the claims file.
- 3.2 Within a 36-month period, three instances of an insurer's commission of a prohibited unfair claim settlement practice, as set forth in subsection 3.1 of this regulation, shall give rise to a rebuttable presumption that the insurer is in violation of this regulation and 18 Del.C. §2304(16)f.

2-0 4.0 Violations; Penalties

- ~~2.4~~ Failure to comply will subject the violators to the provisions of ~~18 Del.C. §1732 (c)(2) and 18 Del.C. §2307(a)~~ 18 Del.C. §§1712, 2307(a) and 2308, which ~~deals~~ deal with hearings, license revocation, suspension or fine for non-compliance of any regulation.

~~3.0~~ 5.0 Severability

If any provision of this Regulation shall be held invalid, the remainder of the Regulation shall not be affected thereby.

~~4.0~~ 6.0 Effective Date

This Regulation ~~shall become~~ became effective August 1, 1977. The amendments to this Regulation shall become effective ten (10) days after publication of the final order adopting the amendments.

DEPARTMENT OF LABOR DIVISION OF UNEMPLOYMENT INSURANCE

Statutory Authority: 19 Delaware Code, Sections 3122 and 3317(a) (19 Del.C. §§3122 & 3317(a))
19 DE Admin. Code 1202

PUBLIC NOTICE

1202 Unemployment Insurance Regulations

The Delaware Department of Labor, Division of Unemployment Insurance proposes this revised regulation in accordance with Sections 3122 and 3317(a) of Title 19 of the **Delaware Code** to establish procedures for employers to provide notice to claimants at the time the individual becomes unemployed of their rights to file an unemployment claim.

The Delaware Department of Labor, Division of Unemployment Insurance solicits written comments from the public concerning the proposed revised regulation. Any such comments should be submitted to the Director of the Division of Unemployment Insurance, Darryl Scott, by mail to: Delaware Division of Unemployment Insurance, P.O. Box 9950, Wilmington, DE 19809-0950, or by email to: Darryl.Scott@delaware.gov. Written comments must be received by Mr. Scott on or before **July 1, 2020** to be considered prior to the adoption of the proposed revised regulation. Copies of the proposed revised regulation are available upon request.

***Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/june2020/proposed/23 DE Reg 1000RFA 06-01-20.pdf>

1202 Unemployment Insurance Regulations (Break in Continuity of Sections)

5.0 Posting of Placards and Notice to Employee Required in all Separations

- 5.1 Every employer subject to the provisions of Part III Title 19, **Delaware Code**, shall post and maintain printed notices to his employees informing them that he is covered by Part III, Title 19, **Delaware Code**, and has been so registered by the Delaware Division of Unemployment Insurance. Such notices shall be in the form prescribed by the Delaware Division of Unemployment Insurance (Form UC-6), of such design and in such numbers as prescribed by the Delaware Division of Unemployment Insurance, and shall be posted in a conspicuous place in the plant, shop, office, room, or place where employees are employed and where they may readily be seen by them. No such notice shall be posted by any person, employing unit, or employer who has not complied with the provisions of Part III,

Title 19, **Delaware Code**, and to whom an unemployment insurance account number has not been assigned by the Delaware Division of Unemployment Insurance, or who, in accordance with the provisions of the Delaware Code, has ceased to be an employer as defined in the Delaware Code.

- 5.2 Each employer shall deliver to each employee separated from its employ (permanently, for an indefinite period or for an expected duration of 7 days or more) at the time of such separation, or, if in person delivery is impossible or impracticable, shall mail to such employee's last known address, within 24 hours, a copy of Form UC-300, which shall instruct such former employee how to file a claim for unemployment benefits and how to contact the Delaware Division of Unemployment Insurance with questions about unemployment benefits.

***Please Note: As the rest of the sections were not amended, they are not being published. A copy of the regulation is available at:**

1202 Unemployment Insurance Regulations

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Sections 901(b), (c) and (d); 903(a) and (b); 903(e)(2)a.4; and 903(e)(2)b.3, 4 and 6) (7 **Del.C.** §§901(b), (c) and (d); 903(a) & (b); 903(e)(2)a.4; & 903(e)(2)b.3, 4 & 6)
7 DE Admin. Code 3503 & 3504

REGISTER NOTICE

SAN # 2020-04

Hearing Docket No.: 2020-R-F-015

**3503 Striped Bass Recreational Fishing Seasons; Methods of Take; Creel Limit; Possession Limit
3504 Striped Bass Possession Size Limit; Exceptions**

1. TITLE OF THE REGULATIONS:

Amend 7 **DE Admin. Code** 3503 Striped Bass Recreational Fishing Seasons; Methods of Take; Creel Limit; Possession Limit and 7 **DE Admin. Code** 3504 Striped Bass Possession Size Limit; Exceptions.

2. BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUES:

The mandatory provisions of the Atlantic States Fisheries Commission's (ASMFC's) Addendum VI to Amendment 6 to the Atlantic Striped Bass Interstate Fishery Management Plan require a coastwide 18% reduction in striped bass removals (landings + discard mortality). The ASMFC adopted specific, prescribed coastwide management measures to meet the required 18% reduction, but these measures are not preferred for Delaware. Delaware developed two management options that were approved by the ASMFC that, if implemented by the Department, would be equivalent to the specific coastwide management measures in Addendum VI. The first option results in a 1.8% reduction in commercial removals and a 20.4% reduction in recreational removals. The second option results in an 18% reduction in commercial removals and an 18.18% reduction in recreational removals.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

N/A

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

7 **Del.C.** §901 (b), (c) & (d); §903 (a) & (b); §903 (e)(2)a.4; §903 (e)(2)b.3, 4 & 6

5. OTHER REGULATIONS THAT MAY BE AFFECTED BY THE PROPOSAL:

N/A

6. NOTICE OF PUBLIC COMMENT:

The hearing record on the proposed changes to 7 **DE Admin. Code** 3503 Striped Bass Recreational Fishing Seasons; Methods of Take; Creel Limit; Possession Limit and 7 **DE Admin. Code** 3504 Striped Bass Possession Size Limit; Exceptions opens June 1, 2020 (Hearing Docket No. 2020-R-F-015). Individuals may submit comments regarding the proposed new regulation to the Hearing Officer via the online comment form at <https://dnrec.alpha.delaware.gov/public-hearings/comment-form/>, via email to DNRECHearingComments@delaware.gov, or via USPS to Theresa Newman, Hearing Officer, DNREC, 89 Kings Highway, Dover, DE, 19901. Public comments will be received until close of business July 10, 2020.

A virtual public hearing on the proposed amendment will be held on Thursday, June 25, 2020 beginning at 6:00 PM. For additional information on this proposed regulatory promulgation, visit <https://de.gov/dnrechearings>. Please note that live comments will not be accepted during the virtual hearing.

7. PREPARED BY:

John H. Clark

Email: John.Clark@delaware.gov

Ph: (302)739-9914

***Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<http://regulations.delaware.gov/register/june2020/proposed/23 DE Reg 1001RFA 06-01-20.pdf>

**3500 Tidal Finfish
Bass (Striped Bass; Black Sea Bass)**

3503 Striped Bass Recreational Fishing Seasons; Methods of Take; Creel Limit; Possession Limit.(Penalty Section 7 **Del.C.** §936(b)(2))

- 1.0 It is lawful for any person to take and reduce to possession striped bass from the tidal waters of this State at any time except as otherwise set forth in this regulation or in Tidal Finfish Regulations 3502 and 3504.
- 2.0 It is unlawful for any recreational fisherman to take or attempt to take any striped bass from the tidal waters of this State with any fishing equipment other than a hook and line or a spear while said recreational fisherman using the spear is underwater. Recreational gill net permittees are not authorized to take and reduce to possession any striped bass in gill nets.
- 3.0 Unless otherwise authorized, it is unlawful for any recreational fisherman to take and reduce to possession more than ~~two (2)~~ one striped bass per day (a day being 24 hours) from the tidal waters of this State. Any striped bass taken from the tidal waters of this State that is not immediately returned, without unnecessary injury, to the same waters from which it was taken, is deemed taken and reduced to possession for purposes of this subsection.
- 4.0 Unless otherwise authorized, it is unlawful for any recreational fisherman to have in possession more than ~~two (2)~~ one striped bass at or between the place said striped bass was taken and said fisherman's personal abode or temporary or transient place of lodging.
- 5.0 Notwithstanding 7 **Del.C.** §943, which only relates to commercial fishermen, it is lawful for a recreational fisherman to possess striped bass that have not been tagged, unless otherwise prohibited.

3504 Striped Bass Possession Size Limit; Exceptions.(Penalty Section 7 **Del.C.** §936(b)(2))

- 1.0 Notwithstanding, the provisions of 7 **Del.C.** §929(b)(1), it is unlawful for any recreational fisherman to take and reduce to possession any striped bass that measures less than ~~twenty-eight (28)~~ 28 inches in

total length or any striped bass that measures greater than ~~thirty-seven (37)~~ or equal to [TBD from Table] inches in total length but less than ~~forty-four (44)~~ inches in total length, except that a recreational hook and line fisherman may only take ~~two (2)~~ one striped bass measuring not less than ~~twenty (20)~~ 20 inches in total length and not greater than ~~twenty-five (25)~~ 25 inches in total length from the Delaware River, Delaware Bay, or their tributaries during the months of July and August.

Table. Legal recreational striped bass lengths options in proposed amendments to 7 DE Admin. Code §3504 (1.0).

<i>Option</i>	<i>Minimum Length (inches)</i>	<i>Length not to be equaled or exceeded (inches)</i>
<u>1</u>	<u>28</u>	<u>35</u>
<u>2</u>	<u>28</u>	<u>38</u>

- 2.0 Notwithstanding, the provisions of 7 **Del.C.** §929(b)(1), it is unlawful for any commercial food fisherman to take and reduce to possession any striped bass that measure less than ~~twenty-eight (28)~~ 28 inches in total length from the tidal waters of this State except that commercial gill net fishermen may take striped bass measuring no less than ~~twenty (20)~~ 20 inches in total length from the tidal waters of the Delaware River and Delaware Bay or their tributaries during the period from February 15 through May 31 or from the tidal waters of the Nanticoke River or its tributaries during the period from February 15 through ~~the month of March~~ 31.
- 3.0 It is unlawful for any person to possess a striped bass except in accordance with Section 1.0 or 2.0 of this section or unless said striped bass is in one or more of the following categories:
 - 3.1 It has affixed a valid strap tag issued by the Department to a commercial food fisherman and was legally taken and tagged by said commercial food fisherman; or
 - 3.2 It was legally landed in another state for commercial purposes and has affixed a valid tag issued by said state's marine fishery authority; or
 - 3.3 It entered Delaware packed or contained for shipment, either fresh or frozen, and accompanied by a bill-of-lading with a destination to a state other than Delaware; or
 - 3.4 It was legally taken and reduced to possession in another state for noncommercial purposes by the person in possession of said striped bass and there is affixed to either the striped bass or the container in which the striped bass is contained a tag that depicts the name and address of the person landing said striped bass and the date, location, and state in which said striped bass was landed; or
 - 3.5 It is the product of a legal aquaculture operation and the person in possession has a written bill of sale or receipt for said striped bass.
- 4.0 It is unlawful for any commercial finfisherman to possess any striped bass for which the total length has been altered in any way prior to selling, trading or bartering said striped bass.
- 5.0 The words "land" and "landed" shall mean to put or cause to go on shore from a vessel.
- 6.0 The words "take and reduce to possession" shall mean the removal of any striped bass from Delaware waters with the intent to keep or harvest the striped bass.
- 7.0 It is unlawful for a commercial finfisherman authorized to fish during Delaware's commercial striped bass fishery to land any striped bass that measures less than ~~twenty (20)~~ 20 inches in total length.

PROPOSED REGULATIONS

**DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
1900 BOARD OF NURSING**

Statutory Authority: 24 Delaware Code, Sections 1904(c) and 1934(a)(1) (24 **Del.C.** 1904(c) & 1934(a)(1))

24 **DE Admin. Code** 1900

PUBLIC NOTICE**1900 Board of Nursing**

The Delaware Board of Nursing, pursuant to 24 **Del.C.** §1904(c) and 1934(a)(1), proposes to revise its regulations to update its regulations pertaining to APRN Education Programs in Delaware. There are currently no regulations setting forth the requirements or guidelines for such programs, so the Board is proposing new regulations to do so. The proposed changes also strike redundant or unnecessary regulations or make changes to comply with current law and practice.

The Board will hold a public hearing on the proposed regulation changes on July 8, 2020 at 9:00 a.m., Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Dr. Pamela Zickafoose, Executive Director of the Delaware Board of Nursing, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments will be accepted until July 23, 2020 pursuant to 29 **Del.C.** §10118(a).

***Please Note:**

(1) **The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

[http://regulations.delaware.gov/register/june2020/proposed/23 DE Reg 1004RFA 06-01-20.pdf](http://regulations.delaware.gov/register/june2020/proposed/23%20DE%20Reg%201004RFA%2006-01-20.pdf)

(2) **Due to the size of the proposed regulation, it is not being published here. A copy of the regulation is available at:**

1900 Board of Nursing

PUBLIC SERVICE COMMISSION

Statutory Authority: 26 Delaware Code, Section 315(d) (26 **Del.C.** §315(d))

PUBLIC NOTICE**8003 Natural Gas Service Reliability and System Planning Standards**

IN THE MATTER OF THE PETITION OF THE
PUBLIC SERVICE COMMISSION STAFF AND
DELAWARE DIVISION OF THE PUBLIC
ADVOCATE TO ESTABLISH A REGULATION
FOR DISTRIBUTION SYSTEM INVESTMENT
PLANS FOR DELAWARE ELECTRIC AND
NATURAL GAS UTILITIES (Filed July 2, 2018)

PSC DOCKET NO. 18-0935

PUBLIC NOTICE

The Delaware Public Service Commission ("Commission") proposes to issue regulations governing distribution system planning for natural gas public utilities.

You can review the proposed regulations in the June 1, 2020 *Delaware Register of Regulations*. You can also review the Order and the proposed regulations in the Commission's electronic filing system DelaFile at <http://delafile.delaware.gov/> and for docket number input 18-0935. If you wish to obtain written copies of the Order and proposed regulations, please contact the Commission at (302) 736-7500. Copies in excess of the first 20 pages are \$0.10 per page. Payment is expected at the time of copying (if you wish the copies to be mailed) or at the time the copies are retrieve (if you wish to retrieve them in person).

Pursuant to 29 **Del.C.** §10118(a), written comments on the proposed regulations will be accepted until **Wednesday, July 1, 2020**. They can be filed electronically in DelaFile at <http://delafile.delaware.gov/> by completing the Public Comment form located under Public Links. Written comments can also be mailed to Matthew Hartigan, Public Service Commission, 861 Silver Lake Boulevard, Suite 100, Dover, DE 19904, or emailed to him at matthew.hartigan@delaware.gov with the subject line "Docket No. 18-0935".

ORDER NO. 9570

IN THE MATTER OF THE PETITION OF THE
PUBLIC SERVICE COMMISSION STAFF AND
DELAWARE DIVISION OF THE PUBLIC
ADVOCATE TO ESTABLISH A REGULATION
FOR DISTRIBUTION SYSTEM INVESTMENT
PLANS FOR DELAWARE ELECTRIC AND
NATURAL GAS UTILITIES (Filed July 2, 2018)

PSC DOCKET NO. 18-0935

AND NOW, this 22nd day of April 2020, the Delaware Public Service Commission determines and Orders as follows:

WHEREAS, On June 14, 2018, Governor John Carney signed into law Senate Substitute No. 1 for Senate Bill 80, which established a Distribution System Improvement Charge ("DSIC") for electric and natural gas companies in Delaware. While the bill was making its way through the General Assembly, the Commission Staff ("Staff"), the Delaware Division of the Public Advocate ("DPA"), and Delmarva Power & Light Company ("Delmarva") executed a Memorandum of Understanding ("MOU") on April 14, 2018 providing that:

Delmarva Power, the Public Advocate and Commission Staff agree to work together to develop a proposal to submit to the Commission concerning enhanced distribution system planning. Delmarva, DPA and Staff will work in good faith to provide recommendations and to submit any proposals for review and approval to the Commission by September 1, 2019. The first meeting will take place by July 31, 2018. In addition, by no later than March 31, 2019, Delmarva, DPA and Staff will provide the Commission with an update on their progress; and

WHEREAS, on May 1, 2018, Chesapeake Utilities Corporation ("Chesapeake") agreed to participate in the meetings among Delmarva, the DPA and Staff; and

WHEREAS, on July 2, 2018, Staff and the DPA jointly filed a petition requesting the Commission to open a docket to examine electric and natural gas utilities' distribution infrastructure spending and establish regulations for distribution system planning to apply to all electric, natural gas, and Class A water utilities; and

WHEREAS, in Order No. 9242 (July 10, 2018), the Commission directed Staff to commence duly noticed working group meetings for interested electric and natural gas utility stakeholders (including Delmarva and Chesapeake)¹ and to provide recommendations and proposed regulations for the Commission's review and approval by September 1, 2019; and

WHEREAS, on August 13, 2019, the DPA filed an unopposed motion to extend the deadline for submitting proposed electric distribution planning regulations to October 22, 2019, and the deadline for submitting proposed natural gas distribution planning regulations to the date of the Commission's second meeting in January 2020; and

WHEREAS, the Commission granted the requested extensions in Order No. 9444 dated August 20, 2019; and

WHEREAS, on December 17, 2019, the DPA filed an unopposed motion with the Commission to extend the deadline for submitting natural gas distribution planning regulations to the Commission from January 2020 to April 22, 2020, in which the DPA represented that Staff, Delmarva, and Chesapeake had met since August 20, 2019 to discuss Chesapeake's and Delmarva's natural gas distribution planning and proposed regulations regarding distribution planning, but that the parties would not be able to propose natural gas distribution planning regulations

PROPOSED REGULATIONS

to the Commission by the January 2020 deadline; and

WHEREAS, the Commission granted an extension for submitting proposed natural gas distribution planning regulations to April 22, 2020 in Order No. 9529 dated January 8, 2020; and

WHEREAS, on April 13, 2020, Staff and the DPA filed a Motion Seeking Approval to Publish Natural Gas Distribution Planning Regulations (the "Motion"), in which they represented that the discussions among them and the natural gas utilities had reached an impasse, and requested the Commission to approve the publication of proposed natural gas distribution planning regulations in the Delaware Register of Regulations; and

WHEREAS, at its regularly scheduled meeting on April 22, 2020, the Commission considered the Motion and heard from representatives of Staff, the DPA, and the natural gas utilities; and

WHEREAS, the Commission conducted its deliberations on the Motion in open session;

NOW, THEREFORE, BY THE AFFIRMATIVE VOTE OF NO FEWER THAN THREE COMMISSIONERS, IT IS HEREBY ORDERED:

1. The Motion is **GRANTED**.
2. That the proposed regulations attached hereto as Exhibit A are approved for publication.
3. That pursuant to 29 **Del.C.** §§1133 and 10115(a), the Commission Secretary shall transmit to the Registrar of Regulations for publication in the June 2020 *Register of Regulations* a copy of this order and the proposed regulations.
4. That the Commission Secretary shall publish, in the manner described below, the Notice of Proposed Rulemaking attached as Exhibit B. Such notice shall be published in the *News Journal*, the *Delaware State News*, and the *Cape Gazette* by June 1, 2020. The notice shall also be sent to the Delaware Registrar of Regulations for publication on June 1, 2020 in the *Delaware Register of Regulations*.
5. That pursuant to 29 **Del.C.** §§ 10115(a) and 10116, the Commission allows persons or entities to submit written comments on or before Wednesday, July 1, 2020.
6. That the Commission reserves jurisdiction and authority to enter such further orders as may be deemed necessary or proper.

¹The Commission did not require the Class A water utilities to participate in the working group meetings for purposes of drafting distribution planning regulations.

BY ORDER OF THE COMMISSION:

Dallas Winslow, Chairman

Joann T. Conaway, Commissioner

Manubhai C. Karia, Commissioner

ATTEST: Donna Nickerson, Secretary

***Please Note:**

(1) The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:

<http://regulations.delaware.gov/register/june2020/proposed/23 DE Reg 1004aRFA 06-01-20.pdf>

(2) Due to the size of the proposed regulation, it is not being published here. A copy of the regulation is available at:

8003 Natural Gas Service Reliability and System Planning Standards

DEPARTMENT OF TRANSPORTATION DIVISION OF TRANSPORTATION SOLUTIONS

Statutory Authority: 29 Delaware Code, Section 8404(8); (29 Del.C. §8404(8))
2 DE Admin. Code 2404

PUBLIC NOTICE

2404 Delaware Traffic Calming Design Manual

Pursuant to the authority provided by 29 Del. C. §8404(8), the Delaware Department of Transportation (DelDOT), adopted the 2404 Delaware Traffic Calming Design Manual.

The Department, through its Division of Transportation Solutions ("DelDOT"), seeks to repeal Section 2404 of Title 2 of the Delaware Administrative Code. The regulation covers the design and study guidelines for traffic calming devices/applications by the Department of Transportation. Based on current operating procedures, this regulation is no longer necessary and can be repealed.

Public Comment Period

DelDOT will take written comments on these proposed general revisions to Section 2404 of Title 2, Delaware Administrative Code, from June 1, 2020 through July 1, 2020. The public may submit their comments to:

Peter Haag, Chief of Traffic Engineering, Traffic Engineering Section
(peter.haag@delaware.gov) or in writing to his attention,
Delaware Department of Transportation
169 Brick Store Landing Road
Smyrna, DE 19977

*Please Note:

(1) The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:

<http://regulations.delaware.gov/register/june2020/proposed/23 DE Reg 1007RFA 06-01-20.pdf>

(2) Due to the size of the proposed regulation, it is not being published here. A copy of the regulation is available at:

Delaware Traffic Calming Design Manual
<http://regulations.delaware.gov/register/june2020/proposed/DETCM.pdf>
(Adobe Acrobat Reader required)

Symbol Key

Arial 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 bold-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**OFFICE OF THE SECRETARY**

Statutory Authority: 14 Delaware Code, Chapter 11 (14 **Del.C.** Ch. 11)
14 **DE Admin. Code** 240

REGULATORY IMPLEMENTING ORDER**240 Recruiting and Training of Professional Educators for Critical Curricular Areas****I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED**

Pursuant to 14 **Del.C.** Ch. 11, the Secretary of Education seeks the consent of the State Board of Education to repeal 14 **DE Admin. Code** 240 Recruiting and Training of Professional Educators for Critical Curricular Areas. The Department has reviewed the regulation in order to comply with 29 **Del.C.** §10407 which requires regulations to be reviewed on a recurring basis every four years and concluded that the regulation should be repealed as the content of this regulation is covered in other Department regulations and this regulation is no longer needed.

Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on February 1, 2020, in the form hereto attached as Exhibit "A". No comments were received.

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to repeal 14 **DE Admin. Code** 240 Recruiting and Training of Professional Educators for Critical Curricular Areas in order to be in compliance with 29 **Del.C.** §10407 which requires regulations to be reviewed on a recurring basis every four years and concluded that the regulation should be repealed as the content of this regulation is covered in other Department regulations and this regulation is no longer needed.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to repeal 14 **DE Admin. Code** 240 Recruiting and Training of Professional Educators for Critical Curricular Areas. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 240 Recruiting and Training of Professional Educators for Critical Curricular Areas attached hereto as Exhibit "B" is hereby repealed. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 240 Recruiting and Training of Professional Educators for Critical Curricular Areas hereby repealed shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 240 Recruiting and Training of Professional Educators for Critical Curricular Areas in the form attached hereto as Exhibit "B" is hereby repealed.

V. EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §122 on April 23, 2020. 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 23th day of April 2020.

Department of Education

Susan S. Bunting, Ed.D., Secretary of Education

Approved this 23th day of April 2020

State Board of Education

/s/ Whitney Townsend Sweeney, President

/s/ Audrey J. Noble, Ph.D., Vice President

/s/ Candace Fifer

/s/ Vincent Lofink

/s/ Nina Lou Bunting

/s/ Wali W. Rushdan, II

/s/ Provey Powell, Jr.

***Please Note: Electronic signatures ("*/s/*") were accepted pursuant to 6 **Del.C.** §12A-107(d).**

240 Recruiting and Training of Professional Educators for Critical Curricular Areas

~~The programs shall be administered in accordance with 14 **Del.C.** Ch. 11, and the following rules and regulations pursuant to the appropriation of funds in the annual Budget Bill.~~

1-0 Designation of Critical Curricular Areas

~~Annually, on a date not later than the July meeting of the State Board of Education, the Secretary of Education shall present a recommendation to the State Board on the Critical Curricular Areas to be addressed during that fiscal year. This recommendation will be based upon supply and demand information obtained from local school districts and from state and national sources.~~

2-0 Allocation of Funds

~~Annually, on a date not later than the July meeting of the State Board of Education, the Secretary of Education shall present a recommendation to the State Board of Education on the preliminary allocation of funds among the five programs authorized by Chapter 11. Final allocations will be based upon the total appropriation for that fiscal year and the number of eligible applicants for the five programs.~~

3.0 Applications

All applicants for funds under any of the five programs shall be required to complete an application on a form prescribed by the Department of Education and shall be required to provide whatever information and documents the Department determines are necessary for the effective and efficient management of the programs.

4.0 Academic Year Institute

The Academic Year Institute is an ongoing program specifically designed to meet certification requirements in the critical areas of teacher shortage as determined by the Department of Education. This is a part time program which shall be offered during the regular school year. Participants will register for a maximum of three semester hours of graduate or undergraduate college courses per semester. The Institute will be sponsored by the Department of Education and will be located at the University of Delaware and/or Delaware State University.

4.1 Eligibility

- 4.1.1 The candidate shall be employed as a teacher in the public schools of Delaware or in another State agency offering secondary education programs.
- 4.1.2 The candidate shall submit a completed application and other documentation and information by the specified closing date for application.
- 4.1.3 The candidate shall express an intent to enroll in a course or courses which will lead to certification in one or more of the critical curricular areas.

4.2 Financial Aid

- 4.2.1 Academic Year Institute participants shall receive full support for tuition, textbooks, laboratory fees and mileage for approved courses.
- 4.2.2 Depending upon the institution and the course or courses in which the participant is enrolled, the Department of Education shall either make direct payment to the institution for tuition and laboratory fees or will reimburse the participant for costs upon receipt of proper documentation of the participant's expenses.
- 4.2.3 The Department of Education shall reimburse the participant for expenditures for textbooks and mileage upon receipt of a completed personal reimbursement form.

4.3 Selection Procedures

- 4.3.1 Participants shall be selected competitively from the eligible applicants for the program within the limits of the funds authorized for the program.
- 4.3.2 An application review panel, composed of Department of Education staff members, shall meet twice each year after the close of the application period for each semester to review applications and select participants.

5.0 Summer Inservice Program (Summer Institute)

The Summer Institute Program is a summer program specifically designed to meet certification requirements in the critical areas of teacher shortage as determined by the Department of Education. The program will be offered during a six week period in the summer beginning not later than the last week in June. Participants shall register for a minimum of six semester hours of graduate and undergraduate credit in a specifically designed program focused on building skills and knowledge in the critical curricular areas. The Summer Institute, modeled after the National Science Foundation format, shall be sponsored by the Department of Education and will be located at the University of Delaware and/or Delaware State University.

5.1 Eligibility

- 5.1.1 The candidate shall be employed as a teacher in the public schools of Delaware or in another State agency offering secondary education programs.
- 5.1.2 The candidate shall not be currently certifiable in the critical curricular area being addressed by the Summer Institute for which application is made.
- 5.1.3 The candidate shall submit a completed application and other required information and documentation by the closing date for application.

- ~~5.1.4 The candidate shall express an interest and intent to pursue certification in one or more of the critical curricular areas for which he or she is not currently certifiable.~~
- ~~5.1.5 The candidate shall submit a letter of recommendation from the Superintendent or an appropriate supervisor of the candidate's school district or agency.~~

~~5.2 Financial Aid~~

- ~~5.2.1 Summer Institute participants shall receive full support for tuition, textbooks, and laboratory fees. Depending on the institution and the program in which the participant is enrolled, the Department of Education shall either make direct payment to the institution for these costs or shall reimburse the participant upon receipt of proper documentation of the participant's expenses.~~
- ~~5.2.2 The participants shall also receive a stipend as determined by the Department of Education. This stipend shall be paid by the Department of Education to the participant upon receipt of notification from the institution that the participant successfully completed all courses taken with a minimum grade of "C".~~

~~5.3 Selection Procedures~~

- ~~5.3.1 Participants shall be selected competitively from the eligible applicants for the program within the limits of the funds authorized for the program.~~
- ~~5.3.2 An application review panel, composed of Department of Education staff members, shall meet annually after the close of the application period to review applications and select participants.~~

6.0 Program For Persons From Other Professions Who Will Prepare To Teach

This program is designed to provide financial assistance to persons from other professions who possess the training and skills to teach in the critical curricular areas of teacher shortage as determined by the Department of Education but who lack the professional education courses required to qualify for a standard certificate. Participants shall be permitted to enroll in the institution of higher education of their choice and shall be reimbursed for the tuition costs, within limits specified below, for up to six semester hours of credit per semester.

~~6.1 Eligibility~~

- ~~6.1.1 The candidate shall be a resident of the State of Delaware.~~
- ~~6.1.2 The candidate shall have a graduate or undergraduate degree from an accredited institution of higher education in a field related to one or more of the critical curriculum areas.~~
- ~~6.1.3 The candidate shall first submit official transcripts to the Department of Education for evaluation.~~
- ~~6.1.4 Candidates who lack no more than six semester credits of coursework from meeting the content area requirements in one or more of the critical curriculum areas shall be invited to apply for participation in the program.~~
- ~~6.1.5 The candidate shall submit a completed application form and must express an interest and intent to pursue certification.~~
- ~~6.1.6 The candidate shall submit a plan outlining educational plans, including a timeline, to complete the professional education courses needed to obtain certification.~~

~~6.2 Financial Aid~~

- ~~6.2.1 The participant shall receive financial support for tuition costs for up to six semester hours of credit per semester.~~
- ~~6.2.2 The participant may receive assistance for a maximum of thirty semester credits of professional education courses but must update his or her application and receive approval in advance each semester.~~
- ~~6.2.3 The participant shall be reimbursed for tuition costs in an amount not greater than the tuition charged a Delaware resident by the University of Delaware for a course or courses of equal credit value.~~
- ~~6.2.4 The Department of Education shall reimburse the participant upon receipt of proper documentation of the participant's expenses and upon receipt of notification from the institution that the participant successfully completed the courses for which reimbursement is requested with a minimum grade of "C".~~

6.3 Selection Procedures

- 6.3.1 An application review panel, composed of Department of Education staff members shall meet on an as needed basis to review applications and select participants.
- 6.3.2 Participants shall be selected from eligible applicants on a first come basis, except that applicants approved for one semester will be given preference in future semesters until they complete their educational requirements, use their total eligibility, or are unsuccessful in achieving the minimum grade of "C" in approved courses.
- 6.3.3 Participants shall be limited and the approval process will be terminated when authorized funds for this program in any fiscal year have been allocated.

7.0 ~~Teacher Scholarship Loan Programs~~

~~The Teacher Scholarship Loan Program is designed to meet certification requirements in the critical areas of teacher shortage as determined by the Department of Education. This is a full time program offered during the regular school year. As a minimum, participants shall register for the number of semester hours required of a full time student.~~

7.1 Eligibility

- 7.1.1 ~~The candidate shall have taught in a Delaware public school for at least one year prior to the year in which the scholarship is to be used.~~
- 7.1.2 ~~The candidate shall be employed as a teacher in a Delaware public school and/or must be a resident of the State of Delaware at the time of application.~~
- 7.1.3 ~~The candidate shall express an interest and intent to pursue certification in one or more of the critical curricular areas identified by the Department of Education.~~
- 7.1.4 ~~The candidate shall hold a standard Delaware teaching certificate but must not be currently certifiable in the critical curricular area specified in 7.1.3 above.~~
- 7.1.5 ~~The candidate shall submit a completed application and other documentation and information by the specified closing date for application.~~
- 7.1.6 ~~The candidate shall, if currently employed, have prior approval from his or her employing local district board of education.~~
- 7.1.7 ~~The candidate shall be accepted into an approved program in an institution of higher education leading to certification in the critical curriculum area specified in 7.1.3 above.~~

7.2 Financial Aid

- 7.2.1 ~~Teacher Scholarship Loan Program participant shall receive a scholarship in an amount equal to the salary he or she would receive for service as a teacher, as specified in 14 ~~Del.C.~~ Ch. 13.~~
- 7.2.2 ~~A participant, who was employed by a Delaware public school district in the year prior to receipt of the scholarship and who is on leave of absence during the year of the scholarship, shall continue to receive all State supported employee benefits through a grant from the Department of Education to the employing district. (Such participants shall be considered to be on sabbatical leave and for purposes of salary increments and pension eligibility and computation, a year of leave shall be considered a year of experience as provided in 14 ~~Del.C.~~ §1325(9).~~
- 7.2.3 ~~A participant may receive a local salary supplement and local employee benefits if the employing district elects to provide them at the expense of the employing district.~~
- 7.2.4 ~~A district shall also be eligible to receive an interest free loan, in an amount to be determined by the Department of Education, which the participant may use to defray the cost of tuition and books. The actual amount of the loan will be dependent upon estimated costs of these two items and other financial resources available to the participant.~~
- 7.2.5 ~~Participants receiving a loan shall execute a promissory note, in the amount of the loan, to the State Treasurer. This note will be forgiven at the rate of one third of the loan for each of three years of teaching in a Delaware public school after completion of the study authorized. In any year the teacher fails to meet the teaching obligation, the loan shall be due and payable for the unpaid balance plus interest specified in the note.~~

7.3 Selection Procedures

- 7.3.1 ~~Participants shall be selected competitively from the eligible applicants for the program within the limits of the funds authorized for the program.~~
- 7.3.2 ~~The applicant review panel, composed of Department of Education staff members, shall meet once each year at the close of the application period to review applications.~~

8.0 Student Loan Program

~~The Student Loan Program is for Delaware residents who are accepted into an institution of higher learning to be trained as a teacher in the critical area of teacher shortage as determined by the Department of Education. A student selected for the program may attend any accredited college or university in the United States where the appropriate training will result in certification as a teacher for a critical area of teacher shortage as determined by the Department of Education.~~

8.1 Eligibility

- 8.1.1 ~~The candidate shall have been a Delaware resident for a period of one year at the time of application.~~
- 8.1.2 ~~The candidate shall have Scholastic Aptitude Test (SAT) scores of 500 verbal and 500 quantitative. Candidates already in a college or university program must be maintaining a "C" average or better in courses in the critical curriculum areas.~~
- 8.1.3 ~~The candidate shall have been admitted to an accredited college or university program directed toward certification in a critical curricular area as determined by the Department of Education.~~
- 8.1.4 ~~The candidate shall submit a completed application and other documentation and information by the specified date for application.~~

8.2 Financial Aid

- 8.2.1 ~~Student Loan Program participants shall receive a loan, the amount to be determined by the Department of Education, for one year's study, less scholarship aid available from other sources.~~
- 8.2.2 ~~The loan may be renewed from year to year through a four year training program.~~
- 8.2.3 ~~Participants in the Student Loan Program shall execute a promissory note, in the amount of the loan, to the State Treasurer. The entire note will be forgiven on the basis of two years of teaching in a Delaware public school in a critical curriculum area for each year of loan granted.~~
- 8.2.4 ~~Each year of the loan will be interest free to those who meet the two year teaching obligation for each year of loan granted.~~
- 8.2.5 ~~In the event that the participant does not graduate, does not continue to study in the critical curriculum area, or does not meet the teaching obligation, the entire loan, with interest specified by the State Treasurer, shall be due and payable. Payment of the note and interest shall be in accordance with the time schedule specified in the note.~~
 - 8.2.5.1 ~~Pursuant to 14 ~~Del.C.~~ §1108(b) an exception may be made to 8.2.5 of this regulation in that the loan may be forgiven by the Secretary of Education if it is determined that the recipient is unable to meet his or her payment obligation because of total and permanent disability or death. For purposes of this regulation, total and permanent disability shall mean the loan recipient is unable to work and earn money because of an injury or illness that is expected to continue indefinitely or result in death. In order to qualify for this exception the loan recipient must provide documentation that has been completed, signed and certified by a licensed doctor of medicine or doctor of osteopathy with the following information:~~

~~"I certify, in my best professional judgment, the loan recipient _____ is unable to work and earn money because of an injury or illness that is expected to continue indefinitely or result in death. I understand that any recipient able currently or in the future to work and earn money, even on a limited basis, is not considered to have a Total or Permanent Disability.~~

I am a (check one) doctor of medicine doctor of osteopathy legally authorized to practice in the state of _____ and my professional license number issued by that state is _____.

Physician's signature

Name (printed)

Date

Address City, State, Zip

(____) _____
Telephone

~~In the case of death, a surviving family member must provide a certified copy of the death certificate.~~

8.3 Selection Procedures

~~8.3.1 Participants shall be selected competitively from the eligible applicants for the program within the limits of the funds authorized for the program.~~

~~8.3.2 The applicant review panel, composed of Department of Education staff members, shall meet twice each year at the close of the application period for each semester to review applications.~~

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 2005 (14 Del.C. §2005)
14 DE Admin. Code 410

REGULATORY IMPLEMENTING ORDER

410 Satellite School Agreements

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 Del.C. §2005, the Secretary of Education intends to amend 14 DE Admin. Code 410 Satellite School Agreements. The Department has reviewed the regulation to comply with 29 Del.C. §10407, which requires regulations to be reviewed on a recurring basis every four years, and concluded that the regulation needs to be updated to only make grammatical or other corrections per the *Delaware Administrative Code Drafting and Style Manual*.

Notice of the proposed regulation was published in the *News Journal* and *Delaware State News* on March 1, 2020, in the form hereto attached as *Exhibit "A"*. No comments were received for the proposed regulation.

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 DE Admin. Code 410 Satellite School Agreements in order to comply with 29 Del.C. §10407, which requires regulations to be reviewed on a recurring basis every four years, and concluded that the regulation needs to be updated to only make grammatical or other corrections per the *Delaware Administrative Code Drafting and Style Manual*.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 DE Admin. Code 410 Satellite School Agreements. Therefore, pursuant to 14 Del.C. §122, 14 DE Admin. Code 410 Satellite School Agreements attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 Del.C. §122(e), 14 DE Admin. Code 410 Satellite School Agreements hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

IV. TEXT AND CITATION

The text of 14 DE Admin. Code 410 Satellite School Agreements amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 DE Admin. Code 410 Satellite School Agreements in the *Administrative Code of Regulations* for the Department of Education.

V. EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §2005 on May 11, 2020. 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 11th day of May 2020.

Department of Education

Susan S. Bunting, Ed.D., Secretary of Education

Approved this 11th day of May 2020

410 Satellite School Agreements

1.0 Purpose

The purpose of this regulation is to outline the process for the establishment of a satellite school as allowable in 14 **Del.C.** §2005.

2.0 Definitions

"Charter School school" shall mean means a school established pursuant to Chapter 5 of Title 14 of the **Delaware Code**.

"Charter School-Satellite School Agreement school satellite school agreement" shall mean means the contract between a ~~Charter School~~ charter school and the private sector or governmental employer for the operation of a ~~Satellite School~~ satellite school. The agreement form shall be in a format established and approved by the Department. The contract shall, at a minimum, be consistent with the provisions of 14 **Del.C.** Chapter 5 and 14 **Del.C.** §2005. A ~~Charter School~~ charter school authorized by a ~~Local School District~~ local school district shall only establish a ~~Satellite School~~ satellite school arrangement within the authorizer's school district boundaries.

"Department" shall mean means the Delaware Department of Education.

"Local School District-Satellite School Agreement school district satellite school agreement" shall mean means the contract between the ~~Local School District~~ local school district and the private sector or governmental employer for the operation of a ~~Satellite School~~ satellite school that has been approved by the local school district board of education. The ~~Local School District~~ local school district shall be responsible for the development of the agreement form. A local school district shall only establish a ~~Satellite School~~ satellite school arrangement within the school district's boundaries.

"Local School District school district" shall mean means mean a reorganized school district or vocational technical school district established pursuant to 14 **Del.C.** Chapter 10.

"Satellite School school" shall mean means a public school that operates in physical facilities leased from, donated by or located on property that is owned or leased by a private sector or governmental employer which is not the school district or charter school operating the satellite school.

3.0 Charter School Application for Approval Process

- 3.1 A Charter School seeking approval for the operation of a Satellite School shall make the application to the Office of the Secretary, Department of Education. The Charter School shall provide to the Office of the Secretary a copy of the proposed Charter School Satellite School Agreement and any additional information required pursuant to this regulation. An application for the establishment of a Satellite School by a Charter School shall be considered a major modification of the existing charter and shall follow the procedures as outlined in 14 **DE Admin. Code** 275, Section 9.0. Provided further, the Charter School shall, at a minimum, meet the following requirements:

- 3.1.1 The Satellite School ~~facilities~~ shall be subject to the same health and safety codes and building codes, in accordance with the local code enforcement entity, as required by other public school facilities; and
- 3.1.2 The enrollment preferences shall be consistent with 14 **Del.C.** §506(b) and with any additional considerations as prescribed in 14 **Del.C.** §2005(c).
- 3.2 Upon receipt of the documentation in subsection 3.1 of this regulation, the Department shall cause a review of the plans or inspection of the proposed facilities to be conducted by appropriate Department staff to determine the adequacy of the facilities for the intended educational purpose.
- 3.3 Approval by the Department shall require the assent of both the Secretary of Education and the State Board of Education. The decision shall be considered final and not subject to appeal.

4.0 School District Application for Approval Process

- 4.1 A Local School District seeking approval for the operation of a Satellite School shall make the application to the Office of the Secretary, Delaware Department of Education. The Local School District shall provide to the Office of the Secretary a copy of the Local School District Satellite School Agreement that has been first approved by the local school board and any additional information required pursuant to this regulation. Provided further, the Local School District Satellite School Agreement criteria shall, at a minimum, meet the following requirements:
 - 4.1.1 The Satellite School ~~facilities~~ shall be subject to the same health and safety codes and building codes, in accordance with the local code enforcement entity, as required by other public school facilities; and
 - 4.1.2 The enrollment considerations shall be consistent with 14 **Del.C.** §2005(c).
- 4.2 Upon receipt of the documentation in subsection 4.1 of this regulation, the Department shall cause a review of the plans or inspection of the proposed facilities to be conducted by appropriate Department staff to determine the adequacy of the facilities for the intended educational purpose.
- 4.3 Approval by the Department shall require the assent of the Secretary of Education. The decision shall be considered final and not subject to appeal.

5.0 Compliance with State Risk Management

- 5.1 The Charter School shall provide evidence that the types and limits of insurance coverage the Charter School plans to obtain for operation of a Satellite School are adequate and consistent with 14 **Del.C.** Chapter 5.
- 5.2 The Local School District shall confer with the State Risk Manager regarding any liabilities that they and their employees may be subject to and shall provide appropriate protection and coverage for same.

6.0 Certificates of Occupancy or Occupancy Permits

- 6.4 Certificates of Occupancy or Occupancy Permits shall be obtained from the appropriate jurisdictional authorities prior to occupancy of the facilities by the Satellite School. The Satellite School ~~facilities~~ shall be subject to the same periodic inspections for health and safety as other public schools.
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OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Chapter 27 (14 **Del.C.** Ch. 27)
14 **DE Admin. Code** 615

REGULATORY IMPLEMENTING ORDER

615 School Attendance

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** Ch. 27, the Secretary of Education seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 615 School Attendance. This regulation concerns school attendance for students in grades K through 12. This regulation is being reviewed in compliance with 29 **Del.C.** §10407 which requires regulations to be reviewed on a recurring basis every four years. It is also being amended to include charter schools.

Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on November 1, 2019, in the form hereto attached as Exhibit "A". No comments were received.

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 615 School Attendance in order to be in compliance with 29 **Del.C.** §10407 which requires regulations to be reviewed on a recurring basis every four years. It is also being amended to include charter schools.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 615 School Attendance. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 615 School Attendance attached hereto as Exhibit "B" is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 615 School Attendance hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 615 School Attendance amended hereby shall be in the form attached hereto as Exhibit "B", and said regulation shall be cited as 14 **DE Admin. Code** 615 School Attendance in the *Administrative Code of Regulations* for 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 April 23, 2020. 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 23th day of April 2020.

Department of Education

Susan S. Bunting, Ed.D., Secretary of Education

Approved this 23th day of April 2020

State Board of Education

/s/ Whitney Townsend Sweeney, President

/s/ Audrey J. Noble, Ph.D., Vice President

/s/ Candace Fifer

/s/ Vincent Lofink

/s/ Nina Lou Bunting

/s/ Wali W. Rushdan, II

/s/ Provey Powell, Jr.

***Please Note: Electronic signatures ("/s/") were accepted pursuant to 6 Del.C. §12A-107(d).**

615 School Attendance

1.0 Required Attendance Policy

- 4.4 Each school district and charter school shall have an attendance policy that ~~is in accordance with the requirements of the Delaware Code~~ complies with 14 Del.C. Ch. 27 and which defines and describes the district's or charter school's rules concerning attendance for students K to 12.

2.0 Distribution of Attendance Policy

- 2.1 Each district or charter school shall distribute and explain these policies to every student at the beginning of each school year.
- 2.2 Each district or charter school shall distribute and explain these policies to each student enrolling or re enrolling during the school year.
- 2.3 Each district or charter school shall post the attendance policy on its website and notify a parent, guardian or ~~Relative Caregiver~~ relative caregiver of each student in writing where this policy can be accessed. A hard copy shall be provided to a parent, guardian or ~~Relative Caregiver~~ relative caregiver upon request.

3.0 Reporting Requirements and Timelines

- 3.1 Each public school district or charter school shall have an electronic copy of its current attendance policy on file with the Department of Education.
- 3.2 Each public school district or charter school shall provide an electronic copy of any revised attendance policy within ninety (90) days of such revision(s) regardless of whether said revisions were made as a result of changes to ~~Federal~~ federal, state or local law, regulations, guidance or policies.

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 1725 (14 Del.C. §1725)
14 DE Admin. Code 775

REGULATORY IMPLEMENTING ORDER**775 New Teacher Hiring Data Reporting****I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED**

Pursuant to 14 Del.C. §§122(b) and 1725, the Secretary of Education intends to amend 14 DE Admin. Code 775 New Teacher Hiring Data Reporting. The Department has reviewed the regulation in order to comply with 29 Del.C. §10407 which requires regulations to be reviewed on a recurring basis every four years and notes that the regulation content is current and that only changes were made to comply with the *Delaware Administrative Code Drafting and Style Manual*.

Notice of the proposed regulation was published in the *News Journal* and *Delaware State News* on March 1, 2020, in the form hereto attached as *Exhibit "A"*. No comments were received for the proposed regulation.

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 DE Admin. Code 775 New Teacher Hiring Data Reporting in order to comply with 29 Del.C. §10407 which requires regulations to be reviewed on a recurring basis every four years and notes that the regulation content is current and that only changes were made to comply with the *Delaware Administrative Code Drafting and Style Manual*.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 DE Admin. Code 775 New Teacher Hiring Data Reporting. Therefore, pursuant to 14 Del.C. §122, 14 DE Admin. Code 775 New

Teacher Hiring Data Reporting attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 775 New Teacher Hiring Data Reporting hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 775 New Teacher Hiring Data Reporting amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 775 New Teacher Hiring Data Reporting in the *Administrative Code of Regulations* for 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(b) and 1725 on May 11, 2020. 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 11th day of May 2020.

Department of Education

Susan S. Bunting, Ed.D., Secretary of Education

Approved this 11th day of May 2020

775 New Teacher Hiring Data Reporting

1.0 Purpose

The purpose of this regulation is to outline the criteria and process related to new teacher hiring data collection and reporting by school districts as required by 14 **Del.C.** §1725 and align such with annual reporting done within the ~~Teacher and Leader Effectiveness Branch~~ Educator Support Team of the Department of Education.

2.0 Definitions

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly states otherwise:

~~"Contract Offer Date offer date"~~ shall mean means the date an authorized agent or representative of the district notifies the successful candidate of the intent to hire.

~~"District"~~ shall mean means a reorganized school district or vocational technical school district established pursuant to Chapter 10 of Title 14 of the Delaware Code.

~~"Department"~~ means the Delaware Department of Education.

~~"Hard to Staff Position staff position"~~ means a position for which school districts have the fewest qualified applicants.

~~"New Teacher Hiring Date"~~ shall mean, for purposes of this regulation, the ~~Contract Offer Date~~ as defined herein.

~~"Position Availability Date availability date"~~ shall mean means the date the district Human Resources Office knows the available position is released for a new full-time teacher hire.

~~"Position Type type"~~ shall mean means the appropriate instructional level of the teacher or whether the teacher is in a Hard to Staff Position.

3.0 New Teacher Hiring Data Report

- 3.1 On or before December 1st of each year, each District shall annually submit an Educator Hiring Practices and Needs Report to the Department in a format approved by the Department that includes, but is not limited to, Contract Offer Date, Position Availability Date, Position Type, number of positions available and filled, information on Hard To Staff Positions, information on recruitment and selection processes, and information on staffing practices during the most recent hiring ~~season(s)~~ season.

- 3.2 The Department may also require each District to enter such information on an ongoing basis into an electronic statewide information system. The Department shall review and provide information on educator hiring practices and needs, including hiring activity related to the "~~estimated unit count~~" estimated unit count as that term is defined pursuant to 14 **Del.C.** §1704, in the annual Delaware Talent Practices Report (~~Report~~).
- 3.3 The Delaware Talent Practices Report is to be provided no later than March 31st of the following year.

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 131 (14 **Del.C.** §131)
14 **DE Admin. Code** 804

REGULATORY IMPLEMENTING ORDER**804 Immunizations****I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED**

Pursuant to 14 **Del.C.** §131, the Secretary of Education intends to amend 14 **DE Admin. Code** 804 Immunizations. The provision related to alternative dosages or immunization schedules has been removed at the request of the Department of Health and Social Services, Division of Public Health (DPH). DPH does not approve alternative dosages or immunization schedules. Any exemptions or adjustment to immunizations because an immunization is medically contraindicated fall under the medical exemptions that continue to be in place. Other minor changes were made to bring the regulation into compliance with the *Delaware Administrative Code Drafting and Style Manual*.

Notice of the proposed regulation was published in the *News Journal* and *Delaware State News* on March 1, 2020, in the form hereto attached as *Exhibit "A"*. No comments were received for the proposed regulation.

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 804 Immunizations because the provision related to alternative dosages or immunization schedules has been removed at the request of the Department of Health and Social Services, Division of Public Health (DPH). DPH does not approve alternative dosages or immunization schedules. Any exemptions or adjustment to immunizations because an immunization is medically contraindicated fall under the medical exemptions that continue to be in place. Other minor changes were made to bring the regulation into compliance with the *Delaware Administrative Code Drafting and Style Manual*.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 804 Immunizations. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 804 Immunizations attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 804 Immunizations hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 804 Immunizations amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 804 Immunizations in the *Administrative Code of Regulations* for 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 and 131 on May 11, 2020. 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 11th day of May 2020.

Department of Education

Susan S. Bunting, Ed.D., Secretary of Education

Approved this 11th day of May 2020

804 Immunizations

1.0 Purpose

This regulation is promulgated pursuant to ~~Title 14 Del.C. [Ch. 4,]~~ §131 which states ~~that,~~ that “the Department (of Education) shall from time to time, with advice from Division of Public Health (DPH), adopt and promulgate rules and regulations to establish an immunization program to protect pupils enrolled in public schools from certain diseases.”

2.0 Definitions

"Affidavit of Religious Belief religious belief" means, pursuant to 14 Del.C. [Ch. 4,] §131(a)(6), the statement to request exemption from immunizations based on individual religious beliefs.

"Approved Vaccine vaccine" means a vaccine, vaccine combination, formulation, or schedule which has been reviewed and accepted by the Division of Public Health (DPH) based upon Centers for Disease Control and Prevention (CDC) Recommended Immunization Schedule.

"School Enterer enterer" means any child between birth and twenty (20) years inclusive entering or being admitted to a Delaware public school district or public school 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.

"Secondary School school" means, for the purposes of this regulation, a school with a grade or age configuration including any of the following: grade 9, grade 10, grade 11, or grade 12.

3.0 Minimum Immunizations Required for All School Enterers

- 3.1 All School Enterers shall have immunizations given up to four days prior to the minimum interval or age and shall include:
 - 3.1.1 Four or more doses of diphtheria, tetanus, pertussis (DTaP, DTP, or other Approved Vaccine). Notwithstanding this requirement:
 - 3.1.1.1 A child who received a fourth dose prior to his or her fourth birthday shall have a fifth dose;
 - 3.1.1.2 A child who received the first dose of diphtheria and tetanus containing vaccine as adult Td vaccine at or after age seven may meet this requirement with only three doses of Td or Approved Vaccine.
 - 3.1.1.3 A booster dose of Tdap (adult) is strongly recommended by DPH for all students at age 11-12 years (preferred) or through 18 years and required as per subsections 4.1 and 4.1.1 below.
 - 3.1.2 Three or more doses of inactivated polio virus vaccine (IPV), oral polio vaccine (OPV), or an Approved Vaccine. Notwithstanding this requirement:
 - 3.1.2.1 A child who received a third dose prior to his or her fourth birthday shall have a fourth dose.
 - 3.1.3 Two doses of measles, mumps and rubella (MMR) Approved 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.
 - 3.1.3.1 Disease histories for measles, rubella and mumps shall not be accepted unless serologically confirmed.
 - 3.1.4 Three doses of Hepatitis B vaccine.

- 3.1.4.1 For children 11 to 15 years old age, two doses of an Approved Vaccine may be used.
- 3.1.4.2 Titers are not acceptable in lieu of completing the vaccine series and a disease history for Hepatitis B shall not be accepted unless serologically confirmed.
- 3.1.5 Two doses of Varicella Approved Vaccine. Students who entered during or prior to the 2008-2009 school year are required to have one dose. By the 2020-2021 school year all students must have two doses. DPH strongly recommends two doses for all students regardless of date of school entry.
 - 3.1.5.1 The first dose should be administered on or after the age of twelve (12) months and the second at kindergarten entry into a Delaware public school.
 - 3.1.5.2 A written disease history, provided by the health care provider, will be accepted in lieu of the Varicella vaccination.
- 3.1.6 Two doses of meningococcal vaccine are strongly recommended by DPH, with an initial dose at ages 11-12 and a booster at ages ~~16-18~~, and required as 16-18 per subsections 4.1 and 4.1.2 below.
- 3.2 Children who enter school prior to age four (4) shall follow current Delaware Division of Public Health recommendations.

4.0 Minimum Immunizations for Secondary School Students

- 4.1 ~~Beginning in school year 2016-2017 entering grade 9~~ Entering Secondary School students shall show proof of immunizations. ~~One Secondary School grade shall be added each year thereafter.~~
 - 4.1.1 An adolescent booster dose of Tdap or other Approved Vaccine administered at age 11-12 (preferred) or prior to entry to Grade 9.
 - 4.1.2 One dose of meningococcal Approved Vaccine.
- 4.2 Schools will coordinate with the Division of Public Health to assure services to non-compliant Secondary School students.

(Non-regulatory guidance: Please refer to 14 **DE Admin. Code** 815 Health Examinations and Screenings for health examinations required for entering grade 9 students.)

5.0 Documentation of Immunization

- 5.1 The parent, legal guardian, ~~Relative Caregiver~~ relative caregiver, or a School Enterer who has reached the statutory age of majority (18) shall present documentation specifying the month, day, and year that the immunizations were administered by a licensed health care practitioner.
- 5.2 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, ~~Relative Caregiver~~ relative caregiver, or a School Enterer who has reached the statutory age of majority (18) 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.
- 5.3 A School Enterer may be conditionally admitted to a Delaware school district by presenting a statement from a licensed health care practitioner who specifies that the School Enterer has received at least:
 - 5.3.1 One dose of DTaP, or DTP, or DT, or Approved Vaccine; and
 - 5.3.2 One dose of IPV or OPV, or Approved Vaccine; and
 - 5.3.3 One dose of measles, mumps and rubella (MMR) Approved Vaccine; and
 - 5.3.4 The first dose of the Hepatitis B series; and
 - 5.3.5 One dose of Varicella ~~vaccine~~; vaccine; and
 - 5.3.6 One dose of meningococcal vaccine, if entering a Secondary School according to subsections 4.1 and 4.1.2.
- 5.4 School districts and charter schools 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 assist homeless children and youth in meeting the immunization requirements.

- 5.5 In accordance with the provisions of 14 **Del.C.** Ch. 1, Subchapter III-A Interstate Compact on Education For Children of Military Families (MIC3) and its enabling regulation, a School Enterer or Secondary School student who is subject to MIC3 shall be allowed thirty (30) calendar days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the Interstate Commission, to obtain or to initiate a series of immunizations required by this regulation.
- 5.6 If the School Enterer or Secondary School student fails to complete the series of required immunizations, the parent, legal guardian, ~~Relative Caregiver~~ relative caregiver, or student who has reached the statutory age of majority (18) shall be notified that the School Enterer or Secondary School student will be excluded according to 14 **Del.C.** §131.

6.0 Lost or Destroyed Immunization Record

When a student's immunization record has been lost or destroyed by the medical provider who administered the vaccine, the parent, legal guardian, ~~Relative Caregiver~~ relative caregiver, School Enterer who has reached the statutory age of majority (18), or the school nurse shall sign a written statement to this effect and must obtain at least one dose of each of the immunizations as identified in subsection 5.3. Evidence that the vaccines were administered shall be presented to the district superintendent or charter school chief administrative officer or his or her designee.

7.0 Exemption from Immunization

- 7.1 Exemption from this requirement may be granted in accordance with 14 **Del.C.** §131 and this regulation which permits approved medical and notarized religious exemptions.
- 7.1.1 Medical exemptions shall be considered based on a written statement from a physician, i.e., medical doctor or doctor of osteopathy, stating that immunization is medically contraindicated.
- 7.1.1.1 The Delaware Division of Public Health shall review and determine approval.
- 7.1.2 Religious exemptions shall be approved upon receipt of a notarized Affidavit of Religious Belief, and the school shall offer information regarding the benefits of immunization and the risks of not being fully immunized.
- 7.1.3 Upon approval of a medical or religious exemption, the school shall inform the parent, legal guardian, ~~Relative Caregiver~~ relative caregiver, or a School Enterer who has reached the statutory age of majority (18), that the student shall be temporarily excluded from school in the event the Division of Public Health declares an outbreak of a vaccine preventable disease or determines the student has had or is at risk of having an exposure to a vaccine preventable disease. The Division of Public Health shall determine when the student may return to school.
- 7.1.3.1 During a temporary exclusion, the school and parent, legal guardian or ~~Relative Caregiver~~ relative caregiver shall assist the student with keeping up with school work. No academic penalty shall be assessed provided the student completes assignments.
- 7.2 ~~Alternative dosages or immunization schedules may be accepted with the written approval of the Delaware Division of Public Health.~~

8.0 Verification of School Records

The Delaware Division of Public Health shall have the right to audit and verify school immunization records to determine compliance with the law.

9.0 Documentation

- 9.1 School nurses shall record and maintain documentation of each student's immunization status.
- 9.2 Each student's immunization record shall be included in the Delaware Immunization Registry.

FINAL REGULATIONS

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b)(15) and 303 (14 **Del.C.** §§122(b)(15) & 303)

14 **DE Admin. Code** 1006

REGULATORY IMPLEMENTING ORDER

1006 Delaware Interscholastic Athletic Association (DIAA)

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** §§122(b)(15) and 303, the Delaware Department of Education (“Department”) is amending 14 **DE Admin. Code** 1006 Delaware Interscholastic Athletic Association (DIAA). The Delaware Interscholastic Athletic Association (“DIAA”) is a unit of the Department. Under the provisions of 29 **Del.C.** §10113(b)(2), subsection 3.2 is being amended and subsection 4.5 is being added. The subsections provide rules of practice and procedure concerning the DIAA Board of Directors' committees and executive director.

The amendments are exempt from the requirement of public notice and comment and are adopted informally in accordance with 29 **Del.C.** §10113(b)(2).

II. FINDINGS OF FACTS

The Department finds that the proposed amendments to the regulation provide rules of practice and procedures concerning the DIAA Board of Directors' committees and executive director. Accordingly, the Department finds that it is appropriate to amend 14 **DE Admin. Code** 1006 Delaware Interscholastic Athletic Association (DIAA).

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1006 Delaware Interscholastic Athletic Association (DIAA). Therefore, pursuant to 14 **Del.C.** §§122(b)(15) and 303, 14 **DE Admin. Code** 1006 Delaware Interscholastic Athletic Association (DIAA) attached hereto as Exhibit “A” is hereby amended.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1006 Delaware Interscholastic Athletic Association (DIAA) adopted hereby shall be in the form attached hereto as Exhibit “A,” and said regulation shall be cited as 14 **DE Admin. Code** 1006 Delaware Interscholastic Athletic Association (DIAA) in the Administrative Code of Regulations for the Department.

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 *Register of Regulations*.

IT IS SO ORDERED the 15th day of May, 2020.

Department of Education

Susan S. Bunting, Ed.D., Secretary of Education

***Please Note: Due to the size of the final regulation, it is not being published here. A copy of the regulation is available at:**

1006 Delaware Interscholastic Athletic Association (DIAA)

PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203, 1205(b), and 1250 (14 **Del.C.** §§1203, 1205(b), & 1250)
14 **DE Admin. Code** 1508

REGULATORY IMPLEMENTING ORDER

1508 Special Institute for Teacher Licensure and Certification

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

The Professional Standards Board, acting in consultation and cooperation with the Delaware Department of Education ("Department"), seeks to repeal 14 **DE Admin. Code** 1508 Special Institute for Teacher Licensure and Certification pursuant to 14 **Del.C.** §§1203, 1205(b), and 1250. In 1986, the General Assembly established a special institute to provide a program for college graduates to become certified to teach in Delaware public schools. Currently, the program does not exist. As a result, the regulation is being repealed.

Notice of the proposed repeal of the regulation was published in the *Register of Regulations* on March 1, 2020. The Professional Standards Board did not receive any written submittals concerning the proposed repeal.

On April 2, 2020, the Professional Standards Board voted to propose 14 **DE Admin. Code** 1508 Special Institute for Teacher Licensure and Certification for repeal by the Department subject to the State Board of Education's approval.

II. FINDINGS OF FACTS

The Department finds that the special institute established by the General Assembly to provide a program for college graduates to become certified to teach in Delaware public schools does not exist. Accordingly, the Department finds that it is appropriate to repeal 14 **DE Admin. Code** 1508 Special Institute for Teacher Licensure and Certification.

III. DECISION TO REPEAL THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to repeal 14 **DE Admin. Code** 1508 Special Institute for Teacher Licensure and Certification subject to the State Board of Education's approval. Therefore, pursuant to 14 **Del.C.** §§1203, 1205(b), and 1250, 14 **DE Admin. Code** 1508 Special Institute for Teacher Licensure and Certification attached hereto as Exhibit "A" is hereby repealed.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1508 Special Institute for Teacher Licensure and Certification repealed hereby shall be in the form attached hereto as Exhibit "A," and said regulation shall be cited as 14 **DE Admin. Code** 1508 Special Institute for Teacher Licensure and Certification in the Administrative Code of Regulations for the Department.

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 *Register of Regulations*.

IT IS SO ORDERED the 23rd day of April, 2020.

Department of Education

Susan S. Bunting, Ed.D., Secretary of Education

Approved this 23rd day of April, 2020.

State Board of Education

/s/ Whitney Townsend Sweeney, President	/s/ Vincent Lofink
/s/ Audrey J. Noble, Ph.D., Vice President	/s/ Provey Powell, Jr.
/s/ Nina Lou Bunting	/s/ Wali W. Rushdan, II
/s/ Candace Fifer	

***Please Note: Electronic signatures ("/s/") were accepted pursuant to 6 Del.C. §12A-107(d).**

1508 Special Institute for Teacher Licensure and Certification

1.0 Content

This regulation shall apply to the Special Institute for Teacher Licensure and Certification, pursuant to 14 Del.C. §§1250 through 1252.

2.0 Definitions

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

“Department” means the Delaware Department of Education.

“Educator” means a person licensed and certified by the State under chapter 12 of 14 Del.C. to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board and approved by the State Board, but does not include substitute teachers.

“Emergency Certificate” means a certificate issued to an educator who holds a valid Delaware Initial, Continuing, or Advanced License, but lacks necessary skills and knowledge to meet certification requirements in a specific content area.

“Examination of Content Knowledge” means a standardized test which measures knowledge in a specific content area, such as PRAXIS™ II.

“Examination of General Knowledge” means a standardized test which measures general knowledge and essential skills in mathematics or quantitative and verbal skills, including reading and writing, such as PRAXIS™ I and which, for the purposes of this regulation, means a pre-professional skills test.

“Initial License” means the first license issued to an educator that allows an educator to work in a position requiring a license in a Delaware public school.

“Major or Its Equivalent” means no fewer than thirty (30) credit hours in a content area.

“Secretary” means the Secretary of the Delaware Department of Education.

“Standard Certificate” means a credential issued to verify that an educator has the prescribed knowledge, skill and/or education to practice in a particular area, teach a particular subject, or teach a category of students.

“Standards Board” means the Professional Standards Board established pursuant to 14 Del.C. §1201.

“State Board” means the State Board of Education of the State pursuant to 14 Del.C. §104.

3.0 Special Institute for Teacher Licensure and Certification

3.1 One or more of Delaware’s teacher training institutions may establish a Special Institute for Teacher Licensure and Certification to provide a program for college graduates without a license and/or certificate to become licensed and certified to teach in Delaware public schools. Tuition may not be charged to participants.

- ~~3.2 Candidates for admission to a Special Institute for Teacher Licensure and Certification shall:~~
- ~~3.2.1 Hold a bachelor's degree in a field other than Education from a regionally accredited college or university, with a major or its equivalent in a content area that has designated as a critical needs area by the Department.~~
 - ~~3.2.2 Have a grade point index in the major field of the bachelor's degree which is two-tenths of a point higher than the grade point index required for students entering regular teacher education programs at the teacher education institution(s).~~
 - ~~3.2.3 Pass an examination of general knowledge, such as PRAXIS™ I, or provide an acceptable alternative to the PRAXIS™ I test scores, as set forth in 14 DE Admin. Code 1510.~~
 - ~~3.2.4 Must agree to teach at least one (1) year in a Delaware public school for each year funding was received. Such service must be completed within five (5) years of successful completion of the Special Institute for Teacher Licensure and Certification program.~~
 - ~~3.2.4.1 Failure to meet the requirement set forth in 3.2.4 above shall result in the individual within sixty (60) days arranging for repayment of a sum equivalent to the tuition which would have been paid for the coursework leading to licensure and certification; or~~
 - ~~3.2.4.2 An individual may also satisfy the requirement set forth in 3.2.4 above by providing a notarized statement, accompanied by evidence of unsuccessful applications, that the individual has made a good faith effort to seek employment in at least five (5) Delaware public school districts, but has been unable to secure a teaching position in any of those districts.~~
 - ~~3.2.4.3 An individual whose license and certificate have been revoked for cause prior to fulfilling the service set forth in 3.2.4 shall, within sixty (60) days, arrange for repayment of their remaining obligation.~~

4.0 ~~Format of the Special Institute for Teacher Licensure and Certification~~

- ~~4.1 A Special Institute for Teacher Licensure and Certification in a secondary content area which corresponds to the major field of study in the bachelor's degree program shall consist of:~~
 - ~~4.1.1 One (1) summer of courses in the Special Institute;~~
 - ~~4.1.2 One (1) semester of student teaching or one (1) year of supervised, full-time teaching experience in a Delaware public school; and~~
 - ~~4.1.3 Additional coursework as set forth by the teacher training institution which constitutes the program of study leading to initial licensure and certification.~~
- ~~4.2 A Special Institute for Teacher Licensure and Certification in elementary or special education shall consist of:~~
 - ~~4.2.1 Two (2) summers of courses, one (1) immediately before and one (1) after a student teaching experience or one year of full-time teaching experience;~~
 - ~~4.2.2 One (1) semester of student teaching or one (1) year of supervised, full-time teaching experience in a Delaware public school; and~~
 - ~~4.2.3 Additional coursework as set forth by the teacher training institution which constitutes a program of study leading to initial licensure and certification.~~

5.0 ~~Examination of Content Knowledge~~

~~Prior to completion of the Special Institute for Licensure and Certification, participants must successfully pass the appropriate examination of content knowledge, such as the PRAXIS™ II examination, if applicable and available.~~

6.0 ~~Licensure and Certification of Special Institute Participants~~

- ~~6.1 The Department shall issue an Initial License of no more than three (3) years duration conditioned on continued enrollment in the Special Institute and an Emergency Certificate to an individual employed to complete the one (1) year of full-time teaching experience in lieu of student teaching.~~

- 6.2 ~~Upon successful completion of the Special Institute for Teacher Licensure and Certification program, an individual shall be issued an Initial License valid for the balance of the three (3) year term, and a Standard Certificate.~~

PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b) (14 **Del.C.** §§1203 & 1205(b))
14 **DE Admin. Code** 1509

REGULATORY IMPLEMENTING ORDER

1509 Meritorious New Teacher Candidate Designation

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

The Professional Standards Board, acting in consultation and cooperation with the Delaware Department of Education ("Department"), seeks to repeal 14 **DE Admin. Code** 1509 Meritorious New Teacher Candidate Designation pursuant to 14 **Del.C.** §1203 and 14 **Del.C.** §1205(b). In 2005, Delaware participated in the Meritorious New Teacher Candidate program, which was a reciprocal licensing agreement with other states in the region through the Mid-Atlantic Regional Teachers Project. The agreement no longer exists. As a result, the regulation is being repealed.

Notice of the proposed repeal of the regulation was published in the *Register of Regulations* on March 1, 2020. The Professional Standards Board did not receive any written submittals concerning the proposed repeal.

On April 2, 2020, the Professional Standards Board voted to propose 1509 Meritorious New Teacher Candidate Designation for repeal by the Department subject to the State Board of Education's approval.

II. FINDINGS OF FACTS

The Department finds that the reciprocal licensing agreement through the Mid-Atlantic Regional Teachers Project that concerned the Meritorious New Teacher Candidate program is no longer in existence. Accordingly, the Department finds that it is appropriate to repeal 14 **DE Admin. Code** 1509 Meritorious New Teacher Candidate Designation.

III. DECISION TO REPEAL THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to repeal 14 **DE Admin. Code** 1509 Meritorious New Teacher Candidate Designation subject to the State Board of Education's approval. Therefore, pursuant to 14 **Del.C.** §§1203 and 1205(b), 14 **DE Admin. Code** 1509 Meritorious New Teacher Candidate Designation attached hereto as Exhibit "A" is hereby repealed.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1509 Meritorious New Teacher Candidate Designation repealed hereby shall be in the form attached hereto as Exhibit "A," and said regulation shall be cited as 14 **DE Admin. Code** 1509 Meritorious New Teacher Candidate Designation in the Administrative Code of Regulations for the Department.

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 *Register of Regulations*.

IT IS SO ORDERED the 23rd day of April, 2020.

Department of Education

Susan S. Bunting, Ed.D., Secretary of Education

Approved this 23rd day of April, 2020.

State Board of Education

/s/ Whitney Townsend Sweeney, President

/s/ Vincent Lofink

/s/ Audrey J. Noble, Ph.D., Vice President

/s/ Provey Powell, Jr.

/s/ Nina Lou Bunting

/s/ Wali W. Rushdan, II

/s/ Candace Fifer

***Please Note: Electronic signatures ("/s/") were accepted pursuant to 6 Del.C. §12A-107(d).**

1509 Meritorious New Teacher Candidate Designation

1.0 Content

This regulation shall apply to the issuance of a Meritorious New Teacher Candidate Designation to a candidate for an Initial License who meets the criteria set forth by the Mid Atlantic Regional Teachers Project, pursuant to 14 Del.C. §1210.

2.0 Definitions

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

"Department" means the Delaware Department of Education.

"License" means a credential which authorizes the holder to engage in the practice for which the license is issued.

"Meritorious New Teacher Candidate Designation" means a designation of excellence for new teachers which enables them to teach in Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, and Virginia.

"Met the Highest Standard" means achieved the highest grade or score awarded by the institution.

"Standard Certificate" means a credential issued to certify that an educator has the prescribed knowledge, skill or education to practice in a particular area, teach a particular subject, or teach a category of students".

3.0 Meritorious New Teacher Candidate Requirements

3.1 An applicant for an Initial License who meets the requirements for an Initial License and who also meets the criteria set forth by the Mid Atlantic Regional Teachers Project shall have a Meritorious New Teacher Candidate Designation affixed to the Initial License, upon receipt of a recommendation from the candidate's teacher preparation program that the candidate be awarded the designation of Meritorious New Teacher Candidate.

3.2 Criteria for the Meritorious New Teacher Candidate Designation are:

3.2.1 Verbal Skills

3.2.1.1 Scores in the upper quartile of students nationally at the time the test was taken on the verbal portion of the SAT, ACT, or GRE.

3.2.2 Content Knowledge

3.2.2.1 Elementary Education (Grades pre-K to 6):

3.2.2.1.1 A minimum 3.5 cumulative GPA in an undergraduate professional education program; or a minimum 3.7 cumulative GPA in a graduate professional education program; and

- 3.2.2.1.2 ~~Scores in the upper quartile of students nationally at the time the test was taken in math, science, social studies, and English language arts in the PRAXIS II Content Knowledge for Elementary Teachers test or Elementary Education: Curriculum, Instruction, and Assessment test.~~
- 3.2.2.2 ~~Middle School Education (Grades 6 to 8):~~
 - 3.2.2.2.1 ~~A minimum 3.5 cumulative GPA in an undergraduate academic major or a minimum 3.7 cumulative GPA in a graduate program in the subject area in which a standard certificate is sought; and~~
 - 3.2.2.2.2 ~~Scores in the upper quartile of students nationally at the time the test was taken on the PRAXIS II test in the applicant's specialty area.~~
- 3.2.2.3 ~~Secondary Education (Grades 9 to 12):~~
 - 3.2.2.3.1 ~~A minimum 3.5 cumulative GPA in an undergraduate academic major or a minimum 3.7 cumulative GPA in a graduate program in the subject area in which a standard certificate is sought.~~
 - 3.2.2.3.2 ~~Scores in the upper quartile of students nationally at the time the test was taken on the PRAXIS II test in the applicant's specialty area.~~
- 3.2.3 ~~Professional Preparation and Recommendation:~~
 - 3.2.3.1 ~~Completion of a state approved teacher preparation program, of traditional or alternative format, with a minimum 3.5 cumulative GPA in an undergraduate professional studies program, or a minimum 3.7 cumulative GPA in a graduate professional education program.~~
 - 3.2.3.2 ~~Completion of a minimum of 400 hours of supervised clinical experience, of which at least 300 hours are directed instructional student teaching. Clinical experience may occur within any state approved model, including total immersion experiences as teachers of record.~~
 - 3.2.3.3 ~~Met the highest standard of both the university supervisor and the cooperating teacher on the institution's formal student teacher or immersion component of the required clinical experience.~~
 - 3.2.3.4 ~~Met the highest standard on the institution's professional preparation assessment.~~
 - 3.2.3.5 ~~Received a recommendation by the teacher preparation program that the candidate be awarded the designation of Meritorious New Teacher Candidate.~~

4.0 Expedited Application

~~Applicants for initial licensure and the Meritorious New Teacher Candidate Designation who completed teacher preparation in Delaware will be given expedited consideration of their application by the Delaware Department of Education.~~

5.0 License from Other Jurisdiction Honored

~~A Meritorious New Teacher Candidate Designation issued to a licensee from one of the participating jurisdictions who has less than three (3) years of teaching experience, shall be honored by the Department. The applicant shall be issued a Delaware Initial License pursuant to 14 DE Admin. Code §1510 with a Meritorious New Teacher Candidate Designation and any Delaware Standard Certificate for which the candidate qualifies.~~

6.0 Validation

~~This designation shall be valid for the duration of the individual's initial license~~

PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b) (14 Del.C. §§1203 & 1205(b))

14 DE Admin. Code 1582

REGULATORY IMPLEMENTING ORDER

1582 School Nurse

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 Del.C. §§1203 and 1205(b), the Professional Standards Board, acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 DE Admin. Code 1582 School Nurse. The regulation concerns the requirements for a School Nurse Standard Certificate pursuant to 14 Del.C. §1220. The proposed amendments include adding defined terms to Section 2.0; clarifying the requirements for issuing a School Nurse Standard Certificate in Section 3.0; specifying the education, knowledge, and skill requirements for obtaining a School Nurse Standard Certificate in Section 4.0; adding reciprocity requirements in Section 5.0; specifying the application requirements in Section 6.0; adding Section 7.0, which concerns the validity of a School Nurse Standard Certification; specifying the requirements for retaining a School Nurse Standard Certificate in Section 8.0; adding Section 9.0, which concerns disciplinary actions; adding Section 10.0, which concerns requests for the Secretary of Education to review standard certificate applications; and adding Section 11.0, which concerns recognizing past certification.

Notice of the proposed regulation was published in the *Register of Regulations* on March 1, 2020. The Professional Standards Board received a written submittal from Megan Fioravanti, RN, NCSN, the National Association of School Nurses ("NASN") Delaware Director, concerning the proposed amendments to the regulation. Ms. Fioravanti commented that NASN's position is that "every school-aged child should have access to a registered professional school nurse, who has a minimum of a bachelor's degree in nursing from an accredited college or university, and is licensed as a registered nurse through a board of nursing." She further commented that "[b]accalaureate nursing education develops competencies in leadership, critical thinking, quality improvement, and systems thinking. It also assures education in nursing theory and clinical experience in community settings."

On April 2, 2020, the Professional Standards Board considered Ms. Fioravanti's written submittal. The proposed amendments do not change the existing requirement that an applicant who is not licensed or certified as a school nurse in another state or jurisdiction hold a bachelor's degree in nursing ("BSN"). The proposed amendments would require that an applicant who is licensed or certified as a school nurse in another state or jurisdiction hold a BSN. The Professional Standards Board determined that further changes in response to Ms. Fioravanti's written submittal were not necessary and voted to propose 14 DE Admin. Code 1582 School Nurse, in the form that was published, for adoption by the Department subject to the State Board of Education's approval.

II. FINDINGS OF FACTS

The Department finds that the proposed amendments to the regulation do not change the existing requirement that applicants who are not licensed or certified school nurses in other states or jurisdictions hold a BSN and would add the requirement that applicants who are licensed or certified school nurses in other states or jurisdictions hold a BSN. Thus, further changes in response to the Ms. Fioravanti's written submittal are not necessary. In addition, the Department finds that the proposed amendments to the regulation are necessary to implement 14 Del.C. Ch. 12 and are designed to improve the quality of the Delaware educator workforce and to improve student performance. Accordingly, the Department finds that it is appropriate to amend 14 DE Admin. Code 1582 School Nurse.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 DE Admin. Code 1582 School Nurse subject to the State Board of Education's approval. Therefore, pursuant to 14 Del.C. §§1203

and 1205(b), 14 **DE Admin. Code** 1582 School Nurse attached hereto as Exhibit "A" is hereby amended.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1582 School Nurse adopted hereby shall be in the form attached hereto as Exhibit "A," and said regulation shall be cited as 14 **DE Admin. Code** 1582 School Nurse in the Administrative Code of Regulations for the Department.

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 *Register of Regulations*.

IT IS SO ORDERED the 23rd day of April, 2020.

Department of Education

Susan S. Bunting, Ed.D., Secretary of Education

Approved this 23rd day of April, 2020.

State Board of Education

/s/ Whitney Townsend Sweeney, President

/s/ Vincent Lofink

/s/ Audrey J. Noble, Ph.D., Vice President

/s/ Provey Powell, Jr.

/s/ Nina Lou Bunting

/s/ Wali W. Rushdan, II

/s/ Candace Fifer

***Please Note: Electronic signatures ("/s/") were accepted pursuant to 6 Del.C. §12A-107(d).**

1582 School Nurse
(Break in Continuity of Sections)

8.0 Requirements Related to the Retention of a School Nurse Certificate

(Break in Continuity Within Section)

8.2 If an Educator fails to meet any [of] the requirements related to retaining a School Nurse Standard Certificate, the Educator shall immediately notify the Department in writing.

***Please note that no additional changes were made to the regulation as originally proposed and published in the March 2020 issue of the *Register* at page 721 (23 DE Reg. 721). Therefore, the final regulation is not being republished here in its entirety. A copy of the final regulation is available at:**

1582 School Nurse

DEPARTMENT OF HEALTH AND SOCIAL SERVICES DIVISION OF HEALTH CARE QUALITY

Statutory Authority: 16 Delaware Code, Section 122(3)x. (16 Del.C. §122(3)x.)
16 DE Admin. Code 4469

ORDER

IN THE MATTER OF:))
)
ADOPTION OF THE STATE OF DELAWARE)
REGULATIONS GOVERNING PERSONAL
ASSISTANCE SERVICES AGENCIES

4469 Personal Assistance Services Agencies

Nature of The Proceedings

Delaware Health and Social Services ("DHSS") initiated proceedings to adopt the State of Delaware Regulations Governing Personal Assistance Services Agencies. The DHSS proceedings to adopt regulations were initiated pursuant to 29 Delaware Code Chapter 101 and authority as prescribed by 16 Delaware Code, Section 122 (3)(x).

On April 1, 2020 (Volume 23, Issue 10), DHSS published in the *Delaware Register of Regulations* its notice of proposed regulations, pursuant to 29 *Del.C.* § 10115. It requested that written materials and suggestions from the public concerning the proposed regulations be delivered to DHSS by May 1, 2020, after which time the DHSS would review information, factual evidence and public comment to the said proposed regulations.

Written comments were received during the public comment period and evaluated. The results of that evaluation are summarized in the accompanying "Summary of Evidence."

Summary

Effective June 1, 2020, DHSS/Division of Health Care Quality (DHCQ) is publishing the final regulations governing Personal Assistance Services Agencies.

Background

As more services are being provided in the home and community setting, it is necessary to clearly define the scope of services offered by a personal assistance services agency, which is a non-medical model of care. In addition, the "Share the Care Act" (Senate Bill 27), signed by the Governor on June 13, 2019, enables an individual employed by a personal assistance services agency to administer medications to an adult consumer who resides in the individual's own home if all requirements are met.

Subsequently, the DHCQ published the amendments to the regulations governing Personal Assistance Services Agencies and held them out for public comment per Delaware law. The amendments updated and clarified the regulatory requirements to ensure consumers receive safe and quality care/services from personal assistance services agencies. In addition, the proposed regulations contained new language to implement the "Share the Care Act" (Senate Bill 27) which permits an individual employed by a personal assistance services agency to administer medications to an adult consumer who resides in the individual's own home if all requirements are met.

SUMMARY OF EVIDENCE

In accordance with Delaware Law, public notices regarding proposed Department of Health and Social Services (DHSS) Regulations Governing Personal Assistance Services Agencies were published in the *Delaware Register of Regulations*. Written comments were received on the proposed regulations during the public comment period (April 1, 2020 through May 1, 2020).

Public comments and the DHSS (Department) responses are as follows:

Deborah Joseph, PASA Program Director, CHEER, Inc.

Comment:

4.4.2.6.5.1 The physical examination must have been completed within three (3) months prior to employment/referral: If a new employee applicant can only be provided a physical 1x annually by their insurance company, this may cause un-do hardship having to get another physical to comply with time frame of 3 months prior to employment/referral. Would the Department consider within a certain calendar date range?

Response: Thank you for your comments. This is a current requirement with no proposed changes. The Department will take this comment under consideration for the next set of revisions.

Comment:

4.6 A direct care worker that has successfully completed a Department approved administration of medications training program may administer medication to a consumer if all other requirements specified in these regulations are met. Will the Department provide a list of approved training programs? If direct care workers successfully complete training and conduct their activities in accordance with that training, would there be any consideration of waivers or limitations on liability.

Response: Thank you for your comments. As of the final publication of these regulations, there are no approved programs for administration of medication training. Liability is addressed already under 24 Del. C. 1921(g) and the regulations will remain as written.

Comment:

~~“Personal Assistance Services Agency” is an agency that employs or contracts with direct care workers to provide personal assistance services to consumers primarily in his/her place of residence.~~ means any business entity or subdivision thereof, whether public or private, proprietary or not-for-profit, which refers direct care workers to provide personal assistance services to individuals primarily in their home or private residence. Referral instead of employed? The direct care worker would be independent? Deleted verbiage was “employs or contracts”. Yet, the definition of a “DCW” states employed or contracted. What safeguards would be in place to insure that only qualified persons are referred to individuals and how would that be enforced. Further would the referring agency have any responsibility / liability for damage that may result from a referral they provide/Does the referring organization have any responsibility to insure compliance with applicable regulations?

Response: Thank you for your comments. The definition of a personal assistance services agency was revised to reflect the language found in 16 Del. C. §122 (3)(x). The revision of this definition does not change the requirements of the direct care workers. All personal assistance services agencies are required to comply with the onboarding and regular requirements (e.g., criminal background check, drug testing, physical examination, orientation, competencies) for all direct care workers whether the direct care worker is an employee, contractor, or referral.

Comment:

~~5.4.2 For consumers who are not able to delegate services/tasks due to impaired cognitive function, services/tasks~~ Personal assistance services shall be limited by the following. Has this changed to any consumer regardless of impairment or not? Bathing and Dressing not listed. If so, how would that work with PC contracts?

Response: Thank you for your comments. For all consumers, the services specified under 5.4.2, the personal assistance services agency can only provide as specified. Personal assistance services are limited to individual assistance with/or supervision of activities of daily living, which includes bathing and grooming. The personal assistance services agencies must not contract to provide any services beyond their scope of practice. The regulations will remain as written.

Kyle Hodges, Policy Director, State Council for Persons with Disabilities

Comment:

As laid out in subsection 5.4.3 of the proposed regulations, the administration of medication must be authorized by “a responsible caregiver with appropriate capacity.” SCPD recommends that language be added consistent with the following: “Verify that recipients of services have appropriate capacity to make decisions so caregivers cannot override such decisions by persons with appropriate capacity.”

Response: Thank you for your comments. 24 Del. C. 1921(a)(15) and 16 Del. Admin. C. 5.4.1 specifically refer to recipients who are competent and thus drive their medication administration. We will take your suggestion under advisement for future updates should this point need clarification in the future.

Beth Copeland, MSN, CSA, Director, Griswold Home Care

Comment:

I would like to respond by saying that I am enthusiastically in favor of implementing the "Share the Care Act" (Senate Bill 27) which permits an individual employed by a personal assistance services agency to administer medications to an adult consumer who resides in the individual's own home if all requirements are met.

Response: Thank you for your comments.

Wendy Strauss, Executive Director, and Ann Fisher, Chairperson, Governor's Advisory Council for Exceptional Citizens (GACEC)

Comment:

Council endorses the proposed amendments as they implement existing law and add additional protections for consumers in the form of requiring providers to implement grievance procedures and disaster preparedness plans.

Response: Thank you for your comments.

Collan B. Rosier, Director of Government Affairs, Maxim Healthcare Services

Comment:

1.1– “Director” Definition. We request the Office of Health Facilities Licensing and Certification provide additional definition or clarification regarding what constitutes “two (2) years healthcare supervisory experience” for the Director. We also question whether this requirement is necessary as it may restrict entrants and potentially serves as a barrier to entry to the PASA-licensed field for strong candidates who are otherwise qualified. It would also increase labor and employment costs for new entrants into the PASA program.

Response: Thank you for your comments. The definition of “Director” was revised to ensure the provision and supervision of safe quality services to vulnerable populations that are served by personal assistance services agencies. “Healthcare supervisory experience” would include the supervision of any individuals providing healthcare in a variety of settings including, but not limited to, in a long-term care facility, acute care facility or a home care setting. The Division of Health Care Quality, Office of Health Facilities Licensing and Certification worked in conjunction with the Delaware Association of Home and Community Care to revise this definition. The definition shall remain as proposed in the April *Register*.

Comment:

3.14 General Requirement of Compliance with Laws & Codes. We recommend amending the proposed addition of this section to state “The agency shall be in compliance with federal, state and local laws and codes relevant to the PASA licensure and the services provided.” We are looking for more specificity in terms of the federal, state, and local laws and regulations with which PASAs must comply in order to properly adhere to them, provide applicable education to our office staff and caregivers, and to develop the appropriate policies and procedures and other guidance documents to ensure full compliance.

4.6 – Medication Administration Training Program. We would like the Office of Health Facilities Licensing and Certification to clarify in the regulation or through appropriate sub-regulatory guidance what is meant by “a Department approved administration of medications training program.” Does this indicate a training program that is created and operated by the State and which providers must utilize or may providers submit their own internal caregiver training programs on medication administration to the State for review and approval?

Response: Thank you for your comments. Personal assistance services agencies are responsible for maintaining compliance with applicable rules and regulations. The Department does not develop programs for administration of medication training; however, the Department is responsible for approving such programs. Personal assistance services agencies can create a program and submit the program to the Department for review. Approval is contingent upon review and inclusion of all necessary components.

Statutory Authority

16 Del.C. §122(3)(x)

Purpose

The purpose of these proposed amendments is to update and clarify the regulatory requirements to ensure consumers receive safe and quality care/services from personal assistance services agencies.

In addition, the proposed regulations contained new language to implement the “Share the Care Act” (Senate Bill 27), which permits an individual employed by a personal assistance services agency to administer medications to an adult consumer who resides in the individual’s own home if all requirements are met.

Fiscal Impact

Not applicable.

Findings of Fact:

There were no changes made to the regulations based on the comments received and detailed in the

“Summary of Evidence.” 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.

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Regulations Governing Personal Assistance Services Agencies is adopted and shall become effective June 11, 2020, after publication of the final regulation in the *Delaware Register of Regulations*.

5/15/2020

Date

Kara Odom Walker, MD, MPH, MSHS
Secretary, DHSS

*Please note that no changes were made to the regulation as originally proposed and published in the April 2020 issue of the *Register* at page 818 (23 DE Reg. 818). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

4469 Personal Assistance Services Agencies

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF CLIMATE, COASTAL, & ENERGY

Statutory Authority: 7 Delaware Code, Chapter 60 and 16 Delaware Code, Section 7602 (7 Del.C. Ch. 60 & 16 Del.C. §7602)
7 DE Admin. Code 2101

Secretary's Order No: 2020-CCE-0014

RE: Proposed Regulation Amendments to 7 DE Admin. Code 2101: *Regulations for State Energy Conservation Code*

Date of Issuance: April 28, 2020

Effective Date: June 11, 2020

2101 Regulations for State Energy Conservation Code

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC") pursuant to 7 Del.C. §§6006 and 6010, and all other relevant statutory authority, the following findings of fact based on the record, reasons and conclusions are entered as an Order of the Secretary in the above-referenced regulatory proceeding.

Background, Procedural History and Findings of Fact

This Order relates to 7 DE Admin. Code 2101: *Regulations for State Energy Conservation Code* ("Amendments"). Pursuant to 16 Del.C. §7602, *Delaware's Energy Conservation Code Act*, the Department proposes to adopt the most recent and/or highest available version of the International Energy Conservation Code ("IECC"), and the latest American Society of Heating, Refrigerating and Air-Conditioning Engineers/Illuminating Engineering Society of North America ("ASHRAE") energy standard, as determined by the Department on a triennial basis. In addition, the regulations set out procedures for certification of compliance with these codes and standards to be utilized by the respective local governments.

In 2014, the Department adopted the 2012 IECC with Delaware-specific amendments for the home building industry, due to the substantial variety and number of changes present in the 2012 IECC, relative to the 2009 IECC. At that time, the Department recognized that the Delaware building industry would have to significantly adapt many of its residential building, design, and construction practices following the 2012 IECC adoption. The Delaware-specific amendments to the 2012 IECC were intended to give builders additional time to learn the more stringent energy efficiency requirements, and to adapt their construction techniques and materials, while taking a

conservative approach to reduce the risk of updating the code with negative impacts on housing prices (despite the overall cost-effectiveness of the 2012 code, in its entirety). While the 2012 IECC was adopted, these amendments were not intended to be permanent modifications to the code in every code cycle.

In accordance with 16 *Del.C.* §7602, *Delaware's Energy Conservation Code Act*, the Department convened the triennial review of the available energy conservation codes in March 2017, with the Delaware Energy Code Coalition ("Coalition"). The Department's Division of Climate, Coastal, and Energy ("DCCE") and the Coalition met over a 2-year period and evaluated the impacts of adopting the 2015 or 2018 IECC standards, in addition to the 90.1-2013 or 90.1-2016 ASHRAE standards. During this time the DCCE and Coalition collected input from stakeholders who offered opinions, proposed revisions, and identified potential impacts to the updated versions of the available energy codes. The Coalition and stakeholders specifically expressed concerns with the residential provisions (particularly the more stringent air leakage limits). To address the concerns of the Coalition and stakeholders and provide technical support, the Department sought technical assistance from the U.S. Department of Energy's Pacific Northwest National Lab, Northeast Energy Efficiency Partnerships, and Optimal Energy, Inc.

A technical analysis of the 2018 IECC residential requirements, conducted by a consultant, estimated a 40% reduction in air leakage associated with adopting the 2018 IECC energy conservation code. The 2012 IECC (as amended) limits air leakage to 5 Air Changes per Hour ("ACH"), while the 2018 IECC reduces the limit to 3 ACH. The air sealing requirements set forth in the 2018 IECC, specifically reducing the ACH limit from 5 to 3 ACH, will increase construction costs by \$150-\$225 per home, but will result in energy savings of \$68 per year. Through this annual savings, it will take approximately three years to recoup the initial investment of \$150-\$225.

The Department has reviewed the energy savings, construction costs, and payback period associated with the more stringent air sealing requirements in the 2018 IECC and ASHRAE 90.1-2016 model codes and expects a modest increased cost with the implementation of the aforementioned energy codes; however, the increased cost will be offset by the benefits accrued to the building owners and occupants over the life of the home.

The Department finds that adopting the 2018 IECC and ASHRAE 90.1-2016 energy conservation codes, in their entirety, will increase building sector energy efficiency, bring energy cost savings for building owners and occupants, increase occupant comfort, and reduce emissions in Delaware. With consideration of the stakeholders' concerns, the Department acknowledges that there will be transitional change between the 2012 IECC (as amended) and the 2018 IECC and the Department's DCCE is prepared to provide training.

Following promulgation of these regulations, the Department's DCCE will provide training to the local code enforcement officials, builders, and design professionals. A transition period of 6 months shall allow stakeholders to adapt to the 2018 IECC and ASHRAE 90.1-2016 energy conservation codes, in addition to the training that will be offered. Specifically, the Department will provide training on practical compliance strategies for new building requirements, construction and design strategies for air sealing smaller homes, hot water pipe insulation and heating, ventilating, and air conditioning duct design, the new Energy Rating Index compliance pathway, and other topics as needed, to transition to the new codes.

The Department has the statutory basis and legal authority to act with regard to the formal promulgation of these proposed Amendments, pursuant to 16 *Del.C.* §7602.

The Department published its initial proposed regulation Amendments in the November 1, 2019 *Delaware Register of Regulations*. Thereafter, the public hearing regarding this matter was held on December 3, 2019. There were nine (9) members of the public in attendance with five (5) comments provided at the public hearing. Pursuant to 29 *Del.C.* §10118(a), the hearing record remained open for receipt of additional written comment for 15 days following the public hearing. The hearing record formally closed for comment in this matter at close of business on December 18, 2019, with a total of 23 comments received by the Department during the phase of this formal promulgation.

It should be noted that all notification and noticing requirements concerning this matter were met by the Department. Proper notice of the hearing was provided as required by law.

Hearing Officer Theresa Newman prepared her Report dated March 20, 2020 ("Report"), which expressly incorporated the Department's proposed Amendments into the hearing record generated in this matter. The Report documents the proper completion of the required regulatory amendment process, establishes the record, and recommends the adoption of the proposed Amendments as attached to the Report as Appendix "A."

Reasons and Conclusions

Based on the record developed by the Department's experts in the Division of Climate, Coastal, and Energy,

and established by the Hearing Officer's Report, I find that the proposed regulatory Amendments to 7 DE Admin. Code 2101: *Regulations for State Energy Conservation Code*, are well-supported. I further find that the Department's experts fully developed the record to support adoption of these Amendments. Therefore, the recommendations of the Hearing Officer are hereby adopted, and I direct that the proposed Amendments be promulgated as final.

The following reasons and conclusions are entered:

1. The Department has the statutory basis and legal authority to act with regard to this proposed regulatory promulgation, pursuant to 16 *Del.C.* §7602;
2. The Department has jurisdiction under its statutory authority, pursuant to 7 *Del.C.* Chapter 60, to issue an Order adopting these proposed Amendments as final;
3. The Department provided adequate public notice of the initial proposed Amendments and all proceedings in a manner required by the law and regulations, and provided the public with an adequate opportunity to comment on the same, including at the time of the public hearing held on December 3, 2019, and during the 15 days subsequent to the hearing (through December 18, 2019), before making any final decision;
4. Promulgation of the proposed Amendments to 7 DE Admin. Code 2101, *Regulations for State Energy Conservation Code*, will enable the Department to adopt by reference the 2018 IECC and ASHRAE 90.1-2016 in their entirety, pursuant to 16 *Del.C.* §7602, Delaware's Energy Conservation Code Act;
5. The Department has reviewed the proposed Amendments in the light of the Regulatory Flexibility Act, consistent with 29 *Del.C.* Ch. 104, and believes the same to be lawful, feasible and desirable, and the recommendations as proposed should be applicable to all Delaware citizens equally;
6. The Department's proposed regulatory Amendments, as initially published in the November 1, 2019 *Delaware Register of Regulations*, and as set forth in Appendix "A" hereto, are adequately supported, are not arbitrary or capricious, and are consistent with the applicable laws and regulations. Consequently, they should be approved as final regulatory Amendments, which shall go into effect ten days after their publication in the next available issue of the *Delaware Register of Regulations*; and
7. The Department shall submit the proposed Amendments as final regulatory amendments to the *Delaware Register of Regulations* for publication in its next available issue and provide such other notice as the law and regulation require, and the Department determines is appropriate.

Shawn M. Garvin
Secretary

2101 Regulations for State Energy Conservation Code

1.0 Purpose and Statutory Authority

- 1.1 The purpose of these regulations is to provide the Department of Natural Resources and Environmental Control's determination of the most recent and/or highest available version of the International Energy Conservation Code and the latest ASHRAE/IESNA standard. The goal of establishing these regulations is to provide a statewide building energy conservation code.
- 1.2 These regulations provide rules of practice and procedures for certification of compliance with these codes and standards to be utilized by the respective local governments.
- 1.3 ~~Delaware Code Title 16 Section 7602~~ 16 **Del.C.** §7602 provides the authority for adopting ~~Delaware Energy Conservation~~ the State Energy Conservation Code. These regulations are promulgated under the authority of 16 **Del.C.** §7602.

2.0 Definitions

For purposes of these regulations, the following words and phrases shall have the meanings set forth below.

"**ASHRAE**" means the ANSI/ASHRAE/IES Standard ~~90.4~~ 90.1-2016: Energy Standard for Buildings except Low-Rise Residential Buildings published by the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc.

“**Department**” means the Department of Natural Resources and Environmental Control, the Division of Energy and Climate Climate, Coastal, & Energy or the Delaware Energy Office, as appropriate.

“**DET verifier**” means a certified Duct and Envelope Tightness verifier. A certified DET verifier shall be a certified Home Energy Rating Systems (HERS) rater, or be a certified Home Performance with ENERGY STAR contractor, or be a Building Performance Institute (BPI) Heating Professional to perform duct tightness testing or a BPI Building Analyst or Envelope Professional to perform building tightness testing, or successfully complete a course that is approved by the Department of Natural Resources and Environmental Control.

“**IECC**” means the 2018 International Energy Conservation Code published by the International Code Council, Inc.

3.0 Incorporation by Reference

- 3.1 The ~~2012~~ 2018 International Energy Conservation Code (IECC), published by the International Code Council, Inc., is hereby adopted and incorporated by reference ~~with revisions~~ as the Delaware Residential Building Energy Conservation Code and is an enforceable part of the Delaware Building Codes. ~~The revisions to the 2012 IECC code are stated in Section 4.0 of these regulations.~~
- 3.2 The American Society of Heating, Refrigerating and Air-Conditioning Engineers Standards (ASHRAE) 90.1-~~2010~~2016: Energy Standard for Buildings except Low-Rise Residential Buildings and ~~Commercial Provisions~~ the commercial provisions of the ~~2012~~ 2018 International Energy Conservation Code are hereby adopted and incorporated by reference in their entirety as the Delaware Commercial Building Energy Conservation Code and is an enforceable part of the Delaware Building Codes.

4.0 Revisions to the ~~2012~~ IECC

- 4.1 ~~The following additions, insertions, deletions, and other changes are hereby made to the 2012 International Energy Conservation Code.~~
 - 4.1.1 ~~R403.2.2 amend to add: Supply duct tightness shall be verified by either of the following:~~
 - ~~1. Post-construction test: Total leakage less than or equal to 6 cfm (169.9/min) per square foot (9.29 m²) of conditioned floor area when tested at the pressure differential of 0.1 inches w.g. (25 Pa)....~~
 - ~~2. Rough-in test: Total leakage less than or equal to 6 cfm (169.9/min) per square foot (9.29 m²) of conditioned floor area when tested at the pressure differential of 0.1 inches w.g. (25 Pa) (remainder unchanged — If the air handler is not installed.... ≤ 4 cfm...)~~
 - 4.1.2 ~~R403.4.2: amend list to:~~
 - ~~1. Piping larger than 3/4 inch nominal diameter.~~
 - ~~2. Piping serving more than one dwelling unit.~~
 - ~~3. Piping located outside the conditioned space.~~
 - ~~4. Piping from the water heater to a distribution manifold.~~
 - ~~5. Piping located under a floor slab.~~
 - ~~6. Buried piping.~~
 - ~~7. Supply and return piping in recirculation systems.~~
 - ~~Delete Table R403.4.2 without substitution.~~
 - 4.1.3 ~~R402.4.1.2:~~

Exception: ~~A building or dwelling unit with 2,000 ft² or less of conditioned floor area (CFA) may satisfy R402.4.1.2 if it:~~

 - ~~(1) is tested to have an air leakage rate no greater than:~~
 - ~~5 ACH 50 for homes with < 1,500 ft² of CFA, or~~
 - ~~4 ACH 50 for homes with 1,500 — 2,000 ft² of CFA.)~~
 - 4.1.4 ~~R403.2.3 Building framing cavities shall not be used as ducts or plenums.~~

Exception: Returns run exclusively through conditioned space.

- 4.1.5 ~~R403.5~~ The building shall be provided with ventilation that meets the requirements of the *International Residential Code (IRC)* or *International Mechanical Code (IMC)*, as applicable, or with other approved means of ventilation. Outdoor air intakes shall have automatic or gravity dampers that close when the ventilation system is not operating. Required ventilation rates shall also include adequate provisions for fuel fired appliance, stove and fireplace makeup air supply; kitchen, bath, clothes dryer, and central vacuum exhausts; and other makeup air system supplies and/or exhausts as required in either the IRC or IMC.

(remainder of section unchanged)

5.04.0 Implementation and Enforcement

- 5.14.1 All buildings must meet all requirements of the applicable referenced code six months after date of promulgation.
- 5.24.2 All projects may utilize the new applicable reference codes at any time after the date of promulgation, provided such choice is stated on the construction documents.
- 4.3 Procedures for certification of compliance and standards to be utilized by respective local governments are those specified in the IECC at Chapter 1 ("Scope and Administration") and in the ASHRAE at Chapter 4 ("Administration and Enforcement") as enforceable parts of the Delaware Building Codes pursuant to subsections 3.1 and 3.2 herein.

6.05.0 Certified duct and envelope tightness (DET) verifier.

Testing for duct and building envelope tightness shall be conducted by a certified DET verifier.

DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Sections 901(b), (c) and (d); 903(a), (b), (e)(2)a.4 and (e)(2)b.3, 4 and 6 (7 **Del.C.** §§901(b), (c) & (d); 903(a), (b), (e)(2)a.4 & (e)(2)b.3, 4 & 6)
7 **DE Admin. Code** 3502

Secretary's Order No: 2020-F-0013

RE: Approving Final Amendments to 7 DE Admin. Code 3502: *Striped Bass Spawning Season and Area Restrictions*

Date of Issuance: April 27, 2020

Effective Date: June 11, 2020

Bass (Striped Bass; Black Sea Bass)

3502 Striped Bass Spawning Season and Area Restrictions

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC") pursuant to 7 *Del.C.* §§6006 and 6010, and all other relevant statutory authority, the following findings of fact based on the record, reasons and conclusions are entered as an Order of the Secretary in the above-referenced regulatory proceeding.

Background, Procedural History and Findings of Fact

This Order relates to 7 **DE Admin. Code** 3502: *Striped Bass Spawning Season and Area Restrictions* ("Amendments"). The Department proposes revisions to expand the current allowable area where fixed gill nets can be used by opening approximately 1.75 nautical miles (linear) of the Delaware River during the months of January through May. More specifically, this Amendment will adjust the lower boundary of the exclusion area northward (upstream) to the southern shore of Appoquinimink River mouth at latitude 39°26'51.00"N and longitude

75°34'46.00"W.

This action is being taken by the Department to expand the current allowable area where fixed gill nets can be used to facilitate Striped Bass capture more efficiently and to maintain minimal interactions between gill net recreational anglers and commercial anglers. The seasonal fixed gill net exclusion area is currently extended from Liston Point (Delaware River) northward. This exclusion area was originally defined to prohibit fixed gill netting of Striped Bass in an effort to reduce potential recreational and commercial angler interactions (not by reason of the biological concern for Striped Bass.)

In 2018, the Delaware quota allocation for Striped Bass led to a quota overage in the commercial fisheries. Pursuant to 7 **DE Admin. Code** 3505, the 2019 Striped Bass quota was then reduced, due to the previous year's overage that occurred. Contrary to the 2018 quota overage, several of the commercial gill net anglers, specifically those who fish the Delaware River, did not catch their quota in 2018. These commercial anglers felt that the reduced Striped Bass quota set forth for 2019 was unfair, given that the Delaware River allowable area (permitted for fixed gill netting of Striped Bass), did not allow these anglers to meet their quota.

On July 24, 2018, the commercial anglers proposed adjustments to the current seasonal fixed gill net exclusion area in the Delaware River at the monthly Tidal Finfish Advisory Council ("Advisory Council") meeting. The commercial anglers proposed adjustments to expand the allowable area with efforts to efficiently catch Striped Bass using fixed gill netting. Over a series of 3 meetings, the Advisory Council (comprised of an equal number of commercial and recreational anglers), considered adjustments to the aforementioned excluded area to allow fixed gill netting of Striped Bass. A member of the Advisory Council worked with the Enforcement Section of the Division of Fish and Wildlife to ensure boating safety protocols of the proposed allowable area were met to reduce potential interactions with recreational anglers and commercial boats.

As previously stated, the current seasonal fixed gill net exclusion area extends from Liston Point (Delaware River) northward. The Division of Fish and Wildlife's Enforcement Section and the Advisory Council found that opening 1.75 nautical miles (linear) of the Delaware River to fixed gill net fishing during the months of January through May will reduce angler interactions in this area. During the months in late winter and early spring, this area is known to not be highly trafficked by recreational boaters, thus, the Department expects there to be a low risk of potential interactions between recreational anglers and commercial boats. This area also allows commercial anglers the opportunity to catch Striped Bass more efficiently using fixed gill nets. Moreover, the expansion of the commercial quota allocation area may reduce drift net and recreational angling interactions further north of the river. This proposed area was then endorsed by the Advisory Council on September 25, 2019, with a unanimous motion to promulgate the Amendments, herein.

Pursuant to the *Atlantic Coastal Fisheries Cooperative Management Act* of 1993, this proposed action is consistent with the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan for the Striped Bass, its amendments and addenda. Under the FMP, Delaware has the authority to establish its own commercial fishermen annual commercial quota. The Department expects the Striped Bass landings will be unaffected by this Amendment, as the commercial Striped Bass fishery is managed through, and limited by, an annual commercial quota with mandatory harvester and weigh station tagging and reporting. The quota-based management allows the commercial anglers to only take a set amount of Striped Bass per year, and when the quota is met, the fishery is closed.

The Department has the statutory basis and legal authority to act with regard to the formal promulgation of these proposed Amendments, pursuant to 7 *Del. C.* §§901 (b), (c) & (d), 903 (a) & (b), 903 (e)(2)a.4, 903 (e)(2)b.3, 4 & 6. The Department published its initial proposed regulation Amendments in the February 1, 2020 *Delaware Register of Regulations*. Thereafter, the public hearing regarding this matter was held on February 26, 2020. There were 9 members of the public in attendance at the public hearing, with 7 verbal comments given at the public hearing.

Pursuant to 29 **Del.C.** §10118(a), the hearing record ("Record") remained open for receipt of additional written comment for 15 days following the public hearing. The Record formally closed for comment in this matter at close of business on March 12, 2020, with one additional comment received by the Department for the formal promulgation.

It should be noted that all notification and noticing requirements concerning this matter were met by the Department. Proper notice of the hearing was provided as required by law.

Subsequent to the close of the Record, and at the request of presiding Hearing Officer Theresa Newman, the Department's Division of Fish and Wildlife staff prepared a Technical Response Memorandum ("TRM"). The TRM responds to the comments received by the Department in this matter and provides a thorough discussion with

regard to concerns of the impact on the Striped Bass population, the interactions between recreational anglers and gill nets, and discarded dead Striped Bass, due to anchor netting.

The Department's experts in the Division of Fish and Wildlife have concluded that the Delaware River accounts for less than 5% of Delaware's annual Striped Bass landings and it is unlikely that there will be a large shift of anchor nets to the allowable area in the Delaware River. The Department expects that the interactions of anglers with anchored gill nets may differ, compared to those with drift nets. As current gill net effort in the Delaware River is limited to drift nets by regulation, this Amendment is expected to lead drift netters to anchor netting (which is a more efficient style of catching fish). The Division of Fish and Wildlife have also found that few Striped Bass are currently discarded, thus the allowable fixed gill netting expended in the Delaware River is expected to not cause a substantial increase in the number of dead discarded Striped Bass and shall have no effect on the population.

Following the receipt of the Department's TRM as noted above, the Hearing Officer prepared her Hearing Officer's Report dated March 25, 2020 ("Report"), which expressly incorporated both the Department's proposed Amendments and the TRM into the Record generated in this matter. The Report documents the proper completion of the required regulatory amendment process, establishes the Record, and recommends the adoption of the proposed Amendments as attached to the Report as Appendix "A."

Reasons and Conclusions

Based on the Record developed by the Department's experts in the Division of Fish and Wildlife, and established by the Hearing Officer's Report, I find that the proposed regulatory Amendments are well-supported. I further find that the Department's experts fully developed the record to support adoption of these Amendments. Therefore, the recommendations of the Hearing Officer are hereby adopted, and I direct that the proposed Amendments be promulgated as final.

The following reasons and conclusions are entered:

1. The Department has the statutory basis and legal authority to act with regard to this proposed regulatory promulgation, pursuant to 7 *Del. C.* §§901 (b), (c) & (d), 903 (a) & (b), 903 (e)(2)a.4, 903 (e)(2)b.3, 4 & 6;
2. The Department has jurisdiction under its statutory authority, pursuant to 7 *Del.C.* Chapter 60, to issue an Order adopting these proposed Amendments as final;
3. The Department provided adequate public notice of the initial proposed Amendments and all proceedings in a manner required by the law and regulations, and provided the public with an adequate opportunity to comment on the same, including at the time of the public hearing held on February 26, 2020, and during the 15 days subsequent to the hearing (through March 12, 2020), before making any final decision;
4. Promulgation of the proposed Amendments to 7 **DE Admin. Code** 3502: *Striped Bass Spawning Season and Area Restrictions*, will enable the Department to expand the current allowable area where fixed gill nets can be used by opening approximately 1.75 nautical miles (linear) of the Delaware River to fixed gill net fishing during the months of January through May. More specifically, this Amendment will adjust the lower boundary of the exclusion area northward (upstream) to the southern shore of Appoquinimink River mouth at latitude 39°26'51.00"N and longitude 75°34'46.00"W;
5. The Department has reviewed the proposed Amendments in light of the Regulatory Flexibility Act, consistent with 29 *Del.C.* Ch. 104, and has selected Exemption "B1," as this regulation is not substantially likely to impose additional cost or burdens upon individuals and/or small businesses;
6. The Department's proposed regulatory Amendments, as initially published in the February 1, 2020 *Delaware Register of Regulations*, and as set forth in Appendix "A" hereto, are adequately supported, are not arbitrary or capricious, and are consistent with the applicable laws and regulations. Consequently, they should be approved as final regulatory Amendments, which shall go into effect ten days after their publication in the next available issue of the *Delaware Register of Regulations*; and
7. The Department shall submit the proposed Amendments as final regulatory amendments to the *Delaware Register of Regulations* for publication in its next available issue and provide such other notice as the law and regulation require, and the Department determines is appropriate.

Shawn M. Garvin
Secretary

3500 Tidal Finfish Bass (Striped Bass; Black Sea Bass)

3502 Striped Bass Spawning Season and Area Restrictions.

(Penalty Section 7 Del.C. §936(b)(2))

- 1.0 The spawning season for striped bass (*Morone saxatilis*) in Delaware shall begin at 12:01 A.M. on April 1 and continue through midnight on May 31 of each calendar year.
- 2.0 It is unlawful for any person to take and retain any striped bass during the striped bass spawning season from the Nanticoke River or its tributaries, the Delaware River and its tributaries to the north of a line extending due east beginning at and including the south jetty at the mouth of the C & D Canal, or the C & D Canal or its tributaries.
- 3.0 It is unlawful for any person to fish a fixed gill net in the Nanticoke River or its tributaries or the C & D Canal or its tributaries during the striped bass spawning season.
- 4.0 It is unlawful for any person to fish during the striped bass spawning season in the Nanticoke River or its tributaries or the C & D Canal or its tributaries with a drift gill net of multi- or mono-filament twine larger than 0.28 millimeters in diameter (size #69) or a stretched mesh size larger than five and one-half (5 1/2) inches.
- 5.0 It is unlawful for any person to fish any fixed gill net in the Delaware River north of a line beginning at ~~Liston Point (River Mile 48.06)~~ the southern shore of Appoquinimink River at latitude 39°26'51.00"N and longitude 75°34'46.00"W and continuing due east to the boundary with New Jersey during January, February, March, April or May.
- 6.0 It is unlawful for any person to fish during the striped bass spawning season defined in 3502 ~~section~~ Section 1.0 and in the areas defined in 3502 ~~section~~ Section 2.0 with natural bait using any hook other than a non-offset circle hook when said hook measures greater than three-eighths (~~3/8s~~) (3/8) inches as measured from the point of the hook to the shank of the hook.

DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Section 903(e)(2)a.1 (7 Del.C. §903(e)(2)a.1)
7 DE Admin. Code 3516

Secretary's Order No.: 2020-F-0015

RE: Approving Final Regulation, pursuant to 7 Del. C. §903(e)(2)a.1,
to Amend 7 DE Admin. Code 3516: *Bluefish*

Date of Issuance: May 13, 2020

Effective Date: May 15, 2020

3516 Bluefish Possession Limits

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC"), and pursuant to 7 Del. C. §903(e)(2)a.1, and all other relevant statutory authority, the following findings of fact, based on the reasons and conclusions set forth herein, are entered as an order of the Secretary in the above-referenced regulatory amendment.

Notwithstanding 29 Del.C. Ch. 101 (which sets forth the standardized procedures whereby a state agency shall promulgate regulations), the Department also has the statutory authority under 7 Del. C. §903(e)(2)a.1 to promulgate certain regulations in order to adopt a specified management measure for finfish, subject to 7 Del.C. Ch. 9, *Finfishing in Tidal Waters*, by the issuance of a Secretary's Order. The Department is allowed to follow this abbreviated regulatory promulgation process only in instances where the management measures are specified by, and ensures compliance or maintains consistency with, a fisheries management plan or rule established by the Atlantic States Marine Fisheries Commission, the Atlantic Coastal Fisheries Cooperative Management Act, the Mid-Atlantic Fishery Management Council, or the National Marine Fisheries Service.

Whenever the Department promulgates a regulation pursuant to 7 *Del. C.* §903(e)(2)a.1, it shall also (1) publish on its website a public notice with a copy of the Secretary's Order and final regulation that implements the specific management measure; and (2) file the Secretary's Order and regulation that implements the specified management measure in the next available issue of the *Delaware Register of Regulations*. The final regulation becomes effective 48 hours after the Department has published the aforementioned public notice on its website, as mandated by 7 *Del. C.* §903(e)(2)a.2.

Background and Findings of Fact

This order amends 7 DE Admin. Code 3516: *Bluefish* to reduce fishing mortality on Bluefish by adopting specified management measures approved and mandated by the Atlantic States Marine Fisheries Commission's ("ASMFC") Bluefish Management Board to remain compliant with the Interstate Fishery Management Plan for Bluefish. Specifically, this order adopts new possession limits for Bluefish for the recreational fishery.

The 2019 Bluefish operational stock assessment and peer review conducted by the Northeast Regional Stock Assessment Workshop found that Bluefish are being overfished (and thus the current population is below its minimum acceptable level), but are not experiencing overfishing (so that current mortality due to fishing is below its maximum acceptable level). The ASMFC and Mid-Atlantic Fishery Management Council, which jointly manage Bluefish under Amendment 1 to the Fishery Management Plan for the Bluefish Fishery (1998), approved an acceptable biological catch limit of 16.28 million pounds for the 2020 fishing season, an approximate 25% decrease from 2019 levels, in response to the findings of the 2019 Bluefish operational stock assessment.

The specified management measures adopted for the recreational fishery are a coastwide 3-fish daily bag limit for private anglers and shore-based anglers, and a 5-fish daily bag limit for anglers on for-hire charter or head boats.

The Department has the statutory basis and legal authority to act with regard to promulgation of the proposed amendments to 7 DE Admin. Code 3516: *Bluefish*, pursuant to 7 *Del. C.* §§901 (c & d) and 903(e)(2)a.1. The specific management measures are required by ASMFC Bluefish Management Board action taken on December 11, 2019.

EFFECTIVE DATE OF ORDER

In accordance with 7 *Del. C.* §903(e)(2)a.2, this order shall take effect 48 hours following publication of public notice of the Secretary's Order and regulation on the Department's website. The Secretary's Order and finalized regulation will further be filed in the next issue of the *Delaware Register of Regulations*.

ORDER

It is hereby ordered, this 13th day of May, 2020 that the above referenced amendments to 7 DE Admin. Code 3516: *Bluefish*, a copy of which is hereby attached, are adopted pursuant to 7 *Del. C.* §903(e)(2)a.1, and are supported by the evidence contained herein.

Shawn M. Garvin
Secretary

3500 Tidal Finfish Bluefish

3516 Bluefish Possession Limits.

(Penalty Section 7 **Del.C.** §936(b)(2))

- 1.0 Unless otherwise authorized, it shall be unlawful for any recreational fisherman to have in possession more than ~~ten (10)~~ five (5) bluefish (*Pomatomus saltatrix*) if fishing from a charter or headboat or three

(3) if fishing from any other vessel or from shore at or between the place caught and his/her personal abode or temporary or transient place of lodging) lodging.

DEPARTMENT OF STATE PUBLIC SERVICE COMMISSION

Statutory Authority: 26 Delaware Code, Sections 209 and 703(3) (26 Del.C. §§209 and 703(3))
26 DE Admin. Code 4001

ORDER

4001 Rules for the Provision of Telecommunications Services (Dockets 10 and 45)

IN THE MATTER OF THE RULES FOR THE
PROVISION OF TELECOMMUNICATIONS
SERVICES

(REG. DKT 10 OPENED MAY 1, 1984; REG. DKT
45 OPENED NOVEMBER 21, 1995; JOINTLY
REOPENED NOVEMBER 17, 1998; JULY 24,
2001; AUGUST 9, 2005; NOVEMBER 5, 2013;
MAY 13, 2014; AUGUST 19, 2014 AND
DECEMBER 5, 2019

PSC REGULATION DOCKET
NOS. 10 AND 45

IN THE MATTER OF THE REGULATIONS FOR
THE IMPLEMENTATION OF THE
TELECOMMUNICATIONS TECHNOLOGY
INVESTMENT ACT

(OPENED JULY 20, 1993; REOPENED
DECEMBER 5, 2019)

PSC REGULATION DOCKET NO. 41

ORDER NO. 9580

AND NOW, this 22nd day of April 2020, the Delaware Public Service Commission ("Commission") determines and orders the following:

WHEREAS, on April 17, 2019, the Governor of the State of Delaware signed into law Senate Bill No. 18 (82 Del. Laws ch. 11) ("SB 18"), which, among other things, amended Title 26 of the Delaware Code by removing certain statutory requirements for Commission-regulated telecommunications service providers that are no longer consistent with recent decisions of the Federal Communications Commission, including significant changes to the Telecommunications Technology Investment Act ("TTIA") (See 26 Del.C. §§ 215, 704-707); and

WHEREAS, in part, SB 18 amends: (1) §215(h) to permit telecommunications carriers to undergo transfers of control and to issue securities without Commission approval; and (2) the TTIA to narrow the definition of "Basic Services" to only switched access services and to allow carriers to change their rates for Basic Services without Commission approval; and

WHEREAS, on December 5, 2019, by Order No. 9506, the Commission re-opened the captioned dockets and proposed to revise its telecommunications rules to reflect the SB 18 amendments and to otherwise clarify and simplify its regulations by: (1) amending its *Rules for the Provision of Telecommunications Services*, codified at 26 Del. Admin. C. § 4001 ("§ 4001") (i.e.; Regulation Docket Nos. 10 and 45); (2) moving the remaining TTIA requirements (as amended by SB 18) from 26 Del. Admin. C. § 4005 ("§ 4005") to § 4001; and (3) repealing its *Regulations for the Implementation of the Telecommunications Technology Investment Act*, codified at § 4005 (Regulation Docket No. 41); and

WHEREAS, by Order No. 9506, the Commission set the hearing date on the proposed changes for the regular meeting it had scheduled for February 26, 2020, and directed the Commission Secretary to cause notice of the proposed changes and the hearing date in *The News Journal* and *Delaware State News* newspapers and in the

Delaware Register of Regulations; and

WHEREAS, in late December 2019, the Commission cancelled its February 26, 2020 meeting and, therefore, by Order No. 9532 (Jan. 8, 2020), set a new hearing date on the proposed changes for March 18, 2020, and directed the Commission Secretary to publish notice of the new hearing date in the February 1, 2020 edition of the *Register of Regulations* and in *The News Journal* and *Delaware State News* newspapers on January 23, 2020; and

WHEREAS, the proposed regulations appeared the January 1, 2020 edition of the *Delaware Register of Regulations* and the new hearing date appeared in the February 1, 2020 edition of the *Delaware Register of Regulations*; and

WHEREAS, in accordance with 29 *Del.C.* § 10118(a), which requires the opportunity for public written comment to be extended for a minimum of 15 days after the final public hearing on a proposed regulation, the Commission included in the form of notice a time period for written public comment ending on April 3, 2020; and

WHEREAS, on February 4, 2020, Verizon Delaware LLC ("Verizon") submitted written comments supporting the proposed changes as consistent with the SB 18 and as appropriately clarifying and reorganizing the structure of the rules to correspond with their more limited scope; and

WHEREAS, on March 18, 2020, the Commission conducted a duly-noticed hearing on the proposed changes during which: (1) Staff witness Lisa Driggins testified that the proposed amendments comply with the changes made by SB 18 and adoption thereof would be in the public interest; (2) Douglas Smith, Verizon's Vice President, State Government Affairs, stated that Verizon fully supports the proposed amendments, noting they are consistent with existing law; and (3) the Commission voted to adopt the proposed amendments to the regulations on the condition that no public comments were filed by the April 3, 2020 deadline objecting to the proposed amendments; and

WHEREAS, other than Verizon, no person filed comments by the April 3, 2020 deadline for public written comment; and

WHEREAS, the Commission is also making several non-substantive numbering and formatting changes to the *Rules for the Provision of Telecommunications Services*, consistent with the *Delaware Administrative Code Drafting and Style Manual*, September 2014 Edition;

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE
VOTE OF NOT FEWER THAN THREE COMMISSIONERS:**

1. That pursuant to 26 *Del.C.* §§ 209 and 703(3), the Commission hereby amends its *Rules for the Provision of Telecommunications Services* (i.e.; 26 *Del. Admin. C.* § 4001) as proposed herein and repeals its *Regulations for the Implementation of the Telecommunications Technology Investment Act* (i.e.; 26 *Del. Admin. C.* § 4005). Marked-up versions of the regulations are attached as **Exhibits "A" and "B"**.

2. That pursuant to 29 *Del. C.* § 10118(e), the Secretary of the Commission shall transmit a copy of this Order, including Exhibits "A" and "B" to the Registrar of Regulations for publication in the June 1, 2020 edition of the *Delaware Register of Regulations*. An exact copy of the regulations, as amended, shall be published in the *Delaware Register of Regulations* as the Commission's official regulation as defined in 29 *Del. C.* § 1132.

3. That the effective date of the changes to the regulations shall be the later of June 11, 2020, or ten days after publication in the *Delaware Register of Regulations*.

4. That the Commission reserves the jurisdiction and authority to enter such further orders in this matter as may be deemed necessary or proper by Order of the Commission.

BY ORDER OF THE COMMISSION:

Dallas Winslow, Chairman

/s/ Kim Drexler, Commissioner

Joann T. Conaway, Commissioner

/s/ Harold B. Gray, Commissioner

Manubhai C. Karia, Commissioner

ATTEST: Donna Nickerson, Secretary

***Please Note: Electronic signatures ("*/s/*") were accepted pursuant to 6 *Del.C.* §12A-107(d).**

4001 Rules for the Provision of Telecommunications Services (Dockets 10 and 45)

- Docket 10 ~~The Sale, Resale and Other Provisions of Intrastate Telecommunications Services~~
- Docket 45 ~~Regulations For The Facilitation of Competitive Entry into the Telecommunications Local Exchange Service Market~~

Effective: ~~[[TBD]]~~ December 10, 2001 **[June 11, 2020]**

~~PART A~~ **[PART A]** CERTIFICATION AND REGULATION OF CARRIERS *(Break in Continuity of Sections)*

3.0 Application With Other Rules or Regulations

- ~~[3.4]~~ Rules of Practice and ~~[Procedure Procedure.]~~ The practice and procedure governing any proceedings required or authorized by these Rules shall be as set forth by the Commission's Rules of Practice and Procedure adopted in PSC Docket No. 99-9, by Order No. 5057 (April 6, 1999) as the same may be hereafter from time to time amended. See 1001 General Regulations.

4.0 Certification

(Break in Continuity Within Section)

4.5 Initial Tariffs or Price Lists.

- ~~[4.5-1]~~ An applicant shall file proposed initial rates, prices, rules, regulations, terms and conditions of service for switched access services. Any revisions to this tariff must be filed with the Commission. An applicant ~~may need not~~ file tariffs or price lists for other services ~~or provide a website link to its tariff or price list which the Commission will post on its website.~~

(Break in Continuity of Sections)

19.0 Customer Protection

19.1 Procedures To Be Followed By The Customer.

- ~~[19.1-1]~~ A customer who believes his or her Carrier or Carriers have been changed, without the customer's authorization, and/or that the customer has been billed for charges not authorized by the customer, should first attempt to resolve the matter with the Carrier or Carriers responsible for the unauthorized changes and/or charges. If the customer is not satisfied with the resolution offered by the Carrier, the customer may file a complaint with the Commission.

19.2 Procedures To Be Followed By Carriers.

- ~~[19.2-1]~~ A Carrier who is informed by a customer that the customer believes the Carrier has caused or allowed a change in the customer's Carrier without the customer's authorization, or that the Carrier has caused or allowed the customer to be billed for charges not authorized by the customer shall attempt to resolve the complaint promptly and in good faith. If the customer and Carrier are not able to resolve the complaint, then the Carrier shall inform the customer orally or in writing of the right to file a complaint with the Commission and shall provide the customer with the Commission's address and telephone number.

(Break in Continuity Within Section)

19.4 Refund and Penalties.

- ~~[19.4-1]~~ In the event the Commission determines that a Carrier has caused a customer's Carrier for a service to be changed without the customer's authorization obtained in exact compliance with these Rules, or has caused the customer to be billed for charges imposed without exact compliance with these Rules, then the Commission shall require the Carrier to promptly refund or

void to the customer any charges the Carrier has caused to be billed as a result of the unauthorized change or charge, and/or any other remedies available for violation of these Rules as allowed by law. 26 Del.C. §924(c). The Commission's remedies are in addition to those required under 47 C.F.R. § 64.1170 to the extent the FCC's remedies have not provided a refund or credit to the subscriber in the amount of 100% of all charges the Carrier caused to be billed as a result of the unauthorized change or charge.

***Please note that no additional changes were made to the regulation as originally proposed and published in the January 2020 issue of the Register at page 545 (23 DE Reg. 545). Therefore, the final regulation is not being republished here in its entirety. A copy of the final regulation is available at:**

4001 Rules for the Provision of Telecommunications Services (Dockets 10 and 45)

PUBLIC SERVICE COMMISSION

Statutory Authority: 26 Delaware Code, Sections 209 and 703(3) (26 Del.C. §§209 and 703(3))
26 DE Admin. Code 4005

ORDER

4005 Regulations for the Implementation of the Telecommunications Technology Investment Act (Docket 41)

IN THE MATTER OF THE RULES FOR THE
PROVISION OF TELECOMMUNICATIONS
SERVICES

(REG. DKT 10 OPENED MAY 1, 1984; REG. DKT
45 OPENED NOVEMBER 21, 1995; JOINTLY
REOPENED NOVEMBER 17, 1998; JULY 24,
2001; AUGUST 9, 2005; NOVEMBER 5, 2013;
MAY 13, 2014; AUGUST 19, 2014 AND
DECEMBER 5, 2019)

PSC REGULATION DOCKET
NOS. 10 AND 45

IN THE MATTER OF THE REGULATIONS FOR
THE IMPLEMENTATION OF THE
TELECOMMUNICATIONS TECHNOLOGY
INVESTMENT ACT

(OPENED JULY 20, 1993; REOPENED
DECEMBER 5, 2019)

PSC REGULATION DOCKET NO. 41

ORDER NO. 9580

AND NOW, this 22nd day of April 2020, the Delaware Public Service Commission ("Commission") determines and orders the following:

WHEREAS, on April 17, 2019, the Governor of the State of Delaware signed into law Senate Bill No. 18 (82 Del. Laws ch. 11) ("SB 18"), which, among other things, amended Title 26 of the Delaware Code by removing certain statutory requirements for Commission-regulated telecommunications service providers that are no longer consistent with recent decisions of the Federal Communications Commission, including significant changes to the Telecommunications Technology Investment Act ("TTIA") (See 26 Del.C. §§ 215, 704-707); and

WHEREAS, in part, SB 18 amends: (1) §215(h) to permit telecommunications carriers to undergo transfers of control and to issue securities without Commission approval; and (2) the TTIA to narrow the definition of "Basic Services" to only switched access services and to allow carriers to change their rates for Basic Services without Commission approval; and

WHEREAS, on December 5, 2019, by Order No. 9506, the Commission re-opened the captioned dockets and proposed to revise its telecommunications rules to reflect the SB 18 amendments and to otherwise clarify and simplify its regulations by: (1) amending its *Rules for the Provision of Telecommunications Services*, codified at 26 *Del. Admin. C. § 4001* ("§ 4001") (i.e.; Regulation Docket Nos. 10 and 45); (2) moving the remaining TTIA requirements (as amended by SB 18) from 26 *Del. Admin. C. § 4005* ("§ 4005") to § 4001; and (3) repealing its *Regulations for the Implementation of the Telecommunications Technology Investment Act*, codified at § 4005 (Regulation Docket No. 41); and

WHEREAS, by Order No. 9506, the Commission set the hearing date on the proposed changes for the regular meeting it had scheduled for February 26, 2020, and directed the Commission Secretary to cause notice of the proposed changes and the hearing date in *The News Journal* and *Delaware State News* newspapers and in the *Delaware Register of Regulations*; and

WHEREAS, in late December 2019, the Commission cancelled its February 26, 2020 meeting and, therefore, by Order No. 9532 (Jan. 8, 2020), set a new hearing date on the proposed changes for March 18, 2020, and directed the Commission Secretary to publish notice of the new hearing date in the February 1, 2020 edition of the *Register of Regulations* and in *The News Journal* and *Delaware State News* newspapers on January 23, 2020; and

WHEREAS, the proposed regulations appeared the January 1, 2020 edition of the *Delaware Register of Regulations* and the new hearing date appeared in the February 1, 2020 edition of the *Delaware Register of Regulations*; and

WHEREAS, in accordance with 29 *Del.C. § 10118(a)*, which requires the opportunity for public written comment to be extended for a minimum of 15 days after the final public hearing on a proposed regulation, the Commission included in the form of notice a time period for written public comment ending on April 3, 2020; and

WHEREAS, on February 4, 2020, Verizon Delaware LLC ("Verizon") submitted written comments supporting the proposed changes as consistent with the SB 18 and as appropriately clarifying and reorganizing the structure of the rules to correspond with their more limited scope; and

WHEREAS, on March 18, 2020, the Commission conducted a duly-noticed hearing on the proposed changes during which: (1) Staff witness Lisa Driggins testified that the proposed amendments comply with the changes made by SB 18 and adoption thereof would be in the public interest; (2) Douglas Smith, Verizon's Vice President, State Government Affairs, stated that Verizon fully supports the proposed amendments, noting they are consistent with existing law; and (3) the Commission voted to adopt the proposed amendments to the regulations on the condition that no public comments were filed by the April 3, 2020 deadline objecting to the proposed amendments; and

WHEREAS, other than Verizon, no person filed comments by the April 3, 2020 deadline for public written comment; and

WHEREAS, the Commission is also making several non-substantive numbering and formatting changes to the *Rules for the Provision of Telecommunications Services*, consistent with the *Delaware Administrative Code Drafting and Style Manual*, September 2014 Edition;

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE
VOTE OF NOT FEWER THAN THREE COMMISSIONERS:**

1. That pursuant to 26 *Del.C. §§ 209 and 703(3)*, the Commission hereby amends its *Rules for the Provision of Telecommunications Services* (i.e.; 26 *Del. Admin. C. § 4001*) as proposed herein and repeals its *Regulations for the Implementation of the Telecommunications Technology Investment Act* (i.e.; 26 *Del. Admin. C. § 4005*). Marked-up versions of the regulations are attached as **Exhibits "A" and "B"**.

2. That pursuant to 29 *Del. C. § 10118(e)*, the Secretary of the Commission shall transmit a copy of this Order, including Exhibits "A" and "B" to the Registrar of Regulations for publication in the June 1, 2020 edition of the *Delaware Register of Regulations*. An exact copy of the regulations, as amended, shall be published in the *Delaware Register of Regulations* as the Commission's official regulation as defined in 29 *Del. C. § 1132*.

3. That the effective date of the changes to the regulations shall be the later of June 11, 2020, or ten days after publication in the *Delaware Register of Regulations*.

4. That the Commission reserves the jurisdiction and authority to enter such further orders in this matter as may be deemed necessary or proper by Order of the Commission.

BY ORDER OF THE COMMISSION:

Dallas Winslow, Chairman

/s/ Kim Drexler, Commissioner

Joann T. Conaway, Commissioner

/s/ Harold B. Gray, Commissioner

Manubhai C. Karia, Commissioner

ATTEST: Donna Nickerson, Secretary

***Please Note: Electronic signatures ("/s/") were accepted pursuant to 6 Del.C. §12A-107(d).**

4005 Regulations for the Implementation of the Telecommunications Technology Investment Act (Docket 41)

Repealed, effective [TBD] June 11, 2020]

4.0 Applicability:

~~These rules shall apply only to telecommunications service providers that elect, pursuant to Section 704 of Subchapter VII of Title 26 of the **Delaware Code Annotated**, hereinafter, the "Act", to have rates and prices governed by the Telecommunications Technology Investment Act ("TTIA").~~

***Please note that no additional changes were made to the regulation as originally proposed and published in the January 2020 issue of the *Register* at page 552 (23 DE Reg. 552). Therefore, the final regulation is not being republished here in its entirety. A copy of the final regulation is available at:**

[4005 Regulations for the Implementation of the Telecommunications Technology Investment Act](#)

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
100 BOARD OF ACCOUNTANCY

Statutory Authority: 24 Delaware Code, Section 105(a)(1) (24 **Del.C.** §105(a)(1))
24 **DE Admin. Code** 100

PUBLIC NOTICE

100 Board of Accountancy

Pursuant to 24 **Del.C.** §105(a)(1), the Delaware Board of Accountancy has proposed revisions to its rules and regulations. The rules are designed to implement the revised Accountancy statute.

A public hearing was originally scheduled for May 20, 2020 at 9:00 a.m. in the second floor conference room B of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware. The original *Register* notice was published on April 1, 2020 in Volume 23, Issue 10 of the *Register* beginning at page 843. The May 20 public hearing could not go forward due to the lack of publication of required newspaper notices. A rescheduled public hearing will occur at the Board's meeting on July 15, 2020, where members of the public can offer comments on the proposed amendments to the rules and regulations. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Accountancy, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address.

Written comments will be accepted until July 30, 2020 in accordance with 29 **Del.C.** §10118(a).

DIVISION OF PROFESSIONAL REGULATION
2000 BOARD OF OCCUPATIONAL THERAPY PRACTICE

Statutory Authority: 24 Delaware Code, Section 2006(a)(1) (24 **Del.C.** §2006(a)(1))
24 **DE Admin. Code** 2000

PUBLIC NOTICE

2000 Board of Occupational Therapy Practice

Pursuant to 24 **Del.C.** §2006(a)(1), the Delaware Board of Occupational Therapy Practice has proposed revisions to its rules and regulations. The rules pertaining to supervision for occupational therapy assistants are proposed to be amended. The Board is also taking the opportunity of this proposal to make grammatical and formatting edits throughout the regulation.

A public hearing was originally scheduled for May 6, 2020 at 4:30 p.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware. The original *Register* notice was published on March 1, 2020 in Volume 23, Issue 9 of the *Register* beginning at page 733. The May 6 public hearing could not go forward due to the lack of publication of required newspaper notices. A rescheduled public hearing will occur at the Board's meeting on July 8, 2020, where members of the public can offer comments on the proposed amendments to the rules and regulations. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Occupational Therapy Practice, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address in accordance with 29 **Del.C.** §10118(a). Written public comments will be accepted until July 23, 2020.

DELAWARE RIVER BASIN COMMISSION
PUBLIC NOTICE

The Delaware River Basin Commission held a public hearing on **Wednesday, May 13, 2020** beginning at **1:30 p.m.** In light of COVID-19 mitigation measures in effect for DRBC member states, the Commission conducted the public hearing by telephone rather than at the Commission's office building in West Trenton, New Jersey as previously posted. Please check the Commission's website, www.drbc.gov, on or after April 30, 2020 for details regarding the resolutions and draft docket decisions that were the subjects of the public hearing.

The Commission's quarterly business meeting will be held on **Wednesday, June 10, 2020**, beginning at **10:30 a.m.** Although the Commission has reserved the West Trenton Volunteer Fire Company facility at 40 West Upper Ferry Road, Ewing, NJ 08628 for this meeting, COVID-19 mitigation measures then in effect may compel the Commission to conduct the meeting remotely. Please check the Commission's website, www.drbc.gov, on or after May 27, 2020 to learn whether the meeting format will be in-person or remote, and if the latter, how to attend.

For additional information, please visit the DRBC website at www.drbc.gov or contact Denise McHugh at denise.mchugh@drbc.gov or Patricia Hausler at patricia.hausler@drbc.gov.

DEPARTMENT OF EDUCATION
PUBLIC NOTICE

The State Board of Education will hold its monthly meeting on June 18, 2020 at a location to be determined.

DEPARTMENT OF INSURANCE
OFFICE OF THE COMMISSIONER
PUBLIC NOTICE**902 Prohibited Unfair Claim Settlement Practices**

In the May 1, 2020 edition of the *Register of Regulations*, the Department published a proposal to update and clarify requirements concerning prohibited unfair claim settlement practices that are set forth in Regulation 902 (see 23 DE Reg. 920 (05/01/2020)). In that proposal, the Department proposed adding new subsection 3.1.14, which included a failure to promptly settle a claim as required under Regulation 903 as an unfair claim settlement practice. The Department also took the opportunity of the proposal to make grammatical and formatting edits throughout the regulation.

Upon further review, the Department has determined not to proceed with proposed new subsection 3.1.14 and is hereby withdrawing that proposal, as violations of Regulation 903 are already a defined unfair claims settlement practice.

Instead, the Department proposes to add new subsection 3.2, which would specifically provide that three instances of an insurer's commission of a prohibited claim settlement practice within a 36 month period, as listed in subsection 1.2.1 (to be recodified at subsection 3.1), shall give rise to a rebuttable presumption that the insurer is in violation of this regulation and 18 **Del.C.** §2304(16)f. The Department is again taking the opportunity of this re-proposal to make grammatical and formatting edits throughout the regulation.

The Delaware Code authority for the regulation is 18 **Del.C.** §§311 and 2312.

The Department has determined to hold a virtual public hearing on the proposed amendments to Regulation 902 on **Monday, June 22, 2020 at 9:00 a.m.** The hearing will be facilitated through WebEx at <https://stateofdelaware.webex.com/stateofdelaware/j.php?MTID=mdc3082cf09b007a81f58a8a9886c92a1> meeting number (access code): 712 562 634 and meeting password: wsES2uneP24.

Holding a virtual public meeting is specifically permitted by Paragraph 5 of the Declaration of a State of Emergency for the State of Delaware due to a Public Health Threat issued by Governor John Carney on March 12, 2020 and extended without modification on April 10, 2020 and May 8, 2020.

The proposed amendments appear below and may also be viewed at the Department of Insurance website at <http://insurance.delaware.gov/information/proposedregs/>.

Any person may file written comments, suggestions, briefs, and compilations of data or other materials

concerning the proposed amendments to the regulation. Any written submission in response to this notice and relevant to the proposed amendments must be received by the Department of Insurance no later than 4:30 p.m. EST, the 7th day of July 2020. Any such requests and any questions concerning connecting to the public hearing should be directed to:

Leslie W. Ledogar, Regulatory Specialist
Delaware Department of Insurance
ATTN: Docket 4259-2020
1351 West North Street, Suite 101
Dover, DE 19904
(302) 674-7379
Email: Leslie.Ledogar@delaware.gov

DEPARTMENT OF LABOR
DIVISION OF UNEMPLOYMENT INSURANCE
PUBLIC NOTICE
1202 Unemployment Insurance Regulations

The Delaware Department of Labor, Division of Unemployment Insurance proposes this revised regulation in accordance with Sections 3122 and 3317(a) of Title 19 of the **Delaware Code** to establish procedures for employers to provide notice to claimants at the time the individual becomes unemployed of their rights to file an unemployment claim.

The Delaware Department of Labor, Division of Unemployment Insurance solicits written comments from the public concerning the proposed revised regulation. Any such comments should be submitted to the Director of the Division of Unemployment Insurance, Darryl Scott, by mail to: Delaware Division of Unemployment Insurance, P.O. Box 9950, Wilmington, DE 19809-0950, or by email to: Darryl.Scott@delaware.gov. Written comments must be received by Mr. Scott on or before **July 1, 2020** to be considered prior to the adoption of the proposed revised regulation. Copies of the proposed revised regulation are available upon request.

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL
DIVISION OF FISH AND WILDLIFE
PUBLIC NOTICE

3503 Striped Bass Recreational Fishing Seasons; Methods of Take; Creel Limit; Possession Limit
3504 Striped Bass Possession Size Limit; Exceptions

The mandatory provisions of the Atlantic States Fisheries Commission's (ASMFC's) Addendum VI to Amendment 6 to the Atlantic Striped Bass Interstate Fishery Management Plan require a coastwide 18% reduction in striped bass removals (landings + discard mortality). The ASMFC adopted specific, prescribed coastwide management measures to meet the required 18% reduction, but these measures are not preferred for Delaware. Delaware developed two management options that were approved by the ASMFC that, if implemented by the Department, would be equivalent to the specific coastwide management measures in Addendum VI. The first option results in a 1.8% reduction in commercial removals and a 20.4% reduction in recreational removals. The second option results in an 18% reduction in commercial removals and an 18.18% reduction in recreational removals.

The hearing record on the proposed changes to 7 **DE Admin. Code** 3503 Striped Bass Recreational Fishing Seasons; Methods of Take; Creel Limit; Possession Limit and 7 **DE Admin. Code** 3504 Striped Bass Possession Size Limit; Exceptions opens June 1, 2020 (Hearing Docket No. 2020-R-F-015). Individuals may submit comments regarding the proposed new regulation to the Hearing Officer via the online comment form at <https://dnrec.alpha.delaware.gov/public-hearings/comment-form/>, via email to DNRECHearingComments@delaware.gov,

or via USPS to Theresa Newman, Hearing Officer, DNREC, 89 Kings Highway, Dover, DE, 19901. Public comments will be received until close of business July 10, 2020.

A virtual public hearing on the proposed amendment will be held on Thursday, June 25, 2020 beginning at 6:00 PM. For additional information on this proposed regulatory promulgation, visit <https://de.gov/dnrehearings>. Please note that live comments will not be accepted during the virtual hearing.

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
1900 BOARD OF NURSING
PUBLIC NOTICE

The Delaware Board of Nursing, pursuant to 24 **Del.C.** §1904(c) and 1934(a)(1), proposes to revise its regulations to update its regulations pertaining to APRN Education Programs in Delaware. There are currently no regulations setting forth the requirements or guidelines for such programs, so the Board is proposing new regulations to do so. The proposed changes also strike redundant or unnecessary regulations or make changes to comply with current law and practice.

The Board will hold a public hearing on the proposed regulation changes on July 8, 2020 at 9:00 a.m., Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Dr. Pamela Zickafoose, Executive Director of the Delaware Board of Nursing, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments will be accepted until July 23, 2020 pursuant to 29 **Del.C.** §10118(a).

PUBLIC SERVICE COMMISSION
PUBLIC NOTICE
8003 Natural Gas Service Reliability and System Planning Standards

The Delaware Public Service Commission ("Commission") proposes to issue regulations governing distribution system planning for natural gas public utilities.

You can review the proposed regulations in the June 1, 2020 *Delaware Register of Regulations*. You can also review the Order and the proposed regulations in the Commission's electronic filing system DelaFile at <http://delafile.delaware.gov/> and for docket number input 18-0935. If you wish to obtain written copies of the Order and proposed regulations, please contact the Commission at (302) 736-7500. Copies in excess of the first 20 pages are \$0.10 per page. Payment is expected at the time of copying (if you wish the copies to be mailed) or at the time the copies are retrieve (if you wish to retrieve them in person).

Pursuant to 29 **Del.C.** §10118(a), written comments on the proposed regulations will be accepted until **Wednesday, July 1, 2020**. They can be filed electronically in DelaFile at <http://delafile.delaware.gov/> by completing the Public Comment form located under Public Links. Written comments can also be mailed to Matthew Hartigan, Public Service Commission, 861 Silver Lake Boulevard, Suite 100, Dover, DE 19904, or emailed to him at matthew.hartigan@delaware.gov with the subject line "Docket No. 18-0935".

DEPARTMENT OF TRANSPORTATION
DIVISION OF TRANSPORTATION SOLUTIONS
PUBLIC NOTICE
2404 Delaware Traffic Calming Design Manual

Pursuant to the authority provided by 29 *Del. C.* §8404(8), the Delaware Department of Transportation (DelDOT), adopted the 2404 Delaware Traffic Calming Design Manual.

The Department, through its Division of Transportation Solutions ("DelDOT"), seeks to repeal Section 2404 of Title 2 of the Delaware Administrative Code. The regulation covers the design and study guidelines for traffic calming devices/applications by the Department of Transportation. Based on current operating procedures, this

regulation is no longer necessary and can be repealed.

DelDOT will take written comments on these proposed general revisions to Section 2404 of Title 2, Delaware Administrative Code, from June 1, 2020 through July 1, 2020. The public may submit their comments to:

Peter Haag, Chief of Traffic Engineering, Traffic Engineering Section

(peter.haag@delaware.gov) or in writing to his attention,

Delaware Department of Transportation

169 Brick Store Landing Road

Smyrna, DE 19977
