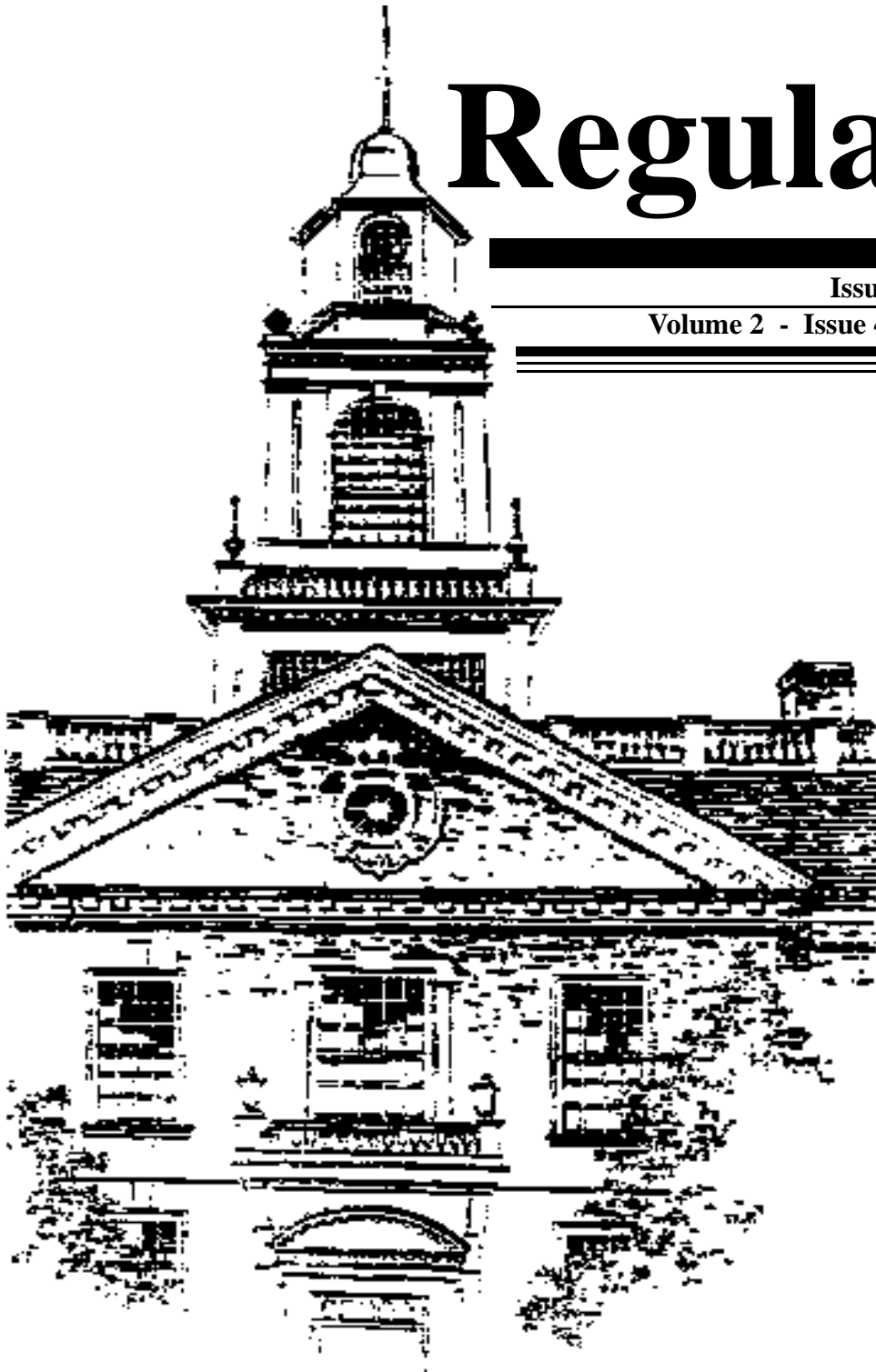

Delaware Register of Regulations



Issue Date: September 1, 1998

Volume 2 - Issue 4

Pages 334 - 430

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Proposed

Final

Governor

Appointments

Calendar of Events &

Hearing Notices



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 August 15, 1998.

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DELAWARE REGISTER OF REGULATIONS

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

The Delaware Register will publish any regulations that are proposed to be adopted, amended or repealed and any emergency regulations promulgated.

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

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

CITATION TO THE DELAWARE REGISTER

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

1:1 **Del. R.** 35 - 37 (July 1, 1997) refers to Volume 1, Issue 1, pages 35 - 37 of the Delaware Register issued on July 1, 1997.

SUBSCRIPTION INFORMATION

The cost of a yearly subscription (12 issues) for the Delaware Register of Regulations is \$100.00 from January - December. Single copies are available at a cost of \$9.00 per issue, including

postage. For more information contact the Division of Research at 302-739-4114 or 1-800-282-8545 in Delaware.

CITIZEN PARTICIPATION IN THE REGULATORY PROCESS

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and other interested parties may participate in the process by which administrative regulations are adopted, amended or repealed, and may initiate the process by which the validity and applicability of regulations is determined.

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file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the Register of Regulations pursuant to §1134 of this title.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

The opportunity for public comment shall be held open for a minimum of 30 days after the proposal is published in the Register of

INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

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
OCTOBER 1	SEPTEMBER 15	4:30 P.M.
NOVEMBER 1	OCTOBER 15	4:30 P.M.
DECEMBER 1	NOVEMBER 15	4:30 P.M.
JANUARY 1	DECEMBER 15	4:30 P.M.
FEBRUARY 1	JANUARY 15	4:30 P.M.

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Symbol Key

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

Proposed Regulations

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

**DEPARTMENT OF
ADMINISTRATIVE SERVICES
DIVISION OF PROFESSIONAL REGULATION
BOARD OF EXAMINERS OF PSYCHOLOGISTS**
Statutory Authority: 24 Delaware Code,
Section 3506(a)(1) (24 **Del.C.** 3506(a)(1))

PLEASE TAKE NOTICE, pursuant to 29 Del. C. Chapter 101 and 24 Del. C. Section 3506(a)(1), the Delaware Board of Examiners of Psychologists proposes to adopt new Rules and Regulations. The proposed rules and regulations will define the following provisions: (1) Evaluation of Credentials; (2) Supervised Experience; (3) Psychological Assistants; and (4) Procedures for Licensure Applicable to Full Time Faculty Members in a Nationally Accredited Doctoral Level Clinical Training Program in the State of Delaware.

A public hearing will be held on the proposed Rules and Regulations on October 5, 1998 at 10:00 a.m. in the Second Floor Conference Room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware. The Board will receive and consider input from interested persons on the proposed rules and regulations, and individuals are urged to submit their comments in writing. Anyone wishing to obtain a copy of the proposed regulations, or to make comments at the public hearing, should contact the Board's Administrative Assistant Gayle Franzolino by calling (302) 739-4522 Ext. 220, or write to the Delaware Board of Examiners of Psychologists, P. O. Box 1401, Cannon Building, Suite 203, Dover, DE 19903.

PROPOSED RULES AND REGULATIONS**SECTION 01 - GENERAL RULES AND REGULATIONS**

The Board of Examiners of Psychologists has been established under the Delaware Law, Title 24, Chapter 35, and current amendments to that Law. Within the framework of the Law, the Board has the responsibility for interpreting and implementing the legal provisions and requirements of the Law through the establishment of operating Rules and Regulations. The Board and the public may propose changes in the Rules and Regulations in accordance with the Administrative Procedures Act, Del. C., Title 29, Chapter 101.

SECTION 02 - OFFICIAL BOARD OFFICE

The official office of the Board of Examiners shall be in Dover in the Division of Professional Regulation and all correspondence must be addressed to this office in written form before official action can be taken. In addition, the Division of Professional Regulation will provide an Administrative Assistant who will take notes at Board meetings, keep the records for the Board, and serve as a liaison between the Board and members of the public who have questions for the Board. The Division of Professional Regulation will also set fees to defray the cost of regulation.

SECTION 03 - MEETINGS OF THE BOARD

The Board will hold such meetings during the year as it may

deem necessary to review licensure applications and psychological assistant applications, evaluate continuing education, hold disciplinary hearings, or conduct other Board business. Either the President, or the majority of the Board may call a Board meeting. The Division of Professional Regulation, Board members, and the public shall be notified of the meeting agenda, time and location in accordance with the Freedom of Information Act.

SECTION 04 - OFFICERS OF THE BOARD

The Board elects its own officers at the first meeting of each calendar year. The President of the Board sets the agendas of the meetings, chairs meetings, and represents the Board at state regulatory meetings, the American Association of State and Provincial Psychology Boards, and other organizations that may interface with the Board unless someone else is designated to attend in place of the President. The Vice President or Secretary acts for the President in the President's absence. The Secretary of the Board, in conjunction with the Administrative Assistant from the Division of Professional Regulation, is responsible for taking care of Board correspondence.

SECTION 05 - PROCEDURES FOR LICENSURE

APPLICATION - INITIAL LICENSURE

An applicant who is applying for licensure as a psychologist shall submit evidence showing that he/she meets the requirements of 24 Del.C. Section 3508. The applicant must submit the following:

1. An application for licensure, which shall include:
 - a) Academic credentials documented by official transcripts showing completion of an educational program meeting the requirements of 24 Del. C. Section 3508(a)(1).
 - b) Supervised experience documented by having each supervisor complete a Supervisory Reference Form.
 - c) Evidence that the applicant passed the written "Examination for Professional Practice in Psychology", developed by the Association of State and Provincial Psychology Boards (ASPPB), by achieving the passing score recommended by the ASPPB at the time of the application for licensure. Candidates who are not licensed in any other state must have passed the written examination within five (5) years of application for licensure in Delaware.
 - d) Verification that the applicant has no past or pending disciplinary proceedings. [24 Del.C. Section 3508(a)(4)]

The application shall not be considered complete until all materials are received by the Board for review at an officially scheduled meeting. The applicant will have twelve (12) months from the date of initial submission of the application and fee to complete the application process.

2. Completed certification form. The applicant will be notified, once his/her application is complete and available for the Board's review. The certification form must be submitted before any further action can be taken.

APPLICATION - BY RECIPROCITY

An applicant who is applying for licensure as a psychologist by reciprocity, as defined in 24 Del.C. Section 3511, shall submit evidence that he/she meets the following requirements:

1. An application for licensure, which shall include:
 - a) Evidence that the applicant is licensed or certified in another state and that the applicant has practiced continuously, as a doctoral-level psychologist, in good standing in that jurisdiction for two (2) years.
 - b) Evidence that the applicant passed the written Examination for Professional Practice of Psychology (EPPP) by achieving the passing score, as required by their state of original licensure.
2. Completed certification form. The applicant will be notified once his/her application is complete and available for the Board's review. The certification form must be submitted before any further action can be taken.

SECTION 06 - EVALUATION OF CREDENTIALS

~~According to the Psychology Law, e~~ Candidates for licensure as psychologists in the State of Delaware shall:

~~1. Be domiciled in the State at the time of licensing, or if not domiciled in Delaware, have worked at least one day a week as a psychologist in the State of Delaware for a six (6) month period immediately prior to the time of license application.~~

~~2. 1. Have received a doctoral degree based in part upon a psychological dissertation and on a program of studies, the content of which is primarily psychological; in content and specifically designed to train and prepare psychologists. The doctoral degree must be from an accredited a college or university, accredited as required by 24 Del. C. Section 3508(a)(1) having a graduate program in psychology which states its purpose to be the training and preparation of psychologists. The Board will consider programs to be primarily psychological in nature if they meet the following criteria content by the criteria established by the joint~~

designation project of the Association of State and Provincial Psychology Boards and the Council for the National Register of Health Service Providers in Psychology, as follows:

- a. They Programs that are accredited by the American Psychological Association as an American Psychological Association approved program, or the Designation Program of the National Register of Health Service Providers, or, are recognized as meeting the definition of a professional psychology¹ program. The criteria for accreditation serves as a model for professional psychology training.
- b. Meet the following standards Or, all of the following criteria, (1) through (9):
 - (1) Training in professional psychology² is doctoral training offered in a regionally accredited institution of higher education.³
 - (~~1~~)(2)The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. and the Such program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists shall be clearly described in its literature.
 - (3) The psychology program must stand as a recognizable, coherent organizational entity within the institution.
 - (~~2~~)(4)There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines.
 - (~~3~~)(5)The program must be an integrated, organized sequence of study.

-
- 1. “Professional psychology” refers to psychology as a profession. The term is not intended in the more restrictive sense of applied or practice areas of psychology since the intent is for a generic designation system.
 - 2. “Professional psychology” refers to psychology as a profession. The term is not intended in the more restrictive sense of applied or practice areas of psychology since the intent is for a generic designation system.
 - 3. Rule 1.b.(1) refers to an institution with regional accreditation in the United States, an institution with provincial authorization in Canada, or in other countries, or an institution that is accredited by a body which was deemed by the ASPPB/National Register Joint Designation Committee to be performing a function equivalent to U.S. regional accrediting bodies.

~~(4)~~(6)There must be an identifiable psychology faculty and a psychologist responsible for the program.

~~(5)~~(7) The program must have an identifiable include a body of students who are matriculated in the that program for a degree.

~~(6)~~(8)The program must include supervised practica, an American Psychological Association approved practicum, internship, or internship compatible with American Psychological Association standards as approved by the Board. field or laboratory training appropriate to the practice of psychology.

~~(7)~~(9)The curriculum shall encompass a minimum of three (3) academic years of full time graduate study. with at least 42 graduate credits in course work psychological in nature. This will typically include a core of course work in In addition to instruction in scientific and professional ethics and standards⁴, research design and methodology, statistics, and psychometrics, The psychology core must include at least one course in at least three (3) of the following areas: program shall require each student to demonstrate competence in each of the following substantive content areas. This typically will be met by including a minimum of three or more graduate semester hours (5 or more graduate quarter hours) in each of these 4 substantive content areas:

- (a) ~~b~~Biological bases of behavior: Physiological psychology, comparative psychology, neuropsychology, sensation and perception, psychopharmacology.
- (b) ~~e~~Cognitive-affective bases of behavior: Learning, thinking, motivation, emotion.
- (c) ~~s~~Social bases of behavior, and: Social psychology, group processes, organizational and systems theory.
- (d) ~~i~~Individual differences: Personality theory, human development, abnormal psychology.

In addition students will be expected to have at least 18 hours of course work in the area in which they expect to practice, all professional education programs in psychology

-
- 4. In reference to “instruction in scientific and professional ethics and standards” rule 1.b.(9), it is understood that a course of three or more graduate semester hours (five or more graduate quarter hours) or its equivalent is highly desirable; substantial instruction in these issues is required.

will include course requirements in specialty areas.¹

And

~~3. Has Have had, after receiving the doctoral degree, at least 2 years of supervised experience in psychological work of a type satisfactory to the Board; ~~or has had at least 5 years of supervised experience in psychological work of a type satisfactory to the Board after receiving the master's degree, provided that such person has the doctoral degree; and~~~~

3. ~~Have achieved the passing score on the written standardized Examination for Professional Practice in Psychology (EPPP) developed by the Association of State and Provincial Psychology Boards (ASPPB) or its successor;~~
or

~~4. Is competent in the practice of psychology, as shown by existing examination(s), as the Board deems necessary. The Board will license qualify for licensing without examination any person who applies for licensure and who is a Diplomate of the American Board of Professional Psychology who is practicing competently in another jurisdiction. All such applicants must meet all other requirements for licensure.~~

SECTION 07 - SUPERVISED EXPERIENCE

~~An applicant must receive two (2) years of supervised postdoctoral experience or five (5) years post-master's supervised experience in order to apply for licensure. One (1) year of which must be outlined as indicated in Section 7, paragraph 2(b)(6), of the Rules and Regulations. The types of supervision pertinent to licensure as a psychologist or registration as a psychological assistant are comprised of three types of supervisory experiences:~~

~~1. A year of experience shall consist of not less than 1500 hours of supervised experience in the same or similar field as the applicant's academic training. Supervised experience shall meet at least the minimum criteria for a Psychological Assistant as defined in the Rules and Regulations, Section 44. Predoctoral internship supervision as required by doctoral programs in psychology. The predoctoral internship consists of a minimum of 1,500 hours of actual work experience completed in not less than 48 weeks, nor more than 104 weeks. At least 50% of the predoctoral supervised experience must be in clinical services such as treatment, consultation, assessment, and report writing, with~~

1. ~~It is understood that rule 1.b.(9) includes the requirement of a minimum of one year's residency at the educational institution granting the doctoral degree.~~

at least 25% of that time devoted to face-to-face direct patient/client contact. No more than 25% of time shall be allocated for research.

~~2. The supervising psychologist must have two (2) years of clinical experience beyond licensure and should have training in the areas in which he/she is providing supervision. Specific skill training may be provided under the direction of the supervising psychologist or by other licensed mental health professionals, provided that not more than 1/4 of the supervised experience is provided by someone other than a licensed psychologist. Postdoctoral supervision is required for initial licensure as a psychologist. Postdoctoral experience must consist of 3,000 hours of actual work experience. This experience is to be completed in not less than two years and not more than three calendar years, save for those covered under Section 3519(e). For those individuals the accrual of 3,000 hours of supervised postdoctoral experience must take place within six calendar years from the time of hire. There is to be one hour of face-to-face supervision for every 1-10 hours of clinical work. This experience shall consist of at least twenty-five percent and not more than sixty percent of the time devoted to direct service per week in the area of the applicant's academic training. "Direct service" consists of any activity defined as the practice of psychology or the supervision of graduate students engaging in activities defined as the practice of psychology. Not more than 25% of this supervision can be done by other licensed mental health professionals besides psychologists.~~

The purpose of the postdoctoral supervision is to train psychologists to practice at an independent level. This experience should be an organized educational and training program with explicit goals and a clear plan to meet those goals. There should be regular written evaluations based on this program.

~~3. Supervision of psychological assistants is required at the frequency of one hour of face-to-face supervision for every 1-10 hours of clinical work by the psychological assistants, as required by Section 9 of the Rules and Regulations. An individual registered as a psychological assistant may or may not be receiving supervision in pursuit of independent licensure as a psychologist.~~

A psychologist providing either postdoctoral supervision or supervision of psychological assistants must have been in practice for two years post licensure in this or any other state without having been subject to any disciplinary actions. He/she must provide 24-hour availability to both the supervisee and the supervisee's clients, or ensure that adequate alternative coverage is provided in the supervisor's absence. The supervising psychologist shall have sufficient

knowledge of all clients including face-to-face contact when necessary and must be employed or under contract in the setting where the clinical service takes place and the supervision must occur within that setting.

SECTION 08 - FAILURE TO PASS EXAMINATION

Applicants may take the Examination for the Professional Practice in Psychology as many times as they choose. Intervals between testing will be determined by the testing agency and the ASPPB.

SECTION 09 - PSYCHOLOGICAL ASSISTANTS

A Psychological Assistant is one who provides psychological services under the direct supervision of a Delaware licensed Psychologist. Psychological Assistants shall have at least a Master's degree in a psychologically related field. Psychological Assistants are supervised, directed, and evaluated by a Delaware licensed Psychologist who assumes professional and legal responsibility for the service provided. A psychological assistant is an individual who meets the requirements of 24 Del. C. Section 3509(2a-2e). This individual may be registered as a psychological assistant in order to receive supervision to be eligible for later licensure to practice independently as a psychologist and/or for any other reason as recognized by law. Psychological assistants are supervised, directed, and evaluated by a Delaware licensed psychologist who assumes professional and legal responsibility for the services provided. Any Delaware licensed psychologist who has had a least two (2) years of experience following the granting of licensure in this or in any other state may supervise a maximum of seven (7) psychological assistants. It is the responsibility of the supervising psychologist in conjunction with the psychological assistant to diagnose and form treatment plans for patients seen by the psychological assistant and to file such plan in the patient/client's chart. The patient/client must be informed that services are being delivered by a psychological assistant and that the licensed psychologist is responsible for the treatment. The patient/client shall sign a statement of informed consent attesting that he/she understands that the services are being delivered by a psychological assistant and that the licensed psychologist is ultimately responsible for his/her treatment. This document shall include the supervising psychologist's name and the telephone number where he/she can be reached. One copy shall be filed with the patient/client's record and another given to the patient.

The Delaware licensed Ppsychologist is identified as the legally and ethically responsible party in all advertising, public announcements, and billings. In addition, billings and

advertisements will clearly indicate that the service is being provided by a Ppsychological Aassistant. ~~Clients must be informed that they are being treated by a Psychological Assistant working under the direction of a specified Delaware licensed Psychologist.~~ All treatment and evaluation reports prepared by the Ppsychological Aassistant must be signed by the Ppsychologist and the Ppsychological Aassistant.

The Delaware licensed Ppsychologist who accepts the responsibility of using a Ppsychological Aassistant shall develop and maintain a current, written job description delineating the range and type of duties, ~~and~~ educational practicum and clinical experience to be assigned to the Ppsychological Aassistant, limits of independent action, ~~and~~ emergency procedures for contacting the Ssupervising Ppsychologist, and the amount and type of supervision to be provided. This job description ~~will~~ must be signed by the Ppsychologist and the Ppsychological Aassistant; ~~and along with an official copy of the Psychological Assistant's college transcript, must~~ will be filed in the Division of Professional Regulation, along with an official copy of the psychological assistant's college transcript, and proof of a 450-hour clinical practicum supervised by a licensed psychologist or by a faculty member in a nationally accredited doctoral level clinical training program in the State of Delaware who is actively pursuing licensure. The psychological assistant will also provide a statement under oath as outlined in 24 Del.C. Section 3509 (b1-b3).

The Board will then review credentials, job description and supervisory arrangements, and if the arrangements are acceptable, will inform the Ppsychologist in writing that the Ppsychological Aassistant can begin work. No Ppsychological Aassistant shall begin work until the Board has approved the application. Registration for Ppsychological Aassistants expires biennially and continued performance of the duties of a Ppsychological Aassistant requires proof of twenty (20) hours of continuing education and payment of the renewal fee.

Supervision of the Ppsychological Aassistant by the Delaware licensed Ppsychologist is to be a regular and formal process. It is required that the licensed Ppsychologist and the Ppsychological Aassistant have weekly one-on-one, face-to-face supervision with review of each case served by the Ppsychological Aassistant. The supervising Ppsychologist should be familiar with each patient/client seen by the Ppsychological Aassistant and with the ongoing progress of treatment. One hour of supervision for every ten hours, or fraction thereof, of direct clinical work by the Ppsychological Aassistant is required as a minimum. For example, if a psychological assistant provides eight (8) hours of direct clinical service, he or she must receive a minimum

of one (1) hour of supervision. Likewise, a psychological assistant, who has fifteen (15) hours of direct clinical contact, must receive at least two (2) hours of supervision. This supervision must be documented in writing on patient records. In addition, the supervising Ppsychologist is responsible for assigning a diagnosis and developing a treatment plan for each case, shall submit at the time of relicensure and at the termination of the supervision relationship a supervision report on a form provided by the Board which will become a part of the public record. It will contain information describing the date and amount of supervision and any unscheduled supervisory contact, as well as a brief assessment of the psychological assistant's functioning. The Board will consider requests to substitute group supervision for some portion of the one-to-one, face-to-face supervision requirement. A supervising psychologist must petition the Board and show good cause for this substitution. If the supervising psychologist's request is granted, no more than five (5) psychological assistants may meet with the supervising psychologist at one time and there must be two (2) hours of group supervision in place of every one (1) hour of individual supervision. All psychological assistants must have at least one (1) hour of individual supervision per week. The Board reserves the right to withdraw their permission for the substitution at any time.

Psychological Assistants are to work in the office of the licensed psychologist so as to have regular and continued supervision. When the licensed Ppsychologist is not in the office, he or she is expected to provide clear contingency plans for consultation for the Ppsychological Aassistant. It is assumed that the Ppsychologist will be available to the Ppsychological Aassistant under most circumstances; therefore, so arrangements in which the supervising Ppsychologist is employed full time elsewhere will not be approved, unless it can be demonstrated that there will be adequate supervision and contingency coverage for of the Ppsychological Aassistant. Supervising Ppsychologists will be expected to describe in their application for the Ppsychological Aassistant how much supervision they will provide and how that supervision will be provided.

Psychological Aassistants who work for agencies must be supervised by a Ppsychologist employed by or under contract to the agency. Supervision must occur on site, and the agency must have clearly spelled out plans for providing consultation and backup when the supervising Ppsychologist is not on site. A Ppsychological Aassistant, who provides services that are under the direction of different Ppsychologists, must be registered as a Ppsychological Aassistant with by all of the psychologists who are directly supervising the clinical work.

When there is a complaint of incompetent, improper, or

unethical behavior on the part of the Ppsychological Aassistant, in addition to the disciplinary action against the psychological assistant, the Supervising Psychologist will accept responsibility and is thereby accountable under the provisions of the Delaware Psychology Law. Ddisciplinary action may also be taken against the supervising Ppsychologist for failing to provide adequate supervision of the Ppsychological Aassistant. The Board reserves the right to suspend or revoke the Delaware licensed Ppsychologist's privilege of hiring a Ppsychological Aassistant when just cause has been established through a formal hearing. Failure to follow the guidelines outlined in the Rules and Regulations can Violation of this regulation may constitute cause for suspending or revoking the future privilege of hiring a Ppsychological Aassistant.

Patients/Cclients are always the responsibility of the supervising psychologist. Termination or transfer plans must be worked out with the approval of the supervising psychologist. A Ppsychological Aassistant will be considered to be working for the supervising Ppsychologist until the Board of Examiners is notified in writing of the change in arrangements. The letter terminating a Ppsychological Aassistant arrangement must also specify when the supervising Ppsychologist is terminating the arrangement because of concerns about the ethical or professional behavior of the Ppsychological Aassistant.

SECTION 10 - CONTINUING EDUCATION

1. Psychologists must obtain 40 hours of continuing education every two years in order to be eligible for renewal of license. Psychologists will be notified in January that ~~he/ she~~ they may submit their documentation beginning March 1st. Continuing education credit must be submitted for the period of August 1st of the year of renewal to July 31st of the second year. Individuals licensed within the two year period will be notified by the Board of the prorated amount to submit.

2. Psychological assistants must obtain 20 hours of continuing education every two years for re-registration. Psychological assistants may submit their documentation beginning March 1st. The appropriate period for credits to be accrued is from August 1st of the year of renewal to July 31st of the second year. Psychological assistants registered within the two year period will be notified by the Board of the prorated amount to submit.

3. Psychologists or psychological assistants who have not submitted their material by July 31st will be allowed ; to reapply for licensure or registration ; until August 31st. In the situation where the appropriate amount of documentation has been submitted in a timely fashion and in good faith and

with reasonable expectation of renewal, but has been found to be inadequate, the practitioner has 30 days from the notification of inadequacy to submit valid continuing education credit in the amount specified, or until August 31st of that year, whichever is later.

4. It is the responsibility of the psychologist or psychological assistant to file a record of his/her continuing education. Documentation of continuing education will consist of letters/certificates of attendance from the sponsoring entity.

5. The subject of the continuing education must contribute directly to the professional competency of a person licensed to practice as a psychologist or registered as a psychological assistant. The activity must have significant intellectual or practical content and deal with psychological techniques, issues or ethical standards relevant to the practice of psychology.

6. Activities from APA-approved continuing education sponsors will be automatically accepted. The following may be eligible:

- a. Other programs which are not APA-approved sponsors but where the material is relevant to professional practice and provides the equivalent of APA-defined credit. An applicant must provide a brochure or other documentation that supports the following criteria: relevance, stated objectives, faculty and educational objectives. To document attendance and completion, a certificate of attendance is required. In these circumstances, hours will be accrued on the basis of clock hours involved in the training.
- b. Graduate courses relevant to professional practice taken for educational credit offered by a regionally accredited academic institution of higher education. Each credit hour of a course is equivalent to 5 CE hours.
- c. Teaching an undergraduate or graduate level course in applied psychology at an accredited institution. Teaching a 3 hour semester or quarter course is considered the equivalent of 5 CE credits. No more than 5 CE credits may be completed in this manner for any renewal period and can be submitted only for the first time that a course is presented. Appropriate documentation of teaching must include the listing of the course in the school catalog and a letter from the academic institution stating that the course was taught.

- d. Teaching of a workshop or conduction of a seminar on a topic of pertinence to the practice of psychology. Credit earned for one day is a maximum of 2 credits, two days is a maximum of 3 credits, and three days or more is a maximum of 5 credits. However, credit can be earned only once for teaching a particular seminar or workshop and not be eligible for re-submission at any time. Appropriate documentation is considered to be the brochure and demonstration of the workshop being held by the sponsoring entity.
- e. Authorship, editing or reviewing of a publication. Credit may be earned only in the year of the publication and is limited to the following:
 - 1) Author of a book (maximum of 40 CE hours)
 - 2) Author of a book chapter or journal article (maximum of 15 CE hours)
 - 3) Editor of a book (maximum of 25 CE hours)
 - 4) Editor of or reviewer for a scientific or professional journal recognized by the Board (maximum 25 CE hours)

Proof of the above must include the submission of the work or documentation of authorship by copy of title pages.

- f. Preparing and presenting a scientific or professional paper or poster at a meeting of a professional or scientific ~~or professional~~ organization. Up to 2 hours may be claimed for a poster presentation. Up to 3 hours of credit may be claimed for each hour of paper presentation, with a maximum of 8 CE hours per paper. Listing within the program and certificate letters of attendance at the meeting is appropriate documentation for both a paper or poster presentation.

7. The Board reserves the right to reject any CE program, if it is outside the scope of the practice of psychology.

8. The following will not be considered for credit: service to organizations; attending business meetings of professional organizations; business management or office administration courses; group supervision; or case conferences.

SECTION 11 - PROFESSIONAL CONDUCT

Psychologists and psychological assistants may be disciplined for violations of provisions of 24 Del. C. Section 3514.

SECTION 12 - COMPLAINT PROCEDURES

Complaints against psychologists and psychological

assistants will be investigated as provided by 29 Del. C. Section 8807 and all hearings shall be conducted in accordance with the Administrative Procedures Act, 29 Del. C. Chapter 101.

Complaints must be filed, in writing, with the Division of Professional Regulation.

SECTION 13 - LICENSE RENEWAL

Renewal notices will be mailed in a timely fashion to all psychologists and psychological assistants who are currently licensed or registered. Continuing education requirements must be fulfilled as detailed in Section 10 of the Rules and Regulations and submitted along with the established fee for renewal to be approved. Should any psychologist fail to renew and continue to make representation as a licensed psychologist beyond July 31st, that individual is practicing without a license. Should any psychological assistant fail to renew and continue to make representation as a registered psychological assistant beyond July 31st, that individual is considered no longer to be registered, and his/her supervising psychologist is in violation of the law.

SECTION 14 - PROCEDURES FOR LICENSURE APPLICABLE TO FULL TIME FACULTY MEMBERS IN A NATIONALLY ACCREDITED DOCTORAL LEVEL CLINICAL TRAINING PROGRAM IN THE STATE OF DELAWARE

University faculty employed full time in a nationally accredited doctoral level clinical training program in the State of Delaware, as specified in 24 Del. C. Section 3519(e), who are not licensed, are subject to the following rules and regulations:

1. Notification. Such individuals must notify the Board of Examiners of Psychologists no later than 30 days after the commencement of employment, indicating employer, position and date employment began. At that time they will receive a copy of the statute and Rules and Regulations which detail the exemption under which they operate.

2. Professional Activities. These individuals may participate in activities defined by statute as the practice of psychology (including the supervision of matriculated graduate students) only within the context of a clinical training program. They may conduct any research and teaching activities related to the activities of such a program.

3. Education. Such individuals must have completed the doctoral degree at the time employment commences consistent with 24 Del. Co. Section 3508(a).

4. Active Pursuit of Licensure. Such individuals are required to be in active pursuit of licensure for a period not to exceed six (6) years. The six year time frame for the completion of licensure requirements commences with the initial date of employment. The six-year time frame for individuals employed as of June 12, 1995 commenced on that date.

5. Supervision. The supervised experience required for licensure of such individuals is described in Section 7 of the Rules and Regulations.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

Statutory Authority: 29 Delaware Code,
Section 8103(8) (29 Del.C. 8103(8))

The Delaware Department of Agriculture (DDA) Forest Service administers public lands at Blackbird State Forest, Taber State Forest, and Redden State Forest. In order to conserve, protect, and manage these lands for the benefit of all citizens, new Rules and Regulations will be introduced on these lands, pursuant to 29 Del.C. §8103(8). The DDA Forest Service will hold a public hearing on Friday, September 25, 1998, at 7:00 p.m. at Delaware Department of Agriculture Conference Center, 2320 S. DuPont Highway, Dover, Delaware, to introduce these Rules and Regulations and solicit public comments. Additionally, the public is welcome to provide comments prior to the September 25 hearing. Further information concerning these Rules and Regulations is available by contacting Mike Brown at 800-282-8685 (in-state only) or (302) 739-4811.

The State Forests of Delaware are open to the public for all legal forms of recreation and enjoyment. In order that these publicly owned lands be conserved, protected, and maintained for the benefit of all, the following RULES AND REGULATIONS will be observed.

A. General Rules and Regulations

1. No living trees, shrubs, or other vegetation may be cut, felled, uprooted, removed, or otherwise injured or destroyed, unless written permission has first been obtained from the forest officer in charge.
2. Fires are prohibited for any purpose on State Forest lands other than in designated areas. Written permission must be obtained in advance for fires on State Forest lands outside of designated areas. Any such authorized fire must, at all times, be under the direct supervision and care of a competent adult,

and must be thoroughly extinguished before the fire site is abandoned.

3. The dumping or depositing of rubbish, trash, household items, or other debris, and the placing of advertisement signs within State Forests are prohibited.
4. For the sake of sanitation and attractiveness, persons using public camp and picnic sites are required to deposit all waste paper, tin cans and other refuse in the containers, if provided. Where containers are not provided, users must properly dispose of all refuse off State Forest lands.
5. Writing upon, mutilating, carving, and otherwise defacing trees, buildings, structures, signs, and official notices is prohibited.
6. All State Forest boundaries are well-marked with metal signs, yellow paint on boundary line trees, brushed-out paths or with a combination of all three features. Therefore, boundary lines should be easy to identify. State Forest visitors should avoid trespass or encroachment upon adjoining private lands by staying within boundaries of State Forest lands.
7. Many roads have been closed to vehicular travel to improve the quality of recreation and to reduce littering. These roads and trails are open to pedestrian and non-vehicular travel only. In addition, vehicle use of tax ditches is unlawful. Furthermore, no off-highway vehicles or all-terrain vehicles, either registered or non-registered, are permitted. The only exception to this rule applies to those off-highway vehicles owned, operated, and/or authorized by the Delaware Department of Agriculture Forest Service. Violators will be prosecuted for trespassing.
8. With the exception of animals permitted under lawful hunting regulations, all animals must be under the continuous control of the owner(s) unless otherwise authorized in writing by the Forestry Administrator. All dogs must be leashed, unless covered by the exception above. State Forest visitors are responsible for the conduct and any damages, either personal or property, caused by their animals.
9. Entry to State Forest lands is prohibited from sunset to sunrise, except for lawful hunting, permitted camping, permitted Redden Lodge use, or as otherwise permitted in writing by the Delaware Department of Agriculture Forest Service.
10. Fishing on state forest lands is limited to catch and release only.

B. Camping Rules and Regulations

1. A forest use permit is required for all camping on State Forest lands. Camping is free of charge, year round, restricted to map-designated campsites. Permits are available at the State Forest office during office hours or from the information box.
2. Campsites are on a first-come/ first serve basis. Reservations may be accepted for special occasions.
3. Campsites are of a primitive type, and are to be used ONLY for tent, van or pickup campers. Travel trailers and /or self-propelled motor homes are excluded due to access and parking limitations.
4. There are a limited number of campsites, each is large enough to accommodate large families. These are equipped with tables, fire pits, charcoal grills and a trash barrel. Campsites are limited to a maximum number of 25 people per site, with a maximum stay of three nights per week.
5. Camping is at your own risk. There is no after-hours, nighttime or weekend security. Law enforcement is provided by the Delaware State Police should the need arise.
6. Common sense security is your responsibility at all times. The forest is a public use area without 24-hour protection.
7. State forests are "multiple-use facilities", which means other activities will continue while you camp. These activities include: hunting, picnicking, hiking, orienteering, nature study, horseback riding, firewood cutting (by permit only), and timber harvesting. The DDA Forest Service reserves the right to limit or deny permits during times of conflicting use.
8. Firewood for camp use is available at the campsites. If more firewood is needed, it may be gathered locally from dead and downed trees. No standing trees or shrubs are to be cut. Using firewood located at the office complex is prohibited. Campfires are to be in established fire rings only.
9. Pets are permitted, but must be under control or leashed.
10. Campsites are to be left clean for the next users, and all fires are to be extinguished before departing from the area.

C. Hunting Rules and Regulations

1. State Forests are year-round multiple use areas. Hunters share the use of State Forest lands with other public users such as hikers, campers, horseback riders, firewood cutters, and loggers.
2. No special permits are required to hunt on State Forest lands, **except as specified in the DNREC,**

Division of Fish and Wildlife annual hunting manual. Properly licensed hunters may hunt during any open season except on areas designated, such as those marked with Wildlife Sanctuary, NO HUNTING, or Safety Zone signs.

3. Parking is available on all State Forest tracts.
4. No permanent deer stands, platforms, ladders, or blinds may be constructed. No screw-in tree steps, spikes, screws, or nails are allowed.
5. Deer drives by any person or persons are not permitted on any State Forest land at any time.
6. Small game hunting is closed on State Forest lands during firearm deer seasons.
7. The DDA Forest Service reserves the right to close to hunting specific State Forest tracts during specific hunting seasons. Therefore, it is important to consult the current hunting guide for a listing of these closures.
8. Trapping rights may be leased for State Forest lands. No other trapping is permitted on State Forest lands.
9. Target shooting is prohibited. Firearms are allowed for legal hunting only, and are prohibited on State Forest lands from March 1 through August 31.
10. Waterfowl hunting is not permitted on State Forest land or waters.
11. The following hunting restrictions apply to several tracts of Blackbird State Forest. Maps delineating these areas are available at Blackbird State Forest headquarters or by calling (302)653-6505.
 - a. All deer hunting is limited to numbered stands.
 - b. For shotgun season stands will be chosen in a pre-season lottery. To apply for a stand during the shotgun season fill out the application in the Delaware Hunting and Trapping Guide. For leftover stands there will be a daily lottery held at Blackbird State Forest Headquarters, located on the Tybout tract on Blackbird Forest Rd. (Rd. 471), 1 ½ hours before legal hunting time.
 - c. For Muzzleloader season there will be a daily lottery held at Blackbird State Forest Headquarters, located on the Tybout tract on Blackbird Forest Rd. (Rd. 471), 1 ½ hours before legal hunting time.
 - d. All hunters on these tracts, during shotgun and muzzleloader season, must hunt from the stand only, as walk around hunting is not permitted.
 - e. During Archery season bowhunters must be within 50 yards of their designated stand.
 - f. Stands will be available during Archery season on a first come first serve basis.
 - g. No more than one hunter may hunt from a stand at any one time.

12. These special hunting restrictions apply to the Tybout tract of Blackbird State forest:
 - a. Squirrel hunting is not allowed with rifle or muzzleloading rifle, shotgun squirrel hunting is permitted.
 - b. Dove hunting is prohibited prior to December 15 of each season.
 - c. Dog training is prohibited at all times.

D. Forest Use Permits

Forest use permits on State Forests are issued on a first-come first-served basis and are required for camping, firewood cutting, lodge rental (Redden State Forest), organized special events, and pavilion reservation (Blackbird State Forest only). Upon arrival at the facility users are required to fill out a Forest Use Permit (Doc. No. 65-04-02/87/10/03). Under special circumstances facilities may be applied for in advance.

Items to be filled out by all applicants include:

1. - Date of application
2. - Time of application submission
3. - Applicants' name
4. - Applicants' address, city, state, zip code

Camping:

1. - Individual or group permit
2. - Number of persons camping
3. - The name of organization (if applicable)
4. - Vehicle make and model & color
5. - Permit effective date & termination date
6. - Applicants' signature

Group Users/Special Events:

1. - The name of the person in charge
2. - The name of organization
3. - Number in the group
4. - Permit effective date
5. - Permit termination date
6. - Facility used:
 - a. Camping
 - b. Picnic shelter
 - c. Nature study area
 - d. Other
7. - Applicants' signature

Firewood Permits:

Firewood permits are required to cut firewood on State Forest lands and are issued at the discretion of the State Forest staff. When available, these permits are issued on a first come first serve basis. There is a fee of \$20 for firewood permits, which allows the holder to cut two standard pickup loads of firewood. No trees are to be felled;

only downed wood may be cut. Designated firewood cutting areas will be delineated by State Forest employees and posted as such.

DELAWARE DEPARTMENT OF AGRICULTURE
FOREST SERVICE
REDDEN STATE FOREST LODGE

DELAWARE DEPARTMENT OF AGRICULTURE
FOREST SERVICE
REDDEN STATE FOREST LODGE
APPLICATION FOR RENTAL

RULES AND REGULATIONS

DATE APPLICATION SENT TO RENTER: _____

Name: _____ SS# _____
(For refund purposes only)

Name of Group/Organization: _____

Date(s) requested: _____ Alternate Date(s) _____

Type Use: ___ Daily ___ Evening ___ Weekend

Check in time: _____ Check out time: _____

Organization/Group: _____

Street Address _____

City, State & Zip Code _____

Daytime phone : () _____ Evening phone: () _____

Purpose for Lodge use: _____

Number of attending: _____ Age ranges of attendees: _____

At the sole discretion of the Delaware Department of Agriculture, a violation of any Redden State Forest Lodge rules could result in the forfeiture of any fee and removal from the premises.

I certify that I have read the attached rules and regulations, **and assume full responsibility for all activities at the Lodge during the rental period.** Furthermore, I agree to hold the Delaware Department of Agriculture harmless from liability for any and all damage to property or injury to any person that may occur during the Lodge rental.

Signature of Person Responsible Date

DEPARTMENT USE ONLY

Reservation Deposit Date Received _____ Ck/Cash _____ Ck# _____

Security-Damage Deposit Date Received _____ Ck/Cash _____ Ck # _____

Recieved by: _____ PSD _____ Approved by: _____

Security-Damage Deposit:

Invoice/Refund # _____ Itemized List Date: _____ Date Sent: _____

Inv. Refund Amt. _____ List Prepared by: _____

THE DDA FOREST SERVICE REQUIRES THAT ALL RENTERS ARE RESPONSIBLE FOR LEAVING THIS FACILITY IN THE SAME CLEAN AND TIDY CONDITION AS IT WAS WHEN THE RENTER ARRIVED. RULES AND REGULATIONS COVERING THESE REQUIREMENTS ARE LISTED BELOW. IN ADDITION, ALL RENTERS MUST PROVIDE A SECURITY DEPOSIT THAT WILL BE HELD UNTIL A POST-RENTAL INSPECTION HAS BEEN COMPLETED.

1. The individual or group who reserves the Lodge will be held responsible for all cleaning and tidiness requirements and damages to the Lodge that occur during their rental period. **Cleaning and tidiness requirements include but are not limited to:** cleaning up spills and dirt as they occur or prior to departure; returning folding tables and chairs to their original location; and depositing all trash in the outside garbage cans provided. **In addition, furniture and fixtures are not to be moved.**

During the first working day following rental, the Assistant Forest Manager will itemize all cleaning-tidiness problems and damages, and an itemized bill will be sent to the renter. **By signing the attached agreement, the individual responsible for the group agrees to reimburse the Delaware Department of Agriculture (DDA) Forest Service for all cleaning-tidiness and/or repair expenses itemized from their rental, within thirty days of their receipt of a bill.**

2. A security deposit equal to 50% of the rental charge is required at the time of reservation, along with the reservation deposit of 50%, according to the Lodge Rental Fees attached. The remaining rental charge or full rental use charges must be paid before renter occupancy. The security deposit will be held until a post-rental inspection has been completed. If lodge is cleaned, tidied, and no damages occur, the security-damage deposit will be refunded in full. **If cleaning or tidiness requirements are NOT met or damages occur, an itemized list will be prepared and sent to the renter with any refund or a bill to cover additional charges.**

3. No person shall deposit rubbish, garbage, refuse, trash or other debris of any kind on any land administered by the DDA Forest Service.

4. Maximum Lodge capacity is 45 persons.
5. The organization must provide at least two adult supervisors per group, and a minimum of one adult supervisor per ten youths. Youth are defined as children under 18 years of age.
6. The use or possession of illegal drugs is strictly prohibited. Additionally, alcoholic beverages are prohibited (unless approved in writing by the DDA Forest Service). Smoking and the use of other tobacco products is prohibited inside the Lodge.
7. Unauthorized heating equipment is prohibited in the Lodge. The fire alarm system is designed for the protection of all those who use the Lodge and the structure itself. **Any misuse or intentional activation of this and other alarms is strictly prohibited and legal action(s) will be taken, pursuant to Delaware Code.**
8. The use or possession of **firearms or other weapons (except as permitted for legal hunting outside the safety zone, or as approved in writing by the DDA Forest Service)**, etc., is strictly prohibited.
9. No outside fires may be started at any time in the vicinity of the Lodge, except in the permanent grills installed on site, or as approved in writing by the DDA Forest Service.
10. Service eye dogs are permitted. No other pets shall be permitted within or near the Lodge by any user group.
11. An adequate supply of firewood will be provided. No charcoal, wax logs, or other materials shall be used in the fireplaces.
12. No sleeping facilities are provided at the Lodge. There are cooking facilities and tables and chairs for eating. There are no pots, pans, dishes, or serving articles.
13. The telephones at the Lodge are provided for emergencies, local calls, and credit card or collect long distance calls. The DDA Forest Service requests that the phones only be used by adults, except in emergencies. You must dial "9" before placing any call. The number for both Lodge phones is (302) 856-5939, and incoming calls can be received. Please remember these telephones are only to be used when necessary and are not for social calls. It is the responsibility of the applicant to honor these restrictions and inform all lodge users of the telephone restrictions. If the telephone restrictions are not honored, the Department of Agriculture Forest Service reserves the right to remove the telephones at any time.

DELAWARE DEPARTMENT OF AGRICULTURE
FOREST SERVICE
REDDEN STATE FOREST LODGE RENTAL FEES

Reservations, Deposits, and Cancellations

- Reservations shall be made on a "first-come, first-served" basis. To secure a reservation, a completed application and one-half of the Lodge rental fee must be received at least 120 days prior to the desired reservation date. All checks should be made payable to Department of Agriculture.
- The balance of the user fee shall be paid prior to check-in time. Additionally, a security deposit in the amount of one-half of the Lodge rental fee is required prior to check-in time. Checks should be made out to: Department of Agriculture
- Cancellation policy: Reservations must be canceled at least fifteen (15) working days prior to the arrival date. If this cancellation policy is not followed, the reservation deposit (one-half of the user fee) will be forfeited. The security-damage deposit will be refunded for all cancellations.

Types of Use

- Daily 8:00 a.m. - 3:00 p.m.
- Evening 4 p.m. - 10 p.m.
- Weekend Friday 4 p.m. - Sunday 10 p.m.

Lodge Rental Fees

Lodge user fees shall be as follows:

May 15 to September 30
 \$50 Daily Use
 \$25 Evening Use
 \$150 Weekend Use

October 1 to May 14 (Increased fees due to heating expenses)

\$60 Daily Use
 \$30 Evening Use
 \$175 Weekend Use

Payments will be mailed to:

Redden State Forest
 RD 4, Box 354
 Georgetown, DE 19947
 (302)856-2893
 weekdays 8:00 a.m. - 4:30 p.m.

DEPARTMENT OF EDUCATION

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

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

SCHOOL CUSTODIAN

A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATIONS

The Secretary recommends amending the regulations concerning the experience classification, and awarding of certificates for school custodians and the criteria for generating the unit allocation for custodial positions. The amended regulations clarify and focus the language of the regulations. The amendments also allow for an allocation of 1/2 unit for heating plant services in schools with up to six classrooms instead of the existing 1/2 unit for schools with 4-6 classrooms and no unit allocation for schools with 1-3 classrooms. The third change is the inclusion of additional ways that a custodian may be classified as a skilled craftsman.

C. IMPACT CRITERIA

1. Will the amended regulations help improve student achievement as measured against state achievement standards?

The amended regulations address personnel issues, not student achievement.

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

The amended regulations address personnel issues, not equity issues.

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

The amended regulations address personnel issues, not health and safety issues.

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

The amended regulations address personnel issues,

not students' legal rights.

5. Will the amended regulations preserve the necessary authority and flexibility of decision makers at the local board and school level?

The amended regulations will preserve the necessary authority and flexibility of decision makers at the local board and school level.

6. Will the amended regulations place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels?

The amended regulations will not place any unnecessary reporting or administrative requirements or mandates upon the decision makers at the local board or school level.

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

The decision making authority and accountability will remain in the same entity.

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

The amended regulations will not be an impediment to the implementation of other state educational policies.

9. Is there a less burdensome method for addressing the purpose of the regulations?

The regulations are necessary to provide consistency throughout the state concerning the qualifications and classification of custodial employees in the school districts and the allocation of units for custodial services.

10. What is the cost to the state and to the local school boards of compliance with the regulations?

There is no additional cost associated with the amended regulations.

AS APPEARS IN THE HANDBOOK FOR PERSONNEL
ADMINISTRATION FOR DELAWARE SCHOOL
DISTRICTS

School Custodians

Experience

~~Custodians may be allowed one (1) year's experience for~~

each full year of experience in similar employment. (State Board of Education regulation, November 12, 1970).
Allocation

(All items under this subject, except those paragraphs specifically marked otherwise, were in the Handbook of Personnel Management, May 1962, and November 1970, last approved by the State Board of Education on November 12, 1970.)

Districts are allocated one (1) full-time custodial employee for each twelve (12) custodial units or for a major fraction thereof.

The custodians allocated to a district, after the total number of custodians is determined by an evaluation of custodial units in each school building, may be assigned to various locations at the discretion of the chief school officer. (State Board of Education regulation, November 22, 1967)

To determine the number of such units in each school, follow the provisions listed below:

- (a) One (1) unit for each classroom or its equivalent. Vestibules, stages, corridors, or the usual washrooms are not to be considered as equivalent to classrooms. Items to be reported as equivalent include several offices, teachers' rooms, and rooms not used specifically for class purposes which require custodial attention similar to classrooms. The unit value of other facilities is based upon the area and the custodial care required.
- (b) One (1) unit for a small auditorium (less than 150 students).
- (c) Two (2) units for a large auditorium (more than 150 students).
- (d) One (1) unit for a cafeteria having a seating capacity up to 150. One (1) unit for each 150 capacity or major fraction thereof.
- (e) One (1) unit for a gymnasium.
- (f) One (1) unit for a combined auditorium and gymnasium (less than 150 students).
- (g) Two (2) units for a combined auditorium and gymnasium (more than 150 students).
- (h) One (1) unit for two locker rooms.
- (i) Seven (7) units for a swimming pool.

(State Board of Education regulation, December 19, 1968)

(j) Units for a central oil-fired heating plant are determined from the following table:

No. of Classrooms or equivalent	No. of Units
------------------------------------	--------------

1 - 3	0
4 - 6	1/2
7 - 9	3/4
10 - 15	1
16 - 20	1-1/2
21 - 25	2
26 - 30	2-1/2
31 - 35	3
36 - 40	3-1/2
41 - 45	4
46 - 50	4-1/2
51 - 55	5
56 - 60	5-1/2
61 or more	

(k) One half (1/2) unit for each developed acre of the school plant site, not to exceed 48 acres on a given site.

(State Board of Education regulation, June 18, 1970)

Part-time custodians equivalent to one or more full-time custodians may be employed with the provision that proper records will be maintained for review.

A full custodial staff for a new school building may be employed one (1) month prior to the pupil occupancy of the building in order to provide adequate time for moving furniture, final cleaning, training of staff, and a multitude of other custodial details. (State Board of Education regulation, January 18, 1968)

The termination date for custodial units in buildings closed will be six weeks from the last day classes are held in the building. This will allow time for the custodial crews to move furniture and equipment and prepare the buildings for closing. i.e., boarding up windows, shutting off and draining water supplies, etc.

Buildings which are closed and retained under the control of the school district will lose all custodial units except units provided for site maintenance and heating.

When the school district signs a lease or in any way loses direct control of the building, i.e., transfer or sale legislation, the custodial units for site maintenance and heating shall terminate on the effective date of the lease or legislation.

When the function of a building is changed it must be reevaluated for custodial units; for example, when a building is changed from classroom use to office or administrative functions.

(State Board of Education regulation, February 22, 1979)

Classification

(All items under this subject, except those paragraphs specifically marked otherwise, were in the Handbook of Personnel Management, May 1962 and November 1970, last approved by the State Board of Education on November 12, 1970.)

a. ~~**Buildings and Grounds Supervisor**~~

A school district with ninety-five (95) or more custodial units may employ a buildings and grounds supervisor according to the salary schedule. This position is included in the total number of custodial personnel allowed. §1311(e).

b. ~~**Skilled Craftsmen**~~ Title 14, Subsection 1311(a), Delaware Code established the category of skilled craftsman.

Of the maintenance mechanics identified in section c. below, districts may classify as skilled craftsmen those mechanics who are licensed in their trade by the appropriate body or those who have journeyman status through training.

c. ~~**Maintenance Mechanics**~~

A school district may classify up to ten (10) percent of the total number of custodial personnel allowed as maintenance mechanics. Qualifications shall be as defined by the employing board.

d. ~~**Chief Custodian**~~

(1) A custodian may be classified chief custodian when at least two other full-time custodians or the equivalent are employed in the school building or district.

(2) There can be only one (1) chief custodian in a building, but there can be as many chief custodians in a district as there are buildings in the district with three or more custodians.

e. ~~**Custodian-Fireman**~~

(1) When there is only one (1) custodian in a district, he may be so classified.

(2) May be one of two or three employed in a building.

f. ~~**Custodian - All others**~~

g. As an example, in a building with five (5) custodians, they may be classified as follows:

1 - Chief Custodian

1 - Custodian-Fireman

3 - Custodians

(Department Interpretation)

g. Local boards will determine the classifications as defined in this section. (Department Directive)

Certificates and Training

Three types of certificates are available in keeping with the custodial training programs sponsored by the State

Department of Public Instruction. These have certain requirements and monetary values.

Buildings and Grounds Supervisor - 120 class hours minimum (issued only to those who hold this position)

Chief Custodian Certificate - 120 class hours

Fireman-Custodian Certificate - 90 class hours

General Custodian Certificate - 60 class hours

R-7/21/88

F-8/18/94

The salary stipulated in § 1311(a) shall be increased for special training as defined by the certifying board by the addition of an annual amount stipulated in § 1311(b).

Custodians become eligible for the amounts on the basis of their certificates, not on the positions held. (State Board of Education regulation, November 12, 1970)

Months of Employment

Custodians are employed for twelve (12) months. §1311(a).

Part-time helpers and those employed for fewer than twelve (12) months will have their salaries adjusted accordingly. §1311(d).

Survey of School Buildings

All school facilities for the purpose of determining custodial units are rated on uniform blanks. Evaluations are made upon request of the local district by the School Plant Maintenance Section of the State Department of Public Instruction.

It is expected that a survey of a new building and of alterations and additions to an old building for the purpose of calculating the number of custodians will be made by the School Plant Maintenance Section of the Department in sufficient time for a valid budget request to be made for the year in which any additional custodians will begin work.

All requests for additional custodians are submitted through the Supervisor of Maintenance in the Finance and School Services Division of the Department to the Budget Director with supporting documentation for approval. By a request of the Budget Director on July 24, 1972, that supporting documentation shall include a certificate from the responsible individual that the base figure has not changed, or shall include details of base figures similar to those supplied for the requested increase. (Department Administrative Procedure)

All requests for additional custodians are submitted through

~~the Supervisor of School Plant Planning/Maintenance in the Finance and School Services Division of the Department of Public Instruction to the Budget Director with supporting documentation for approval. By a request of the Budget Director on July 24, 1972, that supporting documentation shall include a certificate from the responsible individual that the base figure has not changed, or shall include details of base figures similar to those supplied for the requested increase. (Department Administrative Procedure)~~

<u>31</u>	-	<u>35</u>	
<u>36</u>	-	<u>40</u>	<u>3</u>
<u>41</u>	-	<u>45</u>	<u>3 1/2</u>
<u>46</u>	-	<u>50</u>	<u>4</u>
<u>51</u>	-	<u>55</u>	<u>4 1/2</u>
<u>56</u>	-	<u>60</u>	<u>5</u>
<u>61</u>	-	or more	<u>5 1/2</u>

AS AMENDED

School Custodians

1. EXPERIENCE

Custodians may be allowed one (1) year's experience for each full year of experience in similar employment.

2. ALLOCATION

a. The custodial units allocated to a district may be assigned to various locations at the discretion of the local school board and the chief school officer.

b. Districts are allocated one (1) full-time custodial employee for each twelve (12) custodial units or for a major fraction thereof. The number of units in each school is determined in the following way:

(1) One (1) unit for each classroom or its equivalent. What is counted as "equivalent" shall be determined by the Department of Education.

(2) One (1) unit for a small auditorium (less than 150 students).

(3) Two (2) units for a large auditorium (more than 150 students).

(4) One (1) unit for a cafeteria having a seating capacity up to 150. One (1) unit for each 150 capacity or major fraction thereof.

(5) One (1) unit for a gymnasium.

(6) One (1) unit for a combined auditorium and gymnasium (less than 150 students).

(7) Two (2) units for a combined auditorium and gymnasium (more than 150 students).

(8) One (1) unit for two locker rooms.

(9) Seven (7) units for a swimming pool.

(10) Units for a central heating plant are determined from the following table:

<u>No. of Classrooms or equivalent</u>	<u>No. of Units</u>
<u>1 - 6</u>	<u>1/2</u>
<u>7 - 9</u>	<u>3/4</u>
<u>10 - 15</u>	<u>1</u>
<u>16 - 20</u>	<u>1 1/2</u>
<u>21 - 25</u>	<u>2</u>
<u>26 - 30</u>	<u>2 1/2</u>

(11) One-half (1/2) unit for each developed acre of the school plant site, not to exceed 48 acres on a given site.

c. Part time custodians equivalent to one or more full time custodians may be employed with the provision that proper records will be maintained for review.

d. A full custodial staff for a new school building may be employed one (1) month prior to the pupil occupancy of the building.

e. The termination date for custodial units in buildings closed shall be six weeks from the last day classes are held in the building.

f. Buildings which are closed and retained under the control of the school district shall lose all custodial units except units provided for site maintenance and heating.

g. When the school district signs a lease or in any way loses direct control of the building, such as transfer or sale legislation, the custodial units for site maintenance and heating shall terminate on the effective date of the lease or legislation.

h. When the function of a building is changed it shall be reevaluated for custodial units.

i. All custodial unit allocations shall be determined and approved by the Department of Education.

3. CLASSIFICATION

a. Custodian-Fireman

(1) When there is only one (1) custodian in a district, the custodian may be classified as a custodian-fireman.

(2) There shall be only one custodian-fireman employed in each building.

b. Chief Custodian

(1) A chief custodian may be classified chief custodian when at least two other full-time custodians or the equivalent are employed in the school building or district.

(2) There can be only one (1) chief custodian in a building, but there can be as many chief custodians in a district as there are buildings in the district with three or more custodians.

c. Maintenance Mechanic

Each school district may classify up to ten (10) percent of the total number of custodial personnel as maintenance mechanics. Qualifications shall be as defined by the employing board.

d. Skilled Craftsperson

(1) Each district may classify an incumbent in one

or more of its Maintenance Mechanic positions as a Skilled Craftsperson for purposes of this section if the incumbent:

(a) has received a certificate as a union journeyman or equivalent in any of the following fields: Boiler Maker, Carpenter, Electrician, HVAC Mechanic, Mill Wright, Heavy Machinery Operator, Pipe Fitter, Plumber, Roofer, or Sheet Metal Worker; or

(b) possesses a current state license in any of the fields listed in paragraph (a) above; or

(c) is an Automobile Mechanic who possesses two or more National Institute for Automotive Service Excellence (ASE) Certifications in the Automotive, Truck or School Bus categories; or

(d) is a Boiler Maker who possesses either an AWS or ASME Welding Certification; or

(e) is a Computer Technician who possesses an A Plus Certification from CompTIA (Computing Technology Industry Association); or

(f) is an HVAC Mechanic who possesses two or more certifications from manufacturers of digital control systems in use by the District, or possesses a certification from a manufacturer of centrifugal chillers used within the district; or

(g) possesses two or more Hazardous Material Certifications from the State of Delaware, OSHA, or the United States Environmental Protection Agency; or

(h) is a Pipe Fitter who possesses an AWS or ASME Welding Certification; or

(i) is a Roofer who possesses Training Certifications from two or more manufacturers of Roofing Systems in use by the District; or

(j) is a Burner Mechanic who possesses a certification from a manufacturer of oil or gas burners used within the District.

e. Building and Grounds Supervisor

Each district with ninety-five (95) or more custodial units may employ a school buildings and grounds supervisor according to the salary schedule. This position is included in the total number of custodial personnel allowed. Section 1311(c).

4. CERTIFICATES

The following hourly requirements shall be met in order to receive the Custodial Certificates listed below. The certificate guarantees additional pay as specified in the Del. C., but only the local school district can change a custodian's classification.

120 class hours minimum

Building and Grounds Supervisor
(issued only to those who
hold this position)

120 class hours Chief Custodian Certificate

90 class hours Fireman Custodian Certificate

60 class hours

General Custodian Certificate

DEPARTMENT OF EDUCATION

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

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

**RELEASING STUDENTS TO PERSONS OTHER THAN
THEIR PARENTS OR LEGAL GUARDIANS**

A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to Existing Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

The Secretary seeks the consent of the State Board of Education to amend the regulation part 2.c. under Safety on page A-46 in the Handbook for K-12 Education which addresses the issue of releasing students to persons other than their parents or legal guardians. The present regulation states that only parents and legal guardians can pick up their children from school and that the school authorities should check to see that the person picking up the child is authorized to do so. The amendment states the issue in a more proactive manner by requiring that each district have a policy outlining the procedures for releasing students to persons other than their parents or legal guardians.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards?

The amended regulation addresses student safety, not achievement.

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

The amended regulation addresses student safety, not equity issues.

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

The amended regulation helps to ensure that students are not released to persons other than their parents or legal guardians unless predetermined procedures are followed as defined through local district policies.

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

The amended regulation deals with student safety and also involves issues concerning their 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 will preserve the necessary 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 will not place any unnecessary reporting or administrative requirements or mandates upon decision makers at the local board or school level.

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

The decision making authority and accountability will remain in the same entity.

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

The amended regulation will be consistent with and not an impediment to the implementation of other state educational policies.

9. Is there a less burdensome method for addressing the purpose of the regulation?

The regulation is necessary to assure that districts have clear and consistent procedures in place.

10. What is the cost to the state and to the local school boards of compliance with the amended regulation?

There is no additional cost to the state and to the local boards for compliance with this amended regulation.

FROM HANDBOOK FOR K-12 EDUCATION

~~M.2.c. Pupils being released from school for other than medical purposes should be released only to their parents or to persons authorized by their parents. The school superintendent, principal, or others delegated by the superintendent or principal, should check carefully to make certain that the person claiming to represent the parent is so authorized. Written authority is preferable; however, a~~

~~check may be made by telephoning the parent for confirmation.~~

AS AMENDED

~~Each local school district shall have a policy which outlines the procedures for releasing students from schools to persons other than parents or legal guardian.~~

**PLEASE NOTE THE ABOVE REGULATORY
CHANGES WILL BE PRESENTED TO THE STATE
BOARD OF EDUCATION AT ITS REGULAR
MONTHLY MEETING ON
THURSDAY, SEPTEMBER 17, 1998.**

DEPARTMENT OF FINANCE

DIVISION OF REVENUE

STATE LOTTERY OFFICE

Statutory Authority: 29 Delaware Code,
Section 4805(a) (29 **Del.C.** 4805(a))

The Lottery proposes amendments to Regulations 5.2(2) and 7.9. The amendment to Regulation 5.2(2) would clarify that the maximum bet limit is \$25.00. The amendment to Regulation 7.9 would clarify that the redemption period for credits is one year.

The proposed regulations are amendments to the Lottery's existing Video Lottery Regulations. The Lottery proposes these amendments pursuant to 29 Del. C. section 4805(a).

The Lottery will accept written public comments from September 1, 1998 to September 30, 1998. Written comments should be submitted to Delaware State Lottery Office, 1575 McKee Road, Suite 102, Dover, DE 19904-1903, Attention: Director Wayne Lemons. The Lottery's phone number is (302) 739-5291.

Proposed Amendments to Video Lottery Regulations

5.2. All contracts with technology providers shall include without limitation, provisions to the following effect:

(2) the technology provider shall submit video lottery machine illustrations, schematics, block diagrams, circuit analysis, technical and operation manuals, program source code and object code and any other information requested by the Director for purposes of analyzing and testing the video lottery machines. A maximum of ~~Five Dollars (\$5)~~ Twenty Five Dollars (\$25) shall be permitted for wagering on a single play of any video game.

7.9 No credit slip shall be redeemed more than ~~one hundred and eighty (180) days~~ one (1) year from the date of issuance. No jackpot from a coin-in/coin-out machine shall be redeemed more than ~~one hundred eighty (180) days~~ one (1) year from the date on which the jackpot occurred. Funds reserved for the payment of a credit slip or expired unclaimed jackpot shall be treated as net proceeds if unredeemed ~~one hundred eighty one (181) days~~ one (1) year and one (1) day from the date of issuance of the credit slip or occurrence of the winning jackpot. The ~~one hundred and eighty day~~ one year redemption policy in this regulation shall be prominently displayed on the premises of the video lottery agent.

DEPARTMENT OF HEALTH & SOCIAL SERVICES

DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code,
Section 505 (31 Del.C. 505)

PUBLIC NOTICE

Medicaid / Medical Assistance Program

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and with 42CFR §447.205, and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 505, the Delaware Department of Health and Social Services (DHSS) / Division of Social Services / Medicaid Program is amending its DSSM eligibility manual(s).

REVISION:

Division of Social Services Eligibility Manual

The state rules in the Medicaid eligibility manual are being renumbered so that the citations are specific to the action taken.

Comments, written suggestions, compilations of data, testimony, briefs or other written materials concerning this change must be received by mail no later than October 1, 1998, at the Medicaid Administrative Office, Lewis Bldg., Herman M. Holloway, Sr. Health & Social Services Campus, 1901 N. DuPont Hwy., New Castle, DE 19720, attention Thelma Mayer. Materials filed thereafter will not be considered except where good cause for lateness is demonstrated. Copies of all written submissions filed with the Medicaid office will be available for public inspection in

the Medicaid Administrative Office at the address given above. Please call (302) 577-4880, extension 131, for an appointment if you wish to review the materials. Individuals with disabilities who wish to participate in these proceedings, or review the materials submitted, should contact the Division to discuss auxiliary aids or services needed to facilitate such review or participation. Such contact may be in person, in writing or by telephone by using the ~~Telecommunications Relay Service, or otherwise.~~

DIVISION OF SOCIAL SERVICES

Statutory Authority: Public Law 105 -185

The Delaware Health and Social Services, Division of Social Services, is proposing to implement policy changes to the Division of Social Services' Manual Section 9007.1. The changes arise from Public Law 105-185, the Agricultural Research, Extension, and Education Reform Act of 1998 (AREERA), which revise sections 401 through 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

COMMENT PERIOD

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to the Director, Division of Social Services, P. O. Box 906, New Castle, DE, by September 30, 1998.

SUMMARY OF PROPOSED REVISIONS:

- modifies alien eligibility provisions.

NATURE OF PROPOSED REVISIONS:

9007 Citizenship and Alien Status

[273.4]

9007.1 Citizens and qualified aliens

The following residents of the United States are eligible to participate in the Food Stamp Program without limitations based on their citizenship/alienage status:

1. Persons born in the 50 states and the District of Columbia, Puerto Rico, Guam, Virgin Islands, and the Northern Mariana Islands. Children born outside the United States are citizens if both parents are citizens;

2. Naturalized citizens;

3. ~~Aliens who are lawfully residing in any state and are:~~

The following aliens are eligible indefinitely:

- lawfully admitted for permanent residence (LPR) who can be credited with 40 quarters of work

(Beginning January 1, 1997, any quarter in which the alien received any Federal means-tested benefits does not count as a qualifying quarter.):

• military connection (veteran, active duty, spouse, and children) as defined below:

Aliens who are lawfully residing in any state and are:

a) Veterans honorably discharged for reasons other than alienage, and who fulfill the minimum active-duty service requirements of 24 months or the period for which the person was called to active duty, including military personnel who die during active duty service.

b) Individuals on active duty, other than active duty for training,

c) Spouses and/or any unmarried dependent children of #a or #b, and or the unremarried surviving spouse of an individual who is deceased if the marriage lasted for at least one year, or was married before the end of a 15-year time span following the end of the period of military service in which the injury or disease was incurred, or married for any period of time if a child was born of the marriage or was born before the marriage;

- lawfully in US on 8/22/96 and under 18 years of age;
- lawfully in US on 8/22/96 and disabled or blind;
- lawfully in US and 65 or older on 8/22/96.

~~4. Aliens residing in the U.S. before August 22, 1996, who are lawfully admitted for permanent residence and who have worked 40 qualifying quarters of coverage under Title II of the Social Security Act. Beginning January 1, 1997, any quarter in which the alien received any Federal means-tested benefits does not count as a qualifying quarter.~~

~~**Note:** For aliens entering the U.S. on or after August 22, 1996:~~

~~Aliens who are lawfully admitted to the U.S. for legal permanent residence on or after August 22, 1996, cannot participate in the Food Stamp Program for five years unless they have or can be credited with 40 quarters of coverage.~~

5.4. The following aliens are eligible to participate in the Food Stamp program with a five-year seven-year (7) time limit:

- refugees admitted under section 207 of the Act;
- asylees admitted and granted asylum under section 208 of the Act;
- aliens whose deportation has been withheld under section 241(b)(3) and 243 (h) of the Act.
- Cuban and Haitians admitted under section 501(e) of the Refugee Education Act of 1980; and
- Amerasians admitted under Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998.

The five-year seven -year (7) time limit begins from

the date they obtained their alien status.

~~6.5. A battered spouse or battered child, or parent or child of a battered person with a petition pending under 203(a)(1)(A) or (B) or 244(a)(3) of INA. Eligible if a veteran or on active duty in U.S. armed forces or spouse or unmarried dependent child of veteran or person on active duty. The nonabusive parent of a battered child and a child of a battered parent may be eligible.~~

6. The following aliens may be eligible even if they are not qualified aliens and may be eligible for an indefinite period of time:

- Certain Hmong or Highland Laotians, and spouse and children. Many are admitted as refugees.
- American Indians born in Canada to which section 289 of INA applies, and members of Indian tribe as defined in section 4(e) of Indian Self-Determination and Education Assistance Act. (Cross-border Indians)

DEPARTMENT OF STATE

OFFICE OF THE STATE BANKING

COMMISSIONER

Statutory Authority: 5 Delaware Code,
Section 121(b) (5 Del.C. 121(b))

The State Bank Commissioner proposes to adopt amended Regulation Nos. 5.2102(b)/2112.0001, 5.2210(d).0001, 5.2218/2231.0003, 5.2741.0001, 5.2743.0002, 5.2905(e)/122(b).0001 and 5.2905(e).0002. Proposed revised Regulations 5.2102(b)/2112.0001 ("Mortgage Loan Brokers Operating Regulations"), 5.2210(d).0001 ("Licensed Lenders Operating Regulations"), 5.2741.0001 ("Licensed Cashier of Checks, Drafts or Money Orders Operating Regulations") and 5.2905(e).0002 ("Motor Vehicle Sales Finance Companies Operating Regulations") are amended to require payment of examination fees and supervisory assessments in accordance with Senate Bill 44 ("SB 44"), signed by the Governor on April 23, 1997, and to make other technical and conforming changes. Proposed revised Regulation 5.2218/2231.0003 ("Licensed Lenders Regulations - Itemized Schedule of Charges") is amended to conform to revised statutory provisions for revolving and closed end credit, in accordance with SB 44, and to make other technical and conforming changes. Proposed revised Regulations 5.2743.0002 ("Licensed Cashier of Checks, Drafts, or Money Orders Posting of the Fee Schedule and Minimum Requirements for Content of Books and Records") and 5.2905(e)/122(b).0001 ("Motor Vehicle Sales Finance Companies Minimum

Requirements for Content of Books and Records") are amended to conform the required retention period for certain books and records to the retention periods required by Regulation 5.141.0001.NC ("Retention of Financial Institution Records"). In addition, Regulation 5.2905(e)/122(b).0001 is amended to delete unnecessary requirements. Proposed amended Regulation Nos. 5.2102(b)/2112.0001, 5.2210(d).0001, 5.2218/2231.0003, 5.2741.0001, 5.2743.0002, 5.2905(e)/122(b).0001 and 5.2905(e).0002 replace existing Regulation Nos. 5.2102(b)/2112.0001, 5.2210(d).0001, 5.2218(5)/2231(3).0003, 5.2741.0001.NC, 5.2743.0002.NC, 5.2905(e)/122(b).0001 and 5.2905(e).0002, respectively. Proposed amended Regulation Nos. 5.2102(b)/2112.0001, 5.2210(d).0001, 5.2218/2231.0003, 5.2741.0001, 5.2743.0002, 5.2905(e)/122(b).0001 and 5.2905(e).0002 would be adopted by the State Bank Commissioner on or after October 2, 1998. Other regulations issued by the State Bank Commissioner are not affected by these proposed amendments. These regulations are issued by the State Bank Commissioner in accordance with Title 5 of the Delaware Code.

Comments:

Copies of the proposed revised regulations are published in the Delaware Register of Regulations. Copies also are on file in the Office of the State Bank Commissioner, 555 E. Loockerman Street, Suite 210, Dover, Delaware 19901, and will be available for inspection during regular office hours. Copies are available upon request.

Interested parties are invited to comment or submit written suggestions, data, briefs or other materials to the Office of the State Bank Commissioner as to whether these proposed regulations should be adopted, rejected or modified. Written material submitted will be available for public inspection at the above address. Comments must be received by October 2, 1998.

Public Hearing:

A public hearing on the proposed revised regulations will be held in Room 113, Tatnall Building, William Penn Street, Dover, Delaware 19901, on Friday, October 2, 1998 at 10:00 a.m.

This notice is issued pursuant to the requirements of Subchapter III of Chapter 11 and Chapter 101 of Title 29 of the Delaware Code.

Regulation No.: 5.2102(b)/2112.0001
Proposed

Mortgage Loan Brokers Operating Regulations
(5 Del. C. §§2102(b) and 2112)

1. Application of Chapter

(a) Chapter 21 of Title 5 of the Delaware Code governs persons who broker extensions of credit secured by a first or second mortgage on any one-to-four family residential owner-occupied property intended for personal, family, or household purposes. Chapter 21 of Title 5 of the Delaware Code does not apply to the brokering of commercial mortgage loans, including a first or second mortgage on any income producing property that does not fall into the aforementioned definition.

(b) Mortgage loan brokers shall be termed "non-processing" or "originating" brokers if they neither:

1. Arrange for third party settlement services other than engaging a lender; nor
2. Receive fees paid directly from the potential borrower, prior to closing, in excess of \$50.00.

(c) For the purposes of §2102(b) of Title 5 of the Delaware Code, non-processing or originating brokers shall be exempt from the licensing requirements provided that they observe the following three requirements:

1. Register annually with the Office of the State Bank Commissioner as a non-processing or originating broker;
2. Advertise and disclose their status as a non-processing or originating broker; and
3. Observe the Minimum Disclosure Requirements contained in Commissioner's Regulation No. 5.2113.0004.

2. Maintenance of Copies of Applicable Regulations

All licensees shall conduct business in compliance with Chapter 21 of Title 5 of the Delaware Code, and all regulations issued thereunder. Each office licensed under Chapter 21 of Title 5 of the Delaware Code shall maintain copies of all applicable regulations. These regulations include:

- 5.2102(b)/2112.0001 - Mortgage Loan Brokers Operating Regulations;
- 5.2111(a).0002 - Mortgage Loan Brokers Minimum Requirements for Content of Books and Records;
- 5.2115.0003 - Mortgage Loan Brokers Itemized Schedule of Charges;
- 5.2113.0004 - Mortgage Loan Brokers Minimum Disclosure Requirements;
- 5.2111(b).0005 - Report of Delaware Loan Volume;
- 5.2111/2210/2906.0006 - Report of Delaware Assets; and
- 5.141.0001.NC - Retention of Financial Institution Records.

The manager and staff of each office shall familiarize themselves with all of the aforementioned regulations. The licensee shall inform the Office of the State Bank Commissioner if copies of the regulations are lost or misplaced and replacements will be furnished. Failure to maintain the aforementioned regulations shall constitute a violation of both §2111(a) of Title 5 of the Delaware Code and this regulation.

3. Fees for Examination and Supervisory Assessment

Mortgage Loan Broker licensees are subject to examination pursuant to §2110 of Title 5 of the Delaware Code. The costs of such examinations are assessed to the licensees in accordance with §127(a) of Title 5 of the Delaware Code. A licensee shall remit payment not later than 30 days after the date of the invoice for the fees for examination. In addition, the Commissioner assesses annually each licensee a supervisory assessment, due and payable on August 1 each year, as provided in §127(b) of Title 5 of the Delaware Code. Failure of a licensee to remit timely payment of the examination fee or supervisory assessment will result in a penalty of 0.05 percent for each day that the examination fee or supervisory assessment shall remain unpaid after the due date, as provided in §127(a) and §127(b) of Title 5 of the Delaware Code.

4. Representations at Mortgage Loan Closings

At no time shall a mortgage loan close in the name of the mortgage loan broker except for the sole purpose of satisfying requirements for VA government loans.

Document Control No.: _____

Regulation No.: 5.2210(d).0001

Proposed

Licensed Lenders Operating Regulations (5 Del. C. §2210(d))

1. Application of Chapter

Chapter 22 of Title 5 of the Delaware Code applies to consumer credit transactions, including, but not limited to, mortgage lending secured by one to four family residential, owner-occupied property intended for personal, family or household purposes.

2. Maintenance of Operating Regulations for Licensed Lenders

All licensees shall conduct business in compliance with

Chapter 22 of Title 5 of the Delaware Code. Each office licensed under Chapter 22 of Title 5 of the Delaware Code shall possess copies of all applicable regulations. These regulations include:

- 5.2210(d).0001 Licensed Lenders Operating Regulations;
- 5.2213.0002 Licensed Lenders Minimum Requirements for Content of Books and Records;
- 5.2218/2231.0003 Licensed Lenders Itemized Schedule of Charges;
- 5.2208.0004 Required Amount of Licensed Lender's Surety Bond or Irrevocable Letter of Credit;
- 5.2210(e).0005 Report of Delaware Loan Volume;
- 5.2111/2210/2906.0006 Report of Delaware Assets; and
- 5.141.0001.NC Retention of Financial Institution Records.

The manager and staff of each office shall familiarize themselves with all of the aforementioned regulations. The licensee shall inform the Office of the State Bank Commissioner if copies of the regulations are lost or misplaced and replacements will be furnished. Failure to maintain the aforementioned regulations shall constitute a violation of both §2213 of Title 5 of the Delaware Code and this regulation.

3. Fees for Examination and Supervisory Assessment

Licensed Lenders licensees are subject to examination pursuant to §2210 of Title 5 of the Delaware Code. The cost of such examinations are assessed to the licensees in accordance with §127(a) of Title 5 of the Delaware Code. A licensee shall remit payment not later than 30 days after the date of the invoice for the examination. In addition, the Commissioner annually assesses each licensee a supervisory assessment, due and payable on August 1 each year, as provided in §127(b) of Title 5 of the Delaware Code. Failure of a licensee to remit timely payment of this examination fee or supervisory assessment will result in a penalty of 0.05 percent for each day that the examination fee or supervisory assessment shall remain unpaid after the due date, as provided in §127(a) and §127(b) of Title 5 of the Delaware Code.

4. Mortgage Satisfaction/Security Interest

A licensee shall cause an entry of the satisfaction or performance of a debt or duty secured by a mortgage or conveyance in the nature of a mortgage on real estate to be made as required by Chapter 21 of Title 25 of the Delaware Code. A licensee shall take the necessary action(s) to

discharge or release any other security interest for loans under Chapter 22 of Title 5 of the Delaware Code within sixty days from the date the debt secured by such other collateral or security interest is satisfied or performed. Failure of a licensee to take such action within the period prescribed will be a violation of this regulation.

5. Principal Reduction

No loan shall be made under the provisions of this Chapter that does not allow for a reduction of principal over the term of the loan unless it is a product available through federal governmental or quasi-governmental entities.

6. Credit Life and Credit Health Insurance

(a) Any lender may offer credit life and health insurance to qualified borrowers. Such insurance transactions shall conform to all statutes of the Insurance Code of the State of Delaware as well as rules and regulations that the Insurance Commissioner may prescribe from time to time.

(b) Every lender offering credit life and health insurance whose charges do not conform to those authorized in the Insurance Commissioner's Regulation No. 5 shall maintain in each office a copy of a letter filed with the Insurance Commissioner requesting the deviated rate as well as approval by the Insurance Commissioner of the rate.

(c) Credit life insurance refunds shall be calculated as of the date of death.

(d) Credit health insurance payments received by the lender shall be applied to the account for the period the payment actually covers regardless of the date of receipt. Additional interest charges shall not accrue should payment be received after the payment due date.

(e) The Office of the State Bank Commissioner shall provide a copy of the Insurance Commissioner's Regulation No. 5 and any subsequent applicable regulations promulgated to each licensee.

7. Other Insurance

(a) Any lender may require proof of insurance coverage for any loan secured by a motor vehicle, real property (real estate), or other collateral. Borrower has the right to submit any existing policy(s) naming lender as beneficiary as his/her interest may appear, provided such policy is acceptable to the lender as to coverage, prepaid term and the carrier meets required financial standards. Upon notification to the lender of cancellation of any policy for non-payment, lender may place coverage to secure his/her interest. Borrower shall be informed of such placement and any amount expended shall be due and payable by the borrower before a loan may be satisfied. Any lender may, if

requested by the borrower, place such insurance coverage as is necessary to secure his/her interest at the inception of the loan.

(b) A licensee may offer, but not require, such other insurance products as the State Bank Commissioner may, upon written approval, permit. No such insurance may be offered without the State Bank Commissioner's written approval.

8. Borrower-Signed Authorization for Insurance

Any insurance authorized by this regulation, other than the insurance coverage authorized by section 7(a) of this regulation, must be supported by a specific request signed by the borrower. This request shall be attached to or made a part of the application documents.

9. Purchase or Sale of Accounts by Licensed Lenders

(a) A licensee shall not sell or otherwise transfer contracts to any person or corporation not licensed under Chapter 22 of Title 5 of the Delaware Code, except at the discretion of the State Bank Commissioner.

(b) Purchasers shall be limited to collecting balances due under the existing contract terms and shall be bound by applicable Delaware laws regarding legal fees and usury statutes if a loan is subsequently refinanced.

(c) This section shall not apply to:

(1) The purchase or transfer of loan contracts between licensees under the same management or control;

(2) The sale or transfer of a loan contract to an out-of-state affiliate for collection or for the convenience of a consumer;

(3) The transfer of a loan contract by a licensee to any maker or person secondarily liable on the contract; and,

(4) The sale of a participation or a whole loan to a federal, state, or local government agency, or to a federal or state regulated bank, savings and loan association, mortgage banking company, insurance company or investment banking firm or their subsidiaries.

10. Origination of Mortgage Loans for Resale

Solely for the purposes of the loan limitation provisions contained in the last sentence of Section 2228(a) of Title 5 of the Delaware Code, the term "loans" shall not be deemed to include loans secured by mortgages on real property located in this state (or secured by certificates of stock or other evidence of ownership interest in, and proprietary leases from corporations or partnerships formed for the purpose of cooperative ownership of real estate in this State) if such loans are originated by a licensee for resale and the licensee in fact sells, assigns or otherwise conveys its entire interest in the loan (except servicing if servicing is retained) within

120 days following the date the loan is made. Additional time may be granted at the discretion of the State Bank Commissioner.

Document Control No.:

Regulation No. 5.2218/2231.0003

Proposed

Licensed Lenders Regulations
Itemized Schedule of Charges
(5 Del. C. §§2218 and 2231)

1. Notification - Every licensee shall make available for review to every applicant, a copy of this regulation at the time when such application is made. Posting of this regulation in the office of the licensee in a place both prominent and easily visible to all potential applicants shall satisfy this requirement.

2. Interest

(a) A lender may charge and collect interest in respect to a loan at such a daily, weekly, monthly, annual, or other periodic percentage rate or rates (variable) as the agreement governing the loan provides, or as established in the manner provided in such agreement.

(b) If the agreement governing the loan so provides, the periodic percentage rate or rates of interest charged and collected in respect of the loan may, if the interest is not precomputed and taken in advance, vary in accordance with a schedule or formula. Such periodic percentage rate or rates may vary from time to time as the rate determined in accordance with such schedule or formula varies and such periodic percentage rate or rates, as so varied, may be made applicable to any or all outstanding and unpaid amounts of such loan.

3. Additional Fees and Charges; Limitations - In addition to, or in lieu of, interest at a periodic percentage rate or rates permitted by Chapter 22, Title 5 of the Delaware Code, the licensee may charge and collect the following fees and charges, subject to the limitations provided below, in respect to loans:

(a) Revolving Credit - with respect to a borrower, a lender may charge, collect, or receive one or more of the following charges for loans subject to the provisions of Subchapter II, Chapter 22, Title 5 of the Delaware Code:

(i) periodic charge - a daily, weekly, monthly, annual or other periodic charge, in such amount or amounts as the agreement may provide, for the privileges made available to the borrower under the plan;

(ii) transaction charge - a transaction charge or charges, in such amount or amounts as the agreement may

provide, for each separate purchase or loan under the plan;

(iii) minimum charge - a minimum charge, in such amount or amounts as the agreement may provide, for each daily, weekly, monthly, annual or other scheduled billing period under the plan during any portion of which there is an outstanding unpaid indebtedness under the plan;

(iv) fees for services rendered or reimbursement of expenses - reasonable fees for services rendered or for reimbursement of expenses incurred in good faith by the licensee or its agent in connection with such loan, including without limitation, commitment fees, official fees and taxes, premiums or other charges for any guarantee or insurance protecting the licensee against the borrowers default or other credit loss, inspection, and other formal acts necessary or appropriate to the security of the loan, filing fees, attorney's fees, and travel expenses.

(v) overlimit charge - a charge in such amount or amounts as the agreement may provide, for each daily, weekly, monthly, annual or other scheduled billing period under the plan during any portion of which total outstanding indebtedness exceeds the credit limit established under the plan.

(vi) delinquency charge - if the agreement governing a revolving credit plan so provides, a licensee may impose a late or delinquency charge upon such installment payments or portions thereof; provided, however, that no more than one such late or delinquency charge may be imposed in respect of any single such installment payment or portion thereof regardless of the period during which it remains in default; and provided further, however, that for the purpose only of the preceding provision all payments by the borrower shall be deemed to be applied to satisfaction of installment payments in the order in which they become due.

(vii) bad check charge - a bad check charge may be assessed to consumers, in such amount or amounts as the agreement may provide, provided the amount(s) of such charges are reasonable.

(viii) charges incurred in connection with real estate secured transactions - in the case of revolving credit secured by real estate such additional charges as outlined in item (c) of this section may also be collected within the limitations stated therein.

(ix) prepayment charges imposed to terminate a revolving credit plan if the agreement governing the plan so provides.

(b) Closed-end Credit - with respect to a borrower, a lender may charge, collect, or receive one or more of the following fees for loans subject to the provisions of Subchapter III, Chapter 22, Title 5 of the Delaware Code:

(i) fees for services rendered or reimbursement of expenses - reasonable fees for services rendered or for reimbursement of expenses incurred in good faith by the licensee or its agent in connection with such loan, including

without limitation, commitment fees, official fees and taxes, premiums or other charges for any guarantee or insurance protecting the licensee against the borrowers default or other credit loss, inspection, and other formal acts necessary or appropriate to the security of the loan filing fees, attorney's fees, and travel expenses.

(ii) delinquency charge - if the agreement governing the loan so provides, a delinquency charge may be imposed upon any installment which is completely or partially in default; provided, however, that no more than 1 such delinquency charge may be imposed in respect of any single such installment payment or portion thereof regardless of the period during which it remains in default; and provided further that no such delinquency charge may exceed 5% of the amount of any such installment or portion thereof in default;

(iii) bad check charge - a bad check charge may be assessed to consumers, provided the amount(s) of such charges are reasonable.

(iv) charges incurred in connection with real estate secured transactions - in the case of closed-end credit secured by real estate such additional charges as outlined in item (c) of this section may also be collected within the limitations stated therein.

(c) Real Estate Secured Transactions - with respect to a borrower, a lender may charge, collect, or receive one or more of the following fees subject to the limitations herein, for loans subject to the provisions of Subchapters II (Revolving Credit) and III (Closed-End Credit), Chapter 22, Title 5 of the Delaware Code when such loans are secured by real estate:

(i) points - points charged to the borrower may not exceed 10% of the principal amount of the loan. Such points may be deducted from the gross proceeds of the loan. For purposes of this regulation "gross proceeds" is the amount financed as defined in Federal Reserve Regulation Z. Upon prepayment, points are not subject to rebate;

(ii) property appraisal fees - property appraisal fees shall be limited to the amount paid to a third party for such appraisal and shall be limited to those amounts meeting reasonable industry standards;

(iii) mortgage loan broker fees - mortgage loan broker fees incurred by the applicant may be utilized as a portion of the gross proceeds of the loan;

(iv) credit report fees - credit report fees shall be limited to the actual cost of the report if paid to a third party, not an employee of the lender or affiliate;

(v) title insurance premiums - title insurance and/or cost of a title certificate or examination shall be limited to those amounts actually expended by the lender for such purposes. Any such fees or charges collected, but not paid out by the lender, shall be refunded to the borrower;

(vi) recording/satisfaction fees - recording/satisfaction fees shall be limited to those actually expended

by the lender to any governmental authority for protection of interest in collateral tendered. The State Bank Commissioner may approve the payment of alternative fees for this purpose provided the amount of said fee (payable by the borrower) shall not exceed the amount which would be payable to any governmental authority for protection of interest in collateral tendered;

(vii) legal fees - other legal fees incurred in securing a loan shall be limited to amounts actually paid to an attorney not in the employ of the Company, its Parent, or Affiliate, and such charges shall not exceed those which are customary and reasonable;

(viii) fees incidental to loan closing - other fees such as closing fees, document preparation fees and tax services may be charged as incurred by the lender. Such other fees shall be limited to the amounts actually paid or incurred, and shall conform to customary and reasonable industry standards.

(ix) prepayment penalties or other charges specified in the agreement.

(x) notwithstanding the provisions of this item (c) of this section, Licensed Lenders who are making mortgage loans pursuant to the rules, regulations, guidelines and/or loan forms established by the State of Delaware or federal governmental or quasi-governmental entity (including, without limitation, the Government National Mortgage Association, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation) shall be permitted to charge and collect any fees, charges or sums prescribed to be charged and collected in connection with a mortgage loan originated pursuant to a lending program conducted or supervised by any such entity.

Document Control No.:

Regulation No.: 5.2741.0001

Proposed

Licensed Cashier of Checks, Drafts, or Money Orders
Operating Regulations
(5 Del. C. §2741)

1. Maintenance of Operating Regulations for Licensed Cashier of Checks, Drafts or Money Orders

All licensees shall conduct business in compliance with Chapter 27, Title 5, Delaware Code, and any regulations issued thereunder. Each office licensed under Chapter 27, Title 5, Delaware Code, shall possess copies of all applicable regulations. These regulations include:

- 5.2741.0001 - Licensed Cashier of Checks, Drafts, or Money Orders Operating Regulations

- 5.2743.0002 - Licensed Cashier of Checks, Drafts, or Money Orders Posting of the Fee Schedule and Minimum Requirements for Content of Books and Records
- 5.141.0001.NC - Retention of Financial Institution Records

The manager and staff of each office shall familiarize themselves with said regulations. Loss or misplacement of regulation shall be made known to the Office of the State Bank Commissioner and replacements will be furnished. Failure to maintain the aforementioned regulations shall constitute a violation of both 5 Del. C. §2743 and this regulation.

2. Examination and Supervisory Assessment Fees

Cashing of Checks, Drafts, and Money Order licensees shall be subject to examination pursuant to §122 of Title 5 of the Delaware Code. The cost of such examinations shall be assessed to the licensee in accordance with §127(a) of Title 5 of the Delaware Code. A licensee shall remit payment not later than 30 days after the date of the invoice for the fees for examination. In addition, the Commissioner shall assess annually each licensee a supervisory assessment, due and payable on August 1 of each year, as provided in §127(b) of Title 5 of the Delaware Code. Failure of a licensee to remit timely payment of the examination fee or supervisory assessment will result in a penalty of 0.05 percent for each day that the examination fee or supervisory assessment shall remain unpaid after the due date, as provided in §127(a) and §127(b) of Title 5 of the Delaware Code.

Document Control No.:

Regulation No.: 5.2743.0002
Proposed

Licensed Cashier of Checks, Drafts, or Money Orders
Posting of the Fee Schedule and Minimum Requirements for
Content of Books and Records
(5 Del. C. §2743)

1. The fee schedule set forth in §2742 of Title 5 of the Delaware Code shall be conspicuously displayed in a place easily visible to consumers at the licensed location, whether such location be a mobile unit or otherwise.
2. Each licensed office shall establish and maintain the following books and records, on a current basis, at the licensed office. Written approval may be granted for variations which accommodate individual accounting systems, including automated and electronic record

processing systems, provided the objectives of this regulation are fulfilled. Requests for such approvals must be in writing and shall provide adequate information about the system as to ensure that the minimum record requirements are satisfied and provide the required data on a current and readily available basis to examiners, when requested:

a. Transactions Journal - All transactions involving the cashing of checks, drafts, or money orders shall be entered into this journal. All entries in this journal shall contain the following details:

1. Date of transaction;
2. Customer's name;
3. Customer's address;
4. Type of identification;
5. Check, Draft, or Money Order and Item Number;
6. Amount of item;
7. Fee paid;
8. Employee's initials.

Written approval may be granted for the recording of items #2, #3, and #4 in a card file which assigns an identification number to each customer. The identification number may then be recorded in the Transactions Journal in lieu of the customer's name, address, and form of identification.

b. Record of Deposits - A copy of each day's deposit made of the checks, drafts, and money orders cashed shall be maintained.

c. Summary of Business - A record of daily and monthly totals shall be maintained, to include:

1. The number of checks, drafts, and money orders cashed;
2. The aggregate fees received.

d. Any licensee operating two or more locations may maintain a consolidated or combined set of books and records, provided such books and records reflect separate figures for each location.

Document Control No.:

Regulation No.: 5.2905(e)/122(b).0001
Proposed

Motor Vehicle Sales Finance Companies
Minimum Requirements for Content of Books and Records
(5 Del. C. §§122(b) 2905(e))

Each licensed office shall establish and maintain the following books and records, on a current basis, either at the office of the licensed broker, or, at a suitable location available within a reasonable time period, upon request. Written approval may be granted for variations which

accommodate individual accounting systems, including automated and electronic record processing systems, provided the objectives of this regulation are fulfilled. Requests for such approvals must be in writing and shall provide adequate information about the system as to ensure that the minimum record requirements are satisfied and provide the required data on a current and readily available basis to examiners, when requested.

(1) Retail Installment Contract Applicant Register - This shall be a record showing the name of the applicant, identifying file number, date application was filed, name of lender, date of commitment, amount of lender's fee, and date fee was paid. In the case of an applicant denied credit, the register shall contain the name of the applicant, identification number, date application was filed, date application was denied and reason for denial.

(2) Individual Accounts with Borrowers - A record shall be kept for each borrower and shall include the following:

- (a) Name and address of the borrower;
- (b) Loan number;
- (c) Date of loan;
- (d) Total amount of loan;
- (e) Total sale price;
- (f) Rate of interest charges and the amounts of all charges;
- (g) Terms of repayment;
- (h) Description of motor vehicle;
- (i) Where and to whom hypothecated;
- (j) Names of endorsers, comakers, guarantors, or sureties;
- (k) The actual date of receipt of payment of principal and charges; and,
- (l) Name of assignee or purchaser of retail installment contract.

(3) File of All Original Paper - (or copies thereof). All obligations and disclosure forms signed by the borrower and taken in connection with loans made shall bear the loan number, shall be maintained in one file, and shall be made available to the examiners when requested. Such file, if applicable, shall include evidence that a retained title or lien was released within the time period prescribed in Motor Vehicle Sales Finance Regulation No. 5.2905(e).0002, Item (4).

(4) Daily Transaction Record - All transactions involving either the receipt or disbursement of any amount whatsoever shall be entered in this record. Details of disbursements to, or for, the account of borrowers shall be itemized.

(5) Record of Loans in Litigation and Repossessions - A record of all loans in litigation, repossessions, or voluntary surrenders shall be maintained either on the borrower's account record or a litigation record. If a composite record of such loans is not kept, the loans shall be maintained in a

separate litigation and repossession file. The litigation and repossession record shall disclose the following information:

- (a) Loan number, original amount of loan and unpaid balance;
- (b) Description of motor vehicle, attached, replevined, repossessed, or surrendered;
- (c) Date and terms of settlement of account or, if after judgement, the date and amount of judgement, prejudgement balance, current balance, unearned charges credited to borrower's account, and legal costs;
- (d) Evidence of the terms of sale if the security was sold after repossession, such evidence including copies of all bids or other offers received together with the purchaser's name and address, price, date of sale and cash or financing terms.
- (e) Evidence that notification of the time and place of sale was sent to the borrower;
- (f) Evidence of amount paid, if any, to third party repossessors; and,
- (g) Records of litigation accounts handled by attorneys or corporate collection centers shall be maintained in the existing (principal or branch) office and should reflect a correct current balance.

(6) Credit Insurance Claims Register - A credit insurance claims register or file which is a record of all claims submitted by borrowers to the insurer shall disclose the following:

- (a) Date of claim;
- (b) Amount of claim;
- (c) Date and amount of payment by insurer or the date of rejection and the reason therefor;
- (d) Borrower's name;
- (e) Loan number;
- (f) Reason for claim (i.e. death, illness, etc.);
- (g) Proof of death;
- (h) A copy of the check(s) issued by the insurance company in payment of life, accident, health, or accident and health benefits; and,
- (i) A copy of the check(s) issued by the insurance company, or other evidence of credit, which result from prepayment of the loan or cancellation of the insurance.

(7) In the event a loan is sold and no servicing performed, only those items listed in item 6 available prior to such sale shall be required.

Document Control No.:

Regulation No.: 5.2905(e).0002
Proposed

Motor Vehicle Sales Finance Companies Operating
Regulations
(5 Del. C. §2905(e))

1. Application of Chapter

(a) Lease Contracts

(i) A lease contract is governed by Chapter 29 of Title 5 of the Delaware Code, when all of the following exist:

(1) The lessee contracts to pay a sum substantially equivalent or in excess of the value of the motor vehicle for the use of the motor vehicle over the lease term.

(2) The lessee is bound to become, or has the option of becoming, the owner of the motor vehicle at some time during, or at the expiration of, the lease contract.

(3) The value for which the motor vehicle is to be sold at the end of the lease term is not payable in a single installment (Cash Sale).

(ii) A lease contract is not governed by Chapter 29 of Title 5 of the Delaware Code, when any one of the contract provisions described in 1.(a) (i), (1), (2), and (3) is absent.

(b) For the purposes of Chapter 29 of Title 5 of the Delaware Code, all 'motor vehicles' which meet the definition contained in 5 Del. C. §2901(1), regardless of whether the intended use is commercial or personal, fall under the auspices of this chapter.

2. Maintenance of Operating Regulations for Motor Vehicle Sales Finance Companies

All licensees shall conduct business in compliance with Chapter 29 of Title 5 of the Delaware Code, and any regulations issued thereunder. Each office licensed under Chapter 29 of Title 5 of the Delaware Code shall possess copies of all applicable regulations. These regulations include:

- 5.2905(e)/122(b).0001 - Motor Vehicle Sales Finance Companies Minimum Requirements for Content of Books and Records;
- 5.2905(e).0002 - Motor Vehicle Sales Finance Companies Operating Regulations;
- 5.2906(e).0003. - Report of Delaware Loan Volume Motor Vehicle Installment Contracts;
- 5.2111/2210/2906.0006 - Report of Delaware Assets; and
- 5.141.0001.NC - Retention of Financial Institution Records.

The manager and staff of each office shall familiarize themselves with said regulations. Loss or misplacement of regulations shall be made known to the Office of the State Bank Commissioner and replacements will be furnished. Failure to maintain the aforementioned regulations shall constitute a violation of both 5 Del. C. §2905(e) and this

regulation.

3. Examination and Supervisory Assessment Fees

Motor Vehicle Sales Finance Companies licensees shall be subject to examination pursuant to §122 of Title 5 of the Delaware Code. The cost of such examinations shall be assessed to the licensee in accordance with 5 Del. C. §127(a). A licensee shall remit payment not later than 30 days after the date of the invoice for the fees for the examination. In addition, the Commissioner shall assess annually each licensee a supervisory assessment fee, due and payable on August 1 of each year, as provided in 5 Del. C. §127(b). Failure of a licensee to remit timely payment of the examination fee or supervisory assessment will result in a penalty of 0.05 percent for each day that the examination fee or supervisory assessment shall remain unpaid after the due date, as provided in §127(a) and §127(b) of Title 5 of the Delaware Code.

4. Security Interest

A licensee shall take the necessary action(s), to release or satisfy a retained title or a lien created by a retail installment contract, within thirty days of the date the debt secured by the motor vehicle is satisfied or performed.

5. Credit Life, Health, and Accident Insurance

(a) A licensee may request, but not require, an individual borrower to be insured under a life, health, accident, health and accident, or other credit or other permissible insurance policy, whether group or individual.

(b) Any lender may offer credit life and health insurance to qualified borrowers. Such insurance transactions shall conform to all statutes of the Insurance Code of the State of Delaware, as well as rules and regulations of the Insurance Commissioner, as may from time to time be prescribed.

(c) Every lender offering credit life and health insurance, whose charges do not conform to those authorized in the Insurance Commissioner's Regulation No. 5, shall maintain in each office a copy of a letter filed with the Insurance Commissioner requesting the deviated rate, as well as approval by the Insurance Commissioner of the rate.

(d) Credit life insurance refunds shall be calculated as of the date of death.

(e) Credit health insurance payments received by the lender shall be applied to the account for the period the payment actually covers, regardless of the date of receipt. Additional interest charges shall not accrue should payment be received after the payment due date.

(f) The Office of the State Bank Commissioner shall provide a copy of the Insurance Commissioner's Regulation No. 5, and any subsequent applicable regulations promulgated, to each licensee.

6. Other Insurance

(a) Any licensee may require a proof of insurance coverage for any loan secured by a motor vehicle.

(b) A licensee may offer, but not require, such other insurance products as the State Bank Commissioner may, upon written approval, permit. No such insurance may be offered, after January 1, 1992, without the State Bank Commissioner's written approval. Those insurances offered prior to January 1, 1992 shall not require written approval, provided such insurances were reported to the State Bank Commissioner before February 10, 1993.

7. Borrower-Signed Authorization for Insurance

Any insurance authorized by these Rules and Regulations must be supported by a specific request signed by the borrower. This request shall be attached to, or made a part of, the application documents.

Document Control No.:

Symbol Key

Roman type indicates the text existing prior to the regulation being promulgated. Underlined text indicates new text added at the time of the proposed action. Language which is ~~stricken~~ through indicates text being deleted. [**Bracketed Bold language**] indicates text added at the time the final order was issued. [~~Bracketed stricken through~~] indicates language deleted at the time the final order was issued.

Final Regulations

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

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

**DEPARTMENT OF
ADMINISTRATIVE SERVICES**

**DIVISION OF PROFESSIONAL REGULATION
DELAWARE BOARD OF EXAMINERS OF SPEECH/
LANGUAGE PATHOLOGISTS, AUDIOLOGISTS &
HEARING AID DISPENSERS**

Statutory Authority: 24 Delaware Code,
Section 3714(3) (24 Del.C. 3714(3))

A public hearing and meeting of the Board of Examiners of Speech/Language Pathology, Audiology and Hearing Aid Dispensers was held on July 22, 1998 after due notice and publicaion in the Delaware Register of Regulations to receive comments and consider the proposed changes in the Rules and Regulations attached hereto as Exhibit A.

I. Summary of the Evidence and Information Submitted

No correspondence or public comment was received.

II. Findings of Fact

1. The State Board of Examiners of Speech/Language Pathology, Audiology and Hearing Aid Dispensers finds that the Rules and Regulations should be updated as the practices evolve to achieve the legislative purpose of protecting the

public by assuring competency and ethical conduct of practitioners.

2. Changes are being made related to style and readability. They consist mainly of the resequencing of sections, the inclusion of a table of contents, and timelines to make the rules and regulations more user-friendly.

3. A change is being made in the evaluation of continuing education to provide flexibility in the number of credits given per college course.

III. Text

The text of the Rules and Regulations shall be in the form attached as Exhibit A.

IV. Order and Effective Date

Pursuant to powers vested in the State Board of Examiners of Speech/Language Pathologists, Audiologists & Hearing Aid Dispensers by 24 Del. C. Section 3714, the members hereby adopt the changes attached as Exhibit A to the Rules and Regulations to be effective 10 days following publication in the Delaware Register of Regulations.

So Ordered this 22nd day of July, 1998.

Andrea Lipchak, President

Kenneth Jones, Secretary

Marilyn Karam
James Tyler
Sheila Gorrafa
Jean Davison
Robert Hanrahan
Carmetah Murray
Charles Murrell

PUBLIC HEARING

No written comments were received during the comment period or at the July 31, 1998 public hearing. No members of the public attended the hearing.

FINDINGS OF FACT AND CONCLUSIONS

*** Please note that no changes were made to the regulation as originally proposed and published in the June 1998 issue of the Register at page 1850 (1:12 Del. R. 1850). Therefore, the final regulation is not being republished. Please refer to the June 1998 issue of the Register or contact the State Board of Examiners of Speech/Language Pathology, Audiology and Hearing Aid Dispensers.**

The Board concludes that its proposed Rule VI(2)(b), "Renewal of Licensure - Continuing Education" and Rule VI(2)(c), "Renewal of Licensure - Verification" should be adopted as noticed. Specifically, the Board finds that continuing education is an integral and necessary component of maintaining minimum standards of practitioner competency and of protecting the public from unsound counseling practices as mandated by 24 *Del. C.* § 3001.

The Board's authority to act and to adopt rules and regulations derives from the General Assembly. As a result, the Board's actions must be consistent with the power awarded it by the legislature and must have a rational relationship to the goals and policies expressed in the Board's enabling legislation. *Wilmington Country Club v. Delaware Liquor Commission*, Del.Supr., 91 A.2d 250 (1952). At the same time, the authority given to the Board through the legislative process should be interpreted to allow "the fullest accomplishment of the legislative intent or policy." *Atlantis I Condominium Association v. Bryson*, Del.Supr., 403 A.2d 711, 713 (1979). The grant of power includes the authority to do what is "reasonably necessary to execute [the] power or authority." *Id.*, citing *Kreshtool v. Delmarva Power and Light Co.*, Del.Super., 310 A.2d 649 (1973).

The "Policy and Objectives" of the Board, as enunciated by the General Assembly, include protecting the public from unsound counseling practices and maintaining minimum standards of *practitioner* competency. 24 *Del.C.* §3001. In doing this, the Board is required to "develop standards assuring professional competence" and to adopt rules and regulations. *Id.* Any regulation adopted by the Board must implement or clarify a specific part of the Board's enabling statute or be necessary for the Board to perform its duties. 24 *Del.C.* §3007(a)(1).

Section 3011 of the Board's enabling statute requires that licensees provide the Board with evidence that they meet the membership requirements of a national mental health certifying organization as a condition for license renewal; the Board takes notice that many of the certifying organizations listed in Section 3011 require continuing education hours as a condition of membership. Section 3015(a)(3)(c) of the statute allows the Board to impose education requirements on a licensee as a form of discipline. Both sections are an indication that the General Assembly recognized the value of continuing educational programs in advancing the public protection goals entrusted to the Board.

**DEPARTMENT OF
ADMINISTRATIVE SERVICES
DIVISION OF PROFESSIONAL REGULATION
DELAWARE BOARD OF PROFESSIONAL
COUNSELORS OF MENTAL HEALTH**

Statutory Authority: 24 Delaware Code Section
3007(a)(1) 24 Del.C. 3007(a)(1)

**ORDER ADOPTING REGULATION FOR CONTINUING
EDUCATION**

AND NOW, this 31 day of July, 1998, in accordance with 29 *Del.C.* §10118 and for the reasons stated hereinafter, the Board of Professional Counselors of Mental Health (hereinafter "the Board") enters this Order adopting Rules and Regulations.

NATURE OF THE PROCEEDINGS

Pursuant to due notice and to its authority under 24 *Del.C.* §3007, the Board proposed a new Regulation establishing continuing education requirements and reporting conditions as a condition for license renewal. The public hearing on the Board's proposal was scheduled for July 31, 1998. Notice of the public hearing was published in the Delaware *Register of Regulations* at 2:1 *Del. R.* 12-15 (July 1, 1998) and in two Delaware newspapers of general jurisdiction, *The News Journal* and *The Delaware State News*, all in accordance with 29 *Del.C.* §10115. The public hearing was held as noticed on July 31, 1998, and in accordance with 29 *Del.C.* §10117.

EVIDENCE AND INFORMATION SUBMITTED AT

This is consistent with the conclusion of the Delaware Superior Court that the General Assembly "intended to give the Board broad discretion in both licensing and in disciplining counselors." *Dowling v. Board of Professional Counselors of Mental Health*, Del.Super., C.A. No. 96A-02-13-RRC, Cooch, J. (Aug. 13, 1996).

Taken together, Sections 3001, 3007(a)(1), 3011(a) and 3015(a) demonstrate that the General Assembly expected the Board to adopt rules and regulations to assure that licensees maintain the skills and education necessary to continue as competent counselors. Requiring continuing education hours is a rational means of achieving this end, as shown by the legislature's endorsement of continuing education for other professions¹ and the continuing education required by the national certifying organizations named in Section 3011. As a result, the Board is presumptively acting within its statutory authority in adopting a continuing education requirement as a condition for renewal.

While the Board previously concluded that it lacked statutory authority to adopt a continuing education requirement,² further review and consideration of the Board's legislative grant compels the Board to conclude that the proposed regulations are critical to fulfilling its statutory purpose and objective and that the Board's adoption of these regulations is a necessary incidental power to its authority to develop standards assuring professional competence.

ORDER

NOW, THEREFORE, by unanimous vote of a quorum of the Board of Professional Counselors of Mental Health, IT IS HEREBY ORDERED that:

1. The proposed Rules and Regulations are approved and adopted in the exact text attached hereto as Exhibit "A."
2. The effective date of this Order is eleven (11) days from the date of its publication in the *Register of Regulations*, pursuant to 29 *Del. C.* § 10118(e).
3. The Board reserves the jurisdiction and authority to issue such other or further orders in this matter as may be necessary or proper.

BY ORDER OF THE BOARD OF PROFESSIONAL COUNSELORS OF MENTAL HEALTH:

Lori K. Sansbury, Board President
 Michael D. Betts, Board Vice-President
 Arnold J. Swygert, Board Member
 Susan Eichler, Board Member
 H. Davis Shockley, Board Member

¹ See, for example, Title 24 of the *Delaware Code*, Chapters 1 (Board of Accountancy), chapter 2 (Board of Landscape

Architects), chapter 5 (Board of Podiatry), chapter 7 (Board of Chiropractic), chapter 11 (Board of Dental Examiners), chapter 18 (Board of Plumbing Examiners), chapter 35 (Board of Examiners of Psychologists), chapter 39 (board of Clinical Social Work Examiners).

² See "Order Adopting Rules and Regulations" dated May 19, 1998, published at 1:12 *Del.R.* 1997.

*** Please note that no changes were made to the regulation as originally proposed and published in the July 1998 issue of the Register at page 12 (2:1 Del. R. 12). Therefore, the final regulation is not being republished. Please refer to the July 1998 issue of the Register or contact the Board of Professional Counselors of Mental Health.**

DEPARTMENT OF ADMINISTRATIVE SERVICES DIVISION OF PROFESSIONAL REGULATION DELAWARE COUNCIL ON REAL ESTATE APPRAISERS

Statutory Authority: 24 Delaware Code Section
 2934(a) (24 Del.C. 2934(a))

A public hearing and meeting of the Delaware Council on Real Estate Appraisers was held on March 17, 1998 and on July 21, 1998 after due notice and publication in the Delaware Register of Regulations to receive comments and consider the proposed changes in the Rules and Regulations attached hereto as Exhibit A.

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

At the public hearing the following members of the public spoke and a summary of the comments follow:

1. On March 17, 1998 Earl H. Loomis expressed concerns about the requirements for trainees. (Rule 4.02) He believes the excessive hours would deter hiring trainees by supervising appraisers who don't want to commit to the inspections required under the proposed rules. Mr. Loomis also suggested a rule to address the license number in advertising. (Rule 4.06) Finally, approved continuing education, in his opinion, should not have an expiration date or requirement for resubmission of the same material. (Rule 2.03)

The following correspondence was received as written comment and is incorporated herein:

1. Memorandum dated March 17, 1998 from Earl H. Loomis, SRA, CRP. (Exh. B)

No additional verbal or written comment was received for the hearing on July 21, 1998.

II. FINDINGS OF FACT

1. The Council on Real Estate Appraisers finds that the Rules and Regulations should be updated as the practice evolves to achieve the legislative purpose of protecting the public by promoting competition and maintaining competency in the industry.

2. Adding a table of contents makes the document more "user friendly."

3. Items in the rules have been made consistent with the State statute and related federal law to promote clarity and uniformity.

4. When reference is made to requirements or procedure under state or federal law, it is unnecessary to repeat the specific language since any change in the law would then trigger a need to change the rule.

5. The required 250 hours of supervision of a trainee is necessary to insure competence. Two hundred and fifty hours of supervision does not relate solely to the time spent inspecting but rather the entire appraisal process.

6. The license number is required on the signed report consistent with USPAP requirements and that is sufficient to inform the public. The number is also available from the Division of Professional Regulation.

7. The courses offered for continuing education are reviewed biennially to maintain the quality of the programs. The guidelines for Board approval of continuing education are available from the Division of Professional Regulation..

III. TEXT

The text of the Rules and Regulations shall be in the form attached as Exhibit A.

IV. ORDER AND EFFECTIVE DATE

Pursuant to the powers vested in the Council on Real Estate Appraisers by 24 Del. C. Section 2934, the members hereby adopt the changes attached as Exhibit A to the Rules and Regulations to be effective 10 days following publication in the Delaware Register of Regulations.

SO ORDERED this 21st day of July, 1998.

Philip McGinnis, President
Douglas A. Moore
William J. Tansey
Lawrence Nicholson
Charles Brown
Lynn Perrine-Manus
Joyce R. Teis
Robert Merritt

*** Please note that no changes were made to the regulation as originally proposed and published in the February 1998 issue of the Register at page 1172 (1:8 Del. R. 12). Therefore, the final regulation is not being republished. Please refer to the February 1998 issue of the Register or contact the Delaware Council on Real Estate Appraisers.**

DEPARTMENT OF AGRICULTURE

DELAWARE THOROUGHBRED RACING

COMMISSION

Statutory Authority: 3 Delaware Code,
Section 10103, 10128(m)(1) (3 Del.C. 10103,
10128(m)(1))

BEFORE THE DELAWARE THOROUGHBRED
RACING COMMISSION
IN RE: PROPOSED RULES AND REGULATIONS
ORDER

Pursuant to 29 Del.C. section 10118, the Delaware Thoroughbred Racing Commission ("Commission") hereby issues this Order promulgating the proposed Rule 13.19 of the Commission's Rules. Following notice and a public hearing held on July 21, 1998, the Commission makes the following findings and conclusions:

SUMMARY OF EVIDENCE AND INFORMATION SUBMITTED

1. The Commission posted public notice of the proposed Rule 13.19 in the Register of Regulations and in the News-Journal and Delaware State News. The Commission received no written comments from the public concerning the proposed regulation.

2. The Commission conducted a public hearing on the proposed Rule amendments on July 21, 1998. Pete Alexander stated that the majority of the horsemen were in favor of the proposed rule although there was a vocal minority opposing the rule. Wally Nielson stated that the proposed rule was the fairest proposal for change in the claiming rules. William Fasy spoke on behalf of Delaware Park. Mr. Fasy stated that the Park took no official position on the proposed rule. However, the Park had received complaints from out-of-state trainers about possibly changing the claiming rules in the middle of the race season.

FINDINGS OF FACT

3. The public was given notice and an opportunity to

provide the Commission with comments in writing and by oral testimony on the proposed Rule 13.19. The evidence received by the Commission is summarized in paragraphs #2.

4. The Commission has considered the comments elicited from the public in the final draft of the rule. The proposed Rule 13.19 would require that the owner of a claimed horse could not race that horse for less than the claimed price for a thirty day period. The Commission finds this rule is necessary to ensure that claimed horses are not dropped down in class immediately after being claimed. The proposed rule is consistent with the intent of the Commission's rules and allows for flexibility in the claiming procedures. The Commission finds that the proposed rule is necessary to comply with the statutory authority of the Commission under 3 Del. C. section 10103 to regulate the conduct of participants in thoroughbred racing and for the effective enforcement of 3 Del. Code chapter 101.

CONCLUSIONS

5. The proposed Rule 13.19 was promulgated by the Commission in accord with its statutory duties and authority as set forth in 3 Del. C. section 10103. The Commission deems this rule amendment necessary for the effective enforcement of 3 Del. C. chapter 101 and for the full and efficient performance of its duties thereunder.

6. The Commission concludes that the adoption of the proposed Rule 13.19 would be in the best interests of the citizens of the State of Delaware and necessary to insure the integrity and security of the conduct of thoroughbred racing in the State of Delaware.

7. The Commission, therefore, adopts the proposed Rule 13.19 pursuant to 3 Del.C. section 10103 and 29 Del.C. section 10113. The Commission has considered the comments and suggestions made by the witnesses at the public hearing.

The adopted Rule 13.19 now provides as follows:

13.19 Racing Claimed Horse

No horse claimed in a claiming race shall be raced in another claiming race for an amount less than the original claiming price for a period of thirty (30) days after the date of the original claim.

8. The effective date of this Order shall be ten (10) days from the date of publication of this order in the Register of Regulations on September 1, 1998.

Bernard Daney, Chairman
Duncan Patterson, Commissioner
Deborah Killeen, Commissioner

DEPARTMENT OF EDUCATION

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

BEFORE THE DEPARTMENT OF EDUCATION
OF THE STATE OF DELAWARE
REGULATORY IMPLEMENTING ORDER

COMPREHENSIVE SCHOOL DISCIPLINE PROGRAM

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

The Secretary seeks to amend the regulations entitled Comprehensive School Discipline Improvement Program. These regulations are found in a document entitled Comprehensive School Discipline Improvement, Regulations Governing Alternative and Intervention Programs, which is located in Appendix G of the Handbook for K-12 Education. There is also a reference to Appendix G and to these programs in the Handbook for K-12 Education, page A-3, Section I.B.5. These regulations were developed as required by 14 Del. C., Chapter 16, Sections 1601 to 1607, Comprehensive School Discipline Improvement Program. The Code defines three programs available to school districts. They include Alternative Settings for Disruptive Students, School Based Intervention Programs and Prevention Programs. The first two programs are administered and regulated by the Department of Education, the third is co-administered by the Family Services Cabinet Council, the Department of Services for Children Youth and Their Families, and the Department of Education. In reviewing the DOE regulations for these programs the materials presented in the first section, Alternative Settings for Disruptive Students, contain nine DOE regulations which need to be amended and readopted. The other section in the DOE regulations, School Based Intervention Programs, does not contain any DOE regulations since the materials in this section are simply a repeat of information which is in the Code or is technical assistance. The Department of Education did not regulate or provide technical assistance in this document for the third program, Prevention Programs, described in the Code. The nine regulations for the Alternative Settings For Disruptive Students Program include regulations on the following: Population to be Served, Non-referral of Students, Informing the Legal Guardian, Age/Grade Level to be Served, Placement in Alternative Programs, September 30th Enrollment Count, Alternative Program Setting, Alternative Program Design and Staffing.

Notice of the proposed regulation was published in the News Journal and the Delaware State News on June 12, 1998, in the form hereto attached as Exhibit A. The notice

invited written comments and none were received as a result of the newspaper advertisements.

II. FINDINGS OF FACT

The Secretary finds that it is necessary to amend these regulations because they were not separated out from the technical assistance in the document entitled "Comprehensive School Improvement Program, Regulations Concerning Alternative Intervention Programs", and in some cases were not clearly stated as required elements of the program. The amended nine regulations now can stand apart from the technical assistance.

III. DECISION TO AMEND THE REGULATIONS

For the foregoing reasons, the Secretary concludes that the proposed amendments are necessary. Therefore, pursuant to 14 Del. C., Sec. 122, the amended regulations attached hereto as Exhibit B are hereby adopted. Pursuant to the provisions of 14 Delaware Code, Section 122(e), the amended regulations hereby adopted 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 the amended regulations adopted hereby shall be in the form attached hereto as Exhibit B, and said amended regulations shall be placed in the document entitled the Regulations of the Department of Education.

V. EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the Secretary pursuant to 14 Del. C., Sec. 122, and to Chapter 16, Section 1604. 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 this 20th day of August, 1998.

DEPARTMENT OF EDUCATION

Dr. Iris T. Metts, Secretary of Education

AS AMENDED

REGULATIONS FOR TREATMENT OF SEVERE DISCIPLINE PROBLEMS COMPONENT (14 DEL. C., SECTION 1604) OF CHAPTER 16 COMPREHENSIVE SCHOOL DISCIPLINE IMPROVEMENT PROGRAM

1. Population to be Served

Except as otherwise provided herein, all students who are expelled by a local school district **[or are in danger of being expelled]** shall be placed in the alternative program unless the student is expelled for an offense equivalent to a violation of one of the following: 11 Del. C., Sec. 613 (Assault in the First Degree); or 11 Del. C., Sec. 1457 (Possession of a Weapon in a Safe School and Recreation Zone); or 11 Del. C., Sec. 802 (Arson in the Second Degree); or 11 Del. C., Sec. 803 (Arson in the First Degree); or 11 Del. C., Sec. 771 (Unlawful Sexual Penetration in the Second Degree); or 11 Del. C., Sec. 772 (Unlawful Sexual Penetration in the First Degree); or 11 Del. C., Sec. 773 (Unlawful Sexual Intercourse in the Third Degree); or 11 Del. C., Sec. 774 (Unlawful Sexual Intercourse in the Second Degree); or 11 Del. C., Sec. 775 (Unlawful Sexual Intercourse in the First Degree); or 16 Del. C., Sec. 4753A (Trafficking Marijuana, Cocaine, Illegal Drugs or Methamphetamine).

2. Non-referral of Students

In any case in which an expelled student is not referred to an alternative program, the decision of the local school district to expel shall state with specificity the reason for non-referral and the evidence in support thereof.

3. Informing the Legal Guardian

Districts shall inform the legal guardian of students for whom expulsion is being considered or who are expelled of the alternative education options that are then currently available to the students. These options shall include but not be limited to the alternative program, GED programs, James H. Groves High School and others.

4. Age/Grade Level to be Served

Eligible students shall be primarily those who are enrolled in grades 6 through 12, however students in lower grades may also be served through these funds.

5. Placement in Alternative Programs

Each district shall establish an Alternative Placement Team to **[review each case and]** prescribe the appropriate placement for each student **[referred to the Alternative Program]**. The Placement Team, in concert with the Alternative Program staff, shall design an Individual Service Plan (ISP) for each student that will include educational goals, behavioral goals, and services needed by both the student and his/her family. The ISP shall include a tentative re-entry/transition plan. The Alternative Placement Team

shall be composed of a representative of the Alternative Program staff; a district level coordinator who will be designated by the superintendent; the building level principal, assistant principal or other person as appropriate; student's custodial adult; guidance counselor and/or school social worker; representatives from DSCYF such as Youth Rehabilitation Service or other worker with whom the family is involved as appropriate. Other school, alternative program, or agency personnel may be invited as needed and determined by the Placement Team. Students who are being placed in the Alternative Program as a transition from DSCYF facilities will have an ISP developed in concert with the DSCYF facility team, the Alternative Placement Team, and the student's custodial adult. If students from either a school district or DSCYF facility are students with disabilities, appropriate special education staff shall be included in placement considerations. The Alternative Placement Team and the IEP Team may be the same.

6. September 30 Enrollment Count

A student enrolled in an Alternative Program may be counted in the regular school enrollment count. If enrolled the previous year in a special education program in the reporting school, the student may continue to be reported for the same level of special education service as was received the previous year. If enrolled the previous year in a vocational program in the reporting school, the student may be reported as enrolled in the next vocational course in the program series.

7. Alternative Program Setting

The Alternative Program setting shall be apart from the regular school setting, however a part of a school building may be used for these programs so long as the students do not interact with the regular school population or use any school facility at the same time as the regular school population. Use of other agency facilities (Boys and Girls Club, YMCA, YWCA, etc.) is encouraged. Settings shall meet safety regulations for student occupancy as outlined in Delaware Code.

8. Alternative Program Design

The Alternative Program shall include an educational program designed to maintain and improve skills at least in core academic areas such as English/language arts, mathematics, science, and social studies that will allow students to re-enter the regular school program with a reasonable chance and expectation for success. Every effort shall be made to provide courses comparable to the regular school setting for each student. Opportunities for academic acceleration will also be provided. The academic program

should focus on applied learning activities that encourage students' active participation in the learning process as opposed to work sheets and other "seat oriented" drill exercises. Credit for work accomplished in the Alternative Program setting shall be automatically transferred to the regular school. Included in the academic core studies should be study skills, test taking strategies, and academic confidence building. Counseling and other services shall be delivered on site for students.

9. Staffing

Instructional staff shall include at least two certified teachers in the major academic subject areas who can provide the lead for academic instruction and at least two instructional/service aides. Priority should be given to hiring staff who are qualified to teach special education.

[10. Students With Disabilities

Notwithstanding any of the provisions to the contrary, students with disabilities shall be served pursuant to the provisions of AMPEC.]

BEFORE THE DEPARTMENT OF EDUCATION OF THE STATE OF DELAWARE

REGULATORY IMPLEMENTING ORDER GENERAL EDUCATIONAL DEVELOPMENT (GED)

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

The Secretary seeks the approval of the State Board of Education to amend the regulations for the General Educational Development Endorsement found in the Handbook for K-12 Education, page D-12., J.1.d., 1. through 5. The General Education Development (GED) endorsement is given to persons who satisfactorily pass the General Education Development (GED) Test. Persons who satisfactorily pass the GED Test battery are issued a "State Department of Education Document of Endorsement of Secondary School Attainment". The program is controlled by the American Council on Education and State Guidelines.

The purpose of GED testing is to provide a method of measuring the educational achievement of adults who have not completed a formal high school diploma program, but have acquired comparable secondary education skills and knowledge through informal learning experiences.

There are five GED tests which measure competence in the use and understanding of knowledge, regardless of how it was obtained. The tests include: writing, social studies, science, reading skills and mathematics. A minimum passing

score is required for each part of the test.

The amended regulation includes the eligibility criteria and the required test scores. The amendments clarify the language and add a waiver procedure for 16 and 17 year old students.

Notice of the proposed regulation was published in the News Journal and the Delaware State News on July 17, 1998, in the form hereto attached as Exhibit A. The notice invited written comments and none were received from the newspaper advertisements.

II. FINDINGS OF FACT

The Secretary finds that it is necessary to amend this regulation because it is necessary to bring clarity and focus to the regulation by eliminating the technical assistance information.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is necessary to amend the regulation. Therefore, pursuant to 14 Del. C., Sec. 122, the regulation attached hereto as Exhibit B is hereby amended. Pursuant to the provisions of 14 Delaware Code, Section 122(e), the amended regulation hereby adopted 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 the regulation adopted hereby shall be in the form attached hereto as Exhibit B, and said regulation shall be cited in the document entitled Regulations of the Department of Education.

V. EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the Secretary pursuant to 14 Del. C., Sec. 122, in open session at the said Board's regularly scheduled meeting on August 20, 1998. 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 this 20th day of August, 1998.

DEPARTMENT OF EDUCATION
Dr. Iris T. Metts, Secretary of Education

Approved this 20th day of August, 1998.
STATE BOARD OF EDUCATION
Dr. James L. Spartz, President
Jean W. Allen, Vice President

Nancy A. Doorey
John W. Jardine, Jr.
Dr. Joseph A. Pika
Dennis J. Savage

<p>* Please note that no changes were made to the regulation as originally proposed and published in the July 1998 issue of the Register at page 16 (2:1 Del. R. 16). Therefore, the final regulation is not being republished. Please refer to the July 1998 issue of the Register or contact the Department of Education.</p>
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BEFORE THE DEPARTMENT OF EDUCATION OF THE STATE OF DELAWARE

REGULATORY IMPLEMENTING ORDER

MIDDLE LEVEL MATHEMATICS AND SCIENCE CERTIFICATION AND REASSIGNMENT TO ANOTHER SECONDARY CONTENT AREA

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

The Secretary seeks the approval of the State Board of Education to make two amendments to the certification regulations concerning middle level certification in mathematics and science. These amendments are found in the Manual for Certification of Professional Public School Personnel, page 34, Section 2, and page 12, Chapter II. The purpose of these amendments is to provide added flexibility in the certification requirements for middle level mathematics and science teachers.

The amendment found on page 34, Section 2, adds a line under the title Sciences that reads, "All secondary science certificates are valid in middle level science, Grades 5-8". Current policy requires a secondary certified science teacher to meet General, Life, or Earth Science Certification in order to teach middle level science. This amendment allows any certified secondary science teacher, regardless of science area, to teach middle level science. The other amendment found on page 12, Chapter II, amends part A.3., Limited Standard License- Non renewable (Substandard) by adding another category, f., Limited Standard- Middle Level Math/ Science (LS-ML). Item f. gives teachers holding a Standard or Professional Status Certificate in either Elementary or Middle Level who are assigned to teach 7th or 8th grade mathematics and/or science up to three years to complete the additional requirements for the Standard Certificate in the

area of assignment.

Notice of the proposed regulation was published in the News Journal and the Delaware State News on July 17, 1998, in the form hereto attached as Exhibit A. The notice invited written comments and none were received from the newspaper advertisements.

II. FINDINGS OF FACT

The Secretary finds that it is necessary to amend these regulations because of the need to build in the flexibility that will enable elementary school employees to meet the certification requirements for middle schools and to enable teachers with any secondary science certificate to teach in the middle schools.

III. DECISION TO AMEND THE REGULATIONS

For the foregoing reasons, the Secretary concludes that the amendments are necessary. Therefore, pursuant to 14 Del. C., Section 122, the amendments hereto attached as Exhibit B are hereby approved. Pursuant to the provisions of 14 Delaware Code, Section 122(e), the amended regulations hereby adopted 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 the regulations adopted hereby shall be in the form attached hereto as Exhibit B, and said regulations shall be cited in the Manual for Certification of Professional Public School Personnel and in the document entitled the Regulations of the Department of Education.

V. EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the Secretary pursuant to 14 Del. C., Section 122, in open session at the said Board's regularly scheduled meeting on August 20, 1998. 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 this 20th day of August, 1998.

DEPARTMENT OF EDUCATION
Dr. Iris T. Metts, Secretary of Education

Approved this 20th day of August, 1998.

STATE BOARD OF EDUCATION
Dr. James L. Spartz, President
Jean W. Allen, Vice President

Nancy A. Doorey
John W. Jardine, Jr.
Dr. Joseph A. Pika
Dennis J. Savage
Dr. Claibourne D. Smith

*** Please note that no changes were made to the regulation as originally proposed and published in the July 1998 issue of the Register at page 21 (2:1 Del. R. 21). Therefore, the final regulation is not being republished. Please refer to the July 1998 issue of the Register or contact the Department of Education.**

BEFORE THE DEPARTMENT OF EDUCATION OF THE STATE OF DELAWARE REGULATORY IMPLEMENTING ORDER

JAMES H. GROVES HIGH SCHOOL

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

The Secretary seeks the approval of the State Board of Education to amend the regulations for the James H. Groves High School contained in the Handbook for K-12 Education, pages D-8 and D-9, F.1. and G.1. through 5. The amended regulations for the James H. Groves High School apply to all of the centers located in the state.

The James H. Groves High School is a Department of Education approved and Middle States accredited secondary school. Its purpose is to provide Delaware adults and out of school youth with an opportunity to increase their employability through the completion of a high school education and to earn a high school diploma.

The school, established in June of 1964 by the Delaware General Assembly, was named in honor of James H. Groves, the first Superintendent of Public Instruction in Delaware. The Department of Education was authorized to use state funds to establish Groves centers in each of the three counties of the State through a proposal application process.

In 1989, a new component was added to the Groves program called the "Alternative Secondary Initiative." This initiative was developed to assist high school students in graduating from their home high school. Students can graduate from their home high school if they are enrolled in just one class in their home high school and take the rest of their courses through the Groves program. In the amended regulations this program will be called the "In School Credit Program", to avoid confusion with other "alternative education" programs. Classes in the Groves centers are offered in the evening or as an extended day or year program.

The Principals of the Groves High School centers are

appointed by the local school districts where the centers are located. The principals are responsible to the Department of Education through the Educational Associate for Adult Education in conjunction with the Superintendent of the District that is managing the contract for the center.

The amended regulations draw on information from the Handbook for K-12 Education and a technical assistance document for Groves programs. They include sections on: Administration, Admission Criteria, Acceptable Methods for Earning High School Credit, Attendance, Grading and Graduation Criteria, Fees, Student Rights and Responsibilities, and Establishment and Closure of a Center. Changes have been made in the section on Grading and Graduation Criteria, and the sections on Student Rights and Responsibilities and the Establishment and Closure of a Center have been added. In general these amended regulations reflect existing practice and information contained in the technical assistance document for Groves even where there are new sections.

II. FINDINGS OF FACT

The Secretary finds that it is necessary to amend these regulations because the current regulations need to be updated and clarified as separate from the technical assistance materials provided in the existing document.

III. DECISION TO AMEND REGULATIONS

For the foregoing reasons, the Secretary concludes that the proposed regulations are necessary. Therefore, pursuant to 14 Del. C., Sec. 122, the regulations attached hereto as Exhibit B are hereby amended. Pursuant to the provisions of 14 Delaware Code, Section 122(e), the amended regulations hereby adopted 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 the amended regulations adopted hereby shall be in the form attached hereto as Exhibit B, and said regulations shall be cited in the document entitled Regulations of the Department of Education.

V. EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the Secretary pursuant to 14 Del. C., Sec. 122, in open session at the said Board's regularly scheduled meeting on August 20, 1998. 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 this 20th day of August, 1998.

DEPARTMENT OF EDUCATION

Dr. Iris T. Metts, Secretary of Education

Approved this 20th day of August, 1998.

STATE BOARD OF EDUCATION

Dr. James L. Spartz, President

Jean W. Allen, Vice President

Nancy A. Doorey

John W. Jardine, Jr.

Dr. Joseph A. Pika

Dennis J. Savage

Dr. Claibourne D. Smith

EXHIBIT B AS AMENDED

REGULATIONS JAMES H. GROVES HIGH SCHOOL

1. Administration

The James H. Groves High School is an adult high school established by the State of Delaware to provide the opportunity for adults and out-of-school youth to earn and obtain a high school diploma. The James H. Groves High School is a single school with multiple centers established and operated through a proposal application process. The James H. Groves High School is administered by the Delaware Department of Education.

2. Admission Criteria

The following individuals may enroll in the James H. Groves High School:

a. Adults, 18 years of age and older, who reside in the State of Delaware or who have worked in Delaware for a minimum of one year.

b. Out-of-school youth, 16 - 21, who have officially withdrawn from a day school and who have not been expelled or have an expulsion pending.

c. Non-residents who otherwise meet the eligibility requirements set forth in paragraph 2.a. and b. above.

d. High school students who are at least 16 years of age and enrolled for at least one credit in their home school may earn an unrestricted number of credits in the Groves In-School Credit Program and still graduate from their home high school.

(1) To enroll in this program, students shall have the permission of their home high school, their parent or guardian and the Groves High School principal or designee.

(2) All students enrolled in the Groves In-School Credit Program shall be included in the September 30th unit count of their home high school.

(3) Students who withdraw from their home high

school and transfer to the Groves High School shall no longer be considered as a student in the Groves In-School Credit Program and will be assessed the materials fee for that semester.

e. Individuals expelled from a local school district may not be enrolled in Groves High School without a waiver from the Delaware Department of Education for the duration of the expulsion. Individuals who enroll without a waiver will lose credits earned during the expulsion period.

(1) An applicant for a waiver must: be at least 17 years of age [(except from September 1, 1998 through July 1, 1999 when 16 year olds may also apply)], intend to graduate from the James H. Groves High School, be expelled for a non-violent reason, not be a security threat, demonstrate interest in learning and state specific ways to be a successful student.

3. Acceptable Methods for Earning High School Units of Credit

The following methods or any combination of the following methods are acceptable:

a. Course Enrollment - Courses are offered in a classroom or distance setting.

b. Correspondence Study - Approved courses offered through accredited correspondence schools are accepted for high school credit.

c. Summer School - Approved courses offered through summer school are accepted for high school credit.

d. Distance Learning - Approved courses offered through accredited distance learning programs are accepted for high school credit.

e. Independent Study - Courses offered through independent study must be assigned an instructor who will monitor the progress of the student. The content will be the same as required in the course enrollment.

f. Achievement Testing - Credits are awarded through achievement testing based on the content demonstrated. Approved tests used to award credit are standardized and/or specifically designed to determine the level of student competence.

g. Employment or Training Experience - Credit for employment or training experience will be evaluated to determine the number of credits that will be awarded based on length of employment, level of job responsibility and scope of work.

h. Vocational Courses - Upon satisfactory completion of approved vocational, vocational or apprenticeship courses, units of credit will be awarded.

i. Military Experience - Veterans may be granted credit based on military training and experience.

j. Higher Education Courses - Higher education courses will be awarded credit as designated by other Delaware Department of Education policy.

k. Foreign School Attendance - Credit for courses

completed in schools in foreign countries will be evaluated in terms of equivalent content to Delaware high school graduation requirements.

l. Prior High School Credits - Any high school credit earned by the student may be transferred into Groves and become part of the transcript toward graduation.

m. Community Service - The community service unit of credit is designed to recognize the community life experiences of the student and to encourage the student to assume civic responsibility. The emphasis is upon volunteer service given freely for the betterment of the community and other persons.

n. Internships - Internships are designed to provide practical real life experiences for students. Credit may be earned based on the skills and the length of time of the experience.

o. Certificate of Educational Attainment (CEA3) - The CEA3 enables a student to demonstrate high school level skills through a written test. By passing the Official GED Practice Test with a score of 240 or better with no less than 45 in each sub-test area and writing a Groves approved content area research paper, students are awarded 10 units of credit toward graduation.

4. Attendance, Grading and Graduation Criteria

a. Students attending James H. Groves High School courses, which have an attendance requirement, shall attend a minimum of 85% of the course hours in order to receive a unit of credit. No provision is made for excused absences.

b. The grading system for the James H. Groves High School shall be based on a 100 point numeric scale. An alpha conversion chart to determine level of performance shall be:

(1) 93 - 100 Students receiving a grade of "A" have demonstrated superior understanding of the content and have demonstrated knowledge and competence at the highest level.

(2) 85 - 92 Students receiving a grade of "B" have a better than average understanding of the content and have demonstrated above average knowledge and competence.

(3) 75 - 84 Students receiving a grade of "C" have a satisfactory understanding of the content and have demonstrated knowledge and competence.

(4) Less than 75 No credit awarded.

[(c) ~~The total number of credits required for graduation from James H. Groves High School shall be the minimum set by the Delaware State Board of Education. Physical Education is not required. James H. Groves High School graduates shall meet the state graduation requirements with the exception of physical education which is waived in lieu of another credit.~~

(1) All course content shall reflect the state content standards.]

5. Fees

All fees for the James H. Groves High School shall be set by the Secretary of Education.

6. Students Rights and Responsibilities

Students enrolled in each center shall have such rights and be subject to such responsibilities as set forth in the document the James H. Groves Student Rights and Responsibilities and as such may be amended by the Delaware Department of Education.

7. Establishment and Closure of a Center**a. Establishing a Center**

(1) A school district/agency/organization may seek to establish a James H. Groves Center in their service delivery area by following the process outlined below. No district or agency/organization shall have more than one Groves Center.

(a) An affiliation must be established with an existing Groves Center as a satellite site or obtain approval from the Groves Leadership Team to establish a pilot center.

(b) After a two year affiliation as a satellite center of an existing Groves Center or two year success as a pilot center, a formal request may be made to the Delaware Department of Education for full center status.

(c) A formal request for center status may be made after two years as satellite center and must be made one year prior to the desired start-up date. The request must include:

(i) A needs assessment documenting program need for services in the district's adult community, potential population to be served, impact on existing centers, and rationale for requesting a Groves Center.

(ii) A description of the district/agency/organization's experience and success in adult program delivery.

(iii) An explanation of the commitment to the Groves adult education program and assurances.

(iv) Budget requirements including in-kind contributions.

(d) District/Agency/Organization representatives will meet with the Groves Leadership Team to review the "Center" request.

(e) Groves Leadership Team will make a recommendation for "Center" status to the Delaware Department of Education, Education Associate for Adult Education.

(f) Approval or denial will be made to the district/agency/organization within 60 days of center status application.

(g) If approved, the Delaware Department of Education will apply for center funding in the upcoming State budget cycle. If State funding is allocated for the additional center, full center status will be given to the

program.

(h) Appeal Process

In the event "Center" status is denied by the Delaware Department of Education, Education Associate for Adult Education, a hearing can be requested by the District/Agency/Organization through the Education Associate for Adult Education. The hearing will be conducted by the Associate State Secretary.

b. Closing a Center**(1) Voluntary Closing**

A school district/agency/organization may close a James H. Groves Center in their service delivery area by following the process outlined below. For a voluntary closing, a school district/agency/organization must announce by November its intention to discontinue service at the end of the fiscal year. The following steps will be followed:

(a) Within two months of closing, the district/agency/organization must:

(i) Notify all current students of the center closing and provide them with information to transfer to another center. Records of active students must be sent to the new center.

(ii) Provide all past records to the Delaware Department of Education.

(iii) Send all equipment purchased for the center to the Delaware Department of Education or to the designated centers for re-distribution.

(iv) Return any unspent funds to the Delaware Department of Education.

(b) District/Agency/Organization representatives will meet with the Groves Leadership Team at the monthly meetings to implement a smooth closing.

(2) Non-Voluntary Closing

(a) A non-voluntary closing will be made when:

(i) There is insufficient enrollment to sustain a center.

(ii) The center does not follow the policies, procedures, rules, regulations or instructional program set forth for the James H. Groves High School.

(iii) The Delaware Department of Education determines the center is not providing a quality instructional program to the students at that center.

The Delaware Department of Education will provide notice to the school district/agency/organization of the closing by November giving eight months to close the center. The following steps will be followed:

(b) Within two months of closing, the district/agency/organization must:

(i) Notify all current students of the center closing and provide them with information to transfer to another center. Records of active students must be sent to the new center.

(ii) Provide all past records to the Delaware Department of Education.

(iii) Send all equipment purchased for the center to the Delaware Department of Education or to the designated centers for re-distribution.

(iv) Return any unspent funds to the Delaware Department of Education.

(c) District/agency/organization representatives will meet with the Groves Leadership Team at the monthly meetings to implement a smooth closing.

**BEFORE THE DEPARTMENT OF EDUCATION OF THE
STATE OF DELAWARE
REGULATORY IMPLEMENTING ORDER**

UNIT COUNT

**I. SUMMARY OF THE EVIDENCE AND
INFORMATION SUBMITTED**

The Secretary seeks to amend the regulations on the unit count system found in the document entitled, A Summary of Policies, Rules and Regulations for Student Accounting for the September 30th Enrollment and Unit Computation. The Delaware unit system for funding schools established in Title 14 of the Delaware Code, evolved into a system of 16 types of regular, special education, vocational, and combinations of regular, special and vocational units. The Department of Education is empowered to adopt rules and regulations for the administration of the September enrollment count upon which the unit calculations are based. The rules and regulations assist schools and school districts in preparing their September enrollment counts. The amendments to these regulations are designed to clarify the information in the existing document by separating the specific regulatory material from the technical assistance and from the Del. Code references. The amended regulations clearly state what the Department of Education is regulating. One specific change that was made was to add (as shown in its amended form) "prior to November 1st" to the end of the sentence a.(3) and a.(5) under #4 Programs, Situations, and Program Types for Inclusion in the Unit Count. This requires that the students in these situations must be in school by November 1st, in order to be included in the unit count. The second specific change was to state in #4.a.(7) (as shown in its amended form) that all pre-kindergarten students with disabilities shall be counted as full-time special education students. Previously these pre-kindergarten students were subject to the 12 ½ hour rule and for students served in non-school settings this required a waiver. All other changes, as stated above, were made for the clarity and

focus of the regulations and not for substance.

Notice of the proposed regulation was published in the News Journal and the Delaware State News on July 17, 1998, in the form hereto attached as Exhibit A. The notice invited written comments and none were received from the newspaper advertisements.

II. FINDINGS OF FACT

The Secretary finds that it is necessary to amend these regulations because there was a need to clarify and separate the actual regulatory elements from the technical assistance information and the language from the Del. Code. The specific change of adding "prior to November 1st" to two situations of students simply put actual practice into regulation. Changing pre-kindergarten students to full time special education students changes a regulation that the Department of Education has been consistently waiving and would continue to waive.

III. DECISION TO AMEND THE REGULATIONS

For the foregoing reasons, the Secretary concludes that the proposed amendments are necessary. Therefore, pursuant to 14 Del. C., Sec. 122, the regulations attached hereto as Exhibit B are hereby amended. Pursuant to the provisions of 14 Delaware Code, Section 122(e), the amended regulations hereby adopted 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 the regulations adopted hereby shall be in the form attached hereto as Exhibit B, and said regulations shall be cited in the document entitled Regulations of the Department of Education.

V. EFFECTIVE DATE OF ORDER

The actions hereinabove referred to were taken by the Secretary pursuant to 14 Del. C., Sec. 122, on August ____, 1998. 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 this 20th day of August, 1998.

DEPARTMENT OF EDUCATION
Dr. Iris T. Metts, Secretary of Education

EXHIBIT B
UNIT COUNT REGULATIONS

1. Forms and Record keeping

a. All information submitted through the unit count process shall be on the forms provided by the Delaware Department of Education or in such other format as may be acceptable to the Department.

b. Each school shall maintain September enrollment records in a manner which will allow for efficient enrollment audits by the Delaware Department of Education and the State Auditor of Accounts. At the end of September, each school shall assemble a comprehensive enrollment file that contains all necessary support materials to substantiate the enrollments reported. This file shall be retained in the school for at least three years.

c. Records to substantiate special education students included in the enrollment count shall contain: student name, cohort age group, grade level, handicapping condition, name of special education teachers serving the student in September, and number of hours of special education services received during the last week of school in September. Individual student case studies, evaluations, and reports of specialists do not need to be maintained as part of the September 30 enrollment file. However, individual student files may be reviewed by the Delaware Department of Education or State Auditor of Accounts to ascertain that the students reported are bonafide special education students as per the Administrative Manual: Programs for Exceptional Students.

2. Special Situations Regarding Enrollment

a. All exceptions and extenuating circumstances relating to the enrollment count are addressed to the Secretary of Education and shall be received by the Secretary for consideration prior to September 30.

b. Students with multiple handicaps shall be reported in the category that corresponds to their major handicapping condition.

c. Students included in the special education unit count under the placement provisions of Transfer Student or Emergency Temporary Placement or Change of Placement shall meet the evaluation and placement requirements found in the Administrative Manual: Programs for Exceptional Children, revised July 1, 1993, Amended August 9, 1993 and Amended June 20, 1996.

d. Students not assigned to a specific grade shall be reported in a grade appropriate for their age or their instructional level for purposes of the unit count.

3. Accounting for Students not in Attendance the Last Ten Days in September.

a. For students not in attendance at school during the last 10 school days of September, the following information shall be on file to substantiate their inclusion in the enrollment count:

(1) Reason for absence and date of last direct contact with student or parent.

(2) Reason to believe that student will be returning to school before November 1st.

(3) Districts and Charter Schools enrolling a within-state transfer student during the last ten school days of September shall notify the student's previous district of such enrollment. The notification shall be by fax with a follow-up letter to the previous district central office. The notification shall be clearly labeled Unit Count Transfer Students and include the student's name, grade, and previous school of attendance. A student enrolling with a formal notice of withdrawal from the previous district is exempted from this notification requirement. Failure to follow the notification procedure may result in including the same student in two different district enrollments and hence unit counts. If that occurs, the student will be disallowed from the receiving district's enrollment and unit count. Copies of the fax transmittals and follow-up letters shall be on file to substantiate the student's inclusion in the receiving district's enrollment and unit count.

4. Programs, Situations and Program Types that Qualify For Inclusion in the Unit Count

a. Students in the following programs, situations and program types shall qualify for inclusion in the enrollment count:

(1) Delaware Adolescent Program, Inc. (DAPI): A student enrolled in DAPI on September 30 may be counted in the home school enrollment count. If enrolled the previous year in a special education program in the reporting school, the student may continue to be reported for the same level of special education service as was received during the previous year. If enrolled the previous year in a vocational program in the reporting school, the student may continue to be reported as enrolled in the next vocational course in the program series.

(2) Advanced placement in college: Students shall be enrolled and attend at least one full credit course in their high school.

(3) Temporary medical problem which precludes school attendance prior to November 1st.

(4) Supportive home-bound instruction provided by the reporting school.

(5) Stevenson House or New Castle County Detention Center: Students on a temporary basis pending disposition of case who are expected to return to school prior to November 1st.

(6) Four-year old "gifted or talented" students recorded in the grade level enrollment group to which they are assigned.

(7) All pre-kindergarten students with disabilities shall be counted as full-time special education students.

(8) Students enrolled in residential facilities as of the last day of September. These students are included in the enrollment count of the district operating the instructional

program in that facility. The facilities that are eligible shall be identified each year by the Department of Education.

(9) Regular Programs - Regular programs include students who are enrolled in the regular elementary or secondary curriculum of the school, i.e., the core of the school subjects which most students take.

(10) Full-time Special Education Programs - Students who have been properly diagnosed, placed in a special program, and receive instruction from a certified special education teacher for at least 12-1/2 hours per week. Special students must have appropriate supporting documentation on file as required by the Identification, Evaluation and Placement Process in the Administrative Manual: Programs for Exceptional Children.

(11) Part-time Special Education Programs - Part-time special education programs include students who receive less than 12-1/2 hours of instruction from a certified special education teacher, but meet all other criteria for full-time special education services. Part-time special education students, for unit computation, have their time apportioned between a regular student in a specified grade and a special student in a specified category.

(a) The apportioning is accomplished by dividing the number of hours that each student receives instruction from a certified special education teacher by 15. For example, if a second grade Learning Disabled student receives 11.5 hours of special education service per week, the student is counted as a .77 LD student ($11.5/15 = .77$) and a .23 second grade regular student. This accounts for one FULL-TIME EQUIVALENT STUDENT ($.77 + .23 = 1.0$).

[(12)Vocational Programs - A maximum of 900 minutes of vocational time per week per student shall be credited toward the vocational unit determination. Students who attend full time, 900 minute vocational programs are not counted in any other vocational course. They have the maximum time allowed.]

5. Programs and/or Situations that Do Not Qualify for the Unit Count

a. Students in the following programs and situations do not qualify for inclusion in the enrollment count:

(1) Students who have not attended school during the last 10 days of September.

(2) Students who are enrolled in General Education Development (GED) programs.

(3) Students who are enrolled in other than Delaware Department of Education approved programs.

(4) Students who are transferred to a state residential facility during September shall not be included in the enrollment count of the District unless that District operates the facility's instructional program; otherwise the student must be treated as a withdrawal.

6. Nontraditional High School Schedules

a. For unit count purposes if a special education student or a vocational student in a school utilizing nontraditional schedules receives during the course of the year the same amount of instruction the student would have received under a traditional class schedule, the district shall average the time and calculate instructional time on a weekly basis; providing however, that a vocational student receives a minimum of 300 minutes of instruction per week and a full-time special education student receives a minimum of 7.5 hours of instruction per week.

The following exemplifies a situation with the required minimum minutes and hours for a full time vocational and/or special education student:

$$\begin{array}{l} \text{Fall Vocational} = 300 \text{ minutes per week} \\ \text{Spring Vocational} = 1500 \text{ minutes per week} \\ \hline 1800 / 2 = 900 \text{ minutes per week} \end{array}$$

$$\begin{array}{l} \text{Fall Special Education} = 7.5 \text{ hours per week} \\ \text{Spring Special Education} = 17.5 \text{ hours per week} \\ \hline = 25.0 / 2 = 12.5 \text{ hours per week} \end{array}$$

7. Charter Schools

a. Charter schools shall be allowed the following options in calculating their unit count:

(1) using the standard public school procedure: major fraction unit rounding rule in each category.

(2) adding the fractional units in each category and using the major fraction unit rounding rule on the total.

8. Unit Adjustments After Audit

a. If after the units are certified by the Secretary of Education, students are disqualified through the auditing process from the unit count, the units will be recalculated without those students. Other eligible students shall not be substituted for the disqualified students.

DEPARTMENT OF FINANCE

DIVISION OF REVENUE

Statutory Authority: 30 Delaware Code
Section 563 (30 Del.C. 563)

TECHNICAL INFORMATION MEMORANDUM 98-2

SUBJECT: EFFECT OF FEDERAL SMALL BUSINESS
JOB PROTECTION ACT

Purpose of Regulation -- The purpose of this regulation is to explain the effect of the Small Business Job Protection Act of 1996, Pub. L. No. 104-188, 110 Stat 1755 (the Act), as it relates to Subchapter S corporations, the relationship

between the classification of organizations for federal and state tax purposes and the procedures for electing entity classification.

The Act amended Subchapter S of the IRC by revising the manner in which Federal S corporations may organize. The revisions affected among other things, the number of permissible shareholders, the types of shareholders, affiliations with other corporations, elections and reelections. In general, such revisions are applicable to the State treatment of S corporations.

Authority to make regulations; general information --

(i) The Director of Revenue is charged with the administration and enforcement of all state tax laws unless such duties are expressly conferred upon another agency. 30 Del. C. §563

(ii) Published regulations are made and promulgated pursuant to authority vested in the Director. 30 Del. C. §563

(iii) As used in published regulations, references to a section (§) number refer to a section of the Delaware Code. References to a section (§) number preceded by a "1", as in §1.1900.2, refer to sections of regulations published by the Division of Revenue of this State

REGULATION:

§1.1900.2 In general; Classification of organizations for state tax purposes; election of entity classification.

(a) Meaning of terms -- Any term used in these regulations shall have the same meaning as when used in a comparable context in the laws and income tax regulations of the United States referring to federal income taxes, unless a different meaning is clearly required. Any reference to the laws of the United States or to the Internal Revenue Code shall mean the Internal Revenue Code of 1986 [26 U.S.C. § 1 et seq.] as amended and regulations and amendments thereto and other laws of the United States relating to federal income taxes, as the same may be or become effective, for the taxable year.

(b) Classification of entities -- The classification of entities for Delaware tax purposes shall be as prescribed for federal tax purposes. Unless inconsistent with Delaware law, the provisions of Sections 1361 through 1379 of the Regulations to the Internal Revenue Code of 1986 are hereby adopted for Delaware purposes.

(c) Section 1361(b)(3)(B) defines the term "qualified subchapter S subsidiary" (QSSS) as a domestic corporation that is not an ineligible corporation, if (1) an S corporation holds 100 percent of the stock of the corporation, and (2) that S corporation elects to treat the subsidiary as a QSSS. Section 1361(b)(3)(A) provides that a corporation that is a QSSS is not treated as a separate corporation, and all assets,

liabilities, and items of income, deduction, and credit of the QSSS are treated as assets, liabilities, and items of income, deduction, and credit of the parent S corporation.

(d) Notice of election to be classified as a QSSS -- A valid election under the rules prescribed by the Internal Revenue Service by a parent S corporation to treat a wholly owned subsidiary as a QSSS shall be valid for State purposes upon making the federal election.

(e) Tax return requirements -- Entities carrying on a trade or business within this State are subject to the provisions of Title 30 of the Delaware Code and are required to file income tax returns for such years. An S corporation which has elected to treat a subsidiary which is conducting business in this State as a QSSS shall be a taxable entity in this State and the items of income, deductions and apportionment factors of the QSSS shall be included on the income tax return of the S corporation.

(f) Notwithstanding subsection (e), a QSSS is subject to the licensing and gross receipts provisions of Title 30 of the Delaware Code with respect to its business activities conducted within the State.

(g) Effective date of this regulation -- This regulation is effective as of January 1, 1997.

(h) Contact Person -- For more information about these regulations or the classification of entities, contact John J. Maciejewski, Jr., Assistant Director, Office of Business Taxes, State of Delaware Division of Revenue, 820 N. French Street, Wilmington, Delaware 19801 or phone (302) 577-8450.

**DEPARTMENT OF HEALTH AND
SOCIAL SERVICES**

DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code,
Section 505 (31 Del.C. 505)

**BEFORE THE DELAWARE DEPARTMENT OF
HEALTH AND SOCIAL SERVICES**

IN THE MATTER OF: |
|
REVISION OF THE REGULATIONS |
OF THE MEDICAID/MEDICAL |
ASSISTANCE PROGRAM |
270.10, 301.25, , 307.60, 301.25C |

NATURE OF THE PROCEEDINGS:

The Delaware Department of Health and Social Services ("Department") initiated proceedings to update client eligibility policy manual as follows: a specific rule for certain eligibility denials and terminations, revise policy on excluded income, new eligibility group of mandatory low income Medicare beneficiaries, and revise definition of uninsured for the adult expansion population. The Department's proceedings to amend its regulations were initiated pursuant to 29 Delaware Code Section 10114 and its authority as prescribed by 31 Delaware Code Section 512.

The Department published its notice of proposed regulation changes pursuant to 29 Delaware Code Section 10115 in the June 1998 Delaware Register of Regulations, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by July 1, 1998 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

No written or verbal comments were received relating to this proposed rule.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the June 1998 Delaware Register of Regulations should be adopted as written.

THEREFORE, IT IS ORDERED, that the proposed regulations of the Medicaid/Medical Assistance Program are adopted and shall be final effective September 10, 1998.

August 11, 1998
Gregg C. Sylvester, M.D.
Secretary

Revision:

Eligibility Manual

270.10 Eligibility Decision

The agency must include in each applicant's case record facts to support the agency's decision on his application. The agency must dispose of each application by a finding of eligibility or ineligibility, except under the following circumstances:

1. There is an entry in the case record that the applicant voluntarily withdrew the application, and that the agency sent a notice confirming his decision;
2. There is a supporting entry in the case record that the applicant has died.
3. There is a supporting entry in the case record that the applicant cannot be located.

4. Certain factors of eligibility must be verified according to specific eligibility groups. If all information requested is not received, DSS cannot determine or redetermine eligibility. This may result in denial of the application or the termination of eligibility. Verifications received and/or provided may reveal a new eligibility issue not previously realized and this may require additional verifications. Failure to provide additional requested verifications may result in denial or termination of eligibility.

Section 301.25 Federal Poverty Level Related Programs

Excluded Income

- Earned Income Tax Credits (EITC)
- First \$50 of the total child support payments
- Governmental (federal, state, or local) rent and housing subsidies, including payments made directly to the applicant/recipient for housing or utility costs, e.g., HUD utility allowances
- Income owned by or received for the benefit of the siblings not included in the budget unit
- Financial Assistance received from school grants, scholarships, vocational rehabilitation payments, Job Training Partnership Act payments, educational loans, and other loans that are expected to be repaid. Also exclude other financial assistance received that is intended for books, tuition, or other self-sufficiency expenses
- One half of the gross parental income for minor pregnant teens
- Payments made by a third party directly to landlords or other vendors
- SSI benefits
- Wages of an individual (under age 19) who is a full-time student or a part-time student but not a full-time employee attending a school, college, university, or a course of vocational or technical training
- Earned income of a minor child regardless of student status
- Earned income of an 18 year old or an emancipated minor who is a full time student or a part time student but not a full time employee attending a school, college, university, or a course of vocational or technical training

307.60 Qualifying Individuals

Section 4732 of the Balanced Budget Act of 1997 establishes a capped allocation for each of five years beginning January 1998, to states for payment of Medicare Part B premiums for two new mandatory eligibility groups of low-income Medicare beneficiaries, called Qualifying Individuals or QIs. This provision amends section 1902(a)(10)(E) of the Social Security Act concerning Medicare cost-sharing for Qualified Medicare Beneficiaries (QMBs) and Specified Low Income

Medicare Beneficiaries (SLMBs). It also amends section 1905(b) of the Social Security Act concerning the Federal Medical Assistance Percentage (FMAP) by incorporating reference to and establishing a new section 1933, for QIs.

QIs are individuals who would be QMBs but for the fact that their income exceeds the income levels established for QMBs and SLMBs. This means that QIs must meet all the technical and financial eligibility requirements of the QMB program except for the income limits.

Unlike QMBs or SLMBs, who may be determined eligible for Medicaid benefits in addition to their QMB/SLMB benefits, QIs cannot be otherwise eligible for Medicaid.

Qualifying Individuals 1

Individuals in the first group of QIs, called QI-1s, must have income that exceeds 120% of the Federal Poverty Level (FPL) but the income must be at or below 135% of the FPL. The benefit for QI-1s consists of payment of the full Medicare Part B premium. They do not receive any Medicaid services.

Qualifying Individuals 2

Individuals in the second group of QIs, called QI-2s, must have income that exceeds 135% of the FPL, but the income must be at or below 175% of the FPL. The benefit for QI-2s consists only of the portion of the Medicare Part B premium that is attributable to the shift of some home health benefits from Part A to Part B. The amount of this benefit in 1998 is \$1.07 per month. This is equivalent to 1/7 of the cost of the home health shift. The amount will increase by an additional 1/7 in each of the following years.

COLA Disregard

Social Security COLA increases will be excluded in determining the eligibility of recipients during the first three months of a calendar year.

Retroactive Coverage

Retroactive eligibility does apply to this group unlike the QMB program. Benefits may begin with the month of application. Retroactive coverage is available for the three months prior to the month of application. Coverage cannot be effective prior to January 1, 1998.

Capped Allocation

This provision is effective for premiums payable beginning with January 1998 and ending with December 2002. Each state will receive a specific capped allocation for QIs.

Because of the capped allocation, we must limit the number of QIs selected in a calendar year so that the amount of benefits provided to these individuals does not exceed our

state allocation. QIs will be selected on a first-come, first-served basis. This means the QIs are selected in the order in which they apply for benefits.

Once a QI is approved, the QI is entitled to receive assistance for the remainder of the calendar year, provided the individual meets the eligibility requirements. However, the fact that an individual receives assistance at any time during the year does not necessarily entitle the individual to continued assistance for any succeeding year. We will give preference to individuals who were QIs, QMBs, SLMBs, or QDWIs in the last month of the previous year.

Redetermination of Eligibility

A redetermination of eligibility must be completed at least every 12 months. We will promptly redetermine eligibility when information is received about changes in circumstances that may affect eligibility.

301.25 C. Adult Expansion Population: Non Categorically Related Individuals

Section 1902(a)(10)(A)(i) of the Social Security Act requires states to provide medical assistance to certain mandatory categories of individuals and allows states to cover optional categories. On May 17, 1995, HCFA approved a Section 1115 Demonstration Project, entitled *Diamond State Health Plan*. This demonstration waiver extends Medicaid coverage to uninsured individuals age 19 or over with income at or below 100% of the FPL who are not categorically eligible. ~~Individuals who receive long term care services (nursing facility and home and community based waivers), who have accessible managed care coverage, or who are entitled to Medicare are excluded from this category of assistance created under the demonstration waiver. Medicaid coverage for this new group is effective March 1, 1996. Adults are not eligible for Medicaid benefits until the first of the month in which they are enrolled in a Managed Care Organization (MCO). Enrollment in a MCO is a technical eligibility requirement for these clients under the demonstration waiver. Adults will not receive Medicaid services until they are enrolled in a MCO.~~

Individuals who receive long term care services (nursing facility and home and community based waivers), who have comprehensive health insurance as defined in this section, who are entitled to or eligible to enroll in Medicare, or who have coverage through CHAMPUS are excluded from this eligibility group created under the demonstration waiver. Medicaid coverage for this group is effective March 1, 1996.

Adults are not eligible for Medicaid benefits until the first of the month in which they are enrolled in a Managed Care Organization (MCO). Enrollment is a technical eligibility requirement for adults in the expanded population.

D. General Assistance (GA) Recipients

General Assistance is a cash assistance program available to families and unemployable individuals who meet certain financial and technical eligibility requirements.

An individual age 18 and under who receives GA is categorically eligible for Medicaid. An individual between age 18 and 19 who receives GA is categorically eligible under the poverty level related program for children. An individual age 19 or over who receives GA must be uninsured as defined in this section in order to be found eligible for Medicaid. Enrollment in a MCO is a technical eligibility requirement for individuals age 19 and over who receive GA. GA recipients who are age 19 or over will not receive Medicaid benefits until the first of the month in which they are enrolled in a MCO.

All GA adults must be enrolled in a MCO effective March 1, 1996. Enrollment in a MCO is a technical eligibility requirement for GA adults under the demonstration waiver. GA adults will not receive Medicaid services unless they are enrolled in a MCO as of March 1, 1996.]

Uninsured Individual: This is a separate technical eligibility requirement for the non categorically related adults (GE, GF, GG) who have income at or below 100% FPL. The individual must be uninsured. An uninsured individual is defined as an individual who does not have Medicare or accessible managed care coverage. An adult who is entitled to Medicare or who has accessible managed care cannot be eligible for Medicaid under the demonstration waiver. The Third Party Liability Unit will determine if an individual has accessible managed care coverage.

A managed care organization (MCO) is an organization that is licensed as an HMO, Health Services Corporation, or "like entity" and that requires the insured to go to a primary care provider who manages medical care for the insured. Payment to the primary care provider by the MCO can be fee for service or a capitated rate. An individual who is enrolled in a Delaware MCO but not through the *Diamond State Health Plan* is in an accessible managed care plan provided the MCO is licensed to do business in the insured's county of residence. See Section 600 for more information on managed care.

Uninsured Individual: This is a separate technical eligibility requirement for non categorically related adults age 19 or over, including those who receive General Assistance. The individual must be uninsured. An uninsured individual is defined as an individual who does not have Medicare, CHAMPUS, or other comprehensive health insurance. An

adult who is entitled to or eligible to enroll in Medicare or who has CHAMPUS or who has any comprehensive health insurance, cannot be eligible for Medicaid as a non categorical adult under the demonstration waiver. The Third Party Liability Unit will determine if an individual has comprehensive health insurance.

Comprehensive Health Insurance: A benefit package comparable in scope to the "basic" benefit package required by the State of Delaware's Small Employer Health Insurance Act at Title 18, Chapter 72 of the Delaware Code. This package covers hospital and physician services as well as laboratory and radiology services. The term "comprehensive" does not mean coverage for benefits normally referred to as "optional," e.g., prescription drugs.

Enrollment in Managed Care: Medicaid eligible individuals (with a few exceptions) must enroll with a managed care organization. Individuals entitled to Medicare, receiving Medicaid long term care services, or who already have accessible managed care cannot enroll in the *Diamond State Health Plan*.

Enrollment in a managed care organization is a separate technical eligibility requirement for the non categorically related adults (GE, GF, GG) with income at or below 100% FPL. An adult in this non categorical group, who is otherwise eligible, cannot receive Medicaid until he or she is enrolled in a *Diamond State Health Plan* MCO.

Enrollment in Managed Care: Medicaid eligible individuals, with a few exceptions, must enroll with a MCO in the *Diamond State Health Plan*. The following individuals cannot enroll in the *Diamond State Health Plan*:

- individuals entitled to or eligible to enroll in Medicare
- individuals who have CHAMPUS
- individuals who are receiving Medicaid long term care services, and
- individuals who already have accessible managed care coverage.

A managed care organization (MCO) is an organization that is licensed as an HMO, Health Services Corporation, or "like entity" and that requires the insured to go to a primary care provider who manages medical care for the insured. Payment to the primary care provider by the MCO can be fee for service or a capitated rate. An individual who is enrolled in a Delaware MCO but not through the *Diamond State Health Plan* is in an accessible managed care plan provided the MCO is licensed to do business in the insured's county of residence.

Enrollment in a *Diamond State Health Plan* MCO is a

separate technical eligibility requirement for the non categorically related adults including adults who are receiving General Assistance. The adult must join a MCO before the 20th day of the approval month in order for Medicaid coverage to begin the first day of the next month. If the adult joins a MCO after the 20th day of the approval month, Medicaid coverage will start the second month following the approval month. The approval month is the month in which the notice to approve Medicaid is sent to the applicant.

Certain individuals, who are excluded from the *Diamond State Health Plan*, may be found eligible for retroactive Medicaid. Individuals who may be found eligible for retroactive Medicaid are:

- ~~those entitled to Medicare~~ those entitled to Medicare or eligible to enroll in Medicare (e.g., a pregnant woman who has Medicare),
- those who have accessible managed care coverage,
- those receiving long term care services (nursing facility and the home and community based waivers), and
- those living out-of-state but considered Delaware residents, such as a child placed out-of-state by DSCYF.

time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

No written or verbal comments were received relating to this proposed rule.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the July Register of Regulations should be adopted as written.

THEREFORE, IT IS ORDERED, that the proposed regulations of the Medicaid/Medical Assistance Program are adopted and shall be final effective September 10, 1998.

August 11, 1998
Gregg C. Sylvester, M.D.
Secretary

*** Please note that no changes were made to the regulation as originally proposed and published in the July 1998 issue of the Register at page 66 (2:1 Del. R. 66). Therefore, the final regulation is not being republished. Please refer to the July 1998 issue of the Register or contact the Department of Health and Social Services.**

DIVISION OF SOCIAL SERVICES
Statutory Authority: 31 Delaware Code,
Section 505 (31 Del.C. 505)

DIVISION OF SOCIAL SERVICES
Statutory Authority: 31 Delaware Code
Section 505 (31 Del.C. 505)

BEFORE THE DELAWARE DEPARTMENT OF HEALTH AND SOCIAL SERVICES

IN THE MATTER OF:

**REVISION OF THE REGULATIONS
OF THE MEDICAID/MEDICAL
ASSISTANCE PROGRAM**

NATURE OF THE PROCEEDINGS:

The Delaware Department of Health and Social Services ("Department") initiated proceedings to update general policies and provider policies related to DME, long-term care, pharmacy, and non-emergency transportation services. The Department's proceedings to amend its regulations were initiated pursuant to 29 Delaware Code Section 10114 and its authority as prescribed by 31 Delaware Code Section 512.

The Department published its notice of proposed regulation changes pursuant to 29 Delaware Code Section 10115 in the July Register of Regulations, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by August, at which

IN THE MATTER OF:

**REVISION OF THE REGULATIONS
OF THE MEDICAID/MEDICAL
ASSISTANCE PROGRAM**

NATURE OF THE PROCEEDINGS:

The Delaware Department of Health and Social Services ("Department") initiated proceedings to update long term care, pharmacy, home health, ground ambulance, and hospice services. The Department's proceedings to amend its regulations were initiated pursuant to 29 Delaware Code Section 10114 and its authority as prescribed by 31 Delaware Code Section 512.

The Department published its notice of proposed regulation changes pursuant to 29 Delaware Code Section 10115 in the June 1998 Delaware Register of Regulations, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by July 1, 1998, at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

No written or verbal comments were received relating to

this proposed rule.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the June 1998 Delaware Register of Regulations should be adopted as written.

THEREFORE, IT IS ORDERED, that the proposed regulations of the Medicaid/Medical Assistance Program are adopted and shall be final effective September 10, 1998.

August 11, 1998

Gregg C. Sylvester, M.D.
Secretary

* Please note that no changes were made to the regulation as originally proposed and published in the June 1998 issue of the Register at page 1930 (1:12 Del.R. 1930). Therefore, the final regulation is not being republished. Please refer to the July 1998 issue of the Register or contact the Department of Health and Social Services.

DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL

DIVISION OF AIR AND WASTE MANAGEMENT

AIR QUALITY MANAGEMENT SECTION

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

Secretary's Order No. 98-A-0031

Date of Issuance: August 15, 1998

Re: Proposal to Amend Regulation No. 20 of the Regulations Governing the Control of Air Pollution by Adding a New Section 29 entitled New Source Performance Standards for Hospital/Medical/Infectious Waste Incinerators

Effective Date of Regulatory Amendment: September 11, 1998

I. Background

On Thursday, July 30, 1998, a public hearing was held in the DNREC Auditorium at 89 Kings Highway, Dover, Delaware. The public hearing concerned the addition of a new Section 29 to Regulation No. 20 of the *Regulations*

Governing the Control of Air Pollution. A public workshop concerning the proposed regulatory change was held on April 30, 1998. Proper notice of the hearing was provided as required by law.

This proposal would adopt, with certain changes, the federal *Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for which Construction is Commenced after June 20, 1996* found in 40 C.F.R. Part 60 Subpart Ec.

The proposal would adopt a State Plan including the regulation contained in Section IV entitled *Adoption of 40 C.F.R. Part 60 Subpart Ec by Reference* to address air emissions from hospital, medical and infectious waste incinerators. Delaware's regulation would also apply to existing hospital, medical and infectious waste incinerators. Air emissions from these sources include a variety of air pollutants, some of which pose particular public health concerns. Emissions from these facilities include organics (including chlorinated dibenzo-paradioxins and dibenzofurans), particulate matter, metals (including lead, cadmium and mercury), acid gases (including hydrogen chloride and sulfur dioxide), nitrogen oxides and carbon monoxide. The proposed regulation, in most cases, would require that one or more control devices be used to comply with the emission standards. The adoption of this regulation and state plan would require maximum achievable control technology for the control of air emissions from these facilities. It would also establish requirements for siting new facilities, operator training and qualifications, waste management plans, compliance and performance testing, monitoring, record keeping and reporting. Only minor changes were made to this proposal after public notice, and these changes were made to respond to the questions and concerns from the U.S. Environmental Protection Agency.

II. Findings

1. The Department provided proper notice of the hearing as required by law.

2. An informal public workshop concerning the regulatory proposal was held on April 30, 1998.

3. The proposed amendment would address air emissions from new and existing hospital, medical and infectious waste incinerators.

4. Air emissions from hospital, medical and infectious waste incinerators include a variety of air pollutants such as organics (including chlorinated dibenzo-paradioxins and dibenzofurans), particulate matter, metals (including lead, cadmium and mercury), acid gases (including hydrogen chloride and sulfur dioxide), nitrogen oxides and carbon monoxide, some of which pose particular health concerns.

5. The proposed regulatory amendment would adopt federal regulations with certain changes.

6. The Department offered reasoned and adequate responses to each and every comment from EPA and

suggested changes to the proposal where such were warranted.

7. The record supports promulgation of the amendment to the *Regulations Governing the Control of Air Pollution* as revised in the August 11, 1998, draft regulation and plan.

8. The August 11, 1998, draft of the Delaware Plan including *Appendix A: Technical Support Document* which is to be adopted does reflect changes to the proposal from the original public notice version. These minor changes were made to address EPA's concerns, but the final regulation does not constitute a substantial change from the original proposal.

III. Order

In view of the above findings, it is hereby ordered that a new Section 29 entitled *New Source Performance Standards For Hospital/Medical/Infectious Waste Incinerators* to Regulation No. 20 *New Source Performance Standards* as set out in the August 11, 1998, draft of the Delaware Plan be adopted and promulgated according to the Administrative Procedures Act. In addition, the August 11, 1998, version of the Delaware Plan, including *Appendix A: Technical Support Document* which recites the full text of the federal regulation and delineates all of the Delaware changes is expressly incorporated herein.

IV. Reasons

The proposed amendment to the *Regulations Governing the Control of Air Pollution* will further the policies and purposes of 7 Del. C. Chapter 60, in that it will address air pollutants, some of which pose particular health concerns.

Christophe A. G. Tulou, Secretary

9/11/98

Section 29 - Standards of Performance for Hospital/Medical/ Infectious Waste Incinerators

The provisions of Subpart Ec - Standards of Performance for Hospital/Medical/Infectious Waste Incinerators, of Part 60, Title 40 of the Code of Federal Regulations, ~~as set forth in~~ [] Vol. 62, No. 178, pp. 48347-48391, of the Federal Register, dated September 15, 1997 [], are hereby adopted by reference with the following changes:

(a) Wherever the word "Administrator" appears it shall be replaced by the word "Department", with the exception of sections 60.50c(i) and 60.56c(i).

(b) 60.50c(a) shall be replaced with the following language: "Except as provided in paragraphs (b) through (h) of this section, the affected facility to which this subpart applies is

each individual hospital/medical/infectious waste incinerator (HMIWI)."

(c) Delete 60.50c(h).

(d) 60.50c(k) shall be replaced with the following language: "The requirements of this subpart shall become effective as follows:"

(e) Add section 60.50c(k)(1) to read as follows: "September 11, 1998 for affected facilities which construction is commenced after June 20, 1996 or for which modification is commenced after March 16, 1998;"

(f) Add new section 60.50c(k)(2) to read as follows: "As expeditiously as practicable but no later than September 11, 1999 for facilities which construction is commenced on or before June 20, 1996 and for which modification was not commenced after March 16, 1998."

(g) Add new section 60.50c(k)(2)(i) to read as follows: "Affected facilities as defined in 60.50c(k)(2) may petition the Department for an extension beyond this compliance date. Such a petition shall include the following information and shall be submitted to the Department on or before March 11, 1999."

(h) Add new section 60.50c(k)(2)(i)(A) to read as follows: "Documentation of the analyses undertaken to support the need for an extension, including an explanation of why the extended date allows sufficient time to comply with this regulation while September 11, 1999 is not sufficient. The documentation shall also include an evaluation of the option to transport the waste offsite to a commercial medical waste treatment and disposal facility on a temporary or permanent basis; and"

(i) Add new section 60.50c(k)(2)(i)(B) to read as follows: "Documentation of measurable and enforceable incremental steps of progress to be taken towards compliance with this subpart."

(j) Add new section 60.50c(k)(2)(ii) to read as follows: "The Department shall review the information submitted from the affected facility pursuant to sections (k)(2)(i)(A) and (B) and either approve or deny the extension after determining if the extension is necessary to meet the requirements of this subpart."

(k) Add new section 60.50c(k)(2)(iii) to read as follows: "The Department may grant an extension of up to September 11, 2001 for the affected facility to meet the requirements of this subpart."

(l) 60.50c(l) shall be replaced with the following language:

“Beginning September 15, 2000, affected facilities subject to this subpart shall be subject to Regulation 30 of the State of Delaware “[Regulations Governing the Control of Air Pollution.]” Affected facilities for which construction is commenced on or before June 20, 1996, shall operate under a Regulation 30 permit no later than September 15, 2000. For affected facilities that commence operation on or before September 15, 1999, the owner or operator shall submit a complete Regulation 30 permit application to the Department no later than September 15, 2000. For affected facilities that commence operation after September 15, 1999, the owner or operator shall submit a complete Regulation 30 permit application to the Department within twelve (12) months of the commencement of operation of the affected facility.””

(m) [Add new sentence to 60.50c to read as follows: “Terms used but not defined in this subpart have the meaning given them in the Clean Air Act dated November 15, 1990 and in subparts A and B of 40 CFR Part 60 as of July 1, 1997.”]

[(m)]In 60.51c in the definition of medical/infectious waste, (3)(iv) shall be replaced with the following language: “Items that were saturated and/or dripping with human blood that are now caked with dried human blood; including serum, plasma, and other blood components, and their containers, which were used or intended for use in either patient care, testing and laboratory analysis or the development of pharmaceuticals. Intravenous bags are also included in this definition.”

[(n)]60.52c(a) shall be replaced with the following language: “On and after the date on which the initial performance test is completed or is required to be completed under §60.8, whichever date comes first, no owner or operator of an affected facility shall cause to be discharged into the atmosphere from that affected facility any gases that contain stack emissions in excess of the limits presented in Table 1 or Table 2, as applicable.”

[(o)]Replace the title of Table 1 in 60.52c(a) to read as follows: “TABLE 1. EMISSION LIMITS FOR SMALL, MEDIUM AND LARGE HMIWI FOR WHICH CONSTRUCTION IS COMMENCED AFTER JUNE 20, 1996 OR FOR WHICH MODIFICATION IS COMMENCED AFTER MARCH 16, 1998.”

[(p)]Add new table to 60.52c(a) to read as follows:

TABLE 2. EMISSION LIMITS FOR SMALL, MEDIUM AND LARGE HMIWI FOR WHICH CONSTRUCTION COMMENCED ON OR BEFORE JUNE 20, 1996 AND FOR WHICH MODIFICATION HAS NOT COMMENCED AFTER MARCH 16, 1998

Pollutant	Units (7 percent oxygen, dry basis)	Emission Limits		
		HMIWI Size		
		Small	Medium	Large
Particulate Matter	milligrams per dry standard cubic meter (grains per dry standard cubic foot)	11.5 (0.05)	69 (0.03)	34 (0.015)
Carbon monoxide	parts per million by volume	40	40	40
Dioxins/ furans	nano grams per dry standard cubic meter total dioxins/furans (grains per billion dry standard cubic feet)	125 (55)	125 (55)	125 (55)
	or nano grams per dry standard cubic meter total dioxins/furans TEQ (grains per dry standard cubic feet)	2.3 (1.0)	2.3 (1.0)	2.3 (1.0)
Hydrogen chloride	parts per million by volume or percent reduction	100 or 93%	100 or 93%	100 or 93%
Sulfur dioxide	parts per million by volume	55	55	55
Nitrogen oxides	parts per million by volume	250	250	250
Lead	milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet) or percent reduction	1.2 (0.52) or 70%	1.2 (0.52) or 70%	1.2 (0.52) or 70%
Cadmium	milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet) or percent reduction	0.16 (0.07) or 65%	0.16 (0.07) or 65%	0.16 (0.07) or 65%
Mercury	milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet) or percent reduction	0.55 (0.24) or 85%	0.55 (0.24) or 85%	0.55 (0.24) or 85%

[(q)]60.52c(c) shall be replaced with the following language: “On and after the date on which the initial performance test is completed or is required to be completed under § 60.8, whichever date comes first, no owner or operator of an affected facility utilizing a large HMIWI for which construction is commenced after June 20, 1996 or for which modification is commenced after March 16, 1998 shall cause to be discharged into the atmosphere visible emissions of combustion ash from an ash conveying system (including conveyor transfer points) in excess of 5 percent of the observation period (i.e., 9 minutes per 3-hour period), as determined by EPA Reference Method 22, except as provided in paragraphs (d) and (e) of this section.”

[(r)]In 60.56c(b)(9)(ii) “Table 2” shall be replaced with “Table 3”.

[(st)]Replace the title of the table in 60.56c(b)(9)(ii) to read as follows: "TABLE 3. TOXIC EQUIVALENCY FACTORS".

[(tu)]60.56c(c)(3) shall be replaced with the following language: "For large HMIWI for which construction is commenced after June 20, 1996 or for which modification is commenced after March 16, 1998, determine compliance with the visible emission limits for fugitive emissions from flyash/bottom ash storage and handling by conducting a performance test using EPA Reference Method 22 on an annual basis (no more than 12 months following the previous performance test)."

[(uv)]In 60.56c(d)(1) "Table 3" shall be replaced with "Table 4".

[(vw)]Replace the title of the table in 60.56c(d)(1) to read as follows: "TABLE 4. OPERATING PARAMETERS TO BE MONITORED AND MINIMUM MEASUREMENT AND RECORDING FREQUENCIES".

[(wx)]In 60.56c(d)(2) "Table 3" shall be replaced with "Table 4".

[(xy)]60.56c(i) shall be replaced with the following language: "The owner or operator of an affected facility using an air pollution control device other than a dry scrubber followed by a fabric filter, a wet scrubber, or a dry scrubber followed by a fabric filter and a wet scrubber to comply with the emission limits under § 60.52c shall petition the Administrator (with a copy to the Department) for other site-specific operating parameters to be established during the initial performance test and continuously monitored thereafter. The owner or operator shall not conduct the initial performance test until after the petition has been approved by the Administrator.

[(yz)]In 60.57c(a) both occurrences of "Table 3" shall be replaced with "Table 4".

[(zaa)]60.58c(b)(2)(ii) shall be replaced with the following language: "For affected facilities for which construction is commenced after June 20, 1996, or for which modification is commenced after March 16, 1998, results of fugitive emissions (by EPA Reference Method 22) tests, if applicable;"

[(abb)]60.58c(d) shall be replaced with the following language: "An annual report shall be submitted 1 year following the submission of the information in paragraph (c) of this section and subsequent reports shall be submitted no more than 12 months following the previous report (once the unit is subject to permitting requirements under Regulation

30, the owner or operator of an affected facility must submit these reports semiannually). The annual report shall include the information specified in paragraphs (d)(1) through (d)(8) of this section. All reports shall be signed by the facilities manager."

[(cc)]This regulation will be enforced through 7 Del. C. Chapter 60 and all other applicable laws and regulations of the State of Delaware.

DIVISION OF WATER RESOURCES
SURFACE WATER DISCHARGES SECTION

Brief Synopsis of the Subject, Substance and Issues:

The Department of Natural Resources and Environmental Control, in accordance with 7 Del. C. /6010, has revised Subsection 1 of Section 9 in the Regulations Governing the Control of Water Pollution. The amendments Part 1 and 2 and add Part 3 through 14 to the NPDES General Permit Program Regulations Governing Storm Water Discharges Associated with Industrial Activity.

Possible Terms of the Agency Action:

The Regulation has a term of 5 years

Statutory Basis or Legal Authority to Act:

7 Del C. Section 6010

List of Other Regulations That May be Impacted or Affected by the Proposal:

None

The Secretary of The Department of Natural Resources and Environmental Control has issued Secretary's Order No. 98-W-0029 adopting revisions to Section 9 of the Regulations Governing the Control of Water Pollution. The revisions amend Subsection 1, Part 1 and 2 and add Part 3 through 14 to the NPDES General Permit Program Regulations Governing Storm Water Discharges Associated with Industrial Activity.

The Secretary's Order and the revised regulations are available for public inspection at The Department of Natural Resources and Environmental control, Division of Water Resources, 89 Kings Highway, Dover, Delaware. For additional information please call Chuck Schadel at (302) 739-5731.

Secretary's Order No. 98-W-0029**Date of Issuance: August 7, 1998**

Effective Date of Regulatory Changes: September 15, 1998

Re: Amendments to the Regulations Governing Storm Water Discharges Associated with Industrial Activities**I. Background**

On November 6, 1997, a public hearing was held at the DNREC Auditorium to receive comment on proposed amendments to the Regulations Governing Storm Water Discharges Associated with Industrial Activities. The hearing exhibits were submitted by Charles A. Schadel of the Surface Water Discharges Section who then provided an overview of the proposed amendments and highlighted some of the important features in the draft regulations. Following his presentation, formal comments were taken but no questions were entertained on the record because numerous workshops, extending from June 1996 through May 1997, had already been conducted for that purpose. It should be noted that the lengthy workshop process also included an aggressive outreach effort to make sure that all interested parties had an opportunity to participate. Nonetheless, the record was left open until November 28, 1997, so that people could ask additional follow-up questions off the record and submit written comments. Proper notice of the hearing was provided as required by law.

After the record closed, Mr. Schadel assembled all of the written comments, as well as those contained in the hearing transcript, and submitted a set of responses to the Hearing Officer.

II. Findings

1. Proper notice of the hearing was provided as required by law.

2. Numerous substantive comments were offered by members of the public, both during the extensive workshop process and while the formal public hearing record remained open.

3. Responses to the public comments were prepared by the Division of Water Resources and submitted to the Hearing Officer in a document dated July 9, 1998.

4. The Division's Response Document addresses each of the substantive comments and recommends specific revisions to the hearing draft where warranted by the record, but defends the hearing draft in a reasoned manner where changes were not justified by the evidence.

5. Taken as a whole, the responses submitted by the Division represent a thorough analysis of all relevant comments as well as a reasoned recommendation as to what action the Secretary should take on each issue.

6. Given the thorough and reasoned approach of the

Response Document, it is sufficient to serve as a Hearing Officer's Report and is expressly incorporated herein.

7. The changes made to the hearing draft of the proposed regulations in response to public comments were not substantial, and thus it is not necessary to re-notice these regulatory changes.

III. Order

In view of the above findings, it is hereby ordered that the proposed regulations, as revised consistent with the recommendations in the Hearing Officer's Report and the Division Response Document, be issued in final form and that the formal promulgation process move forward as required by law upon the effective date of this Order.

IV. Reasons

These regulations are intended to address industry-specific problems which contribute to pollution of Delaware's rivers, streams and inland bays in a manner that protects the environment while not unreasonably interfering with economic activity, all of which is in furtherance of the policies and purposes of 7 Del. C. Chapter 60.

Christophe A. G. Tulou, Secretary

SECTION 9 - THE GENERAL PERMIT PROGRAM

Subsection 1 - Regulations Governing Storm Water Discharges Associated With Industrial Activities

INDEX

Part 1 - Baseline General Permit (§9.1.01.)

Part 2 - Special Conditions for Storm Water Discharges Associated with Land Disturbing Activities (§9.1.02.)Part 3 - Special Conditions for Storm Water Discharges Associated with Concrete Manufacturing Activities (§9.1.03.)Part 4 - Special Conditions for Storm Water Discharges Associated with Asphalt Manufacturing Activities (§9.1.04.)Part 5 - Special Conditions for Storm Water Discharges Associated with Chemical Manufacturing Activities (§9.1.05.)Part 6 - Special Conditions for Storm Water Discharges Associated with Activities Regulated by the Delaware Regulations Governing Solid Waste (§9.1.06.)

Part 7 - Special Conditions for Storm Water Discharges

Associated with Automotive Salvaging Activities (§9.1.07.)

Part 8 - Special Conditions for Storm Water Discharges Associated with Scrap Recycling Activities (§9.1.08.)

Part 9 - Special Conditions for Storm Water Discharges Associated with Watercraft Maintenance Activities (§9.1.09.)

Part 10 - Special Conditions for Storm Water Discharges Associated with Air Transportation Maintenance and Deicing Activities (9.1.10.)

Part 11 - Special Conditions for Storm Water Discharges Associated with Rail Transportation Maintenance Activities (9.1.11.)

Part 12 - Special Conditions for Storm Water Discharges Associated with Automotive Transportation Maintenance Activities (9.1.12.)

Part 13 - Special Conditions for Storm Water Discharges Associated with Food Processing Activities (9.1.13.)

Part 14 - Special Conditions for Storm Water Discharges Associated with Metals Manufacturing Activities (9.1.14.)

APPENDIX- Water Priority Chemicals

INTRODUCTION

Storm water discharges contribute significantly to water quality degradation across the U.S. Storm water-related sources of potential water quality degradation include the following: manufacturing and processing facilities, transportation maintenance areas, urban areas, resource extraction, hydro-habitat modification, land disposal of wastes and contaminated sediments present in stream and river beds. In November of 1990, the USEPA issued the NPDES Storm Water Permit Application Regulations for Storm Water Discharges in response to the evidence indicating storm water as a major source of impairment to the quality of rivers, streams and wetlands in the United States.

In 1993, Section 9 (The General Permit Program), of the State of Delaware, Department of Natural Resources and Environmental Control, Regulations Governing the Control of Water Pollution was issued. The General Permit Program is designed to provide permit coverage for the wide range of dischargers who could not practicably obtain individual permits in the foreseeable future. This approach will allow the DNREC resources to concentrate on individual permits for facilities with discharges which have a more significant

potential for impacting water quality in the State of Delaware.

A General Permit, as defined by federal law in 40 C.F.R. §122.28, authorizes the discharge of storm water associated with industrial activity from sources within a defined area or that share certain similarities. A General Permit Regulation is a self-implementing standard that can apply to multiple dischargers which the DNREC has determined can most efficiently be regulated as a category. Conversely, an individual permit contains special conditions specifically tailored to one specific facility. A General Permit is a Department statement of general applicability. A General Permit is a regulation since it implements and prescribes law which affects existing and future facilities.

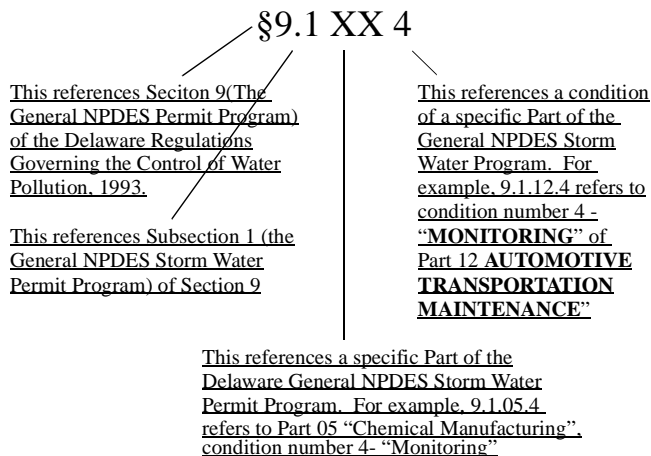
Subsection 1 of the General Permits Program contains The Regulations Governing Storm Water Discharges Associated With Industrial Activity and are referred to as the "General NPDES Storm Water Permit Program". In order to obtain coverage through the General NPDES Storm Water Permit Program, persons will be required to file with the DNREC a Notice of Intent (NOI). The NOI requirement is in accordance with 40 C.F.R. §122.28(b)(2) of the USEPA NPDES Program. The NOI is the equivalent of an NPDES permit application for General NPDES Storm Water Permit coverage. Part 1 of the NPDES General Storm Water Permit Program consists of general provisions applicable to all discharges associated with industrial activity. A letter verifying acquisition of permit coverage instead of an actual permit will be issued to the dischargers covered by Subsection 1.

The goal of the General NPDES Storm Water Permit Program is to establish, over a period of time, accepted practices for protecting and improving water quality and minimizing adverse impacts to waters of the State of Delaware by storm water discharges associated with industrial activity. To apply water-quality based numerical limits to storm water runoff, a large expenditure of the DNREC and industry resources (time and money) would be needed to develop and perform the myriad of assessments (e.g. modeling, analytical testing, statistical reviews of the varied rain event occurrences, event intensities, event intensity-deltas, event durations, and rainfall quantities). Therefore, the General NPDES Storm Water Permit Program requires Best Management Practices (BMPs) to be implemented by all facilities as a more efficient approach to protect and improve water quality in the State of Delaware. The BMPs requirements in this regulation will serve in place of numerical limits in accordance with 40 Code of Federal Regulations (CFR) Part 122.44(k).

The General NPDES Storm Water Permit Program is divided into 14 Parts. In Part 1, the baseline of the General NPDES Storm Water Permit Program is established. Parts 2 through 14 apply to specific categories of industrial activity. A facility is required to obtain coverage under each

applicable Part. If there is not an applicable industry-specific Part for a facility, then the facility is required to obtain and maintain coverage under Part 1.

The numbering sequence for the regulations is displayed by the following graphic:



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- 9.1.01.4 MONITORING**
- 9.1.01.5 STORM WATER PLAN (SWP)**
- 9.1.01.6 EFFECTIVE DATE OF COVERAGE]**

§9.1.01.0 DEFINITIONS

The following words and phrases shall have the meaning ascribed to them in this Subsection unless the context clearly indicates otherwise:

- (1) APPROPRIATE PLAN APPROVAL AGENCY:** means the Department, Conservation District, county, municipality, or State agency that is responsible in a jurisdiction for review of a Sediment and Stormwater Management Plan.
- (2) CERTIFIED CONSTRUCTION REVIEWER:** means those individuals, having passed a Department-sponsored or approved training course, who provide on-site inspection for sediment control and stormwater management in accordance with the Delaware Sediment and Stormwater Regulations.
- (3) C.F.R.:** means the Code of Federal Regulations.
- (4) [CLEAN WATER ACT:** means 33 U.S.C. 1251 et seq. (formerly known as the Federal Water Pollution

Control Act).]

[(5)] COMPARABLE LEVEL: means an estimated level of environmental benefit, related to the quality of the storm water discharges, equivalent to what would be achieved by implementing the requirements described under "Storm Water Plan" (§9.1.xx.5) listed in Parts 3 through 14 of Subsection 1.

[(5 (6))] DEPARTMENT: means the State of Delaware, Department of Natural Resources and Environmental Control.

[(6 (7))] DISCHARGE: means storm water runoff.

[(8) DISCHARGE BUFFERING: means to use various BMPs that are designed to remove, capture or retain pollutants or minimize hydraulic extremes generated by storm water, through the application of detention, settling, biofiltration, or filtering (e.g. settling basins, wet ponds, vegetated swales, sand filters, inlet filters, oil/water separators, sediment traps, berms for diversion, buffer strips). Straw bale and fabric fence may be used for sheet flow or in conjunction with other structural controls.

[(7 (9))] EFFECTIVE DATE: means the date when these regulations have formally passed through a public comment period, a public hearing and have been formally adopted by the Department and start being operative.

(10) EMERGENCY: means a situation in which human safety is at risk and/or significant destruction of property is a possibility.]

[(8 (11))] ENCLOSED AREAS: means an area(s) which consists of an impervious surface, such as a floor, is shielded from precipitation and storm water run-on.

[(9 (12))] INDIVIDUAL PERMIT: means a permit which is written for one specific facility or site.

[(10 (13))] LAND DISTURBING ACTIVITIES: means a land change or construction activity for residential, commercial, silvicultural, industrial and institutional land use which may result in soil erosion from water or wind, or movement of sediments or pollutants into State waters or onto lands in the State, or which may result in accelerated stormwater runoff, including, but not limited to, clearing, grading, excavating, transporting, and filling of land. (Contact the Department Division of Soil & Water Conservation for more details.)

[(14)] MAINTENANCE: means the work required to

keep vehicles, equipment and/or machinery in proper condition (e.g. painting, paint removal, sanding, grinding, cleaning, repair, lubrication, replacement of parts or structures, draining or replacing fluids).]

[15] MAXIMUM EXTENT PRACTICABLE: means to complete an objective or requirement of this Part, to a level which bears the most benefit from an environmental standpoint, but not to a level that is physically or economically infeasible or that would jeopardize human health or safety, or that would prohibit the conductance of work at the facility.

[16] MUNICIPAL STORM WATER SYSTEM means a conveyance system which is not intended to convey anything but storm water and is owned by a municipal or public entity.

[17] PART: means a component of Subsection 1 (Part 1 generally contains foundation language for Subsection 1 where Parts 2 through 14 contain language specific to certain categories of industry).]

[18] PERSON: means any individual, partnership, corporation, association, institution, enterprise, municipality, commission, political subdivision, or duly established entity.

[19] QUALIFIED FACILITY PERSONNEL : means personnel that are trained and responsible for performing tasks which are related to Significant Material management.

(20) PROTOCOLS: means non-structural Best Management Practices such as preventive maintenance, good housekeeping and training measures designed to minimize the contribution of Significant Materials to storm water runoff (e.g. moving Significant Materials closer to the point of use, providing more space between stacked drums containing Significant Materials).]

[21] SECRETARY: means the Secretary of the State of Delaware, Department of Natural Resources and Environmental Control or his duly authorized designee.

[22] SIGNIFICANT MATERIALS: means substances, products, or wastes that are exposed to precipitation and can contribute pollutants to storm water runoff or storm water infiltration [(Materials which cannot contribute pollutants to storm water runoff are not considered SIGNIFICANT MATERIALS)].

[23] STORM WATER: means run-on or runoff of water from the surface of the land resulting from precipitation or snow or ice melt.

[24] STRUCTURAL CONTROLS: means curbs, dikes, berms, walls, sheds, impervious pads, ditches, diversions or other structures which limit the contribution of Significant Materials to storm water discharges from a facility.

[25] THESE REGULATIONS: means the State of Delaware, Regulations Governing Storm Water Discharges Associated with Industrial Activity (Subsection 1).

(26) TRUCK RINSE: means the water used to rinse the inside of a rotating barrel (after the barrel has been emptied of concrete) which is used to mix concrete and is mounted on a truck.]

[27] WATER PRIORITY CHEMICALS: means the list of chemicals presented in Appendix-A of these Regulations.

§9.1.01.1 COVERAGE

A. This Subsection shall apply to storm water discharges from the following categories of industrial activities:

Storm Water associated with industrial activity which is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant. This Subsection does not include discharges from facilities or activities excluded from the NPDES program.

[Subsection 1 applies to For] the categories of industries identified in subparagraphs (i) through (x) of this Part for, but not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling activities; refuse sites; sites used for the application or disposal of process waste waters (as defined at 40 C.F.R. §401); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and finished products; and areas where industrial activity has taken place in the past and Significant Materials remain.

[Subsection 1 applies to For] the categories of industries identified in subparagraph (xi) of this Part for storm water discharges from all areas listed in the previous paragraph (except access roads) where Significant Material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, or industrial machinery are exposed to storm water.

For the purposes of this Subsection, material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product, or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above-described areas.

Industrial facilities (including industrial facilities that are municipally owned or operated that meet the descriptions listed in this paragraph (i) through (xi)) include those facilities designated under 40 C.F.R. Part 122.26(a)(1)(v) of the NPDES Storm Water Regulations. The following categories of facilities are considered to be engaging in "industrial activity" for purposes of this Subsection:

(i) Facilities subject to storm water effluent limitation guidelines, new source performance standards, or toxic pollutant effluent standards under 40 C.F.R. subchapter N [except facilities exempted under category xi];

(ii) Facilities classified in the Standard Industrial Classification Manual (Office of Management and Budget, 1987) as: 24 [Lumber and Wood Products] except 2434 [Wood Kitchen Cabinets]; 26 [Paper & Allied Products] except 265 [Paperboard Containers and Boxes] and 267 [Converted Paper & Paperboard Products]; 28 [Chemicals & Allied Products] except 283 [Drugs] and 285 [Paints, Varnishes, Lacquers, Enamels & Allied Products]; 29 [Petroleum Refining & Asphalt]; 311 [Leather Tanning]; 32 [Stone, Clay & Glass Products]; except 323 [Glass Products, Made of Purchased Glass] 33 [Primary Metals Industry]; 3441 [Fabricated Structural Metal]; 373 [Ship Building & Repair];

(iii) Facilities classified as Standard Industrial Classifications 10 [Metal Mining], 11 [Anthracite Mining], 12 [Coal Mining, except for areas of coal mining operations meeting the definition of a reclamation area under 40 C.F.R. §434.11(l)], 13 [Oil & Gas Extraction including exploration, production, processing, or treatment operations, or transmission facilities, that discharge storm water contaminated by contact with or that has come in contact with, any overburden, raw material, intermediate products, finished products, by-products, or waste products located on the site of such operations], 14 [Nonmetallic Minerals Mining] including active or inactive mining operations. Inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator;

(iv) Hazardous waste treatment, storage, or disposal

facilities;

(v) Landfills, land application sites, and open dumps that have received any industrial wastes (waste that is received from any of the facilities described under this Subsection);

(vi) Facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including but not limited to those classified as Standard Industrial Classification 5015 [Motor Vehicle Parts, Used] and 5093 [Scrap & Waste Materials], but not including recycling collection centers consisting solely of "igloos" or similar structures;

(vii) Steam electric power generating facilities, including coal handling sites;

(viii) Transportation facilities classified as Standard Industrial Classifications 40 [Railroad Transportation], 41 [Local & Suburban Transits], 42 [Motor Freight & Warehousing] except 4221 [Farm Product Warehousing & Storage]; 4222 [Refrigerated Warehousing & Storage]; 4225 [General Warehousing & Storage]; 43 [U.S. Postal Service] 44 [Water Transportation], and 45 [Transportation by Air] and 5171 [Bulk Petroleum Terminals]. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under paragraphs (i) through (vii) or (ix) through (xi) of this Subsection are associated with industrial activity;

(ix) Treatment works with a design flow of one million gallons per day or more treating domestic sewage or any other sewage sludge or waste water treatment device or system, used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, or required to have an approved pretreatment program under 7 Del. C. §6033. Not included are farm lands, domestic gardens, or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with 40 C.F.R. §503;

(x) Construction activity including clearing, grading, and excavation activities;

(xi) Facilities under Standard Industrial Classifications 20 [Food & Kindred Products]; 21 [Tobacco Products]; 22 [Textile Mill Products]; 23 [Apparel & Other Finished Products Made From Fabrics & Similar Materials]; 2434

[Wood Kitchen Cabinets]; 25 [Furniture & Fixtures]; 26 [Paperboard Containers & Boxes]; 267 [Converted Paper & Paperboard Products]; 27 [Printing, Publishing & Allied Industries]; 283 [Drugs]; 285 [Paints, Varnishes, Lacquers Enamels, & Allied Products]; 30 [Rubber & Miscellaneous Plastics Products]; 31 [Leather & Leather Products] except 311 [Leather Tanning & Finishing]; 323 [Glass Products, Made of Purchased Glass]; 34 [Fabricated Metal Products] except 3441 [Fabricated Structural Metal Products]; 35 [Industrial & Commercial Machinery & Computer Equipment]; 36 [Electronic & Other Electrical Equipment & Components, Except Computer Equipment]; 37 [Transportation Equipment] except 373 [Ship & Boat Building & Repairing]; 38 [Measuring, Analyzing & Controlling Instruments/Photographic, Medical and Optical Goods/Watches & Clocks]; 39 [Miscellaneous Manufacturing Industries]; 4221 [Farm Product Warehousing & Storage]; 4222 [Refrigerated Warehousing & Storage]; 4225 [General Warehousing & Storage]; (and which are not otherwise included within categories (i) through (x)).

B. Eligibility

1. This Subsection covers all new and existing discharges that are composed in whole or in part of storm water associated with industrial activities.

2. Facilities with existing individual NPDES permits for discharges other than storm water, are covered by this Subsection, for the storm water discharges not covered by the existing individual NPDES permit.

3. Facilities with individual NPDES permits which do not fully address storm water are covered by this Regulation until amendments which will fully address storm water can be made on the existing individual NPDES permits.

4. No person shall discharge storm water associated with an industrial activity except as authorized by an individual NPDES permit or this Subsection. Part 1 of this Subsection shall apply to all discharges of storm water associated with industrial activity. Parts 2 through 14 of this Subsection apply to certain categories of industrial activity and modify certain parts of Part 1 and/or add requirements for certain specified industrial activities. Authorization can be obtained through this Subsection by submitting a Notice Of Intent (NOI) in accordance with the respective Part of this Subsection. Once coverage through this Subsection has been obtained, the person is authorized to discharge storm water only from the specific outfalls that were listed on the submitted NOI.

C. Limits on Eligibility

The following activities are not eligible for coverage under this Subsection:

1. facilities with individual NPDES permits which fully address storm water discharges associated with the industrial activity at the facility;

2. activities that have been determined by the Secretary to be significant contributors of a pollutant to storm water runoff.

D. Requesting an Individual Permit or Coverage Under an Alternative Regulation

1. Any person covered by this Subsection may request to obtain coverage under an individual permit or Parts 2 through 14 of this Subsection. The person shall submit an individual application (Form 1 and Form 2F) ~~for an appropriate NOI and shall submit in writing, the reasons supporting the request.~~ **and shall submit in writing, the reasons supporting the request, or an appropriate NOI** Coverage under this Subsection will continue until authorization for coverage under an alternative regulation is granted or an individual permit has been issued to the person making the request.

2. Part 1 shall no longer apply to any person otherwise subject to it when the person is issued an individual NPDES Storm Water Permit for Industrial Activities. Termination of coverage under Part 1 shall occur on the effective date of the individual NPDES Storm Water Permit.

3. No person who is otherwise eligible for coverage under Part 1 whose activities are described in Parts 2 through 14 of this Subsection shall discharge storm water except in compliance with Parts 2 through 14. When a person is approved for coverage under Parts 2 through 14 of this Subsection, some provisions of Part 1 may be superseded or replaced by the requirements of that Part. In the event that the requirements of Parts 2 through 14 supersede, replace, amend, or delete any requirement of Part 1, the requirements of Parts 2 through 14 shall control.

E. Requiring an Individual Permit or Coverage Under Parts 2 Through 14

1. The Secretary may require any person covered by Part 1 of this Subsection to obtain either an individual NPDES permit or coverage under Parts 2 through 14 of this Subsection. Any interested citizen may also petition the Secretary to take action under this paragraph. The Secretary may take action when:

- a. there is noncompliance with the provisions of this Subsection;
- b. there is newly demonstrated, higher efficiency control technology or practices applicable to an activity subject to this Subsection;
- c. the U. S. Environmental Protection agency develops effluent limitation guidelines for an activity covered by this Subsection;
- d. this Subsection is no longer appropriate

for a discharge or type of activity;

e. there is evidence indicating potential or realized impacts on water quality due to any storm water discharge covered by this Subsection; or

f. other circumstances merit the application of this Subsection.

2. ~~[The Secretary shall notify a person so required in writing that a permit application or an alternative NOI is required. This notice shall include a brief statement of the reasons for the decision, an application or appropriate NOI form, a statement setting a deadline for the person to file the application or NOI, and a statement that on the effective date of the individual NPDES permit or the alternative Part of this Subsection, as it applies to the person, coverage under Part 1 of this Subsection shall automatically terminate and the person will be in violation of this Regulation]~~ The Secretary shall notify a person in writing when an individual permit application or an alternative NOI is required. The notice shall include a brief statement of the reasons for the decision, an application or appropriate NOI form and a statement setting a deadline for the person to file the application or NOI form. **The Secretary shall notify the person in writing that permit coverage has been obtained under an alternative Part of this Subsection once a completed, alternative NOI has been received by the Department, or that permit coverage under this Subsection shall automatically terminate on the effective date of the individual NPDES permit that is issued to the person.**

3. If a person fails to submit an **[individual permit]** application or an NOI in compliance with **[a this]** notice from the Secretary, the applicability of Part 1 of this Subsection to the person shall automatically terminate at the end of the day specified for application or NOI submittal.

§9.1.01.2 GENERAL — STANDARDS STANDARD CONDITIONS

~~A. Prohibition on Non-storm Water Discharges (Moved §9.1.01.5.F) Discharges to a storm water system of anything other than storm water shall be eliminated or be in compliance with an appropriate NPDES permit. If non-storm water discharges to a storm water system occur, compliance with this Part must be attained by performing one of the following:~~

~~1. If appropriate, a date for submittal of an application for individual NPDES permit coverage for the non-storm water discharges; or~~

~~2. a sequence of steps which will result in the removal of the non-storm water discharges to the storm water system;~~

~~3. and develop and submit to the Department a schedule which shall include—~~

~~a. a date for submittal of an application for~~

~~individual NPDES permit coverage for the non-storm water discharges; or~~

~~b. a sequence of steps which will result in the elimination of the non-storm water discharges to the storm water system; and~~

~~The schedule shall be submitted to the Department within 15 days of when the permittee has knowledge of the non-storm water discharge unless granted a written extension by the Department.~~

~~Enclosed Areas where Significant Material is used, stored, handled, shipped, or received shall not have drains connected to any storm water conveyance unless approved by the Department in writing.~~

A. Entry and Inspection

Any person subject to this Subsection shall allow the Department to:

1. enter the facility subject to this Subsection during standard business hours;

2. inspect and copy at reasonable times, any records that must be kept under the conditions of this Subsection;

3. inspect at reasonable times any facilities or equipment; and

4. perform sampling of the storm water discharges from the site.

B. Signature Requirements

All Notices of Intent, Storm Water Plans, reports, certifications or information submitted to the Department shall be signed in accordance with the following:

1. All NOIs shall be signed by:

a. a president, vice-president, secretary or treasurer for a corporation; or

b. a general partner or proprietor for a partnership or sole proprietorship; or

c. a principal executive officer or ranking official for a municipality or public agency.

2. All other reports or information required by this Subsection shall be signed by a person described above or by a duly authorized representative.

3. Any person signing documents in accordance with this Subsection shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for willful violations."

C. Proper Procedures

Any person subject to this Subsection shall at all times properly operate and maintain all facilities, systems and practices of pollution control which are installed, or implemented to achieve compliance with the conditions of this Subsection and with the requirements of the Storm Water Plan.

D. Duty to Mitigate

Any person subject to this Subsection shall take all reasonable steps to minimize or prevent any discharge of pollutants in violation of this Subsection.

E. Other State or Federal Laws

Nothing in this Subsection shall be construed to preclude the institution of any legal action or relieve any person subject to this regulation from any responsibilities, liabilities, or penalties established pursuant to any applicable State or Federal law or regulation.

F. Penalties for Violations

Any person who violates conditions of this Subsection may be subject to penalties in accordance with 7 Del. C. Chapter 40, 7 Del. C. Chapter 60, or both. Violation of this Subsection is also a violation of the Clean Water Act and may be subject to penalties established under that statute.

G. Oil and Hazardous Substance Liability

Nothing in this Subsection shall preclude the institution of any legal action or relieve any person from any responsibilities, liabilities, or penalties to which a person is or may be subject under 40 C.F.R. Part 117 or 7 Del. C. Chapters 60, 62 or 63.

H. Additional Requirements for Salt Storage

Storage piles of salt shall be enclosed or covered to prevent exposure to precipitation, except for exposure resulting from adding or removing materials from the pile. Dischargers shall demonstrate compliance with this provision as expeditiously as practicable, but in no event later than three years after the date of issuance of this Subsection.

§9.1.01.3 NOTIFICATION**A. Deadlines**

~~As of October 1, 1992,~~ Any person who intends to obtain coverage for storm water discharges associated with industrial activity through this Subsection, must submit a Notice of Intent (NOI) in accordance with this Subsection. The Notice of Intent should be submitted by certified mail.

1. Any person intending to obtain coverage through this Subsection for storm water discharges associated with industrial activities, existing before the effective date of this Subsection, must submit an NOI within

~~30~~ **90** days after the effective date of this Subsection.

2. Any person intending to obtain coverage through this Subsection for storm water discharges associated with industrial activities, commencing after the effective date of this Subsection, must submit an NOI at least 180 days prior to the commencement of industrial activities **[that could potentially impact storm water]** at the facility listed on the NOI.

B. Contents of the Notice of Intent

The Notice of Intent (NOI) shall be submitted on a form provided by the Department. The NOI shall include, but not be limited to, the following information:

1. the name of the owner, the facility, facility mailing address, and location, if different from the mailing address;
2. the latitude and longitude of the facility;
3. up to four Standard Industrial Classification (SIC) codes that best represent the principal products or activities of the facility;
4. the name, address, and telephone number of the individual who is directly responsible for development, implementation, maintenance, and revision of the Storm Water Plan;
5. the name of the receiving waters or municipal storm water system; and

~~6. whether the facility has participated in a Group application and the EPA number assigned to that Group;~~

C. Other Information

When any person subject to this Subsection becomes aware that any relevant facts were omitted or submitted incorrectly on the NOI or on any other records required by this Subsection, that person shall promptly submit such corrected information to the Department.

D. Where to Submit

Persons intending to obtain coverage through this Subsection must submit an NOI to the following address: Delaware Department of Natural Resources and Environmental Control Division of Water Resources Surface Water Discharges Section - NPDES Storm Water Program 89 Kings Highway, Dover, DE 19901

§9.1.01.4 MONITORING

~~Water Priority Chemical Facilities (moved to §9.1.01.4, A.5.b.)~~

~~Facilities that handle a Water Priority Chemical (WPC), {see Appendix A for a list of WPCs} that are subject to 313 of SARA Title III, are required to sample storm water that is discharged from the facility that comes into contact with any equipment, tank, container or other vessel or area used for storage of WPCs : (i) Analyze a~~

~~grab sample taken within the first 30 minutes of a storm water discharge from the permitted facility for any WPCs for which the facility is subject to reporting requirements under SARA Title III '313; (ii) this shall be performed twice per year, at least 90 days apart and continue from the effective date to termination of this regulation.~~

A. Persons subject to this Part shall monitor the discharges of storm water associated with industrial activity as specified below beginning on the effective date of this Subsection:

1. analyze a grab sample taken within the first half hour of a storm water discharge;
2. allow for two full days of standard operating activities at the facility since the last rainfall event that resulted in runoff from the facility;
3. samples taken shall be representative of the monitored discharge. Sampling and analysis must be conducted according to test procedures approved under 40 C.F.R. Part 136, or an alternative method approved by the Department for this purpose;
4. allow for at least 180 days from the last sample; and
5. analyze samples in accordance with the following parameters:
 - a. please refer to the applicable Part (Parts 2-14) for requirements.

b. Water Priority Chemical Facilities

Facilities that have released a Water Priority Chemical (WPC), {see Appendix A for a list of WPCs} that are subject to §313 of SARA Title III or have WPCs exposed to storm water, are required to sample the storm water discharges associated with the area of the release or exposure. The storm water discharges shall be analyzed for the constituents which will indicate the presence of WPCs as follows:

<u>Discharge Parameter</u>	<u>Units</u>	<u>Frequency</u>	<u>Sample Type</u>
Flow	Gal/minute	At each sampling	Estimated ^[1]
Indicator #1	[2]mg/L	2/year	Grab
Indicator #2	[2]mg/L	2/year	Grab
Indicator #3	[2]mg/L	2/year	Grab

Monitoring shall continue until it is demonstrated that the WPCs are no longer present in the discharge(s).

[1] Determine the flow of the storm water discharge at the time the sample is taken. A reading from a rain gage taken at the time of the sampling can be substituted for an estimate of flow.

[2] Persons subject to this Part shall develop a monitoring

plan choosing parameters which will represent all Water Priority Chemicals which have been released or are exposed to precipitation. Appropriate units shall be used to measure the chosen parameters

6. Representative Discharge

If any person subject to this Subsection reasonably believes that two or more outfalls discharge storm water substantially identical (based on a consideration of industrial activity, Significant Materials, management practices and activities within the area drained by the outfalls) that person may test the discharges of one of such outfalls and report that the quantitative data also applies to the substantially identical outfalls.

B. Records of all sampling and analysis shall include the following:

1. the date, exact place, and time of sampling or measurements;
2. the name(s) of the individual(s) who performed the sampling or measurements as well as the procedures used for sample collection and preservation;
3. the date and time when the analysis of the samples took place along with the name of the individual(s) who performed the analysis;
4. references and written procedures, when available, for the analytical techniques or methods used; and
5. the results of such analyses, including the bench sheets, instrument read-outs, computer disks or tapes, used to determine these results.

§9.1.01.5 STORM WATER PLAN (SWP)

A. Persons covered by this Subsection shall develop and administer a Storm Water Plan (SWP). The goal of developing and administering the SWP is to create a program for continually assessing the potential for Significant Materials to be exposed to precipitation and storm water run-on, implementing and maintaining practices which eliminate or minimize the transport of Significant Materials from the facility by storm water runoff, as well as reviewing the success of the implemented practices and amend the SWP as appropriate.

B. Facilities must implement §9.1.01.5 as a condition of this Subsection.

C. The SWP shall be signed in accordance with this Part and kept at the facility.

D. SWP Deadlines

1. Existing Facilities
 - a. Persons covered by this Subsection shall comply with the following deadlines unless granted a different deadline by any of Parts 2 through 14 :
 - (1) develop a SWP within 90 days of the effective date; and
 - (2) initiate implementation of the SWP

within ~~90~~ 180 days of the effective date.

b. Persons Not Covered by Any of Parts 2 through 14

(1) Persons with a current NOI on file at the Department shall maintain the existing SWP. Persons subject only to Part 1 shall continue to implement the existing SWP unless informed of SWP deficiencies in writing by the Department.

(2) Persons without a current NOI on file at the Department shall develop a SWP in accordance with this Part. Persons without a current NOI on file at the Department shall submit the SWP to the Department for review within 60 days of the effective date of these Regulations. The SWP shall be implemented within 60 days after the date of approval.

2. New Facilities

Facilities which were not engaged in industrial activity prior to the effective date shall be required to develop a SWP 90 days before the start of industrial operations at the facility. Full implementation of the SWP shall coincide with the start of industrial activity at the facility.

E. Contents of the SWP

Persons covered by this Subsection shall comply with the following requirements when developing and administering the SWP. The SWP shall include at a minimum, but not be limited to, the following items:

1. Facility Identification

The name, address, and telephone number of the individual who is responsible for development, implementation, maintenance and revision of the SWP.

2. Facility Assessment

a. A Map of the Facility

All markings, delineations and designations on the map shall be clearly identifiable. A narrative description of the markings, delineations and designations shall accompany the facility map. The map shall identify:

- (1) all of the buildings at the facility;
- (2) the areas where Significant Materials are stored, handled or used in processes and the types of Significant Materials associated with each areas;

(3) the drainage areas associated with each storm water discharge from the facility/site and the associated ground cover;

(4) all storm water related drainage and discharge structures including all conveyances systems and appurtenances;

(5) any structural storm water controls (i.e. detention basins, secondary containment, storm water diversions); and

(6) all surface waters that receive storm water discharges from the facility.

b. An Inventory of Significant Materials
Estimate the yearly quantities of Significant

Materials handled by the facility **[unless subject to Part 2.]**

c. An Inventory of Spills and Leaks

List substantial spills, leaks or residual deposits of Significant Materials that have occurred within the last three years in areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility. The list shall be updated annually unless subject to Part 2.

3. Significant Material Management

The Storm Water Plan shall contain, but not be limited to, language which identifies and describes the practices which will be implemented by the permittee in order to conform with the following requirements unless subject to any of Parts 2 through 14 :

a. Non-structural control practices implemented to eliminate or minimize the exposure of Significant Materials to precipitation and storm water run-on during handling, transferring and shipping of Significant Material;

b. Structural Controls, when needed, to store, cover, enclose, contain, trap or treat Significant Materials or storm water containing Significant Materials;

c. A response plan which addresses prevention and minimization of releases of oil or hazardous material into the storm water system. When required, the management of oil and hazardous material shall be performed in accordance with 40 C.F.R. Part 117 and 7 Del. C. Chapters 60, 62 and 63.

d. Maintenance

A maintenance program shall describe a schedule of inspections in order to prevent or correct any functional deficiencies of management devices or equipment used to control or prevent the transport of pollutants from the facility by storm water - including any equipment that has the potential to release pollutants to the storm water system as a result of failure or breakdown.

Qualified facility personnel shall be identified to inspect designated equipment and areas of the facility at appropriate intervals specified in the SWP. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. A log of inspections and any actions taken shall be maintained at the site.

4. InterinSignificantMateriaManagementPractices

During the time between the effective date of this Part and the date when any of §9.1.01.5, E.3.a., b., c., or d. are completed, all Significant Materials shall be managed in a responsible manner.

5. Inadequate Significant Material Management

If a continued transport of substantial amounts of Significant Material through a facility's storm water discharges persists, the Department may require treatment of the contaminated storm water discharges along with limits for contaminant levels. If treatment of the contaminated storm water discharges along with limits for contaminant

levels are required, permit coverage through an individual NPDES Storm Water Permit may be required.

F. Non-storm Water Discharges

Discharges to a storm water system of anything other than storm water shall be eliminated or be in compliance with an appropriate NPDES permit. If non-storm water discharges to a storm water system occur, compliance with this Part must be attained by performing one of the following:

1. Obtain coverage through an appropriate Part (general permit) of these regulations; or
2. Develop and submit to the Department a schedule which shall include
 - a. a date for submittal of an application for individual NPDES permit coverage for the non-storm water discharges; or
 - b. a sequence of steps which will result in the elimination of the non-storm water discharges to the storm water system; and

The schedule shall be submitted to the Department within 15 days of when the permittee has knowledge of the non-storm water discharge unless granted a written extension by the Department.

Enclosed Areas where Significant Material is used stored, handled, shipped, or received shall not have drains connected to any storm water conveyance unless approved by the Department in writing.

~~[G. Additional Requirements for Facilities Subject to SARA III §313 (Water Priority Chemicals) (moved to §9.1.01.5, K.)~~

~~[Appropriate containment, drainage control and/or diversionary structures shall be provided in all areas where Water Priority Chemicals (WPCs) are stored, processed or otherwise handled. At a minimum, the appropriate preventive systems or its equivalent shall be used (an equivalent practice may be used if approved by the Department in writing for this purpose).~~

~~1. Storage locations for Non-liquid WPCs shall have roofs, covers or other forms of appropriate protection to prevent exposure of storage piles to storm water and wind; and~~

~~2. Storage locations for Liquid WPCs shall include secondary containment providing at least 110% of the entire contents of the largest single tank plus 6 inches to allow for precipitation.~~

~~[H G.] Review of Plans, Reports, Records or SWP~~

~~1. Upon notification from this Department that the SWP does not adequately address the requirements of this Subsection, persons subject to this Subsection shall amend the SWP and submit these amendments to this Department within 30 days of notification. The notification from the Department shall list and describe the deficiencies of the Storm Water Plan.~~

2. This Department may grant additional time for amending a SWP. This extension must be obtained from the Department in writing.

~~[H H.] Training~~

Facility employees and contractor personnel that work in areas where Significant Materials are used or stored shall be appropriately trained to meet the requirements of the SWP. Employee training shall be conducted not less than once per year.

~~[H I.] Consistency With Other Plans~~

The Storm Water Plan must comply with any other plans developed for the facility to control discharges of Significant Materials into the environment.

~~[H J.] Facility Security~~

Facilities shall have the necessary security systems to prevent an accidental or intentional discharge of hazardous material or oil through vandalism.

[K. Additional Requirements for Facilities Subject to SARA III §313 (Water Priority Chemicals)

Appropriate containment, drainage control and/or diversionary structures shall be provided in all areas where Water Priority Chemicals (WPCs) are stored, processed or otherwise handled. At a minimum, the appropriate preventive systems or its equivalent shall be used (an equivalent practice may be used if approved by the Department in writing for this purpose).

1. Storage locations for Non-liquid WPCs shall have roofs, covers or other forms of appropriate protection to prevent exposure of storage piles to storm water and wind; and

2. Storage locations for Liquid WPCs shall include secondary containment providing at least 110% of the entire contents of the largest single tank plus 6 inches to allow for precipitation.]

§9.1.01.6 EFFECTIVE DATE OF COVERAGE UNDER THIS PART

A. Commencement of Coverage

Coverage under this Part begins when the Department has received notification pursuant to the NOI requirements outlined in §9.1.01.3.

B. Renotification

Any person subject to the provisions of this Subsection is required to submit a new NOI in accordance with the requirements of the reissued Subsection.

[Part 2 - SPECIAL CONDITIONS FOR STORM WATER DISCHARGES ASSOCIATED WITH LAND DISTURBING ACTIVITIES

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9.1.02.1 COVERAGE

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- 9.1.04.4 MONITORING
- 9.1.05.5 STORM WATER PLAN
- 9.1.06.6 EFFECTIVE DATES OF COVERAGE

9.1.02.1 COVERAGE

This Part covers all new and existing storm water discharges that are composed in whole or in part of storm water associated with land disturbing activities.

9.1.02.2 STANDARD CONDITIONS

Activities covered by this Part shall comply with all of the provisions of §9.1.01.2 of Part 1 of the Regulations.

9.1.02.3 NOTIFICATION

A. Persons who intend to obtain coverage under this Part for storm water discharges associated with land disturbing activity which commence after the effective date of this Part shall submit certification that a Sediment and Stormwater Management Plan has been approved, and shall be implemented, in accordance with 7 Del. C. Chapter 40 and the Delaware Sediment and Stormwater Regulations. Land disturbing activities shall not commence and coverage under this Part shall not apply until the Sediment and Stormwater Management Plan for a site has been approved, stamped, signed, and dated by the Appropriate Plan Approval Agency in accordance with the review schedule outlined in Section 8 of the Delaware Sediment and Stormwater Regulations.

The requirements of the NOI will be satisfied when an application with accompanying information is submitted in accordance with the Delaware Sediment and Stormwater Regulations. The NOI shall be submitted through the Appropriate Plan Approval Agency to:

The Department of Natural Resources and Environmental Control, Division of Soil and Water Conservation, 89 Kings Highway, P.O. Box 1401, Dover, DE 19903

B. Persons complying with §9.1.02.3, A. shall be considered in compliance with the NOI provisions outlined in §9.1.01.3, A. through D. of Part 1 of the Regulations.

C. Any person identified in the Sediment and Stormwater Management Plan shall sign a copy of the following certification statement before conducting any professional service identified in the Sediment and Stormwater Management Plan:

"I certify under penalty of law that I understand the terms and conditions of the Delaware National Pollutant Discharge Elimination System (NPDES) General Permit Regulation for Storm Water Discharges Associated with Land Disturbing Activities."

9.1.02.4 MONITORING

In lieu of the monitoring requirements of §9.1.01.4 of Part 1, all monitoring shall be conducted in accordance with the Delaware Sediment and Stormwater Regulations.

9.1.02.5 STORM WATER PLAN (SWP)

In lieu of the Storm Water Plan required by §9.1.01.5. of Part 1, persons covered by this Part shall maintain at the site of land disturbing activities the approved Sediment and Stormwater Management Plans and any other records that are required in accordance with 7 Del. C. Chapter 40, and the Delaware Sediment and Stormwater Regulations from the date of initiation of land disturbing activity to the date of permanent stabilization.

9.1.02.6 EFFECTIVE DATE OF COVERAGE**A. Commencement of Coverage**

Coverage under this Part begins when the Department has been notified pursuant to the provisions outlined in §9.1.02.3 of this Part.

B. Termination of Coverage

Coverage under this Subsection continues until final site stabilization has been approved in accordance with the Delaware Sediment and Stormwater Regulations.]

Part 03 - SPECIAL CONDITIONS FOR STORM WATER DISCHARGES ASSOCIATED WITH THE CONCRETE MANUFACTURING ACTIVITIES

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9.1.03.6	EFFECTIVE DATE OF COVERAGE

9.1.03.1 COVERAGE

This Part covers all new and existing storm water discharges that are composed in whole or in part of storm water associated with Concrete Manufacturing activities. Concrete Manufacturing activities includes:

Standard Industrial Classification 3271 -Concrete Block and Brick;

Standard Industrial Classification 3272 - Concrete Products, Except Block and Brick; and

Standard Industrial Classification 3273 -Ready-Mixed Concrete

9.1.03.2 STANDARD CONDITIONS

Refer to Part 1 (§9.1.01.2) of Subsection 1 of the Regulations.

9.1.03.3 NOTIFICATION

Refer to Part 1 (§9.1.01.3) of Subsection 1 of the Regulations.

9.1.03.4 MONITORING

A. Refer to Part 1 (§9.1.01.4, A., A.1. through A.4. and A.6.) of Subsection 1 of the Regulations.

5. Analyze grab samples in accordance with the following parameters:

a. Parameter	Units	Frequency	Sample Type
Flow	Gal/minute	[1]	Estimated ^[2]
Total Suspended Solids	mg/L	[1]	Grab
Total Dissolved Solids	mg/L	[1]	Grab
Total Petroleum			
Hydrocarbons	mg/L	[1]	Grab
pH	standard	[1]	Grab

[1] Samples shall be taken and analyzed during the first, third and fifth years of the Regulations.

[2] Determine the flow of storm water discharge at the time the sample is taken. A reading from a rain gauge taken at the time of sampling can be substituted for an estimate of flow.

b. Refer to Part 1 (§9.1.01.4, A.5.b. - "Water Priority Chemical Facilities") of Subsection 1 of the Regulations.

B. Records of all sampling and analysis shall include the following: Refer to Part 1 (§9.1.01.4, B.) of Subsection 1 of the Regulations.

9.1.03.5 STORM WATER PLAN (SWP)

Refer to Part 1 (§9.1.01.5, A. through C.) of Subsection 1 of the Regulations.

D. SWP Deadlines Refer to Part 1 (§9.1.01.5, D.) of Subsection 1 of the Regulations.

E. Contents of the SWP Refer to Part 1 (§9.1.01.5, E., E1. and E.2.) of Subsection 1 of the Regulations.

3. Significant Material Management

The Storm Water Plan shall contain, but not be limited to, language that identifies and describes the practices which will be implemented and the schedule for the practices to be implemented by the permittee in order to conform with the requirements of this Part. Qualified facility personnel shall be identified to inspect designated equipment and areas of the facility at appropriate intervals specified in the SWP. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. A log of inspections and any actions taken shall be maintained at the site.

a. Management of Significant Material by Enclosure (Option #1)

(1) Material Management Requirements:

(a) Mixing and loading of concrete shall take place in enclosed areas;

(b) Significant Materials (e.g. raw materials, waste materials) shall be stored in enclosed areas;

(c) Minimize the exposure to precipitation of Significant Materials that occurs during handling, shipping, receiving, loading or unloading to the Maximum Extent Practicable (MEP);

(d) Machinery, equipment, or vehicle maintenance shall take place in enclosed areas; and

(e) Develop response planning for addressing prevention and minimization of releases of Significant Materials to storm water runoff.

(2) Deadlines for Option #1

The SWP shall contain a list of the sequence in which the requirements of §9.1.03.5, E.3.a.(1) will be completed in accordance with following deadlines:

One of §9.1.03.5, E.3.a. **[(1), (a) through (e)]** shall be completed each year starting on the effective date of this Part. **[All of §9.1.03.5, E.3.a.(1), (a) through (e) shall be completed within five years of the effective date of this Part]**, unless granted an extension in writing from the Department for this purpose.

b. Management of Significant Material by a Combination of Protocols and Discharge Buffering (Option #2)

(1) Material Management Requirements :

(a) Minimize the exposure to precipitation of the mixing and loading of concrete to the Maximum Extent Practicable (MEP);

(b) Minimize the exposure of stored Significant Materials to precipitation to the MEP;

(c) Minimize the exposure to precipitation of Significant Materials that occurs during handling, shipping, receiving, loading or unloading to the MEP;

(d) Minimize the exposure to precipitation of machinery, equipment or vehicle maintenance to the MEP;

(e) Develop response planning for the prevention and minimization of releases of Significant Materials to storm water runoff; and

(f) Emplace a Best Management Practice (BMP) which will buffer the storm water discharges from the facility.

(2) Deadlines for Option #2

(a) The Significant Material management protocols shall be implemented within three years of the effective date of this Part.

(b) Discharge Buffering

{1} The BMP which will buffer

the discharge shall be functional within one year of the effective date of this Part if truck rinse water will drain to the BMP. If truck rinse water will drain to the BMP, the BMP will be designed to hold 1.5 inches of runoff plus the maximum volume of rinse water per week; or

{2} The BMP which will buffer the discharge shall be functional within three years of the effective date of this Part if truck rinse is not combined with storm water at the facility and discharged.

c. Alternative Approach for Managing Significant Materials (Option #3)

Persons subject to this Part may choose to implement an alternative approach for §9.1.03.5, E.3.a or b. Persons which choose to implement an alternative approach shall identify and describe in the SWP, the practices which will be implemented as the alternative approach. The alternative approach shall reduce the amount of pollutants that are transported off site by storm water discharges from the facility to a **comparable level** to §9.1.03.5, E.3.a or b. and must be implemented within a specific period of time. Any alternative approach must be approved in writing by the Department.

4. Interim Significant Material Management

During the time between the effective date of this Part and the date when any of §9.1.03.5, E.3 a., b. or c. are completed, all Significant Materials shall be managed in a responsible manner.

5. Inadequate Significant Material Management

~~If the transport of substantial amounts of Significant Material by a facility's/site's stormwater discharges persists, the Department may require treatment of the contaminated storm water discharges along with limits for contaminant levels. If treatment of the contaminated storm water discharges along with limits for contaminant levels are required, permit coverage through an individual NPDES Storm Water Permit may be required.~~

Refer to Part 1 (§9.1.01.5, E.5.) of Subsection 1 of the Regulations.]

F. Non-Storm Water Discharges Refer to Part 1 (§9.1.01.5, F.) of Subsection 1 of the Regulations for discharges other than what is allowed under §9.1.03.5, E.3.b.

G. Review of Plans, Reports, Records or SWP Refer to Part 1 (§9.1.01.5, G.) of Subsection 1 of the Regulations.

H. Training Refer to Part 1 (§9.1.01.5, H.) of Subsection 1 of the Regulations.

I. Consistency With Other Plans Refer to Part 1 (§9.1.01.5, I.) of Subsection 1 of the Regulations.

J. Facility Security Refer to Part 1 (§9.1.01.5, J.) of Subsection 1 of the Regulations.

9.1.03.6 EFFECTIVE DATE OF COVERAGE Refer to Part 1 (§9.1.01.6) of Subsection 1 of the Regulations.

Part 04 - SPECIAL CONDITIONS FOR STORM WATER DISCHARGES ASSOCIATED WITH ASPHALT MANUFACTURING ACTIVITIES

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 9.1.04.6 STORM WATER PLAN (SWP)
 9.1.04.7 EFFECTIVE DATE OF COVERAGE

9.1.04.1 COVERAGE

This Part covers all new and existing storm water discharges that are composed in whole or in part of storm water associated with Asphalt Manufacturing activities. Asphalt Manufacturing activities includes:

Standard Industrial Classification 2951 - Asphalt Paving Mixtures and Blocks

Standard Industrial Classification 2952 - Asphalt Felts and Coatings

9.1.04.2 STANDARD CONDITIONS Refer to Part 1 (§9.1.01.2) of Subsection 1 of the Regulations.

9.1.04.3 NOTIFICATION Refer to Part 1 (§9.1.01.3) of Subsection 1 of the Regulations.

9.1.04.4 STORM WATER DISCHARGE LIMITATIONS

Asphalt Emulsion - The following limitations only apply to storm water discharges from facilities/sites which are engaged in the production of asphalt paving and roofing emulsions:

Parameter	Maximum 1 day (Kg/ m ³ of storm water runoff)	Maximum Concentration (Kg/m ³ of storm water runoff)
Oil & Grease	0.015 (15 mg/L)	0.010 (10 mg/L)
Total Suspended Solids	0.023 (23 mg/L)	0.015 (15 mg/L)
pH		not less than 6.0 nor greater than 9.0 standard units.

9.1.04.5 MONITORING

A. Refer to Part 1 (§9.1.01.04, A., A.1. though A.4. and A.6) of Subsection 1 of the Regulations.

5. Analyze grab samples in accordance with the following parameters:

a. Parameter	Units	Frequency	Sample Type
Flow	Gal/minute	[1]	Estimated ^[2]
Total Petroleum Hydrocarbons	mg/L	[1]	Grab
Total Suspended			

Solids	mg/L	[1]	Grab
pH	standard	[1]	Grab

[1] Samples shall be taken and analyzed during the first third and fifth years of the Regulations.

[2] Determine the flow of storm water discharge at the time the sample is taken. A reading from a rain gauge taken at the time of sampling can be substituted for an estimate of flow.

b. Refer to Part 1 (§9.1.01.4, A.5.b. - "Water Priority Chemical Facilities") of Subsection 1 of the Regulations.

B. Records of all sampling and analysis shall include the following: Refer to Part 1 (§ 9.1.01.4, B.) of Subsection 1 of the Regulations.

9.1.04.6 STORM WATER PLAN (SWP) Refer to Part 1 (§9.1.01.5, A. through C.) of Subsection 1 of the Regulations.

D. SWP Deadlines Refer to Part 1 (§9.1.01.5, D.) of Subsection 1 of the Regulations.

E. Contents of the SWP Refer to Part 1 (§9.1.01.5, E., E.1. and E.2.) of Subsection 1 of the Regulations.

3. Significant Material Management

The Storm Water Plan shall contain, but not be limited to, language that identifies and describes the practices which will be implemented and the schedule for the practices to be implemented by the permittee in order to conform with the requirements of this Part. Qualified facility personnel shall be identified to inspect designated equipment and areas of the facility at appropriate intervals specified in the SWP. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. A log of inspections and any actions taken shall be maintained at the site.

a. Management of Significant Material by Enclosure (Option #1)

(1) Material Management Requirements:

(a) Mixing and loading of asphalt shall take place in enclosed areas;

(b) Significant Materials (e.g. raw materials, waste materials) shall be stored in enclosed areas;

(c) Handling, shipping, receiving, loading or unloading of Significant Materials shall take place in enclosed areas;

(d) Machinery, equipment or vehicle maintenance shall take place in enclosed areas; and

(e) Develop response planning for the prevention and minimization of releases of Significant Materials to storm water runoff.

(2) Deadlines for Option #1

The SWP shall contain a list of the sequence in which the requirements of §9.1.04.6, E.3.a.(1) will be completed in accordance with following deadlines:

One of §9.1.04.6, E.3.a. **[(1), (a) through (e)]** shall be completed each year starting on the effective date of this Part. **[All of §9.1.04.5, E.3.a.(1), (a) through (e) shall be completed within five years of the effective date of this Part]**, unless granted an extension in writing from the Department for this purpose.

b. Option for Management of Significant Material by a Combination of Enclosure and Discharge Buffering (Option #2)

(1) Material Management Requirements:

(a) Minimize the exposure to precipitation of the mixing and loading of asphalt to the Maximum Extent Practicable (MEP);

(b) Minimize the exposure of stored Significant Materials to precipitation to the MEP;

(c) Minimize the exposure to precipitation of Significant Materials that occurs during handling, shipping, receiving, loading or unloading to the MEP;

(d) Minimize the exposure to precipitation of machinery, equipment or vehicle maintenance to the MEP;

(e) Develop response planning for addressing prevention and minimization of releases of Significant Materials to storm water runoff; and

(f) Emplace a BMP which will buffer the storm water discharges from the facility.

(2) Deadlines for Option #2

The SWP shall contain a list of the sequence in which the requirements of §9.1.04.5, E.3.b.(1) will be completed in accordance with the following deadlines:

Two of §9.1.04.5, E.3. b.(1), (a) through (f) shall be completed each year starting on the effective date of this Part. **[All of §9.1.04.5, E.3.a.(1), (a) through (e) shall be completed within three years of the effective date of this Part,]** unless granted an extension in writing from the Department for this purpose.

c. Alternative Approach Option for Managing Significant Materials (Option #3)

Persons subject to this Part may choose to implement an alternative approach for §9.1.04.6, E.3.a or b. Persons which choose to implement an alternative approach shall identify and describe in the SWP, the practices which will be implemented as the alternative approach. The alternative approach shall reduce the amount of pollutants that are transported off site by storm water discharges from the facility to a comparable level to §9.1.04.6, E.3.a or b. and must be implemented within a specific period of time. Any alternative approach must be approved in writing by the Department.

4. Interim Significant Material Management

During the time between the effective date of this

Part and the date when any of §9.1.04.6, E.3. a., b. or c. are completed, all Significant Materials shall be managed in a responsible manner.

5. Inadequate Significant Material Management Refer to Part 1 (§9.1.01.5, E.5.) of Subsection 1 of the Regulations.

F. Non-Storm Water Discharges Refer to Part 1 (§9.1.01.5, F.) of Subsection 1 of the Regulations.

G. Review of Plans, Reports, Records or SWP Refer to Part 1 (§9.1.01.5, G.) of Subsection 1 of the Regulations.

H. Training Refer to Part 1 (§9.1.01.5, H.) of Subsection 1 of the Regulations.

I. Consistency With Other Plans Refer to Part 1 (§9.1.01.5, I.) of Subsection 1 of the Regulations.

J. Facility Security Refer to Part 1 (§9.1.01.5, J.) of Subsection 1 of the Regulations.

9.1.04.7 EFFECTIVE DATE OF COVERAGE Refer to Part 1 (§9.1.01.6) of Subsection 1 of the Regulations.

Part 05 - SPECIAL CONDITIONS FOR STORM WATER DISCHARGES ASSOCIATED WITH CHEMICAL MANUFACTURING ACTIVITIES

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 9.1.05.6 EFFECTIVE DATE OF COVERAGE

9.1.05.1 COVERAGE

This Part covers all new and existing storm water discharges that are composed in whole or in part of storm water associated with the Chemical Manufacturing activities. The Chemical Manufacturing activities includes:

Standard Industrial Classifications - 2812; 2816; 2819; 2821; 2822; 2823; 2824; 2865; 2869; 2891; 2892; 2899; 2893; 2895; and 2899.

9.1.05.2 STANDARD CONDITIONS Refer to Part 1 (§9.1.01.2) of Subsection 1 of the Regulations.

9.1.05.3 NOTIFICATION Refer to Part 1 (§9.1.01.3) of Subsection 1 of the Regulations.

9.1.05.4 MONITORING

A. Refer to Part 1 (§9.1.01.4, A., A.1 .through A.4 and A.6.) of Subsection 1 of the Regulations.

5. Analyze grabs samples in accordance with the following parameters:

a. Parameter	Units	Frequency	Sample Type
Flow	Gal/minute	[1]	Estimated ^[2]
Total suspended Solids	mg/L	[1]	Grab
pH	standard	[1]	Grab
[3]	mg/L	[1]	Grab

[1] Determine the instantaneous flow of storm water discharge at the time the sample is taken.

[2] Samples shall be taken and analyzed during the first, third and fifth years of the Regulations. A reading from a rain gauge taken at the time of sampling can be substituted for an estimate of flow.

[3] In addition, persons subject to this Part shall develop a monitoring plan choosing parameters which will represent all Significant Materials described under §9.1.01.5, E.2.b. and c. Appropriate units shall be used to measure the chosen parameters.

b. Refer to Part 1 (§9.1.01.4, A.5.b. - "Water Priority Chemicals Facilities") of Subsection 1 of the Regulations.

B. Records of all sampling and analysis shall include the following: Refer to Part 1 (§9.1.01.4, B.) of Subsection 1 of the Regulations.

9.1.05.5 STORM WATER PLAN (SWP) Refer to Part 1 (§9.1.01.5, A. through C.) of Subsection 1 of the Regulations.

D. SWP Deadlines Refer to Part 1 (§9.1.01.5, D.) of Subsection 1 of the Regulations.

E. Contents of the SWP Refer to Part 1 (§9.1.01.5, E., E.1. and E.2.) of Subsection 1 of the Regulations.

3. Significant Material Management

The Storm Water Plan shall contain, but not be limited to, language that identifies and describes the practices which will be implemented and the schedule for the practices to be implemented by the permittee in order to conform with the requirements of this Part. Qualified facility personnel shall be identified to inspect designated equipment and areas of the facility at appropriate intervals specified in the SWP. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. A log of inspections and any actions taken shall be maintained at the site.

a. Management of Significant Material by Enclosure (Option #1)

(1) Material Management Requirements:

- (a) Manufacturing and processing shall take place in enclosed areas;
- (b) Significant Materials (e.g. raw materials, waste materials) shall be stored in enclosed areas;
- (c) Handling, shipping, receiving,

loading or unloading of Significant Materials shall take place in enclosed areas;

(d) Machinery, equipment or vehicle maintenance shall take place in enclosed areas; and

(e) Develop response planning for the prevention and minimization of releases of Significant Materials to storm water runoff.

(2) Deadlines for Option #1

The SWP shall contain a list of the sequence in which the requirements of §9.1.05.5, E.3.a.(1) will be completed in accordance with following deadlines:

One of §9.1.05.5, E.3.a. **[(1), (a) through (e)]** shall be completed starting on the effective date of this Part. **[All of §9.1.05.5, E.3.a.(1), (a) through (e) shall be completed within five years of the effective date of this Part]**, unless granted an extension in writing from the Department for this purpose.

b. Management of Significant Materials by a Combination of Protocols and Discharge Buffering (Option # 2)

(1) Material Management Requirements:

(a) Minimize the exposure of Significant Materials to precipitation that occurs during manufacturing and processing to the Maximum Extent Practicable (MEP);

(b) Minimize the exposure of stored Significant Materials to precipitation to the MEP;

(c) Minimize the exposure to precipitation of Significant Materials that occurs during handling, shipping, receiving, loading or unloading to the MEP;

(d) Minimize the exposure to precipitation of machinery, equipment or vehicle maintenance to the MEP;

(e) Develop response planning for the prevention and minimization of releases of Significant Materials to storm water runoff; and

(f) Emplace a BMP which will buffer the storm water discharges from the facility.

(2) Deadlines for Option #2

The SWP shall contain a list of the sequence in which the requirements of §9.1.05.5, E.3. b.(1), will be completed in accordance with following deadlines:

Two of §9.1.05.5, E.3. b. **[(1), (a) through (f)]** shall be completed each year starting on the effective date of this Part. **[All of §9.1.05.5, E.3.a.(1), (a) through (e) shall be completed within three years of the effective date of this Part]**, unless granted an extension in writing from the Department for this purpose.

c. Alternative Approach for Managing Significant Materials (Option #3)

Persons subject to this Part may choose to implement an alternative approach for §9.1.05.5, E.3.a or b. Persons which choose to implement an alternative approach

shall identify and describe in the SWP, the practices which will be implemented as the alternative approach. The alternative approach shall reduce the amount of pollutants that are transported off site by storm water discharges from the facility to a comparable level to §9.1.05.5, E.3.a or b. and must be implemented within a specific period of time. Any alternative approach must be approved in writing by the Department.

4. Interim Significant Material Management

During the time between the effective date of this Part and the date when any of §9.1.05.5, E.3. a. or b. are completed, all significant materials shall be managed in a responsible manner.

5. Inadequate Significant Material Management

Refer to Part 1 (§9.1.01.5, **[E.5.]**) of Subsection 1 of the Regulations.

F. Non-Storm Water Discharges Refer to Part 1 (§9.1.01.5, F.) of Subsection 1 of the Regulations.

G. Review of Plans, Reports, Records or SWP Refer to Part 1 (§9.1.01.5, G.) of Subsection 1 of the Regulations.

H. Training Refer to Part 1 (§9.1.01.5, H.) of Subsection 1 of the Regulations.

I. Consistency With Other Plans Refer to Part 1 (§9.1.01.5, I.) of Subsection 1 of the Regulations.

J. Facility Security Refer to Part 1 (§9.1.01.5, J.) of Subsection 1 of the Regulations.

9.1.05.6 EFFECTIVE DATE OF COVERAGE Refer to Part 1 (§9.1.01.6) of Subsection 1 of the Regulations.

Part 06 - SPECIAL CONDITIONS FOR STORM WATER DISCHARGES ASSOCIATED WITH ACTIVITIES REGULATED BY THE DELAWARE REGULATIONS GOVERNING SOLID WASTE

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9.1.06.1	COVERAGE
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9.1.06.3	NOTIFICATION
9.1.06.4	MONITORING
9.1.06.5	STORM WATER PLAN (SWP)
9.1.06.6	EFFECTIVE DATE OF COVERAGE

9.1.06.1 COVERAGE

This Part covers all new and existing storm water discharges that are composed in whole or in part of storm water associated with activities subject to the Delaware Regulations Governing Solid Waste (DRGSW).

9.1.06.2 STANDARD CONDITIONS

Activities covered by this Part shall comply with all of the provisions of §9.1.01.2 of Part 1 of these Regulations.

~~[Governing Storm Water Discharges Associated with Industrial Activity.]~~

9.1.06.3 NOTIFICATION

A. Persons who intend to obtain coverage under this Part for storm water discharges associated with activities subject to the DRGSW which commence after the effective date of this Part, shall submit certification that a permit or approval has been obtained in accordance with the DRGSW. Activities subject to the DRGSW shall not commence and coverage under this Part shall not apply until a permit or approval has been obtained in accordance with the DRGSW.

The requirements of notification will be satisfied when a Notice Of Intent (NOI) with accompanying information is submitted in accordance with this Part. The NOI shall be submitted to:

The Department of Natural Resources and Environmental Control, Division of Water Resources/Surface Water Discharges Section, 89 Kings Highway, Dover, DE 19901

B. Persons complying with §9.1.06.3, A. shall be considered in compliance with the NOI provisions outlined in §9.1.01.3, A. though D. of Part 1 [of these Regulations.]

C. Persons identified in any plans required by a DRGSW permit or approval shall sign and maintain on-site a copy of the following certification statement before conducting any professional service identified in the plans:

"I certify under penalty of law that I understand the terms and conditions of the Delaware National Pollutant Discharge Elimination System (NPDES) General Permit Regulation for Storm Water Discharges Associated with Activities subject to the DRGSW."

9.1.06.4 MONITORING Monitoring shall be performed in accordance with the DRGSW.

9.1.06.5 STORM WATER PLAN (SWP)

In place of the Storm Water Plan required by Part 1 (§9.1.01.5, A.) persons covered by this Part shall maintain at the site/central location of activities subject to the DRGSW, any certifications and/or approved plans for complying with the DRGSW.

9.1.06.6 EFFECTIVE DATE OF COVERAGE

A. Commencement of Coverage

Coverage under this Part begins when the Department has been notified pursuant to the provisions outlined in Part 1 (§9.1.01.3). ~~of Part 1~~

B. Renotification

Upon reissuance of this Part, any person subject to the provisions of this Part is required to submit a new NOI in accordance with the requirements of the reissued Part.

C. Termination of Coverage Under This Part

A site may request a Final Closure Letter after the site

has undergone Closure in accordance with the DRGSW. Closure and Post-Closure activities shall be conducted in accordance with the requirements of the DRGSW. **[Coverage under this Part is no longer required when a Final Closure Letter has been issued by the Department.]**

Part 07 - SPECIAL CONDITIONS FOR STORM WATER DISCHARGES ASSOCIATED WITH AUTOMOTIVE SALVAGING ACTIVITIES

TABLE OF CONTENTS

9.1.07.1 COVERAGE
 9.1.07.2 STANDARD CONDITIONS
 9.1.07.3 NOTIFICATION
 9.1.07.4 MONITORING
 9.1.07.5 STORM WATER PLAN (SWP)
 9.1.07.6 EFFECTIVE DATE OF COVERAGE

9.1.07.1 COVERAGE

This Part covers all new and existing storm water discharges that are composed in whole or in part of storm water associated with Automotive Salvaging activities. Automotive Salvaging activities includes:

Standard Industrial Classification 5015 - Motor Vehicle Parts, Used

9.1.07.2 STANDARD CONDITIONS Refer to Part 1 (§9.1.01.2) of Subsection 1 of the Regulations.

9.1.07.3 NOTIFICATION Refer to Part 1 (§9.1.01.3) of Subsection 1 of the Regulations.

9.1.07.4 MONITORING

A. Refer to Part 1 (§9.1.01.4, A., A.1. through A.4. and A.6.) of Subsection 1 of the Regulations.

5. Analyze grabs samples in accordance with the following parameters:

a. Parameter	Units	Frequency	Sample Type
Flow	Gal/min	[1]	Estimated ^[2]
pH	S.U.	[1]	Grab
Total Cadmium	mg/L	[1]	Grab
Total Chromium	mg/L	[1]	Grab
Total Copper	mg/L	[1]	Grab
Total Lead	mg/L	[1]	Grab
Total Nickel	mg/L	[1]	Grab
Total Petroleum Hydrocarbons	mg/L	[1]	Grab
Total Suspended Solids	mg/L	[1]	Grab
Total Zinc	mg/L	[1]	Grab

[1] Samples shall be taken and analyzed during the first, third and fifth years of the Regulations .

[2] Determine the flow of storm water discharge at the time

the sample is taken. A reading from a rain gauge taken at the time of sampling can be substituted for an estimate of flow.

b. Refer to Part 1 (§9.1.01.4, A.5.b. - "Water Priority Chemical Facilities") of Subsection 1 of the Regulations.

B. Records of all sampling and analysis shall include the following: Refer to Part 1 (§9.1.01.4, B.) of Subsection 1 of the Regulations.

9.1.07.5 STORM WATER PLAN (SWP) Refer to Part 1 (§9.1.01.5, A. through C.) of Subsection 1 of the Regulations.

D. SWP Deadlines Refer to Part 1 (§9.1.01.5, D.) of Subsection 1 of the Regulations.

E. Contents of the SWP Refer to Part 1 (§9.1.01.5, E., E.1. and E.2.) of Subsection 1 of the Regulations.

3. Significant Material Management

The Storm Water Plan shall contain, but not be limited to, language that identifies and describes the practices which will be implemented and the schedule for the practices to be implemented by the permittee in order to conform with the requirements of this Part. Qualified facility personnel shall be identified to inspect designated equipment and areas of the facility at appropriate intervals specified in the SWP. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. A log of inspections and any actions taken shall be maintained at the site.

a. Management of Significant Material by Enclosure (Option #1)

(1) Material Management Requirements:

(a) The dismantling of motor vehicles the salvaging of parts or fluids, and the cleaning of parts shall take place in enclosed areas;

(b) Significant Materials (e.g. raw materials, waste materials) shall be stored in enclosed areas;

(c) Handling, shipping, receiving, loading or unloading of Significant Materials shall take place in enclosed areas;

(d) Machinery, equipment or vehicle maintenance shall take place in enclosed areas; and

(e) Develop response planning for the prevention and minimization of releases of Significant Materials to storm water runoff.

(2) Deadlines for Option #1

The SWP shall contain a list of the sequence in which the requirements of §9.1.07.5, E.3.a.(1) will be completed in accordance with the following deadlines:

One of §9.1.07.5, E.3.a. **[(1), (a) through (f)]** shall be completed each year starting on the effective date of this Part. **[All of §9.1.07.5, E.3.a.(1), (a) through (e)**

shall be completed within five years of the effective date of this Part], unless granted an extension in writing from the Department for this purpose.

b. Management of Significant Material by a Combination of Protocols and Discharge Buffering (Option #2)

(1) Material Management Requirements:

(a) Minimize the exposure to precipitation of dismantling, salvaging or cleaning to the Maximum Extent Practicable (MEP);

(b) Minimize the exposure of stored Significant Materials to precipitation to the MEP;

(c) Minimize the exposure to precipitation of Significant Materials that occurs during handling, shipping, receiving, loading or unloading to the MEP;

(d) Minimize the exposure to precipitation of machinery, equipment or vehicle maintenance to the MEP;

(e) Develop response planning for the prevention and minimization of releases of Significant Materials to storm water runoff; and

(f) Emplace a BMP which will buffer the storm water discharges from the facility.

(2) Deadlines for Option #2

The SWP shall contain a list of the sequence in which the requirements of §9.1.07.5, E.3. b.(1) will be completed in accordance with following deadlines:

Two of §9.1.07.5, E.3.b. **[(1), (a) through (f)]** shall be completed each year starting on the effective date of this Part. **[All of §9.1.07.5, E.3.a.(1), (a) through (e) shall be completed within three years of the effective date of this Part]**, unless granted an extension in writing from the Department for this purpose.

c. Alternative Approach for Managing Significant Material (Option #3)

Persons subject to this Part may choose to implement an alternative approach for §9.1.07.5, E.3.a or b. Persons which choose to implement an alternative approach shall identify and describe in the SWP, the practices which will be implemented as the alternative approach. The alternative approach shall reduce the amount of pollutants that are transported off site by storm water discharges from the facility to a comparable level to §9.1.07.5, E.3.a or b. and must be implemented within a specific period of time. Any alternative approach must be approved in writing by the Department.

4. Interim Significant Material Management

During the time between the effective date of this Part and the date when any of §9.1.07.5, E.3 a., b. or c. are completed, all Significant Materials shall be managed in a responsible manner.

5. Inadequate Significant Material Management Refer to Part 1 (§9.1.01.5, **[E.5.]**) of Subsection 1 of the

Regulations.

F. Non-Storm Water Discharges Refer to Part 1 (§9.1.01.5, F.) of Subsection 1 of the Regulations.

G. Review of Plans, Reports, Records or SWP Refer to Part 1 (§9.1.01.5, G.) of Subsection 1 of the Regulations.

H. Training Refer to Part 1 (§9.1.01.5, H.) of Subsection 1 of the Regulations.

I. Consistency With Other Plans Refer to Part 1 (§9.1.01.5, I.) of Subsection 1 of the Regulations.

J. Facility Security Refer to Part 1 (§9.1.01.5, J.) of Subsection 1 of the Regulations.

9.1.07.6 EFFECTIVE DATE OF COVERAGE Refer to Part 1 (§9.1.01.6) of Subsection 1 of the Regulations.

Part 08 - SPECIAL CONDITIONS FOR STORM WATER DISCHARGES ASSOCIATED WITH SCRAP RECYCLING ACTIVITIES

TABLE OF CONTENTS

9.1.08.1	COVERAGE
9.1.08.2	STANDARD CONDITIONS
9.1.08.3	NOTIFICATION
9.1.08.4	MONITORING
9.1.08.5	STORM WATER PLAN (SWP)
9.1.08.6	EFFECTIVE DATE OF COVERAGE

9.1.08.1 COVERAGE

This Part covers all new and existing storm water discharges that are composed in whole or in part of storm water associated with scrap recycling activities. Scrap recycling activities include:

Standard Industrial Classification 5093 -Scrap and Waste Material

9.1.08.2 STANDARD CONDITIONS Refer to Part 1 (§9.1.01.2) of Subsection 1 of the Regulations.

9.1.08.3 NOTIFICATION Refer to Part 1 (§9.1.01.3) of Subsection 1 of the Regulations.

9.1.08.4 MONITORING

A. Refer to Part 1 (§9.1.01.4, A., A.1. through A.4. and A.6.) of Subsection 1 of the Regulations.

5. Analyze grabs samples in accordance with the following parameters:

a. Parameter	Units	Frequency	Sample Type
Flow	Gal/minute	[1]	Estimated ^[2]
Total Suspended Solids	mg/L	[1]	Grab
Total Cadmium	mg/L	[1]	Grab
Total Lead	mg/L	[1]	Grab

Total Copper	mg/L	[1]	Grab
Total Petroleum Hydrocarbons	mg/L	[1]	Grab
Polychlorinated Biphenyls(PCBs)	mg/L	[1]	Grab
pH	standard	[1]	Grab

[1] Samples shall be taken and analyzed during the first, third and fifth years of the Regulations.

[2] Determine the flow of storm water discharge at the time the sample is taken. A reading from a rain gauge taken at the time of sampling can be substituted for an estimate of flow.

b. Refer to Part 1 (§9.1.01.4, A.5.b. - "Water Priority Chemical Facilities") of Subsection 1 of the Regulations.

B. Records of all sampling and analysis shall include the following: Refer to Part 1 (§9.1.01.4, B.) of Subsection 1 of the Regulations.

9.1.08.5 STORM WATER PLAN (SWP) Refer to Part 1 (§9.1.01.5, A. through C.) of Subsection 1 of the Regulations.

D. SWP Deadlines Refer to Part 1 (§9.1.01.5, D.) of Subsection 1 of the Regulations.

E. Contents of the SWP Refer to Part 1 (§9.1.01.5, E., E.1. and E.2.) of Subsection 1 of the Regulations.

3. Significant Material Management

The Storm Water Plan shall contain, but not be limited to, language that identifies and describes the practices which will be implemented and the schedule for the practices to be implemented by the permittee in order to conform with the requirements of this Part. Qualified facility personnel shall be identified to inspect designated equipment and areas of the facility at appropriate intervals specified in the SWP. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. A log of inspections and any actions taken shall be maintained at the site.

a. Management of Significant Material by Enclosure (Option #1)

(1) Material Management Requirements:

- (a) Dismantling and sorting of scrap and waste material shall occur in enclosed areas;
- (b) Significant Materials (e.g. raw materials, waste materials) shall be stored in enclosed areas;
- (c) Handling, shipping, receiving, loading or unloading of Significant Materials shall take place in enclosed areas; and
- (d) Machinery, equipment or vehicle maintenance shall occur in enclosed areas.

(e) Develop response planning for the prevention and minimization of releases of Significant Materials to storm water runoff.

(2) Deadlines for Option #1

The SWP shall contain a list of the sequence in which the requirements of §9.1.08.5, E.3.a.(1) will be completed in accordance with following deadlines:

One of §9.1.08.5, E.3.a.(1), (a) through (e) shall be completed each year starting on the effective date of this Part. **[All of §9.1.08.5, E.3.a.(1), (a) through (e) shall be completed within five years of the effective date of this Part]**, unless granted an extension in writing from the Department for this purpose.

b. Management of Significant Material by a Combination of Protocols and Discharge Buffering (Option #2)

(1) Material Management Requirements:

(a) Minimized the exposure to precipitation of Significant Materials that occurs during dismantling and sorting of scrap and waste material to the Maximum Extent Practicable (MEP);

(b) Minimized the exposure to precipitation of Significant Materials that occurs during storage of raw materials, recycled fluids or wastes, by-products and residues shall be minimized to the MEP;

(c) Minimize the exposure to precipitation of machinery, equipment or vehicle maintenance to the MEP;

(d) Minimize the exposure to precipitation of Significant Materials that occurs during handling, shipping, receiving, loading or unloading to the MEP;

(e) Develop response planning for addressing prevention and minimization of releases of Significant Materials to storm water runoff; and

(f) Emplace a BMP which will buffer the storm water discharges from the facility.

(2) Deadlines for Option #2

The SWP shall contain a list of the sequence in which the requirements of §9.1.08.5, E.3. b.(1) will be completed in accordance with following deadlines:

Two of §9.1.08.5, E.3. b. **[(1), (a) through (f)]** shall be completed each year starting on the effective date of this Part. **[All of §9.1.08.5, E.3.a.(1), (a) through (e) shall be completed within three years of the effective date of this Part]**, unless granted an extension in writing from the Department for this purpose.

c. Alternative Approach for Managing Significant Materials (Option #3)

Persons subject to this Part may choose to implement an alternative approach for §9.1.08.5, E.3.a or b. Persons which choose to implement an alternative approach shall identify and describe in the SWP, the practices which will be implemented as the alternative approach. The alternative approach shall reduce the amount of pollutants that are transported off site by storm water discharges from the facility to a comparable level to §9.1.08.5, E.3.a or b.

and must be implemented within a specific period of time. Any alternative approach must be approved in writing by the Department.

4. Interim Significant Material Management Practices

During the time between the effective date of this Part and the date when any of §9.1.08.5, E.3 a., b. or c. are completed, all Significant Materials shall be managed in a responsible manner.

5. Inadequate Significant Material Management Refer to Part 1 (§9.1.01.5, **[E.5]**) of Subsection 1 of the Regulations.

F. Non-Storm Water Discharges Refer to Part 1 (§9.1.01.5, F.) of Subsection 1 of the Regulations.

G. Review of Plans, Reports, Records or SWP Refer to Part 1 (§9.1.01.5, G.) of Subsection 1 of the Regulations.

H. Training Refer to Part 1 (§9.1.01.5, H.) of Subsection 1 of the Regulations.

I. Consistency With Other Plans Refer to Part 1 (§9.1.01.5, I.) of Subsection 1 of the Regulations.

J. Facility Security Refer to Part 1 (§9.1.01.5, J.) of Subsection 1 of the Regulations.

9.1.08.6 EFFECTIVE DATE OF COVERAGE Refer to Part 1 (§9.1.01.6) of Subsection 1 of the Regulations.

Part 09 - SPECIAL CONDITIONS FOR STORM WATER DISCHARGES ASSOCIATED WITH WATERCRAFT MAINTENANCE ACTIVITIES

TABLE OF CONTENTS

9.1.09.1	COVERAGE
9.1.09.2	STANDARD CONDITIONS
9.1.09.3	NOTIFICATION
9.1.09.4	MONITORING
9.1.09.5	STORM WATER PLAN (SWP)
9.1.09.6	EFFECTIVE DATE OF COVERAGE

9.1.09.1 COVERAGE

This Part covers all new and existing storm water discharges that are composed in whole or in part of industrial storm water associated with watercraft maintenance activities. The watercraft maintenance activities includes:

SIC code 4493 - Marinas

These establishments rent boat slips and store boats and generally perform a range of other services including cleaning and incidental boat repair. They frequently sell food, fuel, fishing supplies and boats.

SIC code 4499 - Water Transportation Services, Not Elsewhere Classified

[This Part only applies to establishments which perform maintenance or repair on boats, ships or other watercraft.]

9.1.09.2 STANDARD CONDITIONS Refer to Part 1 (§9.1.01.2) of Subsection 1 of the Regulations.

9.1.09.3 NOTIFICATION Refer to Part 1 (§9.1.01.3) of Subsection 1 of the Regulations.

9.1.09.4 MONITORING

A. Refer to Part 1 (§9.1.01.4, A., A.1. through A.4. and A.6.) of Subsection 1 of the Regulations.

5. Analyze grabs samples in accordance with the following parameters:

a. Parameter	Units	Frequency	Sample Type
Flow	Gallons/minute	[1]	Estimated ^[2]
Total Suspended Solids (TSS)	mg/L	[1]	Grab
Total Copper	mg/L	[1]	Grab
Total Tin	mg/L	[1]	Grab
Biological Oxygen Demand	mg/L	[1]	Grab
pH	Standard Units	[1]	Grab
Total Petroleum Hydrocarbons	mg/L	[1]	Grab

[1] Samples shall be taken and analyzed during the first, third and fifth years of the Regulations.

[2] Determine the flow of storm water discharge at the time the sample is taken. A reading from a rain gauge taken at the time of sampling can be substituted for an estimate of flow.

b. Refer to Part 1 (§9.1.01.4, A.5.b. - "Water Priority Chemical Facilities") of Subsection 1 of the Regulations.

B. Records of all sampling and analysis shall include the following: Refer to Part 1 (§9.1.01.4, B.) of Subsection 1 of the Regulations.

9.1.09.5 STORM WATER PLAN (SWP) Refer to Part 1 (§9.1.01.5, A. through C.) of Subsection 1 of the Regulations.

D. SWP Deadlines Refer to Part 1 (§9.1.01.5, D.) of Subsection 1 of the Regulations.

E. Contents of the SWP Refer to Part 1 (§9.1.01.5, E., E.1. and E.2.) of Subsection 1 of the Regulations.

3. Significant Material Management

The Storm Water Plan shall contain, but not be limited to, language that identifies and describes the practices which will be implemented and the schedule for the practices to be implemented by the permittee in order to conform with the requirements of this Part. Qualified facility personnel shall be identified to inspect designated equipment and areas of the facility at appropriate intervals

specified in the SWP. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. A log of inspections and any actions taken shall be maintained at the site.

a. Management of Significant Material by Enclosure (Option #1)

(1) Material Management Requirements:

(a) Maintenance and related activities shall take place in enclosed areas;

(b) Significant Materials (e.g. raw materials, waste materials) shall be stored in enclosed areas;

(c) Handling, shipping, receiving, loading or unloading of Significant Materials shall take place in enclosed areas;

(d) Develop response planning for addressing prevention and minimization of releases of Significant Materials to storm water runoff.

(2) Deadlines for Option #1

The SWP shall contain a list of the sequence in which the requirements of §9.1.09.5, E.3. b.(1) will be completed in accordance with following deadlines:

One of §9.1.09.5, E.3. b.(1), (a) through (d) shall be completed each year starting on the effective date of this Part. **[All of §9.1.09.5, E.3.a.(1), (a) through (e) shall be completed within five years of the effective date of this Part]**, unless granted an extension in writing from the Department for this purpose.

b. Management of Significant Materials by a Combination of Protocols and Discharge Buffering (Option #2)

(1) Material Management Requirements:

(a) Minimize the exposure to precipitation of all machinery, equipment or vehicle maintenance to the Maximum Extent Practicable (MEP);

(b) Minimize the exposure of stored Significant Materials to precipitation to the MEP;

(c) Minimize the exposure to precipitation of Significant Materials that occurs during handling, shipping, receiving, loading or unloading to the MEP;

(d) Develop response planning for addressing prevention and minimization of releases of Significant Materials to storm water runoff; and

(e) Emplace a BMP which will buffer the storm water that discharges from the facility.

(2) Deadlines (Option #2)

The SWP shall contain a list of the sequence in which the requirements of §9.1.09.5, E.3. b.(1) will be completed in accordance with following deadlines:

Two of §9.1.09.5, E.3. b.(1), **[(a) through (e)]** shall be completed starting on the effective date of this Part. **[All of §9.1.09.5, E.3. b.(1), (a) through (e) shall be completed within three years of the effective date of this Part]**, unless granted an extension in writing from the

Department for this purpose.

c. Alternative Approaches

Persons subject to this Part may choose to implement an alternative approach for §9.1.09.5, E.3.a or b. Persons which choose to implement an alternative approach shall identify and describe in the SWP, the practices which will be implemented as the alternative approach. The alternative approach shall reduce the amount of pollutants that are transported off site by storm water discharges from the facility to a comparable level to §9.1.09.5, E.3.a or b. and must be implemented within a specific period of time. Any alternative approach must be approved in writing by the Department.

4. Interim Significant Material Management

During the time between the effective date of this Part and the date when any of §9.1.09.5, E.3 a., b., or c. are completed, all Significant Materials shall be managed in a responsible manner.

5. Inadequate Significant Material Management

Refer to Part 1 (§ 9.1.01.5, **[E.5.]**) of Subsection 1 of the Regulations.

F. Non-Storm Water Discharges Refer to Part 1 (§9.1.01.5, F.) of Subsection 1 of the Regulations.

[H.G.] Review of Plans, Reports,

Records or SWP Refer to Part 1 (§9.1.01.5, G.) of Subsection 1 of the Regulations.

[H.H.] Training

Refer to Part 1 (§9.1.01.5, H.) of Subsection 1 of the Regulations.

[H.I.] Consistency With Other Plans

Refer to Part 1 (§9.1.01.5, I.) of Subsection 1 of the Regulations.

[H.J.] Facility Security

Refer to Part 1 (§9.1.01.5, J.) of Subsection 1 of the Regulations.

9.1.09.6 EFFECTIVE DATE OF COVERAGE Refer to Part 1 (§9.1.01.6) of Subsection 1 of the Regulations.

Part 10 - SPECIAL CONDITIONS FOR STORM WATER DISCHARGES ASSOCIATED WITH MAINTENANCE AND DEICING AT AIR TRANSPORTATION FACILITIES

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9.1.10.1	COVERAGE
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9.1.10.3	NOTIFICATION
9.1.10.4	MONITORING
9.1.10.5	STORM WATER PLAN (SWP)
9.1.10.6	EFFECTIVE DATE OF COVERAGE

9.1.10.1 COVERAGE

This Part covers all new and existing storm water discharges that are composed in whole or in part of storm water associated with industrial activity at air transportation

facilities. Air transportation facilities include:

Standard Industrial Classification 45 - Transportation By Air

9.1.10.2 STANDARD CONDITIONS Refer to Part 1 (§9.1.01.2) of Subsection 1 of the Regulations.

9.1.10.3 NOTIFICATION Refer to Part 1 (§9.1.01.3) of Subsection 1 of the Regulations.

9.1.10.4 MONITORING

A. Refer to Part 1 (§9.1.01.4, A., A.1. through A.4. and A.6.) of Subsection 1 of the Regulations.

5. Analyze grabs samples in accordance with the following parameters:

a. Parameter	Units	Frequency	Sample Type
Flow	Gal/min	[1]	Estimated ^[2]
Total Suspended Solids	mg/L	[1]	Grab
Total Petroleum Hydrocarbons	mg/L	[1]	Grab
Total Surfactants ^[3]	mg/L	[1]	Grab
De-icing Agents ^[4]	mg/L	[1]	Grab

[1] Samples shall be taken and analyzed during the first, third and fifth years of the Regulations.

[2] Determine the flow of storm water discharge at the time the sample is taken. A reading from a rain gauge taken at the time of sampling can be substituted for an estimate of flow.

[3] Required only for storm water discharges associated with washing activities.

[4] Analyze the sample for the agent(s) used in deicing operations at the airport. This sample shall be taken during the storm water discharge which follows a deicing operation at the airport.

b. Refer to Part 1 (§9.1.01.4, A.5.b. - "Water Priority Chemical Facilities") of Subsection 1 of the Regulations.

B. Records of all sampling and analysis shall include the following: Refer to Part 1 (§9.1.01.4, B.) of Subsection 1 of the Regulations.

9.1.10.5 STORM WATER PLAN (SWP) Refer to Part 1 (§9.1.01.5, A. through C.) of Subsection 1 of the Regulations.

[NOTE - THIS PART DOES NOT REGULATE THE PRACTICES USED FOR DE-ICING AIRCRAFT. EMERGENCY SITUATION BYPASSES OF TREATMENT SYSTEMS AND/OR SIGNIFICANT MATERIAL CONTROL PRACTICES ARE ALLOWED.]
~~[SEE ITEM 9.136 IN THE DELAWARE NPDES STORM WATER SUPPLEMENTAL GUIDANCE~~

~~DOCUMENT~~

D. SWP Deadlines Refer to Part 1 (§9.1.01.5, D.) of Subsection 1 of the Regulations.

E. Contents of the SWP Refer to Part 1 (§9.1.01.5, E., E.1. and E.2.) of Subsection 1 of the Regulations.

3. Significant Material Management

The Storm Water Plan shall contain, but not be limited to, language that identifies and describes the practices which will be implemented and the schedule for the practices to be implemented by the permittee in order to conform with the requirements of this Part. Qualified facility personnel shall be identified to inspect designated equipment and areas of the facility at appropriate intervals specified in the SWP. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. A log of inspections and any actions taken shall be maintained at the site.

a. Management of Significant Material by a Combination of Protocols and Discharge Buffering (Option #1)

(1) Material Management Requirements:

(a) Minimize the exposure to precipitation of fresh and waste materials associated with all maintenance of aircraft, machinery, equipment or vehicles to the Maximum Extent Practicable (MEP);

(b) Minimize the exposure of stored Significant Materials to precipitation to the MEP;

(c) Minimize the exposure to precipitation of Significant Materials that occurs during handling, shipping, receiving, loading or unloading to the MEP;

(d) Develop response planning for the prevention and minimization of releases of Significant Materials to storm water runoff; and

(e) Emplace a BMP which will buffer the storm water discharges from the facility.

(2) Deadlines for Option #1

The SWP shall contain a list of the sequence in which the requirements of §9.1.10.5, E.3.a.(1) will be completed in accordance with following deadlines:

Two of §9.1.10.5, E.3.a.(1), **[(a) through (e)]** shall be completed each year starting on the effective date of this Part. All of §9.1.10.5, E.3.a.(1), **[(a) through (e)]** shall be completed within three years of the effective date of this Part, unless granted an extension in writing from the Department for this purpose.

b. Alternative Approach for Managing Significant Materials (Option #2)

Persons subject to this Part may choose to implement an alternative approach for §9.1.10.5, E.3.a. ~~or b.~~ Persons which choose to implement an alternative approach shall identify and describe in the SWP, the practices which will be implemented as the alternative approach. The alternative approach shall reduce the amount of pollutants

that are transported off site by storm water discharges from the facility to a comparable level to §9.1.10.5, E.3.a. ~~or b.~~ and must be implemented within a specific period of time. Any alternative approach must be approved in writing by the Department.

4. Interim Significant Material Management

During the time between the effective date of this Part and the date when §9.1.10.5, E.3.a. or b. is completed, all Significant Materials shall be managed in a responsible manner.

5. Inadequate Significant Material Management

Refer to Part 1 (§9.1.01.5, **[E.5.]**) of Subsection 1 of the Regulations.

F. Non-Storm water Discharges Refer to Part 1 (§9.1.01.5, F.) of Subsection 1 of the Regulations.

G. Review of Plans, Reports, Records or SWP Refer to Part 1 (§9.1.01.5, G.) of Subsection 1 of the Regulations.

H. Training Refer to Part 1 (§9.1.01.5, H.) of Subsection 1 of the Regulations.

I. Consistency With Other Plans Refer to Part 1 (§9.1.01.5, I.) of Subsection 1 of the Regulations.

J. Facility Security Refer to Part 1 (§9.1.01.5, J.) of Subsection 1 of the Regulations.

§9.1.10.6EFFECTIVE DATE OF COVERAGE Refer to Part 1 (§9.1.01.6) of Subsection 1 of the Regulations.

Part 11 - SPECIAL CONDITIONS FOR STORM WATER DISCHARGES ASSOCIATED WITH ~~THE RAIL INDUSTRY~~ RAIL TRANSPORTATION MAINTENANCE ACTIVITIES

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9.1.11.1	COVERAGE
9.1.11.2	STANDARD CONDITIONS
9.1.11.3	NOTIFICATION
9.1.11.4	MONITORING
9.1.11.5	STORM WATER PLAN (SWP)
9.1.11.6	EFFECTIVE DATE OF COVERAGE

9.1.11.1 COVERAGE

This Part covers all new and existing storm water discharges that are composed in whole or in part of storm water associated with the Rail Transportation Maintenance Activities and areas. Rail Transportation Maintenance Activities are described by:

Standard Industrial Classification 40 - Railroad Transportation (including areas where maintenance takes place or has taken place and considerable presence of contaminants remain, or areas where Significant Materials are stored or stock piled).

9.1.11.2 STANDARD CONDITIONS Refer to Part 1

(§9.1.01.2) of Subsection 1 of the Regulations.

9.1.11.3 **NOTIFICATION** Refer to Part 1 (§9.1.01.3) of Subsection 1 of the Regulations.

9.1.11.4 **MONITORING**

A. Refer to Part 1 (§9.1.01.4, A., A.1. through A.4. and A.6.) of Subsection 1 of the Regulations.

5. Analyze grabs samples in accordance with the following parameters:

a. Parameter	Units	Frequency	Sample Type
Flow	Gal/min	[1]	Estimated ^[2]
pH	S. U.	[1]	Grab
Total Suspended Solids	mg/L	[1]	Grab
Total Petroleum Hydrocarbons	mg/L	[1]	Grab
Polychlorinated Biphenyls(PCB's)	mg/L	[1]	Grab

[1] Sample shall be taken and analyzed during the first, third and fifth year of the Regulations.

[2] Determine the flow of storm water at the time of sampling. A reading from a rain gauge taken at the time of sampling can be substituted for an estimate of flow.

b. Refer to Part 1 (§9.1.01.4, A.5.b. - "Water Priority Chemical Facilities") of Subsection 1 of the Regulations.

B. Records of all sampling and analysis shall include the following: Refer to Part 1 (§9.1.01.4, B.) of Subsection 1 of the Regulations.

9.1.11.5 **STORM WATER PLAN (SWP)** Refer to Part 1 (§9.1.01.5, A. through C.) of Subsection 1 of the Regulations.

[D. SWP Deadlines

1. Existing Facilities

Persons covered by this Part shall comply with the following deadlines:

(1) develop a SWP within 180 days of the effective date; and

(2) initiate implementation of the SWP within 270 days of the effective date.]

2. Refer to Part 1 (§9.1.01.5, D.2.) of Subsection 1 of the Regulations.

E. Contents of the SWP Refer to Part 1 (§9.1.01.5, E., E.1. and E.2.) of Subsection 1 of the Regulations.

3. Significant Material Management

The Storm Water Plan shall contain, but not be limited to, language that identifies and describes the practices which will be implemented and the schedule for the practices to be implemented by the permittee in order to conform with the requirements of this Part. Qualified facility personnel shall be identified to inspect designated

equipment and areas of the facility at appropriate intervals specified in the SWP. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. A log of inspections and any actions taken shall be maintained at the site.

a. Management of Significant Material by Enclosure (Option #1)

(1) Material Management Requirements:

(a) The Significant Materials associated with maintenance shall be stored in enclosed areas;

(b) Machinery, equipment or vehicle maintenance shall take place in enclosed areas;

(c) Handling, shipping, receiving, loading or unloading of Significant Materials shall take place in enclosed areas; and

(d) Develop response planning for the prevention and minimization of releases of Significant Materials to storm water runoff.

(2) Deadlines for Option #1

The SWP shall contain a list of the sequence in which the requirements of §9.1.11.5, E.3.a.(1) will be completed in accordance with following deadlines:

One of §9.1.11.5, E.3.a.(1), **[(a) through (d)]** shall be completed each year starting on the effective date of this Part. **[All of §9.1.11.5, E.3. b.(1), (a) through (e) shall be completed within five years of the effective date of this Part]** unless granted an extension in writing from the Department for this purpose.

b. Management of Significant Materials by a Combination of Protocols and Discharge Buffering (Option #2)

(1) Material Management Requirements:

(a) Minimize the exposure of stored Significant Materials to precipitation to the Maximum Extent Practicable (MEP);

(b) Minimize the exposure to precipitation of Significant Materials during all machinery, equipment or vehicle maintenance (including painting and sand blasting) to the MEP;

(c) Minimize the exposure to precipitation of Significant Materials that occurs during handling, shipping, receiving, loading or unloading to the MEP;

(d) Develop response planning for the prevention and minimization of releases of Significant Materials to storm water runoff; and

(e) Emplace a BMP which will buffer the storm water that discharges from the facility.

(2) Deadlines (Option #2)

The SWP shall contain a list of the sequence in which the requirements of §9.1.11.5, E.3.b.(1) will be completed in accordance with following deadlines:

Two of §9.1.11.5, E.3.b.(1), **[(a) through**

(e) shall be completed each year starting on the effective date of this Part. **[All of §9.1.11.5, E.3. b.(1), (a) through (e) shall be completed within three years of the effective date of this Part]**, unless granted an extension in writing from the Department for this purpose.

c. Alternative Approach Option (Option #3)

Persons subject to this Part may choose to implement an alternative approach for §9.1.11.5, E.3.a or b. Persons which choose to implement an alternative approach shall identify and describe in the SWP, the practices which will be implemented as the alternative approach. The alternative approach shall reduce the amount of pollutants that are transported off site by storm water discharges from the facility to a comparable level to §9.1.11.5, E.3.a or b. and must be implemented within a specific period of time. Any alternative approach must be approved in writing by the Department.

4. Interim Significant Material Management

During the time between the effective date of this Part and the date when any of §9.1.11.5, E.3. a., b. or c. is completed, all Significant Materials shall be managed in a responsible manner.

5. Inadequate Significant Material Management

Refer to Part 1 (§9.1.01.5, **[E.5.]**) of Subsection 1 of the Regulations.

F. Non-Storm Water Discharges Refer to Part 1 (§9.1.01.5, F.) of Subsection 1 of the Regulations.

G. Review of Plans, Reports, Records or SWP Refer to Part 1 (§9.1.01.5, G.) of Subsection 1 of the Regulations.

H. Training Refer to Part 1 (§9.1.01.5, H.) of Subsection 1 of the Regulations.

I. Consistency With Other Plans Refer to Part 1 (§9.1.01.5, I.) of Subsection 1 of the Regulations.

J. Facility Security Refer to Part 1 (§9.1.01.5, J.) of Subsection 1 of the Regulations.

9.1.11.6 EFFECTIVE DATE OF COVERAGE Refer to Part 1 (§9.1.01.6) of Subsection 1 of the Regulations.

[Part 12 - SPECIAL CONDITIONS FOR STORM WATER DISCHARGES ASSOCIATED WITH AUTOMOTIVE TRANSPORTATION MAINTENANCE ACTIVITIES

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9.1.12.1	COVERAGE
9.1.12.2	STANDARD CONDITIONS
9.1.12.3	NOTIFICATION
9.1.12.4	MONITORING
9.1.12.5	STORM WATER PLAN (SWP)
9.1.12.6	EFFECTIVE DATE OF COVERAGE

9.1.12.1 COVERAGE

This Part covers all new and existing storm water discharges that are composed in whole or in part of industrial storm water associated with automotive maintenance and/or significant materials which are exposed to storm water at the following automotive transportation activities:

Standard Industrial Classification 41 - Local & Suburban Transit and Interurban Highway Passenger Transportation

Standard Industrial Classification 42* - Motor Freight Warehousing & Storage

* Storm water discharges from the following activities are only included for activities where Significant Materials are exposed to precipitation or storm water runoff:

Standard Industrial Classification 4221 - Farm Product Warehousing & Storage

Standard Industrial Classification 4222 - Refrigerated Warehousing & Storage

Standard Industrial Classification 4225 - General Warehousing & Storage

Standard Industrial Classification 43 - U.S. Postal Service

9.1.12.2 STANDARD CONDITIONS Refer to Part 1 (§9.1.01.2) of Subsection 1 of the Regulations.

9.1.12.3 NOTIFICATION Refer to Part 1 (§9.1.01.3) of Subsection 1 of the Regulations.

9.1.12.4 MONITORING

A. Refer to Part 1 (§ 9.1.01.4, A., A.1. through A.4. and A.6.) of Subsection 1 of the Regulations.

5. Perform monitoring in accordance with the following:

a. Monitoring is divided into three categories

(1) Facilities which operate 5 trucks or less shall perform quarterly visual monitoring. Describe stains present on facility property. Describe any color or debris present in storm water discharging from the facility.

(2) Facilities which operate 6 to 15 trucks shall perform quarterly visual monitoring. Describe stains present on the facility property. Describe any color or debris present in storm water discharging from the facility. Facilities which operate 6 to 15 trucks are also required to perform analytical monitoring in accordance with the following table:

<u>Parameter</u>	<u>Units</u>	<u>Frequency</u>	<u>Sample Type</u>
Flow	Gal/min	[1]	Estimated ^[2]
pH	S. U.	[1]	Grab
Total Suspended Solids	mg/L	[1]	Grab
Total Petroleum Hydrocarbons	mg/L	[1]	Grab
Total Surfactants	mg/L	[1]	Grab

(3) Facilities which operate 16 trucks or more shall perform quarterly visual monitoring. Describe stains present on facility property. Describe any color or debris present in storm water discharging from the facility. Facilities which operate 16 trucks or more are required to perform analytical monitoring in accordance with the following table:

<u>Parameter</u>	<u>Units</u>	<u>Frequency</u>	<u>Sample Type</u>
Flow	Gal/min	[3]	Estimated ^[2]
pH	S. U.	[3]	Grab
Total Suspended Solids	mg/L	[3]	Grab
Total Petroleum Hydrocarbons	mg/L	[3]	Grab
Total Surfactants	mg/L	[3]	Grab

[1] One sample shall be taken and analyzed during the third year of the Regulations.

[2] Determine the flow of storm water at the time of sampling. A reading from a rain gauge taken at the time of sampling can be substituted for an estimate of flow.

[3] A sample shall be taken and analyzed during the first, third and fifth year of the Regulations.

b. Refer to Part 1 (§9.1.01.4, A.5.b. "Water Priority Chemical Facilities") of Subsection 1 of the Regulations.

B. Records of all sampling and analysis shall include the following: Refer to Part 1 (§9.1.01.4, B.) of Subsection 1 of the Regulations.

9.1.12.5 STORM WATER PLAN (SWP) Refer to Part 1 (§9.1.01.5, A. through C.) of Subsection 1 of the Regulations.

D. SWP Deadlines Refer to Part 1 (§9.1.01.5, D.) of Subsection 1 of the Regulations.

E. Contents of the SWP Refer to Part 1 (§9.1.01.5, E., E.1. and E.2.) of Subsection 1 of the Regulations.

3. Significant Material Management

The Storm Water Plan shall contain, but not be limited to, language that identifies and describes the practices which will be implemented and the schedule for the practices to be implemented by the permittee in order to conform with the requirements of this Part. Qualified facility personnel shall be identified to inspect designated

equipment and areas of the facility at appropriate intervals specified in the SWP. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. A log of inspections and any actions taken shall be maintained at the site.

a. Management of Significant Material by Enclosure (Option #1)

(1) Material Management Requirements:

(a) Significant Materials shall be stored in enclosed areas;

(b) Machinery, equipment or vehicle maintenance activities shall take place in enclosed areas;

(c) Minimize the exposure to precipitation of Significant Materials that occurs during handling, shipping, receiving, loading or unloading to the MEP; and

(d) Develop response planning for the prevention and minimization of releases of Significant Materials to storm water runoff;

(2) Deadlines for Option #1

The SWP shall contain a list of the sequence in which the requirements of §9.1.12.5, E.3.a.(1) will be completed in accordance with following deadline:

One of §9.1.12.5, E.3.a.(1), (a) through (d) shall be completed during each year for the first three years starting on the effective date of this Part. All of §9.1.12.5, E.3.a.(1), (a) through (d) shall be completed within five years of the effective date of this Part, **unless granted an extension in writing from the Department for this purpose.**

b. Management of Significant Materials by a Combination of Protocols and Discharge Buffering (Option #2)

(1) Material Management Requirements:

(a) Minimize the exposure of stored Significant Material to precipitation to the Maximum Extent Practicable (MEP);

(b) Minimize the exposure of Significant Materials to precipitation during all machinery, equipment or vehicle maintenance (including painting and sand blasting) to the MEP;

(c) Minimize the exposure of Significant Materials to precipitation during handling, shipping, receiving, loading or unloading to the MEP;

(d) Develop response planning for the prevention and minimization of releases of Significant Materials to storm water runoff; and

(e) Emplace a BMP which will buffer the storm water discharges from the facility.

(2) Deadlines for Option #2

The SWP shall contain a list of the sequence in which the requirements of §9.1.12.5, E.3.b.(1) will be completed in accordance with following deadlines:

Two of §9.1.12.5, E.3.b.(1), (a) through (e) shall be completed each year starting on the effective date. All of §9.1.12.5, E.3. b.(1), (a) through (e) shall be completed within three years of the effective date of this Part, unless granted an extension in writing from the Department for this purpose.

c. Innovative Approach for Managing Significant Materials (Option #3)

Persons subject to this Part may choose to implement an alternative approach for §9.1.12.5, E.3.a or b. Persons which choose to implement an alternative approach shall identify and describe in the SWP, the practices which will be implemented as the alternative approach. The alternative approach shall reduce the amount of pollutants that are transported off site by storm water discharges from the facility to a comparable level to §9.1.12.5, E.3.a or b. and must be implemented within a specific period of time. Any alternative approach must be approved in writing by the Department.

4. Interim Significant Material Management

During the time between the effective date of this Part and the date when any of §9.1.12.5, E.3. a., b., or c. are completed, all Significant Materials shall be managed in a responsible manner.

5. Inadequate Significant Material Management Refer to Part 1 (§9.1.01.5, E.5.) of Subsection 1 of the Regulations.

F. Non-Storm water Discharges Refer to Part 1 (§9.1.01.5, F.) of Subsection 1 of the Regulations.

G. Review of Plans, Reports, Records or SWP Refer to Part 1 (§9.1.01.5, G.) of Subsection 1 of the Regulations.

H. Training Refer to Part 1 (§9.1.01.5, H.) of Subsection 1 of the Regulations.

I. Consistency With Other Plans Refer to Part 1 (§9.1.01.5, I.) of Subsection 1 of the Regulations.

J. Facility Security Refer to Part 1 (§9.1.01.5, J.) of Subsection 1 of the Regulations.

9.1.12.6 EFFECTIVE DATE OF COVERAGE Refer to Part 1 (§9.1.01.6) of Subsection 1 of the Regulations.]

Part 13 - SPECIAL CONDITIONS FOR STORM WATER DISCHARGES ASSOCIATED WITH FOOD PROCESSING ACTIVITIES

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9.1.13.1 COVERAGE
9.1.13.2 STANDARD CONDITIONS

9.1.13.3 NOTIFICATION
9.1.13.4 MONITORING
9.1.13.5 STORM WATER PLAN (SWP)
9.1.13.6 EFFECTIVE DATE OF COVERAGE

9.1.13.1 COVERAGE

This Part covers all new and existing storm water discharges that are composed in whole or in part of industrial storm water associated with the food processing industries. Food processing activities include:

Standard Industrial Classification 20 - Food Manufacturing and Processing

9.1.13.2 STANDARD CONDITIONS Refer to Part 1 (§9.1.01.2) of Subsection 1 of the Regulations.

9.1.13.3 NOTIFICATION Refer to Part 1 (§9.1.01.3) of Subsection 1 of the Regulations.

9.1.13.4 MONITORING

A. Refer to Part 1 (§ 9.1.01.4, A., A.1. through A.4. and A.6.) of Subsection 1 of the Regulations.

5. Analyze grabs samples in accordance with the following parameters:

a. Parameter	Units	Frequency	Sample Type
Flow	Gal/min	[1]	Estimated ^[2]
pH	S. U.	[1]	Grab
Total Suspended Solids	mg/L	[1]	Grab
Biological Oxygen Demand (BOD5)	mg/L	[1]	Grab
Oil & Grease	mg/L	[1]	Grab
Ammonia as Nitrogen	mg/L	[1]	Grab
Kjeldahl Nitrogen	mg/L	[1]	Grab
Nitrate Nitrogen	mg/L	[1]	Grab
Total Chloride	mg/L	[1]	Grab
Total Sodium	mg/L	[1]	Grab
Enterococcus	colonies/100 mL	[1]	Grab
Total Phosphorus	mg/L	[1]	Grab

[1] Samples shall be taken during the first, third and fifth years of the Regulations.

[2] Determine the flow of storm water discharge at the time the sample is taken. A reading from a rain gauge taken at the time of sampling can be substituted for an estimate of flow.

b. Refer to Part 1 (§9.1.01.4, A.5.b. - "Water Priority Chemical Facilities) of Subsection 1 of the Regulations.

B. Records of all sampling and analysis shall include the following: Refer to Part 1 (§9.1.01.4, B.) of Subsection 1 of the Regulations.

9.1.13.5 STORM WATER PLAN (SWP) Refer to Part 1 (§9.1.01.5, A. through C.) of Subsection 1 of the

Regulations.

D. SWP Deadlines Refer to Part 1 (§9.1.01.5, D.) of Subsection 1 of the Regulations.

E. Contents of the SWP Refer to Part 1 (§9.1.01.5, E., E.1. and E.2.) of Subsection 1 of the Regulations.

3. Significant Material Management

The Storm Water Plan shall contain, but not be limited to, language that identifies and describes the practices which will be implemented and the schedule for the practices to be implemented by the permittee in order to conform with the requirements of this Part. Qualified facility personnel shall be identified to inspect designated equipment and areas of the facility at appropriate intervals specified in the SWP. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. A log of inspections and any actions taken shall be maintained at the site.

a. Management of Significant Material by Enclosure (Option #1)

(1) Material Management Requirements:

(a) Food processing and related activities shall take place in enclosed areas;

(b) Significant Materials (e.g. raw materials, waste materials) shall be stored in enclosed areas;

(c) Handling, shipping, receiving, loading or unloading of Significant Materials shall take place in enclosed areas;

(d) Machinery, equipment or vehicle maintenance shall take place in enclosed areas;

(e) Develop response planning for the prevention and minimization of releases of Significant Materials to storm water runoff.

(2) Deadlines for Option #1

The SWP shall contain a list of the sequence in which the requirements of §9.1.13.5, E.3.a.(1) will be completed in accordance with following deadlines:

One of §9.1.13.5, E.3.a.(1), (a) through (e) shall be completed each year starting on the effective date of this Part. All of §9.1.13.5, E.3.a. (1), **[(a) through (e)]** shall be completed within five years of the effective date, **[unless granted an extension in writing from the Department for this purpose]**.

b. Management of Significant Materials by a Combination of Protocols and Discharge Buffering (Option #2)

(1) Material Management Requirements:

(a) Minimize the exposure of Significant Materials to precipitation during food processing to the Maximum Extent Practicable (MEP);

(b) Minimize the exposure of stored Significant Materials to precipitation to the MEP;

(c) Minimize the exposure of Significant Materials to precipitation during machinery, equipment or vehicle maintenance to the MEP;

(d) Minimize the exposure to precipitation of Significant Materials that occurs during handling, shipping, receiving, loading or unloading to the MEP;

(e) Develop response planning for the prevention and minimization of releases of Significant Materials to storm water runoff; and

(f) Emplace a BMP which will buffer the storm water discharges from the facility.

(2) Deadlines for Option #2

The SWP shall contain a list of the sequence in which the requirements of §9.1.13.5, E.3.b.(1) will be completed in accordance with following deadlines:

One of §9.1.13.5, E.3.b.(1), **[(a) through (f)]** shall be completed **[each year]** starting on the effective date. All of §9.1.13.5, E.3.b.(1), **[(a) through (f)]** shall be completed within three years of the effective date of this Part, **[unless granted an extension in writing from the Department for this purpose]**.

c. Alternative Approaches for Managing Significant Materials (Option #3)

Persons subject to this Part may choose to implement an alternative approach for §9.1.13.5, E.3.a or b. Persons which choose to implement an alternative approach shall identify and describe in the SWP, the practices which will be implemented as the alternative approach. The alternative approach shall reduce the amount of pollutants that are transported off site by storm water discharges from the facility to a comparable level to §9.1.13.5, E.3.a or b. and must be implemented within a specific period of time. Any alternative approach must be approved in writing by the Department.

4. Interim Significant Material Management

During the time between the effective date of this Part and the date when any of §9.1.13.5, E.3.a., b., or c. are completed, all Significant Materials shall be managed in a responsible manner.

5. Inadequate Significant Material Management

Refer to Part 1 (§9.1.03.5, **[E.5.]**) of Subsection 1 of the Regulations.

F. Non-Storm Water Discharges Refer to Part 1 (§9.1.01.5, F.) of Subsection 1 of the Regulations.

G. Review of Plans, Reports, Records or SWP Refer to Part 1 (§9.1.01.5, G.) of Subsection 1 of the Regulations.

H. Training Refer to Part 1 (§9.1.01.5, H.) of Subsection 1 of the Regulations.

I. Consistency With Other Plans Refer to Part 1 (§9.1.01.5, I.) of Subsection 1 of the Regulations.

J. Facility Security Refer to Part 1 (§9.1.01.5, J.) of Subsection 1 of the Regulations.

9.1.13.6 EFFECTIVE DATE OF COVERAGE Refer to Part 1 (§9.1.01.6) of Subsection 1 of the Regulations.

Part 14 - SPECIAL CONDITIONS FOR STORM WATER DISCHARGES ASSOCIATED WITH METALS MANUFACTURING ACTIVITIES

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- 9.1.14.1 COVERAGE
- 9.1.14.2 STANDARD CONDITIONS
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- 9.1.14.6 EFFECTIVE DATE OF COVERAGE

9.1.14.1 COVERAGE

This Part covers all new and existing storm water discharges that are composed in whole or in part of industrial storm water associated with the metal manufacturing activities. Metal manufacturing activities include:

Standard Industrial Classification 34 - Fabricated Metal Products, except Machinery and Transportation Equipment;

Standard Industrial Classification 35 - Industrial and Commercial Machinery;

Standard Industrial Classification 36 - Electronics;

Standard Industrial Classification 37 - Transportation Equipment, (except 373 - Ship and Boat Building and Repairing);

Standard Industrial Classification 38 - Detailed Instruments;

9.1.14.2 STANDARD CONDITIONS Refer to Part 1 (§9.1.01.2) of Subsection 1 of the Regulations.

9.1.14.3 NOTIFICATION Refer to Part 1 (§9.1.01.3) of Subsection 1 of the Regulations.

9.1.14.4 MONITORING

A. Refer to Part 1 (§ 9.1.01.4, A., A.1. through A.4. and A.6.) of Subsection 1 of the Regulations.

5. Analyze grabs samples in accordance with the following parameters:

a. Effluent Parameter	Units	Frequency	Sample Type
Flow	Gal/min	[1]	Estimate ^[2]
pH	S. U.	[1]	Grab
Total Suspended Solids	mg/L	[1]	Grab
[3]	mg/L	[1]	Grab

[1] Samples shall be taken during the first, third and fifth years of the Regulations.

[2] Determine the flow of storm water discharge at the time

the sample is taken. A reading from a rain gauge taken at the time of sampling can be substituted for an estimate of flow.

[3] In addition, persons subject to this Part shall develop a monitoring plan choosing parameters which will represent Significant Materials described under §9.1.01.5, E.2.b. and c. Appropriate units shall be used to measure the chosen parameters.

b. Refer to Part 1 (§9.1.01.4, A.5.b. - "Water Priority Chemical Facilities) of Subsection 1 of the Regulations.

B. Records of all sampling and analysis shall include the following: Refer to Part 1 (§9.1.01.4, B.) of Subsection 1 of the Regulations.

9.1.14.5 STORM WATER PLAN (SWP) Refer to Part 1 (§9.1.01.5, A. through C.) of Subsection 1 of the Regulations.

D. SWP Deadlines Refer to Part 1 (§9.1.01.5, D.) of Subsection 1 of the Regulations.

E. Contents of the SWP Refer to Part 1 (§9.1.01.5, E., E.1. and E.2.) of Subsection 1 of the Regulations.

3. Significant Material Management

The Storm Water Plan shall contain, but not be limited to, language that identifies and describes the practices which will be implemented and the schedule for the practices to be implemented by the permittee in order to conform with the requirements of this Part. Qualified facility personnel shall be identified to inspect designated equipment and areas of the facility at appropriate intervals specified in the SWP. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. A log of inspections and any actions taken shall be maintained at the site.

a. Management of Significant Material by Enclosure (Option #1)

(1) Material Management Requirements:

(a) Manufacturing and processing shall take place in enclosed areas;

(b) Significant Materials (e.g. raw materials, waste materials) shall be stored in enclosed areas;

(c) Handling, shipping, receiving, loading or unloading of Significant Materials shall take place in enclosed areas;

(d) Machinery, equipment or vehicle maintenance (including painting and sand blasting) shall take place in enclosed areas; and

(e) Develop response planning for the prevention and minimization of releases of Significant Materials to storm water runoff.

(2) Deadlines for Option #1

The SWP shall contain a list of the sequence in which the requirements of §9.1.14.5, E.3.a.(1) will be completed in accordance with following deadlines:

One of §9.1.14.5, E.3. a.(1), (a) through (e) [~~must shall~~] be completed each year starting on the effective date of this Part, **unless granted an extension in writing from the Department for this purpose.**

b. Management of Significant Materials by a Combination of Protocols and Discharge Buffering (Option #2) -

(1) Material Management Requirements:

(a) Minimize the exposure to precipitation of Significant Materials associated with manufacturing and processing to the Maximum Extent Practicable (MEP);

(b) Minimize the exposure of stored Significant Materials to precipitation to the MEP;

(c) Minimize the exposure to precipitation of Significant Materials that occurs during handling, shipping, receiving, loading or unloading to the MEP;

(d) Minimize the exposure of Significant Materials to precipitation during machinery, equipment or vehicle maintenance to the MEP;

(e) Develop response planning for addressing prevention and minimization of releases of Significant Materials to storm water runoff; and

(f) Emplace a BMP which buffers the storm water discharges from the facility.

(2) Deadlines for Option #2

The SWP shall contain a list of the sequence in which the requirements of §9.1.14.5, E.3.b.(1) will be completed in accordance with following deadlines:

Two of §9.1.14.5, E.3. b.(1), (a) through (f) shall be completed starting on the effective date of this Part, unless granted an extension in writing from the Department for this purpose.

c. Alternative Approach for Managing Significant Materials (Option #3)

Persons subject to this Part may choose to implement an alternative approach for §9.1.14.5, E.3.a or b. Persons which choose to implement an alternative approach shall identify and describe in the SWP, the practices which will be implemented as the alternative approach. The alternative approach shall reduce the amount of pollutants that are transported off site by storm water discharges from the facility to a comparable level to §9.1.14.5, E.3.a or b. and must be implemented within a specific period of time. Any alternative approach must be approved in writing by the Department.

4. Interim Significant Material Management

During the time between the effective date of this Part and the date when any of §9.1.14.5, E.3.a., b. or c. are completed, all Significant Materials shall be managed in a responsible manner.

5. Inadequate Significant Material Management

Refer to Part 1 (§9.1.01.5, **[E.5.]**) of Subsection 1 of the

Regulations.

F. Non-Storm Water Discharges Refer to Part 1 (§9.1.01.5, F.) of Subsection 1 of the Regulations.

G. Review of Plans, Reports, Records or SWP Refer to Part 1 (§9.1.01.5, G.) of Subsection 1 of the Regulations.

H. Training Refer to Part 1 (§9.1.01.5, H.) of Subsection 1 of the Regulations.

I. Consistency With Other Plans Refer to Part 1 (§9.1.01.5, I.) of Subsection 1 of the Regulations.

J. Facility Security Refer to Part 1 (§9.1.01.5, J.) of Subsection 1 of the Regulations.

9.1.14.6 EFFECTIVE DATE OF COVERAGE Refer to Part 1 (§9.1.01.6) of Subsection 1 of the Regulations.

GOVERNOR'S APPOINTMENTS

BOARD/COMMISSION OFFICE	APPOINTEE	TERM OF OFFICE
Agricultural Industry Advisory Committee on Nutrient Management	Mr. David W. Baker, Chairperson	Pleasure of the Governor
	Mr. Theodore P. Bobola, Jr.	Pleasure of the Governor
	Mr. Herman W. Cook, III	Pleasure of the Governor
	Mr. Stephen D. Corazza	Pleasure of the Governor
	Mr. Robert F. Garey, Jr.	Pleasure of the Governor
	Mr. Henry C. Johnson, III	Pleasure of the Governor
	Ms. Constance Larrimore	Pleasure of the Governor
	Ms. Barbara J. Sapp	Pleasure of the Governor
	Mr. Karl R. Smith	Pleasure of the Governor
	Mr. Charles P. West, II	Pleasure of the Governor
Board of Chiropractic	Ms. Crystal L. Carey	07/24/01
Board of Veterinary Medicine	Ms. Peggy Swygert	07/24/01
Board of Pharmacy	Ms. Laura Yvonne Brown	08/01/01
Council on Blind	Ms. Dianne L. Roberts	07/24/01
Council on Real Estate Appraisers	Mr. Lawrence J. Nicholson	07//24/01
Delaware Advisory Council on Natural Areas	Mr. George M. Records, Jr.	07/08/02
Delaware Agricultural Lands Preservation Foundation	Mr. H. Dennis Clay	07/24/01
Delaware Arts Council	Ms. Kathleen M. Davis	08/10/01
	Mr. Fred Kaltreider	08/10/01
	Ms. Mary Jane Lyons	08/10/01
	Mr. Daivd Schelat	08/10/01

GOVERNOR'S APPOINTMENTS

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BOARD/COMMISSION OFFICE	APPOINTEE	TERM OF OFFICE
Delaware Bicycle Council	Mr. William H. Boyd	07/24/01
	Mr. Donovan C. Carbaugh	07/24/01
	Mr. Thomas Hartley	07/24/01
	Mr. Ronald C. Jester	07/24/01
	Mr. Paul A. Stevenson	12/10/99
Delaware Department of Labor	Ms. Lisa Blunt-Bradley, Secretary	Pleasure of the Governor
Delaware Economic Development Office	The Honorable Darrell J. Minott, Director	Pleasure of the Governor
Delaware Gaming Control Board	Mr. Leroy J. Rench	07/24/03
Dover Housing Authority	Ms. Audrey O. Daniels	07/31/04
	Mr. Robert R. Owens	07/24/04
Delaware State University, Board of Trustees	Ms. Norma Lee Derrickson	08/10/04
Family Court	Mr. Andrew T. Horsey, Esq., Commissioner	07/16/02
	Mr. Andrew K. Southmayd, Esq, Commissioner	07/16/02
Family Court for Sussex County	Mr. Peter B. Jones, Judge	07/24/10
Greater Wilmington Convention and Visitors Bureau	Ms. Peggy Amsterdam	08/10/00
	Mr. Stephen T. Bruni	08/10/01
	Mr. Vincent DiFonzo	08/10/00
	Ms. Carol S. Harding	08/10/01
	Mr. Peter C. Morrow	08/10/00
Human Relations Commission	Ms. Nicole Cunningham	10/27/98
Justice of the Peace, New Castle County	Hon. Stanley J. Petraschuk	07/31/04
Public School Transportation Task Force	Mr. Ronald C. Albence	Pleasure of the Governor
	Mr. C. Lee Dean	Pleasure of the Governor
	Mr. Mark A. Dufendach	Pleasure of the Governor

GOVERNOR'S APPOINTMENTS

BOARD/COMMISSION OFFICE	APPOINTEE	TERM OF OFFICE
Public School Transportation Task Force	Ms. Diane L. Dunmon	Pleasure of the Governor
	Mr. Monroe B. Gerhart	Pleasure of the Governor
	Mr. Daniel McGinniss	Pleasure of the Governor
Real Estate Commission of Delaware	Ms. Ann K. Baker	07/24/01
Riverfront Development Corporation, Board of Directors	Mr. Lance Weaver	Pleasure of the Governor
State Board of Accountancy	Mr. William G. Lambden	07/24/01
State Rehabilitation Advisory Council	Ms. Rosanna Heffron	07/24/01
	Mr. George Himes	09/01/00
	Mr. Michael Merrill	07/24/01
Welfare Employment Committee	Mr. C. T. Elliott	08/10/01

**DEPARTMENT OF
ADMINISTRATIVE SERVICES
DIVISION OF PROFESSIONAL REGULATION
BOARD OF EXAMINERS OF PSYCHOLOGISTS**

PLEASE TAKE NOTICE, pursuant to 29 Del. C. Chapter 101 and 24 Del. C. Section 3506(a)(1), the Delaware Board of Examiners of Psychologists proposes to adopt new Rules and Regulations. The proposed rules and regulations will define the following provisions: (1) Evaluation of Credentials; (2) Supervised Experience; (3) Psychological Assistants; and (4) Procedures for Licensure Applicable to Full Time Faculty Members in a Nationally Accredited Doctoral Level Clinical Training Program in the State of Delaware.

A public hearing will be held on the proposed Rules and Regulations on October 5, 1998 at 10:00 a.m. in the Second Floor Conference Room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware. The Board will receive and consider input from interested persons on the proposed rules and regulations, and individuals are urged to submit their comments in writing. Anyone wishing to obtain a copy of the proposed regulations, or to make comments at the public hearing, should contact the Board's Administrative Assistant Gayle Franzolino by calling (302) 739-4522 Ext. 220, or write to the Delaware Board of Examiners of Psychologists, P. O. Box 1401, Cannon Building, Suite 203, Dover, DE 19903.

**DEPARTMENT OF AGRICULTURE
FOREST SERVICE**

The Delaware Department of Agriculture (DDA) Forest Service administers public lands at Blackbird State Forest, Taber State Forest, and Redden State Forest. In order to conserve, protect, and manage these lands for the benefit of all citizens, new Rules and Regulations will be introduced on these lands, pursuant to 29 Del.C. §8103(8). The DDA Forest Service will hold a public hearing on Friday, September 25, 1998, at 7:00 p.m. at Delaware Department of Agriculture Conference Center, 2320 S. DuPont Highway, Dover, Delaware, to introduce these Rules and Regulations and solicit public comments. Additionally, the public is welcome to provide comments prior to the September 25 hearing. Further information concerning these Rules and Regulations is available by contacting Mike Brown at 800-282-8685 (in-state only) or (302) 739-4811.

DEPARTMENT OF EDUCATION

The State Board of Education will hold its regular monthly meeting on Thursday, September 17, 1998 at 11:00 a.m.

**DEPARTMENT OF FINANCE
DIVISION OF REVENUE
STATE LOTTERY OFFICE**

The Lottery proposes amendments to Regulations 5.2(2) and 7.9. The amendment to Regulation 5.2(2) would clarify that the maximum bet limit is \$25.00. The amendment to Regulation 7.9 would clarify that the redemption period for credits is one year.

The proposed regulations are amendments to the Lottery's existing Video Lottery Regulations. The Lottery proposes these amendments pursuant to 29 Del. C. section 4805(a).

The Lottery will accept written public comments from September 1, 1998 to September 30, 1998. Written comments should be submitted to Delaware State Lottery Office, 1575 McKee Road, Suite 102, Dover, DE 19904-1903, Attention: Director Wayne Lemons. The Lottery's phone number is (302) 739-5291.

**DEPARTMENT OF HEALTH &
SOCIAL SERVICES
DIVISION OF SOCIAL SERVICES**

**PUBLIC NOTICE
Medicaid / Medical Assistance Program**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and with 42CFR §447.205, and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 505, the Delaware Department of Health and Social Services (DHSS) / Division of Social Services / Medicaid Program is amending its DSSM eligibility manual(s).

REVISION:

Division of Social Services Eligibility Manual

The state rules in the Medicaid eligibility manual are being renumbered so that the citations are specific to the action taken.

Comments, written suggestions, compilations of data, testimony, briefs or other written materials concerning this change must be received by mail no later than October 1, 1998, at the Medicaid Administrative Office, Lewis Bldg., Herman M. Holloway, Sr. Health & Social Services Campus, 1901 N. DuPont Hwy., New Castle, DE 19720, attention Thelma Mayer. Materials filed thereafter will not be considered except where good cause for lateness is demonstrated. Copies of all written submissions filed with the Medicaid office will be available for public inspection in the Medicaid Administrative Office at the address given above. Please call (302) 577-4880, extension 131, for an appointment if you wish to review the materials. Individuals with disabilities who wish to participate in these proceedings, or review the materials submitted, should contact the Division to discuss auxiliary aids or services needed to facilitate such review or participation. Such contact may be in person, in writing or by telephone by using the Telecommunications Relay Service, or otherwise.

DIVISION OF SOCIAL SERVICES

The Delaware Health and Social Services, Division of Social Services, is proposing to implement policy changes to the Division of Social Services' Manual Section 9007.1. The changes arise from Public Law 105-185, the Agricultural Research, Extension, and Education Reform Act of 1998 (AREERA), which revise sections 401 through 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

COMMENT PERIOD

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to the Director, Division of Social Services, P. O. Box 906, New Castle, DE, by September 30, 1998.

DELAWARE RIVER BASIN COMMISSION P.O. BOX 7360 WEST TRENTON, NEW JERSEY

The Delaware River Basin commission will meet on Wednesday, September 9, 1998, in New Castle, DE. For more information contact Susan M. Weisman at (609) 883-9500 ext. 203.

DEPARTMENT OF STATE OFFICE OF THE STATE BANKING COMMISSIONER

The State Bank Commissioner proposes to adopt amended Regulation Nos. 5.2102(b)/2112.0001, 5.2210(d).0001, 5.2218/2231.0003, 5.2741.0001, 5.2743.0002, 5.2905(e)/122(b).0001 and 5.2905(e).0002. Proposed revised Regulations 5.2102(b)/2112.0001 ("Mortgage Loan Brokers Operating Regulations"), 5.2210(d).0001 ("Licensed Lenders Operating Regulations"), 5.2741.0001 ("Licensed Cashier of Checks, Drafts or Money Orders Operating Regulations") and 5.2905(e).0002 ("Motor Vehicle Sales Finance Companies Operating Regulations") are amended to require payment of examination fees and supervisory assessments in accordance with Senate Bill 44 ("SB 44"), signed by the Governor on April 23, 1997, and to make other technical and conforming changes. Proposed revised Regulation 5.2218/2231.0003 ("Licensed Lenders Regulations - Itemized Schedule of Charges") is amended to conform to revised statutory provisions for revolving and closed end credit, in accordance with SB 44, and to make other technical and conforming changes. Proposed revised Regulations 5.2743.0002 ("Licensed Cashier of Checks, Drafts, or Money Orders Posting of the Fee Schedule and Minimum Requirements for Content of Books and Records") and 5.2905(e)/122(b).0001 ("Motor Vehicle Sales Finance Companies Minimum Requirements for Content of Books and Records") are amended to conform the required retention period for certain books and records to the retention periods required by Regulation 5.141.0001.NC ("Retention of Financial Institution Records"). In addition, Regulation 5.2905(e)/122(b).0001 is amended to delete unnecessary requirements. Proposed amended Regulation Nos. 5.2102(b)/2112.0001, 5.2210(d).0001, 5.2218/2231.0003, 5.2741.0001, 5.2743.0002, 5.2905(e)/122(b).0001 and 5.2905(e).0002 replace existing Regulation Nos. 5.2102(b)/2112.0001, 5.2210(d).0001, 5.2218(5)/2231(3).0003, 5.2741.0001.NC, 5.2743.0002.NC, 5.2905(e)/122(b).0001 and 5.2905(e).0002, respectively. Proposed amended Regulation Nos. 5.2102(b)/2112.0001, 5.2210(d).0001, 5.2218/2231.0003, 5.2741.0001, 5.2743.0002, 5.2905(e)/122(b).0001 and 5.2905(e).0002 would be adopted by the State Bank Commissioner on or after October 2, 1998. Other regulations issued by the State Bank Commissioner are not affected by these proposed amendments. These regulations are issued by the State Bank Commissioner in accordance with Title 5 of the Delaware Code.

Comments:

Copies of the proposed revised regulations are

published in the Delaware Register of Regulations. Copies also are on file in the Office of the State Bank Commissioner, 555 E. Loockerman Street, Suite 210, Dover, Delaware 19901, and will be available for inspection during regular office hours. Copies are available upon request.

Interested parties are invited to comment or submit written suggestions, data, briefs or other materials to the Office of the State Bank Commissioner as to whether these proposed regulations should be adopted, rejected or modified. Written material submitted will be available for public inspection at the above address. Comments must be received by October 2, 1998.

Public Hearing:

A public hearing on the proposed revised regulations will be held in Room 113, Tatnall Building, William Penn Street, Dover, Delaware 19901, on Friday, October 2, 1998 at 10:00 a.m.

This notice is issued pursuant to the requirements of Subchapter III of Chapter 11 and Chapter 101 of Title 29 of the Delaware Code.
