

2200 Division of Motor Vehicles
Driver Services

2225 Delaware Driving Privilege Permit and Driving Privilege Card

1.0 Purpose

The authority to promulgate this regulation is 21 **Del.C.** §§302, 2711, 2715, and 2718 and 11 **Del.C.** §§8593, 8594, and 8595.

2.0 Authority

This administrative rule sets forth regulations and procedures used when issuing a Delaware Driving Privilege Permit or Card based on the referenced statutes listed in Section 1.0 of this regulation. The applicant has the option to obtain a Delaware Driving Privilege Permit or Card provided the applicant meets the minimum qualifications and standards presented in this regulation.

3.0 Definitions

"Applicant" means a prospective driving privilege card holder.

"Birth Certificate" means the record related to a birth that is permanently stored, either electronically or physically, at the State Office of Vital Statistics or equivalent agency in a registrant's state of birth.

"Consular Identification Card" means a card issued by a foreign government consulate that identifies citizens of their country who reside in a foreign country. It contains the cardholder's photo, address, birthplace, expiration date, and a unique identification number.

"Division" means the Delaware Division of Motor Vehicles.

"Document Locator Code" means a unique receipt number issued by the Division of Revenue to individuals who have requested copies of their filed Delaware tax returns.

"Driving Privilege Card (DPC)" means a driving privilege permit or card issued pursuant to 21 **Del.C.** §2711(d) to undocumented immigrants who are not able to provide satisfactory documentary evidence of legal presence in the United States.

"Full Legal Name" means an individual's first name(s), middle name(s), and last name(s) or surname without the use of initials or nicknames unless otherwise acceptable in Section 5.0 of this document.

"ITIN" means a unique Individual Tax Identification Number issued by the Delaware Division of Revenue for the purposes of filing taxes.

"Legal Presence" means a citizen or national of the United States or an alien, lawfully admitted for permanent or temporary residence in the United States; has conditional permanent resident status in the United States; has an approved application for asylum in the United States or has entered into the United States in a refugee status; has a valid non-immigrant status in the United States; has an application for asylum in the United States; has an application for temporary protected status (TPS) in the United States; has approved deferred action status; or has an application for lawful permanent residence (LPR) or conditional permanent resident status.

"Material Change" means any change to the personally identifiable information of an individual as defined in Title 21 and this regulation. Notwithstanding the definition of personally identifiable information below, a change of address of principal residence does not constitute a material change.

"Passport" means a passport booklet or card issued by the United States Department of State that can be used as a travel document to gain entry into the United States and that denotes identity and citizenship as determined by the United States Department of State.

"Personally Identifiable Information" means any information which can be used to distinguish or trace an individual's identity, such as the individual's name, driver license or identification card number, social security number, biometric record, including a digital photograph or signature, alone or when combined with other personal or identifying information, which is linked or linkable to a specific individual, such as a date and place of birth or address whether it is stored in a database, on a driver license or on an identification card.

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"Principal Residence Address" means the location where a person currently resides (i.e. presently resides even if at a temporary address) in conformance with the residency requirements of the state issuing the driver license or identification card, if such requirements exist.

"Receipt Number" means a number issued by the Delaware State Bureau of Identification for purposes of identifying a Driving Privilege Card applicant's criminal background check.

"SAVE" means the Department of Homeland Security's Systematic Alien Verification for Entitlements system or such successor or alternate verification system at the DHS secretary's discretion.

"Sexual Assault and Stalking" have the meanings given the terms in Section 3, Universal Definitions and Grant Provisions, of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Pub. L. 109-162, 119 Stat. 2960, 2964, Jan. 5, 2006); codified at Section 40002, Definitions and Grant Provisions, 42 U.S.C. 13925, or state laws addressing sexual assault and stalking.

"Source Document(s)" means original or certified copies (where applicable) of documents presented by an applicant as required under this regulation to the Division of Motor Vehicles to apply for driving privilege card.

"State Address Confidentiality Program" means any state-authorized or state-administered program that: (1) allows victims of domestic violence, dating violence, sexual assault, stalking, or a severe form of trafficking to keep, obtain, and use alternative addresses; or (2) provides confidential recordkeeping regarding the addresses of such victims or other categories of persons.

"Verify" means procedures to ensure that the source document is genuine and has not been altered (i.e. "document authentication") and the identity data contained on the document is valid ("data verification").

4.0 Driving Privilege Permits/Cards

4.1 Application document.

4.1.1 Every application for a Delaware Driving Privilege Permit or Card (DPC) shall be made on an application furnished by the Delaware Department of Transportation. The original application shall be verified by the applicant before a person authorized by the division to administer oaths. Employees who are specifically trained and assigned duties to issue state documents are hereby designated as being able to administer oaths under this section. The applicant will certify on the application if he holds a driver license or identification card in this or any other state. The original application will be electronically scanned and stored.

4.2 Driving Privilege Permits/Cards.

4.2.1 Unless otherwise specified, DPC's issued in accordance with this regulation shall be considered valid Class D driver permit(s) and license(s) and shall be accepted by Delaware legal systems and agencies as proof of valid driving authority.

4.2.1.1 To be considered eligible for a Delaware DPC, the division must verify, scan, and electronically retain all original source documents.

4.2.1.2 Unless otherwise specified, once verified, scanned, and electronically retained, a DPC holder will not be required to again present the division with the original source document except in cases where a material change occurs or when an applicant's lawful status has changed.

4.2.2 It will be clearly indicated on the face of the driving privilege permit or card and in the machine readable zone that the permit or card is for "Driving Privilege Only" and "Not Valid for Identification."

4.2.3 The division may issue a DPC to persons who:

4.2.3.1 Are unable to provide satisfactory proof of legal presence in the United States;

4.2.3.2 Have a valid foreign passport or valid consular identification card issued by his or her home country;

4.2.3.3 Have been fingerprinted by the Delaware State Bureau of Identification;

4.2.3.4 Have filed, or have resided in Delaware and have been claimed as a dependent by an individual who has filed, Delaware income taxes in the two preceding years of the application;

4.2.3.5 May be ineligible for a Social Security Number (SSN) because of his or her immigration status;

4.2.3.6 Are able to provide proof of principal residence address in this State;

4.3 Renewal of Delaware Driving Privilege Permits/Cards.

4.3.1 Delaware Driving Privilege Permits may be renewed one time in person, before initial expiration, for a period of 6 months.

- 4.3.2 Delaware Driving Privilege Cards shall be renewed in person every four years and in accordance with 21 **Del.C.** §2715.
- 4.3.3 Remote renewal of the Delaware DPC is not permissible.
- 4.4 Reissued Delaware Driving Privilege Permits/Cards.
 - 4.4.1 The Delaware DPC will be reissued in accordance with 21 **Del.C.** §2720.
 - 4.4.2 The Delaware DPC must be reissued in person.

5.0 Name, Date of Birth and Gender

- 5.1 Full Legal Name, Date of Birth and Gender.
 - 5.1.1 The name and date of birth on the face of the Delaware DPC must be the same as the name and date of birth on the source document presented by the applicant to establish identity. When the individual has only one name, that name should be entered in the last name or family name field, and the first and middle name fields should be left blank. Place holders such as NFN, NMN, FNU, LNU and NA shall not be used.
 - 5.1.2 If the names, as listed on various source documents (to substantiate the applicant's name, date of birth, gender, ITIN), are different, the applicant must contact the agency who issued the source document and change the name so that the names on all source documents match.
- 5.2 Name, Date of Birth and Gender Source Documents
 - 5.2.1 To establish an applicant's full legal name, date of birth, and gender, the applicant must present one or more of the following source documents:
 - 5.2.1.1 Valid, unexpired foreign passport;
 - 5.2.1.2 Valid Consular Identification Card;
 - 5.2.2 Applicants under age 18 must present a valid birth certificate containing birth parents name(s) that was issued by an Office of Vital Statistics or equivalent agency in the individual's country of birth, in addition to a document listed in subsection 5.2.1.
- 5.3 Name change/exceptions.
 - 5.3.1 If an applicant wants to establish a name other than the name that appears on the original source document, the applicant must provide proof of the name change by presenting a valid marriage certificate, divorce decree, adoption papers or court order substantiating the name change.
 - 5.3.2 The driving record alias file contains name changes to enable the division to verify the names the applicant used over time. The division must be notified within 30 days after the name change occurs.
 - 5.3.3 Exceptions to name change procedures must be approved by the Driver Services Manager, Chief of Driver Services, Deputy Director or Director.
- 5.4 Date of Birth Changes. To establish the applicant's date of birth, an individual must present at least one document included in subsection 5.2 or a court order that establishes a new date of birth.
- 5.5 Gender/gender changes. To change a person's gender, the applicant must complete the Request for Gender Change form detailing his or her request to have the gender designation on his or her driving privilege card changed. The form requires the applicant's medical or social service provider to certify that, in his or her professional opinion, what the applicant's true gender identity is. The medical or social service provider's practice must treat patients, including the applicant, seeking gender identity changes.
- 5.6 Foreign Documents. A professional translator must translate any documents that are in a foreign language into English.

6.0 Fingerprinting

- 6.1 All Delaware DPC applicants must be fingerprinted by the Delaware State Bureau of Identification (SBI). An applicant's criminal background check verification will be determined in accordance with 11 **Del.C.** §8595.
- 6.2 The division shall electronically verify that the DPC applicant has successfully completed the criminal background check with SBI.

7.0 Individualized Tax Identification Number (ITIN)

- 7.1 Every DPC applicant must present proof of the immediate two preceding years of filed Delaware Income Tax.
 - 7.1.1 A Certificate of Filing Compliance containing a Document Locator Code Number (DLN) shall be issued by the Delaware Division of Revenue to each eligible applicant.

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7.2 The division shall verify the ITIN and DLN with the Division of Revenue via electronic web service or phone call.

7.3 ITIN Exception:

7.3.1 The division, using the claimants ITIN and DLN, will verify with the Division of Revenue, dependents that have been claimed by an individual who has filed a Delaware income tax return.

8.0 Social Security Number (SSN), If applicable

8.1 Applicants who may have obtained a Social Security Number while under a legal presence status must present proof of SSN. The SSN will be electronically verified using the Social Security On-Line Verification (SSOLV) system, and the source document will be electronically stored.

8.2 SSN Disclosure Statement:

8.2.1 Disclosure of the applicant's SSN is mandatory. Federal and state laws authorize such disclosure (see Public Law 109-13, and 21 **Del.C.** §§2718(a) and 3104(a)). The division will use SSNs solely for the administration of the DPC program to ensure accurate identification. SSNs will not be released to businesses or private individuals but may be released to state agencies to carry out their governmental functions. If you obtained an identification document without a SSN and have subsequently obtained a SSN, it is your responsibility to notify the Division of Motor Vehicles within 30 days.

9.0 Principal Residence Address

9.1 The division and Delaware State Police must be able to contact every DPC holder at the physical location where he/she lives in this State. Therefore, every applicant must provide two documents that show the individual's name and principal Delaware residence using such documents as utility bills, auto or life insurance policies, bank account records, credit card statements, employment records, signed contract to purchase home in this State, rental agreement or any other document specifically approved by the Chief of Driver Services or Director. These source documents will be electronically stored and when possible, verified. The applicant should notify the division within 30 days after he changes his address. No proof is needed to change a person's address, and it can be accomplished by mail. A Delaware DPC will not be issued to an applicant unless the applicant has established a principal residence address in this State at the time of application.

9.2 Principal Address Exceptions.

9.2.1 Homeless - Temporary Lodging.

9.2.1.1 After meeting all other requirements, persons living in temporary lodging such as a homeless shelter or motel may be issued a Delaware Driving Privilege Permit or Card provided they substantiate: (1) they are living in temporary quarters in this State pending their subsequent move into a designated principal residence address; and (2) the agency offering temporary lodging certifies they are allowed residency for 30 or more days, and they may receive mail at this address.

9.2.2 Those Living on Boats or in Recreational Vehicles.

9.2.2.1 Those applicants whose principal residence address is on a personally-owned boat and who do not have another residency in this or any other state must provide proof that the boat is registered in their name in this State; have a 12-month or longer boat slip contract with a Delaware company; and provide a valid mailing address.

9.2.2.2 Those persons whose principal residence address is in a recreational vehicle on land in this State and who do not have a residency in this or any other state must provide proof that they have a 12-month or longer contract with a recognized Delaware RV campground or trailer court, or reside at the Dover Air Force Base RV campground, and have a valid mailing address.

9.2.3 Mailing Address.

9.2.3.1 If mail cannot be delivered to the applicant's principal residence address or if he or she is living in temporary quarters without mail service, he or she must provide the division with a mailing address. Those under the confidential address program must submit a mailing address.

9.3 Confidentiality program.

9.3.1 Victims of domestic violence, dating violence, sexual assault, stalking, or other forms of abuse may use an alternative address under the State's Victims of Abuse Address Confidentiality Program. The Victims of Abuse Address Confidentiality Program will follow the guidelines established under the memorandum of

agreement between Delaware's Department of Justice, Department of Transportation and Division of Motor Vehicles.

10.0 Verification Requirements and Other Restrictions/Limitations

10.1 Verification of Source Documents.

10.1.1 The division will verify the source documents used to determine an applicant's name, date of birth, SBI check, ITIN, SSN (if applicable), principal residence address, gender or any material changes to this data with the issuer of the source document whenever. An electronic validation of the document and identity data will occur as systems become available or by alternative methods approved by the DHS. All source documents and identification document applications will be scanned and electronically retained by the division.

10.1.2 The division will electronically verify information that it was not able to verify at a previous issuance or renewal if the systems or processes exist to do so.

10.2 Electronic Verification Details.

10.2.1 Any documents listed in subsection 5.2 will be scanned and verified through division scanners. If two documents are shown, only one must be verified. In the event of a non-match, the division must not issue a Delaware DPC to an applicant and must refer the individual to their Consulate for resolution. The division will not issue a Delaware DPC to an applicant if their document is invalid.

10.2.2 State Bureau of Identification (SBI). The division will verify all DPC applicants' fingerprint process with the SBI using the receipt number issued to the applicant by the SBI. This verification will ensure that the applicant appearing at the division is the same applicant who was fingerprinted at SBI.

10.2.3 Division of Revenue. The division will verify all DPC applicants two preceding years of filed Delaware income tax using the DLN on the Certificate of Filing Compliance issued by the Division of Revenue. The division, using the claimants ITIN and DLN, will verify with the Division of Revenue, dependents that have been claimed by an individual who has filed a Delaware income tax return. The division may establish procedures and exceptions through memorandums.

10.2.4 Social Security On-Line Verification (SSOLV). If applicable, the division will verify SSNs with the Social Security Administration (SSA) using SSOLV or through another method approved by the DHS. In the event of a non-match with the SSA, the division will use existing procedures to resolve non-matches. If unable to resolve non-matches, the division will deny issuance to those applying for their first Delaware identification document. A Delaware compliant or non-compliant identification document will not be issued until the mismatch condition is resolved. However, upon renewal of a Delaware-issued identification document, the document holder may be issued one 60-day temporary non-compliant identification document to give him time to resolve the mismatch condition with the SSA. The division may establish procedures and exceptions through memorandums.

10.2.5 Commercial Driver License Information Systems (CDLIS). Mandated by the Commercial Motor Vehicle Safety Act (CMVSA) of 1986, the division will verify all DPC transactions through CDLIS to ensure the applicant does not hold a commercial motor vehicle compliant or non-compliant identification document in another jurisdiction. If a match is found in another jurisdiction, the applicant must surrender his or her existing identification document from the other jurisdiction to obtain a Delaware DPC document.

10.2.6 Problem Driver Pointer System (PDPS). In conjunction with the National Driver Registry (NDR), the division will verify all DPC transactions through PDPS to ensure the applicant's eligibility to obtain valid driving authority and carry a DPC document. If a match is found from another jurisdiction with a status of "not eligible" during an initial transaction, the applicant is denied a Delaware DPC document until the jurisdiction reports a status of "eligible". During a DPC document change, duplicate or renewal process, if a "not eligible" status is found, the applicant is issued a 60-day temporary DPC document until the status becomes "eligible". At that time the applicant may be reissued his or her Delaware DPC.

10.3 Non-Match Verification Results and System Failure Procedures.

10.3.1 Initial Issue and Transfer. The division will deny the initial issuance of a Delaware DPC document whenever a verification check (SBI, Division of Revenue, CDLIS, PDPS, and SSN if applicable) results in a non-match or non-eligible condition.

10.3.2 Renewal - Mismatch Condition. Should a mismatch condition occur for those applicants renewing a Delaware DPC, they may be issued a 60-day temporary non-compliant DPC document to give him or her time to resolve the problem with the issuing agency.

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10.4 Renewal and Verification System Failure.

10.4.1 If a verification system fails when the applicant is applying for his initial Delaware DPC, the application will be denied until the verification check is completed.

10.4.2 If an electronic verification system fails when an applicant is renewing his or her Delaware DPC, the following may occur depending on which verification system failed:

10.4.2.1 The applicant may be denied issuance;

10.4.2.2 The applicant may be issued a 60-day temporary DPC document;

10.4.3 Regardless of the above procedures, no DPC documents will be issued if there is reason to believe the applicant is attempting to commit fraud by presenting altered or fraudulent source documents or by finding non-matching or inconsistent data on various electronic databases, or by other factors that would lead a reasonable person to conclude the applicant is attempting to commit fraud. In such instances, an electronic record will be established, a digital photograph will be captured, the record will be annotated as denied, and fraudulent or altered documents will be confiscated. A division investigator or a law enforcement officer will be asked to investigate to determine future action.

10.5 Prohibition Against Holding More Than One Delaware Driving Privilege Card

10.5.1 The division will ensure the applicant does not have more than one valid document granting driving authority issued in this or any other state, thereby supporting the one driver license, one driving record concept as expressed in the Driver License Agreement. If a person holds a document granting driving authority in another state, he or she will not be issued a Delaware DPC in this State until the individual or division has terminated the driving document issued by another state.

10.5.2 Problem Driver Pointer System (PDPS), Commercial Driver License Information System (CDLIS), National Law Enforcement Telecommunication System (NLETS) and other national systems may be used to electronically verify, within the limits of each network, whether or not an applicant has a valid driving document in another state.

10.5.3 Motor Vehicle System software performs name, date of birth, SBI, ITIN and social security (if applicable) cross checks to identify persons who are mistakenly assigned multiple driving or identification card records on the division's files. Multiple records will be combined into one record when discovered.

10.5.4 An applicant's name and date of birth will be verified each time a Delaware DPC is renewed or reissued to ensure that the individual receiving a Delaware DPC is the same individual to whom the document was originally issued.

10.5.5 An applicant must be denied a Delaware DPC until the driving document issued by another state is terminated or soon to be terminated. If the applicant must terminate driving document issued by another state, then the division, as allowed under the Driver License Compact, may act on behalf of the applicant and inform that state that Delaware has issued a Delaware DPC in this State and request the other state cancel the one issued by its agency. A Delaware DPC may be issued pending the termination of the out-of-state document.

10.6 Other Restrictions/Limitations.

10.6.1 If the division discovers a person holds a driving document in multiple or different names issued by this or any other state, the division may deny issuance of the DPC, investigate the matter and suspend the applicant pursuant to Title 21, Section 2733(a)(5).

10.6.2 An applicant cannot obtain his initial Delaware DPC if his or her driving authority is suspended or revoked in any state for a violation that would result in a suspension or revocation in this State. Renewal exception: Those applicants renewing a valid Delaware DPC may be issued a 60-day, temporary DPC document to give them an opportunity to resolve the out-of-state suspension or revocation. Once the out-of-state suspension or revocation is cleared, the applicant may be issued a valid DPC.

11.0 Other Mandatory Data Collection and Source Documents Retention

11.1 Digital photograph images

11.1.1 A DPC shall not be valid unless it contains the applicant's full facial image and signature. The mandatory facial image must be captured and retained even if no DPC document is issued. The applicant for an initial Delaware DPC document must appear in person to update his full facial digital image.

11.1.2 The digital photograph must be full faced and provide an unobstructed view of the person's facial features. This enables the photograph on the license to be used as a means of proper identification for motor vehicle, emergency and public safety purposes. For more specific details consult current Division

photograph image procedures. Digital imaging driver license facial recognition one-to-many technology compares each digital photograph taken against all other digital photographs on file to ensure the DPC applicant does not have multiple documents in different or same names on file in this State. One-to-many facial comparisons will be conducted on all initial issuance and transfers of driving authority documents. This same technology completes a one-to-one verification check by comparing the latest digital photograph taken against all other photographs on an applicant's current record. One-to-one facial comparisons will be conducted on all DPC renewals. This is designed to prevent a digital photograph from appearing on another person's identification document. Whenever the facial recognition technology pinpoints potential duplication, fraud or mistaken assignment of a photo, the applicant will not be issued a DPC document until the discrepancy is resolved.

11.1.3 A new digital photo image will be made every time a person appears in person to renew his DPC document, have his DPC document reissued, materially changed, or have his address changed on his DPC document.

11.1.4 If the division issues a DPC document without a photo image or one that does not meet division standards, the customer will be notified in writing that he must return to a division facility within seven days to replace the deficient document. If he fails to comply, his DPC document status will be changed to "denied", and the driver will be notified of the change. DPC document holders will be denied renewal or reissued documents until the photo image meets division standards.

11.2 Signature

11.2.1 Every holder of a DPC document shall sign an application under the penalty of perjury that the information on the application is true and correct. The applicant will use his or her normal signature. The identification document shall not be valid until signed by the applicant. By signing the application he acknowledges the following and any other information that may be included on the application in the future:

11.2.2 He or she is a bona fide resident of Delaware;

11.2.3 Consent to chemical tests of his breath, blood or urine to determine the amount of alcohol or drugs in his blood;

11.2.4 That convicted sex offenders must register with the Delaware State Police within seven days after coming into this State (Megan's Law);

11.2.5 That the division will send personal information pertaining to male applicants under the age of 26 years to the Selective Service for the purpose of registration in the Selective Service System as required by federal and state laws;

11.2.6 That he or she is physically and mentally able to safely operate a motor vehicle;

11.2.7 That he or she must report if he or she holds a license in another state or if his or her driving privileges are suspended or revoked in any state.

11.3 Retaining Source Documents.

11.3.1 The source documents submitted by the applicant to the division are used to determine the person's name, date of birth, gender, SBI fingerprints, ITIN, SSN (if eligible), address of principal residence, unless enrolled in a state address confidentiality program, and lawful status and shall be retained by the division in either paper or electronic format. The DPC document application signed by the applicant will also be retained.

11.4 Miscellaneous.

11.4.1 For identification purposes, the division will also collect the applicant's height, weight, and eye color based upon verbal information provided by the applicant.

12.0 Source Document Retention Period

12.1 At a minimum the division will retain the following documents including copies of the application, declarations, source documents and documents used to establish all names recorded by the division. The division will protect any personally identifiable information collected. The division may retain these documents for a longer time period than the period specified in the following:

12.1.1 The full facial image/photograph will be retained by the Department of Transportation for at least five years if no DPC document is issued and at least two years beyond the expiration date of the DPC document;

12.1.2 All paper copies of source documents must be retained for a minimum of seven years;

12.1.3 Microfiche documents must be retained for a minimum of ten years;

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- 12.1.4 Digital images of source documents must be retained for a minimum of ten years;
- 12.1.5 Digital, microfiche and paper identification document applications and declarations will be retained for a minimum of ten years;
- 12.1.6 All photograph images must be stored and be retrievable by the division if properly requested by statute or regulation.

13.0 Division Databases

- 13.1 The Division must maintain a motor vehicle database that contains, at a minimum:
 - 13.1.1 All data fields printed on identification documents issued by this State, individual serial numbers of the documents and ITINs;
 - 13.1.2 A record of the full legal name and recorded name, as applicable, without truncation;
 - 13.1.3 All additional data fields included in the machine readable zone (MRZ) but not printed on the DPC document; and
 - 13.1.4 Motor vehicle driver histories, including motor vehicle violations, revocations, disqualifications, suspensions, and points on driver licenses and DPC's.
 - 13.1.5 The division must protect the security of personally identifiable information as prescribed in State law and information technology policies and procedures.

14.0 Severability

If any part of this rule is held to be unconstitutional or otherwise contrary to law by the court of competent jurisdiction, said portions shall be severed and the remaining portions of this rule shall remain in full force and effect under Delaware law.

15.0 Effective Date

This regulation shall be effective ten days from the date the order is signed, and it is published in its final form in the Register of Regulations in accordance with 29 **Del.C.** §10118(e). Delaware Driving Privilege Permits and Cards will become available beginning December 27, 2015.

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