

---

---

# Delaware Register of Regulations

---

Issue Date: April 1, 2006

Volume 9 - Issue 10 Pages 1409 - 1607

---

---



## IN THIS ISSUE:

### Regulations:

Errata

Proposed

Final

### Governor

Executive Orders

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 March 15, 2006.

---

# INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

---

## DELAWARE REGISTER OF REGULATIONS

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

The *Delaware Register* will publish any regulations that are proposed to be adopted, amended or repealed and any emergency regulations promulgated.

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

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

---

## CITATION TO THE DELAWARE REGISTER

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

9 DE Reg. 1036-1040 (01/01/06)

Refers to Volume 9, pages 1036-1040 of the *Delaware Register* issued on January 1, 2006.

---

## SUBSCRIPTION INFORMATION

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

---

## CITIZEN PARTICIPATION IN THE REGULATORY PROCESS

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and other interested parties may participate in the process by which administrative regulations are adopted, amended or repealed, and may initiate the process by which the validity and applicability of regulations is determined.

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file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the *Register of Regulations* pursuant to §1134 of this title.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

---

# INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

---

1411

advance notice of its regulation-making proceedings.

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

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

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

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

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

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

---

## CLOSING DATES AND ISSUE DATES FOR THE DELAWARE REGISTER OF REGULATIONS

ISSUE DATE	CLOSING DATE	CLOSING TIME
May 1	April 15	4:30 p.m.
June 1	May 15	4:30 p.m.
July 1	June 15	4:30 p.m.
August 1	July 15	4:30 p.m.
September 1	August 15	4:30 p.m.

---

## DIVISION OF RESEARCH STAFF

**Deborah A. Porter**, Interim Supervisor; **Kathleen Morris**, Administrative Specialist I; **Georgia Roman**, Unit Operations Support Specialist; **Jeffrey W. Hague**, Registrar of Regulations; **Steve Engebretsen**, Assistant Registrar; **Victoria Schultes**, Administrative Specialist II; **Lady Johnson**, Administrative Specialist I; **Rochelle Yerkes**, Administrative Specialist II; **Ruth Ann Melson**, Legislative Librarian; **Debbie Puzzo**, Research Analyst; **Judi Abbott**, Administrative Specialist I; **Alice W. Stark**, Senior Legislative Attorney; **Deborah J. Messina**, Print Shop Supervisor; **Don Sellers**, Printer.

Cumulative Tables .....	1415
-------------------------	------

---

## ERRATA

### DEPARTMENT OF HEALTH AND SOCIAL SERVICES

#### Division of Social Services

4002.5 Excluded Resources.....	1423
--------------------------------	------

---

## PROPOSED

### DEPARTMENT OF AGRICULTURE

#### Delaware Forest Service

402 State Forest Regulations.....	1425
-----------------------------------	------

#### Harness Racing Commission

501 Harness Racing Rules and Regulations, Section 8.0, Veterinary Practices, Equine Health Medication, subsection 8.3.6.1.1.....	1432
---	------

### DEPARTMENT OF EDUCATION

#### Professional Standards Board

1511 Issuance and Public Renewal of Continuing License.....	1440
1516 Standard Certificate.....	1449
1521 Standard Certificate Agriculture Teacher.....	1454
1522 Standard Certificate Business Education Teacher.....	1458
1525 Standard Certificate English Teacher.....	1462
1528 Standard Certificate World Language Teacher Comprehensive.....	1465
1534 Standard Certificate Mathematics Teacher Secondary.....	1468
1539 Standard Certificate Social Studies Teacher Secondary.....	1471
1540 Standard Certificate Science Teacher Secondary.....	1474
1541 Standard Certificate Mathematics Teacher Middle Level.....	1479
1542 Standard Certificate Science Teacher Middle Level.....	1482
1543 Standard Certificate Art Teacher Comprehensive.....	1485
1548 Standard Certificate Music Teacher Comprehensive.....	1488
1551 Standard Certificate Physical Education Teacher Comprehensive.....	1491
1554 Standard Certificate Reading Specialist.....	1495
1556 Standard Certificate Elementary Teacher (Grades K-6).....	1498

### DEPARTMENT OF FINANCE

#### Division of Revenue

Abandoned or Unclaimed Property Voluntary Disclosure Agreement and Audit Programs. ....	1502
---	------

### DEPARTMENT OF HEALTH AND SOCIAL SERVICES

#### Division of Medicaid and Medical Assistance

Title XIX Medicaid State Plan, Early & Periodic Screening, Diagnostic, & Treatment Program .....	1506
--	------

#### Division of Social Services

DSSM, Section 3008, Eligibility of Certain Minors, subsection 3008.1.1, Babies Born to Teen Parents.....	1508
---	------

---

# TABLE OF CONTENTS

---

1413

## DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

### Office of the Secretary

106 Environmental Standards for Eligible Energy Resources..... 1509

### Division of Air and Waste Management

1102 Permits..... 1512

## DEPARTMENT OF STATE

### Division of Professional Regulation

1770 Respiratory Care Advisory Council..... 1524

### Public Service Commission

Regulation Docket No. 49, Creation of a Competitive Market for Retail Electric Supply Service ..... 1529

## DEPARTMENT OF TRANSPORTATION

### Division of Motor Vehicles

2203 Implied Consent and Administrative Per Se Other Administrative Hearings of Record..... 1541

2206 Revocation of a Driver's License/Driving Privilege Pursuant to §§4103(b), 2732(a-8) ..... 1544

2207 Suspension of Permanent Licenses..... 1545

2208 Concerning Driver Improvement Problem Driver Program..... 1545

2210 Issuance of a Conditional License as the Result of a Suspension Due to a Conviction  
for Passing a Stopped School Bus..... 1550

2211 The Issuance of Restricted Driving Privileges as the Result of a Suspension or  
Revocation Order Received from Family Court Relative to a Juvenile Being in  
Violation of 21 Del.C. 4177..... 1551

2212 Issuance of Occupation Driver's License After Conviction of No Insurance on a Vehicle..... 1552

2259 Mopeds ..... 1554

2277 Approved Tinting for Side Windows..... 1556

2286 Transferring Titles with Multiple Names..... 1557

---

## FINAL

## DEPARTMENT OF HEALTH AND SOCIAL SERVICES

### Division of Medicaid and Medical Assistance

Chronic Renal Disease Program..... 1558

### Division of Social Services

20910.1 Institutionalized Spouse..... 1565

## DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

### Office of the Secretary

104 Regulations for the Green Energy Program..... 1566

## DEPARTMENT OF STATE

### Division of Professional Regulation

1100 Board of Dental Examiners..... 1583

### Public Service Commission

Reg. Docket No. 15, Order Relating to Matter of Investigation, on the Motion of the Commission,  
into the Terms and Conditions Under Which Water Utilities Require Advances and/or  
Contributions In-aid-of Construction from Customers or Developers..... 1588

---

**TABLE OF CONTENTS**

---

**GOVERNOR**

Executive Order No. 82, Implementing Strategies to Address Energy Restructuring..... 1593  
Executive Order No. 83, Creating an Advisory Council on Walkability and Pedestrian Awareness.. 1595  
Appointments. .... 1597

---

**CALENDAR OF EVENTS/HEARING NOTICES**

*Dept. of Agriculture,*  
    *Delaware Forest Service, Notice of Public Comment Period* ..... 1603  
    *Harness Racing Commission, Notice of Public Hearing*..... 1603  
State Board of Education Monthly Meeting..... 1603  
*Dept. of Finance, Division of Revenue, Notice of Public Comment Period*..... 1603  
Dept. of Health and Social Services,  
    Division of Medicaid and Medical Assistance  
        Title XIX Medicaid State Plan, Notice of Public Comment Period..... 1604  
    Division of Social Services,  
        DSSM, Eligibility of Certain Minors, Babies Born to Teen Parents, Notice of Public Comment  
        Period ..... 1604  
Dept. of Natural Resources and Environmental Control  
    Office of the Secretary, Notice of Public Hearing..... 1604  
    *Division of Air and Waste Management, Notice of Public Hearing*..... 1605  
Dept. of State, Division of Professional Regulation,  
    Board of Accountancy, Notice of Public Hearing..... 1605  
    Respiratory Care Advisory Council, Notice of Public Hearing..... 1606  
    Board of Occupational Therapy Practice, Notice of Reschedule Public Hearing..... 1606  
    Public Service Commission, Notice of Public Hearing..... 1606  
*Dept. of Transportation, Division of Motor Vehicles, Notice of Public Comment Period* ..... 1607

---

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

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

**DELAWARE COUNCIL ON POLICE TRAINING**

Minimum Standards for Firearms Qualifications 9 **DE Reg.** 488 (Prop.)  
9 **DE Reg.** 768 (Final)

**DELAWARE RIVER BASIN COMMISSION**

Proposed Amendment to the Basin Regulations Water Supply Charges and Comprehensive  
Plan Relating to Certificates of Entitlement..... 9 **DE Reg.** 674 (Prop.)

**DEPARTMENT OF ADMINISTRATIVE SERVICES****DIVISION OF PROFESSIONAL REGULATION**

Moved to Department of State, 75 Del. Laws, Ch. 88, June 30, 2005.

**PUBLIC SERVICE COMMISSION**

Moved to Department of State, 75 Del. Laws, Ch. 88, June 30, 2005.

**DEPARTMENT OF AGRICULTURE****OFFICE OF THE SECRETARY**

101 On-Farm Home Food Processing Operations..... 9 **DE Reg.** 12 (Prop.)  
9 **DE Reg.** 1057 (Final)  
225 Prohibition of Discrimination..... 9 **DE Reg.** 676 (Prop.)  
525 Requirements for Career-Technical Education Programs ..... 9 **DE Reg.** 677 (Prop.)

**HARNESS RACING COMMISSION**

502 Delaware Standardbred Breeders' Fund..... 9 **DE Reg.** 111 (Final)  
502, Section 8, Veterinary Practices, Equine Health Medications..... 9 **DE Reg.** 491 (Prop.)  
9 **DE Reg.** 1031 (Prop.)  
9 **DE Reg.** 1066 (Final)  
9 **DE Reg.** 1367 (Final)

**DIVISION OF POULTRY AND ANIMAL HEALTH**

902 Scrapie Regulations..... 9 **DE Reg.** 1298 (Prop.)

**DIVISION OF THOROUGHBRED RACING**

1002 Delaware Jockeys' Health and Welfare Board Regulations..... 9 **DE Reg.** 1300 (Prop.)

**NUTRIENT MANAGEMENT**

1201 Nutrient Management Certification Regulations..... 9 **DE Reg.** 305 (Prop.)  
9 **DE Reg.** 966 (Final)

**DEPARTMENT OF EDUCATION****OFFICE OF THE SECRETARY**

101 Delaware Student Testing Program..... 9 **DE Reg.** 839 (Prop.)  
9 **DE Reg.** 1172 (Final)  
106 Teacher Appraisal Process Delaware Performance Appraisal System..... 9 **DE Reg.** 533 (Final)  
107 Specialist Appraisal Process Delaware Performance Appraisal System... 9 **DE Reg.** 539 (Final)  
225 Prohibition of Discrimination..... 9 **DE Reg.** 1069 (Final)  
235 Teacher of the Year Award..... 9 **DE Reg.** 846 (Prop.)  
9 **DE Reg.** 1182 (Final)  
275 Charter Schools..... 9 **DE Reg.** 19 (Prop.)  
9 **DE Reg.** 387 (Final)  
9 **DE Reg.** 1301 (Prop.)

## CUMULATIVE TABLES

396 Private Business and Trade Schools.....	9 DE Reg.	493 (Prop.)
	9 DE Reg.	967 (Final)
405 Minor Capitol Improvement Program.....	9 DE Reg.	496 (Prop.)
	9 DE Reg.	970 (Final)
525 Requirements for Career-Technical Education Programs.....	9 DE Reg.	1070 (Final)
710 Public School Employees Work Day.....	9 DE Reg.	847 (Prop.)
	9 DE Reg.	1183 (Final)
716 Maintenance of Local School District Personnel Records.....	9 DE Reg.	27 (Prop.)
	9 DE Reg.	395 (Final)
727 Credit for Experience for Educators and for Secretarial Staff.....	9 DE Reg.	28 (Prop.)
	9 DE Reg.	396 (Final)
764 (Previously 364) Credentials for an Interpreter Tutor for the Deaf and Hard of Hearing.....	9 DE Reg.	113 (Final)
765 (Previously 365) Credentials for a Resident Advisor in the Statewide Programs for Autism and for the Deaf and Hard of Hearing.....	9 DE Reg.	115 (Final)
920 Educational Programs for Students with Limited English Proficiency.....	9 DE Reg.	30 (Prop.)
	9 DE Reg.	398 (Final)
930 Supportive Instruction (Homebound).....	9 DE Reg.	34 (Prop.)
	9 DE Reg.	402 (Final)
1006 Delaware Interscholastic Athletic Association (DIAA).....	9 DE Reg.	117 (Final)
1008 DIAA Junior High/Middle School Interscholastic Athletics .....	9 DE Reg.	124 (Final)
	9 DE Reg.	1305 (Prop.)
1009 DIAA Senior High School Interscholastic Athletics.....	9 DE Reg.	126 (Final)
	9 DE Reg.	1315 (Prop.)
1105 School Transportation.....	9 DE Reg.	35 (Prop.)
	9 DE Reg.	404 (Final)
<b>PROFESSIONAL STANDARDS BOARD</b>		
310 Certification Administrative Supervisor/Reading Coordinator .....	9 DE Reg.	679 (Prop.)
	9 DE Reg.	1072 (Final)
324 Driver Education and Traffic Safety Education Teacher.....	9 DE Reg.	46 (Prop.)
332 Certification Technology Education Teacher.....	9 DE Reg.	49 (Prop.)
370 Certification Teacher of Autistic/Severely Disabled Children.....	9 DE Reg.	51 (Prop.)
1513 Denial of Licenses.....	9 DE Reg.	138 (Final)
1514 Revocation of Licenses and Certificates.....	9 DE Reg.	553 (Final)
1515 Emergency Certificate.....	9 DE Reg.	555 (Final)
1516 Standard Certificate.....	9 DE Reg.	849 (Prop.)
1518 Special Institute for Teacher Licensure and Certification.....	9 DE Reg.	498 (Prop.)
	9 DE Reg.	1184 (Final)
	9 DE Reg.	852 (Prop.)
1519 Alternative Routes to Teacher Licensure and Certification.....	9 DE Reg.	501 (Prop.)
	9 DE Reg.	971 (Final)
1522 Standard Certificate Business Education Teacher.....	9 DE Reg.	504 (Prop.)
1528 Standard Certificate Foreign Language Teacher Comprehensive.....	9 DE Reg.	54 (Prop.)
	9 DE Reg.	558 (Final)
1529 Standard Certificate Foreign Language Teacher Secondary, Repeal of... ..	9 DE Reg.	57 (Prop.)
1533 Standard Certificate Foreign Language Teacher Elementary, Repeal o... ..	9 DE Reg.	58 (Prop.)
1544 Art Teacher Elementary.....	9 DE Reg.	680 (Prop.)
	9 DE Reg.	1073 (Final)
1545 Art Teacher Secondary.....	9 DE Reg.	680 (Prop.)
	9 DE Reg.	1073 (Final)
1549 Music Teacher Elementary.....	9 DE Reg.	680 (Prop.)
	9 DE Reg.	1073 (Final)
1550 Music Teacher Secondary.....	9 DE Reg.	680 (Prop.)
	9 DE Reg.	1073 (Final)
1552 Physical Education Teacher Elementary.....	9 DE Reg.	680 (Prop.)
	9 DE Reg.	1073 (Final)

---

# CUMULATIVE TABLES

1417

1553 Physical Education Teacher Secondary.....	9 DE Reg.	680 (Prop.)
1564 Standard Certificate Driver Education and Traffic Safety Education Teacher	9 DE Reg.	545 (Final)
1565 Standard Certificate School-To-Work Transition Teacher.....	9 DE Reg.	136 (Final)
1568 Standard Certificate Technology Education Teacher.....	9 DE Reg.	547 (Final)
1571 Standard Certificate Teacher of Students with Autism or Severe Disabilities.	9 DE Reg.	550 (Final)
1584 Permits Paraeducators.....	9 DE Reg.	139 (Final)
	9 DE Reg.	232 (Final)

## DEPARTMENT OF ELECTIONS FOR KENT COUNTY

Security and Integrity of the Absentee Voting Process.....	9 DE Reg.	1328 (Prop.)
--	-----------	--------------

## DEPARTMENT OF ELECTIONS FOR NEW CASTLE COUNTY

Security and Integrity of the Absentee Voting Process.....	9 DE Reg.	855 (Prop.)
	9 DE Reg.	1187 (Final)

## DEPARTMENT OF ELECTIONS FOR SUSSEX COUNTY

Security and Integrity of the Absentee Voting Process.....	9 DE Reg.	1333 (Prop.)
--	-----------	--------------

## DEPARTMENT OF FINANCE

### DIVISION OF REVENUE

Abandoned or Unclaimed Property Voluntary Disclosure Agreement and Audit Programs.....	9 DE Reg.	771 (Final)
---	-----------	-------------

## DEPARTMENT OF HEALTH AND SOCIAL SERVICES

### DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

Title XIX Medicaid State Plan, Pharmaceutical Services, Mail Order Pharmacy Services.....	9 DE Reg.	508 (Prop.)
Title XIX Medicaid State Plan, Pharmaceutical Services, Multi-State Pooling Rebate Program.....	9 DE Reg.	506 (Prop.)
	9 DE Reg.	975 (Final)
Title XIX Medicaid State Plan Inpatient Hospital Services.....	9 DE Reg.	326 (Prop.)
	9 DE Reg.	783 (Final)

### DIVISION OF PUBLIC HEALTH

4202 Control of Communicable and Other Disease Conditions.....	9 DE Reg.	861 (Prop.)
	9 DE Reg.	1188 (Final)
4406 Home Health Agencies (Licensure).....	9 DE Reg.	880 (Prop.)
4462 Public Drinking Water Systems.....	9 DE Reg.	59 (Prop.)
	9 DE Reg.	306 (Prop.)
	9 DE Reg.	999 (Final)
4466 Radiation Technologists/Technicians (Certification .....	9 DE Reg.	902 (Prop.)
	9 DE Reg.	1213 (Final)
4468 Delivery of Hospice Services.....	9 DE Reg.	415 (Final)
4469 Regulations Governing a Detailed Plumbing Code.....	9 DE Reg.	307 (Prop.)
	9 DE Reg.	786 (Final)

### DIVISION OF SOCIAL SERVICES

Child Care Development Fund State Plan for the period October 1, 2003 through September 30, 2005.....	9 DE Reg.	167 (Prop.)
	9 DE Reg.	562 (Final)
Delaware State Plan for TANF.....	9 DE Reg.	907 (Prop.)
	9 DE Reg.	1214 (Final)
Title XIX Medicaid State Plan, Pages 2-7, Attachment 1.2-A, Attachment 1.2-B, Attachment 1.2-C and Attachment 1.2-D.....	9 DE Reg.	802 (Final)
Title XIX Medicaid State Plan, Pharmaceutical Services Program.....	9 DE Reg.	6 (Emer.)
	9 DE Reg.	73 (Prop.)

**DSSM:**

1003.2 Information to Law Enforcement Agencies.....	9 DE Reg. 691 (Prop.)
	9 DE Reg. 1077 (Final)
1005 Case Record Maintenance and Retention.....	9 DE Reg. 523 (Prop.)
	9 DE Reg. 1001 (Final)
2000.6 Supplemental Applications.....	9 DE Reg. 1368 (Final)
2007 Stop Payments.....	9 DE Reg. 1338 (Prop.)
2014.1 Definitions.....	9 DE Reg. 1370 (Final)
3001 Definitions.....	9 DE Reg. 1370 (Final)
3004.1.1 TANF Joint Custody.....	9 DE Reg. 928 (Prop.)
	9 DE Reg. 1235 (Final)
3006 TANF Employment and Training.....	9 DE Reg. 1033 (Prop.)
	9 DE Reg. 1372 (Final)
3006.6 Senate Bill 101- 1999 and Employment & Training Activities.....	9 DE Reg. 328 (Prop.)
	9 DE Reg. 798 (Final)
4002 Resources	9 DE Reg. 1034 (Prop.)
	9 DE Reg. 1374 (Final)
4004 Earned Income.....	9 DE Reg. 168 (Prop.)
	9 DE Reg. 564 (Final)
8028.1 Sources of Earned Income.....	9 DE Reg. 930 (Prop.)
	9 DE Reg. 1237 (Final)
9016.2 Obtaining Food Stamp Benefits	9 DE Reg. 167 (Prop.)
	9 DE Reg. 800 (Final)
9039.1 Thirty-Day Processing	9 DE Reg. 167 (Prop.)
	9 DE Reg. 800 (Final)
9041.1 Processing Standards	9 DE Reg. 167 (Prop.)
	9 DE Reg. 800 (Final)
9059 Income Exclusions.....	9 DE Reg. 60 (Prop.)
	9 DE Reg. 426 (Final)
	9 DE Reg. 477 (Errata)
9063.1 Anticipating Income	9 DE Reg. 167 (Prop.)
	9 DE Reg. 800 (Final)
9074 Self Employment Income.....	9 DE Reg. 168 (Prop.)
	9 DE Reg. 564 (Final)
9078.1 Residents of Drug/Alcohol Treatment and Rehabilitation Programs	9 DE Reg. 167 (Prop.)
	9 DE Reg. 800 (Final)
9079.1 Replacing Food Benefits Issued by Electronic Benefits Transfer (EBT)	9 DE Reg. 167 (Prop.)
	9 DE Reg. 800 (Final)
9075 Procedures for Calculating Income Which Can Be Annualized.....	9 DE Reg. 168 (Prop.)
	9 DE Reg. 564 (Final)
9093 Electronic Benefit Transfer (EBT).....	9 DE Reg. 235 (Final)
11000 Child Care Subsidy Program.....	9 DE Reg. 175 (Prop.)
	9 DE Reg. 572 (Final)
11002.9 Definitions and Explanation of Terms.....	9 DE Reg. 931 (Prop.)
11003 Eligibility Requirements.....	9 DE Reg. 168 (Prop.)
	9 DE Reg. 564 (Final)
11003.6 Income Limits	9 DE Reg. 931 (Prop.)
11003.7 Income Eligible Child Care	9 DE Reg. 931 (Prop.)
11003.91 Income	9 DE Reg. 931 (Prop.)
11003.93 Family Size	9 DE Reg. 931 (Prop.)
11004.4.2 Purchase of Care Plus (POC+)	9 DE Reg. 931 (Prop.)
11004.7.1 Child Care Fee Scale and Determination of Fee	9 DE Reg. 931 (Prop.)
11006.4 Provider Reimbursement	9 DE Reg. 931 (Prop.)
11006.4.6 Reimbursement	9 DE Reg. 931 (Prop.)
14100.4 Disposition of Application.....	9 DE Reg. 319 (Prop.)
	9 DE Reg. 775 (Final)
14960 Establishing a Cumulative Maximum on Pharmacy Co-Payments..	9 DE Reg. 164 (Emer.)
	9 DE Reg. 173 (Prop.)
	9 DE Reg. 569 (Final)

---

# CUMULATIVE TABLES

1419

15120 Low Income Families With Children Under Section 1931.....	9 DE Reg.	168 (Prop.)
	9 DE Reg.	564 (Final)
16230 Financial Eligibility.....	9 DE Reg.	168 (Prop.)
	9 DE Reg.	564 (Final)
17300 Qualified Medicare Beneficiaries.....	9 DE Reg.	168 (Prop.)
17300 Qualified Medicare Beneficiaries.....	9 DE Reg.	564 (Final)
20100.1 Long Term Care Nursing Facilities.....	9 DE Reg.	509 (Prop.)
	9 DE Reg.	978 (Final)
20103 Financial Eligibility Determination.....	9 DE Reg.	521 (Prop.)
	9 DE Reg.	996 (Final)
20200 Excluded Income.....	9 DE Reg.	239 (Final)
20210 Types of Income.....	9 DE Reg.	168 (Prop.)
	9 DE Reg.	564 (Final)
20310 Reparations.....	9 DE Reg.	239 (Final)
20310.1.1 Intent to Return.....	9 DE Reg.	684 (Prop.)
	9 DE Reg.	1076 (Final)
20500.5.2 Lien Recovery Exception.....	9 DE Reg.	684 (Prop.)
	9 DE Reg.	1076 (Final)
20500.6.1 Exception to the Lien Policy.....	9 DE Reg.	684 (Prop.)
	9 DE Reg.	1076 (Final)
20620.3 Community Spouse Income Allowance/Home Maintenance Disregard	9 DE Reg.	684 (Prop.)
	9 DE Reg.	1076 (Final)
20700.4.5 Illness or Hospitalization.....	9 DE Reg.	522 (Prop.)
	9 DE Reg.	998 (Final)
20810 Treatment of Couples in Medical Assistance.....	9 DE Reg.	142 (Final)
20910 Medicaid Long Term Care, Definitions.....	9 DE Reg.	859 (Prop.)
20910.1 Institutionalized Spouse.....	9 DE Reg.	859 (Prop.)
	9 DE Reg.	1187 (Final)
20910.2 Community Spouse.....	9 DE Reg.	859 (Final)
	9 DE Reg.	1187 (Final)
20910.10 Community Spouse Resource Allowance.....	9 DE Reg.	70 (Prop.)
20950 Initial Eligibility Determinations.....	9 DE Reg.	70 (Prop.)
50100.3 Transportation.....	9 DE Reg.	860 (Prop.)
50400 Application Process.....	9 DE Reg.	860 (Prop.)
50700.2 Resources.....	9 DE Reg.	860 (Prop.)
Refugee Cash Assistance.....	9 DE Reg.	930 (Prop.)
State Plan for Child Care Development Fund for the period October 1, 2003 through September 30, 2005	9 DE Reg.	167 (Prop.)
Title XIX Medicaid State Plan Estate Recovery Program.....	9 DE Reg.	684 (Prop.)
	9 DE Reg.	1074 (Final)
Title XIX Medicaid State Plan: Attachment 2.6-A, Page 26a (New Page) and Supplement 13 to Attachment 2.6A;.....	9 DE Reg.	70 (Prop.)
Title XIX Medicaid State Plan, Attachment 3.1-A, Page 5 Addendum, 5a Addendum, 5b Addendum.....	9 DE Reg.	420 (Final)
Title XIX Medicaid State Plan, Establishing a Cumulative Maximum on Pharmacy Copayments.....	9 DE Reg.	164 (Emer.)
	9 DE Reg.	173 (Prop.)
	9 DE Reg.	569 (Final)

## DEPARTMENT OF INSURANCE

504 Continuing Education for Insurance Agents, Brokers, Surplus Lines Brokers and Consultants.....	9 DE Reg.	939 (Prop.)
	9 DE Reg.	1239 (Final)
607 Defensive Driving Course Discount (Automobiles and Motorcycles).....	9 DE Reg.	524 (Prop.)
	9 DE Reg.	944 (Prop.)
	9 DE Reg.	1244 (Final)

702 Required Disclosures for Residential Homeowners.....	9 DE Reg.	438 (Final)
703 Prohibited Practices Related to the Nonrenewal of Residential Homeowners Policies .....	9 DE Reg.	196 (Prop.)
	9 DE Reg.	593 (Final)
907 Records Relating to Consumer Complaints.....	9 DE Reg.	197 (Prop.)
	9 DE Reg.	595 (Final)
1214 Senior Protection In Annuity Transactions.....	9 DE Reg.	693 (Prop.)
1214 Senior Protection In Annuity Transactions.....	9 DE Reg.	1081 (Final)
1310 Standards for Prompt, Fair and Equitable Settlement of Claims for Health Care Services.....	9 DE Reg.	240 (Final)

**DEPARTMENT OF LABOR****DIVISION OF EMPLOYMENT AND TRAINING**

106 Apprenticeship and Training Regulations.....	9 DE Reg.	199 (Prop.)
	9 DE Reg.	806 (Final)

**DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL****OFFICE OF THE SECRETARY**

104 Green Energy Fund Regulation.....	9 DE Reg.	1125 (Prop.)
---------------------------------------	-----------	--------------

**DIVISION OF AIR & WASTE MANAGEMENT**

1102 Permits.....	9 DE Reg.	207 (Prop.)
	9 DE Reg.	1084 (Final)
1144 Control of Stationary Generator Emissions.....	9 DE Reg.	207 (Prop.)
	9 DE Reg.	1084 (Final)
1125 Requirements for Preconstruction Review.....	9 DE Reg.	246 (Final)
1201 Accidental Release Prevention Regulation.....	9 DE Reg.	696 (Prop.)
	9 DE Reg.	1375 (Final)

**DIVISION OF FISH & WILDLIFE****Shellfish:**

3210 Horseshoe Crab Reporting Requirements.....	9 DE Reg.	9 (Emer.)
---	-----------	-----------

**Tidal Finfish:**

3507 Black Sea Bass Size Limit; Trip Limits; Seasons' Quotas.....	9 DE Reg.	1139 (Prop.)
3511 Summer Flounder Size Limits; Possession Limits; Season.....	9 DE Reg.	1139 (Prop.)

**DIVISION OF WASTE RESOURCES**

7201 Storm Water Discharges Associated with Industrial Activities.....	9 DE Reg.	329 (Prop.)
	9 DE Reg.	1250 (Final)

**DIVISION OF WATER RESOURCES**

5102 Regulation Governing Beach Protection and the Use of Beaches .....	9 DE Reg.	737 (Prop.)
7203 Regulations Governing the Control of Water Pollution, Section 9.4, Concentrated Animal Feeding Operation.....	9 DE Reg.	440 (Final)
7410 TMDL's for the Naamans Creek Watershed.....	9 DE Reg.	224 (Prop.)
	9 DE Reg.	1002 (Final)
7411 TMDL's for the Shellpot Creek Watershed.....	9 DE Reg.	224 (Prop.)
7412 TMDL's for the Chester River.....	9 DE Reg.	529 (Prop.)
	9 DE Reg.	1102 (Final)
7413 TMDL's for the Choptank River.....	9 DE Reg.	529 (Prop.)
	9 DE Reg.	1002 (Final)
7414 TMDL's for the Marshyhope Creek.....	9 DE Reg.	529 (Prop.)
	9 DE Reg.	1002 (Final)
7415 TMDL's for the Pocomoke River Watersheds.....	9 DE Reg.	529 (Prop.)
	9 DE Reg.	1002 (Final)

**DEPARTMENT OF STATE**

**DIVISION OF PROFESSIONAL REGULATION**

100 Board of Accountancy.....	9 DE Reg. 1339 (Prop.)
300 Board of Architecture.....	9 DE Reg. 1142 (Prop.)
1100 Board of Dental Examiners.....	9 DE Reg. 77 (Final)
	9 DE Reg. 1036 (Prop.)
1400 Board of Electrical Examiners.....	9 DE Reg. 260 (Final)
	9 DE Reg. 949 (Prop.)
	9 DE Reg. 1252 (Final)
1900 Board of Nursing.....	9 DE Reg. 226 (Prop.)
	9 DE Reg. 815 (Final)
2000 Board of Occupational Therapists.....	9 DE Reg. 598 (Final)
	9 DE Reg. 1143 (Prop.)
2500 Board of Pharmacy.....	9 DE Reg. 85 (Final)
	9 DE Reg. 951 (Prop.)
	9 DE Reg. 1253 (Final)
2930 Council on Real Estate Appraisers.....	9 DE Reg. 1040 (Prop.)
	9 DE Reg. 1377 (Final)
3000 Board of Mental Health and Chemical Dependency Professionals.....	9 DE Reg. 231 (Prop.)
	9 DE Reg. 1106 (Final)
3100 Board of Funeral Services.....	9 DE Reg. 262 (Final)
3500 Board of Examiners of Psychologists.....	9 DE Reg. 373 (Prop.)
	9 DE Reg. 452 (Final)
	9 DE Reg. 487 (Errata)
	9 DE Reg. 1107 (Final)
3600 Board of Registration of Geologists.....	9 DE Reg. 456 (Final)
3700 Board of Examiners of Speech/Language Pathologists, Audiologists & Hearing Aid Dispensers.....	9 DE Reg. 964 (Prop.)
	9 DE Reg. 1267 (Final)
3900 Board of Clinical Social Work Examiners.....	9 DE Reg. 265 (Final)
5200 Board of Nursing Home Administrators.....	9 DE Reg. 104 (Final)

**OFFICE OF THE STATE BANKING COMMISSIONER**

904 Exceptions to Tying Restrictions.....	9 DE Reg. 532 (Prop.)
	9 DE Reg. 1004 (Final)

**PUBLIC SERVICE COMMISSION**

Reg. Docket No. 10, Sale, Resale and Other Provisions of Intrastate Telecommunications Services.....	9 DE Reg. 375 (Prop.)
	9 DE Reg. 1390 (Final)
Reg. Docket No. 15, Concerning the Terms and Conditions Under Which Water Utilities Require Advances and/or Contributions In-Aid-Of Construction from Customers or Developers and the Proper Ratemaking Treatment for such Contributions and Advances .....	9 DE Reg. 1145 (Prop.)
Reg. Docket No. 45, Development of Regulations for the Facilitation of Competitive Entry into the Telecommunications Local Exchange Servicemarket.....	9 DE Reg. 375 (Prop.)
	9 DE Reg. 1390 (Final)
Reg. Docket No. 50, The Consideration of Rules, Standards, and Indices to Ensure Reliable Electrical Service by Electric Distribution Companies.....	9 DE Reg. 756 (Prop.)
Reg. Docket No. 52, Relating to the Aid of Rules to Govern Remedies Available in the Event of Alleged Breaches of Interconnection Agreements Between Regulation Docket Telecommunications Carriers.....	9 DE Reg. 1161 (Prop.)
Reg. Docket No. 55, Regarding the Minimum Standards for Service Provided by Public Wastewater Utilities Subject to the Jurisdiction of the Delaware Public Service Commission.....	9 DE Reg. 105 (Final)
Reg. Docket No. 56, Notice of Proposed Rule-making and Public Hearing Concerning Renewable Energy Portfolio Standards.....	9 DE Reg. 1049 (Prop.)

**DEPARTMENT OF TRANSPORTATION****DIVISION OF PLANNING AND POLICY**

Delaware Bicycle Facility Master Plan.....	9 DE Reg. 607 (Final)
Delaware Safe Routes to School Regulations.....	9 DE Reg. 1356 (Prop.)
Development Related Improvements Requiring New Rights-of-Way.....	9 DE Reg. 1361 (Prop.)
Driver and Vehicle Services, Repeal of Certain Regulations.....	9 DE Reg. 1163 (Prop.)
Standards and Regulations for Subdivision Streets and State Highway Access.....	9 DE Reg. 1360 (Prop.)

**GOVERNOR'S OFFICE**

<b>APPOINTMENTS</b> .....	9 DE Reg. 47
	9 DE Reg. 268
	9 DE Reg. 459
	9 DE Reg. 620
	9 DE Reg. 1008
	9 DE Reg. 1274

**EXECUTIVE ORDERS:**

66, Establishing the Veterans Home Oversight Committee.....	9 DE Reg. 1395
68, Establishing the Health Disparities Task Force.....	9 DE Reg. 144
69, Establishing a Committee to Recommend Options for Providing Additional Funding to, and Accelerating the Construction of, Needed Improvements Overseen by the Delaware Department of Transportation..	9 DE Reg. 145
70, State Employees and the Right to Organization and Effective Union Representation.....	9 DE Reg. 458
71, Directing the Delaware Emergency Management Agency to Organize Volunteers for Response Efforts Involving Hurricane Katrina and its Aftermath	9 DE Reg. 620
72, Declaring a State of Emergency Due to Hurricane Katrina and its Aftermath...	9 DE Reg. 821
73, Establishing a Delaware Healthy Mother and Infant Consortium.....	9 DE Reg. 821
74, Directing the Delaware Emergency Management Agency to Organize Volunteers for Response Efforts Involving Hurricane Rita and Its Aftermath ..	9 DE Reg. 822
75, Establishing the Governor's Mentoring Initiative.....	9 DE Reg. 822
76, Regarding Management of Labor Relations and Administrative Proceedings in State Government.....	9 DE Reg. 1006
77, Regarding State Employee Obligations and Compensation During Severe Weather Conditions and Emergencies.....	9 DE Reg. 1269
78, Regarding Implementation of Financial Management Measures for the Department of Transportation and the Transportation Trust Fund.....	9 DE Reg. 1271
79, Establishing a Governance Structure for the Delaware Veterans' Home.....	9 DE Reg. 1272
80, Reallocation of State Private Activity Bond Volume Cap for Calendar Year 2005 and Initial Suballocation of State Private Activity Bond Volume Cap for Calendar Year 2006.....	9 DE Reg. 1395
81, Continuing Equal Opportunity Hiring Standards and Practices for Delaware Government.....	9 DE Reg. 1396

---

**DEPARTMENT OF HEALTH AND SOCIAL SERVICES**  
**DIVISION OF SOCIAL SERVICES**Statutory Authority: 31 Delaware Code, Section 512 (31 **Del.C.** §512)**ORDER**

**Please Note: Due to a publication error in the March issue of the *Register*, the following final regulation is being republished. Paragraph 14 showed an incorrect figure of \$500,000. The correct figure is \$5,000.00. The correct version is published below:**

**4002.5 Excluded Resources**

The equity value of real and personal property owned by a family budget group cannot exceed \$1,000.00. Resources excluded from the \$1,000.00 resource limitation are:

1. The home which is the usual residence of the family budget group.

FOR DELAWARE'S TEMPORARY ASSISTANCE TO NEEDY FAMILIES PROGRAM

2. Exclude the equity value of a primary automobile, up to the annually adjusted Food Stamp program's fair market value of vehicles which is excluded in determining the household resources. The excluded amount effective October 1996 is \$4,650. The equity value is the difference between the automobile's fair market value and the amount still owed for it. The equity value in excess of \$4,650.00 is counted towards the \$1,000.00 resource limitation. The entire equity value of other automobiles owned by the individual is counted as a resource.

NOTE: The fair market value of an automobile is determined by finding the car's trade in value in the NADA Used Car Guide. If the client disagrees with this valuation, he/she may obtain a statement of the car's value from a automobile dealer.

FOR GENERAL ASSISTANCE

One automobile, the equity value of which does not exceed \$1,500.00. The equity value is the difference between the automobile's fair market value and the amount still owed on it. The equity value in excess of \$1,500.00 is counted towards the \$1,000.00 resource limitation. The entire equity value of other automobiles owned by the individual is counted as a resource.

The increased value of a motor vehicle specially equipped with devices for the handicapped is not counted. Farm vehicles that are used to produce income are excluded from consideration as a resource.

3. One burial plot for each member of the assistance unit.
4. Bona fide funeral agreements (e.g., pre paid burial contracts) up to a total of \$1,500.00 for each member of the budget group.

NOTE: If a funeral agreement valued in excess of \$1,500.00 includes both prepaid burial expenses and a burial plot, the worker will require that the client provide an itemized statement of the estimated value of the plot and the expenses. The value of the burial plot is an excluded resource and will be considered separately from the value of the prepaid expenses.

5. Basic maintenance items essential for day-to-day living such as clothes, furniture, and other similarly essential items.
6. For a period not to exceed six months, real property that is not used as a residence (see DSSM 4002.6).
7. Tools and equipment necessary to produce income in a self employment enterprise, even if the

owner is not engaged in business currently, but plans to continue it at a future date.

8. Federal major disaster and emergency assistance provided to individuals and families and comparable disaster assistance provided by State, local governments, and disaster assistance organizations under P.L. 100 707.

**"Emergency"** means any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.

**"Major Disaster"** means any natural catastrophe...which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance to supplement the efforts of available resources of states, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

9. Restitution made to United States' citizens and permanent resident aliens of Japanese ancestry who were interned during World War II pursuant to Title I of P.L. 100-383.

10. Restitution made by any Aleut who was relocated by authority of the United States from his or her home village on the Pribilof Islands or the Aleutian Islands during World War II pursuant to Title II of P.L. 100 383.

11. Payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.).

12. Earned Income Tax Credits (EITC), including Advance EITC.

**Applicants:**

Disregard as a resource EITC payments received in the month of application or in the month preceding the month of application. Any remaining EITC amounts received before this period are a resource.

**Recipients:**

Disregard as a resource for the month in which the EITC is received and the following month. After this period, any remaining amounts are a resource.

13. Cash Value of Life Insurance Policies

14. The designated Education and Business Investment Account (EBIA) is excluded up to the \$5,000.00 maximum. In addition to the current resource limit, Delaware's Temporary Assistance For Needy Families Program (TANF) and General Assistance (GA) Program families will be allowed to establish special Education and Business Investment Accounts (EBIA) of up to \$5,000.00, including interest.

Do not consider funds in such accounts as a resource for TANF, GA or Food Stamp purposes. Withdrawals from such accounts must be for approved purposes. If funds are withdrawn for non-approved purposes, count the money as a resource in the month received. Approved reasons for withdrawal of funds for self-sufficiency needs include education expenses, employment start-up needs, entrepreneurship, and to purchase a vehicle or home. If staff are unsure if the withdrawal meets an approved purpose, contact the policy unit for clarification.

Furthermore, a Saving for Education, Entrepreneurship and Downpayment (SEED) accounts is considered an EBIA account and is excluded up to the \$5,000.00 limit

**9 DE Reg. 1374 (03/01/06)**

---

**Symbol Key**

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

**Proposed Regulations**

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

Statutory Authority: 3 Delaware Code, Sections 1008 and 1011 (3 **Del.C.** §§1008 and 1011)  
3 **DE Admin. Code** 402

**PUBLIC NOTICE**

The State of Delaware Department of Agriculture Forest Service proposes these amended regulations pursuant to 3 **Del.C.** §§1008 and 1011. These proposed amended regulations are intended to clarify the duties of the Department's personnel and the responsibilities of the visitors to the State Forests.

Copies of the proposed amended regulations may be obtained from the Delaware Department of Agriculture by calling 1-800-282-8685, by writing to the Delaware Department of Agriculture, Forestry Administrator at 2320 S. DuPont Hwy., Dover, DE 19901, or visiting the *Register of Regulations* website at <http://www.delregs.state.de.us/index.html>. Public comments may be submitted in writing or in person to Austin Short, Forestry Administrator, during the 30-day public comment period which commences with the promulgation of these proposed, amended regulations on April 1, 2006.

**402 State Forest Regulations****1.0 Authority**

1.1 These regulations are promulgated pursuant to the delegation of authority to the Department of Agriculture by the General Assembly found in 3 **Del.C.** Sections 1008 and 1011.

**2.0 Purpose**

2.1 The State Forests of Delaware are open to members of the public for ~~all legal forms of recreation~~ and their enjoyment. Most legal forms of non-motorized recreation are permitted. The following regulations were developed to ensure that these publicly owned lands are conserved, protected, and maintained for the benefit of all.

## 3.0 Construction

3.1 No regulation herein shall be interpreted or construed in such a manner as to prevent or delay authorized personnel of the Department or other state, county, or municipal agencies from completing official duties or emergency response.

3.2 In special circumstances, events, or emergencies, the Secretary or Forestry Administrator may, when it is deemed to be in the public interest, waive a specific regulation or fee.

3.3 Failure to enforce a specific regulation at a particular instance or instances shall not affect the validity of any other regulation or affect the validity of such regulation at any other time.

## ~~3.0~~ 4.0 Definitions

~~3.14.1~~ 3.14.1 "Department" is the Delaware Department of Agriculture

~~3.24.2~~ 3.24.2 "DFS" is the Delaware Forest Service

~~3.34.3~~ 3.34.3 "DNREC" is the Delaware Department of Natural Resources and Environmental Control

4.4 "Secretary" is the Secretary of the Delaware Department of Agriculture

4.5 "State Business Hours" are 8:00 a.m. to 4:30 p.m. on Monday through Friday, except for state holidays.

## ~~4.0~~ 5.0 General Rules and Regulations

5.1 In order to promote the safety and welfare of State Forest visitors and protect and manage property in the State Forests, the Secretary and Forestry Administrator shall have the authority to develop reasonable policies for State Forests that are not in conflict with 3 Del.C. Ch. 10 and these regulations. These policies must be approved by the Secretary and posted in a conspicuous location in the State Forest prior to their becoming effective. Copies of all policies shall also be maintained in the State Forest office.

5.2 Violation of any State Forest policy shall be grounds for eviction from the State Forest and the denial, revocation, or suspension of any permit issued or privilege granted by the Department.

5.3 The Department shall have the authority to enforce safety rules and/or policies developed in accordance with 5.1 of these Regulations for the protection of visitors and property.

5.4 State Forests are open to most forms of non-motorized recreational uses.

~~4.7~~ 5.5 Many State Forest access roads are closed to vehicular travel, unless otherwise indicated, to improve the quality of recreation and to reduce littering. Where vehicular traffic is permitted, the speed limit is ten (10) miles per hour unless otherwise posted. These roads and trails are open to pedestrian and non-vehicular travel only. Non-pedestrian traffic (e.g. horseback riding and mountain biking) is restricted to access roads and trails, unless otherwise noted. In addition, vehicle use of tax ditches right-of-ways 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~~ except those off-highway vehicles owned, operated, and/or authorized by the Delaware Forest Service (DFS). Violators will be prosecuted for trespassing.

~~4.6~~ 5.6 All State Forest boundaries are well marked with metal signs and/or 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~~ must not trespass or encroachment upon adjoining private lands by staying within boundaries of State Forest lands.

~~4.1~~ 5.7 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.

~~4.2~~ 5.8 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.

~~4.3~~ 5.9 The dumping or depositing of rubbish, trash, paint, household items, or other debris, or any other materials and activities that could result in the depositing of such materials, such as paintball and geo-caching, ~~are~~ is prohibited. The placing placement of advertisement signs within State Forests ~~are~~ is prohibited.

~~4.4~~ 5.10 ~~For the sake of sanitation and attractiveness,~~ Persons using public camp and picnic sites are required to deposit all waste paper, tin cans trash and other refuse in the proper containers, if provided. Where

containers are not provided, users must properly dispose of all refuse off State Forest lands.

4-5 5.11 Writing upon, mutilating, carving, and otherwise defacing trees, buildings, structures, signs, and official notices is prohibited.

4-8 5.12 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.

5.13 Dog training is permitted on State Forest lands; however, the dog owner(s) must notify DFS personnel in the local State Forest office prior to the training.

4-9 5.14 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 DFS.

4-10 5.15 Fishing on State Forest lands is limited to catch and release only.

5.16 Visitors must park in designated areas only and within those designated areas, they must not block gates to State Forest access roads.

5.17 Alcoholic beverages are prohibited on State Forest lands except within the Redden Lodge, if and only if, authorized in writing by the DFS.

## **6.0 Redden State Forest Lodge**

6.1 Maximum Lodge capacity is 45 persons (overnight use).

6.2 The organization or individual renting the Lodge must be at least 21 years of age and provide a minimum of one adult supervisor per ten youths. Youth are defined as persons under 18 years of age and adults as having reached the age of 21.

6.3 The use or possession of illegal drugs is strictly prohibited. ~~Additionally,~~ Alcoholic beverages are prohibited (unless approved in writing by the DFS). Smoking and the use of other tobacco products are prohibited inside the Lodge. Users must deposit tobacco products in the outside receptacles provided.

6.4 Unauthorized heating or cooling 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**.

6.5 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 ~~Delaware Forest Service DFS~~), etc., is strictly prohibited.

6.6 No outside fires may be started at any time in the vicinity of the Lodge, except in the permanent grills installed on site and the fire pit area, or as approved in writing by the ~~Delaware Forest Service DFS~~.

6.7 Service dogs are permitted; no other pets shall be permitted within or near the Lodge.

6.8 An adequate supply of firewood will be provided and placed on the back porch.. Please do not retrieve additional wood from the shed/storage area. No charcoal, wax logs, or other materials shall be used in the fireplaces.

6.9 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. Do not move any furniture or fixtures. Folding tables and chairs are not permitted outside the Lodge.

6.10 The telephone at the Lodge is provided for emergencies, local calls, and credit card or collect long distance calls and are only for use by adults, except in emergencies. You must dial 9 before placing any call. The number for the Lodge phone is (302) 856-5939, and incoming calls can be received. Please remember this telephone is 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 ~~Delaware Forest Service DFS~~ reserves the right to remove the telephone at any time.

6.11 Any alteration of the Lodge is strictly prohibited, such as but not limited to moving the furniture, using nails, screws, tape, etc., or discharging fire extinguishers except in the case of fire.

6.4412 Lodge Rental Fees, Reservations, Deposits, and Cancellations

6.4412.1 Reservations shall be made on a first-come, first-served basis. To secure a reservation, a completed application and the full Lodge user fee must be received at least 120 days prior to the

desired reservation date.

6.4412.2 A security-damage deposit in the amount of \$100.00 must be received at the time of check-in. If the security-damage deposit is not paid prior to check-in, the person/group/organization will not be permitted use of the lodge. The security-damage deposit will be returned within 5 days after check-out, if the lodge is found in good condition. If the lodge is not found in good condition, an itemized list of charges will be provided to the person/group/organization

6.4412.3 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 will be forfeited. The security-damage deposit will be refunded for all cancellations.

6.4412.4 Types of Use

6.4412.4.1 Daily: 9:00 a.m. - 3:00 p.m.

6.4412.4.2 Evening: 4 p.m. - 10 p.m.

6.4412.4.3 Weekend: Friday 4 p.m. - Sunday 10 p.m.

6.4412.4.4 Weekday Overnight: 4 p.m. - 8 a.m.

6.4412.5 Lodge Rental Fees: Lodge user fees shall be as follows:

6.4412.5.1 May 1 to September 30

6.4412.5.1.1 ~~\$75~~ ~~\$90~~ Daily, Evening Use, and Weekday Overnight

6.4412.5.1.2 ~~\$200~~ ~~\$225~~ Weekend Use

6.4412.5.2 October 1 to April 30 (Increased fees due to heating expenses)

6.4412.5.2.1 ~~\$85~~ ~~\$100~~ Daily, Evening Use, and Weekday Overnight

6.4412.5.2.2 ~~\$225~~ ~~\$250~~ Weekend Use

6.4412.5.3 Checks should be made payable to: Department of Agriculture.

6.4412.5.4 Payments and application should be mailed to:

Redden State Forest

18074 Redden Forest Drive

Georgetown, DE 19947

(302)856-2893

weekdays 8:00 a.m. - 4:30 p.m.

## 5-0 7.0 Camping Rules and Regulations

57.1 Camping is free-of-charge, year round, but restricted to map-designated campsites. A forest use permit is required for all camping on State Forest lands. Permits are available at State Forest offices during state business hours or from information boxes located at each State Forest office. Completed permits must be submitted during office hours to ensure campsite availability.

57.2 Campsites are on a first-come, first-served basis and ~~reservations may be accepted for special occasions are required.~~

57.3 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, unless otherwise noted.

57.4 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~~ ten (10) people per site, with a maximum stay of three nights per week. Camper(s) must remove their trash upon vacating their campsite.

57.5 Camping is at your own risk. State Forests are a public use area and there is no after-hours, nighttime or weekend security. Law enforcement is provided by the Delaware State Police should the need arise.

57.6 State forests are "multiple-use facilities", which means other activities will continue while you camp. These activities include: hunting, picnicking, hiking, nature study, horseback riding, firewood cutting (by permit only), and timber harvesting. The DFS reserves the right to limit or deny permits during times of conflicting use.

57.7 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.

~~57.8~~ Campsites are to be left clean and all fires are to be extinguished before departing from the area.

### **7-0 8.0 Hunting Rules and Regulations**

~~7-8.1~~ 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.

~~7-8.2~~ 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 otherwise designated, such as those marked with Wildlife Sanctuary, NO HUNTING, or Safety Zone signs.

~~7-3~~ ~~Parking is available on all State Forest tracts.~~

~~7-48.3~~ No permanent deer stands, platforms, ladders, or blinds may be constructed. No screw-in tree steps, spikes, screws, or nails are allowed.

~~7-58.4~~ Deer drives by any person or persons are not permitted on any State Forest land at any time.

~~7-68.5~~ Small game hunting is closed on State Forest lands during firearm deer seasons.

~~7-78.6~~ The DFS reserves the right to close ~~to hunting~~ specific State Forest tracts to hunting during specific hunting seasons. ~~Therefore, it is important to consult the current hunting guide for a listing of these closures.~~

~~7-88.7~~ Trapping rights may be leased for State Forest lands. No other trapping is permitted on State Forest lands.

~~7-98.8~~ Target shooting is prohibited. Firearms are allowed for legal hunting only and are otherwise prohibited on State Forest lands. ~~from March 1 through August 31.~~

~~7-108.9~~ Waterfowl hunting is not permitted on State Forest land or waters.

~~8.10~~ Squirrel hunting is not allowed with a rifle or muzzleloading rifle. Squirrel hunting with a shotgun is permitted.

~~78.11~~ The following hunting restrictions apply to ~~several~~ those tracts of ~~Blackbird State Forest lands as specified in the DNREC, Division of Fish and Wildlife annual hunting manual.~~ Maps delineating these areas are available at ~~Blackbird State Forest headquarters or by calling (302)653-6505 offices.~~

~~78.11.1~~ All deer hunting is limited to numbered stands.

~~78.11.2~~ 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 the ~~Blackbird local~~ State Forest Headquarters office, 1-2 hours before legal hunting time.

~~78.11.3~~ For Muzzleloader season there will be a daily lottery held at the ~~Blackbird local~~ State Forest Headquarters office ~~located on the Tybout Tract on Blackbird Forest Rd. (Rd. 471),~~ 1-2 hours before legal hunting time.

~~78.11.4~~ All hunters on these tracts, during shotgun and muzzleloader season, must only hunt from their designated stand ~~only~~, as walk around hunting is not permitted.

~~78.11.5~~ During Archery season bowhunters must be within 50 yards of their designated stand.

~~78.11.6~~ Stands will be available during Archery season on a first-come, first-served basis.

~~78.11.7~~ No more than one hunter may hunt from a stand at any one time.

~~7.12~~ These special hunting restrictions apply to the Tybout tract of Blackbird State Forest:

~~7-13.4~~ Squirrel hunting is not allowed with rifle or muzzleloading rifle, shotgun squirrel hunting is permitted.

~~7-14.4~~ Dog training is prohibited at all times.

### **8-0 9.0 Forest Use Permits**

~~89.1~~ 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~~ submit a completed Forest Use Permit (~~Doc. No. 65-04-02/87/10/03~~) during state business hours. ~~Under special~~

~~circumstances~~ Facilities may be applied for are to be reserved in advance.

- 89.2 Items to be filled out by all applicants include:
  - 89.2.1 Date of application
  - 89.2.2 ~~Time of application submission~~ Date(s) of proposed use
  - 89.2.3 Applicants' full name
  - 89.2.4 Applicants' address, city, state, zip code
  - 9.2.5 Copy of valid driver's license
- 89.3 Camping:
  - 89.3.1 Individual or group permit
  - 89.3.2 Number of persons camping
  - 89.3.3 The name of organization (if applicable)
  - 89.3.4 Vehicle make, model, color, and license number
  - 89.3.5 Permit effective date & termination date
  - 89.3.6 Applicants= signature and date
- 89.4 Group Users/Special Events:
  - 89.4.1 The name of the person in charge
  - 89.4.2 The name of organization
  - 89.4.3 Number in the group
  - 89.4.4 Permit effective date
  - 89.4.5 Permit termination date
  - 89.4.6 Facility used:
    - 89.4.6.1 Camping
    - 89.4.6.2 Picnic shelter
    - 89.4.6.3 Nature study area
    - 89.4.6.4 Other
    - 89.4.6.5 Applicants' signature

89.5 Firewood Permits:

89.5.1 Firewood permits are required to harvest firewood on State Forest lands and are issued at the discretion of the ~~State Forest~~ DFS staff. When available, these permits are issued on a first-come, first-served basis. There is a fee of ~~\$20~~ \$100 for firewood permits, which allows the holder to cut ~~two standard pickup loads of~~ firewood for three days within areas designated and posted by DFS staff. 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.~~ Wood is not for resale.

## 9-0 10.0 Department Enforcement Regulations

10.1 The violation of, or the refusal to obey, any law, these regulations, State Forest policies or the terms or conditions of any permit issued or privilege granted by the Department shall be grounds for the suspension or revocation of any permit issued or privilege granted by the Department, the removal or eviction from State Forest lands and/or the denial of future entry to, or the denial of future permits or privileges within State Forests. Any and all applicable permit fees shall be forfeited to, and retained by, the Department. Any such suspension, revocation, removal, eviction or the denial of entry, permit or privilege shall not preclude the prosecution of any person for violation of any law or these regulations.

9-410.2 Whoever violates any of the foregoing regulations shall be deemed to have committed an unclassified misdemeanor and shall be fined not less than \$25 nor more than \$250 and be required to pay all applicable court costs. For each subsequent violation, within three years of a previous conviction, the violator shall be fined not less than \$50 nor more than \$500 and be required to pay all applicable court costs. In addition to such fines and court costs, a violator who is convicted of damaging, destroying, or removing property owned and maintained by the State Forest Service, shall be required to make restitution to the Department for the replacement or restoration of such property.

9-210.3 Justices of the Peace throughout the State shall have jurisdiction over alleged violations of these State Forest Regulations; however, any violator shall, upon arrest, be taken to the nearest available Justice of the

---

# PROPOSED REGULATIONS

---

1431

Peace in the county where such violation is alleged to have occurred, or in lieu thereof, be provided with an assessment form for the voluntary payment of fines.

9.310.4 Notwithstanding the immediate preceding subsection, a ~~forest service~~ duly authorized peace officer making an arrest for a violation of these regulations may issue a summons requiring the violator to appear in person at a subsequent date at the Justice of the Peace Court nearest to the place of arrest and during the regularly scheduled hours of the Court.

9.4 After payment for fines and costs, if any, is received by the Department of Justice or Justice of the Peace Court, the Department or the Court shall mail a receipt indicating payment for such fine if the violator paying such fine makes a written request for a receipt and encloses a self-addressed envelope with proper postage affixed thereon.

## Delaware Forest Service Forest Use Permit Application

Date(s) of use \_\_\_\_\_ Permit No. \_\_\_\_\_

Application For:  Firewood  Camping  Other (explain) \_\_\_\_\_

Drivers license No. \_\_\_\_\_ Expiration Date \_\_\_\_\_ Issuing State \_\_\_\_\_

Location  Blackbird State Forest  Redden State Forest  Taber State Forest  
No. in group \_\_\_\_\_

Name \_\_\_\_\_  
First MI Last

Address \_\_\_\_\_  
Street/P.O. Box City State Zip Code

Phone No. ( ) \_\_\_\_\_ Phone No. ( ) \_\_\_\_\_  
Home Work

Vehicle Information \_\_\_\_\_  
Year/Make/Mode Color Tag No.

Effective Date \_\_\_\_\_ Expiration Date \_\_\_\_\_ Fee \$ \_\_\_\_\_

Comments \_\_\_\_\_

In exercising the above-described use, I agree to abide by all of the regulations of the Delaware Forest Service (DFS), including but not limited to, those attached to this application, as well as the instructions of the undersigned DFS personnel. I fully understand that the State has neither commercially-procured insurance nor self-insurance to cover any injury, risk or loss which occurs in the State Forest and that the State is immune from any and all liability from any such injury, risk or loss.

In consideration of the granting of the permit, I agree to waive any and all claims arising out of the above-described use which may accrue to myself and/or to anyone else in my custody and control, and I further agree to indemnify the State and save it harmless from and against any and all claims, actions, damages, liability and expense in connection with loss of life, personal injury and/or damages to property arising out of any occurrence in the State Forest.

APPROVED: SIGNATURE OF DFS PERSONNEL \_\_\_\_\_

Date \_\_\_\_\_

SIGNATURE OF APPLICANT

Date

Note: Any violation of the State Forest rules and regulations will result not only cancellation of this permit, but may also result in possible arrest and fines. This permit is to be kept in applicant's vehicle or on his/her person and must be produced at the request of any forest officer. This permit is subject to cancellation by the state forester at any time for just cause. Authority: 3 **Del.C.** Ch. 10. Sections 1008 and 1011.

**6 DE Reg. 517 (10/1/02)**

**6 DE Reg. 1201 (3/1/03)**

### **HARNESS RACING COMMISSION**

Statutory Authority: 3 Delaware Code, Section 10005 (3 **Del.C.**, §10005)  
3 **DE Admin. Code** 501

### **NOTICE OF PUBLIC HEARING**

The Delaware Harness Racing Commission, pursuant to 3 **Del.C.** §10005, proposes to change rules 8.3.6.1.1 to permit the administration of phenylbutazone to horses of any age. The Commission will hold a public hearing on the proposed rule change on April 25, 2006. Written comments should be sent to Administrator of Harness Racing, Department of Agriculture, 2320 S. DuPont Highway, Dover, DE 19901.

### **501 Harness Racing Rules and Regulations**

*(Break in Continuity of Sections)*

#### **8.0 Veterinary Practices, Equine Health Medication**

*(Break in Continuity of Sections)*

##### **8.3 Medications and Foreign Substances**

Foreign substances shall mean all substances, except those which exist naturally in the untreated horse at normal physiological concentration, and shall include all narcotics, stimulants, depressants or other drugs or medications of any type. Except as specifically permitted by these rules, no foreign substance shall be carried in the body of the horse at the time of the running of the race. Upon a finding of a violation of these medication and prohibited substances rules, the State Steward or other designee of the Commission shall consider the classification level of the violation as listed at the time of the violation by the Uniform Classification Guidelines of Foreign Substances as promulgated by the Association of Racing Commissioners International and shall consider all other relevant available evidence including but not limited to: i) whether the violation created a risk of injury to the horse or driver; ii) whether the violation undermined or corrupted the integrity of the sport of harness racing; iii) whether the violation misled the wagering public and those desiring to claim the horse as to the condition and ability of the horse; iv) whether the violation permitted the trainer or licensee to alter the performance of the horse or permitted the trainer or licensee to gain an advantage over other horses entered in the race; v) the amount of the purse involved in the race in which the violation occurred. The State Steward may impose penalties and disciplinary measures consistent with the recommendations contained in subsection 8.3.2 of this section.

##### **8.3.1 Uniform Classification Guidelines**

The following outline describes the types of substances placed in each category. This list shall be publicly posted in the offices of the Commission Veterinarian and the racing secretary.

##### **8.3.1.1 Class 1**

Opiates, opium derivatives, synthetic opiates, psychoactive drugs, amphetamines and U.S. Drug Enforcement Agency (DEA) scheduled I and II drugs. Also found in this class are drugs which are potent stimulants of the nervous system. Drugs in this class have no generally accepted medical use in the race horse and their pharmacological potential for altering the performance of a race is very high.

#### 8.3.1.2 Class 2

Drugs in this category have a high potential for affecting the outcome of a race. Most are not generally accepted as therapeutic agents in the race horse. Many are products intended to alter consciousness or the psychic state of humans, and have no approved or indicated use in the horse. Some, such as injectable local anesthetics, have legitimate use in equine medicine, but should not be found in a race horse. The following groups of drugs are in this class:

- 8.3.1.2.1 Opiate partial agonist, or agonist-antagonists;
- 8.3.1.2.2 Non-opiate psychotropic drugs, which may have stimulant, depressant, analgesic or neuroleptic effects;
- 8.3.1.2.3 Miscellaneous drugs which might have a stimulant effect on the central nervous system (CNS);
- 8.3.1.2.4 Drugs with prominent CNS depressant action;
- 8.3.1.2.5 Antidepressant and antipsychotic drugs, with or without prominent CNS stimulatory or depressant effects;
- 8.3.1.2.6 Muscle blocking drugs which have a direct neuromuscular blocking action;
- 8.3.1.2.7 Local anesthetics which have a reasonable potential for use as nerve blocking agents (except procaine); and
- 8.3.1.2.8 Snake venoms and other biologic substances which may be used as nerve blocking agents.

#### 8.3.1.3 Class 3

Drugs in this class may or may not have an accepted therapeutic use in the horse. Many are drugs that affect the cardiovascular, pulmonary and autonomic nervous systems. They all have the potential of affecting the performance of a race horse. The following groups of drugs are in this class:

- 8.3.1.3.1 Drugs affecting the autonomic nervous system which do not have prominent CNS effects, but which do have prominent cardiovascular or respiratory system effects (bronchodilators are included in this class);
- 8.3.1.3.2 A local anesthetic which has nerve blocking potential but also has a high potential for producing urine residue levels from a method of use not related to the anesthetic effect of the drug (procaine);
- 8.3.1.3.3 Miscellaneous drugs with mild sedative action, such as the sleep inducing antihistamines;
- 8.3.1.3.4 Primary vasodilating/hypotensive agents; and
- 8.3.1.3.5 Potent diuretics affecting renal function and body fluid composition.

#### 8.3.1.4 Class 4

This category is comprised primarily of therapeutic medications routinely used in race horses. These may influence performance, but generally have a more limited ability to do so. Groups of drugs assigned to this category include the following:

- 8.3.1.4.1 Non-opiate drugs which have a mild central analgesic effect;
- 8.3.1.4.2 Drugs affecting the autonomic nervous system which do not have prominent CNS, cardiovascular or respiratory effects
- 8.3.1.4.2.1 Drugs used solely as topical vasoconstrictors or decongestants
- 8.3.1.4.2.2 Drugs used as gastrointestinal antispasmodics
- 8.3.1.4.2.3 Drugs used to void the urinary bladder
- 8.3.1.4.2.4 Drugs with a major effect on CNS vasculature or smooth

muscle of visceral organs.

8.3.1.4.3 Antihistamines which do not have a significant CNS depressant effect (This does not include H1 blocking agents, which are listed in Class 5);

8.3.1.4.4 Mineralocorticoid drugs;

8.3.1.4.5 Skeletal muscle relaxants;

8.3.1.4.6 Anti-inflammatory drugs--those that may reduce pain as a consequence of their anti-inflammatory actions, which include:

8.3.1.4.6.1 Non-Steroidal Anti-Inflammatory Drugs (NSAIDs)--aspirin-like drugs;

8.3.1.4.6.2 Corticosteroids (glucocorticoids); and

8.3.1.4.6.3 Miscellaneous anti-inflammatory agents.

8.3.1.4.7 Anabolic and/or androgenic steroids and other drugs;

8.3.1.4.8 Less potent diuretics;

8.3.1.4.9 Cardiac glycosides and antiarrhythmics including:

8.3.1.4.9.1 Cardiac glycosides;

8.3.1.4.9.2 Antiarrhythmic agents (exclusive of lidocaine, bretylium

and propranolol); and

8.3.1.4.9.3 Miscellaneous cardiotoxic drugs.

8.3.1.4.10 Topical Anesthetics -- agents not available in injectable formulations;

8.3.1.4.11 Antidiarrheal agents; and

8.3.1.4.12 Miscellaneous drugs including:

8.3.1.4.12.1 Expectorants with little or no other pharmacologic action;

8.3.1.4.12.2 Stomachics; and

8.3.1.4.12.3 Mucolytic agents.

#### 8.3.1.5 Class 5

Drugs in this category are therapeutic medications for which concentration limits have been established as well as certain miscellaneous agents. Included specifically are agents which have very localized action only, such as anti-ulcer drugs and certain antiallergic drugs. The anticoagulant drugs are also included.

#### 8.3.2 Penalty Recommendations

The following penalties and disciplinary measures may be imposed for violations of these medication and prohibited substances rules:

8.3.2.1 Class 1 - in the absence of extraordinary circumstances, a minimum license revocation of eighteen months and a minimum fine of \$5,000, and a maximum fine up to the amount of the purse money for the race in which the infraction occurred, forfeiture of the purse money, and assessment for cost of the drug testing.

8.3.2.2 Class 2 - in the absence of extraordinary circumstances, a minimum license revocation of nine months and a minimum fine of \$3,000, and a maximum fine of up to the amount of the purse money for the race in which the violation occurred, forfeiture of the purse money, and assessment for cost of the drug testing.

8.3.2.3 Class 3 - in the absence of extraordinary circumstances, a minimum license revocation of ninety days, and a minimum fine of \$3,000, and a maximum fine of up to the amount of the purse money for the race in which the violation occurred, forfeiture of the purse money, and assessment for cost of the drug testing.

8.3.2.4 Class 4 - in the absence of extraordinary circumstances, a minimum license revocation of thirty days, and a minimum fine of \$2,000, and a maximum fine of up to the amount of the purse money for the race in which the violation occurred, forfeiture of the purse money, and assessment for the cost of the drug testing.

8.3.2.5 Class 5 - Zero to 15 days suspension with a possible loss of purse and/or fine and assessment for the cost of the drug testing.

8.3.2.6 In determining the appropriate penalty with respect to a medication rule violation, the State Steward or other designee of the Commission may use his discretion in the application of the foregoing penalty recommendations, and shall consult with the Commission veterinarian and/or the Commission chemist to determine the seriousness of the laboratory finding or the medication violation. Aggravating or mitigating circumstances in any case should be considered and greater or lesser penalties and/or disciplinary measures may be imposed than those set forth above. Specifically, if the State Steward or other designee of the Commission determine that mitigating circumstances warrant imposition of a lesser penalty than the recommendations suggest, he may impose a lesser penalty. If the State Steward or other designee of the Commission determines that aggravating circumstances require imposition of a greater penalty, however, he may only impose up to the maximum recommended penalty, and must refer the case to the Commission for its review, with a recommendation for specific action. Without limitation, the presence of the following aggravating circumstances may warrant imposition of greater penalties than those recommended, up to and including a lifetime suspension:

8.3.2.6.1 Repeated violations of these medication and prohibited substances rules by the same trainer or with respect to the same horse;

8.3.2.6.2 Prior violations of similar rules in other racing jurisdictions by the same trainer or with respect to the same horse; or

8.3.2.6.3 Violations which endanger the life or health of the horse.

8.3.2.6.4 Violations that mislead the wagering public and those desiring to claim a horse as to the condition and ability of the horse;

8.3.2.6.5 Violations that undermine or corrupt the integrity of the sport of harness racing.

8.3.2.7 Any person whose license is reinstated after a prior violation involving class 1 or class 2 drugs and who commits a subsequent violation within five years of the prior violation, shall absent extraordinary circumstances, be subject to a minimum revocation of license for five years, and a minimum fine in the amount of the purse money of the race in which the infraction occurred, along with any other penalty just and reasonable under the circumstances.

8.3.2.7.1 With respect to Class 1, 2 and 3 drugs detect in a urine sample but not in a blood sample, and in addition to the foregoing factors, in determining the length of a suspension and/or the amount of a fine, or both, the State Steward or judges may take in consideration, without limitation, whether the drug has any equine therapeutic use, the time and method of administration, if determined, whether more than one foreign substance was detected in the sample, and any other appropriate aggravating or mitigating factors.

8.3.2.8 Whenever a trainer is suspended more than once within a two-year period for a violation of this chapter regarding medication rules, any suspension imposed on the trainer for any such subsequent violation also shall apply to the horse involved in such violation. The State Steward or judges may impose a shorter suspension on the horse than on the trainer.

8.3.2.9 At the discretion of the State Steward or other designee of the Commission, a horse as to which an initial finding of a prohibited substance has been made by the Commission chemist may be prohibited from racing pending a timely hearing; provided, however, that other horses registered under the care of the trainer of such a horse may, with the consent of the State Steward or other designee of the Commission be released to the care of another trainer, and may race.

### 8.3.3 Medication Restrictions

8.3.3.1 Drugs or medications in horses are permissible, provided:

8.3.3.1.1 the drug or medication is listed by the Association of Racing Commissioners International's Drug Testing and Quality Assurance Program; and

8.3.3.1.2 the maximum permissible urine or blood concentration of the drug or medication does not exceed the limit established in these Rules or otherwise approved and published by the Commission.

8.3.3.2 Except as otherwise provided by this chapter, a person may not administer or cause to be administered by any means to a horse a prohibited drug, medication, chemical or other substance, including any restricted medication pursuant to this chapter during the 24-hour period before post time for the race in which the horse is entered. Such administration shall result in the horse being scratched from the race and may

result in disciplinary actions being taken.

8.3.3.3 A finding by the official chemist of a prohibited drug, chemical or other substance in a test specimen of a horse is prima facie evidence that the prohibited drug, chemical or other substance was administered to the horse and, in the case of a post-race test, was present in the horse's body while it was participating in a race. Prohibited substances include:

8.3.3.3.1 drugs or medications for which no acceptable levels have been established in these Rules or otherwise approved and published by the Commission.

8.3.3.3.2 therapeutic medications in excess of acceptable limits established in these rules or otherwise approved and published by the Commission.

8.3.3.3.3 Substances present in the horse in excess of levels at which such substances could occur naturally and such prohibited substances shall include a total carbon dioxide level of 37 mmol/L or serum in a submitted blood sample from a horse or 39 mmol/L if serum from a horse which has been administered furosemide in compliance with these rules, provided that a licensee has the right, pursuant to such procedures as may be established from time to time by the Commission, to attempt to prove that a horse has a naturally high carbon dioxide level in excess of the above-mentioned levels; and provided, further, that an excess total carbon dioxide level shall be penalized in accordance with the penalty recommendation applicable to a Class 2 substance.

8.3.3.3.4 substances foreign to a horse at levels that cause interference with testing procedures. The detection of any such substance is a violation, regardless of the classification or definition of the substance or its properties under the Uniform Classification Guidelines for Foreign Substances.

8.3.3.4 The tubing, dosing or jugging of any horse for any reason within 24 hours prior to its scheduled race is prohibited unless administered for medical emergency purposes by a licensed veterinarian, in which case the horse shall be scratched. The practice of administration of any substance via a naso-gastric tube or dose syringe into a horse's stomach within 24 hours prior to its scheduled race is considered a violation of these rules and subject to disciplinary action, which may include fine, suspension and revocation or license.

8.3.3.5 A finding by the official chemist that Erythropoietin (EPO) darbopoietin (DPO) or their antibodies was present in a post-race test specimen of a horse shall be promptly reported in writing to the judges. The judges shall notify the owner and trainer of the positive test result for EPO, DPO or their antibodies. The judges shall notify the Commission Veterinarian of the name of the horse for placement on the Veterinarian's List, pursuant to Rule 8.6.1.1, if the positive test result indicates that the horse is unfit to race. Any horse placed on the Veterinarian's List pursuant to this Rule shall not be permitted to enter a race until the owner or trainer, at their own expense, provides proof of a negative test result for EPO, DPO or their antibodies from a laboratory approved by the Commission, provided said test sample is obtained under collection procedures acceptable to the Commission or its designee under these Rules.

Notwithstanding any inconsistent provision of this Rule, a horse shall not be subject to disqualification from the race and from any share of the purse in the race and the trainer of the horse shall not be subject to application of trainer's responsibility based on the finding by the laboratory that EPO, DPO or their antibodies was present in the sample taken from that horse.

#### 8.3.4 Medical Labeling

8.3.4.1 No person on association grounds where horses are lodged or kept, excluding licensed veterinarians, shall have in or upon association grounds which that person occupies or has the right to occupy, or in that person's personal property or effects or vehicle in that person's care, custody or control, a drug, medication, chemical, foreign substance or other substance that is prohibited in a horse on a race day unless the product is labelled in accordance with this subsection.

8.3.4.2 Any drug or medication which is used or kept on association grounds and which, by federal or Delaware law, requires a prescription must have been validly prescribed by a duly licensed veterinarian, and in compliance with the applicable federal and state statutes. All such allowable medications must have a prescription label which is securely attached and clearly ascribed to show the following:

8.3.4.2.1 the name of the product;

8.3.4.2.2 the name, address and telephone number of the veterinarian prescribing or dispensing the product;

8.3.4.2.3 the name of each patient (horse) for whom the product is intended/prescribed;

8.3.4.2.4 the dose, dosage, duration of treatment and expiration date of the prescribed/dispensed product; and

8.3.4.2.5 the name of the person (trainer) to whom the product was dispensed.

8.3.5 Furosemide (Salix) and Aminocaproic Acid (Amicar)

8.3.5.1 General

Furosemide (Salix) and Aminocaproic Acid (Amicar)

may be administered intravenously to a horse on the grounds of the association at which it is entered to compete in a race. Furosemide or Furosemide with Aminocaproic Acid shall be permitted only after the Commission Veterinarian has placed the horse on the Bleeder List or to facilitate the collection of a pot-race urine sample.

8.3.5.2 Method of Administration

Furosemide or Furosemide with Aminocaproic Acid shall be administered intravenously by the licensed Bleeder Medication Veterinarian, unless he/she determines that a horse cannot receive an intravenous administration of Furosemide or Furosemide with Aminocaproic Acid. Permission for an intramuscular administration must be authorized by the Presiding Judge or his/her representative; provided, however, that once Furosemide or Furosemide with Aminocaproic Acid is administered intramuscularly, the horse shall remain in a detention area under the supervision of a Commission representative until it races.

8.3.5.3 Dosage

Aminocaproic Acid shall be administered to a horse on the Bleeder List only by the licensed Bleeder Medication Veterinarian, who will administer not more than 7.5 grams or less than 2.5 grams intravenously. Furosemide shall be administered to horses on the Bleeder List only by the licensed Bleeder Medication Veterinarian, who will administer not more than 500 milligrams nor less than 100 milligrams, subject to the following conditions:

8.3.5.3.1 Not more than 750 milligrams may be administered if (1) the Commission veterinarian grants permission for a dosage greater than 500 milligrams, and (2) after the administration of such greater dosage, the horse remains in a detention area under the supervision of a Commission representative until it races; and

8.3.5.3.2 The dosage administered may not vary by more than 250 milligrams from race to race without the permission of the Commission Veterinarian.

8.3.5.4 Timing of Administration

Horses must be presented at their assigned stalls in the paddock for Aminocaproic Acid treatment. Aminocaproic Acid will be administered not more than 90 minutes (1 1/2 hours) and not less than 60 minutes (1 hour) prior to post time of their respective races and must be treated prior to going on the track the first time. Failure to meet this time frame will result in scratching the horse and the trainer may be fined. Horses must be presented at the Furosemide stall in the paddock, and the Furosemide administered, not more than three hours and 30 minutes (3-1/2 hours) nor less than three hours (three hours) prior to post time of their respective races. Failure to meet this time frame will result in scratching the horse, and the trainer may be fined.

8.3.5.5 Veterinary Charges

It is the responsibility of the owner or trainer, prior to the administration of the medication, to pay the licensed Bleeder Medication veterinarian at the rate approved by the Commission. No credit shall be given without approval of the Bleeder Medication Veterinarian.

8.3.5.6 Restrictions

No one except a licensed practicing veterinarian shall possess equipment or any substance for injectable administration on the race track complex, and no horse is to receive furosemide in oral form.

8.3.5.7 Post-Race Quantification

The presence of Aminocaproic Acid in a horse following the running of the race in which it was not declared or reported, may result in the disqualification of the horse or other sanctions being

imposed upon the trainer and the administering veterinarian.

Conversely, the absence of a bleeder medication following the running of a race, which was declared and reported may result in the disqualification of the horse and other sanctions being imposed upon the trainer and the bleeder Medication Veterinarian

8.3.5.7.1 As indicated by post-race quantification, a horse may not carry in its body at the time of the running of the race more than 100 nanograms of Furosemide per milliliter of plasma in conjunction with a urine that has a specific gravity of less than 1.01, unless the dosage of Furosemide:

8.3.5.7.1.1 Was administered intramuscularly as provided in 8.3.5.2;  
or

8.3.5.7.1.2 Exceeded 500 milligrams as provided in 8.3.5.3.1.

8.3.5.7.2 If post-race quantification indicates that a horse carried in its body at the time of the running of the race more than 100 nanograms of furosemide per milliliter of plasma in conjunction with a urine that has a specific gravity of less than 1.01, and provided that the dosage of furosemide was not administered intramuscularly as provided in 8.3.5.2 or exceeded 500 milligrams as provided in 8.3.5.3.1, then a penalty shall be imposed as follows:

8.3.5.7.2.1 If such overage is the first violation of this rule within a 12-month period: Up to a \$250 fine and loss of purse.

8.3.5.7.2.2 If such overage is the second violation of this rule within a 12-month period: Up to a \$1,000 fine and loss of purse.

8.3.5.7.2.3 If such overage is the third violation of this rule within a 12-month period: Up to a \$1,000 fine and up to a 15-day suspension and loss of purse.

8.3.5.7.2.4 If in the opinion of the official chemist any such overage caused interference with testing procedures, then for each such overage a penalty of up to a \$1,000 fine and a suspension of from 15 to 50 days may be imposed.

#### 8.3.5.8 Reports

8.3.5.8.1 The Bleeder Medication Veterinarian who administers Aminocaproic Acid or Furosemide or Furosemide with Aminocaproic Acid to a horse scheduled to race shall prepare a written certification indicating the time, dosage and method of administration.

8.3.5.8.2 The written certification shall be delivered to a Commission representative designated by the Judges within one (1) hour of the last scheduled race for that day.

#### 8.3.5.9 Bleeder List

8.3.5.9.1 The Bleeder Medication Veterinarian shall maintain a Bleeder List of all horses which have demonstrated external evidence of exercise induced pulmonary hemorrhage (EIPH) or the existence of hemorrhage in the trachea post exercise upon:

8.3.5.9.1.1 visual examination wherein blood is noted in one or both nostrils either:

8.3.5.9.1.1.1 during a race;

8.3.5.9.1.1.2 immediately post-race or post-exercise on track;

or

8.3.5.9.1.1.3 within one hour post-race or post-exercise in paddock and/or stable area, confirmed by endoscopic examination; or

8.3.5.9.1.2 endoscopic examination, which may be requested by the owner or trainer who feels his or her horse is a bleeder. Such endoscopic examination must be done by a practicing veterinarian, at the owner's or trainer's expense, and in the presence of the Commission Veterinarian. Such an examination shall take place within one hour post-race or post-exercise; or

8.3.5.9.1.3 presentation to the Commission Veterinarian, at least 48 hours prior to racing, of a current Bleeder Certificate from an official veterinarian from any other jurisdiction, which show the date, place and method -- visual or endoscopy -- by which the horse was determined to have bled, or which attests that the horse is a known bleeder and receives bleeder medication in that jurisdiction, provided that such jurisdiction's criteria for the identification of bleeders are satisfactory to the Commission Veterinarian.

8.3.5.9.2 The confirmation of a bleeder horse must be certified in writing by

the Commission Veterinarian and entered on the Bleeder List. Copies of the certification shall be issued to the owner of the horse or the owner's designee upon request. A copy of the bleeder certificate shall be attached to the horse's eligibility certificate.

8.3.5.9.3 Every confirmed bleeder, regardless of age, shall be placed on the Bleeder List, and furosemide or Furosemide with Aminocaproic Acid, if applicable must be administered to the horse in accordance with these rules prior to every race, including qualifying races, in which the horse starts.

8.3.5.9.4 A horse which bleeds based on the criteria set forth in 8.3.5.9.1 above shall be restricted from racing at any facility under the jurisdiction of the Commission, as follows:

8.3.5.9.4.1 1st time - 10 days;

8.3.5.9.4.2 2nd time - 30 days, provided that the horse must be added to or remain on the Bleeder List, and must complete a satisfactory qualifying race before resuming racing;

8.3.5.9.4.3 3rd time - 30 days, and the horse shall be added to the Steward's List, to be removed at the discretion of the Commission Veterinarian following a satisfactory qualifying race after the mandatory 30-day rest period; and

8.3.5.9.4.4 4th time - barred for life.

8.3.5.9.5 An owner or trainer must notify the Commission Veterinarian immediately of evidence that a horse is bleeding following exercise or racing.

8.3.5.9.6 A horse may be removed from the Bleeder List at the request of the owner or trainer, if the horse completes a 10-day rest period following such request, and then re-qualifies. A horse may discontinue the use of Aminocaproic Acid without a ten (10) day rest period or having to reliquary provided the horse was on Aminocaproic Acid for thirty (34) days or more. In addition, once a horse discontinues the use of Aminocaproic Acid, it is prohibited from using said medication for ninety (90) days from the date of its last administration for Aminocaproic Acid.

8.3.5.9.7 Any horse on the Bleeder List which races in a jurisdiction where it is not eligible for bleeder medication, whether such ineligibility is due to the fact that it does not qualify for bleeder medication in that jurisdiction or because bleeder medication is prohibited in that jurisdiction, shall automatically remain on the Bleeder List at the discretion of the owner or trainer, provided that such decision by the owner or trainer must be declared at the time of the first subsequent entry in Delaware, and the Furosemide and Aminocaproic Acid symbols in the program shall appropriately reflect that the horse did not receive Furosemide or Furosemide with Aminocaproic Acid its last time out. Such an election by the owner or trainer shall not preclude the Commission Veterinarian, State Steward or Presiding Judge from requiring re-qualification whenever a horse on the Bleeder List races in another jurisdiction without bleeder medication, and the integrity of the Bleeder List may be questioned.

8.3.5.9.8 Any horse on the Bleeder List which races without Furosemide or Furosemide with Aminocaproic Acid in any jurisdiction which permits the use of Furosemide or Furosemide with Aminocaproic Acid in any jurisdiction which permits the use of Lasix shall automatically be removed from the Bleeder List. In order to be restored to the Bleeder List, the horse must demonstrate EIPH in accordance with the criteria set forth in subdivision 8.3.5.9.1 above. If the horse does demonstrate EIPH and is restored to the Bleeder List, the horse shall be suspended from racing in accordance with the provisions of 8.3.5.9.4 above.

8.3.5.9.9 The State Steward or Presiding Judge, in consultation with the Commission Veterinarian, will rule on any questions relating to the Bleeder List.

#### 8.3.5.10 Medication Program Entries

It is the responsibility of the trainer at the time of entry of a horse to provide the racing secretary with the bleeder medication status of the horse on the entry blank, and also to provide the Commission Veterinarian with a bleeder certificate, if the horse previously raced out-of-state on bleeder medication.

### 8.3.6 Phenylbutazone (Bute)

#### 8.3.6.1 General

8.3.6.1.1 Phenylbutazone or oxyphenbutazone may be administered to horses ~~three years of age and older~~ in such dosage amount that the official test sample shall contain not more than ~~2.0~~ 2.5 micrograms per milliliter of blood plasma. ~~Phenylbutazone or oxyphenbutazone is not permissible at any~~

## PROPOSED REGULATIONS

level in horses two years of age and if phenylbutazone or oxyphenbutazone is present in any post race sample from a two year old horse, said horse shall be disqualified, shall forfeit any purse money, and the trainer shall be subject to penalties including up to a \$1,000 fine and up to a fifty day suspension.

8.3.6.1.2 If post-race quantification indicates that a horse carried in its body at the time of the running of the race more than 2.0 but not more than 2.6 micrograms per milliliter of blood plasma of phenylbutazone or oxyphenbutazone, then warnings shall be issued to the trainer.

8.3.6.1.3 If post-race quantification indicates that a horse carried in its body at the time of the running of the race more than 2.6 micrograms per milliliter of blood plasma of phenylbutazone or oxyphenbutazone, then a penalty shall be imposed as follows:

8.3.6.1.3.1 For an average between 2.6 and less than 5.0 micrograms per milliliter:

8.3.6.1.3.1.1 If such overage is the first violation of this rule within a 12-month period: Up to a \$250 fine and loss of purse.

8.3.6.1.3.1.2 If such overage is the second violation of this rule within a 12-month period: Up to a \$1,000 fine and loss of purse.

8.3.6.1.3.1.3 If such overage is the third violation of this rule within a 12-month period: Up to a \$1,000 fine and up to a 15-day suspension and loss of purse.

8.3.6.1.3.1.4 For an overage of 5.0 micrograms or more per milliliter: Up to a \$1,000 fine and up to a 5-day suspension and loss of purse.

8.3.6.1.4 If post-race quantification indicates that a horse carried in its body at the time of the running of the race any quantity of phenylbutazone or oxyphenbutazone, and also carried in its body at the time of the running of the race any quantity of any other non-steroidal anti-inflammatory drug, including but not limited to naproxen, flunixin and meclufenamic acid, then such presence of phenylbutazone or oxyphenbutazone, shall constitute a violation of this rule and shall be subject to a penalty of up to a \$1,000 fine and up to a 50-day suspension and loss of purse.

**\*Please Note: As the rest of the sections were not amended they are not being published. A complete set of the rules and regulations for the Harness Racing Commission is available at: <http://www.state.de.us/research/AdminCode/title3/500/501/index.shtml#TopOfPage>**

---

## DEPARTMENT OF EDUCATION PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1211 and 1213 (14 Del.C. §1211 and 1213)  
14 DE Admin. Code 1511

### PUBLIC NOTICE

**Educational Impact Analysis Pursuant To 14 Del.C., Section 122 (d)**

#### 1511 Issuance and Renewal of Continuing License

**A. Type of Regulatory Action Requested**

Amendment to Existing Regulation

**B. Synopsis of Subject Matter of Regulation**

The Professional Standards Board in cooperation and collaboration with the Department of Education seeks the approval of the State Board of Education to amend regulation 1511 Issuance and Renewal of Continuing License concerning the requirements for the issuance and renewal of a continuing license. This regulation shall

apply to the issuance and renewal of a continuing license as established by 14 **Del.C.** §1211 and §1213. It is necessary to amend this regulation to simplify the requirements for the various professional development options to facilitate record keeping and verification of experiences by school districts, charter schools, and other employing authorities. Reference to a temporary certificate has also been deleted, as all temporary certificates have expired.

**C. Impact Criteria**

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation addresses student achievement and requires that educators be fully qualified to teach a subject area and that they engage in professional development to maintain and improve their skills and knowledge as a condition of renewal of the license.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation helps ensure that all educators demonstrate high standards for the issuance of a continuing license and that they engage in professional development to maintain and improve their skills and knowledge as a condition of renewal of the license.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation addresses educator licensure, not health and safety issues.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses educator licensure, not students' legal rights.

5. Will the amended regulation preserve the necessary authority and flexibility of decision makers at the local board and school level? The amended regulation 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 unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels.

7. Will decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The decision-making authority and accountability for addressing the subject to be regulated rests with the Professional Standards Board, in collaboration and cooperation with the Department of Education, and with the consent of the State Board of Education.

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

9. Is there a less burdensome method for addressing the purpose of the amended regulation? 14 **Del.C.** requires that we promulgate this regulation.

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 local school boards for compliance with the regulation.

**1511 Issuance and Renewal of Continuing License****1.0 Content**

This regulation shall apply to the issuance and renewal of a Continuing License for educators, pursuant to 14 **Del.C.** §1211 and §1213.

**2.0 Definitions**

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

"**College Credit**" means graduate or undergraduate level course work and continuing education units (CEUs) completed at, or through, a regionally accredited college or university, or other approved provider.

**"Clock Hour"** means actual time spent in professional development, not credit hours.

**"Cooperating Teacher or Intern Supervisor"** means an individual working with student teachers or graduate or undergraduate interns as part of a state approved educator preparation program.

**"Clusters"** means focused groups of approved professional development activities that lead to measurable and observable knowledge and skills. Clusters must be approved by the Standards Board and the State Board.

**"Curriculum or Assessment Development"** means work with a local, state, national, or international education agency or organization designing curriculum or assessments for improved educational practice in an area related to an individual's professional responsibilities.

**"Delaware Administrator Standards"** means standards for education administrators approved by the Secretary of Education and the State Board of Education, as per 14 **Del.C.** §1594, Delaware Administrator Standards.

**"Delaware Professional Teaching Standards"** means standards of teaching approved by the Secretary of Education and the State Board of Education, as per 14 **DE Admin. Code** §1593, Delaware Professional Teaching Standards.

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

**"Educational Project"** means an individual professional growth project of 15 or more clock hours, including a research project not related to a course for which credit is claimed, completed to enhance the individual's professional practice, with the development of a final product or report.

**"Educational Travel"** means a travel experience including 15 or more clock hours of work time directly related to the individual's professional responsibilities, including a final project to be used to enhance the individual's work.

**"Educator"** means a public school employee who holds a license issued under the provisions of 14 **Del.C.** §1203, and includes teachers and administrators, and as otherwise defined by the Standards Board and the State Board, pursuant to 14 **Del.C.** §1203, but does not include substitute teachers person licensed and certified by the State under 14 **Del.C.** §1202 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board and approved by the State Board. The term 'educator' does not include substitute teachers .

**"Exigent Circumstances"** means unanticipated circumstances or circumstances beyond the educator's control, including, but not limited to, expiration of a license during the school year, serious illness of the educator or a member of his/her immediate family, activation to active military duty, and other serious emergencies which necessitate the educator's temporarily leaving active service.

**"Formal Study Group"** means documented participation in a study group, related to an individual's professional responsibilities, such as reviewing, discussing, and implementing strategies from a book or creating a group product as part of an action research project, as a form of professional development.

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

**"Initial License"** means a license issued as part of the three tiered licensure system set forth in 14 **Del.C.** §1210.

**"Knowledge and Skills"** means understandings and abilities that, when acquired by educators, lead to more effective instruction.

**"Mentoring"** means training and service in providing mentoring support or assistance through a formally organized and approved state or district mentoring program to educators during the initial licensure period.

**"NBPTS or Similar National Certification"** means a certificate from the National Board for Professional Teaching Standards, or similar body as approved by the Standards Board, verifying completion of all requirements in an individual's job related area of the profession or, in the case of an individual seeking, but not earning, the national certificate, verification of the clock hours devoted to completing the requirements for the national certificate.

**"Peer Coaching"** means training and service as a peer coach or peer assistant in a formally

organized and approved state or school district peer coaching or peer assistance program.

**"Presentation"** means preparation and presentation as a workshop or conference presenter or course instructor on a topic related to the individual's professional responsibilities.

**"Professional Conference, Workshop, Institute, or Academy"** means a program offered either within, or outside, the state that contributes to the participant's professional knowledge or skills in effectively conducting his/her work in education.

**"Professional Development"** means classes, seminars, workshops, collaborative work groups, learning communities, cohort school or district teams which result in the acquisition of knowledge and skills which lead to more effective instruction.

**"Professional Development Activities"** means activities designed to enhance knowledge and skill to promote continuous professional growth and to improve educator performance.

**"Professional Development Cluster"** or **"Cluster"** means a focused group of professional development activities that leads to measurable and observable knowledge and skills.

**"Professional Portfolio"** means a formal collection of artifacts and exhibits that include required examples of an individual's professional work based upon specific performance tasks or standards.

**"Professional Programs or Committees"** means job related service, designed to enhance the profession.

**"Publication"** means the preparation of a formally published book, article, report, study, or grant that contributes to the education profession or adds to the body of knowledge in an individual's specific field, but does not include such items prepared as part of a course for which an individual is also claiming credit.

**"Standards Board"** means the Professional Standards Board established pursuant to 14 Del.C. §104.

**"State"** means State of Delaware.

**"State Board"** means the State Board of Education of the State of Delaware established in response to 14 Del.C. §104.

### **3.0 Issuance of Initial Continuing License**

In accordance with 14 Del.C. §1211, the Department shall issue, upon application, a Continuing License to an educator who has successfully completed the requirements under the initial licensure as set forth in 14 Del.C. §1210 and §1211. The Department shall issue a Continuing License to an applicant licensed as an educator in another jurisdiction who provides evidence of having completed three (3) or more years of successful teaching experience. A Continuing License is valid for 5 years unless extended pursuant to 14 Del.C. §1216 or revoked for cause, as defined in 14 Del.C. §1218.

3.1 An applicant for a Continuing License shall submit the approved application form to the Department. ~~Copies~~ Verification by the school district, charter school, or other employing authority of satisfactory DPAS annual summative evaluations for the period of initial licensure shall be submitted with an initial application for a Continuing License. An applicant with more than one (1) unsatisfactory DPAS annual summative evaluation during the period of initial licensure is ineligible to be issued a Continuing License. Incomplete applications will not be processed.

3.2 The Department shall not act on an application for licensure if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials, until the applicant provides evidence of the investigation's resolution.

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

### **4.0 Educators with Expired Delaware Licenses**

The Department may issue a Continuing License to an educator who previously held a valid Delaware certificate that has expired

4.1 An educator returning to employment and holding a current Standard or Professional Status

Certificate will be issued a Continuing License upon employment.

4.2 An educator who previously held a valid Delaware Standard or Professional Status Certificate which has expired and who has been out of the profession for less than three (3) years may be issued a Continuing License, valid for 5 years, upon employment and application on the approved form and evidence of previous Delaware certification.

4.3 An educator who has completed three (3) or more years of successful teaching and who holds a Continuing License which has expired who has been out of the profession for more than three (3) years may be issued a Continuing License, but must, within the first year of employment, successfully complete a district sponsored mentoring program which focuses on current best practices in curriculum, instruction and assessment aligned to state standards.

4.4 An educator holding a ~~Limited Standard or~~ Temporary Certificate and currently employed as an educator in a Delaware public school will be issued a Continuing License upon completing all requirements for the current Standard Certificate. Requirements must be completed by the expiration date of the ~~Limited Standard or~~ Temporary Certificate.

4.5 An educator holding a current or expired Professional Status or Standard Certificate assigned to work outside the area covered by the Professional Status or Standard Certificate will be issued a Continuing License, with an Emergency Certificate for the new area issued for a period of three years to enable the educator to fulfill the requirements for the Standard Certificate in the area of the new assignment. Professional Status or Standard Certificates held by an educator at the time of reassignment will be added to the Continuing License as Standard Certificates.

## 5.0 Renewal of a Continuing License

In accordance with 14 Del.C. §1212, the Department shall renew a Continuing License, valid for an additional 5 years, to an educator who has fulfilled the 90 clock hour requirement for professional development. At least one half of the required hours (45 hours every five years) for educators must be in activities that relate to the educator's work with students or staff. Satisfactory evidence of such completion, as set forth in Section 5.1, shall be submitted to the Department with the application for renewal. The 90 clock hours of professional development must have taken place during the term of the Continuing License.

### 5.1 Options for Relicensure

**Table 1:**

OPTION	MAX. HOURS	HOUR VALUE	VERIFICATION	CRITERIA
College Credit	No limit	1 semester hour = 15 clock hours. 1 quarter hr./CEU = 10 clock hours.	Official Transcripts. Original Grade Slips. Original Certificate of Completion for CEUs.	Must be completed at a regionally accredited college or other approved provider. College Credit <del>Must</del> be taken for credit with grade of "C" or better or a "P" in pass or fail course.
"Clusters" of skills and knowledge.	No limit	Verified clock hours in completion of cluster activities.	Approval Slip or Form Verifying Completion.	Cluster must be prior-approved by Professional Development and Associated Compensation Committee, the Professional Standards Board and the State Board of Education.

# PROPOSED REGULATIONS

1445

**Table 1:**

Planned School professional development day	No limit	Verified clock hours actively involved in professional development activities	Certificate of Attendance provided by school district or school sponsoring the professional development	Must focus on district or school identified curriculum, instruction, assessment, school climate, or other need identified in district or school improvement plan, <u>or be related to the educator's position.</u>
Professional Conference or Workshop or Institute or Academy	<del>30 clock hours per year</del> <del>45 clock hours per eye</del>	Verified clock hours actively involved in workshop or conference sessions	Original Certificate of Attendance or Completion OR Letter from Supervisor and Conference Staff. Copies and Exhibits of products developed by Applicant. Course Attendance Slip	Must include only time spent in those portions of the workshop or conference program that contribute to the participant's knowledge, competence, performance, or effectiveness in education. Must include only time spent in those portions of the workshop or conference program that contribute to the participant's knowledge, competence, performance, or effectiveness in education. Includes workshops offered by districts or other employing authorities either as part of professional development day or after school hours.
<u>Required recertification to retain DE Professional license</u>		<u>Verified clock hours involved in recertification activities.</u>	<u>Certificate of Attendance, Original Certificate of Completion for CEUs.</u>	<u>Must be required to renew DE professional license.</u>
Mentoring	<del>30 per year</del> <del>45 per eye</del>	Verified clock hours involved in mentoring activities	Activity Documentation Form. (No prior approval required)	Must be mentoring of teacher, administrator, or specialist. Must be part of a formal state or local program.
Cooperating Teacher or Intern Supervisor	<del>30 per year</del> <del>45 per eye</del>	Verified clock hours involved in support of student teacher or intern	Activity Documentation Form completed by higher education director of field based clinical studies. (No prior approval required)	Must be supervision of graduate or undergraduate intern or student teacher in a state approved educator preparation program.

# PROPOSED REGULATIONS

**Table 1:**

Presentation	<del>40 per 3</del> <del>clock hour</del> <del>course;</del> <del>30 per</del> <del>longer</del> <del>course;</del> <del>45 per</del> <del>cycle</del>	Verified clock hours preparing and presenting	Activity Documentation Form* (Prior approval required)	Must include only actual time preparing and presenting a course, workshop, or presentation. (Clock hours limited to first preparation and presentation of individual course, workshop, or presentation.)
Educational Project	<del>30 per</del> <del>year</del> <del>45 per</del> <del>cycle</del>	Verified clock hours completing project. Minimum of 15 clock hours	Activity Documentation Form* (Prior approval required)	Project must have been prior approved by the Professional Development and Associated Compensation Committee. Must have obtained final approval after completion and verification by PDAC
Curriculum/ Assessment Development	<del>30 per</del> <del>year</del> <del>45 per</del> <del>cycle</del>	Verified clock hours of service; Minimum of 3 clock hours	Original documentation from committee chair verifying actual clock hours of participation	Must be service on formal committee organized by local, state, national, or international education agency or organization.
Educational Travel	<del>3 per day</del> <del>30 per</del> <del>cycle</del>	Verified clock hours of experience. Minimum of 15 clock hours per travel activity. Final Project.	Activity Documentation Form* (Prior approval required)	Must be prior approved by Professional Development and Associated Compensation Committee. Must have obtained final approval after completion and verification by PCAC.
Professional Programs or Committees	<del>30 per</del> <del>year</del> <del>45 per</del> <del>cycle</del>	Verified clock hours of service or experience.	Original documentation from committee chair or activity leader verifying actual clock hours of participation.	Must be a formal activity provided through a recognized local, state, national, or international education agency or organization
Peer Coaching	<del>30 per</del> <del>year</del> <del>45 per</del> <del>cycle</del>	Verified clock hours of service or experience.	Activity Documentation Form. (No prior approval required)	Must be part of a formal program.

**Table 1:**

Publication	<del>30</del> per year <del>45</del> per eyele	30 clock hours for book. Up to 15 clock hours per other publication.	Copy of Publication or Document.	Must contribute to the education profession or add to the body of knowledge in the individual's specific field. Must be commercially published or a formally approved document or formally published in a medium sanctioned by a recognized state or national agency or organization. If a grant, must be approved for funding.
Professional Portfolio (to be developed by Standards Board).	<del>30</del> per year <del>45</del> per eyele	45 clock hours for completed and approved portfolio.	The Completed or Approved Portfolio.	Must satisfy the standards established for teaching portfolios. Must be submitted to DOE by December 31 of the final year of the certificate for assessment and approval.
NBPTS Certification or similar National Certification	<del>30</del> per year <del>45</del> per eyele	45 clock hours for attaining national certification  Not complete, then use verified clock hours completing portfolio activities.	A Valid Copy of the National Certificate. For candidate not completing certificate, use the Activity Documentation Form. (No prior approval required)	Holds a certificate indicated by NBPTS as related to an individual's work or assignment. Certificate or participation as a candidate must be completed and verified by the expiration date of the Delaware certificate.
Formal Study Groups	<del>30</del> per year <del>45</del> per eyele	Verified clock hours working as a member of a study group.	Activity Documentation Form and The Product of the Study.* (Prior approval required)	Must relate to the individual's work or assignment. Must include a product.

5.2 Documentation of Clock Hours for Relicensure

5.2.1 For renewal of the Continuing License, educators may complete and document clock hours for the variety of activities described under relicensure options. When college or university courses are used to fulfill the requirements, the following equivalencies will be used: 1 semester hour = equals 15 clock hours, 1 quarter hour = equals 10 clock hours, 1 CEU = equals 10 clock hours. To be documented for clock hours, activities must meet the criteria set forth in the regulations and must be appropriately verified and applied for. Professional development activities that are part of a DPAS assistance plan may be used to satisfy this requirement. Individuals, schools or school districts, or other agencies organizing or conducting professional development activities which may be used for fulfilling the requirements for renewal of a license are responsible for providing documentation of participation to all participants. Each educator is responsible for obtaining any necessary approvals, as set forth in 5.1, from his or her employer before participating in a professional development activity. An employer may not impose additional activity requirements on the award of clock hours towards renewal of a Continuing License.

5.2.2 Criteria for determining if activities are acceptable for clock hour credit for an educator include the following:

5.2.2.1 The activity enhances the knowledge and skills in the educator's job or contributes to his/her school or profession.

5.2.2.2 The activity meets one of the relicensure options.

5.2.2.3 The activity addresses one of the standards for the educator's area of the profession.

5.2.2.4 The activity is completed during the term of the educator's current Continuing License.

5.2.2.5 The activity addresses specific Professional Teaching or Administrator Standards.

5.2.2.6 Participation in, or completion of, the activity can be documented.

5.3 The Relicensure Application, Activity Documentation Form, and, where required, original or official documents will be used to verify activities for renewal of a Continuing License. Official transcripts or original grade slips are required documentation for successful completion of college courses.

5.4 For applicants who change positions (grade levels, content areas, areas of supervisory responsibility, etc.) during the five year term of a Continuing License, clock hours documented must have been appropriate to the educator's position at the time the clock hours were completed.

#### **6.0 Required Professional Development to Renew License**

To obtain renewal of a Continuing License, educators are required to participate in professional development activities totaling 90 clock hour every five years. The 90 clock hours must be completed during the five year term of the license. All activities must relate to the 14 **Del.C.** §1593, Delaware Professional Teaching or, 14 **Del.C.** §1594, Delaware Administrator Standards, or appropriate specialty organization standards.

#### **7.0 Activities Accepted for Renewal of Continuing License Professional Development Options for Renewal of a Continuing License**

Candidates for renewal of a Continuing License may select from a variety of professional development options, as set forth in the relicensure options approved by the Professional Standards Board, set forth in Section 5.1 and contained in the Guidelines for Issuance and Renewal of a Continuing License. The activities selected must be beyond the normal or specified requirements of the position. Professional development activities which fulfill the criteria for relicensure for which educators receive compensation may be submitted in fulfillment of the 90 clock hour requirement for relicensure. Graduate credits used to satisfy the 90 clock hour requirement for license renewal may, if part of a matriculated program, also be used for a salary increment on the state salary schedule, if they meet the requirements set forth in 14 **DE Admin. Code** 1505. The activities or options used to satisfy the 90 clock hour requirement for license renewal may be part of an approved professional development cluster eligible for a salary supplement.

#### **8.0 Extension for Exigent Circumstances of Continuing License**

The Department may extend a Continuing License for a period not to exceed one year, exigent circumstances warranting the necessity of such extension.

#### **9.0 Leave of Absence**

An educator may take a leave of absence of up to three years with no effect upon the validity or expiration of the Continuing License.

#### **10.0 Criminal Conviction History**

An applicant shall disclose his or her criminal conviction history upon application for a Continuing License. Failure to disclose a criminal conviction history is grounds for denial or revocation of a Continuing License as specified in 14 **Del.C.** §1219.

**11.0 ~~Effective Dates~~ Effect of Regulation**

This regulation shall apply to all requests for Continuing License, issuance and renewal, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate expiring on June 30, 2001 shall have until June 30, 2007 to meet the new Continuing License renewal standards. All administrators in instructional areas issued a Continuing License as of July 1, 2001, shall have until June 30, 2007 to meet the new Continuing License renewal standards. Educators holding a Professional Status Certificate or a Standard Certificate expiring July 1, 2001 or thereafter shall be required to satisfy the new Continuing License renewal standards as set forth herein.

**12.0 ~~Expiration During School Year~~ Exigent Circumstances**

A license holder whose license expires during the school year may have the Continuing License extended until the last day of the school year. This extension shall be considered an exigent circumstance and shall not exceed one (1) year in length.

**13.0 Secretary of Education Review**

The Secretary of Education may, upon the written request of the superintendent of a local school district or charter school administrator or other employing authority, review credentials submitted in application for a Continuing License on an individual basis and grant a Continuing License to an applicant who otherwise does not meet the requirements for a Continuing License, but whose effectiveness is documented by the local school district or charter school administrator or other employing authority.

**6 DE Reg. 518 (10/1/02)**

**7 DE Reg. 197 (8/1/03)**

**7 DE Reg. 1350 (4/1/04)**

---

**PROFESSIONAL STANDARDS BOARD**

Statutory Authority: 14 Delaware Code, Sections 1220(a) (14 **Del.C.** §1220(a))  
14 **DE Admin. Code** 1516

**PUBLIC NOTICE****Educational Impact Analysis Pursuant To 14 Del.C. Section 122(d)****1516 Standard Certificate****A. Type of Regulatory Action Requested**

Amendment to Existing Regulation

**B. Synopsis of Subject Matter of Regulation**

The Professional Standards Board, acting in cooperation and collaboration with the Department of Education, seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 1516 Standard Certificate. The regulation concerns the requirements for certification of educational personnel, pursuant to 14 **Del.C.** §1220(a). It is necessary to amend this regulation to align it with changes in statute. The passage of PRAXIS™ II, a test of content knowledge, is now required, where applicable and available, in addition to academic preparation, for the issuance of a Standard Certificate. That requirement, in addition to a revised definition of "educator", has been added to the regulation. This regulation was published in the December 1, 2005 *Register of Regulations*. As a result of comments received from the State Board of Education, the regulation was further amended. Applicants who possess no prior course work or professional development in pedagogy must also fulfill 15 credits or equivalent professional development.

**C. Impact Criteria**

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation addresses student achievement by establishing standards for the issuance of a standard certificate to educators who have acquired the prescribed knowledge, skill and/or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students to help ensure that students are instructed by educators who are highly qualified.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation helps to ensure that all teachers employed to teach students meet high standards and have acquired the prescribed knowledge, skill and/or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation addresses educator certification, not students' health and safety.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses educator certification, not students' legal rights.

5. Will the amended regulation preserve the necessary authority and flexibility of decision makers at the local board and school level? The amended regulation 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 unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels.

7. Will decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The decision-making authority and accountability for addressing the subject to be regulated rests with the Professional Standards Board, in collaboration with the Department of Education, and with the consent of the State Board of Education.

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

9. Is there a less burdensome method for addressing the purpose of the amended regulation? 14 **Del.C.** requires that we promulgate this regulation.

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 local school boards for compliance with the regulation.

### **1516 Standard Certificate**

**1.0 Content**

1.1 This regulation shall apply to the issuance of a Standard Certificate, pursuant to 14 **Del.C.** §1220(a).

**2.0 Definitions**

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

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

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

"**Educator**" means a public school employee who holds a license issued under the provisions of 14 **Del.C.** Ch. 12, and includes teachers, specialists, and administrators, and as otherwise defined by the Standards Board and the State Board pursuant to 14 **Del.C.** §1203, but does not include substitute teachers.

person licensed and certified by the State under 14 Del.C. §1202 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board and approved by the State Board. The term 'educator' does not include substitute teachers.

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

**"Fifteen (15) Credits or Their Equivalent in Professional Development"** means college credits or an equivalent number of hours, with one (1) credit equating to fifteen (15) hours taken either as part of a degree program or in addition to it, from a regionally accredited college or university or a professional development provider approved by the employing school district or charter school.

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

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

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

**"NASDTEC"** means The National Association of State Directors of Teacher Education and Certification. The organization represents professional standards boards, commissions and departments of education in all 50 states, the District of Columbia, the Department of Defense Dependent Schools, the U.S. Territories, New Zealand, and British Columbia, which are responsible for the preparation, licensure, and discipline of educational personnel.

**"NCATE"** means The National Council for Accreditation of Teacher Education, a national accrediting body for schools, colleges, and departments of education authorized by the U.S. Department of Education.

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

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

**"State Board"** means the State Board of Education of the State pursuant to 14 Del.C. §104.

**"Valid and Current License or Certificate from Another State"** means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

### **3.0 Standard Certificate**

The Department shall issue a Standard Certificate to an educator who holds a valid Delaware Initial, Continuing or Advanced License; or Limited Standard, Standard, or Professional Status Certificate issued prior to August 31, 2003, who has met the following requirements:

3.1 Acquired the prescribed knowledge, skill or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:

3.1.1 Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a Standard Certificate is requested; or

3.1.2 Meeting the requirements set forth in the relevant Department or Standards Board regulation governing the issuance of a Standard Certificate in the area for which a Standard Certificate is sought; or

3.1.3 Graduating from an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program, where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards, offered by a regionally accredited college or university, with a major or its equivalent in the area of the Standard Certificate requested, or

3.1.4 ~~Graduating from a state approved educator preparation program offered by a regionally accredited college or university, with a major in the area of the Standard Certificate requested, where the state~~

approval body employed the appropriate NASDTEC or NCATE speciality organization standards.

Satisfactorily completing the Alternative Routes for Licensure and Certification Program, the Special Institute for Licensure and Certification, or such other alternative educator preparation programs as the Secretary may approve; or

3.1.5 Holding a bachelor's degree from a regionally accredited college or university in any content area and for applicants applying after June 30, 2006 for their first standard certificate, satisfactory completion of fifteen (15) credits or their equivalent in professional development related to their area of certification, of which at least six (6) credits must focus on pedagogy, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; and

3.2 Graduating from an educator preparation program offered by a Delaware higher education institution approved by the Department pursuant to 14 DE Admin. Code 399, with a major in the area of the Standard Certificate requested; or

For applicants applying after December 31, 2005, where a Praxis™ II examination in the area of the Standard Certificate requested is applicable and available, achieving a passing score as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on the examination; or

3.3 Achieving a passing score, as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on a Praxis II examination in the area requested. Meeting the requirements for licensure and holding a:

3.4 A valid and current license of certificate from another state in the area for which a Standard Certificate is sought requested;

3.4.1 A "Valid and Current Certificate From Another State" means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

3.4.23.3.1 The Department shall not act on an application for certification if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty, or falsification of credentials, until the applicant provides evidence of the investigation's resolution.

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

3.4 Meeting the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C §1203.

3.5 If additional criteria are imposed by a specific regulation in the area for which a Standard Certificate is sought, the additional requirements must also be met.

#### **4.0 Multiple Certificates**

Educators may hold certificates in more than one area.

#### **5.0 An Applicant for a Standard Certificate Shall Submit Application Requirements**

An Application for a Standard Certificate shall submit:

5.1 Official transcripts; ~~or~~ and

5.2 Official scores on the Praxis II examination; ~~or if applicable and available or~~

5.3 Evidence of passage of the National Board for Professional Teaching Standards Certificate; if applicable; or

5.4 An official copy of the out of state license or certification, if applicable.

5.5 If applied for simultaneously with application for an Initial License, the applicant shall provide all required documentation for that application in addition to the documentation cited above.

#### **6.0 License Holders Requirements Application Procedures for License Holders**

If an applicant holds a valid Initial, Continuing, or Advanced Delaware License; or a Limited Standard,

Standard or Professional Status Certificate issued prior to August 31, 2003 and is requesting additional Standard Certificates, only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill or education required for the additional Standard Certificate requested is required.

#### **7.0 Exceptions Effect of Regulation**

This regulation shall apply to all requests for issuance of a Standard Certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current Professional Status certificate or Standard Certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License. The Department shall also recognize a Limited Standard Certificate ~~or Temporary Certificate~~ issued prior to August 31, 2003, provided that the educator successfully completes the requirements set forth in the prescription letter received with the Limited Standard ~~or Temporary~~ Certificate. Requirements must be completed by the expiration date of the Limited Standard ~~or Temporary~~ Certificate, but in no case later than December 31, 2009.

#### **8.0 Validity of a Standard Certificate**

A Standard Certificate is valid regardless of the assignment or employment status of the holder of a certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's Initial, Continuing, or Advanced License or Limited Standard, Standard, or Professional Status Certificate is revoked in accordance with 14 **DE Admin Code** 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board. Hearings shall be conducted in accordance with the Standards Board's Hearing Procedures and Rules.

#### **9.0 Secretary of Education Review**

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

**7 DE Reg. 161 (8/1/03)**

**7 DE Reg. 629 (11/1/03)**

**7 DE Reg. 1004 (2/1/04)**

**7 DE Reg. 1742 (6/1/04)**

**PROFESSIONAL STANDARDS BOARD**

Statutory Authority: 14 Delaware Code, Section 1220(a) (14 **Del.C.** §1220(a))  
14 **DE Admin. Code** 1521, 1522, 1525, 1528, 1534, 1539, 1540, 1541, 1542, 1543, 1548,  
1551, 1554 and 1556

**PUBLIC NOTICE****Educational Impact Analysis Pursuant To 14 Del.C. Section 122(D)**

**1521 Standard Certificate Agriculture Teacher; 1522 Standard Certificate Business Education Teacher; 1525 Standard Certificate English Teacher; 1528 Standard Certificate World Language Teacher Comprehensive; 1534 Standard Certificate Mathematics Teacher Secondary; 1539 Standard Certificate Social Studies Teacher Secondary; 1540 Standard Certificate Science Teacher Secondary; 1541 Standard Certificate Mathematics Teacher Middle Level; 1542 Standard Certificate Science Teacher Middle Level; 1543 Standard Certificate Art Teacher Comprehensive; 1548 Standard Certificate Music Teacher Comprehensive; 1551 Standard Certificate Physical Education Teacher Comprehensive; 1554 Standard Certificate Reading Specialist; 1556 Standard Certificate Elementary Teacher (Grades K-6)**

**A. Type of Regulatory Action Requested**

Amendment to Existing Regulation

**B. Synopsis of Subject Matter of Regulation**

The Professional Standards Board, acting in cooperation and collaboration with the Department of Education, seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 1521 Standard Certificate Agriculture Teacher, 1522 Standard Certificate Business Education Teacher, 1525 Standard Certificate English Teacher, 1528 Standard Certificate World Language Teacher Comprehensive, 1534 Mathematics Teacher Secondary, 1539 Standard Certificate Social Studies Teacher Secondary, 1541 Standard Certificate Mathematics Teacher Middle Level, 1542 Standard Certificate Science Teacher Middle Level, 1543 Art Teacher Comprehensive, 1548 Standard Certificate Music Teacher Comprehensive, 1551 Standard Certificate Physical Education Teacher Comprehensive, 1554 Standard Certificate Reading Specialist, and 1556 Standard Certificate Elementary Teacher Certificate. It is necessary to amend these regulations to align them with changes in statute. The passage of PRAXIS™ II, a test of content knowledge, is now required, where applicable and available, in addition to academic preparation for the issuance of a Standard Certificate. The definition of "a major or its equivalent" has been added to each regulation. In addition, the requirements for a standard certificate for individuals with a bachelor's degree by no educational experience or course work, have been amended to include a minimum of 15 credits of equivalent professional development, in addition to the passage of PRAXIS™ II in the content area to be taught.

**C. Impact Criteria**

1. Will the amended regulations help improve student achievement as measured against state achievement standards? The amended regulations address student achievement by establishing standards for the issuance of a standard certificate to educators who have acquired the prescribed knowledge, skill and/or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students to help ensure that students are instructed by educators who are highly qualified.

2. Will the amended regulations help ensure that all students receive an equitable education? The amended regulations help to ensure that all teachers employed to teach students meet high standards and have acquired the prescribed knowledge, skill and/or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students.

3. Will the amended regulations help to ensure that all students' health and safety are adequately protected? The amended regulations address educator certification, not students' health and safety.

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

amended regulations address educator certification, 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 unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels.

7. Will decision making authority and accountability for addressing the subjects to be regulated be placed in the same entity? The decision-making authority and accountability for addressing the subjects to be regulated rests with the Professional Standards Board, in collaboration with the Department of Education, and with the consent of the State Board of Education.

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

9. Is there a less burdensome method for addressing the purpose of the amended regulations? 14 **Del.C.** requires that we promulgate these regulations.

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

### **1521 Standard Certificate Agriculture Teacher**

#### **1.0 Content**

This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 **Del.C.** §1220(a), for Agriculture Teacher.

#### **2.0 Definitions**

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

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

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

**“Educator”** means a person licensed and certified by the State under 14 **Del.C.** §1202 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board approved by the State Board. The term ‘educator’ does not include substitute teachers.

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

**“Fifteen (15) Credits or Their Equivalent in Professional Development”** means college credits or an equivalent number of hours, with one (1) credit equating fifteen (15) hours, taken either as part of a degree program or in addition to it, from a regionally accredited college or university of a professional development provided approved by the employing school district or charter school.

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

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

**“Major or Its Equivalent”** means a minimum of thirty (30) semester hours of course work in a

particular content area.

**"NASDTEC"** means The National Association of State Directors of Teacher

Education and Certification. The organization represents professional standards boards, commissions and departments of education in all 50 states, the District of Columbia, the Department of Defense Dependent Schools, the U.S. Territories, New Zealand, and British Columbia, which are responsible for the preparation, licensure, and discipline of educational personnel.

**"NCATE"** means The National Council for Accreditation of Teacher Education, a national accrediting body for schools, colleges, and departments of education authorized by the U.S. Department of Education.

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

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

**"State Board"** means the State Board of Education of the State pursuant to 14 **Del.C.** §104.

**"Valid and Current License or Certificate from Another State"** means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

### 3.0 Standard Certificate

In accordance with 14 **Del.C.** §1220(a), the Department shall issue a Standard Certificate as an Agriculture Teacher to an applicant who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:

3.1 Comprehensive Vocational Agriculture (required for grades 9 to 12, and valid in grades 5 to 8 in a middle level school):

3.1.1 Bachelor's degree from a regionally accredited college or university and,

3.1.2 Professional Education

3.1.2.1 Completion of an approved teacher education program in Agriculture

Comprehensive or,

3.1.2.2 A minimum of 24 semester hours to include Human Development, Methods of Teaching Agriculture, Identifying and Treating Exceptionalities, Effective Teaching Strategies, Multicultural Education, and,

3.1.3 Specific Teaching Field

3.1.3.1 Major in Agriculture (with courses from at least four areas of agriculture as listed in

3.1.3.2) or,

3.1.3.2 A minimum of 30 semester hours in Agriculture to include at least one course in each of the following areas: Agricultural Economics, Animal Science, Entomology, Agricultural Engineering, Agronomy, Plant Science, and Computer Science.

3.2 Agricultural Specialist shall be required for any person engaged as an instructor in a program of specialized agricultural education such as Agricultural Mechanics, Horticulture, Agri-Business.

3.2.1 Bachelor's degree from a regionally accredited college or university and,

3.2.2 Professional Education

3.2.2.1 A minimum of 24 semester hours to include Human Development, Methods of Teaching Agriculture, Identifying and Treating Exceptionalities, Effective Teaching Strategies, Multicultural Education, and,

3.2.3 Technical Agriculture

3.2.3.1 A minimum of 15 semester hours of technical agriculture in the specialty area for which the applicant is being employed or,

3.2.3.2 Two years of successful, full time employment in an occupation directly related to the specialty area for which the applicant is being employed.

The Department shall issue a Standard Certificate as an Agriculture Teacher to an educator who holds a valid Delaware Initial, Continuing, or Advanced License; or a Limited Standard, Standard or Professional Status Certificate issued by the Department prior to August 31, 2003 who has met the following requirements:

3.1 Acquired the prescribed knowledge, skill or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:

3.1.1 Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a Standard Certificate is requested; or

3.1.2 Graduating from an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program, where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards, offered by a regionally accredited college or university, with a major or its equivalent in Agriculture; or

3.1.3 Satisfactorily completing the Alternative Routes for Licensure and Certification Program, the Special Institute for Licensure and Certification, or such other alternative educator preparation programs as the Secretary may approve; or

3.1.4 Holding a bachelor's degree from a regionally accredited college or university in any content area and for applicants applying after June 30, 2006 for their first Standard Certificate, satisfactory completion of fifteen (15) credits or their equivalent in professional development related to their area of certification, of which at least six (6) credits must focus on pedagogy, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; and

3.2 For applicants applying after December 31, 2005, where a Praxis™ II examination in the area of the Standard Certificate requested is applicable and available, achieving a passing score as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on the examination; or

3.3 Meeting the requirements for licensure and holding a valid and current license or certificate from another state in agriculture;

3.3.1 The Department shall not act on an application for certification if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials, until the applicant provides evidence of the investigation's resolution; or

3.4 Meeting the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C §1203.

#### **4.0 Effective Date**

This regulation shall be effective through June 30, 2006 only. Applicants who apply for a Standard Certificate as an Agriculture Teacher after that date must comply with the requirements set forth in 14 DE Admin. Code 1516.

#### **4.0 Multiple Certificates**

Educators may hold certificates in more than one area.

#### **5.0 Application Requirements**

An applicant for a Standard Certificate shall submit:

5.1 Official transcripts; and

5.2 Official scores on the Praxis II examination if applicable and available; or

5.3 Evidence of passage of the National Board for Professional Teaching Standards Certificate, if applicable; or

5.4 An official copy of the out of state license or certification, if applicable.

5.5 If applied for simultaneously with application for an Initial License, the applicant shall provide all required documentation for that application in addition to the documentation cited above.

**6.0 Application Procedures for License Holders**

If an applicant holds a valid Initial, Continuing, or Advanced Delaware License; or a Limited Standard, Standard or Professional Status Certificate issued prior to August 31, 2003 and is requesting additional Standard Certificates, only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill or education required for the additional Standard Certificate requested is required.

**7.0 Effect of Regulation**

This regulation shall apply to all requests for issuance of a Standard Certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current Professional Status Certificate or Standard Certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License or the Advanced License. The Department shall also recognize a Limited Standard Certificate issued prior to August 31, 2003, provided that the educator successfully completes the requirements set forth in the prescription letter received with the Limited Standard Certificate. Requirements must be completed by the expiration date of the Limited Standard Certificate, but in no case later than December 31, 2008.

**8.0 Validity of a Standard Certificate**

A Standard Certificate is valid regardless of the assignment or employment status of the holder of a certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's Initial, Continuing, or Advanced License or Limited Standard, Standard, or Professional Status Certificate is revoked in accordance with 14 DE Admin. Code 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board. Hearings shall be conducted in accordance with the Standards Board's Hearing Procedures and Rules.

**9.0 Secretary of Education Review**

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

**7 DE Reg. 775 (12/1/03)**

**1522 Standard Certificate Business Education Teacher****1.0 Content**

This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 Del.C. §1220(a), for Business Education Teacher (required for grades 9 to 12, and valid in grades 5 to 8 in a middle level school).

**2.0 Definitions**

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

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

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

**“Educator”** means a person licensed and certified by the State under 14 Del.C. §1202 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board and approved by the State Board. The term 'educator' does not include substitute teachers.

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

“Fifteen (15) Credits or Their Equivalent in Professional Development” means college credits or an equivalent number of hours, with one (1) credit equating to fifteen (15) hours, taken either as part of a degree program or in addition to it, from a regionally accredited college or university or a professional development provider approved by the employing school district or charter school.

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

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

“Major in Business” means a major in business administration or management, or a related field, including, but not limited to, accounting, economics, finance or marketing.

“Major or its Equivalent” means a minimum of thirty (30) semester hours of course work in a particular content area.

“NASDTEC” means The National Association of State Directors of Teacher Education and Certification. The organization represents professional standards boards, commissions and departments of education in all 50 states, the District of Columbia, the Department of Defense Dependent Schools, the U.S. Territories, New Zealand, and British Columbia, which are responsible for the preparation, licensure, and discipline of educational personnel.

“NCATE” means The National Council for Accreditation of Teacher Education, a national accrediting body for schools, colleges, and departments of education authorized by the U.S. Department of Education.

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

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

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

“Valid and Current License or Certificate from Another State” means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

### 3.0 Standard Certificate

In accordance with 14 **Del.C.** 1220(a), the Department shall issue a Standard Certificate as a Business Education Teacher to an applicant who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:

3.1 Professional Education

3.1.1 Completion of an approved teacher preparation program in the area of Business Education or;

3.1.2 A minimum of 27 semester hours to include Human Development, Methods of Teaching Basic Business Subjects, Methods of Teaching Business Information Systems, Identifying and Treating Exceptionalities, Effective Teaching Strategies, Multicultural Education, and;

3.2 Specific Teaching Field

3.2.1 Completion of a teacher education program in the area of Business Education or;

3.2.2 A minimum of 42 semester hours as specified below:

3.2.2.1 Accounting (6 semester hours)

3.2.2.2 Document Formatting (3 semester hours)

3.2.2.3 Business Information Systems (3 semester hours)

3.2.2.4 Business Computer Software Applications (6 semester hours)

3.2.2.5 Electronic Office Procedures (3 semester hours)

3.2.2.6 Business Communications (3 semester hours)

## PROPOSED REGULATIONS

~~3.2.2.7 Business Mathematics (3 semester hours)~~

~~3.2.2.8 Business Economics (3 semester hours)~~

~~3.2.2.9 Electives in Business (12 semester hours)~~

~~3.2.3 Alternative Certification of individuals with business experience as a substitute for course work in 3.2.2.~~

~~3.2.3.1 For each 4000 hours of business experience in a field appropriate to the course areas listed above, credit for 3 semester hours of that course work can be approved by the Department of Education for the purpose of certification.~~

~~3.2.3.2 At a minimum, an individual in this situation will have to complete or verify completion of the 12 semester hours of elective course work in Business (as well as the course work in Professional Education) to obtain the Standard Certificate.~~

~~3.3 Endorsement for Teaching Information Systems and Services Business Education Courses in Career Technical Schools shall be required of teachers in career technical schools teaching information systems and services courses in business education programs.~~

~~3.3.1 Standard Certificate in Business Education and nine semester hours of elective course work selected from the following:~~

~~3.3.1.1 Principles of Business Data Processing~~

~~3.3.1.2 COBOL Programming~~

~~3.3.1.3 Data Base Systems~~

~~3.3.1.4 Systems Analysis and Design~~

~~3.3.1.5 Programming Language Principles~~

~~3.3.1.6 RPG Programming.~~

~~3.3.2 This elective course work can satisfy part of the elective requirements specified in 3.3.1.~~

~~The Department shall issue a Standard Certificate as a Business Education Teacher to an educator who holds a valid Delaware Initial, Continuing or Advanced License; or Limited Standard, Standard, or Professional Status Certificate issued prior to August 31, 2003, who has met the following requirements:~~

~~3.1 Acquired the prescribed knowledge, skill or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:~~

~~3.1.1 Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a Standard Certificate is requested; or~~

~~3.1.2 Graduating from an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program, where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards, offered by a regionally accredited college or university, with a major or its equivalent in business education; or~~

~~3.1.3 Satisfactorily completing the Alternative Routes for Licensure and Certification Program, the Special Institute for Licensure and Certification, or such other alternative educator preparation programs as the Secretary may approve; or~~

~~3.1.4 Holding a bachelor's degree from a regionally accredited college or university in any content area and for applicants applying after June 30, 2006 for their first Standard Certificate, satisfactory completion of fifteen (15) credits or their equivalent in professional development related to their area of certification. Of which at least six (6) credits must focus on pedagogy, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; and~~

~~3.2 For applicants applying after December 31, 2005, where a Praxis™ II examination in the area of the Standard Certificate requested is applicable and available, achieving a passing score as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on the examination; or~~

~~3.3 Meeting the requirements for licensure and holding a valid and current license or certificate from another state in Business Education.~~

~~3.3.1 The Department shall not act on an application for certification if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty,~~

disloyalty or falsification of credentials, until the applicant provides evidence of the investigation's resolution; or  
3.4 Meeting the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C §1203.

**4.0 Effective Date**

This regulation shall be effective through June 30, 2006 only. Applicants who apply for a Standard Certificate as a Business Education teacher after that date must comply with the requirements set forth in 14 Del.C. §1516.

**4.0 Multiple Certificates**

Educators may hold certificates in more than one area.

**5.0 Application Requirements**

An applicant for a Standard Certificate shall submit:

- 5.1 Official transcripts; and
- 5.2 Official scores on the Praxis II examination if applicable and available; or
- 5.3 Evidence of passage of the National Board for Professional Teaching Standards Certificate, if applicable; or
- 5.4 An official copy of the out of state license or certification, if applicable.
- 5.5 If applied for simultaneously with application for an Initial License, the applicant shall provide all required documentation for that application in addition to the documentation cited above.

**6.0 Application Procedures for License Holders**

If an applicant holds a valid Initial, Continuing, or Advanced Delaware License; or a Limited Standard, Standard or Professional Status Certificate issued prior to August 31, 2003 and is requesting additional Standard Certificates, only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill or education required for the additional Standard Certificate requested is required.

**7.0 Effect of Regulation**

This regulation shall apply to all requests for issuance of a Standard Certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current Professional Status Certificate or Standard Certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License or the Advanced License. The Department shall also recognize a Limited Standard Certificate issued prior to August 31, 2003, provided that the educator successfully completes the requirements set forth in the prescription letter received with the Limited Standard Certificate. Requirements must be completed by the expiration date of the Limited Standard Certificate, but in no case later than December 31, 2008.

**8.0 Validity of a Standard Certificate**

A Standard Certificate is valid regardless of the assignment or employment status of the holder of a certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's Initial, Continuing, or Advanced License or Limited Standard, Standard, or Professional Status Certificate is revoked in accordance with 14 DE Admin. Code 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board. Hearings shall be conducted in accordance with the Standards Board's Hearing Procedures and Rules.

**9.0 Secretary of Education Review**

The Secretary of Education may, upon the written request of the superintendent of a local school district or charter school administrator or other employing authority, review credentials submitted in application for a Standard Certificate on an individual basis and grant a Standard Certificate to an applicant who otherwise does not meet the

requirements for a Standard Certificate, but whose effectiveness is documented by the local school district or charter school administrator or other employing authority.

**7 DE Reg. 775 (12/1/03)**

**1525 Standard Certificate English Teacher**

**1.0 Content**

This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 Del.C. §1220(a), for English Teacher (required for grades 9 to 12, and valid in grades ~~7 to 8~~ 5 to 8 in a middle level school).

**2.0 Definitions**

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

“**Certification**” means the issuance of a certificate, which may occur regardless of a recipient’s assignment or employment status.

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

“**Educator**” means a person licensed and certified by the State under 14 Del.C. §1202 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board approved by the State Board. The term ‘educator’ does not include substitute teachers.

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

“**Fifteen (15) Credits or Their Equivalent in Professional Development**” means college credits or an equivalent number of hours, with one (1) credit equating to fifteen (15) hours, taken either as part of a degree program or in addition to it, from a regionally accredited college or university or a professional development provider approved by the employing school district or charter school.

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

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

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

“**NASDTEC**” means The National Association of State Directors of Teacher Education and Certification. The organization represents professional standards boards, commissions and departments of education in all 50 states, the District of Columbia, the Department of Defense Dependent Schools, the U.S. Territories, New Zealand, and British Columbia, which are responsible for the preparation, licensure, and discipline of educational personnel.

“**NCATE**” means The National Council for Accreditation of Teacher Education, a national accrediting body for schools, colleges, and departments of education authorized by the U.S. Department of Education.

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

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

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

“**Valid and Current License or Certificate from Another State**” means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

**3.0 Standard Certificate**

In accordance with ~~14 Del.C. §1220(a)~~, the Department shall issue a Standard Certificate as an English Teacher to an applicant who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:

- ~~3.1 Bachelor's degree from a regionally accredited college or university and,~~
- ~~3.2 Professional Education~~
  - ~~3.2.1 Completion of an approved teacher education program in English or,~~
  - ~~3.2.2 A minimum of 27 semester hours to include Human Development, Methods of Teaching~~
  - ~~3.2.3 Secondary English (to include written composition and oral communication), Teaching of Reading, Identifying and Treating Exceptionalities, Effective Teaching Strategies,~~
  - ~~3.2.4 Multicultural Education, and,~~
- ~~3.3 Specific Teaching Field~~
  - ~~3.3.1 Completion of a major in English or,~~
  - ~~3.3.2 Completion of an approved teacher education program in English or,~~
  - ~~3.3.3 A minimum of 36 semester hours in English with at least one course in each of the following areas: Fundamentals of Speech, Advanced Written Composition, Linguistics, History of the English Language, Adolescent Literature, American Literature, English Literature, World Literature (other than American or English), Contemporary Literature.~~

The Department shall issue a Standard Certificate as an English Teacher to an educator who holds a valid Delaware Initial, Continuing, or Advanced License; or a Limited Standard, Standard or Professional Status Certificate issued by the Department prior to August 31, 2003 who has met the following requirements:

- 3.1 Acquired the prescribed knowledge, skill or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:
  - 3.1.1 Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a Standard Certificate is requested; or
  - 3.1.2 Graduating from an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program, where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards, offered by a regionally accredited college or university, with a major or its equivalent in English; or
  - 3.1.3 Satisfactorily completing the Alternative Routes for Licensure and Certification Program, the Special Institute for Licensure and Certification, or such other alternative educator preparation programs as the Secretary may approve; or
  - 3.1.4 Holding a bachelor's degree from a regionally accredited college or university in any content area and for applicants applying after June 30, 2006 for their first Standard Certificate, satisfactory completion of fifteen (15) credits or their equivalent in professional development related to their area of certification, of which at least six (6) credits must focus on pedagogy, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; and
- 3.2 For applicants applying after December 31, 2005, where a Praxis™ II examination in the area of the Standard Certificate requested applicable and available, achieving a passing score as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on the examination; or
- 3.3 Meeting the requirements for licensure and holding a valid and current license or certificate from another state in English:
  - 3.3.1 The Department shall not act on an application for certification if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials, until the applicant provides evidence of the investigation's resolution; or
- 3.4 Meeting the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C §1203.

**4.0 Effective Date**

~~This regulation shall be effective through June 30, 2006 only. Applicants who apply for a Standard Certificate as an English Teacher after that date must comply with the requirements set forth in 14 Del.C. §1516.~~

**4.0 Multiple Certificates**

Educators may hold certificates in more than one area.

**5.0 Application Requirements**

An applicant for a Standard Certificate shall submit:

- 5.1 Official transcripts; and
- 5.2 Official scores on the Praxis II examination if applicable and available; or
- 5.3 Evidence of passage of the National Board for Professional Teaching Standards Certificate, if applicable; or
- 5.4 An official copy of the out of state license or certification, if applicable.
- 5.5 If applied for simultaneously with application for an Initial License, the applicant shall provide all required documentation for that application in addition to the documentation cited above.

**6.0 Application Procedures for License Holders**

If an applicant holds a valid Initial, Continuing, or Advanced Delaware License; or a Limited Standard, Standard or Professional Status Certificate issued prior to August 31, 2003 and is requesting additional Standard Certificates, only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill or education required for the additional Standard Certificate requested is required.

**7.0 Effect of Regulation**

This regulation shall apply to all requests for issuance of a Standard Certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current Professional Status Certificate or Standard Certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License or the Advanced License. The Department shall also recognize a Limited Standard Certificate issued prior to August 31, 2003, provided that the educator successfully completes the requirements set forth in the prescription letter received with the Limited Standard Certificate. Requirements must be completed by the expiration date of the Limited Standard Certificate, but in no case later than December 31, 2008.

**8.0 Validity of a Standard Certificate**

A Standard Certificate is valid regardless of the assignment or employment status of the holder of a certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's Initial, Continuing, or Advanced License or Limited Standard, Standard, or Professional Status Certificate is revoked in accordance with 14 DE Admin. Code 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board. Hearings shall be conducted in accordance with the Standards Board's Hearing Procedures and Rules.

**9.0 Secretary of Education Review**

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

7 DE Reg. 775 (12/1/03)

**1528 Standard Certificate World Language Teacher Comprehensive****1.0 Content**

1.1 This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 Del.C. §1220(a), for World Language Teacher Comprehensive (Grades K to 12).

**2.0 Definitions**

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

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

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

**“Educator”** means a person licensed and certified by the State under 14 Del.C. §1202 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board and approved by the State Board. The term ‘educator’ does not include substitute teachers.

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

**“Fifteen (15) Credits or Their Equivalent in Professional Development”** means college credits or an equivalent number of hours, with one (1) credit equating to fifteen (15) hours taken either as part of a degree program or in addition to it, from a regionally accredited college or university or a professional development provider approved by the employing school district or charter school.

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

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

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

**“NASDTEC”** means The National Association of State Directors of Teacher Education and Certification. The organization represents professional standards boards, commissions and departments of education in all 50 states, the District of Columbia, the Department of Defense Dependent Schools, the U.S. Territories, New Zealand, and British Columbia, which are responsible for the preparation, licensure, and discipline of educational personnel.

**“NCATE”** means The National Council for Accreditation of Teacher Education, a national accrediting body for schools, colleges, and departments of education authorized by the U.S. Department of Education.

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

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

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

**“Valid and Current License or Certificate from Another State”** means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

**3.0 Standard Certificate**

In accordance with 14 Del.C. §1220(a), the Department shall issue a Standard Certificate as a World Language Teacher Comprehensive to an ~~applicant~~ educator who holds a valid Delaware Initial, Continuing, or Advanced License; or Limited Standard, Standard or Professional Status Certificate issued by the Department prior

## PROPOSED REGULATIONS

to August 31, 2003, and who meets has met the following requirements:

3.1 ~~A bachelor's degree from an NCATE specialty organization recognized educator preparation program offered by a regionally accredited college or university, with a major in the world language for which a Standard Certificate is sought; or~~

3.2 ~~A bachelor's degree from a state approved educator preparation program offered by a regionally accredited college or university, with a major in the world language for which a Standard Certificate is sought, where the state approval body employed the appropriate NASDTEC standards or NCATE specialty organization standards; or~~

3.3 ~~A bachelor's degree from a regionally accredited college or university, with a major in any field, and passage of the appropriate PRAXIS™ II tests approved by the Standards Board and the State Board in the world language for which a Standard Certificate is sought; or~~

3.4 ~~A bachelor's degree from a regionally accredited college or university, with a major in any field;~~  
and

3.4.1 ~~Where no PRAXIS™ II test is available, nationally recognized equivalent tests, such as the American Council on the Teaching of Foreign Languages (ACTFL) Oral Proficiency Interview and the ACTFL Writing Proficiency Test, may be substituted, in conjunction with completion of the courses set forth in 3.4.2 and 3.4.3 below. For tests of languages using a Roman alphabet, candidates are required to achieve an Advanced Low Level on the oral skills and an Advanced Low Level on the writing skills based on the ACTFL Proficiency Guidelines. For tests of languages using a non Roman alphabet, an Advanced Low Level on the oral skills and an Intermediate High level on the writing skills based on the ACTFL Proficiency Guidelines are required; and~~

3.4.2 ~~A minimum of twelve (12) semester hours of language pedagogy courses from a regionally accredited college or university, taken either as part of a degree program or independent of it, to include at least three (3) credits in each of the following:~~

3.4.2.1 ~~Standards and Approaches in Teaching World or Second Language;~~

3.4.2.2 ~~Second Language Acquisition~~

3.4.2.3 ~~Assessment and Testing in Second Languages;~~

3.4.2.4 ~~Curriculum Design and Classroom Management for World or Second Language;~~

and

3.4.3 ~~A minimum of three (3) semester hours of general education courses from a regionally accredited college or university, taken either as part of a degree program or independent of it, chosen from among the courses listed below:~~

3.4.3.1 ~~Human Development or Educational Psychology;~~

3.4.3.2 ~~Identifying and Treating Exceptionalities;~~

3.4.3.3 ~~Multicultural Education or International Education.~~

3.1 Acquired the prescribed knowledge, skill or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:

3.1.1 Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a Standard Certificate is requested; or

3.1.2 Graduating from an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program, where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards, offered by a regionally accredited college or university, with a major or its equivalent in the world language of the Standard Certificate requested; or

3.1.3 Satisfactorily completing the Alternative Routes for Licensure and Certification Program, the Special Institute for Licensure and Certification, or such other alternative educator preparation programs as the Secretary may approve; or

3.1.4 Holding a bachelor's degree from a regionally accredited college or university in any content area and for applicants applying after June 30, 2006 for their first Standard Certificate, satisfactory completion of fifteen (15) credits or their equivalent in professional development related to their area of certification, of which at least six (6) credits must focus on pedagogy, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; and

3.2 For applicants applying after December 31, 2005, where a Praxis™ II examination in the area of

the Standard Certificate requested is applicable and available, achieving a passing score, as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on the examination.

3.2.1 Where no PRAXIS II test is available, nationally recognized equivalent tests, such as the American Council on the Teaching of Foreign Languages (ACTFL) Oral Proficiency Interview and the ACTFL Writing Proficiency Test, may be substituted, in conjunction with completion of the courses set forth in 3.4.2 and 3.4.3 below. For tests of languages using a Roman alphabet, candidates are required to achieve an Advanced Low Level on the oral skills and an Advanced Low Level on the writing skills based on the ACTFL Proficiency Guidelines. For tests of languages using a non-Roman alphabet, an Advanced Low Level on the oral skills and an Intermediate High level on the writing skills based on the ACTFL Proficiency Guidelines are required; and

3.3 Meeting the requirements for licensure and holding a valid and current license or certificate from another state in a world language;

3.3.1 The Department shall not act on an application for certification if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials, until the applicant provides evidence of the investigation's resolution; or

3.4 Meeting the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C. §1203.

#### **4.0 Multiple Certificates**

Educators may hold certificates in more than one area.

#### **5.0 Application Requirements**

An applicant for a Standard Certificate shall submit:

5.1 Official transcripts; and

5.2 Official scores on the Praxis II examination if applicable and available; or

5.3 Evidence of passage of the National Board for Professional Teaching Standards Certificate, if applicable; or

5.4 An official copy of the out of state license or certification, if applicable.

5.5 If applied for simultaneously with application for an Initial License, the applicant shall provide all required documentation for that application in addition to the documentation cited above.

#### **6.0 Application Procedures for License Holders**

If an applicant holds a valid Initial, Continuing, or Advanced Delaware License; or a Limited Standard, Standard or Professional Status Certificate issued prior to August 31, 2003 and is requesting additional Standard Certificates, only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill or education required for the additional Standard Certificate requested is required.

#### **7.0 Effect of Regulation**

This regulation shall apply to all requests for issuance of a Standard Certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current Professional Status Certificate or Standard Certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License or the Advanced License. The Department shall also recognize a Limited Standard Certificate issued prior to August 31, 2003, provided that the educator successfully completes the requirements set forth in the prescription letter received with the Limited Standard Certificate. Requirements must be completed by the expiration date of the Limited Standard Certificate, but in no case later than December 31, 2008.

#### **8.0 Validity of a Standard Certificate**

A Standard Certificate is valid regardless of the assignment or employment status of the holder of a

certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's Initial, Continuing, or Advanced License or Limited Standard, Standard, or Professional Status Certificate is revoked in accordance with 14 DE Admin. Code 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board. Hearings shall be conducted in accordance with the Standards Board's Hearing Procedures and Rules.

## **9.0 Secretary of Education Review**

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

**9 DE Reg. 558 (10/1/05)**

### **1534 Standard Certificate Mathematics Teacher Secondary**

#### **1.0 Content**

This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 Del.C. §1220(a), for Mathematics Teacher Secondary (required for grades 7 9 to 12, and valid in grades 5 to 6-5 to 8 in a middle level school).

#### **2.0 Definitions**

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

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

"Department" means the Delaware Department of Education.

"Educator" means a person licensed and certified by the State under 14 Del.C. §1202 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board and approved by the State Board. The term 'educator' does not include substitute teachers.

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

"Fifteen (15) Credits or Their Equivalent in Professional Development" means college credits or an equivalent number of hours, with one (1) credit equating to fifteen (15) hours, taken either as part of a degree program or in addition to it, from a regionally accredited college or university or a professional development provider approved by the employing school district or charter school.

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

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

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

"NASDTEC" means The National Association of State Directors of Teacher Education and Certification. The organization represents professional standards boards, commissions and departments of education in all 50 states, the District of Columbia, the Department of Defense Dependent Schools, the U.S. Territories, New Zealand, and British Columbia, which are responsible for the preparation, licensure, and discipline of educational personnel.

"NCATE" means The National Council for Accreditation of Teacher Education, a national accrediting body for schools, colleges, and departments of education authorized by the U.S. Department of

Education.

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

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

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

**“Valid and Current License or Certificate from Another State”** means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

**3.0 Standard Certificate**

In accordance with 14 **Del.C.** §1220(a), the Department shall issue a Standard Certificate as a Mathematics Teacher Secondary to an applicant who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:

3.1 Bachelor's degree from a regionally accredited college or university and,

3.2 Professional Education

3.2.1 Completion of an approved teacher education program in Mathematics or,

3.2.2 Minimum of 24 semester hours including Human Development, Methods of Teaching Secondary Mathematics (including the use of technology in the classroom), Identifying and Treating Exceptionalities, Effective Teaching Strategies, Multicultural Education, and,

3.3 Specific Teaching Field

3.3.1 Major in Mathematics or,

3.3.2 Completion of an approved teacher education program in Mathematics or,

3.3.3 Minimum of 36 semester hours in mathematics to include: Calculus, with analytical geometry (2 courses), Advanced Geometry, Linear Algebra, Abstract Algebra, Discrete Math, Statistics and Probability, Computer Science, Mathematical Models and Applications and History of Math or Science.

The Department shall issue a Standard Certificate as a Mathematics Teacher to an educator who holds a valid Delaware Initial, Continuing, or Advanced License; or a Limited Standard, Standard or Professional Status Certificate issued by the Department prior to August 31, 2003 who has met the following requirements:

3.1 Acquired the prescribed knowledge, skill or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:

3.1.1 Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a Standard Certificate is requested; or

3.1.2 Graduating from an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program, where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards, offered by a regionally accredited college or university, with a major or its equivalent in Mathematics; or

3.1.3 Satisfactorily completing the Alternative Routes for Licensure and Certification Program, the Special Institute for Licensure and Certification, or such other alternative educator preparation programs as the Secretary may approve; or

3.1.4 Holding a bachelor's degree from a regionally accredited college or university in any content area and for applicants applying after June 30, 2006 for their first Standard Certificate, satisfactory completion of fifteen (15) credits or their equivalent in professional development related to their area of certification, of which at least six (6) credits must focus on pedagogy, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; and

3.2 For applicants applying after December 31, 2005, where a Praxis™ II examination in the area of the Standard Certificate requested is applicable and available, achieving a passing score as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on the examination; or

3.3 Meeting the requirements for licensure and holding a valid and current license or certificate from another state in Mathematics;

3.3.1 The Department shall not act on an application for certification if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials, until the applicant provides evidence of the investigation's resolution; or

3.4 Meeting the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C §1203.

#### **4.0 Effective Date**

~~This regulation shall be effective through June 30, 2006 only. Applicants who apply for a Standard Certificate as a Mathematics Teacher Secondary after that date must comply with the requirements set forth in 14 Del.C. §1516.~~

#### **4.0 Multiple Certificates**

Educators may hold certificates in more than one area.

#### **5.0 Application Requirements**

An applicant for a Standard Certificate shall submit:

5.1 Official transcripts; and

5.2 Official scores on the Praxis II examination if applicable and available; or

5.3 Evidence of passage of the National Board for Professional Teaching Standards Certificate, if applicable; or

5.4 An official copy of the out of state license or certification, if applicable.

5.5 If applied for simultaneously with application for an Initial License, the applicant shall provide all required documentation for that application in addition to the documentation cited above.

#### **6.0 Application Procedures for License Holders**

If an applicant holds a valid Initial, Continuing, or Advanced Delaware License; or a Limited Standard, Standard or Professional Status Certificate issued prior to August 31, 2003 and is requesting additional Standard Certificates, only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill or education required for the additional Standard Certificate requested is required.

#### **7.0 Effect of Regulation**

This regulation shall apply to all requests for issuance of a Standard Certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current Professional Status Certificate or Standard Certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License or the Advanced License. The Department shall also recognize a Limited Standard Certificate issued prior to August 31, 2003, provided that the educator successfully completes the requirements set forth in the prescription letter received with the Limited Standard Certificate. Requirements must be completed by the expiration date of the Limited Standard Certificate, but in no case later than December 31, 2008.

#### **8.0 Validity of a Standard Certificate**

A Standard Certificate is valid regardless of the assignment or employment status of the holder of a certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's Initial, Continuing, or Advanced License or Limited Standard, Standard, or Professional Status Certificate is revoked in accordance with 14 DE Admin. Code 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board. Hearings shall be conducted in accordance with the Standards Board's Hearing Procedures and Rules.

**9.0 Secretary of Education Review**

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

7 DE Reg. 775 (12/1/03)

**1539 Standard Certificate Social Studies Teacher Secondary****1.0 Content**

This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 Del.C. §1220(a), for Social Studies Teacher Secondary (required for grades 9 to 12, and valid in grades 5 to 8 in a middle level school).

**2.0 Definitions**

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

“Certification” means the issuance of a certificate, which may occur regardless of a recipient’s assignment or employment status.

“Department” means the Delaware Department of Education.

“Educator” means a person licensed and certified by the State under 14 Del.C. §1202 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board approved by the State Board. The term ‘educator’ does not include substitute teachers.

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

“Fifteen (15) Credits or Their Equivalent in Professional Development” means college credits or an equivalent number of hours, with one (1) credit equating to fifteen (15) hours, taken either as part of a degree program or in addition to it, from a regionally accredited college or university or a professional development provider approved by the employing school district or charter school.

“Immorality” means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator’s effectiveness by reason of his or her unfitness;

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

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

“NASDTEC” means The National Association of State Directors of Teacher Education and Certification. The organization represents professional standards boards, commissions and departments of education in all 50 states, the District of Columbia, the Department of Defense Dependent Schools, the U.S. Territories, New Zealand, and British Columbia, which are responsible for the preparation, licensure, and discipline of educational personnel.

“NCATE” means The National Council for Accreditation of Teacher Education, a national accrediting body for schools, colleges, and departments of education authorized by the U.S. Department of Education.

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

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

## PROPOSED REGULATIONS

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

“Valid and Current License or Certificate from Another State” means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

### 3.0 Standard Certificate

~~In accordance with 14 Del.C. §1220(a), the Department shall issue a Standard Certificate as a Social Studies Teacher to an applicant who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:~~

~~3.1 Bachelor's degree from an regionally accredited college or university and,~~

~~3.2 Professional Education~~

~~3.2.1 Completion of an approved teacher education program in the areas of Social Studies or History or,~~

~~3.2.2 A minimum of 24 semester hours to include Human Development, Methods of Teaching Secondary Social Studies, Identifying and Treating Exceptionalities, Effective Teaching Strategies, Multicultural Education, and,~~

~~3.3 Specific Teaching Field~~

~~3.3.1 A major in one of the following content areas: History, Geography, Political Science, or Economics and a minimum of 9 semester hours in each of the other 3 content areas or,~~

~~3.3.2 A major in Social Studies with a concentration of at least 21 semester hours in History, Geography, Political Science, or Economics and a minimum of 9 semester hours in each of the other 3 content areas or,~~

~~3.3.3 A total of 57 semester hours to include courses in at least 5 of the 7 areas listed below, with a concentration of 48 semester hours in areas 1 through 4 which includes a minimum of 6 semester hours in each of areas 1 to 4. Area 1: History course work must include at least a one semester course (basic survey) in United States History and a one semester course in World History (basic survey). Area 2: Geography course work must include at least a one semester course in world regional geography. Area 3: Political Science must include a one semester course in United States Government. Area 4: Economics Area 5: Anthropology Area 6: Sociology Area 7: Psychology~~

~~The Department shall issue a Standard Certificate as a Social Studies Teacher to an educator who holds a valid Delaware Initial, Continuing, or Advanced License; or a Limited Standard, Standard or Professional Status Certificate issued by the Department prior to August 31, 2003 who has met the following requirements:~~

~~3.1 Acquired the prescribed knowledge, skill or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:~~

~~3.1.1 Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a Standard Certificate is requested; or~~

~~3.1.2 Graduating from an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program, where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards, offered by a regionally accredited college or university, with a major or its equivalent in history, political science, government, civics, geography, or economics; or~~

~~3.1.3 Satisfactorily completing the Alternative Routes for Licensure and Certification Program, the Special Institute for Licensure and Certification, or such other alternative educator preparation programs as the Secretary may approve; or~~

~~3.1.4 Holding a bachelor's degree from a regionally accredited college or university in any content area and for applicants applying after June 30, 2006 for their first Standard Certificate, satisfactory completion of fifteen (15) credits of their equivalent in professional development related to their area of certification, of which at least six (6) credits must focus on pedagogy, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; and~~

~~3.2 For applicants applying after December 31, 2005, where a Praxis™ II examination in the area of~~

the Standard Certificate requested is applicable and available, achieving a passing score as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on the examination; or

3.3 Meeting the requirements for licensure and holding a valid and current license or certificate from another state in Social Studies;

3.3.1 The Department shall not act on an application for certification if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials, until the applicant provides evidence of the investigation's resolution; or

3.4 Meeting the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C §1203.

#### **4.0 Effective Date**

~~This regulation shall be effective through June 30, 2006 only. Applicants who apply for a Standard Certificate as a Social Studies Teacher after that date must comply with the requirements set forth in 14 DE Admin. Code 1516.~~

#### **4.0 Multiple Certificates**

Educators may hold certificates in more than one area.

#### **5.0 Application Requirements**

An applicant for a Standard Certificate shall submit:

5.1 Official transcripts; and

5.2 Official scores on the Praxis II examination if applicable and available; or

5.3 Evidence of passage of the National Board for Professional Teaching Standards Certificate, if applicable; or

5.4 An official copy of the out of state license or certification, if applicable.

5.5 If applied for simultaneously with application for an Initial License, the applicant shall provide all required documentation for that application in addition to the documentation cited above.

#### **6.0 Application Procedures for License Holders**

If an applicant holds a valid Initial, Continuing, or Advanced Delaware License; or a Limited Standard, Standard or Professional Status Certificate issued prior to August 31, 2003 and is requesting additional Standard Certificates, only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill or education required for the additional Standard Certificate requested is required.

#### **7.0 Effect of Regulation**

This regulation shall apply to all requests for issuance of a Standard Certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current Professional Status Certificate or Standard Certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License or the Advanced License. The Department shall also recognize a Limited Standard Certificate issued prior to August 31, 2003, provided that the educator successfully completes the requirements set forth in the prescription letter received with the Limited Standard Certificate. Requirements must be completed by the expiration date of the Limited Standard Certificate, but in no case later than December 31, 2008.

#### **8.0 Validity of a Standard Certificate**

A Standard Certificate is valid regardless of the assignment or employment status of the holder of a certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's Initial, Continuing, or Advanced License or Limited Standard, Standard, or Professional Status Certificate is revoked in

accordance with 14 **DE Admin. Code** 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board. Hearings shall be conducted in accordance with the Standards Board's Hearing Procedures and Rules.

### **9.0 Secretary of Education Review**

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

7 DE Reg. 775 (12/1/03)

### **1540 Standard Certificate Science Teacher Secondary**

#### **1.0 Content**

This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 **Del.C.** §1220(a), for Science Teacher Secondary (required for grades 9 to 12, and valid in a middle level school, grades 5 to 8). Certificates issued include Chemistry, Physics, Earth Science, Biology, Physical Science, and Integrated Science.

#### **2.0 Definitions**

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

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

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

**"Educator"** means a person licensed and certified by the State under 14 **Del.C.** §1202 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board and approved by the State Board. The term 'educator' does not include substitute teachers.

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

**"Fifteen (15) Credits or Their Equivalent in Professional Development"** means college credits or an equivalent number of hours, with one (1) credit equating to fifteen (15) hours, taken either as part of a degree program or in addition to it, from a regionally accredited college or university or a professional development provider approved by the employing school district or charter school.

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

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

**"Major or Its Equivalent"** means a minimum of thirty (30) semester hours of course work in a particular content area. A major or its equivalent for eligibility for a Standard Certificate for Physical Science includes physics, chemistry, astronomy, space science, engineering, or a related field. A major or its equivalent in any science discipline or related field is acceptable for eligibility for a Standard Certificate for Integrated Science.

**"NASDTEC"** means The National Association of State Directors of Teacher Education and Certification. The organization represents professional standards boards, commissions and departments of education in all 50 states, the District of Columbia, the Department of Defense Dependent Schools, the U.S. Territories, New Zealand, and British Columbia, which are responsible for the preparation, licensure, and discipline of educational personnel.

**"NCATE"** means The National Council for Accreditation of Teacher Education, a national accrediting body for schools, colleges, and departments of education authorized by the U.S. Department of

Education.

“Science Discipline” means those areas of science for which Delaware content standards have been established.

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

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

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

“Valid and Current License or Certificate from Another State” means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

**3.0 Standard Certificate**

In accordance with 14 Del.C. §1220(a), the Department shall issue a Standard Certificate as a Science Teacher to an applicant who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:

~~3.1 A bachelor's degree from an NCATE specialty organization recognized educator preparation program offered by a regionally accredited college or university, with a major in the science discipline for which a Standard Certificate is sought; or~~

~~3.2 A bachelor's degree from a state approved educator preparation program offered by a regionally accredited college or university, with a major in the science discipline for which a Standard Certificate is sought, where the state approval body employed the appropriate NASDTEC standards or NCATE specialty organization standards; or~~

~~3.3 Passage of the appropriate PRAXIS™ II test approved by the Standards Board and the State Board in the science discipline for which a Standard Certificate is sought; or~~

~~3.4 A bachelor's degree from a regionally accredited college or university with a major in the science discipline for which a Standard Certificate is sought; and~~

~~3.4.1 A minimum of twenty four (24) semester hours of pedagogy courses from a regionally accredited college or university to include at least three (3) credits in each of the following:~~

~~3.4.1.1 Human Development;~~

~~3.4.1.2 Methods of Teaching Secondary Science;~~

~~3.4.1.3 Teaching of Reading in the Content Areas or Identifying and Treating~~

~~Exceptionalities;~~

~~3.4.1.4 Effective Teaching Strategies; and~~

~~3.4.1.5 Multicultural Education; or~~

~~3.5 A bachelor's degree and completion of the semester hours indicated below from a regionally accredited college or university for the science discipline for which the Standard Certificate is sought, and completion of the course work set forth in 3.4.1:~~

~~3.5.1 Chemistry (Required grades 9 to 12; valid for Middle Level Science):~~

~~3.5.1.1 Forty two (42) semester hours, including:~~

~~3.5.1.1.1 At least twenty four (24) semester hours in Chemistry with at least three (3) semester hours in each the following, unless otherwise indicated:~~

~~3.5.1.1.1.1 Inorganic Chemistry (6 semester hours)~~

~~3.5.1.1.1.2 Advanced Inorganic or Physical Chemistry;~~

~~3.5.1.1.1.3 Organic Chemistry or Biochemistry;~~

~~3.5.1.1.1.4 Quantitative Analysis or Instrumental Analysis; and~~

~~3.5.1.1.2 At least three (3) semester hours in each of the following, unless~~

~~otherwise indicated:~~

~~3.5.1.1.2.1 Biology~~

# PROPOSED REGULATIONS

- 3.5.1.1.2.2 Physics;  
3.5.1.1.2.3 Mathematics (6 semester hours of college algebra or above);
- 3.5.1.1.2.4 Earth Sciences; and  
3.5.1.1.2.5 Environmental Education.
- 3.5.2 Physics (Required grades 9 to 12; valid for Middle Level Science):  
3.5.2.1 Forty two (42) semester hours, including:  
3.5.2.1.1 At least twenty four (24) semester hours in physics with at least three (3) semester hours in each of the following:  
3.5.2.1.1.1 Classical Thermodynamics;  
3.5.2.1.1.2 Atomic Physics;  
3.5.2.1.1.3 Nuclear Physics; and  
3.5.2.1.2 At least three (3) semester hours in each of the following, unless otherwise indicated:  
3.5.2.1.2.1 Biology;  
3.5.2.1.2.2 Chemistry;  
3.5.2.1.2.3 Mathematics (6 semester hours of college algebra or above);  
3.5.2.1.2.4 Earth Science; and  
3.5.2.1.2.5 Environmental Education.
- 3.5.3 Earth Science (Required grades 9 to 12; valid for Middle Level Science):  
3.5.3.1 Thirty nine (39) semester hours, including:  
3.5.3.1.1 At least twenty four (24) semester hours in earth science with at least three (3) semester hours in each of the following:  
3.5.3.1.1.1 Geology;  
3.5.3.1.1.2 Geography;  
3.5.3.1.1.3 Climatology;  
3.5.3.1.1.4 Meteorology;  
3.5.3.1.1.5 Oceanography;  
3.5.3.1.1.6 Astronomy; and  
3.5.3.1.2 At least three (3) semester hours in each of the following:  
3.5.3.1.2.1 Biology;  
3.5.3.1.2.2 Chemistry;  
3.5.3.1.2.3 Mathematics (college algebra or above);  
3.5.3.1.2.4 Physics or Physical Science; and  
3.5.3.1.2.5 Environmental Education.
- 3.5.4 Biology (Required grades 9 to 12; valid for Middle Level Science):  
3.5.4.1 Thirty nine (39) semester hours, including:  
3.5.4.1.1 At least twenty four (24) semester hours in biology, with at least three (3) semesters hours in each of the following:  
3.5.4.1.1.1 Botany;  
3.5.4.1.1.2 Zoology;  
3.5.4.1.1.3 Ecology;  
3.5.4.1.1.4 Genetics;  
3.5.4.1.1.5 Biochemistry;  
3.5.4.1.1.6 Physiology; and  
3.5.4.1.2 At least three (3) semester hours in each of the following:  
3.5.4.1.2.1 Chemistry;  
3.5.4.1.2.2 Physics or Physical Science;  
3.5.4.1.2.3 Mathematics (college algebra or above);  
3.5.4.1.2.4 Earth Sciences; and

---

# PROPOSED REGULATIONS

---

1477

3.5.4.1.2.5 Environmental Education-

3.5.5 Physical Science (Required grades 9 to 12; valid for Middle Level Science):

3.5.5.1 Thirty nine (39) semester hours in science, with at least three (3) semester hours in each of the following, unless otherwise indicated:

3.5.5.1.1 Chemistry (3 semester hours);

3.5.5.1.2 Physics (3 semester hours);

3.5.5.1.3 Biology (3 semester hours);

3.5.5.1.4 Mathematics (6 semester hours of college algebra or above);

3.5.5.1.5 Earth Science (3 semester hours); and

3.5.5.1.6 Environmental Science (3 semester hours).

3.5.6 Integrated Science (Required grades 9 to 12; valid for Middle Level Science):

3.5.6.1 A degree in biology, chemistry, physics, earth science, agriscience, or biochemistry or a major in one science discipline; and

3.5.6.2 Twenty seven (27) semester hours of course work, taken either as part of a degree program or in addition to it, as follows:

3.5.6.2.1 At least nine (9) semester hours of credit in biology, with at least three (3) semester hours in each of the following:-

3.5.6.2.1.1 Organismic or Macro Biology;

3.5.6.2.1.2 Molecular or Micro Biology; and

3.5.6.2.1.3 Systems or Environmental Biology; and

3.5.6.2.2 At least three (3) semester hours of credit in earth science, with courses from among the following:

3.5.6.2.2.1 Introductory Geology;

3.5.6.2.2.2 Geological Processes;

3.5.6.2.2.3 Air and Land and Water Processes;

3.5.6.2.2.4 Weather Systems;

3.5.6.2.2.5 Oceanography;

3.5.6.2.2.6 Coastal Processes; or

3.5.6.2.2.7 Geophysics; and

3.5.6.2.3 At least six (6) semester hours in chemistry, which may include biochemistry; and

3.5.6.2.4 At least three (3) semester hours in physics, including Newtonian physics or Physics I; and

3.5.6.2.5 At least three (3) semester hours in astronomy.

The Department shall issue the appropriate Standard Certificate as a Science Teacher in an established science discipline to an educator who holds a valid Delaware Initial, Continuing, or Advanced License; or a Limited Standard, Standard or Professional Status Certificate issued by the Department prior to August 31, 2003 who has met the following requirements:

3.1 Acquired the prescribed knowledge, skill or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:

3.1.1 Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a Standard Certificate is requested; or

3.1.2 Graduating from an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program, where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards, offered by a regionally accredited college or university, with a major or its equivalent in the science discipline for which a Standard Certificate is sought; or

3.1.3 Satisfactorily completing the Alternative Routes for Licensure and Certification Program, the Special Institute for Licensure and Certification, or such other alternative educator preparation programs as the Secretary may approve; or

3.1.4 Holding a bachelor's degree from a regionally accredited college or university in any content area and for applicants applying after June 30, 2006 for their first Standard Certificate, satisfactory

completion of fifteen (15) credits or their equivalent in professional development related to their area of certification, of which at least six (6) credits must focus on pedagogy, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; and

3.2 For applicants applying after December 31, 2005, where a Praxis™ II examination in the area of the Standard Certificate requested is applicable and available, achieving a passing score as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on the examination; or

3.3 Meeting the requirements for licensure and holding a valid and current license or certificate from another state in the science discipline for which a Standard Certificate is sought;

3.3.1 The Department shall not act on an application for certification if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials, until the applicant provides evidence of the investigation's resolution; or

3.4 Meeting the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C §1203.

#### **4.0 Effective Date**

~~This regulation shall be effective through June 30, 2006 only. Applicants who apply for a Standard Certificate as a Science Teacher after that date must comply with the requirements set forth in 14 DE Admin. Code 1516.~~

#### **4.0 Multiple Certificates**

Educators may hold certificates in more than one area.

#### **5.0 Application Requirements**

An applicant for a Standard Certificate shall submit:

5.1 Official transcripts; and

5.2 Official scores on the Praxis II examination if applicable and available; or

5.3 Evidence of passage of the National Board for Professional Teaching Standards Certificate, if applicable; or

5.4 An official copy of the out of state license or certification, if applicable.

5.5 If applied for simultaneously with application for an Initial License, the applicant shall provide all required documentation for that application in addition to the documentation cited above.

#### **6.0 Application Procedures for License Holders**

If an applicant holds a valid Initial, Continuing, or Advanced Delaware License; or a Limited Standard, Standard or Professional Status Certificate issued prior to August 31, 2003 and is requesting additional Standard Certificates, only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill or education required for the additional Standard Certificate requested is required.

#### **7.0 Effect of Regulation**

This regulation shall apply to all requests for issuance of a Standard Certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current Professional Status Certificate or Standard Certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License or the Advanced License. The Department shall also recognize a Limited Standard Certificate issued prior to August 31, 2003, provided that the educator successfully completes the requirements set forth in the prescription letter received with the Limited Standard Certificate. Requirements must be completed by the expiration date of the Limited Standard Certificate, but in no case later than December 31, 2008.

**8.0 Validity of a Standard Certificate**

A Standard Certificate is valid regardless of the assignment or employment status of the holder of a certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's Initial, Continuing, or Advanced License or Limited Standard, Standard, or Professional Status Certificate is revoked in accordance with 14 DE Admin. Code 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board. Hearings shall be conducted in accordance with the Standards Board's Hearing Procedures and Rules.

**9.0 Secretary of Education Review**

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

**6 DE Reg. 319 (9/1/02)**

**7 DE Reg. 775 (12/1/03)**

**8 DE Reg. 1138 (2/1/05)**

**1541 Standard Certificate Mathematics Teacher Middle Level****1.0 Content**

This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 Del.C. §1220(a), for Mathematics Teacher Middle Level (required for grades 7 to 8, and valid in grades 5 to 6 in a middle level school.

**2.0 Definitions**

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

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

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

"**Educator**" means a person licensed and certified by the State under 14 Del.C. §1202 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board and approved by the State Board. The term 'educator' does not include substitute teachers.

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

"**Fifteen (15) Credits or Their Equivalent in Professional Development**" means college credits or an equivalent number of hours, with one (1) credit equating to fifteen (15) hours, taken either as part of a degree program or in addition to it, from a regionally accredited college or university or a professional development provider approved by the employing school district or charter school.

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

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

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

"**NASDTEC**" means The National Association of State Directors of Teacher Education and Certification. The organization represents professional standards boards, commissions and departments of education in all 50 states, the District of Columbia, the Department of Defense Dependent Schools, the U.S.

Territories, New Zealand, and British Columbia, which are responsible for the preparation, licensure, and discipline of educational personnel.

**“NCATE”** means The National Council for Accreditation of Teacher Education, a national accrediting body for schools, colleges, and departments of education authorized by the U.S. Department of Education.

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

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

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

**“Valid and Current License or Certificate from Another State”** means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

### 3.0 Standard Certificate

In accordance with 14 Del.C. 1220(a), the Department shall issue a Standard Certificate as a Mathematics Teacher Middle Level to an applicant who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:

- 3.1 Bachelor's degree from a regionally accredited college or university and,
- 3.2 Professional Education:

- 3.2.1 Major in mathematics; or

- 3.2.2 Completion of an approved teacher education program in mathematics; or

- 3.2.3 Minimum of 24 semester hours in mathematics to include calculus (2 courses), geometry, finite or discrete math, statistics and probability, and mathematical models and applications and history of math or science.

The Department shall issue a Standard Certificate as a Mathematics Teacher Middle Level to an educator who holds a valid Delaware Initial, Continuing, or Advanced License; or a Limited Standard, Standard or Professional Status Certificate issued by the Department prior to August 31, 2003 who has met the following requirements:

3.1 Acquired the prescribed knowledge, skill or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:

- 3.1.1 Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a Standard Certificate is requested; or

- 3.1.2 Graduating from an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program, where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards, offered by a regionally accredited college or university, with a major or its equivalent in Mathematics; or

- 3.1.3 Satisfactorily completing the Alternative Routes for Licensure and Certification Program, the Special Institute for Licensure and Certification, or such other alternative educator preparation programs as the Secretary may approve; or

- 3.1.4 Holding a bachelor's degree from a regionally accredited college or university in any content area and for applicants applying after June 30, 2006 for their first Standard Certificate, satisfactory completion of fifteen (15) credits or their equivalent in professional development related to their area of certification, of which at least six (6) credits must focus on pedagogy, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; and

- 3.2 For applicants applying after December 31, 2005, where a Praxis™ II examination in the area of the Standard Certificate requested is applicable and available, achieving a passing score as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on the examination; or

3.3 Meeting the requirements for licensure and holding a valid and current license or certificate from another state in Mathematics;

3.3.1 The Department shall not act on an application for certification if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials, until the applicant provides evidence of the investigation's resolution; or

3.4 Meeting the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C. §1203.

#### **4.0 Effective Date**

~~This regulation shall be effective through June 30, 2006 only. Applicants who apply for a Standard Certificate as a Mathematics Teacher Middle Level after that date must comply with the requirements set forth in 14 Del.C. §1516.~~

#### **4.0 Multiple Certificates**

Educators may hold certificates in more than one area.

#### **5.0 Application Requirements**

An applicant for a Standard Certificate shall submit:

5.1 Official transcripts; and

5.2 Official scores on the Praxis II examination if applicable and available; or

5.3 Evidence of passage of the National Board for Professional Teaching Standards Certificate, if applicable; or

5.4 An official copy of the out of state license or certification, if applicable.

5.5 If applied for simultaneously with application for an Initial License, the applicant shall provide all required documentation for that application in addition to the documentation cited above.

#### **6.0 Application Procedures for License Holders**

If an applicant holds a valid Initial, Continuing, or Advanced Delaware License; or a Limited Standard, Standard or Professional Status Certificate issued prior to August 31, 2003 and is requesting additional Standard Certificates, only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill or education required for the additional Standard Certificate requested is required.

#### **7.0 Effect of Regulation**

This regulation shall apply to all requests for issuance of a Standard Certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current Professional Status Certificate or Standard Certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License or the Advanced License. The Department shall also recognize a Limited Standard Certificate issued prior to August 31, 2003, provided that the educator successfully completes the requirements set forth in the prescription letter received with the Limited Standard Certificate. Requirements must be completed by the expiration date of the Limited Standard Certificate, but in no case later than December 31, 2008.

#### **8.0 Validity of a Standard Certificate**

A Standard Certificate is valid regardless of the assignment or employment status of the holder of a certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's Initial, Continuing, or Advanced License or Limited Standard, Standard, or Professional Status Certificate is revoked in accordance with 14 DE Admin. Code 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board. Hearings shall be conducted in accordance with the Standards Board's Hearing Procedures and Rules.

### **9.0 Secretary of Education Review**

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

**7 DE Reg. 775 (12/1/03)**

### **1542 Standard Certificate Science Teacher Middle Level**

#### **1.0 Content**

This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 Del.C. §1220(a), for Science Teacher Middle Level (required for grades 7 to 8, and valid in a middle level school, grades 5 to 6).

#### **2.0 Definitions**

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

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

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

**“Educator”** means a person licensed and certified by the State under 14 Del.C. §1202 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board and approved by the State Board. The term ‘educator’ does not include substitute teachers.

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

**“Fifteen (15) Credits or Their Equivalent in Professional Development”** means college credits or an equivalent number of hours, with one (1) credit equating to fifteen (15) hours, taken either as part of a degree program or in addition to it, from a regionally accredited college or university or a professional development provider approved by the employing school district or charter school.

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

**“License”** means a credential which authorizes the holder to engage in the practice for which the license is used.

**“Major or its Equivalent”** means a minimum of thirty (30) semester hours of course work in a particular content area.

**“NASDTEC”** means The National Association of State Directors of Teacher Education and Certification. The organization represents professional standards boards, commissions and departments of education in all 50 states, the District of Columbia, the Department of Defense Dependent Schools, the U.S. Territories, New Zealand, and British Columbia, which are responsible for the preparation, licensure, and discipline of educational personnel.

**“NCATE”** means The National Council for Accreditation of Teacher Education, a national accrediting body for schools, colleges, and departments of education authorized by the U.S. Department of Education.

**“Science Discipline”** means those areas of science for which Delaware content standards have been established.

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

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

§1201.

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

“Valid and Current License or Certificate from Another State” means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

### 3.0 Standard Certificate

In accordance with ~~14 Del.C. §1220(a)~~, the Department shall issue a Standard Certificate as a Science Teacher Middle Level to an applicant who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:

3.1 ~~A bachelor’s degree from an NCATE specialty organization recognized educator preparation program offered by a regionally accredited college or university, with a major in general science, middle school science, or a science discipline; or~~

3.2 ~~A bachelor’s degree from a state approved educator preparation program offered by a regionally accredited college or university, with a major in general science, middle school science, or a science discipline where the state approval body employed the appropriate NASDTEC standards or NCATE specialty organization standards; or~~

3.3 ~~Passage of the appropriate PRAXIS™ II test approved by the Standards Board and the State Board of Education in science; or~~

3.4 ~~A bachelor’s degree from a regionally accredited college or university with a major in general science, middle level science, or a science discipline; and~~

3.4.1 ~~A minimum of twenty four (24) semester hours of pedagogy courses from a regionally accredited college or university to include:~~

~~3.4.1.1 Human Development;~~

~~3.4.1.2 Methods of Teaching Middle School or Secondary Science;~~

~~3.4.1.3 Teaching of Reading in the Content Areas or Identifying and Treating~~

~~Exceptionalities;~~

~~3.4.1.4 Effective Teaching Strategies; and~~

~~3.4.1.5 Multicultural Education; or~~

3.5 ~~Completion of the pedagogy requirements set forth in section 3.4.1 and a total of thirty six (36) semester hours in science, with a minimum of:~~

~~3.5.1 Mathematics (3 semester hours);~~

~~3.5.2 Environmental Education (3 semester hours);~~

~~3.5.3 Earth Science (6 semester hours);~~

~~3.5.4 Biology (12 semester hours); and~~

~~3.5.5 Chemistry, physics, and physical science (12 semester hours combined with a minimum of 3 semester hours in each area).~~

The Department shall issue a Standard Certificate as a Middle School Science Teacher to an educator who holds a valid Delaware Initial, Continuing, or Advanced License; or a Limited Standard, Standard or Professional Status Certificate issued by the Department prior to August 31, 2003 who has met the following requirements:

3.1 Acquired the prescribed knowledge, skill or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:

3.1.1 Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a Standard Certificate is requested; or

3.1.2 Graduating from an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program, where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards, offered by a regionally accredited college or university, with a major or its equivalent in any science discipline; or

3.1.3 Satisfactorily completing the Alternative Routes for Licensure and Certification Program, the Special Institute for Licensure and Certification, or such other alternative educator preparation programs as the

Secretary may approve; or

3.1.4 Holding a bachelor's degree from a regionally accredited college or university in any content area and for applicants applying after June 30, 2006 for their first Standard Certificate, satisfactory completion of fifteen (15) credits or their equivalent in professional development related to their area of certification, of which at least six (6) credits must focus on pedagogy, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; and

3.2 For applicants applying after December 31, 2005, where a Praxis™ II examination in the area of the Standard Certificate requested is applicable and available, achieving a passing score as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on the examination; or

3.3 Meeting the requirements for licensure and holding a valid and current license or certificate from another state in Middle School Science;

3.3.1 The Department shall not act on an application for certification if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials, until the applicant provides evidence of the investigation's resolution; or

3.4 Meeting the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C §1203.

#### **4.0 Effective Date**

~~This regulation shall be effective through June 30, 2006 only. Applicants who apply for a Standard Certificate as a Science Teacher Middle School after that date must comply with the requirements set forth in 14 Del.C. §1516.~~

#### **4.0 Multiple Certificates**

Educators may hold certificates in more than one area.

#### **5.0 Application Requirements**

An applicant for a Standard Certificate shall submit:

5.1 Official transcripts; and

5.2 Official scores on the Praxis II examination if applicable and available; or

5.3 Evidence of passage of the National Board for Professional Teaching Standards Certificate, if applicable; or

5.4 An official copy of the out of state license or certification, if applicable.

5.5 If applied for simultaneously with application for an Initial License, the applicant shall provide all required documentation for that application in addition to the documentation cited above.

#### **6.0 Application Procedures for License Holders**

If an applicant holds a valid Initial, Continuing, or Advanced Delaware License; or a Limited Standard, Standard or Professional Status Certificate issued prior to August 31, 2003 and is requesting additional Standard Certificates, only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill or education required for the additional Standard Certificate requested is required.

#### **7.0 Effect of Regulation**

This regulation shall apply to all requests for issuance of a Standard Certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current Professional Status Certificate or Standard Certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License or the Advanced License. The Department shall also recognize a Limited Standard Certificate issued prior to August 31, 2003, provided that the educator successfully completes the requirements set forth in the prescription letter received with the Limited

Standard Certificate. Requirements must be completed by the expiration date of the Limited Standard Certificate, but in no case later than December 31, 2008.

### **8.0 Validity of a Standard Certificate**

A Standard Certificate is valid regardless of the assignment or employment status of the holder of a certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's Initial, Continuing, or Advanced License or Limited Standard, Standard, or Professional Status Certificate is revoked in accordance with 14 DE Admin. Code 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board. Hearings shall be conducted in accordance with the Standards Board's Hearing Procedures and Rules.

### **9.0 Secretary of Education Review**

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

**7 DE Reg. 775 (12/1/03)**

**8 DE Reg. 1139 (2/1/05)**

## **1543 Standard Certificate Art Teacher Comprehensive**

### **4.0 Content**

This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 Del.C. §1220(a), for Art Teacher Comprehensive (grades K to 12).

### **2.0 Definitions**

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

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

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

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

### **3.0 Standard Certificate**

In accordance with 14 Del.C. §1220(a), the Department shall issue a Standard Certificate as an Art Teacher Comprehensive to an applicant who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:

3.1 Bachelor's degree from an regionally accredited college or university and,

3.2 Professional Education

3.2.1 Completion of an approved teacher education program in Elementary and Secondary Art

or,

3.2.2 Minimum of 27 semester hours to include Human Development, Methods of Teaching Art Elementary Level, Methods of Teaching Art Secondary Level, Art for Special Education, Effective Teaching Strategies, Multicultural Education, and,

3.3 Specific Teaching Field

3.3.1 Major in Art or,

3.3.2 Completion of an approved teacher education program in elementary and secondary art

or,

~~3.3.3 Minimum of 36 semester hours including a minimum of two courses in each of the following areas: Drawing, Painting, Design and Art History, Aesthetics, Graphics, Printmaking, and Related Processes and Three Dimensional Arts and Crafts including 1 course in Ceramics.~~

#### **4.0 Effective Date**

~~This regulation shall be effective through June 30, 2006 only. Applicants who apply for a Standard Certificate as an Art Teacher Comprehensive after that date must comply with the requirements set forth in 14 Del.C. §1516.~~

#### **1.0 Content**

~~This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 Del.C. §1220(a), for Art Teacher Comprehensive (grades K to12).~~

#### **2.0 Definitions**

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

**“Certificate”** means the issuance of a certificate, which may occur regardless of a recipient's assignment or employment status.

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

**“Educator”** means a person licensed and certified by the State under 14 Del.C. §1202 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board and approved by the State Board. The term ‘educator’ does not include substitute teachers.

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

**“Fifteen (15) Credits or Their Equivalent in Professional Development”** means college credits or an equivalent number of hours, with one (1) credit equating to fifteen (15) hours, taken either as part of a degree program or in addition to it, from a regionally accredited college or university or a professional development provider approved by the employing school district or charter school.

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

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

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

**“NASDTEC”** means The National Association of State Directors of Teacher Education and Certification. The organization represents professional standards boards, commissions and departments of education in all 50 states, the District of Columbia, the Department of Defense Dependent Schools, the U.S. Territories, New Zealand, and British Columbia, which are responsible for the preparation, licensure, and discipline of educational personnel.

**“NCATE”** means The National Council for Accreditation of Teacher Education, a national accrediting body for schools, colleges, and departments of education authorized by the U.S. Department of Education.

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

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

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

“Valid and Current License or Certificate from Another State” means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

### **3.0 Standard Certificate**

The Department shall issue a Standard Certificate as an Art Teacher to an educator who holds a valid Delaware Initial, Continuing, or Advanced License; or a Limited Standard, Standard or Professional Status Certificate issued by the Department prior to August 31, 2003 who has met the following requirements:

3.1 Acquired the prescribed knowledge, skill or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:

3.1.1 Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a Standard Certificate is requested; or

3.1.2 Graduating from an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program, where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards, offered by a regionally accredited college or university, with a major or its equivalent in Art; or

3.1.3 Satisfactorily completing the Alternative Routes for Licensure and Certification Program, the Special Institute for Licensure and Certification, or such other alternative educator preparation programs as the Secretary may approve; or

3.1.4 Holding a bachelor’s degree from a regionally accredited college or university in any content area and for applicants applying after June 30, 2006 for their first Standard Certificate, satisfactory completion of fifteen (15) credits or their equivalent in professional development related to their area of certification, of which at least six (6) credits must focus on pedagogy, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; and

3.2 For applicants applying after December 31, 2005, where a Praxis™ II examination in the area of the Standard Certificate requested is applicable and available, achieving a passing score as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on the examination; or

3.3 Meeting the requirements for licensure and holding a valid and current license or certificate from another state in Art;

3.3.1 The Department shall not act on an application for certification if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials, until the applicant provides evidence of the investigation’s resolution; or

3.4 Meeting the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C §1203.

### **4.0 Multiple Certificates**

Educators may hold certificates in more than one area.

### **5.0 Application Requirements**

An applicant for a Standard Certificate shall submit:

5.1 Official transcripts; and

5.2 Official scores on the Praxis II examination if applicable and available; or

5.3 Evidence of passage of the National Board for Professional Teaching Standards Certificate, if applicable; or

5.4 An official copy of the out of state license or certification, if applicable.

5.5 If applied for simultaneously with application for an Initial License, the applicant shall provide all required documentation for that application in addition to the documentation cited above.

**6.0 Application Procedures for License Holders**

If an applicant holds a valid Initial, Continuing, or Advanced Delaware License; or a Limited Standard, Standard or Professional Status Certificate issued prior to August 31, 2003 and is requesting additional Standard Certificates, only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill or education required for the additional Standard Certificate requested is required.

**7.0 Effect of Regulation**

This regulation shall apply to all requests for issuance of a Standard Certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current Professional Status Certificate or Standard Certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License or the Advanced License. The Department shall also recognize a Limited Standard Certificate issued prior to August 31, 2003, provided that the educator successfully completes the requirements set forth in the prescription letter received with the Limited Standard Certificate. Requirements must be completed by the expiration date of the Limited Standard Certificate, but in no case later than December 31, 2008.

**8.0 Validity of a Standard Certificate**

A Standard Certificate is valid regardless of the assignment or employment status of the holder of a certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's Initial, Continuing, or Advanced License or Limited Standard, Standard, or Professional Status Certificate is revoked in accordance with 14 DE Admin. Code 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board. Hearings shall be conducted in accordance with the Standards Board's Hearing Procedures and Rules.

**9.0 Secretary of Education Review**

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

**7 DE Reg. 775 (12/1/03)**

**1548 Standard Certificate Music Teacher Comprehensive****1.0 Content**

This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 Del.C. §1220(a), for Music Teacher Comprehensive (grades K to 12).

**2.0 Definitions**

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

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

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

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

**3.0 Standard Certificate**

In accordance with 14 Del.C. §1220(a), the Department shall issue a Standard Certificate as a Music

Teacher Comprehensive to an applicant who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:

- 3.1 Bachelor's degree from a regionally accredited college or university; and
- 3.2 Professional Education
  - 3.2.1 Completion of an approved comprehensive teacher education program in Music or,
  - 3.2.2 Minimum of 27 semester hours to include Human Development, Methods of Teaching Music Elementary Level, Methods of Teaching Music Secondary Level, Identifying and Treating Exceptionalities, Effective Teaching Strategies, Multicultural Education, and,
- 3.3 Specific Teaching Field
  - 3.3.1 Major in Music or,
  - 3.3.2 Completion of an approved teacher education program in Elementary and Secondary Music or,
  - 3.3.3 Minimum of 36 semester hours including course work in Music Theory, Music Literature, and Musical Performance.

#### **4.0 Effective Date**

This regulation shall be effective through June 30, 2006 only. Applicants who apply for a Standard Certificate as a Music Teacher Comprehensive after that date must comply with the requirements set forth in 14 Del.C. §1516.

#### **1.0 Content**

This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 Del.C. §1220(a), for Music Teacher Comprehensive (grades K to12).

#### **2.0 Definitions**

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

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

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

**"Educator"** means a person licensed and certified by the State under 14 Del.C. §1202 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board and approved by the State Board. The term 'educator' does not include substitute teachers.

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

**"Fifteen (15) Credits or Their Equivalent in Professional Development"** means college credits or an equivalent number of hours, with one (1) credit equating to fifteen (15) hours, taken either as part of a degree program or in addition to it, from a regionally accredited college or university or a professional development provider approved by the employing school district or charter school.

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

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

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

**"NASDTEC"** means The National Association of State Directors of Teacher Education and Certification. The organization represents professional standards boards, commissions and departments of education in all 50 states, the District of Columbia, the Department of Defense Dependent Schools, the U.S.

Territories, New Zealand, and British Columbia, which are responsible for the preparation, licensure, and discipline of educational personnel.

**“NCATE”** means The National Council for Accreditation of Teacher Education, a national accrediting body for schools, colleges, and departments of education authorized by the U.S. Department of Education.

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

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

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

**“Valid and Current License or Certificate from Another State”** means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

### **3.0 Standard Certificate**

The Department shall issue a Standard Certificate as a Music Teacher to an educator who holds a valid Delaware Initial, Continuing, or Advanced License; or a Limited Standard, Standard or Professional Status Certificate issued by the Department prior to August 31, 2003 who has met the following requirements:

3.1 Acquired the prescribed knowledge, skill or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:

3.1.1 Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a Standard Certificate is requested; or

3.1.2 Graduating from an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program, where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards, offered by a regionally accredited college or university, with a major or its equivalent in Music; or

3.1.3 Satisfactorily completing the Alternative Routes for Licensure and Certification Program, the Special Institute for Licensure and Certification, or such other alternative educator preparation programs as the Secretary may approve; or

3.1.4 Holding a bachelor's degree from a regionally accredited college or university in any content area and for applicants applying after June 30, 2006 for their first Standard Certificate, satisfactory completion of fifteen (15) credits or their equivalent in professional development related to their area of certification, of which at least six (6) credits must focus on pedagogy, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; and

3.2 For applicants applying after December 31, 2005, where a Praxis™ II examination in the area of the Standard Certificate requested is applicable and available, achieving a passing score as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on the examination; or

3.3 Meeting the requirements for licensure and holding a valid and current license or certificate from another state in Music;

3.3.1 The Department shall not act on an application for certification if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials, until the applicant provides evidence of the investigation's resolution; or

3.4 Meeting the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 **Del.C.** §1203.

### **4.0 Multiple Certificates**

Educators may hold certificates in more than one area.

**5.0 Application Requirements**

An applicant for a Standard Certificate shall submit:

5.1 Official transcripts; and

5.2 Official scores on the Praxis II examination if applicable and available; or

5.3 Evidence of passage of the National Board for Professional Teaching Standards Certificate, if applicable; or

5.4 An official copy of the out of state license or certification, if applicable.

5.5 If applied for simultaneously with application for an Initial License, the applicant shall provide all required documentation for that application in addition to the documentation cited above.

**6.0 Application Procedures for License Holders**

If an applicant holds a valid Initial, Continuing, or Advanced Delaware License; or a Limited Standard, Standard or Professional Status Certificate issued prior to August 31, 2003 and is requesting additional Standard Certificates, only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill or education required for the additional Standard Certificate requested is required.

**7.0 Effect of Regulation**

This regulation shall apply to all requests for issuance of a Standard Certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current Professional Status Certificate or Standard Certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License or the Advanced License. The Department shall also recognize a Limited Standard Certificate issued prior to August 31, 2003, provided that the educator successfully completes the requirements set forth in the prescription letter received with the Limited Standard Certificate. Requirements must be completed by the expiration date of the Limited Standard Certificate, but in no case later than December 31, 2008.

**8.0 Validity of a Standard Certificate**

A Standard Certificate is valid regardless of the assignment or employment status of the holder of a certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's Initial, Continuing, or Advanced License or Limited Standard, Standard, or Professional Status Certificate is revoked in accordance with 14 DE Admin. Code 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board. Hearings shall be conducted in accordance with the Standards Board's Hearing Procedures and Rules.

**9.0 Secretary of Education Review**

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

7 DE Reg. 775 (12/1/03)

**1551 Standard Certificate Physical Education Teacher Comprehensive****1.0 Content**

This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 DeI.C. §1220(a), for Physical Education Teacher Comprehensive (Grades K to 12).

**2.0 Definitions**

2.1 The following words and terms, when used in this regulation, shall have the following meaning

unless the context clearly indicates otherwise:

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

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

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

### **3.0 Standard Certificate**

In accordance with ~~14 Del.C. §1220(a)~~, the Department shall issue a Standard Certificate as a Physical Education Teacher Comprehensive to an applicant who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:

3.1 Bachelor's degree from a regionally accredited college or university and,

3.2 Professional Education

3.2.1 Completion of an approved teacher preparation program in Physical Education (must include K to 12) or,

3.2.2 Minimum of 27 semester hours to include Human Development, Methods of Teaching Physical Education in two of the following three areas: K to 4, 5 to 8, 9 to 12, Special or Adapted Physical Education, Effective Teaching Strategies, Multicultural Education, and,

3.3 Specific Teaching Field

3.3.1 Major in Physical Education or,

3.3.2 Completion of an approved teacher preparation program in Physical Education, K-12 or,

3.3.3 Minimum of 45 semester hours including course work in the following areas of Physical

Education:

3.3.3.1 Foundations and Theory (15 semester hours): History, Philosophy, Administration, Program Planning, Concepts of Play, Coaching Strategy and Techniques, Evaluation

3.3.3.2 Movement Experience\* (18 semester hours): Individual Sports, Dual Sports, Team Sports, Rhythms, Aquatics, Low Organization or Cooperation Games, Gymnastics, Recreation and Leisure Activities, Outdoor Education, Adventure Activity, Physical Conditioning. (\*Must include two courses in Elementary School Physical Education Activities)

3.3.3.3 Science (12 semester hours): Anatomical, Physiological, Biomechanical, Kinesiological, Exercise Performance, Technical Applications (including computers)

### **4.0 Effective Date**

This regulation shall be effective through June 30, 2006 only. Applicants who apply for a Standard Certificate as a Physical Education Teacher Comprehensive after that date must comply with the requirements set forth in ~~14 Del.C. §1516~~.

### **1.0 Content**

This regulation shall apply to the requirements for a Standard Certificate, pursuant to ~~14 Del.C. §1220(a)~~, for Physical Education Teacher Comprehensive (Grades K to 12).

### **2.0 Definitions**

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

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

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

**"Educator"** means a person licensed and certified by the State under ~~14 Del.C. §1202~~ to engage in the practice of instruction, administration or other related professional support services in Delaware public

schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board and approved by the State Board. The term 'educator' does not include substitute teachers.

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

"**Fifteen (15) Credits or Their Equivalent in Professional Development**" means college credits or an equivalent number of hours, with one (1) credit equating to fifteen (15) hours, taken either as part of a degree program or in addition to it, from a regionally accredited college or university or a professional development provider approved by the employing school district or charter school.

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

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

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

"**NASDTEC**" means The National Association of State Directors of Teacher Education and Certification. The organization represents professional standards boards, commissions and departments of education in all 50 states, the District of Columbia, the Department of Defense Dependent Schools, the U.S. Territories, New Zealand, and British Columbia, which are responsible for the preparation, licensure, and discipline of educational personnel.

"**NCATE**" means The National Council for Accreditation of Teacher Education, a national accrediting body for schools, colleges, and departments of education authorized by the U.S. Department of Education.

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

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

"**State Board**" means the State Board of Education of the State pursuant to 14 Del.C. §104.

"**Valid and Current License or Certificate from Another State**" means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

### **3.0 Standard Certificate**

The Department shall issue a Standard Certificate as a Physical Education Teacher to an educator who holds a valid Delaware Initial, Continuing, or Advanced License; or a Limited Standard, Standard or Professional Status Certificate issued by the Department prior to August 31, 2003 who has met the following requirements:

3.1 Acquired the prescribed knowledge, skill or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:

3.1.1 Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a Standard Certificate is requested; or

3.1.2 Graduating from an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program, where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards, offered by a regionally accredited college or university, with a major or its equivalent in Physical Education; or

3.1.3 Satisfactorily completing the Alternative Routes for Licensure and Certification Program, the Special Institute for Licensure and Certification, or such other alternative educator preparation programs as the Secretary may approve; or

3.1.4 Holding a bachelor's degree from a regionally accredited college or university in any content area and for applicants applying after June 30, 2006 for their first Standard Certificate, satisfactory completion of fifteen (15) credits or their equivalent in professional development related to their area of certification.

of which at least six (6) credits must focus on pedagogy, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; and

3.2 For applicants applying after December 31, 2005, where a Praxis™ II examination in the area of the Standard Certificate requested is applicable and available, achieving a passing score as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on the examination; or

3.3 Meeting the requirements for licensure and holding a valid and current license or certificate from another state in Physical Education;

3.3.1 The Department shall not act on an application for certification if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials, until the applicant provides evidence of the investigation's resolution; or

3.4 Meeting the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C. §1203.

#### **4.0 Multiple Certificates**

Educators may hold certificates in more than one area.

#### **5.0 Application Requirements**

An applicant for a Standard Certificate shall submit:

5.1 Official transcripts; and

5.2 Official scores on the Praxis II examination if applicable and available; or

5.3 Evidence of passage of the National Board for Professional Teaching Standards Certificate, if applicable; or

5.4 An official copy of the out of state license or certification, if applicable.

5.5 If applied for simultaneously with application for an Initial License, the applicant shall provide all required documentation for that application in addition to the documentation cited above.

#### **6.0 Application Procedures for License Holders**

If an applicant holds a valid Initial, Continuing, or Advanced Delaware License; or a Limited Standard, Standard or Professional Status Certificate issued prior to August 31, 2003 and is requesting additional Standard Certificates, only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill or education required for the additional Standard Certificate requested is required.

#### **7.0 Effect of Regulation**

This regulation shall apply to all requests for issuance of a Standard Certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current Professional Status Certificate or Standard Certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License or the Advanced License. The Department shall also recognize a Limited Standard Certificate issued prior to August 31, 2003, provided that the educator successfully completes the requirements set forth in the prescription letter received with the Limited Standard Certificate. Requirements must be completed by the expiration date of the Limited Standard Certificate, but in no case later than December 31, 2008.

#### **8.0 Validity of a Standard Certificate**

A Standard Certificate is valid regardless of the assignment or employment status of the holder of a certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's Initial, Continuing, or Advanced License or Limited Standard, Standard, or Professional Status Certificate is revoked in accordance with 14 DE Admin. Code 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board. Hearings shall be conducted in accordance with the

Standards Board's Hearing Procedures and Rules.

### **9.0 Secretary of Education Review**

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

**7 DE Reg. 775 (12/1/03)**

## **1554 Standard Certificate Reading Specialist**

### **1.0 Content**

This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 Del.C. §1220(a), for Reading Specialist.

### **2.0 Definitions**

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

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

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

**"Educator"** means a person licensed and certified by the State under 14 Del.C. §1202 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board and approved by the State Board. The term 'educator' does not include substitute teachers.

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

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

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

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

**"NASDTEC"** means The National Association of State Directors of Teacher Education and Certification. The organization represents professional standards boards, commissions and departments of education in all 50 states, the District of Columbia, the Department of Defense Dependent Schools, the U.S. Territories, New Zealand, and British Columbia, which are responsible for the preparation, licensure, and discipline of educational personnel.

**"NCATE"** means The National Council for Accreditation of Teacher Education, a national accrediting body for schools, colleges, and departments of education authorized by the U.S. Department of Education.

**"Reading Specialist"** means an educator who provides one-on-one or small group, diagnostic, prescriptive teaching of reading, and includes, but is not limited to, Title I reading teachers, reading resource teachers, reading teachers as specified in SB 320, Epilogue §358, and educators who work with teachers in reading and communication skills, including, but not limited to literacy coaches and coordinators, and individuals employed as building or district coordinators of reading or in Reading Cadre positions.

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

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

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

“Valid and Current License or Certificate from Another State” means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

### 3.0 Standard Certificate

In accordance with 14 Del.C. §1220(a), the Department shall issue a Standard Certificate as a Reading Specialist to an applicant who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:

#### 3.1 Educational requirements:

3.1.1 A master's degree from an NCATE specialty organization recognized educator preparation program offered by a regionally accredited college or university, in a program for Reading Specialists; or

3.1.2 A master's degree from a state approved educator preparation program for Reading Specialists offered by a regionally accredited college or university, where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards; or

3.1.3 A master's degree in any area from a regionally accredited college or university and, completion of the course work set forth in 3.1.4.1 and 3.1.4.2; or

3.1.4 A Bachelors's degree plus 30 graduate credits; and

3.1.4.1 Minimum of 24 semester hour credits in graduate level reading covering the following content areas as specified below:

3.1.4.1.1 Language Development 3 semester hours;

3.1.4.1.2 Methods in Process Writing in Language Arts, 3 semester hours;

3.1.4.1.3 Assessment and Correction of Reading Difficulties, 6 semester hours;

3.1.4.1.4 Practicum in Reading to include application of assessment and correction strategies, parent involvement strategies, and experience in working as a reading resource person with staff, 6 semester hours;

3.1.4.1.5 Reading in the Content Areas, 3 semester hours;

3.1.4.1.6 Children's or Adolescent Literature Across the Curriculum, 3 semester hours; and

3.1.4.2 Minimum of three graduate semester hours from among the following: Seminar in Reading Research, Emergent Literacy, Teaching English as a Second Language or Children's or Adolescent Literature.

#### 3.2 Experience

3.2.1 Minimum of three years of successful teaching experience with at least two years in the K to 12 classroom and;

In accordance with 14 Del.C. §1220(a), the Department shall issue a Standard Certificate as a Reading Specialist to an applicant who has a minimum of three (3) years of successful teaching experience with at least two years in the K to 12 classroom, and who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, who has met the following requirements:

3.1 Acquired the prescribed knowledge, skill or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:

3.1.1 Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a Standard Certificate is requested; or

3.1.2 Graduating from an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program, where the state approval body employed the

appropriate NASDTEC or NCATE specialty organization standards, offered by a regionally accredited college or university, with a Master's degree or its equivalent in Reading; or

3.1.3 Holding a Bachelor's degree plus 30 graduate credits from a regionally accredited college or university or a Master's degree from a regionally accredited college or university in any content area and a minimum of 24 semester hour credits in graduate level reading covering the following content areas as specified below:

3.1.3.1 Language Development (3 semester hours);

3.1.3.2 Methods in Process Writing or Language Arts (3 semester hours);

3.1.3.3 Assessment and Correction of Reading Difficulties (6 semester hours);

3.1.3.4 Reading in the Content Areas (3 semester hours);

3.1.3.5 Children's or Adolescent Literature Across the Curriculum (3 semester hours);

3.1.3.6 Practicum in Reading to include application of assessment and correction strategies, parent involvement strategies, and experience in working as a reading resource person with staff (6 semester hours); and

3.1.3.7 A minimum of three graduate semester hours from among the following:

3.1.3.7.1 Seminar in Reading Research;

3.1.3.7.2 Emergent Literacy;

3.1.3.7.3 Teaching English as a Second Language; or

3.1.3.7.4 Children's or Adolescent Literature; and

3.2 For applicants applying after December 31, 2005, where a Praxis™ II examination in the area of the Standard Certificate requested is applicable and available, achieving a passing score as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on the examination; or

3.3 Meeting the requirements for licensure and holding a valid and current license or certificate from another state as a Reading Specialist;

3.3.1 The Department shall not act on an application for certification if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials, until the applicant provides evidence of the investigation's resolution; or

3.4 Meeting the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C §1203.

#### **4.0 Effective Date**

~~This regulation shall be effective immediately. Notwithstanding this provision, Reading Specialists as defined in 2.0, hired prior to July 1, 2006, who do not currently meet the requirements set forth herein, but who hold an Initial, Continuing or Advanced License; or a Standard or Professional Status Certificate issued prior to August 31, 2003, may be issued a Standard Certificate as a Reading Specialist contingent on their completion of the requirements set forth herein within three (3) years of the effective date of this regulation or their date of employment in the position of Reading Specialist, whichever is later.~~

#### **4.0 Multiple Certificates**

~~Educators may hold certificates in more than one area.~~

#### **5.0 Application Requirements**

~~An applicant for a Standard Certificate shall submit:~~

~~5.1 Official transcripts; and~~

~~5.2 Official scores on the Praxis II examination if applicable and available; or~~

~~5.3 Evidence of passage of the National Board for Professional Teaching Standards Certificate, if applicable; or~~

~~5.4 An official copy of the out of state license or certification, if applicable.~~

~~5.5 If applied for simultaneously with application for an Initial License, the applicant shall provide all~~

required documentation for that application in addition to the documentation cited above.

### **6.0 Application Procedures for License Holders**

If an applicant holds a valid Initial, Continuing, or Advanced Delaware License; or a Limited Standard, Standard or Professional Status Certificate issued prior to August 31, 2003 and is requesting additional Standard Certificates, only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill or education required for the additional Standard Certificate requested is required.

### **7.0 Effect of Regulation**

This regulation shall apply to all requests for issuance of a Standard Certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current Professional Status Certificate or Standard Certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License or the Advanced License. The Department shall also recognize a Limited Standard Certificate issued prior to August 31, 2003, provided that the educator successfully completes the requirements set forth in the prescription letter received with the Limited Standard Certificate. Requirements must be completed by the expiration date of the Limited Standard Certificate, but in no case later than December 31, 2008. Reading Specialists, as defined in 2.0, hired prior to July 1, 2006, who do not meet the requirements set forth herein, but who hold an Initial, Continuing or Advanced License; or a Standard or Professional Status Certificate issued prior to August 31, 2003, may be issued a Standard Certificate as a Reading Specialist contingent on their completion of the requirements set forth herein within three (3) years of the effective date of this regulation or their date of employment in the position of Reading Specialist, whichever is later.

### **8.0 Validity of a Standard Certificate**

A Standard Certificate is valid regardless of the assignment or employment status of the holder of a certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's Initial, Continuing, or Advanced License or Limited Standard, Standard, or Professional Status Certificate is revoked in accordance with 14 DE Admin. Code 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board. Hearings shall be conducted in accordance with the Standards Board's Hearing Procedures and Rules.

### **9.0 Secretary of Education Review**

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

**7 DE Reg. 775 (12/01/03)**

**8 DE Reg. 899 (12/01/04)**

## **1556 Standard Certificate Elementary Teacher (Grades K to 6)**

### **1.0 Content**

1.1 This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 Del.C. §1220(a), for Elementary Teacher (Grades K to 6).

### **2.0 Definitions**

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

“**Certification**” means the issuance of a certificate, which may occur regardless of a recipient’s assignment or employment status.

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

“**Educator**” means a person licensed and certified by the State under 14 **Del.C.** §1202 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board and approved by the State Board. The term ‘educator’ does not include substitute teachers.

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

“**Fifteen (15) Credits or Their Equivalent in Professional Development**” means college credits or an equivalent number of hours, with one (1) credit equating to fifteen (15) hours, taken either as part of a degree program or in addition to it, from a regionally accredited college or university or a professional development provider approved by the employing school district or charter school.

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

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

“**Major or its Equivalent**” means a minimum of thirty (30) semester hours of course work in a particular content area.

“**NASDTEC**” means The National Association of State Directors of Teacher Education and Certification. The organization represents professional standards boards, commissions and departments of education in all 50 states, the District of Columbia, the Department of Defense Dependent Schools, the U.S. Territories, New Zealand, and British Columbia, which are responsible for the preparation, licensure, and discipline of educational personnel.

“**NCATE**” means The National Council for Accreditation of Teacher Education, a national accrediting body for schools, colleges, and departments of education authorized by the U.S. Department of Education.

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

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

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

“**Valid and Current License or Certificate from Another State**” means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

### **3.0 Standard Certificate**

In accordance with 14 **Del.C.** §1220(a), the Department shall issue a Standard Certificate as an Elementary Teacher to an applicant who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:

#### **3.1 Degree Requirement**

**3.1.1 Bachelor’s degree from a regionally accredited college or university in any field and 45 semester hours of general content courses. These courses may be part of the Bachelor’s degree, but if not, then the courses shall be taken in addition to the degree.**

**3.1.1.1 Nine semester hours of English including an upper level composition course and a literature course;**

**3.1.1.2 Twelve semester hours of science including one course each in Life and Environmental, Earth and Space and Physical Sciences;**

3.1.1.3 ~~Nine semester hours of social sciences including World History, American History and Geography;~~

3.1.1.4 ~~Nine semester hours of Mathematics;~~

3.1.1.5 ~~Six semester hours of Fine Arts; or,~~

3.1.1.6 ~~Courses which reflect accomplishment of the NCATE specialty organization standards for elementary teacher education to develop pedagogical content knowledge and professional and pedagogical skills.~~

3.1.2 ~~A Bachelor's degree in elementary education from an NCATE specialty organization or state approved program, where the state employed the appropriate NASDTEC or NCATE specialty organization standards for elementary teacher education, from a regionally accredited college or university.~~

The Department shall issue a Standard Certificate as an Elementary Teacher to an educator who holds a valid Delaware Initial, Continuing, or Advanced License; or a Limited Standard, Standard or Professional Status Certificate issued by the Department prior to August 31, 2003 who has met the following requirements:

3.1 Acquired the prescribed knowledge, skill or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:

3.1.1 Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a Standard Certificate is requested; or

3.1.2 Graduating from an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program, where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards, offered by a regionally accredited college or university, with a major or its equivalent in Elementary Education; or

3.1.3 Satisfactorily completing the Alternative Routes for Licensure and Certification Program, the Special Institute for Licensure and Certification, or such other alternative educator preparation programs as the Secretary may approve; or

3.1.4 Holding a bachelor's degree from a regionally accredited college or university in any content area and for applicants applying after June 30, 2006 for their first Standard Certificate, satisfactory completion of fifteen (15) credits or their equivalent in professional development related to their area of certification, of which at least six (6) credits must focus on pedagogy, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; and

3.2 For applicants applying after December 31, 2005, where a Praxis™ II examination in the area of the Standard Certificate requested is applicable and available, achieving a passing score as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on the examination; or

3.3 Meeting the requirements for licensure and holding a valid and current license or certificate from another state in Elementary Education;

3.3.1 The Department shall not act on an application for certification if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials, until the applicant provides evidence of the investigation's resolution; or

3.4 Meeting the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C §1203.

#### **4.0 Effective Date**

~~This regulation shall be effective through June 30, 2006 only. Applicants who apply for a Standard Certificate as an Elementary Teacher after that date must comply with the requirements set forth in 14 DE Admin. Code 1516.~~

#### **4.0 Multiple Certificates**

Educators may hold certificates in more than one area.

**5.0 Application Requirements**

An applicant for a Standard Certificate shall submit:

5.1 Official transcripts; and

5.2 Official scores on the Praxis II examination if applicable and available; or

5.3 Evidence of passage of the National Board for Professional Teaching Standards Certificate, if applicable; or

5.4 An official copy of the out of state license or certification, if applicable.

5.5 If applied for simultaneously with application for an Initial License, the applicant shall provide all required documentation for that application in addition to the documentation cited above.

**6.0 Application Procedures for License Holders**

If an applicant holds a valid Initial, Continuing, or Advanced Delaware License; or a Limited Standard, Standard or Professional Status Certificate issued prior to August 31, 2003 and is requesting additional Standard Certificates, only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill or education required for the additional Standard Certificate requested is required.

**7.0 Effect of Regulation**

This regulation shall apply to all requests for issuance of a Standard Certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current Professional Status Certificate or Standard Certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License or the Advanced License. The Department shall also recognize a Limited Standard Certificate issued prior to August 31, 2003, provided that the educator successfully completes the requirements set forth in the prescription letter received with the Limited Standard Certificate. Requirements must be completed by the expiration date of the Limited Standard Certificate, but in no case later than December 31, 2008.

**8.0 Validity of a Standard Certificate**

A Standard Certificate is valid regardless of the assignment or employment status of the holder of a certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's Initial, Continuing, or Advanced License or Limited Standard, Standard, or Professional Status Certificate is revoked in accordance with 14 DE Admin. Code 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board. Hearings shall be conducted in accordance with the Standards Board's Hearing Procedures and Rules.

**9.0 Secretary of Education Review**

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

**7 DE Reg. 775 (12/1/03)**

**7 DE Reg. 1747 (6/1/04)**

**DEPARTMENT OF FINANCE**  
**DIVISION OF REVENUE**Statutory Authority: 12 Delaware Code, Section 1154 (12 **Del.C.** §1154)**PUBLIC NOTICE****Audit Period for Voluntary Disclosure Agreements**

The Division of Revenue proposes to adopt the following regulation concerning the Audit Period for Voluntary Disclosure Agreements Pursuant to 12 **Del.C.** §1154. Written comments or other written materials concerning the proposed regulation must be received by the Division of Revenue no later than 4:30 p.m., Wednesday, May 1, 2005, and should be addressed to Deputy Attorney General Jos. Patrick Hurley, Esquire, c/o Department of Finance, Division of Revenue, 820 North French Street, Wilmington, DE 19899-8911 or sent by fax to (302)577-8656 or E-mail to [pat.hurley@state.de.us](mailto:pat.hurley@state.de.us).

**Authority**

This regulation is issued pursuant to the authority given to the State Escheator in Title 12 of the **Delaware Code** relating to Abandoned or Unclaimed Property.

**Audit of Voluntary Disclosure Agreements****Present Policy:**

Presently as articulated in the abandoned property regulations and forms a VDA is open for audit purposes for three years. The present regulations read as follows:

“The State of Delaware reserves the right for three years to audit a VDA. Interest and penalty may be assessed pursuant to §1159 of the Abandoned or Unclaimed Property Law on all abandoned property due for all reporting years, if it is determined that the property reported on a VDA is materially under-reported. In such a case, the VDA shall be and of no force or effect. The State of Delaware reserves the right to fully audit the Holder in such a circumstance.”

And:

“The State of Delaware reserves the right to audit a VDA for three years from the date that a Holder has paid over property under a VDA.”

The Division of Revenue proposes to amend the above regulations and paragraph #8 of Form AP-DE-2 by shortening the audit period mentioned therein from three years to eighteen months. The above regulation and the AP-DE-2 form are to be amended by striking the words “three years” as the same appear in the above regulations and in the form and by inserting the words “eighteen months” in lieu thereof.

In connection therewith the following regulation will also be amended.

“The State of Delaware reserves the right to audit a VDA for three years from the date that a Holder has paid over property under a VDA.”

The amendment to this regulation will insert the words “has received a demand for payment from the abandoned property administrator and” between the words “holder” and “has” as the same appear in line three above. The purpose of this change is to be clear that the eighteen month audit period begins to run from the time the administrator has reviewed the holder’s VDA filing, agreed on a liability, issued a final demand for payment, and

received the agreed upon payment; and not from the time a holder submits a VDA form and payment that has not been subjected to the abandoned property manager's review. Merely submitting a form accompanied by a payment without more will not start the 18 month period running.

**Effective Date:**

This change shall be effective May 1, 2006 and it shall be applied retroactively to all VDA forms AP-DE-2 that were executed, accepted and where payment was made less than eighteen months ago. In other words for VDA forms AP-DE-2 that were executed more than eighteen months before May 1, 2006, and where the holder has not received a notice of intent to audit, the opportunity to audit will be closed. For VDA forms AP-DE-2 that were executed, accepted and where payment was made less than eighteen months ago and wherein the opportunity to audit was stated to be 3 years, the opportunity to audit will be reduce to eighteen months from the applicable date. Obviously, this proposed change is of no effect if before May 1, 2006, a holder that has previously filed a VDA receives a notice of intent to audit that is timely without regard to these proposed changes.

**Abandoned or Unclaimed Property Voluntary Disclosure Agreement Program****Policy:**

The State of Delaware Division of Revenue is committed to promoting Holder compliance. In an effort to accomplish this objective, a **Voluntary Disclosure Agreement (VDA)** process is available to Holders who are not presently in compliance but want to comply with the Abandoned or Unclaimed Property Law. The VDA program allows Holders to come forward to report their abandoned property liability for a limited reporting period. The agreement releases the Holder from all claims, demands, interest, penalties, actions or causes of action related to all property reported properly under the term of the VDA.

In our commitment to fairness in the administration of Delaware's Abandoned or Unclaimed Property Law, the Division of Revenue will adhere to the following general guidelines:

- Any Holder who wishes to comply with the Delaware Abandoned or Unclaimed Property Law may file a VDA.
- Holders, which includes any subsidiary and all related entities, who have received an audit letter or are currently under audit by the State of Delaware may **not** file a VDA.
- The Holder shall complete a review of its books and records and file reports beginning with calendar year 1991, report year 1996, as well as for all subsequent report years, and pay over all abandoned property due the State of Delaware for those years.
- The State of Delaware reserves the right for ~~three years~~ eighteen months to audit a VDA. Interest and penalty may be assessed pursuant to §1159 of the Abandoned or Unclaimed Property Law on all abandoned property due for all reporting years, if it is determined that the property reported on a VDA is materially under-reported. In such a case, the VDA shall be and of no force or effect. The State of Delaware reserves the right to fully audit the Holder in such a circumstance.

**Process:**

Initial Holder Contact

The Holder or the Holder's representative initiates the process by sending a completed Form AP DE-1, Disclosure and Notice of Intent to Voluntarily Comply with Abandoned or Unclaimed Property Law, to the following address:

Delaware Division of Revenue  
Attn: Abandoned Property Audit Manager  
820 North French Street  
Wilmington, DE 19801  
Fax: 302-577-8982

The following information must be provided:

- Completed Form AP DE-1, signed by the Holder
- Holder's name and address
- List of all subsidiaries and all related entities participating in VDA
- Federal Employer Identification Number for each entity participating
- Holder representative's contact information, including an executed power of attorney signed by the Holder authorizing the representative to act on behalf of the Holder

#### **Processing the VDA**

- Upon acceptance of the Form AP DE-1 by the State of Delaware, the Holder shall complete a review of its books and records and file reports beginning with calendar year 1991, report year 1996, as well as for all subsequent report years and pay all abandoned property due the State for those years within six months from the date of the acceptance of Form AP DE-1. Acceptance shall be indicated by the State's signing and returning a copy of the Form to the Holder.
- After the review of its books and records, the Holder is required to file a Form AP DE-2, Voluntary Self Disclosure Agreement. The Form AP DE -2 must be signed and sent along with the audit report outlining the Holder's potential liability.
- The audit report shall identify in detail the work performed, the property types reviewed, any estimation techniques employed, and a calculations showing the potential amount of property due under the VDA.
- The State reserves the right to assess interest on any liability being reported under the VDA, if the VDA has not been received or an extension has not been granted within the six-month period.
- The State of Delaware will review the report submitted by the Holder and either accept it and request payment of their liability, or contact the Holder for additional information

#### **General Information:**

- The State of Delaware reserves the right to deny or void the VDA if a Holder does not adhere to the Program policies and procedures.
- The State of Delaware reserves the right to audit a VDA for ~~three years~~ eighteen months from the date that a Holder has received a demand for payment from the abandoned property administrator and paid over property under a VDA.
- The VDA forms may **not** be altered without written consent of the State.

For more information on abandoned property Voluntary Disclosure Agreements, please contact Mark Udinski, Abandoned Property Audit Manager at 302-577-8260 or mark.udinski@state.de.us or write to:

Delaware Division of Revenue  
Attn: Mark Udinski, Abandoned Property Audit Manager  
820 North French Street  
Wilmington, DE 19801  
Fax: 302-577-8982

#### **Abandoned or Unclaimed Property Audit Guidelines**

##### **Authority to Conduct Abandoned Property Audits:**

Section 1155 of Title 12, **Delaware Code** provides the State Escheator with the authority to examine the records of any person or business association or organization to determine whether the person has complied with any provision of the Abandoned or Unclaimed Property Law of Delaware.

Section 123 of House Bill 400 from the 140<sup>th</sup> General Assembly of the State of Delaware originally granted the Director of Revenue the authority, approved annually, to enter into an agreement with organizations to identify

abandoned property to be escheated to the State by means of audit or otherwise.

**Auditing of Holders:**

As allowed by law, the State of Delaware will examine selected Holders' books and records for compliance with the Abandoned Property Law. The audit will be assigned to an auditor in the Division of Revenue or to a third-party auditing firm that the State has retained for such purposes. At the request of a Holder the State's third party auditor will enter into a confidentiality agreement with the Holder in a form approved by the State Escheator before any of the Holder's confidential records are produced.

**Notification of Audit:**

An official letter from the Abandoned Property Audit Manager will be issued to Holders selected for audit. The letter will outline the State's intention to examine the books and records of the Holder (including subsidiary and related entities) and identify the assigned auditor or third-party auditing firm. Third-party auditors are not authorized to engage in any examination or audit without prior written consent from the State of Delaware Division of Revenue. The issuance of an intent to audit letter terminates the Holder's ability to enter into a Voluntary Disclosure Agreement (VDA).

**Opening Conference:**

Once an audit is assigned, an opening conference will be scheduled with the auditor and representatives of the Holder. During the opening conference, the auditor will:

- Advise the Holder of the reporting requirements of the Delaware Abandoned or Unclaimed Property Law,
- Identify the time period to be covered by the examination,
- Schedule a time period for field work to be commenced, and
- Request records and materials necessary to initiate the audit.

The State expects the Holder's cooperation and anticipates that with the Holder's cooperation the time to complete a typical audit should not exceed twelve (12) months. If an audit lasts longer than 12-months, the Abandoned Property Audit Manager will meet with the Holder to facilitate completion of the audit. Interest and penalty may be assessed pursuant to §1159 of the Abandoned or Unclaimed Property Law on all abandoned property due for all reporting years under audit.

**Examination:**

The auditor may conduct the examination on-site or remotely with the consent of the Holder if records are available electronically or can be shipped. On-site work may last a few days to several weeks depending on the size and complexity of the Holder the availability of records, and the availability of holder personnel necessary to explain and discuss the records. During the examination, the auditor will review all necessary books and records, interview key personnel and review relevant policies and procedures related to abandoned property. During the examination, the auditor may make subsequent requests to the Holder for additional books and records as required to complete the audit.

The Holder will be kept informed of the progress of the audit and may contact the State directly to address issues or related to the audit. At the end of the examination, the auditor will present the preliminary findings to the Holder at an exit conference. These findings are not final. The auditor will allow the Holder reasonable time to complete required research and gather more records to address matters raised in the preliminary findings.

**Third-Party Advocates:**

Holders may retain third party advocates (Advocate) to assist them in the audit process. The retention of an Advocate is no basis to delay the commencement of the State's audit and the State will not delay the audit so that the Advocate may conduct a review or it's own audit of the Holder's books and records in advance of the State's audit. The State will cooperate with the Holder and its Advocate and keep both of them apprised of the records requests, interviews and the progress of the audit in general. It is understood that the State will not audit or

be limited to a review of work papers, compilations or record summaries prepared by the Holder or the Advocate but shall have access to such of the Holder's original books and records that are necessary to ascertain the Holder's compliance with the law. The State shall direct all requests and communications directly to the Holder and, if requested by the Holder, will also direct copies to the Advocate.

**Final Report:**

At the close of the audit, the Holder will receive a statement of findings letter from the Delaware's Abandoned Property Audit Manager. This letter will outline the findings of the audit and make a formal demand for the property under question (if applicable). The Holder has thirty (30) days to directly remit to the State of Delaware any abandoned property identified during the examination as owed to the State of Delaware.

**General Information:**

For more information on abandoned property audits, please contact Mark Udinski, Audit Manager at 302-577-8260 or mark.udinski@state.de.us or write to:

Delaware Division of Revenue  
Attn: Mark Udinski, Abandoned Property Audit Manager  
820 North French Street  
Wilmington, DE 19801  
Fax: 302-577-8982  
**9 DE Reg. 771 (11/01/06)**

---

**DEPARTMENT OF HEALTH AND SOCIAL SERVICES****DIVISION OF MEDICAID AND MEDICAL ASSISTANCE**

Statutory Authority: 31 Delaware Code, §512 (31 Del.C., §512)

**PUBLIC NOTICE****Title XIX Medicaid State Plan, Early and Periodic Screening, Diagnostic, and Treatment 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 512, Delaware Health and Social Services (DHSS) / Division of Medicaid & Medical Assistance (DMMA) is proposing to amend the Title XIX Medicaid State Plan related to the reimbursement methodology for specialized dental services under the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) Program.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy & Program Development Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 by April 30, 2006.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

**Summary of Proposed Amendment****Statutory Authority**

- 42 CFR §441 Subpart B, *Early and Periodic Screening, Diagnostic, and Treatment Services (EPSDT) of Individuals Under Age 21*
- Social Security Act 1905(r), *Early and Periodic Screening, Diagnostic, and Treatment Services*

**Amending the Following State Plan Page**

Attachment 4.19-B, Page 19

**Background**

The Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) service is Medicaid's comprehensive and preventive child health program for individuals under the age of 21. EPSDT was defined by law as part of the Omnibus Budget Reconciliation Act of 1989 (OBRA 89) legislation and includes periodic screening, vision, dental, and hearing services. In addition, section 1905(r)(5) of the Social Security Act (the Act) requires that any medically necessary health care service listed at section 1905(a) of the Act be provided to an EPSDT recipient even if the service is not available under the State's Medicaid plan to the rest of the Medicaid population.

**Summary of Proposed Amendment**

To facilitate access to EPSDT dental services for Medicaid recipients and to facilitate provider participation in the program, DMMA proposes changes to its reimbursement methodology.

Traditionally, the Department of Public Health (DPH) reimbursed orthodontists for orthodontic care provided to Medicaid children under age 21. This state plan amendment (SPA) will enable the DMMA to assume that responsibility.

Currently, specialized dental services are reimbursed a percentage of charges for routine dental services. DMMA proposes to reimburse a fee-for-service under Medicaid for orthodontic related services.

The proposed amendment to the state plan is subject to approval by the Centers for Medicare and Medicaid Services (CMS).

**DMMA PROPOSED REGULATION #06-14****REVISIONS:****ATTACHMENT 4.19-B  
Page 19****Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services are reimbursed as follows:**

1. Screening services - fee-for-service.
2. Treatment services - fee-for-service.
3. Dental Treatment - reimburse a percentage of charges for routine dental services.
4. Specialized Dental Services - reimburse ~~a percentage of charges for routine dental services~~ (a) a percentage of charges for non-orthodontic related services and (b) a flat fee-for-service for orthodontic related services.

(a) Percentage of Charges for non-orthodontic services – The State pays 85% of billed charges for medically necessary non-orthodontic dental care, determined by: 1) the consideration that 65-70% of the usual & customary rate is nationally known to account for the dental provider's actual costs; and, 2) an allowance of an additional mark-up to permit a reasonable and fair profit and as incentive for providers to participate in the Medicaid Program in order to create adequate access to dental care.

(b) Flat Fee-for-Service for orthodontic services – The State identifies three primary orthodontic-related services that encompass orthodontic reimbursement: 1) Pre-orthodontic treatment visit; 2) Comprehensive orthodontic treatment of the adolescent dentition; and, 3) Periodic orthodontic treatment visit. Rates for each orthodontic service are determined by adopting the 75<sup>th</sup> percentile of orthodontic rates paid by the Division of Public Health Special Dental Program, which, compare favorably to commercial coverage and encourage provider participation and adequate access to orthodontic care. Care provided outside of these three services will be reimbursed at a percentage of charges. Medicaid reimbursement for these three orthodontic services will be the lower of the submitted charges or the established Medicaid rate.

**DIVISION OF SOCIAL SERVICES**Statutory Authority: 31 Delaware Code, Section 512 (31 **Del.C.**, §512)**PUBLIC NOTICE****Technical Eligibility for Cash Assistance****3008.1.1 Babies Born To Teen Parents**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Social Services is proposing to amend policies in the Division of Social Services Manual (DSSM) regarding technical eligibility for cash assistance for certain minors.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy, Program and Development Unit, Division of Social Services, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 by April 30, 2006.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

**Summary of Proposed Change****Citation**

- Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193)

**Summary of Proposed Change**

The proposed rule provides clarification to DSSM 3008.1.1, *Babies Born to Teen Parents*, to eliminate confusion over the policy and reduce staff requests for policy clarification. Language is added to clarify that this rule only applies to the child while the teen is under 18 years of age.

**3008 Eligibility of Certain Minors****3008.1.1 Babies Born To Teen Parents**

This policy applies to both applicants and recipients not covered by family cap rules.

Babies born after December 31, 1998 to a teenage parent are not eligible for cash assistance (TANF and GA) unless the parent is:

- married; or
- at least eighteen (18) years of age.

An emancipated minor is considered an adult and therefore, the baby would be eligible for cash assistance. If both parents live in the home, both parents must be at least eighteen (18) years of age or married for the baby to be eligible. Once the minor parent turns 18, the parent and the baby are both eligible for cash assistance, if otherwise eligible.

Babies not receiving cash assistance are eligible for all other DSS services and programs including food stamps, grant-related Medicaid, and Welfare Reform child care. In lieu of cash assistance, the Division may provide non-cash assistance services. (See DSSM 3008.1.3)

Determining financial eligibility and grant amounts for an assistance unit which contains a child(ren) affected by this provision:

The child(ren) is/are included when determining the assistance unit's need for assistance. The child(ren)'s income and resources are included when determining the assistance unit's income and resources. The

child(ren) is/are not included when determining the payment standard for the assistance unit.

Exception:

This restriction will not apply when:

- the child is conceived as a result of incest or sexual assault; or
- the child does not reside with his/her parents.

---

**DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL****OFFICE OF THE SECRETARY**

26 Delaware Code, §352 (6) (26 **Del.C.**, §352 (6))

7 **DE Admin. Code** 106

**NOTICE OF PUBLIC HEARING****SAN # 2006-06****1. Title of the Regulations:**

"106 Environmental Standards for Eligible Energy Resources" as required by Senate Bill 74, Renewable Energy Portfolio Standards.

**2. Brief Synopsis of the Subject, Substance and Issues:**

The purpose of this regulation is to prescribe procedures relating to the Renewable Energy Portfolio Standards Act pursuant to 26 **Del.C.** Ch. 1, Subchapter IIIA. This regulation prescribes environmental standards for hydroelectric facilities and for the combustion of biomass. These standards determine if a resource is an Eligible Energy Resource under the Act.

**3. Possible Terms of the Agency Action:**

There is no sunset date for this regulation.

**4. Statutory Basis or Legal Authority to Act:**

These regulations are promulgated under authority of 26 **Del.C.** Ch. 1, §352 (6) and 26 **Del.C.** Ch. 1, Section 1.

**5. Other Regulations that may be Affected by the Proposal:**

Delaware Public Service Commission Regulation Docket 56

**6. Notice of Public Comment:**

Notice Title:	"Environmental Standards for Eligible Energy Resources"
Division, Program:	Office of the Secretary, Delaware Energy Office
Notice Start Date:	4/1/2006
Notice End Date:	4/30/2006
Notice:	DNREC – Delaware Energy Office

**LEGAL NOTICE:**

NOTIFICATION OF PROGRAM REGULATIONS FOR "Environmental Standards for Eligible

Energy Resources” as required by Senate Bill 74, Renewable Energy Portfolio Standards.

Pursuant to Title 26 **Delaware Code**, Chapter 1, Subchapter III-A, the Secretary is required to promulgate rules and regulations necessary to establish Environmental Standards for Eligible Energy Resources” as required by Senate Bill 74, Renewable Energy Portfolio Standards.

In addition to the State *Register*, the proposed Regulation will also be available on the DNREC Website at [www.dnrec.delaware.gov](http://www.dnrec.delaware.gov) and under the “Delaware Energy Office Website at [www.delaware-energy.com](http://www.delaware-energy.com).

Comments will be accepted by the Delaware Energy Office, 146 South Governors Avenue, Dover, DE 19901 via standard mail or e-mail to [charlie.smisson@state.de.us](mailto:charlie.smisson@state.de.us), or fax to 302-739-1527 during the comment period of 4/1/2006 to 4/30/2006.

A Public Hearing has been scheduled at the Delaware Energy Office, 146 South Governors Avenue, Dover, DE 19904 for 6:00 p.m. on Monday, May 1, 2006.

**7. Prepared By:**

Charlie T. Smisson, Jr., State Energy Coordinator, Delaware Energy Office, 302-739-1530  
3/10/2006

**106 Environmental Standards for Eligible Energy Resources**

**1.0 Purpose**

The purpose of this regulation is to prescribe procedures relating to the Renewable Energy Portfolio Standards Act pursuant to 26 Del.C. Ch. 1, Subchapter IIIA. This regulation prescribes environmental standards for hydroelectric facilities and for the combustion of biomass. These standards determine if a resource is an Eligible Energy Resource under the Act.

**2.0 Statutory Authority**

These regulations are promulgated under authority of 26 Del.C. Ch. 1, §352 (6) and 26 Del.C. Ch. 1, Section 1.

**3.0 Definitions**

For purposes of this regulation, the following words and phrases shall have the meanings set forth below.

“**Agricultural Food and Feed Crop Residues**” means the organic matter by-products from the harvesting, cultivation, and/or processing of agricultural food and feed crops.

“**Biomass**” means organic matter that is available on a renewable or recurring basis, including timber, aquatic plants, dedicated energy crops, agricultural food and feed crop residues, forestry and timber residues, and lumber/pulp residues.

“**Dedicated Energy Crops**” means any organic matter, including traditional agricultural crops but excluding trees, that is cultivated to be used as a fuel in electricity production.

“**Forestry and Timber Residues**” means the organic matter by-products from the harvesting and/or cultivation of timber.

“**Hydroelectric Facility**” means any technology that produces electric power by harnessing the energy potential of moving water.

“**Low Impact Hydropower Institute**” means the non-profit 501(c) (3) organization dedicated to reducing the impacts of hydroelectric generation through the certification of environmentally responsible, “low impact” hydropower.

“**Lumber/Pulp Residues**” means the sawdust and other wood by-products from the production of lumber, pulp, or other wood-derived products.

“**Timber**” means the trees harvested for the use as an energy source, lumber, or pulp.

“**United States Department of Agriculture’s National Organic Program**” means the rules and regulations that establish the national standards for the production and handling of organically produced products.

**4.0 Electricity Generated by a Hydroelectric Facility**

To be an Eligible Energy Resource under the Act, a hydroelectric facility shall:

- 4.1 Have a maximum design capacity of 30 megawatts or less from all generating units combined.
- 4.2 Not diminish water quality and/or adversely impact watersheds.
- 4.3 Provide an adequate water flow for protection of aquatic life and for safe and effective fish passage.
- 4.4 Protect state federally-designated threatened and endangered species and their habitat.
- 4.5 Protect cultural and historic resources.
- 4.6 Preserve or improve public access and recreation opportunities.
- 4.7 Meet the certification standards established by the Low Impact Hydropower Institute or their successors.

**5.0 Electricity Generated from the Combustion of Biomass**

To be an Eligible Energy Resource under the Act, electricity generated from the combustion of biomass shall:

- 5.1 Meet all federal, state, and local government laws and regulations for land use, air emissions, use of cooling water, and ash management.
- 5.2 For dedicated energy crops and agricultural food and feed crop residues they shall meet the standards of the United States Department of Agriculture's National Organic Program, or take all of the following actions:
  - 5.2.1 Follow all best management practices of local conservation districts and state and local cooperative extension services.
  - 5.2.2 Develop and implement all voluntary and mandatory state and local government nutrient management plans.
  - 5.2.3 Develop and follow comprehensive plans to utilize land and water resources in accordance with state and local non-point source pollution management programs to prevent erosion, control flood water, and conserve soil.
  - 5.2.4 Follow state and local Integrated Pest Management guidelines and plans.
  - 5.2.5 Minimize herbicide usage in conventional and no-till plantings in accordance with state and local cooperative extension services guidelines and plans.
- 5.3 For timber, forestry and timber residues, and non-cultivated wild plants, develop and implement a conservation and management plan that includes all the following elements:
  - 5.3.1 A non-point source pollution management program to prevent erosion, control flood water, and conserve soil for harvesting, road construction, and all other mechanical disturbances.
  - 5.3.2 Best Management Practices as identified by the state and local forestry services.
  - 5.3.3 Minimization of waste associated with harvesting and on-site processing operations.
  - 5.3.4 Rates of harvest that do not exceed levels which can be permanently sustained.
  - 5.3.5 Safeguards that identify and protect rare and state and federally-designated threatened and endangered species and their habitats (e.g., nesting and feeding areas).
  - 5.3.6 Forest regeneration that enhances ecosystem diversity.
  - 5.3.7 Use of environmentally friendly non-chemical methods of pest management and limited use of pesticides.
  - 5.3.8 Use of environmentally friendly non-chemical methods of weed management and limited use of herbicides.
  - 5.3.9 Use of exotic species that is carefully controlled and actively monitored to avoid adverse ecological impacts.
  - 5.3.10 Avoidance of forest conversion to plantations or non-forest land uses, except circumstances where: a very limited portion of the forest management unit will be impacted; forest lands are of low ecological value; and conversion will improve ecological value.
  - 5.3.11 Protection of cultural and historic resources.
  - 5.3.12 Preservation or improvement of public access and recreation opportunities.

5.3.13 Exclusion of old-growth timber (from a tree that is 150 years old or older).

**6.0 Severability**

If any section, subsection, paragraph, sentence, phrase or word of these regulations is declared unconstitutional by a court of competent jurisdiction, the remainder of these regulations shall remain unimpaired and shall continue in full force and effect, and proceedings there under shall not be affected.

---

**DIVISION OF AIR AND WASTE MANAGEMENT**

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

**PUBLIC NOTICE****SAN # 2006-07****1. Title of of the Regulations:**

Regulation No. 1102 – “Permits”

**2. Brief Synopsis of the Subject, Substance and Issues:**

Delaware must now revise Regulation No. 1102 because the EPA has identified that the regulatory language is not clear that all permits issued pursuant to Regulation No.1102 are federally enforceable. The EPA believes that the current regulatory language implies that only permits intended to limit Potential to Emit of a source are federally enforceable. The Air Quality Management Section agrees with the EPA. Also, as part of this revision the Regulation 1102 numbering will be updated consistent with the style manual of the Code of Delaware Regulations.

**3. Possible Terms of the Agency Action:**

None

**4. Statutory Basis or Legal Authority to Act:**

7 **Delaware Code**, Chapter 60

**5. Other Regulations that may be Affected by the Proposal:**

None

**6. Notice of Public Comment:**

The public comment period for this proposed amendment will extend through at least April 26, 2006. Interested parties may submit comments in writing during this time frame to: Gene M. Pettingill, Air Quality Management Section, 715 Grantham Lane, New Castle, DE 19720, and/or statements and testimony may be presented either orally or in writing at the public hearing to be held on Wednesday, April 26, 2006, beginning at 1:00 PM in the DNREC auditorium at the Richardson and Robbins Building, 89 Kings Highway, Dover, DE 19901.

**7. Prepared By:**

Deanna Morozowich, (302) 739-9402, March 7, 2006

**1102 Permits (Formerly Reg. No. 2)****1.0 General Provisions**

1.1 This regulation establishes the procedures that satisfy the requirement of 7 **Del.C.** Ch. 60 to report and obtain approval of equipment which has the potential to discharge air contaminants into the atmosphere, and,

for construction or modification activities not subject to Regulation No. 25, the procedures that satisfy the requirement of 40 CFR Part 51 Subpart I (July 7, 1994 edition) and Section 110(a)(2)(C) of the federal clean air act (CAA) as amended November 15, 1990.

1.2 This regulation establishes procedures that enable a person to, as an option, secure ~~federally enforceable~~ terms and conditions in a permit ~~issued pursuant to this regulation that effectively limits potential to emit for the purpose of avoiding applicability of a federal standard, regulation or other federal requirement~~.

1.3 This regulation establishes procedures that enable a person subject to both this regulation and to Regulation No. 30 to, as an option, transfer the terms and conditions of a construction permit issued pursuant to this regulation into a Regulation No. 30 operating permit via the administrative permit amendment process specified in Regulation No. 30.

1.4 Within sixty (60) calendar days of receipt of a written request by the Department, an owner or operator of an existing facility, equipment, or air contaminant control device which emits or causes to be emitted any air contaminant shall submit to the Department any relevant information that the Department may request. Relevant information includes information that, in the Departments opinion, is relevant to any permit application/ registration or that is necessary to determine the applicability of or compliance with any State or Federal requirement, any permit term or condition, or any condition of registration. Such information also includes a permit application or a registration form, or a corrected or supplemented application/registration. This provision does not limit the applicability of, nor does it sanction noncompliance with the requirements of Section 2.1 of this regulation.

1.5 Any approval granted by the Department pursuant to this Regulation, and any exemption from the requirements of this Regulation provided for in Section 2.2 shall not relieve an owner or operator of the responsibility of complying with applicable local, State, and Federal laws and regulations.

## **2.0 Applicability**

2.1 Except as exempted in Section 2.2, no person shall initiate construction, install, alter or initiate operation of any equipment or facility or air contaminant control device which will emit or prevent the emission of an air contaminant prior to receiving approval of his application from the Department or, if eligible, prior to submitting to the Department a completed registration form.

2.1.1 For equipment that meets all applicable emission rate(s) and/or standard(s) specified in Section 11.8.1 and 11.8.2 without an air contaminant control device, and that meets the following conditions, the person shall submit to the Department a registration form pursuant to Section 9.0 of this regulation.

2.1.1.1 For equipment without an air contaminant control device, the equipment has actual emissions to the atmosphere of any air contaminant(s), in the aggregate, during any day that are equal to or greater than 0.2 pound per day and, during each and every day, that are less than ten (10) pounds per day; and

2.1.1.2 For equipment with an air contaminant control device, the equipment has actual emissions to the inlet of the air contaminant control device of any air contaminant(s), in the aggregate, during any day that are equal to or greater than 0.2 pound per day and, during each and every day, that are less than ten (10) pounds per day; and

2.1.1.3 Regulation No. 1125 does not apply.

2.1.2 For equipment, a facility or an air contaminant control device that is not subject to Section 2.1.1 and that is subject to a source category permit, the person shall submit to the Department an application for a source category permit pursuant to Section 10.0 of this regulation. A list of established source category permits is available from the Department.

2.1.3 For equipment, a facility or an air contaminant control device that is not subject to Section 2.1.1 or 2.1.2, the person shall submit to the Department an application for a permit pursuant to Section 11.0 of this regulation.

2.1.4 Any person who operates equipment, a facility or an air contaminant control device in accordance with a valid permit issued pursuant to Section ~~2.1(e)~~ 2.1.3 of this regulation, and who later becomes subject to a source category permit:

2.1.4.1 May, at any time, submit to the Department an application for a source category permit pursuant to Section 10.0 of this regulation; and

2.1.4.2 Shall, within sixty (60) calendar days of receipt of written request from the

Department, submit to the Department an application for a source category permit pursuant to Section 10.0 of this regulation.

2.2 Provided that Regulation No. 1125 does not apply, a permit for installation, alteration, or operation pursuant to this regulation shall not be required for the following equipment or air contaminant control device. Note however that other State and Federal requirements may apply.

2.2.1 Equipment without an air contaminant control device that has actual emissions to the atmosphere of any air contaminant(s), in the aggregate, during each and every day that are less than 0.2 pound per day, provided that:

2.2.1.1 The actual emissions are quantified and documented; and

2.2.1.2 Records are maintained at the facility and are made available to the Department upon request which document that the equipment qualifies for this exemption.

2.2.2 Equipment with an air contaminant control device that has actual emissions to the inlet of the air contaminant control device of any air contaminant(s), in the aggregate, during each and every day that are less than 0.2 pound per day, provided that:

2.2.2.1 The actual emissions are quantified and documented; and

2.2.2.2 Records are maintained at the facility and are made available to the Department upon request which document that the equipment qualifies for this exemption.

2.2.3 The equipment listed in Appendix "A" of this regulation.

2.2.4 For operation, any equipment or air contaminant control device that is specifically identified in an operation permit issued pursuant to Regulation No. 30.

2.2.5 Equipment that is registered pursuant to Section 9.0 of this regulation.

2.3 Any person who operates fuel burning equipment which uses only natural gas, LP gas, or other desulfurized fuel gas and has a rated heat input of less than 100 million BTUs per hour, or any other equipment, that was exempted from the requirement to have a permit by Regulation No. 2, Section 3.1 (as in effect immediately preceding the then effective date of this regulation of June 1, 1997), or who operates a piece of equipment, a facility, or an air contaminant control device in accordance with a valid permit or letter of exemption that was issued by the Department prior to June 1, 1997, and who, with regard to that specific equipment, facility, or air contaminant control device, is now subject to Section 2.1 of this regulation:

2.3.1 May, at any time, submit to the Department a registration form or a permit application pursuant to Section 2.1; and

2.3.2 Shall, within sixty (60) calendar days of receipt of a written request from the Department, submit to the Department a registration form or a permit application pursuant to Section 2.1; and

2.3.3 Shall not initiate construction, installation, or alteration of the equipment, facility or air contaminant control device prior to complying with Section 2.1 of this regulation (i.e., prior to receiving approval of his application from the Department or, if eligible, prior to submitting to the Department a completed registration form).

2.4 Any person may petition the Department to establish a source category permit. The petition and, if approved, the establishment of the source category permit shall be pursuant to the procedures in Regulation No. 30 of the State of Delaware "*Regulations Governing the Control of Air Pollution*."

### **3.0 Application/Registration Prepared by Interested Party**

3.1 Any application/registration form submitted to the Department, or any request for the removal of any permit or registration, shall be made by the owner or lessee of the equipment, facility, or air contaminant control device or by his agent. If the applicant/registrant is a partnership or group other than a corporation, the application/registration shall be made by one individual who is a member of the group. If the applicant/registrant is a corporation, the application/registration shall be made by an appropriate representative of the corporation. The application/registration form shall be filed with the Air Quality Management Section of the Division of Air and Waste Management.

3.2 Each application form shall be signed by the applicant and certified by a professional engineer as to the accuracy of the technical information concerning the equipment, apparatus or design features contained in the application, plus plans and other papers submitted. Any applicant who fails to submit any relevant facts or who

submitted incorrect information to the Department shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or correct information. The signature of the applicant shall constitute an agreement that the applicant will assume responsibility for the installation, alteration or use of the equipment or apparatus concerned in accordance with the requirements of this Regulation.

3.3 Each registration form shall be signed and certified by the registrant as to the accuracy of the technical information concerning the equipment, apparatus or design features contained in the registration. Any registrant who fails to submit any relevant facts or who submitted incorrect information to the Department shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or correct information. The signature of the registrant shall constitute an agreement that the registrant will assume responsibility for the installation, alteration or use of the equipment or apparatus concerned in accordance with the requirements of this Regulation.

#### **4.0 Cancellation of Construction Permits**

4.1 The Department may cancel a construction permit if the installation or alteration is not begun or if the work involved in installation or alteration is not completed within the time limits specified in the permit.

#### **5.0 Action on Applications**

5.1 If an application is disapproved, the Department shall set forth its objections in the notice of disapproval.

5.2 Upon granting written approval for operation, the Department shall give notice of such approval to any person who has submitted a written request for such notice.

#### **6.0 Denial, Suspension or Revocation of Operating Permits**

6.1 In the event the Department denies a request for approval of a permit to operate any equipment, facility, or device for which an application was made, the applicant shall not commence operation until such time that approval has been obtained from the Department or a permit to operate has been issued by the Department.

6.2 The Department may suspend or revoke an operating permit for violation of any permit condition or violation of this or any other applicable rule or regulation of the Department or any law administered by the Department and may take such other actions as it deems necessary. Permit term(s) and condition(s) which were not identified under Section 11.2.9 and which were not subject to public participation under Section 12.3, and/or which do not otherwise conform to the requirements of this regulation, ~~may be deemed not federally enforceable by the Administrator of the EPA shall not limit potential to emit for the purpose of avoiding applicability of federal standards, regulations or other federal requirements.~~

6.3 Suspension or revocation of an operating permit shall become final immediately upon service of notice on the holder of the permit, unless otherwise stated in the notice of suspension or revocation.

#### **7.0 Transfer of Permit/Registration Prohibited**

7.1 No person shall transfer a permit from one location to another, or from one piece of equipment to another. No person shall transfer a permit from one person to another person unless thirty (30) days written notice is given to the Department, indicating the transfer is agreeable to both persons, and approval of such transfer is obtained in writing from the Department.

7.2 No person shall transfer a registration from one location to another, or from one piece of equipment to another. No person shall transfer a registration from one person to another person unless prior written notice is given to the Department, indicating the transfer is agreeable to both persons.

#### **8.0 Availability of Permit/Registration**

8.1 Any permit and any registration form shall be available on the premises where the construction, alteration, installation, or operation activity takes place.

#### **9.0 Registration Submittal**

9.1 Any person identified in Section 2.1.1 shall register the piece of equipment with the Department on

forms furnished by the Department.

9.2 A person shall register with the Department by submitting to the Department a completed registration form that is certified by the person identified in Section 3.1. Registration forms are available from the Department upon request. The registration shall consist of at least the following:

9.2.1 A description of the equipment covered by the registration; and

9.2.2 A description of the nature and quantification of the amount of the emission from the equipment; and

9.2.3 A demonstration that the equipment meets the emission rate(s) and/or standard(s) specified in Section 11.8.1 and 11.8.2 of this regulation without an air contaminant control device.

9.3 Immediately after submitting to the Department the information specified in Section 9.2 of this regulation the registrant may initiate construction, install, alter or initiate operation of the equipment.

9.3.1 The registrant shall maintain records at the facility which document that the equipment meets the requirements of Section 2.1.1, and shall make such records available to the Department upon request.

9.3.2 If at any time the registered equipment does not meet the requirements of Section 2.1.1, operation of said equipment shall be immediately discontinued until all necessary permits have been secured.

9.3.3 If at any time the Department determines that the registered equipment does not meet the requirements of Section 2.1.1, a violation of this regulation may have occurred and enforcement action may ensue.

9.4 The submittal of a registration form does not relieve the registrant from the requirement to comply with all State and Federal requirements. Such requirements include, but are not limited to, monitoring, record keeping and reporting requirements, any requirement to consider actual emissions and/or the potential to emit of all equipment when determining the applicability of and/or compliance with certain State and Federal requirements, and any requirement to revise a Regulation No. 30 permit if required to do so by that regulation.

9.5 A person may, in lieu of submitting to the Department a registration form, elect to:

9.5.1 Apply for a permit pursuant to Section 2.1.2 or 2.1.3 of this regulation, as applicable.

9.5.2 Submit to the Department all of the information required by Section 9.2.1 and 9.2.2. In such a case the registrant shall not commence construction/operation until written approval is obtained from the Department.

## **10.0 Source Category Permit Application**

10.1 Any person identified in Section 2.1.2 shall submit to the Department an application requesting a source category permit on forms furnished by the Department.

10.2 The application requesting a source category permit shall include all of the following:

10.2.1 All of the information called for by the source category application form. Source category application forms are available from the Department upon request.

10.2.2 Certification by the person identified in Section 3.1 that the source will comply with all of the terms and conditions of the source category permit.

10.2.3 For facilities subject to Regulation No. 30, the person identified in Section 3.1 of this regulation shall be a responsible official as defined in Regulation No. 30, and the application shall contain the following language from the responsible official: "I certify, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete."

10.3 For facilities not subject to Regulation No. 30, the Department shall grant approval by issuing to the applicant a source category permit.

10.4 For facilities subject to Regulation No. 30, the Department shall grant approval by incorporating the source category permit into the Regulation No. 30 permit by reference, and such incorporation shall be via the administrative permit amendment process specified in Regulation No. 30.

10.5 A source category permit may be valid for an indefinite period, except as provided for in Regulation No. 30 for sources subject to that regulation.

## **11.0 Permit Application**

11.1 Any person identified in Section 2.1.3 shall submit to the Department an application for a permit on forms furnished by the Department. Permit application forms are available from the Department upon request.

11.2 The application shall consist of a description of at least the following:

11.2.1 The equipment or apparatus covered by the application; and

11.2.2 Any equipment connected or attached to, or servicing or served by the unit of equipment or apparatus covered by the application; and

11.2.3 The plot plan, including the distance and height of building within a reasonable distance from the place where the equipment is or will be installed, if necessarily required by the Department; and

11.2.4 The proposed means for the prevention or control of the emissions or contaminant;

11.2.5 The chemical composition and amount of any trade waste to be produced as a result of the construction, installation, or alteration of any equipment or apparatus covered by this application;

11.2.6 Any additional information, evidence or documentation required by the Department to show what the proposed equipment or apparatus will do.

11.2.7 Methods and expected frequency of occurrence of the start-up and shutdown of the equipment, including projected effects of emissions to the atmosphere and on ambient air quality.

11.2.8 The nature and amount of emission to be emitted by equipment, the facility, or an air contaminant control device or emitted by associated mobile sources.

11.2.9 If the applicant desires any of the term(s) or condition(s) of the permit to be ~~federally enforceable~~ an effective limit on the potential to emit for the purpose of avoiding applicability of a federal standard, regulation, or other federal requirement, the applicant shall state that fact in the application. The ensuing permit shall clearly indicate the specific term(s) and condition(s) that are ~~federally enforceable~~ intended to limit potential to emit.

11.2.10 If the applicant desires any of the term(s) or condition(s) of a construction permit to transfer to a Regulation No. 30 permit via the administrative permit amendment process specified in Regulation No. 30 the following additional requirements apply:

11.2.10.1 The person identified in Section 3.1 of this regulation shall be a responsible official as defined in Regulation No. 30, and the application shall contain the following language from the responsible official: "I certify, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete."

11.2.10.2 The application shall include the following additional information:

11.2.10.2.1 The citation and description of all applicable requirements that will apply to the equipment, facility, or air contaminant control device and that will become applicable to any covered source as a result of the construction, installation, alteration, or operation; and a description of, or reference to, any applicable test method for determining compliance with each applicable requirement. The terms "applicable requirement" and "covered source" retain the meanings accorded to them in Regulation No. 30.

11.2.10.2.2 Certification by the responsible official that the source will meet all applicable requirements on a timely basis, and, if a more detailed schedule is expressly required by any applicable requirement, that applicable requirement in accordance with that more detailed schedule.

11.2.10.2.3 If desired, information necessary to define alternative operating scenarios under Regulation No. 30, Section 6.1.10, or to define permit terms and conditions to implement emission averaging or operational flexibility under Regulation No. 30, Section 6.1.11 and 6.8.

11.2.10.2.4 If desired, a request that the Department, upon taking final action under Section 11.5.2 or 11.5.3 of this regulation, allow coverage under the permit shield as described in Regulation No. 30, Section 6.6.

11.2.10.3 The applicant shall provide additional information necessary to address any requirements that become applicable to the equipment, facility, or air contaminant control device after the date it filed an application under this section but prior to the date advertisement is made pursuant to Section ~~42-4-2~~ 11.4.2 of this regulation. This requirement is in addition to the requirement of Section 2.1 of this regulation in situations where construction, installation, or alteration is necessary to comply with the new applicable requirement.

11.2.10.4 The ensuing construction permit shall clearly indicate the specific term(s) or condition(s) to transfer to the Regulation No. 30 permit, and each such term or condition shall specify the origin and the authority for that term or condition, and shall identify any difference in form as compared to the applicable

requirement upon which the term or condition is based.

11.3 In situations in which construction, installation, or alteration is proposed, and operation of the equipment, facility, or air contaminant control device is to follow, such operation shall not commence until written approval is obtained by the applicant from the Department in accordance with Section 11.4 and 11.5, as applicable. The Department may condition approval to operate on a demonstration by the applicant of satisfactory performance of the equipment, facility, or air contaminant control device. In the event the applicant fails to demonstrate satisfactory performance, the Department may require the applicant to cease emissions from the source.

11.4 Persons not requesting review under Section 11.2.10 shall, upon completion of the construction, installation or alteration, request that the Department grant approval to operate.

11.4.1 An application does not need to be submitted to the Department. Note however that an application may be required under Regulation No. 30 for persons subject to that regulation.

11.4.2 Upon satisfactory demonstration that the equipment, facility or air contaminant control device complies with all of the terms and conditions of the construction permit, the Department shall grant approval to operate by issuing an operation permit.

11.5 Persons requesting review under Section 11.2.10 shall, upon completion of the construction, installation or alteration, request that the Department transfer the terms and conditions of the construction permit into the Regulation No. 30 operating permit.

11.5.1 The request shall contain the following information, and shall contain the following language from the responsible official: "I certify, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete."

11.5.1.1 A description of the compliance status, a compliance schedule, and a certification of compliance for the equipment, facility, or air contaminant control device with respect to all applicable requirements, in accordance with Regulation No. 30, Section 5.4.8 and 5.4.9; and

11.5.1.2 A statement of the methods used to determine compliance, including a description of monitoring, record keeping, and reporting requirements and test methods.

11.5.2 Upon satisfactory demonstration that the equipment, facility or air contaminant control device complies with all applicable requirements and all of the terms and conditions of the construction permit, and not prior to the expiration of the EPA review period provided for in Section 12.5, the Department shall transfer the specified terms and conditions to the Regulation No. 30 permit via the administrative permit amendment process specified in Regulation No. 30.

11.5.3 If the Department determines that the equipment, facility, or air contaminant control device does not comply with any applicable requirement the Department may take enforcement action, and shall do one of the following:

11.5.3.1 Provide an opportunity for the applicant to resolve the noncompliance; then, upon resolution, transfer the specified terms and conditions of the construction permit to the Regulation No. 30 permit via the administrative permit amendment process specified in Regulation No. 30; or

11.5.3.2 Transfer the specified terms and conditions of the construction permit, and an enforceable compliance schedule which satisfies the requirements of Regulation No. 30, Section 5.4.8.3, to the Regulation No. 30 permit by reopening the permit for cause pursuant to the procedures in Regulation No. 30; or

11.5.3.3 Deny the request for approval to operate.

11.6 No permit shall be issued by the Department unless the applicant shows to the satisfaction of the Department that the equipment, facility, or air contaminant control device is designed to operate or is operating without causing a violation of the State Implementation Plan, or any rule or regulation of the Department, and without interfering with the attainment or maintenance of National and State ambient air quality standards, and without endangering the health, safety, and welfare of the people of the State of Delaware. The Department may, from time to time, issue or accept criteria for the guidance of applicants indicating the technical specifications which it deems will comply with the performance standards referenced herein.

11.7 Before a permit is issued, the Department may require the applicant to conduct such tests as are necessary in the opinion of the Department to determine the kind and/or amount of the contaminants emitted from the equipment or whether the equipment or fuel or the operation of the equipment will be in violation of any of the

provisions of any rule or regulation of the Department. Such tests shall be made at the expense of the applicant and shall be conducted in a manner approved by the Department.

11.8 The following emission rates and/or standards for each air contaminant emitted from any equipment, facility or air contaminant control device shall be specified in each permit issued pursuant to this regulation:

11.8.1 The rate and/or standard established and/or relied upon in the State Implementation Plan (SIP) to include the State of Delaware "*Regulations Governing the Control of Air Pollution*" and regulations promulgated pursuant to Section 111 and Section 112 of the Clean Air Act (CAA); and

11.8.2 The rate that was shown under Section 11.6 as not interfering with the attainment and maintenance of any National and State ambient air quality standard, and not endangering the health, safety, and welfare of the people of the State of Delaware; or

11.8.3 The rate requested by the applicant. In no case shall this rate be greater than the potential to emit of the equipment, facility, or air contaminant control device; and in no case shall this rate be less stringent than the rate specified in Section 11.8.1 and 11.8.2 of this regulation.

11.9 Each emission rate and standard shall be enforceable as a practical matter. Enforceable as a practical matter means that each emission rate and standard:

11.9.1 Is stated in the permit as a technically specific and accurate limitation.

11.9.2 Is specifically associated with a particular piece(s) of equipment or air contaminant control device(s).

11.9.3 Has associated conditions which, in total, establish a method to determine compliance. Such associated conditions shall include appropriate testing, monitoring, record keeping, and reporting requirements.

11.9.4 Has a recurring, predictable time period under which compliance with the limitation will be demonstrated. Such time period shall be that specified in the underlying State regulation or federal rule or, in the absence of such specification and upon approval by the Department, shall be hourly, daily, monthly, or some other time period which provides for the demonstration of compliance with the limitation no less frequently than monthly.

11.10 A construction permit or any renewal thereof shall be valid for a period not to exceed three years from the date of issuance, unless sooner revoked by order of the Department, and may be renewed upon application to and approval by the Department.

11.11 An operating permit may be valid for an indefinite period, unless the equipment or operation for which a permit is written has controlled emissions of 100 tons or more per year of any air contaminant, in which case the permit shall be valid for not more than a 5-year period and shall be evaluated prior to re-issuance to determine if permitted emission limits are appropriate.

11.12 The provisions of Section 2.1 and 11.3 shall not apply to the operation of equipment or processes for the purpose of initially demonstrating satisfactory performance to the Department following construction, installation, modification or alteration of the equipment or processes. The applicant shall notify the Department sufficiently in advance of the demonstration and shall obtain the Department's prior concurrence of the operating factors, time period and other pertinent details relating to the demonstration.

11.13 Upon receipt of an application for the issuance of an operating permit the Department, in its discretion, may issue a temporary operating permit valid for a period not to exceed ninety (90) days. A temporary operating permit issued pursuant to this Section shall not be extended more than once for an additional 90-day period.

## **12.0 Public Participation**

12.1 Information obtained through the provisions of this Regulation shall be made available for public inspection at any Department office except where such information is of confidential nature as defined in 7 Del.C. §6014. The Department shall provide for public participation and comment in accordance with Section 12.2 through 12.6, as applicable.

12.2 Upon receipt of a source category permit application or a permit application, in proper form, the Department shall provide for public participation and comment by:

12.2.1 Making available in at least one location in the State of Delaware a public file containing a

copy of all materials that the applicant has submitted (other than those granted confidential treatment).

12.2.2 Advertising in a newspaper of general circulation in the county in which the activity is proposed and in a daily newspaper of general circulation throughout the State: 1) the fact that the application has been received, the identity of the affected facility, and the city or town in which the facility is located, 2) a brief description of the nature of the application, to include the activity or activities involved in the permit action and the emissions or the change in emission involved, and 3) the name, address and telephone number of a Department representative with responsibility for the permitting action, the place at which a copy of the public file may be inspected, and a statement of procedures to request a hearing.

12.2.3 Sending notice of the information detailed in Section 12.2.2 by mail to any person who has requested such notification from the Department by providing to the Department their name and mailing address.

12.2.4 Holding, if the Department receives a meritorious request for a hearing within fifteen (15) calendar days of the date of the advertisement described in Section 12.2.2, or if the Department deems it to be in the best interest of the State to do so, a public hearing on an application for interested persons to appear and submit written or oral comments on the air quality impact of the proposed action.

12.2.4.1 A public hearing request shall be deemed meritorious if it exhibits a familiarity with the application and a reasoned statement of the permit's probable impact.

12.2.4.2 Not less than twenty (20) calendar days before the time of said hearing, notification that a public hearing will be held and the time and place of that hearing shall be:

12.2.4.2.1 Served upon the applicant as summonses are served or by registered or certified mail; and

12.2.4.2.2 Published in a newspaper of general circulation in the county in which the activity is proposed and in a daily newspaper of general circulation throughout the State.

12.2.5 Considering all comments submitted by the applicant and the public in reaching its final determination.

12.3 For each permit application requesting to make the terms and conditions of in a permit federally enforceable to effectively limit potential to emit to avoid applicability of a federal standard, regulation, or other federal requirement, the Department shall provide for public participation and comment by:

12.3.1 Making available in at least one location in the State of Delaware a public file containing a copy of all materials that the applicant has submitted (other than those granted confidential treatment), a copy of the draft permit, and a copy or summary of other materials, if any, considered in making the preliminary determination.

12.3.2 Advertising in a newspaper of general circulation in the county in which the activity is proposed and in a daily newspaper of general circulation throughout the State: 1) the fact that the application has been received, the identity of the affected facility, and the city or town in which the facility is located, 2) a brief description of the nature of the application, to include the activity or activities involved in the permit action and the emissions or the change in emission involved, and 3) the name, address and telephone number of a Department representative with responsibility for the permitting action, the place at which a copy of the public file may be inspected, and a statement of procedures to request a hearing.

12.3.3 On or before the date of the advertisement described in Section 12.3.2:

12.3.3.1 Sending notice of the information detailed in Section ~~12.3.2~~ 12.3.2 by mail to the Administrator of the EPA, through the Region III office, and to any person who has requested such notification from the Department by providing to the Department their name and mailing address.

12.3.3.2 Providing the Administrator of the EPA, through the Region III office, a copy of the draft permit.

12.3.4 Holding, if the Department receives a meritorious request for a hearing within thirty (30) calendar days of the date of the advertisement described in Section 12.3.2, or if the Department deems it to be in the best interest of the State to do so, a public hearing on an application or the draft permit for interested persons to appear and submit written or oral comments on the air quality impact of the proposed action or on the specific terms and conditions of the draft permit.

12.3.4.1 A public hearing request shall be deemed meritorious if it exhibits a familiarity with the application and a reasoned statement of the permit's probable impact.

12.3.4.2 Not less than thirty (30) calendar days before the time of said hearing, notification that a public hearing will be held and the time and place of that hearing shall be:

12.3.4.2.1 Served upon the applicant as summonses are served or by registered or certified mail; and

12.3.4.2.2 Published in a newspaper of general circulation in the county in which the activity is proposed and in a daily newspaper of general circulation throughout the State.

12.3.5 Affording the applicant an opportunity to submit, within fifteen (15) days following the close of the public comment period or the public hearing, whichever is later, a response to any comments made.

12.3.6 Considering all comments submitted by the applicant, the public, and the Administrator of the EPA in reaching its final determination.

12.3.7 Providing to the Administrator of the EPA, through the Region III office, a copy of the permit.

12.4 For each permit application requesting to allow the terms and conditions of a construction permit to transfer to a Regulation No. 30 permit via the administrative permit amendment process specified in Regulation No. 30, the Department shall provide for public participation and comment by:

12.4.1 Making available in at least one location in the State of Delaware a public file containing a copy of all materials that the applicant has submitted (other than those granted confidential treatment), a copy of the draft permit, and a copy or summary of other materials, if any, considered in making the preliminary determination.

12.4.2 Advertising in a newspaper of general circulation in the county in which the activity is proposed and in a daily newspaper of general circulation throughout the State: 1) the fact that the application has been received, the identity of the affected facility, and the city or town in which the facility is located, 2) a brief description of the nature of the application, to include the activity or activities involved in the permit action and the emissions or the change in emission involved, and 3) the name, address and telephone number of a Department representative with responsibility for the permitting action, the place at which a copy of the public file may be inspected, and a statement of procedures to request a hearing.

12.4.3 On or before the date of the advertisement described in Section 12.4.2:

12.4.3.1 Sending notice of the information detailed in Section 12.4.2 by mail to any person who has requested such notification from the Department by providing to the Department their name and mailing address, and to the representative of any affected states designated by those states to receive such notices. The term "affected states" retains the meaning accorded to it in Regulation No. 30.

12.4.3.2 Providing the Administrator of the EPA, through the Region III office, affected states, any person who requests it, and the applicant a statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions).

12.4.3.3 Providing the Administrator of the EPA, through the Region III office, a copy of the permit application unless the Administrator waives the requirement.

12.4.4 Holding, if the Department receives a meritorious request for a hearing within thirty (30) calendar days of the date of the advertisement described in Section 12.4.2, or if the Department deems it to be in the best interest of the State to do so, a public hearing on an application or the draft permit for interested persons to appear and submit written or oral comments on the air quality impact of the proposed action or on the specific terms and conditions of the draft permit.

12.4.4.1 A public hearing request shall be deemed meritorious if it exhibits a familiarity with the application and a reasoned statement of the permit's probable impact.

12.4.4.2 Not less than thirty (30) calendar days before the time of said hearing, notification that a public hearing will be held and the time and place of that hearing shall be:

12.4.4.2.1 Served upon the applicant as summonses are served or by registered or certified mail; and

12.4.4.2.2 Published in a newspaper of general circulation in the county in which the activity is proposed and in a daily newspaper of general circulation throughout the State.

12.4.5 Affording the applicant an opportunity to submit, within fifteen (15) days following the close of the public comment period or the public hearing, whichever is later, a response to any comments made.

12.4.6 Considering all comments submitted by the applicant, the public, and any affected state in reaching its final determination. The Department shall maintain a list of all commenters and a summary of the issues raised and shall make that information available in the public file and supply it to EPA upon request.

12.4.7 After meeting the requirements of 12.4.1 through 12.4.6, providing the Administrator of the EPA, through the Region III office, a copy of the proposed permit [i.e., the version of the permit that represents the Department's final determination under Section 12.4.6], all necessary supporting information, and providing a notice to the Administrator and to any affected state of any refusal by the Department to accept all recommendations for the proposed permit that the affected state submitted during the public review period. The notice shall include the Department's reasons for not accepting any such recommendation. The Department is not required to accept recommendations that are not based on applicable requirements. The term "applicable requirement" retains the meaning accorded to it in Regulation No. 30.

12.4.8 On or before the date that the Department provides the proposed permit to EPA for review under Section 12.4.7), issuing a written response to all comments submitted by affected states and all significant comments submitted by the applicant and the public.

12.5 The Department shall not issue the permit if the Administrator objects to its issuance in writing within forty-five (45) days of receipt of all of the information provided to the Administrator pursuant to Section 12.4.7. Any EPA objection under this paragraph shall include a statement of the Administrator's reasons for objection and a description of the terms and conditions that must be revised to respond to the objection. The Administrator will provide the applicant a copy of the objection. The Department may thereafter issue only a revised permit that satisfies EPA's objection.

12.6 If the Administrator does not object in writing under Section 12.5, any person may petition the Administrator within sixty (60) days after the expiration of the Administrator's 45-day review period to make such objection. Any such petition shall be based only on objections to the permit raised with reasonable specificity during the public comment period provided for in Section 12.4, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. If the Administrator objects to the permit as a result of a petition filed under this paragraph, the Department shall not amend the Regulation No. 30 permit until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of the construction permit and/or the amended Regulation No. 30 permit or its requirements if the construction permit or the amended Regulation No. 30 permit was issued after the end of the 45-day review period and prior to an EPA objection. If the Department has issued an amended the Regulation No. 30 permit prior to receipt of an EPA objection under this paragraph, the Administrator will modify, terminate, or revoke such permit, and shall do so consistent with the time limits established in 40 CFR 70.7(g)(4) or (5)(i) and (ii), except in emergencies, and the Department may thereafter issue only a revised permit that satisfies EPA's objection. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application under Regulation No. 30.

### **13.0 Department Records**

13.1 The Department will keep for five (5) years such records and submit to the Administrator of the EPA such information as the Administrator may reasonably require to ascertain whether the optional procedures to establish and transfer the terms and conditions of a construction permit issued pursuant to this regulation into a Regulation No. 30 operating permit via the administrative permit amendment process specified in Regulation No. 30 comply with the requirements of the Federal Clean Air Act and 40 CFR Part 70.

**Appendix "A"**

(For the applicability of Appendix "A" see Section 2.2 of the regulation)

- 1.0 Air contaminant detector, air contaminant recorder, combustion controller or combustion shut-off.
- 2.0 Except as provided for in Regulation No. 22, "Restriction on Quality of Fuel in Fuel Burning Equipment," external combustion fuel burning equipment which:
  - 2.1 Uses any fuel and has a rated heat input of less than 10 million British-Thermal Units (BTUs) per hour.
  - 2.2 Uses only natural gas, LP gas, or other desulfurized fuel gas and has a rated heat input of less than 15 million British-Thermal Units (BTUs) per hour.
- 3.0 Air conditioning or comfort ventilating systems.
- 4.0 Vacuum cleaning systems used exclusively for office applications or residential housekeeping.
- 5.0 Ventilating or exhaust systems for print storage room cabinets.
- 6.0 Exhaust systems for controlling steam and heat.
- 7.0 Any equipment at a facility used exclusively for chemical or physical analysis or determination of product quality and commercial acceptance, provided the operation of the equipment is not an integral part of the production process and the total actual emissions from all such equipment at the facility do not exceed 450 pounds in any calendar month.
- 8.0 Internal combustion engines in vehicles used for transport of passengers or freight.
- 9.0 Maintenance, repair, or replacement in kind of equipment for which a permit to operate has been issued.
- 10.0 Equipment which emits only nitrogen, oxygen, carbon dioxide, and/or water vapor.
- 11.0 Ventilating or exhaust systems used in eating establishments where food is prepared for the purpose of consumption.
- 12.0 Equipment used to liquefy or separate oxygen, nitrogen or the rare gases from the air.
- 13.0 Fireworks display.
- 14.0 Smudge pots for orchards or small outdoor heating devices to prevent freezing of plants.
- 15.0 Outdoor painting and sand blasting equipment.
- 16.0 Lawn mowers, tractors, farm equipment and construction equipment.
- 17.0 Gasoline dispensing facilities that never exceed a monthly throughput of 10,000 gallons.
- 18.0 Stationary gasoline storage tanks that:
  - 18.1 Have a capacity less than 550 gallons and that are used exclusively for the fueling of implements of husbandry; or
  - 18.2 Have a capacity less than 2000 gallons and that were constructed prior to January 1, 1979; or
  - 18.3 Have a capacity less than 250 gallons and that were constructed after December 31, 1978.
- 19.0 Fire schools or fire fighting training.
- 20.0 Residential wood burning stoves and wood burning fireplaces.
- 21.0 Any stationary storage tank not subject to control by these regulations which contains any liquid having a true vapor pressure less than 0.5 psia at 70oF or is less than 5000 gallons capacity.
- 22.0 Buildings, cabinets, and facilities used for storage of chemicals in closed containers.
- 23.0 Sewage treatment facilities.
- 24.0 Water treatment units.
- 25.0 Quiescent wastewater treatment operations.
- 26.0 Non-contact water cooling towers (water that has not been in direct contact with process fluids).
- 27.0 Laundry dryers, extractors, or tumblers used for fabrics cleaned with a water solution of bleach or detergents.
- 28.0 Equipment used for hydraulic or hydrostatic testing.
- 29.0 Blueprint copiers and photographic processes.
- 30.0 Kilns used for firing ceramic ware that are heated exclusively by natural gas, electricity, and/or

liquid petroleum gas, and the BTU input is less than 15 million BTUs per hour.

31.0 Inorganic acid storage tanks equipped with an emission control device.

32.0 Any internal combustion engine associated with a stationary electrical generator that: 1)has a standby power rating of 450 kilowatts or less that is used only during times of emergency; 2)is located at any residence; or 3)is located at any commercial poultry producing premise, as these terms are defined in Regulation No. 1144.

33.0 Any internal combustion fuel burning equipment, which is not associated with a stationary electrical generator, and has an engine power rating of 450 hp or less.

**9 DE Reg. 1084 (01/01/06)**

---

## **DEPARTMENT OF STATE**

### **DIVISION OF PROFESSIONAL REGULATION**

#### **1770 Respiratory Care Advisory Council**

Statutory Authority: 24 Delaware Code, Section 1775(c) (24 **Del.C.** §1775(c))

**24 DE Admin. Code 1770**

#### **PUBLIC NOTICE**

PLEASE TAKE NOTICE, pursuant to 29 **Delaware Code** Chapter 101 and 24 **Delaware Code** Section 1775 (c), the Respiratory Care Advisory Council of the Delaware Board of Medical Practice has developed and proposes to modify Section 8.0 Continuing Education by amending subsection 8.6.7 to provide clarity to the continuing education requirements that must be met by a licensee seeking to reinstate a license that has lapsed for less than three (3) years. The proposal also includes new subsections 8.6.8 and 8.6.9 establishing additional requirements for applicants who wish to obtain reinstatement after the applicant's prior license has expired for three or more years. In addition, the proposal modifies Section 10.0 Application for a License by amending subsection 10.2.1.4 to provide individuals who have not been licensed in any jurisdiction within three (3) years of initially passing the NBRC entry level examination will be required to re-take the NBRC examination and provide proof of a current passing score before a license will be issued.

The new subsections delineate the requirements for those applicants who have been engaged in the active practice of respiratory care during a specified period and those who have not.

A public hearing will be held on the proposed Rules and Regulations on Tuesday, April 16, 2006 at 2:30 p.m. in the Second Floor Conference Room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware 19904. The Council will receive and consider input in writing from any person on the proposed Rules and Regulations. Any written comments should be submitted to the Council in care of Gayle MacAfee at the above address. The final date to submit written comments shall be at the above scheduled public hearing. Anyone wishing to obtain a copy of the proposed Rules and Regulations or to make comments at the public hearing should contact Gayle MacAfee at the above address or by calling (302) 739-4520.

#### **1770 Respiratory Care Advisory Council**

*(Break in Continuity of Sections)*

#### **8.0 Continuing Education**

8.1 Contact Hours Required for Renewal

8.1.1 The respiratory care practitioner shall be required to complete (20) twenty contact hours biennially and to retain all certificates and other documented evidence of participation in an approved/accredited continuing education program for a period of at least (3) three years. Upon request, such documentation shall be made available to the Council for random audit and verification purposes. All contact hours must be completed at

least sixty (60) days prior to the end of the renewal year.

8.1.2 Contact hours shall be prorated for new licensees in accordance with the following schedule:

Two years remaining in the licensing cycle requires -	20 hours
One year remaining in the licensing cycle requires -	10 hours
Less than one year remaining in the licensing cycle -	exempt

8.2 Exemptions

8.2.1 A licensee who because of a physical or mental illness during the license period could not complete the continuing education requirement may apply through the Council to the Board of Medical Practice for a waiver. A waiver would provide for an extension of time or exemption from some or all of the continuing education requirements for one (1) renewal period. Should the illness extend beyond one (1) renewal period, a new request must be submitted.

8.2.2 A request for a waiver must be submitted sixty (60) days prior to the license renewal date.

8.3 Criteria for Qualification of Continuing Education Program Offerings

The following criteria are given to guide respiratory care practitioners in selecting an appropriate activity/program and to guide the provider in planning and implementing continuing education activities/programs. The overriding consideration in determining whether a specific activity/program qualifies as acceptable continuing education shall be that it is a planned program of learning which contributes directly to the professional competence of the respiratory care practitioner.

8.3.1 Definition of Contact Hours

8.3.1.1 Fifty consecutive minutes of academic course work, correspondence course, or seminar/workshop shall be equivalent to one (1) contact hour. A fraction of a contact hour may be computed by dividing the minutes of an activity by 50 and expressed as a decimal.

8.3.1.2 Recredentialing examination for certified respiratory therapy technician, (CRTT), and registered respiratory therapist, (RRT), shall be equivalent to five (5) contact hours.

8.3.1.3 Successful completion of advanced specialty exams administered by the National Board for Respiratory Care, (NBRC), shall be equal to five (5) contact hours for each exam.

8.3.1.4 One (1) semester hour shall be equal to fifteen (15) contact hours.

8.3.1.5 One (1) quarter hour shall be equal to ten (10) contact hours.

8.3.1.6 Two (2) hours (120 minutes) of clinical educational experience shall be equal to one (1) contact hour.

8.3.1.7 Fifty (50) consecutive minutes of presentation of lectures, seminars or workshops in respiratory care or health care subjects shall be equivalent to one (1) contact hour.

8.3.1.8 Preparing original lectures, seminars, or workshops in respiratory care or health care subjects shall be granted no more than two (2) contact hours for each contact hour of presentation.

8.3.1.9 Performing clinical or laboratory research in health care shall be reviewed and may be granted an appropriate number of contact hour(s) at the Council's discretion.

8.3.2 Learner Objectives

8.3.2.1 Objectives shall be written and be the basis for determining content, learning experience, teaching methodologies, and evaluation.

8.3.2.2 Objectives shall be specific, attainable, measurable, and describe expected outcomes for the learner.

8.3.3 Subject Matter

Appropriate subject matter for continuing education shall include the following:

8.3.3.1 Respiratory care science and practice and other scientific topics related thereto

8.3.3.2 Respiratory care education

8.3.3.3 Research in respiratory care and health care

## PROPOSED REGULATIONS

8.3.3.4 Management, administration and supervision in health care delivery

8.3.3.5 Social, economic, political, legal aspects of health care

8.3.3.6 Teaching health care and consumer health education

8.3.3.7 Professional requirements for a formal respiratory care program or a related field

beyond those that were completed for the issuance of the original license

### 8.3.4 Description

Subject matter shall be described in outline form and shall include learner objectives, content, time allotment, teaching methods, faculty, and evaluation format.

### 8.3.5 Types of Activities/Programs

8.3.5.1 An academic course shall be an activity that is approved and presented by an accredited post-secondary educational institution which carries academic credit. The course may be within the framework of a curriculum that leads to an academic degree in respiratory care beyond that required for the original license, or relevant to respiratory care, or any course that shall be necessary to a respiratory care practitioner's professional growth and development.

8.3.5.2 A correspondence course contains the following elements:

8.3.5.2.1 developed by a professional group, such as an education corporation or professional association.

8.3.5.2.2 follows a logical sequence.

8.3.5.2.3 involves the learner by requiring active response to module materials and provides feedback.

8.3.5.2.4 contains a test to indicate progress and to verify completion of module.

8.3.5.2.5 supplies a bibliography for continued study.

8.3.5.3 A workshop contains the following elements:

8.3.5.3.1 developed by a knowledgeable individual or group in the subject matter.

8.3.5.3.2 follows a logical sequence.

8.3.5.3.3 involves the learner by requiring active response, demonstration and feedback.

8.3.5.3.4 requires hands-on experience.

8.3.5.3.5 supplies a bibliography for continued study.

8.3.5.4 Advanced and specialty examinations offered by the NBRC or other examinations as approved by the Council including:

- Recredentialing exam.
- Pediatric/perinatal specialty exam.
- Pulmonary function credentialing exams
- Advanced practitioner exam

8.3.5.5 Course preparation

8.3.5.6 Clinical education experience must be:

8.3.5.6.1 Planned and supervised.

8.3.5.6.2 Extended beyond the basic level of preparation of the individual who is licensed.

8.3.5.6.3 Based on a planned program of study.

8.3.5.6.4 Instructed and supervised by individual(s) who possess the appropriate credentials related to the discipline being taught.

8.3.5.6.5 Conducted in a clinical setting.

### 8.4 Educational Providers

8.4.1 Continuing education contact hours awarded for activities/programs approved by the following are appropriate for fulfilling the continuing education requirements pursuant to these regulations:

- American Association for Respiratory Care.
- American Medical Association under Physician Category I.

- American Thoracic Society
- American Association of Cardiovascular and Pulmonary Rehabilitation
- American Heart Association
- American Nurses Association
- American College of Chest Physicians
- American Society of Anesthesiologists
- American Sleep Disorders Association
- Other professional or educational organizations as approved periodically by the Council.

8.5 Accumulation of Continuing Education

8.5.1 When a licensee applies for license renewal, a minimum of twenty (20) contact hours in activities that update skills and knowledge levels in respiratory care theory, practice and science is required. The total of twenty (20) contact hours per renewal period shall include the following categories:

**4 DE Reg. 694 (10/1/00)**

8.5.1.1 A minimum of 12 contact hours of continuing education required for renewal must be acquired in a field related to the science and practice of respiratory care as set forth in Subsection 8.3.3, Subject Matter, 8.3.3.1, 8.3.3.2, or 8.3.3.3.

8.5.1.2 The remaining 8 contact hours of the continuing education required for renewal may be selected from Subsection 8.3.3, Subject Matter.

8.5.2 Contact hours, accumulated through preparation for, presentation of, or participation in activities/programs as defined are limited to application in meeting the required number of contact hours per renewal period as follows:

8.5.2.1 Presentation of respiratory care education programs, including preparation time, to a maximum of four contact hours.

8.5.2.2 Presentation of a new respiratory care curriculum, including preparation, to a respiratory care education program, to a maximum of four contact hours.

8.5.2.3 Preparation and publication of respiratory care theory, practice or science, to a maximum of four contact hours.

8.5.2.4 Research projects in health care, respiratory care theory, practice or science, to a maximum of four contact hours.

8.5.2.5 Infection control programs from facility or agency to a maximum of one contact hour.

8.5.2.6 Academic course work, related to health care or health care administration, to a maximum of four contact hours.

8.6 Review/Approval of Continuing Education Contact Hours

8.6.1 The Council may review the documentation of any respiratory care practitioner's continuing education.

8.6.2 The Council may determine whether the activity/program documentation submitted meets all criteria for continuing education as specified in these regulations.

8.6.3 Any continuing education not meeting all provisions of these rules shall be rejected in part or in whole by the Council.

8.6.4 Any incomplete or inaccurate documentation of continuing education may be rejected in part or in whole by the Council.

8.6.5 Any continuing education that is rejected must be replaced by acceptable continuing education within a reasonable period of time established by the Council. This continuing education will not be counted towards the next renewal period.

8.6.6 Each license not renewed in accordance with this section shall expire, but may within a period of three years thereafter be reinstated upon payment of all fees as set by the Division of Professional Regulation of the State of Delaware.

8.6.7 An applicant wishing to reinstate an expired license during the three (3) year period permitted under subsection 8.6.6 shall provide documentation establishing completion of the required 20 hours of continuing education during the two-year period preceding the application for renewal.

## PROPOSED REGULATIONS

8.6.8 An applicant whose license has been expired for a period of three (3) or more years and who has been actively engaged in the practice of respiratory care during the period of expiration shall be required to submit an application for reinstatement demonstrating proof of active practice satisfactory to the Council and shall demonstrate proof of completion of 20 hours of continuing education during the two-year period preceding the application.

8.6.9 An applicant whose license has been expired for three (3) or more years and who has not been actively engaged in the practice of respiratory care during the period of expiration shall be required to submit an application for reinstatement and shall be required to give evidence of satisfactory completion of an approved respiratory care examination within two (2) years prior to the application for reinstatement before licensure will be granted. In addition the applicant shall demonstrate completion of 20 hours of continuing education during the two-year period preceding the application.

**4 DE Reg. 694 (10/1/00)**

**8 DE Reg. 1438 (4/1/05)**

**8 DE Reg. 1587 (5/1/05)**

*(Break in Continuity of Sections)*

### 10.0 Application for a License

#### 10.1 Application

10.1.1 An application for a license to practice respiratory care must be completed on a form provided by the Board of Medical Practice and returned to the Board Office with the required, non-refundable fee.

#### 10.2 Completed Application

10.2.1 An application for a license to practice respiratory care shall be considered completed when the Board has received the following documentation:

10.2.1.1 Non-refundable application fee

10.2.1.2 Completed application for licensure

10.2.1.3 Verification of education form

10.2.1.4 Verification of national examination score. Individuals who have not been licensed in any jurisdiction within three (3) years of initially passing the NBRC entry level examination will be required to re-take the NBRC examination and provide proof of a current passing score before a license will be issued.

10.2.1.5 Letter(s) of good standing from other states where the applicant may hold a license, if applicable.

10.2.1.6 Any other information requested in the application.

#### 10.3 Appeals Process

10.3.1 When the Council determines that an applicant does not meet the qualifications for licensure as prescribed under 24 **Del.C.** §1770B and the Rules and Regulations governing the practice of respiratory care, the Council shall make such recommendation to the Board proposing to deny the application. The Council shall notify the applicant of its intended action and reasons thereof. The Council shall inform the applicant of an appeals process prescribed under 29 **Del.C.** §10131.

**\*Please Note: As the rest of the sections were not amended they are not being published. A complete set of the rules and regulations for the Respiratory Care Advisory Council is available at: <http://www.state.de.us/research/AdminCode/title24/1770%20Respiratory%20Care%20Practice%20Advisory%20Council.shtml#TopOfPage>**

---

# PROPOSED REGULATIONS

---

1529

## PUBLIC SERVICE COMMISSION

Statutory Authority: 26 Delaware Code, Section 209(a) (26 Del.C. §209(a))

### PUBLIC NOTICE

#### ORDER NO. 6869

IN THE MATTER OF THE ADOPTION OF  
RULES AND REGULATIONS TO IMPLEMENT)  
THE PROVISIONS OF 26 DEL.C. CH. 10)  
RELATING TO THE CREATION OF A COMPETITIVE  
MARKET FOR RETAIL ELECTRIC SUPPLY SERVICE  
(OPENED APRIL 27, 1999 AND  
RE-OPENED JANUARY 7, 2003)

PSC REGULATION DOCKET NO. 49

**AND NOW**, this 14<sup>th</sup> day of March, 2006:

**WHEREAS**, by Order No. 6098 (Jan. 7, 2003), the Delaware Public Service Commission (the "Commission") ordered the Commission Staff "(Staff") to undertake a review of the Commission's *Rules for Certification and Regulation of Electric Suppliers* (the "Rules") and report back to the Commission regarding proposed amendments to the Rules; and

**WHEREAS**, the Commission provided that, in order to assist Staff in preparing such report, electric suppliers, electric distribution companies, and other interested persons could submit proposed changes to the Rules for Staff's review prior to the submission of its report to the Commission; and

**WHEREAS**, in compliance with Order No. 6098, Staff conducted several workshops to discuss proposed changes to the Rules; and

**WHEREAS**, as a result of those workshops and after consideration of all comments from the various interested parties, Staff proposes that the current Rules, a copy of which is attached as Exhibit "B" hereto, be replaced with Staff's draft of the proposed amended Rules (the "Proposed Amended Rules") for the Commission's review and consideration, a copy of which is attached as Exhibit "C" hereto; and

**WHEREAS**, the Commission believes that the Proposed Amended Rules should be published in the *Delaware Register of Regulations* providing public notice of the revised rulemaking to develop final rules and regulations and to appoint a Hearing Examiner to oversee the process;

Now, therefore, **IT IS HEREBY ORDERED**:

1. Pursuant to 26 Del.C. §§353 and 362, the Commission proposes to promulgate the Proposed Amended Rules attached hereto as Exhibit "C".

2. That the Secretary shall transmit to the Registrar of Regulations for publication in the next issue of the *Delaware Register* a copy of this Order with the Current Rules attached thereto as Exhibit "B", the Proposed Amended Rules attached thereto as "Exhibit C", and the Public Notice attached as "Exhibit A."

3. That the Secretary of the Commission shall cause a Public Notice to be published in the *News Journal* and *Delaware State News* newspapers on or before April 1, 2006. The Secretary shall also mail a copy of this Order with the Proposed Amended Rules to the current Electricity Suppliers and all persons or entities who have made a written request for advance notice of the Commission's rulemaking proceedings.

4. That the Proposed Amended Rules shall be published in the *Delaware Register* no later than April 1, 2006.

5. That written comments to the Proposed Amended Rules shall be taken until May 1, 2006.

6. That a workshop to consider all written comments to the Proposed Amended Rules shall be held on Wednesday, May 17, 2006 beginning at 10:00 AM at the office of the Commission, 861 Silver Lake Boulevard, Cannon Building, Suite 100, Dover, DE 19904.

7. That a public evidentiary hearing on the Proposed Amended Rules shall be held on Thursday, May 25, 2006 beginning at 10:00 AM at the office of the Commission, 861 Silver Lake Boulevard, Cannon Building,

Suite 100, Dover, DE 19904.

8. That, pursuant to 26 **Del.C.** §502 and 29 **Del.C.** §10116, William F. O'Brien is designated as Hearing Examiner in this matter and is authorized to organize, classify, and summarize all materials, evidence, and testimony filed in this docket, to conduct the public hearing contemplated under the attached notice, and to file a report with proposed findings and recommendations concerning the proposed amended Rules on the basis of the materials, evidence, and testimony submitted. Hearing Examiner O'Brien is specifically authorized, in his discretion, to solicit additional comment and conduct, on due notice, such additional public hearing(s) as may be required to develop further materials and evidence concerning the Proposed Amended Rules. James McC. Geddes, Esquire, will continue as Rate Counsel in this matter.

9. That electric suppliers are notified that they may be charged for the cost of this proceeding pursuant to the provisions of 26 **Del.C.** §§114 and 1012(c)(2).

10. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

**BY ORDER OF THE COMMISSION:**

Arnetta McRae, Chair  
Jaymes B. Lester, Commissioner  
Joann T. Conaway, Commissioner  
Dallas Winslow, Commissioner  
Jeffrey J. Clark, Commissioner

ATTEST:

Karen J. Nickerson, Secretary

**NOTICE OF PROPOSED RULEMAKING AND PUBLIC HEARING CONCERNING AMENDMENTS TO RULES FOR CERTIFICATION AND REGULATION OF ELECTRIC SUPPLIERS**

In PSC Order No. 5207 (Aug. 31, 1999), the Delaware Public Service Commission (the "Commission") adopted Rules for Certification and Regulation of Electric Suppliers (the "Rules").

As a result of an inquiry regarding the Rules from an electric supplier, by Order No. 6098 (Jan. 7, 2003), the Commission ordered the Commission Staff to undertake a review of the Rules and report back to the Commission regarding proposed amendments to the Rules. In order to assist Staff in preparing such a report, the Commission provided that electric suppliers, electric distribution companies, and other interested persons could submit proposed changes to the Rules for Staff's review prior to the submission of Staff's report to the Commission.

In compliance with Order No. 6098, Staff conducted several workshops to discuss proposed changes to the Rules. As a result of those workshops, and after consideration of all comments from the various interested parties, Staff has produced a draft of the proposed amended Rules (the "Proposed Amended Rules") for the Commission's review and consideration.

The Commission has authority to promulgate such Proposed Amended Rules pursuant to 26 **Del.C.** §§353 and 362.

The Commission hereby solicits written comments, suggestions, data compilations, briefs, or other written materials concerning the Proposed Amended Rules. Anyone desiring to submit such written comments, suggestions, data compilations, briefs, or other written materials concerning the Proposed Amended Rules shall file ten (10) copies of such materials with the Commission at its office located at 861 Silver Lake Boulevard, Cannon Building, Suite 100, Dover, DE 19904. All such materials shall be filed with the Commission on or before May 1, 2006. Persons who wish to participate in the proceedings but who do not wish to submit written materials are asked to send a letter to the Commission informing the Commission of their intent to participate on or before May 1, 2006.

A public workshop will be held at the Commission's office located at 861 Silver Lake Boulevard, Cannon Building, Suite 100, Dover, DE 19904 on Wednesday, May 17, 2006, beginning at 10:00 AM.

The Commission will conduct a public hearing concerning the Proposed Amended Rules on Thursday,

May 25, 2006, beginning at 10:00 AM at the Commission's office located at 861 Silver Lake Boulevard, Cannon Building, Suite 100, Dover, DE 19904. Interested persons may present comments, evidence, testimony, and other materials at that public hearing.

The Current Rules and the Proposed Amended Rules and all materials submitted in connection with this docket will be available for public inspection and copying at the Commission's offices during normal business hours. The fee for copying is \$0.25 per page. The Current Rules and the Proposed Amended Rules may also be reviewed at the office of the Division of the Public Advocate located at the Carvel State Office Building, 4<sup>th</sup> Floor, 820 N. French Street, Wilmington, DE 19801, during normal business hours by appointment. Finally, the Proposed Amended Rules will be available for review on the Commission's website located at [www.state.de.us/delpac](http://www.state.de.us/delpac).

Any individual with disabilities who wishes to participate in these proceedings should contact the Commission to discuss any auxiliary aids or services needed to facilitate such review or participation. Such contact may be in person, in writing, by telephone, or otherwise. The Commission's toll-free telephone number is (800) 282-8574. Any person with questions may also contact the Commission Staff at (302) 739-4247 or by Text Telephone at (302) 739-4333. Inquiries may also be sent via Internet e-mail to [david.bloom@state.de.us](mailto:david.bloom@state.de.us).

### **RULES FOR CERTIFICATION AND REGULATION OF ELECTRIC SUPPLIERS**

**Effective: August 31, 1999**

#### **1.0 Definitions**

**"Affiliated Interest"** means:

1. Any person or entity who owns directly, indirectly or through a chain of successive ownership, 10% or more of the voting securities of the Applicant;
2. Any person or entity, 10% or more of whose voting securities are owned, directly or indirectly, by an affiliated interest as defined in 1 above; or
3. Any person or entity, 10% or more of whose voting securities are owned, directly or indirectly, by the Applicant.

**"Ancillary Services"** means those services that are necessary for to support the transmission of capacity and distribution of electricity energy from supply resources to loads and for while maintaining reliable operation of the transmission and distribution transmission and distribution system.

**"Applicant"** means an entity or person seeking to obtain an Electric Supplier Certificate.

**"Broker"** means an entity or person that acts as an agent or intermediary in the sale or purchase of, but that does not take title to, electricity for sale to Retail Electric Customers.

**"Commission"** means the Delaware Public Service Commission

**"Cramming"** means the practice of charging Customers for services that they have not ordered or have been sold in a deceptive manner such that the customer is not reasonably aware of the nature or price of the service for which he or she is being charged.

**"Customer"** or **"Retail Electric Customer"** a purchaser of electricity for ultimate consumption and not for resale in Delaware, including the owner/operator of any building or facility, but not the occupants thereof, that purchases and supplies electricity to the occupants of such building or facility.

**"Delaware Electric Cooperative, Inc."** or **"Cooperative"** or **"DEC"** or its successor(s).

**"Delmarva Power & Light Company d/b/a Connectiv Power Delivery"** or **"Delmarva"** or **"DP&L"** or its successor(s).

**"Distribution Services"** means those services, including metering, relating to the delivery of electricity to a Retail Electric Customer through Distribution Facilities.

**"Distribution Facilities"** means electric facilities located in Delaware that are owned by a public utility that operate at voltages of 34,500 volts or below and that are used to deliver electricity to Retail Electric Customers, up through and including the point of physical connection with electric facilities owned by the Retail Electric Customer.

**"Electric Distribution Company"** or **"EDC"** means a public utility owning and/or operating

Transmission and/or Distribution Facilities in Delaware.

**"Electric Supplier"** means an entity or person certified by the Commission, including municipal corporations which choose to provide electricity outside their municipal limits (except to the extent provided prior to February 1, 1999), Broker, Marketer or other entity (~~including public utilities and their affiliates~~), that sells electricity to Retail Electric Customers, utilizing the Transmission and Distribution Facilities of an Electric Distribution Company.

**"Electric Supplier Certificate"** or **"ESC"** means a certificate granted to Electric Suppliers by the Commission which have fulfilled the Commission's certification requirements.

**"Electric Supply Service"** means the provision of electricity or electric generation service.

**"Eligible Renewable Energy Resources"** means the following energy sources located within the PJM region or imported into the PJM region and tracked through the PJM Market Settlement System:

- Solar energy technologies that employ solar radiation to produce electricity;
- Electricity derived from wind energy;
- Electricity derived from ocean energy including wave or tidal action, currents, or thermal differences;
- Geothermal energy technologies that generate electricity with a steam turbine, driven by hot water or steam extracted from geothermal reservoirs in the earth's crust;
- Electricity generated by a fuel cell powered by Renewable Fuels;
- Electricity generated by the combustion of gas from the anaerobic digestion of organic material;
- Electricity generated by a hydroelectric facility that has a maximum design capacity of 30 megawatts or less from all generating units combined that meet appropriate environmental standards as determined by DNREC (see DNREC Regulation);
- Electricity generated from the combustion of biomass that has been cultivated and harvested in a sustainable manner as determined by DNREC, and is not combusted to produce energy in a waste to energy facility or in an incinerator (see DNREC Regulation \_\_\_\_\_);
- Electricity generated by the combustion of methane gas captured from a landfill gas recovery system; provided, however, that:
  - Increased production of landfill gas from production facilities in operation prior to January 1, 2004 demonstrates a net reduction in total air emissions compared to flaring and leakage;
  - Increased utilization of landfill gas at electric generating facilities in operation prior to January 1, 2004 (i) is used to offset the consumption of coal, oil, or natural gas at those facilities, (ii) does not result in a reduction in the percentage of landfill gas in the facility's average annual fuel mix when calculated using fuel mix measurements for 12 out of any continuous 15 month period during which the electricity is generated, and (iii) causes no net increase in air emissions from the facility; and
  - Facilities installed on or after January 1, 2004 meet or exceed 2004 Federal and State air emission standards, or the Federal and State air emission standards in place on the day the facilities are first put into operation, whichever is higher.

**"FERC"** means The Federal Energy Regulatory Commission.

**"Green Power"** means electricity generated from any one of the following renewable resources: solar; hydro; wind; biomass (the burning of agricultural wastes and landfill gas); and geothermal (heat from the earth).

**"GATS"** means the Generation Attribute Tracking System developed by PJM-Environmental Information Services, Inc. (PJM-EIS).

**"Generation Attribute"** means a non-price characteristic of the electrical energy output of a Generation Unit including, but not limited to, the Unit's fuel type, geographic location, emissions, vintage, and RPS eligibility.

**"Generation Unit"** means a facility that converts a fuel or an energy resource into electrical energy

**"Marketer"** means an entity or person that purchases and takes title to electricity for sale to Retail Electric customers.

"PJM Interconnection, LLC or PJM"- the Pennsylvania New Jersey Maryland Independent System Operator that is responsible for the operation and control of the bulk electric power system throughout all or portions of Delaware, Pennsylvania, New Jersey, Maryland, Virginia and District of Columbia. means the Regional Transmission Organization ("RTO") that is responsible for wholesale energy markets and the interstate transmission of energy throughout a multi-state area, or its successor organization.

"Residential Customer" means Customers eligible to take Residential services under the Delmarva Power or the Delaware Electric Cooperative's tariff, currently on file with the Commission.

"Renewable Energy Credit" or "REC" means a tradable instrument comprised of all the Generation Attributes equal to 1 megawatt-hour of electricity derived from Eligible Energy Resources and that is used to track and verify compliance with the provisions of Delaware Public Service Commission Regulation Docket No. 56. A REC does not include emission reduction credits and/or allowances encumbered or used by a Generation Unit for compliance with local, state, or federal operating and/or air quality permits associated with the 1 megawatt-hour of electricity.

"Renewable Energy Portfolio Standard" or "RPS" refers to the Rules and Procedures to Implement the Renewable Energy Portfolio Standard, Delaware Public Service Commission Regulation Docket No. 56.

"Retail Electric Customer" means a purchaser of electricity for ultimate consumption and not for resale in Delaware, including the owner/operator of any building or facility, but not the occupants thereof, that purchases and supplies electricity to the occupants of such building or facility.

"Slamming" means the unauthorized transfer of a customer to another Electric Supplier.

"Small Commercial Customer" means a Retail Electric Customer taking service under DP&L's tariff, currently on file with the Commission, Service Classification "Small General Service-Non Demand Rate" or the Cooperative's tariff, currently on file with the Commission, Service Classification "General Service."

"Standard Offer Service" or "SOS" means the provision of Electric Supply Service after the Transition Period by a Standard Offer Service Supplier to Customers who do not otherwise receive Electric Supply Service from an Electric Supplier.

"Standard Offer Service Supplier" or "SOSS" means an Electric Supplier that provides Standard Offer Service to Customers within an Electric Distribution Company's service territory after the Transition Period.

"State" means The State of Delaware.

"Telemarketing" means any unsolicited telephone calls initiated by, or on behalf of, an Electric Supplier to a Customer in order to market Electric Supply Service.

"Transition Period" means the period of time described in 26 Del.C. §1004, which: begins October 1, 1999 and ends September 30, 2002 May 1, 2006 for Delmarva's non-residential customers; begins October 1, 1999 and ends September 30, 2003 for Delmarva's residential customers; and begins April 1, 2000 and ends March 31, 2005 for all Cooperative customers.

"Transmission Facilities" means electric facilities located in Delaware and owned by a public utility that operate at voltages above 34,500 volts and that are used to transmit and deliver electricity to Customers (including any Customers taking electric service under interruptible rate schedules as of December 31, 1998) up through and including the point of physical connection with electric facilities owned by the Customer.

"Transmission Services" means the delivery of electricity from supply sources through Transmission Facilities.

## **2.0 Certification of Electric Suppliers**

2.1 All Electric Suppliers must obtain an Electric Supplier Certificate from the Commission to sell Electric Supply Service to or arrange the purchase on behalf of Retail Electric Customers prior to offering contracts to Customers or commencing service.

### **2.1.1 Certification Requirement.**

All Electric Suppliers shall file with the Commission an original and ten (10) copies of an Application for an Electric Supplier Certificate. Such application shall contain all the information and exhibits hereinafter required and may contain such additional information as the Applicant deems appropriate to demonstrate to the Commission that it possesses the technical, financial, managerial and operational ability to

adequately serve the public.

2.1.1.1 Authority to Do Business In Delaware.

Each Applicant shall provide documentation from the Delaware Secretary of State and/or the Delaware Division of Revenue that it is legally authorized and qualified to do business in the State of Delaware.

2.1.1.2 Resident Agent.

Pursuant to 26 **Del.C.** §401, each Applicant shall file a designation in writing of the name and post-office address of a person resident within the State upon whom service of any notice, order or process may be made. This information must be updated if changed.

2.1.1.3 Performance Bonds.

Each Applicant shall submit a copy of their performance bond or guarantee that they have obtained as security to the Electric Distribution Company if required in the Service Agreement between the Applicant and the Electric Distribution Company.

2.1.1.4 Compliance with Regional Requirements.

Each Applicant, except for Brokers, must demonstrate that it has the technical ability to secure generation or otherwise obtain and deliver electricity through compliance with all applicable requirements of PJM. Brokers must submit relevant evidence of technical fitness to conduct their proposed business. Any Broker arranging the purchase of Electric Supply Service for their Retail Electric Customers must procure electricity from an entity that complies with PJM's requirements.

2.1.1.5 Financial, Operational, Managerial and Technical Ability.

Each Applicant shall be required to present substantial evidence supporting their financial, operational, managerial and technical ability to render service ~~with~~ within the State of Delaware. Such evidence shall include, but is not limited to:

2.1.1.5.1 Certified financial statements current within twelve (12) months of the filing. Publicly traded Applicants must file their most recent annual report to shareholders and SEC Form 10-K. Other indicia of financial capability may also be filed.

2.1.1.5.2 Brief description of the nature of business being conducted, including types of customers to be served, services provided and geographic area in which services are to be provided.

2.1.1.5.3 A list of states in which Applicant or any of its affiliated interests is presently selling Electric Supply Service to Retail Electric customers and a list of states in which Applicant or any of its affiliated interests has pending applications to sell Electric Supply Service to Retail Electric customers.

2.1.1.5.4 A list of states in which Applicant or any of its affiliated interests has been denied approval by a State Commission to sell electricity to Retail Electric Customers or has had its authority revoked.

2.1.1.5.5 Relevant operational experience of each principal officer responsible for Delaware operations.

2.1.1.5.6 A copy of any FERC approval as a Marketer or date and docket number of the application to FERC.

2.1.1.5.7 If the Applicant requires deposits, advance payments, prepayments, financial guarantees or the like from customers, then the Applicant must secure a bond with corporate surety licensed to do business in Delaware guaranteeing the repayment of all customer deposits and advances upon the termination of service. The amount of the bond will be the lesser of (i) ~~450~~ 110 percent of the projected amount of deposits and advances for the next one year period; or (ii) \$50,000. If at any time the actual amount of the deposits and advances held by the Applicant exceeds the amount projected, the amount of bond shall be increased to comply with the requirement in the preceding sentence.

2.1.1.5.8 All new Applicants shall demonstrate in their applications that they possess a minimum of \$100,000 of assets in excess of encumbrances or a minimum of \$100,000 in cash, cash equivalents, or financial instruments that are reasonably liquid and readily available to meet their costs of providing electricity to Customers or any combination thereof.

2.1.1.5.9 Demonstration of cash or cash equivalents can be satisfied by

the following:

- 2.1.1.5.9.1 Cash or cash equivalents, including cashier's check, sight draft, performance bond proceeds, or traveler's checks;
- 2.1.1.5.9.2 Certificate of deposit or other liquid deposit, with a reputable bank or other financial institution;
- 2.1.1.5.9.3 Preferred stock proceeds or other corporate shareholder equity, provided that use is restricted to maintenance of working capital for a period of at least twelve (12) months beyond certification of the Applicant by the Commission;
- 2.1.1.5.9.4 Letter of credit, issued by a reputable bank or other financial institution, irrevocable for a period of at least twelve (12) months beyond certification of the Applicant by the Commission;
- 2.1.1.5.9.5 Line of credit, issued by a reputable bank or other financial institution, irrevocable for a period of at least twelve (12) months beyond certification of the Applicant by the Commission;
- 2.1.1.5.9.6 Loan, issued by a qualified subsidiary, affiliate of Applicant, or a qualified corporation holding controlling interest in the Applicant, irrevocable for a period of at least twelve (12) months beyond certification of the Applicant by the Commission, and payable on an interest-only basis for the same period;
- 2.1.1.5.9.7 Guarantee, issued by a corporation, co-partnership, or other person or association, irrevocable for a period of at least twelve (12) months beyond certification of the Applicant by the Commission;
- 2.1.1.5.9.8 Guarantee, issued by a qualified subsidiary, affiliate of Applicant, or a qualified corporation holding controlling interests in the Applicant, irrevocable for a period of at least twelve (12) months beyond the certification of the Applicant by the Commission; and,
- 2.1.1.5.9.9 Identifiable physical assets set forth in a balance sheet or similar statement.

2.1.1.5.10 The Applicant shall disclose whether the entity or any of its affiliated interests has filed for bankruptcy in the past 24 months.

2.1.1.5.11 The Commission or its Staff may consider any other information submitted by the Applicant if it can show the financial, operational, managerial, and technical abilities of an Applicant.

2.1.1.6 Verification of Application. The Application must be verified by a principal or officer of the Applicant.

2.1.1.7 Consent to the Jurisdiction. All Electric Suppliers shall consent to the jurisdiction of the Delaware courts for acts or omissions arising from their activities in the State.

2.1.1.8 Other Requirements:

2.1.1.8.1 Legal name as well as the name under which the Applicant proposes to do business in Delaware;

2.1.1.8.2 State of incorporation, business address, and address of the principal officer;

2.1.1.8.3 Name, title and telephone number of a regulatory contact person;

2.1.1.8.4 A toll-free telephone number of customer service department;

2.1.1.8.5 Description of the Applicant's experience in the energy market and a brief description of the services its plans to offer in Delaware and the type of customers it plans to serve; and

2.1.1.8.6 Statement detailing any criminal activities of which the Applicant or any of its affiliated interests has been charged or convicted, or which the principal or corporate officers of the Applicant or any of its affiliated interests has been charged or convicted.

2.1.1.9 Contracts. ~~The Applicant shall provide the Commission with a copy of its standard contract that it proposes to use with its prospective customers. The Applicant shall make available on its website, in a timely manner, its Standard Contract for Residential and Small Commercial Customers. Such standard contract shall be filed twenty one(21) calendar days prior is subject to use review by the Applicant Commission Staff shall~~

~~have the authority at any time to require changes to a standard contract and~~ if Staff determines that such contract is not consistent with these Rules for Certification and Regulation of Electric Suppliers, then Staff shall have the authority to require changes in order to make consistent with these Rules for Certification and Regulation of Electric Suppliers ("Rules") or Electric Supplier faces revocation of its Electric Supplier Certificate by the Commission after a hearing. Such contract shall be in clear and plain language and include explicit terms and conditions which at a minimum contain the following:

2.1.1.9.1 A clear statement of the duration of the contract;

2.1.1.9.2 The price stated in cents per kWh or a clear and unambiguous statement of the precise mechanism or formula by which the price will be determined;

2.1.1.9.3 A complete list of any other fees, including early termination penalties, late fees, and interest charges, which can be imposed on the customer, including but not limited to the magnitude of the fees and the specific conditions under which such fees can be imposed;

2.1.1.9.4 A statement of the Electric Supplier's termination rights, which shall explain the specific conditions, under which the Electric Supplier may terminate service. At a minimum, the Electric Supplier shall provide the ~~customer~~ Residential or the Small Commercial Customer with at least 30 days notice ~~prior to the next meter read date to terminate service of termination of the contract~~ and procedures to maintain ongoing service;

2.1.1.9.5 The Electric Supplier's local or toll-free telephone number; ~~the name, the name, address and local or toll-free telephone number of a company contact person; the Electric Distribution Company's emergency telephone number~~ web address; and the Commission's address and telephone number; and

2.1.1.9.6 A statement that ~~the customer should call the Electric Distribution Company in the event of an electric related emergency, such as a power outage; and~~

2.1.1.9.6 A statement informing the ~~customer that if he/she relocates outside his/her current EDC area, he/she~~ Residential or Small Commercial Customer that, because of relocation, they may terminate his/her their contract with his/her their Electric Supplier after providing upon a 30-day notice in writing to the Electric Supplier.

2.2. Notice. Each Applicant shall publish notice of the filing of the application in two (2) newspapers having general circulation throughout the State in a form to be prescribed by the Commission.

2.3. Application Fee. A non-refundable application fee of \$750 shall be submitted with the application for Certification.

2.4. Incomplete or Abandoned Applications. Applications that do not include the necessary fees, supporting documentation or information may be rejected. The Commission Staff will provide the Applicant with a list of deficiencies and the Applicant will be given time to provide the necessary information to complete its certification. However, an incomplete or abandoned application will be closed four (4) months after the filing date, unless such time frame is extended by the Commission.

2.5. Waiver of Certification Requirements. Upon the request of any Applicant, the Commission may, for good cause, waive any of the requirements of these Rules that are not required by statute. The waiver may not be inconsistent with the purpose of these Rules or Chapter X of Title 26 of Del.C.

### 3.0 Post-Certification Requirements

3.1 Term of ESC. are valid until revoked by the Commission or abandoned by the Electric Supplier after the requisite notice to the Commission and to their customers.

3.2 Minimum Length of Service by Electric Supplier. For each Retail Electric Customer class, each Electric Supplier must offer Electric Supply Service to each of its Retail Electric Customers for a minimum period of one billing cycle.

3.3 Transfer or Abandonment of ESC. The transfer of an ESC is prohibited. No ~~electric service provider shall~~ Electric Supplier shall abandon service without 60 days written notice to the Commission, the affected Electric Distribution Companies, and its ~~customers~~ Retail Electric Customers.

3.4 Contracts and Revised Contracts. An Electric Supplier shall supply Electric Supply Service ~~only by a contract substantially similar to the~~ a Residential or a Small Commercial Customer only by a standard contract

filed by the ~~Electric Supplier~~ under containing the provisions described in Section 2.1.1.9, of these rules. The contract must be signed and ~~dated by~~ or verifiable by some other means of authorization by the Residential or the customer Small Commercial Customer. If an Electric Supplier offers the a Retail Electric Customer a check, prize, or other incentive which requires a signature, that signature cannot be used as the contract signature. A ~~customer Residential or a Small Commercial Customer~~ has ten (10) calendar days from the day the utility EDC sends the confirmation letter to rescind their selection. If the Electric Supplier makes substantive changes to its standard contract ~~form for Residential or Small Commercial Customers,~~ the Electric Supplier must submit these changes to notify the Commission Staff to allow for review and comment. ~~Such revised contract shall be filed twenty one (21) calendar days prior to use by the Electric Supplier. Commission Staff shall have the authority at any time to require changes to a standard contract, if~~ If Staff determines that such contract is not consistent with these Rules for Certification and Regulation of Electric Suppliers, Commission Staff shall have the authority at any time to require changes to a standard contract for Residential or Small Commercial Customers.

3.5 Price Terms. Any price term shall not be inconsistent with pricing terms in a Residential or a Small Commercial Customer's contract with ~~his/her~~ their Electric Supplier. The Electric Supplier must provide thirty\_ (30) days written notice to its Residential or Small Commercial Customer(s) of any price term changes.

3.6 Information that Must be Provided to a Customer by the Electric Supplier. The Electric Supplier must provide the ~~customer~~ Retail Electric Customer with ~~the following~~ a copy of its contract which includes the terms and conditions of service.

3.7 Customer Information. An Electric Supplier cannot release ~~customer~~ or request Retail Electric Customer information without the written authorization of the customer.

3.8 Marketing and Advertising.

3.8.1 Pursuant to 26 **Del.C.** §1012(b) and as further defined in Section I of these Rules, all Electric Suppliers are prohibited from using Telemarketing to solicit customers. This prohibition does not include initial contact by any medium other than a voice telephone call or a Retail Electric Customer's telephone response to any non-telephone initial contact.

3.8.2 An Electric Supplier or its marketing or advertising agent shall not make misrepresentations or use deceptive practices in its direct solicitations, advertising or marketing materials.

3.8.3 An Electric Supplier or its marketing or advertising agent must comply with all federal, state or local laws applicable to advertising or marketing products or services.

3.9 Reports to be Provided to the Commission. All Electric Suppliers shall provide such information concerning Delaware operations to the Commission as the Commission may from time to time request, including any reporting requirements contained herein. Information provided pursuant to this paragraph and designated "proprietary" or "confidential" shall be held in accordance with paragraph 1 in Section 10.0 of these Rules, and shall be afforded proprietary treatment subject to the provisions of the Rules, Commission regulations, and Delaware Law.

3.10 Fees and Assessments. ~~ESGs~~ Electric Suppliers must pay the fees and assessments under 26 Del.C. §1012(c)(2). ~~ESGS~~ ESs must also file any reports required under 26 **Del.C.** §115(e). The ESG must also pay the Public Utilities Taxes pursuant to 30 **Del.C.** Chapter 55.

3.11 Record Retention. All Electric Suppliers will retain customer account records for a period of two (2) years.

#### **4.0 Billing and Metering**

4.1 Billing Options.

4.1.1 Each Retail Electric Customer in Delmarva's service territory has the right to choose to receive separate bills from Delmarva Power & Light Company ~~d/b/a Connectiv Power Delivery~~ and from its Electric Supplier (if the ~~ES~~ Electric Supplier provides a separate billing), or to receive a combined bill from either Delmarva or its Electric Supplier (if the ~~ES~~ Electric Supplier provides a consolidated billing option), for Electric Supply, Transmission, Distribution, Ancillary and other Services, consistent with these Rules. If the Retail Electric Customer does not elect a billing option, Delmarva will be responsible for billing the Retail Electric Customer for Electric Supply, Transmission, Distribution, Ancillary and other Services, regardless of the Electric Supplier.

4.1.2 In the Delaware Electric Cooperative's service territory, the Cooperative will bill each

Retail Electric Customer for Electric Supply, Transmission, Distribution, Ancillary and other Services, regardless of the Retail Electric Customer's Electric Supplier.

- 4.2 Bill Contents. The bill should be easy to understand and must contain the following information:
- 4.2.1 The name, address, and local or toll-free telephone number of the Electric Supplier;
  - 4.2.2 If different from the Electric Supplier, the name, address and toll-free telephone number of the Electric Distribution Company;
  - 4.2.3 The due date for payment;
  - 4.2.4 If applicable, An itemized list of each service or product billed for the current billing period including charges for the Public Purpose Programs and a Competitive Transition Charge (if applicable) or other agreed to charges;
  - 4.2.5 Electricity consumption including whether the consumption was based on actual recorded usage or estimated usage;
  - 4.2.6 The actual cents per kWh (or the appropriate block charges or other pricing mechanism) charged to the ~~customer~~ Retail Electric Customer for the ~~customer's~~ Retail Electric Customer's actual usage (or estimated usage) of electricity for the current billing period;
  - 4.2.7 The total charge for each service or product;
  - 4.2.8 The amount of payment or other credit applied to ~~customer's~~ Retail Electric Customer's outstanding balance during the billing period; ~~and~~
  - 4.2.9 The amount still owed by the ~~customer~~ Retail Electric Customer from the previous billing period;
  - 4.2.10 Appropriate taxes and fees; and
  - 4.2.11 If applicable, late fees as defined in contract.
- 4.3 Metering.
- 4.3.1 During the Transition Period, Delmarva will continue to own all meters and perform all meter-reading functions. After the Transition Period, or earlier if requested by Delmarva, the Commission can permit others to provide some or all of the metering functions on a competitive basis.
  - 4.3.2 The Delaware Electric Cooperative will continue to own and operate all meters and perform meter-reading functions.

## 5.0 Retail Electric Customer Protection

- 5.1 Procedures to be followed by the Retail Electric Customer:
- 5.1.1 A ~~customer~~ Retail Electric Customer should first notify the Electric Supplier of ~~his/her~~ their complaint for resolution of ~~his/her~~ their Electric Supply Services. In the event of an electricity-related emergency, such as a power outage, or in the event of problems related to a Retail Electric Customer's EDC, the Retail Electric Customer should contact ~~his/her~~ their EDC.
  - 5.1.2 If the ~~customer~~ Retail Electric Customer and Electric Supplier are not able to come to a resolution, the ~~customer~~ Retail Electric Customer may file a complaint with the Commission as described in Rules 14 and 15 of the Rules of Practice and Procedure of the Commission.
- 5.2 Procedures to be followed by the Electric Supplier:
- 5.2.1 If a ~~customer~~ Retail Electric Customer notifies the Electric Supplier that ~~he/she~~ they have a complaint, the Electric Supplier shall use good faith efforts to respond to and resolve the complaint.
  - 5.2.2 An Electric Supplier shall have ~~a sufficient number of a sufficient number of~~ customer service representatives to handle its ~~customers~~ 'Retail Electric Customers' inquiries and complaints.
  - 5.2.3 If the ~~customer~~ Retail Electric Customer and Electric Supplier are not able to come to a resolution, the Electric Supplier will inform the ~~customer~~ Retail Electric Customer that ~~he/she~~ they may contact the Commission.
  - 5.2.4 The Electric Supplier shall prepare and maintain a ~~-~~ report of these complaints and keep these reports on file for a period of two (2) years. Upon request by the Commission ~~or~~ its Staff or the Division of Public Advocate, an Electric Supplier shall furnish a copy of such report to the Commission. The report shall contain the following information:

- 5.2.4.1 Type of complaint;

- 5.2.4.2 Date of complaint;
- 5.2.4.3 Resolution; and,
- 5.2.4.4 Date resolved.

5.3 ~~Slamming.~~ If the Commission determines that an Electric Supplier has slammed a Retail Electric Customer, then that Electric Supplier may be subject to penalties that may be imposed by the Commission through a hearing process. ~~An Electric Supplier that causes a customer to be transferred to the Electric Supplier's electric supply service, without obtaining an executed, unrescinded contract as required in Section III, paragraph 4 of these Rules, shall be deemed in violation of this Slamming Rule. In such a case, the Electric Supplier must void and/or refund any charges it has imposed on the slammed customer. The customer will only be liable to its authorized Electric Supplier for future service at a rate that is no more than the rate the customer paid before the slamming incident occurred. An Electric Supplier must obtain verifiable authorization from the Retail Electric Customer before switching Electric Supply Service. If a Retail Electric Customer believes that their Electric Supply Service has been switched without authorization, the Retail Electric Customer may request that the Electric Supplier provide evidence of the authorization and verification. The Electric Supplier must submit this within five (5) business days if feasible, but no longer than 15 business days of the request. If the Retail Electric Customer is not satisfied with this response, the Retail Electric Customer may also file a complaint with the Commission pursuant to the Rules of Practice and Procedure of the Delaware Public Service Commission~~

5.4 ~~Cramming.~~ If the Commission determines that an Electric Supplier has billed unauthorized charges to a Retail Electric Customer, that Electric Supplier may be subject to penalties that may be imposed by the Commission through a hearing process. An Electric Supplier that has imposed unauthorized charges on a Retail Electric Customer must void and/or refund all of those charges to the Retail Electric Customer.

## **6.0 Green Power ~~And Renewable Resources~~ Product Standards**

6.1 ~~All Electric Suppliers offering Green Power shall have to meet disclosure of fuel resource mix stated in Section VII of these Rules.~~

6.1 For the purposes of this Section, a Green Power ~~option~~ Product is defined as an Electric Supply Service, which has is marketed or otherwise advertised as having a generation resource mix consisting of at least 50% Green Power. An Electric Supplier can provide a Green Power option of any proportion higher than that stated in this paragraph provided it meets the standards in paragraph 3 of this Section. Eligible Renewable Energy Resources above the current Compliance Year's Cumulative Minimum Percentage found in Commission Regulation Docket No. 56.

6.2 Electric Suppliers offering a Green Power Product shall register with the PJM-EIS GATS, or its successor at law. Electric Suppliers shall keep the account in good standing and shall be subject to applicable PJM-EIS GATS rules and shall pay applicable PJM-EIS GATS fees.

6.3 Electric Suppliers offering a Green Power Product shall submit RECs equal to the marketed or otherwise advertised generation resource mix consisting of Eligible Energy Resources as part of their filing of the annual Retail Electricity Supplier's Verification of Compliance in the State of Delaware Renewable Energy Portfolio Standard Report.

6.4 An Electric Supplier shall not market, advertise, or solicit to Customers on the basis that its product is environmentally beneficial unless it meets the minimum resource mix requirement of paragraph 6.1 of this Section.

6.5 When requested by a Customer or providing information regarding a Green Power Product through marketing and advertising material(s) or solicitation(s), an Electric Supplier must label its fuel resource mix in a manner that accurately describes its electric generating resources. The Electric Supplier must also inform the Customer, in writing, that the Electric Supply Service the Customer receives will be used to meet the Electric Supplier's RPS requirements.

6.6 ~~Electric Suppliers offering Green Power shall have to meet disclosure of fuel resource mix stated in Section 7.0 of these Rules.~~

## **7.0 Disclosure of Fuel Resource Mix**

7.1 Each Electric Supplier shall file a report with the Commission disclosing the aggregate proportions

of fuel resource mix for the electricity supplied to its customers in Delaware for each quarter during the year. Such reports shall be filed by last date of the month succeeding each quarter. The reports shall include, but are not limited to:

7.1.1 The total number of ~~customers~~ Retail Electric Customers by each ~~customer~~ Retail Electric Customer class served during that quarter;

7.1.2 The total amount of electricity (kWh or MWh) supplied to each ~~customer~~ Retail Electric Customer class; and,

7.1.3 The fuel resource mix by percentage for ~~the following resources: coal, oil, natural gas, nuclear, hydro, solar, wind, biomass, geothermal, and other~~ each resource.

7.2 The Commission will keep the information reported under paragraphs 7.1.1 and 7.1.2 confidential. Information to paragraph 7.1.3 shall not be held confidential, and the Commission or an Electric Supplier shall disclose such information to any member of the public requesting it. Each Electric Supplier shall also disclose the information under paragraph 7.1.3 to its Customers no less frequently than on a quarterly basis. Information reported under paragraph 7.1.3 may be utilized in any consumer education program developed in accordance with 26 **Del.C.** §1014(c).

7.3 If an Electric Supplier cannot provide the data in paragraph 7.1~~(e)~~ specifically for its customers in Delaware, then the Commission will accept comparable percentages for the load served in ~~the Pennsylvania Jersey Maryland~~ the Pennsylvania Jersey Maryland PJM regional power pool. ~~Regional power pool~~.

## 8.0 Net Energy Metering

8.1 Each Electric Supplier providing Electric Supply Service to residential ~~and~~ small commercial and medium commercial Retail Electric Customers shall offer these Retail Electric Customers the option of net energy metering if a Retail Electric Customer generates electricity at the Customer's premises, subject to all of the following requirements:

8.1.1 The Retail Electric Customer owns or operates the electric generation facility;

8.1.2 The facility uses renewable resources;

8.1.3 The facility has a capacity of not more than 25 kilowatts;

8.1.4 The facility is not used by the Retail Electric Customer to supply property other than the Retail Electric Customer's premises.

8.2 Net metering is the interconnection with Distribution Facilities through a single meter that runs forward and backward in order to measure net energy flow during a billing period.

8.3 If, during any billing period, a Retail Electric Customer's facility generates more energy than that consumed by the Retail Electric Customer, the Electric Supplier will credit the Retail Electric Customer such additional power in the following billing period at least at the same price the Electric Supplier charged or would have charged the Retail Electric Customer under the contract.

8.4 Any requirements necessary to permit interconnected operations between the ~~customers~~ Retail Electric Customer's generating facility and the EDC, and the costs associated with such requirements, shall be dealt with in a manner consistent with a standard tariff filed with the Commission by the EDC.

8.5 An EDC shall ~~not impose special fees on net energy metering Customers, such as backup charges, additional controls, or liability insurance, as long as the generation facility meets the interconnection standards and all relevant safety and power quality standards.~~

8.6 ~~Refunds and credits from net energy metering shall not apply to services provided by the EDC other than Electric Supply Service.~~

## 9.0 Customers Returning to EDC or SOS Supplier for Electric Supply Service

The procedures for a Retail Electric Customer's return to an EDC during the Transition Period and to an EDC if it is the SOS Supplier after the Transition Period for Electric Supply Service shall be in accordance with the Commission's order for each EDC's individual electric restructuring plan.

## 10.0 Other General Rules

10.1 Proprietary Information. Under Delaware's Freedom of Information Act, 29 **Del.C.** ch. 100, all

information filed with the Commission is considered of public record unless it contains "trade secrets and commercial or financial information obtained from a person which is of a privileged or confidential nature." 29 **Del.C.** §10002(d)(2). To qualify as a non-public record under this exemption, materials received by the Commission must be clearly and conspicuously marked on the title page and on every page containing the sensitive information as "proprietary" or "confidential" or words of similar effect. The Commission shall presumptively deem all information so designated to be exempt from public record status. However, upon receipt of a request for access to information designated proprietary or confidential, the Commission may review the appropriateness of such designation and may determine to release the information requested. Prior to such release, the Commission shall provide the entity which submitted the information with reasonable notice and an opportunity to show why the information should not be released.

10.2 Failure to Comply with These Rules. The failure by any Electric Supplier to comply with these requirements and the requirements in other Sections of these Rules may result in penalties, including monetary assessments, suspension or revocation of the Electric Supplier's ESC, or other sanction as determined by the Commission.

**3 DE Reg. 538 (10/01/99)**

---

**DEPARTMENT OF TRANSPORTATION**  
**DIVISION OF MOTOR VEHICLES**

Statutory Authority: 21 Delaware Code, Section 302 and 29 Delaware Code, Chapter 101  
(21 **Del.C.** §302 and 29 **Del.C.** Ch. 101)

**PUBLIC NOTICE**

- 2203 Implied Consent and Administrative Per Se Other Administrative Hearings of Record**  
(Formerly Reg. No. 17)
- 2206 Revocation of a Driver's License/Driving Privilege Pursuant to Section 4103(b) and Section 2732(a-8)**  
(Formerly Reg. No. 40)
- 2207 Suspension of Permanent Licenses (Formerly Reg. No. 41)**
- 2208 Concerning Driver Improvement Problem Driver Program (Formerly Reg. No. 45) (Renumbered) (7 DE Reg. 1021 (02/01/04))**
- 2210 Issuance of a Conditional License as the Result of a Suspension Due to a Conviction for Passing a Stopped School Bus. (Formerly Reg. No. 57)**
- 2211 The Issuance of Restricted Driving Privileges as the Result of a Suspension or Revocation Order Received from Family Court Relative to a Juvenile Being in Violation of 21 Del.C. 4177.**  
(Formerly Reg. No. 63)
- 2212 Issuance of Occupation Driver's License After Conviction of No Insurance on a Vehicle**  
(Formerly Reg. No. 78)
- 2259 Mopeds (Formerly Regs. No. 24 and 26)**
- 2277 Approved Tinting for Side Windows (Formerly Reg. No. 76)**
- 2286 Transferring Titles with Multiple Names**

The Delaware Department of Transportation Division of Motor Vehicles, pursuant to 21 **Del.C.** §302 and 29 **Del.C.** Chapter 101, Subchapter II, proposes to amend the following rules and regulations concerning Division operations, and described in detail below this notice. Written comments concerning these proposed regulations should be sent by April 30, 2006 to Jack Eanes, Chief of Operations, Division of Motor Vehicles, 303 Transportation Circle, P.O. Box 698, Dover, Delaware 19903.

**2203 Implied Consent and Administrative Per Se Other Administrative Hearings of Record (Formerly Reg. No. 17)**

A. ~~The law enforcement officer shall submit the person's (if a Delaware licensee) driver's license or permit to the Secretary along with the certificate (MV Form 529— official notice and order of revocation/temporary license) required by S2742(B) or (C) immediately after the day of arrest to the Division of Motor Vehicles Administration Office, Public Safety Building, Dover, DE.~~

B. ~~No more than one continuance (request to reschedule) will be allowed on behalf of either party (defense or State).~~

C. ~~A request for a continuance must be received by the hearing officer or hearing unit personnel no later than two (2) working days prior to the scheduled time of hearing in order to allow this Division an opportunity to contact all parties involved.~~

D. ~~The decision of the hearing officer shall be rendered as quickly as possible, but no later than 15 working days after the hearing, unless more time is needed to research the technicalities presented in the case.~~

~~Notice of the decision will be sent to the defendant, defendant's attorney and the law enforcement officer.~~

E. ~~The appellant will be responsible for the cost of preparing any transcript of the hearing in the event of an appeal to Superior Court.~~

**1.0 Authority**

The authority to promulgate this regulation is 21 Del.C. §302 and 29 Del.C. §10115

**2.0 Purpose**

This policy regulation establishes administrative procedures regarding the administrative hearing process for implied consent, administrative per se and other administrative hearings of record.

**3.0 Applicability**

This policy regulation interprets the following sections found in 21 Del.C. §2740 through §2750 in their entirety. This policy contains procedures necessary to implement the sections referenced above and other administrative hearings of record pertaining to license revocations, suspension, disqualifications and other DMV actions or decisions.

**4.0 Substance of Policy**

4.1 The arresting officer shall personally issue to the defendant the original copy of the MV 529 form at the time of issuance in all cases regardless of whether a temporary license was issued as well.

4.2 The following documents shall be submitted to the Division of Motor Vehicles Administration Office 303 Transportation Circle PO Box 698 Dover, DE 19903 immediately following issuance of the MV 529 Official Notice and Order of Revocation and Temporary License:

4.2.1 MV 529 Official Notice and Order of Revocation

4.2.2 Form 333 Probable Cause and Implied Consent form

4.2.3 Delaware driver's license

4.3 Documents referenced in 4.2 above that are not received by the Division within 30 days from the date of issuance will not be processed and no action will result against the defendant.

4.4 The defendant, the defendant's legal representative, or person acting on the defendant's behalf may request an administrative hearing within 15 days of the issue date on the MV 529 form. If the 15th day falls on a Saturday, Sunday, legal holiday, or any other day when the Division is not open for business the defendant will be given until the next succeeding business day to make the defendant's request. The request may be made in person at any Division of Motor Vehicles office, by mail, or by facsimile. The request for a hearing must be in written form.

4.5 Failure of the defendant, the defendant's legal representative, or person acting on the defendant's behalf to request the hearing within the 15 day time period will result in a license being immediately revoked for the

appropriate period of time pursuant to 21 **Del.C.** §2742 and §2743.

4.6 A notice scheduling the hearing must be sent within 30 days of the hearing request. The scheduling notice shall be sent to the defendant, the arresting officer, and the defendant's legal representative if the Division has knowledge of the legal representative at the time the scheduling notice is sent.

4.7 A request for a continuance by the defendant, legal representative, or police officer will be considered as outlined below:

4.7.1 One continuance request will be granted to either party (defense or State) regardless of reason provided the request is received at least 1 business day prior to the hearing date.

4.7.2 A subsequent request for a continuance will be considered provided the request is in writing and received at least 1 business day prior to the hearing date. The request must contain travel documents, medical documents, employment documents, court documents, training documents, or other documents to support the continuance request.

4.7.3 An continuance request made on the day of the hearing will be considered in the event of an emergency. Documentation to verify the emergency must be submitted.

4.7.4 Continuance requests should be made directly to the Hearing Officer of record or in their absence, to the Driver Improvement Unit, Revocation Section, Hearing Staff, Driver Improvement Manager or Driver Improvement Assistant Manager.

4.8 The decision of the Hearing Officer following the administrative hearing shall be rendered within 15 working days.

4.9 The decision of the Hearing Officer is forwarded to a Motor Vehicle Specialist in the Administration Office who in turn will send notice of the Hearing Officer's decision to the defendant, law enforcement officer and the defendant's legal representative.

4.10 All hearings will be taped and the tapes will be retained by the hearing officer for one (1) year should the hearing officer rule in favor of the state. However, if the ruling is in favor of the defendant, the tape does not need to be retained and may be reused and/or erased immediately. The hearing tapes are considered internal working documents and will not be released to either party regardless of the hearing officer's decision unless directed by the Division's Deputy Attorney General or by the court. A copy of the hearing tape will be made available to an approved transcription service in the event of an appeal of a ruling against the defendant.

4.11 Upon receipt of an appeal a copy of all printed material shall be made available to the Deputy Attorney General representing the Division of Motor Vehicles. Contact shall be made with an approved transcription service to determine the cost of the transcript and necessary copies. Contact shall be made with the Hearing Officer to make a copy of the specific hearing being appealed. The Hearing Officer shall forward a copy of the tape to the Administration Office where the transcription service shall pick up the tape. Upon receipt of the transcription copies they shall be distributed as follows: One copy each to the defendant, the defendant's legal representative, the Deputy Attorney General, the court, one copy and the defendant's DMV case file.

4.12 The appellant will be responsible for the cost of preparing the transcript of the hearing in the event of an appeal. The cost will include five (5) copies of said transcript.

4.13 Copies of the Hearing Officer's decision will be available to the defense and the State only upon request of an appeal of the decision.

4.14 The following personnel classifications are designated to hold administrative hearings for the Division of Motor Vehicles:

4.14.1 Chief of Driver Services

4.14.2 Driver Improvement Manager

4.14.3 Driver Improvement Assistant Manager Hearing Officer

4.14.4 Driver Improvement Hearing Officer

## **5.0 Severability**

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

**6.0 Effective Date**

The following regulation shall be effective 10 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).

**2206 Revocation of a Driver's License/Driving Privilege Pursuant to Section 4103(b) and Section 2732(a-8)  
(Formerly Reg. No. 40)**

Upon receiving a conviction for a violation of Section 4103(b), the driver's license and/or driving privileges shall be revoked for a period of 1 year.

However, if the violation involved high speed chase, injury to a police officer(s) or to other person(s), the revocation period will be for a period of 2 years contingent upon receiving a request and a copy of the police report from law enforcement.

A hearing may be requested only for the 2nd year of the revocation period, unless there is a question on the conviction belonging to the person being revoked.

**1.0 Authority**

The authority to promulgate this regulation is 21 **Del.C.** §302, 21 **Del.C.** §4103(b), (c), 21 **Del.C.** §2732(a)(8), and 29 **Del.C.** § 10115.

**2.0 Purpose**

This policy regulation establishes administrative procedures regarding the revocation of a driver's license or driving privilege following a conviction of failure to stop at the command of a police officer.

**3.0 Applicability**

This policy regulation interprets the following sections found in 21 **Del.C.** §4103(b), (c) and §2732(a)(8).

**4.0 Substance of Policy**

4.1 Upon receipt of a first conviction for a violation of 21 **Del.C.** §4103(b) the driver's license and/or driving privilege shall be revoked for a period of one (1) year.

4.2 Upon receipt of information that a first conviction involved a high speed chase, injury to a police officer(s) or to other person(s), the driver's license and/or driving privilege shall be revoked for a period of two (2) years, provided a written request and copy of the police report is received from law enforcement, the court, or the Department of Justice.

4.3 An administrative hearing may be requested within 30 days of the effective date of the revocation for the action taken under 4.2 above. The scope of the hearing will be as follows:

4.3.1 Determine if the petitioner was charged with a violation of 21 **Del.C.** §4103(b) and was convicted of said violation.

4.3.2 Determine if the Division received a written request and copy of the police report from law enforcement, the court, or the Department of Justice requesting a two (2) year revocation based on a high speed chase or injury to police officers) or other(s).

4.4 Upon receipt of a second or further subsequent conviction the driver's license and/or driving privilege shall be revoked for a period of three (3) years.

4.5 No administrative hearing may be requested for a one (1) year or three (3) year revocation action as they are required by statute.

**5.0 Severability**

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

**6.0 Effective Date**

The following regulation shall be effective 10 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).

**2207 Suspension of Permanent Licenses (Formerly Reg. No. 41)**

~~If the suspension of a permanent license is for a non moving violation, such as failure to answer summons, default of a court fine, uncollectable check, judgement, or failure to have liability insurance on a motor vehicle, the permanent license shall be returned to the licensee at the time of reinstatement.~~

~~If the suspension of a permanent license is for a moving violation(s), the permanent license its cancelled, and at the time of reinstatement, a new 5 year driver's license shall be issued to the applicant and shall be valid for 5 years from the applicant's last birthday. The licensee shall not be required to pay for this license.~~

~~In both cases cited above, the normal reinstatement fee (\$25.00) shall be assessed.~~

~~This policy regulation is to be implemented immediately.~~

**1.0 Authority**

The authority to promulgate this regulation is 21 **Del.C.** §302 and 29 **Del.C.** §10115.

**2.0 Purpose**

This policy regulation establishes administrative procedures regarding the suspension of permanent licenses and reinstatement thereof.

**3.0 Applicability**

This policy regulation interprets the following sections found in 21 **Del.C.** §2732(b), (g), §2733(1), §2118, §2942 and §2943

**4.0 Substance of Policy**

4.1 If the suspension of a permanent license is for a non moving violation, such as failure to answer summons, default of a court fine, uncollectable check, judgment, or failure to have liability insurance on a motor vehicle, the permanent license shall be returned to the licensee at the time of reinstatement.

4.2 If the suspension of a permanent license is for a moving violation (s), the permanent license is cancelled, and at the time of reinstatement, a new driver's license shall be issued to the applicant for the balance of the period remaining on the license. The licensee shall not be required to pay for this license.

4.3 In both cases cited above, the normal reinstatement fee pursuant to 21 **Del.C.** §2737 shall be assessed.

**5.0 Severability**

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

**6.0 Effective Date**

The following regulation shall be effective 10 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).

**2208 Concerning Driver Improvement Problem Driver Program (Formerly Reg. No. 45) (Renumbered) (7 DE Reg. 1021 (02/01/04))****1.0 Authority**

The authority to promulgate this regulation is 21 **Del.C.** §302, 21 **Del.C.** §2733(a)(4) and 29 **Del.C.** §10115.

## 2.0 Purpose

The Highway Safety Program Standard for Driver Licensing, as adopted by the National Highway Traffic Safety Administration, requires each state to have a Driver Improvement Program to identify problem drivers and take actions to reduce the frequency of their involvement in traffic accidents and violations. The Driver Improvement Problem Driver Program is designed to identify problem drivers, to change the problem driver's behavior by providing information and training opportunities and, if necessary, to progressively impose sanctions as more convictions/points are accumulated on the driving record. The goal of the program is crash prevention. The steps in the program are geared to the seriousness of the driving record.

The Division of Motor Vehicles' Driver Improvement staff uses these policy guidelines to initiate program requirements and impose license suspensions.

## 3.0 Applicability

This policy regulation interprets the following sections found in Title 21: Section, 2722, Section 2733(b), (e), (j), Section 2755, Section 2756, Section 4166(d), (j), Section 4169, Section 4175, 4175a, Section 4172(a), (b), Section 4172A, Section 6702, and Chapter 81.

## 4.0 Substance of Policy

4.1 Point System. The Division of Motor Vehicles shall identify problem drivers, educate and impose driver license sanctions based upon a point system. Violations will be assessed points based up the following:

### Violations

Speeding 1-9 miles per hour over posted limit	2
Speeding 10-14 miles per hour over posted limit	4
Speeding 15-19 miles per hour over posted limit	5
Speeding 20 or more miles per hour over posted limit	5*
Passing a Stopped School Bus	6*
Reckless Driving	6
<u>Operation of a Vehicle Causing Death</u>	<u>6*</u>
Aggressive Driving	6*
Disregarding Stop Sign or Red Light	3
Moving violation contained in Chapters 27, 41 or 42 of Title 21	2
*May result in additional actions including suspension	

### 4.2 Point Credits

4.2.1 A licensee who is convicted of a speeding violation from 1 – 14 miles per hour over the posted speed limit will not be assessed points for the first violation within any three (3) year period provided the ticket is paid through the Voluntary Assessment Center or Alderman's court recorded on the court disposition as a "guilty mail in".

4.2.2 Completion of the Defensive Driving Course (DDC), recognized by the Division of Motor Vehicles and approved by the Insurance Commissioner's Office will be entered on the licensee's driving record. The licensee shall have a 3-point credit entered on their driving record following satisfactory completion of the course. The licensee is responsible for enrollment scheduling and the payment of all fees associated with this course. DDC credit is effective on the date of course completion. DDC credit will not be applied retroactively once an action item is in effect.

4.2.3 The point credits listed in 4.2.2 shall not be considered when determining the eligibility of a school bus operator. To determine the point level for a school bus operator or applicant, use full point value, not calculated points, for the previous 3-year period.

4.2.4 A motor vehicle licensee shall have a one point credit entered on their driving record under the Division of Motor Vehicle Point System if a driver is convicted of a violation of 21 **Del.C.** §4176(a) or 21 **Del.C.** §4176(b) and at the time of arrest for that conviction all passengers including the driver of the vehicle were wearing

seat belts. This credit shall remain on a driving record for a 1-year period. If a motor vehicle licensee has more than one conviction of 21 Del.C. §4176(a) or 21 Del.C. §4176(b) during this one year period, where at the time of arrest all passengers including the driver were wearing a seat belt, the motor vehicle licensee shall not receive an additional one point credit on their driving record for each conviction. However, the one point credit on the driving record shall be extended for one year from the date of the last conviction.

4.3 Driver Improvement Problem Driver Program. A driver enters the Driver Improvement Problem Driver Program when ~~they~~ the driver accumulates 8 calculated points based upon their driving record for the previous two years. At that time an advisory letter is sent to the driver. Studies show that early intervention with inexpensive actions reduce accidents and improves driving behavior.

4.4 Convictions received from other jurisdictions are posted to the Delaware driving record. The points will be assessed on these violations as though the offense was committed in this State in accordance with the Driver's License Compact.

4.5 The Aggressive Driving Committee, in accordance with Policy Regulation 1202, must certify all behavior modification/attitudinal driving courses. The committee has the authority to designate alternative courses to comply with the requirements of this Policy Regulation.

4.6 The actions listed below occur as calculated points are accumulated during any 24-month period. The 24-month period is computed based upon the date of the offense and "slides" forward based upon that date. The driving record will record the actions taken. The Driver Improvement Section will conduct a record review at each step in the process and schedule interviews as necessary. The action items may be processed automatically without an interview. When the calculated points fall between the threshold limits, use the action items specified in the lower level. (Example: If the driver accumulates 9 points before any action is taken, send out an advisory letter as required when they accumulate 8 points.) If the driver accumulates 12 points before the advisory letter is sent, use the action item listed for drivers with 12 points.

<b>Calculated Points</b>	<b>Action Items</b>
8	Division of Motor Vehicles advisory letter is mailed to the driver. DDC credits will not impact the issuance of an advisory letter.
12	Driver must complete an approved "behavior modification/attitudinal driving course" within 90 days after notification (unless extended by the Division). Failure to comply or upon preference of the driver, a mandatory 2 month suspension will be imposed in lieu of the program.
14	Mandatory 4 month license suspension. To become eligible for reinstatement, the driver must complete or have completed a behavior modification/attitudinal driving course" within the previous 2 years <u>as of the time of reinstatement</u> .
16	Mandatory 6 month license suspension. To become eligible for reinstatement, the driver must complete or have completed a "behavior modification/attitudinal driving course" within the previous 2 years <u>as of the time of reinstatement</u> .
18	Mandatory 8 month license suspension. To become eligible for reinstatement, the driver must complete or have completed a "behavior modification/attitudinal driving course" within the previous 2 years <u>as of the time of reinstatement</u> .
20	Mandatory 10 month license suspension. To become

- 22 eligible for reinstatement, the driver must complete or have completed a "behavior modification/attitudinal driving course" within the previous 2 years as of the time of reinstatement.
- Mandatory 12 month license suspension. To become eligible for reinstatement, the driver must complete or have completed a "behavior modification/attitudinal driving course" within the previous 2 years as of the time of reinstatement.

4.7 Serious Speeding Violations. The Division of Motor Vehicles considers all speeding violations 20 miles per hour (MPH) or more above the posted speed limit to be a serious speeding violation that identifies the driver as a problem driver. The following actions will be taken:

4.7.1 When a driver is convicted of a single speeding violation for driving 20-24 MPH over the posted limit and accumulated less than 12 calculated points, the Driver Improvement staff will review their driving record and send the driver an advisory letter.

4.7.2 When convicted of driving 25 MPH over the posted limit, the driver's license will be suspended for a mandatory period of 1 month. The suspension period will be increased by one month for each additional 5 MPH over the initial 25 MPH threshold. Note: The driver may elect to attend the "behavior modification/attitudinal driving course" in lieu of a license suspension if they were driving 25-29 MPH over the posted limit.

4.7.3 Anyone convicted of driving 50 MPH or more over the posted speed or driving 100 MPH or more shall be suspended for a period of one year. The driver is not eligible for an occupational license during the first three months of the suspension period.

4.7.4 To be eligible for reinstatement following a suspension for a serious speed violation the driver must complete or have completed a "behavior modification/attitudinal driving course" within the previous 2 years as of the time of reinstatement. However, drivers suspended in lieu of electing to attend the "behavior midification/attitudinal driving course" for speed violations 25 to 29 MPH over the posted limit are not required to complete the program at time of reinstatement.

4.8 Additional Sanctions Imposed by Statute or Policy:

4.8.1 Passing a stopped school bus in violation of 21 **Del.C.** §4166(d). For the first offense, one-month driver's license suspension. For the second offense, six months suspension. For the third or more offenses, suspend the driver's license for twelve months.

4.8.2 Driving in violation of a license restriction per 21 **Del.C.** §2722. For the first offense, send an advisory letter. Suspend the driver's license for one month for subsequent offenses.

4.8.3 Speed exhibition violation per 21 **Del.C.** §4172(a)(d). One-month suspension for the first offense and one-year driver's license suspension for subsequent offenses.

4.8.4 Spinning wheels violation per 21 **Del.C.** §4172(b). Send an advisory letter for the first offense. Suspend the driver's license for one year for second and subsequent offenses.

4.8.5 Malicious mischief violations per 21 **Del.C.** §4172A. One-month driver's license suspension for the first offense. One-year suspension for the second and subsequent offenses.

4.8.6 Knowingly permit an unlicensed person to operate a vehicle violation per 21 **Del.C.** §2755. Send an advisory letter for the first offense. Three-month driver's license suspension for the second and subsequent offenses.

4.8.7 Driving without consent of the owner violation per 21 **Del.C.** §6702. One month driver's license suspension for the first offense and three month's suspension for the second and subsequent offenses.

4.8.8 Driving during suspension or revocation violations per 21 **Del.C.** §2756. A conviction for driving during suspension or revocation shall extend the period of the suspension or revocation for a like period not to exceed 12 months. No driving authority will be permitted during the balance of the initial suspension or revocation period and the extended period. Any driving authority previously issued by the Division must be surrendered.

Note: For ~~violations~~ purposes of 4.8.3, 4.8.4 and 4.8.5 to be considered a subsequent

offense, the violations must be under the same subsection and cannot be a combination of violations such as Sections 4172(a) and Section 4172(b). To be considered a second or subsequent offense, the convictions must be within the previous three years.

4.9 Occupational License. In the event of a suspension of a driver's license ~~pursuant to this policy regulation~~, the Division may issue an occupational license during the period of suspension if the applicant stipulates the suspension has created an extreme hardship. However, no such occupational license shall be issued if the applicant has two previous suspensions ~~under the policy regulation~~ within the previous 3 years, or if the suspension is for physical and/or mental disability, if the suspension and/or revocation action is based on a fatal motor vehicle accident, or if the license is revoked for convictions of any crimes specified in Section 2732 of Title 21 even though it causes an extreme hardship. Any driver convicted of operating a motor vehicle in violation of the restrictions imposed by the occupational license shall immediately extend the suspension period for an additional like period not to exceed 12 months and shall direct the driver to surrender ~~their~~ the driver's occupational license. No more than one occupational license under this policy shall be issued within any 12-month period.

4.10 Hardship licenses (21 Del.C. §2751) permit the operation of a motor vehicle between the driver's residence and place of employment and for operating vehicle on the job as a part of their employment.

4.11 Conditional and occupational licenses normally permit the operation of a motor vehicle between the driver's residence and place of employment, for operating a motor vehicle as a part of their employment duties, to and from school and child/adult care facilities and for medical appointments.

4.12 Drivers suspended under this program are ineligible for an occupational license for one month. If the calculated point level reaches 15 or more points in a 24-month period, an occupational license will not be issued until the calculated points are less than 15 points.

4.13 Calculated Points. For the purposes of this Policy Regulation, calculated points are credited at full point value for the first twelve months from the date of the violation. After the initial 12 months have expired, the calculated points will be credited at (1/2) point value for the next 12 months. The Division will only take action based upon convictions accumulated within the 24-month period following the date of the offense.

4.14 Moving Violations. Those violations contained in 21 Del.C. Ch. 27, 41 and 42, excluding those violations that require mandatory suspension or revocation actions. Multiple violations occurring within a 24-hour period shall be considered individual violations for the purposes of this policy regulation.

4.15 Advisory Letter. The Division will send an advisory letter to those drivers who accumulate 8 calculated points or ~~when are~~ are convicted of speeding 20-24 MPH over the posted limit. The purpose of the advisory letter is to express our concern about the operator's driving habits and their impact upon highway safety. The letter will inform the driver about the Driver Improvement Problem Driver Program. An advisory letter may be sent for both point accumulations and excessive speed violations.

4.16 Record Review. The goal of the record review is to assess any problems the driver may have and require a course of action. The record review may result in a driver improvement interview/counseling session, medical or vision examination, knowledge and/or skills testing, restricted license, license suspension or the surrender of a license.

4.17 Interviews. The Driver Improvement staff may schedule the driver to attend an interview based upon the record review. The licensee may request an interview with a Driver Improvement Officer or staff member when notified of pending action against them. The following issues are open to discussion:

4.17.1 The driver may request an additional 90 days to complete a mandatory attendance at the "behavior modification/attitudinal driving course" or ~~they~~ the driver may request a license suspension in lieu of attending the program. Any further delays in completing the program must be approved by the Driver Improvement Manager or the Chief of Driver Services.

4.17.2 The driver can present evidence that the convictions on their driving record belong to another driver. If proven, the convictions will be removed.

4.17.3 If the violation on record is under appeal by the court, the driver must submit a copy of the appeal bond and the violation will be removed from the driving record. If applicable, the suspension action resulting from this violation is to be removed from the driving record.

4.17.4 The Driver Improvement staff may require the driver to complete a medical or vision examination, pass a knowledge or skill test or restrict ~~their~~ the driver's driving privileges based upon the results of

the interview.

4.18 This policy regulation shall have no effect on the revocation actions, medical qualifications or requirements, or suspension action required by statute unrelated to this policy.

**7 DE Reg. 524 (10/1/03)**

**7 DE Reg. 1017 (2/1/04)**

## **5.0 Severability**

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

## **6.0 Effective Date**

The following regulations shall be effective 10 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).

### **2210 Issuance of a Conditional License as the Result of a Suspension Due to a Conviction for Passing a Stopped School Bus. (Formerly Reg. No. 57)**

~~Whereas, Title 21, Subchapter VII, Section 4166(i), states:~~

~~"...If the driver's license is suspended, a conditional license may be issued pursuant to regulations adopted by the Department.";~~

~~The following policy regulation is hereby adopted:~~

~~(a) No conditional license shall be issued if the licensee has been issued an occupational or a conditional license within the preceding twelve months.~~

~~(b) No conditional license shall be issued to drive a school bus.~~

~~(c) The Department, upon receiving a record of conviction of any person upon a charge of operating a motor vehicle in violation of the conditions imposed upon said conditional license during the period of such conditional license, shall immediately extend the period of such suspension for an additional like period and shall forthwith direct such person to surrender said conditional license to the Department.~~

## **1.0 Authority**

The authority to promulgate this regulation is 21 **Del.C.** §302, 21 **Del.C.** §4177(j) and 29 **Del.C.** §10115.

## **2.0 Purpose**

This policy regulation establishes administrative procedures regarding the issuance of a conditional license following a suspension action due to a conviction for passing a stopped school bus in violation of 21 Del. C. §4166(d).

## **3.0 Applicability**

This policy regulation interprets the following sections found in 21 **Del.C.** §4166

## **4.0 Substance of Policy**

4.1 Upon receiving a notice of conviction for a violation of 21 **Del.C.** §4166(d) the driver's license and/or driving privilege shall be suspended for a period of one (1) month for a first offense.

4.2 Upon receiving a notice of conviction for a second violation of 21 **Del.C.** §4166(d) within three (3) years of a prior violation, the driver's license and/or driving privilege shall be suspended for a period of six (6) months.

4.3 Upon receiving a notice of conviction for a third or further subsequent violation of 21 **Del.C.** §4166(d) within three (3) years of a prior violation, the driver's license and/or driving privilege shall be suspended for a period of one (1) year.

4.4 In the event of a suspension of a driver's license pursuant to this policy, the Division may issue a conditional license during the period of suspension if the applicant stipulates the suspension has created an

extreme hardship, such as loss of meaningful employment opportunity or loss of school opportunity.

4.4.1 A minimum suspension period of one (1) month must be served without driving authority if the suspension action is processed based on (4.1) above.

4.4.2 A minimum suspension period of three (3) months must be served without driving authority if the suspension action is processed based on (4.2) above.

4.4.3 A minimum suspension period of six (6) months must be served without driving authority if the suspension action is processed based on (4.3) above.

4.5 However no such conditional license shall be issued if the licensee has been issued an occupational license or a conditional license within the preceding twelve (12) months or has previously been issued a total of three (3) occupation or conditional licenses as shown on the licensee's driving record.

4.6 The Department, upon receiving a record of conviction of any person upon a violation of operating a motor vehicle in violation of the condition imposed upon said conditional license during the period of such conditional license, shall immediately extend the period of such suspension for an additional like period and shall forthwith direct such person to surrender said conditional license to the Department.

### **5.0 Severability**

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

### **6.0 Effective Date**

The following regulation shall be effective 10 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).

## **2211 The Issuance of Restricted Driving Privileges as the Result of a Suspension or Revocation Order Received from Family Court Relative to a Juvenile Being in Violation of 21 Del.C. 4177. (Formerly Reg. No. 63)**

Pursuant to Title 10, Section,937 (c) 1009(f), the following Policy Regulation is hereby adopted:

1. Requests for restricted driving authority pertaining to employment must be accompanied by a notarized statement from the employer stating that no authority to drive would result in the loss of a meaningful employment opportunity.

2. Requests for restricted driving privileges pertaining to attending school must be accompanied by a notarized statement from an official of the school stating that no authority to legally drive would result in the loss of a school opportunity.

3. Requests for restricted driving privileges for any other urgent need of the individual must be accompanied by a notarized statement from a member of the immediate family stating that no member of the immediate family is capable of satisfying such urgent need.

### **1.0 Authority**

The authority to promulgate this regulation is 21 **Del.C.** §302, 21 **Del.C.** §4177, 10 **Del.C.** §1009(f) and 29 **Del.C.** §10115.

### **2.0 Purpose**

This policy regulation establishes administrative procedures regarding the issuance of restricted driving privileges following a suspension or revocation order received from Family court relative to a juvenile being in violation of 21 **Del.C.** §4177.

### **3.0 Applicability**

This policy regulation interprets the following sections found in 21 **Del.C.** §4177, §4177B, and 10 **Del.C.** §1009(f).

## 4.0 Substance of Policy

4.1 Requests for restricted driving authority pertaining to employment must be accompanied by a notarized statement from the employer stating that no authority to drive would result in the loss of a meaningful employment opportunity.

4.2 Requests for restricted driving privileges pertaining to attending school must be accompanied by a notarized statement from an official of the school stating that without the authority to drive a loss of a school opportunity would result.

4.3 Requests for restricted driving privileges for any other urgent need of the individual must be accompanied by a notarized statement from a member of the immediate family stating that no member of the immediate family is capable of satisfying such urgent need.

## 5.0 Severability

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

## 6.0 Effective Date

The following regulation shall be effective 10 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).

### **2212 Issuance of Occupation Driver's License After Conviction of No Insurance on a Vehicle (Formerly Reg. No. 78)**

~~Pursuant to 21 Del.C. §.302 and 21 Del.C. §2118(g), the following policy regulation is effective immediately:~~

~~In the event of a suspension of a driver's license pursuant to the provisions of 21 Del.C. §.2118, the suspended person may be issued an occupational license during the suspension period provided:~~

- ~~1. The applicant has not been issued an occupational license during the immediate past 12 months.~~
- ~~2. The applicant demonstrates that the suspension of license has created an extreme hardship.~~

~~Extreme hardship shall include:~~

- ~~(1) loss of a meaningful employment opportunity; or~~
- ~~(2) loss of a school opportunity; or~~
- ~~(3) any other urgent need within the family which is critical to the family's health or welfare and no other member of the family is realistically capable of satisfying such urgent need.~~

~~3. Requests for restricted driving authority pertaining to employment must be accompanied by a statement from the employer stating that no authority to drive would result in the loss of a meaningful employment opportunity.~~

~~4. Requests for restricted driving privileges pertaining to attending school must be accompanied by a statement from an official of the school stating that no authority to legally drive would result in the loss of a school opportunity.~~

~~5. Requests for restricted driving privileges for any other urgent need of the individual must be accompanied by a statement from a member of the immediate family stating that no member of the immediate family is capable of satisfying such urgent need.~~

~~6. The applicant provides "proof of insurance" for all vehicles registered under the applicant's name and for all vehicles registered under the spouse's name. This includes any vehicle being used for transportation to and from work. This proof must be a letter from the insurance company or agent, on the company's letterhead, stating that such insurance is valid at least through the 3 month suspension period. A normal insurance ID card is unacceptable for this purpose.~~

~~7. The applicant provides "proof of insurance" for any vehicle listed to be operated by the~~

applicant during his/her employment.

8. ~~The applicant is not under a suspension or revocation of his/her driving privileges for another reasons) at the time.~~

9. ~~The applicant was not involved in an accident at the time of the incident, in which property damage or personal injury occurred.~~

~~An occupational license issued pursuant to this policy regulation shall reflect limited authority to drive for occupational purposes only.~~

### **1.0 Authority**

~~The authority to promulgate this regulation is 21 Del.C. §302, 21 Del.C. §2118, and 29 Del.C. §10115.~~

### **2.0 Purpose**

~~This policy regulation establishes administrative procedures used to issue occupational driving authority following conviction of failure to have insurance or failure to display an insurance ID card.~~

### **3.0 Applicability**

~~This policy regulation interprets the sections found in 21 Del.C. §2118(a) through (z) in their entirety.~~

### **4.0 Substance of Policy**

~~In the event of a suspension of a driver's license pursuant to the provisions of 21 Del.C. §2118, the suspended person may be issued an Occupational License during the mandatory period of suspension. The applicant is eligible to apply provided:~~

4.1 ~~The applicant was not involved in an accident at the time of the incident in which property damage or personal injury occurred~~

4.2 ~~The applicant has not been issued an occupational license during the immediate past 12 months. (Not to include conditional licenses issued under 21 Del.C. §4177(E), §4177(K), or 16 Del.C. §4764 Drug Diversion.)~~

4.3 ~~The applicant is not under suspension or revocation of his/her driving privileges for another reason at time of application that would preclude the issuance of driving authority.~~

4.4 ~~All valid Delaware licenses are turned in to the Division.~~

4.5 ~~The applicant states on the application that the loss of license would create an extreme hardship which shall be defined as:~~

4.5.1 ~~Loss of meaningful employment opportunity;~~

4.5.2 ~~Loss of a school opportunity; or~~

4.5.3 ~~An urgent need by the applicant or within the family, which is critical to the families' health or welfare, and no other family members are capable of satisfying such urgent need. This includes; medical facilities, child, or adult care facilities.~~

4.6 ~~An occupational license issued pursuant to this Policy Regulation shall reflect limited driving authority to drive for the above state reasons only. The occupational license shall be issued for the duration of the suspension period or the expiration of the license whichever is greater. The applicant may choose to renew the license prior to issuance of the occupational license or may complete the renewal process at a later time.~~

4.7 ~~In order to apply for an Occupational License, applicant must provide the following:~~

4.7.1 ~~Employment~~

4.7.1.1 ~~Proof of insurance on all vehicles registered in the name of the applicant and/or spouse, or the name of another, and/or on company owned vehicles. (See Proof of Insurance).~~

4.7.1.2 ~~If self employed, a copy of the applicant's business license must be provided and the copy remain on file with the application.~~

4.7.1.3 ~~If driving vehicles owned by the employer, a statement from the employer stating:~~

4.7.1.3.1 ~~Applicant is employed with the company.~~

4.7.1.3.2 ~~Applicant's work days and hours.~~

4.7.1.3.3 ~~If applicant needs to drive for employment related duties.~~

## PROPOSED REGULATIONS

- 4.7.1.3.4 Applicant will be driving company owned vehicles. (Please identify the vehicles).
- 4.7.1.3.5 If applicant will be driving a personal or other vehicle in addition to the company vehicle for these duties.
- 4.7.2 Attending School
- 4.7.2.1 Documentation on the application stating the name, address, and phone number of the facility.
- 4.7.2.1.1 Days and hours applicant is scheduled for classes; and
- 4.7.2.1.2 Loss of school opportunity if applicant is not granted authority to drive.
- 4.7.2.2 Proof of insurance on all vehicles registered in the name of the applicant and/or spouse, or the name of another, and/or on company owned vehicles. (See Proof of Insurance)
- 4.7.3 Child or Adult Care Requests
- 4.7.3.1 Documentation on the application stating the name, address, and phone number of the facility.
- 4.7.3.2 Proof of insurance on all vehicles registered in the name of the applicant and/or spouse, or the name of another, and/or on company owned vehicles. (See Proof of Insurance)
- 4.7.4 Medical Requests
- 4.7.4.1 statement on the application that no other means of transportation is available
- 4.7.4.2 Documentation on the application stating the name, address, and phone number of the physician or medical facility.
- 4.7.4.3 Proof of insurance on all vehicles registered in the name of the applicant and/or spouse, or the name of another, and/or on company owned vehicles. (See Proof of Insurance)
- 4.7.5 Proof of Insurance
- 4.7.5.1 Privately Owned vehicles
- 4.7.5.1.1 Applicant's vehicles and/or vehicles where applicant's name is on the policy a valid insurance ID card must be shown.
- 4.7.5.1.2 Vehicle owned by the applicant's spouse and/or other vehicles personally owned by another individual must submit a valid insurance ID card.
- 4.7.5.2 Employers/Company Owned Vehicles
- 4.7.5.2.1 Applicants requiring the privilege to drive their employer's vehicles for occupational purposes must present the employer's insurance ID or fleet ID card for proof of insurance.
- 4.7.5.2.2 If the business is privately owned and the insurance is issued under the employer's personal policy, the applicant must provide a valid insurance ID card.
- 4.7.6 Proof of Insurance that is not acceptable
- 4.7.6.1 Faxed copies of insurance documents unless faxed directly to the Division office

### **5.0 Severability**

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

### **6.0 Effective Date**

The following regulation shall be effective 10 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).

### **2259 Mopeds (Formerly Regs. No. 24 and 26)**

#### **1.0 Authority**

Pursuant to Sections 101 and 4494A 4198M, Title 21, **Delaware Code**, the following regulations are hereby adopted.

**2.0 Mopeds**

- 2.1 Manufacturer's Statement of Origin must be presented to the Division at the time application for registration is submitted.
- 2.2 Manufacturer's Statement of Origin must include:
- 2.2.1 Manufacturer's name
  - 2.2.2 Year of manufacturer
  - 2.2.3 Vehicle identification or serial number
  - 2.2.4 Maximum piston displacement less than 55cc.
  - 2.2.5 Brake horsepower rated at no more than 2.7
  - ~~2.2.6 Maximum speed obtainable 25 m.p.h.~~
  - 2.2.6 Name and address of manufacturer.
- 2.3 Certificate of title will be issued, same as on other vehicles. Fee for the title will be the same.
- 2.4 Vehicle document fee must be paid, same as on all other vehicles.
- 2.5 Registration card will be issued, same as on other vehicles.
- 2.6 Fee for registration is \$5.00 and shall be valid for 3 years. A moped license plate will be issued and has to be displayed on the rear of the moped so it is clearly visible. All moped registrations will expire on December 31st.
- 2.7 Records shall be maintained on the vehicle computer files, same as all other vehicles.
- 2.8 Duplicate title and duplicate registration card fees are the same.
- 2.9 No inspection of the vehicle is required for mopeds purchased in Delaware unless supporting ownership papers are in question. (For ~~serial~~ VIN inspection only). Mopeds purchased out of state must be presented for inspection of the ~~Vehicle Serial Number~~ VIN.
- 2.10 Liens can be recorded, same as on all other vehicles.
- 2.11 No insurance is required.
- 2.12 No helmet is required by operator.
- 2.13 Operator must hold a valid driver's license. The license does not have to be endorsed for a motorcycle. License must always be in possession of operator when moped is being operated.
- 2.14 Regulations applicable to bicycles shall apply whenever a moped is operated upon any public road or upon any path set aside for the exclusive use of bicycles.
- 2.15 Mopeds shall not be operated on:
- 2.15.1 interstate highways, such as I-95
  - 2.15.2 limited access highways
  - 2.15.3 the right of way of an operating railroad.
  - 2.15.4 any path set aside for the exclusive use of bicycles unless the helper motor has been turned off.
- 2.16 The Department having no reliable method to determine the maximum speed of a moped will use the maximum piston displacement and brake horsepower to determine if the vehicle is a moped or a motorcycle.

**3.0 Registration and Licensing**

3.1 Due to numerous inquiries from non residents concerning what Delaware will legally recognize for the operation of mopeds, the following information is provided:

<b>Resident of</b>	<b>Moped Must Be Registered</b>	<b>Operator Must Hold A Valid Driver's License</b>
Delaware	Yes	Yes
Maryland	No	Yes
Virginia	No	Yes
New Jersey	<del>No</del> <u>Yes</u>	Yes
Pennsylvania	Yes	Yes
District of Columbia	Yes	Yes

North Carolina	No	Yes
South Carolina	No	Yes

3.2 Of the above, only the states of Delaware, Maryland, Pennsylvania and District of Columbia actually have laws requiring the operator of a moped to be a licensed driver. But as a matter of policy, so as to be consistent with the intent of Title 21, §4194A(b) 4198M all moped operators must hold valid drivers' licenses when such mopeds are being operated in the State of Delaware.

3.3 Delaware will honor the law of the home state of the moped in regards to the registration of such vehicle. However, the operator of a moped must hold a valid driver's license from his state of residence, regardless of the law in the resident's home state.

3.4 State of residence may be determined by witnessing the driver's license of the operator of the moped.

### **2277 Approved Tinting for Side Windows (Formerly Reg. No. 76)**

#### **1.0 Introduction**

Whereas, 21 **Del.C.** §4313 was amended in June, 1990, to read as follows:

§4313. Altering Windshield, Front Side Windows, and Side Wings

1.1 No person shall operate any motor vehicle on any public highway, road, or street with the front windshield, the side windows to the immediate right and left of the driver, and/or side wings forward of and to the left and right of the driver that do not meet the requirements of Federal Motor Vehicle Safety Standard 205 in effect at the time of its manufacture.

1.2 Nothing in this section shall prohibit the use of any products or materials along the top edge of the windshield so long as such products or materials are transparent and do not encroach upon the AS-1 portion of the windshield as provided by FMVSS 205 and FMVSS 128"; and

1.3 No person shall operate any motor vehicle on any public highway, road, or street which does not conspicuously display a certificate by the manufacturer of any "after manufacture" window tinting material which may have been installed that such window tinting material meets the requirements of Federal Motor Vehicle Safety Standard 205 in effect at the time of the vehicle's manufacture. It shall be a valid defense to any charge under this subsection if the person so charged produces in court a validated Mandatory Inspection Notice showing that the Division of Motor vehicles has examined the motor vehicle since the date of offense and certifies compliance with FMVSS 205."

#### **2.0 Authority**

Whereas, the Department of Transportation needs a more definitive method in which to determine which products or materials are acceptable at the time of the vehicle safety inspection, and to assist police officers in enforcing the law, the following Policy Regulation is adopted pursuant to 21 **Del.C.** §302.

#### **3.0 Glass Coating Material on Motor Vehicles**

3.1 The following regulations establish standards and specifications for the use of glass coating material and sun screening devices:

3.1.1 Glass coating material placed, displayed, installed, affixed, or applied upon the windshield of a motor vehicle shall not extend below the AS-1 portion of the windshield as provided by FMVSS 205 and FMVSS 128. The material shall not extend more than five (5) inches down from the uppermost part of the windshield on older vehicles where no AS - 1 mark is indicated on the windshield.

3.1.2 The front side wing vents and windows to the immediate right and left of the driver must comply with the requirements of Federal Motor Vehicle Safety Standard 205. Glass coating material (film tint), when used in conjunction with glazing (vehicle glass) material, must provide a light transmission of not less than 70 percent. All specifications in this rule shall be within normal manufacturer's tolerance, i.e.,  $\pm 3\%$ .

(3) ~~Each manufacturer shall provide conspicuous label with a means for permanent and legible installation between the material and each front side window. The label shall contain the following~~

information: Manufacturer (name or registration number) and statement "Complies with FMVSS 205".

3.1.3 Rear window or windows may be applied with glass coating material in conjunction with glazing (vehicle glass) if the motor vehicle is equipped with outside mirrors on both left and right hand sides of the vehicle.

3.1.4 Rear window mounted brake lights on 1986 and later vehicles will be clear of any tint material.

3.1.5 The law applies to all motor vehicles which are operated on the roads and highways in this State, regardless of where such vehicles are registered. ~~Division of Motor Vehicles will issue violation warning notices to a vehicle owner in violation of this law until January 1, 1991. After that time, vehicles in violation of the law will not be passed at time of safety inspection.~~

## 2286 Transferring Titles with Multiple Names

### **1.0 Authority**

Whereas, the Department of Transportation needs a definite method to determine how vehicle titles should be transferred and issued in accordance with 21 Del.C. Chapters 23 and 25, the following policy regulation is adopted pursuant to 21 Del.C. §302.

### **2.0 Title Transfers**

2.1 A vehicle title in two or more names using the word "and" between the names requires all owners to sign the appropriate blocks on the back of the title to transfer the title.

2.2 A vehicle title in two or more names using the words "and/or" between the names only requires one owner to sign the appropriate blocks on the back of the title to transfer the title.

2.3 A vehicle titled in two or more names using the word "and" between the names where one owner is deceased requires the surviving owner(s) to present a copy of the executor or administrator papers to drop the deceased owner's name from the title or to transfer the title to a new owner. In the event an individual other than the surviving owner(s) is the executor or administrator of the estate, the title may not be transferred without the surviving owners' signatures and the executor's or administrator's signature in the appropriate blocks.

### **3.0 Duplicate Titles**

Duplicate title applications must be signed by all owners before a duplicate title will be issued regardless of whether the title has the words "and" or "and/or" between the owners' names.

### **4.0 Leased Vehicles**

Leased vehicles owned by a leasing company and leased to a lessee with the right to purchase will be titled in the name of the leasing company "C/O" the lessee.

### **5.0 Transfers Involving Divorced Owners**

5.1 The Division will transfer a vehicle title with the names separated by "and" to a divorced owner when the divorce decree incorporates the division of assets and identifies who receives the vehicle. A division of assets may not be incorporated into the divorce decree, but it may still be a valid agreement between the parties regarding the transfer of marital property to one party or the other. A division of assets that is not incorporated into a divorce decree may be acceptable as long as both parties signed the agreement, the agreement is notarized, and the agreement clearly identifies the vehicle and which party is to receive the vehicle. The divorced owner who received the vehicle in the division of assets only needs to sign the back of title to transfer the title or drop the other party's name. In the absence of any division of assets, both parties must sign the title when a vehicle is titled using the word "and" between the parties' names.

**Symbol Key**

Arial type indicates the text existing prior to the regulation being promulgated. Underlined text indicates new text added at the time of the proposed action. Language which is ~~stricken~~ through indicates text being deleted. **[Bracketed Bold language]** indicates text added at the time the final order was issued. ~~**[Bracketed 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 HEALTH AND SOCIAL SERVICES****DIVISION OF MEDICAID AND MEDICAL ASSISTANCE**

Statutory Authority: 31 Delaware Code,  
Section 512 (31 **Del.C.** §512)

**ORDER****Chronic Renal Disease Program****Nature of the Proceedings:**

Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance (DMMA) initiated proceedings to amend the Division of Social Services Manual (DSSM) to clarify, update, and eliminate rules used to determine eligibility for the Chronic Renal Disease Program. The Department's proceedings to amend its regulations were initiated pursuant to 29 **Delaware Code** Section 10114 and its authority as prescribed by 31 **Delaware Code** Section 512.

The Department published its notice of proposed regulation changes pursuant to 29 **Delaware Code** Section 10115 in the December 2005 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by December 31, 2005 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

**Summary of Proposed Changes****Statutory Authority**

Title 29, Chapter 79, Subchapter II, Sections 7932 – 7935, *The Chronic Renal Diseases Program*

**Background**

The Delaware Legislature established the Chronic Renal Disease Program (CRDP) effective 1970 by enacting Title 29, Chapter 79, Subchapter 11, Sections 7932-7935. The purpose of this program is to provide assistance to state residents diagnosed with End Stage Renal Disease (ESRD). The CRDP is not federally funded. CRDP is 100% State funded. Since there are limited funds available, the CRDP should only be utilized as a program of last resort. All third party resources (Medicare, Medicaid, Veteran's Benefits, and Private Insurance) must be considered before CRDP funds are utilized.

The mission of the CRDP is to "improve the quality of life for Delawareans with ESRD by promoting health and well-being, fostering self-sufficiency, and protecting a vulnerable population."

The Chronic Renal Disease Advisory Board is composed of 11 members who are appointed by the Secretary of Delaware Health and Social Services. The role of this Advisory Board is to consult with the Secretary in the administration of the Chronic Renal Disease Program, as needed. Board members represent hospitals and medical centers, which establish dialysis centers, voluntary agencies interested in kidney diseases, related public agencies, physicians licensed to practice medicine and the general public.

**Summary of Proposed Changes**

DSSM 50100.3, 50400, 50700 and 50700.2: The proposal updates the transportation provider information; clarifies the application process; clarifies eligibility standards; and, eliminates the resource test.

**Summary of Comments Received with Agency Response and Explanation of Changes**

The Delaware Developmental Disabilities Council (DDDC) and the State Council for Persons with Disabilities (SCPD) offered the following observations summarized below. DMMA has considered each comment and responds as follows:

DMMA describes this program in the "Background" section of the regulations. It was started in 1970. It is entirely State funded. DMMA asserts that it is intended as a "program of last resort". We attach a copy of the enabling legislation, Title 29 **Del.C.** §§7932-7935. The statute indicates that the CRDP is intended to serve persons suffering from chronic renal diseases who require lifesaving care and treatment but who are unable to pay for such services on a continuing basis." Title 29 **Del.C.** §7932. This provision does authorize imposition of financial eligibility standards as a condition of eligibility for the program. Concomitantly, DHSS, with the advice of the Renal Disease Advisory Committee, is authorized to develop eligibility standards.

First, there is a "typo" in §50100.3. In the second paragraph, the word "my" should be "may".

**Agency Response:** The "typo" is noted. However, this sentence is stricken in the final order regulation.

Second, the "Transportation" section (§50100.3) is revised. It retains the current 3 contexts for funding (mileage reimbursement; DART tickets; private transportation) while deleting specific criteria for implementing them. The rationale is that this represents an "update". It is difficult to assess the impact of the revision. On the one hand, it may maximize flexibility by allowing DMMA to implement the funding authorization in conformity with office practice and policy. On the other hand, if non-regulatory standards do not exist, the lack of specific criteria will predictably lead to indecision, misunderstandings, and appeals. If the current provisions are outdated, it would be preferable to either update them with some specific criteria or ensure that non-regulatory standards exist.

**Agency Response:** Section §50100.3 is revised to include the specific criteria requested.

Third, the elimination of a financial resource test (§50700.2) merits endorsement.

**Agency Response:** Thank you for the endorsement.

Fourth, the income standard would benefit from revision as follows.

A. Section 50700 recites that a participant's income must be below 300% of the Federal Poverty Level (FPL). If not clarified elsewhere, it would be preferable to clarify if this term simply refers to "gross income" or, alternatively, to "countable income" which incorporates some customary deductions. If "income" is defined in another standard, it may be prudent to at least include a cross reference or regulatory note here.

**Agency Response:** Cross reference sections have been included, as requested.

B. The adoption of an income standard based on the Federal Poverty Level (PDL) standard is an acceptable administrative approach to establishing a financial eligibility benchmark, which increases with inflation. However, the application of the PDL is generally dependent on family size. For example, the PDL for a family of four will be higher than the PDL for a family of two. Unfortunately, the regulation runs afoul of this approach with the following recital: "Applicants with a legally married spouse will be considered a household of two." This is accurate only if there are no dependents. Obviously, if a couple have 6 children, using a PDL for a household of 2 may unnecessarily exclude a financially needy individual from the program. Moreover, this standard literally includes the income of a separated spouse who is not part of the household. For example, there could be a "legally married" but separated couple in which the father pays spousal or child support to a mother. Under the regulation, the mother's income would be counted towards the father's eligibility for the CRDP. Indeed, the support could theoretically be "double counted" (father's earnings; mother's support). It would be preferable to delete the sentence altogether.

**Agency Response:** DMMA notes that the acronym "PDL" should be "FPL" in the comment written above. In response to this comment, DMMA intentionally limited the household size to two in order to simplify the eligibility process. Since DMMA eliminated the resource test, it is hoped that clients who are most in need will receive the services. Should DMMA find that it is denying a disproportionate number of clients then the issue may be revisited.

C. DMMA proposes to delete an existing authorization to consider extenuating factors in considering financial eligibility. [§50700, last paragraph, 5 bullets]. While it is appropriate to exclude some references (e.g. to resources), the deletion does eliminate flexibility. For example, if an applicant's income equals 300% of the FPL, but the applicant has extraordinary household expenses, the new regulation would preclude eligibility. This complete elimination of consideration of other financial circumstances, in favor of a no-exceptions 300% FPL standard, may result in deflection of some needy individuals from the program. A compromise approach would be to add the following exception to §50700:

Applicants with countable income between 300 - 400% of the FPL may be determined eligible if the CRDP worker confirms that extraordinary household expenses realistically preclude access to alternative sources of renal disease treatment.

**Agency Response:** The new regulation does eliminate the flexibility to consider extraordinary household expenses. DMMA feels there should be consistency among the standards and application of the rules. DMMA hopes to automate the Chronic Renal Disease Program (CRDP) as the other medical assistance programs. To design a computer system with the flexibility you describe would be extremely difficult and costly. Again, should we find that DMMA is denying a high number of applicants; we may consider additional disregards in the future.

#### **Findings of Fact:**

The Department finds that the proposed changes as set forth in the December 2005 *Register of Regulations* should be adopted.

**THEREFORE, IT IS ORDERED**, that the proposed regulation to amend the Division of Social Services Manual to clarify, update, and eliminate rules used to determine eligibility for the Chronic Renal Disease Program is adopted and shall be final effective April 10, 2006.

Vincent P. Meconi, Secretary, DHSS, 3/15/06

#### **DMMA FINAL ORDER REGULATION #06-05**

##### **Revisions:**

#### **50000 Chronic Renal Disease Program**

The Delaware Legislature established the Chronic Renal Disease Program (CRDP) effective 1970 by enacting Title 29, Chapter 79, Subchapter 11, Sections 7932-7935. The purpose of this program is to provide

assistance to state residents diagnosed with End Stage Renal Disease (ESRD). The CRDP is not federally funded. CRDP is 100% State funded. Since there are limited funds available, the CRDP should only be utilized as a program of last resort. All third party resources (Medicare, Medicaid, Veteran's Benefits, and Private Insurance) must be considered before CRDP funds are utilized.

The mission of the CRDP is to "improve the quality of life for Delawareans with ESRD by promoting health and well-being, fostering self-sufficiency, and protecting a vulnerable population."

The Chronic Renal Disease Advisory Board is composed of 11 members who are appointed by the Secretary of Delaware Health and Social Services. The role of this Advisory Board is to consult with the Secretary in the administration of the Chronic Renal Disease Program, as needed. Board members represent hospitals and medical centers, which establish dialysis centers, voluntary agencies interested in kidney diseases, related public agencies, physicians licensed to practice medicine and the general public.

### **50100 Services Provided by CRDP**

Services provided by the CRDP can consist of payment for medications, nutritional supplements, transportation, and payment of Medicare Part D costs. Electronic Data Systems (EDS) is the CRDP's fiscal agent. They are responsible for processing all eligible CRDP claims.

#### **50100.1 Medications**

The CRDP has the ability to fund prescription medications, over-the-counter medications (OTC's) or both. Services covered include generic and brand name prescription drugs that have been approved as safe and effective by the Federal Food and Drug Administration as well as cost effective over-the-counter drugs prescribed by a practitioner. Prescription drugs covered under CRDP are restricted to products manufactured by pharmaceutical companies that agree to provide manufacturer rebates.

Reimbursement for medications will be made only for client's authorized by the CRDP. Client's eligibility for the medication benefit is based upon the outcome of their medical and financial assessment.

Prescription medications potentially will be funded if prescribed by a physician for eligible clients. Refills may be authorized in compliance with appropriate pharmacy laws.

Reimbursements for OTC products for eligible clients are those, which the physician/practitioner has provided written or verbal authorization to the pharmacist. These products must be for the client's personal use only. There will be no reimbursement for OTC products that are not prescribed by a physician/practitioner. Supplies such as mouthwash, toothpaste, shampoo, etc. will not be reimbursed.

At point of sale, the pharmacist will determine electronically if CRDP will fund the requested product. In order for the pharmacy to receive CRDP payment, they must have a Delaware Medicaid provider number.

Note: All third party resources must be used before CRDP funds are utilized.

#### **50100.2 Nutritional Supplements**

Nutritional supplements will only be funded by the CRDP if the client is diagnosed with ESRD, is on dialysis or has received a kidney transplant, and, exhibits signs and symptoms of malnutrition as determined by documentation of specific laboratory values. Additionally, the only nutritional supplements funded by the CRDP are those currently on the formulary as dictated by First Data Bank.

Other criteria that must be met include:

- it is reasonable and necessary part of the client's treatment plan;
- ordered by a physician or certified nurse practitioner as indicated by completion of a Medical Necessity Form;
- not furnished for the convenience of the client, client's family, attending practitioner, or other practitioner or supplier;
- necessary and consistent with generally accepted professional medical standards;
- monitored and assessed regularly by the attending practitioner to determine effectiveness and necessity.

The CRDP will fund oral nutritional supplements for a durational period of 6 months or less as needed. The durational period is dependent upon the client's medical and financial situation. If the client will need the

supplement past the authorized durational period, the practitioner must submit another Certificate of Medical Necessity Form. Upon submission CRDP will redetermine eligibility. Claims submitted without prior approval, or exceeding the authorized durational period may be denied.

### **50100.3 Transportation**

~~The CRDP may reimburse for transportation to and from the dialysis unit, transplant hospital, or in exceptional cases, related medical appointments. Once determined eligible, all types of reimbursable transportation will be explored for cost effectiveness.~~

- ~~• The types of transportation funded by CRDP are:~~
- ~~• Mileage Reimbursement the CRDP may reimburse the client, client's spouse, caregiver, or anyone who consistently transports clients. Round trip mileage must be greater than 10 miles to be eligible.~~
- ~~• Delaware Authority for Regional Transit (DART) tickets the CRDP will purchase DART tickets for client use. A monthly supply of DART tickets is sent to the dialysis social worker for distribution. These tickets are replaced monthly based on the previous month's usage.~~
- ~~• Private Transportation Companies The CRDP may contract with private transportation companies. Transportation may be supplied via company vehicle or by a volunteer who is trained by the Transportation Company.~~

**[Transportation services for eligible CRDP clients are arranged by the Division of Medicaid & Medical Assistance (DMMA) Transportation Broker. Transportation may be provided to and from the dialysis unit, transplant hospital, or in exceptional cases, related medical appointments. DMMA's transportation broker will explore all types of reimbursable transportation for cost effectiveness.**

**The types of transportation that may be provided are:**

**Mileage Reimbursement – mileage reimbursement may be provided to the client, client's spouse, caregiver, or anyone who consistently transports clients. There is no restriction on the minimum amount of miles to be eligible.**

**Delaware Authority for Regional Transit (DART) tickets - DART tickets will be purchased for client use. A monthly supply of DART tickets is sent to the dialysis social worker for distribution. These tickets are replaced monthly based on the previous month's usage.**

**Private Transportation Companies - private transportation companies may provide transportation if they have a contract with DMMA's transportation broker.**

**Volunteer – a volunteer trained by DMMA's transportation broker may provide transportation utilizing a company vehicle.]**

### **50100.4 Medicare Part D Costs**

The Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) established the Medicare Prescription Drug Program, also known as Medicare Part D, making prescription drug coverage available to individuals who are entitled to receive Medicare benefits under Part A or Part B, beginning on January 1, 2006.

The MMA provides for a Low Income Subsidy (LIS) for individuals with limited income and resources. The LIS is assistance provided by the Centers for Medicare and Medicaid Services to pay Medicare Part D costs for eligible individuals. The LIS will provide payment assistance with the monthly premium, the yearly deductible, and the coverage gap. The LIS will also provide payment assistance for co-payments after an individual with income below 135% of the Federal Poverty Level reaches a total of \$5100 in drug expenses.

The CRDP will provide coverage for Medicare Part D costs including monthly premiums, yearly deductible, drug costs that fall into the Part D coverage gap, and co-payments. If an individual is eligible for the LIS, this assistance will be primary to CRDP assistance.

### **50200 Services Not Provided by CRDP**

The CRDP will not pay health insurance premiums (except Medicare Part D premiums); nor will the program pay for medical, hospital, or ancillary services, medical supplies, or transportation not directly related to the care of End State Renal Disease (ESRD).

**50300 Referral Process**

The CRDP can receive referrals from many sources. Client, family, caretaker, physicians and/or other professionals may initiate the referral process by calling the CRDP office. Dieticians and dialysis social workers may begin the referral process by calling or by mailing/faxing a completed referral form to the CRDP office. Once the referral has been received, the client or referral source will be contacted to set up an appointment to complete the CRDP assessment.

**50400 Application Process**

Applicants must be medically and financially eligible to receive coverage. The client or his representative must complete and sign a CRPD an application form in person or via the telephone, and mail or fax to the DMMA office. The date the application is received in the DMMA office is the first possible date that benefits may start. The individual must also provide the requested verifications necessary to determine eligibility.

CRPD will consider applications without regard to race, color, age, sex, disability, religion, national origin, or political belief, as per Title VI of the Civil Rights Act of 1964.

Filing an application gives the applicant the right to receive a written determination of eligibility and the right to appeal the written determination.

At time of application and/or redetermination, each individual must be informed that they are responsible for notifying the CRDP worker of all changes in their circumstances, which could potentially affect their eligibility for the CRDP.

**50450 Disposition of Applications**

Each applicant's case record must include facts to support the eligibility decision. Each application will be determined eligible or ineligible, unless:

- a. there is an entry in the case record that the applicant voluntarily withdrew the application
- b.. there is a supporting entry in the case record that the applicant has died; or
- c. there is a supporting entry in the case record that the applicant cannot be located.

Certain factors of eligibility must be verified. If all information requested is not received, eligibility cannot be determined or redetermined. 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.

All applicants will receive a notice of action taken on the applications.

Eligibility for CRDP will be redetermined on an annual basis.

**50500 Technical Eligibility**

Only persons who are residents of the State of Delaware shall be eligible for services. Additionally, the individual must be an U.S. citizen or a lawfully admitted alien.

An individual who is entitled to receive Medicare benefits under Part A or Part B must enroll in Part D in order to be eligible for CRDP. The individual must provide proof of Medicare Part D enrollment. Exception: Medicare eligible individuals who have creditable coverage are not required to enroll in Part D as a condition of eligibility. Coverage is creditable if the actuarial value of the coverage equals or exceeds the actuarial value of the standard prescription drug coverage under Part D.

An individual must apply for the LIS if potentially eligible. The individual must provide a copy of the LIS denial or approval notice.

Individuals may be found eligible for CRDP pending their Medicare Part D enrollment and application for LIS for a period of no longer than 90 days from the date of application for CRDP. Current recipients will be notified about the Medicare Part D enrollment requirement and the LIS requirement. They will be given a deadline date by which they must meet this requirement.

**50600 Medical Eligibility**

The client must be diagnosed with ESRD, receive dialysis or have had a renal transplant.

**50700 Financial Eligibility**

CRDP staff determines financial eligibility. The amount of assistance received from the CRDP is dependent upon the applicant's financial situation. Applicant's/client's **[gross countable]** income and resources need to must be below 300% of the Federal Poverty Level (FPL). **[See DSSM 20200 for Income.]** Applicants/clients with income and resources above 300% of the FPL may be eligible for an annual medication cost deduction from the applicant's/client's annual income and resources. If, after this deduction, income and resources are below 300% of the FPL, the individual may be eligible. Applicants with a legally married spouse will be considered a household of two [unless the couple is separated and maintains two separate residences for at least 12 months prior to application.]

Additional factors that may be considered for eligibility include, but are not limited to:

- Number of household members financially dependent on applicant/client
- Cost of certain medications
- Household expenses
- Income/resources of applicant/client
- Income/resources of any household member that contributes to household expenses.

**50700.1 Income**

Income is the total amount of money authorized and received for the applicant's benefit. Income includes anything received by the individual in cash or in kind, that can be used to meet needs for food, clothing or shelter. Gross income is used to determine eligibility. Some examples of income include, but are not limited to the following: Social Security, Railroad Retirement, pensions, wages, rental income, etc.

**50700.2 Resources**

~~Resources are items that can be converted to cash to be used for food, clothing or shelter. Some examples of resources include, but are not limited to the following: bank accounts, stocks, bonds, certificates of deposit, money market funds, retirement funds, etc.~~

~~If the individual has the right, authority or power to liquidate his or her share of the property, it is a resource. In addition, the individual must have:~~

- ~~Some form of ownership interest in the property;~~
- ~~A legal right to access the property;~~
- ~~The legal ability to use the property for his/her own support and maintenance.~~

~~There is no resource test.~~

**50800 Resident of a Long Term Care Facility**

An individual who has been admitted to a nursing facility for placement other than rehabilitation will not be eligible for or continue to be eligible for CRDP services. If the individual is discharged from the nursing facility, they may reapply for CRDP services.

**50900 Fair Hearings**

A fair hearing is an administrative hearing held in accordance with the principles of due process. An opportunity for a fair hearing will be provided, subject to the provisions in policy at DSSM sections 5000-5607.

**51000.1 Waiting List Policy General Statement**

The applicant must meet certain medical and financial criteria in order to be eligible for benefits from the Chronic Renal Disease Program. (For eligibility criteria see DSSM sections 50600 and 50700). A waiting list will be maintained according to the need of each client/potential client, with those with most critical needs served first.

Referrals are prioritized on the waiting list according to medical/financial need.

The number of clients served by the CRDP program is limited by the amount of available funds. If the CRDP budget has been depleted prior to the end of the fiscal year, clients on the CRDP waiting list will be processed for CRDP benefits at the beginning of next fiscal year.

**51000.2 Medical Criteria**

Within 24 hours of referral receipt, medical eligibility specific to the individual's need will be determined. The order of priority will be medications/supplements and transportation services.

**51000.3 Financial Criteria**

Within 24 hours of referral receipt, financial eligibility and specific need will be determined. Clients, who have a documented medical need and appear to be financially eligible for CRDP, with limited income and no insurance, will be given highest priority.

The order of priority will be clients with limited income and no insurance coverage, minimal insurance coverage, or insurance copays.

**9 DE Reg. 774 (11/01/05)**

---

**DIVISION OF SOCIAL SERVICES**

Statutory Authority: 31 Delaware Code,  
Section 512 (31 Del.C. §512)

**ORDER****20910.1 Institutionalized Spouse****Nature of the Proceedings:**

Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance (DMMA) initiated proceedings to amend a rule in the Division of Social Services Manual (DSSM) used to determine eligibility for medical assistance.

The Department's proceedings to amend its regulations were initiated pursuant to 29 **Delaware Code** Section 10113 and its authority as prescribed by 31 **Delaware Code** Section 512.

**Nature of the Exempt Regulation:****Citations**

- 29 **Del.C.** §10113, *Adoption of Regulations; Exemptions*
- 1924(h) of the Social Security Act, *Definitions: Institutionalized Spouse*

**Summary of Proposed Changes**

The purpose of this amendment is to add examples to the policy at DSSM 20910.1, *Institutionalized Spouse*. DMMA is not changing existing policies or procedures, but clarifying the DSSM to reflect current programs and practices.

**Findings of Fact:**

The Department finds that these changes are exempt from the procedural requirements of the Administrative Procedures Act (Title 29 Chapter 101).

**THEREFORE, IT IS ORDERED**, that the proposed revision regarding clarification changes to the policy at DSSM 20910.1 by adding examples be adopted informally as an exempt regulation and shall become effective April 10, 2006.

Vincent P. Meconi, Secretary, DHSS, 3/14/06

**DSS EXEMPT REGULATION #06-12  
REVISIONS:**

**20910.1 Institutionalized Spouse**

An individual who is in a medical institution or nursing facility and is married to a spouse who is not in a medical institution or nursing facility and who is not receiving Medicaid under any of the Long Term Care Medicaid programs such as Home and Community Based Services, Nursing Home Medicaid or Assisted Living Waiver.

Example 1

Mr. Smith is a resident of a Nursing Home. Mrs. Smith is living at home and is not receiving any Long Term Care Services. In this situation, a spousal calculation would be needed.

Example 2

Mr. Brown is in a Nursing Home. Mrs. Brown is in an Assisted Living Facility and is NOT on LTC Medicaid. In this situation, a spousal calculation would be needed.

Example 3

Mr. Jones is in a Nursing Home. Mrs. Jones is in an Assisted Living Facility and is receiving LTC Medicaid. In this situation, a spousal calculation would not be needed. Mr. and Mrs. Jones should be looked at as two separate individuals.

Example 4

Mr. Jackson is in a Nursing Home. Mrs. Jackson is at home receiving Home and Community Based Services on LTC Medicaid. In this situation, a spousal calculation would not be needed.

**9 DE Reg. 1187 (2/1/06)**

---

**DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL  
CONTROL**

**OFFICE OF THE SECRETARY**

Statutory Authority: 29 Delaware Code, Section 8051(d) (29 **Del.C.** §8051(d))

**ORDER**

**Secretary's Order No.: 2006-E-12**

**I. Background**

On March 1, 2006 a public hearing was held in the DNREC Energy Office, located at 146 S. Governors Avenue, Dover, Delaware, to receive comment on the Department's proposed amendments to the *Delaware Regulations Governing the Green Energy Program*. The purpose of these amendments is to modify the existing regulation relating to the Green Energy Fund.

Senate Bill 44 passed by the General Assembly and signed into law by Governor Minner in July of 2005 expands the definition of "renewable and alternative energy technologies" to include biodiesel manufacturing facilities. This recent legislative change also allows grants to be given for biodiesel technology demonstration projects.

No members of the public attended this hearing on March 1, 2006, nor were any comments received by the Department concerning these proposed amendments, either prior to or subsequent to the actual hearing date. Proper notice of the hearing was provided as required by law.

After the hearing, the Hearing Officer prepared her report and recommendation in the form of a report to

the Secretary dated March 13, 2006, and that Hearing Officer's Report is expressly incorporated herein by reference.

## II. Findings and Conclusions

All of the findings and conclusions contained in the Hearing Officer's Report dated March 13, 2006 are expressly incorporated herein and explicitly adopted as the findings and conclusions of the Secretary.

## III. Order

In view of the above, I hereby order that the proposed amendments to the *Delaware Regulations Governing the Green Energy Program* be promulgated and implemented in the manner and form provided for by law pursuant to the changes proposed prior to the hearing, and as recommended in the Hearing Officer's memorandum.

## IV. Reasons

Adopting the proposed amendments to the *Delaware Regulations Governing the Green Energy Program* will be beneficial to the State of Delaware, in that these amendments will add consistency and/or clarification to the existing regulations. More importantly, the adoption of these amendments will bring the existing regulation in line with the aforementioned recent legislative changes, in furtherance of the policy and purposes of 7 **Del.C.**, Ch. 60.

John A. Hughes, Secretary

Date of Issuance: March 14, 2006

Effective Date of the Amendment: April 11, 2006

### 104 Regulations for the Green Energy Program

#### 1.0 Purpose

The purpose of this regulation is to prescribe procedures relating to the Green Energy Fund pursuant to 29 **Del.C.** Chapter 80, Subchapter 2, the Delaware Energy Act. It is the goal in establishing this regulation to provide a streamlined procedure for distributing Green Energy Funds through the use of grants and loans.

This regulation provides rules of practice and procedure for application and disbursement of Green Energy Fund grants and loans for renewable energy projects and encouraging energy efficiency projects in Delaware.

#### 2.0 Statutory Authority

These regulations are promulgated under authority of 29 **Delaware Code**, Section 8051(dc).

#### 3.0 Definitions

For purposes of this regulation, the following words and phrases shall have the meanings set forth below.

“**Department**” means the Department of Natural Resources and Environmental Control, the Delaware Energy Office, or such other agents as the department or Secretary may designate.

“**Conectiv Power Delivery DP&L**” means the trade name used by Delmarva Power and Light Company.

“**DP&L Service Territory**” means the service territory of Delmarva Power and Light Company, or its successor, as such territory is reflected in the electric service territory maps maintained by the Delaware Public Service Commission under the authority of 26 **Del.C.** §203B.

“**Energy Efficiency Improvement**” means an increase in productivity or output for a given energy input when compared to conventional technologies or practices. Energy efficiency improvements may include equipment replacement, installation of controls, changes in operating practices, or other measures.

“**Energy Efficiency Information Program**” or “**Information Program**” means a program established

mainly to educate or inform energy consumers about the environmental and economic benefits of energy efficiency improvements. Energy efficiency information programs may include the demonstration of new technologies or the novel application of existing technologies in order to establish their environmental and economic benefits.

**“Energy Efficiency Technology”** means a hardware device or system that provides an end-use energy service (e.g., lighting, heating, air conditioning, motion, etc.) using less energy per unit of output than minimum standards allow or available conventional equipment.

**“Fiscal Year”** means the budget and accounting year of the State beginning on July 1 and ending on June 30. Reference to a Fiscal Year by year number means the Fiscal Year ending on June 30 of the named year. For example, a reference to Fiscal Year 2004 means the period beginning on July 1, 2003 and ending on June 30, 2004.

**“Freeze Tolerance Limit”** means the temperature below which a Qualifying System for Solar Water Heating might suffer damage attributable to freezing.

**“Fuel Cell”** is an electrochemical energy conversion device which converts the chemical energy from a fuel directly into electricity and heat.

**“Geothermal Heat Pump”** means either an open or closed loop system or direct expansion system that uses the thermal energy of the ground or groundwater as the heat source and heat sink for residential or non-residential space heating and/or cooling. It may provide both space heating and cooling, cooling only or heating only functions. A closed loop system consists of a ground heat exchanger in which the heat transfer fluid is permanently contained in a closed system. An open loop system consists of a ground heat exchanger in which the heat transfer fluid is part of a larger environment. A direct expansion system consists of a geothermal heat pump system in which the refrigerant is circulated in pipes buried in the ground, rather than using a heat transfer fluid, such as water or antifreeze solution in a separate closed loop, and fluid to refrigerant heat exchanger.

**“Green Energy Fund”** means the fund established by 29 Del.C. §80547 and administered by the Department.

**“Grid-connected”, “Grid-tied” or “Interconnected”** means a condition in which a Qualifying System that is an electrical generating system serves **and is** electrically connected to an electrical load that is also connected to and served by the local utility electrical grid. The delivery or ability to deliver, any portion of the generating capacity into the utility electrical grid is not required, nor must the loads served be only alternating current (AC) loads. ~~The Photovoltaic or Wind Turbine s~~Systems need only to be capable of serving electrical loads that would otherwise be served by the local utility.

**“Kilowatt”** means the basic unit of electric power equal to 1,000 Watts.

**“Kilowatt-hour”** means the basic unit of electric energy equal to one Kilowatt of power supplied to or taken from an electric circuit steadily for one hour. One-Kilowatt hour equals 1,000 Watt-hours. Electric energy is commonly sold by the Kilowatt-hour.

**“Nonresidential”** means all classes of customer purchasing electric power for uses other than for individual households. These groups of customers generally purchase electric power for commercial and industrial purposes. When used as an adjective with respect to Qualified Systems or Green Energy Program Grants or Loans, such term refers to systems owned by, or leased to, or grants or loans awarded to Nonresidential persons.

**“Participating Contractor”** is ~~A~~an appropriately Delaware licensed contractor who has submitted to the Department an application designated by the Department with all required attachments and maintains in full force all required insurance and warranties as described in Section 5.2.

**“Passive Solar Design”** means ~~A~~a residential or non-residential building design that uses no external mechanical power, such as pumps or blowers, to collect and move solar heat.

**“Photovoltaic”** means an ~~electronic non-mechanical~~ semiconductor device, most commonly made of silicon that produces direct current (~~de~~DC) electricity from sunlight.

**“Placed in Service”** means installed, operational, and producing output.

**“Professional Engineer”** means "engineer", as defined in Title 24 Del.C., Chapter 28, *Professional Engineers*, namely, a person who by reason of his or her advanced knowledge of mathematics and the physical sciences, acquired by professional education and practical experience, is technically and legally qualified to practice Professional Engineering, and who is licensed by the Delaware Association of Professional Engineers.

“**Purchaser**” means the purchaser or lessee of a Qualifying System.

“**Qualifying System**” has the meaning as set forth in Section 5.0.

“**Renewable Energy Technology**” shall have the meaning as prescribed in 29 Del.C. Chapter 80.

“**Renewable Fuel**” means a non-nuclear fuel that can be derived from non-fossil energy sources that are naturally replenishing and virtually inexhaustible.

“**Residential**” means the class or classes of customers purchasing electric power for household uses. When used as an adjective with respect to Qualified Systems or Green Energy Program Grants, such term refers to systems owned by, or leased to, or grants awarded to Residential persons.

“**Retailer**” means the vendor or lessor of a Qualifying System.

“**Secretary**” means the Secretary of the Department of Natural Resources and Environmental Control.

“**Solar Pathfinder™**” is a non-electronic instrument that measures the annual solar potential for a given site.

“**Solar Shade Analysis**” means an on site evaluation using a Solar Pathfinder™ or functionally equivalent device that measures the annual solar potential for the given site.

“**Solar Water Heating**” means the heating of water by use of the sun’s energy rather than electricity or gas or some other means.

“**State**” means the State of Delaware.

“**Ton of Capacity**” means 12,000 British Thermal Units (BTU) per hour of cooling capacity.

“**Watt**” means the basic unit of measure of real electric power, or rate of doing work.

“**Watt-hour**” means the basic unit of measure of electric energy consumption. The total amount of energy used in one hour by a device that requires one Watt of power for continuous operation.

“**Wind Turbine**” means a mechanical/electrical system that converts the kinetic energy of blowing wind into mechanical or electric power.

#### **4.0 Green Energy Fund**

The Delaware 142nd General Assembly enacted and Governor Minner signed into law Senate Bills 93 and 145, which amended Title 29 of the **Delaware Code** to include new provisions for utilizing the Green Energy Fund. The law was further amended by the Delaware 143rd General Assembly. The law continues to encourage and promote the use of renewable electric generation technologies, ~~and~~ alternate energy technologies, and energy efficiency. by residential and non-residential (commercial) customers. Further, the law amends §8054(d) by dividing the Green Energy Fund into three separate and distinct programs.

The programs outlined in §8054(d) are described in full in this regulation and include the following:

- Green Energy Endowment Program
- Technology Demonstration Program
- Research and Development Program

#### **5.0 Green Energy Endowment Program**

##### **5.1 General Provisions**

All grants made under the Green Energy Endowment Program are on a first-come first-served basis. Allowable expenditures under the Green Energy Endowment Program and shall not exceed sixty-five percent (65%) of the total revenue collected during the previous fiscal year or sixty-five percent (65%) or the total fund whichever is greater, including energy efficiency education programs. Energy efficiency education programs shall not exceed thirty percent (30%) of allowable Green Energy Endowment Program expenditures. Under no circumstances will the Department issue grants for land acquisition in association with any project proposed in the Green Energy Endowment Program.

Of the total funds available through Green Energy Endowment Program on an annual basis, the grants made for residential projects shall not exceed 40% of the total funds available and the non-residential grants shall not exceed 60% of the total funds available, including energy efficiency programs.

Up to seven and one-half percent (7.5%) of the moneys deposited in the Green Energy Fund each year may be used for administration of the Fund.

## 5.2 Eligibility

The Delaware Green Energy Program is available to ~~Connectiv Power Delivery~~ DP&L electric customers or persons in Delaware receiving services from a non-regulated electric supplier which is contributing to the Green Energy Fund. All eligible equipment and products must be installed in Delaware. Energy Efficiency Programs must be implemented in Delaware for the primary benefit of DP&L customers, or persons in Delaware receiving services from a non-regulated electric supplier which is contributing to the Green Energy Fund.

## 5.3 Renewable Energy Grant Reservation Request

Customers and contractors applying for any grant for a renewable energy project must provide the following information to the Department prior to installing the system:

- 5.3.1 Completed Grant Reservation Form signed by both customer and contractor
- 5.3.2 The type of qualifying system
- 5.3.3 Copy of project estimate, purchase order, or letter of intent
- 5.3.4 Copy of the customer's recent ~~Connectiv Power Delivery~~ electric bill or a bill from a non-regulated electric supplier which is contributing to the Green Energy Fund
- 5.3.5 System schematic or line drawing
- 5.3.6 Plot plan illustrating well, turbine, or module location (wind and geothermal only, photovoltaic when system is ground mounted)
- 5.3.7 Manual J calculation (geothermal only)
- 5.3.8 Detailed system design and a predicted performance calculation verified by a Professional Engineer. (Non-residential solar water heating systems only.)
- 5.3.9 Roof diagram illustrating the following:
  - 5.3.9.1 Roof dimensions (angle, length and width)
  - 5.3.9.2 Location of collectors or modules on roof
  - 5.3.9.3 Location of any roof-mounted or building-mounted equipment
  - 5.3.9.4 Orientation and Tilt of array or collectors
  - 5.3.9.5 Areas of shading (Provide Solar Pathfinder results for all cases where shading occurs between 9:00 a.m. and 3:00 p.m. Results of the solar shade analysis must determine that 70% of the annual solar path's area is shade free to be considered for a grant.)

## 5.4 Evaluation of Renewable Energy Grant Reservation Request

Upon receipt of the Grant Reservation Request and supporting documents, the Department will perform an evaluation to check the proposal package for its compliance with the requirements noted above. If the proposal package is complete, the Department will process the Grant Reservation and issue a Confirmation and Claim Form to the applicant. All requirements as outlined in Section 5.3 must be provided to the Department prior to processing the grant reservation.

The Department will reserve the funds for the project described in the Grant Reservation Request for six (6) months from the date of the reservation for residential applicants and twelve (12) months from the date of reservation for non-residential applicants. Since all grants are reserved on a first come-first served basis, viable projects that are not completed within the required time will be placed at the end of the queue and issued an extension of six (6) months from the date of the expired reservation for residential applicants and twelve (12) months from the date of expired reservation for non-residential applicants. To be considered of a reservation extension, the Department will require a project status and summary in writing fourteen (14) business days prior to the expiration of the original reservation.

## 5.5 Claim for and Distribution of Green Energy Program Renewable Energy Grants

After installation, the customer and contractor must provide the following to the Department:

- 5.5.1 Completed Confirmation and Claim form signed by customer and contractor
- 5.5.2 Copy of electrical, plumbing or building inspection
- 5.5.3 Copy of completed and approved ~~Connectiv Power Delivery~~ DP&L Interconnection Agreement (photovoltaic, wind, fuel cell) or similar document from a non-regulated electric supplier which is contributing to the Green Energy Fund
- 5.5.4 Copy of product specification sheets
- 5.5.5 Copy of final sales invoice (invoice must include actual price paid, itemized list of

components, labor, permit fees, method of payment)

5.5.6 Copy of warranty agreement

5.5.7 Copy of verification of completion of installation signed by customer and contractor.

Upon receipt of the completed Reservation Claim Form and all final documentation pertaining to the project as noted in Section 5.5.1-5.5.6, the Department will evaluate the Reservation and Claim Form and the required accompanying documents for consideration of grant approval. The contractor and customer are fully responsible for insuring that all forms and documentation have been supplied and the system meets all program requirements. The Department may make an inspection of the systems prior to final grant approval.

The Department will process the grant within 30 days of receipt of the Reservation and Claim Form and all supporting documentation. The Department will ordinarily process the payment to the purchaser, however, if the purchaser so requests in writing and documentation reflects the grant value was reduced directly from the purchase price, the Department will process the payment to the retailer or installing contractor.

Upon written request, the Department will pay the grant in two installments. Twenty-five percent 25% of the grant paid after the equipment is delivered to the installation site and all required permits, approvals, certifications from all jurisdictions having authority are secured. The remaining twenty-five percent is paid when the system is operational and approved by the utility and/or appropriate inspection agent. The Department reserves the right to review any installation prior to any partial or final grant payment.

5.6 Green Energy Program Renewable Energy Project Participating Contractor Guidelines

5.6.1 Participating Contractor Application

Contractors installing qualifying photovoltaic, solar water heating, geothermal heat pumps, small wind turbines, or fuel cells must complete the Participating Contractor Application prior to installing systems within the Green Energy Program. The application will consist of the following:

5.6.1.1 Name of company and key contact information

5.6.1.2 Brief history and organizational structure of company

5.6.1.3 Education, experience and licensure

5.6.1.4 General liability and statutory worker's compensation

5.6.1.5 Statement of reliability and good standing

5.6.2 Education and Licensure

Participating Contractors shall maintain appropriate education and licenses to insure that only professionally designed systems are installed within the Program. The Participating Contractor must be licensed in the State of Delaware.

Where industry certification programs have been promulgated, grant recipients are encouraged to use industry certified contractors.

5.6.3 Insurance Requirements

The Participating Contractor and anyone acting under its direction or control or on its behalf shall at its own expense procure and maintain in full force at all times Commercial General Liability Insurance with a bodily injury and property damage combined single limit of liability of at least ONE MILLION DOLLARS (\$1,000,000) for any occurrence.

5.6.4 Statement of Reliability and Good Standing

Contractor must be reliable and in good standing with a "Satisfactory Record" (or no negative reports) with the Better Business Bureau. The Contractor shall provide a copy of their Better Business Bureau report to the Department upon request. Reports may be obtained at the following address.

BBB of Delaware  
1415 Foulk Road, Suite 202  
Foulkstone Plaza  
Wilmington, DE 19803  
Phone: (302)230-0108  
Fax: (302)230-0116  
Web Site: [www.delaware.bbb.org](http://www.delaware.bbb.org)  
E-mail: [info@delaware.bbb.org](mailto:info@delaware.bbb.org)

#### 5.6.5 Limitation of Funds

The Program funds are limited. The Participating Contractor shall follow program guidelines to insure reservation of funds prior to installing a qualifying system.

#### 5.6.6 Owner's Manual Minimum Requirements

Contractors are required to provide each Program participant with an owner's manual. At a minimum, the owner's manual shall include the following:

- 5.6.6.1 Name and address of the seller
- 5.6.6.2 System model name or number
- 5.6.6.3 Identification and explanation of system components
- 5.6.6.4 Description of system operation
- 5.6.6.5 Description of system maintenance
- 5.6.6.6 Description of emergency procedures
- 5.6.6.7 Vacation procedures
- 5.6.6.8 Systems warranty

#### 5.7 Renewable Energy Project Warranty

All qualifying systems receiving a Green Energy Program grant must have a full 5-year warranty against component failure, malfunction and premature output degradation. The warranty must cover all components for which the program incentive is granted and cover the full cost of repair and replacement of all components of the system. For professionally installed systems, the warranty must cover the labor to remove and replace defective components and systems.

#### 5.8 Renewable Energy Project Code Compliance

All qualifying systems must be installed in accordance with the standards and specifications of the manufacturers of the components in the system, in compliance with all applicable local electric and building codes, local ordinances and these guidelines. Where discrepancies, if any, exist with these guidelines and local codes, local codes shall govern.

#### 5.9 Green Energy Program Renewable Energy Technologies

Renewable energy project equipment must meet the standards described in Section 5.9:

##### 5.9.1 Photovoltaic Systems

###### 5.9.1.1 Grant Limits

Subject to availability of funds, the Delaware Green Energy Program offers grants for grid-connected photovoltaic systems installed by qualified contractors and customers up to 50% of the total installed costs. Grants will not exceed \$22,500 per residential dwelling for residential systems and \$250,000 per non-residential facility for non-residential systems. A photovoltaic system may not have eligible qualifying photovoltaic system costs in excess of \$12 per Watt.

###### 5.9.1.2 Accepted Products and Equipment

###### 5.9.1.2.1 Grid Interconnected

All photovoltaic modules must be certified by a nationally recognized testing laboratory as meeting the requirements of the most recent version of Underwriters Laboratory Standard 1703.

All qualifying grid-connected systems must comply with the Institute of Electrical and Electronic Engineers Standards Board (IEEE) 929, Recommended Practice for Utility Interface of Photovoltaic (PV) Systems, IEEE 1547, Standard for Interconnecting Distributed Resources with the Electric Power Systems and the appropriate generation interconnection requirements of ~~Connectiv DP&L's Power Delivery's~~, Technical Considerations Covering Parallel Operations of Customer Owned Generation of Less than 1 Megawatt and Interconnected with the ~~Connectiv DP&L~~ Power Delivery System or similar interconnection requirements from a non-regulated electric supplier which is contributing to the Green Energy Fund.

All inverters must be certified by a nationally recognized testing laboratory for safe operation and be certified as meeting the requirements of Underwriters Laboratory Standards 1741, Standard for Static Inverters and Charge Controllers for Use in Photovoltaic Power Systems.

All grid interconnected systems must be designed and installed to comply with the National Electric Code (NEC).

###### 5.9.1.2.2 Non-Grid Interconnected or Stand-Alone

All photovoltaic modules must be certified by a nationally recognized testing laboratory as meeting the requirements of the most recent version of Underwriters Laboratory Standard 1703.

All non-grid interconnected or stand-alone systems shall be designed and installed to comply with the National Electric Code (NEC).

#### 5.9.1.3 Array Orientation and Tilt

Optimum array orientation is a 180° true bearing. However, the program accepts solar arrays oriented between South of due East and South of due West or between 80° and 260° magnetic. Systems installed between 260° and 80° magnetic or North of due East and North of due West are not eligible for a Green Energy Program Grant.

Optimum array tilt is equal to the latitude at the installation site. However, the program accepts array tilt parameters as specified by the module manufacturer which may allow for tilts greater than and less than latitude.

#### 5.9.1.4 Array Shading

Photovoltaic arrays shall be installed such that the array has a minimum of six (6) hours of unobstructed sunshine daily inclusive of solar noon. A "solar window" of eight (8) hours of unobstructed sunshine is preferred.

The installing contractor is responsible for insuring that the system is free from shading. The installing contractor shall perform a "Solar Shade Analysis" to ensure the array meets the minimum daily sunshine requirements. Results of the solar shade analysis must determine that 70% of the annual solar path's area is shade free to be considered for a grant.

#### 5.9.1.5 Aesthetics

Aesthetics must be considered in the design and mounting of the photovoltaic array. The designing contractor must provide a roof schematic complete with roof dimensions, array placement, orientation and areas of shading to the Department prior to installation. The designing contractor must make every attempt to configure the modules in an aesthetically pleasing manner free from shading.

### 5.9.2 Solar Water Heating

#### 5.9.2.1 Grant Limits

Subject to availability of funds, the Delaware Green Energy Program offers grants for solar water heating systems installed by qualified contractors and customers up to 50% of the total installed cost. Grants will not exceed \$3,000 per residential dwelling for residential systems and \$250,000 per non-residential facility for non-residential systems.

Solar water heating systems integrated into a radiant heating application are eligible for a grant up to 50% of the installed cost of the solar energy portion of the system. Grants will not exceed \$5,000 per residential dwelling for residential systems and \$250,000 per non-residential dwelling for non-residential systems.

#### 5.9.2.2 Accepted Products and Equipment

A solar water heating system must be designed to reduce or eliminate the need for electric or gas heated water.

All qualifying residential solar water heating systems must be certified to meet the Solar Rating and Certification Corporation's (SRCC) OG-300, Operating Guidelines and Minimum Standards for Certifying Solar Water Heating Systems: An Optional Solar Water Heating System Certification and Rating Program and have a Freeze Tolerance Limit of minus 21 degrees Fahrenheit without electrical power.

All qualifying non-residential solar water heating systems and solar energy systems integrated into a radiant heating application must utilize collectors certified to meet the Solar Rating and Certification Corporation's (SRCC) OG-100, Operating Guidelines for Certifying Solar Collectors.

Non-residential solar water heating systems will be required to submit a detailed system design and a predicted performance calculation verified by a Professional Engineer (P.E.)

#### 5.9.2.3 Collector Orientation and Tilt

Optimum collector array orientation is a 180° true bearing. However, the program accepts solar collectors oriented between South of due East and South of due West or between 80° and 260° magnetic. Systems installed between 260° and 80° magnetic or North of due East and North of due West are not eligible for a Green Energy Program Grant.

Optimum collector tilt is equal to the latitude at the installation site. However, the program accepts collector tilt parameters as specified by the collector manufacturer which may allow for tilts greater than and less than latitude.

#### 5.9.2.4 Collector Shading

All collectors shall be installed such that the collector array has a minimum of six (6) hours of unobstructed sunshine daily inclusive of solar noon. A "solar window" of eight (8) hours of unobstructed sunshine is preferred.

The installing contractor is responsible for insuring that the system is free from shading. The installing contractor shall perform a "Solar Shade Analysis" to ensure the array meets the minimum daily sunshine requirements. Results of the solar shade analysis must determine that 70% of the annual solar path's area is shade free to be considered for a grant.

#### 5.9.2.5 Aesthetics

Aesthetics must be considered in the design and mounting of the solar water heating collectors. The designing contractor must complete a roof schematic complete with roof dimensions, collector placement, orientation and areas of shading to the Department prior to installation. The designing contractor must make every attempt to configure the collectors in an aesthetically pleasing manner.

### 5.9.3 Small Wind Turbines

#### 5.9.3.1 Grant Limits

Subject to availability of funds, the Delaware Green Energy Program offers incentives up to 50% of the total installed cost for small grid-connected wind turbines installed by a qualified contractor for a qualified customer. Small wind turbines shall be at least 500 Watts. Grants will not exceed \$22,500 per residential dwelling for residential systems and \$100,000 per non-residential facility for non-residential systems. A qualifying wind turbine system shall not exceed \$5.00 per Watt installed.

#### 5.9.3.2 Capacity Limits

Qualifying wind turbine systems shall be at least 500 Watts.

The Department may reject applications if the location of the proposed wind turbine system has an inadequate wind resource for reasonable utilization of the equipment as recommended by the turbine manufacturer. Wind resources can vary significantly; therefore, the contractor and customer must take care that the location has adequate wind for the turbine selected. It is strongly recommended that a professional evaluation of your specific site be completed. The Department may require additional evidence of feasibility prior to approving the grant reservation.

#### 5.9.3.3 Accepted Products and Equipment

##### 5.9.3.3.1 Grid Interconnected

All qualifying grid-connected small wind systems must use Underwriters Laboratory listed equipment and comply with the Institute of Electrical and Electronic Engineers Standards Board (IEEE) 929, Recommended Practice for Utility Interface of Photovoltaic (PV) Systems, IEEE 1547, Standard for Interconnecting Distributed Resources with the Electric Power Systems and the appropriate generation interconnection requirements of Conectiv Power Delivery's, Technical Considerations Covering Parallel Operations of Customer Owned Generation of Less than 1 Megawatt and Interconnected with the Conectiv Power Delivery System or similar interconnection requirements from a non-regulated electric supplier which is contributing to the Green Energy Fund.

All inverters or other systems used in interconnection must be certified by a nationally recognized testing laboratory for safe operation and be certified as meeting the requirements of Underwriters Laboratory Standards 1741, Standard for Static Inverters and Charge Controllers for Use in Photovoltaic Power Systems.

All grid interconnected systems must be designed and installed to comply with the National Electric Code (NEC).

##### 5.9.3.3.2 Non-Grid Interconnected or Stand-Alone

All qualifying non-grid interconnected wind systems must use Underwriters Laboratory certified listed equipment and systems shall be designed and installed to comply with the National Electric Code (NEC).

**5.9.4 Geothermal Heat Pump Systems****5.9.4.1 Grant Limits**

Subject to availability of funds, the Delaware Green Energy Program offers grants for geothermal heat pump systems installed by qualified contractors and customers at the following rates:

**Residential:**

\$600 per ton not exceeding \$3,000 per residential dwelling for residential systems installed with an Energy Efficiency Ratio (EER) of 15.0 and Coefficient of Performance (COP) of 3.4 or greater or 50% of the installed cost whichever is lower, or

\$500 per ton not exceeding \$2500 per residential dwelling for residential systems with an Energy Efficiency Ratio (EER) of 14.0 and Coefficient of Performance (COP) of 3.0 or greater or 50% of the installed cost whichever is lower.

**Non-residential:**

\$600 per ton not exceeding \$25,000 per non-residential facility for non-residential systems with an Energy Efficiency Ratio (EER) of 15.0 and Coefficient of Performance (COP) of 3.4 or greater or 50% of the installed cost whichever is lower, or

\$500 per ton not exceeding \$25,000 per non-residential facility for non-residential systems with an Energy Efficiency Ratio (EER) of 14.0 and Coefficient of Performance (COP) of 3.0 or greater or 50% of the installed cost whichever is lower.

**5.9.4.2 Accepted Products and Equipment**

Qualifying geothermal heat pump systems must be sized in accordance with good heating, ventilation and air conditioning design practices for the occupancy, location and structure. Contractor shall provide a Manual J calculation, or other equivalent calculation, to determine proper size of equipment.

All qualifying systems must have a warranty for protection of the integrity and performance of the system for at least five years. All units installed under this program must have a minimum EER of 14.0 and COP of 3.0. Qualifying systems must meet the following:

Closed loop systems shall qualify under rating conditions in accordance with ISO 13256-1.

Open loop systems shall qualify under rating conditions in accordance with ISO 13256-1.

DX systems shall qualify under rating conditions in accordance with ARI 870.

**5.9.5 Fuel Cells****5.9.5.1 Grant Limits**

Subject to availability of funds, the Delaware Green Energy Program offers grants for grid-connected fuel cells installed by qualified contractors and customers up to 50% of the total installed cost for fuel cell systems operating on a renewable fuel source. Grants will not exceed \$22,500 for residential systems and \$250,000 for non-residential systems.

**5.9.5.2 Accepted Products and Equipment****5.9.5.2.1 Grid Interconnected**

All Qualifying fuel cells systems must utilize a renewable fuel source and meet the National Fire Protection Association (NFPA) 853 for Stationary Fuel Cell Power Plants, the Institute of Electrical and Electronic Engineers Standards Board (IEEE) 519-Recommended Practices and Requirements for Harmonic Control in Electric Power Systems, the most current version of the American National Standards Institute (ANSI) Z21.83 for Fuel Cell Power Plants, and input and output protection functions should be in compliance with ANSI C37.2 Device Function Number Specifications.

All grid interconnected systems must be designed and installed to comply with the National Electric Code (NEC).

**5.9.5.2.2 Non-Grid Interconnected or Stand-Alone**

All non-grid interconnected or stand-alone systems shall be designed and installed to comply with the National Electric Code (NEC).

**5.10 Energy Efficiency Information Programs**

Subject to availability of funds, the Delaware Green Energy Endowment Program offers grants for energy efficiency information programs.

Energy Efficiency Information Programs must be submitted to the Department in the form of a proposal.

Proposals will be requested by the Department as needed to address specific energy education requirements, or may be submitted unsolicited. The total of all grants awarded under the Green Energy Endowment Program for Energy Efficiency Education Programs shall not exceed thirty percent (30%) of the allowable expenditures for the Green Energy Endowment Fund.

To be eligible for consideration, an Energy Efficiency Information Program must encourage energy efficiency improvements through education, information, or promotion. Proposals may target groups of consumers, using outreach, communications, technical support, or analytical resources. Energy Efficiency Information Programs may include residential or nonresidential customers.

Newly available energy efficiency technologies or novel applications of available energy efficiency technologies may be included in Energy Efficiency Information Programs to the extent necessary to demonstrate their capabilities and their environmental and economic advantages.

Energy Efficiency Information Programs must include plans to make available and broadly disseminate information to the targeted consumers. Quantifiable goals including estimated annual energy savings, numbers of people or organizations reached, and environmental impacts, must also be included. Other goals may include measurable market transformation indicators, such as penetration of new, high efficiency products into the market place.

Energy Efficiency Information Programs are not intended to provide equipment rebates or funding for technology development. The Department will not provide funding for technology development, general facility or equipment upgrades, or facility renovations.

## **6.0 Technology Demonstration Program**

### **6.1 General Provisions**

Subject to the availability of funds, the Green Energy Fund's The Technology Demonstration Program provides grants to projects that demonstrate the market potential for new renewable energy and energy efficiency technologies and accelerate the commercialization of these technologies in Delaware.

Technology Demonstration Program proposals will be accepted by the Department on a biannual basis. The total of all grants awarded under the Technology Demonstration shall not exceed twenty-five percent (25%) of all revenue collected for the Green Energy Fund during the previous fiscal year or 25% of the fund balance whichever is greater.

To be eligible for consideration, a project must demonstrate a commercially available technology. Research and Development projects will not be funded under the Technology Demonstration Program. To be eligible for consideration, a project must demonstrate either a novel technology or a novel application of an available technology. Projects must include a public education component, such as integration into an educational program or location at a facility that allows public tours of the installed renewable energy technology.

The Delaware Technology Demonstration Program grants are available to applicants located within the State of Delaware for projects conducted in the State of Delaware.

Under no circumstances will the Department issue grants for land acquisition in association with any project proposed in the Technology Demonstration Program.

### **6.4.42 Grant Limits**

Subject to availability of funds, the Green Energy Fund's Technology Demonstration Program offers grants to projects that demonstrate the market potential of renewable energy technology in Delaware. Individual grants shall not exceed twenty-five percent (25%) of the cost of the eligible equipment for a renewable energy technology project and will not exceed \$200,000 per project. Grants for biodiesel manufacturing facilities shall not exceed twenty-five percent (25%) of the project cost and no one project may receive more than \$300,000.

In all cases, the cost of the eligible equipment shall include only the costs of labor, overhead expenditures, equipment, materials, and subcontractors incurred during the performance of the Technology Demonstration Program contract. Expenditures made prior to contract award are not eligible.

### **6.4.2.3 Code Compliance**

All Technology Demonstration Program projects must be installed in accordance with the standards and specifications of the manufacturers of the components in the system and in compliance with all applicable local electric, plumbing, and building codes and local ordinances to be considered for application.

**6.1.34** Permits

All Technology Demonstration Program projects must obtain all relevant permits from the Delaware Department of Natural Resources and Environmental Control, other necessary state, local, regional, and federal permits to be considered for application.

**6.1.45** Application Process

Technology Demonstration Program proposals will be accepted on a biannual basis. Applicants for the Technology Demonstration Program shall submit their proposals and supporting information in accordance with Requests for Proposals issued by the Department. ~~six (6) copies of the proposal and supporting documentation to the Department and Applicants must~~ receive approval prior to beginning the project.

~~In addition to the requirements in Section 6.2, proposals for grants under Technology Demonstration Program shall include the following:~~

~~6.1.4.1 Detailed project description including location of project, size of project, description of building, structure or site~~

~~6.1.4.2 Experience of project team~~

~~6.1.4.3 Detailed estimate of total project costs~~

~~6.1.4.4 List of project partners~~

~~6.1.4.5 Estimated energy impact~~

~~6.1.4.6 Letter of commitment from building owner or manager~~

~~6.1.4.7 Project schedule including detailed milestones~~

~~6.1.4.8 Design plans~~

~~The Department may request additional information upon review of initial proposal.~~

~~Applications will be reviewed by a committee established by the Department. The Department will determine the eligibility for a grant and will, in particular, consider the education requirements in 6.1. A statement of reservation of funds and authorization to proceed will be issued by the Department upon acceptance as a Technology Demonstration Program project. The Department reserves the right to reject any or all proposals if the information provided is inadequate or incomplete.~~

**6.1.56** Distribution of Technology Demonstration Grants

The Department will process the invoices from the grant recipient in accordance with contract terms ~~within 30 days of receipt of invoice and supporting documentation. Invoices may require~~ supporting documentation shall include, ~~e~~ but not limited to, hours worked, receipts for expenditures and a brief progress report.

**6.27** Accepted Products and Equipment

All Technology Demonstration Program projects interconnecting with the utility grid must comply with the Institute of Electrical and Electronic Engineers Standards Board (IEEE) 929, Recommended Practice for Utility Interface of Photovoltaic (PV) Systems and the appropriate generation interconnection arrangement of ~~Connectiv Power Delivery DP&L's~~, Technical Considerations Covering Parallel Operations of Customer Owned Generation of Less than 1 Megawatt and Interconnected with the ~~Connectiv Power Delivery DP&L~~ System or a similar document from a non-regulated electric supplier.

All inverters must be certified by a nationally recognized testing laboratory for safe operation as well as be certified as meeting the requirements of Underwriters Laboratory Standards 1741-1999, Standard for Static Inverters and Charge Controllers for Use in Photovoltaic Power Systems.

**62.7.1** Photovoltaic Systems

Photovoltaic projects located in Delaware use photovoltaic electricity to replace or substitute the need for non-renewable fuel, or include a novel or innovative use of photovoltaic design are eligible to receive a grant under the Technology Demonstration Program.

**62.7.2** Solar Thermal

Solar thermal projects located in Delaware that use solar thermal energy to produce electricity, replace or substitute the need for non-renewable fuel, or includes a novel or innovative use of solar thermal design is eligible to receive a grant under the Technology Demonstration Program.

**62.7.3** Small Wind Turbines

Small wind turbine projects located in Delaware may apply for a grant under the Technology Demonstration Program.

**62.7.4 Fuel Cells**

Fuel cell projects located in Delaware using a renewable or non-renewable energy fuel source may apply for a grant under the Technology Demonstration Program.

**62.7.5 Hydroelectric Generators**

Hydroelectric projects located in Delaware and placed at existing dams or in free-flowing waterways may be eligible for a grant under the Technology Demonstration Program.

**6.2.7.6 Storage, Conversion and Conditioning Equipment**

Storage, conversion and conditioning equipment, for use with renewable energy products that include a novel or innovative use of storage, conversion and conditioning equipment may be eligible to receive a grant under the Technology Demonstration Program.

**62.7.7 Passive Solar Design**

Passive solar designs that implement novel or innovative passive solar products may be eligible to receive a grant under the Technology Demonstration Program. Grants for passive solar projects shall not exceed 25% of the installed cost of the project up to a maximum of \$3000 per residential dwelling for residential projects and \$20,000 per non-residential facility for non-residential projects.

The project shall meet the requirements in Section 6.1 and provide a cost-effectiveness analysis and a Manual J calculation or equivalent that demonstrates the estimated energy impact expected over the industry standards that provide a similar function.

**6.7.8 Biodiesel Manufacturing Facilities**

Biodiesel manufacturing facilities located in Delaware may apply for a grant under the Technology Demonstration Program.

**6.7.9 Energy Efficiency Technologies, Processes and Practices**

New energy efficiency technologies are eligible for grants under the Technology Demonstration Program. To be eligible for funding, the applicant must demonstrate that a measurable improvement in energy efficiency can be achieved in comparison to conventional technologies, processes and practices, and that the proposed equipment or approach is not widely available or in use.

**7.0 Research and Development Program****7.1 General Provisions**

Subject to availability of funds, the Green Energy Fund's Research and Development Program offers grants to projects that develop or improve Renewable Energy Technology in Delaware. The Department will accept proposals for Research and Development Program grants for qualifying projects that improve the engineering, adaptation, or development of products or processes that directly relate to renewable energy technology.

Research and Development Program proposals will be accepted by the Department on a biannual basis. The total of all grants awarded in any one fiscal year shall not exceed ten percent (10%) of all revenue collected for the Green Energy Fund during the previous fiscal year or 10% of the fund balance whichever is greater.

Subject to the future availability of funds, the Department will consider multi-year projects in the Research and Development Program. Proposals seeking grants for multi-year projects shall not exceed fifty percent (50%) of the total annual funds available in the Research and Development Program.

The Delaware Research and Development Program grants are available to applicants located within the State of Delaware for projects conducted in the State of Delaware. Under no circumstances will the Department issue grants for land acquisition in association with any project proposed in the Research and Development Program.

**7.2 Grant Limits**

Subject to availability of funds, the Research and Development Program offers grants up to thirty-five percent (35%) of the cost of qualifying projects. Research and Development Program grants shall not exceed \$250,000 per project. Cost of qualifying projects shall include only the costs of labor, overhead expenditures, equipment, materials, and subcontractors incurred during the performance of the contract. Expenditures made prior to contract award are not eligible.

~~Research and Development Program proposals will be accepted by the Department on a biannual basis. The total of all grants awarded in any one fiscal year shall not exceed ten percent (10%) of all revenue collected for~~

the Green Energy Fund during the previous fiscal year or 10% of the fund balance whichever is greater.

Subject to the future availability of funds, the Department will consider multi-year projects in the Research and Development Program. Proposals seeking grants for multi-year projects shall not exceed fifty percent (50%) of the total annual funds available in the Research and Development Program.

### 7.3 Application Process

~~The Department will accept proposals for Research and Development Program grants for qualifying projects that improve the engineering adaptation, or development of products that directly relate to renewable energy technology. The Department reserves the right to reject any or all proposals if the information provided is inadequate or incomplete.~~

The following describes the general approach envisioned for these projects. Alternative approaches to achieve the desired results may be considered, provided that the work scope is complete, addresses all of the technical issues, and has a convincing chance for success.

Applicants are to propose projects and tasks that address all issues described in Section 7.1 with care taken to emphasize the unique application advantages and environmental benefits that will result from the proposed project. The proposal should clearly define why this project is an improvement over existing products that provide a similar function.

Research and Development Program proposals will be accepted on a biannual basis. Applicants for the Research and Development Program shall submit their proposals and supporting information in accordance with Requests for Proposals issued by the Department. Applicants must receive approval prior to beginning the project.

Applications will be reviewed by a committee established by the Department. The Department will determine the eligibility for a grant and will, in particular, the eligible costs in 7.2. A statement of reservation of funds and authorization to proceed will be issued by the Department upon completion and acceptance of contract terms.

### 7.4 Application Submittal

~~Research and Development Program proposals must be submitted and awarded prior to beginning the project. Failure to respond or follow the instructions regarding the order and content of the application may result in the application being deemed non-responsive, or result in an overall lower score during evaluation. The applicant must submit six (6) complete copies of the proposal to the Department for consideration.~~

The following describes the general approach envisioned for these projects. Alternative approaches to achieve the desired results may be considered, provided that the work scope is complete, addresses all of the technical issues, and has a convincing chance for success.

### 7.4 Acceptable Projects

The Department will accept proposals for Research and Development Program grants for qualifying projects that improve the engineering adaptation, or development of products that directly relate to renewable energy and energy efficiency technologies. The Department reserves the right to reject any or all proposals if the information provided is inadequate or incomplete.

Applicants are to propose projects and tasks that address all issues described in Section 7.1 with care taken to emphasize the unique application advantages and environmental benefits that will result from the proposed project. The proposal should clearly define why this project is an improvement over existing products that provide a similar function.

### 7.5 Application Contents

~~The applicant must submit six (6) complete copies of the proposal to the Department consisting of a detailed description, a time line, a budget, itemized by task and include the following sections:~~

#### 7.5.1 Cover Page

~~The cover page must indicate the name of the organization, location, project title, and points of contact for the applicant, including names, titles, addresses, telephone and facsimile numbers, and electronic mail addresses of key project participants.~~

#### 7.5.2 Table of Contents

~~The narrative shall include a table of contents and page numbers corresponding to the elements outlined herein.~~

#### 7.5.3 Project Summary

~~A one page project summary describing, in general terms, the proposed project, the proposed~~

project benefits as a result of the grant, and a total cost estimate including cost shares and federal contribution must be submitted with the application. The summary should be informative and only contain information that is releasable to the public.

#### 7.5.4 Technical Proposal

The Technical Proposal portion shall be structured in accordance with the following sections:

The Technical Proposal section should include the following:

7.5.4.1 Technical concept, goals, and location of project

7.5.4.2 Anticipated benefits as a result of the project

7.5.4.3 Degree to which the proposed project advances the technology and commercial readiness of renewable energy technology in Delaware, including advantages and disadvantages compared to competing technologies

7.5.4.4 Economic viability of the proposed project

7.5.4.5 Estimated energy impact (generation or reduction)

7.5.4.6 Environmental benefits

7.5.4.7 Impact on electricity reliability, noise levels, and suitability for grid interconnection

7.5.4.8 Public benefit and value added to Delaware by successful completion of the

proposed project

7.5.4.9 Potential for commercialization and the estimated market potential of project

7.5.4.10 Advantages of the proposed approach compared to alternative

approaches.

#### 7.5.5 Work Plan / Statement of Objectives

This section should include the following:

7.5.5.1 Task-oriented Statement of Objectives with complete task descriptions

7.5.5.2 Work plan including decision points and performance-based progress measures

7.5.5.3 Work schedule including intermediate and major milestones

#### 7.5.6 Budget Narrative

An explanation of the proposed project costs including Green Energy Fund proceeds, applicant cost share, and any federal leveraged funds should be provided in this section. The Narrative shall include a budget by each task and include the following:

7.5.6.1 Job title and number of hours for each of the individual personnel proposed

7.5.6.2 Proposed equipment, materials, supplies, overhead and total labor costs.

#### 7.5.7 Organization Qualifications and Personnel Qualifications

This section should include the following:

7.5.7.1 Applicant's current research directly related to the topic proposed

7.5.7.2 Applicant's experience on previous research and development projects similar in size, scope and complexity and the success in completing similar work

7.5.7.3 Description of the teaming structure for the project, including the names of the applicant and each participant involved in the project, as well as business agreements between the applicant and participants and the role of each team member

7.5.7.4 Project management concept with respect to the proposed tasks, including organizational and individual responsibilities for each team member

7.5.7.5 Education, professional training, and the technical and business-related skills and work experience of key personnel, on projects similar in size, scope, and complexity to the topic proposed

7.5.7.6 Level and reasonableness of the time commitment

#### 7.5.8 Personnel Resumes

A resume should be provided for all key personnel involved in the proposed project. Each resume is limited to a maximum of two pages.

#### 7.6.1 Comprehensive Evaluation

### 7.6 8.0 Evaluation of Technology Demonstration and Research and Development Applications

#### 8.1 Compliance Review

Proposals submitted under the Technology Demonstration and Research and Development Programs will receive a thorough compliance review. A compliance review will be performed to check the proposal package for its compliance with the requirements of the Department's Requests for Proposals and the requirements outlined in Sections 6 and 7. The Department will determine the eligibility for a grant and will, in particular, consider the education requirements in 6.1 and the eligible costs in 6.2 and 7.2.

The Department reserves the right to void an application if the information requested is not received within the prescribed timeframe when requested or is inadequate or incomplete.

A statement of reservation of funds and authorization to proceed will be issued by the Department upon completion and acceptance of contract terms.

### 8.2 Evaluation Committee

~~A compliance review will be performed to check the proposal package for its compliance with the requirements of the Research and Development Program. All requirements as outlined in Section 7.1 and 7.5 must be provided to the Department to be eligible for the comprehensive evaluation. The Department reserves the right to void an application if the information requested is not received within the prescribed timeframe when requested or is inadequate or incomplete.~~

All applications that fulfill the minimum application requirements, as determined under the compliance review, will be eligible for comprehensive evaluation. The comprehensive evaluation of proposals will be performed by the Department and a committee designated by the Department. In evaluating applications, the Department reserves the right to use any assistance deemed advisable, including qualified personnel from federal agencies, other government entities, universities, industry, and contractors. The Department will make every effort to use unbiased individuals and experts on the review committee. These individuals will be required to protect the confidentiality of any specifically identified trade secrets and/or privileged or confidential commercial or financial information obtained as a result of their participation in this evaluation.

The reviewers and their employers, employees, affiliates, and members shall excuse themselves from proposing projects under the Research and Development or Technology Demonstration Programs for the funding period during which they are serving on the reviewing committee.

### 8.3 Notification

All applicants will be notified in writing of the action taken on their applications. Applicants should allow at least 90 days for the Department evaluation. The status of any application during the evaluation and selection process will not be discussed with the applicant or any of its partners. Unsuccessful application will receive a letter summarizing the committee's decision. Unsuccessful applications will not be returned to applicants.

### 7.7 Evaluation Criteria of Proposal

#### 7.7.1 Criterion 1: Technical Description: Weight: 40%

~~In general, proposals will be evaluated based on the overall relevance to Renewable Energy Technology, including but not limited to any product improving the engineering of, adapting, or development of Renewable Energy Technology either as an independent piece of Renewable Energy Technology or as a component of Renewable Energy Technology.~~

~~Specifically, proposals will be scored based on how well they address the following requirements:~~

~~7.7.1.1 Technical concept, goals, and location of project~~

~~7.7.1.2 Anticipated benefits as a result of the project~~

~~7.7.1.3 Degree to which the proposed project advances the technology and commercial readiness of renewable energy technology in Delaware, including advantages and disadvantages compared to competing technologies~~

~~7.7.1.4 Economic viability of the proposed project~~

~~7.7.1.5 Jobs created as a result of project~~

~~7.7.1.6 Advantages of the proposed approach compared to alternative approaches~~

~~7.7.1.7 Economic viability of the proposed project~~

~~7.7.1.8 Estimated energy impact (generation or reduction)~~

~~7.7.1.9 Environmental benefits and impacts of the project~~

~~7.7.1.10 Reliability, noise levels, and suitability for grid interconnection~~

~~7.7.1.11 Public benefit and value added to Delaware by successful completion of~~

the proposed project

7.7.1.12 Projects ability to leverage federal incentives

7.7.1.13 Projects ability to assist the State in meeting the goals the State Energy

Plan

7.7.2 Criterion 2: Work Plan/Statement of Objectives: Weight: 30%

Specifically, applications will be scored based on how well they address the following requirements:

7.7.2.1 Task-oriented Statement of Objectives with complete task descriptions

7.7.2.2 Work plan including decision points and performance-based progress measures

Level and reasonableness of the time commitment

7.7.2.3 Work schedule including intermediate and major milestone

7.7.2.4 Advantages of the proposed approach compared to alternative approaches

7.7.2.5 Intent and commitment to commercialize results of the proposed project

7.7.3 Criterion 3: Organization and Personnel Qualifications: Weight: 30%

In general, applications will be evaluated based on the capabilities of the personnel. Specifically, applications will be scored based on how well they address the following requirements:

7.7.3.1 The applicant's current research directly related to the topic proposed

7.7.3.2 The applicant's experience on previous research and development projects similar in size, scope and complexity and the success in completing similar work

7.7.3.3 A description of the teaming structure for the project, preference will be given to projects involving participants who represent a diversity (types and sizes) of proposing organizations, while meeting the eligibility requirements. The participation of universities, small businesses, and women or minority owned businesses are particularly encouraged to apply.

7.7.3.4 The project management concept with respect to the proposed tasks, including organizational and individual responsibilities for each team member

7.7.3.5 The education, professional training, and the technical and business related skills and work experience key personnel, including major subcontractors, on projects similar in size, scope, and complexity to the topic proposed

7.7.3.6 The level and reasonableness of the time commitment

7.8 If Selected for Negotiation

If a proposal is selected for negotiation for a grant, additional information may be requested. Any request may specify the documents to be submitted, and to whom they must be submitted and may include, but not limited to detailed financial basis for any participant(s) providing cost sharing. This may include detailed explanation of overhead costs, hourly rate per staff person, and fringe benefits.

The Department reserves the right to void an application if the additional information requested is not received within the prescribed timeframe or is inadequate or incomplete.

7.9.8.4 Grant Award

If upon completion of the Comprehensive Evaluation, the review committee finds that the proposed project fits the criteria of the Technology Demonstration or Research and Development Programs, then a statement of reservation of funds and authorization to proceed will be issued by the Department.

All recipients of Research and Development Program grants may be required to participate in mandatory evaluation meetings on a periodic basis. During each evaluation meeting, the results to date and future plans for the project will be presented by the Recipient to an evaluation panel selected by the Department. The results of each evaluation may be used by the Department to determine whether the project will continue to receive funding. Applicants should assume that at least two meetings per year will be required for evaluation and that up to two additional review meetings may be held at the applicant's location.

7.9.4 8.5 Distribution of Research and Development Grant- Payment for Work Performed

The Department will process the invoices from the grant recipient usually within 30 days of receipt of invoice and supporting documentation. Supporting documentation shall include but not limited to hours worked, receipts for expenditures and a brief progress report. Additional documentation and reporting requirements may be necessary depending on the nature and duration of the work performed.

**8 9.0 Proprietary Application Information**

Applicants are hereby notified that the Department intends to make all applications submitted available to non-State personnel for the sole purpose of assisting in its evaluation of the applications. These individuals will be required to protect the confidentiality of any specifically identified proprietary information obtained as a result of their participation in the evaluation.

Proposals submitted may contain trade secrets and/or privileged or confidential commercial or financial information which the applicant does not want to be used or disclosed for any purpose other than evaluation of the application. The use and disclosure of such data may be restricted, provided the applicant follows the Department's "Request for Confidentiality" procedure contained in the Department's "Freedom of Information Act" or "FOIA" regulation. It is important to understand that this FOIA regulation's confidentiality procedure is a necessary part of this regulation in that any information submitted to the Department is subject to public review unless deemed to be confidential by the Secretary in accordance with the criteria and procedures established in the FOIA regulation.

The burden lies with the applicant asserting the claim of confidentiality to meet the criteria established in the FOIA regulation.

**9 10.0 Severability**

If any section, subsection, paragraph, sentence, phrase or word of these regulations is declared unconstitutional by a court of competent jurisdiction, the remainder of these regulations shall remain unimpaired and shall continue in full force and effect, and proceedings there under shall not be affected.

**8 DE Reg. 114 (7/1/04)**

---

**DEPARTMENT OF STATE**  
**DIVISION OF PROFESSIONAL REGULATION**

**1100 Board of Dental Examiners**

Statutory Authority: 24 Delaware Code, Section 1106(a)(1) (24 Del.C. §1106(a)(1))

**24 DE. Admin. Code 1100**

**ORDER**

After due notice in the *Register of Regulations* and two Delaware newspapers, a public hearing was held on March 9, 2006 at a scheduled meeting of the Delaware Board of Dental Examiners to receive comments regarding proposed amendments to Regulations 6.0, 6.6 and 6.9. The proposal amends the cardiopulmonary resuscitation (CPR) continuing education requirements for dentists and dental hygienists found in regulations 6.0 and 6.9 to provide that acceptable CPR courses must include hands on clinical participation. The proposal also adds a new subsection 6.6.9 under regulation 6.6 to require continuing education on an Anesthesia topic for holders of Unrestricted Permits and Restricted I Permits. The proposed regulation was published in the *Register of Regulations*, Vol. 9, Issue 7, January 1, 2006.

**Summary of the Evidence and Information Submitted**

No written comments were received. No members of the public attended the hearing.

**Findings of Fact With Respect to the Evidence and Information Submitted**

There was no public comment received at the public hearing concerning the proposed amendments to the regulations. The Board finds that the amendments to regulations 6.0 and 6.9 are necessary to clarify that the required cardiopulmonary resuscitation (CPR) course for dentists and dental hygienists may not be satisfied by taking an on-line course. That Board finds that hands on clinical participation is necessary to ensure competence

and to protect the public.

The Board further finds that requiring anesthesia permit holders to complete continuing education in an anesthesia topic is necessary to ensure continued competence in the delivery of anesthesia services and to protect the recipients of those services. The Board finds that the addition of subsection 6.6.9 to Regulation 6.0 is the best interest of licensees and the public.

The "primary objective of the Board of Dental Examiners, to which all other objectives and purposes are secondary, is to protect the general public, specifically those persons who are the direct recipients of services regulated by this chapter, from unsafe and unprofessional practices. The secondary objectives of the Board are to maintain minimum standards of practitioner competency and to maintain certain standards in the delivery of services to the public." 24 **Del.C.** §100.

In summary, the Board finds that adopting the amendments to regulations 6.0, 6.6 and 6.9 meets both objectives and is in the best interest of the citizens of the State of Delaware. The Board finds the proposed amendments to Regulations 6.0, 6.6, and 6.9 are necessary to protect the general public, particularly the recipients of dental services and are in the best interests of those individuals regulated by the Board with regard to maintaining minimum standards of competency.

#### **The Law**

The Board's rulemaking authority is provided by 24 **Del.C.** §1106 (a)(1).

#### **Decision and Effective Date**

The Board hereby adopts the changes to Regulations, 6.0, 6.6 and 6.9 to be effective 10 days following publication of this order in the *Register of Regulations*.

#### **Text and Citation**

The text of the revised rules remains as published in *Register of Regulations*, Vol. 9, Issue 7, January 1, 2006, without any changes.

SO ORDERED this 9th day of March, 2006.

#### **STATE BOARD OF DENTAL EXAMINERS**

Robert P. Marier, DDS, President, Professional Member  
Wanda Gardner Smith, DDS, Professional Member  
Kimberly A. Hickman-Bowen, RDH, Professional Member  
Robert R. Hoopes, DDS, Professional Member  
John M. Kirby, Public Member

#### **1100 Board of Dental Examiners**

*(Break in Continuity of Sections)*

#### **6.0 Continuing Professional Education - Dentists**

All persons licensed to practice dentistry in the State of Delaware shall be required to acquire 50 hours of continuing professional education (CPE) credit and to successfully complete a current course in cardiopulmonary resuscitation (CPR) every two (2) years. The CPR course must encompass hands on clinical participation. On-line courses will not be accepted to satisfy the CPR requirement. Examples of acceptable courses include, but are not limited to, courses offered by the American Red Cross and the American Heart Association. All dentists, upon initial licensure in Delaware and prior to registration renewal, shall be given a written notice of these CPE requirements.

6.1 Proof of successful completion of the requisite CPE credits is required for registration renewal

every two years.

6.2 Said CPE requirements shall become effective May 1, 1988. Proof of CPE credits must be submitted by March 1 of every two (2) even years.

6.3 It shall be the responsibility of the candidate for re-licensure to submit to the Board of Dental Examiners, evidence of his/her compliance with these requirements. The Division of Professional Regulation shall notify the candidate at least 30 days in advance of the need to renew his/her license, and shall request that the candidate submit evidence of compliance with the CPE requirements stated herein, along with other fees and documents required. However, failure to be notified by such agency shall not relieve the licensee of this obligation.

6.4 Not more than ten (10) hours of the fifty (50) hour biennial CPE requirement may be satisfied by self-study without testing from sources approved by the Board which shall include but not be limited to:

6.4.1 Reading dental textbooks

6.4.2 Reading dental tape journals

6.4.3 Viewing and listening to dental audio-visual materials.

6.5 CPE credits may be granted upon proof of successful completion of:

6.5.1 Scientific CPE programs or courses and/or the scientific sessions of meetings sponsored or approved by:

6.5.1.1 American Dental Association, its constituents and components

6.5.1.2 American Dental Hygienists' Association, its constituents and components

6.5.1.3 American Dental Assisting Association, its constituents and components

6.5.1.4 Recognized national, regional, state and local dental and dental hygiene specialty organizations

6.5.1.5 Recognized dental and dental hygiene study clubs

6.5.1.6 Accredited dental and dental hygiene CPE programs offered by dental and dental hygiene schools.

6.5.1.7 Approved hospital programs.

6.5.1.8 Such other organizations and associations as may be approved by the Board.

6.5.2 In addition to the maximum of ten (10) hours of the CPE requirement which may be satisfied by self-study without testing and certification, a maximum of twenty (20) hours of the total CPE requirements may be fulfilled by self-study with test and certificate of completion from bona fide dental educational sources including but not limited to:

6.5.2.1 Dental journals

6.5.2.2 Dental textbooks

6.5.2.3 Dental video and audio tape presentations

6.5.2.4 Dental mail-in courses

6.5.2.5 Dental courses presented on the Internet

6.5.2.6 Dental lectures and courses presented via electronic media including computer disks where CPE credits are not specified, one (1) hour of credit will be given for each hour of scientific session attended.

6.6 Special Provisions

6.6.1 A dentist, employed as a faculty member in a recognized school of dentistry, dental hygiene, dental assisting or any dentally-related field will be allowed not more than ten (10) hours credit for teaching per year.

6.6.2 A dentist presenting a CPE course shall be allowed the hours involved in preparation and presentation on a one-time-per-course basis for a maximum of ten (10) hours for the two-year period.

6.6.3 Table Clinics will be allowed, one (1) hour of credit per hour of presentation for a maximum of two (2) hours.

6.6.4 Twelve (12) hours of credit shall be allowed for a scientific article published in a component or state society journal. 25 hours of credit shall be allowed for a scientific article published in a national journal or for a published scientific textbook or a chapter therein.

6.6.5 Any public health dentally-related presentation will be allowed one (1) hour of credit per hour of participation for a maximum of two (2) hours for the two year period.

6.6.6 Practice management or personal self-improvement courses shall be limited to a total of ten (10) hours for the two (2) year period.

6.6.7 The Board reserves the right to approve any and all activities deemed appropriate for CPE credit. The Board also reserves the right and is the final word to disapprove any activities submitted for credit which it deems inappropriate.

6.6.8 All dentists licensed to practice in Delaware shall be given written notice of these CPE requirements when receiving their initial license.

6.6.9 For existing holders of an Unrestricted Permit for anesthesia, at least twelve (12) hours of the required CPE credits must be taken on an Anesthesia topic by the end of the six (6) year re-evaluation period (i.e. by the end of the third biennial licensure renewal period).

For existing holders of a Restricted I Permit, at least six (6) hours of the required CPE credits must be taken on an Anesthesia topic by the end of the six (6) year re-evaluation period (i.e. by the end of the third biennial license renewal period).

#### 6.7 Exceptions

6.7.1 An exception will be granted to any dentist who can demonstrate to the Board an acceptable cause as to why he/she should be relieved of this obligation. Exemptions will be granted only in unusual or extraordinary circumstances. Licensees must petition the Board for exemptions. Should the Board deny the request, the licensee must complete the requirements. Examples of circumstances for which the Board might grant exemptions include prolonged illness, extended absence from the country, or the like.

6.7.2 An individual initially licensed by the Board within the last 2 years shall meet the following schedule of reporting CPE credits for license renewal:

6.7.2.1 If, as of March 1st of the year for license renewal, the licensee has been licensed for less than 1 year, zero hours of CPE is required for license renewal; for licensees who are 1 or more but less than 2 years from their initial licensure, one-half of the required CPE must be presented; for individuals 2 years or more from their initial licensure, the full CPE requirement must be presented for renewal.

#### 6.8 Failure to Comply

When the Board deems someone to be deficient in CPE requirements, the following procedure shall be followed:

6.8.1 The licensee for renewal shall be notified by the Division of Professional Regulation ("Division") by certified mail that a deficiency exists. The deficiency shall be specifically described by the Division.

6.8.2 The licensee's registration will not be renewed until he/she submits proof that the described deficiency has been corrected. Upon submission of satisfactory proof of correction of said deficiency, the licensee shall be eligible for registration renewal.

#### 6.9 Continuing Professional Education (CPE) - Dental Hygienists

All persons licensed to practice dental hygiene in the State of Delaware shall be required to acquire twenty-four (24) hours of CPE credit and successfully complete a current course in cardiopulmonary resuscitation (CPR) every two (2) years. The CPR course must encompass hands on clinical participation. On-line courses will not be accepted to satisfy the CPR requirement. Examples of acceptable courses include, but are not limited to, courses offered by the American Red Cross and the American Heart Association. All Dental hygienists, upon initial licensure and prior to registration renewal, shall be given written notice of these CPE requirements.

6.9.1 Proof of successful completion of the requisite CPE credits is required for registration renewal every two (2) years.

6.9.2 Said CPE requirements shall become effective May 1, 1988. Proof of CPE credits must be submitted by March 1st of every two (2) even years.

6.9.3 It shall be the responsibility of the candidate for re-licensure to submit to the Board of Dental Examiners, evidence of his/her compliance with these requirements. The Division of Professional Regulation shall notify the candidate at least 30 days in advance of the need to renew his/her license, and shall request that the candidate submit evidence of compliance with the CPE requirements state herein, along with other fees and documents required. However, failure to be notified by such agency shall not relieve the licensee of this obligation.

6.9.4 CPE credits may be granted upon proof of successful completion of programs including, but not limited to, the following categories:

6.9.4.1 Scientific CPE programs or courses and/or scientific sessions of meetings sponsored or approved by:

- |                             |           |   |
|-----------------------------|-----------|---|
| components                  | 6.9.4.1.1 | American Dental Hygienists Association, its constituents and      |
|                             | 6.9.4.1.2 | American Dental Association, its constituents and components      |
| components                  | 6.9.4.1.3 | American Dental Assisting Association, its constituents, and      |
| hygiene specialty societies | 6.9.4.1.4 | Recognized national, regional, state, and local dental and dental |
|                             | 6.9.4.1.5 | Recognized dental and dental hygiene study clubs                  |
|                             | 6.9.4.1.6 | Accredited dental and dental hygiene schools                      |
|                             | 6.9.4.1.7 | Approved hospital programs  |
| by the Board                | 6.9.4.1.8 | Such other organizations and associations as may be approved      |

6.9.4.2 A maximum of five (5) hours of the total twenty-four (24) hour requirement may be satisfied by self-study without testing from sources approved by the Board which shall include but not be limited to:

- |           |           |  |
|-----------|-----------|--|
|           | 6.9.4.2.1 | Reading of dental or dental hygiene journals                   |
|           | 6.9.4.2.2 | Reading dental or dental hygiene textbooks                     |
| materials | 6.9.4.2.3 | Viewing and listening to dental or dental hygiene audio-visual |

6.9.4.3 In addition to the maximum of five (5) hours which may be satisfied by self-study without testing, a maximum of ten (10) hours of the total twenty-four (24) hour requirement may be fulfilled by self-study with test and certificate of completion from bona fide dental hygiene educational sources including but not limited to:

- |   |           |   |
|---|-----------|---|
|   | 6.9.4.3.1 | Dental or dental hygiene journals                           |
|   | 6.9.4.3.2 | Dental or dental hygiene textbooks                          |
|   | 6.9.4.3.3 | Dental or dental hygiene video and audio tape presentations |
|   | 6.9.4.3.4 | Dental or dental hygiene mail-in courses                    |
|   | 6.9.4.3.5 | Dental or dental hygiene courses presented on the Internet  |
| electronic media including computer disks | 6.9.4.3.6 | Dental or dental hygiene lectures and courses presented via |

Where CPE credits are not specified, one (1) hour of CPE credit will be given for each hour of scientific session attended.

The final approval of acceptable dental hygiene CPE credits shall be made by the Board of Dental Examiners in consultation with the Dental Hygiene Advisory Committee.

#### 6.10 Special Provisions

6.10.1 A dental hygienist, employed as a faculty member in a recognized school of dentistry, dental hygiene or dental assisting, will be allowed not more than five (5) hours credit for teaching per year.

6.10.2 A dental hygienist presenting a CPE course shall be allowed the hours involved in preparation and presentation on a one-time-per-course basis for a maximum of five (5) credits for the two-year period.

6.10.3 Table clinics will be allowed one (1) hour of credit per hour of presentation for a maximum of two (2) hours.

6.10.4 Twelve (12) hours of credit shall be granted for a scientific article published in a component or state society journal. Twelve (12) hours of credit shall be allowed for a scientific article published in a national journal or for a published scientific textbook or a chapter therein.

6.10.5 A dental hygienist giving public education instruction in a school will receive credit up to one (1) hour per year.

6.10.6 Practice management or personal self-improvement courses shall be limited to five (5) hours for the two (2) year period.

- |          |   |
|----------|---|
| 6.10.6.1 | Practice management, personal self-improvement and computer courses |
|----------|---|

shall be limited to 2.5 hours a year for a total of five (5) hours for the two year period.

6.10.7 The Board reserves the right to approve any and all activities deemed appropriate for CPE credit. The Board also reserves the right and is the final word to disapprove any activities submitted for credit which it deems inappropriate.

6.10.8 All dental hygienists licensed to practice in Delaware shall be given written notice of these CPE requirements when receiving their initial license.

#### 6.11 Exceptions

6.11.1 An exception will be granted to any dental hygienist who can demonstrate to the Board an acceptable cause as to why he/she should be relieved of this obligation. Exemptions will be granted only in unusual or extraordinary circumstances. Licensees must petition the Board for exemptions. Should the Board deny the request, the licensee must complete the requirements. Examples of circumstances for which the Board might grant exemptions include prolonged illness, extended absence from the country, or the like.

6.11.2 An individual initially licensed by the Board within the last 2 years shall meet the following schedule of reporting CPE credits for license renewal:

6.11.2.1 If, as of March 1st of the year for license renewal, the licensee has been licensed for less than 1 year, zero hours of CPE is required for license renewal; for licensees who are 1 or more but less than 2 years from their initial licensure, one-half of the required CPE must be presented; for individuals 2 years or more from their initial licensure, the full CPE requirement must be presented for renewal.

#### 6.12 Failure to Comply

When the Board deems someone to be deficient in CPE requirements, the following procedure shall be followed:

6.12.1 The licensee for registration renewal shall be notified by the Division by certified mail that a deficiency exists. The deficiency shall be specifically described by the Division.

6.12.2 The licensee's registration will not be renewed until he/she submits proof that the described deficiency has been corrected. Upon submission of satisfactory proof of correcting said deficiency, a licensee shall be eligible for registration renewal.

#### 5 DE Reg. 1251 (12/01/01)

**\*Please Note: As the rest of the sections were not amended they are not being published. A complete set of the rules and regulations for the Board of Dental Examiners is available at: <http://dpr.delaware.gov/boards/dental/index.shtml>.**

### **PUBLIC SERVICE COMMISSION**

Statutory Authority: 26 Delaware Code,  
Section 209(a) (26 Del.C. §209(a))

In the Matter of the Investigation, on Motion Of The Commission, Into The Terms And Conditions Under Which Water Utilities Require Advances and/or Contributions In-Aid-of Construction from Customers Or Developers, and the Proper Ratemaking Treatment for Such Contributions And Advances (Opened March 24, 1987; Reopened September 24, 1996; and Reopened June 17, 2003)

PSC Regulation Docket No. 15

**ORDER NO. 6873**

**AND NOW**, this 14<sup>th</sup> day of March, 2006;

**WHEREAS**, on May 14, 2003, the Division of the Public Advocate ("DPA") filed a petition to re-open PSC Regulation Docket No. 15, which addresses the terms and conditions under which regulated water utilities require Advances and/or Contributions In-Aid-Of Construction ("CIAC") from customers or developers; and

**WHEREAS**, in PSC Docket NO. 02-109, a rate case proceeding filed by Artesian Water Company ("Artesian"), the DPA, the Commission Staff, and Artesian entered into a stipulation stating that the DPA would petition the Commission to open a separate generic proceeding to consider the use of a "means test" for determining the amount of Advances or CIACs; and

**WHEREAS**, in prior water utility rate cases, both the DPA and the Commission Staff have raised issues about whether the regulated water utility had determined and collected adequate Advances or CIACs, so that existing customers did not bear the costs of expansion; and

**WHEREAS**, issues related to Advances and CIACs may affect all regulated water utilities in Delaware; and

**WHEREAS**, the PSC Staff submitted a May 16, 2003 memorandum to the Commission in support of the DPA's petition to re-open Regulation Docket No. 15; and

**WHEREAS**, on June 17, 2003, the Commission determined that good reasons existed to re-open this regulation docket, and entered Order No. 6198 to that effect; and

**WHEREAS**, over the course of many months, the Commission Staff received written comments on a proposed set of regulations from interested parties, including representatives of regulated water utilities, developers, and the DPA; and

**WHEREAS**, over the course of many months, the Commission Staff met on numerous occasions with representatives of regulated water utilities, developers, and the DPA, engaged in teleconferences, and received further written and oral comments; and

**WHEREAS**, on December 7, 2004, the Commission issued Order No. 6538 in which it promulgated a proposed set of regulations prepared by Staff and designated William F. O'Brien as the Hearing Examiner to conduct further proceedings and make proposed findings and recommendations to the Commission; and

**WHEREAS**, on November 18, 2005, Senior Hearing Examiner O'Brien issued a Report containing his proposed findings and recommendations, in which he recommended adoption of a revised set of regulations proposed by Staff; and

**WHEREAS**, on December 20, 2005, the Commission conducted a public hearing at which it heard the exceptions taken from the Hearing Examiner's Report and voted unanimously to adopt the Report and denied the exceptions that were filed; and

**WHEREAS**, on January 10, 2006, the Commission issued Order No. 6814 adopting the Hearing Examiner's Report, and directing that the proposed regulations be published in the *Delaware Register* for further comment; and

**WHEREAS**, on March 3, 2006, the Commission received and considered written comments from the Home Builders Association of Delaware, Inc. ("Home Builders") and written testimony submitted on behalf of The Reybold Group, ("Reybold"); and

**WHEREAS**, the Commission received and considered responses filed by the DPA and the Commission Staff to the March 3, 2006 submissions of the Home Builders and Reybold; and

**WHEREAS**, the Commission held a public hearing on March 14, 2006, to consider final adoption of the regulations as recommended by Senior Hearing Examiner O'Brien;

Now, therefore, **IT IS ORDERED THAT:**

1. The Commission hereby adopts and incorporates by reference, in its entirety, its prior Order No. 6814 (Jan. 10, 2006). The Commission concludes that: (a) the March 3, 2006 submissions of the Home Builders and Reybold do not raise new issues; and (b) the issues raised in their March 3, 2006 submissions are rejected for the reasons set forth in Order No. 6814.

2. The Commission hereby adopts and approves the proposed *Regulations That Will Govern the Terms and Conditions Under which Water Utilities Require Advances and/or Contributions from Customers or Developers, and the Proper Ratemaking Treatment for such Contributions and Advances* attached hereto as Exhibit "A" (being the same Regulations that were approved and published pursuant to Order No. 6814 dated January 10, 2006). The Secretary of the Commission shall transmit to the Registrar of Regulations for publication in the *Delaware Register*, the exact text of the Regulations attached hereto as Exhibit "A" for publication on April 1, 2006.

3. The effective date of this Order shall be the later of April 10, 2006, or ten days after the date of publication in the *Delaware Register* of the Regulations attached hereto as Exhibit "A."

4. The Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

**BY ORDER OF THE COMMISSION:**

Arnetta McRae, Chair  
Joann T. Conaway, Commissioner  
Jeffrey J. Clark, Commissioner  
Dallas Winslow, Commissioner  
Jaymes B. Lester, Commissioner

ATTEST: Karen J. Nickerson, Secretary

**PROPOSED REGULATIONS**

1.3.12 CONTRIBUTION IN-AID-OF CONSTRUCTION ("CIAC")

Cash, services, funds, property or other value received from State, municipal, or other governmental agencies, individuals, contractors, or others for the purpose of constructing or aiding in the construction of utility plant and which represent a permanent infusion of capital from sources other than utility bondholders or stockholders.

1.3.13 ADVANCES FOR CONSTRUCTION OF SERVICES ("ADVANCES")

Cash, services, funds, property or other value received by the utility which would be CIAC but for an agreement by the utility to refund in whole or in part the amount received so that the Advances initially represent a temporary infusion of capital from sources other than utility bondholders or stockholders.

1.3.14 FACILITIES EXTENSION

"Facilities Extension" means the extension of the water utility's Mains and appurtenances ("Facilities") for the provision of water service. As used in this definition, "appurtenances" include valves, hydrants, pumps, sampling equipment and other miscellaneous items appurtenant to a Main extension.

1.3.15 NEW SERVICES

"New Services" means the extension of pipe from the water utility's Mains to the customer's premises.

3.8 CONTRIBUTIONS IN-AID-OF CONSTRUCTION AND ADVANCES

A utility shall require CIAC for Facilities Extensions to the extent provided in §§3.8.1 and 3.8.2 herein below. Nothing contained herein shall prevent a utility from requiring CIAC, or Advances, or neither, for the provision of New Services. Nothing herein shall prevent any utility from paying for, and including in its rate base, the costs of New Services.

3.8.1 CIAC REQUIREMENT FOR FACILITIES EXTENSIONS

A utility shall require a CIAC when the request for a Facilities Extension will require the installation of pipe and/or associated utility plant. All charges henceforth to contractors, builders, developers, municipalities,

homeowners, or other project sponsors, seeking the construction of water Facilities from a water utility company shall be in the form of a CIAC to be paid to the water utility as Category 1A, 1B and Category 2 costs, as computed under §§3.8.2 and 3.8.6, subject to true-up under §3.8.8.

### 3.8.2 COMPUTATION OF CIAC

#### Category 1A Costs.

All on-site Facilities costs that are directly assignable to a specific project are Category 1A costs and shall be designated by the utility and paid for by the contractor, builder, developer, municipality, homeowner, or other project sponsor, as CIAC, with no refunds. These costs include such items as Mains, hydrants, treatment plants, wells, pump stations, storage facilities, and shall include any other items that are necessary for the provision of utility water service. The cost of a Facilities Extension from the furthest point of the project site up to a point 100 feet beyond the boundary of the project (in the direction of the utility's existing Main) shall be considered a Category 1A Cost.

#### Category 1B Costs.

All off-site Facilities costs that are directly assignable to a specific project from such point 100 feet beyond the boundary of the project and continuing to the utility's existing Main are Category 1B Costs and shall be designated by the utility and funded by the contractor, builder, developer, municipality, homeowner, or other project sponsor, as a CIAC not subject to refund. These costs include such items as Mains, hydrants, treatment plants, wells, pump stations, storage facilities, and shall include any other items that are necessary for the provision of utility water service. Notwithstanding the foregoing, Category 1B Costs shall not include, and the utility shall be entitled to pay for and include in its rate base, any additional Facilities costs elected to be incurred by the utility in connection with the Facilities Extension for company betterment. In determining whether Category 1B Costs are directly assignable to a project, or elected as company betterment, the CIAC shall be calculated based on the cost of installing Mains using a minimum of 8 inch diameter pipe, *provided, however*, that where Mains of a larger diameter are required by applicable laws, building or fire codes, or engineering standards to provide water service to the project on a stand-alone basis, the CIAC shall be calculated based on the cost of installing Mains using such larger diameter pipe.

#### Category 2 Costs.

Category 2 Costs refer to transmission, supply, treatment and/or other utility, plant costs that are not directly assignable to a specific project or where the Category 1 costs have not included sufficient direct costs for transmission, supply, treatment, and/or other utility plant costs to supply water to the project. The contractor, builder, developer, municipality, homeowner or other project sponsor shall pay \$1,500 per single family residential water meter service for their portion of transmission, supply, treatment and/or other utility plant costs made available by the water utility. These costs will be contributed by the contractor, builder, developer, municipality, homeowner, or other project sponsor, as CIAC, with no refunds. Within one hundred and twenty (120) days following the effective date of these regulations, each water utility shall file with the Commission proposed tariff pages containing the charges it will impose for Category 2 costs for single family residential and other types of metered water service. Such charges shall be determined based on meter size or another objective factor. The utility may account for such amounts by applying such amounts to pay for or offset any capital costs, including new and/or replacement plant, whether incurred in connection with the project or otherwise. The utility shall be entitled to hold amounts received as Category 2 Costs, and defer accounting for them as CIAC, until such amounts are actually used to fund capital improvements, at which time the utility shall be entitled to account for the Category 2 Costs as CIAC to the extent it is able to make offsetting entries to the utility's plant accounts.

### 3.8.3 ADVANCES

An Advance may consist of the following components:

1. An amount equal to the entire estimated cost (including reasonable overhead costs) of construction; plus
2. Any applicable Federal income taxes, and applicable State taxes, that may be generated to the account of the utility as a result of the Advance.

**3.8.4 REFUNDS OF ADVANCES**

By April 30th of each year, the utility will refund a portion of the Advance representing each additional customer connected during the previous calendar year based on a standard formula developed by the utility (the "net refund amount") plus the tax savings, if any, which the utility receives from deducting the Advance refund payment (the sum of which is referred to as the "gross refund amount"). In no event shall the total amount refunded by a utility (the sum of the gross refund amounts) exceed the amount received by such utility as an Advance (as finally determined by the utility after compliance with Rule 3.8.8). At the end of the negotiated refund period, no further refunds or payments will be made. If, at the end of such refund period, an Advance has not been fully refunded, the remaining un-refunded Advance will be considered a CIAC and will be treated for accounting and ratemaking purposes as a CIAC. The utility and the person(s) making the Advance shall determine the period in which the refund of the Advance may occur, but such period shall not exceed five (5) years.

**3.8.5 RATEMAKING TREATMENT OF ADVANCES**

An Advance will be considered as a non-taxable transaction for ratemaking purposes since the income taxes, if required, will be provided by the person(s) making the Advance.

**3.8.6 GROSS UP OF CIAC**

A CIAC will consist of an amount equal to the entire estimated cost, including the utility's standard overhead costs, of constructing the Facilities Extension. If any portion of property contributed by the contractor, builder, developer, municipality, homeowner, or other project sponsor is deemed taxable income to the utility, the utility shall be permitted to gross up the amount of the CIAC to include such tax liability.

**3.8.7 RATEMAKING TREATMENT OF CIAC**

The Federal and State income taxes, if required, associated with the CIAC and paid by the utility receiving the CIAC, may be added to rate base, at which time the utility will have an opportunity to earn a fair return on this amount.

**3.8.8 TRUE-UP OF CONTRIBUTIONS AND ADVANCES**

Where the estimated amount of the CIAC or Advance exceeds the finally determined cost of the Facilities Extension or New Services, that excess amount shall be returned to the person making the CIAC or Advance.

Where the estimated amount of the CIAC or Advance falls short of the finally determined cost of the Facilities Extension or New Services, that shortage amount shall be paid to the utility by the person making the CIAC or Advance.

**3.8.9 MISCELLANEOUS; CLASS A WATER UTILITIES AFFECTED; PROSPECTIVE APPLICATION; REOPENING OF DOCKET**

The regulations governing CIAC and Advances shall:

1. apply only to Class A Water Utilities, and
2. apply prospectively and therefore shall not affect or apply to circumstances where the water utility has already entered into a water service agreement with the contractor, builder, developer, municipality, homeowner, or other person, regarding the construction of water facilities.

PSC Regulation Docket 15 shall be reopened two years from the effective date of the revised regulations governing CIAC and Advances to review the extension methodology and to assess its effectiveness, and the CIAC computation and costs categories. After such review and assessment, the Commission may, if deemed appropriate, consider further modifications.

**STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
DOVER**

**EXECUTIVE ORDER NUMBER EIGHTY-TWO:**

**RE: Implementing Strategies to Address Energy Restructuring**

**WHEREAS**, the Delaware Public Service Commission previously had regulatory authority over the electric generation business of Delmarva Power & Light Company ("Delmarva") and the Delaware Electric Cooperative ("DEC") in Delaware; and

**WHEREAS**, the Electric Utility Restructuring Act of 1999 (the "Act") deregulated the generation, supply and sale of electricity, including all related facilities and assets; and

**WHEREAS**, to help ease the transition to a competitive retail electric supply market, the Act provided for rate caps to be instituted, which included a rate decrease of 7.5 percent for Delmarva residential customers; and

**WHEREAS**, the rate caps provided by the Act were originally scheduled to be lifted on October 1, 2002 for Delmarva's commercial and industrial customers, October 1, 2003 for Delmarva's residential customers and April 1, 2005 for all DEC customers; and

**WHEREAS**, in accordance with a settlement agreement in the proceeding to review the merger of PEPSCO Holdings, Inc. and Delmarva, the Public Service Commission extended the rate caps for all Delmarva customers until May 1, 2006; and

**WHEREAS**, the lifting of rate caps for Delmarva customers on May 1, 2006 could lead to a rate increase of greater than 50 percent for residential customers; increase electric rates for small and mid-sized commercial customers by up to 67 percent; and increase electric rates for large commercial and industrial customers by as much as 118 percent that do not choose alternative suppliers; and

**WHEREAS**, the regional wholesale electric supply market prices are at historic highs, experiencing substantial volatility and appear to be adversely affected by natural gas price fluctuations, lack of sufficient regional fuel diversity, significant weather events, and world political situations; and

**WHEREAS**, it is vital that the State of Delaware undertake aggressive efforts to promote energy efficiency, whether through the Green Energy Fund or other incentives; and

**WHEREAS**, retail electricity markets in restructured states have not developed in any meaningful way to date, except for the largest industrial companies,

**NOW, THEREFORE, I, RUTH ANN MINNER**, by virtue of the authority vested in me as Governor of the State of Delaware, do hereby declare and order the following:

1. The Public Service Commission shall examine the feasibility of (a) deferring, for a fixed or a phased-in period, pending electricity rate increases; (b) requiring Delmarva to build generation, or enter into long term supply contracts, to meet up to 100 percent of supply options under traditional rate base, rate of return regulation; (c) requiring Delmarva to conduct integrated resource planning to ensure fuel diversity and least cost supply alternatives; and (d) requiring Delmarva to implement demand side management, conservation and efficiency programs. The examination by the Public Service Commission shall also include its assessment of the need for legislation to accomplish any of these potential options. The results of this analysis shall be submitted to the Office

of the Governor no later than March 8, 2006.

2. The Department of Natural Resources and Environmental Control, the Public Service Commission and the Public Advocate shall launch a consumer education program designed to educate citizens on the pending rate increases as well as energy conservation techniques. This education program shall be coordinated concurrently with the Public Service Commission's Consumer Energy Education Group.

3. The Department of Natural Resources and Environmental Control shall develop policies and programs that promote clean distributed generation technologies, coal gasification, combined heat and power applications and other steps toward reducing overall energy costs and/or enhancing energy efficiency in Delaware. The Department shall report on the development of such policies and programs to the Office of the Governor no later than March 8, 2006.

4. The Delaware Economic Development Office shall coordinate with the various Chambers of Commerce and other business organizations in Delaware to ensure that small and medium size businesses have access to programs that ease the transition and access to deregulated energy markets and aggregate the electric use of commercial customers to strengthen their competitive positions and help defray costs.

5. The Office of Management and Budget and the Department of Natural Resources and Environmental Control, Energy Office shall develop a strategy to implement procedures to enable the State to purchase electricity on the deregulated energy market to coincide with the lifting of electricity rate caps on May 1, 2006. Included in this strategy shall be recommendations for legislation to enable any of these options to be accomplished including enabling the State to purchase a portion of its electricity from "Green" energy sources as well as the Energy Office completing the State's energy consumption profile. The strategy and recommendations shall be submitted to the Office of the Governor not later than March 8, 2006.

6. The Office of Management and Budget shall work with reorganized school districts, vocational-technical school districts, charter schools, and institutions of higher education to develop the means and methods to aggregate electricity consumption for the purpose of executing unified energy supply contracts on the deregulated market. The Office of Management and Budget shall also explore cooperation with Delaware's counties and municipalities in an effort to identify cost-effective ways to aggregate consumption among governmental facilities.

7. The Office of Management and Budget and the Department of Natural Resources and Environmental Control, Energy Office shall develop the strategy and procedures to implement energy savings and conservation techniques including the use of performance contracting and demand-side management. The Office of Management and Budget and Energy Office shall report on its progress on a quarterly basis beginning on April 1, 2006.

8. The Department of Finance and the Department of Natural Resources and Environmental Control, Energy Office shall develop proposals for the enactment of tax credits, rebates, low-interest loans and other direct economic incentives to foster the adoption of energy efficiency technologies by the State's residential and commercial consumers of electricity. Such proposals shall be presented to the Office of the Governor not later than March 8, 2006.

9. The Public Service Commission and DNREC shall investigate modifications to the Public Benefit Charge on various classes of electricity bills to fund a portion of the economic incentives identified by the Department of Finance and the Energy Office to foster the adoption of energy efficiency technologies.

Ruth Ann Minner,  
Governor

ATTEST:  
Harriet Smith Windsor, Secretary of State

Approved and adopted this 6th day of February, 2006.

**STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
DOVER**

**EXECUTIVE ORDER NUMBER EIGHTY-THREE:**

**RE: CREATING AN ADVISORY COUNCIL ON WALKABILITY AND PEDESTRIAN AWARENESS**

**WHEREAS**, walking is the most fundamental mode of transportation and a simple fitness activity that can prevent disease and improve physical health and mental well-being; and

**WHEREAS**, Delaware has an extensive network of greenways, trails, sidewalks and pathways for the enjoyment of its citizens and visitors; and

**WHEREAS**, my administration's Livable Delaware agenda promotes the walkability of communities through principles such as traditional neighborhood design, mobility-friendly design, mixed-use and infill developments; and

**WHEREAS**, improving the walkability of a community increases property values by making these communities more desirable places to live; and

**WHEREAS**, over-reliance on the automobile can worsen traffic congestion which is a disincentive to businesses choosing where to locate or whether to expand; and

**WHEREAS**, land-use and traffic patterns and a lack of interconnectivity in many suburban areas make families dependent on motor vehicles for almost every activity; and

**WHEREAS**, 71 percent of parents say they walked or biked to school when they were children, but only 18 percent of their children now walk or bike to school; and

**WHEREAS**, there is a lack of understanding of Delaware law and how motorists are expected to approach and respond to pedestrians in crosswalks,

**NOW, THEREFORE, I, RUTH ANN MINNER**, by virtue of the authority vested in me as Governor of the State of Delaware, do hereby declare and order the following:

1. An Advisory Council on Pedestrian Awareness and Walkability ("Advisory Council") be established to advise the Delaware Department of Transportation ("DelDOT");
2. The Advisory Council shall assist DelDOT with the development, adoption and implementation of a Statewide Pedestrian Action Plan;
3. The following organizations and interests shall be represented on the Advisory Council:
  - a. Division of Planning, Delaware Department of Transportation, one representative who shall serve as chair;
  - b. Division of Parks and Recreation, Department of Natural Resources and Environmental Control, one representative;
  - c. Office of Highway Safety, Department of Safety and Homeland Security, one representative;
  - d. Delaware Greenways, one representative;
  - e. American Heart Association of Delaware, one representative;
  - f. American Lung Association of Delaware, one representative;
  - g. From each county, one representative of a civic or homeowners association;
  - h. From each county, one representative of an organization that promotes physical activity, including

- walking;
- i. One representative from the Public Advisory Committee, Wilmington Metropolitan Area Planning Council;
  - j. One representative from the Public Advisory Committee, Dover/Kent County Metropolitan Planning Organization;
  - k. One representative from the Delaware League of Local Governments;
  - l. One representative of the Architectural Accessibility Board;
  - m. A citizen who has a physical disability;
  - n. and A citizen who has a visual impairment.

All members of the Advisory Council shall be appointed by the Governor and serve at the Governor's pleasure.

4. The Plan shall address and propose solutions to the following issues in an effort to make walking a safe, convenient, efficient and comfortable means of transportation:
  - a. Ensuring that paths and sidewalks are continuous and interconnected where feasible;
  - b. Developing consistent design standards for crosswalks, sidewalks and pathways;
  - c. Clarifying maintenance responsibility for sidewalks; and
  - d. Reviewing traffic rules and driver behavior to help support a safer pedestrian environment; and
  - e. Promoting land-use and traffic patterns that encourage walking and reduce air pollution.
5. DeIDOT, with the assistance of the Advisory Council, shall work with the citizens of Delaware to create the Plan and deliver it to the Governor no later than July 30, 2007.

Approved and adopted this 9th day of March, 2006.

Ruth Ann Minner,  
Governor

ATTEST:  
Harriet Smith Windsor, Secretary of State

---

**GOVERNOR'S APPOINTMENTS**

---

1597

<b>BOARD/COMMISSION OFFICE</b>	<b>APPOINTEE</b>	<b>TERM OF OFFICE</b>
Advisory Council to the Division of Substance Abuse and Mental Health	Mr. Robert D. Marceluk Cpl. Charles A. Sawchenko	1/24/2009 1/24/2009
Advisory Council on Planning Coordination	Ms. Bernice M. Edwards Ms. Jennifer Gochenaur Mr. Kenneth P. Murphy	7/19/2007 1/30/2009 1/30/2009
Architectural Accessibility Board	Mr. Goodwin K. Cobb, III	1/24/2010
Board of Cosmetology and Barbering	Ms. Brenda L. Porter	8/5/2006
Board of Directors of the Delaware Performing Arts Center, Inc.	Antoine J. Allen, Ph.D	2/1/2011
Board of Directors of the Riverfront Development Corporation, Chair	Ms. Margaret E. Strine	Pleasure of the Governor
Board of Funeral Services	Mr. Robert C. Hutchison, Jr. Ms. Rose L. Pritchett Mr. Thomas R. Trader	2/27/2009 1/24/2009 1/24/2009
Board of Geologists	Mr. Amos W. Aiken	1/24/2009
Board of Podiatry	Mr. Lawrence J. Nicholson	10/18/2007
Board of Professional Counselors of Mental Health and Chemical Dependency Professionals	Mr. Daniel D. Cherneski Mr. Robert L. Doyle, III John P. Walker, Ph.D. James M. Walsh, Ph.D.	1/30/2009 1/24/2009 1/30/2009 1/27/2008
Board of Professional Land Surveyors	Mr. Michael T. Szymanski	1/24/2009
Board of Speech/Language Pathologists Audiologists and Hearing Aid Dispensers	Ms. Cynthia F. Parker	1/24/2009
Child Death, Near Death and Stillbirth Review Commission	Garrett H. Colmorgen, M.D. David A. Paul, M.D. Mr. Michael J. Szczerba	1/24/2009 1/24/2009 1/24/2009

**GOVERNOR'S APPOINTMENTS**

<b>BOARD/COMMISSION OFFICE</b>	<b>APPOINTEE</b>	<b>TERM OF OFFICE</b>
Child Placement Review Board, Kent	Mr. David L. Miller Mr. Bruce K. Morris	1/24/2009 1/24/2009
Commission for the Purchase of Products and Services of the Blind and Other Severely Handicapped Individuals	Mr. Thomas A. Burns	05/12/2007
Council on Apprenticeship and Training	Mr. Albert F. Bradbury	1/30/2009
Council of Delaware Association of Professional Engineers	Mr. Frank Newton	1/30/2010
Council on Game and Fish	Mr. Garrett H. Arai Mr. J. Richard Berry Mr. Raymond F. Burris Mr. David J. Healey Mr. Terrance L. Higgins Mr. Edward A. Montague Mr. Ted Palmer	1/30/2009 1/30/2009 1/30/2009 1/30/2009 1/30/2009 1/30/2009 1/30/2009
Council on Manufactured Housing	Ms. Lisa Lewandowski Mr. Fred A. Neil	7/23/2006 9/27/2006
Council on Real Estate Appraisers	Mr. Kevin A. Esslinger	1/24/2009
Council on Services for Aging and Adults with Physical Disabilities	Ms. Julia B. Gause Ms. Bonita M. Hitch Ms. Gloria Price	2/27/2009 1/24/2009 1/24/2009
Council on Social Services	Ms. Jessica A. Fullman	4/19/2007
Council on Transportation	Mr. Robert P. Hopkins	1/30/2009
Delaware Bicycle Council	Mr. Thomas C. Felice Ms. Judith A. Jeffers Mr. John B. Ray	10/20/2006 1/24/2009 1/8/2007
Delaware Board of Examiners of Nursing Home Administrators	Mr. William H. Daisey	8/25/2008

---

**GOVERNOR'S APPOINTMENTS**

---

1599

<b>BOARD/COMMISSION OFFICE</b>	<b>APPOINTEE</b>	<b>TERM OF OFFICE</b>
Delaware Commission of Veterans' Affairs	Mr. Paul Lardizzone	1/30/2010
Delaware Heritage Commission	Ms. Cheyenne V. Luzader	1/30/2009
	Mr. Harvey B. Rubenstein	1/30/2009
	Mr. Samuel Shipley	1/30/2009
	Ms. Jean R. Smith	1/30/2009
	William H. Williams, Ph.D.	1/30/2009
Delaware Nursing Home Residents Quality Assurance Commission	McKinley Wardlaw, Jr., M.D.	1/30/2009
Delaware State University Board of Trustees, Trustee	Mr. Matthew A. Mackie	1/4/2012
	Ms. Richelle Vible	1/4/2012
Dental Hygiene Advisory Committee	Ms. Bonnie L. Thomas	7/29/2006
Department of Transportation, Secretary	Ms. Carolann D. Wicks	Term to Commence 2/1/2006, and continue at the Pleasure of the Governor
Financial Oversight Committee for the Department of Transportation, Chairman	Mr. Gerard McNesby	Pleasure of the Governor
Financial Oversight Committee for the Department of Transportation, member	Mr. Lee J. Beetschen	Pleasure of the Governor
	Ms. Lindsay Davis Burnham	Pleasure of the Governor
	Mr. John J. Casey, Jr.	Pleasure of the Governor
	Mr. Henry James Decker	Pleasure of the Governor
Governor's Advisory Council for Exceptional Citizens	Ms. Michelle A. Arthurs	Pleasure of the Governor

**GOVERNOR'S APPOINTMENTS**

<b>BOARD/COMMISSION OFFICE</b>	<b>APPOINTEE</b>	<b>TERM OF OFFICE</b>
Governor's Advisory Council for Exceptional Citizens	Mr. Michael J. Kennedy	Pleasure of the Governor
Governors Council on Equal Employment Opportunity, Chair	The Honorable Carol A. DeSantis	Pleasure of the Governor
	Mr. James Welch	Pleasure of the Governor
Governor's Energy Advisory Council	Mr. Patrick McCullar	1/24/2009
	Mr. Stephen Thompson	1/24/2009
Governor's Public Works and Procurement Opportunity Council	Mr. Bernard V. Pepukayi	Pleasure of the Governor
Healthy Mother and Infant Consortium, Chair	David A. Paul, M.D.	Pleasure of the Governor
Healthy Mother and Infant Consortium, Vice Chair	Ms. Jacquelyne W. Gorum	Pleasure of the Governor
Healthy Mother and Infant Consortium, member	Ms. Marihelen Barrett	Pleasure of the Governor
	Garret H. Colmorgen, M.D.	Pleasure of the Governor
	Katherine L. Esterly, M.D.	Pleasure of the Governor
	Reverend John F. Holden	Pleasure of the Governor
	Ms. Catharine A. Kanefsky	Pleasure of the Governor
	Ms. Lolita Lopez	Pleasure of the Governor
	Ms. Susan Noyes	Pleasure of the Governor
	Anthony M. Policastro, M.D.	Pleasure of the Governor
Healthy Mother and Infant Consortium, member	Ms. Mariann Powell	Pleasure of the Governor
	Ms. Agnes M. Richardson	Pleasure of the Governor

---

**GOVERNOR'S APPOINTMENTS**

---

1601

<b>BOARD/COMMISSION OFFICE</b>	<b>APPOINTEE</b>	<b>TERM OF OFFICE</b>
Healthy Mother and Infant Consortium, member	Ms. Rosa Rivera	Pleasure of the Governor
	Mr. Alvin Snyder	Pleasure of the Governor
	Judy Walrath, Ph.D.	Pleasure of the Governor
Human Relations Commission	Mr. Earnest Gulab	4/24/2006
	Mr. Peter Schott	2/27/2009
Judicial Nominating Commission, Chair	Mr. F. Michael Parkowski	1/30/2009
Judicial Nominating Commission, member	Mr. Jose F. Echeverri	1/30/2009
Little Mill Flood Abatement Committee	Mr. John L. Mitchell	Pleasure of the Governor
Manufactured Home Installation Board	Mr. Mark Brittingham	1/24/2009
	Mr. James W. Brockton	1/24/2009
	Ms. Estella Class	1/24/2009
	Mr. Charlie Eggleston	1/24/2009
	Mr. William Dale Hammond	1/24/2009
	Mr. Van Milligan	1/24/2009
	Mr. Allan Redden	1/24/2009
Pesticide Advisory Committee	Mr. William H. Meredith	1/24/2009
	Mr. David V. Morris	1/24/2009
	Mr. Robert P. Mulrooney	1/24/2009
Recycling Public Advisory Council	The Honorable Richard C. Cecil	1/30/2009
	Ms. Barbara DeHaven	1/30/2009
Southern Regional Education Board	Mr. Robert W. Rescigno	6/30/2007
State Board of Clinical Social Work Examiners	Ms. Danna M. Levy	10/13/2007
	Mr. Ronald L. Marks	1/30/2009
	Mr. Robert M. Sharp	1/30/2009

**GOVERNOR'S APPOINTMENTS**

<b>BOARD/COMMISSION OFFICE</b>	<b>APPOINTEE</b>	<b>TERM OF OFFICE</b>
State Board of Veterinary Medicine	Ms. Lena M. Corder	2/27/2009
	Nicholas J. Garrick, DVM	2/27/2009
Statewide Independent Living Council	Ms. Deborah A. Briddell	1/24/2009
	Ms. Maida T. Campbell	1/24/2009
	Ms. Cheryl A. Hampson	1/24/2009
	Mr. August F. Hazeur	1/24/2009
	Mr. Larry D. Henderson	1/24/2009
Sussex Vocational Technical School Tax Rate Review Committee	Mr. H. Terry Johnson	Pleasure of the Governor
	Mr. Layton A. Wheeler	Pleasure of the Governor
Violence Against Women Act Implementation Committee	The Honorable Carl Danbery	Pleasure of the Governor
Vocational Rehabilitation Advisory Council for DVI	Mr. William E. Bartlet	1/24/2009
Worker's Compensation Advisory Council	Mr. Harry Gravell, Jr.	1/30/2009
	Bruce J. Rudin, M.D.	1/30/2009

**DEPARTMENT OF AGRICULTURE**  
**DELAWARE FOREST SERVICE**  
**NOTICE OF PUBLIC COMMENT PERIOD**

The State of Delaware Department of Agriculture Forest Service proposes these amended regulations pursuant to **3 Del.C. §§1008 and 1011**. These proposed amended regulations are intended to clarify the duties of the Department's personnel and the responsibilities of the visitors to the State Forests.

Copies of the proposed amended regulations may be obtained from the Delaware Department of Agriculture by calling 1-800-282-8685, by writing to the Delaware Department of Agriculture, Forestry Administrator at 2320 S. DuPont Hwy., Dover, DE 19901, or visiting the Register of Regulations website at <http://www.delregs.state.de.us/index.html>. Public comments may be submitted in writing or in person to Austin Short, Forestry Administrator, during the 30-day public comment period which commences with the promulgation of these proposed, amended regulations on April 1, 2006.

---

**HARNESS RACING COMMISSION**  
**NOTICE OF PUBLIC HEARING**

The Delaware Harness Racing Commission, pursuant to **3 Del.C. §10005**, proposes to change rules 8.3.6.1.1 to permit the administration of phenylbutazone to horses of any age. The Commission will hold a public hearing on the proposed rule change on April 25, 2006. Written comments should be sent to Administrator of Harness Racing, Department of Agriculture, 2320 S. DuPont Highway, Dover, DE 19901.

---

**DEPARTMENT OF EDUCATION**

The State Board of Education will hold its monthly meeting on Thursday, April 20, 2006 at 1:00 p.m. in the Townsend Building, Dover, Delaware.

---

**DEPARTMENT OF FINANCE**  
**NOTICE OF PUBLIC COMMENT PERIOD**

The Division of Revenue proposes to adopt the following regulation concerning the Audit Period for Voluntary Disclosure Agreements Pursuant to **12 Del.C. §1154**. Written comments or other written materials concerning the proposed regulation must be received by the Division of Revenue no later than 4:30 p.m., Wednesday, May 1, 2005, and should be addressed to Deputy Attorney General Jos. Patrick Hurley, Esquire, c/o Department of Finance, Division of Revenue, 820 North French Street, Wilmington, DE 19899-8911 or sent by fax to (302)577-8656 or Email to [pat.hurley@state.de.us](mailto:pat.hurley@state.de.us).

---

# CALENDAR OF EVENTS/HEARING NOTICES

---

## DEPARTMENT OF HEALTH AND SOCIAL SERVICES

### DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

#### PUBLIC NOTICE

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 512**, Delaware Health and Social Services (DHSS) / Division of Medicaid & Medical Assistance (DMMA) is proposing to amend the Title XIX Medicaid State Plan related to the reimbursement methodology for specialized dental services under the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) Program.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy & Program Development Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 by April 30, 2006.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

---

### DIVISION OF SOCIAL SERVICES

#### PUBLIC NOTICE

In compliance with the State's Administrative Procedures Act (**APA - Title 29, Chapter 101 of the Delaware Code**) and under the authority of **Title 31 of the Delaware Code, Chapter 5, Section 512**, Delaware Health and Social Services (DHSS) / Division of Social Services is proposing to amend policies in the Division of Social Services Manual (DSSM) regarding technical eligibility for cash assistance for certain minors.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy, Program & Development Unit, Division of Social Services, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 by April 30, 2006.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

---

## DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

### OFFICE OF THE SECRETARY

#### NOTICE OF PUBLIC HEARING

NOTIFICATION OF PROGRAM REGULATIONS FOR "Environmental Standards for Eligible Energy Resources" as required by Senate Bill 74, Renewable Energy Portfolio Standards.

Pursuant to **Title 26 Delaware Code, Chapter 1, Subchapter III-A**, the Secretary is required to promulgate rules and regulations necessary to establish Environmental Standards for Eligible Energy Resources" as required by Senate Bill 74, Renewable Energy Portfolio Standards.

In addition to the State *Register*, the proposed Regulation will also be available on the DNREC Website at [www.dnrec.delaware.gov](http://www.dnrec.delaware.gov) and under the "Delaware Energy Office Website at [www.delaware-energy.com](http://www.delaware-energy.com).

Comments will be accepted by the Delaware Energy Office, 146 South Governors Avenue, Dover, DE

---

---

# CALENDAR OF EVENTS/HEARING NOTICES

1605

19901 via standard mail or e-mail to [charlie.smisson@state.de.us](mailto:charlie.smisson@state.de.us), or fax to 302-739-1527 during the comment period of 4/1/2006 to 4/30/2006.

A public hearing has been scheduled at the Delaware Energy Office, 146 South Governors Avenue, Dover, DE 19904 for 6:00 p.m. on Monday, May 1, 2006.

---

## DIVISION OF AIR AND WASTE MANAGEMENT NOTICE OF PUBLIC HEARING

### Title of of the Regulations:

Regulation No. 1102 – “Permits”

### Brief Synopsis of the Subject, Substance and Issues:

Delaware must now revise Regulation No. 1102 because the EPA has identified that the regulatory language is not clear that all permits issued pursuant to Regulation No.1102 are federally enforceable. The EPA believes that the current regulatory language implies that only permits intended to limit Potential to Emit of a source are federally enforceable. The Air Quality Management Section agrees with the EPA. Also, as part of this revision the Regulation 1102 numbering will be updated consistent with the style manual of the Code of Delaware Regulations.

### Notice of Public Comment:

The public comment period for this proposed amendment will extend through at least April 26, 2006. Interested parties may submit comments in writing during this time frame to: Gene M. Pettingill, Air Quality Management Section, 715 Grantham Lane, New Castle, DE 19720, and/or statements and testimony may be presented either orally or in writing at the public hearing to be held on Wednesday, April 26, 2006, beginning at 1:00 PM in the DNREC auditorium at the Richardson and Robbins Building, 89 Kings Highway, Dover, DE 19901.

---

## DEPARTMENT OF STATE DIVISION OF PROFESSIONAL REGULATION 100 Board of Accountancy NOTICE OF PUBLIC HEARING

The Delaware Board of Accountancy in accordance with 24 **Del.C.** §105(a)(1) has proposed changes to its rules and regulations. The proposal amends multiple sections of the rules and regulations to conform to changes in practice requirements resulting from the enactment of Senate Bill 27 with House Amendment 1 in July of 2005. The proposed changes to the rules and regulations also contain provisions for online renewal and attestation of having fulfilled continuing education requirements.

A public hearing will be held on April 26, 2006 at 9:00 a.m. in the second floor conference room B of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware where members of the public can offer comments. Anyone wishing to receive a copy of the proposed regulations may obtain a copy from the Delaware Board of Accountancy, 861 Silver Lake Blvd, Cannon Building, Suite 203, Dover DE 19904. Persons wishing to submit written comments may forward these to the Board at the above address. The final date to receive written comments will be at the public hearing.

The Board will consider promulgating the proposed regulation at its regularly scheduled meeting following the public hearing.

---

## CALENDAR OF EVENTS/HEARING NOTICES

---

**DIVISION OF PROFESSIONAL REGULATION  
1770 Respiratory Care Advisory Council  
NOTICE OF PUBLIC HEARING**

PLEASE TAKE NOTICE, pursuant to 29 **Delaware Code** Chapter 101 and 24 **Delaware Code** Section 1775 (c), the Respiratory Care Advisory Council of the Delaware Board of Medical Practice has developed and proposes to modify Section 8.0 Continuing Education by amending subsection 8.6.7 to provide clarity to the continuing education requirements that must be met by a licensee seeking to reinstate a license that has lapsed for less than three (3) years. The proposal also includes new subsections 8.6.8 and 8.6.9 establishing additional requirements for applicants who wish to obtain reinstatement after the applicant's prior license has expired for three or more years. In addition, the proposal modifies Section 10.0 Application for a License by amending subsection 10.2.1.4 to provide individuals who have not been licensed in any jurisdiction within three (3) years of initially passing the NBRC entry level examination will be required to re-take the NBRC examination and provide proof of a current passing score before a license will be issued.

The new subsections delineate the requirements for those applicants who have been engaged in the active practice of respiratory care during a specified period and those who have not.

A public hearing will be held on the proposed Rules and Regulations on Tuesday, April 18, 2006 at 2:30 p.m. in the Second Floor Conference Room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware 19904. The Council will receive and consider input in writing from any person on the proposed Rules and Regulations. Any written comments should be submitted to the Council in care of Gayle MacAfee at the above address. The final date to submit written comments shall be at the above scheduled public hearing. Anyone wishing to obtain a copy of the proposed Rules and Regulations or to make comments at the public hearing should contact Gayle MacAfee at the above address or by calling (302) 739-4520.

---

**DIVISION OF PROFESSIONAL REGULATION  
2000 Board of Occupational Therapy  
NOTICE OF RESCHEDULED PUBLIC HEARING**

The State Board of Occupational Therapy Practice in accordance with 24 **Del.C.** §2006(a)(1) has proposed changes to its rules and regulations related to the online renewal and continuing education.

The hearing originally scheduled for March 15th has been rescheduled for 4:30 p.m. on April 19, 2006 in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the State Board of Occupational Therapy Practice, 861 Silver Lake Blvd, Cannon Building, Suite 203, Dover, DE 19904. Persons wishing to submit written comments may forward these to the Board at the above address. The final date to receive written comments will be at the public hearing.

The Board will consider promulgating the proposed regulations at its regularly scheduled meeting following the public hearing.

---

**PUBLIC SERVICE COMMISSION  
NOTICE OF PUBLIC HEARING**

In PSC Order No. 5207 (Aug. 31, 1999), the Delaware Public Service Commission (the "Commission") adopted Rules for Certification and Regulation of Electric Suppliers (the "Rules").

As a result of an inquiry regarding the Rules from an electric supplier, by Order No. 6098 (Jan. 7, 2003), the Commission ordered the Commission Staff to undertake a review of the Rules and report back to the

---

# CALENDAR OF EVENTS/HEARING NOTICES

1607

Commission regarding proposed amendments to the Rules. In order to assist Staff in preparing such a report, the Commission provided that electric suppliers, electric distribution companies, and other interested persons could submit proposed changes to the Rules for Staff's review prior to the submission of Staff's report to the Commission.

In compliance with Order No. 6098, Staff conducted several workshops to discuss proposed changes to the Rules. As a result of those workshops, and after consideration of all comments from the various interested parties, Staff has produced a draft of the proposed amended Rules (the "Proposed Amended Rules") for the Commission's review and consideration.

The Commission has authority to promulgate such Proposed Amended Rules pursuant to 26 **Del.C.** §§353 and 362.

The Commission hereby solicits written comments, suggestions, data compilations, briefs, or other written materials concerning the Proposed Amended Rules. Anyone desiring to submit such written comments, suggestions, data compilations, briefs, or other written materials concerning the Proposed Amended Rules shall file ten (10) copies of such materials with the Commission at its office located at 861 Silver Lake Boulevard, Cannon Building, Suite 100, Dover, DE 19904. All such materials shall be filed with the Commission on or before May 1, 2006. Persons who wish to participate in the proceedings but who do not wish to submit written materials are asked to send a letter to the Commission informing the Commission of their intent to participate on or before May 1, 2006.

A public workshop will be held at the Commission's office located at 861 Silver Lake Boulevard, Cannon Building, Suite 100, Dover, DE 19904 on Wednesday, May 17, 2006, beginning at 10:00 AM.

The Commission will conduct a public hearing concerning the Proposed Amended Rules on Thursday, May 25, 2006, beginning at 10:00 AM at the Commission's office located at 861 Silver Lake Boulevard, Cannon Building, Suite 100, Dover, DE 19904. Interested persons may present comments, evidence, testimony, and other materials at that public hearing.

The Current Rules and the Proposed Amended Rules and all materials submitted in connection with this docket will be available for public inspection and copying at the Commission's offices during normal business hours. The fee for copying is \$0.25 per page. The Current Rules and the Proposed Amended Rules may also be reviewed at the office of the Division of the Public Advocate located at the Carvel State Office Building, 4<sup>th</sup> Floor, 820 N. French Street, Wilmington, DE 19801, during normal business hours by appointment. Finally, the Proposed Amended Rules will be available for review on the Commission's website located at [www.state.de.us/delpac](http://www.state.de.us/delpac).

Any individual with disabilities who wishes to participate in these proceedings should contact the Commission to discuss any auxiliary aids or services needed to facilitate such review or participation. Such contact may be in person, in writing, by telephone, or otherwise. The Commission's toll-free telephone number is (800) 282-8574. Any person with questions may also contact the Commission Staff at (302) 739-4247 or by Text Telephone at (302) 739-4333. Inquiries may also be sent via Internet e-mail to [david.bloom@state.de.us](mailto:david.bloom@state.de.us).

---

## DEPARTMENT OF TRANSPORTATION DIVISION OF MOTOR VEHICLES NOTICE OF PUBLIC COMMENT PERIOD

The Delaware Department of Transportation Division of Motor Vehicles, pursuant to 21 **Del.C.** §302 and 29 **Del.C.** Chapter 101, Subchapter II, proposes to amend 10 rules and regulations concerning Division operations. Written comments concerning these proposed regulations should be sent by April 30, 2006 to Jack Eanes, Chief of Operations, Division of Motor Vehicles, 303 Transportation Circle, P.O. Box 698, Dover, Delaware 19903.

---

---

# SUBSCRIBE TO THE OFFICIAL SOURCE OF COMPLETE INFORMATION ON DELAWARE STATE REGULATIONS

## THE DELAWARE REGISTER OF REGULATIONS



A single-source document for regulatory information, including proposed and adopted text of state regulations, all emergency regulations, Governors Executive Orders and Appointments, Attorney General Opinions, General Notices and notices of public hearings and open meetings of state agencies.

**PUBLISHED MONTHLY - \$135.00 PER YEAR**

-----  
YES, PLEASE ENTER MY SUBSCRIPTION FOR THE *DELAWARE REGISTER* AT \$135/YEAR.  
**You will be billed upon receipt of your order.** Subscription period runs from January to December. Mid-year subscriptions will be prorated at \$11 per issue. Back issues are available at \$12 per issue. Subscription fees are non refundable.

NAME \_\_\_\_\_ ADDRESS \_\_\_\_\_

ORGANIZATION \_\_\_\_\_ CITY \_\_\_\_\_

PHONE \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_ EMAIL \_\_\_\_\_

Please clip and return to: **REGISTRAR OF REGULATIONS  
LEGISLATIVE HALL, DOVER, DELAWARE 19903  
FAX: 302-739-3895**

---

---

# Visit The Delaware General Assembly On The Web!

## 142<sup>nd</sup> Delaware General Assembly

Legislative Hall , Dover, DE. 19901 Phone: (302) 744 4114



[Home](#) - [Contact Us](#) - [Permissions](#) - [Disclaimer](#) - [FAQs](#) - [Site Map](#) - [Related Links](#) - [Copyright](#)

State Senate

House of Representatives

Redistricting

Bill Tracking

Online Publications

General Information

Legislative Divisions

Contact Information

Meeting Notices & Agendas

Bill Tracking Archives

*Delaware became the first state on December 7, 1787 by being the first state to ratify the new United States Constitution. Delaware's first constitution was adopted on September 20, 1776, with subsequent versions adopted in 1792, 1831 and the current version in 1897.*



*Delaware's lawmaking body, is comprised of a State House of Representatives, whose 41 members are elected for two-year terms, and a State Senate, whose 21 members are elected for four-year terms. Half of the Senate seats are contested in each general election.*

COMMITTEE HEARINGS

WHAT'S NEW

## The General Assembly Website features:

- Current legislative information
- Information on both the Senate and House of Representatives
- Access the Delaware Code
- Access to the Delaware Register of Regulations
- Information on the legislative process
- Various reports and publications

The General Assembly Website is located at:

**<http://www.legis.state.de.us>**



# LEGISLATIVE BILL SUBSCRIPTION SERVICES

Order Form (please print or type)

NAME \_\_\_\_\_ ADDRESS \_\_\_\_\_

ORGANIZATION \_\_\_\_\_ CITY \_\_\_\_\_ FAX \_\_\_\_\_

PHONE \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_ EMAIL \_\_\_\_\_

Please check the specific service(s) to which you wish to subscribe :

<u>SERVICES</u>	<u>ANNUAL COST</u>
<b>One copy of all legislation introduced:</b>	
<input type="checkbox"/> Picked up by subscriber *- - - - -	\$110.00
<input type="checkbox"/> Mailed daily via First Class postage - - - - -	\$850.00
<b>One copy of all legislation signed by the Governor:</b>	
<input type="checkbox"/> Mailed via First Class postage - - - - -	\$215.00
<b>One copy of House and Senate calendars:</b>	
<input type="checkbox"/> Picked up by subscriber *- - - - -	\$110.00
<input type="checkbox"/> Mailed daily via First Class postage - - - - -	\$850.00
<b>One copy of all Governor's Advisories:</b>	
<input type="checkbox"/> Mailed via First Class postage - - - - -	\$30.00
<b>Daily Legislative Agendas and weekly Standing Committee Notices:</b>	
<input type="checkbox"/> Via Fax - - - - -	\$135.00

\* Subscribers who choose to pick up their materials at Legislative Hall are requested to do so at least once a week, due to limited on-site file space. Thank you.

If you have any questions about our subscription services, please contact the Division of Research by dialing, toll-free, (800) 282-8545 (in state) or via E-Mail at [jeffrey.hague@state.de.us](mailto:jeffrey.hague@state.de.us). Please dial (302) 744-4114 if you are calling from outside Delaware.

Please return this order form to the Division of Research at P.O. Box 1401, Legislative Hall, Dover, Delaware, 19903, or fax it to (302) 739-3895 as soon as possible. (Don't forget to make a copy for your own files). You will be billed upon our receipt of your order. Your service(s) will begin, promptly, when payment is received and the General Assembly convenes. Thank you for using the Subscription Services of the Division of Research.

---

---

# ACCESS THE DELAWARE CODE ON-LINE!



## Online Delaware Code

- [The Delaware Constitution](#)
- [Title 1 - General Provisions](#)
- [Title 2 - Transportation](#)
- [Title 3 - Agriculture](#)
- [Title 4 - Alcoholic Liquors](#)
- [Title 5 - Banking](#)
- [Title 6 - Commerce and Trade](#)
- [Title 7 - Conservation](#)
- [Title 8 - Corporations](#)
- [Title 9 - Counties](#)
- [Title 10 - Courts and Judicial Procedures](#)
- [Title 11 - Crimes and Criminal Procedure](#)
- [Title 12 - Decedents' Estates and Fiduciary Relations](#)
- [Title 13 - Domestic Relations](#)
- [Title 14 - Education](#)
- [Title 15 - Elections](#)
- [Title 16 - Health and Safety](#)
- [Title 17 - Highways](#)
- [Title 18 - Insurance Code](#)
- [Title 19 - Labor](#)
- [Title 20 - Military and Civil Defense](#)
- [Title 21 - Motor Vehicles](#)
- [Title 22 - Municipalities](#)
- [Title 23 - Navigation and Waters](#)
- [Title 24 - Professions and Occupations](#)
- [Title 25 - Property](#)
- [Title 26 - Public Utilities](#)
- [Title 27 - Religion](#)
- [Title 28 - Sports and Amusements](#)
- [Title 29 - State Government](#)
- [Title 30 - State Taxes](#)
- [Title 31 - Welfare](#)

Find  in the section label

- Up-to-date version of the Code reflecting recent legislative enactments
- Comprehensive full text search capabilities.

**Visit the Delaware Code On-Line at:**

**<http://www.delcode.state.de.us/>**