

DEPARTMENT OF AGRICULTURE
HARNESS RACING COMMISSION
PUBLIC NOTICE

The Delaware Harness Racing Commission, pursuant to 3 **Del.C.** §10005, proposes to change its Rule 10. The Commission will hold a public hearing on the proposed rule changes on May 12, 2009. Written comments should be sent to Hugh J. Gallagher, Administrator of Harness Racing, Department of Agriculture, 2320 S. DuPont Highway, Dover, DE 19901. Written comments will be accepted for thirty (30) days from the date of publication in the *Register of Regulations* on April 1, 2009.

The proposed changes are for the purpose of updating Rule 10 to reflect current policies, practices and procedures. Copies are published online at the *Register of Regulations* website: http://regulations.delaware.gov/services/current_issue.shtml. A copy is also available for inspection at the Harness Racing Commission office.

DEPARTMENT OF EDUCATION
PUBLIC NOTICE

The State Board of Education will hold its monthly meeting on Thursday, April 16, 2009 at 1:00 p.m. in the Townsend Building, Dover, Delaware.

DEPARTMENT OF LABOR
DIVISION OF INDUSTRIAL AFFAIRS
OFFICE OF WORKERS' COMPENSATION
1341 Workers' Compensation Regulations
PUBLIC NOTICE

The Secretary of Labor, in accordance with 19 **Del.C.** §§2322B, C, E, and F, has proposed revisions to the rules and regulations relating to the Delaware Workers' Compensation Health Care Payment System. These proposals revise the Fee Schedule Instructions and Guidelines, Utilization Review, and Forms regulations; and add a 6th Practice Guideline, "Cervical", to the regulations.

A public hearing will be held before the Health Care Advisory Panel ("Panel") at 4:00 p.m. on May 4, 2009, in the Department of Labor Fox Valley Annex, 4425 N. Market Street, Wilmington, Delaware 19802 where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules may obtain a copy from John Kirk, Deputy Director, Division of Industrial Affairs, Department of Labor, P.O. Box 9954, 4425 N. Market Street, Wilmington, Delaware, 19809-9954. Persons wishing to submit written comments may forward these to the Panel at the above address. The final date to receive written comments will be at the public hearing.

The Panel will consider making a recommendation to the Secretary at the regularly scheduled meeting following the public hearing.

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF AIR AND WASTE MANAGEMENT

TANK MANAGEMENT BRANCH

SAN # 2008-20 and 2008-23

1. Title of the Regulations:

1351 Delaware Regulations Governing Underground Storage Tank Systems

2. Brief Synopsis of the Subject, Substance and Issues:

The Delaware Regulations Governing Underground Storage Tank Systems were first effective July 11, 1986. The most recent revision date is January 11, 2008. The DNREC is proposing changes to the UST Regulations to incorporate federal requirements, to add clarifying language, and to ensure the greatest protection of human health, safety and the environment in Delaware.

The changes to the Delaware UST Regulations are proposed for the following reasons:

"Addition of requirements for a Tank Operator training program are required by the Federal Energy Policy Act of 2005 (EPACT). The EPACT requires the state to promulgate regulations by August 8, 2009.

"Requirements prohibiting the installation of new USTs within specific distances of public, industrial and domestic wells have been added to ensure protection of drinking water supplies.

"Clarification language added to specific sections in response to public comment requesting such.

"Corrections to errors in January 11, 2008 edition of the UST Regulations

3. Possible Terms of the Agency Action:

None

4. Statutory Basis or Legal Authority to Act:

7 Del.C., Chapter 74, 7 Del. C., Chapter 60

5. Other Regulations that May be Affected by the Proposal:

N/A

6. Notice of Public Comment:

The DNREC will conduct a Public Hearing on Tuesday, April 21, 2009. The hearing is scheduled to begin at 7:00pm in the conference room at the DNREC office located at 391 Lukens Drive, New Castle, DE. The public and interested parties are invited to attend the hearing and to make comments orally or in writing at the hearing. Written comments not presented at the hearing should be addressed to Ms. Jill Williams Hall, DNREC/TMB, 391 Lukens Drive, New Castle, DE 19720 and must be received by the Department by the end of the comment period, as designated by the hearing officer at the hearing.

Copies of the proposed regulations are available online at <http://www.dnrec.delaware.gov/info/Pages/Rules.aspx>

Copies may be viewed during regular business hours at the following DNREC offices:

DNREC, 391 Lukens Drive, New Castle, DE

DNREC, R&R Building, 89 Kings Highway, Dover, DE

DNREC, Route 113, Sussex Suites, Unit #6, Georgetown, DE

7. Prepared by:

Jill Williams Hall, Planner IV, 395-2500, 3/6/09, jill.hall@state.de.us

DIVISION OF FISH AND WILDLIFE

REGISTER NOTICE

SAN #2006-15

1. Title of the Regulations:

5103 Delaware Dam Safety Regulations

2. Brief Synopsis of the Subject, Substance and Issues:

Develop and promulgate Delaware's Dam Safety Regulations. The regulations will affect only public dam owners of certain dams. The regulations will establish standards for dam inspection, development of emergency action plans, operations and maintenance of dams and the overall responsibility of public dam owners and agencies.

3. Possible Terms of the Agency Actions:

There is no sunset date for the Regulation

4. Statutory Basis or Legal Authority to Act:

Title 7 Chapter 42

5. Other Regulations That May Be Affected:

N/A

6. Notice of Public Comment:

A final hearing has been scheduled for April 27th at 4:00 PM in the DNREC Auditorium located at the Richardson and Robbins Building 89 Kings Highway, Dover, DE 19901.

7. Prepared By:

Frank M. Piorko

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DIVISION OF FISH AND WILDLIFE

REGISTER NOTICE

SAN# 2009-06

1. Title of the Regulations:

Tidal Finfish Regulation 3541 Atlantic Sharks.

Tidal Finfish Regulation 3581 Spiny Dogfish; Closure Of Fishery

2. Brief Synopsis of the Subject, Substance and Issues:

The Department of Natural Resources and Environmental Control will hold a public hearing regarding proposed modifications to Tidal Finfish Regulation 3541 concerning Atlantic sharks and a proposed amendment to Tidal

Finfish Regulation 3581 concerning commercial fishing for spiny dogfish. The purpose of the proposed revisions are to bring Delaware into compliance with the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan for Atlantic Coastal Sharks and to liberalize commercial requirements in concert with the most recent revision (Addendum II) to the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Spiny Dogfish.

The Interstate Plan for Coastal Sharks largely mirrors requirements for shark fishing in federal waters. Specifically, all states from Virginia through New Jersey, including Delaware, must prohibit recreational and commercial landings of the following shark species from May 15 through July 15: silky, tiger, blacktip, spinner, bull, lemon, nurse, scalloped hammerhead, great hammerhead, and smooth hammerhead. Furthermore, Delaware and all other states must prohibit recreational and commercial landings of sandbar sharks year-round, except for those commercial fishermen in possession of a valid sandbar shark research permit issued by the National Marine Fisheries Service (NMFS). Shore-bound anglers may harvest one shark not otherwise prohibited, including smooth dogfish sharks, per calendar day. Shore-bound anglers may also harvest one additional smooth dogfish shark per day. Recreational fishing vessels will be allowed to harvest and possess one shark not otherwise prohibited, including one smooth dogfish per trip, regardless of the number of people on board the vessel. In addition each recreational angler aboard a vessel may harvest and possess one bonnethead, one Atlantic sharpnose shark, and one smooth dogfish per person per trip. All sharks possessed by recreational fishermen must have the heads, tails, and fins attached naturally to the carcass prior to landing on shore. Commercial fishermen may eviscerate and remove the head of any shark reduced to possession, but the tail and fins must remain attached to the carcass. Other measures, including provisions on gill net fishing for sharks, are proposed to bring Delaware into compliance with shark fishing regulations in federal waters.

The coast-wide commercial quota for spiny dogfish has been liberalized to 12 million pounds per year, to be allocated among a Northern Region, Southern Region, and North Carolina. The Southern Region, which includes Delaware, is allocated 26% of the annual quota. When the quota in the Southern Region is projected to be reached, the commercial landing, harvest, and possession of spiny dogfish for commercial purposes will be prohibited for the remainder of the year. The daily landing limit for any Delaware commercial foodfishing holder shall be 3,000 pounds of spiny dogfish, except for those taking spiny dogfish from federal waters or for any Delaware fisherman selling spiny dogfish to a federally-permitted dealer, in which case federal possession and landing limits apply, including federal closures on the possession and landing of spiny dogfish. Any Delaware commercial fisherman in possession of a federal permit will have to abide by the most restrictive spiny dogfish landing limits, whether they are federal or state.

3. Possible Terms of the Agency Action:

Delaware is required to comply with the ASMFC plan for coastal sharks and with the latest addendum to the Interstate Fishery Management Plan for Spiny Dogfish. Failure to do so may result in total closure of these fisheries in Delaware by order of the Secretary of Commerce.

4. Statutory Basis or Legal Authority to Act:

§903(e) (2) (a), 7 Del.C. and §903(f) of 7 Del.C.

5. Other Regulations that may be Affected by the Proposal:

None

6. NOTICE OF PUBLIC COMMENT:

A public hearing on this regulation will be held in the Division of Soil and Water building at the western end of Pilottown Road in Lewes, DE at 6:30 PM on April 23, 2009. Comments for the hearing record should be addressed to Lisa Vest, Hearing Officer, Office of the Secretary, Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, Dover, De 19901 or by e-mail to lisa.vest@state.de.us by 4:30 PM April 28, 2009.

7. PREPARED BY:

Roy W. Miller (302) 739-9914, February 13, 2009

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
3700 BOARD OF SPEECH/LANGUAGE PATHOLOGISTS, AUDIOLOGISTS AND HEARING AID
DISPENSERS
PUBLIC NOTICE

Pursuant to 24 **Del.C.** §3706(a)(1), the Board of Speech/Language Pathologists, Audiologists and Hearing Aid Dispensers has proposed revisions to its rules and regulations.

A public hearing will be held on May 13, 2009 at 2:15 p.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 rules and regulations may obtain a copy from the Board of Speech/Language Pathologists, Audiologists and Hearing Aid Dispensers, 861 Silver Lake Boulevard, Dover, Delaware 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 proposes several amendments to Rule 8.0, which addresses the continuing education requirements for licensees. First, Rule 8.2.2 is amended to increase the number of required continuing education hours for each of the three professions regulated by the Board. Single-licensed and dual-licensed individuals will be required to complete 30 continuing education hours every 2 years and triple-licensed individuals will be required to complete 45 hours. If approved, this change will go into effect for the license renewal period beginning August 1, 2009 and ending July 31, 2011.

Rule 8.2.2.6 is amended to clarify that an extension of time within which to complete continuing education or a waiver of the continuing education requirements may be granted upon a showing of hardship, but such request must be submitted prior to expiration of the license.

The Rules pertaining to online renewal and attestation have been revised for greater clarity. Rules 8.2.6, 8.2.7, 8.2.8, 8.2.9 and 8.2.10 have been added to provide a detailed explanation of the continuing education audit process. Finally, Rule 8.2.11 expressly gives the Board the authority to conduct hearings and impose the full range of sanctions available under 24 **Del.C.** §3716 when licensees fail to comply with the continuing education requirements.

The proposed amendments strengthen continuing education standards and give the Board express authority to sanction licensees who do not comply with those standards. Therefore, the proposed revisions will serve to protect the public from unsafe practices and enhance practitioner competence.

The Board will consider promulgating the proposed regulations at its regularly scheduled meeting following the public hearing.

DIVISION OF PROFESSIONAL REGULATION
8800 BOXING, SPARRING MATCHES AND EXHIBITIONS
PUBLIC NOTICE
8800 Boxing, Sparring Matches and Exhibitions
Rescheduled Hearing

Consistent with a recent statutory amendment, by passage of HB 501, which updated the authority of the Division of Professional Regulation, the Department of State, in accordance with 28 Del. C. Ch. 1, has proposed to

strike the existing regulations related to boxing, sparring matches and exhibitions in their entirety and establish new combative sports rules and regulations governing boxing and mixed arts.

A public hearing was held on December 8, 2008, James L. Collins, Director of the Division of Professional Regulation, conducted the hearing. As a result of the public comment and the Director determined to make both substantive and non-substantive revisions to the proposed amendments originally published in the Delaware Register of Regulations on November 1, 2008 at 12 DE Reg. 637.

The full text of the revised regulations was published in the Register of Regulations on February 1, 2009 at 12 DE Reg. 1054. The second public hearing originally scheduled for March 2, 2009 at 9:00 a.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover was cancelled due to inclement weather. The public hearing has now been rescheduled to April 23, 2009 at 9:00 a.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover.

The Director will receive and consider input in writing from any person concerning the proposed regulations. Written comments should be submitted to the Office of the Director, Division of Professional Regulation, Cannon Building, 861 Silver Lake Blvd. Suite 203, Dover, DE 19904. The final date to submit written comments shall be at the public hearing. Anyone wishing to obtain a copy of the proposed regulations or to make comments at the public hearing should contact the Director's office at the above address or by calling (302) 744-4500.

The Director will consider promulgating the proposed regulations immediately following the public hearing.

PUBLIC SERVICE COMMISSION

PUBLIC NOTICE

Notice of Seeking Comments from Public Concerning Regulations Proposed by Public Service Commission Staff

In Order No. 7263 (Aug. 21, 2007), the Delaware Public Service Commission ("PSC" or the "Commission") opened this docket to consider promulgating rules to govern Delmarva Power & Light Company's ("DP&L") development of Integrated Resource Plans ("IRPs") for its Standard Offer Service ("SOS") customers, as authorized by the Electric Utility Retail Customer Supply Act of 2006 ("the Act").¹ Pursuant to that Order, the Commission Staff drafted proposed IRP rules after consulting with the parties in DP&L's ongoing IRP docket (PSC Dckt. No. 07-20) and with the three (3) state agencies then involved in DP&L's IRP process.² On November 14, 2007, Staff submitted draft rules entitled "Integrated Resource Planning Regulations."

In PSC Order No. 7318 (Dec. 4, 2007), the Commission accepted Staff's draft IRP rules and initiated the formal rule-making procedure dictated by the Administrative Procedures Act ("APA").³ Thereafter, the Commission directed publication in the Delaware Register (among other places) of Staff's proposed IRP Rules and directed a Hearing Examiner to conduct proceedings regarding the proposed IRP rules.

After holding a duly-noticed public evidentiary hearing, the Hearing Examiner issued Findings and Recommendations (Sept. 12, 2008). The Hearing Examiner recommended Commission approval of Staff's proposed IRP Rules, as described in the Hearing Examiner's Report.

In PSC Order No. 7518 (Jan. 6, 2009), however, the Commission did not approve Staff's proposed IRP Rules. The Commission asked Staff to clarify certain aspects of the Regulations and to issue revised Regulations. Staff has now issued its revised Regulations.

The Commission now solicits comments from the Public regarding Staff's revised Regulations.

1. See 26 Del.C. § 1007(c)(1)(c)(as amended by 75 Del. Laws ch. 242 § 6 (2006)).

2. According to 26 Del.C. § 1007(c), DP&L files its IRP on a biennial basis with the Commission, the Delaware Energy Office, the Controller General, and the Director of the Office of Management and Budget.

3. See 29 Del.C. § 10111, *et. seq.*

Written comments must be filed with the Delaware Public Service Commission, 861 Silver Lake Boulevard, Cannon Building, Suite 100, Dover, DE, 19904 no later than May 6, 2009. The PSC will utilize the comments received to evaluate Staff's revised Regulations.

All prior filings in this Docket can be reviewed at the PSC's office at the address listed above. Anyone who plans to submit comments should also review PSC Order No. 7518 (Jan. 6, 2009).

If you have questions, you may contact the Commission in person, by writing, by telephone (including text telephone), and by Internet e-mail. You may call the Commission at 1-800-282-8574 (toll-free in Delaware) or you may call (302) 736-7500 (voice or text telephone). You may also send questions or request further information by Internet e-mail addressed to pamela.knotts@state.de.us. If you have a disability and wish to participate in, or to review the materials in these proceedings, please contact the Commission to discuss any auxiliary aids or services which you might need to help you.

12 DE Reg. 1339 (04/01/09)
