

DEPARTMENT OF SAFETY AND HOMELAND SECURITY

OFFICE OF THE SECRETARY

Statutory Authority: 11 Delaware Code, Section 1444(f) (11 **Del.C.** §1444(f))

EMERGENCY

ORDER

102 Regulations Governing the Destructive Weapon Compensation Program (DWCP)

The Department of Safety and Homeland Security (DSHS), pursuant to 11 **Del.C.** §1444(f)(1), adopts the attached emergency regulations that provide detailed information regarding the Destructive Weapon Compensation Program (DWCP), as identified in 11 **Del.C.** §1444(f)(2). These regulations are issued by the Secretary pursuant to the power conveyed by the General Assembly for the Department of Safety and Homeland Security Secretary by 11 **Del.C.** §1444(f)(1).

It should be noted that the emergency regulations are intended as interim measures, necessary to avoid the risk of harm to public health, safety, and welfare, pending the formal adoption of regulations pursuant to the Administrative Procedures Act, within the 120-day period (renewable for an additional sixty days) allotted to emergency regulations by 29 **Del.C.** §10119(3).

REASON FOR THE EMERGENCY ORDER

The regulations provided below are necessary for immediate implementation based on legislation signed into law effective June 14, 2018. Establishing DWCP locations and collection processes will allow for these items to be expeditiously turned in where they pose a risk to the safety and welfare of the public.

EFFECTIVE DATE OF ORDER

This Emergency Order shall take effect immediately upon issuance, and shall remain in effect for 120-days; however, at the expiration of 120-days, the Department may choose to renew this Emergency Order for a period not exceeding 60-days, consistent with 29 **Del.C.** §10119(3). The Department intends to propose regulations that would supersede the interim regulations upon formal approval pursuant to the Administrative Procedures Act, pursuant to 29 **Del.C.** §10115.

PETITION FOR RECOMMENDATIONS

Consistent with the requirements of 29 **Del.C.** §10119(4), the Department will receive, consider, and respond to petitions by any interested person for the reconsideration or revision of this Order. Petitions should be presented to the Department of Safety and Homeland Security, Attn: Terry Pepper, Public Safety Building Suite 220, P.O. BOX 818, Dover, Delaware 19903-0818.

ORDER

NOW THEREFORE, under the statutory authority and for the reasons sent forth above, the Department of Safety and Homeland Security does hereby ORDER this 24th day of July, 2018 that the regulations be, and that they hereby are, adopted to be enacted as set forth below.

Robert M. Coupe
7/24/2018
Secretary, Department of Safety and Homeland Security

102 Regulations Governing the Destructive Weapon Compensation Program (DWCP)

1.0 Definitions

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

"Bump stock" means an after-market device that increases the rate of fire achievable with a semi-automatic rifle by using energy from the recoil of the weapon to generate a reciprocating action that facilitates repeated activation of the trigger.

"Destructive weapon" means a destructive weapon as described in 11 Del.C. §1444(a)(6).

"DSHS" means Delaware Department of Safety and Homeland Security.

"DWCP" means the Destructive Weapon Compensation Program.

"Gift card" means type of payment used by a law enforcement agency to pay for surrendered destructive weapons such as a VISA or MasterCard gift card.

"Law enforcement agency" means the Delaware State Police.

"Program period" means July 1, 2018 to June 30, 2019.

"Secretary" means the Secretary of Delaware Department of Safety and Homeland Security.

"Trigger crank" means an after-market device designed and intended to be added to a semi-automatic rifle as a crank operated trigger actuator capable of triggering multiple shots with a single rotation of the crank.

2.0 Authorization

2.1 Funds allocated pursuant to 11 Del.C. §1444 shall be maintained in the DSHS, Office of the Secretary.

2.1.1 Funds will be distributed to the law enforcement agency locations in the form of gift cards.

2.2 The Secretary will designate which law enforcement agency locations will participate in the DWCP.

2.2.1 An agency location designated to participate in the DWCP and receive funds shall make public notice upon designation by the Secretary, at least 14 days in advance of starting their program, indicating the following:

2.2.1.1 The dates, times, location and duration for collection;

2.2.1.2 The contact person for the DWCP responsible for maintaining the funds and/or inventory allocated by DSHS.

2.3 Within seven (7) days after the conclusion of the DWCP program period, the law enforcement agency shall submit to the Secretary an accounting of all funds allocated by DSHS under these regulations.

2.4 All unused funds shall be returned to DSHS in the form it was received, within seven (7) days of the conclusion of the DWCP program period.

3.0 Collection and Disposition of Recovered Destructive Weapon

3.1 Upon surrender, all destructive weapons shall be tagged or marked by the collecting agency as to where collected, whom collected by, who collected from, the date of collection, make, model and serial number if applicable.

3.2 Funds shall be issued for destructive weapons which, upon preliminary inspection, appear to be operational, in amounts not to exceed the following:

<u>Bump Stock</u>	<u>\$100.00</u>
<u>Trigger Crank</u>	<u>\$15.00</u>

3.3 The law enforcement agency shall not have the discretion to pay an amount exceeding the amounts as described in subsection 3.2 during the DWCP program period.

3.4 Within seven (7) business days after the conclusion of the DWCP program period, a complete list of all destructive weapons collected shall be supplied to the Secretary containing information listed in subsection 3.1 of these regulations.

3.5 It shall be the responsibility of the law enforcement agency participating in the DWCP to dispose of the destructive weapons collected. Disposal may include any, or a combination, of the following:

3.5.1 Destruction in a manner causing total destruction of the weapon through such methods as crushing, melting or shredding.

3.6 Agencies, upon destruction of weapons, shall furnish a list of all disposed destructive weapons to the Secretary within seven (7) business days.

4.0 General Rules

4.1 An agency conducting a DWCP shall be responsible for the security of the site, the surrounding area, the surrendered destructive weapons, transportation, unused funds and inventory.

4.2 To ensure safety, any agency conducting a DWCP shall have at least one person on site knowledgeable in the operation and safety of firearms.

4.3 Any individual who elects to surrender a destructive weapon anonymously at a DWCP designated location may do so; however, the individual will not be eligible for compensation.

- 4.4 Personal identification showing proof of Delaware residency shall be required to be presented at the time of the redemption.
- 4.5 The DWCP is only intended for individuals and does not apply to wholesale, retail, manufacturers and distributor business entities.
- 4.6 Destructive weapons relinquished to a law-enforcement agency of the state as part of the DWCP may be destroyed by that agency 30-days after relinquishment.
- 4.7 Notwithstanding any law to the contrary, any person, provided the person is, in good faith, on an immediate, direct route to a designated law enforcement agency in the DWCP shall be immune from criminal prosecution for the criminal offenses defined in 11 Del.C. §1444.

22 DE Reg. 105 (08/01/18) (Emer.)