

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF PUBLIC HEALTH

Statutory Authority: 16 Delaware Code, Section 122(3)f (16 Del.C. §122(3)f)
16 DE Admin. Code 4461

FINAL

ORDER

4461 State of Delaware Milk Code

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("DHSS") initiated proceedings to adopt the State of Delaware Milk Code (4461). The DHSS proceedings to adopt regulations were initiated pursuant to 29 Delaware Code Chapter 101 and authority as prescribed by 16 Delaware Code, § 122(f).

On March 1, 2017 (Volume 20, Issue 9), DHSS published in the Delaware *Register of Regulations* its notice of proposed regulations, pursuant to 29 Delaware Code Section 10115. It requested that written materials and suggestions from the public concerning the proposed regulations be delivered to DHSS by April 7, 2017, after which time the DHSS would review information, factual evidence and public comment to the said proposed regulations.

No written comments were received during the public comment period.

FINDINGS OF FACT:

No changes made to the regulations since publication as proposed. The Department finds that the proposed regulations, as set forth in the attached copy should be adopted in the best interest of the general public of the State of Delaware.

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Milk Code (4461) is adopted and shall become effective June 11, 2017, after publication of the final regulation in the Delaware *Register of Regulations*.

Kara Odom Walker, MD, MPH, MSHS
Secretary
5/25/17

4461 State of Delaware Milk Code

1.0 State of Delaware Food Code

- 1.1 These Regulations shall hereby be known as the "State of Delaware Milk Code".
- 1.2 The Regulatory Agency may grant a variance by modifying or waiving the requirements of these Regulations if in the opinion of the Regulatory Agency a health hazard or nuisance will not result from the variance or waiver.
- 1.3 A copy of the complete State of Delaware Milk Code is available for public view at the following location: Office of Food Protection, 417 Federal Street, Dover, Delaware 19903. A copy is also available online at:
<http://www.fda.gov/downloads/Food/FoodSafety/Product-SpecificInformation/MilkSafety/NationalConferenceonInterstateMilkShipmentsNCIMSMModelDocuments/UCM209789.pdf>

2.0 Adoption of United States Department of Health and Human Services' Grade "A" Pasteurized Milk Ordinance ~~2009~~ 2015 Revision.

- 2.1 The State of Delaware Milk Code adopts, as if fully set forth herein, the United States Department of Health and Human Services' Grade "A" Pasteurized Milk Ordinance ~~2009~~ 2015 Revision as amended herein. The production, transportation, processing, handling, sampling, examination, labeling and sale of all Grade "A" milk and milk products sold for the ultimate consumption within the State of Delaware; the inspection of dairy farms, milk plants, receiving stations, transfer stations, milk tank truck cleaning facilities, milk tank trucks and bulk milk hauler/samplers; and the issuing and revocation of permits to milk producers, bulk milk hauler/samplers, milk tank trucks, milk transportation companies, milk plants, receiving stations, transfer stations, milk tank truck cleaning facilities, haulers, and distributors shall be regulated in accordance with the provisions of the current edition of the Grade "A" PMO.
- 2.2 Insert as footnote 4 2 the phrase "State of Delaware".
- 2.3 ~~Amend Section 1, Subpart JJ "Regulatory Agency" by deleting the first sentence in its entirety and substituting in lieu thereof the following, "The Regulatory Agency shall mean the Secretary of the Delaware Department of~~

~~Health and Social Services or their authorized representative.” Amend Section 16 by deleting the section in its entirety and substituting in lieu thereof the following: “Any person who shall violate any of the provisions of these Regulations shall be penalized in accordance with these Regulations and Title 16 of the Delaware Code.”~~

- 2.4 ~~Amend Section 3 by deleting the phrase “seventy-two (72) hours” as it appears therein and substituting in lieu thereof the following “ten (10) government business days”. Amend Section 17 by deleting the section in its entirety and substituting in lieu thereof the following, “All current or previous regulations or parts of Regulations in conflict with these Regulations are hereby repealed and these Regulations shall be in effect on July 1, 2017.”~~
- 2.5 ~~Amend Section 16 by deleting the section in its entirety and substituting in lieu thereof the following, “Any person who shall violate any of the provisions of these Regulations shall be penalized in accordance with these Regulations and Title 16 of the Delaware Code.”~~
- 2.6 ~~Amend Section 17 by deleting the section in its entirety and substituting in lieu thereof the following, “All current or previous regulations or parts of regulations in conflict with these Regulations are hereby repealed and these Regulations shall be in full force and effect on May 10, 2011.”~~

14 DE Reg. 1232 (05/01/11)

20 DE Reg. 985 (06/01/17) (Final)