

---

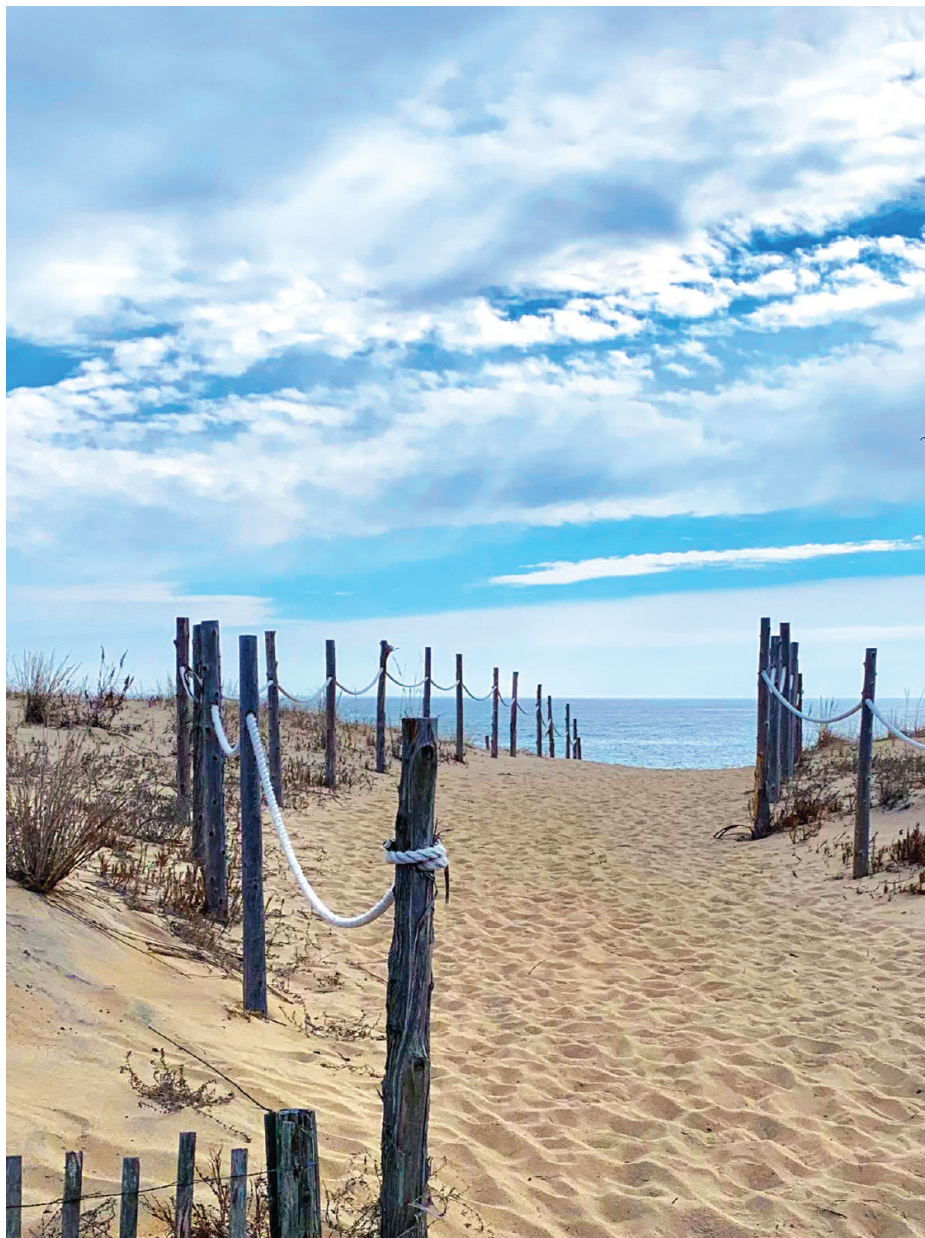
# Delaware Register of Regulations

---

Issue Date: August 1, 2024

Volume 28 - Issue 2, Pages 71-162

---



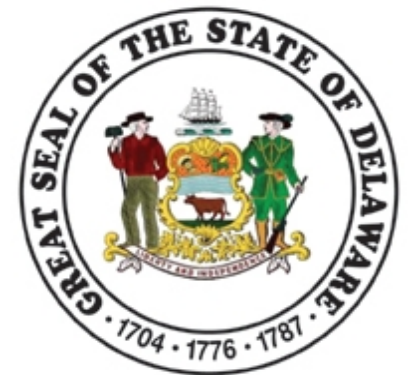
## IN THIS ISSUE:

Errata

Regulations:  
Proposed  
Final

General Notices

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 July 15, 2024.

*Cover Photo Credit*  
Colinda Marker

---

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The *Delaware Register* will publish any regulations that are proposed to be adopted, amended or repealed and any emergency regulations promulgated.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

19 **DE Reg.** 1100 (06/01/16)

Refers to Volume 19, page 1100 of the *Delaware Register* issued on June 1, 2016.

---

## 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and other interested parties may participate in the process by which administrative regulations are adopted, amended or repealed, and may initiate the process by which the validity and applicability of regulations is determined.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 advance notice of its regulation-making proceedings.

---

---

# INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

---

73

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
September 1	August 15	4:30 p.m.
October 1	September 15	4:30 p.m.
November 1	October 15	4:30 p.m.
December 1	November 15	4:30 p.m.
January 1	December 15	4:30 p.m.
February 1	January 15	4:30 p.m.

---

### DIVISION OF RESEARCH STAFF

**Falah Al-Falahi**, Legislative Research Analyst; **Mark J. Cutrona**, Director; **Richard Dillard**, Legislative Drafting Advisor; **Amanda Fulton**, Special Projects Administrative Specialist; **Deborah Gottschalk**, Sr. Legislative Attorney; **Quran Hernandez**, Graphics and Printing Technician III; **Grace Kelley**, Legislative Research Analyst; **Benjamin Kowal**, Joint Legislative Oversight Sunset Committee Analyst; **Robert Lupo**, Graphics and Printing Supervisor; **Colinda Marker**, Executive Assistant; **Amanda McAtee**, Joint Legislative Oversight Sunset Committee Analyst; **Carolyn Meier**, Delaware Code Editor; **Kathleen Morris**, Fiscal Administrative Officer; **Nathan Poore**, Graphics and Printing Technician IV; **Joel Rudnick**, Legislative Librarian; **Erika Schrader**, Assistant Registrar of Regulations; **Katherine Sell**, Legislative Attorney; **Yvette W. Smallwood**, Registrar of Regulations; **Holly Vaughn Wagner**, Deputy Director; **Leanne Voshell**, Legal Publications Editor; **Carrie Wanstall**, Administrative Specialist III; **Marissa White**, Legislative Attorney; **Natalie White**, Legal Publications Editor; **Cara Wilson**, Sr. Legislative Attorney

---

# TABLE OF CONTENTS

Cumulative Tables.....	76
<b>ERRATA</b>	
<b>DEPARTMENT OF EDUCATION, Office of the Secretary</b>	
290 Approval of Educator Preparation Programs.....	78
729 School Custodians .....	78
<b>DEPARTMENT OF LABOR, Division of Paid Leave</b>	
1401 Rules Defining and Regulating the Healthy Delaware Families Act, Family and Medical Leave Insurance Program and the Division of Paid Leave .....	79
<b>PROPOSED</b>	
<b>DEPARTMENT OF AGRICULTURE</b>	
<b>Delaware Forest Service</b>	
401 Forest Service Erosion and Sedimentation Regulations .....	81
<b>Delaware Jockeys' Health and Welfare Benefit Board</b>	
1002 Delaware Jockeys' Health and Welfare Benefit Board Regulations.....	82
<b>DEPARTMENT OF EDUCATION, Office of the Secretary</b>	
1023 DIAA Sportsmanship.....	84
1024 DIAA Member Schools.....	86
<b>DEPARTMENT OF LABOR, Division of Employment &amp; Training</b>	
1103 Worker Adjustment and Retraining Notification (WARN) Regulations.....	92
<b>DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL, Division of Air Quality</b>	
1104 Particulate Emissions from Fuel Burning Equipment.....	93
1105 Particulate Emissions from Industrial Process Operations .....	95
1109 Emissions of Sulfur Compounds From Industrial Operations .....	99
1114 Visible Emissions .....	103
<b>DEPARTMENT OF STATE, Division of Professional Regulation</b>	
103 Regulations Governing Charitable Gaming Other Than Raffles .....	105
1700 Board of Medical Licensure and Discipline .....	106
5200 Board of Examiners of Nursing Home Administrators .....	109
5300 Board of Massage and Bodywork.....	110
<b>FINAL</b>	
<b>DEPARTMENT OF AGRICULTURE, Delaware Standardbred Breeder's Fund</b>	
502 Standardbred Breeders' Fund Regulations: Subsections 10.2.2 and 10.2.3.....	111
<b>DEPARTMENT OF EDUCATION</b>	
<b>Office of the Secretary</b>	
290 Approval of Educator Preparation Programs.....	112
291 Alternative Routes to Certification (ARTC) Programs .....	114
729 School Custodians .....	115
1008 DIAA Junior High and Middle School Interscholastic Athletics.....	116
1009 DIAA High School Interscholastic Athletics .....	117
1009 DIAA High School Interscholastic Athletics .....	119
1028 Student Athlete Eligibility: Enrollment and Attendance .....	120
1029 Student Athlete Eligibility: Transfers.....	124

---

# TABLE OF CONTENTS

---

75

1035 In-Season Athletic Activities and Contact .....	126
1043 Officials .....	127
1211 Career-Based Scholarship Program .....	128
1216 Educator Support Scholarship Program .....	130
1217 Mental Health Services Scholarship .....	131
<b>Professional Standards Board</b>	
1549 Dance Teacher .....	133
1558 Theatre Teacher .....	134
1560 Visual Arts Teacher .....	136
1563 Music Teacher .....	137
<b>DEPARTMENT OF HEALTH AND SOCIAL SERVICES, Division of Medicaid and Medical Assistance</b>	
Title XXI CHIP State Plan: CHIP Vaccines .....	139
Title XIX Medicaid State Plan - Imported Drugs .....	141
<b>DEPARTMENT OF INSURANCE, Office of the Commissioner</b>	
611 Automobile Insurance Premium Refunds .....	144
<b>DEPARTMENT OF LABOR</b>	
<b>Division of Industrial Affairs</b>	
1342 Health Care Practice Guidelines:.....	146
PART A Carpal Tunnel Syndrome Guidelines	
PART B Chronic Pain Treatment Guidelines	
PART C Cumulative Trauma Disorder Medical Treatment Guidelines	
PART D Low Back Treatment Guidelines	
PART E Shoulder Treatment Guidelines	
PART F Cervical Treatment Guidelines	
PART G Lower Extremity Treatment Guidelines	
<b>Division of Paid Leave</b>	
1401 Rules Defining and Regulating the Healthy Delaware Families Act, Family and Medical Leave Insurance Program and the Division of Paid Leave .....	147
<b>DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL, Division of Air Quality</b>	
1130 Title V State Operating Permit Program .....	149
<b>GENERAL NOTICES</b>	
<b>DEPARTMENT OF STATE, Division of Professional Regulation</b>	
2600 Examining Board of Physical Therapists and Athletic Trainers .....	152
<b>DEPARTMENT OF TRANSPORTATION, Division of Transportation Solutions</b>	
Senate Bill 89 as amended by Senate Amendment 1 – Ashley Heights Community .....	152
<b>CALENDAR OF EVENTS/HEARING NOTICES</b>	
Delaware River Basin Commission; Notice of Public Hearing and Quarterly Business Meeting.....	154
Department of Agriculture, Delaware Forest Service, Delaware Jockeys' Health and Welfare Benefit Board; Notices of Public Comment Periods.....	154-155
Department of Education; Notice of Monthly Public Meeting.....	155
Department of Labor, Division of Employment and Training; Notice of Public Comment Period.....	155
Department of Natural Resources and Environmental Control, Division Air Quality; Notices of Public Hearings and Public Comment Periods.....	156-159
Department of State, Division of Professional Regulation; Notices of Public Hearings and Public Comment Periods.....	160-162

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 RIVER BASIN COMMISSION**

Rules of Practice and Procedure..... 28 **DE Reg. 37** (Final)

**DELAWARE STATE FIRE PREVENTION COMMISSION**

710 Ambulance Service Regulations..... 28 **DE Reg. 40** (Final)  
28 **DE Reg. 41** (Final)

**DEPARTMENT OF EDUCATION****Office of the Secretary**

235 Teacher of the Year Award..... 28 **DE Reg. 43** (Final)  
506 Policies for Dual Enrollment and Awarding Dual Credit..... 28 **DE Reg. 44** (Final)  
545 K to 12 Counseling Programs..... 28 **DE Reg. 8** (Prop.)  
922 Children with Disabilities Subpart A, Purposes and Definitions..... 28 **DE Reg. 11** (Prop.)  
923 Children with Disabilities Subpart B General Duties and  
Eligibility of Agencies..... 28 **DE Reg. 12** (Prop.)  
925 Children with Disabilities Subpart D, Evaluations, Eligibility Determination,  
Individualized Education Programs..... 28 **DE Reg. 14** (Prop.)  
1030 Student Athlete Eligibility: Amateur Status..... 28 **DE Reg. 15** (Prop.)

**Professional Standards Board**

1503 Comprehensive Educator Induction Programs..... 28 **DE Reg. 18** (Prop.)  
1511 Continuing License..... 28 **DE Reg. 20** (Prop.)  
1551 Business, Finance, or Marketing Education Teacher..... 28 **DE Reg. 21** (Prop.)  
1557 Technology and Engineering Teacher..... 28 **DE Reg. 25** (Prop.)

**DEPARTMENT OF HEALTH AND SOCIAL SERVICES****Division of Medicaid and Medical Assistance**

Continuous Eligibility and Removal of Premiums for CHIP:  
DSSM 15300.4, 18300, 18600, 18700, 18800.1, and 18800.2..... 28 **DE Reg. 45** (Final)  
Title XIX Medicaid State Plan - Medicaid Workers with Disabilities  
(MWD) Premiums: DSSM 17000..... 28 **DE Reg. 48** (Final)  
Title XIX Medicaid State Plan - Pharmacists as Providers..... 28 **DE Reg. 29** (Prop.)  
Title XIX Medicaid State Plan - Third Party Liability..... 28 **DE Reg. 51** (Final)

**Division of Social Services**

Determining Child Care Copayments: DSSM 11004.7..... 28 **DE Reg. 53** (Final)  
Paying for Absent Days and Holidays in Child Care: DSSM 11006.4.1..... 28 **DE Reg. 55** (Final)

**DEPARTMENT OF HUMAN RESOURCES****Division of Statewide Benefits**

2007 Disability Insurance Program Rules and Regulations..... 28 **DE Reg. 57** (Final)

**DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL****Division of Fish & Wildlife**

3504 Striped Bass Possession Size Limit; Exceptions..... 28 **DE Reg. 58** (Final)

**DEPARTMENT OF SAFETY AND HOMELAND SECURITY****Office of the Marijuana Commissioner**

---

5001 Rules of the Office of the Marijuana Commissioner..... 28 **DE Reg.** 32 (Prop.)

**DEPARTMENT OF STATE****Division of Professional Regulation**

500 Board of Podiatry..... 28 **DE Reg.** 33 (Prop.)

1100 Board of Dentistry and Dental Hygiene..... 28 **DE Reg.** 60 (Final)

28 **DE Reg.** 62 (Final)

3000 Board of Professional Counselors of Mental Health and  
Chemical Dependency Professionals..... 28 **DE Reg.** 34 (Prop.)

**Public Service Commission**

3007 Electric Service Reliability and Quality Standards..... 28 **DE Reg.** 34 (Prop.)

**OFFICE OF MANAGEMENT AND BUDGET****Division of Facilities Management**

4104 Regulations for the Drug Testing of Contractor and Subcontractor Employees  
Working on Large Public Works Projects..... 28 **DE Reg.** 30 (Prop.)

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

Statutory Authority: 14 Delaware Code, Sections 122(b)(22) and 1280 (14 **Del.C.** §§122(b)(22) and 1280)  
14 **DE Admin. Code** 290

**ERRATA**

**290 Approval of Educator Preparation Programs**

\* **Please Note:** The Department of Education regulation, 14 **DE Admin. Code** 290 *Approval of Educator Preparation Programs*, was published as proposed in the *Delaware Register of Regulations*, 27 **DE Reg.** 930 (06/01/24). Subsections 6.3 and 8.4.4 were inadvertently published incorrectly.

Subsection 6.3 was published as:

6.3 A provider shall not modify a program until the Provider has obtained the Department's approval for the modification or modifications.

Subsection 6.3 should have been published as:

6.3 A provider shall not modify a program until the provider has obtained the Department's approval for the modification or modifications.

New subsection 8.4.4 was published as:

~~7.4.4~~ 8.4.4The Department, after considering the evidence presented and the arguments made by the petitioner, shall make a decision and inform the petitioner in writing of that decision, within ~~sixty~~ (60) working days of receipt of the materials. The decision of the Department is final.

New subsection 8.4.4 should have been published as:

~~7.4.4~~ 8.4.4The Department, after considering the evidence presented and the arguments made by the petitioner, shall make a decision and inform the petitioner in writing of that decision, within ~~sixty~~ (60) 60 working days of receipt of the materials. The decision of the Department is final.

This regulation is corrected and being published as a final regulation in the August 2024 *Register*.

**OFFICE OF THE SECRETARY**

Statutory Authority: 14 Delaware Code, Sections 122(b) and 1315 (14 **Del.C.** §§122(b) & 1315)  
14 **DE Admin. Code** 729

**ERRATA**

**729 School Custodians**

\* **Please Note:** The Department of Education regulation, 14 **DE Admin. Code** 729 *School Custodians*, was published as proposed in the *Delaware Register of Regulations*, 27 **DE Reg.** 933 (06/01/24). Subsections 4.5 was inadvertently published incorrectly.



Subsection 4.5 was published as:

- 4.5 Building and Grounds Supervisor: Each ~~district with ninety five (95)~~ LEA with 95 or more custodial units may employ a school buildings and grounds supervisor according to the salary schedule. This position is included in the total number of custodial personnel allowed.

Subsection 4.5 should have been published as:

- 4.5 Building and Grounds Supervisor: Each ~~district with ninety five (95)~~ LEA with 95 or more custodial units may employ a ~~school~~ buildings and grounds supervisor according to the salary schedule. This position is included in the total number of custodial personnel allowed.

This regulation is corrected and being published as a final regulation in the August 2024 *Register*.

---

## DEPARTMENT OF LABOR

### DIVISION OF PAID LEAVE

Statutory Authority: 19 Delaware Code, Section 105 (19 **Del.C.** §105)  
19 **DE Admin. Code** 1401

#### ERRATA

#### **1401 Rules Defining and Regulating the Healthy Delaware Families Act, Family and Medical Leave Insurance Program and the Division of Paid Leave**

**\* Please Note:** The Department of Labor regulation, 14 **DE Admin. Code** 1401 *Rules Defining and Regulating the Healthy Delaware Families Act, Family and Medical Leave Insurance Program and the Division of Paid Leave*, was published as proposed in the *Delaware Register of Regulations*, 27 **DE Reg.** 954 (06/01/24). Subsections 8.2.4.4 and 13.1 were inadvertently published incorrectly.

Subsection 8.2.4.4 was published as:

- 8.2.4.4 If the employer pays any part of the covered individual's share of their health insurance premium while the covered individual is on leave, the employer may re-cover the covered individual's share of health insurance premium paid by the employer by any legal means.

Subsection 8.2.4.4 should have been published as:

- 8.2.4.4 If the employer pays any part of the covered individual's share of their health insurance premium while the covered individual is on leave, the employer may recover the covered individual's share of health insurance premium paid by the employer by any legal means.

Subsection 13.1 was published as:

- 13.1 A covered individual or employer may appeal to the Board ~~within 30 days from the date of the Division's or the private plan's internal review determination~~ as provided in the Act. At all times, a covered individual, employer, or witness ~~are~~ is required to keep all information related to the claim or appeal confidential and take reasonable steps to ensure confidentiality.

Subsection 13.1 should have been published as:

- 13.1 A covered individual or employer may appeal to the Board ~~within 30 days from the date of the Division's or the private plan's internal review determination as provided in the Act.~~ At all times, a covered individual, employer, or witness ~~are~~ is required to keep all information related to the claim or appeal confidential and take reasonable steps to ensure confidentiality.

This regulation is corrected and being published as a final regulation in the August 2024 *Register*.

---

---

## 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 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 advance notice of its regulation-making proceedings.

---

## DEPARTMENT OF AGRICULTURE

### DELAWARE FOREST SERVICE

Statutory Authority: 3 Delaware Code, Chapter 10 (3 **Del.C.** Ch. 10)  
3 **DE Admin. Code** 401

## PUBLIC NOTICE

### 401 Forest Service Erosion and Sedimentation Regulations

#### Summary

The Delaware Forest Service proposes to amend its Regulations adopted in accordance with Title 3, Chapter 10. The purpose of the proposed regulations is to clarify the limitations regarding the use of the Erosion & Sediment Control Permit, eliminate outdated references, and make minor grammatical changes. The recommended change to 2.0 deletes an outdated document number reference to the Delaware Forestry's Best Management Practices Manual. The recommended changes to 3.0 include definitions for clarity and make minor grammatical changes for consistency with other regulations. The recommended changes to 5.1, 5.5, and 5.10 expand the notice period required for silvicultural operations and the time period within which the Delaware Forest Service must decide such applications to allow the Delaware Forest Service adequate time to cross check permits with other agencies to make better decisions regarding permit approvals or denial. The remaining recommended changes to 5.0 delete outdated contact information and make minor grammatical changes for clarity and consistency with other regulations. The recommended changes to 6.1 and 6.3 clarify the limitations regarding the use of the Erosion & Sediment Control Permit. Finally, the recommended change to 7.6 clarifies the time period within which the Forest Administrator may agree to engage in an informal conference with a landowner and operator prior to referring noncompliance with a Special Order to Superior Court. Other regulations issued by the Delaware Forest Service are not affected by this proposal. The Delaware Forest Service is issuing these proposed regulations in accordance with Title 3 of the Delaware Code. This notice is issued pursuant to the requirements of Chapter 101 of Title 29 of the Delaware Code.

#### Comments

A copy of the proposed regulations is being published in the August 1, 2024 edition of the *Delaware Register of Regulations*. A copy is also on file in the office of the Delaware Department of Agriculture, Forest Service, 2320

---

# PROPOSED REGULATIONS

---

South Dupont Highway Dover, Delaware 19901 and is available for inspection during regular office hours. Copies are also published online at the *Register of Regulations* website: [https://regulations.delaware.gov/register/current\\_issue.shtml](https://regulations.delaware.gov/register/current_issue.shtml).

Interested parties may offer written comments on the proposed regulations or submit written suggestions, data, briefs or other materials to the Delaware Forest Service at the above address as to whether these proposed regulations should be adopted, rejected or modified. Pursuant to 29 **Del.C.** § 10118(a), public comments must be received on or before September 3, 2024. Written materials submitted will be available for inspection at the above address.

**\*Please Note:**

(1) The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 **Del.C. Ch. 104**, is available at:

<https://regulations.delaware.gov/register/august2024/proposed/28 DE Reg 81RFA 08-01-24.pdf>

(2) Due to the size of the proposed regulation, it is not being published here. A copy of the regulation is available at:

<https://regulations.delaware.gov/register/august2024/proposed/28 DE Reg 81 08-01-24.htm>

---

**DELAWARE JOCKEYS' HEALTH AND WELFARE BENEFIT BOARD**  
Statutory Authority: 3 Delaware Code, Chapter 101 (3 **Del.C.** Ch. 101)  
3 **DE Admin. Code** 1002

**PUBLIC NOTICE**

**1002 Delaware Jockeys' Health and Welfare Benefit Board Regulations**

Summary

The Delaware Jockeys' Health and Welfare Benefit Board proposes to amend its Regulations adopted in accordance with Title 3, Chapter 101. The purpose of the proposed regulations is to amend the rules regarding eligibility for health coverage. The recommended change to 2.1.1 reduced the minimum number of mounts for active jockeys to seventy-five. The recommended change to 2.1.2.2 aligns the eligibility criteria for retired jockeys with the eligibility criteria for active jockeys during the relevant lookback period. Other regulations issued by the Delaware Jockeys' Health and Welfare Benefit Board are not affected by this proposal. The Delaware Jockeys' Health and Welfare Benefit Board is issuing these proposed regulations in accordance with Title 3 of the Delaware Code. This notice is issued pursuant to the requirements of Chapter 101 of Title 29 of the Delaware Code.

Comments

A copy of the proposed regulations is being published in the August 1, 2024 edition of the Delaware Register of Regulations. A copy is also on file in the office of the Delaware Jockeys' Health and Welfare Benefit Board, 777 Delaware Park Boulevard, Wilmington, Delaware 19804 and is available for inspection during regular office hours. Copies are also published online at the Register of Regulations website: [https://regulations.delaware.gov/register/current\\_issue.shtml](https://regulations.delaware.gov/register/current_issue.shtml).

Interested parties may offer written comments on the proposed regulations or submit written suggestions, data, briefs or other materials to the Delaware Jockeys' Health and Welfare Benefit Board at the above address as to whether these proposed regulations should be adopted, rejected or modified. Pursuant to 29 *Del. C.* § 10118(a), public comments must be received on or before September 3, 2024. Written materials submitted will be available for inspection at the above address.

**\*Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del. C. Ch. 104, is available at:**

<https://regulations.delaware.gov/register/august2024/proposed/28 DE Reg 82RFA 08-01-24.pdf>

## 1002 Delaware Jockeys' Health and Welfare Benefit Board Regulations

### 1.0 Introduction

- 1.1 These regulations are authorized pursuant to 3 **Del.C.** §10171 and 29 **Del.C.** §4815(b)(4)c. which established a Delaware Jockeys' Health and Welfare Benefit Board (hereinafter "the Board") and Delaware Jockeys' Health and Welfare Benefit Fund (hereinafter "the Fund").
- 1.2 The Delaware Jockeys' Health and Welfare Benefit Board shall consist of 1 member of the Delaware Thoroughbred Racing Commission, 1 member from the licensed agent under Chapter 1010 of **Title 3** or Chapter 4 of **Title 28**, 1 member of the Delaware Horsemen's Association, 1 representative from the organization that represents the majority of the jockeys who are licensed and ride regularly in Delaware, and 2 jockeys who are licensed and ride regularly in Delaware. The Chairman of the Thoroughbred Racing Commission shall serve as an *ex officio* member, and vote on matters in the event of a tie vote on any issue. All members shall be appointed by the Thoroughbred Racing Commission, and shall serve a two year term.
- 1.3 The Board shall elect a Chairperson from among the appointed members of the Board. The Chairperson shall serve a two year term and may serve consecutive terms. The Chairperson shall be the presiding officer at all meetings of the Board.
- 1.4 The Board shall administer the Fund pursuant to these regulations and other reasonable criteria for benefit eligibility.
- 1.5 A special fund of the State has been established and will be known as the "Delaware Jockeys' Health and Welfare Benefit Fund." The Fund shall consist of the proceeds transferred from the licensed video lottery agent and the purse account pursuant to 29 **Del.C.** §4815(b)(4)c. The proceeds transferred to the Fund will be maintained in an account established in the Department of Agriculture.
- 1.6 The Fund will be invested by the State Treasurer consistent with the investment policies established by the Cash Management Policy Board. All income earned by the Fund will be reinvested in the Delaware Jockeys' Health and Welfare Benefit Fund.
- 1.7 The Board shall use the Fund to provide for jockeys who regularly ride in Delaware, health benefits for active, disabled and retired jockeys. The Board may also expend usual and customary expenses for administrative purposes from the Fund.
- 1.8 The Thoroughbred Racing Commission's Administrator of Racing will provide administrative support to the Board and keep minutes of all the meetings of the Board and preserve all records of the Board. The Board's Office will be considered as part of the Office of the Thoroughbred Racing Commission.
- 1.9 The Board can propose to amend these regulations by an affirmative vote of the majority of the Board.

### 2.0 Eligibility Criteria for Health Coverage

- 2.1 The Board will pay from the Fund for health coverage for active jockeys who regularly ride in Delaware, eligible retired jockeys, and disabled Delaware jockeys.
  - 2.1.1 An Active Delaware Jockey, who regularly rides in Delaware, is eligible for health insurance coverage under the fund, if the jockey had ~~one hundred (100)~~ 75 mounts in a Delaware Park season at Delaware Park; and Park.
    - ~~2.1.1.1~~ An Active Delaware Jockey who did not ride the qualifying number of mounts during a Delaware Park season due to circumstances beyond the control of the jockey may petition the Delaware Jockey's Health and Welfare Benefit Board for eligibility. The Delaware Jockey's Health and Welfare Benefit Board shall review the petition, and if in the discretion of the Board the circumstances warrant, may grant eligibility.
  - 2.1.2 A Retired Delaware Jockey is eligible for health insurance coverage under the Fund if:

# PROPOSED REGULATIONS

- 2.1.2.1 The Jockey was receiving health insurance coverage as a retired jockey provided by the Delaware Jockey's Health and Welfare Benefit Board health insurance plan on December 31, 2016; or
- 2.1.2.2 The Jockey ~~rode a minimum of 100 mounts~~ met the minimum mount requirements at Delaware Park during the regular Delaware Park season for at least ten years.
- 2.1.2.3 The Jockey is not licensed as a jockey in any racing jurisdiction.
- 2.1.3 A disabled Delaware Jockey's spouse and dependents qualify for health benefits if the disabled jockey meets all of the following requirements:
  - 2.1.3.1 The jockey was an active participant in the Delaware Jockeys' Health and Welfare Fund benefit program at the time of the on-track accident that resulted in total and permanent disability; and
  - 2.1.3.2 Be deemed permanently disabled by Social Security and qualify for Medicare as a result of an injury sustained during the regular Delaware Park season on the premises of Delaware Park, and arising in the course of his/her participation as a licensed jockey.
- 2.2 An active jockey, a retired jockey or an eligible disabled jockey's family will be entitled to health coverage for one year beginning on the first day of the calendar year following the year the eligibility requirements have been met.
- 2.3 The Board will pay from the Fund for health coverage for the dependents of active jockeys who regularly ride in Delaware, eligible retired jockeys, and disabled Delaware jockeys.
  - 2.3.1 Eligibility for coverage for dependents will be determined by the company providing the insurance coverage.
- 2.4 The Fund shall provide benefits secondary to Medicare or Medicaid for any member or an enrolled dependent of a member, who is eligible for Medicare or Medicaid health benefits.

## DEPARTMENT OF EDUCATION OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b)(15) and 303 (14 **Del.C.** §§122(b)(15) & 303)

14 **DE Admin. Code** 1023

### PUBLIC NOTICE

Educational Impact Analysis Pursuant to 14 Del. C. §122(d)

### 1023 DIAA Sportsmanship

#### A. TYPE OF REGULATORY ACTION REQUESTED

Amendment to Existing Regulation

#### B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

Pursuant to 14 **Del.C.** §§122(b)(15) and 303, the Delaware Interscholastic Athletic Association Board of Directors ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), proposes amendments to 14 **DE Admin. Code** 1023 DIAA Sportsmanship. The regulation sets forth requirements for sportsmanship in interscholastic athletics in accordance with 14 **Del.C.** §301. The proposed amendments simply eliminate gender specific language and change it to gender neutral language. Other grammar and style changes were made to comply with the *Delaware Administrative Code Drafting and Style Manual*.

Persons wishing to present their views regarding this matter may do so in writing by submitting them to the Department, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or through the Department's online submission form at <https://education.delaware.gov/community/governance/regulations-code/post-a-comment/> by the close of business (4:30 p.m. EST) on or before September 3, 2024. Any

---

person who wishes to receive a copy of the proposed regulation may obtain a copy from the Department at the Office of the Secretary on the second floor of the Townsend Building, 401 Federal Street, Dover, Delaware.

**C. IMPACT CRITERIA**

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The proposed change will have no effect on student achievement.
2. Will the amended regulation help ensure that all students receive an equitable education? Yes. The purpose of the proposal is to eliminate inappropriate gender specific language.
3. Will the amended regulation help to ensure all students' health and safety are adequately protected? The proposed change should have no effect on student health and safety.
4. Will the amended regulation help to ensure that all students' legal rights are respected? Yes, see answers 1-3.
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 have no effect on the 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 does 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 Board enforces the regulations relating to interscholastic athletics in Delaware (14 Del.C. §304).
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 have no effect on 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? There is not a less burdensome method for addressing the purpose of this amended regulation.
10. What is the cost to the state and to the local school boards of compliance with the amended regulation? There is no expected cost to the state or to the local school boards of compliance with the amended regulation.

**\*Please Note:**

(1) **The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:**

<https://regulations.delaware.gov/register/august2024/proposed/28 DE Reg 84RFA 08-01-24.pdf>

(2) **Due to the size of the proposed regulation, it is not being published here. A copy of the regulation is available at:**

<https://regulations.delaware.gov/register/august2024/proposed/28 DE Reg 84 08-01-24.htm>

**OFFICE OF THE SECRETARY**

Statutory Authority: 14 Delaware Code, Sections 122(b)(15) and 303 (14 **Del.C.** §§122(b)(15) & 303)

14 **DE Admin. Code** 1024

**PUBLIC NOTICE**

**Educational Impact Analysis Pursuant to 14 Del. C. §122(d)**

**1024 DIAA Member Schools****A. TYPE OF REGULATORY ACTION REQUESTED**

Amendment to Existing Regulation

**B. SYNOPSIS OF SUBJECT MATTER OF REGULATION**

Pursuant to 14 **Del.C.** §§122(b)(15) and 303, the Delaware Interscholastic Athletic Association Board of Directors ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), proposes amendments to 14 **DE Admin. Code** 1024 DIAA Member Schools. The regulation sets forth requirements for DIAA Member Schools in accordance with 14 **Del.C.** §301. The proposed amendments state that under DIAA regulations, students whose gender identity differs from their assigned sex at birth are eligible to participate on a team other than their assigned sex at birth. The proposed changes further note that member schools are responsible for making such eligibility determinations and must do so in compliance with Title IX (20 U.S.C. §§1681- 168). The proposed changes also increase member schools' annual membership fees to account for rising costs DIAA has born for hosting state post-season tournaments. Other grammar and style changes were made to comply with the *Delaware Administrative Code Drafting and Style Manual*.

Persons wishing to present their views regarding this matter may do so in writing by submitting them to the Department, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or through the Department's online submission form at <https://education.delaware.gov/community/governance/regulations-code/post-a-comment/> by the close of business (4:30 p.m. EST) on or before September 3, 2024. Any person who wishes to receive a copy of the proposed regulation may obtain a copy from the Department at the Office of the Secretary on the second floor of the Townsend Building, 401 Federal Street, Dover, Delaware.

**C. IMPACT CRITERIA**

1. Will the amended regulation help improve student achievement as measured against state achievement standards? Yes, the amended regulation was developed by the Board in conjunction with its Rules and Regulations Committee, which spent several months researching the issue of transgender participation in interscholastic sports. The proposed change will ensure more student-athletes are included. The fee change has no effect on students.

2. Will the amended regulation help ensure that all students receive an equitable education? Yes, see above. The purpose of the proposal is to facilitate equity.

3. Will the amended regulation help to ensure all students' health and safety are adequately protected? Yes, the regulation ensures that all member schools comply with federal law pertaining to gender equality. Additionally, the fee increase ensures DIAA can continue to appropriately staff post-season tournaments.

4. Will the amended regulation help to ensure that all students' legal rights are respected? Yes, see answers 1-4.

5. Will the amended regulation preserve the necessary authority and flexibility of decision-makers at the local board and school level? The amended regulation grants the 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 does 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 Board enforces the regulations relating to interscholastic athletics in Delaware (14 Del.C.



§304).

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 is consistent with and not an impediment 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? There is not a less burdensome method for addressing the purpose of this amended regulation.

10. What is the cost to the state and to the local school boards of compliance with the amended regulation? There is no expected cost to the state. Schools within the control of local school boards will have to pay an additional \$100 to retain membership in DIAA.

**\*Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del. C. Ch. 104, is available at:**

<https://regulations.delaware.gov/register/august2024/proposed/28 DE Reg 86RFA 08-01-24.pdf>

### 1024 DIAA Member Schools

#### 1.0 Content

In accordance with 14 Del.C. §303, this regulation sets forth requirements for DIAA Member Schools, which include all public middle and high schools and such nonpublic middle and high schools in Delaware that elect to become Member Schools.

#### 2.0 Definitions

The following words and terms, when used in this regulation, shall have the following meaning:

**"Administrative Head head"** means the chief or head individual in charge of a DIAA Member School, traditionally referred to or generally known as the principal or headmaster.

**"Board"** means the Delaware Interscholastic Athletic Association Board of Directors established pursuant to 14 Del.C. Ch. 3.

**"Department"** means the Delaware Department of Education established pursuant to 14 Del.C. §101.

**"DIAA"** means the Delaware Interscholastic Athletic Association established pursuant to 14 Del.C. §301.

**"Member School"** means a full or associate member school of the DIAA.

**"Practice"** means working on skills for a particular sport within a single team at a Member School as guided by coaches and includes team workouts and inner-team scrimmages.

**"Unified Sports"** means a co-ed program that combines an approximately equal number of students with and without autism or intellectual disabilities on a sports team for training and interscholastic competition.

#### 3.0 Process for Becoming a DIAA Member School

3.1 Full Member Schools: Any middle and secondary school located within the boundaries of the State and containing grades 6 through 8, or 8 through 12, or any grouping of such grade levels, including nonpublic, private, and public schools, authorized by Title 14 of the Delaware Code, may become a full Member School of DIAA. Membership requires the payment of dues and a signed affirmation of the obligations of membership.

3.1.1 A full Member School is a non-voting member of DIAA and does not participate in its day-to-day governance. A full Member School may, at any time, make appropriate recommendations for policy action to the Board for its consideration.

3.1.2 Membership shall include all middle and secondary public schools participating in interscholastic athletics and such nonpublic schools that may elect to become full or associate members.

3.2 Associate Member School: Any school, not a full Member School, located within the boundaries of the State and containing grades 6 through 8, or 8 through 12, or any grouping of such grade levels, may apply for status as an associate Member School provided the applicant sets forth good cause and

# PROPOSED REGULATIONS

sufficient justification why such school cannot become a full Member School. The initial application may be submitted at any time but renewal applications shall be submitted to the DIAA office no later than May 1 of each year.

- 3.2.1 Associate Membership Criteria: The membership application shall contain a statement that the school will abide by the rules and regulations governing interscholastic athletics and in those cases where the school cannot comply, the application shall set forth the specific rule and regulation, and a sufficiently acceptable explanation of why the rule or regulation cannot be kept in force or why the school is incapable of compliance. Full compliance shall be made with all rules and regulations when an associate Member School competes with a full Member School of DIAA or a comparable state association; participates in DIAA sanctioned tournaments and meets in cross country, indoor track, wrestling (except dual team tournaments), outdoor track, and golf involving the aforementioned schools; or participates in a state championship event.
- 3.2.2 Such associate Member Schools, after initial approval, shall be reviewed each year by the Board for the purpose of approving, rejecting, or modifying their application for renewal of associate member status.

## 4.0 Annual Membership Dues

- 4.1 Pursuant to 14 Del.C. §304(1), yearly dues for full member and associate Member Schools shall be as follows:
- 4.1.1 ~~\$500~~ \$600 for middle schools. If a middle school and high school are located in the same administrative unit and the combined student enrollment of grades 6th through 12th is 499 or less then the school shall pay only the high school fee and be exempt from the middle school fee.
- 4.1.2 ~~\$500 for high schools with enrollments of 200 or less.~~
- 4.1.3 ~~4.1.2~~ ~~\$750~~ \$850 for high schools with enrollments of 499 or less.
- 4.1.4 ~~4.1.3~~ ~~\$1,000~~ \$1,100 for high schools with enrollments of 999 or less.
- 4.1.5 ~~4.1.4~~ ~~\$1,250~~ \$1,350 for high schools with enrollments of 1,499 or less.
- 4.1.6 ~~4.1.5~~ ~~\$1,500~~ \$1,600 for high schools with enrollments of 1,999 or less.
- 4.1.7 ~~4.1.6~~ ~~\$1,750~~ \$1,850 for high schools with enrollments of 2,000 or more.
- 4.2 Enrollment figures shall be based on the September 30 enrollment count from the prior school year as verified by the Department.
- 4.3 Membership dues shall be paid each year by October 1st. Member Schools that have not paid dues by January 1st shall be assessed a 10% late fee. Full member and associate Member Schools which fail to comply may be subject to penalties as determined by the Board.

## 5.0 Compliance with Regulations

Member Schools shall comply with the regulations governing interscholastic athletics. Acceptance of membership shall be construed as an agreement to that effect.

## 6.0 Reporting Violations of Regulations

If a Member School violates a provision of the regulations governing interscholastic athletics the ~~Administrative Head~~ administrative head or designee shall notify the Executive Director in writing of the violation. The Executive Director may impose immediate penalties. All violations shall be reviewed by the Board which may impose additional penalties. The Executive Director or Board may impose additional penalties above the automatic penalties listed within the specific regulation violated as deemed necessary to assure proper conduct of interscholastic athletics or for repeat offenses.

## 7.0 Required Use of Approved Officials

- 7.1 Member Schools and tournament sponsors shall be required to use officials recognized and approved by DIAA for interscholastic contests. Use of non-approved officials without permission from the Executive Director shall result in the school or tournament sponsor being assessed a ~~\$400.00~~ \$100

fine per game per non-approved official. In the case of emergencies, such as an act of God, refusal by an association to work games, or a shortage of qualified officials, Member Schools which desire to use other than approved officials must obtain permission from the Executive Director.

- 7.2 If more than 1 association is approved to officiate a particular sport, a conference or, in the absence of a conference affiliation, an individual school shall determine which association shall provide the officials for its home contests.

## **8.0 School and Team Competition**

- 8.1 Sponsoring Interscholastic Teams: Interscholastic competition is defined as any athletic contest between students representing 2 or more schools. Members of school clubs who participate in non-competitive, recreational activities or compete unattached are not considered to be engaged in interscholastic competition. Students are considered to be engaged in interscholastic competition representing a school if the school does any of the following:

- 8.1.1 Partially or wholly subsidizes the activity (providing equipment, uniforms, transportation, entry fees, etc.).
- 8.1.2 Controls and administers the funds, regardless of their source, needed to conduct the activity.
- 8.1.3 Permits students to compete under the name of the school.
- 8.1.4 Publicizes or promotes the activity through announcements, bulletins, or school sponsored publications in excess of what is customarily done for "outside" organizations.
- 8.1.5 Presents or displays individual or team awards.

- 8.2 Schools may sponsor teams for interscholastic competition in a sport provided the following criteria are met:

- 8.2.1 The governing body of the participating district or nonpublic school approves participation in the sport. The ~~Administrative Head~~ administrative head shall notify the Executive Director in writing of the school's intent to sponsor a team in a new sport.
- 8.2.2 The governing body of the participating district or nonpublic school controls the funds needed to support the proposed team, regardless of their source, in the same manner as existing teams (coaches' salaries, purchase and repair of equipment, medical supervision, transportation, preparation and maintenance of practice and game facilities, awards, etc.). Requests from outside sources to make financial contributions or to donate equipment or services must be submitted in writing and must include an acknowledgment that the equipment becomes the property of the school. The contribution or donation must be approved in writing by the ~~Administrative Head~~ administrative head.
- 8.2.3 The participating schools agree to comply with all applicable DIAA rules and regulations.

### **8.3 Levels of Participation - High School**

- 8.3.1 Level 1 or developmental sport, less than 12 participating schools at the varsity level. DIAA rules and regulations shall not be in effect.
- 8.3.2 Level 2 or recognized sport, 12 or more participating schools at the varsity level.
  - 8.3.2.1 Participating schools must petition the Board for official recognition of the sport. Notwithstanding the foregoing requirement, if 10 or more participating schools offer a Unified sport at the varsity level, the schools may petition the Board for official recognition of that Unified sport.
  - 8.3.2.2 At the time of official recognition, DIAA shall provide rules publications to the participating schools, designate an approved officials' association, conduct an annual or biannual rules clinic for coaches and officials, establish a maximum game schedule, and form a committee to promote the continued development of the sport and prepare for a future state championship. All DIAA rules and regulations shall then be in effect.
- 8.3.3 Level 3 or championship ~~sport~~ sport, 16 or more participating schools at the varsity level. Upon petition by the sport committee and adoption of a tournament proposal, DIAA shall establish a state championship. Notwithstanding the foregoing requirement, DIAA may establish a state

# PROPOSED REGULATIONS

championship for Unified Sports that have a minimum of 12 participating schools at the varsity level.

- 8.3.4 Withdrawal of level 2 or level 3 status. If, for 2 consecutive years, less than the required number of schools participate in a sport, DIAA may withdraw official recognition or suspend the state tournament/meet for a period of time as determined by the Board.
- 8.4 Levels of Participation - Middle School
- 8.4.1 Level 1 or developmental sport, less than ~~seven~~ 7 participating schools. DIAA rules and regulations shall not be in effect.
- 8.4.2 Level 2 or recognized sport, ~~seven~~ 7 or more participating schools.
- 8.4.2.1 Participating schools must petition the Board for official recognition of the sport.
- 8.4.2.2 At the time of official recognition, DIAA shall provide rules publications to the participating schools, designate an approved official's association, conduct an annual or biannual rules clinic for coaches and officials, and establish a maximum game schedule. DIAA rules and regulations shall then be in effect.
- 8.4.3 Withdrawal of level 2 status: If, for 2 consecutive years, less than the required number of schools participate in a sport, DIAA may withdraw official recognition for a period of time as determined by the Board.
- 8.5 Membership on Coed Teams
- 8.5.1 If a school sponsors a boys' team and a girls' team in a particular sport, boys shall participate on the boys' team and girls shall participate on the girls' team even if the teams compete during different seasons. Sports are considered to be the same when 1 set of NFHS Rules govern both genders. If a school sponsors only a boys' team in a particular sport, girls shall be permitted to participate on the boys' team but if a school sponsors only a girls' team in a particular sport, boys shall not be permitted to participate on the girls' team. Notwithstanding the restrictions herein, a transgender student, defined as a student whose gender identity differs from the student's assigned sex at birth, ~~may be~~ is eligible to participate on a team other than their assigned sex at birth in accordance with ~~a Member School policy that meets the minimum standards designated by the Board~~ Title IX of the Education Amendments Act of 1972 20 U.S.C. §§1681- 1688 (2018) as determined by the Member School.
- 8.5.2 Coed teams at the high school level shall participate only in the boys' state championship tournament or meet.
- 8.5.3 Subsections 8.5.1 and 8.5.2 do not apply to Unified Sports teams, which are coed by design.

## 9.0 Participation in State Championship Tournaments

- 9.1 Member Schools must meet all the criteria in subsections 9.1.1 through 9.1.7 to be eligible to participate in the DIAA state championship tournament.
- 9.1.1 The Member School shall be in compliance with all regulations governing interscholastic athletics.
- 9.1.2 The Member School shall be a DIAA Member School in good standing, including paying all fees.
- 9.1.3 The Member School shall sponsor a team in the given sport.
- 9.1.4 The Member School shall be in compliance with and meet all requirements of the tournament manual for that sport.
- 9.1.5 The Member School shall sponsor 1 varsity sport per season. Notwithstanding the foregoing criterion, co-ed members schools shall sponsor at least 1 varsity sport per gender per season.
- 9.1.6 The Member School shall sponsor a minimum of 2 grades, 1 of which must be the eleventh grade.
- 9.1.7 The Member School shall have been a DIAA Member School for a minimum of 2 full school years.

## 10.0 Requirements for Administrative Heads of DIAA Member Schools

- 10.1 The ~~Administrative Head~~ administrative head shall be responsible for the conduct of the school's interscholastic athletic program in which representative teams participate, including the organization and scheduling of individuals and teams. The ~~Administrative Head~~ administrative head may delegate

- the ~~Administrative Head's~~ administrative head's responsibility under subsection 10.1 to a subordinate but such delegation will not negate the ~~Administrative Head's~~ administrative head's responsibility for a violation of the regulations governing interscholastic athletics by the ~~Administrative Head of School's~~ administrative head of school's school.
- 10.2 The ~~Administrative Head~~ administrative head shall exercise general control over all of the interscholastic athletic matters of the ~~Administrative Head's~~ administrative head's school, including the requirements in subsections 10.2.1 through 10.2.12.
- 10.2.1 The ~~Administrative Head~~ administrative head shall sanction all interscholastic athletic contests in which the ~~Administrative Head's~~ administrative head's school participates.
- 10.2.2 The ~~Administrative Head~~ administrative head shall exclude from participation in interscholastic athletics any student athlete because of improper conduct or ineligibility.
- 10.2.3 The ~~Administrative Head~~ administrative head shall exclude from participation in interscholastic athletics any student athlete whose physical health would be jeopardized by such participation because of illness or injury suffered until such time as the student athlete is declared physically fit by the school or attending physician.
- 10.2.4 The ~~Administrative Head~~ administrative head shall protect the well-being of all visitors and officials attending interscholastic athletic contests conducted by the ~~Administrative Head's~~ administrative head's school. ~~Administrative Heads~~ heads shall provide for adequate security at the school and, in the absence of such provisions, penalties may be imposed by the Board. When a contest is conducted at a neutral site, the ~~Administrative Heads~~ administrative heads of the participating schools shall be held jointly responsible for the protection and well-being of all visitors and officials. In the absence of adequate security, penalties may be imposed upon either or both of the schools.
- 10.2.5 The ~~Administrative Head~~ administrative head shall protect the well-being of the school's participants by providing them with safe and suitable uniforms and equipment and conducting ~~Practices~~ practices and contests in a manner which minimizes risk to the health and safety of student athletes.
- 10.2.6 The ~~Administrative Head~~ administrative head shall ensure that all required contracts for athletic contests in which the school participates are in writing and bear the proper signatures.
- 10.2.7 The ~~Administrative Head~~ administrative head shall designate a staff member of the school as the faculty manager for the teams representing the school or to serve as the faculty manager. If no such designation is made, the coach shall serve as the faculty manager.
- 10.2.8 The ~~Administrative Head~~ administrative head shall ensure that an authorized representative accompanies the school's teams to all contests.
- 10.2.9 The ~~Administrative Head~~ administrative head shall certify in writing the eligibility of the ~~Administrative Head's~~ administrative head's school's contestants in accordance with the regulations of the Department.
- 10.2.10 The ~~Administrative Head~~ administrative head shall exercise such other powers regarding the interscholastic athletic program of the school as are consistent with the needs of the school and with the provisions and spirit of the regulations of the Department.
- 10.2.11 The ~~Administrative Head~~ administrative head shall urge all students competing on the school's teams to obtain medical accident insurance which covers athletic participation.
- 10.2.12 The ~~Administrative Head~~ administrative head shall notify DIAA of any official delegation of authority.
-

---

# PROPOSED REGULATIONS

---

## DEPARTMENT OF LABOR DIVISION OF EMPLOYMENT AND TRAINING

Statutory Authority: 19 Delaware Code, Section 1908(a) (19 **Del.C.** §1908(a))

### PUBLIC NOTICE

#### **1103 Worker Adjustment and Retraining Notification (WARN) Regulations**

In compliance with the State of Delaware's Administrative Procedures Act (Title 29, Chapter 101 of the Delaware Code) and under the authority of 19 **Del.C.** §1908(a), the Delaware Department of Labor, through its Division of Employment and Training (the "Division"), proposes new regulations at 19 **DE Admin. Code** 1103 to carry out the Delaware Worker Adjustment and Retraining Notification Act, 19 **Del.C.** §§1901-11 (the "WARN Act").

The proposed regulations are not substantially likely to impose additional costs or burdens upon individuals (i.e., natural persons not in their capacities as officers, directors, or employees of an organization other than a small business) or small businesses (i.e., certain enterprises or workshops that employ fewer than 50 people, have gross receipts less than \$10,000,000, and are not owned, operated, or controlled by another business enterprise) because the WARN Act applies to employers who employ 100 or more employees. See 19 **Del.C.** §1903(a)(4).

In accordance with 29 **Del.C.** §10116, any person who wants to submit written suggestions, compilations of data, briefs, or other written materials concerning the proposed regulations should direct them to the following address:

Delaware Department of Labor  
Division of Employment and Training  
ATTN: Kiran Wiker  
4425 N. Market St., 3rd Fl.  
Wilmington, DE 19802

Comments may also be submitted via email to [kiran.wiker@delaware.gov](mailto:kiran.wiker@delaware.gov). Any written submission in response to this notice and relevant to the proposed rules must be received by the above contact at the Delaware Department of Labor no later than 4:00 p.m. EDT on September 3, 2024.

The action concerning determination of whether to adopt the proposed regulations will be based upon the Division's consideration of the written comments and any other written materials filed by the public.

#### **Statutory Authority:** 19 **Del.C.** §1908(a)

Title 19, §1908(a) of the Delaware Code empowers the Delaware Department of Labor to prescribe rules and regulations necessary to carry out the WARN Act.

#### **\*Please Note:**

(1) The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 **Del.C.** Ch. 104, is available at:

<https://regulations.delaware.gov/register/august2024/proposed/28 DE Reg 92RFA 08-01-24.pdf>

(2) Due to the size of the proposed regulation, it is not being published here. A copy of the regulation is available at:

<https://regulations.delaware.gov/register/august2024/proposed/28 DE Reg 92 08-01-24.htm>

---

---

## DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

### DIVISION OF AIR QUALITY

Statutory Authority: 7 Delaware Code, Section 6010(a) and (c) (7 **Del.C.** §6010(a) & (c))  
7 **DE Admin. Code** 1104

#### PUBLIC NOTICE

**SAN # 2023-12**  
**DOCKET # 2023-R-A-0024**

#### 1104 Particulate Emissions from Fuel Burning Equipment

1. TITLE OF THE REGULATIONS:

7 **DE Admin. Code** 1104 "Particulate Emissions from Fuel Burning Equipment".

2. BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUES:

The Division of Air Quality of the Department of Natural Resources and Environmental Control (DNREC) is proposing to amend 7 **DE Admin. Code** 1104, Section 1.0 "General Provisions" and Section 2.0 "Emission Limits", regarding particulate emissions limits from fuel burning equipment during the startup, shutdown and malfunction of equipment.

On June 12, 2015, the Environmental Protection Agency (EPA) identified the State Implementation Plans (SIP) of 36 states as inadequate because they allegedly allowed unregulated excess emissions (80 FR 33840). This EPA action is known as the "Startup, Shutdown, and Malfunction (SSM) SIP Call". 7 **DE Admin. Code** 1104 "Particulate Emissions from Fuel Burning Equipment" was cited in the SSM SIP Call because the EPA believed the regulation did not appropriately restrict emissions during startup or shutdown events. On October 23, 2023 EPA issued a final rule disapproving Delaware's November 26, 2016 SSM SIP Call submittal for Regulation 1104 (88 FR 72688). Delaware is proposing to amend Regulation 1104 in response to EPA's disapproval, to comply with the 2015 SSM SIP Call.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

None.

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

7 **Del.C.** Ch. 60, Section 6010 (a) and (c).

5. OTHER REGULATIONS THAT MAY BE AFFECTED BY THE PROPOSAL:

None.

6. NOTICE OF PUBLIC COMMENT:

A virtual public hearing (Docket # 2023-R-A-0024) will be held on Tuesday, August 27, 2024, beginning at 6 p.m. The web link to the virtual hearing can be accessed through the DNREC Public Hearings site at <https://de.gov/dnrehearings>. If prompted for a password, please use: 478566. To access the audio-only portion of the virtual hearing, dial 1-646-931-3860 and enter the Meeting ID 837 6527 6725. Closed captioning in over 20 languages, including English and Spanish, is available to attendees via the Zoom platform utilized for all DNREC Public Hearings.

Those wishing to offer verbal comments during DNREC virtual public hearings must pre-register no later than noon on the date of the virtual hearing at <https://de.gov/dnrecomments> or by telephone at 302-739-9001.

The proposed amendments may be inspected online starting August 1, 2024 at [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml), or in-person, by appointment only, by contacting Kelsey Pangman by phone at 302-

323-4542 or by email at [Kelsey.Pangman@delaware.gov](mailto:Kelsey.Pangman@delaware.gov).

The Department will accept public comment through the close of business on Wednesday, September 11, 2024. Comments will be accepted in written form via email to [DNRECHearingComments@delaware.gov](mailto:DNRECHearingComments@delaware.gov), or by using the online form at <https://de.gov/dnrecomments>, or by U.S. mail to the following address:

Theresa Smith, Hearing Officer  
DNREC - Office of the Secretary  
89 Kings Highway, Dover, DE 19901

7. PREPARED BY:

Kelsey Pangman  
Division of Air Quality-DNREC  
715 Grantham Ln, New Castle, DE 19702  
Phone: (302)323-4542; email: [Kelsey.Pangman@delaware.gov](mailto:Kelsey.Pangman@delaware.gov)

**\*Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del. C. Ch. 104, is available at:**

<https://regulations.delaware.gov/register/august2024/proposed/28 DE Reg 93RFA 08-01-24.pdf>

### 1104 Particulate Emissions from Fuel Burning Equipment

01/11/2017

#### 1.0 General Provisions

- 1.1 The emission of particulate matter from fuel burning equipment shall be controlled to a limit that shall meet the ambient air quality requirements.
- 1.2 The provisions of this Regulation shall not apply where the heat input capacity of the equipment is less than 1,000,000 BTU per hour.
- 1.3 The provisions of this regulation shall not apply to equipment or operations whose emissions are controlled by 7 **DE Admin. Code** 1105 or 7 **DE Admin. Code** 1107 or 7 **DE Admin. Code** 1129.
- 1.4 For purposes of this Regulation, the heat input value shall be based upon the manufacturer's guaranteed maximum input or the Department's calculated input capacity.
- 1.5 ~~The provisions of subsection 2.1 of this Regulation shall not apply to the start up and shutdown of equipment which operates continuously or in an extended steady state when emissions from such equipment during start up and shutdown are governed by an operation permit issued pursuant to the provisions of Section 2.0 of 7 DE Admin. Code 1102.~~

01/11/2017

#### 2.0 Emission Limits

- 2.1 No person shall cause or allow the emission of particulate matter in excess of 0.3 pound per million BTU heat input, maximum two-hour average, from any fuel burning equipment.
  - 2.2 ~~No person shall cause or allow the emission of particulate matter in excess of 0.3 pound per million BTU heat input, maximum 30-day rolling average, from any fuel burning equipment.~~
-



## DIVISION OF AIR QUALITY

Statutory Authority: 7 Delaware Code, Section 6010(a) and (c) (7 **Del.C.** §6010(a) & (c))  
7 **DE Admin. Code** 1105

### PUBLIC NOTICE

**SAN # 2023-13**  
**DOCKET # 2023-R-A-0025**

### 1105 Particulate Emissions from Industrial Process Operations

1. TITLE OF THE REGULATIONS:

7 **DE Admin. Code** 1105 "Particulate Emissions from Industrial Process Operations".

2. BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUES:

The Division of Air Quality of the Department of Natural Resources and Environmental Control (DNREC) is proposing to amend 7 **DE Admin. Code** 1105, Sections 1.0 "General Provisions" and Section 2.0 "General Restrictions", regarding limits to particulate emissions from industrial process during the startup, shutdown and malfunction of equipment.

On June 12, 2015 the Environmental Protection Agency (EPA) identified the State Implementation Plans (SIP) of 36 states as inadequate because they allegedly allowed unregulated excess emissions (80 FR 33840). This EPA action is known as the "Startup, Shutdown, and Malfunction (SSM) SIP Call". 7 **DE Admin. Code** 1105 "Particulate Emissions from Industrial Process Operations" was cited in the SSM SIP Call because the EPA believed the regulation did not appropriately restrict emissions during startup or shutdown events. On October 23, 2023 EPA issued a final rule disapproving Delaware's November 26, 2016 SSM SIP Call submittal for Regulation 1105 (88 FR 72688). Delaware is proposing to amend Regulation 1105 in response to EPA's disapproval, to comply with the 2015 SSM SIP Call.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

None.

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

7 **Del.C.** Ch. 60, Section 6010 (a) and (c).

5. OTHER REGULATIONS THAT MAY BE AFFECTED BY THE PROPOSAL:

None.

6. NOTICE OF PUBLIC COMMENT:

A virtual public hearing (Docket # 2023-R-A-0025) will be held on Tuesday, August 27, 2024, beginning at 6 p.m. The web link to the virtual hearing can be accessed through the DNREC Public Hearings site at <https://de.gov/dnrechearings>. If prompted for a password, please use: 478566. To access the audio-only portion of the virtual hearing, dial 1-646-931-3860 and enter the Meeting ID 837 6527 6725. Closed captioning in over 20 languages, including English and Spanish, is available to attendees via the Zoom platform utilized for all DNREC Public Hearings.

Those wishing to offer verbal comments during DNREC virtual public hearings must pre-register no later than noon on the date of the virtual hearing at <https://de.gov/dnreccomments> or by telephone at 302-739-9001.

The proposed amendments may be inspected online starting August 1, 2024 at [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml), or in-person, by appointment only, by contacting Kelsey Pangman by phone at 302-323-4542 or by email at [Kelsey.Pangman@delaware.gov](mailto:Kelsey.Pangman@delaware.gov).

# PROPOSED REGULATIONS

The Department will accept public comment through the close of business on Wednesday, September 11, 2024. Comments will be accepted in written form via email to [DNRECHearingComments@delaware.gov](mailto:DNRECHearingComments@delaware.gov), or by using the online form at <https://de.gov/dnrecomments>, or by U.S. mail to the following address:

Theresa Smith, Hearing Officer  
DNREC - Office of the Secretary  
89 Kings Highway, Dover, DE 19901

## 7. PREPARED BY:

Kelsey Pangman  
Division of Air Quality-DNREC  
715 Grantham Ln, New Castle, DE 19702  
Phone: (302)323-4542; email: [Kelsey.Pangman@delaware.gov](mailto:Kelsey.Pangman@delaware.gov)

**\*Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del. C. Ch. 104, is available at:**

<https://regulations.delaware.gov/register/august2024/proposed/28 DE Reg 95RFA 08-01-24.pdf>

## 1105 Particulate Emissions from Industrial Process Operations

01/11/2017

### 1.0 General Provisions

- 1.1 The emission of particulate matter from industrial process equipment shall be controlled to a limit that shall meet the ambient air quality requirements.
- 1.2 The provisions of this Regulation shall not apply to indirect heat exchangers which shall be controlled by 7 **DE Admin. Code** 1104.
- 1.3 For all tables in this Regulation, unless otherwise indicated, the emission limitation for a process weight rate between any two consecutive process weight rates shall be determined by linear interpolation.
- 1.4 For all tables in this Regulation, unless otherwise indicated, the emission limitation for process weight rate above the maximum process weight rate or below the minimum process weight rate shall be determined by linear extrapolation.
- 1.5 For purposes of this Regulation, the allowable mass emission rate of particulate matter shall be determined for individual units of equipment.
- 1.6 For operations involving similar units which are manifolded to a common stack, control techniques shall be such that no unit is emitting particulate matter at a rate which is in excess of the mass emission rate allowed by this Regulation.
- ~~1.7 The provisions of subsection 2.1 of this Regulation shall not apply to the start up and shutdown of equipment which operates continuously or in an extended steady state when emissions from such equipment during start up and shutdown are governed by an operation permit issued pursuant to the provisions of Section 2.0 of 7 **DE Admin. Code** 1102.~~

01/11/2017

### 2.0 General Restrictions

- ~~2.1 No person shall cause or allow particulate emissions into the atmosphere from any source not provided for in subsequent sections of this Regulation in excess of 0.2 grains per standard cubic foot.~~
- ~~2.2 No person shall cause or allow particulate emissions into the atmosphere from any source not provided for in subsequent sections of this Regulation in excess of 0.2 grains per standard cubic foot on a 30-day rolling average basis.~~

---

02/01/81

**3.0 Restrictions on Hot Mix Asphalt Batching Operations**

- 3.1 No person shall cause or allow particulate emissions from a hot mix asphalt batching plant into the atmosphere in excess of the quantity as listed in Table 3-1 of this regulation.

**Table 3-1  
Allowable Mass Emission Rate From Hot Mix Asphalt Batching Operation**

<b>Process Weight Rate (Pounds Per Hour)</b>	<b>Stack Emission Rate (Pounds Per Hour)</b>
10,000	10
20,000	16
30,000	22
40,000	28
50,000	31
100,000	33
200,000	37
300,000	40
400,000	43
500,000	47
600,000	50

01/11/2017

**4.0 Restrictions on Secondary Metal Operations**

- 4.1 No person shall cause or allow particulate emissions from secondary metal operations into the atmosphere in excess of the quantity as listed in Table 4-1 of this regulation.

**Table 4-1  
Allowable Mass Emission Rate From Secondary Metal Operations**

<b>Process Weight Rate (Pounds per Hour)</b>	<b>Stack Emission Rate (Pounds per Hour)</b>
1,000	0.75
2,000	1.50
3,000	2.25
4,000	3.00
5,000	3.75
6,000	4.50
7,000	5.25
8,000	6.00
9,000	6.75
10,000	7.50
12,000	9.00
16,000	12.00

# PROPOSED REGULATIONS

18,000	13.50
20,000	15.00
30,000	22.50
40,000	30.00
50,000	37.50

- 4.2 The provisions of subsection 4.1 of this regulation shall not apply to electric arc furnaces, and their associated dust-handling equipment, with a capacity of more than 100 tons.

01/11/2017

## 5.0 Restrictions on Petroleum Refining Operations

5.1 No person shall cause or allow particulate emissions from catalytic cracking operations into the atmosphere in excess of the quantities as indicated in Table 5-1 of this regulation. For the purpose of interpolation and extrapolation calculations, "Coke Burn-Off Rate" shall be construed to be equivalent to "Process Weight Rate."

**Table 5-1**  
**Allowable Mass Emission Rate From Catalytic Cracking Operations**

<b>Coke Burn-Off Rate (Pounds per Hour)</b>	<b>Mass Emission Rate (Pounds per Hour)</b>
7,000	50
14,000	100
21,000	150
28,000	200
42,000	300
56,000	400
70,000	500

~~For the purpose of interpolation and extrapolation calculations, "Coke Burn-Off Rate" shall be construed to be equivalent to "Process Weight Rate."~~

- 5.2 No person shall cause or allow particulate emissions from fluid coking operations into the atmosphere in excess of the quantities as indicated in Table 5-2 of this regulation.

**Table 5-2**  
**Allowable Mass Emission Rate From Fluid Coking Operations**

<b>Process Weight Rate (Barrels per Day of Fresh Feed)</b>	<b>Mass Emission Rate (Pounds per Hour)</b>
5,000	15
10,000	30
15,000	50
20,000	80
30,000	100

40,000	125
50,000	150

02/01/1984

**6.0 Restrictions on Prill Tower Operation**

- 6.1 No person shall cause or allow particulate emissions from prilling operations into the atmosphere in excess of the quantities as indicated in Table 6-1 of this regulation.

**Table 6-1****Allowable Mass Emissions Rate From Prilling Operations**

<b>Process Weight Rate (Pounds per Hour)</b>	<b>Mass Emission Rate (Pounds per Hour)</b>
5,000	25
10,000	50
15,000	75
20,000	100
25,000	125
50,000	250
75,000	375
100,000	500

02/01/1984

**7.0 Control of Potentially Hazardous Particulate Matter**

Persons responsible for a source operation from which potentially hazardous particulate matter may be emitted such as, but not limited to, lead, arsenic, beryllium, silica, asbestos, and other such materials shall list such contaminants and their exit concentrations in a written report to the Department. The Department shall assign emission limits on an individual basis.

---

**DIVISION OF AIR QUALITY**

Statutory Authority: 7 Delaware Code, Section 6010(a) and (c) (7 **Del.C.** §6010(a) & (c))  
7 **DE Admin. Code** 1109

**PUBLIC NOTICE**

**SAN # 2023-14**  
**DOCKET # 2023-R-A-0026**

**1109 Emissions of Sulfur Compounds From Industrial Operations**

1. TITLE OF THE REGULATIONS:  
7 **DE Admin. Code** 1109 "Emissions of Sulfur Compounds from Industrial Operations".
2. BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUES:  
The Division of Air Quality of the Department of Natural Resources and Environmental Control (DNREC) is

proposing to amend 7 **DE Admin. Code** 1109, Section 1.0 "General Provisions", regarding emissions limits of sulfur compounds from industrial operations during startup, shutdown, and malfunction of equipment.

On June 12, 2015 the Environmental Protection Agency (EPA) identified the State Implementation Plans (SIP) of 36 states as inadequate because they allegedly allowed unregulated excess emissions (80 FR 33840). This EPA action is known as the "Startup, Shutdown, and Malfunction (SSM) SIP Call". 7 **DE Admin. Code** 1109 "Emissions of Sulfur Compounds from Industrial Operations" was cited in the SSM SIP Call because the EPA believed the regulation did not appropriately restrict emissions during startup or shutdown events. On October 23, 2023 EPA issued a final rule disapproving Delaware's November 26, 2016 SSM SIP Call submittal for Regulation 1109 (88 FR 72688). Delaware is proposing to amend Regulation 1109 in response to EPA's disapproval, to comply with the 2015 SSM SIP Call.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

None.

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

7 **Del.C.** Ch. 60, Section 6010 (a) and (c).

5. OTHER REGULATIONS THAT MAY BE AFFECTED BY THE PROPOSAL:

None.

6. NOTICE OF PUBLIC COMMENT:

A virtual public hearing (Docket # 2023-R-A-0026) will be held on Tuesday, August 27, 2024, beginning at 6 p.m. The web link to the virtual hearing can be accessed through the DNREC Public Hearings site at <https://de.gov/dnrehearings>. If prompted for a password, please use: 478566. To access the audio-only portion of the virtual hearing, dial 1-646-931-3860 and enter the Meeting ID 837 6527 6725. Closed captioning in over 20 languages, including English and Spanish, is available to attendees via Zoom platform utilized for all DNREC Public Hearings.

Those wishing to offer verbal comments during DNREC virtual public hearings must pre-register no later than noon on the date of the virtual hearing at <https://de.gov/dnrecomments> or by telephone at 302-739-9001.

The proposed amendment may be inspected online starting August 1, 2024 at [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml), or in-person, by appointment only, by contacting Kelsey Pangman by phone at 302-323-4542 or by email at [Kelsey.Pangman@delaware.gov](mailto:Kelsey.Pangman@delaware.gov).

The Department will accept public comment through the close of business on Wednesday, September 11, 2024. Comments will be accepted in written form via email to [DNRECHearingComments@delaware.gov](mailto:DNRECHearingComments@delaware.gov), or by using the online form at <https://de.gov/dnrecomments>, or by U.S. mail to the following address:

Theresa Smith, Hearing Officer  
DNREC - Office of the Secretary  
89 Kings Highway, Dover, DE 19901

7. PREPARED BY:

Kelsey Pangman  
Division of Air Quality-DNREC  
715 Grantham Ln, New Castle, DE 19702  
Phone: (302)323-4542; email: [Kelsey.Pangman@delaware.gov](mailto:Kelsey.Pangman@delaware.gov)

**\*Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del. C. Ch. 104, is available at:**

<https://regulations.delaware.gov/register/august2024/proposed/28 DE Reg 99RFA 08-01-24.pdf>

## 1109 Emissions of Sulfur Compounds From Industrial Operations

05/09/1985

### 1.0 General Provisions

- 1.1 The emission of sulfur dioxide from process operations shall be controlled to a limit that shall meet the ambient air quality requirements.
- 1.2 For all tables in this regulation, unless otherwise indicated, the emission limitation for a production rate between any two consecutive production rates shall be determined by linear interpolation.
- 1.3 For all tables in this regulation, unless otherwise indicated, the emission limitation for a production rate above the maximum production rate or below the minimum production rate shall be determined by linear extrapolation.
- 1.4 ~~The provisions of this regulation shall not apply to the start up and shutdown of equipment which operates continuously or in an extended steady state when emissions from such equipment during start up and shutdown are governed by an operation permit issued pursuant to the provisions of 2.0 of 7 DE Admin. Code 1102.~~

02/01/1981

### 2.0 Restrictions on Sulfuric Acid Manufacturing Operations

- 2.1 No person shall cause or allow the emission of sulfur dioxide in the tail gases from any existing sulfuric acid manufacturing operation to exceed either a concentration of 1,000 parts per million by volume or a mass emission rate as specified in Table 2-1 of this regulation.

**TABLE 2-1  
ALLOWABLE MASS EMISSION RATE OF SULFUR DIOXIDE FROM  
EXISTING SULFURIC ACID MANUFACTURING OPERATIONS**

Production Rate (Tons per Day)	Mass Emission Rate (Pounds per Hour)
100	75
300	210
500	345
700	480
900	615
1,100	750
1,300	885
1,500	1020

- 2.2 No person shall cause to be discharged into the atmosphere from any existing sulfuric acid plant any gases which contain acid mist, expressed as H<sub>2</sub>SO<sub>4</sub>, in excess of 0.25 g per kg of acid produced (0.5 lb per ton) the product being expressed as 100% H<sub>2</sub>SO<sub>4</sub>.
- 2.3 The provisions of 2.2 of this regulation shall not apply to acid plants used as sulfur dioxide control systems, to chamber process plants, to acid concentrators or to petroleum storage and transfer facilities.
- 2.4 The reference methods used to determine compliance with standards prescribed in 2.2 of this Regulation shall be those set forth in 1.5 of 7 DE Admin. Code 1120.

02/01/1981

### 3.0 Restriction on Sulfur Recovery Operations

- 3.1 No person shall cause or allow the emission of sulfur dioxide in the tail gases from existing sulfur recovery operations to exceed either a concentration of 2,000 parts per million by volume or a mass emission rate as specified in Table 3-1 of this regulation.

**TABLE 3-1  
ALLOWABLE MASS EMISSION RATE OF SULFUR DIOXIDE  
FROM SULFUR RECOVERY OPERATIONS**

Production Rate (Tons per Day)	Mass Emission Rate (Pounds per Hour)
50	425
100	550
200	800
300	1,050
400	1,300
500	1,550
600	1,800
700	2,050
800	2,300
900	2,550
1,000	2,300

- 3.2 Except as provided in 11.0 of 7 **DE Admin. Code** 1120, NEW SOURCE PERFORMANCE STANDARDS, no person shall cause or allow the emission of sulfur dioxide in the tail gases from new sulfur recovery operations to exceed either a concentration of 2,000 parts per million by volume or a mass emission rate as specified in Table 3-1 of this regulation.

02/01/1984

### 4.0 Stack Height Requirements

Minimum stack heights for new sources of sulfur dioxide will be determined by the Department on an individual basis. Such stack height requirements will be based on considerations such as, but not limited to, existing ambient levels of sulfur dioxide, local sources, atmospheric dispersion calculations, land use, and population density. The provisions of 7 **DE Admin. Code** 1127 shall apply to these calculations.



## DIVISION OF AIR QUALITY

Statutory Authority: 7 Delaware Code, Section 6010(a) and (c) (7 **Del.C.** §6010(a) & (c))  
7 **DE Admin. Code** 1114

### PUBLIC NOTICE

**SAN # 2023-15**  
**DOCKET # 2023-R-A-0027**

### 1114 Visible Emissions

1. TITLE OF THE REGULATIONS:

7 **DE Admin. Code** 1114 "Visible Emissions".

2. BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUES:

The Division of Air Quality of the Department of Natural Resources and Environmental Control (DNREC) is proposing to amend 7 **DE Admin. Code** 1114, Section 1.0 "General Provisions" and Section 2.0 "Requirements", regarding opacity limits during the startup, shutdown and malfunction of equipment.

On June 12, 2015 the Environmental Protection Agency (EPA) identified the State Implementation Plans (SIP) of 36 states as inadequate because they allegedly allowed unregulated excess emissions (80 FR 33840). This EPA action is known as the "Startup, Shutdown, and Malfunction (SSM) SIP Call". 7 **DE Admin. Code** 1114 "Visible Emissions" was cited in the SSM SIP Call because the EPA believed the regulation did not appropriately restrict emissions during start-up or shutdown events. On October 23, 2023 EPA issued a final rule disapproving Delaware's November 26, 2016 SSM SIP Call submittal for Regulation 1114 (88 FR 72688). Delaware is proposing to amend Regulation 1114 in response to EPA's disapproval, to comply with the 2015 SSM SIP Call.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

None.

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

7 **Del.C.** Ch. 60, Section 6010 (a) and (c).

5. OTHER REGULATIONS THAT MAY BE AFFECTED BY THE PROPOSAL:

None.

6. NOTICE OF PUBLIC COMMENT:

A virtual public hearing (Docket # 2023-R-A-0027) will be held on Tuesday, August 27, 2024, beginning at 6 p.m. The web link to the virtual hearing can be accessed through the DNREC Public Hearings site at <https://de.gov/dnrechearings>. If prompted for a password, please use: 478566. To access the audio-only portion of the virtual hearing, dial 1-646-931-3860 and enter the Meeting ID 837 6527 6725. Closed captioning in over 20 languages, including English and Spanish, is available to attendees via the Zoom platform utilized for all DNREC Public Hearings.

Those wishing to offer verbal comments during DNREC virtual public hearings must pre-register no later than noon on the date of the virtual hearing at <https://de.gov/dnreccomments> or by telephone at 302-739-9001.

The proposed amendments may be inspected online starting August 1, 2024 at [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml), or in-person, by appointment only, by contacting Kelsey Pangman by phone at 302-323-4542 or by email at [Kelsey.Pangman@delaware.gov](mailto:Kelsey.Pangman@delaware.gov).

The Department will accept public comment through the close of business on Wednesday, September 11, 2024.

Comments will be accepted in written form via email to [DNRECHearingComments@delaware.gov](mailto:DNRECHearingComments@delaware.gov), or by using the online form at <https://de.gov/dnrecomments>, or by U.S. mail to the following address:

Theresa Smith, Hearing Officer  
DNREC - Office of the Secretary  
89 Kings Highway, Dover, DE 19901

7. PREPARED BY:

Kelsey Pangman

Division of Air Quality-DNREC

715 Grantham Ln, New Castle, DE 19702

Phone: (302)323-4542; email: [Kelsey.Pangman@delaware.gov](mailto:Kelsey.Pangman@delaware.gov)

**\*Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del. C. Ch. 104, is available at:**

<https://regulations.delaware.gov/register/august2024/proposed/28 DE Reg 103RFA 08-01-24.pdf>

### 1114 Visible Emissions

~~41/11/2013~~

#### 1.0 General Provisions

- 1.1 The purpose of this regulation is to control the emissions of visible air contaminants from all stationary sources.
- 1.2 Measurements of air contaminant visibility shall be in accordance with accepted practices of Ringelmann values or opacity percentages.
- ~~1.3 The provisions of this regulation shall not apply to the start-up and shutdown of equipment which operates continuously or in an extended steady state when emissions from such equipment during start-up and shutdown are governed by an operation permit issued pursuant to the provisions of 2.0 of 7 DE Admin. Code 1102.~~

#### 2.0 Requirements

- 2.1 ~~No~~ Except as outlined in 2.2, no person shall cause or allow the emission of visible air contaminants or smoke from a stationary or mobile source, the shade or appearance of which is greater than 20% opacity for an aggregate of more than three minutes in any one hour or more than 15 minutes in any 24 hour period. For guideline purposes only, Shade Number 1 of the Ringelmann Smoke Chart coincides with the regulatory limit of 20% opacity, when observing black smoke.
- 2.2 During the start-up and shutdown of equipment, no person shall cause or allow the emission of visible air contaminants or smoke from a stationary or mobile source, the shade or appearance of which is greater than 40% opacity for more than 6 consecutive minutes in any 1 hour period.

~~07/17/1984~~

#### 3.0 Alternate Opacity Requirements

- 3.1 Whenever the Secretary determines that a source complies with an applicable mass emission standard and demonstrates that the opacity of the complying emissions is more restrictive than the requirements of 2.0 of this regulation, the Secretary will make an appropriate adjustment to the opacity standard for the affected source.
- 3.2 Whenever an owner or operator can establish compliance with an applicable mass emission standard and fails to comply with 2.0 of this regulation, the owner or operator may petition the Secretary setting forth the results of the emission testing or evaluation and request the Secretary to make an appropriate adjustment to the opacity standard for the affected source.

- 3.3 The Secretary may grant such a petition as outlined in 3.2 of this regulation upon a demonstration by the owner or operator that the affected source and associated air pollution control equipment was operated and maintained during the mass emission test in a manner to minimize the opacity of emissions during emission testing or evaluation that the mass emissions testing was performed in accordance with procedures approved by the Department; and that the affected source and associated air pollution control equipment is incapable of continuously meeting applicable opacity standards as set forth in 2.0 of this regulation.
- 3.4 The Secretary may establish an opacity standard for the affected source at a level at which the source will be able to meet the adjusted opacity standard at all times during which the source is meeting the applicable mass emission rate standard. The Secretary will make the adjusted opacity standard a part of the operating permit in the form of an operating condition.
- 3.5 Any action by the Secretary pursuant to the provisions of 3.0 of this regulation shall be incorporated in the State Implementation Plan.

07/17/1984

#### **4.0 Compliance with Opacity Standards**

For purposes of this regulation, compliance with opacity standards shall be in accordance with 1.5.3 of 7 DE Admin. Code 1120.

---

**DEPARTMENT OF STATE**  
**DIVISION OF PROFESSIONAL REGULATION**

**Board of Charitable Gaming**

Statutory Authority: 28 Delaware Code, Section 1507 (28 Del.C. §1507)  
10 DE Admin. Code 103

**PUBLIC NOTICE**

**103 Regulations Governing Charitable Gaming Other Than Raffles**

Pursuant to 28 Del.C. §1507, the Delaware Board of Charitable Gaming ("Board") has proposed revisions to its rules and regulations. The purpose of the proposed amendments is to achieve the Board's primary goal, articulated in 28 Del.C. §1505(a) to protect the public through the regulation of activities which involve charitable gaming.

Amendments are proposed to Section 1.0 to create definitions applicable to the other proposed amendments.

Amendments are proposed to add new subsections 6.4 and 11.2 for the purpose of establishing rules and regulations for a new type of game, referred to as "Queen of Hearts" with a progressive jackpot. This game would be available to qualified organizations through an annual license, subject to requirements set forth in the proposed amendments.

Amendments are proposed to subsection 8.1 to allow an increase in the number of permissible monthly charitable gaming functions for any qualified organization from 6 to 10.

Amendments are proposed to Sections 11.0 and 12.0 for the purpose of creating a requirement that prizes for games featuring progressive jackpots to be protected by an escrow account for cash prizes and an attestation from the sponsoring organization for non-cash prizes.

Additional revisions reflect technical and style changes consistent with the *Delaware Administrative Code Drafting and Style Manual*.

The Board will hold a public hearing on August 28, 2024, at 10:00 a.m. in conference room B on the second floor of

# PROPOSED REGULATIONS

the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Charitable Gaming, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address or to [Michelle.Loper@delaware.gov](mailto:Michelle.Loper@delaware.gov).

In accordance with 29 **Del.C.** §10118(a), the final date to receive written comments will be September 12, 2024. The Board will deliberate on all the public comments at its regularly scheduled meeting thereafter.

**\*Please Note:**

(1) The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 **Del.C. Ch. 104**, is available at:

<https://regulations.delaware.gov/register/august2024/proposed/28 DE Reg 105RFA 08-01-24.pdf>

(2) Due to the size of the proposed regulation, it is not being published here. A copy of the regulation is available at:

<https://regulations.delaware.gov/register/august2024/proposed/28 DE Reg 105 08-01-24.htm>

---

## DIVISION OF PROFESSIONAL REGULATION

### Board of Medical Licensure and Discipline

Statutory Authority: 24 Delaware Code, Sections 1713(a)(12) and 1770A (24 **Del.C.**

§§1713(a)(12) & 1770A)

24 **DE Admin. Code** 1700

#### PUBLIC NOTICE

#### 1700 Board of Medical Licensure and Discipline

The Delaware Board of Medical Licensure and Discipline, pursuant to 24 **Del.C.** §1713(a)(12) and §1770A, proposes to amend its regulations to clarify and implement 24 **Del.C.** §1790(a)(2), which authorizes a physician assistant, with a collaborative agreement with an appropriately-trained physician, to terminate, assist in the termination of, or attempt the termination of a human pregnancy before viability. Further, the Board withdraws proposed regulation revisions as published in the August 1, 2023 *Register*, 27 **DE Reg.** 89.

The Regulatory Council for Physician Assistants of the Board of Medical Licensure and Discipline will hold a public hearing on the proposed regulation change on September 10, 1:00 p.m., virtually and in the Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Alison Warren, Executive Director of the Delaware Board of Medical Licensure and Discipline, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904 or at [alison.warren@delaware.gov](mailto:alison.warren@delaware.gov). Written comments will be accepted until September 25, 2024 pursuant to 29 **Del.C.** §10118(a).

**\*Please Note: The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del. C. Ch. 104, is available at:**

<https://regulations.delaware.gov/register/august2024/proposed/28 DE Reg 106RFA 08-01-24.pdf>

#### 1700 Board of Medical Licensure and Discipline

*(Break in Continuity of Sections)*

### 13.0 Physician Assistants

#### 13.1 Definitions:

13.1.1 Rules and Regulations governing ~~Physician Assistant~~ physician assistant (PA) practice in the State of Delaware. For information relative to the following categories refer to 24 **Del.C.** Ch. 17:

13.1.1.1 Definition of Physician Assistants

- 13.1.1.2 Criteria for Licensure
- 13.1.1.3 Licensure Fee
- 13.1.1.4 Prohibited Practices
- 13.1.1.5 Discipline
- 13.1.1.6 Scope of Practice
- 13.1.1.7 Supervision of Physician Assistants
  - 13.1.1.7.1 The supervising physician cannot be involved in patient care in name only and must provide adequate supervision. The supervising physician must be available for consultation, during the patient encounter, when necessary as defined under supervision in the 24 **Del.C.** §1770A(3).
  - 13.1.1.7.2 No supervising physician may supervise more than 4 physician assistants at any given time unless granted an exemption by the Board. As provided in 24 **Del.C.** §1771(f) and (h) the Board may increase or decrease the number of physician assistants being supervised. The Board may issue an exemption to increase the number of physician assistants supervised by a physician upon written application filed by the supervising physician demonstrating good cause for the request. Requests for exemption will be considered on a case-by-case basis. The requesting physician has the burden of demonstrating that the granting of an exemption will not endanger the public health, safety, or welfare.
  - 13.1.1.7.3 Any physician desiring to supervise an assistant who will perform acupuncture upon a patient shall make a medical evaluation of the patient and determine that acupuncture treatment is medically appropriate prior to the commencing of any acupuncture treatment by a physician assistant. Such evaluation will be made on the patient's initial contact with the physician without referral. A physician assistant employed by a physician for the purpose of administering an acupuncture treatment to patients shall not administer such treatment unless an initial evaluation by the physician has been made. In addition, no subsequent acupuncture treatments of a patient shall occur unless the physician has requested such treatment. No physician shall supervise a physician assistant who administers acupuncture treatment to patients unless the physician is proficient in the field of acupuncture and has assured himself that the physician assistant is also proficient in the administration of acupuncture treatment. A physician assistant who administers acupuncture treatment to patients at the direction of a physician shall administer such treatment only within the physical confines of the physician's office at such times when the physician is physically present on the premises and immediately available for consultation.
- 13.1.2 Legend - For the purpose of these rules and regulations the term "legend" is defined as any drug containing the statement "Caution: Federal law prohibits dispensing without prescription" required by section 503(b)(4) of the Federal Food, Drug, and Cosmetic Act as part of the labeling of all prescription drugs (and only such drugs). A "legend" drug is thus a prescription drug, III.B.3 and 24 **Del.C.** §2502(22).
- 13.2 Biennial Renewal of License
  - 13.2.1 Physician ~~Assistants~~ assistants must renew their license on a biennial basis by payment of appropriate fees as established by 24 **Del.C.** §1774A.
  - 13.2.2 Completion of required renewal form, and submission of documentation of one hundred (100) hours of Continuing Medical Education (CME), 50 hours of Category 1 during every 2 year cycle. A licensee who submits proof of holding current certification from the NCCPA shall be deemed to have met this requirement.
- 13.3 Prescriptive Authority
  - 13.3.1 Prescriptive authority for the therapeutic drugs and treatments will include the following:
    - 13.3.1.1 Prescriptive authority is a delegated medical service by the supervising physician.
    - 13.3.1.2 Prescriptive authority will be practice specific of the supervising physician.

---

## PROPOSED REGULATIONS

---

- 13.3.1.3 PAs may prescribe legend medication including Schedule II-V controlled substances, (as defined in the Controlled Substance Act). parenteral medications, medical therapeutics, devices and diagnostics.
  - 13.3.1.4 PAs will be assigned a provider identifier number as outlined by the Division of Professional Regulation.
  - 13.3.1.5 Controlled Substances registration will be as follows:
    - 13.3.1.5.1 PAs must register with the Drug Enforcement Agency (DEA) and use such DEA number for controlled substance prescriptions.
    - 13.3.1.5.2 PAs must register biennially with the Secretary of the Department of Health and Social Services in accordance with 16 **Del.C.** §4732(a).
  - 13.3.1.6 Prescriptions must include the printed or legibly handwritten name of the PA. Prescriptions shall be written in accordance with 17 **Del.C.** §1764A and shall contain the following information clearly typed or written:
    - 13.3.1.6.1 The name and phone number of the prescriber;
    - 13.3.1.6.2 The name and strength of the drug prescribed;
    - 13.3.1.6.3 The quantity of the drug prescribed;
    - 13.3.1.6.4 The directions for the use of the drug;
    - 13.3.1.6.5 Date of issue.
  - 13.3.1.7 PA prescriptions must include the Division of Professional Regulation provider identifier number.
  - 13.3.1.8 PA prescriptions for a controlled substance must include the PAs DEA number, as well as the Division of Professional Regulation provider identifier number.
  - 13.3.1.9 As a delegated authority by the supervising physician PAs may request and issue professional samples of legend and over-the-counter medications. Professional samples must be labeled in compliance with 24 **Del.C.** §2522(c).
- 13.4 The physician assistant may perform medication abortion to 10 weeks gestation and procedural abortion to 12 weeks gestation.
- 13.4.1 Prior to performing abortions, the physician assistant must enter into a collaborative agreement with a Delaware physician appropriately trained in procedural abortion.
  - 13.4.2 Prior to performing abortions, the physician assistant must successfully complete any of the following trainings as well as 10 procedural abortions under direct clinical supervision:
    - 13.4.2.1 The American College of Nurse-Midwives.
    - 13.4.2.2 Planned Parenthood Federation of America
    - 13.4.2.3 The Reproductive Health Access Project.
    - 13.4.2.4 Additional training programs brought before and approved by the Board.

**\*Please Note: As the rest of the sections were not amended, they are not being published. A copy of the regulation is available at:**

<https://regulations.delaware.gov/register/august2024/proposed/28 DE Reg 106 08-01-24.htm>

---

## DIVISION OF PROFESSIONAL REGULATION

### Board of Examiners of Nursing Home Administrators

Statutory Authority: 24 Delaware Code, Section 5206(a)(1) (24 **Del.C.** §5206(a)(1))  
24 **DE Admin. Code** 5200

#### PUBLIC NOTICE

#### 5200 Board of Examiners of Nursing Home Administrators

Pursuant to 24 **Del.C.** §5206(a)(1), the Delaware Board of Examiners of Nursing Home Administrators ("Board") has proposed revisions to its Rules and Regulations. The Board proposes these amendments to advance its primary objective, which is to protect the general public, specifically those persons who are the direct recipients of nursing home administration services, regulated by 24 **Del.C.**, Ch. 52, and its secondary objectives to maintain minimum standards of practitioner competency and to maintain certain standards in the delivery of services to the public.

Amendments are proposed to Regulation subsection 2.3 to clarify which examinations are required.

Amendments are proposed to Regulation subsections 5.1 and 7.4.1 to clarify the time frame during which continuing professional education must be completed.

Amendments are proposed to Regulation subsections 5.2 and 5.4 to strengthen the Board's biennial continuing professional education requirements by mandating course time in subject areas of patient abuse and neglect, infection prevention, and professional ethics. The Board is authorized specifically to establish by rule and regulation continuing education standards by 24 **Del.C.** §5206(a)(10).

Additional revisions reflect modern practices of the Division of Professional Regulation and others are technical and style changes consistent with the *Delaware Administrative Code Drafting and Style Manual*.

The Board will hold a public hearing on September 10, 2024, at 12:00 p.m. in conference room B on the second floor of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Examiners of Nursing Home Administrators, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address or to [Tashana.Branch@delaware.gov](mailto:Tashana.Branch@delaware.gov).

In accordance with 29 **Del.C.** §10118(a), the final date to receive written comments will be September 25, 2024. The Board will deliberate on all the public comments at its regularly scheduled meeting thereafter.

**\*Please Note:**

(1) The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 **Del.C.** Ch. 104, is available at:

<https://regulations.delaware.gov/register/august2024/proposed/28 DE Reg 109RFA 08-01-24.pdf>

(2) Due to the size of the proposed regulation, it is not being published here. A copy of the regulation is available at:

<https://regulations.delaware.gov/register/august2024/proposed/28 DE Reg 109 08-01-24.htm>

---

# PROPOSED REGULATIONS

---

## DIVISION OF PROFESSIONAL REGULATION

### Board of Massage and Bodywork

Statutory Authority: 24 Delaware Code, Section 5306(a)(1) (24 Del.C. §5306(a)(1))  
24 DE Admin. Code 5300

#### PUBLIC NOTICE

#### 5300 Board of Massage and Bodywork

Pursuant to 24 Del.C. §5306(a)(1), the Delaware Board of Massage and Bodywork ("Board") has proposed revisions to its Rules and Regulations. The revision to subsection 12.3.2 adds a new requirement for the application process for massage establishments. The application will require a copy of the massage establishment's current business license issued by the Delaware Division of Revenue and a copy of any business license required by a county or municipality, as applicable. A public hearing will be held on September 19, 2024 at 1:30 p.m. in the second floor conference room B of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Massage and Bodywork, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address or at [monique.griffith@delaware.gov](mailto:monique.griffith@delaware.gov).

In accordance with 29 Del.C. §10118(a), the final date to receive written comments will be October 4, 2024. The Board will deliberate on all of the public comments at its regularly scheduled meeting.

**\*Please Note:**

(1) The Regulatory Flexibility Analysis and Impact Statement for this regulation, as required by 29 Del.C. Ch. 104, is available at:

<https://regulations.delaware.gov/register/august2024/proposed/28 DE Reg 110RFA 08-01-24.pdf>

(2) Due to the size of the proposed regulation, it is not being published here. A copy of the regulation is available at:

<https://regulations.delaware.gov/register/august2024/proposed/28 DE Reg 110 08-01-24.htm>

---



---

## 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 bold 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 AGRICULTURE

#### DELAWARE STANDARDBRED BREEDERS' FUND

Statutory Authority: 3 Delaware Code, Section 10081(c) (3 **Del.C.** §10081(c))  
3 **DE Admin. Code** 502

#### ORDER

#### 502 Standardbred Breeders' Fund Regulations

#### I. NATURE OF PROCEEDINGS

Pursuant to its authority granted by 3 **Del.C.** §10081(c), the Department of Agriculture's Standardbred Breeders' Fund (herein "the Fund") proposed to amend its Regulation. The proposed regulation amends Rules 10.2.2 and 10.2.3. The purpose of the amended regulations is to eliminate the restriction on Delaware stallions from being able to breed during racing season, and instead, permits stallions to compete and breed simultaneously. This proposal is an attempt to allow greater flexibility to small breeders. Other sections of the Regulation issued by the Commission are not affected by the aforementioned proposals.

Notice of a public comment period of thirty (30) days on the Fund's proposed amended regulations was published in the Delaware Register of Regulations for April 1, 2024 in accordance with 29 **Del.C.** §10118(a). This is the Fund's Decision and Order adopting the proposed amended regulations.

#### II. PUBLIC COMMENTS

The Fund received no public comments in response to its notice of intention to adopt the proposed amended regulation.

#### III. FINDINGS AND CONCLUSIONS

# FINAL REGULATIONS

The public was given the required notice of the Fund's intention to adopt the proposed amended regulation and was given ample opportunity to provide the Fund with comments opposing the Fund's plan. The Fund has reviewed the proposed regulation as required by 29 *Del. C.* § 10118(b)(3) and has determined that if promulgated, the regulation would have a *de minimis* impact on the State's resiliency to climate change because neither implementation nor compliance with the regulation would reasonably involve the increase in greenhouse gas emissions. Thus, the Fund concludes that its consideration of the proposed amended regulation was entirely within its prerogatives and statutory authority and, having received no comments opposed to adoption, is now free to adopt the proposed amended regulation(s).

## IV. ORDER

**AND NOW this 24<sup>th</sup> day of June, 2024,** it is hereby ordered that:

1. The proposed amendments to the Fund's regulations are adopted;
2. The text of the final regulations shall be in the form attached hereto as Exhibit A, which remains unchanged as initially published in the April 1, 2024 *Delaware Register of Regulations*;
3. The effective date of this Order is ten days from the date of its publication in the *Delaware Register of Regulations* in accordance with 29 **Del.C.** §10118(g); and
4. The Fund reserves to itself the authority to issue such other and further orders concerning its Regulations as it deems appropriate.

**IT IS SO ORDERED.**

### Delaware Standardbred Breeders' Fund Board

Secretary Michael T. Scuse	Secretary Richard J. Geisenberger
Rep. William Carson (Absent)	Sen. Kyra Hoffner
Jack Burke	Linda MacDonald
Wayne Givens	Carlo J. Poliseno
George Teague Jr.	Patty Brittingham
Matthew Sparacino	

**\*Please note that no changes were made to the regulation as originally proposed and published in the April 2024 issue of the *Register* at page 724 (27 DE Reg. 724). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**<https://regulations.delaware.gov/register/august2024/final/28 DE Reg 111 08-01-24.htm>**

## DEPARTMENT OF EDUCATION

### OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b)(22) and 1280 (14 **Del.C.** §§122(b)(22) and 1280)

14 **DE Admin. Code** 290

## ORDER

### 290 Approval of Educator Preparation Programs

## I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** §§122(b)(22) and 1280, the Delaware Department of Education ("Department") developed

amendments to 14 **DE Admin. Code** 290 Approval of Educator Preparation Programs. The regulation concerns the approval, modification, and review, probation, and revocation of educator preparation programs. The amendments include revising the title of the regulation and clarifying and updating the requirements for traditional educator preparation programs. In addition, Sections 8.0, 9.0 and 10.0 are proposed to be stricken. Language from the three sections is included in a new regulation, 14 **DE Admin. Code** 291 Alternative Routes to Certification (ARTC) Programs.

Notice of the proposed regulation was published in the *Register of Regulations* on June 1, 2024. The Department did not receive any written comments concerning the proposed regulation.

## II. FINDINGS OF FACTS

The Department finds that it is appropriate to amend 14 **DE Admin. Code** 290 Approval of Educator Preparation Programs to revise the title of the regulation and clarify and update the requirements for traditional educator preparation programs. In addition, Sections 8.0, 9.0 and 10.0 are proposed to be stricken. Language from the three sections is included in a new regulation, 14 **DE Admin. Code** 291 Alternative Routes to Certification (ARTC) Programs.

## III. ASSESSMENT OF IMPACT

The Secretary of Education has reviewed the proposed regulation as required by 29 **Del.C.** §10118(b)(3) and has determined that any assessment of the impact of the proposed regulation is not practical.

## IV. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 290 Approval of Educator Preparation Programs. Therefore, pursuant to 14 **Del.C.** §§122(b)(22) and 1280, 14 **DE Admin.** 290 Approval of Educator Preparation Programs attached hereto as *Exhibit "A"* is hereby amended.

## V. TEXT AND CITATION

The text of 14 **DE Admin. Code** 290 Approval of Educator Preparation Programs amended hereby shall be in the form attached hereto as *Exhibit "A"*, and said regulation shall be cited as 14 **DE Admin.** 290 Approval of Educator Preparation Programs in the *Administrative Code of Regulations* for the Department of Education.

## VI. EFFECTIVE DATE OF ORDER

The effective date of this Order shall be ten days from the date this Order is published in the *Delaware Register of Regulations*.

**IT IS SO ORDERED** the 8th day of July 2024.

### Department of Education

Mark A. Holodick, Ed.D., Secretary of Education

Approved this 8th day of July 2024.

**\*Please note that no changes were made to the regulation as originally proposed and published in the June 2024 issue of the *Register* at page 930 (27 DE Reg. 930). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**<https://regulations.delaware.gov/register/august2024/final/28 DE Reg 112 08-01-24.htm>**

---

# FINAL REGULATIONS

---

## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b)(22) and 1260-1266 (14 Del.C. §§122(b)(22) and 1260-1266)

### ORDER

#### 291 Alternative Routes to Certification (ARTC) Programs

#### I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 Del.C. §§122(b)(22) and 1260 - 1266, the Delaware Department of Education ("Department") developed a new regulation, 14 DE Admin. Code 291 Alternative Routes to Certification (ARTC) Programs. The new regulation concerns the approval, modification, and review, probation, and revocation of alternative routes to certification (ARTC) programs for teachers and leaders. The new regulation includes language from Sections 8.0, 9.0 and 10.0 of 14 DE Admin. Code 290, which are simultaneously being proposed to be stricken.

Notice of the proposed regulation was published in the *Delaware Register of Regulations* on June 1, 2024. The Department did not receive any written comments concerning the proposed regulation.

#### II. FINDINGS OF FACTS

The Department finds that it is appropriate to adopt 14 DE Admin. Code 291 Alternative Routes to Certification (ARTC) Programs to set forth the requirements for approval, modification, and review, probation, and revocation of alternative routes to certification (ARTC) programs for teachers and leaders. The new regulation includes language from Sections 8.0, 9.0 and 10.0 of 14 DE Admin. Code 290, which are simultaneously being proposed to be stricken.

#### III. ASSESSMENT OF IMPACT

The Secretary of Education has reviewed the proposed regulation as required by 29 Del.C. §10118(b)(3) and has determined that any assessment of the impact of the proposed regulation is not practical.

#### IV. DECISION TO ADOPT THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to adopt 14 DE Admin. Code 291 Alternative Routes to Certification (ARTC) Programs. Therefore, pursuant to 14 Del.C. §§122(b)(22) and 1260 - 1266, 14 DE Admin. Code 291 Alternative Routes to Certification (ARTC) Programs attached hereto as *Exhibit "A"* is hereby created. Pursuant to the provision of 14 Del.C. §122(e), 14 DE Admin. Code 291 Alternative Routes to Certification (ARTC) Programs hereby adopted shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below unless it is amended or repealed sooner.

#### V. TEXT AND CITATION

The text of 14 DE Admin. Code 291 Alternative Routes to Certification (ARTC) Programs created hereby shall be in the form attached hereto as *Exhibit "A"*, and said regulation shall be cited as 14 DE Admin. Code 291 Alternative Routes to Certification (ARTC) Programs in the *Administrative Code of Regulations* for the Department.

#### VI. EFFECTIVE DATE OF ORDER

The effective date of this Order shall be ten days from the date this Order is published in the *Delaware Register of Regulations*.

IT IS SO ORDERED the 8<sup>th</sup> day of July 2024.

Department of Education

Mark A. Holodick, Ed.D., Secretary of Education

Approved this 8th day of July 2024

\*Please note that no changes were made to the regulation as originally proposed and published in the

---

June 2024 issue of the *Register* at page 931 (27 DE Reg. 931). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

<https://regulations.delaware.gov/register/august2024/final/28 DE Reg 114 08-01-24.htm>

---

## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b) and 1315 (14 **Del.C.** §§122(b) & 1315)  
14 **DE Admin. Code** 729

### ORDER

#### 729 School Custodians

#### I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** §122 (b) and 14 **Del.C.** §1315, the Secretary of Education intends to amend 14 **DE Admin. Code** 729 School Custodians. This regulation is being amended to update the custodial formula and to correct grammatical and style errors in order to comply with the *Delaware Administrative Code Drafting and Style Manual*.

Notice of the proposed regulation was published the proposed amendments in the *Register of Regulations* on May 1, 2024 with an incorrect public comment end date of August 1, 2024. The proposed amendments were republished in the *Register of Regulations* on June 1, 2024 with the correct public comment end date of July 1, 2024. One comment was received in May 2024, when the regulation was initially proposed, regarding the following:

**Issue:** Concern with initially proposed language in subsection 3.2.3 not being clear and possibly being interpreted to limit units earned in buildings with both a gym and auditorium. It was requested that the language be changed to make it clear that the units allocated are for each space separately.

**Response:** Subsection 3.2.3 did not need to be amended because gymnasiums and auditoriums are considered separate spaces and both are included in calculations.

The Department received no other written comments on the proposed amendments.

#### II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 729 School Custodians to update the custodial formula and to correct grammatical and style errors in order to comply with the *Delaware Administrative Code Drafting and Style Manual*.

#### III. ASSESSMENT OF IMPACT

Pursuant to 29 **Del. C.** §10118(b)(3) this regulation has no impact on the achievement of the State's greenhouse gas emissions reduction targets or the State's resiliency to climate change. Such assessment is not practical for this regulation.

#### IV. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 729 School Custodians. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin.** 729 School Custodians attached hereto as *Exhibit "A"* is hereby amended.

#### V. TEXT AND CITATION

The text of 14 **DE Admin. Code** 729 School Custodians amended hereby shall be in the form attached hereto as *Exhibit "A"*, and said regulation shall be cited as 14 **DE Admin.** 729 School Custodians in the *Administrative Code of Regulations* for the Department of Education.

**VI. EFFECTIVE DATE OF ORDER**

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §122 on July 8, 2024. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

IT IS SO ORDERED the 8th day of July 2024.

**Department of Education**

Mark A. Holodick, Ed.D., Secretary of Education

Approved this 8th day of July 2024.

\*Please note that no changes were made to the regulation as originally proposed and published in the June 2024 issue of the *Register* at page 933 (27 DE Reg. 933). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

<https://regulations.delaware.gov/register/august2024/final/28 DE Reg 115 08-01-24.htm>

**OFFICE OF THE SECRETARY**

Statutory Authority: 14 Delaware Code, Sections 122(b)(15) and 303 (14 **Del.C.** §§122(b)(15) & 303)

14 **DE Admin. Code** 1008

**ORDER****1008 DIAA Junior High and Middle School Interscholastic Athletics****I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED**

Pursuant to 14 **Del.C.** §§122(b)(15) and 303, the Delaware Interscholastic Athletic Association ("DIAA"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), proposes to repeal subsection 2.3 of 14 **DE Admin. Code** 1008 DIAA Junior High and Middle School Interscholastic Athletics because it will be incorporated into a new regulation, 14 **DE Admin. Code** 1028 Student Athlete Eligibility: Enrollment and Attendance.

Notice of the proposed regulation was published in the *Register of Regulations* on April 1, 2024. The DIAA Board did not receive any written submittals concerning the proposed regulation.

**II. ASSESSMENT OF THE IMPACT ON ACHIEVEMENT OF THE STATE'S GREENHOUSE GAS EMISSIONS REDUCTION TARGETS AND RESILIENCY TO CLIMATE CHANGE**

The Secretary of Education has reviewed the proposed regulation as required by 29 **Del.C.** §10118(b)(3) and has determined that any assessment of the impact of the proposed regulation is not practical.

**III. FINDINGS OF FACTS**

On June 13, 2024, the DIAA Board voted to propose 14 **DE Admin. Code** 1008 DIAA Junior High and Middle School Interscholastic Athletics, in the form attached hereto as Exhibit A, for repeal by the Department subject to the State Board of Education's approval.

The Department finds that subsection 2.3 of 14 **DE Admin. Code** 1008 DIAA Junior High and Middle School Interscholastic Athletics has been incorporated in proposed regulation 14 **DE Admin. Code** 1028 Student Athlete Eligibility: Enrollment and Attendance. Accordingly, the Department finds that it is appropriate to repeal 14 **DE Admin. Code** 1008 DIAA Junior High and Middle School Interscholastic Athletics.

**IV. DECISION TO REPEAL THE REGULATION**

For the foregoing reasons, the Department concludes that it is appropriate to repeal 14 **DE Admin. Code** 1008 DIAA Junior High and Middle School Interscholastic Athletics subject to the State Board of Education's approval.

On June 20, 2024, the State Board of Education approved repealing 14 **DE Admin. Code** 1008 DIAA Junior High and Middle School Interscholastic Athletics. Therefore, pursuant to 14 **Del.C.** §§122(b)(15) and 303, 14 **DE Admin. Code** 1008 DIAA Junior High and Middle School Interscholastic Athletics, attached hereto as Exhibit A, is hereby repealed.

## V. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1008 DIAA Junior High and Middle School Interscholastic Athletics repealed hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1008 DIAA Junior High and Middle School Interscholastic Athletics in the *Administrative Code of Regulations* for the Department.

## VI. EFFECTIVE DATE OF ORDER

The effective date of this Order shall be ten days from the date this Order is published in the *Register of Regulations*.

**IT IS SO ORDERED** the 20th day of June, 2024.

### Department of Education

Mark A. Holodick, Ed.D., Secretary of Education

Approved this 20th day of June, 2024.

### State Board of Education

/s/ Shawn Brittingham, President

/s/ Harvey Kenton, Jr.

/s/ Deborah Stevens, Vice President

/s/ Provey Powell, Jr.

/s/ Candice Fifer

/s/ Wali W. Rushdan, II

/s/ Meredith L. Griffin, Jr.

**\*Please note: Electronic signatures ("s/") were accepted pursuant to 6 Del.C. §12A-107(d).**

**\*Please note that no changes were made to the regulation as originally proposed and published in the April 2024 issue of the *Register* at page 738 (27 DE Reg. 738). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**<https://regulations.delaware.gov/register/august2024/final/28 DE Reg 116 08-01-24.htm>**

---

## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b)(15) and 303 (14 **Del.C.** §§122(b)(15) & 303)

14 **DE Admin. Code** 1009

## ORDER

### 1009 DIAA High School Interscholastic Athletics

#### I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** §§122(b)(15) and 303, the Delaware Interscholastic Athletic Association ("DIAA"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), proposed to repeal subsections 2.3 and 2.4 of 14 **DE Admin. Code** 1009 DIAA High School Interscholastic Athletics because each will be incorporated into a new regulation, 14 DE Admin. Code 1029 Student Athlete Eligibility: Transfers.

Notice of the proposed repeal of subsection 2.3 was published in the *Register of Regulations* on April 1, 2024. Notice of the proposed repeal of subsection 2.4 was published in the *Register of Regulations* on May 1, 2024. The

DIAA Board did not receive any written submittals concerning the proposed repeal.

## II. ASSESSMENT OF THE IMPACT ON ACHIEVEMENT OF THE STATE'S GREENHOUSE GAS EMISSIONS REDUCTION TARGETS AND RESILIENCY TO CLIMATE CHANGE

The Secretary of Education has reviewed the proposed regulation as required by 29 **Del.C.** §10118(b)(3) and has determined that any assessment of the impact of the proposed regulation is not practical.

## III. FINDINGS OF FACTS

On June 13, 2024, the DIAA Board voted to repeal subsections 2.3 and 2.4 of **14 DE Admin. Code 1009 DIAA High School Interscholastic Athletics**, in the form attached hereto as Exhibit A, for adoption by the Department subject to the State Board of Education's approval.

The Department finds that the proposed regulation relates to interscholastic athletics at the middle and high school levels and is necessary to implement 14 **Del.C.** Ch. 3. Accordingly, the Department finds that it is appropriate to amend **14 DE Admin. Code 1009 DIAA High School Interscholastic Athletics**.

## IV. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend **14 DE Admin. Code 1009 DIAA High School Interscholastic Athletics** subject to the State Board of Education's approval. On June 20, 2024, the State Board of Education approved amending **14 DE Admin. Code 1009 DIAA High School Interscholastic Athletics**. Therefore, pursuant to **14 Del.C. §§122(b)(15) and 303**, **14 DE Admin. Code 1009 DIAA High School Interscholastic Athletics**, attached hereto as Exhibit A, is hereby amended.

## V. TEXT AND CITATION

The text of **14 DE Admin. Code 1009 DIAA High School Interscholastic Athletics** amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as **14 DE Admin. Code 1009 DIAA High School Interscholastic Athletics** in the *Administrative Code of Regulations* for the Department.

## VI. EFFECTIVE DATE OF ORDER

The effective date of this Order shall be ten days from the date this Order is published in the *Register of Regulations*.

**IT IS SO ORDERED** the 20th day of June, 2024.

### Department of Education

Mark A. Holodick, Ed.D., Secretary of Education

Approved this 20th day of June, 2024.

### State Board of Education

/s/ Shawn Brittingham, President

/s/ Harvey Kenton, Jr.

/s/ Deborah Stevens, Vice President

/s/ Provey Powell, Jr.

/s/ Candice Fifer

/s/ Wali W. Rushdan, II

/s/ Meredith L. Griffin, Jr.

\*Please note: Electronic signatures ("/s/") were accepted pursuant to 6 **Del.C.** §12A-107(d).

\*Please note that no changes were made to the regulation as originally proposed and published in the April 2024 issue of the *Register* at page 739 (27 **DE Reg.** 739). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

<https://regulations.delaware.gov/register/august2024/final/28 DE Reg 117 08-01-24.htm>



## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b)(15) and 303 (14 Del.C. §§122(b)(15) & 303)

14 DE Admin. Code 1009

### ORDER

#### 1009 DIAA High School Interscholastic Athletics

##### I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 Del.C. §§122(b)(15) and 303, the Delaware Interscholastic Athletic Association ("DIAA"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), proposed to repeal subsections 2.3 and 2.4 of 14 DE Admin. Code 1009 DIAA High School Interscholastic Athletics because each will be incorporated into a new regulation, 14 DE Admin. Code 1029 Student Athlete Eligibility: Transfers.

Notice of the proposed repeal of subsection 2.3 was published in the *Register of Regulations* on April 1, 2024. Notice of the proposed repeal of subsection 2.4 was published in the *Register of Regulations* on May 1, 2024. The DIAA Board did not receive any written submittals concerning the proposed repeal.

##### II. ASSESSMENT OF THE IMPACT ON ACHIEVEMENT OF THE STATE'S GREENHOUSE GAS EMISSIONS REDUCTION TARGETS AND RESILIENCY TO CLIMATE CHANGE

The Secretary of Education has reviewed the proposed regulation as required by 29 Del.C. §10118(b)(3) and has determined that any assessment of the impact of the proposed regulation is not practical.

##### III. FINDINGS OF FACTS

On June 13, 2024, the DIAA Board voted to repeal subsections 2.3 and 2.4 of 14 DE Admin. Code 1009 DIAA High School Interscholastic Athletics, in the form attached hereto as Exhibit A, for adoption by the Department subject to the State Board of Education's approval.

The Department finds that the proposed regulation relates to interscholastic athletics at the middle and high school levels and is necessary to implement 14 Del.C. Ch. 3. Accordingly, the Department finds that it is appropriate to amend 14 DE Admin. Code 1009 DIAA High School Interscholastic Athletics.

##### IV. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 DE Admin. Code 1009 DIAA High School Interscholastic Athletics subject to the State Board of Education's approval. On June 20, 2024, the State Board of Education approved amending 14 DE Admin. Code 1009 DIAA High School Interscholastic Athletics. Therefore, pursuant to 14 Del.C. §§122(b)(15) and 303, 14 DE Admin. Code 1009 DIAA High School Interscholastic Athletics, attached hereto as Exhibit A, is hereby amended.

##### V. TEXT AND CITATION

The text of 14 DE Admin. Code 1009 DIAA High School Interscholastic Athletics amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 DE Admin. Code 1009 DIAA High School Interscholastic Athletics in the *Administrative Code of Regulations* for the Department.

##### VI. EFFECTIVE DATE OF ORDER

The effective date of this Order shall be ten days from the date this Order is published in the *Register of Regulations*.

IT IS SO ORDERED the 20th day of June, 2024.

Department of Education

Mark A. Holodick, Ed.D., Secretary of Education

Approved this 20th day of June, 2024.

## State Board of Education

/s/ Shawn Brittingham, President

/s/ Harvey Kenton, Jr.

/s/ Deborah Stevens, Vice President

/s/ Provey Powell, Jr.

/s/ Candice Fifer

/s/ Wali W. Rushdan, II

/s/ Meredith L. Griffin, Jr.

\*Please note: Electronic signatures ("/s/") were accepted pursuant to 6 Del.C. §12A-107(d).

\*Please note that no changes were made to the regulation as originally proposed and published in the May 2024 issue of the *Register* at page 811 (27 DE Reg. 811). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

<https://regulations.delaware.gov/register/august2024/final/28 DE Reg 119 08-01-24.htm>

## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b)(15) and 303(b)(1)d (14 Del.C. §§122(b)(15) & 303(b)(1)d)

## ORDER

## 1028 Student Athlete Eligibility: Enrollment and Attendance

## I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 Del.C. §§122(b)(15) and 303(b)(1)d, the Delaware Interscholastic Athletic Association Board of Directors ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), proposes the adoption of 14 DE Admin. Code 1028 Student Athlete Eligibility: Enrollment and Attendance. The regulation sets forth the enrollment and attendance requirements for students to be eligible to participate in interscholastic athletics. The proposed regulation includes specifying the content of the regulation in Section 1.0; adding defined terms to, and incorporating defined terms from existing regulations into, Section 2.0; adding the purpose of the Enrollment Rule to subsection 3.1; adding language concerning waivers to subsections 3.2.1 and 3.2.2; adding subsection 3.5, which concerns students who enroll in a school initially under a permanent change of station (PCS); adding proposed subsection 3.6, which concerns students who are not legally enrolled in a Delaware public school due to homelessness; and adding subsection 4.1, which concerns the purpose of the Attendance Rule. Additionally, the Board is simultaneously proposing to repeal existing sections from 14 DE Admin. Code 1008 and 14 DE Admin. Code 1009 and incorporate them into this new regulation. Specifically, proposed Section 3.0 is formerly subsections 2.3.1, 2.3.2, and 2.3.3 of 14 DE Admin. Code 1008 and subsections 2.3.1, 2.3.2, 2.3.3, and 2.3.4 of 14 DE Admin. Code 1009, except that "tryout" has been added to subsection 3.2 and proposed subsection 3.3 includes clarification changes. Proposed Section 4.0 is formerly subsections 2.3.5, 2.3.6, and 2.3.7 of 14 DE Admin. Code 1008 and subsections 2.3.6, 2.3.7, and 2.3.8 of 14 DE Admin. Code 1009, except that "tryout" has been added to subsections 4.2 and 4.3.

Notice of the proposed regulation was published in the *Register of Regulations* on April 1, 2024. The DIAA Board received written submittals from Benjamin Shrader, Chairperson of the State Council for Persons with Disabilities ("SCPD") and Ann C. Fisher, Chairperson of the Governor's Advisory Council for Exceptional Citizens ("GACEC"). Mr. Shrader commented that the SCPD is concerned about proposed subsection 3.3. He commented that "some students are placed in alternative schools through the IEP process, and not for disciplinary reasons," the proposed language does not clarify that such students are not excluded from participation in interscholastic sports, and the proposed language can be read to exclude any student placed in an alternative school. Ms. Fisher commented that the GACEC is concerned about proposed subsection 3.3 and suggests that the language be revised "to reflect that a. some students are placed in alternative schools for reasons other than discipline and should not be excluded; and b. individual considerations may allow a student with a disability who has been placed in an alternative school for discipline to participate in interscholastic sports." Ms. Fisher further commented that "[c]ategorical exclusion of students placed in alternative schools for disciplinary reasons can further marginalized

students already subject to discriminatory disciplinary practices."

## **II. ASSESSMENT OF THE IMPACT ON ACHIEVEMENT OF THE STATE'S GREENHOUSE GAS EMISSIONS REDUCTION TARGETS AND RESILIENCY TO CLIMATE CHANGE**

The Secretary of Education has reviewed the proposed regulation as required by 29 **Del.C.** §10118(b)(3) and has determined that any assessment of the impact of the proposed regulation is not practical.

## **III. FINDINGS OF FACTS**

On June 13, 2024, the DIAA Board considered SCPD's and GACEC's written submittals. The DIAA Board found that there may be validity to the public comments, but it is not aware of instances in which students are referred to alternative programs for non-disciplinary reasons. The Board noted that it would like GACEC or SCPD to provide it additional information about instances in which this occurs. In the meantime, the Board noted that timeliness is an issue as DIAA's goal was to implement these regulations prior to the start of the fall sports season. The Board noted that republishing the regulations with changes will negatively impact more students than those students potentially affected by Regulation 3.3. For this reason, the Board voted to move forward with the regulations as proposed but noted that it would like to engage with GACEC and SCPD further to determine if their proposed changes should be addressed in a future regulatory change. The DIAA Board determined not to make any further changes as a result of the written submittals and voted to propose 14 **DE Admin. Code** 1028 Student Athlete Eligibility: Enrollment and Attendance, in the form attached hereto as Exhibit A, for adoption by the Department subject to the State Board of Education's approval.

The Department finds that the proposed regulation relates to interscholastic athletics at the middle and high school levels and is necessary to implement 14 **Del.C.** Ch. 3. Accordingly, the Department finds that it is appropriate to adopt 14 **DE Admin. Code** 1028 Student Athlete Eligibility: Enrollment and Attendance.

## **IV. DECISION TO ADOPT THE REGULATION**

For the foregoing reasons, the Department concludes that it is appropriate to adopt 14 **DE Admin. Code** 1028 Student Athlete Eligibility: Enrollment and Attendance subject to the State Board of Education's approval. On June 20, 2024, the State Board of Education approved adopting 14 **DE Admin. Code** 1028 Student Athlete Eligibility: Enrollment and Attendance. Therefore, pursuant to 14 **Del.C.** §§122(b)(15) and 303(b)(1)d, 14 **DE Admin. Code** 1028 Student Athlete Eligibility: Enrollment and Attendance, attached hereto as Exhibit A, is hereby adopted.

## **V. TEXT AND CITATION**

The text of 14 **DE Admin. Code** 1028 Student Athlete Eligibility: Enrollment and Attendance adopted hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1028 Student Athlete Eligibility: Enrollment and Attendance in the *Administrative Code of Regulations* for the Department.

## **VI. EFFECTIVE DATE OF ORDER**

The effective date of this Order shall be ten days from the date this Order is published in the *Register of Regulations*.

**IT IS SO ORDERED** the 20th day of June, 2024.

### **Department of Education**

Mark A. Holodick, Ed.D., Secretary of Education

Approved this 20th day of June, 2024.

### **State Board of Education**

/s/ Shawn Brittingham, President

/s/ Harvey Kenton, Jr.

/s/ Deborah Stevens, Vice President

/s/ Provey Powell, Jr.

/s/ Candice Fifer

/s/ Wali W. Rushdan, II

/s/ Meredith L. Griffin, Jr.

\*Please note: Electronic signatures ("/s/") were accepted pursuant to 6 Del.C. §12A-107(d).

### 1028 Student Athlete Eligibility: Enrollment and Attendance

#### **1.0 Content**

In accordance with 14 Del.C. §303, this regulation sets forth the eligibility to participate in interscholastic athletics at the middle and high school levels for students who enroll in and attend Member Schools.

#### **2.0 Definitions**

The following words and terms, when used in this regulation, shall have the following meaning:

**"Contest"** means a formal competition in which students or school teams compete to determine a winner.

**"Member School"** means a full or associate member school of the DIAA.

**"Practice"** means working on skills for a particular sport within a single team at a Member School as guided by coaches and includes team workouts and inner-team scrimmages.

**"School day"** means **[an]** actual school attendance days during the regular academic school year, including a partial day that students are in attendance at school for instructional purposes as adopted by the school district or governing body of the school. School day does not **[include]** weekends, holidays, and summer school.

**"Scrimmage"** means an informal competition between schools in which a final score is not kept, the time periods are permitted to be modified, the results of the competition are not reported to the media, the coaches are permitted to interrupt the play to provide instruction, and the competition is strictly for practice purposes.

**"Tryout"** means a demonstration of skills to make a team in order to be eligible to practice.

**"Student with a disability"** means a "child with a disability" as that term is defined in 14 DE Admin. Code 922 or a qualified person with a disability under Section 504 of the Rehabilitation Act of 1973.

#### **3.0 Eligibility: Enrollment**

3.1 Purpose of the Enrollment Rule - The purpose of the Enrollment Rule is to promote loyalty and school spirit which lends itself to cohesion of the student body, to help promote amateurism by drawing student athletes only from each school's student population, to avoid professionalism and over-emphasis on student athletes, and to discourage team-shopping.

3.2 Enrollment Rule - A student shall be legally enrolled in the Member School which they represent in order to participate in a tryout, practice, scrimmage, or contest. A student who attends 2 different schools during the regular school day shall be eligible to participate only at the school at which the student is receiving instruction in the core academic areas and is satisfying the majority of graduation requirements, not at a school at which the student receives specialized educational instruction such as vocational training. A student shall not participate in a tryout, practice, scrimmage, or contest during the time an in-school or out-of-school suspension is in effect or during the time the student is assigned to an alternative school for disciplinary reasons.

3.2.1 A waiver of the Enrollment Rule does not mean that a student athlete can automatically participate in an interscholastic tryout, practice, scrimmage, or contest with a Member School in which the student is not legally enrolled. If a waiver of the Enrollment Rule is granted, the school that the student athlete wishes to represent determines whether to allow the student athlete to participate in an interscholastic tryout, practice, scrimmage, or contest as a representative of the school. DIAA does not have the authority to authorize a student athlete to participate in interscholastic athletics as a representative of a school in which the student athlete is not legally enrolled.

3.2.2 A request for a waiver of the Enrollment Rule shall be approved by the Superintendent or the Head of School of the school that the student athlete wishes to represent before the request is submitted to DIAA. Any such waiver request that is not approved by the Superintendent or Head of School will be deemed incomplete by DIAA and will not be processed by DIAA.

- 3.3 A student with a disability who is placed in a school or program by the student's school district or charter school shall be eligible to participate in interscholastic athletics as set forth in subsections 3.3.1 through 3.3.4. Subsection 3.3 does not apply to students who are placed in alternative schools or programs for disciplinary reasons through the Comprehensive School Discipline Improvement Program (14 Del.C. §§ 1601 - 1607). For the purpose of subsection 3.3, campus means a contiguous land area containing 1 or more school buildings.
- 3.3.1 If the school or program in which the student is placed sponsors the interscholastic sport in question, the student shall be eligible to participate only at the school or program in which the student is placed.
- 3.3.2 If the school or program in which the student is placed does not sponsor the interscholastic sport in question and the student is served in a regular school for all or part of the school day, the student shall be eligible to participate only at that regular school.
- 3.3.3 If the school or program in which the student is placed does not sponsor the interscholastic sport in question, the student is served exclusively in the school or program, and the school or program is located on the campus of a regular school, the student shall be eligible to participate only at the regular school on the same campus.
- 3.3.4 If the school or program in which the student is placed does not sponsor the interscholastic sport in question, the student is served exclusively in the school or program, and the school or program is not located on the campus of a regular school, the student shall be eligible to participate only at the regular school designated to serve the school's or program's students. A school district or charter school that administers schools or programs in which a student with a disability may be placed and that has multiple regular schools determines the regular school at which the student may participate in interscholastic athletics.
- 3.4 Enrollment Requirements for the School District Enrollment Choice Program
- 3.4.1 Pursuant to 14 Del.C. §407(a)(2), a student who is enrolled in a traditional public, vocational, or charter school outside of the student's feeder pattern through the School District Enrollment Choice Program shall remain enrolled in the school for a minimum of 2 years. A waiver request is not required and the student is not ineligible under this subsection if 1 of the exceptions as provided in 14 Del.C. §407(a)(2) applies or the student's enrollment in the school is terminated as provided in 14 Del.C. §407. Even if a waiver request is not required and the student is not ineligible under this subsection, a waiver request may be required and the student may be ineligible under the Transfer Rule.
- 3.4.2 Pursuant to 14 Del.C. §506(d), a student who is in their first year of attendance at a charter school shall remain enrolled in the charter school for a minimum of 1 year. A waiver request is not required and the student is not ineligible under this subsection if good cause exists as provided in 14 Del.C. §506(d).
- 3.5 Consistent with 14 Del.C. §§ 160A-177A (Interstate Compact on Education for Children of Military Families), if a Member School has an insufficient number of enrolled students to form a team in a particular sport and the school district decides to allow a student who has enrolled in the school initially under a permanent change of station (PCS) order to participate in a tryout, practice, scrimmage, or contest on a team at another school within the school district, the student is eligible to participate in a tryout for the team, a practice with the team, and scrimmages and contests against other school teams and is not required to submit a waiver request. For the purpose of this regulation, permanent change of station (PCS) means the assignment or transfer of a military service member to a different permanent duty station, to include relocation to place of retirement, when retirement is mandatory, under a competent authorization/order that does not specify the duty as temporary, provide for further assignment to a new permanent duty station, or direct the military service member to return to the old permanent duty station.
- 3.6 If the student is not legally enrolled in a Delaware public school due to homelessness as defined in the McKinney-Vento Education for Homeless Children and Youths Act, 42 U.S.C. §11434a(2), a waiver of the Enrollment Rule is not required and the student shall be eligible to participate in a tryout, practice, scrimmage, or contest at the Delaware public school in which the student seeks to enroll.

**4.0 Eligibility: Attendance**

- 4.1 Purpose of the Attendance Rule - The purpose of the Attendance Rule is to help ensure that student athletes adhere to their school's attendance policy so that they maintain the academic standard required for interscholastic athletic participation and to promote graduation in a timely manner.
- 4.2 Attendance Rule
- 4.2.1 A student shall be legally in attendance at school in order to participate in a tryout, practice, scrimmage, or contest except when excused by proper school authorities in accordance with pre-established written school policy. For the purpose of the Attendance Rule, legally in attendance means present at school as determined by a pre-established policy adopted by the local school board or governing body of the student's school.
- 4.2.2 A student who is not legally in attendance at school due to illness or injury shall not be permitted to participate in a tryout, practice, scrimmage, or contest on that day.
- 4.2.3 A student who fails to complete a semester or is absent for 1 or more semesters for reasons other than personal illness or injury shall be ineligible for 90 school days from the student's reentry to school.
- 4.3 An ineligible student who participates in a tryout, practice, scrimmage, or contest in violation of subsection 4.2 shall, when the student regains eligibility, be prohibited from trying out, practicing, scrimmaging or competing for an equivalent number of days.

**OFFICE OF THE SECRETARY**

Statutory Authority: 14 Delaware Code, Sections 122(b)(15) and 303(b)(1)d (14 Del.C. §§122(b)(15) & 303(b)(1)d)

**ORDER****1029 Student Athlete Eligibility: Transfers****I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED**

Pursuant to 14 Del.C. Sections 122(b) and 303(a), the Delaware Interscholastic Athletic Association ("DIAA") Board of Directors, acting in consultation and cooperation with the Delaware Department of Education ("Department") is amending 14 DE Admin. Code 1029 Student Eligibility: Transfers. The regulation sets forth the transfer requirements for students to be eligible to participate in interscholastic athletics. The Board is simultaneously proposing to repeal existing sections from 14 DE Admin. Code 1009 regarding transfers and incorporating the new transfer regulations here. The proposed regulations specify the content of the regulation, definitions, and purpose in Section 1.0-3.0. Section 4.0 spells out when a student may transfer without consequence as well as the consequences for transferring other times, including periods of ineligibility. Section 5.0 specifies the exceptions to the transfer rule. These regulations are consistent with Senate Bill 281, a bill recommended by the DIAA Task Force.

Notice of the proposed regulation was published in the *Register of Regulations* on May 1, 2024. The DIAA Board of Directors received one written submittal from Governor's Advisory Council for Exceptional Citizens (GACEC), which commented that the "regulation does not address the circumstance in which a student with disabilities transfers schools for educational reasons, pursuant to an IEP or because the school offers the needed educational services or supports."

**II. ASSESSMENT OF THE IMPACT ON ACHIEVEMENT OF THE STATE'S GREENHOUSE GAS EMISSIONS REDUCTION TARGETS AND RESILIENCY TO CLIMATE CHANGE**

The Secretary of Education has reviewed the proposed regulation as required by 29 Del.C. §10118(b)(3) and has determined that any assessment of the impact of the proposed regulation is not practical.

### III. FINDINGS OF FACTS

On June 13, 2024, the DIAA Board considered the written submittal. The DIAA Board found that a student with an IEP could seek a waiver and be granted eligibility immediately. DIAA's primary purpose is to prioritize education and ensure fair play in interscholastic athletics. The Board has historically granted waivers to students seeking to transfer for reasons related to IEPs or 504 plans, and this regulation would not change that. The DIAA Board decided not to make changes as a result of the written submittal and voted to propose **14 DE Admin. Code 1029 Student Athlete Eligibility: Transfers**, in the form attached hereto as Exhibit A, for adoption by the Department subject to the State Board of Education's approval.

The Department finds that the proposed regulation relates to interscholastic athletics at the high school levels and is necessary to implement 14 **Del.C.** Ch. 3. Accordingly, the Department finds that it is appropriate to amend **14 DE Admin. Code 1029 Student Athlete Eligibility: Transfers**.

### IV. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend **14 DE Admin. Code 1029 Student Athlete Eligibility: Transfers** subject to the State Board of Education's approval. On June 20, 2024, the State Board of Education approved amending **14 DE Admin. Code 1029 Student Athlete Eligibility: Transfers**. Therefore, pursuant to **14 Del.C. §§122(b)(15) and 303**, **14 DE Admin. Code 1029 Student Athlete Eligibility: Transfers**, attached hereto as Exhibit A, is hereby amended.

### V. TEXT AND CITATION

The text of **14 DE Admin. Code 1029 Student Athlete Eligibility: Transfers** adopted hereby shall be in the form attached hereto as Exhibit "A," and said regulation shall be cited as **14 DE Admin. Code 1029 Student Athlete Eligibility: Transfers** in the Administrative Code of Regulations for the Department.

### VI. EFFECTIVE DATE OF ORDER

The effective date of this Order shall be ten (10) days from the date this Order is published in the *Register of Regulations*.

**IT IS SO ORDERED** the 20th day of June, 2024.

#### Department of Education

Mark A. Holodick, Ed.D., Secretary of Education

Approved this 20th day of June, 2024.

#### State Board of Education

/s/ Shawn Brittingham, President

/s/ Harvey Kenton, Jr.

/s/ Deborah Stevens, Vice President

/s/ Rev. Provey Powell, Jr.

/s/ Candice Fifer

/s/ Wali W. Rushdan, II

/s/ Meredith L. Griffin, Jr.

**\*Please note: Electronic signatures ("/s/") were accepted pursuant to 6 Del.C. §12A-107(d).**

**\*Please note that no changes were made to the regulation as originally proposed and published in the May 2024 issue of the *Register* at page 812 (27 DE Reg. 812). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**<https://regulations.delaware.gov/register/august2024/final/28 DE Reg 124 08-01-24.htm>**

---

# FINAL REGULATIONS

---

## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b)(15) and 303 (14 **Del.C.** §§122(b)(15) & 303)

14 **DE Admin. Code** 1035

### ORDER

#### 1035 In-Season Athletic Activities and Contact

##### I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** §§122(b)(15) and 303, the Delaware Interscholastic Athletic Association Board of Directors ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), proposes to amend 14 **DE Admin. Code** 1035 In-Season Athletic Activities and Contact. The regulation sets forth the requirements for athletic activities and contact during the period of time from the beginning of the season until the last scheduled date for DIAA championships for the sport's season. The proposed amendments are to add "event" as a defined term to Section 2.0 and amend Section 6.0, which concerns sanctioning of invitationals, meets, and tournaments. The proposed amendments are based on the current practice for sanctioning.

Notice of the proposed regulation was published in the *Register of Regulations* on April 1, 2024. The DIAA Board did not receive any written submittals concerning the proposed regulation.

##### II. ASSESSMENT OF THE IMPACT ON ACHIEVEMENT OF THE STATE'S GREENHOUSE GAS EMISSIONS REDUCTION TARGETS AND RESILIENCY TO CLIMATE CHANGE

The Secretary of Education has reviewed the proposed regulation as required by 29 **Del.C.** §10118(b)(3) and has determined that any assessment of the impact of the proposed regulation is not practical.

##### III. FINDINGS OF FACTS

On June 13, 2024, the DIAA Board voted to propose 14 **DE Admin. Code** 1035 In-Season Athletic Activities and Contact, in the form attached hereto as Exhibit A, for adoption by the Department subject to the State Board of Education's approval.

The Department finds that the proposed regulation relates to interscholastic athletics at the middle and high school levels and is necessary to implement 14 **Del.C.** Ch. 3. Accordingly, the Department finds that it is appropriate to amend 14 **DE Admin. Code** 1035 In-Season Athletic Activities and Contact.

##### IV. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1035 In-Season Athletic Activities and Contact subject to the State Board of Education's approval. On June 20, 2024, the State Board of Education approved amending 14 **DE Admin. Code** 1035 In-Season Athletic Activities and Contact. Therefore, pursuant to 14 **Del.C.** §§122(b)(15) and 303, 14 **DE Admin. Code** 1035 In-Season Athletic Activities and Contact, attached hereto as Exhibit A, is hereby amended.

##### V. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1035 In-Season Athletic Activities and Contact amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1035 In-Season Athletic Activities and Contact in the *Administrative Code of Regulations* for the Department.

##### VI. EFFECTIVE DATE OF ORDER

The effective date of this Order shall be ten days from the date this Order is published in the *Register of Regulations*.

IT IS SO ORDERED the 20th day of June, 2024.

Department of Education



---

Mark A. Holodick, Ed.D., Secretary of Education

Approved this 20th day of June, 2024.

## State Board of Education

/s/ Shawn Brittingham, President

/s/ Harvey Kenton, Jr.

/s/ Deborah Stevens, Vice President

/s/ Provey Powell, Jr.

/s/ Candice Fifer

/s/ Wali W. Rushdan, II

/s/ Meredith L. Griffin, Jr.

**\*Please note: Electronic signatures ("/s/") were accepted pursuant to 6 Del.C. §12A-107(d).**

**\*Please note that no changes were made to the regulation as originally proposed and published in the April 2024 issue of the *Register* at page 744 (27 DE Reg. 744). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**<https://regulations.delaware.gov/register/august2024/final/28 DE Reg 126 08-01-24.htm>**

---

## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b)(15) and 303 (14 Del.C. §§122(b)(15) & 303)

14 DE Admin. Code 1043

## ORDER

**1043 Officials**

### I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 Del.C. §§122(b)(15) and 303, the Delaware Interscholastic Athletic Association Board of Directors ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 DE Admin. Code 1043 Officials. The regulation concerns the requirements for DIAA-recognized officials' associations, requirements for officials who officiate at DIAA Member Schools, and the fees for officiating contests and competitions. The Board proposes to amend the rates for officiating regular season contests in subsection 5.1 and amend the fees for officiating scrimmages in subsection 5.3.

Notice of the proposed regulation was published in the *Register of Regulations* on April 1, 2024. The DIAA Board did not receive any written submittals concerning the proposed regulation.

### II. ASSESSMENT OF THE IMPACT ON ACHIEVEMENT OF THE STATE'S GREENHOUSE GAS EMISSIONS REDUCTION TARGETS AND RESILIENCY TO CLIMATE CHANGE

The Secretary of Education has reviewed the proposed regulation as required by 29 Del.C. §10118(b)(3) and has determined that any assessment of the impact of the proposed regulation is not practical.

### III. FINDINGS OF FACTS

On June 13, 2024, the DIAA Board voted to propose 14 DE Admin. Code 1043 Officials, in the form attached hereto as Exhibit A, for adoption by the Department subject to the State Board of Education's approval.

The Department finds that the proposed regulation relates to interscholastic athletics at the middle and high school levels and is necessary to implement 14 Del.C. Ch. 3. Accordingly, the Department finds that it is appropriate to amend 14 DE Admin. Code 1043 Officials.

### IV. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 DE Admin. Code

# FINAL REGULATIONS

1043 Officials subject to the State Board of Education's approval. On June 20, 2024, the State Board of Education approved amending 14 **DE Admin. Code** 1043 Officials. Therefore, pursuant to 14 Del.C. §§122(b)(15) and 303, 14 **DE Admin. Code** 1043 Officials, attached hereto as Exhibit A, is hereby amended.

## V. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1043 Officials amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1043 Officials in the *Administrative Code of Regulations* for the Department.

## VI. EFFECTIVE DATE OF ORDER

The effective date of this Order shall be ten days from the date this Order is published in the *Register of Regulations*.

**IT IS SO ORDERED** the 20th day of June, 2024.

### Department of Education

Mark A. Holodick, Ed.D., Secretary of Education

Approved this 20th day of June, 2024.

### State Board of Education

/s/ Shawn Brittingham, President

/s/ Harvey Kenton, Jr.

/s/ Deborah Stevens, Vice President

/s/ Provey Powell, Jr.

/s/ Candice Fifer

/s/ Wali W. Rushdan, II

/s/ Meredith L. Griffin, Jr.

**\*Please note: Electronic signatures ("/s/") were accepted pursuant to 6 Del.C. §12A-107(d).**

**\*Please note that no changes were made to the regulation as originally proposed and published in the April 2024 issue of the *Register* at page 747 (27 DE Reg. 747). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**<https://regulations.delaware.gov/register/august2024/final/28 DE Reg 127 08-01-24.htm>**

## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b)(8), 181(15), 183, 3402(c), and 3416  
(14 **Del.C.** §§122(b)(8), 181(15), 183, 3402(c), & 3416)  
14 **DE Admin. Code** 1211

## ORDER

### 1211 Career-Based Scholarship Program

#### I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** §§ 122(b)(8), 181(15), 183, 3402(c), and 3416, the Delaware Department of Education ("Department"), through the Delaware Higher Education Office ("DHEO"), developed amendments to 14 **DE Admin. Code** 1211 Career-Based Scholarship Program. The Career-Based Scholarship Program is a student financial assistance for higher education program that is administered by DHEO. The proposed amendments include striking the definition of Free Application for Federal Student Aid ("FAFSA") from Section 2.0, striking the requirement that applicants complete the FAFSA for the school year in which the scholarship is sought by the application deadline in subsection 4.2.2, and revising the information that DHEO will consider to determine an applicant's financial need for the scholarship's purpose in subsection 5.2. The proposed changes are a result of the

U.S. Department of Education's recent transformation of the FAFSA form, which delayed the opening of the 2024-2025 application by three months and has had significant system glitches. Additionally, the federal processor has transmitted significantly fewer FAFSA results to states, including Delaware, which would delay financial aid and scholarship awarding. Therefore, the Department intends to remove the FAFSA requirement for the 2024-2025 academic year. The Department will determine whether to reinstate the requirement for the 2025-2026 academic year.

Notice of the proposed regulation was published in the *Register of Regulations* on May 1, 2024. The Department did not receive any written submittals concerning the proposed regulation.

## II. ASSESSMENT OF THE IMPACT ON ACHIEVEMENT OF THE STATE'S GREENHOUSE GAS EMISSIONS REDUCTION TARGETS AND RESILIENCY TO CLIMATE CHANGE

The Secretary of Education has reviewed the proposed regulation as required by 29 **Del.C.** §10118(b)(3) and has determined that any assessment of the impact of the proposed regulation is not practical.

## III. FINDINGS OF FACTS

The Department finds that the FAFSA form was transformed and, as a result, the application was delayed for three months and there have been significant glitches with it. In addition, the Department finds that financial aid and scholarship awards will be delayed for the 2024-2025 academic year because fewer FAFSA results have been transmitted to the State. Thus, the Department finds that the proposed amendments are necessary to implement 14 **Del.C.** Ch. 34 and the Career-Based Scholarship Program, which is a student financial assistance program that DHEO administers.

## IV. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1211 Career-Based Scholarship Program subject to the State Board of Education's approval. On June 20, 2024, the State Board of Education approved amending 14 **DE Admin. Code** 1211 Career-Based Scholarship Program. Therefore, pursuant to 14 **Del.C.** §§ 122(b)(8), 181(15), 183, 3402(c), and 3416, 14 **DE Admin. Code** 1211 Career-Based Scholarship Program, attached hereto as Exhibit A, is hereby amended.

## V. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1211 Career-Based Scholarship Program amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1211 Career-Based Scholarship Program in the *Administrative Code of Regulations* for the Department.

## VI. EFFECTIVE DATE OF ORDER

The effective date of this Order shall be ten days from the date this Order is published in the *Register of Regulations*.

**IT IS SO ORDERED** the 20th day of June, 2024.

### Department of Education

Mark A. Holodick, Ed.D., Secretary of Education

Approved this 20th day of June, 2024.

### State Board of Education

/s/ Shawn Brittingham, President

/s/ Harvey Kenton, Jr.

/s/ Deborah Stevens, Vice President

/s/ Rev. Provey Powell, Jr.

/s/ Candice Fifer

/s/ Wali W. Rushdan, II

/s/ Meredith L. Griffin, Jr.

\*Please note: Electronic signatures ("/s/") were accepted pursuant to 6 **Del.C.** §12A-107(d).

\*Please note that no changes were made to the regulation as originally proposed and published in the May 2024 issue of the *Register* at page 816 (27 DE Reg. 816). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

<https://regulations.delaware.gov/register/august2024/final/28 DE Reg 128 08-01-24.htm>

### OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b)(8), 181(15), 183, 3402(c), 3402(h), and 3438 (14 Del.C. §§122(b)(8), 181(15), 183, 3402(c), 3402(h), & 3438)  
14 DE Admin. Code 1216

### ORDER

### 1216 Educator Support Scholarship Program

#### I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 Del.C. §§ 122(b)(8), 181(15), 183, 3402(c), 3402(h), and 3438, the Delaware Department of Education ("Department"), through the Delaware Higher Education Office ("DHEO"), developed amendments to 14 DE Admin. Code 1216 Educator Support Scholarship Program. The Educator Support Scholarship Program is a student financial assistance for higher education program that is administered by DHEO. The proposed amendments include striking the definition of Free Application for Federal Student Aid ("FAFSA") from Section 2.0, striking the requirement that applicants complete the FAFSA for the school year in which the scholarship is sought by the application deadline in subsection 4.2.2, and revising the information that DHEO will consider to determine an applicant's financial need for the scholarship's purpose in subsection 5.2. The proposed changes are a result of the U.S. Department of Education's recent transformation of the FAFSA form, which delayed the opening of the 2024-2025 application by three months and has had significant system glitches. Additionally, the federal processor has transmitted significantly fewer FAFSA results to states, including Delaware, which would delay financial aid and scholarship awarding. Therefore, the Department intends to remove the FAFSA requirement for the 2024-2025 academic year. The Department will determine whether to reinstate the requirement for the 2025-2026 academic year.

Notice of the proposed regulation was published in the *Register of Regulations* on May 1, 2024. The Department did not receive any written submittals concerning the proposed regulation.

#### II. ASSESSMENT OF THE IMPACT ON ACHIEVEMENT OF THE STATE'S GREENHOUSE GAS EMISSIONS REDUCTION TARGETS AND RESILIENCY TO CLIMATE CHANGE

The Secretary of Education has reviewed the proposed regulation as required by 29 Del.C. §10118(b)(3) and has determined that any assessment of the impact of the proposed regulation is not practical.

#### III. FINDINGS OF FACTS

The Department finds that the FAFSA form was transformed and, as a result, the application was delayed for three months and there have been significant glitches with it. In addition, the Department finds that financial aid and scholarship awards will be delayed for the 2024-2025 academic year because fewer FAFSA results have been transmitted to the State. Thus, the Department finds that the proposed amendments are necessary to implement 14 Del.C. Ch. 34 and the Educator Support Scholarship Program, which is a student financial assistance program that DHEO administers.

#### IV. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 DE Admin. Code 1216 Educator Support Scholarship Program subject to the State Board of Education's approval. On June 20, 2024, the State Board of Education approved amending 14 DE Admin. Code 1216 Educator Support Scholarship Program. Therefore, pursuant to 14 Del.C. §§ 122(b)(8), 181(15), 183, 3402(c), 3402(h), & 3438, 14 DE Admin. Code 1216 Educator Support Scholarship Program, attached hereto as Exhibit A, is hereby amended.

## V. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1216 Educator Support Scholarship Program amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1216 Educator Support Scholarship Program in the *Administrative Code of Regulations* for the Department.

## VI. EFFECTIVE DATE OF ORDER

The effective date of this Order shall be ten days from the date this Order is published in the *Register of Regulations*.

**IT IS SO ORDERED** the 20th day of June, 2024.

### Department of Education

Mark A. Holodick, Ed.D., Secretary of Education

Approved this 20th day of June, 2024.

### State Board of Education

/s/ Shawn Brittingham, President

/s/ Harvey Kenton, Jr.

/s/ Deborah Stevens, Vice President

/s/ Rev. Provey Powell, Jr.

/s/ Candice Fifer

/s/ Wali W. Rushdan, II

/s/ Meredith L. Griffin, Jr.

**\*Please note: Electronic signatures ("/s/") were accepted pursuant to 6 Del.C. §12A-107(d).**

**\*Please note that no changes were made to the regulation as originally proposed and published in the May 2024 issue of the *Register* at page 819 (27 DE Reg. 819). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**<https://regulations.delaware.gov/register/august2024/final/28 DE Reg 130 08-01-24.htm>**

---

## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b)(8), 181(15), 183, 3402(c), and 3439(a)  
(14 **Del.C.** §§122(b)(8), 181(15), 183, 3402(c), & 3439(a))  
14 **DE Admin. Code** 1217

## ORDER

### 1217 Mental Health Services Scholarship

#### I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** §§ 122(b)(8), 181(15), 183, 3402(c), and 3439(a), the Delaware Department of Education ("Department"), through the Delaware Higher Education Office ("DHEO"), developed amendments to 14 **DE Admin. Code** 1217 Mental Health Services Scholarship. The Mental Health Services Scholarship is a student financial assistance for higher education program that is administered by DHEO. The proposed amendments include striking the definition of Free Application for Federal Student Aid ("FAFSA") from Section 2.0, striking the requirement that applicants complete the FAFSA for the school year in which the scholarship is sought by the application deadline in subsection 4.2.2, and revising the information that DHEO will consider to determine an applicant's financial need for the scholarship's purpose in subsection 5.2. The proposed changes are a result of the U.S. Department of Education's recent transformation of the FAFSA form, which delayed the opening of the 2024-2025 application by three months and has had significant system glitches. Additionally, the federal processor has transmitted significantly fewer FAFSA results to states, including Delaware, which would delay financial aid and scholarship awarding. Therefore, the Department intends to remove the FAFSA requirement for the 2024-2025

academic year. The Department will determine whether to reinstate the requirement for the 2025-2026 academic year.

The Department received one written submittal from Ann C. Fisher, Chairperson of the Governor's Advisory Council for Exceptional Citizens ("GACEC") who commented that GACEC supports the proposed regulation because the amendments "could potentially increase the pool of individuals seeking professions in mental health services."

## II. ASSESSMENT OF THE IMPACT ON ACHIEVEMENT OF THE STATE'S GREENHOUSE GAS EMISSIONS REDUCTION TARGETS AND RESILIENCY TO CLIMATE CHANGE

The Secretary of Education has reviewed the proposed regulation as required by 29 **Del.C.** §10118(b)(3) and has determined that any assessment of the impact of the proposed regulation is not practical.

## III. FINDINGS OF FACTS

The Department finds that the FAFSA form was transformed and, as a result, the application was delayed for three months and there have been significant glitches with it. In addition, the Department finds that financial aid and scholarship awards will be delayed for the 2024-2025 academic year because fewer FAFSA results have been transmitted to the State. Thus, the Department finds that the proposed amendments are necessary to implement 14 **Del.C.** Ch. 34 and the Mental Health Services Scholarship Program, which is a student financial assistance program that DHEO administers.

## IV. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1217 Mental Health Services Scholarship subject to the State Board of Education's approval. On June 20, 2024, the State Board of Education approved amending 14 **DE Admin. Code** 1217 Mental Health Services Scholarship. Therefore, pursuant to 14 **Del.C.** §§ 122(b)(8), 181(15), 183, 3402(c), and 3439(a), 14 **DE Admin. Code** 1217 Mental Health Services Scholarship, attached hereto as Exhibit A, is hereby amended.

## V. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1217 Mental Health Services Scholarship amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1217 Mental Health Services Scholarship in the *Administrative Code of Regulations* for the Department.

## VI. EFFECTIVE DATE OF ORDER

The effective date of this Order shall be ten days from the date this Order is published in the *Register of Regulations*.

**IT IS SO ORDERED** the 20th day of June, 2024.

### Department of Education

Mark A. Holodick, Ed.D., Secretary of Education

Approved this 20th day of June, 2024.

### State Board of Education

/s/ Shawn Brittingham, President

/s/ Harvey Kenton, Jr.

/s/ Deborah Stevens, Vice President

/s/ Rev. Provey Powell, Jr.

/s/ Candice Fifer

/s/ Wali W. Rushdan, II

/s/ Meredith L. Griffin, Jr.

**\*Please note: Electronic signatures ("/s/") were accepted pursuant to 6 Del.C. §12A-107(d).**

**\*Please note that no changes were made to the regulation as originally proposed and published in the May 2024 issue of the *Register* at page 822 (27 DE Reg. 822). Therefore, the final regulation is not being**

---

republished. A copy of the final regulation is available at:

<https://regulations.delaware.gov/register/august2024/final/28 DE Reg 131 08-01-24.htm>

---

## PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203, 1205(b), and 1220 (14 Del.C. §§1203, 1205(b), & 1220)  
14 DE Admin. Code 1549

### ORDER

#### 1549 Dance Teacher

#### I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 Del.C. §§1203, 1205(b), and 1220, the Professional Standards Board, acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 DE Admin. Code 1549 Dance Teacher. The regulation concerns the requirements for a Dance Teacher Standard Certificate in accordance with 14 Del.C. §1220. The proposed amendments include revising subsection 4.1.5, which concerns the requirements for an applicant who has completed a minimum of 91 days of successful long-term substitute teaching in a Delaware public school, and striking subsections 5.3.3 and 5.4.2. The revisions to subsection 4.1.5 and striking subsections 5.3.3 and 5.4.2 were prompted by HB 315 w/ HA 2 of the 151st General Assembly, which was signed into law on August 4, 2022. In addition, the definition of "Regionally Accredited" in Section 2.0 has been revised based on changes the U.S. Department of Education made to its recognition of accrediting bodies and the term "Employing Authority" has been revised to eliminate a redundant phrase. Also, the proposed amendments include striking subsection 4.1.6, revising subsection 4.2.1, and amending the title of the certificate in subsection 4.2.2.

Notice of the proposed regulation was published in the *Register of Regulations* on May 1, 2024. The Professional Standards Board did not receive any written submittals concerning the proposed regulation.

#### II. ASSESSMENT OF THE IMPACT ON ACHIEVEMENT OF THE STATE'S GREENHOUSE GAS EMISSIONS REDUCTION TARGETS AND RESILIENCY TO CLIMATE CHANGE

The Secretary of Education has reviewed the proposed regulation as required by 29 Del.C. §10118(b)(3) and has determined that any assessment of the impact of the proposed regulation is not practical.

#### III. FINDINGS OF FACTS

On June 6, 2024, the Professional Standards Board voted to propose 14 DE Admin. Code 1549 Dance Teacher, in the form attached hereto as Exhibit A, for adoption by the Department subject to the State Board of Education's approval.

The Department finds that the proposed amendments to the regulation are necessary to implement 14 Del.C. Ch. 12 and are designed to improve the quality of the Delaware educator workforce and to improve student performance. Accordingly, the Department finds that it is appropriate to amend 14 DE Admin. Code 1549 Dance Teacher.

#### IV. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 DE Admin. Code 1549 Dance Teacher subject to the State Board of Education's approval. On June 20, 2024, the State Board of Education approved amending 14 DE Admin. Code 1549 Dance Teacher. Therefore, pursuant to 14 Del.C. §§1203, 1205(b), and 1220, 14 DE Admin. Code 1549 Dance Teacher, attached hereto as Exhibit A, is hereby amended.

#### V. TEXT AND CITATION

The text of 14 DE Admin. Code 1549 Dance Teacher amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 DE Admin. Code 1549 Dance Teacher in the *Administrative*

*Code of Regulations* for the Department.

#### VI. EFFECTIVE DATE OF ORDER

The effective date of this Order shall be ten days from the date this Order is published in the *Register of Regulations*.

**IT IS SO ORDERED** the 20th day of June, 2024.

#### Department of Education

Mark A. Holodick, Ed.D., Secretary of Education

Approved this 20th day of June, 2024.

#### State Board of Education

/s/ Shawn Brittingham, President

/s/ Harvey Kenton, Jr.

/s/ Deborah Stevens, Vice President

/s/ Rev. Provey Powell, Jr.

/s/ Candice Fifer

/s/ Wali W. Rushdan, II

/s/ Meredith L. Griffin, Jr.

**\*Please note: Electronic signatures ("/s/") were accepted pursuant to 6 Del.C. §12A-107(d).**

**\*Please note that no changes were made to the regulation as originally proposed and published in the May 2024 issue of the *Register* at page 825 (27 DE Reg. 825). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**<https://regulations.delaware.gov/register/august2024/final/28 DE Reg 133 08-01-24.htm>**

### PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203, 1205(b), and 1220 (14 Del.C. §§1203, 1205(b), & 1220)  
14 DE Admin. Code 1558

#### ORDER

#### 1558 Theatre Teacher

#### I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 Del.C. §§1203, 1205(b), and 1220, the Professional Standards Board ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 DE Admin. Code 1558 Theatre Teacher. The regulation concerns the requirements for a Theatre Teacher Standard Certificate in accordance with 14 Del.C. §1220. The proposed amendments include revising subsection 4.1.1.4, which concerns the requirements for an applicant who has completed a minimum of 91 days of successful long-term substitute teaching in a Delaware public school, and striking subsection 5.3.2. The revisions to subsection 4.1.1.4 and striking subsections 5.3.2 were prompted by HB 315 w/ HA 2 of the 151st General Assembly, which was signed into law on August 4, 2022. In addition, the definition of "Regionally Accredited" in Section 2.0 has been revised based on changes the U.S. Department of Education made to its recognition of accrediting bodies and the term "Employing Authority" has been revised to eliminate a redundant phrase.

Notice of the proposed regulation was published in the *Register of Regulations* on May 1, 2024. The Professional Standards Board did not receive any written submittals concerning the proposed regulation.

#### II. ASSESSMENT OF THE IMPACT ON ACHIEVEMENT OF THE STATE'S GREENHOUSE GAS EMISSIONS REDUCTION TARGETS AND RESILIENCY TO CLIMATE CHANGE



The Secretary of Education has reviewed the proposed regulation as required by 29 **Del.C.** §10118(b)(3) and has determined that any assessment of the impact of the proposed regulation is not practical.

### III. FINDINGS OF FACTS

On June 6, 2024, the Professional Standards Board voted to propose 14 **DE Admin. Code** 1558 Theatre Teacher, in the form attached hereto as Exhibit A, for adoption by the Department subject to the State Board of Education's approval.

The Department finds that the proposed amendments to the regulation are necessary to implement 14 **Del.C.** Ch. 12 and are designed to improve the quality of the Delaware educator workforce and to improve student performance. Accordingly, the Department finds that it is appropriate to amend 14 **DE Admin. Code** 1558 Theatre Teacher.

### IV. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1558 Theatre Teacher subject to the State Board of Education's approval. On June 20, 2024, the State Board of Education approved amending 14 **DE Admin. Code** 1558 Theatre Teacher. Therefore, pursuant to 14 **Del.C.** §§1203, 1205(b), and 1220, 14 **DE Admin. Code** 1558 Theatre Teacher, attached hereto as Exhibit A, is hereby amended.

### V. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1558 Theatre Teacher amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1558 Theatre Teacher in the *Administrative Code of Regulations* for the Department.

### VI. EFFECTIVE DATE OF ORDER

The effective date of this Order shall be ten days from the date this Order is published in the *Register of Regulations*.

**IT IS SO ORDERED** the 20th day of June, 2024.

#### Department of Education

Mark A. Holodick, Ed.D., Secretary of Education

Approved this 20th day of June, 2024.

#### State Board of Education

/s/ Shawn Brittingham, President

/s/ Harvey Kenton, Jr.

/s/ Deborah Stevens, Vice President

/s/ Rev. Provey Powell, Jr.

/s/ Candice Fifer

/s/ Wali W. Rushdan, II

/s/ Meredith L. Griffin, Jr.

**\*Please note: Electronic signatures ("/s/") were accepted pursuant to 6 Del.C. §12A-107(d).**

**\*Please note that no changes were made to the regulation as originally proposed and published in the May 2024 issue of the *Register* at page 827 (27 DE Reg. 827). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**<https://regulations.delaware.gov/register/august2024/final/28 DE Reg 134 08-01-24.htm>**

---

# FINAL REGULATIONS

---

## PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1203, 1205(b), and 1220 (14 **Del.C.** §§1203, 1205(b), & 1220)  
14 **DE Admin. Code** 1560

### ORDER

#### 1560 Visual Arts Teacher

#### I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** §§1203, 1205(b), and 1220, the Professional Standards Board, acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 **DE Admin. Code** 1560 Visual Arts Teacher. The regulation concerns the requirements for a Visual Arts Teacher Standard Certificate in accordance with 14 **Del.C.** §1220. The proposed amendments include revising subsection 4.1.1.5, which concerns the requirements for an applicant who has completed a minimum of 91 days of successful long-term substitute teaching in a Delaware public school, and striking subsection 5.3.3. The revisions to subsection 4.1.1.5 and striking subsections 5.3.3 were prompted by HB 315 w/ HA 2 of the 151st General Assembly, which was signed into law on August 4, 2022. In addition, the definition of "Regionally Accredited" in Section 2.0 has been revised based on changes the U.S. Department of Education made to its recognition of accrediting bodies and the term "Employing Authority" has been revised to eliminate a redundant phrase.

Notice of the proposed regulation was published in the *Register of Regulations* on May 1, 2024. The Professional Standards Board did not receive any written submittals concerning the proposed regulation.

#### II. ASSESSMENT OF THE IMPACT ON ACHIEVEMENT OF THE STATE'S GREENHOUSE GAS EMISSIONS REDUCTION TARGETS AND RESILIENCY TO CLIMATE CHANGE

The Secretary of Education has reviewed the proposed regulation as required by 29 **Del.C.** §10118(b)(3) and has determined that any assessment of the impact of the proposed regulation is not practical.

#### III. FINDINGS OF FACTS

On June 6, 2024, the Professional Standards Board voted to propose 14 **DE Admin. Code** 1560 Visual Arts Teacher, in the form attached hereto as Exhibit A, for adoption by the Department subject to the State Board of Education's approval.

The Department finds that the proposed amendments to the regulation are necessary to implement 14 **Del.C.** Ch. 12 and are designed to improve the quality of the Delaware educator workforce and to improve student performance. Accordingly, the Department finds that it is appropriate to amend 14 **DE Admin. Code** 1560 Visual Arts Teacher.

#### IV. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1560 Visual Arts Teacher subject to the State Board of Education's approval. On June 20, 2024, the State Board of Education approved amending 14 **DE Admin. Code** 1560 Visual Arts Teacher. Therefore, pursuant to 14 **Del.C.** §§1203, 1205(b), and 1220, 14 **DE Admin. Code** 1560 Visual Arts Teacher, attached hereto as Exhibit A, is hereby amended.

#### V. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1560 Visual Arts Teacher amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1560 Visual Arts Teacher in the *Administrative Code of Regulations* for the Department.

#### VI. EFFECTIVE DATE OF ORDER

The effective date of this Order shall be ten days from the date this Order is published in the *Register of Regulations*.

---

IT IS SO ORDERED the 20th day of June, 2024.

**Department of Education**

Mark A. Holodick, Ed.D., Secretary of Education

Approved this 20th day of June, 2024.

**State Board of Education**

/s/ Shawn Brittingham, President

/s/ Harvey Kenton, Jr.

/s/ Deborah Stevens, Vice President

/s/ Rev. Provey Powell, Jr.

/s/ Candice Fifer

/s/ Wali W. Rushdan, II

/s/ Meredith L. Griffin, Jr.

**\*Please note: Electronic signatures ("/s/") were accepted pursuant to 6 Del.C. §12A-107(d).**

**\*Please note that no changes were made to the regulation as originally proposed and published in the May 2024 issue of the *Register* at page 832 (27 DE Reg. 832). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**<https://regulations.delaware.gov/register/august2024/final/28 DE Reg 136 08-01-24.htm>**

---

**PROFESSIONAL STANDARDS BOARD**

Statutory Authority: 14 Delaware Code, Sections 1203, 1205(b), and 1220 (14 Del.C. §§1203, 1205(b), & 1220)

14 DE Admin. Code 1563

**ORDER**

**1563 Music Teacher**

**I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED**

Pursuant to 14 Del.C. §§1203, 1205(b), and 1220, the Professional Standards Board, acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 DE Admin. Code 1563 Music Teacher. The regulation concerns the requirements for a Music Teacher Standard Certificate in accordance with 14 Del.C. §1220. The proposed amendments include revising subsection 4.1.1.5, which concerns the requirements for an applicant who has completed a minimum of 91 days of successful long-term substitute teaching in a Delaware public school, and striking subsection 5.3.3. The revisions to subsection 4.1.1.5 and striking subsections 5.3.3 were prompted by HB 315 w/ HA 2 of the 151st General Assembly, which was signed into law on August 4, 2022. In addition, the definition of "Regionally Accredited" in Section 2.0 has been revised based on changes the U.S. Department of Education made to its recognition of accrediting bodies and the term "Employing Authority" has been revised to eliminate a redundant phrase.

Notice of the proposed regulation was published in the *Register of Regulations* on May 1, 2024. The Professional Standards Board did not receive any written submittals concerning the proposed regulation.

**II. ASSESSMENT OF THE IMPACT ON ACHIEVEMENT OF THE STATE'S GREENHOUSE GAS EMISSIONS REDUCTION TARGETS AND RESILIENCY TO CLIMATE CHANGE**

The Secretary of Education has reviewed the proposed regulation as required by 29 Del.C. §10118(b)(3) and has determined that any assessment of the impact of the proposed regulation is not practical.

**III. FINDINGS OF FACTS**

On June 6, 2024, the Professional Standards Board voted to propose 14 DE Admin. Code 1563 Music Teacher, in the form attached hereto as Exhibit A, for adoption by the Department subject to the State Board of

Education's approval.

The Department finds that the proposed amendments to the regulation are necessary to implement 14 **Del.C.** Ch. 12 and are designed to improve the quality of the Delaware educator workforce and to improve student performance. Accordingly, the Department finds that it is appropriate to amend 14 **DE Admin. Code** 1563 Music Teacher.

#### **IV. DECISION TO AMEND THE REGULATION**

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1563 Music Teacher subject to the State Board of Education's approval. On June 20, 2024, the State Board of Education approved amending 14 **DE Admin. Code** 1563 Music Teacher. Therefore, pursuant to 14 **Del.C.** §§1203, 1205(b), and 1220, 14 **DE Admin. Code** 1563 Music Teacher, attached hereto as Exhibit A, is hereby amended.

#### **V. TEXT AND CITATION**

The text of 14 **DE Admin. Code** 1563 Music Teacher amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1563 Music Teacher in the *Administrative Code of Regulations* for the Department.

#### **VI. EFFECTIVE DATE OF ORDER**

The effective date of this Order shall be ten days from the date this Order is published in the *Register of Regulations*.

**IT IS SO ORDERED** the 20th day of June, 2024.

#### **Department of Education**

Mark A. Holodick, Ed.D., Secretary of Education

Approved this 20th day of June, 2024.

#### **State Board of Education**

/s/ Shawn Brittingham, President

/s/ Harvey Kenton, Jr.

/s/ Deborah Stevens, Vice President

/s/ Rev. Provey Powell, Jr.

/s/ Candice Fifer

/s/ Wali W. Rushdan, II

/s/ Meredith L. Griffin, Jr.

**\*Please note: Electronic signatures ("/s/") were accepted pursuant to 6 Del.C. §12A-107(d).**

**\*Please note that no changes were made to the regulation as originally proposed and published in the May 2024 issue of the *Register* at page 837 (27 DE Reg. 837). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**<https://regulations.delaware.gov/register/august2024/final/28 DE Reg 137 08-01-24.htm>**

---

## DEPARTMENT OF HEALTH AND SOCIAL SERVICES DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

Statutory Authority: 31 Delaware Code, Section 512 (31 **Del.C.** §512)

### ORDER

#### CHIP Vaccines

#### NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance initiated proceedings to amend Title XXI CHIP State Plan Sections 1, 6 and 9, specifically, to provide an attestation to Centers for Medicare & Medicaid Services (CMS) assuring that DMMA covers all age-appropriate vaccines for children enrolled in CHIP. The Department's proceedings to amend its regulations were initiated pursuant to 29 **Del.C.** §10114 and its authority as prescribed by 31 **Del.C.** §512.

The Department published its notice of proposed regulation changes pursuant to 29 **Del. C.** §10115 in the June 2024 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by July 1, 2024, at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

#### **SUMMARY OF PROPOSAL**

The purpose of this notice is to advise the public that Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) is proposing to amend Title XXI CHIP State Plan regarding CHIP Vaccines.

#### **Background**

Section 11405(b)(1) of the IRA requires states with separate CHIPs that include coverage for children to provide coverage and payment for approved children vaccines recommended by the Advisory Committee on Immunization Practices (ACIP), and their administration, without cost sharing. Current regulations at 42 CFR § 457.410(b)(2) and 457.520(b)(4) require states to cover age-appropriate vaccines and their administration in accordance with the recommendations of the ACIP without cost sharing. The state provided the necessary assurances to demonstrate compliance with both requirements.

#### **Statutory Authority**

- 42 CFR § 457.410(b)(2)
- 42 CFR § 457.520(b)(4)
- Inflation Reduction Act (IRA) Section 11405(b)(1)

#### **Purpose**

The purpose of this regulation is to provide an attestation to the CMS assuring that DMMA covers all age-appropriate vaccines for children enrolled in CHIP.

#### *Summary of Proposed Changes*

Effective October 1, 2023, the DHSS/DMMA proposes to amend Title XXI CHIP State Plan regarding CHIP Vaccines, specifically, to provide an attestation assuring that DMMA covers all age-appropriate vaccines for children enrolled in CHIP.

#### *Public Notice*

In accordance with the *federal* public notice requirements established at Section 1902(a)(13)(A) of the Social Security Act and 42 CFR 440.386 and the *state* public notice requirements of Title 29, Chapter 101 of the **Delaware Code**, DHSS/DMMA gave public notice and provided an open comment period for 30 days to allow all stakeholders an opportunity to provide input on the proposed regulation. Comments were to have been received by 4:30 p.m. on July 1, 2024.

*Centers for Medicare and Medicaid Services Review and Approval*

The provisions of this state plan amendment (SPA) are subject to approval by the Centers for Medicare and Medicaid Services (CMS). The draft SPA page(s) may undergo further revisions before and after submittal to CMS based upon public comment and/or CMS feedback. The final version may be subject to significant change.

*Provider Manuals and Communications Update*

Also, there may be additional provider manuals that may require updates as a result of these changes. The applicable Delaware Medical Assistance Program (DMAP) Provider Policy Specific Manuals and/or Delaware Medical Assistance Portal will be updated. Manual updates, revised pages or additions to the provider manual are issued, as required, for new policy, policy clarification, and/or revisions to the DMAP program. Provider billing guidelines or instructions to incorporate any new requirement may also be issued. A newsletter system is utilized to distribute new or revised manual material and to provide any other pertinent information regarding DMAP updates. DMAP updates are available on the Delaware Medical Assistance Portal website: <https://medicaid.dhss.delaware.gov/provider>

**Fiscal Impact Statement**

There is no anticipated fiscal impact.

**Summary of Comments Received with Agency Response and Explanation of Changes**

There were no public comments received.

**IMPACT ON THE STATE'S GREENHOUSE GAS EMISSIONS REDUCTION TARGETS AND RESILIENCY TO CLIMATE CHANGE:**

The DMMA Division Director has reviewed the proposed regulation as required by 29 Del. C. §10118(b)(3) and has determined that if promulgated, the regulation would have a de minimis impact on the State's resiliency to climate change because neither implementation nor compliance with the regulation would reasonably involve the increase in greenhouse gas emissions.

**FINDINGS OF FACT:**

The Department finds that the proposed changes as set forth in the June 2024 *Register of Regulations* should be adopted with additions. The Department finds that the proposed does not require further public notice or comment under the APA because the amendments are non-substantive pursuant to 29 Del.C. §10118(c).

THEREFORE, IT IS ORDERED, that the proposed regulation to amend Title XXI CHIP State Plan regarding CHIP Vaccines, specifically, to provide an attestation to CMS assuring that DMMA covers all age-appropriate vaccines for children enrolled in CHIP and shall be final effective August 11, 2024.

7/30/2024 | 1:10 PM EDT

Date of Signature

Josette D. Manning Esq.  
Cabinet Secretary, DHSS

**\*Please Note: Due to formatting of certain amendments to the regulation, they are not being published here. A copy of the document is available at:**

<https://regulations.delaware.gov/register/august2024/final/Amended CHIP State Plan Premium Pages.pdf>

---

## DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

Statutory Authority: 31 Delaware Code, Section 512 (31 **Del.C.** §512)

### ORDER

#### Imported Drugs

#### NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance initiated proceedings to amend Title XIX Medicaid State Plan regarding Imported Drugs, specifically, to allow the importation of FDA unapproved medications for drugs that are currently in shortage as determined by FDA/ASHP. The Department's proceedings to amend its regulations were initiated pursuant to 29 **Del.C.** §10114 and its authority as prescribed by 31 **Del.C.** §512.

The Department published its notice of proposed regulation changes pursuant to 29 **Del. C.** §10115 in the June 2024 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by July 1, 2024, at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

#### **SUMMARY OF PROPOSAL**

The purpose of this notice is to advise the public that Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) is proposing to amend Title XIX Medicaid State Plan regarding Imported Drugs.

#### **Background**

This update is required to allow the State of Delaware to apply for the Federal Match for medications that are being imported for an FDA/ASHP declared shortage of an outpatient medication.

#### **Statutory Authority**

- 42 CFR 440.120
- Section 1905(a)(12) of the Social Security Act

#### **Purpose**

The purpose of this regulation is to allow the importation of FDA unapproved medications for drugs that are currently in shortage as determined by FDA/ASHP.

#### *Summary of Proposed Changes*

Effective August 1, 2024, the DHSS/DMMA proposes to amend Title XIX Medicaid State Plan regarding the medications that are not FDA approved to meet outpatient needs that have been created by a drug supply issue in the United States.

#### *Public Notice*

In accordance with the *federal* public notice requirements established at Section 1902(a)(13)(A) of the Social Security Act and 42 CFR 440.386 and the *state* public notice requirements of Title 29, Chapter 101 of the **Delaware Code**, DHSS/DMMA gave public notice and provided an open comment period for 30 days to allow all stakeholders an opportunity to provide input on the proposed regulation. Comments were to have been received by 4:30 p.m. on July 1, 2024.

#### *Centers for Medicare and Medicaid Services Review and Approval*

The provisions of this state plan amendment (SPA) are subject to approval by the Centers for Medicare and Medicaid Services (CMS). The draft SPA page(s) may undergo further revisions before and after submittal to CMS based upon public comment and/or CMS feedback. The final version may be subject to significant change.

***Provider Manuals and Communications Update***

Also, there may be additional provider manuals that may require updates as a result of these changes. The applicable Delaware Medical Assistance Program (DMAP) Provider Policy Specific Manuals and/or Delaware Medical Assistance Portal will be updated. Manual updates, revised pages or additions to the provider manual are issued, as required, for new policy, policy clarification, and/or revisions to the DMAP program. Provider billing guidelines or instructions to incorporate any new requirement may also be issued. A newsletter system is utilized to distribute new or revised manual material and to provide any other pertinent information regarding DMAP updates. DMAP updates are available on the Delaware Medical Assistance Portal website: <https://medicaid.dhss.delaware.gov/provider>

**Fiscal Impact Statement**

	Federal Fiscal Year 2024	Federal Fiscal Year 2025
General (State) funds	\$10,000	\$50,000
Federal funds	\$10,000	\$50,000

**Summary of Comments Received with Agency Response and Explanation of Changes**

**Comment:** There were comments supporting the proposed changes.

**Agency response:** DMMA appreciates the support.

**Comment:** We would like additional information on how DMMA plans to act once it has the regulatory authority to do so.

**Agency response:** The process would only be allowed for medications that FDA identifies as critical to meet public needs.

DMMA is pleased to provide the opportunity to receive public comments and greatly appreciates the thoughtful input given by:

- Governor's Advisory Council for Exceptional Citizens (GACEC)
- State Council for Persons with Disabilities (SCPD)

**IMPACT ON THE STATE'S GREENHOUSE GAS EMISSIONS REDUCTION TARGETS AND RESILIENCY TO CLIMATE CHANGE:**

The DMMA Division Director has reviewed the proposed regulation as required by 29 Del. C. §10118(b)(3) and has determined that if promulgated, the regulation would have a de minimis impact on the State's resiliency to climate change because neither implementation nor compliance with the regulation would reasonably involve the increase in greenhouse gas emissions.

**FINDINGS OF FACT:**

The Department finds that the proposed changes as set forth in the June 2024 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend Title XIX Medicaid State Plan Attachment 3.1-A page 5, specifically, to allow the importation of FDA unapproved medications for drugs that are currently in shortage as determined by FDA/ASHP and shall be final effective August 11, 2024.

7/30/2024 | 1:10 PM EDT

Date of Signature

Josette D. Manning Esq.  
Cabinet Secretary, DHSS



Revision: HCFA-PM-85-3 (BERC)

May 1985

Attachment

3.1-A

Page 5

OMB-No. 0938-0193

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT  
STATE/TERRITORY: **DELAWARE**

LIMITATIONS ON AMOUNT, DURATION AND SCOPE OF MEDICAL AND REMEDIAL CARE AND SERVICES  
PROVIDED TO THE CATEGORICALLY NEEDY

**12.a. Prescribed Drugs:**

**Drug Coverage**

1) Drug products are covered when prescribed or ordered by a physician, or other licensed practitioner within the scope of their practice and when obtained from a licensed pharmacy. When required by state or federal law DMMA members may request coverage of FDA approved medications, distributed by a CMS rebate participating labeler, without a prescription. Covered drugs, as defined in Section 1927(k)(2) of the Act, are those which are prescribed for a medically accepted indication, medically necessary, and produced by any pharmaceutical manufacturer, which has entered into and complies with a drug rebate agreement under Section 1927(a) of the Act.

2) The State will cover agents when used for cosmetic purposes or hair growth only when the state has determined that use to be medically necessary.

The State will cover drugs indicated for the treatment of obesity to address weight loss with co-morbid conditions with prior authorization.

3) Drugs excluded from coverage by Delaware Medicaid as provided by Section 1927(d)(2) of the Act, include:

- a. Drugs designated less than effective by the FDA (DESI drugs) or which are identical, similar, or related to such drugs;
- b. Drugs when used to promote fertility;
- c. Drugs that have an investigational or experimental or unproven efficacy or safety status;
- d. Drugs when used for anorexia, weight gain, or weight loss for the sole purpose of cosmetic reasons.

4) Non-covered services also include: drugs used to correct sexual dysfunction and compound drugs (compound prescriptions must include at least one medication that on its own would be a covered entity).

5) Drug Shortages- Prescribed Drugs that are not covered outpatient drugs (including drugs authorized for import by the Food and Drug Administration are covered when medically necessary during drug shortages identified by at least one of the following:

- a. The United States Food and Drug Administration (US FDA)
- b. The American Society of Health System Pharmacists (ASHP)

**Quantity and Duration**

1. Dosage limits: Medications are limited to a maximum dose recommended by the FDA and appropriate medical compendia described in section 1927(k) of the Social Security Act, that indicate that doses that exceed FDA guidelines are both safe and effective or doses that are specified in regional or national guidelines published by established expert groups such as the American Academy of Pediatrics, or guidelines recommended by the Delaware Medicaid Drug Utilization Review (DUR) Board and accepted by the DHSS Secretary.

TN No. SPA # 19-009 <u>24-0010</u>	Approval Date <del>September 14, 2022</del>
Supersedes	
TN No. # 17-005 <u>19-009</u>	Effective Date <del>October 1, 2019</del> <u>August 1, 2024</u>

**DEPARTMENT OF INSURANCE**  
**OFFICE OF THE COMMISSIONER**

Statutory Authority: 18 Delaware Code, Sections 311 and 3915 (18 **Del.C.** §§311 & 3915)

**REGULATORY IMPLEMENTING ORDER****611 Automobile Insurance Premium Refunds****I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED**

In the January 1, 2024 edition of the *Register of Regulations*, at 27 **DE Reg.** 488 (01/01/2024), the Commissioner of the Delaware Department of Insurance (Commissioner) published a notice of intent to codify proposed new Regulation 611, which would require carriers to refund any unearned automobile insurance premium on a canceled policy within 30 days of the date when the refund becomes due.

In response to comments from the regulated community, summarized in the re-proposal published in the May 1, 2024 edition of the *Register of Regulations*, at 27 **DE Reg.** 856 (05/01/2024), the Department chose to extend the effective date of Regulation 611, among other recommended changes.

The Department received one timely comment regarding the May 1, 2024 re-proposal from the American Property Casualty Insurance Association, which suggested amending the regulation to require carriers of large commercial auto policies that are subject to premium audit to begin audit proceedings within 30 days of the policy cancellation and return monies due within 30 days of the audit being completed.

The Department does not believe it is necessary to make any further changes to the proposed regulation to address this specific situation.

**II. FINDINGS OF FACTS**

The Commissioner finds that new Regulation 611, as re-proposed in the May 1, 2024 *Register of Regulations*, having been properly noticed and open for public comment, should be adopted for the reasons set forth in the re-proposal.

**III. ASSESSMENT OF IMPACT**

The Commissioner has reviewed Regulation 611 and has determined that, if promulgated, the regulation would have a *de minimis* impact on the State's resiliency to climate change because neither implementation nor compliance with the regulation would reasonably involve the increase in greenhouse gas emissions.

**IV. DECISION TO ADOPT THE PROPOSED AMENDMENTS**

For the foregoing reasons, the Commissioner concludes that it is appropriate to adopt the new 18 **DE Admin. Code** 611, as discussed in the above Findings of Fact.

**V. EFFECTIVE DATE OF ORDER**

The effective date of this Order shall be 90 days from the date this Order is published in the *Delaware Register of Regulations*.

**IT IS SO ORDERED.**

The 26th day of June, 2024.

Trinidad Navarro  
Commissioner  
Delaware Department of Insurance

## **611 Automobile Insurance Premium Refunds**

### **1.0 Scope and Authority**

- 1.1 This regulation is adopted by the Commissioner pursuant to the authority granted by 18 Del.C. §§311 and 3915 and promulgated in accordance with the Delaware Administrative Procedures Act, 29 Del.C. Ch. 101.
- 1.2 This regulation applies to all automobile insurance policies.

### **2.0 Definitions**

The following words and terms, when used in this regulation, shall have the following meaning:

"Commissioner" means the Insurance Commissioner of Delaware.

"Insurance premium" means the amount of money paid by an insured for an insurance policy.

### **3.0 Issuance of Premium Refund Upon Policy Cancellation**

- 3.1 When an automobile insurance policy is cancelled by the insured, any unearned premium shall be refunded within 30 days of the date the insured has provided the evidence required by 18 Del.C. § 3915.
- 3.2 Insurance premium refunds shall be paid in the same manner in which the premium was paid, by check if the original payment method is unavailable, or another manner of refund agreed to by the insured.
- 3.3 If a policy subject to this regulation is cancelled by an insurance premium finance company, the unearned premium shall be refunded to the insurance premium finance company in accordance with the terms of 18 Del.C. § 4809(f).

### **4.0 Violations; Penalties**

Failure to comply with this regulation will subject the violator to the provisions of 18 Del.C. §§329 and 520, which address penalties for non-compliance of any regulation of the Commissioner.

### **5.0 Severability**

If any section or portion of a section of this regulation or its applicability to any person or circumstance is held invalid by a court, the remainder of this regulation or the applicability of the provision to other persons or circumstances shall not be affected.

### **6.0 Effective Date**

This regulation shall become effective 90 days after the date of publication of the notice of adoption in the Register of Regulations.

---

# FINAL REGULATIONS

---

## DEPARTMENT OF LABOR

### DIVISION OF INDUSTRIAL AFFAIRS

#### Office of Workers' Compensation

Statutory Authority: 19 Delaware Code, Section 105 (19 Del.C. §105)

19 DE Admin. Code 1342

#### ORDER

### 1342 Health Care Practice Guidelines

#### I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

In the May 1, 2024 issue of the Register of Regulations, the Department of Labor published notice of its intent to repeal 19 DE Admin. Code 1342 in favor of posting the Workers' Compensation Oversight Panel's health care practice guidelines on the Department's website. The notice welcomed the public to submit any written comments or other materials by June 3, 2024, at 4:00 p.m. The Department received no written submissions in response to the notice.

#### II. SUMMARY OF THE AGENCY'S FINDINGS OF FACTS WITH RESPECT TO THE EVIDENCE AND INFORMATION SUBMITTED

Because no evidence or information was submitted, there are no findings of fact to be made regarding it.

#### III. IMPACT ON THE ACHIEVEMENT OF THE STATE'S GREENHOUSE GAS EMISSIONS TARGETS AND RESILIENCY TO CLIMATE CHANGE

Assessing the impact of repeal the regulation on the State's greenhouse gas emissions reduction targets is not practical for this regulation. The regulation and the practice guidelines that replace it only guide the utilization of health-care treatments in workers'-compensation cases. The relationship with greenhouse gas emissions is attenuated, and the guidelines do not require any particular treatment or activity.

#### IV. DECISION

With no further evidence or information to consider, the Department accepts the recommendations of the Panel and repeals the regulation.

#### V. TEXT AND CITATION

The entirety of 19 DE Admin. Code 1342 shall be deleted and replaced with the following note:

**\*Note:** Effective August 11, 2024, the Workers' Compensation Oversight Panel Health Care Practice Guidelines are located at: <https://labor.delaware.gov/divisions/industrial-affairs/workers-comp/hcps/health-care-practice-guidelines/>

#### VI. EFFECTIVE DATE

The effective date of this Order shall be 10 days from the date this Order is published in the *Register of Regulations*.

**IT IS SO ORDERED** this 11th day of July 2024.

Karryl Hubbard  
Secretary  
State of Delaware Department of Labor

**1342 Health Care Practice Guidelines**  
*(Break in Continuity of Sections)*

---

~~[(4/12/2024)]~~ \*Note: Effective ~~[April —, August 11,]~~ 2024, the Workers' Compensation Oversight Panel Health Care Practice Guidelines are located at: <https://labor.delaware.gov/divisions/industrial-affairs/workers-comp/hcps/health-care-practice-guidelines/>

\*Please note that no additional changes were made to the regulation as originally proposed and published in the May 2024 issue of the *Register* at page 858 (27 DE Reg. 858). Therefore, the final regulation is not being republished here in its entirety. A copy of the final regulation is available at:

<https://regulations.delaware.gov/register/august2024/final/28 DE Reg 146 08-01-24.htm>

---

## DIVISION OF PAID LEAVE

Statutory Authority: 19 Delaware Code, Sections 105 and 3720 (19 Del.C. §§105 and 3720)  
19 DE Admin. Code 1401

### ORDER

#### 1401 Rules Defining and Regulating the Healthy Delaware Families Act, Family and Medical Leave Insurance Program and the Division of Paid Leave

#### SUMMARY OF THE EVIDENCE

1. Title 19, Sections 105 and 3720 of the Delaware Code authorize the Department of Labor ("Department") to establish, amend and repeal regulations necessary for the internal administration of the Department, and for the proper conduct of any necessary hearings before the Department or its authorized agents and in relation to the administration and enforcement of the Healthy Delaware Families Act ("Act") and the Division of Paid Leave ("Division").
2. The Department's purpose in proposing these regulations was to set forth additional definitions, guidance, procedures, and standards for the implementation of the Act and its Family Medical Leave Insurance Program ("PFML" or "Program"). The Division will administer the Act and this Program in accordance with these regulations.
3. Notice of the proposed regulation was published in the June 1, 2024 edition of the *Delaware Register of Regulations*.
4. The Department invited a period of 30 days, until July 1, 2024, for written comment from the public.
5. The Department received 2 written submissions with comments from organizations representing businesses and community members regarding the proposed regulations. One comment sought reordering of the proposed language defining the application year to remove any ambiguity, to which the Division agrees. Another comment sought changes to proposed language regarding eligibility periods to have consistency, which the Division agrees is appropriate. Some comments addressed areas of the Act that do not require further regulatory explanation. Other comments dealt with sections of the regulation irrelevant to the proposed changes to the regulation. The Division will consider these comments in future rounds of regulations. None of the comments received require any substantive changes to the proposed regulations.
6. On further review of the published proposed regulations and in light of the public comments received, the Department determined that some non-substantive edits to the proposed rules were needed simply to clarify based upon questions raised by some of the commentators. Non-substantive changes made are summarized as follows:
  - Section 1 ("Application year") was modified to clarify that 12 months under the FMLA is a 52-week period of time, not an additional method to calculate a leave year; and

- Subsection 3.5.1 was revised to clarify that employee threshold counts are determined over a 52-week period for all employers.

The changes from the proposed rules are in bold bracketed text:

### 1.0 Definitions

"Application year" means ~~[52 weeks or]~~ the 12-month period of leave as defined in the Family Medical Leave Act ("FMLA") Regulations, 29 CFR 825.200(b) **[consisting of 52-weeks]**.

### 3.0 Eligibility for benefits

3.5.1 If the employee count should fall under 25 employees, the employer will still be required to provide all lines of coverage until the employee count remains below the 25 employee threshold for 42 ~~[56]~~ **[52]** consecutive ~~months.~~ ~~weeks.~~ ~~On the 13th consecutive month,~~ ~~if~~ If the employer is still below the threshold ~~after~~ ~~[56]~~ ~~[52]~~ **consecutive weeks,** they will no longer be required to offer medical leave, family caregiving leave, or qualified exigency leave **[effective the next pay period after they fall below 25 employees for 52 consecutive weeks]**.

7. A copy of the published regulation formatted to show the above non-substantive changes is attached hereto as Exhibit A.
8. Having solicited and requested public comment on the proposed regulations in accordance with the Delaware Administrative Procedures Act, 29 Del.C. Ch. 101, et. seq., and determining that no substantive changes are required to the proposed regulations, this is the Department's Decision and Order adopting the proposed regulations with the proposed non-substantive edits set forth herein and with the rest of the proposed rules as published remaining unchanged.

### FINDINGS OF FACT AND CONCLUSIONS

The Department reviewed and considered the written submittals and in response to the comments received, the Department clarified some language by editing subsections 1.0 and 3.5.1. In accordance with 29 Del. C. §10118(c), the Department determines that the edits described herein are not substantive, and as a result, is not required to repropose the changes.

The Department reviewed the proposed regulation as required by 29 Del. C. § 10118(b)(3) and determined that if promulgated, the regulation would have a *de minimis* impact on the State's resiliency to climate change because neither implementation nor compliance with the regulation would reasonably involve the increase in greenhouse gas emissions.

Accordingly, the Department finds that it is appropriate to adopt the proposed regulations, 19 DE Admin. Code 1401, pursuant to 19 Del.C. § 3720. The text of 19 DE Admin. Code 1401 shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 19 DE Admin. Code 1401 Healthy Delaware Families Act in the Administrative Code of Regulations for the Division.

### ORDER

**AND NOW this 12<sup>th</sup> day of July, 2024,** it is hereby ordered that:

1. The proposed regulations, with the non-substantiative changes, are hereby adopted;
2. The effective date of this order is 10 days from the date of its publication in the *Delaware Register of Regulations* in accordance with 29 Del. C. §10118(e); and

3. The Department reserves to itself the authority to issue such order and further orders concerning its Regulations as it deems appropriate.

**IT IS SO ORDERED.**

**Department of Labor**  
Karryl Hubbard, Secretary of Labor

**\*Please Note: Due to the size of the final regulation, it is not being published here. A copy of the regulation is available at:**

<https://regulations.delaware.gov/register/august2024/final/28 DE Reg 147 08-01-24.htm>

---

**DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL**

**DIVISION OF AIR QUALITY**

Statutory Authority: 7 Delaware Code, Section 6010(a) and (c) (7 **Del.C.** §6010(a) & (c))  
**7 DE Admin. Code 1130**

**Secretary's Order No.: 2024-A-0021**

**RE: Approving Final Regulations to Amend 7 DE Admin. Code 1130 -  
Title V State Operating Permit Program**

**Date of Issuance: July 8, 2024**

**Effective Date of the Amendment: August 11, 2024**

**1130 Title V State Operating Permit Program**

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC"), pursuant to 7 *Del.C.* §§6006 and 6010, and all other relevant statutory authority, the following findings of fact based on the record, reasons and conclusions are entered as an Order of the Secretary in the above-referenced promulgation.

**Background, Procedural History and Findings of Fact**

This Order relates to the proposed regulation amendments ("Amendments") to 7 DE Admin. Code 1130 - *Title V State Operating Permit Program* ("Regulation"). The Department is proposing to amend the Regulation to maintain consistency with the Environmental Protection Agency's ("EPA") final rule (88 FR 47029). More specifically the Department is amending subsection 6.7 and 6.1.3.3.3.1 to remove emergency affirmative defense provisions and references and is also proposing to amend Section 8 of Appendix A, "Insignificant Activities," to correct a typographical error.

Title V of the Clean Air Act ("CAA") requires EPA to implement air quality operating permits, known as Title V permits, for major sources of air emissions. These permits apply to sources whose emissions meet or exceed major source levels. These pollutants include volatile organic compounds, nitrogen oxide, carbon monoxide, sulfur particulates, hazardous air pollutants and other contaminants. They are typically emitted from large stationary sources such as power plants, refineries, or manufacturing plants.

The Department implemented 7 DE Admin. Code 1130 to adhere to the federal requirements established by the EPA for Title V permits in Delaware. The Regulation establishes the permitting procedures and requirements for Delaware's Title V operating permits. More specifically, it mandates that Title V permit facilities comply with specific emission monitoring and reporting requirements to demonstrate compliance and ensure their emissions remain within allowable limits.

Recognizing that deviations may occur due to failures in emission control equipment, the EPA included a provision for operational flexibility in a final rule (57 FR 32250) published on July 21, 1992, to allow for some operational flexibility due to an emergency. According to 40 CFR 70.6(g), an "emergency" is defined as "any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency."

On September 9, 2010, the EPA issued a final rule (75 FR 54970) that established affirmative defense provisions within the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Portland cement facilities. These provisions allow facilities to avoid liability for noncompliance with emission limits during malfunctions. Several environmental agencies challenged this rule, arguing it limited courts' authority to decide on enforcement actions.

This action triggered the EPA to review the legality of similar affirmative defense provisions across various CAA requirements, including those for state and federal Title V operating permit programs. These programs, outlined in 40 CFR Parts 70 and 71, include affirmative defense provisions for emergencies. Part 70 applies to state, local, and tribal authorities, while Part 71 applies when the EPA is the permitting authority.

On July 21, 2023, the EPA issued a final rule (88 FR 47029), that removed all "emergency" affirmative defense provisions for state and federal operating permit programs from 40 CFR Part 70.6(g) and 71.6(g). The EPA determined that these provisions were inconsistent with the CAA enforcement structure.

In line with this ruling, the Department proposes amendments to Section 6.0 - *Permit Contents*, specifically subsections 6.7 and 6.1.3.3.1, to align with current federal regulations by removing all affirmative defense provisions and references. The rule also requires removing affirmative defense provisions from individual operating permits during routine renewals or revisions, with a deadline set for the next periodic permit renewal following the rule's effective date or state program revisions approval. To that end, as of January 1, 2024, 30% of Delaware's Title V permits have been updated with an estimated 70% completion by the end of 2024, and the Department will continue to update the remaining permits during periodic reviews.

Furthermore, the proposed Amendments are not expected to lead to any changes in emissions since the affirmative defense language was solely used to avoid liability for noncompliance when emission limits were exceeded. Additionally, the proposed amendment is not anticipated to impact overburdened or underserved communities in Delaware. The Department is also proposing amendments to Section 8.0 to correct a typographical error, changing "and" to "in" and does not alter the intent of the Regulation.

The Department published its proposed Amendments in the April 1, 2024, *Delaware Register of Regulations*. The virtual public hearing regarding this matter was held on April 25, 2024. There were three 3 members of the public in attendance provided at the Department's virtual public hearing with one public comment in support of the promulgation. Pursuant to 29 *Del.C.* §10118(a), the Hearing Record ("Record") remained open for receipt of written comment for 15 days following the public hearing. The Record formally closed for comment in this matter on May 10, 2024, with no additional comments received by the Department.

Thereafter, Hearing Officer Theresa Smith prepared her report dated June 15, 2024 ("Report"), which expressly incorporated into the Record the proposed Amendment, attached thereto as Appendix "A." Mrs. Smith's Report set forth the procedural history, summarized and established the record of information ("Record") relied on in the Report and provided findings of fact, reasons, and conclusions that recommend the approval of the proposed Amendments pending before the Department.

The Department has the statutory basis and legal authority to act with regard to the formal promulgation of these proposed Amendments, pursuant to 7 *Del.C.* §§ 6001(c) & 6010. All notification and noticing requirements concerning this matter were met by the Department and proper notice of the hearing was provided as required by law.

### Reasons and Conclusions

Currently pending before the Department are the proposed regulatory amendments to 7 DE Admin. Code 1130 - *Title V Operating Permit Program*. Based on the record developed by the Department's staff in the Division of Air Quality, and established by the Hearing Officer's Report, I find that the proposed regulatory Amendments are well-supported and will enable the Department to maintain consistency with federal requirements established by EPA's final rule (88 FR 47029) and will correct a typographical error in the Regulation. I also find that the proposed



Amendments comply with all applicable federal and state laws and regulations. Further, the proposed Amendments as published in the April 1, 2024, *Delaware Register of Regulations*, are reflective of the Department's authority under 7 *Del.C.* §§ 6001(c) & 6010, to ensure continued protection of public health and the environment by regulating emissions and reducing air pollution and air contaminants.

The following reasons and conclusions are hereby entered:

1. The Department has the statutory basis and legal authority to adopt and enforce these proposed regulatory amendments pursuant to 7 *Del.C.* §§ 6001(c) & 6010;
2. The Department has jurisdiction under its statutory authority, pursuant to 7 *Del.C.* Chapter 60, to issue an Order adopting these proposed Amendments as final;
3. The Department provided adequate public notice of the proposed Amendments and all proceedings in a manner required by the law and regulations, and provided the public with an adequate opportunity to comment on the proposed Amendments, including at the time of the virtual public hearing held on April 25, 2024, and during the 15 days subsequent to the hearing (through May 10, 2024), before making any final decision;
4. Promulgation of the proposed Amendments to 7 DE Admin. Code 1130 - *Title V Operating Permit Program*, will enable the Department to maintain consistency with federal requirements established by EPA's final rule (88 FR 47029) and will correct a typographical error in the Regulation;
5. The Department has reviewed the proposed Amendments in light of the Regulatory Flexibility Act, consistent with 29 *Del.C.* §104, and believes the same to be lawful, feasible and desirable, that it will not establish reporting requirements or substantive additional costs for individuals or small businesses, and that the recommendations as proposed should be applicable to all Delaware individuals or small businesses equally;
6. The Department has reviewed this proposed regulatory promulgation in the light of 7 *Del.C.* §10003 and 29 *Del.C.* §10118(b)(3), and has determined that any impact of this regulation on the achievement of the State of Delaware's greenhouse gas emissions reduction targets will be de minimis;
7. Furthermore, the Department has reviewed the Record generated in this matter with the consideration of the Environmental Justice issues related to the proposed Amendments, and has determined that the approval of the same is consistent with the Department's Environmental Justice policy;
9. The Department's Hearing Officer's Report, including its established record and the recommended proposed Amendments as set forth in Appendix "A," are hereby adopted to provide additional reasons and findings for this Order;
10. The Department's proposed regulatory Amendments, as published in the April 1, 2024, *Delaware Register of Regulations*, as set forth in Appendix "A" hereto, are adequately supported, are not arbitrary or capricious, and are consistent with the applicable laws and regulations. Consequently, they are approved as final regulatory Amendments, which shall go into effect ten days after their publication in the next available issue of the *Delaware Register of Regulations*;
11. The Department has an adequate Record of its decision, and no further public hearing is appropriate or necessary; and
12. The Department shall submit this Order approving the proposed Amendments as final regulations to the *Delaware Register of Regulations* for publication in its next available issue, and provide such other notice as the law and regulation require, and the Department determines is appropriate; and
13. The Department shall serve and publish its Order on its internet site.

Lisa Borin Ogden  
For Shawn M. Garvin  
Secretary

**\*Please note that no changes were made to the regulation as originally proposed and published in the April 2024 issue of the *Register* at page 753 (27 DE Reg. 753). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

**<https://regulations.delaware.gov/register/august2024/final/28 DE Reg 149 08-01-24.htm>**

---

# GENERAL NOTICES

---

## DEPARTMENT OF STATE

### DIVISION OF PROFESSIONAL REGULATION

Statutory Authority: 24 Delaware Code, Section 2604(a)(1) (24 Del.C. §2604(a)(1))  
24 DE Admin. Code 2600

#### NOTICE

#### **2600 Examining Board of Physical Therapists and Athletic Trainers**

Pursuant to 24 Del.C. §2604(a)(1), the Delaware Examining Board of Physical Therapists and Athletic Trainers ("Board") has proposed revisions to its Rules and Regulations. The Board proposes to amend Section 11.0, pertaining to reactivation and reinstatement of licenses. The revisions specify the requirements that must be met after 12 months of inactive or expired status to ensure practitioner competence.

A public hearing was initially scheduled for July 23, 2024 at 4:30 p.m. as set forth in the Public Notice published in the Delaware *Register of Regulations* on June 1, 2024, Volume 27, Issue 12. Due to an error in publication of Notice of the Hearing in two newspapers, the hearing is being rescheduled for August 27, 2024 in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Examining Board of Physical Therapists and Athletic Trainers, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address or at [jessica.lobaccaro@delaware.gov](mailto:jessica.lobaccaro@delaware.gov).

In accordance with 29 Del.C. §10118(a), the final date to receive written comments will be **September 11, 2024**. The Board will deliberate on all of the public comments at its regularly scheduled meeting.

---

## DEPARTMENT OF TRANSPORTATION

### DIVISION OF TRANSPORTATION SOLUTIONS

#### Traffic Engineering Section

Statutory Authority: 21 Delaware Code, Section 4505(d)(1) (21 Del.C. §4505(d)(1))

#### NOTICE

#### **Senate Bill 89 as amended by Senate Amendment 1 - Ashley Heights Community**

July 9, 2024

Yvette Smallwood  
Registrar of Regulations  
411 Legislative Avenue  
Dover, DE 19901

Ms. Smallwood,

The Delaware General Assembly introduced Senate Bill 89 as amended by Senate Amendment 1 on March 18, 2021. The legislation which relates to traffic control devices for size and weight of vehicles and loads was subsequently signed by Governor Carney on June 30, 2021.

The legislation, which amends §4505 of Title 21 of the Delaware Code, provides as follows:

§4505. Traffic control devices.

(d)(1) The Secretary of the Department shall submit an order issued under subsection (c) of this section to the Registrar of Regulations for publication in the Register of Regulations. The Secretary shall also publish the order on the Department's website with other similar orders.

In accordance with 21 *Del. C.* §4505(d)(1), Notice is hereby given by Delaware Department of Transportation, Traffic Engineering Section, as approved and ordered by the Secretary of the Department of Transportation pursuant to 21 *Del. C.* §4505(c), for the following permanent traffic control device for the safe movement of traffic in the area:

"No Trucks Over 2 Axles Except Local Services" on all local streets in the Ashley Heights community

Please accept this notification by the Delaware Department of Transportation in order to publish the information in the Register of Regulations.

Thank you,  
Peter Haag  
Chief of Traffic Engineering

**DELAWARE RIVER BASIN COMMISSION**  
**PUBLIC NOTICE**

The Delaware River Basin Commission will hold a public hearing on Wednesday, August 7, 2024, commencing at 1:30 p.m. The public hearing will be conducted remotely. The draft docket decisions and draft resolutions that will be subjects of the public hearing, along with details about the remote platform and how to attend, will be posted on the Commission's website, [www.drbc.gov](http://www.drbc.gov), at least ten (10) days prior to the meeting date.

The Commission's quarterly business meeting will be held on Thursday, September 5, 2024, commencing at 10:30 a.m. The business meeting also will be held remotely. An agenda, along with details about the remote platform and how to attend, will be posted on the Commission's website, [www.drbc.gov](http://www.drbc.gov), at least ten (10) days prior to the meeting date.

For additional information, including links to live streams of these events, please visit the DRBC website at [www.drbc.gov](http://www.drbc.gov) or contact Patricia Hausler at [patricia.hausler@drbc.gov](mailto:patricia.hausler@drbc.gov).

Pamela M. Bush, J.D., M.R.P.  
Commission Secretary and Assistant General Counsel

---

**DEPARTMENT OF AGRICULTURE**  
**DELAWARE FOREST SERVICE**  
**PUBLIC NOTICE****401 Forest Service Erosion and Sedimentation Regulations**Summary

The Delaware Forest Service proposes to amend its Regulations adopted in accordance with Title 3, Chapter 10. The purpose of the proposed regulations is to clarify the limitations regarding the use of the Erosion & Sediment Control Permit, eliminate outdated references, and make minor grammatical changes. The recommended change to 2.0 deletes an outdated document number reference to the Delaware Forestry's Best Management Practices Manual. The recommended changes to 3.0 include definitions for clarity and make minor grammatical changes for consistency with other regulations. The recommended changes to 5.1, 5.5, and 5.10 expand the notice period required for silvicultural operations and the time period within which the Delaware Forest Service must decide such applications to allow the Delaware Forest Service adequate time to cross check permits with other agencies to make better decisions regarding permit approvals or denial. The remaining recommended changes to 5.0 delete outdated contact information and make minor grammatical changes for clarity and consistency with other regulations. The recommended changes to 6.1 and 6.3 clarify the limitations regarding the use of the Erosion & Sediment Control Permit. Finally, the recommended change to 7.6 clarifies the time period within which the Forest Administrator may agree to engage in an informal conference with a landowner and operator prior to referring noncompliance with a Special Order to Superior Court. Other regulations issued by the Delaware Forest Service are not affected by this proposal. The Delaware Forest Service is issuing these proposed regulations in accordance with Title 3 of the Delaware Code. This notice is issued pursuant to the requirements of Chapter 101 of Title 29 of the Delaware Code.

Comments

A copy of the proposed regulations is being published in the August 1, 2024 edition of the *Delaware Register of Regulations*. A copy is also on file in the office of the Delaware Department of Agriculture, Forest Service, 2320 South Dupont Highway Dover, Delaware 19901 and is available for inspection during regular office hours. Copies are also published online at the *Register of Regulations* website: [https://regulations.delaware.gov/register/current\\_issue.shtml](https://regulations.delaware.gov/register/current_issue.shtml).

Interested parties may offer written comments on the proposed regulations or submit written suggestions, data, briefs or other materials to the Delaware Forest Service at the above address as to whether these proposed regulations should be adopted, rejected or modified. Pursuant to 29 **Del.C.** § 10118(a), public comments must be received on or before September 3, 2024. Written materials submitted will be available for inspection at the above

address.

---

**DELAWARE JOCKEYS' HEALTH AND WELFARE BENEFIT BOARD**  
**PUBLIC NOTICE**

**1002 Delaware Jockeys' Health and Welfare Benefit Board Regulations**

Summary

The Delaware Jockeys' Health and Welfare Benefit Board proposes to amend its Regulations adopted in accordance with Title 3, Chapter 101. The purpose of the proposed regulations is to amend the rules regarding eligibility for health coverage. The recommended change to 2.1.1 reduced the minimum number of mounts for active jockeys to seventy-five. The recommended change to 2.1.2.2 aligns the eligibility criteria for retired jockeys with the eligibility criteria for active jockeys during the relevant lookback period. Other regulations issued by the Delaware Jockeys' Health and Welfare Benefit Board are not affected by this proposal. The Delaware Jockeys' Health and Welfare Benefit Board is issuing these proposed regulations in accordance with Title 3 of the Delaware Code. This notice is issued pursuant to the requirements of Chapter 101 of Title 29 of the Delaware Code.

Comments

A copy of the proposed regulations is being published in the August 1, 2024 edition of the Delaware Register of Regulations. A copy is also on file in the office of the Delaware Jockeys' Health and Welfare Benefit Board, 777 Delaware Park Boulevard, Wilmington, Delaware 19804 and is available for inspection during regular office hours. Copies are also published online at the Register of Regulations website: [https://regulations.delaware.gov/register/current\\_issue.shtml](https://regulations.delaware.gov/register/current_issue.shtml).

Interested parties may offer written comments on the proposed regulations or submit written suggestions, data, briefs or other materials to the Delaware Jockeys' Health and Welfare Benefit Board at the above address as to whether these proposed regulations should be adopted, rejected or modified. Pursuant to 29 *Del. C.* § 10118(a), public comments must be received on or before September 3, 2024. Written materials submitted will be available for inspection at the above address.

---

**DEPARTMENT OF EDUCATION**  
**PUBLIC NOTICE**

The State Board of Education meets monthly, generally at 5:00pm on the third Thursday of the month. These meetings are open to the public. The Board rotates locations of regular meetings among the three counties.

The State Board of Education provides information about meeting dates and times, materials, minutes, and audio recordings on its website:

<https://education.delaware.gov/community/governance/state-board-of-education/sbe-monthly-meetings/>

---

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

**1103 Worker Adjustment and Retraining Notification (WARN) Regulations**

In compliance with the State of Delaware's Administrative Procedures Act (Title 29, Chapter 101 of the Delaware Code) and under the authority of 19 **Del.C.** §1908(a), the Delaware Department of Labor, through its Division of Employment and Training (the "Division"), proposes new regulations at 19 **DE Admin. Code** 1103 to carry out the Delaware Worker Adjustment and Retraining Notification Act, 19 **Del.C.** §§1901-11 (the "WARN Act").

The proposed regulations are not substantially likely to impose additional costs or burdens upon individuals (i.e., natural persons not in their capacities as officers, directors, or employees of an organization other than a small business) or small businesses (i.e., certain enterprises or workshops that employ fewer than 50 people, have gross receipts less than \$10,000,000, and are not owned, operated, or controlled by another business enterprise)

because the WARN Act applies to employers who employ 100 or more employees. See 19 **Del.C.** §1903(a)(4).

In accordance with 29 **Del.C.** §10116, any person who wants to submit written suggestions, compilations of data, briefs, or other written materials concerning the proposed regulations should direct them to the following address:

Delaware Department of Labor  
Division of Employment and Training  
ATTN: Kiran Wiker  
4425 N. Market St., 3rd Fl.  
Wilmington, DE 19802

Comments may also be submitted via email to [kiran.wiker@delaware.gov](mailto:kiran.wiker@delaware.gov). Any written submission in response to this notice and relevant to the proposed rules must be received by the above contact at the Delaware Department of Labor no later than 4:00 p.m. EDT on September 3, 2024.

The action concerning determination of whether to adopt the proposed regulations will be based upon the Division's consideration of the written comments and any other written materials filed by the public.

**Statutory Authority:** 19 **Del.C.** §1908(a)

Title 19, §1908(a) of the Delaware Code empowers the Delaware Department of Labor to prescribe rules and regulations necessary to carry out the WARN Act.

---

**DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL**

**DIVISION OF AIR QUALITY**

**PUBLIC NOTICE**

**1104 Particulate Emissions from Fuel Burning Equipment**

1. TITLE OF THE REGULATIONS:

7 **DE Admin. Code** 1104 "Particulate Emissions from Fuel Burning Equipment".

2. BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUES:

The Division of Air Quality of the Department of Natural Resources and Environmental Control (DNREC) is proposing to amend 7 **DE Admin. Code** 1104, Section 1.0 "General Provisions" and Section 2.0 "Emission Limits", regarding particulate emissions limits from fuel burning equipment during the startup, shutdown and malfunction of equipment.

On June 12, 2015, the Environmental Protection Agency (EPA) identified the State Implementation Plans (SIP) of 36 states as inadequate because they allegedly allowed unregulated excess emissions (80 FR 33840). This EPA action is known as the "Startup, Shutdown, and Malfunction (SSM) SIP Call". 7 **DE Admin. Code** 1104 "Particulate Emissions from Fuel Burning Equipment" was cited in the SSM SIP Call because the EPA believed the regulation did not appropriately restrict emissions during startup or shutdown events. On October 23, 2023 EPA issued a final rule disapproving Delaware's November 26, 2016 SSM SIP Call submittal for Regulation 1104 (88 FR 72688). Delaware is proposing to amend Regulation 1104 in response to EPA's disapproval, to comply with the 2015 SSM SIP Call.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

None.

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

7 **Del.C.** Ch. 60, Section 6010 (a) and (c).

5. OTHER REGULATIONS THAT MAY BE AFFECTED BY THE PROPOSAL:

None.

**6. NOTICE OF PUBLIC COMMENT:**

A virtual public hearing (Docket # 2023-R-A-0024) will be held on Tuesday, August 27, 2024, beginning at 6 p.m. The web link to the virtual hearing can be accessed through the DNREC Public Hearings site at <https://de.gov/dnrechearings>. If prompted for a password, please use: 478566. To access the audio-only portion of the virtual hearing, dial 1-646-931-3860 and enter the Meeting ID 837 6527 6725. Closed captioning in over 20 languages, including English and Spanish, is available to attendees via the Zoom platform utilized for all DNREC Public Hearings.

Those wishing to offer verbal comments during DNREC virtual public hearings must pre-register no later than noon on the date of the virtual hearing at <https://de.gov/dnreccomments> or by telephone at 302-739-9001.

The proposed amendments may be inspected online starting August 1, 2024 at [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml), or in-person, by appointment only, by contacting Kelsey Pangman by phone at 302-323-4542 or by email at [Kelsey.Pangman@delaware.gov](mailto:Kelsey.Pangman@delaware.gov).

The Department will accept public comment through the close of business on Wednesday, September 11, 2024. Comments will be accepted in written form via email to [DNRECHearingComments@delaware.gov](mailto:DNRECHearingComments@delaware.gov), or by using the online form at <https://de.gov/dnreccomments>, or by U.S. mail to the following address:

Theresa Smith, Hearing Officer  
DNREC - Office of the Secretary  
89 Kings Highway, Dover, DE 19901

**7. PREPARED BY:**

Kelsey Pangman  
Division of Air Quality-DNREC  
715 Grantham Ln, New Castle, DE 19702  
Phone: (302)323-4542; email: [Kelsey.Pangman@delaware.gov](mailto:Kelsey.Pangman@delaware.gov)

---

**DIVISION OF AIR QUALITY  
PUBLIC NOTICE****1105 Particulate Emissions from Industrial Process Operations****1. TITLE OF THE REGULATIONS:**

7 **DE Admin. Code** 1105 "Particulate Emissions from Industrial Process Operations".

**2. BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUES:**

The Division of Air Quality of the Department of Natural Resources and Environmental Control (DNREC) is proposing to amend 7 **DE Admin. Code** 1105, Sections 1.0 "General Provisions" and Section 2.0 "General Restrictions", regarding limits to particulate emissions from industrial process during the startup, shutdown and malfunction of equipment.

On June 12, 2015 the Environmental Protection Agency (EPA) identified the State Implementation Plans (SIP) of 36 states as inadequate because they allegedly allowed unregulated excess emissions (80 FR 33840). This EPA action is known as the "Startup, Shutdown, and Malfunction (SSM) SIP Call". 7 **DE Admin. Code** 1105 "Particulate Emissions from Industrial Process Operations" was cited in the SSM SIP Call because the EPA believed the regulation did not appropriately restrict emissions during startup or shutdown events. On October 23, 2023 EPA issued a final rule disapproving Delaware's November 26, 2016 SSM SIP Call submittal for Regulation 1105 (88 FR 72688). Delaware is proposing to amend Regulation 1105 in response to EPA's disapproval, to comply with the 2015 SSM SIP Call.

**3. POSSIBLE TERMS OF THE AGENCY ACTION:**

None.

**4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:**

7 **Del.C.** Ch. 60, Section 6010 (a) and (c).

## 5. OTHER REGULATIONS THAT MAY BE AFFECTED BY THE PROPOSAL:

None.

## 6. NOTICE OF PUBLIC COMMENT:

A virtual public hearing (Docket # 2023-R-A-0025) will be held on Tuesday, August 27, 2024, beginning at 6 p.m. The web link to the virtual hearing can be accessed through the DNREC Public Hearings site at <https://de.gov/dnrehearings>. If prompted for a password, please use: 478566. To access the audio-only portion of the virtual hearing, dial 1-646-931-3860 and enter the Meeting ID 837 6527 6725. Closed captioning in over 20 languages, including English and Spanish, is available to attendees via the Zoom platform utilized for all DNREC Public Hearings.

Those wishing to offer verbal comments during DNREC virtual public hearings must pre-register no later than noon on the date of the virtual hearing at <https://de.gov/dnrecomments> or by telephone at 302-739-9001.

The proposed amendments may be inspected online starting August 1, 2024 at [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml), or in-person, by appointment only, by contacting Kelsey Pangman by phone at 302-323-4542 or by email at [Kelsey.Pangman@delaware.gov](mailto:Kelsey.Pangman@delaware.gov).

The Department will accept public comment through the close of business on Wednesday, September 11, 2024. Comments will be accepted in written form via email to [DNRECHearingComments@delaware.gov](mailto:DNRECHearingComments@delaware.gov), or by using the online form at <https://de.gov/dnrecomments>, or by U.S. mail to the following address:

Theresa Smith, Hearing Officer  
DNREC - Office of the Secretary  
89 Kings Highway, Dover, DE 19901

## 7. PREPARED BY:

Kelsey Pangman

Division of Air Quality-DNREC

715 Grantham Ln, New Castle, DE 19702

Phone: (302)323-4542; email: [Kelsey.Pangman@delaware.gov](mailto:Kelsey.Pangman@delaware.gov)

---

**DIVISION OF AIR QUALITY****PUBLIC NOTICE****1109 Emissions of Sulfur Compounds From Industrial Operations**

## 1. TITLE OF THE REGULATIONS:

7 **DE Admin. Code** 1109 "Emissions of Sulfur Compounds from Industrial Operations".

## 2. BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUES:

The Division of Air Quality of the Department of Natural Resources and Environmental Control (DNREC) is proposing to amend 7 **DE Admin. Code** 1109, Section 1.0 "General Provisions", regarding emissions limits of sulfur compounds from industrial operations during startup, shutdown, and malfunction of equipment.

On June 12, 2015 the Environmental Protection Agency (EPA) identified the State Implementation Plans (SIP) of 36 states as inadequate because they allegedly allowed unregulated excess emissions (80 FR 33840). This EPA action is known as the "Startup, Shutdown, and Malfunction (SSM) SIP Call". 7 **DE Admin. Code** 1109 "Emissions of Sulfur Compounds from Industrial Operations" was cited in the SSM SIP Call because the EPA believed the regulation did not appropriately restrict emissions during startup or shutdown events. On October 23, 2023 EPA issued a final rule disapproving Delaware's November 26, 2016 SSM SIP Call submittal for Regulation 1109 (88 FR 72688). Delaware is proposing to amend Regulation 1109 in response to EPA's disapproval, to comply with the 2015 SSM SIP Call.

## 3. POSSIBLE TERMS OF THE AGENCY ACTION:

None.



**4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:**

7 **Del.C.** Ch. 60, Section 6010 (a) and (c).

**5. OTHER REGULATIONS THAT MAY BE AFFECTED BY THE PROPOSAL:**

None.

**6. NOTICE OF PUBLIC COMMENT:**

A virtual public hearing (Docket # 2023-R-A-0026) will be held on Tuesday, August 27, 2024, beginning at 6 p.m. The web link to the virtual hearing can be accessed through the DNREC Public Hearings site at <https://de.gov/dnrehearings>. If prompted for a password, please use: 478566. To access the audio-only portion of the virtual hearing, dial 1-646-931-3860 and enter the Meeting ID 837 6527 6725. Closed captioning in over 20 languages, including English and Spanish, is available to attendees via Zoom platform utilized for all DNREC Public Hearings.

Those wishing to offer verbal comments during DNREC virtual public hearings must pre-register no later than noon on the date of the virtual hearing at <https://de.gov/dnrecomments> or by telephone at 302-739-9001.

The proposed amendment may be inspected online starting August 1, 2024 at [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml), or in-person, by appointment only, by contacting Kelsey Pangman by phone at 302-323-4542 or by email at [Kelsey.Pangman@delaware.gov](mailto:Kelsey.Pangman@delaware.gov).

The Department will accept public comment through the close of business on Wednesday, September 11, 2024. Comments will be accepted in written form via email to [DNRECHearingComments@delaware.gov](mailto:DNRECHearingComments@delaware.gov), or by using the online form at <https://de.gov/dnrecomments>, or by U.S. mail to the following address:

Theresa Smith, Hearing Officer  
DNREC - Office of the Secretary  
89 Kings Highway, Dover, DE 19901

**7. PREPARED BY:**

Kelsey Pangman  
Division of Air Quality-DNREC  
715 Grantham Ln, New Castle, DE 19702  
Phone: (302)323-4542; email: [Kelsey.Pangman@delaware.gov](mailto:Kelsey.Pangman@delaware.gov)

---

**DIVISION OF AIR QUALITY**  
**PUBLIC NOTICE**  
**1114 Visible Emissions**

**1. TITLE OF THE REGULATIONS:**

7 **DE Admin. Code** 1114 "Visible Emissions".

**2. BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE AND ISSUES:**

The Division of Air Quality of the Department of Natural Resources and Environmental Control (DNREC) is proposing to amend 7 **DE Admin. Code** 1114, Section 1.0 "General Provisions" and Section 2.0 "Requirements", regarding opacity limits during the startup, shutdown and malfunction of equipment.

On June 12, 2015 the Environmental Protection Agency (EPA) identified the State Implementation Plans (SIP) of 36 states as inadequate because they allegedly allowed unregulated excess emissions (80 FR 33840). This EPA action is known as the "Startup, Shutdown, and Malfunction (SSM) SIP Call". 7 **DE Admin. Code** 1114 "Visible Emissions" was cited in the SSM SIP Call because the EPA believed the regulation did not appropriately restrict emissions during start-up or shutdown events. On October 23, 2023 EPA issued a final rule disapproving Delaware's November 26, 2016 SSM SIP Call submittal for Regulation 1114 (88 FR 72688). Delaware is proposing to amend Regulation 1114 in response to EPA's disapproval, to comply with the 2015 SSM SIP Call.

**3. POSSIBLE TERMS OF THE AGENCY ACTION:**

None.

## 4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

7 **Del.C.** Ch. 60, Section 6010 (a) and (c).

## 5. OTHER REGULATIONS THAT MAY BE AFFECTED BY THE PROPOSAL:

None.

## 6. NOTICE OF PUBLIC COMMENT:

A virtual public hearing (Docket # 2023-R-A-0027) will be held on Tuesday, August 27, 2024, beginning at 6 p.m. The web link to the virtual hearing can be accessed through the DNREC Public Hearings site at <https://de.gov/dnrehearings>. If prompted for a password, please use: 478566. To access the audio-only portion of the virtual hearing, dial 1-646-931-3860 and enter the Meeting ID 837 6527 6725. Closed captioning in over 20 languages, including English and Spanish, is available to attendees via the Zoom platform utilized for all DNREC Public Hearings.

Those wishing to offer verbal comments during DNREC virtual public hearings must pre-register no later than noon on the date of the virtual hearing at <https://de.gov/dnrecomments> or by telephone at 302-739-9001.

The proposed amendments may be inspected online starting August 1, 2024 at [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml), or in-person, by appointment only, by contacting Kelsey Pangman by phone at 302-323-4542 or by email at [Kelsey.Pangman@delaware.gov](mailto:Kelsey.Pangman@delaware.gov).

The Department will accept public comment through the close of business on Wednesday, September 11, 2024. Comments will be accepted in written form via email to [DNRECHearingComments@delaware.gov](mailto:DNRECHearingComments@delaware.gov), or by using the online form at <https://de.gov/dnrecomments>, or by U.S. mail to the following address:

Theresa Smith, Hearing Officer  
DNREC - Office of the Secretary  
89 Kings Highway, Dover, DE 19901

## 7. PREPARED BY:

Kelsey Pangman

Division of Air Quality-DNREC

715 Grantham Ln, New Castle, DE 19702

Phone: (302)323-4542; email: [Kelsey.Pangman@delaware.gov](mailto:Kelsey.Pangman@delaware.gov)

---

**DEPARTMENT OF STATE**  
**DIVISION OF PROFESSIONAL REGULATION**  
**PUBLIC NOTICE**

**103 Regulations Governing Charitable Gaming Other Than Raffles**

Pursuant to 28 **Del.C.** §1507, the Delaware Board of Charitable Gaming ("Board") has proposed revisions to its rules and regulations. The purpose of the proposed amendments is to achieve the Board's primary goal, articulated in 28 **Del.C.** §1505(a) to protect the public through the regulation of activities which involve charitable gaming.

Amendments are proposed to Section 1.0 to create definitions applicable to the other proposed amendments.

Amendments are proposed to add new subsections 6.4 and 11.2 for the purpose of establishing rules and regulations for a new type of game, referred to as "Queen of Hearts" with a progressive jackpot. This game would be available to qualified organizations through an annual license, subject to requirements set forth in the proposed amendments.

Amendments are proposed to subsection 8.1 to allow an increase in the number of permissible monthly charitable gaming functions for any qualified organization from 6 to 10.

Amendments are proposed to Sections 11.0 and 12.0 for the purpose of creating a requirement that prizes for games featuring progressive jackpots to be protected by an escrow account for cash prizes and an attestation from the sponsoring organization for non-cash prizes.

Additional revisions reflect technical and style changes consistent with the *Delaware Administrative Code Drafting and Style Manual*.

The Board will hold a public hearing on August 28, 2024, at 10:00 a.m. in conference room B on the second floor of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Charitable Gaming, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address or to [Michelle.Loper@delaware.gov](mailto:Michelle.Loper@delaware.gov).

In accordance with 29 **Del.C.** §10118(a), the final date to receive written comments will be September 12, 2024. The Board will deliberate on all the public comments at its regularly scheduled meeting thereafter.

---

**DIVISION OF PROFESSIONAL REGULATION**  
**PUBLIC NOTICE**  
**1700 Board of Medical Licensure and Discipline**

The Delaware Board of Medical Licensure and Discipline, pursuant to 24 **Del.C.** §1713(a)(12) and §1770A, proposes to amend its regulations to clarify and implement 24 **Del.C.** §1790(a)(2), which authorizes a physician assistant, with a collaborative agreement with an appropriately-trained physician, to terminate, assist in the termination of, or attempt the termination of a human pregnancy before viability. Further, the Board withdraws proposed regulation revisions as published in the August 1, 2023 *Register*, 27 **DE Reg.** 89.

The Regulatory Council for Physician Assistants of the Board of Medical Licensure and Discipline will hold a public hearing on the proposed regulation change on September 10, 1:00 p.m., virtually and in the Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Alison Warren, Executive Director of the Delaware Board of Medical Licensure and Discipline, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904 or at [alison.warren@delaware.gov](mailto:alison.warren@delaware.gov). Written comments will be accepted until September 25, 2024 pursuant to 29 **Del.C.** §10118(a).

---

**DIVISION OF PROFESSIONAL REGULATION**  
**PUBLIC NOTICE**  
**5200 Board of Examiners of Nursing Home Administrators**

Pursuant to 24 **Del.C.** §5206(a)(1), the Delaware Board of Examiners of Nursing Home Administrators ("Board") has proposed revisions to its Rules and Regulations. The Board proposes these amendments to advance its primary objective, which is to protect the general public, specifically those persons who are the direct recipients of nursing home administration services, regulated by 24 **Del.C.**, Ch. 52, and its secondary objectives to maintain minimum standards of practitioner competency and to maintain certain standards in the delivery of services to the public.

Amendments are proposed to Regulation subsection 2.3 to clarify which examinations are required.

Amendments are proposed to Regulation subsections 5.1 and 7.4.1 to clarify the time frame during which continuing professional education must be completed.

Amendments are proposed to Regulation subsections 5.2 and 5.4 to strengthen the Board's biennial continuing professional education requirements by mandating course time in subject areas of patient abuse and neglect, infection prevention, and professional ethics. The Board is authorized specifically to establish by rule and regulation continuing education standards by 24 **Del.C.** §5206(a)(10).

Additional revisions reflect modern practices of the Division of Professional Regulation and others are technical and style changes consistent with the *Delaware Administrative Code Drafting and Style Manual*.

The Board will hold a public hearing on September 10, 2024, at 12:00 p.m. in conference room B on the second floor of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Examiners of Nursing Home Administrators, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address or to [Tashana.Branch@delaware.gov](mailto:Tashana.Branch@delaware.gov).

In accordance with 29 **Del.C.** §10118(a), the final date to receive written comments will be September 25, 2024. The Board will deliberate on all the public comments at its regularly scheduled meeting thereafter.

**DIVISION OF PROFESSIONAL REGULATION****PUBLIC NOTICE****5300 Board of Massage and Bodywork**

Pursuant to 24 **Del.C.** §5306(a)(1), the Delaware Board of Massage and Bodywork ("Board") has proposed revisions to its Rules and Regulations. The revision to subsection 12.3.2 adds a new requirement for the application process for massage establishments. The application will require a copy of the massage establishment's current business license issued by the Delaware Division of Revenue and a copy of any business license required by a county or municipality, as applicable. A public hearing will be held on September 19, 2024 at 1:30 p.m. in the second floor conference room B of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Massage and Bodywork, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address or at [monique.griffith@delaware.gov](mailto:monique.griffith@delaware.gov).

In accordance with 29 **Del.C.** §10118(a), the final date to receive written comments will be October 4, 2024. The Board will deliberate on all of the public comments at its regularly scheduled meeting.

---