DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF PUBLIC HEALTH

Statutory Authority: 16 Delaware Code, Sections 122(3) and 2101, et seq. (16 **Del.C.** §§122(3) & 2101, et seq.)
16 **DE Admin. Code** 4460

FINAL

ORDER

4460 Mattresses, Pillows and Bedding

NATURE OF THE PROCEEDINGS:
Pursuant to 16 **Del.C.** §§122(3) & 2101, et seq., the Department of Health and Social Services (DHSS), Division of Public Health, Health Systems Protection Section, proposed revisions to the regulation governing mattresses, pillows, and bedding (16 **DE Admin. Code** 4460).

The proposed amendments introduced several important changes to better serve and protect Delawareans. Regulatory amendments included technical changes to bring the regulation into compliance with the Delaware Administrative Code Style Manual.

Copies of the proposed regulation were published in the July 1, 2025 issue of the *Delaware Register of Regulations* (29 **DE Reg.** 21 (07/01/25) (Prop.)). Public comments were accepted until 4:30 PM on August 1, 2025.

SUMMARY OF EVIDENCE:
In accordance with Delaware law, public notice regarding the proposed DHSS regulation 16 **DE Admin. Code** 4460 was published in the *Delaware Register of Regulations*. No comments were received during the public comment period (July 1, 2025 through August 1, 2025).

IMPACT ON THE STATE'S GREENHOUSE GAS EMISSIONS REDUCTION TARGETS AND RESILIENCY TO CLIMATE CHANGE:
The statutory mandate within 29 **Del.C.** §10118(b)(3) requires each agency to address impact on the State's greenhouse gas emissions reduction targets and resiliency to climate change. Division of Public Health Director Steven Blessing reviewed the proposed regulation as required and determined that any assessment of the impact of the proposed regulation is not practical.

FINDINGS OF FACT:
No changes were made to the regulation since publication as proposed. The Department finds that the proposed regulation, as set forth in the attached copy, should be adopted in the best interest of the public in the State of Delaware.

THEREFORE, IT IS ORDERED that the proposed amendments to regulation 4460 Mattresses, Pillows and Bedding shall become effective September 11, 2025, 10 days after publication of the final regulation in the *Delaware Register of Regulations*.

8/6/2025 | 3:59 PM EDT
Date

Josette D. Manning, Esquire
Cabinet Secretary
Delaware Department of Health and Social Services

4460 Mattresses, ~~Pillows~~ Pillows, and Bedding

1.0 Definitions

~~For purposes of these Regulations the following definitions shall apply~~The following words and terms, when used in this regulation, have the following meaning:

"Bedding" means any mattress, mattress pad, mattress protector pad, box spring, upholstered spring, upholstered bed, davenport, upholstered sofa bed, quilted pad, comforter, bolster, cushion, pillow, featherbed, sleeping bag or any other bag, ~~case~~ case, or cover made of leather, textile or other material which is stuffed or filled in whole or in part with concealed material, which is intended for use by any human being for sleeping or reclining purposes.

“Comforter” means any cover, ~~quilt~~quilt, or quilted article made of cotton or other textile material and stuffed or filled with fiber, cotton, wool, hair, jute, feathers, feather down, ~~kapok~~ kapok, or other soft material.

“Department” means the Delaware Department of Health and Social Services.

"Mattress" means any quilted pad, mattress, mattress pad, mattress protector, bunk, ~~quilt~~ quilt, or box spring stuffed or filled with excelsior, straw, hay, grass, cornhusks, moss, fiber, cotton, wool, hair, jute, ~~kapok~~kapok, or other soft material, to be used on a couch or other bed for sleeping purposes.

“New" means any material or article which has not been previously manufactured or used for any purpose.

“Person” means an individual, corporation, business trust, estate trust, partnership, limited liability company, association, joint venture, or any other legal or commercial entity.

"Pillow", "Bolster", ~~or~~ or **"Featherbed"** ~~mean~~means any bag, ~~case~~ case, or covering made of cotton or other textile material, and stuffed or filled with excelsior, straw, hay, grass, cornhusks, moss, fiber, cotton, wool, hair, jute, feathers, feather down, ~~kapok~~ kapok, or other soft material to be used on a bed or other article for sleeping purposes.

"Secondhand" means any material or article of which prior use has been made.

"Shoddy" means any material which has been spun into yarn, ~~knit~~knit, or woven into fabric and subsequently cut up, torn up, broken up or ground up.

2.0 Restrictions and Prohibitions

2.1 Shoddy, Secondhand ~~Material~~Material, and Feathers

2.1.1 No person shall employ or use in the making or renovating of any mattress, pillow, bolster, ~~featherbed~~featherbed, or comforter any of the following:

2.1.1.1 Material known as "shoddy" or any fabric or material from which shoddy is constructed;

2.1.1.2 Secondhand material; or

2.1.1.3 New or secondhand feathers.

2.1.2 A person may use shoddy, secondhand material or new or secondhand feathers if the shoddy, secondhand material or new or secondhand feathers have been sterilized and disinfected by a reasonable process approved by the Department.

2.2 Used Mattresses, Pillows, Bolsters, ~~Featherbeds~~Featherbeds, and ~~Comforters~~Comforters.

~~2.2.1~~ No person shall sell, lease, offer to sell or lease, or deliver or consign in sale or lease, or have in the person's possession with intent to sell, lease, ~~deliver~~deliver, or consign in sale or lease any of the following:

~~2.2.1.1~~2.2.1 A mattress, pillow, bolster, ~~featherbed~~ featherbed, or comforter made, ~~remade~~remade, or renovated in violation of ~~these Regulations~~this regulation; or

~~2.2.1.2~~2.2.2 A secondhand mattress, pillow, bolster, ~~featherbed~~featherbed, or comforter unless since its last use it has been thoroughly sterilized and disinfected by a reasonable process approved by the Department.

3.0 Operational Requirements

3.1 Permits

3.1.1 Any person engaged in the making, ~~remaking~~ remaking, or renovating of any mattress, pillow, ~~bolster~~bolster, or comforter in which secondhand material is used; or in the making of any new or secondhand ~~feather~~feather- or ~~down filled~~ down-filled article; or the sterilizing and disinfecting of any material, ~~feathers~~feathers, or article coming under ~~these Regulations~~this regulation, shall submit to the Department for approval a reasonable and effective process, together with duplicate plans of apparatus or auxiliary devices, for the sterilization and disinfection of materials, ~~feathers~~feathers, and articles enumerated in this section.

3.1.2 Upon the approval of the process for sterilization and disinfection, a numbered permit shall be issued to the applicant by the Department. Permits shall remain effective only during a calendar year beginning January 1, and ending December 31, or any remaining portion of a calendar year beginning on the date the permit is issued.

3.1.3 Every person to whom a permit has been issued shall keep ~~such~~ the permit conspicuously posted in the person's office or place of business. Refusal to display ~~such~~ the permit in accordance with ~~these Regulations~~this regulation shall be sufficient reason for revocation of the permit by the Department.

3.1.4 Nothing in this section shall prevent any person engaged in the making, remaking, renovating or sale of any article, which requires sterilizing and disinfecting under this section, from having ~~such~~ the sterilizing and disinfecting performed by any person to whom a permit for ~~such~~ these purposes has been issued, provided the number of the permit shall appear in the statement on the tag attached to the article.

3.2 Initial Permit Fee. The initial permit fee for manufacturers of bedding products within the State or manufacturers of such products who ship said products into this State shall be ~~$50.00~~ $50.

3.3 Renewal of Permit

3.3.1 Applications for renewal of a permit must be made within the 60-day period preceding expiration of the permit currently held by the applicant.

3.3.2 The fee for renewal of a permit shall be ~~$50.00~~ $50.

3.4 Registry Numbers. The Department shall, upon application to it by any person entitled thereto, register each applicant, issue a permit, and assign a registry number by which number applicants shall thereafter be identified.

4.0 Inspections

4.1 Inspection of Premises.

~~4.2.1~~ All places where any mattress, pillow, bolster, ~~featherbed~~featherbed, or comforter is made, ~~remade~~ remade, or renovated, or where materials for articles named in ~~these Regulations~~this regulation are prepared, or an establishment where the articles are offered for sale or are in possession of any person with intent to sell, ~~deliver~~deliver, or consign them, or an establishment where sterilizing and disinfecting are performed, shall be subject to inspection by the Department to ascertain whether the materials and the finished articles conform to the requirements of ~~these Regulations~~this regulation.

4.2 Inspection of Products and Plants of Nonresidents

4.2.1 The Department may make physical inspection of any plant or factory of a nonresident whose products are manufactured or sold in this State. ~~Inasmuch, however, as~~ As some of the articles so enumerated may be made or the material used in the manufacture or renovation thereof may be processed outside of the limits of this State, it is expressly provided that where the person ~~so~~ manufacturing any such article or processing any such material shall have or operate a plant outside of the limits of this State the Department may, in its discretion, in lieu of a physical inspection of the plant of such nonresident person, satisfy itself by examination of the product made or possessed by ~~such~~ the nonresident or by ~~such~~ other means as the Department deems adequate, of the propriety of issuing to ~~such~~ the nonresident the permit required by ~~these Regulations~~this regulation or of renewing or keeping in force a permit so issued.

4.2.2 In the event that at any time the Department deems it necessary to make physical inspection of any plant or factory of a nonresident, it may require the payment by ~~such~~ the nonresident of ~~such sum as~~an amount that may cover the reasonable traveling charges entailed by ~~such~~the physical inspection. The Department may refuse to issue, ~~or may revoke~~ revoke, or ~~suspend,~~ suspend any permit until or unless ~~such~~the charges are ~~so~~ paid.

5.0 Tagging

5.1 Statement Required on Articles Not Containing Feather or Down. Each ~~and every~~ mattress or article covered by ~~these Regulations~~this regulation, other than a ~~feather~~feather- or ~~down filled~~ down-filled pillow, bolster, ~~bed~~bed, or comforter, shall bear securely attached thereto and visible on the outside covering, a tag of cloth or other substantial material upon which shall be plainly and indelibly stamped or printed in English the following:

5.1.1 A statement showing the kind of materials used in filling the mattress or article and whether the materials used in the filling are wholly ~~new or secondhand~~ new, secondhand, or partly secondhand;

5.1.2 The word "secondhand" upon any article of which prior use has been made;

5.1.3 The number of the permit issued for sterilizing and disinfecting; and

5.1.4 The registry number used in applying and enforcing the tagging and inspection provisions of ~~these Regulations~~this regulation.

5.2 Statement Required on Articles Containing Feather or Down. Each ~~and every~~ pillow or other article covered by ~~these Regulations~~this regulation in which feathers or down are used shall bear securely attached thereto and visible on the outside covering, a tag of cloth or other substantial material upon which shall be plainly and indelibly stamped or printed in English the following:

5.2.1 A statement that the feathers or down have been sterilized and disinfected in accordance with ~~these Regulations~~this regulation;

5.2.2 The word "secondhand" upon a ~~feather~~feather- or ~~down filled~~ down-filled article of which prior use has been made;

5.2.3 The number of the permit issued for sterilizing and disinfecting the feathers or down; and

5.2.4 The registry number used in applying and enforcing the tagging and inspection provisions of ~~these Regulations~~this regulation.

5.3 Specifications

5.3.1 The statement of materials used in the filling must be in plain type not less than ~~one-eighth~~ 1/8 inch in height.

5.3.2 The tag required by ~~these Regulations~~this regulation to be attached to any article covered by ~~these Regulations~~this regulation shall be not less than 6 square inches in size.

5.4 Prohibited Statements

5.4.1 No additional information other than what is ~~mentioned in Sections~~ required by subsections 5.1 and 5.2 of ~~these Regulations~~ this regulation shall appear on the tag.

5.4.2 The word "felt," or words of like import if any other than garneted materials are used in filling, or the words "curled hair," or words of like import if other than curled hair is used in filling, shall not be used exclusively in the statement concerning any mattress, pillow, ~~bolster~~bolster, or comforter.

5.5 False, ~~Untrue~~ Untrue, or Misleading Statements. No person shall make any false, ~~untrue~~untrue, or misleading statement, ~~term~~term, or designation on the tag.

5.6 Removal, ~~Defacing~~ Defacing, or Altering Prohibited. No person shall remove, deface, ~~alter~~alter, or in any manner attempt to remove, ~~deface~~deface, or alter the tag required by ~~these Regulations~~Section 5.0 of this regulation or cause to be removed, ~~defaced~~defaced, or ~~altered~~altered, any statement on a tag required by ~~these Regulations~~this regulation. Nothing in this section shall prohibit the removal of ~~such~~the tag by the final consumer of the product.

6.0 Compliance

6.1 Enforcement

6.1.1 The Department, through its officers and employees, is charged with the administration and enforcement of ~~these Regulations~~this regulation and may take for evidence, at any trial involving violation of ~~these Regulations~~this regulation, any article made or offered for sale in violation of ~~these Regulations~~this regulation.

6.1.2 ~~These Regulations are~~ This regulation is subject to ~~Chapter 23 of Title 11~~11 **Del.C.** Ch. 23. If there is any conflict or inconsistency between ~~these Regulations~~this regulation and ~~Chapter 23~~11 **Del.C.** Ch. 23, the latter shall prevail.

6.2 Penalties

6.2.1 Whoever violates ~~these Regulations~~this regulation shall be fined for each offense not less than $10.00 nor more than ~~$50.00~~ $50. In default of the payment of ~~such fine~~the fine, the violator shall be imprisoned for not less than 10 days for each separate offense. The total term of imprisonment at any ~~one (1)~~ time for additional offenses shall not exceed ~~ten (10)~~ 10 months.

6.2.2 Each mattress, mattress pad, mattress protector pad, box spring, upholstered spring, upholstered bed, davenport, upholstered sofa bed, quilted pad, comforter, bolster, cushion, pillow, ~~featherbed~~featherbed, or sleeping bag made or remade, ~~or~~ renovated, sold, offered for sale, ~~delivered~~delivered, or consigned contrary to ~~these Regulations~~this regulation shall constitute a separate offense.

6.2.3 In addition to any fine or imprisonment imposed, the Department may revoke any permit issued under ~~these Regulations~~this regulation for a violation of ~~these Regulations~~this regulation.

6.3 Appeals.

~~6.3.1~~ Any person convicted of an offense under this ~~section~~ regulation before a Justice of the Peace, may appeal the judgment of conviction to the Court of Common Pleas.
