
Delaware Register of Regulations

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Volume 19 - Issue 2, Pages 84 - 151



IN THIS ISSUE:

Regulations:
Emergency
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, 2015.

Cover Photo by
Dr. Brian Kutner

INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

85

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The *Delaware Register* will publish any regulations that are proposed to be adopted, amended or repealed and any emergency regulations promulgated.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

16 **DE Reg.** 1227 - 1230 (06/01/13)

Refers to Volume 16, pages 1227 - 1130 of the *Delaware Register* issued on June 1, 2013.

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and other interested parties may participate in the process by which administrative regulations are adopted, amended or repealed, and may initiate the process by which the validity and applicability of regulations is determined.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file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the *Register of Regulations* pursuant to §1134 of this title.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

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 17	4:30 p.m.
October 1	September 15	4:30 p.m.
November 1	October 15	4:30 p.m.
December 1	November 16	4:30 p.m.
January 1	December 15	4:30 p.m.

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TABLE OF CONTENTS

87

Cumulative Tables.....	89
------------------------	----

EMERGENCY

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

Division of Public Health

4470 State of Delaware Medical Marijuana Code.....	91
--	----

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

Division of Fish and Wildlife

3507 Black Sea Bass Size Limit; Trip Limits, Seasons; Quotas.....	92
---	----

PROPOSED

DELAWARE STATE FIRE PREVENTION COMMISSION

701 Administration and Enforcement.....	96
702 Fire Protection in Building Construction.....	97
703 Installation, Operation, Maintenance, Testing and Sales of Signaling Systems, Fire Protection Systems and Fire Extinguishers.....	97
704 Hazardous Processes and Operations.....	98
705 General Fire Safety.....	99
706 Specific Occupancy Requirements.....	99

DEPARTMENT OF EDUCATION

Office of the Secretary

505 High School Graduation Requirements and Diplomas.....	100
545 K to 12 School Counseling Programs.....	102
1007 DIAA Sportsmanship.....	105
1008 DIAA Junior High and Middle School Interscholastic Athletics.....	110
1009 DIAA High School Interscholastic Athletics.....	111
1150 School Transportation.....	112

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

Division of Public Health

4462 Public Drinking Water Systems.....	114
4464 Public Swimming Pools.....	115
4470 State of Delaware Medical Marijuana Code.....	116

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

Division of Fish and Wildlife

3507 Black Sea Bass Size Limit; Trip Limits, Seasons; Quotas.....	121
---	-----

DEPARTMENT OF STATE

Division of Professional Regulation

300 Board of Architects.....	124
1900 Board of Nursing, Sections 2.0, 3.0, 4.0, 5.0 & 9.0.....	125
2500 Board of Pharmacy.....	125

Public Service Commission

3007 Electric Service Reliability and Quality Standards.....	126
--	-----

TABLE OF CONTENTS

DEPARTMENT OF TRANSPORTATION

Division of Transportation Solutions

2405 Oversize/Overweight Hauling Permit Policy and Procedures Manual.....	134
---	-----

FINAL

DEPARTMENT OF AGRICULTURE

Thoroughbred Racing Commission

1001 Thoroughbred Racing Rules and Regulations, Section 15.0: Medication; Testing Procedures	137
--	-----

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

Division of Public Health

4455 Delaware Regulations Governing a Detailed Plumbing Code.....	138
4465 Delaware Radiation Control Regulations, Part D: Standards for Protection Against Radiation; Part J: Notices, Instructions and Reports to Workers; Inspections.....	140

DEPARTMENT OF STATE

Division of Professional Regulation

1400 Board of Electrical Examiners.....	141
2700 Board of Registration for Professional Land Surveyors.....	142

GENERAL NOTICES

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

Division of Medicaid and Medical Assistance

Medicaid Home and Community-Based Services Settings - Transition Plan Updates.....	144
--	-----

CALENDAR OF EVENTS/HEARING NOTICES

Delaware State Fire Prevention Commission, Notices of Public Comment Period and Public Hearing.....	147
Dept. of Education, Notice of Monthly Meeting.....	147
Dept. of Health and Social Services, Div. of Public Health, Notices of Public Comment Periods and Hearings	147-148
Dept. of Natural Resources and Environmental Control, Div. of Fish and Wildlife; Notice of Public Hearing	148
Dept. of State, Div. of Prof. Regulation, Board of Architects; Board of Nursing, Board of Pharmacy; Public Service Commission, Notices of Public Comment Periods and Public Hearings	149-150
Dept. of Transportation, Div. of Transportation Solutions, Notice of Public Comment Period.....	151

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.).

DEPARTMENT OF AGRICULTURE

Harness Racing Commission

501 Harness Racing Rules and Regulations..... 19 **DE Reg.** 10 (Prop.)

Thoroughbred Racing Commission

1001 Thoroughbred Racing Rules and Regulations, Sections 18.0 and 19.0... 19 **DE Reg.** 32 (Final)

1002 Delaware Jockeys' Health and Welfare Benefit Board Regulations..... 19 **DE Reg.** 33 (Final)

DEPARTMENT OF EDUCATION

Office of the Secretary

106A Teacher Appraisal Process Delaware Performance Appraisal System Revised..... 19 **DE Reg.** 35 (Final)

107A Specialist Appraisal Process Delaware Performance Appraisal System Revised..... 19 **DE Reg.** 38 (Final)

108A Administrator Appraisal Process Delaware Performance Appraisal System Revised..... 19 **DE Reg.** 35 (Final)

804 Immunizations..... 19 **DE Reg.** 43 (Final)

902 Gifted or Talented Education Plan..... 19 **DE Reg.** 48 (Final)

1150 School Transportation..... 19 **DE Reg.** 51 (Final)

Professional Standards Board

1560 Art Teacher..... 19 **DE Reg.** 12 (Prop.)

1563 Music Teacher..... 19 **DE Reg.** 14 (Prop.)

1564 Physical Education Teacher..... 19 **DE Reg.** 15 (Prop.)

1571 Exceptional Children Special Education Teacher..... 19 **DE Reg.** 17 (Prop.)

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

Division of Long Term Care Residents Protection

3325 Financial Capability Reporting..... 19 **DE Reg.** 52 (Final)

Division of Medicaid and Medical Assistance

Title XIX Medicaid State Plan, Attachment 3.1-A, Introductory Page 1 (Tele-medicine)..... 19 **DE Reg.** 20 (Prop.)

Title XIX Medicaid State Plan, Multi-State Purchasing Pool Supplemental Drug Rebate Agreement (SRA)..... 19 **DE Reg.** 57 (Final)

Title XIX Medicaid State Plan, State Plan Rehabilitative Services - Coverage and Reimbursement for Community Support Services..... 19 **DE Reg.** 60 (Final)

Division of Public Health

4462 Public Drinking Water Systems..... 19 **DE Reg.** 22 (Prop.)

DEPARTMENT OF LABOR

Division of Unemployment Insurance

1202 Unemployment Insurance Regulations..... 19 **DE Reg.** 64 (Final)

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

Division of Air Quality

1138 Emission Standards for Hazardous Air Pollutants for Source Categories. 19 **DE Reg.** 23 (Prop.)

CUMULATIVE TABLES

1141 Limiting Emissions of Volatile Organic Compounds from Consumer and Commercial Products.....	19 DE Reg.	25 (Prop.)
Division of Waste and Hazardous Substances		
1375 Regulations Governing Hazardous Substance Cleanup.....	19 DE Reg.	65 (Final)
DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES		
Division of Family Services		
101 Rules for Early Care and Education and School-Age Centers.....	19 DE Reg.	6 (Emer.)
DEPARTMENT OF STATE		
Division of Professional Regulation		
100 Board of Accountancy.....	19 DE Reg.	68 (Final)
1725 Polysomnography Advisory Council.....	19 DE Reg.	69 (Final)
2100 Board of Examiners in Optometry.....	19 DE Reg.	26 (Prop.)
2500 Board of Pharmacy.....	19 DE Reg.	26 (Prop.)
2930 Council on Real Estate Appraisers.....	19 DE Reg.	70 (Final)
3800 Board of Dietetics/Nutrition.....	19 DE Reg.	27 (Prop.)
Uniform Controlled Substances Act Regulations.....	19 DE Reg.	27 (Prop.)
Public Service Commission		
4002 Regulations Governing Payphone Service Providers in Delaware (Docket No. 12), Repeal of.....	19 DE Reg.	71 (Final)
DEPARTMENT OF TRANSPORTATION		
Division of Planning and Policy		
2309 Development Coordination Manual.....	19 DE Reg.	73 (Final)
Division of Transportation Solutions		
2402 Delaware Manual in Uniform Traffic Control Devices.....	19 DE Reg.	76 (Final)
EXECUTIVE DEPARTMENT		
Office of Management and Budget		
Statewide Benefits Office		
2007 Disability Insurance Program Rules and Regulations.....	19 DE Reg.	78 (Final)

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.

Emergency Regulations

Under 29 **Del.C.** §10119 an agency may promulgate a regulatory change as an Emergency under the following conditions:

§ 10119. Emergency regulations.

If an agency determines that an imminent peril to the public health, safety or welfare requires the adoption, amendment or repeal of a regulation with less than the notice required by § 10115, the following rules shall apply:

(1) The agency may proceed to act without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable;

(2) The order adopting, amending or repealing a regulation shall state, in writing, the reasons for the agency's determination that such emergency action is necessary;

(3) The order effecting such action may be effective for a period of not longer than 120 days and may be renewed once for a period not exceeding 60 days;

(4) When such an order is issued without any of the public procedures otherwise required or authorized by this chapter, the agency shall state as part of the order that it will receive, consider and respond to petitions by any interested person for the reconsideration or revision thereof; and

(5) The agency shall submit a copy of the emergency order to the Registrar for publication in the next issue of the *Register of Regulations*. (60 Del. Laws, c. 585, § 1; 62 Del. Laws, c. 301, § 2; 71 Del. Laws, c. 48, § 10.)

DEPARTMENT OF HEALTH AND SOCIAL SERVICES**DIVISION OF PUBLIC HEALTH**

Statutory Authority: 16 Delaware Code, Chapter 49A (16 **Del.C.**, Ch. 49A)

16 **DE Admin. Code** 4470

ORDER**4470 State of Delaware Medical Marijuana Code****NATURE OF THE PROCEEDINGS:**

This emergency regulation is being promulgated to ensure the availability of pediatric medical marijuana oils to qualifying patients under the age of 18, as dictated by Senate Bill 90 of the 148th Legislative Session. This includes revisions to existing regulations to allow for increased production of medical marijuana products to accommodate demand for pediatric medical marijuana oils. Revisions are also being made to allow for the application, qualification and registration of patients, and primary guardians, under the age of 18 with the Delaware Medical Marijuana Program. This emergency regulation adoption is necessary while the proposed rulemaking process is being completed to ensure the welfare of qualified patients under the age of 18 via the availability of medical marijuana. Delaware Health and Social Services ("Department") / Division of Public Health has determined that a compelling public interest exists to amend these regulations without prior notice or hearing.

NATURE OF PROPOSED AMENDMENT:

The proposed provides notice to the public that the Division of Public Health (DPH) intends to amend the existing 4470 State of Delaware Medical Marijuana Code to allow for registration of qualifying patients under the age of 18 with the Medical Marijuana Program and expand marijuana product production to meet the needs of these qualified patients.

SUMMARY OF THE PROPOSED AMENDMENT:

The existing 4470 State of Delaware Medical Marijuana Code does not adequately provide for the provision of medical marijuana products to qualifying patients as dictated by SB-90. The current regulations are being revised to allow for provision of these products, with restrictions, to qualifying patients under the age of 18, provide mechanisms to issue Registry Identification cards to these patients and ease restrictions on medical marijuana production to meet the increased demand expected. These revisions provide these patients and their guardians with the services and products provided to other patients under the existing 4470 State of Delaware Medical Marijuana Code.

FINDINGS OF FACT:

The Department finds that a compelling public interest exists which necessitates promulgation of an emergency regulation and requests emergency approval of these rule amendments to provide for the availability of medical marijuana products to qualified patients. The Department will receive, consider, and respond to petitions by any interested person for the reconsideration or revision thereof.

THEREFORE, IT IS ORDERED, to assure the welfare of qualifying patients under the age of 18 that the revised 4470 State of Delaware Medical Marijuana Code be adopted on an emergency basis without prior notice or hearing.

Rita M. Landgraf, Secretary, DHSS
July 15, 2015

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

4470 State of Delaware Medical Marijuana Code

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL**DIVISION OF FISH AND WILDLIFE**

Statutory Authority: 7 Delaware Code, Section 903(h) (7 **Del.C.** §903(h))
7 **DE Admin. Code** 3507

SECRETARY'S ORDER No. 2015-F-0027

Pursuant to 29 **Del.C.** §10119

3507 Black Sea Bass Size Limit; Trip Limits, Seasons; Quotas

AUTHORITY:

Pursuant to 29 **Del.C.** §10119, the Department of Natural Resources and Environmental Control is adopting amendments to Tidal Finfish Regulation 3507 without prior notice or public hearing to assure that Delaware's recreational black sea bass season is consistent with the federal recreational black sea bass season and to avoid the actual and imminent danger to this fishing resource and its associated businesses. 7 **Del.C.** §903(h) authorizes the Department to adopt emergency regulations when such regulations are necessary to deal with an actual or imminent public health threat or danger to a fishing resource or habitat involving finfish.

REASON FOR THE EMERGENCY ORDER

Delaware's recreational black sea bass fishery is presently closed from January 1 through May 14 (per Secretary's Order No 2015-F-0020) and September 19 through October 17. A federal rule was published on June 19, 2015 that extended the recreational black sea bass open season through September 21. Therefore, if Delaware does not use an emergency order to extend the open season, its recreational black sea bass season will close September 19, 2015. This will prevent Delaware anglers from fishing the two days of the federal black sea bass season, causing an economic danger to our fishing resource businesses, such as charter boats, bait shops and tackle dealers that depend on this fishery.

Addendum XXV to the Atlantic States Marine Fisheries Commission's Summer Flounder, Scup, and Black Sea Bass Interstate Fishery Management Plan maintains a black sea bass management region extending from Delaware through North Carolina, which was delineated based on shared biological and fishery characteristics among the states in this region. Delaware's black sea bass regulations, as per the Addendum, are required to be consistent with federal regulations. Consequently, Delaware's rule-making process typically begins when the federal regulations are published. The federal rule extending the recreational black sea bass season in federal waters was published, June 19, 2015 and will maintain open federal waters through September 21, 2015. Delaware's normal regulatory process takes four months, so Delaware will not be able to maintain consistency with federal regulations unless an emergency order is issued to extend Delaware's open black sea bass recreational fishery through September 21, 2015. All other states in our management region have already stated their intent to extend their open season through September 21, 2015, thus Delaware anglers and associated businesses will be denied this angling and economic opportunity if Delaware does not also extend its season through September 21, 2015.

Therefore, this Emergency Order changes the date in the relevant regulation, **7 DE Admin. Code 3507**, from a closure period of September 19 through midnight October 17 to a closure period of September 22 through midnight October 17, allowing the season to remain open through September 21 consistent with the federal regulation.

EFFECTIVE DATE OF ORDER

This Emergency Order shall take effect at 12:01 a.m. on July 15, 2015 and shall remain in effect for 90 days.

PETITION FOR RECOMMENDATIONS

The Department will receive, consider and respond to petitions by any interested person for recommendations or revisions of this Order. Petitions should be presented to the Fisheries Section, Division of Fish and Wildlife, 89 Kings Highway, Dover, Delaware, 19901.

ORDER

It is hereby ordered, the 15th day of July 2015 that the above referenced amendment to Tidal Finfish Regulation 3507 (12.0), a copy of which is hereby attached, are adopted pursuant to **7 Del.C. §903(h)** and supported by the evidence contained herein.

David S. Small, Secretary
Department of Natural Resources and Environmental Control
7/15/2015

3507 Black Sea Bass Size Limit; Trip Limits, Seasons; Quotas

(Penalty Section 7 **Del.C. §936(b)(2)**)

- 1.0 It shall be unlawful for any commercial person to have in possession any black sea bass (*Centropristis striata*) that measures less than eleven (11) inches, total length excluding any caudal filament.

EMERGENCY REGULATIONS

- 2.0 It shall be unlawful for any recreational person to have in possession any black sea bass that measures less than twelve and one-half (12.5) inches total length excluding any caudal filament.
- 3.0 It shall be unlawful for any commercial fisherman to land, to sell, trade and or barter any black sea bass in Delaware unless authorized by a black sea bass landing permit issued by the Department. The black sea bass landing permit shall be presumed to transfer with the vessel whenever it is bought, sold, or otherwise transferred to an eligible transferee as defined in 7 **Del.C.** §2903, unless there is a written agreement, signed by the transferor/seller and transferee/buyer, or other credible written evidence, verifying that the transferor/seller is retaining the vessel's fishing and permit history for purposes of replacing the vessel.
- 4.0 The black sea bass pot fishery and the black sea bass commercial hook and line fishery shall be considered separate black sea bass fisheries. The total pounds allocated to each fishery by the Department shall be as follows: 96 percent of the State's commercial quota, as determined by the ASMFC, for the pot fishery; 4 percent for the commercial hook and line fishery.
- 5.0 The Department may only issue a black sea bass landing permit for the pot fishery to a person who is the owner of a vessel permitted by the National Marine Fisheries Service in accordance with 50 CFR §§ 648.4 pertaining to black sea bass and was either issued a black sea bass landing permit by the Department in 2013 or was the transferee of black sea bass landing permit issued by the Department as per 3507 (3.0). The number of black sea bass landings permits issued by the Department for the pot fishery in any year will not exceed six.
- 6.0 The Department may only issue a black sea bass landing permit for the commercial hook and line fishery to a person who has applied for and secured from the Department a commercial food fishing license and a fishing equipment permit for hook and line and was either issued a black sea bass landing permit by the Department in 2013 or was the transferee of black sea bass landing permit issued by the Department as per 3507 (3.0). The number of black sea bass landings permits issued by the Department for the commercial hook and line fishery in any year will not exceed thirteen.
- 7.0 Any overage of the State's commercial quota will be subtracted by the Atlantic States Marine Fisheries Commission from the next year's commercial quota.
Any overage of an individual's allocation will be subtracted from that individual's allocation the next year and distributed to those individuals in the appropriate fishery that did not exceed their quota.
- 8.0 Each participant in a black sea bass fishery shall be assigned a equal share of the total pounds of black sea bass allotted by the Department for that particular fishery. A share shall be determined by dividing the number of pre-registered participants in one of the two recognized fisheries into the total pounds of black sea bass allotted to the fishery by the Department. In order to pre-register an individual must indicate their intent in writing to participate in this fishery.
- 9.0 Individual shares of the pot fishery quota may be transferred to another participant in the pot fishery. Any transfer of black sea bass individual pot quota shall be limited by the following conditions:
- 9.1 A maximum of one transfer per year per person.
- 9.2 No transfer of shares of the black sea bass pot fishery quota shall be authorized unless such transfer is documented on a form provided by the Department and approved by the Secretary in advance of the actual transfer.
- 10.0 Individual shares of the commercial hook and line fishery quota may be transferred to another participant in the commercial hook and line fishery. Any transfer of black sea bass individual commercial hook and line quota shall be limited by the following conditions:
- 10.1 A maximum of one transfer per year per person.
- 10.2 No transfer of shares of the black sea bass commercial hook and line quota shall be authorized unless such transfer is documented on a form provided by the Department and approved by the Secretary in advance of the transfer.
- 11.0 Each commercial food fisherman participating in a black sea bass fishery shall report to the Department, via the interactive voice phone reporting system operated by the Department, each days landings in pounds at least one hour after packing out their harvest.
- 12.0 It shall be unlawful for any recreational fisherman to take and reduce to possession or to land any black sea bass beginning at 12:01 a.m. January 1, and ending midnight May 18, and beginning at 12:01 a.m. September 4~~9~~22 and ending mid-night October 17.

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- 12.1 It shall be unlawful for any recreational fisherman to have in possession more than 15 black sea bass at or between the place where said black sea bass were caught and said recreational fisherman's personal abode or temporary or transient place of lodging during the period May 19 through September ~~18~~21 and during the period October 18 through December 31.

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.

DELAWARE STATE FIRE PREVENTION COMMISSION

Statutory Authority: 16 Delaware Code, Section 6604(1) (16 **Del.C.** §6604(1))
1 **DE Admin. Code** 701

PUBLIC NOTICE**701 Administration and Enforcement**

The Delaware State Fire Prevention Commission, pursuant to 16 **Del.C.** §6604(1), proposes to revise regulation 701 by removing the limitation that the regulations apply only to buildings modified by 50% or more following the enactment of the regulations. The revision also removes Annexes A and B and reorganizes the content into a newly created Chapter 7. Finally, the revision removes references to Appendixes that are no longer part of the regulations.

The Board will hold a public hearing on the proposed regulation change on September 15, 2015 at 10:00 a.m., in the Commission Chamber, Delaware Fire Service Center, 1463 Chestnut Grove Road, Dover, DE 19904. Written comments should be sent to Sherry Lambertson, Executive Specialist for the Delaware Fire Prevention Commission, Delaware Fire Service Center, 1463 Chestnut Grove Road, Dover, DE 19904. Written comments will be accepted until August 31, 2015 pursuant to 29 **Del.C.** §10118(a).

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

701 Administration and Enforcement

DELAWARE STATE FIRE PREVENTION COMMISSION

Statutory Authority: 16 Delaware Code, Section 6604(1) (16 Del.C. §6604(1))
1 DE Admin. Code 702

PUBLIC NOTICE

702 Fire Protection in Building Construction

The Delaware State Fire Prevention Commission, pursuant to 16 Del.C. §6604(1), proposes to revise regulation 702 by making changes to the occupancy conversion regulation, clarifying the building rehabilitation requirements, clarifying the automatic sprinkler system, and standpipe regulations to prevent a submission for review and approval of a project in such stages that would have the effect of being less than 50% of the square footage of any building. These proposed changes also make substantive additions to the regulations regarding floor level identification and fire pumps.

The Board will hold a public hearing on the proposed regulation change on September 15, 2015 at 10:00 a.m., in the Commission Chamber, Delaware Fire Service Center, 1463 Chestnut Grove Road, Dover, DE 19904. Written comments should be sent to Sherry Lambertson, Executive Specialist for the Delaware Fire Prevention Commission, Delaware Fire Service Center, 1463 Chestnut Grove Road, Dover, DE 19904. Written comments will be accepted until August 31, 2015 pursuant to 29 Del.C. §10118(a).

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

702 Fire Protection in Building Construction

DELAWARE STATE FIRE PREVENTION COMMISSION

Statutory Authority: 16 Delaware Code, Section 6604(1) (16 Del.C. §6604(1))
1 DE Admin. Code 703

PUBLIC NOTICE

703 Installation, Operation, Maintenance, Testing and Sales of Signaling Systems, Fire Protection Systems and Fire Extinguishers

The Delaware State Fire Prevention Commission, pursuant to 16 Del.C. §6604(1), proposes to revise regulation 703 by adding a definition for "major deficiency," clarifying that at the time of renewal, a certificate holder must maintain current NICET certification at the minimum level that was required at the time of original licensure. The proposed changes also remove reference to the Annexes and Appendixes which are no longer part of the regulations.

The Board will hold a public hearing on the proposed regulation change on September 15, 2015 at 10:00 a.m., in the Commission Chamber, Delaware Fire Service Center, 1463 Chestnut Grove Road, Dover, DE 19904. Written comments should be sent to Sherry Lambertson, Executive Specialist for the Delaware Fire Prevention Commission, Delaware Fire Service Center, 1463 Chestnut Grove Road, Dover, DE 19904. Written comments will be accepted until August 31, 2015 pursuant to 29 Del.C. §10118(a).

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

703 Installation, Operation, Maintenance, Testing and Sales of Signaling Systems, etc.

PROPOSED REGULATIONS

DELAWARE STATE FIRE PREVENTION COMMISSION

Statutory Authority: 16 Delaware Code, Section 6604(1) (16 Del.C. §6604(1))
1 DE Admin. Code 704

PUBLIC NOTICE

704 Hazardous Processes and Operations

The Delaware State Fire Prevention Commission, pursuant to 16 Del.C. §6604(1), proposes to revise regulation 704 by deleting Regulation 4.3 in its entirety, eliminating the requirement that a member of a local fire department be present on the scene of any fireworks display from the time the fireworks are delivered until the termination of the display, and reverting to Regulation 4.2, leaving the level of fire protection to the discretion of the local fire department.

The Board will hold a public hearing on the proposed regulation change on September 15, 2015 at 10:00 a.m., in the Commission Chamber, Delaware Fire Service Center, 1463 Chestnut Grove Road, Dover, DE 19904. Written comments should be sent to Sherry Lambertson, Executive Specialist for the Delaware Fire Prevention Commission, Delaware Fire Service Center, 1463 Chestnut Grove Road, Dover, DE 19904. Written comments will be accepted until August 31, 2015 pursuant to 29 Del.C. §10118(a).

704 Hazardous Processes and Operations

(Break in Continuity of Sections)

Chapter 2 Fireworks Display

(Break in Continuity of Sections)

4.0 Fire Protection Required.

- 4.1 The sponsoring organization shall arrange with the local fire department to provide fire protection for the display.
- 4.2 The level of such fire protection will be decided by the chief of the local fire department.
- 4.3 ~~The person to whom a permit has been issued shall arrange for the detailing of one member of the local fire department or such larger number as may be deemed necessary by the chief of the fire department. Fire department personnel shall be on duty from the time the fireworks are delivered to the site until the termination of the display and the removal of all fireworks and debris from the site. The expense of such fire personnel shall be paid by the permittee.~~

(Break in Continuity of Sections)

Chapter 3 Explosives, Ammunition, Blasting Agents

(Break in Continuity of Sections)

4.0 Bond/Certificate of Insurance Required.

- ~~4.1~~ Before a permit to do blasting as required by these Regulations shall be issued, the applicant for such permit shall file a surety bond deemed adequate in each case by the State Fire Marshal or shall provide a Certificate of Insurance from his agent or carrier showing that the applicant is insured to cover any foreseeable accident, damage, or injury from such use of hazardous material. Such bond or Certificate of Insurance shall be proof of financial responsibility for the payment of any damages arising from the permitted blasting.

5.0 Reporting Deliveries and/or Sales.

- ~~5.1~~ All dealers, suppliers, distributors, and persons otherwise involved in the transfer or possession of explosives shall report quarterly to the State Fire Marshal on forms provided by the State Fire Marshal, the amounts, kinds, date and place delivered to of all quantities of materials that are encompassed in these Regulations.

6.0 Transportation.

- 6-4 A permit is required from the State Fire Marshal for the transportation of explosives within the State of Delaware. No permit shall be issued until the vehicle is inspected by the State Fire Marshal. The vehicle inspection shall cover all regulations in this Chapter, 16 **Del.C.**, Ch. 71 and the *Hazardous Materials Transportation Act*, as provided in 29 **Del.C.** §8223 through §8230.

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

704 Hazardous Processes and Operations

DELAWARE STATE FIRE PREVENTION COMMISSION

Statutory Authority: 16 Delaware Code, Section 6604(1) (16 **Del.C.** §6604(1))
1 **DE Admin. Code** 705

PUBLIC NOTICE

705 General Fire Safety

The Delaware State Fire Prevention Commission, pursuant to 16 **Del.C.** §6604(1), proposes to revise regulation 705 to clarify that one elevator car in any building must be of sufficient size to accommodate an ambulance cot in its horizontal position, and further clarifying that elevator cars existing as of September 1, 2015 are exempt from this requirement. These changes further clarify that all gates at gated communities must be either automatic or manual, and establishes guidelines for demarcating both primary and secondary entrance doors.

The Board will hold a public hearing on the proposed regulation change on September 15, 2015 at 10:00 a.m., in the Commission Chamber, Delaware Fire Service Center, 1463 Chestnut Grove Road, Dover, DE 19904. Written comments should be sent to Sherry Lambertson, Executive Specialist for the Delaware Fire Prevention Commission, Delaware Fire Service Center, 1463 Chestnut Grove Road, Dover, DE 19904. Written comments will be accepted until August 31, 2015 pursuant to 29 **Del.C.** §10118(a).

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

705 General Fire Safety

DELAWARE STATE FIRE PREVENTION COMMISSION

Statutory Authority: 16 Delaware Code, Section 6604(1) (16 **Del.C.** §6604(1))
1 **DE Admin. Code** 706

PUBLIC NOTICE

706 Specific Occupancy Requirements

The Delaware State Fire Prevention Commission, pursuant to 16 **Del.C.** §6604(1), proposes to revise regulation 706 by removing bond requirement for electricians added to the list of installers for the hard-wired smoke detector program.

The Board will hold a public hearing on the proposed regulation change on September 15, 2015 at 10:00 a.m., in the Commission Chamber, Delaware Fire Service Center, 1463 Chestnut Grove Road, Dover, DE 19904. Written comments should be sent to Sherry Lambertson, Executive Specialist for the Delaware Fire Prevention

PROPOSED REGULATIONS

Commission, Delaware Fire Service Center, 1463 Chestnut Grove Road, Dover, DE 19904. Written comments will be accepted until August 31, 2015 pursuant to 29 Del.C. §10118(a).

706 Specific Occupancy Requirements
(Break in Continuity of Sections)
Chapter 4 Residential Smoke Detectors
(Break in Continuity of Sections)

6.0 Hard-Wired Smoke Detector Program.

(Break in Continuity Within Section)

6.4 Authorized Electrician/Installers

(Break in Continuity Within Section)

6.4.3 Electricians shall be added to the list of installers upon the Office of the State Fire Marshal receiving a Letter of Acceptance form.

(Break in Continuity Within Section)

6.4.3.4 The Letter of Acceptance shall be accompanied with a performance bond in the amount of \$5000.

6.4.3.4.1 Once the limit of \$5000 has been reached, subsequent performance bond increases shall be in increments of \$1000 before other installations are assigned.

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

706 Specific Occupancy Requirements

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 Del.C. §122(b))
 14 DE Admin. Code 505

PUBLIC NOTICE

Education Impact Analysis Pursuant to 14 Del.C. Section 122(d)

505 High School Graduation Requirements and Diplomas

A. Type of Regulatory Action Required

Amendment to Existing Regulation

B. Synopsis of Subject Matter of the Regulation

The Secretary of Education seeks the consent of the State Board of Education to amend 14 DE Admin. Code 505 High School Graduation Requirements and Diplomas. This regulation is being amended to include language which specifically allows a district or charter school to award credit based on demonstration of mastery of a particular course. This language was proposed based on the Competency Based Learning Guiding Coalition that was facilitated by the Department of Education and that included educators in Delaware. In addition, an amendment was made in section 10.0 that expands the scope of students covered in this section. This section allows a student under DSCFY custody during their high school years to graduate from high school based on the

State's graduation requirements if the district or charter school exceeds what is required by the State. With the amendment those students in DSCYF within Youth Rehabilitations Services are included.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before September 8, 2015 to Tina Shockley, Education Associate, Department of Education, Regulatory Review, at 401 Federal Street, Suite 2, Dover, Delaware 19901. A copy of this regulation may be viewed or obtained at the Department of Education, Finance Office located at the address listed above.

C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation is intended to help improve student achievement as measured against state achievement standards.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation is intended to continue to ensure all students receive an equitable education.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amendment does not address students' health and safety.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation continues to ensure that all students' legal rights are respected.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amendments do not change decision making at the local or school levels.

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 any unnecessary reporting or administrative requirements on decision makers.

7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The decision making authority and accountability for high school diplomas and graduation requirements do not change because of the amendments.

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 amendments are consistent with and not an impediment to the implementation of other state educational policies.

9. Is there a less burdensome method for addressing the purpose of the regulation? There is not a less burdensome method for addressing this subject matter.

10. What is the cost to the State and to the local school boards of compliance with the regulation? There is not an expected cost to implementing this regulation with the amendments.

505 High School Graduation Requirements and Diplomas

1.0 Definitions:

(Break in Continuity Within Section)

"Student in DSCYF custody" means a student, who is or was in the custody of the Department of Services for Children, Youth & Their Families ("DSCYF"), pursuant to ~~Chapter 25 of Title 13 of the Delaware Code~~ 10 Del.C., Chapter 9, §1009, for any length of time, during his or her enrollment in high school.

(Break in Continuity of Sections)

8.0 Options for Awarding Credit Toward High School Graduation

- 8.1 District and charter school boards are authorized to award credit toward high school graduation for the following activities, on the condition that the activities incorporate any applicable state content standards. Before awarding credit for any of the following activities, the districts and charter school boards shall have adopted a policy approving the activity for credit and establishing any specific

PROPOSED REGULATIONS

conditions for the award of credit for the activity. Such policy shall be applicable to each school within the district or each charter high school.

(Break in Continuity Within Section)

8.1.11 Courses taught by a teacher certified in the subject being taught and credit earned upon demonstration of mastery of the competencies of the particular course.

(Break in Continuity of Sections)

10.0 Exceptions for Students in DSCYF Custody

- 10.1 A student in DSCYF custody pursuant to 10 Del.C., Chapter 9, §1009 who transfers into a district or charter school shall be permitted to graduate based on the successful completion of the Department's graduation requirements as defined in this regulation in lieu of the district's or charter school's specific requirements permitted by 7.1.
- 10.2 When a student in DSCYF custody pursuant to 10 Del.C., Chapter 9, §1009 transfers into a district or charter school, the district or charter school shall use policies developed pursuant to Section 8.1 to review the student's prior transcript and award values for credit earned through:

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

505 High School Graduation Requirements and Diplomas

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 Del.C. §122(b))
14 DE Admin. Code 545

PUBLIC NOTICE

Education Impact Analysis Pursuant to 14 Del.C. Section 122(d)

545 K to 12 School Counseling Programs

A. Type of Regulatory Action Required

Amendment to Existing Regulation

B. Synopsis of Subject Matter of the Regulation

The Secretary of Education seeks the consent of the State Board of Education to amend Title 14 DE Admin. Code 545 K to 12 School Counseling Programs. This regulation is being amended to update the language to align with the new edition of the American School Counselor Association (ASCA) National Model. The original model was written in 2003. In 2012, ASCA released a new version of the model that was updated to reflect current educational practices. Over the past three months, a group of counselors have been meeting to review and understand the new model, as well as develop user-friendly templates that will assist counselors in streamlining this process. This group will also be responsible for providing technical assistance to other counselors around the state.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before September 8, 2015 to Tina Shockley, Education Associate, Department of Education, Regulatory Review, at 401 Federal Street, Suite 2, Dover, Delaware 19901. A copy of this regulation may be viewed or obtained at the Department of Education, Finance Office located at the address listed above.

C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation is intended to help improve student achievement as measured against state achievement standards by providing a framework for the school counselor to support the school's academic mission. Comprehensive school counseling programs, driven by student data and based on standards in academic, career and social/emotional development, promote and enhance the learning process for all students. Programs implemented by state certified school counselors and delivered systematically from Kindergarten through grade 12 ensure equitable access to opportunities and rigorous curriculum for all students to participate fully in the educational process.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation is intended to continue help ensure all students receive an equitable education.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amendments do not address students' health and safety.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation is intended to continue help ensure that all student's legal rights are respected.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation does not change the decision making 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 any unnecessary reporting or administrative requirements on decision makers.

7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The decision making authority and accountability for addressing the subject to be regulated does not change because of the amendment.

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 amendment is consistent with and not an impediment to the implementation of other state educational policies.

9. Is there a less burdensome method for addressing the purpose of the regulation? There is not a less burdensome method for addressing the purpose of the regulation.

10. What is the cost to the State and to the local school boards of compliance with the regulation? There is no expected additional cost to implementing this amended regulation.

545 K to 12 School Counseling Programs**1.0 Definitions**

"American School Counselor Association (ASCA)" means the national organization that supports school counselors' efforts to help students focus on academic, career and social/emotional development so they achieve success in school and are prepared to lead fulfilling lives as responsible members of society.

"ASCA National Model" means a framework for implementing a comprehensive, data driven school counseling program. The model identifies K-12 College- and Career- Readiness Standards for every student in the domains of academic, career and social/emotional development. The model is made up of four components: Foundation, Delivery, Management and Accountability.

42.0 ~~Local School District Written~~ Counseling Programs and Written Plans

42.1 Every school in each district shall ~~have a written school counseling plan~~ implement a comprehensive school counseling program aligned with the American School Counselor Association's (ASCA) National Model. The plan shall consist of the following components:

PROPOSED REGULATIONS

- 1.1.1 ~~Include the American School Counselors Association's (ASCA) National Standards for School Counseling Programs in the areas of Academic Development, Career Development and Personal and Social Development;~~
- 1.1.2 ~~Include vertical K-12 articulation of the American School Counselors Association's National Standards for School Counseling Programs;~~
- 1.1.3 ~~Contain all elements of the ASCA National Model, as those are described by the American School Counselors Association, including:~~
 - 1.1.3.1 ~~Foundation, which provides what the program entails, such as describing what every student will know and be able to do. This element contains the mission statement, domains, and national standards as those terms are used in the ASCA National Model.~~
 - 1.1.3.2 ~~Delivery Systems, which address how the program will be implemented. This element contains the guidance curriculum, individual student planning, responsive services, and systems support as those terms are used in the ASCA National Model.~~
 - 1.1.3.3 ~~Management Systems, which addresses when certain elements of the counseling plan are implemented, why certain data are used, and the authority making entity at the local level.~~
 - 1.1.3.4 ~~Accountability, which address the outcomes of students based on the counseling plan.~~
- 1.1.4 ~~Be on file in the district office and in each school.~~
- 1.1.5 ~~Be reviewed and updated by the school and by the local school district annually using available data and school and district goals.~~
- 1.1.6 ~~Be incorporated in the School Success Plan and implemented by a State certified school counselor. The School Success Plan is defined in 14 DE Admin. Code 220.~~
- 2.2 Every school in each district shall have a written plan, using the model templates provided by the Department, for the school counseling program that:
 - 2.2.1 Is implemented by a school counselor certified in accordance with the applicable Professional Standards Board regulations.
 - 2.2.2 Utilizes nationally recognized student standards as defined by the ASCA National Model.
 - 2.2.3 Aligns vertically K-12 within the district.
 - 2.2.4 Contains all four components of the ASCA National Model:
 - 2.2.4.1 The Foundation component, which consists of vision and mission statements, program goals and student and professional competencies.
 - 2.2.4.2 The Management component, which utilizes assessments and tools to develop, implement and evaluate the school counseling program.
 - 2.2.4.3 The Delivery component, which focuses on the implementation of the school counseling program through direct and indirect student services.
 - 2.2.4.4 The Accountability component, which ensures regular analysis of data to determine program effectiveness in measureable terms and inform program decisions.
 - 2.2.5 Is on file at the district office and in the school.
 - 2.2.6 Is reviewed annually and updated as needed by the school counselor in collaboration with the building administrator and district supervisor.

23.0 Reporting Requirements and Timelines

- 2.1 ~~Each school shall have an electronic copy of its written school counseling plan on file with the Department of Education.~~
- 2.2 ~~Each school shall provide an electronic copy of the annual update by August 15 based on the previous year's data.~~
- 2.3 ~~For monitoring purposes, the Department may periodically review the written school counseling plan for alignment to the requirements in 1.0.~~

-
- 3.1 Annually, by August 15, every district shall electronically submit their schools' plans to the Department. The plans shall reflect any updates pursuant to 2.2.6 above.
- 3.2 The Department may periodically monitor for alignment to the requirements in 2.0.
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OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 Del.C. §122(b))
14 DE Admin. Code 1007

PUBLIC NOTICE

Education Impact Analysis Pursuant To 14 Del.C. §122(d)

1007 DIAA Sportsmanship

A. Type of Regulatory Action Required

Amendment to Existing Regulation

B. Synopsis of Subject Matter of the Regulation

The Secretary of Education seeks the consent of the State Board of Education to amend 14 DE Admin. Code 1007 DIAA Sportsmanship. This regulation is being amended to align to changes in the Code of Interscholastic Athletics as set by the National Federation of State High Schools. This is part of a series of comprehensive reviews and updates to be made to all DIAA regulations.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before September 5, 2015 to Tina Shockley, Education Associate, Department of Education, Regulatory Review, at 401 Federal Street, Suite 2, Dover, Delaware 19901. A copy of this regulation may be viewed or obtained at the Department of Education, Finance Office located at the address listed above.

C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation does not address an improvement in student achievement as measured against state achievement standards.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation is intended to continue to ensure all students receive an equitable education.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amendments are being made to further ensure students' health and safety.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation continues to ensure that all student's legal rights are respected.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation does not change the decision making 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 any unnecessary reporting or administrative requirements on decision makers.

7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The decision making authority and accountability for addressing the subject to be regulated does not change because of the amendment.

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

PROPOSED REGULATIONS

subjects of mathematics, science, language arts and social studies? The amendment is consistent with and not an impediment to the implementation of other state educational policies.

9. Is there a less burdensome method for addressing the purpose of the regulation? There is not a less burdensome method for addressing the purpose of the regulation.

10. What is the cost to the State and to the local school boards of compliance with the regulation? There is no expected cost to implementing this amended regulation.

1007 DIAA Sportsmanship

1.0 Definitions and Sportsmanship

(Break in Continuity Within Section)

1.2 Sportsmanship

(Break in Continuity Within Section)

1.2.1 Member schools are required to conduct all of their athletic affairs with other schools in a spirit of good sportsmanship. Acts which are prima facie evidence of a failure to abide by this rule are those which are noted below and others of a similar nature which transgress the usually accepted code for good sportsmanship.

(Break in Continuity Within Section)

1.2.1.5 Failure of an administrator, athletic director, coach, athlete, official, or spectator to comply with the directions stipulated in the following Code of Interscholastic Athletics:

(Break in Continuity Within Section)

1.2.1.5.2 The Coaches shall: The function of coaches is to educate students through participation in interscholastic athletics. An interscholastic program shall be designed to enhance academic achievement and shall never interfere with opportunities for academic success. Each student shall be treated with the utmost respect and his welfare should be considered in decisions by the coach at all times. Therefore, coaches shall:

1.2.1.5.2.1 Demonstrate high ideals, good habits, and desirable attitudes in his/her their personal and professional behavior and demand the same of his/her their players. Coaches must uphold the dignity and honor of the profession of educator-coach. Their interaction with all students, officials, school staffs, athletic directors, administrators, the state association, the media and the general public (fans) shall be of the highest ethical and moral standard.

1.2.1.5.2.2 Recognize that the purpose of competition is to promote the physical, mental, social, and emotional well being of the individual players and that the most important values of competition are derived from playing the game fairly. Coaches must recognize the tremendous influence they have on their student-athletes and must never place the value of winning above the value of instilling the highest ideals of character. Coaches must never exert pressure on faculty members to give students special consideration.

1.2.1.5.2.3 Be a modest winner and a gracious loser. Sportsmanship shall be a key component of their coaching.

1.2.1.5.2.4 Maintain self control at all times and accept adverse decisions without public display of emotion or dissatisfaction with the officials. Register disagreement through proper channels. Coaches shall exert their influence to enhance sportsmanship by spectators.

1.2.1.5.2.5 Employ accepted educational methods in coaching and give his/her players an opportunity to develop and use initiative, leadership, and judgement judgment.

1.2.1.5.2.6 Pay close attention to the physical well-being of his/her players, refusing to jeopardize the health of an individual for the sake of improving his/her their team's

chances to win. Coaches must be properly informed of all required national, state and local safety policies and procedures.

1.2.1.5.2.7 Teach athletes that it is better to lose fairly than to win unfairly.

1.2.1.5.2.8 ~~Discourage gambling, profanity, abusive language, and similar violations of the true sportsman's or sportswoman's code.~~ Forbid the use of tobacco, alcohol, and non-prescribed drugs and set an example to athletes by not using these products in their presence. Do not allow gambling, profanity, abusive language, and similar violations of the true sportsman's or sportswoman's code.

1.2.1.5.2.9 Refuse to disparage an opponent, an official, or others associated with interscholastic athletics and discourage gossip and rumors about them. Actively set an example of respect and support for contest officials and opponents. Coaches must be highly ethical in all forums, chat rooms and all forms of social media and communication regarding the sport and participants.

1.2.1.5.2.10 Properly supervise the athletes under ~~his/her~~ their immediate care.

1.2.1.5.2.11 Enforce school policies regarding bullying, hazing, and taunting and never tolerate any of these actions by team members or others.

1.2.1.5.2.12 Know the playing rules and procedures of their sport and teach them to team members. Coaches shall insist upon strict compliance with all DIAA rules and regulations and never seek an advantage by circumvention of the spirit or letter of the rules.

1.2.1.5.2.13 Never illegally recruit athletes.

1.2.1.5.3 ~~The~~ Participants (athletes and cheerleaders) shall:

1.2.1.5.3.1 Be responsible for the perpetuation of interscholastic athletics. Strive to enhance the image of athletics not only as a member of a team but also as a member of ~~your~~ their school and community.

1.2.1.5.3.2 Be courteous to the visiting team. ~~Your~~ The opponents ~~wish~~ wants to excel as much as ~~you do~~ the home team. Respect their efforts.

1.2.1.5.3.3 Play hard to the limit of ~~your~~ personal ability regardless of discouragement. The true athlete does not give up, quarrel, cheat, bet, or grandstand.

(Break in Continuity Within Section)

1.2.1.5.3.9 Respect others including fellow students, athletes, opponents, coaches, officials in all areas including public forums and social media. Display highly ethical conduct in all forums, chat rooms and all forms of social media and communication.

1.2.1.5.4 ~~The~~ Officials shall: Officials at an interscholastic athletic event are participants in the educational development of high school students. As such, they must exercise a high level of self-discipline, independence and responsibility. Therefore, officials shall:

1.2.1.5.4.1 Know the rules and interpretations and mechanics of their sport and be thoroughly trained to administer them. Be prepared and qualified both mentally and physically for the contest they are officiating, dress neatly and appropriately, and shall comport themselves in a manner consistent with the high standards of the profession.

1.2.1.5.4.2 Maintain self control in all situations and with all persons.

1.2.1.5.4.3 When enforcing the rules, do not make gestures or comments that will embarrass the players or coaches. Be mindful that their conduct influences the respect and conduct of students, coaches and the public. Remember the field, court, pool or mat is a classroom.

1.2.1.5.4.4 Be impartial and fair, yet firm, in all decisions. A good official will not attempt to compensate later for an unpopular decision.

1.2.1.5.4.5 Refrain from commenting upon or discussing a team, player, or game situation with those not immediately concerned. This shall include all forms of public communication and social media. The official must be highly ethical in all forums, chat

PROPOSED REGULATIONS

rooms and all forms of social media and communication regarding the sport and participants.

1.2.1.5.4.6 Conduct the game so as to enlist the cooperation of the players, coaches, and spectators in promoting good sportsmanship. Set a professional example by being punctual and under control at all times. Uphold the honor and dignity of the profession in all interaction with student-athletes, coaches, athletic directors, school administrators, colleagues and the public.

1.2.1.5.4.7 Refrain from participating in or encouraging the acts of bullying, hazing, and taunting. Do not tolerate nor let go unpenalized any of these actions.

1.2.1.5.4.8 Be educated in all national, state and local safety procedures that are required of them. Work with event management and the state association to eliminate unsafe conditions or situations.

1.2.1.5.5 The Spectators shall:

1.2.1.5.5.1 Realize that ~~he/she~~ they represents the school just as definitely as does a member of the team, and that ~~he/she has~~ they have an obligation to be a true sportsman or sportswoman and to encourage through ~~his/her~~ their behavior the practice of good sportsmanship by others.

(Break in Continuity Within Section)

1.2.1.5.5.3 Respect the ~~judgement~~ judgment and integrity of the officials, recognizing that their decisions are based upon game conditions as they observe them.

1.2.1.5.5.4 Treat visiting teams and officials as guests extending to them every courtesy.

1.2.1.5.5.5 Be modest in victory and gracious in defeat.

1.2.1.5.5.6 Refrain from participating in or encouraging the acts of bullying, hazing, and taunting.

2.0 Processing Violations

2.1 Procedures

2.1.1 The Executive Director is specifically authorized to pursue any matter which, on the surface, has indications of being a sportsmanship violation.

2.1.2 Within twenty ~~(20)~~ calendar days of the incident, an alleged sportsmanship violation must be reported in writing to the Executive Director by the administrative head of a member school or by the Executive Board of an officials' association.

(Break in Continuity Within Section)

2.1.6 Upon receipt of all reports, the Executive Director shall review the documents and inform the school(s) involved of his/~~her~~ disposition of the matter. The Executive Director may, in turn, refer the matter to the Sportsmanship Committee to investigate and adjudicate what appears to be a violation of the Sportsmanship Rule.

(Break in Continuity Within Section)

2.2 Policies

2.2.1 The basis for the following policy statement is that a ~~member~~ Member school shall not be represented by individuals whose conduct reflects discredit upon the school. Insofar as unsportsmanlike actions by participants and spectators are concerned, the Sportsmanship Committee shall refer to the items previously identified in the Code of Interscholastic Athletics as well as the following guidelines:

(Break in Continuity Within Section)

2.2.1.6 An administrator, athletic director, or coach may be considered as having committed an unsportsmanlike act if:

2.2.1.6.1 ~~He/she~~ makes disparaging remarks about the officials during or after a game either on the field of play, from the bench, or through any public news media, or

- 2.2.1.6.2 He/she argues with the official or indicates with gestures or other physical actions his/her dislike for a decision, or
- 2.2.1.6.3 He/she detains the official on the field of play following a game to request a ruling or explanation of some phase of the game, or
- 2.2.1.6.4 He/she makes disparaging or unprofessional remarks about another school's personnel.
- 2.2.1.7 All actions by a ~~m~~Member school resulting from an investigation relative to the above policies shall be subject to approval by the Executive Director or the Sportsmanship Committee.

2.3 Penalties

2.3.1 Game Ejection

- 2.3.1.1 A player or coach disqualified before, during, or after a contest for unsportsmanlike and flagrant verbal or physical misconduct shall be suspended from the next complete (a winner is determined or a tie is declared) contest at that level of competition and all other complete or suspended contests in the interim at any level of competition in addition to any other penalties which DIAA or a conference may impose. During the suspension, the coach or player may not be present at any game at any level of competition in that sport involving his/her school. In addition, the coach or player may not be present at any game-related activities immediately before the contest, during the intermission, or immediately after the contest. The coach or player must be "out of sight and sound" of the game and game-related activities regardless of whether the coach or player is physically on school premises. If the offending coach or player is present at a game or game-related activity during the suspension in any capacity, including but not limited to: manager, statistician, site worker, spectator, etc., the individual will be suspended for one additional game at that level of competition.

(Break in Continuity Within Section)

- 2.3.1.3 If a coach is disqualified from the final contest of the season, the suspension shall carry over to the next year in that sport. In the case of an athlete, the same penalty shall apply if said athlete retains eligibility in that sport.
 - 2.3.1.3.1 Coaches who do not fulfill their penalty in the same sport shall be disqualified for the appropriate length of time in their subsequent coaching assignment.
 - 2.3.1.3.2 Seniors shall fulfill their penalty in the post season all star game in that sport. If not chosen to participate in the all-star game, they shall fulfill their penalty in another sport during the same season or another sport during a subsequent season. When a senior is disqualified from the last game of his/her high school career, the ~~m~~Member school is requested to take appropriate administrative action to discipline the offending student.

(Break in Continuity Within Section)

2.4 Appeals

- 2.4.1 Decisions of the Executive Director or Sportsmanship Committee with the exception of those to uphold or rescind the suspension resulting from a game ejection may be appealed to the DIAA Board of Directors in accordance with the procedure found in 14 **DE Admin. Code** 1006.10. In accordance with subsection 1006.10.1.1.3.1, the notice of appeal shall be served by certified mail within ten (10) calendar days after the appellant's receipt of the written notice that official action has been taken by the Executive Director or Sportsmanship Committee. An appeal shall not stay the decision of the Executive Director, the Sportsmanship Committee, or any other subordinate.

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

1007 DIAA Sportsmanship

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 Del.C. §122(b))
14 DE Admin. Code 1008

PUBLIC NOTICE**Education Impact Analysis Pursuant To 14 Del.C. §122(d)****1008 DIAA Junior High and Middle School Interscholastic Athletics****A. Type of Regulatory Action Required**

Amendment to Existing Regulation

B. Synopsis of Subject Matter of the Regulation

The Secretary of Education seeks the consent of the State Board of Education to amend 14 DE Admin. Code 1008 DIAA Junior High and Middle School Interscholastic Athletics. This regulation is being amended to incorporate the ability for the DIAA Board to waive the age rule for students with physically or mentally limiting disabilities; update the middle school wrestling weight control program; bring practice regulations more in line with national best practice models; provide member schools with a policy to determine appropriate placement for transgendered students participating on interscholastic athletic teams; update coaches' regulation to mandate an approved concussion course; and make non-substantive changes to improve readability. This is part of a series of comprehensive reviews and updates to be made to all DIAA regulations.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before September 5, 2015 to Tina Shockley, Education Associate, Department of Education, Regulatory Review, at 401 Federal Street, Suite 2, Dover, Delaware 19901. A copy of this regulation may be viewed or obtained at the Department of Education, Finance Office located at the address listed above.

C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation is related to the Delaware Interscholastic Athletic Association and does not directly affect any changes to student achievement as measured against the state achievement standards.
2. Will the amended regulation help ensure that all students receive an equitable education? The regulation is related to the Delaware Interscholastic Athletic Association and does not directly affect any changes to students' ability to receive an equitable education.
3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amendments in part are intended to address exertional heat illness as it relates to practice and a middle school wrestling weight control program intended to reduce severe weight reduction.
4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulations improve the ability of students with disabilities and transgendered students to enjoy the same rights of participation as all students.
5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulations do not change or weaken the ability to make decisions at the local board and school level and in fact enhance the ability of local schools to make participation decisions with respect to disability and gender identity.
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 any unnecessary reporting or administrative requirements on decision makers.
7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The decision making authority and accountability for addressing the subject to be regulated does not change because of the amendment.

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 amendment is consistent with and not an impediment to the implementation of other state educational policies.

9. Is there a less burdensome method for addressing the purpose of the regulation? There is not a less burdensome method for addressing the purpose of the regulation.

10. What is the cost to the State and to the local school boards of compliance with the regulation? There is no expected cost to implementing this amended regulation.

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

1008 DIAA Junior High and Middle School Interscholastic Athletics

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 Del.C. §122(b))
14 DE Admin. Code 1009

PUBLIC NOTICE

Education Impact Analysis Pursuant To 14 Del.C. §122(d)

1009 DIAA High School Interscholastic Athletics

A. Type of Regulatory Action Required

Amendment to Existing Regulation

B. Synopsis of Subject Matter of the Regulation

The Secretary of Education seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 1009 DIAA High School Interscholastic Athletics. This regulation is being amended to incorporate the ability for the DIAA Board to waive the age rule for students with physically or mentally limiting disabilities; update the transfer rule with respect to choice and school closing or discontinuing a sport; amend eighth grade participation regulations in order to limit 8th grade transfers for athletic purposes; expand participation opportunities for international students; amend pre-participation medical examinations requirements enable parents to better use insurance physicals; to update wrestling weight control protocol; to bring practice regulations more in line with national best practice models; provide member schools with a policy to determine appropriate placement for transgendered students participating on interscholastic athletic teams; update coaches' regulation to mandate an approved concussion course; and make non-substantive changes to improve readability. This is part of a series of comprehensive reviews and updates to be made to all DIAA regulations.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before September 5, 2015 to Tina Shockley, Education Associate, Department of Education, Regulatory Review, at 401 Federal Street, Suite 2, Dover, Delaware 19901. A copy of this regulation may be viewed or obtained at the Department of Education, Finance Office located at the address listed above.

C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation is related to the Delaware Interscholastic Athletic Association and does not directly affect any changes to student achievement as measured against the state achievement standards.

PROPOSED REGULATIONS

2. Will the amended regulation help ensure that all students receive an equitable education? The regulation is related to the Delaware Interscholastic Athletic Association and does not directly affect any changes to students' ability to receive an equitable education.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amendments in part are intended to address exertional heat illness as it relates to practice; update the wrestling weight control program intended to reduce severe weight reduction; promote use of primary care physicians for PPE's and enhance coaches' knowledge of concussion prevention and identification.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulations improve the ability of students with disabilities and transgendered students to enjoy the same rights of participation as all students.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulations do not change or weaken the ability to make decisions at the local board and school level and in fact enhance the ability of local schools to make participation decisions with respect to disability and gender identity.

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 any unnecessary reporting or administrative requirements on decision makers.

7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The decision making authority and accountability for addressing the subject to be regulated does not change because of the amendment.

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 amendment is consistent with and not an impediment to the implementation of other state educational policies.

9. Is there a less burdensome method for addressing the purpose of the regulation? There is not a less burdensome method for addressing the purpose of the regulation.

10. What is the cost to the State and to the local school boards of compliance with the regulation? There is no expected cost to implementing this amended regulation.

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

1009 DIAA High School Interscholastic Athletics

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 Del.C. §122(b))
14 DE Admin. Code 1150

PUBLIC NOTICE

Education Impact Analysis Pursuant To 14 Del.C. §122(d)

1150 School Transportation

A. Type of Regulatory Action Required

Amendment to Existing Regulation

B. Synopsis of Subject Matter of the Regulation

The Secretary of Education seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 1150 School Transportation. This regulation is being amended to clarify the requirement for school bus drivers and aides to receive four hours of in-service training each year and annual physicals for aides. These requirements are not effective unless the General Assembly appropriates funding for these purposes.

The regulation was originally amended to require annually in-service training of bus drivers and aides where previously it was suggested and to require annual physicals for aides. The regulation is being amended to be in compliance with 80 Del. Laws, c. 79, §337(b).

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before September 5, 2015 to Tina Shockley, Education Associate, Department of Education, Regulatory Review, at 401 Federal Street, Suite 2, Dover, Delaware 19901. A copy of this regulation may be viewed or obtained at the Department of Education, Finance Office located at the address listed above.

C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation is not intended to improve student achievement as measured against state achievement standards.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation helps ensure that students receive an equitable education.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amendments specifically address students' health and safety as it relates to school bus transportation.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation continues to ensure that all student's legal rights are respected.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation does not change the decision making 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 any unnecessary reporting or administrative requirements on decision makers.

7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The decision making authority and accountability for addressing the subject to be regulated does not change because of the amendment.

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 amendment is consistent with and not an impediment to the implementation of other state educational policies.

9. Is there a less burdensome method for addressing the purpose of the regulation? There is not a less burdensome method for addressing the purpose of the regulation.

10. What is the cost to the State and to the local school boards of compliance with the regulation? There is no expected cost to implementing this amended regulation.

1150 School Transportation
(Break in Continuity of Sections)

3.0 Responsibilities of School District Superintendents/Charter School Heads of School

- 3.1 Local School District Superintendents' and Charter School Heads of School or their designated school Transportation Supervisors' responsibilities concerning the transportation of pupils shall include but are not limited to the following:

(Break in Continuity Within Section)

PROPOSED REGULATIONS

- 3.1.8 Promote well trained and informed drivers and aides by sharing information regarding law, regulation or operational changes. ~~Districts shall ensure that each school bus driver and aide who performs their duties at any time during a school year in their District completes an annual in-service training program as provided by the District and maintain documentation of completion in individual training records. Such program may be limited to written updates and notices.~~

(Break in Continuity of Sections)

7.0 Qualifications and Responsibilities of School Bus Drivers

(Break in Continuity Within Section)

- 7.5 School bus drivers shall complete an annual District-provided in-service training program of at least four (4) hours during each fiscal year (July 1 to June 30) ~~beginning in fiscal year 2016. Those not completing an initial or annual in-service training program shall not be permitted to perform their duties in the following school year until completing a four (4) hour in-service training program. Based on funding available from the General Assembly, a stipend may be paid to each driver. This requirement shall be effective pursuant to funding by the General Assembly.~~

(Break in Continuity Within Section)

8.0 Qualifications and Responsibilities of School Bus Aides

- 8.1 Qualifications for School Bus Aides include the following and shall apply to all new applicants and for any person whose employment as an aide has lapsed for a period of over one year. All requirements shall be met before serving as an aide on a school bus.

(Break in Continuity Within Section)

- 8.1.5 Complete an annual DOE physical for aides. New aides shall complete the physical satisfactorily before beginning their duties. ~~Current aides shall complete their physicals before January 1, 2016. Districts shall issue a DOE physical card to aides establishing valid completion of the DOE physical and aides shall carry it with them while on duty. This requirement shall be effective pursuant to funding by the General Assembly.~~
- 8.1.6 Complete the school bus driver classroom training and other District required training programs satisfactorily.
- 8.2 School bus aides shall complete an annual District-provided in-service training program of at least 4 hours during each fiscal year (July 1 to June 30) ~~beginning in fiscal year 2016. Those not completing an initial or annual in-service training program shall not be permitted to perform their duties in the following school year until completing a 4-hour in-service training program. Based on funding available from the General Assembly, a stipend may be paid to each aide. This requirement shall be effective pursuant to funding by the General Assembly.~~

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

1150 School Transportation

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF PUBLIC HEALTH

Statutory Authority: 16 Delaware Code, §122(3)c (16 Del.C., §122(3)c)
16 DE Admin. Code 4462

PUBLIC NOTICE

4462 Public Drinking Water Systems

On August 1, 2015, the Department of Health and Social Services, Division of Public Health, Office of Drinking Water, plans to republish revised Regulations Governing Public Drinking Water Systems and hold them out for public comment per Delaware law.

The purpose of the regulations is to update the regulations to align them with federal requirements and clarify the current regulations. The regulations are being revised to include:

- Revised Total Coliform Rule (RTCR) as section 7.4. This rule was finalized by EPA on April 1, 2012.
- Reorganization of the regulations by breaking up the large sections into smaller sections, allowing for easier reviews and checking of regulatory requirements. The Regulations are going from 10 sections to 20 sections.
- Section 4.1.6 on page 16 is being expanded to provide specific examples of unusual events so water system owners/operators have a more clear idea of when they need to contact DPH.
- Incorporate revisions identified by EPA when they reviewed the previous regulations.
- Sections that are no longer relevant or that have been superseded by more recent regulations have been deleted.

NOTICE OF PUBLIC HEARING

A public hearing will be held on Monday August 24, 2015, at 2:30 p.m. in the Large Conference Room, Office of Drinking Water, Edgehill Shopping Center, 43 South DuPont Highway, Dover, Delaware.

Any person who wishes to make written suggestions, testimony, briefs or other written materials concerning the proposed regulation should submit such comments by Tuesday, September 8, 2015 to:

Jamie Mack, Executive Assistant
Office of the Director
Delaware Division of Public Health
Jesse Cooper Building
417 Federal St.
Dover, DE 19901
Email: jamie.mack@state.de.us
Fax: 302-739-3984

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

4462 Public Drinking Water Systems

DIVISION OF PUBLIC HEALTH

Statutory Authority: 16 Delaware Code, §122(1) & (3)d & j (16 Del.C. §122(1) & (3)d & j)
16 DE Admin. Code 4464

PUBLIC NOTICE

4464 Public Swimming Pools

Community Environmental Health Services, Health Systems Protection Section, Division of Public Health, Department of Health and Social Services, is proposing revisions to the Delaware Regulations Governing Public Pools. The purpose of the amendments is to update the regulations to align them more closely with the Centers for Disease Control (CDC) Model Aquatic Health Code. On August 1, 2015, CEHS plans to publish as proposed the amended regulations, and hold them out for public comment per Delaware law.

NOTICE OF PUBLIC HEARING

A public hearing will be held on Wednesday August 26, 2015 at 2:30 p.m. in the First Floor Conference Room,

located in the Jesse Cooper Building, 417 Federal Street, Dover, Delaware.

Copies of the proposed regulations are available for review in the August 1, 2015 edition of the Delaware *Register of Regulations*, accessible online at: <http://regulations.delaware.gov> or by calling CEHS at (302) 744-4546.

Any person who wishes to make written suggestions, testimony, briefs or other written materials concerning the proposed regulations must submit same to Jamie Mack by Tuesday, September 8, 2015, at:

Jamie Mack
Division of Public Health
417 Federal Street
Dover, DE 19901
Email: jamie.mack@state.de.us
Phone: (302) 744-4951

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

4464 Public Swimming Pools

DIVISION OF PUBLIC HEALTH

Statutory Authority: 16 Delaware Code, Chapter 49A (16 Del.C., Ch. 49A)
16 DE Admin. Code 4470

PUBLIC NOTICE

4470 State of Delaware Medical Marijuana Code

The Delaware Medical Marijuana Program (MMP), Health Systems Protection Section, Division of Public Health, Department of Health and Social Services, is proposing revisions to the State of Delaware Medical Marijuana Code. The purpose of the amendments is to update the regulations to allow compliance with recent changes to the Medical Marijuana code and make technical corrections. On August 1, 2015, the MMP plans to publish as proposed the amended regulations, and hold them out for public comment per Delaware law.

NOTICE OF PUBLIC HEARING

A public hearing will be held on Thursday August 27, 2015 at 2:30 p.m. in the First Floor Conference Room, located in the Jesse Cooper Building, 417 Federal Street, Dover, Delaware.

Copies of the proposed regulations are available for review in the August 1, 2015 edition of the Delaware *Register of Regulations*, accessible online at: <http://regulations.delaware.gov> or by calling the MMP at (302) 744-4546.

Any person who wishes to make written suggestions, testimony, briefs or other written materials concerning the proposed regulations must submit same to Jamie Mack by Tuesday, September 8, 2015, at:

Jamie Mack
Division of Public Health
417 Federal Street
Dover, DE 19901
Email: jamie.mack@state.de.us
Phone: (302) 744-4951

4470 State of Delaware Medical Marijuana Code (Break in Continuity of Sections)

2.0 Definitions

The following words and terms, when used in these Regulations, should have the following meaning, unless the context clearly indicates otherwise:

(Break in Continuity Within Section)

"Background check" means any person required to obtain a background check under this chapter shall submit fingerprints and other necessary information to the State Bureau of Identification in order to obtain a report of the person's entire criminal history record from the State Bureau of Identification or a statement that the State Bureau of Identification Central Repository contains no such information relating to that person. The report will include the person's entire federal criminal history record from the Federal Bureau of Investigation pursuant to Federal Bureau of Investigation appropriation of Title II of Public Law 92-544 (28 U.S.C. § 534) or a statement that the Federal Bureau of Investigation's records contain no such information relating to that person. A person required to obtain a background check under this chapter is responsible for any costs associated with obtaining the background check.

"Bona fide physician-patient relationship" means a treatment or counseling relationship between a physician and patient in which all the following are present:

- (1) The physician has reviewed the patient's relevant medical records and completed a full assessment of the patient's medical history and current medical condition, including a relevant, in-person, medical evaluation of the patient.
- (2) The physician has created and maintained records of the patient's condition in accord with medically accepted standards.
- (3) The patient is under the physician's continued care for primary medical care or the debilitating condition that qualifies the patient for the Medical Marijuana Program.
- (4) The physician has a reasonable expectation that he or she will provide follow-up care to the patient to monitor the efficacy of the use of medical marijuana as a treatment of the patient's debilitating medical condition.
- (5) The relationship is not for the sole purpose of certifying for medical marijuana.

(Break in Continuity Within Section)

"Debilitating medical condition" means one or more of the following:

- (a) cancer, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), decompensated cirrhosis (hepatitis C), amyotrophic lateral sclerosis (ALS or Lou Gehrig's Disease), post-traumatic stress disorder (PTSD), intractable epilepsy, and agitation of Alzheimer's disease or the treatment of these conditions;
- (b) a chronic or debilitating disease medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe, debilitating pain that has not responded to previously prescribed medication or surgical measures for more than three months or for which other treatment options produced serious side effects; intractable nausea; seizures; or severe and persistent muscle spasms, including but not limited to those characteristic of multiple sclerosis;
- (c) any other medical condition or its treatment added by the Department, as provided for in 16 **Del.C.** §4906A and Section 6.0 of this code.

"Department" means the Delaware Department of Health and Social Services.

"Designated caregiver" means a person who:

- (a) is at least 21 years of age unless the person is the parent or legal guardian of a minor who is a qualifying patient.

(Break in Continuity Within Section)

PROPOSED REGULATIONS

"Intractable epilepsy" means an epileptic seizure disorder for which standard medical treatment does not prevent or significantly ameliorate recurring, uncontrolled seizures or for which standard medical treatment results in harmful side effects.

(Break in Continuity Within Section)

"Medical marijuana oil" means a resinous matrix of cannabinoids obtained from the Cannabis plant by solvent extraction, formed into oil.

"Medical marijuana waste" means unused, surplus, returned, or out of date medical marijuana, recalled medical marijuana, and any plant debris, including dead plants, all unused plant parts, and roots.

(Break in Continuity Within Section)

"Pediatric Medical marijuana oil" means:

- a. "Cannabidiol oil" which is a processed Cannabis plant extract that contains at least 15 percent cannabidiol but no more than seven percent tetrahydrocannabinol, or a dilution of the resin of the Cannabis plant that contains at least 50 milligrams of cannabidiol per milliliter but not more than seven percent tetrahydrocannabinol; and
- b. "THC-A oil" which is a processed Cannabis plant extract that contains at least 15 percent tetrahydrocannabinol acid but not more than seven percent tetrahydrocannabinol, or a dilution of the resin of the Cannabis plant that contains at least 50 milligrams of tetrahydrocannabinol acid per milliliter but not more than seven percent tetrahydrocannabinol; and
- c. any change in the oil formulation which is made by the Department based upon the recommendation of the advisory council Medical Marijuana Act Oversight Committee"

"Physician" means a properly licensed physician subject to 24 Del.C. Ch. 17. If the qualifying patient's debilitating medical condition is post-traumatic stress disorder, the physician must also be a licensed psychiatrist. If the qualifying patient is younger than 18 years of age, the physician must be a pediatric neurologist, pediatric gastroenterologist, pediatric oncologist or pediatric palliative care specialist.

(Break in Continuity Within Section)

"Responsible Party" means the parent or legal guardian with responsibility and decision-making capability for a qualifying patient or applicant. The Responsible Party will have primary responsibility for purchase, handling and dispensing of the medical marijuana products for the person under their charge.

(Break in Continuity Within Section)

"Usable marijuana" means the dried leaves and flowers of the marijuana plant, and any mixture or preparation of those dried leaves and flowers, including but not limited to tinctures, ointments, and other preparations including medical marijuana oil, but does not include the seeds, stalks, and roots of the plant. It does not include the weight of any non-marijuana ingredients combined with marijuana, such as ingredients added to prepare a topical administration, food, or drink.

(Break in Continuity Within Section)

3.0 Qualifying Patient Identification Card Application Requirements

(Break in Continuity Within Section)

3.2 An attached original written certification for patient eligibility form shall contain:

(Break in Continuity Within Section)

3.2.6 the name, and address of the applicant as they appear on the applicant's government issued ID card, and date of birth of the applicant;

(Break in Continuity Within Section)

3.3 If the qualifying patient is under the charge of a Responsible Party as defined in these regulations:

3.3.1 The Responsible Party must be identified on the initial application.

- 3.3.2 If the qualifying patient is of an age where an ID to meet 3.2.6 and 3.2.8 above has not been issued, the Responsible Party's ID shall be used. If the qualifying patient has a government issued ID, information and IDs for both individuals shall meet 3.2.6 and 3.2.8 above.
- 3.3.3 The physician must be a pediatric neurologist, pediatric gastroenterologist, pediatric oncologist or pediatric palliative care specialist and certify that:
- 3.3.3.1 The qualifying patient has intractable epilepsy; or
- 3.3.3.2 The qualifying patient has a chronic or debilitating disease or medical condition where they have failed treatment involving 1 or more of the following symptoms: cachexia or wasting syndrome; intractable nausea; severe, painful and persistent muscle spasms.
- 3.3.4 Patients under the age of 18 will have distinctive identifying banner on their patient identification card limiting the patient to marijuana oil purchases only.
- 3.3.5 Responsible Party's for qualifying patients under the age of 18 will be issued an identification card with the same 10-digit alphanumeric identifier provided on the patient card issued to the minor in question.

4.0 Designated Caregiver Registry Identification Card Application Requirements

- 4.1 The Department shall issue a registry identification card to a primary caregiver applicant for the purpose of managing the well-being of one to five qualified patients, including themselves if caregiver is a qualified patient, in response to the requirements of this rule upon the completion and approval of the primary caregiver application form, available from the medical marijuana program, and a non-refundable application fee, in the form of a personal check or a cashier's check made out to "Division of Public Health, Medical Marijuana Program". In order for a registry identification card to be obtained and processed, the following information shall be submitted to the medical marijuana program:
- 4.1.1 birth certificate verifying that the applicant is at least (21) years of age unless the person is the parent or legal guardian of a minor who is a qualifying patient;
(Break in Continuity Within Section)
- 4.1.6 the name, and address of the applicant as they appear on the applicant's government issued ID card, telephone number of the applicant; and
(Break in Continuity Within Section)

5.0 Registry Identification Cards

(Break in Continuity Within Section)

- 5.3 Supplemental requirement:
(Break in Continuity Within Section)
- 5.3.8 When a registered qualifying pediatric patient passes their 18th birthday, they may request a new patient card releasing them from the pediatric restrictions. The new patient ID Card will be issued at the card replacement cost \$20 and maintain the original expiration date.
(Break in Continuity of Sections)

7.0 Registration and operation of compassion centers

- 7.1 Requirements for operation of a compassion center.
(Break in Continuity Within Section)
- 7.1.5 Disposal of Unusable Marijuana
- 7.1.5.1 The medical marijuana inventory system must be updated immediately when a plant is pulled out of inventory for destruction. The plant number, date and reason must be recorded. This information must be available for auditing by the department.
- 7.1.5.2 Medical marijuana waste must be stored, secured, and managed in accordance with these regulations and approved operations manual procedures. Medical marijuana waste must be made unusable prior to the waste leaving a registered facility.

PROPOSED REGULATIONS

- 7.1.5.3 Liquid waste from medical marijuana facilities shall be disposed of in compliance with the applicable County statutes and regulations including the International Plumbing Code.
- 7.1.5.4 Medical marijuana waste shall be rendered unusable through grinding and incorporating the medical marijuana waste with non-consumable, solid wastes listed below such that the resulting mixture is at least fifty percent non-marijuana waste:
- 7.1.5.4.1 Paper waste.
 - 7.1.5.4.2 Plastic waste.
 - 7.1.5.4.3 Cardboard waste.
 - 7.1.5.4.4 Food waste.
 - 7.1.5.4.5 Soil.
 - 7.1.5.4.6 Grease or other compostable oil waste.
 - 7.1.5.4.7 Other wastes approved by the Division of Public Health, Health Systems Protection Section that will render the medical marijuana waste unusable.
- 7.1.5.5 After the medical marijuana waste is made unusable, then the solid waste shall be:
- 7.1.5.5.1 Disposed of as a solid waste at a solid waste site and disposal facility that has a Certificate of Designation from the local governing body.
 - 7.1.5.5.2 Deposited at a compost facility that has a Certificate of Designation from the Department of Natural Resources and Environmental Control (DNREC), or
 - 7.1.5.5.3 Composted on-site at a facility owned by the generator and operated in compliance with applicable County statutes and regulations.
- 7.2 Security requirements: A compassion center shall implement appropriate security and safety measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana. Such measures shall include the following:
- (Break in Continuity Within Section)***
- 7.2.6 Maximum amount of compassion center inventory. A registered compassion center:
- 7.2.6.1 ~~shall possess no more than 150 marijuana plants irrespective of the stages of growth~~ shall grow an amount of marijuana sufficient to meet the qualifying patient population demands as determined by the Division.
 - 7.2.6.2 shall possess no more than ~~4,500~~ 2,000 ounces of usable marijuana regardless of formulation.
- (Break in Continuity Within Section)***
- 7.2.8 Dispensing marijuana.
- (Break in Continuity Within Section)***
- 7.2.8.3 Maximum amount of usable marijuana to be dispensed.
- 7.2.8.3.1 A compassion center or principal officer, board member, agent, volunteer or employee of a compassion center
 - 7.2.8.3.1.1 shall not dispense, deliver or otherwise transfer marijuana to a person other than a qualifying patient ~~who has designated the compassion center as a primary caregiver~~ or to such patient's other primary caregiver.
 - 7.2.8.3.1.2 shall not dispense more than three ounces of usable marijuana to a qualifying patient directly or through a qualifying patient's caregiver during a 14 day period.
 - 7.2.8.3.1.3 shall not dispense an amount of usable marijuana to a qualifying patient or a qualifying patient's caregiver that the compassion center principal officer, board member, agent, volunteer or employee knows would cause the recipient to possess more marijuana than is permitted under the Act or these regulations.
 - 7.2.8.3.1.4 shall dispense pediatric medical marijuana oils as described in Section 2.0 of these regulations to qualified patients under the age of 18 years. Patients under the age of 18 are restricted from purchasing products other than pediatric medical marijuana oil.

(Break in Continuity of Sections)

11.0 Variance

- 11.1 A licensee may seek a variance from these Regulations by making a request for variance to the Division. The Division may grant a variance by modifying or waiving the requirements of these Regulations if in the opinion of the Division a health hazard or nuisance will not result from the variance.
- 11.2 A variance shall not be transferable from person to person, nor from location to location.
- 11.3 If a variance is granted, the Division shall retain the information specified below in its records for the variance:
- 11.3.1 A statement of the proposed variance of the requirement of these Regulations, citing the relevant section of these Regulations;
- 11.3.2 An analysis of the rationale for how the potential public health hazards or nuisances will be alternatively addressed by the proposal; and
- 11.3.3 Any other information requested by the Division that may be deemed necessary to render judgment.
- 11.4 A variance is rendered void upon occurrence of one or more of the following: the physical facility is demolished; a remodeling project in the facility includes the area(s) addressed in the variance.

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

4470 State of Delaware Medical Marijuana Code

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Sections 901(c & d), 903(e)(3) & 903(h) (7 Del.C. §§901(c & d), 903(e)(3) & 903(h)
7 DE Admin. Code 3507

REGISTER NOTICE #2015 - 05

Pursuant to 29 Del.C. §10119

3507 Black Sea Bass Size Limit; Trip Limits, Seasons; Quotas

1. TITLE OF THE REGULATION:

3507 Black Sea Bass Size Limit; Trip Limits, Seasons; Quotas

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

This action proposes to adopt provisions consistent with federal measures for the recreational black sea bass fishery in compliance with Addendum XXV to the Atlantic States Marine Fisheries Commission's (ASMFC) Interstate Fishery Management Plan for Summer Flounder, Scup and Black Sea Bass. The Department previously modified the opening and closings dates for the recreational black sea bass fishery through emergency action (Secretary's Order Nos. 2015-F-0020 & 2015-F-0027); however, further action is required to subsequently adopt these dates and additional black sea bass season dates through the normal regulatory process.

Black sea bass are managed cooperatively by the Atlantic States Marine Fisheries Commission, the Mid-Atlantic Fishery Management Council (MAFMC) and the National Oceanic and Atmospheric Administration

(NOAA) Fisheries through the joint Summer Flounder, Scup and Black Sea Bass Fishery Management Plan. The ASMFC and MAFMC jointly approved a coastwide recreational black sea bass harvest limit (RHL) for 2015 of 2.33 million pounds. Consistent with Addendum XXV, the ASMFC's Summer Flounder, Scup and Black Sea Bass Management Board approved the continuation of ad hoc regional management measures for 2015.

Addendum XXV requires the southern region states (Delaware to North Carolina) to implement recreational fishery management measures for black sea bass consistent with those measures required for federal waters. The MAFMC's recommended federal recreational black sea bass measures for 2015 include a 12.5 inch minimum size limit, a 15 fish possession limit and open seasons from May 15 - September 21 and October 22 - December 31. Effective June 19, 2015, NOAA Fisheries formally approved these measures. These measures, when combined with those being implemented in the northern region (Massachusetts through New Jersey), are expected to constrain recreational landings at or below the 2015 coastwide RHL.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

None.

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

§901(c & d), §903(e)(3), §903(h), Title 7 **Delaware Code**

5. LIST OF OTHER REGULATIONS THAT MAY BE IMPACTED OR AFFECTED BY THE PROPOSAL:

N/A

6. NOTICE OF PUBLIC COMMENT:

The hearing record on the proposed amendments to 7 **DE Admin. Code** 3507 Black Sea Bass Size Limit; Trip Limits, Seasons; Quotas will be open August 1, 2015. Individuals may submit written comments regarding the proposed changes via e-mail to Lisa.Vest@state.de.us or via the USPS to Lisa Vest, Hearing Officer, DNREC, 89 Kings Highway, Dover, DE 19901 (302) 739-9042. A public hearing on the proposed amendment will be held on August 26, 2015 beginning at 6:00 PM in the Dover Public Library, located at 35 Lookerman Plaza, Dover, DE 19901.

7. PREPARED BY:

Stewart Michels Stewart.Michels@state.de.us (302) 739-9914

David E. Saveikis, Director

3507 Black Sea Bass Size Limit; Trip Limits, Seasons; Quotas

(Penalty Section 7 **Del.C.** §936(b)(2))

- 1.0 It shall be unlawful for any commercial person to have in possession any black sea bass (*Centropristis striata*) that measures less than eleven (11) inches, total length excluding any caudal filament.
- 2.0 It shall be unlawful for any recreational person to have in possession any black sea bass that measures less than twelve and one-half (12.5) inches total length excluding any caudal filament.
- 3.0 It shall be unlawful for any commercial fisherman to land, to sell, trade and or barter any black sea bass in Delaware unless authorized by a black sea bass landing permit issued by the Department. The black sea bass landing permit shall be presumed to transfer with the vessel whenever it is bought, sold, or otherwise transferred to an eligible transferee as defined in 7 **Del.C.** §2903, unless there is a written agreement, signed by the transferor/seller and transferee/buyer, or other credible written evidence, verifying that the transferor/seller is retaining the vessel's fishing and permit history for purposes of replacing the vessel.
- 4.0 The black sea bass pot fishery and the black sea bass commercial hook and line fishery shall be considered separate black sea bass fisheries. The total pounds allocated to each fishery by the

Department shall be as follows: 96 percent of the State's commercial quota, as determined by the ASMFC, for the pot fishery; 4 percent for the commercial hook and line fishery.

- 5.0 The Department may only issue a black sea bass landing permit for the pot fishery to a person who is the owner of a vessel permitted by the National Marine Fisheries Service in accordance with 50 CFR §§ 648.4 pertaining to black sea bass and was either issued a black sea bass landing permit by the Department in 2013 or was the transferee of black sea bass landing permit issued by the Department as per 3507 (3.0). The number of black sea bass landings permits issued by the Department for the pot fishery in any year will not exceed six.
- 6.0 The Department may only issue a black sea bass landing permit for the commercial hook and line fishery to a person who has applied for and secured from the Department a commercial food fishing license and a fishing equipment permit for hook and line and was either issued a black sea bass landing permit by the Department in 2013 or was the transferee of black sea bass landing permit issued by the Department as per 3507 (3.0). The number of black sea bass landings permits issued by the Department for the commercial hook and line fishery in any year will not exceed thirteen.
- 7.0 Any overage of the State's commercial quota will be subtracted by the Atlantic States Marine Fisheries Commission from the next year's commercial quota.
Any overage of an individual's allocation will be subtracted from that individual's allocation the next year and distributed to those individuals in the appropriate fishery that did not exceed their quota.
- 8.0 Each participant in a black sea bass fishery shall be assigned an equal share of the total pounds of black sea bass allotted by the Department for that particular fishery. A share shall be determined by dividing the number of pre-registered participants in one of the two recognized fisheries into the total pounds of black sea bass allotted to the fishery by the Department. In order to pre-register an individual must indicate their intent in writing to participate in this fishery.
- 9.0 Individual shares of the pot fishery quota may be transferred to another participant in the pot fishery. Any transfer of black sea bass individual pot quota shall be limited by the following conditions:
- 9.1 A maximum of one transfer per year per person.
- 9.2 No transfer of shares of the black sea bass pot fishery quota shall be authorized unless such transfer is documented on a form provided by the Department and approved by the Secretary in advance of the actual transfer.
- 10.0 Individual shares of the commercial hook and line fishery quota may be transferred to another participant in the commercial hook and line fishery. Any transfer of black sea bass individual commercial hook and line quota shall be limited by the following conditions:
- 10.1 A maximum of one transfer per year per person.
- 10.2 No transfer of shares of the black sea bass commercial hook and line quota shall be authorized unless such transfer is documented on a form provided by the Department and approved by the Secretary in advance of the transfer.
- 11.0 Each commercial food fisherman participating in a black sea bass fishery shall report to the Department, via the interactive voice phone reporting system operated by the Department, each day's landings in pounds at least one hour after packing out their harvest.
- 12.0 It shall be unlawful for any recreational fisherman to take and reduce to possession or to land any black sea bass beginning at 12:01 a.m. January 1, and ending midnight May ~~48~~14, and beginning at 12:01 a.m. September ~~49~~22 and ending mid-night October ~~47~~21.
- 12.1 It shall be unlawful for any recreational fisherman to have in possession more than 15 black sea bass at or between the place where said black sea bass were caught and said recreational fisherman's personal abode or temporary or transient place of lodging during the period May ~~49~~15 through September ~~48~~21 and during the period October ~~48~~22 through December 31.
-

PROPOSED REGULATIONS

DEPARTMENT OF STATE DIVISION OF PROFESSIONAL REGULATION

300 BOARD OF ARCHITECTS

Statutory Authority: 24 Delaware Code, Section 306(a)(1) (24 **Del.C.** §306(a)(1))
24 **DE Admin. Code** 300

PUBLIC NOTICE

300 Board of Architects

The Delaware Board of Architects, pursuant to 24 **Del.C.** §306(a)(1), proposes to revise regulations 6.2.1 and 6.2.1.1. The proposed change seeks to allow licensees to carry over up to four continuing education credits every calendar year.

The Board will hold a public hearing on the proposed regulation change on September 2, 2015 at 1:30 p.m., Second Floor Conference Room B, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Flora Peer, Administrative Specialist of the Delaware Board of Architects, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments will be accepted until September 17, 2015 pursuant to 29 **Del.C.** §10118(a).

300 Board of Architects (Break in Continuity of Sections)

6.0 Registration

- 6.1 Duration - Each certificate of registration issued by the Board shall be valid for two years, or the expiration of the current licensing period.
- 6.2 Continuing Education requirements for renewal.
 - 6.2.1 In addition to all other requirements for registration renewal, an architect must complete a minimum of 12 Continuing Education Hours each calendar year or be exempt from these continuing education requirements as provided below. Failure to comply with these requirements may result in non-renewal of the architect's registration. For an architect's initial registration period, the continuing education requirements shall be pro-rated at one Continuing Education Hour per month of registration, beginning with the first full month following the month of issuance, through the end of the renewal cycle. ~~In future renewals, Continuing Education Hours may be reused if there is overlap to meet the calendar year requirements. Up to four CE hours can be carried over into a subsequent calendar year.~~
 - 6.2.1.1 Continuing Education Hours. 12 Continuing Education Hours must be completed in Health, Safety, and Welfare Subjects acquired in Structured Educational Activities. Continuing Education Hours may be acquired at any location. ~~Excess Continuing Education Hours may not be credited to a future calendar year. If an architect completes more than 12 continuing education hours in a calendar year, up to four excess hours may be carried forward and applied to the education requirement for the succeeding calendar year.~~

(Break in Continuity Within Section)

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

300 Board of Architects

DIVISION OF PROFESSIONAL REGULATION

1900 BOARD OF NURSING

Statutory Authority: 24 Delaware Code, Section 1904(c) (24 **Del.C.** §1904(c))
24 **DE Admin. Code** 1900

PUBLIC NOTICE

1900 Board of Nursing

The Delaware Board of Nursing, pursuant to 24 **Del.C.** §1904(c), proposes to revise regulations 2.1, 2.4.1.7, 3.0, 4.0, 5.0, and 9.4.5.1. The proposed change at 2.1 adds definition to the nursing regulations regarding nursing competency and standards. The proposed change at 2.4.1.7 revises the Board's regulations approved nursing education programs and such programs acceptable curricula. The proposed changes at 3.0 and 4.0 offer updates to the Board's refresher course or supervised practice requirement for nurses who seek to apply for endorsement or reinstatement of licensure and have not been actively employed over the past five years. The proposed changes at 5.0, et. seq. seek to bring the nursing regulations into line with a recent statutory change addressing the limited lay administration of medications, and the proposed change at 9.4.5.1 eliminates a Board requirement that continuing education programs keep a record of participants' social security numbers.

The Board will hold a public hearing on the proposed regulation change on September 9, 2015 at 9:30 a.m., Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Dr. Pamela Zickafoose, Executive Director of the Delaware Board of Nursing, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments will be accepted until September 24, 2015 pursuant to 29 **Del.C.** §10118(a).

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

1900 Board of Nursing

DIVISION OF PROFESSIONAL REGULATION

Statutory Authority: 24 Delaware Code, Section 2506(a)(1) (24 **Del.C.** §2506(a)(1))
24 **DE Admin. Code** 2500

PUBLIC NOTICE

2500 Board of Pharmacy

Pursuant to 24 **Del.C.** §2506(a)(1), the Delaware Board of Pharmacy has proposed revisions to its rules and regulations.

A public hearing will be held on September 16, 2015 at 9:30 a.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware, where members of the public can offer comments on the amendments to the rules and regulations. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Pharmacy, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board liaison, Christine Mast, at the above address.

The proposed revisions address the subject of the pharmacy permit holder's responsibility for ensuring the availability of adequate staffing in the pharmacy department. An understaffed pharmacy department can compromise the delivery of services and thereby put the public at risk. Specifically, Regulation 3.8 is amended to provide that the "pharmacy permit holder shall ensure that, at all times that the pharmacy department is open for

PROPOSED REGULATIONS

business, there shall be at least one fully trained technician immediately available in the facility to assist in the pharmacy at the pharmacist's request."

In accordance with 29 **Del.C.** §10118(a), the final date to receive written comments will be October 1, 2015 which is 15 days following the public hearing. The Board will deliberate on all of the public comment at its next regularly scheduled meeting, at which time it will determine whether to adopt the rules and regulations as proposed or make additional changes due to the public comment.

2500 Board of Pharmacy
(Break in Continuity of Sections)

3.0 Pharmacy Requirements

(Break in Continuity Within Section)

- 3.8 Technician Support. The pharmacy permit holder shall ensure that, At all times that the pharmacy department is open for business, there shall be at least one fully trained technician immediately available in the facility to assist in the pharmacy at the pharmacist's request. A schedule of technician support shall be readily available to the pharmacists at all times.

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

2500 Board of Pharmacy

PUBLIC SERVICE COMMISSION

Statutory Authority: 26 Delaware Code, Section 209(a) (26 **Del.C.** §209(a))
26 **DE Admin. Code** 3007

PUBLIC NOTICE

3007 Electric Service Reliability and Quality Standards

IN THE MATTER OF THE CONSIDERATION OF RULES, STANDARDS AND INDICES TO ENSURE RELIABLE ELECTRIC SERVICE BY ELECTRIC DISTRIBUTION COMPANIES (OPENED SEPTEMBER 26, 2000; REOPENED OCTOBER 11, 2005; REOPENED NOVEMBER 19, 2009; REOPENED DECEMBER 18, 2012))		PSC REGULATION DOCKET NO. 50
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ORDER NO. 8750

AND NOW, this 16th day of June, 2015, the Delaware Public Service Commission ("Commission") determines and orders the following:

WHEREAS, by Order No. 8785 (February 7, 2013), the Commission approved proposed revisions to the "Electric Service Reliability and Quality Standards" as set forth in 26 **DE Admin. Code** §3007 (the "Rules") for electric distribution companies subject to the Commission's jurisdiction; and

WHEREAS, in that Order, Section 3007-1.9 of the Rules was deleted in order to extend the Rules beyond 2012; and

WHEREAS, Executive Order Number Thirty-Six provides that state agencies should review its regulations at least every three years to tackle outdated, ineffective and redundant regulations; and

WHEREAS, in PSC Docket No. 14-193, the Commission recently approved an Amended Settlement Agreement that requires certain changes to the current reliability standards and processes as set forth in the Rules; and

WHEREAS, the Commission now proposes to reopen the docket to review the Rules and to receive input from the public on proposed changes;

**NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE
VOTE OF NOT FEWER THAN THREE COMMISSIONERS:**

1. For the reasons set forth in the body of this Order, and pursuant to 26 **Del.C.** §§201, 1002, 1008, and 1010 and 29 **Del.C.** §10115, the Commission proposes to review the Rules as set forth in 26 **DE Admin. Code** §3007. A copy of the proposed revised rules is attached as Exhibit "A". A copy of the currently-existing rules is attached as Exhibit "B" to this Order.

2. Pursuant to 29 **Del.C.** §§1133 and 10115(a), the Secretary of the Commission ("Secretary") shall transmit to the Registrar of Regulations for publication in the *Delaware Register of Regulations* a copy of this Order, and a copy of the revised Rules now being proposed for adoption (Exhibit "A"), and a copy of the current Rules (Exhibit "B").

3. In addition, the Secretary shall transmit to the Registrar of Regulations for publication in the *Delaware Register of Regulations* the "Notice of Proposed Rule-Making" attached to this Order as Exhibit "C". The Secretary shall also cause the "Notice of Proposed Rule-Making" to be published in The News Journal and the Delaware State News newspapers on June 22, 2015. The Secretary shall include proof of such publication in the docket file before any public hearing in this matter. Further, the Secretary shall serve (by regular mail or, as permitted under 26 **DE Admin. Code** §1001, by other methods such as electronic e-mail) a copy of such Notice on: (a) the Public Advocate; (b) the Delaware Energy Office; (c) Delmarva Power & Light Company; (d) all certificated electric suppliers; and (e) each person or entity that has made a timely request for advance notice of regulation-making proceedings.

4. Pursuant to 29 **Del.C.** §§10115(a)(2) and 10116, the Commission encourages the public to submit written comments on or before September 2, 2015, but the last date to submit written comments will be limited as set forth in 29 **Del.C.** §10118(a).

5. The Commission Staff ("Staff") shall conduct a public workshop on this matter on September 16, 2015, beginning at 10:00 a.m. at the Commission's office located at 861 Silver Lake Boulevard, Cannon Building, Suite 100, Dover, Delaware. Additional public workshops may also be held at the discretion of Staff at a later date upon proper notice to the public.

6. Depending on what, if any, written comments the Commission receives, we may determine at a later time if it is necessary to appoint a Hearing Examiner for this docket.

7. Delmarva Power & Light Company is hereby placed on notice that the costs of the proceedings will be charged to it under the provisions of 26 **Del.C.** §114(b)(1).

8. The Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

Dallas Winslow, Chair

Joann T. Conaway, Commissioner

Mike C. Karia, Commissioner

Harold B. Gray, Commissioner

ATTEST:

K. F. Drexler, Commissioner

Donna Nickerson, Secretary

NOTICE OF PROPOSED RULE-MAKING AMENDING RULES ON "ELECTRIC SERVICE RELIABILITY AND QUALITY STANDARDS"

TO: ALL ELECTRIC SUPPLIERS, ELECTRIC UTILITIES, ELECTRIC GENERATORS USING RENEWABLE RESOURCES, AND OTHER INTERESTED PERSONS

By Order No. 8750 dated June 16, 2015, the Delaware Public Service Commission (the "PSC") is reopening the docket to review its rules on "Electric Service Reliability and Quality Standards" (the "Rules") for electric distribution companies subject to its jurisdiction.

You may review PSC Order No. 8750 and the proposed revised Rules in the August 2015 issue of the *Delaware Register of Regulations* or on the PSC's Internet website located at <http://depssc.delaware.gov/electric.shtml>.

Interested parties may file written comments concerning the proposed revised Rules. Such written comments may be submitted to the Commission office on or before September 2, 2015, at the following address:

Delaware Public Service Commission
861 Silver Lake Boulevard
Cannon Building, Suite 100
Dover, Delaware, 19904
Attn: PSC Regulation Docket No. 50

The Commission Staff will conduct a public workshop on the proposed revised Rules on Wednesday, September 16, 2015, beginning at 10:00 a.m. at the Commission's office at 861 Silver Lake Boulevard, Cannon Building, Suite 100, Dover, Delaware 19904.

If you wish to obtain copies of the Order and proposed revised Rules, please submit a Freedom of Information Act Request Form. This form may be found at <http://smu.portal.delaware.gov/cgi-bin/mail.php?foia-request&subj=DOS>. There is also a link to the Freedom of Information Act Request Form on the Commission's website at http://sos.delaware.gov/foia_requests.shtml. The Commission will respond to your request in accordance with the Delaware Freedom of Information Act, 29 **Del.C.** Ch. 100.

If you have a disability and wish to participate or to review the materials in this matter, please contact the Commission to discuss any auxiliary aids or services you might need to help you. You may contact the Commission in person, by writing, by telephone (including text telephone), by Internet e-mail, or other means. If you have questions about this matter, you may call the Commission at 1-800-282-8574 (toll-free in Delaware) or (302) 736-7500 (voice and text telephone).

3007 Electric Service Reliability and Quality Standards

EFFECTIVE DATE: ~~September 10, 2006~~ January 11, 2016

1.0 Purpose and Scope

- 1.1 Reliable electric service is of great importance to the Delaware Public Service Commission ("Commission"), because it is an essential service to the citizens of Delaware. This regulation, in support of 26 **Del.C.**, §1002, sets forth reliability standards and reporting requirements needed to assure the continued reliability and quality of electric service being delivered to Delaware customers and is applicable to all Delaware Electric Distribution Companies ("EDCs") ~~and Delaware Generation Companies.~~
- 1.2 Nothing in this regulation relieves any utility ~~or generation~~ company from compliance with any requirement set forth under any other regulation, statute or order. This regulation is in addition to those

required under PSC Docket No. 58, Order No. 103, Regulations Governing Service Supplied by Electrical Utilities.

- 1.3 Compliance with this regulation is a minimum standard. Compliance does not create a presumption of safe, adequate and proper service. Each EDC needs to exercise their professional judgment based on their systems and service territories. Nothing in this regulation relieves any utility from the requirement to furnish safe, adequate and proper service and to keep and maintain its property and equipment in such condition as to enable it to do so. (26 Del.C., §209)
- 1.4 Each EDC shall maintain the reliability of its distribution services and shall implement procedures to require all electric suppliers to deliver energy to the EDC at locations and in amounts which are adequate to meet each electric supplier's obligations to its customers. (26 Del.C., §1008)
- 1.5 ~~Each generation company operating in the state is required to provide the Commission with an annual assessment of their electric supply reliability as specified in Section 10.~~
- 1.65 This regulation requires the maintenance and retention of reliability data and the reporting of reliability objectives, planned actions and projects, programs, load studies and actual resulting performance on an annual basis, including major events as specified in section 11.
- 1.76 EDCs are responsible for maintaining the reliability of electric service to all their customers in the state of Delaware. Pursuant to this requirement, EDCs may be subject to penalties as described in Section 13 or 26 Del.C., §1019.
- 1.87 EDCs are required to explore the use of proven state of the art technology, to provide cost effective electric service reliability improvements.

2.0 Definitions

The following words and terms, as used in these regulations, shall have the following meanings, unless the context clearly indicates otherwise:

“**Acceptable reliability level**” is defined as the maximum acceptable limit of the System Average Interruption Frequency Index (“SAIFI”), the Customer Average Interruption Duration Index (“CAIDI”) and the Forced Outage Rate as specified in Section D.

(Break in Continuity Within Section)

~~CEMI8 = $\frac{\text{Total number of customers that experienced more than eight (8) sustained interruptions}}{\text{Total number of customers served}}$~~

$\frac{\text{Total Number of Customers that experienced more than eight Sustained Interruptions}}{\text{Total Number of Customers Served}}$

CEMI8 = $\frac{\text{Total Number of Customers Served}}{\text{Total Number of Customers Served}}$

(Break in Continuity Within Section)

~~“**Generation company**” means a private or publicly owned company that owns or leases, with right of ownership, plant, equipment and facilities in the state of Delaware, rated in excess of 25 MVA and capable of supplying electric energy to the transmission and/or distribution system.~~

~~“**Generation Working Group**” means a forum within which Generation companies can voluntarily provide to the Commission information related to the operation of their Generating Plants that would otherwise be required pursuant to these Regulations~~

(Break in Continuity Within Section)

~~“**Pre-restructuring**” refers to the five-year time frame prior to Delaware’s adoption of 26 Del.C., Chapter 10, Electric Utility Restructuring Statute.~~

(Break in Continuity Within Section)

3.0 Electric Service Reliability and Quality

(Break in Continuity Within Section)

- 3.6 Each generation company in accordance with Section 10. shall submit to the Commission on or before April 30 of each year, a Performance Report that evaluates their reliability of energy supply.

- 3.76 Each EDC shall ensure that distribution system generation interconnection requirements are consistent with the I.E.E.E. 1547 series, "Standard for Interconnecting Distributed Resources with Electric Power Systems, as currently approved and as may be revised.
- 3.87 Each EDC shall file and maintain with the Commission a copy of the technical requirements for distribution system generation interconnection.

4.0 Reliability and Quality Performance Benchmarks

- 4.1 The measurement of reliability and quality performance shall be based on ~~annual SAIDI and Constrained Hours of Operation measures for each EDC~~ calculated annually for each EDC based on SAIDI for the most recent three (3) year period and the Constrained Hours of Operation for the most recent one (1) year period. The SAIDI calculation shall include all Delaware customer outages, excluding major events, and shall be reported along with its SAIFI and CAIDI components, subdivided by its distribution, substation and transmission components. The Constrained Hours of Operations shall be based on peninsula (DPL Zone) transmission system contingency limitations that require the dispatch of off-cost generation, excluding generation or transmission forced outages, generation or transmission related construction or any unrelated third party actions.
- 4.2 Each EDC shall maintain their electric service reliability and quality performance measures within the benchmark standard of this Section 4, Paragraph 4.3. SAIDI and Constrained Hours of Operation performance shall be measured each calendar year. ~~Annual~~ A three (3) year average SAIDI and an annual Hours of Constrained Operation performance equal to or better than the acceptable reliability level meets the standard of this regulation. When performance does not meet the acceptable reliability level, further review and analysis are required. The EDC may be subject to penalties as defined in Section 13 and subsequent corrective actions may be required.
- 4.3 For ~~the EDCs~~ each EDC, the electric service reliability and quality performance benchmarks are established as follows:
- 4.3.1 The system SAIDI benchmark standard, ~~which is based on pre-restructuring levels of performance and adjusted to reflect a 1.75 standard deviation of data variability and the transition to an OMS system shall be as follows:~~ for the three (3) year period shall be 180 minutes per customer.
- 4.3.1.1 Delaware Electric Cooperative SAIDI shall be 635 minutes per customer; and
- 4.3.1.2 Delmarva Power SAIDI shall be 295 minutes per customer.
- 4.3.2 ~~Based on the PEPSCO/Connectiv merger settlement, the~~ The Constrained Hours of Operation benchmark standard for the one (1) year period shall be 600 hours for each EDC.
- 4.4 Each EDC shall track and report its annual performance and three-year average performance against benchmark standards in accordance with Section 10.
- 4.5 Each EDC shall track and report its annual CAIDI, SAIFI, CEMI8 and CELID8 performance in accordance with Section 10.

(Break in Continuity of Sections)

6.0 Power Quality Program

- 6.1 Each EDC shall maintain a power quality program with clearly stated objectives and procedures designed to respond promptly to customer reports of power quality concerns.
- 6.2 Each EDC shall consider power quality concerns in the design, construction and maintenance of its transmission and distribution power delivery system components to mitigate, using reasonable measures, power quality disturbances that adversely affect customers' equipment.
- 6.3 Each EDC shall maintain records of customer power quality concerns and EDC response. These records shall be made available to the Commission Staff upon request with 30 ~~days~~ days' notice.

7.0 Inspection and Maintenance Program

(Break in Continuity Within Section)

- 7.4 Each EDC shall maintain records of inspection and maintenance activities. Compliance with this requirement may be established by a showing of substantial compliance without regard for a single particular facility maintenance record. These records shall be made available to Commission Staff upon request with 30 ~~days~~ days' notice.

(Break in Continuity of Sections)

9.0 Planning and Studies Report

- 9.1 ~~Prior to May 31 of each year, each EDC shall convene a stakeholder meeting offering opportunity for interested parties to discuss electric service reliability or quality concerns within Delaware. Such meeting shall be limited to discussion of publicly available information and at a minimum be open to generation companies, electric suppliers, municipals or other EDCs, PJM, state agencies and wholesale/retail consumers. Each EDC shall consider the resulting issues and include mitigation efforts in annual plans as appropriate.~~
- 9.21 By March 31 of each year, each EDC shall submit a reliability planning and studies report to the Commission for review. The report will identify current reliability objectives, load study results and planned actions, projects or programs designed to maintain the electric service reliability and quality of the delivery facilities.
- 9.32 The report shall include the following information:
- 9.32.1 Objective targets or goals in support of reliable electric service and descriptions of planned actions to achieve the objectives;
 - 9.32.2 Delivery load study results as described in Section 8, to include at a minimum the information for both year b and year c as specified in Section 8, Paragraph 8.3;
 - 9.32.3 Description and estimated cost of capital projects planned to mitigate loading or contingent conditions identified in load studies or required to manage hours of congestion;
 - 9.32.4 The EDC's power quality program and any amendments as required in Section 6;
 - 9.32.5 The EDC's inspection and maintenance program, any amendments as required in Section 7, and any specific actions aimed at reducing outage causes;
 - 9.32.6 Copies of all recent delivery facility planning studies and network capability studies (including CETO and CETL results) performed for any delivery facilities owned by the utility; and
 - 9.32.7 Summaries of any changes to reliability related requirements, standards and procedures at PJM, MAAC, First Reliability Corporation, NERC or the EDC.
 - 9.32.8 Summary of any issues that resulted from ~~the EDC stakeholder meeting~~ reliability complaints and any projects or planning changes that may have been incorporated as a result of such ~~meeting~~ complaints.

10.0 Annual Performance Report

(Break in Continuity Within Section)

- 10.6 In the event that an EDC's reliability performance measure does not meet an acceptable reliability level for the calendar year or a three (3) year period, the Performance Report shall include the following:
- 10.6.1 For not meeting SAIDI, an analysis of the customer service interruption causes for all delivery facilities by dispatch, response and repair times that significantly contributed to not meeting the benchmark;
 - 10.6.2 For not meeting Constrained Hours of Operation, an analysis of significant constraints by cause;
 - 10.6.3 A description of any corrective actions that are planned by the EDC and the target dates by which the corrective action shall be completed; and
 - 10.6.4 If no corrective actions are planned, an explanation shall be provided.
- 10.7 ~~The Performance Report shall include copies of current procedures identifying methods the EDC uses to ensure the electric supplier delivery of energy to the EDC at locations and in amounts which are adequate to meet each electric supplier's obligation to its customers.~~

PROPOSED REGULATIONS

- ~~10.87~~ The Performance Report shall include certification by an officer of the EDC of the data and analysis and that necessary projects, maintenance programs and other actions are being performed and adequately funded by the Company as addressed in its annual plans.
- ~~10.9~~ Unless a generation company participates in the Generation Working Group, each generation company shall submit by April 30 of each year an annual Reliability Performance Report. The performance report shall include the individual unit and average station forced outage rates and any anticipated changes that may impact the future adequacy of supply. Each generation company shall also provide the Commission with at least a one year advanced notification of any planned unit retirements, planned re-powerings or planned long term unit de-ratings.
- ~~10.9.1~~ The performance report required by Section 10.9 shall include the individual unit and average station forced outage rates and any anticipated changes that may impact the future adequacy of supply.
- ~~10.9.2~~ Each generation company not a member of a Generation Working Group shall also provide the Commission with at least a one year advanced notification of any planned unit retirements, planned re-powerings or planned long term unit de-ratings.
- ~~10.10~~ In lieu of submission of an annual Reliability Performance and one year advanced notification, as required in Section 10.9, Generation companies may voluntarily participate in a Generation Working Group.
- ~~10.10.1~~ The Commission shall designate one member of the Commission Staff to chair the Working Group. Such individual shall be referred to as the "Commission Staff Member."
- ~~10.10.2~~ Meetings of the Generation Working Group shall be no less frequently than semi-annually, and shall be scheduled by the Commission Staff Member.
- ~~10.10.3~~ The purpose of the semi-annual meetings will be for the Commission Staff Member and the participating Generation company or companies, as the case may be, to agree upon the specific parameters of generation information to be provided by member Generation companies to the Commission and how and when such information should be presented to the Commission. The specific parameters and presentation of information need not be identical for Generation Company, as agreed by the Generation Working Group.
- ~~10.10.4~~ In the event of a disagreement between the Commission Staff Member and a Generation company, the Generation Working Group will attempt to resolve the disagreement by consensus. If consensus cannot be achieved in a reasonable time, the Generation Working Group or any member may request a determination by the Commission of the issue.
- ~~10.10.5~~ To allow Generation companies to participate openly without disclosing commercially sensitive information to each other, the semi-annual Working Group meetings may be supplemented with meetings between the Commission Staff Member and individual Generation companies. Such individual meetings may be requested, on an as needed basis, by the Commission Staff Member or by a Generation company.
- ~~10.10.6~~ The Generation company or companies, as the case may be, shall use its or their best efforts to provide the requested information within an agreed upon period of time.
- ~~10.10.7~~ The Commission and each member of the Generation Working Group shall implement all steps necessary to protect the confidentiality of commercially sensitive information provided by the Generation company or companies, as the case may be.
- ~~10.10.8~~ Each member of the Generation Working Group reserves the right to not provide information of a commercially sensitive nature to all or some of the members of the Generation Working Group unless and until it obtains legally sufficient protection against non-disclosure of such information, and each such member shall take reasonable steps to procure such legally sufficient protection, to the extent these Rules do not constitute such protection.
- ~~10.10.9~~ Any Generation company participating in the Generation Working Group may withdraw at any time.

(Break in Continuity of Sections)

13.0 Penalties and Other Remedies

- 13.1 Private or investor owned utilities and cooperatives, operating in Delaware under the regulation of the Commission, are subject to penalties and other remedial actions in accordance with 26 Del.C., §205(a), §217, and §1019. The Commission shall be responsible for assessing any penalty under this section, consistent with Delaware law. In determining if there should be a penalty for violation of a reporting requirement or benchmark standard and, if so, what the penalty amount should be, the Commission shall consider the nature, circumstances, extent and gravity of the violation including the degree of the EDC's culpability and history of prior violations and any good faith effort on the part of the EDC in attempting to achieve compliance. Such penalty shall not exceed \$5,000 for each violation, with the overall penalty not to exceed an amount reasonable and appropriate for the violation (maximum of \$600,000 per year per reporting or standard violation). Each day of noncompliance shall be treated as a separate violation. ~~In the case of an electric cooperative, in violation of a reporting requirement or benchmark standard, the Commission shall not assess any monetary penalty that would adversely impact the financial stability of such an entity and any monetary penalty that is assessed against an electric cooperative shall not exceed \$1,000 for each violation, which each day of noncompliance shall be treated as a separate violation (maximum of \$60,000 per year per reporting or standard violation).~~ Nothing in this section relieves any private or investor owned utility or cooperative from compliance or penalties; that may be assessed due to non-compliance with any requirement set forth under any other regulation, statute or order.
- 13.2 An EDC shall be considered in violation of the SAIDI or Constrained Hours of Operation performance benchmark standard when the ~~annual year-end cumulative measure~~ three (3) year average SAIDI measure or the annual Constrained Hours of Operation measure exceeds the benchmark standard. The term of the violation shall extend for the period of time during which the performance measure exceeded the benchmark standard.

(Break in Continuity of Sections)

15.0 Reporting Specifications and Implementation

- 15.1 Planning and Studies Reports, Performance Reports and Major Event Reports provided under this regulation are subject to annual review and audit by the Commission. Each EDC ~~and generation company~~ must maintain sufficient records to permit a review and confirmation of material contained in all required reports.
- 15.2 Reports shall be ~~submitted as an original and 5 paper copies with one additional copy submitted electronically to the Secretary, Delaware Public Service Commission~~ filed electronically in the Commission's electronic filing system, with certification of authenticity by an officer of the corporation. ~~The electronic copy may be posted on the Delaware Public Service Commission's Internet website.~~
- 15.3 Each EDC ~~or generation company~~ may request that information, required under this regulation, be classified as confidential, proprietary and/or privileged material. The requesting party must attest that such information is not subject to inspection by the public or other parties without execution of an appropriate proprietary agreement. Each party requesting such treatment of information is also obligated to file electronically one (1) additional ~~electronic and paper~~ copy of the information, excluding the confidential or proprietary information. The Commission, in accordance with Rule 44 1.11, Rules of Practice and Procedure of the Delaware Public Service Commission, ~~effective May 10, 1999~~, will treat such information as "confidential, not for public release" upon receipt of a properly filed request. Any dispute over the confidential treatment of information shall be resolved by the Commission, designated Presiding Officer or Hearing Examiner.
- 15.4 ~~This regulation replaces the Interim Regulation and is effective 10 days after publication in the Delaware Register; however, for the initial 2006 year, Planning and Studies reports are due March 31, 2006; Performance reports are due April 30, 2006, and compliance shall be based upon, in all respects, the standards and requirements of the Interim Regulations. Thereafter, and beginning January 1, 2007, EDC compliance shall be based upon the standards and requirements of these revised regulations.~~

PROPOSED REGULATIONS

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

3007 Electric Service Reliability and Quality Standards

DEPARTMENT OF TRANSPORTATION DIVISION OF TRANSPORTATION SOLUTIONS

Statutory Authority: 21 Delaware Code, Section 4504 (21 **Del.C.** §4504)
2 **DE Admin. Code** 2405

PUBLIC NOTICE

2405 Oversize/Overweight Hauling Permit Policy and Procedures Manual

The Delaware Division of Transportation Solutions gives notice of intent to change the fees relating to Oversize/Overweight Hauling Permits within Title 2 Division of Transportation Solutions Regulation 2405. Statutory Authority: 21 **Del.C.** §4504.

This proposal is in conjunction with House Bill 140 of the 148th General Assembly, which increased specific Division of Motor Vehicles fees relating to driving authority and vehicle registrations. The Division of Transportation Solutions has not raised its fees since 1983.

Any person who wishes to make written suggestions, briefs or other written materials concerning this proposed new regulation must submit the same to Kenneth Shock, Chief of Fraud Investigation Unit, Delaware Division of Motor Vehicles, P.O. Box 698, Dover, Delaware 19903, or by fax to (302) 736-7993 Attn: Kenneth Shock by September 1, 2015.

The following table is a list of proposed fee changes by section for the use of the public to easily locate the proposed changes:

Sec/Fig	DelDOT Comment/Proposed Change
3.2.1.1.3	Changed fee from \$10.00 to \$30.00
3.2.1.2.3	Changed fees from \$10.00 to \$30.00; \$5.00 to \$10.00
3.2.1.3.3	Changed fees from \$30.00 to \$60.00; \$5.00 to \$10.00
3.2.1.4.3	Changed fee from \$10.00 to \$30.00
3.2.1.5.3	Changed fees from \$10.00 to \$30.00; \$5.00 to \$10.00
3.2.1.11.4.2.1	Changed fee from \$5.00 to \$10.00
3.2.1.11.4.2.2	Changed fee from \$5.00 to \$10.00
3.2.1.11.4.2.4	Changed fees from \$5.00 to \$10.00; \$10.00 to \$20.00; \$520 to \$1,040.00; \$3,020 to \$3,540.00
3.5.5	Changed fee from \$2.00 to \$10.00

2405 Oversize/Overweight Hauling Permit Policy and Procedures Manual *(Break in Continuity of Sections)*

3.0 Permit Descriptions and Procedures***(Break in Continuity of Sections)*****3.2 Types of Permits****3.2.1 Permits by Load Codes & Associated Fees****3.2.1.1 Load Code 1 Oversize**

3.2.1.1.1 A load that is Oversize but less than SUPERLOAD criteria. Exception - Certain types of vehicles may have over legal limit individual axle weight(s) but meet GVW. These vehicles will be Oversize with overweight axle data noted on the hauling permit.

3.2.1.1.2 Type - Single Trip

3.2.1.1.3 Fee - ~~\$40.00~~ \$30.00

3.2.1.1.4 Duration - Five (5) days. See 4.2.1 for details.

3.2.1.1.5 Time of Travel - Monday through Sunday sunrise to sunset during the permit Effective and Expiration Dates.

3.2.1.2 Load Code 2 Overweight

3.2.1.2.1 A load that is over legal weight: (Legal GVW for 2 axles = 40K lbs.; 3 axles = 65K lbs.; 4 axles = 73280 lbs.; 5 or more axles = 80K lbs) but less than SUPERLOAD criteria. Load may be oversize but under limits of SUPERLOAD

3.2.1.2.2 Type - Single Trip

3.2.1.2.3 Fee - ~~\$40.00~~ \$30.00 plus weight fee of ~~\$5.00~~ \$10.00 for each 8,000 pounds or portion thereof over legal weight

3.2.1.2.4 Duration - Five (5) days. See 4.2.1 for details.

3.2.1.2.5 Time of Travel - Monday through Sunday sunrise to sunset during the permit Effective and Expiration Dates.

3.2.1.3 Load Code 3 SUPERLOAD

3.2.1.3.1 A SUPERLOAD is defined as any vehicle and/or load that has any one of the following conditions: fifteen (15) feet or more in width; fifteen (15) feet or more in height; one hundred twenty (120) feet or more in length; has a gross weight in excess of 120,000 pounds. Part 5 of this Manual provides detailed processing requirements for Superload permits.

3.2.1.3.2 Type - Single Trip

3.2.1.3.3 Fee - ~~\$30.00~~ \$60.00 plus weight fee of ~~\$5.00~~ \$10.00 for each 8,000 pounds or portion thereof over legal weight. Additional fees may apply as described in Part 5.

3.2.1.3.4 Duration - One (1) to Five (5) business days Monday - Saturday, Duration may be limited to actual move time frame based on route conditions as determined by DelDOT Traffic and Safety Engineers and noted in Special Provisions portion of permit.

3.2.1.3.5 Time of Travel - Refer to Part 5 under specific Types of Superload.

3.2.1.4 Load Code 4 Manufactured Housing

3.2.1.4.1 A load that is Oversize and normally legal weight but less than SUPERLOAD criteria. Permit used for movement of Manufactured Housing (Mobile Home, Modular Housing, or Office Trailer).

3.2.1.4.2 Type - Single Trip

3.2.1.4.3 Fee - ~~\$40.00~~ \$30.00

3.2.1.4.4 Duration - Five (5) days. See 4.2.1 for details.

3.2.1.4.5 Time of Travel - Monday through Sunday sunrise to sunset during the permit Effective and Expiration Dates.

3.2.1.5 Load Code 5 Sealed Container

3.2.1.5.1 All ocean going ship containers packed with product which carry a federal inspectors seal as to purity or customs requirements, and which results in a GVW of 100,000

PROPOSED REGULATIONS

pounds or less, shall be considered non-divisible loads when moving between a port and the facility where the seal is placed, or where the contents of the container are released from the seal.

3.2.1.5.2 Type - Single Trip

3.2.1.5.3 Fee - ~~\$10.00~~ \$30.00 plus weight fee of ~~\$5.00~~ \$10.00 for each 8,000 pounds or portion thereof over legal weight

(Break in Continuity Within Section)

3.2.1.11 Load Code 11 Blanket Crane

(Break in Continuity Within Section)

3.2.1.11.4 The following fee structure shall apply:

3.2.1.11.4.1 The base cost of a one-year Blanket Permit is:

\$1,500 for Self-Propelled Cranes up to and including 24,000 lbs

\$2,500 for Self-Propelled Cranes over 24,000 lbs

3.2.1.11.4.2 There is also a weight fee, which is calculated as follows:

3.2.1.11.4.2.1 A ~~\$5~~ \$10.00 per-trip charge is assessed per each 8,000 lbs (or fraction thereof) over the licensed weight (legal limit based on the number of axles: 2 axles - 40,000 lbs.; 3 axles - 65,000 lbs.; 4 axles - 73,280 lbs; 5 or more axles - 80,000 lbs).

3.2.1.11.4.2.2 The difference between the actual weight and the legal weight is divided by 8,000 lbs to arrive at a computation factor, which is rounded to the nearest whole number. This factor is then multiplied by ~~\$5~~ \$10.00 to determine the additional weight fee.

3.2.1.11.4.2.3 Once the per-trip weight fee is computed, it is multiplied by 52 (based upon a reasonable determination that a Blanket Permit holder will travel at least once a week over the entire year of the permit).

3.2.1.11.4.2.4 Example - The weight fee for a 3 axle self-propelled crane at 84,000 lbs would be computed as follows: 84,000 lbs minus 65,000 lbs equals 19,000 lbs over legal licensed weight. 19,000 lbs divided by 8,000 lbs = 2.37, rounded down to 2. Two multiplied by ~~\$5~~ \$10.00 = ~~\$10~~ \$20.00, which is then multiplied by 52 to arrive at a yearly weight fee of ~~\$520~~ \$1,040.00. With the base cost, the total Blanket Permit fee in this example is ~~\$3,020~~ \$3,540.00.

(Break in Continuity Within Section)

3.5 Amending a Validated Permit. Only a DelDOT Permit Agent can amend a Validated permit. The Customer must telephonically notify the Hauling Permit office on or before the expiration date to request an amendment of a Validated permit.

(Break in Continuity Within Section)

3.5.5 Fee - A fee of ~~\$2.00~~ \$10.00 may be charged to amend a Validated permit.

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

2405 Oversize/Overweight Hauling Permit Policy and Procedures Manual

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 THOROUGHBRED RACING COMMISSION

Statutory Authority: 3 Delaware Code, Section 10103(c) (3 **Del.C.** §10103(c))
3 DE Admin. Code 1001

ORDER

1001 Thoroughbred Racing Rules and Regulations

The Thoroughbred Racing Commission ("Commission") issues this Order to take effect ten (10) days after the publication of this Order in the Delaware *Register of Regulations*:

1. Pursuant to its statutory authority, the Commission proposed for adoption revisions to the Commission's Regulation 15.21. Other regulations issued by the Thoroughbred Racing Commission are not affected by this Order.

2. A copy of the proposed regulations was published in the June 1, 2015 edition of the Delaware *Register of Regulations* and has been available for inspection in the office of the Commission at 777 Delaware Park Boulevard, Wilmington, Delaware 19804 during regular office hours.

3. The Commission did not receive any written comments on the proposed regulations during the 30 day period following publication of the proposed regulations on June 1, 2015.

4. THEREFORE, IT IS ORDERED, that the proposed regulations are adopted and shall become effective August 11, 2015, after publication of the final regulation in the Delaware *Register of Regulations*:

1001 Thoroughbred Racing Rules and Regulations (Break in Continuity of Sections)

15.0 Medication; Testing Procedures

(Break in Continuity Within Section)

15.21 ARCI Cobalt Rule.

15.21.1 The Commission hereby adopts by reference the Association of Racing Commissioners International Cobalt rule ~~[(ARCI 011-020, Part E.(1)(C)) (ARCI Drug Testing and Practices Committee, Recommendations 1 and 2)]~~, approved April [24 23], 2015.

*Please note that no additional changes were made to the regulation as originally proposed and published in the June 2015 issue of the *Register* at page 931 (18 DE Reg. 931). Therefore, the final regulation is not being republished here in its entirety. A copy of the final regulation is available at:

1001 Thoroughbred Racing Rules and Regulations

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF PUBLIC HEALTH

Statutory Authority: 16 Delaware Code, Section 7903 (16 Del.C. §7903)
16 DE Admin. Code 4455

ORDER

4455 Delaware Regulations Governing a Detailed Plumbing Code

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services (“DHSS”) initiated proceedings to adopt the State of Delaware Regulations Governing a Detailed Plumbing Code (4455). The DHSS proceedings to adopt regulations were initiated pursuant to 29 **Delaware Code** Chapter 101 and authority as prescribed by 16 **Delaware Code**, §7903.

On May 1, 2015 (Volume 18, Issue 11), DHSS published in the Delaware *Register of Regulations* its notice of proposed regulations, pursuant to 29 **Delaware Code** Section 10115. It requested that written materials and suggestions from the public concerning the proposed regulations be delivered to DHSS by June 5, 2015, or be presented at a public hearing on May 29, 2015, after which time the DHSS would review information, factual evidence and public comment to the said proposed regulations.

Written comments were received during the public comment period and evaluated. The results of that evaluation are summarized in the accompanying “Summary of Evidence.”

SUMMARY OF EVIDENCE

In accordance with Delaware Law, public notices regarding proposed Department of Health and Social Services (DHSS) State of Delaware Regulations Governing a Detailed Plumbing Code were published in the *Delaware State News*, the *News Journal* and the *Delaware Register of Regulations*.

Comments from the International Code Council:

My name is Bryan Soukup and I am the Regional Governmental Relations Manager for the Mid-Atlantic States at the International Code Council (ICC). Please allow this letter to serve as public comment in support of a final approval relative to the proposal to update the 2012 Delaware Plumbing Code to the published 2015 Delaware Plumbing Code.

The ICC is a member-focused association dedicated to helping the building safety community and the construction industry provide safe and sustainable construction through the development of codes and standards used in the design, build, and compliance process. Most U.S. states and communities, Federal agencies, and many global markets choose the International Codes to set the standards for regulating construction, fire prevention, and energy conservation in the built environment.

The International Plumbing Code (IPC) along with 15 other International Codes (I-Codes) are updated and revised every three years through a national consensus process that strikes a balance between the latest technology, new building products, installation techniques, economics, and cost while incorporating the most recent advances in public and first responder safety. It is an open, inclusive process that encourages input from all individuals and groups, and allows ICC Governmental Members¹ to determine the final code provisions.

The I-Codes are correlated to work together without conflicts so as to eliminate confusion in building design, inconsistent code enforcement, or differing interpretation among different jurisdictions. Jurisdictions that utilize the most current edition of the I-Codes thereby ensure the highest standards for safety, energy efficiency, sustainability, economic incentive, and long-term resiliency of their built environment.

I would like to commend the State of Delaware for its consistently outstanding work reviewing and now proposing to update the Delaware Plumbing Code that is based on the 2015 IPC. The proposed amendments and update of this code, while incorporating amendments that reflect the unique character and needs of Delaware, will ensure that the Delaware Plumbing rules remain technically viable relative to drinking water and plumbing fixtures, allow for economic investment in building construction, and provide for the greatest safety of the public and emergency responders, while embracing new technology and building practices.

Some of the significant changes included in the 2015 IPC include:

- Clarification on the definition of drinking fountains, water dispensers, and water coolers and their required use.
- "Mid-Story Pipe Guide" -revised language clarifies where one shall be required.
- Clarifications to the minimum number of plumbing fixtures, required public facilities, and requirements for footbaths, pedicure baths, and shampoo sinks.
- Clarifications to the requirements for Temperature and Pressure Relief discharge piping and pans.
- Added section on rehabilitation of piping systems by internal lining and more stringent limitations on lead content in materials.
- Changes to hot water temperature maintenance system controls and thermal expansion pressure control.
- Added provisions for the replacement of building sewers by the pipe-bursting method.
- Modified trap seal protection against evaporation to allow a variety of ways.
- Modified Vent Termination to outdoors to allow for consideration of different roof systems.
- Modified indirect/special waste provisions for food handling areas and hub drains now require a strainer.
- An exception to the requirement for public toilet facilities has been added to the code for tenant spaces intended for "quick transactions" such as takeout dining establishments of 300 square feet or less in area.
- Chapter 13 Gray Water Recycling Systems has been replaced with a broader new chapter entitled Non-Potable Water Systems. It includes updates to the gray water provisions and new requirements for rainwater harvesting systems and systems utilizing reclaimed water for non-potable applications. These provisions are correlated with the International Green Construction Code. (Chapter 13; PII-12)
- Requirements related to subsurface landscape irrigation systems that were previously found in the Gray Water Recycling Systems Chapter was updated and relocated to a new chapter entitled Subsurface Landscape Irrigation Systems. These provisions are correlated with the International Green Construction Code. (Chapter 13; PII-12)

Technical assistance and training from ICC is always available to groups including, but not limited to: Delaware Design Professionals, Delaware Plans Examiners, the Delaware State Board of Plumbing & HVACR and other entities. They will have access to ICC training programs and materials, product Evaluation Reports, certification programs, and ICC technical staff, who will assist with code opinions and interpretations based on the IPC.

Thank you for the opportunity to submit these comments. The ICC is honored to partner with the State of Delaware in support of the adoption and administration of the Delaware Plumbing Code that is based on the 2015 IPC and we look forward to continuing to serve your needs for many more years.

Please feel free to contact me via email or phone (information noted below) if you have any questions, concerns, or comments relative to the Plumbing Code adoption or anything else ICC-related.

Plumbing Program Response:

Thank you for your support in the promulgation of these regulations.

The public comment period was open from May 1, 2015 through June 5, 2015. One comment was received on the proposed regulations during the public comment period but no changes have been made to the proposed regulations.

Verifying documents are attached to the Hearing Officer's record. The regulation has been approved by the Delaware Attorney General's office and the Cabinet Secretary of DHSS.

FINDINGS OF FACT:

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

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Regulations Governing a Detailed Plumbing Code (4455) is adopted and shall become effective August 11, 2015, after publication of the final regulation in the Delaware *Register of Regulations*.

Rita M. Landgraf, Secretary

***Please note that no changes were made to the regulation as originally proposed and published in the May 2015 issue of the *Register* at page 841 (18 DE Reg. 841). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

4455 Delaware Regulations Governing a Detailed Plumbing Code

DIVISION OF PUBLIC HEALTH

AUTHORITY ON RADIATION PROTECTION

Statutory Authority: 16 Delaware Code, §7405 (16 Del.C. § 7405)
16 DE Admin. Code 4465

ORDER

**Delaware Radiation Control Regulations:
4465 Part D Standards for Protection Against Radiation
4465 Part J Notices, Instructions and Reports to Workers, Inspections**

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("DHSS") initiated proceedings to adopt the State of Delaware Radiation Control Regulations (4465 Parts D & J). The DHSS proceedings to adopt regulations were initiated pursuant to 29 **Delaware Code** Chapter 101 and authority as prescribed by 16 **Delaware Code**, §7405(a).

On May 1, 2015 (Volume 18, Issue 11), DHSS published in the Delaware *Register of Regulations* its notice of proposed regulations, pursuant to 29 **Delaware Code** Section 10115. It requested that written materials and suggestions from the public concerning the proposed regulations be delivered to DHSS by June 8, 2015, or be presented at a public hearing on May 27, 2015, after which time the DHSS would review information, factual evidence and public comment to the said proposed regulations.

No oral comments were made at the public hearing and no written comments were received during the public comment period. Therefore, no evaluation or summarization of comments is presented in the accompanying "Summary of Evidence."

SUMMARY OF EVIDENCE

In accordance with Delaware Law, public notices regarding proposed Department of Health and Social Services (DHSS) State of Delaware Radiation Control Regulations (4465 Parts D & J) were published in the *Delaware State News*, the *News Journal* and the *Delaware Register of Regulations*.

The public comment period was open from May 1, 2015 through June 8, 2015. No comments were received on the proposed regulations during the public comment period and no changes have been made to the proposed regulations.

Verifying documents are attached to the Hearing Officer's record. The regulation has been approved by the Delaware Attorney General's office and the Cabinet Secretary of DHSS.

FINDINGS OF FACT:

There were no public comments received. The Department finds that the proposed regulations, as set forth in the attached copy should be adopted in the best interest of the general public of the State of Delaware.

THEREFORE, IT IS ORDERED, that the proposed State of Delaware Radiation Control Regulations (4465 Parts D & J) is adopted and shall become effective August 11, 2015, after publication of the final regulation in the Delaware *Register of Regulations*.

Rita M. Landgraf, Secretary

***Please note that no changes were made to the regulation as originally proposed and published in the May 2015 issue of the *Register* at page 842 (18 DE Reg. 842). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:**

Delaware Radiation Control Regulations

DEPARTMENT OF STATE DIVISION OF PROFESSIONAL REGULATION 1400 BOARD OF ELECTRICAL EXAMINERS

Statutory Authority: 24 Delaware Code, Section 1406(a)(1) (24 Del.C. §1406(a)(1))
24 DE Admin. Code 1400

ORDER

1400 Board of Electrical Examiners

On May 1, 2015 the Delaware Board of Electrical Examiners published proposed changes to its regulations in the Delaware *Register of Regulations*, Volume 18, Issue 11. The notice indicated that written comments would be accepted by the Board, a public hearing would be held, and written comments would be accepted for fifteen days thereafter. After due notice in the *Register of Regulations* and two Delaware newspapers, a public hearing was held on June 3, 2015 at a regularly scheduled meeting of the Board of Electrical Examiners to receive verbal comments regarding the Board's proposed amendments to its regulations.

SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

At the time of the deliberations, the Board considered the following documents:

Board Exhibit 1 - Affidavit of publication of the public hearing notice in the *News Journal*; and

Board Exhibit 2 - Affidavit of publication of the public hearing notice in the *Delaware State News*.

There was no verbal testimony presented at the public hearing on June 3, 2015. No written comments were received by the Board.

FINDINGS OF FACT AND CONCLUSIONS

1. The public was given notice and an opportunity to provide the Board with comments in writing and by testimony at the public hearing on the proposed amendments to the Board's regulations.

2. There were no public comments provided to the Board during the written public comment periods, or at the public hearing.

3. Pursuant to 24 Del.C. §1406(a)(1) the Board has the statutory authority to promulgate rules and regulations clarifying specific statutory sections of its statute.

4. Having received no public comments, the Board finds no reason not to amend the regulations as proposed.

DECISION AND ORDER CONCERNING THE REGULATIONS

NOW THEREFORE, pursuant to 24 Del.C. §1406(a)(1) and for the reasons set forth above, the Board does hereby ORDER that the regulations be, and that they hereby are, adopted and promulgated as set forth in the Delaware *Register of Regulations* on May 1, 2015. The effective date of this Order is ten days from the date of its publication in the Delaware *Register of Regulations*, pursuant to 29 Del.C. §10118(g).

The new regulations are attached hereto as Exhibit A.

SO ORDERED this 1st day of July, 2015.

DELAWARE BOARD OF ELECTRICAL EXAMINERS

Daniel Creedon

Thomas Hartley

Robert MacLennan

Richard Millar

Nathan Schreppler

Michael Travers

*Please note that no changes were made to the regulation as originally proposed and published in the May 2015 issue of the *Register* at page 850 (18 DE Reg. 850). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

1400 Board of Electrical Examiners

DIVISION OF PROFESSIONAL REGULATION**2700 BOARD OF REGISTRATION FOR PROFESSIONAL LAND SURVEYORS**

Statutory Authority: 24 Delaware Code, Section 2706(a)(1) (24 Del.C. §2706(a)(1))

24 DE Admin. Code 2700

ORDER**2700 Board of Registration for Professional Land Surveyors**

On February 1, 2015 and April 1, 2015 the Delaware Board of Professional Land Surveyors published proposed changes to its regulations in the Delaware *Register of Regulations*, Volume 18, Issues 8 and 10. The notice indicated that written comments would be accepted by the Board, a public hearing would be held, and written comments would be accepted for fifteen days thereafter. After due notice in the *Register of Regulations* and two Delaware newspapers, a public hearing was held on May 21, 2015 at a regularly scheduled meeting of the Board of Professional Land Surveyors to receive verbal comments regarding the Board's proposed amendments to its regulations.

SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

At the time of the deliberations, the Board considered the following documents:

Board Exhibit 1 - Affidavit of publication of the public hearing notice in the *News Journal*; and

Board Exhibit 2 - Affidavit of publication of the public hearing notice in the *Delaware State News*.

There was no verbal testimony presented at the public hearing on May 21, 2015. No written comments were received by the Board.

FINDINGS OF FACT AND CONCLUSIONS

1. The public was given notice and an opportunity to provide the Board with comments in writing and by testimony at the public hearing on the proposed amendments to the Board's regulations.

2. There were no public comments provided to the Board during the written public comment periods, or at the public hearing.

3. Pursuant to 24 **Del.C.** §2706(a)(1) the Board has the statutory authority to promulgate rules and regulations clarifying specific statutory sections of its statute.

4. Having received no public comments, the Board finds no reason not to amend the regulations as proposed.

DECISION AND ORDER CONCERNING THE REGULATIONS

NOW THEREFORE, pursuant to 24 **Del.C.** §2706(a)(1) and for the reasons set forth above, the Board does hereby ORDER that the regulations be, and that they hereby are, adopted and promulgated as set forth in the Delaware *Register of Regulations* on February 1, 2015 and April 1, 2015. The effective date of this Order is ten days from the date of its publication in the Delaware *Register of Regulations*, pursuant to 29 **Del.C.** §10118(g).

The new regulations are attached hereto as Exhibit A.

SO ORDERED this 18th day of June, 2015

DELAWARE BOARD OF PROFESSIONAL LAND SURVEYORS

James Bielicki, Jr.

Franco R. Bellafante

Charles Adams, Jr.

Kelly Katz

Rhonda West

Carla Cassell-Carter

*Please note that no changes were made to the regulation as originally proposed and published in the February 2015 issue of the *Register* at page 634 (18 DE Reg. 634). Therefore, the final regulation is not being republished. A copy of the final regulation is available at:

2700 Board of Registration for Professional Land Surveyors

GENERAL NOTICES

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

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

STATEWIDE TRANSITION PLAN HOME AND COMMUNITY-BASED SERVICES SETTINGS TRANSITION PLAN UPDATES

In accordance with the public notice requirements of 42 CFR 441.301(6)(B)(iii), 42 CFR 441.710(3)(iii), and Title 29, Chapter 101 of the Delaware Code, Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) gives notice related to the state's plan to comply with new federal regulations governing the settings in which the delivery of services to Medicaid Home and Community-Based Services (HCBS) waiver recipients may be provided.

Purpose

The purpose of this posting is to provide public notice and receive public input for consideration regarding Delaware Medicaid's Proposed Home and Community-Based Services (HCBS) Settings Transition Plan, specifically the HCBS Transition Plan Updates.

Overview

The Centers for Medicare and Medicaid Services (CMS) published regulations in the Federal Register (42 CFR 441.301(c)(4)-(6) on January 16, 2014, effective March 17, 2014, which changed the definition of Home and Community-Based Services (HCBS) settings. Because Delaware's 1115 Demonstration refers to the 1915(c) authority for HCBS services, the state must comply with these regulatory changes. Delaware does not have a 1915(k) waiver. The transition plan must describe the process by which the state will ensure that service settings used in each of its home and community-based waivers meet "community-like" expectations. The final rule provides for a five-year transition process that will allow states to implement this rule in a manner that supports continuity of services for Medicaid recipients and minimizes disruptions in service during implementation; as such, all such services must be in compliance with CMS requirements before March 2019.

For additional information about the CMS HCBS final rule, use the following link to the CMS website:

<http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html>.

Delaware Health and Social Services (DHSS)/Division of Medicaid and Medical Assistance (DMMA) previously provided an opportunity for comment on Delaware's HCBS Transition Plan.

Transition Plan Update

The Department of Health and Social Services (DHSS) is updating the Delaware Statewide Transition Plan (the Plan) to reflect the current status of implementation activities as of July 2015. We direct you to new sections "July 2015 Updates to Delaware Developmental Disabilities Services (DDDS) Waiver Assessment and Remediation Plan" and "July 2015 Updates to Diamond State Health Plan (DSHP) Demonstration and Remediation Plan" for new information since publication of the Plan in March 2015. We have updated the matrices on pages on pages 17 and 33 to note, when appropriate revised tasks, dates and completion status. Moving forward, we plan to update the Plan as needed to reflect the status of implementation activities as they occur.

Draft of Proposed Statewide 1915 HCBS Settings Transition Plan Update

This public notice, transition plan containing updates, and other related information for participating in and submitting comment are posted online at:

http://dhss.delaware.gov/dhss/dmma/hcbs_trans_plan.html. Delaware will be submitting its updated Transition Plan to CMS by September 17, 2015.

Hard copies are available by contacting Arlene Baal at Arlene.Baal@state.de.us.

Hard copies are available for review at the Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, Holloway Campus, Lewis Building, Conference Room 198, New Castle, Delaware 19720 from 8:00 a.m. – 4:30 p.m.

Public Comment Submission Process

As required by 42 CFR Part 441.301, DHSS/DMMA provides a thirty-day public notice and comment period. The public is invited to review and comment on the State's proposed Transition Plan Updates. Comments must be received by 4:30 p.m. on August 31, 2015. Comments and input regarding the draft transition plan may be submitted in the following ways:

By email: DMMA_PublicHearing@state.de.us

By fax: 302-255-4481 to the attention of HCBS Transition Plan Updates

By written comments sent to:

HCBS Transition Plan Updates
Division of Medicaid and Medical Assistance
Planning, Policy & Quality Unit
1901 North DuPont Highway
P.O. Box 906
New Castle, Delaware 19720-0906

Please identify in the subject line: Draft Home and Community-Based Services (HCBS) Settings Transition Plan Updates.

Public Hearings

DHSS/DMMA will provide the following opportunities to the public to provide input on the proposed (HCBS) Settings Transition Plan Updates in person. Three (3) public hearings are scheduled. The detailed information for each public hearing is shown below.

- Sussex County**
Monday, August 24, 2015
11:00am-1:00pm
Thurman Adams State Service Center
(Formerly, Georgetown State Service Center)
546 South Bedford Street
Georgetown, Delaware 19947
Phone: 302-856-5211 or 302-856-5574
(Visitor parking is designated by signs and is close to the entrance of the building)
- Kent County**
Monday, August 24, 2015
3:00pm – 5:00pm
Delaware Department of Transportation
Administration Center
800 Bay Road
Dover, Delaware 19901
Phone: 302-760-2000
(Visitor parking is in the front of the building)

3. **NEW CASTLE COUNTY****Friday, August 28, 2015****4:00pm – 6:00pm**

Delaware State Police

Troop 2

Robert Paris Community Room

100 Lagrange Avenue

Newark, Delaware 19702

Phone: 302-834-2620 - main line

(Visitor parking is in the front of the building)

The State will take verbal and written comments at the public hearings. The input provided will be summarized and used to formulate Delaware's final statewide transition plan that will be submitted to CMS.

If you are unable to attend the public hearing in person, you may participate by teleconference. To participate via teleconference, on the date and time of the public hearing, call 1-877-366-0711 and enter passcode 95099070#. Please note that teleconference is not available at Delaware State Police Troop 2.

If you require special assistance or auxiliary aids and/or services to participate in the public hearing (e.g., sign language or wheelchair accessibility), please call the following contact at least ten (10) days prior to the hearing for arrangements:

Arlene Baal at (302) 255-9561

The prompt submission of requests helps to ensure the availability of qualified individuals and appropriate accommodations in advance.

The summary of comments, in addition to a summary of modifications made in response to the public comments, will be added to the Delaware's updated HCBS Transition Plan. The state will post on the **DMMA website** a summary of public comments and our responses and, the final updated transition plan with any modifications after the receipt of public comments.

Stephen M. Groff July 27, 2015
Director
Division of Medicaid and Medical Assistance

DELAWARE STATE FIRE PREVENTION COMMISSION**PUBLIC NOTICE****701 Administration and Enforcement**

The Delaware State Fire Prevention Commission, pursuant to 16 **Del.C.** §6604(1), proposes to revise:

- Regulation 701 by removing the limitation that the regulations apply only to buildings modified by 50% or more following the enactment of the regulations. The revision also removes Annexes A and B and reorganizes the content into a newly created Chapter 7. Finally, the revision removes references to Appendixes that are no longer part of the regulations.
- Regulation 702 by making changes to the occupancy conversion regulation, clarifying the building rehabilitation requirements, clarifying the automatic sprinkler system, and standpipe regulations to prevent a submission for review and approval of a project in such stages that would have the effect of being less than 50% of the square footage of any building. These proposed changes also make substantive additions to the regulations regarding floor level identification and fire pumps.
- Regulation 703 by adding a definition for "major deficiency," clarifying that at the time of renewal, a certificate holder must maintain current NICET certification at the minimum level that was required at the time of original licensure. The proposed changes also remove reference to the Annexes and Appendixes which are no longer part of the regulations.
- Regulation 704 by deleting Regulation 4.3 in its entirety, eliminating the requirement that a member of a local fire department be present on the scene of any fireworks display from the time the fireworks are delivered until the termination of the display, and reverting to Regulation 4.2, leaving the level of fire protection to the discretion of the local fire department.
- Regulation 705 to clarify that one elevator car in any building must be of sufficient size to accommodate an ambulance cot in its horizontal position, and further clarifying that elevator cars existing as of September 1, 2015 are exempt from this requirement. These changes further clarify that all gates at gated communities must be either automatic or manual, and establishes guidelines for demarcating both primary and secondary entrance doors.
- Regulation 706 by removing bond requirement for electricians added to the list of installers for the hard-wired smoke detector program.

The Board will hold a public hearing on the proposed regulation changes on September 15, 2015 at 10:00 a.m., in the Commission Chamber, Delaware Fire Service Center, 1463 Chestnut Grove Road, Dover, DE 19904. Written comments should be sent to Sherry Lambertson, Executive Specialist for the Delaware Fire Prevention Commission, Delaware Fire Service Center, 1463 Chestnut Grove Road, Dover, DE 19904. Written comments will be accepted until August 31, 2015 pursuant to 29 **Del.C.** §10118(a).

DEPARTMENT OF EDUCATION**PUBLIC NOTICE**

The State Board of Education will hold its monthly meeting on Thursday, August 21, 2015 at 1:00 p.m. in the Townsend Building, Dover, Delaware.

DEPARTMENT OF HEALTH AND SOCIAL SERVICES**DIVISION OF PUBLIC HEALTH****PUBLIC NOTICE****4464 Public Swimming Pools**

Community Environmental Health Services, Health Systems Protection Section, Division of Public Health, Department of Health and Social Services, is proposing revisions to the Delaware Regulations Governing Public Pools. The purpose of the amendments is to update the regulations to align them more closely with the Centers for Disease Control (CDC) Model Aquatic Health Code. On August 1, 2015, CEHS plans to publish as proposed the amended regulations, and hold them out for public comment per Delaware law.

A public hearing will be held on Wednesday August 26, 2015 at 2:30 p.m. in the First Floor Conference Room, located in the Jesse Cooper Building, 417 Federal Street, Dover, Delaware.

Copies of the proposed regulations are available for review in the August 1, 2015 edition of the Delaware *Register of Regulations*, accessible online at: <http://regulations.delaware.gov> or by calling CEHS at (302) 744-4546.

Any person who wishes to make written suggestions, testimony, briefs or other written materials concerning the proposed regulations must submit same to Jamie Mack by Tuesday, September 8, 2015, at:

Jamie Mack
Division of Public Health
417 Federal Street
Dover, DE 19901
Email: jamie.mack@state.de.us
Phone: (302) 744-4951

DIVISION OF PUBLIC HEALTH
PUBLIC NOTICE

4470 State of Delaware Medical Marijuana Code

The Delaware Medical Marijuana Program (MMP), Health Systems Protection Section, Division of Public Health, Department of Health and Social Services, is proposing revisions to the State of Delaware Medical Marijuana Code. The purpose of the amendments is to update the regulations to allow compliance with recent changes to the Medical Marijuana code and make technical corrections. On August 1, 2015, the MMP plans to publish as proposed the amended regulations, and hold them out for public comment per Delaware law.

A public hearing will be held on Thursday August 27, 2015 at 2:30 p.m. in the First Floor Conference Room, located in the Jesse Cooper Building, 417 Federal Street, Dover, Delaware.

Copies of the proposed regulations are available for review in the August 1, 2015 edition of the Delaware *Register of Regulations*, accessible online at: <http://regulations.delaware.gov> or by calling the MMP at (302) 744-4546.

Any person who wishes to make written suggestions, testimony, briefs or other written materials concerning the proposed regulations must submit same to Jamie Mack by Tuesday, September 8, 2015, at:

Jamie Mack
Division of Public Health
417 Federal Street
Dover, DE 19901
Email: jamie.mack@state.de.us
Phone: (302) 744-4951

**DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL
CONTROL**

DIVISION OF FISH AND WILDLIFE
PUBLIC NOTICE

3507 Black Sea Bass Size Limit; Trip Limits, Seasons; Quotas

This action proposes to adopt provisions consistent with federal measures for the recreational black sea bass fishery in compliance with Addendum XXV to the Atlantic States Marine Fisheries Commission's (ASMFC) Interstate Fishery Management Plan for Summer Flounder, Scup and Black Sea Bass. The Department previously modified the opening and closings dates for the recreational black sea bass fishery through emergency action (Secretary's Order Nos. 2015-F-0020 & 2015-F-0027); however, further action is required to subsequently adopt these dates and additional black sea bass season dates through the normal regulatory process.

Black sea bass are managed cooperatively by the Atlantic States Marine Fisheries Commission, the Mid-Atlantic Fishery Management Council (MAFMC) and the National Oceanic and Atmospheric Administration (NOAA) Fisheries through the joint Summer Flounder, Scup and Black Sea Bass Fishery Management Plan. The ASMFC and MAFMC jointly approved a coastwide recreational black sea bass harvest limit (RHL) for 2015 of 2.33 million pounds. Consistent with Addendum XXV, the ASMFC's Summer Flounder, Scup and Black Sea Bass Management Board approved the continuation of ad hoc regional management measures for 2015.

Addendum XXV requires the southern region states (Delaware to North Carolina) to implement recreational fishery management measures for black sea bass consistent with those measures required for federal waters. The MAFMC's recommended federal recreational black sea bass measures for 2015 include a 12.5 inch minimum size limit, a 15 fish possession limit and open seasons from May 15 - September 21 and October 22 - December 31. Effective June 19, 2015, NOAA Fisheries formally approved these measures. These measures, when combined with those being implemented in the northern region (Massachusetts through New Jersey), are expected to constrain recreational landings at or below the 2015 coastwide RHL.

The hearing record on the proposed amendments to 7 DE Admin Code §3507 Black Sea Bass Size Limit; Trip Limits, Seasons; Quotas will be open August 1, 2015. Individuals may submit written comments regarding the proposed changes via e-mail to Lisa.Vest@state.de.us or via the USPS to Lisa Vest, Hearing Officer, DNREC, 89 Kings Highway, Dover, DE 19901 (302) 739-9042. A public hearing on the proposed amendment will be held on August 26, 2015 beginning at 6:00 PM in the Dover Public Library, located at 35 Loockerman Plaza, Dover, DE 19901.

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
PUBLIC NOTICE
300 Board of Architects

The Delaware Board of Architects, pursuant to 24 **Del.C.** §306(a)(1), proposes to revise regulations 6.2.1 and 6.2.1.1. The proposed change seeks to allow licensees to carry over up to four continuing education credits every calendar year.

The Board will hold a public hearing on the proposed regulation change on September 2, 2015 at 1:30 p.m., Second Floor Conference Room B, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Flora Peer, Administrative Specialist of the Delaware Board of Architects, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments will be accepted until September 17, 2015 pursuant to 29 **Del.C.** §10118(a).

DIVISION OF PROFESSIONAL REGULATION
PUBLIC NOTICE
1900 Board of Nursing

The Delaware Board of Nursing, pursuant to 24 **Del.C.** §1904(c), proposes to revise regulations 2.1, 2.4.1.7, 3.0, 4.0, 5.0, and 9.4.5.1. The proposed change at 2.1 adds definition to the nursing regulations regarding nursing competency and standards. The proposed change at 2.4.1.7 revises the Board's regulations approved nursing education programs and such programs acceptable curricula. The proposed changes at 3.0 and 4.0 offer updates to the Board's refresher course or supervised practice requirement for nurses who seek to apply for endorsement or reinstatement of licensure and have not been actively employed over the past five years. The proposed changes at 5.0, et. seq. seek to bring the nursing regulations into line with a recent statutory change addressing the limited lay administration of medications, and the proposed change at 9.4.5.1 eliminates a Board requirement that continuing education programs keep a record of participants' social security numbers.

The Board will hold a public hearing on the proposed regulation change on September 9, 2015 at 9:30 a.m., Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Dr. Pamela Zickafoose, Executive Director of the Delaware Board of Nursing, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments will be accepted until September 24, 2015 pursuant to

29 Del.C. §10118(a).

DIVISION OF PROFESSIONAL REGULATION
PUBLIC NOTICE
2500 Board of Pharmacy

Pursuant to 24 Del.C. §2506(a)(1), the Delaware Board of Pharmacy has proposed revisions to its rules and regulations.

A public hearing will be held on September 16, 2015 at 9:30 a.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware, where members of the public can offer comments on the amendments to the rules and regulations. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Pharmacy, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board liaison, Christine Mast, at the above address.

The proposed revisions address the subject of the pharmacy permit holder's responsibility for ensuring the availability of adequate staffing in the pharmacy department. An understaffed pharmacy department can compromise the delivery of services and thereby put the public at risk. Specifically, Regulation 3.8 is amended to provide that the "pharmacy permit holder shall ensure that, at all times that the pharmacy department is open for business, there shall be at least one fully trained technician immediately available in the facility to assist in the pharmacy at the pharmacist's request."

In accordance with 29 Del.C. §10118(a), the final date to receive written comments will be October 1, 2015 which is 15 days following the public hearing. The Board will deliberate on all of the public comment at its next regularly scheduled meeting, at which time it will determine whether to adopt the rules and regulations as proposed or make additional changes due to the public comment.

PUBLIC SERVICE COMMISSION
PUBLIC NOTICE
3007 Electric Service Reliability and Quality Standards

TO: ALL ELECTRIC SUPPLIERS, ELECTRIC UTILITIES, ELECTRIC GENERATORS USING RENEWABLE RESOURCES, AND OTHER INTERESTED PERSONS

By Order No. 8750 dated June 16, 2015, the Delaware Public Service Commission (the "PSC") is reopening the docket to review its rules on "Electric Service Reliability and Quality Standards" (the "Rules") for electric distribution companies subject to its jurisdiction.

You may review PSC Order No. 8750 and the proposed revised Rules in the August 2015 issue of the Delaware *Register of Regulations* or on the PSC's Internet website located at <http://depdc.delaware.gov/electric.shtml>.

Interested parties may file written comments concerning the proposed revised Rules. Such written comments may be submitted to the Commission office on or before September 2, 2015, at the following address:

Delaware Public Service Commission
861 Silver Lake Boulevard
Cannon Building, Suite 100
Dover, Delaware, 19904
Attn: PSC Regulation Docket No. 50

The Commission Staff will conduct a public workshop on the proposed revised Rules on Wednesday, September 16, 2015, beginning at 10:00 a.m. at the Commission's office at 861 Silver Lake Boulevard, Cannon Building, Suite 100, Dover, Delaware 19904.

If you wish to obtain copies of the Order and proposed revised Rules, please submit a Freedom of Information Act Request Form. This form may be found at <http://smu.portal.delaware.gov/cgi-bin/mail.php?foia>

request&subj=DOS. There is also a link to the Freedom of Information Act Request Form on the Commission's website at http://sos.delaware.gov/foia_requests.shtml. The Commission will respond to your request in accordance with the Delaware Freedom of Information Act, 29 **Del.C.** ch. 100.

If you have a disability and wish to participate or to review the materials in this matter, please contact the Commission to discuss any auxiliary aids or services you might need to help you. You may contact the Commission in person, by writing, by telephone (including text telephone), by Internet e-mail, or other means. If you have questions about this matter, you may call the Commission at 1-800-282-8574 (toll-free in Delaware) or (302) 736-7500 (voice and text telephone).

DEPARTMENT OF TRANSPORTATION

DIVISION OF TRANSPORTATION SOLUTIONS

PUBLIC NOTICE

2405 Oversize/Overweight Hauling Permit Policy and Procedures Manual

The Delaware Division of Transportation Solutions gives notice of intent to change the fees relating to Oversize/Overweight Hauling Permits within Title 2 Division of Transportation Solutions Regulation 2504. Statutory Authority: 21 **Del.C.** §4504.

This proposal is in conjunction with House Bill 140 of the 148th General Assembly, which increased specific Division of Motor Vehicles fees relating to driving authority and vehicle registrations. The Division of Transportation Solutions has not raised its fees since 1983.

Any person who wishes to make written suggestions, briefs or other written materials concerning this proposed new regulation must submit the same to Kenneth Shock, Chief of Fraud Investigation Unit, Delaware Division of Motor Vehicles, P.O. Box 698, Dover, Delaware 19903, or by fax to (302) 736-7993 Attn: Kenneth Shock by September 1, 2015.
