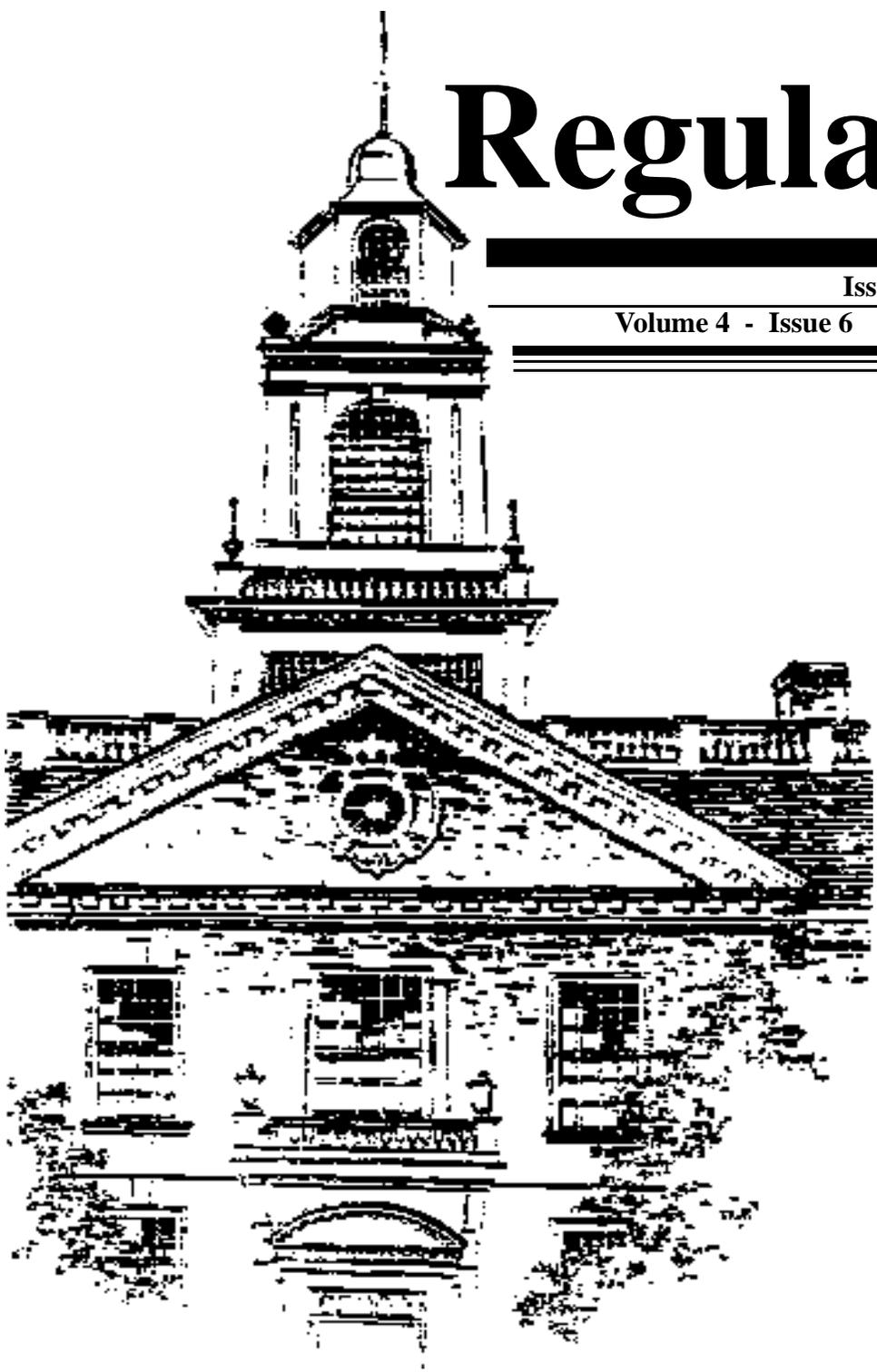

Delaware Register of Regulations



Issue Date: December 1, 2000

Volume 4 - Issue 6

Pages 880 - 1057

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Proposed

Final

Governor

Executive Order

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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 November 15, 2000.

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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The Delaware Register will publish any regulations that are proposed to be adopted, amended or repealed and any emergency regulations promulgated.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
- Attorney General's Opinions in full text
- 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:

3 DE Reg. 737 - 742 (12/1/99)

Refers to Volume 3, pages 737 - 742 of the Delaware Register issued on December 1, 1999.

SUBSCRIPTION INFORMATION

The cost of a yearly subscription (12 issues) for the Delaware Register of Regulations is \$120.00. Single copies are available at a cost of \$12.00 per issue, including postage. For more information contact the Division of Research at 302-739-4114 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and other interested parties may participate in the process by which administrative regulations are adopted, amended or repealed, and may initiate the process by which the validity and applicability of regulations is determined.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file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the Register of Regulations pursuant to §1134 of this title.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.

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

INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

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
DECEMBER 1	NOVEMBER 15	4:30 P.M.
JANUARY 1	DECEMBER 15	4:30 P.M.
FEBRUARY 1	JANUARY 15	4:30 P.M.
MARCH 1	FEBRUARY 15	4:30 P.M.
APRIL 1	MARCH 15	4:30 P.M.

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Roman type indicates the text existing prior to the regulation being promulgated. Underlined text indicates new text. Language which is ~~stricken~~ through indicates text being deleted.

Proposed Regulations

Under 29 Del.C. §10115 whenever an agency proposes to formulate, adopt, amend or repeal a regulation, it shall file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the Register of Regulations pursuant to §1134 of this title. The notice shall describe the nature of the proceedings including a brief synopsis of the subject, substance, issues, possible terms of the agency action, a reference to the legal authority of the agency to act, and reference to any other regulations that may be impacted or affected by the proposal, and shall state the manner in which persons may present their views; if in writing, of the place to which and the final date by which such views may be submitted; or if at a public hearing, the date, time and place of the hearing. If a public hearing is to be held, such public hearing shall not be scheduled less than 20 days following publication of notice of the proposal in the Register of Regulations. If a public hearing will be held on the proposal, notice of the time, date, place and a summary of the nature of the proposal shall also be published in at least 2 Delaware newspapers of general circulation; The notice shall also be mailed to all persons who have made timely written requests of the agency for advance notice of its regulation-making proceedings.

**DEPARTMENT OF
ADMINISTRATIVE SERVICES
DIVISION OF PROFESSIONAL REGULATION**

BOARD OF PHARMACY

24 DE ADMIN. CODE 2500

Statutory Authority: 24 Delaware Code,
Section 2509 (24 Del. C. 2509)

Rescheduled Public Hearing

PLEASE TAKE NOTICE, pursuant to 29 Del.C. §2509, the Delaware Board of Pharmacy (Board) has developed and proposes to adopt new Regulation XV to provide comprehensive requirements which will govern automated systems in community, institutional, and long term care pharmacy settings. The proposed regulation was first published in the Register of Regulations on October 1, 2000 and changes from that draft are designated herein using strikeout and boldface. The record retention period is increased to 3 years and certain responsibilities are transferred from the pharmacist-in-charge to the permit holder.

The Board also has proposed changes to Regulation I relating to continuing education that provides for an audit to insure compliance rather than reviewing the documentation of each licensee. Another change would permit a licensee to receive 2 C.E. in each licensing period by attending a meeting of the Delaware Board of Pharmacy. A change to Regulation VI is also proposed to establish a beyond use date for single unit and unit dose containers.

A public hearing will be held on the proposed changes

on January 10, 2001 at 10:00 a.m. in the Jesse Cooper Building, Room 309 (third floor conference room), Federal and Water Streets, Dover, DE 19901. This hearing was previously scheduled for November 15, 2000 and canceled. The Board will receive and consider input from any person on the proposed Regulation. Written comment can be submitted at any time prior to the hearing in care of Gradella E. Bunting at the above address. In addition to publication in the Register of Regulations and two newspapers of general circulation, copies of the proposed regulation can be obtained from Gradella E. Bunting by calling (302)739-4798.

Regulation I

Pharmacist Licensure Requirements

D. Continuing Education Educational Programs

§. 5. Criteria for Awarding Continuing Education Credits

Individual programs must meet the criteria for provider approval in order to be considered. In those cases where the provider is not an ACPE provider, nor a Board of Pharmacy approved provider, a registrant may complete an application provided by the Board for approval of individual programs.

(+) a. In order to receive full credit for non-ACPE approved programs of one-to-two hour lengths, evidence of a post test must be presented. An automatic 25% deduction if no post test presented.

(2) b. In order to receive full credit for non ACPE approved programs of three or more hours in length, evidence of a pre and post test must be presented. Automatic 25% deduction if no pre and post test presented.

(3) c. The Committee will only assign credit for the

core content of the program which explicitly relates to the contemporary practice of Pharmacy.

(4) d. A maximum of 2 credit hours will be awarded for First Aid, attendance at a Board of Pharmacy meeting and ~~or~~ CPR/BCLS courses one time only per registration period.

(5) e. Credit for Instructors of Continuing Education

(a)(1) Any pharmacist whose primary responsibility is not the education of health professionals, who leads, instructs or lectures to groups of nurses, physicians, pharmacists or others on pharmacy related topics in organized continuing education or inservice programs, shall be granted continuing education credit for such time expended during actual presentation, upon adequate documentation to the Delaware Board of Pharmacy.

(b)(2) Any pharmacist whose primary responsibility is the education of health professionals shall be granted continuing education credit only for time expended in leading, instructing, or lecturing to groups of physicians, pharmacists, nurses or others on pharmacy related topics outside his/her formal course responsibilities (that is, lectures or instructions must be prepared specifically for each program) in a learning institution.

(c)(3) Credit for presentations of in-service training programs or other lectures shall be granted only for topics meeting the criteria for continuing pharmacy education, and shall be granted only once for any given program or lecture. (Any topic completely revised would be eligible for consideration.)

(d)(4) A maximum of 6 hours (0.6 C.E.U.'s) in this category may be applied toward fulfilling the total biennial continuing education requirements.

(6) f. Credit for On the Job Training:

(a) (1) The Board of Pharmacy does not as a general rule encourage the submission of "on the job training" for fulfilling the continuing education requirements. All programs meeting this definition shall be reviewed on an individual basis.

(b) (2) All programs that are submitted for credit must meet the criteria for continuing pharmacy education.

(c) (3) No credit shall be awarded for programs required by an employer for continued employment of the employee. (Examples OSHA training, Infection Control Education required by JCAHO.)

(d)(4) A maximum of 4 hours (0.4 C.E.U.'s) in this category may be applied toward fulfilling the total biennial continuing education requirements.

E. The Verification of Continuing Education

~~The pharmacist will be responsible for providing the Board with verification of completion of the required continuing education programs by such means as designated by the Board. A pharmacist shall complete the required continuing education and submit the signed renewal form with appropriate fees to the Board of Pharmacy. A~~

pharmacist shall retain the supporting documentation, such as certification of completion for a minimum of six years. The Board will randomly audit the documentation of at least 10% of licensed pharmacists every biennial term. Supporting documentation may be requested for up to six years. Pharmacists who were not selected for audit do not send supporting documentation to the Board. Submitting a false documentation may constitute grounds for discipline under 24 Del. C. §2518 (a) (1).

Regulation VI Pure Drug Regulations

C. Anyone who repacks and labels drugs in convenient quantities for their own subsequent use must maintain a log on the premises showing the date repacked, the quantity repacked, the control number, expiration date and name and strength of the drug. Repacking must be done under the supervision of a registered pharmacist or any other person authorized to dispense under 24 Del.C. §2513. Each container must have a label containing the name of the drug, its strength, the manufacturer's control number, the expiration date if applicable, the name of the manufacturer, or the name and strength of the drug and a conference code number which would enable the control number, manufacturer and expiration date to be retrieved from the log. Nothing in this regulation precludes the Federal laws and regulations.

1. Beyond use date for single unit and unit dose containers.

The beyond use date for these products shall be one year or less, unless the stability data or the manufacturer's labeling indicates otherwise. To use this date, the dispenser repacking the product must maintain the facility and packaging at controlled room temperature not to exceed 25°C. The plastic material used for repacking must provide better protection against moisture permeation than polyvinyl chloride.

Regulation XV Automated Pharmacy Systems

A. Purpose and Scope

1. The purpose of this regulation is to recognize the use of automated pharmacy systems in community, institutional, and long term care pharmacy settings.

B. Definitions

1. "Automated Pharmacy Systems" include, but are not limited to, mechanical systems that perform operations or activities, other than compounding or administration, relative to storage, packaging, dispensing, or distribution of medications, and which collects, controls, and maintains all transaction information.

C. Automated Pharmacy Systems – General Requirements**1. Personnel****a. Duties and Responsibilities of the Permit Holder**

1. The Permit Holder has the following responsibilities:

(a) Assuring that the Automated Pharmacy System is in good working order and accurately dispenses the correct strength, dosage form, and quantity of the drug prescribed while maintaining appropriate record keeping and security safeguards.

(b) Developing and implementing an ongoing quality assurance program that monitors performance of the Automated Pharmacy System, which is evidenced by written policies and procedures developed by the pharmacy.

(c) Providing the Board with 60 days prior written notice of the installation, removal, substantive change of Automated Pharmacy Systems. Such notice must include, but is not limited to:

(i) the name and address of the pharmacy;

(ii) the location of the automated equipment; and

(iii) the identification of the responsible pharmacist.

(iv) policies and procedures for system operations (for initial installations).

(d) Obtaining written approval and authorization from the Board of Pharmacy prior to implementation.

2. Pharmacy Practice**a. Automated Pharmacy Systems**

(1) Automated Pharmacy Systems can be utilized in licensed pharmacies, remote locations under the jurisdiction of the Board of Pharmacy, and licensed health care facilities where legally permissible and shall comply with the following provisions:

(a) Documentation as to type of equipment, serial numbers, content, policies and procedures, and location shall be maintained on-site in the pharmacy for review by an agent of the Board of Pharmacy. Such documentation shall include, but is not limited to:

(i) Name and address of the pharmacy and/or licensed health care facility where the Automated Pharmacy System(s) is being used;

(ii) Manufacturer's name and model;

(iii) Description of how the device is used;

(iv) Quality assurance procedures to determine continued appropriate use of the automated device; and

(v) Policies and procedures for system

operation, safety, security, accuracy, patient confidentiality, access, and malfunction.

(b) Automated pharmacy Systems shall be used only in setting where there is an established program of pharmaceutical care that ensures medication orders are reviewed by a pharmacist in accordance with established policies and procedures and good pharmacy practice.

(c) All policies and procedures must be maintained in the pharmacy responsible for the system and, if the system is not located within the facility where the pharmacy is located, at the location where the system is being used.

(d) Automated Pharmacy Systems shall have adequate security systems and procedures, evidenced by written policies and procedures, to:

(i) Prevent unauthorized access and to comply with Federal and State regulations; and

(ii) Maintain patient confidentiality.

(e) Records and/or electronic data kept by Automated Pharmacy Systems shall meet the following requirements:

(i) All events involving the contents of the Automated Pharmacy System must be recorded electronically; and

(ii) Records must be maintained by the pharmacy and must be readily available to the Board. Such records must be maintained for a period of three (3) years and shall include:

((a)) identity of system accessed;

((b)) identification of the individual accessing the system;

((c)) type of transaction;

((d)) name, strength, dosage form, and quantity of the drug accessed;

((e)) name of the patient for whom the drug was ordered; and

((f)) such additional information as the pharmacist-in-charge may deem necessary.

(f) Access to and limits on access (e.g., security levels) to the Automated Pharmacy System must be defined by policy and procedures and must comply with State and Federal regulations.

(g) The pharmacist-in-charge or authorized designee shall be responsible for:

(i) Assigning, discontinuing, or changing access to the system.

(ii) Ensuring that access to the medication complies with State and Federal regulations.

(iii) Ensuring that the Automated Pharmacy System is filled/stocked accurately and in accordance with established, written policies and procedures that ensure accuracy.

(iv) Checking the automated pharmacy system for accurate dispensing of medications at

appropriate periodic intervals.

(h) The filling/stocking of all medication in the Automated Pharmacy System shall be accomplished by qualified personnel under the supervision of a licensed pharmacist.

(i) Community/Outpatient Pharmacy – A final check by the pharmacist is required after the medication is placed in the final container prior to dispensing and administration to the patient.

(ii) Hospital/Institution – Unit based or centralized dispensing requires the same level of supervision required in Regulation IX - B3 which states: "Supportive personnel may be utilized in assisting the pharmacist. These persons must be supervised by a registered pharmacist who is present within the hospital and is responsible for the activities of those persons".

(i) A record of medication filled/stocked into an Automated Pharmacy System shall be maintained and shall include identification of the persons filling/stocking and checking for accuracy.

(j) All containers of medications stored in Automated Pharmacy System shall be packaged and labeled in accordance with Federal and State laws and regulations.

(k) All aspects of handling controlled substances shall meet the requirements of all State and Federal laws and regulations.

(l) The Automated Pharmacy System shall provide a mechanism for securing and accounting for medications removed from and subsequently returned to the Automated Pharmacy System, all in accordance with existing State and Federal law.

(m) The Automated Pharmacy System shall provide a mechanism for securing and accounting for wasted medications or discarded medications in accordance with existing State and Federal law.

Revised July 13, 2000

**BOARD OF CLINICAL SOCIAL WORK
EXAMINERS**

24 DE ADMIN. CODE 3900

Statutory Authority: 24 Delaware Code,
Sections 3906(1) and (7) (24 Del.C.
§§3906(1)and(7))

PLEASE TAKE NOTICE, pursuant to 29 Del.C. Chapter 101 and 24 Del.C. Sections 3906 (1) and 3906(7), the Delaware Board of Clinical Social Work Examiners proposes to revise its rules and regulations. The proposed revisions clarify the continuing education requirement for ethics credits, and establish the time frames for continuing education reporting periods and biennial licensing periods.

A public hearing will be held on the proposed Rules and Regulations on Monday, January 22, 2001 at 9:30 a.m. in the Second Floor Conference Room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware, 19904. The Board will receive and consider input in writing from any person on the proposed Rules and Regulations. Any written comments should be submitted to the Board in care of Gayle Franzolino at the above address. The final date to submit written comments shall be at the above scheduled public hearing. Anyone wishing to obtain a copy of the proposed Rules and Regulations or to make comments at the public hearing should notify Gayle Franzolino at the above address or by calling (302) 739-4522.

This notice will be published in two newspapers of general circulation not less than twenty (20) days prior to the date of the hearing.

- 1.0 Election of Officers and Responsibilities
- 2.0 Professional Supervision
- 3.0 Application and Examination
- 4.0 Renewal
- 5.0 Continuing Education
- 6.0 Inactive Status (24 Del. C. §3911(c))
- 7.0 Ethics
- 8.0 Voluntary Treatment Option for Chemically Dependent or Impaired Professionals

1.0 Election of Officers and Responsibilities

1.1 Officers shall be elected in September of each year, for a one year term. Special election to fill vacancies shall be held upon notice and shall be only for the balance of the original term.

1.2 Officers have the following responsibilities:

1.2.1 The President will preside at all meetings and sign official documents on behalf of the Board.

1.2.2 The Vice-President will perform the duties of the President when the latter is unavailable or unable to perform the duties of the President.

1.2.3 The Secretary will preside over meetings in the absence of the President and Vice-President.

2.0 Professional Supervision

2.1 Acceptable supervision shall be that amount of personal oversight by the licensed professional that would be considered usual and customary in the profession consistent with the applicant's level of skill, education and experience, but in any event should include the following activities, by way of example and not by way of limitation:

2.1.1 Individual case reviews.

2.1.2 Evaluations of diagnosis and courses of treatment.

2.1.3 Proper adherence to agency policy and procedures.

2.2 The amount of supervisory contact shall be at least

one hour per week during the supervised period. This contact must be on a one-to-one face-to-face basis.

2.3 The Board shall require submission of the following information from the supervisor(s): supervisor's name, business address, license number, professional field and State in which the license was granted during the period of supervision; agency in which the supervision took place (if applicable); the number of qualifying practice hours toward the statutory requirement; and the number of one-to-one face-to-face supervisory hours.

2.4 A licensed Psychiatrist shall be defined as a licensed Medical Doctor with a specialty in psychiatry or a licensed Doctor of Osteopathic Medicine with a specialty in psychiatry.

3.0 Application and Examination

3.1 Applications will be kept active and on file for two (2) years. If the applicant fails to meet the licensure requirements and/or pass the examination within two (2) years, the application shall be deemed to have expired and the applicant must reapply in the same manner as for initial application, i.e., by submitting the application documentation along with the proper fee to be eligible to sit for the examination.

3.2 The Board will not review incomplete applications.

3.3 All signatures must be original on all forms.

3.4 The applicant shall have obtained the passing score on the national clinical examination approved by the American Association of State Social Work Boards (AASSWB). The Board shall accept the passing grade as determined by the AASSWB.

3.5 Any applicant holding a degree from a program outside the United States or its territories must provide the Board with an educational credential evaluation from International Consultants of Delaware, Inc., its successor, or any other similar agency approved by the Board, demonstrating that their training and degree are equivalent to domestic accredited programs. No application is considered complete until the educational credential evaluation is received by the Board. (29 Del. C. § 3907(a)(1))

4.0 Renewal

4.1 The licensee's failure to receive notices or letters concerning renewal will not relieve the licensee of the responsibility to personally assure delivery of his/her renewal application to the Board.

4.2 In order to be eligible for license renewal during the first year after expiration, the practitioner shall be required to meet all continuing education credits for continued licensure, pay the licensure fee, and pay any late fee established by the Division of Professional Regulation.

5.0 Continuing Education

5.1 Required Continuing Education Hours:

5.1.1 Hours Required. All licensees must complete forty-five (45) hours of continuing education during each biennial license period. For license periods beginning January 1, 1999 and thereafter, documentation, as required by Rule 5.4, of all continuing education hours must be submitted to the Board for approval by October 31 of each biennial license period.

5.1.2 Proration. At the time of the initial license renewal, some individuals will have been licensed for less than two (2) years. Therefore, for these individuals only, the continuing education hours will be prorated as follows:

License Granted During First	Credit Hours
Year Of Licensing Period	Required

January 1 - June 30	35 hours
July 1 - December 31	25 hours

License Granted During Second	Credit Hours
Year Of Licensing Period	Required

January 1 - June 30	15 hours
July 1 - December 31	5 hours

5.1.3 Hardship. A candidate for license renewal may be granted an extension of time in which to complete continuing education hours upon a showing of good cause. "Good Cause" may include, but is not limited to, disability, illness, extended absence from the jurisdiction and exceptional family responsibilities. Requests for hardship consideration must be submitted to the Board in writing prior to the end of the licensing period, along with payment of the appropriate renewal fee. No extension shall be granted for more than 120 days after the end of the licensing period. If the Board does not have sufficient time to consider and approve a request for hardship extension prior to the expiration of the license, the license will lapse upon the expiration date and be reinstated upon completion of continuing education pursuant to the hardship exception.

See 2 DE Reg 775 (11/1/98)

5.2 Definition and Scope of Continuing Education:

5.2.1 Continuing Education is defined to mean approved courses offered by colleges and universities, televised and extension courses, independent study courses which have a final exam or paper, workshops, seminars, conferences and lectures oriented toward the enhancement of clinical social work practice, values, skills and knowledge, including self-directed activity and preparation of a first-time clinical course as described herein.

5.2.1.1 Approved Courses shall be those courses which: increase the clinical social worker (CSW)'s knowledge about, skill in diagnosing and assessing, skill in treating, and/or skill in preventing mental and emotional

disorders, developmental disabilities and substance abuse; AND are instructed or presented by persons who have received specialized graduate-level training in the subject, or who have no less than two (2) years of practical application or research experience pertaining to the subject.

5.2.1.2 Mental and Emotional Disorders, Developmental Disabilities and Substance Abuse are those disorders enumerated and described in the most current Diagnostic and Statistical Manual including, but not limited to, the V Codes and the Criteria Sets and Axes provided for further study.

5.2.1.3 Self-Directed Activity shall include teaching, research, preparation and/or presentation of professional papers and articles, and other activities specifically approved by the Board.

5.2.2 Any program submitted for continuing education hours must have been attended during the biennial licensing period for which it is submitted. Excess credits may not be carried over to the next licensing period.

5.2.3 An "hour" for purposes of continuing education credit shall mean 60 minutes of instruction or participation in an appropriate course or program. Meals and breaks shall be excluded from credit.

5.2.4 The Board may, upon request, review and approve credit for self-directed activities, to a maximum of 15 hours per biennial licensing period. A licensee must obtain pre-approval of the Board prior to undertaking the self-directed activity in order to assure continuing education credit for the activity. Any self-directed activity submitted for approval must include a written proposal outlining the scope of the activity, the number of continuing education hours requested, the anticipated completion date(s), the role of the licensee in the case of multiple participants (e.g. research) and whether any part of the self-directed activity has ever been previously approved or submitted for credit by the same licensee.

5.2.5 The Board may award a maximum of 5 continuing education hours for the first-time preparation and presentation of a clinical social work course, in-service training, workshop, or seminar. A copy of the course syllabus and verification that the course was presented is required for Board approval.

5.3 Continuing Education Content Requirements:

During each biennial licensing period, licensees shall complete a minimum of thirty (30) hours of continuing education in Category I courses. The remaining fifteen (15) continuing education hours may be taken in Category II courses. At least three (3) of the 30 Category I hours shall be consist of courses acceptable to the Board in the area of social work ethics ethics for mental health professionals.

Category II: Courses in any of the following areas which are related to and increase the CSW's knowledge of mental and emotional disorders, developmental disabilities, and/or substance abuse

- research methods and findings;
- psychology and sociology;
- human growth and development;
- child and family constructs;
- physical illness and health;
- social action;
- advocacy;
- human creativity;
- spirituality
- HIV

5.4 Continuing Education Reporting and Documentation

5.4.1 Continuing Education Reporting Periods

Licenses are valid for 2 year periods, renewing on January 31 of odd numbered years (e.g. January 31, 2001, 2003). Continuing education reporting periods run from October 31 to October 31 of the preceding two even-numbered years (e.g. credits for the January 2001 license renewal may be obtained between October 31, 1998 and October 31, 2000). The Board will allow credits obtained between October 31 and January 31 to apply to either (but not both) of the biennial licensing periods, at the licensee's discretion.

Beginning with the January 2003 license renewal, all required continuing education should be completed within the previous two year October to October period (e.g. between October 31, 2000 and October 31, 2002 for January 2003 renewal). The Board shall continue to have the discretion, however, to grant extensions of time in which to complete continuing education in cases of hardship, pursuant to 24 Del.C. §3912 and Rule 5.1.3.

~~5.4.2~~ 5.4.1 In order to assure receipt of receive continuing education credits, a licensee must complete and submit the appropriate continuing education form provided by the Division of Professional Regulation no later than October 31st of the biennial licensing period.

~~5.4.3~~ 5.4.2 In addition to the form, each licensee must submit the following documentation as to each course attended: a certificate of attendance or completion signed by the presenter and attesting to the number of hours the licensee attended; documentation identifying the date and location of the course, the total number of CE hours attended and the agenda, outline or brochure describing the course. Originals or photocopies will be accepted and retained by the Board. The Board reserves its right to request additional documentation, such as copies of program materials, to verify CE compliance.

See 3 DE Reg 1680 (6/1/00)

6.0 Inactive Status (24 Del. C. § 3911(c))

6.1 A licensee asking to have his/her license placed on inactive status must notify the Board of his/her intention to do so, in writing, prior to the expiration of his/her current

license. Each subsequent request for extensions of inactive status must be submitted to the Board in writing, before the end of the immediately prior inactive period.

6.2 A licensee on inactive status must comply with Rule 5.0, "Continuing Education," for each period of inactivity. A licensee on inactive status seeking to re-enter practice must notify the Board in writing of his/her intention, pay the appropriate fee, and provide the Board with documentation of any continuing education hours required by Rule 5.0.

6.3 On written request and a showing of hardship, the Board may grant additional time for completion of continuing education requirements to licensees returning to practice from inactive status. "Hardship" may include, but is not limited to, disability, illness, extended absence from the jurisdiction and exceptional family responsibilities.

See 2 DE Reg 775 (11/1/98)

See 3 DE Reg 1680 (6/1/00)

7.0 Ethics

7.1 Duties to Client

7.1.1 The LCSW's primary responsibility is the welfare of the client.

7.1.2 In providing services, the LCSW must not discriminate on the basis of age, sex, race, color, religion/spirituality, national origin, handicap, political affiliation, or sexual orientation.

7.1.3 When a client needs other community services or resources, the LCSW has the responsibility to assist the client in securing the appropriate services.

7.1.4 The LCSW should refer a client to other service providers in the event that the LCSW cannot provide the service requested. In the case of a referral, no commission, rebate or any other remuneration may be given or received for referral of clients for professional services, whether by an individual or an organization.

7.1.5 The LCSW must, in cases where professional services are requested by a person already receiving therapeutic assistance from another professional, clarify with the client and the other professional the scope of services and division of responsibility which each professional will provide.

7.1.6 The LCSW must maintain appropriate boundaries in his/her interactions with a client. The LCSW must not engage in sexual activity with a client. The LCSW must not treat a family member or close personal friend where detached judgment or objectivity would be impaired. Business, social or professional relationships with a client (outside of the counseling relationship) should be avoided, where such relationships may influence or impair the LCSW's professional judgment.

7.2 Confidentiality/privileged Communications

7.2.1 The LCSW must safeguard the confidentiality of information given by clients in the course of client services.

7.2.2 The LCSW must discuss with clients the nature of and potential limits to confidentiality that may arise in the course of therapeutic work.

7.2.3 No LCSW or employee of such person may disclose any confidential information they may have acquired from persons consulting them in their professional capacity except under the following conditions:

7.2.3.1 With the written consent of the person or persons (the guardian, in the case of a minor) or, in the case of death or disability, of his/her personal representative, or person authorized to sue, or the beneficiary of an insurance policy on his/her life, health or physical condition, or

7.2.3.2 Where the communication reveals the contemplation of a crime or harmful act.

7.2.3.3 When the person waives the privilege by initiating formal charges against the LCSW.

7.2.3.4 When otherwise specifically required by law or judicial order.

7.2.4 The disclosure of confidential information, as permitted by Rule 7.2.3, is restricted to what is necessary, relevant, verifiable and based on the recipients' need to know. The LCSW should, provided it will not adversely affect the client's condition, inform the client about the nature and scope of the information being disclosed, to whom the information will be released and the purpose for which it is sought.

7.3 Ethical Practice

7.3.1 The LCSW is responsible for confining his/her practice to those areas in which he/she is legally authorized and in which he/she is qualified to practice. When necessary the LCSW should utilize the knowledge and experience of members of other professions.

7.3.2 The LCSW is responsible for providing a clear description of what the client may expect in the way of scheduling services, fees and any other charges or reports

7.3.3 The LCSW, or any employee or supervisee of the LCSW, must be accurately identified on any bill as the person providing a particular service, and the fee charged the client should be at the LCSW's usual and customary rate. Sliding fee scales are permissible.

7.3.4 An LCSW employed by an agency or clinic, and also engaged in private practice, must conform to contractual agreements with the employing facility. He/She must not solicit or accept a private fee or consideration of any kind for providing a service to which the client is entitled through the employing facility.

7.3.5 An LCSW having direct knowledge of a colleague's impairment, incompetence or unethical conduct should take adequate measures to assist the colleague in taking remedial action. In cases where the colleague does not address the problem, or in any case in which the welfare of a client appears to be in danger, the LCSW should report the impairment, incompetence or unethical conduct to the

Board.

7.3.6 The Board has voted to adopt the Voluntary Treatment Option, in accordance with 29 Del.C. §8807(n).

7.3.7 An LCSW should safeguard the welfare of clients who willingly participate as research subjects. The LCSW must secure the informed consent of any research participant and safeguard the participant's interests and rights.

7.3.8 In advertising his or her services, the LCSW may use any information so long as it describes his/ her credentials and the services provided accurately and without misrepresentation.

7.3.9 In the areas of computer and Internet technology and non-established practice, the LCSW should inform the client of risks involved. The LCSW should exercise careful judgment and should take responsible steps (such as research, supervision, and training) to ensure the competence of the work and the protection of the client. All precautions should be taken with computer-based communications to ensure that no confidential information is disseminated to the wrong individual and identities are protected with respect to privacy.

7.4 Clinical Supervision

7.4.1 The LCSW should ensure that supervisees inform clients of their status as interns, and of the requirements of supervision (review of records, audiotaping, videotaping, etc.). The client shall sign a statement of informed consent attesting that services are being delivered by a supervisee and that the LCSW is ultimately responsible for the services. This document shall include the supervising LCSW's name and the telephone number where he/she can be reached. One copy shall be filed with the client's record and another given to the client. The LCSW must intervene in any situation where the client seems to be at risk.

7.4.2 The LCSW should inform the supervisee about the process of supervision, including goals, case management procedures, and agency or clinic policies.

7.4.3 The LCSW must avoid any relationship with a supervisee that may interfere with the supervisor's professional judgment or exploit the supervisee.

7.4.4 The LCSW must refrain from endorsing an impaired supervisee when such impairment deems it unlikely that the supervisee can provide adequate professional services.

7.4.5 The LCSW must refrain from supervising in areas outside his/her realm of competence. Statutory Authority: 24 Del.C. §§3901, 3906(1)(6)(9), 3913, 3915.

See 3 DE Reg 1680 (6/1/00)

8.0 Voluntary Treatment Option for Chemically Dependent or Impaired Professionals

8.1 If the report is received by the chairperson of the regulatory Board, that chairperson shall immediately notify the Director of Professional Regulation or his/her designate

of the report. If the Director of Professional Regulation receives the report, he/she shall immediately notify the chairperson of the regulatory Board, or that chairperson's designate or designates.

8.2 The chairperson of the regulatory Board or that chairperson's designate or designates shall, within 7 days of receipt of the report, contact the individual in question and inform him/her in writing of the report, provide the individual written information describing the Voluntary Treatment Option, and give him/her the opportunity to enter the Voluntary Treatment Option.

8.3 In order for the individual to participate in the Voluntary Treatment Option, he/she shall agree to submit to a voluntary drug and alcohol screening and evaluation at a specified laboratory or health care facility. This initial evaluation and screen shall take place within 30 days following notification to the professional by the participating Board chairperson or that chairperson's designate(s).

8.4 A regulated professional with chemical dependency or impairment due to addiction to drugs or alcohol may enter into the Voluntary Treatment Option and continue to practice, subject to any limitations on practice the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional, deem necessary, only if such action will not endanger the public health, welfare or safety, and the regulated professional enters into an agreement with the Director of Professional Regulation or his/her designate and the chairperson of the participating Board or that chairperson's designate for a treatment plan and progresses satisfactorily in such treatment program and complies with all terms of that agreement. Treatment programs may be operated by professional Committees and Associations or other similar professional groups with the approval of the Director of Professional Regulation and the chairperson of the participating Board.

8.5 Failure to cooperate fully with the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate in regard to the Voluntary Treatment Option or to comply with their requests for evaluations and screens may disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board chairperson or that chairperson's designate or designates shall cause to be activated an immediate investigation and institution of disciplinary proceedings, if appropriate, as outlined in subsection (h) of this section.

8.6 The Voluntary Treatment Option may require a regulated professional to enter into an agreement which includes, but is not limited to, the following provisions:

8.6.1 Entry of the regulated professional into a treatment program approved by the participating Board.

Board approval shall not require that the regulated professional be identified to the Board. Treatment and evaluation functions must be performed by separate agencies to assure an unbiased assessment of the regulated professional's progress.

8.6.2 Consent to the treating professional of the approved treatment program to report on the progress of the regulated professional to the chairperson of the participating Board or to that chairperson's designate or designates or to the Director of the Division of Professional Regulation or his/her designate at such intervals as required by the chairperson of the participating Board or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate, and such person making such report will not be liable when such reports are made in good faith and without malice.

8.6.3 Consent of the regulated professional, in accordance with applicable law, to the release of any treatment information from anyone within the approved treatment program.

8.6.4 Agreement by the regulated professional to be personally responsible for all costs and charges associated with the Voluntary Treatment Option and treatment program(s). In addition, the Division of Professional Regulation may assess a fee to be paid by the regulated professional to cover administrative costs associated with the Voluntary Treatment Option. The amount of the fee imposed under this subparagraph shall approximate and reasonably reflect the costs necessary to defray the expenses of the participating Board, as well as the proportional expenses incurred by the Division of Professional Regulation in its services on behalf of the Board in addition to the administrative costs associated with the Voluntary Treatment Option.

8.6.5 Agreement by the regulated professional that failure to satisfactorily progress in such treatment program shall be reported to the participating Board's chairperson or his/her designate or designates or to the Director of the Division of Professional Regulation or his/her designate by the treating professional who shall be immune from any liability for such reporting made in good faith and without malice.

8.6.6 Compliance by the regulated professional with any terms or restrictions placed on professional practice as outlined in the agreement under the Voluntary Treatment Option.

8.7 The regulated professional's records of participation in the Voluntary Treatment Option will not reflect disciplinary action and shall not be considered public records open to public inspection. However, the participating Board may consider such records in setting a disciplinary sanction in any future matter in which the regulated professional's chemical dependency or impairment is an issue.

8.8 The participating Board's chairperson, his/her designate or designates or the Director of the Division of

Professional Regulation or his/her designate may, in consultation with the treating professional at any time during the Voluntary Treatment Option, restrict the practice of a chemically dependent or impaired professional if such action is deemed necessary to protect the public health, welfare or safety.

8.9 If practice is restricted, the regulated professional may apply for unrestricted licensure upon completion of the program.

8.10 Failure to enter into such agreement or to comply with the terms and make satisfactory progress in the treatment program shall disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board shall be notified and cause to be activated an immediate investigation and disciplinary proceedings as appropriate.

8.11 Any person who reports pursuant to this section in good faith and without malice shall be immune from any civil, criminal or disciplinary liability arising from such reports, and shall have his/her confidentiality protected if the matter is handled in a nondisciplinary matter.

8.12 Any regulated professional who complies with all of the terms and completes the Voluntary Treatment Option shall have his/her confidentiality protected unless otherwise specified in a participating Board's rules and regulations. In such an instance, the written agreement with the regulated professional shall include the potential for disclosure and specify those to whom such information may be disclosed.

See 3 DE Reg 1680 (6/1/00)

DEPARTMENT OF EDUCATION

14 DE Admin. Code

Statutory Authority: 14 Delaware Code,
Section 122(d) (14 Del.C. 122(d))

Educational Impact Analysis Pursuant To 14 Del. C. Section 122(d)

255 Definitions Public School and Private School

A. Type of Regulatory Action Requested

Amendment to Existing Regulation

B. Synopsis of Subject Matter of Regulation

The Secretary of Education seeks to amend the regulation Definitions Public School and Private School, page 11.1 in the *Handbook for Personnel Administration in Delaware School Districts*. The amendments to the definition of a public school add a reference to charter schools and change the words "supported entirely" to "supported primarily". The definition of a private school is

unchanged.

C. Impact Criteria

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

The amended regulation addresses the definition of a public school and a private school, not student achievement.

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

The amended regulation addresses the definition of a public school and a private school, not equity issues.

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

The amended regulation addresses the definition of a public school and a private school, not students' health and safety.

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

The amended regulation addresses the definition of a public school and a private school, not students' legal rights.

5. Will the amended regulation preserve the necessary authority and flexibility of decision makers at the local board and school level?

The amended regulation will preserve the necessary authority and flexibility of decision makers at the local board and school level.

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels?

The amended regulation will not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels.

7. Will decision making authority and accountability for addressing the subject to be regulated be placed in the same entity?

The decision making authority and accountability for addressing the subject to be regulated will remain in the same entity.

8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts and social studies?

The amended regulation will 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.

9. Is there a less burdensome method for addressing the purpose of the amended regulation?

The definitions of a public school and a private school need to be in regulation.

10. What is the cost to the state and to the local school boards of compliance with the regulation?

There is no additional cost to the state and local school boards for compliance with the amended regulation.

255 Definitions of Public School and Private School

1.0 Public School – A public school shall mean a school or Charter School having any or all of grades kindergarten through twelve, supported ~~entirely~~ primarily from public funds and under the supervision of public school administrators. It also shall include the agencies of states and cities which administer the public funds.

2.0 Private School – A private school shall mean a school having any or all of grades kindergarten through twelve, operating under a board of trustees and maintaining a faculty and plant which are properly supervised and shall be interpreted further to include an accredited and/or approved college or university.

Educational Impact Analysis Pursuant To 14 Del. C. Section 122(d)

401 Major Capital Improvement Programs

A. Type of Regulatory Action Requested

Amendment to Existing Regulation

B. Synopsis of Subject Matter of Regulation

The Secretary of Education seeks to amend the regulation 401 Major Capital Improvement Programs by adding 1.1 to read as follows: “the Secretary of Education shall annually review the current cost per square foot for construction and make needed adjustments as required”. This addition makes it clear that the Secretary of Education can adjust the cost per square foot when appropriate. The amendment also adds a new 10.0 on air conditioning to reflect Section 132 of the 2001 Bond Bill that requires the inclusion of air conditioning in all Certificates of Necessity issued after July 2000, for new construction and major renovation/rehabilitation. The existing 10.0, Administration

of the New School becomes 11.0.

C. Impact Criteria

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

The amended regulation addresses construction costs, not student achievement.

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

The amended regulation addresses construction costs, not student equity issues.

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

The amended regulation addresses construction costs, not student's health and safety.

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

The amended regulation addresses construction costs, not students' legal rights.

5. Will the amended regulation preserve the necessary authority and flexibility of decision makers at the local board and school level?

The amended regulation will preserve the necessary authority and flexibility of decision makers at the local board and school level.

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels?

The amended regulation will not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels?

7. Will decision making authority and accountability for addressing the subject to be regulated be placed in the same entity?

The decision making authority and accountability for addressing the subject to be regulated will remain in the same entity.

8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts and social studies?

The amended regulation will 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.

9. Is there a less burdensome method for addressing the purpose of the regulation?

The *Del. C.* directs the Department of Education to make regulations concerning this issue.

10. What is the cost to the state and to the local school boards of compliance with the amended regulation?

There is no additional cost to the State or the local school boards for compliance with this regulation and it could result in additional moneys for local school boards.

401 Major Capital Improvement Programs

1.0 Major Capital Improvement Programs are projects in excess of \$250,000.

1.1 The Secretary of Education shall annually review the current cost per square foot for construction and make needed adjustments as required.

2.0 Procedures for Approval of a Site for School Construction

2.1 Local school districts shall contact the Department of Education for a site review when they propose to purchase a site for school purposes. All prospective sites shall be reviewed at one time. It is preferable that at least four (4) sites be considered.

2.2 The Department of Education will forward all prospective sites to the following agencies for their review and comments. The Department of Education will consolidate the responses of the other agencies in order to review and rank the prospective sites and list all reasons for approval or rejection. The Department shall then notify the school district concerning their final decision.

2.2.1 State Planning Coordination Office

2.2.2 The Budget Office

2.2.3 The Department of Natural Resources and Environmental Control

2.2.4 The Department of Agriculture

2.2.5 The Department of Transportation

2.2.6 The Local Planning Agency having jurisdiction

3.0 Educational Specifications, Schematic Plans, Preliminary Plans, and Final Plan Approvals

3.1 Educational Specifications are defined as a document which presents to an architect what is required of an educational facility to house and implement the educational philosophy and institutional program in an effective way.

3.1.1 Educational Specifications shall be approved by the local school board and the Department of Education. The Department will require ten (10) working days for completion of the review and approval process.

3.2 All Schematic Plans shall be approved by the local school board and the Department of Education and these approved plans should be sent to the county or city planning office for information purposes only.

3.3 All Preliminary Plans shall be approved by the local school board and the Department of Education.

3.4 All final plans shall be approved by the local school board and the Department of Education.

3.5 The local school district must involve the following groups in reviewing these plans prior to the final approval.

3.5.1 Fire Marshal to review the plans for fire safety.

3.5.2 Division of Public Health, Bureau of Environmental Health, Sanitary Engineering for Swimming Pools, and the County Health Unit for information on Kitchens and Cafeterias.

3.5.3 Division of Facilities Management, Chief of Engineering & Operations for compliance with building codes.

3.5.4 Division of Highways for review of the Site Plan showing entrances and exits.

3.5.5 Architectural Accessibility Board for access for persons with disabilities.

4.0 Certificates of Necessity

4.1 The Certificate of Necessity is a document issued by the Department of Education which certifies that a construction project is necessary and sets the scope and cost limits for that project.

4.2 Certificates of Necessity shall be obtained sufficiently in advance to meet all prerequisites for the holding of a local referendum as it must be quoted in the advertisement for the referendum and shall be issued only at the written request of the local school district.

5.0 Notification, Start of Construction, Completion of Construction and Certificate of Occupancy

5.1 The school district shall submit to the Department of Education and the State Budget Director a construction schedule, showing start dates, intermediate stages and final completion dates.

5.2 The school district shall notify the Department of Education, the State Budget Director and the Insurance Coverage Office at the completion of the construction, which is defined as when the school district, with the concurrence of the architect, accepts the building as complete.

5.3 The school district shall notify the Department of Education, the State Auditor, and the State Budget Director upon approval of the Certificate of Occupancy.

5.4 Local school districts shall submit to the Department of Education a copy of the electronic autocad files. Electronic autocad files shall be submitted no later than 30 calendar days after the completion of any major renovation or addition to an existing facility.

6.0 Purchase Orders: All purchase orders for any major capital improvement project shall be approved by both the Department of Education and the Director of Capital Budget and Special Projects prior to submission to the Division of Accounting.

7.0 Change Orders

7.1 Change Orders are changes in the construction contract negotiated with the contractor. The main purpose is to correct design omissions, faults of unforeseen circumstances which arise during the construction process.

7.2 All Change Orders must be agreed upon by the architect, the school district and the contractor and shall be forwarded to the Department of Education.

7.2.1 Submission of a Change Order must include the following documents: Completed purchase order as applicable; Local Board of Education minutes identifying and approving the changes; Completed AIA document G701; Correspondence which gives a breakdown in materials, mark-up and other expenses; and, if not contained in any of the preceding, an explanation of need plus any drawings needed to explain the requested change.

8.0 Transfer of Funds between Projects

8.1 The transfer of funds between projects during the bidding and construction process shall have the written approval of the Department of Education. Acceptability of the transfer of funds will meet the following criteria:

8.1.1 No project may have more than 10% of its funding moved to another project. For example -no more than \$10,000 could be transferred from a \$100,000 project to any other project.

8.1.2 No project may have more than 10% added to its initial funding. For example - no more than \$10,000 would be transferred from all other projects to a project originally budgeted at \$100,000.

9.0 Educational Technology: All school buildings being constructed or renovated under the Major Capital Improvement Program shall include, in the project, wiring for technology that meets the Delaware Center for Educational Technology standards appropriate to the building type, such as high school, administration, etc. The cost of such wiring shall be borne by project funds.

10.0 Air Conditioning: All school buildings with Certificates of Necessity issued after July 1, 2000 for new school construction and/or major renovation/rehabilitation

shall require the inclusion of air conditioning unless otherwise waived by the Secretary of Education.

~~10-0~~ 11.0 Administration of the New School: The principle administrator of a new school may be hired for up to one (1) year prior to student occupancy to organize and hire staff. The State portion of salary/benefits may be paid from Major Capital Improvement Programs.

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

501 State Content Standards

A. Type of Regulatory Action Requested

Amendment to Existing Regulation

B. Synopsis of Subject Matter of Regulation

The Secretary of Education seeks the approval of the State Board of Education to amend regulation 501 State Content Standards in the following ways:

Change the first reference to “instructional programs” to “planned programs” in sections 1.1 through 1.6 and remove the word “instructional” from the second reference to “instructional programs” in 1.1 through 1.6.

Change the references from “K-12” to elementary, middle/junior high and high schools in 1.1 and 1.4.

Change section 1.2 by amending the language from three existing parts of the *Handbook for K-12 Education* that address the visual and performing arts, D.2. in the Elementary Education Section II, 2.b. in the Middle Level Section III and 3.b in the Secondary Section IV. These sections are amended to read as follows: “each local school district shall provide planned programs in the visual and performing arts in each elementary, middle/junior high and high school. The programs shall be in alignment with the document *Visual and Performing Arts Content Standards* as the same may from time to time hereafter be amended with the approval of the Secretary and the State Board of Education”. This new language reflects current practice by requiring that high schools as well as elementary and middle level/junior high schools have programs in the visual and performing arts.

Change section 1.3 by amending the language from Section 2.f Home Economics (which includes Technology Education) from the Middle Level Section III of the *Handbook for K-12 Education*. This section is amended to read as follows: “each local school district shall provide planned programs in vocational technical education in each middle/junior high school. The program(s) that the district selects shall be in alignment with the appropriate state content standards and the same may from time to time hereafter be amended with the approval of the Secretary and

the State Board of Education”. The new language includes all vocational technical programs including technical education and home economics (now referred to as family and consumer sciences) and also refers to middle level/junior high schools instead of grades 5-8.

Change the order of the items in the regulation by moving 1.2 to 1.4, 1.3 to 1.5, 1.4 to 1.3 and 1.5 to 1.2.

C. Impact Criteria

1. Will the amended regulations help improve student achievement as measured against state achievement standards?

The amended regulations clarify student program requirements that do effect student achievement.

2. Will the amended regulations help ensure that all students receive an equitable education?

The amended regulations address student program requirements, not equity issues.

3. Will the amended regulations help to ensure that all students' health and safety are adequately protected?

The amended regulations address student program requirements, not health and safety issues.

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

The amended regulations address student program requirements, not students' legal rights.

5. Will the amended regulations preserve the necessary authority and flexibility of decision makers at the local board and school level?

The amended regulations will preserve the necessary authority and flexibility of decision makers at the local board and school level.

6. Will the amended regulations place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels?

The amended regulations will not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels.

7. Will decision making authority and accountability for addressing the subject to be regulated be placed in the same entity?

The decision-making authority and accountability for addressing the subject to be regulated will remain in the same entity.

8. Will the amended regulations be consistent with and not an impediment to the implementation of other state

educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts and social studies?

The amended regulations will 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.

9. Is there a less burdensome method for addressing the purpose of the regulation?

The amendments are needed to clarify the role and application of the state content standards.

10. What is the cost to the state and to the local school boards of compliance with the amended regulations?

There is no cost to the state and to the local school boards of compliance with the amended regulations.

AS APPEARS IN THE *HANDBOOK FOR K-12 EDUCATION*

(From the Elementary Section II)

~~2. VISUAL AND PERFORMING ARTS (Music, Visual Arts, Theatre and Dance)~~

~~a. All schools must provide a program of study in the visual and performing arts as a part of the curriculum to meet the educational and cultural needs of students in each of the elementary grades, kindergarten through four.~~

~~b. Programs in the visual and performing arts must be aligned with the state content standards when they are adopted by the State Board of Education. It is anticipated they will be adopted in June, 1997.~~

(From the Middle Level Section III)

~~b. Visual and Performing Arts (music, visual arts, theatre, dance)~~

~~(1) All schools must provide a program of study in the visual and performing arts as a part of the curriculum to meet the educational and cultural needs of students in each of the middle level grades, five through eight.~~

~~(2) Programs in the visual and performing arts must be aligned with the state content standards when they are approved by the State Board of Education. It is anticipated that they will be adopted in June, 1997.~~

~~f. Home Economics~~

~~Program offerings in home economics and technology education must be available to all students in middle school to insure that they have the exploratory experience and elective studies to develop their special interest skills. It is essential that these programs be staffed by certified home economics and technology education teachers.~~

(From the Secondary Section IV)

~~b. Visual and Performing Arts (Music, Visual Arts, Theatre, and Dance)~~

~~(1) All high schools should provide a program of study in the visual and performing arts as a part of the curriculum to meet the educational and cultural needs of all students as well as those students wishing to pursue in-depth study or a career in the visual and performing arts.~~

~~(2) Programs in the visual and performing arts must be aligned with the state content standards when they are adopted by the State Board of Education. It is anticipated that they will be adopted in June, 1997.~~

AS AMENDED

501 State Content Standards

1.0 State Content Standards

1.1 Each local school district and each charter school shall provide planned instructional programs in mathematics, English language arts, science and social studies for all students in each elementary, middle/junior high and high school, grades K-12, except for those students for whom a functional life skills curriculum is appropriate. The ~~instructional~~ programs shall be in alignment with the documents *Mathematics Curriculum Framework*, *English Language Arts Curriculum Framework*, *Science Curriculum Framework* and *Social Studies Curriculum Framework* as the same may from time to time hereafter be amended with the approval of the Secretary and the State Board of Education.

~~1.2 1-5~~ Each local school district and each charter school shall provide a planned instructional programs for students for whom a functional life skills curriculum is appropriate. The ~~instructional~~ program shall be in alignment with the document *Standards for Functional Life Skills Curriculum* as the same may from time to time hereafter be amended with the approval of the Secretary and the State Board of Education.

~~1.3 1-4~~ Each local school district shall provide planned instructional programs in health and wellness education and in physical education for all students in each elementary, middle/junior high and high school, grades K-12. The ~~instructional~~ programs shall be in alignment with the documents *Delaware Health Education Curriculum Framework and Assessment* and *the Physical Education Content Standards* as the same may from time to time be amended with the approval of the Secretary and the State Board of Education.

~~1.3~~ Each local school district shall provide instructional programs in technology education for all students in grades 5-8 except for those students for whom a functional life skills curriculum is appropriate. The instructional program shall be in alignment with the document *Technology Education Curriculum Framework Content Standards* as the

same may from time to time hereafter be amended with the approval of the Secretary and the State Board of Education.

1.4 ~~1.2~~ Each local school district shall provide planned instructional programs in the visual and performing arts in each elementary, middle/junior high and high school, for all students in grades K-8 except for those students for whom a functional life skills curriculum is appropriate. The ~~instructional~~ programs shall be in alignment with the document *Visual and Performing Arts Content Standards* as the same may from time to time hereafter be amended with the approval of the Secretary and the State Board of Education.

1.5 Each local school district shall provide planned programs in vocational technical education in each middle/junior high school. The program(s) that the district selects shall be in alignment with the appropriate state content standards as the same may from time to time hereafter be amended with the approval of the Secretary and the State Board of Education.

1.6 Each local school district that provides additional planned instructional programs for students in any area of agriscience, business finance and marketing education, foreign language, ~~visual and performing arts and~~ technology education and consumer and family sciences shall align these ~~programs areas~~ with the applicable state content standards. These programs ~~areas~~ shall be in alignment with the documents *Agriscience Curriculum Framework Content Standards, Business Finance and Marketing Education Curriculum Framework Content Standards, Foreign Language Curriculum Framework Content Standards, Visual and Performing Arts Content Standards* ~~and, the Technology Education Curriculum Framework Content Standards~~ and/or the Consumer and Family Sciences Content Standards as the same may from time to time hereafter be amended with the approval of the Secretary and the State Board of Education.

1.7 Each local school district shall provide for the integration of content areas within and across the curricula.

1.8 Each local school district shall keep instructional materials and curricula content current and consistent with the *Guidelines for the Selection of Instructional Materials*.

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

543 Physical Education

A. Type of Regulatory Action Requested

Amendment to Existing Regulation

B. Synopsis of Subject Matter of Regulation

The Secretary of Education seeks the approval of the State Board of Education to amend the regulations D.5

Physical Education in Section II Elementary Education, 2.e Physical Education in Section III Middle Level Education, and 3.f. Physical Education in Section IV Secondary Education from the *Handbook for K-12 Education*. The amendment combines these three separate references into one regulation concerning time allotments for physical education programs and sets the time for elementary education students at sixty minutes per week rather than the thirty minutes per day referenced previously.

C. Impact Criteria

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

The amended regulation clarifies student program requirements that do effect student achievement.

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

The amended regulation addresses student program requirements, not equity issues.

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

The amended regulation addresses physical education requirements which do affect health and safety issues.

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

The amended regulation addresses student program requirements, not students' legal rights.

5. Will the amended regulation preserve the necessary authority and flexibility of decision makers at the local board and school level?

The amended regulation will preserve the necessary authority and flexibility of decision makers at the local board and school level.

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels?

The amended regulation will not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels.

7. Will decision making authority and accountability for addressing the subject to be regulated be placed in the same entity?

The decision-making authority and accountability for addressing the subject to be regulated will remain in the same entity.

8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts and social studies?

The amended regulation will 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.

9. Is there a less burdensome method for addressing the purpose of the regulation?

The amendment is necessary to consolidate and clarify the existing regulations.

10. What is the cost to the state and to the local school boards of compliance with the amended regulation?

There is no cost to the state and to the local school boards of compliance with the amended regulation.

AS APPEARS IN THE *HANDBOOK FOR K-12 EDUCATION*

H. ELEMENTARY EDUCATION

5. PHYSICAL EDUCATION

a. ~~The primary goal of the elementary physical education program is to have students acquire the fundamental skills necessary for their participation in team or group activities, free play, and health-related physical fitness.~~

b. ~~Classes should be learning laboratories in which students are involved in the important task of learning about themselves and others through movement.~~

e. ~~The program should be student centered, with a special focus on problem solving and exploratory methods applied to a wide range of activities.~~

d. ~~Students should have freedom of choice, but be guided by the teacher toward predetermined goals.~~

e. ~~This suggested time allotment will serve as a basis in the formulation of the daily or weekly schedule depending on the school organization:~~

~~Vigorous Physical Activity--~~

~~1st and 2nd grade 30 minutes daily~~

~~3rd, 4th, 5th and 6th grade 30 minutes daily~~

f. ~~A major part of physical education should be directed play involving team or group activities, while 30 minutes per week may be supervised free play. Directed play involves selected activities to teach desirable skills while free play is permitting the children a choice of activities under the supervision of the teacher.~~

III. MIDDLE LEVEL EDUCATION

e. Physical Education

~~Physical education must be offered at least two class periods per week for a year or five days a week for a semester in both grades 7 and 8. (State Board Approved February 1985)~~

IV. HIGH SCHOOL

f. Physical Education

~~(1) Physical education shall be a requirement for any two years during grades nine through twelve with a maximum of 1/2 unit of credit earned per year. Provision for makeup and accumulation of required credit should be provided at the ninth through twelfth grade levels.~~

~~(2) Physical education should be offered as an elective for ninth through twelfth grade students.~~

~~(3) The high schools may establish their physical education program of instruction within these guidelines:~~

~~(a) providing instruction on a five-day week basis for a full semester;~~

~~(b) providing instruction for a minimum of three days per week for the entire school year;~~

~~(c) providing instruction on a flexible basis equivalent to three instructional periods per week or rotating two periods one semester and three the next semester; and~~

~~(d) providing instruction on a variable basis equivalent to 3 instructional classes per week during the school year.~~

~~(4) The physical education program should emphasize the concept of lifetime sports and be adapted to both individual and group physical education needs. All schools should conscientiously develop a meaningful elective program in physical education.~~

~~(5) In addition to the one unit of credit required for graduation, a student may receive only one unit of elective credit for a maximum total of two credits in physical education.~~

~~(a) Objectors must submit to the administrative head of the school an affidavit stating reasons for being excused from this activity.~~

~~(b) Pupils may be excused from physical education if they have a certified excuse from a qualified physician or they have objections based on religious beliefs to various rhythmical activity.~~

543 Physical Education

1.0 Each school shall have a physical education program

1.1 Programs in elementary schools shall be at least sixty minutes per week.

1.2 Programs in both grades 7 and 8 shall be offered for at least two class periods per week for a year or five days a week for a semester.

1.3 Physical education programs shall be a requirement for any two years during grades 9 through 12 with a

maximum of 1/2 unit of credit earned per year. Provision for makeup and accumulation of required credit shall be provided at the ninth through twelfth grade levels.

1.3.1 Physical education shall be offered as an elective for ninth through twelfth grade students.

1.3.2 In addition to the one unit of credit required for graduation, a student may receive only one unit of elective credit for a maximum total of two credits in physical education.

1.4 Pupils may be excused from physical education if they have a certified excuse from a qualified physician or they have objections based on religious beliefs to various rhythmical activity.

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

710 Teacher Workday

A. Type of Regulatory Action Requested

Amendment to Existing Regulation

B. Synopsis of Subject Matter of Regulation

The Secretary of Education seeks to amend the regulation 710 Teacher Workday. Section 358 of the Epilogue to the FY 2001 budget requires that “the department develop rules and regulations consistent with the hours per day with respect to the inclusion or exclusion of lunch plus the amount of time required for the discharge of such duties and services as may be reasonably expected and required”. The existing regulation which defined the teacher workday has been amended to include the other types of employees as well as the requirements in the Epilogue and has been renamed, Public School Employees Workday.

C. Impact Criteria

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

The amended regulation addresses the employee workday, not student achievement.

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

The amended regulation addresses the employee workday, not equity issues.

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

The amended regulation addresses the employee workday and not students' health and safety.

4. Will the amended regulation help to ensure that all

students' legal rights are respected?

The amended regulation addresses the employee workday, not students' legal rights.

5. Will the amended regulation preserve the necessary authority and flexibility of decision makers at the local board and school level?

The amended regulation preserves the necessary authority and flexibility of decision makers at the local board and school level.

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels?

The amended regulation does not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels.

7. Will 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 will remain in the same entity.

8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts and social studies?

The amended regulation will 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.

9. Is there a less burdensome method for addressing the purpose of the amended regulation?

The Epilogue to the FY2001 Budget requires the Department to make the changes.

10. What is the cost to the state and to the local school boards of compliance with the amended regulation?

There is no additional cost to the state and to the local school boards for compliance with this regulation.

~~**710 Teacher Work Day**~~

~~1.0 Teacher Work Day—A teacher's work day shall be a minimum of 7 1/2 hours, inclusive of lunch, plus the amount of time required for the discharge of such duties and services as may be reasonably expected and required of a member of~~

the professional staff of a public school. (14 *Del. C.*, Section 1305(e) defines the number of teacher work days per year and 14 *Del. C.*, Section 1328 defines the duty free period.)

710 Public School Employee Workday

1.0 Effective July 1, 2001 a workday for public school employees shall be defined as follows:

1.1 Teacher - minimum of 7 1/2 hours, inclusive of 1/2 hour for lunch, plus the amount of time required for the discharge of such duties and services as may be reasonably expected and required of a member of the professional staff of a public school. (14 *Del. C.*, Section 1305 defines the number of teacher workdays per year and 14 *Del. C.*, Section 1328 defines the duty free period.)

1.2 Aide/Paraprofessional - minimum of 7 1/2 hours inclusive of 1/2 hour for lunch.

1.3 Custodian - minimum of 8 hours inclusive of 1/2 hour for lunch.

1.4 Administrator - minimum of 7 1/2 hours exclusive of lunch plus the amount of time required for the discharge of such duties and services as may be reasonably expected and required of a member of the professional staff of a public school.

1.5 Food Service Manager - minimum of 7 hours exclusive of lunch.

1.6 Secretary - minimum of 7 1/2 hours exclusive of lunch.

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

885 Policy for the Safe Management and Disposal of Surplus Chemicals in the Delaware Public School System

A. Type of Regulatory Action Requested

Amendment to Existing Regulation

B. Synopsis of Subject Matter of Regulation

The Secretary of Education seeks to amend the regulation Policy for the Safe Management and Disposal of Surplus Chemicals in the Delaware Public School System found on pages A-57 and A-58 of the *Handbook for K-12 Education*. The regulation has been reformatted in the style of the other DOE regulations and the content of the regulation has not been changed except to change should to shall wherever it appears. The title has been changed to Safe Management and Disposal of Surplus Chemicals for clarity.

C. Impact Criteria

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

The amended regulation addresses safety issues, not student achievement.

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

The amended regulation addresses safety issues, not equity issues.

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

The amended regulation addresses health and safety issues in science classrooms.

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

The amended regulation addresses safety issues, not students' legal rights.

5. Will the amended regulation preserve the necessary authority and flexibility of decision makers at the local board and school level?

The amended regulation will preserve the necessary authority and flexibility of decision makers at the local board and school level.

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels?

The amended regulation will not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels.

7. Will decision making authority and accountability for addressing the subject to be regulated be placed in the same entity?

The decision making authority and accountability for addressing the subject to be regulated will remain in the same entity.

8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts and social studies?

The amended regulation will 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.

9. Is there a less burdensome method for addressing the purpose of the readopted regulation?

The *Del. C.* requires the Department of Education to protect the health and safety of the public school students of the state.

10. What is the cost to the state and to the local school boards of compliance with the amended regulation?

There will be no additional cost to the state or to the local boards for compliance with the amended regulation.

AS APPEARS IN THE *HANDBOOK FOR K-12 EDUCATION*

~~13. POLICY FOR THE SAFE MANAGEMENT AND DISPOSAL OF SURPLUS CHEMICALS IN THE DELAWARE PUBLIC SCHOOL SYSTEM~~

~~This policy was developed with the assistance of the Department of Natural Resources and Environmental Control, the Delaware Solid Waste Authority, the Bureau of Environmental Health, Delaware Department of Transportation, and the Advisory Committee on Science/Environmental Education.~~

~~The storage of all chemicals should conform to the specifications stated in *Safety First: Guidelines for Safety in the Science or Science Related Classrooms* (Revised November 1991).~~

~~a. All laboratories and science storage in the Delaware public schools should be inventoried each year during the month of March. The inventory of chemicals both hazardous and non-hazardous should contain the following information:~~

- ~~who may handle the chemical and/or use it;~~
- ~~the name of the chemical;~~
- ~~the amount on hand;~~
- ~~the location where the chemical is stored;~~
- ~~the date purchased; and~~
- ~~the date discarded.~~

~~b. A list of the chemical should be kept by the school principal.~~

~~e. Each district should prepare a list of surplus chemicals and a copy should be sent to the Education Associate, Science/Environmental Education by April 15 of each year. These lists will be duplicated and disseminated to school districts so that they may negotiate, trade or exchange their surplus chemicals.~~

~~d. Disposal of surplus non-hazardous chemicals should be carried out within the school district in accordance with procedures outlined in the *Flinn Chemical Catalog/Reference Manual 1986*, using trained staff. Any questions regarding these procedures should be directed to the Education Associate for Science/Environmental Education.~~

~~e. Each district must prepare a list of Transportable Surplus Hazardous chemicals and submit it to the Education Associate for Science/Environmental Education by May 15 of each year. These Transportable Surplus Hazardous chemicals, from all districts, will be brought to a central~~

~~facility by district personnel. The location of this facility and date of aggregation will be announced annually by the Education Associate for Science/Environmental Education. Arrangements will be made for a licensed waste hauler to take the chemicals to a proper waste facility for disposal. Cost of disposal will be prorated among the districts and will be based upon the weight of the hazardous materials.~~

~~f. NON-TRANSPORTABLE HAZARDOUS CHEMICALS SUCH AS DIETHYL ETHER, PICRIC ACID, BENZOYL PEROXIDE AND OTHER MATERIALS LISTED ON PP. 25-27 AND 38-40 OF SAFETY FIRST: GUIDELINES FOR SAFETY IN THE SCIENCE OR SCIENCE RELATED CLASSROOMS, 1985, MUST BE DISPOSED OF IN A PROMPT MANNER THROUGH THE USE OF A LICENSED WASTE HAULER. It is the school district's responsibility to contact a licensed waste hauler and to pay the cost for removal and disposal.~~

~~(State Board Approved August 1986)~~

885. Safe Management and Disposal of Surplus Chemicals in the Delaware Public School System

This policy was developed with the assistance of the Department of Natural Resources and Environmental Control, the Delaware Solid Waste Authority, the Bureau of Environmental Health, Delaware Department of Transportation, and the Advisory Committee on Science/Environmental Education.

1.0 The storage of all chemicals shall conform to the specifications stated in *Safety First: Guidelines for Safety in the Science or Science Related Classrooms*.

2.0 All laboratories and science storage in the Delaware public schools shall be inventoried each year during the month of March. The inventory of chemicals both hazardous and non-hazardous should contain the following information:

- 2.1 who may handle the chemical and/or use it;
- 2.2 the name of the chemical;
- 2.3 the amount on hand;
- 2.4 the location where the chemical is stored;
- 2.5 the date purchased; and
- 2.6 the date discarded.

3.0 A list of the chemical shall be kept by the school principal.

4.0 Each district shall prepare a list of surplus chemicals and send a copy to the Education Associate, Science/Environmental Education by April 15 of each year. These lists will be duplicated and disseminated to school districts so that they may negotiate, trade or exchange their surplus

chemicals.

5.0 Disposal of surplus non-hazardous chemicals shall be carried out within the school district in accordance with procedures outlined in the Flinn Chemical Catalog/Reference Manual, using trained staff. Direct any questions regarding these procedures to the Education Associate for Science/Environmental Education.

6.0 Each district shall prepare a list of Transportable Surplus Hazardous chemicals and submit it to the Education Associate for Science/Environmental Education by May 15 of each year. These Transportable Surplus Hazardous chemicals, from all districts, will be brought to a central facility by district personnel. The location of this facility and date of aggregation will be announced annually by the Education Associate for Science/Environmental Education. Arrangements will be made for a licensed waste hauler to take the chemicals to a proper waste facility for disposal. Cost of disposal will be prorated among the districts and will be based upon the weight of the hazardous materials.

7.0 Non-transportable hazardous chemicals such as diethyl ether, picric acid, benzoyl peroxide and other materials listed in Safety First: Guidelines for Safety in the Science or Science Related Classrooms, must be disposed of in a prompt manner through the use of a licensed waste hauler. It is the school district's responsibility to contact a licensed waste hauler and to pay the cost for removal and disposal.

**DEPARTMENT OF HEALTH AND
SOCIAL SERVICES
DIVISION OF PUBLIC HEALTH
OFFICE OF EMERGENCY MEDICAL SERVICES**

Statutory Authority: 16 Delaware Code,
Section 9705 (16 Del.C. §9705)

Notice of Public Hearing

The Office of Emergency Medical Services, Division of Public Health of the Department of Health and Social Services, will hold a public hearing to discuss proposed Advanced Life Support Interfacility Transport Regulations (ALS-IFT). These proposed regulations describe the certification of providers and provider agencies to operate in an Advanced Life Support capacity on Interfacility patient transports in Delaware. The ALS-IFT Regulations apply to any individual, public or private agency that seeks to perform interfacility patient transports in Delaware.

This public hearing will be held December 21, 2000 at 10:00 AM in the Conference Room at the Delaware Office

of Emergency Medical Services, Blue Hen Corporate Center, Suite 4-H, 655 S. Bay Road, Dover, Delaware

Copies of the proposed regulation are available for review by calling:

Office of Emergency Medical Services
Blue Hen Corporate Center, Suite 4-H
655 Bay Road,
Dover, Delaware 19901
Telephone: (302) 739-4710

Anyone wishing to present his or her oral comments at this hearing should contact Joanne Freddo at (302) 739-4710 by December 18, 2000. Anyone wishing to submit written comments as a supplement to, or in lieu of oral testimony should submit such comments by December 31, 2000 to:

David Walton, Hearing Officer
Division of Public Health
P.O. Box 637
Dover, DE 19901

Summary of Proposed Regulations

Rules and Regulations pertaining to Advanced Life Support Interfacility Transportation.

These are new regulations and are to be adopted in accordance with Chapter 97 and 98 of Title 16 **Delaware Code**.

Presently the four government agencies defined in Title 16 are the only organizations permitted to provide Advanced Life Support (ALS) services in the State of Delaware. All Advanced Life Support transportation services in Delaware are conducted by one of these government organizations or by an out of state commercial provider. When conducted by an out of state provider, these services are provided without Delaware certified paramedics on board and without any oversight by the Department of Public Health. Delaware commercial EMS organizations are at a competitive disadvantage because a mechanism does not exist to permit them to function as an Advanced Life Support organization to provide these services or to hire Delaware certified paramedics.

These proposed regulations will establish and define the process for designating non-government organizations to provide interfacility transportation services, facilitate the certification of Delaware paramedics and define their scope of practice, and to establish the oversight of ALS Interfacility Transportation by the Division of Public Health.

**Advanced Life Support Interfacility Transportation
Final Draft**

I. Purpose

The purpose of these regulations is to permit the use of paramedics, under the oversight of the Division of Public

Health, to manage patients while in transit between medical facilities or within a healthcare system. It includes approval of an organization to provide a service with a paramedic, as well as define their scope of practice and medical oversight. Data reporting to the Division of Public Health is included for the purposes of evaluating the performance of the State EMS system, of which Inter-facility Transport is a component, regardless of the level of medical care provided.

II. Authority

This regulation is promulgated under the authority of 16 Del. C., Chapters 97 and 98.

The statewide paramedic program, a “coordinated advanced life support system under qualified medical supervision”, was established under the direction of the Office of Emergency Medical Services, Division of Public Health, Department of Health and Social Services (16 Del. C., §9801 (a)). “Except for those activities and responsibilities for basic life support and other emergency services which are under the jurisdiction of the State Fire Prevention Commission, the Office [of EMS] shall have jurisdiction over the development, implementation, and maintenance of a statewide paramedic system (16 Del. C., §9803)”.

“The EMS system shall provide for transfer of patients to facilities and programs which offer such follow up care and rehabilitation as necessary to effect the maximum recovery of the patient. The transfer of patients...to the specialty care unit, and to follow up care and rehabilitation centers are all within the scope of a total EMS system (16 Del. C., §9705 (j))”. It should also be understood that “the use of paramedics to assist in the transfer of patients to facilities and programs which offer such follow-up care and rehabilitation as is necessary to effect the maximum recovery of the patient, shall be permitted when deemed medically necessary” is a function of the statewide paramedic program (16 Del. C., §9801 (g)).

Other functions of the Office of EMS as it relates to advanced life support interfacility transportation are found in 16 Del. C., Chapter 97. The OEMS was created with the responsibility of providing assistance and advice for activities related toward the planning, development, improvement and expansion of emergency medical services (16 Del. C., §9704 (a)). This includes ‘monitoring and evaluating transportation services in Delaware to assure that patients in the EMS system have access to effective and efficient transportation to appropriate treatment facilities’ (16 Del. C., §9705 (d)).

The OEMS is primary staff to the Delaware Emergency Medical Services Oversight Council (DEMSOC) in addition to functioning as the body having jurisdiction over the state paramedic program. In this capacity, the Office shares in a responsibility for “monitoring the [State] EMS system to ensure that all elements are functioning in a coordinated,

effective, and efficient manner in order to reduce morbidity and mortality for the citizens of Delaware and to ensure quality of emergency medical services (16 Del. C., §9703).

III. General Provisions

A. ALS Interfacility Transport Organizations will provide access to their services without discrimination due to race, color, creed, sex, nationality, age, or disability.

B. All organizations employing the services of paramedics to provide ALS Interfacility Transportation in the State of Delaware are subject to all of the provisions and limitations of this regulation and oversight by the Division of Public Health except:

1. Organizations owned or operated by or under the jurisdiction of the federal government and used exclusively for government purposes.

2. Agencies or organizations whose ambulances travel through Delaware, regardless of frequency exclusively for the purpose of interstate travel where patients are neither discharged nor picked up in the State.

3. An organization based outside of Delaware that transports patients to and from Delaware for diagnostic or therapeutic services within the same calendar day.

C. No person, agency or organization may operate, conduct, maintain, advertise, engage in or profess to engage in Advanced Life Support Interfacility Transportation services in Delaware utilizing paramedics as advanced life support providers unless the agency or person holds a current designation certificate from the Division of Public Health with the exception of:

1. Organizations owned or operated by or under the jurisdiction of the federal government and used exclusively for government purposes.

2. Organizations whose units travel through Delaware, regardless of frequency, exclusively for the purpose of interstate travel where patients are neither picked up nor dropped off in the State.

3. An organization based outside of Delaware that exclusively transports a patient to and from a Delaware location for diagnostic or therapeutic service within the same calendar day.

D. If a vehicle is used to provide transportation services, or an organization provides transportation services that are both excepted and non-excepted under these regulations, its ambulance, clinical providers, and operator shall comply with the regulations when not operating as an excepted service or organization.

E. If the Division of Public Health believes that an ambulance is picking up or discharging patients and is required to be functioning under these regulations, the Division, or a appointed representative, may require the crew and management to provide information sufficient to determine whether the organization is required to comply with the regulation or is exempt.

F. Organizations that provide Interfacility Transportation Services that originate within the State of Delaware but do not utilize paramedics for Advanced Life Support Inter-facility Transports, must comply with the following sections of these regulations only:

1. Data Reporting¹

G. Communication

1. All communication regarding this regulation should be made to:

Delaware Division of Public Health
Office of Emergency Medical Services
Blue Hen Corporate Center
Suite 4H
655 Bay Rd
Dover, DE 19901

H. Public Information

1. The Division of Public Health shall maintain a current list of designated Advanced Life Support Interfacility Transport Organizations (ALS-ITO) and shall provide this list as requested. The list shall contain the name of the ALS-ITO and their unit designations that will be used in radio communications.

2. The Delaware Freedom of Information Act shall govern responses to requests for public records of the Division of Public Health.

A. Each ALS-ITO shall provide each patient:

1. Considerate and respectful care
2. Information necessary in order to give informed consent for treatment, transport, or both.
3. The opportunity to refuse treatment or transport when competent to do so.
4. Reasonable privacy concerning a patient's transportation and care.
5. Confidentiality of all communication and records related to patient transportation and care except as otherwise required by law.
6. Reasonable response to a request for service once the ALS-ITO is engaged to provide service.
7. Reasonable continuity of care once the ALS-ITO is engaged to provide service.
8. An opportunity to examine and receive an explanation of the patient's bill.
9. An environment in the ambulance that is free from hazards and annoyances to include but not limited to:
 - a) Smoking
 - b) Loud radio
 - c) Loud conversation by the crew.
10. Information that the ALS-IFT units in Delaware are regulated by the Division of Public Health.

V. Designation

A. Purpose

To qualify an organization to provide Advanced Life Support services in the State of Delaware under 16 Del.C. §9809(b).

B. Eligibility

To be eligible to apply for ALS-ITO designation, an organization shall:

1. Be qualified to conduct business in the State of Delaware.
 - a) Evidenced by a Delaware business license, unless a non-profit corporation.
2. Possess a permit from the Delaware Fire Prevention Commission as either an Emergency or Non-Emergency BLS Ambulance Service.^{2,3}
3. Own or operate at least one ambulance that is certified by the Delaware State Fire Prevention Commission (DSFPC).
4. Employ drivers with a valid motor vehicle license.
5. Have insurance coverage as outlined in Section VIII – I of these regulations.
6. Have computer equipment and Internet access that is compatible for integration into the Delaware

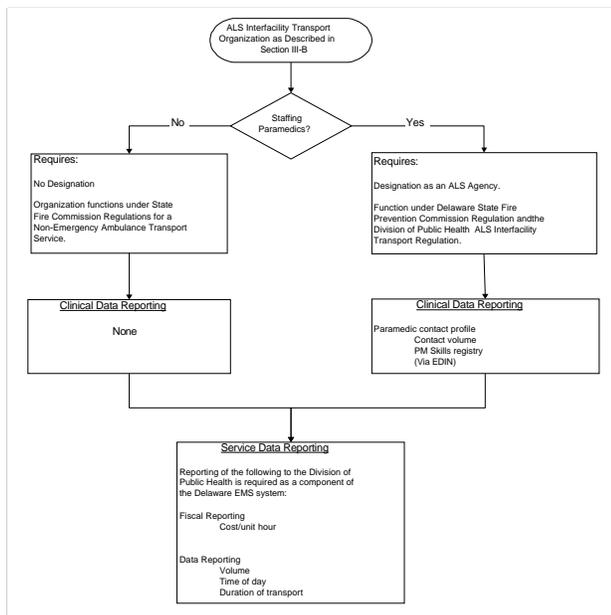


Figure 1. Application of ALS-IFT Regulations

IV. Patient Rights

1. Section VIII-G (2)

2. Delaware Fire Prevention Commission BLS Regulation
3. This regulation requires the Organization to maintain an office of operations within the State of Delaware.

Emergency Data Information Network.

7. Apply for Designation.

C. Application

An organization seeking Designation to provide ALS-IFT in Delaware shall:

1. Submit a completed application on the required form to the Division of Public Health.

2. A completed application will contain:

a) The Organization's:

- (1) Name
- (2) Main physical business address.
- (3) Billing address
- (4) Telephone number
- (5) Fax number
- (6) Name of the principal contact person for communication with the Division of Public Health.
- (7) Name of the principal contact person for daily operations.

(8) Entity type

b) Documentation that the Organization is qualified to do business in Delaware and a signed agreement that it will take all actions necessary to remain qualified to do business in Delaware.

c) All trade names that the organization, its parent, or subsidiary has done business under.

d) Information about management personnel and owners:

- (1) Names
- (2) Addresses
- (3) Telephone numbers
- (4) Titles

e) Street addresses of any locations from which the organization intends to operate, including:

(1) Location from which units are dispatched.

- (2) Location where records are kept.
- (3) Location where crews are quartered.
- (4) Location where ambulances are parked or stored

f) Information about employees who may be providing health care:

- (1) Name
- (2) Documentation of the following

certifications:

(a) Delaware Paramedic certification, or Delaware EMT-B certification.

(b) BCLS

(c) Delaware Emergency Vehicle Operator card or equivalent.

(i) An equivalent as approved by

the Delaware Fire Prevention Commission.⁴

(d) Motor vehicle license

(3) Non-Delaware certified providers

must receive reciprocity before they may function in Delaware^{5, 6}.

g) Information about the Organization Medical Director

- (1) Name
- (2) Address
- (3) Telephone number
- (4) E-mail address
- (5) Evidence of Credentials

(a) Delaware medical license.

(b) Board certification in an appropriate specialty approved by the State Medical Director.

(6) A description of their role, responsibilities, and authority within the Organization.

h) Information about the ambulances

(1) A list of the units that will be utilized for ALS-IFT with tag, VIN, and unit designation.

(2) Documentation from the Delaware State Fire Prevention Commission that each ambulance that the Organization intends to use for ALS-IFT has received a permit for service in the State of Delaware.

(3) A diagram of the numbering, lettering, and symbols that will be displayed on the units.

i) A copy of the operational policies of the organization.

(1) These should include but are not limited to policies governing responses, transport practices, security of Controlled Dangerous Substances (CDS), and training.

j) Insurance Information

(1) A certificate of liability insurance that verifies that coverage that complies with Section VIII - I is in effect and lists:

The Division of Public Health-Office of Emergency Medical Services
Blue Hen Corporate Center
Suite 4H
655 Bay Rd
Dover DE 19901

as a party entitled to notification ten days prior to any of the following changes to the insurance policies required by regulation:

(a) Non-renewal or cancellation

(b) Changes in coverage or level of insurance.

(2) A certificate of motor vehicle insurance that identifies by VIN all motor vehicles covered under the insurance policy.

4. DSFPC BLS Regulation Part. VII, Operational Requirements Sec C (3)

5. 16 Del. C. §§ 9809-9810

6. Refer to Appendix A for certification process.

PROPOSED REGULATIONS

k) A description of the Quality Management activities in the company or organization.

(1) Include samples of reports describing activities related to:

(a) Clinical performance

(b) Operational performance

l) A signed written statement that:

(1) There has been no attempt for the purpose of obtaining or attempting to obtain a designation, to knowingly and willfully:

(a) Falsify, conceal, or omit a material fact,

(b) Make any false, fictitious, incomplete, or fraudulent statements or representations,

(c) Make or use any false writing, document, or entry knowing the same to contain any false, fictitious, or fraudulent statements.

(2) The signer is authorized by the Organization identified on the application to sign the application form to execute the sworn statement.

m) Any additional information that the Division of Public Health may consider necessary.

n) The application shall be signed by:

(1) If a sole proprietorship, the owner,

(2) If a partnership, a duly authorized partner,

(3) If a corporation, a duly authorized corporate official,

(4) If a limited liability company, a duly authorized member.

D. Review

1. The application must be completed and returned with all accompanying materials to the Division of Public Health either in person or by certified mail.

2. The Division of Public Health will review the application of the proposed ALS-ITO and conduct an on-site inspection and review to determine whether the applicant organization is in compliance with these regulations and other applicable laws.

a) The inspection/review may include any or all of the following:

(1) Inspection of the supporting documents,

(2) A survey to inspect the ambulance service facilities, vehicles, and/or equipment,

(3) A conference with the applicant(s).

3. The applicant will be notified of the status of their application by certified letter.

a) Approval

(1) A Designation certificate will be provided from the Division of Public Health if all requirements are met as discussed herein.

(2) The current certificate, or a facsimile, shall be posted in a conspicuous place in each office of

operations and in each ambulance that is used for ALS-IFT in the State of Delaware.

b) Denial

(1) If the Division determines that deficiencies exist which warrant the disapproval of the application, written notice will be given to the applicant with the disapproval notice.

(2) The applicant will have thirty (30) days from the receipt of the disapproval notice in which to respond to the Division with plans to correct the deficiencies.

(3) After review of an acceptable plan, the Division will conduct a re-inspection consistent with an agreed upon time frame.

(4) If the Division is satisfied with the results of the re-inspection, a certificate of Designation will be issued.

(5) If the deficiencies still exist, the Division will give the applicant a written notice of disapproval that shall identify the deficiencies.

(6) The applicant shall have thirty (30) days from receipt of the second written notice in which to appeal the decision to the Secretary of the Department of Health and Social Services or his/her designee.

4. Before accepting a Designation, the Organization shall notify the Division of Public Health in writing of any changes in the information submitted in the application regarding:

a) The ambulances

b) Personnel

c) Ownership

d) Any other material in the application.

E. Designation Term

1. Designation as a Delaware ALS-ITO is valid for a term of three years.

2. The Designation expires at midnight of the expiration date.

3. A revoked or surrendered designation certificate expires immediately upon notification.

4. All ALS-IFT services must cease and desist at the time Designation expires.

F. Designation transfer

1. ALS-ITO Designation may not be transferred without the written approval of the Division of Public Health.

2. The owner(s) of a Designated ALS-ITO wishing to transfer or acquire the assets or stocks of another company may submit a letter of intent for the purposes of transferring the organization and designation to the successor organization.

G. Merger/Acquisition

A prospective purchaser of the stock or assets of an Organization, with the written permission of the current ownership may apply to the Division of Public Health for a

preliminary determination of the eligibility of the prospective purchaser to receive ALS-ITO Designation under Section V.

H. Sale/Cessation of Operations

1. An ALS-ITO sold without a transfer of Designation shall cease ALS operations at midnight of the day before ownership is transferred.

2. An Organization ceasing operations shall return the ALS-ITO Designation certificate to the Division of Public Health within fourteen (14) days of the cessation date.

VI. Re-designation

A. Review Process

1. The Organization shall submit the application postmarked no later than sixty (60) days before the certificate expiration date.

2. The organization will complete an application with a cover letter identifying any changes from the previous review.

3. The criteria for designation renewal are the same as for original designation.

VII. Inspection Surveys

A. The Division of Public Health, or a duly appointed representative, reserves the right to enter and make inspections at least quarterly and shall conduct, at a minimum, an annual inspection survey to ensure compliance with these regulations.

1. Additional inspections may be conducted upon complaint or a reasonable belief that violations may exist.

B. Survey visits may be made to any location used or occupied by the organization during regular business hours, or at other times when a reasonable belief that violations of these regulations may exist.

1. Upon request of an authorized agent of the Division of Public Health, the designated organization shall produce for inspection:

- a) The ambulances used for ALS-IFT.
- b) Equipment
- c) Personnel
- d) Records required by these regulations
- e) Any other items as determined by the agent.

2. Authorized representatives of the Division of Public Health may survey an ambulance used for ALS-IFT whenever it is in service.

C. Survey visits shall, at the discretion of an authorized representative of the Division of Public Health, include:

- 1. A review of all required records.
- 2. Conferences with the staff.
- 3. Audit of business locations, vehicles, equipment and qualifications of staff.

D. The ALS-ITO shall be notified in writing of the results of the inspection.

VIII. Organization Requirements

A. Statute / Regulatory Compliance

The Organization must comply with the requirements of all parts of this regulation and associated federal, state, and local statutes and regulations.

B. Medical Director

1. The Organization shall retain the services of a Delaware licensed physician who agrees to assume the physician responsibilities for the Organization and providers as defined in 16 Del.C. §9806 (b) and will comply with all required areas of this regulation.

2. Role and Function – the role and responsibilities of the medical director include:

- a) Provide medical oversight and quality control of interfacility advanced life support.
- b) Establish and ensure compliance with standing orders and treatment protocols.
- c) Provide review and evaluate the medical interventions of the paramedics.
- d) Monitor the EMS providers for skill degradation and recommend appropriate remedies to the provider organization.
- e) Offer technical assistance to the EMS providers they serve as medical director.
- f) Oversee the training and certification of the ALS providers.
- g) Determine policy guiding transport priority classifications (i.e. emergency vs. non-emergency response and transportation determinants).
- h) Investigate issues related to clinical proficiency.
- i) Serve as a liaison with the State Medical Director's Office.

C. Air Medical Service

A non-exempt Organization that will be providing Air Medical ALS-IFT must comply with the requirements of the OEMS Regulation for Air Medical Ambulance Services in addition to the ALS Interfacility Transport Regulations.

D. Provider Certification

All EMS providers must be certified to function in Delaware.⁷ The following are requirements for certification in Delaware.⁸

1. Paramedic

a) NREMT-P, BCLS, ACLS, PALS, PHTLS/ BTLS, and Emergency Vehicle Operator (or equivalent as determined by the State Fire Prevention Commission).

(1) Flight crews are excepted from the EVO requirement.

2. Emergency Medical Technician

a) NREMT-B (or Delaware EMT-B), BCLS, and Emergency Vehicle Operator (or equivalent as

7. 16 Del. C. §9809 (a)

8. Refer to Appendix A for the certification process.

determined by the State Fire Prevention Commission).

E. Ambulances

1. The Delaware State Fire Prevention Commission must permit each transport ambulance for use in the State of Delaware.

2. Units that are used exclusively for advanced life support services may be marked "Advanced Life Support", "Critical Care Transport", or "Mobile Intensive Care" to describe the level of service provided.

a) This marking is not required.

b) Units that are used for Basic Level Transportation as well as Advanced Life Support Transport services may not be marked as above.

c) If marked, all markings must be 3-in. (minimum) reflective lettering.

3. In instances of vehicular conditions that may precipitate or aggravate a medical condition or create a potential hazard to public health, the vehicle may not be driven with passengers or patients on board until repairs are completed. These conditions include but are not limited to:

a) Carbon monoxide hazards

(1) An occupant complains of symptoms or has been affected by carbon monoxide as a result of riding in the ambulance.

(2) Carbon monoxide levels that have been detected at a level of 9ppm in the interior of the ambulance.

(3) A mechanical condition exists that may present a carbon monoxide hazard to the occupants.

b) Specific mechanical defects or hazards including:

(1) Faulty brakes

(2) Tire wear

c) Any other mechanical condition that may pose a threat, direct or indirect, to public health.

4. Equipment Requirements

a) The following equipment must be carried aboard each ambulance used for ALS Interfacility Transport.

(1) All equipment required by the Delaware State Fire Prevention Commission.⁹

(2) All equipment needed to provide any and all care under the protocols of the Delaware ALS Standing Orders¹⁰.

(a) An ambulance may not be operated with absent or faulty oxygen, resuscitation, or aspiration equipment.

(3) All medications listed in the Delaware Paramedic Formulary and those included in the Standing Orders as an 'Optional Skill' (See Section XIII).

b) Equipment must be stowed or secured in a

manner as to prevent it from becoming injury-producing projectiles in the event of a crash.

F. Security of Narcotics and other Controlled Dangerous Substances

1. All medications falling under Schedule II, III, and IV of the Controlled Dangerous Substance Act of 1970 that are stored or carried on board the unit must be secured under double lock with the exceptions:

a) Medications brought on board an ambulance by medical facility personnel for possible use during a transport must be secured according to the policies of that facility and may not be stored aboard the unit after the facility personnel are returned to the medical facility and have separated themselves from the transport team.

b) Medications carried on the charge provider's person do not require double lock security.

2. Keys to access the secured medications must be in the possession of the charge clinical provider, or the responsible person, on the ambulance at all times.

G. Data Reporting

1. The following data must be reported to the Division of Public Health on a continuous basis.

a) Clinical

(1) All Paramedic activity related to a patient contact must be reported through the Delaware Emergency Data Information Network (EDIN)¹¹.

(2) In the event that EDIN is out of service, all records will be maintained in paper form using the Delaware Paramedic Report until EDIN is available again. The paper records will be entered into EDIN at such time that the system is available.

b) Volume

(1) An EDIN Interfacility Report shall be completed for each transport performed by the ALS-ITO.

c) Any data as requested by the Division of Public Health for the purposes of system quality management or system performance evaluation.

2. The following data pertaining to the operation, or portion of the operation, related to ALS interfacility transportation must be reported to the Division of Public Health on a quarterly basis, within thirty (30) days of the end of the quarter. The Division of Public Health will use these data for the purposes of monitoring the transportation services as required in 16 Del.C. §9705(d) as well as provide them to the Delaware EMS Oversight Council for the purposes of determining the overall statewide EMS system performance as required by 16 Del.C. §9703 (e).

a) Fiscal

(1) Cost per unit hour

b) Operational

(1) Unit hour production

9. DSFPC BLS Regulation Appendix A

10. Refer to the OEMS ALS Standard Equipment list.

11. 16 Del.C. 9705(k)

(2) Transport volume

c) Any data as requested by the Division of Public Health for the purposes of system quality management or system performance evaluation.

H. Records / Documentation

The following records, or a copy, must be maintained at the Delaware operations office for all providers participating in the organization's ALS-IFT operation.

1. Personnel

a) The Organization shall maintain a current list of the following personnel: EMS providers, registered nurses, any other medical personnel employed.

b) The list shall include the employee's full name, certification number, level, date of issue, and date of expiration.

2. Training

a) Training records for each employee shall contain evidence of:

(1) Initial orientation and competency assessment.

(2) Continuing education, and

(3) All other training required as part of this regulation.

b) Training records should be maintained to document the date training was provided, course outline, attendance, instructor's name and qualifications.

3. Continuing Education

a) Credit for continuing education programs must be applied for through the OEMS prior to the course being held as per the OEMS Education policy.

4. Records retention

a) All records pertaining to the operation of the ALS-ITO must be retained for a minimum period of two (2) years.

b) Medical records documenting patient care provided by the organization (i.e. patient care reports) must be retained for a minimum of seven (7) years.

I. Insurance coverage

1. An ALS-ITO may not be designated to provide service in Delaware unless it maintains continuous insurance of the following types and amounts:

a) General liability insurance of not less than \$1 million.¹²

b) Motor vehicle liability insurance coverage not less than \$1 million individual and \$3 million aggregate per occurrence.¹³

c) Worker Compensation coverage in the amount required by 19Del.C. §2306.

2. The general liability coverage must provide

payment of damages as a result of:

a) Any bodily injury to, death of, individuals in accidents resulting from any cause which the ALS-ITO is liable.

b) Property damage, or loss of property, including personal property resulting from any cause for which the Organization is liable.

3. The financial responsibility requirements for motor vehicle liability coverage shall conform to 21 Del.C. §2901.

4. The financial responsibility for the worker's compensation insurance shall comply with 19 Del.C. §§ 2321-2334.

IX. Operations

A. Designation

1. An agency must be designated¹⁴ as an ALS Interfacility Transport Organization by the Delaware Department of Health and Social Services, Division of Public Health in order to:

a) Provide ALS services during any medical transport originating in Delaware.

b) Advertise as a Delaware Advanced Life Support Organization.¹⁵

(1) All advertisements and invoices shall contain the legal name and the phrase "A Designated Delaware ALS Interfacility Transport Organization".

(a) Advertisements may also include the words "Mobile Intensive Care Service", "Critical Care Transport Service", or "Advanced Life Support".

(b) Organizations utilizing paramedics may include the words "Paramedics" or "Paramedic Service".

(2) Advertisements include but are not limited to business cards, letterhead, newsletters, brochures, flyers, etc.

B. Scope of Services

1. ALS Interfacility Transportation is defined as the medically necessary transportation of a patient requiring the provision of medical care that exceeds the scope of practice of an EMT-Basic that originates at a Delaware medical facility with a destination at another medical facility.

2. Operations as an ALS Interfacility Transport Organization are limited to 'non-911' emergency and non-emergency transports with the following exceptions:

a) As a component of a disaster plan.

b) As part of a 'mutual aid' agreement approved by the OEMS.

(1) The agreement must specifically

12. DSFPC BLS Regulation Part X, Sec A (4)

13. DSFPC BLS Regulation Part X, Sec A (5)

14. Refer to Section V for the designation process.

15. Comply with 16 Del.C. §9809 (c)

address:

(a) Remuneration for services

rendered.

(b) Response time performance.

(c) At an incident where the ALS-IFT unit coincidentally arrived before the jurisdiction 911 organization.

3. In instances where the crew of an uncommitted ALS-ITO ambulance chooses to render care at a '911' incident before the jurisdictional '911' ALS agency is present on scene, the following procedures shall apply:

a) The ALS-ITO unit shall immediately contact the jurisdictional PSAP and report the nature and location of the incident.

b) The ALS-ITO personnel shall provide medical care within their scope of practice to any persons in need of it until a jurisdictional EMS unit arrives at the scene.

c) Patient care responsibilities and scene control shall be deferred to the jurisdictional authorities as they arrive or as they request.

d) The ALS-ITO unit may, but will not be required to, provide transportation services if a request is made by the Incident Commander and this request is approved by a representative of the jurisdictional ALS agency.

(1) The responsibility for providing the service remains with the jurisdictional ALS agency until it is accepted by the ALS-ITO.

e) Documentation of the patient contact must be completed using the appropriate EDIN form at the time of transfer to the receiving medical facility.

4. A 911-ALS organization or PSAP may not direct emergency calls to an ALS-ITO unless a mutual aid agreement, approved by the OEMS, exists between the jurisdictional 911 ALS service and the ALS-ITO.

a) The agreement must specifically address:

(1) Remuneration for services rendered.

(2) Response time performance

requirements.

C. Standing Orders

1. Use

a) The scope of practice for paramedics providing ALS Interfacility Transport services is defined by the Delaware Paramedic Standing Orders.

(1) The State Medical Director and the Board of Medical Practice (BOMP) must approve any changes to the paramedic scope of practice (Refer to Section XII of these regulations).

2. Protocol Variances

a) If a paramedic performs a function that is outside of the scope of practice as defined by the Delaware Paramedic Standing Orders, the following activity must occur:

(1) The Organization Medical Director

must be notified of the violation immediately.

(2) The paramedic must submit a written report of the incident to the Organization Medical Director within twenty-four (24) hours of the incident.

(3) The Organization Medical Director shall notify the State Medical Director's Office of any and all incidents of potential protocol violations within five (5) working days of receiving the incident report.

b) The Organization Medical Director and/ or the company shall investigate the incident and provide a written report of the investigation and its conclusions to the State Medical Director through the Organization Medical Director within fourteen calendar days of the incident.

c) The State Medical Director will review the incident based on the reports and issue a recommendation for action if appropriate.

(1) The State Medical Director reserves the right to initiate an independent investigation.

(2) The State Medical Director may immediately suspend the paramedic's certification for a period of thirty days in order to prevent a clear and imminent danger to public health¹⁶.

d) A review may also be initiated by a written complaint to the Division of Public Health – Office of Emergency Medical Services.

D. Crew Configuration

1. The crew shall consist of at least two providers.

a) At least one provider must be a certified Delaware paramedic.

b) The other provider must at least be a Delaware EMT-B.

(1) The EMT-B may not function as a primary care provider.

2. An ALS-ITO may not transport patients requiring care that is beyond the scope of practice of a Delaware paramedic unless the patient is accompanied by a healthcare provider authorized under Delaware law to provide the required level of care in compliance with federal medical transport/transfer regulations.

E. Personnel Identification

1. All personnel shall display identification that includes their photograph, last name, and position/certification level.

2. All EMTs and paramedics must carry a Delaware issued certification card at all times while on duty.

3. Identification must be visible on the front of the outermost garment.

4. Require that personnel only display insignia for valid certification and personal identification.

5. Agencies shall provide assurance that their personnel do not wear or display identification that suggests

16. 16 Del.C. §9806 (6)

affiliation with another agency, service, organization, department, or company other than the ALS-ITO or a healthcare facility that is involved in the patient's care.

F. Ambulance Operation

1. Ambulances are to be operated in accordance with 21Del.C. §4106 by licensed operators possessing a Delaware emergency vehicle operator (EVO) card or an equivalent as determined by the Delaware State Fire Prevention Commission.¹⁷

2. Lights and sirens are to be used by ALS-IFT vehicles only in the following situations:

a) Enroute to an emergency call as determined and documented by the transferring physician,

b) Transporting a Priority 1 patient as determined and documented by the transferring physician,

c) Transporting a patient meeting the criteria determined by the Organization Medical Director as requiring emergency transportation.

G. Medical Control

1. Authority

a) The transferring physician is responsible for providing medical control for the patient transfer until the patient reaches the destination facility.

X. Designation Review

A. Purpose

To provide a mechanism to identify conditions that may affect public health and protect public health until the problems are resolved.

B. Cause

The Division of Public Health may, in compliance with proper administrative procedures as provided by the law, suspend, revoke, or refuse to issue designation certificates for any of the following reasons:

1. A serious violation of these regulations. (Defined as one that poses a significant threat to the health and safety of the public.)

2. Revocation of permit as a BLS Ambulance Service by the Delaware State Fire Prevention Commission.¹⁸

3. Failure to submit a reasonable timetable to correct deficiencies and violations cited by the Division.

4. The existence of a continuing pattern of deficiencies.

5. Fraud or deceit in obtaining or attempting to obtain certification.

6. Lending a certificate or borrowing or using the certificate of another, or knowingly aiding or abetting the

improper granting of a certificate.

7. Incompetence, negligence, or misconduct in operating or providing ALS Interfacility Transport services. This includes but is not limited to patterns such as a failure to follow medical command or a failure to respond to a transport request.

8. Failure to employ or contract for a medical director responsible for services as outlined in this regulation.

9. Failure to have appropriate medical equipment and supplies required for certification.

10. Failure of the ALS Interfacility Transport Organization to notify the Division of Public Health of a change of ownership.

11. Abuse or abandonment of a patient.

12. Unauthorized disclosure of medical or other confidential material.

13. Willful preparation or filing of false medical reports or records, or the inducement of another to do so.

14. Destruction of medical records.

15. Failure to provide data to the Division of Public Health as required, either through EDIN or via report.

16. Refusal to render services on the basis of a patient's race, color, creed, sex, nationality, age, or disability.

17. Misuse or misappropriation of drugs/medications.

18. Failure to produce requested records for inspection or to permit the examination of equipment shall be grounds for suspension or revocation or the denial of certification. However the certificate shall not be suspended, revoked or denied for a period of longer than sixty (60) days in the event that a dispute regarding the production of these records exists and remains unresolved. Such suspension, revocation, or denial may occur for the entire sixty (60) day period if the Division determines that such action is necessary to prevent a clear and immediate danger to public health.

19. Conviction of the Organization or owner(s) of a crime, including Medicare or Medicaid fraud, relating adversely to the person's capability of owning or operating the Organization.

20. Non-compliance with COBRA/EMTALA.

21. Other reasons as determined by the Division which pose a significant threat to public health and safety.

C. Initiation

1. The Designation Review Process can be initiated by:

a) A written or verbal complaint indicating a violation of these regulations.

b) Failure to participate in data reporting.

c) Failure to correct deficiencies identified by the Division of Public Health.

D. Investigation

17. DSFPC BLS Regulation Part VII, Operational Requirements Sec C (2)

18. Refer to DSFPC Regulation of BLS Ambulance Services Part XI

1. Upon initiation of the Designation Review Process the Division of Public Health will:

a) Receive written notification of the violation from the identifying agent accompanied by supporting documentation.

b) Convene an investigation panel

(1) The panel will consist of the Paramedic Administrator (OEMS), the State Medical Director and any other subject matter expert deemed appropriate.

c) The panel will initiate an investigation of the allegation(s).

(1) The ALS Interfacility Transport Organization will be notified in writing with a request for its written response.

(2) The investigation panel will conduct an appropriate follow-up investigation.

d) The Investigation Panel will submit its report and recommendation to the Director of the Division of Public Health.

(1) Panel Recommendations

(a) The panel may recommend any of the following actions:

(i) Designation Probation

(a) The Investigation Panel will determine the recommended length of probation and include recommended conditions that must be met by the end of the probationary period.

(b) If adopted by the Division Director, these conditions will be verified by a representative of the Division of Public Health at the end of the probationary period or at an earlier time as requested in writing by the Organization.

(i) The Division of Public Health will confirm reinstatement in writing before operations may resume.

(c) Additional infractions occurring during the probation period will result in an immediate review for Designation Suspension by the Division of Public Health.

(d) Failure to meet the conditions will result in a review for Designation Suspension by the Division of Public Health.

(ii) Designation Suspension

(a) The Investigation Panel will recommend the length of suspension and any conditions to be met for reinstatement.

(b) If adopted by the Division Director, the Organization may not provide ALS services in Delaware for the duration of the suspension.

(i) A representative of the Division of Public Health must verify that any conditions for reinstatement have been met before ALS services may be resumed.

(ii) The Division of Public Health will confirm reinstatement in writing before operations may resume.

(iii) Designation Revocation

(a) The Investigation Panel will recommend revocation and any conditions to be met before the Organization may reapply for designation.

(b) If adopted by the Division Director, the Organization may not provide ALS services in Delaware and may not re-apply for ALS-ITO Designation for a period of not less than one year from the date of Revocation.

(i) The Division of Public Health will verify that any conditions have been met as part of the re-application process.

(b) If probation, suspension or revocation is not recommended the Investigation Panel may recommend follow up monitoring or reporting.

e) The Division Director will provide written notification to the ALS Interfacility Transport Organization of the results of the investigation and the disposition of the Organization's designation.

f) The involved Organization will have the right to contest any decision of the Division of Public Health. Written notification of the intent to contest must be made to the Director of the Division of Public Health within thirty (30) days of notification of action.

(1) The Division Director shall offer a public hearing to review the decision in accordance with 29 Del.C.101.

(2) The Division Director shall name a hearing officer and schedule a hearing in accordance with 29 Del.C. 101.

E. Appeals

1. The involved Organization will have the right to appeal any decision of the Director of the Division of Public Health. Written notification of the intent to appeal must be made to the Secretary of the Department of Health and Social Services within thirty (30) days of notification of action.

XI. Certification Review

A. Initiation

1. The Organization Medical Director may initiate a review of medical performance on the basis of a variance, complaint, or EDIN review.

2. The Division of Public Health may also initiate a review on the basis of a variance, complaint, or an EDIN review.

B. Investigation

1. The Organization Medical Director performs the initial investigation.

a) The Organization Medical Director shall remove the paramedic from patient care status pending a

review of the incident by the State Medical Director's Office.

2. Findings of this investigation will be forwarded to the State Medical Director's Office within ten working days of completion of the investigation.

a) The State Medical Director has the authority to suspend the paramedic's certification for up to 30 days in order to prevent a clear and imminent danger to public health¹⁹.

3. The State Medical Director will review the incident and forward findings and recommendations to the Board of Medical Practice²⁰.

a) Issues concerning nursing performance will be addressed by the State Medical Director with the organization's clinical nursing supervisor and/ or to the Board of Nursing.

4. The BOMP will review the incident and decide appropriate action.

XII. Scope of Practice Expansion

A. Purpose

The environment and the needs of patients who are moving within the health care system are different from those of patients who are being transported into the healthcare system. This section provides a mechanism for expanding the scope of practice of paramedics functioning in the Interfacility transport component of the EMS system in order to meet these needs.

B. Limitations

1. 'Optional Skills that are approved for use in 'non-911' transport services may be used only in 'non-911' transports.

2. At no time may they be used during '911' transports without BOMP approval.

C. Review

1. Proposal

a) A proposal of the new protocol shall be submitted to the State Medical Director's Office from the Organization's Medical Director. The proposal shall include a description of the skill, procedure, or medication, a description of the need and any supporting documentation, the training that will be required and the credentials of the person or agency that will providing it, and the methods that will be used to evaluate proficiency.

2. Protocol Review Process

a) The State Medical Director will review the proposal and have the option of setting up a meeting with the writer to discuss the proposal.

b) If the proposal is denied, the State Medical Director will notify the Organization of the denial in writing

with the reasons for denial or,

c) The State Medical Director will attach a recommendation to it and forward the request to the Board of Medical Practice (BOMP).

d) The BOMP will review the proposal and determine whether the proposed skill, procedure, or medication will be added to the Delaware Standing Orders as an 'Optional ALS Skill'.

XIII. 'Optional Skills'

A. Skills that have been designated an "Optional Skill" may be used by paramedics employed by an ALS-ITO that has been approved by the State Medical Director to use the skill, procedure, or medication.

B. The Organization Medical Director will need to supply the following information to the State Medical Director before the paramedics employed by the ALS-ITO may function under the expanded Standing Orders:

1. A list of the trained providers.

2. Documentation of the initial training provided and skill verification.

3. A schedule for annual continuing education on the optional skill.

XIV. Definitions

'911 ALS Organization': An EMS organization that has been designated to provide ALS services to calls originating from a 911 center.

ACLS: American Heart Association Advanced Cardiac Life Support course.

Advanced Life Support: The advanced level of prehospital and interhospital health care that includes basic life support functions plus cardiac monitoring, defibrillation, administration of specific medications, drugs and solutions, intravenous therapy, and other authorized treatments and procedures.

Advertising: Any information communicated by oral, written, electronic, or any graphic means including flyers, newspapers, business cards, letterhead, radio, television, telephone directories, or internet websites. It also includes ambulance markings. It does not include novelty items such as pens, pencils and mugs.

Air Medical Service: An organization that provides medical transportation utilizing either fixed wing or rotor-wing vehicles.

ALS: Advanced Life Support

ALS-IFT: Advanced Life Support – Interfacility Transport

ALS-ITO: An organization or service that provides Advanced Life Support - Interfacility Transport.

Ambulance: Any publicly or privately owned vehicle, as certified by the State Fire Prevention Commission, that is specifically designed, constructed or modified and equipped, and intended to be used for and is maintained or operated for

19. 16 Del.C. §9806 (6)

20. 16 Del.C. §9812

the transportation upon the streets and highways of this state for persons who are sick, injured, wounded, or otherwise incapacitated or helpless.

BCLS: American Heart Association Basic Cardiac Life Support course

Board of Medical Practice: Body that oversees medical practice in Delaware under 24 **Del.C.** 19.

BOMP: see Board of Medical Practice

Certification Process Process by which a paramedic certified in another state may receive reciprocity to function in the State of Delaware. (Refer to Appendix A).

Cost per Unit Hour A ratio measure of fiscal performance. It is calculated by summing all costs associated with providing a service (i.e. staffing, fuel, vehicle expenses, supply...) for a particular period and dividing by the number of unit hours that were produced by the service during the same period.

Designation: Status provided by the Division of Public Health to an ambulance service allowing them to provide Advanced Life Support Interfacility Transportation.

Designation Probation: Organization may provide ALS Interfacility Transportation but performance will be monitored as recommended changes are implemented. Continued infractions may result in suspension or revocation of service designation.

Designation Reinstatement: The Organization may resume provision of ALS-IFT in the State of Delaware.

Designation Revocation: The Organization may not provide ALS Interfacility Transport services in the State of Delaware for a period of one year before re-applying for ALS-ITO Designation.

Designation Suspension: The Organization may not provide ALS Interfacility Transport services until recommended changes are implemented and reviewed by the OEMS.

Division: Refers to the Division of Public Health

EDIN: See 'Emergency Data Information Network'

Emergency Call Any request for medical assistance that is received by a 911 Public Safety Access Point (PSAP).

Emergency Data Information Network: Internet based data collection system for the State EMS system.

Emergency Medical Technician: A person who has been trained in basic emergency care procedures and has been certified by the Delaware Fire Prevention Commission to perform them in the State of Delaware.

Inter-facility Transportation: Movement of a patient between two medical facilities.

Medical Facility: An agency, institution, or establishment where people receive acute, inpatient, outpatient, or long term health care.

Non-911 ALS Organization: An organization that is approved to provide ALS services to calls that do not originate from a 911 center.

OEMS: Office of Emergency Medical Services.

Division of Public Health

Office: Refers to the Office of Emergency Medical Services, Division of Public Health

Optional ALS Skill: A skill, procedure, or medication that has been approved by the BOMP for use by ALS-ITO paramedics. Optional skills are only for use by 'non-911' organizations.

Organization: An ALS Interfacility Transportation Organization

Organization Medical Director: Medical Director hired or contracted to oversee the medical care provided by an ALS-ITO.

PALS: American Heart Association Pediatric Advanced Life Support course

Paramedic: A person who has been trained in advanced life support procedures and has been certified by the Division of Public Health and the Board of Medical Practice to perform them in the State of Delaware.

Patient Contact Activity: Any activity involving contact between a patient and an ALS-ITO provider involving assessment, treatment, and/or transportation services being provided to the patient by the provider.

PHTLS: The National Association of EMTs and the Committee on Trauma of the American College of Surgeons Prehospital Trauma Life Support course.

Physician: An individual authorized to practice medicine in Delaware under 24 Del.C. 17

PSAP: Public Safety Access Point. Location / agency that receives 911 calls for public safety assistance.

Registered Nurse: An individual authorized to practice registered nursing in Delaware under 24 Del.C. 17

Unit Hour: A basic EMS productivity measure. A unit that is staffed and available for service for one hour generates 'a unit hour'.

XV. Appendix A

Delaware Reciprocity and Certification Procedures for Nationally Registered Paramedics

1.0 Purpose

1.1 This policy describes the procedure by which Nationally Registered paramedics, with an offer of employment by an Advanced Life Support (ALS) agency recognized by the Division of Public Health, may be certified as a paramedic in Delaware.

1.2 This document also describes the procedures all Delaware certified paramedics must follow for re-certification.

2.0 Application for Certification

2.1 Upon a valid offer of employment, the candidate shall complete a Delaware *Application for Paramedic Certification*.

2.2 The candidate shall attach **current** and **legible**

photocopies of the following course completion/certification/registration cards:

2.2.1 National Registry of Emergency Medical Technician - Paramedic

2.2.2 Basic Cardiac Life Support (Healthcare Provider)

2.2.3 Advanced Cardiac Life Support

2.2.4 Pediatric Advanced Life Support

2.2.5 Prehospital Trauma Life Support or Basic Trauma Life Support – Advanced.

2.2.6 State certification/license from each state in which they are currently practicing or hold a current certification/license.

2.2.7 National Registry test results

2.3 The candidate shall attach a statement from their paramedic training program indicating:

2.3.1 That the candidate successfully completed the program (month and year).

2.3.2 That the program was compliant with the Department of Transportation EMT-Paramedic National Standard Curriculum (indicate year of curriculum).

2.4 The candidate shall contact the Healthcare Integrity and Protection Data Bank at 1-800-767-6732 or through the internet at www.npdb-hipdb.com and request a self-query.

2.4.1 The candidate shall submit the original copy of the results of the data bank query at the time of application (this requirement becomes effective January 1, 2000).

2.4.2 The data bank query shall not be older than 60 days at the time the *Application for Paramedic Certification* is submitted to the OEMS.

2.5 The candidate shall submit an original copy of a criminal background check by a certified police agency in their state of residence. The criminal background check shall include past felony convictions.

2.5.1 If the employing agency conducts a criminal background check as a prerequisite for employment, the agency of hire may document the results of the background check and attach it to the *Application for Paramedic Certification*.

2.6 The candidate shall then submit the *Application for Paramedic Certification* and all supporting documents to the OEMS.

2.7 The OEMS shall perform an appropriate investigation of the *Application for Paramedic Certification* and notify the hiring agency within 15 working days of the receipt of the application.

3.0 Clinical Skill Verification

3.1 Once the *Application for Paramedic Certification* has been approved by the OEMS, the candidate shall schedule an appointment with the OEMS designee for clinical skill verification and a State Protocol examination.

3.2 The candidate must demonstrate competency in performing the following paramedic skills and activities on

manikins and/or live patients as required by the State EMS Medical Director:

3.2.1 Vital signs (blood pressure, pulse, respiratory rate, SaO₂)

3.2.2 Intravenous cannualization

3.2.3 Intramuscular/subcutaneous medication administration

3.2.4 Endotracheal intubation

3.2.5 Nasotracheal intubation

3.2.6 Needle cricothyrotomy

3.2.7 Thoracic decompression

3.2.8 External jugular vein cannualization

3.2.9 Synchronized cardioversion

3.2.10 External cardiac pacing

3.2.11 Adult and Pediatric drug dosages

3.2.12 Intraosseous cannualization

3.2.13 12-Lead ECG performance and interpretation (effective January 1, 2002)

3.2.14 Electronic End-Tidal CO₂ use (effective January 1, 2002)

3.2.15 Continuous Positive Airway Pressure (CPAP) (effective January 1, 2002)

3.3 The candidate will be given two opportunities to successfully demonstrate competency. A brief review of the competency standards will be conducted for the candidate if they fail to demonstrate competency on the first attempt.

3.4 The candidate shall successfully complete the State of Delaware Paramedic Standing Orders examination.

3.4.1 Passing score is 80%.

3.5 Failure of any skill on the second attempt or not receiving a passing score on the protocol examination will result in invalidation of this attempt for certification.

3.5.1 The candidate may re-attempt the clinical skills competency evaluation and/or protocol examination no sooner than three (3) working days after the first attempt.

3.6 Upon passing the Standing Orders examination, the candidate shall submit a check in the amount determined by the Board of Medical Practice and made payable to the Division of Professional Regulation.

4.0 Paramedic Certification

4.1 Upon successful completion of the processes outlined in Section 2.0 and 3.0, the candidate will be eligible to receive paramedic certification through the Delaware Board of Medical Practice (BOMP).

4.2 Candidates for paramedic certification are not allowed to practice as a paramedic until receiving official notification through the OEMS of the granting of either a temporary permit or full certification by the BOMP.

4.3 Paramedic certification through the BOMP is an individual responsibility. Paramedics certified in Delaware are required to meet the standards as outlined in BOMP Regulation 28 and the requirements of the State EMS

Medical Director in order to practice as a paramedic.

4.4 Paramedics may only perform paramedic level skills while employed and on-duty as a paramedic with an advanced life support agency recognized by the Division of Public Health.

4.5 Paramedics must carry the BOMP issued paramedic certification card on their person at all times while on-duty as a paramedic.

5.0 Competency Evaluation

5.1 Each paramedic upon achieving certification as a Delaware paramedic, must be certified by their agency medical director as competent to practice. This shall be achieved through a process as described in the OEMS document, *Evaluation of Field Competency*.

6.0 Paramedic Recertification

6.1 Eligibility for recertification is based upon completion of the following requirements per the State EMS Medical Director, the OEMS and the BOMP Regulation 28.

6.2 The paramedic must complete an OEMS approved EMT-Paramedic Refresher program consistent with Department of Transportation guidelines.

6.2.1 Paramedics employed through the state-supported paramedic programs are required to attend the OEMS Refresher/Continuing Education program.

6.3 The paramedic must complete 24 hours of continuing education approved by the OEMS.

6.3.1 Each paramedic is required to attend mandatory continuing education programs as designated by the State EMS Medical Director.

6.4 Maintain, throughout the certification period, valid course completion cards/certification/registration cards in the following disciplines:

6.4.1 National Registry of Emergency Medical Technician-Paramedic

6.4.2 Basic Cardiac Life Support (Healthcare Provider)

6.4.3 Advanced Cardiac Life Support

6.4.4 Pediatric Advanced Life Support

6.4.5 Prehospital Trauma Life Support or Basic Trauma Life Support – Advanced.

6.5 Agency Directors shall certify to the OEMS on official letterhead by April 15 that all paramedics within their agency due to re-register with the National Registry in that calendar year, have met the requirements of paragraph 6.4.

6.6 Complete the OEMS *Clinical Skills Competency Program* and submit the required certification of competency, signed by the agency Medical Director, to the OEMS by February 15 of the year that the paramedic is due to re-register.

6.7 Complete the BOMP recertification materials and mail the required fee to the BOMP.

DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code, Section 505 (31 Del.C. §505)

Public Notice

Delaware's A Better Chance and General Assistance Program

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and with 42CFR §447.205, and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 505, the Delaware Department of Health and Social Services (DHSS) / Division of Social Services / Delaware's A Better Chance (DABC) and General Assistance (GA) Program is proposing to implement a policy change to the Division of Social Services Manual, Section 7002.1. This change allows child care deduction on client caused DABC and GA overpayments. Current rules do not permit any deductions, including child care.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Mary Ann Daniels, Policy and Program Implementation Unit, Division of Social Services, P.O. Box 906, New Castle, Delaware by December 31, 2000.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

REVISION

7002.1 Cash Assistance Overpayments

C. Calculating Overpayments Resulting From Unreported Income

1) Determine the unit's prospective eligibility at the time the income began. Include all income that was actually counted in the budget calculation and any income that was not included in the calculation, but should have been.

NOTE: If income was not counted because of agency error, allow income disregards applicable to the client's assistance. If income was unreported, do not allow any disregards, except for the child care deduction. See DSSM 4004.2 and 4004.3.

2) If the unit is determined prospectively ineligible, calculate the overpayment for each month using prospective budgeting. Include in the overpayment the month that the income began if the income received in that month exceeded

the applicable Standard of Need.

3) If the unit would have remained eligible, calculate the overpayment for each month using retrospective budgeting, unless actual income received in a subsequent month makes the unit ineligible. In that case, budget the remaining months prospectively. This is for overpayments occurring prior to November 1, 1995.

4) Overpayments occurring after November 1, 1995 will be processed prospectively. The overpayment is to be processed prospectively regardless of whether the unit is totally ineligible for a benefit or if the unit is eligible for a partial benefit.

To illustrate, suppose an ABC recipient begins receiving income in January, and DSS is informed of the income in May. A budget is computed to determine prospective eligibility for February, and the unit is found ineligible for February benefits. February is the first month of the overpayment period, and the overpayment amount for each month is determined using prospective budgeting. January could also be included in the overpayment period if the income actually received in January exceeded the applicable Standard of Need.

DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code, Section 505 (31 Del.C. §505)

Public Notice

Medicaid / Medical Assistance Program

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and with 42CFR §447.205, and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 505, the Delaware Department of Health and Social Services (DHSS) / Division of Social Services / Medicaid Program is proposing to implement two policy changes to the Division of Social Services Manual, Sections 14300, 14320.1, 14330.2 and 17800 - 17805. The first change clarifies that nonqualified aliens are not eligible for State-funded benefits in the adult expansion population. The second change permits a new optional categorically needy Medicaid population. This group will be limited to individuals who lose Supplemental Security Income (SSI) due to receipt of Social Security Disability and are not yet eligible for Medicare.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to the Director, Medical Assistance Programs,

Division of Social Services, P.O. Box 906, New Castle, DE 19720 by December 31, 2000.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

REVISION

14300 Citizenship and Alienage

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA, P.L. 104-193) enacted on August 22, 1996, significantly changed Medicaid eligibility for individuals who are not citizens of the United States. The legislation revised the categories of noncitizens who may be determined eligible for Medicaid. The legislation identifies noncitizens as qualified aliens or nonqualified aliens. The term qualified refers to groups of aliens whose members may establish Medicaid eligibility under certain circumstances and subject to certain limitations. For specific groups of aliens identified as nonqualified, eligibility is limited to the treatment of an emergency medical condition as defined in this section.

In State Fiscal Year 1998, (SFY 98), the Delaware legislature appropriated STATE ONLY FUNDS to provide coverage of full Medicaid benefits to legally residing noncitizens who are ineligible for full Medicaid benefits because of PRWORA. Coverage for these aliens will be provided on a fee for service basis and is subject to the availability of state funding. In the event state funding is exhausted, the benefits will be reduced to coverage of emergency services and labor and deliver only.

Aliens who may be found eligible for full Medicaid coverage using the state funds include legally residing nonqualified aliens and qualified aliens subject to the 5 year bar. Illegally residing aliens and ineligible aliens ARE NOT ELIGIBLE for full Medicaid coverage, but remain eligible for emergency services and labor and delivery only.

All applicants, whether aliens or citizens, must meet the technical and financial eligibility criteria of a specific eligibility group such as SSI related group, AFDC related group, or poverty level related group. Not every alien, qualified or nonqualified, will be eligible for Medicaid or the state funded benefits. ~~For example, enrollment in a managed care organization is a technical eligibility requirement for adults in the expanded population under the Diamond State Health Plan demonstration waiver. A nonqualified alien or a qualified alien who is subject to the 5-year PRWORA bar cannot be found eligible in the expanded population. This is because the state funded benefits are provided on a FEE FOR SERVICE basis. An individual cannot be found eligible under the expanded population for emergency~~

services only because those benefits are provided on a fee for service basis. Adults in the expanded population are required to enroll in MANAGED CARE to receive benefits.

14320.1 Medicaid Eligibility for Qualified Aliens (PRWORA and/or State Funds)

Effective January 1, 1998, all qualified aliens, regardless of the date of entry into the U.S., may be found eligible for full Medicaid benefits. This does NOT include long term care services. Legally residing nonqualified aliens may be found eligible for Medicaid long term care services upon residing in the United States for five years. Certain qualified aliens will be Medicaid eligible. Other qualified aliens will receive state funded benefits. The adult expansion population, under the 1115 demonstration waiver entitled Diamond State Health Plan, is not eligible for state funded benefits.

The Delaware legislature appropriated state only funds to provide full Medicaid benefits to legally residing noncitizens who are ineligible for full Medicaid because of PRWORA. Under PRWORA, certain qualified aliens entering the U.S. on or after 8/22/96 were subject to a 5 year bar on eligibility. Coverage for full Medicaid benefits for the qualified aliens who are under the 5 year PRWORA bar, is subject to the availability of state funds.

The PRWORA policy (as amended by the Balanced Budget Act) which follows describes the eligibility for qualified aliens prior to the appropriation of state funds. In the event such state funding is exhausted, eligibility for qualified aliens will be determined using the PRWORA policy described below.

14330.2 Eligibility For State Funded Benefits (Nonqualified Aliens)

Effective January 1, 1998, legally residing nonqualified aliens, regardless of the date of entry into the U.S., may be found eligible for full Medicaid benefits. This does NOT include long term care services. Legally residing nonqualified aliens may be found eligible for Medicaid long term care services upon residing in the United States for five years. The adult expansion population, under the 1115 demonstration waiver entitled Diamond State Health Plan, is not eligible for state funded benefits.

The Delaware legislature appropriated state only funds to provide full coverage of Medicaid benefits to legally residing noncitizens who are ineligible for full Medicaid benefits because of PRWORA. Coverage for full Medicaid benefits for these legally residing nonqualified aliens is subject to the availability of state funds.

In the event such state funding is exhausted, eligibility for legally residing nonqualified aliens will be determined using the PRWORA policy described in Section 14330.1.

17800 Medical Assistance during Transition to Medicare

Under 42 CFR 435.232 Medicaid may be provided to individuals who receive only an optional State supplement and who would be eligible for SSI except for the level of their income.

The rules in this section set forth the eligibility requirements for coverage under this state-administered Optional State Supplementation group - Medical Assistance during Transition to Medicare (MAT). The MAT group is implemented with the earliest effective date of February 1, 2001. Eligibility under this group is not retroactive.

17801 Status Eligibility

In addition to the general Medicaid eligibility requirements listed in DSSM 14000 - 14950.7, the individual meets all the conditions listed below:

- a) received SSI, and
- b) lost eligibility for SSI because of Social Security Disability, and
- c) does not have Medicare coverage, and
- d) is not an inmate in a public institution. An individual is an inmate when serving time for a criminal offense or confined involuntarily in State or Federal prisons, jail, detention facilities, or other penal facilities. An individual awaiting trial in a detention center is considered an inmate of a public institution
- e) an annual redetermination is completed. A redetermination is a re-evaluation of a recipient's continued eligibility for medical assistance. In a redetermination, all eligibility factors are re-examined to ensure that the recipient continues to meet categorical eligibility requirements. When a redetermination is due, the recipient is required to complete and return a new DSS application form. A redetermination is complete when all eligibility factors are examined and a decision regarding continued eligibility is reached.

17802 Financial/Resource Eligibility

All income and resources are excluded.

17803 Eligibility Determination

DSS will receive the names of individuals who lose SSI via the monthly State Data Exchange (SDX). When an individual loses Medicaid eligibility because of the loss of SSI, Federal regulations require a redetermination of Medicaid eligibility based upon information obtained through the SDX file. A new application is not required. The SSI Unit will use the information obtained from the SDX to redetermine Medicaid eligibility.

17804 Income Standard

The income standard is \$5.00.

17805 Payment Level

Countable income is deducted from the income standard.

**DEPARTMENT OF NATURAL
RESOURCES AND
ENVIRONMENTAL CONTROL
DIVISION OF AIR AND WASTE MANAGEMENT
AIR QUALITY MANAGEMENT SECTION**
Statutory Authority: 7 Delaware Code,
Section 6010 (7 Del.C. §6010)

REGISTER NOTICE

1. Title Of The Regulations:

Amendment to Regulation 26.

2. Brief Synopsis Of The Subject, Substance And Issues:

To amend Regulation 26 (Motor Vehicle Emissions Inspection Program) as follows:

1. To add the provision in Section 6.1 of a new model year exemption of 5 years for the idle emission test.
2. To delete the provision in Section 6.2A that a minimum 10% reduction of hydrocarbon or carbon monoxide pollutant as one of the requirements to obtain a waiver.
3. To delete the provision in Section 6.1 that allows for emission testing at a fleet inspection station.
4. To add the test procedure for the emission idle test to Technical Memorandum #1 that had been previously reserved.
5. To delete from the list of exemptions in Section 4 vehicles powered by propane.
6. To add in Section 6 a provision that would prohibit testing vehicles with any unsafe conditions found coming through the testing lane.
7. To add to Section 6 two provision concerning alternative fuel vehicles which would require them to be inspected and held to the same emission standards as gasoline powered vehicles.

3. Possible Terms Of The Agency Action:

N/A

4. Statutory Basis Or Legal Authority To Act:

- 7 Del.C. Section 6010
- Clean Air Act Amendments of 1990

5. Other Regulations That May Be Affected By The Proposal:

None

6. Notice Of Public Comment:

Public Hearing is on January 3, 2001, Richardson and Robbins Auditorium, 89 Kings Highway, Dover

7. Prepared By:

Philip A. Wheeler 739-4791 11/22/00

**Proposed Amendments to Regulation No. 26
Motor Vehicle Emissions Inspection Program**

~~(08/13/98)~~ (/ /01)

Section 1 Applicability and General Provisions

1.1 Except as provided in Section 4 of this regulation, the standards, requirements and procedures set forth in this regulation are applicable to all motor vehicles, model years 1968 and newer with the exception of the five newest model years, titled and registered within Sussex County and as specified by the Department, including any motor vehicles owned or operated by the federal, state and local governments and their agencies.

~~(08/13/98)~~ (/ /01)

Section 2 Definitions

DIVISION: The Division of Motor Vehicles in the Department of Public Safety of the State of Delaware.

WAIVER: An exemption issued to a motor vehicle that cannot comply with the applicable emissions standard and cannot be repaired for reasonable cost.

DEPARTMENT: The Department of Natural Resources and Environmental Control of the State of Delaware.

EMISSIONS: Products of combustion discharged into the atmosphere from the tailpipe of a motor vehicle engine.

EMISSIONS INSPECTION AREA: The emissions inspection area will constitute the entire State effective April 1, 1990.

EMISSIONS STANDARD(S): The maximum concentration of either hydrocarbon (HC) or carbon monoxide (CO), or both, allowed in the emissions from the tailpipe of a motor vehicle as established by the Secretary of the Department of Natural Resources and Environmental Control or his designee in Technical Memorandum #2 entitled "Motor Vehicle Inspection and Maintenance Program Emission Limit Determination" dated 12/29/87.

FAILED MOTOR VEHICLE: Any motor vehicle which does not comply with applicable emission standards during the initial test or any retest.

~~FLEET INSPECTION STATION: A facility approved by the Department to conduct emissions inspections of the motor vehicles of a qualified fleet as determined by the Department.~~

MODEL YEAR: The year of manufacture of a vehicle as designated by the manufacturer, or the model year designation assigned by the Division to a vehicle constructed by other than the original manufacturer.

MOTOR VEHICLE: Includes every vehicle, as defined in 21 Del.Code, Section 101, which is selfpropelled, except farm tractors and offhighway vehicles.

MOTOR VEHICLE OFFICER: A person who has completed an approved emissions inspection equipment training program and is employed by an official inspection station.

NEW MOTOR VEHICLE: A motor vehicle of the current or preceding model year that has never been previously titled or registered in this or any other jurisdiction and whose ownership document remains as a manufacturer's certificate of origin.

OFFICIAL INSPECTION STATION: The Motor Vehicle Safety Inspection Stations in Wilmington, New Castle, Dover and Georgetown, Delaware, operated by the Division.

REASONABLE COST: The actual cost of parts and labor which is necessary to cause the failed motor vehicle to comply with applicable emissions standards or which contributes toward compliance. It shall not include the cost of those repairs determined by the Division to be necessary due to alteration or removal of any part of the emission control system of the motor vehicle, or due to any damage resulting from the use of improper fuel in the failed motor vehicle.

REGISTERED GROSS VEHICLE WEIGHT(G.V.W.): The vehicle gross weight designated by the Division on the vehicle registration card which is the total weight of the vehicle and its maximum allowable load.

VEHICLE: Means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks and excepting offhighway vehicles.

(05/09/85)

Section 3 Registration Requirement

3.1 Effective January 1, 1983, no motor vehicle that is

subject to this regulation may be granted registration in the State of Delaware unless the motor vehicle is in compliance with the applicable emissions standards, regardless of its pass/fail status of other tests normally performed at the official inspection station.

~~(02/08/95)~~ (/ /01)

Section 4 Exemptions

4.1 The following motor vehicles are exempt from the provisions of this regulation:

A. All farm vehicles not required by law to be registered

B. All historic vehicles, kit cars or antique vehicles displaying antique vehicle registration plates.

C. All motor vehicles with a registered G.V.W. over 8,500 pounds.

D. All motorcycles.

E. All vehicles that are registered in Delaware, but are not operated in Delaware consistent with established procedures of the Division.

~~F. All vehicles that obtain power by a means other than gasoline internal combustion. (Example: diesel, electric, propane, etc.)~~

F. All vehicles powered solely by diesel or solely by electricity generated from solar cells and/or stored in batteries.

4.2 Any exemption issued to a vehicle under this Section will not have an expiration date and will expire only upon a change in the vehicle status for which exemption was initially granted.

(07/06/82)

Section 5 Enforcement

5.1 Enforcement shall be in accordance with the provisions of 7 Del.C., Chapter 67.

~~(6/18/98)~~(/ /01)

Section 6 Compliance, Waivers and Extensions of Time

6.1 Compliance with applicable emissions standards shall be determined at an official inspection station ~~or at a fleet inspection station~~. The idle test procedure prescribed by the Department in Technical Memorandum #1 entitled "Motor Vehicle Inspection and Maintenance Program Vehicle Test Procedure and Machine Calibration", dated 6/9/82, shall be the official test procedure. A pass/fail printout from the emission testing equipment given to the driver will serve as the driver's record of the test results. Vehicles shall be pre-inspected prior to the emission inspection, and shall be prohibited from testing should any unsafe conditions be found. These unsafe conditions include, but are not limited

to significant exhaust leaks, and significant fluid leaks. The Division and the Department shall not be responsible for major vehicle component failures during the test, of parts which were deficient or excessively worn prior to the start of the test.

A. Any motor vehicle shall be deemed to be in compliance with Section 3.1 if the test results are equal to or less than the emissions standards applicable to the motor vehicle.

B. Except as provided in Section 6.1 C, any motor vehicle shall be deemed to be in noncompliance with Section 3.1 if the test results are greater than the emissions standards applicable to the motor vehicle.

C. Any motor vehicle which fails its initial emissions test shall be deemed to be in compliance with Section 3.1 if not later than the registration expiration date, the motor vehicle either (1) is repaired at reasonable cost and is in compliance with applicable emissions standards as determined by an emissions retest at an Official Inspection Station, or (2) is granted a waiver pursuant to Section 6.2, or (3) is granted an extension of time not to exceed one month.

D. Whenever the owner of a failed motor vehicle determines to the satisfaction of the Division that it cannot be repaired at reasonable cost, the owner may be granted a waiver provided the owner makes application to the Division prior to the registration expiration date or by such other time as may be specified by the Division.

E. Vehicles powered solely by a "clean fuel" such as compressed natural gas, propane, alcohol and similar non-gasoline fuels shall be required to report for inspection to the same emission levels as gasoline powered cars until standards for clean fuel vehicles become available and are adopted by the State.

F. Vehicles able to be powered by more than one fuel, such as compressed natural gas and/or gasoline, must be tested and pass emissions standards for all fuels when such standards have become adopted by the Department.

6.2 Waiver issuance criteria

A. Waivers shall be issued only after a vehicle has failed a retest performed after all qualifying repairs have been completed, ~~and a minimum of 10% improvement (reduction) in hydrocarbons (HC) and carbon monoxide (CO) has resulted from those repairs.~~

B. Any available warranty coverage shall be used to obtain needed repairs before expenditures can be counted towards the cost limits in Section 6.2 E of this regulation. The operator of a vehicle within the statutory age and mileage coverage under section 207(b) of the Clean Air Act shall present a written denial of warranty coverage from the manufacturer or authorized dealer for this provision to be waived for approved tests applicable to the vehicle.

C. Waivers shall not be issued to vehicles for tamperingrelated repairs. The cost of tamperingrelated

repairs shall not be applicable to the minimum expenditure in Section 6.2 F of this regulation. An exemption for tamperingrelated repairs may be issued if it can be verified that the part in question or one similar to it is no longer available for sale.

Repairs shall be appropriate to the cause of the test failure, and a visual check shall be made to determine if repairs were actually made if, given the nature of the repair, it can be visually confirmed. Receipts shall be submitted for review to further verify that qualifying repairs were performed.

D. A minimum of \$75 for pre81 vehicles and \$200 for 1981 and later vehicles shall be spent on related repairs in order to qualify for a waiver. This minimum cost should not be construed as an amount which must be spent as a condition of compliance after an initial failure. This cost relates only to the minimum cost which must be incurred when determining the eligibility of granting a waiver. In addition, this regulation does not prevent the vehicle owner from performing self-repairs.

6.3 The Division shall be responsible for specifying any forms or procedures to be followed in making applications pursuant to Section 6.2.

6.4 Waivers issued pursuant to this regulation are valid until the date of current registration expiration.

6.5 Quality control of waiver issuance.

A. The program shall include methods of informing vehicle owners or lessors of potential warranty coverage, and ways to obtain warranty repairs.

B. The program shall insure that repair receipts are authentic and cannot be revised or reused.

C. The program shall insure that waivers are only valid for one test cycle.

(07/06/82)

Section 7 Inspection Facility Requirements

7.1 Motor Vehicle Officers employed by the Division shall meet the requirements specified in this regulation.

7.2 Test equipment used by the Division shall be a type approved by the Department and testing procedures shall be conducted in accordance with the provisions of this regulation.

7.3 No person employed by the Division to test motor vehicle emissions shall engage in or have an interest in the operation of repair facilities located in this State; perform emission related repairs for compensation; or recommend repair facilities to owners or operators of vehicles being tested.

(07/06/82)

Section 8 Certification of Motor Vehicle Officers

8.1 A person may not perform the duties of a motor vehicle officer for testing motor vehicle emissions or operating emission testing equipment to determine the compliance or noncompliance of a motor vehicle as required by this regulation at an official inspection station unless that person has applied for and has received certification in accordance with the provisions of this Section.

8.2 To become certified, a person shall successfully complete a training course for this purpose approved by the Division.

(08/13/98) (/ /)

Section 9 Calibration and Test Procedures and Approved Equipment

9.1 All emissions testing for the purpose of determining compliance with emissions standards shall be performed using equipment approved by the Department and calibration and test procedures as provided in this regulation.

9.2 Calibration and test procedures: Reserved.

9.3 Test Procedures: See Technical Memorandum #1

(/ / 01)

TECHNICAL MEMORANDUM #1

Reserved

DELAWARE DIVISION OF MOTOR VEHICLES VEHICLE EXHAUST EMISSIONS TEST

1.0 PURPOSE:

To describe the details of the DMV exhaust emissions test for HC and CO using DE '95 Inspection system composed of exhaust emissions and pressure test analyzers manufactured by Environmental Systems Products, Inc., E. Granby, CT (ESP)

2.0 APPLICABILITY:

Applicable to all gasoline (or alternate fueled) vehicles presented for inspection (regular renewal) in Delaware.

3.0 ASSOCIATED MATERIALS:

3.1 ESP Lane Operator's Manual, Version #2 (1997)

3.2 DMV 9701 Gas Calibration

3.3 ESP DW6 HT202561 (Rev. L 06/27/95)

3.4 Delaware exhaust emissions specification limits

3.5 ESP BAR 90 Certification for analyzer bench

3.6 ESP exhaust emissions measurement system P/N ESP 10364-2

4.0 PROCEDURE: (The referenced equipment is located at Step #1 of the DMV Inspection process)

4.1 The lane analyzer has successfully passed the calibration procedure(s) noted in Sections 2.1 - 2.2 of the ESP Lane Operator's Manual and DMV9701.

4.2 The Certified DMV Technician has verified that the vehicle presented is a viable candidate for an exhaust emissions analysis using DE '95 equipment.

4.3 The DMV Technician verifies that the following criteria are satisfied prior to emissions analysis.

4.3.1 - Analyzer is "clean"; a HC hang-up condition exists when HC reading is greater than 40 PPM and the analyzer "locks-out" until the purge indicates "clean".

4.3.2 - After the Technician inserts the exhaust pipe probe (a) insertion, to a minimum of 10 inches, the resultant sample dilution (CO+CO2) must exceed 6.0%. The analyzer indicates the presence of a failure condition (CO + CO2 < 6.0%) and indicates "test voided". If the (CO + CO2) condition is not satisfied, the subject vehicle FAILS the Delaware Emissions Test.

4.4 When those conditions indicated in 4.3 are satisfied, the analyzer begins a timed emissions test. The following sequence prevails:

4.4.1 The test sequence is:

4.4.1.1 The internal timer starts; the analyzer "collects" samples for 15 seconds at a rate of 2 samples per second;

4.4.1.2 At the 15 second interval, the analyzer compares the accumulated data to the applicable DE emissions specification for Hydrocarbon(s) HC and Carbon Monoxide CO;

4.4.1.3 Should the analyzer determine that the accumulated data does not exceed specifications for both components, it stops testing and indicates that the vehicle has passed emissions testing;

4.4.1.4 If the above analysis indicates that the applicable specifications limits are exceeded, sampling continues at the prescribed rate for an additional 15 seconds;

4.4.1.5 During this additional 15 second interval the analyzer continually compares the resultant data to the applicable DE specification. If, during this time, the HC & CO data are within specification, sampling ceases and a PASS indication is indicated; If, at the end of a 30 second sampling, either or both the HC and CO data exceed specification, testing is terminated and a FAILURE is noted. An immediate exhaust emissions retest is provided to all vehicles failing their initial emissions test. Subsequent "retests" shall only be performed after a properly completed "DMV VEHICLE EMISSIONS REPAIR FORM" is presented

(a) Normally, the vehicle driver has been requested to "fast idle" the vehicle for 30 seconds prior to entering the inspection lane, however, the Technician does not verify this condition.

(Revised 12/29/87)

TECHNICAL MEMORANDUM #2
MOTOR VEHICLE INSPECTION AND MAINTENANCE
PROGRAM EMISSION LIMIT DETERMINATION

The five vehicle age groups have different allowable emission rates in the idle mode due to the sophistication of the emission control equipment installed by the manufacturer. The only exception being the pre1968 age group which had no pollution control apparatus, saved for a few vehicles with positive crankcase ventilation (PCV) valves. Installation of PCV valves was virtually a voluntary measure by auto manufacturers.

During the time period March 1 through June 30, 1982, data was being gathered by a mandatory emission inspection with voluntary repair, at the two vehicle safety inspection lanes in New Castle County. The Sun Model CEA3023 Computer Emission Analyzer (hereafter called the analyzer) has the ability to store, on conventional data cassettes, all of the input required and the results of a test on every vehicle tested. This is to include date, time, vehicle age group, vehicle registration number, hydrocarbon (HC) and carbon monoxide (CO) emission limits for the particular vehicle age group and the actual HC and CO emissions from the tested vehicle. A paper printout of this information is given to the driver upon being tested. Test procedures were consistent with those described in Appendix B to Technical Memorandum #1.

During the voluntary emission program, the HC and CO emission limits programmed into the analyzer were, with one exception, the same as those used by the State of New Jersey in its I & M program. Using these limits or "cut points" for each vehicle type gave a very good frame of reference to analyze the limits applicable to Delaware.

In general, about 25% of the vehicles tested during that voluntary program failed to pass the New Jersey standards.

Emission limits for each age group and the failure rate as a percent are shown in Table 1.

Table 1
HC⁽¹⁾

pre 1968	1400	18%
1968-1970	700	22%
1971-1974	500	20%
1975-1979	300	29%
1980 +	100	15%

Notes

(1) Hydrocarbon (HC) emissions expressed as parts per million (ppm) of nonmethane HC

(2) The New Jersey standards for 1980 and later

models are 300 ppm of HC

The rate of emission reduction required by the I & M program adoption must be at least 35% reduction of total HC emissions from tailpipe at the end of 1987. The 35% is defined as the difference in emissions of HC between the vehicle fleet not having I & M and that having I & M, in the urbanized portion of the ozone nonattainment area. Since the mechanics of testing only those vehicles registered to an address within the "urbanized"⁽¹⁾ area would be difficult at best, the entire county was included in the calculations for reductions.⁽²⁾ The types of vehicles to be tested for emissions were broadened to include the two classes of light duty trucks, those under 6,000 pounds G. V. W. and those in the 6,000 to 8,500 pound G.V.W. class. These two measures reduced the estimated failure rate from the 20% of the urbanized auto and station wagon fleet, which is the target rate to accomplish the 35% reduction in the emissions, down to 15%.

Attached as Appendix A to this Technical Memorandum is an April 16, 1982, letter from the I & M staff at EPA's Ann Arbor office. This letter details their evaluation of a 10% stringency factor on the three LD classes of vehicles in NCC to provide at least 35% reduction in tailpipe emissions. Following up the EPA analysis is a similar analysis for the Delaware-specific data. With a 15% stringency factor the results show that a 39.7% reduction in HC will be realized when the same 1,083 factor for "entire county inspection" is applied. This is obviously a reduction in tailpipe HC emissions adequate to meet the EPA requirements.

The selection of cut points for each vehicle class was accomplished by computer storage and retrieval of the data. For each vehicle age group, the frequency of each emission reading was determined and the appropriate percentile selected as the cut point for that particular age group. For simplicity and reduced computer storage requirements each individual reading was grouped in sets of 5 ppm, in the case of HC, and in sets of 0.05%, in the case of CO.

Light duty trucks (pickups and vans) have different levels of emission controls than those of autos. Age groups of the two light duty gasoline truck classes LDGT1⁽³⁾ and LDGT2⁽⁴⁾ had to be fit into one of the auto age group levels of emission control. This determination was made by utilizing Table 7 of the January, 1981, EPA document entitled "Recommendations Regarding the Selection of Idle Emission Inspection Cutpoints for Inspection and Maintenance Programs". The final result of this exercise is shown in Table 2, and this table represents the cutpoints adopted in the 1982 S.I.P. revision. Since the County of New Castle is nonattainment for ozone which is affected by HC, the rates shown for CO will be recorded, but failure of CO limits will not affect registration of the vehicle.

PROPOSED REGULATIONS

- (1) The urbanized area as defined by the U.S. Bureau of the Census.
- (2) This expanded the potential vehicle fleet by a factor of 1.083 which is the ratio of total NCC population to the urbanized area population.
- (3) Truck with GVW less than 6,000 pounds
- (4) Truck with GVW greater than 6,000 but less than 8,500 pounds

This determination shall be based on vehicle test data from the first ten months of the past year. Public notice prominently placed in the Wilmington newspapers will announce details of the changes and the circumstances which caused the adjustments to be made.

REVISION NUMBER 2 12/29/87

The following changes are made effective January 1, 1988, and consist of revisions to existing Table 2 of the approved 1982 Ozone SIP Revision.

Table 2

<u>LDGV</u>	<u>LDGT1</u>	<u>LDGT2</u>	<u>HC</u>
pre 1968	pre 1968	pre 1970	1600 ppm
1968-1971	1968-1970	1970-1972	1100 ppm
1972-1974	1971-1974	1973-1978	800 ppm
1975-1979	1975 & later	1979 & later	600 ppm
1980 & later			235 ppm*

*The emission limit of 235 ppm for 1980+ vehicles is the "warranty" emission limit of 220 ppm plus the accuracy of the testing equipment (+/- 15 ppm)

REVISION NUMBER 1 5/9/85

The following changes are made effective July 1, 1985, and consist of revisions to existing Table 2 of the approved 1982 Ozone SIP Revision

Table 2 (As Revised)

<u>LDGV</u>	<u>LDGT</u>	<u>HC</u>
1968-1970	1970-1972	1100 ppm
1971-1974	1973-1978	800 ppm
1975-1979	1979-1983	500 ppm
1980		275 ppm
1981 & later	1984 & later	220 ppm

Whenever the Department determines that the cutpoints used during 1985 or any subsequent year do not provide the minimal required hydrocarbon reduction, the following cutpoints will become effective on the first day of a new calendar year.

Table 2

<u>LDGV</u>	<u>LDGT</u>	<u>HC</u>
1968-1970	1970-1982	1000 ppm
1971-1974	1973-1978	700 ppm
1975-1979	1979-1983	450 ppm
1980		275 ppm
1981 & later	1984 & late	220 ppm

Table 2 (As Revised)

<u>LDGV</u>	<u>LDGT</u>	<u>HC</u>
1968-1970	1970-1972	900 ppm
1971-1974	1973-1978	600 ppm
1975-1979	1979-1983	400 ppm
1980		220 ppm
1981 & later	1981 & later	220 ppm

Whenever the Department determines that the cutpoints used during 1988 or any subsequent year do not provide the minimal required hydrocarbon reduction, the following cutpoints will become effective on the first day of a new calendar year.

Table 2 (As Revised)

<u>LDGV</u>	<u>LDGT</u>	<u>HC</u>
1968-1970	1970-1972	800 ppm
1971-1974	1973-1978	500 ppm
1975-1979	1979-1983	350 ppm
1980		220 ppm
1981 & later	1981 & later	220 ppm

This determination shall be based on vehicle test data from the first ten months of the past year. Public notice prominently placed in the Wilmington newspapers will announce details of the changes and the circumstances which caused the adjustments to be made.

A. The following changes are made effective January 31, 1990, and will be retained indefinitely unless circumstances occur which will be described in Part B.

TABLE 2

Group	Auto/ Sta. Wag.	Pickup/van Under 8501#	Hydrocarbon Limit	Carbon Dioxide Limit
1	'68-'70	'70-'72	900 ppm	9.00
2	'71-'74	'73-'78	600 ppm	6.00

3	'75-'79	'79-'83	400 ppm	4.00
4	'80	(NONE)	220 ppm	2.00
5	'81 +	'84 +	220 ppml	.20

B. Whenever the Department determines that the cutpoints proposed in Part A do not provide the minimal required hydrocarbon reduction, the following cutpoints will become effective on the first day of calendar quarter (i.e. January, April, July or October).

TABLE 2

Group	Auto/ Sta. Wag.	Pickup/van Under 8501#	Hydrocarbon limit	Carbon monoxide Limit (%)
1	'68-'70	'70-'72	800 ppm	8.00
2	'71-'74	'73-'78	500 ppm	5.00
3	'75-'79	'79-'83	350 ppm	3.50
4	'80	(NONE)	220 ppm	2.00
5	'81 PLUS	'84 PLUS	220 ppml	.20

**DIVISION OF AIR & WASTE MANAGEMENT
AIR QUALITY MANAGEMENT SECTION**

Statutory Authority: 7 Delaware Code,
Chapter 60 (7 Del.C. Ch. 60)

REGISTER NOTICE

1. Title Of The Regulations:

Amendment to Regulation 31.

2. Brief Synopsis Of The Subject, Substance And Issues:

To amend Regulation 31 (Low Enhanced Inspection and Maintenance Program) as follows:

1. To delete the Low Emitter Profile (LEP) provision subparagraph (f) in Section 5, "Vehicle Coverage" and Appendix 5(f), "Background on Clean Screening" which details the LEP methodology.

2. To add the "New Model Year Clean Screen" provision to replace subparagraph (f) in Section 5. The provision would allow exempting newer model vehicles six to eight years old, normally required to be tested for exhaust and evaporative emissions. The exemption would occur when those vehicles are at a inspection facility and the wait time for vehicles at the end of the testing queue is 60 minutes or greater.

3. Possible Terms Of The Agency Action:

N/A

4. Statutory Basis Or Legal Authority To Act:

- 7 Del. C. Section 6010
- Clean Air Act Amendments of 1990

5. Other Regulations That May Be Affected By The Proposal:

None

6. Notice Of Public Comment:

Public Hearing is on January 3, 2001, Richardson and Robbins Auditorium, 89 Kings Highway, Dover

7. Prepared By:

Philip A. Wheeler 739-4791, 11/22/00

Regulation No. 31

**Low Enhanced Inspection And Maintenance Program
Proposed Sip Revision**

08/13/98

Section 1 - Applicability.

(a) This program shall be known as the "Low enhanced Inspection and Maintenance Program" or "LEIM Program", and shall be identified as such in the balance of this regulation.

(b) This regulation shall apply to New Castle and Kent Counties.

(c) This regulation shall apply to all vehicles registered in the following postal ZIP codes:

19701	19702	19703	19706	19707	19708
19709	19710	19711	19712	19713	19714
19715	19716	19717	19718	19720	19730
19731	19732	19733	19734	19735	19936
19703	19938	19800	19801	19802	19803
19804	19805	19806	19807	19808	19809
19810	19850	19890	19894	19896	19897
19898	19899	19901	19902	19903	19904
19934	19936	19938	19942	19943	19946
19952	19953	19954	19955	19961	19962
19963*	19964	19977	19979	19980	

* Note: If vehicles registered in Sussex County and with this ZIP code, this regulation is not applicable.

(d) The legal authority for implementation of the LEIM Program is contained in 7 Del.C. Chapter 60, §6010(a). Appendix 1(d) contains the letter from the State of Delaware, Secretary of the Department to EPA Regional Administrator, W. Michael McCabe committing to continue the I/M program through the enforcement of this regulation out to the attainment year and remain in effect until the applicable area is redesignated to attainment status and a Maintenance Plan is approved by the EPA. 7 Del.C. Chapter 60, §6010(a) does not have a sunset date.

(e) Requirements after attainment.

This LEIM program shall remain in effect if the area is redesignated to attainment status, until approval of a Maintenance Plan, under Section 175A of the Clean Air Act, which demonstrates that the area can maintain the relevant standard for the maintenance period (10 years) without benefit of the emission reductions attributable to the continuation of the LEIM program.

(f) Definitions

Alternative Fuel Vehicle: Any vehicle capable of operating on one or more fuels, none of which are gasoline, and which is subject to emission testing to the same stringency as a similar gasoline fueled vehicle.

Certified Repair Technician: Automotive repair technician certified jointly by the College (or other training agencies or training companies approved by the Department) and the Department of Natural Resources and Environmental Control and the Division of Motor Vehicles as having passed a recognized course in emission repair. (See Appendix 7 (a))

Certified Manufacturer Repair Technician: Automotive repair technician certified by the Department of Natural Resources and Environmental Control and the Division of Motor Vehicles, as trained in doing emission repairs on vehicles of a specific manufacturer. (See Appendix 7 (a))

College: The Delaware Technical and Community College

Compliance Rate: The percentage of vehicles out of the total number required to be inspected in any given year that have completed the inspection process to the point of receiving a final certificate of compliance or a waiver.

Director: The Director of the Division of Motor Vehicles in the Department of Public Safety.

Division: The Division of Motor Vehicles in the Department of Public Safety of the State of Delaware.

Department: The Department of Natural Resources and Environmental Control of the State of Delaware.

Emissions: Products of combustion and fuel evaporation discharged into the atmosphere from the tailpipe, fuel system or any emission control component of a motor vehicle.

Emissions Inspection Area: The emissions inspection area shall constitute the entire counties of New Castle and Kent.

Emissions Standard(s): The maximum concentration of hydrocarbons (HC), carbon monoxide (CO) or oxides of nitrogen (NO_x), or any combination thereof, allowed in the emissions from a motor vehicle as established by the Secretary, as described in this regulation.

Failed Motor Vehicle: Any motor vehicle which does not comply with applicable exhaust emission standards, evaporative system function check requirements and emission control device inspection requirements during the initial test or any retest.

Flexible Fuel Vehicle: Any vehicle capable of operating on more than one fuel type, one of which includes gasoline, which must be tested to program standards for gasoline. This is in contrast to alternative fuel vehicles.

Going Concern: An individual or business with a primary, full time interest in the repair of motor vehicles.

GPM: Grams per mile (grams of emissions per mile of travel).

Manufacturer's Gross Vehicle Weight: The vehicle gross weight as designated by the manufacturer as the total weight of the vehicle and its maximum allowable load.

Model Year: The year of manufacture of a vehicle as designated by the manufacturer, or the model year designation assigned by the Division to a vehicle constructed by other than the original manufacturer.

Motor Vehicle: Includes every vehicle, as defined in 21 **Del.Code**, Section 101, which is self-propelled, except farm tractors, off-highway vehicles, motorcycles and mopeds.

Motor Vehicle Technician: A person who has completed an approved emissions inspection equipment training program and is employed or under contract with the State of Delaware.

New Motor Vehicle: A motor vehicle of the current or preceding model year that has never been previously titled or registered in this or any other jurisdiction and whose ownership document remains as a manufacturer's certificate of origin, unregistered vehicle title.

Official Inspection Station: All official Motor Vehicle Inspection Stations located in New Castle and Kent counties, operated by, or under the auspices of, the Division.

Operator: An employee or contractor of the State of Delaware performing any function related to motor vehicle inspections in the State.

Performance Standard: The complete matrix of emission factors derived from the analysis of the model program as defined in 40 CFR Part 51 Subpart S, by using EPA's computerized Mobile5a emission factor model. This matrix of emission factors is dependent upon various speeds, pollutants and evaluation years.

PFI: The Plan for Implementation of Regulation No. 31, which can be also considered to be the technical support document for that regulation.

Reasonable Cost: The actual cost of parts and labor which is necessary to cause the failed motor vehicle to comply with applicable emissions standards or which contributes towards compliance. It shall not include the cost of those repairs determined by the Division to be necessary due to the alteration or removal of any part of the emission control system of the motor vehicle, or due to any damage resulting from the use of improper fuel in the failed motor vehicle.

Registration Fraud: Any attempt by a vehicle owner or operator to circumvent the requirements to

properly and legally register any motor vehicle in the State of Delaware.

Secretary: The Secretary of the Department of Natural Resources and Environmental Control.

Stringency Rate: The tailpipe emission test failure rate expected in an I/M program among pre-1981 model year passenger cars or pre-1984 light-duty trucks.

Vehicle Type: EPA classification of motor vehicles by weight class which includes the terms light duty and heavy duty vehicle.

Waiver: An exemption issued to a motor vehicle that cannot comply with the applicable exhaust emissions standard and cannot be repaired for a reasonable cost.

Waiver Rate: The number of vehicles receiving waivers expressed as a percentage of vehicles failing the initial exhaust emission test.

08/13/98

Section 2 - Low Enhanced I/M Performance Standard.

(a) On-road testing:

The performance standard shall include on-road testing of at least 0.5% of the subject vehicle population, or 20,000 vehicles whichever is less, as a supplement to the periodic inspection required in paragraph (a) of Section 3. The requirements are contained in Section 12 of this regulation.

(b) On-board diagnostics (OBD): [Reserved]

06/11/99

Section 3 - Network Type And Program Evaluation.

(a) The LEIM Program shall be a test-only, centralized system operated in New Castle and Kent Counties by the State of Delaware's Division of Motor Vehicles.

(1) Network type:

Centralized testing.

(2) Start date:

January 1, 1995

(3) Test frequency:

Biennial testing.

(4) Model year coverage:

Idle and two-speed idle test of all covered vehicles: Model years 1968 and newer for light duty vehicles and model years 1970 and newer for light duty trucks with the exception of the five most recent model years.

(5) Vehicle type coverage:

Light duty vehicles, and light duty trucks, rated up to 8,500 pounds Gross Vehicle Weight Rating (GVWR).

(6) Exhaust emission test type:

(i) Idle test of all covered vehicles: Model years 1968 through 1980 for light duty vehicles and model years 1970 through 1980 for light duty trucks according to the requirements found in Appendix 6 (a).

(ii) Two-speed idle test (vehicle engine at idle and 2500 revolutions per minute (rpm) of all covered

vehicles model years 1981 and newer according to the requirements found in Appendix 6 (a).

(7) Emission standards:

(Emissions limits according to model year may be found in Appendix 3 (a) (7))

Maximum exhaust dilution measured at no less than 6% CO plus carbon dioxide (CO₂) on all tested vehicles (as described in Appendix B of the EPA Rule).

(8) Emission control device inspections:

Visual inspection of the catalyst on all 1975 and later model year vehicles with the exception of new motor vehicles registered in Delaware.

(9) Evaporative system function checks:

Evaporative system integrity (pressure) test on 1975 and later model year vehicles with the exception of the five most recent model years.

(10) Stringency:

A 20% emission test failure rate among pre-1981 model year vehicles.

(11) Waiver rate:

A 3% rate, as a percentage of failed vehicles.

(12) Compliance rate:

A 96% compliance rate.

(13) Evaluation date:

Low enhanced I/M program areas subject to the provisions of this paragraph shall be shown to obtain the same or lower emission levels as the model program described in this paragraph by 2000 for ozone nonattainment areas and 2001 for CO nonattainment areas, and for severe and extreme ozone nonattainment areas, on each applicable milestone and attainment deadline, thereafter. Milestones for NO_x shall be the same as for ozone..

(b) On-board diagnostics (OBD): [Reserved]

(c) Program Evaluation

(1) Program evaluation shall be used in determining actual emission reductions achieved from the LEIM program for the purposes of satisfying the requirements of sections 182(g)(1) and 182(g)(2) of the Clean Air Act, relating to reductions in emissions and compliance demonstration.

(2) Transient mass emission test procedure: A randomly selected number of subject vehicles that are due to be tested according to the requirements of this regulation will be required to undergo, in addition to the required tests, an alternative test procedure to provide information for the purpose of evaluating the overall effectiveness of the Low Enhanced Inspection and Maintenance Program. The test is referred to as the VMASTM method. See Appendix 3 (c) (2).

06/11/99

Section 4 - Test Frequency And Convenience.

(a) The LEIM Program shall be operated on a biennial

frequency, which requires an inspection of each subject vehicle at least once every two years, regardless of any change in vehicle status, at an official inspection station. New vehicles must be presented for LEIM program testing not more than 60 months after initial titling.

(b) This system of inspections and registration renewals allows the additional benefit of coupling both enforcement systems together. Local, County and State police shall continue to enforce registration requirements, which shall require inspection in order to come into compliance. Requirements of inspection of motor vehicles before receiving a vehicle registration is found in the Delaware Criminal and Traffic manual Title 21 Chapter 21. Violations of registration provisions and the resulting penalties are found in the Delaware Criminal and Traffic Law Manual, Title 21, Chapter 21. One 60 day extension shall be available to allow testing and repair. (See Appendix 4 (a) for the citations)

(c) Stations shall be open to the public at hours designed for maximum public convenience. These hours shall equal a minimum of 42 hours per week. Stations shall remain open continuously through the designated hours, and every vehicle presented for inspection during these hours shall receive a test prior to the daily closing of the station. Testing hours shall be Monday and Tuesday: 8:00 am to 4:30 pm, Wednesday: 12 noon to 8 pm, Thursday and Friday 8:00 am to 4:30 pm. These hours may be subject to change by the State. Official inspection stations shall adhere to regular, extended testing hours and shall test any subject vehicle presented for a test during its test period.

~~(06/11/99)~~ (/ /01)

Section 5 - Vehicle Coverage.

(a) Subject Vehicles

The LEIM program is based on coverage of all 1968 and later model year, gasoline powered, light duty vehicles and 1970 and later model year light duty trucks up to 8,500 pounds GVWR (with the exception of the five most recent model years). The following is the complete description of the LEIM program:

Vehicles registered or required to be registered within the emission inspection area, and fleets primarily operated within the emissions inspection area boundaries and belonging to the covered model years and vehicle classes comprise the subject vehicles, which are as follows: (See Appendix 5 (a) for DMV Out of State Renewals)

(1) All vehicles titled/registered in Delaware from model year 1968 light duty vehicles and 1970 and later model year light duty trucks and whose vehicle type are subject to the applicable test schedule.

(2) All subject fleet vehicles shall be inspected at an official inspection station.

(3) Subject vehicles which are registered in the program area but are primarily operated in another LEIM

area shall be tested, either in the area of primary operation, or in the area of registration. Alternate schedules may be established to permit convenient testing of these vehicles (e.g., vehicles belonging to students away at college should be rescheduled for testing during a visit home).

(4) Vehicles which are operated on Federal installations located within an emission inspection shall be tested, regardless of whether the vehicles are registered in the emission inspection jurisdiction. This requirement applies to all employee-owned or leased vehicles (including vehicles owned, leased, or operated by civilian and military personnel on Federal installations) as well as agency-owned or operated vehicles, except tactical military vehicles, operated on the installation. This requirement shall not apply to visiting agency, employee, or military personnel vehicles as long as such visits do not exceed 60 calendar days per year. In areas without test fees collected in the lane, arrangements shall be made by the installation with the LEIM program for reimbursement of the costs of tests provided for agency vehicles, at the discretion of the Director. The installation manager shall provide documentation of proof of compliance to the Director. The documentation shall include a list of subject vehicles and shall be updated periodically, as determined by the Director, but no less frequently than each inspection cycle. The installation shall use one of the following methods to establish proof of compliance:

(i) Presentation of a valid certificate of compliance from the LEIM program, from any other LEIM program at least as stringent as the LEIM program described herein, or from any program deemed acceptable by the Director.

(ii) Presentation of proof of vehicle registration within the geographic area covered by the LEIM program, except for any Inspection and Maintenance program whose enforcement is not through registration denial.

(iii) Another method approved by the Director.

(5) Vehicles powered solely by a "clean fuel" such as compressed natural gas, propane, alcohol and similar non-gasoline fuels shall be required to report for inspection to the same emission levels as gasoline powered cars until standards for clean fuel vehicles become available and are adopted by the State.

(6) Vehicles able to be powered by more than one fuel, such as compressed natural gas and/or gasoline, must be tested and pass emissions standards for all fuels when such standards have become adopted by the Department..

(b) Exemptions

The following motor vehicles are exempt from the provisions of this regulation:

(1) Vehicles manufactured and registered as Kit Cars

(2) Tactical military vehicles used exclusively for

military field operations.

(3) All motor vehicles with a manufacturer's gross vehicle weight over 8,500 pounds.

(4) All motorcycles and mopeds

(5) All vehicles powered solely by electricity generated from solar cells and/or stored in batteries.

(6) Non-road sources, or vehicles not operated on public roads

(7) Vehicles powered solely by Diesel fuel.

(c) Any exemption from inspection requirements issued to a vehicle under this Section shall not have an expiration date and shall expire only upon a change in the vehicle status for which the exemption was initially granted.

(d) Fleet owners are required to have all non-exempted vehicles under their control inspected at an official inspection station during regular station hours.

(e) Vehicles shall be pre-inspected prior to the emission inspection, and shall be prohibited from testing should any unsafe conditions be found. These unsafe conditions include, but are not limited to significant exhaust leaks, and significant fluid leaks. The Division and the Department shall not be responsible for major vehicle component failures during the test, of parts which were deficient or excessively worn prior to the start of the test.

(f) ~~Clean Screening: Clean screening exemptions will be determined by use of a Law Emitter Profile model that identifies expected low emitting vehicles based on historical test data. Exemption criteria is based on vehicle types (make, model, model year, and engine type) Low Emitter Profile modeling database will be updated annually to account for changing vehicle emissions test performance. Vehicle types (name of manufacturer, model, model year and engine type) that are subject to this regulation and have met clean emissions criteria developed by the Division of Motor Vehicles, may be exempt from the two speed idle exhaust emissions test and the evaporative emissions test (except for a fuel cap pressure test) if warranted by queue conditions at the inspection lanes. Each Delaware inspection lane shall independently control clean screen activation. Clean screen mode shall occur when the inspection lane queue exceeds 60 minutes. The Lane Manager (or designee) must advise inspection personnel to activate the process. Once a queue reduction to less than 60 minutes takes place, reversion to the normal testing protocol shall occur. Vehicles that are subject to this regulation and have met Low Emitter Profiling criteria, may be exempt from the two speed idle exhaust emissions test and the evaporative emissions test. All subject vehicles will receive a fuel cap pressure test. Vehicle exemptions will be distributed according to profiled model year percentages in order to prevent inadvertent skewing of model year exemption. Clean Screening will occur when motorist wait times exceed 60 minutes. Wait times will be determined by queue lengths that surpass lane markers that indicate expected wait time of 60 minutes or~~

~~more. The Lane Manager (or designee) is responsible for advising inspection personnel to activate the clean screening exemption process. Once a reduction in queue length to that representing a motorist wait time of less than 60 minutes takes place, reversion to the normal testing protocol shall occur. Each Delaware inspection lane shall independently control clean screen activation. The Division of Motor Vehicles will cap, on an annual basis, the number of vehicles which may be exempted through clean screening by model year in order to prevent failure to meet expected emission reductions. If the specified number of vehicles clean screened for an individual model year equals the annual cap of emissions for that individual model year, no more vehicles for that model year will be exempt. The maximum allowable number of vehicles to be clean screened will be re-evaluated annually, coinciding with the LEP database update, and lowered as appropriate so that emission reduction targets continue to be achieved. (See Appendix 5(f) Clean Screening Vehicle Exemption)~~

New Model Year Clean Screen: Clean Screening exemptions will be determined for model years of vehicles six to eight years old that may be exempt from the two speed idle exhaust emissions test and the evaporative emissions test (except for a fuel cap pressure test) if warranted by queue conditions at the inspection lanes. Each Delaware inspection lane shall independently control clean screen activation. Clean screen mode shall occur when the inspection lane queue exceeds 60 minutes. The Lane Manager (or designee) must advise inspection personnel to activate the process. Once a queue reduction to less than 60 minutes takes place, reversion to the normal testing protocol shall occur. Wait times will be determined by queue lengths that surpass lane markers that indicate expected wait time of 60 minutes or more. The Lane Manager (or designee) is responsible for advising inspection personnel to activate the clean screening exemption process. Once a reduction in queue length to that representing a motorist wait time of less than 60 minutes takes place, reversion to the normal testing protocol shall occur. Each Delaware inspection lane shall independently control clean screen activation. The Division of Motor Vehicles will cap, on an annual basis, the number of vehicles which may be exempted through clean screening by model year in order to prevent failure to meet expected emission reductions. The first year of implementation will have an annual cap of 14,000 vehicles. If the specified number of vehicles clean screened for an individual model year equals the annual cap of emissions for that individual model year, no more vehicles for that model year will be exempt. The maximum allowable number of vehicles to be clean screened will be re-evaluated annually.

06/11/99

Section 6 -Test Procedures And Standards.

(a) Test procedure requirements. (The test procedure

use to perform this test shall conform to the requirements shown in Appendix 6 (a)).

(1) Initial tests (i.e., those occurring for the first time in a test cycle) shall be performed without repair or adjustment at the inspection facility, prior to the test.

(2) An official test, once initiated, shall be performed in its entirety regardless of intermediate outcomes except in the case of invalid test condition or unsafe conditions.

(3) Tests involving measurements shall be performed with equipment that has been calibrated according to the quality control procedures established by the Department

(4) Vehicles shall be rejected from testing, as covered in this section, if the exhaust system is missing or leaking, or if the vehicle is in an unsafe condition for testing.

(5) After an initial failure of any portion of any emission test in the LEIM program, all vehicles shall be retested without repairs being performed. This retest shall be indicated on the records as the second chance test. After failure of the second chance test, prior to any subsequent retests, proof of appropriate repairs must be submitted indicating the type of repairs and parts installed (if any). This shall be done by completing the "Vehicle Emissions Repair Report Form" (Appendix 6 (a) (5) which will be distributed to anyone failing the emissions test.)

(6) Idle testing using BAR 90 emission analyzers (analyzers that have been certified by the California Bureau of Automotive Repair) shall be performed on all 1968 through current (minus five years) model year vehicles in New Castle and Kent Counties.

(7) Emission control device inspection.

Visual emission control device checks shall be performed through direct observation or through indirect observation using a mirror. These inspections shall include a determination as to whether each subject device is present.

(8) Evaporative System Integrity Test. Vehicles shall fail the evaporative system integrity test(s) if the system(s) cannot maintain the equivalent pressure of eight inches of water using USEPA approved fast pass methodology. Additionally, vehicles shall fail evaporative system integrity testing if the canister is missing or obviously disconnected, the hoses are crimped off, or the fuel cap is missing. Evaporative system integrity test procedure is found in See Appendix 6 (a) (8) .

(9) On-board diagnostic checks.

[Reserved]

(b) Test standards

(1) Emissions standards.

HC, CO, CO+CO₂ (or CO₂ alone), emission standards shall be applicable to all vehicles subject to the LEIM program and repairs shall be required for failure of any standard regardless of the attainment status of the area.

(i) Steady-state short tests.

Appropriate model program standards shall be used in idle testing of vehicles from model years 1968 light duty vehicles and model years 1970 light duty trucks and newer.

(2) Visual equipment inspection standards performed by the Motor Vehicle Technician.

(i) Vehicles shall fail visual inspections of subject emission control devices if such devices are part of the original certified configuration and are found to be missing, modified, disconnected, or improperly connected.

(3) On-board diagnostics test standards.

[Reserved].

(c) Applicability.

In general, section 203(a)(3)(A) of the Clean Air Act prohibits altering a vehicle's configuration such that it changes from a certified to a non-certified configuration. In the inspection process, vehicles that have been altered from their original certified configuration are to be tested by the Motor Vehicle Technician in the same manner as other subject vehicles.

(1) Vehicles with engines of a model year older than the chassis model year shall be required to pass the standards commensurate with the chassis model year.

(2) Vehicles that have been switched from an engine of one fuel type to another fuel type that is subject to the LEIM program (e.g., from a diesel engine to a gasoline engine) shall be subject to the test procedures and standards for the current fuel type, and to the requirements of paragraph (c)(1) of this section.

(3) Vehicles that are switched to a fuel type for which there is no certified configuration shall be tested according to the most stringent emission standards established for that vehicle type and model year. Emission control device requirements may be waived if the Division determines that the alternatively fueled vehicle configuration would meet the new vehicle standards for that model year without such devices.

(4) Vehicles converted to run on alternate fuels, frequently called a dual-fuel vehicle, shall be tested and required to pass the most stringent standard for each fuel type.

(5) Mixing vehicle classes (e.g., light-duty with heavy-duty) and certification types (e.g., California with Federal) within a single vehicle configuration shall be considered tampering.

08/13/98

Section 7 - Waivers And Compliance Via Diagnostic Inspection.

(a) Waiver issuance criteria.

(1) Motorists shall expend a reasonable cost, as defined in Section 1 of this Regulation in order to qualify for a waiver. Effective January 1, 1997 for vehicles registered in New Castle County and July 1, 1997 for vehicles

registered in Kent County, in order to qualify for waiver repairs on any 1981 or later model year vehicle shall be performed by a certified repair technician or a certified manufacturer repair technician, as defined in Section 1 of this regulation, and must have been appropriate to correct the emission failure. Repairs of primary emission control components may be performed by non-technicians (e.g., owners) to apply toward the waiver limit. The waiver would apply to the cost of parts for the repair or replacement of the following list of emission control component systems: Air induction system (air filter, oxygen sensor), catalytic converter system (convertor, preheat catalyst), thermal reactor, EGR system (valve, passage/hose, sensor) PCV System, air injection system (air pump, check valve), ignition system (distributor, ignition wires, coil, spark plugs). The cost of any hoses, gaskets, belts, clamps, brackets or other emission accessories directly associated with these components may also be applied to the waiver limit.

(2) Any available warranty coverage shall be used to obtain needed repairs before expenditures can be counted towards the cost limits in paragraph (a)(4) of this section. The operator of a vehicle within the statutory age and mileage coverage under section 207(b) of the Clean Air Act shall present a written denial of warranty coverage from the manufacturer or authorized dealer for this provision to be waived for approved tests applicable to the vehicle.

(3) Receipts shall be submitted for review to further verify that qualifying repairs were performed.

(4) A minimum expenditure for repairs of \$75 for pre-81 model year vehicles or a minimum expenditure of \$200 for 1981 model year and newer vehicles shall be spent in order to qualify for a waiver. The minimum repair cost for 1981 and newer vehicles shall increase to \$450 starting January 1, 2000. For each subsequent year, the \$450 minimum expenditure shall be adjusted in January of that year by the percentage, if any, by which the Consumer Price Index for the preceding calendar year differs from the Consumer Price Index for 1989.

(5) The issuance of a waiver applies only to those vehicles failing an exhaust emission tests. No waivers are granted to vehicles failing the evaporative emission integrity test.

(6) Waivers shall be issued by the Division Director only after:

(i) a vehicle has failed a retest for only the exhaust emissions portions of the program, performed after all qualifying repairs have been completed;

(ii) and a minimum of 10% improvement (reduction) in hydrocarbons (HC) and carbon monoxide (CO) has resulted from those repairs. This requirement [Section 7 (a) (6) (ii)] will cease to be in effect starting January 1, 2000.

(7) Qualifying repairs include repairs of primary

emission control components performed within 90 days of the test date.

(8) Waivers issued pursuant to this regulation are valid until the date of current registration expiration.

(9) Waivers will not be issued to vehicles for tampering-related repairs. The cost of tampering-related repairs shall not be applicable to the minimum expenditure in paragraph (a)(4) of this section. The Director will issue exemptions for tampering-related repairs if it can be verified that the part in question or one similar to it is no longer available for sale

(b) Compliance via diagnostic inspection.

Vehicles subject to an emission test at the cutpoints shown in Appendix 3 (a)(7) of Regulation 31 may be issued a certificate of compliance without meeting the prescribed emission cutpoints, if, after failing a retest on emissions, a complete, documented physical and functional diagnosis and inspection performed by a Delaware Certified Emission Repair Technician shows that no additional emission-related repairs are needed.

(c) (1) In order to meet the requirements of the EPA Rule, the State commits to maintaining a waiver rate equal to or less than 3% of the failed vehicles.

(2) The Secretary shall take corrective action to lower the waiver rate should the actual rate reported to EPA be above 3%.

(3) Actions to achieve the 3% waiver rate, if required, shall include measures such as not issuing waivers on vehicles less than 6 years old, raising minimum expenditure rates, and limiting waivers to once every four years. If the waiver rate cannot be lowered to levels committed to in the SIP, or if the State chooses not to implement measures to do so, then the Secretary shall revise the I/M emission reduction projections in the SIP and shall implement other LEIM program changes needed to ensure the performance standard is met.

08/13/98

Section 8 - Motorist Compliance Enforcement.

(a) Registration denial.

Registration denial enforcement (See Appendix 8 (a), the Systems Requirement Definition for the Registration Denial process) is defined as rejecting an application for initial registration or re-registration of a used vehicle (i.e., a vehicle being registered after the initial retail sale and associated registration) unless the vehicle has complied with the LEIM program requirement prior to granting the application. This enforcement is the express responsibility of the Division with the assistance of police agencies for on road inspection and verification. The law governing the registration of motor vehicles is found in the Delaware Criminal and Traffic Law Manual, Title 21, Chapter 21. Pursuant to section 207(g)(3) of the Act, nothing in this section shall be construed to require that new vehicles shall

receive emission testing prior to initial retail sale. In designing its enforcement program, the Director shall:

(1) Provide an external, readily visible means of determining vehicle compliance with the registration requirement to facilitate enforcement of the LEIM program. This shall be in the form of a window sticker and tag sticker which clearly indicate the vehicles compliance status and next inspection date;

(2) Adopt a schedule of biennial testing that clearly determines when a vehicle shall have to be inspected to comply prior to (re)registration;

(3) Design a registration denial system which features the electronic transfer of information from the inspection lanes to the Division's Data Base, and monitors the following information:

(i) Expiration date of the registration;

(ii) Unambiguous vehicle identification information; and

(iii) Whether the vehicle received either a waiver or a certificate of compliance, and;

(iv) The Division's unique windshield certificate identification number to verify authenticity; and

(v) The Division shall finally check the inspection data base to ensure all program requirements have been met before issuing a vehicle registration.

(4) Ensure that evidence of testing is available and checked for validity at the time of a new registration of a used vehicle or registration renewal.

(5) Prevent owners or lessors from avoiding testing through manipulation of the title or registration system; title transfers do not re-start the clock on the inspection cycle.

(6) Limit and track the use of time extensions of the registration requirement to only one 60 day extension per vehicle to prevent repeated extensions.

(b) (1) (i) Owners of subject vehicles must provide valid proof of having received a passing test or a waiver to the Director's representative in order to receive registration from the Division.

(ii) State and local enforcement branches, such as police agencies, as part of this program, shall cite motorist who do not visibly display evidence of compliance with the registration and inspection requirements.

(iii) Fleet and all other registered applicable vehicle compliance shall be assured through the regular enforcement mechanisms concurrent with registration renewal, on-road testing and parking lot observation. Fleets shall be inspected at official inspection stations.

(iv) Federal fleet compliance shall be assured through the cooperation of the federal fleet managers as well as also being subject to regular enforcement operations of the Division.

08/13/98

Section 9 - Enforcement Against Operators And Motor Vehicle Technicians.

(a) Imposition of penalties

The State of Delaware shall continue to operate the LEIM program using State of Delaware Employees for all functions. Should enforcement actions be required for violations of program requirements, the Agreement between State of Delaware Department of Public Safety Motor Vehicle Division and Council 81 of the American Federation of State, County and Municipal Employees, Section 8, Disciplinary Action, and, the State of Delaware Merit Rules, shall be adhered to in all matters. Applicable provisions of these documents are found in Appendix 9 (a).

(b) Legal authority.

(1) The Director shall have the authority to temporarily suspend station Motor Vehicle Technicians' certificates immediately upon finding a violation or upon finding the Motor Vehicle Technician administered emission tests with equipment which had a known failure and that directly affects emission reduction benefits, in accordance with the Agreement between State of Delaware Department of Public Safety Motor Vehicle Division and Council 81 of the American Federation of State, County and Municipal Employees, Section 8 Disciplinary Action.

(2) The Director shall have the authority to impose disciplinary action against the station manager or the Motor Vehicle Technician, even if the manager had no direct knowledge of the violation but was found to be careless in oversight of motor vehicle technicians or has a history of violations, in accordance with the Agreement between State of Delaware Department of Public Safety Motor Vehicle Division and Council 81 of the American Federation of State, County and Municipal Employees, and the State of Delaware Merit Rules. The lane manager shall be held fully responsible for performance of the motor vehicle technician in the course of duty.

08/13/98

Section 10 - Improving Repair Effectiveness.

A prerequisite for a retest shall be a completed repair form that indicates which repairs were performed. (See Section 6 (a) (5) of this Regulation).

08/13/98

Section 11 - Compliance With Recall Notices.

[Reserved]

08/13/98

Section 12 - On-Road Testing.

(a) Periodic random Delaware registered vehicle pullovers on Delaware highways will occur without prior notice to the public for on-road vehicle exhaust emission testing.

(b) Vehicles identified by the on-road testing portion of the LEIM program shall be notified of the requirement for an out-of-cycle emission retest, and shall have 30 days from the date of the notice to appear for inspection. Vehicles not appearing for a retest shall be out of compliance, and be liable for penalties under Title 21 of Delaware Criminal and Traffic Law Manual and the Division will take action to suspend the vehicle registration.

06/11/99**Section 13 - Implementation Deadlines.**

All requirements related to the LEIM program shall be effective ten days after the Secretary's order has been signed and published in the State Register except for the following provisions that have been amended to this regulation:

	Date of Implementation
(a) Five year new model year exemption from the idle and two speed idle tests	September 1, 1999
(b) Two-speed idle test (vehicle at idle and 2500 rpm) of all covered vehicles model years 1981 and newer	November 1, 1999
(c) Clean Screen exemptions.	January 1, 2000
(d) Program Evaluation using VMAS TM test procedure.	January 1, 2000

APPENDIX 1(d)**Commitment to Extend the I/M Program to the Attainment Date Letter from Secretary Tulou to EPA Regional Administrator, W. Michael McCabe**

June 1, 1998

Mr. W. Michael McCabe
Regional Administrator
EPA, Region III
841 Chestnut Building
Philadelphia, PA 19107

Dear Mr. McCabe:

This correspondence is to address one of the cited deficiencies published in the May 19, 1997 EPA rulemaking, concerning Delaware's Inspection and Maintenance regulation. I understand that this letter will address the following deficiency:

Provide a statement from an authorized official that the authority to implement Delaware's I/M program as stated above will continue through the attainment date . . .

The Delaware I/M regulation has no sunset provision and there is nothing in the Delaware statute that requires our regulations to have a sunset date nor to be reauthorized in order to continue beyond a sunset date.

We fully expect, barring the repeal of 7 Del. Chapter 67, the Delaware I/M regulation will be implemented to the full extent of the law through the attainment date and most likely through the maintenance period when that occurs.

Please feel free to contact Darryl Tyler, Program Administrator of the Air Quality Management Section at (302) 739-4791, if you should have any questions.

Sincerely,

Christophe A. G. Tulou, Secretary

APPENDIX 3(a)(7)**EXHAUST EMISSION LIMITS ACCORDING TO MODEL YEAR**

Group	Auto/Station Wagons (passenger vehicles)	Pickup/Van under 8501#	HC Limit (ppm)	CO Limit %
1	1968-70	1970-72	900	9.00
2	1971-74	1973-78	600	6.00
3	1975-79	1979-8	400	4.00
4	1980	(none)	220	2.00
5	1981 +	1984 +	220	1.20

APPENDIX 3(c)(2)**VMASTM TEST PROCEDURES****General Requirements**

(1) Test Parameters. The following information shall be determined for the vehicle being tested and used to automatically select the dynamometer inertia, power absorption settings, and evaporative emission test parameters.

- (i) Model Year
- (ii) Manufacturer
- (iii) Model name
- (iv) Body style
- (v) Number of cylinders
- (vi) Engine displacement

Alternative computerized methods of selecting dynamometer test conditions, such as VIN de-coding, may be used.

(2) Ambient Conditions. The ambient temperature, absolute humidity, and barometric pressure shall be recorded continuously during the transient test, or as a single set of readings if taken less than 4 minutes prior to the transient driving cycle.

(3) Restart. If shut off, the vehicle shall be restarted as soon as possible before the test and shall be running at least 30 seconds prior to the transient driving cycle.

(4) During the entire VMASTM testing procedure the vehicle shall be operated by a certified Motor Vehicle

Technician (herein called inspector) and the vehicle owner or operator shall be asked to wait in a specified area during the test.

Pre-inspection and Preparation

(1) Accessories. All accessories (air conditioning, heat, defogger, radio, automatic traction control if switchable, etc.) shall be turned off by the inspector, if necessary.

(2) Traction Control and Four-Wheel Drive (4WD). Vehicles with traction control systems that cannot be turned off shall not be tested on two wheel drive dynamometers. Vehicles with 4WD that cannot be turned off shall only be tested on 4WD dynamometers. If the 4WD function can be disabled, then 4WD vehicles may be tested on two wheel drive dynamometers.

(3) Leaks. The vehicle shall be inspected for exhaust leaks. Audio assessment while blocking exhaust flow, or measurement of carbon dioxide or other gases, shall be acceptable. Vehicles with leaking exhaust systems shall be rejected from testing.

(4) Operating Temperature. The vehicle temperature gauge, if equipped and operating, shall be checked to assess temperature. If the temperature gauge indicates that the engine is well below (less than 180(F) normal operating temperature, the vehicle shall not be fast-failed and shall get a second-chance emission test if it fails the initial test for any criteria exhaust component. Vehicles in overheated condition shall be rejected from testing.

(5) Tire Condition. Vehicles shall be rejected from testing if tire cords, bubbles, cuts, or other damage are visible. Vehicles shall be rejected that have space-saver spare tires on the drive axle. Vehicles may be rejected if they do not have reasonably sized tires. Vehicle tires shall be visually checked for adequate pressure level. Drive wheel tires that appear low shall be inflated to approximately 30 psi, or to tire side wall pressure, or manufacturer's recommendation. The tires of vehicles being tested for the purposes of program evaluation under the Code of Federal Regulations Title 40 §51.353(c) shall have their tires inflated to tire side wall pressure.

(6) Ambient Background. [RESERVED]

(7) Sample System Purge. [RESERVED]

Equipment Positioning and Settings

(1) Purge Equipment. If an evaporative system flow meter purge test is to be performed:

(i) The purge flow meter shall be connected in series between the evaporative canister and the engine.

(ii) All hoses disconnected for the test shall be reconnected after a purge flow test is performed.

(2) Roll Rotation. The vehicle shall be maneuvered onto the dynamometer with the drive wheels positioned on the dynamometer rolls. Prior to test initiation, the rolls shall be rotated until the vehicle laterally stabilizes on the

dynamometer. Drive wheel tires shall be dried if necessary to prevent slippage during the initial acceleration.

(3) Cooling System. The use of a cooling system is optional when testing at temperatures below 50(F). Furthermore, the hood may be opened at the state's discretion. If a cooling system is in use, testing shall not begin until the cooling system is positioned and activated. The cooling system shall be positioned to direct air to the vehicle cooling system, but shall not be directed at the catalytic converter.

(4) Vehicle Restraint. Testing shall not begin until the vehicle is restrained. Any restraint system shall meet the requirements of the Code of Federal Regulations Title 40, §85.2226(a)(5)(vii). The parking brake shall be set for front wheel drive vehicles prior to the start of the test. The parking brake need not be set for vehicles that release the parking brake automatically when the transmission is put in gear.

(5) Dynamometer Settings. Dynamometer power absorption and inertia weight settings shall be automatically chosen from an EPA-supplied electronic look-up table which will be referenced based upon the vehicle identification information obtained in Code of Federal Regulations Title 40, §85.2221(a)(1). Vehicles not listed shall be tested using default power absorption and inertia settings in the latest version of the EPA I/M Look-up Table, as posted on EPA's web site: www.epa.gov/orcdizux/im.htm

(6) Exhaust Collection System. The exhaust collection system shall be positioned to insure complete capture of the entire exhaust stream from the tailpipe during the transient driving cycle. The system shall meet the requirements of §85.2226(b)(2) in the Code of Federal Regulations Title 40,.

Vehicle Conditioning

(1) Queuing Time. Not applicable

(2) Program Evaluation. Vehicles being tested for the purpose of program evaluation under Section 3 (c) (2) shall receive two full VMAS emission tests (i.e., a full 240 seconds each). Results from both tests and the test order shall be separately recorded in the test record. Emission scores and results provided to the motorist may be from either test.

(3) Discretionary Preconditioning.

(i) Any vehicle may be preconditioned by maneuvering the vehicle on to the dynamometer and driving the 94 to 239 second segment of the transient cycle in § 85.2221(e)(1) Code of Federal Regulations Title 40,. This method has been demonstrated to adequately precondition the vast majority of vehicles (SAE 962091). Other preconditioning cycles may be developed and used if approved by the Administrator of the USEPA.

(4) Second-Chance Purge Testing. Not applicable

Vehicle Emission Test Sequence

(1) Transient Driving Cycle. The vehicle shall be

driven over the following cycle:

Table B

Table A

Time (sec)	Speed (mph)										
0	0.0	40	17.7	80	32.2	120	18.1	160	33.5	200	56.7
1	0.0	41	19.8	81	32.4	121	18.6	161	36.2	201	56.7
2	0.0	42	21.6	82	32.2	122	20.0	162	37.3	202	56.3
3	0.0	43	23.2	83	31.7	123	20.7	163	39.3	203	56.0
4	0.0	44	24.2	84	28.6	124	21.7	164	40.5	204	55.0
5	3.0	45	24.6	85	25.1	125	22.4	165	42.1	205	53.4
6	5.9	46	24.9	86	21.6	126	22.5	166	43.5	206	51.6
7	8.6	47	25.0	87	18.1	127	22.1	167	45.1	207	51.8
8	11.5	48	25.7	88	14.6	128	21.5	168	46.0	208	52.1
9	14.3	49	26.1	89	11.1	129	20.9	169	46.8	209	52.5
10	16.9	50	26.7	90	7.6	130	20.4	170	47.5	210	53.0
11	17.3	51	27.5	91	4.1	131	19.8	171	47.5	211	53.5
12	18.1	52	28.6	92	0.6	132	17.0	172	47.3	212	54.0
13	20.7	53	29.3	93	0.0	133	17.1	173	47.2	213	54.9
14	21.7	54	29.8	94	0.0	134	15.8	174	47.2	214	55.4
15	22.4	55	30.1	95	0.0	135	15.8	175	47.4	215	55.6
16	22.5	56	30.4	96	0.0	136	17.7	176	47.9	216	56.0
17	22.1	57	30.7	97	0.0	137	19.8	177	48.5	217	56.0
18	21.5	58	30.7	98	3.3	138	21.6	178	49.1	218	55.8
19	20.9	59	30.5	99	6.6	139	22.2	179	49.5	219	55.2
20	20.4	60	30.4	100	9.9	140	24.5	180	50.0	220	54.5
21	19.8	61	30.3	101	13.2	141	24.7	181	50.6	221	53.6
22	17.0	62	30.4	102	16.5	142	24.8	182	51.0	222	52.5
23	14.9	63	30.8	103	19.8	143	24.7	183	51.5	223	51.5
24	14.9	64	30.4	104	22.2	144	24.6	184	52.2	224	50.5
25	15.2	65	29.9	105	24.3	145	24.6	185	53.2	225	48.0
26	15.5	66	29.5	106	25.8	146	25.1	186	54.1	226	44.5
27	16.0	67	29.8	107	26.4	147	25.6	187	54.6	227	41.0
28	17.1	68	30.3	108	25.7	148	25.7	188	54.9	228	37.5
29	19.1	69	30.7	109	25.1	149	25.4	189	55.0	229	34.0
30	21.1	70	30.9	110	24.7	150	24.9	190	54.9	230	30.5
31	22.7	71	31.0	111	25.2	151	25.0	191	54.6	231	27.0
32	22.9	72	30.9	112	25.4	152	25.4	192	54.6	232	23.5
33	22.7	73	30.4	113	27.2	153	26.0	193	54.8	233	20.0
34	22.6	74	29.8	114	26.5	154	26.0	194	55.1	234	16.5
35	21.3	75	29.9	115	24.0	155	25.7	195	55.5	235	13.0
36	19.0	76	30.2	116	22.7	156	26.1	196	55.7	236	9.5
37	17.1	77	30.7	117	19.4	157	26.7	197	56.1	237	6.0
38	15.8	78	31.2	118	17.7	158	27.3	198	56.3	238	2.5
39	15.8	79	31.8	119	17.2	159	30.5	199	56.6	239	0.0

Shift Sequence (gear)	Speed (miles per hour)	Approximate Cycle Time (seconds)
1 - 2	15	9.3
2 - 3	25	47.0
De-clutch	15	87.9
1 - 2	15	101.6
2 - 3	25	105.5
3 - 2	17.2	119.0
2 - 3	25	145.8
3 - 4	40	163.6
4 - 5	45	167.0
5 - 6	50	180.0
De-clutch	15	234.5

Gear shifts shall occur at the points in the driving cycle where the specified speeds are obtained. For vehicles with fewer than six forward gears the same schedule shall be followed with shifts above the highest gear disregarded.

Automatic shift vehicles with overdrive or fuel economy drive modes shall be driven in those modes.

(4) Speed Excursion Limits. Speed excursion limits shall apply as follows:

(i) The upper limit is 2 mph higher than the highest point on the trace within 1 second of the given time.

(ii) The lower limit is 2 mph lower than the lowest point on the trace within 1 second of the given time.

(iii) Vehicle speed excursions beyond tolerance limits given in items a. and b. above are acceptable provided that each such excursion is not more than 2 seconds in duration.

(iv) Speeds lower than those prescribed during accelerations are acceptable provided the vehicle is operated at maximum available power during such accelerations until the vehicle speed is within the excursion limits.

(v) [Reserved : Criteria that shall allow limited excursions of speed higher than the prescribed upper limit in paragraphs (i) through (iii)]

(vi) A transient emissions test shall be void and the vehicle retested if the speed excursion limits prescribed by paragraphs (i) through (iii) are exceeded, except in the event that computer algorithms, developed by the Department, determine that the conditions of paragraphs (v) and (vi) are applicable. Tests may be aborted if the speed excursion limits are exceeded.

(2) Driving Trace. The inspector shall follow an electronic, visual depiction of the time/speed relationship of the transient driving cycle (hereinafter, the trace). The visual depiction of the trace shall be of sufficient magnification and adequate detail to allow accurate tracking by the inspector/driver and shall permit anticipation of upcoming speed changes. The trace shall also clearly indicate gear shifts as specified in paragraph (3) and Table B below.

(3) Shift Schedule. To identify gear changes for manual shift vehicles, the driving display presented to the inspector/driver shall be designed according to the following shift schedule and prominently display visual cues where the inspector/driver is required to change gears:

APPENDIX 4(a)

SECTIONS FROM DELAWARE CRIMINAL AND TRAFFIC LAW MANUAL

For Non-compliance Of Vehicle Registration
21 Del.C. 21, §§ 2115, 2116

§ 2115

"No person shall:

(1) Operate or, being the owner of any motor vehicle, trailer or semitrailer, knowingly permit the operation upon a highway of any motor vehicle, trailer or semitrailer which is not registered or which does not have attached thereto and displayed thereon the number plate or plates assigned thereto by the Department and unexpired registration plate or plates, subject to the exemptions allowed in this title, or under temporary or limited permits as otherwise provided by this title;

(2) Display or cause or permit to be displayed or have in possession any registration card, number plate or registration plate, knowing the same to be fictitious or to have been canceled, revoked, suspended or altered;

(3) Lend to, or knowingly permit the use by, one not entitled thereto any registration card, number plate or registration plate issued to the person so lending or permitting the use thereof;

(4) Fail or refuse to surrender to the Department upon demand any registration card, number plate or registration plate which has been suspended, canceled or revoked as provided in this title;

(5) Use a false or fictitious name or address in any application for the registration or inspection of any vehicle, or for any renewal or duplicate thereof, or for any certificate or transfer of title, or knowingly make a false statement, knowingly conceal a material fact or otherwise commit a fraud in any such application;

(6) Drive or move or, being the owner, cause or knowingly permit to be driven or moved, on any highway any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person or which is equipped in any manner in violation of this title, but the provisions of this title with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers or farm tractors except as herein made applicable;

(7) Own or operate any qualified motor vehicle as defined under the International Registration Plan, as authorized in Chapter 4 of this title, not properly displaying an apportioned plate with required registration credentials, or operate a qualified motor vehicle without having in that person's possession a trip permit registration as authorized in §2103(6) of this title. Any person who violates this subsection shall, for the first offense, be fined not less than \$115 nor more than \$345, and for each subsequent offense not less than \$345 nor more than \$575. In addition, such person shall also be fined in an amount which is equal to the cost of registering the vehicle at its gross weight at the time of the offense or at the maximum legal limit, whichever is less, which fine shall be suspended if, within 5 days of the offense, the court is presented with a valid registration card

for the gross weight at the time of the offense or the maximum legal limit for such vehicle.

(8) Do any act forbidden or fail to perform any act required under this chapter. (36 Del. Laws, c. 10, § 25; 40 Del. Laws, c. 38, § 10; Code 1935, § 5563; 43 Del. Laws, c. 244, § 14; 21 Del. C. 1953, § 2115; 49 Del. Laws, c. 220, § 21; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 202, § 2.)

Revisor's note.—Section 3 of 70 Del. Laws, c. 202, effective July 10, 1995, provides: "If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable."

Effect of amendments.—70 Del. Laws, c. 202, effective July 10, 1995, inserted present (7) and redesignated former (7) as (8)."

§ 2116

"(a) Whoever violates this chapter shall, for the first offense, be fined not less than \$10 nor more than \$100 or be imprisoned not less than 30 days nor more than 90 days or both. For each subsequent like offense, the person shall be fined not less than \$50 nor more than \$200 or imprisoned not less than 90 days nor more than 6 months or both, in addition to which any person, being the operator or owner of any vehicle which requires a registration fee which is calculated upon the gross weight of the vehicle and any load thereon shall be fined at a rate double that which is set forth in this subsection and be imprisoned as provided herein or both. In addition, such person shall also be fined in an amount which is equal to the cost of registering the vehicle at its gross weight at the time of the offense or at the maximum legal limit, whichever is less; which fine shall be suspended, if within 5 days of the offense the court is presented with a valid registration card for the gross weight at the time of the offense for the maximum legal limit for such vehicle.

(b)(1) Notwithstanding the provisions of subsection (a) of this section, whoever violates §2115(1)(5) of this title shall, for the first offense, be fined not less than \$50 nor more than \$200, be imprisoned not less than 30 days nor more than 90 days, or be penalized by both fine and imprisonment. For each subsequent like offense, such person shall be fined not less than \$100 nor more than \$300, be imprisoned not less than 90 days nor more than 6 months, or be penalized by both fine and imprisonment.

(2) Any owner or operator of a vehicle which requires a registration fee which is calculated upon the gross weight of the vehicle, and any load thereon, and who violates § 2115(1)(5) of this title, shall be fined at a rate double that which is set forth in this subsection, or be imprisoned as provided herein, or be both fined and imprisoned. In

addition, such person shall also be fined an amount which is equal to the costs of registering the vehicle either at its gross weight at the time of the offense, or at the maximum legal limit, whichever is less. Such fine shall be suspended if, within 5 days of the offense, the court is presented with a valid registration card for the actual gross weight of the vehicle at the time of the offense.

(c) This section shall not apply to violations for which a specific punishment is set forth elsewhere in this chapter.

(d) For any violation of the registration provisions of § 2102 or § 2115 of this subchapter and in absence of any traffic offenses relating to driver impairment the violator's copy of the traffic summons shall act as that violator's authority to drive the vehicle involved by the most direct route from the place of arrest to either the violator's residence or the violator's current place of abode. (36 Del. Laws, c. 10, § 32; 37 Del. Laws, c. 10, §§ 10, 11; Code 1935, § 5570; 21 Del. C. 1953, § 2116; 59 Del. Laws, c. 332, §§ 1, 2; 64 Del. Laws, c. 207, § 2; 69 Del. Laws, c. 307, §§ 1, 3, 4.)"

APPENDIX 5(a)

DIVISION OF MOTOR VEHICLES POLICY ON OUT-OF-STATE RENEWALS

The following is the Division's policy for accomplishing a registration renewal on a vehicle located outside the State of Delaware when the vehicle owner is unable to return the vehicle for inspection prior to the renewal date. Vehicles located within a 200 mile radius of a Division of Motor Vehicles facility will be inspected at a division inspection station prior to renewal. All other vehicles may be renewed by accomplishing the following procedures:

(1) Refer all inquiries on out-of-state renewal to the Dover Correspondence Office (739-3147). Normally, customers will be provided the out-of-state renewal package by the Dover Administrative Office Correspondence Section. Lane locations may provide the renewal package to walk-in customers, but the completed paperwork must be mailed to Dover for processing.

(2) When all documents are completed and the vehicle has passed inspection, copies of the Application for Out-of-State Registration and the inspection report (MV Form 210(a)) will be provided to Dover Lane (Tom Kersey) and DNREC Air Quality Section (Phil Wheeler).

(3) Tom Kersey or his designated representative will load the inspection information on the MV210(a) form into the computer system. The MV210(a) form will be saved for two years by the Dover lane.

(4) When the inspection information has been loaded, Tom Kersey will send a Vehicle Inspection Report to Dover Correspondence, the renewal can be completed and the registration card and plate sticker can be mailed to the customer.

(5) All documents will be saved by the Registration Correspondence Section for two years.

(6) Random audit procedures: Correspondents prior to renewing selected vehicles will call the inspection station and inspector shown on the MV210(a) form. One out of every ten vehicles will be selected to verify the vehicle was inspected. The verification will be conducted prior to sending copies to DNREC and Dover lane. Indicate on the bottom of Page 2 of the form the date and time of verification and the name of the person performing the verification. Sandy Tracy will be in charge of the verification and selection process.

APPENDIX 5(f)

CLEAN SCREENING VEHICLE EXEMPTION

BACKGROUND ON CLEAN SCREENING

~~Delaware plans to implement a clean screen program that combines the use of the low emitter profile model (LEP) with an expansion of model year exemptions from 3 year old and newer vehicles to 5 year old and newer vehicles. The LEP model uses data from Arizona's IM240 program to predict whether a vehicle will pass the test. Analysis of data from applying the LEP to Colorado's fleet indicate that up to half of the vehicles can be exempted without greatly impacting the emission benefits of the program. The model only requires an accurate vehicle identification number (VIN) to project emission characteristics.~~

~~The LEP would be used primarily a lane management tool to increase throughput during peak periods. Under this scenario, the LEP would be used only during peak periods to clean screen vehicles more than 5 years old. Vehicles flagged as clean screen candidates would receive the gas cap test and the safety inspection, but would be exempted from the exhaust emission and pressure test when in clean screen mode. Delaware expects that "clean screening" would be activated less than 40% of the time. During off-peak periods, all vehicles more than 5 years old would receive exhaust emission and tank pressure tests along with the gas cap and safety test. Figure one and Table A show the possible percentages of vehicle model years that would be exempt under clean screening if queue conditions warranted.~~

Figure 1. % of Vehicles Clean Screened
By Model Year

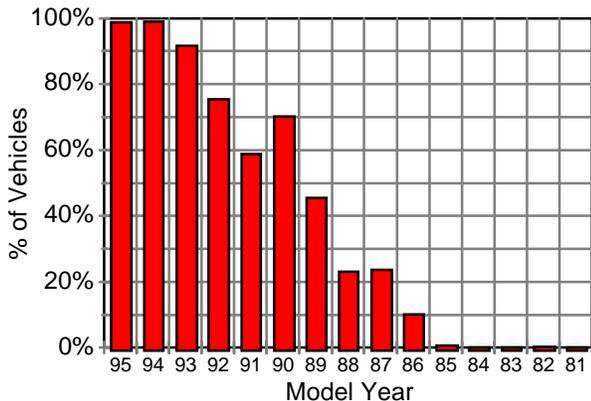


Table A
Percent of Vehicles Eligible for Clean Screen When in Clean Screen Mode

Vehicle Age	Observed Clean Screen %	Assumed Clean Screen %
1	99.00%	100%
2	98.83%	100%
3	99.00%	99.00%
4	91.59%	88.00%
5	75.50%	77.00%
6	58.74%	66.00%
7	70.20%	55.00%
8	45.48%	44.00%
9	23.08%	33.00%
10	23.62%	22.00%
11	10.17%	11.00%
12 and older	0.65%	0.00%

†Based on Arizona IM240 data

The Division of Motor Vehicles will determine when and if any applicable vehicles are exempt under the clean screen program. Typically, applicable vehicles will be exempt if queue conditions result in a wait time at the lane of 60 minutes or more. However, there are factors in the program that will automatically prevent the clean screen exemption from being implemented. Specifically, a budget of the total number of the applicable vehicles that can be exempt under clean screen will be established for any one calendar year and therefore if that budget is exceeded, the clean screen exemption will not apply even when wait times are 60 minutes or longer.

Vehicle Type	Model Year	Make	Engine Size
Passenger	86	ACURA	2.5
Passenger	87	ACURA	2.5
Passenger	87	ACURA	2.7
Passenger	88	ACURA	2.7
Passenger	89	ACURA	2.7
Passenger	90	ACURA	1.8
Passenger	90	ACURA	2.7
Passenger	91	ACURA	3.2
Passenger	91	ACURA	3
Passenger	91	ACURA	1.8
Passenger	92	ACURA	1.8
Passenger	92	ACURA	2.5
Passenger	92	ACURA	3.2
Passenger	93	ACURA	2.5
Passenger	93	ACURA	3.2
Passenger	93	ACURA	1.8
Passenger	94	ACURA	2.5
Passenger	94	ACURA	3.2
Passenger	94	ACURA	1.8
Passenger	95	ACURA	3.2
Passenger	95	ACURA	1.8
Passenger	92	AUDI	2.8
Passenger	93	AUDI	2.8
Passenger	87	BMW	2.5
Passenger	87	BMW	2.7
Passenger	88	BMW	2.5
Passenger	88	BMW	2.7
Passenger	88	BMW	3.4
Passenger	89	BMW	5
Passenger	89	BMW	3.4
Passenger	89	BMW	2.5
Passenger	90	BMW	2.5
Passenger	90	BMW	3.4
Passenger	90	BMW	3.5
Passenger	91	BMW	2.5
Passenger	91	BMW	3.5
Passenger	91	BMW	1.8
Passenger	92	BMW	2.5
Passenger	92	BMW	3.5
Passenger	92	BMW	1.8
Passenger	93	BMW	1.8
Passenger	93	BMW	4
Passenger	93	BMW	2.5
Passenger	94	BMW	2.5
Passenger	94	BMW	4
Passenger	94	BMW	1.8
Passenger	95	BMW	2.5
Passenger	95	BMW	3
Passenger	95	BMW	4
Passenger	95	BMW	1.8
Passenger	87	BUICK	3.8
Passenger	87	BUICK	3

PROPOSED REGULATIONS

Passenger	88	BUICK	3
Passenger	88	BUICK	3.8
Passenger	89	BUICK	3.3
Passenger	89	BUICK	3.8
Passenger	89	BUICK	2.8
Passenger	90	BUICK	3.1
Passenger	90	BUICK	3.8
Passenger	90	BUICK	3.3
Passenger	90	BUICK	5
Passenger	91	BUICK	2.5
Passenger	91	BUICK	3.8
Passenger	91	BUICK	3.3
Passenger	92	BUICK	3.3
Passenger	92	BUICK	2.3
Passenger	92	BUICK	3.8
Passenger	92	BUICK	5.7
Passenger	93	BUICK	5.7
Passenger	93	BUICK	3.3
Passenger	93	BUICK	3.1
Passenger	93	BUICK	3.8
Passenger	94	BUICK	2.2
Passenger	94	BUICK	3.1
Passenger	94	BUICK	3.8
Passenger	94	BUICK	5.7
Passenger	94	BUICK	2.3
Passenger	95	BUICK	2.3
Passenger	95	BUICK	3.1
Passenger	95	BUICK	2.2
Passenger	95	BUICK	5.7
Passenger	95	BUICK	3.8
Passenger	95	BUICK	3.8
Passenger	87	CADIL	2.8
Passenger	89	CADIL	4.5
Passenger	90	CADIL	5
Passenger	90	CADIL	5.7
Passenger	90	CADIL	4.5
Passenger	91	CADIL	5.7
Passenger	92	CADIL	5
Passenger	92	CADIL	4.9
Passenger	93	CADIL	5.7
Passenger	93	CADIL	4.9
Passenger	94	CADIL	4.9
Passenger	94	CADIL	5.7
Passenger	95	CADIL	5.7
Passenger	95	CADIL	4.9
Passenger	90	CHEVR	1.6
Passenger	90	CHEVR	5.7
Passenger	90	CHEVR	2.2
Passenger	91	CHEVR	2.5
Passenger	91	CHEVR	2.2
Passenger	91	CHEVR	1.6
Passenger	92	CHEVR	3.4
Passenger	92	CHEVR	1.6
Passenger	92	CHEVR	1

Passenger	92	CHEVR	2.2
Passenger	92	CHEVR	2.5
Passenger	93	CHEVR	2.2
Passenger	93	CHEVR	3.8
Passenger	93	CHEVR	1.8
Passenger	93	CHEVR	1.6
Passenger	93	CHEVR	1
Passenger	93	CHEVR	5.7
Passenger	93	CHEVR	5
Passenger	93	CHEVR	2.5
Passenger	93	CHEVR	3.1
Passenger	93	CHEVR	3.4
Passenger	94	CHEVR	3.8
Passenger	94	CHEVR	3.4
Passenger	94	CHEVR	4.3
Passenger	94	CHEVR	3.1
Passenger	94	CHEVR	4.3
Passenger	94	CHEVR	3.4
Passenger	94	CHEVR	4.3
Passenger	94	CHEVR	2.2
Passenger	94	CHEVR	3.1
Passenger	94	CHEVR	2.2
Passenger	94	CHEVR	5.7
Passenger	94	CHEVR	1.8
Passenger	94	CHEVR	1.6
Passenger	95	CHEVR	3.4
Passenger	95	CHEVR	3.8
Passenger	95	CHEVR	2.2
Passenger	95	CHEVR	5.7
Passenger	95	CHEVR	4.3
Passenger	95	CHEVR	3.1
Passenger	95	CHEVR	1.6
Passenger	95	CHEVR	4.3
Passenger	95	CHEVR	3.4
Passenger	95	CHEVR	4.3
Passenger	95	CHEVR	3.1
Passenger	95	CHEVR	1.8
Passenger	95	CHEVR	3.8
Passenger	87	CHRYSL	2.5
Passenger	92	CHRYSL	3.3
Passenger	92	CHRYSL	2.5
Passenger	92	CHRYSL	3.8
Passenger	92	CHRYSL	3
Passenger	93	CHRYSL	3.3
Passenger	93	CHRYSL	3.3
Passenger	93	CHRYSL	3.5
Passenger	93	CHRYSL	3
Passenger	93	CHRYSL	3.8
Passenger	94	CHRYSL	3.3
Passenger	94	CHRYSL	3.5
Passenger	94	CHRYSL	3
Passenger	95	CHRYSL	2.5
Passenger	95	CHRYSL	3.3
Passenger	95	CHRYSL	3.5

PROPOSED REGULATIONS

Passenger	95	CHRYSLER	3
Passenger	87	DODGE	3
Passenger	89	DODGE	2.5
Passenger	89	DODGE	2.5
Passenger	89	DODGE	2.2
Passenger	90	DODGE	1.5
Passenger	90	DODGE	5.9
Passenger	92	DODGE	3
Passenger	92	DODGE	3.3
Passenger	92	DODGE	2.2
Passenger	92	DODGE	3
Passenger	92	DODGE	5.2
Passenger	92	DODGE	1.5
Passenger	93	DODGE	3.3
Passenger	93	DODGE	3
Passenger	93	DODGE	3.5
Passenger	93	DODGE	1.8
Passenger	93	DODGE	3.3
Passenger	93	DODGE	2.5
Passenger	93	DODGE	5.2
Passenger	93	DODGE	3.3
Passenger	93	DODGE	3
Passenger	93	DODGE	1.5
Passenger	93	DODGE	3.9
Passenger	93	DODGE	2.2
Passenger	93	DODGE	2.5
Passenger	94	DODGE	3
Passenger	94	DODGE	3.9
Passenger	94	DODGE	2.2
Passenger	94	DODGE	3
Passenger	94	DODGE	3.3
Passenger	94	DODGE	2.5
Passenger	94	DODGE	2.5
Passenger	94	DODGE	3.5
Passenger	94	DODGE	5.2
Passenger	94	DODGE	3.8
Passenger	94	DODGE	3.3
Passenger	95	DODGE	3
Passenger	95	DODGE	2.5
Passenger	95	DODGE	2
Passenger	95	DODGE	3.8
Passenger	95	DODGE	3
Passenger	95	DODGE	2.5
Passenger	95	DODGE	2.4
Passenger	95	DODGE	5.2
Passenger	95	DODGE	3.9
Passenger	95	DODGE	3.5
Passenger	95	DODGE	3.3
Passenger	95	DODGE	3.3
Passenger	92	EAGLE	2
Passenger	93	EAGLE	1.8
Passenger	93	EAGLE	2
Passenger	93	EAGLE	3.5
Passenger	93	EAGLE	3.3

Passenger	94	EAGLE	1.8
Passenger	94	EAGLE	3.5
Passenger	94	EAGLE	3.3
Passenger	95	EAGLE	3.5
Passenger	95	EAGLE	2
Passenger	95	EAGLE	3.3
Passenger	87	FORD	2.9
Passenger	89	FORD	2.2
Passenger	89	FORD	3
Passenger	89	FORD	1.9
Passenger	89	FORD	3.8
Passenger	89	FORD	2.9
Passenger	89	FORD	2.3
Passenger	90	FORD	1.9
Passenger	90	FORD	3
Passenger	90	FORD	5
Passenger	90	FORD	3.8
Passenger	90	FORD	2.9
Passenger	90	FORD	2.2
Passenger	90	FORD	4
Passenger	90	FORD	1.3
Passenger	90	FORD	2.3
Passenger	90	FORD	5.8
Passenger	90	FORD	3
Passenger	90	FORD	1.9
Passenger	90	FORD	2.3
Passenger	90	FORD	3.8
Passenger	91	FORD	2.2
Passenger	91	FORD	3.8
Passenger	91	FORD	1.9
Passenger	91	FORD	3
Passenger	91	FORD	1.3
Passenger	91	FORD	4
Passenger	91	FORD	3.8
Passenger	91	FORD	5.8
Passenger	91	FORD	2.3
Passenger	91	FORD	3
Passenger	91	FORD	2.3
Passenger	92	FORD	4.6
Passenger	92	FORD	4
Passenger	92	FORD	2.2
Passenger	92	FORD	3.8
Passenger	92	FORD	3
Passenger	92	FORD	3
Passenger	92	FORD	5
Passenger	92	FORD	1.3
Passenger	92	FORD	2.3
Passenger	92	FORD	3.8
Passenger	92	FORD	5.8
Passenger	92	FORD	2.3
Passenger	92	FORD	1.9
Passenger	93	FORD	5
Passenger	93	FORD	5.8
Passenger	93	FORD	4.6

Passenger	93	FORD	3.8
Passenger	93	FORD	2
Passenger	93	FORD	3
Passenger	93	FORD	1.8
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Passenger	93	FORD	1.9
Passenger	93	FORD	3
Passenger	93	FORD	2.5
Passenger	93	FORD	1.3
Passenger	93	FORD	3.2
Passenger	93	FORD	4
Passenger	94	FORD	1.3
Passenger	94	FORD	2.3
Passenger	94	FORD	3.8
Passenger	94	FORD	1.9
Passenger	94	FORD	3.2
Passenger	94	FORD	5
Passenger	94	FORD	4
Passenger	94	FORD	1.8
Passenger	94	FORD	2.5
Passenger	94	FORD	3
Passenger	94	FORD	5.8
Passenger	94	FORD	2
Passenger	94	FORD	4.6
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Passenger	95	FORD	1.3
Passenger	95	FORD	4
Passenger	95	FORD	3
Passenger	95	FORD	3.8
Passenger	95	FORD	2.5
Passenger	95	FORD	5
Passenger	95	FORD	5.8
Passenger	95	FORD	3.8
Passenger	95	FORD	1.9
Passenger	95	FORD	4.6
Passenger	95	FORD	2
Passenger	86	GMC	4.3
Passenger	90	GMC	3.1
Passenger	92	GMC	5.7
Passenger	93	GMC	3.8
Passenger	93	GMC	5.7
Passenger	94	GMC	3.8
Passenger	94	GMC	5.7
Passenger	94	GMC	4.3
Passenger	94	GMC	4.3
Passenger	95	GMC	4.3
Passenger	95	GMC	5.7
Passenger	95	GMC	3.8
Passenger	85	HONDA	2
Passenger	86	HONDA	1.5
Passenger	86	HONDA	2
Passenger	87	HONDA	2
Passenger	87	HONDA	1.5
Passenger	87	HONDA	1.5

Passenger	87	HONDA	2
Passenger	87	HONDA	1.3
Passenger	87	HONDA	1.5
Passenger	88	HONDA	1.5
Passenger	88	HONDA	2
Passenger	88	HONDA	1.6
Passenger	88	HONDA	2
Passenger	88	HONDA	2
Passenger	88	HONDA	1.5
Passenger	89	HONDA	1.5
Passenger	89	HONDA	1.6
Passenger	89	HONDA	2
Passenger	89	HONDA	1.5
Passenger	89	HONDA	2
Passenger	90	HONDA	1.6
Passenger	90	HONDA	1.5
Passenger	90	HONDA	2.2
Passenger	90	HONDA	2
Passenger	91	HONDA	2
Passenger	91	HONDA	1.6
Passenger	91	HONDA	1.5
Passenger	91	HONDA	2.2
Passenger	92	HONDA	2.2
Passenger	92	HONDA	2.3
Passenger	92	HONDA	1.5
Passenger	92	HONDA	1.6
Passenger	93	HONDA	2.3
Passenger	93	HONDA	1.5
Passenger	93	HONDA	2.2
Passenger	93	HONDA	1.6
Passenger	94	HONDA	2.3
Passenger	94	HONDA	1.5
Passenger	94	HONDA	2.2
Passenger	94	HONDA	1.6
Passenger	95	HONDA	2.2
Passenger	95	HONDA	2.7
Passenger	95	HONDA	2.3
Passenger	95	HONDA	1.5
Passenger	95	HONDA	1.6
Passenger	92	HYUND	3
Passenger	93	HYUND	1.5
Passenger	93	HYUND	3
Passenger	93	HYUND	1.5
Passenger	94	HYUND	1.5
Passenger	94	HYUND	1.5
Passenger	94	HYUND	1.6
Passenger	95	HYUND	2
Passenger	95	HYUND	1.6
Passenger	95	HYUND	1.5
Passenger	95	HYUND	1.8
Passenger	95	HYUND	3
Passenger	90	INFIN	3
Passenger	90	INFIN	4.5
Passenger	91	INFIN	4.5

PROPOSED REGULATIONS

Passenger	91	INFIN	2
Passenger	92	INFIN	4.5
Passenger	92	INFIN	2
Passenger	93	INFIN	3
Passenger	93	INFIN	2
Passenger	93	INFIN	4.5
Passenger	94	INFIN	2
Passenger	94	INFIN	4.5
Passenger	94	INFIN	3
Passenger	95	INFIN	4.5
Passenger	95	INFIN	3
Passenger	95	INFIN	2
Passenger	91	ISUZU	1.6
Passenger	92	ISUZU	2.6
Passenger	93	ISUZU	2.6
Passenger	94	ISUZU	2.6
Passenger	94	ISUZU	3.2
Passenger	95	ISUZU	2.6
Passenger	95	ISUZU	3.2
Passenger	88	JAGUA	3.6
Passenger	89	JAGUA	3.6
Passenger	90	JAGUA	4
Passenger	91	JAGUA	4
Passenger	93	JAGUA	4
Passenger	94	JAGUA	4
Passenger	95	JAGUA	4
Passenger	94	KIA	1.6
Passenger	95	KIA	1.6
Passenger	90	LEXUS	4
Passenger	90	LEXUS	2.5
Passenger	91	LEXUS	4
Passenger	91	LEXUS	2.5
Passenger	92	LEXUS	3
Passenger	92	LEXUS	4
Passenger	93	LEXUS	4
Passenger	93	LEXUS	3
Passenger	94	LEXUS	4
Passenger	94	LEXUS	3
Passenger	95	LEXUS	3
Passenger	95	LEXUS	4
Passenger	89	LINCO	5
Passenger	89	LINCO	3.8
Passenger	90	LINCO	3.8
Passenger	90	LINCO	5
Passenger	91	LINCO	3.8
Passenger	91	LINCO	4.6
Passenger	92	LINCO	4.6
Passenger	92	LINCO	3.8
Passenger	93	LINCO	3.8
Passenger	93	LINCO	4.6
Passenger	94	LINCO	3.8
Passenger	94	LINCO	4.6
Passenger	95	LINCO	4.6
Passenger	87	MAZDA	2

Passenger	88	MAZDA	1.3
Passenger	88	MAZDA	2.2
Passenger	89	MAZDA	2.2
Passenger	89	MAZDA	3
Passenger	89	MAZDA	1.6
Passenger	90	MAZDA	1.6
Passenger	90	MAZDA	2.2
Passenger	90	MAZDA	2.2
Passenger	90	MAZDA	1.8
Passenger	91	MAZDA	1.6
Passenger	91	MAZDA	2.6
Passenger	91	MAZDA	2.2
Passenger	91	MAZDA	3
Passenger	91	MAZDA	4
Passenger	92	MAZDA	3
Passenger	92	MAZDA	1.6
Passenger	92	MAZDA	1.8
Passenger	92	MAZDA	2.2
Passenger	92	MAZDA	4
Passenger	93	MAZDA	2
Passenger	93	MAZDA	1.6
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Passenger	93	MAZDA	3
Passenger	93	MAZDA	1.8
Passenger	93	MAZDA	2.5
Passenger	94	MAZDA	2
Passenger	94	MAZDA	1.6
Passenger	94	MAZDA	2.5
Passenger	94	MAZDA	3
Passenger	94	MAZDA	4
Passenger	94	MAZDA	1.8
Passenger	95	MAZDA	2.5
Passenger	95	MAZDA	1.8
Passenger	95	MAZDA	2.3
Passenger	95	MAZDA	1.5
Passenger	95	MAZDA	2
Passenger	95	MAZDA	2.5
Passenger	86	MERCE	5.6
Passenger	87	MERCE	5.6
Passenger	87	MERCE	3
Passenger	87	MERCE	4.2
Passenger	88	MERCE	4.2
Passenger	88	MERCE	5.6
Passenger	89	MERCE	2.6
Passenger	89	MERCE	3
Passenger	89	MERCE	4.2
Passenger	89	MERCE	5.6
Passenger	90	MERCE	5.6
Passenger	90	MERCE	4.2
Passenger	90	MERCE	3
Passenger	90	MERCE	2.6
Passenger	91	MERCE	2.3
Passenger	91	MERCE	3
Passenger	91	MERCE	5.6

Passenger	91	MERCE	4.2
Passenger	91	MERCE	2.6
Passenger	92	MERCE	2.3
Passenger	92	MERCE	3
Passenger	92	MERCE	2.6
Passenger	93	MERCE	3.2
Passenger	93	MERCE	2.8
Passenger	93	MERCE	2.6
Passenger	93	MERCE	2.3
Passenger	95	MERCE	3.2
Passenger	95	MERCE	2.2
Passenger	95	MERCE	2.8
Passenger	89	MERCU	3.8
Passenger	89	MERCU	2.3
Passenger	89	MERCU	3
Passenger	90	MERCU	3.8
Passenger	90	MERCU	3
Passenger	90	MERCU	5
Passenger	90	MERCU	2.3
Passenger	91	MERCU	1.9
Passenger	91	MERCU	3.8
Passenger	91	MERCU	2.3
Passenger	91	MERCU	3
Passenger	92	MERCU	1.9
Passenger	92	MERCU	2.3
Passenger	92	MERCU	1.6
Passenger	92	MERCU	3
Passenger	92	MERCU	3.8
Passenger	92	MERCU	4.6
Passenger	93	MERCU	1.6
Passenger	93	MERCU	1.9
Passenger	93	MERCU	3.8
Passenger	93	MERCU	3
Passenger	93	MERCU	4.6
Passenger	93	MERCU	2.3
Passenger	94	MERCU	4.6
Passenger	94	MERCU	2.3
Passenger	94	MERCU	3
Passenger	94	MERCU	3.8
Passenger	94	MERCU	1.9
Passenger	94	MERCU	1.6
Passenger	95	MERCU	2.5
Passenger	95	MERCU	2
Passenger	95	MERCU	3
Passenger	95	MERCU	4.6
Passenger	95	MERCU	3.8
Passenger	95	MERCU	1.9
Passenger	90	MITSU	2
Passenger	91	MITSU	1.8
Passenger	92	MITSU	2
Passenger	92	MITSU	2.4
Passenger	92	MITSU	1.5
Passenger	92	MITSU	1.8
Passenger	92	MITSU	1.8

Passenger	92	MITSU	3
Passenger	93	MITSU	1.5
Passenger	93	MITSU	1.8
Passenger	93	MITSU	2
Passenger	93	MITSU	3
Passenger	93	MITSU	3
Passenger	94	MITSU	3
Passenger	94	MITSU	3
Passenger	94	MITSU	2.4
Passenger	94	MITSU	1.8
Passenger	94	MITSU	2
Passenger	94	MITSU	1.5
Passenger	95	MITSU	1.5
Passenger	95	MITSU	2
Passenger	95	MITSU	1.8
Passenger	95	MITSU	3
Passenger	95	MITSU	3
Passenger	95	MITSU	2.4
Passenger	88	NISSA	3
Passenger	89	NISSA	3
Passenger	89	NISSA	3
Passenger	90	NISSA	3
Passenger	90	NISSA	2.4
Passenger	90	NISSA	3
Passenger	91	NISSA	3
Passenger	91	NISSA	2.4
Passenger	91	NISSA	1.6
Passenger	91	NISSA	3
Passenger	91	NISSA	2
Passenger	92	NISSA	3
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Passenger	93	NISSA	3
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Passenger	94	NISSA	3
Passenger	94	NISSA	3
Passenger	94	NISSA	2.4
Passenger	94	NISSA	2
Passenger	94	NISSA	1.6
Passenger	95	NISSA	3
Passenger	95	NISSA	2.4
Passenger	95	NISSA	3
Passenger	87	OLDSM	3.8
Passenger	88	OLDSM	3.8
Passenger	88	OLDSM	3
Passenger	89	OLDSM	3.3
Passenger	89	OLDSM	3.8
Passenger	90	OLDSM	3.3
Passenger	90	OLDSM	3.8
Passenger	91	OLDSM	3.8

PROPOSED REGULATIONS

Passenger	91	OLDSM	3.3
Passenger	92	OLDSM	2.3
Passenger	92	OLDSM	3.3
Passenger	92	OLDSM	3.8
Passenger	93	OLDSM	3.4
Passenger	93	OLDSM	3.8
Passenger	93	OLDSM	3.3
Passenger	93	OLDSM	2.3
Passenger	94	OLDSM	2.3
Passenger	94	OLDSM	3.1
Passenger	94	OLDSM	2.2
Passenger	94	OLDSM	3.8
Passenger	94	OLDSM	3.4
Passenger	95	OLDSM	3.1
Passenger	95	OLDSM	3.8
Passenger	95	OLDSM	4
Passenger	95	OLDSM	2.3
Passenger	95	OLDSM	3.4
Passenger	87	PLYMO	5.2
Passenger	87	PLYMO	3
Passenger	89	PLYMO	2.5
Passenger	89	PLYMO	2.5
Passenger	90	PLYMO	2.5
Passenger	90	PLYMO	3.3
Passenger	90	PLYMO	2.5
Passenger	92	PLYMO	3
Passenger	92	PLYMO	3
Passenger	92	PLYMO	3.3
Passenger	92	PLYMO	1.8
Passenger	93	PLYMO	2.5
Passenger	93	PLYMO	3
Passenger	93	PLYMO	3.3
Passenger	93	PLYMO	3
Passenger	93	PLYMO	2
Passenger	93	PLYMO	2.2
Passenger	93	PLYMO	1.8
Passenger	93	PLYMO	2.5
Passenger	93	PLYMO	1.5
Passenger	94	PLYMO	3
Passenger	94	PLYMO	3
Passenger	94	PLYMO	3.8
Passenger	94	PLYMO	2.5
Passenger	94	PLYMO	2.2
Passenger	94	PLYMO	2.5
Passenger	94	PLYMO	3.3
Passenger	95	PLYMO	3
Passenger	95	PLYMO	2.5
Passenger	95	PLYMO	3
Passenger	95	PLYMO	3.8
Passenger	95	PLYMO	2.5
Passenger	95	PLYMO	3.3
Passenger	95	PLYMO	2
Passenger	88	PONTI	3.8
Passenger	89	PONTI	1.6

Passenger	89	PONTI	5.7
Passenger	89	PONTI	3.8
Passenger	89	PONTI	3.1
Passenger	89	PONTI	2
Passenger	90	PONTI	1.6
Passenger	90	PONTI	3.8
Passenger	90	PONTI	2
Passenger	90	PONTI	5
Passenger	91	PONTI	1.6
Passenger	91	PONTI	3.8
Passenger	91	PONTI	2
Passenger	92	PONTI	3.3
Passenger	92	PONTI	3.4
Passenger	92	PONTI	3.8
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Passenger	92	PONTI	2
Passenger	93	PONTI	3.8
Passenger	93	PONTI	2.3
Passenger	93	PONTI	3.4
Passenger	93	PONTI	2
Passenger	93	PONTI	3.3
Passenger	94	PONTI	3.1
Passenger	94	PONTI	3.1
Passenger	94	PONTI	3.8
Passenger	94	PONTI	3.4
Passenger	94	PONTI	3.4
Passenger	94	PONTI	2.3
Passenger	94	PONTI	2
Passenger	94	PONTI	5.7
Passenger	95	PONTI	3.1
Passenger	95	PONTI	2.2
Passenger	95	PONTI	3.4
Passenger	95	PONTI	2.3
Passenger	95	PONTI	3.4
Passenger	95	PONTI	5.7
Passenger	95	PONTI	3.8
Passenger	84	PORSC	3.2
Passenger	86	PORSC	3.2
Passenger	88	PORSC	3.2
Passenger	90	PORSC	3.6
Passenger	91	PORSC	3.6
Passenger	95	PORSC	3.6
Passenger	91	SAAB	2.1
Passenger	91	SAAB	2.3
Passenger	92	SAAB	2.1
Passenger	95	SAAB	2.3
Passenger	93	SATUR	1.9
Passenger	94	SATUR	1.9
Passenger	95	SATUR	1.9
Passenger	88	SUBAR	1.8
Passenger	88	SUBAR	1.8
Passenger	89	SUBAR	1.8
Passenger	90	SUBAR	1.8
Passenger	90	SUBAR	2.2

Passenger	91	SUBAR	1.8
Passenger	91	SUBAR	2.2
Passenger	92	SUBAR	2.2
Passenger	92	SUBAR	1.8
Passenger	93	SUBAR	1.8
Passenger	93	SUBAR	2.2
Passenger	94	SUBAR	2.2
Passenger	89	SUZUK	1.3
Passenger	90	SUZUK	1.3
Passenger	91	SUZUK	1.6
Passenger	92	SUZUK	1.6
Passenger	93	SUZUK	1.6
Passenger	93	SUZUK	1.3
Passenger	94	SUZUK	1.6
Passenger	94	SUZUK	1.3
Passenger	83	TOYOT	2.3
Passenger	85	TOYOT	2
Passenger	86	TOYOT	2
Passenger	86	TOYOT	2.2
Passenger	87	TOYOT	2
Passenger	87	TOYOT	2.2
Passenger	88	TOYOT	2
Passenger	88	TOYOT	2.2
Passenger	88	TOYOT	4
Passenger	88	TOYOT	1.6
Passenger	88	TOYOT	3
Passenger	88	TOYOT	2.5
Passenger	89	TOYOT	2.5
Passenger	89	TOYOT	2.2
Passenger	89	TOYOT	1.6
Passenger	89	TOYOT	2
Passenger	89	TOYOT	2
Passenger	89	TOYOT	3
Passenger	89	TOYOT	4
Passenger	89	TOYOT	3
Passenger	90	TOYOT	1.6
Passenger	90	TOYOT	3
Passenger	90	TOYOT	2
Passenger	90	TOYOT	2.4
Passenger	90	TOYOT	2.2
Passenger	90	TOYOT	3
Passenger	90	TOYOT	1.5
Passenger	90	TOYOT	2.5
Passenger	91	TOYOT	2.5
Passenger	91	TOYOT	2.2
Passenger	91	TOYOT	2.2
Passenger	91	TOYOT	2.4
Passenger	91	TOYOT	3
Passenger	91	TOYOT	1.6
Passenger	91	TOYOT	1.5
Passenger	92	TOYOT	1.6
Passenger	92	TOYOT	2.4
Passenger	92	TOYOT	2.2
Passenger	92	TOYOT	3

Passenger	92	TOYOT	2.2
Passenger	92	TOYOT	3
Passenger	92	TOYOT	2
Passenger	92	TOYOT	1.5
Passenger	93	TOYOT	3
Passenger	93	TOYOT	1.5
Passenger	93	TOYOT	2
Passenger	93	TOYOT	1.8
Passenger	93	TOYOT	3
Passenger	93	TOYOT	2.4
Passenger	93	TOYOT	2.2
Passenger	93	TOYOT	2.2
Passenger	93	TOYOT	1.6
Passenger	94	TOYOT	1.6
Passenger	94	TOYOT	1.8
Passenger	94	TOYOT	3
Passenger	94	TOYOT	3
Passenger	94	TOYOT	2.2
Passenger	94	TOYOT	2.4
Passenger	94	TOYOT	1.5
Passenger	95	TOYOT	2.2
Passenger	95	TOYOT	1.6
Passenger	95	TOYOT	1.5
Passenger	95	TOYOT	3
Passenger	95	TOYOT	1.8
Passenger	95	TOYOT	3
Passenger	95	TOYOT	2.4
Passenger	85	VOLKS	2
Passenger	87	VOLKS	2
Passenger	92	VOLKS	1.8
Passenger	93	VOLKS	2
Passenger	93	VOLKS	1.8
Passenger	94	VOLKS	1.8
Passenger	95	VOLKS	1.8
Passenger	95	VOLKS	2
Passenger	89	VOLVO	2.3
Passenger	90	VOLVO	2.3
Passenger	91	VOLVO	2.3
Passenger	92	VOLVO	2.3
Passenger	93	VOLVO	2.3
Passenger	93	VOLVO	2.4
Passenger	94	VOLVO	2.4
Passenger	94	VOLVO	2.3
Passenger	94	VOLVO	2.9
Passenger	95	VOLVO	2.9
Passenger	95	VOLVO	2.3
Passenger	95	VOLVO	2.4
Truck	90	CHEVR	5.7
Truck	92	CHEVR	2.5
Truck	92	CHEVR	2.8
Truck	93	CHEVR	5.7
Truck	93	CHEVR	2.8
Truck	93	CHEVR	2.5
Truck	94	CHEVR	5.7

PROPOSED REGULATIONS

Truck	94	CHEVR	4.3
Truck	94	CHEVR	4.3
Truck	94	CHEVR	2.2
Truck	94	CHEVR	5
Truck	95	CHEVR	2.2
Truck	95	CHEVR	4.3
Truck	95	CHEVR	7.4
Truck	95	CHEVR	5
Truck	95	CHEVR	4.3
Truck	95	CHEVR	5.7
Truck	82	DODGE	5.2
Truck	85	DODGE	2.5
Truck	89	DODGE	2.5
Truck	89	DODGE	5.9
Truck	90	DODGE	5.9
Truck	90	DODGE	2.5
Truck	91	DODGE	2.5
Truck	92	DODGE	2.4
Truck	92	DODGE	2.5
Truck	93	DODGE	2.5
Truck	93	DODGE	3
Truck	94	DODGE	3.3
Truck	94	DODGE	5.2
Truck	94	DODGE	5.9
Truck	94	DODGE	2.5
Truck	95	DODGE	3.9
Truck	95	DODGE	5.9
Truck	95	DODGE	5.2
Truck	95	DODGE	2.5
Truck	89	FORD	2.9
Truck	90	FORD	4
Truck	90	FORD	2.3
Truck	90	FORD	2.9
Truck	91	FORD	2.9
Truck	91	FORD	4
Truck	91	FORD	3
Truck	91	FORD	2.3
Truck	92	FORD	4
Truck	92	FORD	2.3
Truck	92	FORD	3
Truck	93	FORD	2.3
Truck	93	FORD	5.8
Truck	93	FORD	5
Truck	93	FORD	4.9
Truck	93	FORD	4
Truck	93	FORD	3
Truck	94	FORD	5.8
Truck	94	FORD	2.3
Truck	94	FORD	4.9
Truck	94	FORD	4
Truck	94	FORD	3
Truck	94	FORD	5
Truck	95	FORD	4.9
Truck	95	FORD	2.3

Truck	95	FORD	5
Truck	95	FORD	4
Truck	95	FORD	3
Truck	95	FORD	5.8
Truck	90	GMC	5.7
Truck	90	GMC	2.5
Truck	93	GMC	5.7
Truck	94	GMC	4.3
Truck	94	GMC	2.2
Truck	94	GMC	5.7
Truck	94	GMC	4.3
Truck	95	GMC	5.7
Truck	95	GMC	5
Truck	95	GMC	2.2
Truck	95	GMC	4.3
Truck	95	GMC	4.3
Truck	90	ISUZU	2.6
Truck	92	ISUZU	2.3
Truck	92	ISUZU	2.6
Truck	93	ISUZU	2.3
Truck	94	ISUZU	2.3
Truck	95	ISUZU	2.3
Truck	90	JEEP	4
Truck	91	JEEP	4
Truck	92	JEEP	4
Truck	93	JEEP	4
Truck	94	JEEP	4
Truck	94	JEEP	2.5
Truck	95	JEEP	4
Truck	95	JEEP	2.5
Truck	90	MAZDA	2.2
Truck	91	MAZDA	2.6
Truck	91	MAZDA	2.2
Truck	92	MAZDA	2.6
Truck	92	MAZDA	2.2
Truck	93	MAZDA	2.2
Truck	94	MAZDA	2.3
Truck	94	MAZDA	3
Truck	94	MAZDA	4
Truck	95	MAZDA	2.3
Truck	87	MITSU	2.6
Truck	92	MITSU	2.4
Truck	93	MITSU	2.4
Truck	87	NISSA	2.4
Truck	87	NISSA	3
Truck	88	NISSA	2.4
Truck	89	NISSA	2.4
Truck	89	NISSA	3
Truck	90	NISSA	3
Truck	90	NISSA	2.4
Truck	91	NISSA	3
Truck	91	NISSA	2.4
Truck	92	NISSA	2.4
Truck	92	NISSA	3

Truck	93	NISSA	2.4
Truck	93	NISSA	3
Truck	94	NISSA	2.4
Truck	94	NISSA	3
Truck	95	NISSA	3
Truck	95	NISSA	2.4
Truck	90	SUZUK	1.3
Truck	84	TOYOT	2
Truck	86	TOYOT	2.2
Truck	86	TOYOT	2.3
Truck	87	TOYOT	2.3
Truck	87	TOYOT	2.2
Truck	88	TOYOT	2.3
Truck	88	TOYOT	3
Truck	89	TOYOT	2.3
Truck	89	TOYOT	2.2
Truck	89	TOYOT	3
Truck	90	TOYOT	3
Truck	90	TOYOT	2.4
Truck	91	TOYOT	2.4
Truck	91	TOYOT	3
Truck	92	TOYOT	3
Truck	92	TOYOT	2.4
Truck	93	TOYOT	2.4
Truck	93	TOYOT	3
Truck	94	TOYOT	3
Truck	94	TOYOT	2.7
Truck	94	TOYOT	2.4
Truck	95	TOYOT	2.7
Truck	95	TOYOT	2.4
Truck	95	TOYOT	3

† Based on Arizona IM240 data

APPENDIX 6(a)

IDLE EMISSIONS TEST PROCEDURES

The on-site test inspection of motor vehicles uses the ESP FICS 4000 - Bar 90 computerized Emission Analyzer which will require minimal time to complete the inspection procedure.

GENERAL TEST PROCEDURES

1. If the inspection technician observes a vehicle having coolant, oil, excess smoke or fuel leaks or any other such defect that is unsafe to allow the emission test to be conducted the vehicle shall be rejected from the testing area. The inspection technician is prohibited from conducting the emissions test until the defects are corrected.

2. The vehicle transmission is to be placed in neutral gear if equipped with a manual transmission, or in park position if equipped with an automatic transmission. The hand or parking brake is to be engaged. If the parking brake

is found to be defective, then wheel chocks are to be placed in front and/or behind the vehicle's tires.

3. The inspection technician advises the owner to turn off all vehicle accessories.

4. The inspection technician enters the vehicle registration number (tag) or the vehicle identification number into the BAR 90 system. This information is electronically transmitted to the Division of Motor Vehicle's database. The system will also identify for each vehicle entered into the BAR 90 system whether the vehicle is eligible for a clean screen exemption. Only under certain conditions determined by the vehicle services chief or his designee will those vehicles eligible for the clean screen exemption be excuse from any exhaust emissions test for the current two year test cycle. In no case shall the number of vehicles exempt in any one calendar year, under the clean screen procedures, exceed 40% of the total number of vehicles subject to the requirements of Regulation 31. The clean screen procedures or methodology is described in Appendix Y.

5. If the vehicle registration number is in the database, the following information will be transmitted to and verified by the inspection technician:

- a. Vehicle make
- b. Vehicle Year
- c. Vehicle Model
- d. Vehicle Body Style
- e. Vehicle fuel type and
- f. other related information

6. The inspection technician will verify this information and verify the last five characters of the Vehicle Identification Number (VIN) prior to beginning the emission test.

7. If the vehicle's identification number is not on the database, the R.L. Polk VIN Package shall be automatically accessed. This VIN package will return the following information to the inspection technician who, in turn will verify the returned information:

- a. Vehicle make
- b. Vehicle Year
- c. Vehicle Model
- d. Vehicle Body Style
- e. Vehicle fuel type

8. The DMV System will identify and require an emission inspection on all eligible vehicles meeting the State's criteria for an emission inspection. Once the vehicle information has been verified and accepted, the system will prompt the inspection technician to place the analyzer test probe into the tailpipe. The technician connects the tachometer lead to the vehicle's spark plug and verifies that the idle RPM is within the specified range. If the RPM exceeds the allowed range the vehicle is rejected and not tested. The technician will insert the probe at least 8 inches into the exhaust pipe. Genuine dual exhaust vehicles will be

tested with a dual exhaust probe. Once the probe has been placed into the exhaust pipe the test will begin. The test process is completely automatic, including the pass/fail decision.

9. If the vehicle has been identified as requiring a completed Vehicle Inspection Repair (VIRR) Report Form prior to reinspection, the inspection technician will review the form for completeness and, if applicable, record into the system the Certified Emission Repair Technician's (CERT) number or Certified Manufacturer's Repair Technician (CMRT) number before the retest.

TWO SPEED IDLE TEST PROCEDURES

1. Exhaust gas sampling algorithm. The analysis of exhaust gas concentrations will begin 10 seconds after the applicable test mode begins. Exhaust gas concentrations will be analyzed at a rate of two times per second. The measured value for pass/fail determinations will be a simple running average of the measurements taken over five seconds.

2. Pass/fail determinations. A pass or fail determination will be made for each applicable test mode based on a comparison of the applicable standards listed in Appendix 3 (a)(7) and the measured value for HC and CO. A vehicle will pass the test mode if any pair of simultaneous values for HC and CO are below or equal to the applicable standards. A vehicle will fail the test mode if the values for either HC or CO, or both, in all simultaneous pairs of values are above the applicable standards.

3. Void test conditions. The test will immediately end and any exhaust gas measurements will be voided if the measured concentration of CO plus CO₂ (CO+ CO₂) falls below six percent of the total concentration of CO plus CO₂ or the vehicle's engine stalls at any time during the test sequence.

4. Multiple exhaust pipes. Exhaust gas concentrations from vehicle engines equipped with dual exhaust systems will be sampled accordingly.

5. The test will be immediately terminated upon reaching the overall maximum test time.

6. Test sequence.

(a) The test sequence will consist of a first-chance test and a second chance test as follows:

(i) The first-chance test will consist of an idle mode followed by a high-speed mode.

(ii) The second-chance high-speed mode, as described will immediately follow the first-chance high-speed mode. It will be performed only if the vehicle fails the first-chance test. The second-chance idle will follow the second chance high speed mode and be performed only if the vehicle fails the idle mode of the first-chance test.

(b) The test sequence will begin only after the following requirements are met:

(i) The vehicle will be tested in as-received condition with the transmission in neutral or park, the parking brake actuated (or chocked) and all accessories turned off. The engine shall appear to and is assumed to be at normal operating temperature.

(ii) The tachometer will be attached to the vehicle in accordance with the analyzer manufacturer's instructions.

(iii) The sample probe(s) will be inserted into the vehicle's tailpipe to a minimum depth of 10 inches. If the vehicle's exhaust system prevents insertion to this depth, a tailpipe extension will be used.

(iv) The measured concentration of CO plus CO₂ (CO + CO₂) will be greater than or equal to 6% of the total concentration.

(c) First-chance test and second-chance high-speed mode. The test timer will start (tt=0) when the conditions specified above are met. The first-chance test and second-chance high-speed mode will have an overall maximum test time of 390 seconds (tt=390). The first-chance test will consist of an idle mode following immediately by a high-speed mode. This is followed immediately by an additional second-chance high-speed mode, if necessary.

(d) First-chance idle mode. The mode timer will start (mt=0) when the vehicle engine speed is between 550 and 1300 rpm. If engine speed exceeds 1300 rpm or falls below 550 rpm, the mode timer will reset to zero and resume timing. The maximum idle mode length will be 30 seconds (mt=30) elapsed time. The pass/ fail analysis will begin after an elapsed time of 10 seconds (mt=10). A pass or fail determination will be made for the vehicle and the mode terminated as follows:

(i) The vehicle will pass the idle mode and the mode will be immediately terminated if, prior to an elapsed time of 30 seconds (mt=30), measured values are less or equal to the applicable standards listed in Appendix 3 (a)(7)

(ii) The vehicle will fail the idle mode and the mode will be terminated if the provisions of d (i) are not satisfied within an elapsed time of 30 seconds (mt=30).

(iii) The vehicle may fail the first-chance and second-chance test will be omitted if no exhaust gas concentration less than 1800 ppm HC is found by an elapsed time of 30 seconds (mt=30).

(e) First-chance and second-chance high-speed modes. This mode includes both the first-chance and second-chance high-speed modes, and follows immediately upon termination of the first-chance idle mode. The mode timer will reset (mt=0) when the vehicle engine speed is between 2200 and 2800 rpm. If engine speed falls below 2200 rpm or exceeds 2800 rpm for more than two seconds in one excursion, or more than six seconds over all excursions within 30 seconds of the final measured value used in the

pass/fail determination, the measured value will be invalidated and the mode continued. If any excursion lasts for more than ten seconds, the mode timer will reset to zero ($mt=0$) and timing resumed. The minimum high-speed mode length will be determined as described under paragraphs (e) (i) and (ii) below. The maximum high-speed mode length will be 180 seconds ($mt=180$) elapsed time.

(i) Ford Motor Company and Honda vehicles. For 1981-1987 model year Ford Motor Company vehicles and 1984-1985 model year Honda Preludes, the pass/fail analysis will begin after an elapsed time of 10 seconds ($mt=10$) using the following procedure.

(A) A pass or fail determination, as described below, will be used, for vehicles that passed the idle mode, to determine whether the high-speed test should be terminated prior to or at the end of an elapsed time of 180 seconds ($mt=180$).

(I) The vehicle will pass the high-speed mode and the test will be immediately terminated if, prior to an elapsed time of 30 seconds ($mt=30$), the measured values are less than or equal to the applicable standards listed in Appendix 3 (a)(7).

(II) If at an elapsed time of 30 seconds ($mt=30$) the measured values are greater than the applicable standards listed in Appendix 3 (a)(7), the vehicle's engine will be shut off for not more than 10 seconds after returning to idle and then will be restarted. The probe may be removed from the tailpipe or the sample pump turned off if necessary to reduce analyzer fouling during the restart procedure. The mode timer will stop upon engine shut off ($mt=30$) and resume upon engine restart. The pass/fail determination will resume as follows after 40 seconds have elapsed ($mt=40$).

(III) The vehicle will pass the high-speed mode and the test will be immediately terminated if, at any point between an elapsed time of 40 seconds ($mt=40$) and 60 seconds ($mt=60$), the measured values are less than or equal to the applicable standards listed in Appendix 3 (a)(7).

(IV) The vehicle will pass the high-speed mode and the test will be immediately terminated if, at a point between an elapsed time of 60 seconds ($mt=60$) and 180 seconds ($mt=180$) both HC and CO emissions continue to decrease and measured values are less than or equal to the applicable standards listed in Appendix 3 (a)(7). (V) The vehicle will fail the high-speed mode and the test will be terminated if neither paragraphs (e) (i) (A) (III) or (e) (i) (A) (IV), above, are not satisfied by an elapsed time of 180 seconds ($mt=180$).

(B) A pass or fail determination will be made for vehicles that failed the idle mode and the high-speed mode terminated at the end of an elapsed time of 180 seconds ($mt=180$) as follows:

(I) The vehicle will pass the high-speed mode and the mode will be terminated at an elapsed

time of 30 seconds ($mt=30$) if any measured values of HC and CO exhaust gas concentrations during the high-speed mode are less than or equal to the applicable standards listed in Appendix 3 (a)(7).

(II) Restart. If at an elapsed time of 30 seconds ($mt=30$) the measured values of HC and CO exhaust gas concentrations during the high-speed mode are greater than the applicable short test standards as described in Appendix 3 (a)(7), the vehicle's engine will be shut off for not more than 10 seconds after returning to idle and then will be restarted. The probe may be removed from the tailpipe or the sample pump turned off if necessary to reduce analyzer fouling during the restart procedure. The mode timer will stop upon engine shut off ($mt=30$) and resume upon engine restart. The pass/fail determination will resume as follows after 40 seconds ($mt=40$) have elapsed.

(III) The vehicle will pass the high-speed mode and the mode will be terminated at an elapsed time of 60 seconds ($mt=60$) if any measured values of HC and CO exhaust gas concentrations during the high-speed mode are less than or equal to the applicable standards listed in Appendix 3 (a)(7).

(IV) The vehicle will pass the high-speed mode and the test will be immediately terminated if, at a point between an elapsed time of 60 seconds ($mt=60$) and 180 seconds ($mt=180$) both HC and CO emissions continue to decrease and measured values are less than or equal to the applicable standards listed in Appendix 3 (a)(7).

(V) The vehicle will fail the high-speed mode and the test will be terminated if neither paragraphs (e) (i) (B) (I), (e) (i) (B) (III) or (e) (i) (B) (IV), above, is satisfied by an elapsed time of 180 seconds ($mt=180$).

(ii) All other light-duty vehicles. The pass/fail analysis for vehicles not specified in paragraph (e) (i), above, will begin after an elapsed time of 10 seconds ($mt=10$) using the following procedure.

(A) A pass or fail determination will be used for 1981 and newer model year vehicles that passed the idle mode, to determine whether the high-speed mode should be terminated prior to or at the end of an elapsed time of 180 seconds ($mt=180$). For pre-1981 model year vehicles, no high speed idle mode test will be performed.

(I) The vehicle will pass the high-speed mode and the test will be immediately terminated if, prior to an elapsed time of 30 seconds ($mt=30$), the measured values are less than or equal to the applicable standards listed in Appendix 3 (a)(7).

(II) The vehicle will pass the high-speed mode and the test will be immediately terminated if emissions continue to decrease after an elapsed time of 30 seconds ($mt=30$) and if, at any point between an elapsed time of 30 seconds ($mt=30$) and 180 seconds ($mt=180$), the measured values are less than or equal to the applicable

standards listed in Appendix 3 (a)(7).

(III) The vehicle will fail the high-speed mode and the test will be terminated if neither the provisions of paragraphs (e) (ii)(A)(I) or (e) (ii)(A)(II), above, is satisfied.

(B) A pass or fail determination will be made for 1981 and newer model year vehicles that failed the idle mode and the high-speed mode terminated prior to or at the end of an elapsed time of 180 seconds ($mt=180$). For pre-1981 model year vehicles, the duration of the high speed idle mode will be 30 seconds and no pass or fail determination will be used at the high speed idle mode.

(I) The vehicle will pass the high-speed mode and the mode will be terminated at an elapsed time of 30 seconds ($mt=30$) if any measured values are less than or equal to the applicable standards listed Appendix 3 (a)(7).

(II) The vehicle will pass the high-speed mode and the test will be immediately terminated if emissions continue to decrease after an elapsed time of 30 seconds ($mt=30$) and if, at any point between an elapsed time of 30 seconds ($mt=30$) and 180 seconds ($mt=180$), the measured values are less than or equal to the applicable standards listed in Appendix 3 (a)(7).

(III) The vehicle will fail the high speed mode and test will be terminated if neither the provisions of paragraphs (e) (ii)(B)(I) or (e) (ii)(B)(II) is satisfied.

(f) Second-chance idle mode. If the vehicle fails the first-chance idle mode and passes the high-speed mode, the mode timer will reset to zero ($mt=0$) and a second chance idle mode will commence. The second-chance idle mode will have an overall maximum mode time of 30 seconds ($mt=30$). The test will consist on an idle mode only.

(i) The engines of 1981-1987 Ford Motor Company vehicles and 1984-1985 Honda Preludes will be shut off for not more than 10 seconds and restarted. The probe may be removed from the tailpipe or the sample pump turned off if necessary to reduce analyzer fouling during the restart procedure.

(ii) The mode timer will start ($mt=0$) when the vehicle engine speed is between 550 and 1300 rpm. If the engine speed exceeds 1300 rpm or falls below 550 rpm the mode timer will reset to zero and resume timing. The minimum second-chance idle mode length will be determined as described in paragraph (f) (iii) below. The maximum second-chance idle mode length will be 30 seconds ($mt=30$) elapsed time.

(iii) The pass/fail analysis will begin after an elapsed time of 10 seconds ($mt=10$). A pass or fail determination will be made for the vehicle and the second-chance mode will be terminated as follows:

(A) The vehicle will pass the second-chance idle mode and the test will be immediately

terminated if, prior to an elapsed time of 30 seconds ($mt=30$), any measured values are less than or equal to 100 ppm HC and 0.5 percent CO.

(B) The vehicle will pass the second-chance idle mode and the test will be terminated at the end of an elapsed time of 30 seconds ($mt=30$) if, prior to that time, the criteria of paragraph (f)(iii)(A), above, are not satisfied and the measured values during the time period between 25 and 30 seconds ($mt=25-30$) are less than or equal to the applicable short test standards listed Appendix 3 (a)(7).

(C) The vehicle will fail the second-chance idle mode and the test will be terminated if neither of the provisions of paragraphs (f) (iii)(A) or (f)(iii)(B), above are satisfied by an elapsed time of 30 seconds ($mt=30$).

SINGLE SPEED IDLE TEST

From 40 CFR 51 Appendix B to Subpart S -- Test Procedures

(I) Idle Test

(a) General requirements

(1) Exhaust gas sampling algorithm. The analysis of exhaust gas concentrations shall begin 10 seconds after the applicable test mode begins. Exhaust gas concentrations shall be analyzed at a minimum rate of two times per second. The measured value for pass/fail determinations shall be a simple running average of the measurements taken over five seconds.

(2) Pass/fail determination. A pass or fail determination shall be made for each applicable test mode based on a comparison of the short test standards contained in Appendix C to this subpart, and the measured value for HC and CO as described in paragraph (I)(a)(1) of this appendix. A vehicle shall pass the test mode if any pair of simultaneous measured values for HC and CO are below or equal to the applicable short test standards. A vehicle shall fail the test mode if the values for either HC or CO, or both, in all simultaneous pairs of values are above the applicable standards.

(3) Void test conditions. The test shall immediately end and any exhaust gas measurements shall be voided if the measured concentration of CO plus CO₂ falls below six percent or the vehicle's engine stalls at any time during the test sequence.

(4) Multiple exhaust pipes. Exhaust gas concentrations from vehicle engines equipped with multiple exhaust pipes shall be sampled simultaneously.

(5) The test shall be immediately terminated upon reaching the overall maximum test time.

(b) Test sequence.

(1) The test sequence shall consist of a first-chance test and a second-chance test as follows:

(i) The first-chance test, as described under paragraph (c) of this section, shall consist of an idle mode.

(ii) The second-chance test as described under paragraph (I)(d) of this appendix shall be performed only if the vehicle fails the first-chance test.

(2) The test sequence shall begin only after the following requirements are met:

(i) The vehicle shall be tested in as-received condition with the transmission in neutral or park and all accessories turned off. The engine shall be at normal operating temperature (as indicated by a temperature gauge, temperature lamp, touch test on the radiator hose, or other visual observation for overheating).

(ii) The tachometer shall be attached to the vehicle in accordance with the analyzer manufacturer's instructions.

(iii) The sample probe shall be inserted into the vehicle's tailpipe to a minimum depth of 10 inches. If the vehicle's exhaust system prevents insertion to this depth, a tailpipe extension shall be used.

(iv) The measured concentration of CO plus CO₂ shall be greater than or equal to six percent.

(c) First-chance test. The test timer shall start (tt=0) when the conditions specified in paragraph (I)(b)(2) of this appendix are met. The first-chance test shall have an overall maximum test time of 145 seconds (tt=145). The first-chance test shall consist of an idle mode only.

(1) The mode timer shall start (mt=0) when the vehicle engine speed is between 350 and 1100 rpm. If engine speed exceeds 1100 rpm or falls below 350 rpm, the mode timer shall reset to zero and resume timing. The minimum mode length shall be determined as described under paragraph (I)(c)(2) of this appendix. The maximum mode length shall be 90 seconds elapsed time (mt=90).

(2) The pass/fail analysis shall begin after an elapsed time of 10 seconds (mt=10). A pass or fail determination shall be made for the vehicle and the mode shall be terminated as follows:

(i) The vehicle shall pass the idle mode and the test shall be immediately terminated if, prior to an elapsed time of 30 seconds (mt=30), measured values are less than or equal to 100 ppm HC and 0.5 percent CO.

(ii) The vehicle shall pass the idle mode and the test shall be terminated at the end of an elapsed time of 30 seconds (mt=30), if prior to that time the criteria of paragraph (I)(c)(2)(i) of this appendix are not satisfied and the measured values are less than or equal to the applicable short test standards as described in paragraph (I)(a)(2) of this appendix.

(iii) The vehicle shall pass the idle mode and the test shall be immediately terminated if, at any point between an elapsed time of 30 seconds (mt=30) and 90 seconds (mt=90), the measured values are less than or equal to the applicable short test standards as described in paragraph (I)(a)(2) of this appendix.

(iv) The vehicle shall fail the idle mode and the test shall be terminated if none of the provisions of paragraphs (I)(c)(2)(i), (ii) and (iii) of this appendix is satisfied by an elapsed time of 90 seconds (mt=90). Alternatively, the vehicle may be failed if the provisions of paragraphs (I)(c)(2)(i) and (ii) of this appendix are not met within an elapsed time of 30 seconds.

(v) Optional. The vehicle may fail the first-chance test and the second-chance test shall be omitted if no exhaust gas concentration lower than 1800 ppm HC is found by an elapsed time of 30 seconds (mt=30).

(d) Second-chance test. If the vehicle fails the first-chance test, the test timer shall reset to zero (tt=0) and a second-chance test shall be performed. The second-chance test shall have an overall maximum test time of 425 seconds (tt=425). The test shall consist of a preconditioning mode followed immediately by an idle mode.

(1) Preconditioning mode. The mode timer shall start (mt=0) when the engine speed is between 2200 and 2800 rpm. The mode shall continue for an elapsed time of 180 seconds (mt=180). If engine speed falls below 2200 rpm or exceeds 2800 rpm for more than five seconds in any one excursion, or 15 seconds over all excursions, the mode timer shall reset to zero and resume timing.

(2) Idle mode.

(i) Ford Motor Company and Honda vehicles. The engines of 1981-1987 Ford Motor Company vehicles and 1984-1985 Honda Preludes shall be shut off for not more than 10 seconds and restarted. This procedure may also be used for 1988-1989 Ford Motor Company vehicles but should not be used for other vehicles. The probe may be removed from the tailpipe or the sample pump turned off if necessary to reduce analyzer fouling during the restart procedure.

(ii) The mode timer shall start (mt=0) when the vehicle engine speed is between 350 and 1100 rpm. If engine speed exceeds 1100 rpm or falls below 350 rpm, the mode timer shall reset to zero and resume timing. The minimum idle mode length shall be determined as described in paragraph (I)(d)(2)(iii) of this appendix. The maximum idle mode length shall be 90 seconds elapsed time (mt=90).

(iii) The pass/fail analysis shall begin after an elapsed time of 10 seconds (mt=10). A pass or fail determination shall be made for the vehicle and the idle mode shall be terminated as follows:

(A) The vehicle shall pass the idle mode and the test shall be immediately terminated if, prior to an elapsed time of 30 seconds (mt=30), measured values are less than or equal to 100 ppm HC and 0.5 percent CO.

(B) The vehicle shall pass the idle mode and the test shall be terminated at the end of an elapsed time of 30 seconds (mt=30), if prior to that time the criteria of paragraph (I)(d)(2)(iii)(A) of this appendix are not satisfied and the measured values are less than or equal to the

applicable short test standards as described in paragraph (I)(a)(2) of this appendix.

(C) The vehicle shall pass the idle mode and the test shall be immediately terminated if, at any point between an elapsed time of 30 seconds (mt=30) and 90 seconds (mt=90), measured values are less than or equal to the applicable short test standards described in paragraph (I)(a)(2) of this appendix.

(D) The vehicle shall fail the idle mode and the test shall be terminated if none of the provisions of paragraphs (I)(d)(2)(iii)(A), (d)(2)(iii)(B), and (d)(2)(iii)(C) of this appendix

(E) Are satisfied by an elapsed time of 90 seconds (mt=90)

APPENDIX 6(a)(5)

Vehicle Emission Repair Report Form

This document may be reviewed during normal business hours (8:30 am – 4 pm) Monday through Friday at the Air Quality Management Section Office, 156 South State Street, Dover. For more information call Philip Wheeler at 302/739-4791

APPENDIX 6(a)(8)

EVAPORATIVE SYSTEM INTEGRITY (PRESSURE) TEST

ESP Alternative Pressure Test

The EPA has defined an evaporative pressure test that involves removing hoses from the charcoal canister. An alternative, less intrusive test technique has been developed by ESP. The EPA pressure test is performed by removing the gas tank fuel vapor vent line from the charcoal canister and pressurizing the gas tank through this line with nitrogen gas. The pressure in the gas tank is then monitored for two minutes and if the pressure drops below a specified level, the vehicle is failed. The canister is often difficult to access and the vent hoses difficult to remove and replace. The alternative test consists of pressurizing the gas tank from the gas tank filler neck instead of the canister. The gas cap is removed and replaced by a gas cap adapter through which the fuel tank is filled with nitrogen gas. The vent hose is clamped at the canister, the gas tank is pressurized and the pressure in the tank monitored for two minutes. Clamping the hose rather than removing it is less likely to lead to breakage or hoses left disconnected, reducing the liability arising from the test procedure. The gas cap is tested on a test rig where the gas cap can be pressurized on its own. Removing the gas cap and pressurizing the tank from the filler neck has the following advantages:

Half of the leaks in the gas tank occur in the gas cap. On those vehicles where the canister and vent lines are

inaccessible, 50% of the emissions reduction available from the evaporative system integrity check can be achieved by just testing the gas cap.

Testing the gas cap separately allows leaking gas caps to be identified. The customer can be recommended to replace the gas cap rather than pay to have a repair station isolate the cause of the leak.

The test is less intrusive as the vapor line to the charcoal canister is clamped off rather than removed. On some vehicles the vapor line can be reached even when the canister, itself is inaccessible. The gas tank can be more rapidly pressurized through the large filler neck opening than from the canister as the vapor line to the tank typically has a narrow orifice in the line. This is particularly important when pressurizing the large vapor space in nearly empty gas tanks. The more rapid pressure test potentially increases the throughput of the lane. The ESP method will result in a 50% time saving in the fill time or approximately 30 seconds. The 30 second time saving in the multi-position lane will result in a lane throughput increase of one to two vehicles per hour.

The ESP Alternative Pressure Test is a more accurate test because it compensates for the volume of vapor space. During the development of this technique, ESP discovered that differences in fuel level in the gas tank can result in an order of magnitude change in test results. ESP's alternative approach is designed to compensate for the pressure drop change of the vapor space condition. Without the ESP method of testing, it is expected that errors of omission and commission will result. The variability of the test results derived from the EPA prescribed method will result in problems such as, customer complaints for "Ping-Pong" effects and general public dissatisfaction with the program. To further reduce the problem of ping-ponging, ESP has developed a pressure drop table for repair stations, that will enable the repair technicians to perform the pressure test with a much higher degree of correlation to the centralized test.

APPENDIX 7(a)

EMISSION REPAIR TECHNICIAN CERTIFICATION PROCESS

Effective January 1, 1997 for vehicles registered in New Castle County and July 1, 1997 for vehicles registered in Kent County, in order to qualify for waiver repairs on any 1981 or later model year vehicle shall be performed by a certified repair technician or a certified manufacturer repair technician, as defined in Section 1 of this regulation. The cost of such repairs must total no less than \$200. Under the policy developed by the Department, a Certified Emission Repair Technician may be certified as trained to do repairs on all makes of vehicles or vehicles of a specific manufacturer. Auto repair technicians seeking to become certified under Regulation 31 have the following options in

attaining the certification:

1. All those applying for certification can "test out" and gain certification without further emission repair training as provided by the College or Auto Manufacturer or other training organization. The "test out" process is administered by the College as follows:

- Applicants without L1 ASE (Automobile Service Excellence) certification must first take the Fundamental Inspection Repair System Training final exam. Those achieving a score of 75% or better are eligible to take the Delaware Emission Education Program certification exam.
- Applicants achieving a score of 75% or better on the certification exam will become certified on all makes of vehicles. Applicants with L1 ASE certification can test out by taking the Delaware Emission Education Program certification exam ONLY.

2. The testing procedure discussed above will determine what, if any, training is needed for applicants seeking certification.

- Technicians scoring below 75% on the Fundamental Inspection Repair System Training final exam must take a 60 hour fundamental emission repair training course provided by the College.
- Those completing the 60 hour program and scoring 75% or better on the final exam can advance into a 40 hour class which is the next level of training, or attempt to test out and take the certification exam, scoring 75% or better to become certified.
- Technicians scoring below 75% on the Delaware Emission Education Program certification exam must take a 40 hour emission repair training course provided by the College and then score 75% or better on the final exam to become certified.

3. Technicians who are L1 ASE certified and who have approved manufacturer's emission repair training will be certified for each make of vehicle of each manufacturer that the technician was trained to do emission repairs. The procedure for certification is as follows:

- The Department will evaluate each of the manufacturers OEM Emissions Path to determine if it meets a reasonable minimum standard. This evaluation must contain proof that the manufacturer's course work clearly covers the Delaware I/M regulation (e.g. waiver process, etc.)
- Candidate manufacturer technician submits: His/her transcript from the manufacturer on courses taken and passed and; Proof of ASE L1 certification to the

Department.

- Candidate manufacturer technician takes and passes a Delaware-specific short test which is intended to test the candidate on the Delaware regulation, any specifics on waivers that should be known, and general questions on vehicle repair.
- The Department and the Division issues manufacturing-specific certification with clearly marked authority on the certificate.

APPENDIX 8 (a)

Registration Denial System Requirements Definition April 30, 1997

Prepared by: Barry W. Pugh and

Edited by: Cheryl Roe - DMV

Version 1.1

Section I, Management Summary

Goals and Objectives

Improved Customer Service, Convenience and Control:

1. Implement Bar Coding interface to the Title and Registration function.
2. Design an interface between Registration Renewal and Titles to the Registration Denial system that will enable the State of Delaware to obtain an improved rating through Cleaner Air.
3. Design a Temporary tag tracking system.
4. Design an automated Waiver/Override system.
5. Design a Repair Facility and Repair Technician tracking system.
6. Design improved data inquiry capabilities and distribute to necessary customers.

Improved Personnel Training and System On-Line Help:

1. On-Line Help Training within each of the applications.
2. On-Line Training through specialized system testing.
3. Improved Operating Procedures.

Improved System Security and Flexibility:

1. System Security
 - Override system parameter changes based on functionality.
 - Override system parameter changes based on specific fields.

- Improved tracking of transactions, personnel and dates.
- Improved reporting to DMV management.

1. Provide additional facilities for trouble shooting and problem investigation capabilities.

Flexibility and Responsiveness to External Requirements:

1. Ability to create and maintain the registration denial tables.
2. Maintain tracking history information for the following functions:
 - Temporary and Window Sticker inventory
 - Temporary Tag history
 - Window Sticker history
 - Vehicle Inspection history
 - Lane Inspector history
 - Waiver history
 - Override history
 - Repair Facility and Repair Technical history
 - Registration Notices
 - External Agency history
 - Audit request history

Improved Business Control Over the System:

1. Operators:
 - Tighter control over the issuance of registration notices, vehicle inspections, registration renewal, title and registration denial, temporary tags and waivers.
 - Improved controls over the issuance of window stickers.
 - Better customer service through the offering of inspection overrides and the tracking of external agency vehicle inspections.
 - Provide for the tracking of Certification of all Lane Inspectors and the Re-Certification.
1. Transactions:
 - Add on-line Waiver, Override, Vehicle Inspections, Temporary tags and Window Stickers.
1. Auditing:
 - Reduction of the number of vehicles being renewed without an inspection.
 - Reduction of the number of multiple temporary tags being issued to the same vehicle owners.
 - Identification of missing temporary tags and window stickers from DMV inventory.
 - Decrease the number of false inspection readings.

- Decrease the number of external agency vehicles traveling the Delaware highways without receiving vehicle inspections.
- Increase inspection accountability through more accurate vehicle inspection testing.
- Increase reporting accuracy to the Environmental Protection Agency.

Improved System Functionality:

1. Title and Registration Denial:
 - Improved editing on title and registration application.
 - Design interface between vehicle inspections, temporary tags and waivers.
1. Linkage to mainframe MVALS database:
 - Information transfer from vehicle inspection database.
 - Information transfer from temporary tags, window stickers and the title and registration database.
 - Information transfer of registration denial data to DNREC and EPA.
 - Control the issuance of temporary tags though lot range controls.
 - Control the temporary tag inventory through the delivery and distribution of temporary tags.
1. Bar Code interface on title and registration cards.
2. Automation and change to reports:
 - Provide on-line tracking of inspectors by location, date and time.
 - Provide an inventory control system enabling the Division to review temporary tags and window stickers.
 - Provide Title and Registration clerks the ability to review active and historical inspection results on-line.
 - Provide an interface to the Title and Registration application to effectively associate a vehicle inspection with a specific registration and deny access until the vehicle has been successfully approved.
 - Provide inspector information of a specific registration in association with a vehicle inspection.
 - Provide on-line reporting activity by specific testing, location, time and inspector on a weekly, monthly and fiscal basis.
 - Provide the ability to track vehicle repairs and associate them with the proper vehicle registration.
 - Track overrides that are associated with a vehicle inspection.
 - Provide on-line access to inspection results data to the Department of Natural Resources and

- Environmental Control.
 - Provide the ability to select specific inspection information and print specific analysis reports.
 - Provide the ability to create on-line reports to EPA on a weekly, monthly and fiscal basis.
 - Provide customers with notification of inspection 90 days prior to the expiration date.
1. External Agency Vehicle Identification
 - Provide the ability to identify/track external agency vehicles being operated in Delaware.
 - Provide the ability to ensure the external agency vehicles have complied with the Federal standards.
 - Provide the ability to automatically send and receive vehicle inspection information.
 - Provide the ability to report inspection result to the Environmental Protection Agency.

Project Scope

This document does not include portions of the project already in progress or being addressed by other selected DMV vendors such as Environmental Systems Products, Inc. (ESP). It centers on the mainframe application development and maintenance that must be completed to support the requirements of the project. It assumes the vehicle inspection information to be correct and residing in the databases already established for the Registration Denial project and that ESP has provided OIS with complete and detailed technical documentation of the database content, data manipulation, calculations and report specifications. The State Implementation Plan (SIP) for the Enhanced Inspection and Maintenance Program prepared by the Delaware Department of Natural Resources and Environmental Control (DNREC) is the basis of this scope. The SIP is scheduled to be submitted to the Federal Environmental Protection Agency (EPA) in January 1997 for review and approval. This scope most certainly will be subject to change based upon the EPA review and their findings.

Background:

Motor vehicle inspection and maintenance programs are an integral part of the effort to reduce mobile source air pollution. Of all highway vehicles it appears that, passenger cars and light trucks emit most of the vehicle-related pollutants. Although progress has been made in the reduction of these pollutants, the continuous increase in vehicle miles traveled on the highways has offset much of the technological progress thus far. Under the Clear Air Act, the Federal Environmental Protection Agency is attempting to achieve major emission reductions from these transportation sources. Until the development and commercialization of cleaner burning engines and fuels are

successful, the main source of air pollution reduction will come from the proper maintenance of the vehicles during customer use.

To put the inspection program in perspective, it is important to understand that today's motor vehicles are totally dependent upon properly functioning emission controls to keep pollution levels low. Minor malfunctions in the emission control system can increase emissions significantly. Since these emissions may not be noticeable and the subsequent malfunctions do not necessarily affect vehicle drive ability, it is difficult to detect which vehicles fall into this category. The new inspection equipment and programming provided by Environmental System Products (ESP) will capture that important data and record it on the mainframe for access by the registration renewal and vehicle titling programs. Those systems will verify the results and permit vehicles passing the inspection tests to proceed through the DMV system without change. Failing vehicles will require repair and re-testing until they pass or receive a vehicle waiver from DMV management.

Project Scope:

DMV has suggested that the project be designed and implemented in phases. Phasing the project installation makes a great deal of sense since many of the components of the entire project are still not totally defined. DMV's recommendation is:

Phase I:

- Create database images to store the ESP information.
- Test ESP system and database content.
- Analyze database content and verify accuracy.
- Install Phase I into production and begin accumulating EPA information.

Phase II:

- Design, code and test Registration Renewal Denial.
- Design, code and test a new (summary) Vehicle Waiver system.
- Design, code and test a new Inspection Results Override system.
- Design, code and test new rules for Registration and Title Denial.
- Design, code and test a new temporary tag extension tracking system.
- Design, code and test preliminary DMV management reports.
- Test on-line access to MVALS by DNREC personnel at their site locations.
- Add bar coding to the registration card print.
- Implement Phase II into production.

Phase III:

- Design, code and test Title Denial.
- Design, code and test inspection results database "time remaining" routines for:
- Registration Renewal Denial.
- Registration Renewal Notices.
- Title Denial.
- Add bar coding to the Title form.
- Implement Phase III into production.

Phase IV:

- Design, code and test reporting for DNREC and EPA auditing.
- Test on-line access to MVALS reports by DNREC personnel at their site locations.
- Design, code and test a new inventory control system for window stickers.
- Implement Phase IV into production.

Phase V:

- Design, code and test DAFB vehicle tracking system.
- Design, code and test Federal vehicle tracking system. (PV, PO, etc.)
- Implement Phase V into production.

Phase VI:

- Design, code and test a new Certified Repair Technicians system.
- Design, code and test a new Certified Lane Technicians system.
- Design, code and test a new (detail) Waiver system.
- Create special files and/or downloads and reports to assist the DAFB in their conversion efforts.
- Design, code and test the identification and reporting of covert vehicles.

Phase I:

The Registration Denial project centers around an automated vehicle inspection system (installed by ESP) and subsequent customer permission to title or renew a registration in the State of Delaware. The new ESP system will replace the need to issue inspection cards and the associated manual inspection card tracking systems currently in place. Instead, the new system will record the information results and data of a physical vehicle inspection in databases locally on the lane PC server and remotely at OIS on the IBM mainframe. The mainframe databases will be the final residence of the data and those databases will be used for all system decisions and reporting. That database information will be used by the MVALS programs to determine if the vehicle is in compliance with Federal and Delaware codes and laws governing legal vehicle registration. If the vehicle passes all of the inspection tests, it becomes eligible to

legally travel Delaware roadways. Inspection results are related to the vehicle and applicable for 2 years.

The inspection results database and supporting databases must be mapped back to the reporting requirements of DMV management, DNREC and EPA in this phase to be absolutely positive all of the informational contents are present. Inconsistencies in the mapping may require modifications to the ESP data capture.

Phase II:

The vehicle will be rejected by MVALS if it does not pass all the inspection criteria. In this case, a temporary (60 day) tag may be issued to give the customer time to correct the detected problems with the vehicle. The design will incorporate tracking and reporting on the temporary tags after the time of issuance. When a vehicle is rejected, the customer may elect to repair the deficiency and attempt to pass the inspection again. Vehicle repairs may be made by a Certified Technician or by the customer. If the vehicle continues to fail the inspection but does not decrease measured emissions by set percentage guidelines, DMV may elect to issue an inspection waiver based upon established rules, limitations and customer expenditure amounts. A vehicle summary of waiver expenditure information for this inspection period must be recorded and tracked in a new database by vehicle. This new database must be read during the registration renewal process, for all failing vehicles, to be sure a current record exists prior to allowing the vehicle to be legally registered. A vehicle waiver overrides the most recent inspection result. It is related to a vehicle and effective for 2 years. The waiver and inspection results databases must be accessible to DNREC personnel for inquires using MVALS.

At times DMV management may elect to override the results of an inspection and permit the vehicle legal registration without further inspections by the lane technicians. The system must permit management to override the vehicle inspection result record with a passing grade. When an override is granted, the system must record the new (overridden) information and track who, when and why the override was given. The new record will be stored in the inspection results database along with information about the operator, date and time. An override reason must be supplied before the record is written to the database. Override capability and permissible override categories must be controlled by an external means to permit DMV management to modify who can override inspection results and what can be modified.

Upon a successful inspection or if the results were overridden or a waiver is issued, a registration renewal card containing a PDF417 bar code and a new window sticker will be issued (when implemented) upon payment of fees by the customer.

Phase III:

When a vehicle is titled in the State of Delaware, it must also comply with safety and emission tests prior to becoming registered. The titling system must be modified to access the new inspection results database to make the appropriate decisions. Vehicle titling must be modified to parallel the upgrades installed into the registration renewal system. It must apply all of the same rules, waiver conditions and override capabilities. A title containing a PDF417 bar code and a new window sticker will be issued (when implemented) upon payment of fees by the customer.

After a vehicle has been renewed or titled and successfully passed inspection, or granted a waiver, the customer has the option to choose a renewal period of 6 months, 1 year or 2 years. Since inspection results and waivers are valid for 2 years, the system must determine the amount of time remaining on the inspection based upon the renewal period chosen by the customer. This algorithm must be incorporated in the registration renewal, registration renewal notification and title systems.

Phase IV:

DMV management, DNREC and the Federal EPA require reports to be generated from the data captured on the inspection results database. DMV management requires specific counts of vehicles, the types of tests that are performed and the results and percentages of the testing. They will also require management reports and online inquires to monitor the inspection system performance, database contents and results. DNREC and the Federal EPA reporting requirements are normally completed on an annual arrangement and require reports concerning; the numbers and types of tests, vehicle breakdowns by make and year, first test and re-test results, information about the testing facilities and the results of both covert and overt audits.

DNREC must be permitted access to the inspection results and waiver databases through an on-line function that will be created within the MVALS application. This function will allow DNREC to review the inspection results and (summary) waiver information on all vehicles. To insure DMV is in compliance with the Federal regulations, DNREC will be given the capability to order printed reports on-line from MVALS concerning the inspection results and waiver information.

Tracking and re-calling certified lane technicians is definitely going to be another new responsibility of the Division. DMV must track all State inspectors requiring testing and re-certification in order to comply with the new Federal EPA regulations. Reports on this activity must be submitted to the Federal EPA on an annual basis.

Phase V:

In addition to the normal vehicle registration activity occurring for Delaware citizens, with the new EPA

requirements, DMV must inspect approximately 10,000 additional vehicles owned by; the (non-military) Federal Government, the military and military personnel from the Dover Air Force base (DAFB). The majority of these vehicle inspections will be on personally owned vehicles (POV) from the DAFB. The DAFB presents a unique opportunity to DMV because POV's are normally not registered in Delaware. Delaware does not require out of state vehicles to be inspected. However, with the new federal regulations, DMV is required to ensure that vehicles residing within the jurisdiction are in compliance with the state-regulated inspection program. This now includes all non-military Federally owned vehicles and vehicles stationed at federal military sites throughout the state even if they are not registered in Delaware. Notifying, tracking and re-calling (test failures) POV's will require cooperation and coordination with DAFB motor pool and security personnel. Additional software and databases may be required to assist in a successful implementation.

Phase VI:

As stated previously, the State Implementation Plan (SIP) for the Enhanced Inspection and Maintenance Program prepared by the Delaware Department of Natural Resources and Environmental Control (DNREC) is the basis of this scope. The SIP is scheduled to be submitted to the Federal EPA in January 1997 for review and approval. This phase is subject to change based upon the EPA review and their findings. The following tasks are not definite requirements but may become so after the EPA has made their final decision.

Certified repair technician information is currently being gathered and retained by the Delaware Technical Community College. DMV would like access to the information to enable them to incorporate the data into the motor vehicle inspection reports that will be produced on failed inspections. Tracking reports will include the number of vehicles passing and failing by Certified Technician and the repairs performed by the technician on each vehicle. DMV may require the information to be downloaded from DTCC or if that is not possible, they may have need to maintain the information in duplicity.

When a vehicle is titled or renewed in the State of Delaware, the Division must comply with the security requirements established by the EPA. It requires the Division to track and report all stickers issued to vehicles that have passed the inspection program. It will be necessary to track a history of these documents when being issued, re-issued and/or replaced.

In Phase II, summary waiver information is going to be stored in a new database to assist in tracking vehicle waivers that are issued. It is planned that DNREC will retain the detail backup paperwork and copies necessary to comply with the Federal regulations. If DNREC requires DMV to

record the details of a waiver, the system must be modified to comply. Waiver details would include recording the place of purchase, the line items purchased for repair and the individual amounts of each.

If additional programming or design support is required to assist the DAFB or other Federal agencies in meeting their schedules and requirements, DMV may supply resources to assist in the effort. The agencies requiring assistance may require reports, file downloads and programming expertise to expeditiously complete their commitment.

DNREC is currently handling all assignments and identification of covert vehicles. If they require assistance in this effort or require DMV to specially track them in the MVALS system, additional design and programming will be required. Reports on the activity of the covert vehicles would also be required.

Exclusions:

Not included in the scope of this project are:

- Data capture, recording, tracking and reporting of repair facilities.
- Special demarcation of Kent and Sussex county boundaries.
- Design or software programming to handle identification of covert and overt vehicles.
- Purchase of software for bar code printing.
- Covert vehicle identification and reporting issues.
- Vehicle manufacture notification requirements.

I accept this Project Scope as written and agree on the contents within.

Approved by:

Michael Shahan, Director of Motor Vehicles

Approved by:

Jack Eanes, DMV Chief of Vehicle Service

Approved by:

Cheryal Roe, DMV Systems Administrator

Approved by:

John J. Nold, Executive Director, OIS

Prepared by:

Barry W. Pugh, OIS Consultant, MicroTek Software

Management Overview

Background

Motor vehicle inspection and maintenance programs are an integral part of the effort to reduce mobile-source air pollution. Of all highway vehicles, it appears that passenger cars and light trucks emit most of the vehicle-related pollutants. Although progress has been made in the reduction of these pollutants, the continuous increase in vehicle miles traveled on the highways has offset much of

the technological progress thus far. Under the Clear Air Act, the Federal Environmental Protection Agency (EPA) is attempting to achieve major emission reductions from these transportation sources. Until the automotive manufacturers develop and commercialize cleaner-burning engines and fuels, the main source of air pollution reduction will derive from the proper maintenance of the vehicles during customer use. The contents of this System Requirement Definition are subject to change based upon EPA review of the Delaware State Implementation Plan (SIP) and their findings.

To put the inspection program in perspective, it is important to understand that today's motor vehicles are totally dependent upon properly functioning emission controls to keep pollution levels low. Minor malfunctions in the emission control system can increase emissions significantly. Since these emissions may not be noticeable and the subsequent malfunctions do not necessarily affect vehicle performance, it is difficult to detect which vehicles fall into this category. The new inspection equipment and programming provided by Environmental System Products (ESP) will capture that important inspection data and record it on the mainframe for access by the registration renewal and vehicle titling programs. Those systems will verify the results and permit vehicles passing the inspection tests to proceed through the DMV titling and registration systems without change. Failing vehicles will require repair and re-testing until they pass inspection or receive a vehicle waiver from DMV management. All subsequent action, beginning with the initial inspection test – such as re-test inspection results, waivers, and overrides – will be recorded by the system.

The Project Scope document refers to six implementation phases within the development process of this project. Those six phases translate into six high-level requirement specifications categories. It is important to understand that the six requirement categories do not all directly relate to the six installation phases. Part or all of each requirement category will be implemented to establish the six-phase approach for implementation. The categories defined in the System Requirements Definition document are:

1. System Control - This section of the requirements document encompasses system rule file maintenance, new temporary tag and window sticker inventory file maintenance, and certified lane technician maintenance. All of the functions within this design category must be implemented before the system can become operational.

2. Vehicle Inspection - This corresponds to Phase I of the Project Scope and must be implemented in its entirety before other components may be installed that depend on the Inspection Result data produced. The requirements document refers to, but does not detail, the client/server system developed by ESP. Since this document was developed after the ESP design, it only addresses utilization

of the data produced. Additional information regarding the design of the system can be located in the ESP design document.

3. Vehicle Registration - The requirements described under this section cover registration renewal, vehicle titling, temporary tag distribution, window sticker distribution, inspection result verification/handling, and vehicle repair tracking. All of the components in this section must be implemented before the system can go online. Registration renewal will be the first section to be implemented, with the title section to follow. To support either section, temporary tag distribution, window sticker distribution, and inspection result overrides and waivers must be installed. The certified repair facility and technician tracking components may be installed after the system becomes operational.

4. External Agency - External agencies are vehicles that are not registered with the State of Delaware. Examples of these are: Dover Air Force Base motor pools and civilian vehicles; Postal Service vehicles; Reserved Armed Forces vehicles; etc. Identification of these vehicles will not be as straightforward as the vehicles registered in Delaware because DMV does not keep records for them today. The Clean Air Act requires those vehicles to comply with the EPA emission standards as long as they continue to operate in Delaware. This section addresses the requirements and how to accomplish them. As each agency is introduced to the system, new program components may be required. Each agency may be processed differently than the previous, based upon their technical capabilities. DMV will strive to develop a standardized approach and demand adherence from all external agencies. The components described in this section are required before introducing the first external agency to the system.

5. Audit Reporting - Requirements for three auditing techniques have been identified: standard auditing reports and functions; special auditing functions; and auditing as required by DNREC. Auditing the system on a periodic basis – daily, weekly, etc. – is considered a standard procedure. Reports and screens will be programmed to run automatically for all of the standard auditing procedures. Special audits and DNREC (overt and covert) audits will be discussed and will permit flexibility in selection and formatting of the information. Registration Denial data transfer to local PCs will also be an option.

6. Information Inquiry - The components in this section represent additional inquiry functions required to view the new information. Three separate areas have been defined as requiring access to the information: DMV, the State Police, and DNREC. Each will share many of the same inquiry components with "information blocks" applied when information is required by one agency and not the other. System rules will be developed to control the information selection and screen displays. Portions of this section will be required as the initial system is installed. Advanced inquiry

facilities will be identified and included as the detail system specifications are developed.

The following paragraphs supply additional detail in reference to the above system requirement categories. If more detail is required, please refer to Section II - Data Requirements and Section III - Process Requirements located later in this document.

System Control

The requirements described in this section are designed to keep the inventory files and system rules updated and in control of the system. Currently there are five separate processes defined:

1. The Registration Denial Rule Maintenance process will permit DMV management to maintain all of the associated rules concerning the Registration Denial system. Rules pertain to system variables that actually "drive" the system decision-making process. Externalizing the rules permits more flexibility and better overall control of the system by DMV.

2. A Temporary Tag Inventory maintenance system will be developed to control the acquisition and distribution of all temporary tags. The maintenance system will allow control of and accounting for each temporary tag distributed by DMV. Control begins when new inventory is received. It will be tracked until the vehicle to which the tag was assigned is purged from the DMV files. The inventory and temporary tag history files will be closely related.

3. A Window Sticker inventory control system will permit similar control (as in the case of temporary tags) over the window stickers issued by DMV. The maintenance system will allow control of and accounting for each window sticker distributed by DMV. A vehicle window sticker history file will be incorporated with the present DMV title file.

4. The Certified Lane Technician maintenance system will allow DMV to track and record information about their lane technician employees. Information such as certification test results, re-certification results, and demographic data will be retained and reported.

5. The last new maintenance system planned will track Certified Repair Facilities and associated Certified Repair Technicians. The system will permit maintenance and reporting of repair facilities employing certified repair technicians and their certification test results.

Vehicle Inspection

This section describes the physical vehicle inspection that normally occurs for every registered vehicle in Delaware. The process is completed prior to a vehicle being titled, and then (normally) every 2 years after for registration renewals. The entire process occurs at the inspection lane(s)

and is conducted at various checkpoints within. The ESP system controls the events that occur during the inspection process and helps ensure that each station checkpoint records the appropriate results. The results of each checkpoint test will be recorded and stored in the ESP station manager computer and then transmitted to the OIS mainframe in Dover, Delaware, for permanent storage and retention. ESP handles all pass and fail parameters, anti-tampering verification and recording, permissible limits of the test, and calculating the 10% reduction in emission gases from the initial inspection for waiver processing. ESP also issues the final pass or fail grade for the vehicle.

Vehicle Registration

The normal DMV administrative "life cycle" of a vehicle is described in this section. It begins when the vehicle is purchased and titled in the State of Delaware. Under normal circumstances, a vehicle will undergo an inspection to initiate this process. However, most new vehicles purchased in the state are exempt from an initial inspection. During the vehicle "life cycle," it may be issued a temporary tag, window sticker, or a waiver for emissions; or the inspection test results may be overridden by DMV management. As the next vehicle-registration renewal period nears, a registration renewal notice is printed and sent to the customer. That notice prompts the owner to bring the vehicle to DMV for an inspection and registration renewal. The process (Notice, Inspection, Renewal) continues as long as the vehicle ownership does not change and the vehicle remains in Delaware. The major new portions of the Vehicle Registration component for Registration Denial are:

Temporary Tags -

Once a vehicle is issued a temporary tag, the paperwork flows into DMV for recordkeeping. A clerk will enter the temporary tag information into the computer using a new temporary tag data-entry program. The program will complete a stolen vehicle check as is currently done while adding a title. A record will be added to the Temporary Tag History file for that (X) tag number. That record will then be available for inquiry by DMV and law enforcement. It can be found by entering the VIN or the (X) temporary tag number. The record will remain linked to the vehicle by VIN until the vehicle is purged from the DMV files. As the record is being recorded in the Temporary Tag History file, the temporary tag number will be consumed from the Temporary Tag Inventory file. Temporary tags are not tracked by today's system and will be valuable new information for DMV and law enforcement agencies. The introduction of this system will be completely new to DMV.

Window Stickers -

After a vehicle is titled or renewed, it will be assigned a new window sticker. The current processes will be modified to assign the next available window sticker to the vehicle from the clerk's inventory. As a safety precaution the clerk must enter the window sticker number, and the program will verify the number against the available window stickers in the clerk's inventory. If the number is not found, a window sticker override will be permitted. A reason for the override must be supplied by the clerk. The program will consume the window sticker from the clerk's inventory and add the information to the Window Sticker History file. The Window Sticker History will remain on the DMV files for a minimum of one inspection cycle. Replacement window sticker issuance and fee collection will be made available on the Cash Collection miscellaneous menu. Window sticker inventories, distribution, and tracking are new processes to DMV.

Title Vehicle -

Vehicle titling is required by law, and all vehicles owned by Delaware residents traveling the highways must be titled. The title function encompasses several functions today, such as adding, correcting, and transferring titles. All of the functions used by the title section will be affected by the changes being made for the Registration Denial project. Titling can only occur after the vehicle has passed all of the inspection tests required of the particular vehicle class. There are a few exceptions, such as the fact that a vehicle may be permitted an override (and pass) of a failed test by DMV management. Or, a vehicle may receive a waiver if it meets the vehicle repair expense limits and obtains a ten percent emission reduction measured from the initial test. A window sticker must also be issued to the vehicle.

The Correct Title function permits the title clerk to correct information on the Title file that may have been entered incorrectly during the title add function. New features must be included in the program to calculate the remaining time left on an inspection and restrict expiration date modification to the last day of that inspection. Additionally, extensions beyond that inspection date will not be permitted by the program without another inspection. The program will require the capability to assign a new window sticker without regard to inspection dates, although the Correct Title function for a tag change will not issue a new window sticker. The window sticker stays with the vehicle in all cases.

The Transfer Title function permits the title clerk to transfer vehicle title and associated information from one owner to another. Transfers occur anytime vehicle ownership changes for any reason. Expiration dates cannot be transferred to another vehicle. In all cases, a vehicle expiration date remains with the vehicle, not the tag.

The introduction of inspection result verification and handling, window sticker inventories and distribution, waivers, and overrides are new concepts that will be introduced to DMV with the installation of this system.

Waiver Process -

This process allows a clerk, or DMV management, to store vehicle waiver repair information into the system for a specific vehicle. The system will record the waiver information and retain links to the Inspection Results, Title, and Certified Technician files. Those linked files will be used for tracking and reporting the effectiveness of repair technicians and the waiver information permitted by DMV. The waiver information will be validated by the Title and Registration Renewal systems. When present and within the confines of the rules set by DMV, the vehicle will be permitted to proceed through the system without a passing inspection record. Waivers may be entered directly from the Titles and Registration Renewal screens or through an administrative function. The repair facility and repair technician information completing the vehicle repairs must be present in their respective files before a waiver can be entered. The repair facility and technician information may only be modified by DMV supervisors and above. Recording and verifying this information via computer is a completely new function to DMV.

Override Function -

This function will be used by DMV management (and selected supervisors) and permit them to perform four major functions against the Inspection Result file. It will allow:

1. Adding an Inspection Result record to the file. This will only be permitted when the ESP system is down and vehicle inspections revert back to the Bar 84 technique. This function will be extremely secure and verified each time a new entry is attempted.

2. Modification of the Inspection Result content. This is the function normally known as an override. The function will be restricted to particular DMV personnel, and even those permitted will have data-level restrictions. Overrides will be permitted on a case-by-case level and normally restricted to only safety item failures.

3. Transferring Inspection Results from one registration to another. This option will be used when the lane technician makes a mistake while entering the vehicle identification information. When a mistake has been made, the inspection results will be logged under the wrong registration. The customer will not be permitted to continue through the process unless the mistake is rectified. The system will track the transfer (from and to) information and create another record for the proper vehicle. The original inspection record will not be included in any statistical reporting.

4. Deleting individual Inspection Result records from the file. This is a very rarely used, but required, function to delete an inspection result record from the file. This option will be used when an inspection result record was created (Option #1 above) under the wrong registration. The record will be marked for deletion, but it will not be physically deleted from the file until the proper authorization is given by DMV management. This function will be highly secured and available only to those that absolutely require the function.

Daily auditing reports will be produced by the system and distributed to DMV management for all of the above functions. All of the functions listed above are completely new to DMV.

Renewal Notice -

This process will be modified to produce additional customer notices for one-year renewal and State Police inspection requests. It will examine the Titles and Inspection Results files to identify the vehicles whose registrations are about to expire. It will determine if the vehicle requires an inspection or just a registration renewal. It will also find vehicles that have been requested to report to DMV for a special inspection by the State Police. While processing the selected records, it will determine if a vehicle must receive an inspection or if the current inspection is valid for the vehicle registration renewal. Vehicles that have been inspected within the last year may renew their registration for one additional year without another inspection. All the requirements of the owner to obtain a registration renewal will be printed on the renewal notice. The two-year inspection rule applies in all cases and will be printed on the notice. The reporting changes are modifications to the current process. Adding a maintenance program to update vehicles stopped by the State Police is a new requirement of DMV.

Registration Renewal -

The registration renewal process will be modified to verify the inspection results file before permitting a renewal. As in the title process, a renewal will only occur after the vehicle has passed all of the inspection tests required for a particular vehicle class, or it was permitted an override (and pass) of a failed inspection, or a waiver was issued. A waiver requires proof of repair expenses and a ten percent emission reduction from the initial inspection before a renewal may be issued. The renewal process updates the current title record in the Title file. Once the title record is updated, the system prints a 2-D bar code on the updated registration card and issues the next available window sticker from the clerk's inventory. If the vehicle does not pass the inspection, a temporary tag will be issued, without a window sticker, by the registration clerk. Temporary tag issuance will be accessible through the renewal screen. As with the title

functions, inspection result verification and handling, window sticker and temporary tag inventories, waivers, and overrides are new concepts to the registration clerks.

External Agency (Unregistered Vehicles)

This process is designed to permit DMV to identify and test vehicles stationed in Delaware that are owned by external agencies and not registered in Delaware (such as those owned by the DAFB, the postal service, and other federal motor pools). Those vehicles must be identified and tested to be sure they are in compliance with the federal emission standards. It is the responsibility of the individual agency to perform the follow-up to ensure that all vehicles are, and remain, in compliance. The system design for this function will incorporate:

- automatically receiving and loading the vehicle and owner information into a database that will be used by ESP;
- using the information to inspect and test the vehicle (ESP);
- recording the test results and subsequent re-test results;
- providing the Inspection Results data to the external agency in either a report or an online inquiry so that notices may be forwarded by the agency;
- and reporting vehicles inspected and statistical information.

The introduction of this system will be completely new to DMV.

Audit Reporting

This process will match the Title, Inspection Result, and at times the Vehicle Audit Information files and create reports about the information. Specific calculations and formats will be determined as the design process continues. External rules will be used to control the processing. All of the following components are new to DMV:

Standard Audit Reports - The reports will be standard reports that will run unattended periodically and produce the necessary reporting and audit information. The reports will be designed in conjunction with DMV management to support the information required by DNREC and the EPA. Some of the reports will be written as part of the Phase II installation since EPA will require reports before the system will be fully installed.

Specialized Audit Reports - The reports will be specialized (by data selection, not report format or content) processes that will run to produce the necessary reporting and audit information. Special reports may be produced from the Inspection Result, Repair Facility, Technician, Waiver, and inventory files. All reports will be designed with DMV

management to support any special requirements of DNREC and the EPA.

Covert Audit Reports - These reports, like the specialized reports, will be specific processes (by data selection, not report format or content) that will run to produce the necessary reporting and audit information. An automated process will be created to allow DNREC the ability to access and report the contents of the Title and Inspection Result files. The audit function is a direct responsibility of DNREC. Additional functionality will be created as DNREC defines the requirements. All reports will be designed with DNREC management in support of the information they require.

Information Inquiry

There will be a great deal of new information created by the Registration Denial system. That new information will be accessible by DMV, the State Police, and DNREC, and they will require new systems to permit online inquiries into the data. Modifications will also be required to current systems to provide access to the data without writing new inquiry systems. Access to allow specific personnel permission to view the information will be granted based on security levels and new rules set up in the system. Changes include modification to the current Delaware State Police (CICS) processes to permit inquiry and viewing of the new data captured by DMV. The current DMV inquiry systems will be modified to access the new data and display the information for the requester.

APPENDIX 9 (a)

ENFORCEMENT AGAINST OPERATORS AND INSPECTORS

Agreement between State of Delaware Department of Public Safety Motor Vehicle Division and Council 81 of the American Federation of State, County and Municipal Employees, Section 8, Disciplinary Action. (Subject to change as the result of future union negotiations)

ARTICLE 8 DISCIPLINARY ACTION

8.1 The Employer agrees that any disciplinary action up to and including dismissal shall be taken only for just cause.

8.2 Employee suspensions shall not exceed 30 calendar days except under the following circumstances: a court action is pending in the matter which led to the suspension; as a result of an arbitration award; or as a result of a grievance settlement involving a dismissal action where arbitration is pending.

8.3 Monetary fines shall not be imposed as a disciplinary measure.

8.4 Prior to the implementation of a dismissal action,

employees shall be notified in writing that such action is being considered and provided the reasons for the proposed action.

8.41 Employees shall be entitled to a pre-termination hearing, provided they submit a written request for such hearing to the Division Director and State Deputy Director for Labor Relations within 5 work days of receiving the above referenced notification. The employee may be suspended without pay during this period.

8.42 The pretermination hearing shall be held within a reasonable time after the employee has requested such hearing in compliance with 8.41.

8.43 Pretermination hearings shall be informal meetings for the purpose of providing employees an opportunity to respond to the proposed action, and offer any reasons why dismissal may not be justified or too severe a penalty.

8.44 Prior to implementing a suspension without pay, the Employer shall follow the notification requirements set forth in 8.4.

8.5 Employees shall be entitled to a presuspension meeting with the Employer prior to the implementation of the suspension, provided they make a written request for such meeting to the Division Director within 5 working days after receiving the notice.

8.51 The presuspension meeting shall be held within a reasonable time after the employee has requested such meeting in compliance with 8.5.

8.52 The pre-suspension meeting shall be an informal meeting for the purpose of providing employees an opportunity to respond to the proposed action, and offer any reasons why the proposed suspension may not be justified or too severe a penalty.

8.6 Employees may be accompanied by a Union representative at any meeting/hearing held under this Article.

8.7 Any employee failure to comply with the requirements set forth in 9.41 and 9.5 shall be treated as a waiver of any rights set forth in this Article.

8.8 Disciplinary documentation shall not be cited by the Employer in any action involving a similar subsequent offense after 2 years, except if employees raise their past work record as a defense or mitigating factor.

charged offense;

- offering specified due process rights specified in this chapter; and
- imposing a penalty appropriate to the circumstances.

15.2 Employees shall receive a written reprimand where appropriate based on specified misconduct, or where a verbal reprimand has not produced the desired improvement.

15.3 Prior to finalizing a dismissal, suspension, fine or demotion action, the employee shall be notified in writing that such action is being proposed and provided the reasons for the proposed action.

15.4 Employees shall receive written notice of their entitlement to a predecision meeting in dismissal, demotion for just cause, fines and suspension cases. If employees desire such a meeting, they shall submit a written request for a meeting to their Agency's designated personnel representative within 15 calendar days from the date of notice. employees may be suspended without pay during this period provided that a management representative has first reviewed with the employee the basis for the action and provides an opportunity for response. Where employees' continued presence in the workplace would jeopardize others' safety, security, or the public confidence, they may be removed immediately from the workplace without loss of pay.

15.5 The predecision meeting shall be held within a reasonable time not to exceed 15 calendar days after the employee has requested the meeting in compliance with 15.4.

15.6 Predecision meetings shall be informal meetings to provide employees an opportunity to respond to the proposed action, and offer any reasons why the proposed penalty may not be justified or is too severe.

15.7 Fines of not more than 10 days pay may be imposed, provided they do not cause employees to be paid less than the federal minimum wage as set forth in the Fair Labor Standards Act.

State of Delaware Merit Rules

CHAPTER 15 EMPLOYEE ACCOUNTABILITY

15.1 Employees shall be held accountable for their conduct. Measures up to and including dismissal shall be taken only for just cause. "Just cause." means that management has sufficient reasons for imposing accountability. Just cause requires:

- showing that the employee has committed the

Symbol Key

Roman 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 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
ADMINISTRATIVE SERVICES
DIVISION OF PROFESSIONAL REGULATION
BOARD OF PROFESSIONAL COUNSELORS OF
MENTAL HEALTH**

24 DE Admin. Code 3000

Statutory Authority: 24 Delaware Code,
Section 3006(a)(1) (24 **Del.C.** §3006(a)(1))

In RE: |
Adoption of Rules and |
Regulations |

Order Adopting Rules and Regulations

AND NOW, this 3rd day of November, 2000, in accordance with 29 **Del.C.** §10118 and for the reasons stated hereinafter, the Board of Professional Counselors of Mental Health of the State of Delaware (hereinafter "the Board") enters this Order adopting Rules and Regulations.

Nature of the Proceedings

Pursuant to its authority under 24 **Del.C.** §3006(a)(1) the Board proposed to adopt new Rules and Regulations to replace its existing Rules and Regulations. These changes to the Rules and Regulations are to implement and clarify the

Board's law, 24 *Delaware Code*, Chapter 30, which was completely amended effective February 4, 2000. Substantive changes to the rules and regulations include changes in and clarification of the Professional Counseling experience requirement for licensure, including direct supervision requirements; deletion of provisions regarding reactivation of expired license and temporary suspension pending hearing, which are no longer authorized by statute; adoption of the National Board of Certified Counselors (NBCC) Code of Ethics; procedural rules have been established pertaining to disciplinary matters and hearings before the Board, and deletion of provisions pertaining to matters governed by other Acts and Statutes. In addition, certain terms have been changed to provide consistency with the terminology used in the statute.

Notice of the public hearing on the Board's proposed rule adoption was published in the *Delaware Register of Regulations* on August 1, 2000 and in two Delaware newspapers of general circulation, all in accordance with 29 **Del.C.** §10115. The public hearing was held as noticed on September 8, 2000. The Board deliberated and voted on the proposed rule amendments following the public hearing at the September 8, 2000 meeting, voting unanimously to adopt the revised rules and regulations. This is the Board's Decision and Order **ADOPTING** the rule revisions as proposed.

Evidence and Information Submitted at Public Hearing

The Board received no written comments in response to the notice of intention to adopt the proposed rule revisions. No public comment was received at the September 8, 2000 public hearing.

Findings of Fact and Conclusions

As outlined in the preceding section, the public was given the required notice of the Board's intention to comprehensively revise its regulations and was offered an adequate opportunity to provide the Board with comments on the proposed changes. The Board concludes that its consideration of the proposed revisions to its Rules and Regulations is within its general authority to promulgate regulations under 24 Del.C. §3006(a)(1). In addition, the Board has specific authority to adopt the NBCC Code of Ethics. 24 Del.C. §3006(b). The Board finds that adoption of the proposed rules and regulations is necessary to comply with and enforce 24 Del.C. Chapter 30, as amended in February 2000, and for the full and effective performance of the Board's duties under that chapter. The Board finds that the revised rules clarify the law and will better assist applicants and licensees to understand their responsibilities under the Board's law. The Board therefore unanimously voted to adopt the revised rules and regulations as published.

Order

NOW, THEREFORE, by unanimous vote of a quorum of the Board of Professional Counselors of Mental Health, IT IS HEREBY ORDERED THAT:

1. The proposed Rules and Regulations are *approved and adopted* in their entirety, in the exact text attached hereto as Exhibit "A". These Rules and Regulations will constitute the complete Rules and Regulations of the Board and will supersede all previous versions.
2. The effective date of this Order is ten (10) days from the date of its publication in the Delaware *Register of Regulations*, pursuant to 29 Del.C. §10118(e).
3. The Board reserves the jurisdiction and authority to issue such other and further orders in this matter as may be necessary or proper.

By Order of the Board of Professional Counselors of Mental Health
(as authenticated by a quorum of the Board):

- Michael D. Betts, President, Professional Member
- Arnold J. Swygart, Vice-President, Public Member
- Susan Eichler, Secretary, Professional Member
- Marian Cerasari, Professional Member
- Jean B. Gunnells, Professional Member

- Joan T. McDonough, Public Member
- H. Davis Shockley, Public Member
- James D. Wilson, Jr., Professional Member

Board of Professional Counselors of Mental Health

1.0 Meetings And Elections

- 1.1 Meetings - Regular meetings of the Board shall be held on a monthly basis as needed, at least in June and December, at a time and place designated by the Board.
- 1.2 Election of Officers - The Board shall elect officers annually at the regular December meeting.
Statutory authority: 24 Del.C. §3004

2.0 LICENSURE BY CERTIFICATION

~~Applicants for LPCMH licensure by certification shall fulfill the following requirements:~~

~~2.1 Certification — The applicant shall be certified by NBCC as a National Certified Counselor (NCC), by ACMHC as a Certified Clinical Mental Health Counselor (CCMHC), or by a certifying organization.~~

~~Certifying Organization — A certifying organization shall be defined as a national mental health specialty certifying organization acceptable to the Board. This shall include the National Board for Certified Counselors, Inc. (NBCC), Academy of Clinical Mental Health Counselors (ACMHC), formerly the National Academy for Certified Clinical Mental Health Counselors (NACCMHC), and other organizations that meet all of the following criteria:~~

~~2.1.1 The organization shall be a national professional mental health organization recognized as setting national standards of clinical competency.~~

~~2.1.2 The organization shall require the applicant to take a standardized examination designed to test his/her understanding of the principles involved in the mental health specialty for which he/she is being certified. Certification shall be based upon the applicant's attaining the minimum passing score set by the organization.~~

~~2.1.3 The organization shall prescribe a code of ethics substantially equivalent to that of the NBCC.~~

~~2.1.4 The organization shall require the minimum of a master's degree in the counseling or behavioral science field. This certification shall be verified by the "NBCC Certification Form," the "ACMHC Certification Form" or the "Certifying Organization Certification Form," submitted directly to the Board by the certifying organization.~~

~~2.2 Graduate Transcript — The applicant's master's degree in a counseling or behavioral science field, required by his/her certifying organization for certification, shall be documented by an official transcript submitted directly to the Board by the accredited educational institution granting the degree.~~

~~2.3 Clinical Experience — Clinical experience shall be defined as the accumulation of hours spent providing mental~~

health counseling services in a professional mental health counseling setting, including face-to-face interaction with clients and other matters directly related to the treatment of clients.

~~Designated Objective Agent — A designated objective agent shall be a professional colleague, supervisor or other individual with personal knowledge of the extent of the professional practice of the applicant, who certifies or attests to such professional practice. Under no circumstances shall a spouse, former spouse, parent, step-parent, grand-parent, child, step-child, sibling, aunt, uncle, cousin or in-law of the applicant be acceptable as a designated objective agent.~~

Thirty (30) graduate semester hours or more attained beyond the master's degree, may be substituted for up to 1,600 hours of the required clinical experience, provided that hours are clearly related to the field of counseling and are acceptable to the Board. Graduate credit hours shall be verified by an official transcript submitted directly to the Board by the accredited educational institution at which the course work was done.

~~Supervised clinical experience or post-master's degree alternative shall be verified by the "Professional Experience Reference Form" or the "Verification of Self Employment" form.~~

~~2.4 Supervised Clinical Experience — Supervised clinical experience shall be the accumulation of hours spent providing mental health counseling services while under the supervision of an approved clinical supervisor. Supervised clinical experience acceptable to the Board shall be defined as follows:~~

~~2.4.1 Supervised clinical experience shall consist of 1,600 hours of clinical experience concurrent with 100 hours of clinical supervision over a period of no more than four (4) years.~~

~~2.4.2 In no case shall the applicant have less than 1,600 hours of the required post-master's degree supervised professional clinical experience.~~

~~Clinical Supervision — Clinical supervision shall be ongoing, regularly scheduled meetings with a designated, approved clinical supervisor for the purpose of oversight, guidance and review of clinical practice. Consultation and/or informal case reviews are not acceptable as clinical supervision. Clinical supervision may take place in individual and/or group settings, defined as follows:~~

~~2.4.3 Individual Supervision — Individual supervision shall consist of one-to-one, face-to-face meetings between supervisor and supervisee.~~

~~2.4.4 Group Supervision — Group supervision shall consist of face-to-face meetings between supervisor and no more than six (6) supervisees.~~

~~Supervisory Setting — No more than forty (40) hours of group supervision shall be acceptable toward the 100-hour requirement. The entire 100-hour requirement may be~~

~~fulfilled by individual supervision.~~

~~Supervision shall be verified by the "Clinical Supervision Reference Form," submitted directly to the Board by the approved clinical supervisor.~~

2.0 Licensure By Certification

Applicants for LPCMH licensure by certification shall fulfill the following requirements:

2.1 Certification - The applicant shall be certified by NBCC as a National Certified Counselor (NCC), by ACMHC as a Certified Clinical Mental Health Counselor (CCMHC), or by a certifying organization acceptable to the Board.

2.2 Certifying Organization - Certifying organizations acceptable to the Board shall include the National Board for Certified Counselors, Inc. (NBCC), Academy of Clinical Mental Health Counselors (ACMHC), formerly the National Academy for Certified Clinical Mental Health Counselors (NACCMHC), International Christian Institute Certification Board, Commission on Rehabilitation Counselor Certification Board, and other certifying organizations that meet all of the following criteria:

2.2.1 The organization shall be a national professional mental health organization recognized as setting national standards of clinical competency.

2.2.2 The organization shall require the applicant to take a standardized examination designed to test his/her understanding of the principles involved in the mental health specialty for which he/she is being certified. Certification shall be based upon the applicant's attaining the minimum passing score set by the organization.

2.2.3 The organization shall prescribe a code of ethics substantially equivalent to that of the NBCC.

2.2.4 The organization shall require the minimum of a master's degree in the counseling or behavioral science field. This certification shall be verified by the "NBCC Certification Form," the "ACMHC Certification Form" or the "Certifying Organization Certification Form," submitted directly to the Board by the certifying organization.

2.3 Graduate Transcript - The applicant's master's degree in a counseling or behavioral science field, required by his/her certifying organization for certification, shall be documented by an official transcript submitted directly to the Board by the accredited educational institution granting the degree.

2.4 Professional Counseling Experience - Professional Counseling experience shall be defined as the accumulation of hours spent providing mental health counseling services in a professional mental health clinical counseling setting, including face-to-face interaction with clients and other matters directly related to the treatment of clients.

2.4.1 Designated Objective Agent - For purposes of professional counseling experience obtained through self-employment, a designated objective agent shall be a

professional colleague, supervisor or other individual with personal knowledge of the extent of the professional practice of the applicant, who certifies or attests to such professional practice. Under no circumstances shall a spouse, former spouse, parent, step-parent, grand-parent, child, step-child, sibling, aunt, uncle, cousin or in-law of the applicant be acceptable as a designated objective agent.

2.4.2 Thirty (30) graduate semester hours or more attained beyond the master's degree, may be substituted for up to 1,600 hours of the required clinical experience, provided that hours are clearly related to the field of counseling and are acceptable to the Board. Graduate credit hours shall be verified by an official transcript submitted directly to the Board by the accredited educational institution at which the course work was done.

2.4.3 Supervised clinical experience or post-master's degree alternative shall be verified by the "Professional Experience Reference Form" and/or the "Verification of Self Employment" form.

2.5 Supervised Professional Counseling Experience - Supervised professional counseling experience shall be the accumulation of hours spent providing mental health counseling services while under the supervision of an approved clinical supervisor. Supervised professional counseling experience acceptable to the Board shall be defined as follows:

2.5.1 Supervised professional counseling experience shall consist of 1,600 hours of clinical experience, directly supervised by a LPCMH. Where direct supervision by a LPCMH is not available, a licensed clinical social worker, licensed psychologist or licensed physician specializing in psychiatry may supervise the applicant.

2.5.2 Direct Supervision - 1600 hours of direct supervision acceptable to the Board, for purposes of §3008(a)(2) shall mean supervision overseeing the supervisee's application of clinical counseling principles, methods or procedures to assist individuals in achieving more effective personal and social adjustment. At least 100 of the 1600 hours of supervision shall consist of face to face consultation between the supervisor and the supervisee. Direct supervision may take place in individual and/or group settings, defined as follows:

2.5.2.1 Individual Supervision - Individual supervision shall consist of one-to-one, face-to-face meetings between supervisor and supervisee.

2.5.2.2 Group Supervision - Group supervision shall consist of face-to-face meetings between supervisor and no more than six (6) supervisees.

2.5.2.3 Supervisory Setting - No more than forty (40) hours of group supervision shall be acceptable toward the 100-hour requirement. The entire 100-hour requirement may be fulfilled by individual supervision.

2.5.3 Supervision shall be verified by the "Direct Supervision Reference Form," submitted directly to the

Board by the approved clinical supervisor.

Statutory authority: 24 Del.C. §3008.

3.0 Licensure By Reciprocity

Applicants for LPCMH licensure by reciprocity (i.e., those requesting licensure based upon active licensure status in another state) shall meet the following requirements:

3.1 Proof of Licensure Status - The applicant shall hold an active professional counseling license in good standing from another state. Verification of licensure status shall be submitted directly to the Board by that state on the "Verification of Licensure or Certification from Another State" form.

3.2 Notarized Statement of Prior Licensing Jurisdictions - The applicant shall submit a notarized statement listing all licensing jurisdictions in which he/she formerly practiced and a signed "Release of Information" granting the Board permission to contact said jurisdictions for verification of disciplinary history and current status.

3.3 Determination of ~~Equivalency~~ Substantial Similarity of Licensing Standards- The applicant shall submit a copy of the statute and rules of licensure from the state issuing his/her license. The burden of proof is upon the applicant to demonstrate that the statute and rules of the licensing state are at least equivalent to the ~~require him/her to meet all~~ educational, experience and supervision requirements set forth in Title 24, *Delaware Code*, Chapter 30. Based upon the information presented, the Board shall make a determination regarding whether equivalency of the licensing requirements of Title 24, Delaware Code, Chapter 30, and those of the applicant's licensing state are substantially similar to those of Delaware.

3.4 ~~Non-Equivalency~~ LACMH Option - If the Board determines that the requirements of the applicant's licensing state are not equivalent with regard only to the ~~required 1,600 hours of supervised experience requirements of §3008(a)(2), then~~ the applicant shall be eligible for licensure as a LACMH, in which case he/she shall have four (4) years to complete the supervision requirements of §3008(a)(2). to obtain the balance of the supervised experience required. The applicant shall be given full credit for such properly documented supervised experience and/or supervised experience as was required for licensure in his/her licensing state. ~~In such situation, the Board shall allow for disruption in the requirements that the applicant's supervised experience be completed within a four (4) year period.~~

Statutory authority: 24 Del.C. §§3010.

4.0 Licensure Of Associate Counselors Of Mental Health

4.1 Written Plan - The applicant shall submit a written plan for supervised professional experience, on the "Written Plan for Professional Counseling Experience and Supervision" form, supplied by the Board, written according

to the "Licensed Associate Counselor of Mental Health Guidelines for Written Plan for Supervision," and signed by the approved professional supervisor.

Statutory authority: 24 *Del.C.* §3009.

5.0 Application And Fee, Affidavit And Time Limit

When applying for licensure, the applicant shall complete the following:

5.1 Application and Fee - The applicant shall submit a completed "Application for Licensure," accompanied by a non-refundable application fee.

5.2 Affidavit - The applicant shall submit a signed, notarized "Affidavit," affirming the following:

5.2.1 that he/she has not violated any rule or regulation set forth by the Delaware Board of Professional Counselors of Mental Health;

5.2.2 that he/she has not been the recipient of any administrative penalties from any jurisdiction in connection with licensure, registration or certification as a mental health provider;

5.2.3 that he/she does not have any impairment related to drugs, alcohol or a finding of mental incompetence by a physician that would limit the applicant's ability to safely act as a LPCMH or LACMH;

5.2.4 that he/she has not been convicted of any felony and that he/she does not have any criminal conviction or pending criminal charge, whether felony or misdemeanor, which is substantially related to fitness to practice as a mental health provider; and

5.2.5 that the applicant has not been penalized for any willful violation of any code of ethics or professional mental health counseling standard.

5.3 Time Limit for Completion of Application - Any application not completed within one (1) year shall be considered null and void.

Statutory authority: 24 *Del.C.* §§3008, 3009, 3010.

6.0 Renewal Of Licensure

6.1 Renewal Date - The LPCMH license shall be renewable biennially on September 30 of even-numbered years, beginning with September 30, 1994.

6.2 Requirements for Renewal - Requirements for licensure renewal are as follows:

6.2.1 Certification - The candidate for renewal shall hold current certification in good standing as of the date of licensure renewal in NBCC, ACMHC or other certifying organization acceptable to the Board. This certification shall be verified by the appropriate "Verification of Certification Form," submitted directly to the Board by the certifying organization.

6.2.2 Continuing Education

6.2.2.1 Requirement - The candidate for renewal shall have completed no less than forty (40) clock hours of acceptable continuing education per two (2) year

licensure renewal period. Continuing education requirements for initial licensure periods of less than two (2) years shall be prorated.

6.2.2.2 Acceptable Continuing Education - Acceptable continuing education shall include the following:

6.2.2.2.1 Continuing education hours approved by a national mental health organization, such as NBCC, ACMHC, APA, shall be acceptable. Other training programs may apply for continuing education oriented towards enhancement, knowledge and practice of counseling. Hours are to be documented by a certificate signed by the presenter, or by designated official of the sponsoring organization.

6.2.2.2.2 Academic course work, and presentation of original papers providing training and clinical supervision may be applied for up to twenty (20) clock hours of the continuing education requirement. These hours are to be documented by an official transcript, syllabus, or a copy of the published paper presented.

Under no circumstances, may there be less than twenty (20) hours of face-to-face participation in continuing education as outlined above.

6.2.2.3 Make-Up of Disallowed Hours - In the event that the Board disallows certain continuing education clock hours, the candidate for renewal shall have three (3) months after the licensure renewal date to complete the balance of acceptable continuing education hours required.

6.2.3 Verification - Verification of continuing education hours shall be by the "Continuing Education Form for Licensed Professional Mental Health Counselors," with appropriate documentation for each item listed attached to the form.

6.2.4 Fees - The candidate for renewal shall make payment of a renewal fee in an amount prescribed by the Division of Professional Regulation for that licensure renewal period. A fifty percent (50%) late charge shall be imposed upon any fee paid after the renewal date.

6.2.5 It shall be the responsibility of all licensees to keep the Division informed of any change of address. Renewal applications will be sent to the last address on file with the Division.

Statutory authority: 24 *Del.C.* §§3006(a)(5), 3012.

~~7.0 REACTIVATION OF LICENSURE~~

~~7.1 Reactivation - An expired license shall be reactivated as follows:~~

~~7.1.1 Within Five (5) Years - An expired license shall be reactivated within five (5) years following the expiration date upon fulfillment of the following requirements:~~

~~7.1.1.1 Written Request - Written request to the Board requesting reactivation of licensure.~~

~~7.1.1.2 Certification - Current certification in good standing, as of the date of the request for licensure~~

~~reactivation in NBCC, ACMHC or other certifying organization.~~

~~7.1.1.3 Continuing Education – Completion of forty (40) hours of acceptable continuing education, obtained within the two (2) year period prior to the request for reactivating.~~

~~7.1.1.4 Fees – Payment of renewal fees for any licensure renewal periods which have elapsed since expiration of licensure, plus a late charge of fifty percent (50%) of the most recent licensure renewal fee.~~

7.0 Ethics

7.1 The Board hereby adopts the current version of National Board for Certified Counselors Code of Ethics (“Code”).

7.2 The practice of all persons licensed as an LPCMH or LAMCH shall conform to the principles of the Code. Violation of the Code shall constitute grounds for discipline.

Statutory authority: 24 Del.C. §§3006(b), 3013.

8.0 Return To Active Status

8.1 Return to Active Status - Return to active status from inactive status shall be granted upon fulfillment of the following requirements:

8.1.1 Written Request - Written request to the Board requesting return to active status.

8.1.2 Certification - Current certification in good standing, as of the date of the request for return to active status, in NBCC, ACMHC or other certifying organization.

8.1.3 Continuing Education - Completion of forty (40) hours of acceptable continuing education, obtained within the two (2) year period prior to the request for return to active status.

8.1.4 Fee - Payment of the current fee for licensure renewal. No late fee shall be assessed for return to active status.

Statutory authority: 24 Del.C. §30012(d).

~~9.0 TEMPORARY SUSPENSION PENDING HEARING~~

~~No order temporarily suspending a practitioner's license shall be issued by the Board with less than twenty-four (24) hours prior written or oral notice to the practitioner or the practitioner's attorney, so that the practitioner or the attorney may be heard in opposition to the proposed suspension and unless at least four (4) members of the Board vote in favor of such a temporary suspension.~~

An order of temporary suspension pending a hearing shall remain in effect for a period of time no longer than sixty (60) days from the date of the issuance of said order, unless the suspended practitioner requests a continuance of the date for the convening of the hearing panel. In such event, the order of temporary suspension pending a hearing shall remain in effect until the hearing panel has convened

and a decision rendered.

9.0 Disciplinary Proceedings And Hearings

9.1 Disciplinary proceedings against any licensee may be initiated by an aggrieved person by submitting a complaint in writing to the Director of the Division of Professional Regulation as specified in 29 Del. C. §8807(h)(1)-(3).

9.1.1 A copy of the written complaint shall be forwarded to the administrative assistant for the Board. At the next regularly scheduled Board meeting, a contact person for the Board shall be appointed and a copy of the written complaint given to that person.

9.1.2 The contact person appointed by the Board shall maintain strict confidentiality with respect to the contents of the complaint and shall not discuss the matter with other Board members or with the public. The contact person shall maintain contact with the investigator or deputy attorney general assigned to the case regarding the progress of the investigation.

9.1.3 In the instance when the case is being closed by the Division, the contact person shall report the facts and conclusions to the Board without revealing the identities of the parties involved. No vote of the Board is necessary to close the case.

9.1.4 If a hearing has been requested by the Deputy Attorney General, a copy of these Rules and Regulations shall be provided to the respondent upon request. The notice of hearing shall fully comply with 29 Del. C. Sec. 10122 and 10131 pertaining to the requirements of the notice of proceedings. All notices shall be sent to the respondent's address as reflected in the Board's records.

9.1.5 At any disciplinary hearing, the respondent shall have the right to appear in person or be represented by counsel, or both. The Respondent shall have the right to produce evidence and witnesses on his or her behalf and to cross examine witnesses. The Respondent shall be entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of documents on his or her behalf.

9.1.6 No less than 10 days prior to the date set for a disciplinary hearing, the Department of Justice and the respondent shall submit to the Board and to each other, a list of the witnesses they intend to call at the hearing. Witnesses not listed shall be permitted to testify only upon a showing of reasonable cause for such omission.

9.1.7 If the respondent fails to appear at a disciplinary hearing after receiving the notice required by 29 Del.C. §10122 and 10131, the Board may proceed to hear and determine the validity of the charges against the respondent.

Statutory authority: 24 Del.C. §§3013 and 3016; 29 Del.C. §§10111, 10122 and 10131

9.2. Hearing procedures

9.2.1 The Board may administer oaths, take testimony, hear proofs and receive exhibits into evidence at any hearing. All testimony at any hearing shall be under oath.

9.2.2 Strict rules of evidence shall not apply. All evidence having probative value commonly accepted by reasonably prudent people in the conduct of their affairs shall be admitted.

9.2.3 An attorney representing a party in a hearing or matter before the Board shall notify the Board of the representation in writing as soon as practicable.

9.2.4 Requests for postponements of any matter scheduled before the Board shall be submitted to the Board's office in writing no less than three (3) days before the date scheduled for the hearing. Absent a showing of exceptional hardship, there shall be a maximum of one postponement allowed to each party to any hearing.

9.2.5 A complaint shall be deemed to "have merit" and the Board may impose disciplinary sanctions against the licensee if at least four members of the Board find, by a preponderance of the evidence, that the respondent has committed the act(s) of which he or she is accused and that those act(s) constitute grounds for discipline pursuant to 24 Del.C. §515.

9.2.6 Any decision by the Board to suspend or revoke a license shall be made public by publishing notice of the suspension or revocation in at least two (2) Delaware newspapers of general circulation. Such publication shall take place following the Board's execution of the final order.

Statutory authority: 24 Del.C. §§3004, 3013, 3015, 3016; 29 Del.C. §§10111

10.0 Voluntary Treatment Option For Chemically Dependent Or Impaired Professionals

10.1 If the report is received by the chairperson of the regulatory Board, that chairperson shall immediately notify the Director of Professional Regulation or his/her designate of the report. If the Director of Professional Regulation receives the report, he/she shall immediately notify the chairperson of the regulatory Board, or that chairperson's designate or designates.

10.2 The chairperson of the regulatory Board or that chairperson's designate or designates shall, within 7 days of receipt of the report, contact the individual in question and inform him/her in writing of the report, provide the individual written information describing the Voluntary Treatment Option, and give him/her the opportunity to enter the Voluntary Treatment Option.

10.3 In order for the individual to participate in the Voluntary Treatment Option, he/she shall agree to submit to a voluntary drug and alcohol screening and evaluation at a specified laboratory or health care facility. This initial evaluation and screen shall take place within 30 days following notification to the professional by the participating

Board chairperson or that chairperson's designate(s).

10.4 A regulated professional with chemical dependency or impairment due to addiction to drugs or alcohol may enter into the Voluntary Treatment Option and continue to practice, subject to any limitations on practice the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional, deem necessary, only if such action will not endanger the public health, welfare or safety, and the regulated professional enters into an agreement with the Director of Professional Regulation or his/her designate and the chairperson of the participating Board or that chairperson's designate for a treatment plan and progresses satisfactorily in such treatment program and complies with all terms of that agreement. Treatment programs may be operated by professional Committees and Associations or other similar professional groups with the approval of the Director of Professional Regulation and the chairperson of the participating Board.

10.5 Failure to cooperate fully with the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate in regard to the Voluntary Treatment Option or to comply with their requests for evaluations and screens may disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board chairperson or that chairperson's designate or designates shall cause to be activated an immediate investigation and institution of disciplinary proceedings, if appropriate, as outlined in subsection (h) of this section.

10.6 The Voluntary Treatment Option may require a regulated professional to enter into an agreement which includes, but is not limited to, the following provisions:

10.6.1 Entry of the regulated professional into a treatment program approved by the participating Board. Board approval shall not require that the regulated professional be identified to the Board. Treatment and evaluation functions must be performed by separate agencies to assure an unbiased assessment of the regulated professional's progress.

10.6.2 Consent to the treating professional of the approved treatment program to report on the progress of the regulated professional to the chairperson of the participating Board or to that chairperson's designate or designates or to the Director of the Division of Professional Regulation or his/her designate at such intervals as required by the chairperson of the participating Board or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate, and such person making such report will not be liable when such reports are made in good faith and without malice.

10.6.3 Consent of the regulated professional, in

accordance with applicable law, to the release of any treatment information from anyone within the approved treatment program.

10.6.4 Agreement by the regulated professional to be personally responsible for all costs and charges associated with the Voluntary Treatment Option and treatment program(s). In addition, the Division of Professional Regulation may assess a fee to be paid by the regulated professional to cover administrative costs associated with the Voluntary Treatment Option. The amount of the fee imposed under this subparagraph shall approximate and reasonably reflect the costs necessary to defray the expenses of the participating Board, as well as the proportional expenses incurred by the Division of Professional Regulation in its services on behalf of the Board in addition to the administrative costs associated with the Voluntary Treatment Option.

10.6.5 Agreement by the regulated professional that failure to satisfactorily progress in such treatment program shall be reported to the participating Board's chairperson or his/her designate or designates or to the Director of the Division of Professional Regulation or his/her designate by the treating professional who shall be immune from any liability for such reporting made in good faith and without malice.

10.6.6 Compliance by the regulated professional with any terms or restrictions placed on professional practice as outlined in the agreement under the Voluntary Treatment Option.

10.7 The regulated professional's records of participation in the Voluntary Treatment Option will not reflect disciplinary action and shall not be considered public records open to public inspection. However, the participating Board may consider such records in setting a disciplinary sanction in any future matter in which the regulated professional's chemical dependency or impairment is an issue.

10.8 The participating Board's chairperson, his/her designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional at any time during the Voluntary Treatment Option, restrict the practice of a chemically dependent or impaired professional if such action is deemed necessary to protect the public health, welfare or safety.

10.9 If practice is restricted, the regulated professional may apply for unrestricted licensure upon completion of the program.

10.10 Failure to enter into such agreement or to comply with the terms and make satisfactory progress in the treatment program shall disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board shall be notified and cause to be activated an immediate investigation and disciplinary

proceedings as appropriate.

10.11 Any person who reports pursuant to this section in good faith and without malice shall be immune from any civil, criminal or disciplinary liability arising from such reports, and shall have his/her confidentiality protected if the matter is handled in a nondisciplinary matter.

10.12 Any regulated professional who complies with all of the terms and completes the Voluntary Treatment Option shall have his/her confidentiality protected unless otherwise specified in a participating Board's rules and regulations. In such an instance, the written agreement with the regulated professional shall include the potential for disclosure and specify those to whom such information may be disclosed.

**DIVISION OF PROFESSIONAL REGULATION
BOARD OF EXAMINERS OF PSYCHOLOGISTS**

24 DE Admin. Code 3500

Statutory Authority: 24 Delaware Code,
Section 3506(a)(1) (24 **Del.C.** §3506(a))

In Re: |
Adoption of Rules and |
Regulations |

Order Adopting Rules and Regulations

AND NOW, this 6th day of November, 2000, in accordance with 29 *Del.C.* §10118 and for the reasons stated herein, the Board of Examiners of Psychologists of the State of Delaware (hereinafter "the Board") enters this Order adopting Rules and Regulations.

Nature of the Proceedings

The Board proposes to adopt changes and additions to its existing Rules and Regulations, relating to clarification of the acceptable passing score on the EPPP examination; a requirement that candidates with non-U.S. degrees have their credentials evaluated for equivalency to a U.S. degree acceptable under 24 **Del.C.** §3508(a); creation of a hardship allowance for additional time to complete continuing education for good cause shown, and clarification of procedural requirements for license renewal. These proposed rule additions are promulgated pursuant to the Board's authority under 24 *Del.C.* §§3506(a)(1). Notice of the public hearing on the Board's proposed rule amendments was published in the Delaware *Register of Regulations* on August 1, 2000 and in two Delaware newspapers of general circulation, all in accordance with 29 *Del.C.* §10115. The public hearing was held as noticed on September 11, 2000. The Board deliberated and voted on the proposed rule

following the public hearing at the September 11, 2000 meeting. This is the Board's Decision and Order ADOPTING the rule amendments as proposed.

Evidence and Information Submitted at Public Hearing

The Board received no written comments in response to the notice of its intention to adopt the proposed rule addition. No members of the public attended the September 11, 2000 public hearing.

Findings of Fact and Conclusions

As outlined in the preceding section, the public was given the required notice of the Board's intention to amend its rules and regulations and was offered an adequate opportunity to provide the Board with comments on the proposed regulations. The Board concludes that its consideration of the proposed Rule and Regulations is within the Board's general authority to promulgate regulations under 24 *Del.C.* §3506(1). Additional statutory authority for the Board's amendment of Rule 5.2.1.2 is found at 24 *Del. C.* §3506(4) which specifically requires that the Board "shall adopt the administration, grading procedures and passing score of the Association of State and Provincial Psychology Boards (ASPPB)" The 70% pass point is consistent with the passing score set by ASPPB. Further statutory authority for the rule amendments is found at §3506(a)(6) (enabling the Board to evaluate the credentials of applicants); and §3506(a)(8) (enabling the Board to establish continuing education standards).

In addition to the amendment to Rule 5.2.1.2 discussed above, the Board finds that the amendment to Rule 6.1.1 is necessary to provide a mechanism whereby candidates holding non- U.S. degrees may have their credentials evaluated by an approved credential evaluation service for equivalency to a U.S. degree acceptable under 24 *Del.C.* §3508(a). This will enable licensing of foreign trained applicants and provide public protection by ensuring educational equivalency. The proposed amendments to Rules 10.3 and 13.0 allow a hardship extension for completion of continuing education for good cause, and clarification of procedural requirements for license renewal. The Board concludes that the amendments to these Rules will help the Board implement 24 *Del.C.* §3506(7) and (8) in a way consistent with the interests of the public, the regulated practitioners, and the Board's need to process license renewals in an orderly and efficient manner.

In summary, the Board concludes that the proposed amendments to its Rules and Regulations are necessary for the enforcement of 24 *Del.C.* Chapter 35, and for the full and effective performance of the Board's duties under that Chapter. The Board also finds that adopting the regulations as proposed is in the best interest of the citizens of the State

of Delaware, particularly those persons who are the direct recipients of services regulated by the Board. The Board, therefore, adopts the proposed revisions to its Rules and Regulations as set forth in Exhibit "A" attached hereto. .

Order

NOW, THEREFORE, by unanimous vote of a quorum of the Board of Examiners of Psychologists,

IT IS HEREBY ORDERED THAT:

1. The proposed amendments to the Board's Rules and Regulations are *approved and adopted* in the exact text attached hereto as Exhibit "A".
2. The effective date of this Order is ten (10) days from the date of its publication in the Delaware *Register of Regulations*, pursuant to 29 *Del.C.* §10118(e).
3. The Board reserves the jurisdiction and authority to issue such other and further orders in this matter as may be necessary or proper.

By Order of the Board of Examiners of Psychologists (as authenticated by a quorum of the Board):

Edward S. Wilson, Ph.D., President,
Professional Member
Constance Dancu, Ph.D., Vice-President,
Professional Member
Sharon L. Mitchell, Ph.D., Secretary,
Professional Member
Peter B. Appel, Ph.D., Professional Member
Bobby Benjamin, Public Member
Richard Lindale, Public Member
Shirley Reichelt, Public Member
Frank Szczuka, Public Member
William Ulmer, Jr. M.Ed., Professional Member

Board Of Examiners Of Psychologists

1.0 General Rules and Regulations

The Board of Examiners of Psychologists has been established under the 24 **Del.C.** Ch. 35, and current amendments to that Law. Within the framework of the Law, the Board has the responsibility for interpreting and implementing the legal provisions and requirements of the Law through the establishment of operating Rules and Regulations. The Board and the public may propose changes in the Rules and Regulations in accordance with the Administrative Procedures Act, 29 **Del.C.** Ch. 101.

2.0 Official Board Office

The official office of the Board of Examiners shall be in Dover in the Division of Professional Regulation and all correspondence must be addressed to this office in written form before official action can be taken. In addition, the

Division of Professional Regulation will provide an Administrative Assistant who will take notes at Board meetings, keep the records for the Board, and serve as a liaison between the Board and members of the public who have questions for the Board. The Division of Professional Regulation will also set fees to defray the cost of regulation.

3.0 Meetings of the Board

The Board will hold such meetings during the year as it may deem necessary to review licensure applications and psychological assistant applications, evaluate continuing education, hold disciplinary hearings, or conduct other Board business. Either the President, or the majority of the Board may call a Board meeting. The Division of Professional Regulation, Board members, and the public shall be notified of the meeting agenda, time and location in accordance with the Freedom of Information Act.

4.0 Officers of the Board

The Board elects its own officers at the first meeting of each calendar year. The President of the Board sets the agendas of the meetings, chairs meetings, and represents the Board at state regulatory meetings, the American Association of State and Provincial Psychology Boards, and other organizations that may interface with the Board unless someone else is designated to attend in place of the President. The Vice President or Secretary acts for the President in the President's absence. The Secretary of the Board, in conjunction with the Administrative Assistant from the Division of Professional Regulation, is responsible for taking care of Board correspondence.

5.0 Procedures for Licensure

5.1 Application - Initial Licensure

An applicant who is applying for licensure as a psychologist shall submit evidence showing that he/she meets the requirements of 24 **Del.C.** §3508. The applicant must submit the following:

5.1.1 An application for licensure, which shall include:

5.1.1.1 Academic credentials documented by official transcripts showing completion of an educational program meeting the requirements of 24 **Del.C.** §3508(a)(1).

5.1.1.2 Supervised experience documented by having each supervisor complete a Supervisory Reference Form.

5.1.1.3 Evidence that the applicant passed the written "Examination for Professional Practice in Psychology", developed by the Association of State and Provincial Psychology Boards (ASPPB), by achieving the passing score recommended by the ASPPB at the time of the application for licensure. Candidates who are not licensed in any other state must have passed the written examination within five (5) years of application for licensure in

Delaware. Applicants who have not taken the examination must submit all other required documents to the Board for review prior to sitting for the examination. Only those applicants the Board determines are otherwise eligible for Delaware licensure shall be approved to sit for the examination, subject to the administration policies and procedures of the ASPPB. After sitting for the examination, applicants must supplement their application materials by submitting evidence of their passing score as recommended by the ASPPB.

See 3 DE Reg 1067 (2/1/00)

5.1.1.4 Verification that the applicant has no past or pending disciplinary proceedings. [24 **Del.C.** §3508(a)(4)]

5.1.1.5 The application shall not be considered complete until all materials are received by the Board for review at an officially scheduled meeting. The applicant will have twelve (12) months from the date of initial submission of the application and fee to complete the application process.

5.1.2 Completed certification form. The applicant will be notified, once his/her application is complete and available for the Board's review. The certification form must be submitted before any further action can be taken.

5.2 Application - By Reciprocity

An applicant who is applying for licensure as a psychologist by reciprocity, as defined in 24 **Del.C.** §3511, shall submit evidence that he/she meets the following requirements:

5.2.1 An application for licensure, which shall include:

5.2.1.1 Evidence that the applicant is licensed or certified in another state and that the applicant has practiced continuously, as a doctoral-level psychologist, in good standing in that jurisdiction for two (2) years.

5.2.1.2 Evidence that the applicant passed the written Examination for Professional Practice of Psychology (EPPP). ~~by achieving the passing score as required by their state of original licensure.~~ The Board shall accept a score of 70% or better, or, for examinations taken prior to 1992, the minimum passing score accepted by the Delaware Board in the year the examination was taken.

5.2.2 Completed certification form. The applicant will be notified once his/her application is complete and available for the Board's review. The certification form must be submitted before any further action can be taken.

6.0 Evaluation of Credentials

6.1 Candidates for licensure as psychologists in the State of Delaware shall:

6.1.1 Have received a doctoral degree based on a program of studies which is psychological in content and specifically designed to train and prepare psychologists. The doctoral degree must be from a college or university,

accredited as required by 24 Del.C. Section 3508(a)(1) having a graduate program which states its purpose to be the training and preparation of psychologists. Graduates of non-United States (U.S.) degree programs will be required to have their credentials evaluated by a credential evaluation service approved by the National Association of Credential Evaluation Services, to determine equivalency to the accreditation requirements of §3508(a)(1) and equivalency of psychological content and training. The Board will consider programs to be psychological in content by the criteria established by the joint designation project of the Association of State and Provincial Psychology Boards and the Council for the National Register of Health Service Providers in Psychology, as follows:

6.1.1.1 Programs that are accredited by the American Psychological Association are recognized as meeting the definition of a professional psychology program. The criteria for accreditation serves as a model for professional psychology training.

6.1.1.2 Or, all of the following criteria, (1) through (9):

6.1.1.2.1 Training in professional psychology is doctoral training offered in a regionally accredited institution of higher education.

6.1.1.2.2 The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. Such program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists.

6.1.1.2.3 The psychology program must stand as a recognizable, coherent organizational entity within the institution.

6.1.1.2.4 There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines.

6.1.1.2.5 The program must be an integrated, organized sequence of study.

6.1.1.2.6 There must be an identifiable psychology faculty and a psychologist responsible for the program.

6.1.1.2.7 The program must include a body of students who are matriculated in that program for a degree.

6.1.1.2.8 The program must include supervised practicum, internship, field or laboratory training appropriate to the practice of psychology.

6.1.1.2.9 The curriculum shall encompass a minimum of three (3) academic years of full time graduate study. In addition to instruction in scientific and professional ethics and standards research design and methodology, statistics, and psychometrics, the core program shall require each student to demonstrate competence in each of the following substantive content areas. This typically will be met by including a minimum of

three or more graduate semester hours (5 or more graduate quarter hours) in each of these 4 substantive content areas:

6.1.1.2.9.1 Biological bases of behavior: Physiological psychology, comparative psychology, neuropsychology, sensation and perception, psychopharmacology.

6.1.1.2.9.2 Cognitive-affective bases of behavior: Learning, thinking, motivation, emotion.

6.1.1.2.9.3 Social bases of behavior: Social psychology, group processes, organizational and systems theory.

6.1.1.2.9.4 Individual differences: Personality theory, human development, abnormal psychology.

6.1.1.3 In addition, all professional education programs in psychology will include course requirements in specialty areas.

6.2 Have had, after receiving the doctoral degree, at least 2 years of supervised experience in psychological work satisfactory to the Board; and

6.3 Have achieved the passing score on the written standardized Examination for Professional Practice in Psychology (EPPP) developed by the Association of State and Provincial Psychology Boards (ASPPB) or its successor; or

6.4 The Board will qualify for licensing without examination any person who applies for licensure and who is a Diplomate of the American Board of Professional Psychology. All such applicants must meet all other requirements for licensure.

See 2 DE Reg. 776 (11/1/98)

7.0 Supervised Experience

The types of supervision pertinent to licensure as a psychologist or registration as a psychological assistant are comprised of three types of supervisory experiences:

7.1 Predoctoral internship supervision as required by doctoral programs in psychology. The predoctoral internship consists of a minimum of 1,500 hours of actual work experience completed in not less than 48 weeks, nor more than 104 weeks. At least 50% of the predoctoral supervised experience must be in clinical services such as treatment, consultation, assessment, and report writing, with at least 25% of that time devoted to face-to-face direct patient/client contact. No more than 25% of time shall be allocated for research.

7.2 Postdoctoral supervision is required for initial licensure as a psychologist. Postdoctoral experience must consist of 3,000 hours of actual work experience. This experience is to be completed in not less than two years and not more than three calendar years, save for those covered under 24 Del.C. §3519(e). For those individuals the accrual of 3,000 hours of supervised postdoctoral experience must take place within six calendar years from the time of hire.

There is to be one hour of face-to-face supervision for every 1-10 hours of clinical work. This experience shall consist of at least twenty-five percent and not more than sixty percent of the time devoted to direct service per week in the area of the applicant's academic training. "Direct service" consists of any activity defined as the practice of psychology or the supervision of graduate students engaging in activities defined as the practice of psychology. Not more than 25% of this supervision can be done by other licensed mental health professionals besides psychologists.

The purpose of the postdoctoral supervision is to train psychologists to practice at an independent level. This experience should be an organized educational and training program with explicit goals and a clear plan to meet those goals. There should be regular written evaluations based on this program.

7.3 Supervision of psychological assistants is required at the frequency of one hour of face-to-face supervision for every 1-10 hours of clinical work by the psychological assistants, as required by Section 9 of the Rules and Regulations. An individual registered as a psychological assistant may or may not be receiving supervision in pursuit of independent licensure as a psychologist.

7.4 A psychologist providing either postdoctoral supervision or supervision of psychological assistants must have been in practice for two years post licensure in this or any other state without having been subject to any disciplinary actions. He/she must provide 24-hour availability to both the supervisee and the supervisee's clients, or ensure that adequate alternative coverage is provided in the supervisor's absence. The supervising psychologist shall have sufficient knowledge of all clients including face-to-face contact when necessary and must be employed or under contract in the setting where the clinical service takes place and the supervision must occur within that setting.

See 2 DE Reg. 776 (11/1/98)

8.0 Failure to Pass Examination

Applicants may take the Examination for the Professional Practice in Psychology as many times as they choose. Intervals between testing will be determined by the testing agency and the ASPPB.

9.0 Psychological Assistants

9.1 A psychological assistant is an individual who meets the requirements of 24 **Del.C.** Section 3509(2a-2e). This individual may be registered as a psychological assistant in order to receive supervision to be eligible for later licensure to practice independently as a psychologist and/or for any other reason as recognized by law.

9.2 Psychological assistants are supervised, directed, and evaluated by a Delaware licensed psychologist who assumes professional and legal responsibility for the services

provided.

9.2.1 Any Delaware licensed psychologist who has had a least two (2) years of experience following the granting of licensure in this or in any other state may supervise a maximum of seven (7) psychological assistants.

9.2.2 It is the responsibility of the supervising psychologist in conjunction with the psychological assistant to diagnose and form treatment plans for patients seen by the psychological assistant and to file such plan in the patient/client's chart.

9.2.3 The patient/client must be informed that services are being delivered by a psychological assistant and that the licensed psychologist is responsible for the treatment.

9.2.4 The patient/client shall sign a statement of informed consent attesting that he/she understands that the services are being delivered by a psychological assistant and that the licensed psychologist is ultimately responsible for his/her treatment. This document shall include the supervising psychologist's name and the telephone number where he/she can be reached. One copy shall be filed with the patient/client's record and another given to the patient.

9.3 The Delaware licensed psychologist is identified as the legally and ethically responsible party in all advertising, public announcements, and billings. In addition, billings and advertisements will clearly indicate that the service is being provided by a psychological assistant. All treatment and evaluation reports prepared by the psychological assistant must be signed by the psychologist and the psychological assistant.

9.4 The Delaware licensed psychologist who accepts the responsibility of using a psychological assistant shall develop and maintain a current, written job description delineating the range and type of duties, educational practicum and clinical experience to be assigned to the psychological assistant, limits of independent action, emergency procedures for contacting the supervising psychologist, and the amount and type of supervision to be provided. This job description must be signed by the psychologist and the psychological assistant and will be filed in the Division of Professional Regulation, along with an official copy of the psychological assistant's college transcript, and proof of a 450-hour clinical practicum supervised by a licensed psychologist or by a faculty member in a nationally accredited doctoral level clinical training program in the State of Delaware who is actively pursuing licensure. The psychological assistant will also provide a statement under oath as outlined in 24 **Del.C.** §3509(b1 - b3).

9.5 The Board will then review credentials, job description and supervisory arrangements, and if the arrangements are acceptable, will inform the psychologist in writing that the psychological assistant can begin work. No psychological assistant shall begin work until the Board has

approved the application. Registration for psychological assistants expires biennially and continued performance of the duties of a psychological assistant requires proof of twenty (20) hours of continuing education and payment of the renewal fee.

9.6 Supervision of the psychological assistant by the Delaware licensed psychologist is to be a regular and formal process. It is required that the licensed psychologist and the psychological assistant have weekly one-on-one, face-to-face supervision with review of each case served by the psychological assistant. The supervising psychologist should be familiar with each patient/client seen by the psychological assistant and with the ongoing progress of treatment. One hour of supervision for every ten hours, or fraction thereof, of direct clinical work by the psychological assistant is required as a minimum. For example, if a psychological assistant provides eight (8) hours of direct clinical service, he or she must receive a minimum of one (1) hour of supervision. Likewise, a psychological assistant, who has fifteen (15) hours of direct clinical contact, must receive at least two (2) hours of supervision. This supervision must be documented in writing on patient records. In addition, the supervising psychologist shall submit at the time of relicensure and at the termination of the supervision relationship a supervision report on a form provided by the Board which will become a part of the public record. It will contain information describing the date and amount of supervision and any unscheduled supervisory contact, as well as a brief assessment of the psychological assistant's functioning. The Board will consider requests to substitute group supervision for some portion of the one-to-one, face-to-face supervision requirement. A supervising psychologist must petition the Board and show good cause for this substitution. If the supervising psychologist's request is granted, no more than five (5) psychological assistants may meet with the supervising psychologist at one time and there must be two (2) hours of group supervision in place of every one (1) hour of individual supervision. All psychological assistants must have at least one (1) hour of individual supervision per week. The Board reserves the right to withdraw their permission for the substitution at any time.

9.7 Psychological Assistants are to work in the office of the licensed psychologist so as to have regular and continued supervision. When the licensed psychologist is not in the office, he or she is expected to provide clear contingency plans for consultation for the psychological assistant. It is assumed that the psychologist will be available to the psychological assistant under most circumstances; therefore, arrangements in which the supervising psychologist is employed full time elsewhere will not be approved, unless it can be demonstrated that there will be adequate supervision and contingency coverage of the psychological assistant. Supervising psychologists will be expected to describe in

their application for the psychological assistant how much supervision they will provide and how that supervision will be provided.

9.8 Psychological assistants who work for agencies must be supervised by a psychologist employed by or under contract to the agency. Supervision must occur on site, and the agency must have clearly spelled out plans for providing consultation and backup when the supervising psychologist is not on site. A psychological assistant, who provides services that are under the direction of different psychologists, must be registered as a psychological assistant by all of the psychologists who are directly supervising the clinical work.

9.9 When there is a complaint of incompetent, improper, or unethical behavior on the part of the psychological assistant, in addition to the disciplinary action against the psychological assistant, disciplinary action may be taken against the supervising psychologist for failing to provide adequate supervision of the psychological assistant. The Board reserves the right to suspend or revoke the Delaware licensed psychologist's privilege of hiring a psychological assistant when just cause has been established through a formal hearing. Violation of this regulation may constitute cause for suspending or revoking the future privilege of hiring a psychological assistant.

9.10 Patients/clients are always the responsibility of the supervising psychologist. Termination or transfer plans must be worked out with the approval of the supervising psychologist. A psychological assistant will be considered to be working for the supervising psychologist until the Board of Examiners is notified in writing of the change in arrangements. The letter terminating a psychological assistant arrangement must also specify when the supervising psychologist is terminating the arrangement because of concerns about the ethical or professional behavior of the psychological assistant.

See 2 DE Reg. 776 (11/1/98)

10.0 Continuing Education

10.1 Psychologists must obtain 40 hours of continuing education every two years in order to be eligible for renewal of license. Psychologists will be notified in January that they may submit their documentation beginning March 1st. Continuing education credit must be submitted for the period of August 1st of the year of renewal to July 31st of the second year. Individuals licensed within the two year period will be notified by the Board of the prorated amount to submit.

10.2 Psychological assistants must obtain 20 hours of continuing education every two years for re-registration. Psychological assistants may submit their documentation beginning March 1st. The appropriate period for credits to be accrued is from August 1st of the year of renewal to July 31st of the second year. Psychological assistants registered

within the two year period will be notified by the Board of the prorated amount to submit.

10.3 Psychologists or psychological assistants who have not submitted their material by July 31st will be allowed to reapply for licensure or registration until August 31st. In the situation where the appropriate amount of documentation has been submitted in a timely fashion and in good faith and with reasonable expectation of renewal but has been found to be inadequate, the practitioner has 30 days from the notification of inadequacy to submit valid continuing education credit in the amount specified, or until August 31st of that year, whichever is later.

Hardship. An applicant for license renewal or registered psychological assistant may be granted an extension of time in which to complete continuing education hours upon a showing of good cause. "Good Cause" may include, but is not limited to, disability, illness, extended absence from the jurisdiction and exceptional family responsibilities. Requests for hardship consideration must be submitted to the Board in writing prior to the end of the licensing period, along with payment of the appropriate renewal fee. No extension shall be granted for more than 120 days after the end of the licensing period. A license shall be renewed upon approval of the hardship extension by the Board, but the license shall be subject to revocation if the licensee does not complete the requisite continuing education pursuant to the terms of the extension.

10.4 It is the responsibility of the psychologist or psychological assistant to file a record of his/her continuing education. Documentation of continuing education will consist of letters/certificates of attendance from the sponsoring entity.

10.5 The subject of the continuing education must contribute directly to the professional competency of a person licensed to practice as a psychologist or registered as a psychological assistant. The activity must have significant intellectual or practical content and deal with psychological techniques, issues or ethical standards relevant to the practice of psychology.

10.6 Activities from APA-approved continuing education sponsors will be automatically accepted. The following may be eligible:

10.6.1 Other programs which are not APA-approved sponsors but where the material is relevant to professional practice and provides the equivalent of APA-defined credit. An applicant must provide a brochure or other documentation that supports the following criteria: relevance, stated objectives, faculty and educational objectives. To document attendance and completion, a certificate of attendance is required. In these circumstances, hours will be accrued on the basis of clock hours involved in the training.

10.6.2 Graduate courses relevant to professional

practice taken for educational credit offered by a regionally accredited academic institution of higher education. Each credit hour of a course is equivalent to 5 CE hours.

10.6.3 Teaching an undergraduate or graduate level course in applied psychology at an accredited institution. Teaching a 3 hour semester or quarter course is considered the equivalent of 5 CE credits. No more than 5 CE credits may be completed in this manner for any renewal period and can be submitted only for the first time that a course is presented. Appropriate documentation of teaching must include the listing of the course in the school catalog and a letter from the academic institution stating that the course was taught.

10.6.4 Teaching of a workshop or conduction of a seminar on a topic of pertinence to the practice of psychology. Credit earned for one day is a maximum of 2 credits, two days is a maximum of 3 credits, and three days or more is a maximum of 5 credits. However, credit can be earned only once for teaching a particular seminar or workshop and not be eligible for re-submission at any time. Appropriate documentation is considered to be the brochure and demonstration of the workshop being held by the sponsoring entity.

10.6.5 Authorship, editing or reviewing of a publication. Credit may be earned only in the year of the publication and is limited to the following:

10.6.5.1 Author of a book (maximum of 40 CE hours)

10.6.5.2 Author of a book chapter or journal article (maximum of 15 CE hours)

10.6.5.3 Editor of a book (maximum of 25 CE hours)

10.6.5.4 Editor of or reviewer for a scientific or professional journal recognized by the Board (maximum 25 CE hours)

10.6.5.5 Proof of the above (10.6.5.1 - 10.6.5.4) must include the submission of the work or documentation of authorship by copy of title pages.

10.6.6 Preparing and presenting a scientific or professional paper or poster at a meeting of a professional or scientific organization. Up to 2 hours may be claimed for a poster presentation. Up to 3 hours of credit may be claimed for each hour of paper presentation, with a maximum of 8 CE hours per paper. Listing within the program and certificate letters of attendance at the meeting is appropriate documentation for both a paper or poster presentation.

See 2 DE Reg. 776 (11/1/98)

10.7 The Board reserves the right to reject any CE program, if it is outside the scope of the practice of psychology.

10.8 The following will not be considered for credit: service to organizations; attending business meetings of professional organizations; business management or office administration courses; group supervision; or case

conferences.

11.0 Professional Conduct

Psychologists and psychological assistants may be disciplined for violations of provisions of 24 **Del.C.** §3514.

12.0 Complaint Procedures

12.1 Complaints against psychologists and psychological assistants will be investigated as provided by 29 **Del.C.** §8807 and all hearings shall be conducted in accordance with the Administrative Procedures Act, 29 **Del.C.** Chapter 101.

12.2 Complaints must be filed, in writing, with the Division of Professional Regulation.

13.0 License Renewal

13.1 Renewal notices will be mailed to the current address on file in the Board's records in a timely fashion to all psychologists and psychological assistants who are currently licensed or registered. It shall be the responsibility of each psychologist and psychological assistant to advise the Board, in writing, of any change of name or address.

13.2 Continuing education requirements must be fulfilled as detailed in Section 10 of the Rules and Regulations and submitted along with the established fee for renewal to be approved. The Board may, in its discretion, grant a license renewal under the terms of a continuing education hardship extension pursuant to rule 10.3. Should any psychologist fail to renew or obtain a hardship extension and continue to make representation as a licensed psychologist beyond July 31st, that individual is practicing without a license. Should any psychological assistant fail to renew or obtain a hardship extension and continue to make representation as a registered psychological assistant beyond July 31st, that individual is considered no longer to be registered, and his/her supervising psychologist is in violation of the law.

14.0 Procedures for Licensure Applicable to Full Time Faculty Members in a Nationally Accredited Doctoral Level Clinical Training Program in the State of Delaware

14.1 University faculty employed full time in a nationally accredited doctoral level clinical training program in the State of Delaware, as specified in 24 **Del.C.** §3519(e), who are not licensed, are subject to the following rules and regulations:

14.1.1 Notification. Such individuals must notify the Board of Examiners of Psychologists no later than 30 days after the commencement of employment, indicating employer, position and date employment began. At that time they will receive a copy of the statute and Rules and Regulations which detail the exemption under which they operate.

14.1.2 Professional Activities. These individuals may participate in activities defined by statute as the practice of psychology (including the supervision of matriculated graduate students) only within the context of a clinical training program. They may conduct any research and teaching activities related to the activities of such a program.

14.1.3 Education. Such individuals must have completed the doctoral degree at the time employment commences consistent with 24 **Del.C.** §3508(a).

14.1.4 Active Pursuit of Licensure. Such individuals are required to be in active pursuit of licensure for a period not to exceed six (6) years. The six year time frame for the completion of licensure requirements commences with the initial date of employment. The six-year time frame for individuals employed as of June 12, 1995 commenced on that date.

14.1.5 Supervision. The supervised experience required for licensure of such individuals is described in Section 7.0 of the Rules and Regulations.

See 2 DE Reg. 776 (11/1/98)

15.0 Voluntary Treatment Option for Chemically Dependent or Impaired Professionals

15.1 If the report is received by the chairperson of the regulatory Board, that chairperson shall immediately notify the Director of Professional Regulation or his/her designate of the report. If the Director of Professional Regulation receives the report, he/she shall immediately notify the chairperson of the regulatory Board, or that chairperson's designate or designates.

15.2 The chairperson of the regulatory Board or that chairperson's designate or designates shall, within 7 days of receipt of the report, contact the individual in question and inform him/her in writing of the report, provide the individual written information describing the Voluntary Treatment Option, and give him/her the opportunity to enter the Voluntary Treatment Option.

15.3 In order for the individual to participate in the Voluntary Treatment Option, he/she shall agree to submit to a voluntary drug and alcohol screening and evaluation at a specified laboratory or health care facility. This initial evaluation and screen shall take place within 30 days following notification to the professional by the participating Board chairperson or that chairperson's designate(s).

15.4 A regulated professional with chemical dependency or impairment due to addiction to drugs or alcohol may enter into the Voluntary Treatment Option and continue to practice, subject to any limitations on practice the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional, deem necessary, only if such action will not endanger the public health, welfare or safety, and the regulated professional enters into

an agreement with the Director of Professional Regulation or his/her designate and the chairperson of the participating Board or that chairperson's designate for a treatment plan and progresses satisfactorily in such treatment program and complies with all terms of that agreement. Treatment programs may be operated by professional Committees and Associations or other similar professional groups with the approval of the Director of Professional Regulation and the chairperson of the participating Board.

15.5 Failure to cooperate fully with the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate in regard to the Voluntary Treatment Option or to comply with their requests for evaluations and screens may disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board chairperson or that chairperson's designate or designates shall cause to be activated an immediate investigation and institution of disciplinary proceedings, if appropriate, as outlined in subsection (h) of this section.

15.6 The Voluntary Treatment Option may require a regulated professional to enter into an agreement which includes, but is not limited to, the following provisions:

15.6.1 Entry of the regulated professional into a treatment program approved by the participating Board. Board approval shall not require that the regulated professional be identified to the Board. Treatment and evaluation functions must be performed by separate agencies to assure an unbiased assessment of the regulated professional's progress.

15.6.2 Consent to the treating professional of the approved treatment program to report on the progress of the regulated professional to the chairperson of the participating Board or to that chairperson's designate or designates or to the Director of the Division of Professional Regulation or his/her designate at such intervals as required by the chairperson of the participating Board or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate, and such person making such report will not be liable when such reports are made in good faith and without malice.

15.6.3 Consent of the regulated professional, in accordance with applicable law, to the release of any treatment information from anyone within the approved treatment program.

15.6.4 Agreement by the regulated professional to be personally responsible for all costs and charges associated with the Voluntary Treatment Option and treatment program(s). In addition, the Division of Professional Regulation may assess a fee to be paid by the regulated professional to cover administrative costs associated with the Voluntary Treatment Option. The amount of the fee imposed under this subparagraph shall approximate and reasonably

reflect the costs necessary to defray the expenses of the participating Board, as well as the proportional expenses incurred by the Division of Professional Regulation in its services on behalf of the Board in addition to the administrative costs associated with the Voluntary Treatment Option.

15.6.5 Agreement by the regulated professional that failure to satisfactorily progress in such treatment program shall be reported to the participating Board's chairperson or his/her designate or designates or to the Director of the Division of Professional Regulation or his/her designate by the treating professional who shall be immune from any liability for such reporting made in good faith and without malice.

15.6.6 Compliance by the regulated professional with any terms or restrictions placed on professional practice as outlined in the agreement under the Voluntary Treatment Option.

15.7 The regulated professional's records of participation in the Voluntary Treatment Option will not reflect disciplinary action and shall not be considered public records open to public inspection. However, the participating Board may consider such records in setting a disciplinary sanction in any future matter in which the regulated professional's chemical dependency or impairment is an issue.

15.8 The participating Board's chairperson, his/her designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional at any time during the Voluntary Treatment Option, restrict the practice of a chemically dependent or impaired professional if such action is deemed necessary to protect the public health, welfare or safety.

15.9 If practice is restricted, the regulated professional may apply for unrestricted licensure upon completion of the program.

15.10 Failure to enter into such agreement or to comply with the terms and make satisfactory progress in the treatment program shall disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board shall be notified and cause to be activated an immediate investigation and disciplinary proceedings as appropriate.

15.11 Any person who reports pursuant to this section in good faith and without malice shall be immune from any civil, criminal or disciplinary liability arising from such reports, and shall have his/her confidentiality protected if the matter is handled in a nondisciplinary matter.

15.12 Any regulated professional who complies with all of the terms and completes the Voluntary Treatment Option shall have his/her confidentiality protected unless otherwise specified in a participating Board's rules and regulations. In such an instance, the written agreement with the regulated

professional shall include the potential for disclosure and specify those to whom such information may be disclosed.

APPENDIX A

“Professional psychology” refers to psychology as a profession. The term is not intended in the more restrictive sense of applied or practice areas of psychology since the intent is for a generic designation system.

“Professional psychology” refers to psychology as a profession. The term is not intended in the more restrictive sense of applied or practice areas of psychology since the intent is for a generic designation system.

6.1.1.2.1 refers to an institution with regional accreditation in the United States, an institution with provincial authorization in Canada, or in other countries, or an institution that is accredited by a body which was deemed by the ASPPB/National Register Joint Designation Committee to be performing a function equivalent to U.S. regional accrediting bodies.

In reference to “instruction in scientific and professional ethics and standards” rule 6.1.1.2.9, it is understood that a course of three or more graduate semester hours (five or more graduate quarter hours) or its equivalent is highly desirable; substantial instruction in these issues is required.

It is understood that rule 6.1.1.2.9 includes the requirement of a minimum of one year’s residency at the educational institution granting the doctoral degree.

Notice of the proposed regulation was published in the News Journal and the Delaware State News on September 21, 2000 in the form hereto attached as Exhibit A. The notice invited written comments and none were received from the newspaper advertisements. The Department received one comment in response to the proposed new regulation. The State Council for Persons with Disabilities noted that the prior version of the regulation was more “user friendly” because it incorporated the applicable statutory provisions within the regulation. When the Department responds to a request for information about private business and trade schools, it provides both Chapter 85 of the *Education Code* and a copy of the regulation. This practice will not change. Providing separate documents will help assure that the current version of the statute is supplied and will make it easier for the public to distinguish between rules and statutes.

The State Council also questioned the procedure established for resolving complaints. Specifically, the Council suggests that the identity of a complainant not be disclosed to a school unless the complainant consents. While the Department understands the Council’s concerns about retaliatory behavior, it also recognizes the school’s difficulty in responding to generalities and nonspecific charges. The regulation allows the Department to seek the complainant’s consent to disclose their identity and the Department routinely does so. The proposed complaint procedure is similar to that used for investigating complaints against holders of professional licenses (see 29 *Del.C.* §8807(h)), a situation analogous to the investigation of private business and trade schools. Finally, the Department concludes that a prohibition against retaliation should come through statutory amendment rather than through regulation.

The Department agrees with the State Council’s comment that the regulation should expressly provide that the complainant be notified when the Department concludes that additional investigation or a revocation proceeding is appropriate. As a practical matter, the complainant would be kept informed under these circumstances; the regulation should reflect that reality. The Department will add a sentence to proposed section 5.2 as follows: “In either event, the Department will notify the complainant of its conclusions and provide the complainant with a copy of the school or agent’s initial response, if any.” The Department does not believe that this is a substantive change because it simply reflects the Department’s practice in these matters and does not impose a new burden or requirement on the public.

Finally, the State Council recommends that a cross reference be added in this regulation to the Department’s existing regulation prohibiting unlawful discrimination. The Department agrees and will add the following sentence as new subsection 2.6: “Section 200.6.1.0 of the Department’s Regulations, prohibiting discrimination on the basis of race,

DEPARTMENT OF EDUCATION

Statutory Authority: 14 Delaware Code,
Section 122(d) (14 *Del.C.* 122(d))

Regulatory Implementing Order 396 Private Business and Trade Schools

I. Summary of the Evidence and Information Submitted

The Secretary of Education amends the regulation, Rules Regulations and Procedures of the Delaware State Board of Education for the Approval of Private Business and Trade Schools in Delaware. The amendments bring the regulation in line with the existing processes and procedures for approving Private Business and Trade Schools and eliminate the language that simply repeats the *Delaware Code*. The name of the regulation has been shortened to Private Business and Trade Schools and a section on complaints has been added. The amendments also reflect that the Department of Education, by legislative changes made to 14 *Del. C.* Chapter 85, is now the approving entity rather than the State Board of Education.

color, creed, national origin, disability, or gender in programs receiving approval from the Department, applies to private business and trade schools and agents approved by the Department.” This addition is not a substantive change since it simply cross references an already applicable regulation.

II. Findings of Facts

The Secretary finds that it is necessary to amend this regulation because of the changes to the *Delaware Code* and the need to bring the regulation into line with actual practice.

III. Decision to Amend the Regulation

For the foregoing reasons, the Secretary concludes that it is necessary to amend the regulation. Therefore, pursuant to 14 *Del. C.* Section 122, the regulation attached hereto as Exhibit B is hereby amended. Pursuant to the provisions of 14 *Del. C.* Section 122(e), the regulation hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

IV. Text and Citation

The text of the regulation amended hereby shall be in the form attached hereto as Exhibit B, and said regulation shall be cited in the *Regulations of the Department of Education*.

V. Effective Date of Order

The actions hereinabove referred to were taken by the Secretary pursuant to 14 *Del. C.* Section. 122, on November 9, 2000. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

IT IS SO ORDERED this 9th day of November, 2000.

DEPARTMENT OF EDUCATION

Valerie A Woodruff, Secretary of Education

396 Private Business and Trade Schools

1.0 Definitions. For purposes of this regulation,

1.1 “Department” means the Delaware Department of Education.

1.2 “Private business and trade school” and “school” have the same meaning as in 14 *Del. C.* §8501(1).

1.3 “Agent” has the same meaning as in 14 *Del. C.* §8501(4).

1.4 “Agent card” shall mean the pocket card provided for in 14 *Del. C.* §8510.

2.0 General Provisions

2.1 The distinguishing characteristic of a private business or trade school shall be the potential for wage earning by its graduates.

2.2 Private business and trade schools shall include:

2.2.1 correspondence school courses offered as post high school courses in trade or business subjects; and

2.2.2 programs that may also be available as high school introductory courses in trade or business subjects, without regard for the age or the prior educational attainment of the student.

2.3 A private business and trade school which actively seeks enrollees from the State of Delaware, or which sends an agent or agents into the State of Delaware to solicit enrollees, shall ensure that each of its agents maintains a current agent permit issued by the Department.

2.4 The term “agent” shall include individuals who solicit enrollees in Delaware even though the institution the agent represents does not conduct classes within the State of Delaware.

2.5 All advertising by a private business and trade school shall be in accordance with the statutes, rules and regulations for advertising administered and supervised by the Department of Justice Consumer Protection Division.

[2.6 The department’s regulation 225, Prohibition of Discrimination, prohibits discrimination on the basis of race, color, creed, national origin, disability, or gender in programs receiving approval from the Department applies to private business and trade schools and agents approved by the Department.]

3.0 Certificates of Approval

3.1 Applications for an initial certificate of approval to conduct a private business and trade school, and for annual renewal of such certificates, shall be made on forms approved by the Department and include such information and fees as required by the Department. Applications are not considered complete until all required information and fees are received by the Department.

3.2 A private business and trade school offering more than one program of instruction must have each program approved by the Department.

3.3 The Department may conduct an on-site evaluation of any applicant for a certificate of approval or for renewal of a certificate of approval. The Secretary of Education may waive an on-site evaluation if the applicant is accredited by a regional or national accrediting association recognized by the Department, or is certified to conduct a similar program or school by the state education agency of another state with comparable standards for such schools.

3.4 If a private business and trade school makes any material change in its operation, such as, but not limited to, corporate structure or financial structure, the school shall notify the Department of the change within thirty days. The

school shall also identify the change in its next renewal application.

3.5 The fees charged as filing and renewal fees are not refundable.

4.0 Agent Permits

4.1 Applications for an initial agent permit, and for renewal of such permits, shall be made on forms approved by the Department and include such information and fees as required by the Department. Applications are not considered complete until all required information and fees are received by the Department.

4.2 An agent representing more than one private business and trade school must apply for separate permits for each such school.

4.3 Agents shall apply to renew their permit(s) each year at the same time that the school or schools the agent represents make application to renew their respective certificates of approval. In the case of a school not conducting classes in Delaware, but sending agents into Delaware, the application for an agent's permit must be accompanied by a notarized verification of employment from the school represented and must be received by the Department on or before the expiration of the current permit. No permit shall be issued for a period of more than twelve calendar months.

4.4 No agent shall solicit Delaware enrollees on behalf of the private business and trade school represented until the Department issues the appropriate agent card.

4.5 The lapse, suspension, revocation, or non-renewal of a private business and trade school's certificate of approval for any cause shall terminate all agent permits for that institution.

4.6 A school shall report the discharge or resignation of any agent to the Department within thirty days.

4.7 The fee for the agent permit will be waived for the owner or chief executive officer of a private business and trade school who also serves as its agent. Each such individual must still apply for and obtain the agent permit. Any additional agents must obtain permits as otherwise described.

4.8 The fees charged as filing and renewal fees are not refundable.

5.0 Complaints

5.1 Each private business and trade school shall adopt a policy and procedures to address complaints by its students. The school's catalog shall contain its complaint policy and procedures or a reference to where the policy and procedures can be obtained.

5.2 In addition to the complaint procedures adopted by a private business and trade school for its students, the Department will investigate complaints by any person alleging facts which, if true, would constitute grounds for

refusing or revoking a certificate of approval or an agent permit. **[In either event, the Department will notify the complainant of its conclusions and provide the complainant with a copy of the school or agent's initial response, if any.]**

5.2.1 Such complaints must be in writing and verified by the signature of the person making the complaint. Oral, anonymous or unsigned complaints will not be investigated.

5.2.2 A copy of the written complaint will be provided to the affected private business and trade school or agent for their written response. The Department may require that the complainant provide written permission for the Department to forward the complaint to the school or agent.

5.2.2.1 If, after reviewing the school or agent's response, the Department concludes that there is insufficient evidence to believe that the school or agent has violated applicable law or a standard, rule or regulation of the Department, the Department may close the complaint without further investigation. In such case, the Department will notify the complainant and the school or agent of this conclusion and provide the complainant with a copy of the school or agent's response.

5.2.2.2 If, after reviewing the school or agent's response, the Department concludes that there is sufficient evidence to believe that the school or agent has violated applicable law or a standard, rule or regulation of the Department, the Department may continue its investigation or begin revocation or other action against the school or agent as the Department determines appropriate. The Department may also continue its investigation or begin revocation or other action if the school or agent fails to respond to a complaint within the time established by the Department.

5.3 The Department may also investigate circumstances which would constitute grounds for refusing or revoking a certificate of approval or an agent permit on its own initiative.

6.0 Denials and Revocations of Certificates and Permits

6.1 In view of an apparent conflict between the statutory statement in 14 *Del. C.* §8516 ("for any combination of the following") and 14 *Del. C.* §8517 ("for any cause enumerated in §8516"), the Department interprets and shall administer Section 8516 to mean that a certificate of approval or an agent permit may be denied or revoked "for any one or combination" of the causes identified in that Section.

7.0 Bonds

7.1 Applications for an initial certificate of approval shall include evidence that the required surety bond is valid through at least December 31 of the year of initial approval.

Thereafter, applications for renewal of certificates shall include evidence that the required surety bond is valid from January 1 through December 31 of the year for which the certificate is requested.

7.2 The amount of the surety bond required of a school shall be determined as provided in 14 Del. C. §8505(b). In no event shall a bond be for less than \$5,000 per calendar year.

7.3 The Department interprets and shall administer the phrase "fail to provide the services called for in a contract or agreement with a student," as used in 14 Del. C. Section 8523 to mean "fail to substantially provide the essential services."

7.4 Forfeiture

7.4.1 In the event a surety bond is forfeited, the Department shall notify the students identified on the last available school roster of their right to submit a claim for reimbursement. Such students shall have thirty days from the date they are notified by the Department to submit a claim for reimbursement. Claims received more than thirty days after the Department's notification shall not be considered.

7.4.2 Other students wishing to submit a claim for reimbursement must contact the Department within thirty days of the school's closing to submit their claim for reimbursement. Claims received more than thirty days after the school's closing shall not be considered.

7.4.3 Claims for reimbursement shall be submitted and documented as directed by the Department. The Department shall consider only appropriately documented claims in distributing the proceeds of any surety bond.

**Regulatory Implementing Order
716 Permanent Files of School Districts**

I. Summary of the Evidence and Information Submitted

The Secretary of Education amends regulation 716 Permanent Files of School Districts, from the *Regulations of the Department of Education*. The amendments include changing the title to Maintenance of Local School District Personnel Records to better reflect the intent of the regulation and changing sections 1.7.1 and 1.7.2 to reflect changes in procedure made by the Delaware Public Archives, formerly the Bureau of Archives and Records Management. The Delaware Public Archives is also retaining records for 60 years instead of 40 years and the *Delaware Code* gives them the authority to change the number of years that records must be retained.

Notice of the proposed regulation was published in the News Journal and the Delaware State News on September 21, 2000, in the form hereto attached as Exhibit A. The notice invited written comments and none were received

from the newspaper advertisements.

II. Findings of Facts

The Secretary finds that it is necessary to amend these regulations because the regulations must conform to the procedures of the Delaware Public Archives.

III. Decision to Amend the Regulations

For the foregoing reasons, the Secretary concludes that it is necessary to amend the regulations. Therefore, pursuant to 14 Del.C. Section 122, the regulations attached hereto as Exhibit B are hereby amended. Pursuant to the provisions of 14 Del.C. Section 122(e), the regulations hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

IV. Text and Citation

The text of the regulations amended hereby shall be in the form attached hereto as Exhibit B, and said regulations shall be cited in the *Regulations of the Department of Education*.

V. Effective Date of Order

The actions hereinabove referred to were taken by the Secretary pursuant to 14 Del.C. Section 122 on November 10, 2000. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

IT IS SO ORDERED this 10th day of November, 2000.

DEPARTMENT OF EDUCATION

Valerie A Woodruff, Secretary of Education

**716 Maintenance of Local School District Personnel
Records**

1.0 Definitions

1.1 "Employee" shall in this case mean any person whose terms of employment are adequate to qualify the employee for the earning of credit toward pension.

1.2 "Termination" in this case does not refer only to retirement but to any reason for the employee to leave the district.

2.0 Records for all school district employees shall be kept up to date including:

2.1 Salary data records for each year of employment in the school district. (Total salary paid identified as fiscal or calendar year); and

2.2 Records that show sick leave days earned and used

and the number of days available at any time; and

2.3 The record of vacation time for those employees whose terms of employment provide for earned vacation.

3.0 Each school district shall keep the records referred to in section 2.0 above for all employees for at least sixty years following termination of employment.

3.1 For the security of records and the protection of the personnel for whom the information is recorded, it is recommended that original records are to be maintained at the school district for three (3) years after termination of an employee and a successful audit of such records. Records are to be purged in accordance with Delaware Public Archives (DPA) School Districts General Records Retention Schedule and prepared for storage according to DPA's Records Management Handbook "Preparation of Records for Short-Term Storage." Records may remain in their original format and will then be transferred to DPA and retained in storage for [57 years the balance of the 60 required years]. Local District Records Officers and Authorized Agents may request files from storage in accordance with DPA's procedures for requesting files. At the end of the retention period, the documents will be destroyed in accordance with DPA's destruction procedures.

3.2 The style and form of the records shall be at the discretion of the local school districts, except that records transferred to the Delaware Public Archives for storage [must shall] be in a format acceptable to DPA. Individual local school districts may elect to have their records recorded onto a different type of media at district expense, in accordance with DPA guidelines.

3.2.1 The information referred to above shall be maintained and available for any employee or former employee seeking information concerning their own employment records for a period of 60 years after termination of employment. (It is recommended that for the convenience of employees and former employees that school districts develop an alphabetically arranged file showing the name of each employee and the disposition of his or her records.)

Regulatory Implementing Order
Amendments and Repeals from the Handbook for K-12
Education Sections II, III, and IV

I. Summary of the Evidence and Information Submitted

The Secretary of Education seeks the approval of the State Board of Education to selectively amend and repeal the following regulations in sections II. Elementary Education, III. Middle Level Education, and IV. High School from the *Handbook for K-12 Education*. The other changes

recommended at the October 20th meeting of the State Board have been withdrawn and will be resubmitted for discussion at the December 21st meeting of the State Board.

II. Elementary Education:

Repeal sections A.1. Grade Level, B. Kindergarten Position Statement, C. Purpose, D. Programs, numbers 3, 6, 7, and 8 and E. Time Allotments, because they are technical assistance statements.

Repeal sections D. Programs, numbers 1 and 4, because they simply repeat sections of the existing regulations on Content Standards and on Comprehensive Health and Family Life Education.

III. Middle Level Education:

Amend A.1 and 2, Middle Level Education Policy, by eliminating all of the policy except for the second part of the first paragraph in A.2 starting with the words "Beginning and newly employed teachers administrators and counselors" and ending with "needs of Adolescent students". Because of the existence of the state content standards and the performance indicators that clearly define academic requirements for all grade levels and the Neighborhood Schools Bill that permits numerous grade level configurations, this regulation is too prescriptive as to the design of a middle school. The remaining requirement for middle level certification is needed to support the regulations on certification for middle level educators and the amended regulation will be titled Middle Level Certification. Repeal sections B.1. and 2.c. because they are technical assistance statements and repeal 2.a. and d. because they simply repeat sections of the existing regulations on Content Standards and on Comprehensive Health and Family Life Education.

IV. High School:

Amend A.1 Purpose, and A.2 Credit Requirements, to simplify the regulation by eliminating the chart and clarifying what the exact credit requirements are beginning with the graduating class of 2000.

Repeal sections 3.c., d. and g., because they are technical assistance statements and repeal 3.a. and e. because they simply repeat sections of the existing regulations on Content Standards and on Comprehensive Health and Family Life Education.

Repeal Regulation 510, Computer Literacy Amendments to the Graduation Requirements from the *Regulations of the Department of Education* because it is now included as a definition in 1.1.2 in the regulation Credit Requirements for High School Graduation.

Notice of the proposed regulation was published in the News Journal and the Delaware State News on September 21, 2000 in the form hereto attached as Exhibit A. The notice invited written comments and none were received

from the newspaper advertisements.

II. Findings of Facts

The Secretary finds that it is necessary to approve the amended regulation Credit Requirements for High School Graduation because the amended version is clearer to the reader. The middle level policy has been amended to remove the prescriptive parts of the regulation and leave the middle level certification requirements. The repeal of the remaining regulations is necessary because all but one of the repealed regulations is either technical assistance or a repeat of existing regulations. The one exception, the repeal of the regulation Computer Literacy Amendments to the Graduation Requirements, is necessary because it is now part of the amended regulation Credit Requirements for High School Graduation.

III. Decision to Approve the Regulations Recommended For Amendment and Approve the Regulations Recommended for Repeal

For the foregoing reasons, the Secretary concludes that it is necessary to approve the amended regulations and approve the regulations recommended for repeal. Therefore, pursuant to 14 *Del.C.* Section 122, the regulations attached hereto as Exhibit B are hereby amended. Pursuant to the provisions of 14 *Del.C.* Section 122(e), the regulations hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below. Those regulations attached hereto as Exhibit C are hereby repealed and shall be removed from the *Handbook for K-12 Education* and in the case of the repeal of 510, Computer Literacy Amendments to the Graduation Requirements it shall be removed from the *Regulations of the Department of Education*.

IV. Text and Citation

The text of the regulations amended hereby shall be in the form attached hereto as Exhibit B, and said regulations shall be cited in the *Regulations of the Department of Education*.

V. Effective Date of Order

The actions hereinabove referred to were taken by the Secretary pursuant to 14 *Del. C.* Section 122, in open session at the said Board's regularly scheduled meeting on November 16, 2000. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

IT IS SO ORDERED this 16th day of November, 2000.

DEPARTMENT OF EDUCATION

Valerie A Woodruff, Secretary of Education

Approved this 16th day of November, 2000.

STATE BOARD OF EDUCATION

- Dr. James L. Spartz, President
- Jean W. Allen, Vice President
- Mary B. Graham, Esquire
- John W. Jardine, Jr.
- Dr. Joseph A. Pika
- Dennis J. Savage
- Dr. Claibourne D. Smith

As Appears In The Handbook For K-12 Education

~~H. ELEMENTARY EDUCATION~~

~~A. ELEMENTARY SCHOOL ORGANIZATIONS~~

~~1. GRADE LEVEL~~

~~In Delaware, elementary schools come in many configurations: kindergarten through sixth; K-3; 4-6; and so on. Whatever the organization or structure, the basic goal is to provide a program of rich learning experiences, not just in preparation for the next grade, but for becoming a life-long learner. Indeed, the very foundation of all future learning is provided in the elementary school.~~

~~B. KINDERGARTEN POSITION STATEMENT~~

~~1. As the kindergarten child embarks on his/her first step into the schooling process, the unique characteristics of this age child dictate a program of rich learning experiences, not just in preparation for the next grade, but for becoming a life-long learner. The program should provide continuity for experiences which promote growth, challenge thinking, instill a love for learning, and equally encourage the development of cognitive, affective and psychomotor skills. The value of the program is in providing opportunities for maximizing the growth and development of the whole child. Children must be allowed to be children—they have the right to childhood.~~

~~2. Because of these beliefs the following statements would be reflective of education provided kindergarten children in Delaware. Therefore, a kindergarten should be a place where:~~

~~a. Children experience a planned, child-centered environment that encourages learning through exploration and discovery...~~

~~... rather than a sit-down-be-quiet classroom dominated by desks, paper, workbooks, and often improperly used technology.~~

~~b. Children experience opportunities to make choices and decisions...~~

~~... rather than participate in activities where children are not given the opportunity to choose.~~

~~c. Children use concrete materials which~~

allow for individual differences and natural variations in each one's ability to perform...

... rather than being required to perform the same task, reach the same level of performance, and accomplish the same objectives.

d. Children experience activities which permit more than one right answer. Divergent thinking should be developed and encouraged through use of open-ended materials and many informal conversations among the children and with adults...

... rather than learn in a place where the day's activities are largely dominated by worksheets and formal teacher-led discussions requiring predetermined responses.

e. Children's own language, background, experiences, and stages of development form the basis of the reading and writing activities...

... rather than the children being required to learn to read only through the use of a commercially produced reading program.

f. Children learn to enjoy the books and to appreciate literary language through a daily story time, creative dramatics, library experiences, and repeated opportunities to hear and learn simple rhymes and other poems...

... rather than a place where the day is too short for story time and the opportunity to appreciate literature is neglected.

g. Children participate in daily, planned activities which foster both gross and fine motor development. Activities such as running, jumping, bouncing balls, lacing cards, hammering nails, playing with clay, etc. are encouraged...

... rather than inappropriate or trivial tasks which exceed their ability such as forming letters correctly on lined paper.

h. Children develop mathematical understanding through the use of familiar manipulatives such as sand, water, unit blocks, counters, and other concrete materials...

... rather than using pencil and paper tasks that demand a single response answer.

i. Children's curiosity about natural, familiar elements forms the basis of scientific observations, experimentation, and conclusions. Both planned and spontaneous interaction with real objects such as plants, animals, rocks, soil, water, etc., is considered to be essential...

... rather than a place where science is included only when time permits or where the books describe outcomes and teachers do the experiments.

j. Experimentation, enjoyment and appreciation of varied forms of music are encouraged on a daily basis...

... rather than a place where music is included only when time permits or the music specialist works with the class.

k. Many forms of art expression are encouraged through the use of a wide assortment of media integrated within the daily curriculum. The final product is never as important as the process of creating...

... rather than a place where art usually consists of copying a model, coloring a ditto, or cutting and pasting a pattern, and/or where art is delegated to the specialist.

l. Parents and school personnel work cooperatively to build a partnership between home and school that will support the child throughout the school experience...

... rather than a place where parents feel removed from their child's experience.

m. The mental and physical well-being of each child is of paramount importance. Different levels of ability and development are expected, valued and accepted...

... rather than a place where external pressures for group achievement, especially as measured by group achievement tests, are more important than the individual needs of children.

n. All the activities are planned to promote a positive self-image and positive attitudes toward school and peers...

... rather than a place where the child's worth is measured only by his or her ability to conform to unrealistic or impractical expectations.

o. Play is respected for its value as an appropriate and essential learning medium for children of his age...

... rather than a place where play is de-emphasized because the child "played enough" in preschool and should now be ready for "real" learning.

p. The curriculum is organized around topics of interest to young children and skills are integrated into children's natural exploration of the selected topics...

... rather than a place where skills are taught in isolation and the "curriculum" is the next page in the workbook or the next letter of the alphabet.

q. Children's knowledge and skills are measured over the year through teacher observations, anecdotal records, parent questionnaires, and formal assessment instruments...

... rather than through a standardized, paper-pencil instrument implemented during one week in the spring or fall.

(State Board Approved January 1990)

C. PURPOSE

1. Elementary schools are characterized by: an

emphasis on teaching students rather than teaching disciplines; multi-disciplinary instructional approaches; lessons designed to foster cooperation rather than competition; careful monitoring of student progress, and a clear and comprehensive curricular progression. The elementary classroom is committed to both the cognitive and affective learning success of students.

In the education of the elementary child, value must be placed on:

- a. a humanistic climate that fosters a positive self concept;
- b. a range of tasks that addresses the individual abilities and interests of children to promote successful experiences;
- c. a developmental program that moves only from the concrete (hands-on) tasks to the abstract when there are valid indications that the child is ready;
- d. an attitude that children have an innate drive and ability to learn;
- e. an integrated curriculum rather than emphasis on facts and skills taught in isolation;
- f. parents, teachers and support staff working together for the educational growth and success of each child; and
- g. a commitment to foster the natural inquisitiveness and sense of wonder most young children bring to school.

D. PROGRAMS

1. PROGRAMS IN ENGLISH LANGUAGE ARTS, MATHEMATICS, SCIENCE AND SOCIAL STUDIES

a. Elementary school programs in English language arts, mathematics, science and social studies must be aligned with the state content standards as adopted by the State Board of Education in June, 1995.

3. GIFTED AND TALENTED EDUCATION

a. Refer to Programs for Gifted and Talented Students in the State of Delaware, an annual publication for specific district and higher education program offerings. Also, see "Low-Cost Options for Students with Special Gifts & Talents" (Appendix E) and "Program Standards for Gifted and Talented Programs in the State of Delaware" (Appendix F).

4. HEALTH AND FAMILY LIFE EDUCATION

a. Health education is a means of enabling the individual to use the skills of decision-making, critical thinking, and self-discipline to undertake a more active role in the maintenance and improvement of one's social, physical, and emotional health. While many persons enjoy better health and an increased life span due to research, improved medical care, and new drugs, their future vitality, productivity, and longevity will depend on the choices they make each day about diet, exercise, safety, and use of tobacco, alcohol, and drugs.

b. Health instruction is mandated in the Delaware Code, Title 14, Chapter 122 "...requiring that all pupils of all public elementary schools and all public high schools of the state be instructed in physiology and hygiene with special reference to the effects of alcoholic drinks, stimulants, and narcotics upon the human system."

e. The Comprehensive Health and Family Life Education Policy requires thirty (30) hours of Health and Family Life Education in each grade K-4 of which ten (10) hours in each grade must address Drug/Alcohol Education. In grades 5 and 6, thirty-five (35) hours of Health and Family Life Education are required in each grade of which fifteen (15) hours must address Drug/Alcohol Education. (See Page A-55 of the Handbook for this policy, State Board Approved September 1987, Revised July 1990)

6. SAFETY

a. Elementary school safety instruction should include experiences through which students learn to make wise choices when injury to self or others occurs.

b. Effective teaching should be based on an awareness of the safety needs of the individual with a positive approach so as not to instill fear.

e. Lessons on safety should be integrated into most subject areas with a variety of experiences designed to develop and reinforce desirable attitudes, knowledge and skills.

d. Areas receiving special focus should include school bus safety, pedestrian safety, bicycle safety, fire prevention, general school safety, and disaster preparedness.

7. TECHNOLOGY EDUCATION

a. Elementary school technology education activities are designed to assist in the attainment of educational goals within the total elementary school program. These activities orient students to technology, develop personal psychomotor skills, and refine attitudes concerning technological literacy and impact on society.

b. Technology activities should be integrated with the total elementary school curriculum and should provide students with experiences that reinforce the goals for quality education and provide them with concrete, practical experiences that reinforce their curriculum. In addition, the use of a team approach, on a part-time or full-time basis, will provide a more effective elementary school technology education program.

8. CAREER AWARENESS

a. Career awareness should be an integral part of all elementary school programs. The most desirable approach seems to be the incorporation of career awareness education into the already existing curriculum and elementary guidance counselors can play a significant role in assisting teachers with the task.

b. Students learn best those things which they see as important to them. Exploring careers is directly

relevant to the lives of young people. Relating traditional subject matter to careers adds meaning to the study of those subjects. There are few students who are not interested in the following questions. Who am I? What can I do? How do I become . . .? The total curriculum can even be designed to revolve around what people do for a living and questions about the work world in general.

e. The place of the traditional areas of curriculum are not reduced in importance with a career education program. They become more meaningful to the students since they are no longer studied as a means to an end. The basic elementary curriculum becomes a part of the career awareness program and the career awareness program contributes relevancy to a basic education.

E. TIME ALLOTMENTS

1. Time allotments for all programs are determined in accordance with the priorities established by each school and/or school district providing that such priorities are based on identified needs.

III. MIDDLE LEVEL EDUCATION

B. PROGRAMS

1. MIDDLE LEVEL PROGRAMS

- a. English/Language Arts
- b. Math
- c. Science
- d. Social Studies
- e. Visual and Performing Arts
- f. Foreign Language
- g. Gifted and Talented Education
- h. Health and Family Life Education
- i. Physical Education
- j. Pre-Vocational-Technical Education
Orientation/Exploration

k. Home Economics and Family Life/
Parenting Education

- l. Technology Education

2. ADDITIONAL MIDDLE SCHOOL REQUIREMENTS

a. Programs In English Language Arts, Mathematics, Science and Social Studies

(1) Middle level school programs in English language arts, mathematics, science and social studies must be aligned with the state content standards as adopted by the State Board of Education in June, 1995.

- e. Gifted and Talented Education

(1) Refer to Programs for Gifted and Talented Students in the State of Delaware, an annual publication for specific district and higher education program offerings. Also, see "Low-Cost Options for Students with Special Gifts & Talents" (Appendix E) and "Program Standards for Gifted and Talented Programs in the State of Delaware" (Appendix F).

- d. Comprehensive Health Education and

Family Life Education

Based on the Comprehensive Health Education and Family Life Education Policy, Health and Family Life Education must be provided in grades 5 and 6 for thirty-five (35) hours in each grade of which fifteen (15) hours in each grade must address Drug/Alcohol Education. In grades 7 and 8, separate from other subject areas, there must be a minimum of sixty (60) hours of Comprehensive Health Education of which fifteen (15) hours in each grade must address Drug/Alcohol Education. If all of the sixty (60) hours are provided in one year at grade 7 or 8, an additional fifteen (15) hours of Drug and Alcohol Education must be provided in the other grade. (See Page A-55 of the Handbook for this Policy, State Board Approved September 1987, Revised July 1990)

IV. HIGH SCHOOL

A. REGULAR HIGH SCHOOL PROGRAMS

3. SPECIFIC PROGRAM REQUIREMENTS

a. Programs in English Language Arts, Mathematics, Science and Social Studies

High school programs in English language arts, mathematics, science, and social studies must be aligned with the state content standards as adopted by the State Board of Education in June, 1995.

- e. Foreign Language

(1) In order to meet college entrance requirements all college bound high school students must take at least two years of the same foreign language in order to accumulate two units of credit in a foreign language.

- d. Gifted and Talented Education

(1) Refer to Programs for Gifted and Talented Students in the State of Delaware, an annual publication for specific district and higher education program offerings. Also, see "Low-Cost Options for Students with Special Gifts & Talents" (Appendix E) and "Program Standards for Gifted and Talented Programs in the State of Delaware" (Appendix F).

- e. Health

(1) Health Education may be taught at any grade level from 9-12 in order to accumulate 1/2 credit. The 1/2 credit is earned apart from the requirement for physical education and health instruction associated with other subjects and must incorporate state standards for 9-12 health education programs. Fifteen (15) hours of this 1/2 credit course must address Drug/Alcohol Education and in each of the remaining three grades, fifteen (15) hours of Drug/Alcohol Education must be provided for all students. (See Page A-55 of the Handbook for this Policy, State Board Approved September 1987, Revised July 1990)

(2) The time equivalent for 1/2 credit for health education shall be a minimum of 60 clock hours of instruction during a semester or the course of a school year.

- g. Technology Education

All high schools should provide a program in Technology Education, grades 9 – 12. This program should include as a minimum, technology foundations and technology transfer and assessment. To meet the students' needs to become technologically literate citizens, the senior high technology education program should be comprehensive and emphasize the application of mathematical and scientific principles. Students wishing to develop transferable skills or increased adaptability and diversification for employment, life, or further education will benefit from one of the Technology Education program's offerings containing a sequence of at least two courses. The high school programs should complement the middle level curriculum and offer sequential courses which build on previously learned content for reinforcement of technology content skills and applied knowledge.

510 Computer Literacy Amendments to the Graduation Requirements

1.0 One credit in Computer Literacy shall be required beginning with the graduating class of 1999. The intent of the requirement is to ensure that all Delaware high school graduates are proficient with the productive uses of computers. A unit of credit toward graduation should be granted at any point when the student can demonstrate competency in the required skill areas either through an integrated approach or a specific course or a demonstration of accumulated knowledge over the student's educational career.

511 Credit Requirements for High School Graduation

1.0 No public school student shall be granted a State of Delaware Diploma unless such student shall have successfully completed a minimum of twenty-two credits in order to graduate including:

4 credits in English Language Arts, 3 credits in mathematics, 3 credits in science, 3 credits in social studies, 1 credit in physical education, 1/2 credit in health, 1 credit in computer literacy, 3 credits in a career pathway, and 3 1/2 credits in elective courses.

1.1 Definitions:

1.1.1 "Credit" means a minimum of 135 hours of actual classroom instruction or a demonstration of competency.

1.1.2 "Credit for Computer Literacy" means credit granted toward graduation at any point when the student can demonstrate competency in the required skill areas either through an integrated approach, a specific course, or a demonstration of accumulated knowledge over the student's educational career.

1.1.3 "Career Pathway" means a planned program of sequenced or specialized courses designed to develop

knowledge and skills in a particular career or academic area.

2.0 Local school boards may establish requirements over and above the minimum number of credits required by the State Department of Education.

309 Middle Level Certification

1.0 By September 1998, all beginning and newly employed teachers, administrators and counselors who work in middle level programs shall hold either a middle level endorsement or certificate. This endorsement and/or certificate intends that the middle level educator has knowledge of the middle level curriculum and instructional strategies as well as an understanding of the nature and needs of young adolescent students.

Regulatory Implementing Order 1101 Standards for School Buses

I. Summary of the Evidence and Information Submitted

The Secretary of Education seeks the approval of the State Board of Education to amend regulation 1101, Standards for School Buses, found in the *Regulations of the Department of Education*. The amendments add 2.19.2 concerning heaters on school buses which was inadvertently left out when the regulations were revised but continued to be used in the bidding process. The amendments also add a new section 2.41 on strobe lights for school buses. This change was mandated through legislative action in House Bill 442 as amended by House amendment #1 during the 1999-2000 legislative session.

Notice of the proposed regulation was published in the News Journal and the Delaware State News on September 21, 2000 in the form hereto attached as Exhibit A. The notice invited written comments and none were received from the newspaper advertisements.

A letter was received from the State Council for Persons with Disabilities expressing concern that in 2.17.3, latex gloves are required in body fluid clean up kits and that people have allergic reactions to latex gloves. The regulation has been changed to medical examination gloves as per the National Transportation Specifications and Procedures approved by the 13th National Conference on School Transportation. The other concerns expressed are being considered and will be reexamined as per national standards.

II. Findings of Facts

The Secretary finds that it is necessary to amend these

regulations in order to correct an omission, add the section mandated by the *Delaware Code* and change latex disposal gloves to medical examination gloves.

III. Decision to Amend the Regulations

For the foregoing reasons, the Secretary concludes that it is necessary to amend the regulation. Therefore, pursuant to 14 *Del.C.* Section 122, the regulation attached hereto as Exhibit B is hereby amended. Pursuant to the provisions of 14 *Del.C.* Section 122(e), the regulation hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

IV. Text and Citation

The text of the regulation amended hereby shall be in the form attached hereto as Exhibit B, and said regulation shall be cited in the *Regulations of the Department of Education*.

V. Effective Date of Order

The actions hereinabove referred to were taken by the Secretary pursuant to 14 *Del.C.* Section 122, in open session at the said Board's regularly scheduled meeting on November 16, 2000. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

IT IS SO ORDERED this 16th day of November, 2000.

DEPARTMENT OF EDUCATION

Valerie A Woodruff, Secretary of Education

Approved this 16th day of November, 2000.

STATE BOARD OF EDUCATION

Dr. James L. Spartz, President

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1101 Standards for School Buses

1.0 Bus Chassis Standards

1.1 Air Cleaner

1.1.1 The engine intake air cleaner system shall be furnished and properly installed by the chassis manufacturer to meet engine manufacturer's specifications.

1.1.2 The intake air system for diesel engines shall have an air cleaner restriction indicator properly installed by

the chassis manufacturer to meet engine specifications.

1.2 Axles: The front and rear axle and suspension systems shall have gross axle weight rating at ground commensurate with the respective front and rear weight loads that will be imposed by the bus.

1.3 Brakes

1.3.1 The braking system shall include the service brake, an emergency brake that is a part of the service brake system and controlled by the service brake control, and a parking brake.

1.3.2 Buses using air or vacuum in the operation of the brake system shall be equipped with warning signals, readily audible and visible to the driver, that will give a continuous warning when the air pressure available in the system for braking is 60 psi (pounds per square inch) or less or the vacuum in the system available for braking is eight (8) inches of mercury or less. An illuminated gauge shall be provided that will indicate to the driver the air pressure in pounds per square inch or the inches of mercury vacuum available for the operation of the brakes.

1.3.2.1 Vacuum-assist brake systems shall have a reservoir used exclusively for brakes that shall adequately ensure a full stroke application that loss in vacuum shall not exceed 30 percent with the engine off. Brake systems on gas-powered engines shall include suitable and convenient connections for the installation of a separate vacuum reservoir.

1.3.2.2 Any brake system with a dry reservoir shall be equipped with a check-valve or equivalent device to ensure that in the event of failure or leakage in its connection to the source of compressed air or vacuum, the stored dry air or vacuum shall not be depleted by the leakage or failure. All buses with an air brake system shall be equipped with an air dryer.

1.3.2.3 Buses using a hydraulic-assist brake shall be equipped with warning signals, readily audible and visible to the driver, that will provide continuous warning in the event of a loss of fluid flow from primary source and in the event of discontinuity in that portion of the vehicle electrical system that supplies power to the backup system.

1.3.2.4 The brake lines and booster-assist lines shall be protected from excessive heat and vibration and installed in a manner which prevents chafing.

1.3.2.5 All brake systems shall be designed to permit visual inspection of brake lining wear without removal of any chassis components.

1.3.2.6 Antilock brake systems for either air or hydraulic brakes shall include control of all axles in compliance with FMVSS 105 or 121.

1.4 Bumper Front

1.4.1 All school buses shall be equipped with a front bumper. The front bumper shall be furnished by the chassis manufacturer as part of the chassis on all types of chassis unless there is a specific arrangement between the

chassis manufacturer and body manufacturer that the body manufacturer will furnish the front bumper.

1.4.2 Unless an energy absorbing bumper is used, the front bumper shall be of pressed steel channel or equivalent material at least 3/16" thick and not less than 8" wide (high) and shall extend beyond forward-most part of the body, grille, hood, and fenders and shall extend to outer edges of the fenders at the bumper's top line.

1.4.3 Front bumper, except breakaway bumper ends, shall be of sufficient strength to permit pushing a vehicle of equal gross vehicle weight without permanent distortion to the bumper, chassis, or body.

1.4.4 The bumper shall be designed or reinforced so that it will not deform when the bus is lifted by a chain that is passed under the bumper (or through the bumper if holes are provided for this purpose) and attached to both tow eyes. For the purpose of meeting this standard, the bus shall be empty and positioned on a level, hard surface and both tow eyes shall share the load equally.

1.4.5 If an optional energy-absorbing front bumper is used, it shall meet the strength requirements in the 1995 National Standards.

1.5 Certification: Chassis manufacturer will, upon request, certify to the state agency having pupil transportation jurisdiction that their product meets minimum standards on items not covered by certification issued under requirements of the National Traffic and Motor Vehicle Safety Act.

1.6 Clutch

1.6.1 Clutch torque capacity shall be equal to or greater than the engine torque output.

1.6.2 A starter interlock shall be installed to prevent actuation of the starter if the clutch is not depressed.

1.7 Color

1.7.1 Chassis, including wheels and front bumper, shall be black. Body cowl, hood, and fenders shall be in National School Bus Yellow (NSBY). The hood may be painted with non-reflective paint. (See Appendix B, 1995 National Standards)

1.7.2 Demountable rims, if used, may be, silver, gray or black as received from the wheel manufacturer.

1.8 Daytime Running Lights: Exterior head lamps and parking lamps may be provided with a switch to automatically operate said lamps when the vehicle's ignition is engaged. This switch, if furnished shall not engage while the starter is engaged. If this switch is designed to provide reduced illumination under normal operating conditions, a means whereby the head lamps and parking lamps can be engaged at full power shall be provided.

1.9 Drive Shaft: Drive shaft shall be protected by a metal guard or guards around the circumference of the drive shaft to reduce the possibility of its whipping through the floor or dropping to the ground if broken.

1.10 Electrical System

1.10.1 Battery

1.10.1.1 Storage battery shall have minimum cold cranking capacity rating equal to the cranking current required for 30 seconds at 0 degrees Fahrenheit (-17.8⁰ C) and a minimum reserve capacity rating of 120 minutes at 25 amps. Higher capacities may be required depending upon optional equipment and local environmental conditions.

1.10.1.2 Since all batteries are to be secured in a sliding tray in the body, chassis manufacturers shall temporarily mount the battery on the chassis frame, except that van conversion or cutaway front-section chassis may be manufacturer's standard configuration. In these cases, the final location of the battery and the appropriate cable lengths shall be according to the SBMI Design Objectives Booklet, 1990 edition, or as mutually agreed upon by the chassis and body manufacturer. In all cases, however, the battery cable provided with the chassis shall have sufficient length to allow some slack.

1.10.2 Alternator

1.10.2.1 All Type A buses and Type B buses up to 15,000 lbs. GVWR shall have a minimum 60 ampere alternator.

1.10.2.2 Types A-I and Type B buses over 15,000 lbs. GVWR and all types C and D buses shall be equipped with a heavy-duty truck or bus-type alternator meeting SAE J 180, having a minimum output rating of 100 amperes. Alternators of 100 through 145 ampere design shall produce a minimum of 50 amperes output at engine idle speed.

1.10.2.3 All buses equipped with an electrical power lift shall have a minimum 130 ampere alternator.

1.10.2.4 Direct-drive alternator is permissible in lieu of belt drive. Belt drive shall be capable of handling the rated capacity of the alternator with no detrimental effect on other driven components.

1.10.2.5 Refer to SBMI Design Objectives, 1990 edition for estimating required alternator capacity.

1.10.3 Wiring

1.10.3.1 All wiring shall conform to current applicable recommended practices of the Society of Automotive Engineers (SAE).

1.10.3.1.1 All wiring shall use a standard color and number coding and each chassis shall be delivered with a wiring diagram that illustrates the wiring of the chassis.

1.10.3.2 Chassis manufacturer shall install a readily accessible terminal strip or plug on the body side of the cowl, or in an accessible location in the engine compartment of vehicles designed without a cowl, that shall contain the following terminals for the body connections:

1.10.3.2.1 Main 100 amp body circuit

1.10.3.2.2 Tail lamps

1.10.3.2.3 Right turn signal

1.10.3.2.4 Left turn signal

1.10.3.2.5 Stop lamps

1.10.3.2.6 Back up lamps

1.10.3.2.7 Instrument panel lights
(rheostat controlled by head lamp switch)

1.10.4 Circuits

1.10.4.1 An appropriate identifying diagram (color and number coded) for electrical circuits shall be provided to the body manufacturer for distribution to the end user.

1.10.4.2 Headlight system must be wired separately from the body-controlled solenoid.

1.11 Exhaust System

1.11.1 Exhaust pipe, muffler and tailpipe shall be outside the bus body compartment and attached to the chassis so as not to damage any other chassis component.

1.11.2 Tailpipe shall be constructed of a corrosion-resistant tubing material at least equal in strength and durability to 16-gauge steel tubing.

1.11.3 Chassis manufacturers shall furnish an exhaust system with tailpipe of sufficient length to exit the rear of the bus or at the left side of the bus body no more than 18" forward of the front edge of the rear wheel house opening. If designed to exit at the rear of the bus, the tailpipe shall extend at least five inches beyond the end of the chassis frame. If designed to exit to the side of the bus, the tailpipe shall extend at least 48.5 inches (51.5 inches if the body is to be 102 inches wide) outboard from the chassis centerline.

1.11.3.1 On Types C and D vehicles, the tailpipe shall not exit beneath a fuel fill or emergency door exit.

1.11.3.2 Type A and B chassis may be furnished with the manufacturer's standard tailpipe configuration.

1.11.4 Exhaust system on a chassis shall be adequately insulated from the fuel system.

1.11.5 Muffler shall be constructed of corrosion-resistant material.

1.11.6 The exhaust system on vehicles equipped with a power lift unit may be routed to the left of the right frame rail to allow for the installation of a power lift unit on the right side of the vehicle.

1.12 Fenders, Front-Type C Vehicles

1.12.1 Total spread of outer edges of front fenders, measured at fender line, shall exceed total spread of front tires when front wheels are in straight-ahead position.

1.12.2 Front fenders shall be properly braced and free from any body attachments.

1.13 Frame

1.13.1 Frame or equivalent shall be of such design and strength characteristics as to correspond at least to standard practice for trucks of the same general load characteristics which are used for highway service.

1.13.2 Any secondary manufacturer that modifies

the original chassis frame shall guarantee the performance of workmanship and materials resulting from such modification.

1.13.3 Frames shall not be modified for the purpose of extending the wheel base.

1.13.4 Holes in top or bottom flanges or side units of the frame, and welding to the frame, shall not be permitted except as provided or accepted by chassis manufacturer.

1.13.5 Frame lengths shall be provided in accordance with SBMI Design Objectives, 1990 edition, except where body and chassis manufacturer are the same or have established mutual design criteria for the vehicle.

1.14 Fuel Tank

1.14.1 Fuel tank or tanks having a 30 gallon capacity with a 25 gallon actual draw shall be provided by the chassis manufacturer. The tank shall be filled and vented to the outside of the body, in a location where accidental fuel spillage will not drip or drain on any part of the exhaust system.

1.14.2 No portion of the fuel system which is located outside the engine compartment, except the filler tube, shall extend above the top of the chassis frame rail. Fuel lines shall be mounted to obtain maximum possible protection from the chassis frame.

1.14.3 Fuel filter with replaceable element shall be installed between the fuel tank and engine.

1.14.4 Fuel tank installation shall be in accordance with SBMI Design Objectives, 1990 edition, and all Federal Motor Vehicle Safety Standards in effect on the date of manufacture of the bus.

1.14.4.1 Fuel tank(s) may be mounted between the chassis frame rails or outboard of the frame rails on either the left or right side of the vehicle.

1.14.5 The actual draw capacity of each fuel tank shall be 83% of the tank capacity.

1.14.6 Unless specific agreement has been made between the body and chassis manufacturers, fuel tanks and filler spouts shall not be located in spaces restricted by SBMI Design Objectives, 1990 edition.

1.14.7 Installation of alternative fuel systems, including fuel tanks and piping from tank to engine, shall comply with all applicable fire codes and applicable Federal Motor Vehicle Safety Standards in effect on the date of manufacture of the bus.

1.14.7.1 Installation of LPG tanks shall comply with National Fire Protection Association (NFPA) 58. Installation of other alternative fuel tanks shall comply with applicable NFPA standards.

1.14.8 Fuel gauges must be calibrated for size of tank used. If more than one tank is used, there must be a gauge for each tank.

1.15 Governor

1.15.1 An engine governor and/or road speed governor is/are permissible.

1.15.2 When engine is remotely located from driver, the governor shall be set to limit engine speed to maximum revolutions per minute recommended by engine manufacturer, and a tachometer shall be installed so the engine speed may be known to the driver.

1.16 Heating System, Provision For: The chassis engine shall have plugged openings for the purpose of supplying hot water for the bus heating system. The openings shall be suitable for attaching 3/4 inch pipe thread/hose connector. The engine shall be capable of supplying water having a temperature of at least 170 degrees Fahrenheit at a flow rate of 50 pounds per minute at the return end of 30 feet of one inch inside diameter automotive hot water heater hose. (SBMI Standard No. 001--Standard Code for Testing and Rating Automotive Bus Hot Water Heating and Ventilating Equipment.)

1.17 Horn: Bus shall be equipped with horn or horns of standard make with each horn capable of producing a complex sound in bands of audio frequencies between 250 and 2,000 cycles per second and tested in accordance with SAE J-377.

1.18 Instruments and Instrument Panel

1.18.1 Chassis shall be equipped with the following instruments and gauges. (Lights in lieu of gauges are not acceptable, except as noted):

1.18.1.1 Speedometer

1.18.1.2 Odometer which will give accrued mileage (to seven digits), including tenths of miles.

1.18.1.3 Voltmeter: Ammeter with graduated charge and discharge, with ammeter and its wiring compatible with generating capacities, is permitted in lieu of voltmeter.

1.18.1.4 Oil pressure gauge

1.18.1.5 Water temperature gauge

1.18.1.6 Fuel gauge

1.18.1.7 Upper beam headlight indicator

1.18.1.8 Brake indicator gauge (vacuum or air): Light indicator in lieu of gauge is permitted on vehicle equipped with hydraulic-over-hydraulic brake system.

1.18.1.9 Turn signal indicator

1.18.1.10 Glow-plug indicator light where appropriate

1.18.2 All instruments shall be easily accessible for maintenance and repair.

1.18.3 Instruments and gauges shall be mounted on the instrument panel so that each is clearly visible to the driver while seated in a normal driving position in accordance with SBMI Design Objectives, 1990 edition.

1.18.4 Instrument panel shall have lamps of sufficient candlepower to illuminate all instruments and gauges and shift selector indicator for automatic transmission.

1.19 Oil Filter: An oil filter with a replaceable element shall be provided and connected by flexible oil lines if not a

built-in or an engine-mounted design. The oil filter shall have a capacity of at least one (1) quart.

1.20 Openings: All openings in the floorboard or firewall between chassis and passenger compartment, such as for gearshift selector and parking brake lever, shall be sealed.

1.21 Passenger Load

1.21.1 Actual gross vehicle weight (GVW) is the sum of the chassis weight, plus the body weight, plus the driver's weight, plus total seated pupil weight. (For purposes of calculation, the driver's weight is 150 pounds and the pupil weight is 120 pounds per pupil.)

1.21.2 Actual gross vehicle weight (GVW) shall not exceed the chassis manufacturer's GVWR for the chassis nor shall the actual weight carried on any axle exceed the chassis manufacturer's GVWR.

1.21.3 Manufacturer's GVWR shall be furnished in duplicate (unless more are requested) by manufacturers to the Delaware Department of Education. The Department of Education shall, in turn, transmit such ratings to other state agencies responsible for development or enforcement of state standards for school buses.

1.22 Power and Grade Ability: GVWR shall not exceed 185 pounds per published net horsepower of the engine at the manufacturer's recommended maximum number of revolutions per minute.

1.23 Shock Absorbers: The bus shall be equipped with double-action shock absorbers compatible with manufacturer's rated axle capacity at each wheel location.

1.24 Springs

1.24.1 The capacity of springs or suspension assemblies shall be commensurate with the chassis manufacturer's GVWR.

1.24.2 Steel leaf rear springs shall be a progressive rate or multi-stage design. Front leaf springs shall have a stationary eye at one end and shall be protected by a wrapped leaf in addition to the main leaf.

1.25 Steering Gear

1.25.1 The steering gear shall be approved by the chassis manufacturer and designed to ensure safe and accurate performance when the vehicle is operated with maximum load and at maximum speed.

1.25.2 If external adjustments are required, steering mechanism shall be accessible to accomplish same.

1.25.3 No changes shall be made in the steering apparatus which are not approved by the chassis manufacturer.

1.25.4 There shall be a clearance of at least 2 inches between the steering wheel and cowl, instrument panel, windshield, or any other surface.

1.25.5 Power steering is required and shall be of the integral type with integral valves.

1.25.6 The steering system shall be designed to provide a means for lubrication of all wear-points, if wear-

points are not permanently lubricated.

1.26 Throttle: The force required to operate the throttle shall not exceed 16 pounds throughout the full range of accelerator pedal travel.

1.27 Tires and Rims

1.27.1 Tires and rims of the proper size and tires with a load rating commensurate with chassis manufacturer's gross vehicle weight rating shall be provided. The use of multi-piece rims and/or tube-type tires shall not be permitted.

1.27.2 Dual rear tires shall be provided on Type A-I, Type B, Type C, and Type D buses.

1.27.3 All tires on a vehicle shall be of the same size, and the load range of the tires shall meet or exceed the GVWR as required by FMVSS 120.

1.27.4 If the vehicle is equipped with a spare tire and rim assembly, it shall be the same size as those mounted on the vehicle.

1.27.5 If a tire carrier is required, it shall be suitably mounted in an accessible location outside the passenger compartment.

1.28 Tow Eyes or Hooks: Tow eyes or hooks shall be furnished and attached so as not to project beyond the front bumper. Tow eyes or hooks attached to the frame chassis shall be furnished by the chassis manufacturer. This installation shall be in accordance with the chassis manufacturer's standards.

1.29 Transmission

1.29.1 Automatic transmissions shall have no fewer than three forward speeds and one reverse speed. The shift selector shall provide a detent between each gear position when the gear selector quadrant and shift selector are not steering column mounted.

1.29.2 In manual transmissions, second gear and higher shall be synchronized except when incompatible with engine power. A minimum of three forward speeds and one reverse speed shall be provided.

1.30 Turning Radius

1.30.1 A chassis with a wheelbase of 264 inches or less shall have a right and left turning radius of not more than 42 1/2 feet, curb-to-curb measurement.

1.30.2 A chassis with a wheelbase of 265 inches or more shall have a right and left turning radius of not more than 44 1/2 feet, curb-to-curb measurement.

1.31 Undercoating: The chassis manufacturers or their agent shall coat the undersides of steel or metallic-constructed front fenders with a rust-proofing compound for which compound manufacturers have issued notarized certification of compliance to chassis builder that the compound meets or exceeds all performance and qualitative requirements of paragraph 3.4 of Federal Specification TT-C-520B, using modified tests.

2.0 Bus Body Standards

2.1 Aisle

2.1.1 All emergency doors shall be accessible by a 12" minimum aisle. Aisle shall be unobstructed at all times by any type of barrier, seat, wheelchair or tiedown.

2.1.2 A 2" white line shall separate the driver compartment from the passenger compartment.

2.1.3 The seat backs shall be slanted sufficiently to give aisle clearance of 15" at tops of seat backs.

2.2 Back-Up Warning Alarm: An automatic audible alarm shall be installed behind the rear axle and shall comply with the published Backup Alarm Standards (SAE 994), providing a minimum of 112 dBA for rubber-tired vehicles.

2.3 Battery Compartment

2.3.1 When the battery is mounted as described in the chassis section, the body manufacturer shall securely attach the battery on a slide-out or swing-out tray in a closed, vented compartment in the body skirt, so that the battery is accessible for convenient servicing from the outside. Battery compartment door or cover shall be hinged at front or top, and secured by an adequate and conveniently-operated latch or other type fastener. On all Type A buses, one or both batteries may be mounted in the engine compartment in an accessible location.

2.3.2 Buses may be equipped with a battery shut-off switch. The switch is to be placed in a location not readily accessible to the driver or passengers.

2.4 Bumper (Front)

2.4.1 On a Type "D" school bus, if the chassis manufacturer does not provide a bumper, it shall be provided by the body manufacturer. The bumper will conform to the standards in the chassis section.

2.4.2 If an optional energy-absorbing front bumper is used, it shall meet the strength requirements in the 1995 National Standards.

2.5 Bumper (Rear)

2.5.1 Bumper shall be pressed steel channel or equivalent material, at least 3/16" thick, and shall be a minimum of 8" wide (high) on Type A-II and a minimum of 9 1/2" wide (high) on Types A-I, B, C, and D buses and of sufficient strength to permit being pushed by another vehicle without permanent distortion.

2.5.2 Bumper shall be wrapped around back corners of the bus. It shall extend forward at least 12", measured from the rear-most point of the body at the floor line and shall be flush mounted to body side or protected with an end panel.

2.5.3 Bumper shall be attached to the chassis frame in such a manner that it may be easily removed. It shall be so braced as to withstand impact from a rear or side impact. It shall be so attached as to discourage hitching of rides.

2.5.4 Bumper shall extend at least 1" beyond rear-most part of body surface measured at the floor line.

2.5.5 If an optional energy-absorbing rear bumper

is used, it shall meet the strength requirements of the 1995 National Standards.

2.6 Ceiling: See Insulation and Interior, Body section.

2.7 Certification: Body manufacturer shall, upon request, certify to the Delaware Department of Education, that their product meets state standards on items not covered by certification issued under requirements of the National Traffic and Motor Vehicle Safety Act.

2.8 Chains (Tire): See Wheelhousing, Body section.

2.9 Color

2.9.1 The school bus body shall be painted National School Bus Yellow (NSBY).

2.9.2 The body exterior paint trim, bumper, lamp hoods, emergency door arrow, and lettering shall be black.

2.10 Communications: Buses shall be equipped with a radio or telephonic communication device. It will be added by the school district, school, or contractor.

2.11 Construction

2.11.1 Construction shall be of prime commercial quality steel or other metal or material with strength at least equivalent to all steel, as certified by the bus body manufacturer.

2.11.2 Construction shall be reasonably dust-proof and watertight.

2.11.3 Body joints present in that portion of the Type A-II school bus body furnished exclusively by the body manufacturer shall conform to the performance requirements of FMVSS 221. This does not include the body joints created when body components are attached to components furnished by the chassis manufacturer.

2.12 Crossing Control Arm

2.12.1 Buses shall be equipped with a crossing control arm mounted on the right side of the front bumper, which shall not open more than 90°.

2.12.2 All components of the crossing control arm and all connections shall be weatherproofed.

2.12.3 The crossing control arm shall incorporate system connectors (electrical, vacuum, or air) at the gate and shall be easily removable to allow for towing of the bus.

2.12.4 The crossing control arm shall meet or exceed SAE Standard J1133.

2.12.5 The crossing control arm shall be constructed of noncorrosive or nonferrous material or treated in accordance with the body sheet metal standard (see METAL TREATMENT).

2.12.6 There shall be no sharp edges or projections that could cause hazard or injury to students.

2.12.7 The crossing control arm shall extend approximately 72" from the front bumper when in the extended position.

2.12.8 The crossing control arms shall extend simultaneously with the stop arm(s) by means of the stop arm controls.

2.13 Defrosters

2.13.1 Defrosting and defogging equipment shall direct a sufficient flow of heated air onto the windshield, the window to the left of the driver, and the glass in the viewing area directly to the right of the driver to eliminate frost, fog and snow.

2.13.2 The defrosting system shall conform to SAE Standards J381 and J382.

2.13.3 The defroster and defogging system shall be capable of furnishing heated outside ambient air, except the part of the system furnishing additional air to the windshield, entrance door and stepwell may be of the recirculating air type.

2.13.4 Auxiliary fans are not considered defrosting or defogging systems and are described under "Ventilation."

2.13.5 Portable heaters shall not be used.

2.14 Doors

2.14.1 Service door shall be in the driver's control, and designed to afford easy release and provide a positive latching device on manual operating doors to prevent accidental opening. When a hand lever is used, no part shall come together that will shear or crush fingers. Manual door controls shall not require more than 25 pounds of force to operate at any point throughout the range of operation. If a power-assisted door is used, the actuation switch shall be to the right of the steering wheel (in the same position as the manual handles).

2.14.2 Service door shall be located on the right side of the bus, opposite and within direct view of driver.

2.14.3 Service door shall have a minimum horizontal opening of 24" and a minimum vertical opening of 68". Type A-II vehicles shall have a minimum opening area of 1200 square inches.

2.14.4 Service door shall be a split-type, sedan-type, or jack-knife type. (Split-type door includes any sectioned door which divides and opens inward or outward.) If one section of a split-type door opens inward and the other opens outward, the front section shall open outward.

2.14.5 Lower as well as upper door panels shall be of approved safety glass. Bottom of each lower glass panel shall not be more than 10" from the top surface of bottom step. Top of each upper glass panel shall not be more than 3" from the top of the door. Type A vehicles shall have an upper panel (windows) of safety glass with an area of at least 350 square inches.

2.14.6 Vertical closing edges on split-type or folding-type entrance doors shall be equipped with flexible material to protect children's fingers. Type A-II vehicles may be equipped with chassis manufacturer's standard entrance door.

2.14.7 There shall be no door to left of driver on Type B, C or D vehicles. All Type A vehicles may be equipped with chassis manufacturer's standard door.

2.14.8 All doors shall be equipped with padding at the top edge of each door opening. Padding shall be at least

3" wide and 1" thick and extend the full width of the door opening.

2.15 Driver Compartment

2.15.1 Driver's seat supplied by the body company shall be a high back seat with a minimum seat back adjustment of 15 degrees, not requiring the use of tools, and with a head restraint to accommodate a 95th percentile adult male, as defined in FMVSS 208. The driver's seat shall be secured with nuts, bolts, and washers or flanged-headed nuts.

2.15.2 Driver seat positioning and range of adjustments shall be designed to accommodate comfortable actuation of the foot control pedals by 95% of the male/female adult population.

2.16 Emergency Exits

2.16.1 Emergency door(s) and other emergency exits shall comply with the requirements of FMVSS 217 and any of the requirements of these standards that exceed FMVSS 217.

2.16.2 Emergency door requirements

2.16.2.1 Upper portion of the emergency door shall be equipped with approved safety glazing, exposed area of which shall be at least 400 square inches. The lower portion of the rear emergency doors on Types A-I, B, C, and D vehicles shall be equipped with a minimum of 350 square inches of approved safety glazing.

2.16.2.2 There shall be no steps leading to an emergency door.

2.16.2.3 The words "EMERGENCY DOOR," in letters at least 2" high, shall be placed at the top of or directly above the emergency door, or on the door in the metal panel above the top glass, both inside and outside the bus.

2.16.2.4 The emergency door(s) shall be equipped with padding at top edge of each door opening. Padding shall be at least 3" wide and 1" thick, and extend the full width of the door opening.

2.16.2.5 The side emergency door, if installed, must meet the requirements as set forth in FMVSS 217, regardless of its use with any other combination of emergency exits. There shall be a clear aisle leading to it i.e., flip seats shall not be used.

2.16.2.6 There shall be no obstruction higher than 1/4 inch across the bottom of any emergency door opening.

2.16.3 Emergency exit requirements: Types A, B, C, and D vehicles shall be equipped with a total number of emergency exits as follows for the indicated standard seating capacities of vehicles (See below). Exits required by FMVSS 217 may be included to comprise the total number of exits specified.

0 to 42 Passenger = 1 emergency exit per side and 1 roof hatch.

43 to 78 Passenger = 2 emergency exits per side and 2

roof hatches.

79 to 90 Passenger = 3 emergency exits per side and 2 roof hatches.

2.16.4 Each emergency exit above shall comply with FMVSS 217. These emergency exits are in addition to the rear emergency door or exit.

2.16.5 In addition to the audible warning required on emergency doors by FMVSS 217, additional emergency exits shall also be equipped with an audible warning device.

2.17 Emergency Equipment

2.17.1 Fire Extinguisher

2.17.1.1 The bus shall be equipped with at least one UL approved pressurized, dry chemical fire extinguisher complete with hose. Extinguisher shall be mounted in a bracket, located in the driver's compartment and readily accessible to the driver and passengers. A pressure gauge shall be mounted on the extinguisher and be easily read without moving the extinguisher from its mounted position.

2.17.1.2 The fire extinguisher shall have a total rating of 2A10BC or greater. The operating mechanism shall be sealed with a type of seal which will not interfere with the use of the fire extinguisher.

2.17.2 First-aid kit

2.17.2.1 The bus shall have a removable moisture-proof and dust-proof first aid kit in an accessible place in the driver's compartment. It shall be properly mounted and identified as a first aid kit. The location for the first aid kit shall be marked.

2.17.2.2 Minimum contents include:

Units	Qty. per unit
2	12 - 1" x 3" adhesive bandages
1	2 - 2" bandage compress
1	1 - 4" bandage compress
1	1 - non-sterile triangular bandages approximately 40" x 36" x 54" with 2 safety pins
1	1 -eye kit with 2 sterile eye pads and 1 oz. wash
1	3 - burn ointment, 1/8 oz.
1	5 - ammonia inhalants
1	5 - PVP antiseptic swabs
1	5 - insect sting swabs

2.17.3 Body fluid clean-up kit: Each bus shall have a removable and moisture-proof body fluid clean-up kit accessible to the driver. It shall be properly mounted and identified as a body fluid clean-up kit. Contents of body fluid clean-up kit shall include the following:

2.17.3.1 1- 16 oz. bottle of 70% rubbing alcohol or 10% solution of bleach

2.17.3.2 1- plastic trash bag with tie, minimum of 12" x 12"

2.17.3.3 2- pairs of [~~latex disposable~~ **medical examination**] gloves

2.17.3.4 10- paper towels, approximately 10 1/2" x 12 1/2"

2.17.4 Warning devices: Each school bus shall contain at least three (3) reflectorized triangle road warning devices mounted in an accessible place. These devices must meet requirements in FMVSS 125.

2.17.5 If any emergency equipment is mounted in an enclosed compartment, refer to the 1995 National Standards.

2.18 Floor

2.18.1 Floor in under-seat area, including tops of wheelhousing, driver's compartment and toeboard, shall be covered with rubber floor covering or equivalent, having a minimum overall thickness of .125". The driver's area on all Type A buses may be manufacturer's standard flooring and floor covering.

2.18.2 Floor covering in aisles shall be of aisle-type rubber or equivalent, wear-resistant and ribbed. Minimum overall thickness shall be .187" measured from tops of ribs.

2.18.3 Floor covering must be permanently bonded to floor and must not crack when subjected to sudden changes in temperature. Bonding or adhesive material shall be waterproof and shall be a type recommended by the manufacturer of floor-covering material. All seams must be sealed with waterproof sealer.

2.18.4 On Types A-I, B, C and D buses a screw-down plate that is secured and insulated shall be provided to access the fuel tank sending unit.

2.19 Heaters

2.19.1 Heater shall be a hot-water type.

2.19.2 Every bus with a capacity of 36 or more shall have 2 heaters at the front: 1 to the left of the driver, and 1 to the right of the driver near the entrance door, and 1 heater in the rear portion of the bus.

2.19.2 ~~3~~ If only one heater is used, it shall be fresh-air or combination fresh-air and recirculation type.

2.19.3 ~~4~~ If more than one heater is used, additional heaters may be recirculating air type.

2.19.4 ~~5~~ The heating system shall be capable of maintaining bus interior temperatures as specified in SAE test procedure J2233.

2.19.5 ~~6~~ All heaters installed by body manufacturers shall bear a name plate that indicates the heater rating in accordance with SBMI Standard No. 001. The plate shall be affixed by the heater manufacturer and shall constitute certification that the heater performance is as shown on the plate.

2.19.6 ~~7~~ Heater hoses shall be adequately supported to guard against excessive wear due to vibration. The hoses shall not dangle or rub against the chassis or any sharp edges and shall not interfere with or restrict the operation of any engine function. Heater hoses shall conform to SAE Standard J20c. Heater lines on the interior of bus shall be

shielded to prevent scalding of the driver or passengers.

2.19.7 ~~8~~ Each hot water system installed by a body manufacturer shall include one shut-off valve in the pressure line and one shut-off valve in the return line with both valves at the engine in an accessible location, except that on all Types A and B buses, the valves may be installed in another accessible location.

2.19.8 ~~9~~ There shall be a water flow regulating valve installed in the pressure line for convenient operation by the driver while seated.

2.19.9 ~~10~~ Accessible bleeder valves shall be installed in an appropriate place in the return lines of body company-installed heaters to remove air from the heater lines.

2.19.10 ~~11~~ Access panels shall be provided to make heater motors, cores, and fans readily accessible for service. Outside access panel may be provided for the driver's heater.

2.20 Hinges: All exposed metal door hinges subject to corrosion shall be designed to allow lubrication to be channeled to the center 75% of each hinge loop.

2.21 Identification

2.21.1 Body shall bear words "SCHOOL BUS" in black letters at least 8 inches high on both front and rear of body or on signs attached thereto. Lettering shall be placed as high as possible without impairment of its visibility. Letters shall conform to "Series B" of Standard Alphabets for highway signs. "SCHOOL BUS" lettering shall have a reflective background, or as an option, may be illuminated by backlighting. All lettering on NSBY surfaces shall be black, and lettering on black surfaces shall be NSBY or white.

2.21.2 Bus identification number shall be displayed on the sides, on the rear, and on the front.

2.21.3 Other lettering, numbering, or symbols which may be displayed on the exterior of the bus, shall be limited to:

2.21.3.1 District or company name or owner of the bus may be displayed.

2.21.3.2 Bus identification number on the top of the bus, in addition to required numbering on sides, rear, and front.

2.21.3.3 The location of the battery(ies) identified by the word "BATTERY" or "BATTERIES" on the battery compartment door in 2" lettering.

2.21.3.4 Lettering to identify the fuel type at the fuel filler location (2" letters maximum).

2.21.3.5 Symbols or letters near the service door displaying information for identification by the students of the bus or route served. Such symbols or lettering, if used, shall not exceed 36 square inches in size.

2.21.3.6 Symbols identifying the bus as equipped for or transporting students with special needs (see Specially Equipped School Bus section).

2.22 Inside Height: Inside body height shall be 72" or

more, measured metal to metal, at any point on longitudinal center line from front vertical bow to rear vertical bow. Inside body height of Type A buses shall be 62" or more.

2.23 Insulation

2.23.1 Thermal insulation shall be fire-resistant, UL approved, and approximately 1 1/2" thick with minimum R-value of 5.5. Insulation shall be installed to prevent sagging.

2.23.2 If floor insulation is required, it shall be either 5 ply nominal 5/8" thick plywood, or a material of equal or greater strength and insulation R value, and it shall equal or exceed properties of the exterior-type softwood plywood, C-D Grade as specified in standard issued by U.S. Department of Commerce. When plywood is used, all exposed edges shall be sealed. Type A-II buses may be equipped with nominal 1/2" thick plywood meeting above requirements.

2.24 Interior

2.24.1 Interior of bus shall be free of all unnecessary projections, which include luggage racks and attendant hand rails, to minimize the potential for injury. This standard requires inner lining on ceilings and walls. If ceiling is constructed to contain lapped joints, forward panel shall be lapped by rear panel and exposed edges shall be beaded, hemmed, flanged, or otherwise treated to minimize sharp edges. Buses may be equipped with a storage compartment for tools, tire chains, and/or tow chains. (See Storage Compartment, Body section)

2.24.2 The driver's area forward of the foremost padded barriers will permit the mounting of required safety equipment and vehicle operation equipment.

2.24.3 Every school bus shall be constructed so that the noise level taken at the ear of the occupant nearest to the primary vehicle noise source shall not exceed 85 dBA when tested according to the procedure found in the 1995 National Standards.

2.25 Lamps and Signals

2.25.1 Interior lamps shall be provided which adequately illuminate aisle and stepwell. Stepwell light shall be illuminated by a service door operated switch, to illuminate only when headlights and clearance lights are on and service door is open.

2.25.2 Body instrument panel lights shall be controlled by an independent rheostat switch.

2.25.3 School bus alternately flashing signal lamps:

2.25.3.1 Bus shall be equipped with two red lamps at the rear of vehicle and two red lamps at the front of the vehicle. Lamps may be the sealed beam or halogen type.

2.25.3.2 In addition to the four red lamps described above, four amber lamps shall be installed so that one amber lamp is located near each red signal lamp, at same level, but closer to vertical centerline of bus. The system of red and amber signal lamps shall be wired so that amber

lamps are energized manually, and red lamps are automatically energized (with amber lamps being automatically de-energized) when stop signal arm is extended or when bus service door is opened. An amber pilot light and a red pilot light shall be installed adjacent to the driver controls for the flashing signal lamp to indicate to the driver which lamp system is activated.

2.25.3.3 Area around lens of each alternately flashing signal lamp and extending outward approximately 3" shall be black in color. In installations where there is no flat vertical portion of body immediately surrounding entire lens of lamp, a circular or square band of black approximately 3" wide, immediately below and to both sides of the lens, shall be black in color on body or roof area against which signal lamp is seen (from distance of 500 feet along axis of vehicle). Visors or hoods with an appropriate black background to fit the shape of the lights and roofcap are required and shall have a minimum depth of 4".

2.25.3.4 Red lamps shall flash at any time the stop signal arm is extended.

2.25.3.5 All flashers for alternately flashing red and amber signal lamps shall be enclosed in the body in a readily accessible location.

2.25.4 Turn signal and stop/tail lamps:

2.25.4.1 Bus body shall be equipped with amber rear turn signal lamps that are at least 7" in diameter and meet SAE specifications. These signal lamps must be connected to the chassis hazard warning switch to cause simultaneous flashing of turn signal lamps when needed as vehicular traffic hazard warning. Turn signal lamps are to be placed as wide apart as practical and their centerline shall be approximately 8" below the rear windows. Type A-II conversion vehicle lamps must be at least 21 square inches in lens area. All turn signal lens shall be amber in color.

2.25.4.2 Buses shall be equipped with amber side-mounted turn signal lights. The turn signal lamp on the left side shall be mounted rearward of the stop signal arm and the turn signal lamp on the right side shall be mounted rearward of the service door.

2.25.4.3 Buses shall be equipped with four combination red stop/tail lamps:

2.25.4.3.1 Two combination lamps with a minimum diameter of 7", or if a shape other than round, a minimum 38 square inches of illuminated area shall be mounted on the rear of the bus just inside the turn signal lamps.

2.25.4.3.2 Two combination lamps with a minimum diameter of 4", or if a shape other than round, a minimum 12 square inches of illuminated area shall be placed on the rear of the body between the beltline and the floor line. Rear license plate lamp may be combined with one lower tail lamp. Stop lamps shall be activated by the service brakes and shall emit a steady light when illuminated. Type A-II buses with bodies supplied by

chassis manufacturer may have manufacturer's standard stop and tail lamps.

2.25.4.4 All buses shall be equipped with a transistorized monitor which monitors the front and rear lamps of the school bus. The monitor shall be mounted in full view of the driver. If the full circuit current passes through the monitor, each circuit shall be protected by a fuse or circuit breaker against any short circuit or intermittent shorts.

2.25.4.5 Body markers shall be the armored type.

2.25.4.6 Backup lamps: Bus body shall be equipped with two white rear backup lamp signals that are at least 4" in diameter or, if a shape other than round, a minimum of 13 square inches of illuminated area, meeting SAE specifications. If backup lamps are placed on the same line as the brake lamps and turn signal lamps, they shall be to the inside.

2.26 Metal Treatment

2.26.1 All metal used in construction of bus body shall be zinc-coated or aluminum-coated or treated by equivalent process before bus is constructed. Included are such items as structural members, inside and outside panels, door panels and floor sills. Excluded are such items as door handles, grab handles, interior decorative parts and other interior plated parts.

2.26.2 All metal parts that will be painted shall be, in addition to above requirements, chemically cleaned, etched, zinc-phosphate-coated and zinc-chromate or epoxy primed or conditioned by equivalent process.

2.26.3 In providing for these requirements, particular attention shall be given lapped surfaces, welded connections of structural members, cut edges punched or drilled hole areas in sheet metal, closed or box sections, unvented or undrained areas and surfaces subjected to abrasion during vehicle operation.

2.26.4 As evidence that above requirements have been met, samples of materials and sections used in construction of the bus body subjected to 1,000-hour salt spray test as provided for in latest revision of ASTM Standard B-117 shall not lose more than 10 percent of material by weight.

2.27 Mirrors

2.27.1 Interior mirror shall be either clear view laminated glass or clear view glass bonded to a backing which retains the glass in the event of breakage. Mirror shall have rounded corners and protected edges. All Type A buses shall have a minimum of a 6" x 16" mirror and Types B, C, and D buses shall have a minimum of a 6" x 30" mirror.

2.27.2 Each school bus shall be equipped with exterior mirrors meeting the requirements of FMVSS 111. Mirrors shall be easily adjustable, but shall be rigidly braced so as to reduce vibration.

2.28 Mounting

2.28.1 Chassis frame shall support rear body cross member. Bus body shall be attached to chassis frame at each main floor sill, except where chassis components interfere, in such manner as to prevent shifting or separation of the body from the chassis under severe operating conditions.

2.28.2 Insulation material shall be placed at all contact points between body and chassis frame on Types A-I, B, C, and D buses, and shall be so attached to the chassis frame or body that it will not move under severe operating conditions.

2.29 Overall Length: Overall length of bus shall not exceed 40 feet, excluding accessories.

2.30 Overall Width: Overall width of bus shall not exceed 96", excluding accessories. Delaware Law (21 Del. Code, §4363b) states that the body, excluding mirrors, shall have a minimum width of 75 inches and a minimum height of 79 inches from road surface to top of roof.

2.31 Public Address System: There shall be installed a public address amplifier specifically designed for vehicular applications with a minimum power output of not less than 5 watts sine-wave power. Such system shall consist of an on-off switch, volume control, and an inside-outside speaker selector switch. Additionally, it shall have an outside speaker completely weather-proofed a minimum 7 watt power capability and two interior dynamic speakers with a minimum diameter of 4 inches. These speakers shall be located above the window line, to the rear of the driver, and shall not project more than 1/2 inch from the interlining of the bus. There shall be no sharp edges or corners which could cause injury to a passenger. The front speaker shall be approximately 5 feet to the rear of the driver, and the rear speaker shall be in the back portion of the bus. The outside speaker shall be located on the front of the cowl under the hood or other suitable location under the hood.

2.32 Reflective Material (see Appendix B of the 1995 National Standards)

2.32.1 Front and/or rear bumper may be marked diagonally 45 degrees down to centerline of pavement with 2" ±1/4" wide strips of non-contrasting reflective material.

2.32.2 Rear of bus body shall be marked with strips of reflective NSBY material to outline the perimeter of the back of the bus using material which conforms with the requirements of FMVSS 571.131 Table 1. The perimeter marking of rear emergency exits per FMVSS 217 and/or the use of reflective "SCHOOL BUS" signs partially accomplish the objective of this requirement. To complete the perimeter marking of the back of the bus, strips of at least 1 3/4" reflective NSBY material shall be applied horizontally above the rear windows and above the rear bumper extending from the rear emergency exit perimeter marking outward to the left and right rear corners of the bus; and vertical strips shall be applied at the corners connecting these horizontal strips.

2.32.3 "SCHOOL BUS" signs, if not of lighted design, shall be marked with reflective NSBY material comprising background for lettering of the front and/or rear "SCHOOL BUS" signs.

2.32.4 Sides of bus body shall be marked with reflective NSBY material at least 1 3/4" in width, extending the length of the bus body and located (vertically) between the floor line and the beltline.

2.33 Rub Rails

2.33.1 There shall be one rub rail located on each side of bus approximately at seat level which shall extend from rear side of entrance door completely around bus body (except emergency door or any maintenance access door) to point of curvature near outside cowl on left side.

2.33.2 There shall be one rub rail located approximately at floor line which shall cover the same longitudinal area as upper rub rail, except at wheelhousing, and shall extend only to radii of right and left rear corners.

2.33.3 Both rub rails shall be attached at each body post and all other upright structural members.

2.33.4 Both rub rails shall be 4" or more in width in their finished form, shall be of 16-gauge steel or suitable material of equivalent strength, and shall be constructed in corrugated or ribbed fashion.

2.33.5 Both rub rails shall be applied outside body or outside body posts. Pressed-in or snap-on rub rails do not satisfy this requirement. For Type A-II vehicles using chassis manufacturer's body, or for Types A-I, B, C and D buses using rear luggage or rear engine compartment, rub rails need not extend around rear corners.

2.33.6 There shall be a rub rail or equivalent bracing located horizontally at the bottom edge of the body side skirts.

2.34 Seat Belt for Driver: A Type 2 lap belt/shoulder harness seat belt shall be provided for the driver. The assembly shall be equipped with an emergency locking retractor (ELR) for the continuous belt system. On all buses except Type A equipped with standard chassis manufacturer's driver's seat, the lap portion of the belt shall be guided or anchored to prevent the driver from sliding sideways under it. The lap belt/shoulder harness shall be designed to allow for easy adjustment in order to fit properly and effectively protect drivers varying from 5th percentile female to 95th percentile male.

2.35 Seat and Crash Barriers

2.35.1 All seats shall have a minimum depth of 15". All seat backs shall be a minimum of 24" high and a minimum 20" from seating reference point. There shall be a minimum of 8" clearance between the last seat and the rear of the bus.

2.35.2 In determining seating capacity of bus, allowable average rump width shall be:

2.35.2.1 13" where 3-3 seating plan is used.

2.35.2.2 15" where 3-2 seating plan is used.

2.35.3 All restraining barriers and passenger seats shall be constructed with materials that enable them to meet the criteria contained in the School Bus Seats Upholstery Fire Block Test (See Appendix B of the 1995 National Standards).

2.35.4 Each seat leg shall be secured to the floor by a minimum of two (2) bolts, washers, and nuts. Flange-head nuts may be used in lieu of nuts and washers, or seats may be track-mounted in conformance with FMVSS 222. If track seating is installed, the manufacturer shall supply minimum and maximum seat spacing dimensions applicable to the bus, which comply with FMVSS 222. This information shall be on a label permanently affixed to the bus.

2.35.5 All seat frames attached to the seat rail shall be fastened with two (2) bolts, washers and nuts or flange-headed nuts.

2.35.6 Type A-II school bus bodies shall be equipped with restraining barriers conforming to FMVSS 222.

2.36 Steps

2.36.1 First step at service door shall be not less than 10" and not more than 14" from the ground when measured from top surface of the step to the ground, based on standard chassis specifications, except that on Type D vehicles, the first step at the service door shall be 12" to 16" from the ground.

2.36.2 Step risers shall not exceed a height of 10". When plywood is used on a steel floor or step, the riser height may be increased by the thickness of the plywood.

2.36.3 Steps shall be enclosed to prevent accumulation of ice and snow.

2.36.4 Steps shall not protrude beyond the side body line.

2.36.5 A suitable device (or devices) shall be designed and installed to prevent injury or fatality to passengers from being dragged. At least one such device shall assist passengers during entry or egress, and be of such design to eliminate entanglement.

2.37 Step Treads

2.37.1 All steps, including floor line platform area, shall be covered with 3/16" rubber floor covering or other materials equal in wear and abrasion resistance to top grade rubber.

2.37.2 Metal back of tread, minimum 24-gauge cold roll steel, shall be permanently bonded to ribbed rubber; grooved design shall be such that said grooves run at 90-degree angles to long dimension of step tread.

2.37.3 3/16" ribbed step tread shall have a 1 1/2" white nosing as an integral piece without any joint.

2.37.4 Rubber portion of step treads shall have the following characteristics:

2.37.4.1 Special compounding for good abrasion resistance and high coefficient of friction.

2.37.4.2 Flexibility so that it can be bent

around a 1/2" mandrel both at 130 degrees Fahrenheit and 20 degrees Fahrenheit without breaking, cracking, or crazing.

2.37.4.3 Show a durometer hardness 85 to 95.

2.38 Stirrup Steps: There shall be at least one folding stirrup step or recessed foothold and suitably located handles on each side of the front of the body for easy accessibility for cleaning the windshield and lamps except when the windshield and lamps are easily accessible from the ground. Steps are permitted in or on the front bumper, in lieu of the stirrup steps, if the windshield and lamps are easily accessible for cleaning from that position.

2.39 Stop Signal Arm: The stop signal arm(s) shall comply with the requirements of FMVSS 131.

2.40 Storage Compartment: A storage container for tools, tire chains, and/or tow chains may be located either inside or outside the passenger compartment but, if inside, it shall have a cover (seat cushion may not serve this purpose) capable of being securely latched and fastened to the floor, convenient to either the service or emergency door.

2.41 Strobe Light

2.41.1 A white flashing strobe light shall be installed on the roof of all school buses manufactured after January 1, 2001. It shall be located from 4 to 6 feet from the rear of the roof edge (except air conditioned buses with roof-top evaporators), within 1 foot of centerline, and behind all other roof equipment. The strobe shall extend above the roof between 4 1/2 to 6 3/4 inches, and the light shall be 12 to 16 joules with a clear lens emitting light 360 degrees around its vertical axis.

2.41.2 The light shall be wired to activate when the amber alternately flashing signal lamps are activated, continuing through the full loading or unloading cycle, with an override switch to allow activation of the strobe light during inclement weather.

2.41.3 A pilot light shall be included to indicate when the light is in operation

2.42 Sun Shield

2.41.1 2.42.1 Interior adjustable transparent sun shield not less than 6" X 30" for Types B, C, and D vehicles, with a finished edge, shall be installed in a position convenient for use by driver.

2.41.2 2.42.2 On all Type A buses the sun shield shall be manufacturer's standard.

2.42 2.43 Traction Assisting Devices

2.42.1 2.43.1 If traction assisting devices are used, sanders shall:

2.42.1.1 2.43.1.1 be of hopper cartridge-valve type

2.42.1.2 2.43.1.2 have metal hopper with all interior surfaces treated to prevent condensation of moisture

2.42.1.3 2.43.1.3 be of at least 100 pound (grit) capacity

2.42.1.4 2.43.1.4 have cover on filler opening of hopper, which screws into place, sealing unit airtight

2.42.1.5 2.43.1.5 have discharge tubes extending to front of each rear wheel under fender

2.42.1.6 2.43.1.6 have no-clogging discharge tubes with slush-proof, non-freezing rubber nozzles

2.42.1.7 2.43.1.7 be operated by an electric switch with telltale pilot light mounted on the instrument panel

2.42.1.8 2.43.1.8 be exclusively driver controlled

2.42.1.9 2.43.1.9 have gauge to indicate that hopper needs refilling when it is down to one-quarter full

2.42.2 2.43.2 Automatic traction chains may be installed.

2.43 2.44 Undercoating

2.43.1 2.44.1 Entire underside of bus body, including floor sections, cross member and below floor line side panels, shall be coated with rust-proofing compound for which compound manufacturer has issued notarized certification of compliance to the bus body builder that compound meets or exceeds all performance and qualitative requirements of paragraph 3.4 of Federal Specification TT-C-520b using modified test procedures* for following requirements:

2.43.1.1 2.44.1.1 salt spray resistance-pass test modified to 5% salt and 1000 hours

2.43.1.2 2.44.1.2 abrasion resistance-pass

2.43.1.3 2.44.1.3 fire resistance-pass

*Test panels to be prepared in accordance with paragraph 4.6.12 of TT-C-520b with modified procedure requiring that test be made on a 48-hour air cured film at thickness recommended by compound manufacturer.

2.43.2 2.44.2 Undercoating compound shall be applied with suitable airless or conventional spray equipment to recommended film thickness and shall show no evidence of voids in cured film.

2.44 2.45 Ventilation

2.44.1 2.45.1 Auxiliary fans (2) shall meet the following requirements:

2.44.1.1 2.45.1.1 Fans for left and right sides shall be placed in a location where they can be adjusted for maximum effectiveness and do not obstruct vision to any mirror, the roadway, or students outside the bus. Note: All Type A buses may be equipped with one fan.

2.44.1.2 2.45.1.2 Fans shall be a nominal 6" diameter.

2.44.1.3 2.45.1.3 Fan blades shall be covered with a protective cage. Each fan shall be controlled by a separate switch.

2.44.2 2.45.2 Body shall be equipped with a suitably controlled ventilating system of sufficient capacity to maintain proper quantity of air under operating conditions, without having to open windows except in extremely warm weather.

2.44.3 2.45.3 Static-type non-closeable exhaust

ventilation shall be installed in low-pressure area of roof.

2.44.4 2.45.4 Roof hatches designed to provide ventilation, regardless of the exterior weather conditions, may be provided.

2.45 2.46 Wheelhousing

2.45.1 2.46.1 The wheelhousing opening shall allow for easy tire removal and service.

2.45.2 2.46.2 The wheelhousing shall be attached to floor sheets in such a manner as to prevent any dust, water or fumes from entering the body. Wheelhousing shall be constructed of at least 16-gauge steel.

2.45.3 2.46.3 The inside height of the wheelhousing above the floor line shall not exceed 12".

2.45.4 2.46.4 The wheelhousing shall provide clearance for installation and use of tire chains on single and dual (if so equipped) power-driving wheels.

2.45.5 2.46.5 No part of a raised wheelhousing shall extend into the emergency door opening.

2.46 2.47 Windows

2.46.1 2.47.1 Each full side window, other than emergency exits designated to comply with FMVSS 217, shall provide an unobstructed emergency opening of at least 9" but not more than 13" high and 22" wide, obtained by lowering window. One side window on each side of the bus may be less than 22" wide.

2.46.2 2.47.2 Optional tinted and/or frost-free glazing may be installed in all doors, windows, and windshields consistent with federal, state, and local regulations.

2.47 2.48 Windshield Washers: A windshield washer system shall be provided.

2.48 2.49 Windshield Wipers

2.48.1 2.49.1 A windshield wiping system, two-speed or variable speed, with an intermittent feature, shall be provided.

2.48.2 2.49.2 The wipers shall be operated by one or more air or electric motors of sufficient power to operate wipers. If one motor is used, the wipers shall work in tandem to give full sweep of windshield.

2.49 2.50 Wiring

2.49.1 2.50.1 All wiring shall conform to current SAE standards.

2.49.2 2.50.2 Circuits:

2.49.2.1 2.50.2.1 Wiring shall be arranged in circuits, as required, with each circuit protected by a fuse or circuit breaker. A system of color and number coding shall be used and an appropriate identifying diagram shall be provided to the end user along with the wiring diagram provided by the chassis manufacturer. The wiring diagrams shall be specific to the bus model supplied and include any changes to wiring made by the body manufacturer. Chassis wiring diagrams shall also be supplied to the end user. A system of color and number coding shall be used on buses. The following body interconnecting circuits shall be color

coded as noted:

FUNCTION	COLOR
Left Rear Directional Light	Yellow
Right Rear Directional Light	Dark Green
Stoplights	Red
Back-up Lights	Blue
Taillights	Brown
Ground	White
Ignition Feed, Primary Feed	Black
The color of cables shall correspond to SAE J	

1128.

2.49.2.2 2.50.2.2 Wiring shall be arranged in at least six regular circuits as follows:

2.49.2.2.1 2.50.2.2.1 Head, tail, stop (brake) and instrument panel lamps

2.49.2.2.2 2.50.2.2.2 Clearance and stepwell lamps (stepwell lamp shall be actuated when service door is opened)

2.49.2.2.3 2.50.2.2.3 Dome lamp

2.49.2.2.4 2.50.2.2.4 Ignition and emergency door signal

2.49.2.2.5 2.50.2.2.5 Turn signal lamps

2.49.2.2.6 2.50.2.2.6 Alternately flashing signal lamps

2.49.2.3 2.50.2.3 Any of the above combination circuits may be subdivided into additional independent circuits.

2.49.2.4 2.50.2.4 Whenever heaters and defrosters are used, at least one additional circuit shall be installed.

2.49.2.5 2.50.2.5 Whenever possible, all other electrical functions (such as Sanders and electric-type windshield wipers) shall be provided with independent and properly protected circuits.

2.49.2.6 2.50.2.6 Each body circuit shall be coded by number or letter on a diagram of circuits and shall be attached to the body in a readily accessible location.

2.49.3 2.50.3 The entire electrical system of the body shall be designed for the same voltage as the chassis on which the body is mounted.

2.49.4 2.50.4 All wiring shall have an amperage capacity exceeding the design load by at least 25%. All wiring splices are to be done at an accessible location and noted as splices on wiring diagram.

2.49.5 2.50.5 A body wiring diagram, of a size which can be easily read, shall be furnished with each bus body or affixed in an area convenient to the electrical accessory control panel.

2.49.6 2.50.6 The body power wire shall be attached to a special terminal on the chassis.

2.49.7 2.50.7 All wires passing through metal openings shall be protected by a grommet.

2.49.8 2.50.8 Wires not enclosed within body shall be fastened securely at intervals of not more than 18 inches.

All joints shall be soldered or joined by equally effective connectors, which shall be water-resistant and corrosion-resistant.

3.0 Standards for Specially Equipped School Buses

3.1 General Requirements

3.1.1 School buses designed for transporting students with special transportation needs shall comply with the 1995 National Standards and with Federal Motor Vehicle Safety Standards applicable to their GVWR category.

3.1.2 Any school bus to be used for the transportation of children who are confined to a wheelchair or other mobile positioning device, or who require life support equipment which prohibits use of the regular service entrance, shall be equipped with a power lift, unless a ramp is needed for unusual circumstances related to passenger needs.

3.2 Aisles: All school buses equipped with a power lift shall provide a 30" aisle leading from any wheelchair/mobility aid position to at least one emergency door and the lift area.

3.3 Glazing: Tinted glazing may be installed in all doors, windows, and windshields consistent with federal, state, and local regulations.

3.4 Identification: Buses with power lifts used for transporting individuals with disabilities shall display below the window line the International Symbol of Accessibility. Such emblems shall be white on blue background, shall not exceed 12 inches in size, and shall be of a high-intensity reflectorized material meeting U.S. Department of Transportation's Federal Highway Administration (FHWA) FP-85 Standards.

3.5 Passenger Capacity Rating: The passenger capacity of a school bus is defined as the maximum standard seating capacity of that bus.

3.6 Power Lifts and Ramps

3.6.1 Power lift shall be located on the right side of the bus body when not extended.

3.6.1.1 A ramp device may be used in lieu of a mechanical lift if the ramp meets all the requirements of the Americans with Disability Act (ADA) as found in 36 CFR §1192.23 © Vehicle ramp. (See Appendix D, 1995 National Standards).

3.6.1.2 A ramp device which does not meet the specifications of ADA but does meet the specifications of paragraph 3 of this section may be installed and used, when, and only when a power lift system is not adequate to load and unload students having special and unique needs. A readily accessible ramp may also be installed for emergency exit use. If stowed in the passenger compartment, the ramp must be properly secured and located away from general passenger contact. It must not obstruct or restrict any aisle or exit while in its stowed or deployed position.

3.6.1.3 All vehicles covered by this

specification shall provide a level-change mechanism or boarding device (e.g., lift or ramp) complying with paragraph b. or c. of this section and sufficient clearances to permit a wheelchair or other mobility aid user to reach a securement location.

3.6.2 Vehicle lift

3.6.2.1 Design load. The design load of the lift shall be at least 600 pounds. Working parts, such as cables, pulleys, and shafts, which can be expected to wear, and upon which the lift depends for support of the load, shall have a safety factor of at least 6 (six), based on the ultimate strength of the material. Nonworking parts, such as platform, frame, and attachment hardware which would not be expected to wear, shall have a safety factor of at least 3 (three), based on the ultimate strength of the material.

Lift capacity. The lifting mechanism and platform shall be able to lift a minimum 800 pounds.

3.6.2.2 Controls: Controls shall be provided that enable the operator to activate the lift mechanism from either inside or outside the bus. The controls should be interlocked with the vehicle brakes, transmission, or door, or shall provide other appropriate mechanisms or systems to ensure the vehicle cannot be moved when the lift is not stowed and so the lift cannot be deployed unless the interlocks or systems are engaged. The lift shall deploy to all levels (i.e., ground, curb, and intermediate positions) normally encountered in the operating environment. Where provided, each control for deploying, lowering, raising, and stowing the lift and lowering the roll-off barrier shall be of a momentary contact type requiring continuous manual pressure by the operator and shall not allow improper lift sequencing when the lift platform is occupied. The controls shall allow reversal of the lift operation sequence, such as raising or lowering a platform that is part way down, without allowing an occupied platform to fold or retract into the stowed position.

3.6.2.2.1 Exception: Where the lift is designed to deploy with its long dimension parallel to the vehicle axis and which pivots into or out of the vehicle while occupied (i.e., "rotary lift"), the requirements of this paragraph prohibiting the lift from being stowed while occupied shall not apply if the stowed position is within the passenger compartment and the lift is intended to be stowed while occupied.

3.6.2.3 Emergency operation: The lift shall incorporate an emergency method of deploying, lowering to ground level with a lift occupant, and raising and stowing the empty lift if the power to the lift fails. No emergency method, manual or otherwise, shall be capable of being operated in a manner that could be hazardous to the lift occupant or to the operator when operated according to manufacturer's instructions and shall not permit the platform to be stowed or folded when occupied, unless the lift is a rotary lift and is intended to be stowed while occupied. No

manual emergency operation shall require more than 2 (two) minutes to lower an occupied wheelchair to ground level.

3.6.2.4 Power or equipment failure: Platforms stowed in a vertical position, and deployed platforms when occupied, shall have provisions to prevent their deploying, falling, or folding any faster than 12" per second or their dropping of an occupant in the event of a single failure of any load carrying component.

3.6.2.5 Platform barriers: The lift platform shall be equipped with barriers to prevent any of the wheels of a wheelchair or mobility aid from rolling off the platform during its operation. A movable barrier or inherent design feature shall prevent a wheelchair or mobility aid from rolling off the edge closest to the vehicle until the platform is in its fully raised position. Each side of the lift platform which extends beyond the vehicle in its raised position shall have a barrier a minimum 1 ½" high. Such barriers shall not interfere with maneuvering into or out of the aisle. The loading-edge barrier (outer barrier), which functions as a loading ramp when the lift is at ground level, shall be sufficient when raised or closed, or a supplementary system shall be provided, to prevent a power wheelchair or mobility aid from riding over or defeating it. The outer barrier of the lift shall automatically raise or close, or a supplementary system shall automatically engage, and remain raised, closed, or engaged at all times that the platform is more than 3" above the roadway or sidewalk and the platform is occupied. Alternatively, a barrier or system may be raised, lowered, opened, closed, engaged, or disengaged by the lift operator, provided an interlock or inherent design feature prevents the lift from rising unless the barrier is raised or closed or the supplementary system is engaged.

3.6.2.6 Platform surface: The platform surface shall be free of any protrusions over 1/4" high and shall be slip resistant. The platform shall have a minimum clear width of 32" from the platform to 30" above it, and a minimum clear length of 48" measured from 2" above the surface of the platform to 30" above the surface of the platform.

3.6.2.7 Platform gaps: Any openings between the platform surface and the raised barriers shall not exceed 5/8" in width. When the platform is at vehicle floor height with the inner barrier (if applicable) down or retracted, gaps between the forward lift platform edge and the vehicle floor shall not exceed ½ inch horizontally and 5/8 inch vertically. Platforms on semi-automatic lifts may have a hand hold not exceeding 1 ½" by 4 ½" located between the edge barriers.

3.6.2.8 Platform entrance ramp: The outboard entrance ramp or loading-edge barrier used as a ramp and the transition plate from the inboard edge of the platform to the vehicle floor shall not exceed a slope of 1:8, measured on level ground, for a maximum rise of 3", and the transition from roadway or sidewalk to ramp may be vertical without edge treatment up to 1/4". Thresholds between 1/4" and 1/2"

high shall be beveled with a slope no greater than 1:2.

3.6.2.9 Platform deflection: The lift platform (not including the entrance ramp) shall not deflect more than 3 degrees (exclusive of vehicle roll or pitch) in any direction between its unloaded position and its position when loaded with 600 pounds applied through a 26" by 26" test pallet at the centroid of the platform.

3.6.2.10 Platform movement: No part of the platform shall move at a rate exceeding 6" per second during lowering and lifting an occupant, and shall not exceed 12" per second during deploying or stowing. This requirement does not apply to the deployment or stowage cycles of lifts that are manually deployed or stowed. The maximum platform horizontal and vertical acceleration when occupied shall be 0.3 g.

3.6.2.11 Boarding direction: The lift shall permit both inboard and outboard facing of wheelchair and mobility aid users.

3.6.2.12 Use by standees: Lifts shall accommodate persons using walkers, crutches, canes or braces, or who otherwise have difficulty using steps. The platform may be marked to indicate a preferred standing position.

3.6.2.13 Handrails: Platforms on lifts shall be equipped with handrails on two sides, which move in tandem with the lift, and which shall be graspable and provide support to standees throughout the entire lift operation. Handrails shall have a usable component at least 8" long with the lowest portion a minimum 30" above the platform and the highest portion a maximum 38" above the platform. The handrails shall be capable of withstanding a force of 100 pounds concentrated at any point on the handrail without permanent deformation of the rail or its supporting structure. The handrail shall have a cross-sectional diameter between 1 1/4" and 1 1/2" or shall provide an equivalent grasping surface, and have eased edges with corner radii of not less than 1/8". Handrails shall be placed to provide a minimum 1 1/2" knuckle clearance from the nearest adjacent surface. Handrails shall not interfere with wheelchair or mobility aid maneuverability when entering or leaving the vehicle.

3.6.2.14 Circuit breaker: A re-setable circuit breaker shall be installed between power source and lift motor if electrical power is used. It shall be located as close to the power source as possible, but not within the passenger/driver compartment.

3.6.2.15 Excessive pressure: Lift design shall prevent excessive pressure that could damage the lift system when the platform is fully lowered or raised, or that could jack the vehicle.

3.6.2.16 Documentation: The following information shall be provided with each vehicle equipped with a lift:

3.6.2.16.1 A phone number where information can be obtained about installation, repair, and

parts. (Detailed written instructions and a parts list shall be available upon request.)

3.6.2.16.2 Detailed instructions regarding use of the lift and readily visible when the lift door is open, including a diagram showing the proper placement and positioning of wheelchair/mobility aids on lift.

3.6.2.17 Training materials: The lift manufacturer shall make available training materials to ensure the proper use and maintenance of the lift. These may include instructional videos, classroom curriculum, system test results, or other related materials.

3.6.2.18 Identification and certification: Each lift shall be permanently and legibly marked or incorporate a non-removable label or tag which states that it conforms to all applicable requirements of the current National Standards for School Buses. In addition, the lift manufacturer, or an authorized representative, upon request of the original titled purchaser, shall provide a notarized Certificate of Conformance, either original or photocopied, which states that the lift system meets all the applicable requirements of the 1995 National Standards.

3.6.3 Vehicle ramp

3.6.3.1 If a ramp is used, it shall be of sufficient strength and rigidity to support the special device, occupant, and attendant(s). It shall be equipped with a protective flange on each longitudinal side to keep special device on the ramp.

3.6.3.2 Floor of ramp shall be constructed of non-skid material.

3.6.3.3 Ramp shall be equipped with handles and be of weight and design to permit one person to put ramp in place and return it to its storage place.

3.6.3.4 Ramps installed in raised floor buses by manufacturers may be used for emergency evacuation purposes. They shall not be used as a substitute for a lift when a lift is capable of servicing the need.

3.7 Regular Service Entrance

3.7.1 On power-lift equipped vehicles, step shall be the full width of the stepwell, excluding the thickness of doors in open position.

3.7.2 A suitable device at the front and rear of the step well shall be provided to assist passengers during entry or egress. This device shall allow for easy grasping or holding and shall have no openings or pinch points which might entangle clothing, accessories or limbs.

3.8 Restraining Devices

3.8.1 On power-lift equipped vehicles, seat frames may be equipped with attachments or devices to which belts, restraining harnesses or other devices may be attached. Attachment framework or anchorage devices, if installed, shall conform to FMVSS 210.

3.8.2 Seat belt assemblies, if installed, shall conform to FMVSS 209.

3.8.3 Child restraint systems, which are used to

facilitate the transportation of children who in other modes of transportation would be required to use a child, infant, or booster seat, shall conform to FMVSS 213 and 222.

3.9 Seating Arrangements: Flexibility in seat spacing to accommodate special devices shall be permitted to meet passenger requirements. All seating shall be forward-facing.

3.10 Securement and Restraint System for Wheelchair/Mobility Aid and Occupant: For purposes of better understanding the various aspects and components of this section, the term *securement* or phrase *securement system* is used exclusively in reference to the device(s) which secure the wheelchair/mobility aid. The term *restraint* or phrase *restraint system* is used exclusively in reference to the device(s) used to restrain the occupant of the wheelchair/mobility aid. The phrase *securement and restraint system* is used to refer to the total system which secures and restrains both the wheelchair/mobility aid and the occupant.

3.10.1 Securement and restraint system—general

3.10.1.1 The Wheelchair/Mobility Aid Securement and Occupant Restraint System shall be designed, installed, and operated to accommodate passengers in a forward-facing orientation within the bus and shall comply with all applicable requirements of FMVSS 222. Gurney-type devices shall be secured parallel to the side of each bus.

3.10.1.2 The securement and restraint system, including the system track, floor plates, pockets, or other anchorages shall be provided by the same manufacturer, or be certified to be compatible by manufacturers of all equipment/systems used.

3.10.1.3 When a wheelchair/mobility aid securement device and an occupant restraint share a common anchorage, including occupant restraint designs that attach the occupant restraint to the securement device or the wheelchair/mobility aid, the anchorage shall be capable of withstanding the loads of both the securement device and occupant restraint applied simultaneously, in accordance with FMVSS 222. (See §2 and §3 of this section.)

3.10.1.4 When a wheelchair/mobility aid securement device (webbing or strap assembly) is shared with an occupant restraint, the wheelchair/mobility aid securement device (webbing or strap assembly) shall be capable of withstanding a force twice the amount as specified in §4.4(a) of FMVSS 209. (See §2 and §3 of this section.)

3.10.1.5 The bus body floor and sidewall structures where the securement and restraint system anchorages are attached shall have equal or greater strength than the load requirements of the system(s) being installed.

3.10.1.6 The occupant restraint system shall be designed to be attached to the bus body either directly or in combination with the wheelchair/mobility aid securement system, by a method which prohibits the transfer of weight or force from the wheelchair/mobility aid to the occupant in

the event of an impact.

3.10.1.7 When an occupied wheelchair/mobility aid is secured in accordance with the manufacturer's instructions, the securement and restraint system shall limit the movement of the occupied wheelchair/mobility aid to no more than 2" in any direction under normal driving conditions.

3.10.1.8 The securement and restraint system shall incorporate an identification scheme which will allow for the easy identification of the various components and their functions. It shall consist of one of the following, or combination thereof:

3.10.1.8.1 The wheelchair/mobility aid securement (webbing or strap assemblies) and the occupant restraint belt assemblies shall be of contrasting color or color shade.

3.10.1.8.2 The wheelchair/mobility aid securement device (webbing or strap assemblies) and occupant restraint belt assemblies shall be clearly marked to indicate the proper wheelchair orientation in the vehicle, and the name and location for each device or belt assembly, i.e., front, rear, lap belt, shoulder belt, etc.

3.10.1.9 All attachment or coupling devices designed to be connected or disconnected frequently shall be accessible and operable without the use of tools or other mechanical assistance.

3.10.1.10 All securement and restraint system hardware and components shall be free of sharp or jagged areas and shall be of a non-corrosive material or treated to resist corrosion in accordance with §4.3(a) of FMVSS 209.

3.10.1.11 The securement and restraint system shall be located and installed such that when an occupied wheelchair/mobility aid is secured, it does not block access to the lift door.

3.10.1.12 A device for storage of the securement and restraint system shall be provided. When the system is not in use, the storage device shall allow for clean storage of the system, shall keep the system securely contained within the passenger compartment, shall provide reasonable protection from vandalism, and shall enable the system to be readily accessed for use.

3.10.1.13 The entire securement and restraint system, including the storage device, shall meet the flammability standards established in FMVSS 302.

3.10.1.14 Each securement device (webbing or strap assembly) and restraint belt assembly shall be permanently and legibly marked or incorporate a non-removable label or tag which states that it conforms to all applicable FMVSS requirements, as well as, the 1995 National Standards. In addition, the system manufacturer, or an authorized representative, upon request by the original titled purchaser, shall provide a notarized Certificate of Conformance, either original or photocopied, which states that the wheelchair/mobility aid securement and occupant

restraint system meets all of the requirements as specified in FMVSS 222 and the 1995 National Standards.

3.10.1.15 The following information shall be provided with each vehicle equipped with a securement and restraint system:

3.10.1.15.1 A phone number where information can be obtained about installation, repair, and parts. (Detailed written instructions and a parts list shall be available upon request).

3.10.1.15.2 Detailed instructions regarding use, including a diagram showing the proper placement of the wheelchair/mobility aids and positioning of securement devices and occupant restraints, including correct belt angles.

3.10.1.16 The system manufacturer shall make available training materials to ensure the proper use and maintenance of the wheelchair/mobility aid securement and occupant restraint system. These may include instructional videos, classroom curriculum, system test results, or other related materials.

3.10.2 Wheelchair/mobility aid securement system

3.10.2.1 Each securement system location shall consist of a minimum of four anchorage points. A minimum of two anchorage points shall be located in front of the wheelchair/mobility aid and a minimum of two anchorage points shall be located in the rear. The securement anchorages shall be attached to the floor of the vehicle and shall not interfere with passenger movement or present any hazardous condition.

3.10.2.2 Each securement system location shall have a minimum clear floor area of 30" by 48". Additional floor area may be required for some applications. Consultation between the user and the manufacturer is recommended to ensure adequate area is provided.

3.10.2.3 The securement system shall secure common wheelchair/mobility aids and shall be able to be attached easily by a person having average dexterity and who is familiar with the system and wheelchair/mobility aid.

3.10.2.4 As installed, each securement anchorage shall be capable of withstanding a minimum force of 3,000 pounds (13,344 Newtons) when applied as specified in FMVSS 222. When more than one securement device share a common anchorage, the anchorage shall be capable of withstanding the force indicated above, multiplied by the number of securement devices sharing that anchorage.

3.10.2.5 Each securement device, if incorporating webbing or a strap assembly, shall comply with the requirements for Type 1 safety belt systems, in accordance with §4.2, §4.3, and §4.4(a) of FMVSS 209.

3.10.2.6 The securement system shall secure the wheelchair/mobility aid in such a manner that the attachments or coupling hardware will not become detached when any wheelchair/mobility aid component deforms, when one or more tires deflate, and without intentional

operation of a release mechanism (e.g., a spring clip on a securement hook).

3.10.2.7 Each securement device (webbing or strap assembly) shall be capable of withstanding a minimum force of 2,500 pounds when tested in accordance with FMVSS 209.

3.10.2.8 Each securement device (webbing or strap assembly) shall provide a means of adjustment, of manufacturer's design, to remove slack from the device or assembly.

3.10.3 Occupant Restraint System

3.10.3.1 A Type 2A occupant restraint system which meets all applicable requirements of FMVSS 209 and 210 shall provide for restraint of the occupant.

3.10.3.2 The occupant restraint system shall be made of materials which do not stain, soil, or tear an occupant's clothing, and which are resistant to water damage and fraying.

3.10.3.3 Each restraint system location shall have not less than one anchorage, of manufacturer's design, for the upper end of the upper torso restraint.

3.10.3.3.1 The anchorage for each occupant's upper torso restraint shall be capable of withstanding a minimum force of 1,500 pounds (6,672 Newtons) when applied as specified in FMVSS 222.

3.10.3.4 Each wheelchair/mobility aid location shall have not less than two floor anchorages for the occupant pelvic and the connected upper torso restraint.

3.10.3.4.1 Each floor anchorage shall be capable of withstanding a minimum force of 3,000 pounds (13,344 Newtons) when applied as specified in FMVSS 222.

3.10.3.4.2 When more than one occupant restraint share a common anchorage, the anchorage shall be capable of withstanding a minimum force of 3,000 pounds (13,344 Newtons) multiplied by the number of occupant restraints sharing the common anchorage in accordance with FMVSS 222.

3.10.3.5 Each floor and wall anchorage which secures the occupant restraint to the vehicle and which is not permanently attached, shall be of a "positive latch" design, and shall not allow for any accidental disconnection.

3.10.4 Dynamic Testing

3.10.4.1 The wheelchair/mobility aid securement and occupant restraint system shall be subjected to, and successfully pass, a dynamic sled test at a minimum impact speed/deceleration of 30 mph/20g's.

3.10.4.2 The dynamic test shall be performed by experienced personnel using an impact simulator with proven ability to provide reliable, accurate, and test results which can be replicated.

3.10.4.3 The dynamic test shall be performed in accordance with the procedures set forth in Appendix A of SAE J2249 "Test for Frontal Impact Crash Worthiness."

3.10.4.4 The wheelchair/mobility aid used for

testing purposes shall be a rigid, reusable surrogate wheelchair that complies with the requirements of Appendix D of SAE J2249 "Specification for Surrogate Wheelchair."

3.10.4.5 The dynamic test shall be performed using system assemblies, components and attaching hardware which are identical to the final installation in type, configuration and positioning. The body structure at the anchorage points may be simulated for the purpose of the sled test.

3.10.4.6 When tested, the wheelchair/mobility aid securement and occupant restraint system shall pass the criteria specified in Section 6.2 of SAE J2249 "Performance Requirements of Frontal Sled Impact Test." Following is an abridged summary of the criteria. (See Appendix D, 1995 National Standards)

3.10.4.6.1 Retain the test dummy in the test wheelchair and on the test sled with the test wheelchair in an upright position.

3.10.4.6.2 Not show any fragmentation or complete separation of any load carrying part.

3.10.4.6.3 Not allow the horizontal excursions of the test dummy and the test wheelchair to exceed specified limits.

3.10.4.6.4 Prevent the test wheelchair from imposing forward loads on the test dummy.

3.10.4.6.5 Allow removal of the test dummy and the test wheelchair, subsequent to the test, without the use of tools.

3.11 Special Light: Doorways in which lifts are installed, shall have, when lift is to be used, at least 2 foot-candles of illumination measured on the floor of the bus immediately adjacent to the lift, and on the lift, when deployed at the vehicle floor level.

3.12 Special Service Entrance

3.12.1 Power lift-equipped bodies shall have a special service entrance to accommodate the power lift.

Exception: If the lift is designed to operate within the regular service entrance, and is capable of stowing such that the regular service entrance is not blocked in any way, and that persons entering or exiting the bus are not impeded in any way, a special service entrance shall not be required.

3.12.2 The special service entrance and door shall be located on the right side of the bus and shall be designed so as not to obstruct the regular service entrance.

3.12.3 The opening may extend below the floor through the bottom of the body skirt. If such an opening is used, reinforcements shall be installed at the front and rear of the floor opening to support the floor and give the same strength as other floor openings.

3.12.4 A drip molding shall be installed above the opening to effectively divert water from entrance.

3.12.5 Door posts and headers from entrance shall be reinforced sufficiently to provide support and strength equivalent to the areas of the side of the bus not used for

special service entrance.

3.13 Special Service Entrance Doors

3.13.1 A single door or double doors may be used for the special service entrance. They shall have rub rails.

3.13.2 A single door shall be hinged to the forward side of the entrance unless doing so would obstruct the regular service entrance. If, due to the above condition, the door is hinged to the rearward side of the doorway, the door shall utilize a safety mechanism which will prevent the door from swinging open should the primary door latch fail. If double doors are used the system shall be designed to prevent the door(s) from being blown open by the wind resistance created by the forward motion of the bus, and/or incorporate a safety mechanism to provide secondary protection should the primary latching mechanism(s) fail.

3.13.3 All doors shall have positive fastening devices to hold doors in the open position.

3.13.4 All doors shall be weather sealed.

3.13.5 When manually-operated dual doors are provided, the rear door shall have at least a one-point fastening device to the header. The forward-mounted door shall have at least three-point fastening devices. One shall be to the header, one to the floor line of the body, and the other shall be into the rear door. The door and hinge mechanism shall be of a strength that is greater than or equivalent to the emergency exit door.

3.13.6 Door materials, panels and structural strength shall be equivalent to the conventional service and emergency doors. Color, rub rail extensions, lettering and other exterior features shall match adjacent sections of the body.

3.13.7 Each door shall have windows set in rubber which are visually similar in size and location to adjacent non-door windows. Glazing shall be of same type and tinting (if applicable) as standard fixed glass in other body locations.

3.13.8 Door(s) shall be equipped with a device that will actuate an audible or flashing signal located in the driver's compartment when door(s) is not securely closed and ignition is in "on" position.

3.13.9 A switch shall be installed so that the lifting mechanism will not operate when the lift platform door(s) is closed.

3.13.10 Special service entrance doors shall be equipped with padding at the top edge of the door opening. Padding shall be at least 3" wide and 1" thick and extend the full width of the door opening.

See 1 DE Reg. 473 (11/1/97)

DEPARTMENT OF HEALTH AND SOCIAL SERVICES DIVISION OF SERVICES FOR AGING AND ADULTS WITH PHYSICAL DISABILITIES

Statutory Authority: 13 Delaware Code,
Sections 707 and 708 (13 Del.C. §§707, 708)

In the Matter Of:

Final Regulations on Establishment of
Delegation of Power of Relative Caregivers to
Consent to Medical 13 Del.C. §707 and 708

Nature of the Proceedings:

Delaware Health and Social Services (DHSS) initiated proceedings to promulgate Regulations regarding relative caregivers without custody or guardianship and their ability to approve medical treatment for others' children in their care under 13 Del.C. § 708.

Public hearings were held according to APA standards. On Tuesday, August 22, a public hearing was held in Dover on both the Caregivers' Medical Authorization and the Caregivers' School Authorization.

There were no comments on the regulations for both Authorizations.

There were written legal concerns regarding protecting parents' rights and the proofs necessary to show that genuine effort was made to locate the parents. More information is in the Summary section below. As a result, a new set of Emergency Regulations and Proposed Regulations were published in the October 2000 Register of Regulations.

The State Council for Persons with Disabilities as well as the Delaware Health Care Association submitted comments. The comments on the proofs necessary to show genuine effort to locate parents and those of these two agencies were received and evaluated. The results of that evaluation are summarized below.

Summary of the Evidence and Information Submitted/ findings of Fact, with Agency Response:

- Designing proofs required to show genuine effort to contact absent parents, guardians, or custodians. There are four proofs for a caregiver to choose from to fulfill this stipulation. Originally caregivers were required to choose one proof. In order to show genuine effort to locate the parents, guardians, or custodians, it was agreed that caregivers would be required to send a certified letter to the last known address of the parents, guardians, or custodians. The return receipt marked "Not at this

address" would fulfill one proof. The caregiver would choose which proof among the remaining three he or she would fulfill.

- "The definitions in Section I of the Caregivers' Medical Consent may be unauthorized." The definitions are authorized because they apply only to consent to medical treatment by caregivers under the affidavit, not to consent to medical treatment by other persons.
- "Clarification of whether the relative caregiver can consent to involuntary commitment to a hospital for mental illnesses or substance abuse facility." The sentence "Medical treatment does not include treatment in an inpatient mental health facility" has been added.
- "taken before a person having authority to administer such oath or affirmation, such as an officer of the court or other person who has been duly authorized to do so" in the notary section is confusing." We agree and have changed the section to read:
- "An affidavit of written or printed declaration or statement of facts, made voluntarily,
- and confirmed by the Oath or affirmation of the party making it, and taken by a
- licensed notary."
- "only the Caregivers' Medical Authorization form developed by DSAAPD shall be used." The statute does not recite that DSAAPD is even authorized to develop a standard form, much less an exclusive form." The sentence "Only the Caregivers' Medical Authorization form developed by DSAAPD shall be used" is deleted.
- "Clarify that the regulations are not intended to affect the use of a valid power of attorney." As for the power of attorney, it functions as a caregiver's affidavit only if it complies with the formalities of the statute. The "clarification" proposed would not be appropriate.
- "Reasonable effort to locate the parent(s), guardian, or custodian of the child shall include . . . DSAAPD should clarify that the definition of reasonable effort relates only to Section 708(a) and not to 707(b)(5)." We do not believe this clarification is needed. DSAAPD is empowered to regulate only caregiver's consent, not other types of consent authorized under Section 707.
- "Authorization affidavit valid for one year – should end with the calendar year." The law states: §708(b) "The Affidavit is valid for one year . . ." Specifying that the year ends on December 31 would be changing the law.
- "Original versus copy of authorization affidavit to provide health care services." There is nothing in

the law or regulations that prohibit photocopied Authorizations.

- "Signature lines on authorization affidavit." The affidavit itself is not part of the regulations.
- "Title of the form." A typographical error has been corrected so that it is clear this Affidavit refers to medical authorization only.

Decision/Order:

The Department finds that the changes made in response to the comments received during the public comment periods do not substantially change the nature of the regulations. Rather, they help to clarify the regulations proposed. Thus, the regulations, as set forth in the attached version, should be issued, in the best interest of the general public of the State of Delaware.

THEREFORE, IT IS ORDERED, that the Regulations governing the Establishment of Delegation of Power of Relative Caregivers to Consent to the Medical Treatment of Minors are adopted, as herein revised, and shall become effective ten days after publication of the final regulations in the Delaware Register of Regulations.

Gregg C. Sylvester, MD, Secretary
November 17, 2000

I. Definitions for terms used in 13 Del.C. section 707(a):

1.(a) ~~[Medical treatment includes the use of prescription drugs.] [Medical treatment does not include treatment in an inpatient mental health facility.]~~

Disease – a pathological condition of a body part, an organ, or a system resulting from various causes, such as infection, genetic defect, or environmental stress, and characterized by an identifiable group of signs or symptoms or life.

Pathology – the medical science concerned with all aspects of disease with an emphasis on the essential nature, causes, and development of abnormal conditions, as well as with the structural and functional changes that result from disease processes. It is also the anatomical or functional manifestations of a disease.

(1)(b) Public clinics include school wellness centers.

This authorization also applies to medical care provided in schools that do not have wellness centers as well as medical care required at school-related activities.

II. Definition for terms used in 13 Del.C. section 708:

(1) Affidavit of Establishment of Power to Relative Caregivers to Consent to Medical Treatment of Minors (also known as Caregivers' Medical Authorization) – An affidavit of written or printed declaration or statement of facts, made voluntarily, and confirmed by the oath or affirmation of the party making it, ~~taken before a person having authority~~

~~to administer such oath or affirmation, such as an officer of the court or other person who has been duly authorized to do so.] [and taken by a licensed notary.]~~

III. Reasonable effort to locate the parent(s), guardian, or custodian of the child shall include option 1, which is required, and a choice of either option 2, 3, or 4.

(1) Certified mail receipt of a written notice from the caregiver that he or she intends to take medical responsibility for the child. The notice should be sent to the last known address of the parent(s), custodian, or guardian. Proof of this step will be the notice and the return receipt saying that the letter was not deliverable because no one by that name lives at this address.

(2) The caregiver or someone acting in his or her place makes an actual visit to the last known address of the parent(s), custodian, or guardian. The individual making this visit will need to describe what was found at this address and to whom he or she spoke regarding the missing parent(s), custodian, or guardian.

(3) Contact with social service agencies, place of employment, health care provider, or friends verified by a written statement signed by that party confirming that the location of the parent(s), custodian, or guardian is unknown.

(4) **[The caregiver places a legal notice in the News Journal and the Delaware State News informing the parent(s), custodian, or guardian of (child's name) _____ that the caregiver intends to take educational responsibility of the child. Eight days after publication describe what happened. Include the response you received or the lack of response. Attach a copy of the legal notice, being sure to include the portion of the newspaper with the date the notice was printed.]**

[(5)] Other documents or confirmations that show the parent(s), custodian, or guardian cannot be found.

IV. Affidavit:

Delaware Health and Social Services will maintain the Caregivers' Medical Authorization form. Anyone who wishes to obtain this form may do so by contacting ~~[Delaware Health and Social Services,]~~ [their local State Service Center, Public Health clinic, or the] Division of Services for Aging and Adults with Physical Disabilities (DSAAPD) or their local school district office. ~~[Only the Caregivers' Medical Authorization form developed by DSAAPD shall be used.]~~

**DIVISION OF SERVICES FOR AGING AND ADULTS
WITH PHYSICAL DISABILITIES**

Statutory Authority: 14 Delaware Code,
Section 202 (14 Del.C.§202)

In the Matter Of:

**Final Regulations on Establishment of
Delegation of Power of Relative Caregivers to
Consent for Registering Minors for School
14 Del.C. § 202**

Nature of the Proceedings:

Delaware Health and Social Services (DHSS) initiated proceedings to promulgate Regulations regarding relative caregivers without custody or guardianship and their ability to register others' children for school under 14 Del.C. § 202.

On Tuesday, August 22, 2000, public hearings were held according to APA standards on both the Caregivers' Medical Authorization and the Caregivers' School Authorization.

There were no comments on the regulations for either Authorizations.

There were written concerns regarding protecting parents' rights and the proofs necessary to show that genuine effort was made to locate the parents. More information is in the Summary section below. As a result, a new set of Emergency Regulations and Proposed Regulations were published in the October 2000 Register of Regulations.

The State Council for Persons with Disabilities submitted comments. The comments on the proofs necessary to show genuine effort to locate parents and those of this agency were received and evaluated. The results of that evaluation are summarized below.

**Summary of the Evidence and Information Submitted/
findings of Fact, with Agency Response:**

- Defining proofs required to show genuine effort to contact absent parents, guardians, or custodians. There are four proofs for a caregiver to choose from to fulfill this stipulation. Originally caregivers were required to choose one proof. In order to show genuine effort to locate the parents, guardians, or custodians, it was agreed that caregivers would be required to send a certified letter to the last known address of the parents, guardians, or custodians. The return receipt marked "Not at this address" would fulfill one proof. The caregiver could choose which proof among the remaining three he or she would fulfill.
- "There are incorrect citations in Section I." Those citations are corrected.

- "Proofs of relationship and caregiving. Why refer to the birth certificate of the "adult child?" The birth certificate is meant to prove relationship between the caregiver and the parent. The language "adult child" will be changed to "parent".
- "The proof requiring Public Health records would be clearer if examples such as Medicaid and food stamps records are included." The use of Medicaid and food stamps records is now included.
- "The reference to "social worker" may be too narrow since it would not cover licensed psychologists or professional counselors." Licensed psychologist and professional counselors is now included.

Decision/Order:

The Department finds that the changes made in response to the comments received during the public comment periods do not substantially change the nature of the regulations. Rather, they help to clarify the regulations proposed. Thus, the regulations, as set forth in the attached version, should be issued, in the best interest of the general public of the State of Delaware.

THEREFORE, IT IS ORDERED, that the Regulations governing the Establishment of Delegation of Power of Relative Caregivers to Consent to the School Registration of Minors are adopted, as herein revised, and shall become effective ten days after publication of the final regulations in the Delaware Register of Regulations.

Gregg C. Sylvester, MD, Secretary
November 17, 2000

I. Definitions for terms used in 14 Del.C. section 202:

Establishment of Delegation of Power of Relative Caregivers to Consent for Registering Minors for School (also known as Caregivers' School Authorization) (found in subsection (e)~~(1)~~(2) (c) of section 202)– An affidavit of written or printed declaration or statement of facts, made voluntarily, and confirmed by the oath or affirmation of the party making it, ~~taken before a person having authority to administer such oath or affirmation, such as an officer of the court or a notary public or other person who has been duly authorized so to act.~~ [and taken by a licensed notary.]

II. Proof of relationship and Proof of caregiving: (found in subsection (2)(f)(1))

There must be two different forms of documentation, one from each column. One must show proof of relationship and the other proof of caregiving. These documents, or other similar documents as approved by the school district, must be presented for registration.

<u>PROOF OF RELATIONSHIP</u>	<u>PROOF OF CAREGIVING</u>
<u>Birth certificate of caregiver, the adult child, [parent] and birth certificate of the child.</u>	
<u>Medical records where a caregiver is required to give approval, such as shots. Such records must show the relationship between the caregiver and the child.</u>	<u>Medical records where a caregiver's authorization to give approval for services such as shots was acceptable.</u>
<u>A Will which lists the child and the relationship between the caregiver and child.</u>	
<u>Insurance for the caregiver or child which includes the relationship between the caregiver and child.</u>	
<u>A letter from a social worker, lawyer, religious leader, or previous school district, [licensed medical, mental health, or behavioral professionals] which verifies the relationship of the child to the caregiver.</u>	<u>A letter from a social worker, lawyer, religious leaders, [licensed medical, mental health, or behavioral professionals] or neighbor confirming the child is being cared for by the caregiver.</u>
<u>Free and Reduced lunch program application.</u>	
<u>Child is listed as occupant in an apartment or other housing and his/her relationship to the caregiver is included.</u>	<u>Child is listed as occupant in an apartment or other housing and his/her relationship to the caregiver is given.</u>
<u>Caregiver receives Child-only Temporary Aid for Needy Families (TANF) grant for this child.</u>	<u>Caregiver received Child-only Temporary Aid for Needy Families (TANF) grant for this child.</u>
<u>Child claimed on Federal Income Tax return.</u>	<u>Child claimed on Federal Income Tax return.</u>

Child claimed on Federal Income Tax return.	Child claimed on Federal Income Tax return.
Caregiver receives Earned Income Tax Credit for the child.	Caregiver receives Earned Income Tax Credit for the child.
	Child's Social Security survivor death benefits are received by the caregiver for the child.
Hospital, clinic, or Public Health [Medicaid or food stamp] records showing the relationship between the caregiver and the child.	Hospital, clinic, for Public Health [or Medicaid records] records where a caregiver's authorization to give approval for services such as shots was acceptable.
Division of Services for Children, Youth and their Families' records specifying the relationship between the caregiver and child.	Division of Services for Children, Youth and their Families' records showing that the caregiver is the contact for this child.
Military or veterans records which specify relationship	
Or other documents as approved by the school district.	Or other documents as approved by the school district.

III. Reasonable effort to locate the parent(s), guardian, or custodian of the child shall include option 1, which is required, and a choice of either option 2, 3, or 4.

(1) Certified mail receipt of a written notice from the caregiver that he or she intends to take school responsibility for the child. The notice should be sent to the last known address of the parent(s), custodian, or guardian. Proof of this step will be the notice and the return receipt saying that the letter was not deliverable because no one by that name lives at this address.

(2) The caregiver or someone acting in his or her place makes an actual visit to the last known address of the parent(s), custodian, or guardian. The individual making his visit will need to describe what was found at this address and to whom he or she spoke regarding the missing parent(s), custodian, or guardian.

(3) Contact with social service agencies, place of employment, health care provider, or friends verified by a written statement signed by that party confirming that the location of the parent(s), custodian, or guardian is unknown.

(4) [The caregiver places a legal notice in the News

Journal and the Delaware State News informing the parent(s), custodian, or guardian of (child's name) _____ that the caregiver intends to take educational responsibility of the child. Eight days after publication describe what happened. Include the response you received or the lack of response. Attach a copy of the legal notice, being sure to include the portion of the newspaper with the date the notice was printed.]

[(5) Other documents or confirmations that show the parent(s), custodian, or guardian cannot be found.]

IV. Affidavit:

Delaware Health and Social Services will develop the Caregivers' School Authorization form. Anyone who wishes to obtain this form may do so by contacting Delaware Health and Social Services, Division of Services for Aging and Adults with Physical Disabilities (DSAAPD) or their local school district office. Only the Caregivers' School Authorization form developed by DSAAPD shall be used.

**DEPARTMENT OF NATURAL
RESOURCES AND
ENVIRONMENTAL CONTROL
DIVISION OF AIR AND WASTE MANAGEMENT
AIR QUALITY MANAGEMENT SECTION**
Statutory Authority: 7 Delaware Code,
Section 6010 (7 Del.C. 6010)

Secretary's Order No.: 2000-A-0046

**RE: Proposed Amendments to Regulation No. 30:
TITLE V STATE OPERATING PERMIT PROGRAM
of the State of Delaware "Regulations Governing the
Control of Air Pollution"**

Date of Issuance: September 29, 2000

Effective Date of the Amendment: December 11, 2000

I. Background

On Monday, June 26, 2000, at approximately 6:00 p.m., a public hearing was held in the DNREC Auditorium at 89 Kings Highway, Dover, Delaware. The purpose of this hearing was to receive public comment on the proposed amendments to the Title V Program in order to address deficiencies that have been noted by the Environmental Protection Agency. After the hearing, the Department performed an evaluation of the evidence entered into the record in this matter. Thereafter, the Hearing Officer prepared his report and recommendation in the form of a memorandum to the Secretary dated September 14, 2000, and that memorandum is expressly incorporated herein by

reference.

II. Findings and Conclusions

All of the findings and conclusions contained in the Hearing Officer's Memorandum dated September 14, 2000, are expressly incorporated herein and explicitly adopted as the findings and conclusions of the Secretary.

III. Order

In view of the above, I hereby order that the State of Delaware's Regulation No. 30 be amended in the manner and form provided for by law pursuant to the changes proposed prior to the hearing and as recommended in the Hearing Officer's memorandum.

IV. Reasons

Adopting the proposed amendments to Delaware's Regulation No. 30 will correct the identified deficiencies/inadvertent inconsistencies that currently exist between Regulation No. 30 and 40 CFR Part 70 that occurred during the development of Regulation No. 30. Additionally, once these revisions are submitted to and approved by the Environmental Protection Agency, the State of Delaware will be granted full approval of its Title V State Operating Permits Program.

Nicholas A. DiPasquale, Secretary

**Revisions to Regulation No. 30,
Title V State Operating Permit Program**

The Department is proposing to make the following four revisions to Regulation No. 30:

1. Amend Section 6(f)(1) as follows:

(1) Except as provided in this regulation, a source may request that the *Department* include in the *Part 70 permit* a provision stating that compliance with the terms and conditions of the permit shall constitute compliance with 7 Del. C. Chapter 60, for the discharge of any air contaminant any applicable requirement specifically identified in the permit ~~application~~ as of the day of permit issuance.

2. Amend Section 7(d)(1)(v) as follows:

(v) Incorporates into the permit the requirements from preconstruction review permits issued by the *Department* under ~~Parts C and D of Title I of the Act, or permits issued under~~ Regulation No. 2 and/or Regulation No. 25, when such permits were issued meeting the requirements of Sections 11.2(j), 11.5, 12.4, 12.5, and 12.6 of Regulation No. 2 ~~public participation provisions of section 7(j).~~

3. Amend Section 7(f)(4) as follows:

(4) Any reopening under paragraph (1)(ii) ~~(4)(iii)~~ of this subsection shall be completed within eighteen (18) months after promulgation of the *applicable requirements*.

4. Amend Section 7(j)(4) as follows:

(4) Any public hearing held under this section shall be held no earlier than the 31ST day following publication of ~~a~~ the public notice that a public hearing will be held, and of the time and place that hearing will be held.

**DIVISION OF AIR AND WASTE MANAGEMENT
AIR QUALITY MANAGEMENT SECTION**

Statutory Authority: 7 Delaware Code,
Chapter 60 (7 Del.C. Ch. 60)

Secretary's Order No.: 2000-A-0055

**RE: New Regulation No. 39, Nitrogen Oxides (NOx)
Budget Trading Program, to be
Added to the State of Delaware**

Regulations Governing the Control of Air Pollution;

**The accompanying Delaware Plan for Meeting the
Nitrogen Oxide (NOx) Budget Requirements Contained
In the EPA NOx SIP Call to be added to the Delaware
State Implementation Plan**

Date of Issuance: November 9, 2000

Effective Date of the Amendment: December 11, 2000

I. Background

On Tuesday, September 26, 2000, at approximately 6:00 p.m., a public hearing was held in the DNREC Auditorium at 89 Kings Highway, Dover, Delaware. The purpose of this hearing was to receive public comment on the proposed new Regulation No. 39, and its accompanying SIP provision. After the hearing, the Department performed an evaluation of the evidence entered into the record in this matter. Thereafter, the Hearing Officer prepared his report and recommendation in the form of a memorandum to the Secretary dated October 19, 2000, and that memorandum is expressly incorporated herein by reference.

II. Findings and Conclusions

All of the findings and conclusions contained in the Hearing Officer's Memorandum dated October 19, 2000, are expressly incorporated herein and explicitly adopted as the findings and conclusions of the Secretary.

Delaware's proposed new Regulation No. 39 and Delaware's Plan for meeting the NOx Budget requirements contained in the EPA NOx SIP Call be promulgated and implemented in the manner and form provided for by law pursuant to the changes proposed prior to the hearing and as recommended in the Hearing Officer's memorandum.

IV. Reasons

Adopting the proposed new Regulation No. 39 and Delaware's Plan for meeting the NOx Budget requirements contained in the EPA NOx SIP Call will be beneficial to the State of Delaware. Regulation No. 39 will (1) improve air quality; (2) encourage NOx reductions in Delaware; (3) help satisfy the rate of progress requirements; (4) help to meet the EPA's NOx Transport SIP Call, and replace EPA's Section 126 Rule; and (5) facilitate NOx reductions in an economical manner. Furthermore, Delaware's Plan fulfills the requirements of the NOx SIP Call.

Nicholas A. DiPasquale, Secretary

Regulation No. 39 - Nitrogen Oxides (NOX) Budget Trading Program

Section 1 - Purpose

a. This regulation establishes Delaware's participation in the NOX Budget Trading Program. The NOX Budget Trading Program is a multi-state NOX emissions cap and trade program, established pursuant to Title 40, Part 96 of the Code of Federal Regulations (40 CFR Part 96) and 40 CFR Part 51.121. Its purpose is to reduce emissions of the ozone precursor NOX.

b. The goals of this regulation are to 1) improve air quality, 2) encourage NOX reductions in Delaware, 3) help to satisfy rate of progress requirements under Section 182(c) of the CAA, and 4) help to satisfy Delaware's obligations under Section 110(a)(2)(D) of the CAA to not contribute to other states' non-attainment. The Department believes that, considering the regional nature of ozone nonattainment and the phenomena of ozone and ozone precursor transport, participation in the NOX Budget Trading Program provides for an effective means to meet these goals, and an economical alternative to traditional command and control type regulations.

c. This regulation establishes general, administrative, permitting, monitoring, compliance, penalty and opt-in provisions, that are consistent with 40 CFR Part 96, and allow the transfer of NOX allowances for compliance with any NOX Budget unit that is covered by this regulation or by the regulation of any other state participating in the NOX Budget Trading Program.

d. This regulation establishes a follow-on program to the program established by Regulation No. 37, NOX Budget Program, of the State of Delaware "Regulations Governing

the Control of Air Pollution." The program established by Regulation No. 37 ends with the end of the 2002 NOX control period.

Section 2 - Emission Limitation

a. Each NOX Budget unit shall hold in its compliance account and/or its overdraft account, as of the NOX allowance transfer deadline of each control period, a quantity of NOX allowances available for deduction that is equal to or greater than the total NOX emissions from that NOX Budget unit for that control period.

b. Each NOX Budget unit shall be subject to the requirements of Section 2(a) of this regulation starting on the later of May 1, 2003 or the date the unit commences operation.

Section 3 - Applicability

a. This regulation applies to:

1. Any unit located within the State of Delaware that:

i. Serves a generator with a nameplate capacity of 15 megawatts electrical (MWe), or greater; or

ii. Is not a unit under Section 3(a)(1)(i) of this regulation and that has a maximum design heat input capacity of 250 million British Thermal Units per hour (MMBTU/hr), or greater; or

2. Any unit located in the State of Delaware that is issued a final NOX Budget permit under Section 14 of this regulation; or

3. Any person that establishes a general account pursuant to Section 15 of this regulation.

b. Once any unit becomes a NOX Budget unit, it shall remain subject to all of the requirements of this regulation, except as follows:

1. For any NOX Budget unit that is retired, the NOX authorized account representative may submit to the Department, with a copy to the Administrator, a statement indicating that unit is retired and that it shall comply with all of the provisions of Section 3(b) of this regulation.

2. Upon receipt of the submission under Section 3(b)(1) of this regulation, the Department shall amend or cancel, as applicable, the unit's NOX Budget permit.

3. Except as provided for in Section 3(b)(7) of this regulation, an exemption from the requirements of this regulation shall be in effect on and after the date any submission is made pursuant to Section 3(b)(1) of this regulation.

4. The unit shall not emit any NOX while the exemption is in effect.

5. The NOX authorized account representative of the unit:

i. Shall comply with all of the requirements of this regulation concerning all periods for which the exemption is not in effect, even if such requirements arise, or

must be complied with, after the exemption takes effect.

ii. Shall, except as provided for in Section 3(b)(5)(iii) of this regulation, comply with all of the requirements of this regulation except for the requirements of Sections 2, 7, 8 and 11 through 15 of this regulation.

iii. May, at his option and provided the unit does not receive an annual allocation under Appendix "A" of this regulation, request that the Administrator close the NOX Budget units compliance account and establish and transfer any remaining allowances to a new general account for the owner and operator of the NOX Budget source. The NOX authorized account representative for the NOX Budget source shall become the NOX authorized account representative for that general account, and shall comply with all of the requirements of this regulation except for the requirements of Sections 2, 6, 7, 8, and 11 through 14 of this regulation.

6. For any unit identified in Section 3(a)(1) that receives an annual allocation under Appendix "A" of this regulation, that unit shall continue to receive that allocation as provided for in Section (c) of Appendix "A" of this regulation. Any unit identified in Section 3(a)(2) shall not receive an allocation under Section 14(f) of this regulation while the exemption is in effect.

7. If any unit exempted under Section 3(b) of this regulation is ever reactivated, upon reactivation, for the purposes of applying the requirements of Section 8 of this regulation, the unit shall be treated as a new unit that commences operation or commences commercial operation on the first date on which the unit resumes operation. Prior to commencing operations, the NOX authorized account representative shall secure or amend, as applicable, a NOX Budget permit.

Section 4 - Definitions

The terms used in this regulation shall have the meanings set forth in this section.

a. Administrator means the Administrator of the United States Environmental Protection Agency or the Administrator's duly authorized representative.

b. Allocate or allocation means the determination by the Department or the Administrator of the number of NOX allowances to be initially credited to a NOX Budget unit.

c. Allowance means a NOX allowance described in Section 5(a)(2) through 5(a)(4) of this regulation.

d. Automated data acquisition and handling system means that component of the continuous emission monitoring system, or other emissions monitoring system approved for use pursuant to Section 8 of this regulation, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a continuous record of the

measured parameters in the measurement units required by Section 8 of this regulation.

e. CAA means the Clean Air Act, 42 U.S.C. 7401, et seq., as amended by Pub. L. No. 101-549 (November 15, 1990).

f. Commence commercial operation means, with regard to a unit that serves a generator, to have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation.

1. Except as provided in Section 3(b)(7) of this regulation, for a unit that is a NOX Budget unit under Section 3(a)(1)(i) of this regulation on the date the unit commences commercial operation, such date shall remain the unit's date of commencement of commercial operation even if the unit is subsequently modified, reconstructed, or repowered.

2. Except as provided in Section 3(b)(7) or Section 14 of this regulation, for a unit that is not a NOX Budget unit on the date the unit commences commercial operation, the date the unit becomes a NOX Budget unit shall be the unit's date of commencement of commercial operation.

g. Commence operation means to have begun any mechanical, chemical, or electronic process, including, with regard to a unit, start-up of a unit's combustion chamber.

1. Except as provided in Section 3(b)(7) of this regulation, for a unit that is a NOX Budget unit under Sections 3(a)(1) of this regulation on the date the unit commences operation, such date shall remain the unit's date of commencement of operation even if the unit is subsequently modified, reconstructed, or repowered.

2. Except as provided in Section 3(b)(7) or Section 14 of this regulation, for a unit that is not a NOX Budget unit on the date the unit commences operation, the date the unit becomes a NOX Budget unit shall be the unit's date of commencement of operation.

h. Common stack means a single flue through which emissions from two or more pieces of equipment are exhausted.

i. Compliance account means a NATS account, established by the Administrator for a NOX Budget unit pursuant to Section 9 of this regulation, in which any allocation for the NOX Budget unit is initially recorded and in which are held NOX allowances available for deduction by the NOX Budget unit for a control period for the purpose of meeting the NOX Budget unit's NOX Budget emissions limitation.

j. Continuous emission monitoring system (CEMS) means the equipment required pursuant to Section 8 of this regulation used to sample, analyze, measure, and provide, by readings taken at least once every 15 minutes of the measured parameters, a permanent record of NOX emissions, expressed in pounds of NOX per hour. The following systems are component parts included, to the extent required by Section 8 of this regulation, in a

continuous emission monitoring system:

1. Flow monitor;
2. NOX pollutant concentration monitors;
3. Diluent gas monitor (O₂ or CO₂);
4. A continuous moisture monitor; and
5. An automated data acquisition and handling system.

k. Control period means the period beginning May 1 of a year and ending on September 30 of that same year, inclusive.

l. Deducted, Deduction, or Deduct NOX Allowance means the permanent withdrawal of NOX allowances by the Administrator from a NATS compliance account or overdraft account, under Section 12 of this regulation, to account for the number of tons of NOX emissions from a NOX Budget unit for a control period, quantified in accordance with Section 8 of this regulation, or for any other allowance surrender obligation of this regulation.

m. Department means the State of Delaware Department of Natural Resources and Environmental Control.

n. Emissions means air pollutants exhausted from a unit or source into the atmosphere, as measured, recorded, and reported to the Administrator by the NOX authorized account representative and as determined by the Administrator in accordance with Section 8 of this regulation.

o. Excess emissions means any tonnage of NOX emitted by a NOX Budget unit during a control period that exceeds that unit's NOX Budget emissions limitation.

p. General account means a NATS account, established in accordance with Section 15 of this regulation, that is neither a compliance account nor an overdraft account.

q. Generator means a device that produces electricity.

r. Heat input means the product (in MMBTU/time) of the gross calorific value of the fuel (in MMBTU/lb) and the fuel feed rate into a combustion device (in lb of fuel/time), or as calculated by any other method approved by the Department and the Administrator, as measured, recorded, and reported to the Administrator by the NOX authorized account representative and as determined by the Administrator in accordance with Section 8 of this regulation, and does not include the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

s. Hold NOX allowances or NOX allowances held means the NOX allowances recorded by the Administrator, or submitted to the Administrator for recordation in a NATS account in accordance with Sections 9 or 10.

t. Life-of-the-unit, firm power contractual arrangement means a unit participation power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of nameplate capacity and associated energy from any specified unit and pays its proportional amount of such unit's total costs,

pursuant to a contract:

1. For the life of the unit; or
2. For a cumulative term of no less than 30 years, including contracts that permit an election for early termination; or
3. For a period equal to or greater than 25 years or 70 percent of the economic useful life of the unit determined as of the time the unit is built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

u. Maximum design heat input means the ability of a unit to combust a stated maximum amount of fuel per hour on a steady state basis, as determined by the physical design and physical characteristics of the unit.

v. Monitoring system means any monitoring system that meets the requirements of Section 8 of this regulation, including a continuous emission monitoring system, an excepted monitoring system, or an alternative monitoring system.

w. Nameplate capacity means the maximum electrical generating output (in MWe) that a generator can sustain over a specified period of time when not restricted by seasonal or other deratings as measured in accordance with the United States Department of Energy standards.

x. NATS means NOX Allowance Tracking System; the system by which the Administrator records any allocation, deduction, or transfer of any NOX allowances under the NOX Budget Trading Program.

y. NATS account means a compliance, overdraft, or general account in the NATS, established by the Administrator, for purposes of recording any allocation and holding, transferring, or deducting any NOX allowances.

z. NOX allowance transfer deadline means midnight of November 30 or, if November 30 is a weekend or federal holiday, midnight of the first business day thereafter and is the deadline by which NOX allowances must be submitted for recordation in a NOX Budget units compliance account or overdraft account, in order to meet the unit's NOX Budget emissions limitation for the control period immediately preceding such deadline.

aa. NOX authorized account representative means:

1. For a NOX Budget source, the natural person who is authorized by the owners and operators of that source and all NOX Budget units at that source, in accordance with Section 6 of this regulation, to represent and legally bind each owner and operator in matters pertaining to the NOX Budget Trading Program.

2. For a general account, the natural person who is authorized, in accordance with Section 15 of this regulation, to transfer or otherwise dispose of NOX allowances held in the general account.

3. Except where used in Sections 6 and 15 of this regulation, the term NOX authorized account representative

shall be construed to include any alternate NOX authorized account representative.

bb. NOX Budget emissions limitation means the limitation described in Section 2(a) of this regulation.

cc. NOX Budget permit means the permit described in Section 7 and Section 14 of this regulation.

dd. NOX Budget source means a source that includes one or more NOX Budget unit(s).

ee. NOX Budget Trading Program means the program described in Section 1(a) of this regulation.

ff. NOX Budget unit means any unit described in Sections 3(a)(1) or 3(a)(2) of this regulation.

gg. Operator means any person who operates, controls, or supervises a NOX Budget unit, a NOX Budget source, or a unit for which an application for a NOX Budget permit under Section 14 of this regulation is submitted and not denied or withdrawn and shall include, but not be limited to, any holding company, utility system, or plant manager of such a unit or source.

hh. Opt-in unit means a unit described in Section 3(a)(2) of this regulation.

ii. Overdraft account means the NATS account, established by the Administrator under Section 9(a)(1) of this regulation, for each NOX Budget source where there are two or more NOX Budget units.

jj. Owner means any of the following persons:

1. Any holder of any portion of the legal or equitable title in a NOX Budget unit or in a unit for which an application for a NOX Budget permit under Section 14 of this regulation is submitted and not denied or withdrawn; or

2. Any holder of a leasehold interest in a NOX Budget unit or in a unit for which an application for a NOX Budget permit under Section 14 of this regulation is submitted and not denied or withdrawn; or

3. Any purchaser of power from a NOX Budget unit or from a unit for which an application for a NOX Budget permit under Section 14 of this regulation is submitted and not denied or withdrawn under a life-of-the-unit, firm power contractual arrangement. However, unless expressly provided for in a leasehold agreement, owner shall not include a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the NOX Budget unit or the unit for which an application for a NOX Budget permit under Section 14 of this regulation is submitted and not denied or withdrawn; or

4. With respect to any general account, any person who has an ownership interest with respect to the NOX allowances held in the general account and who is subject to the binding agreement for the NOX authorized account representative to represent that person's ownership interest with respect to NOX allowances.

kk. Receive or receipt of means, when referring to the

Department or the Administrator, to come into possession of a document, information, or correspondence (whether sent in writing or by authorized electronic transmission), as indicated in an official correspondence log, or by a notation made on the document, information, or correspondence, by the Department or the Administrator in the regular course of business.

ll. Recordation, record, or recorded means, with regard to any NOX allowance, the movement of that NOX allowance by the Administrator from one NATS account to another, for purposes of allocation, transfer, or deduction.

mm. Source means any governmental, institutional, commercial, or industrial structure, installation, plant, building, or facility that emits or has the potential to emit any regulated air pollutant under the CAA.

nn. State trading program budget means the total number of NOX tons apportioned to all NOX Budget units in a given State, in accordance with the NOX Budget Trading Program, for use in a given control period.

oo. Submit means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable regulation:

1. In person;
2. By United States Postal Service; or
3. By other means of dispatch or transmission or delivery.

Compliance with any "submission," "service," or "mailing" deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt.

pp. Ton or tonnage means any "short ton" (i.e., 2,000 pounds). For the purpose of determining compliance with the NOX Budget emissions limitation, total tons for a control period shall be calculated as the sum of all recorded hourly emissions (or the tonnage equivalent of the recorded hourly emissions rates) in accordance with Section 8 of this regulation, with any remaining fraction of a ton equal to or greater than 0.50 ton deemed to equal one ton and any fraction of a ton less than 0.50 ton deemed to equal zero tons.

qq. Unit means any of the following fossil fuel-fired combustion operations: boiler, indirect heat exchanger, combustion turbine, or combined cycle system. For the purposes of this definition:

1. Fossil fuel means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.

2. Fossil fuel-fired means,

A. The combustion of fossil fuel, alone or in combination with any other fuel, where fossil fuel actually combusted comprises more than 50 percent of the annual heat input on a BTU basis during any year starting in 1990 or, if a unit had no heat input starting in 1990, during the last year of operation of the unit prior to 1990; or

B. The combustion of fossil fuel, alone or in combination with any other fuel, where fossil fuel is

projected to comprise more than 50 percent of the annual heat input on a BTU basis during any year; provided that the unit shall be "fossil fuel-fired" as of the date, during such year, on which the unit begins combusting fossil fuel.

3. Boiler means an enclosed fossil or other fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other medium.

4. Indirect heat exchanger means combustion equipment in which the flame and/or products of combustion are separated from any contact with the principal material in the process by metallic or refractory walls, which includes, but is not limited to, steam boilers, vaporizers, melting pots, heat exchangers, column reboilers, fractioning column feed preheaters, and fuel-fired reactors such as steam hydrocarbon reformer heaters and pyrolysis heaters.

5. Combustion turbine means an enclosed fossil or other fuel-fired device that is comprised of a compressor, a combustor, and a turbine, and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine.

6. Combined cycle system means a system comprised of one or more combustion turbines, heat recovery steam generators, and steam turbines configured to improve overall efficiency of electricity generation or steam production.

Section 5 - General Provisions

a. Allocations and NOX Allowances.

1. An allocation may be made only by the Department in accordance with Appendix "A", Appendix "B", and Section 14(f) of this regulation, or by the Administrator as provided for in Appendix "A" of this regulation.

2. A NOX allowance is a limited authorization, by the Department and the Administrator, to emit up to one ton of NOX during the control period of a specified year or of any year thereafter, in accordance with the NOX Budget Trading Program. No provision of the NOX Budget Trading Program, the NOX Budget permit application, the NOX Budget permit, or an exemption under Section 3(b) of this regulation, and no provision of law shall be construed to limit the authority of the United States or the State of Delaware to terminate or limit such authorization.

3. NOX allowances shall be held in, deducted from, or transferred among NATS accounts in accordance with Sections 9, 10, 12 and 13 of this regulation. Any NOX allowance that is held in a NATS account shall remain in such NATS account unless and until that NOX allowance is deducted, transferred, or terminated.

4. A NOX allowance does not constitute a property right.

b. Record Keeping. Except as provided for below, the NOX authorized account representative of each NOX Budget source shall keep on site at that source each of the

following documents for, at a minimum, a period of 5 years from the date that document is created. This period of time may be extended for cause at any time prior to the end of that 5-year period upon written notification from either the Department or the Administrator.

1. The account certificate of representation submitted pursuant to Section 6 of this regulation, and all documents that demonstrate the truth of the statements in that account certificate of representation. The certificate and documents shall be retained on site at the source beyond that 5-year period until they are superseded by the submission of a new account certificate of representation.

2. The NOX Budget permit application submitted pursuant to Section 7 of this regulation, and all documents used to complete that application. The application and documents shall be retained on site at the source beyond that 5-year period until they are superseded by the submission of a new application.

3. All emissions monitoring information pursuant to Section 8 of this regulation, except that to the extent Section 8 of this regulation provides for a 3-year period, that 3-year period shall apply.

4. Copies of any report, compliance certification, and any other submission or record made or required under the NOX Budget Trading Program.

5. Records demonstrating that any unit exempted under Section 3(b) of this regulation is retired. The owner(s) and operator(s) of that unit bears the burden of proof that the unit is retired.

c. Computation of Time. Unless otherwise stated:

1. Any time period scheduled to begin on the occurrence of an act or event shall begin on the day that act or event occurs.

2. Any time period scheduled to begin before the occurrence of an act or event shall begin not later than the day before that act or event occurs.

3. If the final day of any time period falls on a weekend or a State of Delaware or Federal holiday, that time period shall be extended to the next business day.

d. Liability.

1. Each NOX Budget source and each NOX Budget unit shall comply with all of the requirements of the NOX Budget Trading Program and any applicable NOX Budget permit.

2. No permit revision shall excuse any violation of the requirements of the NOX Budget Trading Program that occurs prior to the date that revision takes effect.

3. i. Any provision of the NOX Budget Trading Program that applies to a NOX Budget source (including a provision applicable to the NOX authorized account representative of that NOX Budget source) shall also apply to the owners and operators of that source and of the NOX Budget units at that source.

ii. Any provision of the NOX Budget Trading

Program that applies to a NOX Budget unit (including a provision applicable to the NOX authorized account representative of that NOX Budget unit) shall also apply to the owners and operators of that unit.

iii. Except with regard to the requirements applicable to units with a common stack under Section 8 of this regulation, the owners and operators and the NOX authorized account representative of one NOX Budget unit shall not be liable for any violation by any other NOX Budget unit of which they are not owners or operators or the NOX authorized account representative and that is located at a source of which they are not owners or operators or the NOX authorized account representative.

4. No provision of the NOX Budget Trading Program, a NOX Budget permit application, a NOX Budget permit, or an exemption under Section 3(b) of this regulation shall be construed to exempt or exclude the owners and operators and, to the extent applicable, the NOX authorized account representative of a NOX Budget source or NOX Budget unit from compliance with any other applicable State or Federal requirement.

5. Any person who knowingly violates any requirement or prohibition of the NOX Budget Trading Program, a NOX Budget permit, or an exemption under Section 3(b) of this regulation shall be subject to enforcement pursuant to applicable State or Federal law.

6. Any person who knowingly makes a false material statement in any record, submission, or report under the NOX Budget Trading Program shall be subject to criminal enforcement pursuant to the applicable State or Federal law.

Section 6 - NOX Authorized Account Representative for NOX Budget Sources

a. On or before the later of November 1, 2001 or the date 18 months before the date on which any NOX Budget unit commences operation, the NOX authorized account representative and any alternate NOX authorized account representative of any NOX Budget source shall submit to the Administrator, with a copy to the Department, a complete account certificate of representation. Such account certificate of representation:

1. Shall designate one and only one NOX authorized account representative, and may designate one and only one alternate NOX authorized account representative. Such NOX authorized account representative and any alternate NOX authorized account representative shall be selected by an agreement between the owners and operators of the source and all NOX Budget units at that source, binding on such owners and operators. Such agreement shall include a procedure for authorizing any alternate NOX authorized account representative to act in lieu of the NOX authorized account representative.

2. Shall include all of the following information in

a format specified by the Administrator:

i. Identification of the NOX Budget source and each NOX Budget unit at that source for which the account certificate of representation is submitted.

ii. The name, mailing address, e-mail address (if any), telephone number, and facsimile transmission number (if any) of the NOX authorized account representative and any alternate NOX authorized account representative.

iii. A list of the owners and operators of the NOX Budget source and of each NOX Budget unit at the source.

iv. The following certification statement by the NOX authorized account representative and any alternate NOX authorized account representative: "I certify that I was selected as the NOX authorized account representative or alternate NOX authorized account representative, as applicable, by an agreement binding on the owners and operators of the NOX Budget source and each NOX Budget unit at the source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the NOX Budget Trading Program on behalf of the owners and operators of the NOX Budget source and of each NOX Budget unit at the source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions and by any decision or order issued to me by the Department, the Administrator, or a court regarding the source or unit."

v. The signature of the NOX authorized account representative and any alternate NOX authorized account representative, and the date(s) the account certificate of representation was signed.

3. Shall not include, unless otherwise required by the Department or the Administrator, documents of agreement referred to in the account certificate of representation. If submitted, neither the Department nor the Administrator shall be under any obligation to review or evaluate the sufficiency of such documents.

b. Upon receipt by the Administrator of a complete account certificate of representation under Section 6(a) of this regulation:

1. The NOX authorized account representative of the source shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each owner and operator of the NOX Budget source represented and each NOX Budget unit at that source in all matters pertaining to the NOX Budget Trading Program, notwithstanding any agreement between the NOX authorized account representative and such owners and operators. The owners and operators shall be bound by any decision or order issued to the NOX authorized account representative by the Department, the Administrator, or a court regarding the source or unit.

2. Any representation, action, inaction, or

submission by the alternate NOX authorized account representative shall be deemed to be a representation, action, inaction, or submission by the NOX authorized account representative.

3. The Department and the Administrator shall rely on the account certificate of representation submitted pursuant to Section 6(a) of this regulation unless and until the Administrator receives a superseding complete account certificate of representation changing the NOX authorized account representative or alternate NOX authorized account representative. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous NOX authorized account representative or alternate NOX authorized account representative prior to the time and date when the Administrator receives the superseding account certificate of representation shall be binding on the new NOX authorized account representative and alternate NOX authorized account representative and the owners and operators of the NOX Budget source and the NOX Budget units at the source.

4. Except as provided in Section 6(b)(3) of this regulation, no objection or other communication submitted to the Department or the Administrator concerning the authorization, or any representation, action, inaction, or submission of the NOX authorized account representative or the alternate NOX authorized account representative shall affect any representation, action, inaction, or submission of the NOX authorized account representative or the alternate NOX authorized account representative, or the finality of any decision or order by the Department or the Administrator under the NOX Budget Trading Program.

5. Neither the Department nor the Administrator shall adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of any NOX authorized account representative or the alternate NOX authorized account representative.

c. Changes in the owners and operators.

1. Within 30 days following any change in the owner(s) and operator(s) of a NOX Budget source or a NOX Budget unit at that source, including the addition of a new owner or operator, the NOX authorized account representative or the alternate NOX authorized account representative shall submit to the Administrator, with a copy to the Department, a revised account certificate of representation amending the list of owners and operators to include that change.

2. In the event a new owner or operator of a NOX Budget source or a NOX Budget unit is not included in the list of owners and operators submitted in the account certificate of representation, such new owner or operator shall be deemed to be subject to and bound by the account certificate of representation, the representations, actions, inactions, and submissions of the NOX authorized account representative and any alternate NOX authorized account

representative of the source or unit, and the decisions, orders, actions, and inaction's of the Department or the Administrator, as if the new owner or operator were included in such list.

d. Submissions/Certifications.

1. The NOX authorized account representative or the alternate NOX authorized account representative shall sign and certify all submissions under the NOX Budget trading program with the following certification statement: "I am authorized to make this submission on behalf of the owners and operators of the NOX Budget sources or NOX Budget units for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

2. The Department and the Administrator shall accept or act on any submission made under the NOX Budget Trading program only if that submission has been made, signed, and certified in accordance with Section 6(d)(1) of this regulation.

Section 7 - Permits

a. Except as provided for in Section 3(b) of this regulation, on and after May 1, 2002 each NOX Budget unit shall be covered by a NOX Budget permit. Such NOX Budget permit shall be a complete and segregable portion of, and made federally enforceable by, the permit issued pursuant to:

1. For any NOX Budget unit required to be covered by a Regulation No. 30 permit, Regulation No. 30 of the State of Delaware "Regulations Governing the Control of Air Pollution."

2. For any NOX Budget unit not required to be covered by a Regulation No. 30 permit, Regulation No. 2 of the State of Delaware "Regulations Governing the Control of Air Pollution."

b. On or before the later of November 1, 2001, or the date 18 months before the date on which any NOX Budget unit commences operation, the NOX authorized account representative of each NOX Budget source shall submit to the Department:

1. A complete NOX Budget permit application that includes, at a minimum, all of the following information:

i. Identification of the NOX Budget source, including the plant name and the ORIS (Office of Regulatory Information Systems) or facility code assigned to the source by the Energy Information Administration of the United

States Department of Energy, if applicable;

ii. Identification of each NOX Budget unit at that NOX Budget source; and

iii. Identification of each applicable requirement of this regulation, to include the requirements of Sections 2(a), 5(a)(2), 5(a)(3), 5(b), 5(d), 6(d), 8(b), 8(c) and 10 of this regulation.

2. In a timely manner, any supplemental information that the Department determines is necessary in order to review a NOX Budget permit application and/or issue or deny any NOX Budget permit(s).

c. Each NOX Budget permit issued by the Department:

1. Shall specify the information submitted under Section 7(b)(1) of this regulation, as approved by the Department.

2. Shall be deemed to incorporate automatically the definitions of terms under Section 4 of this regulation. Upon recordation by the Administrator, every allocation, transfer, or deduction of a NOX allowance to or from a NOX Budget unit's compliance account or the overdraft account of the source where the unit is located shall be deemed to amend automatically, and become a part of the associated NOX Budget permit by operation of law without any further review.

d. Any initial, revised, or renewed NOX Budget permit shall become effective upon issuance by the Department of the corresponding Regulation No. 2 or Regulation No. 30 permit, as applicable, that administers that NOX Budget permit.

Section 8 - Monitoring and Reporting

a. The emissions measurements recorded and reported in accordance with Section 8 of this regulation shall be used to determine compliance by any NOX Budget unit with its NOX Budget emissions limitation.

b. Each NOX Budget unit shall:

1. Comply with all of the requirements of Subpart H of 40 CFR Part 75 (7/1/99 edition), and all of the requirements of this regulation.

2. Monitor and record heat input at the unit level utilizing the procedures set forth in 40 CFR Part 75 (7/1/99 edition).

c. For the purpose of complying with the requirements of this regulation and Subpart H of 40 CFR Part 75, the definitions in Section 4 of this regulation and in 40 CFR 72.2 (7/1/99 edition) shall apply, except the terms "affected unit," "designated representative," and "continuous emission monitoring system" in 40 CFR Part 75 shall be replaced with "NOX Budget unit," "NOX authorized account representative," and "continuous emission monitoring system," respectively, as defined in Section 4 of this regulation.

d. The compliance deadlines referred to in 40 CFR Part 75.70(b) shall be as follows:

1. Monitoring systems shall be installed and certification tests shall be completed, pursuant to the requirements of Subpart H of 40 CFR Part 75, not later than:

i. For any NOX Budget unit identified in Sections 3(a)(1) of this regulation that commences operation before January 1, 2002, May 1, 2002.

ii. For any NOX Budget unit not covered by Section 8(d)(1)(i) of this regulation, the later of the following dates:

A. May 1, 2002; or

B. The earlier of:

1. 180 days after the date on which that unit commences operation or

2. For any unit identified in Section 3(a)(1)(i) of this regulation, 90 days after the date on which that unit commences commercial operation.

C. For any NOX Budget unit that reports on a control season basis under 40 CFR 75.74(b)(2), where the applicable deadline under Section 8(d)(1)(ii)(B) of this regulation does not occur during a control period, May 1 immediately following the date determined in accordance with Section 8(d)(1)(ii)(B) of this regulation.

2. For any NOX Budget unit with a new stack or flue for which construction is completed after the applicable deadline under Section 8(d)(1) or 14(c) of this regulation:

i. 90 days after the date on which emissions first exit to the atmosphere through the new stack or flue, or

ii. If that unit reports on a control season basis under 40 CFR 75.74(b)(2) and the applicable deadline under Section 8(d)(2)(i) of this regulation does not occur during the control period, May 1 immediately following the applicable deadline in Section 8(d)(2)(i) of this regulation.

3. Data shall be recorded and reported on and after the date specified in Section 8(d)(1) of this regulation. The provisions of 40 CFR 75.70(g), concerning the reporting of data prior to initial certification, shall apply from the date and hour that any unit starts operating until all required certification tests are successfully completed.

e. The requirements of 40 CFR Part 75.70(d)(1), concerning initial certification and recertification procedures, shall be expanded to include the following additional requirements:

1. If, prior to January 1, 1998, the Administrator approved a petition under 40 CFR 75.17(a) or (b) for apportioning the NOX emission rate measured in a common stack or a petition under 40 CFR 75.66 for an alternative to a requirement in 40 CFR 75.17 of this chapter, the NOX authorized account representative shall resubmit the petition to the Administrator under 40 CFR 75.70(h)(1) and (2) to determine if the approval applies under the NOX Budget Trading Program.

2. The NOX authorized account representative of each unit applying to monitor using an alternative monitoring system under Subpart E of 40 CFR Part 75 shall

apply for certification to the Department prior to use of the system under the NOX Budget Trading Program. The NOX authorized account representative shall comply with the notification and application requirements for certification, or for recertification following a replacement, modification or change, according to the procedures in Section 8(f) of this regulation.

f. Except as otherwise specified in Section 8(g) of this regulation (pertaining to the low mass emissions excepted methodology under 40 CFR 75.19), the initial certification and recertification procedures referred to in 40 CFR Part 75.70(d)(2) shall be as follows.

1. Each monitoring system required by Subpart H of 40 CFR Part 75 (which includes the automated data acquisition and handling system) shall complete all of the initial certification testing required under 40 CFR 75.20 not later than the deadlines specified in Section 8(d) of this regulation. In addition, whenever the owner or operator installs a monitoring system in order to meet the requirements of this regulation in a location where no such monitoring system was previously installed, initial certification according to 40 CFR 75.20 is required.

2. Whenever the owner or operator makes a replacement, modification, or change in a certified monitoring system that the Administrator or the Department determines significantly affects the ability of the system to accurately measure or record NOX mass emissions or heat input or to meet the requirements of 40 CFR 75.21 or Appendix B to 40 CFR Part 75, the owner or operator shall recertify the monitoring system according to 40 CFR 75.20(b). Furthermore, whenever the owner or operator makes a replacement, modification, or change to the flue gas handling system or the unit's operation that the Administrator or the Department determines to significantly change the flow or concentration profile, the owner or operator shall recertify the continuous emission monitoring system according to 40 CFR 75.20(b). Examples of changes that require recertification include: replacement of the analyzer, change in location or orientation of the sampling probe or site, or the changing of flow-rate-monitor polynomial coefficients.

3. Certification approval process for initial certifications and recertification.

i. The NOX authorized account representative shall submit to the Department, with a copy to the EPA Region III Office, a written notice of the dates of certification testing in accordance with the requirements of 40 CFR Part 75.61. If the unit is not subject to an Acid Rain emissions limitation, the notification is required to be sent only to the Department.

ii. The NOX authorized account representative shall submit to the Department not later than 45 days after completing all initial certification or recertification tests a complete certification application for each monitoring

system required under Subpart H of 40 CFR Part 75. Such certification application shall be considered complete if it includes all of the information specified in 40 CFR 75.63. Any alternative monitoring system under Subpart E of 40 CFR Part 75 shall also be subject to the procedures of 40 CFR 75.20(f).

iii. Except for units using the low mass emission excepted methodology under 40 CFR 75.19, a monitor shall be provisionally certified upon successful completion of the certification procedures of Section 8(f)(3)(i) and (ii) of this regulation. A provisionally certified monitor may be used under the NOX Budget Trading Program for a period not to exceed 120 days after receipt by the Department of the complete certification application for the monitoring system or component thereof under Section 8(f)(3)(ii) of this regulation. Data measured and recorded by the provisionally certified monitoring system or component thereof, in accordance with the requirements of 40 CFR Part 75, will be considered valid quality-assured data (retroactive to the date and time of provisional certification), provided that the Department does not invalidate the provisional certification by issuing a notice of disapproval of certification status under Section 8(f)(iv)(C) of this regulation.

iv. The Department shall issue a written notice of approval or disapproval of the certification application to the NOX authorized account representative within 120 days of receipt of the complete certification application under Section 8(f)(3)(ii) of this regulation. In the event the Department does not issue such a notice within such 120-day period, each monitoring system that meets the applicable performance requirements of 40 CFR Part 75 and that is included in the certification application shall be deemed certified for use under the NOX Budget Trading Program.

A. If the certification application is complete and shows that each monitoring system meets the applicable performance requirements of 40 CFR Part 75, then the Department shall issue a written notice of approval of the certification application within 120 days of receipt.

B. If the certification application is not complete, then the Department shall issue a written notice of incompleteness that sets a reasonable date by which the NOX authorized account representative must submit the additional information required to complete the certification application. If the NOX authorized account representative does not comply with the notice of incompleteness by the specified date, then the Department may issue a notice of disapproval under Section 8(f)(3)(iv)(C) of this regulation.

C. If the certification application shows that any monitoring system or component thereof does not meet the performance requirements of this regulation, or if the certification application is incomplete and the requirement for disapproval under Section 8(f)(3)(iv)(B) of this regulation has been met, the Department may issue a

written notice of disapproval of the certification application.

v. If the Department issues a notice of disapproval of a certification application under either Section 8(f)(3)(iv)(C) of this regulation or a notice of disapproval of certification status under Section 8(j) of this regulation, then the following shall apply to each monitoring system or component thereof which is disapproved for initial certification:

A. Upon issuance of such notice of disapproval, the provisional certification is invalidated and the data measured and recorded by each uncertified monitoring system or component thereof shall not be considered valid quality-assured data beginning with the date and hour of provisional certification.

B. The owner or operator shall substitute the following values for any hour (or fraction of an hour) during which the unit combusts any fuel during the period of invalid data, beginning with the date and hour of provisional certification and continuing until the time, date, and hour specified under 40 CFR 75.20(a)(5)(i).

1. For units using or intending to monitor for NOX emission rate and heat input or for units using the low mass emission excepted methodology under 40 CFR 75.19, the maximum potential NOX emission rate and the maximum potential hourly heat input of the unit.

Maximum potential NOX emission rate means the emission rate of NOX (in lb/MMBTU) calculated in accordance with section 3 of appendix F of 40 CFR Part 75, using the maximum potential NOX concentration as defined in section 2 of appendix A of 40 CFR Part 75, and either the maximum O2 concentration (in percent O2) or the minimum CO2 concentration (in percent CO2), under all operating conditions of the unit except for unit start up, shutdown, and upsets.

Maximum potential hourly heat input means an hourly heat input used for reporting purposes when a unit lacks certified monitors to report heat input. If the unit intends to use Appendix D of 40 CFR Part 75 to report heat input, this value should be calculated, in accordance with 40 CFR Part 75, using the maximum fuel flow rate and the maximum gross calorific value. If the unit intends to use a flow monitor and a diluent gas monitor, this value should be reported, in accordance with 40 CFR Part 75, using the maximum potential flowrate and either the maximum CO2 concentration (in percent CO2) or the minimum O2 concentration (in percent O2).

2. For units intending to monitor for NOX mass emissions using a NOX pollutant concentration monitor and a flow monitor, the maximum potential concentration of NOX and the maximum potential flow rate of the unit under Section 2.1 of Appendix A of 40 CFR Part 75.

C. The NOX authorized account representative shall submit a notification of certification

retest dates and a new certification application in accordance with Sections 8(f)(3)(i) and 8(f)(3)(ii) of this regulation; and

D. The owner or operator shall repeat all certification tests or other requirements that were failed by the monitoring system, as indicated in the Department's notice of disapproval, no later than 30 unit operating days after the date of issuance of the notice of disapproval. A Unit operating day means a calendar day in which a unit combusts any fuel.

g. The initial certification and recertification procedures referred to in 40 CFR Part 75.70(d)(2) for any gas-fired or oil-fired unit using the low mass emissions excepted methodology under 40 CFR 75.19, and not subject to an acid rain limitation, shall be those applicable certification and recertification requirements of 40 CFR 75.19 and Section 8(f) of this regulation, except that the excepted methodology shall be deemed provisionally certified for use under the NOX Budget Trading Program, as of the following dates:

1. For a unit that does not have monitoring equipment initially certified or recertified for the NOX Budget Trading Program as of the date on which the NOX authorized account representative submits the certification application under 40 CFR 75.19 for that unit, starting on the date of such submission until the completion of the period for the Department's review.

2. For a unit that has monitoring equipment initially certified or recertified for the NOX Budget Trading Program as of the date on which the NOX authorized account representative submits the certification application under 40 CFR 75.19 for that unit and that reports data on an annual basis under 40 CFR 75.74(b)(2), starting January 1 of the year after the year of such submission until the completion of the period for the Department's review.

3. For a unit that has monitoring equipment initially certified or recertified for the NOX Budget Trading Program as of the date on which the NOX Authorized Account Representative submits the certification application under 40 CFR 75.19 for that unit and that reports on a control season basis under 40 CFR 75.74(b)(2), starting May 1 of the control period after the year of such submission until the completion of the period for the Administrator's review.

h. Approval by the Department is required for approval of any alternative requirement under 40 CFR part 75.70(h)(3)(ii).

i. The NOX authorized account representative shall submit quarterly reports required by 40 CFR Part 75.73(f) beginning with:

1. For any unit that commences operation prior to May 1, 2002, the earlier of the calendar quarter that includes the date of initial provisional certification under Section 8(f)(3)(iii) of this regulation or, if the certification tests are not completed by May 1, 2002, the partial calendar quarter from May 1, 2002 through June 30, 2002. Data shall be recorded and reported from the earlier of the date and hour

corresponding to the date and hour of provisional certification or the first hour on May 1, 2002.

2. Except as provided for in Section 8(i)(3) of this regulation, for any unit that commenced operation on or after May 1, 2002, the calendar quarter in which the unit commences operation. Data shall be reported from the date and hour corresponding to when the unit commenced operation.

3. For any unit that is subject to ozone season monitoring requirements under 40 CFR 75.74(b)(2), and that commenced operation after September 30, 2002, and that did not commence operations during a control period, the earlier of the calendar quarter that includes the date of initial provisional certification under Section 8(f)(3)(iii) of this regulation or, if the certification tests are not completed by May 1 immediately following the date that the unit commenced operation, May 1 immediately following the date the unit commenced operation. Data shall be reported from the earlier of the date and hour corresponding to the date and hour of provisional certification or the first hour of May 1 immediately following the date that the unit commenced operation.

j. Whenever both an audit of a monitoring system and a review of the initial certification or recertification application reveal that any system or component should not have been certified or recertified because it did not meet a particular performance specification or other requirement under 40 CFR 75.70(d) or any other applicable provision of 40 CFR Part 75, both at the time of the initial certification or recertification application submission and at the time of the audit, the Department may issue a notice of disapproval of the certification status of such system or component. For the purposes of this paragraph, an audit shall be either a field audit or an audit of any information submitted to the Department or the Administrator. By issuing the notice of disapproval, the Department revokes prospectively the certification status of the system or component. The data measured and recorded by the system or component shall not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the owner or operator completes subsequently approved initial certification or recertification tests. The owner or operator shall follow the initial certification or recertification procedures in 40 CFR Part 75.70(d) for each disapproved system.

Section 9 - NATS

a. Establishment of NATS Accounts.

1. Upon receipt of a complete account certificate of representation pursuant to Section 6(a) of this regulation, the Administrator shall establish a compliance account for each NOX Budget unit identified in that account certificate of representation, and an overdraft account for each such NOX Budget source that includes two or more NOX Budget units.

2. Upon receipt of a complete application to establish a general account pursuant to Section 15 of this regulation, the Administrator shall establish a general account for the person(s) for whom the application is submitted.

3. The Administrator shall assign a unique identifying account number to each account established under Sections 9(a)(1) or 9(a)(2) of this regulation, and a unique identifying number to each associated NOX authorized account representative.

b. Recordation of Allocations and Deductions.

1. The Administrator shall record allocations for the 2003, 2004, and 2005 control periods, pursuant to Section (d)(1) of Appendix "A" and Section (c) of Appendix "B" of this regulation. The Administrator shall record any allocations for the 2003 control period pursuant to Section 14(f)(2) of this regulation.

2. Each year, starting in 2003, the Administrator shall:

i. Record in the appropriate compliance account or overdraft account all deductions made pursuant to Section 12 and 13 of this regulation.

ii. After recording any deductions pursuant to Section 9(b)(2)(i) of this regulation:

A. Record allocations pursuant to Section (d)(2) of Appendix "A" of this regulation.

B. Record allocations pursuant to Sections 14(f)(2) of this regulation.

3. When recording any allocation, the Administrator shall assign to the corresponding NOX allowance a unique identification serial number that includes digits identifying the year for which that NOX allowance is allocated.

c. Banking.

1. After recording any deductions pursuant to Section 9(b)(2)(i) of this regulation, the Administrator shall designate, as a "banked" NOX allowance, any NOX allowance that was eligible for deduction and that remains in any compliance account, overdraft account, or general account

2. Each year, starting in 2004, after completing the designation of banked NOX allowances under Section 9(c)(1) of this regulation and before May 1 of that year, the Administrator shall determine the extent to which any banked NOX allowance may be used for compliance in the impending control period, as follows:

i. The Administrator shall determine the total number of banked NOX allowances held in all of the NOX Budget Trading program's compliance accounts, overdraft accounts, and general accounts.

ii. The Administrator shall determine the sum of the State trading program budgets for the impending control period of all of the States participating in the NOX Budget trading program.

iii. The Administrator shall determine the result of dividing the number determined under Section 9(c)(2)(i) of this regulation by the number determined under Section 9(c)(2)(ii) of this regulation.

3. If the number determined under Section 9(c)(2)(iii) of this regulation is equal to or less than 0.10, then any banked NOX allowance may be deducted for compliance in accordance with Sections 12 and 13 of this regulation

4. If the number determined under Section 9(c)(2)(iii) of this regulation is greater than 0.10, then:

i. The Administrator shall determine the following ratio: 0.10 multiplied by the number determined under Section 9(c)(2)(ii) of this regulation and divided by the number determined under Section 9(c)(2)(i) of this regulation.

ii. The Administrator shall, in implementing the provisions of Sections 12(b) and 13(a) of this regulation for the impending control period, multiply the number of banked NOX allowances in each compliance account or overdraft account by the ratio calculated under Section 9(c)(4)(i) of this regulation. The resulting product is the number of banked NOX allowances in the account that may be deducted for compliance in accordance with Sections 12 and 13 of this regulation. Any banked NOX allowances in excess of the resulting product may be deducted for compliance in accordance with Sections 12 and 13 of this regulation, except that, if any such NOX allowance is deducted, two such NOX allowances shall be deducted for each one NOX allowance required under Sections 12 and 13 of this regulation.

d. The Administrator may, at his/her sole discretion and on his/her own motion, correct any error in any NATS account. Within 10 business days of making any such correction, the Administrator shall notify the NOX authorized account representative of the affected account of any correction made.

Section 10 - NOX Allowance Transfers

a. The NOX authorized account representative seeking recordation of a NOX allowance transfer shall submit to the Administrator a transfer request that includes all of the following information in a format specified by the Administrator:

1. The account number of both the transferor and transferee accounts;
2. The serial number of each NOX allowance to be transferred; and
3. The printed name and signature of the NOX authorized account representative of the transferor account, and the date the transfer request was signed.

b. Provided that the transfer request meets the requirements of Section 10(a) of this regulation, and the

transferor account holds each NOX allowance identified by serial number in the transfer request, the Administrator shall record the NOX allowance transfer by moving each NOX allowance from the transferor account to the transferee account as specified by the request.

1. Any NOX allowance transfer request that is submitted for recordation after a NOX allowance transfer deadline, and that includes any NOX allowance that was allocated for a control period prior to or the same as the control period associated with that NOX allowance transfer deadline, shall be recorded after the recordation of allocations under Section 9(b)(2) of this regulation for that control period.

2. Any transfer request not identified in Section 10(b)(1) of this regulation shall be recorded within 5 business days of receiving such request.

3. Within 5 business days of recordation of any NOX allowance transfer, the Administrator shall notify the NOX authorized account representatives of both accounts subject to the transfer that the transfer was recorded.

c. Where a NOX allowance transfer request fails to meet the requirements of Section 10(b) of this regulation, the Administrator shall not record that transfer.

1. Within 10 business days of receipt of such a request, the Administrator shall notify the NOX authorized account representatives of both the transferor and transferee accounts of the reason(s) why the transfer was not recorded.

2. Nothing in this regulation shall preclude the correction and resubmission of a NOX allowance transfer request following notification under Section 10(c)(1) of this regulation.

Section 11 - Compliance Certification

a. Not later than November 30 of each year, starting in 2003, the NOX authorized account representative of each NOX Budget source shall submit to the Department and the Administrator a compliance certification report that covers the control period for that year. Such report shall include all of the following information in a format specified by the Administrator:

1. Identification of the NOX Budget source and each NOX Budget unit at that source.

2. At the NOX authorized account representative's option, for units sharing a common stack and having NOX emissions that are not monitored separately or apportioned in accordance with Section 8 of this regulation, the percentage of the number of tons of NOX emissions from the common stack to be attributed to each unit, for application under Section 12(b)(2)(i) of this regulation.

3. At the NOX authorized account representative's option, the serial numbers of the NOX allowances that are to be deducted from each NOX Budget unit's compliance account, for application under Sections 12(b)(2)(i) and/or 13(a)(1) of this regulation.

4. Certification by the NOX authorized account representative of, based on reasonable inquiry of those persons with primary responsibility for operating the source and the NOX Budget units at the source in compliance with the NOX Budget Trading Program, whether each NOX Budget unit for which the compliance certification is submitted was operated during the calendar year covered by the report in compliance with the requirements of the NOX Budget Trading Program applicable to that unit, including:

- i. Whether the unit was operated in compliance with its NOX Budget emissions limitation;
- ii. Whether the monitoring plan that governs the unit has been maintained to reflect the actual operation and monitoring of the unit, and contains all information necessary to attribute NOX emissions to the unit, in accordance with Section 8 of this regulation;
- iii. Whether all the NOX emissions from the unit, or a group of units (including the unit) using a common stack, were monitored or accounted for through the missing data procedures and reported in the quarterly monitoring reports, including whether conditional data were reported in the quarterly reports in accordance with Section 8 of this regulation. If conditional data were reported, the NOX authorized account representative shall indicate whether the status of all conditional data has been resolved and all necessary quarterly report resubmission's have been made;
- iv. Whether the facts that form the basis for certification under Section 8 of this regulation of each monitor at the unit or a group of units (including the unit) using a common stack, or for using an excepted monitoring method or alternative monitoring method approved under Section 8 of this regulation, if any, has changed; and
- v. If a change is required to be reported under Section 11(a)(4)(iv) of this regulation, specify the nature of the change, the reason for the change, when the change occurred, and how the unit's compliance status was determined subsequent to the change, including what method was used to determine emissions when a change mandated the need for monitor recertification.

b. The Department or the Administrator may review and conduct independent audits concerning any compliance certification or any other submission under the NOX Budget Trading Program and make appropriate adjustments of the information in the compliance certifications or other submissions.

c. The Administrator may deduct NOX allowances from or transfer NOX allowances to a unit's compliance account or a source's overdraft account based on the information in the compliance certifications or other submissions, as adjusted under Section 11(b) of this regulation.

Section 12 - End-of-Season Reconciliation

a. A NOX allowance is available to be deducted for compliance with a unit's NOX Budget emissions limitation

for a particular control period only if that NOX allowance:

1. Was allocated for that control period or for a control period in a prior year; and

2. Is held in that unit's compliance account or its associated overdraft account, as of the NOX allowance transfer deadline for that control period; or

3. Is transferred into that unit's compliance account or its associated overdraft account by a NOX allowance transfer request that was correctly submitted for recordation under Section 10 of this regulation on or before the NOX allowance transfer deadline associated with that control period.

b. For each control period, following the recordation of NOX Allowance transfer requests that were submitted for recordation under Section 10 of this regulation on or before the associated NOX allowance transfer deadline, the Administrator shall deduct NOX allowances that meet the requirements of Section 12(a) of this regulation from each NOX Budget unit's account(s):

1. Until the number of NOX allowances deducted equals the number of tons of NOX emissions from that unit for that control period.

2. In the case of units sharing a common stack and having emissions that are not separately monitored or apportioned under Section 8 of this regulation, the Administrator shall deduct NOX allowances for each such unit until the number of NOX allowances deducted equals:

- i. Where the NOX authorized account representative identified a percentage pursuant to Section 11(a)(2) of this regulation, that percentage of the number of tons of NOX emissions from the common stack, or,

- ii. If no percentage is identified, an equal percentage for each such unit.

3. Where there are not sufficient NOX allowances available under section 12(b)(1) and 12(b)(2) of this regulation, until no more NOX allowances that meet the requirements of Section 12(a) of this regulation remain available for deduction.

c. The particular allowances that the Administrator shall delete shall be:

1. Where the NOX authorized account representative identified by serial number the NOX allowances to be deducted pursuant to Section 11(a)(3) of this regulation, the Administrator shall deduct those particular allowances.

2. In the absence of an identification or in the case of a partial identification of NOX allowances by serial number, the Administrator shall deduct NOX allowances:

- i. From the compliance account on a first-in, first-out (FIFO) accounting basis in the following order:

- A. Those NOX allowances that were allocated for that control period to that unit;

- B. Those NOX allowances that were allocated for that control period to any unit and transferred

and recorded in that unit's account, in order of their date of recordation;

C. Those NOX allowances that were allocated for a prior control period to that unit; and

D. Those NOX allowances that were allocated for a prior control period to any unit and transferred and recorded in that unit's account, in order of their date of recordation.

ii. Only after all NOX allowances that meet the requirements of Section 12(a) of this regulation have been deducted from the compliance account, from the overdraft account. In deducting allowances for units at the source from the overdraft account, the Administrator shall begin with the NOX Budget unit having the compliance account with the lowest NATS account number and end with the NOX Budget unit having the compliance account with the highest NATS account number (with account numbers sorted beginning with the left-most character and ending with the right-most character and the letter characters assigned values in alphabetical order and less than all numeric characters).

Section 13 - Failure to Meet Compliance Requirements

a. For each unit under Section 12(b)(3) of this regulation, the Administrator shall deduct from that unit's compliance account or the associated overdraft account a number of NOX allowances equal to three (3) times the number of that unit's excess emissions.

1. Where the NOX authorized account representative identified by serial number the NOX allowances to be deducted pursuant to Section 11(a)(3) of this regulation, the Administrator shall deduct those particular allowances.

2. In the absence of an identification by serial number, or in the case of a partial identification, the Administrator shall deduct NOX allowances that were allocated for any control period after the control period in which the unit has excess emissions, until the requirement of Section 13(a) of this regulation is satisfied.

3. If the compliance account or overdraft account does not contain sufficient NOX allowances, the Administrator shall deduct NOX allowances, regardless of the control period for which they were allocated, whenever NOX allowances are recorded in either account, until the requirement of Section 13(a) of this regulation is satisfied.

b. Any deduction required under Section 13(a) of this regulation shall not affect the liability of the owners and operators of the NOX Budget unit for any fine, penalty, or assessment, or their obligation to comply with any other remedy, for the same violation, as ordered under the CAA or applicable State law or regulation. The following guidelines shall be followed in assessing fines, penalties or other obligations:

1. For purposes of determining the number of days of violation, if a NOX Budget unit has excess emissions for a control period, each day in the control period (153 days) constitutes a day in violation unless the owners and operators of the unit demonstrate that a lesser number of days should be considered.

2. Each ton of excess emissions is a separate violation.

Section 14 - Individual Unit Opt-Ins

a. Any unit located in Delaware that meets all of the following provisions may voluntarily opt into the NOX Budget Trading program by submitting to the Department an opt-in application.

1. The unit is not a NOX Budget unit identified in Sections 3(a)(1) of this regulation; and

2. The unit is not exempted under Section 3(b) of this regulation; and

3. The unit can meet the emissions monitoring and reporting requirements of Section 8 of this regulation; and

4. The unit has documented heat input for more than 876 hours in the 6 months immediately preceding the submission of an application for an initial NOX Budget permit under Section 14(b) of this regulation.

b. Each unit identified in Sections 14(a) of this regulation shall submit:

1. To the Department and the Administrator a complete account certificate of representation that meets all of the requirements of Section 6 of this regulation.

2. To the Department a complete NOX Budget permit application that meets all of the requirements of Section 7(b) of this regulation, with the following additional certification statement(s) made by the NOX authorized account representative:

i. "I certify that each unit for which this permit application is submitted under Section 14 of Regulation No. 39 is not a NOX Budget unit under Sections 3(a)(1) of Regulation No. 39, is not covered by a retired unit exemption under Section 3(b) of Regulation No. 39 that is in effect"

ii. For any application for an initial NOX Budget permit, "I certify that the unit meets the requirements of Section 14(a)(4) of Regulation No. 39."

3. To the Department a monitoring plan in accordance with Section 8 of this regulation.

c. The Department shall determine, on an interim basis, the sufficiency of the monitoring plan submitted pursuant to Section 14(b)(3) of this regulation. A monitoring plan is sufficient, for purposes of this interim review, if the plan appears to contain information demonstrating that the NOX emissions rate and heat input of the unit are monitored and reported in accordance with Section 8 of this regulation. A determination of sufficiency shall not be construed as acceptance or approval of the unit's monitoring plan.

1. If the Department determines that the unit's monitoring plan is sufficient the NOX authorized account representative shall:

i. Install and certify all monitoring systems required under Section 8 of this regulation, pursuant to Section 8 of this regulation.

ii. Monitor and report the NOX emissions rate and the heat input of the unit in accordance with Section 8 of this regulation for one full control period during which the percent monitoring data availability is not less than 90 percent and during which the unit is in full compliance with all applicable State or Federal emissions or emissions-related requirements. Solely for purposes of applying the requirements of the prior sentence, the unit shall be treated as a "NOX Budget unit" prior to issuance of a NOX Budget permit covering the unit.

iii. Based on the information monitored and reported under Section 14(c)(1)(ii) of this regulation, submit to the Department the unit's baseline heat input calculated as the unit's total heat input (in MMBTU) for the control period, and the unit's baseline NOX emissions rate calculated as the unit's total NOX mass emissions (in lb) for the control period divided by the unit's baseline heat input.

2. If the Department determines that the unit's monitoring plan is not sufficient the Department shall disapprove the opt-in application.

d. After receipt of the baseline heat input and the baseline NOX emissions rate for the unit under Section 14(c)(1)(iii) of this regulation:

1. The Department shall issue a draft NOX Budget permit on the NOX authorized account representative of the unit. Such permit shall meet all of the requirements of Section 7(c) of this regulation.

2. Within 20 days after the issuance of the draft NOX Budget permit, the NOX authorized account representative of the unit shall either withdrawal its application or submit to the Department a confirmation of the intention to opt in the unit. The Department shall treat any failure to make a timely submission as a withdrawal of the NOX Budget permit application.

3. For units where the NOX authorized account representative confirms the intention to opt in the unit, and after considering any comments received on the draft permit, the Department shall issue a final NOX Budget permit pursuant to Regulation No. 2 or Regulation No. 30, as applicable. The unit shall be a NOX Budget unit upon issuance of the NOX Budget permit, and shall be subject to all of the requirements of this regulation.

e. Notwithstanding Sections 14(a) through 14(d) of this regulation, at any time before the issuance of a final NOX Budget permit:

1. The NOX Budget Opt-in application may be withdrawn.

2. If the Department determines that the unit does

not qualify as an Opt-in unit, the Department shall deny the request to opt-in to the NOX Budget Trading Program.

f. Allocations to opt-in units.

1. Under no circumstances shall any allocation to any unit under Section 14(f) of this regulation necessitate adjustments to the allocation to any other NOX Budget Unit.

2. By April 1 immediately before the first control period for which any NOX Budget permit becomes effective, and April 1 of each year thereafter, the Department shall submit to the Administrator an allocation for the next control period in accordance with Section 14(f)(3) of this regulation.

3. Except as provided for in Section 3(b)(6) of this regulation (pertaining to retired units), each Opt-in unit shall receive an annual allocation calculated as follows:

i. The Department shall determine the heat input (in MMBTU) as the lesser of:

A. The Opt-in unit's baseline heat input determined pursuant to Section 14(c)(1)(ii) of this regulation; or

B. The Opt-in unit's heat input for the control period in the year prior to the year of the control period for which the NOX allocations are being calculated, as determined in accordance with Section 8 of this regulation.

ii. The Department shall allocate NOX allowances to the Opt-in unit in an amount equaling the heat input (in MMBTU) determined under Section 14(f)(3)(i) of this regulation multiplied by the lesser of:

A. The Opt-in unit's baseline NOX emissions rate (in lb/MMBTU) calculated pursuant to Section 14(c)(1)(ii) of this regulation; or

B. The lowest NOX emissions limitation (in terms of lb/MMBTU) that is applicable during the control period to the Opt-in unit under State or Federal law or regulation, regardless of the averaging period to which the emissions limitation applies.

g. In the event that a Opt-in unit becomes a NOX Budget unit under Sections 3(a)(1) of this regulation due to modification, reconstruction, or any other reason:

1. The NOX authorized account representative shall, not later than 30 days after such change in the Opt-in unit's regulatory status, notify in writing the Department and the Administrator of such change in the Opt-in unit's regulatory status. This provision is in addition to, and does not exempt or exclude any other State or Federal requirement, including any requirement to secure or amend any construction or operation permit under Regulation No. 2, 25, or 30 of the State of Delaware "Regulations Governing the Control of Air Pollution."

2. The Administrator shall deduct from the NOX Budget unit's compliance account, or the associated overdraft account, NOX allowances equal in number to and allocated for the same or a prior control period as:

i. Any NOX allowances allocated to the NOX

Budget unit under Section 14(g) of this regulation for any control period after the last control period during which the unit's NOX Budget permit was effective; and

ii. If the effective date the NOX Budget unit becomes subject to Section 14(g) of this regulation is during a control period, the NOX allowances allocated to the NOX Budget unit under Section 14(f) of this regulation for that control period multiplied by the ratio of the number of days remaining in the control period, starting with the date the NOX Budget unit becomes subject to Section 14(g) of this regulation, divided by 153.

iii. If the compliance account or overdraft account does not contain sufficient NOX allowances, the Administrator shall deduct the required number of NOX allowances, regardless of the control period for which they were allocated, whenever NOX allowances are recorded in either account.

Section 15 - General Accounts

a. Any person may apply to open a general account for the purpose of holding and transferring NOX allowances by submitting to the Administrator an application to establish a general account. Such application:

1. Shall designate one and only one NOX authorized account representative, and may designate one and only one alternate NOX authorized account representative. Such NOX authorized account representative and any alternate NOX authorized account representative shall be selected by an agreement between all of the persons who have an ownership interest with respect to allowances held in the general account, that is binding on such persons. Such agreement shall include a procedure for authorizing any alternate NOX authorized account representative to act in lieu of the NOX authorized account representative.

2. Shall include all of the following information in a format specified by the Administrator:

i. At the option of the NOX authorized account representative, the organization name and the type of organization;

ii. The name, mailing address, e-mail address (if any), telephone number, and facsimile transmission number (if any) of the NOX authorized account representative and any alternate NOX authorized account representative.

iii. A list of all persons subject to a binding agreement for the NOX authorized account representative or any alternate NOX authorized account representative to represent their ownership interest with respect to the allowances held in the general account.

iv. The following certification statement by the NOX authorized account representative and any alternate NOX authorized account representative: "I certify that I was selected as the NOX authorized account representative or the

alternate NOX authorized account representative, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the NOX Budget Trading Program on behalf of such persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by the Administrator or a court regarding the general account."

v. The signature of the NOX authorized account representative and any alternate NOX authorized account representative, and the date(s) the account certificate of representation was signed.

3. Shall not include, unless otherwise required by the Administrator, documents of agreement referred to in the application to establish a general account. If submitted, the Administrator shall not be under any obligation to review or evaluate the sufficiency of such documents.

b. Upon receipt by the Administrator of a complete application for a general account under Section 15(a) of this regulation:

1. The NOX authorized account representative for the general account shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each person who has an ownership interest with respect to NOX allowances held in the general account in all matters pertaining to the NOX Budget Trading Program, notwithstanding any agreement between the NOX authorized account representative and such person. Any such person shall be bound by any order or decision issued to the NOX authorized account representative by the Administrator or a court regarding the general account

2. Any representation, action, inaction, or submission by the alternate NOX authorized account representative shall be deemed to be a representation, action, inaction, or submission by the NOX authorized account representative.

3. The Administrator shall rely on the application submitted pursuant to Section 15(a) of this regulation unless and until the Administrator receives a superseding complete application for a general account changing the NOX authorized account representative or alternate NOX authorized account representative. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous NOX authorized account representative or alternate NOX authorized account representative prior to the time and date when the Administrator receives the superseding application for a general account shall be binding on the new NOX authorized account representative and alternate NOX authorized account representative and the persons with an ownership interest with respect to the allowances in the general account.

4. Except as provided in Section 15(b)(3) of this regulation, no objection or other communication submitted to the Administrator concerning the authorization, or any representation, action, inaction, or submission of the NOX authorized account representative or the alternate NOX authorized account representative for a general account shall affect any representation, action, inaction, or submission of the NOX authorized account representative or the alternate NOX authorized account representative, or the finality of any decision or order by the Administrator under the NOX Budget Trading Program.

5. The Administrator will not adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of any NOX authorized account representative or the alternate NOX authorized account representative for a general account.

c. Changes in Persons having Ownership Interest in any General Account.

1. Within 30 days following any change in the persons having an ownership interest with respect to NOX allowances in the general account, including the addition of persons, the NOX authorized account representative or any alternate NOX authorized account representative shall submit a revision to the application for a general account amending the list of persons having an ownership interest with respect to the NOX allowances in the general account to include the change.

2. In the event a new person having an ownership interest with respect to NOX allowances in the general account is not included in the list of such persons in the account certificate of representation, such new person shall be deemed to be subject to and bound by the account certificate of representation, the representation, actions, inactions, and submissions of the NOX authorized account representative and any alternate NOX authorized account representative of the source or unit, and the decisions, orders, actions, and inactions of the Administrator, as if the new person were included in such list.

d. Submissions/Certifications.

1. The NOX authorized account representative or the alternate NOX authorized account representative shall sign and certify all submissions under the NOX Budget trading program with the following certification statement: "I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the NOX allowances held in the general account. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting

required statements and information, including the possibility of fine or imprisonment."

2. The Administrator shall accept or act on any submission made under the NOX Budget Trading program only if that submission has been made, signed, and certified in accordance with Section 15(d)(1) of this regulation.

e. Closing of general accounts.

1. The NOX authorized account representative of a general account may instruct the Administrator to close the account by submitting a statement requesting deletion of the account from the NATS and by correctly submitting for recordation under Section 10 of this regulation a request to transfer all NOX allowances held in the account to one or more other NATS accounts.

2. If a general account shows no activity for a period of a year or more and does not contain any NOX allowances, the Administrator may notify the NOX authorized account representative for the account that the account will be closed and deleted from the NATS following 20 business days after the notice is sent. The account will be closed after the 20-day period unless before the end of the 20-day period the Administrator receives a correctly submitted transfer of NOX allowances into the account under Section 10 of this regulation or a statement submitted by the NOX authorized account representative demonstrating to the satisfaction of the Administrator good cause as to why the account should not be closed.

Appendix "A"

Allowance Allocations to NOX Budget Units under Section 3(a)(1)(i) and 3(a)(1)(ii) of Regulation No. 39

a. The State trading program budget allocated by the Department to NOX Budget units identified in Section 3(a)(1) of Regulation No. 39 shall equal 5,227 tons of NOX emissions for each NOX control period, beginning with the year 2003 control period. Table 1 of this Appendix "A" identifies the NOX Budget units that receive an allocation, and the size of that allocation. NOX Budget units identified in Section 3(a)(1) of Regulation No. 39 that are not identified in Table 1 do not receive an allocation.

b. Individual unit allocations identified in Table 1 of this Appendix "A" were determined as follows:

1. The unit's base heat input was determined as the average of the units two highest heat inputs for May through September of any of the four years 1995, 1996, 1997, and 1998. Where a unit had heat input during May through September in only one of the years 1995 through 1998, and had zero heat input during May through September of the other three years, that unit's base heat input was determined as the heat input during the non zero year.

2. The unit's base heat input determined in Section (b)(1) of this Appendix "A" was multiplied by a NOX

emissions rate factor, and divided by 2000 lb/ton.. NOX emissions rate factor's used were:

i. For any unit that serves a generator with a nameplate capacity of 15 MWe or greater, but less than 25 MWe, the unit's actual average 1996 ozone season NOX emission rate, in lb/MMBTU.

ii. For any unit that serves a generator with a nameplate capacity of 25 MWe or greater, 0.15 lb/MMBTU.

iii. For any unit that does not serve a generator, 0.17 lb/MMBTU.

3. The tonnage determined in Section (b)(2) of this Appendix "A" for all subject units were added together.

4. For each subject unit, the tonnage determined in Section (b)(2) of this Appendix "A" was divided by the tonnage determined in Section (b)(3) of this Appendix "A".

5. The allocation to each subject unit was determined as the product of the factor determined in Section (b)(4) of this Appendix "A" and the state trading program budget identified in Section (a) of this Appendix "A", rounded to the nearest whole ton.

c. Any NOX Budget unit that receives an allocation under this Appendix "A" shall continue to receive that allocation for each control period unless and until such time as the Department revises this Appendix "A" pursuant to 7 Del. C., Chapter 60, and submits that revision to the Administrator as a revision to Delaware's State Implementation Plan.

d. Timing requirements for allocations.

1. No later than sixty (60) days after the effective

date of Regulation No. 39, the Department shall submit to the Administrator allocations in accordance with this Appendix "A" for the 2003, 2004, and 2005 control periods.

2. By April 1, 2003 and April 1 of each year thereafter, the Department shall submit to the Administrator allocations in accordance with this Appendix "A" for the control period in the year that is three years after the year of the applicable deadline for submission under Section (d)(2) of Appendix "A". If the Department fails to submit to the Administrator the allocations in accordance with this Section (d)(2), the Administrator shall allocate, for the applicable control period, the same number of allocations as were allocated for the preceding control period.

Table 1 - Individual Unit Allocations

**Appendix "B"
Regulation No. 37 - Regulation No. 39 Program
Transition**

O P E R A T O R	P L A N T	U N I T	1995	1996	1997	1998	N O x	A l l o c a t i o n
			Heat Input (M M B T U)	E m i s s i o n R a t e (l b / M M B T U)				
D-FD	MCKEE RUN	1	0	50446	87701	100459	0.368	19
D-FD	MCKEE RUN	2	386706	59928	94926	128866	0.368	53
D-FD	MCKEE RUN	3	1336784	957093	975350	1479802	0.15	119
D-FD	VAN SANT	1	61900	45590	51702	93782	0.15	7
FIRST STATE	FIRST STATE	127	642482	331239	802817	703689	0.614	259
CONECTIV	CHRISTIANA SUB	11	54550	15889	36385	56658	0.15	5
CONECTIV	CHRISTIANA SUB	14	54067	18804	30481	78256	0.15	6
CONECTIV	DELAWARE CITY	10	10962	3389	14401	1721	0.698	5
CONECTIV	EDGE MOOR	3	2620203	2545577	2930860	2409740	0.15	234
CONECTIV	EDGE MOOR	4	3716664	4772838	4069197	4731992	0.15	400
CONECTIV	EDGE MOOR	5	6395496	6634821	5502246	7638136	0.15	601
CONECTIV	EDGE MOOR	10	12039	7550	8953	4330	0.698	4
CONECTIV	MADISON STREET	10	8239	9830	5787	5328	0.698	4
CONECTIV	WEST SUBSTATION	10	21026	5094	11599	16191	0.698	7
CONECTIV	HAY ROAD	1	2841727	2563987	1491606	1665519	0.15	227
CONECTIV	HAY ROAD	2	2229278	2877121	831204	1829101	0.15	215
CONECTIV	HAY ROAD	3	596599	2684517	1343486	1684822	0.15	184
MOTIVA	DELAWARE CITY	2	1022582	1248427	1298731	1286865	0.17	123
MOTIVA	DELAWARE CITY	105	0	661482	939273	1100754	0.17	97
MOTIVA	DELAWARE CITY	12	1563456	1364509	1401081	1501642	0.17	146
MOTIVA	DELAWARE CITY	19	158563	215049	0	0	0.17	18
MOTIVA	DELAWARE CITY	34	1008710	1177668	1263378	1151553	0.17	116
MOTIVA	DELAWARE CITY	67	492647	1120816	1465546	1960436	0.15	144
MOTIVA	DELAWARE CITY	68	1827653	1834264	1963920	1577947	0.15	160
MOTIVA	DELAWARE CITY	69	1878837	1865021	1891042	1660522	0.15	159
MOTIVA	DELAWARE CITY	70	1825849	1933117	1905578	1806235	0.15	162
MOTIVA	DELAWARE CITY	72	1249817	0	0	0	0.17	119
MOTIVA	DELAWARE CITY	74	1340710	1340142	1507433	1524650	0.17	145
MOTIVA	DELAWARE CITY	CT	0	0	0	0	0.15	0
MOTIVA	DELAWARE CITY	CT	0	0	0	0	0.15	0
CONECTIV	INDIAN RIVER	1	2346108	1891753	1862828	2095177	0.15	187
CONECTIV	INDIAN RIVER	2	1738093	2176161	2226615	2371839	0.15	193
CONECTIV	INDIAN RIVER	3	3789624	3827660	4216963	4520919	0.15	368
CONECTIV	INDIAN RIVER	4	8304494	8250941	6635691	8975537	0.15	727
CONECTIV	INDIAN RIVER	10	29472	11931	28745	43603	0.698	14
							T o t a l	5227

a. Individual Unit Opt-ins. The Department may require any unit that is an opt-in unit under Regulation No. 37 of Delaware's "Regulations Governing the Control of Air Pollution" to be an opt-in unit under Section 14 of Regulation No. 39 of Delaware's "Regulations Governing the Control of Air Pollution."

b. Penalties. For any NOX Budget unit under Regulation No. 37 of Delaware's "Regulations Governing the Control of Air Pollution" that has excess emissions following the year 2002 control period, the Administrator shall deduct from the unit's compliance account or the overdraft account of the source where the unit is located a number of NOX allowances, allocated for the 2003 or subsequent control periods, equal to three times the number of the unit's excess emissions in the 2002 control period.

c. Regulation No. 37 transition allocation. Any Delaware source that holds, in its Regulation No. 37 compliance account, NOX allowances that were allocated for the year 2000, 2001, or 2002 control periods under the OTC NOX Budget program (i.e., Regulation No. 37 of Delaware's "Regulations Governing the Control of Air Pollution") and that were not used or required to be used for compliance with the requirements of Regulation No. 37 for the 2002 or prior control period, may be eligible for a special, one-time "transition allocation."

1. An application for a transition allocation under Section (c) of this Appendix "B" shall be submitted to the Department no later than March 1, 2003, and shall include all of the following information:

- i. Identification of the affected NOX Budget source and NOX Budget unit;
- ii. Identification of the quantity of NOX allowances remaining in the unit's Regulation No. 37 compliance account as of February 1, 2003;
- iii. Identification by serial number of all NOX allowances remaining in the unit's Regulation No. 37 compliance account as of February 1, 2003; and
- iv. Certification by the NOX authorized account representative consistent with Section 6(d) of Regulation No. 39.

2. Not later than April 1, 2003, the Department shall approve or deny any request received under Section (c)(1) of this Appendix "B".

i. For any request that is approved, the Department shall notify the NOX authorized account representative, and shall submit to the Administrator an allocation to the NOX Budget unit's compliance account in accordance with the provisions of Section (c)(3) of this Appendix "B".

ii. For any request that is not accurate or submitted in accordance with Section (c)(1) of this Appendix "B", the Department shall notify the NOX authorized account representative that the request is denied,

including the reason(s) for any denial.

3. Any NOX authorized account representative whose request is approved under Section (c)(2)(i) of this Appendix "B" shall receive a transition allocation as follows:

i. If the total number of allocations requested, and as approved by the Department, totaled among all Delaware NOX Budget units is 168 or less the Department shall allocate to each subject unit their requested allocation.

ii. If the total number of allocations requested, and as approved by the Department, totaled among all Delaware NOX Budget units is greater than 168, the Department shall allocate to each subject unit according to the following formula:

$$\text{Unit's allocation} = \frac{[(\text{Unit's requested and approved allocation}) / (\text{Total number of requested and approved allocations among all Delaware sources})] \times 168}{X}$$

where: "Unit's requested and approved allocation" is the number allocations requested by the unit's NOX authorized account representative and approved by the Department in accordance Section (c)(2)(i) of this Appendix "B".

"Total number of requested and approved allocations among all Delaware sources" is the sum total of all allocations requested in accordance with Section (c)(1) of this Appendix "B", and approved by the Department in accordance with Section (c)(2)(i) of this Appendix "B", among all Delaware sources..

"Unit's allocation" shall be whole number, with all fractional allocations rounded down to the next whole number.

4. No later than May 1, 2003, the Department shall submit to the Administrator for recordation the allocations determined under Section (c) of this Appendix "B".

5. Allocations recorded under Section (c)(4) of this Appendix "B" may be deducted for compliance under Section 12 of this regulation for the control periods in 2003 or 2004. The Administrator shall deduct as retired any NOX allowance that is recorded under Section (c)(4) of this Appendix "B" and is not deducted for compliance in accordance with Section 12 Regulation No. 39 for the 2003 or 2004 control period.

6. NOX allowances recorded under Section (c)(4) of this Appendix "B" shall be treated as banked allowances in 2004.

d. To provide for the transition from the program established under Regulation No. 37 to the program established under this Regulation No. 39; for any NOX

Budget unit that is subject to both Regulation No. 37 and Regulation No. 39, the Department may allow that unit to comply with any requirement of Regulation No. 39 in lieu of any substantially equivalent requirement of Regulation No. 37. Such requirements may include, but are not limited to permitting, record keeping, monitoring, and reporting requirements.

**STATE OF DELAWARE
EXECUTIVE DEPARTMENT
DOVER**

**EXECUTIVE ORDER
NUMBER EIGHTY-ONE**

**TO: Heads of All State Departments, Agencies,
Authorities, and Governmental Units of the
State of Delaware**

RE: Relating to the Statistical Analysis Center

WHEREAS, Senate Bill 420 contained enabling legislation creating the Statistical Analysis Center within the Office of the Budget;

WHEREAS, this legislation was adopted by the 140th General Assembly and signed into law by me on July 1, 2000;

WHEREAS, the Statistical Analysis Center was originally created by Executive Order Number Seventy-One, approved by Governor Tribbit;

WHEREAS, the Statistical Analysis Center was administratively assigned to the Criminal Justice Planning Commission by Executive Order Number Seventy-Seven, approved by Governor du Pont, and was later administratively assigned to the Criminal Justice Council by Executive Order Number 40, approved by Governor Castle; and

WHEREAS, these Executive Orders are no longer necessary and may otherwise conflict with the above referenced legislation;

NOW THEREFORE, I, Thomas R. Carper, by virtue of the authority vested in me as Governor of the State of Delaware, do order and declare that Executive Order Number Seventy-One, approved by Governor Tribbit, Executive Order Number Seventy-Seven, approved by Governor du Pont, and Executive Order Number 40, approved by Governor Castle, are hereby rescinded.

Approved this 7th day of August 2000.

Thomas R. Carper, Governor

Attest:

Edward J. Freel, Secretary of State

GOVERNOR'S APPOINTMENTS

1041

BOARD/COMMISSION OFFICE	APPOINTEE	TERM OF OFFICE
Advisory Council for Children, Youth and Their Families	Ms. Janet Tovo Dr. Cecil C. Wilson	01/17/02 10/20/02
Architectural Accessibility Board	Mr. Wayne Carter	05/12/03
Authority on Radiation Protection	Ms. Frances Esposito Mr. William L. Holden, III	07/01/03 07/01/03
Board of Architects	Ms. Sandra Moody Ms. Loretta Wootten	07/01/03 10/20/03
Board of Cosmetology & Barbering	Ms. Miriam Harris Ms. Dawn Hill Ms. Vera Murrell	10/20/03 10/20/03 10/20/03
Board of Chiropractic Examiners	Dr. Tamara J. Blossic	10/20/03
Board of Dental Examiners	Dr. Robert R. Hoopes Mr. Keith B. Neff	10/20/03 10/20/03
Board of Examiners of Psychologists	Mr. Richard Lindale	10/20/03
Board of Funeral Services	Mr. Bennie L. Smith	10/20/03
Board of Medical Practice	Dr. Janaki Kaza Dr. Francis A. Marro	11/06/03 11/06/03
Board of Pharmacy	Ms. Donna Dagen	07/01/01
Board of Professional Counselors of Mental Health	Ms. Susan A. Eichler Ms. Faith King	10/20/03 10/20/03
Child Placement ReviewBoard	Mr. Robert Andrews Ms. Alexis V. Ciconte Ms. Darlene Cox Ms. Tiffany Derrickson Mr. James Egnor Ms. Kelly Gelof Ms. Michele C. Gott Ms. Elma E. Jackson Ms. Kathleen Jamison Ms. Eleanor M. Kiesel Ms. Vicky K. Kleinman Ms. Jeanmarie Leonard Ms. Wilberta H. Lewis Ms. Sandra Lord Ms. Lillian C. McGowan Ms. Elaine R. Markell Ms. Bonita J. Maull Ms. Sandra Mifflin Ms. Sheri Morris Mr. Ronald Mosher Mr. Richard D. Ogden	11/22/02 10/20/03 11/22/03 11/22/03 11/22/03 11/22/02 10/20/03 10/20/03 11/22/03 10/20/03 10/20/03 11/22/02 10/20/03 10/20/03 10/20/03 10/20/03 11/22/03 11/22/03 11/22/03 11/22/02 10/20/03

GOVERNOR'S APPOINTMENTS

BOARD/COMMISSION OFFICE	APPOINTEE	TERM OF OFFICE
Child Placement Review Board	Mr. William E. Smith	11/22/02
	Ms. Juanita Stone	10/20/03
	Ms. Eileen Sweeney	11/22/03
	Ms. Marie Wallop	10/20/03
	Ms. Barbara P. Williams	10/20/03
	Ms. Marian Wilson	11/22/03
	Ms. Barbara C. Zaragoza	10/20/03
Child Placement Review Board Executive Committee	Mr. Roger P. Blevins	10/20/03
Committee on Employment of People with Disabilities	Mr. James T. Bowers	11/08/03
	Mr. Daniel Downey, Jr.	05/11/02
Committee on Massage/Bodywork Practitioners	Mr. Allan F. Angel	10/20/03
	Ms. Patricia A. Beetschen	10/20/03
	Ms. Katherine J. Marshall	10/20/03
Council on Hispanic Affairs	Ms. Nancy Bastidas	10/20/03
	Mr. Henry Cruz	10/20/03
	Ms. Margaret Lopez-Waite	10/20/03
	Ms. Maria Navarro	10/20/03
	Dr. Francisco Rodriguez	10/20/03
	Mr. Rene S. Solis	10/20/03
Council on Social Services	Ms. Judith L. Lau	11/06/03
	Ms. Pamela D. Watkins	11/06/03
Council on Transportation	Ms. Barbara Washam	10/20/03
Court of Chancery	Mr. John W. Noble, Esq., Vice-Chancellor	11/04/12
Court of Common Pleas	The Honorable Charles W. Welch, III	11/16/12
Court of Common Pleas for New Castle County	Mr. Joseph F. Flickinger, III, Judge	11/17/12
Delaware Agricultural Lands Preservation Foundation	Mr. Lynnwood L. Davenport	10/20/03
	Mr. Alden S. Hopkins	10/20/03
Delaware Board of Examiners for Nursing Home Administrators	Mr. Alonzo Kieffer	10/24/03
Delaware Board of Nursing	Ms. Ruth A. Fournier	10/20/03
	Ms. Diana Padula	10/20/03
Delaware Bicycle Council	Ms. Janet F. Arns	11/13/03
	Ms. Laura Madara	09/21/02
	Ms. Lisa Moore	03/20/03
	Cpl. George A. Heberling	01/15/01

GOVERNOR'S APPOINTMENTS

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BOARD/COMMISSION OFFICE	APPOINTEE	TERM OF OFFICE
Delaware Commission for Women	Ms. Mary C. Davis	03/23/02
	Dr. Teresa Del Tufo	11/06/03
	Ms. Sabrina D. Hill	05/27/01
	Ms. Yrene E. Waldron	11/06/03
	Ms. Beverly J. Wik	11/06/03
	Ms. Mary Margaret Williams	11/06/03
Delaware Commission on Veterans Affairs	Major General George K. Hastings, U.S.A.(Ret.)	10/09/04
Delaware Community Service Commission	The Honorable Peggy J. Baunchalk	11/10/03
	Ms. Mary F. Dugan	11/10/03
	The Honorable William C. Gordon	11/06/03
	Ms. Saundra R. Johnson	11/10/03
	Ms. Babette Racca	11/10/03
	Ms. Marlene A. Saunders	11/10/03
	Ms. Barbara A. Sudler	11/10/03
Delaware Compensation Commission	Mr. Stacey J. Mobley	10/24/06
	Mr. Peter M. Ross	10/24/06
Delaware Gaming Control Board	Mr. John Mancus	03/06/03
Delaware Greenwys and Trails Council	Ms. Gail Van Gilder	11/13/03
Delaware Health Resources Board	Mr. Frederick Carey	10/24/03
	Mr. Richard J. Cherrin	10/24/03
	Mr. Robert F. Miller	10/24/03
	Dr. Richard J. Wilder, M.D.	03/23/02
Delaware Nursing Home Residents Quality Assurance Commission	MSGT John A. Fogelgren, Jr.	10/24/01
Examining Board of Physical Therapists	Ms. Tara Manal	10/24/03
Family Court in and for Sussex County	Mr. John E. Henriksen, Associate Judge	11/01/12
Governor's Task Force on School Libraries	Ms. Susan Evans	10/20/03
	Ms. Linda Hargett	10/20/03
	Mr. Tony J. Marchio	10/20/03
	Ms. Margaret Prouse	10/20/03
Human Relations Commission	Mr. David W. Hill	10/20/04
	Mr. William D. Johnston	10/20/04
	Mr. Clyde H. Knotts	10/20/04
	Ms. Gail E. Launay	10/20/04
	Honorable John W. Pitts	10/20/04
Local Records Commission	Honorable Robert G. Frederick	Pleasure of the Governor

GOVERNOR'S APPOINTMENTS

BOARD/COMMISSION OFFICE	APPOINTEE	TERM OF OFFICE
Pesticide Advisory Committee	Mr. Allen Chorman	10/20/03
	Dr. Amalendu Dasgupta	10/20/03
	Dr. Gerald Llewellyn	10/20/03
	Mr. Vince T. Winkler	10/20/03
Public Assessment and Accountability Advisory Committee	Mr. Robert J. Gilsdorf	Pleasure of the Governor
	Mr. John F. Hollis	Pleasure of the Governor
State Fire Prevention Commission	Mr. Stephen P. Austin	09/29/01
State Rehabilitation Council for the Visually Impaired	Ms. Helen Harper	10/10/03
	Mr. James Rogin	10/20/03
	Mr. Stanley W. Smith	10/20/03
	Mr. Edward Stokes	10/20/03
	Mr. Jackie Turner	10/20/03
Superior Court in and for New Castle County	Mr. Joseph R. Slights, II, Esq., Associate Judge	11/02/12

**DEPARTMENT OF NATURAL
RESOURCES & ENVIRONMENTAL
CONTROL****DIVISION OF AIR AND WASTE MANAGEMENT
AIR QUALITY MANAGEMENT SECTION****Secretary's Order No.: 2000-A-0055****RE: New Proposed Regulation No. 39, Nitrogen
Oxides (NOx) Budget Trading Program, to be
Added to the State of Delaware Regulations
Governing the Control of Air Pollution;****The accompanying Delaware Plan for Meeting the
Nitrogen Oxide (NOx) Budget Requirements Contained
In the EPA NOx SIP Call to be added to the Delaware
State Implementation Plan****Date of Issuance: November 9, 2000****Effective Date of the Amendment: December 11, 2000****I. Background**

On Tuesday, September 26, 2000, at approximately 6:00 p.m., a public hearing was held in the DNREC Auditorium at 89 Kings Highway, Dover, Delaware. The purpose of this hearing was to receive public comment on the proposed new Regulation No. 39, and its accompanying SIP provision. After the hearing, the Department performed an evaluation of the evidence entered into the record in this matter. Thereafter, the Hearing Officer prepared his report and recommendation in the form of a memorandum to the Secretary dated October 19, 2000, and that memorandum is expressly incorporated herein by reference.

II. Findings and Conclusions

All of the findings and conclusions contained in the Hearing Officer's Memorandum dated October 19, 2000, are expressly incorporated herein and explicitly adopted as the findings and conclusions of the Secretary.

III. Order

In view of the above, I hereby order that the State of Delaware's proposed new Regulation No. 39 and Delaware's Plan for meeting the NOx Budget requirements contained in the EPA NOx SIP Call be promulgated and implemented in the manner and form provided for by law pursuant to the changes proposed prior to the hearing and as recommended in the Hearing Officer's memorandum.

IV. Reasons

Adopting the proposed new Regulation No. 39 and Delaware's Plan for meeting the NOx Budget requirements

contained in the EPA NOx SIP Call will be beneficial to the State of Delaware. Regulation No. 39 will (1) improve air quality; (2) encourage NOx reductions in Delaware; (3) help satisfy the rate of progress requirements; (4) help to meet the EPA's NOx Transport SIP Call, and replace EPA's Section 126 Rule; and (5) facilitate NOx reductions in an economical manner. Furthermore, Delaware's Plan fulfills the requirements of the NOx SIP Call.

Nicholas A. DiPasquale, Secretary

**Final Submittal
Delaware Plan for Meeting the Nitrogen Oxide (NOx)
Budget Requirements Contained in the
EPA NOx SIP Call
Prepared For:
The U.S. Environmental Protection Agency
August, 2000****Executive Summary**

This document constitutes a revision to the Delaware State Implementation Plan (SIP) for attainment of the National Ambient Air Quality Standard (NAAQS) for ground-level ozone. It sets forth Delaware's plan for meeting its obligations under Section 110(a)(2)(D) of the Clean Air Act Amendments of 1990 (CAAA) to reduce emissions transported to downwind ozone non-attainment areas. Under the authority of Section 110, the United States Environmental Protection Agency (EPA) promulgated a rule entitled "*Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone*" (63 FR 57397). This rule, along with its technical amendments, is commonly referred to as the "NOx SIP Call". Delaware is one of the states that must comply with the NOx SIP Call. The NOx SIP Call sets a statewide NOx emissions budget for Delaware of 22,861 tons over the five-month summer control period from May 1 through September 30. That budget must be met for the year 2007 and beyond. Delaware will meet this budget through the promulgation and implementation of "*Regulation No. 39 - Nitrogen Oxides (NOx) Budget Trading Program*" of the Delaware Regulations Governing the Control of Air Pollution.

Regulation No. 39 assigns NOx budget allocations to electric generating units (EGU's) with nameplate capacities of 15 megawatts electrical (Mwe) or greater, non-electric generating units (non-EGU's) with maximum design heat input capacities of 250 million British Thermal Units per hour (MMBTU/hr) or greater, and any units that voluntarily opt in to the program. Any unit subject to Regulation No. 39 must comply by the later of May 1, 2003 or the date the unit commences operation. All units in the program can

participate in an inter-state trading program that allows for the selling, purchasing, or banking of excess emission reductions in order to facilitate compliance with the overall NOx budget.

Responsible Personnel

This document was produced in the Planning & Community Protection (PCP) Branch of the Air Quality Management (AQM) Section of the Division of Air & Waste Management (DAWM) of the Delaware Department of Natural Resources & Environmental Control (DNREC). Department officials and responsible personnel are:

Nicholas A. Di Pasquale, DNREC Secretary
Denise Ferguson-Southard, DAWM Director
Darryl D. Tyler, AQM Program Administrator
Raymond H. Malenfant, PCP Branch Manager
Alfred R. Deramo, Planner and Principal Author

Department officials responsible for Regulation No. 39 are:

Robert J. Taggart, Branch Manager – Engineering & Compliance
Ronald A. Amirikian, Group Manager – Regulation Development

1.0 Introduction

1.1 Background

Ground-level ozone is a pollutant formed when nitrogen oxides (NOx) and volatile organic compounds (VOC) react in heat and sunlight. Ozone is a toxic chemical that causes respiratory illness, eye irritation and plant damage.

States, including Delaware, that are part of the Philadelphia-Wilmington-Trenton non-attainment area for the 1-hour ground-level ozone National Ambient Air Quality Standard (NAAQS) have been unable to make their required attainment demonstrations without relying on a reduction in pollution transported into the area from areas upwind of the non-attainment area. Likewise, ozone non-attainment areas downwind of the Philadelphia-Wilmington-Trenton non-attainment area have been unable to demonstrate attainment without reductions in transported NOx emissions from states such as Delaware in the Philadelphia-Wilmington-Trenton non-attainment area.

Because of this pollution transport problem, a group called the Ozone Transport Assessment Group (OTAG) was formed as a partnership between the United States Environmental Protection Agency (EPA), the Environmental Council of States (ECOS) and various industry and environmental groups. ECOS is a national organization of environmental commissioners with members from fifty states and territories. OTAG membership

included representatives of 37 eastern states plus the District of Columbia. The goal of this partnership was to perform a detailed scientific study of the ozone transport problem and propose efficient and cost-effective solutions. OTAG's study focused on the eastern United States, where the ozone transport phenomenon is especially significant. OTAG was formed in 1995 and concluded its work in early 1997.

The OTAG study found that the main driver of the ozone transport problem is the transport of NOx emissions. As a result of the OTAG findings, on September 24, 1998, EPA finalized a rule entitled, "*Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone*" (63 FR 57396). This rule, along with its later technical amendments, has come to be known as the "NOx SIP Call". Originally the NOx SIP Call required 23 jurisdictions (i.e., 22 OTAG states plus the District of Columbia) to submit State Implementation Plan (SIP) revisions that address the regional transport of ground-level ozone. The original 23 jurisdictions were Alabama, Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Massachusetts, Maryland, Michigan, Missouri, North Carolina, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, Wisconsin, and West Virginia. However, a March 3, 2000 ruling by the D.C. Circuit Court of Appeals had the effect of eliminating Wisconsin, Georgia and Missouri from the original group, leaving the final SIP Call limited to the remaining 20 jurisdictions. The purpose of the NOx SIP Call is to require the 20 jurisdictions to reduce NOx emissions, thereby reducing NOx transport into downwind non-attainment areas.

1.2 The Problem

Nitrogen oxides are a class of compounds made of nitrogen and oxygen in varying percentages. Nitrogen dioxide (NO₂) is the most common and prevalent component of nitrogen oxide emissions. NOx is emitted from high temperature combustion processes. Sources include motor vehicles, fossil fuel electric generators, and other industrial, commercial and residential sources that burn fuels. In 1997, over 23 million tons of nitrogen oxides were emitted into the air in the United States. An important characteristic of NOx emissions is that they can be transported long distances and cause problems far from the original emissions sources. Some of the possible problems of NOx transport include acid rain, greenhouse effect, regional haze, formation of toxic chemicals, and eutrophication of waterways due to nitrogen deposition. In particular, transported NOx emissions interfere with the ability of downwind states to attain or maintain the ozone NAAQS. The Plan herein addresses this immediate non-attainment problem.

1.3 The Solution

The NOx SIP Call does not mandate NOx

reductions from specific sources in specific jurisdictions. Rather, it sets an overall NOx emission limit, known as a NOx budget, for each jurisdiction, and allows each jurisdiction to determine its preferred way of reducing emissions to the level of its budget. The jurisdiction can choose to reduce emissions from one or any combination of the four NOx emission source sectors, i.e., point sources, stationary area sources, on-road mobile sources, and off-road mobile sources. The budget is a five-month budget that must be met for the period from May 1 through September 30 of each year, beginning with 2007.

As part of developing a cost-effective strategy, EPA developed a model, market-based emissions trading program (40 CFR 96) that states may use to provide more flexibility in controlling NOx emissions. The program allows controlled sources that exceed their emissions reduction requirements, or that achieve the required reductions ahead of schedule, to bank ‘credits’, or sell them to other sources that cannot meet their limits. Conversely, sources that have difficulty meeting their emission reduction requirements can purchase NOx credits to ensure compliance. EPA allows this trading program to be used as part of a jurisdiction’s plan to comply with the NOx SIP Call budget.

EPA anticipates that the full implementation of the NOx SIP Call will reduce total NOx emissions by an average of 28 percent over the control region, will remove approximately 1.2 million tons of NOx from the air, and will enable impacted non-attainment areas to attain the 1 hour ozone NAAQS.

2.0 the NOx Budget Plan

2.1 Synopsis

EPA, through the its final “*Technical Amendment to the Finding of Significant Contribution and Rulemaking for Certain States for Purposes of Reducing Regional Transport of Ozone*” (effective April 3, 2000), assigned Delaware a statewide NOx emissions budget of 22,861 tons/season. Delaware plans to meet this budget by: 1.) holding to EPA’s 2007 base NOx emission inventory projections for the source sectors of stationary area sources, on-road mobile sources and off-road mobile sources, and 2.) reducing point source electric generating unit (EGU) and non-electric generating unit (non-EGU) emissions from EPA’s 2007 base NOx emissions projections through the promulgation and implementation of the proposed “*Regulation No. 39 – Nitrogen Oxides (NOx) Budget Trading Program*” of the Delaware Regulations Governing the Control of Air Pollution.

2.2 Derivation of Budget

In order to derive a statewide total 2007 NOx budget, EPA first applied growth factors to the baseline emission inventories for each source sector (i.e., EGU, non-EGU, stationary area, on-road mobile and off-road mobile), thereby forecasting the emissions to 2007. These projected

inventories are called 2007 base inventories. The 2007 base inventories reflect existing controls, and controls required to be implemented by 2007. For the stationary area, on-road mobile and off-road mobile source sectors, the 2007 base inventories become the 2007 sector budgets. This is because EPA applied no additional controls to those sectors in deriving the total 2007 budget.

The situation for point sources is different. Point sources are divided into two sectors, i.e., EGUs and non-EGUs. For the EGU and non-EGU sectors, the 2007 budgets are derived from the 2007 base inventories by applying additional controls to those sectors. This was done by assuming an EGU control level of 0.15 pounds of NOx per million BTU (lb/mmBTU) on units rated at 25 megawatts (Mw) or more, and a non-EGU control level of 60% for boilers and turbines with maximum rated heat inputs of 250 mmBTU/hr or more.

After the budgets for all of the source sectors were derived, they were summed to derive the total statewide 2007 NOx emissions budget. This total budget is the budget to which the state must adhere.

The procedures for deriving the base and budget numbers are described in the EPA document, *Development of Emission Budget Inventories For Regional Transport NOx SIP Call Technical Amendment Version (A-96-56:X-B-11)*, December, 1999. EPA revised the baseline and budget numbers several times, and released the final numbers in the April 3, 2000 rule entitled, “*Technical Amendment to the Finding of Significant Contribution and Rulemaking for certain States for Purposes of Reducing Regional Transport of Ozone.*” Delaware reviewed the procedures and baseline inventory numbers for each source sector, and agrees with EPA’s final baseline and budget numbers. The final baseline and budget numbers are given in Table 1.

**Table 1
Final Base Inventory and Budget Numbers**

SOURCE SECTORS	2007 BASE (tons/season)	2007 BUDGET (tons/season)	REDUCTION (tons/season)	REDUCTION (%)
EGUs	5,838	5,250	588	10
Non-EGUs	2,821	2,473	348	12
Stationary Area	1,129	1,129	0	0
On-Road Mobile	8,358	8,358	0	0
Off-Road Mobile	5,651	5,651	0	0
Total	23,797	22,861	936	4

2.3 Delaware's Strategy

The NO_x SIP Call requires that the 20 jurisdictions each hold to their respective total budgets, but it allows jurisdictions the flexibility to meet that budget through any choice of NO_x controls affecting any source sectors. In other words, the state does not have to adhere to the budgets for the individual source sectors, as long as the total budget is met. Delaware's strategy for meeting the total statewide 2007 budget of 22,861 is twofold.

First, the State anticipates full implementation of the control measures that were included by EPA in developing the 2007 base inventories for each source sector. As previously discussed, the base inventories are equal to the budgets for the stationary area, on-road mobile and off-road mobile source sectors. Delaware will therefore comply with the budgets for these three sectors by holding to their base inventories.

Second, the State will promulgate and implement "Regulation No. 39 – Nitrogen Oxides (NO_x) Budget Trading Program" in order to achieve the reductions in the EGU and non-EGU sectors as reflected in the EPA-derived budgets for those sectors. Regulation No. 39 will result in a reduction in the EGU and non-EGU sector base inventories that is equal to or greater than that used by EPA to calculate the budgets for those sectors. Therefore, Regulation No. 39 guarantees that the EGU and non-EGU sectors will stay at or below their sector budgets of 5,250 tons and 2,473 tons of NO_x per 5-month season, respectively. Regulation No. 39 holds each EGU with a nameplate capacity of 25 Mwe or greater to an allocation that is determined by multiplying each unit's heat base heat capacity by a NO_x emissions rate factor of 0.15 lb/MMBTU. Each non-EGU with a maximum design heat input capacity of 250 MMBTU/hr or greater is held to an allocation that is determined by multiplying each unit's base heat input by a NO_x emissions rate factor of 0.17 lb/MMBTU, as recommended in EPA's model rule (40 CFR, Part 96). In addition, Regulation No. 39 goes beyond the NO_x SIP Call by requiring that every EGU and process heater with a design capacity between 15 and 25 Mwe be held to an allocation. That allocation is determined by multiplying each unit's base heat input by the unit's actual average 1996 ozone season NO_x emission rate. Therefore, as a group, sources between 15 and 25 Mwe are not allowed to grow beyond their 1996 levels. All allocations can be found in Table 1 of Appendix A of Regulation No. 39. All units subject to Regulation No. 39 must comply by May 1, 2003 or the date the unit commences operation, whichever is later.

The controls considered by EPA in development of the base inventories are listed in Table 2 for each source sector.

Table 2
2007 Base Inventory Controls

SOURCE SECTOR	CONTROL MEASURE	IMPLEMENTATION MECHANISM		
EGUs	Title IV Controls	State Reg. No. 36 (adopts 40 CFR, Parts 72 through 78 by reference)		
	Prevention of Significant Deterioration	State Reg. No. 25		
	New Source Performance Standards	State Reg. No. 20		
	OTC MOU Phase II	State Reg. No. 37		
	NO _x RACT	State Reg. No. 12		
	New Source Review (LAER)	State Reg. No. 25		
Non-EGUs	Prevention of Significant Deterioration	State Reg. No. 25		
	OTC MOU Phase II	State Reg. No. 37		
	New Source Performance Standards	State Reg. No. 20		
	New Source Review (LAER)	State Reg. No. 25		
	NO _x RACT	State Reg. No. 12		
	N/A	N/A		
Stationary Area	N/A	N/A		
	On-Road Mobile	National Low Emission Vehicle Stds.	State Reg. No. 40/Federal rule	
		Reformulated Gasoline (RFG II)	Federal Rule	
		Low Enhanced Inspection & Maint.	State Reg. No. 31	
		Clean Fuel Fleets	State Reg. No. 40 (substitute rule)	
		Heavy Duty Vehicle Standards	Federal Rule	
		Off-Road Mobile	Phase II Small Engine Standards	Federal Rule
			Marine Engine Standards	Federal Rule
			Non-road Heavy Duty (50 hp or more) Engine Standards – Phase I	Federal Rule
			Non-road Diesel Engine Standards – Phases 2 and 3	Federal Rule
Reformulated Gasoline (RFG II)			Federal Rule	
On-board Vapor Recovery	Federal Rule			
Locomotive Standards	Federal Rule			

All of the base inventories and budgets are listed in Table 1. For purposes of the NO_x SIP Call, Delaware accepts EPA's 2007 base inventories and budgets for all

source sectors, and will implement the NO_x SIP call as described above. By meeting the budgets for each source sector, Delaware will meet the statewide total statewide 2007 NO_x budget of 22,861 tons/season.

2.4 Reporting Requirements

In order to track compliance with the NO_x SIP call, each jurisdiction must perform the following three types of emission inventory reporting:

(1) Annual Reporting. The state must report to EPA emissions data from the NO_x sources within the state for which the state has adopted control measures specifically for the purpose of meeting the 2007 NO_x budget. This includes any measures that differ from the measures included by EPA in the derivation of the 2007 base inventories. For Delaware, these sources will be all EGU and non-EGU sources covered by Regulation No. 39. The annual reporting requirements for these sources can be satisfied by meeting the monitoring and reporting requirements of subpart H of 40 CFR part 75. Regulation No. 39 requires that these monitoring and reporting requirements be met. Annual reporting is to begin with the data for emissions occurring in the year 2003, and must cover emissions for the 5-month compliance season.

(2) Triennial Reporting. For the year 2002 and every third year thereafter, the state must develop and submit an emission inventory covering NO_x emissions from all sources within the state. Emissions must cover the 5-month compliance season.

(3) Year 2007 Reporting. In order to determine compliance with the 2007 budget, a separate 2007 NO_x emission inventory must be developed and submitted. This inventory must cover emissions from the 5-month compliance season for all NO_x sources. The 2007 inventory is a separate requirement because the year 2007 does not fall on the triennial reporting schedule.

States must submit data for a required year no later than 12 months after the end of the calendar year for which the data are collected. States are required to report emissions data in an electronic format.

DEPARTMENT OF INSURANCE

DOMESTIC/FOREIGN INSURERS BULLETIN NO. 7

Adopted November 6, 2000

TO: All Domestic and Foreign Insurers Licensed in the State of Delaware
All State Insurance Departments
National Association of Insurance Commissioners

NOTICE OF CHANGE IN POLICY REGARDING RETALIATORY TAX CALCULATION

Beginning with tax year 2000, and henceforth, credits provided under 18 **Del.C.** §4219 and/or 18 **Del.C.** §4413 for Guaranty Fund payments will no longer be factored into the retaliatory tax calculation. The Delaware Department of Insurance has adopted this change pursuant to the Commissioner's rulemaking authority as set forth in Chapter 3 of Title 18, Delaware Insurance Code.

BACKGROUND

In 1991 the Delaware Department of Insurance through an administrative directive (the "Directive") changed the way retaliatory taxes are calculated by changing the tax form and instructing taxpayers to not apply a credit for guaranty fund assessments if their home state had no premium tax offset for such assessments.

Since that change, questions have arisen as to whether that way of calculating retaliatory taxes properly applies the "retaliatory tax" provisions of 18 **Del.C.** §532. Three separate administrative appeals were filed in the Superior Court of the State of Delaware from a Final Order and Decision of the Commissioner, dated August 17, 1998, and from the Proposed Order and Recommendation of the Hearing Officer, dated February 11, 1998, to the extent it was adopted by the Commissioner in the Final Order and Decision. Those appeals were consolidated into one action by order of the Honorable Norman A. Barron, dated December 2, 1998, and designated as C.A. No. 98A-09-12 (NAB) (the "Retaliatory Tax Appeal"). Such consolidated action now has been settled and dismissed, with the prior administrative rulings vacated. Although no final decision was made on the issues involving the proper interpretation 18 **Del.C.** §532, in order to reach a settlement, the Department has agreed to prospectively reverse the 1991 Directive and to support clarifying legislation next year.

GENERAL PROCEDURE

Beginning with the calendar year 2000 Annual Premium Tax and Fees Report, the tax forms will be changed to remove credits for Guaranty Fund payments from both the Delaware basis and Home State basis calculations on the Retaliatory Taxes and Fees Working Form. Taxpayers will be instructed on the new form to calculate retaliatory tax using gross tax amounts as determined according to 18 **Del.C.** §702.

The Department will not assess any taxpayer any unpaid retaliatory tax arising under the Directive for open tax years 1991 through 1999; however, the Insurance Commissioner reserves the right to correct errors resulting in underpayment or overpayment of insurance taxes, including retaliatory tax,

for tax years 1991 through 1999, which did not arise as a result of the Directive.

The rights and responsibilities of insurers who were parties in the Retaliatory Tax Appeal are resolved by the settlement thereof under the terms of the Settlement Agreement entered into by the parties to that litigation, dated as of August 1, 2000. Insurers not parties to the Retaliatory Tax Appeal will prospectively have the benefit of this Bulletin for the year 2000 and thereafter, but shall not be entitled to any refund based on the Directive in effect from 1991 through 1999. By adopting this new Rule and complying with the Settlement Agreement, the Department intends to put to rest and settle any and all disputes and controversies that have arisen or could have arisen out of the Retaliatory Tax Appeal or any similar actions regarding the 1991 Directive.

Except for matters addressed in the Settlement Agreement, this Rule supercedes, replaces and cancels all other prior representations and agreements regarding any issues raised or that could have been raised in the prior administrative proceeding and the Retaliatory Tax Appeal.

Donna Lee H. Williams
INSURANCE COMMISSIONER

DELAWARE RIVER BASIN COMMISSION

Statutory Authority: 7 Delaware Code,
Section 6501 (7 Del.C. §6501)

NOTICE OF PROPOSED RULEMAKING

The Delaware River Basin Commission is a federal-state regional agency with representatives from the states of Delaware, New Jersey, New York, and Pennsylvania and a federal representative appointed by the President of the United States. As such, the Commission is exempt from the requirements of 29 Delaware Code Chapter 101. The following notice, however, is published by the Delaware River Basin Commission for informational purposes.

Proposed Amendment to the Delaware River Basin Commission's Water Code and Comprehensive Plan to Establish Water Usage Reporting Requirements

Summary: The Delaware River Basin Commission ("Commission") will hold a public hearing to receive comments on proposed amendments to its Water Code and Comprehensive Plan to establish water usage reporting requirements for source water withdrawals and water service. The Commission established source metering,

recording, and reporting requirements in 1986 for withdrawals of surface or ground water in excess of an average of 100,000 gallons per day over a 30-day period, but it did not specify the types of information to be reported. The Commission established service metering and recording requirements in 1987 for purveyors meeting the same volume threshold, but it did not require them to report service by use category. Thus, key pieces of information are missing and reported data are inconsistent among the states, impeding the Commission's ability to perform critical water use analyses. The Commission now proposes to amend its regulations to institute reporting requirements that ensure it has the source and service information needed to evaluate how and where water is being used in the basin.

Dates: The public hearing will be held on Tuesday, January 9, 2001 during the Commission's regular business meeting. The meeting will begin at 1:00 p.m. and continue until all those present who wish to testify are afforded an opportunity to do so. Persons wishing to testify at the hearing are asked to register in advance with the Commission Secretary.

The deadline for submission of written comments will be December 20, 2000.

Addresses: The public hearing will be held at the Sykes Student Union, Rosedale Avenue, West Chester University, West Chester, Pennsylvania. Directions to that location will be posted on the Commission's web site, www.drbc.net, in December 2000. Written comments should be submitted to Pamela M. Bush, Delaware River Basin Commission, P.O. Box 7360, West Trenton, NJ 08628-0360.

For Further Information Contact: The existing regulations (DRBC Water Code Sections 2.50.1 and 2.50.2) and proposed amendment (proposed Water Code Section 2.50.3) are posted on the Delaware River Basin Commission web site at www.drbc.net. Please contact Esther Siskind at 609-883-9500 ext. 202 with questions about the proposed amendment, and Pamela M. Bush at ext. 203 with questions about the rulemaking process.

Supplemental Information Background and Rationale

The Commission needs accurate and consistent basin-wide water use data in order to fulfill its mandate to manage water resources of the Delaware River Basin. Such data are critical to many of the Commission's programs and responsibilities, including developing consumptive use estimates, projecting water use trends, determining the effectiveness of water conservation programs, determining the need for new sources of supply and developing a water use budget for the Basin.

The Commission has received data from the four basin

states since it adopted source metering requirements in 1986 under Resolution No. 86-12 and service metering requirements the following year under Resolution No. 87-7, revised in 1988. These resolutions are codified at Section 2.50.2 and Section 2.50.1 of the Commission's Water Code. Under Section 2.50.2, *Source metering, recording and reporting*, users withdrawing over 100,000 gallons of surface or ground water per day on average during any 30-day period are required to report their monthly withdrawals to state agencies. Under Section 2.50.1, *Service metering*, owners of water supply systems serving the public (purveyors) that distribute over 100,000 gallons per day on average over 30 days are required to install meters at all service connections. The data reported under the existing rules are incomplete and inconsistent from state to state, however, because Section 2.50.2 does not specify the types of data to be reported and Section 2.50.1 does not require reporting of service metering information such as water uses by usage category.

Deficiencies in current reporting include the following. First, reporting categories vary from state to state. Second, public water suppliers do not provide water use data by use category. Thus residential, commercial and industrial uses cannot be distinguished. Third, some critical data categories are completely lacking. For instance, unaccounted-for water is not reported at all. Information on the location of the service area and wastewater discharge points also are missing. The proposed amendment, creating a Water Code Section 2.50.3, *Reporting requirements*, will standardize reporting requirements to facilitate basin-wide evaluation and provide additional data in key areas.

Development of the Proposed Amendment

On September 12, 2000, the Commission's Water Management Advisory Committee (Committee), composed of members from administrative agencies of the four basin states, the federal government, the cities of New York and Philadelphia, local water agencies, utilities, industry, agriculture, not-for-profit watershed and civic organizations and academia, formally recommended that the Commission amend its source and service metering, recording and reporting policy to require reporting of specific water use information. On September 28, 2000 the Commission directed Commission staff to provide notice for a public hearing on the proposed amendment establishing consistent reporting requirements for water uses throughout the basin.

Much of the data proposed to be collected already are being collected by the states. New data proposed to be collected are likely to be readily available from purveyors, even though they currently are not reported to the states other than Pennsylvania. Under the proposed rule, the effort needed to initiate reporting of new data for the year 2000 would be larger than that required to continue reporting in

subsequent years, when redundant reporting would not be required. The proposed amendment addresses the existing data gaps and will greatly facilitate the Commission's water use evaluations.

The subject of the public hearing is as follows: An Amendment to the Comprehensive Plan and Water Code of the Delaware River Basin Commission in relation to information requirements for water usage.

It is proposed to:

Amend the Comprehensive Plan and Article 2 of the Water Code of the Delaware River Basin Commission by revising the title of Section 2.50 of the Water Code to read as follows: WATER METERING AND REPORTING REQUIREMENTS, and by adding a new subsection 2.50.3, to read as follows:

2.50.3 Reporting Requirements

A. Year 2000 Reporting Requirements

1. Water Supply Systems Serving the Public. The owner(s) of each water supply system serving the public and subject to requirements under subsection 2.50.2 and subsection 2.50.1 shall report the following data for the year 2000 to the designated state agency.

a. Source Data

i. Withdrawals. The following data shall be reported for each withdrawal source separately (i.e. each well or surface water intake).

- Year - 2000
- Facility Identification Code (State Code)
- State Permit Number
- DRBC Docket Number(s)
- Facility Name
- Source Type: Surface Water/Ground Water
- Source Name and/or Source ID Number
- Withdrawal Location
 - Municipality
 - County
 - Latitude and Longitude (method used)
- Monthly Withdrawal Amount (million gallons (mg))

ii. Bulk Purchases from Other Suppliers. The following data shall be reported for each bulk purchase separately.

- Bulk Supplier Name
- Bulk Supplier's Source Name(s)
- Monthly Bulk Purchase Amount (mg)

b. Service Area Data. If the withdrawal or purchased water serves more than one county, the following data shall be reported separately for each county.

i. Service Area Name(s)
 ii. Service Area Location(s)
 • Municipalities
 • Counties
 iii. Population Served
 iv. Total Annual Water Use by Category (mg) (To the extent available, provide a breakdown of water use by the following categories.)

- Residential metered (including apartment complexes)
- Commercial metered
- Institutional metered
- Industrial metered
- Bulk Sales
- Other metered (Specify)
- Unaccounted for (defined as the amount of water entering the distribution system minus the amount of water delivered through service meters)¹

v. Wastewater Disposal (if known)

- Facility Identification Code (State Code)
- State Permit Number
- Facility Name

vi. United States Geological Survey (USGS) quadrangle map (1:24K) or other equivalent or higher resolution map identifying withdrawal, service area and discharge locations.

2. Other Withdrawals. Each person, firm, corporation, or other entity, except water supply systems serving the public, subject to requirements under subsection 2.50.2 shall report the following data for the year 2000 to the designated state agency. The data shall be reported for each withdrawal source separately (i.e. each well or surface water intake).

- a. Year - 2000
- b. Facility Identification Code (State Code)
- c. State Permit Number
- d. DRBC Docket Number(s)
- e. Facility Name
- f. Source Type: Surface Water/Ground Water
- g. Source Name and/or Source ID Number
- h. Use Category
 - Self-supplied commercial
 - Self-supplied industrial
 - Self-supplied institutional
 - Self-supplied agriculture (including crop irrigation, nurseries, aquaculture & livestock)
 - Self-supplied non-agricultural irrigation (i.e. golf course, country club, athletic field)
 - Self-supplied mining

1. Further breakdown of unaccounted for water can be provided. For example, estimated fire hydrant use, other unmetered public uses, and leakage losses.

- Self-supplied thermoelectric power
- Self-supplied hydroelectric power
- Self-supplied other (specify) _____

i. Withdrawal Location

- Municipality
- County
- Latitude and Longitude (method used)

j. Use Location

- Municipalities
- County
- Latitude and Longitude (method used)(if known)

k. Monthly Withdrawal Amount (mg)

l. Evaporative Loss Amount (mg) (if known)

m. Product Use Amount (mg) (if known)

n. Are withdrawals metered (Y/N)?

o. Wastewater Disposal (To the extent available, provide the following information on wastewater disposal.)

- Type (municipal wastewater treatment plant, package wastewater treatment plant, subsurface discharge system, other)

- Facility Identification Code (State Code)

- State Permit Number

- Facility Name

- Discharge Location

- Surface Water Body (wastewater treatment plants

only)

- Municipality

- County

- Latitude and Longitude (method used)(if known)

- Estimated Monthly Discharge Amount (mg)

p. USGS quadrangle map (1:24K) or other equivalent or higher resolution map identifying withdrawal, use, and discharge locations.

B. Annual Reporting Requirements for Subsequent Years

1. Water Supply Systems Serving the Public. Commencing with reporting year 2001, the owner(s) of each water supply system serving the public and subject to requirements under subsection 2.50.2 and subsection 2.50.1 shall report the following data on an annual basis to the designated state agency. Changes to any other information required under Section 1 above, shall also be reported.

a. Source Data

i. Withdrawal Data. The following data shall be reported for each withdrawal source separately (i.e. each well or surface water intake).

- Year
- Facility Identification Code (State Code)
- State Permit Number
- Facility Name
- Monthly Withdrawal Amount (mg)

ii. Bulk Purchases from Other Suppliers.

The following data shall be reported for each bulk purchase separately.

- Bulk Supplier Name
- Bulk Supplier's Source Name(s)
- Monthly Bulk Purchase Amount (mg)

b. Service Area Data. If the withdrawal or purchased water serves more than one county, the following data shall be reported separately for each county.

i. Service Area Name(s)

ii. Total Annual Water Use by Category (mg) (All usage shall be reported according to the following categories.)

- Residential metered (including apartment complexes)
- Commercial metered
- Institutional metered
- Industrial metered
- Public metered
- Bulk Sales
- Other metered (Specify)
- Unaccounted for (defined as the amount of water entering the distribution system minus the amount of water delivered through service meters)²
- Total

2. Other Withdrawals. Commencing with reporting year 2001, each person, firm, corporation, or other entity, except water supply systems serving the public, subject to requirements under subsection 2.50.2 shall report the following data on an annual basis to the designated state agency. The data shall be reported for each withdrawal source separately (i.e. each well or surface water intake). Changes to any other information required under Section A above, shall also be reported.

- a. Year
- b. Facility Identification Code (State Code)
- c. State Permit Number
- d. Facility Name
- e. Monthly Withdrawal Amount (mg)
- f. Evaporative Loss Amount (mg) (if known)
- g. Product Use Amount (mg) (if known)
- h. Estimated Monthly Wastewater Discharge Amount

(mg)

C. To avoid duplication of effort and to insure proper enforcement of this regulation, the Executive Director is hereby authorized to enter into administrative agreements with the Delaware Department of Natural Resources and Environmental Control, New Jersey Department of

Environmental Protection, New York Department of Health, Pennsylvania Department of Environmental Protection, and other state agencies where appropriate, authorizing such agencies to administer and enforce the provisions of this regulation and to adopt such rules and regulations of procedure as may be necessary to insure proper administration and enforcement of this regulation. Designated state agencies are encouraged to implement and maintain automated data collection and reporting systems to facilitate the efficient transfer of data to the Delaware River Basin Commission. The administrative agreements shall specify the format for data submission.

PAMELA M. BUSH, ESQ.
Commission Secretary
November 14, 2000

2. Further breakdown of unaccounted for water can be provided. For example, estimated fire hydrant use, other unmetered public uses, and leakage losses.

**DEPARTMENT OF
ADMINISTRATIVE SERVICES
DIVISION OF PROFESSIONAL REGULATION
BOARD OF PHARMACY**

Rescheduled Public Hearing

PLEASE TAKE NOTICE, pursuant to 29 Del.C. §2509, the Delaware Board of Pharmacy (Board) has developed and proposes to adopt new Regulation XV to provide comprehensive requirements which will govern automated systems in community, institutional, and long term care pharmacy settings. The proposed regulation was first published in the Register of Regulations on October 1, 2000 and changes from that draft are designated herein using strikeout and boldface. The record retention period is increased to 3 years and certain responsibilities are transferred from the pharmacist-in-charge to the permit holder.

The Board also has proposed changes to Regulation I relating to continuing education that provides for an audit to insure compliance rather than reviewing the documentation of each licensee. Another change would permit a licensee to receive 2 C.E. in each licensing period by attending a meeting of the Delaware Board of Pharmacy. A change to Regulation VI is also proposed to establish a beyond use date for single unit and unit dose containers.

A public hearing will be held on the proposed changes on January 10, 2001 at 10:00 a.m. in the Jesse Cooper Building, Room 309 (third floor conference room), Federal and Water Streets, Dover, DE 19901. This hearing was previously scheduled for November 15, 2000 and canceled. The Board will receive and consider input from any person on the proposed Regulation. Written comment can be submitted at any time prior to the hearing in care of Gradella E. Bunting at the above address. In addition to publication in the Register of Regulations and two newspapers of general circulation, copies of the proposed regulation can be obtained from Gradella E. Bunting by calling (302)739-4798.

**BOARD OF CLINICAL SOCIAL WORK
EXAMINERS**

PLEASE TAKE NOTICE, pursuant to 29 Del.C. Chapter 101 and 24 Del.C. Sections 3906(1) and 3906(7), the Delaware Board of Clinical Social Work Examiners proposes to revise its rules and regulations. The proposed revisions clarify the continuing education requirement for ethics credits, and establish the time frames for continuing education reporting periods and biennial licensing periods.

A public hearing will be held on the proposed Rules and Regulations on Monday, January 22, 2001 at 9:30 a.m. in the Second Floor Conference Room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware, 19904. The Board will receive and consider input in writing from any person on the proposed Rules and Regulations. Any written comments should be submitted to the Board in care of Gayle Franzolino at the above address. The final date to submit written comments shall be at the above scheduled public hearing. Anyone wishing to obtain a copy of the proposed Rules and Regulations or to make comments at the public hearing should notify Gayle Franzolino at the above address or by calling (302) 739-4522.

This notice will be published in two newspapers of general circulation not less than twenty (20) days prior to the date of the hearing.

STATE BOARD OF EDUCATION

The State Board of Education will hold its monthly meeting on Thursday, December 21, 2000 at 1 p.m. in the Townsend Building, Dover, Delaware.

**DEPARTMENT OF HEALTH AND
SOCIAL SERVICES
DIVISION OF PUBLIC HEALTH
OFFICE OF EMERGENCY MEDICAL SERVICES**

Notice of Public Hearing

The Office of Emergency Medical Services, Division of Public Health of the Department of Health and Social Services, will hold a public hearing to discuss proposed Advanced Life Support Interfacility Transport Regulations (ALS-IFT). These proposed regulations describe the certification of providers and provider agencies to operate in an Advanced Life Support capacity on Interfacility patient transports in Delaware. The ALS-IFT Regulations apply to any individual, public or private agency that seeks to perform interfacility patient transports in Delaware.

This public hearing will be held December 21, 2000 at 10:00 AM in the Conference Room at the Delaware Office of Emergency Medical Services, Blue Hen Corporate Center, Suite 4-H, 655 S. Bay Road, Dover, Delaware

Copies of the proposed regulation are available for review by calling:

Office of Emergency Medical Services
Blue Hen Corporate Center, Suite 4-H
655 Bay Road,
Dover, Delaware 19901
Telephone: (302) 739-4710

DIVISION OF SOCIAL SERVICES**Public Notice
Medicaid / Medical Assistance Program**

Anyone wishing to present his or her oral comments at this hearing should contact Joanne Freddo at (302) 739-4710 by December 18, 2000. Anyone wishing to submit written comments as a supplement to, or in lieu of oral testimony should submit such comments by December 31, 2000 to:

David Walton, Hearing Officer
Division of Public Health
P.O. Box 637
Dover, DE 19901

DIVISION OF SOCIAL SERVICES**Public Notice
Division of Social Services
Delaware's A Better Chance and General Assistance
Program**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and with 42CFR §447.205, and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 505, the Delaware Department of Health and Social Services (DHSS) / Division of Social Services / Delaware's A Better Chance (DABC) and General Assistance (GA) Program is proposing to implement a policy change to the Division of Social Services Manual, Section 7002.1. This change allows child care deduction on client caused DABC and GA overpayments. Current rules do not permit any deductions, including child care.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Mary Ann Daniels, Policy and Program Implementation Unit, Division of Social Services, P.O. Box 906, New Castle, Delaware by December 31, 2000.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and with 42CFR §447.205, and under the authority of Title 31 of the Delaware Code, Chapter 5, Section 505, the Delaware Department of Health and Social Services (DHSS) / Division of Social Services / Medicaid Program is proposing to implement two policy changes to the Division of Social Services Manual, Sections 14300, 14320.1, 14330.2 and 17800 - 17805. The first change clarifies that nonqualified aliens are not eligible for State-funded benefits in the adult expansion population. The second change permits a new optional categorically needy Medicaid population. This group will be limited to individuals who lose Supplemental Security Income (SSI) due to receipt of Social Security Disability and are not yet eligible for Medicare.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to the Director, Medical Assistance Programs, Division of Social Services, P.O. Box 906, New Castle, DE 19720 by December 31, 2000.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

**DEPARTMENT OF NATURAL
RESOURCES AND
ENVIRONMENTAL CONTROL
DIVISION OF AIR AND WASTE MANAGEMENT
AIR QUALITY MANAGEMENT SECTION****REGISTER NOTICE**

- 1. Title Of The Regulations:**
Amendment to Regulation 26.
- 2. Brief Synopsis Of The Subject, Substance And Issues:**
To amend Regulation 26 (Motor Vehicle Emissions Inspection Program) as follows:
 1. To add the provision in Section 6.1 of a new model year exemption of 5 years for the idle emission test.
 2. To delete the provision in Section 6.2A that a

minimum 10% reduction of hydrocarbon or carbon monoxide pollutant as one of the requirements to obtain a waiver.

3. To delete the provision in Section 6.1 that allows for emission testing at a fleet inspection station.

4. To add the test procedure for the emission idle test to Technical Memorandum #1 that had been previously reserved.

5. To delete from the list of exemptions in Section 4 vehicles powered by propane.

6. To add in Section 6 a provision that would prohibit testing vehicles with any unsafe conditions found coming through the testing lane.

7. To add to Section 6 two provision concerning alternative fuel vehicles which would require them to be inspected and held to the same emission standards as gasoline powered vehicles.

3. Possible Terms Of The Agency Action:

N/A

4. Statutory Basis Or Legal Authority To Act:

- 7 Del. C. Section 6010
- Clean Air Act Amendments of 1990

5. Other Regulations That May Be Affected By The Proposal:

None

6. Notice Of Public Comment:

Public Hearing is on January 3, 2001, Richardson and Robbins Auditorium, 89 Kings Highway, Dover

7. Prepared By:

Philip A. Wheeler 739-4791 11/22/00

DIVISION OF AIR & WASTE MANAGEMENT AIR QUALITY MANAGEMENT SECTION

REGISTER NOTICE

1. Title Of The Regulations:

Amendment to Regulation 31.

2. Brief Synopsis Of The Subject, Substance And Issues:

To amend Regulation 31 (Low Enhanced Inspection and Maintenance Program) as follows:

1. To delete the Low Emitter Profile (LEP) provision subparagraph (f) in Section 5, "Vehicle Coverage" and Appendix 5(f), "Background on Clean Screening" which details the LEP methodology.

2. To add the "New Model Year Clean Screen"

provision to replace subparagraph (f) in Section 5. The provision would allow exempting newer model vehicles six to eight years old, normally required to be tested for exhaust and evaporative emissions. The exemption would occur when those vehicles are at a inspection facility and the wait time for vehicles at the end of the testing queue is 60 minutes or greater.

3. Possible Terms Of The Agency Action

N/A

4. Statutory Basis Or Legal Authority To Act:

- 7 Del. C. Section 6010
- Clean Air Act Amendments of 1990

5. Other Regulations That May Be Affected By The Proposal:

None

6. Notice Of Public Comment:

Public Hearing is on January 3, 2001, Richardson and Robbins Auditorium, 89 Kings Highway, Dover

7. Prepared By:

Philip A. Wheeler 739-4791 11/22/00

DELAWARE RIVER BASIN COMMISSION

NOTICE OF PROPOSED RULEMAKING

The Delaware River Basin Commission is a federal-state regional agency with representatives from the states of Delaware, New Jersey, New York, and Pennsylvania and a federal representative appointed by the President of the United States. As such, the Commission is exempt from the requirements of 29 Delaware Code Chapter 101. The following notice, however, is published by the Delaware River Basin Commission for informational purposes.

Proposed Amendment to the Delaware River Basin Commission's Water Code and Comprehensive Plan to Establish Water Usage Reporting Requirements

Summary: The Delaware River Basin Commission ("Commission") will hold a public hearing to receive comments on proposed amendments to its Water Code and Comprehensive Plan to establish water usage reporting requirements for source water withdrawals and water service. The Commission established source metering, recording, and reporting requirements in 1986 for withdrawals of surface or ground water in excess of an

average of 100,000 gallons per day over a 30-day period, but it did not specify the types of information to be reported. The Commission established service metering and recording requirements in 1987 for purveyors meeting the same volume threshold, but it did not require them to report service by use category. Thus, key pieces of information are missing and reported data are inconsistent among the states, impeding the Commission's ability to perform critical water use analyses. The Commission now proposes to amend its regulations to institute reporting requirements that ensure it has the source and service information needed to evaluate how and where water is being used in the basin.

Dates: The public hearing will be held on Tuesday, January 9, 2001 during the Commission's regular business meeting. The meeting will begin at 1:00 p.m. and continue until all those present who wish to testify are afforded an opportunity to do so. Persons wishing to testify at the hearing are asked to register in advance with the Commission Secretary.

The deadline for submission of written comments will be December 20, 2000.

Addresses: The public hearing will be held at the Sykes Student Union, Rosedale Avenue, West Chester University, West Chester, Pennsylvania. Directions to that location will be posted on the Commission's web site, www.drbc.net, in December 2000. Written comments should be submitted to Pamela M. Bush, Delaware River Basin Commission, P.O. Box 7360, West Trenton, NJ 08628-0360.

For Further Information Contact: The existing regulations (DRBC Water Code Sections 2.50.1 and 2.50.2) and proposed amendment (proposed Water Code Section 2.50.3) are posted on the Delaware River Basin Commission web site at www.drbc.net. Please contact Esther Siskind at 609-883-9500 ext. 202 with questions about the proposed amendment, and Pamela M. Bush at ext. 203 with questions about the rulemaking process.

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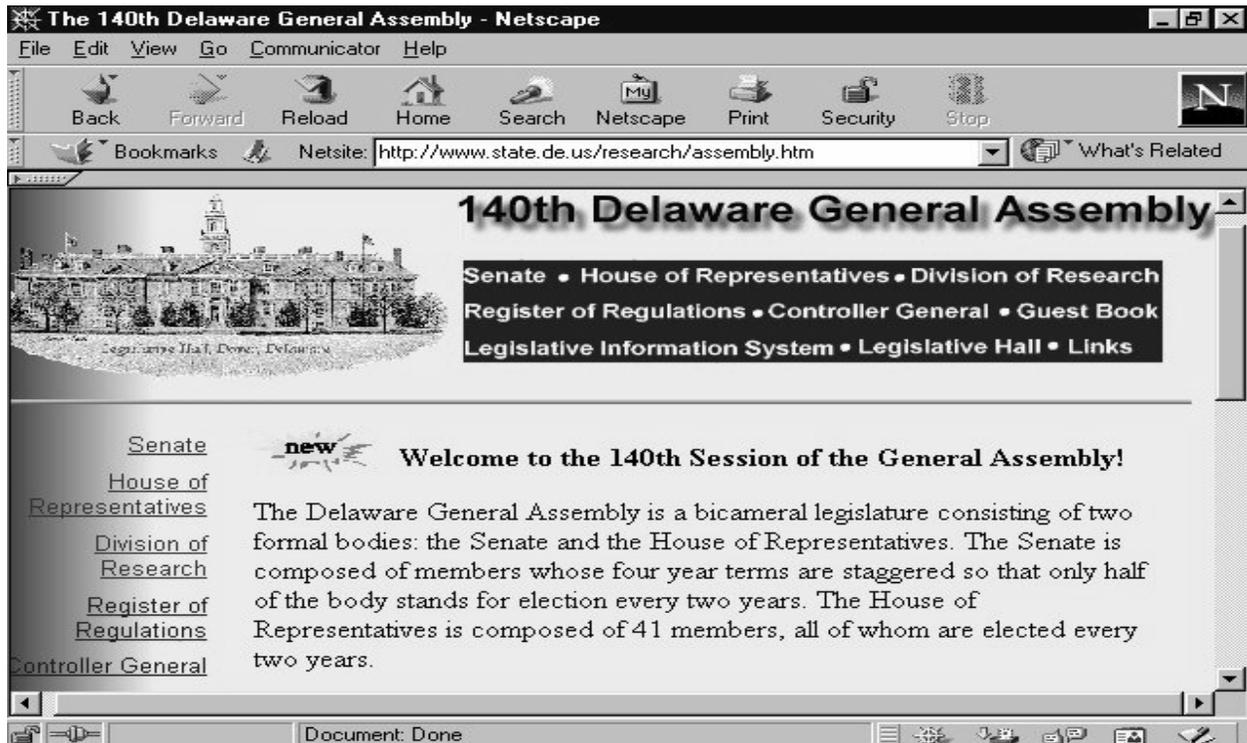
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