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# DELAWARE

## Register of Regulations

### *Volume 10 Commemorative Issue*

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Issue Date: July 1, 2006

Volume 10 - Issue 1 Pages 1 - 200

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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 June 15, 2006.

#### **IN THIS ISSUE:**

**Regulations:**  
Emergency  
Proposed  
Final

**Governor:**  
Executive Orders  
General Notices  
Calendar of Events &  
Hearing Notices

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# INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

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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The *Delaware Register* will publish any regulations that are proposed to be adopted, amended or repealed and any emergency regulations promulgated.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
- Agency Hearing and Meeting Notices
- Other documents considered to be in the public interest.

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## CITATION TO THE DELAWARE REGISTER

The *Delaware Register of Regulations* is cited by volume, issue, page number and date. An example would be:

9 **DE Reg.** 1036-1040 (01/01/06)

Refers to Volume 9, pages 1036-1040 of the *Delaware Register* issued on January 1, 2006.

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## SUBSCRIPTION INFORMATION

The cost of a yearly subscription (12 issues) for the *Delaware Register of Regulations* is \$135.00. Single copies are available at a cost of \$12.00 per issue, including postage. For more information contact the Division of Research at 302-744-4114 or 1-800-282-8545 in Delaware.

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## 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and other interested parties may participate in the process by which administrative regulations are adopted, amended or repealed, and may initiate the process by which the validity and applicability of regulations is determined.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

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# INFORMATION ABOUT THE DELAWARE REGISTER OF REGULATIONS

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published in the *Register of Regulations*. At the conclusion of all hearings and after receipt, within the time allowed, of all written materials, upon all the testimonial and written evidence and information submitted, together with summaries of the evidence and information by subordinates, the agency shall determine whether a regulation should be adopted, amended or repealed and shall issue its conclusion in an order which shall include: (1) A brief summary of the evidence and information submitted; (2) A brief summary of its findings of fact with respect to the evidence and information, except where a rule of procedure is being adopted or amended; (3) A decision to adopt, amend or repeal a regulation or to take no action and the decision shall be supported by its findings on the evidence and information received; (4) The exact text and citation of such regulation adopted, amended or repealed; (5) The effective date of the order; (6) Any other findings or conclusions required by the law under which the agency has authority to act; and (7) The signature of at least a quorum of the agency members.

The effective date of an order which adopts, amends or repeals a regulation shall be not less than 10 days from the date the order adopting, amending or repealing a regulation has been published in its final form in the *Register of Regulations*, unless such adoption, amendment or repeal qualifies as an emergency under §10119.

Any person aggrieved by and claiming the unlawfulness of any regulation may bring an action in the Court for declaratory relief.

No action of an agency with respect to the making or consideration of a proposed adoption, amendment or repeal of a regulation shall be subject to review until final agency action on the proposal has been taken.

When any regulation is the subject of an enforcement action in the Court, the lawfulness of such regulation may be reviewed by the Court as a defense in the action.

Except as provided in the preceding section, no judicial review of a regulation is available unless a complaint therefor is filed in the Court within 30 days of the day the agency order with respect to the regulation was published in the *Register of Regulations*.

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## CLOSING DATES AND ISSUE DATES FOR THE DELAWARE REGISTER OF REGULATIONS

ISSUE DATE	CLOSING DATE	CLOSING TIME
August 1	July 17	4:30 p.m.
September 1	August 15	4:30 p.m.
October 1	September 15	4:30 p.m.
November 1	October 16	4:30 p.m.
December 1	November 15	4:30 p.m.

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# EMERGENCY REGULATIONS

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## Symbol Key

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

## Emergency Regulations

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

### § 10119. Emergency regulations.

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

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

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

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

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

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

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## DEPARTMENT OF HEALTH AND SOCIAL SERVICES

### DIVISION OF LONG TERM CARE RESIDENTS PROTECTION

Statutory Authority: 16 Delaware Code, Section 1119C (16 **Del.C.** §1119C)

### PUBLIC NOTICE

#### Nature of the Proceedings

This Emergency Regulation is being promulgated to amend the Division of Long Term Care Residents Protection Regulations in order to improve the nursing home survey process. Delaware Health and Social Services ("Department") / Division of Long Term Care Residents Protection must take this action on an emergency basis without prior notice or hearing to ensure the health, safety, and welfare of the residents of Delaware's long term care facilities.

#### Summary of Changes

#### Statutory Basis

16 Del.C. §1119C

#### Summary of Provisions

1) Effective immediately, the Division of Long Term Care Residents Protection shall maintain full compliance with CMS regulations and appendices regarding nursing home surveys as contained in 42 CFR 483.1 to 483.480 and 488.1 to 488.456.

2) No later than June 15, 2006, the Division of Long Term Care Residents Protection shall establish a

Quality Assurance Review Team (QAR Team). The QAR Team shall consist of:

- The Director of the Division
- The Deputy Director of the Division
- The Medical Director of the Division
- The Quality Assurance Administrator of the Division
- The Health Facilities Certification Administrator of the Division

3) No later than July 1, 2006, the Division of Long Term Care Residents Protection shall retain the services of a licensed physician to perform the duties of Medical Director, which shall include but not be limited to reviewing medical records, advising the Division on medical issues, testifying on the Division's behalf at Informal Dispute Resolution hearings, and participating in the QAR Team.

4) No later than July 15, 2006, all nursing home survey reports, whether generated as a result of annual, complaint, and/or surprise inspections, which recommend a nursing, pharmaceutical, nutritional, and/or environmental citation at "G" level or above shall be reviewed and approved by the QAR team within 5 working days of receipt of such report containing a "G" level or above citation. The Team shall review each such citation for application of the appropriate regulations, for accuracy of data, for adequacy of supporting documentation, and for consistent adherence to CMS regulations.

A written quarterly report shall be made to the Nursing Home Quality Assurance Commission regarding any upgrades to "G" level or above and downgrades to "G" level or below by the QAR Team, setting forth the number of such downgrades and upgrades at each facility and the reasons for each.

The report shall not identify facilities by name.

The first such report shall be submitted no later than June 15, 2006. Subsequent quarterly reports shall be submitted on the 15th of every September, December, March, and June.

5) No later than September 15, 2006, the Department of Health and Social Services shall reclassify a vacant position to a Nurse Supervisor for the Division of Long Term Care Residents Protection, to provide nurse supervision for the Division's Wilmington office.

### **Findings of Fact**

The Department finds that the proposed changes should be made in the best interest of the general public of the State of Delaware. The Department will receive, consider, and respond to petitions by any interested person for the reconsideration or revision thereof.

**THEREFORE, IT IS ORDERED**, that the emergency regulation proposed to improve the nursing home survey process is adopted as an emergency order with an effective date of June 15, 2006.

6/12/06

Vincent P. Meconi, Secretary, DHSS

### **DLTCRP Emergency Order**

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## EMERGENCY REGULATIONS

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## DEPARTMENT OF AGRICULTURE

### DELAWARE AGRICULTURAL LANDS PRESERVATION FOUNDATION

Statutory Authority: 3 Delaware Code, Section 904 (3 **Del.C.** §904(a)(13))

3 DE Admin. Code 904

## NOTICE OF PUBLIC HEARING

### 1301 Regulations Governing the Delaware Agricultural Forestlands Preservation Program

The Delaware Agricultural Lands Preservation Foundation (the "Foundation") will hold a public hearing to discuss proposed regulations relating to the administration of the Delaware Agricultural Forestland Preservation Program established pursuant to 3 **Del.C.** §931. The Foundation was established by the Delaware Legislature pursuant to 3 **Del.C.** §903. The Foundation is responsible for, among other things, adopting criteria for the establishment and maintenance of Forestland Preservation Areas and establishing criteria for the purchase of Forestland Preservation Easements. To carry out its statutory responsibilities, the Foundation has been directed to, among other things, adopt rules of practice and procedure for the acquisition of Forestland Preservation Easements, including the process and timeframe for submitting applications for the sale of Forestland Preservation Easements, the establishment of the purchase price for the easements through the use of appraisal information, the manner in which offers to sell such easements are accepted, and the basis upon which offers for sale of such easements are accepted.

Pursuant to its statutory authority, the Foundation is proposing for adoption a comprehensive set of guidelines and regulations to be used for the administration of the forestlands preservation program. The proposed regulations published herein will, among other things: (a) establish eligibility criteria, (b) establish application procedures, (c) establish criteria for the purchase of Forestland Preservation Easements and methods by which the purchase price will be determined, (d) establish ranking criteria for easement applications, and (e) establish the legal forms to be used in connection with the creation of Forestland Preservation Areas and Easements.

The public hearing will be on Wednesday, July 26, 2006 beginning at 10:00 a.m. and ending at 12:00 p.m. at the Foundation's office located at 2320 S. DuPont Highway, Dover, Delaware 19901.

Copies of the proposed regulations are available for review by contacting:

William A. Denman, Esquire  
Parkowski, Guerke & Swayze, P.A.

116 W. Water Street  
Dover, DE 19904  
(302) 678-3262  
Email: wdenman@pgslegal.com

Anyone wishing to present oral comments at this hearing should contact Mr. William A. Denman at (302) 678-3262 by July 25, 2006. Anyone wishing to submit written comments as a supplement to, or in lieu of oral testimony, should submit such comments by July 31, 2006 to:

William A. Denman, Esquire  
Parkowski, Guerke & Swayze, P.A.  
116 W. Water Street  
Dover, DE 19904  
(302) 678-3262  
Email: wdenman@pgslegal.com

### **1301 Regulations Governing the Delaware Agricultural Forestlands Preservation Program**

The Foundation is granted authority to establish criteria for Forestland Preservation Areas (hereinafter referred to as "Forestland Preservation Area") and the purchase of forestland preservation easements. [3 Del.C., §933]

#### **1.0 Criteria for Forestland Preservation Area Eligibility**

1.1 In order to qualify for the Agricultural Forestland Preservation Program, the lands proposed as a Forestland Preservation Area in the application must meet the following criteria:

1.1.1 the owner(s) shall hold fee simple title to all land to be placed in the Forestland Preservation Area:

1.1.2 the land must constitute a contiguous area of trees or forest and cover at least 10 acres in size and be capable of being timbered and reforested, as determined by the State Forester:

1.1.3 the land shall be zoned to allow for agricultural or open space uses and shall not be subject to any major subdivision plan:

1.1.4 the applicant(s), including all fee simple title holders, must sign a written agreement committing to the Forestland Preservation Area restrictions set forth in this Section and 3 Del.C., §934 and other adopted requirements:

1.1.5 the land must be viable and potentially productive forestlands:

1.1.6 the land must be located outside a designated Growth Zone, as that term is defined in 9 Del.C. §902(9):

1.1.7 the land must not be subject to an existing conservation or preservation easement or other restriction which prohibits development:

1.1.8 the land proposed for inclusion shall include all of the eligible forestlands located in the tax parcels subject to the application, and no eligible real property shall be carved out or otherwise excluded. One (1) location containing no more than one (1) acre of land may be designated for seasonal recreational dwelling usage provided that the property proposed for inclusion contains at least 30 acres and the use of the designated area does not adversely affect the forestlands of the property. The owner may designate up to three residential locations as permitted under 9 Del.C. §933(8)(b), provided that any seasonal recreational dwelling shall be counted against the total allowable dwelling units:

1.1.9 no more than one (1) acre of land for each 20 acres of usable forestlands, up to a maximum of 10 acres, can be used for permanent dwelling housing:

1.1.10 the land shall have a forest management plan prepared by a professional forester that addresses the landowner's forest management goals for the land. The plan shall contain, at a minimum, aerial and soil maps of the land, a description and analysis of the forest by management unit, silvicultural prescriptions for each management unit, shall be revised and updated at least once every five years, and shall be available for inspection by the State Forester's office.

1.2 For the purposes stated in this chapter, the phrase "viable and potentially productive forestlands" is defined as land that is capable of being timbered and reforested as determined by the State Forester.

## **2.0 Application Procedures**

2.1 The Foundation will provide application forms (**Appendix A**) on which applicants who volunteer to place their lands into a Forestland Preservation Area will (shall) provide the following information:

2.1.1. name of petitioner(s)

2.1.2. mailing address(es)

2.1.3. telephone number(s)

2.1.4. property location

2.1.4.1 county

2.1.4.2 community name

2.1.4.3 tax parcel number for each parcel

2.1.5. deed or property description

2.1.6. area - total acreage of:

2.1.6.1 open space

2.1.6.2 forestlands

2.1.6.3 pasture

2.1.6.4 tidal wetlands

2.1.6.5 farm or commercial structures

2.1.6.6 residence/buildings

2.1.6.7 other

2.1.7. land use/zoning designation or designations

2.1.8. easements/rights-of-way (identify, if any)

2.1.9. mortgages/liens (identify, if any):

2.1.9.1 mortgagee or lien holder's name or names

2.1.9.2 date of mortgages or liens

2.1.10. number of dwelling units and any residential acreage designated by the owner pursuant to 9

Del.C. §933(8).

2.1.11. forest management plan (if any)

2.1.12. information regarding the occupancy of dwelling units on the property

2.1.13. the approximate location of the acreage, if any, the applicant intends to designate for seasonal recreational dwelling usage pursuant to 3 Del.C., §933(7).

2.2 The Foundation shall provide assistance to potential applicants in completing application forms when requested.

2.3 Foundation staff may conduct on-site inspections and/or phone interviews with the applicants to acquire data necessary to review the application and write a staff report.

2.4 In conjunction with the application, all fee simple owners shall sign a Forestland Preservation Area Agreement (**Appendix B**) which serves as a declaration in recordable form and acknowledgment of the policies and restrictions that must be followed, and all benefits realized in a Forestland Preservation Area.

## **3.0 Application Review Procedures**

The Foundation, subject to the review and approval of the State Forester, has the authority to approve applications establishing Forestland Preservation Areas and to purchase forestland preservation easements. [3 Del.C., §931]

3.1 The Foundation staff and the State Forester will review applications and determine whether or not the minimum eligibility requirements under Section 1.1 have been met.

3.2 If the minimum eligibility requirements have not been met, the applicant will be notified by letter from the Foundation indicating that the application does not qualify for further review, and the reasons for ineligibility.

3.3 If an applicant excludes a portion of property otherwise includable in a proposed Forestland Preservation Area, the Foundation shall deny the application; provided however that the applicant shall have the right to designate a location for seasonal recreation dwelling usage and residential usage, as allowed by law.

3.4 Subject to Section 3.3 above, if the lands proposed as a Forestland Preservation Area in the application meet minimum eligibility criteria, then the Foundation staff will submit to the Foundation and the State Forester applications and criteria checklists describing and summarizing the criteria as established in this chapter.

3.5 If the applicant disagrees with the staff evaluation of the proposed Forestland Preservation Area, then the applicant may contact the Foundation staff to discuss the application review. The Foundation staff will meet with the

landowner to discuss the review within thirty (30) days from receiving such telephone call or letter.

3.6 If the issue is not resolved to the applicant's satisfaction, the applicant may request an administrative review with the Foundation by submitting a letter to the Foundation within fourteen days (14) of the applicant's last meeting with Foundation staff. This letter must include reasons and documentation to justify the applicant's claim(s).

3.7 Within seven (7) working days from the receipt of the landowner's letter, the Foundation will schedule a meeting and notify the applicant by certified letter of the date, time, and place of the meeting, at least seven (7) days in advance.

3.8 At the administrative review meeting, the applicant(s) shall present information or documentation as to how the proposed Forestland Preservation Area satisfies the eligibility criteria.

3.9 The Foundation will render a decision within thirty (30) days from the administrative review meeting and notify the applicant in writing of its decision.

#### **4.0 Creation of a Forestland Preservation Area**

4.1 To establish a Forestland Preservation Area, the application must be approved by the Foundation and the State Forester. [3 Del.C., §932 (a)]

4.2 After review by the Foundation and State Forester, the application is subject to a review period of thirty (30) days in which the Secretary of Agriculture may reject the application. The application shall be deemed officially approved at the end of the review period if it is not rejected by the Secretary of Agriculture. [3 Del.C., §919 and 938]

4.3 The property legally becomes a Forestland Preservation Area when the applicant and Foundation Chairperson (or designee) have signed the Forestland Preservation Area Agreement and no rejection has been exercised by the Secretary of Agriculture, or the Secretary of Agriculture has specifically approved the application.

4.4 Copies of the Forestland Preservation Area Agreement shall be filed with the County Planning and Zoning and Tax Assessor's Offices and recorded in the Office of the Recorder of Deeds. The Foundation shall require from these Offices proof of recording and/or receipt of the Forestland Preservation Area Agreement.

4.5 The Foundation shall endeavor to provide written notification of the date of establishment of the Forestland Preservation Area and provide a copy of the Forestland Preservation Area Agreement to the applicant, however, the failure of the Foundation to satisfy any formality following execution of a Forestland Preservation Area Agreement shall not affect the validity of the Forestland Preservation Area Agreement.

#### **5.0 Forestland Preservation Area Restrictions**

5.1 Any rezoning or major subdivision of real property included in a Forestland Preservation Area is prohibited. [3 Del.C., §934 (a)(1)]

5.2 The submission of applications for preliminary rezoning or approval of subdivision plans for any property within a Forestland Preservation Area to a county or municipality shall be considered evidence of the intent to rezone or subdivide and no action shall be taken by any county or municipality on any such application until the expiration of the Forestland Preservation Area Agreement.

5.3 During the term of the Forestland Preservation Area Agreement, activities on the property shall be limited to forestry production, forestry operations, forestry management and control, wildlife habitat management, and activities related to the foregoing. [9 Del.C., §934(a)(2)]

5.4 Forestry management, control and related activities allowed on Forestland Preservation Areas are as follows:

5.4.1 Hunting, trapping and fishing, provided such activities are limited to private non-commercial activities that do not adversely affect the forestland use of the property, and provided further that leasing of the property for such non-commercial activities shall be allowed.

5.4.2 Easements, licenses and other property interests for utility, telecommunications, and access uses are allowed subject to the requirements set forth in 9 Del.C., §909(a)(5)(f).

5.4.3 The use of portable non-permanent forest planting, harvesting and processing equipment.

5.4.4 Conservation, educational and research activities related to forestlands.

5.4.5 Ditching for drainage necessary to enhance or preserve forestlands.

5.4.6 The grazing of livestock, excluding housing or shelters, subject to prior approval by the State Forester.

5.4.7 Timbering and reforestation.

5.4.8 Noncommercial private recreational uses such as hiking, horseback riding, and primitive camping, provided such activities do not adversely affect the forestland use of the property.

## 5.4.9 Activities involving best forestland management practices.

5.5 No more than 1 acre of land for each 20 acres of usable land in a Forestland Preservation Area, subject to a maximum of 10 acres, shall be allowed for permanent dwelling housing. The seasonal recreational dwelling usage designated pursuant to 9 Del.C. §933(7) shall be counted against the total allowable permanent dwelling housing acreage. With respect to acreage allowed for dwelling housing there shall be a limit of 3 dwelling houses for residential use placed on the allowable acreage at 3 locations designated by the owner. This limit shall include any pre-existing dwelling housing and/or the seasonal dwelling usage designated pursuant to 9 Del.C. §933(7). If however there exists 3 dwelling houses on the real property at the time of approval of the new Forestland Preservation Area, the allowable total number of dwelling housing and the allowable acreage shall be allocated to the existing dwelling houses and no additional dwelling houses, including seasonal dwelling usage, shall be allowed. The aforesaid dwelling housing allowances are subject to any applicable zoning laws and regulations, and the approval of said allowances by the Foundation shall not be considered a representation by the Foundation that said allowances comply with any applicable zoning laws and regulations.

5.6 Excavation or filling, borrow pits, extraction, processing and removal of sand, gravel, loam, rock or other minerals is prohibited unless such action is currently required by or ancillary to forestry management, control and related activities allowed on forestland preservation areas.

5.7 Activities that would be detrimental to drainage, flood control, water conservation, erosion control or soil conservation are prohibited.

5.8 Any other activity that might negatively affect the continued use of the land as forestlands is prohibited.

5.9 No conversion of forestland to cropland, pasture-land, open space or other types of land use shall be allowed.

5.10 No permanent commercial or industrial structures shall be located on the property.

5.11 No disposal, burial, storage, or stock piling of junk, vehicles, equipment, liquid or solid waste or other liquid or solid materials shall be allowed, except that wastewater spray irrigation shall be allowed utilizing best available treatment technology with storage and treatment facilities located on lands outside the Forestland Preservation Area.

5.12 The Forestland Preservation Area Agreement and Forestland Preservation Area requirements and benefits shall be binding on the heirs, successors and assigns of property owners within a Forestland Preservation Area. A property owner intending to transfer all or a portion of the property in a Forestland Preservation Area shall provide written notice to the Foundation at least (10) days in advance of the date of transfer of the property, and shall notify the purchaser or transferee that the property is subject to Forestland Preservation Area restrictions. Any transfer of real property in a Forestland Preservation Area shall be preceded by the execution by the transferor and the transferee of an Acknowledgment in the form on **Appendix C** and in recordable form acknowledging the restrictions applicable to the property and the agreement by the transferee to be bound by said restrictions.

5.13 Pursuant to 3 Del.C., §934 (d), all restrictions shall be covenants which run with and bind the lands in the Forestland Preservation Area for a minimum of ten (10) years, beginning when the Forestland Preservation Area Agreement takes effect as specified in the Forestland Preservation Area Agreement.

## **6.0 Continuation of a Forestland Preservation Area**

6.1 All properties are to remain in a Forestland Preservation Area for at least ten (10) years.

6.2 If a landowner wishes to withdraw from, or terminate a Forestland Preservation Area, then the Foundation must receive a written notice of intent to withdraw no less than six (6) months prior to the ten (10) year anniversary date of initial establishment of the Forestland Preservation Area. [3 Del.C. §934 (d)]

6.3 If the Foundation does not receive a written notification of the landowner's intent to withdraw from the Forestland Preservation Area at least six (6) months prior to the ten (10) year anniversary date of that Forestland Preservation Area, then the land shall remain in the Forestland Preservation Area for an additional five-year period unless and until written notice of intent to withdraw shall be given at least six months prior to the end of each additional five-year period.

## **7.0. Inspection of Forestland Preservation Area**

The Foundation and State Forester shall have the authority to enter upon lands located within a Forestland Preservation Area as may be necessary to perform surveys, appraisals, and investigations to accomplish its mission; consistent with applicable statutes and these regulations. [3 Del.C., §939]

7.1 The Foundation or its designee, including the State Forester, reserves the right to inspect restricted land and enforce agreements.

7.2 If any violations of the terms and the conditions of the Forestland Preservation Area Agreement occur, the Foundation may institute proceedings in the appropriate court to enforce the terms and seek appropriate relief. [3 Del.C., §939]

### **8.0 Purchase of Forestlands Preservation Easements [3 Del.C., §936]**

8.1 The intent of this section is to provide a framework for the acquisition of Forestland Preservation Easements (hereinafter referred to as "Forestland Preservation Easements") to protect in perpetuity those lands of the state most suitable for long-term utilization of forestland resources while preserving invaluable wildlife and habitat protections and open space benefits to the citizens of the State of Delaware.

8.2 The Foundation will place greatest emphasis on acquiring Forestland Preservation Easements in areas where significant forestlands can be maintained for long-term forestry production.

8.3 Based on the long-range goal set forth in Section 8.2, the Foundation will only consider properties outside of state designated growth areas in the acquisition of Forestland Preservation Easements.

8.4 In the criteria established for the prioritization of Forestland Preservation Easements, the Foundation will also give weight to the Forest Land Evaluation (LE) score for the subject parcel and the location of the subject parcel in relation to State Resource Areas (SRAs) and state-designated Natural Areas.

### **9.0 Schedule for Acquisition of Forestland Preservation Easements**

9.1 Recognizing that voluntary applications by Forestland Preservation Area landowners may exceed available funds for the procurement of Forestland Preservation Easements, it is necessary to establish a procedure for pooling, reviewing, prioritizing, and funding applications for permanent Forestland Preservation Easements.

9.2 Application and funding cycles will take place on schedules established by the Foundation.

9.3 Applications for the purchase of Forestland Preservation Easements in Rounds of Purchases shall be subject to deadlines established by the Foundation.

9.4 For each Round of Forestland Preservation Easement Purchases the Foundation shall rank the applications in the Round in accordance with the criteria set forth herein.

9.5 Upon completion, the appraisals shall be provided to the landowners, and the procedures set forth herein involving offers for the sale of preservation easements shall be initiated.

9.6 After receipt and the completion of review of offers for the sale of preservation easements, the Foundation shall review the offers and announce the selections.

9.7 Following the selection of properties for acquisition of Forestland Preservation Easements, the Foundation shall arrange for surveys of the properties to be conducted, and proceed to settlement under the terms of option agreements, subject to the availability of funding and satisfaction of regulatory, financial or other restrictions or limitations.

9.8 The Foundation is under no obligation to purchase a Forestland Preservation Easement which is offered for sale.

### **10.0 Matching Contributions To The Program**

10.1 The Foundation may establish a reserve of available funds for the matching of federal, county, state, local, or private funds for the preservation of forestlands.

### **11.0 Eligibility Criteria For Forestland Preservation Easements**

The criteria for eligibility of acquisition of a Forestland Preservation Easement shall be the same as the criteria for Forestland Preservation Area eligibility. In addition, offered preservation easement lands shall be in an established Forestland Preservation Area and in compliance with Forestland Preservation Area requirements to be eligible; provided however that the Foundation shall have the authority to acquire Forestland Preservation Easements located within an existing Agricultural Preservation District heretofore approved by the Foundation. The Foundation shall have the right, in its sole discretion, to acquire a Forestland Preservation Easement on only a part of the property included within the Forestland Preservation Area Agreement or Agricultural Preservation District, as the case may be.

### **12.0 Application Procedures**

12.1 A separate application shall be required for each forestland tract offered for Forestland Preservation Easement purchase. The Foundation shall not be obligated to process any incomplete application.

12.2 The Foundation shall develop, and make available to landowners or other interested parties, an

application form which requires the following information:

12.2.1 Name, address, telephone number and signature of the owner of the forestlands.

12.2.2 County, municipality or hundred, and Forestland Preservation Area in which the forestlands are located.

12.2.3 Total acreage of the forestlands and the number of acres of that tract proposed for Forestland Preservation Easement purchase.

12.2.4 Street/Road location of the forestlands, and directions from the nearest State route.

12.2.5 Deed reference - book, volume and page.

12.2.6 County tax map records, including tax parcel number, or account number of each parcel.

12.2.7 A copy of the forest management plan prepared by a professional forester shall be submitted with the application.

12.2.8 Name, address and telephone number of the person to be contacted to view the forestlands tract.

12.2.9 The approximate location of the acreage, if any, the applicant intends to designate for seasonal dwelling or residential use pursuant to 3 Del.C., §933(8)(b).

12.3 A form of Application is attached hereto as Appendix D.

### **13.0 Review and Evaluation of Forestlands Preservation Easement Application**

13.1 The Foundation shall review the application to determine if it is complete and meets the minimum criteria set forth herein.

13.2 If the application is complete and the minimum criteria are met, a representative of the Foundation shall view the forestlands.

13.3 The Foundation shall for each Round of Preservation Easement Purchases evaluate applications which meet the minimum criteria and rank the applications in accordance with the criteria of Section 14. Notwithstanding the ranking procedure set forth in Section 14, the Foundation shall be entitled to have all eligible properties appraised and considered for purchase of Forestland Preservation Easements.

### **14.0 Ranking Criteria for Forestland Preservation Easement Applications**

14.1 A system for ranking Preservation Easement applications is established to assist the Foundation in reaching a final decision.

14.2 Four categories will be utilized to rank the Preservation Easement applications during the Foundation's review period with a maximum score of 220 points. The four categories, each of which is discussed below, are forest productivity, size of discount, proximity to State Resource Area, and proximity to a state designated Natural Areas. In the event of a tie score, the property with the higher Forest Land Evaluation (LE) will receive the higher ranking. If the tie score is not resolved by the Forest LE scores, then the parcel with the greater acreage will receive the higher ranking.

14.3 Forest Productivity - Forest Land Evaluation Score - 100 Points.

In order to follow a rational, statewide plan for the acquisition of development rights on forestlands, the Foundation will give weight to applications for sale of Preservation Easements based on the land's capacity to produce timber. A property's Forest LE score will be used to reflect this capacity. Forest LE scores range from 0 to 100 with 100 reflecting the best soils for timber production.

Land with multiple soil types with differing LE scores will be categorized based on a weighted area average of the various LE scores.

14.4 Forestland Preservation Easement Discount - 100 Points.

The Foundation will also consider applications for sale of Forest Preservation Easements based on the ability to purchase easements at a discounted cost or donation. Weight will be given to the owner's willingness to receive a discounted payment from the appraised value of the Forestland Preservation Easement. One point will be awarded for each percentage of discount provided by the owner from the appraised value of the Forestland Preservation Easement.

14.5 Other factors - 20 Points.

Other criteria the Foundation will consider in the ranking of applications for sale of Forest Preservation easements will include the property's natural resource values, in addition to timber, and its location relative to lands designated as high priority for protection by the State.

Ten (10) points will be awarded if the property is located within a State Resource Area (SRA) as

# PROPOSED REGULATIONS

defined in 7 **Del.C.** §7507. A property shall be considered within a SRA if at least half of the property's area is located within the SRA.

Ten (10) points will be awarded if the property is located within a state-designated Natural Area as defined in 7 **Del.C.** Ch. 73. A property shall be considered within a Natural Area if at least half of the property's area is located within the Natural Area.

## **15.0 Appraisals [3 Del.C., §916]**

**15.1** An offer to purchase a Forestland Preservation Easement shall be based upon one or more appraisal reports which estimate the full market value of the forestlands under its agricultural zoning designation and the forest-only value of the forestlands tract. Any appraisal obtained by the Foundation shall remain the property of the Foundation and may not be used by the property owner for tax purposes.

**15.2** Subject to Section 15.7 hereof, an appraisal to the extent possible shall be based primarily on an analysis of comparable sales.

**15.3** The value of buildings or other improvements on the forestlands shall be excluded in determining the Forestland Preservation Easement value. The value of the buildings or other improvements shall appear separately in the appraisal. Excluded from the value of the Forestland Preservation Easement shall be the acreage designated for residential use or reasonable dwelling use.

**15.4** The appraiser shall be:

**15.4.1** An independent, licensed real estate appraiser who is qualified to appraise a property for easement purchase. An appraiser shall be selected on the basis of experience, expertise and professional designation, and

**15.4.2** A member of an organization which subscribes to the "Uniform Standards of Professional Appraisal Practice" published by the Appraisal Standards Board of the Appraisal Foundation, and shall follow their ethical and professional standards.

**15.5** The appraiser shall supply a narrative report which contains the following information and (must be) is in the following format:

### **15.5.1** Introduction

- 15.5.1.1** Professional qualifications of the appraiser
- 15.5.1.2** Letter of transmittal or appraiser certificate
- 15.5.1.3** Table of contents
- 15.5.1.4** Summary of salient facts and conclusions
- 15.5.1.5** Purpose of the appraisal
- 15.5.1.6** Easement value definition as provided in 3 **Del.C.** §916(a)

### **15.5.2** Description of property

- 15.5.2.1** Area or neighborhood description
- 15.5.2.2** Description of appraised property
  - 15.5.2.2.1** Legal description
  - 15.5.2.2.2** Property data and zoning
  - 15.5.2.2.3** Description of improvements
  - 15.5.2.2.4** Photos and sketches (if available) of subject property
  - 15.5.2.2.5** Tax map of subject property. In instances where the county does not

have tax maps available, the sketch map required below shall include the boundary lines and acreage of properties adjoining the subject property and the names of all adjoining property owners

**15.5.2.2.6** Location map

**15.5.2.2.7** Development constraints. The appraiser shall report whether the farmland tract has public or private land use restrictions, is within a flood plain, or has other physical attributes which limit its developmental capability

### **15.5.3** Analyses and conclusions

- 15.5.3.1** Analysis of highest and best development use
- 15.5.3.2** Full market valuation
  - 15.5.3.2.1** Comparable sales data
  - 15.5.3.2.2** Adjustment grid
  - 15.5.3.2.3** Location map of comparable sales
  - 15.5.3.2.4** Market value estimate

15.6 The appraiser shall provide at least one original and three copies of each report to the Foundation. The original of each report and all copies shall be bound with rigid covers.

15.7 The forest-only valuation shall be based on the property's capacity to produce timber through the soil type(s) located on the property. The State Forester shall calculate annual timber production rates for each soil type and determine a five-year, rolling average of timber sale prices for the state. These values will produce an average annual income per acre for the property. This income value will then be capitalized to produce the forest-only valuation using a five-year, rolling average rate of return.

15.8 The Forestland Preservation Easement value is then calculated using the full market valuation appraisal and the forest-only valuation.

## **16.0 Comparable Sales Data**

16.1 The appraiser shall supply information concerning comparable sales as follows:

16.1.1 At least four comparable sales shall be used for an appraisal. If the appraiser cannot obtain sufficient comparable sales data within the same general area as the subject farmland tract, the appraiser may use comparable sales from other areas within the county, state or outside the state, after consultation with the Foundation. The use of comparable sales which require adjustment of 50 percent or more is permitted only with the approval of the Foundation.

16.1.2 Pertinent data for each comparable sale used in the preparation of the appraisal shall be stated in the appraisal report, including date of sale, purchase price, road frontage in feet, soil series, an estimate of the range of slope and other relevant information. The appraisal shall include an analysis comparing the pertinent data for each comparable sale to the subject farmland tract.

16.1.3 The location of each comparable sale used in the appraisal report shall be shown accurately on the comparable sales map and sufficiently identified and described so as to be located easily.

## **17.0 Agricultural Lands Preservation Easement Value and Purchase Price**

17.1 The value of a Forestland Preservation Easement in perpetuity shall be the difference between the full market value and the forest-only value contained in the appraisal report.

17.2 The price paid by the Foundation for the purchase of a Forestland Preservation Easement may not exceed, but may be less than, the value of the Forestland Preservation Easement. [3 Del.C. §916(a)]

17.3 If an applicant is not satisfied with the appraisal provided by the Foundation, the applicant shall be entitled to have an independent appraisal performed at the applicant's expense by a qualified appraiser as specified in Section 15.4. The alternative appraisal shall be prepared in the same format as the Foundation's appraisal and shall be submitted to the Foundation within forty-five (45) days of the applicant's date of receipt of the appraisal provided by the Foundation. The forty-five (45) day period may be extended by the Foundation, provided the time extension does not delay the time frame established by the Foundation for making selection and acquisition decisions.

17.4 The review of the alternative appraisals by the Foundation shall be based on written submissions under such procedures as specified by the Foundation.

17.5 The maximum adjusted Preservation Easement value which the Foundation may accept is the difference between the adjusted forest-only value and the adjusted full market value, determined as follows:

17.5.1 The adjusted forest-only value shall equal the sum of:

17.5.1.1 The forest-only value determined by the applicant's appraiser, and

17.5.1.2 Up to one-half of the positive difference between the forest-only value determined by the Foundation's appraiser and his/her values which exceed those determined by the applicant's appraiser.

17.5.2 The adjusted full market value shall equal the sum of:

17.5.2.1 The full market value determined by the Foundation's appraiser, and

17.5.2.2 Up to one-half of the positive difference between the full market value determined by the applicant's appraiser and his/her values which exceed those determined by the Foundation's appraiser.

## **18.0 Offer of Purchase by the Foundation**

18.1 The priority for making purchases of Forestland Preservation Easements shall be those properties with the highest score as described in Section 14.

18.2 Notwithstanding the priority and non-priority requirements set forth in this Section, the Foundation (1)

# PROPOSED REGULATIONS

shall be entitled to accept donations of preservation easements under such terms and conditions that may be imposed in the donations, provided the preservation easements contain the restrictions imposed under 3 **Del.C.**, Ch. 9 and (2) the Foundation shall be entitled to participate in programs which make monies available for the purchase of preservation easements, subject to the requirements of such programs, provided the preservation easements contain the restrictions imposed under 3 **Del.C.**, Ch. 9.

## **19.0 The Forestlands Preservation Easement**

**19.1** The owners of the subject forestlands shall execute a document conveying the Forestland Preservation Easement which document shall be in the form of **Appendix E** or such other form which contains conditions contained in Option Agreements executed by landowners.

**19.2** The document shall be in recordable form and contain:

**19.2.1** A legal description setting forth the metes and bounds of the forestlands subject to the Forestland Preservation Easement and the seasonal dwelling or residential acreage, if any, designated by the owner pursuant to 9 **Del.C.** §933(8)(b).

**19.2.2** At least one course and distance referencing a fixed marker or monument of a type commonly placed in the field by a surveyor.

**19.2.3** The legal description shall not contain a closure error greater than one foot per 200 linear feet in the survey.

**19.2.4** The forestlands on which a Forestland Preservation Easement is to be purchased must be surveyed and the survey shall show any residential acreage designated by the owner pursuant to 9 **Del.C.** §933(8)(b).

## **20.0 Title Quality**

The Forestland Preservation Easement conveyed to the Foundation shall be unencumbered except for standard exceptions and be capable of being insured as such by an established and recognized title insurance company doing business in the State of Delaware. Any title defects, liens, survey discrepancies, boundary line disputes, or similar title issues shall be resolved by the property owner, at his or her sole expense. If subsequent to the purchase of a Preservation Easement it is determined that the amount of acreage is less than as reflected on the survey used by the Foundation for purposes of calculating the purchase price for the Preservation Easement, the property owner shall be required to refund to the Foundation any excess funds paid in reliance upon the inaccurate survey.

### **APPENDIX A**

#### **LETTERHEAD OF FOUNDATION**

**Return to:** The Delaware Agricultural Lands Preservation Foundation      FILE#  
2320 S. duPont Highway, Dover, DE 19901  
Phone (302) 698-4530, or Toll Free in DE Only (800) 282-8685

**Please Type or Print:**

Name of Petitioner(s) \_\_\_\_\_  
(All Fee Simple Owners of Record) \_\_\_\_\_

**Mailing Address** \_\_\_\_\_

**Telephone: (H)** \_\_\_\_\_ **(W)** \_\_\_\_\_ **(CELL)** \_\_\_\_\_

**Email Address** \_\_\_\_\_ **FAX NO:** \_\_\_\_\_

**Forest Location (County)** \_\_\_\_\_ **Total Acreage of Forest** \_\_\_\_\_

**Adjoining Roads** \_\_\_\_\_

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# PROPOSED REGULATIONS

County Tax Parcel Number(s)

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**Zoning Designation**

(Call County Planning for zoning designation)

**Type of Land Use:** Forestlands \_\_\_\_\_ Acres  
Cropland \_\_\_\_\_ Acres  
# Of Farm Structures \_\_\_\_\_  
Residence \_\_\_\_\_ Acres  
# Of Dwelling Units: \_\_\_\_\_

Open Space \_\_\_\_\_ Acres  
Pasture Land \_\_\_\_\_ Acres  
Tidal Wetlands \_\_\_\_\_ Acres  
Other (specify) \_\_\_\_\_ Acres  
# Seasonal Dwelling Units \_\_\_\_\_  
# Seasonal Dwelling Acres \_\_\_\_\_

Occupant's Name(s) & Relationship \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Historic Significance of Forest (if any)**

---

**Easements/Rights-of-Way (if any)**

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**Is there a forest management plan for the property prepared by a professional forester?**

Yes \_\_\_\_\_ No \_\_\_\_\_

**If yes, what is the date of the plan**

**Name of forester**

---

**Is any portion of the property currently subject to subdivision?** Yes \_\_\_\_\_ No \_\_\_\_\_

**Mortgage or Lien Holders:**

---

## **INSTRUCTIONS**

The following supplement is designed to assist in filling out the application for establishing your property as a Forestland Preservation Area:

1. Names of Petitioners: The application(s) must be signed by all fee simple owners of the parcel(s) being placed in a Forestland Preservation Area. If there is more than one property proposed to be in an Area where:

- a) parcels are not contiguous, and/or
- b) parcels are in differing forms of title.

Then each parcel must have a separate application.

All applications to create one Area should be returned to the Foundation together.

2. Mailing Address: The address that you want used for correspondence pertaining to this application.

3. Adjoining Roads: Because some people have a post office box number for a mailing address, it is necessary for the Foundation to know the exact road number(s) on which the parcel is located. Please list your main road (i.e., RT. 18) and any roads that adjoin your property.

4. # of Dwelling and Seasonal Dwelling Units: This is the number of houses on the parcel(s) which can be occupied. Please specify the names of the occupants and their relationship to the owners listed on the application. If any of the Dwelling Units are for seasonal use only, please specify.

5. County Tax Parcel Number(s): If you are unsure of your parcel number, please attach a copy of your most recent tax bill.

6. Zoning designation: In order to qualify for a Forestland Preservation Area, your land must be zoned for agricultural purposes (i.e., SR, S, SE, AC, AR, or AR-1). If you are not sure about your zoning designation, contact your County Planning Office. Kent: 744-2471, New Castle: 395-5400, Sussex: 855-7878.

7. Type of Land Use: The number of acres that is in each land use listed on the application. Your

# PROPOSED REGULATIONS

farmland assessment application may serve as a good reference for this information.

**PLEASE RETAIN A COPY OF THE AREA APPLICATION FORM FOR YOUR RECORDS AND RETURN THE ORIGINAL FORMS OF EACH OF THESE TO THE FOUNDATION.**

## APPENDIX B

### Tax Map No.

Prepared By: Delaware Agricultural  
Lands Preservation Foundation  
2320 S. DuPont Highway, Dover, DE 19901

Return To: Parkowski, Guerke & Swayze, PA  
116 W. Water Street, Dover, DE 19904

## **DELAWARE AGRICULTURAL LANDS PRESERVATION FOUNDATION FORESTLAND PRESERVATION AREA AGREEMENT**

This Forestland Preservation Area Agreement, in the nature of a declaration of a Restriction on the Use of Land for the purpose of preserving productive Forestlands, is made this day of \_\_\_\_\_, by and between \_\_\_\_\_, heirs and assigns, (hereafter individually and collectively referred to as "**GRANTOR**"), of the County of \_\_\_\_\_, Delaware, and the **DELAWARE AGRICULTURAL LANDS PRESERVATION FOUNDATION**, its successors, nominees or assigns, a body politic and corporate constituting a public instrumentality of the State, created and organized under the laws of the State of Delaware, with its offices at 2320 S. DuPont Highway, Dover, Delaware 19901 (hereinafter "**GRANTEE**").

### RECITALS:

A. **GRANTOR** is the owner in fee of lands consisting of Forestlands (as that term is defined in 3 **Del.C.** §902(6) and as shown on Exhibit "A" (hereinafter referred to as the "Property"), which Grantor desires to be included in a Forestland Preservation Area. The Property is located in \_\_\_\_\_ County, Delaware, and is more fully described in whole or in part in a Deed recorded in the Office of the Recorder of Deeds in and for \_\_\_\_\_ County, Delaware in Deed Book \_\_\_\_\_, Page \_\_\_\_\_, and being County Parcel No. \_\_\_\_\_. The Property consists of \_\_\_\_\_ acres on which \_\_\_\_\_ acres are classified as Forestlands.

B. The public and the economy benefits from the protection and conservation of Forestlands, including the protection of scenic areas for public visual enjoyment from the public right of way. The conservation and protection of Forestlands as a valued natural and ecological resource provides needed space for clean air as well as for aesthetic purposes, and the public will benefit from the conservation, protection, development and improvement of Forestlands for the production of timber.

C. **GRANTEE** has declared that the preservation of prime Forestlands is vital to the public interest of the State, the region, and the nation through its economic, environmental, and productive benefits.

D. **GRANTOR** desires and intends that the Forestlands of the Property be preserved, protected, and maintained, and in consideration of those benefits conferred under 3 **Del.C.** §935, the Grantor is willing to enter into this Agreement.

E. **GRANTEE** is entitled to enforce this Forestland Preservation Area Agreement and to preserve and protect for ten years from the effective date of this Agreement, or any extension period, the Property subject to the restrictions imposed under this Agreement.

### RESTRICTIONS:

**NOW THEREFORE**, in consideration of the foregoing and as required by 3 **Del.C.** §934, the undersigned **GRANTOR** agrees to the following restrictions which shall apply to the Property:

1. No rezoning or major subdivision of the Property, or any portion thereof, shall be allowed.
2. Activities conducted on the Property shall be limited to forestry production, forestry operations, forestry management and control, wildlife habitat management, and related activities, as defined in 3 **Del.C.** §934. Grantor shall manage the Parcel in accordance with a forest management plan prepared by a professional forester that addresses

the Grantor's forest management goals for the Parcel. The plan shall contain, at a minimum, aerial and soil maps of the Property, a description and analysis of the forest by management unit, and silvicultural prescriptions for each management unit. The plan shall be made available for inspection by the State Forester's office and the plan shall be revised and updated at a minimum every five years.

3. If the Property contains at least thirty (30) acres, one (1) location containing no more than one (1) acre of land may be designated for seasonal recreational dwelling usage provided the use of the designated area does not adversely affect the forestland use of the Property. Residential use of the Property shall be limited to usage of no more than one (1) acre of land for each twenty (20) acres of usable land on the Property, with a maximum of ten (10) acres of land being used for dwelling housing on the Property. The establishment or existence of any seasonal housing will be counted against the total allowable permanent housing acreage. The Property consists of \_\_\_\_\_ acres, of which \_\_\_\_\_ acres are usable for forestry and related uses. With respect to the acreage allowed for dwelling housing, there shall be a limit of three (3) dwelling houses for residential use placed on the allowable acreage at three (3) locations to be designated by the Grantor, unless there exists three (3) or more dwelling houses on the Parcel as of the date hereof, in which case the allowable acreage shall be allocated to the existing dwelling houses and no additional dwelling houses shall be allowed. There are currently \_\_\_\_\_ dwelling houses located on the Property, and only \_\_\_\_\_ additional dwelling houses shall be allowed.:

4. No conversion of the Forestlands to cropland, pasture land, open space or other types of land uses shall be allowed.

5. No permanent commercial or industrial structures shall be located on the Property.

6. No mining, commercial or extractive uses shall be conducted on the Property.

7. No disposal, burial, storage, or stock piling of junk, vehicles, equipment, liquid waste, solid waste or other liquid or solid materials, except that wastewater spray irrigation shall be allowed utilizing best available treatment technology with storage and treatment facilities located on lands other than Forestland preservation areas.

8. The allowability of a general use, conditional use, special use or other use under any zoning law or ordinance shall not have any effect on the restrictions imposed on the Property under this Agreement.

9. This Agreement shall become effective as of the date the necessary approvals have been rendered and the Secretary of Agriculture has either failed to exercise or waived the right of rejection allowed within the thirty (30) day period following Foundation action on the Forestland Area Application. At the time of recording of the Agreement the Foundation shall certify the date of creation of the Forestland Area or extension thereto, and such date shall serve as the effective date of this Agreement.

10. This Agreement shall remain in effect for a minimum period of ten (10) years from the effective date. Unless GRANTOR provides written notification to the Foundation of intent to withdraw the Property from the Forestland Area at least six (6) months prior to expiration date of this Agreement or any extension thereto, this Agreement shall continue for additional five (5) year periods.

11. This Agreement shall be considered a covenant which runs with and binds the Property and the terms and conditions shall be subject to specific performance, and other action allowed under 3 Del.C. §939. GRANTOR agrees to abide by the provisions of 3 Del.C. Chapter 9 and the duly adopted regulations thereunder as such provisions relate to the Property.

12. By executing this Agreement the GRANTOR verifies that individually or collectively GRANTOR holds a fee simple interest in the Property and is entitled to enter into this Agreement. GRANTOR further verifies that the information contained in the Forestland Area Application is true and correct.

13. The Agreement shall be binding on the heirs, successors and assigns of GRANTOR. Prior to any transfer of any interest in the Property during the term of this Agreement, GRANTOR shall provide advance written notification of this Agreement and the restrictions contained herein to the party acquiring such interest and a copy of such written notification shall be provided to the Foundation.

**SIGNATURES APPEAR ON FOLLOWING PAGES**

IN WITNESS WHEREOF, the parties have set their hands and seals this \_\_\_\_\_ day of A.D. 20\_\_\_\_\_.

**WITNESS:**

\_\_\_\_\_

\_\_\_\_\_ (SEAL)

# PROPOSED REGULATIONS

(SEAL)

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

SS: \_\_\_\_\_

ON THIS, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned Notary Public for the State and County aforesaid, personally appeared \_\_\_\_\_, known to me (or satisfactorily proven) to be the person or persons whose names are subscribed to the within instrument and acknowledged that \_\_\_\_\_ executed the same for purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
NOTARY NAME - TYPED OR PRINTED

\_\_\_\_\_  
My Commission Expires:

I, THE UNDERSIGNED, being the Chairman of the Delaware Agricultural Lands Preservation Foundation or authorized assignee of the Delaware Agricultural Lands Preservation Foundation, hereby execute this Forestland Preservation Area Agreement on behalf of the Foundation, and certify that the Forestland Preservation Area or extension of existing Forestland Area has been established as of, 20\_\_\_\_.

IN WITNESS WHEREOF, I have set my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

WITNESS:

(SEAL)

\_\_\_\_\_  
Chairman, Delaware Agricultural  
Lands Preservation Foundation or Authorized Designee

STATE OF \_\_\_\_\_ )

SS: \_\_\_\_\_

COUNTY OF \_\_\_\_\_ )

ON THIS, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned Notary Public for the County and State aforesaid, personally appeared \_\_\_\_\_, known to me (or satisfactorily proven) to be the person or persons whose names are subscribed to the within instrument and acknowledged that he/she/they executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
NOTARY NAME - TYPED OR PRINTED

\_\_\_\_\_  
My Commission Expires:

CERTIFICATION:

The Property subject to this Forestland Preservation Area Agreement was accepted into a Forestland Preservation Area on \_\_\_\_\_ which is the effective date of this Agreement.

APPENDIX C

TAX MAP NO.:

DALPF Project I.D.#:

Parkowski, Guerke & Swayze, P.A.
P.O. Box 598
Dover, Delaware 19903

DELAWARE AGRICULTURAL LANDS PRESERVATION FOUNDATION
ACKNOWLEDGMENT PURSUANT TO 3 Del.C. §934(c)

WHEREAS, ("Transferor(s)") are the owner(s) of forestlands comprised of acres located at Delaware, said lands lying in County, and described in and subject to a Forestland Preservation Agreement (the "Agreement"), dated , of record in the Office of the Recorder of Deeds in and for County, State of Delaware in Deed Book , Page ; and

WHEREAS, Transferor(s) is/are about to transfer ( acres of) subject lands to ("Transferee(s)") as shown on a subdivision plot dated , performed by , and about to be recorded in the Office of the Recorder of Deeds in and for County, State of Delaware.

NOW, THEREFORE, in accordance with the requirements of 3 Del.C. §934(c), Transferor(s) and Transferee(s) acknowledge their understanding of the acreage allowed for dwelling housing, and the restrictions which apply to the real property about to be conveyed, and that said lands are subject to the referenced Agreement, the provisions of 3 Del.C. ch. 9 and the regulations adopted pursuant thereto. Transferor(s) and Transferee(s) agree to be bound by same. Transferee(s) shall be allowed acres of dwelling housing. Transferor(s) will retain acres of said lands, of which acres are currently used for dwelling housing. Transferor(s) shall be allowed additional acre(s) for dwelling housing. Transferor(s) shall have the right to designate locations for residential use and Transferee(s) shall have the right to designate locations for residential use.

IN WITNESS WHEREOF, the Transferor(s) and Transferee(s) have executed this Acknowledgment this day of , 20 .

Transferor(s):

(SEAL)

Witness

(SEAL)

Witness

Transferee(s):

(SEAL)

Witness

(SEAL)

Witness

STATE OF DELAWARE)

: SS

COUNTY OF

BE IT REMEMBERED that on this day of , A.D. 20 , personally came before me, the Subscriber, a Notary Public for the State and County aforesaid, , and , parties to this Indenture, known to me personally to be such, and they acknowledged this Indenture to be their act and deed.

GIVEN under my Hand and Seal of office the day and year aforesaid.

# PROPOSED REGULATIONS

\_\_\_\_\_  
Notary Public Signature

\_\_\_\_\_  
Notary Name - Printed or Typed  
My Commission Expires: \_\_\_\_\_

## APPENDIX D

### DELAWARE AGRICULTURAL LANDS PRESERVATION FOUNDATION FORESTLAND PRESERVATION EASEMENT APPLICATION

Please Type or Print

I/We

("Owner(s)", of certain forestlands that have been established by recorded agreement as a Forestland Preservation Area in County, Delaware, apply to the Delaware Agricultural Lands Preservation Foundation ("Foundation") to sell a Forestland Preservation Easement ("Easement"). The Forestland Preservation Easement sale to the Foundation is offered in consideration of not less than:

1) \$ \_\_\_\_\_ for the entire forest; or 2) \$ \_\_\_\_\_ per acre; or 3) an amount to be determined by appraisal and acceptable to the Owner and the Foundation \$ \_\_\_\_\_

The forestlands to be subject to the Easement total \_\_\_\_\_ acres and consist of (check one):

\_\_\_\_\_ the entire property covered by and described in the Forestland Preservation Area Agreement.

\_\_\_\_\_ the property outlined on the Forestland Preservation Area map attached hereto (highlight the land proposed for a Forestland Preservation Easement).

Attach drawing showing the approximate location and acreage, if any, Applicant intends to designate for seasonal dwelling or residential use.

Tax Parcel Number(s): \_\_\_\_\_

Deed Reference(s): \_\_\_\_\_

Leases/Timber Agreements: \_\_\_\_\_

Street/Road Location: \_\_\_\_\_

Mortgages or Liens on the Property: \_\_\_\_\_

Easements/Right-of-Way (identify, if any): \_\_\_\_\_

# of Dwelling Units: \_\_\_\_\_ Date of Forest Management Plan: \_\_\_\_\_

Applicant(s): Corporate or Business Name: \_\_\_\_\_

Federal I.D. Number (if applicant is a corporation or business): \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: (H) \_\_\_\_\_ (W) \_\_\_\_\_ (Cell) \_\_\_\_\_

Email Address: \_\_\_\_\_

### LAND TYPE AND USE

Forestlands: \_\_\_\_\_ acres Residence/Buildings \_\_\_\_\_ acres

Seasonal Dwelling: \_\_\_\_\_ acres Farm Structures: \_\_\_\_\_ acres

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# PROPOSED REGULATIONS

Tillable Cropland: \_\_\_\_\_ acres      Open Space: \_\_\_\_\_ acres

Pasture: \_\_\_\_\_ acres      Other (Specify): \_\_\_\_\_ acres

1. **MINERAL/TIMBER RIGHTS:** Does a party or parties other than yourself own or lease mineral or timber rights on this property? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, secure signatures and addresses of such parties:

\_\_\_\_\_  
\_\_\_\_\_  
**I/We submit this application, true and complete, to convey a Forestlands Preservation Easement to the Delaware Agricultural Lands Preservation Foundation, and declare that good title is provided to the premises, free of encumbrances such as liens, mortgages, options, rights of others in extraction or mineral rights, timber rights, land use restrictions, adverse ownership interests, and other encumbrances which would adversely impact the State of Delaware's interest in the farmland tract. I/We understand that any false information may be cause for rejection of application.**

_____ Landowner Signature	_____ Social Security #	_____ Date
_____ Landowner Signature	_____ Social Security #	_____ Date
_____ Landowner Signature	_____ Social Security #	_____ Date
_____ Landowner Signature	_____ Social Security #	_____ Date
_____ Landowner Signature	_____ Social Security #	_____ Date

### **FOR OFFICE USE ONLY**

File #: \_\_\_\_\_ District Name: \_\_\_\_\_ Date Received: \_\_\_\_\_

### **APPENDIX E**

**Tax Map No(s):**

**Prepared By:** Delaware Agricultural Lands Preservation Foundation  
2320 S. DuPont Highway  
Dover, DE 19901

**Return To:** Parkowski, Guerke & Swayze, P.A.  
116 W. Water Street  
Dover, DE 19904

### **FORESTLAND PRESERVATION EASEMENT**

#### **STATE OF DELAWARE FORESTLANDS PRESERVATION PROGRAM**

**THIS PRESERVATION EASEMENT**, made, granted, assigned and conveyed this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 200 , by \_\_\_\_\_, whose address is \_\_\_\_\_ and who are hereinafter referred to as "Grantor", and the **DELAWARE AGRICULTURAL LANDS PRESERVATION FOUNDATION**, a body politic and corporate constituting a public instrumentality of the State of Delaware, and which is hereinafter referred to as "Grantee" and/or "Foundation."

# PROPOSED REGULATIONS

WHEREAS, Grantor is fee simple title holder of certain lands situated in \_\_\_\_\_ Hundred, Kent County, Delaware, being of record in Deed Book \_\_\_\_\_, Page \_\_\_\_\_ at the Office of the Recorder of Deeds, in and for \_\_\_\_\_ County, at \_\_\_\_\_, Delaware, hereinafter referred to as the "Parcel" and more particularly described in Exhibit "A" (annexed hereto); and as shown on a plot entitled "Delaware Agricultural Lands Preservation Foundation - Lands of \_\_\_\_\_" as prepared by \_\_\_\_\_, dated \_\_\_\_\_ and recorded in the aforesaid Office of the Recorder of Deeds in Plot Book \_\_\_\_\_, Page \_\_\_\_\_ (hereinafter the "Plot").

WHEREAS, the General Assembly of the State of Delaware has declared that the preservation of the State's farmlands and forestlands is considered essential to maintaining forestry as a viable industry and as an important contributor to Delaware's economy; and

WHEREAS, the General Assembly of the State of Delaware has recognized that a need exists to create sufficient economic incentives and benefits to encourage landowners to voluntarily place viable forestlands under protective restrictions through the creation of and participation in forestland preservation areas and sale and/or donation of development rights;

WHEREAS, the Grantor desires to grant and convey to the Foundation a forestlands preservation easement as provided in Chapter 9, Title 3 of the **Delaware Code Annotated**.

NOW, THEREFORE, the Grantor, for and in consideration of the sum of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_), the receipt and sufficiency of which are hereby acknowledged, and in consideration of the benefits conferred under 3 **Del.C.** Ch. 9, hereby grants and conveys to the Foundation, its successors and assigns, a forestlands preservation easement on and over the Parcel, and covenants and promises that the Parcel will be owned, used and conveyed subject to, and not in violation of, the following restrictions:

1. No rezoning or major subdivision of the Parcel shall be allowed.
2. Activities conducted on the Parcel shall be limited to forestry production, forestry operations, forestry management and control, wildlife habitat management, and related activities, as defined in 3 **Del.C.** §934.
3. The allowability of a general use, conditional use, special use or other use under any zoning law or ordinance shall not have any effect on the restrictions imposed on the Parcel under this easement.
4. No conversion of the forestlands to cropland, pastureland, open space or other types of land uses shall be allowed.
5. No permanent commercial or industrial structures shall be located on the Parcel.
6. No mining, commercial or extractive uses unrelated to forestry operations shall be conducted on the Parcel.
7. Residential use of the Parcel shall be limited to usage of no more than one (1) acre of land for each twenty (20) acres of usable land on the Parcel, with a maximum of ten (10) acres of land being used for dwelling housing on the Parcel. The Parcel consists of \_\_\_\_\_ acres, of which \_\_\_\_\_ acres are usable for forestry and related uses. With respect to the acreage allowed for dwelling housing, there shall be a limit of three (3) dwelling houses for residential use placed on the allowable acreage at the three (3) locations designated on the Plot as "Residential Acreage", unless there exists three (3) or more dwelling houses on the Parcel as of the date hereof, in which case the allowable acreage shall be allocated to the existing dwelling houses and no additional dwelling houses shall be allowed. There are currently \_\_\_\_\_ dwelling houses located on the Property, and only \_\_\_\_\_ additional dwelling houses shall be allowed.
8. This easement shall be deemed a covenant which runs with and binds the Parcel permanently and in perpetuity, the terms and conditions of which shall be subject to specific performance and other action allowed under 3 **Del.C.** §920 and §939. This easement shall be binding upon the heirs, executors, administrators, successors and assigns of the Grantor. This easement may be managed, administered and enforced by the Grantee or the State of Delaware.
9. The provisions of Title 3, Chapter 9 of the **Delaware Code Annotated** and duly adopted regulations thereunder as such provisions relate to the Parcel shall govern this easement.
10. Grantor shall manage the Parcel in accordance with a forest management plan prepared by a professional forester that addresses the Grantor's forest management goals for the Parcel. The plan shall contain, at a minimum, aerial and soil maps of the Parcel, a description and analysis of the forest by management unit, and silvicultural prescriptions for each management unit. The plan shall be made available for inspection by the State

Forester's office and the plan shall be revised and updated at a minimum every five years.

11. Notwithstanding anything stated herein to the contrary, the rights afforded Grantee under this Preservation Easement may only be assigned by Grantee to a "qualified organization" within the meaning of Section 170(b)(1)(A)(v), 170(c)(1), 170(h)(3)(A) and 170(h) of the Internal Revenue Code or the comparable provision in any subsequent revision of the Code and only with assurances that the purposes of this Preservation Easement, as described herein, will be maintained in perpetuity by such Assignee. If any such Assignee shall be dissolved or shall abandon this Preservation Easement or the rights and duties of enforcement herein set forth, the Preservation Easement and the rights of enforcement shall revert to the Grantee, and if the Grantee shall be dissolved and if the terms of the dissolution fail to provide a successor, then the State of Delaware, or its successors or assigns, shall appoint an appropriate successor as Grantee, and any such successor shall be a "qualified organization" within the meaning of Section 170(h) of the Internal Revenue Code or the comparable provision in any subsequent revision of the Code. No assignment may be made by the Grantee of its rights under this Preservation Easement unless the Grantee, as a condition of such Assignment, requires the Assignee to carry out the conservation purposes of this Preservation Easement, as described herein. Grantee agrees to hold this Preservation Easement exclusively for conservation purposes as defined in Section 170(h)(4)(A) of the Internal Revenue Code.

12. The Preservation Easement granted hereunder shall be perpetual.

IN WITNESS WHEREOF, the said \_\_\_\_\_ have hereunto set their hands and seals the day and year first above written.

SIGNED AND DELIVERED
IN THE PRESENCE OF:

\_\_\_\_\_, (SEAL)
Witness

STATE OF DELAWARE)

) SS.

COUNTY OF \_\_\_\_\_

BE IT REMEMBERED that on this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 200\_\_\_\_, personally came before me, the Subscriber, a Notary Public for the State and County aforesaid, \_\_\_\_\_, parties to this Indenture, known to me personally to be such, and they acknowledged this Indenture to be their act and deed.

GIVEN under my hand and seal of office the day and year aforesaid.

Notary Public Signature
Notary Name - Typed or Printed
My Commission Expires:

THOROUGHBRED RACING COMMISSION
Statutory Authority: 3 Delaware Code, Section 10005; 29 Delaware Code
Section 4815(b)(3)c (3 Del.C. §10005; 29 Del.C. §4815(b)(3)c)
3 DE Admin. Code 1001

PUBLIC NOTICE

The Delaware Thoroughbred Racing Commission, pursuant to 3 Del.C. §10005, proposes to amend rule 15.14.1 to permit the imposition of penalties if a horse does not report for testing. The Commission will hold a public hearing on the proposed rule change on July 18, 2006. Written comments should be sent to John F. Wayne, Executive Director, Delaware Thoroughbred Racing Commission, 777 Delaware Park Boulevard, Wilmington, DE 19804.

The proposed rule change is as follows:

**1001 Thoroughbred Racing Rules and Regulations***(Break in Continuity of Sections)***15.0 Medication; Testing Procedures***(Break in Continuity of Sections)***15.14 Blood Gas Testing**

15.14.1 The Commission may use a testing machine that measures carbon dioxide levels in pre-race samples using a Base Excess testing protocol. A trainer whose horse is selected for blood gas testing and fails to report for the test will be penalized as if there was a positive test result.

15.14.2 Under this protocol, the prohibitive Base Excess concentrations are as follows: Base Excess level of 10.0 mmol/l (mEq/l) or higher for non-furosemide (Salix) treated horses and Base Excess (BE) level of 12.0 mmol/l (mEq/l) or higher for furosemide (Salix) treated horse. The level of uncertainty will be included before it is considered a violation of these Rules. The level of uncertainty is 0.4 mmol/l (mEq/l) and a positive test report must include this level of uncertainty. A horse must show a Base Excess (BE) level of 10.4 mmol/l (mEq/l) or higher for non-furosemide (Salix) treated horse and Base Excess (BE) level of 12.4 mmol/l (mEq/l) or higher for furosemide (Salix) treated horse, in order for a violation to be reported under this Rule.

15.14.3 A licensee has the right, pursuant to the quarantine procedure outlined at 15.15, or by such other procedures as may be established from time to time by the Commission, to attempt to prove that a horse has a naturally high carbon dioxide level in excess of the above-mentioned levels.

**15.15 Quarantine Procedure for Carbon Dioxide Positive Tests (Prerace Or Postrace)**

15.15.1 Detention/Quarantine of Horses: The owner or trainer must request use of the quarantine procedure by sending written notice to the Stewards within forty-eight (48) hours of notification of the positive carbon dioxide test report. The owner or trainer will then be permitted, totally at his/her own expense, to make the necessary scheduling arrangements with the Stewards and the Commission Veterinarian. The horse in question will be quarantined on the grounds for periodic blood gas testing by the DTRC (up to three days) at the trainer's expense. All caretaker activities for the horse in question will be the responsibility of the horse's trainer.

15.15.2 Procedure: The owner or trainer will be responsible for providing the DTRC with a minimum check for \$1,500.00 to cover the costs for the quarantine. A professionally trained Track Security Officer must be with the horse at all times, and the Security Officer must be knowledgeable about the importance of monitoring all activity pertaining to the quarantined horse.

15.15.3 The quarantine of a horse is subject to the following mandatory requirements:

15.15.3.1 The owner or trainer will be required to deposit sufficient funds with the DTRC Stewards to cover the costs of the quarantine of the horse. The minimum quarantine cost will be \$1,500, and this figure may be higher if additional special circumstances are required for a particular horse. None of these procedures will be initiated until the Commission has in its possession a certified check or other method of payment acceptable to the Commission. The owner or trainer is responsible for all costs for the quarantine, including but not limited to, the costs of: stall bedding, daily cleaning of the stall, feed and hay, stall rent, hourly guard salary, portable toilet rental, veterinary charge, courier or shipping charges to the laboratory, laboratory analysis costs. Unused funds will be returned to the trainer.

15.15.3.2 The expected period of the quarantine will be seventy-two hours.

15.15.3.3 The owner or trainer is required to execute a reasonable liability waiver form if requested to do so by the track for the quarantine of the horse on track grounds.

15.15.3.4 The owner or trainer is obligated to reimburse the track if the racing association is required to purchase additional insurance to cover risks from the quarantine of the trainer's horse. The owner or trainer is also responsible for any additional costs required by the track to pad or otherwise specially equip the quarantine stall.

15.15.3.5 All activity of the quarantined horse is observed, documented, and recorded by security officers for the track and the DTRC.

15.15.3.6 The Commission will be responsible for arranging for and providing for bedding, feed, water, and daily cleaning of the stall, all of which are at the owner's expense. Feed for the horse will be

purchased by DTRC officials as specified by the owner or trainer. Samples of the feed will be retained by the DTRC designated official.

15.15.3.7 Each bale of hay/straw will be intact and uncut for inspection of contraband. Four small samples of hay are to be taken from the bale of hay used to feed the animal (one from each end of the bale of hay and two from the middle of the bale of hay). These samples with the ingredient tags from the bag of feed used by the horse will be retained by the DTRC designated official.

15.15.3.8 Every trainer, groom, or caretaker is subject to continuous observation and may be searched when with the horse for contraband.

15.15.3.9 Horses may be trained, but if leg paints or salves are used, they must be new and in unopened containers, and the track Security Officer must monitor the preparation of the horse.

15.15.3.10 A Security Officer must observe the horse during training and ensure that it does not leave the track except to return to the quarantine stall.

15.15.3.11 A sick horse must only be determined ill by the Commission's Veterinarian and the quarantine of the horse will be terminated. Any bills incurred for the quarantine of the horse prior to the illness and termination of the detention will be prorated.

15.15.3.12 Stalls for the quarantine of horses are designated by the Stewards of the DTRC, in cooperation with the racetrack.

15.15.3.13 Trainers can restrict water based on previous pre-race preparation schedules.

15.15.3.14 Trainers are expected to train their horse in the same manner as the horse was trained on previous racing events. The horse will be equipped with all the items that it would normally carry, taken to the paddock, and handled in a manner similar to previous racing events.

15.15.3.15 Blood samples will be taken from the quarantined horse by the Commission Veterinarian, as he or she deems appropriate and necessary during the quarantine period. A blood sample should be taken when the horse first enters the quarantine stall and again at the pre-arranged time between sixty (60) and seventy-two (72) hours. At the discretion of the Commission, another sample may be taken between the initial sample and the sample taken at the cessation of the quarantine period. Blood samples will only be taken from the horse that is at rest for a period of time approved by the Commission Veterinarian. The owner or trainer or his/her representative must be present and witness the collection of the blood samples. Blood samples will be shipped promptly to the Commission's designated testing laboratory, pursuant to the Commission's standard chain-of-custody procedures.

15.15.3.16 At the conclusion of the quarantine period, the party requesting the quarantine will be provided timely notice of the test results from the DTRC. The trainer may present such evidence at a hearing before the Stewards if he or she attempts to prove that the horse has a naturally high carbon dioxide level.

- 1 DE Reg. 508 (11/1/97)
- 1 DE Reg. 1184 (2/1/98)
- 3 DE Reg. 754 (12/1/99)
- 4 DE Reg. 179 (7/1/00)
- 4 DE Reg. 1131 (1/1/01)
- 4 DE Reg. 1821 (5/1/01)
- 6 DE Reg. 641 (11/1/02)
- 6 DE Reg. 1205 (3/1/03)
- 7 DE Reg. 766 (12/1/03)
- 7 DE Reg. 1540 (5/1/04)
- 8 DE Reg. 1699 (6/1/05)

**DEPARTMENT OF EDUCATION  
OFFICE OF THE SECRETARY**

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

**PUBLIC NOTICE****505 High School Graduation Requirements and Diplomas****A. Type of Regulatory Action Required**

Amendment to Existing Regulation

**B. Synopsis of Subject Matter of the Regulation**

The Secretary of Education intends to amend 14 DE Admin. Code 505 High School Graduation Requirements and Diplomas. The amendments reflect the recommendations from the report of the High School Graduation Requirements Committee. The Committee was formed under the auspices of the P-20 Council following an analysis of Delaware's graduation requirements by Achieve, Inc., a national educational nonprofit organization created by the nation's governors and business leaders. Achieve, Inc., has conducted research indicating that high school students across the country are not being adequately prepared for success in college and in the workforce.

The amendments include increasing the requirement of three (3) credits in mathematics to four (4) credits beginning with the graduating class of 2011 and requiring each student to have an Individualized Learning Plan (ILP). The Computer Literacy requirement will be removed from the high school requirements for the graduation class of 2011 and will become a component of the middle school curriculum.

Beginning with the class of 2013 two (2) credits in a world language will be required for graduation.

**C. Impact Criteria**

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation will help improve student achievement as measured against state achievement standards by increasing the required courses and increasing the rigor required in order to receive a high school diploma.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation will help ensure that all students receive an equitable education since all of the high school graduation requirements apply to all students except students with IEPs.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation will continue to help ensure that all students' health and safety are adequately protected through a continuation of the health and physical education requirements for graduation.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses graduation requirements not students' legal rights.

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

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation will not place any 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 an incentive 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? There is no less

burdensome method for addressing the purpose of the regulation.

10. What is the cost to the State and to the local school boards of compliance with the regulation? There may be cost factors involved in adding additional teachers and counselors to facilitate adding additional course work and managing the Individual Learning Plans (ILPs) required by the amendments.

## 505 High School Graduation Requirements and Diplomas

### 4.0 Credit Requirements

~~1.1 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.~~

~~1.2 Definitions:~~

~~“Career Pathway” means a planned program of sequenced or specialized courses designed to develop knowledge and skills in a particular career or academic area.~~

~~“Credit” means a minimum of 135 hours of actual classroom instruction or a demonstration of competency.~~

~~“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.~~

~~1.3 Local school boards and charter schools charter school boards may establish requirements over and above the minimum number of credits required by the State Department of Education.~~

### 1.0 Definitions:

“Career Pathway” means a planned program of at least 3 credits in sequenced or specialized courses designed to develop knowledge and skills in a particular career or academic area.

“Credit” means the acquisition of skills and knowledge at a satisfactory level as determined by the district and charter school boards through 135 hours (a Carnegie Unit) of actual classroom instruction or through locally approved options contained in Section 8.0.

“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.

“Department” means the Delaware Department of Education.

“English Language Arts” means those components of reading, writing and oral communication that are included in the State Content Standards for high school English Language Arts as required in 14 DE Admin. Code 501.

“Health Education” means those components that are included in the State Content Standards for high school health education as required in 14 DE Admin. Code 501.

“High School” means grades 9 through 12.

“Individual Learning Plan (ILP)” means a plan for a student to reach the goal of high school graduation inclusive of at least one year of post high school activity. This plan also serves as a guide for the student’s choice of courses including any support services necessary for the student to graduate from high school.

“Instructional Support Team” means those educators, counselors and specialists or other personnel whose responsibility it is to monitor student progress in consultation with students and their parent(s), guardian(s) or Relative Caregiver and to recommend and arrange support services.

“Mathematics” means those components of number sense, algebra, geometry, statistics and probability combined with problem solving, reasoning, communicating, and making connections that are included in the State Content Standards for high school mathematics as required in 14 DE Admin. Code 501 either through integrated courses or in courses titles such as Algebra I, Algebra II, Geometry, Trigonometry, Pre-Calculus, Calculus, Discrete Mathematics, Statistics, and Probability.

“Physical Education” means those components that are included in the State Content Standards for high school physical education as required in 14 DE Admin. Code 501.

“Science” means those components of the nature of science which include inquiry, materials and their properties, energy and its effects, Earth in space, Earth’s dynamic systems, life processes, diversity and continuity of living things, and ecology that are included in the State Content Standards for high school science as required in 14 DE

Admin. Code 501 either through integrated courses or in course titles such as Earth Science, Biology and Chemistry-Physics.

"Social Studies" means those components of civics, economics, geography, and history that are included the State Content Standards for high school social studies as required in 14 DE Admin. Code 501 either through integrated courses or in course titles such as United States History, World History, Geography, Economics, and Civics.

"Support Services" means those academic interventions such as tutoring; extra time before school, in school, or after school; summer school, a fifth year of high school or any other strategy to provide student academic assistance.

"World Languages" RESERVED

## **2.0 Current Graduation Requirements**

A public school student shall be granted a State of Delaware Diploma when such student has 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.

## **3.0 Graduation Requirements Beginning with the Class of 2011 (Freshman Class of 2007-2008)**

3.1 Beginning with the graduating class of 2011, a public school student shall be granted a State of Delaware Diploma when such student has successfully completed a minimum of twenty two (22) credits in order to graduate including: four (4) credits in English Language Arts, four (4) credits in Mathematics; three (3) credits in Science, three (3) credits in Social Studies, one (1) credit in physical education, one half (1/2) credit in health education, three (3) credits in a Career Pathway, and three and one half (3 ½) credits in elective courses.

3.1.1 Students shall complete mathematics course work that includes no less than the equivalent of the traditional requirements of Geometry, Algebra I and Algebra II courses.

3.1.2 Scientific investigations related to the State Science Standards shall be included in all three science course requirements.

3.1.3 During the senior year students shall maintain a credit load each semester that earns them at least a majority of credits that could be taken that semester including one (1) of the four credits required in Mathematics.

3.1.3.1 Senior year credits shall include regular high school course offerings, the options available in 8.0 or a combination of both.

3.1.3.1.1 Options for the senior year in 3.1.3.1 that the districts and charter schools provide shall be submitted to the Department with a copy to the office of the State Board of Education for review.

## **4.0 Monitoring Student Progress**

4.1 Beginning with the 2007-2008 school year each district or charter school board, as applicable, shall require each middle school to develop an Individual Learning Plan (ILP) for all eighth grade students. ILP's shall be developed by the guidance counselor, the student, the student's parent(s), guardian(s) or Relative Caregiver, and at least one core content teacher. For the 2007-2008 school year only each district or charter school board, as applicable, shall also require each high school to develop an Individual Learning Plan (ILP) for all ninth grade students.

4.2 Beginning with the 2007- 2008 school year each high school shall establish Instructional Support Teams to monitor student progress in consultation with students and their parent(s), guardian(s) or Relative Caregiver to recommend and arrange support services.

4.2.1 Each marking period student progress on the ILP shall be monitored by Instructional Support Teams. Students not making satisfactory progress in the courses required for graduation in English Language Arts, Mathematics, Science or Social Studies shall receive support services.

4.2.2. Students who have failed courses required for graduation in English Language Arts, Mathematics, Science or Social Studies at the end of any high school year may have their ILP revised to include appropriate support services. A fifth year of high school may be an option for inclusion in the student's ILP. Changes in a student's ILP shall require consultation with the student and with the student's parent(s), guardian(s) or Relative Caregiver, if appropriate.

## **5.0 Credit Requirements Beginning with the Graduation Class of 2013 (Freshman Class of 2009-2010)**

Beginning with the graduating class of 2013, a public school student shall be granted a State of Delaware Diploma when such student has successfully completed a minimum of twenty four (24) credits in order to graduate including: four (4) credits in English Language Arts, four (4) credits in Mathematics, three (3) credits in Science, three (3) credits in Social Studies, two (2) credits in a World Language, one (1) credit in physical education, one half (1/2) credit in health education, three (3) credits in a Career Pathway, and three and one half (3 ½) credits in elective courses.

5.1 World Language (RESERVED)

## **6.0 Career Pathway**

Districts and charter school boards shall establish policies concerning the purpose and content of their Career Pathways.

## **7.0 Additional Credit Requirements**

District and charter school boards may establish additional credit requirements for graduation above the minimum number of credits required by the Department.

## **2-08.0 Options for Awarding Credit Toward High School Graduation**

~~2.81~~ ~~Local school boards and charter school boards of directors~~ District and charter school boards are authorized to award credit toward high school graduation for the following activities, on the condition that the activities incorporate any applicable state content standards. Before awarding credit for any of the following activities, the ~~local school board or districts and~~ charter school boards of directors shall have adopted a policy approving the activity for credit and establishing any specific conditions for the award of credit for the activity. Such policy shall be applicable to each school within the district ~~or governed by the charter school board of directors or each charter high school.~~

2.8.1.1 Courses taken at or through an accredited community college, two or four year college.

2.8.1.2 Voluntary community service as defined in 14 **Del.C.** §§8901A; and 8902A.

2.8.1.3 Supervised work experience in the school and the community which meets the educational objectives or special career interest of the individual student.

2.8.1.4 Independent study.

2.8.1.5 Correspondence Courses.

2.8.1.6 Distance learning courses. These courses may be delivered by the teacher to the learner in real time, online or by video.

2.8.1.7 High school courses taken while in the middle school in conjunction with an articulated agreement between the district middle school and the district high school(s). Such credit shall also transfer to a high school in another district or to a charter school.

2.8.1.8 Course credit transferred from another high school.

2.8.1.9 Course credit earned through summer or evening school classes, as a member of the military service or as part of the James H. Groves Adult High School.

2.8.1.10 Tutoring programs taught by a teacher certified in the subject being taught.

2.8.1.11 Course credit awarded by agencies or instrumentalities of the state other than public schools which provide educational services to students. A description of the program provided to the student, grades given, and the number of clock hours of instruction or a demonstration of competency must be provided to the school district or charter school prior to receipt of credit.

## **3-09.0 High School Diplomas and the Certificate of Performance**

~~39.1~~ A State sanctioned diploma shall be granted to students who meet the state and local district or charter school requirements for graduation pursuant to regulation 14 **Del.C.** §152-~~(a) (b) (c) and (d).~~

~~39.2~~ A State sanctioned ~~e~~Certificate of ~~p~~Performance ~~will shall~~ be granted to students who meet the requirements of 14 **Del.C.** §152-~~(e).~~

~~39.3~~ Diplomas from one school year shall not be issued after December 31 of the next school year.

~~39.4~~ Duplicate diplomas or certificates of performance will not be issued, but legitimate requests for validation of the diploma or the certificate of performance will be satisfied through a letter of certification. Requests for diploma information from graduates of Delaware high schools should be directed to the high school the student was attending at the time of graduation. If the school does not have the records then the student should contact the

# PROPOSED REGULATIONS

Department of Education in Dover for a notarized letter of certification that contains the name of the applicant, the name of the school, the date of graduation, and the diploma registry number (if available).

~~39.5~~ State High School Diploma for World War II veterans pursuant to 14 **Del.C.** §159 (a) (b) (c)-

~~39.5.1~~ "World War II Veteran" means any veteran who performed wartime service between December 7, 1941 and December 31, 1946. If the veteran was in the service on December 31, 1946, continuous service before July 16, 1947 is considered World War II.

~~39.5.2~~ The Department of Education shall provide a high school diploma to any World War II veteran who:

~~39.5.2.1~~ Left a Delaware high school prior to graduation in order to serve in the armed forces of the United States.

~~39.5.2.2~~ Did not receive a high school diploma, or received a G.E.D., as a consequence of such service and,

~~39.5.2.3~~ Was discharged from the armed forces under honorable circumstances.

~~39.5.3~~ The diploma may also be awarded posthumously if the deceased veteran meets the qualifications in ~~39.5.2.1~~ through ~~39.5.2.3~~.

~~39.5.4~~ Applications for this high school diploma shall be made on forms designated by the Delaware Department of Education and the Delaware Commission of Veterans Affairs and shall have a copy of the candidate's honorable discharge papers attached to the application.

**4 DE Reg. 995 (12/1/00)**

**5 DE Reg. 625 (9/1/01)**

**7 DE Reg. 1344 (4/1/04)**

## PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Section 1220(a) (14 **Del.C.** §1220(a))  
14 **DE Admin. Code** 1526

### PUBLIC NOTICE

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

#### 1526 Standard Certificate English to Speakers of Other Languages

#### A. Type of Regulatory Action Requested

Amendment to Existing Regulation

#### B. Synopsis of Subject Matter of Regulation

The Professional Standards Board, acting in cooperation and collaboration with the Department of Education, seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 1526 Standard Certificate English to Speakers of Other Languages. The regulation concerns the requirements for certification of educational personnel, pursuant to 14 **Del.C.** §1220(a). It is necessary to amend this regulation to align it with changes in statute. The passage of PRAXIS™ II, a test of content knowledge, is now required, where applicable and available, in addition to academic preparation for the issuance of a Standard Certificate. Definitions were added, and course requirements were revised to reflect current practice in the Education of English Language Learners.

#### C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation addresses student achievement by establishing standards for the issuance of a standard certificate to educators who have acquired the prescribed knowledge, skill and/or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students to help ensure that students are instructed by educators who are highly qualified.

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

amended regulation helps to ensure that all teachers employed to teach students meet high standards and have acquired the prescribed knowledge, skill and/or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation addresses educator certification, not students' health and safety.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses educator certification, 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 rests with the Professional Standards Board, in collaboration with the Department of Education, and with the consent of the State Board of Education.

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? 14 **Del.C.** requires that we promulgate this regulation.

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 local school boards for compliance with the regulation.

## 1526 Standard Certificate English to Speakers of Other Languages (ESOL) Teachers

### 1.0 Content

This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 **Del.C.** §1220(a), for English to Speakers of Other Languages Teachers (required for grades K to 12).

**7 DE Reg. 775 (12/1/03)**

### 2.0 Definitions

2.1 The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

**"Certification"** means the issuance of a certificate, which may occur regardless of a recipient's assignment or employment status.

**"Department"** means the Delaware Department of Education.

**"Educator"** means a person licensed and certified by the State under 14 **Del.C.** §1202 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board approved by the State Board. The term 'educator' does not include substitute teachers.

**"Examination of Content Knowledge"** means a standardized test which measures knowledge in a specific content area, such as PRAXIS™ II.

**"Fifteen (15) Credits or Their Equivalent in Professional Development"** means college credits or an equivalent number of hours, with one (1) credit equating fifteen (15) hours, taken either as part of a degree program or in addition to it, from a regionally accredited college or university of a professional development provided approved by the employing school district or charter school.

**"Immorality"** means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator's effectiveness by reason of his or her unfitness.

**"License"** means a credential which authorizes the holder to engage in the practice for which the

license is issued.

“Major or Its Equivalent” means a minimum of thirty (30) semester hours of course work in a particular content area.

“NASDTEC” means The National Association of State Directors of Teacher Education and Certification. The organization represents professional standards boards, commissions and departments of education in all 50 states, the District of Columbia, the Department of Defense Dependent Schools, the U.S. Territories, New Zealand, and British Columbia, which are responsible for the preparation, licensure, and discipline of educational personnel.

“NCATE” means The National Council for Accreditation of Teacher Education, a national accrediting body for schools, colleges, and departments of education authorized by the U.S. Department of Education.

“Standard Certificate” means a credential issued to certify that an educator has the prescribed knowledge, skill, or education to practice in a particular area, teach a particular subject, or teach a category of students.

“Standards Board” means the Professional Standards Board established pursuant to 14 **Del.C.** §1201.

“State Board” means the State Board of Education of the State pursuant to 14 **Del.C.** §104.

“Valid and Current License or Certificate from Another State” means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

**7 DE Reg. 775 (12/1/03)**

### 3.0 Standard Certificate

~~In accordance with 14 **Del.C.** §1220(a), the Department shall issue a Standard Certificate as an Agriculture Teacher to an applicant who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:~~

~~3.1 Comprehensive Vocational Agriculture (required for grades 9 to 12, and valid in grades 5 to 8 in a middle-level school).~~

~~3.1.1 Bachelor's degree from a regionally accredited college or university and,~~

~~3.1.2 Professional Education~~

~~3.1.2.1 Completion of an approved teacher education program in Agriculture Comprehensive~~

~~or,~~

~~3.1.2.2 A minimum of 24 semester hours to include Human Development, Methods of Teaching Agriculture, Identifying and Treating Exceptionalities, Effective Teaching Strategies, Multicultural Education, and,~~

~~3.1.3 Specific Teaching Field~~

~~3.1.3.1 Major in Agriculture (with courses from at least four areas of agriculture as listed in~~

~~3.1.3.2) or,~~

~~3.1.3.2 A minimum of 30 semester hours in Agriculture to include at least one course in each of the following areas: Agricultural Economics, Animal Science, Entomology, Agricultural Engineering, Agronomy, Plant Science, and Computer Science.~~

~~3.2 Agricultural Specialist shall be required for any person engaged as an instructor in a program of specialized agricultural education such as Agricultural Mechanics, Horticulture, Agri Business.~~

~~3.2.1 Bachelor's degree from a regionally accredited college or university and,~~

~~3.2.2 Professional Education~~

~~3.2.2.1 A minimum of 24 semester hours to include Human Development, Methods of Teaching Agriculture, Identifying and Treating Exceptionalities, Effective Teaching Strategies, Multicultural Education, and,~~

~~3.2.3 Technical Agriculture~~

~~3.2.3.1 A minimum of 15 semester hours of technical agriculture in the specialty area for which the applicant is being employed or,~~

~~3.2.3.2 Two years of successful, full time employment in an occupation directly related to the specialty area for which the applicant is being employed.~~

~~The Department shall issue a Standard Certificate as an Agriculture Teacher to an educator who holds a valid Delaware Initial, Continuing, or Advanced License; or a Limited Standard, Standard or Professional Status Certificate~~

issued by the Department prior to August 31, 2003 who has met the following requirements:

3.1 Acquired the prescribed knowledge, skill or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:

3.1.1 Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a Standard Certificate is requested; or

3.1.2 Graduating from an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program, where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards, offered by a regionally accredited college or university, with a major or its equivalent in Agriculture; or

3.1.3 Satisfactorily completing the Alternative Routes for Licensure and Certification Program, the Special Institute for Licensure and Certification, or such other alternative educator preparation programs as the Secretary may approve; or

3.1.4 Holding a bachelor's degree from a regionally accredited college or university in any content area and for applicants applying after June 30, 2006 for their first Standard Certificate, satisfactory completion of fifteen (15) credits or their equivalent in professional development related to their area of certification, of which at least six (6) credits must focus on pedagogy, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; and

3.1.5 Demonstrating oral and written proficiency in English and satisfactory completion of fifteen (15) graduate or undergraduate credits, as more specifically set forth in 3.1.5.1 through 3.1.5.5. With approval of a committee comprised of the candidate's principal or other designated school administrator, a higher education representative who teaches one of the approved courses, and a DOE representative, other verifiable professional experience may be substituted for no more than nine (9) of the required credits.

3.1.5.1 Methods of Teaching English as a Second Language;

3.1.5.2 Second Language Acquisition;

3.1.5.3 Teaching Literacy for English Language Learners;

3.1.5.4 Second language Testing;

3.1.5.5 Structure of the English Language; and

3.2 For applicants applying after December 31, 2005, where a Praxis™ II examination in the area of the Standard Certificate requested is applicable and available, achieving a passing score as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on the examination; or

3.3 Meeting the requirements for licensure and holding a valid and current license or certificate from another state in agriculture;

3.3.1 The Department shall not act on an application for certification if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials, until the applicant provides evidence of the investigation's resolution; or

3.4 Meeting the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C §1203.

#### **4.0 Effective Date**

~~This regulation shall be effective through June 30, 2006 only. Applicants who apply for a Standard Certificate as an Agriculture Teacher after that date must comply with the requirements set forth in 14 DE Admin. Code 1516.~~

#### **4.0 Multiple Certificates**

Educators may hold certificates in more than one area.

#### **5.0 Application Requirements**

An applicant for a Standard Certificate shall submit:

5.1 Official transcripts; and

5.2 Official scores on the Praxis II examination if applicable and available; or

5.3 Evidence of passage of the National Board for Professional Teaching Standards Certificate, if applicable; or

5.4 An official copy of the out of state license or certification, if applicable.

5.5 If applied for simultaneously with application for an Initial License, the applicant shall provide all

required documentation for that application in addition to the documentation cited above.

## **6.0 Application Procedures for License Holders**

If an applicant holds a valid Initial, Continuing, or Advanced Delaware License; or a Limited Standard, Standard or Professional Status Certificate issued prior to August 31, 2003 and is requesting additional Standard Certificates, only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill or education required for the additional Standard Certificate requested is required.

## **7.0 Effect of Regulation**

This regulation shall apply to all requests for issuance of a Standard Certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current Professional Status Certificate or Standard Certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License or the Advanced License. The Department shall also recognize a Limited Standard Certificate issued prior to August 31, 2003, provided that the educator successfully completes the requirements set forth in the prescription letter received with the Limited Standard Certificate. Requirements must be completed by the expiration date of the Limited Standard Certificate, but in no case later than December 31, 2008.

## **8.0 Validity of a Standard Certificate**

A Standard Certificate is valid regardless of the assignment or employment status of the holder of a certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's Initial, Continuing, or Advanced License or Limited Standard, Standard, or Professional Status Certificate is revoked in accordance with 14 DE Admin. Code 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board. Hearings shall be conducted in accordance with the Standards Board's Hearing Procedures and Rules.

## **9.0 Secretary of Education Review**

The Secretary of Education may, upon the written request of the superintendent of a local school district or charter school administrator or other employing authority, review credentials submitted in application for a Standard Certificate on an individual basis and grant a Standard Certificate to an applicant who otherwise does not meet the requirements for a Standard Certificate, but whose effectiveness is documented by the local school district or charter school administrator or other employing authority.

### **PROFESSIONAL STANDARDS BOARD**

Statutory Authority: 14 Delaware Code, Section 1220(a) (14 Del.C. §1220(a))  
14 DE Admin. Code 1527

### **PUBLIC NOTICE**

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

**1527 Endorsement English to Speakers of Other Languages (ESOL) Teacher**

**A. Type of Regulatory Action Requested**

Repeal

**B. Synopsis of Subject Matter of Regulation**

The Professional Standards Board, acting in cooperation and collaboration with the Department of Education, seeks the consent of the State Board of Education to repeal 14 DE Admin. Code 1527 Endorsement English to Speakers of Other Languages (ESOL) Teacher. The content of the regulation has been subsumed into amended

regulation 1526 Standard Certificate English to Speakers of Other Languages (ESOL), making regulation 1527 unnecessary. The endorsement has not been used in recent years, and no currently employed teachers hold the endorsement.

## ~~1527 Endorsement English to Speakers of Other Languages (ESOL) Teacher~~

~~Effective April 11, 2002~~

### ~~1.0 Standard Endorsement~~

~~The following shall be required for the Standard Endorsement in grades 9 to 12, in grades 5 to 8 in departmentalized middle level schools, and in adult education for individuals teaching content area courses (mathematics, science, English, social studies, etc.) to classes primarily designed for or primarily composed of students who are speakers of other languages. Optional for all other fully certified teachers.~~

~~1.1 Bachelor's degree from an accredited college and,~~

~~1.2 A standard Delaware certificate in the content area(s) which the individual is teaching to speakers of other languages and,~~

~~1.3 A minimum of 15 semester hours of course work in teaching English as a second language to include the following: Second Language Acquisition or Psycholinguistics, 3 semester hours, Methods of Teaching English as a Second Language, 3 semester hours, Structure of the English Language, 3 semester hours, Second Language Testing, 3 semester hours, Ethnic Studies or Multicultural Education, 3 semester hours.~~

### ~~2.0 The following shall be required for the Limited Standard Endorsement~~

~~2.1 Bachelor's degree from an accredited college and,~~

~~2.2 A standard Delaware certificate in the content area(s) which the individual is teaching to speakers of other languages.~~

### ~~3.0 Endorsements issued for this position may include Standard and Limited Standard 5-DE-Reg. 1904 (4/1/02)~~

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## PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Section 1220(a) (14 Del.C. §1220(a))  
14 DE Admin. Code 1537

### PUBLIC NOTICE

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

#### 1537 Standard Certificate Bilingual Teacher (Spanish) Secondary

#### A. Type of Regulatory Action Requested

Amendment to Existing Regulation

#### B. Synopsis of Subject Matter of Regulation

The Professional Standards Board, acting in cooperation and collaboration with the Department of Education, seeks the consent of the State Board of Education to amend 14 DE Admin. Code 1537 Standard Certificate Bilingual Teacher (Spanish) Secondary. The regulation concerns the requirements for certification of educational personnel, pursuant to 14 Del.C. §1220(a). It is necessary to amend this regulation to align it with changes in statute. The passage of PRAXIS™ II, a test of content knowledge, is now required, where applicable and available, in addition to academic preparation, for the issuance of a Standard Certificate. Definitions were added to the regulation, its grade configuration was changed from Secondary to K to 12, Spanish was deleted to be inclusive of other potential languages in which bilingual programs may be offered, and to revise the course requirements to reflect current practice in the bilingual education. The regulation will be renamed Standard Certificate Bilingual Teach (K to 12).

## C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation addresses student achievement by establishing standards for the issuance of a standard certificate to educators who have acquired the prescribed knowledge, skill and/or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students to help ensure that students are instructed by educators who are highly qualified.
2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation helps to ensure that all teachers employed to teach students meet high standards and have acquired the prescribed knowledge, skill and/or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students.
3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation addresses educator certification, not students' health and safety.
4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses educator certification, 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 rests with the Professional Standards Board, in collaboration with the Department of Education, and with the consent of the State Board of Education.
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? 14 **Del.C.** requires that we promulgate this regulation.
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 local school boards for compliance with the regulation.

### 1537 Standard Certificate Bilingual Teacher (~~Spanish~~) Secondary (K to 12)

#### 1.0 Content

This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 **Del.C.** §1220(a), for Bilingual Teachers (~~Spanish~~) Secondary (K to 12).

**7 DE Reg. 775 (12/1/03)**

#### 2.0 Definitions

2.1 The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

**“Certification”** means the issuance of a certificate, which may occur regardless of a recipient's assignment or employment status.

**“Department”** means the Delaware Department of Education.

**“Educator”** means a person licensed and certified by the State under 14 **Del.C.** §1202 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board approved by the State Board. The term ‘educator’ does not include substitute teachers.

**“Examination of Content Knowledge”** means a standardized test which measures knowledge in a

specific content area, such as PRAXIS™ II.

“Fifteen (15) Credits or Their Equivalent in Professional Development” means college credits or an equivalent number of hours, with one (1) credit equating fifteen (15) hours, taken either as part of a degree program or in addition to it, from a regionally accredited college or university of a professional development provided approved by the employing school district or charter school.

“Immorality” means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator’s effectiveness by reason of his or her unfitness.

“License” means a credential which authorizes the holder to engage in the practice for which the license is issued.

“Major or Its Equivalent” means a minimum of thirty (30) semester hours of course work in a particular content area.

“NASDTEC” means The National Association of State Directors of Teacher Education and Certification. The organization represents professional standards boards, commissions and departments of education in all 50 states, the District of Columbia, the Department of Defense Dependent Schools, the U.S. Territories, New Zealand, and British Columbia, which are responsible for the preparation, licensure, and discipline of educational personnel.

“NCATE” means The National Council for Accreditation of Teacher Education, a national accrediting body for schools, colleges, and departments of education authorized by the U.S. Department of Education.

“Standard Certificate” means a credential issued to certify that an educator has the prescribed knowledge, skill, or education to practice in a particular area, teach a particular subject, or teach a category of students.

“Standards Board” means the Professional Standards Board established pursuant to 14 **Del.C.** §1201.

“State Board” means the State Board of Education of the State pursuant to 14 **Del.C.** §104.

“Valid and Current License or Certificate from Another State” means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

7 DE Reg. 775 (12/1/03)

### **3.0 Standard Certificate**

~~In accordance with 14 **Del.C.** §1220(a), the Department shall issue a Standard Certificate as a Bilingual Teacher (Spanish) Secondary to an applicant who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:~~

~~3.1 A Bachelor's degree from a regionally accredited college or university and completion of a teacher education program in Bilingual Education in the Language area of Spanish.~~

~~7-DE-Reg- 775 (12/1/03)~~

~~8-DE-Reg- 80 (7/1/04)~~

### **4.0 Alternate Requirements**

~~If the candidate does not meet the requirements in 3.0 the following shall apply:~~

~~4.1 Complete the required course work in a teacher education program at the secondary level (grades 7 to 12) in a content area such as Biology, English or Special Education plus the following:~~

~~4.1.1 Verification of language proficiency in Spanish as demonstrated by one of the two options below:~~

~~4.1.1.1 Completion of a minimum of 15 semester hours from a regionally accredited college in the language area of Spanish. This course work shall be at or above the intermediate level; and demonstration of oral proficiency in the language area of Spanish; as adopted by the Standards Board and the State Board; or~~

~~4.1.1.2 Demonstration of content knowledge and oral proficiency in the language area of Spanish by meeting the appropriate qualifying scores on the PRAXIS II Tests, as adopted by the Standards Board and the State Board~~

~~4.1.2 Demonstration of English speaking ability, when English is not the first language, by scoring 50 on the TOEFL: Test of Spoken English (TSE) and~~

~~4.1.3 In addition to 4.1.1 and 4.1.2 all candidates must meet the following requirements:~~

~~4.1.3.1 Completion of course work as indicated:~~

Language;-

4.1.3.1.1      ~~3 semester hours Methods of Teaching English as a Second~~

4.1.3.1.2      ~~3 semester hours Second Language Testing;~~

4.1.3.1.3      ~~3 semester hours Corrective Reading (English); or 3 semester hours~~

Corrective Reading (Spanish); and

4.1.3.2      ~~Verification of knowledge of the Spanish culture as demonstrated by:~~

4.1.3.2.1      ~~A three (3) semester hour course in Spanish culture; or~~

~~documentation of personal interaction with the target community via study abroad, work experience, formative experience, etc.~~

~~**7-DE-Reg- 775 (12/1/03)**~~

~~**8-DE-Reg- 80 (7/01/04)**~~

## 5.0 Effective Date

~~This regulation shall be effective through June 30, 2006 only. Applicants who apply for a Standard Certificate as a Bilingual Teacher (Spanish) Secondary after that date must comply with the requirements set forth in 14 Del.C. §1516.~~

~~**7-DE-Reg- 775 (12/1/03)**~~

## 3.0 Standard Certificate

The Department shall issue a Standard Certificate as a Bilingual Teacher (k to 12) to an educator who holds a valid Delaware Initial, Continuing, or Advanced License; or a Limited Standard, Standard or Professional Status Certificate issued by the Department prior to August 31, 2003 who has met the following requirements:

3.1 Acquired the prescribed knowledge, skill or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:

3.1.1 Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a Standard Certificate is requested; or

3.1.2 Graduating from an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program, where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards, offered by a regionally accredited college or university, with a major or its equivalent in Bilingual Education; or

3.1.3 Satisfactorily completing the Alternative Routes for Licensure and Certification Program, the Special Institute for Licensure and Certification, or such other alternative educator preparation programs as the Secretary may approve; or

3.1.4 Holding a bachelor's degree from a regionally accredited college or university in any content area and for applicants applying after September 11, 2006 for their first Standard Certificate, satisfactory completion of fifteen (15) credits or their equivalent in professional development related to their area of certification, of which at least six (6) credits or their equivalent must focus on pedagogy, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; and

3.1.5 Demonstrating oral and written proficiency in English and the target language of the bilingual program, and satisfactory completion of fifteen (15) graduate or undergraduate credits in ESL or Bilingual education, as more specifically set forth in 3.1.5.1 through 3.1.5.6. With approval of a Committee comprised of the candidate's principal or other designated school administrator, a higher education representative who teaches one of the approved courses, and a DOE representative, other verifiable professional experiences may be substituted for no more than nine (9) of the required credits.

3.1.5.1 Methods of Teaching English as a Second Language;

3.1.5.2 Second language Acquisition;

3.1.5.3 Teaching Literacy for English Language Learners;

3.1.5.4 Second Language Testing;

3.1.5.5 Structure of the English Language; and

3.2 For applicants applying after December 31, 2005, where a PRAXIS™ II examination in the area of the Standard Certificate requested is applicable and available, achieving a passing score as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on the examination. Where no PRAXIS™ II test is available, nationally recognized equivalent tests, such as the American Council on the Teaching of Foreign Languages (ACTFL) Oral Proficiency Interview and the ACTFL Writing proficient test, may be substituted. For

tests of languages using a Roman alphabet, candidates are required to achieve an Advanced Low level of the oral skills and an Advanced Low level on the writing skills based on the ACTFL Proficiency Guidelines. For tests of languages using a non Roman alphabet, an Advanced Low Level on the oral skills and an Intermediate High level on the writing skills based on the ACTFL Proficiency Guidelines are required, or

3.3 Meeting the requirements for licensure and holding a valid and current license or certificate from another state in Bilingual Education;

3.3.1 The Department shall not act on an application for certification if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials, until the applicant provides evidence of the investigation's resolution; or

3.4 Meeting the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C §1203.

## **4.0 Multiple Certificates**

Educators may hold certificates in more than one area.

## **5.0 Application Requirements**

An applicant for a Standard Certificate shall submit:

5.1 Official transcripts; and

5.2 Official scores on the Praxis II examination if applicable and available; or

5.3 Evidence of passage of the National Board for Professional Teaching Standards Certificate, if applicable; or

5.4 An official copy of the out of state license or certification, if applicable.

5.5 If applied for simultaneously with application for an Initial License, the applicant shall provide all required documentation for that application in addition to the documentation cited above.

## **6.0 Application Procedures for License Holders**

If an applicant holds a valid Initial, Continuing, or Advanced Delaware License; or a Limited Standard, Standard or Professional Status Certificate issued prior to August 31, 2003 and is requesting additional Standard Certificates, only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill or education required for the additional Standard Certificate requested is required.

## **7.0 Effect of Regulation**

This regulation shall apply to all requests for issuance of a Standard Certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current Professional Status Certificate or Standard Certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License or the Advanced License. The Department shall also recognize a Limited Standard Certificate issued prior to August 31, 2003, provided that the educator successfully completes the requirements set forth in the prescription letter received with the Limited Standard Certificate. Requirements must be completed by the expiration date of the Limited Standard Certificate, but in no case later than December 31, 2008.

## **8.0 Validity of a Standard Certificate**

A Standard Certificate is valid regardless of the assignment or employment status of the holder of a certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's Initial, Continuing, or Advanced License or Limited Standard, Standard, or Professional Status Certificate is revoked in accordance with 14 DE Admin. Code 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board. Hearings shall be conducted in accordance with the Standards Board's Hearing Procedures and Rules.

## **9.0 Secretary of Education Review**

The Secretary of Education may, upon the written request of the superintendent of a local school district or charter school administrator or other employing authority, review credentials submitted in application for a Standard

Certificate on an individual basis and grant a Standard Certificate to an applicant who otherwise does not meet the requirements for a Standard Certificate, but whose effectiveness is documented by the local school district or charter school administrator or other employing authority.

## PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Section 1220(a) (14 **Del.C.** §1220(a))  
14 **DE Admin. Code** 1558

### PUBLIC NOTICE

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

#### 1558 Standard Certificate Bilingual Teacher (Spanish) Primary and Middle

#### A. Type of Regulatory Action Requested

Repeal

#### B. Synopsis of Subject Matter of Regulation

The Professional Standards Board, acting in cooperation and collaboration with the Department of Education, seeks the consent of the State Board of Education to repeal 14 **DE Admin. Code** 1558 Standard Certificate Bilingual Teacher (Spanish) Primary and Middle. It is necessary to repeal this regulation as the content of the regulation has been incorporated into amended regulation 1537 Standard Certificate Bilingual Teacher (K to 12), making regulation 1558 unnecessary.

#### ~~1558 Standard Certificate Bilingual Teacher (Spanish) Primary and Middle Level~~

#### 1.0 Content

This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 **Del.C.** §1220(a), for Bilingual Teacher (Spanish) Primary and Middle Level (K to 8).

~~7-DE-Reg. 775 (12/1/03)~~

#### 2.0 Definitions

2.1 The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

**"Department"** means the Delaware Department of Education.

**"License"** means a credential which authorizes the holder to engage in the practice for which the license is issued.

**"Standard Certificate"** means a credential issued to certify that an educator has the prescribed knowledge, skill, or education to practice in a particular area, teach a particular subject, or teach a category of students.

~~7-DE-Reg. 775 (12/1/03)~~

#### 3.0 Standard Certificate

In accordance with 14 **Del.C.** §1220(a), the Department shall issue a Standard Certificate as a Bilingual Teacher (Spanish) Primary and Middle to an applicant who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:

3.1 A Bachelor's degree from a regionally accredited college or university and completion of a teacher education program in Elementary, Primary or Middle Level (grade configurations K to 8) Bilingual Education in the Language Area of Spanish.

~~7-DE-Reg. 775 (12/1/03)~~

## 4.0 Alternative Requirements

If the candidate does not meet the requirements in 3.0 the following shall apply:

4.1 Complete the required course work in a teacher education program in Elementary, Primary or Middle Level (grade configurations K to 8) Regular Education plus provide the following:

4.1.1 Verification of language proficiency in Spanish as demonstrated by one of the two options below:

4.1.1.1 Completion of a minimum of 15 semester hours from a regionally accredited college in the language area of Spanish. This course work shall be at or above the intermediate level; and Demonstration of oral proficiency in the language area of Spanish by meeting the appropriate qualifying score on the PRAXIS II Tests, as adopted by the Standards Board and the State Board; or

4.1.1.2 Demonstration of English speaking ability, when English is not the first language, by scoring 50 on the TOEFL: Test of Spoken English (TSE) and

4.1.2 In addition to 4.1.1 and 4.1.2 all candidates must meet the following requirements:

4.1.2.1 Completion of course work as indicated:

4.1.2.1.1 3 semester hours Methods of Teaching English as a Second Language;

4.1.2.1.2 3 semester hours Second Language Testing;

4.1.2.1.3 3 semester hours Corrective Reading (English); or

4.1.2.1.4 3 semester hours Corrective Reading (Spanish); and

4.1.2.2 Verification of knowledge of the Spanish culture as demonstrated by:

4.1.2.2.1 A three (3) semester hour course in Spanish culture; or

4.1.2.2.2 Documentation of personal interaction with the target community via study abroad, work experience, formative experience, etc.; and

~~7-DE Reg. 775 (12/1/03)~~

~~8-DE Reg. 80 (7/01/04)~~

## 5.0 Effective Date

This regulation shall be effective through June 30, 2006 only. Applicants who apply for a Standard Certificate as a Bilingual Teacher (Spanish) Primary and Middle Level after that date must comply with the requirements set forth in 14 Del.C. §1516.

~~7-DE Reg. 775 (12/1/03)~~

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## PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Section 1220(a) (14 Del.C. §1220(a))  
14 DE Admin. Code 1570

### PUBLIC NOTICE

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

1570 Standard Certificate Early Childhood Teacher Special Education

#### A. Type of Regulatory Action Requested

Amendment to Existing Regulation

#### B. Synopsis of Subject Matter of Regulation

The Professional Standards Board, acting in cooperation and collaboration with the Department of Education, seeks the consent of the State Board of Education to amend 14 DE Admin. Code 1570 Standard Certificate Early Childhood Teacher Special Education. The regulation concerns the requirements for certification of educational personnel, pursuant to 14 Del.C. §1220(a). It is necessary to amend this regulation to align it with changes in statute. The passage of PRAXIS™ II, a test of content knowledge, is now required, where applicable and available, in addition

to academic preparation, for the issuance of a Standard Certificate. That requirement, in addition to a revised definition of "educator", has been added to the regulation. The grade configuration of the certificate has been changed to revise the age range of the children served, and to align it with the Standard Certificate for Early Care and Education for general education for children. Applicants who possess no prior course work or professional development in pedagogy must also fulfill 15 credits or equivalent professional development. Additional course work specific to special education is required for individuals who hold a degree in an area other than special education.

### C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation addresses student achievement by establishing standards for the issuance of a standard certificate to educators who have acquired the prescribed knowledge, skill and/or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students to help ensure that students are instructed by educators who are highly qualified.
2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation helps to ensure that all teachers employed to teach students meet high standards and have acquired the prescribed knowledge, skill and/or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students.
3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation addresses educator certification, not students' health and safety.
4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses educator certification, 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 rests with the Professional Standards Board, in collaboration with the Department of Education, and with the consent of the State Board of Education.
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? 14 **Del.C.** requires that we promulgate this regulation.
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 local school boards for compliance with the regulation.

### ~~360 Certification Early Childhood Teacher Special Education~~

~~Effective July 1, 1978~~

#### ~~1.0 Standard License~~

~~The following shall be required for the Standard License for those teaching young children with disabilities (3 to 6 years of age) who are mildly and moderately disabled.~~

- ~~1.1 Bachelor's degree from an accredited college and,~~
- ~~1.2 Professional Education~~
  - ~~1.2.1 Completion of a program in Young Preschool Exceptional Children or,~~
  - ~~1.2.2 Completion of a teacher education program for Exceptional Children and,~~
    - ~~1.2.2.1 Three semester hours Preschool Programming for Exceptional Children~~
    - ~~1.2.2.2 Three semester hours Child Development (unless covered in program)~~

- 
- ~~1.2.2.3 Three semester hours Language Development (unless covered in program)~~  
~~1.2.2.4 Limited Standard License issued upon completion of a program for~~  
~~Exceptional Children with remaining courses listed above to be completed within three years or,~~  
~~1.2.3 Completion of a teacher education program in Early Childhood and,~~  
~~1.2.3.1 Three semester hours Introduction to Exceptional Children~~  
~~1.2.3.2 Three semester hours Preschool Program for Exceptional Children~~  
~~1.2.3.3 Three semester hours Language Development (unless covered in program)~~  
~~1.2.3.4 Limited Standard License issued upon completion of a program for Early~~  
~~Childhood with the remaining courses listed above to be completed within three years or,~~  
~~1.2.4 Completion of a teacher education program in Elementary Education and,~~  
~~1.2.4.1 Three semester hours Introduction to Exceptional Children~~  
~~1.2.4.2 Six semester hours Child Development (unless covered in program)~~  
~~1.2.4.3 Three semester hours Preschool Programming for Exceptional Children~~  
~~1.2.4.4 Three semester hours Assessment of Young Children or Educational~~  
~~Diagnosis of Exceptional Children~~  
~~1.2.4.5 Three semester hours Language Development (unless covered in program)~~  
~~1.2.4.6 Three semester hours Student Teaching Preschool Exceptional Children or~~  
~~internship in lieu of student teaching~~  
~~1.2.4.7 Limited Standard License issued upon completion of a program in Elementary~~  
~~Education and two of the courses listed above with the remaining courses to be completed within three years or,~~  
~~1.2.5 Completion of a teacher education program in Secondary Education and,~~  
~~1.2.5.1 Six semester hours Child Growth and Development~~  
~~1.2.5.2 Three semester hours Language Development~~  
~~1.2.5.3 Three semester hours Introduction to Exceptional Children~~  
~~1.2.5.4 Three semester hours Preschool Programming for Exceptional Children~~  
~~1.2.5.5 Three semester hours Assessment of Young Children or Educational~~  
~~Diagnosis of Exceptional Children~~  
~~1.2.5.6 Three semester hours Methods of Teaching Reading~~  
~~1.2.5.7 Three semester hours Methods of Teaching Mathematics~~  
~~1.2.5.8 Three semester hours Behavior Management~~  
~~1.2.5.9 Six semester hours Student Teaching Preschool Exceptional Children or~~  
~~internship in lieu of student teaching~~  
~~1.2.5.10 The Limited Standard License may be issued upon completion of a program~~  
~~in Secondary Education and four of the first six courses listed above with the remaining courses listed above to be~~  
~~completed within three years.~~

## **~~2.0 Present Preschool Exceptional Children Teachers Protected~~**

~~2.1 Those teachers authorized to teach classes of preschool exceptional children prior to April 20, 1978 on the basis of a standard exceptional children teaching License and who have the recommendation of the local district superintendent shall be authorized to continue in such a teaching assignment in the district where the assignment was authorized. Authorization to teach in this circumstance does not constitute a License transferable to any other school district.~~

## **~~3.0 Licenses that may be issued for this position include Standard and Limited Standard.~~**

### **1570 Standard Certificate Early Childhood Teacher Special Education**

#### **1.0 Content**

This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 Del.C. §1220(a), for Early Childhood Teacher Special Education (Birth to Grade 2).

#### **2.0 Definitions**

2.1 The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

“**Certification**” means the issuance of a certificate, which may occur regardless of a recipient’s assignment or employment status.

“**Department**” means the Delaware Department of Education.

“**Educator**” means a person licensed and certified by the State under 14 **Del.C.** §1202 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board approved by the State Board. The term ‘educator’ does not include substitute teachers.

“**Examination of Content Knowledge**” means a standardized test which measures knowledge in a specific content area, such as PRAXIS™ II.

“**Fifteen (15) Credits or Their Equivalent in Professional Development**” means college credits or an equivalent number of hours, with one (1) credit equating fifteen (15) hours, taken either as part of a degree program or in addition to it, from a regionally accredited college or university of a professional development provided approved by the employing school district or charter school.

“**Immorality**” means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator’s effectiveness by reason of his or her unfitness.

“**License**” means a credential which authorizes the holder to engage in the practice for which the license is issued.

“**Major or Its Equivalent**” means a minimum of thirty (30) semester hours of course work in a particular content area.

“**NASDTEC**” means The National Association of State Directors of Teacher Education and Certification. The organization represents professional standards boards, commissions and departments of education in all 50 states, the District of Columbia, the Department of Defense Dependent Schools, the U.S. Territories, New Zealand, and British Columbia, which are responsible for the preparation, licensure, and discipline of educational personnel.

“**NCATE**” means The National Council for Accreditation of Teacher Education, a national accrediting body for schools, colleges, and departments of education authorized by the U.S. Department of Education.

“**Standard Certificate**” means a credential issued to certify that an educator has the prescribed knowledge, skill, or education to practice in a particular area, teach a particular subject, or teach a category of students.

“**Standards Board**” means the Professional Standards Board established pursuant to 14 **Del.C.** §1201.

“**State Board**” means the State Board of Education of the State pursuant to 14 **Del.C.** §104.

“**Valid and Current License or Certificate from Another State**” means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

### **3.0 Standard Certificate**

The Department shall issue a Standard Certificate as a Early Childhood Teacher Special Education to an educator who holds a valid Delaware Initial, Continuing, or Advanced License; or a Limited Standard, Standard or Professional Status Certificate issued by the Department prior to August 31, 2003 who has met the following requirements:

3.1 Acquired the prescribed knowledge, skill or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:

3.1.1 Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a Standard Certificate is requested; or

3.1.2 Graduating from an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program, where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards, offered by a regionally accredited college or university, with a major or its equivalent in Early Childhood Special Education; or

3.1.3 Satisfactorily completing the Alternative Routes for Licensure and Certification Program, the Special Institute for Licensure and Certification, or such other alternative educator preparation programs as the Secretary may approve; or

3.1.4 Holding a bachelor’s degree from a regionally accredited college or university in any content area and for applicants applying after September 11, 2006 for their first Standard Certificate, satisfactory completion of fifteen (15) credits or their equivalent in professional development related to their area of certification, of which at least

six (6) credits or their equivalent must focus on pedagogy, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; and

3.1.5 Demonstrating oral and written proficiency in English and the target language of the bilingual program, and satisfactory completion of fifteen (15) graduate or undergraduate credits in ESL or Bilingual education, as more specifically set forth in 3.1.5.1 through 3.1.5.6. With approval of a Committee comprised of the candidate's principal or other designated school administrator, a higher education representative who teaches one of the approved courses, and a DOE representative, other verifiable professional experiences may be substituted for no more than nine (9) of the required credits.

3.1.5.1 Atypical Infants and Toddlers;

3.1.5.2 Emergent Literacy in Reading and Writing;

3.1.5.3 Assessment of Young Children;

3.1.5.4 Differentiated Instruction for Young Children; and

3.1.5.5 Consultation or Working with Families; and

3.2 For applicants applying after December 31, 2005, where a PRAXIS™ II examination in the area of the Standard Certificate requested is applicable and available, achieving a passing score as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on the examination. Where no PRAXIS™ II test is available, nationally recognized equivalent tests, such as the American Council on the Teaching of Foreign Languages (ACTFL) Oral Proficiency Interview and the ACTFL Writing proficient test, may be substituted. For tests of languages using a Roman alphabet, candidates are required to achieve an Advanced Low level of the oral skills and an Advanced Low level on the writing skills based on the ACTFL Proficiency Guidelines. For tests of languages using a non Roman alphabet, an Advanced Low Level on the oral skills and an Intermediate High level on the writing skills based on the ACTFL Proficiency Guidelines are required, or

3.3 Meeting the requirements for licensure and holding a valid and current license or certificate from another state in Early Childhood Special Education;

3.3.1 The Department shall not act on an application for certification if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials, until the applicant provides evidence of the investigation's resolution; or

3.4 Meeting the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C §1203.

## **4.0 Multiple Certificates**

Educators may hold certificates in more than one area.

## **5.0 Application Requirements**

An applicant for a Standard Certificate shall submit:

5.1 Official transcripts; and

5.2 Official scores on the Praxis II examination if applicable and available; or

5.3 Evidence of passage of the National Board for Professional Teaching Standards Certificate, if applicable; or

5.4 An official copy of the out of state license or certification, if applicable.

5.5 If applied for simultaneously with application for an Initial License, the applicant shall provide all required documentation for that application in addition to the documentation cited above.

## **6.0 Application Procedures for License Holders**

If an applicant holds a valid Initial, Continuing, or Advanced Delaware License; or a Limited Standard, Standard or Professional Status Certificate issued prior to August 31, 2003 and is requesting additional Standard Certificates, only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill or education required for the additional Standard Certificate requested is required.

## **7.0 Effect of Regulation**

This regulation shall apply to all requests for issuance of a Standard Certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current Professional Status

Certificate or Standard Certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License or the Advanced License. The Department shall also recognize a Limited Standard Certificate issued prior to August 31, 2003, provided that the educator successfully completes the requirements set forth in the prescription letter received with the Limited Standard Certificate. Requirements must be completed by the expiration date of the Limited Standard Certificate, but in no case later than December 31, 2008.

### **8.0 Validity of a Standard Certificate**

A Standard Certificate is valid regardless of the assignment or employment status of the holder of a certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's Initial, Continuing, or Advanced License or Limited Standard, Standard, or Professional Status Certificate is revoked in accordance with 14 DE Admin. Code 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board. Hearings shall be conducted in accordance with the Standards Board's Hearing Procedures and Rules.

### **9.0 Secretary of Education Review**

The Secretary of Education may, upon the written request of the superintendent of a local school district or charter school administrator or other employing authority, review credentials submitted in application for a Standard Certificate on an individual basis and grant a Standard Certificate to an applicant who otherwise does not meet the requirements for a Standard Certificate, but whose effectiveness is documented by the local school district or charter school administrator or other employing authority.

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## **DEPARTMENT OF HEALTH AND SOCIAL SERVICES**

### **DIVISION OF MEDICAID AND MEDICAL ASSISTANCE**

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

### **PUBLIC NOTICE**

#### **Long Term Care Medicaid**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Medicaid and Medical Assistance (DMMA) is proposing to amend a rule in the Division of Social Services Manual (DSSM) used to determine eligibility for medical assistance.

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 Sharon L. Summers, Policy and Program Development Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to (302) 255-4454 by July 31, 2006.

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.

#### **SUMMARY OF PROPOSED CHANGE**

##### **Statutory Authority**

- Omnibus Budget Reconciliation Act of 1993 (OBRA 93), Subchapter B, Part II, Section 13611, *Transfer of Assets; Treatment of Certain Trusts*
- 42 U.S.C. 1396p(d) and Section 1917(d) of the Social Security Act, *Liens, adjustments and recoveries; transfer of assets*

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**Background**

The Omnibus Budget Reconciliation Act of 1993 (OBRA 93) allows nonprofit organizations to establish and manage a pooled trust for the benefit of people who are disabled according to SSI criteria. A pooled trust is a trust, which meets the criteria set forth in Section 1917(d)(4)(c) of the Social Security Act. It contains the assets of disabled persons and is managed by a nonprofit organization that maintains separate accounts for each such individual. The principal and interest of a pooled trust account are not counted in determining Medicaid eligibility, and transfer of assets into such accounts are not penalized, unless they are made after the disabled individual becomes 65 years of age.

**Summary of Proposed Change**

The purpose of this regulation is to correct who is responsible for providing proof of disability.

Currently, the rule at DSSM 20350.10.2 directs the reader to DSSM 20102 for a separate disability determination should the individual not be in receipt of SSI or disability benefits. *DSSM 20102 states, "The first of two steps in the application process is to determine medical eligibility. This is usually determined by Pre-Admission Screening (PAS). Referrals to PAS may come from the family of the applicant as well as other sources."*

Pre-Admission Screening does not determine disability according to the SSI standards. Therefore, DMMA is correcting the rule language regarding the proof of disability requirement to reflect current practices and long-standing procedures. The individual who is claiming disability must submit acceptable medical evidence.

**DMMA PROPOSED REGULATION #06-26****REVISION:****20350.10 Exceptions to the Transfer of Assets****20350.10.1 Exceptions To Transfer Of Residence****20350.10.2 Exceptions To Transfer Of An Asset****20350.10.1 Exceptions To Transfer Of Residence**

The transfer provision does not apply to the HOME and title to the home transferred to:

- a. a spouse (as long as spouse does not then transfer property for less than fair market value);
- b. a child under 21 years of age;
- c. a child who is blind or disabled, as defined by the SSI program;
- d. a sibling who has an equity interest in the home and who has resided in the home for at least one year immediately before the date the individual becomes institutionalized; or
- e. a son or daughter of the individual (other than a child described above) who was residing in the home for at least 2 years immediately before the date the individual became institutionalized, and who provided care to that individual which permitted the individual to reside at home rather than in an institution.

In items d. and e. above the property cannot be excluded unless and until the assets are actually transferred. Also verification for this would consist of a written statement from the parent indicating that this situation existed. If the parent is not capable, a statement from an adult child or sibling and statements from two other adults indicating that the situation existed would suffice. Statements must specify the number of years spent in the home and the exact nature of the care provided.

**20350.10.2 Exceptions To Transfer Of An Asset**

The transfer provision does not apply to ANY asset transferred:

- a. to the individual's spouse, or to another for the sole benefit of the individual's spouse;
- b. from the individual's spouse to another for the sole benefit of the individual's spouse (OBRA 93);
- c. to the individual's blind or totally and permanently disabled child;
- d. to a trust containing the assets of an individual under age 65 who is disabled as defined by the SSI program and which is established for the benefit of the individual by a parent, grandparent, legal guardian of the

individual or a court if the trust contains a provision that upon the death of the individual the State will receive all amounts remaining in the trust up to an amount equal to the total medical assistance paid on behalf of the individual (OBRA 93);

e. to a pooled trust containing the assets of an individual who is disabled as defined by the SSI program and that is established and managed by a non-profit association if the trust contains a provision that upon the death of the individual the State will receive all amounts remaining in the trust up to an amount equal to the total medical assistance paid on behalf of the individual (OBRA 93).

A transfer of assets or an establishment of a trust is considered to be for the sole benefit of a spouse, disabled child, or individual under age 65, if the transfer is arranged in such a way that no individual except the spouse, child or individual can benefit from the assets in any way, either at the time of the transfer, or at any time in the future. If a beneficiary is named to receive the asset at the time of the individual's death, the transfer or trust will nevertheless be considered to have been made for the sole benefit of the individual if Medicaid is named as the primary beneficiary of the asset, up to the amount paid for services provided to the individual.

To determine whether an asset was transferred for the sole benefit of a spouse, child, or disabled individual, obtain a legally binding, written document (such as a trust document). The document must clearly define the conditions under which the transfer was made, as well as who can benefit from the transfer. A transfer without such a document cannot be said to have been made for the sole benefit of the spouse, child, or disabled individual, since there is no way to establish, without a document, that only the individual will benefit from the transfer.

Where it is alleged that an asset was transferred to or for the benefit of an individual who is blind or totally and permanently disabled, a determination must be made that the individual in fact meets the definition of blindness or disability used by the SSI program. If the individual is receiving either SSI or Title II benefits, accept the disability determination made for those programs. If the individual is not receiving those benefits, a separate disability determination must be made. using the procedures described in Section 20102—Medical Eligibility Determination. The individual who is claiming the disability must submit acceptable medical evidence he has been determined disabled according to the standards used by The Disability Determination Services. The individual will be given a reasonable amount of time to provide the medical evidence.

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## DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

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

### PUBLIC NOTICE

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Medicaid and Medical Assistance (DMMA) is proposing to amend a rule in the Division of Social Services Manual (DSSM) used to determine eligibility for medical assistance.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning extension of the this waiver must submit same to Sharon L. Summers, Policy and Program Development Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to (302) 255-4454 by July 31, 2006.

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.

### SUMMARY OF PROPOSED CHANGE

#### Statutory Authority

- Social Security Act §1917(c), *Liens, Adjustments & Recoveries and Transfers of Assets*
- 42 CFR §435.700 et seq., *Specific Post-Eligibility Financial Requirements for the Categorically Needy*
- 42 CFR §435.832, *Post-eligibility Treatment of Income of Institutionalized Individuals: Application of Patient Income to the Cost of Care*

**Background**

On April 18, 2006, CMS issued Regional Memo 06-04. This memorandum addresses the treatment of medical and remedial care expenses incurred as a result of the imposition of a penalty for transferring assets for less than fair market value under the Medicaid post-eligibility treatment of income.

Under section 1917(c) of the Social Security, certain individuals who dispose of assets for less than fair market value are subject to imposition of penalty. The statute provides that during the penalty period such individuals are ineligible for Medicaid payment for nursing facility services, and for comparable long-term care services provided in institutions other than nursing homes, in an individual's home, or in a community setting. The length of the period of ineligibility (known as the penalty period) is directly related to the uncompensated value of assets that were transferred.

Because Medicaid is not paying for a person's nursing home care during a penalty period, an individual subject to a transfer of assets penalty is responsible for paying for that care him or herself. At the end of the transfer of assets penalty period, such an individual may have incurred nursing facility and other penalized expenses that remain unpaid.

Once the penalty period expires, the individual can become eligible for Medicaid payment for nursing home or similar care, at which point the individual also becomes subject to the post-eligibility treatment of income process as set forth in regulations at 42 CFR §435.700 et seq. and 42 CFR §435.832.

**Summary of Proposal**

In compliance with recent clarification of federal regulations, DMMA will amend the provisions governing incurred medical expenses that may be considered allowable deductions in the determination of patient liability. DMMA amended policies will clarify that the State will not allow any expenses incurred during a penalty period to be used in the post-eligibility period for the purposes of long-term care services.

The following provisions contained in DSSM and the Title XIX Medicaid State Plan will be amended: DSSM 20620.2.2, 20620.2.3, 20995.1 and State Plan Supplement 3 to Attachment 2.6-A.

The proposed amendment is subject to approval by the Centers for Medicare and Medicaid Services (CMS).

**DMMA PROPOSED REGULATION #06-24a****REVISIONS:**

Revision:  
MAY 1985

HCFA-PM-3

(BERC)

Supplement 3 to ATTACHMENT 2.6-A

Page 1

OMB NO.: 098300193

**STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT**

STATE: DELAWARE

**REASONABLE LIMITS ON AMOUNTS FOR NECESSARY MEDICAL OR REMEDIAL CARE NOT COVERED UNDER MEDICAID**

N/A

The deduction for medical and remedial care expenses that were incurred as the result of the imposition of a transfer of assets penalty period is limited to zero.

**DMMA PROPOSED REGULATION #06-24b****REVISIONS:**

20620.2.2 Necessary Medical Care

Cost of necessary medical care not covered under the recipient's medical insurance, Medicaid or Medicare but recognized under state law may be set aside from his/her income. The care must be ordered by a professional, such as a physician, dentist, optometrist, physical therapist, etc. For items such as dentures and hearing aids to be approved a medical professional will have to state, in writing that the patient will benefit medically (as opposed to cosmetically only). Other approved medical care items which might occur frequently are eye exams, eyeglasses, dental care, prostheses and appliances.

When in doubt as to whether the care is recognized under state law or is appropriate to be charged to the patient under this policy, consult the ~~Medical Review Team~~ Long Term Care Operation's Administrator. The recipient and the provider must understand that these are not Medicaid payments but are an arrangement between recipient and provider, and that it is the responsibility of the recipient, or his representative to see that payments are made. If both parties are agreeable, payments may be spread out over a period of months.

### 20620.2.3 Prior Medical Costs

Medical costs incurred in a prior period of ineligibility (if approved by Medicaid) may be protected from his/her income. Costs incurred in a period of ineligibility must be approved by the Medicaid State Office prior to being protected and will only be considered if incurred within 30 days of the beginning date of Medicaid eligibility.

The recipient's reimbursement level and patient pay amount must be identified. Medicaid will protect at the Medicaid reimbursement rate, not the private pay rate.

The period of ineligibility may be caused by excess resources or excess income.

Protections for which the individual is seeking coverage will not be granted if the ineligible period occurred during a transfer of assets penalty phase.

### *(Break in Continuity of Sections)*

### 20995.1 Post - Eligibility Deductions

Post-eligibility determination is revised to allow the following deductions from the income of the institutional spouse. The deductions must be taken in the following order.

- a. Personal Needs Allowance for the institutional spouse

The personal needs allowance amount is \$30 per month for SSI recipients, and \$44 per month for all others. If the institutionalized spouse is employed, personal needs may range from \$50 up to the Adult Foster Care rate per month. See Section 20620.1 Personal Needs.

- b. Community Spouse Income Allowance

The community spouse monthly income allowance is the amount of income necessary to bring the spouse's monthly otherwise available income up to:

- the applicable percent of the FPL for two, plus
- an additional amount for excess shelter

The total amount available to the community spouse may not exceed "Cap for Minimum Monthly Maintenance Standard". This standard usually changes each January based on the Consumer Price Index for Urban Consumers.

- c. Family Allowance.

d. Items for which protection of income has been approved by the ~~Coordinator~~ Long Term Care Operation's Administrator and/or incurred medical expenses of the institutionalized spouse.

## DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

Statutory Authority: 31 Delaware Code, Ch. 5, §512 (31 Del.C., Ch. 5, §512)

### PUBLIC NOTICE

#### Diamond State Health Plan 1115 Demonstration Waiver

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512, and, in compliance with State Notice procedures as set forth in the Federal Register, September 27, 1994, Delaware Health and Social Services (DHSS) / Division of Medicaid and Medical Assistance (DMMA) intends to submit an application to the Centers for Medicare and Medicaid Services (CMS) for renewal of its 1115 Demonstration Waiver entitled, the Diamond State Health Plan, for the period from January 1, 2007 through December 31, 2009.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning extension of the Diamond State Health Plan 1115 Demonstration Waiver must submit same to Sharon L. Summers, Policy and Program Development Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to (302) 255-4454 by July 31, 2006. The waiver application will be made available upon request.

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.

#### Summary of Proposed Changes

##### Statutory Authority

Social Security Act §1115, *Demonstration Projects*  
42 CFR §441, Subpart G, *Home and Community-Based Services Waiver Requirements*

##### Background

The Diamond State Health Plan (DSHP) implemented a mandatory Medicaid managed care program statewide on January 1, 1996. Using savings achieved under managed care, Delaware expanded Medicaid health coverage to additional low-income adults in the State with incomes less than 100% of the Federal Poverty Level (FPL).

Goals of the DSHP are to improve and expand access to healthcare to more adults and children throughout the State, create and maintain a managed care delivery system emphasizing primary care, and to strive to control the growth of healthcare expenditures for the Medicaid population.

The current demonstration project #11-W-0063/3 expires on December 31, 2006. To assure the continuation of the DSHP, the Division of Medicaid and Medical Assistance has submitted a three-year extension request for the DSHP 1115 Waiver to the CMS for the period January 1, 2007 through December 31, 2009.

##### Summary of Proposal

DMMA is announcing a thirty-day comment period on the DSHP 1115 Waiver Extension request submitted to CMS.

The application to renew documents how the State has met its goals of improving access to services, expanding coverage to additional populations and substantially improving quality of care for eligible individuals enrolled in the Diamond Sate Health Plan (DSHP). The State intends no changes to the DSHP during the renewal period. The waiver application will be made available upon request.

The provisions of this waiver are subject to approval by the Centers for Medicare and Medicaid Services (CMS).

**DIVISION OF MEDICAID AND MEDICAL ASSISTANCE**

Statutory Authority: 31 Delaware Code, Ch. 5, §512 (31 Del.C., Ch. 5, §512)

**PROPOSED****PUBLIC NOTICE****Assisted Living Medicaid 1915(c) Waiver**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**), under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512, and, in compliance with State Notice procedures as set forth in the Federal Register, September 27, 1994, Delaware Health and Social Services (DHSS) / Division of Medicaid and Medical Assistance (DMMA) will submit an application to the Centers for Medicare and Medicaid Services (CMS) for renewal of its Home and Community-Based Services waiver entitled, Assisted Living Medicaid Waiver Program (ALMWP), for an additional five years.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning extension of the this waiver must submit same to Sharon L. Summers, Policy and Program Development Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to (302) 255-4454 by July 31, 2006. The waiver application will be made available upon request.

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.

**Summary of Proposed Changes****Statutory Authority**

Social Security Act §1915, *Provisions Respecting Inapplicability and Waiver of Certain Requirements of this Title*  
42 CFR §441, Subpart G, *Home and Community-Based Services Waiver Requirements*

**Background**

The Assisted Living Medicaid Waiver Program (ALMWP) provides community based residential services. The Division of Services for Aging and Adults with Physical Disabilities (DSAAPD) administers the ALMWP and is funded by Delaware Medicaid and State general funds. The ALMWP is targeted to older persons and adults with physical disabilities who need assistance with the activities of daily living (ADLs) and meet Medicaid nursing facility admission criteria. The goal of the waiver is to provide services in a manner which responds to each consumer's abilities, assessed needs, and preferences, and which ensures maximum consumer self-sufficiency, independent functioning and safety in a homelike residential setting.

The current demonstration project #0332.91 expires on September 30, 2006. To assure the continuation of the waiver, the Division of Medicaid and Medical Assistance will submit a five-year extension request for the ALMWP to the CMS for the period October 1, 2006 through September 30, 2011.

The provisions of this waiver are subject to approval by the Centers for Medicare and Medicaid Services (CMS).

**Summary of Proposal**

DMMA is announcing a thirty-day comment period on the Waiver Extension request submitted to CMS.

The State of Delaware is in the process of renewing its home and community-based waiver for assisted living. The State intends no changes in benefits or the population served during the renewal period. If during the renewal application process and during our discussions with CMS a need for any changes is identified, those changes would be published at the earliest possible time for public review and comment.

## DIVISION OF SOCIAL SERVICES

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

### PUBLIC NOTICE

#### FOOD STAMP PROGRAM Reporting Changes

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Social Services is proposing to amend policies in the Division of Social Services Manual (DSSM) regarding reporting changes.

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 Sharon L. Summers, Policy, Program and Development Unit, Division of Social Services, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to (302) 255-4454 by July 31, 2006.

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.

#### SUMMARY OF PROPOSED CHANGE

##### Statutory Authority

7 CFR 273.12, *Requirements for Change Reporting Households*

##### Summary of Proposed Change

DSSM 9085, *Reporting Changes*: DSS is streamlining the reporting timeframe for *change reporters* to the same reporting timeframe as simplified reporting households. This change will result in less confusing client notices and allow the elderly and/or disabled households a longer period of time to report a change; resulting in fewer errors and overpayments caused by clients not reporting changes in a timely manner.

##### DSS PROPOSED REGULATION #06-27

##### REVISIONS:

##### 9085 Reporting Changes [273.12]

Certified food stamp households are required to report the following changes in circumstances:

##### Simplified Reporting Requirements

The following reporting requirements are for all households except those households where all members are elderly or disabled and without earned income:

- Households are required to only report income changes when the monthly income exceeds 130 percent of the poverty income guideline for the household size that existed at the time of the certification or recertification.
- When a household's monthly income exceeds the 130 percent of the poverty income guideline, the household is required to report that change within ten days after the end of the month that the household determines the income is over the 130 percent amount.
- Households will not have to report any changes in the household composition, residence and

resulting changes in shelter costs, acquisition of non-excluded licensed vehicles, when liquid resources exceed \$2000.00 and changes in the legal child support obligation.

Additional reporting requirement for ABAWD individuals:

- Adults living in a home without any minor children, who are getting food stamps because they are working over 20 hours a week, must report when they start working less than 20 hours a week.

Change Reporting Requirements: for households not eligible for the simplified reporting requirements above:

Change reporting households must report the following changes in circumstances by the 10<sup>th</sup> day of the month following the month of the change:

- Changes in the amount of gross unearned income of more than \$50, except changes in the public assistance grants. Changes reported in person or by telephone are to be acted upon in the same manner as those reported on the change report form;
- A change in the source of income, including starting or stopping a job or changing jobs, if the change in employment causes a change in income.
- All changes in household size, such as the addition or loss of a household member;
- Changes in residence and the resulting changes in shelter costs;
- The acquisition of a licensed vehicle not fully excludable under DSSM 9051 (for non-categorically eligible households);
- When cash on hand, stocks, bonds, and money in a bank account or savings institution reach or exceed a total of \$2,000 (for non-categorically eligible households);
- Changes in the legal obligation to pay child support; and
- Changes in work hours that bring an ABAWD individual below 20 hours per week, averaged monthly.

~~Certified households must report changes within ten (10) days of the date the change becomes known to the household.~~

~~For reportable changes of income, households must report the change within 10 days of the date the household receives its first payment.~~

An applying household must report all changes related to its food stamp eligibility and benefits at the certification interview. Changes, as provided in this Section, which occur after the interview but before the date of the notice of eligibility, must be reported by the household within ten (10) days of the date of the notice.

Only the reporting requirements in this Section and no other reporting requirements can be imposed by the Division.

## 9085.1 Report Form

[273.12(b)]

Provide each household applying for benefits or being recertified for benefits with Form 130 with which to report changes listed above within 10 days. Provide a postpaid return envelope.

Send a new form to the household whenever a change is reported via a form.

## 9085.2 DSS Responsibilities: Action on Changes

[273.12(c)]

Take prompt action on all changes to determine if the changes affect the household's eligibility or allotment. Even if there is no change in the allotment, document reported changes in the case file, provide another change report form to the household, and notify the household of the effect of the change, if any, on its benefits. Document the date of receipt of the report form or the date a change is reported by phone or in person. If a household reports a change in income which is expected to continue for at least one month beyond the month in which the change is reported, act on the change according to DSSM 9085.3 and 9085.4. If DSS fails to take action on a change within the time limits specified in DSSM 9085.3, restore the lost benefits.

PA households have the same reporting requirements as any other food stamp household and shall use the change report form. PA households who report changes to their workers for PA purposes will be considered to have reported the change for food stamp purposes as well.

**9085.3 Processing Changes Which Increase Benefits**

[273.12(c)(1)]

For changes which result in an increase in a household's benefits, make the change effective no later than the first allotment issued ten (10) days after the date the change is reported to the Division.

For changes which produce an increase in benefits as the result of the addition of a new household member who is not a member of another certified household or as the result of a decrease of \$50 or more in the household's gross monthly income, make the change effective not later than the first allotment issued ten (10) days after the date the change is reported. These changes must take effect no later than the month following in which the change is reported.

For example, a \$30 decrease in income reported on the 15th day of May would increase the household's June allotment. If the same decrease were reported on May 28, and the household's normal issuance cycle was on June 1, the household's allotment would have to be increased by July.

If the change is reported after the 20th of a month and it is too late for the Division to adjust the following monthly allotment, issue a supplement by the 10th day of the following month or, if possible, in the household's normal issuance cycle in that month. For example, a household reporting a \$100 decrease in income at any time during the month of May would have its June allotment increased. If the household reported the change after the 20th of May and it is too late to adjust the benefit normally issued on June 1, issue a supplement for the amount of the increase by June 10.

Verify changes which result in an increase in a household's benefit in accordance with the verification requirements in DSSM 9038, prior to taking action on these changes except in the case of newborn infants. When a household reports the birth of a newborn, add the newborn to the household when the baby comes home according to DSSM 2006. Allow the household ten (10) days from the date the change is reported to provide verification required by DSSM 9038. If the household provides verification within this period, take action on the changes within the timeframes specified above. The timeframes will run from the date the change was reported, not from the date of verification. If, however, the household fails to provide the required verification within ten (10) days after the change is reported but does provide the verification at a later date, then the timeframes specified in the first and second paragraphs of this section for taking action on changes will run from the date the verification is provided rather than from the date the change is reported.

In cases where DSS has determined that a household has refused to cooperate as defined in DSSM 9029, the household's eligibility will be terminated following the notice of adverse action.

**9085.4 Decreases in Benefits**

[273.12(c)(2)]

If the household's benefit level decreases or the household becomes ineligible as a result of the change, issue a notice of adverse action (see DSSM 9006) within ten (10) days of the date the change was reported unless one of the exemptions to the notice of adverse action in DSSM 9006.3 applies. When a notice of adverse action is used, make the decrease in the benefit level effective no later than the allotment for the month following the month in which the notice of adverse action period has expired, provided a fair hearing and continuation of benefits have not been requested.

When a notice of adverse action is not used due to one of the exemptions in DSSM 9006.3, make the decrease effective no later than the month following the change. Verification which is required by DSSM 9032 must be obtained prior to recertification.

**Unclear Information**

When information about changes in a household's circumstances are unclear and DSS cannot determine the effect on the household's benefit, DSS must clarify and verify the changes as follows:

DSS must issue a written request for contact (RFC) which clearly advises the household of the verification it must provide or the actions it must take to clarify its circumstances.

Allow the household at least ten (10) days to respond and to clarify its circumstances either by telephone or by correspondence, as directed by DSS.

If the household fails to respond to the RFC, or does respond but refuses to provide sufficient information to clarify its circumstances, DSS will terminate the case and issue a notice of adverse action explaining the reason for the action. Inform the household that a new application must be filed if the household wishes to continue to receive

benefits.

When the household responds to the RFC and provides sufficient information, process the changes according to DSSM 9085.3 and DSSM 9085.4.

#### **9085.6 Failure to Report**

[273.12(d)]

If a household fails to report a change as required under DSSM 9085 and, as a result, receives benefits to which it is not entitled, file a claim against the household in accordance with DSSM 7000. If the discovery is made within the certification period, the household is entitled to a notice of adverse action in advance if the household's benefits are reduced. A household is not to be held liable for a claim because of a change in household circumstances which it is not required to report. Do not terminate individuals for failure to report a change unless the individual is disqualified in accordance with the disqualification procedures specified in DSSM 2023.

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## **DEPARTMENT OF INSURANCE**

Statutory Authority: 18 Delaware Code, Sections 311 & 1718 (18 **Del.C.** §§ 311, 1718)  
18 **DE Admin. Code** 504

### **PUBLIC NOTICE**

#### **504 Continuing Education for Insurance Agents, Brokers, Surplus Lines Brokers and Consultants**

INSURANCE COMMISSIONER MATTHEW DENN hereby gives notice of a proposed change to Department of Insurance Regulation 504 relating to producer continuing education. The Commissioner proposes to amend **Regulation 504** relating to **Continuing Education for Insurance Agents, Brokers, Surplus Lines Brokers and Consultants**. The docket number for this proposed amendment is 276.

The proposed change to the regulation appears only in section 8.2.2 relating to the required number of ethics hours required for continuing education for public adjusters and fraternal agents. When the regulation was last amended, the change from four hours of required ethics for public adjusters and fraternal agents to three hours (in conformity to the similar change for other licensees) was unintentionally not included in the notice and final regulation approval. This amendment corrects that inconsistency and is the only proposed change to the regulation. The required number of ethics credits for public adjusters is proposed to decrease from four hours to three hours for each reporting period. The **Delaware Code** authority for the change is 18 **Del.C.** §§311, 1718. The text of the change to the regulation is as follows:

8.2.2 Resident adjusters, public adjusters and Fraternal Agents shall be required to fulfill twelve (12) credit hours of Department approved education subjects, ~~four (4)~~ three (3) of which shall be in ethics subjects during each biennial reporting period.

The text can also be viewed at the Delaware Insurance Commissioner's website at: <http://www.state.de.us/inscom/departments/documents/ProposedRegs/ProposedRegs.shtml>.

The Department of Insurance does not plan to hold a public hearing on the proposed changes. Any person can file written comments, suggestions, briefs, and compilations of data or other materials concerning the proposed amendment. Any written submission in response to this notice and relevant to the proposed change must be received by the Department of Insurance no later than 4:30 p.m., Wednesday, August 2, 2006, and should be addressed to Deputy Attorney General Michael J. Rich, c/o Delaware Department of Insurance, 841 Silver Lake Boulevard, Dover, DE 19904, or sent by fax to 302.739.5566 or email to [michael.rich@state.de.us](mailto:michael.rich@state.de.us).

#### **504 Continuing Education for Insurance Agents, Brokers, Surplus Lines Brokers and Consultants**

*(Break in Continuity of Sections)*

#### **8.0 Licensee's Responsibility**

8.1 Each licensee shall retain each original course completion certificate for a period of 3 years. The course completion certificate may be required in the event of a discrepancy between the licensee's records and the Department's records. Each licensee may be subjected to a Department audit of continuing education requirements. Failure to comply with a Department audit may result in suspension of a licensee's license. Each licensee will have thirty (30) days to produce such records upon request or audit by the Department.

8.2 General Requirements. Resident licensees and producers not otherwise exempted shall earn, at a minimum, the number of education credits described below.

8.2.1 Resident licensees required to fulfill continuing education requirements shall complete twenty-four (24) credit hours of Department approved education subjects, three (3) of which shall be in ethics subjects during each biennium reporting period. If the resident producer holds a health license and solicits long term care policies, as part of his/her biennial requirement, the producer must complete at least three (3) hours of training in Delaware long term care insurance that consists of product knowledge, laws, rules and regulations. Any resident licensee who is authorized to write homeowners or personal lines coverage shall be required to complete a two (2) hour continuing education course related to flood insurance and the National Flood Insurance Program as part of the twenty-one (21) general credit hours necessary to maintain a Delaware resident license.

8.2.2 Resident adjusters, public adjusters and Fraternal Agents shall be required to fulfill twelve (12) credit hours of Department approved education subjects, three (3) ~~four (4)~~ of which shall be in ethics subjects during each biennial reporting period.

8.2.3 Resident licensees will receive a continuing education transcript at least ninety (90) days prior to the end of a license biennium by mail or by electronic access as the Department deems appropriate. The licensee is responsible for reviewing the transcript for accuracy. To dispute the Department's accounting, the licensee must submit a written exception thereto prior to the biennium deadline and include a copy of the providers course completion certificate.

8.2.4 The maximum number of carryover credits shall not exceed five (5) credits in a biennium reporting period. Carryover shall not apply to ethics credit requirements. Credits in excess of the mandatory requirements set forth in section 8.2.1 may be applied to the licensee's general course requirements.

8.2.5 No continuing education requirement shall apply to newly licensed individuals during the biennium in which such individuals are licensed.

8.3 Automatic credit. An individual continuously licensed for twenty-five (25) years or longer prior to the start of a biennium reporting period or who holds a professional designation shall receive an automatic credit of twelve (12) credits in each biennium. The Department shall maintain a list of approved professional designations. Automatic credits may not be applied to satisfy the mandatory continuing education courses set forth in section 8.2.1.

8.4 License reinstatement after suspension, revocation or cancellation. All resident licensees whose licenses were canceled, suspended or revoked for a period of twelve (12) months or more shall first complete all licensing requirements under 18 **Del.C.** §1706 including the retaking of exams for all lines of authority under which the individual proposes to transact insurance. Any licensee who is reinstated under the provisions of this subsection shall not be entitled to the waiver provided for in section 8.2.5.

8.5 Extension of time. For good cause shown, the Department may grant an extension of time during which the requirements imposed by this regulation may be completed. The extension shall not exceed twelve (12) months. The extension will not alter the requirements or due date of the succeeding biennium period. "Good cause" includes disability, natural disaster, or other extenuating circumstances. Each request for extension of time shall be in writing from the licensee and shall include details and any documentation to support the request. Each request must be received by the Department no less than thirty (30) days before the expiration of the biennium period.

8.6 Waiver of Continuing Education Requirements. The requirements of this regulation may be waived in writing by the Department for good cause shown. "Good cause" includes long-term illness or incapacity and any other emergency situations deemed appropriate by the Department. Request for waivers of continuing education requirements shall be made in writing and shall be submitted to the Department no later than thirty (30) days prior to the end of the biennium for which such waiver is requested. Those individuals serving full time in the armed forces of the United States of America on active duty outside of the State of Delaware shall notify the Department upon their return by supplying a copy of their activation orders as part of their application for a waiver. Any waiver granted pursuant to this regulation shall be valid only for the biennium for which waiver application was made.

8.7 Sixty (60) days prior to the start of each biennium, the Department shall prepare and publish a list of those lines of insurance for which the producers are exempt from the requirements of section 8.

8.8 Resident adjusters licensed for the lines of Fidelity and Surety and/or Marine and Transportation are exempt

from the provisions of section 8.2.2 of this regulation. Nonresident adjusters and public adjusters must meet the license requirements of their home state.

**8 DE Reg. 703 (11/1/04)**

**9 DE Reg. 1239 (02/01/06)**

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## **DEPARTMENT OF INSURANCE**

Statutory Authority: 18 Delaware Code, Sections 311 & 1718 (18 **Del.C.** §§311, 2501)  
18 **DE Admin. Code** 610

### **PUBLIC NOTICE**

#### **610 Automobile Premium Consumer Comparison**

INSURANCE COMMISSIONER MATTHEW DENN hereby gives notice of proposed Department of Insurance Regulation 610 relating to the availability of private passenger automobile premium rate comparison data. The Commissioner proposes to promulgate **Regulation 610** relating to **Automobile Premium Consumer Comparison**. The docket number for this proposed regulation is 280.

The proposed regulation would require automobile insurers to provide survey data to the Department of Insurance for the purposes of allowing consumers of private passenger non-fleet automobiles the opportunity to compare rates from different companies. The survey data would have to be filed with the Department on an annual basis. The regulation would also require the insurers to provide direct email responses to the consumer. The Delaware Code authority for the change is 18 **Del.C.** §§311 and 2501 et seq.

The text can also be viewed at the Delaware Insurance Commissioner's website at: <http://www.state.de.us/inscom/departments/documents/ProposedRegs/ProposedRegs.shtml>.

The Department of Insurance does not plan to hold a public hearing on the proposed changes. Any person can file written comments, suggestions, briefs, and compilations of data or other materials concerning the proposed amendment. Any written submission in response to this notice and relevant to the proposed change must be received by the Department of Insurance no later than 4:30 p.m., Wednesday, August 2, 2006, and should be addressed to Deputy Attorney General Michael J. Rich, c/o Delaware Department of Insurance, 841 Silver Lake Boulevard, Dover, DE 19904, sent by fax to 302.739.5566 or emailed to [michael.rich@state.de.us](mailto:michael.rich@state.de.us).

#### **610 Automobile Premium Consumer Comparison**

##### **1.0 Authority**

1.1 This regulation is adopted by the Commissioner pursuant to the authority granted by 18 **Del.C.** §§311 and 2501 and promulgated in accordance with the Delaware Administrative Procedures Act, 29 **Del.C.** Chapter 101.

##### **2.0 Definitions**

**"Insurer"** shall mean every insurer licensed to offer and sell non-fleet private passenger automobile insurance coverage in the State of Delaware.

**"Private passenger auto market share"** shall be determined by data from the National Association of Insurance Commissioners for the prior calendar year for line numbers 19.1, 19.2 and 21.1 for the State of Delaware.

**"Rate survey"** shall mean a request by the Department that insurers calculate estimated annual insurance premiums based on hypothetical consumer profiles, and to include variations in driving record, vehicle and other factors identified by the Department. The rate survey shall include estimated premiums for each zip code or other geographic area identified by the Department.

**"Rate estimates"** shall mean the estimated annual insurance premiums produced for the Department's rate survey.

##### **3.0 Scope**

3.1 Insurers with 1 percent or more of the Delaware private passenger automobile insurance market share

shall be required to complete the full rate survey required by this regulation.

3.2 Insurers with .01 to .99 percent of private passenger automobile insurance market share shall be required to complete a limited rate survey consisting of a lesser number of hypothetical consumer profiles identified by the Department.

3.3 Insurers with less than .01 percent of private passenger automobile insurance market share shall not be required to complete a rate survey pursuant to this regulation.

## **4.0 Insurer Information**

4.1 Each insurer will be provided with an account on the Department's website to provide basic company information and to administer the submission of rate survey data.

## **5.0 Survey Completion Deadline**

5.1 The Department of Insurance shall make available the rate survey request format with hypothetical consumer profiles, coverage levels, vehicle models and other information necessary for calculating rate estimates on the Department's website no later than September 15<sup>th</sup> of each year.

5.2 In 2006, all required rate survey data from insurers must be submitted to the Department on or before November 1<sup>st</sup>, 2006. In all subsequent years, all required rate survey data from insurers must be submitted to the Department on or before October 15<sup>th</sup> of each year.

5.3 Rate survey data that is incomplete or not reported according to the Department's instructions will be returned to the insurer for correction and must be resubmitted within 10 business days.

## **6.0 Survey Format**

6.1 Insurers shall provide rate estimates based on rates in effect as of October 1<sup>st</sup> of the year when the rate survey is being completed.

6.2 All rate estimates shall be rounded to the nearest dollar.

6.3 Insurers shall submit rate data utilizing an electronic spreadsheet provided by the Department or by other means specified by the Department. Insurers shall be required to upload the data to the Department via the internet.

## **7.0 Responsibility for Information and Data**

7.1 Insurers shall be responsible for the accuracy of company information and rate data submitted to the Department for publication. As part of the submission process, insurers will be subject to examination to verify the accuracy of the data being submitted.

## **8.0 Consumer Quote Requests**

8.1 Insurers shall provide a single electronic mail address to the Department for the purpose of allowing consumers to request a personalized automobile insurance premium quote as part of the rate comparison process.

8.2 The insurer shall be required to provide a direct email response to the consumer, confirming receipt of the quote request.

8.3 The insurer shall be required to maintain an electronic log of all email responses to consumer requests for rate quotes for a period of one year after the request. The electronic log shall be capable of being transferred to the Department upon request.

## **9.0 Penalties**

9.1 Insurers that do not comply with this regulation are subject to the provisions of 18 Del.C. §329.

## **10.0 Severability**

10.1 If any provision of this Regulation or the application of any such provision to any person or circumstance shall be held invalid the remainder of such provisions, and the application of such provision to any person or circumstance other than those as to which it is held invalid, shall not be affected.

## **11.0 Effective Date**

11.1 This Regulation shall become effective September 11, 2006.

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

Council on Apprenticeship and Training

Statutory Authority: 19 Delaware Code, Section 202(a) (19 Del.C. §202(a))

**PUBLIC NOTICE**

The Governor's Council on Apprenticeship and Training in accordance with 19 Del.C. §202(a) has proposed changes to the rules and regulations relating to apprenticeship and training. The proposal modifies the number of classes a registered Apprentice can miss while enrolled in a related studies program at any of the vocational schools in the three (3) counties of the State of Delaware before being dropped from that school. Being dropped from the school will result in the Apprentice's Apprenticeship Agreement being terminated by their Sponsor and/or State Registration Agency.

A public hearing will be held before the Council on Apprenticeship and Training ("Council") at 1:00 p.m. on August 2, 2006, at the Delaware Department of Labor, Fox Valley Annex, 4425 N. Market Street, Wilmington, Delaware 19802 where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rule may obtain a copy from Kevin Calio, Manager, Apprenticeship and Training, Department of Labor, P.O. Box 9828, 4425 N. Market Street, Wilmington, Delaware 19808-0828. Persons wishing to submit written comments may forward these to the Council at the above address. The final date to receive written comments will be at the public hearing.

The Council will consider making a recommendation to the Secretary at the regularly scheduled meeting following the public hearing.

**106 Apprenticeship and Training Regulations*****(Break in Continuity of Sections)*****9.0 Related Instruction Requirement**

9.1 Regulations concerning Apprentices "attendance and tardiness" policy for related instruction.

9.1.1 A registered Apprentice who misses ~~seven (7)~~ **six (6)** classes while enrolled in a related studies program at any of the vocational schools in the three (3) counties of the State of Delaware will be dropped from school. This will result in their Apprenticeship Agreement being terminated by their Sponsor and/or State Registration Agency.

9.1.2 An absence will result when an Apprentice either arrives late or leaves early three (3) times. However, School District Officials may bring to the Administrator's attention, individual cases that may have experienced extenuating circumstances. With the Administrator's approval, such individuals may be granted exemption from this attendance policy.

9.1.3 Courses of fewer sessions will be prorated. Instructors will inform Apprentices of allowable absences.

9.1.4 If you are a Registered Apprentice who is enrolled through a trade union, trade society or any other organization that stipulates attendance rules more stringent than the above, then you are required to follow those regulations.

9.1.5 Related Instruction that is delivered through a state approved "in-house program", correspondence courses or other systems of equivalent value will require the Apprentice to produce a document detailing satisfactory participation and completion.

**3 DE Reg. 641 (11/1/99)**

**\*Please Note: As the rest of the sections were not amended they are not being published. A complete set of the rules and regulations for the Department of Labor is available at: <http://www.delawareworks.com/default.shtml>**

## DEPARTMENT OF STATE DIVISION OF PROFESSIONAL REGULATION

### 1800 Board of Plumbing Examiners

Statutory Authority: 24 Delaware Code, Section 1805(a)(2),(3) (24 **Del.C.** §1805(a)(2),(3))  
24 **DE Admin. Code** 1800

### PUBLIC NOTICE

The State Board of Plumbing Examiners is proposing changes to its regulations related to the designation of its licensure examination.

A public hearing will be held at 8:30 a.m. on September 12, 2006 in the 2<sup>nd</sup> floor Conference Room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the State Board of Plumbing Examiners, 861 Silver Lake Blvd, Cannon Building, Suite 203, Dover, DE 19904. Persons wishing to submit written comments may forward these to the board at the above address. The final date to receive written comments will be at the public hearing.

The board will consider promulgating the proposed regulations at its regularly scheduled meeting following the public hearing.

#### 1.0 General Provisions.

1.1 Legislative authority. These Rules and Regulations are adopted by the Delaware Board of Plumbing Examiners (hereinafter "the Board") by authority of 24 **Del.C.** Ch. 18, and the Administrative Procedures Act, 29 **Del.C.** Ch. 101.

1.2 Applicability. These Rules and Regulations shall govern proceedings before the Board to the extent they are consistent with governing law. Statutory reference: 29 **Del.C.** §10111 (2); 24 **Del.C.** §1805(2).

1.3 Officers. The Board will conduct election of officers for the offices of Chairperson, Vice-Chairperson and Secretary in May of each year. In the event of a resignation, termination or departure of one of the officers, a replacement shall be elected at the next Board meeting or at a meeting called for that purpose. Statutory reference: 24 **Del.C.** §1804(a).

1.4 Meetings. The Board shall, meet as often as necessary to transact the regular business of the Board and in any event, shall meet at least once each calendar quarter. Statutory reference: 24 **Del.C.** §1804(b).

1.5 Contact person. Information about the Board and its practices can be obtained by contacting the Division of Professional Regulation, Cannon Building, 861 Silver Lake Blvd., Ste. 203, Dover, Delaware 19904-2467, telephone 302-739-4522 and <http://www.professionallicensing.state.de.us/boards/plumbers/index.shtml>. Statutory reference: 29 **Del.C.** §10111(1).

#### 2.0 Practice and Procedure.

2.1 Open meetings. All meetings of the Board, or any advisory or subcommittee, will be conducted in compliance with the Freedom of Information Act, 29 **Del.C.** Ch. 100. Statutory reference: 24 **Del.C.** §1812.

2.2 Disciplinary hearings. The procedural rules for disciplinary proceedings before the Board are outlined in 6.0. Statutory reference: 29 **Del.C.** §10111(2).

2.3 Advisory and subcommittees. The Board may appoint such advisory and subcommittees from time to time to assist in the performance of its duties as the Board deems necessary. Statutory reference. 29 **Del.C.** §10111(1).

#### 3.0 Pre-examination Requirements for Licensure.

3.1 Definitions. The following definitions shall apply for purposes of this section:

3.1.1 "**Performed Plumbing Services**" means practical, hands-on experience working with tools in the installation, maintenance, extension, alteration, repair and removal of all piping, plumbing fixtures, plumbing appliances and plumbing apparatus. It does not include time spent in supervising, engineering, estimating and other managerial tasks, nor time spent in working with an entity authorized to perform plumbing services, but on menial tasks

or on tasks which do not constitute the practice of plumbing, such as sewer cleaning. Statutory Reference: 24 **Del.C.** §1806(a).

3.1.2 "Direct Supervision" shall mean control and oversight by a licensed plumber who is an owner or full-time employee of the entity providing plumbing services. The supervising licensed plumber shall be deemed to be responsible and accountable for the work performed. Statutory reference: 24 **Del.C.** §1806(a) and §1813(b).

3.2 Pre-examination requirements. In order to sit for the examination, an applicant must complete and return an application form to the Board's office, showing that the applicant has 2 years of verified experience under the supervision of a licensed plumber after having received a Journeyman's Certificate in an apprenticeship program that meets or exceeds the Federal Bureau of Apprenticeship and Training Standard. Alternatively, the applicant can show 7 years of verified experience under the supervision of a licensed plumber if the applicant has successfully completed the series of state-approved tests offered in the Delaware technical high schools or other apprenticeship school.

3.3 Supporting documentation. The applicant shall present a copy of the Journeyman certificate or, alternatively, proof of passing the series of state-approved tests offered in the Delaware technical high schools or other apprenticeship school. Verification of the required experience shall be by affidavit of the supervising licensed plumber on the form approved by the Board. If the applicant is unable to obtain an affidavit from the supervising licensed plumber, the tax form W-2 or the affidavit of the employer or officer of the employing company may be submitted as proof of experience at the discretion of the Board. Statutory Reference: 24 **Del.C.** §1806(b).

3.4 Disciplinary record. An applicant must also certify to the Board that he or she has not engaged in any of the acts that would be grounds for discipline of a licensee of the State of Delaware and that he or she does not have any disciplinary proceedings or unresolved complaints pending against him or her in any jurisdiction where he or she has previously been or currently is licensed, or certified as a plumber. An applicant currently or previously licensed or certified in another jurisdiction shall provide the Board with certified statements from all other such jurisdictions verifying their disciplinary and complaint records. Statutory Reference: 24 **Del.C.** §1806(c).

3.5 Complete application. An application to sit for the examination is not considered complete until the Division of Professional Regulation has received the application form, all supporting documents (including verifications of disciplinary record) and all fees required by this section. Statutory Reference: 24 **Del.C.** §1806(b).

#### **4.0 Examination and Licensure.**

4.1 Applications. A person wishing to be licensed as a plumber shall complete the application form designated by the Board and submit it to the Division of Professional Regulation along with any required supporting documents and the appropriate fees. Statutory reference: 24 **Del.C.** §1806(b).

4.2 Examination. The Board ~~shall designate the NAI BLOCK Plumbing Examination as the required examination for licensure in Delaware~~ a written examination pursuant to 24 **Del.C.** §1805(3). The examination will be offered four (4) times per year. No person shall be permitted to sit for the examination until he or she has completed the Pre-examination Requirements of Rule 3.0 and received the Board's approval to take the examination. 24 **Del.C.** §§1805(3), (4) and §1806(d).

4.3 Passing Score. The passing score on the examination shall be 70%. Statutory Reference: 24 **Del.C.** §1805(3).

4.4 Reexamination. Applicants who do not earn a passing score on the examination may retake the examination two additional times, at its next regularly scheduled administrations, without Board approval. An applicant who does not earn a passing score after taking the examination a total of three (3) times may reapply to the Board after one (1) year has passed from the date he or she last took the examination. Statutory Reference: 24 **Del.C.** §1806(d).

**\*Please Note: As the rest of the sections were not amended they are not being published. A complete set of the rules and regulations for the Board of Plumbing Examiners is available at: <http://dpr.delaware.gov/boards/plumbers/index.shtml>.**

## DIVISION OF PROFESSIONAL REGULATION

### 3000 Board of Professional Counselors of Mental Health and Chemical Dependency Professionals

Statutory Authority: 24 Delaware Code, Section 3006(a)(1) (24 Del.C. §3006(a)(1))  
24 DE Admin. Code 3000

#### PUBLIC NOTICE

The State Board of Mental Health and Chemical Dependency Professionals is proposing changes to its regulations related to CPR certification.

A public hearing will be held at noon on September 27, 2006 in the 2nd floor Conference Room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the State Board of Mental Health and Chemical Dependency Professionals, 861 Silver Lake Blvd, Cannon Building, Suite 203, Dover, DE 19904. Persons wishing to submit written comments may forward these to the board at the above address. The final date to receive written comments will be at the public hearing.

The board will consider promulgating the proposed regulations at its regularly scheduled meeting following the public hearing.

### 3000 Board of Professional Counselors of Mental Health and Chemical Dependency Professionals

#### *(Break in Continuity of Sections)*

#### 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.~~ License renewal may be accomplished online at <http://dpr.delaware.gov>.

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 attestation. Attestation shall be completed electronically if the renewal is accomplished online.

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 a 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.

# PROPOSED REGULATIONS

6.2.3 Hardship. The Board shall have the authority to make exceptions to the continuing education requirements, in its discretion, upon a showing of good cause. "Good Cause" may include, but is not necessarily limited to: disability, illness, military service, extended absence from the jurisdiction and exceptional family responsibilities. Request 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. 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 comply with the terms of the hardship exception established by the Board.

6.2.4 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 attestation. Attestation shall be completed electronically if the renewal is accomplished online.

6.2.4.1 All licensees shall maintain documentation of continuing education during the licensure period to be submitted if their renewal application is selected for audit. Random audits will be performed by the board to ensure compliance with the continuing education requirement. Licensees selected for the random audit shall submit attendance verification.

6.2.5 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.

6.2.6 It shall be the responsibility of all licensees to keep the Division informed of any change of address. Renewal applications ~~notices~~ will be sent to the last address on file with the Division.

Statutory authority: 24 Del.C. §§3006(a)(5), 3012.

4 DE Reg. 970 (12/1/00)

5 DE Reg. 452 (8/1/01)

**\*Please Note: As the rest of the sections were not amended they are not being published. A complete set of the rules and regulations for the Board of Professional Counselors of Mental Health and Chemical Dependency Professionals is available at: <http://dpr.delaware.gov/boards/profcounselors/index.shtml>.**

## DIVISION OF PROFESSIONAL REGULATION

3600 Board of Registration of Geologists

Statutory Authority: 24 Delaware Code, Section 3606 (24 Del.C. §3606)

24 DE Admin. Code 3600

## PROPOSED

## PUBLIC NOTICE

The Delaware Board of Geologists in accordance with 24 Del.C. §3606 has proposed amendments to rule 5.0 *Issuance and Renewal of License* and rule 6.0 *Continuing Education* of its rules and regulations. The proposed amendments enable licensees to renew their licenses online and attest that they have completed the required continuing education. Documentation of having completed the required continuing education must still be maintained by the licensee but it will only be required to be produced in the event the licensee is randomly selected for continuing education audit.

A public hearing will be held on August 4, 2006 at 10:15 a.m. in the second floor conference room B of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Geologists, 861 Silver Lake Blvd, Cannon Building, Suite 203, Dover, DE 19904. Persons wishing to submit written comments may forward these to the Board at the above address. The final date to receive written comments will be at the public hearing.

The Board will consider promulgating the proposed regulations at its regularly scheduled meeting following the public hearing.

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## 3600 Board of Registration of Geologists Regulations

### *(Break in Continuity of Sections)*

#### **5.0 Issuance and Renewal of License**

5.1 Each license shall be renewed biennially. The failure of the Board to notify a licensee of his/her expiration date and subsequent renewals does not, in any way, relieve the licensee of the requirement to renew his/her certificate pursuant to the Board's regulations and 24 **Del.C.** Ch. 36.

5.2 Renewal may be effected by:

5.2.1 filing a renewal ~~form~~ application prescribed by the Board and provided by the Division of Professional Regulation; Beginning in 2006, license renewal may be accomplished online at [www.dpr.delaware.gov](http://www.dpr.delaware.gov);

5.2.2 providing other information as may be required by the Board to ascertain the licensee's good standing;

5.2.3 ~~submission of evidence of continuing education on a form prescribed by the Board and provided by the Division of Professional Regulation as described in regulation five;~~attesting on the renewal application to the completing of continuing education as required by Rule 6.0.

5.2.4 payment of fees as determined by the Division of Professional Regulation.

5.3 Failure of a licensee to renew his/her license shall cause his/her license to expire. A geologist whose license has expired may renew his/her license within one year after the expiration date upon fulfilling items 5.2.1 - 5.2.4 above, certifying that he/she has not practiced geology in Delaware while his/her license has expired, and paying the renewal fee and a late fee which shall be 50% of the renewal fee.

5.4 No geologist will be permitted to renew his/her license once the one-year period has expired.

5.5 The former licensee may re-apply under the same conditions that govern applicants for licensure under 24 **Del.C.** Ch. 36.

5.6 No geologist shall practice geology in the State of Delaware during the period of time that his/her Delaware license has expired.

#### **6.0 Continuing Education**

6.1 The Board will require continuing education as a condition of license renewal. Continuing education shall be waived for the first licensure renewal following the effective date of the Board's Rules and Regulations.

6.1.1 Proof of continuing education is satisfied with an attestation by the licensee that he or she has satisfied the Requirement of Rule 6.0.

6.1.2 Attestation may be completed electronically if the renewal is accomplished online. In the alternative, paper renewal documents that contain the attestation of completion may be submitted.

6.1.3 Licensees selected for random audit will be required to supplement the attestation with attendance verification pursuant to Rule 6.3.

6.2 The continuing education period will be from August 1<sup>st</sup> to July 31<sup>st</sup> of each biennial licensing period.

6.3 Each licensed geologist shall complete, biennially, 24 units of continuing education as a condition of license renewal. The licensee is responsible for retaining all certificates and documentation of participation in approved continuing education programs. Upon request, such documentation shall be made available to the Board for random post renewal audit and verification purposes ~~60 days prior to renewal~~. A continuing education unit is equivalent to one contact hour (60 minutes), subject to the Board's review. The preparing of original lectures, seminars, or workshops in geology or related subjects shall be granted one (1) contact hour for preparation for each contact hour of presentation. Credit for preparation shall be given for the first presentation only.

6.4 A candidate for renewal may be granted an extension of time in which to complete continuing education hours upon a showing of hardship. "Hardship" may include, but is not limited to, disability; illness; extended absence from the jurisdiction; or exceptional family responsibilities. Requests for hardship consideration must be submitted to the Board in writing prior to the end of the licensing period for which it is made.

6.5 Continuing education shall be prorated for new licensees in the following manner:

6.5.1 If at the time of renewal, a licensee has been licensed for less than one year, no continuing education is required; if he/she has been licensed for more than one year, but less than two years, twelve of the twenty-four hours will be required; if he/she has been licensed for two years or more the full twenty-four hours is required.

6.6 In his/her personal records, each licensee must keep proof of attendance for each activity ~~listed on the CE log form for which the licensee is requesting credit.~~ If the Board conducts an audit of a licensee's CE records, the Board will ~~request~~ require the licensee to complete a CE log provided by the Board and submit the licensee's documentation of attendance to the CE event listed on the ~~form~~ CE log. Failure to submit proof of attendance during an audit will result in loss of CE credit for that event.

6.7 Continuing education must be in a field related to Geology. Approval will be at the discretion of the Board. CEUs earned in excess of the required credits for the two- (2) year period may not be carried over to the next biennial period.

6.8 Categories of Continuing Education & Maximum Credit Allowed:

6.8.1 Courses – 24 CEUs

6.8.2 Professional Meetings & Activities/Field Trips – 12 CEUs

6.8.3 Peer Review of (12 CEUs) or Peer Reviewed Geologic Publications (12 CEUs)

6.8.4 Presentations – 12 CEUs

6.8.5 Research/Grants – 12 CEUs

6.8.6 Specialty Certifications – 12 CEUs

6.8.7 Home Study Courses – 12 CEUs

6.8.8 Teaching – 12 CEUs

6.8.9 Service on a Geological Professional Society, Geological Institution Board/Committee or Geological State Board – 6 CEUs

6.8.10 For any of the above activities, when it is possible to claim credit in more than one category, the licensee may claim credit for the same time period in only one category.

6.9 Automatic Approval for course work sponsored by the following Professional Societies:

6.9.1 American Association of Petroleum Geologists (AAPG)

6.9.2 American Association of Stratigraphic Palynologists (AASP)

6.9.3 American Geological Institute (AGI)

6.9.4 American Geophysical Union (AGU)

6.9.5 American Institute of Hydrology (AIH)

6.9.6 American Institute of Professional Geologists (AIPG)

6.9.7 Association of American State Geologists (AASG)

6.9.8 Association of Earth Science Editors (AESE)

6.9.9 Association of Engineering Geologists (AEG)

6.9.10 Association of Ground Water Scientists & Engineers (AGWSE)

6.9.11 Association of Women Geoscientists (AWG)

6.9.12 Clay Mineral Society (CMS)

6.9.13 Council for Undergraduate Research-Geology Div. (CUR)

6.9.14 Geologic Society of America (GSA)

6.9.15 Geoscience Information Society (GIS)

6.9.16 International Association of Hydrogeologists/US National Committee (IAH)

6.9.17 Mineralogical Society of America (MSA)

6.9.18 National Association of Black Geologists and Geophysicists (NABGG)

6.9.19 National Association of Geoscience Teachers (NAGT)

6.9.20 National Association of State Boards of Geology (ASBOG)

6.9.21 National Earth Science Teachers Association (NESTA)

6.9.22 National Speleological Society (NSS)

6.9.23 Paleontological Research Institution (PRI)

6.9.24 Paleontological Society (PS)

6.9.25 Seismological Society of America (SSA)

6.9.26 Society of Economic Geologists (SEG)

6.9.27 Society of Exploration Geophysicists (SEG)

6.9.28 Society of Independent Professional Earth Scientists (SIPES)

6.9.29 Society for Mining, Metallurgy, and Exploration, Inc. (SME)

6.9.30 Society for Organic Petrology (TSOP)

6.9.31 Society for Sedimentary Geology (SEPM)

6.9.32 Society of Vertebrate Paleontology (SVP)

6.9.33 Soil Science Society of America (SSSA)

6.9.34 Other professional or educational organizations as approved periodically by the Board.

6.10 Courses not pre-approved by the Board may be submitted for review and approval throughout the biennial licensing period.

Note: Since regulation 6.9 provides the list of sponsors that are automatically approved by the Board for any course work used for Continuing Education units (CEU) towards the total of 24 CEUs in the biennial license period, please note that regulation 6.10, allowing for pre-approval of courses for CEUs, only pertains to courses NOT offered by a sponsor listed in the list provided in regulation 6.9. Furthermore, one CEU = one Contact Hour.

**7 DE Reg. 1342 (4/1/04)**

**\*Please Note: As the rest of the sections were not amended they are not being published. A complete set of the rules and regulations for the Board of Registration of Geologists Regulations is available at: <http://dpr.delaware.gov/boards/geology/index.shtml>.**

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**DIVISION OF PROFESSIONAL REGULATION**  
**5300 State Board of Massage and Bodywork**  
**Statutory Authority: 24 Del.C. §5306(a)(1)**  
**24 DE Admin. Code 5300**

**PUBLIC NOTICE**

The State Board of Massage and Bodywork, in accordance with 24 **Del.C.** §5306(a)(1), has proposed changes to its rules and regulations related to CPR Certification.

A public hearing will be held at 1:30 p.m. on August 17, 2006 in the 2<sup>nd</sup> floor Conference Room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the State Board of Massage and Bodywork, 861 Silver Lake Blvd, Cannon Building, Suite 203, Dover, DE 19904. Persons wishing to submit written comments may forward these to the Board at the above address. The final date to receive written comments will be at the public hearing.

The Board will consider promulgating the proposed regulations at its regularly scheduled meeting following the public hearing.

**5300 Board of Massage and Bodywork**

**1.0 Definitions and General Definitions**

1.1 The term "500 hours of supervised in-class study" as referenced in 24 **Del.C.** §5308(a)(1) shall mean that an instructor has controlled and reviewed the applicant's education on the premises of a school or approved program of massage or bodywork therapy, and can document that the applicant has successfully completed a curriculum that is substantially the same as referenced in 24 **Del.C.** §5308(a)(1) and which includes hands-on technique and contraindications as they relate to massage and bodywork. More than one school or approved program of massage or bodywork therapy may be attended in order to accumulate the total 500 hour requirement.

1.2 The term a "300 - hour course of supervised in-class study of massage" as referenced in 24 **Del.C.** §5309(a)(1) shall mean that an instructor has controlled and reviewed the applicant's education on the premises of a school or approved program of massage or bodywork therapy, and can document that the applicant has successfully completed a 300 hour course which includes no less than sixty hours of anatomy and physiology, one hundred-forty hours of theory and technique and one hundred hours of elective courses in the field of massage therapy as referenced in 24 **Del.C.** §5309(a)(1).

1.2.1 The 300 hour course must be a unified introductory training program in massage and bodywork, including training in the subjects set forth in Rule 1.4. The entire 300 hour course must be taken at one school or approved program. The Board may, upon request, waive the "single school" requirement for good cause or hardship, such as the closure of a school.

1.3 The term a "200 hour course of supervised in-class study of massage" as referenced in 24 **Del.C.** §5309(b) shall mean that an instructor has controlled and reviewed the applicant's education on the premises of a school or approved program of massage or bodywork therapy, and can document that the applicant has successfully completed a 200 hour course which includes no less than fifty hours of anatomy and physiology, one hundred-ten hours of theory and technique, twenty- five hours of ethics, law, and contraindications and fifteen hours of elective courses in the field of massage therapy as referenced in 24 **Del.C.** §5309(b).

1.4 The "practice of massage and bodywork" includes, but is not limited to, the following modalities:

- Acupressure
- Chair Massage
- Craniosacral Therapy
- Deep Tissue Massage Therapy
- Healing Touch
- Joint Mobilization
- Lymph Drainage Therapy
- Manual Lymphatic Drainage
- Massage Therapy
- Myofascial Release Therapy
- Neuromuscular Therapy
- Orthobionomy
- Process Acupressure
- Reflexology
- Rolfing
- Shiatsu
- Swedish Massage Therapy
- Trager
- Visceral Manipulation

1.5 The practice of the following modalities does not constitute the "practice of massage and bodywork":

- Alexander Technique
- Aroma therapy
- Feldenkrais
- Hellerwork
- Polarity Therapy
- Reiki
- Shamanic Techniques
- Therapeutic Touch

1.6 "CPR certification" means a valid Heartsaver® CPR Certification or its equivalent issued by the American Heart Association, a valid Adult CPR Certification or its equivalent issued by the American Red Cross, or a valid Standard CPR Certification or its equivalent issued by the National Safety Council.

**3 DE Reg. 1516 (5/1/00)**

**4 DE Reg. 1245 (2/1/01)**

**8 DE Reg. 692 (11/1/04)**

## 2.0 Filing of Application for Licensure as Massage/Bodywork Therapist

2.1 A person seeking licensure as a massage/bodywork therapist must submit a completed application on a form prescribed by the Board to the Board office at the Division of Professional Regulation, Dover, Delaware. Each application must be accompanied by (1) ~~a copy proof of a current CPR certificateion from a State certified cardiopulmonary resuscitation program as required by 24 Del.C. §5308(3);~~ and (2) payment of the application fee established by the Division of Professional Regulation pursuant to 24 **Del.C.** §5314.

2.2 In addition to the application and materials described in Regulation 2.1 of this Rule, an applicant for licensure as a massage/bodywork therapist shall have (1) each school or approved program of massage or bodywork where the applicant completed the hours of study required by 24 **Del.C.** §5308(a)(1) submit to the Board an official transcript or official documentation showing dates and total hours attended and a description of the curriculum completed; and (2) Assessment Systems, Incorporated or its predecessor, submit to the Board verification of the applicant's score on the written examination described in Rule-Regulation 3.0 herein.

2.3 The Board shall not consider an application for licensure as a massage/bodywork therapist until all items specified in Regulations 2.1 and 2.2 of this Rule are submitted to the Board's office.

2.3.1 The Board may, in its discretion, approve applications contingent on receipt of necessary documentation. If the required documentation is not received within 120 days from the date when the application is first reviewed by the Board, the Board will propose to deny the application.

2.3.2 If an application is complete in terms of required documents, but the candidate has not responded to a Board request for further information, explanation or clarification within 120 days of the Board's request, the Board will vote on the application as it stands.

2.4 Renewal. Applicants for renewal of a massage/bodywork therapist license shall submit a completed renewal form, renewal fee, proof of continuing education pursuant to Rule Regulation 7.0, and ~~a copy~~ proof of a current CPR certificate certification from a ~~State certified cardiopulmonary resuscitation program~~. License holders shall be required to maintain current CPR certification throughout the biennial licensure period.

**4 DE Reg. 1245 (2/1/01)**

**8 DE Reg. 692 (11/1/04)**

### 3.0 Examination

The Board designates the National Certification Examination administered by the National Certification Board for Therapeutic Massage and Bodywork ("NCBTMB") as the written examination to be taken by all persons applying for licensure as a massage/bodywork therapist. The Board will accept as a passing score on the exam the passing score established by the NCBTMB.

### 4.0 Application for Certification as Massage Technician

4.1 A person seeking certification as a massage technician must submit a completed application on a form prescribed by the Board to the Board office at the Division of Professional Regulation, Dover, Delaware. Each application must be accompanied by (1) a copy proof of a current certificate certification from a ~~State certified cardiopulmonary resuscitation program as required by 24 Del.C. §5309(a)(2)~~; and (2) payment of the application fee established by the Division of Professional Regulation pursuant to ~~24 Del.C. §5311~~.

4.2 In addition to the application and materials described in Regulation 4.1 of this Rule, an applicant for certification as a massage technician shall have the school or approved program of massage or bodywork therapy where the applicant completed the hours or study required by 24 **Del.C.** §5309(a)(1) submit to the Board an official transcript or official documentation showing dates and total hours attended and a description of the curriculum completed.

4.2.1 An applicant for a temporary massage technician certification, in addition to the application and materials described in Regulation 4.1 of this Rule, shall have the school or approved program of massage or bodywork therapy where the applicant completed the hours or study required by 24 **Del.C.** §5309(b) submit to the Board an official transcript or official documentation showing dates and total hours attended and a description of the curriculum completed.

4.3 The Board shall not consider an application for certification as a massage technician until all items specified in Regulations 4.1 and 4.2 of this Rule are submitted to the Board's office.

4.3.1 The Board may, in its discretion, approve applications contingent on receipt of necessary documentation. If the required documentation is not received within 120 days from the date when the application is first reviewed by the Board, the Board will propose to deny the application.

4.3.2 If an application is complete in terms of required documents, but the candidate has not responded to a Board request for further information, explanation or clarification within 120 days of the Board's request, the Board will vote on the application as it stands.

4.4 Renewal. Applicants for renewal of a massage technician certificate shall submit a completed renewal form, renewal fee, proof of continuing education pursuant to Rule 7.0, and ~~a copy~~ proof of a current CPR certificate certification from a ~~State certified cardiopulmonary resuscitation program~~. Certificate holders shall be required to maintain current CPR certification throughout the biennial licensure period. Temporary massage technician certificates are valid for no more than one (1) year and may not be renewed or reissued pursuant to the provision of 24 **Del.C.** §5309(b).

**3 DE Reg. 1516 (5/1/00)**

**4 DE Reg. 1245 (2/1/01)**

**8 DE Reg. 692 (11/1/04)**

## 5.0 Expired License or Certificate

An expired license as a massage/bodywork therapist or expired certificate as a massage technician, excluding temporary massage technician certificates, may be reinstated within one (1) year after expiration upon application and payment of the renewal fee plus a late fee as set by the Division of Professional Regulation, ~~and~~ submission of documentation demonstrating compliance with the continuing education requirements of ~~Rule~~ Regulation 7.0, and proof of current CPR certification.

**5 DE Reg. 827 (10/01/01)**

**8 DE Reg. 692 (11/1/04)**

## 6.0 Inactive Status

6.1 A licensee asking to have his or 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. Holders of temporary massage technician certificates are not eligible for inactive status.

6.2 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 demonstrating compliance with the continuing education hours required by ~~Rule~~ Regulation 7.0, and proof of current CPR certification.

**8 DE Reg. 692 (11/1/04)**

**\*Please Note: As the rest of the sections were not amended they are not being published. A complete set of the rules and regulations for the Board of Massage and Bodywork is available at: <http://dpr.delaware.gov/boards/massagebodyworks/index.shtml>**

### PUBLIC SERVICE COMMISSION

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

#### Public Notice of Proposed Adoption of "Electric Service Reliability and Quality Standards"

IN THE MATTER OF THE CONSIDERATION OF  
RULES, STANDARDS AND INDICES TO ENSURE  
RELIABLE ELECTRICAL SERVICE BY ELECTRIC  
DISTRIBUTION COMPANIES  
(OPENED SEPTEMBER 26, 2000; REOPENED  
OCTOBER 11, 2005)

PSC REGULATION DOCKET NO. 50

ORDER NO. 6925<sup>1</sup>

**AND NOW**, to-wit, this 20<sup>th</sup> day of June, 2006;

**WHEREAS**, in 2003, the Commission originally adopted "Electric Service Reliability and Quality Standards" to provide interim benchmark standards related to reliability of electric service provided by the two Commission-jurisdictional electric distribution utilities ("EDUs"); and

**WHEREAS**, in PSC Order No. 6745 (Oct. 11, 2005), the Commission proposed and then published (9 Del. Reg. 756-768 (Nov., 2005)) final "Electric Service Reliability and Quality Standards" to measure and govern the reliability of services provided by EDUs as well as to acquire information from in-State generation facilities; and

**WHEREAS**, several interested and affected entities voiced objections, or offered comments, concerning various provisions in the proposed final Standards and thereafter renewed those objections during the duly-noticed public comment session hearing held by the designated Hearing Examiner; and

**WHEREAS**, after the public comment session, entities filing comments and Staff entered into a settlement document that endorsed a revised form for the final Standards; and

1. This Order replaces a prior, similarly numbered Order entered by the Commission on June 6, 2006. the substitution is made to ensure compliance with the rule-making procedure in the Administrative Procedures Act, 29 Del.C. §§10111-10118. The earlier Order is rescinded.

**WHEREAS**, the designated Hearing Examiner held a duly-noticed hearing on the settlement document and the revised form of final Standards, and has submitted a Report, dated May 10, 2006, that recommends that the Commission adopt the settling entities' form of final Standards as the Commission's form of final Standards, superseding the Standards previously proposed and noticed in November, 2005; and

**WHEREAS**, the Commission finds that the settling entities' revised form of Standards is appropriate and will further the Commission's goal of ensuring reliable electrical services by jurisdictional EDUs; and

**WHEREAS**, the Commission (in an abundance of caution) determines that the revised form of Standards makes "substantive" changes from the Standards proposed in November, 2005, so that, as required by 29 **Del.C.** §10118(c), such revised Standards should now be noticed to allow for another opportunity for comments either in writing or at a public hearing; and

**WHEREAS**, the Commission adopts as its own the settling entities' form of Standards in this matter for the reasons set forth in the Hearing Examiner's Report dated May 10, 2006; and

**WHEREAS**, the Commission has the authority to adopt the final regulations under 26 Del. C. §§209, 1002, 1008, and 1019;

Now, therefore, **IT IS ORDERED:**

1. That the findings and recommendations contained in the Report of the Hearing Examiner, dated May 10, 2006, are hereby adopted.

2. That, pursuant to 29 **Del.C.** §§10115 and 10118(c), the Commission hereby gives notice that it proposes to adopt the final "Electric Service Reliability and Quality Standards" set forth as Exhibit "A" to this Order. Such proposed final Standards would supersede those proposed in 9 **DE Reg.** 756-768 (Nov. 1, 2005).

3. That the Secretary shall cause a copy of this Order with the full text of the proposed final Standards (Exhibit "A") to be filed with the Registrar of Regulations for publication in the *Delaware Register of Regulations*.

4. That the Secretary shall also cause a copy of the Notice, attached hereto as Exhibit "B", to be filed with the Registrar of Regulations for publication in the *Delaware Register of Regulations*.

5. That the Secretary shall cause the form of Notice, attached as Exhibit "B", to be published in the following newspapers, in two- column format, outlined in black, on the following dates:

*The News Journal* (June 28, 2006)

*Delaware State News* (June 29, 2006)

The Secretary shall file proof of such publication before July 21, 2006. In addition, the Secretary shall send, by United States mail, a copy of such notice to all persons who have filed requests for advance notice of the Commission's regulation-making proceedings.

6. That interested persons may file written suggestions, compilations of date, briefs, comments, objections, or other written materials concerning the proposed Standards on or before August 2, 2006.

7. That the Commission shall conduct a public hearing on the adoption of the proposed Standards set forth in Exhibit "A" during its regularly scheduled meeting on Tuesday, August 8, 2006. Persons may present additional comments, materials, or objections at such hearing.

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

BY ORDER OF THE COMMISSION:

Arnetta McRae, Chair  
Joann T. Conaway, Commissioner  
Dallas Winslow, Commissioner  
Jaymes B. Lester, Commissioner  
Jeffrey J. Clark, Commissioner

ATTEST:

Karen J. Nickerson, Secretary

TO: ALL PSC-JURISDICTIONAL ELECTRIC DISTRIBUTION COMPANIES, ELECTRIC GENERATORS,  
RETAIL ELECTRIC SUPPLIERS, CONSUMERS, AND OTHER INTERESTED PERSONS

Since 2003, the Public Service Commission (“the Commission”) has been developing Standards to measure and judge the reliability of the electrical services provided by electric distribution utilities such as Delmarva Power & Light Company and the Delaware Electric Cooperative, Inc. In PSC Order No. 6745 (Oct. 11, 2005), the Commission proposed and then published (9 **DE Reg.** 756 (Nov. 1, 2005)) final “Electric Service Reliability and Quality Standards.” In light of comments and objections filed in response to those earlier proposed Standards, the Commission now proposes to adopt a revised form of “Electric Service Reliability and Quality Standards.” These revised Standards would supersede the Standards proposed in 2005. As with the earlier proposal, the revised Standards set forth methods and benchmarks to be utilized to measure the reliability of services provided by electric distribution companies. The revised Standards also articulate principles and goals for reliability, describe responses to be made to outages and major events, and require the preparation of periodic performance reports and planning studies. The Standards also prescribe the available penalties for violations. Finally, the revised Standards direct electric generation facilities located within this State to participate in a “Generation Working Group” or file periodic reports concerning certain aspects of their operations.

You may review the text of the revised final Standards in the July, 2006 issue of the *Delaware Register of Regulations*. You may obtain written copies of the revised Standards at the Commission’s office at the address set forth below. The cost is \$0.25 per page. You may also review an electronic copy of the revised Standards at the Commission’s website at [www.state.de.us/delpsc](http://www.state.de.us/delpsc) (open PSC Order No. 6925). The Commission has the authority to adopt such regulations under 26 **Del.C.** §§209, 1002, 1008, and 1019.

Pursuant to 29 **Del.C.** §§1133, 10115, and 10118(c), the Commission now solicits comments, written suggestions, compilations of data, briefs, or other written materials concerning the revised final Standards. If you wish to submit such materials, you should file an original and ten copies at the following address:

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

You must file such materials on or before August 2, 2006.

In addition, pursuant to 26 **Del.C.** §209(a) and 29 **Del.C.** §10117, the Commission will conduct a public hearing on the revised Standards during its regularly scheduled meeting on Tuesday, August 8, 2006. That meeting will begin at 1:00 PM in the Commission’s Hearing Room at the above address. You can submit oral presentations or written materials at such hearing.

If you have questions, or desire further information about the matter, you can contact the Commission at 1-800-282-8574 or (302) 739-4333 (including text telephone). You can also send questions by Internet e-mail to [robert.howatt@state.de.us](mailto:robert.howatt@state.de.us). If you are disabled and need assistance, please contact the Commission to arrange assistance.

**STATE OF DELAWARE**  
**Delaware Public Service Commission**

**Electric Service Reliability and Quality Standards**

**MARCH 2006**

**1.0 Purpose and Scope**

1.1 Reliable electric service is of great importance to the Delaware Public Service Commission (“Commission”), because it is an essential service to the citizens of Delaware. This regulation, in support of 26 **Del.C.**, §1002, sets forth reliability standards and reporting requirements needed to assure the continued reliability and quality of electric service being delivered to Delaware customers and is applicable to all Delaware Electric Distribution Companies (“EDCs”) and Delaware Generation Companies.

1.2 Nothing in this regulation relieves any utility or generation company from compliance with any

requirement set forth under any other regulation, statute or order. This regulation is in addition to those required under PSC Docket No. 58, Order No. 103, Regulations Governing Service Supplied by Electrical Utilities.

1.3 Compliance with this regulation is a minimum standard. Compliance does not create a presumption of safe, adequate and proper service. Each EDC needs to exercise their professional judgment based on their systems and service territories. Nothing in this regulation relieves any utility from the requirement to furnish safe, adequate and proper service and to keep and maintain its property and equipment in such condition as to enable it to do so. (26 Del.C., §209)

1.4 Each EDC shall maintain the reliability of its distribution services and shall implement procedures to require all electric suppliers to deliver energy to the EDC at locations and in amounts which are adequate to meet each electric supplier's obligations to its customers. (26 Del.C., §1008)

1.5 Each generation company operating in the state is required to provide the Commission with an annual assessment of their electric supply reliability as specified in Section 10.

1.6 This regulation requires the maintenance and retention of reliability data and the reporting of reliability objectives, planned actions and projects, programs, load studies and actual resulting performance on an annual basis, including major events as specified in section 11.

1.7 EDCs are responsible for maintaining the reliability of electric service to all their customers in the state of Delaware. Pursuant to this requirement, EDCs may be subject to penalties as described in Section 13 or 26 Del.C., §1019.

1.8 EDCs are required to explore the use of proven state of the art technology, to provide cost effective electric service reliability improvements.

1.9 This Electric Service Reliability and Quality regulation shall be effective through 2012 and may be reviewed, revised or extended as necessary to ensure the maintenance of electric reliability and quality service in Delaware.

## 2.0 Definitions

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

“**Acceptable reliability level**” is defined as the maximum acceptable limit of the System Average Interruption Duration Index (“SAIDI”), and the Constrained Hours of Operation as specified in Section 4.0

“**ALM**” means Active Load Management in accordance with Article 1, Schedule 5.2 of PJM's Reliability Assurance Agreement (RAA).

“**Availability**” means the measure of time a generating unit, transmission line, or other facility is capable of providing service, whether or not it actually is in service.

“**Beginning restoration**” includes the essential or required analysis of an interruption, the dispatching of an individual or crew to an affected area, and their arrival at the work site to begin the restoration process (normally inclusive of dispatch and response times).

“**Benchmark**” means the standard service measure of SAIDI and Constrained Hours of Operation as set forth in this regulation.

“**Capacity**” means the rated continuous load-carrying ability, expressed in megawatts (“MW”) or megavolt-amperes (“MVA”) of generation, transmission, or other electrical equipment.

“**Capacity Emergency Transfer Objective (‘CETO’)**” means the amount of megawatt capacity that an area or sub area must be able to import during localized capacity emergency conditions such that the probability of loss of load due to insufficient tie capability is not greater than one day in 10 years.

“**Capacity Emergency Transfer Limit (‘CETL’)**” means the amount of megawatts that can actually be imported into the area or sub area during localized capacity emergency conditions.

“**Constrained hours of operation**” means the hours of electric system operation during which time there are limits, transfer constraints or contingencies on the PJM DPL Zone delivery system that require off-cost dispatch of generating facilities. Total constrained hours exclude offcost operations attributable to generation or transmission forced outages, generation or transmission related construction or any unrelated third party actions including generation retirements, provided mitigating projects are planned, permitted and constructed in a reasonable timeframe.

“**Contingency**” means the unexpected failure or outage of a system component, such as a generator, transmission line, circuit breaker, switch, or other electrical element. A contingency may also include multiple components, which are related by situations leading to simultaneous component outages.

“**Corrective action**” means the maintenance, repair, or replacement of an EDC's utility system components

and structures to allow them to function at an acceptable level of reliability.

“**Corrective maintenance**” means the unplanned maintenance work required to restore delivery facilities to a normal operating condition that allows them to function at an acceptable level of reliability.

“**Customer Average Interruption Duration Index (‘CAIDI’)**” represents the average time in minutes required to restore service to those customers that experienced sustained interruptions during the reporting period. CAIDI is defined as follows:

$$\text{CAIDI} = \frac{\text{Sum of all Sustained Customer Interruption Durations per Reporting Period}}{\text{Total Number of Sustained Customer Interruptions per Reporting Period}}$$

“**Customers Experiencing Long Interruption Durations<sup>8</sup> (‘CELID<sup>8</sup>’)**” represents the total number of customers that have experienced a cumulative total of more than eight hours of outages.

“**Customers Experiencing Multiple Interruptions<sup>8</sup> (‘CEMI<sup>8</sup>’)**” is an index that represents the total number of customers that have experienced nine or more interruptions in a single year reporting period.

$$\text{CEMI<sup>8</sup>} = \frac{\text{Total number of customers that experienced more than eight (8) sustained interruptions}}{\text{Total number of customers served}}$$

“**Delivery Facilities**” means the EDC’s physical plant used to provide electric energy to Delaware retail customers, normally inclusive of distribution and transmission facilities.

“**Dispatch time**” is the elapsed time between receipt of a customer call and the dispatch of a service resource to address the customer’s issue as tracked by an Outage Management System.

“**Distribution feeder**” or “**feeder**” means a three-phase set of conductors emanating from a substation circuit breaker serving customers in a defined local distribution area. This includes three-phase, two-phase and single-phase branches that are normally isolated at all endpoints.

“**Distribution facilities**” means electric facilities located in Delaware that are owned by a public utility that operate at voltages of 34,500 volts or below and that are used to deliver electricity to customers, up through and including the point of physical connection with electric facilities owned by the customer.

“**Electric Distribution Company**” or “**EDC**” means a public utility owning and/or operating transmission and/or distribution facilities in this state.

“**Electric distribution system**” means that portion of an electric system, that delivers electric energy from transformation points on the transmission system to points of connection at the customers’ premises.

“**Electric service**” means the supply, transmission, and distribution of electric energy as provided by an electric distribution company.

“**Electric Supplier**” means a person or entity certified by the Commission that sells electricity to retail electric customers utilizing the transmission and/or distribution facilities of a nonaffiliated electric utility, as further specified in 26 Del.C., §1001.

“**Forced outage**” means the removal from service availability of a generating unit, transmission line, or other facility for emergency reasons or a condition in which the equipment is unavailable due to unanticipated failure.<sup>1</sup>

“**Forced outage rate**” means the hours a generating unit, transmission line, or other facility is removed from service, divided by the sum of the hours it is removed from service plus the total number of hours the facility was connected to the electricity system expressed as a percent.<sup>2</sup>

Multiple momentary forced outages on the same transmission line in the span of a single minute shall be treated as a single forced outage with the duration of one minute. When the operation of a transmission circuit is restored following a forced outage and the transmission line remains operational for a period exceeding one minute or more, followed by another forced outage, then these should be counted as two forced outages. Multiple forced outages occurring as a result of a single event should be handled as multiple forced outages only if subsequent operation of the transmission line between events exceeds one minute. Otherwise they shall be considered one continuous forced outage.<sup>3</sup>

1. North American Electric Reliability Council – “Glossary of Terms”, August 1996

2. North American Electric Reliability Council – “Glossary of Terms”, August 1996

3. Draft CAISO Transmission Control Agreement, Appendix C, ISO Maintenance Standards

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

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

**“Interruption”** means the loss of electric service to one or more customers. It is the result of one or more component outages, depending on system configuration or other events. See “outage” and “major event.” The types of interruption include momentary event, sustained and scheduled.

**“Interruption, duration”** means the period (measured in minutes) from the initiation of an interruption of electric service to a customer until such service has been restored to that customer. An interruption may require step restoration tracking to provide reliable index calculations.

**“Interruption, momentary event”** means an interruption of electric service to one or more customers, of which the duration is less than or equal to 5 minutes. This definition includes all reclosing operations, which occur within five minutes of the first interruption. For example, if a recloser or breaker operates two, three, or four times and then holds within five minutes, the event shall be considered one momentary event interruption.

**“Interruption, scheduled”** means an interruption of electric service that results when one or more components are deliberately taken out of service at a selected time, usually for the purposes of preventative maintenance, repair or construction. Scheduled interruptions, where attempts have been made to notify customers in advance, shall not be included in SAIDI, SAIFI, CAIDI, or Forced Outage measures.

**“Interruption, sustained”** means an interruption of electric service to one or more customers that is not classified as a momentary event interruption and which is longer than five minutes in duration.

**“Interrupting device”** means a device, capable of being reclosed, whose purpose includes interrupting fault currents, isolating faulted components, disconnecting loads and restoring service. These devices can be manual, automatic, or motor operated. Examples include transmission and distribution breakers, line reclosers, motor operated switches, fuses or other devices.

**“Major Event”** means an event consistent with the I.E.E.E.1366, Guide For Electric Power Distribution Reliability Indices standard as approved and as may be revised. For purposes of this regulation, changes shall be considered to be in effect beginning January 1 of the first calendar year after the changed standard is adopted by the I.E.E.E. Major event interruptions shall be excluded from the EDC’s SAIDI, SAIFI, CAIDI and Constrained Hours measurements for comparison to reliability benchmarks. Interruption data for major events shall be collected, and reported according to the reporting requirements outlined in Section 11.

**“Mid Atlantic Area Council (‘MAAC’) or Reliability First Corporation”** means a regional council of the North American Electric Reliability Council (‘NERC’), or successor organization, that is responsible for Mid Atlantic operational policies and reliability planning standards applicable to PJM and local electric distribution company members.

**“North American Electric Reliability Council (‘NERC’)”** means the national organization responsible for operational policies and reliability planning standards applicable to national system operations and electric distribution companies, or their successor organizations.

**“Outage”** means the state of a component when it is not available to perform its intended function due to some event directly associated with that component. An outage may or may not cause an interruption of electric service to customers, depending on system configuration.

**“Outage Management System (‘OMS’)”** means a software operating system that provides database information to effectively manage service interruptions and minimize customer outage times.

**“Pre-restructuring”** refers to the five-year time frame prior to Delaware’s adoption of 26 Del. C., Chapter 10, Electric Utility Restructuring Statute (1995-1999).

**“PJM Interconnection, L.L.C. (‘PJM’)”** means the Regional Transmission Organization or successor organization that is responsible for wholesale energy markets and the interstate transmission of energy throughout a multi-state operating area that includes Delaware.

**“Power quality”** means the characteristics of electric power received by the customer, with the exception of sustained interruptions and momentary event interruptions. Characteristics of electric power that detract from its quality include waveform irregularities and voltage variations—either prolonged or transient. Power quality problems shall include, but are not limited to, disturbances such as high or low voltage, voltage spikes or transients, flicker and voltage sags, surges and short-time overvoltages, as well as harmonics and noise.

**“Preventive maintenance”** means the planned maintenance, usually performed to preclude forced or unplanned outages, and which allows delivery facilities to continue functioning at an acceptable level of reliability.

**“Reliability”** means the degree of performance of the elements of the bulk electric system that results in electricity being delivered to customers within accepted standards and in the amount desired. Reliability may be measured by the frequency, duration, and magnitude of adverse effects on the electric supply. Electric system reliability can be addressed by considering two basic and functional aspects of the electric system – Adequacy and Security.

**Adequacy** - The ability of the electric system to supply the aggregate electrical demand and energy requirements of customers at all times, taking into account scheduled and reasonably expected unscheduled outages of system elements.

**Security** - The ability of the electric system to withstand sudden disturbances such as electric short circuits or unanticipated loss of system elements.<sup>1</sup>

As applied to distribution facilities, reliability is further described as the degree to which safe, proper and adequate electric service is supplied to customers without interruption.

**“Repair time”** is the elapsed time from the arrival of the service resource at the identified problem site to the correction of the customer’s original concern as tracked by the OMS.

**“Response time”** is the elapsed time from dispatch of service resource to the arrival of the service resource at the identified problem site as tracked by the OMS.

**“Step restoration”** means the restoration of service to blocks of customers in an area until the entire area or circuit is restored.

**“Sum of all Sustained Customer Interruption Durations”** means the summation of the restoration time (in minutes) for each event times the number of interrupted customers for each step restoration of each interruption event during the reporting period.

**“Supervisory Control And Data Acquisition (‘SCADA’)”** is an electronic communication and control system that provides electrical system operating information and mechanisms to remotely control energy flows and equipment.

**“System Average Interruption Duration Index (‘SAIDI’)”** represents the average duration of sustained interruptions per customer. SAIDI is defined as:

$$\text{SAIDI} = \frac{\text{Sum of all Sustained Customer Interruption Durations per Reporting Period}}{\text{Total Number of Customers Served per Reporting Period}}$$

**“System Average Interruption Frequency Index (‘SAIFI’)”** represents the average frequency of sustained interruptions per customer during the reporting period. SAIFI is defined as:

$$\text{SAIFI} = \frac{\text{Total Number of Sustained Customer Interruptions per Reporting Period}}{\text{Total Number of Customers Served per Reporting Period}}$$

**“Total Number of Sustained Customer Interruptions”** means the sum of the number of interrupted customers for each interruption event during the reporting period. Customers who experienced multiple interruptions during the reporting period are counted for each interruption event the customer experienced during the reporting period.

**“Total Number of Customers Served”** means the number of customers provided with electric service by the distribution facility for which a reliability index is being calculated on the last day of the time period for which the reliability index is being calculated. This number should exclude all street lighting (dusk-to-dawn lighting, municipal street lighting, traffic lights) and sales to other electric utilities.

**“Transmission facilities”** means electric facilities located in Delaware and owned by a public utility that operate at voltages above 34,500 volts and that are used to transmit and deliver electricity to customers (including any customers taking electric service under interruptible rate schedules as of December 31, 1998) up through and including the point of physical connection with electric facilities owned by the customer.

### 3.0 Electric Service Reliability and Quality

3.1 Each EDC shall provide reliable electric service that is consistent with pre-restructuring service levels

1. ERC definition - NERC’s Reliability Assessment 2001–2010, dated October 16, 2001.

as identified in Section 4. and complies with 26 Del.C., §1002.

3.2 Each EDC shall install, operate, and maintain its delivery facilities in conformity with the requirements of the National Electrical Safety Code and the operating policies and standards of NERC, MAAC and PJM, or their successor organizations.

3.3 Each EDC shall have targeted objectives, programs and/or procedures and forecast load studies, designed to help maintain the acceptable reliability level for its delivery facilities and, where appropriate, to improve performance.

3.4 Each EDC, in accordance with Section 9., shall submit to the Commission, on or before March 31 of each year, a Planning and Studies Report identifying its current year's annual objectives, planned actions and projects, programs, and forecast studies that serve to maintain reliability and quality of service at an acceptable reliability level.

3.5 Each EDC, in accordance with Section 10., shall submit to the Commission, on or before April 30 of each year, a Performance Report that assesses the achievement of the previous year's objectives, planned actions, projects and programs, and assesses the relative accuracy of forecast studies and previous years performance measures with respect to benchmarks.

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

3.7 Each EDC shall ensure that distribution system generation interconnection requirements are consistent with the I.E.E.E. 1547 series, "Standard for Interconnecting Distributed Resources with Electric Power Systems, as currently approved and as may be revised.

3.8 Each EDC shall file and maintain with the Commission a copy of the technical requirements for distribution system generation interconnection.

#### **4.0 Reliability and Quality Performance Benchmarks**

4.1 The measurement of reliability and quality performance shall be based on annual SAIDI and Constrained Hours of Operation measures for each EDC. The SAIDI calculation shall include all Delaware customer outages, excluding major events, and shall be reported along with its SAIFI and CAIDI components, subdivided by its distribution, substation and transmission components. The Constrained Hours of Operations shall be based on peninsula (DPL Zone) transmission system contingency limitations that require the dispatch of off-cost generation, excluding generation or transmission forced outages, generation or transmission related construction or any unrelated third party actions.

4.2 Each EDC shall maintain their electric service reliability and quality performance measures within the benchmark standard of this Section 4, Paragraph.3. SAIDI and Constrained Hours of Operation performance shall be measured each calendar year. Annual SAIDI and Hours of Constrained Operation performance equal to or better than the acceptable reliability level meets the standard of this regulation. When performance does not meet the acceptable reliability level, further review and analysis are required. The EDC may be subject to penalties as defined in Section 13. and subsequent corrective actions may be required.

4.3 For the EDCs, the electric service reliability and quality performance benchmarks are established as follows:

4.3.1 The system SAIDI benchmark standard, which is based on pre-restructuring levels of performance and adjusted to reflect a 1.75 standard deviation of data variability and the transition to an OMS system shall be as follows:

4.3.1.1 Delaware Electric Cooperative SAIDI shall be 635 minutes per customer; and

4.3.1.2 Delmarva Power SAIDI shall be 295 minutes per customer.

4.3.2 Based on the PEPCO/Conectiv merger settlement, the Constrained Hours of Operation benchmark standard shall be 600 hours for each EDC.

4.4 Each EDC shall track and report its annual performance and three-year average performance against benchmark standards in accordance with Section 10.

4.5 Each EDC shall track and report its annual CAIDI, SAIFI, CEMI8 and CELID8 performance in accordance with Section 10.

#### **5.0 Reliability and Quality Performance Objectives**

5.1 Each EDC shall establish electric service reliability and quality performance objectives for the forthcoming year. Objectives shall include:

5.1.1 Anticipated performance measures designed to maintain reliable electric distribution service

with a description of any planned actions to achieve target objectives;

5.1.2 Anticipated performance measures designed to maintain transmission circuits and power transformers with a description of any planned actions to achieve target objectives; and

5.1.3 Annual corrective, preventive and total maintenance program hours and costs anticipated on Delaware transmission circuits, distribution circuits and substation equipment.

5.2 Performance objective measures shall be established to support the maintenance of electric reliability performance. Performance objectives shall be representative of expected performance, taking into consideration anticipated new construction projects, power quality and maintenance programs, planned actions and any resource or time limitations.

## **6.0 Power Quality Program**

6.1 Each EDC shall maintain a power quality program with clearly stated objectives and procedures designed to respond promptly to customer reports of power quality concerns.

6.2 Each EDC shall consider power quality concerns in the design, construction and maintenance of its transmission and distribution power delivery system components to mitigate, using reasonable measures, power quality disturbances that adversely affect customers' equipment.

6.3 Each EDC shall maintain records of customer power quality concerns and EDC response. These records shall be made available to the Commission Staff upon request with 30 days notice.

## **7.0 Inspection and Maintenance Program**

7.1 Each EDC shall have an inspection and maintenance program designed to maintain delivery facilities performance at an acceptable reliability level. The program shall be based on industry codes, national electric industry practices, manufacturer's recommendations, sound engineering judgment and past experience.

7.2 As a maintenance minimum, each EDC shall inspect and maintain as necessary its power transformers, circuit breakers, substation capacitor banks, automatic 3-phase circuit switches and all 600 amp or larger manually operated, gang transmission circuit tie switches at least once every two (2) years.

7.3 As a maintenance minimum, each EDC shall inspect all right-of-way vegetation at least once every four (4) years and trim or maintain as necessary, according priorities to circuits that have had significant numbers of vegetation-related outages, while not unduly delaying the trimming of other circuits that inspections indicate currently need trimming. Vegetation management practices should be applied at least once every four (4) years except where growth or other assessments deem it unnecessary.

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

## **8.0 Delivery Facility Studies**

8.1 Each EDC shall perform system load studies to identify and examine potential distribution circuit overloads, distribution substation and distribution substation supply circuit single contingencies and all transmission system single and double contingencies as specified by NERC, MAAC, Reliability First Corp. and PJM or successor requirements. Double contingency analysis should include supply service contingencies that may cause overloads or outages on the EDC's system. Where NERC, MAAC, Reliability First Corp or PJM requirements are not applicable, the EDC shall at a minimum examine circuit and equipment overloads under normal and single contingency conditions at peak load, with and without ALM or other demand response mechanisms. The EDC shall identify all projects and/or corrective actions that are planned to mitigate reliability loading issues identified in the study.

8.2 Delivery facility planning studies will be performed annually under conditions specified by NERC, MAAC, Reliability First Corp. and PJM or their successor organization's planning requirements, or as specified in 8.1. Studies shall identify required projects and/or planned corrective actions. For any study resulting in a thermal overload or an out-of-range voltage level, the study shall be performed again after the implementation of Active Load Management (ALM), system switching or reconfiguration.

8.3 Each EDC shall perform the electric delivery facility system planning studies as described herein in the fall of each year (year a) for the upcoming summer period (year b) and for the summer period two years later (year c). The planning studies will include all delivery facility enhancements planned to be in-service during the applicable summer peak and shall identify those delivery facilities that are anticipated to be overloaded during the peak demand period.

**9.0 Planning and Studies Report**

9.1 Prior to March 31 of each year, each EDC shall convene a stakeholder meeting offering opportunity for interested parties to discuss electric service reliability or quality concerns within Delaware. Such meeting shall be limited to discussion of publicly available information and at a minimum be open to generation companies, electric suppliers, municipals or other EDCs, PJM, state agencies and wholesale/retail consumers. Each EDC shall consider the resulting issues and include mitigation efforts in annual plans as appropriate.

9.2 By March 31 of each year, each EDC shall submit a reliability planning and studies report to the Commission for review. The report will identify current reliability objectives, load study results and planned actions, projects or programs designed to maintain the electric service reliability and quality of the delivery facilities.

9.3 The report shall include the following information:

9.3.1 Objective targets or goals in support of reliable electric service and descriptions of planned actions to achieve the objectives;

9.3.2 Delivery load study results as described in Section 8., to include at a minimum the information for both year b and year c as specified in Section 8., Paragraph 3.;

9.3.3 Description and estimated cost of capital projects planned to mitigate loading or contingent conditions identified in load studies or required to manage hours of congestion;

9.3.4 The EDC's power quality program and any amendments as required in Section 6.;

9.3.5 The EDC's inspection and maintenance program, any amendments as required in Section 7., and any specific actions aimed at reducing outage causes;

9.3.6 Copies of all recent delivery facility planning studies and network capability studies (including CETO and CETL results) performed for any delivery facilities owned by the utility; and

9.3.7 Summaries of any changes to reliability related requirements, standards and procedures at PJM, MAAC, First Reliability Corporation, NERC or the EDC.

9.3.8 Summary of any issues that resulted from the EDC stakeholder meeting and any projects or planning changes that may have been incorporated as a result of such meeting.

**10.0 Annual Performance Report**

10.1 By April 30 of each year, each EDC shall submit an annual Performance Report, summarizing the actual electric service reliability results. The report shall include the EDC's average three-year performance results, actual year-end performance measure results and an assessment of the results/effectiveness of the reliability objectives, planned actions and projects, programs, and load studies in achieving an acceptable reliability level.

10.2 Delivery facilities year-end performance measures, as established in Section 4., Paragraph 1. shall be reported as follows:

10.2.1 SAIDI, SAIFI, and CAIDI measures:

10.2.1.1 Current year and three-year average reflecting Delaware performance, classified by distribution, substation and transmission components; and

10.2.1.2 Current year for each feeder circuit providing service to Delaware customers, regardless of state origin.

10.2.2 Constrained hours of operation:

10.2.2.1 Current year and three-year average for the EDC's DPL Zone transmission system; and

10.2.2.2 Current year for the EDC's DPL Zone, classified by cause.

10.3 The Performance Report shall identify 2% of distribution feeders or 10 feeders, whichever is more, serving at least one Delaware customer, that are identified by the utility as having the poorest reliability. The EDC shall identify the method used to determine the feeders with poorest reliability and shall indicate any planned corrective actions to improve feeder performance and target dates for completion or explain why no action is required. The EDC shall ensure that feeders, identified as having the poorest reliability, shall not appear in any two consecutive Performance Reports without initiated corrective action.

10.4 The Performance Report shall include annual information that provides the Commission with the ability to assess the EDC's efforts to maintain reliable electric service to all customers in the state of Delaware. Such reporting shall include the following items:

10.4.1 Current year expenditures, labor resource hours, and progress measures for each capital and/or maintenance program designed to support the maintenance of reliable electric service, to include:

- 10.4.1.1 Transmission vegetation maintenance;
- 10.4.1.2 Transmission maintenance, excluding vegetation, by total, preventive, and corrective categories;
- 10.4.1.3 Transmission capital infrastructure improvements;
- 10.4.1.4 Distribution vegetation maintenance;
- 10.4.1.5 Distribution maintenance, excluding vegetation, by total, preventive and corrective categories;
- 10.4.1.6 Distribution capital infrastructure improvements;
- 10.4.1.7 Transmission and Distribution progress per Section 7., Paragraph 2. and 3.;
- and
- 10.4.1.8 Any related process, practice or material improvements.
- 10.4.2 Current year OMS data to include:
- 10.4.2.1 Number of outages by outage type;
- 10.4.2.2 Number of outages by outage cause;
- 10.4.2.3 Total number of customers at year end;
- 10.4.2.4 Total number of customers that experienced an outage; and
- 10.4.2.5 Total customer minutes of outage time.
- 10.4.3 Current year CELID8 and CEM18 results, exclusive of major events, including any efforts being made to reduce the occurrences of multiple outages or long duration outages.
- 10.4.4 Current year customer satisfaction or other measures the EDC believes are indicative of reliability performance.
- 10.5 The Performance Report shall include a summary of each major event for which data was excluded, and an assessment of the measurable impact on reported performance measures.
- 10.6 In the event that an EDC's reliability performance measure does not meet an acceptable reliability level for the calendar year, the Performance Report shall include the following:
- 10.6.1 For not meeting SAIDI, an analysis of the customer service interruption causes for all delivery facilities by dispatch, response and repair times that significantly contributed to not meeting the benchmark;
- 10.6.2 For not meeting Constrained Hours of Operation, an analysis of significant constraints by cause;
- 10.6.3 A description of any corrective actions that are planned by the EDC and the target dates by which the corrective action shall be completed; and
- 10.6.4 If no corrective actions are planned, an explanation shall be provided.
- 10.7 The Performance Report shall include copies of current procedures identifying methods the EDC uses to ensure the electric supplier delivery of energy to the EDC at locations and in amounts which are adequate to meet each electric supplier's obligation to its customers.
- 10.8 The Performance Report shall include certification by an officer of the EDC of the data and analysis and that necessary projects, maintenance programs and other actions are being performed and adequately funded by the Company as addressed in its annual plans.
- 10.9 Unless a generation company participates in the Generation Working Group, each generation company shall submit by April 30 of each year an annual Reliability Performance Report. The performance report shall include the individual unit and average station forced outage rates and any anticipated changes that may impact the future adequacy of supply. Each generation company shall also provide the Commission with at least a one-year advanced notification of any planned unit retirements, planned re-powerings or planned long-term unit de-ratings.
- 10.9.1 The performance report required by Section 10.9 shall include the individual unit and average station forced outage rates and any anticipated changes that may impact the future adequacy of supply.
- 10.9.2 Each generation company not a member of a Generation Working Group shall also provide the Commission with at least a one-year advanced notification of any planned unit retirements, planned re-powerings or planned long-term unit de-ratings.
- 10.10 In lieu of submission of an annual Reliability Performance and one-year advanced notification, as required in Section 10.9, Generation companies may voluntarily participate in a Generation Working Group.
- 10.10.1 The Commission shall designate one member of the Commission Staff to chair the Working Group. Such individual shall be referred to as the "Commission Staff Member."
- 10.10.2 Meetings of the Generator Working Group shall be no less frequently than semi-annually, and shall be scheduled by the Commission Staff Member.

10.10.3 The purpose of the semi-annual meetings will be for the Commission Staff Member and the participating Generation company or companies, as the case may be, to agree upon the specific parameters of generation information to be provided by member Generation companies to the Commission and how and when such information should be presented to the Commission. The specific parameters and presentation of information need not be identical for Generation Company, as agreed by the Generator Working Group.

10.10.4 In the event of a disagreement between the Commission Staff Member and a Generation company, the Generator Working Group will attempt to resolve the disagreement by consensus. If consensus cannot be achieved in a reasonable time, the Generator Working Group or any member may request a determination by the Commission of the issue.

10.10.5 To allow Generation companies to participate openly without disclosing commercially-sensitive information to each other, the semi-annual Working Group meetings may be supplemented with meetings between the Commission Staff Member and individual Generation companies. Such individual meetings may be requested, on an as needed basis, by the Commission Staff Member or by a Generation company.

10.10.6 The Generation company or companies, as the case may be, shall use its or their best efforts to provide the requested information within an agreed-upon period of time.

10.10.7 The Commission and each member of the Generator Working Group shall implement all steps necessary to protect the confidentiality of commercially sensitive information provided by the Generation company or companies, as the case may be.

10.10.8 Each member of the Generator Working Group reserves the right to not provide information of a commercially-sensitive nature to all or some of the members of the Generator Working Group unless and until it obtains legally sufficient protection against non-disclosure of such information, and each such member shall take reasonable steps to procure such legally sufficient protection, to the extent these Rules do not constitute such protection.

10.10.9 Any Generation company participating in the Generator Working Group may withdraw at any time.

## **11.0 Major Event Report**

11.1 Each EDC shall notify the Commission of major events as soon as practical, but not more than 36 hours after the onset of a major event. Initial notification is required when more than 10% of an EDC's customers experience a sustained outage during a 24 hour period; however, I.E.E.E. 1366 standard shall apply to all performance calculations.

11.2 Each EDC is expected to restore service to customers as quickly and safely as permitted by major event conditions. The EDC's restoration effort may be subject to review, subsequent corrective actions and penalties as permitted by 26 **Del.C.** §1019.

11.3 The EDC shall, within 15 business days after the end of a major event, submit a written report to the Commission, which shall include the following:

11.3.1 The date and time when the EDC's major event control center opened and closed;

11.3.2 The total number of customers out-of-service over the course of the major event in six hour increments;

11.3.3 The date and time when 75 %, 95% and 100% of customers affected by a major event were restored;

11.3.4 The total number of trouble assignments repaired, by facility classification (poles, miles of wire, transformers);

11.3.5 The time at which the mutual aid and non-company contractor crews were requested, arrived for duty and were released, and the mutual aid and non-contractor response(s) to the request(s) for assistance; and

11.3.6 A timeline profile in six-hour increments of the number of company line crews, mutual aid crews, non-company contractor line and tree crews working on restoration activities during the duration of the major event, summarized by total number of line, bucket, trouble, and tree types.

## **12.0 Prompt Restoration of Outages**

12.1 Each EDC shall strive to restore service as quickly and as safely as possible at all times EDCs shall begin the restoration of service to an affected service area within two hours of notification by two or more customers of any loss of electric service. In situations where it is not practical to respond within two hours to a reported interruption

(safety reasons, inaccessibility, multiple simultaneous interruptions, storms or other system emergencies), the EDC shall respond as soon as the situation permits.

12.2 Each EDC shall monitor dispatch, response and repair times for customer outages. In the event that average annual dispatch, response or repair performance times exceed the EDC's expected levels for the calendar year, the EDC shall include the following in its annual performance report.

12.2.1 An analysis of the factors which caused the unexpected performance; and

12.2.2 A description of any corrective actions planned by the EDC to meet expected performance levels.

12.3 Each EDC shall have outage response procedures that place the highest priority on responding to emergency situations for which prompt restoration is essential to public safety. These procedures should include recognition of priority requests that may come from police, fire, rescue, authorized emergency service providers or public facility operators.

### **13.0 Penalties and Other Remedies**

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

13.2 An EDC shall be considered in violation of the SAIDI or Constrained Hours of Operation performance benchmark standard when the annual year-end cumulative measure exceeds the benchmark standard. The term of the violation shall extend for the period of time during which the performance measure exceeded the benchmark standard.

13.3 Upon failure of any EDC to meet performance benchmark standards, the EDC shall report monthly, or over such other period of time that the Commission shall establish by order, the latest performance indices, until such time as performance meets the acceptable reliability level.

13.4 Each EDC not meeting performance benchmark standards as required by Section 4., shall inform its customers, in writing, of the results and plans to improve electric service reliability and quality by July 1 of the year following any year in which its performance does not meet an acceptable reliability level.

13.5 Each violation of any reporting rule or performance standard of this regulation shall constitute a single, separate and distinct violation for that particular day. Each day during which a violation continues shall constitute an additional, separate and distinct violation. Provided, however, that a violation of a performance measure shall not be deemed to be a violation per customer, whether affected or otherwise, but shall constitute a single Delaware-wide violation for the day.

13.6 In a proceeding to determine penalties or other remedial measures for any violation, but particularly with respect to the Constrained Hours of Operation, the Commission should consider the extent to which the measure or reporting requirement did not meet the established standard and the extent to which the EDC may have implemented cost-effective efforts to comply with the requirement.

13.7 Penalty assessments are payable as provided by Delaware statute.

### **14.0 Outage and Control Systems**

14.1 Each EDC shall implement and maintain an Outage Management System (OMS) and a Supervisory Control and Data Acquisition System (SCADA) as described in this section by January 1, 2007.

14.2 The OMS, at a minimum, shall consist of an outage assessment software program, integrated with a geographic information system that permits an EDC to effectively manage outage events and restore customer service in a timely manner.

14.3 The OMS should permit the EDC to:

14.3.1 Group customers who are out of service to the most probable interrupting device that operated;

14.3.2 Associate customers with distribution facilities;

14.3.3 Generate street maps indicating EDC outage locations;

14.3.4 Improve the management of resources during a storm;

14.3.5 Improve the accuracy of identifying the number of customers without electric service;

14.3.6 Improve the ability to estimate expected restoration times;

14.3.7 Accurately identify the number and when customers were restored; and

14.3.8 Effectively support the dispatch of crews and/or service personnel.

14.4 The SCADA system, at a minimum, shall consist of a remote monitoring and operating ability for all major substation equipment integral to maintaining the reliability of the system. The system will have the ability to:

14.4.1 Monitor and record critical system load data and major equipment status;

14.4.2 Provide remote operational control over major equipment; and

14.4.3 Incorporate generally accepted utility industry safety and security standards.

## 15.0 Reporting Specifications and Implementation

15.1 Planning and Studies Reports, Performance Reports and Major Event Reports provided under this regulation are subject to annual review and audit by the Commission. Each EDC and generation company must maintain sufficient records to permit a review and confirmation of material contained in all required reports.

15.2 Reports shall be submitted as an original and 5 paper copies with one additional copy submitted electronically to the Secretary, Delaware Public Service Commission, with certification of authenticity by an officer of the corporation. The electronic copy may be posted on the Delaware Public Service Commission's Internet website.

15.3 Each EDC or generation company may request that information, required under this regulation, be classified as confidential, proprietary and/or privileged material. The requesting party must attest that such information is not subject to inspection by the public or other parties without execution of an appropriate proprietary agreement. Each party requesting such treatment of information is also obligated to file one (1) additional electronic and paper copy of the information, excluding the confidential or proprietary information. The Commission, in accordance with Rule 11, Rules of Practice and Procedure of the Delaware Public Service Commission, effective May 10, 1999, will treat such information as "confidential, not for public release" upon receipt of a properly filed request. Any dispute over the confidential treatment of information shall be resolved by the Commission, designated Presiding Officer or Hearing Examiner.

15.4 This regulation replaces the Interim Regulation and is effective 10 days after publication in the *Delaware Register*; however, for the initial 2006 year, Planning and Studies reports are due March 31, 2006; Performance reports are due April 30, 2006, and compliance shall be based upon, in all respects, the standards and requirements of the Interim Regulations. Thereafter, and beginning January 1, 2007, EDC compliance shall be based upon the standards and requirements of these revised regulations.

**Symbol Key**

Arial type indicates the text existing prior to the regulation being promulgated. Underlined text indicates new text added at the time of the proposed action. Language which is ~~stricken~~ through indicates text being deleted. **[Bracketed Bold language]** indicates text added at the time the final order was issued. ~~**[Bracketed-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.

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**DEPARTMENT OF AGRICULTURE  
DELAWARE FOREST SERVICE**

Statutory Authority: 3 Delaware Code, Sections 1008 and 1011 (3 **Del.C.** §§1008 and 1011)  
3 **DE Admin. Code** 402

**ORDER ADOPTING REGULATIONS****I. Nature of Proceedings**

Pursuant to its authority under 3 **Del.C.** §1008 and §1011, the State of Delaware, Department of Agriculture, Forest Service (the "Department") proposed to amend its regulations. The Department's purpose in proposing these amendments was to clarify existing regulations.

Notice of a public comment period of thirty (30) days relating to the Department's proposed amended regulations was published in the Delaware *Register of Regulations* for April 1, 2006. The Department solicited written comments by the public concerning its proposed amended regulations. This is the Department's Decision and Order adopting the proposed amended regulations.

**II. Public Comments**

The Department received no written comments in response to the notice of intention to adopt the proposed amended regulations.

**III. Findings and Conclusions**

The public was given the required notice of the Department's intention to adopt the proposed amended regulations and was given ample opportunity to provide the Department with comments opposing the Department's plan. Thus, the Department concludes that its consideration of the proposed amended regulations was entirely within its prerogatives and statutory authority and, having received no comments opposed to adoption, is now free to adopt

them.

#### **IV. Order**

AND NOW, this 7th day of June, 2006 it is hereby ordered that:

1. The proposed amendments to the Department's regulations are adopted;
2. The text of the regulations shall be in the form attached hereto as Exhibit A;
3. The effective date of this Order is ten days from the date of its publication in the Delaware *Register of Regulations* in accordance with 29 **Del.C.** §10118(e); and
4. The Department reserves unto itself the authority to issue such other and further orders concerning its practices and procedures as may be just and proper.

#### **IT IS SO ORDERED.**

By: Michael T. Scuse, Secretary  
Delaware Department of Agriculture

**\* Please note that no changes were made to the regulation as originally proposed and published in the April 2006 issue of the *Register* at page 1425 (9 DE Reg. 1425). Therefore, the final regulation is not being republished. Please refer to the April 2006 issue of the *Register* or contact the Delaware Forest Service for more information.**

**A complete set of the rules and regulations for the Delaware Forest Service are available at:  
[http://www.state.de.us/research/AdminCode/title3/400/402.shtml#P2\\_18](http://www.state.de.us/research/AdminCode/title3/400/402.shtml#P2_18)**

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## **DEPARTMENT OF EDUCATION**

### **OFFICE OF THE SECRETARY**

Statutory Authority: 14 Delaware Code, Sections 1220(a) (14 **Del.C.** §1220(a))  
14 **DE Admin. Code** 103

#### **ORDER**

#### **103 Accountability for Schools, Districts and the State**

##### **I. Summary of the Evidence and Information Submitted**

The Secretary of Education seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 103 Accountability for Schools, Districts and the State in order to amend sections 3.0, 4.1, 5.0, 6.6, 7.1.1 and 7.1.2. The amendment to 3.0 will enable school districts to choose to either track students back to the school of residence or to make the school that is providing the instruction the accountability school for students in an intradistrict intensive learning center or intradistrict special school or program. The school district is required to notify the Department of Education of its decision by May 15, 2006 and the decision must remain in effect for the second year. The amendment to 4.1 will require schools to use the highest test scores a student receives in the AYP calculation when the student is tested a second time as part of the state mandated summer school program. The amendment to 5.0 allows for the composite score for the State Progress Determination to be a two year average or current year, whichever is higher. The amendment in 6.6 adds the Academic Watch category. The amendments to 7.1.1 and 7.1.2 require that Title I schools provide supplemental services to students in Year 1 of School Improvement and federal school choice and supplemental services in Year 2 of School Improvement. The amendments to 4.1 and 7.1.1 and 7.1.2 are subject to federal approval of amendments made to the State's Accountability Workbook for the federal ESEA Act.

A statement concerning monitoring of student assignments by the Department of Education has been added to 3.1.

Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on April

24, 2006, in the form hereto attached as *Exhibit "A"*. Comments were received from the Governor's Advisory Council for Exceptional Children and the State Council for Persons with Disabilities. The Councils objected to amendment 3.1 that grants districts the option of counting intradistrict ILC, special school, and special school program students with the "home school" or the receiving ILC, special school or special school program. The Department's response is as follows. This change was one that was recommended by the statewide No Child Left Behind Stakeholder group. The DOE agreed to submit the recommended change to the U.S. Department of Education and to change the regulations for determining accountability accordingly. For this group of students, the funding does follow the child and goes to the school providing the instruction. Similarly, districts argued that staff providing the instructional services to these children should be included in the accountability process and this change ensures that.

Further, the Department has added a provision to section 3.1 clarifying that the Department will monitor the assignment to ensure students in tuition based programs are appropriately assigned.

The Councils also opposed the proposed amendment to 3.1 as a potential violation of Section 504 of the Rehabilitation Act and ADA. The Department's response is as follows. The students in alternative settings as described by section 3.1 are placed in such settings for a pre-determined length of time usually not exceeding 180 school days or one school year. Clearly these placements are transitory ones. Further, the funding for these students remains with the school of residence unlike students in tuition based special schools or programs.

## **II. Findings of Facts**

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 103 in order to enable school districts to choose to either track students back to the school of residence or to make the school that is providing the instruction the accountability school for students in an intradistrict intensive learning center or intradistrict special school or program. The amendments will also require that Title I schools provide supplemental services to students in Year 1 of School Improvement and federal school choice and supplemental services in Year 2 of School Improvement.

## **III. Decision to Amend the Regulation**

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 103. Therefore, pursuant to 14 **Del.C.** §154,155 and 156, 14 **DE Admin. Code** 103 attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 103 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 14 **DE Admin. Code** 103 amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 103 in the *Administrative Code of Regulations* for the Department of Education.

## **V. Effective Date of Order**

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §154,155 and 156 on June 15, 2006. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

**IT IS SO ORDERED** the 15<sup>th</sup> day of June 2006.

### **DEPARTMENT OF EDUCATION**

Valerie A. Woodruff, Secretary of Education

Approved this 15<sup>th</sup> day of June 2006

### **STATE BOARD OF EDUCATION**

Jean W. Allen, President

Richard M. Farmer, Jr., Vice President  
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## 103 Accountability for Schools, Districts and the State

### 1.0 Accountability

1.1 Accountability: All public schools, including charter schools, reorganized and ~~vocational-technical~~ career technical school districts and the state shall be subject to the calculation and reporting of Adequate Yearly Progress (AYP) as prescribed by the federal Elementary and Secondary Education Act (ESEA), 20 U.S. C.A. §6301 et seq. Additionally, public schools, including charter schools, reorganized and ~~vocational-technical~~ career technical school districts shall be subject to the applicable rewards, sanctions and other accountability activities as prescribed in this regulation.

**7 DE Reg. 57 (7/1/03)**

### 2.0 Adequate Yearly Progress (AYP)

2.1 Adequate Yearly Progress shall be determined by the Department of Education for all public schools, including charter schools, reorganized and ~~vocational-technical~~ career technical school districts and the State on an annual basis. In order for a public school, including a charter school, reorganized or career technical school district or the State to meet AYP, the aggregate student population and each subgroup of students as identified in ESEA, must meet or exceed the target for percent proficient using a confidence interval to be determined by the Department of Education in the state assessments of reading and language arts and mathematics; 95% of the students as an aggregate and within each subgroup must participate in the state assessments of reading and language arts and mathematics, and the respective entity must meet the requirements of the Other Academic Indicator(s) as defined in 2.6. In calculating the percent proficient each year, the state will average the most recent two years of percent proficient (including the current year's percent proficient) and compare the results to the current year percent proficient. The highest percent proficient score will be used to determine the school, district or State AYP status.

2.1.1 Adequate yearly progress shall include three levels: Above Target, Meets Target and Below Target.

2.1.1.1 Above Target shall mean that the school, district or State in the aggregate student population and for each subgroup exceeds the annual target in English language arts and mathematics for percent proficient as defined in 2.3 and further meets the criteria for participation as defined in 2.4 and Other Academic Indicator(s) as defined in 2.6.

2.1.1.2 Meets Target shall mean that the school, district or State in the aggregate student population and for each subgroup meets the annual target in English language arts and mathematics with or without the application of a confidence interval for percent proficient as defined in 2.3 or meets the criteria of Safe Harbor defined in 2.5, and further meets the criteria for participation as defined in 2.4 and Other Academic Indicator(s) as defined in 2.6.

2.1.1.3 Below Target shall mean that the school, district or State in the aggregate student population and for each subgroup did not meet the annual target in English language arts and mathematics through the application of a confidence interval for percent proficient as defined in 2.3 or does not meet the criteria of Safe Harbor defined in 2.5, or does not meet the criteria for participation as defined in 2.4 or does not meet the criteria of Other Academic Indicator(s) as defined in 2.6.

2.2 Full academic year for accountability:

2.2.1 For school accountability students enrolled continuously in the school from September 30 through May 31 of a school year including those students identified in 3.1 and 3.2, shall be considered enrolled for a full academic year.

2.2.2 For district accountability students enrolled continuously in the district (but not necessarily the same school), from September 30 through May 31 of a school year, including those students identified in 3.1 and 3.2, shall be considered enrolled for a full academic year.

2.2.3 For state accountability students enrolled continuously in the state (but not necessarily the

same school or district) from September 30 through May 31 of a school year shall be considered enrolled for a full academic year.

2.3 Proficient: For accountability purposes students who score at Performance Level 3 (Meets the Standard) or above and who have met the requirements of a Full Academic Year as defined in 2.2 shall be deemed proficient. Students who score at Performance Level 2 or Level 1 who have met the requirements of a Full Academic Year as defined in 2.2 shall not meet the definition of proficient.

2.4 Participation Rate: For accountability purposes in school years 2002-2003 through 2004-2005, the participation rate for each subgroup, all public schools, including charter schools, districts, and the State, shall be the number of students who participate in the DSTP in grades 3,5, 8 and 10 divided by the number of students enrolled in these tested grades during the testing period. Beginning with the 2005-2006 school year the participation rate shall include the number of students who participate in the DSTP in grades 3 through 8 inclusive and grade 10 divided by the number of students enrolled in these tested grades during the testing period. Students exempted by 14 **DE Admin. Code** 101.9.0 shall be included in the participation rate calculation unless their medical condition prevents them from being in school during the testing period.

2.5 Safe Harbor: For accountability purposes if a school, district or the State fails to meet the target for percent proficient for a given subgroup or for the entity in aggregate, Safe Harbor provisions shall be examined for that group. When the percentage of students in a subgroup not meeting the definition of proficient decreases by at least 10% when compared to the previous year's data, the participation rate for the population is at least 95%, and the subgroup meets the requirements of the Other Academic Indicator(s) as defined in 2.6. the subgroup will have met AYP.

2.6 Other Academic Indicator(s):

2.6.1 High School: For AYP purposes, the Other Academic Indicator(s) shall be graduation rate as defined as the number of students in one cohort who started in the school, the district or the state in 9<sup>th</sup> grade and graduated four years later or in the time frame specified in the Individual Education Program (IEP), excluding students who earn a GED certificate, divided by the same number plus those that have dropped out during the same four year period.

2.6.1.1 The statewide target for the high school Other Academic Indicator shall be a graduation rate of 90% by the school year 2013-2014. The statewide target for 2003-2004 shall be 75% and shall increase by 1.5% each year until 90% is reached in 2013-2014. Beginning with the school year 2002-2003, if the graduation rate is used for Safe Harbor purposes, the high school shall maintain its graduation rate or show positive progress when compared to the previous year or meet or exceed the statewide target for that school year.

2.6.1.2 A school that does not maintain its graduation rate or show positive progress from the previous year or meet or exceed the statewide target for that school year shall be considered as not meeting AYP for that year.

2.6.2 Elementary and Middle School: For AYP purposes, the Other Academic Indicator for elementary and middle schools shall be determined by improvement of the scores of the low achieving students, defined as students performing below Performance Level 3, in reading and mathematics combined or a decrease in the percent of students scoring at Performance Level 1 in reading and mathematics. The average scale score for the students who perform at Performance Level 1 and 2 in reading and mathematics combined shall be determined for the current and previous years. The scores from the current year will be compared to the previous year to determine if the school has shown progress. A confidence interval determined by the Department of Education shall be applied to the average scale scores when making this determination. Students included in this calculation shall have been in the school for a full academic year.

2.6.2.1 The statewide target for the elementary and middle school Other Academic Indicator shall be 0% of students scoring at Performance Level 1 in reading and mathematics by the school year 2013-2014. Beginning with the school year 2003-2004, when compared to the previous year, the school or subgroup, if used for Safe Harbor purposes, shall maintain or show improvement of the scores of the low achieving students in reading and mathematics combined or show that the percent of students at Performance Level 1 in reading and mathematics has decreased from the previous year.

2.6.2.2 An elementary or middle school that does not maintain or show improvement of the scores of the low achieving students in reading and mathematics combined or show that the percent of students at Performance Level 1 in reading and mathematics has decreased from the previous year shall be considered as not meeting AYP for that year.

2.6.3 For state and district accountability purposes, the state or a district shall be expected to meet the requirements in 2.6.1.2 and 2.6.2.2.

2.7 Annual Objective: The annual objectives for reading/language arts and mathematics shall be determined by the Department of Education and published annually. The annual objectives shall be the same for all schools, districts and subgroups of students.

2.8 Intermediate Target: There shall be seven intermediate targets with the first intermediate target occurring in the 2004-2005 school year. The second intermediate target shall occur in 2006-2007; the third in 2008-2009; the fourth in 2009-2010; the fifth in 2010-2011, the sixth in 2011-2012 and the seventh in 2012-2013. By the end of the school year 2013-2014, all students in all subgroups shall be proficient in reading and language arts and mathematics. The intermediate targets shall be calculated using the procedures as prescribed by the federal Elementary and Secondary Education Act (ESEA), 20 U.S.C.A. §6301 et seq.

2.9 Starting Point: A single statewide starting point shall be calculated for reading and language arts and a single statewide starting point shall be calculated for mathematics using the procedures as prescribed by the federal Elementary and Secondary Education Act (ESEA), 20 U.S.C.A. §6301 et seq.

2.10 Subgroup categories: For AYP purposes, subgroup categories shall be delineated as follows: 1) Children with Disabilities (as per IDEA); 2) Economically Disadvantaged Students, as determined by eligibility for free and reduced lunch program; 3) Students with Limited English Proficiency, as determined by the language proficiency assessment; and 4) Race and ethnicity, to be further divided into African American and Black, American Indian and Alaska Native, Asian and Pacific Islander, Hispanic, and White. Such subgroup categories shall include all students eligible for the AYP calculation as further defined throughout this Chapter. The "All" categories shall include all students in the entity for which AYP is calculated and who meet all other eligibility criteria for the AYP calculation.

2.11 AYP Determinations

2.11.1 For each public school, including charter schools, reorganized and career technical school districts, and the State, AYP shall be calculated annually.

2.11.2 School AYP: In order to meet AYP, the school shall be classified according to 2.1.1 as Above Target or Meets Target. If there are 15 or more students in the aggregate or in any subgroup the percent proficient, participation rate and Other Academic Indicator shall be reported. If there are 40 or more students in the aggregate or in any subgroup the percent proficient, participation rate and Other Academic Indicator shall be reported and used to determine AYP status and accountability ratings.

2.11.3 District AYP: In order to meet AYP, the district shall be classified according to 2.1.1 as Above Target or Meets Target. If there are 15 or more students in the aggregate or in any subgroup the percent proficient, participation rate and Other Academic Indicator(s) shall be reported. If there are 40 or more students in the aggregate or in any subgroup the percent proficient, participation rate and Other Academic Indicator shall be reported and used to determine AYP status and accountability ratings.

2.11.4 State AYP: In order to meet AYP, the state shall be classified according to 2.1.1 as Above Target or Meets Target. If there are 15 or more students in the aggregate or in any subgroup the percent proficient, participation rate and Other Academic Indicator(s) shall be reported. If there are 40 or more students in the aggregate or in any subgroup the percent proficient, participation rate and Other Academic Indicator shall be reported and used to determine AYP status and accountability ratings.

2.11.5 Under Improvement: A school or district shall be deemed Under Improvement if AYP is not met two consecutive years in the same content area of reading and ~~English~~ language arts or mathematics for percent proficient or for participation rate, or if a school or district in the aggregate does not meet the requirements of the Other Academic Indicator(s) as defined in 2.6.

**7 DE Reg. 1692 (6/1/04)**

**3.0 Accountability School ~~and/or~~ and Accountability District**

For AYP purposes, the school or district to which a student's performance is assigned for a full academic year shall be the Accountability School or District. No student shall have his/her performance assigned to more than one Accountability ~~School/District~~ School or Accountability District in a given school year.

3.1 For a student enrolled in an intradistrict intensive learning center ~~or intradistrict special school or program, intradistrict special school, or intradistrict special school program~~ operating within one or more existing school facilities, ~~the school of residence shall be considered the Accountability School for the student~~ the district has the option of tracking the assessment scores of the students back to the school of residence or to the school or program that is providing the instruction. The school or program shall be the Accountability School. The district shall

communicate its decision regarding this option to the State Department of Education by May 15, 2006. The option that the district decides for accountability purposes for one year must remain the same for the second year. [Further provided, the State Department of Education will monitor the assignment of students to ensure students are appropriately assigned.] For a student enrolled in interdistrict special schools or programs that have an agreement to serve students from multiple school districts, the special school that provides the instructional program shall be considered the Accountability School for that student. For district accountability purposes, the district of residence shall be the district to which these special school students are included for accountability.

3.2 For a student enrolled in an alternative program pursuant to 14 **Del.C.** Ch.16 or the Delaware Adolescent Program, the Accountability School or District shall be the school/district that assigned such student to the program or the ~~school district~~ school or district of residence. The time the students were enrolled in the alternative or transitional program shall be credited to the Accountability School or District.

3.3 For a student who participates in a choice program the Accountability ~~School/District~~ School or District shall be the school or district to which the student has choiced.

3.4 For accountability purposes, a school shall be considered a new school if: less than sixty percent of the students would have been enrolled in the same school together without the creation of the new school; or it is the first year of operation of a charter school; or two or more grade levels have been added to the school or to a charter school's charter.

3.5 If a school is determined not to be a new school, the school shall receive the accountability rating and related consequences of the school in which the majority of students would attend in that year.

**7 DE Reg. 1692 (6/1/04)**

#### 4.0 Assessment Criteria

4.1 For a student who takes a portion of the assessment more than once during the school year, the first score shall be included in the AYP calculation; however, provided a student takes a portion of the assessment because of state mandated summer school attendance in grades 3, 5, or 8 in reading, or grade 8 in mathematics, the highest of the student's scores shall be used to recalculate the AYP determination.

4.2 A student who tests with ~~non-aggregable~~ non aggregable conditions as defined in the Department of Education's *Guidelines for the Inclusion of Students with Disabilities and Students with Limited English Proficiency* shall have his/her earned performance level included in the calculation of AYP.

4.3 For accountability purposes a student who tests but does not meet attemptedness rules as defined in the Department of Education's scoring specifications or otherwise receives an invalid score shall be deemed as not meeting proficiency.

4.4 A student participating in alternate assessments shall have her/his earned performance level included in the AYP calculation consistent with the regulations as prescribed by the federal Elementary and Secondary Education Act (ESEA) 20 U.S. C.A. §6301 et seq. or Individuals with Disabilities Education Act (IDEA).

4.5 Schools with more than one tested grade shall receive a single accountability rating.

4.6 Student performance in a tested grade shall be apportioned in equal weights to each grade in a standards cluster, except that Kindergarten shall be weighted at 10% and grade 10 shall be weighted at 100%. Beginning with the school year 2005-2006 students in grades 4, 5, 6, 7, 8, and 10 will count 100%. Students in grade 3 will continue to be weighted to each grade in the K to 3 standards cluster.

4.7 For AYP purposes the reading and language arts percent proficient shall be based on a combination of the reading and writing DSTP assessments. The reading percent proficient scores shall be weighted to count 90% and the writing percent proficient scores shall be weighted to count 10%.

4.8 For AYP purposes, the mathematics percent proficient shall be based on 100% of the DSTP mathematics assessment.

**7 DE Reg. 1692 (6/1/04)**

#### 5.0 State Progress Determinations

Each school and district shall receive a State Progress Determination of Above Target, Meets Target or Below Target. The State Progress shall be determined by improvement in the composite score of the reading, mathematics, science and social studies DSTP assessments combined. The composite score range shall be from 25 to 125 and is determined by the following formula: Composite Score = 25 (reading score x reading weight) + (math score x math weight) + (science score x science weight) + (social studies score x social studies weight) where: Reading score = (5 x % of students in level 5 in reading) + (4 x % of students in level 4 in reading) + (3 x % of students in level 3 in reading)

+ (2 x % of students in level 2 in reading) + (1 x % of students in level 1 in reading); Math score = (5 x % of students in level 5 in math) + (4 x % of students in level 4 in math) + (3 x % of students in level 3 in math) + (2 x % of students in level 2 in math) + (1 x % of students in level 1 in math)]; Science score = (5 x % of students in level 5 in science) + (4 x % of students in level 4 in science) + (3 x % of students in level 3 in science) + (2 x % of students in level 2 in science) + (1 x % of students in level 1 in science); Social Studies = (5 x % of students in level 5 in social studies) + (4 x % of students in level 4 in social studies) + (3 x % of students in level 3 in social studies) + (2 x % of students in level 2 in social studies) + (1 x % of students in level 1 in social studies). Each of the subject areas shall be weighted equally at 25%. A two year average of the composite score shall be used if it is higher than the current year's composite score.

5.1 Above Target shall mean that the school or district has a minimum composite score of 75.00 for the current year; or the school or district has demonstrated a growth of 6.00 or more points when comparing last year's composite score to the current year's composite score provided the composite score is 45.00 or more.

5.2 Meets Target shall mean that the school or district with a composite score of 61.00 or less than 75.00 in the current year, shall demonstrate a growth of 1.00 or more points when comparing last year's composite score to the current year's composite score. For a school or district with a composite score of 45.00 but less than 61.00 in the current year, the school or district shall demonstrate a growth of 2.00 or more points when comparing last year's composite score to the current year's composite score.

5.3 Below Target shall mean that the school or district has a composite score of less than 45.00; or the school or district does not meet the criteria of 5.2.

**7 DE Reg. 1692 (6/1/04)**

**6.0 Performance Classifications**

Schools and districts shall receive one of five levels of performance classification annually which shall be based on a combination of AYP determinations and State Progress determinations.

6.1 Superior: A school or district's performance is deemed excellent. Schools or districts in this category shall have met AYP while the school or district is not Under Improvement and is a combination of Above Target for AYP and Above Target for State Progress or Above Target for AYP and Meets Target for State Progress or Meets Target for AYP and Above Target for State Progress.

6.2 Commendable: A school or district's performance is deemed above average. Schools or districts in this category shall have met AYP while the school or district is not Under Improvement. Combinations of Above Target for AYP and Below Target for State Progress or Meets Target for AYP and Meets Target for State Progress shall be rated as Commendable. A school or district with a combination of Meets Target for AYP and Below Target for State Progress shall be determined Commendable for no more than one year; if this same combination exists for the school or district in the following year, the school or district shall be rated Academic Review.

6.3 Academic Review: A school or district's performance is deemed acceptable. Schools or districts in this category are not Under Improvement. Combinations of: Below Target for AYP and Above Target for State Progress; or Below Target for AYP and Meets Target for State Progress shall be rated as Academic Review for no more than one year; if the same combination exists for the school or district in the following year, the school or district shall be rated Academic Progress unless the provisions of 6.5 or 6.6 are met. A school or district with a combination of Below Target for AYP and Below Target for State Progress shall be rated as Academic Review unless the provisions of 6.5 and 6.6 are met.

6.4 Academic Progress: A school or district's performance is deemed as needing improvement. Schools or districts in this category shall not be Under Improvement as defined in 2.11.5.

6.5 Academic Progress Under Improvement: A school or district's performance is deemed as needing improvement. Schools or districts in this category shall have met AYP for one year while the school or district is Under Improvement. If a school or district was classified as Academic Watch the prior year, all accountability sanctions from that prior year remain in effect.

6.6 Academic Watch: A school or district's performance is deemed as unsatisfactory. Schools or districts in this category shall not be Under Improvement as defined in 2.11.5.

~~6.67~~ Academic Watch Under Watch Under Improvement: A school or district's performance is deemed as unsatisfactory. Schools or districts in this category shall not have met AYP for two or more consecutive years in the same content area as described in 2.11.5 and shall be Under Improvement.

**7 DE Reg. 1692 (6/1/04)**

## 7.0 Schools ~~and~~ or Districts that are classified as Under Improvement

7.1 Accountability sanctions for schools that are classified as Under Improvement:

7.1.1 Under Improvement Year 1, A<sub>a</sub> school shall review and modify its current School Improvement Plan outlining additional specific school improvement activities to be implemented beginning in this same year. A school designated as Title I shall ~~implement federal ESEA Choice~~ provide supplemental services to students according to the federal ESEA requirements. ~~The school shall follow the district Federal ESEA Choice Program.~~ Schools not designated as Title I shall give priority, as appropriate, within their extra time services to students in those subgroups that have not met the target for percent proficient in the reading/language arts ~~and~~ or mathematics assessments.

7.1.2 Under Improvement Year 2, A<sub>a</sub> school shall continue to review and modify the School Improvement Plan as needed. A school designated as Title I shall ~~continue to offer federal ESEA Choice.~~ In addition a Title I school shall provide supplemental services according to the federal ESEA requirements. Schools not designated as Title I shall give priority, as appropriate, within their extra time services to students in those subgroups that have not met the target for percent proficient in the reading and language arts ~~and/or~~ and or mathematics assessments.

7.1.3 Under Improvement Year 3, A<sub>a</sub> school shall continue with the activities as per 7.1.2. In addition, all schools shall be subject to corrective action as outlined by federal ESEA requirements.

7.1.4 Under Improvement Year 4, A<sub>a</sub> school shall continue with the activities as per 7.1.3. In addition, the school shall develop a plan for restructuring as outlined by federal ESEA requirements and submit such plan to the Secretary of Education. The Secretary of Education shall investigate the reasons for the continued deficiency of the school's performance and shall consult with the State Board of Education prior to making comment.

7.1.5 Under Improvement Year 5, A<sub>a</sub> school shall continue with the activities as per 7.1.2. In addition, the school shall implement the restructuring plan as outlined by federal ESEA requirements.

7.2 Accountability sanctions for districts that are classified as Under Improvement:

7.2.1 Under Improvement Year 1, A<sub>a</sub> district shall develop and implement a District Improvement Plan.

7.2.2 Under Improvement Year 2, A<sub>a</sub> district shall evaluate and modify the District Improvement Plan and shall incorporate such plan into the Consolidated Application.

7.2.3 Under Improvement Year 3, A<sub>a</sub> district shall continue with the activities outlined in 7.2.2. In addition the district shall develop a corrective action plan as outlined by Federal ESEA requirements and submit such plan to the Secretary of Education. The Secretary of Education shall investigate the reasons for the continued deficiency of the district's performance and shall consult with the State Board of Education prior to making comment.

7.2.4 Under Improvement Year 4, A<sub>a</sub> district shall continue with the activities as outlined in 7.2.3. In addition the district and the Department of Education shall evaluate the corrective action plan and make appropriate modifications as needed.

**7 DE Reg. 1692 (6/1/04)**

## 8.0 Review Process

A school or district may review school or district level data, including academic assessment data upon which the proposed classification is based. The school or district shall present statistical evidence or other substantive reasons why the classification should be changed before the final classification will be determined.

8.1 The school or district must file a written notice of review with the Secretary no later than 15 calendar days after receiving preliminary notification of its proposed classification. The request for review shall state with specificity the grounds for the review, and shall be signed by the principal or lead authority of the school, or the signature of the Superintendent of the district. This request for review shall include all supporting evidence and documentation and shall be clear and concise.

8.2 Upon receipt of a written notice of review, the Department of Education shall conduct a review of the evidence or other substantive reasons presented by the school or district.

8.3 The Department of Education shall make a final determination within 30 calendar days from the written notice of review on the proposed classification of the school or district based on the evidence or other substantive reasons presented by the school or district.

**7 DE Reg. 1692 (6/1/04)**

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## PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Sections 1211 and 1213 (14 **Del.C.** §1211 and 1213)  
14 **DE Admin. Code** 1511

### REGULATORY IMPLEMENTING ORDER

#### Regulation 1511 Issuance and Renewal of Continuing License

##### I. Summary of the Evidence and Information Submitted

The Professional Standards Board, acting in cooperation and consultation with the Department of Education, seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 1511 Issuance and Renewal of Continuing License. It is necessary to adopt this regulation to simplify the requirements for the various professional development options to facilitate record keeping and verification of experiences by school districts, charter schools, and other employing authorities. Reference to a temporary certificate has also been deleted, as all temporary certificates have expired.

Notice of the proposed amendment of the regulation was published in the *News Journal* and the *Delaware State News* on March 21, 2006, in the form hereto attached as Exhibit "A". The notice invited written comments. No public comments were received.

##### II. Findings of Facts

The Professional Standards Board and the State Board of Education find that it is appropriate to adopt this regulation to comply with changes in statute.

##### III. Decision to Adopt the Regulation

For the foregoing reasons, the Professional Standards Board and the State Board of Education conclude that it is appropriate to amend the regulation. Therefore, pursuant to 14 **Del.C.** §1205(b), the regulation attached hereto as Exhibit "B" is hereby adopted. Pursuant to the provision of 14 **Del.C.** §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 shall be in the form attached hereto as Exhibit "B", and said regulation shall be cited as 14 **DE Admin. Code** 1511 of the *Administrative Code of Regulations* of the Department of Education.

##### V. Effective Date of Order

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

#### APPROVED BY THE PROFESSIONAL STANDARDS BOARD THE 1ST DAY OF JUNE, 2006

Harold Roberts, Chair  
Sharon Brittingham  
Norman Brown  
Heath Chasanov  
Edward Czerwinski  
Angela Dunsmore  
Barbara Grogg  
Karen Gordon

Bruce Harter  
Leslie Holden  
Carla Lawson  
Mary Mirabeau  
Gretchen Pikus  
Karen Schilling Ross  
Carol Vukelich

**FOR IMPLEMENTATION BY THE DEPARTMENT OF EDUCATION:**

Valerie A. Woodruff, Secretary of Education

IT IS SO ORDERED THIS 15TH DAY OF JUNE, 2006

**STATE BOARD OF EDUCATION**

Jean W. Allen, President

Richard M. Farmer, Jr., Vice President

Mary B. Graham, Esquire

Dr. Claibourne D. Smith

Gregory A. Hastings

Barbara Rutt

Dennis J. Savage

\* Please note that no changes were made to the regulation as originally proposed and published in the April 2006 issue of the *Register* at page 1440 (9 DE Reg. 1440). Therefore, the final regulation is not being republished. Please refer to the April 2006 issue of the *Register* or contact the Department of Education for more information.

A complete set of the rules and regulations for the Department of Education are available at:  
<http://www.state.de.us/research/AdminCode/title14/>

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**PROFESSIONAL STANDARDS BOARD**

Statutory Authority: 14 Delaware Code, Sections 1220(a) (14 **Del.C.** §1220(a))  
14 **DE Admin. Code** 1516

**REGULATORY IMPLEMENTING ORDER****Regulation 1516 Standard Certificate****I. Summary of the Evidence and Information Submitted**

The Professional Standards Board, acting in cooperation and collaboration with the Department of Education, seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 1516 Standard Certificate. The regulation concerns the requirements for certification of educational personnel, pursuant to 14 **Del.C.** §1220(a). It is necessary to amend this regulation to align it with changes in statute. The passage of PRAXIS™ II, a test of content knowledge, is now required, where applicable and available, in addition to academic preparation, for the issuance of a Standard Certificate. That requirement, in addition to a revised definition of "educator", has been added to the regulation.

Notice of the proposed amendment of the regulation was published in the *News Journal* and the *Delaware State News* on November 22, 2005, in the form hereto attached as Exhibit "A". The notice invited written comments. Comments received from the Governor's Advisory Council for Exceptional Citizens, the State Council for Persons With Disabilities, and the Delaware State Education Association. No changes in the regulation were made as a result of the comments.

**II. Findings of Facts**

The Professional Standards Board and the State Board of Education find that it is appropriate to amend this regulation to comply with changes in statute regarding the certification of educators.

**III. Decision to Adopt the Regulation**

For the foregoing reasons, the Professional Standards Board and the State Board of Education conclude that it is appropriate to amend the regulation. Therefore, pursuant to 14 **Del.C.** §1205(b), the regulation attached hereto as Exhibit "B" is hereby adopted. Pursuant to the provision of 14 **Del.C.** §122(e), the regulation hereby amended shall be

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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 shall be in the form attached hereto as Exhibit "B", and said regulation shall be cited as 14 **DE Admin. Code** §1516 in the *Administrative Code of Regulations* for the Department of Education.

**V. Effective Date of Order**

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

**APPROVED BY THE PROFESSIONAL STANDARDS BOARD THE 5TH DAY of JANUARY, 2006**

Harold Roberts, Chair	Bruce Harter
Sharon Brittingham	Leslie Holden
Norman Brown	Carla Lawson
Heath Chasanov	Mary Mirabeau
Edward Czerwinski	Gretchen Pikus
Karen Schilling Ross	Carol Vukelich
Angela Dunmore	Barbara Grogg
Karen Gordon	

**FOR IMPLEMENTATION BY THE DEPARTMENT OF EDUCATION:**

Valerie A. Woodruff, Secretary of Education

**IT IS SO ORDERED THIS 19TH DAY OF JANUARY, 2006**

**STATE BOARD OF EDUCATION**

Jean W. Allen, President  
Richard M. Farmer, Jr., Vice President  
Mary B. Graham, Esquire  
Gregory A. Hastings  
Barbara Rutt  
Dennis J. Savage  
Dr. Claibourne D. Smith

\* Please note that no changes were made to the regulation as originally proposed and published in the April 2006 issue of the *Register* at page 1449 (9 DE Reg. 1449). Therefore, the final regulation is not being republished. Please refer to the April 2006 issue of the *Register* or contact the Department of Education for more information.

A complete set of the rules and regulations for the Department of Education are available at:  
<http://www.state.de.us/research/AdminCode/title14/>

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# FINAL REGULATIONS

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## PROFESSIONAL STANDARDS BOARD

Statutory Authority: 14 Delaware Code, Section 1220(a) (14 **Del.C.** §1220(a))  
14 **DE Admin. Code** 1521, 1522, 1525, 1528, 1534, 1539, 1540, 1541, 1542, 1543, 1548, 1551,  
1554 and 1556

## REGULATORY IMPLEMENTING ORDER

**1521 Standard Certificate Agriculture Teacher; 1522 Business Education Teacher; 1525 Standard Certificate English Teacher; 1528 Standard Certificate World Language Teacher Comprehensive; 1534 Standard Certificate Mathematics Teacher Secondary; 1539 Standard Certificate Social Studies Teacher Secondary; 1540 Standard Certificate Science Teacher Secondary; 1541 Standard Certificate Mathematics Teacher Middle Level; 1542 Standard Certificate Science Teacher Middle Level; 1543 Standard Certificate Art Teacher Comprehensive; 1548 Standard Certificate Music Teacher Comprehensive; 1551 Standard Certificate Physical Education Teacher Comprehensive; 1554 Standard Certificate Reading Specialist; 1556 Standard Certificate Elementary Teacher (Grades K-6)**

### I. Summary of the Evidence and Information Submitted

The Professional Standards Board, acting in cooperation and collaboration with the Department of Education, seeks the consent of the State Board of Education to amend 14 **DE Admin. Code** 1521 Standard Certificate Agriculture Teacher, 1522 Standard Certificate Business Education Teacher, 1525 Standard Certificate English Teacher, 1528 Standard Certificate World Language Teacher Comprehensive, 1534 Mathematics Teacher Secondary, 1539 Standard Certificate Social Studies Teacher Secondary, 1541 Standard Certificate Mathematics Teacher Middle Level, 1542 Standard Certificate Science Teacher Middle Level, 1543 Art Teacher Comprehensive, 1548 Standard Certificate Music Teacher Comprehensive, 1551 Standard Certificate Physical Education Teacher Comprehensive, 1554 Standard Certificate Reading Specialist, and 1556 Standard Certificate Elementary Teacher Certificate. It is necessary to amend these regulations to align them with changes in statute. The passage of PRAXIS' II, a test of content knowledge, is now required, where applicable and available, in addition to academic preparation for the issuance of a Standard Certificate. The definition of "a major or its equivalent" has been added to each regulation. In addition, the requirements for a standard certificate for individuals with a bachelor's degree by no educational experience or course work, have been amended to include a minimum of 15 credits or equivalent professional development, in addition to the passage of PRAXIS' II in the content area to be taught. Comments received from the Governor's Advisory Council for Exceptional Citizens was not incorporated into the regulation, as the suggested deletion exists in **Del.Code**, and the regulation is reflective of Code.

Notice of the proposed amendment of the regulation was published in the News Journal and the Delaware State News on March 21, 2006, in the form hereto attached as Exhibit "A". The notice invited written comments. Comments received from the Governor's Advisory Council for Exceptional Citizens, the State Council for Persons With Disabilities, and the Delaware State Education Association. No changes in the regulation were made as a result of the comments.

### II. Findings of Facts

The Professional Standards Board and the State Board of Education find that it is appropriate to adopt this regulation to comply with changes in statute.

### III. Decision to Adopt the Regulation

For the foregoing reasons, the Professional Standards Board and the State Board of Education conclude that it is appropriate to amend the regulation. Therefore, pursuant to 14 **Del.C.** §1205(b), the regulation attached hereto as Exhibit "B" is hereby adopted. Pursuant to the provision of 14 **Del.C.** §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 shall be in the form attached hereto as Exhibit "B", and said regulation shall be cited as 14 **DE Admin. Code** 11521, 1525, 1528, 1534, 1539, 1540, 1541, 1542, 1548, 1551, 1554, and 1556 of the *Administrative Code of Regulations* of the Department of Education.

## V. Effective Date of Order

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

### APPROVED BY THE PROFESSIONAL STANDARDS BOARD THE 1ST DAY OF JUNE, 2006

Harold Roberts, Chair	Bruce Harter
Sharon Brittingham	Leslie Holden
Norman Brown	Carla Lawson
Heath Chasanov	Mary Mirabeau
Edward Czerwinski	Gretchen Pikus
Karen Schilling Ross	Carol Vukelich
Angela Dunmore	Barbara Grogg
Karen Gordon	

### FOR IMPLEMENTATION BY THE DEPARTMENT OF EDUCATION:

Valerie A. Woodruff, Secretary of Education

IT IS SO ORDERED THIS 15TH DAY OF JUNE, 2006

### STATE BOARD OF EDUCATION

Jean W. Allen, President  
Richard M. Farmer, Jr., Vice President  
Mary B. Graham, Esquire  
Gregory A. Hastings  
Barbara Rutt  
Dennis J. Savage  
Dr. Claibourne D. Smith

## 1521 Standard Certificate Agriculture Teacher

### 1.0 Content

This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 **Del.C.** §1220(a), for Agriculture Teacher **[(Grades K to 12)]**.

### 2.0 Definitions

2.1 The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

**"Certification"** means the issuance of a certificate, which may occur regardless of a recipient's assignment or employment status.

**"Department"** means the Delaware Department of Education.

**"Educator"** means a person licensed and certified by the State under 14 **Del.C.** §1202 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board approved by the State Board. The term 'educator' does not include substitute teachers.

**"Examination of Content Knowledge"** means a standardized test which measures knowledge in a specific content area, such as PRAXIS™ II.

**"Fifteen (15) Credits or Their Equivalent in Professional Development"** means college credits or an equivalent number of hours, with one (1) credit equating fifteen (15) hours, taken either as part of a degree program

or ~~[in addition to apart from]~~ it, from a regionally accredited college or university of a professional development provided approved by the employing school district or charter school.

**“Immorality”** means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator’s effectiveness by reason of his or her unfitness.

**“License”** means a credential which authorizes the holder to engage in the practice for which the license is issued.

**“Major or Its Equivalent”** means a minimum of thirty (30) semester hours of course work in a particular content area.

**“NASDTEC”** means The National Association of State Directors of Teacher Education and Certification. The organization represents professional standards boards, commissions and departments of education in all 50 states, the District of Columbia, the Department of Defense Dependent Schools, the U.S. Territories, New Zealand, and British Columbia, which are responsible for the preparation, licensure, and discipline of educational personnel.

**“NCATE”** means The National Council for Accreditation of Teacher Education, a national accrediting body for schools, colleges, and departments of education authorized by the U.S. Department of Education.

**“Standard Certificate”** means a credential issued to certify that an educator has the prescribed knowledge, skill, or education to practice in a particular area, teach a particular subject, or teach a category of students.

**“Standards Board”** means the Professional Standards Board established pursuant to 14 **Del.C.** §1201.

**“State Board”** means the State Board of Education of the State pursuant to 14 **Del.C.** §104.

**“Valid and Current License or Certificate from Another State”** means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

### 3.0 Standard Certificate

~~In accordance with 14 **Del.C.** §1220(a), the Department shall issue a Standard Certificate as an Agriculture Teacher to an applicant who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:~~

~~3.1 Comprehensive Vocational Agriculture (required for grades 9 to 12, and valid in grades 5 to 8 in a middle-level school).~~

~~3.1.1 Bachelor’s degree from a regionally accredited college or university and,~~

~~3.1.2 Professional Education~~

~~3.1.2.1 Completion of an approved teacher education program in Agriculture Comprehensive~~

~~or,~~

~~3.1.2.2 A minimum of 24 semester hours to include Human Development, Methods of Teaching Agriculture, Identifying and Treating Exceptionalities, Effective Teaching Strategies, Multicultural Education, and,~~

~~3.1.3 Specific Teaching Field~~

~~3.1.3.1 Major in Agriculture (with courses from at least four areas of agriculture as listed in 3.1.3.2) or,~~

~~3.1.3.2 A minimum of 30 semester hours in Agriculture to include at least one course in each of the following areas: Agricultural Economics, Animal Science, Entomology, Agricultural Engineering, Agronomy, Plant Science, and Computer Science.~~

~~3.2 Agricultural Specialist shall be required for any person engaged as an instructor in a program of specialized agricultural education such as Agricultural Mechanics, Horticulture, Agri Business.~~

~~3.2.1 Bachelor’s degree from a regionally accredited college or university and,~~

~~3.2.2 Professional Education~~

~~3.2.2.1 A minimum of 24 semester hours to include Human Development, Methods of Teaching Agriculture, Identifying and Treating Exceptionalities, Effective Teaching Strategies, Multicultural Education, and,~~

~~3.2.3 Technical Agriculture~~

~~3.2.3.1 A minimum of 15 semester hours of technical agriculture in the specialty area for which the applicant is being employed or,~~

~~3.2.3.2 Two years of successful, full time employment in an occupation directly related to the specialty area for which the applicant is being employed.~~

~~The Department shall issue a Standard Certificate as an Agriculture Teacher to an educator who holds a valid Delaware Initial, Continuing, or Advanced License; or a Limited Standard, Standard or Professional Status Certificate issued by the Department prior to August 31, 2003 who has met the following requirements:~~

~~3.1 Acquired the prescribed knowledge, skill or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:~~

~~3.1.1 Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a Standard Certificate is requested; or~~

~~3.1.2 Graduating from an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program, where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards, offered by a regionally accredited college or university, with a major or its equivalent in Agriculture; or~~

~~3.1.3 Satisfactorily completing the Alternative Routes for Licensure and Certification Program, the Special Institute for Licensure and Certification, or such other alternative educator preparation programs as the Secretary may approve; or~~

~~3.1.4 Holding a bachelor's degree from a regionally accredited college or university in any content area and for applicants applying after June 30, 2006 for their first Standard Certificate, satisfactory completion of fifteen (15) credits or their equivalent in professional development related to their area of certification, of which at least six (6) credits [or their equivalent] must focus on pedagogy, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; and~~

~~3.2 For applicants applying after December 31, 2005, where a Praxis™ II examination in the area of the Standard Certificate requested is applicable and available, achieving a passing score as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on the examination; or~~

~~3.3 Meeting the requirements for licensure and holding a valid and current license or certificate from another state in agriculture;~~

~~3.3.1 The Department shall not act on an application for certification if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials, until the applicant provides evidence of the investigation's resolution; or~~

~~3.4 Meeting the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C §1203.~~

#### **4.0 Effective Date**

~~This regulation shall be effective through June 30, 2006 only. Applicants who apply for a Standard Certificate as an Agriculture Teacher after that date must comply with the requirements set forth in 14 DE Admin. Code 1516.~~

#### **4.0 Multiple Certificates**

~~Educators may hold certificates in more than one area.~~

#### **5.0 Application Requirements**

~~An applicant for a Standard Certificate shall submit:~~

~~5.1 Official transcripts; and~~

~~5.2 Official scores on the Praxis II examination if applicable and available; or~~

~~5.3 Evidence of passage of the National Board for Professional Teaching Standards Certificate, if applicable; or~~

~~5.4 An official copy of the out of state license or certification, if applicable.~~

~~5.5 If applied for simultaneously with application for an Initial License, the applicant shall provide all required documentation for that application in addition to the documentation cited above.~~

#### **6.0 Application Procedures for License Holders**

~~If an applicant holds a valid Initial, Continuing, or Advanced Delaware License; or a Limited Standard, Standard or Professional Status Certificate issued prior to August 31, 2003 and is requesting additional Standard Certificates,~~

only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill or education required for the additional Standard Certificate requested is required.

### **7.0 Effect of Regulation**

This regulation shall apply to all requests for issuance of a Standard Certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current Professional Status Certificate or Standard Certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License or the Advanced License. The Department shall also recognize a Limited Standard Certificate issued prior to August 31, 2003, provided that the educator successfully completes the requirements set forth in the prescription letter received with the Limited Standard Certificate. Requirements must be completed by the expiration date of the Limited Standard Certificate, but in no case later than December 31, 2008.

### **8.0 Validity of a Standard Certificate**

A Standard Certificate is valid regardless of the assignment or employment status of the holder of a certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's Initial, Continuing, or Advanced License or Limited Standard, Standard, or Professional Status Certificate is revoked in accordance with 14 DE Admin. Code 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board. Hearings shall be conducted in accordance with the Standards Board's Hearing Procedures and Rules.

### **9.0 Secretary of Education Review**

The Secretary of Education may, upon the written request of the superintendent of a local school district or charter school administrator or other employing authority, review credentials submitted in application for a Standard Certificate on an individual basis and grant a Standard Certificate to an applicant who otherwise does not meet the requirements for a Standard Certificate, but whose effectiveness is documented by the local school district or charter school administrator or other employing authority.

**7 DE Reg. 775 (12/1/03)**

## **1522 Standard Certificate Business Education Teacher**

### **1.0 Content**

This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 Del.C. §1220(a), for Business Education Teacher (required for grades 9 to 12, and valid in grades 5 to 8 in a middle level school).

### **2.0 Definitions**

2.1 The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

"Certification" means the issuance of a certificate, which may occur regardless of a recipient's assignment or employment status.

"Department" means the Delaware Department of Education.

"Educator" means a person licensed and certified by the State under 14 Del.C. §1202 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board and approved by the State Board. The term 'educator' does not include substitute teachers.

"Examination of Content Knowledge" means a standardized test which measures knowledge in a specific content area, such as PRAXIS™ II.

"Fifteen (15) Credits or Their Equivalent in Professional Development" means college credits or an equivalent number of hours, with one (1) credit equating to fifteen (15) hours, taken either as part of a degree program or ~~in addition to~~ **apart from** it, from a regionally accredited college or university or a professional development provider approved by the employing school district or charter school.

"Immorality" means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator's effectiveness by reason of his or her unfitness.

“**License**” means a credential which authorizes the holder to engage in the practice for which the license is issued.

“**Major in Business**” means a major in business administration or management, or a related field, including, but not limited to, accounting, economics, finance or marketing.

“**Major or its Equivalent**” means a minimum of thirty (30) semester hours of course work in a particular content area.

“**NASDTEC**” means The National Association of State Directors of Teacher Education and Certification. The organization represents professional standards boards, commissions and departments of education in all 50 states, the District of Columbia, the Department of Defense Dependent Schools, the U.S. Territories, New Zealand, and British Columbia, which are responsible for the preparation, licensure, and discipline of educational personnel.

“**NCATE**” means The National Council for Accreditation of Teacher Education, a national accrediting body for schools, colleges, and departments of education authorized by the U.S. Department of Education.

“**Standard Certificate**” means a credential issued to certify that an educator has the prescribed knowledge, skill, or education to practice in a particular area, teach a particular subject, or teach a category of students.

“**Standards Board**” means the Professional Standards Board established pursuant to 14 **Del.C.** §1201.

“**State Board**” means the State Board of Education of the State pursuant to 14 **Del.C.** §104.

“**Valid and Current License or Certificate from Another State**” means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

**3.0 Standard Certificate**

In accordance with 14 **Del.C.** 1220(a), the Department shall issue a Standard Certificate as a Business Education Teacher to an applicant who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:

3.1 Professional Education

3.1.1 Completion of an approved teacher preparation program in the area of Business Education or,

3.1.2 A minimum of 27 semester hours to include Human Development, Methods of Teaching Basic Business Subjects, Methods of Teaching Business Information Systems, Identifying and Treating Exceptionalities, Effective Teaching Strategies, Multicultural Education, and,

3.2 Specific Teaching Field

3.2.1 Completion of a teacher education program in the area of Business Education or,

3.2.2 A minimum of 42 semester hours as specified below:

3.2.2.1 Accounting (6 semester hours)

3.2.2.2 Document Formatting (3 semester hours)

3.2.2.3 Business Information Systems (3 semester hours)

3.2.2.4 Business Computer Software Applications (6 semester hours)

3.2.2.5 Electronic Office Procedures (3 semester hours)

3.2.2.6 Business Communications (3 semester hours)

3.2.2.7 Business Mathematics (3 semester hours)

3.2.2.8 Business Economics (3 semester hours)

3.2.2.9 Electives in Business (12 semester hours)

3.2.3 Alternative Certification of individuals with business experience as a substitute for course work in 3.2.2.

3.2.3.1 For each 4000 hours of business experience in a field appropriate to the course areas listed above, credit for 3 semester hours of that course work can be approved by the Department of Education for the purpose of certification.

3.2.3.2 At a minimum, an individual in this situation will have to complete or verify completion of the 12 semester hours of elective course work in Business (as well as the course work in Professional Education) to obtain the Standard Certificate.

3.3 Endorsement for Teaching Information Systems and Services Business Education Courses in Career Technical Schools shall be required of teachers in career technical schools teaching information systems and services

~~courses in business education programs.~~

~~3.3.1 Standard Certificate in Business Education and nine semester hours of elective course work selected from the following:~~

~~3.3.1.1 Principles of Business Data Processing~~

~~3.3.1.2 COBOL Programming~~

~~3.3.1.3 Data Base Systems~~

~~3.3.1.4 Systems Analysis and Design~~

~~3.3.1.5 Programming Language Principles~~

~~3.3.1.6 RPG Programming.~~

~~3.3.2 This elective course work can satisfy part of the elective requirements specified in 3.3.1.~~

The Department shall issue a Standard Certificate as a Business Education Teacher to an educator who holds a valid Delaware Initial, Continuing or Advanced License; or Limited Standard, Standard, or Professional Status Certificate issued prior to August 31, 2003, who has met the following requirements:

3.1 Acquired the prescribed knowledge, skill or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:

3.1.1 Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a Standard Certificate is requested; or

3.1.2 Graduating from an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program, where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards, offered by a regionally accredited college or university, with a major or its equivalent in business education; or

3.1.3 Satisfactorily completing the Alternative Routes for Licensure and Certification Program, the Special Institute for Licensure and Certification, or such other alternative educator preparation programs as the Secretary may approve; or

3.1.4 Holding a bachelor's degree from a regionally accredited college or university in any content area and for applicants applying after June 30, 2006 for their first Standard Certificate, satisfactory completion of fifteen (15) credits or their equivalent in professional development related to their area of certification. Of which at least six (6) credits [or their equivalent] must focus on pedagogy, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; and

3.2 For applicants applying after December 31, 2005, where a Praxis™ II examination in the area of the Standard Certificate requested is applicable and available, achieving a passing score as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on the examination; or

3.3 Meeting the requirements for licensure and holding a valid and current license or certificate from another state in Business Education.

3.3.1 The Department shall not act on an application for certification if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials, until the applicant provides evidence of the investigation's resolution; or

3.4 Meeting the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C §1203.

#### **4.0 Effective Date**

~~This regulation shall be effective through June 30, 2006 only. Applicants who apply for a Standard Certificate as a Business Education teacher after that date must comply with the requirements set forth in 14 Del.C. §1516.~~

#### **4.0 Multiple Certificates**

Educators may hold certificates in more than one area.

#### **5.0 Application Requirements**

An applicant for a Standard Certificate shall submit:

5.1 Official transcripts; and

5.2 Official scores on the Praxis II examination if applicable and available; or

5.3 Evidence of passage of the National Board for Professional Teaching Standards Certificate, if applicable; or

5.4 An official copy of the out of state license or certification, if applicable.

5.5 If applied for simultaneously with application for an Initial License, the applicant shall provide all required documentation for that application in addition to the documentation cited above.

### **6.0 Application Procedures for License Holders**

If an applicant holds a valid Initial, Continuing, or Advanced Delaware License; or a Limited Standard, Standard or Professional Status Certificate issued prior to August 31, 2003 and is requesting additional Standard Certificates, only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill or education required for the additional Standard Certificate requested is required.

### **7.0 Effect of Regulation**

This regulation shall apply to all requests for issuance of a Standard Certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current Professional Status Certificate or Standard Certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License or the Advanced License. The Department shall also recognize a Limited Standard Certificate issued prior to August 31, 2003, provided that the educator successfully completes the requirements set forth in the prescription letter received with the Limited Standard Certificate. Requirements must be completed by the expiration date of the Limited Standard Certificate, but in no case later than December 31, 2008.

### **8.0 Validity of a Standard Certificate**

A Standard Certificate is valid regardless of the assignment or employment status of the holder of a certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's Initial, Continuing, or Advanced License or Limited Standard, Standard, or Professional Status Certificate is revoked in accordance with 14 **DE Admin. Code** 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board. Hearings shall be conducted in accordance with the Standards Board's Hearing Procedures and Rules.

### **9.0 Secretary of Education Review**

The Secretary of Education may, upon the written request of the superintendent of a local school district or charter school administrator or other employing authority, review credentials submitted in application for a Standard Certificate on an individual basis and grant a Standard Certificate to an applicant who otherwise does not meet the requirements for a Standard Certificate, but whose effectiveness is documented by the local school district or charter school administrator or other employing authority.

**7 DE Reg. 775 (12/1/03)**

## **1525 Standard Certificate English Teacher**

### **1.0 Content**

This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 **Del.C.** §1220(a), for English Teacher (required for grades 9 to 12, and valid in grades ~~7 to 8~~ 5 to 8 in a middle level school).

### **2.0 Definitions**

2.1 The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

“**Certification**” means the issuance of a certificate, which may occur regardless of a recipient's assignment or employment status.

“**Department**” means the Delaware Department of Education.

“**Educator**” means a person licensed and certified by the State under 14 **Del.C.** §1202 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board approved by the State Board. The term ‘educator’ does not include substitute teachers.

“**Examination of Content Knowledge**” means a standardized test which measures knowledge in a

specific content area, such as PRAXIS™ II.

**“Fifteen (15) Credits or Their Equivalent in Professional Development”** means college credits or an equivalent number of hours, with one (1) credit equating to fifteen (15) hours, taken either as part of a degree program or ~~in addition to~~ ~~apart from~~ it, from a regionally accredited college or university or a professional development provider approved by the employing school district or charter school.

**“Immorality”** means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator’s effectiveness by reason of his or her unfitness.

**“License”** means a credential which authorizes the holder to engage in the practice for which the license is issued.

**“Major or Its Equivalent”** means a minimum of thirty (30) semester hours of course work in a particular content area.

**“NASDTEC”** means The National Association of State Directors of Teacher Education and Certification. The organization represents professional standards boards, commissions and departments of education in all 50 states, the District of Columbia, the Department of Defense Dependent Schools, the U.S. Territories, New Zealand, and British Columbia, which are responsible for the preparation, licensure, and discipline of educational personnel.

**“NCATE”** means The National Council for Accreditation of Teacher Education, a national accrediting body for schools, colleges, and departments of education authorized by the U.S. Department of Education.

**“Standard Certificate”** means a credential issued to certify that an educator has the prescribed knowledge, skill, or education to practice in a particular area, teach a particular subject, or teach a category of students.

**“Standards Board”** means the Professional Standards Board established pursuant to 14 **Del.C.** §1201.

**“State Board”** means the State Board of Education of the State pursuant to 14 **Del.C.** §104.

**“Valid and Current License or Certificate from Another State”** means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

### 3.0 Standard Certificate

In accordance with 14 **Del.C.** §1220(a), the Department shall issue a Standard Certificate as an English Teacher to an applicant who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:

3.1 Bachelor’s degree from a regionally accredited college or university and,

3.2 Professional Education

3.2.1 Completion of an approved teacher education program in English or,

3.2.2 A minimum of 27 semester hours to include Human Development, Methods of Teaching

3.2.3 Secondary English (to include written composition and oral communication), Teaching of Reading, Identifying and Treating Exceptionalities, Effective Teaching Strategies,

3.2.4 Multicultural Education, and,

3.3 Specific Teaching Field

3.3.1 Completion of a major in English or,

3.3.2 Completion of an approved teacher education program in English or,

3.3.3 A minimum of 36 semester hours in English with at least one course in each of the following areas: Fundamentals of Speech, Advanced Written Composition, Linguistics, History of the English Language, Adolescent Literature, American Literature, English Literature, World Literature (other than American or English), Contemporary Literature.

The Department shall issue a Standard Certificate as an English Teacher to an educator who holds a valid Delaware Initial, Continuing, or Advanced License; or a Limited Standard, Standard or Professional Status Certificate issued by the Department prior to August 31, 2003 who has met the following requirements:

3.1 Acquired the prescribed knowledge, skill or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:

3.1.1 Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a Standard Certificate is requested; or

3.1.2 Graduating from an NCATE specialty organization recognized educator preparation program

or from a state approved educator preparation program, where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards, offered by a regionally accredited college or university, with a major or its equivalent in English; or

3.1.3 Satisfactorily completing the Alternative Routes for Licensure and Certification Program, the Special Institute for Licensure and Certification, or such other alternative educator preparation programs as the Secretary may approve; or

3.1.4 Holding a bachelor's degree from a regionally accredited college or university in any content area and for applicants applying after June 30, 2006 for their first Standard Certificate, satisfactory completion of fifteen (15) credits or their equivalent in professional development related to their area of certification, of which at least six (6) credits must focus on pedagogy, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; and

3.2 For applicants applying after December 31, 2005, where a Praxis™ II examination in the area of the Standard Certificate requested applicable and available, achieving a passing score as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on the examination; or

3.3 Meeting the requirements for licensure and holding a valid and current license or certificate from another state in English;

3.3.1 The Department shall not act on an application for certification if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials, until the applicant provides evidence of the investigation's resolution; or

3.4 Meeting the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C §1203.

#### **4.0 Effective Date**

~~This regulation shall be effective through June 30, 2006 only. Applicants who apply for a Standard Certificate as an English Teacher after that date must comply with the requirements set forth in 14 Del.C. §1516.~~

#### **4.0 Multiple Certificates**

Educators may hold certificates in more than one area.

#### **5.0 Application Requirements**

An applicant for a Standard Certificate shall submit:

5.1 Official transcripts; and

5.2 Official scores on the Praxis II examination if applicable and available; or

5.3 Evidence of passage of the National Board for Professional Teaching Standards Certificate, if applicable; or

5.4 An official copy of the out of state license or certification, if applicable.

5.5 If applied for simultaneously with application for an Initial License, the applicant shall provide all required documentation for that application in addition to the documentation cited above.

#### **6.0 Application Procedures for License Holders**

If an applicant holds a valid Initial, Continuing, or Advanced Delaware License; or a Limited Standard, Standard or Professional Status Certificate issued prior to August 31, 2003 and is requesting additional Standard Certificates, only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill or education required for the additional Standard Certificate requested is required.

#### **7.0 Effect of Regulation**

This regulation shall apply to all requests for issuance of a Standard Certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current Professional Status Certificate or Standard Certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License or the Advanced License. The Department shall also recognize a Limited Standard Certificate issued prior to August 31, 2003, provided that the educator successfully completes the requirements set forth in the prescription letter received with the Limited Standard

Certificate. Requirements must be completed by the expiration date of the Limited Standard Certificate, but in no case later than December 31, 2008.

### **8.0 Validity of a Standard Certificate**

A Standard Certificate is valid regardless of the assignment or employment status of the holder of a certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's Initial, Continuing, or Advanced License or Limited Standard, Standard, or Professional Status Certificate is revoked in accordance with 14 DE Admin. Code 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board. Hearings shall be conducted in accordance with the Standards Board's Hearing Procedures and Rules.

### **9.0 Secretary of Education Review**

The Secretary of Education may, upon the written request of the superintendent of a local school district or charter school administrator or other employing authority, review credentials submitted in application for a Standard Certificate on an individual basis and grant a Standard Certificate to an applicant who otherwise does not meet the requirements for a Standard Certificate, but whose effectiveness is documented by the local school district or charter school administrator or other employing authority.

**7 DE Reg. 775 (12/1/03)**

## **1528 Standard Certificate World Language Teacher Comprehensive**

### **1.0 Content**

1.1 This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 Del.C. §1220(a), for World Language Teacher Comprehensive (Grades K to 12).

### **2.0 Definitions**

2.1 The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

“**Certification**” means the issuance of a certificate, which may occur regardless of a recipient's assignment or employment status.

“**Department**” means the Delaware Department of Education.

“**Educator**” means a person licensed and certified by the State under 14 Del.C. §1202 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board and approved by the State Board. The term ‘educator’ does not include substitute teachers.

“**Examination of Content Knowledge**” means a standardized test which measures knowledge in a specific content area, such as PRAXIS™ II.

“**Fifteen (15) Credits or Their Equivalent in Professional Development**” means college credits or an equivalent number of hours, with one (1) credit equating to fifteen (15) hours taken either as part of a degree program or ~~in addition to~~ ~~apart from~~ it, from a regionally accredited college or university or a professional development provider approved by the employing school district or charter school.

“**Immorality**” means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator's effectiveness by reason of his or her unfitness;

“**License**” means a credential which authorizes the holder to engage in the practice for which the license is issued.

“**Major or Its Equivalent**” means a minimum of thirty (30) semester hours of course work in a particular content area.

“**NASDTEC**” means The National Association of State Directors of Teacher Education and Certification. The organization represents professional standards boards, commissions and departments of education in all 50 states, the District of Columbia, the Department of Defense Dependent Schools, the U.S. Territories, New Zealand, and British Columbia, which are responsible for the preparation, licensure, and discipline of educational personnel.

“**NCATE**” means The National Council for Accreditation of Teacher Education, a national accrediting body for schools, colleges, and departments of education authorized by the U.S. Department of Education.

“**Standard Certificate**” means a credential issued to certify that an educator has the prescribed knowledge, skill, or education to practice in a particular area, teach a particular subject, or teach a category of students.

“**Standards Board**” means the Professional Standards Board established pursuant to 14 **Del.C.** §1201.

“**State Board**” means the State Board of Education of the State pursuant to 14 **Del.C.** §104.

“**Valid and Current License or Certificate from Another State**” means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

**3.0 Standard Certificate**

In accordance with 14 **Del.C.** §1220(a), the Department shall issue a Standard Certificate as a World Language Teacher Comprehensive to an applicant ~~educator~~ who holds a valid Delaware Initial, Continuing, or Advanced License; or Limited Standard, Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, and who meets has met the following requirements:

~~3.1 A bachelor's degree from an NCATE specialty organization recognized educator preparation program offered by a regionally accredited college or university, with a major in the world language for which a Standard Certificate is sought; or~~

~~3.2 A bachelor's degree from a state approved educator preparation program offered by a regionally accredited college or university, with a major in the world language for which a Standard Certificate is sought, where the state approval body employed the appropriate NASDTEC standards or NCATE specialty organization standards; or~~

~~3.3 A bachelor's degree from a regionally accredited college or university, with a major in any field, and passage of the appropriate PRAXIS™ II tests approved by the Standards Board and the State Board in the world language for which a Standard Certificate is sought; or~~

~~3.4 A bachelor's degree from a regionally accredited college or university, with a major in any field; and~~

~~3.4.1 Where no PRAXIS™ II test is available, nationally recognized equivalent tests, such as the American Council on the Teaching of Foreign Languages (ACTFL) Oral Proficiency Interview and the ACTFL Writing Proficiency Test, may be substituted, in conjunction with completion of the courses set forth in 3.4.2 and 3.4.3 below. For tests of languages using a Roman alphabet, candidates are required to achieve an Advanced Low Level on the oral skills and an Advanced Low Level on the writing skills based on the ACTFL Proficiency Guidelines. For tests of languages using a non-Roman alphabet, an Advanced Low Level on the oral skills and an Intermediate High level on the writing skills based on the ACTFL Proficiency Guidelines are required; and~~

~~3.4.2 A minimum of twelve (12) semester hours of language pedagogy courses from a regionally accredited college or university, taken either as part of a degree program or independent of it, to include at least three (3) credits in each of the following:~~

~~3.4.2.1 Standards and Approaches in Teaching World or Second Language;~~

~~3.4.2.2 Second Language Acquisition~~

~~3.4.2.3 Assessment and Testing in Second Languages;~~

~~3.4.2.4 Curriculum Design and Classroom Management for World or Second Language; and~~

~~3.4.3 A minimum of three (3) semester hours of general education courses from a regionally accredited college or university, taken either as part of a degree program or independent of it, chosen from among the courses listed below:~~

~~3.4.3.1 Human Development or Educational Psychology;~~

~~3.4.3.2 Identifying and Treating Exceptionalities;~~

~~3.4.3.3 Multicultural Education or International Education.~~

3.1 Acquired the prescribed knowledge, skill or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:

3.1.1 Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a Standard Certificate is requested; or

3.1.2 Graduating from an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program, where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards, offered by a regionally accredited college or university, with a major or its equivalent in the world language of the Standard Certificate requested; or

3.1.3 Satisfactorily completing the Alternative Routes for Licensure and Certification Program, the Special Institute for Licensure and Certification, or such other alternative educator preparation programs as the

Secretary may approve; or

3.1.4 Holding a bachelor's degree from a regionally accredited college or university in any content area and for applicants applying after June 30, 2006 for their first Standard Certificate, satisfactory completion of fifteen (15) credits or their equivalent in professional development related to their area of certification, of which at least six (6) credits [or their equivalent] must focus on pedagogy, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; and

3.2 For applicants applying after December 31, 2005, where a Praxis™ II examination in the area of the Standard Certificate requested is applicable and available, achieving a passing score, as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on the examination.

3.2.1 Where no PRAXIS II test is available, nationally recognized equivalent tests, such as the American Council on the Teaching of Foreign Languages (ACTFL) Oral Proficiency Interview and the ACTFL Writing Proficiency Test, may be substituted, in conjunction with completion of the courses set forth in 3.4.2 and 3.4.3 below. For tests of languages using a Roman alphabet, candidates are required to achieve an Advanced Low Level on the oral skills and an Advanced Low Level on the writing skills based on the ACTFL Proficiency Guidelines. For tests of languages using a non-Roman alphabet, an Advanced Low Level on the oral skills and an Intermediate High level on the writing skills based on the ACTFL Proficiency Guidelines are required; and

3.3 Meeting the requirements for licensure and holding a valid and current license or certificate from another state in a world language;

3.3.1 The Department shall not act on an application for certification if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials, until the applicant provides evidence of the investigation's resolution; or

3.4 Meeting the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C. §1203.

#### **4.0 Multiple Certificates**

Educators may hold certificates in more than one area.

#### **5.0 Application Requirements**

An applicant for a Standard Certificate shall submit:

5.1 Official transcripts; and

5.2 Official scores on the Praxis II examination if applicable and available; or

5.3 Evidence of passage of the National Board for Professional Teaching Standards Certificate, if applicable; or

5.4 An official copy of the out of state license or certification, if applicable.

5.5 If applied for simultaneously with application for an Initial License, the applicant shall provide all required documentation for that application in addition to the documentation cited above.

#### **6.0 Application Procedures for License Holders**

If an applicant holds a valid Initial, Continuing, or Advanced Delaware License; or a Limited Standard, Standard or Professional Status Certificate issued prior to August 31, 2003 and is requesting additional Standard Certificates, only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill or education required for the additional Standard Certificate requested is required.

#### **7.0 Effect of Regulation**

This regulation shall apply to all requests for issuance of a Standard Certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current Professional Status Certificate or Standard Certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License or the Advanced License. The Department shall also recognize a Limited Standard Certificate issued prior to August 31, 2003, provided that the educator successfully completes the requirements set forth in the prescription letter received with the Limited Standard Certificate. Requirements must be completed by the expiration date of the Limited Standard Certificate, but in no case later than December 31, 2008.

**8.0 Validity of a Standard Certificate**

A Standard Certificate is valid regardless of the assignment or employment status of the holder of a certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's Initial, Continuing, or Advanced License or Limited Standard, Standard, or Professional Status Certificate is revoked in accordance with 14 DE Admin. Code 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board. Hearings shall be conducted in accordance with the Standards Board's Hearing Procedures and Rules.

**9.0 Secretary of Education Review**

The Secretary of Education may, upon the written request of the superintendent of a local school district or charter school administrator or other employing authority, review credentials submitted in application for a Standard Certificate on an individual basis and grant a Standard Certificate to an applicant who otherwise does not meet the requirements for a Standard Certificate, but whose effectiveness is documented by the local school district or charter school administrator or other employing authority.

**9 DE Reg. 558 (10/1/05)**

**1534 Standard Certificate Mathematics Teacher Secondary****1.0 Content**

This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 **Del.C.** §1220(a), for Mathematics Teacher Secondary (required for grades ~~7~~ 9 to 12, and valid in grades ~~5 to 6~~ 5 to 8 in a middle level school).

**2.0 Definitions**

2.1 The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

**"Certification"** means the issuance of a certificate, which may occur regardless of a recipient's assignment or employment status.

**"Department"** means the Delaware Department of Education.

**"Educator"** means a person licensed and certified by the State under 14 **Del.C.** §1202 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board and approved by the State Board. The term 'educator' does not include substitute teachers.

**"Examination of Content Knowledge"** means a standardized test which measures knowledge in a specific content area, such as PRAXIS™ II.

**"Fifteen (15) Credits or Their Equivalent in Professional Development"** means college credits or an equivalent number of hours, with one (1) credit equating to fifteen (15) hours, taken either as part of a degree program or ~~in addition to~~ apart from it, from a regionally accredited college or university or a professional development provider approved by the employing school district or charter school.

**"Immorality"** means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator's effectiveness by reason of his or her unfitness.

**"License"** means a credential which authorizes the holder to engage in the practice for which the license is issued.

**"Major or Its Equivalent"** means a minimum of thirty (30) semester hours of course work in a particular content area.

**"NASDTEC"** means The National Association of State Directors of Teacher Education and Certification. The organization represents professional standards boards, commissions and departments of education in all 50 states, the District of Columbia, the Department of Defense Dependent Schools, the U.S. Territories, New Zealand, and British Columbia, which are responsible for the preparation, licensure, and discipline of educational personnel.

**"NCATE"** means The National Council for Accreditation of Teacher Education, a national accrediting body for schools, colleges, and departments of education authorized by the U.S. Department of Education.

**"Standard Certificate"** means a credential issued to certify that an educator has the prescribed

knowledge, skill, or education to practice in a particular area, teach a particular subject, or teach a category of students.  
“Standards Board” means the Professional Standards Board established pursuant to 14 Del.C. §1201.

“State Board” means the State Board of Education of the State pursuant to 14 Del.C. §104.

“Valid and Current License or Certificate from Another State” means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

### 3.0 Standard Certificate

~~In accordance with 14 Del.C. §1220(a), the Department shall issue a Standard Certificate as a Mathematics Teacher Secondary to an applicant who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:~~

~~3.1 Bachelor's degree from a regionally accredited college or university and,~~

~~3.2 Professional Education~~

~~3.2.1 Completion of an approved teacher education program in Mathematics or,~~

~~3.2.2 Minimum of 24 semester hours including Human Development, Methods of Teaching Secondary Mathematics (including the use of technology in the classroom), Identifying and Treating Exceptionalities, Effective Teaching Strategies, Multicultural Education, and,~~

~~3.3 Specific Teaching Field~~

~~3.3.1 Major in Mathematics or,~~

~~3.3.2 Completion of an approved teacher education program in Mathematics or,~~

~~3.3.3 Minimum of 36 semester hours in mathematics to include: Calculus, with analytical geometry (2 courses), Advanced Geometry, Linear Algebra, Abstract Algebra, Discrete Math, Statistics and Probability, Computer Science, Mathematical Models and Applications and History of Math or Science.~~

The Department shall issue a Standard Certificate as a Mathematics Teacher to an educator who holds a valid Delaware Initial, Continuing, or Advanced License; or a Limited Standard, Standard or Professional Status Certificate issued by the Department prior to August 31, 2003 who has met the following requirements:

3.1 Acquired the prescribed knowledge, skill or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:

3.1.1 Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a Standard Certificate is requested; or

3.1.2 Graduating from an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program, where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards, offered by a regionally accredited college or university, with a major or its equivalent in Mathematics; or

3.1.3 Satisfactorily completing the Alternative Routes for Licensure and Certification Program, the Special Institute for Licensure and Certification, or such other alternative educator preparation programs as the Secretary may approve; or

3.1.4 Holding a bachelor's degree from a regionally accredited college or university in any content area and for applicants applying after June 30, 2006 for their first Standard Certificate, satisfactory completion of fifteen (15) credits or their equivalent in professional development related to their area of certification, of which at least six (6) credits [or their equivalent] must focus on pedagogy, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; and

3.2 For applicants applying after December 31, 2005, where a Praxis™ II examination in the area of the Standard Certificate requested is applicable and available, achieving a passing score as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on the examination; or

3.3 Meeting the requirements for licensure and holding a valid and current license or certificate from another state in Mathematics;

3.3.1 The Department shall not act on an application for certification if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials, until the applicant provides evidence of the investigation's resolution; or

3.4 Meeting the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to

14 Del.C §1203.

#### **4.0 Effective Date**

~~This regulation shall be effective through June 30, 2006 only. Applicants who apply for a Standard Certificate as a Mathematics Teacher Secondary after that date must comply with the requirements set forth in 14 ~~Del.C.~~ §1516.~~

#### **4.0 Multiple Certificates**

Educators may hold certificates in more than one area.

#### **5.0 Application Requirements**

An applicant for a Standard Certificate shall submit:

5.1 Official transcripts; and

5.2 Official scores on the Praxis II examination if applicable and available; or

5.3 Evidence of passage of the National Board for Professional Teaching Standards Certificate, if applicable; or

5.4 An official copy of the out of state license or certification, if applicable.

5.5 If applied for simultaneously with application for an Initial License, the applicant shall provide all required documentation for that application in addition to the documentation cited above.

#### **6.0 Application Procedures for License Holders**

If an applicant holds a valid Initial, Continuing, or Advanced Delaware License; or a Limited Standard, Standard or Professional Status Certificate issued prior to August 31, 2003 and is requesting additional Standard Certificates, only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill or education required for the additional Standard Certificate requested is required.

#### **7.0 Effect of Regulation**

This regulation shall apply to all requests for issuance of a Standard Certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current Professional Status Certificate or Standard Certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License or the Advanced License. The Department shall also recognize a Limited Standard Certificate issued prior to August 31, 2003, provided that the educator successfully completes the requirements set forth in the prescription letter received with the Limited Standard Certificate. Requirements must be completed by the expiration date of the Limited Standard Certificate, but in no case later than December 31, 2008.

#### **8.0 Validity of a Standard Certificate**

A Standard Certificate is valid regardless of the assignment or employment status of the holder of a certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's Initial, Continuing, or Advanced License or Limited Standard, Standard, or Professional Status Certificate is revoked in accordance with 14 **DE Admin. Code** 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board. Hearings shall be conducted in accordance with the Standards Board's Hearing Procedures and Rules.

#### **9.0 Secretary of Education Review**

The Secretary of Education may, upon the written request of the superintendent of a local school district or charter school administrator or other employing authority, review credentials submitted in application for a Standard Certificate on an individual basis and grant a Standard Certificate to an applicant who otherwise does not meet the requirements for a Standard Certificate, but whose effectiveness is documented by the local school district or charter school administrator or other employing authority.

**7 DE Reg. 775 (12/1/03)**

**1539 Standard Certificate Social Studies Teacher Secondary**

## 1.0 Content

This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 **Del.C.** §1220(a), for Social Studies Teacher Secondary (required for grades 9 to 12, and valid in grades 5 to 8 in a middle level school).

## 2.0 Definitions

2.1 The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

**“Certification”** means the issuance of a certificate, which may occur regardless of a recipient's assignment or employment status.

**“Department”** means the Delaware Department of Education.

**“Educator”** means a person licensed and certified by the State under 14 **Del.C.** §1202 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board approved by the State Board. The term ‘educator’ does not include substitute teachers.

**“Examination of Content Knowledge”** means a standardized test which measures knowledge in a specific content area, such as PRAXIS™ II.

**“Fifteen (15) Credits or Their Equivalent in Professional Development”** means college credits or an equivalent number of hours, with one (1) credit equating to fifteen (15) hours, taken either as part of a degree program or ~~in addition to~~ ~~apart from~~ it, from a regionally accredited college or university or a professional development provider approved by the employing school district or charter school.

**“Immorality”** means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator's effectiveness by reason of his or her unfitness;

**“License”** means a credential which authorizes the holder to engage in the practice for which the license is issued.

**“Major or Its Equivalent”** means a minimum of thirty (30) semester hours of course work in a particular content area.

**“NASDTEC”** means The National Association of State Directors of Teacher Education and Certification. The organization represents professional standards boards, commissions and departments of education in all 50 states, the District of Columbia, the Department of Defense Dependent Schools, the U.S. Territories, New Zealand, and British Columbia, which are responsible for the preparation, licensure, and discipline of educational personnel.

**“NCATE”** means The National Council for Accreditation of Teacher Education, a national accrediting body for schools, colleges, and departments of education authorized by the U.S. Department of Education.

**“Standard Certificate”** means a credential issued to certify that an educator has the prescribed knowledge, skill, or education to practice in a particular area, teach a particular subject, or teach a category of students.

**“Standards Board”** means the Professional Standards Board established pursuant to 14 **Del.C.** §1201.

**“State Board”** means the State Board of Education of the State pursuant to 14 **Del.C.** §104.

**“Valid and Current License or Certificate from Another State”** means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

## 3.0 Standard Certificate

In accordance with 14 **Del.C.** §1220(a), the Department shall issue a Standard Certificate as a Social Studies Teacher to an applicant who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:

3.1 Bachelor's degree from an regionally accredited college or university and,

3.2 Professional Education

3.2.1 Completion of an approved teacher education program in the areas of Social Studies or History or,

3.2.2 A minimum of 24 semester hours to include Human Development, Methods of Teaching Secondary Social Studies, Identifying and Treating Exceptionalities, Effective Teaching Strategies, Multicultural

Education, and,

3.3 ~~Specific Teaching Field~~

~~3.3.1 A major in one of the following content areas: History, Geography, Political Science, or Economics and a minimum of 9 semester hours in each of the other 3 content areas or,~~

~~3.3.2 A major in Social Studies with a concentration of at least 21 semester hours in History, Geography, Political Science, or Economics and a minimum of 9 semester hours in each of the other 3 content areas or,~~

~~3.3.3 A total of 57 semester hours to include courses in at least 5 of the 7 areas listed below, with a concentration of 48 semester hours in areas 1 through 4 which includes a minimum of 6 semester hours in each of areas 1 to 4. Area 1: History course work must include at least a one semester course (basic survey) in United States History and a one semester course in World History (basic survey). Area 2: Geography course work must include at least a one semester course in world regional geography. Area 3: Political Science must include a one semester course in United States Government. Area 4: Economics Area 5: Anthropology Area 6: Sociology Area 7: Psychology~~

The Department shall issue a Standard Certificate as a Social Studies Teacher to an educator who holds a valid Delaware Initial, Continuing, or Advanced License; or a Limited Standard, Standard or Professional Status Certificate issued by the Department prior to August 31, 2003 who has met the following requirements:

3.1 Acquired the prescribed knowledge, skill or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:

3.1.1 Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a Standard Certificate is requested; or

3.1.2 Graduating from an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program, where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards, offered by a regionally accredited college or university, with a major or its equivalent in history, political science, government, civics, geography, or economics; or

3.1.3 Satisfactorily completing the Alternative Routes for Licensure and Certification Program, the Special Institute for Licensure and Certification, or such other alternative educator preparation programs as the Secretary may approve; or

3.1.4 Holding a bachelor's degree from a regionally accredited college or university in any content area and for applicants applying after June 30, 2006 for their first Standard Certificate, satisfactory completion of fifteen (15) credits of their equivalent in professional development related to their area of certification, of which at least six (6) credits must focus on pedagogy, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; and

3.2 For applicants applying after December 31, 2005, where a Praxis™ II examination in the area of the Standard Certificate requested is applicable and available, achieving a passing score as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on the examination; or

3.3 Meeting the requirements for licensure and holding a valid and current license or certificate from another state in Social Studies;

3.3.1 The Department shall not act on an application for certification if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials, until the applicant provides evidence of the investigation's resolution; or

3.4 Meeting the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C §1203.

#### **4.0 Effective Date**

~~This regulation shall be effective through June 30, 2006 only. Applicants who apply for a Standard Certificate as a Social Studies Teacher after that date must comply with the requirements set forth in 14 DE Admin. Code 1516.~~

#### **4.0 Multiple Certificates**

Educators may hold certificates in more than one area.

#### **5.0 Application Requirements**

An applicant for a Standard Certificate shall submit:

5.1 Official transcripts; and

- 5.2 Official scores on the Praxis II examination if applicable and available; or  
5.3 Evidence of passage of the National Board for Professional Teaching Standards Certificate, if applicable; or  
5.4 An official copy of the out of state license or certification, if applicable.  
5.5 If applied for simultaneously with application for an Initial License, the applicant shall provide all required documentation for that application in addition to the documentation cited above.

### **6.0 Application Procedures for License Holders**

If an applicant holds a valid Initial, Continuing, or Advanced Delaware License; or a Limited Standard, Standard or Professional Status Certificate issued prior to August 31, 2003 and is requesting additional Standard Certificates, only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill or education required for the additional Standard Certificate requested is required.

### **7.0 Effect of Regulation**

This regulation shall apply to all requests for issuance of a Standard Certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current Professional Status Certificate or Standard Certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License or the Advanced License. The Department shall also recognize a Limited Standard Certificate issued prior to August 31, 2003, provided that the educator successfully completes the requirements set forth in the prescription letter received with the Limited Standard Certificate. Requirements must be completed by the expiration date of the Limited Standard Certificate, but in no case later than December 31, 2008.

### **8.0 Validity of a Standard Certificate**

A Standard Certificate is valid regardless of the assignment or employment status of the holder of a certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's Initial, Continuing, or Advanced License or Limited Standard, Standard, or Professional Status Certificate is revoked in accordance with 14 **DE Admin. Code** 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board. Hearings shall be conducted in accordance with the Standards Board's Hearing Procedures and Rules.

### **9.0 Secretary of Education Review**

The Secretary of Education may, upon the written request of the superintendent of a local school district or charter school administrator or other employing authority, review credentials submitted in application for a Standard Certificate on an individual basis and grant a Standard Certificate to an applicant who otherwise does not meet the requirements for a Standard Certificate, but whose effectiveness is documented by the local school district or charter school administrator or other employing authority.

**7 DE Reg. 775 (12/1/03)**

## **1540 Standard Certificate Science Teacher Secondary**

### **1.0 Content**

This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 **Del.C.** §1220(a), for Science Teacher Secondary (required for grades 9 to 12, and valid in a middle level school, grades 5 to 8). Certificates issued include Chemistry, Physics, Earth Science, Biology, Physical Science, and Integrated Science.

### **2.0 Definitions**

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

"Certification" means the issuance of a certificate, which may occur regardless of a recipient's assignment or employment status.

"Department" means the Delaware Department of Education.

"Educator" means a person licensed and certified by the State under 14 **Del.C.** §1202 to engage in

the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board and approved by the State Board. The term 'educator' does not include substitute teachers.

“**Examination of Content Knowledge**” means a standardized test which measures knowledge in a specific content area, such as PRAXIS™ II.

“**Fifteen (15) Credits or Their Equivalent in Professional Development**” means college credits or an equivalent number of hours, with one (1) credit equating to fifteen (15) hours, taken either as part of a degree program or ~~[in addition to apart from]~~ it, from a regionally accredited college or university or a professional development provider approved by the employing school district or charter school.

“**Immorality**” means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator’s effectiveness by reason of his or her unfitness;

“**License**” means a credential which authorizes the holder to engage in the practice for which the license is issued.

“**Major or Its Equivalent**” means a minimum of thirty (30) semester hours of course work in a particular content area. A major or its equivalent for eligibility for a Standard Certificate for Physical Science includes physics, chemistry, astronomy, space science, engineering, or a related field. A major or its equivalent in any science discipline or related field is acceptable for eligibility for a Standard Certificate for Integrated Science.

“**NASDTEC**” means The National Association of State Directors of Teacher Education and Certification. The organization represents professional standards boards, commissions and departments of education in all 50 states, the District of Columbia, the Department of Defense Dependent Schools, the U.S. Territories, New Zealand, and British Columbia, which are responsible for the preparation, licensure, and discipline of educational personnel.

“**NCATE**” means The National Council for Accreditation of Teacher Education, a national accrediting body for schools, colleges, and departments of education authorized by the U.S. Department of Education.

“**Science Discipline**” means those areas of science for which Delaware content standards have been established.

“**Standard Certificate**” means a credential issued to certify that an educator has the prescribed knowledge, skill, or education to practice in a particular area, teach a particular subject, or teach a category of students.

“**Standards Board**” means the Professional Standards Board established pursuant to 14 **Del.C.** §1201.

“**State Board**” means the State Board of Education of the State pursuant to 14 **Del.C.** §104.

“**Valid and Current License or Certificate from Another State**” means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

### 3.0 Standard Certificate

~~In accordance with 14 **Del.C.** §1220(a), the Department shall issue a Standard Certificate as a Science Teacher to an applicant who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:~~

~~3.1 A bachelor's degree from an NCATE specialty organization recognized educator preparation program offered by a regionally accredited college or university, with a major in the science discipline for which a Standard Certificate is sought; or~~

~~3.2 A bachelor's degree from a state approved educator preparation program offered by a regionally accredited college or university, with a major in the science discipline for which a Standard Certificate is sought, where the state approval body employed the appropriate NASDTEC standards or NCATE specialty organization standards; or~~

~~3.3 Passage of the appropriate PRAXIS™ II test approved by the Standards Board and the State Board in the science discipline for which a Standard Certificate is sought; or~~

~~3.4 A bachelor's degree from a regionally accredited college or university with a major in the science discipline for which a Standard Certificate is sought; and~~

~~3.4.1 A minimum of twenty four (24) semester hours of pedagogy courses from a regionally accredited college or university to include at least three (3) credits in each of the following:~~

~~3.4.1.1 Human Development;~~

~~3.4.1.2 Methods of Teaching Secondary Science;~~

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- 3.4.1.3 Teaching of Reading in the Content Areas or Identifying and Treating Exceptionalities;
- 3.4.1.4 Effective Teaching Strategies; and
- 3.4.1.5 Multicultural Education; or

3.5 A bachelor's degree and completion of the semester hours indicated below from a regionally accredited college or university for the science discipline for which the Standard Certificate is sought, and completion of the course work set forth in 3.4.1:

3.5.1 Chemistry (Required grades 9 to 12; valid for Middle Level Science):

3.5.1.1 Forty two (42) semester hours, including:

3.5.1.1.1 At least twenty four (24) semester hours in Chemistry with at least three (3) semester hours in each the following, unless otherwise indicated:

- 3.5.1.1.1.1 Inorganic Chemistry (6 semester hours)
- 3.5.1.1.1.2 Advanced Inorganic or Physical Chemistry;
- 3.5.1.1.1.3 Organic Chemistry or Biochemistry;
- 3.5.1.1.1.4 Quantitative Analysis or Instrumental Analysis; and

3.5.1.1.2 At least three (3) semester hours in each of the following, unless otherwise indicated:

- 3.5.1.1.2.1 Biology
- 3.5.1.1.2.2 Physics;
- 3.5.1.1.2.3 Mathematics (6 semester hours of college algebra or above);
- 3.5.1.1.2.4 Earth Sciences; and
- 3.5.1.1.2.5 Environmental Education.

3.5.2 Physics (Required grades 9 to 12; valid for Middle Level Science):

3.5.2.1 Forty two (42) semester hours, including:

3.5.2.1.1 At least twenty four (24) semester hours in physics with at least three (3) semester hours in each of the following:

- 3.5.2.1.1.1 Classical Thermodynamics;
- 3.5.2.1.1.2 Atomic Physics;
- 3.5.2.1.1.3 Nuclear Physics; and

3.5.2.1.2 At least three (3) semester hours in each of the following, unless otherwise indicated:

- 3.5.2.1.2.1 Biology;
- 3.5.2.1.2.2 Chemistry;
- 3.5.2.1.2.3 Mathematics (6 semester hours of college algebra or above);
- 3.5.2.1.2.4 Earth Science; and
- 3.5.2.1.2.5 Environmental Education.

3.5.3 Earth Science (Required grades 9 to 12; valid for Middle Level Science):

3.5.3.1 Thirty nine (39) semester hours, including:

3.5.3.1.1 At least twenty four (24) semester hours in earth science with at least three (3) semester hours in each of the following:

- 3.5.3.1.1.1 Geology;
- 3.5.3.1.1.2 Geography;
- 3.5.3.1.1.3 Climatology;
- 3.5.3.1.1.4 Meteorology;
- 3.5.3.1.1.5 Oceanography;
- 3.5.3.1.1.6 Astronomy; and

3.5.3.1.2 At least three (3) semester hours in each of the following:

- 3.5.3.1.2.1 Biology;
- 3.5.3.1.2.2 Chemistry;
- 3.5.3.1.2.3 Mathematics (college algebra or above);
- 3.5.3.1.2.4 Physics or Physical Science; and
- 3.5.3.1.2.5 Environmental Education.

3.5.4 Biology (Required grades 9 to 12; valid for Middle Level Science):

3.5.4.1 Thirty nine (39) semester hours, including:

3.5.4.1.1 At least twenty four (24) semester hours in biology, with at least three

(3) semesters hours in each of the following:

- 3.5.4.1.1.1 Botany;
- 3.5.4.1.1.2 Zoology;
- 3.5.4.1.1.3 Ecology;
- 3.5.4.1.1.4 Genetics;
- 3.5.4.1.1.5 Biochemistry;
- 3.5.4.1.1.6 Physiology; and

3.5.4.1.2 At least three (3) semester hours in each of the following:

- 3.5.4.1.2.1 Chemistry;
- 3.5.4.1.2.2 Physics or Physical Science;
- 3.5.4.1.2.3 Mathematics (college algebra or above);
- 3.5.4.1.2.4 Earth Sciences; and
- 3.5.4.1.2.5 Environmental Education.

3.5.5 Physical Science (Required grades 9 to 12; valid for Middle Level Science):

3.5.5.1 Thirty nine (39) semester hours in science, with at least three (3) semester hours in each of the following, unless otherwise indicated:

- 3.5.5.1.1 Chemistry (3 semester hours);
- 3.5.5.1.2 Physics (3 semester hours);
- 3.5.5.1.3 Biology (3 semester hours);
- 3.5.5.1.4 Mathematics (6 semester hours of college algebra or above);
- 3.5.5.1.5 Earth Science (3 semester hours); and
- 3.5.5.1.6 Environmental Science (3 semester hours).

3.5.6 Integrated Science (Required grades 9 to 12; valid for Middle Level Science):

3.5.6.1 A degree in biology, chemistry, physics, earth science, agriscience, or biochemistry or a major in one science discipline; and

3.5.6.2 Twenty seven (27) semester hours of course work, taken either as part of a degree program or in addition to it, as follows:

3.5.6.2.1 At least nine (9) semester hours of credit in biology, with at least three

(3) semester hours in each of the following:

- 3.5.6.2.1.1 Organismic or Macro Biology;
- 3.5.6.2.1.2 Molecular or Micro Biology; and
- 3.5.6.2.1.3 Systems or Environmental Biology; and

3.5.6.2.2 At least three (3) semester hours of credit in earth science, with

courses from among the following:

- 3.5.6.2.2.1 Introductory Geology;
- 3.5.6.2.2.2 Geological Processes;
- 3.5.6.2.2.3 Air and Land and Water Processes;
- 3.5.6.2.2.4 Weather Systems;
- 3.5.6.2.2.5 Oceanography;
- 3.5.6.2.2.6 Coastal Processes; or
- 3.5.6.2.2.7 Geophysics; and

3.5.6.2.3 At least six (6) semester hours in chemistry, which may include biochemistry; and

3.5.6.2.4 At least three (3) semester hours in physics, including Newtonian physics or Physics I; and

3.5.6.2.5 At least three (3) semester hours in astronomy.

The Department shall issue the appropriate Standard Certificate as a Science Teacher in an established science discipline to an educator who holds a valid Delaware Initial, Continuing, or Advanced License; or a Limited Standard, Standard or Professional Status Certificate issued by the Department prior to August 31, 2003 who has met the following requirements:

3.1 Acquired the prescribed knowledge, skill or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:

3.1.1 Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a Standard Certificate is requested; or

3.1.2 Graduating from an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program, where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards, offered by a regionally accredited college or university, with a major or its equivalent in the science discipline for which a Standard Certificate is sought; or

3.1.3 Satisfactorily completing the Alternative Routes for Licensure and Certification Program, the Special Institute for Licensure and Certification, or such other alternative educator preparation programs as the Secretary may approve; or

3.1.4 Holding a bachelor's degree from a regionally accredited college or university in any content area and for applicants applying after June 30, 2006 for their first Standard Certificate, satisfactory completion of fifteen (15) credits or their equivalent in professional development related to their area of certification, of which at least six (6) credits [or their equivalent] must focus on pedagogy, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; and

3.2 For applicants applying after December 31, 2005, where a Praxis™ II examination in the area of the Standard Certificate requested is applicable and available, achieving a passing score as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on the examination; or

3.3 Meeting the requirements for licensure and holding a valid and current license or certificate from another state in the science discipline for which a Standard Certificate is sought;

3.3.1 The Department shall not act on an application for certification if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials, until the applicant provides evidence of the investigation's resolution; or

3.4 Meeting the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C §1203.

#### **4.0 Effective Date**

~~This regulation shall be effective through June 30, 2006 only. Applicants who apply for a Standard Certificate as a Science Teacher after that date must comply with the requirements set forth in 14 DE Admin. Code 1516.~~

#### **4.0 Multiple Certificates**

Educators may hold certificates in more than one area.

#### **5.0 Application Requirements**

An applicant for a Standard Certificate shall submit:

5.1 Official transcripts; and

5.2 Official scores on the Praxis II examination if applicable and available; or

5.3 Evidence of passage of the National Board for Professional Teaching Standards Certificate, if applicable; or

5.4 An official copy of the out of state license or certification, if applicable.

5.5 If applied for simultaneously with application for an Initial License, the applicant shall provide all required documentation for that application in addition to the documentation cited above.

#### **6.0 Application Procedures for License Holders**

If an applicant holds a valid Initial, Continuing, or Advanced Delaware License; or a Limited Standard, Standard or Professional Status Certificate issued prior to August 31, 2003 and is requesting additional Standard Certificates, only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill or education required for the additional Standard Certificate requested is required.

#### **7.0 Effect of Regulation**

This regulation shall apply to all requests for issuance of a Standard Certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current Professional Status Certificate or Standard Certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License or the Advanced License. The Department shall also recognize a Limited Standard Certificate issued prior to August 31, 2003, provided that the

educator successfully completes the requirements set forth in the prescription letter received with the Limited Standard Certificate. Requirements must be completed by the expiration date of the Limited Standard Certificate, but in no case later than December 31, 2008.

### **8.0 Validity of a Standard Certificate**

A Standard Certificate is valid regardless of the assignment or employment status of the holder of a certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's Initial, Continuing, or Advanced License or Limited Standard, Standard, or Professional Status Certificate is revoked in accordance with 14 DE Admin. Code 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board. Hearings shall be conducted in accordance with the Standards Board's Hearing Procedures and Rules.

### **9.0 Secretary of Education Review**

The Secretary of Education may, upon the written request of the superintendent of a local school district or charter school administrator or other employing authority, review credentials submitted in application for a Standard Certificate on an individual basis and grant a Standard Certificate to an applicant who otherwise does not meet the requirements for a Standard Certificate, but whose effectiveness is documented by the local school district or charter school administrator or other employing authority.

**6 DE Reg. 319 (9/1/02)**

**7 DE Reg. 775 (12/1/03)**

**8 DE Reg. 1138 (2/1/05)**

## **1541 Standard Certificate Mathematics Teacher Middle Level**

### **1.0 Content**

This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 **Del.C.** §1220(a), for Mathematics Teacher Middle Level (required for grades 7 to 8, and valid in grades 5 to 6 in a middle level school).

### **2.0 Definitions**

2.1 The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

**"Certification"** means the issuance of a certificate, which may occur regardless of a recipient's assignment or employment status.

**"Department"** means the Delaware Department of Education.

**"Educator"** means a person licensed and certified by the State under 14 **Del.C.** §1202 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board and approved by the State Board. The term 'educator' does not include substitute teachers.

**"Examination of Content Knowledge"** means a standardized test which measures knowledge in a specific content area, such as PRAXIS™ II.

**"Fifteen (15) Credits or Their Equivalent in Professional Development"** means college credits or an equivalent number of hours, with one (1) credit equating to fifteen (15) hours, taken either as part of a degree program or ~~in addition to~~ **apart from** it, from a regionally accredited college or university or a professional development provider approved by the employing school district or charter school.

**"Immorality"** means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator's effectiveness by reason of his or her unfitness.

**"License"** means a credential which authorizes the holder to engage in the practice for which the license is issued.

**"Major or Its Equivalent"** means a minimum of thirty (30) semester hours of course work in a particular content area.

**"NASDTEC"** means The National Association of State Directors of Teacher Education and Certification. The organization represents professional standards boards, commissions and departments of education in all 50 states, the District of Columbia, the Department of Defense Dependent Schools, the U.S. Territories, New Zealand, and British Columbia, which are responsible for the preparation, licensure, and discipline of educational

personnel.

“NCATE” means The National Council for Accreditation of Teacher Education, a national accrediting body for schools, colleges, and departments of education authorized by the U.S. Department of Education.

“Standard Certificate” means a credential issued to certify that an educator has the prescribed knowledge, skill, or education to practice in a particular area, teach a particular subject, or teach a category of students.

“Standards Board” means the Professional Standards Board established pursuant to 14 Del.C. §1201.

“State Board” means the State Board of Education of the State pursuant to 14 Del.C. §104.

“Valid and Current License or Certificate from Another State” means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

### 3.0 Standard Certificate

~~In accordance with 14 Del.C. 1220(a), the Department shall issue a Standard Certificate as a Mathematics Teacher Middle Level to an applicant who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:~~

~~3.1 Bachelor's degree from a regionally accredited college or university and,~~

~~3.2 Professional Education:~~

~~3.2.1 Major in mathematics; or~~

~~3.2.2 Completion of an approved teacher education program in mathematics; or~~

~~3.2.3 Minimum of 24 semester hours in mathematics to include calculus (2 courses), geometry, finite or discrete math, statistics and probability, and mathematical models and applications and history of math or science.~~

~~The Department shall issue a Standard Certificate as a Mathematics Teacher Middle Level to an educator who holds a valid Delaware Initial, Continuing, or Advanced License; or a Limited Standard, Standard or Professional Status Certificate issued by the Department prior to August 31, 2003 who has met the following requirements:~~

~~3.1 Acquired the prescribed knowledge, skill or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:~~

~~3.1.1 Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a Standard Certificate is requested; or~~

~~3.1.2 Graduating from an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program, where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards, offered by a regionally accredited college or university, with a major or its equivalent in Mathematics; or~~

~~3.1.3 Satisfactorily completing the Alternative Routes for Licensure and Certification Program, the Special Institute for Licensure and Certification, or such other alternative educator preparation programs as the Secretary may approve; or~~

~~3.1.4 Holding a bachelor's degree from a regionally accredited college or university in any content area and for applicants applying after June 30, 2006 for their first Standard Certificate, satisfactory completion of fifteen (15) credits or their equivalent in professional development related to their area of certification, of which at least six (6) credits [or their equivalent] must focus on pedagogy, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; and~~

~~3.2 For applicants applying after December 31, 2005, where a Praxis™ II examination in the area of the Standard Certificate requested is applicable and available, achieving a passing score as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on the examination; or~~

~~3.3 Meeting the requirements for licensure and holding a valid and current license or certificate from another state in Mathematics;~~

~~3.3.1 The Department shall not act on an application for certification if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials, until the applicant provides evidence of the investigation's resolution; or~~

~~3.4 Meeting the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C. §1203.~~

~~4.0 Effective Date~~

~~This regulation shall be effective through June 30, 2006 only. Applicants who apply for a Standard Certificate as a Mathematics Teacher Middle Level after that date must comply with the requirements set forth in 14 Del.C. §1516.~~

#### **4.0 Multiple Certificates**

Educators may hold certificates in more than one area.

#### **5.0 Application Requirements**

An applicant for a Standard Certificate shall submit:

5.1 Official transcripts; and

5.2 Official scores on the Praxis II examination if applicable and available; or

5.3 Evidence of passage of the National Board for Professional Teaching Standards Certificate, if applicable; or

5.4 An official copy of the out of state license or certification, if applicable.

5.5 If applied for simultaneously with application for an Initial License, the applicant shall provide all required documentation for that application in addition to the documentation cited above.

#### **6.0 Application Procedures for License Holders**

If an applicant holds a valid Initial, Continuing, or Advanced Delaware License; or a Limited Standard, Standard or Professional Status Certificate issued prior to August 31, 2003 and is requesting additional Standard Certificates, only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill or education required for the additional Standard Certificate requested is required.

#### **7.0 Effect of Regulation**

This regulation shall apply to all requests for issuance of a Standard Certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current Professional Status Certificate or Standard Certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License or the Advanced License. The Department shall also recognize a Limited Standard Certificate issued prior to August 31, 2003, provided that the educator successfully completes the requirements set forth in the prescription letter received with the Limited Standard Certificate. Requirements must be completed by the expiration date of the Limited Standard Certificate, but in no case later than December 31, 2008.

#### **8.0 Validity of a Standard Certificate**

A Standard Certificate is valid regardless of the assignment or employment status of the holder of a certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's Initial, Continuing, or Advanced License or Limited Standard, Standard, or Professional Status Certificate is revoked in accordance with 14 DE Admin. Code 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board. Hearings shall be conducted in accordance with the Standards Board's Hearing Procedures and Rules.

#### **9.0 Secretary of Education Review**

The Secretary of Education may, upon the written request of the superintendent of a local school district or charter school administrator or other employing authority, review credentials submitted in application for a Standard Certificate on an individual basis and grant a Standard Certificate to an applicant who otherwise does not meet the requirements for a Standard Certificate, but whose effectiveness is documented by the local school district or charter school administrator or other employing authority.

**7 DE Reg. 775 (12/1/03)**

### **1542 Standard Certificate Science Teacher Middle Level**

#### **1.0 Content**

This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 Del.C. §1220(a), for Science Teacher Middle Level (required for grades 7 to 8, and valid in a middle level school, grades 5 to 6).

## 2.0 Definitions

2.1 The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

**“Certification”** means the issuance of a certificate, which may occur regardless of a recipient's assignment or employment status.

**“Department”** means the Delaware Department of Education.

**“Educator”** means a person licensed and certified by the State under 14 **Del.C.** §1202 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board and approved by the State Board. The term ‘educator’ does not include substitute teachers.

**“Examination of Content Knowledge”** means a standardized test which measures knowledge in a specific content area, such as PRAXIS™ II.

**“Fifteen (15) Credits or Their Equivalent in Professional Development”** means college credits or an equivalent number of hours, with one (1) credit equating to fifteen (15) hours, taken either as part of a degree program or ~~in addition to~~ **apart from** it, from a regionally accredited college or university or a professional development provider approved by the employing school district or charter school.

**“Immorality”** means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator's effectiveness by reason of his or her unfitness;

**“License”** means a credential which authorizes the holder to engage in the practice for which the license is used.

**“Major or its Equivalent”** means a minimum of thirty (30) semester hours of course work in a particular content area.

**“NASDTEC”** means The National Association of State Directors of Teacher Education and Certification. The organization represents professional standards boards, commissions and departments of education in all 50 states, the District of Columbia, the Department of Defense Dependent Schools, the U.S. Territories, New Zealand, and British Columbia, which are responsible for the preparation, licensure, and discipline of educational personnel.

**“NCATE”** means The National Council for Accreditation of Teacher Education, a national accrediting body for schools, colleges, and departments of education authorized by the U.S. Department of Education.

**“Science Discipline”** means those areas of science for which Delaware content standards have been established.

**“Standard Certificate”** means a credential issued to certify that an educator has the prescribed knowledge, skill, or education to practice in a particular area, teach a particular subject, or teach a category of students.

**“Standards Board”** means the Professional Standards Board established pursuant to 14 **Del.C.** §1201.

**“State Board”** means the State Board of Education of the State pursuant to 14 **Del.C.** §104.

**“Valid and Current License or Certificate from Another State”** means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

## 3.0 Standard Certificate

~~In accordance with 14 **Del.C.** §1220(a), the Department shall issue a Standard Certificate as a Science Teacher Middle Level to an applicant who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:~~

~~3.1 A bachelor's degree from an NCATE specialty organization recognized educator preparation program offered by a regionally accredited college or university, with a major in general science, middle school science, or a science discipline; or~~

~~3.2 A bachelor's degree from a state approved educator preparation program offered by a regionally accredited college or university, with a major in general science, middle school science, or a science discipline where the state approval body employed the appropriate NASDTEC standards or NCATE specialty organization standards; or~~

~~3.3 Passage of the appropriate PRAXIS™ II test approved by the Standards Board and the State Board of Education in science; or~~

~~3.4 A bachelor's degree from a regionally accredited college or university with a major in general science, middle-level science, or a science discipline; and~~

~~3.4.1 A minimum of twenty-four (24) semester hours of pedagogy courses from a regionally accredited college or university to include:~~

~~3.4.1.1 Human Development;~~

~~3.4.1.2 Methods of Teaching Middle School or Secondary Science;~~

~~3.4.1.3 Teaching of Reading in the Content Areas or Identifying and Treating Exceptionalities;~~

~~3.4.1.4 Effective Teaching Strategies; and~~

~~3.4.1.5 Multicultural Education; or~~

~~3.5 Completion of the pedagogy requirements set forth in section 3.4.1 and a total of thirty-six (36) semester hours in science, with a minimum of:~~

~~3.5.1 Mathematics (3 semester hours);~~

~~3.5.2 Environmental Education (3 semester hours);~~

~~3.5.3 Earth Science (6 semester hours);~~

~~3.5.4 Biology (12 semester hours); and~~

~~3.5.5 Chemistry, physics, and physical science (12 semester hours combined with a minimum of 3 semester hours in each area).~~

~~The Department shall issue a Standard Certificate as a Middle School Science Teacher to an educator who holds a valid Delaware Initial, Continuing, or Advanced License; or a Limited Standard, Standard or Professional Status Certificate issued by the Department prior to August 31, 2003 who has met the following requirements:~~

~~3.1 Acquired the prescribed knowledge, skill or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:~~

~~3.1.1 Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a Standard Certificate is requested; or~~

~~3.1.2 Graduating from an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program, where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards, offered by a regionally accredited college or university, with a major or its equivalent in any science discipline; or~~

~~3.1.3 Satisfactorily completing the Alternative Routes for Licensure and Certification Program, the Special Institute for Licensure and Certification, or such other alternative educator preparation programs as the Secretary may approve; or~~

~~3.1.4 Holding a bachelor's degree from a regionally accredited college or university in any content area and for applicants applying after June 30, 2006 for their first Standard Certificate, satisfactory completion of fifteen (15) credits or their equivalent in professional development related to their area of certification, of which at least six (6) credits must focus on pedagogy, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; and~~

~~3.2 For applicants applying after December 31, 2005, where a Praxis™ II examination in the area of the Standard Certificate requested is applicable and available, achieving a passing score as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on the examination; or~~

~~3.3 Meeting the requirements for licensure and holding a valid and current license or certificate from another state in Middle School Science;~~

~~3.3.1 The Department shall not act on an application for certification if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials, until the applicant provides evidence of the investigation's resolution; or~~

~~3.4 Meeting the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C §1203.~~

#### **4.0 Effective Date**

~~This regulation shall be effective through June 30, 2006 only. Applicants who apply for a Standard Certificate as a Science Teacher Middle School after that date must comply with the requirements set forth in 14 Del.C. §1516.~~

#### **4.0 Multiple Certificates**

Educators may hold certificates in more than one area.

### **5.0 Application Requirements**

An applicant for a Standard Certificate shall submit:

- 5.1 Official transcripts; and
- 5.2 Official scores on the Praxis II examination if applicable and available; or
- 5.3 Evidence of passage of the National Board for Professional Teaching Standards Certificate, if applicable; or
- 5.4 An official copy of the out of state license or certification, if applicable.
- 5.5 If applied for simultaneously with application for an Initial License, the applicant shall provide all required documentation for that application in addition to the documentation cited above.

### **6.0 Application Procedures for License Holders**

If an applicant holds a valid Initial, Continuing, or Advanced Delaware License; or a Limited Standard, Standard or Professional Status Certificate issued prior to August 31, 2003 and is requesting additional Standard Certificates, only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill or education required for the additional Standard Certificate requested is required.

### **7.0 Effect of Regulation**

This regulation shall apply to all requests for issuance of a Standard Certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current Professional Status Certificate or Standard Certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License or the Advanced License. The Department shall also recognize a Limited Standard Certificate issued prior to August 31, 2003, provided that the educator successfully completes the requirements set forth in the prescription letter received with the Limited Standard Certificate. Requirements must be completed by the expiration date of the Limited Standard Certificate, but in no case later than December 31, 2008.

### **8.0 Validity of a Standard Certificate**

A Standard Certificate is valid regardless of the assignment or employment status of the holder of a certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's Initial, Continuing, or Advanced License or Limited Standard, Standard, or Professional Status Certificate is revoked in accordance with 14 **DE Admin. Code** 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board. Hearings shall be conducted in accordance with the Standards Board's Hearing Procedures and Rules.

### **9.0 Secretary of Education Review**

The Secretary of Education may, upon the written request of the superintendent of a local school district or charter school administrator or other employing authority, review credentials submitted in application for a Standard Certificate on an individual basis and grant a Standard Certificate to an applicant who otherwise does not meet the requirements for a Standard Certificate, but whose effectiveness is documented by the local school district or charter school administrator or other employing authority.

7 DE Reg. 775 (12/1/03)

8 DE Reg. 1139 (2/1/05)

## **1543 Standard Certificate Art Teacher Comprehensive**

### **1.0 Content**

This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 **Del.C.** §1220(a), for Art Teacher Comprehensive (grades K to 12).

### **2.0 Definitions**

2.1 The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

**"Department"** means the Delaware Department of Education.

**"License"** means a credential which authorizes the holder to engage in the practice for which the license is issued.

**"Standard Certificate"** means a credential issued to certify that an educator has the prescribed knowledge, skill, or education to practice in a particular area, teach a particular subject, or teach a category of students.

### **3.0 Standard Certificate**

In accordance with ~~14 Del.C. §1220(a)~~, the Department shall issue a Standard Certificate as an Art Teacher Comprehensive to an applicant who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:

3.1 Bachelor's degree from an regionally accredited college or university and,

3.2 Professional Education

3.2.1 Completion of an approved teacher education program in Elementary and Secondary Art or,

3.2.2 Minimum of 27 semester hours to include Human Development, Methods of Teaching Art Elementary Level, Methods of Teaching Art Secondary Level, Art for Special Education, Effective Teaching Strategies, Multicultural Education, and,

3.3 Specific Teaching Field

3.3.1 Major in Art or,

3.3.2 Completion of an approved teacher education program in elementary and secondary art or,

3.3.3 Minimum of 36 semester hours including a minimum of two courses in each of the following areas: Drawing, Painting, Design and Art History, Aesthetics, Graphics, Printmaking, and Related Processes and Three Dimensional Arts and Crafts including 1 course in Ceramics.

### **4.0 Effective Date**

This regulation shall be effective through June 30, 2006 only. Applicants who apply for a Standard Certificate as an Art Teacher Comprehensive after that date must comply with the requirements set forth in 14 ~~Del.C. §1516~~.

### **1.0 Content**

This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 ~~Del.C. §1220(a)~~, for Art Teacher Comprehensive (grades K to12).

### **2.0 Definitions**

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

**"Certificate"** means the issuance of a certificate, which may occur regardless of a recipient's assignment or employment status.

**"Department"** means the Delaware Department of Education.

**"Educator"** means a person licensed and certified by the State under 14 ~~Del.C. §1202~~ to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board and approved by the State Board. The term 'educator' does not include substitute teachers.

**"Examination of Content Knowledge"** means a standardized test which measures knowledge in a specific content area, such as PRAXIS™ II.

**"Fifteen (15) Credits or Their Equivalent in Professional Development"** means college credits or an equivalent number of hours, with one (1) credit equating to fifteen (15) hours, taken either as part of a degree program or ~~in addition to apart from~~ it, from a regionally accredited college or university or a professional development provider approved by the employing school district or charter school.

**"Immorality"** means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator's effectiveness by reason of his or her unfitness.

**"License"** means a credential which authorizes the holder to engage in the practice for which the license is issued.

“Major or Its Equivalent” means a minimum of thirty (30) semester hours or course work in a particular content area.

“NASDTEC” means The National Association of State Directors of Teacher Education and Certification. The organization represents professional standards boards, commissions and departments of education in all 50 states, the District of Columbia, the Department of Defense Dependent Schools, the U.S. Territories, New Zealand, and British Columbia, which are responsible for the preparation, licensure, and discipline of educational personnel.

“NCATE” means The National Council for Accreditation of Teacher Education, a national accrediting body for schools, colleges, and departments of education authorized by the U.S. Department of Education.

“Standard Certificate” means a credential issued to certify that an educator has the prescribed knowledge, skill, or education to practice in a particular area, teach a particular subject, or teach a category of students.

“Standards Board” means the Professional Standards Board established pursuant to 14 Del.C. §1201.

“State Board” means the State Board of Education of the State pursuant to 14 Del.C. §104.

“Valid and Current License or Certificate from Another State” means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

### **3.0 Standard Certificate**

The Department shall issue a Standard Certificate as an Art Teacher to an educator who holds a valid Delaware Initial, Continuing, or Advanced License; or a Limited Standard, Standard or Professional Status Certificate issued by the Department prior to August 31, 2003 who has met the following requirements:

3.1 Acquired the prescribed knowledge, skill or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:

3.1.1 Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a Standard Certificate is requested; or

3.1.2 Graduating from an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program, where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards, offered by a regionally accredited college or university, with a major or its equivalent in Art; or

3.1.3 Satisfactorily completing the Alternative Routes for Licensure and Certification Program, the Special Institute for Licensure and Certification, or such other alternative educator preparation programs as the Secretary may approve; or

3.1.4 Holding a bachelor’s degree from a regionally accredited college or university in any content area and for applicants applying after June 30, 2006 for their first Standard Certificate, satisfactory completion of fifteen (15) credits or their equivalent in professional development related to their area of certification, of which at least six (6) credits [or their equivalent] must focus on pedagogy, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; and

3.2 For applicants applying after December 31, 2005, where a Praxis™ II examination in the area of the Standard Certificate requested is applicable and available, achieving a passing score as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on the examination; or

3.3 Meeting the requirements for licensure and holding a valid and current license or certificate from another state in Art;

3.3.1 The Department shall not act on an application for certification if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials, until the applicant provides evidence of the investigation’s resolution; or

3.4 Meeting the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C §1203.

### **4.0 Multiple Certificates**

Educators may hold certificates in more than one area.

### **5.0 Application Requirements**

An applicant for a Standard Certificate shall submit:

5.1 Official transcripts; and

5.2 Official scores on the Praxis II examination if applicable and available; or

5.3 Evidence of passage of the National Board for Professional Teaching Standards Certificate, if applicable; or

5.4 An official copy of the out of state license or certification, if applicable.

5.5 If applied for simultaneously with application for an Initial License, the applicant shall provide all required documentation for that application in addition to the documentation cited above.

## **6.0 Application Procedures for License Holders**

If an applicant holds a valid Initial, Continuing, or Advanced Delaware License; or a Limited Standard, Standard or Professional Status Certificate issued prior to August 31, 2003 and is requesting additional Standard Certificates, only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill or education required for the additional Standard Certificate requested is required.

## **7.0 Effect of Regulation**

This regulation shall apply to all requests for issuance of a Standard Certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current Professional Status Certificate or Standard Certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License or the Advanced License. The Department shall also recognize a Limited Standard Certificate issued prior to August 31, 2003, provided that the educator successfully completes the requirements set forth in the prescription letter received with the Limited Standard Certificate. Requirements must be completed by the expiration date of the Limited Standard Certificate, but in no case later than December 31, 2008.

## **8.0 Validity of a Standard Certificate**

A Standard Certificate is valid regardless of the assignment or employment status of the holder of a certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's Initial, Continuing, or Advanced License or Limited Standard, Standard, or Professional Status Certificate is revoked in accordance with 14 **DE Admin. Code** 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board. Hearings shall be conducted in accordance with the Standards Board's Hearing Procedures and Rules.

## **9.0 Secretary of Education Review**

The Secretary of Education may, upon the written request of the superintendent of a local school district or charter school administrator or other employing authority, review credentials submitted in application for a Standard Certificate on an individual basis and grant a Standard Certificate to an applicant who otherwise does not meet the requirements for a Standard Certificate, but whose effectiveness is documented by the local school district or charter school administrator or other employing authority.

**7 DE Reg. 775 (12/1/03)**

## **1548 Standard Certificate Music Teacher Comprehensive**

### **1.0 Content**

~~This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 **Del.C.** §1220(a), for Music Teacher Comprehensive (grades K to 12).~~

### **2.0 Definitions**

~~2.1 The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:~~

~~"Department" means the Delaware Department of Education.~~

~~"License" means a credential which authorizes the holder to engage in the practice for which the license is issued.~~

~~"Standard Certificate" means a credential issued to certify that an educator has the prescribed knowledge, skill, or education to practice in a particular area, teach a particular subject, or teach a category of students.~~

### ~~3.0 Standard Certificate~~

~~In accordance with 14 Del.C. §1220(a), the Department shall issue a Standard Certificate as a Music Teacher Comprehensive to an applicant who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:~~

~~3.1 Bachelor's degree from a regionally accredited college or university; and~~

~~3.2 Professional Education~~

~~3.2.1 Completion of an approved comprehensive teacher education program in Music or,~~

~~3.2.2 Minimum of 27 semester hours to include Human Development, Methods of Teaching Music Elementary Level, Methods of Teaching Music Secondary Level, Identifying and Treating Exceptionalities, Effective Teaching Strategies, Multicultural Education, and,~~

~~3.3 Specific Teaching Field~~

~~3.3.1 Major in Music or,~~

~~3.3.2 Completion of an approved teacher education program in Elementary and Secondary Music~~

~~or,~~

~~3.3.3 Minimum of 36 semester hours including course work in Music Theory, Music Literature, and~~

~~Musical Performance.~~

### ~~4.0 Effective Date~~

~~This regulation shall be effective through June 30, 2006 only. Applicants who apply for a Standard Certificate as a Music Teacher Comprehensive after that date must comply with the requirements set forth in 14 Del.C. §1516.~~

### 1.0 Content

This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 Del.C. §1220(a), for Music Teacher Comprehensive (grades K to 12).

### 2.0 Definitions

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

"Certification" means the issuance of a certificate, which may occur regardless of a recipient's assignment or employment status.

"Department" means the Delaware Department of Education.

"Educator" means a person licensed and certified by the State under 14 Del.C. §1202 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board and approved by the State Board. The term 'educator' does not include substitute teachers.

"Examination of Content Knowledge" means a standardized test which measures knowledge in a specific content area, such as PRAXIS™ II.

"Fifteen (15) Credits or Their Equivalent in Professional Development" means college credits or an equivalent number of hours, with one (1) credit equating to fifteen (15) hours, taken either as part of a degree program or [in addition to apart from] it, from a regionally accredited college or university or a professional development provider approved by the employing school district or charter school.

"Immorality" means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator's effectiveness by reason of his or her unfitness.

"License" means a credential which authorizes the holder to engage in the practice for which the license is used.

"Major or Its Equivalent" means a minimum of thirty (30) semester hours of course work in a particular content area.

"NASDTEC" means The National Association of State Directors of Teacher Education and Certification. The organization represents professional standards boards, commissions and departments of education in all 50 states, the District of Columbia, the Department of Defense Dependent Schools, the U.S. Territories, New

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Zealand, and British Columbia, which are responsible for the preparation, licensure, and discipline of educational personnel.

“NCATE” means The National Council for Accreditation of Teacher Education, a national accrediting body for schools, colleges, and departments of education authorized by the U.S. Department of Education.

“Standard Certificate” means a credential issued to certify that an educator has the prescribed knowledge, skill, or education to practice in a particular area, teach a particular subject, or teach a category of students.

“Standards Board” means the Professional Standards Board established pursuant to 14 Del.C. §1201.

“State Board” means the State Board of Education of the State pursuant to 14 Del.C. §104.

“Valid and Current License or Certificate from Another State” means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

### **3.0 Standard Certificate**

The Department shall issue a Standard Certificate as a Music Teacher to an educator who holds a valid Delaware Initial, Continuing, or Advanced License; or a Limited Standard, Standard or Professional Status Certificate issued by the Department prior to August 31, 2003 who has met the following requirements:

3.1 Acquired the prescribed knowledge, skill or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:

3.1.1 Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a Standard Certificate is requested; or

3.1.2 Graduating from an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program, where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards, offered by a regionally accredited college or university, with a major or its equivalent in Music; or

3.1.3 Satisfactorily completing the Alternative Routes for Licensure and Certification Program, the Special Institute for Licensure and Certification, or such other alternative educator preparation programs as the Secretary may approve; or

3.1.4 Holding a bachelor’s degree from a regionally accredited college or university in any content area and for applicants applying after June 30, 2006 for their first Standard Certificate, satisfactory completion of fifteen (15) credits or their equivalent in professional development related to their area of certification, of which at least six (6) credits [or their equivalent] must focus on pedagogy, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; and

3.2 For applicants applying after December 31, 2005, where a Praxis™ II examination in the area of the Standard Certificate requested is applicable and available, achieving a passing score as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on the examination; or

3.3 Meeting the requirements for licensure and holding a valid and current license or certificate from another state in Music;

3.3.1 The Department shall not act on an application for certification if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials, until the applicant provides evidence of the investigation’s resolution; or

3.4 Meeting the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C §1203.

### **4.0 Multiple Certificates**

Educators may hold certificates in more than one area.

### **5.0 Application Requirements**

An applicant for a Standard Certificate shall submit:

5.1 Official transcripts; and

5.2 Official scores on the Praxis II examination if applicable and available; or

5.3 Evidence of passage of the National Board for Professional Teaching Standards Certificate, if applicable; or

5.4 An official copy of the out of state license or certification, if applicable.

5.5 If applied for simultaneously with application for an Initial License, the applicant shall provide all required documentation for that application in addition to the documentation cited above.

### **6.0 Application Procedures for License Holders**

If an applicant holds a valid Initial, Continuing, or Advanced Delaware License; or a Limited Standard, Standard or Professional Status Certificate issued prior to August 31, 2003 and is requesting additional Standard Certificates, only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill or education required for the additional Standard Certificate requested is required.

### **7.0 Effect of Regulation**

This regulation shall apply to all requests for issuance of a Standard Certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current Professional Status Certificate or Standard Certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License or the Advanced License. The Department shall also recognize a Limited Standard Certificate issued prior to August 31, 2003, provided that the educator successfully completes the requirements set forth in the prescription letter received with the Limited Standard Certificate. Requirements must be completed by the expiration date of the Limited Standard Certificate, but in no case later than December 31, 2008.

### **8.0 Validity of a Standard Certificate**

A Standard Certificate is valid regardless of the assignment or employment status of the holder of a certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's Initial, Continuing, or Advanced License or Limited Standard, Standard, or Professional Status Certificate is revoked in accordance with 14 **DE Admin. Code** 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board. Hearings shall be conducted in accordance with the Standards Board's Hearing Procedures and Rules.

### **9.0 Secretary of Education Review**

The Secretary of Education may, upon the written request of the superintendent of a local school district or charter school administrator or other employing authority, review credentials submitted in application for a Standard Certificate on an individual basis and grant a Standard Certificate to an applicant who otherwise does not meet the requirements for a Standard Certificate, but whose effectiveness is documented by the local school district or charter school administrator or other employing authority.

**7 DE Reg. 775 (12/1/03)**

## **1551 Standard Certificate Physical Education Teacher Comprehensive**

### **1.0 Content**

~~This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 **Del.C.** §1220(a), for Physical Education Teacher Comprehensive (Grades K to 12).~~

### **2.0 Definitions**

2.1 ~~The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:~~

~~"Department" means the Delaware Department of Education.~~

~~"License" means a credential which authorizes the holder to engage in the practice for which the license is issued.~~

~~"Standard Certificate" means a credential issued to certify that an educator has the prescribed knowledge, skill, or education to practice in a particular area, teach a particular subject, or teach a category of students.~~

### **3.0 Standard Certificate**

~~In accordance with 14 **Del.C.** §1220(a), the Department shall issue a Standard Certificate as a Physical Education Teacher~~

Comprehensive to an applicant who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:

- 3.1 Bachelor's degree from a regionally accredited college or university and;
- 3.2 Professional Education

- 3.2.1 Completion of an approved teacher preparation program in Physical Education (must include K to 12) or;
- 3.2.2 Minimum of 27 semester hours to include Human Development, Methods of Teaching Physical

Education in two of the following three areas: K to 4, 5 to 8, 9 to 12, Special or Adapted Physical Education, Effective Teaching Strategies, Multicultural Education, and;

- 3.3 Specific Teaching Field

- 3.3.1 Major in Physical Education or;
- 3.3.2 Completion of an approved teacher preparation program in Physical Education, K-12 or;
- 3.3.3 Minimum of 45 semester hours including course work in the following areas of Physical

Education:

3.3.3.1 Foundations and Theory (15 semester hours): History, Philosophy, Administration, Program Planning, Concepts of Play, Coaching Strategy and Techniques, Evaluation

3.3.3.2 Movement Experience\* (18 semester hours): Individual Sports, Dual Sports, Team Sports, Rhythms, Aquatics, Low Organization or Cooperation Games, Gymnastics, Recreation and Leisure Activities, Outdoor Education, Adventure Activity, Physical Conditioning. (\*Must include two courses in Elementary School Physical Education Activities)

3.3.3.3 Science (12 semester hours): Anatomical, Physiological, Biomechanical, Kinesiological, Exercise Performance, Technical Applications (including computers)

#### **4.0 Effective Date**

This regulation shall be effective through June 30, 2006 only. Applicants who apply for a Standard Certificate as a Physical Education Teacher Comprehensive after that date must comply with the requirements set forth in 14 **Del.C.** §1516.

#### **1.0 Content**

This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 **Del.C.** §1220(a), for Physical Education Teacher Comprehensive (Grades K to 12).

#### **2.0 Definitions**

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

**“Certificate”** means the issuance of a certificate, which may occur regardless of a recipient's assignment or employment status.

**“Department”** means the Delaware Department of Education.

**“Educator”** means a person licensed and certified by the State under 14 **Del.C.** §1202 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board and approved by the State Board. The term ‘educator’ does not include substitute teachers.

**“Examination of Content Knowledge”** means a standardized test which measures knowledge in a specific content area, such as PRAXIS™ II.

**“Fifteen (15) Credits or Their Equivalent in Professional Development”** means college credits or an equivalent number of hours, with one (1) credit equating to fifteen (15) hours, taken either as part of a degree program or ~~in addition to~~ **apart from** it, from a regionally accredited college or university or a professional development provider approved by the employing school district or charter school.

**“Immorality”** means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator's effectiveness by reason of his or her unfitness.

**“License”** means a credential which authorizes the holder to engage in the practice for which the license is issued.

**“Major or Its Equivalent”** means a minimum of thirty (30) semester hours of course work in a particular content area.

**“NASDTEC”** means The National Association of State Directors of Teacher Education and

Certification. The organization represents professional standards boards, commissions and departments of education in all 50 states, the District of Columbia, the Department of Defense Dependent Schools, the U.S. Territories, New Zealand, and British Columbia, which are responsible for the preparation, licensure, and discipline of educational personnel.

“NCATE” means The National Council for Accreditation of Teacher Education, a national accrediting body for schools, colleges, and departments of education authorized by the U.S. Department of Education.

“Standard Certificate” means a credential issued to certify that an educator has the prescribed knowledge, skill, or education to practice in a particular area, teach a particular subject, or teach a category of students.

“Standards Board” means the Professional Standards Board established pursuant to 14 Del.C. §1201.

“State Board” means the State Board of Education of the State pursuant to 14 Del.C. §104.

“Valid and Current License or Certificate from Another State” means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

### **3.0 Standard Certificate**

The Department shall issue a Standard Certificate as a Physical Education Teacher to an educator who holds a valid Delaware Initial, Continuing, or Advanced License; or a Limited Standard, Standard or Professional Status Certificate issued by the Department prior to August 31, 2003 who has met the following requirements:

3.1 Acquired the prescribed knowledge, skill or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:

3.1.1 Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a Standard Certificate is requested; or

3.1.2 Graduating from an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program, where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards, offered by a regionally accredited college or university, with a major or its equivalent in Physical Education; or

3.1.3 Satisfactorily completing the Alternative Routes for Licensure and Certification Program, the Special Institute for Licensure and Certification, or such other alternative educator preparation programs as the Secretary may approve; or

3.1.4 Holding a bachelor’s degree from a regionally accredited college or university in any content area and for applicants applying after June 30, 2006 for their first Standard Certificate, satisfactory completion of fifteen (15) credits or their equivalent in professional development related to their area of certification, of which at least six (6) [or their equivalent] credits must focus on pedagogy, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; and

3.2 For applicants applying after December 31, 2005, where a Praxis™ II examination in the area of the Standard Certificate requested is applicable and available, achieving a passing score as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on the examination; or

3.3 Meeting the requirements for licensure and holding a valid and current license or certificate from another state in Physical Education;

3.3.1 The Department shall not act on an application for certification if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials, until the applicant provides evidence of the investigation’s resolution; or

3.4 Meeting the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C. §1203.

### **4.0 Multiple Certificates**

Educators may hold certificates in more than one area.

### **5.0 Application Requirements**

An applicant for a Standard Certificate shall submit:

5.1 Official transcripts; and

5.2 Official scores on the Praxis II examination if applicable and available; or

- 5.3 Evidence of passage of the National Board for Professional Teaching Standards Certificate, if applicable; or
- 5.4 An official copy of the out of state license or certification, if applicable.
- 5.5 If applied for simultaneously with application for an Initial License, the applicant shall provide all required documentation for that application in addition to the documentation cited above.

### **6.0 Application Procedures for License Holders**

If an applicant holds a valid Initial, Continuing, or Advanced Delaware License; or a Limited Standard, Standard or Professional Status Certificate issued prior to August 31, 2003 and is requesting additional Standard Certificates, only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill or education required for the additional Standard Certificate requested is required.

### **7.0 Effect of Regulation**

This regulation shall apply to all requests for issuance of a Standard Certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current Professional Status Certificate or Standard Certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License or the Advanced License. The Department shall also recognize a Limited Standard Certificate issued prior to August 31, 2003, provided that the educator successfully completes the requirements set forth in the prescription letter received with the Limited Standard Certificate. Requirements must be completed by the expiration date of the Limited Standard Certificate, but in no case later than December 31, 2008.

### **8.0 Validity of a Standard Certificate**

A Standard Certificate is valid regardless of the assignment or employment status of the holder of a certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's Initial, Continuing, or Advanced License or Limited Standard, Standard, or Professional Status Certificate is revoked in accordance with 14 **DE Admin. Code** 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board. Hearings shall be conducted in accordance with the Standards Board's Hearing Procedures and Rules.

### **9.0 Secretary of Education Review**

The Secretary of Education may, upon the written request of the superintendent of a local school district or charter school administrator or other employing authority, review credentials submitted in application for a Standard Certificate on an individual basis and grant a Standard Certificate to an applicant who otherwise does not meet the requirements for a Standard Certificate, but whose effectiveness is documented by the local school district or charter school administrator or other employing authority.

**7 DE Reg. 775 (12/1/03)**

## **1554 Standard Certificate Reading Specialist**

### **1.0 Content**

This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 **Del.C.** §1220(a), for Reading Specialist.

### **2.0 Definitions**

2.1 The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

“**Certification**” means the issuance of a certificate, which may occur regardless of a recipient's assignment or employment status.

“**Department**” means the Delaware Department of Education.

“**Educator**” means a person licensed and certified by the State under 14 **Del.C.** §1202 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board and approved by the

State Board. The term 'educator' does not include substitute teachers.

**“Examination of Content Knowledge”** means a standardized test which measures knowledge in a specific content area, such as PRAXIS™ II.

**“Immorality”** means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator's effectiveness by reason of his or her unfitness;

**“License”** means a credential which authorizes the holder to engage in the practice for which the license is issued.

**“Major or Its Equivalent”** means a minimum of thirty (30) semester hours of course work in a particular content area.

**“NASDTEC”** means The National Association of State Directors of Teacher Education and Certification. The organization represents professional standards boards, commissions and departments of education in all 50 states, the District of Columbia, the Department of Defense Dependent Schools, the U.S. Territories, New Zealand, and British Columbia, which are responsible for the preparation, licensure, and discipline of educational personnel.

**“NCATE”** means The National Council for Accreditation of Teacher Education, a national accrediting body for schools, colleges, and departments of education authorized by the U.S. Department of Education.

**“Reading Specialist”** means an educator who provides one-on-one or small group, diagnostic, prescriptive teaching of reading, and includes, but is not limited to, Title I reading teachers, reading resource teachers, reading teachers as specified in SB 320, Epilogue §358, and educators who work with teachers in reading and communication skills, including, but not limited to literacy coaches and coordinators, and individuals employed as building or district coordinators of reading or in Reading Cadre positions.

**“Standard Certificate”** means a credential issued to certify that an educator has the prescribed knowledge, skill, or education to practice in a particular area, teach a particular subject, or teach a category of students.

**“Standards Board”** means the Professional Standards Board established pursuant to 14 **Del.C.** §1201.

**“State Board”** means the State Board of Education of the State pursuant to 14 **Del.C.** §104.

**“Valid and Current License or Certificate from Another State”** means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

### 3.0 Standard Certificate

~~In accordance with 14 **Del.C.** §1220(a), the Department shall issue a Standard Certificate as a Reading Specialist to an applicant who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:~~

#### ~~3.1 Educational requirements:~~

~~3.1.1 A master's degree from an NCATE specialty organization recognized educator preparation program offered by a regionally accredited college or university, in a program for Reading Specialists; or~~

~~3.1.2 A master's degree from a state approved educator preparation program for Reading Specialists offered by a regionally accredited college or university, where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards; or~~

~~3.1.3 A master's degree in any area from a regionally accredited college or university and, completion of the course work set forth in 3.1.4.1 and 3.1.4.2; or~~

~~3.1.4 A Bachelors's degree plus 30 graduate credits; and~~

~~3.1.4.1 Minimum of 24 semester hour credits in graduate level reading covering the following content areas as specified below:~~

~~3.1.4.1.1 Language Development 3 semester hours;~~

~~3.1.4.1.2 Methods in Process Writing in Language Arts, 3 semester hours;~~

~~3.1.4.1.3 Assessment and Correction of Reading Difficulties, 6 semester hours;~~

~~3.1.4.1.4 Practicum in Reading to include application of assessment and correction strategies, parent involvement strategies, and experience in working as a reading resource person with staff, 6 semester hours;~~

~~3.1.4.1.5 Reading in the Content Areas, 3 semester hours;~~

~~3.1.4.1.6 Children's or Adolescent Literature Across the Curriculum, 3~~

semester hours; and

3.1.4.2 ~~Minimum of three graduate semester hours from among the following: Seminar in Reading Research, Emergent Literacy, Teaching English as a Second Language or Children's or Adolescent Literature.~~

3.2 ~~Experience~~

3.2.1 ~~Minimum of three years of successful teaching experience with at least two years in the K to 12 classroom and;~~

In accordance with 14 Del.C. §1220(a), the Department shall issue a Standard Certificate as a Reading Specialist to an applicant who has a minimum of three (3) years of successful teaching experience with at least two years in the K to 12 classroom, and who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, who has met the following requirements:

3.1 Acquired the prescribed knowledge, skill or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:

3.1.1 Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a Standard Certificate is requested; or

3.1.2 Graduating from an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program, where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards, offered by a regionally accredited college or university, with a Master's degree or its equivalent in Reading; or

3.1.3 Holding a Bachelor's degree plus 30 graduate credits from a regionally accredited college or university or a Master's degree from a regionally accredited college or university in any content area and a minimum of 24 semester hour credits in graduate level reading covering the following content areas as specified below:

3.1.3.1 Language Development (3 semester hours);

3.1.3.2 Methods in Process Writing or Language Arts (3 semester hours);

3.1.3.3 Assessment and Correction of Reading Difficulties (6 semester hours);

3.1.3.4 Reading in the Content Areas (3 semester hours);

3.1.3.5 Children's or Adolescent Literature Across the Curriculum (3 semester hours);

3.1.3.6 Practicum in Reading to include application of assessment and correction strategies,

parent involvement strategies, and experience in working as a reading resource person with staff (6 semester hours); and

3.1.3.7 A minimum of three graduate semester hours from among the following:

3.1.3.7.1 Seminar in Reading Research;

3.1.3.7.2 Emergent Literacy;

3.1.3.7.3 Teaching English as a Second Language; or

3.1.3.7.4 Children's or Adolescent Literature; and

3.2 For applicants applying after December 31, 2005, where a Praxis™ II examination in the area of the Standard Certificate requested is applicable and available, achieving a passing score as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on the examination; or

3.3 Meeting the requirements for licensure and holding a valid and current license or certificate from another state as a Reading Specialist;

3.3.1 The Department shall not act on an application for certification if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials, until the applicant provides evidence of the investigation's resolution; or

3.4 Meeting the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C §1203.

#### **~~4.0 Effective Date~~**

~~This regulation shall be effective immediately. Notwithstanding this provision, Reading Specialists as defined in 2.0, hired prior to July 1, 2006, who do not currently meet the requirements set forth herein, but who hold an Initial, Continuing or Advanced License; or a Standard or Professional Status Certificate issued prior to August 31, 2003, may be issued a Standard Certificate as a Reading Specialist contingent on their completion of the requirements set forth herein within three (3) years of the effective date of this regulation or their date of employment in the position of~~

~~Reading Specialist, whichever is later.~~

#### **4.0 Multiple Certificates**

Educators may hold certificates in more than one area.

#### **5.0 Application Requirements**

An applicant for a Standard Certificate shall submit:

5.1 Official transcripts; and

5.2 Official scores on the Praxis II examination if applicable and available; or

5.3 Evidence of passage of the National Board for Professional Teaching Standards Certificate, if applicable; or

5.4 An official copy of the out of state license or certification, if applicable.

5.5 If applied for simultaneously with application for an Initial License, the applicant shall provide all required documentation for that application in addition to the documentation cited above.

#### **6.0 Application Procedures for License Holders**

If an applicant holds a valid Initial, Continuing, or Advanced Delaware License; or a Limited Standard, Standard or Professional Status Certificate issued prior to August 31, 2003 and is requesting additional Standard Certificates, only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill or education required for the additional Standard Certificate requested is required.

#### **7.0 Effect of Regulation**

This regulation shall apply to all requests for issuance of a Standard Certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current Professional Status Certificate or Standard Certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License or the Advanced License. The Department shall also recognize a Limited Standard Certificate issued prior to August 31, 2003, provided that the educator successfully completes the requirements set forth in the prescription letter received with the Limited Standard Certificate. Requirements must be completed by the expiration date of the Limited Standard Certificate, but in no case later than December 31, 2008. Reading Specialists, as defined in 2.0, hired prior to July 1, 2006, who do not meet the requirements set forth herein, but who hold an Initial, Continuing or Advanced License; or a Standard or Professional Status Certificate issued prior to August 31, 2003, may be issued a Standard Certificate as a Reading Specialist contingent on their completion of the requirements set forth herein within three (3) years of the effective date of this regulation or their date of employment in the position of Reading Specialist, whichever is later.

#### **8.0 Validity of a Standard Certificate**

A Standard Certificate is valid regardless of the assignment or employment status of the holder of a certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's Initial, Continuing, or Advanced License or Limited Standard, Standard, or Professional Status Certificate is revoked in accordance with 14 DE Admin. Code 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board. Hearings shall be conducted in accordance with the Standards Board's Hearing Procedures and Rules.

#### **9.0 Secretary of Education Review**

The Secretary of Education may, upon the written request of the superintendent of a local school district or charter school administrator or other employing authority, review credentials submitted in application for a Standard Certificate on an individual basis and grant a Standard Certificate to an applicant who otherwise does not meet the requirements for a Standard Certificate, but whose effectiveness is documented by the local school district or charter school administrator or other employing authority.

**7 DE Reg. 775 (12/01/03)**

**8 DE Reg. 899 (12/01/04)**

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## 1556 Standard Certificate Elementary Teacher (Grades K to 6)

### 1.0 Content

1.1 This regulation shall apply to the requirements for a Standard Certificate, pursuant to 14 **Del.C.** §1220(a), for Elementary Teacher (Grades K to 6).

### 2.0 Definitions

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

**“Certification”** means the issuance of a certificate, which may occur regardless of a recipient’s assignment or employment status.

**“Department”** means the Delaware Department of Education.

**“Educator”** means a person licensed and certified by the State under 14 **Del.C.** §1202 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board and approved by the State Board. The term ‘educator’ does not include substitute teachers.

**“Examination of Content Knowledge”** means a standardized test which measures knowledge in a specific content area, such as PRAXIS™ II.

**“Fifteen (15) Credits or Their Equivalent in Professional Development”** means college credits or an equivalent number of hours, with one (1) credit equating to fifteen (15) hours, taken either as part of a degree program or ~~in addition to apart from~~ it, from a regionally accredited college or university or a professional development provider approved by the employing school district or charter school.

**“Immorality”** means conduct which is inconsistent with the rules and principles of morality expected of an educator and may reasonably be found to impair an educator’s effectiveness by reason of his or her unfitness.

**“License”** means a credential which authorizes the holder to engage in the practice for which the license is issued.

**“Major or its Equivalent”** means a minimum of thirty (30) semester hours of course work in a particular content area.

**“NASDTEC”** means The National Association of State Directors of Teacher Education and Certification. The organization represents professional standards boards, commissions and departments of education in all 50 states, the District of Columbia, the Department of Defense Dependent Schools, the U.S. Territories, New Zealand, and British Columbia, which are responsible for the preparation, licensure, and discipline of educational personnel.

**“NCATE”** means The National Council for Accreditation of Teacher Education, a national accrediting body for schools, colleges, and departments of education authorized by the U.S. Department of Education.

**“Standard Certificate”** means a credential issued to certify that an educator has the prescribed knowledge, skill or education to practice in a particular area, teach a particular subject, or teach a category of students.

**“Standards Board”** means the Professional Standards Board established pursuant to 14 **Del.C.** §1201.

**“State Board”** means the State Board of Education of the State pursuant to 14 **Del.C.** §104.

**“Valid and Current License or Certificate from Another State”** means a current full or permanent certificate or license issued by another state. It does not include temporary, emergency or expired certificates or licenses issued from another state.

### 3.0 Standard Certificate

~~In accordance with 14 **Del.C.** §1220(a), the Department shall issue a Standard Certificate as an Elementary Teacher to an applicant who holds a valid Delaware Initial, Continuing, or Advanced License; or Standard or Professional Status Certificate issued by the Department prior to August 31, 2003, and who meets the following requirements:~~

~~3.1 Degree Requirement~~

~~3.1.1 Bachelor’s degree from a regionally accredited college or university in any field and 45 semester hours of general content courses. These courses may be part of the Bachelor’s degree, but if not, then the courses shall be taken in addition to the degree.~~

~~3.1.1.1 Nine semester hours of English including an upper level composition course and a~~

literature course;

3.1.1.2 Twelve semester hours of science including one course each in Life and Environmental, Earth and Space and Physical Sciences;

3.1.1.3 Nine semester hours of social sciences including World History, American History and Geography;

3.1.1.4 Nine semester hours of Mathematics;

3.1.1.5 Six semester hours of Fine Arts; or;

3.1.1.6 Courses which reflect accomplishment of the NCATE specialty organization standards for elementary teacher education to develop pedagogical content knowledge and professional and pedagogical skills.

3.1.2 A Bachelor's degree in elementary education from an NCATE specialty organization or state approved program, where the state employed the appropriate NASDTEC or NCATE specialty organization standards for elementary teacher education, from a regionally accredited college or university.

The Department shall issue a Standard Certificate as an Elementary Teacher to an educator who holds a valid Delaware Initial, Continuing, or Advanced License; or a Limited Standard, Standard or Professional Status Certificate issued by the Department prior to August 31, 2003 who has met the following requirements:

3.1 Acquired the prescribed knowledge, skill or education to practice in a particular area, to teach a particular subject or to instruct a particular category of students by:

3.1.1 Obtaining National Board for Professional Teaching Standards certification in the area, subject, or category for which a Standard Certificate is requested; or

3.1.2 Graduating from an NCATE specialty organization recognized educator preparation program or from a state approved educator preparation program, where the state approval body employed the appropriate NASDTEC or NCATE specialty organization standards, offered by a regionally accredited college or university, with a major or its equivalent in Elementary Education; or

3.1.3 Satisfactorily completing the Alternative Routes for Licensure and Certification Program, the Special Institute for Licensure and Certification, or such other alternative educator preparation programs as the Secretary may approve; or

3.1.4 Holding a bachelor's degree from a regionally accredited college or university in any content area and for applicants applying after June 30, 2006 for their first Standard Certificate, satisfactory completion of fifteen (15) credits or their equivalent in professional development related to their area of certification, of which at least six (6) credits [or their equivalent] must focus on pedagogy, selected by the applicant with the approval of the employing school district or charter school which is submitted to the Department; and

3.2 For applicants applying after December 31, 2005, where a Praxis™ II examination in the area of the Standard Certificate requested is applicable and available, achieving a passing score as established by the Standards Board, in consultation with the Department and with the concurrence of the State Board, on the examination; or

3.3 Meeting the requirements for licensure and holding a valid and current license or certificate from another state in Elementary Education;

3.3.1 The Department shall not act on an application for certification if the applicant is under official investigation by any state or local authority with the power to issue educator licenses or certifications, where the alleged conduct involves allegations of immorality, misconduct in office, incompetence, willful neglect of duty, disloyalty or falsification of credentials, until the applicant provides evidence of the investigation's resolution; or

3.4 Meeting the requirements for a Meritorious New Teacher Candidate Designation adopted pursuant to 14 Del.C §1203.

#### **4.0 Effective Date**

This regulation shall be effective through June 30, 2006 only. Applicants who apply for a Standard Certificate as an Elementary Teacher after that date must comply with the requirements set forth in **14 DE Admin. Code 1516**.

#### **4.0 Multiple Certificates**

Educators may hold certificates in more than one area.

#### **5.0 Application Requirements**

An applicant for a Standard Certificate shall submit:

5.1 Official transcripts; and

5.2 Official scores on the Praxis II examination if applicable and available; or

- 5.3 Evidence of passage of the National Board for Professional Teaching Standards Certificate, if applicable; or
- 5.4 An official copy of the out of state license or certification, if applicable.
- 5.5 If applied for simultaneously with application for an Initial License, the applicant shall provide all required documentation for that application in addition to the documentation cited above.

## **6.0 Application Procedures for License Holders**

If an applicant holds a valid Initial, Continuing, or Advanced Delaware License; or a Limited Standard, Standard or Professional Status Certificate issued prior to August 31, 2003 and is requesting additional Standard Certificates, only that documentation necessary to demonstrate acquisition of the prescribed knowledge, skill or education required for the additional Standard Certificate requested is required.

## **7.0 Effect of Regulation**

This regulation shall apply to all requests for issuance of a Standard Certificate, except as specifically addressed herein. Educators holding a Professional Status Certificate or a Standard Certificate issued on or before August 31, 2003 shall be issued a Continuing License upon the expiration of their current Professional Status Certificate or Standard Certificate. The Standard Certificate for each area in which they held a Professional Status Certificate or a Standard Certificate shall be listed on the Continuing License or the Advanced License. The Department shall also recognize a Limited Standard Certificate issued prior to August 31, 2003, provided that the educator successfully completes the requirements set forth in the prescription letter received with the Limited Standard Certificate. Requirements must be completed by the expiration date of the Limited Standard Certificate, but in no case later than December 31, 2008.

## **8.0 Validity of a Standard Certificate**

A Standard Certificate is valid regardless of the assignment or employment status of the holder of a certificate or certificates, and is not subject to renewal. It shall be revoked in the event the educator's Initial, Continuing, or Advanced License or Limited Standard, Standard, or Professional Status Certificate is revoked in accordance with 14 DE Admin. Code 1514. An educator whose license or certificate is revoked is entitled to a full and fair hearing before the Professional Standards Board. Hearings shall be conducted in accordance with the Standards Board's Hearing Procedures and Rules.

## **9.0 Secretary of Education Review**

The Secretary of Education may, upon the written request of the superintendent of a local school district or charter school administrator or other employing authority, review credentials submitted in application for a Standard Certificate on an individual basis and grant a Standard Certificate to an applicant who otherwise does not meet the requirements for a Standard Certificate, but whose effectiveness is documented by the local school district or charter school administrator or other employing authority.

7 DE Reg. 775 (12/1/03)

7 DE Reg. 1747 (6/1/04)

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## **DEPARTMENT OF HEALTH AND SOCIAL SERVICES**

### **DIVISION OF SOCIAL SERVICES**

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

### **Financial Eligibility and Self-Employment Income**

#### **Nature of the Proceedings:**

Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance initiated proceedings to amend several sections in the Division of Social Services Manual (DSSM) to comply with the CMS-approved Medicaid state plan amendment regarding the use of a self-employment standard deduction to determine

eligibility. The Department's proceedings to amend its regulations were initiated pursuant to 29 **Delaware Code** Section 10114 and its authority as prescribed by 31 **Delaware Code** Section 512.

The Department published its notice of proposed regulation changes pursuant to 29 **Delaware Code** Section 10115 in the May 2006 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by May 31, 2006 at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

#### **Summary of Proposed Changes:**

##### **Citation**

Section 1902(r)(2) of the Social Security Act, *State Plans for Medical Assistance*

##### **Amending the Following Sections**

Division of Social Services Manual (DSSM): 15120.2, 16230.1.2, 17300.3.2.4.1 and 20210.16.

##### **Summary of Proposed Changes**

The proposed rule will amend existing rules to allow actual self-employment expenses to be used when the application of the self-employment standard deduction results in a finding of ineligibility.

#### **Summary of Comments Received with Agency Response**

The State Council for Persons with Disabilities (SCPD) offered the following observations and recommendations summarized below. DMMA has considered each comment and responds as follows:

As background, the SCPD commented on proposed DMMA regulation establishing a flat deduction for self-employment income expenses. The flat rate would apply to eligibility determinations in most assistance programs. SCPD endorsed the standards subject to one recommendation, i.e., allowing limited exceptions for "outliers" with high expenses. In October 2005, DMMA adopted final regulations with no amendments.

DMMA has now reconsidered the merits of authorizing exceptions to the flat rate. As the regulatory summary indicates, applicants will be allowed to qualify for benefits based on actual self-employment expenses if application of the flat rate deduction results in a finding of ineligibility. Since the proposal is generally consistent with the Council's recommendation last August, SCPD endorses the new regulations.

**Agency Response:** DMMA appreciates the endorsement.

#### **Findings of Fact:**

The Department finds that the proposed changes as set forth in the May 2006 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend the Division of Social Services Manual (DSSM) to allow actual self-employment expenses to be used when the application of the self-employment standard deduction results in a finding of ineligibility is adopted and shall be final effective July 10, 2006.

Vincent P. Meconi, Secretary, DHSS, 6/14/06

**\* Please note that no changes were made to the regulation as originally proposed and published in the May 2006 issue of the *Register* at page 1680 (9 DE Reg. 1680). Therefore, the final regulation is not being republished. Please refer to the May 2006 issue of the *Register* or contact the Department of Social Services for more information.**

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## DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL DIVISION OF WATER RESOURCES

Statutory Authority: 7 Delaware Code, Chapter 60 (7 Del.C. Ch. 60)  
7 DE Admin. Code 7402

**Secretary's Order No.: 2006-W-0027**

### 7402 Shellfish Sanitation Regulations

**Date of Issuance: June 14, 2006**

**Effective Date of the Amendment: July 11, 2006**

#### Background

A public hearing was held on Wednesday, May 31, 2006, at 6:00 p.m. at the DNREC Richardson & Robbins Building Auditorium to receive comment on proposed amendments to the existing Delaware Shellfish Sanitation Regulations. The proposed changes relate to shellfish processing plant sanitation, requirements for shellfish harvesters and classification of Delaware waters regarding the suitability of the shellfish therein for human consumption and related legal harvest access. These proposed amendments would further bring Delaware's existing regulations into conformity with current U.S. Food and Drug Administration and National Shellfish Sanitation Program requirements.

Delaware is a member of the Interstate Shellfish Sanitation Conference (ISSC). Periodically, the ISSC will amend National Shellfish Sanitation Program (NSSP) guidelines and Model Ordinance specifications related to shellfish harvesting area classifications, processing plant sanitation, enforcement, and the legal and administrative aspects of the Program. The U.S. Food and Drug Administration (FDA) evaluates state programs for consistency with the guidelines and Model Ordinance. In response to NSSP changes and FDA evaluations, Delaware's regulations concerning Shellfish Sanitation must be amended.

In preparation for the hearing, a public workshop was held by the Shellfish and Recreational Water Branch of the Department on March 31, 2006, at which time the public was able to ask questions and/or provide comments to the Department regarding this proposed promulgation. It should be noted that the Department successfully answered all questions from the public prior to the date of this hearing. It should be further noted that there were no members of the public present at the actual hearing on May 31, 2006. Proper notice of the hearing was provided as required by law.

After the hearing, the Hearing Officer prepared her report and recommendation in the form of a Hearing Officer's Memorandum to the Secretary dated June 12, 2006, and that Memorandum is expressly incorporated herein by reference.

#### II. Findings and Conclusions

On the basis of the record developed in this matter, it appears that the Department has provided a sound basis with regard to the proposed regulatory action concerning the amendments to Delaware's Shellfish Sanitation Regulations. Furthermore, the Department provided the public with numerous opportunities to offer comments with respect to this issue, with a workshop offered prior to the public hearing, should anyone wish to contribute same.

#### III. Order

It is hereby ordered that the proposed adoption of the amendments to Delaware's Shellfish Sanitation Regulations be promulgated in final form, in accordance with the customary and established rule-making procedure required by law.

#### IV. Reasons

The adoption of the proposed amendments will correct minor clerical and/or grammatical errors in the present regulatory language, and further bring Delaware's existing regulations into conformity with current U.S. Food and Drug Administration and National Shellfish Sanitation Program requirements. Furthermore, this promulgation will continue to ensure safety of the public health and environment, while taking into account industry concerns, and will assist the

Department in furtherance of the policy and purposes of 7 Del.C., Ch. 60.

John A. Hughes, Secretary

\* Please note that no changes were made to the regulation as originally proposed and published in the May 2006 issue of the *Register* at page 1687 (9 DE Reg. 1687). Therefore, the final regulation is not being republished. Please refer to the May 2006 issue of the *Register* or contact the Division of Water Resources for more information.

A complete set of the rules and regulations for the Division of Water Resources are available at: <http://www.state.de.us/research/AdminCode/title7/index.shtml#TopOfPage>

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

**700 Board of Chiropractic**

Statutory Authority: 24 Delaware Code, Sections 706(a)(1) and (10) (24 Del.C. §706(a)(1) and 10)  
24 DE Admin. Code 700

**FINAL ORDER**

After due notice in the *Register of Regulations* and two Delaware newspapers, a public hearing was held on June 15, 2006 at the regularly scheduled meeting of the Board of Chiropractic to receive comments regarding proposed amendments to Regulations 4.0 and 5.0. The proposed amendments to Regulations **4.0 Continuing Education** and **5.0 Issuance of License; Renewal; Inactive Status; Reinstatements; Retention of Patient Records** enable licensees to renew their licenses online. The proposed regulations were published in the *Register of Regulations*, Vol. 9, Issue 11, May 1, 2006.

**Summary of the Evidence and Information Submitted**

No written or verbal comments were received.

**Findings of Fact**

The Board finds that the changes appropriately establish the online renewal process. The Board finds that the changes effectuate the post-renewal auditing of continuing education.

**Decision and Effective Date**

The Board hereby adopts the proposed amendments to the regulations to be effective 10 days following final publication of this order in the *Register of Regulations*.

**Text and Citation**

The text of the Final Regulations is attached hereto as Exhibit A and is formatted to show the amendments. A non-marked up version of the regulations as amended is attached hereto as Exhibit B.

**SO ORDERED** this 15<sup>th</sup> day of June, 2006.

**BOARD OF CHIROPRACTIC**

Trent Camp, D.C., President  
William Houghton  
Prameela D. Kaza

C. Terry Jackson, III  
Gary Morgan, D.C.

## 700 Board of Chiropractic

### 1.0 Chiropractic Defined; Limitations of Chiropractic License

1.1 An adjunctive procedure not otherwise prohibited by Chapter 7 which aids and or assists the chiropractor in providing chiropractic care and includes by way of example and is not limited to:

- \_ Acupuncture Procedures
- \_ Physiological Therapeutics
- \_ Diet and Nutritional Programs
- \_ Rehabilitation/Exercise Programs

**4 DE Reg. 1940 (6/1/01)**

### 2.0 Officers; Meetings; Quorum

The Board will hold elections for the offices of President and Secretary at the regularly scheduled meeting in October of each year or as soon thereafter as practical. Vacancies occurring in an office shall be filled for the remainder of the term in the month following the vacancy or as soon thereafter as is practical.

### 3.0 Certification

Certification in any nationally recognized specialty for a licensee requires a minimum of one hundred (100) or more hours of certified training beyond and in addition to any courses or training received toward a degree of Doctor of Chiropractic. Certification in any nationally recognized chiropractic specialty or technique requires that the licensee shall have completed all requirements for recognition as a practitioner of such chiropractic specialty or technique by the nationally recognized certification body.

### 4.0 Continuing Education

4.1 Continuing Education for New Licensees:

4.1.1 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 pro-rated as follows:

License Granted During First Year:	Credit Hours Required:
July 1 - December 31	24 hours
January 1 - June 30	18 hours

License Granted During Second Year:	Credit Hours Required:
July 1 - December 31	12 hours
January 1 - June 30	0 hours

4.2 Continuing Education for Licensees other than new licensees:

4.2.1 Unless otherwise excused by the Board for good cause such as illness, extended absence from the country, or unique personal hardship which is not the result of professional negligence or inadvertence, all Chiropractors seeking renewal more than two (2) years from initial licensure or reinstatement of a lapsed license must ~~provide attest to the Board adequate proof of~~ the satisfactory completion of twenty four (24) credit hours of Board approved continuing education within the immediately preceding two (2) year period. Of the required twenty four (24) credit hours of Board approved continuing education, a maximum of twelve (12) credit hours may be fulfilled by participating in online courses.

4.2.1.1 Attestation may be completed electronically if the renewal is accomplished online. In the alternative, paper renewal documents that contain the attestation of completion may be submitted;

4.2.2 ~~Proof Attestation~~ of continuing education shall be ~~[received at submitted to]~~ the Division of Professional Regulation, Dover, Delaware, no later than ~~April~~ June 30<sup>th</sup> of the reporting year and shall be received every two (2) years after such date. Continuing education completed before ~~April~~ June 30<sup>th</sup> of the reporting year shall not be carried over to the next renewal period. The Board has the right to conduct an audit of the proof of continuing education submitted by licensees.

4.2.2.1 All licensees shall maintain documentation of continuing education during the licensure period to be submitted if their renewal application is selected for audit. Random audits will be performed by the Board to ensure compliance with the continuing education requirement. Licensees selected for the random audit shall submit the log and attendance verification.

**4 DE Reg. 1940 (6/1/01)**

**8 DE Reg. 1586 (5/1/05)**

## **5.0 Issuance of License; Renewal; Inactive Status; Reinstatements; Retention of Patient Records**

5.1 The Biennial licenses granted by the Board shall automatically terminate on June 30th of each even numbered year or on such other date as is specified by the Division of Professional Regulation. It is the responsibility of the licensee to file a renewal application with the Board. The failure of the Board to notify a licensee of his/her expiration date does not in any way relieve the licensee of the requirements of filing a renewal application with the Board. A licensee who fails to renew a license before the expiration date may renew on a late basis for a period not to exceed one (1) year. Licenses renewal may be accomplished online at <http://dpr.delaware.gov>.

5.2 Inactive Status and Termination of Practice. Any licensee who seeks to be placed on inactive status or who is terminating his or her practice in this State or is leaving this State and is not transferring his or her records to another chiropractor shall notify the Board in writing and notify all patients treated within the last three (3) years by publication in a newspaper of general circulation throughout the State of Delaware and offer to make the patients records available to the patient or his or her duly authorized representative. Except in an emergency situation where as much notice as is reasonably possible shall be given, the notice by publication shall be made at least ninety (90) days prior to termination of the practice or leaving the State and must be published at least 3 times over this ninety (90) day period and must explain how a patient can procure his or her patient records. All patients who have not requested their records thirty (30) days prior to the termination of the licensee's practice or the licensee leaving the State shall be notified by first class mail by the licensee to permit patients to procure their records. Any patient records that have not been procured within 7 years after the licensee terminates his or her practice or leaves the State may be permanently disposed of in a manner that ensures confidentiality of the records.

5.3 Retention of Patient Records. Patient records must be retained by the Chiropractor or arrangements made for the maintenance and retention of patient records for seven (7) years from the date of the last treatment.

5.4 Whenever a patient changes from the care of one Chiropractor to another Chiropractor and upon the request of either the new Chiropractor or the patient the previous Chiropractor (a) may charge for the reasonable expenses of copying the patient's records and upon receiving payment for such expenses, shall transfer the patient's records to the new Chiropractor, or (b) if there is no copying charge, shall transfer the records of the patient to the new Chiropractor, within a reasonable time frame. Alternatively, if the patient and new Chiropractor agree, the Chiropractor may forward to the new Chiropractor a summary of the patient's records in lieu of the entire record at no charge to the patient. If a patient changes care from one Chiropractor to another Chiropractor, and fails to notify the previous Chiropractor or leaves the care of the previous Chiropractor for a period of 7 years from the date of the last treatment and fails to notify the previous Chiropractor, or fails to request the transfer of records to the new Chiropractor, then the previous Chiropractor shall maintain said records for a period of 7 years from the date of last treatment, after which time the records may be permanently disposed of in a manner that ensures confidentiality of the records.

5.5 This rule shall not apply to a Chiropractor who has seen or treated a patient on referral from a Chiropractor and who has provided a record of the diagnosis or treatment to another chiropractor, hospital or agency which has provided treatment for the patient.

5.6 A Chiropractor or the personal representative of the estate of a Chiropractor who disposes of patient records in accordance with the provisions of this rule is not liable for any direct or indirect loss suffered as a result of the disposal of a patient's records.

**4 DE Reg. 1940 (6/1/01)**

**5 DE Reg. 270 (9/1/01)**

**7 DE Reg. 36 (7/1/03)**

## **6.0 Grounds for Discipline**

6.1 Unprofessional Conduct in Advertising. Any Licensee who advertises or holds out to the public that he or she is a specialist in any specific chiropractic or adjunctive procedure without having a valid current certification as having special training and/or certification in such procedure or procedures from a recognized certification body is guilty of unprofessional conduct.

6.2 Examples of Unprofessional Conduct in Advertising and Promotional Practices. The following advertising and promotional practices are deemed to be misleading, false, deceptive, dishonorable and/or unethical and shall constitute unprofessional conduct by a licensee:

6.2.1 The use of testimonials without written permission of that doctor's patient.

6.2.2 Offering free or discounted examinations unless all charges associated with such examinations, including all x-ray fees and charges, are conspicuously set out in writing at the time of and in conjunction with such offer and unless such examinations are offered regardless of the availability of insurance coverage of any recommended subsequent treatment.

6.2.3 The use of unjustified or exaggerated claims, promises or statements which guarantee or strongly imply cure or successful treatment or are otherwise false, fraudulent, deceptive, or misleading.

6.2.4 Willful failure to identify licensee as a Doctor of Chiropractic, Chiropractor or Chiropractic Physician.

6.3 Unprofessional conduct with Patient, Employees, or Co-workers. Sexual misconduct in violation of a statute of the State of Delaware or any State or Commonwealth where such conduct takes place, involving a licensee and a patient, employee or co-worker shall be deemed to be unprofessional conduct.

**4 DE Reg. 1940 (6/1/01)**

**5 DE Reg. 270 (9/1/01)**

## **7.0 License to Practice**

A Chiropractor licensed elsewhere but not licensed in the State of Delaware may practice chiropractic within the State of Delaware only in consultation with a duly Delaware licensed Chiropractor for not more than ten (10) consultations in any twelve (12) month period, which consultations shall be limited to examination, recommendation or testimony in litigation.

## **8.0 Voluntary Treatment Option**

Any member of the public or a licensee may make a written report, signed by the complainant, of chemical dependency or impairment affecting any person regulated by the Board pursuant to 29 **Del.C.** §8807(n).

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 section 8.8.

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.

**4 DE Reg. 1940 (6/1/01)**

## 9.0 Crimes substantially related to the practice of chiropractic

9.1 Conviction of any of the following crimes, or of the attempt to commit or of a conspiracy to commit or conceal or of solicitation to commit any of the following crimes, is deemed to be substantially related to the practice of chiropractic in the State of Delaware without regard to the place of conviction:

- 9.1.1 Manslaughter. 11 Del.C. §632.
- 9.1.2 Murder by abuse or neglect in the first degree. 11 Del.C. §634.
- 9.1.3 Murder in the second degree. 11 Del.C. §635.
- 9.1.4 Murder in the first degree. 11 Del.C. §636.
- 9.1.5 Rape in the second degree. 11 Del.C. §772.
- 9.1.6 Rape in the first degree. 11 Del.C. §773.
- 9.1.7 Continuous sexual abuse of a child. 11 Del.C. §778.
- 9.1.8 Dangerous crime against a child. 11 Del.C. §779.
- 9.1.9 Sexual exploitation of a child. 11 Del.C. §1108.
- 9.1.10 Unlawfully dealing in child pornography. 11 Del.C. §1109.

9.2 Crimes substantially related to the practice of chiropractic shall be deemed to include any crimes under any federal law, state law, or valid town, city or county ordinance, that are substantially similar to the crimes identified in this rule.

**8 DE Reg. 997 (1/1/05)**

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### PUBLIC SERVICE COMMISSION

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

### BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF DELAWARE

IN THE MATTER OF THE ADOPTION OF  
RULES TO IMPLEMENT THE RENEWABLE  
ENERGY PORTFOLIO STANDARDS ACT, 26  
DEL.C. §§ 351-363, AS APPLIED TO  
RETAIL ELECTRICITY SUPPLIERS  
(OPENED AUGUST 23, 2005)

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/ PSC REGULATION DOCKET NO. 56  
/  
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### ORDER NO. 6931

**AND NOW**, this 6<sup>th</sup> day of June, 2006;

**WHEREAS**, on July 12, 2005, the Delaware General Assembly enacted new legislation, entitled the Renewable Energy Portfolio Standards Act ("Act"),<sup>1</sup> and, in so doing, directed the Delaware Public Service Commission (the "Commission") to adopt rules governing the Act's implementation by July 31, 2006; and

**WHEREAS**, on August 23, 2005, by PSC Order No. 6697, the Commission opened Regulation Docket No. 56 to develop standards under the Act and directed Staff to draft proposed rules after conducting workshops with interested parties; and

**WHEREAS**, on December 6, 2005, by PSC Order No. 6793, the Commission directed publication in the *Delaware Register* (among other places) of Staff's proposed rules, entitled *Rules and Procedures to Implement the Renewable Energy Portfolio Standard* ("Rules" or "Regulations"), and directed a Hearing Examiner to conduct proceedings regarding the proposed Rules; and

**WHEREAS**, after conducting proceedings, the Hearing Examiner submitted his Findings and Recommendations, dated March 7, 2006, in which he recommended Commission approval of Staff's final proposed Rules, which included certain changes made after the initial publication in the *Delaware Register*; and

**WHEREAS**, on April 11, 2006, by PSC Order No. 6885, the Commission adopted the Findings and

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1. The Act is codified, in main part, at 26 Del.C. §§ 351-363.

Recommendations of the Hearing Examiner, to which no exceptions had been filed, and directed Staff to publish, on May 1, 2006, the final proposed *Rules* in the *Delaware Register* for further comment; and

**WHEREAS**, the Commission received no new comments relating to the final proposed *Rules*; and

**WHEREAS**, the Commission held a public hearing on June 6, 2006, to consider final adoption of the Regulations as recommended by the Hearing Examiner;

Now, therefore, **IT IS ORDERED THAT:**

1. The Commission hereby adopts and incorporates by reference, in its entirety, its prior Order No. 6885 (Apr. 11, 2006).

2. The Commission hereby adopts and approves the proposed *Rules and Procedures to Implement the Renewable Energy Portfolio Standard* attached hereto as Exhibit "A" (being the same Regulations that were approved and published pursuant to Order No. 6885). The Secretary of the Commission shall transmit to the Registrar of Regulations for publication in the *Delaware Register*, the exact text of the Regulations attached hereto as Exhibit "A" for publication on July 1, 2006.

3. The effective date of this Order shall be the later of July 10, 2006, or ten days after the date of publication in the *Delaware Register* of the Regulations attached hereto as Exhibit "A."

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

**BY ORDER OF THE COMMISSION:**

Arnetta McRae, Chair  
Joann T. Conaway, Commissioner  
Jaymes B. Lester, Commissioner  
Jeffrey J. Clark, Commissioner

**ATTEST:**

Karen J. Nickerson, Secretary

**RULES AND PROCEDURES TO IMPLEMENT THE RENEWABLE ENERGY PORTFOLIO STANDARD**

**1.0 Definitions**

1.1 The following words and terms, when used in this Regulation, should have the following meanings unless the context clearly indicates otherwise:

**"Alternative Compliance Payment" ("ACP")** means a payment of a certain dollar amount per megawatt hour, which a Retail Electricity Supplier may submit in lieu of supplying the minimum percentage of RECs required under Section 3.3.4 of this Regulation.

**"DNREC"** means Delaware Department of Natural Resources and Environmental Control.

**"Commission"** means the Delaware Public Service Commission.

**"Compliance Year"** means the calendar year beginning with June 1 and ending with May 31 of the following year, for which a Retail Electricity Supplier must demonstrate that it has met the requirements of this Regulation.

**"Customer-Sited Generation"** means a Generation Unit that is interconnected on the End-Use Customer's side of the retail electricity meter in such a manner that it displaces all or part of the metered consumption of the End-Use Customer.

**"Eligible Energy Resources"** means the following energy sources located within the PJM region or imported into the PJM region and tracked through the PJM Market Settlement System:

Solar energy technologies that employ solar radiation to produce electricity;

Electricity derived from wind energy;

Electricity derived from ocean energy including wave or tidal action, currents, or thermal differences;

Geothermal energy technologies that generate electricity with a steam turbine, driven by hot water or steam extracted from geothermal reservoirs in the earth's crust;

Electricity generated by a fuel cell powered by Renewable Fuels;

Electricity generated by the combustion of gas from the anaerobic digestion of organic material;

Electricity generated by a hydroelectric facility that has a maximum design capacity of 30 megawatts or less from all generating units combined that meet appropriate environmental standards as determined by DNREC (see DNREC Regulation \_\_\_\_\_);

Electricity generated from the combustion of biomass that has been cultivated and harvested in a sustainable manner as determined by DNREC, and is not combusted to produce energy in a waste to energy facility or in an incinerator (see DNREC Regulation \_\_\_\_\_):

Electricity generated by the combustion of methane gas captured from a landfill gas recovery system; provided, however, that:

Increased production of landfill gas from production facilities in operation prior to January 1, 2004 demonstrates a net reduction in total air emissions compared to flaring and leakage;

Increased utilization of landfill gas at electric generating facilities in operation prior to January 1, 2004 (i) is used to offset the consumption of coal, oil, or natural gas at those facilities, (ii) does not result in a reduction in the percentage of landfill gas in the facility's average annual fuel mix when calculated using fuel mix measurements for 12 out of any continuous 15 month period during which the electricity is generated, and (iii) causes no net increase in air emissions from the facility; and

Facilities installed on or after January 1, 2004 meet or exceed 2004 Federal and State air emission standards, or the Federal and State air emission standards in place on the day the facilities are first put into operation, whichever is higher.

"End-Use Customer" means a person or entity in Delaware that purchases electrical energy at retail prices from a Retail Electricity Supplier.

"Fund" means the Delaware Green Energy Fund.

"GATS" means the Generation Attribute Tracking System developed by PJM-Environmental Information Services, Inc. (PJM-EIS).

"Generation Attribute" means a non-price characteristic of the electrical energy output of a Generation Unit including, but not limited to, the Unit's fuel type, geographic location, emissions, vintage, and RPS eligibility.

"Generation Unit" means a facility that converts a fuel or an energy resource into electrical energy.

"Industrial Customer" means an End-Use Customer with a North American Industry Classification System (NAICS) Manufacturing Sector Code.

"Municipal Electric Company" means a public corporation created by contract between 2 or more municipalities pursuant to provisions of Title 22, Chapter 13 of the Delaware Code and the electric utilities that are municipally owned within the State of Delaware.

"New Renewable Generation Resources" means Eligible Energy Resources first going into commercial operation after December 31, 1997.

"Peak Demand" shall have the same meaning as and be determined consistently with how such term or a similar term is defined and determined in the applicable utility's tariff then in effect and approved by the Commission. For customers with more than one account, the peak demands shall be aggregated for all accounts. The calculation will be applied in the current year based on the Peak Demand, as defined above, in the prior year.

"PJM" or "PJM Interconnection" means the regional transmission organization (RTO) that coordinates the movement of wholesale electricity in the PJM region, or its successors at law.

"PJM region" means the area within which the movement of wholesale electricity is coordinated by PJM Interconnection. The PJM region is as described in the Amended and Restated Operating Agreement of PJM.

"Renewable Energy Credit" ("REC") means a tradable instrument comprised of all the Generation Attributes equal to 1 megawatt-hour of electricity derived from Eligible Energy Resources and that is used to track and verify compliance with the provisions of this Regulation. A REC does not include emission reduction credits and/or allowances encumbered or used by a Generation Unit for compliance with local, state, or federal operating and/or air quality permits associated with the 1 megawatt-hour of electricity.

"Renewable fuel" means a fuel that is derived from Eligible Energy Resources. This term does not include a fossil fuel or a waste product from a fossil fuel source.

"RPS" and "Renewable Energy Portfolio Standard" means the percentage of electricity sales at retail in the State that is to be derived from Eligible Energy Resources.

"Retail Electricity Product" means an electrical energy offering that is distinguished by its Generation Attributes only and that is offered for sale by a Retail Electricity Supplier to End-Use Customers. Multiple electrical energy offerings with the same Generation Attributes may be considered a single Retail Electricity Product.

"Retail Electricity Supplier" means a person or entity that sells electrical energy to End-Use Customers in Delaware, including, but not limited to, non-regulated power producers, electric utility distribution companies supplying standard offer, default service, or any successor service to End-Use Customers. A Retail Electricity Supplier does not include a Municipal Electric Company for the purposes of this Regulation.

“Rural Electric Cooperative” means a non-stock, non-profit, membership corporation organized pursuant to the Federal “Rural Electrification Act of 1936” and operated under the cooperative form of ownership.

“Total Retail Sales” means retail sales of electricity within the State of Delaware exclusive of sales to any Industrial Customer with a Peak Demand in excess of 1,500 kilowatts.

## **2.0 Purpose and Scope**

2.1 The benefits of electricity from renewable energy resources accrue to the public at large, and electric suppliers and consumers share an obligation to develop a minimum level of these resources in the electric supply portfolio of the State. The purpose of this Regulation, in support of 26 Del.C., §351 – 363, is to set forth the rules for governing the RPS.

2.2 This regulation shall apply to all retail electricity sales in the State of Delaware except for retail electricity sales of Municipal Electric Companies and retail electricity sales to any Industrial Customer with a Peak Demand in excess of 1,500 kilowatts.

2.2.1 An Industrial Customer with Peak Demand in excess of 1,500 kilowatts may elect to have their load exempt from this Regulation provided that they meet the definitions found in Section 1.1 and:

2.2.1.1 submit a notice to the Commission’s Staff including, but not limited to, Name and Address of Industrial Customer, and NAICS Code and load for each account:

2.2.1.1.1 the Commission’s Staff shall, within thirty (30) days of receipt of the notice, provide to the Industrial Customer an acknowledgement of the status, exempt or non-exempt, of the Industrial Customer and:

2.2.1.2 submit the Commission’s Staff acknowledgement referenced in Section 2.2.1.1.1 of this Regulation to their Retail Electricity Supplier.

2.2.2 For an End-Use Customer with multiple accounts totaling in excess of 1,500 kilowatts within an applicable utility’s service territory and served by a single Retail Electricity Supplier, to have their load exempt, the aggregate of their accounts with an NAICS Manufacturing Sector Code must have a Peak Demand of at least 751 kilowatts and they must follow the procedure found in Section 2.2.1.

2.3 Any Rural Electric Cooperative that is opted-out of Commission regulation by its membership pursuant to 26 Del.C. §223 of the Delaware Code shall, for all purposes of administering and applying this Regulation, be treated as a Municipal Electric Company during any period of time the Rural Electric Cooperative is exempt from Commission regulation.

2.4 A Rural Electric Cooperative may elect to be exempt from the requirements of this Regulation provided that, on or before June 1, 2006, they:

2.4.1 submit a written notice to the Delaware General Assembly;

2.4.2 submit a written notice to the Commission;

2.4.3 alert their End-Use Customers with notices inserted in two (2) consecutive electricity bills;

2.4.4 offer their End-Use Customers a voluntary program for purchasing renewable energy under competitive rates; and

2.4.5 either contribute to the Delaware Green Energy Fund at levels commensurate with other Retail Electricity Suppliers or create an independent fund separate from the Delaware Green Energy Fund to be used in support of energy efficiency technologies, renewable energy technologies, or demand side management programs, into which they make payments of \$0.178 for each megawatt-hour they sell, transmit, or distribute in the State.

## **3.0 Administration of RPS**

3.1 Certifying Eligible Energy Resources:

3.1.1 The Commission through its Staff will certify Generation Units as Eligible Energy Resources based on the definition of Eligible Energy Resources found in Section 1.1 of this Regulation.

3.1.2 Any Generation Unit seeking certification as an Eligible Energy Resource must submit an Application for Certification as an Eligible Energy Resource Under the Delaware Renewable Energy Portfolio Standard (Application) to the Commission. This may include Customer-Sited Generation or a Generation Unit owned or operated by a Municipal Electric Company.

3.1.3 Commission Staff will review the Application and will notify the applicant of its approval as an Eligible Energy Resource or of any deficiencies in their Application within 30 days of receipt. The applicant will have the opportunity to revise their submission, if appropriate.

3.1.4 If Commission Staff finds the Generation Unit to be in compliance with Sections 1.0 and 3.0 of

this Regulation, as well as any other applicable Delaware statute; Commission Staff will issue a State of Delaware Certification Number.

3.1.5 Upon receipt of the State of Delaware Certification Number, a Generation Unit will be deemed an Eligible Energy Resource.

3.1.6 Upon designation as an Eligible Energy Resource, the Generation Unit's owner shall be entitled to one (1) Renewable Energy Credit (REC) for each mega-watt hour of energy derived from Eligible Energy Resources. RECs will be created and supplied by the PJM-EIS GATS, or its successor at law. Eligible Energy Resources are subject to applicable PJM-EIS GATS rules and shall pay applicable PJM-EIS GATS fees.

3.1.6.1 However, if in the future, the Commission finds that PJM-EIS's GATS is not applicable or not suited to meet the needs or requirements of the RPS, the Commission may establish or participate in another renewable energy tracking system.

3.1.7 RECs created by Eligible Energy Resources on or after June 1, 2006 shall be valid to meet retail electricity supplier requirements, subject to Section 3.2.3 of this Regulation.

3.1.7.1 If a Generation Unit is deemed an Eligible Energy Resource under Section 3.1 and the Eligible Energy Resource's GATS account continues to be maintained in good standing, the Eligible Energy Resource may achieve a Delaware designation for RECs recorded with PJM-EIS's GATS for the calendar year being traded in GATS at the time of the Commission Staff's approval of the Eligible Energy Resource, but no earlier than June 1, 2006.

3.1.8 An Eligible Energy Resource will remain certified unless substantive changes are made to its operational characteristics. Substantive changes include, but are not limited to changes in fuel type, fuel mix and generator type. An Eligible Energy Resource making substantive changes to its operational characteristics shall notify the Commission of such changes at least 30 days prior to the effective date of such changes. At such time the Generation Unit shall submit a revised Application, which shall be subject to the process laid out in Section 3.1 of this Regulation.

3.1.9 RECs created by an Eligible Energy Resource shall remain valid for compliance, subject to Section 3.2.3 and Section 3.3.3 of this Regulation, even if that Eligible Energy Resource is subsequently decertified for eligibility.

3.2 Compliance with RPS

3.2.1 The Total Retail Sales of each Retail Electricity Product sold to End-Use Customers by a Retail Electricity Supplier during any given Compliance Year shall include a minimum percentage of electrical energy sales from Eligible Energy Resources as shown in Schedule 1.

SCHEDULE 1	
Compliance Year	Cumulative Minimum Percentage
<u>2007</u>	<u>1%</u>
<u>2008</u>	<u>1.5%</u>
<u>2009</u>	<u>2%</u>
<u>2010</u>	<u>2.75%</u>
<u>2011</u>	<u>3.5%</u>
<u>2012</u>	<u>4.25%</u>
<u>2013</u>	<u>5%</u>
<u>2014</u>	<u>5.75%</u>
<u>2015</u>	<u>6.5%</u>
<u>2016</u>	<u>7.25%</u>
<u>2017</u>	<u>8%</u>
<u>2018</u>	<u>9%</u>
<u>2019</u>	<u>10%</u>

3.2.2 A Retail Electricity Supplier's compliance with Schedule 1 shall be based on accumulating RECs equivalent to the current Compliance Year's Cumulative Minimum Percentage of Total Retail Sales of each Retail Electricity Product sold to End-Use Customers and subject to Section 3.2.3 and, where appropriate, Commission regulations<sup>2</sup>. Such RECs shall be filed annually with the Commission within 120 days following the completion of the Compliance Year.

3.2.3 Each Retail Electricity Supplier can provide no more than 1% of each Compliance Year's Total Retail Sales from Eligible Energy Resources operational before December 31, 1997. The remainder of each year's

retail sales, up to the required amount as specified in Section 3.2.1 of this Regulation must come from New Renewable Generation resources. In Compliance Year 2020 and for each Compliance Year thereafter, all Eligible Energy Resources used to meet the cumulative minimum percentage requirements set by the Commission rules shall be New Renewable Generation Resources.

3.2.4 A Retail Electricity Supplier shall not use RECs used to satisfy another state's renewable energy portfolio requirements for compliance with Schedule 1. A Retail Electricity Supplier may sell or transfer any RECs not required to meet this regulation.

3.2.5 On or after June 1, 2006, Eligible Energy Resources may create and accumulate RECs for the purposes of calculating compliance with the RPS.

3.2.6 Aggregate generation from small Eligible Energy Resources, 100 kilowatts of capacity or less, may be used to meet the requirements of Schedule 1, provided that the generators or their agents, on an annual basis, document the level of generation, as recorded by appropriate metering.

3.2.7 A Retail Electricity Supplier shall receive 300% credit toward meeting the RPS for energy derived from the following sources installed on or before December 31, 2014:

3.2.7.1 Solar electric; or

3.2.7.2 Renewable fuel that is used in a fuel cell.

3.2.8 A Retail Electricity Supplier shall receive 150% credit toward meeting the RPS for wind energy installations sited in Delaware on or before December 31, 2012.

3.2.9 A Retail Electricity Supplier shall receive credit toward meeting the RPS for electricity derived from the fraction of eligible landfill gas, biomass or biogas combined with other fuels.

3.2.10 Cumulative minimum percentage requirements of Eligible Energy Resources shall be established by Commission rules for Compliance Year 2020 and each subsequent year. In no case shall the minimum percentages established by Commission rules be lower than those required for Compliance Year 2019 in Schedule 1. Each of the rules setting such minimum percentage shall be adopted at least two years prior to the minimum percentage being required.

3.2.11 Beginning in Compliance Year 2010, and in each Compliance Year thereafter, the Commission may review the status of Schedule 1 and report to the legislature on the status of the pace of the scheduled percentage increases toward the goal of 10%. If the Commission concludes at this time that the schedule either needs to be accelerated or decelerated, it may also make recommendations to the General Assembly for legislative changes to the RPS.

3.2.12 Beginning in Compliance Year 2014, and in each Compliance Year thereafter, the Commission may, in the event of circumstances specified in this subsection and after conducting hearings, accelerate or slow the scheduled percentage increases towards meeting the goal of 10%. The Commission may only slow the increases if the Commission finds that at least 30% of RPS compliance has been met through the ACP for three (3) consecutive years, despite adequate planning by the Retail Electricity Suppliers. The Commission may only accelerate the scheduled percentage increases after finding that the average price for RECs eligible for RPS compliance has, for two (2) consecutive years, been below a predetermined market-based price threshold to be established by the Commission. The Commission shall establish the predetermined market-based price threshold in consultation with the Delaware Energy Office. Rules that would alter the percentage targets shall be promulgated at least two years before the percentage change takes effect. In no event shall the Commission reduce the percentage target below any level reached to that point.

### 3.3 Verification of Compliance with the RPS

3.3.1 Within 120 days of the end of a compliance year, each Retail Electricity Supplier who has made sales to an End-use Customer in the State of Delaware must submit a completed Retail Electricity Supplier's Verification of Compliance with the Delaware Renewable Energy Portfolio Standard Report (Report) which includes, but is not limited to, evidence of the specified number of RECs required for that Compliance Year according to Schedule 1 and the Total Retail Sales of each Retail Electricity Product.

2. The Commission understands the legislation to mean that the Total Retail Sales of each Retail Electricity Product sold to End-Use Customers during a given Compliance Year shall include a minimum percentage of RECs determined by the current Cumulative Minimum Percentage as defined in Schedule 1. The Commission shall, in another proceeding, further define how RECs from Green Power products, as that term is defined in Commission Docket Number 49, are to be tracked and utilized for compliance in the RPS.

3.3.2 RECs must have been created by PJM-EIS's GATS, or its successor at law or pursuant to Section 3.1.6.1 of this Regulation.

3.3.3 RECs, submitted for compliance with this Regulation, may be dated no earlier than three (3) years prior to the beginning of the current Compliance Year.

3.3.4 In lieu of standard means of compliance with the RPS, any Retail Electricity Supplier may pay into the Fund an ACP of \$25 for each megawatt-hour deficiency between the RECs used by a Retail Electricity Supplier in a given compliance year and the RECs necessary for such Retail Electricity Supplier to meet the year's Cumulative Minimum Percentage. In subsequent years, the ACP for any Retail Electricity Supplier shall increase as follows:

3.3.4.1 If a Retail Electricity Supplier has paid an ACP of \$25 for any megawatt-hour deficiency in any previous year, then the ACP shall be \$35 for each megawatt-hour.

3.3.4.2 If a Retail Electricity Supplier has paid an ACP of \$35 for any megawatt-hour deficiency in any previous year, then the ACP shall be \$45 for each megawatt-hour.

3.3.4.3 If a Retail Electricity Supplier has paid an ACP of \$45 for any megawatt-hour deficiency in any previous year, then the ACP shall be \$50 for each megawatt-hour.

3.3.4.4 If a Retail Electricity Supplier has paid an ACP of \$50 for any megawatt-hour deficiency in any previous year, then the ACP shall be \$50 for each megawatt-hour.

3.3.4.5 ACPs shall not be more than \$50 for each megawatt-hour.

3.3.5 The Commission Staff shall notify any Retail Electricity Supplier of any compliance deficiencies within 165 days of the close of the current Compliance Year. If the Retail Electricity Supplier is found to be deficient by the Commission Staff, the Retail Electricity Supplier shall be required to pay the appropriate ACP, according to Section 3.3.4 of this Regulation. All such payments shall be due within 30 days of notification by the Commission Staff. Upon receipt of payment, the Retail Electricity Supplier shall be found to be in compliance for that given year.

3.3.6. All compliance payments, made by the Retail Electricity Supplier, shall be payable to the Delaware Green Energy Fund and sent to the Commission.

#### **4.0 Recovery of Costs**

4.1 A Retail Electricity Supplier may recover, through a non-bypassable surcharge on its supply portion of the bill, actual dollar for dollar costs incurred in complying with the State of Delaware's RPS, except that any compliance fee assessed pursuant to Section 3.3.4 and its subsections of these Rules and Regulation shall be recoverable only to the extent authorized by Section 4.2 of this Regulation.

4.2 A Retail Electricity Supplier may recover any ACP if the payment of an ACP is the least cost measure to ratepayers as compared to the purchase of Renewable Energy Credits to comply with the RPS; or if there are insufficient Renewable Energy Credits available for the Retail Electricity Supplier to comply with the RPS.

4.3 Any cost recovered under this section shall be disclosed to customers at least annually on inserts accompanying customer bills.

#### **5.0 Other General Rules**

5.1 Under Delaware's Freedom of Information Act, 29 Del.C. Ch. 100, all information filed with the Commission is considered of public record unless it contains "trade secrets and commercial or financial information obtained from a person which is of a privileged or confidential nature." 29 Del.C. §10002(d)(2). To qualify as a non-public record under this exemption, materials received by the Commission must be clearly and conspicuously marked on the title page and on every page containing the sensitive information as "proprietary" or "confidential" or words of similar effect. The Commission shall presumptively deem all information so designated to be exempt from public record status. However, upon receipt of a request for access to information designated proprietary or confidential, the Commission may review the appropriateness of such designation and may determine to release the information requested. Prior to such release, the Commission shall provide the entity that submitted the information with reasonable notice and an opportunity to show why the information should not be released.

5.2 Any End-Use Customer, Retail Electricity Supplier, Eligible Energy Resource, potential Eligible Energy Resource or other interested party to which this Regulation may apply may file a complaint with the Commission pursuant to the Rules of Practice and Procedure of the Delaware Public Service Commission.

5.3 The failure to comply with this Regulation may result in penalties, including monetary assessments, suspension or revocation of eligibility as an Eligible Energy Resource, or other sanction as determined by the Commission consistent with 26 Del.C., §205(a), §217, and §1019.

STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
DOVER

**EXECUTIVE ORDER NUMBER EIGHTY-SEVEN**

**RE: Establishing The State Employees' Charitable Campaign**

**WHEREAS**, the employees of the State of Delaware have demonstrated their generosity and commitment to the support of charitable health and welfare causes; and

**WHEREAS**, it is in the best interest of the State to provide a single annual campaign with minimal disruption to the work and services that our state employees provide to the residents of our State; and

**WHEREAS**, it is impossible to allow every nonprofit organization to conduct a campaign, but it is reasonable to establish guidelines and procedures to establish a single, combined annual campaign; and

**WHEREAS**, it is a worthy endeavor to encourage state employees to contribute to charitable organizations within Delaware.

**NOW, THEREFORE, I, RUTH ANN MINNER**, by virtue of the authority vested in me as Governor of the State of Delaware do hereby declare and order the following:

I. Reestablishment of the State Employees' Charitable Campaign. The State of Delaware shall henceforth conduct an annual combined charitable solicitation campaign (hereinafter referred to as the "Campaign") to provide its employees with the opportunity to make charitable contributions either through direct payment or payroll deduction.

II. Criteria for Selection. An organization must meet the following criteria in order to participate in the Campaign:

A. Foundation, Umbrella Organization, or Individual Organization. An organization may be a foundation, an umbrella organization, or an individual organization.

1. A foundation means a not-for-profit organization that makes grants to other organizations. Such a foundation must meet the other criteria for selection as set forth herein.

2. An umbrella organization means an organization that meets the other criteria for selection as set forth herein and that serves as the administrative agency for at least four nonprofit organizations, each of which meets the other criteria for selection as set forth herein. An approved umbrella organization shall certify that each of its participating organizations meets the criteria for selection as set forth herein. The certification shall apply only for purposes of the Campaign. The documentation supporting the certification of an individual organization under an umbrella organization shall be provided to the State Employees' Charitable Campaign Steering Committee (hereinafter referred to as the "Steering Committee") upon request. An organization may not affiliate with more than one umbrella organization for purposes of the Campaign.

3. An individual organization means an organization that meets the other criteria for selection as set forth herein and that is not affiliated with a foundation or an umbrella organization.

B. Health and Welfare Purpose.

An organization must be organized and operated for the purpose of rendering, or materially or financially supporting the rendering of, services to benefit the health and welfare of residents of the State of Delaware, including, but not limited to:

1. Delivery of health care to ill or infirm individuals;
2. Education and training of personnel for the delivery of health care to ill or infirm individuals;
3. Health research for the benefit of ill or infirm individuals;
4. Delivery of education, training, and care to individuals with physical and mental disabilities;
5. Education of individuals who, without assistance, would not be able to afford it;

6. Treatment, care, rehabilitation, and counseling of juvenile delinquents, persons convicted of crimes, persons who abuse drugs or alcohol, persons who are victims of family violence or abuse, persons who are otherwise in need of social adjustment and rehabilitation, and the families of such persons;

7. Relief for victims (including non-residents of Delaware) of crime, war, casualty, famine, natural disasters, and other catastrophes or emergencies;

8. Neighborhood and community-wide services that directly assist needy, poor, and indigent individuals, including provision of emergency relief and shelter, recreation, transportation, and preparation and delivery of meals, educational opportunities, and job training;

9. Legal aid services that are provided without unlawful discrimination to needy, poor, and indigent individuals solely because such individuals cannot afford legal counsel;

10. Protection of families that, on account of poverty, indigence, emergency, or other adversity, are in need of family, child care, or maternity services, child or marriage counseling, foster care, and guidance or assistance in the management and maintenance of the home and household;

11. Relief for needy, poor, and indigent infants and children (including orphans), including the provision of adoption services;

12. Relief for needy, poor, and indigent adults and the elderly;

13. Assistance, consistent with the mission of the state agency or facility involved, to members of its staff or service, who, by reason of geographic isolation, emergency conditions, injury in the line of duty, or other extraordinary circumstances, have exceptional health or welfare needs; or

14. Lessening of the burdens of government with respect to the provision of any of the foregoing services.

C. Established Physical Presence in State. An organization must have an established physical presence in the State of Delaware, either in the form of an office or service facility which is staffed at least fifteen hours a week, or by making available its staff through scheduled appointments with Delaware residents or businesses at least fifteen hours a week.

D. Charitable Status. An organization shall hold and maintain a currently valid designation from the Internal Revenue Service as a section 501(c)(3) organization, and be eligible to receive tax-deductible contributions under Section 170 of the Internal Revenue Code. A copy of the Internal Revenue Service designation letter shall be submitted with the application.

E. Nondiscrimination. An organization shall have a policy and demonstrate a practice of nondiscrimination on the basis of race, color, religion, sex, age, national origin, or physical or mental disability, applicable to staff employment, and to memberships on its governing board.

F. Annual Report. An organization shall prepare an annual report or report to the general public on an annual basis, which shall include a full description of the mission, target population, activities, objectives, and achievements of the organization and the names of its chief administrative personnel. Organizations with an annual budget of less than \$100,000 shall not be required to prepare an annual report, but must submit a copy of the Form 990, which they file with the Internal Revenue Service, with the Steering Committee.

G. Limit on Administrative and Campaign Costs. Each foundation, umbrella organization, and individual organization shall submit a statement certifying that its management, general, and fundraising expenses are not in excess of twenty-five percent (25%) of total revenue. If such costs are in excess of the percentage of total revenue established above, an organization shall provide an explanation and documentation that its actual expenses for those purposes are reasonable and appropriate under the circumstances. The Steering Committee, established in Section III of this Order, shall decide that such excess is acceptable or shall require the organization to come within the percentage cap within a certain time period.

H. Fundraising Practices. The publicity and promotional activities of a foundation, an umbrella organization and its constituent organizations, or an individual organization must be based upon the actual program and operations of the entity and must be truthful, nondeceptive, and consumer-oriented. Fundraising practices must assure: protection against unauthorized use of the organization's contributors' list; no payment of commissions, kickbacks, finder fees, percentages, or bonuses for fundraising; that no mailing of unsolicited tickets or commercial merchandise with a request for money in return will occur; and that no general telephone solicitations will be conducted. This requirement shall apply only to those activities connected with the Campaign.

I. Voluntary Board of Directors. An organization shall be directed by an active, voluntary board of directors, which serves without compensation, holds regularly scheduled meetings, and exercises effective administrative control. If the board of directors is not located in Delaware, there must be a local board comprised of

Delaware citizens, which advises the board of directors with respect to Delaware activities.

J. Accounting Standards. An organization shall adopt and employ the Standards of Accounting and Financial Reporting for voluntary Health and Welfare Organizations from the American Institute of Certified Public Accountants ("AICPA") and provide for an annual external audit by an independent, certified public accountant. Organizations with an annual budget of less than \$100,000 shall not be required to submit to an independent audit, but must submit a copy of the Form 990, which they file with the Internal Revenue Service with the Steering Committee.

K. Establishment of Organization. An organization must have been in operation in Delaware for at least three years before application in order to demonstrate a reasonable degree of continuity and economical, effective, and efficient operation.

L. Organizations Deemed Not Eligible. The following organizations are not eligible to participate in the State Campaign:

1. Those with partisan political and propaganda programs; 2. Those with programs which exist solely to advocate particular religious or ethical beliefs; and 3. Those which do not promote health and welfare.

### III. Establishment and Appointment of the State Employees' Charitable Campaign Steering Committee.

A. The Steering committee is hereby established and shall consist of 12 members who shall be state employees and who shall be appointed to serve at the pleasure of the Governor. Of the members appointed, there shall be at least one employee from each of the three counties. In addition, one of the appointees shall be an employee who is represented by one of the unions under which the employees of the State are organized; one shall be an employee of the Department of Finance recommended by the Secretary of Finance; one shall be a representative from the Governor's staff; and one shall be a representative of the Lieutenant Governor's staff.

B. The Director of the Office of Management and Budget shall serve as co-chairperson of the Steering Committee. The Governor shall annually appoint an honorary co-chairperson of the Steering Committee.

C. Six members of the Steering Committee shall constitute a quorum. A simple majority vote of a quorum of voting members shall be required for the Steering Committee to take formal action. A representative of the organization, which serves as administrator for the program, shall attend the meetings of the Steering Committee, but shall not be a voting member.

D. Meetings of the Steering Committee shall be open to the public in accordance with state law, including to representatives of the approved and participating foundations, umbrella, and individual organizations.

E. The Office of Management and Budget shall provide administrative support to the Steering Committee and record the proceedings of the Committee's meetings.

### IV. Responsibilities of the Steering Committee.

A. The Steering Committee shall have the following duties, responsibilities, and authority:

1. Develop all necessary schedules, policies, and procedures to implement this Executive Order;
2. Develop, receive, and review applications for participation in the Campaign by foundations, umbrella organizations, and individual organizations;
3. Approve eligible foundations, umbrella organizations, and individual organizations for participation in the Campaign;
4. Select the administrator for the Campaign in accordance with the procedures set forth at Section VI;
5. Oversee the management of the Campaign;
6. Recruit employee chairpersons;
7. Promote and publicize the Campaign; and
8. Review pamphlets, donor cards, and other promotional materials for the Campaign.

### V. Selection of Eligible Organizations by Steering Committee.

A. Organizations interested in participating in the Campaign shall submit an application in accordance with the procedures set forth by the Steering Committee.

B. The Steering Committee, in accordance with its procedures, shall review each application and determine whether an organization should be approved for participation in the Campaign. The Steering Committee is expressly authorized to adopt and utilize an abbreviated application form and process for any organization that has

participated in the Campaign for the prior three (3) consecutive years, provided that a duly authorized representative of the organization certifies that such organization continues to meet all of the criteria for participation listed in Section II above.

C. In the event the Steering Committee determines to reject an organization for participation in the Campaign, the Steering Committee shall send the subject organization a certified letter, return-receipt requested, advising the organization that the Steering Committee has rejected its application, and stating the reason(s) for that rejection. The decision of the Steering Committee with respect to approval of eligible foundations, umbrella organizations, and individual organizations shall be final.

VI. Administration of State Employees' Charitable Campaign.

A. The Campaign shall be administered by one of the organizations that has previously been approved for participation in the Campaign.

B. The Steering Committee shall issue to all organizations previously accepted for participation in the Campaign an invitation to submit a bid as administrator of the Campaign.

C. The bid specifications shall describe the services to be provided, including, but not limited to the:

1. Organization and administration of any informational presentation to employees;
2. Assistance to any department or division which wishes to have a rally or other event by providing professional or training assistance and promotional materials;
3. Manufacture and distribution of informational pamphlets, posters, donor cards or other promotional materials;
4. Collection of donations and donor cards and tabulation of fund designation information;
5. Proper distribution of donations to approved organizations, both with respect to funds collected at the time of the Campaign and to those which will be forwarded to the administrator from the Department of Finance representing payroll deductions authorized during the Campaign by employees;
6. Completion of an audit of the Campaign; and
7. Provision of a written report to the Committee detailing the distribution of funds to participating agencies at each time of distribution.

D. Bid proposals shall include a statement from the organization which substantiates a claim that the organization:

1. Demonstrates the administrative and financial capability to manage and operate an extensive fundraising campaign among State employees in an efficient manner; and
2. Ensures public accountability by certifying that it: annually submits to a financial audit by a certified public accountant; makes its audited financial statement, or a summary thereof, available to the public upon request; will provide evidence that it engages in sound management practices that indicate that contributions donated by the public have been utilized with the utmost integrity.

E. Bid proposals shall further include a percentage figure representing that portion of each donated dollar the organization would charge if chosen to serve as the administrator of the Campaign.

F. The Steering Committee shall choose as the administrator of the program that organization which submits a responsible bid with the lowest percentage figure as outlined above, unless the Steering Committee determines that the State's interest is best served by selecting other than the lowest responsible bidder, in which case the Steering Committee shall state, in writing, its reasons for such determination. The Steering Committee may choose to reject all bids and rebid the matter.

G. The organization, which is chosen to administer the program, shall not assign, subcontract, or otherwise transfer its duties and responsibilities to manage and administer the Campaign unless expressly permitted to do so in writing by the Steering Committee.

VII. State Employees' Charitable Campaign Fund Drive Programs.

A. All facets of the Campaign shall have safeguards to ensure fair and equitable treatment and representation of the approved organizations.

B. If practical, all pamphlets, donor cards, and other promotional materials representing the Campaign shall be formatted in such a way as to provide equal representation of each of the approved organizations.

VIII. Distribution of Contributions.

Contributions shall be distributed to organizations as designated by contributors. Undesignated funds shall be distributed to each approved organization in an amount proportionate to the percentage of the total designated funds contributed to that approved organization. Likewise, shrinkage due to unfulfilled pledges shall be absorbed by each approved organization in an amount proportionate to that percentage for the total designated funds, which were contributed to that approved organization.

IX. Executive Order Number Twenty and Executive Order Number Forty-Five issued on September 13, 2001 and May 28, 2003, respectively are rescinded.

Approved: May 24, 2006

Ruth Ann Minner,  
Governor

ATTEST:  
Harriet Smith Windsor, Secretary of State

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## DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL DIVISION OF AIR AND WASTE MANAGEMENT

Statutory Authority: 7 Delaware Code, Chapter 60  
(7 Del.C. Ch. 60)

### REGISTER NOTICE

**1. Title of the Regulations:**

Delaware Reasonably Available Control Technology (RACT) State Implementation Plan (SIP) Under the 8-Hour Ozone National Ambient Air Quality Standard (NAAQS).

**2. Brief Synopsis of the Subject, Substance and Issues:**

The Clean Air Act Amendments of 1990 (CAA) requires Delaware to submit to the U.S. Environmental Protection Agency (EPA) a State Implementation Plan (SIP) revision demonstrating that Delaware has implemented all necessary Reasonably Available Control Technology (RACT) controls on all major stationary sources of volatile organic compounds (VOC) and oxides of nitrogen (NOx). The SIP revision must be submitted to EPA by September 15, 2006.

DNREC has developed a draft RACT SIP revision that demonstrates (1) it has implemented required RACT controls on all relevant stationary sources of VOC and NOx emissions, with one potential exception, in Delaware, and (2) all those RACT controls have been approved by EPA under the 1-hour ozone NAAQS, and (3) all those RACT controls have been certified, based on EPA's guidance and standards, to represent RACT control levels under the new 8-hour ozone NAAQS. The one exception is the VOC emissions from the crude oil lightering process being conducted in the Delaware Bay. Under the 1-hour ozone NAAQS no controls were established under RACT for this source because controls were determined to be not feasible at that time. DNREC is now working to complete a rule-making process which may determine that RACT level controls on VOC emissions from lightering process are now feasible, and if this is finalized DNREC will submit the rule to the EPA under a separate cover.

**3. Possible Terms of the Agency Action:**

None.

**4. Statutory Basis or Legal Authority to Act:**

7 Del.C. Chapter 60, Environmental Control

**5. Other Regulations that may be Affected by the Proposal:**

None

**6. Notice of Public Comment:**

A public hearing will be held on August 1, 2006, beginning at 6:00 pm, in AQM Conference Room, Priscilla Building, 156 South State Street, Dover, DE 19901.

**7. Prepared by:**

Frank F. Gao, Project Leader (302) 323-4542 June 10, 2006

**Delaware Reasonably Available Control Technology (RACT) State Implementation Plan (SIP) Under the 8-Hour Ozone National Ambient Air Quality Standard (NAAQS)  
June 13, 2006 Proposal**

**1. Introduction**

This document contains Delaware's State Implementation Plan (SIP) revision for meeting the requirements of Reasonably Available Control Technology (RACT) set forth by the Clean Air Act (CAA) under the 8-hour ozone National Ambient Air Quality Standard (NAAQS). This document is hereafter referred to as "Delaware's 8-hour ozone RACT SIP revision," or simply as "the RACT SIP."

**1.1 Background and Requirements**

Ground level ozone, one of the principal components of "smog," is a serious air pollutant that harms

human health and the environment. High levels of ozone can damage the respiratory system and cause breathing problems, throat irritation, coughing, chest pains, and greater susceptibility to respiratory infection. High levels of ozone also cause serious damage to forests and agricultural crops, resulting in economic losses to logging and farming operations. In June 2004, EPA designated 126 areas of the country as “non-attainment” under the 8-hour ozone NAAQS. Among those non-attainment areas is the Philadelphia-Wilmington-Atlantic City Moderate Non-Attainment Area (NAA) that includes three counties in Delaware, five counties in eastern Pennsylvania and eight counties in southern New Jersey, as shown in Figure 1. Since this moderate NAA is centered by Philadelphia, it is often referred to as “Philadelphia NAA.”

Ozone is generally not directly emitted to the atmosphere; rather it is formed in the atmosphere by photochemical reactions between volatile organic compounds (VOC), oxides of nitrogen (NO<sub>x</sub>), and carbon monoxide (CO) in the presence of sunlight. Consequently, in order to reduce ozone concentrations in the ambient air, the CAA requires all non-attainment areas to apply controls on VOC/NO<sub>x</sub> emission sources to achieve emission reductions.<sup>1</sup> Among effective control measures, the Reasonably Available Control Technology (RACT) controls are a major group for reducing VOC and NO<sub>x</sub> emissions from stationary sources.

The US Environmental Protection Agency (EPA) has defined RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (44 FR 53761 at 53762, September 17, 1979). Section 182 of the CAA sets forth two separate RACT requirements for ozone non-attainment areas. The first requirement, contained in section 182(a)(2)(A) of the CAA, and referred to as RACT fix-up, requires the correction of RACT rules for which EPA identified deficiencies before the Act was amended in 1990. Delaware has no deficiencies to correct under this Section of the CAA. The second requirement, set forth in section 182(b)(2) of the CAA, applies to moderate or worse ozone non-attainment areas as well as to marginal and attainment areas in ozone transport regions (OTRs) established pursuant to section 184 of the CAA, and requires these non-attainment areas to implement RACT controls on all major VOC and NO<sub>x</sub> emission sources and on all sources and source categories covered by a Control Technique Guideline (CTG) issued by EPA.

Under section 183 of the CAA, EPA was required to issue by certain timeframes several guidance documents for RACT controls that would help states meet the requirements of section 182(b)(2). This requirement upon EPA includes developing (1) CTGs for controls of VOC emissions from stationary sources, and (2) Alternate Control Techniques (ACTs) for controls of VOC and NO<sub>x</sub> emissions from stationary sources.

The EPA issued three groups of CTG documents, establishing a “presumptive norm” for RACT for various categories of VOC sources: Group I, issued before January 1978 including 15 CTGs; Group II, issued in 1978 including 9 CTGs; and Group III, issued in the early 1980s with 5 CTGs. Sources not covered by the issued CTGs are referred to as non-CTG sources. Section 182(b)(2) of the CAA requires states with ozone non-attainment areas classified as moderate or worse to develop RACT controls for all pre-enactment (i.e., pre-1990) CTG source categories, for all sources subject to post-enactment (i.e., post-1990) CTGs, and for all non-CTG major sources in their non-attainment areas. The EPA has also issued over a dozen ACTs for various categories of VOCs and NO<sub>x</sub> sources.

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1. Since CO's role in forming ozone is relatively insignificant, the CAA does not specify requirements on CO emission reductions regarding ozone attainment.

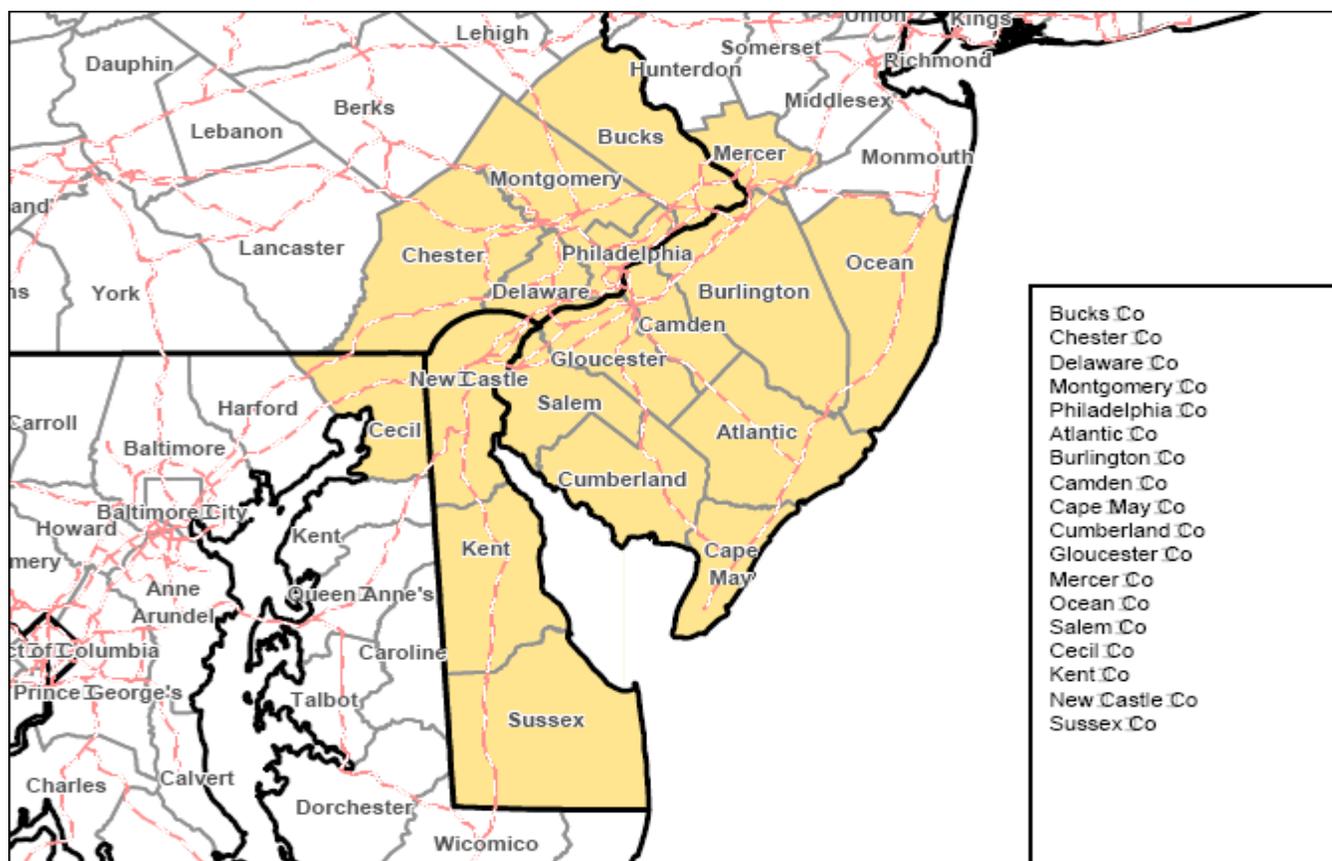


Figure 1. Philadelphia-Wilmington-Atlantic City PA-DE-MD-NJ Moderate Non-Attainment Area

All published CTG and ACT documents, along with other documentation, are listed in Section 5 of this document. In general, states meet the CAA's RACT requirements by imposing controls that meet the control requirements established in final CTG documents and considering the information in ACT documents to relevant VOC and NO<sub>x</sub> sources in their moderate or worse non-attainment areas.

Under the 1-hour ozone NAAQS, Kent County and New Castle County Delaware were designated part of a severe ozone non-attainment area, and Sussex County was designated as a marginal ozone non-attainment area located in an OTR. Therefore, all three counties were subject to RACT requirements under the 1-hour ozone standard. Since the early 1990s, Delaware implemented numerous RACT controls throughout the State to meet the CAA's RACT requirements. These RACT controls were promulgated in Delaware Air Pollution Control Regulation No. 24 for VOC sources and Regulation No. 12 for NO<sub>x</sub> sources.

Under the 8-hour ozone NAAQS the entire state of Delaware is a part of the Philadelphia moderate NAA, and is therefore subject to the CAA's RACT requirements. Delaware is required to submit to EPA a SIP revision which addresses how Delaware meets the RACT requirements under the 8-hour ozone standard, by September 15, 2006.

Under the 8-hour ozone NAAQS, EPA requires that states meet the CAA's RACT requirements for their non-attainment areas through (1) certification that previously adopted RACT controls in their SIP revisions approved by EPA under the 1-hour ozone NAAQS represent adequate RACT control levels for 8-hour attainment purposes, or (2) adoption of new or more stringent regulations that represent RACT control levels. A certification shall be accompanied by appropriate supporting information such as consideration of information received during the public comment period and consideration of new data, that may supplement existing RACT guidance documents that were developed for the 1-hour standard, such that State SIPs accurately reflect RACTs for the 8-hour ozone standard based on the current availability of technically and economically feasible controls. Adoption of new RACT regulation(s) shall occur when states have new stationary sources not covered by existing RACT regulations, or when new data or

technical information indicates that a previously adopted RACT measure does not represent a newly-available RACT control level.

It should be pointed out that under the 8-hour ozone NAAQS, the entire state of Delaware (i.e., all three counties) is designated as moderate non-attainment area, and is part of the ozone transport region (OTR) established under Section 184 of the CAA. Therefore, in this SIP document, the major source threshold is 50 tons per year (TPY) for non-CTG stationary VOC sources and 100 TPY for stationary NO<sub>x</sub> sources. While 25-50 TPY VOC sources and 25-100 TPY NO<sub>x</sub> sources are not specifically addressed in this SIP document, they remain subject to the 1-hour RACT requirements under Delaware Regulations and under the “anti-backsliding” provisions of the EPA 8-hour ozone implementation rule.

In summary, Delaware is certifying through this SIP revision that, excerpt as provided for herein, its SIP meets the CAA’s RACT requirements for the 50 TPY non-CTG major VOC sources and for 100 TPY NO<sub>x</sub> sources, and that all CTG covered categories are addressed at the emission thresholds set in the CTG or in the “Blue Book” (see Reference 63 below) for those CTG categories for which the CTG set no emission threshold. This certification is based on a combination of (1) certification that previously adopted RACT controls in Delaware’s SIP that were approved by EPA under the 1-hour ozone NAAQS are based on the currently available technically and economically feasible controls, and that they represent RACT for 8-hour implementation purposes, and (2) the adoption of new or more stringent regulations that represent RACT control levels.

#### 1.2 Responsibilities

The agency with direct responsibility for preparing and submitting this document is Delaware Department of Natural Resources and Environmental Control (DNREC), Division of Air and Waste Management, Air Quality Management Section (AQM), under the Section Administrator, Ali Mirzakhali. The working responsibility for Delaware’s air quality planning falls within AQM’s Planning Branch, under the Program Manager, Raymond H. Malenfant. The Air-Shed Evaluation and Planning (AEP) Program within the Planning Branch, with Ronald Amirikian as Planning Supervisor, is instrumental in completing this document. Frank F. Gao of AEP Program is the project leader and principal author of the document.

## 2. Certification of VOC and NO<sub>x</sub> RACT Requirements

### 2.1 Certification of VOC RACT Requirements

Delaware Air Pollution Control Regulation No. 24 contains Delaware’s VOC RACT controls that were implemented and approved into the Delaware SIP under the 1-hour ozone NAAQS. Identification and certification of these VOC RACT controls is provided in Table 1 below. Explanations for each column of Table 1 are as follows:

- Column 1: Identifies each section of Delaware Air Regulation No. 24, Control of Volatile Organic Compound Emissions, which contains Delaware’s VOC RACT provisions. Regulation 24 required, in general, major VOC emitting sources to comply with the relevant provisions by May 31, 1995. Under the 1-hour ozone standard, the VOC RACT regulation defines a major VOC emitting source as a stationary source that emits VOCs at a rate equal to or greater than 25 tons per year (TPY) in Kent and New Castle Counties, and 50 TPY in Sussex County. The date of promulgation of each section is also provided in this column. (Note: Column 1 starts from Section 10 of Regulation 24. Sections 1 through 9 of Regulation 24 are general implementing provisions necessary to implement RACT, not actual RACT controls.)
- Column 2: Identifies the underlying basis for the RACT determination.
- Column 3: Identifies the date the rule was approved into the Delaware SIP, along with the Federal Register citation.
- Column 4: Explains RACT control applicability and requirements.
- Column 5: Certifies whether or not the current rule represents RACT under the 8-hour ozone NAAQS. Where Delaware has certified that a current SIP approved regulation represents RACT under the 8-hour ozone standard, AQM affirms that it is not aware of any significant changes in control technology that affect the original RACT determination, unless otherwise explained in Column 5. Also, note that any discussion on cost effectiveness is relative only to this RACT SIP, and is not relevant as to whether or not control of a particular source or source category is cost effective relative to Delaware’s entire SIP.

Delaware’s minor source permitting program under Regulation No. 2, permits, requires a detailed

administrative and technical review of Delaware sources that emit air contaminants far below the “major” threshold” and CTG cutoffs (i.e., permits are required for the emission of 10 pounds per day or more of “aggregate” air contaminants, and registrations for emissions between 0.2 and 10 lb/day of air contaminants). This permitting program gives confidence that all major and CTG covered sources are controlled by RACT level or better controls.

**Table 1. Delaware VOC RACT List and Certification under the 8-Hour Ozone NAAQS**

Delaware Regulation No. 24 Section	RACT Documental Basis	SIP Revision Approved by EPA	RACT Rule Applicability and Requirements	Requirements at least as stringent as RACT for the 8-hour Ozone NAAQS?
Section 10 - Aerospace Coatings <u>08/11/2002</u>	Control Technology Guidance (CTG) document: Control of Volatile Organic Compound Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations, EPA-453/R-97-004, December 1997	Final Federal Register Date: 03/24/2004  Federal Register Citation: 69 FR 13737	This section applies to any aerospace manufacturing and rework facility  In brief, the rule establishes vapor pressure limits, VOC content limits, emission limits and/or work practice standards for: (a) hand-wipe, spray gun, or flush cleaning operations, (b) primer, topcoat, self-priming topcoat, and specialty coating operations, (c) chemical milling maskant application, (d) depainting of aerospace vehicles, and (e) handling and storing of VOC.	Yes.  Section 10 was updated in 2002 to be consistent with the most recent CTG. It represents current RACT control level under the 8-hour ozone NAAQS.

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<p>Section 11 – Mobile Equipment Repair and Refinishing <u>11/11/2001</u></p>	<p>Alternative Control Techniques (ACT) document: Reduction of Volatile Organic Compound Emissions from Automobile Refinishing, EPA-450/3-88-009, October 1988.</p> <p>ACT Document: Automobile Refinishing, EPA-453/R-94-031, April 1994.</p>	<p>Final Federal Register Date: 01/22/2002</p> <p>Federal Register Citation: 67 FR 70315</p>	<p>This section applies to any person who applies coatings to mobile equipment for beautification or protection in the State of Delaware.</p> <p>The rule establishes: (a) Requirements for using improved transfer efficiency coating and application equipment; (b) requirements for enclosed spray gun cleaning techniques; and (c) minimum training standards in the proper use of equipment and materials.</p> <p>The VOC limits for mobile equipment repair and refinishing coatings are in effect nationally under the Federal requirements at 40 CFR Part 59, subpart B, National VOC Emission Standards for Automobile Refinish Coatings, which was adopted by EPA in 1998.</p>	<p>Yes.</p> <p>This section was updated in 2001 based on an Ozone Transport Commission (OTC) model rule as part of Delaware's mitigation of a 1-hour attainment shortfall. It is more stringent than the current CTG/ACT control level, and represents RACT control level under the 8-hour ozone NAAQS.</p>
<p>Section 12 – Control of VOC Emissions-Surface Coating of Plastic Parts <u>11/29/1994</u></p>	<p>ACT document: Surface Coating of Automotive/Transportation and Business Machine Plastic Parts, EPA-453/R-94-017, February 1994.</p>	<p>Final Federal Register Date: 01/26/1996</p> <p>Federal Register Citation: 61 FR 2419</p>	<p>This section applies to any facility that coats plastic components for the following uses: (1) Automotive or other transportation equipment, and (2) Housing and exterior parts for business and commercial machines.</p> <p>The rule establishes coating VOC content limits of between 1.2 and 7.1 lb/gal, depending on the coating category.</p>	<p>Yes.</p> <p>This section is consistent with the most recent ACT specified requirement. It represents current RACT control level under the 8-hour ozone NAAQS.</p>

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<p>Section 13 - Automobile and Light-Duty Truck Coating                  Section 14 - Can Coating                  Section 15 - Coil Coating                  Section 16 - Paper Coating                  Section 17 - Fabric Coating                  Section 18 - Vinyl Coating  <u>01/11/1993</u> for all above sections.</p>	<p>CTG document: Control of Volatile Organic Emissions from Existing Stationary Sources, Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks, EPA-450/2-77-008, May 1977. (Group I)</p>	<p>Final Federal Register Date: 05/03/1995                   Federal Register Citation: 60 FR 21707</p>	<p>These sections apply to coating operations at automobile or light-duty truck assembly plants, and any can, coil, paper, fabric, or vinyl coating unit.                   They establish various coating VOC content limits, depending on the particular coating and the substrate being coated.</p>	<p>Yes.                   These sections fully implement the CTG specified controls in Delaware, and represent current RACT control levels over the covered sources under the 8-hour ozone NAAQS.</p>
<p>Section 19 - Coating of Metal Furniture  <u>01/11/1993</u></p>	<p>CTG document: Control of Volatile Organic Emissions from Existing Stationary Sources, Volume III: Surface Coating of Metal Furniture, EPA-450/2-77-032, December 1977.</p>	<p>Final Federal Register Date: 05/03/1995                   Federal Register Citation: 60 FR 21707</p>	<p>The regulation applies to the coating of metal furniture and requires use of compliant coatings with a VOC content of less than 3.0 lb/gal.</p>	<p>Yes.                   This section fully implements the CTG specified control in Delaware, and represents current RACT control level over the covered sources under the 8-hour ozone NAAQS.</p>
<p>Section 20 - Coating of Large Appliances  <u>01/11/1993</u></p>	<p>CTG: Control of Volatile Organic Emissions from Existing Stationary Sources, Volume V: Surface Coating of Large Appliances, EPA-450/2-77-034, December 1977. (Group I)</p>	<p>Final Federal Register Date: 05/03/1995                   Federal Register Citation: 60 FR 21707</p>	<p>The regulation applies to the coating of large appliances and requires use of compliant coatings with a VOC content of less than 2.8 lb/gal.</p>	<p>Yes.                   This section fully implements the CTG specified control in Delaware, and represents current RACT control level over the covered sources under the 8-hour ozone NAAQS.</p>
<p>Section 21 - Coating of Magnet Wire  <u>11/29/1994</u></p>	<p>CTG: Control of Volatile Organic Emissions from Existing Stationary Sources, Volume IV: Surface Coating of Insulation of Magnet Wire, EPA-450/2-77-033, December 1977. (Group I)</p>	<p>Final Federal Register Date: 01/26/1996                   Federal Register Citation: 61 FR 2419</p>	<p>The regulation applies to the coating of magnetic wire and requires use of compliant coatings with a VOC content of less than 1.7 lb/gal.</p>	<p>Yes.                   This section fully implements the CTG specified control in Delaware, and represents current RACT control level over the covered sources under the 8-hour ozone NAAQS.</p>

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Section 22 - Coating of Miscellaneous Metal Parts <u>01/11/1993</u>	CTG: Control of Volatile Organic Emissions from Existing Stationary Sources, Volume VI: Surface Coating of Miscellaneous Metal Parts and Products, EPA-450/2-78-015, June 1978. (Group II)	Final Federal Register Date: 05/03/1995  Federal Register Citation: 60 FR 21707	The rule applies to any miscellaneous metal parts coating line, and requires use of compliant coatings with a VOC content of between 3.0 and 4.3 lb/gal.	Yes.  This section fully implements the CTG specified control in Delaware, and represents current RACT control level over the covered sources under the 8-hour ozone NAAQS.
Section 23 - Coating of Flat Wood Paneling <u>01/11/1993</u>	CTG: Control of Volatile Organic Emissions from Existing Stationary Sources, Volume VII: Factory Surface Coating of Flat Wood Paneling, EPA-450/2-78-032, June 1978. (Group II)	Final Federal Register Date: 05/03/1995  Federal Register Citation: 60 FR 21707	The rule applies to any miscellaneous metal parts coating line, and requires use of compliant coatings with a VOC content of between 6.0 and 12 lb/1000 sq. feet coated.	Yes.  This section fully implements the CTG specified control in Delaware, and represents the current RACT control level over the covered sources under the 8-hour ozone NAAQS.
Section 24 - Bulk Gasoline Plants <u>01/11/1993</u>	CTG: Control of Volatile Organic Emissions from Bulk Gasoline Plants, EPA-450/2-77-035, December, 1977. (Group I)	Final Federal Register Date: 05/03/1995  Federal Register Citation: 60 FR 21707	This section applies to all unloading, loading, and storage operations at bulk gasoline plants and to any gasoline tank truck delivering or receiving gasoline at a bulk gasoline plant.  Requirements include the use of vapor balance, and various equipment and work practice standards.	Yes.  This section fully implements the CTG specified control in Delaware, and represents current RACT control level over the covered sources under the 8-hour ozone NAAQS.
Section 25 - Bulk Gasoline Terminals <u>11/29/1994</u>	CTG: Control of Volatile Organic Emissions from Bulk Gasoline Plants, EPA-450/2-77-035, December, 1977. (Group I)	Final Federal Register Date: 01/26/1996  Federal Register Citation: 61 FR 2419	This section applies to the total of all the loading racks at any bulk gasoline terminal that deliver liquid product into gasoline tank trucks.  Requirements include control using a vapor collection and control system designed to collect and destroy the organic compound liquids or vapors displaced from gasoline tank trucks during product loading; and various other equipment and operational requirements.	Yes.  This section fully implements the CTG specified control in Delaware, and represents current RACT control level over the covered sources under the 8-hour ozone NAAQS.

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<p>Section 26 - Gasoline Dispensing Facility Stage I Vapor Recovery <u>01/11/2002</u></p>	<p>CTG: Design Criteria for Stage I Vapor Control Systems - Gasoline Service Stations, November 1975. (Group I)</p>	<p>Final Federal Register Date: 11/14/2003  Federal Register Citation: 68 FR 64540</p>	<p>This section was updated in 2002. It applies to stationary gasoline storage tanks at gasoline dispensing facilities.  The updated requirements include (1) loading with submerged fill method, and (2) installing vapor recovery system that returns the displaced vapors to the delivery vessels and then to the bulk plant or terminal.</p>	<p>Yes.  This updated rule provides for more control of emissions in DE than the CTG, and represents current RACT control level over the covered sources under the 8-hour ozone NAAQS.</p>
<p>Section 27 - Gasoline Tank Trucks <u>01/11/1993</u></p>	<p>CTG: Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals, EPA-450/2-77-026, December 1977. (Group I)  CTG: Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems, EPA-450/2-78-051, December 1978. (Group II)</p>	<p>Final Federal Register Date: 05/03/1995  Federal Register Citation: 60 FR 21707</p>	<p>This section applies to gasoline tank trucks equipped for gasoline vapor collection.  The rule requires that the covered gasoline tank trucks must be vapor-tight.</p>	<p>Yes.  This section fully implements the CTG specified control in Delaware, and represents current RACT control level over the covered sources under the 8-hour ozone NAAQS.</p>
<p>Section 28 - Petroleum Refinery Sources <u>01/11/1993</u></p>	<p>CTG: Control of Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds, EPA-450/2-77-025, October 1977. (Group I)</p>	<p>Final Federal Register Date: 05/03/1995  Federal Register Citation: 60 FR 21707</p>	<p>This section applies to vacuum-producing systems, wastewater separators and process unit turnaround at petroleum refineries.  Requirements include (1) no uncompressed VOC emission from vacuum-producing systems, (2) covers, lids or seals for wastewater separators, and (3) depressurization of process unit or vessel to reduce its internal pressure to 136 kPa or less and then venting to vapor recovery system, flare or firebox.</p>	<p>Yes.  This section fully implements the CTG specified control in Delaware, and represents current RACT control level over the covered sources under the 8-hour ozone NAAQS.</p>
<p>Section 29 - Leaks from Petroleum Refinery Equipment <u>11/29/1994</u></p>	<p>CTG: Control of Volatile Organic Compound Leaks from Petroleum Refinery Equipment, EPA-450/2-78-036, June 1978. (Group II)</p>	<p>Final Federal Register Date: 01/26/1996  Federal Register Citation: 61 FR 2419</p>	<p>This section applies to equipment in VOC service in any process unit at petroleum refineries.  The rule establishes standards for proper valve operations under various scenarios to prevent VOC leak emissions.</p>	<p>Yes.  This section fully implements the CTG specified control in Delaware, and represents current RACT control level over the covered sources under the 8-hour ozone NAAQS.</p>

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<p>Section 30 - Petroleum Liquid Storage in External Floating Roof Tanks <u>11/29/1994</u></p>	<p>CTG: Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks, EPA-450-2/78-047, December 1978. (Group II).</p>	<p>Final Federal Register Date: 01/26/1996  Federal Register Citation: 61 FR 2419</p>	<p>This section applies to petroleum liquid storage tanks with external floating roofs and with capacity of 150,000 L or greater.  The rule establishes sealing standards for a covered storage tank, including its openings, its connection structure between roof and tank wall, all seal closure devices, bleeder vents, rim vents, and emergency roof drains.</p>	<p>Yes.  This section fully implements the CTG specified control in Delaware, and represents current RACT control level over the covered sources under the 8-hour ozone NAAQS.</p>
<p>Section 31 - Petroleum Liquid Storage in Fixed Roof Tanks <u>11/29/1994</u></p>	<p>CTG: Control of Volatile Organic Emissions from Storage of Petroleum Liquids in Fixed Roof Tanks, EPA-450/2-77-036, December 1977. (Group I)</p>	<p>Final Federal Register Date: 01/26/1996  Federal Register Citation: 61 FR 2419</p>	<p>This section applies to petroleum liquid storage tanks with fixed roofs and with capacity of 150,000 L or greater.  The rule establishes sealing standards for a covered storage tank, including its openings, its connection structure between roof edge and tank wall, bleeder vents, and rim vents.</p>	<p>Yes.  This section fully implements the CTG control in Delaware, and represents current RACT control level over the covered sources under the 8-hour ozone NAAQS.</p>
<p>Section 32 - Leaks from Natural Gas/Gasoline Processing Equipment <u>11/29/1994</u></p>	<p>CTG: Control of Volatile Organic Compound Equipment Leaks from Natural Gas/Gasoline Processing Plants, EPA-450/2-83-007, December 1983. (Group III)</p>	<p>Final Federal Register Date: 01/26/1996  Federal Register Citation: 61 FR 2419</p>	<p>This section applies to equipment in VOC service in any process unit at onshore natural gas/gasoline processing facilities.  The rule establishes standards for proper valve operations under various scenarios to prevent VOC leak emissions from the covered equipments.</p>	<p>Yes.  This section fully implements the CTG specified control in Delaware, and represents current RACT control level over the covered sources under the 8-hour ozone NAAQS.</p>

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<p>Section 33 - Solvent Cleaning and Drying <u>11/11/2001</u></p>	<p>CTG: Control of Volatile Organic Emissions from Solvent Metal Cleaning, EPA-450/2-77-022 November 1977. (Group I)</p> <p>ACT Document - Halogenated Solvent Cleaners, EPA-450/3-89-030, August 1989.</p>	<p>Final Federal Register Date: 11/22/2002</p> <p>Federal Register Citation: 67 FR 70315</p>	<p>This section applies to any solvent cleaning machine that contains more than 1 liter of solvent in which VOC is more than 5% by weight.</p> <p>This rule, updated in 2001 based on an OTC Model Rule, establishes standards for (1) batch cold cleaning machines, (2) batch vapor cleaning machines, (3) in-line cleaning machines, (4) and cleaning machines without a solvent-air interface. It also specifies an alternative standard for (2) and (3) above.</p>	<p>Yes.</p> <p>This section was updated in 2001 based on an OTC model rule as part of Delaware's mitigation of a 1-hour attainment shortfall. It is more stringent than the current CTG/ACT control level, and represents RACT control level under the 8-hour ozone NAAQS.</p>
<p>Section 34 - Cutback and Emulsified Asphalt <u>01/11/1993</u></p>	<p>CTG: Control of Volatile Organic Compounds from Use of Cutback Asphalt, EPA-450/2-77-037, December 1977. (Group I)</p>	<p>Final Federal Register Date: 05/03/1995</p> <p>Federal Register Citation: 60 FR 21707</p>	<p>This section applies to manufacture, mixing, storage, use, and application of cutback and emulsified asphalts in Delaware.</p> <p>The rule prohibits all above activities for cutback asphalt during the ozone season without approval. It also prohibits all above activities during the ozone season for emulsified asphalt that contain any VOC.</p>	<p>Yes.</p> <p>This section fully implements the CTG specified control in Delaware, and represents current RACT control level over the covered source under the 8-hour ozone NAAQS.</p>
<p>Section 35 - Manufacture of Synthesized Pharmaceutical Products <u>11/29/1994</u></p>	<p>CTG: Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Products, EPA-450/2-78-029, December 1978. (Group II)</p>	<p>Final Federal Register Date: 01/26/1996</p> <p>Federal Register Citation: 61 FR 2419</p>	<p>This section applies to 10 VOC sources at synthesized pharmaceutical manufacturing facilities, including reactors, distillation operations, crystallizers, centrifuges, vacuum dryers, air dryers, production equipment exhaust systems, rotary vacuum filters and other filters, in-process tanks, and leaks.</p> <p>The rule establishes standards for controlling and reducing VOC emissions from all covered sources.</p>	<p>Yes.</p> <p>This section fully implements the CTG control in Delaware, and represents current RACT control level over the covered source under the 8-hour ozone NAAQS.</p>

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<p>Section 36 - Control of VOC Emissions- Stage II Vapor Recovery <u>01/11/2002</u></p>	<p>Non-CTG RACT, CAA Section 182(b)(3).</p>	<p>Final Federal Register Date: 11/14/2003  Federal Register Citation: 68 FR 64540</p>	<p>This section applies to any gasoline dispensing facility with a monthly throughput greater than 10,000 gallons.  The rule requires that all covered facilities install approved Stage II vapor recovery system. The rule was updated in 2002 to (1) increase inspection frequency, and (2) provide for compliance tester certification.</p>	<p>Yes.  This updated rule fully implements the CAA required VOC emission control over the gasoline dispensing sources in Delaware, and represents current RACT control level over the covered sources under the 8-hour ozone NAAQS.</p>
<p>Section 37 - Graphic Arts Systems <u>11/29/1994</u></p>	<p>CTG: Control of Volatile Organic Emissions from Existing Stationary Sources, Volume VIII: Graphic Arts- Rotogravure and Flexography, EPA-450/2-78-033, December 1978. (Group II)</p>	<p>Final Federal Register Date: 01/26/1996  Federal Register Citation: 61 FR 2419</p>	<p>This section allies to any packaging rotogravure, publication rotogravure, or flexographic printing process at a facility with potential uncontrolled VOC emission greater than 7.7 tons per year.  The rule establishes the limits of VOC contents in coatings and inks used in the covered facilities, and specifies standards for control devices for various printing processes.</p>	<p>Yes.  This section fully implements the CTG specified control in Delaware, and represents current RACT control level over the covered sources under the 8-hour ozone NAAQS.</p>
<p>Section 38 - Petroleum Solvent Dry Cleaners <u>01/11/1993</u></p>	<p>CTG: Control of Volatile Organic Compound Emissions from Large Petroleum Dry Cleaners, EPA-450/3-82-009, September 1982. (Group III)</p>	<p>Final Federal Register Date: 05/03/1995  Federal Register Citation: 60 FR 21707</p>	<p>This section applies to petroleum dry cleaning facilities that consume 123,000 L or more petroleum solvent per year.  The rule establishes emission limits or reduction requirements for fugitive emissions, leak repairs, dryers, and filtration systems at covered facilities.</p>	<p>Yes.  This section fully implements the CTG specified control in Delaware, and represents current RACT control level over the covered sources under the 8-hour ozone NAAQS.</p>
<p>Section 39 - Reserved</p>				

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<p>Section 40 - Leaks from Synthetic Organic Chemical, Polymer, and Resin Manufacturing Equipment <u>01/11/1993</u></p>	<p>CTG: Control of Volatile Organic Compound Emissions from Reactor Processes and Distillation Operations in SOCFI, November 15, 1993, EPA-450/4-91-031.</p> <p>CTG: Control of Volatile Organic Compound Fugitive Emissions from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment, EPA-450/3-83-006, March 1984. (Group III)</p>	<p>Final Federal Register Date: 05/03/1995</p> <p>Federal Register Citation: 60 FR 21707</p>	<p>This section applies to all equipment in VOC service in any process unit at a synthetic organic chemical, polymer, and resin production facility with an annual design production capacity equal to or greater than 1,000 mega grams of product.</p> <p>The rule establishes standards for proper valve operation, leak detection, repair, and reporting for synthetic organic chemical, polymer, and resin manufacturing equipment.</p>	<p>Yes.</p> <p>This rule fully implements the CTG specified control in Delaware, and represents current RACT control level over the covered sources under the 8-hour ozone NAAQS.</p>
<p>Section 41 - Manufacture of High-Density Polyethylene, Polypropylene and Polystyrene Resins <u>01/11/1993</u></p>	<p>CTG: Control of Volatile Organic Compound Emissions from Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins, EPA-450/3-83-008, November 1983. (Group III)</p>	<p>Final Federal Register Date: 05/03/1995</p> <p>Federal Register Citation: 60 FR 21707</p>	<p>This rule applies to specific process sections (material recovery section, and production finishing section) at facilities engaged in manufacturing high-density polyethylene, polypropylene, and polystyrene.</p> <p>The rule establishes requirements for VOC emission limits, reductions and combustions for the covered process sections.</p>	<p>Yes.</p> <p>This section fully implements the CTG specified control in Delaware, and represents current RACT control level over the covered sources under the 8-hour ozone NAAQS.</p>
<p>Section 42 - Air Oxidation Processes in the Synthetic Organic Chemical Manufacturing Industry <u>01/11/1993</u></p>	<p>CTG: Control of Volatile Organic Compound Emissions from Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry, EPA-450/3-84-015, December 1984. (Group III)</p>	<p>Final Federal Register Date: 05/03/1995</p> <p>Federal Register Citation: 60 FR 21707</p>	<p>This section applies to 3 special air oxidation processes in synthetic organic chemical manufacturing industry.</p> <p>The rule establishes requirements for VOC emission reduction and emission combustion for the covered processes.</p>	<p>Yes.</p> <p>This section fully implements the CTG specified control in Delaware, and represents current RACT control level over the covered sources under the 8-hour ozone NAAQS.</p>

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<p>Section 43 - Bulk Gasoline Marine Tank Vessel Loading Facilities <u>08/08/1994</u></p>	<p>Non-CTG RACT, CAA Section 183(f).</p>	<p>Final Federal Register Date: 07/28/1995  Federal Register Citation: 60 FR 38710</p>	<p>This section applies to all loading berths at a bulk marine tank loading facility that (1) delivers gasoline into marine tank vessels, and (2) has an annual throughput equal to or greater than 15,000 gallons.  The rule requires installation of a vapor collection system that is designed to collect all VOC vapors displaced from marine tank vessels during loading, ballasting, or housekeeping.</p>	<p>Yes.  This section fully implements the CAA required non-CTG control on the covered sources in Delaware, and represents current RACT control level over the covered sources under the 8-hour ozone NAAQS..</p>
<p>Section 44 - Control of VOC Emissions- Batch Processing Operations <u>11/29/1994</u></p>	<p>ACT Document: Control of Volatile Organic Compound Emissions from Batch Processes, EPA-453/R-93-017, February 1994.</p>	<p>Final Federal Register Date: 01/26/1996  Federal Register Citation: 61 FR 2419</p>	<p>This section applies to process vents associated with batch processing operations in manufacturing facilities with Standard Industrial Classification (SIC) Codes of 2821, 2833, 2861, 2869, 2869, and 2879.  The rule requires the affected sources to reduce VOC emissions by 90 percent by weight.</p>	<p>Yes.  This section fully implements the ACT specified control in Delaware, and represents current RACT control level over the covered sources under the 8-hour ozone NAAQS.</p>
<p>Section 45 - Control of VOC Emissions- Industrial Cleaning Solvents <u>11/29/1994</u></p>	<p>ACT Document: Industrial Cleaning Solvents, EPA-453/R-94-015, February 1994.</p>	<p>Final Federal Register Date: 01/26/1996  Federal Register Citation: 61 FR 2419</p>	<p>This section applies to all sources that use organic solvents for the purpose of cleaning.  The rule requires the affected facilities to evaluate alternative cleaning solutions for the purpose of reducing VOC emissions</p>	<p>Yes.  This section fully implements the ACT specified control in Delaware, and represents current RACT control level over the covered sources under the 8-hour ozone NAAQS.</p>

<p>Section 47 - Control of VOC Emissions- Offset Lithographic Printing <u>11/29/1994</u></p>	<p>CTG: Control of Volatile Organic Compound Emissions from Offset Lithographic Printing (CTG Draft), EPA-453/D-95-001, September 1993.</p> <p>ACT Document: Offset Lithographic Printing, EPA-453/R-94-054, June 1994.</p>	<p>Final Federal Register Date: 05/14/1997</p> <p>Federal Register Citation: 62 FR 26399</p>	<p>This section applies to any offset lithographic printing facility, including heatset and non-heatset web, non-heatset sheet-fed, and newspaper facilities.</p> <p>In brief, the rule requires a 90 percent reduction of VOC emissions (by weight) from the press dryer exhaust vent of heatset printing operations, regulates the alcohol content in fountain solutions, and requires the VOC content of cleaning solutions to be 30% or less.</p>	<p>Yes.</p> <p>This section fully implements the CTG/ACT specified control in Delaware, and represents current RACT control level over the covered sources under the 8-hour ozone NAAQS.</p>
<p>Section 48 - Reactor Processes and Distillation Operations in the Synthetic Organic Chemical Manufacturing Industry <u>11/29/1994</u></p>	<p>CTG: Control of Volatile Organic Compound Emissions from Reactor Processes and Distillation Operations in SOCM, November 15, 1993, EPA-450/4-91-031.</p>	<p>Final Federal Register Date: 01/26/1996</p> <p>Federal Register Citation: 61 FR 2419</p>	<p>This section applies to any vent stream that originates from a process unit in which a reactor or distillation operation is located at a facility within the synthetic organic chemical manufacturing industry (SOCMI).</p> <p>The rule requires the affected sources to reduce VOC emissions by 98 weight-percent or to 20 ppmv on a dry basis corrected to 3% oxygen, via combustion device, flare, or process modification.</p>	<p>Yes.</p> <p>This section fully implements the CTG specified control in Delaware, and represents current RACT control level over the covered sources under the 8-hour ozone NAAQS.</p>
<p>Section 49 - Control of VOC Emissions- Control of Volatile Organic Compound Emissions from Volatile Organic Liquid Storage Vessels <u>11/29/1994</u></p>	<p>ACT Document: Volatile Organic Liquids Storage in Floating and Fixed Roof Tanks, EPA-453/R-94-001, February 1994.</p>	<p>Final Federal Register Date: 01/26/1996</p> <p>Federal Register Citation: 61 FR 2419</p>	<p>This section applies to each storage vessel with a capacity equal to or greater than 40,000 gallons that is used to store volatile organic liquids (VOLs).</p> <p>The rule establishes the venting and sealing standards for internal and external floating roofs, and specifies alternatives to installing internal or external floating roofs.</p>	<p>Yes.</p> <p>This section fully implements the ACT control in Delaware, and represents current RACT control level over the covered sources under the 8-hour ozone NAAQS.</p>

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Section 50 - Control of VOC Emissions- Other Facilities that Emit Volatile Organic Compounds (VOCs) <u>11/29/1994</u>	Non-CTG RACT, CAA Section 182(b)(2)(C).	Final Federal Register Date: 03/12/1997  Federal Register Citation: 62 FR 11329	This section applies to any facility that is not covered by Section 10 through Section 49 of Regulation 24.  In brief, the rule requires an affected source to achieve an overall VOC emission reduction of at least 81 percent by weight. Facilities may also comply with Section 50 by submitting an alternative control plan.	Yes.  This section requires non-CTG major sources to implement RACT. It fully implements the CAA required non-CTG control in Delaware, and represents current RACT control level over the covered sources under the 8-hour ozone NAAQS.
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## 2.2. Certification of NO<sub>x</sub> RACT

Delaware Air Pollution Control Regulation No. 12 contains Delaware's NO<sub>x</sub> RACT controls that were implemented and approved into the Delaware SIP under the 1-hour ozone NAAQS. Certification of those RACT rules is conducted in Table 2. Explanations for each column of Table 2 are as follows.

- Column 1: Identifies NO<sub>x</sub> source groups covered by Delaware Air Regulation No. 12, Control of Nitrogen Oxides Emissions, which contains NO<sub>x</sub> RACT provisions. Regulation No. 12 requires major NO<sub>x</sub> emitting sources to comply with the relevant provisions by May 31, 1995. The NO<sub>x</sub> RACT regulation defines a major NO<sub>x</sub> emitting source as a stationary source that emits NO<sub>x</sub> at a rate that is equal to or greater than 25 tons per year in Kent and New Castle Counties, and 100 TPY in Sussex County.
- Column 2: Identifies the underlying basis for the RACT determination. (Note: the fundamental basis of implementing NO<sub>x</sub> RACT controls is CAA Section 182(b)(2) and Section 182(f). Citation of these sections is not repeated in Column 2 of Table 2.)
- Column 3: Identifies the date the rule was approved into the Delaware SIP, along with the Federal Register citation. (Note: Regulation No. 12 was first implemented in November 1993, and conditionally approved by EPA in June 1999. After Delaware submitted four case-by-case RACT determinations in July 2000, EPA granted the final approval of Regulation No. 12 on June 14, 2001.)
- Column 4: Explains RACT control requirements.
- Column 5: Certifies whether or not the rule represents RACT under the 8-hour ozone NAAQS. Where Delaware has certified that a current SIP approved regulation represents RACT under the 8-hour ozone standard, AQM affirms that it is not aware of any significant changes in control technology that affect the original RACT determination, unless otherwise explained in Column 5. Also, note that any discussion on cost effectiveness is relative only to this RACT SIP, and is not relevant as to whether or not control of a particular source or source category is cost effective relative to Delaware's entire SIP.

Delaware's minor source permitting program under Regulation No. 2, permits, requires a detailed administrative and technical review of Delaware sources that emit far below the "major" threshold" (i.e., permits are required for the emission of 10 pounds per day or more of "aggregate" air contaminants, and registrations for emissions between 0.2 and 10 lb/day of air contaminants). This permitting program gives confidence that all major sources are controlled by RACT level or better controls.

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Table 2. Delaware NOx RACT List and Certification under the 8-Hour Ozone NAAQS

<b>Delaware Regulation No. 12 Source Group</b>	<b>RACT Documental Basis</b>	<b>SIP Revision Approved by EPA</b>	<b>RACT Rule Requirements</b>	<b>Requirements at least as stringent as RACT for the 8-hour Ozone NAAQS?</b>
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## GENERAL NOTICES

<p>Fuel burning equipment with an input capacity of 100 mmBTU/hr or greater</p>	<p><u>NESCAUM Stationary Source Committee Recommendation on NOx RACT for Utility Boilers</u> 8/12/1992</p> <p><u>NESCAUM Stationary Source Committee Recommendation on NOx RACT for Industrial Boilers, Internal Combustion Engines and Combustion Turbines</u> 9/18/1992</p> <p><u>Controlling Emissions of Nitrogen Oxides from Existing Utility Boilers Under Title I of the Clean Air Act: Options and Recommendations</u>, STAPPA/ALAPCO 4/27/1992</p> <p><u>State Implementation Plans: Nitrogen Oxides Supplement to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990</u>, USEPA 10/27/1995</p> <p><u>Summary of NOx Control Technologies and their Availability and Extent of Application</u>, USEPA February 1992</p> <p><u>Alternative Control Techniques Document: NOx Emissions from Process Heaters (Revised)</u>, USEPA, September 1993</p> <p><u>Alternative Control Techniques Document: NOx Emissions from Industrial/Commercial/Institutional (ICI) Boilers</u>, USEPA, March 1994</p> <p><u>Alternative Control Techniques Document: NOx Emissions from Utility Boilers</u>, USEPA, March 1994</p> <p><u>State's Report on Electric Utility Nitrogen Oxides Reduction Technology Options for Application by the Ozone Transport Assessment Group</u>, prepared for the OTAG Control Technology &amp; Options Workgroup by Ken Colburn, 4/11/1996</p> <p><u>Status Report on NOx Controls for Gas Turbines, Cement Kilns, Industrial Boilers, Internal Combustion Engines</u>, NESCAUM, December 2000</p> <p><u>Summary of State/Local NOx Regulations for Stationary Sources</u>, USEPA, 2004</p>	<p>Final Federal Register Date: 06/14/2001</p> <p>Federal Register Citation: 66 FR 32231</p>	<p>Emissions subject to 0.2., 0.25, or 0.38 lb/mmBTU limits for gas, oil and coal fired units, respectively; or emissions must be controlled by low NOx burner technology or flue gas circulation with excess air.</p> <p>Generally, equipment larger than 100 mmBTU is required to install NOx continuous emission monitoring system (CEMS).</p>	<p>Yes.</p> <p>This provision fully implements the required NO<sub>x</sub> controls over the targeted sources, and represents the current RACT control level under the 8-hour ozone NAAQS.</p>
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<p>Fuel burning equipment with an input capacity of 50 mmBTU/hr or greater and less than 100 mmBTU/hr</p>	<p><u>NESCAUM Stationary Source Committee Recommendation on NO<sub>x</sub> RACT for Industrial Boilers, Internal Combustion Engines and Combustion Turbines</u> 9/18/1992</p> <p><u>Summary of NO<sub>x</sub> Control Technologies and their Availability and Extent of Application</u>, USEPA February 1992</p> <p><u>Alternative Control Techniques Document: NO<sub>x</sub> Emissions from Process Heaters (Revised)</u>, USEPA, September 1993</p> <p><u>Alternative Control Techniques Document: NO<sub>x</sub> Emissions from Industrial/Commercial/Institutional (ICI) Boilers</u>, USEPA, March 1994</p> <p><u>Status Report on NO<sub>x</sub> Controls for Gas Turbines, Cement Kilns, Industrial Boilers, Internal Combustion Engines</u>, NESCAUM, December 2000</p> <p><u>Summary of State/Local NO<sub>x</sub> Regulations for Stationary Sources</u>, USEPA, 2004</p>	<p>Final Federal Register Date: 06/14/2001</p> <p>Federal Register Citation: 66 FR 32231</p>	<p>Emission rates of the targeted sources are limited to those to be achieved by low excess air and low NO<sub>x</sub> burners, or flue gas recirculation.</p>	<p>Yes.</p> <p>This provision fully implements the required NO<sub>x</sub> controls over the targeted sources, and represents the current RACT control level under the 8-hour ozone NAAQS.</p>
<p>Fuel burning equipment with an input capacity of less than 50 mmBTU/hr</p>	<p><u>NESCAUM Stationary Source Committee Recommendation on NO<sub>x</sub> RACT for Industrial Boilers, Internal Combustion Engines and Combustion Turbines</u> 9/18/1992</p> <p><u>Summary of NO<sub>x</sub> Control Technologies and their Availability and Extent of Application</u>, USEPA February 1992</p> <p><u>Alternative Control Techniques Document: NO<sub>x</sub> Emissions from Process Heaters (Revised)</u>, USEPA, September 1993</p> <p><u>Alternative Control Techniques Document: NO<sub>x</sub> Emissions from Industrial/Commercial/Institutional (ICI) Boilers</u>, USEPA, March 1994</p> <p><u>Summary of State/Local NO<sub>x</sub> Regulations for Stationary Sources</u>, USEPA, 2004</p>	<p>Final Federal Register Date: 06/14/2001</p> <p>Federal Register Citation: 66 FR 32231</p>	<p>The rule requires the targeted sources to conduct annual tune-ups.</p>	<p>Yes.</p> <p>This provision fully implements the required NO<sub>x</sub> controls over the targeted sources, and represents the current RACT control level under the 8-hour ozone NAAQS.</p>

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<p>Alternative requirement for fuel burning equipment - Seasonal fuel switching (April 1 through October 31) to a low NO<sub>x</sub> emitting fuel.</p>	<p>Memorandum subject, <u>Fuel Switching to Meet the Reasonably Available Control Technology (RACT) Requirements for Nitrogen Oxides (NO<sub>x</sub>)</u>, Michael H. Shapiro, Air and Radiation, 7/30/1993</p> <p><u>Summary of NO<sub>x</sub> Control Technologies and their Availability and Extent of Application</u>, USEPA February 1992</p> <p>Memorandum subject, <u>Nitrogen Oxides (NO<sub>x</sub>) Questions from Ohio EPA</u>, Tom Helms, Chief Ozone/Carbon Monoxide Programs Branch, (no date, references 11/30/1993 questions)</p> <p><u>Summary of State/Local NO<sub>x</sub> Regulations for Stationary Sources</u>, USEPA, 2004</p> <p><u>Alternative Control Techniques Document: NO<sub>x</sub> Emissions from Industrial/Commercial/Institutional (ICI) Boilers</u>, USEPA, March 1994</p> <p><u>State Implementation Plans: General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990</u>, USEPA</p>	<p>Final Federal Register Date: 06/14/2001</p> <p>Federal Register Citation: 66 FR 32234</p>	<p>Fuel switching is limited to the use of natural gas, liquid petroleum gas (LPG) or distillate oil. A 90% availability of the new fuel is required.</p>	<p>Yes.</p> <p>This provision fully implements the required NO<sub>x</sub> controls over the targeted sources, and represents the current RACT control level under the 8-hour ozone NAAQS.</p>
<p>Gas turbines</p>	<p><u>Alternative Control Techniques Document: NO<sub>x</sub> Emissions from Stationary Gas Turbines</u>, USEPA, January 1993</p> <p><u>NESCAUM Stationary Source Committee Recommendation on NO<sub>x</sub> RACT for Industrial Boilers, Internal Combustion Engines and Combustion Turbines</u> 9/18/1992</p> <p><u>Status Report on NO<sub>x</sub> Controls for Gas Turbines, Cement Kilns, Industrial Boilers, Internal Combustion Engines</u>, NESCAUM, December 2000</p> <p><u>Summary of NO<sub>x</sub> Control Technologies and their Availability and Extent of Application</u>, USEPA, February 1992</p> <p><u>Summary of State/Local NO<sub>x</sub> Regulations for Stationary Sources</u>, USEPA, 2004</p>	<p>Final Federal Register Date: 06/14/2001</p> <p>Federal Register Citation: 66 FR 32231</p>	<p>The rule subjects gas turbines to 42 and 88 ppm NO<sub>x</sub> limits for gas and oil fired units, respectively</p>	<p>Yes.</p> <p>This provision fully implements the required NO<sub>x</sub> controls over the targeted sources, and represents the current RACT control level under the 8-hour ozone NAAQS.</p>

<p>Stationary internal combustion engines</p>	<p><u>Summary of NO<sub>x</sub> Control Technologies and their Availability and Extent of Application</u>, USEPA February 1992</p> <p><u>NESCAUM Stationary Source Committee Recommendation on NO<sub>x</sub> RACT for Industrial Boilers, Internal Combustion Engines and Combustion Turbines</u> 9/18/1992</p> <p><u>Alternative Control Techniques Document: NO<sub>x</sub> Emissions from Stationary Reciprocating Internal Combustion Engines</u>, USEPA 1993</p> <p><u>NO<sub>x</sub> Emissions from Stationary Internal Combustion Engines</u>, USEPA, October 2003</p> <p><u>Stationary Reciprocating Internal Combustion Engines – Updated Information on NO<sub>x</sub> Emissions and Control Techniques – Revised Final Report</u>, USEPA, 9/1/2000</p> <p><u>Sourcebook: NO<sub>x</sub> Control Technology Data</u>, USEPA, July 1991</p> <p><u>Status Report on NO<sub>x</sub> Controls for Gas Turbines, Cement Kilns, Industrial Boilers, Internal Combustion Engines</u>, NESCAUM, December 2000</p> <p><u>Summary of State/Local NO<sub>x</sub> Regulations for Stationary Sources</u>, USEPA, 2004</p>	<p>Final Federal Register Date: 06/14/2001</p> <p>Federal Register Citation: 66 FR 32231</p>	<p>The rule establishes emission limits for the targeted engines to those achieved using pre-ignition chamber combustion or clean burn technology for gas fired units and those achieved using lean burn technology for diesel fired units.</p>	<p>Yes.</p> <p>This provision fully implements the required NO<sub>x</sub> controls over the targeted sources, and represents the current RACT control level under the 8-hour ozone NAAQS.</p>
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<p>Fuel burning equipment used exclusively for providing residential comfort heating and hot water</p>	<p><u>Summary of NO<sub>x</sub> Control Technologies and their Availability and Extent of Application</u>, USEPA February 1992</p> <p><u>State Implementation Plans: General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990</u>, USEPA</p>	<p>Final Federal Register Date: 06/14/2001</p> <p>Federal Register Citation: 66 FR 32231</p>	<p>RACT rule specifies no emissions limits or control requirements.</p>	<p>Yes.</p> <p>For the 1-hour NAAQS, DNREC had determined that no cost effective controls exist for the specified sources and is not aware of any significant changes in technology that affect the original RACT determination. This provision represents current NO<sub>x</sub> RACT control requirement under the 8-hour ozone NAAQS.</p>
<p>Incinerator or thermal/catalytic oxidizer constructed before November 15, 1992, and used primarily for the control of air pollution.</p>	<p><u>Summary of NO<sub>x</sub> Control Technologies and their Availability and Extent of Application</u>, USEPA February 1992</p>	<p>Final Federal Register Date: 06/14/2001</p> <p>Federal Register Citation: 66 FR 32231</p>	<p>RACT rule specifies no emissions limits or control requirements.</p>	<p>Yes.</p> <p>For the 1-hour NAAQS, DNREC had determined that no cost effective controls exist for the specified sources and is not aware of any significant changes in technology that affect the original RACT determination. This provision represents current NO<sub>x</sub> RACT control requirement under the 8-hour ozone NAAQS.</p>

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<p>Fuel burning equipment with a rated heat input capacity of less than 15 MMBTU/hour.</p>	<p>Memorandum Subject: <u>De Minimis Values for NO<sub>x</sub> RACT</u>, from G.T. Helms, Ozone Policy and Strategies Group, dated 1/1/1995</p> <p><u>Alternative Control Techniques Document: NO<sub>x</sub> Emissions from Industrial/Commercial/Institutional (ICI) Boilers</u>, USEPA, March 1994</p>	<p>Final Federal Register Date: 06/14/2001</p> <p>Federal Register Citation: 66 FR 32231</p>	<p>RACT rule specifies no emissions limits or control requirements-</p>	<p>Yes.</p> <p>For the 1-hour NAAQS, DNREC had determined that no cost effective controls exist for the specified sources and is not aware of any significant changes in technology that affect the original RACT determination. This provision represents current NO<sub>x</sub> RACT control requirement under the 8-hour ozone NAAQS.</p>
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## GENERAL NOTICES

<p>Stationary internal combustion engine with a rated capacity of less than 450 hp of output power.</p>	<p>Memorandum Subject: <u>De Minimis Values for NO<sub>x</sub> RACT</u>, from G.T. Helms, Ozone Policy and Strategies Group, dated 1/1/1995</p> <p><u>NO<sub>x</sub> Emissions from Stationary Internal Combustion Engines</u>, USEPA, October 2003</p> <p><u>Stationary Reciprocating Internal Combustion Engines – Updated Information on NO<sub>x</sub> Emissions and Control Techniques – Revised Final Report</u>, USEPA, 9/1/2000</p> <p><u>Alternative Control Techniques Document: NO<sub>x</sub> Emissions from Stationary Reciprocating Internal Combustion Engines</u>, USEPA 1993</p>	<p>Final Federal Register Date: 06/14/2001</p> <p>Federal Register Citation: 66 FR 32231</p>	<p>RACT rule specifies no emissions limits or control requirements.</p>	<p>Yes.</p> <p>For the 1-hour NAAQS, DNREC had determined that no cost effective controls exist for the specified sources and is not aware of any significant changes in technology that affect the original RACT determination. This provision represents current NO<sub>x</sub> RACT control requirement under the 8-hour ozone NAAQS. <i>(note that DE has adopted beyond RACT requirements for this source category under Reg. 1142).</i></p>
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# GENERAL NOTICES

<p>Any source operating during the month of November to the end of March and operating with a capacity factor of 5% or less from April 1 to October 31.</p>	<p>Memorandum subject, <u>Nitrogen Oxides (NOx) Questions from Ohio EPA</u>, Tom Helms, Chief Ozone/Carbon Monoxide Programs Branch (no date cited).</p> <p>Memorandum Subject: <u>De Minimis Values for NOx RACT</u>, from G.T. Helms, Ozone Policy and Strategies Group, 1/1/1995</p>	<p>Final Federal Register Date: 06/14/2001</p> <p>Federal Register Citation: 66 FR 32231</p>	<p>RACT rule specifies no emissions limits or control requirements.</p>	<p>Yes.</p> <p>Under the 1-hour ozone NAAQS, DNREC determined that no cost effective controls exist for the specified sources. DE is not aware of any significant changes in technology that affect the original RACT determination. This provision represents current NO<sub>x</sub> RACT control requirement under the 8-hour ozone NAAQS. <i>(note that separate from RACT DE is in the process of developing beyond RACT regulations for this source category to address high peak ozone day operations)</i></p>
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## GENERAL NOTICES

<p>Any fuel burning equipment, gas turbine, or internal combustion engine with an annual capacity factor of less than 5 percent.</p>	<p>Memorandum Subject: <u>De Minimis Values for NO<sub>x</sub> RACT</u>, from G.T. Helms, Ozone Policy and Strategies Group, dated 1/1/1995</p> <p><u>Alternative Control Techniques Document: NO<sub>x</sub> Emissions from Industrial/Commercial/Institutional (ICI) Boilers</u>, USEPA, March 1994</p> <p><u>Alternative Control Techniques Document: NO<sub>x</sub> Emissions from Stationary Reciprocating Internal Combustion Engines</u>, USEPA 1993</p> <p><u>Alternative Control Techniques Document: NO<sub>x</sub> Emissions from Stationary Gas Turbines</u>, USEPA, January 1993</p> <p><u>Alternative Control Techniques Document: NO<sub>x</sub> Emissions from Process Heaters (Revised)</u>, USEPA, September 1993</p>	<p>Final Federal Register Date: 06/14/2001</p> <p>Federal Register Citation: 66 FR 32231</p>	<p>RACT rule specifies no emissions limits or control requirements.</p>	<p>Yes.</p> <p>This provision represents current NO<sub>x</sub> RACT control requirement under the 8-hour ozone NAAQS. <i>(note that separate from RACT DE is in the process of developing beyond RACT regulations for this source category to address high peak ozone day operations).</i></p>
<p>Case-by-case RACT determination*: CitiSteel USA, Incorporated, Claymont, Delaware: Electric Arc Furnace (EAF) rated at 150 tons per charge.</p>	<p><u>Alternative Control Techniques Document: NO<sub>x</sub> Emissions from Iron and Steel Mills</u>, USEPA, September 1994</p>	<p>Final Federal Register Date: 06/14/2001</p> <p>Federal Register Citation: 66 FR 32231</p>	<p>Typical fuel fired combustion equipment applied to NO<sub>x</sub> emitting sources are not technically feasible for an EAF. Therefore, DNREC certifies that its 2001 determination remains valid and that no additional requirements on the Citisteel's EAF operations are required under RACT. A well-designed exhaust system constitutes RACT in compliance with Regulation No. 12 of the Delaware Regulations Governing the Control of Air Pollution.</p>	<p>Yes.</p> <p>This provision fully implements the required NO<sub>x</sub> controls over the targeted source, and represents the current RACT control level under the 8-hour ozone NAAQS.</p>

\* Three other case-by-case NO<sub>x</sub> RACT determinations were made by Delaware: (1) a sulfuric acid (H<sub>2</sub>SO<sub>4</sub>) and interstage absorption system (ISA) process, (2) a metallic nitrite process, and (3) a Polyhydrate Alcohol Catalyst Regenerative (PACR) process. Processes (1) and (2) were both at the General Chemical Corporation facility, Claymont, New Castle, Delaware, and process (3) was at SPI Polyols, Incorporated, Atlas Point Site, New Castle, Delaware. The General Chemical facility at Claymont was permanently shutdown. The PACR process at SPI was permanently shutdown. Therefore, these three NO<sub>x</sub> RACT determinations are no longer required in Delaware's ozone SIP.

### **3. Adoption of Revised and New RACT Requirements**

#### **3.1. Adoption of Revised and/or New VOC RACT Requirements**

As indicated in Table 1 above, many Delaware's RACT controls (i.e., sections in Regulation No. 24, Control of Volatile Organic Compound Emissions) were promulgated in 1990s to meet relevant requirements specified in the CAA and EPA's guidance documents. Since that time many sections of Regulation No. 24 have been revised to reflect updated RACT level control technology. All major sources in Delaware, and all CTG covered sources with applicability cut-off levels consistent with the "blue book" (see reference 63 below) are covered by RACT controls, as certified in Table 1, under the 8-hour ozone NAAQS, except for possibly the lightering operations in Sussex County.

Delaware is now in a rule-making process of evaluating and adopting relevant RACT control over petroleum lightering operations. The following is a summary of the process.

#### **Lightering Operations:**

- Lightering is the transfer of cargo from one marine vessel (typically, large ocean-going tankers) to another marine vessel to reduce the draft and to permit transit through more shallow waters. Ocean-going crude oil tankers generally enter the Delaware Bay drawing up to 55 feet of draft. Crude oil is pumped from these marine vessels to smaller tankers and barges until the draft of the ocean-going vessel is less than 35 feet. At this draft, vessels can safely transit to the refineries along Delaware River. During transfer of crude oil, VOCs and other hazardous air pollutants are emitted.
- Under the 1-hour ozone NAAQS, lightering operations in Delaware Bay remained uncontrolled, as RACT-level controls were determined to be not feasible for lightering process at that time. In 2001, DNREC began to reevaluate this determination, and started a rule making under the attainment and maintenance of the 1-hour ozone NAAQS to control air emissions from lightering operations in Delaware Bay.
- Between March and June 2001, five regulatory workgroup meetings were held with a diverse representation of industry, environmental, health care and state interests. The draft regulation emerging from these workgroup meetings was presented in 3 public workshops conducted in June 2001. Following the public workshops, the General Assembly passed Senate Joint Resolution (SJR-6) that established a "blue ribbon panel" and charged them, amongst other minor tasks, to study and make "recommendations concerning the potential impact of the safe operations" during lightering as a result of this regulation. The report was supposed to be issued by March 15, 2002.
- The public hearing on this regulation was conducted, as previously scheduled, on August 30, 2001. However, the hearing record was left open pending the receipt of the SJR-6 panel's recommendations and report. The March 15, 2002 report deadline passed without the panel convening. A second, identical resolution (SJR-1) was passed in January 2003 and the March 15, 2004 deadline passed without any report.
- In the spring of 2003, DNREC Secretary John H. Hughes held a series of meetings with interested stakeholders to get the process back on track. This effort resulted in the modification of a lightering vessel and the completion of three vapor balancing trials. The first trial took place in March 2004. Since that time, six other vapor balancing trials have been conducted. While the success of the vapor balancing trials has varied, Martians (the major lightering operator in Delaware Bay) demonstrated that vapor balancing in lightering process can reduce the VOC emissions, and, most importantly, can be operated safely. DNREC believes that the major barrier in promulgating the lightering emission control regulation has been overcome. That is, the vapor balancing trials demonstrated the safe transfer of crude oil during controlled lightering operations.
- Based on the successful demonstration of the vapor balancing trials, DNREC has recalled and expanded the regulatory workgroup. The Department is currently in process of developing Section 46 of Regulation No. 24: Lightering Operations. Upon completion of the rulemaking process, DNREC will submit Section 46

to EPA as a SIP revision under a separate cover.

### 3.2. Revised and/or New NO<sub>x</sub> RACT Requirements

As indicated in Table 2 above, Delaware certifies that Regulation No. 12 appropriately implements NO<sub>x</sub> RACT controls in Delaware under the 8-hour ozone standard. In addition, Delaware is currently developing beyond-RACT provisions to aid in attainment and maintenance of the 8-hour NAAQS. While not the subject of this RACT submittal, these beyond-RACT controls include:

- Regulation 1142, Section 1 – Control of NO<sub>x</sub> Emissions from Industrial Boilers. This regulation imposes beyond RACT controls on certain boilers with heat input greater than 100 mmBTU/hr. (Regulation 1142 is previously numbered as Regulation 42. The new number is used to follow the new Delaware state document numbering system established by the Delaware Register of Regulations).
- EGU Multi-Pollutant Regulation. This regulation is under development, and is anticipated to impose beyond RACT NO<sub>x</sub> controls on large coal and residual oil fired EGUs.
- Large Refinery Boiler Regulation. This regulation is underdevelopment, and is anticipated to impose beyond RACT NO<sub>x</sub> controls on large boilers and heat exchangers at petroleum refineries.
- Large Non-Refinery Boiler Regulation. This regulation is underdevelopment, and is anticipated to impose beyond RACT NO<sub>x</sub> controls on large boilers and heat exchangers not located at petroleum refineries.
- Regulation No. 1144 - Stationary Generators. This regulation was completed in 2005, and imposes beyond RACT NO<sub>x</sub> controls on stationary generators used at times other than times of emergency.
- Peaking Turbine Regulation. This regulation is underdevelopment, and is anticipated to impose beyond RACT NO<sub>x</sub> controls on peaking units, in order to address the high peak ozone day emissions from these units.
- Diesel Retrofits. This rule is under consideration and is anticipated to provide further NO<sub>x</sub> reductions for the attainment of the 8-hour ozone standard.

### 4. Control Techniques Guideline (CTG) Requirements Not Adopted in Delaware

The following CTG VOC controls have not been adopted in Delaware because there are no emission sources with those CTG controls.

- Control of Volatile Organic Emissions from Manufacture of Pneumatic Rubber Tires, EPA-450/2-78-030, December 1978. (Group II).
- Control of Volatile Organic Compound Emissions from Wood Furniture Manufacturing Operations, EPA-453/R-96-007, April 1996.
- Control Techniques Guidelines for Shipbuilding and Ship Repair Operations (Surface Coating) - August 1996 (61 FR 44050), August 27, 1996.

In addition, EPA identified, in the November 29, 2005 preamble (70 FR 71612 at 71652), that cement kilns and stationary internal combustion engines are two categories for which additional NO<sub>x</sub> control information was available since the 1-hour RACT determinations were made. However, Delaware does not have these two NO<sub>x</sub> emission sources within its boundary.

Furthermore, after the 1-hour VOC and NO<sub>x</sub> RACT rules were implemented, Delaware does not have any new major VOC and NO<sub>x</sub> sources that fall outside the scope of the implemented RACT rules (i.e., Regulation 24 and Regulation 12).

### 5. Documentation

**A. U.S. EPA's Control Techniques Guidelines (CTG) documents, Alternative Control Techniques (ACT) documents, and Additional Reference Documents, cited in this SIP.**

1. Control Technology Guidance (CTG) document: Control of Volatile Organic Compound Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations, EPA-453/R-97-004, December 1997.
2. Alternative Control Techniques (ACT) document: Reduction of Volatile Organic Compound Emissions from Automobile Refinishing, EPA-450/3-88-009, October 1988.
3. ACT: Automobile Refinishing, EPA-453/R-94-031, April 1994.
4. ACT: Surface Coating of Automotive/Transportation and Business Machine Plastic Parts, EPA-453/R-94-017, February 1994.
5. CTG: Control of Volatile Organic Emissions from Existing Stationary Sources, Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks, EPA-450/2-77-008, May 1977 (Group I).
6. CTG: Control of Volatile Organic Emissions from Existing Stationary Sources, Volume III: Surface Coating of Metal Furniture, EPA-450/2-77-032, December 1977.
7. CTG: Control of Volatile Organic Emissions from Existing Stationary Sources, Volume V: Surface Coating of Large Appliances, EPA-450/2-77-034, December 1977 (Group I).
8. CTG: Control of Volatile Organic Emissions from Existing Stationary Sources, Volume IV: Surface Coating of Insulation of Magnet Wire, EPA-450/2-77-033, December 1977 (Group I).
9. CTG: Control of Volatile Organic Emissions from Existing Stationary Sources, Volume VI: Surface Coating of Miscellaneous Metal Parts and Products, EPA-450/2-78-015, June 1978 (Group II).
10. CTG: Control of Volatile Organic Emissions from Existing Stationary Sources, Volume VII: Factory Surface Coating of Flat Wood Paneling, EPA-450/2-78-032, June 1978 (Group II).
11. CTG: Control of Volatile Organic Emissions from Bulk Gasoline Plants, EPA-450/2-77-035, December, 1977 (Group I).
12. CTG: Control of Volatile Organic Emissions from Bulk Gasoline Plants, EPA-450/2-77-035, December, 1977 (Group I).
13. CTG: Design Criteria for Stage I Vapor Control Systems - Gasoline Service Stations, November 1975 (Group I).
14. CTG: Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals, EPA-450/2-77-026, December 1977 (Group I).
15. CTG: Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems, EPA-450/2-78-051, December 1978 (Group II).
16. CTG: Control of Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds, EPA-450/2-77-025, October 1977 (Group I).
17. CTG: Control of Volatile Organic Compound Leaks from Petroleum Refinery Equipment, EPA-450/2-78-036, June 1978 (Group II).
18. CTG: Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks, EPA-450-2/78-047, December 1978 (Group II).
19. CTG: Control of Volatile Organic Emissions from Storage of Petroleum Liquids in Fixed Roof Tanks, EPA-450/2-77-036, December 1977 (Group I).
20. CTG: Control of Volatile Organic Compound Equipment Leaks from Natural Gas/Gasoline Processing Plants, EPA-450/2-83-007, December 1983 (Group III).
21. CTG: Control of Volatile Organic Emissions from Solvent Metal Cleaning, EPA-450/2-77-022 November 1977 (Group I).
22. ACT: Halogenated Solvent Cleaners, EPA-450/3-89-030, August 1989.
23. CTG: Control of Volatile Organic Compounds from Use of Cutback Asphalt, EPA-450/2-77-037, December 1977 (Group I).
24. CTG: Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Products, EPA-450/2-78-029, December 1978 (Group II).
25. CAA Section 182(b)(3).
26. CTG: Control of Volatile Organic Emissions from Existing Stationary Sources, Volume VIII: Graphic Arts-Rotogravure and Flexography, EPA-450/2-78-033, December 1978 (Group II).
27. CTG: Control of Volatile Organic Compound Emissions from Large Petroleum Dry Cleaners, EPA-450/3-82-009, September 1982 (Group III).
28. CTG: Control of Volatile Organic Compound Emissions from Reactor Processes and Distillation Operations in SOCM, November 15, 1993, EPA-450/4-91-031.
29. CTG: Control of Volatile Organic Compound Fugitive Emissions from Synthetic Organic Chemical

Polymer and Resin Manufacturing Equipment, EPA-450/3-83-006, March 1984 (Group III).

30. CTG: Control of Volatile Organic Compound Emissions from Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins, EPA-450/3-83-008, November 1983 (Group III).

31. CTG: Control of Volatile Organic Compound Emissions from Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry, EPA-450/3-84-015, December 1984 (Group III).

32. CAA Section 183(f).

33. ACT: Control of Volatile Organic Compound Emissions from Batch Processes, EPA-453/R-93-017, February 1994.

34. ACT Document: Industrial Cleaning Solvents, EPA-453/R-94-015, February 1994.

35. CTG: Control of Volatile Organic Compound Emissions from Offset Lithographic Printing (CTG Draft), EPA-453/D-95-001, September 1993.

36. ACT: Offset Lithographic Printing, EPA-453/R-94-054, June 1994.

37. CTG: Control of Volatile Organic Compound Emissions from Reactor Processes and Distillation Operations in SOCM, November 15, 1993, EPA-450/4-91-031.

38. ACT: Volatile Organic Liquids Storage in Floating and Fixed Roof Tanks, EPA-453/R-94-001, February 1994.

39. CAA Section 182(b)(2)(C).

40. NESCAUM Stationary Source Committee Recommendation on NOx RACT for Utility Boilers, 8/12/1992.

41. NESCAUM Stationary Source Committee Recommendation on NOx RACT for Industrial Boilers, Internal Combustion Engines and Combustion Turbines, 9/18/1992.

42. Controlling Emissions of Nitrogen Oxides from Existing Utility Boilers Under Title I of the Clean Air Act: Options and Recommendations, STAPPA/ALAPCO, 4/27/1992.

43. State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990, USEPA, 10/27/1995.

44. Summary of NOx Control Technologies and their Availability and Extent of Application, USEPA, February 1992.

45. Alternative Control Techniques Document: NOx Emissions from Process Heaters (Revised), USEPA, September 1993.

46. Alternative Control Techniques Document: NOx Emissions from Industrial/Commercial/Institutional (ICI) Boilers, USEPA, March 1994

47. Alternative Control Techniques Document: NOx Emissions from Utility Boilers, USEPA, March 1994.

48. State's Report on Electric Utility Nitrogen Oxides Reduction Technology Options for Application by the Ozone Transport Assessment Group, prepared for the OTAG Control Technology & Options Workgroup by Ken Colburn, 4/11/1996.

49. Status Report on NOx Controls for Gas Turbines, Cement Kilns, Industrial Boilers, Internal Combustion Engines, NESCAUM, December 2000.

50. Summary of State/Local NOx Regulations for Stationary Sources, USEPA, 2004.

51. Summary of NOx Control Technologies and their Availability and Extent of Application, USEPA, February 1992.

52. Summary of NOx Control Technologies and their Availability and Extent of Application, USEPA February 1992

53. Memorandum subject, Fuel Switching to Meet the Reasonably Available Control Technology (RACT) Requirements for Nitrogen Oxides (NOx), Michael H. Shapiro, Air and Radiation, 7/30/1993

54. Memorandum subject, Nitrogen Oxides (NOx) Questions from Ohio EPA, Tom Helms, Chief Ozone/Carbon Monoxide Programs Branch, (no date cited, references 11/30/1993 questions)

55. State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990, USEPA.

56. Alternative Control Techniques Document: NOx Emissions from Stationary Gas Turbines, USEPA, January 1993

57. Alternative Control Techniques Document: NOx Emissions from Stationary Reciprocating Internal Combustion Engines, USEPA 1993.

58. NOx Emissions from Stationary Internal Combustion Engines, USEPA, October 2003.

59. Stationary Reciprocating Internal Combustion Engines – Updated Information on NOx Emissions and

Control Techniques – Revised Final Report, USEPA, 9/1/2000.

60. Sourcebook: NOx Control Technology Data, USEPA, July 1991.

61. Memorandum Subject: De Minimis Values for NOx RACT, from G.T. Helms, Ozone Policy and Strategies Group, dated 1/1/1995.

62. Alternative Control Techniques Document: NOx Emissions from Iron and Steel Mills, USEPA, September 1994.

63. The “Blue Book,” i.e., “ISSUES RELATED TO VOC REGULATION CUTPOINTS, DEFICIENCIES AND DEVIATIONS, Clarification to Appendix D of November 24, 1987 FEDERAL REGISTER,” dated May 25, 1988

## **B. Delaware VOC RACT Regulation**

Regulation No. 24: CONTROL OF VOLATILE ORGANIC COMPOUND EMISSIONS

[http://www.dnrec.state.de.us/air/aqm\\_page/docs/pdf/reg\\_24.pdf](http://www.dnrec.state.de.us/air/aqm_page/docs/pdf/reg_24.pdf)

(Note: Hard copy of this regulation available upon request.)

## **C. Delaware NOx RACT Regulation**

Regulation No. 12: CONTROL OF NITROGEN OXIDES EMISSIONS

[http://www.dnrec.state.de.us/air/aqm\\_page/docs/pdf/reg\\_12.pdf](http://www.dnrec.state.de.us/air/aqm_page/docs/pdf/reg_12.pdf)

(Note: Hard copy of this regulation available upon request.)

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**DELAWARE RIVER BASIN COMMISSION**  
**NOTICE OF PUBLIC HEARING**

The Delaware River Basin Commission will hold a public hearing and business meeting on Wednesday, July 19th, 2006 at 10:15 a.m. at the Commission's offices, 25 State Police Drive, West Trenton, New Jersey. For more information visit the DRBC web site at [www.drbc.net](http://www.drbc.net) or contact Pamela M. Bush, Esq., Commission Secretary and Assistant General Counsel, at 609-883-9500 extension 203

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**DEPARTMENT OF AGRICULTURE**  
**DELAWARE AGRICULTURAL LANDS PRESERVATION FOUNDATION**  
**NOTICE OF PUBLIC HEARING**

The Delaware Agricultural Lands Preservation Foundation (the "Foundation") will hold a public hearing to discuss proposed regulations relating to the administration of the Delaware Agricultural Forestland Preservation Program established pursuant to 3 **Del.C.** §931. The Foundation was established by the Delaware Legislature pursuant to 3 **Del.C.** §903. The Foundation is responsible for, among other things, adopting criteria for the establishment and maintenance of Forestland Preservation Areas and establishing criteria for the purchase of Forestland Preservation Easements. To carry out its statutory responsibilities, the Foundation has been directed to, among other things, adopt rules of practice and procedure for the acquisition of Forestland Preservation Easements, including the process and timeframe for submitting applications for the sale of Forestland Preservation Easements, the establishment of the purchase price for the easements through the use of appraisal information, the manner in which offers to sell such easements are accepted, and the basis upon which offers for sale of such easements are accepted.

Pursuant to its statutory authority, the Foundation is proposing for adoption a comprehensive set of guidelines and regulations to be used for the administration of the forestlands preservation program. The proposed regulations published herein will, among other things: (a) establish eligibility criteria, (b) establish application procedures, (c) establish criteria for the purchase of Forestland Preservation Easements and methods by which the purchase price will be determined, (d) establish ranking criteria for easement applications, and (e) establish the legal forms to be used in connection with the creation of Forestland Preservation Areas and Easements.

The public hearing will be on Wednesday, July 26, 2006 beginning at 10:00 a.m. and ending at 12:00 p.m. at the Foundation's office located at 2320 S. DuPont Highway, Dover, Delaware 19901.

Copies of the proposed regulations are available for review by contacting:

William A. Denman, Esquire  
Parkowski, Guerke & Swayze, P.A.  
116 W. Water Street  
Dover, DE 19904  
(302) 678-3262  
Email: [wdenman@pgslegal.com](mailto:wdenman@pgslegal.com)

Anyone wishing to present oral comments at this hearing should contact Mr. William A. Denman at (302) 678-3262 by July 25, 2006. Anyone wishing to submit written comments as a supplement to, or in lieu of oral testimony, should submit such comments by July 31, 2006 to:

William A. Denman, Esquire  
Parkowski, Guerke & Swayze, P.A.  
116 W. Water Street  
Dover, DE 19904  
(302) 678-3262  
Email: [wdenman@pgslegal.com](mailto:wdenman@pgslegal.com)

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**THOROUGHBRED RACING COMMISSION  
NOTICE OF PUBLIC HEARING**

The Delaware Thoroughbred Racing Commission, pursuant to 3 **Del.C.** §10005, proposes to amend rule 15.14.1 to permit the imposition of penalties if a horse does not report for testing. The Commission will hold a public hearing on the proposed rule change on July 18, 2006. Written comments should be sent to John F. Wayne, Executive Director, Delaware Thoroughbred Racing Commission, 777 Delaware Park Boulevard, Wilmington, DE 19804.

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**DEPARTMENT OF EDUCATION**

The Department of Education will hold its monthly meeting on Thursday, July 20, 2006 at 1:00 p.m. in the Townsend Building, Dover, Delaware.

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**DEPARTMENT OF HEALTH AND SOCIAL SERVICES  
DIVISION OF MEDICAID AND MEDICAL ASSISTANCE  
NOTICE OF PUBLIC COMMENT PERIOD**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Medicaid and Medical Assistance (DMMA) is proposing to amend a rule in the Division of Social Services Manual (DSSM) used to determine eligibility for medical assistance.

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 Sharon L. Summers, Policy and Program Development Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to (302) 255-4454 by July 31, 2006.

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.

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**DIVISION OF MEDICAID AND MEDICAL ASSISTANCE  
Diamond State Health Plan 1115 Demonstration Waiver  
NOTICE OF PUBLIC COMMENT PERIOD**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512, and, in compliance with State Notice procedures as set forth in the Federal Register, September 27, 1994, Delaware Health and Social Services (DHSS) / Division of Medicaid and Medical Assistance (DMMA) intends to submit an application to the Centers for Medicare and Medicaid Services (CMS) for renewal of its 1115 Demonstration Waiver entitled, the Diamond State Health Plan, for the period from January 1, 2007 through December 31, 2009.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning extension of the Diamond State Health Plan 1115 Demonstration Waiver must submit same to Sharon L. Summers, Policy and Program Development Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to (302) 255-4454 by July 31, 2006. The waiver application will be made available upon request.

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.

**DIVISION OF MEDICAID AND MEDICAL ASSISTANCE****Assisted Living Medicaid 1915(c) Waiver****NOTICE OF PUBLIC COMMENT PERIOD**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**), under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512, and, in compliance with State Notice procedures as set forth in the Federal Register, September 27, 1994, Delaware Health and Social Services (DHSS) / Division of Medicaid and Medical Assistance (DMMA) will submit an application to the Centers for Medicare and Medicaid Services (CMS) for renewal of its Home and Community-Based Services waiver entitled, Assisted Living Medicaid Waiver Program (ALMWP), for an additional five years.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning extension of the this waiver must submit same to Sharon L. Summers, Policy and Program Development Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to (302) 255-4454 by July 31, 2006. The waiver application will be made available upon request.

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.

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**DIVISION OF SOCIAL SERVICES  
NOTICE OF PUBLIC COMMENT PERIOD**

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Social Services is proposing to amend policies in the Division of Social Services Manual (DSSM) regarding reporting changes.

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 Sharon L. Summers, Policy, Program and Development Unit, Division of Social Services, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to (302) 255-4454 by July 31, 2006.

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.

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**DEPARTMENT OF INSURANCE  
NOTICE OF PUBLIC COMMENT PERIOD**

INSURANCE COMMISSIONER MATTHEW DENN hereby gives notice of a proposed change to Department of Insurance Regulation 504 relating to producer continuing education. The Commissioner proposes to amend **Regulation 504** relating to **Continuing Education for Insurance Agents, Brokers, Surplus Lines Brokers and Consultants**. The docket number for this proposed amendment is 276.

The proposed change to the regulation appears only in section 8.2.2 relating to the required number of ethics hours required for continuing education for public adjusters and fraternal agents. When the regulation was last amended, the change from four hours of required ethics for public adjusters and fraternal agents to three hours (in conformity to the similar change for other licensees) was unintentionally not included in the notice and final regulation approval. This amendment corrects that inconsistency and is the only proposed change to the regulation. The required number of ethics credits for public adjusters is proposed to decrease from four hours to three hours for each reporting period. The **Delaware Code** authority for the change is 18 **Del.C.** §§311, 1718. The text of the change to the regulation is as follows:

8.2.2 Resident adjusters, public adjusters and Fraternal Agents shall be required to fulfill twelve (12) credit hours of Department approved education subjects, ~~three (3)~~~~four (4)~~ of which shall be in ethics subjects during each biennial reporting period.

The text can also be viewed at the Delaware Insurance Commissioner's website at: <http://www.state.de.us/inscom/departments/documents/ProposedRegs/ProposedRegs.shtml>.

The Department of Insurance does not plan to hold a public hearing on the proposed changes. Any person can file written comments, suggestions, briefs, and compilations of data or other materials concerning the proposed amendment. Any written submission in response to this notice and relevant to the proposed change must be received by the Department of Insurance no later than 4:30 p.m., Wednesday, August 2, 2006, and should be addressed to Deputy Attorney General Michael J. Rich, c/o Delaware Department of Insurance, 841 Silver Lake Boulevard, Dover, DE 19904, or sent by fax to 302.739.5566 or email to [michael.rich@state.de.us](mailto:michael.rich@state.de.us).

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## DEPARTMENT OF INSURANCE NOTICE OF PUBLIC COMMENT PERIOD

INSURANCE COMMISSIONER MATTHEW DENN hereby gives notice of proposed Department of Insurance Regulation 610 relating to the availability of private passenger automobile premium rate comparison data. The Commissioner proposes to promulgate **Regulation 610** relating to **Automobile Premium Consumer Comparison**. The docket number for this proposed regulation is 280.

The proposed regulation would require automobile insurers to provide survey data to the Department of Insurance for the purposes of allowing consumers of private passenger non-fleet automobiles the opportunity to compare rates from different companies. The survey data would have to be filed with the Department on an annual basis. The regulation would also require the insurers to provide direct email responses to the consumer. The Delaware Code authority for the change is 18 **Del.C.** §§311 and 2501 et seq.

The text can also be viewed at the Delaware Insurance Commissioner's website at: <http://www.state.de.us/inscom/departments/documents/ProposedRegs/ProposedRegs.shtml>.

The Department of Insurance does not plan to hold a public hearing on the proposed changes. Any person can file written comments, suggestions, briefs, and compilations of data or other materials concerning the proposed amendment. Any written submission in response to this notice and relevant to the proposed change must be received by the Department of Insurance no later than 4:30 p.m., Wednesday, August 2, 2006, and should be addressed to Deputy Attorney General Michael J. Rich, c/o Delaware Department of Insurance, 841 Silver Lake Boulevard, Dover, DE 19904, sent by fax to 302.739.5566 or emailed to [michael.rich@state.de.us](mailto:michael.rich@state.de.us).

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## DEPARTMENT OF LABOR DIVISION OF EMPLOYMENT AND TRAINING NOTICE OF PUBLIC HEARING

The Governor's Council on Apprenticeship and Training in accordance with 19 **Del.C.** §202(a) has proposed changes to the rules and regulations relating to apprenticeship and training. The proposal modifies the number of classes a registered Apprentice can miss while enrolled in a related studies program at any of the vocational schools in the three (3) counties of the State of Delaware before being dropped from that school. Being dropped from the school will result in the Apprentice's Apprenticeship Agreement being terminated by their Sponsor and/or State Registration Agency.

A public hearing will be held before the Council on Apprenticeship and Training ("Council") at 1:00 p.m. on August 2, 2006, at the Delaware Department of Labor, Fox Valley Annex, 4425 N. Market Street, Wilmington, Delaware 19802 where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rule may obtain a copy from Kevin Calio, Manager, Apprenticeship and Training, Department of Labor, P.O. Box 9828, 4425 N. Market Street, Wilmington, Delaware 19808-0828. Persons wishing to submit written comments may forward these to the Council at the above address. The final date to receive written comments will be at the public hearing.

The Council will consider making a recommendation to the Secretary at the regularly scheduled meeting following the public hearing.

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**DEPARTMENT OF STATE  
DIVISION OF PROFESSIONAL REGULATION  
1800 Board of Plumbing Examiners  
NOTICE OF PUBLIC HEARING**

The State Board of Plumbing Examiners is proposing changes to its regulations related to the designation of its licensure examination.

A public hearing will be held at 8:30 a.m. on September 12, 2006 in the 2<sup>nd</sup> floor Conference Room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the State Board of Plumbing Examiners, 861 Silver Lake Blvd., Cannon Building, Suite 203, Dover, DE 19904. Persons wishing to submit written comments may forward these to the board at the above address. The final date to receive written comments will be at the public hearing.

The board will consider promulgating the proposed regulations at its regularly scheduled meeting following the public hearing.

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**DIVISION OF PROFESSIONAL REGULATION  
3000 Board of Professional Counselors of Mental Health and Chemical Dependency Professionals  
NOTICE OF PUBLIC HEARING**

The State Board of Mental Health and Chemical Dependency Professionals is proposing changes to its regulations related to CPR certification.

A public hearing will be held at noon on September 27, 2006 in the 2<sup>nd</sup> floor Conference Room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the State Board of Mental Health and Chemical Dependency Professionals, 861 Silver Lake Blvd., Cannon Building, Suite 203, Dover, DE 19904. Persons wishing to submit written comments may forward these to the board at the above address. The final date to receive written comments will be at the public hearing.

The board will consider promulgating the proposed regulations at its regularly scheduled meeting following the public hearing.

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**DIVISION OF PROFESSIONAL REGULATION  
3600 Board of Registration of Geologists  
NOTICE OF PUBLIC HEARING**

The Delaware Board of Geologists in accordance with 24 **Del.C.** §3606 has proposed amendments to rule 5.0 *Issuance and Renewal of License* and rule 6.0 *Continuing Education* of its rules and regulations. The proposed amendments enable licensees to renew their licenses online and attest that they have completed the required continuing education. Documentation of having completed the required continuing education must still be maintained by the licensee but it will only be required to be produced in the event the licensee is randomly selected for continuing education audit.

A public hearing will be held on August 4, 2006 at 10:15 a.m. in the second floor conference room B of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of

Geologists, 861 Silver Lake Blvd., Cannon Building, Suite 203, Dover, DE 19904. Persons wishing to submit written comments may forward these to the Board at the above address. The final date to receive written comments will be at the public hearing.

The Board will consider promulgating the proposed regulations at its regularly scheduled meeting following the public hearing.

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**DIVISION OF PROFESSIONAL REGULATION  
5300 State Board of Massage and Bodywork  
NOTICE OF PUBLIC HEARING**

The State Board of Massage and Bodywork, in accordance with 24 **Del.C.** §5306(a)(1), has proposed changes to its rules and regulations related to CPR Certification.

A public hearing will be held at 1:30 p.m. on August 17, 2006 in the 2<sup>nd</sup> floor Conference Room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the State Board of Massage and Bodywork, 861 Silver Lake Blvd., Cannon Building, Suite 203, Dover, DE 19904. Persons wishing to submit written comments may forward these to the Board at the above address. The final date to receive written comments will be at the public hearing.

The Board will consider promulgating the proposed regulations at its regularly scheduled meeting following the public hearing.

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**PUBLIC SERVICE COMMISSION**

**Regulation Docket No. 50: Public Notice of Proposed Adoption of "Electric Service Reliability and Quality Standards"**

**NO TICE OF PUBLIC HEARING AND COMMENT PERIOD**

Since 2003, the Public Service Commission ("the Commission") has been developing Standards to measure and judge the reliability of the electrical services provided by electric distribution utilities such as Delmarva Power & Light Company and the Delaware Electric Cooperative, Inc. In PSC Order No. 6745 (Oct. 11, 2005), the Commission proposed and then published (9 **DE Reg.** 756 (Nov. 1, 2005)) final "Electric Service Reliability and Quality Standards." In light of comments and objections filed in response to those earlier proposed Standards, the Commission now proposes to adopt a revised form of "Electric Service Reliability and Quality Standards." These revised Standards would supersede the Standards proposed in 2005. As with the earlier proposal, the revised Standards set forth methods and benchmarks to be utilized to measure the reliability of services provided by electric distribution companies. The revised Standards also articulate principles and goals for reliability, describe responses to be made to outages and major events, and require the preparation of periodic performance reports and planning studies. The Standards also prescribe the available penalties for violations. Finally, the revised Standards direct electric generation facilities located within this State to participate in a "Generation Working Group" or file periodic reports concerning certain aspects of their operations.

You may review the text of the revised final Standards in the July, 2006 issue of the *Delaware Register of Regulations*. You may obtain written copies of the revised Standards at the Commission's office at the address set forth below. The cost is \$0.25 per page. You may also review an electronic copy of the revised Standards at the Commission's website at [www.state.de.us/delpsc](http://www.state.de.us/delpsc) (open PSC Order No. 6925). The Commission has the authority to adopt such regulations under 26 **Del.C.** §§209, 1002, 1008, and 1019.

Pursuant to 29 **Del.C.** §§1133, 10115, and 10118(c), the Commission now solicits comments, written suggestions, compilations of data, briefs, or other written materials concerning the revised final Standards. If you wish to submit such materials, you should file an original and ten copies at the following address:

Delaware Public Service Commission

861 Silver Lake Boulevard  
Cannon Building  
Suite 100  
Dover, Delaware 19904  
Attn: PSC Reg. Dckt. No. 50

You must file such materials on or before August 2, 2006.

In addition, pursuant to 26 **Del.C.** §209(a) and 29 **Del.C.** §10117, the Commission will conduct a public hearing on the revised Standards during its regularly scheduled meeting on Tuesday, August 8, 2006. That meeting will begin at 1:00 PM in the Commission's Hearing Room at the above address. You can submit oral presentations or written materials at such hearing.

If you have questions, or desire further information about the matter, you can contact the Commission at 1-800-282-8574 or (302) 739-4333 (including text telephone). You can also send questions by Internet e-mail to [robert.howatt@state.de.us](mailto:robert.howatt@state.de.us). If you are disabled and need assistance, please contact the Commission to arrange assistance.

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