

DELAWARE RIVER BASIN COMMISSION

The Delaware River Basin Commission will hold a public hearing and business meeting on Wednesday, March 7, 2012, beginning at 10:30 a.m. The meeting will be held at the West Trenton Volunteer Fire Company, West Upper Ferry Road, West Trenton, NJ. For more information, visit the DRBC web site at www.drbc.net or contact Pamela M. Bush, Esq., Commission Secretary and Assistant General Counsel, at 609 883-9500 extension 203.

DEPARTMENT OF AGRICULTURE THOROUGHBRED RACING COMMISSION 1001 Thoroughbred Racing Rules and Regulations PUBLIC NOTICE

The Delaware Thoroughbred Racing Commission in accordance with 3 **Del.C.** §10103(c) has proposed changes to its rules and regulations. The proposal amends the rules and regulations to conform to recently revised national standards for the administration of Salix (furosemide) on race days by regulatory veterinarians and the elimination of all race day adjunct medications including Aminocaproic Acid (Amicar) in Thoroughbred and Arabian race horses.

A public hearing will be held on April 11, 2012 at 10:15 a.m. in the second floor conference room of the Horseman's Office, located on the grounds of Delaware Park, 777 Delaware Park Boulevard, Wilmington, Delaware 19804 where members of the public can offer comments. Anyone wishing to receive a copy of the proposed regulations may obtain a copy from the Delaware Thoroughbred Racing Commission, 777 Delaware Park Boulevard, Wilmington, Delaware 19804. Persons wishing to submit written comments may forward these to the Commission at the above address. The final date to receive written comments will be at the public hearing.

The Commission will consider promulgating the proposed regulation at its regularly scheduled meeting following the public hearing.

DELAWARE JOCKEY'S HEALTH AND WELFARE BOARD 1002 Delaware Jockeys' Health and Welfare Benefit Board Regulations PUBLIC NOTICE

The Delaware Jockey's Health and Welfare Board in accordance with 3 **Del.C.** §10171(c) and 29 **Del.C.** §4815(b)3(c), has proposed changes to its rules and regulations. The proposal amends the rules and regulations regarding criteria for an active Delaware Jockey to be eligible for health insurance under the Delaware Jockey's Health and Welfare Fund by increasing the minimum number of mounts from 25 to 50.

A public hearing will be held on April 11, 2012 at 9:15 a.m. in the second floor conference room of the Horseman's Office, located on the grounds of Delaware Park, 777 Delaware Park Boulevard, Wilmington, Delaware 19804 where members of the public can offer comments. Anyone wishing to receive a copy of the proposed regulations may obtain a copy from the Delaware Thoroughbred Racing Commission, 777 Delaware Park Boulevard, Wilmington, Delaware 19804. Persons wishing to submit written comments may forward these to the Commission at the above address. The final date to receive written comments will be at the public hearing.

The Commission will consider promulgating the proposed regulation at its regularly scheduled meeting following the public hearing.

DEPARTMENT OF EDUCATION PUBLIC NOTICE

The State Board of Education will hold its monthly meeting on Thursday, March 15, 2012 at 1:00 p.m. in the Townsend Building, Dover, Delaware.

DEPARTMENT OF HEALTH AND SOCIAL SERVICES DIVISION OF LONG TERM CARE RESIDENTS PROTECTION 3320 Intensive Behavioral Support and Educational Residence 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 29 of the **Delaware Code**, Section 7971, (d), (1), Delaware Health and Social Services (DHSS)

/ Division of Long Term Care Residents Protection is proposing the creation of Regulation 3320, Intensive Behavioral Support and Educational Residences (IBSER) to regulate facilities within this new licensure category.

These regulations were originally published as proposed in the November 1, 2011 *Register*, Volume 15, Issue 15, on page 600. As a result of substantial public comments received by the Division, substantive changes were made to the regulations resulting in this re-posting.

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 Susan Del Pesco, Director, DHSS, Division of Long Term Care Residents Protection, 3 Mill Rd, Suite 308, Wilmington, DE 19806 by April 1, 2012.

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

Notice of Proposed Changes to the Medicaid State Plan Governing Payments for Disproportionate Share Hospital 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 and with 42 CFR §447.205, Delaware Health and Social Services (DHSS) / Division of Medicaid and Medical Assistance (DMMA) is proposing to amend the Title XIX Medicaid State Plan regarding the reimbursement methodology for *Disproportionate Share Hospital*.

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, Planning & Policy 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 302-255-4425 by March 31, 2012.

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

Medicaid Provider Screening and Enrollment 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 the Title XIX Medicaid State Plan regarding *Medicaid Provider Screening and Enrollment*.

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, Planning & Policy 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 302-255-4425 by March 31, 2012.

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 SOCIAL SERVICES

2027 Disqualification of Individuals Convicted of Drug Related Offenses 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 Social Services is proposing to amend policies in the Division of Social Services Manual (DSSM) regarding the Food Supplement Program, specifically, *Disqualification of Individuals Convicted of Drug Related Offenses*.

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 & Development Unit, Division of Social Services, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906 or by fax to

(302) 255-4425 by March 31, 2012.

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

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL
DIVISION OF AIR AND WASTE MANAGEMENT
1131 Low Enhanced Inspection and Maintenance Program
PUBLIC NOTICE

On June 15, 2010 Delaware's governor signed SB 215 as presented by the 145th Delaware General Assembly. SB 215 provides an exception to Title 21 vehicle registration requirements for vehicles being driven by Delaware Emission Education Program ("DEEP") certified emission repair technicians during drive cycle testing. SB 215 also added to Title 7 a new section 6709, Permits for operation of motor vehicles during testing. Section 6709 provides for this vehicle registration exception to be administered by DNREC through the establishment of a new permitting program.

The purpose of this action is to update 7 **DE Admin. Code** 1131 to establish the permitting program stipulated by SB 215. In addition, the regulations format will be updated to conform to the style requirements of the *Delaware Register of Regulations* which include amending the Inspection & Maintenance State Implementation Plan also known as the Plan for Implementation (PFI).

There approximately 125 certified emission repair technicians that will be impacted by this proposed amendment. The emission repair technicians were notified that the Division of Air Quality (DAQ) is amending Regulation 1131 and were invited to attend the one of three public workshops that DAQ conducted on March 28, 2011 at DelTech's Stanton Campus - Newark, March 29, 2011 at DelTech's Owens Campus - Georgetown and on March 31, 2011 at DelTech's Terry Campus – Dover.

Statements and testimony may be presented either orally or in writing at a public hearing to be held on Monday, April 2, 2012 beginning at 7:00 PM in DNREC's Richardson and Robbins Auditorium, 89 Kings Highway, Dover, DE. Interested parties may submit comments in writing to: Valerie Gray, DNREC Division of Air Quality, 655 S. Bay Road, Dover, DE 19901.

DIVISION OF FISH AND WILDLIFE
3552 Spanish Mackerel Size Limit and Creel Limit
PUBLIC NOTICE

Spanish mackerel (*Scomberomorus maculatus*) are managed under the Omnibus Amendment to the Interstate Fishery Management Plans for Spanish Mackerel, Spot and Spotted Seatrout. The primary goal of the Omnibus Amendment is to bring the fishery management plans for Spanish mackerel, spot, and spotted seatrout under the authority of the Atlantic Coastal Fisheries Cooperative Management Act (1993), providing for more efficient and effective management and changes to management for the future.

In support of the goal, the following objectives were identified for Spanish mackerel:

1. Manage the Spanish mackerel fishery by restricting fishing mortality to rates below the threshold fishing mortality rates to provide adequate spawning potential to sustain longterm abundance of the Spanish mackerel populations.
2. Manage the Spanish mackerel stock to maintain the spawning stock biomass above the target biomass levels.
3. Minimize endangered species by catch in the Spanish mackerel fishery.
4. Provide a flexible management system that coordinates management activities between state and federal waters to promote complementary regulations throughout Spanish mackerel's range which minimizes regulatory delay while retaining substantial ASMFC, Council, and public input into management decisions; and which can adapt to changes in resource abundance, new scientific information and changes in fishing patterns among user groups or by area.
5. Develop research priorities that will further refine the Spanish mackerel management program to maximize the biological, social, and economic benefits derived from the Spanish mackerel population.

Consistent with these objectives and the goal of the Omnibus Amendment, Delaware must adopt for its recreational Spanish mackerel fishery: a 12" fork length (FL) or 14" total length (TL) minimum size limit; a 15 fish creel limit; and require

that all Spanish mackerel be landed with head and fins intact. In addition, Delaware must establish for its commercial fishery a 12" fork length (FL) or 14" total length (TL) minimum size limit and a trip limit (per vessel, per day) of 3,500 lbs.

The hearing record on the proposed changes to the Spanish mackerel regulation will be open March 1, 2012. Individuals may submit written comments regarding the proposed changes via e-mail to Lisa.Vest@state.de.us or via the USPS to Lisa Vest, Hearing Officer, DNREC, 89 Kings Highway, Dover, DE 19901 (302) 739-9042. A public hearing on the proposed amendment will be held on April 19, 2012 beginning at 6 pm in the DNREC Auditorium, located at the Richardson & Robbins Building, 89 Kings Highway, Dover, DE 19901.

DEPARTMENT OF SAFETY AND HOMELAND SECURITY
DIVISION OF STATE POLICE
1300 Board of Examiners of Private Investigators & Private Security Agencies
PUBLIC NOTICE

Notice is hereby given that the Board of Examiners of Private Investigators and Private Security Agencies, in accordance with 24 **Del.C.** c. 13 proposes to amend Rule 1.0 – Firearm's Policy and adopt Rule 9.0 – Security Guard/ Armored Car Guards. Rule 1.0 will require the individual to qualify with the same make/model/caliber weapon they will carry. Rule 9.0 will allow security guards/armored car guards to work for no more than two agencies at a time. If you wish to view the complete Rules, contact Ms. Peggy Anderson at (302) 672-5304. Any persons wishing to present views may submit them in writing, by March 31, 2012, to Delaware State Police, Professional Licensing, P.O. Box 430, Dover, DE 19903. The Board will hold its quarterly meeting Thursday, April 27, 2012, 10:00am, Tatnall Building, Room 113, 150 William Penn Street, Dover, Delaware.

OFFICE OF THE SECRETARY
Regulations Governing the Relief from Disabilities Board
PUBLIC NOTICE

The Department of Safety and Homeland Security intends to promulgate rules and regulations as they relate to the creation and operations of the Relief from Disabilities Board and the transmission of health information to NICS pursuant to 11 **Del.C.** §1448A(k).

The Department solicits and will consider timely filed written comments from interested individuals and groups concerning these proposed regulations. The deadline for the filing of such written comments will be thirty days after the proposed regulations are published in the Delaware *Register of Regulations*, or by April 1, 2012. Any such submissions should be mailed or hand delivered to Elizabeth Olsen at: Department of Safety and Homeland Security, Public Safety Building, Suite 220, 303 Transportation Circle, P.O. Box 818, Dover, DE 19903, on or before the deadline.

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
Gaming Control Board
101 Regulations Governing Bingo
PUBLIC NOTICE

The Delaware Gaming Board will seek public comments on the issue of whether its current rules in 10 **DE Admin. Code** 101 regarding bingo should be amended. The Board proposes to change the rules to make it clear that members of charitable organizations who are working at the bingo event may not themselves play in the bingo games and also that the amount of the prize in each bingo game must be announced to the players. In addition, a rule will be amended to explain that where the statute allows promotional giveaways on holidays, the meaning of the term holidays is official state holidays. The Board proposes to change the rules to make it clear that the limit of 15% of the total amount of all prizes which may be offered as an inducement to players refers to inducements other than the cookie jar bingo games, where a cookie jar may have a prize of up to \$1,000.

Persons wishing to present their views regarding this matter may do so at a public hearing to be held on Thursday, April 5, 2012 at a meeting of the Delaware Gaming Control Board, 861 Silver Lake Boulevard, Cannon Building, Suite 203, Dover, DE 19904. Persons may also submit responses in writing by the close of business on or before April 1, 2012 at the same address. A copy of these regulations is available from the above address or may be viewed at the Division of

Professional Regulation business office at the same address.

Currently, the rules do not clearly address the issue of whether members of the charitable organization which is conducting the event may themselves play in the event if they are working at it. Rules do provide that a member must be in charge of the event and the Board believes that members who are working at the event should not be playing the games themselves at the same time.

Currently, the rules do not expressly state that the prize amount in bingo games must be announced, although the sponsor must file an after occasion report which lists the amount of all prizes. To be sure there is no confusion, the Board wishes to make it clear that the amount of the prize at each bingo game must be announced to the players.

Currently, the statute and rules state that promotional giveaways up to \$500 per year may be distributed on the organization's anniversary date and on no more than three (3) holidays per year. The Board wishes to clarify that those holidays are the same holidays as those recognized by the State of Delaware as holidays, namely, New Year's Day, Martin Luther King, Jr. Day, Good Friday, Memorial Day, Independence Day, Labor Day, Election Day, Veterans Day, Thanksgiving Day, the day after Thanksgiving, and Christmas Day.

Currently, Rule 4.6 states that a licensee may offer inducements, including but not limited to cookie jar bingo games that do not exceed \$1,000 per game per night, provided the value of the inducement is limited to 15% of the total amount of all other prizes. Prizes at bingo are limited to \$250 per game and \$1,250 total for all games at a single event. The Board wishes to make it clear that the 15% limit refers to inducements other than the cookie jar games.

**DIVISION OF PROFESSIONAL REGULATION
1700 Board of Medical Licensure and Discipline
PUBLIC NOTICE**

The Delaware Board of Medical Licensure and Discipline in accordance with 24 **Del.C.** §1713(a)(12) is proposing changes to its rules and regulations. The proposal amends outdated renewal provisions in Section 14.0 and replaces them with requirements for renewal and examination for practitioners seeking initial licensure who have been out of clinical practice for 3 or more years prior to the application as authorized by 24 **Del.C.** §1723(d). The amendments also update and clarify provisions related to physician assistants by deleting Regulation 16 and incorporating the relevant provisions into Section 25.0 including provisions related to supervision. The proposal also clarifies that Section 21.0 *Delegation of Responsibilities to Non-Physicians* does not apply to physician assistants.

The Board will hold a public hearing on April 3, 2012 at 3:00 p.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware where members of the public may offer comments on the regulations. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Medical Licensure and Discipline, 861 Silver Lake Blvd, Cannon Building, Suite 203, Dover DE 19904. Persons wishing to submit written comments may forward the written comments 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.

**DIVISION OF PROFESSIONAL REGULATION
1900 Board of Nursing
PUBLIC NOTICE**

The Delaware Board of Nursing, pursuant to 24 **Del.C.** §1904(c), proposes to revise regulations 6, 7, 9, 10, 14 and 15. The proposed revisions to this regulation are an attempt to: restate the statutory requirement for late renewal; clarify that nursing specialty organization position statements may be used for professional accountability; clarify the role of the RN to manage care for patients receiving analgesia by catheter techniques by the perineural route; clarify the role of the RN and LPN to manage care for patients receiving subcutaneous infusions; clarify that RNs may collect data from electronic communication; clarify that specially trained PICC nurses may determine the placement of the distal tip of peripherally inserted central catheters by radiograph study; restate the statutory bar on licensing persons convicted of felony sexual offenses; restate the statutory duty to report; and correct typographical errors.

The Board will hold a public hearing on the proposed regulation change on April 11, 2012 at 09:00 a.m., Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Dr. Pamela Zickafoose, Executive Director of the Delaware Board of Nursing, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904.

DIVISION OF PROFESSIONAL REGULATION

**3000 Board of Professional Counselors of Mental Health and Chemical Dependency Professionals
PUBLIC NOTICE**

The Delaware Board of Mental Health and Chemical Dependency Professionals in accordance with 24 **Del.C.** §3006 (1) has proposed amendments to Rule 2.0 License for Professional Counselors of Mental health. The proposed revisions to the rules are an attempt to better clarify when a person can apply to be a Professional Counselor of Mental Health.

A public hearing will be held on April 25, 2012 at 12:15 p.m in the second floor Conference Room A of the Cannon Building, 861 Silver Lake Blvd, Dover, DE 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 Jessica Williams, Administrative Assistant for the Delaware Board of Professional Counselors, 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.

**DIVISION OF PROFESSIONAL REGULATION
3100 Board of Funeral Services
PUBLIC NOTICE**

The Delaware Board of Funeral Services, pursuant to 24 **Del.C.** §3105(a)(1), proposes to revise its regulations by adding a new regulation 12 concerning advertising by licensees. The proposed revisions to this regulation are an attempt to clarify the Board's objective at 24 **Del.C.** §3100 of protecting the general public from unsafe practices and from occupational practices which tend to reduce competition or fix the price of services rendered by establishing minimum standards for advertising funeral services in the State of Delaware. The Board will hold a public hearing on the proposed regulation change on March 27, 2012 10:15 a.m., Conference Room B, Second Floor Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments should be sent to Ms. Michele Howard, Administrator to the Delaware Board of Funeral Directors, Cannon Building, 861 Silver Lake Blvd., Dover, DE 19904. Written comments will be accepted until April 2, 2012.

**PUBLIC SERVICE COMMISSION
1009 Regulations Implementing the Water Utility Distribution System Improvement Charge ("DSIC") and the Utility
Facility Relocation Charge ("UFRC")
PUBLIC NOTICE**

The Delaware General Assembly has enacted legislation pursuant to which water, electric distribution and natural gas distribution utilities subject to the jurisdiction of the Delaware Public Service Commission (the "Commission") may file rate schedules that allow such utilities to semiannually automatically adjust their basic rates to recover the cost of new, used and useful utility plant that meets certain eligibility criteria. See 26 **Del.C.** §§314 (Distribution System Improvement Charge, or "DSIC") and 315 (Utility Facility Relocation Charge, or "UFRC"). The legislation further provides that the Commission may adopt rules and regulations to administer the DSIC and UFRC so long as those rules and regulations are not inconsistent with the Public Utilities Act of 1974.

The Commission has promulgated proposed regulations to implement and administer the DSIC and UFRC (the "Regulations"), 26 **DE Admin. Code** c. 1009. The Regulations establish filing deadlines for DSIC/UFRC applications; effective dates of new DSIC/UFRC rates; requirements for filing a DSIC/UFRC application; a review and approval process; and annual reconciliation and audit procedures.

The Commission has the authority to promulgate the Regulations pursuant to 26 **Del.C.** §§209(a), 314(d), 315(f) and 29 **Del.C.** c. 101.

The Commission hereby solicits written comments, suggestions, compilations of data, briefs or other written materials concerning the Regulations. Anyone submitting any written materials must file ten (10) copies of such material with the Commission at its office located at 861 Silver Lake Boulevard, Suite 100, Dover, DE 19904. **All such materials shall be filed with the Commission on or before March 31, 2012.** Persons who wish to participate in the proceedings but who do not intend to file written materials shall inform the Commission in writing of their intent to participate on or before March 31, 2012. Such notice shall be sent to the attention of Staff Public Utilities Analyst Dr. Vincent Ikwuagwu.

Any public hearing conducted by the Commission shall be duly noticed in accordance with 29 **Del.C.** §§10115(b).

The Regulations and any materials submitted in connection therewith will be available for public inspection and copying (to the extent they are "public records" under the Freedom of Information Act, 29 **Del.C.** §10002(g)) at the Commission's Dover office identified above during normal business hours. The fee for copying is \$.10 per page, with the first 20 pages

being free of charge. If you wish to request copies of documents in this matter, please submit a Freedom of Information Act Request Form. This form may be found at <http://smu.portal.delaware.gov/cgi-bin/mail.php?foia-request&subj=DOS>. There is also a link to the Freedom of Information Act Request Form on the Commission's website, <http://depsec.delaware.gov/default.shtml>. The Commission will respond to your request in accordance with the Freedom of Information Act, 29 Del.C. ch. 100. The Regulations may also be reviewed by appointment at the office of the Public Advocate, 820 N. French Street, 4th Floor, Carvel State Office Building, Wilmington, DE 19801. The Regulations will also be available on the Commission's website: <http://depsec.delaware.gov>.

Any individual with disabilities who wishes to review submissions or to participate in this docket should contact the Commission to discuss any auxiliary aids or services to facilitate such review or participation. Such contact may be in person, in writing, by telephone or otherwise. The Commission's toll-free telephone number in Delaware is (800) 282-8574. Any person with questions may contact Dr. Ikwuagwu at (302) 736-7524, by voice and/or Text Telephone at (302) 736-7500, or via electronic mail at vincent.ikwuagwu@state.de.us.

PUBLIC SERVICE COMMISSION
3008 Rules and Procedures to Implement the Renewable Energy Portfolio Standard
(Opened August 23, 2005)
PUBLIC NOTICE

AND NOW, this 31st day of January, 2012:

WHEREAS, in 2005 the General Assembly enacted, and the Governor signed into law, the "Renewable Energy Portfolio Standards Act," 26 Del.C. §§351-364 (the "RPS Act"), which, beginning in 2007, required every retail electric supplier to annually accumulate a portfolio of "renewable energy credits" equivalent to a specified percentage of its retail electric supply sales in Delaware; and

WHEREAS, in 2006 the Delaware Public Service Commission (the "Commission") promulgated "Rules and Procedures to Implement the Renewable Energy Portfolio Standard" (the "RPS Rules") (Order No. 6931 dated June 6, 2006); and

WHEREAS the Commission has revised the RPS Rules from time to time to reflect amendments to the RPS Act (PSC Order No. 7377, dated Apr. 17, 2008; PSC Order No. 7494, dated Dec. 16, 2008; PSC Order No. 7653, dated Sep. 22, 2009; and PSC Order No. 7933 dated March 22, 2011); and

WHEREAS, on July 7, 2011, the Governor signed into law Senate Bill No. 124 as amended by Senate Amendment No. 1 (78 Del. Laws ch. 99) (July 7, 2011), which, among other things, amended various sections of the RPS Act; and

WHEREAS, by Order No. 8026 dated September 6, 2011, the Commission authorized the publication in the *Delaware Register of Regulations* of proposed amendments to the RPS Rules; and

WHEREAS, the Commission received several comments on the proposed amended RPS Rules; and

WHEREAS, Commission Staff has convened several workshops to address commenters' concerns with the proposed RPS Rules; and

WHEREAS, the Commission now proposes to modify the RPS Rules to reflect these agreed-upon RPS Act amendments (attached as Exhibits "A" and "B" hereto are black-lined and clean copies of the proposed amended RPS Rules); and

WHEREAS the Commission finds that the proposed revised RPS Rules should be published in the *Delaware Register of Regulations* to provide public notice of the rulemaking to develop final RPS Rules;

NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE VOTE OF NO FEWER THAN THREE COMMISSIONERS:

1. That, for the reasons set forth in the body of this Order, and pursuant to 26 Del.C. §362 and 29 Del.C. §10115, the Commission proposes to revise the RPS Rules as set forth herein in Exhibits "A" and "B." A copy of the RPS Rules in their current form as approved by the Commission in PSC Order No. 7933 (March 22, 2011) is attached as Exhibit "C" to this Order.¹

2. That, pursuant to 29 Del.C. §§1133 and 10115(a), the Secretary shall transmit to the Registrar of Regulations for publication in the March 2012 *Delaware Register of Regulations* a copy of this Order, along with copies of the proposed and current RPS Rules (Exhibits "A" and "B", respectively).

3. That the Secretary shall cause the Notice of Proposed Rulemaking attached as Exhibit "C" to be published in the *Delaware Register of Regulations*. In addition, the Secretary shall cause such Notice of Proposed Rulemaking to be published in The News Journal and the Delaware State News newspapers on or before **March 1, 2012**. The Secretary shall include proof of such publication in the docket file before the public hearing in this matter. Further, the Secretary shall serve (by regular mail or by electronic e-mail) a copy of such Notice on: (a) the Division of the Public Advocate; (b) the Delaware Energy Office; (c) Delmarva Power & Light Company; (d) all certificated retail electric suppliers; and (e) each

1. The exhibits to this order do not reflect formatting changes made by the Registrar of Regulations.

person or entity who submitted comments or who appeared (through counsel) at the workshops conducted by Staff regarding the proposed amended RPS Rules.

4. That, pursuant to 29 **Del.C.** §§10115(a) and 10116, persons or entities may file written comments, suggestions, compilations of data, briefs, or other written materials, on or before **April 2, 2012**. Pursuant to 29 **Del.C.** §10117, the Commission will conduct a public hearing on the proposed revisions to the RPS Rules on Tuesday, **April 17, 2012, beginning at 1:00 P.M.** at the Commission's office at 861 Silver Lake Boulevard, Cannon Building, Suite 100, Dover, Delaware.

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

15 DE Reg. 1379 (03/01/12)