

DELAWARE RIVER BASIN COMMISSION
NOTICE OF PUBLIC HEARING AND BUSINESS MEETING

The Delaware River Basin Commission will hold a public hearing and business meeting on Wednesday, September 26, 2007 beginning 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 or contact Pamela M. Bush, Esq., Commission Secretary and Assistant General Counsel, at 609-883-9500 extension 203.

DEPARTMENT OF EDUCATION

The State Board of Education will hold its monthly meeting on Thursday, September 20, 2007 at 1:00 p.m. in the Townsend Building, Dover, Delaware.

DEPARTMENT OF FINANCE
DIVISION OF REVENUE
NOTICE OF PUBLIC COMMENT PERIOD

Regulation 1151-1 Personal Income Tax Withholding Exemption Certificates

Title of Regulation

Regulation 1151-1 Personal Income Tax Withholding Exemption Certificates

Nature of Proceedings; Synopsis of the Subject and Substance of the Proposed Regulation

In accordance with procedures set forth in 29 **Del.C.** Ch. 11, Subch. III and 29 **Del.C.** Ch. 101, the Director of Revenue of the Division of Revenue in the Department of Finance is proposing to adopt an amendment to the existing regulation pertaining to the treatment by employers of employees' claims for exemptions from withholding of Delaware personal income tax. The existing regulation, "Personal Income Tax Withholding Exemption Certificates," is set forth in the Division of Revenue's Tax Ruling 83-3 (February 9, 1983), which modified Tax Ruling 80-4 (December 15, 1980). Tax Ruling 83-3 provides generally that employers must submit copies of withholding exemption certificates (currently submitted to employers by employees on Internal Revenue Service Form W-4 or an approved substitute form) that either (i) claim more than 14 withholding exemptions for purposes of the Delaware personal income tax, or (ii) claim exemption from withholding of Delaware personal income tax where the employer reasonably expects that the employee's wages will exceed \$100 per week. In such circumstances, pending receipt of a notice from the Division of Revenue with respect to a copy of any withholding exemption certificate, the employer must withhold on the basis of the number of exemptions claimed in the certificate. If the Division of Revenue finds that the certificate submitted contains materially incorrect statements, or, after seeking verification from the employee, determines that it lacks sufficient information to find that the withholding exemption certificate is correct, and if the Division notifies the employer of these findings, the employer must thereafter withhold from the employee's wages as if the employee were a single person claiming no withholding exemptions. The employer is required to notify the employee of the action taken by the Division of Revenue and request that the employee file another withholding exemption certificate. The Director of Revenue proposes to supersede Tax Ruling 83-3 and Tax Ruling 80-4 on and after the effective date of the regulation being proposed here.

The new regulation conforms the administrative practice of the Division of Revenue with respect to withholding exemption certificates to the current administrative practice of the Internal Revenue Service, as set forth in Temporary Treasury Regulation §31.3402(f)(2)-1T, 26 CFR §31.3402(f)(2)-1T. The new regulation relieves employers of the burden of automatically having to submit for review by the Division of Revenue copies of an employee's withholding exemption certificate, if an employee (i) claims more than 14 withholding exemptions, or (ii) claims exemption from withholding of Delaware personal income tax where the employer reasonably expects that

the employee's wages will exceed \$100 per week. Instead, under the new regulation, an employer must submit copies of the employee's withholding exemption certificate only when directed to do so in a written notice from the Division of Revenue or as directed in general published guidance issued by the Division of Revenue.

The new regulation also enables the Division of Revenue to notify the employer in writing that an employee is not entitled to claim either (i) a complete exemption from withholding, or (ii) more than the maximum number of withholding exemptions specified in the notice to the employer. The Division of Revenue may issue such a notice to an employer even if the employer has not previously submitted to the Division of Revenue a copy of the withholding exemption certificate of the employee in question. After receipt of this notice and after the effective date of the notice, the employer must generally withhold from the employee's wages based on the number of withholding exemptions specified in the notice. The new regulation provides that the Division of Revenue may issue a notice to an employer only if it has determined that (i) the employee's current withholding exemption certificate contains a materially incorrect statement or (ii) after requesting the employee to verify the statements on the withholding exemption certificate, the Division of Revenue lacks sufficient information to determine if the certificate is correct. The new regulation also sets forth actions that the employer and the Division of Revenue must take to notify the employee of the proposed action and actions that the employee may take to avoid the effect of the notice.

How to Comment on the Proposed Regulation

Members of the public may receive a copy of the proposed amendments to the regulation at no charge by United States Mail by writing or calling Carol Thomas, Delaware Division of Revenue, C900 Carvel State Office Building, 820 N. French St., Wilmington, DE 19801, phone (302) 577-8688. Members of the public may present written comments on the proposed regulation by submitting such written comments to John S. McDaniel, Esquire, at the address of the Division of Revenue set forth above. Written comments must be received on or before 4:30 p.m. on October 1, 2007.

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

NOTICE OF PUBLIC COMMENT PERIOD

Long Term Care Medicaid 20330.4.1 Annuities

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 existing rules in the Division of Social Services Manual (DSSM) regarding the treatment of annuities provisions.

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 (new fax number) by September 30, 2007. A copy of the CMS program clarification memorandum is available upon request by contacting Sharon L. Summers at 302-255-9576.

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 PUBLIC HEALTH
NOTICE OF PUBLIC HEARING**

4203 Cancer Treatment Program

The Department Health and Social Services is proposing revisions to the State of Delaware Regulations Governing the Cancer Treatment Program. Originally adopted on July 10, 2004, these regulations establish medical insurance coverage for Delawareans for treatment of cancer. The proposed revisions extend treatment coverage from 12 months to 24 months after the date that cancer treatment is initiated for each primary cancer diagnosis.

Health Promotion and Disease Prevention Section, under the Division of Public Health, Department of Health and Social Services (DHSS), will hold a public hearing to discuss the proposed revisions to the State of Delaware Regulations Governing the Cancer Treatment Program. The public hearing will be held on September 26, 2007 at 10:00 a.m. in the Health Promotion and Disease Prevention Conference Room, Second Floor, located in the Thomas Collins Bldg, 540 S. Dupont Highway, Dover, Delaware.

Copies of the proposed regulations are available for review by calling the Health Promotion and Disease Prevention Section at (302) 744-1040.

Anyone wishing to present his or her oral comments at this hearing should contact Mr. David Walton at (302) 744-4700 by September 25, 2007. Anyone wishing to submit written comments as a supplement to or in lieu of oral testimony should submit such comments by October 1, 2007 to:

David Walton, Hearing Officer
Division of Public Health
417 Federal Street
Dover, DE 19901
Fax 302-739-6659

**DIVISION OF PUBLIC HEALTH
NOTICE OF PUBLIC HEARING**

4459 Lead Based Paint Hazards

The Department Health and Social Services is proposing revisions to the State of Delaware Regulations Governing Lead Based Paint Hazards. These regulations establish standards for regulation of lead-based paint hazard control activities. Proposed revisions make changes to include expanded definitions, application and renewal requirements, and work practice standards.

Health Systems Protection Section, under the Division of Public Health, Department of Health and Social Services (DHSS), will hold a public hearing to discuss the proposed revisions to the State of Delaware Regulations Governing Lead Based Paint Hazards. The public hearing will be held on October 4, 2007 at 2:00 p.m. in the Third Floor Conference Room, located in the Jesse Cooper Building, 417 Federal Street, Dover, Delaware.

Copies of the proposed regulations are available for review by calling the Health Systems Protection Section at (302) 744-4546.

Anyone wishing to present his or her oral comments at this hearing should contact Mr. David Walton at (302) 744-4700 by October 3, 2007. Anyone wishing to submit written comments as a supplement to or in lieu of oral testimony should submit such comments by October 4, 2007 to:

David Walton, Hearing Officer
Division of Public Health
417 Federal Street
Dover, DE 19901
Fax 302-739-6659

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF AIR AND WASTE MANAGEMENT

NOTICE OF PUBLIC HEARING

1132 Transportation Conformity

Title of the Regulations:

Proposal to amend Regulation 1132, Transportation Conformity, of the State of Delaware, "Regulations Governing the Control of Air Pollution."

Brief Synopsis of the Subject, Substance and Issues:

The proposed amendments to Regulation 32 will simplify Delaware's transportation conformity regulations, and will bring the Salisbury/Wicomico Metropolitan Planning Organization (MPO) into the Interagency Transportation Conformity Consultation Workgroup.

Federal Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) legislation that took effect on August 10, 2005 streamlined the federal transportation conformity requirements on States. The legislation allows states to forgo the burden of having to adopt and maintain a full transportation conformity rule, and to only adopt provisions concerning the consultation process and commitments relative to transportation control measures. States and MPOs are still bound by federal transportation conformity rules so this streamlining would not change the overall implementation and practice of transportation conformity. DNREC is proposing to take advantage of this streamlining by revising Reg. 1132, Transportation Conformity, to address only the mandatory provisions.

The Salisbury/Wicomico MPO will be added as a new member of the Delaware Interagency Transportation Conformity Consultation Workgroup. DNREC is proposing this change because the Town of Delmar, Delaware is now part of the Salisbury/Wicomico MPO. The change will require that any conformity determination performed for Sussex County must be in consultation with the Salisbury/Wicomico MPO.

In addition to the above revisions, Reg. 1132 has been renumbered and reformatted in accordance with the Code of Delaware Regulations style manual.

Notice of Public Comment:

Statements and testimony may be presented either orally or in writing at a public hearing to be held on Monday, September 24, 2007, beginning at 6 PM in the Priscilla Building, 156 S. State Street, Dover, Delaware. Interested parties may submit comments in writing to: Philip Wheeler, DNREC Air Quality Management Section, 156 South State Street, Dover, Delaware 19901.

Prepared By:

Philip Wheeler, Planner IV, 739-9402,

philip.wheeler@state.de.us

DIVISION OF FISH AND WILDLIFE

NOTICE OF PUBLIC HEARING

Title of the Regulations:

Horseshoe Crab Regulation 3203 Seasons and Area Closed to Taking Horseshoe Crabs.

Horseshoe Crab Regulation 3207 Horseshoe Crab Dredging Restrictions.

Horseshoe Crab Regulation 3210 Horseshoe Crab Reporting Requirements.

Horseshoe Crab Regulation 3211 Horseshoe Crab Commercial Collecting Permit Eligibility and Renewal Requirements.

Horseshoe Crab Regulation 3214 Horseshoe Crab Annual Harvest Limit.

Brief Synopsis of the Subject, Substance and Issues:

The Department adopted emergency regulations (Order Number 2007-F-0020) on June 11, 2007 to implement the horseshoe crab mandatory harvest provisions in Addendum IV of the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan for the Horseshoe Crab. As a follow-up to this Order, the Department is proposing regulations of a more lasting nature which would meet the intent of the emergency regulations adopted on June 11, 2007. These regulations would prohibit the harvest and landing of all horseshoe crabs in Delaware waters from January 1 through June 7 for two years, and prohibit the harvest and landing of female horseshoe crabs for the remainder of the year as well. During the period June 8 through December 31, up to 100,000 male horseshoe crabs may be harvested from approved harvest areas in Delaware. Commercial collectors of horseshoe crabs will have to report their landings daily during the open season in order to facilitate quota monitoring. Instead of just allowing harvesting during certain days of the week, it is proposed that beach collecting be permitted Monday through Friday between June 8 and June 30 from Port Mahon Road and private beaches where collecting is presently legal. This proposed measure will allow beach collectors to harvest male horseshoe crabs under the proposed quota system more efficiently during the period when harvesting is permitted. Since no harvesting is allowed prior to June 8, there should be no additional impacts to shorebirds from allowing harvesting five days per week. Permit renewal requirements will be aligned with other shellfish licenses. Specifically, horseshoe crab commercial beach collecting permits must be renewed annually by December 31 of each calendar year or the person holding the collecting permit forfeits their eligibility to obtain a horseshoe crab commercial collecting permit in subsequent years. This option permits harvest to resume after the period of time that the shorebirds normally have migrated north of Delaware that depend on horseshoe crab eggs as a food source, and after a significant portion of the horseshoe crab spawning has occurred in a normal year. By harvesting only male horseshoe crabs, females would be further protected and will be available to participate in the annual spawn without being subject to harvest at any point during the year.

Notice of Public Comment:

Individuals may address questions to the Fisheries Section, Division of Fish and Wildlife, (302) 739-3441. A public hearing on these proposed regulations will be held in the Department of Natural Resources and Environmental Control Auditorium, at 89 Kings Highway, Dover, DE at 7:00 PM on September 24, 2007. Individuals may present their opinion and evidence either at the hearing or in writing to Lisa Vest, Hearing Officer, Department of Natural Resources and Environmental Control, 89 Kings Highway, Dover, DE 19901 or via e-mail to Lisa.Vest@state.de.us. The hearing record will remain open for written or e-mail comments until 4:30 PM September 30, 2007.

Prepared By:

Roy W. Miller
NAME

302-739-9914
PHONE

August 7, 2007
DATE

DEPARTMENT OF SAFETY AND HOMELAND SECURITY
DIVISION OF STATE POLICE
NOTICE OF PUBLIC COMMENT PERIOD
2300 Pawn Brokers and Junk Dealers

Notice is hereby given that the Department of Safety and Homeland Security, Division of State Police, in accordance with 24 **Del.C.** Section 2311 proposes to adopt Rules and Regulations. This adoption will allow the regulation of Pawnbrokers, Secondhand Dealers, and Scrap Metal Processors. If you wish to view the complete set of Rules and Regulations, contact Ms. Peggy Anderson at (302) 672-5304. Any persons wishing to present views may submit them in writing, by September 30, 2007, to Delaware State Police, Detective Licensing, P.O. Box 430, Dover, DE, 19903.

These Rules and Regulations are promulgated pursuant to 24 **Del.C.** Section 2311 and the Secretary of Safety and Homeland Security delegates his regulatory authority granted by Chapter 23 to the Division of State Police.

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
2000 Board of Occupational Therapy
NOTICE OF PUBLIC HEARING

The Delaware Board of Occupational Therapy, in accordance with 24 **Del.C.** §2006(a)(1), has proposed changes to its Regulations 2.0 and 3.0 to change the audit process for license renewal so that continuing education attestations will be audited after the license renewal period is over, rather than before the expiration date. The changes will also extend the period of time during each biennial licensure period during which licensees may obtain required CE credits from May 31st of each renewal year to July 31st of each renewal year, to correspond with the license renewal period.

The Board held a public hearing on this issue on May 2, 2007. The Board made substantive changes to the proposed rules and regulations as a result of comments received at that hearing. A public hearing on the revised rules and regulations will be held on October 3, 2007 at 4:45 p.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 Occupational Therapy, 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
3700 Board of Examiners of Speech/Language Pathologists, Audiologists and Hearing Aid Dispensers
NOTICE OF PUBLIC HEARING

The Delaware Board of Examiners of Speech/Language Pathologists, Audiologists & Hearing Aid Dispensers, in accordance with 29 **Del.C.** Chapter 101 and 24 **Del.C.** §3706(a)(1), proposes amendments to its regulations in sections 1.0, 3.0, 7.0, and 8.0. Specifically, the proposed amendments to **1.0 Division of Professional Regulation** are primarily technical: renaming the section, improving the language, and updating a web address. The proposed amendments to **3.0 Licensure Requirements for Hearing Aid Dispensers** modify the process for licensure as a hearing aid dispenser. Candidates will be required to obtain temporary licensure while completing a six-month training period under the direct supervision of a licensed dispenser. The extent of direct supervision is delineated. The proposed amendments to **7.0 Electronic equipment** clarify the required frequency for calibration of electronic equipment used to assess hearing and allow for attestation of such calibration during the license renewal process. Finally, the proposed amendments to **8.0 Continuing Education For All Licensees** also provide for attestation of electronic equipment calibration and improve the language of the section. Other grammatical, typographic, or stylistic changes are also included to improve clarity and consistency.

A public hearing is scheduled for Wednesday, November 14, 2007, at 2:00 p.m. in the second floor Conference Room B of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware 19904. The Board will receive and consider input in writing from any person concerning the proposed regulations. Written comments should be submitted to the Board care of Sandra Wagner at the above address. The final date to submit written comments shall be at the public hearing. Anyone wishing to obtain a copy of the proposed regulations or to make comments at the public hearing should contact Sandra Wagner at the above address or by calling (302) 744-4532.

The Board will consider promulgating the proposed regulations immediately following the public hearing.

**OFFICE OF THE STATE BANK COMMISSIONER
PUBLIC NOTICE**

2108/2209 Statement on Subprime Mortgage Lending

Summary

The State Bank Commissioner proposes to adopt new Regulations 2108/2209 ("Statement on Subprime Mortgage Lending"), new Regulation 2302 ("Exemptions"), and new Regulation 3402 ("Surety Bond or Irrevocable Letter of Credit").

Proposed new Regulation 2108/2209 parallels a Statement jointly issued by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision and the National Credit Union Administration, and is being adopted to provide regulatory consistency between mortgage brokers and mortgage lenders regulated under Chapters 21 and 22 respectively of Title 5 of the **Delaware Code** that are not affiliated with a bank holding company or an insured financial institution, and the financial institutions that are subject to that federal Statement.

Proposed new Regulation 2302 implements § 2304(c) of Title 5 of the **Delaware Code** by establishing criteria and procedures relating to exemptions from Chapter 23 of Title 5.

Proposed New Regulation 3402 implements § 3411 of Title 5 of the **Delaware Code** by establishing criteria for determining the amount of surety bonds or irrevocable letters of credit required by §3411.

The State Bank Commissioner would adopt the proposed new regulations on or after October 2, 2007. Other regulations issued by the State Bank Commissioner are not affected by these proposals. The State Bank Commissioner is issuing these regulations in accordance with Title 5 of the **Delaware Code**.

Comments

Copies of the proposed new regulations are published in the *Delaware Register of Regulations*. Copies are also on file in the Office of the State Bank Commissioner, 555 E. Loockerman Street, Suite 210, Dover, DE 19901 and are available for inspection during regular office hours. Copies are available upon request.

Interested parties are invited to comment or submit written suggestions, data, briefs or other materials to the Office of the State Bank Commissioner as to whether these proposed new regulations should be adopted, rejected or modified. Written materials submitted will be available for inspection at the above address. Comments must be received at or before the public hearing scheduled for 10:00 a.m. October 2, 2007.

Public Hearing

A public hearing on the proposed regulation will be held in the Office of the State Bank Commissioner, 555 E. Loockerman Street, Suite 210, Dover, DE 19901 on Tuesday, October 2, 2007, commencing at 10:00 a.m. This notice is issued pursuant to the requirements of Subchapter III of Chapter 11 and Chapter 101 of Title 29 of the **Delaware Code**.

11 DE Reg. 359 (09/01/07)