

DEPARTMENT OF AGRICULTURE

FOOD PRODUCTS INSPECTION

PUBLIC NOTICE

302 Produce Safety Regulations

The Department of Agriculture proposes to amend its Regulations adopted in accordance with Title 3, Chapter 1 of the Delaware Code to add new Produce Safety Regulations at 3 **DE Admin. Code** 302. The purpose of the amended regulations is to establish the procedures for farm registration, produce inspection, on-farm produce and environmental sampling, and addressing non-compliance of regulated farms under the federal Food Safety Modernization Act. Title 21 of the CFR Part 112 of the Code of Federal Regulations. Other regulations issued by the Department of Agriculture are not affected by this proposal. The Department of Agriculture is issuing these proposed regulations in accordance with Title 3 of the Delaware Code. This notice is issued pursuant to the requirements of Chapter 101 of Title 29 of the Delaware Code.

A copy of the proposed regulations is being published in the September 1, 2018 edition of the Delaware *Register of Regulations*. A copy is also on file in the office of the Department of Agriculture, 2320 South DuPont Highway, Dover, Delaware 19901 and is available for inspection during regular office hours. Copies are also published online at the *Register of Regulations* website: http://regulations.delaware.gov/services/current_issue.shtml.

Interested parties may offer written comments on the proposed regulations or submit written suggestions, data, briefs or other materials to the Department of Agriculture at the above address as to whether these proposed regulations should be adopted, rejected or modified. Pursuant to 29 **Del.C.** §10118(a), public comments must be received on or before October 1, 2018. Written materials submitted will be available for inspection at the above address.

On or after October 1, 2018, following review of the public comment, the Department of Agriculture will determine whether to amend its regulations by adopting the proposed rules or make additional changes because of the public comments received.

DEPARTMENT OF EDUCATION

PUBLIC NOTICE

The State Board of Education will hold its monthly meeting on Thursday, September 20, 2018 at 5:00 p.m. at the Marion E. Proffitt Training Center, Appoquinimink School District, 118 South 6th Street, Odessa, Delaware.

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF MEDICAID AND MEDICAL ASSISTANCE

PUBLIC NOTICE

Home Health Services

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code), 42 CFR §447.205, 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 Home Health Services, specifically, to add accreditation as an option to Medicare certification for Medicaid providers.

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, Planning, Policy and Quality Unit, Division of Medicaid and Medical Assistance, 1901 North DuPont Highway, P.O. Box 906, New Castle, Delaware 19720-0906, by email to Nicole.M.Cunningham@state.de.us, or by fax to 302-255-4413 by 4:30 p.m. on October 1, 2018. Please identify in the subject line: **Home Health Services**.

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

PUBLIC NOTICE

4502 Regulations for Certification of Animal Welfare Officers

On September 1, 2018, the Department of Health and Social Services, Division of Public Health, Office of Animal Welfare, plans to publish proposed regulations for Certification of Animal Welfare Officers and hold them out for public comment per Delaware law. The regulations are being developed under the authority established in 16 **Del.C.** §§122(3)bb

and 139.

The purpose of the regulations is to establish minimum training requirements for the certification of animal welfare officers working in the State of Delaware. They also establish procedures for documenting all complaints filed against the officers and conducting investigation of complaints concerning violations of this chapter.

The regulation has been established to include:

- training and certification requirements for animal welfare officers in Delaware;
- procedures for obtaining a certification from the Office of Animal Welfare;
- the training course approval process;
- continued education and recertification obligations;
- disciplinary sanctions; and
- complaint documentation and investigation procedures.

Any person who wishes to make written suggestions, testimony, briefs or other written materials concerning the proposed regulation should submit such comments by Monday, October 1, 2018 to:

Jamie Mack

Delaware Division of Public Health

Jesse Cooper Building

417 Federal St.

Dover, DE 19901

Phone: 302-744-4832

Fax: 302-739-6659

DEPARTMENT OF INSURANCE

OFFICE OF THE COMMISSIONER

PUBLIC NOTICE

1405 Filing Requirements for Multiple Employer Welfare Arrangements

Pursuant to 29 **Del.C.** §10119, it is necessary to repeal Regulation 1405, Filing Requirements for Multiple Employer Welfare Arrangements [Formerly Regulation 67] and replace it with new Regulation 1405, Requirements for Fully Insured Multiple Employer Welfare Arrangements and Association Health Plans.

Elsewhere in this edition of the *Register of Regulations*, the Commissioner of the Delaware Department of Insurance (the Commissioner) issued an order for the publication of an emergency regulation that is identical to the below-reproduced repeal and of Regulation 1405 replacement with the new rule that is proposed in this concurrent proposal. At paragraph 3 of the Commissioner's emergency order, the Commissioner ordered the public be notified of this concurrent proposal and be given an opportunity to comment on it. The purpose of this proposal is to comply with paragraph 3 of the emergency order.

Accordingly, the Department of Insurance hereby gives notice of proposed new Department of Insurance Regulation 1405 relating to Requirements for Fully Insured Multiple Employer Welfare Arrangements and Association Health Plans. The docket number for this proposed new rule is 3880-2018.

As a result of the enactment of a new federal regulation, to be codified at 29 CFR pt. 2510, that redefines "Employer" under Section 3(5) of the Employee Retirement Income Security Act (ERISA) (hereinafter the "Final Rule"), the Department has determined to rescind and replace Regulation 1405 relating to Requirements for Multiple Employer Welfare Arrangements [Formerly Regulation 67], and replace it with Regulation 1405 relating to Requirements for Fully Insured Multiple Employer Welfare Arrangements and Association Health Plans. The Delaware Code authority for the change is 18 **Del.C.** §314, 18 **Del.C.** §2101, 18 **Del.C.** §505, 29 **Del.C.** Ch. 101, and 29 USC §1144(b)(6)(A)(i), and in response to 29 CFR 2510.3-5. The text can also be viewed at the Delaware Insurance Commissioner's website at www.delawareinsurance.gov and clicking on the link for "Proposed Regulations."

Any person may file written comments, suggestions, briefs, and compilations of data or other materials concerning the proposed new regulation. Any written submission in response to this notice and relevant to the proposed new regulation must be received by the Department of Insurance no later than 4:30 p.m., Tuesday, October 2, 2018 by mailing to:

Delaware Department of Insurance

Attn.: Leslie W. Ledogar, Esq., Regulatory Specialist

Docket No. 3880-2018

841 Silver Lake Boulevard

Dover, DE 19904

or by emailing them to leslie.ledogar@state.de.us.

The Department of Insurance does not plan to hold a public hearing on the proposed new regulation. The proposed

new regulation appears below and can also be viewed at the Department of Insurance website at <http://insurance.delaware.gov/information/proposedregs/>.

DEPARTMENT OF LABOR
DIVISION OF INDUSTRIAL AFFAIRS
OFFICE OF LABOR LAW ENFORCEMENT
PUBLIC NOTICE
1322 Prevailing Wage Regulations

The State of Delaware, Department of Labor's Division of Industrial Affairs ("the Division") hereby gives notice of its intention to adopt amended regulations.

In May 2018 the Department proposed amendments to regulations for the Prevailing Wage Law. The Department received public comment at a hearing held on May 21, 2018 and additional commentary in the form of written suggestions. The Department has not proceeded with final promulgation of the amendments and now seeks to add additional amendments to the regulations.

The Department solicits, and will consider, timely filed written comments from interested individuals and groups concerning these proposed amended regulations. The deadline for the filing of such written comments will be fifteen (15) days after the public hearing is held on these regulations on September 24, 2018 from 4:00 to 6:00 pm and will be held at:

**Delaware Department of Labor/Fox Valley
Annex/Harold Stafford Training Center
19 E. Lea Blvd
Wilmington, DE 19802**

Members of the public may receive a copy of the proposed regulation at no charge by United States Mail by writing or calling Julie Petroff, Division of Industrial Affairs, Delaware Department of Labor, 4425 North Market Street, Wilmington Delaware 19802, telephone number 302-761-8175. Members of the public may present written comments on the proposed regulation by submitting such written comments to Ms. Petroff at the address of the Delaware Department of Labor as set forth above. The deadline for the filing written comments will be the latter of thirty (30) days after these proposed amended regulations are promulgated in the Delaware *Register of Regulations*, or fifteen (15) days after the public hearing, which, in this case, is October 9, 2018.

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL
DIVISION OF CLIMATE, COASTAL AND ENERGY
PUBLIC NOTICE
2105 Regulations Governing Evaluation, Measurement, and Verification Procedures and Standards

These regulations define the standards for evaluation, measurement and verification (EM&V) procedures as they are administered by the Energy Efficiency Advisory Council (EEAC). EM&V is a vital tool in creating consensus around the impact of current and future investments to reduce energy use and peak demand in Delaware. Results from EM&V are critical to the assessment of progress in meeting Delaware's energy efficiency and peak demand targets outlined in the Energy Efficiency Resource Standards Act, the State's "Lead by Example" policy, and the Delaware Sustainable Energy Utility's legislated goals. The results from EM&V provide valuable feedback to improve programs during implementation or suggest their cancellation, inform the development of new programs, and guide the allocation of resources.

The purpose of these EM&V regulations is to: develop an overall approach to the evaluation of energy efficiency and demand response programs in Delaware; standardize evaluation approaches for the assessment of energy efficiency and demand response programs; provide specific guidance to Program Administrators, contractors and stakeholders for the evaluation of energy efficiency and demand response programs; and ensure consistency between Program Administrators' energy efficiency evaluations plans, analysis, and reporting efforts.

The hearing record on the proposed regulations 2105 Evaluation, Measurement and Verification Procedures and Standards will be open September 1, 2018. 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 September 25, 2018 beginning at 6:00 pm in the State Street Commons building located on 100 W. Water Street Dover, DE 19904.

Public comments will be accepted through close of business Wednesday October 10, 2018.

DIVISION OF WATERSHED STEWARDSHIP
PUBLIC NOTICE
5101 Sediment and Stormwater Regulations

A Superior Court decision of October 7, 2015, upheld by the Supreme Court on April 15, 2016, invalidated the 2013 and 2014 version of the Delaware Sediment and Stormwater Regulations on procedural grounds because the accompanying Technical Document referenced by the regulations was not published in the State Register in accordance with Administrative Procedure Act requirements. The Department issued Emergency Regulation Order 2016-WS-0019 on April 16, 2015 including both the 2014 Sediment and Stormwater Regulations and the latest version of the Technical Document, dated April 2016, as regulation to correct the procedural flaw.

The Sediment and Stormwater Regulatory Advisory Committee has spent approximately 234 hours in public meeting time since November 2015 reviewing the regulations as well as the Technical Document for inclusion of required elements into the regulations.

- All standard plan applicability criteria and conditions have been reviewed and included in subsection 3.7.
- Each of 17 standards and specifications for post construction stormwater management BMPs have been reviewed by the RAC's Technical Subcommittee and required elements brought into the regulation as a new Section 11.0 Post Construction BMP Standards and Specifications.
- Section 12.0 Supplemental Requirements for Best Management Practices was added to provide clear requirements for soil investigation procedures and setbacks for stormwater management BMPs.
- Section 13.0 Stormwater Management Offsets was added to take the place of subsection 1.7 and provide more definition to stormwater management offsets, including fees-in-lieu, banking and stormwater management offset districts.
- Section 5.0 Performance Criteria for Post Construction Stormwater Management has been updated to address compliance methods updated by Senate Bills 253 and 204.

The Department of Natural Resources and Environmental Control (DNREC) Division of Watershed Stewardship will conduct a public hearing on proposed revisions to the *Delaware Sediment and Stormwater Regulations*, **Regulation No. 5101 Sediment and Stormwater Regulations**. The public hearing on this proposed revision of **Regulation No. 5101 Sediment and Stormwater Regulations** will be held Wednesday, October 10, 2018, at 6:00 p.m. in the DNREC Auditorium, Richardson and Robbins Building, 89 Kings Highway, Dover, DE 19901.

The proposed regulation revisions may be inspected at the following location:

Department of Natural Resources and Environmental Control
89 Kings Highway
Dover, DE 19901

The proposed regulation revisions may also be inspected on the DNREC Division of Watershed Stewardship's Sediment and Stormwater Program website:

<http://www.dnrec.delaware.gov/swc/Pages/SedimentStormwater.aspx>

Interested parties shall submit comments in writing on the proposed regulation revisions by the end of the comment period, October 25, 2018, or as designated by the hearing officer at the public hearing. Statements and testimony may be presented either verbally or in writing at the October 10, 2018 public hearing. It is requested that those interested in presenting statements at the public hearing register in advance and that written statements and comments be addressed to:

Elaine Z. Webb
DNREC Division of Watershed Stewardship
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.** Ch. 13 proposes to amend the following adopted rules in 24 **DE Admin. Code** 1300 Board of Examiners of Private Investigators and Private Security Agencies: Rule 4.0 Training Requirements. If you wish to view the

complete Rule, contact Ms. Peggy Anderson at (302) 672-5304. Any persons wishing to present views may submit them in writing, by October 2, 2018, to Delaware State Police, Professional Licensing Section, P. O. Box 430, Dover, DE 19903. The Board will hold its quarterly meeting Thursday, October 11, 2018, 10:00am, at the Tatnall Building, 150 Martin Luther King, Jr. Boulevard South, Room 112, Dover, DE.

DIVISION OF STATE POLICE
5500 BAIL ENFORCEMENT AGENTS
PUBLIC NOTICE

Notice is hereby given that the Board of Examiners of Bail Enforcement Agents, in accordance with 24 **Del.C.** Ch. 55 proposes to amend the following adopted rules in 24 **DE Admin. Code** 5500 Bail Enforcement Agents: Rule 9.0 Conducted Electrical Weapon (CEW). If you wish to view the complete Rule, contact Ms. Peggy Anderson at (302) 672-5304. Any persons wishing to present views may submit them in writing, by October 2, 2018, to Delaware State Police, Professional Licensing Section, P. O. Box 430, Dover, DE 19903. The Board will hold its quarterly meeting Thursday, November 15, 2018, 10:00am, at the Tatnall Building, 150 Martin Luther King, Jr. Boulevard South, Room 112, Dover, DE.

DEPARTMENT OF STATE
DIVISION OF CORPORATIONS
PUBLIC NOTICE
Registered Agent Customer Entity Verification Requirements

In compliance with the State's Administrative Procedures Act (Title 29, Chapter 101 of the Delaware Code) and under the authority of House Bill 404 of the 149th Delaware General Assembly, as amended by House Amendment No. 1 and Senate Amendment No. 2, 81 **Del. Laws**, Ch. 334, which modifies 8 **Del.C.** §132 and 6 **Del.C.** §§15-111, 17-104 and 18-104, the Delaware Department of State proposes to introduce regulations related to the requirements for registered agents with respect to entities and entity filings with the Department.

In accordance with 29 **Del.C.** §10116, persons wishing to submit written comments, suggestions, briefs, and compilations of data or other written materials concerning the proposed regulations should direct them to the following address:

Kristopher Knight
Deputy Secretary of State
Department of State
820 N. French St., 4th Floor
Wilmington, DE 19801

Comments may also be directed via electronic mail to dos_corpregs@state.de.us. Any written submission in response to this notice and relevant to the proposed regulations must be received by the Department of State no later than 4:30 p.m. EST, Monday, October 15, 2018.

The action concerning determination of whether to adopt the proposed regulations will be based upon the results of Department analysis and the consideration of the written comments and any other written materials filed by the public.

DIVISION OF PROFESSIONAL REGULATION
2600 EXAMINING BOARD OF PHYSICAL THERAPISTS AND ATHLETIC TRAINERS
PUBLIC NOTICE

Pursuant to 24 **Del.C.** §2604(a)(1), the Delaware Examining Board of Physical Therapists and Athletic Trainers ("Board") has proposed revisions to its rules and regulations.

Revisions to Section 7.0 modify the examination process for physical therapist and physical therapist assistant applicants. Specifically, subsection 7.3.1.3 gives the Board the discretion to identify a third-party as its authorized designee to approve applicants to sit for the examination. In addition, subsection 7.3.1.3.1 authorizes a physical therapist student or physical therapist assistant student to take the examination up to 90 days prior to graduation from a CAPTE accredited program.

A public hearing was scheduled for June 26, 2018 but due to lack of a quorum the meeting was cancelled. Therefore, the public hearing has been rescheduled for September 25, 2018 at 4:30 p.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware, where members of the public can offer comments on the

amendments to the rules and regulations. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Examining Board of Physical Therapists and Athletic Trainers, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address.

In accordance with 29 **Del.C.** §10118(a), the final date to receive written comments will be October 10, 2018, which is 15 days following the public hearing. The Board will deliberate on all of the public comment at its next regularly scheduled meeting, at which time it will determine whether to adopt the rules and regulations as proposed or make additional changes due to the public comment.