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# DELAWARE ADMINISTRATIVE CODE

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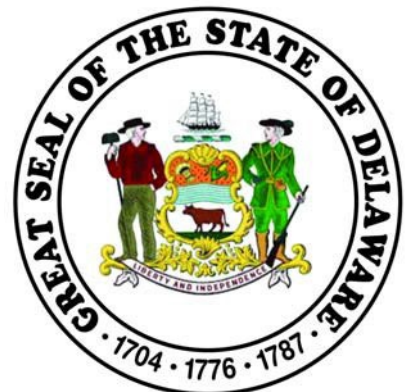
## Drafting and Style Manual

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May 2025 Edition





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## PREFACE

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The Division of Legislative Services was created by the Delaware General Assembly to act as a reference bureau for information relating or pertaining to legislative matters and subjects of interest to the Senate and House of Representatives.

Among the services provided is the publication of regulations submitted by executive branch agencies to the Registrar of Regulations. The monthly *Delaware Register of Regulations* enables interested citizens to find all of the regulations proposed by any state agency in one convenient location. This document is available in hardcopy and can also be found online at:

<http://regulations.delaware.gov/>

The composition and style guidelines in this manual are intended to provide editorial assistance in drafting documents to be published in the monthly *Delaware Register of Regulations* and in the *Delaware Administrative Code*. This manual is intended to standardize the codification, format, and language of Delaware's regulations. These guidelines are not intended to be inflexible rules, nor are they complete in scope. The staff of the Registrar's office hopes that use of this manual, together with attention to proper English usage, will produce greater clarity and accuracy in the texts of official documents. Please note that access to an electronic version of this manual is available [online](#).

The Standard Document Format section (Section 3.0) covers submission guidelines and the Composition and Style Guidelines for Regulation Drafting section (Section 7.0) covers the basic style and format in which executive agency regulations traditionally appear in Delaware. Regulations should be uniform in style and language conventions and be drafted in a clear and concise manner, since they impose certain requirements or restrictions on individuals' rights. The style guidelines contained in this manual are similar to those used by the Division of Legislative Services when drafting legislation.

In addition to this manual, the following documents contain requirements for processing regulations:

- The Administrative Procedures Act, Title 29, Chapter 101 of the Delaware Code;
- The Regulatory Flexibility Act, Title 29, Chapter 104 of the Delaware Code;
- Title 29, Chapter 11, Subchapter III of the Delaware Code; and
- Regulations of the Office of the Registrar of Regulations: 29 **DE Admin. Code** 101 Regulation Governing Administrative Rulemaking Procedures.

Requirements, information, and guidance for filing regulatory submissions for publication by the Registrar in the *Delaware Register of Regulations* through the online Regulatory Management System, or RMS, can be found on the Registrar's website or from the RMS Data Manager for each agency.

Questions regarding regulatory drafting or this manual should be directed to the Registrar's Office by phone at 302-744-4068, or by E-mail at [Regulations@delaware.gov](mailto:Regulations@delaware.gov).

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**1.0 The *Delaware Register of Regulations*****1.1 Publication and Filing Requirements**

The Registrar of Regulations publishes documents submitted and received through the Registrar's Regulation Management System (RMS) by the 15th of the preceding month in the *Delaware Register of Regulations* on the first day of each calendar month. The updated submission deadline for the months following each publication is listed in each issue. Materials received by the Registrar's office after the specified deadline are held and published in the next issue of the *Delaware Register of Regulations*. All notifications regarding submissions made through RMS will be communicated through RMS to the agency.

**1.2 Rejection or Delay of Documents for Publication**

The Registrar may reject any document filed for publication, or delay publication, if the requirements contained in this manual or any other applicable requirements are not met.

Reasons for rejecting or delaying a regulation submission filed by an agency for publication include the following:

1. The regulation submission is subject to the Administrative Procedures Act (APA), Title 29, Chapter 101 of the Delaware Code, but does not meet Administrative Procedures Act requirements.
2. The regulation submission documents are not in the proper format.
3. The regulation submission is incomplete.
4. The regulation is not submitted electronically through RMS.
5. The agency fails to use the latest version of regulatory text downloaded from RMS in preparing its regulatory action.
6. The agency fails to comply with the Regulatory Flexibility Act, Title 29, Chapter 104 of the Delaware Code.
7. The regulation submission documents are received by the Registrar's office after the deadline for publication.
8. Additional information required or requested by the Registrar's office is not received in time to proceed with publication.

All regulatory documents to be amended should be downloaded through RMS to ensure that the latest version is being used. All documents uploaded for submission through RMS will need to match the formatting required by this manual to be accepted by the Registrar.

The Registrar or the Registrar's designee shall notify the affected agency if a determination is made to reject or delay publication of a document. The reason will be provided to the agency regulatory coordinator, and any rejected regulatory submission documents will be returned to the agency unless other arrangements are made between the Registrar's office and the agency regulatory coordinator.

**1.3 Editing of Regulations for Publication**

The Registrar and the Registrar's staff may edit submissions for proper style and format, grammatical correctness, and consistency of language to conform to the journalistic style of the *Delaware Register of Regulations*. Section 7.0 of this manual contains style requirements for agencies to use when drafting regulations.

**1.4 Agency Review of Published Regulation and Correction of Errors**

As soon as practicable after publication, the agency regulatory coordinator or other designated individual shall compare the published copy against the agency copy to ensure accuracy of the published text. The agency shall notify the Registrar in writing of any errors found in the published text. All communication addressing the correction of errors will take place in the RMS application.

The written notification shall include the following information:

1. The name of the agency;
2. The volume, issue, and date of the Delaware Register and the page number of the published

regulatory action where the error occurred (e.g., 27 **DE Reg.** 470 (01/01/24));

3. The section of the Delaware Register where the error occurred (e.g., Cumulative Table, Regulations, General Notices, Calendar of Events);

4. If the error is in a regulation, the type of regulation (i.e., emergency, proposed, or final) and the Delaware Administrative Code title and section number; and

5. The nature of the error.

Corrections of errors will be published as soon as possible in the Errata section of the Delaware Register. Minor errors might not be published in the Register; however, the corrections will be made to the Delaware Administrative Code database and updated online, if applicable.

## **2.0 Statutory Authority**

### **2.1 General Information**

Generally, the principle of separation of powers states that under our federal and state constitutions, the legislative branch enacts laws while the executive branch carries out the laws. In accordance with this principle, an administrative agency does not have authority to enact law. The Delaware Code contains the following broad delegation of rulemaking power to Delaware executive agencies:

“The General Assembly has conferred on Boards, Commissions, Departments and other agencies of the Executive Branch of State Government the authority to adopt regulations...” (29 **Del.C.** §1131).

Under this provision, the Delaware General Assembly enacts laws that direct a specific state agency to adopt regulations that include details of, implement, execute, embellish upon, or clarify a specific statutory scheme. If an agency adopts a regulation that falls outside of the rulemaking powers delegated by statute to that agency, then the regulation does not fall within statutory authority and is theoretically deemed invalid.

### **2.2 Citing the Proper Statute as Authority for Adopting Regulations**

Agencies should not, in general, cite any of the provisions in Chapter 101 of Title 29 of the Delaware Code as statutory authority. Although this chapter contains the provisions governing the regulatory process all agencies must follow, agencies should refer to the language in the statutes that detail the adoption of regulations by the specific agency.

### **2.3 Failure to Implement the Law as Directed by Statutory Authority**

Repeating existing statutory information should be avoided when drafting regulations. Redundant text is unnecessary because a statute may be amended, thereby requiring an amendment to the regulation. Instead, regulations should reflect what is set forth in a statutory scheme. For example, suppose a statute states:

“Any other provision of this chapter notwithstanding, the Court or the Department in making a determination as to what damages shall be paid by the Department shall consider only 2 factors...”

Any corresponding regulations should actually list those factors the department feels necessary for a person to comply with in order to be granted a license. To only state in the regulations that the Department shall only consider “2 factors” is insufficient information.

### **2.4 Exceeding Statutory Authority**

When drafting regulations, each agency must scrutinize the authorizing statute to determine the extent to which the General Assembly has assigned rulemaking authority.

Similarly, a statute that authorizes regulations to govern the issuance of a building permit does not, on its own, authorize the regulations to provide for the suspension, renewal, or revocation of such permit. In addition, regardless of whether the authorizing statute is general or confining, certain types of provisions - such as penalties, the right to appeal to the courts, etc. - require specific statutory authority.

## **2.5 Regulation Validity**

In order for a regulation to be valid, an agency must comply with the rulemaking process set forth in the Delaware Code. Title 29, Chapter 101, §10102 (7) defines a regulation as follows:

“(7) **“Regulation”** means any statement of law, procedure, policy, right, requirement or prohibition formulated and promulgated by an agency as a rule or standard, or as a guide for the decision of cases thereafter by it or by any other agency, authority or court. Such statements do not include locally operative highway signs or markers, or an agency's explanation of or reasons for its decision of a case, advisory ruling or opinion given upon a hypothetical or other stated fact situation or terms of an injunctive order or license.”

According to the definition, if an agency drafts any directive that includes law, procedure, policy, right, requirement or prohibition formulated and promulgated by an agency as a rule or standard, or as a guide for the decision of cases thereafter by it or by any other agency, authority or court, that statement is considered a regulation.

## **2.6 Conclusion:**

- Avoid redundancy or paraphrasing the provisions of the Delaware Code in a regulation.
- Make sure the regulations actually implement the program or statutory outline.
- All directives affecting individuals, regardless of the terminology the agency uses, should be adopted as regulations pursuant to the rulemaking process set forth in Title 29, Chapter 101 of the Delaware Code.

## **3.0 Standard Document Format**

### **3.1 Submission Guidelines:**

Documents must be submitted to the Registrar's office no later than the 15<sup>th</sup> of the month for publication in the following month's issue of the Register.

Documents must be submitted to the Registrar in electronic format through RMS.

Proposed Regulations filed electronically must include:

- The text of the proposed regulation formatted to the specifications of the Registrar as outlined in subsection 3.3. Agencies must include the Regulatory Markup as downloaded through RMS and use track changes for all amendments.
- The Notice of Public Hearing or Notice of Public Comment Period, including agency contact information and the method of submitting comments. RMS will populate the first available date for the Notice of Public Hearing, the Notice of Public Comment Period, or both, based on the agency's selection within the submission; this information should be included in the Public Notice submission document.
- A summary of the regulatory action when available.
- The entire text of the regulation showing the marked-up amendments using the document downloaded through RMS.

Final Regulations filed electronically must include:



- The Order in Word format adopting the Final Regulation.
- The signed Order in PDF format adopting the Final Regulation.
- A summary of the regulatory action when available.
- The text of the Final Regulation formatted to the specifications of the Registrar as outlined in subsection 3.3. Agencies must use track changes through the RMS editor for this formatting.

Supporting documents can be submitted as supplementary material, but are not meant for publication in the *Register*.

## 3.2 Numbering

Regulatory Sections and subsections should be designated with numerals only. Regulatory documents downloaded from RMS include pre-set styles for designating different levels of new Sections and subsections. Using the pre-set styles will automatically set the proper indents and tabs for new language in the regulation.

Start out with 1.0 as the first section and number down for additional subsections. See Figure 3.2 for an example. There must be at least 2 subdivisions to divide a subsection, with the example of 2.1 and 2.2 following Section 2.0. If the Section is not divisible, all content should be grouped under the section number. This rule applies to all divisions within a regulation. Exception: Only when no other arrangement will work, there may be a single subsection that serves as the introductory language to a tabulated list. See Section 7.6 for additional information on tabulations and the use of bullets.

**Figure 3.2**  
**Numbering a Regulation**

Example:

### **8.0 Use of Designations**

8.1 Designation “Certified Public Accountant” and the Abbreviation “CPA” in the Practice of Certified or Public Accountancy:

8.1.1 Only the following individuals and entities may use the designation “certified public accountant”, the abbreviation “CPA”, and other designations which suggest that the user is a certified public accountant, in the practice of certified or public accountancy:

8.1.1.1 An individual who is registered with the Board and holds a certificate of certified public accountant and a current permit to practice.

8.1.1.2 A sole proprietorship, partnership, corporation, or any other entity authorized under Delaware law or a similar statute of another state which is registered with the Board and holds a current firm permit to practice.

8.2 Designation “Certified Public Accountant” and the abbreviation “CPA” by certificate holders who do not maintain a permit to practice:

8.2.1 An individual who holds a certificate of certified public accountant but does not maintain a permit to practice may use the designation “certified public accountant” or the abbreviation “CPA” on business cards and stationery if:

8.2.1.1 The certificate of certified public accountant has not been suspended or revoked and is in good standing.

8.2.1.2 The individual does not engage in the practice of certified or public accountancy and does not offer to perform certified or public accountancy services.

**Example:**

**USE:** 8.1 Any corporation which has elected to be treated as a "subsidiary corporation" of the resulting branches of the out-of-state bank pursuant to 5 **Del.C.** §1101(f) and filed with the State Bank Commissioner the required election form in accordance with 5 **DE Admin.** Code 1101 shall provide:

8.1.1 A tentative report of income for the electing corporation covering estimated bank franchise tax liability for the current income year to be submitted in conjunction with the estimated franchise tax report due March 1 for the resulting branches of the out-of-state bank whose franchise tax liability for the current year is estimated to exceed \$10,000; and

8.1.2 A report of income for the electing corporation as of December 31 of each year to be submitted in conjunction with the Final Franchise Tax Report due January 30 or any later date allowed as provided in subsection 4.1 of this regulation.

**AVOID:** 8.1 Any corporation which has elected to be treated as a "subsidiary corporation" of the resulting branch(es) of the out-of-state bank pursuant to §1101(f) and filed with the State Bank Commissioner the required election form in accordance with Commissioner's Regulation No.1101 shall provide (a) a tentative report of income for the electing corporation covering estimated bank franchise tax liability for the current income year to be submitted in conjunction with the estimated franchise tax report due March 1 for the resulting branch(es) of the out-of-state bank whose franchise tax liability for the current year is estimated to exceed \$10,000, and (b) a report of income for the electing corporation as of December 31 of each year to be submitted in conjunction with the Final Franchise Tax Report due January 30 or any later date allowed as provided in subsection 4.1 above.

### 3.3 Body of Text

1. Document style and formatting requirements are pre-set by RMS, but are detailed here for ease of drafting. Documents that do not conform will be rejected by RMS.
2. All documents shall be typed in conventional uppercase and lowercase format.
3. Documents shall be typed in **Arial** font face and **10 point** font size. Do not use automatic numbering, automatic listmaking, automatic bulleting, or other automatic formatting features.
4. An agency shall obtain the most recent version of the regulation text from RMS to ensure proposed changes are made to the current version of the regulatory text before submission.
5. Track Changes will be used in RMS to create the formatting required for new language in both proposed and final submissions. To be sure amendments are properly formatted, confirm that the document is in "Reviewing" status before drafting is started.

#### 6. Proposed Regulations

Proposed changes to an existing regulation must be formatted as follows (using Track Changes):

- Plain, Arial font shall indicate the text existing prior to the regulation being promulgated.
- Underlined text must be used to indicate new text.
- Language which is ~~stricken~~ shall indicate text being deleted.
- Do not strike a part or portion of a word or number within the regulatory text. Do not add to a part or portion of a word or number within the regulatory text. Do not strike part of a citation to authority. Strike through the entire word or number, then insert the new word or number underlined.

**Example:**

incorrect

child~~ren~~104~~3~~7 **Del.C.** §122(~~b~~)

correct

~~child~~ children~~404~~ 1037 **Del.C.** §122(~~b~~) §122(a)

- Punctuation that is being stricken or added must include the entire preceding word in the required formatting. If the punctuation is not being edited, it should be present outside of the formatting for new or stricken language.

**Example:** National ~~Examination~~ examination.

Continuing Education for all ~~Licensees~~ Licensees:

Official designate of the ~~school(s)~~ school.

- Insert new underlined language after stricken language.

**Example:** ~~Stricken language~~ New replacement text.

**NOT:** New replacement text. ~~Stricken language.~~

- If most of the words in a sentence or subsection are being stricken, strike all the language and then include the entire revised language as new.

**Example:** "**Student Code of Conduct**" means the district/charter school approved document which specifies the rights and responsibilities of students, defines conduct that ~~disrupts/threatens a positive/safe School Environment~~ disrupts, threatens, or disrupts and threatens a positive and safe school environment.

**NOT:** "**Student Code of Conduct**" means the district/charter school approved document which specifies the rights and responsibilities of students, defines conduct that ~~disrupts/threatens~~ disrupts, threatens, or disrupts and threatens a positive/safe positive and safe School Environment school environment.

- If a new regulation is being proposed, all language must be underlined.

## 7. Final Regulations

Final Regulations must be formatted as follows:

- Arial font shall indicate the text existing prior to the regulation being promulgated.
- Underlined text must be used to indicate new text added at the time of the proposed action.
- Language which is ~~stricken~~ shall indicate text being deleted at the time of the proposed action.
- **[Bracketed bold language]** (no underlining) must be used to indicate text added between when the regulation was proposed and the time the final order is issued.

**Example:** School day does not **[include]** weekends, holidays, and summer school.

- **[Bracketed bold stricken]** must be used to indicate language deleted between when the regulation was proposed and the time the final order is issued.

**Example:** Retaliatory personnel actions prohibited **[Reserved.]**

- **[Bold bracketed stricken]** language should appear before **[bold bracketed]** new language.

**Example:**

1. DSS may adjust benefits posted to **[household households']** EBT accounts before the benefit availability date to correct errors that occurred during the posting process.

## 4.0 Structure of Regulations

### 4.1 Arrangement or Organization

Concise drafting of a regulation, as well as the general design and logical arrangement of its sections and subsections better communicates the meaning of the regulation. The major objective in arranging language within a regulation is to make the document as clear and understandable as possible.

## 4.2 Sequence

The following sequence of provisions of a regulation should be observed:

- Place general provisions before special provisions;
- Place more important provisions before less important provisions;
- Place frequently used provisions before less frequently used provisions; and
- Place permanent provisions before temporary provisions.

## 4.3 Parts of a Regulation

**Regulation:** The entire document is a regulation. When referencing a regulation, use "this regulation" beginning with lowercase letters. For example, a regulation is the entirety of 16 **DE Admin. Code** 4465.

**Section:** A Section is the portion of a regulation that acts as a heading to a new part of the regulation. A Section number will always end with ".0". When referencing a Section, the word should always be capitalized. For example, if "the application will only be accepted if all of the requirements in Section 4.0 are met", the applicant must comply with subsections 4.1, 4.1.1, 4.1.2, 4.2, etc.

**Subsection:** A subsection is the portion of a regulation that follows a Section. All divisions of Sections are called subsections. There are no divisions, paragraphs, parts, rules, subparts, or any other terms used to describe subsections. When referencing a subsection, the word subsection should begin with a lowercase letter unless it is the first word of a sentence or subsection. A new subsection should only be created when it can be divided to at least 2 subsections. The only exception to this rule is when a single subsection is the introductory language to a tabulated list.

## 4.4 Definitions (See Figure 4.1)

It is recommended that definitions of terms be included in each regulation. Definitions provide clarification of terms used within a regulation, save space in the body of the regulation, and allow the regulation writer to control the meaning of a word. Generally, a definition section should appear at the beginning of a regulation and should include all necessary defined terms for the entire regulation. Follow these guidelines when including definitions:

- Define a term only when the meaning of a word is important.
- A word or phrase should be included as a defined term only when it is used more than once in a regulation.
- Do not define ordinary words that are used in their dictionary context.
- Regulatory information should not be included in the definition.

### Example of a definition that includes regulatory information:

**"Medical command facility"** means the distinct unit within a hospital which meets the operational, staffing, and equipment requirements established by the Secretary, Delaware Health and Social Services for providing medical control to the providers of advanced life support services. Any hospital that operates an emergency medical facility and desires to be designated as a medical command facility shall maintain and staff such facility on its premises and at its own expense with exception of base station communication devices which shall be an authorized shared expense pursuant to the provisions of **Title 16, Chapter 98**.

**This definition should end at "advanced life support services".**

Definitions should be formatted as provided in this section:

- The first paragraph should read, "The following words and terms, when used in this regulation, have the following meaning:"
- Arrange the words or specific terms being defined in alphabetical order.
- Do not number individual definitions.
- General rules of capitalization apply. Only the first letter of the first word in each definition should be capitalized because it is the beginning of a sentence. All other words in each definition should be lowercase, unless words are proper nouns or the first word of a sentence.
- The word or term being defined should be in bold font and within quotation marks. The quotation marks should not be bold.
- Immediately after the defined word or term, insert the word "means". Do not use "shall mean", dashes, colons, or other language or punctuation between the defined word or term and the word "means".
- Avoid using dashes, slashes, or parentheses in a term being defined. For example, when offering an alternative form a defined word or term, use the full term followed by the word "or" and then the alternative in bold font in quotation marks.

**Figure 4.1**

**EXAMPLE:**

**2.0 Definitions**

The following words and terms shall have the following meaning:

**"Assistant Chief Custodian"** means a custodian who has completed the Assistant Chief Custodian certificate training as prescribed by the Department in subsection 5.2.2.

**"Central heating plant"** means all the component parts and systems used to heat, air condition, and ventilate a school facility to include traditional mechanical systems and computer building automation systems.

**"Local educational agency" or "LEA"** means a public board of education or other public authority legally constituted within Delaware for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a school district, or for a combination of school districts. The term includes an educational service agency and any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

**4.5 Footnotes and Endnotes**

Footnotes and endnotes should not be used in regulations submitted to the Registrar. If a note is needed to clarify information in a specific subsection, add this to the main body of the regulation and number it accordingly. Do not use Word's automatic footnote or endnote features.

**4.6 Appendices**

Avoid using appendices as part of a regulation. Material important enough to be set out should be made part of the regulation itself and numbered accordingly. Appendices are not considered to be part of the regulation proper and may not be published in the *Delaware Register of Regulations*.

## 5.0 Citations

### 5.1 Citations to the Delaware Code

When citing chapters, articles, or sections of the *Delaware Code*, refer to the following relevant examples. For citations to the *Delaware Code* to properly link to the corresponding legal text through RMS, the citation style used in drafting must adhere to the correct citation format.

- Citing an entire chapter: 29 **Del.C.** Ch. 100
- Citing a specific section: 29 **Del.C.** §10101
- Citing multiple sections: 29 **Del.C.** §§500-520
- Citing a subsection: 29 **Del.C.** §300(a)

### 5.2 Citations to the *Delaware Register of Regulations* and the *Delaware Administrative Code*

The *Delaware Register of Regulations* is the full title and all words should be italicized whether the full or abridged title is used. A citation to the *Register* includes the volume, page number, and issue date. Between the volume and page number, the abbreviation for the *Register* is formatted in bold as "**DE Reg.**". For example, to refer to Volume 27, Page 470 of the *Delaware Register of Regulations* issued on January 1, 2024, the citation should read:

27 **DE Reg.** 470 (01/01/24)

The *Delaware Administrative Code* is cited by title number and regulation number. The name of the regulation is optional and follows the regulation number in plain style text if it is included. Between the title number and the regulation number, the abbreviation for the *Delaware Administrative Code* is formatted in bold as "**DE Admin. Code**". Citations to the *Delaware Administrative Code* must follow the format below to link to the corresponding legal text within RMS. For example, to refer to the Department of Natural Resources and Environmental Control, Division of Air Quality, Air Quality Management Section, Regulations for Requirements for Preconstruction Review use:

7 **DE Admin. Code** 1125 OR 7 **DE Admin. Code** 1125 Requirements for Preconstruction Review

When citing sections and subsections within a regulation of the *Delaware Administrative Code*, refer to the following relevant examples:

- Citing an entire section: Section 2.0 of this regulation
- Citing a subsection: subsection 2.1.1 of this regulation

### 5.3 Federal Statutory and Federal Regulatory Citations

When citing federal statutes, the official name, together with a reference to the United States Code, should be used as follows:

The Atomic Energy Act of 1954 (42 USC §§2011-2284)

The Federal Register should be cited by volume and page number. The approved abbreviation is "FR." Thus, the citation 12 FR 1234 refers to text at page 1234 of Volume 12.

The Code of Federal Regulations should be cited by title and section numbers. "CFR" is the approved abbreviation. Thus, the citation 7 CFR 1.1 refers to text at part 1, section 1 of Title 7.

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## 6.0 Incorporation by Reference

Incorporation by reference is a method by which a document is made part of the regulation simply by referring to it. While the text of an incorporated document does not appear in the regulation, the provisions of the incorporated document are as fully enforceable as any other regulation.

When incorporating by reference, it is necessary to cite the specific publication including year and volume that is being incorporated into the regulation. The language incorporating a document should be included in the text of the regulation.

If the incorporated document is not readily available to the public, a copy of the incorporated document shall be made available to the Registrar for public inspection purposes.

## 7.0 Composition and Style Guidelines for Regulation Drafting

### 7.1 Application of Guidelines

The composition and style guidelines in this manual are intended to provide editorial assistance in drafting documents to be published in the *Delaware Register of Regulations* and the *Delaware Administrative Code*.

Specific questions may arise which are not covered within this manual, due to the general nature of these guidelines. The following reference books are helpful:

*The Chicago Manual of Style, 18<sup>th</sup> Edition*, University of Chicago Press (2024)

*Drafting Legislation and Rules in Plain English*, by Robert J. Martineau, West Publishing Company (1991).

*Legal, Legislative, and Rule Drafting in Plain English*, by Robert J. Martineau and Michael B. Salerno, Thomson West Publishing Company (2005)

Each of these books provides extensive guidance in most areas of document drafting.

Matters of spelling, usage, and word division should be referred to *Merriam-Webster's Collegiate Dictionary, Eleventh Edition*, Merriam-Webster, Inc., or *The American Heritage College Dictionary, Fifth Edition*, Houghton Mifflin Harcourt Publishing Company.

### 7.2 General Guidelines

In general, keep the language of the text as clear and simple as possible. When drafting, remember that documents should be written so that the general public can understand them. Avoid using language that only individuals with specialized knowledge can understand. Consistency of expression, logical arrangement, and adherence to accepted usage aid readability. See subsection 7.26 of this manual for guidance related to common "plain language" issues.

Strive for consistency of terminology, expression, and arrangement. Apply the principles of consistency to phrases, sentences, paragraphs, arrangement, and format. For example, in the text of a regulation, 2 or more subdivisions which are similar in substance should be parallel in form.

Absolute conciseness does not ensure clarity but, in general, keeping a document simple and short avoids confusion and misunderstanding. In the case of regulatory drafting, divide a lengthy text into more than one regulation to avoid the complexities entailed in multiple sections and to make the text easier to read. Avoid long sentences where short ones will suffice.

Ordinarily, use the present tense of verbs. However, the future tense is appropriate when using the imperative "shall". Subsection 7.7 provides additional information on the use of "shall".

**7.3 Use of terms**

Avoid using the same word or term in more than 1 sense. Conversely, avoid using different words to denote the same idea. Use of a word or term in only 1 sense will prevent confusion or ambiguity in a regulation.

**EXAMPLE:**

**Use:** The applicant has the duty to submit all materials needed to the agency. Upon submission, the agency has 30 days to contact the applicant about the status of the application. If the application is granted to the applicant, the applicant has 15 days to acknowledge the granted application in writing.

**Avoid:** The applicant has the duty to submit all materials needed to the agency. Upon submission, the agency has 30 days to contact the person about the status of the application. If the application is granted to the individual, the individual has 15 days to acknowledge the granted application in writing.

**7.4 Gender**

Avoid using pronouns. Instead, use gender silent language by inserting the noun which the pronoun would replace. Avoid use of “his/her”, “he/she”, “(s)he”, “they”, and “theirs”.

**EXAMPLE:**

**Use:** However, a practitioner may still renew a license within 60 days.  
Care must be taken to speak to a client in lay terms that the client can understand.

**Avoid:** However, a practitioner may still renew his/her license within 60 days.  
Care must be taken to speak to a client in lay terms that they can understand.

**7.5 Active voice and third person**

Generally, use the active rather than the passive voice:

**EXAMPLE:**

**Use:** The Chairman appoints members of the committee.

**Avoid:** Members of the committee are appointed by the chairman.

Generally, use the third person:

**EXAMPLE:**

**Use:** The applicant shall file the appropriate forms.

**Avoid:** You shall file the appropriate form.

If an idea can be accurately expressed either positively or negatively, express it positively. The negative form is appropriate where a provision expresses a prohibition. Avoid the use of negative words where provisions provide only advisory guidance.

**7.6 Tabulation and use of bullets**

Tabulation is used to arrange the structure of subdivisions in a document. A new subsection should only be created when it can be divided to at least 2 subsections. Only when no other arrangement will work, there may be a single subsection that serves as the introductory language to a tabulated list. All items in the tabulated enumeration must belong to the same class. Each item listed must be parallel to the introductory language. The following tabulation is incorrect because each subdivision is not parallel in substance or form to the introductory language:



**EXAMPLE:**

Use:

1.1 An applicant for licensure shall:

- 1.1.1 Complete the application for examination;
- 1.1.2 Submit in advance the examination fee; and
- 1.1.3 Be eligible for licensure by reciprocity."

Avoid:

1.1 An applicant for licensure shall:

- 1.1.1 Complete the application for examination;
- 1.1.2 Submit in advance the examination fee; and
- 1.1.3 Eligibility for licensure by reciprocity.

The following guidelines apply when using displayed lists:

1. In most cases, the introductory language to a displayed list should end in a colon.
2. All subsections in a displayed list should begin with a capital letter, whether the entry is a word, a sentence fragment, a full sentence, or numerous sentences.
3. Each subsection should end with a semicolon or period, and a period should be used after the last subsection if it is the end of a sentence.
4. Subsections should end with periods if the subsections are complete sentences or if it is anticipated that the list will be modified often.
5. If using semicolons and the list consists of alternatives, "or" should be placed after the second to last subsection.
6. If using semicolons and the list is inclusive, "and" should be placed after the second to last subsection.
7. If the list is non-exhaustive, each subsection should be followed by a period.
8. Language should not be added after a displayed list that continues the sentence of the introductory language.
9. The automatic numbering feature of word processing programs should not be used. Each number should be typed individually.

**EXAMPLE**

9.4.4 Sources of CE credits include the following:

- 9.4.4.1 Programs sponsored by national funeral service organizations;
- 9.4.4.2 Programs sponsored by state associations;
- 9.4.4.3 Programs provided by local associations;
- 9.4.4.4 Programs provided by suppliers;
- 9.4.4.5 Independent study courses for which there is an assessment of knowledge; and
- 9.4.4.6 College courses.

9.4.5 The recommended areas include the following:

- 9.4.5.1 Grief counseling
- 9.4.5.2 Professional conduct, business ethics or legal aspects relating to practice in the profession.
- 9.4.5.3 Business management concepts relating to delivery of goods and services.
- 9.4.5.4 Technical aspects of the profession.
- 9.4.5.5 Public relations.
- 9.4.5.6 After care counseling.

**7.7 Use of “shall”, “may”, “may not”, and “must”**

Use “shall” in the imperative sense to express a duty or obligation to act. The term “shall” is generally used in connection with statutory mandates. “May” is permissive and generally expresses a right, privilege, or power. When an individual is authorized but not ordered to act, the term “may” is appropriate. If an obligation to act is intended, “shall” is used.

Use “may not” when a right, privilege, or power is restricted. Using “shall not” negates the obligation but not the permission to act; therefore, “may not” is the stronger prohibition. Wherever possible, the words “shall” or “may” are used in place of other terms such as “is authorized to”, “is empowered to”, “is directed to”, “has the duty to”, “must”, and similar phrases. However, if certain action is intended to be a condition before accruing a right or privilege, the word “must” is used instead of “shall” or “may” (e.g., “In order to have your regulations published, you must file them by the deadline.”)

When the word “shall” is used, the subject of the sentence must be a person, committee, or some other entity that has the power to make a decision or take an action. For this reason, do not use the word “shall” to declare a legal result or state a condition. When writing a sentence that contains the word “shall”, check for proper use of the word by reading the sentence to yourself and substituting the phrase “has the duty to” for “shall”.

**EXAMPLE:**

Use: A practitioner shall perform clinical work only in designated areas.

Avoid: Clinical work shall be performed only in designated areas

**7.8 Use of “any”, “each”, and “every”**

Do not use “any”, “each”, “every”, “all”, or “some”, if “a”, “an”, or “the” can be used with the same result. If the subject of the sentence is plural, it is seldom necessary to use these adjectives. For example, it should be stated, “Qualified employees shall...”, rather than “Any qualified employee shall...”. If the subject of the sentence is singular, the indefinite pronoun is used only when the article “a” or “the” is inadequate, as when the use of “a” would allow the unintended interpretation that the obligation is to be discharged by applying it to a single member of the class instead of to all of them. If it is necessary to use an indefinite pronoun, follow these rules:

- If a right, privilege, or power is conferred, use “any”, as in “Any qualified employee may...”.
- If an obligation to act is imposed, use “each”, as in “Each employee shall...”.

**7.9 Use of “such” and “said”**

Avoid the use of “such” and “said”. Instead, use “the”, “that”, or a pronoun. In many instances “such” and “said” mean nothing at all and can be omitted without any other words being substituted. See more examples of using “plain language” in subsection 4.23 of the *Manual*.

**EXAMPLE;**

Use: An affidavit of the chief administrative officer of the hospital certifying that the individual will be employed by the hospital.

Avoid: An affidavit of the chief administrative officer of said hospital certifying that the individual will be employed by the hospital.

## 7.10 Use of “and/or”

The term “and/or” should never be used. In general the term “and” means to add something to what has already been said. “Or” means in the alternative. The word “and” is a conjunctive and the word “or” is a disjunctive. In most cases the word “or” is proper to convey the thought of “one, or the other, or any of them”. If emphasis is needed, the use of terms such as “any of the following”, “all of the following”, “either of the following”, “or both”, and similar modes of expression are sufficient.

### EXAMPLE:

Use: A current list of all establishment employees or contractors, which includes:

A current list of all establishment employees and contractors, which includes:

A current list of all establishment employees, contractors, or both, which includes:

Avoid: A current list of all establishment employees and/or contractors, which includes:

## 7.11 Use of Words both Singular and Plural

Avoid modifying singular words to be both singular and plural (e.g., parent(s)). Instead, indicate one or the other, or both (e.g., parent or parents). This includes variants of “(s)” such as “(ies)” and “(es)”.

### EXAMPLE:

Use: The Executive Director shall transmit a copy of the report to the school involved.

Avoid: The Executive Director shall transmit a copy of the report to the school(s) involved.

## 7.12 Use of “include but not limited to” and similar phrases

Because “include” is not a term of limitation, the phrase “but are not limited to” is redundant and should not be used in regulation drafting to avoid issues of interpretation. This also applies to other similar phrases added for emphasis in this manner, including “without limitation” or “but non-exhaustive”. This phrase can be omitted without any other words being substituted.

### EXAMPLE;

Use: The Voluntary Treatment Option may require a regulated professional to enter into an agreement which includes the following provisions:

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

## 7.13 Commas

Use commas to set off a nonrestrictive clause. A nonrestrictive clause gives added information about the word it modifies, but is not needed to complete the meaning of a sentence.

### EXAMPLE:

*New rules concerning the licensing of teachers, which I have not read, have been adopted.*

“Which I have not read” does not significantly affect the primary meaning, which is that rules concerning the licensing of teachers have been adopted; therefore, commas are used around this nonrestrictive clause.

Do not use commas to set off a restrictive clause. A restrictive clause cannot be omitted without altering the meaning of the main clause; therefore, it should not be set off by commas.

**EXAMPLE:**

*The requirements that an applicant must meet for certification are listed in the regulation.*

Without the clause “that an applicant must meet for certification”, the meaning of the sentence would be significantly altered.

Use a comma in a compound sentence to separate independent clauses joined by one of the coordinate conjunctions “and”, “but”, “for”, “or”, “nor.”

**EXAMPLE:**

*The board is responsible for collecting the revenue from all permits and fees, but the legislature sets the rates.*

The use of a comma without a coordinate conjunction between 2 independent clauses is known as a comma fault and should be avoided.

**EXAMPLE:**

*The board collects the fees and issues permits, the legislature sets the rates.*

The sentence may be corrected by:

Using a coordinate conjunction after the comma.

1. The board collects the fees and issues permits, but the legislature sets the rates.

Using a semicolon between the 2 independent clauses.

2. The board collects the fees and issues permits; the legislature sets the rates.

Dividing the 2 independent clauses into 2 simple sentences.

3. The board collects the fees and issues permits. The legislature sets the rates.

Use commas to separate a series of 3 or more words, phrases, or clauses, including the word or phrase immediately before a conjunction.

**EXAMPLES:**

*oil, gas, or minerals*

*The board is responsible for collecting the revenue from all fees, permits, license certifications, and renewals.*

If the elements within the sentence contain internal commas or other punctuation, separate the elements with semicolons.

**EXAMPLE:**

*The board is responsible for collecting the revenue from fees for examinations; permits for shops, salons, and schools; and license certifications.*

**7.14 Hyphens and Compound Words**

Many compounds are formed with the hyphen as a connector, but as these words become established the hyphen is often dropped in favor of the solid form.

Words that function as a compound adjective that are placed before the word they modify should be hyphenated.

**EXAMPLES:**

1. One weekend each month, Mr. and Mrs. Jones go on a 10-mile hike.
2. Our opponent resorted to low-level tactics.

However, when these same word groups are placed after the nouns or pronouns they modify, they are not hyphenated.

**EXAMPLES:**

1. Mr. and Mrs. Jones hike 10 miles 1 weekend each month.
2. Our opponent's tactics were low level.

The hyphen is also used to avoid confusion in words like “re-form” (meaning to form again).

Hyphens should not be used in instances similar to the following examples, if the meaning is clear without them (e.g., “sales tax bill,” “foreign aid plan”). The hyphen is not needed in these forms “navy blue skirt” or “dark green paint.”

Compound words are listed separately within the dictionary. To avoid confusion, and sometimes absurdities, compound nouns that are usually solid words should be separated when the first part of the compound is modified by an adjective: “businessman, small-business man”; “sailmaker,” “racing-sail maker.”

Do not use the hyphen to connect an adverb ending in “ly” with a participle in such phrases as “newly married couple,” or “elegantly furnished house.” Adjectives ending in “ly” are another matter; hyphens should, for example, be used in “a gravely-voiced, grizzly-maned statesman of the old school.”

Hyphens are not used in titles such as “commander in chief,” “director general,” “editor in chief,” or “secretary general.” Do use the hyphen in a title like “secretary-treasurer.”

In a series of hyphenated phrases, use the complete phrase in each instance.

**EXAMPLES:**

USE: On successive days there were 3-inch, 5-inch, and 9-inch snowfalls.  
 AVOID: On successive days there were 3-, 5- and 9-inch snowfalls.

**7.15 Quotations and Quotation Marks**

Quotations should only be used in a few specific cases. Use quotations to demonstrate specific language needed to enforce a regulation. When using quotation marks, the end punctuation should remain outside of the parenthesis unless it is part of the quoted language. Avoid using quotations for emphasis.

**EXAMPLE:**

12.7.2.4 The following notation shall be noted on a MSP when a written waiver is obtained: "In accordance to the Delaware Board of Professional Land Surveyors' Regulation 12.7, a waiver not to set corner markers has been obtained".

Use quotation marks in the definition section to set off defined terms, detailed further in subsection 4.3. Quotation marks or italics are also used to designate titles of articles, editorials, essays, papers, and reports, but not both.

**EXAMPLE:**

The procedures are described in "Methods of Analytical Chemists." In evaluating replicate data, table 19, page 935, "Journal of the Association of Official Analytical Chemists" (Volume 49, Number 5, October 1960), shall be followed.

Or

The procedures are described in *Methods of Analytical Chemists*. In evaluating replicate data, table 19, page 935, *Journal of the Association of Official Analytical Chemists* (Volume 49, Number 5, October 1960), shall be followed.

**7.16 Capitalization**

Generally, language should only be capitalized in regulations if it is a proper noun or the first word of a sentence or subsection. Words should not be capitalized to place emphasis or bring attention to a phrase and should remain lowercase outside of the previously stated exceptions.

Capitalize civil, military, religious, and professional titles when they immediately precede a personal name, as part of the name.

Capitalize full names of legislative, deliberative, administrative and judicial bodies, departments, bureaus, and offices. Lowercase common noun substitutes or incomplete designations, except abbreviations.

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Do not capitalize the following words unless they are part of a proper name or title:

**EXAMPLES:**

administration;  
assembly;  
bureau;  
board;  
chairman;  
commission;  
county;  
department;  
executive branch, legislative branch, or judicial branch;  
federal;  
governor;  
government;  
legislature;  
license;  
office;  
officer;  
regulation;  
secretary;  
state;  
team;

Capitalize common nouns and adjectives that form an essential part of a place.

**EXAMPLES:**

Sussex County  
City of Dover  
Northern  
Delaware

Capitalize “State of Delaware” and “State” (when referring to Delaware).

Capitalize names of buildings and monuments.

**EXAMPLES:**

Washington Monument  
Legislative Hall  
Townsend Building

Capitalize only the official names of documents.

**EXAMPLES:**

**Uppercase**

Constitution of Delaware

**Lowercase**

state constitution

Capitalize the names of a specific act (e.g., Administrative Procedures Act).

Capitalize the word “Act” when it has previously been referred to or defined, and subsequent references are to the specific act.

Capitalize a word describing a part of a document only if it is followed by a specific number or letter designation.

**EXAMPLES:**

**Uppercase**

Chapter 4  
Part IV

**Lowercase**

this chapter  
this part

Lowercase “page” and “line” (e.g., page 10, line 22).

### 7.17 Writing Numbers

Numerals are used for all numbers, including 0-9. Zero is written “0.” If a number is the first word of a sentence, then the written version should be used. If the number is in a hyphenated phrase, the numeral should still be used.

**EXAMPLE:**

<b>Use</b>	The report must be filed 6 times each year.	<b>Avoid</b>	The report must be filed six times each year.
		<b>Avoid</b>	The report must be filed six (6) times each year.
<b>Use</b>	Six reports must be filed each year.	<b>Avoid</b>	The report must be filed six times each year.
<b>Use</b>	The 3-ton rating is the minimum requirement.	<b>Avoid</b>	The three-ton rating is the minimum requirement.



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**7.18 Percentages**

Numerals are used followed by a percentage symbol (%) for all percentages. All percentages consist of at least 2 digits.

Percentages greater than or equal to 10 are written in the following manner:

10%;  
12%;  
13.4%; or  
15.63%.

Percentages less than 10 are written with the whole number followed by a decimal, at least one digit in the tenths place, and the percent symbol. Examples:

9.6%;  
8.64%; or  
8.0%.

Percentages less than one are written beginning with a zero followed by a decimal, at least one digit in the tenths place, and the percent symbol:

0.5%;  
0.002%; or  
0.621%.

**7.19 Monetary Figures**

Numerals are preceded by a dollar symbol (\$) for monetary listings.

Amounts less than \$1.00 are written with a dollar symbol followed by a space, a decimal, and the cent value, to conform with the following:

\$ .04;  
\$ .50; or  
\$ .99.

Amounts greater than \$.99 but less than \$10 are written with a dollar symbol followed by the dollar value followed by a decimal point followed by the cent value, even if the cent value is “.00,” to conform with the following:

\$2.00;  
\$3.40; or  
\$9.99.

Amounts greater than \$9.99 are written with a dollar symbol followed by the dollar value followed by a decimal point followed by the cent value, unless the cent value is “.00,” in which case no decimal point or cent value will be included, to conform with the following:

\$10;  
\$10.06; or  
\$100.

Monetary listings incorporating 7 or more digits are written to conform to the following:

**EXAMPLE:**

USE: \$1 million

AVOID: \$1,000,000

**7.20 Dates**

In the text of documents, spell out the month of the year. Do not use the number of the month to signify the month. Do not abbreviate the name of the month. If the day of the month is stated in a date, use a comma before and after the year. A comma is not needed if the day is omitted.

**EXAMPLES:**

<b>Use</b>	December 2, 1994	<b>Avoid</b>	12/2/94
<b>Use</b>	January 31, 2024	<b>Avoid</b>	Jan. 31, 2024
<b>Use</b>	May 2025	<b>Avoid</b>	May, 2025

**7.21 Temperature**

Forms of temperatures (i.e., Fahrenheit, Celsius and Kelvin) are written using numerals only. The temperature value is followed by a degree symbol (°) followed by a “F”, “C” or “K” as the case may be.

**EXAMPLES:**

75° F

30° C

-4° F

0° K

**7.22 Fractions**

Fractions are written in numeric form (e.g.,  $\frac{1}{2}$ ,  $\frac{3}{4}$ ,  $\frac{1}{4}$ ). Mixed numerals (whole numbers and fractions) are also written in their numeric form (e.g.,  $1\frac{1}{2}$ ,  $2\frac{3}{4}$ ,  $13\frac{1}{4}$ ).

**7.23 Ordinal Numbers**

Ordinal numbers are written out. Avoid using the numeral and superscript forms of ordinal numbers.

**EXAMPLES:**

USE: second  
fifth  
first

AVOID: 2<sup>nd</sup>  
5<sup>th</sup>  
1<sup>st</sup>

## 7.24 Units of Measure

Generally, abbreviations are not used in the *Delaware Register of Regulations*; however, there are a few exceptions when referring to units of measure. The following table serves as a guide to writing units of measure:

<b><u>USE</u></b>	<b><u>AVOID</u></b>	<b><u>USE</u></b>	<b><u>AVOID</u></b>
inches	in.	°F	Fahrenheit
feet	ft.	°C	Celsius
square feet	sq. ft.	°K	Kelvin
pounds	lbs.	centimeter	cm
barrel	bbl.	millimeter	mm
by	X	Watts	W.
Btu	British thermal unit	No.	#

## 7.25 Time

Time should be written in numerals, with the exception of 12 p.m. which is written as “noon.”

### EXAMPLES:

USE:	10 a.m	AVOID:	10:00 a.m.
	10:30 a.m.		12 p.m
	noon		

## 7.26 Commonly Used Words with their Plain Language Translations

The use of the words in the right column is preferred. Avoid the use of redundant couplets, such as 'any and all' or 'null and void'. For more extensive guidance on plain language translations for regulatory drafting, refer to Part VI, Chapter 3, Section 2 of the [Delaware Legislative Drafting Manual](#).

<b><u>AVOID</u></b>	<b><u>USE</u></b>
above**	in Section/subsection...
and/or	“A” or “B,” or both
attempt	try
appear	seem
ascertain	find out
at this point in time	now
below**	in Section/subsection...
by means of	by
category	kind, class, group
commence	begin
complete	fill out
comply	follow
component	part
constitute	be
disclose	show
each and every	each

**AVOID**

elect  
 endeavor  
 ensue  
 enter into a contract with  
 excessive number of  
 execute  
 experience  
 facilitate  
 for the duration of  
 for the reason that  
 forthwith  
 forward  
 full and complete  
 hereby  
 herein  
 hereinabove\*  
 hereinafter\*  
 hereinbelow\*  
 hereof  
 hereto  
 in excess of  
 in order to  
 in the amount  
 in the event that  
 in the interest of  
 in the manner of  
 indicate  
 inquire  
 institute  
 in the case of  
 in the interest of  
 is able to  
 is applicable  
 is authorized and directed  
 is authorized to  
 is binding upon  
 is directed  
 is unable to  
 it is the duty  
 manner  
 modify  
 necessitate  
 negotiate  
 on the part of  
 opt for  
 or the duration of  
 over and above  
 preceding  
 presently

**USE**

choose  
 try  
 follow  
 contract with  
 too many  
 sign  
 have, feel  
 make easy  
 during, while  
 because  
 immediately  
 send  
 full  
 by this  
 to this  
  
 of this  
 to this  
 more than  
 to  
 totalling  
 if  
 for the benefit of  
 how, method  
 show  
 ask  
 begin, start  
 whenever  
 for  
 can  
 applies  
 shall  
 may  
 binds  
 shall  
 cannot  
 shall  
 way, method  
 change  
 require, need  
 make, deal  
 by  
 choose  
 during  
 exceed  
 before  
 now, soon

**AVOID**

prior to  
 prohibit  
 provided that  
 purchaser  
 pursuant to  
 retain  
 specified  
 subsequent to  
 such, same, said  
 sufficient number of  
 terminate  
 the manner in which  
 thereat, there,  
 thereby  
 therein  
 thereof  
 thereto  
 therewith  
 thus  
 to the effect that  
 transpire  
 upon  
 under the provisions  
 until such time as  
 upon  
 utilize, employ  
 vehicle  
 vendor  
 whereas  
 wherein

**USE**

before, earlier  
 forbid  
 if, unless, but  
 buyer  
 in response to  
 keep  
 named  
 after, later  
 the, this, that, them, those, it  
 enough  
 end  
 how  
 at that level  
 by that  
 in that  
 of that  
 to that  
 with that  
 so, that way  
 to  
 happen  
 on  
 under  
 until  
 on  
 use  
 car, truck, way  
 seller  
 avoid using this term  
 where, in which

\* The use of the words “hereinabove,” “hereinafter,” and “hereinbelow” should not be used when referring to the position of a Section or subsection. If a reference is necessary, specify the Section or subsection of the regulation by number.

\*\* The use of general directional references, such as “above” and “below” should not be used when referring to the position of a Section or subsection. If a reference is necessary, specify the Section or subsection of the regulation by number.