

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF PUBLIC HEALTH
Statutory Authority: 16 Delaware Code, Section 122 (16 **Del.C.** §122)
16 **DE Admin. Code** 4461

FINAL

ORDER

4461 State of Delaware Milk Code

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("DHSS"), Division of Public Health recently initiated proceedings to amend regulation 4461 State of Delaware Milk Code. These proceedings were initiated pursuant to 29 **Del.C.** Ch. 101 and the authority as prescribed by 16 **Del.C.** §122.

On March 1, 2025 (28 **DE Reg.** 655), DHSS published in the *Delaware Register of Regulations* its notice of the proposed amendments, pursuant to 29 **Del.C.** §10115. The Division of Public Health requested that written materials and suggestions from the public concerning the proposed regulation be delivered to DHSS by April 2, 2025, after which time DHSS would review information, factual evidence, and public comment to the proposed regulation.

No comments were received during the public comment period.

SUMMARY OF EVIDENCE:

In accordance with Delaware law, public notices regarding the proposed amendments to the regulation governing the State of Delaware Milk Code were published in the *Delaware Register of Regulations*. Written comments were accepted on the proposed regulation during the public comment period (March 1, 2025, through April 2, 2025).

IMPACT ON THE STATE'S GREENHOUSE GAS EMISSIONS REDUCTION TARGETS AND RESILIENCY TO CLIMATE CHANGE:

Division of Public Health Director Steven Blessing has reviewed the proposed regulation as required by 29 **Del.C.** §10118(b)(3) and has determined that if promulgated, the regulation would have a *de minimis* impact on the State's resiliency to climate change because neither implementation nor compliance with the regulation would reasonably involve the increase in greenhouse gas emissions.

FINDINGS OF FACT:

No changes were made to the regulation since publication as proposed. The Department finds that the proposed regulation, as set forth in the attached copy, should be adopted in the best interest of the public of the State of Delaware.

THEREFORE, IT IS ORDERED that the proposed amendments to regulation 4461 State of Delaware Milk Code shall become effective June 11, 2025, 10 days after publication of the final regulation in the *Delaware Register of Regulations*.

5/5/2025 | 1:52 PM EDT
Date

Josette D Manning, Esquire
Josette D. Manning, Esq.
Cabinet Secretary
Delaware Department of Health and Social Services

4461 State of Delaware Milk Code

1.0 State of Delaware ~~Feed~~ Milk Code

- 1.1 ~~These Regulations~~ This regulation shall hereby be known as the "State of Delaware Milk Code".
- 1.2 The ~~Regulatory Agency~~ regulatory agency may grant a variance by modifying or waiving the requirements of ~~these Regulations~~ this regulation if in the opinion of the ~~Regulatory Agency~~ regulatory agency a health hazard or nuisance will not result from the variance or waiver.
- 1.3 A copy of the complete State of Delaware Milk Code is available for public view at the following location: Office of Food Protection, 417 ~~Federal Street, Dover, Delaware 19903~~ 43 S. DuPont Hwy., Suite C, Dover, DE 19901. A copy is also available online at:
<http://www.fda.gov/downloads/Food/FoodSafety/Product-SpecificInformation/MilkSafety/NationalConferenceonInterstateMilkShipmentsNCIMSModelDocuments/UCM209789.pdf>
<https://www.fda.gov/media/180975/download?attachment>

2.0 Adoption of the United States Department of Health and Human Services' Grade "A" Pasteurized Milk Ordinance ~~2015~~ 2023 Revision.

- 2.1 The State of Delaware Milk Code adopts, as if fully set forth herein, the United States Department of Health and Human Services' Grade "A" Pasteurized Milk Ordinance ~~2015~~ 2023 Revision as amended herein. ~~The production, transportation, processing, handling, sampling, examination, labeling and sale of all Grade "A" milk and milk products sold for the ultimate consumption within the State of Delaware; the inspection of dairy farms, milk plants, receiving stations, transfer stations, milk tank truck cleaning facilities, milk tank trucks and bulk milk hauler/samplers; and the issuing and revocation of permits to milk producers, bulk milk hauler/samplers, milk tank trucks, milk transportation companies, milk plants, receiving stations, transfer stations, milk tank truck cleaning facilities, haulers, and distributors shall be regulated in accordance with the provisions of the current edition of the Grade "A" PMO. in Section 2.0 of this regulation. This regulation shall apply to dairy plants, dairy farms, processing plants, receiving stations and other facilities or establishments handling, transporting, or selling any Grade "A" milk or milk products for human consumption.~~
- 2.2 Insert as footnote 2 the phrase "State of Delaware".
- 2.3 Amend Section 16 by deleting the section in its entirety and substituting in lieu thereof the following: "Any person who shall violate any of the provisions of ~~these Regulations~~ this regulation shall be penalized in accordance with ~~these Regulations~~ this regulation and Title 16 of the Delaware Code."
- 2.4 Amend Section 17 by deleting the section in its entirety and substituting in lieu thereof the following, "All current or previous regulations or parts of ~~Regulations~~ regulations in conflict with ~~these Regulations~~ this regulation, as proposed in the Delaware Register of Regulations on March 1, 2025, are hereby repealed and ~~these Regulations~~ this regulation shall be in effect ~~on July 1, 2017~~ ten days after publication of the final regulation in the Delaware Register of Regulations, whichever is later."

14 DE Reg. 1232 (05/01/11)

20 DE Reg. 985 (06/01/17)

28 DE Reg. 885 (06/01/25) (Final)