

**DEPARTMENT OF SAFETY AND HOMELAND SECURITY**  
**OFFICE OF THE SECRETARY**  
Statutory Authority: 11 Delaware Code, Section 1444(f) (11 **Del.C.** §1444(f))

**FINAL**

**ORDER**

**102 Regulations Governing the Destructive Weapon Compensation Program (DWCP)**

**NATURE OF THE PROCEEDINGS**

At 22 **DE Reg.** 145 (August 1, 2018), The Department of Safety and Homeland Security (DSHS), pursuant to 11 **Del.C.** §1444(f)(1) and in accordance with 29 **Del.C.** §10115, published notice of intent to adopt regulations that will clarify and provide more detailed information regarding the Destructive Weapons Compensation Program (DWCP). At the same time, the DSHS submitted a Regulatory Flexibility Analysis and Impact Statement for this proposed regulation, as required by 29 **Del.C.** Ch. 104. The DSHS solicited written comments from the public for thirty (30) days as mandated by 29 **Del.C.** §10118(a).

**SUMMARY OF EVIDENCE**

In accordance with law, public notice regarding the proposed regulation was published in the Delaware *Register of Regulations*. The public comment period was open from August 1, 2018 through August 31, 2018. During this period, the DSHS did not receive any written responses.

**FINDINGS OF FACT**

The public was given the required notice of the DSHS's intention to adopt the proposed regulation and was given opportunity to submit comments. The required Regulatory Flexibility Analysis and Impact Statement for this proposed regulation was submitted. No written response was received during the comment period. Thus, the DSHS finds that the proposed regulation should be adopted as submitted with one non-substantive change identified by the DSHS.

**EXPLANATION OF CHANGES**

§ 2.1.1 Funds will be distributed to the law enforcement agency locations in the form of gift cards.

**DSHS:** The DSHS has decided to add cash as an option due to the difficulty of obtaining gift cards in the amount of \$15.00. The revision will read "Funds will be distributed to the law enforcement agency locations in the form of gift cards **[or cash]**".

**EFFECTIVE DATE OF ORDER**

The actions hereinabove referred to were taken by the DSHS pursuant to 11 **Del.C.** §1444(f)(1). The effective date of this Order shall be ten (10) days from the date this Order is published in the Delaware *Register of Regulations*.

**ORDER**

NOW THEREFORE, under the statutory authority and for the reasons set forth above, the Department of Safety and Homeland Security does hereby ORDER this 10<sup>th</sup> day of September, 2018 that the regulations be, and that they hereby are, adopted to be enacted as set forth below.

Robert M. Coupe, Secretary, Department of Safety and Homeland Security

**102 Regulations Governing the Destructive Weapon Compensation Program (DWCP)**

**1.0 Definitions**

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

"Bump stock" means an after-market device that increases the rate of fire achievable with a semi-automatic rifle by using energy from the recoil of the weapon to generate a reciprocating action that facilitates repeated activation of the trigger.

"Destructive weapon" means a destructive weapon as described in 11 Del.C. §1444(a)(6).

"DSHS" means Delaware Department of Safety and Homeland Security.

"DWCP" means the Destructive Weapon Compensation Program.

"Gift card" means type of payment used by a law enforcement agency to pay for surrendered destructive weapons such as a VISA or MasterCard gift card.

"Law enforcement agency" means the Delaware State Police.

"Program period" means July 1, 2018 to June 30, 2019.

"Secretary" means the Secretary of Delaware Department of Safety and Homeland Security.

"Trigger crank" means an after-market device designed and intended to be added to a semi-automatic rifle as a crank operated trigger actuator capable of triggering multiple shots with a single rotation of the crank.

## **2.0 Authorization**

- 2.1 Funds allocated pursuant to 11 Del.C. §1444 shall be maintained in the DSHS, Office of the Secretary.
  - 2.1.1 Funds will be distributed to the law enforcement agency locations in the form of gift cards [or cash].
- 2.2 The Secretary will designate which law enforcement agency locations will participate in the DWCP.
  - 2.2.1 An agency location designated to participate in the DWCP and receive funds shall make public notice upon designation by the Secretary, at least 14 days in advance of starting their program, indicating the following:
    - 2.2.1.1 The dates, times, location and duration for collection;
    - 2.2.1.2 The contact person for the DWCP responsible for maintaining the funds and/or inventory allocated by DSHS.
- 2.3 Within seven (7) days after the conclusion of the DWCP program period, the law enforcement agency shall submit to the Secretary an accounting of all funds allocated by DSHS under these regulations.
- 2.4 All unused funds shall be returned to DSHS in the form it was received, within seven (7) days of the conclusion of the DWCP program period.

## **3.0 Collection and Disposition of Recovered Destructive Weapon**

- 3.1 Upon surrender, all destructive weapons shall be tagged or marked by the collecting agency as to where collected, whom collected by, who collected from, the date of collection, make, model and serial number if applicable.
- 3.2 Funds shall be issued for destructive weapons which, upon preliminary inspection, appear to be operational, in amounts not to exceed the following:

<u>Bump Stock</u>	<u>\$100.00</u>
<u>Trigger Crank</u>	<u>\$15.00</u>
- 3.3 The law enforcement agency shall not have the discretion to pay an amount exceeding the amounts as described in subsection 3.2 during the DWCP program period.
- 3.4 Within seven (7) business days after the conclusion of the DWCP program period, a complete list of all destructive weapons collected shall be supplied to the Secretary containing information listed in subsection 3.1 of these regulations.
- 3.5 It shall be the responsibility of the law enforcement agency participating in the DWCP to dispose of the destructive weapons collected. Disposal may include any, or a combination, of the following:
  - 3.5.1 Destruction in a manner causing total destruction of the weapon through such methods as crushing, melting or shredding.
- 3.6 Agencies, upon destruction of weapons, shall furnish a list of all disposed destructive weapons to the Secretary within seven (7) business days.

## **4.0 General Rules**

- 4.1 An agency conducting a DWCP shall be responsible for the security of the site, the surrounding area, the surrendered destructive weapons, transportation, unused funds and inventory.
- 4.2 To ensure safety, any agency conducting a DWCP shall have at least one person on site knowledgeable in the operation and safety of firearms.

- 4.3 Any individual who elects to surrender a destructive weapon anonymously at a DWCP designated location may do so; however, the individual will not be eligible for compensation.
- 4.4 Personal identification showing proof of Delaware residency shall be required to be presented at the time of the redemption.
- 4.5 The DWCP is only intended for individuals and does not apply to wholesale, retail, manufacturers and distributor business entities.
- 4.6 Destructive weapons relinquished to a law-enforcement agency of the state as part of the DWCP may be destroyed by that agency 30-days after relinquishment.
- 4.7 Notwithstanding any law to the contrary, any person, provided the person is, in good faith, on an immediate, direct route to a designated law enforcement agency in the DWCP shall be immune from criminal prosecution for the criminal offenses defined in 11 Del.C. §1444.

**22 DE Reg. 307 (10/01/18) (Final)**