

DEPARTMENT OF SAFETY AND HOMELAND SECURITY

OFFICE OF THE SECRETARY

Statutory Authority: 11 Delaware Code, Section 1469(d)(2) (11 **Del.C.** §1469(d)(2))

PROPOSED

PUBLIC NOTICE

103 Regulations Governing the Delaware Large Capacity Magazine Compensation Program

Purpose: In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the Delaware Code) and under the authority of Title 11 of the Delaware Code, Chapter 5, Section 6901(c), the Delaware Department of Safety and Homeland Security proposes to adopt regulations to implement the Delaware Large Capacity Magazine Prohibition Act of 2022 compensation program.

Written Comments: The Delaware Department of Safety and Homeland Security will receive written comments, suggestions, briefs or other written material until the close of business, 4:30 p.m., October 3, 2022. Written comments shall be submitted via e-mail to Terry.Pepper@delaware.gov or via the USPS to Terry Pepper, Department of Safety and Homeland Security, Office of the Secretary, 800 S Bay Road, Suite 2, Dover, Delaware 19901.

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1.0 Definitions

The following words and terms, when used in this regulation, shall have the following meaning:

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

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

"Large capacity magazine" or "LCM" means as defined by 11 Del.C. § 1468(2) any ammunition feeding device capable of accepting, or that can readily be converted to hold, more than 17 rounds of ammunition. "Large-capacity magazine" does not include an attached tubular device designed to accept, and only capable of operating with, .22 caliber rimfire ammunition.

"Law Enforcement Agency" means the Delaware State Police.

"LCMCP" means the Delaware Large-Capacity Magazine Prohibition Act of 2022 Compensation Program described in 11 Del.C. § 1469(d).

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

2.0 Authorization

2.1 Funds allocated pursuant to 11 Del.C. §1469(d)(1) shall be maintained in the DSHS, Office of the Secretary. Funds will be distributed to the law enforcement agency in the form of gift cards or cash.

2.2 The Secretary will designate which law enforcement agency locations will participate in the LCMCP.

2.2.1 An agency location designated to participate in the LCMCP and receive funds shall make public notice upon designation by the Secretary, at least 14 business days in advance of starting their program indicating the following:

2.2.1.1 The dates, times, location and duration of the collection.

2.2.1.2 The contact person for the LCMCP responsible for maintaining the funds or inventory allocated by DSHS.

2.3 Within 14 business days after the conclusion of the LCMCP 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 14 business days of the conclusion of the LCMCP period.

3.0 Collection and Disposition of Recovered Large Capacity Magazines

3.1 Upon surrender, all LCM shall be tagged or marked by the collecting agency as to:

3.1.1 Where collected;

3.1.2 Whom collected by;

- 3.1.3 Who collected from;
 - 3.1.4 The date of collection;
 - 3.1.5 The make, model and serial number if applicable.
- 3.2 Funds shall be issued for LCM which, upon preliminary inspection, appear to be operational, in amounts not to exceed the following:
 - 3.2.1 LCM 18 to 30 rounds: \$15.00
 - 3.2.2 LCM 31 or greater rounds:\$25.00
 - 3.2.3 LCM Drums: \$80.00
- 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 LCMCP period.
- 3.4 Within 14 days after the conclusion of the LCMCP period, a complete list of all LCM 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 LCMCP to dispose of the LCMs collected. Disposal may include any, or a combination of the following:
 - 3.5.1 Destruction in a manner causing destruction of the LCM through such methods as crushing, melting or shredding.
- 3.6 Agencies, upon destruction of weapons, shall furnish a list of all disposed LCMs to the Secretary within 14 business days.

4.0 General Rules

- 4.1 The LCMCP shall be completed by June 30, 2023. The LCMCP is subject to the availability of funds appropriated for this specific purpose by the General Assembly. The LCMCP does not create a right or entitlement in a resident to receive a monetary payment under the LCMCP.
- 4.2 An agency conducting an LCMCP shall be responsible for the security of the site, the surrounding area, the surrendered LCM, transportation, unused funds and inventory.
- 4.3 To ensure safety, any agency conducting an LCMCP shall have at least one person on site knowledgeable in the operation and safety of firearms.
- 4.4 Any individual who elects to surrender an LCM anonymously at an LCMCP designated location may do so; however, the individual will not be eligible for compensation.
- 4.5 Personal identification showing proof of Delaware residency shall be required to be presented at the time of the redemption.
- 4.6 The LCMCP is only intended for individuals and does not apply to wholesale, retail, manufacturers and distributor business entities.
- 4.7 An LCM relinquished to a law-enforcement agency of the state as part of the LCMCP may be destroyed by the agency 30 days after relinquishment.
- 4.8 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 LCMCP shall be immune from criminal prosecution for the criminal offenses defined in 11 **Del.C.** §1469.

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