Office of the Registrar of Regulations,
Legislative Council,
State of Delaware

DELAWARE STATE FIRE PREVENTION COMMISSION

Statutory Authority: 16 Delaware Code, Section 6604(1) (16 **Del.C.** §6604(1))
1 **DE Admin. Code** 704

PROPOSED

PUBLIC NOTICE

704 Hazardous Processes and Operations

The Delaware State Fire Prevention Commission, pursuant to 16 **Del.C.** §6604(1), proposes to revise regulation 704 by deleting Regulation 4.3 in its entirety, eliminating the requirement that a member of a local fire department be present on the scene of any fireworks display from the time the fireworks are delivered until the termination of the display, and reverting to Regulation 4.2, leaving the level of fire protection to the discretion of the local fire department.

The Board will hold a public hearing on the proposed regulation change on September 15, 2015 at 10:00 a.m., in the Commission Chamber, Delaware Fire Service Center, 1463 Chestnut Grove Road, Dover, DE 19904. Written comments should be sent to Sherry Lambertson, Executive Specialist for the Delaware Fire Prevention Commission, Delaware Fire Service Center, 1463 Chestnut Grove Road, Dover, DE 19904. Written comments will be accepted until August 31, 2015 pursuant to 29 **Del.C.** §10118(a).

704 Hazardous Processes and Operations

Chapter 1 Reduced Ignition Propensity Cigarettes

This Chapter Has Been Reserved.
13 DE Reg. 629 (11/01/09)

Chapter 2 Fireworks Display

1.0 Scope.

1.1 This Regulation is intended to be supplemental in nature to 16 **Del.C.** Ch. 69.

1.1.1 Pursuant to 16 **Del.C.** Ch. 69, no person shall store, sell, offer or expose for sale, or have in possession with intent to sell or to use, discharge or cause to be discharged, ignited, fired or otherwise set in action within this State, any fireworks, firecrackers, rockets, sparklers, torpedoes, Roman candles, fire balloons or other fireworks or substances of any combination whatsoever designed or intended for pyrotechnic display except as otherwise provided for in this Regulation.

1.1.2 This Regulation provides the necessary means for the State Fire Marshal to carry out the requirements of 16 **Del.C.** Ch. 69 with regards to the location of a public fireworks display; the competency of a person or persons who will set-up, handle, ignite, light, or otherwise handle the fireworks; and storage and handling of the fireworks, prior to the actual display, for the safety of those at, in, or near the display area and the protection of properties in the general area of the display.

2.0 Application For Permit For Public Display Of Fireworks.

2.1 Any association or company desiring to hold a public display of fireworks may apply to the State Fire Marshal for a permit to hold such a display if application is made 30 days prior to the date of holding such a display. [16 **Del.C.** §6903 (a)]

2.2 Such application for a permit for a public display of fireworks shall set forth:

2.2.1 The name and address of the organization sponsoring the display.

2.2.2 The name, address and telephone number of an individual from the sponsoring organization who will be the contact person for the Office of the State Fire Marshal.

2.2.3 The name, address, phone number, and State Fire Marshal license number of the person in charge of firing the display.

2.2.4 The date and time of day at which the display is to be held.

2.2.5 The exact location planned for the display.

2.2.6 The number and kind of fireworks to be discharged.

2.2.7 The manner and place of storage of such fireworks prior to the display.

2.2.8 The signature of the contact person from the sponsoring organization.

2.2.9 The name, address, phone number, and signature of the fire chief of the local fire department certifying that he has been contacted by the sponsoring organization and that the fire department will provide fire protection on the date and time of the display.

2.3 The application for a permit for a public display of fireworks shall be accompanied by the following:

2.3.1 A certificate of insurance issued by a bona fide insurance company licensed by the State Insurance Commissioner showing a minimum of $1,000,000 liability insurance per event pursuant to 16 **Del.C.** §6903 (c).

2.3.2 A diagram of the grounds on which the display is to be held showing the point at which the fireworks are to be discharged, the location of all buildings, highways, streets, roads, the lines behind which the audience or spectators will be restrained, and the location of all nearby trees, telegraph, or telephone lines or other overhead obstructions.

2.3.3 A check in the amount prescribed in Appendix E of these Regulations and made payable to the STATE OF DELAWARE.

2.4 The certificate of insurance shall list the specific date and time of the planned display.

2.5 No permit shall be issued until the site is inspected by the State Fire Marshal. A site inspection shall cover all regulations in this Chapter, 16 **Del.C.**, Chapter 69, the *Code for Fireworks Display*, NFPA 1123 and the *Standard for the Use of Pyrotechnics before a Proximate Audience*, NFPA 1126. A permit shall only be issued after a satisfactory site inspection has been completed.

3.0 Conduct of Display.

3.1 General Requirements.

3.1.1 The discharge, failure to fire, faulty wiring or fallout of any fireworks, or other objects shall not endanger persons, buildings, apartments, structures, forests, or brush nor in any case will the point at which the fireworks are to be fired be less than 200 feet from the nearest permanent building, public highway, railroad, or other means of travel or 50 feet from the nearest above ground telephone or telegraph line, tree, or other overhead obstruction. In no case shall a display be fired within 500 feet of a school, theater, church, hospital, or similar institution.

3.1.2 Spectators at a display of fireworks shall be restrained behind lines or barriers designated by local authorities but in no case less than 200 feet from the point at which the fireworks are to be discharged. Only authorized persons and those in actual charge of the display shall be allowed inside those lines or barriers during the unloading, preparation, or firing of the fireworks.

3.1.3 All fireworks that fire a projectile shall be so set up that the projectile will go into the air as nearly as possible in a vertical direction, provided that where such fireworks are to be fired beside a lake or other large body of water, they may be directed in such a manner that the falling residue from the deflagration will fall into the said body of water.

3.1.4 Any fireworks that remain unfired after the display is concluded shall be immediately disposed of or removed in a manner safe for the particular type of fireworks. The debris from the discharged fireworks shall be properly disposed of by the operator before he leaves that premises. The operator, upon the conclusion of the display, shall make a complete and thorough search for any unfired fireworks or pieces which have failed to fire or function and dispose of them in a safe manner. Such search shall be instituted at the earliest possible time following the conclusion of the display but in no event later than the first period of daylight which follows.

3.1.5 No fireworks display shall be held during any windstorm in which the wind reaches a velocity of more than 20 miles per hour.

3.1.6 All fireworks articles and items at places of display shall be stored in such a manner and in a place secure from fire, accidental discharge, and theft in a manner approved by the State Fire Marshal.

3.1.7 Display operators and assistants shall use only flashlights or electric lighting for artificial illumination.

3.1.8 No smoking or open flames shall be allowed in the storage or display area. Signs to this effect shall be conspicuously posted.

3.1.9 No person shall handle or be involved in the firing of fireworks after the consumption of alcoholic beverages or under the influence of narcotics or drugs which could adversely affect judgment, movements, or stability.

3.1.10 The State Fire Marshal shall have the authority to apply any provision from the Code for Fireworks Display, NFPA 1123 and the Standard for the Use of Pyrotechnics before a Proximate Audience, NFPA 1126, as

adopted and/or modified by these Regulations, as the standards for any provision not specifically covered in this Chapter or in 16 **Del.C.**, Ch. 69.

3.1.11 All fireworks displays shall be under the immediate supervision of a person so licensed as an operator of public fireworks display as called for in §5.0 of this Chapter.

3.1.12 The provisions of §3.1.11 shall apply from the time that the fireworks arrive at the display site, and until the completion of the display, removal of all remaining fireworks from the site and the removal of all debris.

3.1.13 The person so licensed under this Chapter, who is supervising a display site, shall be responsible for all aspects of the conduct of the display and for all requirements under which the display permit is issued.

4.0 Fire Protection Required.

4.1 The sponsoring organization shall arrange with the local fire department to provide fire protection for the display.

4.2 The level of such fire protection will be decided by the chief of the local fire department.

~~4.3 The person to whom a permit has been issued shall arrange for the detailing of one member of the local fire department or such larger number as may be deemed necessary by the chief of the fire department. Fire department personnel shall be on duty from the time the fireworks are delivered to the site until the termination of the display and the removal of all fireworks and debris from the site. The expense of such fire personnel shall be paid by the permittee.~~

5.0 Operator Qualifications.

5.1 Operator License Required.

5.1.1 All operators of public displays of fireworks and persons lighting or shooting fireworks shall be licensed by the State Fire Marshal.

5.1.2 Anyone desiring to be licensed as an operator of a public display of fireworks shall submit an application for licensing to the State Fire Marshal.

5.1.3 An application fee for a license to operate a public display of fireworks shall be as prescribed in Appendix E of these Regulations and shall accompany the application.

5.1.4 Applicants for licensing as operators and persons lighting or firing fireworks shall successfully complete a written or oral examination of laws, regulations, and safety practices, administered by the Office of the State Fire Marshal.

5.1.5 All operators of public displays shall be at least 21 years of age. All assistants shall be at least 18 years of age.

5.1.6 Any license issued to an operator or persons lighting or firing fireworks for public display shall be valid for one year and renewed annually.

5.1.7 Fees for renewal of licenses shall be as prescribed in Appendix E of these Regulations.

5.1.8 Any operator, individual, or persons lighting or firing fireworks for public display without having obtained an individual license from the Office of the State Fire Marshal shall be charged in accordance with 16 **Del.C.** §6611.

5.1.9 Any individual or person licensed by the State Fire Marshal pursuant to this Chapter who endangers life or property in the conduct of fireworks or pyrotechnics firing or shooting shall have his license suspended or revoked upon a finding of fact by the State Fire Marshal.

5.1.10 Any persons so licensed under the provisions of this Chapter may have his license suspended or revoked for infractions or non-compliance with any of the provisions called for in this Chapter.

5.1.11 Any person, who has their license suspended or revoked under the provisions of this Chapter or any other Chapter of these regulations, may appeal the action of suspension or revocation to the Delaware State Fire Prevention Commission under the provisions set forth in Regulation 701, Chapter 1.

Chapter 3 Explosives, Ammunition, Blasting Agents

1.0 General.

1.1 In addition to applicable sections of 16 **Del.C.**, as well as all applicable sections of these Regulations, the following specific requirements shall apply.

1.2 The licensed blaster whose name appears on the application for a permit to use explosives shall be the individual on the site, responsible for the setting up and shooting of any explosive charges.

1.3 The individual, company, firm, business or corporation to whom a permit for use of explosive materials is issued to shall notify the Office of the State Fire Marshal the morning of each day when blasting operations will be done at a location permitted by the Office of the State Fire Marshal.

1.4 No permit shall be issued until the site is inspected by the State Fire Marshal. A site inspection shall cover all regulations in this Chapter, 16 **Del.C.**, Chapter 70, and the *Explosive Materials Code*, N.F.P.A. 495. A permit shall only be issued after a satisfactory site inspection has been completed.

2.0 Records.

2.1 A record of each blast shall be kept. All records shall be retained for at least three years following the year in which the record is made and shall be available for inspection by the Office of the State Fire Marshal and shall contain the following minimum data:

2.1.1 Name of company or contractor;

2.1.2 Location, date, and time of blast;

2.1.3 Names, signature, and license number of blaster;

2.1.4 Type of material blasted;

2.1.5 Number of holes, burden, and spacing;

2.1.6 Diameter and depth of holes;

2.1.7 Types of explosives used;

2.1.8 Total amount of explosives used;

2.1.9 Maximum amount of explosives per delay period of eight (8) milliseconds or greater;

2.1.10 Method of firing and type of circuit;

2.1.11 Direction and distance in feet of nearest dwelling house, public building, school, church, commercial, or institutional building neither owned nor leased by the person conducting the blasting;

2.1.12 Scaled distance, DS;

2.1.13 Weather conditions;

2.1.14 Direction of wind;

2.1.15 Height or length of stemming;

2.1.16 Were mats used; and

2.1.17 Type of delay electric blasting caps used and delay periods used.

2.2 The above log shall be in a bound type book and shall be kept on each job site and date entered with each shot. The log shall be made immediately available to the State Fire Marshal or authorized designee upon request.

2.3 It shall be the responsibility of the licensed blaster whose name appears on the application for a permit to use explosives to keep, record, or maintain the records as required in this section.

3.0 Magazine Construction.

3.1 All magazine doors shall be constructed of one quarter inch (1/4") steel plate and lined with two inches (2") of hardwood. Hinges and hasps shall be attached to the doors by welding, riveting, or bolting (nuts on inside door). They shall be installed in such a manner that the hinges and hasps cannot be removed when the doors are closed and locked.

3.2 Lock Protection. Each door shall be equipped with two mortise locks; or with two padlocks fastened in separate hasps and staples; or with a combination of mortise lock and padlock; or with a mortise lock that requires two keys to open; or a three point lock. Locks shall be tumbler proof. All padlocks shall be protected with one quarter inch (1/4") thick steel caps, constructed so as to prevent sawing or lever action on the locks or hasps.

4.0 Bond/Certificate of Insurance Required.

~~4.1~~ Before a permit to do blasting as required by these Regulations shall be issued, the applicant for such permit shall file a surety bond deemed adequate in each case by the State Fire Marshal or shall provide a Certificate of Insurance from his agent or carrier showing that the applicant is insured to cover any foreseeable accident, damage, or injury from such use of hazardous material. Such bond or Certificate of Insurance shall be proof of financial responsibility for the payment of any damages arising from the permitted blasting.

5.0 Reporting Deliveries and/or Sales.

~~5.1~~ All dealers, suppliers, distributors, and persons otherwise involved in the transfer or possession of explosives shall report quarterly to the State Fire Marshal on forms provided by the State Fire Marshal, the amounts, kinds, date and place delivered to of all quantities of materials that are encompassed in these Regulations.

6.0 Transportation.

~~6.1~~ A permit is required from the State Fire Marshal for the transportation of explosives within the State of Delaware. No permit shall be issued until the vehicle is inspected by the State Fire Marshal. The vehicle inspection shall cover all regulations in this Chapter, 16 **Del.C.**, Ch. 71 and the *Hazardous Materials Transportation Act*, as provided in 29 **Del.C.** §8223 through §8230.

Chapter 4 Amusement Ride Safety

1.0 Scope.

1.1 This Chapter is intended to be supplemental in nature to 16 **Del.C.**, Ch. 64.

1.2 This Chapter will provide the necessary means for the State Fire Marshal to carry out the enforcement action at the specific set-up or operational sites of amusement rides in promoting life safety.

2.0 Application For Permit For Amusement Rides

2.1 Any association or company desiring to operate a public amusement shall apply to the State Fire Marshal for a permit to operate such amusement at least 7 days prior to the first date of operating the amusement.

2.2 Such application for a permit for a public amusements shall set forth:

2.2.1 The name and address of the organization sponsoring the amusements.

2.2.2 The name, address and telephone number of an individual from the sponsoring organization who will be the contact person for the Office of the State Fire Marshal.

2.2.3 The times of day and dates when the amusements will open to the public.

2.2.4 The exact location planned for the amusements.

2.2.5 The signature of the contact person from the sponsoring organization.

3.0 Electrical Inspection Required.

3.1 Each time an amusement ride as defined in 16 **Del.C.**, Ch. 64, is set-up, assembled, or otherwise made ready for public use or occupancy or in any way in which a person may come in contact with the amusement ride, an electrical inspection shall be conducted by a recognized electrical inspection agency, as certified by the Delaware State Board of Electrical Examiners.

3.2 The inspection shall determine that all provisions of the National Electric Code, NFPA 70, as adopted and/or modified by these Regulations, have been complied with.

3.3 A report shall be issued to the State Fire Marshal from the electrical inspection agency containing the following information:

3.3.1 Name of ride owner;

3.3.2 Name of ride;

3.3.3 State Fire Marshal ride identification number;

3.3.4 Date of inspection;

3.3.5 Location of inspection; and

3.3.6 Approval or non-approval for compliance.

3.4 An approved report shall be received in the Office of the State Fire Marshal prior to operation of the ride.

3.5 It is the responsibility of the ride owner to arrange for the electrical inspection and to file the required approval report.

4.0 Verification and Validation of Insurance Policies.

4.1 All insurance policies and certificates of insurance issued under the requirements of 16 **Del.C.,** Ch. 64 shall be reviewed prior to acceptance by the State Fire Marshal by the Insurance Commissioner's Office to ensure that the terms and covenants of the policies and certificate of insurance meet the requirements of the statute.

4.2 The State Fire Marshal may not accept the insurance policy or certificate of insurance until such action as called for in §4.1 has been completed by the Insurance Commissioner's Office.

4.3 Any such insurance policy or certificate of insurance found not to be in compliance with the statutory require will not be accepted by the State Fire Marshal and the individual or firm so submitting the insurance policy or certificate of insurance shall be notified by registered mail.

5.0 Site Inspection Required

5.1 No permit shall be issued until the site is inspected by the State Fire Marshal. A site inspection shall cover all regulations in this Chapter and 16 **Del.C.**, Ch. 64. A permit shall only be issued after a satisfactory site inspection has been completed.

6.0 Handling of Complaints.

6.1 Whenever the State Fire Marshal has reason to believe that continued operation of an amusement ride constitutes a threat to life safety, the State Fire Marshal shall have the authority to issue a summary abatement in accordance with the provisions of Regulation 701, Chapter 1.

6.2 Such summary abatement shall remain in effect until the Office of the State Fire Marshal is satisfied that the hazard to life has been corrected.

6 DE Reg. 1638 (06/01/09)
10 DE Reg. 342 (08/01/06)
13 DE Reg. 629 (11/01/09)
19 DE Reg. 98 (08/01/15) (Prop.)