

Secretary's Order No.: **2005-A-0003**

RE: 2004 Proposed Revisions to the Delaware  
Regulations Governing Aboveground Storage Tanks

Date of Issuance: January 12, 2005

Effective Date of the Amendment: February 11, 2005

I. **Background**

On November 22, 2004, a public hearing was held at the Lukens Drive office of DNREC in New Castle, Delaware, to receive public comment regarding the proposed revisions to Delaware's Regulations Governing Aboveground Storage Tanks. Senate Substitute No. 1 for Senate Bill N. 344, signed by Governor Minner on July 22, 2004, amended several sections of Title 7, Del.C., Chapter 74A, The Jeffrey Davis Aboveground Storage Tank Act, which required subsequent changes in the Delaware Regulations Governing Aboveground Storage Tanks. Other changes were made to add clarification and/or provide corrections to the existing language contained within these Regulations.

The Department prepared the changes to these Regulations and presented them to the Aboveground Storage Tank Technical Advisory

Committee (ASTTAC). ASTTAC worked with the Department to develop the initial set of AST Regulations promulgated in June of 2004. By unanimous vote, the ASTTAC committee members endorsed these proposed changes. A public workshop was held by the Department regarding these proposed revisions on September 30, 2004, and, as noted previously herein, the public hearing was held on November 22, 2004.

No public comments were received by the Department in either the pre-hearing phase or at the hearing itself. Subsequent to the public hearing, the Tank Management Branch of the Division of Air & Waste Management reviewed the entire record generated as a result of this rulemaking procedure, and provided a Final Response Memorandum concerning this matter to the Hearing Officer dated December 8, 2004. Thereafter, the Hearing Officer prepared her report and recommendation in the form of a memorandum to the Secretary dated January 4, 2005, and that memorandum is expressly incorporated herein by reference. Proper notice of the hearing was provided as required by law.

## II. Findings and Conclusions

All of the findings and conclusions contained in the Hearing Officer's Memorandum dated January 4, 2005, are expressly incorporated herein and explicitly adopted as the findings and conclusions of the Secretary.

### III. Order

In view of the above, I hereby order that the proposed amendments be promulgated and implemented in the manner and form provided for by law, as recommended in the Hearing Officer's memorandum.

### IV. Reasons

The adoption of these proposed changes in the Delaware Regulations Governing Aboveground Storage Tanks will be beneficial to the State of Delaware, in that it will clarify and/or correct existing language currently contained within these regulations, and, most importantly, allow the Department's AST Regulations to remain consistent with the amendments recently made to The Jeffrey Davis Aboveground Storage Tank Act this year. Additionally, the adoption of these amendments will help to improve and/or enhance the overall performance of the State of Delaware's Tank Management Program with the Division of Air and Waste Management, in furtherance of the policies and purposes of 7 Del. C. Ch. 74A.

/s/ John A. Hughes  
John A. Hughes  
Secretary