

MEMORANDUM

TO: John A. Hughes, Secretary

FROM: Lisa A. Vest, Hearing Officer

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

DATE: January 4, 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. Proper notice of the hearing was provided as required by law.

II. Summary of Record:

The proposed changes to these regulations include signage requirements, specifically, that each aboveground storage tank have a hazard rating sign on it, and that each tank be signed as “empty” if there are no contents in the tank. Changes were also made regarding the financial responsibility and aggregate storage capacity categories, so that they more effectively represent the breakdown of the aboveground storage tank ownership in Delaware. Additional requirements were made for those aboveground storage tanks that are converting from storage of a non-hazardous to a hazardous substance. The remainder of the proposed revisions are not so much substantive in nature, but rather are being made for clarification and/or grammatical correction of existing language already contained with these regulations.

As noted above, there were no written comments received by the Department prior to the public hearing of November 22, 2004, nor were there any oral comments received at the hearing itself. Jill Hall, Environmental Planner III, prepared the Department's Final Response Memorandum concerning this rulemaking, which includes a list of the proposed changes to these regulations. For the sake of brevity, a copy of the Department's *List of Proposed Revisions to the Delaware Regulations Governing Aboveground Storage Tanks* is attached hereto and is hereby incorporated into this report, so that the Secretary can gain a full understanding of the proposed changes as drafted by the Department at this time.

III. Conclusions and Recommended Findings:

On the basis of the record developed in this matter, it appears that the Tank Management Branch of the Department's Division of Air & Waste Management has provided a sound basis for the proposed revisions to the 2004 Delaware Regulations Governing Aboveground Storage Tanks. Therefore, I recommend that the proposed regulatory revisions be promulgated in final form, in accordance with the customary and established rule-making procedure required by law.

In addition, I recommend issuing the attached Secretary's Order to effectuate this purpose and adopting the Hearing Officer's findings and conclusions as expressed hereinabove.

/s/ Lisa A. Vest

Lisa A. Vest
Hearing Officer

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