

Secretary's Order No.: **2005-S-0001**

RE: 2004 Proposed Revisions to the
Delaware Sediment and Stormwater Regulations

Date of Issuance: January 7, 2005

Effective Date of the Amendment: February 11, 2005

I. **Background**

On April 20, 2004, a public hearing was held in the DNREC Auditorium in Dover to receive comment on the Department's proposed revisions to the Delaware Sediment and Stormwater Regulations. The Sediment and Stormwater Program of the Department held a series of workshops in the fall of 2003 to explain and discuss the draft proposed changes to these Regulations. Comments were solicited from the community by the Department regarding same at that time as well.

This rule making procedure represents a culmination of a process which began in February of 2001 when the Department convened a regulatory advisory committee to assist in the implementation of proposed changes to these regulations. Subsequent to the Start Action Notice being filed in August of 2001, the first public workshop was held

in October of 2002. Additional comment and response periods occurred between October of 2002 and April 2003, at which time the Division received their legal review concerning these proposed revisions. In November of 2003, several optional public review workshops were once again held to further discuss the draft regulation with the public. On March 1, 2004, the proposed amendments were forwarded to the Register of Regulations, and the actual public hearing was held on April 20, 2004.

No public comments were entered into the record at the time of the public hearing on April 20, 2004. However, as a result of Department's solicitation for public input regarding this rulemaking, there were written comments received and incorporated into the record from the public in both the pre-hearing and post-hearing phases of this rulemaking process. The Department provided their Final Response Document with regard to these comments in a memorandum to the Hearing Officer dated January 3, 2005. 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 Sediment and Stormwater Regulations will be beneficial to the State of Delaware, in that it will clarify the difference between federal requirements and the state permitting process regarding such matters. Additionally, the adoption of these amendments will help to improve and/or enhance the overall performance of the State of Delaware's Sediment and Stormwater Program, in furtherance of the policies and purposes of 7 Del. C. Ch. 40.

/s/ John A. Hughes

John A. Hughes
Secretary