

Secretary's Order No.: **2006-W-0027**

RE: Proposed Amendments to  
Delaware Shellfish Sanitation Regulations

Date of Issuance: June 14, 2006

Effective Date of the Amendment: July 11, 2006

**I. Background**

A public hearing was held on Wednesday, May 31, 2006, at 6:00 p.m. at the DNREC Richardson & Robbins Building Auditorium to receive comment on proposed amendments to the existing Delaware Shellfish Sanitation Regulations. The proposed changes relate to shellfish processing plant sanitation, requirements for shellfish harvesters and classification of Delaware waters regarding the suitability of the shellfish therein for human consumption and related legal harvest access. These proposed amendments would further bring Delaware's existing regulations into conformity with current U.S. Food and Drug Administration and National Shellfish Sanitation Program requirements.

Delaware is a member of the Interstate Shellfish Sanitation Conference (ISSC). Periodically, the ISSC will amend National Shellfish

Sanitation Program (NSSP) guidelines and Model Ordinance specifications related to shellfish harvesting area classifications, processing plant sanitation, enforcement, and the legal and administrative aspects of the Program. The U.S. Food and Drug Administration (FDA) evaluates state programs for consistency with the guidelines and Model Ordinance. In response to NSSP changes and FDA evaluations, Delaware's regulations concerning Shellfish Sanitation must be amended.

In preparation for the hearing, a public workshop was held by the Shellfish and Recreational Water Branch of the Department on March 31, 2006, at which time the public was able to ask questions and/or provide comments to the Department regarding this proposed promulgation. It should be noted that the Department successfully answered all questions from the public prior to the date of this hearing. It should be further noted that there were no members of the public present at the actual hearing on May 31, 2006. Proper notice of the hearing was provided as required by law.

After the hearing, the Hearing Officer prepared her report and recommendation in the form of a Hearing Officer's Memorandum to the Secretary dated June 12, 2006, and that Memorandum is expressly incorporated herein by reference.

## **II. Findings and Conclusions**

On the basis of the record developed in this matter, it appears that the Department has provided a sound basis with regard to the proposed regulatory action concerning the amendments to Delaware's Shellfish Sanitation Regulations. Furthermore, the Department provided the public with numerous opportunities to offer comments with respect to this issue, with a workshop offered prior to the public hearing, should anyone wish to contribute same.

## **III. Order**

It is hereby ordered that the proposed adoption of the amendments to Delaware's Shellfish Sanitation Regulations be promulgated in final form, in accordance with the customary and established rule-making procedure required by law.

## **IV. Reasons**

The adoption of the proposed amendments will correct minor clerical and/or grammatical errors in the present regulatory language, and further bring Delaware's existing regulations into conformity with current U.S. Food and Drug Administration and National Shellfish Sanitation Program requirements. Furthermore, this promulgation will continue to ensure safety of the public health and environment, while

taking into account industry concerns, and will assist the Department in furtherance of the policy and purposes of 7 Del. C., Ch. 60.

/s/ John A. Hughes .

John A. Hughes  
Secretary