

Secretary's Order No.: **2007-A-0050**

RE: Proposed Amendments to the  
*Delaware Regulations Governing Solid Waste*

Date of Issuance: November 15, 2007

Effective Date of the Amendment: December 21, 2007

**I. Background:**

A public hearing was held on Monday, October 22, 2007, at 6:00 p.m. at the DNREC Richardson & Robbins Building Auditorium to receive comment on proposed amendments to the *Delaware Regulations Governing Solid Waste* (hereinafter referred to as "DRGSW"). Delaware is proposing these amendments to add consistency and/or clarification to the existing Solid Waste regulations, as well as to improve or enhance the performance of Delaware's solid waste management program.

These proposed amendments to DRGSW were presented to the general public by the Department in a public workshop held on July 25, 2007. Comments were received from the regulated community as a result of this workshop, and those comments were included as part of the Department's exhibits entered into the record in this matter. Additional public comments were also received at the time of the public

hearing on October 22, 2007. No comments were received from the public during the post-hearing phase of this proceeding. Proper notice of the hearing was provided as required by law.

**II. Findings:**

The Department has provided a reasoned analysis and a sound conclusion with regard to the responses given to each public comment, as reflected in the Hearing Officer's Report of November 12, 2007, which is attached hereto and expressly incorporated into this Order. Moreover, the following findings and conclusions are entered at this time:

1. The Department has jurisdiction under its statutory authority, 7 Del.C. Chapters 60 and 63, to make a determination in this proceeding;
2. The Department provided adequate public notice of the proceeding and the public hearing in a manner required by the law and regulations;
3. The Department held a public hearing in a manner required by the law and regulations;
4. The Department considered all timely and relevant public comments in making its determination;
5. The Department has reviewed this proposed amendment in the light of the Regulatory Flexibility Act, and believes the same to be lawful, feasible and desirable, and that the recommendations

as proposed should be applicable to all Delaware citizens equally;

6. Promulgation of these proposed amendments will add consistency and/or clarification to the existing Solid Waste regulations, and will improve or enhance the performance of Delaware's solid waste management program;
7. The Department has an adequate record for its decision, and no further public hearing is appropriate or necessary;
8. The Department's proposed regulation, as published in the October 1, 2007 *Delaware Register of Regulations* and set forth within Attachment "A" hereto, is adequately supported, not arbitrary or capricious, and is consistent with the applicable laws and regulations. Consequently, it should be approved as a final regulation, which shall go into effect twenty days after its publication in the next available issue of the *Delaware Register of Regulations*;
9. The Department shall submit the proposed regulation as a final regulation to the Delaware Register of Regulation for publication in its next available issue, and shall provide written notice to the persons affected by the Order.



## MEMORANDUM

TO: John A. Hughes, Secretary

FROM: Lisa A. Vest, Hearing Officer

RE: Proposed Amendments to the *Delaware Regulations Governing Solid Waste*

DATE: November 12, 2007

---

### **I. Background:**

A public hearing was held on Monday, October 22, 2007, at 6:30 p.m. at the DNREC Richardson & Robbins Building Auditorium to receive comment on proposed amendments to the *Delaware Regulations Governing Solid Waste* (hereinafter referred to as "DRGSW"). Delaware is proposing these amendments to add consistency and/or clarification to the existing Solid Waste regulations, as well as to improve or enhance the performance of Delaware's solid waste management program.

Of note is the fact that these proposed amendments to DRGSW were presented to the general public by the Department in a public workshop held on July 25, 2007. Comments were received from the regulated community as a result of this workshop, and those comments were included as part of the Department's exhibits entered into the record in this matter. Alan Muller of Green Delaware offered his comments for the record at the time of the public hearing on October 22, 2007, and the same will be addressed below in this report. No comments were received from the public during the post-hearing phase of this

proceeding. Proper notice of the hearing was provided as required by law.

**II. Summary of Hearing Record:**

**A. Department's Exhibits:**

At the time of the hearing on October 22, 2007, Bill Davis of the Solid and Hazardous Waste Management Branch of DNREC, offered the Department's five exhibits pertaining to these proposed amendments, as well as a brief explanation with regard to the salient points of the proposed amendments to these regulations.

It should also be noted that the Department adhered to all appropriate Delaware statutes and the regulatory development process in this matter, and that the Department has met the standard required public noticing obligations regarding these proposed amendments. For the Secretary's review, a synopsis of these proposed DRGSW amendments, as well as a copy of the proposed amendments themselves (as contained within the Department's five exhibits entered into the record at the public hearing of this matter), are expressly incorporated into this report and attached hereto as Attachment "A" for that purpose.

It should also be noted that the Department has reviewed this proposed amendment in the light of the Regulatory Flexibility Act, and believes the same to be lawful, feasible and desirable, and that the recommendations as proposed should be applicable to all Delaware citizens equally.

**B. Public Questions/Comment:**

As noted previously, Alan Muller of Green Delaware was present at the public hearing of October 22, 2007, and offered his comments regarding these proposed amendments to the DRGSW. Although Mr. Muller's comments were pertaining to the issue of solid waste management here in Delaware, the majority of his questions and comments focused more on what the proposed amendments *did not* affect, as opposed to the changes that would be made to the DRGSW with the promulgation of the amendments at issue. Mr. Muller made numerous comments regarding his opinion on the current status of Delaware's solid waste management, at times referencing other matters (such as Pigeon Point and Cherry Island) which, quite frankly, are the subject of other public hearings still pending with the Department, and were therefore not germane to the scope of this present hearing. Nevertheless, the Department personnel present at this hearing discussed Mr. Muller's concerns as set forth that evening, providing answers to his questions concerning the Department's overall management of solid waste here in Delaware when they could, and assuring him that they would follow-up with him in writing after the hearing to provide complete responses to his concerns voiced that evening.

It should be noted that the record remained open for receipt of public comment subsequent to the hearing, and did not formally close

until October 31, 2007. No additional written questions or comments were received from any member of the public during the post-hearing phase of this matter.

**III. Conclusions and Recommendations:**

Based on the above discussion, I conclude that the Department has provided appropriate reasoning regarding the need for these proposed changes to the DRGSW. Accordingly, I recommend promulgation of these proposed amendments in the customary manner provided by law.

Further, I recommend the following findings:

1. The Department has jurisdiction under its statutory authority, 7 Del.C. Chapters 60 and 63, to make a determination in this proceeding;
2. The Department provided adequate public notice of the proceeding and the public hearing in a manner required by the law and regulations;
3. The Department held a public hearing in a manner required by the law and regulations;
4. The Department considered all timely and relevant public comments in making its determination;
5. The Department has reviewed this proposed amendment in the light of the Regulatory Flexibility Act, and believes the same to be lawful, feasible and desirable, and that the recommendations

as proposed should be applicable to all Delaware citizens equally;

6. Promulgation of these proposed amendments will add consistency and/or clarification to the existing Solid Waste regulations, and will improve or enhance the performance of Delaware's solid waste management program;
7. The Department has an adequate record for its decision, and no further public hearing is appropriate or necessary;
8. The Department's proposed regulation, as published in the October 1, 2007 *Delaware Register of Regulations* and set forth within Attachment "A" hereto, is adequately supported, not arbitrary or capricious, and is consistent with the applicable laws and regulations. Consequently, it should be approved as a final regulation, which shall go into effect twenty days after its publication in the next available issue of the *Delaware Register of Regulations*;
9. The Department shall submit the proposed regulation as a final regulation to the Delaware Register of Regulation for publication in its next available issue, and shall provide written notice to the persons affected by the Order.

          /s/ Lisa A. Vest          .  
LISA A. VEST  
Hearing Officer