Secretary's Order No.: **2007-A-0043**

RE: Regarding: Proposed Amendments to Regulation 1138: "Emission Standards for Hazardous Air Pollutants for Source Categories", Section 6.0: Chromium Electroplating and Anodizing Operations

Date of Issuance: October 15, 2007

Effective Date of the Amendment: November 11, 2007

I. **Background:**

A public hearing was held on Thursday, August 23, 2007, at 6:00 p.m. at the DNREC Richardson & Robbins Building Auditorium to receive comment on proposed amendments to Subpart N of Delaware Regulation 1138, Emission Standards for Hazardous Air Pollutants for Source Categories, *Section 6.0: Chromium Electroplating and Anodizing Operations.* Historically, Delaware adopted by reference the federal Maximum Achievable Control Technology standard (hereinafter referred to as the MACT standard) applicable to chromium electroplating facilities as Subpart N on Delaware's Regulation 38 on September 1, 1999. Delaware later amended Subpart N in October of 2000 when EPA issued a temporary extension to the Title V permitting deadline, and that extension was in effect until December 2005.

Since 2000, EPA has revised the chromium electroplating MACT standard several times. These changes included modifications to the standard's emission limitations, work practices, and other compliance provisions. In 2005, EPA permanently exempted the smaller area sources as we have here in Delaware from the obligation of obtaining a Title V permit. The Department's purpose in amending Subpart N at this time is to update Delaware's requirements, where appropriate, to be consistent with the federal requirements.

No members of the public attended this hearing on August 23, 2007, and no public comment or questions were received by the Department regarding this proposed action. 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 response given to each such comment, as reflected in the Hearing Officer's Report of October 12, 2007, which is attached 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 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 would update Delaware's requirements, where appropriate, to be consistent with the federal requirements, thus bringing Delaware into compliance with EPA standards;
7. In cases where the updated federal requirements would adversely affect the public health, those updates were not incorporated into these proposed amendments;
8. The styling and formatting changes to this regulation will make the Department consistent with the Delaware Administrative Code System, as well as provide better clarity and a fuller

understanding of the regulatory language contained within this regulation to the general public and the regulated community;

9. The Department has an adequate record for its decision, and no further public hearing is appropriate or necessary;

10. The Department's proposed regulation, as published in the August 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 ten days after its publication in the next available issue of the *Delaware Register of Regulations*;

11. 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.

III. <u>Order:</u>

Based on the record developed, as reviewed in the Hearing Officer's Report dated October 12, 2007, and expressly incorporated herein, it is hereby ordered that the proposed amendments to State of Delaware Regulation 1138: Emission Standards for Hazardous Air Pollutants for Source Categories, Section 6.0 - Chromium Electroplating and Anodizing

Operations - be promulgated in final form in the customary manner and established rule-making procedure required by law.

IV. Reasons:

The promulgation of the amendments to State of Delaware Regulation 1138, Section 6.0, will bring Delaware into compliance with federal MACT standards and requirements, and update Delaware's requirements, where appropriate, to be consistent with the federal requirements. Additionally, those changes being made concerning styling and formatting of this regulation will make the Department consistent with the Delaware Administrative Code System, as well as provide better clarity and a fuller understanding of the regulatory language contained within this regulation to the general public and the regulated community.

In developing this regulation, the Department has balanced the absolute environmental need for the State of Delaware to promulgate regulations concerning this matter with the important interests and public concerns surrounding the same, in furtherance of the policy and purposes of 7 Del. C., Ch. 60.

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

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