

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF WATERSHED STEWARDSHIP

Statutory Authority: 7 Delaware Code, Chapter 40 (7 **Del.C.** Ch.40)
7 **DE Admin. Code** 5101

GENERAL NOTICE

SECRETARY'S ORDER NO: 2015-WS-0043

WITHDRAWAL OF EMERGENCY REGULATIONS ADOPTED BY ORDER: 2015-WS-0040

Pursuant to 29 Del.C. §10111

5101 Sediment and Stormwater Regulations

AUTHORITY

Pursuant to 29 **Del.C.** §10111 et seq., the Department of Natural Resources and Environmental Control withdraws the emergency regulations adopted via Secretary's Order 2015-WS-0040 for the 2014 Delaware Sediment & Stormwater Regulations, and October 2015 Technical Document (7 **DE Admin. Code** 5101). It should be noted that the emergency regulations were intended as interim measures, necessary to avoid harm to the public health, safety, and welfare, pending the formal adoption of regulations pursuant to the APA. However, a recent ruling by the Delaware Superior Court on October 27, 2015 granted a stay of the application of the October 7, 2015 ruling by the Delaware Superior Court in *Baker, et al. v. DNREC, et al.* (C. A. No. S13C-08-026 THG) which invalidated the 2013 and 2014 version of the Delaware Sediment & Stormwater Regulations on procedural grounds. The Department appealed this October 7, 2015 ruling to the Delaware Supreme Court on Friday, October 9 and simultaneously submitted a Motion for Stay of the decision of the Superior Court pending appeal. Following issuance of a Stay the need for the emergency regulations is eliminated.

The emergency regulations were to be published in the November 1, 2015 *Register*, but publication has also been withdrawn.

EFFECTIVE DATE OF ORDER

This Order shall take effect at 12:01 AM on October 31, 2015.

ORDER

It is hereby ordered, the 30th day of October 2015, that the above referenced emergency regulations for 2014 Delaware Sediment & Stormwater Regulations with the October 2015 Technical Document, adopted pursuant to Secretary's Order 2015-WS-0040 are withdrawn.

David S. Small, Secretary

19 DE Reg. 533 (12/01/15) (Gen. Notice)