

DNREC NEWS

The Delaware Department of Natural Resources and Environmental Control

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June 16, 2004



Ruth Ann Minner
Governor

John A. Hughes
Secretary

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www.dnrec.state.de.us

New Aboveground Storage Tank Regulations In Effect

The Delaware Department of Natural Resources and Environmental Control has adopted Regulations Governing Aboveground Storage Tanks that became effective June 11. The regulations were developed in accordance with The Jeffrey Davis Aboveground Storage Tank Act and are available for public review on the aboveground storage tank home page: <http://www.dnrec.state.de.us/dnrec2000/Divisions/AWM/ast/>. Hard copies are also available for \$15 by contacting the Branch.

The Aboveground Storage Tank (AST) Regulations are intended to address:

1. Existing and potential sources of AST pollution
2. Prevention and early detection of a release of a regulated substance from an AST
3. Acceptable design and installation criteria for ASTs
4. Required upgrades of existing ASTs
5. Required internal and external inspections of ASTs
6. AST design criteria that will minimize the risk of regulated substances being released and required clean-up of any release that does occur from an AST
7. Requirements of AST owners to show proof of the ability to pay should a clean-up be required.

The Regulations are divided into five parts, A through E:

Part A includes registration and general requirements.

Part B details design and construction requirements for new ASTs, requirements for out of service ASTs, upgrade requirements for existing ASTs, and requirements for AST removal.

Part C details the requirements for the inspection, monitoring, testing and record keeping of ASTs.

Part D details the requirements for showing proof of financial responsibility by owners and operators of ASTs.

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Calendar

For information or registration for park events, please contact individual park offices. A listing follows the calendar.

JUNE

17 – Environmental Management System workshop, 8:30 a.m.-4:30 p.m., Delaware Technical and Community College, Stanton Campus, Wilmington. Contact Bob Palmer, Planning and Compliance Assistance, (302) 739-6400.

17, 18 – Brandywine Creek State Park program, *Rockin' Raccoon*, 9:30-10:15 a.m.

19 – Brandywine Creek State Park program, *The Masked Bandit*, 9:30-10:15 a.m., for children ages 4 to 6. Pre-registration suggested. Cost is \$5 per child.

19 – Lums Pond State Park program, *The Hive and the Honey Bee*, 1 p.m., at the nature center. This program is free.

19, 26 – Lums Pond State Park program, *Critter Crafts*, noon-5 p.m., at the nature center. Cost is \$2 per craft.

19 – Fort Miles Veterans Reunion, 10 a.m.-3 p.m., Grassdale Conference Center, Delaware City. All individuals who were in the 261st Coast Artillery from 1941 to 1952 are invited to take part in an oral history project that will preserve memories and experiences of this important time in the state's history. Contact Lee Jennings, Cultural and Recreational Services, (302) 739-4413.

19 – Escape from Fort Delaware Triathlon – boating restrictions in effect on the Delaware River during the triathlon, 8:30-10:30 a.m., Contact Robert Hutchins, Fish and Wildlife Enforcement regarding boating restrictions, (302) 834-7254.

20 – Lums Pond State Park program, *Go Fish! Fishing Contest*, noon-2 p.m., at the nature center. Cost is \$2 per child.

21 – Final public workshop on revisions to Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal (Septic) Systems, 6-9 p.m., DNREC's auditorium, Richardson and Robbins Building, 89 Kings Highway, Dover. Contact Dave Schepens, Ground Water Discharges Section, (302) 739-4762.

22 – Community Involvement Advisory Council meeting, 9:30-11:30 a.m., Appoquinimink State Service Center, 120 Silver Lake Road, Middletown. Contact Karen Garrison, (302) 739-4403 ext.114.

26 – Lums Pond State Park program, *Reptiles and Amphibians*, 2 p.m., at the nature center. This program is free.

27 – Lums Pond State Park program, *Pond Safari*, 1 p.m., at the nature center. This program is free.

28 – Public hearing on Delaware Solid Waste Authority's Cherry Island Landfill applications, 6 p.m., Carvel Building auditorium, 2nd floor mezzanine level, Wilmington. Contact Michael Apgar, Solid Waste Management, (302) 739-3689.

29 – Game and Fish Advisory Council meeting, 7:30 p.m., DNREC auditorium, Richardson and Robbins Building, 89 Kings Highway, Dover. Contact Greg Moore, Fish and Wildlife, (302) 739-5297.

30 – Public hearing on Deer Management, 7 p.m., DNREC’s auditorium, Richardson and Robbins Building, 89 Kings Highway, Dover. Contact Ken Reynolds, Fish and Wildlife, (302) 653-2883.

JULY

1 – Public Hearing on Uniqema Coastal Zone Permit application, 6:30 p.m., DNREC’s office at 391 Lukens Drive, New Castle. Contact Dennis Brown, Planning and Compliance Assistance, (302) 739-3091.

3, 10, 17, 24, 31, Lums Pond State Park program, Critter Crafts, 12-5 p.m., at the nature center. Cost is \$2 per craft.

3, Lums Pond State Park program, Honey Hives, 2 p.m., at the nature center. This program is free.

4 – Lums Pond State Park program, Pond Safari, 1 p.m., at the nature center. This program is free.

6 – Lums Pond State Park program, Pond Monsters (Canoe Program), 6:30 p.m., at the nature center. Cost is \$5 per person.

10 – Lums Pond State Park program, Fin Facts, 2 p.m., at the nature center. This program is free.

11 – New Aboveground Storage Tank Regulations go into effect. Contact Kathleen Stiller-Banning, Tank Management Branch, (302) 395-2500.

11 – Lums Pond State Park program, Insects!, 2 p.m., at the nature center. This program is free.

13 – Lums Pond State Park program, Night Critters, 7 p.m., call the nature center for meeting location. Cost is \$4 per person.

14 – Wastewater Facilities Advisory Council meeting, 9 a.m., Delaware Technical and Community College, Conference Room 400-A, 1832 N. DuPont Parkway, Dover. Contact Louise Holt, (302) 739-5081.

17 – Lums Pond State Park program, The Hive and the Honey Bee, 1 p.m., at the nature center. This program is free.

18 – Lums Pond State Park program, Go Fish! Fishing Contest, noon-2 p.m., at Area #5 across from the nature center. Cost is \$2 per child.

20- Lums Pond State Park program, Pond Monsters (Canoe Program), 6:30 p.m., at the nature center. Cost is \$5 per person.

24 – Lums Pond State Park program, Insects!, 2 p.m., at the nature center. This program is free.

Park Offices:

Brandywine Creek State Park, (302) 577-3534; Nature Center, (302) 655-5740

White Clay Creek State Park, (302) 368-6900; Nature Center, (302) 368-6560

Bellevue State Park, (302) 577-3390; Arts Center, (302) 577-6540

Trap Pond State Park, (302) 875-5153; Nature Center, (302) 875-5163

Lums Pond State Park, (302) 368-6989; Nature Center, (302) 836-1724

Fort Delaware State Park, (302) 834-7941

Killens Pond State Park, (302) 284-4526

Cape Henlopen State Park, (302) 645-8983; Nature Center, (302) 645-6852

storage tanks continued from page 1

Part E details the requirements for conducting site assessments and remediation of sites with contamination resulting from a release of a regulated substance from an AST.

For more information or a hard copy of the regulations, contact Kathleen Stiller-Banning, Tank Management Branch, (302) 395-2500.

Hope Fades for Record Piping Plover Season

Early optimism about Delaware's piping plovers, who this spring established six nests, laid 24 eggs and generated hopes of a record season, is fading.

Two chicks have been observed with their parents at one Cape Henlopen Point nest, two other nests seem to be doing well, but the Point's fourth nest has been abandoned, according to Division of Fish and Wildlife plover monitor Marnie Pepper.

"The adults have not been seen on the nest since May 19 and the eggs are being buried by the sand," she said.

At Cape Henlopen's Gordons Pond area, the four chicks from one nest have not been seen since May 31. "The area has been searched several times, but no signs of the chicks or their fate have been found," according to Pepper.

Three chicks from a second Gordons Pond nest are doing well and have been observed foraging at the southern end of the pond with the adults. In addition, several adults are performing courtship displays in the pond area. Scrapes have been found in two different areas.

The least tern colony at the Cape Henlopen Point seems to be doing well and appears to be growing, Pepper said. "Another nest was found with two eggs and we expect there are more in the area. There are approximately 55 adults in the overwash area."

At South Bowers, the least tern colony is still going strong with approximately 35 adults. An extremely high tide washed out a few of the nests. However, above the tide line, 11 nests were found on June 6.

For more information, contact Division of Fish and Wildlife biologist Marnie Pepper at 302-3382-4151; Holly Niederriter, Division of Fish and Wildlife, 302-653-2883; or Steve Schilly, Division of Parks and Recreation, 302-739-4406.

Toxics Release Inventory Data for Calendar Year 2002 Available

The Delaware Toxics Release Inventory (TRI) data for calendar year 2002 is now available through the Department of Natural Resources and Environmental Control.

The data indicates that on-site releases of TRI chemicals were 3.6 percent less than in 2001 and 35 percent less than in 1998. The total reported waste amount, including on-site releases, transfers off-site, and waste managed on-site, was approximately 99.8 million pounds – a 14 percent decline from 116.1 million pounds in 2001 and 35 percent decline from 1998.

"This continued downward trend illustrates that a great deal can be accomplished through the cooperative and collective efforts of industry, government and the public," said DNREC Secretary John A. Hughes.

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TRI covered facilities in Delaware and throughout the United States are required to submit information annually for certain toxic chemicals manufactured, processed, or otherwise used above threshold amounts. Covered facilities include primarily manufacturing facilities, oil and coal fired electric utilities and bulk petroleum terminals. Submittals contain information on the amount of each toxic chemical released to the environment and/or managed as waste by the reporting facility. Data from Delaware facilities is compiled in a database by DNREC, and reports summarizing the data are prepared and published.

For the 2002 calendar year, 84 facilities reported releases of 106 different TRI chemicals in Delaware. Reported on-site releases to the environment totaled approximately 8.0 million pounds. Of this amount, approximately 6.3 million pounds were reported as released to the air, while 929,000 pounds were released to water, and 814,000 pounds were released to land.

The TRI reporting requirements were expanded in 2000 to provide focus on specific chemicals identified as persistent, bioaccumulative, toxic (PBT) substances, such as dioxins. Several new substances identified as PBTs were added to the list of reportable substances. In addition, threshold amounts that trigger reporting were substantially lowered for PBT's. Lead and lead compounds were added to the PBT list in 2001. Of the 84 reporting facilities for 2002, 32 reported on PBT substances. Reported on-site releases to the environment of PBT substances totaled 23,232 pounds, down from 31,192 pounds in 2001.

The U.S. Environmental Protection Agency as of this date has not released the national 2002 TRI report. However, placing the 2002 Delaware reports alongside the 2001 EPA reports yields some rankings that provide a perspective for Delaware in the national TRI picture. This data shows that Delaware ranks 45th in the nation in total on-site releases for all TRI chemicals. For on-site releases, 83 facilities in the nation each released more individually than all the facilities in Delaware combined. Changes in the 2002 national values may change these rankings.

The 2002 TRI data, as well as data from earlier years, is available in an easy to use, on line searchable format at: <http://www2.state.de.us/serc/search/index.htm>. Copies of submittals from individual facilities are available upon request. Because the program reporting requirements change each year, comparison with prior years may not be valid without proper adjustments.

DNREC has published both technical and non-technical reports summarizing the 2002 TRI data. Reports for the 2002 data and previous years are available on-line at: <http://www2.state.de.us/serc/reports.htm>

For further information, contact John Parker, Air Quality Management, (302) 739-4791.

DNREC Grants Coastal Zone Act Permit to Oceanport Industries

Department of Natural Resources and Environmental Control Secretary John A. Hughes has issued an Order granting a Coastal Zone Act Permit to Oceanport Industries Inc. to transfer urea ammonium nitrate solution, a liquid fertilizer, at its Claymont, Del. Facility. The decision follows consideration of new information regarding responsibility for the product.

Oceanport had been denied a coastal zone permit following a Dec. 4, 2003 public hearing on its application due to uncertainty over its business relationship with International Raw Materials and how the proposed new product would be handled.

The company appealed the permit denial and during the appeal process new information arose

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regarding its relationship with International Raw Materials. By agreement between the Department and Oceanport, the appeal was withdrawn with the understanding that the Department would reopen the record to clarify the issue of responsibility for handling the proposed new product.

A second public hearing was held April 21, 2004 to re-open the record and clarify Oceanport Industries' role in transferring the liquid urea. New testimony and exhibits were entered into the record.

Based upon information in the application and testimony at the public hearings, Oceanport Industries Inc. is the sole and proper applicant. Oceanport is responsible for all product handling, transfer and storage activities at the facility, including spills or other environmental problems.

For further information, contact Dennis Brown, (302) 739-3091.

Boating Restrictions Will Be In Effect in Delaware River for Escape from Fort Delaware Triathlon June 19

For the safety of swimmers taking part in the annual Escape from Fort Delaware Triathlon on Saturday, June 19, there will be a vessel safety zone in effect in the Delaware River from 8:30 a.m. until 10:30 a.m.

Boats will be prohibited from entering or exiting an area one-quarter mile north and one-quarter mile south of the Delaware City Branch Canal during the event. Division of Fish and Wildlife enforcement vessels and the U.S. Coast Guard will be on patrol.

Boaters launching from the Fort DuPont ramp will only be allowed to exit west into the branch canal toward the C&D Canal. Vessels must be able to pass under the Branch Canal bridge which has an 8' height restriction at high tide. Eastbound boaters in the Branch Canal will not be allowed to go past the boat ramp during the swim.

During the temporary closure, the Division of Parks and Recreation and the Division of Fish and Wildlife suggest that boaters use the Augustine Beach boat ramp, which is approximately 3.5 miles south on Route 9.

The popular event, which is co-sponsored by Delaware City Main Street and Escape from Fort Delaware Triathlon, Inc., features a 1500 meter swim across the Delaware River from the Fort Delaware State Park dock on Pea Patch Island to the Fort DuPont boat ramp in Branch Canal. It also includes a 22.3 mile bike ride and a 6.2 mile run.

According to Fort Delaware State Park superintendent Becky Webb, the 10 a.m. ferry to the island will run, but may be a few minutes late. The best viewing, she says is from the end of Clinton Street in Delaware City.

For more information, contact Capt. Robert Hutchins, Division of Fish and Wildlife Enforcement, at 302-836-4682 or robert.hutchins@state.de.us; or Fort Delaware State Park superintendent Becky Webb at 302-834-7254.

Citizens Source Water Assessment Committee to Meet June 16

The Citizens and Technical Advisory Committee (CTAC) of the Source Water Assessment and Protection Program will meet from 9 a.m. to noon Wednesday, June 16 in the second floor conference room of the Department of Public Safety and Homeland Security building in Dover.

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The following items have been placed on the agenda:

- Discussion of the final draft to the Source Water Protection Guidance Manual for the Local Governments of Delaware
 - Discussion of the Source Water Protection Report to the Governor and General Assembly
 - A presentation on the regulation of underground and above ground storage tanks in Delaware
- Delaware's Source Water Assessment Plan was approved by the U.S. Environmental Protection Agency in October 1999. The program is charged with delineating source water areas around all sources of public drinking water in the state, identifying all existing and potential sources of contamination within those areas and making the information available to the public.

Further information about the Source Water Assessment and Protection Program can be found on the program web site: <http://www.wr.udel.edu/swaphome>. For further information about the meeting, contact Doug Rambo, Division of Water Resources, 302-739-4793.

Tidal Finfish Advisory Council Meeting Set for June 16

The Tidal Finfish Advisory Council will meet at 7 p.m. Wednesday, June 16 in DNREC's auditorium, Richardson and Robbins building, 89 Kings Highway, Dover. The agenda includes:

- An introduction by the Council Chair and approval of minutes from the May 19 meeting.
- An update on Freedom to Fish legislation by Bernie Pankowski.
- An update on N.J. commercial gill net licenses by Roy Miller, Fisheries Section administrator.
- The status of weakfish stocks in Delaware and elsewhere by Rick Cole, Fisheries Section.
- Artificial reef program permitting discussion with Jeff Tinsman, Artificial Reef coordinator.
- Possible new interest in fish passage past the dams on the Brandywine by Roy Miller.
- Delaware Estuary Programmatic funding review by Division of Water Resources Staff.
- Possible agenda items for next meeting and meeting date will also be discussed.

The Tidal Finfish Advisory Council was formed in 1985. The Council consists of seven volunteer Delaware residents. The Governor nominates members and the majority of the Senate confirms the members of the council. The Chairman is Dan Seamans. Three members of the Council represent recreational finfishing and three Council members represent commercial fishing interests.

For more information, contact Roy Miller, Fisheries administrator, (302) 739-3441, or Jason Gleockler, Public Affairs, (302) 739-4506.

Final Public Workshop on Proposed Revisions to Delaware's Septic Regulations to be Held June 21 in Dover

The Department of Natural Resources and Environmental Control will hold a final public workshop on proposed revisions to Delaware's septic regulations (Regulations Governing the Design, Installation and operation of On-Site Wastewater Treatment and Disposals Systems) from 6 to 9 p.m. Monday, June 21 in DNREC's auditorium, Richardson and Robbins Building, 89 Kings Highway, Dover.

The proposed changes include creation of a Class H System Inspector License required under HB 150, and a revamped procedural process for subdivision feasibility studies and determination of the required system size (large system versus individual on-site systems).

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For further information regarding the public workshop and proposed revisions to the regulations, contact Dave Schepens or Jack Hayes, Ground Water Discharges Section, Division of Water Resources, (302) 739-4762.

Public Hearing on Assawoman Canal Dredging Application Set for June 22 in Bethany Beach

The Department of Natural Resources and Environmental Control will hold a public hearing at 6:30 p.m. Tuesday, June 22 at the Bethany Beach Fire Hall on the subaqueous lands, wetlands and water quality certification/permit application of DNREC's Division of Parks and Recreation for proposed work in and adjacent to the Assawoman Canal.

The new application follows DNREC's April 26 revocation of the subaqueous lands permit issued June 23, 2003 for the Assawoman Canal proposed dredging and related work after a determination that the public record on which the decision was made to issue the permit was incomplete.

The proposed work includes dredging in the canal from the northern end at its confluence with White Creek to the southern end at Little Assawoman Bay, a distance of approximately 3.94 miles. The channel will be dredged to a width of 35 feet and a depth of 3 feet below mean low water, excavating 34,000 cubic yards of material.

The northern portion of the canal to just below the Route 26 bridge would be mechanically dredged and material will be disposed at Confined Disposal Facility No. 1, located north of Road 360, approximately 6,000 feet east of the canal. The southern portion from just below the Route 26 bridge to the southern end of the waterway would be hydraulically dredged, with material disposed at Confined Disposal Facility No. 2, located approximately 2,000 feet west of the confluence of the canal and Jefferson Creek.

Approximately 8,875 square feet of wetlands will be temporarily impacted due to placement of a pipeline through 1,100 linear feet of tidal wetlands west of Jefferson Creek and a 75 linear foot section of wetlands between the canal and Jefferson Creek. The work also includes stabilization of an approximately 220 linear foot section of the western bank of the canal, immediately adjacent to its confluence with the Bethany Loop Canal, with approximately 460 cubic yards of stone rip-rap.

The application and supporting documents may be inspected at DNREC's Division of Water Resources office, Wetlands and Subaqueous Lands Section, 89 Kings Highway, Dover, Del. between 8 a.m. and 4:30 p.m. Monday through Friday.

Statements and testimony may be presented at the public hearing either orally or in written form. Individuals interested in presenting statements are asked to register in advance by mail. Written statements may be presented prior to the hearing and should be addressed to: Denise Rawding, Wetlands and Subaqueous Lands Section, 89 Kings Highway, Dover, DE 19901.

For additional information, or an appointment to inspect the application and supporting documents, please call Wetlands, (302) 739-4691.

Public Hearing on Deer Management June 30

The Delaware Department of Natural Resources and Environmental Control's Division of Fish and Wildlife will be holding a deer management public hearing at 7 p.m. Wednesday, June 30 in DNREC's auditorium, Richardson and Robbins building, 89 Kings Highway, Dover to amend the

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deer season under the Wildlife and Non-Tidal Fishing Regulations. DNREC is amending the regulations to promote the harvest of female deer.

The changes include increasing the general deer bag limit from two deer to four deer, adding one day to the October muzzleloader season, adding shotgun deer hunting days in October for antlerless deer and changing tagging requirements for deer checked using the automated phone/internet system.

“This will hopefully bring the deer population to manageable levels and address the growing issues of ecosystem damage, crop damage, property damage, vehicle collisions, and lyme disease transmission,” said DNREC’s Deer Damage Assistance Program Manager Ken Reynolds.

University of Delaware Assistant Professor Wildlife Ecology Dr. Jake Bowman believes “deer overabundance is an ecological crisis. Deer browsing of vegetation has been documented to cause decreased abundance and in some cases local extinctions of amphibians, birds, mammals, rare plants, and reptiles,” said Dr. Bowman. “Reducing deer numbers will help conserve Delaware’s fragile biodiversity and promote overall ecosystem health.”

The Department has contracted with Dr. Bowman to develop a comprehensive deer management plan for the State.

For more information, contact Ken Reynolds, Division of Fish and Wildlife, (302) 653-2883, or Jason Gleockler, Public Affairs, (302) 739-4506.

DNREC to Hold Public Hearing July 1 on Uniqema Coastal Zone Permit Application

The Department of Natural Resources and Environmental Control will hold a public hearing at 6:30 p.m. Thursday, July 1 regarding the Coastal Zone Act Permit application of Uniqema Inc. to manufacture 11 new product families at its Cherry Lane, New Castle facility. The hearing will be at DNREC’s office at 391 Lukens Drive in New Castle.

The new products proposed for manufacturing by Uniqema are used by other manufacturing plants to produce personal care products, lubricants, pharmaceutical components and agricultural and industrial applications. The products will be produced via batch operations and the rate of production will vary for each individual product. A maximum of 25 million pounds, or an additional 22 percent per year of new products will be produced by this project.

The Department’s review of the application indicates some environmental impacts, which include air emissions of 1.924 tons per year (after a fuel change to natural gas), increased water consumption, 250 tons of solid waste per year and 45,800 gallons per year of hazardous waste.

Uniqema’s offset proposal consists of a fuel switch to natural gas, installation of low nitrous oxides (NOx) burners, acquisition of three tons of volatile organic compound (VOC) emission reduction credits, continuation of recent water conservation activities and removal of all hazardous waste from Delaware. These proposed environmental enhancements offset the minimal environmental impacts of the proposed project.

The application and Environmental Assessment Report for Uniqema’s proposal are available for public review at the Hockessin and Delaware City public libraries as well as DNREC’s offices at 89 Kings Highway in Dover and 715 Grantham Lane south of New Castle.

For further information, contact Dennis Brown, (302) 739-3091 or Melinda Carl, (302) 739-4506.

Summertime Open Burning Restrictions In Effect

Open burning restrictions in New Castle and Kent counties went into effect June 1 and will continue until Aug. 31. During this time, open burning in New Castle and Kent counties is restricted to fires for food preparation, ceremonial and recreational purposes.

In April of this year, Sussex County, along with New Castle and Kent Counties, was officially designated by the U.S. EPA as being in non-attainment of the 8-hour ground-level ozone standard, based on high ozone readings at monitors within the county.

In advance of a regulatory change to include Sussex County in the summertime burn ban, the Department is asking residents of Sussex County to refrain from burning brush this summer.

Burning of cut or fallen branches, limbs, or shrubbery from a residence is allowed throughout the state from September to May except when the State Fire Marshal issues a ban on all outdoor burning. Burning of leaves, refuse, old lumber, trash or garbage, grass, and tree stumps is illegal statewide and year-round.

William Hill, Chief of DNREC's Enforcement Section, warns that "Environmental Protection Officers are on the lookout for violators and will be citing those performing illegal open burning activities. Penalties range from \$50 to \$500 in fines, plus a criminal record."

To report illegal open burning, call the 24-hour hotline at 1-800-662-8802. Cellular phone users can call this toll free number: #DNR.

Public health concerns form the basis of the burning restrictions. Open burning produces smoke and toxic chemicals. It also contributes to the formation of smog (i.e., ground-level ozone and fine particles) which can trigger asthma attacks, other respiratory problems and eye irritation, and contributes to acid rain that causes fish kills, plant and property damage. Rain eventually washes these toxic chemicals onto land and into waterways.

Alternatives to open burning include recycling, taking non-recyclable trash to a licensed landfill for disposal, and composting. It's easy to compost leaves, yard trimmings, and certain food scraps. When properly composted, these wastes can be turned into natural soil additives for use on lawns and gardens, and for use as potting soil for house plants. For further information on composting, contact the Mid-Atlantic Composting Association at 302-422-4544, or toll free at 800-355-4544.

For a copy of "The Burning Question," a pamphlet outlining the open burning regulations, or a 15-minute video titled "The Adventures of Proton Dan" for presentations at local communities, write or contact the Air Quality Management Section, 156 S. State St., Dover, DE 19901, or by phone at 302-739-4791.

View regulations on the web at www.dnrec.state.de.us. From DNREC's home page, click on "Air Quality" and under Regulations and Standards, click on "Regulations" and then on "Open Burning Regulation."

For more information contact David Fees, Air and Waste Management, (302) 739-4791 or Jason Gleockler, Public Affairs, (302) 739-4506.

Fish and Wildlife Enforcement Officers LEAP into Memorial Day Weekend and Make 16 Arrests

The special tactical LEAPS team of the Division of Fish and Wildlife Enforcement Section leaped into action Memorial Day weekend to ensure the public's safety when sunny skies sent countless boaters venturing out into the inland bays.

The team gets its identity from the Enforcement Section's mission statement, which focuses on Law, Education, Awareness, Protection, and Safety.

According to Major Thomas Protack, "The goal of our team is to be visible and available to the public and assist in obeying the state's laws, educating specifically about boater safety, creating an awareness of the preciousness of our inland bays, protecting natural resources, and responding to distress calls."

From midnight to 4 a.m. Friday, May 28, Captain James Passwaters led a LEAPS team on Rehoboth Bay to ensure that boaters were operating safely and not Boating Under the Influence, (BUI). Several Boats were stopped and boarded for safety and navigational light checks. One vessel operator was taken to land and given sobriety tests. Three arrests were made for boating violations.

From 1 to 4 p.m. Sunday, May 30, Major Thomas Protack and Lieutenant Aaron Hurd supervised a Boating Safety Checkpoint at Massey's Landing Ditch. The LEAPS team made contact with 209 people, checked 65 boats, issued 21 verbal warnings and made 13 arrests.

"This was a joint effort between DNREC enforcement officers and the Coast Guard to ensure that every boater begins the summer season with the correct safety equipment on board," said Major Protack. "Hopefully this will save lives and prevent tragedies."

Lieutenant Hurd noted that, "the majority of arrests focused on boaters not having children under 12 wearing life jackets and lack of fire extinguishers on board."

In addition to their regular scheduled patrols, the LEAPS team will be conducting similar special operations on a regular basis. They also will be focusing on the high level of boating traffic in the Indian River Inlet, proper marking and tending of crab pots, and jet ski safety.

To report illegal hunting, fishing or boating activities, call 1-800-662-8802 or 302-739-3440. For more information, contact Chief Jim Graybeal, (302) 739-3440, or Jason Gleockler, Public Affairs, (302) 739-4506.

Division of Fish and Wildlife Offers Tips for Assisting Fellow Boaters in Distress

You're out on the water enjoying the breeze when suddenly a boater in distress comes into your field of vision. If you're an experienced skipper, you may know exactly what to do. If you're a novice, you may not realize what basic supplies are needed and the appropriate actions to take.

According to the Division of Fish and Wildlife, the majority of boaters are stranded because their engine is out of fuel, overheated, or has some other disabling condition.

The following basics supplies can come in handy during an emergency:

- A first-aid kit
- Blanket
- Extra life jackets

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- A cell phone
- VHF Marine Radio (remember channel 16 is a calling and distress frequency only)

If it's a hot day, the skipper and passengers of the distressed vessel will be anxious for a tow but it's important to follow these safety guidelines to prevent mishaps:

Do not take the vessel in tow unless absolutely necessary and then only take it to the nearest safe mooring.

- If the distressed vessel is taking on water, request that the passengers put on Personal Floation Devices (PFD), and then transfer them to your boat.
- If the vessel needs to be abandoned, anchor away from the channel and take the passengers to shore or stand by until assistance arrives.
- Notify the nearest United States Coast Guard Station or the 24-hour DNREC Communications Dispatch, 1-800-539-3336 and tell them the nature of distress, approximate position, number of people onboard and description of the vessel.

All persons born after Jan. 1, 1978 are required to take a boating safety course. The course is available throughout the year. Call Sgt. Greg Rhodes, boating safety coordinator, 302-739-3486 for course information. A class schedule is available at Fish and Wildlife's homepage, www.dnrec.state.de.us/fw . Click on "Boating Safety Classes" and then on "Boating Safety Class Schedules."

For more information, contact Major Bayard Holleger, 302-739-3440, or Jason Gleockler, Public Affairs, 302-739-4506.

Delaware Deer Brain Tissue Samples Test Negative for Chronic Wasting Disease

Final test results on brain and lymph node tissue samples from hunter harvested white-tailed deer in Delaware show all the samples to be negative for Chronic Wasting Disease.

The samples were submitted last fall to the University of Pennsylvania, School of Veterinary Medicine's New Bolton Center for Chronic Wasting Disease testing. Three hundred random samples were collected in Delaware, 100 from each county.

According to Ken Reynolds, Wildlife Research Program manager with the Division of Fish and Wildlife, "three hundred samples gave us a 95 percent probability of detecting the disease if it existed in 1 percent or more of the deer population. While this doesn't provide 100 percent assurance of no disease, we are encouraged by these results."

Chronic Wasting Disease or CWD, is a neurological condition found in deer and elk where it appears an abnormal protein material called a prion invades and gradually destroys the animal's brain. It is thought to be 100 percent fatal and believed to be transmitted from close contact with infected deer. The disease wasn't known about until the 1960s and in the 70's the disease was identified as a transmittable neurological disease.

The disease has been found in several western and mid-western states including Colorado, Wyoming, Illinois, Wisconsin, Kansas, Minnesota, Montana, Nebraska, New Mexico, Oklahoma, and South Dakota. The Canadian Provinces of Saskatchewan and Alberta have also had cases.

Surveillance programs, like Delaware's, have been established in all eastern states and monitoring will continue in future years. So far, all eastern herds seem to be disease free. Extensive re-

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search has found no evidence that CWD can be transmitted to humans. DNREC will continue monitoring in Delaware for the disease with plans for another tissue sampling this fall.

For more information, contact Ken Reynolds, Fish and Wildlife, 302-653-2883 or Jason Gleockler, Public Affairs, 302-739-4506.

Charter School of Wilmington Team “A” State Champions at 2004 Delaware Envirothon

After more than three hours of testing at the Delaware Envirothon several weeks ago at Cape Henlopen State Park, the suspense was broken when members of the “A” team from the Charter School of Wilmington were crowned state champions for 2004.

Cape Henlopen State Park provided a beautiful backdrop for an intense day of challenging environmental competition for 14 teams of high school students from across Delaware.

Each team answered questions, reviewed specimens, and took measurements in topics dealing with aquatic ecology, soils/land-use, wildlife, forestry and natural resources in the urban environment.

Team members worked hard during the school year to prepare for the event. Each team member was rewarded with a \$3,000 per year renewable academic scholarship from Wesley College and a \$500 scholarship from the Delaware Envirothon. Each student also received an Envirothon team jacket, and two championship award plaques to hang in their school.

Polytech High School Team “A” placed second in the competition and received the \$300 Ernest J. Zimmerman award for use towards an environmental education project at their school. The third place “B” team from the Charter School of Wilmington received a \$150 award for the same purposes.

The State Champions will now train for the Canon Envirothon being held in late July at Wesleyan College in Buckhannon, W.V.

The 2004 Delaware Envirothon was dedicated in memory of the late Richard L. Hall who spent many hours as the state soil scientist for USDA-Natural Resources Conservation Service and later as an Earth Team Volunteer in training students in the soils category. A memorial photographic collage was presented during the awards luncheon.

The Envirothon staff also thanked the many financial sponsors including Diamond sponsors: the Delaware Association of Conservation Districts, the Delaware Solid Waste Authority, the Kent Conservation District Barn Dance, the USDA – Natural Resources Conservation Service, and Wesley College; Platinum sponsor: the First State Resource Conservation and Development Council, Inc.; and Gold sponsors: Artesian Water Company, Inc., Canon USA Envirothon., and DNREC – Division of Soil and Water Conservation.

For more information about the Delaware Envirothon, contact Rick Mickowski, Publicity Chair, (302) 832.3100 ext. 113.

Regulatory Update

Recently Adopted Regulations and Regulations Under Appeal

2002-16: **New regulations for aboveground storage tanks, including requirements for leak detection, spill containment, construction, dismantling, operation, maintenance and cleanup of any leaks** pursuant to the Jeffery Davis Aboveground Storage Tank Act signed into law by Governor Minner July 8, 2002. Contact Kathleen Stiller Banning, 395-2522. **Effective date – June 11, 2004**

2003-22: **Amendment to Delaware’s Phase II Attainment Demonstration State Implementation Plan (SIP) for attaining the 1-hour National Ambient Air Quality Standard for ground-level ozone in Kent and New Castle counties in 2005.** This action changes the mid-course review due date to Dec. 31, 2004 and allows inclusion of the NOx Transport SIP Call implementation (a significant part of the overall attainment strategy) in the analysis and puts Delaware on the same timeline with other states in the region to enable Delaware to work cooperatively and conduct the mid-course review as a regional effort. Contact Frank Gao, 323-4542. **Effective date – June 11, 2004**

2002-21: **Amendment to the Delaware State Parks rules and regulations needed to reflect changes in park resources and changes from the Delaware Code,** including the Wilmington State Parks, Holts Landing Fishing Pier, protection of exhibits, established bicycle trails and facility rentals/special events. Contact Wayne Kline, 739-4405. **Effective date – June 11, 2004**

2003-11: **Amendment to Regulation No. 30 (Title V State Operating Permit Program) of the Regulations Governing the Control of Air Pollution.** This action changes the definition of “Major Source” by removing the phrase, “but only with respect to those air pollutants that have been regulated for that category.” This will require all fugitive emissions to be included in major source determinations for sources subject to federal New Source Performance Standards or the National Emissions Standards for Hazardous Air Pollutants. Contact Deanna Morozowich, 739-4791. **Effective date – May 11, 2004**

2004-01: **Amendments to Tidal Finfish Regulations, summer flounder and recreational black sea bass.** Summer flounder: Delaware is able to maintain the same management measures for summer flounder used in 2003 for the 2004 fishery since the harvest cap was not exceeded. Recreational black sea bass: The coastwide requirements are a 12-inch minimum size length with a 25 fish creel limit and a closed season from Sept. 8, 2004 through Sept. 21, 2004 and Dec. 1, 2004 through Dec. 31, 2004. Contact Richard Cole, 739-4782. **Effective date – May 11, 2004**

2004-02: **Amendments to Shellfish Regulations pertaining to oysters.** This action establishes the oyster harvest quota at 11,698 bushels for 2004. The harvest seasons will run from May 10 to June 26 and Sept. 1 through Dec. 31. Contact Richard Cole, 739-4782. **Effective date – May 10, 2004**

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2001-22: **New regulation defining chronic violator, the process for determining when a facility or regulated party is declared a chronic violator and the terms and conditions for lifting the designation.** Development and implementation of this regulation was mandated by Senate Substitute No. 1 for Senate Bill 33, An Act to Amend Title 7 and Title 29 of Delaware Code with respect to notification of environmental releases, facility performance, and establishment of the Community Involvement Advisory Council. Contact Marjorie Crofts, 739-4764. **Effective date – March 11, 2004**

98-08: **Establish a Total Maximum Daily Load (TMDL) for the Inland Bays Sub-basin** — This TMDL includes the tidal portions of Indian River, Indian River Bay and Rehoboth Bay. The TMDL process determines the pollutants causing water quality impairments, identifies maximum permissible loading capacities for the waterbody in question, and, for each relevant pollutant, assigns load allocations from point and non-point sources to each of different sources in the Sub-basin. These limits are designed to achieve water quality criteria and promote healthy populations of fish and other aquatic life. Contact: John Schneider – 739-4590. **Effective date – Dec. 1, 1998**

Environmental Appeals Board voted to stay appeals of Town of Rehoboth and Town of Georgetown on April 27, 1999 pending a decision by Superior Court.

97-11: **Implementation of September 27, 1994 MOU among Ozone Transport Commission states on development of a regional strategy for control of stationary source Nitrogen Oxide (NOx) emissions.** This regulation reduces NOx emissions from fossil fuel fired boilers or indirect heat exchangers with a maximum rated heat input capacity of 250 MMBTU/hr, or more; and all electric generating facilities with a rated output of 15 MW, or more. Contact: Ron Amirikan – 323-4552. **Effective date - April 1, 1999.**

April 16, 1999 - Appealed to Environmental Appeals Board by Motiva Enterprises and Delmarva Power and Light Company; **April 20, 1999 -** Motiva and Delmarva Power filed a civil action for a review of the Order in Superior Court for New Castle County.

Regulatory Actions Underway:

2004-04: **Amendments to Delaware Regulations Governing Hazardous Waste.** This action would adopt amendments previously promulgated by EPA, which is necessary to maintain EPA authorization for Delaware to administer its own hazardous waste management program. The state is required to maintain a program equivalent to and no less stringent than the federal program. The amendments also include miscellaneous changes that address errors and needed clarification. Contact Karen J'Anthony, 739-3689

2004-03: **Amendments to Delaware's Wildlife and Non-Tidal Fishing Regulations.** This action would provide additional shotgun hunting days in October for antlerless deer, lengthen the October Muzzleloader season by 1 day, increase the general deer bag limit from 2 antlerless deer to 4 antlerless deer, clarify the use of additional antlerless deer tags that are purchased, clarify deer checking/registration procedures and tagging requirements and allow squirrel hunting during firearms deer seasons in October where seasons overlap. Contact Ken Reynolds, (302) 653-2883

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Public hearing – June 30, 2004, 7 p.m., DNREC auditorium, Richardson and Robbins Building, 89 Kings Highway, Dover.

2003-24: Development of a new regulation to be added to the Regulations Governing Solid Waste. This action would institute a ban on the disposal of yard waste in Delaware landfills, and is a critical part of a larger waste management strategy directed toward environmentally and economically efficient waste management. The waste ban is designed to: conserve capacity at existing landfills; minimize the need to construct new or expand existing landfills; signal the composting and mulching industry that these materials are available for processing and marketing; return this valuable material to the market place as opposed to landfilling it; and reduce the emission of greenhouse gases. Contact Rick Perkins, 739-3689

2003-21: Amendment to the Total Maximum Daily Loads (TMDLs) for nutrients and oxygen demanding materials for the Murderkill River Watershed. This action would revise the cap and is necessary in light of recently collected data. It would amend the original regulation adopted in December 2001 and would apply to the entire watershed including Browns Branch, Double Run, tidal and freshwater portions of the Murderkill River and several ponds and lakes. Contact John Schneider, 739-4590

2003-20: Adoption of Total Maximum Daily Loads (TMDLs) for nutrients and oxygen demanding materials for Little Assawoman Bay, Buntings Branch and the tributaries and ponds of the Indian River, Indian River Bay and Rehoboth Bay. This regulation would establish a cap for the amount of nutrients and oxygen demanding materials that can enter these waters and is necessary to improve water quality and help maintain fishable waterways for Delaware citizens and visitors. The projected date for adoption is May 2004, five months past the deadline in the consent decree, due to unforeseen circumstances and technical issues regarding development of a new state-of-the-art water quality modeling system for the entire Inland Bays watershed. Contact John Schneider, 739-4590

2003-19: Adoption of a Delaware Coastal Management Program Comprehensive Update and Routine Program Implementation. This action would update all coastal management program policies to incorporate changes in state statutes, department regulations and executive orders since the last program's September 1998 update. Contact Sarah Cooksey or Bonnie Willis, 739-3451

2003-18: Adoption of a new "Regulation, 45, Anti-Idling Regulation" of the state's Regulations Governing the Control of Air Pollution. This action would regulate the idling time for operation of heavy-duty vehicles in Delaware having a gross vehicle weight rating of over 8,500 pounds. The regulation will continue state efforts to reduce emissions of NOx (nitrogen oxides), particulates and other tailpipe pollutants from vehicles operating in the state. Contact Philip Wheeler, 739-4791

2003-17: Amendments to the Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal (Septic) Systems. This action would update the regulations to include statutory changes that authorize DNREC to establish a license for persons who inspect septic systems and other on-site wastewater treatment systems. It also sets an annual license

fee for septic system designers, installers, site evaluators, liquid waste haulers, inspectors and percolation tests, similar to other license fees charged by DNREC. Contact John Hayes, 739-4761

2003-16: Development of a State Implementation Plan (SIP) revision to include a case-by-case alternate volatile organic compound reasonably available control technology determination.

This action would address the FP International, Newark, Del. facility's expandable polystyrene packing material manufacturing process. Contact Frank Gao, 323-4542

2003-15: Amendments to Delaware Regulations Governing Solid Waste. These proposed amendments pertain to sanitary landfill daily cover performance standards; prohibition of certain wastes in industrial landfills; prohibition of non-permitted sub-contractors by permitted solid waste transporters; correct a reference in the requirements for resource recovery facilities; amend the definition of infectious waste generator; and clarify who is required to obtain an infectious waste generator number. Contact Karen J'Anthony or Donald Short, 739-3689

2003-12: Modification of existing regulations for the Green Energy Fund (formerly the Environmental Incentive Fund). Senate Bill 93 moved the State Energy Office to DNREC and stated that the office would establish standards, procedures and regulations governing administration of the Green Energy Fund, formerly administered by the Delaware Economic Development Office. This action would modify DEDO's existing regulations to reflect movement of the Energy Office and the program, and amend the regulations for consistency with provisions in Senate Bill 93 and amendments in Senate Bill 145. Contact Charlie Smisson Jr., 739-1530

2003-10: Development of a new Distributed Generation Regulation covering on-site electric generators of small to medium capacity. In general, emissions from small and medium size on-site electric generators are currently uncontrolled in Delaware. Most of these units run on fossil fuels such as diesel and contribute to the secondary formation of ground-level ozone and fine particulate matter. Some are used to help utilities meet peak demand periods that frequently correspond with summer ozone action health alert days. This means that emissions from these units are frequently at their highest when the health threat from ozone is at its worst. Use of these units is growing and the Department is initiating this action to specifically control this category of emitters. Contact Al Deramo, 739-4791

2003-09: Amendment to Regulations Governing the Control of Air Pollution: new section – Requirements for Minor Source Pre-Construction Review (Minor NSR). This action would ensure that best available emission controls are installed at the time that smaller, but very significant, sources are constructed and modified to help manage Delaware's air resources. Contact Gene Pettingill, 323-4542

2003-07: Amendments to the Regulations Governing Beach Protection and the Use of Beaches adopted in 1983. This action would increase the effectiveness of the Coastal Construction Program and improve its protection of the beach and dune system. The amendments would reduce ambiguity, close possible loopholes and limit the amount and type of construction permitted seaward of the

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Building Line. Redrawing the building Line, incorporating changes to the Beach Preservation Act and adding new construction standards for waterfront buildings will result in less damage to structures and improvements to the natural dune and beach resource. Contact Maria Sadler, 739-4111

2003-03: Re-issuance of Regulations Governing Storm Water Discharges Associated with Industrial Activities. These regulations are required by law to be reissued once every five years. The current regulations expire Sept. 15, 2003. The reissued regulations will expand the existing regulations to include additional requirements for discharges of storm water associated with industrial activities. Contact Amber Moore, 739-5731

2003-02: Amendment to Subpart A, Regulation 38, Emission Standards for Hazardous Air Pollutants for Source Categories. These general provisions establish applicability, definitions, compliance, notification, performance testing, monitoring, record keeping and reporting requirements common to the emission standards for hazardous air pollutants promulgated under Regulation 38. This action affects any owner or operator of a stationary source that is or will be subject to any standard, limitation or prohibition established by Regulation 38 and ensures consistency of Subpart A with federal changes expected in April 2003. Contact James Snead, 323-4542

2002-26: Amendment to Regulations Governing the Control of Air Pollution, Regulation 2038, Reporting of a Discharge of a Pollutant or Air Contaminant. This amendment would change the reportable quantity for the flammable substance hydrogen, clarify flammable reportable quantities and correct several technical mistakes in the list of substances. Contact Jay Brabson, 323-4542

2002-08: Pollution Control Strategy (PCS) for implementing nutrient load reductions set by the TMDL for the Murderkill River and its tributaries. The PCS will cover activities in the entire watershed, including land areas draining into Browns Branch, Double Run, tidal and freshwater portions of the Murderkill River and several ponds and lakes. This regulation will establish actions to achieve the maximum nutrient loading and is necessary to improve water quality and attain the fishable and swimmable goals of the federal Clean Water Act. Contact John Schneider, 739-4590

2002-07: Pollution Control Strategy (PCS) for implementing nutrient load reductions set by the TMDL for the Nanticoke River, Broad Creek and their tributaries. The PCS will cover activities in the entire watershed. This regulation will establish actions to achieve the maximum nutrient loading and is necessary to improve water quality and attain the fishable and swimmable goals of the federal Clean Water Act. Contact John Schneider, 739-4590

2002-06: Pollution Control Strategy (PCS) for implementing nutrient load reductions set by the TMDL for Indian River, Indian River Bay, Rehoboth Bay and their tributaries. This regulation will establish actions to achieve the maximum nutrient loading and is necessary to improve water quality and attain the fishable and swimmable goals of the federal Clean Water Act. Contact John Schneider, 739-4590

2001-21: Amendments to Sediment and Stormwater Regulations. This action would allow a greater degree of flexibility for types of practices that could be considered for approval and would

result in more low-impact stormwater practices such as bio-retention, bio-swales and buffers being used to meet water quality requirements. Contact Frank Piorko – 739-6724

2000-23: Amendments to Regulation 24, Control of Volatile Organic Compound Emissions, by adding a new section to control the emissions of VOCs from lightering operations, of the Regulations Governing the Control of Air Pollution. Lightering is the transfer of cargo (usually crude oil) from ocean going vessels to service barges to allow the vessels to proceed upriver. During the cargo transfer, uncontrolled VOCs are emitted. This action is being developed to obtain additional VOC emission reductions for meeting Delaware’s 1-hour ozone attainment. Contact James Snead – 323-4542

99-12: Triennial Review of the State of Delaware Surface Water Quality Standards (as amended Feb. 26, 1993). This review will meet requirements of the federal Clean Water Act, which requires all states to review their surface water quality standards every three years and adopt revised standards to comply with the Act. Contact Dave Wolanski - 739-4590.

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