

# DNREC NEWS

The Delaware Department of Natural Resources and Environmental Control

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Ruth Ann Minner  
Governor

John A. Hughes  
Secretary

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## State Adopts New Water Quality Standards

*Standards include EPA-recommended criteria for recreational waters*



Jack Goins

The coastline at Cape Henlopen State Park attracts local and regional daytrippers.

The Department of Natural Resources and Environmental Control has adopted revised water quality standards for surface waters in Delaware effective July 11, 2004.

The Standards were amended after an extensive public workshop and hearing process to allow ongoing public comment from citizens, businesses, government entities and other stakeholders. The revisions reflect the growing regional nature of state water quality standards in areas such as criteria affecting watersheds that drain to shared waters.

To protect swimmers, the Department amended the water quality bacteria standards consistent with U.S. Environmental Protection Agency guidance and federal BEACH Act requirements. Delaware was one of 13 states that met the April 2004 deadline for meeting those EPA-recommended criteria, which are in place.

Director Kevin Donnelly said of the changes, "Given the social and economic importance of Delaware's beaches, we're pleased to be able to say that we offer a high level of protection to our citizens and visitors. Delaware's Water Quality Standards and weekly Beach Monitoring Program ensure a safe and enjoyable recreational swimming experience."

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## Calendar

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

### JULY

- 1 – Public hearing on Commercial Black Sea Bass**, 7:30 p.m., DNREC auditorium, Richardson and Robbins building, 89 Kings Highway, Dover. Contact Roy Miller, Fisheries, (302) 739-3441.
- 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 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 – CANCELLED - Wastewater Facilities Advisory Council meeting.** 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.
- 21 – Public hearing on New Castle County's proposed Wastewater Spray Irrigation Facility**, 6 p.m., Middletown High School auditorium, Middletown. Contact Ron Graeber, Ground Water Discharges, (302) 739-4762.
- 22 – State Fair free preview evening**, 7-9 p.m. Contact Public Affairs Office, (302) 739-4506.
- 23-31 – State Fair. Visit DNREC at its building on Holloway and East Rider Streets from 10 a.m. to 9 p.m. daily.** Fun activities and demonstrations, including an Idea House and Backyard Habitat Idea Garden. Contact Public Affairs Office, (302) 739-4506.
- 24 – Lums Pond State Park program, Insects!**, 2 p.m., at the nature center. This program is free.
- 25 – Lums Pond State Park program, Pond Safari**, 1 p.m., at the nature center. This program is free.
- 27 – Lums Pond State Park program, The Night Sky**, 7:30 p.m., at the nature center. This program is free.

**31 – Lums Pond State Park program, *Critter Crafts*, TBA, at the nature center. Cost is \$2 per craft.**  
**31 – Lums Pond State Park program, *Reptiles and Amphibians*, 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

***Water Quality Standards*** continued from page 1

Other major revisions to the Water Quality Standards include:

- Designation of Burrows Run in New Castle County and Marshyhope Creek in Sussex County as “Waters of Exceptional Recreational or Ecological Significance (ERES).” The ERES designation offers these watersheds a higher level of protection with the ultimate goal of restoring them to their natural condition;

- New standards to protect fish and other aquatic life and protect and restore rooted aquatic plants in the tidal portions of the Nanticoke River and Broad Creek and downstream to the Chesapeake Bay. The states of Maryland and Virginia, and the District of Columbia are in the process of adopting the same standards. This is the first time the four jurisdictions have worked together to ensure consistent standards and a level playing field for those entities which need permits to operate in the Chesapeake Bay Watershed.

- Language added that will defer to Delaware River Basin Commission (DRBC) standards unless there are no applicable DRBC standards, in which case Delaware’s standards will apply. The states of New Jersey and Pennsylvania have similar language in their water quality standards. This ensures consistency among the three states for these shared waters and creates a level playing field for entities requiring permits in the Delaware River Basin.

- Higher dissolved oxygen standards for the Lewes-Rehoboth Canal for consistency with dissolved oxygen levels required for other Delaware tidal waters.

- Updated standards for several chemicals using the same formulae as in the past, utilizing the most current scientific data and in accordance with EPA guidance.

For additional information, contact David Wolanski, Watershed Assessment Section, (302) 739-4590.

*For more information, contact John Schneider, David Wolanski, or John Pingree, Watershed Assessment Section, (302) 739-4590.*



## **Celebrate July 4th at First State Historical Park Events in Dover**

The First State Historical Park, an exciting new “park without boundaries” which will eventually link multiple historical and cultural sites in downtown Dover, will go public for the first time on the Fourth of July.

In addition to the traditional parade, music, patriotic speeches and fireworks sponsored by the Dover July 4th Committee, which kick off at 4 p.m., celebrants searching for a glimpse of history can start at noon at Christ Episcopal Church with Caesar Rodney and the Sons of the American Revolution; tour Legislative Hall; stop by the nearby Public Archives to mark the General Assembly’s 300th anniversary and see Delaware’s copy of the Bill of Rights before it returns to the National Archives on July 5; check out the Korean War exhibit at the Delaware State Museums Visitors Center; and visit the Biggs Museum for more about Caesar Rodney – “The Man, the Myth, the Reality” – and “Life in 1776.”

“We’re joining forces with the Dover July 4th Committee to make the celebration of the 227th anniversary of the nation’s independence an all-day event,” said Elaine Brenchley, project developer for the state’s first urban historical park.

“Starting with the Fourth of July Weekend, many of the sites that comprise the First State Historical Park – including Legislative Hall, Delaware Public Archives, the State House Museum, the Biggs Museum of American Art, and the Delaware State Museums Visitors Center – will have expanded hours. The goal is to make it easier for Dover residents and visitors to enjoy and appreciate all the history and heritage that our Capital City has to offer.”

Governor Ruth Ann Minner created the First State Historical Park by executive order in April as a way to draw more visitors to the state capital. Plans call for coordinating the hours, programming and other visitor hospitality services of various historic and cultural properties in downtown Dover. Additional enhancements planned for coming months include new walking tours, special events, improved signage and walking maps.

### **First State Historical Park July 4th events**

12 Noon: Christ Episcopal Church, State and Water streets. Sons of the American Revolution program “Meet Caesar Rodney” with the patriot portrayed by Milford re-enactor Dick Pack, an American Legion color guard, a wreath-laying at the Caesar Rodney monument in the churchyard, and ringing of the church bells in honor of Caesar Rodney.

1:30 p.m. and every half hour through 4 p.m.: Guided tours of Legislative Hall, including Jack Lewis murals and Governors Portrait Gallery.

1:30-4:30 p.m.: Delaware State Museums Visitors Center. Korean War exhibit.

1:30-4:30 p.m.: State House Museum. On-going guided tours.

2 p.m.: “Let Freedom Ring,” a nationwide bell ringing ceremony, and reading of the Declaration of Independence; State House Museum on The Green.

3-8 p.m.: Delaware Public Archives. Bill of Rights Exhibit, General Assembly Anniversary Exhibit and D-Day Drawings Exhibit – “War and the Creative Impulse: Art Works of Ugo Giannini and His Brothers in Arms.” Giannini was a soldier who landed on Normandy Beach on D-Day, June 6, 1944; in addition to fighting and trying to stay alive, he sketched the mayhem that was unfolding around him.

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1:30-4:30 p.m.: Biggs Museum of American Art. "Janvier Family Tree: American Craft," an exhibit focusing on the extended Janvier family of Odessa and New Castle. "The American Eagle," a self-guided scavenger hunt for families.

2:30 p.m. Biggs Museum. Guided tour of exhibits on "Life in 1776" (Dover in the time of the American Revolution and belongings of Vincent Loockerman, a mid-1700s resident of Dover) and "Caesar Rodney: The Man, the Myth, the Reality."

**Dover 4th of July Committee events**

4 p.m. Parade, beginning at Central Middle School and ending on The Green.

5-6 p.m. The Green, Milford Community Band.

6 p.m. The Green, Community Singers.

7 p.m. Legislative Mall, Milford Community Band.

8 p.m. Legislative Mall, Dover Air Force Band Chorus and C5A fly-over.

9:15 p.m. Fireworks.

"This is a great opportunity to honor veterans and patriots in our community and to salute the spirit of America," Brenchley said. "Come early, bring a picnic and enjoy a whole day of Fourth of July events."

*For more information, contact Elaine Brenchley, First State Historical Park project developer, at 302-739-4413.*

**Delaware's AmeriCorps State Parks Partners Program  
Receives \$420,996 Federal Grant for Full-Time Volunteers**

***Apply to volunteer full-time in State Parks by Aug.31; Receive \$15,000 stipend/educational Award***

Delaware's AmeriCorps State Park Partners program has been awarded two highly competitive federal grants totaling \$420,996 to support 49 volunteers to work in Delaware State Parks October 2004 to September 2005.

"This is great news," said Glen Stubbolo, administrator of volunteers for DNREC's Division of Parks and Recreation and grants writer/program director for the AmeriCorps State Park Partners program, upon learning of the award. "Volunteers are critical to the work we do in state parks. This grant will allow us to provide greater services to our visitors by supplementing the great work our volunteers do everyday."

The deadline for applying for the AmeriCorps positions is Aug. 31. For information or an application, visit [www.destateparks.com/volunteers](http://www.destateparks.com/volunteers) or call Glen Stubbolo at (302) 739-3197. The application deadline is August 31, 2004. The grant recipients were announced June 7 by the U.S. Corporation for National and Community Service. The Corporation, a government agency, awarded 141 grants in 40 states. Sixty percent of applicants and 10 states received no funding.

Of Delaware's grant money, \$305,800 will cover operating expenses, equipment, training, health care coverage and a \$10,200 living stipend for each of the 49 full-time ASSP volunteers.

The remaining \$115,196 will fund the volunteers' educational awards. That money will be held in a federal trust and distributed to the volunteers upon successful completion of their one-year service commitment. Each full-time volunteer is entitled to a \$4,725 educational award, which can be used to pay for college or student loans. Part-time volunteers receive a pro-rated award.

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The 49 volunteers will work Oct. 1, 2004 to Sept. 30, 2005 in 14 of Delaware's state parks, including Fort Delaware, White Clay Creek, Killen's Pond and Trap Pond state parks. Depending on their interests, volunteers will receive extensive training to become certified interpreters, performing historical and environmental education and interpretation, and filling other roles in the state parks.

Among the volunteers participating in the current AmeriCorps State parks Partners summer program are:

- a bilingual volunteer at Trap Pond who has translated brochures and documents into Spanish and is leading the first-ever Spanish-language Pontoon Boat Tour to meet the needs of an emerging Latino population.
- members who are spearheading the research and development of the interpretive story of World War II soldiers stationed at Ft. Miles, the World War II-era coastal defense battery at Cape Henlopen State Park, which will open to the public soon.
- members at the Brandywine Zoo who have presented zoo programs to almost 900 people in their first month of service.
- a member who is working at Rockford Park in Wilmington to determine the needs of urban park visitors.
- a member who is developing environmental programming for the Port Penn Interpretive Center, which tells the story of a historical wetland community along the shores of the Delaware River.
- members at the Indian River Lifesaving Station Museum who are presenting Living History interpretation and education about the historic 1900's era station.

In Delaware, AmeriCorps is administered by the State Office of Volunteerism (SOV) and the Delaware Community Service Commission. The AmeriCorps State Park Partnerships environmental program is a joint project of SOV and the Department of Natural Resources and Environmental Control's Division of Parks and Recreation.

*For additional information, contact Allison Taylor Levine, Delaware Health and Social Services, (302) 255-9037, or Glen Stubbolo, DNREC, (302) 739-3197.*

## **Open House Set for Delaware Seashore State Park's New Year-Round Cottages July 1**

Now that the 12 new cottages at Delaware Seashore State Park's Indian River Marina are finally ready for paying guests – right down to silverware in the kitchen drawers and pictures on the walls – the public is invited for a sneak peek from noon until 7 p.m. on Thursday, July 1.

“At the risk of seeming immodest, once people see how incredible the cottages are, not to mention the million dollar view, they won't want to leave,” boasts Park Administrator Ken Farrall. “The cottages are a real showpiece for the park. We can't wait to show them off.”

Division of Parks and Recreation staff, who have been volunteering their time to get the cottages ready for business, will be on hand to give tours and answer questions.

The cottages, which sleep six in two bedrooms and a loft and come with all the amenities except linens, rent for \$1,500 a week in season, \$1,200 in the shoulder seasons and \$800 off-season.

With central heat and a gas fireplace, they are expected to be popular year-round. Though already 80 percent booked for this summer – “An excellent first-year response,” according to Farrall

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– there are still vacancies in July and August. For fall and winter, “there are plenty of prime times available. We just have to convince people that there is nothing like a beach getaway in fall and winter, especially people who enjoy peace and quiet.”

To get to the cottages, follow the signs to the Indian River Marina and turn off Route One at the north end of the Indian River Bridge.

*For more information, call the marina office at (302) 227-3071.*

## **Commercial Black Sea Bass Public Hearing Set for July 1**

The Atlantic States Marine Fisheries Commission will be conducting a public hearing at 7:30 p.m. Thursday, July 1 in DNREC’s auditorium, 89 Kings Highway, Dover to take public comment on Addendum XII and XIII to the Summer Flounder, Scup and Black Sea Bass Fishery Management Plan.

Addendum XII addresses the black sea bass commercial fishery for 2005, 2006 and possibly 2007. Addendum XIII proposes the establishment of a multi-year total allowable landings specification process for summer flounder, scup and black sea bass. Both documents will be available for public comment in June and July, with final action by the Commission slated in late August.

Both Addenda are available on the Commission’s website, [www.asmf.org](http://www.asmf.org) under “Breaking News” or by contacting the Commission’s office, (202) 289-6400. For more information, contact Toni Kerns, Fisheries Management Plan Coordinator, (202) 289-6400, ext. 330 or [tkerns@asmfc.org](mailto:tkerns@asmfc.org).

*For more information, contact Rick Cole, Fisheries, 302-739-4782.*

## **Public Workshop on Technical Manuals for Sediment and Stormwater Program Set for July 19**

The Department of Natural Resources and Environmental Control, Division of Soil and Water Conservation will hold a public workshop from 6 to 9 p.m., on Monday, July 19 to present the Delaware Erosion and Sediment Control Handbook and Standards and Specifications for Green Technology Best Management Practices. The hearing will be in DNREC’s auditorium, Richardson and Robbins building, 89 Kings Highway, Dover.

The Delaware Erosion and Sediment Control Handbook is undergoing updating from the 1989 version. The Standards and Specifications for Green Technology Best Management Practices is a new guidance document for utilizing Conservation Design techniques.

There will be a presentation by DNREC staff from 6-8 p.m. followed by an hour of questions and answers. The workshop will conclude at 9 p.m. Following the workshop, there will be a formal 30-day public comment period for written comments to be submitted to DNREC. Copies of the publications will be made available to the public from July 20 until Aug. 20 at the following locations:

New Castle Conservation District, 2430 Old Country Road, Newark, DE 19702

DNREC Soil and Water Conservation Office, 2nd Floor, Richardson and Robbins Building, 89 Kings Highway, Dover, DE 19901

Kent Conservation District, 3500 S. DuPont Highway, Dover, DE 19901

Sussex Conservation District, 23818 Shortly Road, Georgetown, DE 19947

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The documents are available on DNREC's website after July 20, 2004 at [www.dnrec.state.de.us/DNREC2000/Divisions/Soil/Stormwater/Stormwater.htm](http://www.dnrec.state.de.us/DNREC2000/Divisions/Soil/Stormwater/Stormwater.htm). Comments on the guidance documents should be submitted to Jeanne Feurer, DNREC, DSWC, Sediment and Stormwater Program, 89 Kings Highway, Dover, DE 19901 from July 20- August 20, 2004. Any person requiring individual attention or having specific questions should contact Frank M. Piorko, Sediment and Stormwater Program Manager, 302-739-4411 or by email, [frank.piorko@state.de.us](mailto:frank.piorko@state.de.us)

*For more information contact, Frank M. Piorko, Sediment and Stormwater program manager, (302) 739-4411.*

## **Public Hearing on Wastewater Spray Irrigation Facility Set for July 21 in Middletown**

The Department of Natural Resources and Environmental Control will hold a public hearing at 6 p.m. Wednesday, July 21 on the application of New Castle County Department of Special Services for a permit to construct, operate and maintain a wastewater spray irrigation facility on a 950-acre parcel in Southern New Castle County. The hearing will be held in the Middletown High School auditorium, Middletown, Del.

New Castle County is proposing to construct and operate the facility for land application of treated wastewater at the site located north of Route 429, south of Spring Mill Branch and Shallcross Lake, east of Conrail Railroad Tracks and Route 301, extending partly east of Shallcross Lake Road, bordered by Drawyers Creek and Woodlawn Estates.

The wastewater treatment facility is designed to treat 1.6 million gallons of wastewater daily, and will utilize Sequencing Batch Reactors followed by filtration and disinfection to produce a highly treated effluent. The effluent will be irrigated onto approximately 320 acres of agricultural land to grow forage crops.

Phase I of the project encompasses construction of the storage lagoons and associated features.

Interested parties may present their statements and testimony orally or in writing at the hearing. Individuals interested in presenting statements are asked to register in advance by mailing their written statements addressed to the Division of Water Resources, Ground Water Discharges Section, 89 Kings Highway, Dover, DE, 19901.

The application and supporting documents may be inspected by appointment at the office of the Division of Water Resources, Ground Water Discharges Section, 89 Kings Highway, Dover, Del.

*For additional information or for an appointment to inspect the application, please call the Ground Water Discharges office, (302) 739-4762.*

## **Don't Top off Your Gas Tank; Save Money at the Gas Pump and Help Protect the Environment *EPA and Partners Launch Gas Station Compliance Assistance Initiative and Public Awareness Campaign***

In this era of high gas prices, it doesn't pay to top off your gas tank. Those extra drops of gasoline may not end up in your tank, even though you pay for them. Instead, gasoline is probably

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being sucked back into the gas station's vapor recovery system or evaporating into the air, causing air pollution.

When the pump automatically shuts off, that's the signal your gas tank is filled. Putting more gas into an already full tank can actually damage your car's vapor recovery system.

How does the pump know when to shut off? There is a sensing hole located at the tip of the nozzle. When that hole is covered with gas, the pump shuts off. If you continue clicking on the nozzle, that extra gasoline will either be sucked into the vapor recovery tube or overflow. Either way you will end up paying for gas that you don't get.

"EPA and partners – the Delaware Department of Natural Resources and Environmental Control (DNREC), the Pennsylvania Department of Environmental Protection (PADEP), the City of Philadelphia, and the Air Quality Partnership – are encouraging all drivers to stop topping off their gas tanks," said Donald S. Welsh, regional administrator for EPA's mid-Atlantic region.

"Being exposed to gasoline fumes can increase health risks. And the chemicals in gasoline vapor contribute to the formation of ozone air pollution." Welsh explained.

PADEP's Southeast Regional Air Manager Francine Carlini said that the purpose of the Don't Top Off campaign is to educate residents.

"Pennsylvania DEP is glad to be part of this initiative because it is raising awareness of the problems associated with topping off at the gas pump," Carlini said.

Morris Fine, director of the City of Philadelphia's Department of Public Health, Air Management Services, said that through this initiative "we, as individuals, can have a direct impact on the healthfulness of our air"

Richard Kerr, vice chair of the Air Quality Partnership, agreed and said that not topping off the gas tank is a way for everyone to help improve the air quality in the Delaware Valley.

"Other simple things you can do to reduce air pollution are refueling your car in the evening, taking transit, and combining errands into a single trip, especially on Ozone Action Days," Kerr added.

This summer the EPA and its partners are launching a compliance assistance initiative in Wilmington, Del. and the five counties in the Philadelphia area, including Bucks, Montgomery, Chester, and Delaware counties. In addition to random compliance inspections, gas stations will receive compliance calendars and handbooks outlining their responsibilities under the Clean Air Act.

Specifically, environmental inspectors from PADEP and DNREC will be conducting compliance testing of the anti-pollution devices known as vapor recovery systems that are required to be installed at all gas stations in the region. The system is designed to collect 90 percent of gasoline vapors produced during refueling and return them to the underground tank to await pickup by gasoline delivery trucks. Vapor recovery systems save millions of gallons of gasoline per year from being released into the air. This, in turn, reduces the release of air toxic emissions such as benzene and reduces public health risks for cancer and respiratory ailments such as asthma.

A variety of consumer outreach activities are also planned. This week (beginning June 28), a motorist survey will be conducted at area gas stations. AAA Mid Atlantic will make available "Don't Top Off" brochures through its driving school. And public service announcements will appear in the Wilmington News Journal, the Philadelphia Inquirer and the Philadelphia Daily News.

*For further information, contact Donna Heron, EPA Region III, (215) 814-5113, or Ali Mirzakhaili or Jim Snead, DNREC Air Quality Management, (302) 739-4791.*

## **State Division of Parks and Recreation Restricts Activities at Cape Henlopen State Park's Fort Miles Beach During Army Corps of Engineers Search for Unexploded Ordnance**

As a safety precaution, Cape Henlopen State Park is now limiting some activities along a half mile stretch of its Fort Miles beach where the U.S. Army Corps of Engineers is doing a \$250,000 unexploded ordnance study.

Red and white signs prohibiting surf fishing vehicles, digging, metal detecting and sticking umbrellas or PVC poles used for surf fishing into the sand were posted Friday, June 18.

The area was used during World War II for training in the use of hand-held rockets and other artillery. It is now a favorite of surf fishermen and beachcombers.

On June 10, Corps contractors doing preliminary field work discovered four practice rockets. While all were determined to be harmless, the discovery prompted the Corps to recommend limiting public activity in the area.

The contractors will begin the on-site surveys at several park sites in mid-August. Based on findings, the disposal or removal of unexploded ordnance may be necessary. Initial work on the project is expected to be completed by Oct. 1.

"Fort Miles was cleaned up by the military before it turned the site over to the state in 1964, but some of the ordnance may still be buried under the sand and remains potentially dangerous," said Park Operations Administrator Stephen Schilly. "We don't want to take any chances with the safety of park visitors."

Walking on the beach and surf fishing south of the Naval Dune Crossing will still be allowed. Beachgoers are asked not to touch or attempt to remove any suspected rockets, artillery shells or other remnants of military activity, and to report any finds to park rangers or to the park office at 302-645-8983. Although the practice rockets themselves do not present a danger, a small charge inside an intact rocket can contain explosives.

The biggest impact of the temporary restrictions will be to the surf fishermen who drive onto the beach at the park's Naval Dune Crossing. The Corps is concerned that vehicles might get stuck in the sand near the old rocket range located north of the crossing. Digging into the sand to free the vehicle could put visitors in contact with buried ordnance. As a precaution, the Corps has recommended the section of beach north of the Naval Crossing remain closed to vehicles until survey work is completed.

This restriction also will impact vehicles using the beach at the Point of Cape Henlopen. With northern access from the Naval Crossing restricted, vehicles using the Point area will need to leave that beach at sunset.

For the duration, surf fishermen are urged to take advantage of the 24-7 access at Delaware Seashore State Park and Fenwick Island State Park, to the south of Cape Henlopen.

*The public can call the Cape Henlopen State Park office at 302-645-8983 for more information.*

## **SPI Polyols Coastal Zone Permit Application Available for Review**

The Department of Natural Resources and Environmental Control invites the public to review the application for a Coastal Zone Act Permit from SPI Polyols Inc. located on Cherry Lane in New Castle.

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The company is seeking the permit to construct and operate new production equipment to manufacture more polyols, primarily as sorbitol and mannitol, and hydrolyzed starches. All of these products are used in the food and pharmaceutical markets. The new equipment includes tanks, pressure vessels, filters, steam boilers, ion exchange columns and other associated machinery. All the new equipment will be placed on 0.17 acres of land inside the applicant's Coastal Zone footprint.

The application is currently under review at the Department. It is available for public review at DNREC's offices at 89 Kings Highway in Dover or 715 Grantham Lane south of New Castle and at the Delaware City and Hockessin public libraries.

The Department will conduct a public hearing on the application after it is determined to be administratively complete. The public will be notified of the time and place.

*For additional information, contact Dennis Brown, Planning and Compliance Assistance, (302) 739-3091.*

### **DNREC Issues Order for Proposed Air Permit for Conectiv's Edge Moor Power Plant**

Department of Natural Resources and Environmental Control Secretary John A. Hughes issued an Administrative Order dated April 21, 2004 directing that the proposed Title V (Air) Permit for Conectiv's Edge Moor Power Plant move forward for federal approval.

Conectiv owns the electrical-generating Edge Moor Power Plant in Wilmington, Del. The proposed Title V operating permit for the facility consolidates previously issued permit terms and conditions for various emission units into one single permit (and incorporates the Clean Air Act Title IV Acid Rain permit).

A public hearing was held Dec. 17, 2002 for public comments on the draft permit, which was amended based on the hearing record. The amendments are not considered significant.

The proposed permit has been forwarded to the U.S. Environmental Protection Agency, which has up to 45 days to review it. DNREC's Air Quality Management Section will issue a final permit following EPA's approval.

Any person whose interest is substantially affected by this action of the Secretary may appeal to the Environmental Appeals Board by close of business July 12, 2004. The order and exhibits are available for public inspection at the Department of Natural Resources and Environmental Control's offices at 715 Grantham Lane, New Castle and 156 S. State St., Dover.

*For further information please contact Brad Klotz or Everett DeWhitt, Air Quality Management Section, New Castle, (302) 323-4542.*

### **Delaware's Piping Plover Population Still Struggling for Survival**

After getting off to a good start with six nests and 23 eggs, this nesting season is not turning out so well for Delaware's struggling population of piping plovers, the tiny beach nesters that are on the federal Endangered Species list. Only four chicks have survived to date – two at the Cape Henlopen State Park Point and two at the park's Gordons Pond area.

But there is still hope according to Division of Fish and Wildlife plover monitor Marnie Pepper. "The good news is that we still have two active nests that were discovered in the past week and the possibility of a third."

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While surveying a new least tern colony at Gordons Pond, the Division's seasonal biological assistant Anthony Gonzon came across a piping plover nest which, as of June 15, had one egg. Another plover pair was performing courtship displays nearby.

A nest with one egg was discovered on June 10 but when it was checked two days later, the egg was gone, probably eaten by a fox. The spunky parents quickly renested, however, and as of June 15 that nest had one egg.

"There's still a chance that we can have several more chicks this nesting season," Pepper said. "It will depend on several factors, including weather and predators, but we are doing everything humanly possible to help the little birds."

Despite the fact that a record number of adult plovers are in the area, the nesting success is surprisingly low, Pepper noted.

As nests are established, the Department of Natural Resources and Environmental Control's plover management team constructs protective exclosures to keep predators away from the eggs. Once nest-building and egg-laying begins, the state parks restrict pets and people on designated sections of the beaches.

Piping plover mating usually occurs from late March through early June. They generally lay one egg every other day until they reach a complete clutch of four eggs. The eggs are incubated for about 25 days. Once hatched, chicks fledge, or fly from the nest, in about 35 days. Most nesting activity has ceased by mid-August and the birds fly south for the winter.

Until the chicks are able to fly, visitors to the beaches are asked to respect the closed areas set up to protect these birds. Dogs and people running through enclosed areas may crush eggs and chicks. Flying kites may resemble a hovering hawk and frighten chicks and adults, forcing them to abandon their nests.

"By leaving your dogs at home and staying out of restricted areas, you help enhance the protection of rare, threatened or endangered bird species," Pepper said. "For the most part the public has been very cooperative and we appreciate that."

DNREC and its Divisions of Fish and Wildlife and Parks and Recreation have been monitoring and protecting the state's federally listed threatened and endangered beachnesters since 1990.

Last year – 2003 – was the most productive piping plover breeding season recorded since monitoring began. Biologists recorded five nests which fledged 14 plover chicks.

Pepper also keeps an eye on Delaware's least terns, another threatened beachnester species. Last week she found a new colony with five nests at Gordons Pond. "The adults are aggressively defending their nesting area which is located inside the closed area, well above the tide line," she said.

There is another least tern colony near the Cape Henlopen Point, but high tides have created problems there. "Some of those birds may have moved to Gordons Pond and started that colony," Pepper said.

*For more information, contact Marnie Pepper, (302) 382-4151, Holly Niederriter, (302) 653-2880, or Anthony Gonzon, (302) 598-5893.*

*continued on page 13*

## **DNREC Issues Notice of \$7,000 Penalty to BBK Pet Crematory of Frankford for Air Pollution Violations**

Department of Natural Resources and Environmental Control Secretary John A. Hughes has issued a Notice of Administrative Penalty Assessment and Secretary's Order to BBK Pet Crematory for violations of Delaware's regulations governing the control of air pollution. The Order includes a cash penalty of \$7,000 and an additional \$711.51 as cost recovery reimbursement to the Department for expenses associated with its investigation.

BBK Pet Crematory owns and operates a 2.5 million BTU propane-fired animal crematory on Beaver Dam Road in Frankford, Del. By-products from the process include nitrogen oxides (NOx), carbon monoxide (CO), and organic compounds, sulfur dioxide (SO<sub>2</sub>) and particulate matter (PM). The by-products are emitted to the atmosphere.

The company applied for an air quality permit to construct and install the pet crematory on Feb. 3, 2003 and was issued a construction permit on July 14, 2003. The Department discovered during discussions with the owner subsequent to a site visit in November 2003 that the company had begun operating the crematory in August 2003 without obtaining an operating permit.

BBK Pet Crematory has 30 days to request a public hearing.

*For further information, contact Nancy Terranova, Air Quality, (302) 739-4791 or (302) 323-4542.*

## **DNREC Issues Notice of Conciliation and Proposed Penalty Order to H. Clark Carbaugh of Utility Systems for Septic System Violations**

Department of Natural Resources and Environmental Control Secretary John A. Hughes has issued a Notice of Conciliation and Proposed Administrative Penalty Order to H. Clark Carbaugh of Utility Systems Inc. for violations of Delaware laws and regulations governing the community on-site wastewater (septic) system serving the Wood on Herring Creek residential development in Sussex County.

The Order assesses a penalty of \$1,000 per day for each day of non-compliance that will be suspended if the respondent fulfills all requirements of the Order. Otherwise, the penalty will be due within 30 days of the Department's notice that the Order has been violated.

In November 1985, the Department issued Carbaugh's company, Utility Systems, a permit for a community (175 dwellings) on-site wastewater disposal system to service the Woods on Herring Creek development located off Highway 24 in Sussex County.

The Department first became aware of disposal and absorption area problems with the system serving the development in November 1997. A notice of violations was issued to Utility Systems by the Department and Carbaugh submitted a corrective action plan and a relief trench permit application to address surface discharge and absorption problems. Additional permits for relief trenches were issued in March 1999 and August 2000. The Department required Utility Systems to have the system pumped if the relief trenches did not resolve the surfacing problems.

An audit of the system performance by the company's consultant resulted in a determination that the system was not capable of handling its full design flow. Therefore, in October 2002, the Department issued an on-site wastewater system permit for a new treatment and disposal system.

In January 2003, inspections by the Department indicated surface breakouts throughout the

drain fields. Notice was given to Carbaugh in June 2003 to pump the system to prevent surfacing and install the new system within 90 days. Subsequently, the Department acknowledged the system could not be completed within the time period due to conflicts between Utility Systems and homeowners over financing of the new system. Carbaugh was advised by the Department to continue pumping and resolved conflicts so construction of the new system could begin.

In January 2004, the Department required that pumping of the system be increased to prevent additional surfacing. The Department continues to meet with Carbaugh to discuss ongoing problems and encourage construction of the new system before the Oct. 7, 2004 expiration of the construction permit.

To date, Carbaugh continues to pump out the system, with minimal construction of the new system started.

Carbaugh violated Delaware laws and regulations by: allowing the on-site wastewater system to exceed capacity, which caused the system to improperly treat and dispose of the daily wastewater flow; and allowing wastewater from the malfunctioning on-site system to surface and pool on the surface of the ground which constitutes a public health hazard.

The Order directs Carbaugh of Utility Systems to complete the installation of the new system within 25 weeks.

“This system will reduce nutrients to our inland bays as well as service the people of the Woods on Herring Creek,” said DNREC Secretary John A. Hughes. “My staff has patiently waited for Mr. Carbaugh to resolve financial matters with the homeowners so that the new system can be completed and placed into operation. The situation has become untenable and must be resolved.”

*For further information, contact Rodney Wyatt, Ground Water Discharges Section (302) 739-4762.*

## **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**

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:**

2004-05: **Amendments to Delaware Regulations Governing Solid Waste.** This action would update and enhance various sections of the regulations and help improve understanding and implementation of the solid waste requirements. Contact Karen J'Anthony, 739-3689

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

**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 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.

### Explore Delaware’s Environment at the State Fair July 22-31



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