

# DNREC NEWS

The Delaware Department of Natural Resources and Environmental Control

Vol. 135

January 21, 2004



Ruth Ann Minner  
*Governor*

John A. Hughes  
*Secretary*

## Inside

CALENDAR .....	2
RESIDENT CURATORS	4
MOTIVA .....	5
BP .....	6
TASK FORCE .....	7
FLOODPLAIN MAPS ...	9
CAFO REGS .....	9
OYSTERS .....	11,15
SNAKEHEADS .....	12
WASTE MANAGEMNT .....	25
REGULATORY UPDATE .....	19

Visit our Website:  
[www.dnrec.state.de.us](http://www.dnrec.state.de.us)

### **Pollution Control Strategy for Inland Bays to be Introduced at Three Public Workshops**

The Department of Natural Resources and Environmental Control plans to roll out a proposed Pollution Control Strategy for improving water quality in the Inland Bays at three public workshops over the next four weeks in Sussex County. The purpose of the workshops is to give the public an opportunity to ask questions and provide input to the Department before a final regulation is developed for consideration at a future public hearing.

*continued on page 3*

### **Lifetime Park Passes Introduced for Delaware Residents 65 and Older**

Delaware State Parks has introduced the Lifetime Pass for Delaware residents age 65 and older with issuance of the first pass to Governor Ruth Ann Minner by Division of Parks and Recreation Director Charles Salkin.

Gov. Minner, who developed the state's Open Space legislation, continues to be a great supporter of parks and natural resource protection for all Delaware's citizens, noted Salkin.



Division Director Charles Salkin presents the first pass to Governor Ruth Ann Minner.

Parks photo

*continued on page 3*

## Calendar

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

### JANUARY

**25 – Public hearing, revision to the state implementation plan for ozone air quality standards, 6 p.m.**, Priscilla Building Conference Room, Dover. Contact Phil Wheeler, Air Quality Management, (302) 739-4791

**25 – Public hearing, proposed general permit regulations for concentrated animal feeding operations (CAFOs), 6 p.m.**, Farmington Fire Hall. Contact Peder Hansen, DNREC, (302) 739-5731.

**26 – Public workshop, Inland Bays Pollution Control Strategy, 5-8:30 p.m.**, Rehoboth Convention Center. Contact Katherine Bunting-Howarth, Watershed Assessment, (302) 739-4590 or (302) 739-4860.

**26 - Coastal Zone Industrial Control Board Hearing, appeal of Secretary's Order issuing a Coastal Zone Act permit to Premcor for the Delaware City Refinery, 2 p.m.**, 391 Lukens Drive, Conf. Room B. Contact Gail Donovan, (302) 739-6400.

**27 – Public hearing, proposed general permit regulations for concentrated animal feeding operations (CAFOs), 6 p.m.**, Gumboro Fire Hall. Contact Peder Hansen, DNREC, (302) 739-5731.

**27 – Public workshop on Delaware's Oyster Fishery, 7:30 p.m.**, DNREC auditorium, 89 Kings Highway, Dover. Contact Richard Cole, (302) 739-4782.

### FEBRUARY

**1 – Public hearing on Snakeheads and River Herring, 4:30 p.m.**, DNREC Auditorium, 89 Kings Highway, Dover. Contact Roy Miller, Fisheries, (302) 739-3441.

**1 – Public hearing on application of Waste Management of Delaware Inc. for a change in operations at the Newport Transfer Station, 6:30 p.m.**, Newport Old Town Hall, 15 Augustine St., Newport. Contact Avery Dalton, (302) 739-3689.

**2 - Recycling Public Advisory Council meeting, 1 – 4 p.m.**, Buena Vista Conference Center, New Castle. Contact Janet Manchester, (302) 739-3689.

**3 – Public workshop, Inland Bays Pollution Control Strategy, 5-8:30 p.m.**, Roxana Fire Hall. Contact Katherine Bunting-Howarth, Watershed Assessment, (302) 739-4590, or (302) 739-4860.

**5 – First Saturday in the First State, 9 a.m. – 5 p.m.** Call (302) 739-1173 for more information.

**10 - Public workshop, Inland Bays Pollution Control Strategy, 5-8:30 p.m.**, Millsboro Civic Center. Contact Katherine Bunting-Howarth, Watershed Assessment, (302) 739-4590 or (302) 739-4860.

**16 - Delaware Advisory Council on Tidal Finfisheries meeting, 7 p.m.**, DNREC auditorium, 89 Kings Highway, Dover. Contact Roy Miller, (302) 739-3441

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

***Pollution Control Workshops*** continued from page 1

The workshops will each begin at 5 p.m. with a poster session followed by presentations at 6 p.m. on the following dates: Jan. 26 at Rehoboth Convention Center; Feb. 3 at Roxana Fire Hall; and Feb. 10 at Millsboro Civic Center.

The draft Pollution Control Strategy incorporates a majority of the actions recommended by a diverse group of stakeholders – including the Inland Bays Tributary Action Team formed with residents, farmers, a developer, local government and business representatives – that worked over the course of several years to develop multi-faceted approaches to meet the goal of improving the health of the bay system comprised of the Little Assawoman, Indian River and Rehoboth bays.

“The health of our prized Inland Bays has been a great concern that must be addressed with real-life solutions and actions from all of us if we are to see significant improvement,” said DNREC Secretary John A. Hughes. “We have a responsibility to leave a legacy of restored water quality in this unique ecosystem that provides natural beauty and recreational opportunities to so many citizens and visitors to Delaware.”

The draft Inland Bays Pollution Control Strategy to be presented at the workshops is now available on-line at the Department’s website, [www.dnrec.state.de.us](http://www.dnrec.state.de.us) under “Hot Topics.” This document and its accompanying recommendations outline programmatic and regulatory changes needed to improve water quality in the Inland Bays, from requiring enhanced nutrient removal technology on septic systems to mandating nutrient-reducing stormwater management practices. The draft Strategy also includes increased levels of voluntary agricultural best management practices.

*For more information, contact Katherine Bunting-Howarth, (302) 739-4860 or (302) 739-4590, or Lyle Jones, (302) 739-4590; or Melinda Carl, (302) 739-4506.*

***Parks Lifetime Pass*** continued from page 1

The Lifetime Pass can be purchased for a nominal one-time fee of \$45 and allows a senior resident lifetime access to every state park that charges a vehicle entrance fee. The annual senior pass for \$10 continues to be available.

Legislation to create the Lifetime Pass was sponsored by Rep. Joe Miro (R-22<sup>nd</sup> District) to “provide an opportunity to our seniors to visit all of our great recreational and natural areas in the state and to remain competitive with some of our neighboring states.” Rep. Miro remarked that health and wellness are important to seniors and that “this pass would encourage them to get outside and exercise.”

Lifetime Passes are now available for purchase at any state park office and at the Department of Natural Resources and Environmental Control office at 89 Kings Highway in Dover.

*For further information, contact Helen Haughey, (302) 739-4413.*

## Delaware State Parks Sign Up First ‘Resident Curators’

The state Division of Parks and Recreation has signed a contract with its first resident curators under a program launched last summer. The Resident Curatorship Program is a public/private partnership in which private individuals or couples agree to rehabilitate historic homes owned by the Division in return for the right to live there rent-free for the rest of their lives.



Parks photo

Bucks Tavern at Lums Pond State Park

Maryland residents Richard and Hedwig Stewart and their daughter Hattie are already hard at work restoring Buck Tavern, which was built in the town of Summit in 1821 and reconstructed on its current location on Lums Pond State Park in 1966.

“We plan on taking great care in researching the architecture of the period in order to accurately restore or replicate the look of Buck Tavern,” Hattie said.

Department of Natural Resources and Environmental Control Secretary John Hughes and the Stewarts signed the contract in December. The Stewarts have already replaced the roof and are working on the plumbing and electricity.

According to their agreement with the state, the Stewarts will restore the house at their own expense – an investment of at least \$100,000, and probably much more. They also agree to open it to the public at least two days a year once the restoration has been completed.

The state acquired Buck Tavern from the Army Corps of Engineers when the Chesapeake and Delaware Canal was widened. It was transferred to the Division of Parks and Recreation in 1977 and has stood empty ever since.

More than 100 people toured Buck Tavern and nearby Lums Mill House during open houses held in June and July, resulting in two serious proposals for Buck Tavern. Lums Mill House, nearly 300 years old and listed on the National Register of Historic Places, is still available for someone adventurous enough to take on the challenge. The Division is considering other historic houses, including one in Sussex County, for future resident curatorships.

According to Dr. Cara Blume, the Division's cultural heritage program manager, the Resident Curatorship Program is an excellent way to involve the private sector in the preservation of historic buildings that the Division is unable to restore at the present time. "When people see what the Stewarts do with Buck Tavern, they'll be excited about the possibilities of our other curatorship homes."

*For more information on the program, contact Blume at (302)739-4413.*

### **DNREC Issues Notice of \$375,000 Administrative Penalty Assessment to Motiva for Air Pollution and Hazardous Waste 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 Motiva Enterprises LLC. for violations of Delaware's regulations governing the control of air pollution and Delaware's regulations governing hazardous waste.

The order consolidates both air and waste violations and assesses a penalty of \$375,000 for the violations. A tentative agreement has been made for Motiva to pay \$175,000 of the penalty in cash, with the balance of \$200,000 to be paid in environmental improvement projects. Payment will include \$9,385 for cost recovery to the Department.

Motiva owned and operated the Delaware City Refinery located in Delaware City, Del. until May 2004 when it sold the refinery to Premcor. Motiva manufactured various petroleum-based products, including gasoline, diesel and jet fuels and other by-products. The company's petroleum refining involved the physical and chemical separation of crude oil into marketable petroleum products. The Delaware City Refinery was required to comply with various permits issued by different divisions and branches of the Department including air quality and hazardous waste permits.

The air related violations covered by this order involve three units, i.e., the crude unit atmospheric tower, the coke storage silo at the fluid coking unit and the refinery flare system. The crude unit atmospheric tower is the first distillation process for the crude oil; the coke storage silo stores coke produced as a byproduct of fluid coking operations and the refinery flare system is a gas recovery and disposal system that allows the refinery to safely destroy and disperse unburned hydrocarbon vapors vented to it during refinery upsets, startups and shutdowns, thus minimizing the impact of these events on the environment. The order also cites numerous violations of hazardous waste laws and regulations. The violations in this Secretary's order cover a period from September 2000 to February 2002.

*continued on page 6*

The Department believes that Motiva violated State laws and regulations by:

1. Making unpermitted emissions of hydrocarbons from the crude unit during the period beginning June 21, 2001 through June 29, 2001.
2. Removing an air induction fan causing unpermitted emissions of coke dust from May 31, 2001 through Dec. 4, 2001.
3. Violating numerous hazardous waste laws and regulations including unpermitted or improper treatment of hazardous wastes; inadequate identification and labeling and logging of inspections. Violations were cited September 2000 and February 2002.
4. Releasing SO<sub>2</sub> and NO<sub>X</sub> as a result of flaring hydrocarbon gases into the atmosphere without a permit, thereby causing or contributing to the discharge of an air contaminant between Oct. 18, 2001, and Feb. 2, 2002.

Motiva has thirty days to request a public hearing.

*For further information, contact Robert Taggart, Air Quality Management, (302) 323-4542; Nancy Marker, Solid and Hazardous Waste Management, (302) 739-3689; or Maria Taylor, Public Affairs Office, (302) 739-4506.*

### **Comment Period for BP Coastal Zone Status Request Ends Monday, Jan. 24**

The Department of Natural Resources and Environmental Control invites the public to review and comment on the application from Crown Landing LLC, a subsidiary of BP, for a Coastal Zone Act status decision to determine the applicability of the Coastal Zone Act to their plans for a liquefied natural gas or docking facility. DNREC has ruled that the BP Crown Landing application is administratively complete and ready for review.

BP Crown Landing LLC proposes to build and use a liquefied natural gas docking facility in the Delaware River in Logan Township, New Jersey. The proposed site for the docking facility lies within Delaware's Coastal Zone and may be subject to protections afforded to that zone by the Coastal Zone Act of 1971. The applicant is seeking a Secretary's decision that the proposed pier in the Delaware River is exempt under provisions of the Coastal Zone Act.

The proposed 2,000-foot docking facility will have one berth and will be able to receive one or two ships per week. Each ship would carry from 138,000 to 200,000 cubic meters of liquefied natural gas.

Delaware's Coastal Zone Act (CZA) is a law which regulates certain land uses along the Delaware Coast and the entire C&D Canal. Specifically, the Act regulates industrial, manufacturing and offshore bulk product transfer facilities. Some of these uses are prohibited, while others are allowed by acquiring a State Coastal Zone Act Permit from the Department of Natural Resources and Environmental Control.

In order to determine if a proposed project is prohibited or allowed with a CZA Permit, a request for a Coastal Zone Act Status Decision is normally filed by the company proposing the new activity. The information in the application will lead DNREC's Secretary to make a determination as to whether or not a new facility is allowed by law, whether a permit is required or whether it is a prohibited use.

The application is posted on DNREC's website: [www.dnrec.state.de.us/DNREC2000/admin/bp/](http://www.dnrec.state.de.us/DNREC2000/admin/bp/) and is available at DNREC's offices at 89 Kings Highway in Dover, 715 Grantham Lane south of

*continued on page 7*

New Castle, and the Hockessin Public Library and Delaware City Public Library. Written comments should be sent to DNREC, 89 Kings Highway, Dover, DE 19901, attention Dennis Brown.

Public comments should be received by DNREC by close of business Jan. 24, 2005. The public will be notified of the Secretary's status decision.

*For further information, contact Dennis Brown, Coastal Zone Program (302) 739-3091 or Maria Taylor, Public Affairs Office (302) 739-4506.*

### **Surface Water Management Task Force To Meet Jan. 21** ***Task Force Will Propose Statewide Flood Prevention Recommendations***

Department of Natural Resources and Environmental Control Secretary John A. Hughes will convene the first meeting of the Surface Water Management Task Force at 10 a.m. today, Friday, Jan. 21 in the DelDOT Felton /Farmington Conference Room at the Delaware Department of Transportation, 800 Bay Road, Dover, Del.

Last month, Governor Ruth Ann Minner established the Surface Water Management Task Force through Executive Order 62, with Hughes as chair, to study and develop recommendations for the flooding and drainage problems that have plagued the state of Delaware in recent years.

The Governor expects the panel to develop a statewide strategy that will combine drainage, flood control and stormwater management. According to Gov. Minner, "The result will be a series of actions that state, county and local governments can take to decrease flooding and drainage problems and create a safer environment for our state residents."

The agenda for the first meeting includes: introduction of committee members, description of the problem, ground rules and informational material, a general discussion and subcommittee and assignments.

The task force, which will include officials from state, county and local governments, as well as the private sector, is charged with recommending changes to state or local laws and policies while ensuring that any new policies comply with state and federal water quality requirements. It also will study the costs and potential sources of funding for a statewide plan to minimize flooding and drainage problems. When possible, the group will recommend strategies that will preserve and enhance the recharge of aquifers and the uses of open space, consistent with Livable Delaware policies and habitat conservation strategies.

"We are on a fast track and I expect this group to be invaluable in our efforts to combat our flooding and drainage problems," said Secretary Hughes. "Coordinating efforts within our state is the best possible way to help ensure our residents' safety and prevent the many problems associated with these dangerous and costly issues."

Recommendations of the task force are due to the Governor by April 1, 2005.

*For further information, contact Maria Taylor, Public Affairs Office (302) 739-4506.*

### **DNREC adopts TMDL Regulation for Little Assawoman Bay** ***Regulation Sets Nitrogen and Phosphorous Limits***

DNREC Secretary John A. Hughes has approved the adoption of the proposed regulation for Total Maximum Daily Loads (TMDLs) in the Little Assawoman Bay, calling for a 40 percent reduction in both nitrogen and phosphorous loads. A TMDL sets a limit on the amount of a pollutant that

*continued on page 8*

can be discharged into a waterbody and still protect water quality.

A reduction in the amount of nitrogen and phosphorous loads reaching the Inland Bays is deemed necessary to reverse the undesirable effects documented in many intensive water quality monitoring efforts by the state and federal governments as well as by the University of Delaware and other public and private research groups. The proposed regulations were the subject of a public hearing Nov. 30 in Bethany Beach, Del.

Symptoms of nutrient enrichment in the Inland Bays have included excessive macroalgae growth (sea lettuce and other species), phytoplankton blooms (some potentially toxic), large daily swings in dissolved oxygen levels, loss of submerged aquatic vegetation, and fish kills.

According to Secretary Hughes, "This regulation is a significant step toward reversing excessive nutrient loads that threaten the future of the Inland Bays – a significant natural ecological and recreational resource of the State – with impacts to local and State economies through tourism, property values and revenue to the State."

The adopted regulation was published in the Jan. 1, 2005 issue of the Delaware Register of Regulations and will be effective Jan. 10, 2005. The U.S. Environmental Protection Agency (EPA) has already approved this TMDL regulation for Little Assawoman Bay.

Implementation of the TMDL regulation shall be achieved through a Pollution Control Strategy. The Inland Bays Tributary Action Team and the Department have drafted a Pollution Control Strategy for implementing the TMDL. The Draft Pollution Control Strategy will be discussed at three public workshops in Sussex County.

*For more information about the workshops, contact Kathy Bunting Howarth or Lyle Jones in DNREC's Watershed Assessment Section, (302) 739-4590.*

## **State Parks Limit Surf Fishing Vehicle Access During Winter Months**

The Division of Parks and Recreation reminds surf-fishermen that some state park beaches closed to vehicles Dec. 31 and will remain closed to vehicles through Feb. 28. This includes day use parking lots at Cape Henlopen State Park's Beach Plum Island and Delaware Seashore State Park's Conquest Road and Key Box Road.

Several areas will remain open for surf fishing, weather and tides permitting. These include 24-hour access at Delaware Seashore's 3R's area and all of Fenwick Island State Park. Cape Henlopen's Gordon's Pond area, Point Crossing, Herring Point Crossing and Navy Crossing are open daily from 8 a.m. until sunset.

"There are some hardy anglers who like facing the elements and we try to accommodate them by allowing vehicles on the beach at the crossings that are most popular at this time of year," said Division Director Charles A. Salkin.

A Division brochure, "Delaware State Parks Surf Fishing," has complete beach access information. It is available at state park offices, from surf fishing vehicle permit agents or by calling the Division's central office at 302-739-4702. Information also is available at [www.destateparks.com](http://www.destateparks.com).

*For more information, contact Cape Henlopen State Park Administrator Pat Cooper or Park Manager Paul Faircloth, (302)645-8983; or Delaware Seashore State Park Manager James Wagner, (302)227-2800.*

## **New Floodplain Maps for Sussex County Issued by FEMA** *New Floodplain Maps Effective Jan. 6, 2005*

The Department of Natural Resources and Environmental Control announces that the Federal Emergency Management Agency (FEMA) issued new floodplain maps for Sussex County, effective Jan. 6, 2005. These maps are updated and replace the previous 1995 maps.

The primary change is that the new maps now show 100-year flood elevations in the North American Vertical Datum of 1988 – an updated sea level datum. These maps also correct floodplain errors which had been identified on the 1995 maps. Copies of these maps may be ordered from FEMA at 1-800-638-6620.

These maps must be used as the basis for floodplain regulation for new construction and development effective Jan. 6, 2005. Under certain circumstances, projects which had been permitted before Jan. 6, 2005 using the previous (1995) maps may not be subject to the new maps.

Contact your local code enforcement department for more information on permitting.

Contact Michael Powell, DNREC Division of Soil and Water Conservation (302) 739-4411 for general information regarding the floodplain maps.

## **Public Hearing Set for Jan. 25 on Revision to the State Implementation Plan for Air Quality Standards for Ozone**

The Delaware Division of Air and Waste Management, Air Quality Management Section, will hold a public hearing at 6 p.m. Tuesday, Jan. 25 on a proposed revision to the State Implementation Plan for the Attainment and Maintenance of the National Air Quality Standards for Ozone. The hearing will be held in the Priscilla Building Conference Room, 156 S. State St., Dover.

The proposed revision to the State Implementation Plan will add proposed Regulation No. 45 – Excessive Idling of Heavy Duty Vehicles. This will regulate the engine idling time for the operation of most heavy-duty vehicles having a gross vehicle weight rating of over 8,500 pounds, regardless of the state in which the vehicle is registered.

The proposed regulation may be inspected at the Department's offices located at 156 S. State St., Dover, 715 Grantham Lane, New Castle, and 422 N. DuPont Highway, Suite 1, Georgetown.

Interested parties may submit comments in writing on the proposed regulation and/or statements and testimony may be presented either orally or in writing at the public hearing. Individuals interested in presenting statements at the public hearing are asked to register in advance by mail. Written statements and comments should be addressed to Phil Wheeler, Air Quality Management Section, 156 S. State Street, Dover, DE, 19901.

*For further information or to make an appointment to inspect the regulation, please contact Phil Wheeler at (302) 739-4791.*

## **Public Hearings Set for Jan. 25 and 27 on Draft CAFO Regulations for Large Farms**

The Department of Natural Resources and Environmental Control, along with the Department of Agriculture and the Delaware Nutrient Management Commission, will hold two public hearings

*continued on page 10*

this month on proposed General Permit Regulations for Concentrated Animal Feeding Operations (CAFO). The first hearing will be at 6 p.m. Tuesday, Jan. 25 at the Farmington Fire Hall and the second hearing will be at 6 p.m. Thursday, Jan. 27 at the Gumboro Fire Hall.

The proposed DNREC regulations were developed cooperatively with the Department of Agriculture, Delaware Nutrient Management Commission, Natural Resource Conservation Service and the University of Delaware. They will amend Section 9, The General Permit Program, of the Regulations Governing the Control of Water Pollution.

The new regulations will affect large animal farms such as poultry operations greater than 125,000 bird capacity. These operations are defined by federal regulations as a pollution point source and will need a CAFO permit. Smaller size operations will be affected if they demonstrate a significant threat to the environment such as animals in surface water, improper mortality management, spills or discharges from the manure management system, or non-compliance with the State Nutrient Management Law. CAFO requirements include the following:

- A signed notice of intent by the farm owner or management
- A nutrient management plan
- Adequate mortality management
- Adequate manure storage
- Separation of clean water from manure and or animals
- Manure application setbacks to surface waters and ditches
- Certification through the state Nutrient Management Program
- Annual report
- Manure management records

The Delaware CAFO standards are required by regulations issued by the U.S. Environmental Protection Agency. Authority for CAFO permits falls under the Department of Natural Resource and Environmental Control but will be administered by the State Nutrient Management Program within the Department of Agriculture.

The draft regulations are available on the Department of Agriculture website (<http://www.state.de.us/deptagri/nutrients/index.htm>). Written statements and comments should be addressed to Peder Hansen, DNREC, 89 Kings Highway, Dover, DE, 19901 or by e-mail, [peder.hansen@state.de.us](mailto:peder.hansen@state.de.us). The deadline for written comments is the conclusion of the hearing.

*For more information, contact Peder Hansen, Surface Water Discharges (302) 739-5731 or Bill Rohrer, Nutrient Management Commission (302) 698-4500 or (800) 282-8685 (DE only), or Maria Taylor, Public Affairs Office (302) 739-4506.*

## **Recycling Public Advisory Council to Meet Feb. 2**

The Recycling Public Advisory Council will meet from 1 to 4 p.m. Wednesday, Feb. 2 at the Buena Vista Conference Center, New Castle.

The purpose of the meeting is to determine a course of action that will result in gaining the support of the public and the General Assembly for the draft curbside recycling legislation that was delivered to the Administration and all legislators Jan. 14.

The Recycling Public Advisory Council was created by Executive Order No. 82 in September 2000 and charged with advising the Department of Natural Resources and Environmental Control and the Delaware Solid Waste Authority on all aspects of recycling, including development of grant

*continued on page 11*

criteria and selection of applications; a methodology for measuring recycling rates; and possible outreach activities designed to achieve greater recycling rates.

Members of the council are: Paul Wilkinson, Delaware Environmental Alliance for Senior Involvement (DeEASI); Patricia Todd, League of Women Voters; Pasquale Canzano, Chief Operating Officer, DSWA; Richard Cecil, Delaware Association of Counties; Director, DNREC Division of Air and Waste Management; Donald Mulrine, Mayor, City of Newport; Robert Propes, Delaware Economic Development Office; Paul Bickhart, Recycling Express of Delaware; and Steve Masterson, Waste Management of Delaware.

*For further information, or for directions to the meeting, contact Janet Manchester, DNREC Solid and Hazardous Waste Management, (302) 739-3689.*

### **Division of Fish and Wildlife to Hold Public Workshop Jan. 27 on Delaware's Oyster Fishery**

The Division of Fish and Wildlife will conduct a public workshop at 7:30 p.m. Thursday, Jan. 27 to review the status of the state's oyster resource in Delaware Bay and present management recommendations for the 2005 commercial oyster fishery. The meeting will be held in DNREC's auditorium, Richardson and Robbins Building, 89 Kings Highway, Dover.

Division staff will provide an update on stock conditions based on the findings from the annual October 2004 biological survey of the natural oyster beds. These most recent survey results will be incorporated into the 30-year data base time series that the Division maintains in order to evaluate relative stock abundance over time. In addition, information on size structure and natural mortality rates will also be reviewed as part of the general discussion regarding status of the resource.

Specific recommendations regarding harvest quotas, seasons and areas open to harvesting during 2005 will be presented and discussed. Division staff will answer questions and participate in open discussion with the public in attendance regarding oyster management issues relative to the 2005 fishing season.

*For further information, contact Richard Cole, Fisheries, (302) 739-4782.*

### **Public Invited to White Clay Creek State Park Master Plan Workshop Jan. 27 in Newark**

The Division of Parks and Recreation has scheduled the fourth in a series of workshops to collect public input on the development of a master plan for White Clay Creek State Park. It will be held from 6 to 8 p.m. Thursday, Jan. 27 in the University of Delaware's John M. Clayton Hall, 100 Pencader Way, Newark. Anyone with an interest in White Clay Creek State Park is invited to attend.

Division staff is working with local citizens in a planning process that will give everyone the opportunity to participate in the preparation of White Clay Creek State Park's master plan, a document which will determine long-range plans for the park, including facility development and management.

Roads and parking will be the focus of this workshop. Previous workshops have focused on the park's trail system, the Carpenter Recreation Area, wildlife habitat management, environmental education and facilities.

*continued on page 12*

“The purpose of these workshops is to give park neighbors and visitors an opportunity to provide input on issues they feel should be addressed in a master plan that will guide management decisions for the park over the next 15 to 20 years,” according to Matt Chesser, manager of the Division’s Planning, Preservation and Development Section.

White Clay Creek State Park was created in 1968 when the state purchased 24 acres. Today it protects 3,384 acres in the White Clay Watershed, one of the few relatively unspoiled river systems in the urbanized corridor between Philadelphia and Newark, Delaware.

*For more information, contact Cindy Todd in the Preservation, Planning and Development Section, (302) 739-3423.*

## **Second Public Hearing to be Held Feb. 1 on Revisions to Fishing Regulations Affecting Snakeheads and River Herring**

The Delaware Division of Fish and Wildlife will hold a second public hearing to accept additional testimony on revisions to fish stocking practices under the Non-Tidal Fishing Regulations beginning at 4:30 p.m. Tuesday, Feb. 1 in the auditorium of the Department of Natural Resources and Environmental Control auditorium, Richardson and Robbins Building, 89 Kings Highway, Dover.

According to Fisheries Administrator Roy Miller, the Division proposes to ban the northern snakehead fish and the blotched snakehead fish by adding them to the list of species that are unlawful to transport, purchase, possess, or sell within Delaware. This complements action taken recently by the state of Maryland and previous action taken by the states of Pennsylvania and New Jersey.

The reason for this change is to prevent the purposeful or accidental introduction of this potentially harmful species of fish into Delaware waters. The two species included in the proposed ban are the two most likely to survive and thrive in Delaware freshwaters if released.

In addition, The Division will accept additional testimony and evidence on a proposed new regulation that would set a daily limit of 25 on the take and possession of river herring. Exceptions to this limit would include holders of a valid commercial finfish license, someone with a receipt from someone with a finfish license, or a receipt from a licensed retailer who legally obtained said river herring for resale.

Individuals may present their opinions and evidence on the proposed revisions by writing the Fisheries Section, Division of Fish and Wildlife, 89 Kings Highway, Dover, DE 19901, or by email to [roy.miller@state.de.us](mailto:roy.miller@state.de.us). The record will remain open for written or email comments until 4:30 p.m., Jan. 14, 2005.

*For additional information, contact the Fisheries Section, (302) 739-3441.*

## **The First State Heritage Park at Dover Presents ‘First Saturdays in the First State on Feb. 5 *Special Programs Honoring African-American History Month***

The First State Heritage Park at Dover will present “First Saturdays in the First State,” on Saturday, Feb. 5. The sites linked by the new park include Legislative Hall, Delaware Public Archives, the Old State House Museum and other Delaware State Museums’ sites; and the Biggs Mu-

*continued on page 13*

seum of American Art. Tours and exhibits will be offered at all the sites which are open Saturday from 9 a.m. until 5 p.m. Admission is free.

Special programs honoring African-American History Month include a genealogy workshop at Delaware Public Archives. Tours of Legislative Hall will highlight the career of Herman Holloway, Delaware's first black legislator, and will include a reading and display of the "Black Codes" legislation imposed on African-Americans in Delaware in 1829.

Featured at the Biggs Museum of American Art is the newly opened exhibition, Edward W. Redfield: Just Values and Fine Seeing, and Biggs Kids children's programming. Delaware State Museums' Quilt Exhibit continues at the Visitor Center, and the State House Museum and Museum Square sites will also offer tours.

The First State Heritage Park at Dover is an interagency partnership between the Delaware Department of State, the Delaware Department of Natural Resources and Environmental Control, and the Delaware Economic Development Office. Governor Ruth Ann Minner created the First State Heritage Park Task Force by executive order in April 2004.

*For more information about February's First Saturday programs, the public may call (302) 739-1173.*

If You Go:

LEGISLATIVE HALL, Legislative Avenue

PHOTO ID IS REQUIRED FOR ENTRY TO LEGISLATIVE HALL.

Guided tours begin hourly, 9 a.m. through 4 p.m. Special tour kicks off African American History Month with highlights of the career of Herman Holloway – Delaware's first African-American legislator, an overview of Governor Terry's order of the National Guard occupation of Wilmington due to Martin Luther King assassination race riots, and a reading and display of the "Black Codes" legislation imposed on African-Americans in Delaware in 1829, taken from the Delaware Public Archives. The tour also includes the General Assembly chambers, the governor's ceremonial office, the portrait gallery of Delaware's governors and military heroes, Jack Lewis murals and Delaware State Museums' exhibit of a selection of items recovered from the De Braak shipwreck.

DELAWARE PUBLIC ARCHIVES, 121 Duke of York Street

10:30 a.m.: African-American Genealogy Workshop led by John Logan focuses on the collections and resources needed to search for African-American ancestors.

The Bill of Rights Returns Again to Delaware

The "Jewel Box" at the Archives features a return visit of Delaware's copy of the Bill of Rights, Permanently housed at the National Archives, it returned to Delaware in 2003 for the first time since 1789. Through a 25-year agreement with the National Archives, the state's copy of the Bill of Rights will reside in Delaware from December 7 (Delaware Day) to July 4 each year, returning to the National Archives for conservation work during the intervening time. While it is here, it is being stored and displayed under strictly regulated humidity, temperature and lighting conditions. Security surrounding the iconic document is also tight. It is contained in a protective case and an armed guard will stand watch whenever it is on display. The case is housed inside a safe, which will be secured after exhibition hours. Motion detectors and other intruder-detection sensors protect the safe itself.

DELAWARE STATE MUSEUMS

Delaware State Visitors Center, 406 Federal Street

*continued on page 14*

Special Exhibition: Stitches of Art and Comfort: Delaware Quilts, 1740-2002

The American tradition of quilting is celebrated in this display of 100 unique Delaware-made quilts whose colors and patterns provide clues to the history and culture of the state, the region and the nation from the 18th century to the present. The quilts featured in this newly opened exhibition have been selected from the permanent collection of Delaware State Museums and include eight quilts on loan.

Featuring quilts from all the recognized period styles of quilt history and representing all areas of the state of Delaware, each piece reflects the personality and passion of its maker. Quilts were made to commemorate births, engagements, marriages, friendships, partings and deaths – serving as a remembrance of an event.

State House Museum, The Green

Ongoing tours

Museums Square, Bank Lane and New Street:

- Johnson Victrola Museum
- Archaeology Museum
- Museum of Small Town Life

THE BIGGS MUSEUM OF AMERICAN ART, 406 Federal Street

NEWLY OPENED – Special Exhibition: Edward W. Redfield: Just Values and Fine Seeing - A retrospective exhibition of works by Bridgeville, Delaware native and leading Pennsylvania Impressionist artist, Edward W. Redfield. Features 20 works spanning the artist's career. The exhibition runs through April 26, 2005 and includes student drawings, a personal journal, seascapes, a cityscape, as well as the Bucks County seasonal landscapes for which he is best remembered. Craft items produced by Redfield also will be on view.

BIGGS KIDS 2:00 p.m. "Valentines!" On the first Saturday of each month, the Biggs Museum offers special programs designed for children ages 5 to 10. Hands-on activities and fun for the whole family. Call the Biggs at 302-674-2111 to reserve a space.

*For more information, contact Elaine Brenchley, project director for The First State Heritage Park at Dover, (302) 739-4413.*

## **Second Public Workshop Set for Feb. 16 on Guidance Manual to Assist Local Governments in Protecting Drinking Water Sources**

The Department of Natural Resources and Environmental Control and the Source Water Protection Citizens and Technical Advisory Committee will hold a public workshop from 7 to 9 p.m. Wednesday, Feb. 16 on the Source Water Protection Guidance Manual developed for Delaware's local governments.

The workshop will be held at Delaware Technical and Community College in Dover in Room 400A of the Conference and Training Center. This is the second of two workshops scheduled to discuss the manual. The first was held in December 2004 in Georgetown.

The guidance manual was developed to assist local governments as they implement measures to protect the quality and quantity of their public water supplies. Delaware's Source Water Protection Law requires local governments with year-round populations of 2,000 or more residents to protect the critical areas surrounding public wells or upstream of surface water intakes.

*continued on page 15*

The manual is a catalog of possible measures local governments and citizens can take to better protect the sources of their drinking water. Recommended practices cover areas such as impervious cover, stormwater management, nutrient management, pesticide use, conservation or land acquisition, and zoning.

The Water Resources Agency of the University of Delaware prepared the guidance manual for DNREC. It was reviewed and approved by the Source Water Protection Citizens and Technical Advisory Committee. The committee has worked with DNREC since 1998 on the state's plan for both assessing and protecting sources of public drinking water. Delaware's Source Water Protection Plan describes methods for delineating source water areas around all sources of public drinking water and identifying all existing and potential sources of contamination within those areas. This information is provided to the public through their public water suppliers.

The guidance manual can be accessed online at: [www.wr.udel.edu/swaphome/phase2/SWPguidancemanual.html](http://www.wr.udel.edu/swaphome/phase2/SWPguidancemanual.html).

*For information about the workshop or guidance manual, contact Doug Rambo or John Barndt, Water Supply Section, Division of Water Resources, (302) 739-4793.*

## **Delaware, New Jersey Issue Joint Position Opposing Introduction of Asian Oyster**

Delaware Division of Fish and Wildlife Fisheries Administrator Roy Miller announced late last month that Delaware and New Jersey have issued a joint position statement opposing the proposed introduction of the Asian oyster, *Crassostrea ariakensis*, on the U.S. Atlantic coast at this time.

The announcement follows recent statements by Maryland Gov. Robert Ehrlich, reported in the December, 2004 Bay Journal, indicating that Maryland was petitioning EPA to conclude work on an environmental impact statement by March, clearing the way for an introduction of the non-native oysters into Chesapeake Bay in early 2005.

Officials in Delaware and New Jersey consider this premature and oppose introduction at this time due to inadequate knowledge of the biology and ecology of the Asian oyster. If Asian oysters are introduced into the Chesapeake Bay, it could eventually result in active or passive introduction of the oyster into Delaware Bay, where emphasis is being put on restoration of native oysters.

The joint policy statement issued by Delaware Division of Fish and Wildlife Director Patrick Emory and New Jersey Division of Fish and Wildlife Director Martin McHugh addresses the need for regional consensus on the adequacy of supporting research rather than adhering to an arbitrary timeline. The two states recommend that Maryland give additional consideration to the traditional management measure of reducing fishing mortality, and also advocate "a more active role" for the Atlantic States Marine Fisheries Commission, recommending that it "convene the Shellfish Transport Committee in a series of meetings to review the proposed introduction throughout the environmental impact statement process."

The National Academy of Sciences and the Chesapeake Bay Program Scientific and Technical Advisory Committee have both recommended projected time spans of five years for research needs on this oyster.

Scientists have struggled for approximately 15 years with the issue of introducing non-native species to offset the decline of the American oyster in the Chesapeake Bay. Another Asian native oyster, *Crassostrea gigas*, has been introduced extensively around the world, but, as noted in the

*continued on page 16*

position paper, it took more than a decade of field studies to conclude that the species would fare no better than the American native oyster in the Chesapeake Bay.

“There are too many unknowns surrounding this newest Asian oyster proposed for possible introduction,” said Emory. “Some of the recent research studies appear inconclusive and highlight the need for a more regional approach.”

*For further information, contact Roy Miller, Fisheries, (302) 739-3441, or Jeff Tinsman, Fisheries, (302) 739-4782, or Melinda Carl, Public Affairs, (302) 739-4506..*

### **DNREC Issues Notice of Conciliation and Secretary’s Order to F.A. Potts & Co. International for Solid Waste Violations**

Department of Natural Resources and Environmental Control Secretary John A. Hughes has issued a Notice of Conciliation and Secretary’s Order to F.A. Potts & Co. International Inc. for violations of Delaware’s laws and regulations governing solid waste at a commercial property in Wilmington, Del.

F.A. Potts & Co. International owns the property commonly known as the Potts Property on Christiana Avenue in Wilmington, adjacent to the Port of Wilmington. In 1996, a tenant was given permission to stockpile wood pallets on the property. The tenant had expressed the intention of developing a resource recovery facility on the site to recover energy from wood waste.

The resource recovery facility has not materialized, and neither the company nor the tenant ever received written approval from the Department to continue to stockpile wood waste on the site. The Department has made many unsuccessful attempts to have the site voluntarily cleaned up. Much of the material has been ground into mulch and removed from the site, but a significant quantity remains, and the Department was informed that the remaining material cannot be marketed as mulch. In addition, some treated wood and tree stumps also are on the property, are not suitable for use as mulch, and must be managed as solid waste.

The Notice of Conciliation and Secretary’s Order directs F.A. Potts & Co. International to submit a draft work plan for cleanup of the site to the Department within 30 days of issuance of the Order. An administrative penalty assessment of \$50,000 for the violations will be waived upon completion of all the requirements for cleanup of the site as outlined in the order.

The company has 30 days to request a public hearing.

*For further information, contact Janet Manchester, Solid and Hazardous Waste Management Branch, (302) 739-3689, or Melinda Carl, Public Affairs, (302) 739-4506.*

### **DNREC Issues Conciliation and Secretary’s Order to Seawatch for Collecting, Distributing Ordnance Contaminated Clamshells *Order Requires Scanning and Other Protective Measures***

Department of Natural Resources and Environmental Control Secretary John A. Hughes issued a Notice of Conciliation and Secretary’ Order to Seawatch International of Milford, Del., in order to stop the spread of unexploded military ordnance in clamshells used for residential and commercial driveways. The Order does not assess a penalty at this time but directs Seawatch to follow guidelines to ensure that explosive ordnances are not transported or distributed to any stock-

*continued on page 17*

pile, commercial or residential facility in Delaware.

Seawatch International, a seafood processing center in Milford, Del., receives both shellfish and debris from commercial fisherman, who dredge the ocean floor. Seawatch has collected and then distributed clamshells to Perry Butler of Greenwood, Del. who then redistributes the clamshells throughout Kent and Sussex counties, primarily for driveway use.

It is essential that the clamshells be inspected and properly handled.” said Secretary Hughes, “The measures that I am requiring are necessary to protect the citizens of Delaware from inadvertently coming into contact with disposed military ordnance that may continue to be embedded in the processed clamshells.”

The Notice of Conciliation and Secretary’s Order directs Seawatch International to put in place:

1. A detection system to scan all clamshells for explosive ordnance prior to release
  2. A system to immediately make notification of any explosive ordnance detected
  3. A workplan for review within 30 days from the date of the Secretary’s Order
  4. A method to manage ordnance in accordance with all applicable laws and regulations
- Seawatch has 30 days to request a public hearing.

*For further information, contact Kurt Reuther, Enforcement Section (302) 739-5071, or Maria Taylor, Public Affairs Office (302) 739-4506.*

## **DNREC Authorizes Board of Directors to Operate Wastewater System Serving Woods on Herring Creek Community**

### ***H. Clark Carbaugh of Utility Systems Relinquished Septic System Permits Dec. 20***

Department of Natural Resources and Environmental Control Secretary John A. Hughes issued a Notice of Conciliation and Secretary’s Order last month to the Board of Directors of The Woods on Herring Creek residential development in Sussex County authorizing the Board to operate and maintain the on-site wastewater (septic) system serving the community without a permit.

This permission was requested by the Board and follows quickly upon action taken Dec. 20 by H. Clark Carbaugh and Utility Systems Inc. to relinquish permits for operating the community wastewater system servicing the Woods on Herring Creek development since 1985.

The Secretary’s Order and Notice of Conciliation requires the Board of Directors to continue operation of the Woods at Herring Creek community wastewater treatment and disposal system in accordance with the terms and conditions in the permit that Utility Systems Inc. (USI) relinquished.

Division of Water Resources Director Kevin C. Donnelly noted “the action taken by the Secretary authorizes and empowers the residents of Woods on Herring Creek to assume responsibility for operating and maintaining the community’s wastewater treatment and disposal system consistent with requirements of our regulations.”

In addition, the Board of Directors must undertake the following actions:

1. Apply for a permit to continue to operate the current system by Feb. 28, 2005.
2. Continue to have a Class II licensed wastewater operator operate and maintain the on-site wastewater treatment and disposal system servicing the Woods of Herring Creek in accordance with the current permit.

*continued on page 18*

3. The wastewater disposal system must be pumped on a regular basis to prevent additional surfacing of the discharge. A licensed waste hauler must perform pumping at sufficient intervals to prevent surfacing, pooling, or discharge of wastewater to the ground surface.
4. Perform daily inspections and maintain a log of daily inspections.
5. Restrict access to all contaminated ground areas.
6. Post signs at all affected areas to deter any public exposure to the contaminated areas.

The Department reserves the right to withdraw this temporary authorization and to take enforcement action regarding operation of the on-site system and for any future violations of the terms of the Order.

This authorization to the Board of Directors from the Department will remain in effect indefinitely but can be withdrawn by the Department, in its sole discretion, after giving the Board 30 days notice of the Department's decision to withdraw.

The Board has thirty days to request a public hearing.

*For further information, contact Dave Schepens, Ground Water Discharges Section (302) 739-4761, or Maria Taylor, Public Affairs, (302) 739-4506.*

### **DNREC Announces 2004 Coastal Cleanup Results 2005 Coastal Cleanup Date Set for September 17**

Delaware's coastline is cleaner and its wildlife safer thanks to the 769 volunteers who participated in Delaware's 2004 Coastal Cleanup. The cleanup took place from 9 a.m. – noon on Saturday, Sept. 18 and the final results show that volunteers picked up 9,366 pounds of trash and deposited 630 trash bags. A bowling ball and a lady's wig top the list of strange finds; others include a shopping cart, keys, furniture, make-up, a car bumper, a cell phone and a film canister with the film still in it.

Delaware participates in the International Coastal Cleanup sponsored by The Ocean Conservancy, whose sponsorship includes supplying trash bags, data cards and more. Pre-registrations for this year's cleanup indicated that there would be a large turnout, but storms, particularly in New Castle County, prevented many groups from participating.

#### Delaware's 2004 Results

739 volunteers  
9,366 pounds of trash  
15,351 cigarettes/cigarette filters

#### Delaware's 2003 Results

1,135 volunteers  
17,564 pounds of trash  
14,072 cigarettes/cigarette filters

DNREC was responsible for organizing the event, recruiting volunteers and distributing supplies, ensuring trash removal and tabulating all the data. Corporate sponsors promoted the cleanup and contributed staff time and supplies. Conectiv, the primary corporate sponsor, donated the t-shirts. Playtex of Dover continued their support by donating gloves to protect the volunteers.

*continued on page 19*

Many municipalities helped with trash pick-up.

The Ocean Conservancy is a non-profit organization that has been working since 1972 to ensure that the world's oceans provide a healthy environment for an abundant and diverse population of marine animals. The International Coastal Cleanup is the Conservancy's flagship program dealing with marine debris and data collection. It is the oldest and largest one-day volunteer effort on behalf of the marine environment of its kind. Hundreds of thousands of people from all over the world help each year to rid the environment of marine debris and collect detailed information on the types and quantities of refuse.

Delaware's next coastal cleanup has been scheduled for Saturday, Sept. 17, 2005. Check DNREC's website [www.dnrec.state.de.us](http://www.dnrec.state.de.us) in March for registration information.

For more information on The Ocean Conservancy or the International Coastal Cleanup visit the Conservancy's website, [www.oceanconservancy.org](http://www.oceanconservancy.org).

## **Regulatory Update**

### **Recently Adopted Regulations and Regulations Under Appeal**

**2004-04: Amendments to Delaware Regulations Governing Hazardous Waste.** This action adopts 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. Effective date – Aug. 21, 2004

**2004-03: Amendments to Delaware's Wildlife and Non-Tidal Fishing Regulations.** This action provides additional shotgun hunting days in October for antlerless deer, lengthens the October Muzzleloader season by 1 day, increases the general deer bag limit from 2 antlerless deer to 4 antlerless deer, clarifies the use of additional antlerless deer tags that are purchased, clarifies deer checking/registration procedures and tagging requirements and allows squirrel hunting during firearms deer seasons in October where seasons overlap. Contact Ken Reynolds, (302) 653-2883. **Effective date – Aug. 11, 2004**

**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. **Effective date – Aug. 21, 2004**

**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:**

2004-16: **Total Maximum Daily Loads (TMDLs) for nutrients, oxygen demanding materials, and bacteria for Shellpot and Naamans Creek in Delaware.** This regulation will establish a cap for the amount of nutrients, oxygen demanding materials and bacteria that can enter the waters of Shellpot Creek and Naamans Creek. This action is necessary to improve water quality and help maintain fishable and swimmable waterways for citizens of the state. Contact John Schneider, 739-4590

2004-16: **Amendment to Regulation 25, “Requirements for Preconstruction Review” of the state’s Regulations Governing the Control of Air Pollution.** Under this action, the Department will evaluate the revised federal requirements for the state’s new source review program; either incorporate, incorporate with changes or not incorporate the new requirements/concepts into Regulation 25; and ensure that Regulation 25 is at least as stringent as the federal requirements, as required. Contact Gene Pettingill, 323-4542

2004-15: **Amendment to Regulations Governing the Control of Water Pollution.** This action would establish a general permit program for Confined Animal Feeding Operations (CAFOs). DNREC developed the proposed regulations cooperatively with the Department of Agriculture, Delaware Nutrient Management Commission, Natural Resources Conservation Service and the University of Delaware. Contact Peder Hansen, 739-5731

**Public hearing – Jan. 25, 6 p.m.,** Farmington Fire Hall

**Public hearing – Jan. 27, 6 p.m.,** Gumboro Fire Hall

2004-14: **Amendment to Surface Water Quality Standards.** This action will clarify the way in which fecal enterococci determined to be of wildlife origin are considered when implementing water quality standards. Typographical errors in the existing regulation will also be corrected. Contact John Schneider, 739-4590

2004-13: **Amendment to Tidal Finfish Regulation No. 3505. Striped Bass Commercial Fishing Season; Quotas; Tagging and Reporting Requirements.** This action would increase commercial gill net season for striped bass to extend from Feb. 15 through May 31 instead of the present March 1-April 30 open season and require the use of drift nets for any gill nets having a mesh size of 4 inches or greater that are used to take striped bass during the February striped bass season extension. This action would also increase the duration of the commercial hook and line fishing season for striped bass from April 1 through and including Dec. 31 instead of Sept. 1 through Dec. 31; and would require the use of non-offset “circle hooks” when fishing with natural bait in the designated

striped bass spawning areas during the April 1-May 31 spawning season to reduce mortality rates from catch and release recreational fishing. Required use of circle hooks would only apply to hooks having a gap greater than 3/8 inches as measured from the hook point to the shank. Contact Roy Miller, 739-3441

2004-12: **Addition to Regulation No. 43 – Not To Exceed Heavy Duty California Engine Standards.** This action would adopt the Heavy Duty Diesel portion of the federal rule on 2007 and later heavy duty engines in order to preserve the emission reduction benefits of that rule should EPA delay, diminish or even delete its adopted rule. This action is a “backstop” action that would only become necessary and in effect on 2007 and later model year heavy duty diesels if EPA takes any of the three options. Contact Philip Wheeler, 323-4542

2004-11: **Amendment to Regulations Governing Tidal Finfish No. 3553: River Herring Creel Limit.** This action will establish a possession limit for river herring at 25 per day unless the possessor has a valid commercial fishing license or a receipt from a commercial fisherman for the river herring. The possession limit is proposed to prevent establishment of a bait fishery for river herring in tidal tributaries. This regulation would not affect normal commercial fishing operations but will impact recreational fishermen who take live river herring as bait for sale. Contact Roy Miller, 739-3441

**Public hearing held Jan. 4, 2005**

2004-10: **Amendment to Delaware’s Phase II Attainment Demonstration State Implementation Plan by completing the mid-course review requirement.** Delaware is required to submit to EPA a plan revision to demonstrate its capability of attaining the 1-hour National Ambient Air Quality Standard for ground-level ozone in Kent and New Castle counties in 2005. The mid-course review will analyze Delaware’s ambient air quality and emission data to demonstrate (1) adequate progress in emission control has been made under the 1-hour ozone standard that will be revoked in 2005, and (2) such progress is consistent with attaining the new 8-hour ozone standard in 2010. Contact Frank Gao, 323-4542

2004-09: **Delaware’s proposed 2002 Milestone Compliance Demonstration.** This is a required step to attain the 1-hour National Air Quality Standard for ground-level ozone in Kent and New Castle counties. Delaware is required to submit a plan revision for each milestone year (1996, 1999, 2002 and 2005) to demonstrate that the actual emissions of volatile organic compounds and/or oxides of nitrogen in Kent and New Castle counties to not exceed the required emission targets specified in Delaware’s Rate-of-Progress Plans. This action is to conduct a compliance analysis for the milestone year of 2002. Contact Frank Gao, 323-4542

2004-08: **Amendments to Non-tidal Fishing Regulations.** This action will make it unlawful for anyone to transport, purchase, possess, stock into public or private waters of the state or sell live northern snakehead fishes without the written permission of the Director of the Division of Fish and Wildlife. Contact Roy Miller, 739-3441

**Public hearing held Jan. 4, 2005**

2004-07: **Revisions to Regulations Governing Hazardous Substance Cleanup.** This action will establish procedures for implementing the Brownfields Development Program, including participation in the new program, presumptive project and investigation procedures and work plans, public notice requirements and risk sharing agreements. Contact James Poling, 395-2636, Paul Will, 3952626 or Alex Rittberg, 395-2642.

2004-06: **Amendments to Delaware Regulations Governing Aboveground Storage Tanks.** This action addresses the signage requirements passed in Senate Substitute 1 for Senate Bill 344 and provides clarification to portions of the regulations. The language for the signage requirements will be developed with the assistance of the Aboveground Storage Tank Technical Advisory Committee. The regulations impact all owners of hazardous substance aboveground storage tanks greater than 250 gallons, owners of petroleum aboveground storage tanks other than heating fuel, diesel and kerosene greater than 250 gallons, unless otherwise exempt, and owners of heating fuel, diesel and kerosene aboveground storage tanks greater than 19,999 gallons. This includes both large and small businesses, some agricultural companies and farms. Contact Kathleen Stiller Banning, 395-2522

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

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: **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: **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: **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

**Public hearing – Jan. 25, 6 p.m.,** Priscilla Building Conference Room, 156 S. State St., Dover.

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

**Public hearing – Jan. 10, 6 p.m.,** DNREC auditorium, Richardson and Robbins Building, 89 Kings Highway, Dover.

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

2003-10: **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 the Regulations Governing Storm Water Discharges Associated with Industrial Activities.** 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

2002-08: **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 (VOCs) Emissions.** This action would add a new section to the air pollution control regulations in order to control VOC emissions from lightering operations. 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

### **Public Hearing Set for Feb. 1 on Waste Management's Application for Permit Changes in Newport Operations**

The Department of Natural Resources and Environmental Control will hold a public hearing at 6 p.m. Tuesday, Feb. 1 regarding Waste Management of Delaware Inc.'s application for changes in its Newport Transfer Station's operation. The hearing will be held in the Newport Old Town Hall, 15 Augustine St., Newport, Del.

The company's permit application includes the following proposed changes:

- The operating hours will be changed from the current 6 a.m. – 5 p.m. Monday through Friday and 6 a.m. – 12 p.m. on Saturday to the proposed 4 a.m. – 8 p.m. Monday through Saturday;
- The maximum permitted tons per day will be changed from 300 tons per day to 700 tons per day; and
- Overnight storage of up to 20 tractor trailers loaded with solid waste (approximately 450 tons) will be permitted.

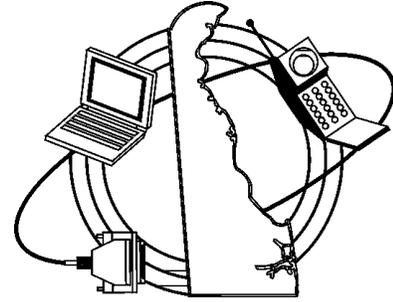
*For additional information, please contact Avery Dalton at (302) 739-3689.*

### **Yard Waste Piling Up? Compost it!**

- Select a flat, well-drained spot that gets full sun. Try to build the pile in the middle of the garden.
- Construct a compost bin out of scrap lumber, bricks, concrete blocks, or wire. Make sure the bin has openings to let air penetrate the pile.
- Feed the pile, mixing coarse and fine materials in 6- to 8-inch layers. The bottom layer should contain twigs, chopped cornstalks, or other coarse material. Next, add a layer high in nitrogen such as grass clippings or manure. Top with soil and repeat the process. Sprinkle the pile with water.
- Mix the layers well and shape so the center is lower than the sides to help water flow into the pile. Turn the pile once a month and remoisten the material as you turn it.
- Plant material should decompose into compost within five months in warm weather, longer under cool/dry conditions. Spread compost in the garden and till it under to benefit soil and plants.

# Sign Up Now

## Learn promptly of contaminants being discharged in your neighborhood.



Environmental Protection Begins with Timely Information

**Register online at [www.dnrec.state.de.us](http://www.dnrec.state.de.us)**

Or —Sign Up by Completing the form below.

First Name: \_\_\_\_\_

Middle Name: (optional) \_\_\_\_\_

Last Name: \_\_\_\_\_

Address 1: \_\_\_\_\_

Address 2: (optional) \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_

Zip Code: \_\_\_\_\_

Email: (optional) \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: (optional) \_\_\_\_\_

Notification Method (check one)  Email  Phone  Fax

Notify me of environmental releases in the zip codes I list below: (list specific Delaware zip codes or tell us if you want to know of releases in an entire county or state.)

\_\_\_\_\_

Or

Notify me of released from specific facilities: (list name and address: attach additional sheet if necessary.)

\_\_\_\_\_

\_\_\_\_\_



Return to:  
The Department of Natural Resources  
and Environmental Control - DNREC  
Environmental Release Notification System  
89 Kings Highway, Dover, DE 19901  
or fax 302-739-6242

# **Hunting Season**

## **10 Commandments of Hunter Safety**

1. Treat every gun with the respect due a loaded gun.
2. Watch that muzzle! Control the direction of the muzzle even if you should stumble.
3. Be sure of your target and beyond before you pull the trigger; know identifying features of the game you hunt.
4. Be sure that the barrel and action are clear of obstructions and that you have only ammunition of the proper size for the gun you are carrying.
5. Unload guns when not in use. Take down or have actions open; guns should be carried in cases to the shooting area.
6. Never point a gun at anything you do not want to shoot; avoid all horseplay with a firearm.
7. Never climb a fence or tree or jump a ditch with a loaded gun; never pull a gun toward you by the muzzle.
8. Never shoot a bullet at a flat, hard surface of water; at target practice be sure your backstop is adequate.
9. Store guns and ammunition separately beyond the reach of children and careless adults.
10. Avoid alcoholic beverages and other mood altering drugs before and during shooting.

**DNREC Division Directors:**

Kevin Donnelly - Director, Division of Water Resources  
Robert S. Baldwin - Director, Division of Soil and Water Conservation  
Patrick J. Emory - Director, Division of Fish and Wildlife  
Charles A. Salkin - Director, Division of Parks and Recreation  
John B. Blevins - Director, Division of Air and Waste Management

**DNREC Public Affairs Office**

Maria A. Taylor, Director

**DNREC NEWS** is published by the Department of Natural Resources  
and Environmental Control, Public Affairs Office.

Comments are invited and should be sent to: Melinda Carl, Editor,  
DNREC NEWS, 89 Kings Highway, Dover, DE 19901  
Telephone: 302-739-4506; Fax: 302-739-6242  
[www.dnrec.state.de.us](http://www.dnrec.state.de.us)

**DNREC News Staff**

Editor: Melinda Carl

Staff Writers and Contributors: Kathleen Jamison, Jennifer Knotts

Production: Christy Shaffer

Printing: Grace Dowell

Circulation: Margie Witherspoon

DNREC  
**NEWS**

89 Kings Hwy.  
Dover DE 19901