

# DNREC NEWS

The Delaware Department of Natural Resources and Environmental Control

Vol. 136

February 18, 2005



Ruth Ann Minner  
*Governor*

John A. Hughes  
*Secretary*

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

### Division of Parks and Recreation, Delaware Wild Lands Protect Port Penn Property from Development

Over five acres of open field and marsh in Port Penn have been protected from development by a partnership of the state Division of Parks and Recreation and Delaware Wild Lands, Inc.

The Division has acquired 2.8 acres of upland across Port Penn Road from its Port Penn Interpretive Center. The southern wetlands portion (2.3 acres) was bought by Delaware Wild Lands. Both parcels are adjacent to the conservation organization's Moore Farm, on which the Division holds a conservation easement. The purchase price was \$100,000, of which \$95,000 was contributed by the Delaware Land and Water Conservation Trust Fund and \$5,000 by Delaware Wild Lands.

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### Rehoboth-Dewey Beachfill Project Begins



Ceremoniously tossing the first buckets of sand onto Rehoboth Beach are, (visible, left to right), State Rep. Gerald W. Hocker, Congressman Michael N. Castle, Governor Ruth Ann Minner, Assistant Secretary of the Army John Paul Woodley Jr., DNREC Secretary John A. Hughes, Brig. General Merdith W.B. Temple, U.S. Army Corps of Engineers and Senator Thomas R. Carper.

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## Calendar

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

### FEBRUARY

**17 – Surface Water Management Task Force meeting**, 10 a.m. (subcommittee discussions at 9 a.m.), St. Jones Reserve, 818 Kitts Hummock Road, Dover, Del. Contact Frank Piorko, (302) 739-4411.

**17 - EPA public meeting-proposed TMDLs for Interstate Christina River Watershed**, 7-9 p.m., Chester County Government Services Building, 601 Westtown Road, West Chester, Pa. Contact Mary F. Beck, (215) 814-3429.

**17 - Advisory Council meeting on Tidal Finfisheries**, 7 p.m., DNREC Auditorium, Richardson and Robbins Building, 89 Kings Highway, Dover. Contact Roy Miller, (302) 739-3441.

**22 - Environmental Appeals Board hearing, Sierra Club appeal of permit to dredge the Assawoman Canal**, 9:30 a.m., DNREC Auditorium, 89 Kings Highway, Dover. Contact Gail Donovan, (302) 739-6400.

**24 – Public hearing on proposed amendments to tidal finfish regulations affecting 2005 recreational summer flounder and recreational black sea bass fisheries**, 7:30 p.m., DNREC Auditorium, 89 Kings Highway, Dover. Contact Fisheries, (302) 739-3441.

### MARCH

**1 – Public hearing, DuPont’s Coastal Zone application to modify its titanium dioxide product**, 6:30 p.m., 391 Lukens Drive, New Castle. Contact Dennis Brown, (302) 739-3091.

**2 – Public hearing, proposed remediation plan for the DuPont Hay Street Sludge Drying Site (“Iron Rich)**, 5 p.m., Edgemoor Community Center, 500 Duncan Road, Wilmington. Contact Charles Bussey, (302) 395-2600.

**2 - Certified Construction Reviewer course**, Time TBA, Modern Maturity Center. Contact Jeanne M. Feurer, (302) 739-4411.

**9 - Certified Construction Reviewer course**, Time TBA, Modern Maturity Center. Contact Jeanne M. Feurer, (302) 739-4411.

**16 - Certified Construction Reviewer course**, Time TBA, Modern Maturity Center. Contact Jeanne M. Feurer, (302) 739-4411.

**22 - Environmental Appeals Board hearing, Sierra Club appeal of permit to dredge the Assawoman Canal**, 9:30 a.m., DNREC Auditorium, 89 Kings Highway, Dover. Contact Gail Donovan, (302) 739-6400.

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

**Port Penn** continued from page 1

The property was purchased from Dr. and Mrs. Jason Campbell, who now live in New Castle. The Division, which has had an agreement with the Campbells since 1993 to mow the open field in exchange for being able to use it for special events, will work with the community on passive recreation options for its land. It will also be used for overflow parking for the Interpretive Center.

The site was the location of the Port Penn Cannery from the late 19th century until 1954. Dr. Campbell, the last owner and operator, purchased the tomato packing business in 1946 and he and his wife ran it for eight years. Today there is little evidence of the cannery, with the exception of a concrete pad that was the foundation of a storage building.

*For more information, contact Ron Vickers or Tim Kaden, Division of Parks and Recreation, (302) 739-5285, or Rusty Harvey, Delaware Wild Lands, (302) 378-2736.*

**Beachfill Project** continued from page 1

The long-awaited Rehoboth Beach/Dewey Beach Shore Protection Project is moving along with the prime contractor, Great Lakes Dredge & Dock Company of Oak Brook, Ill., “actively shuttling sand with the dredge, ‘Manhattan,’ from Bar G southeast of Indian River Inlet to North Indian Beach, south of Dewey Beach,” according to DNREC Secretary John A. Hughes.

“We expect a second dredge and possibly a third in the coming month,” said Secretary Hughes. “Daily production is around 20,000 cubic yards a day.”

Great Lakes is pumping in a section to protect and feed Dewey with sand as the project moves north toward Dewey, said Hughes. He noted that the material being pumped “is coarse brown sand with heavy gravel content, almost no muds or fine (sand) and so far, no archeological artifacts.

The U.S. Army Corps of Engineers and the Delaware Department of Natural Resources and Environmental Control hosted a ceremony at the Rehoboth Beach boardwalk Jan. 31 to mark the beginning of the shore protection project. Secretary Hughes introduced Governor Ruth Ann Minner before an enthusiastic group of supporters led by Delaware’s Congressional delegation who worked tirelessly to secure federal funding for the project.

“Certainly some of our enthusiasm for replenishing Delaware’s beaches is about recreation and tourism and keeping our competitive edge as a tourist destination,” said Gov. Minner. “But this 50-year, multi-million dollar project is about much more than tourism. It is very much about protecting our ecological resources with habitat restoration and protecting our coastal communities with flood control.”

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“The condition of our beaches is key to our state’s economy in that more than five million people visit our coastal communities each year and sleep in our hotels, shop in our outlets, and eat at our restaurants,” said Sen. Joseph R. Biden Jr. “This is a long-term investment that has immeasurable return to our state and enhances the quality of life for everyone who lives in this region of the country.”

“Our beaches are vitally important to Delaware’s economic well-being,” said Sen. Thomas R. Carper. “These replenishment projects, when completed, will encourage more tourism for Sussex County and other areas in the state, bringing more business to shopping centers, restaurants and the hotel industry.”

“I am committed to demonstrating the importance of this project at the federal level by stressing its impact on the economy, tourism and recreation in our great state,” said Rep. Michael N. Castle. “Thousands of visitors come to Delaware each summer and this business is critical to the economy of Sussex County. I am proud the federal government has led the effort to secure this funding.

“The Army Corps of Engineers and the state of Delaware have worked diligently to develop a project that will safeguard the great investment made along the oceanfront here at Rehoboth Beach and Dewey Beach,” said John Paul Woodley Jr., Assistant Secretary of the Army for Civil Works. “Recent history has demonstrated projects such as this one work well to prevent damage from storms. They have an excellent record of protecting property from hurricanes and nor-easters all along our coasts. While millions of Americans know these beaches as summer getaways, they are also a vital part of the economy. The Corps now looks forward to moving ahead with this work to protect this important part of Delaware.”

The project involves placement of approximately 1.7 million cubic yards of sand to create a beachfill-and-dune system along 2.5 miles of ocean front from the northern end of Rehoboth Beach to the southern end of Dewey Beach. The sand is pumped in from an offshore borrow area approximately 2.6 miles east of Indian River Inlet.

Work started early this month and the goal is to have all construction complete by June 1.

The Army Corps is managing initial construction and providing 65 percent of the \$18 million cost, while DNREC is providing the balance of funds as the non-Federal sponsor.

*For further information, contact Ed Voigt, U.S. Army Corps of Engineers, (215) 656-6515, or Melinda Carl, DNREC, (302) 739-4506.*

### **DNREC Notified of BP Appeal of Coastal Zone Status Decision Denying Proposed Crown Landing LNG Pier**

The Department of Natural Resources and Environmental Control received notification Feb. 15 that BP has filed an appeal of Secretary John A. Hughes’ Feb. 3 ruling that the proposed Crown Landing LNG off-loading pier in the Delaware River is prohibited by the State’s Coastal Zone Act.

The appeal was filed this afternoon with the State Coastal Zone Industrial Control Board, which will have 60 days to review the case, hold a public hearing and announce its decision in the form of an order.

BP alleges in its appeal that the “Secretary erred as a matter of law” and references the Secretary’s conclusions which led to his decision that the proposed facility and activity was prohib-

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ited by the Coastal Zone Act.

Secretary Hughes wrote in his Feb. 3 decision letter to the company that he found, under the Act, the proposed facility “represents a prohibited offshore bulk product transfer facility” with no accompanying manufacturing use that would meet the exemption definition. In addition, he concluded that as proposed, the facility “exhibits characteristics sufficient to deem it a heavy industry,” which is also prohibited under the Act.

Crown Landing LLC, a subsidiary of BP, proposed last December an LNG facility with a docking site that lies within Delaware’s Coastal Zone. The facility would occupy 19 acres in the Delaware River for a 2000 foot pier with one ship berth. The pier could accommodate LNG carriers from 138,000 cubic meters to 200,000 cubic meters in capacity. The pier would have one 44-inch diameter liquid unloading line to the storage tanks. The pier would convey the LNG to a storage and regassification facility on 40 acres in Logan Township, N.J. where existing gas pipelines would convey the gas to customers in the region.

The public will be provided legal notice of the Coastal Zone Industrial Control Board’s appeal hearing and of its final order.

Any person aggrieved by a final order of the Coastal Zone Industrial Control Board may, under Chapter 7007 of the Coastal Zone Act, appeal the Board’s decision to Superior Court within 20 days following announcement of the Board’s decision.

*For further information, contact Dennis Brown, Planning and Compliance Assistance, (302) 739-3091, or Melinda Carl, Public Affairs, (302) 739-4506.*

## **Revised Striped Bass Regulations Adopted, Effective Feb. 10**

Department of Natural Resources and Environmental Control Secretary John A. Hughes has issued an order adopting revised tidal finfish regulations affecting Delaware’s striped bass fishery effective Feb. 10, 2005.

According to Fisheries Administrator Roy Miller, the revised regulations increase the commercial gill net season for striped bass from the current March 1-April 30 open season to a new open season of Feb. 15 through May 31. Drift nets will be required for any gill nets with a mesh size of 4 inches or greater that are used to take striped bass during the February striped bass season extension.

The new regulations also increase the length of the commercial hook and line fishing season for striped bass from the current Sept. 1 through Dec. 31 to the new season of April 1 through and including Dec. 31. None of the above season extensions change the harvest quotas the commercial industry has been operating under for several years.

Non-offset “circle hooks” will be required when recreational fishing with natural bait in designated striped bass spawning areas during the April 1-May 31 spawning season. The circle hooks requirement only applies to hooks with a gap greater than 3/8 inches as measured from the hook point to the shank.

“These revisions are meant to continue management of our striped bass fishery in a manner that provides improved business opportunities for our commercial fishermen” said Miller. “At the same time, we’ve implemented a recreational fishing conservation measure during the spawning season by requiring the use of circle hooks that should reduce the likelihood of catch and release

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mortality during this vulnerable period for striped bass. The new circle hook requirements complement action previously taken by the state of New Jersey on their portion of the striped bass spawning grounds.”

A public hearing was held Dec. 30, 2004 on the proposed revised regulations. The Delaware Advisory Council on Tidal Finfisheries initially recommended that the Department draft regulations to extend the commercial season and consider circle hook requirements. After discussion of various options, the council recommended the proposed revisions adopted in the order.

*For further information, contact Roy Miller or Craig Shirey, Fisheries, (302) 739-3441.*

## **Public Hearing Set for Feb. 24 on Proposed Amendments to Summer Flounder and Black Sea Bass Regulations**

The Department of Natural Resources and Environmental Control will hold a public hearing at 7:30 p.m. Thursday, Feb. 24 regarding proposed amendments to the Tidal Finfish Regulations concerning summer flounder and black sea bass. The hearing will be held in DNREC’s auditorium, Richardson and Robbins Building, 89 Kings Highway, Dover.

Delaware can maintain the same management measures used in 2004 for the 2005 recreational summer flounder fishery since the harvest cap was not exceeded in 2004. The eight management options that were presented for public review in 2004 will once again be presented as approved methods for the 2005 fishery. Six of the eight options include extended seasonal components to compensate for an 8 percent increase in the state’s harvest cap for 2005.

The following management options, including the season, number of open days, bag limit and minimum size, are proposed for the 2005 recreational summer flounder fishery:

- Jan. 1-Aug. 8 season, open 220 days, bag limit 7, minimum size 16 inches
- Jan. 1-Aug. 14 season, 226 open days, bag limit 5, minimum size 16.5 inches
- Jan. 1-Sept. 6 season, 249 open days, bag limit 5, minimum size 17 inches
- May 25-Aug. 10 season, 78 open days, bag limit 7, minimum size 16 inches
- May 25-Aug. 18 season, 86 open days, bag limit 5, minimum size 16.5 inches
- May 25-Sept. 17 season, 116 open days, bag limit 5, minimum size 17 inches
- Jan. 1-Dec. 31 season, 365 days, bag limit 4, minimum size 17.5 inches
- Jan. 1-Dec. 31 season, 365 open days, bag limit 6, minimum size 17.5 inches

Also proposed is an amendment to Tidal Finfish Regulation No. 3507 that will eliminate any reference to a closed season for recreational black sea bass anglers in 2005. The amendment is being proposed because the coast wide requirements for recreational black sea bass fishermen in 2005 are a 12-inch minimum size length with a 25-fish creel limit and no closed season.

Individuals may present their comments or request additional information by contacting the Fisheries Section, Division of Fish and Wildlife, 89 Kings Highway, Dover, DE 19901; phone, (302) 739-3441. The record will remain open for written or email comments until 4:30 p.m., March 4, 2005.

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

## **DNREC to Hold Public Hearing March 1 on DuPont Coastal Zone Permit Application**

The Department of Natural Resources and Environmental Control will hold a public hearing at 6:30 p.m. Tuesday, March 1 on an application from the DuPont Company for a Coastal Zone Act permit to modify a manufacturing process at its Edgemoor plant located at 104 Hay Road. The hearing will be held at the Department's offices at 391 Lukens Drive in New Castle.

DuPont applied in September 2004 to modify the formulation to its existing titanium dioxide product with chemical additives that would improve the product's coating ability. The new product is called IP1/R948. The project will not lead to an increase in the plant's production capacity.

The only known negative environmental impact from the project consists of one pound per day of volatile organic compound (VOC) emissions. This 365 pounds per year maximum discharge will be clearly offset by a 1.25 tons per year air emission reduction consisting of a combination of oxides of nitrogen (NO<sub>x</sub>), sulfur dioxide (SO<sub>2</sub>), carbon monoxide (CO), particulate matter and some VOCs. This reduction will occur as a result of a fuel switch from oil to gas combustion in an existing burner at the Hay Road facility.

DuPont's application was declared preliminarily complete Feb. 3. The assessment report is available for public inspection at the Department's offices at 715 Grantham Lane south of New Castle on Route 9 and 89 Kings Highway in Dover, as well as the public libraries in Delaware City and Hockessin.

This March 1 public hearing is specifically for review and public comments concerning DuPont's coastal zone permit application for modifying its titanium dioxide process. A March 2 public hearing at the Edgemoor Community Center will address and accept comments concerning the proposed remediation plan for the DuPont Hay Street Sludge Drying Site ("Iron Rich"). For questions or additional information about the March 2 hearing, please call Charles Bussey, DNREC Site Investigation and Restoration Branch, (302) 395-2600.

*For questions or further information about the March 1 hearing for DuPont's coastal zone titanium dioxide product modification project, please call Dennis Brown, DNREC Planning and Compliance Assistance, (302) 739-3091.*

## **First State Heritage Park at Dover Will Be Open on Presidents' Day**

The First State Heritage Park at Dover, including Legislative Hall, Delaware Public Archives, the Biggs Museum of American Art, the Old State House Museum and other Delaware State Museums sites in Dover, will be open on Monday, Feb. 21 for Presidents' Day. Tours and exhibits are offered at all of the sites. Admission is free. Hours are 9 a.m. to 5 p.m.

The First State Heritage Park at Dover is a partnership of the Department of State, the Department of Natural Resources and Environmental Control, and the Delaware Economic Development Office.

### If You Go:

LEGISLATIVE HALL

Legislative Avenue, Dover

Guided tours begin hourly, 9 a.m. through 4 p.m.

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Tours include 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, Dover

The "Jewel Box" at the Archives features a return visit of Delaware's copy of the Bill of Rights, which is permanently housed at the National Archives.

**DELAWARE STATE MUSEUMS:**

The State House Museum

The Green, Dover

Ongoing tours.

Delaware State Visitors Center

406 Federal Street, Dover

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

Museums Square:

- Johnson Victrola Museum  
375 S. New Street, Dover
- Delaware Archaeology Museum  
316 S. Governors Avenue, Dover
- Museum of Small Town Life  
316 S. Governors Avenue, Dover

**THE BIGGS MUSEUM OF AMERICAN ART**

406 Federal Street, Dover

Special Exhibition: Edward W. Redfield: Just Values and Fine Seeing

*For more information on The First State Heritage Park at Dover, call (302) 739-1173.*

## **Camping at Delaware Seashore State Park Will Be Limited During Indian River Inlet Bridge Construction**

With construction of the new Indian River Inlet Bridge through Delaware Seashore State Park set to begin in April, the Division of Parks and Recreation is alerting campers to changes this will mean for the beach park's popular campgrounds and day use parking.

The north overflow campground and day use parking and Southside Old Camp will be closed for the duration of the project, approximately four years. This takes 289 camp sites out of use.

The park's Southside New Camp, which has 145 sites, will remain open, but campers must be prepared for construction noise and dust.

"Camping is a big part of the Delaware Seashore State Park experience and we know losing so many camp sites, even temporarily, is going to leave some people disappointed," said Division Director Charles A. Salkin. "The silver lining is that we will be making some much-needed improvements during the closure."

The north overflow campground, which has been for self-contained units only, will get two-point hook-up, a laundry building and a bathhouse with outside showers. Anglers will have access to the shoreline, and for walkers, bicyclists and birdwatchers there will be a waterfront promenade and trail extending to nearby Burton's Island.

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Improvements to the Southside Old Camp will include relocating the county road that now splits the campground in half and a DART bus stop for use by campers.

The park office will be relocated a mile and a half north on Route 1 next to the historic lifesaving station.

The Southside New Camp, which is open with full service from March 1 through Nov. 30 and limited service year-round, has three-point hookup, showers, laundry facilities, and ice and soda vending machines. Reservations can be made on the Delaware State Parks website - [www.destateparks.com](http://www.destateparks.com) – or by calling the Reservation Telephone Line at 1-877-987-2757.

*For more information, contact Mary Voshell or Andy Meanor, state parks business services section, (302) 739-4702.*

### **DNREC Issues Notice of \$21,000 Penalty to ConocoPhillips**

Department of Natural Resources and Environmental Control Secretary John A. Hughes has issued a Notice of Administrative Penalty Assessment and Secretary's Order to ConocoPhillips for violations of Delaware's pollution control regulations. The Order includes a cash penalty of \$21,000 and an additional \$343 as cost recovery reimbursement to the Department for expenses associated with its investigation.

ConocoPhillips, of Houston, Texas, is a former owner and operator of a gasoline dispensing facility at 2501 Foulk Road, Wilmington. The facility had been operating under permits for a balance stage vapor recovery system when ConocoPhillips became owner of the facility in 2002.

During an inspection of the facility on Feb. 13, 2004, the Department confirmed that the permitted balance stage vapor recovery system had been replaced with a vacuum assist vapor recovery system and that ConocoPhillips was operating the vacuum assist system without a permit. ConocoPhillips sold the facility in April 2004.

ConocoPhillips violated Delaware Law and air pollution regulations by installing the vacuum assist vapor recovery system without a permit and by failing to test and receive approval from the Department to operate the system.

The company has 30 days to request a public hearing.

*For further information, contact Alex Rittberg at (302) 395-2500, or Melinda Carl, Public Affairs Office (302) 739-4506.*

### **DNREC and Premcor Settle Coastal Zone Permit Premcor Appeal Withdrawn**

The Department of Natural Resources and Environmental Control and Premcor have reached an agreement to settle Premcor's appeal of its Coastal Zone Permit issued Nov. 30, 2004 that allows for the construction of the Delaware City refinery's pollution control upgrade project, the largest industrial pollution control initiative in Delaware's history.

The settlement agreement does not change any current air emissions limits or the more stringent limits that will become effective once the air pollution control equipment is installed over the next two years.

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Premcor had objected to the establishment of throughput rates on its crude unit as part of the conditions of the permit. Under the settlement agreement, conditions of the Coastal Zone permit have been modified and clarified to establish that the crude throughput rate is not a cap on the amount of material that can be processed but rather will be used as a benchmark against which to measure future activity at the refinery. The original permit set a throughput rate of 185,142 barrels per day based on a 30-day rolling average. The revised conditions set that limit at 191,100 barrels per day based on a 12-month rolling average.

The revisions also make it clear that any production increase beyond the new benchmark will trigger an evaluation to determine if there are any negative impacts to the environment. If so, the facility must submit a Coastal Zone permit application along with an appropriate environmental offset. If Premcor can demonstrate that increased production does not result in increased emissions and no new equipment or modifications are needed, possibly by processing crude oil with fewer impurities, then no permit would be required.

“This agreement is a significant development in our regulatory oversight of the refinery,” said DNREC Secretary John A. Hughes. “We never intended the throughput rates to be considered as caps on production. However, we contend that in past years the refinery has increased production which may have resulted in negative impacts on the environment. Until now we have not had an agreed upon process to assure that the refinery will more than compensate for any new negative impacts. I also think this settlement sets the stage for moving toward resolution of the refinery’s other appeal issues.”

The appeal had been scheduled to be heard by the Coastal Zone Industrial Control Board on Jan. 26, 2005. The hearing was cancelled as a result of the settlement.

The permits for the Pollution Control Upgrade Project, issued Nov. 30, 2004 under the Coastal Zone and Air Quality programs, clear the way for the company to begin installation of a wet gas scrubber on the fluidized coking unit (FCU) at the refinery. The second phase of the project requires the installation of a wet gas scrubber on the refinery’s fluidized catalytic cracking unit (FCCU) and other pollution control measures. When completed, the project will result in a reduction of approximately 30,000 tons annually of sulfur dioxide emissions.

*For further information, contact David Small, Deputy Secretary (302) 739-4403 or Maria Taylor, Public Affairs Office (302) 739-4506.*

## **Printpack Awarded a Coastal Zone Permit**

Department of Natural Resources and Environmental Control Secretary John A. Hughes has granted a Coastal Zone Act permit to Printpack Inc. of New Castle for modernization and expansion of its production capacity for printed plastic.

Printpack operates a printing facility south of New Castle on Route 9 at Grantham Lane. The company applied on Aug. 8, 2004 to modernize the facility and expand its production capacity from 29.1 to 50.8 billion square feet per year of printed plastic. To accomplish this production increase, the company will replace seven old printing presses with five larger capacity new presses. Also, one photopolymer platemaking system will be added. The building will be expanded by a maximum of 6,105 additional square feet.

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Air emissions from this facility will be reduced by 6.424 tons per year due to the use of new, modern printing presses, which is the offset proposal for this expansion project. A public hearing on Printpack's application was held Dec. 7, 2004.

Anyone wishing to appeal this decision to the State Coastal Zone Industrial Control Board must do so within 14 days following the Jan. 23, 2005 publication date of legal notice. Appeal forms may be acquired by calling Dennis Brown, DNREC Planning and Compliance Assistance, (302) 739-3091. There is a \$100 appeal fee.

*For further information, contact Dennis Brown, Planning and Compliance Assistance (302) 739-3091 or Melinda Carl, Public Affairs Office, (302) 739-4506.*

## **Regulatory Update**

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

**2004-13: Amendment to Tidal Finfish Regulation No. 3505. Striped Bass Commercial Fishing Season; Quotas; Tagging and Reporting Requirements.** This action increases 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 requires 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 also increases 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 requires 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 only applies to hooks having a gap greater than 3/8 inches as measured from the hook point to the shank. Contact Roy Miller, 739-3441

**Effective date – Feb. 10, 2005**

**2004-12: Addition to Regulation No. 43 – Not To Exceed Heavy Duty California Engine Standards.** This action adopts 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

**Effective date – Feb. 10, 2005**

**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 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 Alex Rittberg, 395-2522

**Effective date – Feb. 11, 2005**

2001-21: **Amendments to Sediment and Stormwater Regulations.** This action allows 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

**Effective date – Feb. 11, 2005**

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**

2005-01: **Amendments to Tidal Finfish Regulations affecting the 2005 recreational summer flounder fishery and recreational black sea bass fishery.** Delaware can maintain the same management measures used in 2004 for the 2005 recreational summer flounder fishery since the harvest cap was not exceeded in 2004. Six of the eight options that were presented in 2004 and will be presented again include extended seasonal components to compensate for an 8 percent increase in the state's harvest cap for 2005. Another amendment to the tidal finfish regulations will eliminate any reference to a closed season for recreational black sea bass anglers in 2005. This is proposed because the coast wide requirements for recreational black sea bass fishermen in 2005 are a 12-inch minimum size length with a 25-fish creel limit and no closed season. Contact Richard Cole, 739-4782

**Public hearing – Feb. 24, 7:30 p.m.,** DNREC auditorium, Richardson and Robbins Building, 89 Kings Highway, Dover.

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

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

2004-11: **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

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

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.

2004-05: **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

2003-19: **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

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

2003-10: **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

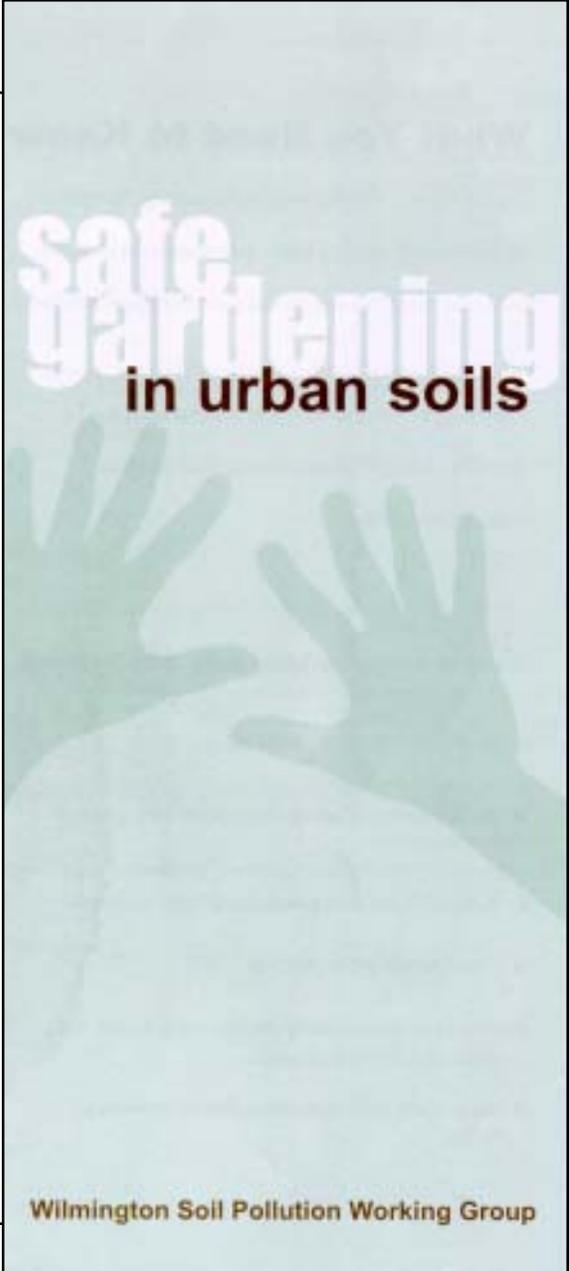
2003-02: **Amendment to Subpart A, Regulation 38, Emission Standards for Hazardous Air Pollutants for Source Categories.** These general provisions establish applicability, definitions, compliance, notification, performance testing, monitoring, record keeping and reporting requirements common to the 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

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



**safe gardening in urban soils**

Wilmington Soil Pollution Working Group

### **Garden Safely in Urban Soils**

The Soil Pollution Working Group, a collaborative group concerned about residents' health and outdoor activities, has developed and published a brochure for safe gardening in urban soils.

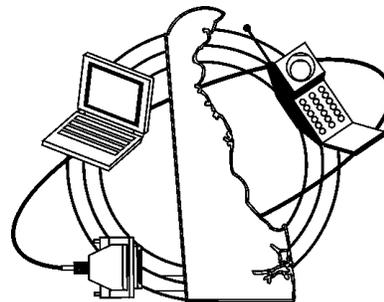
Information on safe gardening in urban soils is targeted to residents living in or around areas with historic industrial pollution. These areas may be contaminated with chemicals that are left in the soil from leather factories, pressure treated wood, waste dumping, lead paint, leaded gasoline and other sources.

Soil contamination continues to happen when people dump trash, oil, paints, chemicals and pesticides on the ground, or when old lead paint peels fall onto the soil.

For additional information on how to prevent pollution in urban soils, or to request a brochure, contact the Soil Pollution Working Group by calling the Delaware Center for Horticulture, Jonathan Lukens, (302) 658-6262, ext. 35.

# 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.

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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.)

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\_\_\_\_\_



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.

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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

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