



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL

OFFICE OF THE
SECRETARY

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SECRETARY'S ORDER NO 2016 – WS- 0013

Date of Issuance: March 16, 2016

Effective Date: March 21, 2016

AUTHORITY AND FINDINGS:

Pursuant to the authority granted to the Secretary of the Department of Natural Resources and Environmental Control pursuant to Delaware Code Title 7, Chapter 60 and Title 29, Chapter 80 and Delaware Administrative Code 7402 *Shellfish Sanitation Regulations 3.1.5*, the Secretary has the authority to close shellfish growing areas in response to events which could affect the introduction of contaminants into shellfish growing waters.

Based upon the recommendation of the Division of Watershed Stewardship's Shellfish Program, as outlined in the attached Memorandum of Record, the Seasonally Approved area identified in 7402 *Shellfish Sanitation Regulations* Appendix 3, Rehoboth Bay 1. "*The areas north of a line drawn from the tip of White Oak Point in a southeasterly direction to a point identified as being directly west of the south submarine observation tower at Delaware Seashore State Park and south of the Lewes and Rehoboth Canal mouth, thence in an easterly direction to the south submarine observation tower*", no longer meets the classification for seasonal harvest and is closed.

The decision to recommend closure of the Rehoboth Conditionally Approved Area is based on assessment of theoretical waste water discharge dilutions and not on changes to observed water quality. The theoretical wastewater discharge dilution criteria were recently changed by a US Food and Drug Administration guidance document.

ORDER

It is hereby ordered, that the above referenced closure is adopted pursuant to 7402 *Shellfish Sanitation Regulations 3.1.5* and are supported by the findings contained herein. The relevant regulations shall be amended through the Administrative Procedures Act process to identify this area as "Prohibited".

A handwritten signature in blue ink, appearing to read 'David S. Small', written over a horizontal line.

David S. Small, Secretary
Department of Natural Resources and
Environmental Control

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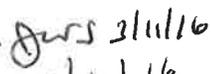
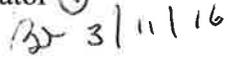
STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL
DIVISION OF WATERSHED STEWARDSHIP
STATE STREET COMMONS
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WATERSHED ASSESSMENT &
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MEMORANDUM OF RECORD

To: Secretary David Small 
Delaware Department of Natural Resources and Environmental Control

Through: Frank M. Piorko, Director 
John W. Schneider, Environmental Program Administrator 
Bradford L. Smith, Environmental Program Manager 

From: Michael Bott, Environmental Scientist
Shellfish and Recreational Water Programs

Date: March 10, 2016

Subject: Recommendation of the *Closure of Conditionally Approved Seasonal Area Adjacent to Rehoboth Wastewater Treatment Plant*

Review of all factors influencing the Conditionally Approved Seasonal Area, adjacent to the Rehoboth Wastewater Treatment Plant (WWTP) in northeastern Rehoboth Bay, has indicated that the area defined as “*The areas north of a line drawn from the tip of White Oak Point in a southeasterly direction to a point identified as being directly west of the south submarine observation tower at Delaware Seashore State Park and south of the Lewes and Rehoboth Canal mouth, thence in an easterly direction to the south submarine observation tower. This area is marked by signs and buoys*” no longer meets the conditions, established by 7402 Shellfish Sanitation Regulations, Appendix 11.E.3.ii, necessary to be open for seasonal shellfish harvest. Therefore, it is the recommendation of the Shellfish Program that this seasonal area be placed in the closed status immediately.

The current “seasonally approved” classification is based on adjacent marina use and historic low wastewater effluent discharge levels during winter months (December through mid-April). However, winter time WWTP flow rates have increased, with the highest recorded maximum winter time flow in five years occurring in March, 2015. The Shellfish Program expects this trend of increasing flow to continue.

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