

# DNREC NEWS

The Delaware Department of Natural Resources and Environmental Control

Vol. 200

February 13, 2004



Ruth Ann Minner  
Governor

John A. Hughes  
Secretary

## Inside

CALENDAR .....	2
TROUT STOCKING .....	4
RECYCLING ADVISORY MEETING .....	5
BROWNFIELDS DEVELOPMENT MEETING .....	5
MOTIVA COOLING WATER INTAKE .....	6
MOTIVA PENALTY .....	6
OCEANPORT CZA PERMIT DENIED .....	7
COUGAR? .....	8
REGULATORY UPDATE .....	9

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

## Mark Your Calendars for Christina Cleanup *Sign Up Now to Clean Up Christina River April 17*

Volunteers are needed to make a difference at the 13<sup>th</sup> annual Christina River Watershed Cleanup, which will be held, rain or shine, 8 a.m.- noon Saturday, April 17. The event is sponsored by the Department of Natural Resources and Environmental Control and the Christina Conservancy.

To sign up, visit the Department of Natural Resources and Environmental Control website at [www.dnrec.state.de.us](http://www.dnrec.state.de.us) and click on "Register for the Christina River Cleanup" under Hot Topics. Participants will receive t-shirts commemorating the event.

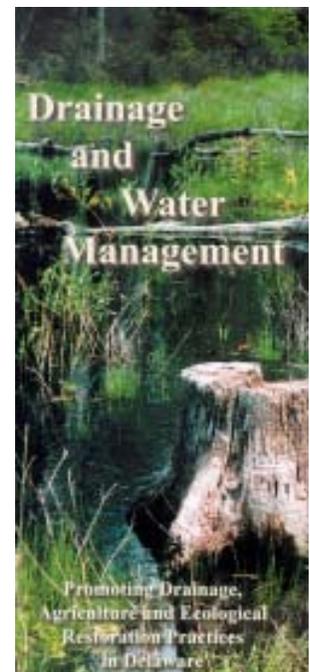
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## Ecological Restoration – A Natural Resources Priority

Ecological restoration is a natural for the Department of Natural Resources and Environmental Control. It is a mission with significant environmental benefits: protection of streams, drainage ditches, wetlands and riparian corridors.

According to Stephen Williams, ecological restoration coordinator, projects are being implemented statewide in Delaware using new and innovative wetland and stream restoration techniques and concepts.

Wetland restoration is taking place in marginal agricultural fields to create additional wildlife habitat, improve water quality and increase the efficiency of farming operations. Stream restoration is being targeted toward existing tax ditches



*continued on page 4*

## Calendar

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

### FEBRUARY

**18 – Brandywine Creek State Park program, *Fireside Storytime with a Park Ranger*, 4:30 p.m.**  
Cost is \$1 per person. Pre-registration strongly suggested.

**18 – Finfish Advisory Council meeting, 7 p.m.,** DNREC auditorium, Richardson and Robbins building, 89 Kings Highway, Dover. Call the Fisheries section, (302) 739-3441.

**18 – Greenways and Trails Council meeting, 9:30 a.m.,** Delaware City Community Center, Delaware City. Contact Susan Moerschel, Division of Parks and Recreation, (302) 739-5285.

**18 – Recycling Public Advisory Council meeting, 1-4 p.m.,** Aquatic Resources Education Center, Rt. 9 near Smyrna. Contact Janet Manchester, (302) 739-3689.

**20 – Public workshop to develop a Brownfields Inventory, 9 a.m.-4 p.m.,** Southbridge Neighborhood House, Wilmington. Contact Phil Cherry, Policy Director, (302) 739-4403.

**21 – Hooked on Fishing Not on Drugs workshop, TBA,** Aquatic Resources Education Center. This program is for fishermen, fisherwomen and youth program leaders interested in joining a national volunteer effort to introduce kids to fishing while promoting good decision making. Contact Trina Cale-Rosario, (302) 653-2882 ext. 104.

**22 – Brandywine Creek State Park program, *Winter Resident Birds*, 1 p.m.** Cost is \$2 per person. Pre-registration required.

**24 – Environmental Appeals Board hearing, Sierra Club appeal of a Subaqueous Lands Permit issued to North Shores for repair and rehabilitation of a large stone groin, 9:30 a.m.,** DNREC auditorium, Richardson and Robbins Building, 89 Kings Highway, Dover. Contact Gail Donovan, Planning and Compliance Assistance, (302) 739-6400.

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

**24 – Community Involvement Advisory Council meeting, 9:30-11:30 a.m.,** Appoquinimink State Service Center, 120 Silver Lake Road, Middletown. Contact Karen Garrison, DNREC Office of the Secretary, (302) 739-4403 x114.

**24 – Nanticoke Tributary Action Team meeting, 7-9 p.m., TBD.** Contact Allen Girard by e-mail at [agirard@cbf.org](mailto:agirard@cbf.org) or call Jennifer Campagnini, Watershed Assessment Section, (302) 739-4590.

**24, 26 – Delaware Urban Runoff Management Model computer training for consultants, TBA** at Poly Tech. Contact Jeanne Feurer, (302) 739-4411.

**26 – Bethnic mapping of the Delaware Bay results revealed, 10 a.m.,** DNREC auditorium, Richardson and Robbins building, 89 Kings Highway, Dover. Contact Bob Scarborough, Delaware Coastal Programs, (302) 739-3436.

**26 – POSTPONED: Public hearing on changes to Solid Waste Regulations, TBD** Contact Don Short, Air and Waste Management, (302) 739-3689.

**28 – Brandywine Creek State Park program, *Bird Walk Series*, 8 a.m.** This program is free with paid admission to the park.

## MARCH

**2 - Delaware Urban Runoff Management Model computer training for consultants**, TBA at Poly Tech. Contact Jeanne Feurer, (302) 739-4411.

**4,11,18 – Certified Construction Reviewer Course**, TBA, Modern Maturity Center, Dover. Cost is \$195 per person. Contact Jeanne Feurer, (302) 739-4411.

**6 – Brandywine Creek State Park program**, *Wild Turkey Call*, 6:30 a.m., cost is \$2 per person.

**7 – Brandywine Creek State Park program**, *White-tailed Deer Junior Naturalists Series*, 1 p.m., for children ages 8-12 years old.

**8 – Sussex County Science Fair**, TBA, Virden Center, UD Graduate College of Marine Studies, Lewes Campus.

**9 – Brandywine Creek State Park program**, *Greenway Trail Staff Favorites: Hiking Series*, 9 a.m., at the Thompson's Bridge parking lot. Cost is \$2 per hiker.

**11 – Brandywine Creek State Park program**, *Fly Tying*, 7 p.m. Cost is \$5 per person.

**13 – Statewide Tributary Action Team Conference**, 8:30 a.m.-4 p.m., St. Andrew's School, Middletown, Delaware. Contact Jennifer Campagnini, (302) 739-4590.

**13 – Brandywine Creek State Park program**, *Intro to Orienteering*, 11 a.m. Map fee is \$5 per person.

### 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

### *Christina Cleanup* continued from page 1

This year there are several sites to choose from, including:

- Churchman's Boat Ramp
- Ciba Volpe and Churchman's Marsh
- Dayette Mills
- East 7<sup>th</sup> Street and the Riverfront Shops
- Fox Point
- Naamans Creek Site
- Newark Site
- White Clay Creek Site

The cleanup covers roughly 31 miles of the river, between the Pennsylvania line and the confluence of the Christina and Delaware rivers, including tributaries such as the Brandywine, White Clay, Red Clay, Mill Creek, Churchman's Marsh area, and Naamans Creek.

*continued on page 4*

During the cleanup's early days, collecting 30+ tons of trash in four hours was common; now 15-20 tons is typical. Things found over the years include shopping carts, bicycles, Styrofoam, refrigerators and other discarded appliances.

*For more information, contact Shirley Posey, coordinator, (302) 328-9436, or by email at luckysap@aol.com; or Jason Gleockler, DNREC Public Affairs, (302) 739-4506.*

**Ecological Restoration** continued from page 1

and degraded natural stream systems to provide long-term stability and improve ecological value by reestablishing natural flood plains and sinuous low-flow channels using geomorphological approaches.

A brochure, *Drainage and Water Management – Promoting Drainage, Agriculture and Ecological Restoration Practices in Delaware*, has been developed through a grant from the Center for the Inland Bays and is now available from the Department. It describes the need for water management, the tax ditch program, historic channel-construction practices, and the current techniques being implemented for stream and wetland restoration.

The brochure/poster is being distributed to schools; federal, state and local governmental agencies; conservation districts; environmental organizations; and various farming-related facilities such as tractor equipment companies.

*Copies may be obtained by contacting the Department's Public Affairs Office, (302) 739-4506.*

## **Division of Fish and Wildlife to Stock Trout in Kent, Sussex Ponds**

On March 4 and again on March 18, Delaware Division of Fish and Wildlife will once again stock rainbow trout into Tidbury Park Pond near Dover in Kent County and Gravel Hill Pond near Georgetown in Sussex County.

On each of the two dates, approximately 500 rainbow trout averaging eleven inches long will be stocked in each of the two ponds. A few larger or trophy size fish will be included with each stocking. These stockings typically take place around noon. The daily catch limit for trout anglers is six trout per day.

This popular seasonal program began in 1993 and has continued each spring. Since trout are coldwater species, the stocking only takes place in the early spring before these waters reach temperatures that are potentially lethal to trout.

The Division depends on the cooperation of Kent County Parks and Recreation, the owners of Tidbury Pond, the owners of Gravel Hill Pond, and the Delaware Department of Transportation, in order to offer this recreational opportunity to the public. The public is asked to heed any special angler access and parking signs, and be respectful of vegetative plantings installed to protect the shoreline at Tidbury Park pond.

Anglers may park along Route 9 at Gravel Hill but will not be permitted to park in the Department of Transportation lot, either on the west side or south side of the pond.

Anglers must possess both a freshwater fishing license and a trout stamp. Children ages 12-15 must have a young angler trout stamp but are exempt from license requirements until they attain the age of 16. Funds from the sale of these trout stamps will support next year's stocking program.

*For additional information, contact Craig Shirey, Fisheries, (302) 739-3441.*

## **Recycling Public Advisory Council to Meet Feb. 18**

The Recycling Public Advisory Council will meet 1 to 4 p.m. Wednesday, Feb. 18 at the Department of Natural Resources and Environmental Control's Aquatic Resource Education Center on Route 9 near Smyrna.

The meeting agenda consists of the following items:

1. A report from the Delaware Solid Waste Authority on the work being done in accordance with the Memorandum of Agreement among DNREC, Delaware Solid Waste Authority and the Recycling Public Advisory Council, which provides for further assessments on recycling;
2. Selection of the Fiscal Year 2004 Recycling Assistance Grant recipients; and
3. Continuation of the council's discussion of a recommended strategy for increasing the diversion of recyclables from Delaware's residential solid waste stream.

The Recycling Public Advisory Council was created by Executive Order No. 82 in September 2000 and charged with advising DNREC and the Delaware Solid Waste Authority on all aspects of recycling, including development of grant 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; John Blevins, 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 Waste Management, (302) 739-3689.*

## **South Wilmington Residents Invited to Attend Brownfields Development Workshop Feb. 20**

The Delaware Department of Natural Resources and Environmental Control announces a joint project between its Delaware Coastal Programs and its Division of Air and Waste Management to create a brownfields site compendium for use in the redevelopment of Delaware coastal communities.

The Department will develop the inventory and compendium with residents of South Wilmington, community leaders, brownfields stakeholder workgroups, and technical experts at a workshop to be held 9 a.m.- 4 p.m. Friday, Feb. 20 at the Neighborhood House in Southbridge, Wilmington, Del.

The workshop's focus will be development of a brownfields site inventory that the Department plans to expand statewide. South Wilmington will be the first area to have a compendium because of its enormous opportunity for redevelopment and environmental enhancement.

Once completed, the inventory and compendium will aid the community, the City of Wilmington, and the State in planning future brownfields development in the South Wilmington area. Future workshops will look at ways the compendium can be used as a planning tool for other Delaware communities engaging in brownfields development.

*continued on page 6*

Brownfields are abandoned or underutilized sites that may have some contamination. Once any existing contamination is remediated, these sites provide an attractive and valuable opportunity for development within a community.

*For more information on how to sign up for this workshop, please contact Ed Cervone or Dave Carter, Delaware Coastal Programs, (302) 739-3451.*

### **DNREC Grants Emergency Authorization to Motiva to Deepen Cooling Water Intake Channel**

The Department of Natural Resources and Environmental Control on Feb. 5 authorized Motiva Enterprises to deepen its cooling water intake channel to ensure safe operations and reduce impacts to fisheries at its Delaware City refinery site.

Motiva requested the emergency authorization in a Jan. 22 letter to the Department that cited three occasions in recent weeks when the lack of sufficient water in the intake resulted in the partial loss of cooling water to the plant. The disruption required the refinery to modify operations and resulted in flaring and several unpermitted releases of air emissions.

The Department received Motiva's letter Jan. 28 and in a letter dated Feb. 4, authorized a one-time emergency maintenance dredging of the company's cooling water intake channel to a depth of 12 feet below mean low water which is the historically maintained depth of the channel. The current channel depth is approximately seven feet.

According to William Moyer, manager of the Wetlands and Subaqueous Lands Section, the emergency authorization is permitted under Subaqueous Lands Regulations for public safety reasons when sufficient time is not available to follow the regulations. The dredging could prevent a plant shutdown and consequent release of air pollutants.

"I had requested that Motiva address this situation," said DNREC Secretary John A. Hughes. "We're very concerned with the potential public safety impacts that can occur when there is a loss of cooling water to this plant. There's no question that this request is based on a situation at the plant that can rapidly deteriorate if the need for cooling water is not met."

The Department has had long-term concerns about impingement and entrainment of fish species at the company's cooling water intake. To address this issue as well as the need for maintenance dredging, the Department is requiring Motiva to submit plans for improving the system.

Specifically, Motiva is required to submit within 60 days, options for improving the current cooling water intake system to minimize impingement and entrainment of fish; and costs of the past two dredging operations and current dredging operations at the cooling water channel. The authorized emergency maintenance dredging must be completed in accordance with Motiva's special and general subaqueous lands permit conditions.

*For further information, contact William Moyer, Wetlands (302) 739-4691; or Melinda Carl, Public Affairs, (302) 739-4506*

### **DNREC Issues Notice of \$40,000 Penalty to Motiva Enterprises for Air Pollution Violations**

Department of Natural Resources and Environmental Control Secretary John A. Hughes has issued a Notice of Administrative Penalty Assessment and Secretary's Order to Motiva Enterprises

*continued on page 7*

LLC for violations of Delaware's regulations governing the control of air pollution. The Order includes a cash penalty of \$40,000 and an additional \$6,262 as cost recovery reimbursement to the Department for expenses associated with its investigation.

Motiva owns and operates a power plant at its refinery located at 2000 Wrangle Hill Road in Delaware City, Del. The power plant produces steam and electricity for the refinery by combusting fuel oil and refinery fuel gas in four steam boilers and by combusting syngas or distillate fuel in two combustion turbines. The syngas is produced in two Texaco gasifier trains by gasifying petroleum coke. Products of combustion, including oxides of sulfur, nitrogen and carbon, particulate matter and sulfuric acid, are emitted to the atmosphere.

On Oct. 19, 2002, a malfunctioning acid flow indicator alarm and a defective check valve allowed about 135 gallons of sulfuric acid to enter a one million gallon boiler feed water holding tank and contaminate the feed to most of the refinery's steam generating equipment. This caused multiple tube leaks in various steam generating equipment and triggered a severe steam emergency in the refinery.

The steam emergency caused excess emissions of nitrogen oxides (NOx) over a 4-day period from the combined cycle units and the crude unit vacuum heater, and excess emissions of carbon monoxide over a 3-day period from the fluid catalytic cracking unit and its carbon monoxide boiler.

These excess emissions resulted in Motiva violating Delaware laws and regulations governing air pollution control and conditions of its permits as follows:

- Emitted carbon monoxide from the fluid catalytic cracking unit carbon monoxide boiler in excess of the 500 parts per million (volume) limit;
- Emitted NOx from the crude unit vacuum heater in excess of the maximum allowable rates (0.20 pounds per million Btu 24-hour rolling average) for periods between Oct. 22, 2002 and Oct. 24, 2002;
- Emitted NOx from the combined cycle units in excess of its permit limits when fired by low sulfur diesel fuel without duct firing for periods between Oct. 19, 2002 and Oct. 22, 2002;
- Stopped steam injection as a NOx control measure while low sulfur diesel fuel was being fired in the combined cycle units
- Continued the operation of the combined cycle units without a NOx control measure being operated.

Motiva has 30 days to request a public hearing.

*For further information, contact Robert Taggart, Division of Air and Waste Management, (302) 323-4542 or Melinda Carl, Public Affairs Office, (302) 739-4506.*

## **DNREC Denies Coastal Zone Permit to Oceanport Industries**

Department of Natural Resources and Environmental Control Secretary John A. Hughes has denied a Coastal Zone Act Permit to Oceanport Industries Inc. to transfer liquid urea at its facility located at 1200 Philadelphia Pike in Claymont.

The permit was denied because International Raw Materials would also be involved with the transfer and storage of the material. This important fact was not included in the application submitted by Oceanport Industries in June.

*continued on page 8*

The company proposed to pump the liquid urea from vessels through a pipeline to existing storage tanks. The storage tanks would be upgraded and modernized prior to their use. The urea would then be transported off-site to be eventually used as fertilizer. Under normal operating conditions, there would be no environmental impacts or nuisance conditions to the area due to this proposed project.

A 14-day appeal period to the State Coastal Zone Industrial Control Board began with the Feb. 1 publication of the legal notice of this decision.

For an appeal application, or additional information, contact Dennis Brown, DNREC Planning and Compliance Assistance, (302) 739-3091.

*For more information, contact Philip Cherry, (302) 739-4403, or Melinda Carl, (302) 739-4506.*

### **Middletown ‘Cougar Sighting’ Was Likely Big House Cat, But Caution Is Advised**

Despite a teacher’s photographs of the animal and its paw print, Division of Fish and Wildlife biologists and enforcement agents can’t say for sure if it was a cougar near Cedar Lane Elementary School in Middletown on Jan. 30.

“The picture was taken from a distance so it was hard to determine more than that it was a cat-like animal with a long tail,” said Regional Biologist Rob Hossler. “Plus, it was in brush so there was nothing to provide scale to indicate its size. In the picture of a paw print next to a ruler, the pad looked like it was less than two inches across, considerably smaller than the typical four-inch pad of a cougar.

“Based on the available information, we think it was probably a domestic cat and not a cougar, but there have been many reported sightings and at least two confirmed sightings in the northern part of the state,” Hossler said.

Attempts by the Division and others to trap and hunt the New Castle County cougars have been unsuccessful, largely because they are secretive, primarily nocturnal animals who favor dense brush for cover.

According to Capt. Robert Hutchins of the Division of Fish and Wildlife’s Enforcement Branch, “The threat to public safety is low and human-cougar interactions are rare. To date, there have been no attacks or threats of attacks on humans or livestock in Delaware.”

To be on the safe side, the Division recommends the following precautions:

- Never approach a cougar.
- Stop and do not run if you encounter a cougar.
- Do not crouch down or bend over. Stand upright facing the animal, back away slowly and make loud noises. Maintain eye contact with the cougar.
- Always travel in a group in or near wooded areas especially during the hour after sunrise and the hour before sunset. Keep children close to adults when they are in or near these areas at all times.
- Do not walk or jog alone in or near areas with brush and tall field grass that could provide cover for the concealment of a cougar.
- Keep pets and livestock in a secure pen or structure.

*continued on page 9*

To report a cougar sighting, call Division of Fish and Wildlife enforcement agents at (302) 739-4580 or 1-800-523-3336. Agents have been keeping records on cougar sightings in Delaware since 1999; there were 17 reported last year.

*For more information, contact Capt. Robert Hutchins or Cpl. Julie Jones, Division of Fish and Wildlife Enforcement, (302) 836-4682.*

## **Regulatory Update**

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

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

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

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

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

### **Regulatory Actions Underway:**

**2004-01: Amendments to Tidal Finfish Regulations, summer flounder and recreational black sea bass.** Summer flounder: Delaware is able to maintain the same management measures for summer flounder used in 2003 for the 2004 fishery since the harvest cap was not exceeded. The nine management options presented for public review in 2003 will again be presented as approved methods for 2004. A new option may be presented that will include a 17.5 inch minimum size limit, six fish bag limit and no closed season for 2004. Recreational black sea bass: The coastwide requirements are a 12-inch minimum size length with a 25 fish creel limit and a closed season from Sept. 8, 2004 through Sept. 21, 2004 and Dec. 1, 2004 through Dec. 31, 2004. The Division of Fish and Wildlife proposes to impose a closed season for the same dates as the coastwide requirements. Contact Richard Cole, 739-4782

**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

**2003-23: Amend Tidal Finfish Regulations, Striped Bass Possession Size Limit; Exceptions.**

This action would change the recreational daily size and creel limits and seasons for striped bass; and change the minimum commercial size limit for striped bass taken from all tidal waters of the state other than the Delaware River and Bay and its tributaries to 28 inches total length. During the commercial season of March 1-April 30, the minimum commercial size limit would remain 20 inches for the waters of Delaware River, Delaware Bay and their tributaries, but would revert to 28 inches total length minimum for the remainder of the year. Contact Roy Miller 739-3441

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

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

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

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

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

2003-17: **Amendments to the Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal (Septic) Systems.** This action would update the regulations to include statutory changes that authorize DNREC to establish a license for persons who inspect septic systems and other on-site wastewater treatment systems. It also sets an annual license fee for septic system designers, installers, site evaluators, liquid waste haulers, inspectors and percolation tests, similar to other license fees charged by DNREC. Contact John Hayes, 739-4761

2003-16: **Development of a State Implementation Plan (SIP) revision to include a case-by-case alternate volatile organic compound reasonably available control technology determination.** This action would address the FP International, Newark, Del. facility’s expandable polystyrene packing material manufacturing process. Contact Frank Gao, 323-4542

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

2003-14: **Amendments to Delaware Regulations Governing Hazardous Waste.** This action will adopt amendments previously promulgated by EPA to maintain authorization for administering Delaware’s own hazardous waste management program. Also proposed are miscellaneous changes to correct existing errors in the hazardous waste regulations, add clarification or enhance the current hazardous waste regulations program. Contact Karen J’Anthony or Donald Short, 739-3689

2003-12: **Modification of existing regulations for the Green Energy Fund (formerly the Environmental Incentive Fund).** Senate Bill 93 moved the State Energy Office to DNREC and stated that the office would establish standards, procedures and regulations governing administration of the Green Energy Fund, formerly administered by the Delaware Economic Development Office. This action would modify DEDO’s existing regulations to reflect movement of the Energy Office and the program, and amend the regulations for consistency with provisions in Senate Bill 93 and amendments in Senate Bill 145. Contact Charlie Smisson Jr., 739-5644

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

**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

**2003-08: Revisions and amendments to Shellfish Regulations S-51 through S-61 and new regulations governing harvesting and use of horseshoe crabs.** This action would conserve horseshoe crab resources by: revising reporting requirements for horseshoe crab collecting, changing the horseshoe crab permit renewal date and procedure, eliminating the possession limit of six horseshoe crabs per day for those without a valid horseshoe crab commercial collecting permit, establishing a period of time when commercial harvesting would be illegal, establishing harvest quotas including consideration of a harvest moratorium, requiring the use of bait saving devices in conch pots, restricting how many horseshoe crabs may be used in pots as bait and setting a quota on the amount of horseshoe crabs that dredgers may harvest prior to May 1 in any given year. Contact Roy Miller, 739-3441

**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

**2003-05: Amendments to Shellfish Regulations S-51 and S-55 and enactment of new shellfish regulations.** This action would require the use of bait saving devices in conch pots using horseshoe crab as bait; prohibit the harvest or landing of horseshoe crabs in Delaware between May 1 and June 7 of any year and cap the annual harvest and/or landings of horseshoe crabs in Delaware to 150,000. Contact Roy Miller, 739-3441

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

activities. Contact Amber Moore, 739-5731

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

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

**2002-25: Amendment to tidal finfish regulations regarding weakfish size and possession limits.** The approved plan adopted by the Atlantic States Marine Fisheries Commission includes 7 weakfish per day at 12 inches minimum, 8 at 13 inches, 9 at 14 inches or 10 fish at any size equal to or greater than 15 inches. The amendment would also adjust the beginning and ending dates to adjust the days for the new calendar year. Contact Roy Miller, 739-3441

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

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

**2002-13: Amendment to Tidal Finfish Regulations.** This action pertains to recreational and commercial creel limits and season for tautog. The Atlantic States Marine Fisheries Commission's amendment of the Fishery Management Plan for tautog requires all east coast states to reduce fishing mortality by 48 percent by changing creel limits or imposing seasonal closures or a combination of both by April 1, 2003. Contact Jeff Tinsman, 739-4782

**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

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

**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

**2001-14: Amendment to Regulation 24, Control of Volatile Organic Compounds, Section 26 (Stage I Vapor Recovery) and Section 36 (Stage II Vapor Recovery) of the Delaware's Regulations Governing the Control of Air Pollution.** This action is proposed to ensure that the Vapor Recovery Systems currently installed within the state maintain the required 95 percent control efficiency. Contact Deanna L. Morozowich, 739-4791

**2001-04: Amendments to Regulations Governing the Use of Subaqueous Lands.** This amendment updates the regulations to include the statutory changes made by the 140<sup>th</sup> General Assembly. The amendments deleted definition of the term, “navigable water,” increased the subaqueous lands lease term from 10 to 20 years, and granted exemptions for certain types of activities in subaqueous lands. Contact William Moyer, 739-4691.

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

**2000-11: Development of the 1999 Periodic Emission Inventory.** States with non-attainment areas for ground-level ozone are required under the Clean Air Act Amendments of 1990 to develop comprehensive periodic emission inventories of ozone precursor pollutants (volatile organic compounds,

nitrogen oxides, and carbon monoxide) once every three years and incorporate them into the State Implementation Plan. This is the third of these inventories covering all three Delaware counties for the 1999 calendar year and ozone season. Contact Raymond Malenfant, 739-4791

**2000-10: Amendments to Delaware's 2002 Rate-of-Progress Plan toward attainment of the 1-hour National Ambient Air Quality Standard (NAAQS)** for ground-level ozone in Kent and New Castle counties. Under the Clean Air Act Amendments of 1990, Delaware is required to submit to the U.S. EPA a State Implementation Plan every three years after 1996 to demonstrate how to achieve adequate rate-of-progress in reducing emissions of volatile organic compounds (VOC) and oxides of nitrogen (NOx), major precursors to form ground-level ozone. This action amends the 2002 plan submitted in February 2000. Contact Frank Gao, 739-3106

**2000-05: Update of 1990 Base Year Inventory and 1993 Periodic Emission Inventory Revisions.** The Clean Air Act Amendments of 1990 require states with non-attainment areas for ground-level ozone to develop the 1990 base year inventory and comprehensive periodic emission inventories of ozone precursor pollutants once every three years after 1990 and to incorporate them into the State Implementation Plan. This is a first update to improve the 1990 Base Year Inventory and 1993 Periodic Emission Inventory. Contact Bhavesh V. Amin, 739-4791

**2000-03: Amendments to the Delaware Regulations Governing Hazardous Substance Cleanup.** Amendments include adding mirex and gas additives to the definition of hazardous substance as well as clarify the petroleum issue; incorporating by reference the HSCA Guidance standards; and amend the provision concerning interference and failure of remedy.

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

**98-13: Adopt a new regulation (Regulation No. 20, Section 30) of the State of Delaware Regulations Governing the Control of Air Pollution.** This regulation will require any small industrial-commercial-institutional steam generating unit (i.e., any unit that combusts any fuel and that produces steam or heats water or any other heat transfer media) to meet specified emission limits for sulfur dioxide and particulate matter. Contact: Ron Amirikian – 323-4542

**97-19: Contingency Regulations for Ozone Attainment** – The Clean Air Act requires states with non-attainment areas for ground-level ozone to implement specific control measures if an area fails to make reasonable further progress goals or fails to attain the national ambient air quality standard by the attainment date. This contingency, in the form of a regulation, may be either a point source cap and reduce program or a higher-level enhanced motor vehicle inspection and maintenance (I-M) program, or perhaps some other action or combination of actions. This regulation will ensure that 1999 and later ground level ozone progress goals for New Castle and Kent counties are achieved, and will be implemented in New Castle and Kent Counties if the specified emissions reductions do not occur in 1999. Contact: Al Deramo – 739-4791

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