

# DNREC NEWS

The Delaware Department of Natural Resources and Environmental Control

Vol. 121

March 3, 2004



Ruth Ann Minner  
*Governor*

John A. Hughes  
*Secretary*

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

## Gov. Minner Opens Energy Office, Signs ENERGY STAR Partnership

Governor Ruth Ann Minner officially opened the new Delaware Energy Office in Dover Friday, Feb. 27 and demonstrated the State's commitment to energy efficiency by entering into an ENERGY STAR Partnership Agreement with the U.S. Environmental Protection Agency and the U.S. Department of Energy.

The ribbon-cutting ceremony for the Energy Office, which moved to the Department of Natural Resources and Environmental Control last June, was held at the office's new headquarters at 146 S. Governor's Avenue.

The Energy Office will be responsible for implementing and promoting Delaware's ENERGY STAR Program and the energy efficiencies that can be realized with qualified products, new homes and buildings, and energy improvement projects for existing buildings – a primary recommendation of Gov. Minner's Energy Task Force in its report issued in September 2003.



*Gov. Minner speaks to supporters of energy conservation. Below, DOE Acting Director James M. Ferguson signs the partnership agreement with Gov. Minner and EPA Regional Administrator Donald S. Welsh.*



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## Calendar

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

### MARCH

**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 – Citizens Source Water Assessment Committee meeting, 9 a.m.-noon, second floor conference room, Department of Public Safety and Homeland Security building, Dover. Contact Doug Rambo, Water Supply Section, (302) 739-4793.**

**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., Thompson's Bridge parking lot. Cost is \$2 per hiker.**

**9 – Nanticoke Tributary Action Team meeting, 7-9 p.m., Laurel Town Hall. Contact Jennifer Campagnini, Watershed Assessment Section, (302) 739-4590.**

**10 – Delaware National Estuarine Research Reserve program, *The Unsolved Case of Phragmites australis: a Dr. Jekyll or Mr. Hyde?*, 6:30 p.m., St. Jones Reserve, 818 Kitts Hummock Road, Dover. Contact Katy Lamborn, Delaware Coastal Programs, (302) 739-3436.**

**10 – Appoquinimink Tributary Action Team meeting, 7-9 p.m., at St. Anne's School, Middletown. Contact Jennifer Campagnini, Watershed Assessment Section, (302) 739-4590.**

**10 – Wastewater Facilities Advisory Council meeting, 9 a.m., Delaware Technical & Community College, Conference Room 400A, 1832 North DuPont Parkway, Dover. Contact Louise Holt, (302) 739-5081.**

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

**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.**

**17 – Tidal Finfisheries Advisory Council meeting, 7 p.m., in DNREC's auditorium, Richardson and Robbins building, 89 Kings Highway, Dover. Contact Roy Miller, Fisheries Section, (302) 739-3441.**

**18,19 – Brandywine Creek State Park program, *Terrific Toddlers: Flying, Climbing, and Digging, Oh My!*, 9:30-10:15 a.m., for children ages 2-3 years old. Pre-registration encouraged. Cost is \$5 per child.**

**20 – Brandywine Creek State Park program, *Star Gazers*, 7-9 p.m.**

- 20 – Brandywine Creek State Park program, *Nature Explorers: Leaping Squirrels*, 9:30-10:15 a.m.** For children ages 4-6 years old. Cost is \$5 per child. Pre-registration encouraged.
- 20 – White Clay Creek State Park program, *Morning Birding Hike*, 8 a.m.,** at the nature center.
- 21 – Brandywine Creek State Park program, *Owl Prowl Family Program*, 6 p.m.,** at the nature center
- 21 – White Clay Creek State Park program, *The Route of Mason and Dixon*, 1 p.m.,** at the nature center.
- 23 – Public Hearing on Commercial Oyster Harvesting, 7:30 p.m.,** DNREC’s auditorium, Richardson and Robbins Building, 89 Kings Highway, Dover. Call Fish and Wildlife, Fisheries Section, (302) 739-3441.
- 25 – Murderkill Tributary Action Team meeting, 3-5 p.m.,** at Killens Pond State Park Office, Felton. Contact Jennifer Campagnini, Watershed Assessment Section, (302) 739-4590.
- 25 – Public Hearing on Proposed Amendments to Black Sea Bass and Summer Flounder Harvesting, 7:30 p.m.,** DNREC’s auditorium, Richardson and Robbins building, 89 Kings Highway, Dover. Call the Division of Fish and Wildlife, Fisheries Section, (302) 739-3441.
- 27 – Brandywine Creek State Park program, *Bird Walk Series: Birding is for everyone*, 8 a.m.-10 p.m.** at the Nature Center. This program is free with paid admission.
- 27 – Brandywine Creek State Park program, *State Park Meadows: More than just mowing*, 1-3 p.m.** Cost is \$2 per person.
- 27 – Brandywine Creek State Park program, *ABC’s of Fishing*, 1-3 p.m.** This program is for anglers ages 12 years and up. Fishing license is required for everyone over 15 years old. Licenses are available at the Nature Center. Fee is \$5 per angler.
- 27 – Delaware Ducks Unlimited program, *Conservation, Public Safety and Education Day*, 8 a.m.,** at Owens Station, Greenwood. Tons of activities for youth ages 6-16. Pre-register by Feb. 15. This program is free and includes a one-year Greenwing membership, t-shirt and lunch. Contact Rick Berry, (302) 674-0444 or Tony Senn, (302) 422-5068.
- 28 – Brandywine Creek State Park program, *Intro to Disc Golf*, 3 p.m.** Pre-registration required. Cost is \$1 per person.
- 28 – Brandywine Creek State Park program, *Spring Hawk Watch Series*, 11 a.m.-noon.** Binoculars are available, but bring your own if you have them. Pre-registration suggested. Cost is \$2 per person.
- 30 – Public Hearing on Aboveground Storage Tank Regulations, 6 p.m.,** in the DNREC office conference room, at 391 Lukens Drive, New Castle, Del. Contact Jill Hall or Erich Schuller, New Castle office, (302) 739-4506.
- 30 – Game and Fish Advisory Council, 7:30,** in DNREC’s auditorium, Richardson and Robbins building, 89 Kings Highway, Dover. Contact Greg Moore, (302) 739-5297.

## APRIL

- 13 – Environmental Appeals Board hearing on the Assawoman Canal Dredging, 9 a.m.,** in DNREC’s auditorium, Richardson and Robbins building, 89 Kings Highway, Dover. Contact Gail Donovan, Planning & Compliance Assistance, (302) 739-6400.

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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

**Energy Office** continued from page 1

“Conserving energy is essential in the workplace as well as at home and we continue to seek ways to improve the energy efficiencies of our state facilities,” said Gov. Minner. “Many of us are aware of the intrinsic value of energy efficiency, but we may not know the actual savings and environmental benefits of true energy efficient products. This partnership underscores our commitment to ensuring that Delaware citizens, organizations and businesses have the information they need to make smart energy choices when purchasing products and services.”

“Environmentally, energy savings translate to less pollution,” said DNREC Secretary John A. Hughes. “The consequences of using less energy locally as well as globally are enormous and growing in importance every day. Each new energy efficient home or product contributes to a better environment for future generations. We can all become environmental stewards through participation in this program.

More than 7,000 organizations have become ENERGY STAR partners since EPA introduced the program in 1992. The program focuses on promoting energy efficiency as an option for organizations and consumers to save on energy bills by using less energy with products that provide the same or better performance than conventional designs. The ENERGY STAR mark and name is a symbol representing energy efficiency and guidelines are established for its use.

“By partnering with EPA, state governments, like Delaware, are realizing that they can reduce energy costs by 30 percent or more while protecting the environment,” said EPA Regional Administrator Donald S. Welsh. “The EPA is pleased to recognize the State of Delaware’s commitment to environmental leadership through superior energy performance.”

“The U.S. Department of Energy, Philadelphia Regional Office congratulates the Delaware Energy Office on the opening of its new offices,” said DOE Acting Director James M. Ferguson. “We welcome the State of Delaware as the region’s newest ENERGY STAR partner and we look forward to expanding our relationship with the Delaware Energy Office to educate state residents and businesses on the energy, economic and environmental benefits of ENERGY STAR products. The Philadelphia Regional Office will continue to provide technical and financial assistance to promote energy efficiency and renewable energy in Delaware.”

The Delaware Energy Office has information on ENERGY STAR products and energy conservation tips on DNREC’s web site: [www.dnrec.state.de.us](http://www.dnrec.state.de.us). Select “Delaware Energy Office” on the home page.

*For additional information, contact State Energy Coordinator Charlie Smisson, (302) 739-1528.*

## **Delaware and New Jersey Issue Consistent Fish Consumption Advisory to Assist the Public in Both States**

Delaware and New Jersey officials today (March 4) issued revised fish consumption advisories for waters of the Delaware Estuary from Cape Henlopen, Del. to Cape May, N.J. up to the Pennsylvania border – waters shared by both states. Both states had advisories covering this region previously, but today's action will make those advisories consistent.

“This cooperative effort underscores both Delaware and New Jersey's commitment to inform and protect public health while continuing to encourage the public to enjoy the tremendous recreational opportunities that the Delaware Estuary offers,” said Delaware Department of Natural Resources and Environmental Control Secretary John A. Hughes. Added Hughes, “Our ultimate goal is to clean up these waters so that we no longer need fish consumption advisories.”

“The waters of the Delaware Bay and Estuary provide excellent opportunities for recreational fishing and enjoyment,” said N.J. Department of the Environment Commissioner Bradley M. Campbell. “Different and sometimes conflicting advisories used in shared waters often confuse the public. Providing a common message to the fishing public in both states will help people make informed choices about the fish they eat.”

The advisory recommends that no one should eat fish caught from the Delaware Estuary north of the Chesapeake & Delaware (C&D) Canal up to the Pennsylvania border. South of the C&D Canal, the advisory recommends that no one should eat large bluefish (larger than 6 pounds or 24 inches). Also for the area south of the C&D Canal, the general public is advised to eat no more than 1 meal per year of striped bass, smaller bluefish (smaller than 6 pounds or 24 inches), white perch, American eel, channel catfish and white catfish. Further, women of childbearing age and children are advised not to eat any striped bass, blue fish, white perch, American eel, channel catfish and white catfish if those fish are caught anywhere below the Pennsylvania border in the Delaware Estuary. A table which summarizes the advice for the different areas, fish types, and consumer groups is attached.

The advisory for bluefish is new for Delaware and is based on data collected by the State of New Jersey. In taking this action, Delaware joins every other coastal state from Maine to New Jersey, all of whom have previously issued advisories for bluefish.

The advisories issued today are primarily the result of polychlorinated biphenyls (PCBs), and to a lesser extent, mercury, chlorinated pesticides, and dioxin in the flesh of the fish. Arsenic had previously been identified as a contaminant of concern in some of the fish caught from these waters. Arsenic is being dropped as a contaminant of concern in the fish based upon specialized testing conducted by the State of Delaware in 2003. Similarly, the insecticide Dieldrin, which was previously identified as a contaminant of concern in certain fish caught south of the C&D Canal, has been dropped in the joint advisory based upon recent data.

Long-term exposure to PCBs has been shown to cause a number of serious health effects, including impacts on the nervous system of developing fetuses, the immune system and the reproductive system. PCBs are also considered a probable human carcinogen. The manufacture of PCBs was banned in the United States in the late 1970s but these chemicals continue to be a problem in the environment because they do not break down easily.

Above certain levels, mercury can damage the nervous system, particularly in unborn and young children, resulting in learning and developmental delays. Dioxin produces a number of effects in animal testing, including suppression of the immune system, impaired reproduction, birth defects in some spe-

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cies, a skin condition called chloracne, alterations in liver function, and cancer.

The best way to reduce one’s exposure to contaminants in fish is to learn what fish species are affected and either limit or avoid consumption. However, if you choose to eat those species under advisories, there are steps you can take to reduce your exposure. Contaminants tend to concentrate in the fatty tissue of the fish you catch. Proper cleaning and cooking techniques, which remove some of the fat from the fish, can significantly reduce levels of PCBs, dioxins and other organic chemicals. Please note, however, that these techniques will not reduce or remove unsafe levels of *mercury* from these fish.

Delaware and New Jersey will continue to coordinate on fish contamination issues in the shared waters of the Delaware Estuary. Delaware and New Jersey, along with other state, federal, and local governments, will also coordinate on programs geared toward cleaning up the Estuary so that these advisories can one day be lifted.

In addition to the joint advisory announced today for the Delaware Estuary, Delaware and New Jersey remind the public that fish consumption advisories have been issued for other waters within Delaware and New Jersey. A listing of the most current advisories in each state is available at the following websites:

- New Jersey Fish Consumption Advisories <http://www.state.nj.us/dep/dsr/njmainfish.htm>
- NJDEP Division of Fish and Wildlife <http://www.njfishandwildlife.com>
- Delaware Fish Consumption Advisories <http://www.dnrec.state.de.us/fw/advisory.htm>

Delaware’s fish consumption advisories are also listed in the Delaware Division of Fish and Wildlife’s Annual Fishing Guide. That guide is released every spring and is available by calling (302) 739-3441.

**New Jersey and Delaware Fish Consumption Advisories  
for Shared Waters of the Delaware Estuary/Delaware Bay**

<b>Area</b>	<b>Species</b>	<b>Advisory</b>	<b>Contaminants of Concern**</b>
DE/NJ/PA Border to the Chesapeake & Delaware Canal	All Finfish	Do not eat	PCBs, Dioxin, Chlorinated Pesticides, Mercury
Chesapeake & Delaware Canal to the Mouth of the Delaware Bay	Bluefish	Do not eat fish larger than 6 lbs or 24 inches	PCBs, Mercury
		No more than 1 meal per year for fish less than 6 lbs or less than 24 inches*	
	Striped Bass White Perch American Eel Channel Catfish White Catfish	No more than 1 meal per year*	PCBs, Mercury

Notes:

\* Women of childbearing age and children should not consume any amounts of these fish.

\*\* Proper trimming and cooking of fish can reduce but not eliminate the risk associated with PCBs, dioxins, and chlorinated pesticides. Trimming and cooking does **not** reduce the risk associated with **mercury**.

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*For further information, contact Richard Greene, Watershed Assessment, (302) 739-4590, Roy Miller, Fisheries, (302) 739-3441, or Melinda Carl, Public Affairs, (302) 739-4506.*

## **EPA and Delaware Enforce Clean Air Act Standards at Cherry Island Landfill**

In coordinated legal actions, the U.S. Environmental Protection Agency and the Delaware Department of Natural Resources and Environmental Control (DNREC) have cited Clean Air Act violations at the Cherry Island Landfill, a landfill in Wilmington, Del. operated by the Delaware Solid Waste Authority (DSWA).

An EPA complaint issued to DSWA alleges violations of regulations designed to reduce air pollution from municipal solid waste landfills. EPA's complaint proposes a \$75,900 penalty for these alleged violations.

A separate DNREC compliance order cites violations of Delaware's solid waste and air pollution regulations and proposes DSWA take corrective actions within specific time frames to promptly comply with applicable federal and state air pollution control regulations. DNREC's notice of conciliation and penalty order assesses a \$135,000 penalty.

"This case demonstrates the commitment of the EPA and the State of Delaware to enforcing the Clean Air Act," said EPA Regional Administrator Donald S. Welsh. "Methane gas can present health and safety hazards and its presence in the atmosphere affects the earth's temperature."

"We consider these violations serious," said DNREC Secretary John A. Hughes. "In some cases these violations have resulted in odors that have affected the quality of life in local communities. At the same time we recognize that the authority is making progress toward capturing fugitive emissions with improvements to its gas collection and transportation systems. The authority has been responsive and cooperative in trying to address these problems."

Methane is a naturally-occurring, odorless gas. In the U.S., methane is primarily generated by decomposition of wastes in landfills, manure, domestic livestock, natural gas systems and coal mining. Hydrogen sulfide, another landfill gas, is odorous with a smell resembling rotten eggs.

The decomposition of solid waste at landfills produces harmful air emissions, including methane gas, which contributes to global climate change and may create fire and explosion hazards; volatile organic compounds, which contribute to smog; and other hazardous air pollutants. Under EPA regulations, large municipal solid waste landfills that were constructed or modified after May 1991 must have landfill gas collection and treatment systems. With these systems, methane gas from landfills may be captured, converted, and used as an energy source

In November and December, 2003, EPA, accompanied by DNREC officials, inspected the Cherry Island Landfill, located at 12<sup>th</sup> Street and Hay Road in Wilmington. One of three DSWA-operated landfills in Delaware, this 240-acre facility is designed to hold 10.42 million tons of solid waste, including municipal and residential solid waste, construction and demolition debris, tires, household yard waste, and appliances.

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EPA estimates that waste decomposition at the landfill annually produces more than 100 tons of methane gas, and more than 50 tons of non-methane organic compounds. Cereza Energy Inc. has a lease agreement with DSWA to operate a collection system for landfill gas, which Cereza processes and sells to Conectiv's Edgemoor plant for energy production. Cereza Energy Inc. is responsible for the design, installation and operation of the gas collection system at Cherry Island Landfill.

On November 12 and 20, 2003, EPA, accompanied by DNREC officials, monitored landfill gas concentrations at sample wells and other locations throughout the landfill, documenting 32 points where surface concentrations of methane gas exceeded the Clean Air Act limit of 500 parts per million (ppm). At a followup visit on December 2, 2003, EPA and DNREC inspectors found that the landfill failed to take required corrective actions at three previously monitored locations, which still exceeded the 500 ppm methane threshold. Operational records of the landfill's gas collection and treatment system also documented several unauthorized system outages in 2003 that exceeded one hour, in violation of Clean Air Act regulations.

Prior to the November and December inspections, DNREC issued citations to DSWA for six separate odorous emissions incidents during the period March 1 through October 27. DNREC's conciliation order notes that DSWA's solid waste permit requires it to "operate and maintain the gas extraction system, and landfill gas processing and distribution project to control odors." In addition, during a May 2003 inspection by DNREC air quality staff, a number of violations were identified which are addressed in DNREC's order.

Corrective actions for compliance listed in DNREC's conciliation order include improvements to the landfill's transmission lines, compressor capacity and soil cover. Monitoring and surveying issues are addressed as well as installation and implementation of odor neutralizers/masking agents.

DSWA has the right to a hearing to contest the alleged violations and proposed penalty in both the federal and state orders.

For more information about landfill gas, its regulation and re-use, visit EPA's website at <http://www.epa.gov/lmop/index.htm> and <http://www.epa.gov/lmop/products/factsheet.htm>

*For further information, contact Donna Heron, EPA, 215-814-5113, and Melinda Carl, DNREC, 302-739-4506.*

## **Heavy Industry Use at General Chemical Site Deemed Abandoned**

Department of Natural Resources and Environmental Control Secretary John A. Hughes has determined that the grandfathered heavy industry use at the General Chemical facility is abandoned and that no further heavy industry use will be allowed by General Chemical or any subsequent property owner.

The facility at 6300 Philadelphia Pike in Claymont had been producing sulfuric acid at the site prior to the signing of the State's Coastal Zone Act and was allowed to continue to operate after passage of the Act in a grandfathered status as a nonconforming use.

General Chemical declared bankruptcy in 2003 and in November of 2003 voluntarily ceased all industrial activities at the site with no plans to restart production.

In a letter dated Feb. 24, 2004 to the company's Parsippany, New Jersey office, Secretary Hughes notes that his determination that the nonconforming use is abandoned "applies to the 'use' of this facility in the matter of chemical production." He also states that, "Further production of sulfuric

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acid or other chemicals in the South Plant of the Delaware Valley Works is hereinafter prohibited under the Act.”

General Chemical may continue to conduct some water pollution control activity at the site, if properly permitted, including operation of the effluent and wastewater discharge systems to support the company’s North Plant operations.

*For further information about the Secretary’s determination, please contact Philip Cherry, DNREC, (302) 739-3091.*

## **Motiva Needs Coastal Zone Permit to Implement Environmental Improvements**

Department of Natural Resources and Environmental Control Secretary John A. Hughes, has rendered a Status Decision requiring a Coastal Zone Act Permit from Motiva Enterprises LLC to implement environmental improvements in accordance with a Consent Decree with EPA and the State of Delaware to reduce air emissions.

Motiva, owner of the Delaware City refinery located at 2000 Wrangle Hill Road, filed a request for a Coastal Zone Act status decision Dec. 23, 2003.

The decision of the Secretary is based on a Motiva application depicting a general reduction in air emissions. In his decision, Secretary Hughes noted that although much of the proposed project is pollution control or general maintenance, the project will also lead to an increased throughput of crude oil and an increased production of fuels and sulfur. The Secretary’s decision also notes that there will be new air emissions, additional water discharge to the Delaware River and some solid waste generated which will need to be addressed in a Coastal Zone Act permit application.

There is a 14-day appeal period following Feb. 29, the date the legal notice was published announcing this decision. If an appeal is not received within the appeal period, this decision becomes final.

*For more information, contact Dennis Brown, Planning and Compliance Assistance, (302) 739-3091, or Jason Gleockler, Public Affairs, (302) 739-4506.*

## **DNREC Issues Notice of Penalty Assessment to Dow Reichold for Air Permit 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 Dow Reichold Specialty Latex LLC for violation of Delaware’s air pollution control regulations at its latex production plant in Cheswold.

The order includes a \$5,000 cash penalty and an additional \$1,940 as cost recovery reimbursement to the Department for expenses associated with its investigation.

Dow Reichold reported a short-term release of volatile organic compounds/hazardous air pollutants (VOCS/HAPS) on Feb. 14, 2003 due to over-pressurization of a reactor. The VOCS/HAPS were vented to control devices. The release exceeded the hourly permit limit.

The company, which has since revised its operating procedures to prevent similar releases, has 30 days to request a public hearing.

*For further information, contact Tom Lilly, Air Quality Management, 302-739-4791, or Kathleen Jamison, Public Affairs Office, (302) 739-4506.*

## **DNREC Issues Notice of \$17,000 Penalty to Tilcon Delaware**

Department of Natural Resources and Environmental Control Secretary John Hughes has issued a Notice of Administrative Penalty Assessment and Secretary's Order to Tilcon Delaware Inc. for violations of Delaware's regulations governing the control of air pollution.

The Order includes a cash penalty of \$17,000, one-half or \$8,500 of which can be offset by two approved environmental improvement projects. Tilcon is also assessed \$1,005.03 as cost recovery reimbursement to the Department for expenses associated with its investigation.

Tilcon operates a hot mix asphalt plant for Edward J. Kaye Construction Inc. west of County Road 525 in Seaford, Del. In January 2002, a Department employee discovered that a 750-kilowatt diesel generator permitted for Tilcon's hot mix asphalt site on Bay Road in Dover had been permanently installed at Edward J. Kaye Construction's Seaford site.

Discussions with Tilcon and its consultant revealed that the generator may have been operated illegally over a period of four years. Subsequently, the company applied for a permit for the generator, and its air quality management permit was amended in February 2003 to allow the generator to operate at the Seaford plant with an operating limitation of 90 hours per year.

Tilcon violated Delaware air pollution laws and regulations by installing and operating the generator at the Seaford plant without obtaining a permit.

Environmental improvement projects to be undertaken by Tilcon are an Edgemoor Odor Study, and a materials and services component related to a beach improvement project that would be either approved or requested by the Department's Division of Soil and Water Conservation.

Tilcon has 30 days to request a public hearing.

*For further information, contact Robert Taggart, Air Quality Management, (302) 323-4542; or Melinda Carl, Public Affairs, (302) 739-4506.*

## **Point at Cape Henlopen State Park Closed for Beachnesting Birds**

The annual closure of the Point at Cape Henlopen State Park for the benefit of piping plovers, oystercatchers, least terns and other beach-nesting birds that can't cope with people will begin on March 1.

Since 1993, the Division of Parks and Recreation has set aside a quarter-mile stretch of ocean beach and dunes and a half mile along the bay shoreline for the use of threatened and endangered beachnesters and migratory shorebirds.

The historic nesting habitat on the ocean side will reopen on Sept. 1, by which time all the season's young birds are typically able to fly. The bayside beach will remain closed until Oct. 1 for use by shorebirds migrating south for the winter.

The Department of Natural Resources and Environmental Control's divisions of Parks and Recreation, Fish and Wildlife and Soil and Water Conservation have been working together since 1990 to implement a management plan to halt the decline of beachnester and migratory shorebird populations.

"DNREC is committed to providing protection for these species, hopefully to prevent them from completely disappearing from the state," says Park Administrator Pat Cooper. "At the same time, we realize that closing a large part of the beach during the summer months can be disappointing to visitors, so we try to minimize the length of time these areas are set aside for the birds. We appreciate the public's cooperation in this effort."

*For more information, contact Steve Schilly, state parks operations manager, (302) 739-4405, Park Superintendent Pat Cooper, (302) 645-8983, or Kathleen Jamison, Public Affairs Office, (302) 739-4506.*

### **Citizens Source Water Assessment Committee to Meet March 8**

The Citizens and Technical Advisory Committee (CTAC) of the Source Water Assessment and Protection Program will meet 9 a.m. to noon Monday, March 8 in the second floor conference room of the Department of Public Safety and Homeland Security building in Dover.

The agenda will consist of a discussion of additions/corrections to the Source Water Protection Guidance Manual for the Local Governments of Delaware.

Revised copies of the Guidance Manual and the associated appendices will be available as of March 1, 2004 from the following websites:

<http://www.wr.udel.edu/swaphome/phase2/publications2.html>

<http://www.wr.udel.edu/publications/index.html>

Delaware's Source Water Assessment Plan was approved by the U.S. Environmental Protection Agency in October 1999. The program is charged with delineating source water areas around all sources of public drinking water in the state, identifying all existing and potential sources of contamination within those areas and making the information available to the public.

More information about the Source Water Assessment and Protection Program can be found on the program web site: <http://www.wr.udel.edu/swaphome>.

*For additional information, contact Doug Rambo, Water Supply Section, 302-739-4793, or Melinda Carl, Public Affairs, (302) 739-4506.*

### **Wastewater Facilities Advisory Council to Hold Public Hearing and Meeting March 10 in Dover**

The Wastewater Facilities Advisory Council will hold a public hearing and meeting beginning at 9 a.m. Wednesday, March 10 at Delaware Technical & Community College, Conference Room 400A, 1832 North DuPont Parkway, Dover.

The public hearing beginning at 9 a.m. concerns the 2004 Project Priority List and 2004/2005 Intended Use Plan. The hearing agenda will include a review of written comments and comments by individuals scheduled to speak.

The regular meeting will follow the hearing. Agenda items include Financial Reports, Status of projects; Nominations and elections of Vice Chairperson for 2004; 2004 Project Priority List; 2004/2005 Intended Use Plan, Town of Georgetown Water Pollution Control Revolving Fund Loan and 21st Century Fund Grant to upgrade the wastewater collection system, and Approval of consultant for TMDL evaluation services.

For questions concerning the agenda/meeting, contact Louise Holt, Financial Assistance Branch, (302) 739-5081.

*For further information, contact Alan Farling, manager, DNREC Financial Assistance Branch, (302) 739-5081, or Melinda Carl, Public Affairs, (302) 739-4506.*

## **Delaware National Estuarine Research Reserve Presents “The Unsolved Case of Phragmites australis: a Dr. Jekyll or Mr. Hyde?” March 10**

Michael League, a Graduate Research Fellow at the Delaware National Estuarine Research Reserve, will present his research about *Phragmites australis* at 6:30 p.m. Wednesday, March 10 at the St. Jones Reserve, 818 Kitts Hummock Road, Dover. His presentation will highlight the history of this controversial wetland plant, recent genetic research, and its implications on management of the species.

While portrayed in the popular press as an invasive plant, the presence of *Phragmites australis* (common reed) has been documented back approximately 10,000 years in the fossilized dung of the ground sloth. As recently as 1900, *Phragmites* was described as ‘rare to occasional’ in New England. Despite the long history of this species on the continent, recent expansion has been noted in the last 100 years. Currently, expansion of the invasive reed has been noted in the tidal wetlands of many coastal states, such as Delaware, where *Phragmites* occupies one-third of the marshes.

Largely overlooked in the recent management effort to control *Phragmites* in the United States are the many historical and current uses of the reed. *Phragmites* has been used for arrow shafts, mats, tobacco holders, house construction, roof thatch and is currently being used quite successfully in reed drying beds as an economic way to dry sewage sludge in small wastewater treatment plants. The extensive root and rhizome network that makes the reed an excellent choice for wastewater treatment may also be the reason for its success and expansion in tidal wetlands. The two facets of *Phragmites* have been further complicated recently with the discovery of genetic differences among populations of *Phragmites*, suggesting that some populations are native (non-invasive) and others are alien (introduced in the early 1800s) and invasive.

The Delaware National Estuarine Research Reserve is a partnership between the Delaware Department of Natural Resources and Environmental Control (DNREC) and the National Oceanic and Atmospheric Administration (NOAA). The program is administered through DNREC’s Division of Soil and Water Conservation in the Delaware Coastal Programs section.

*For more information, please contact Katy Lamborn, Education Coordinator, at (302) 739-3436.*

## **Public Hearing on Commercial Oyster Harvesting Set for March 23**

The Department of Natural Resources and Environmental Control’s Division of Fish and Wildlife will conduct a public hearing on proposed amendments to shellfish regulations governing commercial oyster harvesting at 7:30 p.m. Tuesday, March 23 in DNREC’s auditorium, Richardson and Robbins Building, 89 Kings Highway, Dover.

The amendments to shellfish regulations pertain to the oyster harvest season and harvest limits. The Division of Fish and Wildlife has determined that there are enough oysters on state owned natural oyster beds to support commercial harvesting this year.

The 2004 fishery will be the fourth consecutive year that harvesting has been permitted on the natural oyster beds under a direct market harvest program. Participants in this limited access fishery are required to adhere to an individual quota and all oyster containers that are landed must be

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properly marked with individual tags specifically assigned to each harvester. Individual quotas will be set after the number of participants is determined.

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, or by calling 302-739-3441. The record will be kept open for written comments until noon, March 31.

*For more information, contact Rick Cole, Fisheries Section, 302-739-4782 or Jason Gleockler, Public Affairs, 302-739-4506.*

### **Public Hearing on Proposed Amendments to Black Sea Bass and Summer Flounder Harvesting Set for March 25**

The Department of Natural Resources and Environmental Control's Division of Fish and Wildlife will conduct a public hearing on proposed amendments to black sea bass and summer flounder harvesting at 7:30 p.m. Thursday, March 25 in DNREC's auditorium, 89 Kings Highway, Dover.

For summer flounder, Delaware can maintain the same management measures used in 2003 for the 2004 fishery since the harvest cap was not exceeded in 2003. The nine management options that were presented for public review last year will once again be presented as approved methods for the 2004 fishery. The Division of Fish and Wildlife anticipates that a new option will 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 coastwide requirements in 2004 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 amend tidal finfish regulation No. 3507 and impose a closed season from Sept. 8, 2004 through Sept. 21, 2004 and Dec. 1, 2004 through Dec. 31, 2004.

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; telephone, 302-739-3441. The record will remain open for written comments until 4:30 p.m. March 30, 2004.

*For more information, contact Rick Cole, Fisheries Section, (302) 739-4782 or Jason Gleockler, Public Affairs, (302) 739-4506.*

### **Public Hearing on Aboveground Storage Tank Regulations Set For March 30**

The Department of Natural Resources and Environmental Control's Tank Management Branch will conduct a public hearing to solicit public comments regarding the adoption of Aboveground Storage Tank regulations at 6 p.m., on Tues., March 30, in the DNREC office conference room, at 391 Lukens Drive, New Castle, Del.

These proposed regulations will minimize the risk of environmental impacts by requiring better installation, operation, retrofitting, maintenance, inspection, repair, and removal of certain aboveground storage tanks.

The regulations are divided into five sections. Part A includes registration requirements and fee information. Part B details design and construction requirements of new aboveground storage tanks. Part C includes inspection requirements, monitoring, testing and record keeping for aboveground storage tanks. Part D addresses financial responsibility by owners and operators of

aboveground storage tanks. Part E details site assessment requirements and remediation of sites contaminated with a regulated substance from an aboveground storage tank.

Copies of the proposed regulations are available at the DNREC offices at 391 Lukens Drive, New Castle, or at the Richardson and Robbins Building, 89 Kings Highway, Dover, or 422 North Dupont Highway, Suite 1, Georgetown. The proposed regulations are also available online at the DNREC website: [www.dnrec.state.de.us/dnrec2000/Divisions/AWM/ast/](http://www.dnrec.state.de.us/dnrec2000/Divisions/AWM/ast/) under, "Proposed AST Regulations for Public Hearing."

Written comments not presented at the hearing should be addressed to Jill Hall, DNREC Tank Management Branch, 391 Lukens Drive, New Castle, DE 19720 and must be received by the Department no later than the close of business on April 6, 2004. Anyone planning to attend the hearing should contact Tara Chambers, 302-395-2500.

*For further questions regarding the proposed regulations, contact Jill Hall or Erich Schuller, New Castle Office, (302) 395-2500 or by fax, (302) 395-2555.*

## **DNREC Secretary Approves Issuing Permit for DuPont to Build a Sulfuric Acid Regeneration Plant at Motiva Refinery**

Department of Natural Resources and Environmental Control Secretary John A. Hughes has signed a Secretary's Order to allow E.I DuPont Company to construct and operate a sulfuric acid regeneration plant at 2000 Wrangle Hill Road, Delaware City.

DuPont plans to construct a spent acid regeneration plant within the existing regulatory footprint of Motiva's oil refinery at Delaware City. The company plans to use the plant to treat spent sulfuric acid from Motiva's alkylation unit and hydrogen sulfide from the refinery's repowering project to use in the production of alkylate – an octane enhancer needed for gasoline blends.

"DuPont's project complies with all applicable air quality regulations while providing a significant net benefit in air emission reductions," said Secretary Hughes.

The permit developed by Air Quality Management limits DuPont's potential to emit sulfur dioxide and sulfuric acid mist emissions to below their major source thresholds of 100 tons per year. The limits will be enforceable by the U.S. Environmental Protection Agency and Delaware.

Total estimated emissions from the facility are 4.3 tons per year of particulate matter (excluding sulfuric acid mist), 95.5 tons per year of sulfur dioxide, 12.2 tons per year of nitrogen oxides, 26.4 tons per year of carbon monoxide, 2.0 tons per year of volatile organic compounds, and 10 tons per year of sulfuric acid mist.

The air quality construction permit is the second of two permits necessary for DuPont to begin installing a new Sulfuric Acid Regeneration Plant at the Motiva refinery in Delaware City. The Coastal Zone permit for this project was issued Aug. 14, 2003. Both permit applications were the subject of a public workshop June 3, 2003. Public hearings were held June 11, June 19 and October 30, 2003 in New Castle, Del.

The appeal period for the Secretary's Order will end at close of business, March 8, 2004. Appeals should be sent to the Environmental Appeals Board Administrative Assistance, 89 Kings Highway, Dover, DE 19901.

*For additional information, or an appointment to inspect the public file, please contact*

*Joanna Austin in Dover, (302) 739-4791, or Bruce Steltzer in New Castle, (302) 323-4542.*

## **First Female DNREC Law Enforcement Officer Retires After More Than 25 Years of Service**

The Department of Natural Resources and Environmental Control's first female enforcement officer, Sergeant Joyce A. Hennessey of DNREC's Division of Fish and Wildlife, has retired after more than 25 years of service to the citizens of Delaware. A retirement dinner will be held by friends and colleagues at Saturday, March 6 at the Felton fire hall.

"This has been one of the best jobs anyone could have," said Sgt. Hennessey. "In twenty-five years I've worked with some extraordinary people and had great experiences not soon to be forgotten."

Sgt. Hennessey began her career with DNREC in 1978 as a conservation aide but soon moved on to become the first female officer in 1979 with the Delaware Marine Police. In 1988, the Marine Police and Game Wardens merged to become Fish and Wildlife Enforcement Agents. In 1992, Sgt. Hennessey became Delaware's Boating Education Coordinator. Five years later in 1997, she was honored with the U.S. Coast Guard's Public Service Commendation for her service to the boating public, an honor rarely awarded. She was also given the Award of Merit from the National Water Safety Congress in 1999 for her "Outstanding Efforts, Accomplishments and Contributions to Water Safety."

As a Marine Police Officer, Sgt. Hennessey assisted countless boaters involved in cases ranging from simple disabled boats to serious collisions and sinking vessels. She recalled the weekend boaters that operated their vessels under the influence on the Delaware City and C & D Canal. "It was hard to tell what you would come across up there. DUIs were a common occurrence during my weekend patrols."

Sgt. Hennessey points out that protecting the state's wildlife and natural resources can be a dangerous profession. Fish and Wildlife officers patrol remote areas, frequently work alone, and often encounter people armed with weapons ranging from knives to rifles. "Some people view us as Bambi chasers and wonder why we carry guns," said Sgt. Hennessey. "What they don't realize is that nationwide, fish and wildlife officers are more likely to be assaulted than conventional law enforcement officers."

Under Sgt. Hennessey's guidance as Delaware Boating Education Coordinator, the Delaware boating education program was often ahead of other states on important issues. For example, Sgt. Hennessey initiated a boating course for Spanish speaking citizens and an online basic boating course for students unable to attend a class.

"I've been fortunate to work with great people and scores of eager volunteers in the boating program," said Sgt. Hennessey. "Since my involvement I've seen great developments with Delaware's boating program and I'm proud to have been a part of it."

"We will surely miss an outstanding employee like Sgt. Hennessey," said James H. Graybeal, Chief of Fish and Wildlife Enforcement. "She has been the heart and soul of the Division of Fish and Wildlife, and I will miss her willingness to go the extra mile for boating safety and the citizens of Delaware."

*For more information, contact Maj. Bayard Holleger, Fish and Wildlife Enforcement, (302) 739-3440, or Jason Gleockler, Public Affairs, (302) 739-4506.*

## **DNREC Opens Part-Time Field Office in Claymont's Historic Robinson House**

The Department of Natural Resources and Environmental Control has opened a field office at the historic Robinson House at the corner of Philadelphia Pike and Naamans Road in Claymont.

The upstairs suite, including an office and a small conference room, will be used part-time by environmental engineer Paul Foster of the Division of Air and Waste Management's Air Quality Management Section. He oversees regulatory and compliance issues associated with air emissions at industrial facilities in the Claymont area, including Sunoco, General Chemical, Oceanport Industries, Honeywell, BOC Gases and CitiSteel.

"The General Assembly wanted DNREC to have a presence in the Claymont area and we agree," said Department Secretary John A. Hughes. "We are excited about this opportunity and the chance to work with the Claymont community to improve a historical treasure."

Two years ago the General Assembly authorized DNREC to spend some \$40,000 in penalty funds to renovate the upstairs rooms as part of an ongoing effort to preserve the house, which dates to 1723. The recently completed work was overseen by Foster and Division of Parks and Recreation's construction section staff.

The first owner, Col. Thomas Robinson, operated mills along Naamans Creek and fought in the Revolutionary War under General "Mad" Anthony Wayne. In addition to being the home of several generations of the Robinson family, the house was visited by George Washington, the Marquis de Lafayette and members of the Continental Congress.

For 50 years, before the business closed in 1964, it was the Naamans Tea House. Purchased by the State in 1967, the Robinson House is currently leased by the Claymont Historical Society.

*For more information, contact Paul Foster; Division of Air and Waste Management, at 302-323-4542.*

## **EPA, DNREC Plan to Restart Separation Project at Metachem**

The EPA/DNREC cleanup team at the Metachem site has begun preparations to restart of the chlorinated benzene removal and separation project (CR/SP). The project separates chlorinated benzene mixtures into liquid and solid portions for easier management, storage and disposal.

This project was operated successfully from July through October 2003, but was shut down for the winter. Although more than 70 percent of the material was separated last year, approximately 650,000 gallons of mixed chlorinated benzene materials remain. The separation uses a limited part of Metachem's distillation capacity.

EPA estimates that the process will be able to solidify more than 50 percent of the material, thereby reducing the potential for a spill.

The materials with high boiling points, including tetrachlorobenzene materials, which will contain PCBs and other contaminants, will be poured into high-density plastic containers, or totes, where they will solidify. More than 2500 totes of this material were generated last year. The material inside the totes is solid and has not leaked. EPA estimates approximately 2000 more totes will be generated when the project resumes.

Preparation for restarting the CR/SP are underway and include testing equipment and installing new piping. EPA estimates the the project can be started sometime in May, and is expected to run for two months.

*For further information, contact David Sternberg, EPA, 215) 814-5548.*

## **Delaware Architectural and Industrial Maintenance Coatings Regulation Upheld in Superior Court**

The Delaware Superior Court late last week upheld Delaware's Architectural and Industrial Maintenance coatings regulation as developed by the Department of Natural Resources and Environmental Control and the Ozone Transport Commission. The regulation published March 1, 2002 was appealed on June 20, 2003 by the National Paint and Coatings Association and six member companies. This recent Superior Court decision echoes last year's unanimous (5-0) decision by the Environmental Appeals Board in favor of the regulation (Reg. 41).

This regulation will reduce the volatile organic compounds allowed in many paints bought sold, and used in Delaware and will be effective Jan. 1, 2005.

The National Paint and Coatings Association and several member manufacturers claimed that coatings made with low volatile organic compounds were of poorer quality and would result in early wear and the need for additional coats. They also claimed that the coatings could not be applied in cold weather and the technology to produce quality stains and exterior primers that meet the regulation requirements do not exist.

In 2000 Delaware began work with the Ozone Transport Commission workgroup to develop a model Architectural and Industrial Maintenance Coatings regulation patterned on similar California rules regulating volatile organic compounds for coatings used in non-shop settings such as houses, buildings, bridges and other outdoor applications. This model aids ozone troubled states in reducing ground-level ozone and meeting federal standards.

Delaware was the first state to publish its own Architectural and Industrial Maintenance Coatings regulation based on the model. Other states and the District of Columbia subsequently published similar regulations and still other Ozone Transport Commission member states are currently preparing their own regulations.

Ali Mirzakhali, administrator of Delaware's Air Program stated, "with Delaware's Superior Court decision, other member states can proceed with a high degree of confidence that we are doing this right and will be successful."

The Commission was formed by the Clean Air Act passed by Congress in 1990. Members of the Commission are from State Environmental Department Air Quality Management Sections in 12 northeastern states and the District of Columbia.

*For more information, contact Ron Amirikian, 302-739-4791, or Gene Pettingill, Air Quality Management, 302-323-4542, or Jason Gleockler, Public Affairs, 302-739-4506.*

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

**2003-13: New regulation to establish date for the first and subsequent lotteries for available commercial gill net permits and authorization for commercial hook and line permits, and commercial crab dredge, conch pot and conch dredge licenses.** The date for the first lottery is Jan. 2, 2004 with subsequent lotteries held the first working day in January. Participants include those in the apprentice program who have completed the required and properly documented 150 days of commercial fishing activities over no less than a 2-year period from the apprentice sign-up date. Contact Roy Miller, 739-3441. **Effective date - Jan. 2, 2004.**

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

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

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

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

#### **Regulatory Actions Underway:**

2004-02: **Amendments to Shellfish Regulations pertaining to oysters.** this action will establish the oyster harvest quota and address seasonal harvesting dates. Contact Richard Cole, 739-3441

**Public hearing – March 23, 2004, 7:30 p.m.,** DNREC auditorium, Richardson and Robbins Building, 89 Kings Highway, Dover.

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

**Public hearing – March 25, 2004, 7:30 p.m.,** DNREC auditorium, 89 Kings Highway, Dover.

2003-24: **Development of a new regulation to be added to the Regulations Governing Solid Waste.** This action would institute a ban on the disposal of yard waste in Delaware landfills, and is a critical part of a larger waste management strategy directed toward environmentally and economically efficient waste management. The waste ban is designed to: conserve capacity at existing landfills; minimize the need to construct new or expand existing landfills; signal the composting and mulching industry that these materials are available for processing and marketing; return this valuable material to the market place as opposed to landfilling it; and reduce the emission of greenhouse gases. Contact Rick Perkins, 739-3689

2003-23: **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

2003-07: **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 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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