

**DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
Board of Architecture**

PUBLIC NOTICE

The Delaware Board of Architecture in accordance with 24 **Del.C.** §306 has proposed changes to its rules and regulations to clarify the late renewal process for continuing education requirements.

A public hearing will be held on March 1, 2006 at 1:30 p.m. in the second floor conference room B of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Landscape Architecture, 861 Silver Lake Blvd, Cannon Building, Suite 203, Dover DE 19904. Persons wishing to submit written comments may forward these to the Board at the above address. The final date to receive written comments will be at the public hearing.

The Board will consider promulgating the proposed regulations at its regularly scheduled meeting following the public hearing.

**DIVISION OF PROFESSIONAL REGULATION
BOARD OF ACCOUNTANCY**

PUBLIC NOTICE

The Delaware Board of Accountancy in accordance with 24 **Del.C.** §105(a)(1) has proposed changes to its rules and regulations as mandated by SB 229. The proposal identifies crimes that are substantially related to the practice of accountancy.

A public hearing will be held on February 16, 2005 at 9:00 a.m. in the second floor conference room B of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Accountancy, 861 Silver Lake Blvd, Cannon Building, Suite 203, Dover DE 19904. Persons wishing to submit written comments may forward these to the Board at the above address. The final date to receive written comments will be at the public hearing.

The Board will consider promulgating the proposed regulations at its regularly scheduled meeting following the public hearing.

**DIVISION OF PROFESSIONAL REGULATION
BOARD OF LANDSCAPE ARCHITECTURE**

PUBLIC NOTICE

The Delaware Board of Architecture in accordance with 24 **Del.C.** §205 has proposed changes to its rules and regulations. The first proposed rule change, in accordance with 29 **Del.C.** Section 10113(b)(5), is to conform application requirements for certificate of authorization to changes in the law as amended by HB 211. The second proposed rule change is to clarify the requirements for processing continuing education requirements in Rule 7.1.2. The third proposed rule change, as mandated by SB 229, identifies crimes that are substantially related to the provision of landscape architecture services.

A public hearing will be held on March 9, 2005 at 10:15 a.m. in the second floor conference room B of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Landscape Architecture, 861 Silver Lake Blvd, Cannon Building, Suite 203, Dover DE 19904. Persons wishing to submit written comments may forward these to the Board at the above address. The final date to receive written comments will be at the public hearing.

The Board will consider promulgating the proposed regulations at its regularly scheduled meeting following the public hearing.

**DIVISION OF PROFESSIONAL REGULATION
BOARD OF ARCHITECTURE**

PUBLIC NOTICE

The Delaware Board of Architecture in accordance with 24 Del.C. §306 has proposed changes to its rules and regulations as mandated by SB 229. The proposal identifies crimes that are substantially related to the provision of architectural services.

A public hearing will be held on February 2, 2005 in the second floor conference room B of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Architecture, 861 Silver Lake Blvd, Cannon Building, Suite 203, Dover DE 19904. Persons wishing to submit written comments may forward these to the Board at the above address. The final date to receive written comments will be at the public hearing.

The Board will consider promulgating the proposed regulations at its regularly scheduled meeting following the public hearing.

**DIVISION OF PROFESSIONAL REGULATION
BOARD OF PODIATRY**

PUBLIC NOTICE

The Delaware Board of Podiatry, in accordance with 24 Del.C. §506(a)(1) has proposed changes to its rules and regulations as mandated by Senate Bill No.229 (74 Del. Laws c. 262) The proposal changes list the crimes that are substantially related to the provision of Podiatry

A public hearing will be held at 5:00 p.m. February 17, 2005 in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Board, 861 Silver Lake Blvd, Cannon Building, Suite 203, Dover DE 19904. Persons wishing to submit written comments may forward these to the Board of Podiatry at the above address. The final date to receive written comments will be at the public hearing.

The Board will consider promulgating the proposed regulations at its regularly scheduled meeting following the public hearing.

**DIVISION OF PROFESSIONAL REGULATION
REAL ESTATE COMMISSION**

PUBLIC NOTICE

The Delaware Real Estate Commission in accordance with 24 Del.C. §2905(a)(1) has proposed changes to its rules and regulations as mandated by SB 229. The proposal identifies crimes that are substantially related to services provided by real estate brokers, salespersons, and appraisers.

A public hearing will be held on February 10, 2005 at 9:00 a.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Real Estate Commission, 861 Silver Lake Blvd, Cannon Building, Suite 203, Dover DE 19904. Persons wishing to submit written comments may forward these to the Commission at the above address. The final date to receive written comments will be at the public hearing.

The Commission will consider promulgating the proposed regulations at its regularly scheduled meeting following the public hearing.

**DIVISION OF PROFESSIONAL REGULATION
BOARD OF PROFESSIONAL COUNSELORS OF MENTAL HEALTH AND
CHEMICAL DEPENDENCY PROFESSIONALS**

PUBLIC NOTICE

The Delaware Board of Professional Counselors of Mental Health and Chemical Dependency Professionals in accordance with 24 **DeL.C.** §3006(a)(1) has proposed changes to its rules and regulations as mandated by SB 229. The proposal identifies crimes that are substantially related to the provision of mental health counseling and chemical dependency counseling.

A public hearing will be held on February 4, 2005 at 3:00 p.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Professional Counselors of Mental Health and Chemical Dependency Professionals, 861 Silver Lake Blvd, Cannon Building, Suite 203, Dover DE 19904. Persons wishing to submit written comments may forward these to the Board at the above address. The final date to receive written comments will be at the public hearing.

The Board will consider promulgating the proposed regulations at its regularly scheduled meeting following the public hearing.

**DIVISION OF PROFESSIONAL REGULATION
BOARD OF CLINICAL SOCIAL WORK EXAMINERS**

The Delaware Board of Clinical Social Work Examiners in accordance with 24 **DeL.C.** §3906(1) has proposed changes to its rules and regulations as mandated by SB 229. The proposal identifies crimes that are substantially related to the provision of social work services.

A public hearing will be held on February 14, 2005 at 9:30 a.m. in the second floor conference room A of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Delaware Board of Clinical Social Work Examiners, 861 Silver Lake Blvd, Cannon Building, Suite 203, Dover DE 19904. Persons wishing to submit written comments may forward these to the Board at the above address. The final date to receive written comments will be at the public hearing.

The Board will consider promulgating the proposed regulations at its regularly scheduled meeting following the public hearing.

PUBLIC SERVICE COMMISSION

PUBLIC NOTICE

On May 14, 2003, the Division of the Public Advocate ("DPA") filed a petition with the Public Service Commission ("the Commission") asking the Commission to make revisions and amendments to its rules and regulations concerning the *Terms and Conditions Under Which Water Utilities Require Advances and/or Contributions In-Aid-Of Construction From Customers or Developers and the Proper Ratemaking Treatment for Such Contributions and Advances* ("the Regulations"). These Regulations were originally adopted in PSC Order No. 2928 (Mar. 15, 1988) and revised in PSC Order No. 4310 (Sept. 24, 1996).

In PSC Order No. 6198 (June 16, 2003), the Commission accepted the DPA's petition to reopen those earlier Regulations. The Commission agreed to consider revisions proposed by the DPA which would modify the Regulations to adopt and implement a "means test" for determining the amount of Advances In-Aid-Of Construction and Contributions In-Aid-Of Construction.

As the first step in the process, the Commission's Staff, with the assistance of the DPA, proposed textual amendments and revisions to the present Regulations for the Commission's consideration. The Commission Staff has since met with representatives of the DPA and interested parties, received written comments, conducted meetings and workshops, and the Staff has developed proposed changes to the existing regulations.

The new regulations will address the following: (a) the definitions of Contributions In-Aid-Of Construction ("CIAC") and advances; (b) the computation of CIAC, including costs categories; (c) the nature of advances; (d) refunds of advances; (e) the ratemaking treatment of advances; (f) the ratemaking treatment of CIAC; (g) interest on excess CIAC and advances; and (h) matters necessarily related to the foregoing. The Commission proposes that its Order promulgating the final version of the new regulations will provide that the regulations (and the related docket) will be reopened two years from the effective date of the new regulations to review the new rate-making methodology, and to assess its effectiveness, the CIAC computation, and related costs categories. After such review and assessment, the Commission may, if deemed appropriate, consider further modifications of the regulations.

Copies of the present Regulations and the DPA's petition to reopen are available for public inspection at the Commission's address set out below during normal business hours:

The Commission has authority to promulgate the regulations pursuant to 26 Del.C. §209(a) and 29 Del.C. §10111 *et seq.*

The Commission hereby solicits written comments, suggestions, and compilations of data, briefs, or other written materials concerning the proposed regulations. Ten (10) copies of such materials shall be filed with the Commission at its office located at 861 Silver Lake Boulevard, Cannon Building, Suite 100, Dover, Delaware, 19904. All such materials shall be filed with the Commission on or before February 4, 2005. Persons who wish to participate in the proceedings, but who do not wish to file written materials, are asked to send a letter informing the Commission of their intention to participate on or before February 4, 2005.

The regulations and the materials submitted in connection therewith will be available for public inspection and copying at the Commission's Dover office during normal business hours. The fee for copying is \$0.25 per page. The regulations may also be reviewed, by appointment during normal business hours, at the office of the Division of the Public Advocate located at the Carvel State Office Building, 4th Floor, 820 North French Street, Wilmington, Delaware 19801, and will also be available for review on the Commission's website: www.state.de.us/delpsc.

Any individual with disabilities who wishes to participate in these proceedings should contact the Commission to discuss any auxiliary aids or services needed to facilitate such review or participation. Such contact may be in person, by writing, by telephone, or otherwise. The Commission's toll-free telephone number (in Delaware) is (800) 282-8574. Any person with questions may also contact the Commission Staff at (302) 739-4247 or by Text Telephone at (302) 739-4333. Inquiries can also be sent by Internet e-mail to karen.nickerson@state.de.us.

DEPARTMENT OF EDUCATION

The State Board of Education will hold its monthly meeting on Thursday, January 20, 2005 at 1:00 p.m. in the Townsend Building, Dover, Delaware.

DEPARTMENT OF HEALTH AND SOCIAL SERVICES DIVISION OF PUBLIC HEALTH

PUBLIC NOTICE

Nature of the Proceedings

Pursuant to 16 Delaware Code, Section 223, the Department of Health and Social Services is proposing "Autism Surveillance and Registration Program Regulations" that will require health care practitioners to report information on children under 18 years of age with autism to a central Autism Registry. The information collected in the Autism Registry will be used to track changes in prevalence of autism over time, to inform the planning of service delivery to children with autism and their families, and to facilitate autism research.

Notice of Public Hearing

The Division of Public Health, Department of Health and Social Services will hold a public hearing to discuss the proposed Autism Surveillance and Registration Program Regulations. The public hearing will be held on January 24, 2005 at 10:00 a.m., in the Third Floor Conference Room of the Jesse Cooper Building, Federal and Water Streets, Dover, Delaware.

Copies of the proposed regulations are available for review by calling the following location:

Community and Family Health (Rebecca Luis)
Blue Hen Corporate Center, Suite 206
655 S. Bay Road, Dover, Delaware
Telephone: (302) 741-2980

Anyone wishing to present his or her oral comments at this hearing should contact David Walton at (302) 744-4700 by January 21, 2005. Anyone wishing to submit written comments as a supplement to or in lieu of oral testimony should submit such comments by January 31, 2005 to:

David P. Walton
Division of Public Health
Jesse Cooper Building
P.O. Box 637
Dover, Delaware 19903-0637

DIVISION OF SOCIAL SERVICES PUBLIC NOTICE

Private Duty Nursing Services

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**), 42 CFR §447.205, and under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Social Services / Medicaid/Medical Assistance Program is proposing to amend the Division of Social Services Provider Manual and the Title XIX Medicaid State Plan to revise and clarify the criteria and reimbursement methodology for Private Duty Nursing (PDN) services. The proposal describes program eligibility; who can receive PDN services; who can provide the services and the requirements that must be met; program limitations; and, services a person can receive, if eligible.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy and Program Development Unit, Division of Social Services, P.O. Box 906, New Castle, Delaware 19720 by January 31, 2005.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

DIVISION OF SOCIAL SERVICES PUBLIC NOTICE

Child Care Subsidy Program

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and

under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Social Services is proposing to amend the Division of Social Services Manual (DSSM) regarding the child care subsidy program as it relates to the determination of the child care parent fee and fee waiving situations.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy and Program Development Unit, Division of Social Services, P.O. Box 906, New Castle, Delaware 19720-0906 by January 31, 2005.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

**DIVISION OF SOCIAL SERVICES
PUBLIC NOTICE**

Long Term Care Program

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Social Services is proposing to amend the Division of Social Services Manual (DSSM) regarding the Long Term Care Program. The proposal gives direction on counting annuities and their streams of income for the eligibility process; to clarify that the list of non-liquid resources is not all inclusive; and, to correct an inconsistency in language.

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy and Program Development Unit, Division of Social Services, P.O. Box 906, New Castle, Delaware 19720-0906 by January 31, 2005.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

**DIVISION OF SOCIAL SERVICES
PUBLIC NOTICE**

Long Term Care Program

In compliance with the State's Administrative Procedures Act (APA - Title 29, Chapter 101 of the **Delaware Code**) and under the authority of Title 31 of the **Delaware Code**, Chapter 5, Section 512, Delaware Health and Social Services (DHSS) / Division of Social Services is proposing to amend the Division of Social Services Manual (DSSM) regarding the Long Term Care Program related to the redemption period for certain U.S. Savings Bonds and provides instructions on waiving the redemption period for U.S. Savings Bonds

Any person who wishes to make written suggestions, compilations of data, testimony, briefs or other written materials concerning the proposed new regulations must submit same to Sharon L. Summers, Policy and Program Development Unit, Division of Social Services, P.O. Box 906, New Castle, Delaware 19720-0906 by January 31, 2005.

The action concerning the determination of whether to adopt the proposed regulation will be based upon the results of Department and Division staff analysis and the consideration of the comments and written materials filed by other interested persons.

**DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL
CONTROL
DIVISION OF AIR AND WASTE MANAGEMENT**

AIR QUALITY MANAGEMENT SECTION

REGISTER NOTICE

Title Of The Regulation:

Regulation 45 -- Excessive Idling of Heavy Duty Vehicles

Brief Synopsis Of The Subject, Substance And Issues:

The Department of Natural Resources and Environmental Control, Division of Air and Waste Management, Air Quality Management Section is proposing a revision to the State Implementation Plan for the Attainment and Maintenance of the National Air Quality Standards for Ozone. Delaware has been designated moderate non-attainment for the eight hour ozone standard. The proposed revision will contain a new regulation, Regulation No. 45. In order to curb air emissions that contribute to the poor air quality in the State, the Department is proposing to regulate the engine idling time for the operation of on-road heavy-duty vehicles, having a gross vehicle weight rating of over 8,500 pounds. This regulation will continue the efforts by the State to reduce the emissions of NOx (nitrogen oxides), particulates and other tailpipe pollutants from vehicles operated in Delaware.

Notice Of Public Comment:

The Department will hold a public hearing on January 25, 2005 at 6 PM at the office of Air Quality Management Section, 156 South State Street, Dover Delaware, in the second floor conference room. Prior to the public hearing, an informational workshop on the proposal will be held on January 6, 2005 at 1:30 PM at the same location above.

Prepared By:

Philip Wheeler (302) 739-4791 December 9, 2004

DIVISION OF WATER RESOURCES

REGISTER NOTICE

Brief Synopsis of the Subject, Substance and Issues:

The Department of Natural Resources and Environmental Control, The Department of Agriculture and the Delaware Nutrient management Commission are proposing general permit regulations for concentrated animal feeding operations (CAFOs). The proposed CAFO regulations will amend section 9 (The General Permit Program) of the Regulations Governing the Control of Water Pollution. The Clean Water Act and recent revisions to federal regulations define a CAFO. The draft regulations were developed cooperatively with the involvement of the Department of Agriculture, Delaware Nutrient Management Commission, Department of Natural Resources and Environmental Control, Natural Resource Conservation Service and the University of Delaware.

Notice Of Public Comment:

The Department of Natural Resources and Environmental Control, the Department of Agriculture and the Delaware Nutrient Management Commission will hold public hearings on January 25, 2005 at 6 PM at the Farmington Fire Hall and January 27, 2005 at 6 PM at the Gumboro Fire Hall to receive comments on proposed amendments to the Regulations Governing the Control of Water Pollution. Comments should be sent in writing to Peder Hansen, Surface Water Discharges Section, Division of Water Resources, DNREC, 89 Kings Hwy., Dover, DE 19901.

DEPARTMENT OF SAFETY AND HOMELAND SECURITY

BAIL ENFORCEMENT AGENTS

PUBLIC NOTICE

Notice is hereby given that the Department of Safety and Homeland Security, Division of State Police, in accordance with 24 Del.C. Section 5404(a) proposes to amend Adopted Rule 1.0 - Licensing. This amendment will clarify items and fees that a Bail Enforcement Agent will receive when applying or renewing. If you wish to view the complete Rule, contact Ms. Peggy Anderson at (302) 739-5991.

These clarifications were originally published in the November issue (8 DE Reg. 689) of the *Register of Regulations*. The public comment period originally open until November 8, 2004, has been extended until January 31, 2005. Any persons wishing to present views may submit them in writing, by January 31, 2005, to Delaware State Police, Detective Licensing, P.O. BOX 430, DOVER, DE, 19903.

DELAWARE RIVER BASIN COMMISSION

NOTICE OF PUBLIC HEARING

The Delaware River Basin Commission ("Commission" or "DRBC") is a federal-state regional agency charged with managing the water resources of the Basin without regard for political boundaries. Its members are the governors of the four Basin states – Delaware, New Jersey, New York and Pennsylvania – and a Federal representative appointed by the President of the United States. The Commission is exempt from the requirements of the 29 **Delaware Code** Chapter 101. This notice is published by the Commission for informational purposes.

Proposal to Amend the Administrative Procedure and Fee Schedule for the Renewal of Projects Under Section 3.8 and Article 10 of the Delaware River Basin Compact

Summary: The Commission will hold a public hearing to receive comments on a proposed amendment to the Commission's administrative procedure and fee schedule for the renewal of project approvals under Section 3.8 and Article 10 of the Delaware River Basin Compact.

The Commission's fee schedule for the review of projects under Section 3.8 and Article 10 of the *Delaware River Basin Compact* is set forth in Resolution No. 2003-14, duly adopted by the Commission on June 26, 2003. The proposed amendments to the schedule would add provisions (a) for the administrative continuance of dockets and permits (collectively, "approvals") pending Commission action on renewal applications that are timely submitted; and (b) imposition of a fee of \$1,000, in addition to the ordinary review fee, for the review of renewal applications not submitted in a timely fashion. In accordance with the proposed amendment, a docket holder or permittee whose approval has been administratively continued will not be subject to penalties for operating without a docket or permit during the period between expiration of the approval and Commission action on an application for renewal, provided that the docket holder or permittee will be responsible for violations of the terms and conditions of its approval to the same extent as if the approval had been renewed prior to its expiration.

In order to phase in the new program, the proposed rule sets forth one timeline for approvals that expire before October 1, 2005 and another for approvals that expire on or after October 1, 2005.

Approvals expiring before October 1, 2005 are proposed to be administratively continued pending issuance of a docket renewal when the docket holder or permittee submits a complete application within 90 calendar days after receipt of a written notice from the Executive Director or by September 30, 2005, whichever is earlier. The Executive Director may extend the deadline for good cause shown in the event a substantially complete application, along with the full fee, is submitted by the deadline. The fee of \$1,000, payable in addition to the ordinary fee, is proposed to be charged for renewal applications submitted after September 30, 2005.

Approvals expiring after September 30, 2005 are proposed to be administratively continued pending issuance of a docket renewal when the docket holder or permittee submits a complete application at least 120 calendar days in advance of the expiration date. If the approval establishes a different application submission date, the docket or permit is controlling. Again, the Executive Director may extend the deadline for good cause shown, in the event a substantially complete application, along with the full fee, is submitted by the deadline. A fee of \$1,000 above the ordinary fee is proposed to be charged for renewal applications submitted fewer than 120 calendar days before the approval's expiration date.

The amendment provides for the Executive Director to implement procedures to furnish written notice to docket holders

and permittees in advance of their approval expiration dates, reminding them to file a timely renewal application. However, failure of the Executive Director to send such notice or lack of receipt of the notice by the docket holder or permittee will not relieve the docket holder or permittee of any obligation or condition or create any defense.

Dates: The public hearing will be held during the Commission's regularly scheduled business meeting on January 19, 2005 at 1:30 P.M. Persons wishing to testify at the hearing are asked to register in advance with the Commission Secretary by phoning 609-883-9500, ext. 224. Submission of written comments by January 14, 2005 is requested; however, written comments will be accepted through the close of the public hearing on Wednesday, January 19, 2005.

Addresses: The public hearing will be held in the Goddard Room of the Commission's office building at 25 State Police Drive in West Trenton, New Jersey. Written comments should be addressed to the Commission Secretary as follows: by e-mail to paula.schmitt@drbc.state.nj.us; by fax to 609-883-9522; by U.S. Mail to Commission Secretary, DRBC, P.O. Box 7360, West Trenton, NJ 08628-0360; or by overnight mail to Commission Secretary, DRBC, 25 State Police Drive, West Trenton, NJ 08628-0360.

Further Information, Contact: The full text of the proposed amendment is posted on the Commission's web site, <http://www.drbc.net>. Please contact Commission Secretary Pamela Bush, 609-883-9500 ext. 203, with questions about the proposed amendment or the amendment process.

Pamela M. Bush, Esquire
Commission Secretary

DELAWARE RIVER BASIN COMMISSION

PUBLIC NOTICE

The Delaware River Basin Commission ("Commission" or "DRBC") is a federal-state regional agency charged with managing the water resources of the Basin without regard for political boundaries. Its members are the governors of the four Basin states – Delaware, New Jersey, New York and Pennsylvania – and a Federal representative appointed by the President of the United States. The Commission is not subject to the requirements of 29 Delaware Code Chapter 101. This notice is published by the Commission for informational purposes.

Proposed Amendments to the Comprehensive Plan and Water Code Relating to the Coordinated Operation of Lower Basin and Hydroelectric Reservoirs During a Basinwide Drought.

Summary: The Commission will hold a public hearing to receive comments on proposed amendments to Section 2.5.5 of the *Water Code* (21 NYCRR §§ 890.11 and 890.12), relating to the Coordinated Operation of Lower Basin and Hydroelectric Reservoirs During a Basinwide Drought. The Commission proposes to amend and codify changes to the *Comprehensive Plan* and *Water Code* effected by Resolution No. 2002-33, approved in November 2002 by the Commission and the parties to the U.S. Supreme Court Decree in *New Jersey v. New York*, 347 U.S. 995 (1954) ("Decree Parties"). The amendments are for purposes of clarification and accuracy and to better ensure that the benefits of the changes effected by Resolution No. 2002-33 are achieved without compromising habitat protection goals. Resolution No. 2002-33, which was not codified, in part amended the *Comprehensive Plan* and *Water Code* relating to the utilization of Lake Wallenpaupack during drought watch, drought warning and drought operations.

The proposed changes are as follows:

First, numbered paragraph 1 of Resolution No. 2002-33 provides that "any and all provisions pertaining to the operation of Lake Wallenpaupack during basinwide drought warning also apply to basinwide drought watch as temporarily defined by the Commission in Docket No. D-77-20 CP." The proposed amendment adds the parenthetical "(Revision 7 and following)" at the end of this sentence to make clear that the most current applicable revision of Docket No. D-77-20 CP is intended to apply.

Second, the inclusion of the term "drought watch" in brackets following every mention of "drought warning" in the

November 2002 amendments is proposed to be deleted, because the Commission makes clear in numbered Paragraph 1 of the Resolution that provisions in Section 2.5.5 of the *Water Code* pertaining to the operation of Lake Wallenpaupack during drought warning also are intended to apply to drought watch as defined by Docket No. D-77-20 CP (Revision 7 and following).

Third, throughout the language added by Resolution No. 2002-33, the terms “drought conditions” and “drought warning conditions” are replaced by “drought operations” and “drought warning operations,” respectively, to more accurately reflect the fact that the reservoir management activities described are triggered by a set of reservoir drought operating rules established by the Commission and the Decree Parties, rather than by hydrologic conditions.

Fourth, the November 2002 amendments inserted language at Section 2.5.5 of the *Water Code* stating that “[d]uring ‘drought’ and ‘drought warning’ operations . . . , ‘the power companies shall release water only in accordance with Commission direction.’” This statement is proposed to be changed to reflect the Commission’s intention that “[d]uring ‘drought’ and ‘drought warning’ operations as defined in Figure 1 of Section 2.5.3.A. of the *Water Code*, releases from Lake Wallenpaupack shall be made only in accordance with Commission direction.” In a related amendment, a new sentence is proposed to be added to Section 2.5.5 addressing operation of the Mongaup reservoir system by the Commission, which may take place only under more limited circumstances. The proposed provision reads, “After issuance of a Conservation Order by the Commission, power generation releases from the Mongaup reservoir system shall be made only in accordance with Commission direction.” This statement restores the rule governing drought operation of the Mongaup system reservoirs to the rule in effect before the November 2002 amendments.

Fifth, the Commission proposes to add a clause providing that when it directs releases from Lake Wallenpaupack during drought watch (including warning) and drought operations, it must give consideration to any flow and temperature targets established by the Commission and the Decree Parties in the upper Delaware River and in the West Branch Delaware, East Branch Delaware, and Neversink rivers for the protection of the cold water fisheries in these streams.

Dates: The public hearing will be held during the Commission’s regularly scheduled business meeting on January 19, 2005 at 1:30 P.M. Persons wishing to testify at the hearing are asked to register in advance with the Commission by phoning 609-883-9500, ext. 224. Submission of written comments by January 14, 2005 would be appreciated, but written comments will be accepted through the close of the public hearing on Wednesday, January 19, 2005.

Addresses: The public hearing will be held in the Goddard Room of the Commission’s office building at 25 State Police Drive in West Trenton, New Jersey. Written comments should be addressed to the Commission Secretary as follows: by e-mail to paula.schmitt@drbc.state.nj.us; by fax to 609-883-9522; by U.S. Mail to Commission Secretary, DRBC, P.O. Box 7360, West Trenton, NJ 08628-0360; or by overnight mail to Commission Secretary, DRBC, 25 State Police Drive, West Trenton, NJ 08628-0360.

Further Information, Contact: The full text of the proposed resolution, the text of Resolution No. 2002-33, and the text of the sections of the *Water Code* as amended by both Resolution No. 2002-33 and the proposed resolution, are posted on the Commission’s web site, <http://www.drbc.net>. Please contact Commission Secretary Pamela Bush, 609-883-9500 ext. 203, with questions about the proposed action.

Pamela M. Bush, Esquire
Commission Secretary