

# DNREC NEWS

The Delaware Department of Natural Resources and Environmental Control

Vol. 126

May 26, 2004



Ruth Ann Minner  
*Governor*

John A. Hughes  
*Secretary*

## Inside

CALENDAR .....	2
MILITARY ORDNANCE .....	5
GUILTY PLEA .....	7
RECYCLING MEETING .....	9
SOLID WASTE HEARING .....	9
ION POWER HEARING .....	10
METACHEM .....	10
OZONE .....	11
PORT CONTRACTORS .....	12
BOATING SAFETY .....	13
REGULATORY UPDATE .....	19

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### **EPA Administrator Leavitt Joins Delaware at Corporate Wetlands Restoration Partnership Launch** *Conectiv leads corporate partnership in Delaware*

Administrator Mike Leavitt of the U.S. Environmental Protection Agency, joined together with the State of Delaware and Conectiv to launch the Delaware Corporate Wetlands Restoration Partnership last Thursday, May 20.

Governor Ruth Ann Minner, Secretary John A. Hughes of the Department of Natural Resources and Environmental Control, Thomas Shaw, president of Conectiv, William (Bill) H. Spence,



Bob Meadows

Division of Fish and Wildlife Regional Manager Tom Moran discusses the restoration process with EPA Administrator Mike Leavitt and DNREC Secretary John A. Hughes at the Russell W. Peterson Urban Wildlife Refuge following the Corporate Wetlands Restoration Partnership kickoff luncheon. The Old Wilmington Marsh, site of the refuge, is a 225-acre tidal freshwater marsh located along the Christina River just south of the City of Wilmington.

*continued on page 4*

## Calendar

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

### MAY

**27 – Public workshop on Deer Management**, 7 p.m., Education Building at the Ommelanden Hunter Education Facility, Route 9, New Castle. Contact Ken Reynolds, Deer Damage Assistance program manager, (302) 653-2883.

**27 – Junior Solar Sprint Competition**, 11 a.m., at Polytech High School, 832 Walnut Shade Rd., Woodside. Contact Charlie Smisson, Energy Office, (302) 739-1530.

**27 - Brownfields Redesign Implementation Work Group**, 9a.m.-1p.m., in DNREC's Lukens Drive Office, Conference Room B. Contact Marjorie Crofts, Air and Waste Management, (302) 739-4764.

**30 – White Clay Creek State Park program: *Insects in the Nest***, 2 p.m. at the nature center.

### JUNE

**2 – Public workshop on Deer Management**, 7 p.m., Delaware Technical and Community College Owens Campus in the lecture hall of the William Carter Partnership Center, Route 18, Georgetown. Contact Ken Reynolds, Deer Damage Assistance program manager, (302) 653-2883.

**2 – Recycling Public Advisory Council meeting**, 10 a.m., Belmont Hall Conference Center, Route 13, Smyrna. Contact Janet Manchester, DNREC, (302) 739-3689.

**2 – Public workshop on DSWA Cherry Island Landfill Modification Permits**, 6 p.m., in Conference Rooms A&B in DNREC's office at 391 Luken's Drive, New Castle. Contact Michael Apgar, Solid Waste Management, (302) 739-3689 or Joanna French, Air Quality Management, phone: (302) 323-4542.

**6 – Brandywine Creek State Park program: *Salamanders***, 1 p.m. for children ages 8-12. Cost is \$2 per child.

**8 – Public hearing on Delaware Regulations Governing Solid Waste**, 6-9 p.m., DNREC auditorium, Richardson and Robbins building, 89 Kings Highway, Dover. Contact Don Short, (302) 739-3689.

**9 – Public Hearing on DSWA Cherry Island Landfill Modification Permits**, 6 p.m., in Conference Rooms A&B in DNREC's office at 391 Luken's Drive, New Castle. Contact Michael Apgar, Solid Waste Management, (302) 739-3689 or Joanna French, Air Quality Management, phone: (302) 323-4542.

**12 – Take a Kid Fishing: Youth Fishing Tournament**, 10 a.m.-1 p.m., at three locations: Ingrams Pond in Millboro, Wyoming Pond in Town Park and at Lums Pond by the dog training area. For children ages 4-15. Call (302) 739-3440.

**16, 17 – Environmental Management System workshop**, 8:30 a.m.-4:30 p.m., Delaware Technical and Community College, Stanton Campus, Wilmington. Contact Bob Palmer, Planning and Compliance Assistance, (302) 739-6400.

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

- 17, 18 – Brandywine Creek State Park program, 9:30-10:15 a.m., Rockin’ Raccoon**
- 19 – Brandywine Creek State Park program, *The Masked Bandit*, 9:30-10:15 a.m., for children ages 4 to 6. Pre-registration suggested. Cost is \$5 per child.**
- 21 – Final public workshop on revisions to Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal Systems, 6-9 p.m. in DNREC’s auditorium, Richardson and Robbins building, 89 Kings Highway, Dover. Contact Dave Schepens, Ground Water Discharges Section, (302) 739-4762.**
- 22 – Community Involvement Advisory Council meeting, 9:30-11:30 a.m., Appoquinimink State Service Center, 120 Silver Lake Road, Middletown. Contact Karen Garrison, (302) 739-4403 ext.114.**
- 29 – Game and Fish Advisory Council meeting, 7:30 p.m., DNREC auditorium, Richardson and Robbins Building, 89 Kings Highway, Dover. Contact Greg Moore, Fish and Wildlife, (302) 739-5297.**

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

**Wetland** continued from page 1

president of Conectiv Energy and James A. Wolfe, president/CEO of the Delaware State Chamber of Commerce joined Leavitt at the partnership kickoff at the University of Delaware’s Wilcastle Center.

“President George W. Bush announced a new administration goal to move beyond ‘no-net-loss’ to restore, improve and protect at least three million acres of wetlands over the next five years,” said Administrator Leavitt. “Through the combined efforts of all levels of government, there is much that we can do to meet this ambitious new goal, and the involvement of the private sector is wholeheartedly welcomed by EPA.”

The Corporate Wetlands Restoration Partnership (CWRP) will allow corporations to



Governor Ruth Ann Minner addresses potential corporate partners and environmental community representatives at the CWRP launch.

*continued on page 4*

contribute money to environmental restoration projects in Delaware. Under this new partnership, these contributions will be matched by federal funds, leveraging support from the federal government for local Delaware projects. Conectiv President Thomas Shaw explained why it is important for corporations to become involved in a program like CWRP.

“As corporate leaders in the first state we should set the bar and take environmental stewardship seriously,” said Conectiv’s Shaw. “Corporate support for the CWRP will enhance the effectiveness of restoration programs across our state by maximizing our local investments with matching federal funds. It is a quintessential win-win for business, our community and the environment.”

The Delaware State Chamber of Commerce also was instrumental in bringing the CWRP Partnership to Delaware and is inviting other Delaware businesses to actively participate. “This was a natural for us,” said State Chamber president James A. Wolfe. “We’ve got a very active Environmental Committee and we are always looking for ways to help businesses have a positive impact on the environment.”

The CWRP Partnership was first developed in 1999 in Massachusetts under the leadership of the Massachusetts State government, The Gillette Company and the regional office of the Environmental Protection Agency. Since its inception, CWRP chapters have been created in 11 states, involving over 170 companies. PSEG, which chairs the New Jersey chapter, is organizing state chapters in the mid-Atlantic region. The Delaware CWRP marks the twelfth state chapter, and is welcomed by Governor Minner.

“This effort represents a wonderful opportunity for corporate Delaware to partner with state and federal agencies to restore one of Delaware’s most valuable resources – our wetlands,” said Governor Minner. “It will enhance our ability to focus on restoring urban and rural landscapes such as brownfields, riparian corridors and critical wildlife habitats.”

Delaware faces a number of challenging environmental issues, especially in coastal and ocean areas. Development pressures, combined with intense agricultural usage, tend to degrade both inland and ocean waters and habitats. The CWRP provides one mechanism to restore habitats such as wetlands, which can actually serve to purify surrounding waterways.

“Restoration of wetlands and other environmentally degraded areas yields significant benefits that are far-reaching,” says DNREC Secretary Hughes. “Our department is ready to provide Delaware corporations technical assistance in the selection, design and implementation of this program, and our ecological restoration team looks forward to collaborating with the private sector.”

The CWRP is coordinated nationally by Coastal America, a partnership among federal, state and local governments and private alliances to address environmental problems affecting our nation’s coasts, waterways and wetlands. The federal partners are: Departments of Agriculture, Air Force, Army, Commerce, Defense, Energy, Housing and Urban Development, Interior, Navy, State, Transportation, Environmental Protection Agency and the Executive Office of the President.

*For additional information, contact Sarah Cooksey, DNREC, (302) 739-3451 or Stephen Williams, DNREC, (302) 739-4403; Patmarie Nedelka, Coastal America (202), 401-9928, Bill Yingling, Conectiv, (302) 283-5811, or Jeanne Mell, Chamber of Commerce, (302) 576-6571.*

## Federal and State Officials to Begin Study of Military Ordnance at Cape Henlopen State Park

During a media event May 20 at Cape Henlopen State Park, officials with the U.S. Army Corps of Engineers, Baltimore District, and the Delaware Department of Natural Resources and Environmental Control, announced the beginning of an unexploded military ordnance study at the former Fort Miles Military Reservation. Today, this former coastal artillery battery is part of the approximately 6,700-acre Cape Henlopen State Park located near Lewes, Del.

This month, technical experts with the private contracting firm URS Corporation of Oak Ridge, Tenn., will begin a comprehensive Engineering Evaluation/Cost Analysis study of the former Fort Miles Military Reservation. During the study, field data collection, a site characterization, a risk assessment of military ordnance hazards and an evaluation of potential response alternatives will be completed. This information will be provided in a study report. The public will be given an opportunity to review and comment on the study report. The study is expected to be complete in March 2005.

In recent years, visitors to the State Park have found pieces, and in some cases, intact 3.5-inch inert practice rockets, which were used during training missions at this site from 1938 to 1950. Although the practice rockets themselves do not present a danger, a small charge inside an intact rocket motor can contain explosives. For this reason, Corps and park officials warn visitors not to pick up or handle these items. Anyone who might find one of these items is asked to report it to park officials.

During the fieldwork portion of the study, should an intact practice rocket with motor be found, ordnance experts will render the item safe by detonation. The Fort Miles Military Reservation is one of hundreds of formerly used defense sites nationwide. The Army Corps of Engineers is the federal agency responsible for the inventory, investigation and clean up of these sites.

*Background, formerly used Defense Site, Fort Miles, Lewes, Delaware:*

(U.S. Army Corps of Engineers Fact Sheet) The former Fort Miles Military Reservation consists of 2,011.25 acres located in Lewes, Sussex County, Delaware (See site map below). The property was acquired between 1873 and 1957, during World War I, a fort existed at the site, but when construction began on the new fort in 1940, the old fort was no longer there. In spring 1941, the 261<sup>st</sup> Coast Artillery of the Delaware National Guard was federalized and moved into a tented



Army Corps of Engineers contractors demonstrate equipment that will be used to locate any unexploded ordnance left over from days Fort Miles was an active military base.

Corps of Engineers

encampment at Cape Henlopen, Delaware, presumably for harbor and coast defense maneuvers and firing practices. In summer 1941, the Department of the Navy established the Harbor Entrance Control Post and placed mines in the channel leading to the Delaware Bay. DoD installed the fort, including improvements. Improvements, including a hospital, theater, gymnasium, chapel, fire hall, post exchange, clubhouses, ordnance storage and repair warehouses, automotive repair shop, storage bunkers, underground storage tanks (USTs), above-ground storage tanks (ASTs), an incinerator, supply warehouses, mess facilities, and recreational facilities were constructed by the Army within the fort. Approximately 60 percent of the site was used as a training area on which several small firing ranges and a rocket range were established.

In 1945, Fort Miles was known as the Prisoner-of-War Headquarters for German and Italian prisoners. Following World War II, the site remained an Army post and then became active as a training post during the Korean War in 1950. In 1958, the army decided to close Fort Miles and in 1961, the majority of the fort was declared excess. The 18.94 acres easement, 155 acres permit and 0.41 acres license were cancelled and control reverted back to the State of Delaware. Between 1961 and 1991, approximately 1,3441.1 acres fee were disposed, 17.8 acres have eroded, and the remaining 492.80 acres has been designed as the Delaware Target Areas FUDS site. The current owners are the State of Delaware (1,501.95 acres), the Department of the Navy (16.5 acres), Division of Parks and Recreation (492.80 acres - Delaware Target Areas),

An investigation of historical records indicated a Chemical Warfare Service build (Building T516) was located on Chemical Lane and Signal Road. The building was a storage facility for CWS supplies and for classroom instruction. A March 1943, Chemical Warfare Service newsletter stated the Fort Miles had a chemical warfare officer and that chemical warfare schools were held on the site. Research failed to indicate the types and amounts of chemical warfare materials used during these chemical warfare schools.

An organization chart of the units assigned to the Harbor Defenses of Delaware Bay lists only one chemical company stationed at Fort Dupont, Headquarters of the Harbor Defenses. The lack of historical documentation on chemical warfare training facilities or exercises at Fort Miles would suggest that any live agent training facilities or exercises at Fort Miles would suggest that any live agent training took place at Fort Dupont.

*Status:*

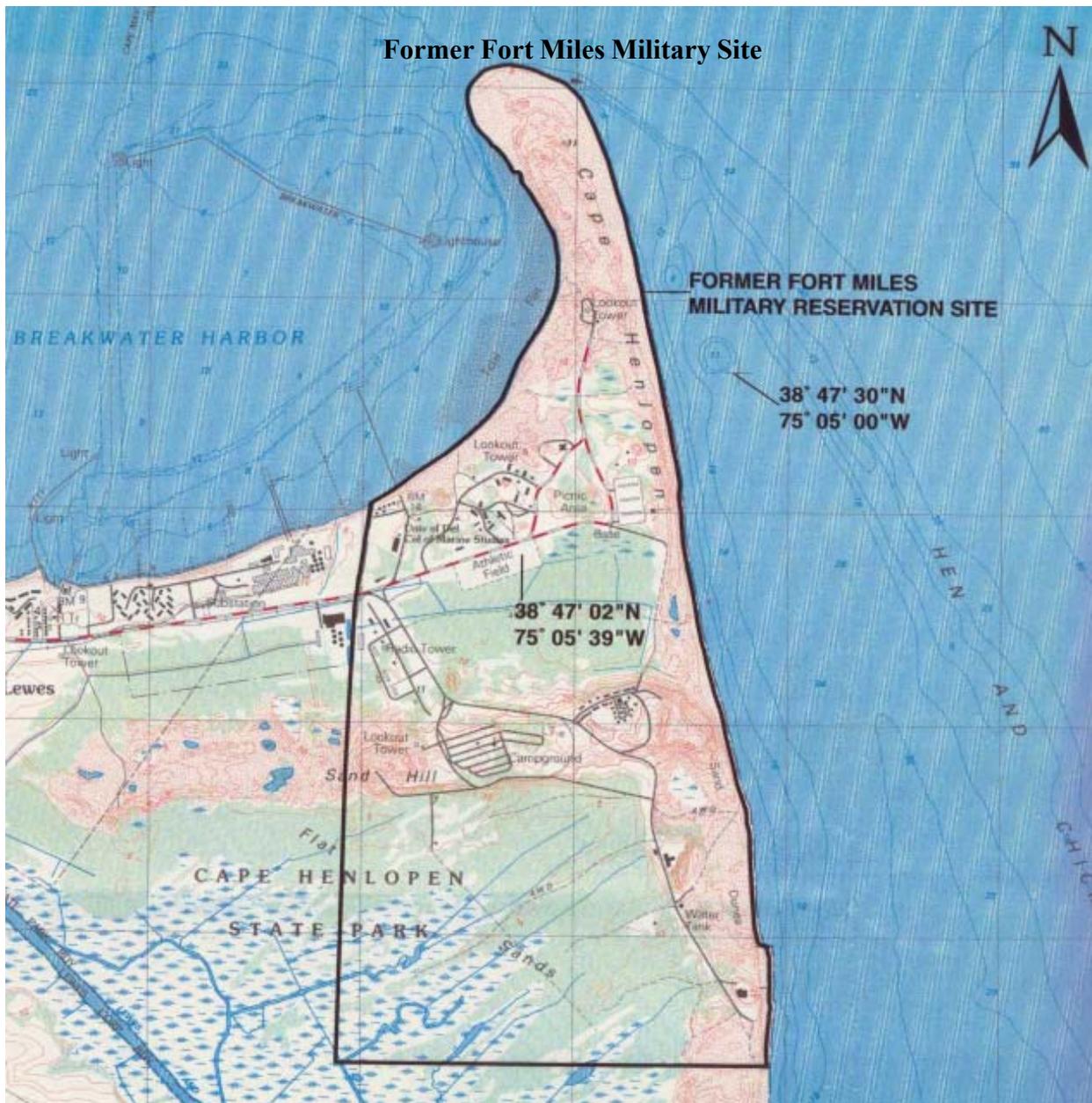
Ordnance and Explosive Waste - Engineering Evaluation/Cost Analysis – During the period of former DoD usage, the site was used to store and test ammunition. The site is currently owned by the State of Delaware and is used for a recreational area called Cape Henlopen State Park.

Both the State and Park Services indicated that the public has been finding munitions and practice rockets on the site. The site is listed as a RAC 1 site. The original Inventory Project Report (INPR) authorizes an OEW project under FUDS. This authorization includes a 96 acres First Army Recreation Area (FARA) which was transferred to the State of Delaware in 1991.

An EE/CA was initiated, in FY03, to evaluate the extent of the UXO hazard at Fort Miles. The EE/CA is scheduled for completion in FY05.

*For more information regarding the Ft. Miles FUDS project, please contact Robert Williams, CENAB-PP-E, (410) 962-4006, or by email: Robert.j.williams@nab02.usace.army.mil*

*MAP continued on page 7*



## **Environmental Offender Pleads Guilty**

*James E. Tennefoss and his businesses responsible for environmental and building code violations*

Attorney General M. Jane Brady and Secretary of the Department of Natural Resources and Environmental Control, John A. Hughes, announced last week that James E. Tennefoss individually and as president of Delaware Renting Inc. and president of Jim Lee Inc. pled guilty to misdemeanor charges stemming from environmental and building code violations at several locations in the Frankford, Georgetown and Bridgeville areas of Sussex County.

*continued on page 8*

The pleas, entered before Judge Richard F. Stokes in Georgetown, resolve three misdemeanor charges filed by Information by the Attorney General's Office against Teneffoss and the above named businesses. Teneffoss, personally and on behalf of his businesses, pled guilty to discharging a pollutant into surface water without a permit and 2 counts of discharging of wastewater onto the ground surface.

Teneffoss and his businesses were accused of discharging pipes without a permit into a creek adjacent to the Honolulu Mobile Home Park in Frankford, and discharging untreated or partially treated wastewater or septic tank effluent onto the ground surface without a permit at his properties located on Deer Forest Road in Georgetown and on Route 18 in Bridgeville.

As part of the plea agreement, Teneffoss will remedy the outstanding environmental and building code violations within 15 months of sentencing at 17 separate Sites – properties named in the Information and other properties around Sussex County – which he or his businesses own. Judge Stokes sentenced Teneffoss to a total of \$75,000 in fines, of which \$45,000 was suspended by the Court for the defendant's agreement to rectify the violations within the stated timeframe.

*For further information, contact Lori Sitler, Department of Justice, or Maria Taylor, DNREC, (302) 739-4506.*

## **Sixth Piping Plover Nest Spotted at Cape Henlopen State Park**

Delaware's sixth piping plover nest of the season was found Sunday, May 23 at the Point in Cape Henlopen State Park. The nest had three eggs and was discovered close to the tip of the Point on the ocean side, just above the high tide line.

Marnie Pepper, Division of Fish and Wildlife biologist who monitors the threatened species and other beachnesters, plans to install an enclosure to protect the nest from predators on Tuesday.

Two of the other nests at the Point appear to be doing well. The news is not as good at the fourth, however. According to Pepper, even though four eggs are still in the nest, she has not seen the parents for several days.

"We are unsure of the cause for the sudden abandonment," she said. "Fox tracks were observed circling the structure, but there were no signs of digging or of predation. We searched the surrounding area for any signs of the adults, but found nothing other than tracks."

Hopes are still high that the remaining nests will break last year's record of 14 chicks.

The two nests at the Gordons Pond area of the park are doing well, with the eggs expected to hatch by the end of the month. Chicks should appear at the Point's earlier nests around June 4, June 17 and June 21.

According to Pepper, newly hatched plover chicks leave the nest to forage as soon as their down feathers dry. The sand-colored balls of fluff, which are nearly impossible to see, wander the beach, feeding frequently, until they fledge at four to five weeks of age.

Fenced off areas on the ocean side of the Point will be reopened for recreational use on Sept. 1. The bayside beach will remain closed until Oct. 1 for use by shorebirds migrating south for the winter. The restricted area at Gordons Pond will be reopened as soon as the chicks disappear or fledge.

In 2002, a plover nest was discovered at Delaware Seashore State Park for the first time since 1990. The adults and the one chick that the nest produced disappeared and no nests have been found there since then.

The piping plover was added to the U.S. list of threatened and endangered species in 1986. The Department of Natural Resources and Environmental Control's Piping Plover Recovery Program has been a joint effort of the Division of Fish and Wildlife, the Division of Parks and Recreation and the Division of Soil and Water Conservation since 1988.

*For more information, contact Marnie Pepper, Division of Fish and Wildlife, (302) 382-4151; Holly Niederriter, Division of Fish and Wildlife, (302) 653-2883; or Steve Schilly, Division of Parks and Recreation, (302) 739-4406.*

## **Recycling Public Advisory Council to Meet June 2**

The Recycling Public Advisory Council will meet from 10 a.m. to noon Wednesday, June 2 at Belmont Hall Conference Center on Route 13 in Smyrna.

The major items for discussion will be:

- assessments being conducted in accordance with the Memorandum of Agreement among the Department of Natural Resources and Environmental Control, the Delaware Solid Waste Authority and the Recycling Public Advisory Council, expected to culminate in recommendations for a statewide mandatory recycling program;
- DSWA subscription recycling – status and future plans;
- recycling legislation; and
- comments for submission to the Joint Sunset Committee for consideration in its review of the DSWA.

The Recycling Public Advisory Council was created by Executive Order No. 82 in September 2000 and charged with advising DNREC and DSWA on all aspects of recycling, including development of grant criteria and selection of applications; a methodology for measuring recycling rates; and possible outreach activities designed to achieve greater recycling rates.

Members of the council are: Paul Wilkinson, Delaware Environmental Alliance for Senior Involvement (DeEASI); Patricia Todd, League of Women Voters; Pasquale Canzano, Chief Operating Officer, DSWA; Richard Cecil, Delaware Association of Counties; John Blevins, Director, DNREC Division of Air and Waste Management; Donald Mulrine, Mayor, City of Newport; Robert Propes, Delaware Economic Development Office; Paul Bickhart, Recycling Express of Delaware; and Steve Masterson, Waste Management of Delaware.

*For further information, or for directions to the meeting, contact Janet Manchester, DNREC, (302) 739-3689.*

## **DNREC to Hold Public Hearing on Delaware Regulations Governing Solid Waste June 8 in Dover**

The Department of Natural Resources and Environmental Control will hold a public hearing to receive comments on proposed amendments to Delaware's solid waste regulations from 6 to 9 p.m. Tuesday, June 8 in the Richardson and Robbins Building, 89 Kings Highway, Dover.

Proposed changes include the following:

- Addition of a new definition for "Gross Vehicle Weight Rating"
- Requirement of permittee to pay for the publishing of a required public notice

- Revised timeframe for renewing an expiring permit
- Amendment to soil requirements regarding daily cover at sanitary landfills
- Additional language prohibiting acceptance of hazardous waste at an industrial landfill
- Additional language prohibiting permitted transporters from using agents or subcontractors who do not hold permits for transporting solid waste; Deletion of sections regarding sub-leases and sub-contractors
- Revised wording in the Transfer Stations section for material recovery facilities; Amended requirements for temporary debris and collection sites established as a result of natural or man-made disaster
- Amended language to clarify who must obtain Infectious Waste Identification Numbers; revised certain infectious waste definitions, and new definition for Large Quantity Generator of infectious waste.

A downloadable version of the proposed amendments may be obtained by visiting DNREC's Division of Air and Waste Management Website at:

<http://www.dnrec.state.de.us/dnrec2000/Divisions/AWM/hw/indexsw.htm>.

*A hard-copy version and further information may also be obtained by contacting Donald K. Short of the Solid and Hazardous Waste Management Branch, (302) 739-3689.*

## **DNREC to Hold Public Hearing June 15 on Ion Power Coastal Zone Permit Application**

The Department of Natural Resources and Environmental Control will hold a public hearing at 6:30 p.m. Tuesday, June 15 at 391 Lukens Drive in New Castle on the Coastal Zone Act permit application of Ion Power Inc. for a new manufacturing facility.

Ion Power, presently located in Bear, Del., plans to open a new facility at 745 Governor Lea Road in the Delaware City area to manufacture fuel cell components, in particular, cast membrane electrodes and a trademark solution called LIQUION®, a NAFION© (polymer beads) containing solution.

Maximum production of the cast membrane electrodes will be 500 square feet per week. The NAFION solution product will be about ten gallons per week. The application indicates minimal environmental impacts and the applicant has included an offset proposal in the application (one ton of volatile organic compound emissions as an emission reduction credit from the former Metachem Company) that offsets the 0.4003 tons per year of air emissions and some office waste.

The application is available for public review at the Hockessin and Delaware City public libraries as well as the DNREC offices at 89 Kings Highway in Dover and 715 Grantham Lane south of New Castle.

*For addition information, contact Dennis Brown, Planning and Compliance Assistance, (302) 739-3091.*

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

The EPA/DNREC cleanup team at the Metachem site has restarted 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.

*continued on page 11*

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 higher boiling points, including tetrachlorobenzene materials, which 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.

The CR/SP is expected to run for 40 days.

*For further information, contact David Sternburg, EPA, (215) 814-5548, or Marjorie Crofts, DNREC, (302) 739-4764.*

## **EPA's New Nonroad Diesel Rule Will Result in Significant Reductions Of Ozone Pollution**

*EPA salutes the ozone partnership of Delaware for publicizing dangers of ozone*

During the Ozone Partnership of Delaware's May 13 kick-off of the 2004 ozone season, Judith Katz, director of the EPA mid-Atlantic region's Air Protection Division, said that new federal regulations will help Delaware in its fight to reduce ozone levels.

"Delaware is in non-attainment for EPA's new 8-hour ozone standard but reducing ozone levels is not something Delaware can do all by itself," Katz said. "EPA's Clean Air Rules of 2004 – which include the new nonroad diesel rule – will provide significant help in reducing the types of pollution that create ozone.

Ground-level ozone or smog is formed when nitrogen oxides and other chemicals react in sunlight. Diesel trucks, buses and non-road equipment such as forklifts, tractors, back hoes and even garden edge trimmers are a primary contributor to ozone-producing chemical emissions.

In addition to helping with ozone pollution, the nonroad diesel rule will also reduce the amount of fine particulate matter. This will be especially important to residents of New Castle County, Del., which is projected to be in nonattainment of EPA's new fine particle pollution standard. Final designations for particulate matter will be announced by Dec. 31, 2004.

Katz said that Delaware residents will breathe easier because the new nonroad diesel rule is projected to reduce pollution by 1,967 tons of nitrogen oxide (a precursor of ozone), 822 tons of sulfur dioxide and 330 tons of fine particle pollution by 2030.

"In addition to the nonroad diesel rule, nitrogen oxide and sulfur dioxide emissions will be further reduced by the Clean Air Interstate Rule," Katz said. "This will provide Delaware with a solution to the problem of power plant pollution that drifts in from other areas."

By 2030 when most of the old diesel engines have been replaced by new cleaner engines, the resulting health benefits will include fewer premature deaths, hospitalizations, heart attacks, children's asthma-related emergency room visits and work days lost," Katz said.

*For further information, contact Donna Heron, EPA, (215) 814-5113.*

*continued on page 12*

## **Port Contractors' Proposed Warehouse Not Regulated by Coastal Zone Act**

Department of Natural Resources and Environmental Control Secretary John A. Hughes has determined that the a warehouse proposed by Port Contractors Inc. inside the Port of Wilmington is not regulated by the Coastal Zone Act and thus does not require a Coastal Zone Act permit.

Port Contractors plans no industrial or manufacturing activity in the warehouse. The Coastal Zone regulations exempt warehouses from permit requirements.

Port Contractors had requested a status decision regarding plans for an 82,500 square foot warehouse that will be used to store bulk ores shipped through the Port of Wilmington. The proposed warehouse will be constructed of a steel frame with an internal railroad siding. It will also include a loading ramp for trucks.

The application is available for public review at the Hockessin Public Library and the Delaware City Public Library. It can also be reviewed at DNREC's offices at 715 Grantham Lane south of New Castle and 89 Kings Highway in Dover.

*For further information, contact Dennis Brown, (302) 739-3091.*

## **Nitrates and Pesticides are Common in Delmarva Peninsula Ground Water and Streams According to USGS Study**

Many different chemicals from human sources, including nutrients, pesticides, and volatile organic compounds (VOCs), are in the shallow ground water and streams of the Delmarva Peninsula, according to a recent study by the U.S. Geological Survey (USGS). With the exception of nitrate, most of the chemical concentrations are below existing water-quality standards, but many of the chemicals detected do not have such standards or guidelines.

Nitrate exceeded the Federal drinking-water standard of 10 milligrams per liter (mg/L) in one-third of 29 wells sampled at depths common to domestic wells (median depth 45 feet). Nitrate concentrations in water samples from these depths have increased since the late 1980s, probably because of increased use of nitrogen fertilizers. Only one water sample exceeded 10 mg/L in untreated water samples from 30 deeper public water-supply wells (median depth 80 feet) in Delaware.

According to Judy Denver, USGS hydrologist in charge of the 3-year water quality study, "Nitrate in domestic wells is of concern because, unlike public-supply wells, most domestic wells are not monitored regularly and many homeowners are unaware of potential water-quality problems. Drinking water with high nitrate concentrations can cause health problems for infants."

Concentrations of nutrients and herbicides in streams and shallow ground water in agricultural areas of the Delmarva Peninsula were some of the highest measured in the Nation by the USGS, including in intensively agricultural areas of the Midwest.

More than 85 percent of the well-water samples had at least 3 pesticides, with up to 15 different compounds detected in untreated water from one well. Most of the mixtures contained pesticides used on crops (metolachlor, atrazine, and alachlor) and their degradates; similar mixtures were found in stream samples and in untreated water from public water-supply wells, which also contained herbicides and insecticides commonly used in urban areas (including carbofuran, dieldrin, lindane, prometon, and tebuthiuron).

*continued on page 13*

Very low concentrations (all below existing water-quality standards) of 34 VOCs were detected in untreated water from public-supply wells in Delaware and the part of the aquifer used for domestic supply. Chloroform was the most frequently detected VOC; the solvent tetrachloroethene and the gasoline additive MTBE (methyl tert-butyl ether) were also detected in over half of the samples from public-supply wells. Multiple compounds were detected in many wells.

As Denver notes, “There is little information about the potential additive or synergistic effect on human health and aquatic life of low levels of multiple compounds in streams and drinking water.”

The interconnectedness of streams and ground water is apparent in a setting such as the Delmarva Peninsula. The combination of sandy soils, permeable aquifer materials, and shallow water table means that nitrate and pesticides move easily from the land surface into shallow ground water.

And, as Denver explains, “Ground water provides over one-half of the flow to most streams. Nitrate and pesticides, including pesticide degradates, that are discharged from ground water to streams today probably leached into the shallow ground-water system years and even decades ago because ground water moves so slowly.”

Unfortunately, this means that today’s land-use management practices for improving water quality on the Peninsula may not be apparent for some time to come.

Copies of the USGS report, “Water Quality in the Delmarva Peninsula, Delaware, Maryland, and Virginia, 1999-2001,” published as USGS Circular 1228, are available by writing the USGS Branch of Information Services, Box 25286, Denver Federal Center, Denver, CO 80225 (or by calling 1-888-ASK-USGS). The report also can be accessed on the World Wide Web at [http://water.usgs.gov/nawqa/nawqa\\_sumr.html](http://water.usgs.gov/nawqa/nawqa_sumr.html).

The USGS assessment is part of a national program currently releasing results of scientific investigation on streams and ground water in 14 additional major river basins and aquifer systems. Findings of regional and national interest are highlighted in a separate report “Water Quality in the Nation’s Streams and Aquifers—Overview of Selected Findings, 1991-2001.” The status and availability of these reports can be found on the NAWQA website (<http://water.usgs.gov/nawqa/>), and other publications and National data sets and maps.

The USGS serves the Nation by providing reliable scientific information to describe and understand the Earth; minimize loss of life and property from natural disasters; manage water, biological, energy, and mineral resources; and enhance and protect our quality of life.

*For further information, contact Judy Denver, U.S. Geological Survey, (302) 734-2964.*

## **LEAPS Program Launched at Boating Safety Kick-Off; Volunteers Needed for Program in Inland Bays**

As boaters ready their vessels for summer sun and fun, Fish and Wildlife Agents are also gearing up for the upcoming season. National Safe Boating Week is celebrated May 22 through May 29 and the Delaware Division of Fish and Wildlife Enforcement Section hosted a boating safety kick-off event May 20 at Massey’s Landing to announce the “LEAPS” Project for the boating season.

The LEAPS Project will include increased law enforcement presence in Delaware’s Inland Bays with an increase in checkpoints for Operation Under the Influence (OUI), boating safety equipment, fisheries, shellfish, pollution and specialized patrols that will include monitoring the operation of personal watercraft and other skiing activities during peak complaint times. The acronym

*continued on page 14*

“LEAPS” will focus on:

Laws – enforcing law on all Delaware Inland Bays

Education – educating the public on the importance of preserving our Inland Bays

Awareness – increasing public awareness of the economic and ecological values of our Inland Bays

Protection – responding to all disaster, natural and man-made, and render assistance as needed

Safety – ensuring public safety for various user groups that may recreate on the Inland Bays.

Volunteers are needed to help implement the LEAPS Project and work with Enforcement Agents to develop and implement projects that enhance recreational activities and preserve the unique character of Delaware’s Inland Bays. The Enforcement Section will implement a “Volunteer Waterway’s Watch Program,” assigning resident volunteers to patrols within the Inland Bays to report illegal activities, distribute educational flyers and information, post signs, and keep their waterways trash-free.

“Volunteer partnerships will help make the first LEAPS summer a success,” said Chief Graybeal of the Division of Fish and Wildlife Enforcement Section. “I’m optimistic that this project will be an effective tool that benefits Delaware’s Inland Bays and its users.”

The LEAPS Project is designed after the former Save Our Bays Team of the 1990s. Enforcement officers and volunteers worked on special projects and provided educational opportunities for the preservation of Delaware’s Inland Bays.

*For more information contact Chief Jim Graybeal, Enforcement Section, or Jason Gleockler, Public Affairs, (302) 739-4506.*

## **Boaters Encouraged to Use Spring Checklist, Review Knowledge**

Warm spring days prompt boaters to work hard to prepare the family boat for an active summer season. It’s also a good time for boaters to refresh their knowledge of basic seamanship.

The Division of Fish and Wildlife’s online Basic Boating Course provides a good opportunity for a review of basic seamanship as well as an opportunity for those who need to complete a boating education certification course to take the online test and receive a boating education certification card.

The online course may be found on DNREC’s web site at [www.dnrec.state.de.us](http://www.dnrec.state.de.us) by following the links or at [www.boat-ed.com/de](http://www.boat-ed.com/de). Below are several spring checklists for boaters:

### *Checklist for trailers:*

1. Inspect tire treads and sidewalls for cracks or lack of tread and replace as necessary. Check air pressure. Don’t forget the spare!
2. Inspect bearings and repack as necessary.
3. Test tail and back-up lights. Test winch to make sure it’s working properly.
4. Inspect trailer frame for rust. Sand and paint to prevent further deterioration.
5. Inspect rollers or bunks and make necessary repairs.
6. Inspect trailer coupler and safety chains for serviceability.

### *Checklist for engines and fuel systems:*

1. Inspect fuel lines, including fill and vent hoses, for signs of wear or damage and make sure all lines are well supported.
2. Inspect fuel tanks, fuel pumps and filters for leaks. Insure the fuel is fresh or a stabilizing agent was added the last time it was stored. Clean fuel filters.

*continued on page 15*

3. Inspect cooling hoses and fittings for stiffness, rot, leaks and/or cracking. Make sure they fit snugly and are double-clamped.
4. Clean and tighten electrical connections, especially both ends of battery cables. Wire-brush battery terminals and fill cells with distilled water.
5. Inspect bilge blower hose for leaks.

*Checklist for vessel and systems:*

1. Inspect and lubricate seacocks. Hoses and hose clamps should be inspected and replaced as necessary.
2. Replace deteriorated zincs.
3. Inspect prop(s) for dings, pitting and distortion. Make sure cotter pins, if used, are secure. Grip the prop and try moving the shaft - if it's loose, the cutlass bearing may need to be replaced.
4. Inspect the hull for damage and seaworthiness. Inspect all deck hardware to insure it is serviceable (cleats should be tight and backed with backing plates).
5. Make sure your engine intake sea strainer is free of corrosion and properly secured.
6. Check the engine shaft and rudder stuffing boxes for looseness. After the boat is launched, be sure to check these as well as through-hulls for leaks.
7. Inspect rubber outdrive bellows for cracked, dried and/or deteriorated spots (look especially in the folds), and replace if suspect.
8. Check power steering and power trim oil levels. Replace worn-out zincs.
9. Inspect outer jacket of control cables. Cracks or swelling indicate corrosion and mean that the cable has to be replaced.
10. Test and inspect all electronic equipment to insure they work properly.
11. Test navigation lights and other required equipment and repair as needed.
12. Have the bottom painted with an anti-fouling paint if the boat will remain in the water.

*Miscellaneous checklist:*

1. Check expiration dates on flares and fire extinguishers.
2. Inspect bilge pump and float switch to make sure it's working properly.
3. Inspect dock and anchor lines for chafing.
4. Update or replace old charts, waterway guides.
5. Make sure your boating license and/or registration is up to date. Don't forget your trailer tags.
6. Review your boat insurance policy and update coverage if needed. Be sure you have fuel spill insurance coverage.
7. Make sure you have a properly sized and wearable life jacket in good condition for each passenger, including children.

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

## **Hook'em & Cook'em Fish Cleaning and Seafood Store Opens at Delaware Seashore State Park's Indian River Marina**

When you visit the Indian River Marina at Delaware Seashore State Park this boating season you'll notice lots of exciting changes. In addition to an extensive and on-going facelift that includes new floating docks, a deeper basin and a state-of-the-art boat lift, there are 12 brand new year-round

*continued on page 16*

cottages that offer a million dollar view for just \$1,500 a week.

But located on the south side of the marina's parking lot sits a lone building that may not catch your eye right away. It is home to Hook'em & Cook'em, the marina's bait, tackle, fish cleaning and seafood store. The marina concessionaires, local residents Bert and Deanna Adams, have been busy stocking the store to get ready for the upcoming season and promise that inshore anglers as well as offshore fishermen will find a wide variety of tackle and bait available.

"With boat docking available right in front of the store, you can make one stop to take care of all your fishing needs," says Deanna.

"And if you don't see what you're looking for, just tell us and we will do our best to get it for you," says Bert, who has been in his family fishing business since he was eight years old and has done everything from being a mate to running his own boat.

If the fish are biting and you come in with a coolerful, why worry about cleaning fish, they ask. Hook'em & Cook'em will clean and store your fish in their walk-in coolers until you are ready to leave.

And, if the fish aren't biting, you can still go home with a seafood supper. Starting Memorial Day Weekend, Hook'em & Cook'em will be selling lobsters, crabs, scallops and a variety of fresh fish which they will steam for you right on site. "If it can be steamed, we will be steaming it!" says Bert.

Hours of operation are 4:30 a.m. until 7 p.m. for purchasing bait and tackle, 11 a.m. until 8 p.m. for fish cleaning.

Indian River Marina and Hook'em and Cook'em are located on the north side of the Indian River Inlet south of Rehoboth and north of Bethany Beach. Heading south, turn right off Route 1 just before the Indian River Inlet Bridge.

*Call (302) 226-8220 for more information.*

### **Indian River Marina to Loan Free Life Jackets to Kids**

This year the Indian River Marina is continuing to help keep kids safe while on the water by participating in the Boat U.S. Foundation Life Jacket Loaner Program for Kids! This program, made possible by the Boat U.S. Foundation for Boating Safety and Clean Water, allows boaters to borrow a child's life jacket for the day or the weekend at no charge.

Here's how the Life Jacket Loaner Program works. If a boating family discovers they don't have enough properly fitting children's life jackets on board, they can simply visit the Indian River Marina Ship Store and sign out an infant, child or youth jacket for the day or the weekend.

When they've finished boating, they can return the jackets to the same location. The Indian River Marina was awarded 12 life jackets, allowing hundreds of children to stay safer on the water.

If you would like to borrow a jacket, simply stop by the Indian River Marina Boat Store, between the hours of 8 a.m. and 4 p.m., seven days per week. You can also call Jill DeFelice at (302) 227-3071 to learn more about the Indian River Marina's participation in the program.

There are over 300 Boat U.S. Foundation Life Jacket Loaner sites located all over the country. These sites have loaned out jackets over 50,000 times since the program began in 1997. To learn more about the national effort to put kids in life jackets, visit <http://www.boatus.com/foundation>.

*For further information, contact Jill DeFelice, Indian River Marina, (302) 227-3071.*

## **State Division of Parks and Recreation Seeks Resident Curators for Lums Mill House and Buck Tavern at Lums Pond State Park**

How many times have you driven by an old house and thought, “This would be beautiful if someone restored it?”

The Delaware Division of Parks and Recreation is looking for people who not only feel that way, but are willing to take the challenge and restore historic properties currently owned by the parks system back to their original splendor. A new resident curatorship program, beginning with Lums Mill House and Buck Tavern, both located at Lums Pond State Park in New Castle County, can be a “win-win” for the right candidate.

Lums Mill House is a farmhouse with parts dating as far back as 1720. Buck Tavern is a reconstructed brick Federal style house built in the early 1800s and moved from the town of Summit, Delaware when the C&D canal was widened in the 1960s. Once these two properties have secured curatorships, the Division may expand the program to other properties throughout the state.

Here’s how it work, says Dr. Cara Blume, the Division’s cultural heritage program manager, who is developing the new program. A curator pledges to restore the property and maintain it in good condition after the restoration. The Division allows the curator to reside in the structure free of charge as long as obligations are met to the satisfaction of the Division.

“In Maryland, where the program has been very successful, they already have 40 curatorships representing more than \$5 million worth of donated restorations to state-owned historic properties,” says Blume. “The curators will have free housing in a remarkable home, the Division will get properties restored to their original condition, and the citizens of Delaware will be able to see an historic home or property saved from the ravages of time. What could be better than that?”

The selection process is stringent, requiring formal proposals and official agreements with the Division. Applicants must demonstrate experience in historic preservation and their financial ability to support the proposed undertaking. In addition, there must be a work plan that details how the restoration will be carried out, including estimated costs and a schedule, not to exceed five years, for completion.

“Generally, a proposal must represent at least \$100,000 worth of improvements in order to justify a curatorship,” according to Blume. “Minors cannot be curators, and a curator’s interest in a property cannot be transferred or bequeathed.”

The curator can move in as soon as the restoration has progressed to the point of livability. Work is subject to periodic inspection by Division staff to assure that it is progressing satisfactorily.

*For more information on the Resident Curatorship Program, contact Dr. Cara Blume, (302) 739-4413 or email her at [cara.blume@state.de.us](mailto:cara.blume@state.de.us).*

## **Informal Group Walks Planned at Cape Henlopen State Park’s New Junction and Breakwater Trail**

If you are ready to take steps to stay in shape and want to enjoy nature at the same time, but hate the idea of doing it alone, why not join the Junction and Breakwater Trail walkers at 9 a.m. every first and third Friday of the month?

*continued on page 18*

One of Cape Henlopen State Park Ranger Steve Savidge's volunteer trail watchers will meet participants at the park's trail head off Wolfe Neck Road north of Rehoboth. "It's very informal," he says. "We meet at the start point and the group starts walking at the scheduled time. Naturally, everyone walks at his or her own pace. It's a nice way to get together, enjoy the trail and get some exercise and fresh air."

A group walk was held May 21.

Since being opened by the State Division of Parks and Recreation last December, the scenic 3.6 mile Junction and Breakwater Trail has been very popular with walkers and bicyclists. The Division eventually hopes to extend the trail all the way to Lewes to the north and Rehoboth to the south.

"It occurred to us that there are probably lots of folks who would enjoy the trail if they had someone to walk with, especially area seniors," Savidge said. "We already have a great group of local residents who are helping to patrol the trail, so the idea of getting them to lead walking group was a natural. If it catches on, we may be able to add more frequent outings."

No registration is required. Just show up in walking shoes and BYOW - bring your own water bottle. The trail surface is also suited for wheelchairs or battery-powered devices for disabled persons.

To get to the northern trail head meeting spot, take Munchy Branch Road off Route 1 to Wolfe Neck Road. There are restrooms and parking for 52 cars.

*For more information, contact Savidge at (302) 645-8930 or Jenna Oliva at the Seaside Nature Center, (302) 6852.*

### **DNREC Issues Order for Proposed Air Permit for NRG Energy's Indian River Power Plant**

Department of Natural Resources and Environmental Control Secretary John A. Hughes issued an Administrative Order dated April 5, 2004 for the Title IV and Title V (Air) Permits to NRG Energy Inc.'s Indian River Power Plant.

NRG Energy Inc., a Minneapolis, Minn. firm, owns the electric-generating Indian River Power Plant in Millsboro, Del.

A public hearing was held Dec. 19, 2002 for the Title IV and Title V Air Permits. The order approves the issuance of the Proposed Title V Operating Permit, which incorporates the Title IV Acid Rain permit.

The U. S. Environmental Protection Agency will have up to 45 days to review the proposed permit renewal. DNREC's Air Quality Management Section will issue a final permit if EPA approves the proposed Title V Permit.

Any person whose interest is substantially affected by this action of the Secretary may appeal to the Environmental Appeals Board by close of business June 1, 2004. The order and exhibits are available for public inspection at the Department of Natural Resources and Environmental Control's offices at 715 Grantham Lane, New Castle and 156 S. State St., Dover.

*For further information, contact Nancy Terranova, Air Quality Management, Dover, (302) 739-4791.*

## **DNREC Issues Order for Proposed Air Permit Renewal to SPI Polyols**

Department of Natural Resources and Environmental Control Secretary John A. Hughes issued an Administrative Order March 24, 2004 to SPI Polyols Inc. for the renewal of a Title V Air Permit.

SPI Polyols manufactures sweeteners for confections, oral care, and pharmaceutical applications at its facility in New Castle, Del.

A public hearing was held for the renewal of the Title V Air Permit on July 22, 2003. As a result of hearing testimony, the Hearing Officer recommended and the Secretary ordered that the proposed permit contain unit specific record keeping. In addition, the proposed permit renewal clarifies the monitoring frequency of the operating limits for the hydrogen reform boiler.

The U. S. Environmental Protection Agency will have up to 45 days to review the proposed permit renewal. DNREC's Air Quality Management Section will issue a final permit if EPA approves the proposed Title V permit renewal.

Any person whose interest is substantially affected by this action of the Secretary may appeal to the Environmental Appeals Board by close of business June 1, 2004. The order and exhibits are available for public inspection at the Department of Natural Resources and Environmental Control's offices at 715 Grantham Lane, New Castle, and 156 S. State St., Dover.

*For further information, contact Joanna French, Air Quality Management, New Castle, (302) 323-4542.*

## **Regulatory Update**

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

**2003-11: Amendment to Regulation No. 30 (Title V State Operating Permit Program) of the Regulations Governing the Control of Air Pollution.** This action changes 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.  
**Effective date – May 11, 2004**

**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. 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. Contact Richard Cole, 739-4782. **Effective date – May 11, 2004**

2004-02: **Amendments to Shellfish Regulations pertaining to oysters.** This action establishes the oyster harvest quota at 11,698 bushels for 2004. The harvest seasons will run from May 10 to June 26 and Sept. 1 through Dec. 31. Contact Richard Cole, 739-4782. **Effective date – May 10, 2004**

2001-22: **New regulation defining 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. Contact Marjorie Crofts, 739-4764. **Effective date – March 11, 2004**

2003-14: **Amendments to Delaware Regulations Governing Hazardous Waste.** This action adopts amendments previously promulgated by EPA to maintain authorization for administering Delaware's own hazardous waste management program. This action also adopts miscellaneous changes to correct existing errors in the hazardous waste regulations and clarifications. Contact Karen J'Anthony or Donald Short, 739-3689. **Effective date – March 21, 2004**

2003-23: **Amend Tidal Finfish Regulations, Striped Bass Possession Size Limit; Exceptions.** This action changes the recreational daily size and creel limits and seasons for striped bass; and changes 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 remains at 20 inches for the waters of Delaware River, Delaware Bay and their tributaries, but reverts to 28 inches total length minimum for the remainder of the year. Contact Roy Miller 739-3441. **Effective date – March 10, 2004**

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:**

2004-04: **Amendments to Delaware Regulations Governing Hazardous Waste.** This action would adopt amendments previously promulgated by EPA, which is necessary to maintain EPA authorization for Delaware to administer its own hazardous waste management program. The state is required to maintain a program equivalent to and no less stringent than the federal program. The amendments also include miscellaneous changes that address errors and needed clarification. Contact Karen J'Anthony, 739-3689

2004-03: **Amendments to Delaware's Wildlife and Non-Tidal Fishing Regulations.** This action would provide additional shotgun hunting days in October for antlerless deer, lengthen the October Muzzleloader season by 1 day, increase the general deer bag limit from 2 antlerless deer to 4 antlerless deer, clarify the use of additional antlerless deer tags that are purchased, clarify deer checking/registration procedures and tagging requirements and allow squirrel hunting during firearms deer seasons in October where seasons overlap. Contact Ken Reynolds, (302) 653-2883

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

**Public hearing – June 8, 2004**

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

**2003-12: 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., 739-1530

**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

**Public hearing – April 28, 2004**

**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

2001-21: **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 (NO<sub>x</sub>), major precursors to form ground-level ozone. This action amends the 2002 plan submitted in February 2000. Contact Frank Gao, 739-3106

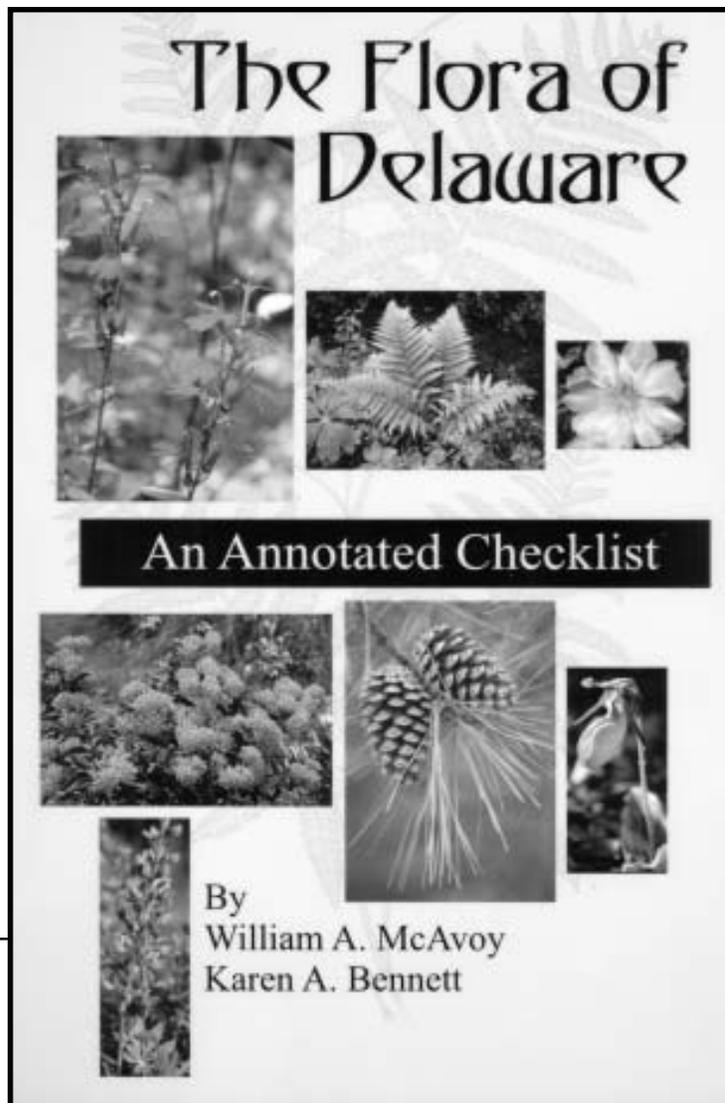
**2000-05: Update of 1990 Base Year Inventory and 1993 Periodic Emission Inventory Revisions.** The Clean Air Act Amendments of 1990 require states with non-attainment areas for ground-level ozone to develop the 1990 base year inventory and comprehensive periodic emission inventories of ozone precursor 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 David Fees, 739-4791

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

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

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

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



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