

# DNREC NEWS

The Delaware Department of Natural Resources and Environmental Control

Vol. 130

August 17, 2004



Ruth Ann Minner  
*Governor*

John A. Hughes  
*Secretary*

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

## DNREC Order Clears Permitting for Assawoman Canal Dredging

The Department of Natural Resources and Environmental Control has taken action allowing the appropriate permits, with conditions, to be issued to DNREC's Division of Parks and Recreation for dredging the Assawoman Canal in coastal Sussex County.

DNREC Deputy Secretary David Small signed an order Aug. 16 which states that the record for the application "demonstrates compliance with applicable regulations and provides for reasonable and appropriate measures to mitigate potential adverse impacts while providing significant benefits to the public in furtherance of statutory policies and purposes."

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## DNREC Still Needs Volunteers for Coastal Cleanup



Jason Gsockler

Volunteers clean up Rehoboth Beach area off Main Street during a past cleanup.

*continued on page 5*

## Calendar

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

### AUGUST

**16-22 – Brandywine Zoo State Park program, *Close Encounters of the Wild Kind: Opposable Thumbs***, 10 a.m.-4 p.m. Admission: age 12 to adult \$4, seniors and children \$2, under age 3 free.

**18 – Public hearing, Premcor Refining Group Title V, Part 3 application for its Delaware City refinery**, 6 p.m., DNREC office, 391 Lukens Drive, New Castle. Contact Ravi Rangan or Bruce Steltzer, Grantham Lane office, 302-323-4542.

**19 – Brandywine Zoo State Park program, *Story Time at the Zoo***, 10:30-11 a.m. For all ages but especially the young. Free with admission.

**21 – White Clay Creek State Park program, *Millstone Pond Explorations***, 1 p.m., Carpenter Recreation Area parking lot.

**22 – Brandywine Zoo State Park program, *Discovery Days: Mr. Fisne, “Master of Manipulative Mayhem,”*** free with admission.

**23 – Brandywine Zoo State Park program, *Close Encounter of the Wild Kind: City Critters***, 10 a.m.-4 p.m. Admission: age 12 to adult \$4, seniors and children \$2, under age 3 free.

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

**26 – Brandywine Creek State Park program, *WSTW’s Family Fun Night***, 6-8 p.m. For all ages. Tons of music, games, animal encounters, and crafts. Cost, \$1 per person, kids under age 3 free. First 50 to arrive receive a free gift.

**28 – White Clay Creek State Park program, *The Dragonfly Cycle Part 2: The Imago***, 2 p.m., nature center. Cost is \$3 per person.

**29 – Brandywine Zoo State Park program, *WJBR-FM Hosts J. Bear’s Back to School Party***, 10 a.m.-noon, Have your face painted, play games and more. Free with paid admission.

**29 – Brandywine Creek State Park program, *Discovery Days: Diane Ipoldo, Story Teller***, free with admission.

### SEPTEMBER

**2 – Murderkill Tributary Action Team meeting**, 3-5 p.m., Killens Pond State Park Office, Felton. Contact Jennifer Campagnini, Watershed Assessment Section, 302-739-4590.

**5, 6, 7 – Brandywine Zoo State Park program, *Close Encounters of the Wild Kind: Endangered Species***, 10 a.m.-4 p.m. Admission: age 12 to adult, \$4, seniors and children \$2, under age 3 free.

**8 – Source Water Program Citizens and Technical Advisory Committee meeting**, 9 a.m., second floor conference room, Department of Public Safety and Homeland Security building, Dover. Contact Doug Rambo, DNREC Water Resources, 302-739-4793.

**11, 12 – Brandywine Zoo State Park program, *Close Encounters of the Wild Kind: Bushmeat Crisis***, 10 a.m.-4 p.m. Admission: age 12 to adult, \$4, seniors and children \$2, under age 3 free.

**11, 12 – Brandywine Zoo State Park program, *Zippity Zoo Days*, 10 a.m.-5 p.m., FREE** ADMISSION thanks to the Brandywine Arts Festival. Tons of games and fun activities for all ages. Featured entertainers on Sept. 12, Griots Wa Umoja, African musicians.

**13 – Public hearing, revisions to regulations governing on-site wastewater treatment and disposal (septic) systems, 6 p.m.,** Downs Lecture Hall, Delaware Technical and Community College, Terry Campus, Dover. Contact Dave Schepens or Jack Hayes, DNREC Ground Water Discharges Section, 302-739-4762.

**2, 9, 16, 23, 30 – Brandywine Zoo State Park program, *Story Time at the Zoo*, 10 a.m.-4 p.m.,** free with paid admission.

**18 – Delaware’s Coastal Cleanup: Volunteers Needed, 9-noon.** Go to [www.dnrec.state.de.us](http://www.dnrec.state.de.us) and click on “Register for the 2004 Coastal Cleanup” in the upper right hand column of the DNREC homepage or contact Jason Gleockler, coordinator, 302-739-4506 for more information.

**21 – Nanticoke Tributary Action Team meeting, TBA,** contact Jennifer Campagnini, Watershed Assessment Section, 302-739-4590.

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

*Assawoman Canal* continued from page 1

Secretary John A. Hughes recused himself from making the decision due to his past involvement with the project as the director of the Division of Soil and Water Conservation.

The Assawoman Canal is a nearly 4-mile long, man-made canal extending from White Creek to the Little Assawoman Bay. The project will include dredging of a 35-foot wide channel the length of the canal to a depth of 3 feet below mean low water to enhance boating recreation.

The Division of Soil and Water Conservation is agent and contractor for the Division of Parks and Recreation and will be performing the work. The Division of Parks and Recreation manages the canal and adjacent land. Both mechanical and hydraulic means will be used to dredge 34,000 cubic yards of material. The material will be disposed of at two confined disposal facilities; another possible disposal site along the ocean coastline at Bethany Beach could also be used for a portion of the operation. In addition to the dredging activity, 220 feet of the western bank of the canal will be stabilized with rip-rap.

Conditions incorporated into the order to mitigate environmental and public interest impacts were supported and recommended by DNREC’s hearing officer and initially recommended by the Division of Water Resources’ Wetlands and Subaqueous Lands Section, which received the permit application on May 28, 2004. A public hearing was held June 22, 2004. The Section also recommended monitoring of the dredging activity to evaluate the impacts.

Permit conditions, including those to be considered as management tools during dredging activity, include the following:

- Establish and enforce a no-wake zone to promote boater safety on the canal and minimize boating impacts from noise on area residents and minimize impacts of boat wakes on the banks and slopes of the canal and on aquatic species. Also, consider a ban on jet skies.
- Restrict dredging from Jan. 1 to Aug. 31 annually to protect fisheries. Material dredged from Sept. 1 to Dec. 31 must be monitored to determine whether diamondback terrapins are being impacted.
- Clear and remove vegetation and trees that are blocking the canal in a manner that provides navigation safety while minimizing disruption of biological activity. Prior to operations, a DNREC team should mark the area to minimize vegetation removal.
- Redesign proposed hard rip-rap structure to incorporate wildlife habitat friendly, bioengineering features in the bank stabilization and woody vegetation projects along the banks.
- Terrace and revegetate the slopes of the canal to stabilize the soils and enhance the habitat on the banks of the canal and adjoining riparian areas.
- Monitor dissolved oxygen and bacteria levels in the canal and adjacent water bodies to evaluate impacts of dredging on water quality.
- Mark navigation channel in the canal.
- Use coffer dams and/or turbidity curtains during the dredging project to minimize turbidity impacts.
- Use watertight trucks for hauling dredged material.
- Prohibit marina development on Division of Parks and Recreation land so as not to encourage excessive boating traffic.

Today's action follows the revocation this spring of permits issued last year by DNREC that would also have allowed the dredging of the canal. DNREC took the action after learning that the public record on which the decision was made to issue the permit was incomplete. A portion of DNREC's response to public comment was not included in the record. The information came to light through activities related to proceedings of the Environmental Appeals Board which was in the midst of hearing an appeal of the decision to issue the dredging permit filed by the Delaware Chapter of the Sierra Club.

Following the revocation, the General Assembly this past June passed House Joint Resolution 29 authorizing DNREC to undertake an expedited permitting process and requiring that a decision be made by Aug. 15, 2004.

The revocation of the previous permit prompted the U.S. Army Corps of Engineers to invalidate the federal approvals for the project. The Corps has notified DNREC that if valid state permits were to be reissued, the federal permit will be reactivated with all terms and conditions.

Appeals of the Order directing that permits be granted must be filed within 20 days of today's announcement of the decision.

*For further information, contact Melinda Carl, Public Affairs, (302) 739-4506.*

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## ***Volunteer for Coastal Cleanup*** continued from page 1

Volunteers are still needed to join the Delaware Department of Natural Resources and Environmental Control (DNREC) for the 18th annual Coastal Cleanup on Saturday, Sept. 18 from 9 a.m. to noon. Delaware's popular coastal cleanup is part of the Ocean Conservancy's International Coastal Cleanup – the largest annual clearing of trash from coastlines and lakes by volunteers in the world. There are currently 311 registered volunteers and the Cleanup is in need of another 1,700 volunteers to make the event a success.

The Delaware cleanup areas span the length of the state's 97-mile eastern coastline and include river and ocean shoreline, wetland and watershed areas. Traditionally, Delaware has the largest number of cleanup sites within the Delmarva (Delaware, Maryland, Virginia) region. This year, more than 49 sites throughout the First State are being targeted covering New Castle, Kent, and Sussex counties.

From youth groups and businesses, to vacationing families and individuals, all volunteers are welcome and urged to sign up for the 2004 statewide Coastal Cleanup through electronic registration on the DNREC website at [www.dnrec.state.de.us](http://www.dnrec.state.de.us), using the link, "Register for the 2004 Coastal Cleanup" in the right hand column of the home page. Registrations can also be taken by phone by contacting Jason Gleockler, DNREC Public Affairs, (302) 739-4506. Site captains are also needed for each site. Volunteers interested in being site captains should call for details. This is a rain or shine event unless conditions warrant a cancellation for safety reasons. Check DNREC's coastal cleanup page for any cancellation information.

All registered participants will receive an original Coastal Cleanup 2004 T-shirt. Registration deadline for volunteers who want to be assured a T-shirt is Sept. 3. Late registrants and walk-ins will receive them on an as-available basis.

Volunteers will NOT receive confirmation of registration but will automatically be assigned to the site they select unless notified otherwise.

Conectiv has been a primary partner of the Cleanup for many years. Playtex Family Products donates rubber gloves for cleanup volunteers. Delaware is joined with sister states Maryland, New Jersey, and Virginia in the Ocean Conservancy's International Coastal Cleanup event.

The Coastal Cleanup program was started to provide a way to monitor the amount of trash being thrown into the oceans and waterways by fishing vessels, cruise ships, and recreational boaters. The cleanup has now grown to include participation by 55 states and territories and 90 countries, with the number of both growing each year.

*For more information, contact Jason Gleockler, coordinator (302) 739-4506 or visit the Coastal Cleanup link on the DNREC website at [www.dnrec.state.de.us](http://www.dnrec.state.de.us), using the Coastal Cleanup link listed in the right column of the home page.*

## **Former Deputy Attorney General Named Head of Division of Parks and Recreation's Planning, Preservation and Development Section**

The state Division of Parks and Recreation has hired Matthew P. Chesser, a former deputy attorney general assigned to work with the Department of Natural Resources and Environmental Control on environmental and conservation issues for the past four years, to head the Division's Planning, Preservation and Development Section.

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In his new job, Chesser, 33, will administer the Division's land acquisition and protection programs, including the Office of Nature Preserves, the Land and Water Conservation Trust Fund grants program, the statewide Greenways and Trails program, and the Coastal Heritage Greenway program. He will coordinate master planning activities in all state parks as well as all real estate issues.

Chesser also will oversee planning, design and construction of new Division facilities, including Phase II of the \$14 million redevelopment of the Indian River Marina and the Division's part of the \$130 million Blue Ball roads-and-parklands project in New Castle County. The stone Blue Ball Barn, which was built for Alfred I. DuPont's dairy cows in the 1920s, is being restored as a museum and meeting place. The Planning, Preservation and Development Section has 19 full-time employees.

In addition to a law degree from Villanova University, Chesser has an associate degree in civil engineering from Delaware Technical and Community College and a bachelor's degree in environmental health from Salisbury State University. Prior to coming to work for the State of Delaware, he was employed by the City of Salisbury, Maryland, Department of Public Works, the U.S. Attorney's Office in Philadelphia, and the U.S. Environmental Protection Agency in Philadelphia.

"Matt's diverse education and training, work experience and personal characteristics will serve him well as a member of the Division's leadership team," said Director Charles A. Salkin.

Chesser replaces Mark Chura, who held the position for 12 years before taking a job in the private sector in January.

## **Departure of Lifeguards Leaves 2 State Park Beaches Unguarded**

There will be no lifeguards at Cape Henlopen State Park's Gordons Pond beach as of Aug. 23, according to the state Division of Parks and Recreation. Delaware Seashore State Park's Tower Road Ocean will be unguarded Aug. 30 through Sept. 3, but lifeguards will be on duty Sept. 4 through Labor Day.

"It's that time of year," said Park Ranger Bryan John. "Lifeguards are starting to leave for college and sport camps and we won't have enough to guard every swimming area. Gordons Pond and Tower Road Ocean will remain open, but we highly recommended swimming at the guarded beach areas."

"Unguarded Beach" signs will be posted at all dune crossings, fee booths and other beach access areas.

Cape Henlopen's main beach, Indian River Inlet and Fenwick Island State Park will be covered through Labor Day.

*For more information, call the Division's Operations Section, 302-739-4405.*

## **September 'First Saturday in the First State' Is Salute to the American Worker**

The First State Historical State Park's September "First Saturday in the First State," which falls on Labor Day Weekend, will feature a Salute to the American Worker highlighted by "Singing Workers: American Occupational Folk Songs," a free concert by Saul Broudy.

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Weather-permitting, the performer, traveler and folklorist, who has been playing grassroots American music all over the world for 20 years, will be live on The Green in Dover at 3 p.m. In case of rain, he will perform in the nearby State House Museum.

Broudy will sing the songs that tell the stories of railroad workers, coal miners, farmers, hobos, truck drivers, pilots and other workers, and discuss the role this music played in the workers' lives.

Sponsored by the new First State Historical Park, "First Saturdays" of each month are a chance for Dover residents and visitors to the Capital City to get a sampling of the area's rich history.

The sites that are linked by the new urban historical and cultural park will be open Saturday and on Labor Day from 9 a.m. until 5 p.m., many with special labor-themed exhibits or programming, and all at no charge. These include Legislative Hall, which will offer guided tours, Delaware Public Archives, the Old State House Museum and other Delaware State Museums sites, and the Biggs Museum of American Art.

"Coordinating Saturday hours and opening on state holidays is just one way the First State Historical Park will help visitors discover Delaware's capital city," said Elaine Brenchley, who is the project director. "We are especially pleased this month to honor the heritage of the American worker with special Labor Day weekend programs at the park sites."

The First State Historical Park is being developed by a partnership of the Delaware Department of State, the Delaware Department of Natural Resources and Environmental Control, and the Delaware Economic Development Office. Governor Ruth Ann Minner created the First State Historical Park by executive order in April as a way to draw more visitors to the state capital.

If You Go

#### **DELAWARE STATE MUSEUMS**

Delaware State Visitors Center and State House Museum: "Delaware's Loyalists, Laborers and Laws of the late 1700s" Ongoing tours Saturday and Monday, 9- 5; Sunday, 1:30-4:30

Museums Square: Saturday and Monday, 9-5. Closed Sunday.

—Johnson Victrola Museum: "The Music Machines Made by Man"

– Demonstrations of the labor needed to build the recording industry.

—Archaeology Museum: "Technology of Early Man"

– Tool-making of Native American people

—Museum of Small Town Life: "Made by Hand"

– Demonstrations of the intensive work needed in business 100 years ago.

#### **DELAWARE PUBLIC ARCHIVES**

Open 9-5 Saturday and Monday. Closed Sunday.

Saturday and Monday, 10 a.m.

"What Did You Do During the War?"

World War II changed Delaware in many ways, including the home front. By working in war-industry factories, helping to organize salvage drives and war bond drives, or helping to harvest crops, thousands of Delawareans changed their everyday lives and helped to support the war effort. State Archivist Tim Slavin will present a slide lecture of photographs from the period and discuss how Delaware worked to support World War II.

Ongoing special exhibit celebrating the 300th Anniversary of Delaware's General Assembly. The "Jewel Box" at the Archives is now featuring one of the oldest holdings, the original colonial charter of the State of Delaware.

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## **THE BIGGS MUSEUM OF AMERICAN ART**

Open 9-5, Saturday and Monday; Sunday 1:30-4:30

Self-guided tours on different types of work in Delaware:

—The craft of furniture-making focusing on the Janviers of Odessa

—Silversmithing will include Hannah Robinson of Wilmington

—Art focuses on the Brandywine School of illustrators and the maritime occupations of navigation and ship building.

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Guided Tour: “Artists and Craftsmen – Workers All” Saturday and Monday, 11 a.m. and 2 p.m.; Sunday, 2:30

Plus current special exhibitions:

- Frank E. Schoonover: “Inventing Indians.”
- “Award Winners III”
- “Around the World with Sewell C. Biggs”

**LEGISLATIVE HALL:** Guided tours begin hourly, 9 a.m. through 4 p.m., including the Portrait Gallery, Jack Lewis murals and rotating Delaware State Museums exhibit.

*For more information, call:*

*Biggs Museum of American Art – 302-674-2111*

*Delaware State Museums - Old State House Museum, Johnson Victrola Museum, Archaeology Museum, Museum of Small Town Life, State Museums Visitors Center) – 302-739-4266*

*Delaware Public Archives - 302-744-5000*

*Legislative Hall - 302-744-4114*

## **Community Involvement Advisory Council to Meet Aug. 24**

The Community Involvement Advisory Council will meet 9:30 a.m. Tuesday, Aug. 24 at the Appoquinimink State Service Center, 120 Silver Lake Road, Middletown, Del.

Agenda items include guest speaker Dr. Leroy Hathcock, Epidemiologist, Division of Public Health; a Community Ombudsman Report and the Community Environmental Project Fund.

The Community Involvement Advisory Council (CIAC) was established by Senate Bill 33 as a permanent council serving in an advisory capacity to the Secretary of DNREC. Sometimes known as the community-right-to-know legislation, SB 33 was signed into law by Governor Ruth Ann Minner in July 2001. The legislation charged the CIAC to deal with interactions between the Department and local communities. The Community Ombudsman position was also authorized by the same legislation.

*For further information, contact Karen Garrison, Office of the Secretary, 302-739-4403.*

## **Dove Hunting Season Opens Sept. 1**

The Division of Fish and Wildlife is changing the official opening date of dove hunting season to Sept. 1 beginning this year.

Dove season had traditionally opened on the first Saturday in September for many years. The change to an opening date of Sept. 1, regardless of the day of the week, was initiated by hunter request and endorsed by the Advisory Council on Wildlife and Freshwater Fish.

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This year, similar to previous years, dove season will have three splits and run from Sept. 1-18, 2004; Oct. 18-30, 2004; and Dec. 6, 2004-Jan. 13, 2005.

For more information about the dove hunting seasons or managed dove fields on State wildlife areas, contact the Wildlife Section at 302-739-5297 or the Division's web page at [www.dnrec.state.de.us/fw](http://www.dnrec.state.de.us/fw).

## **Division of Fish and Wildlife Establishes New Deer Season Dates**

The Division of Fish and Wildlife has added eight days of firearm deer hunting and one day of muzzleloader hunting this year. The firearms dates are Oct. 1, 2, 18, 22, 23, 25, 29, 39 and will be for antlerless deer only. Shotgun or muzzleloader can be used during these dates.

One day of muzzleloader hunting, Oct. 8, had also been added to the week long October muzzleloader season.

Deer hunting days are being added in an attempt to harvest more does to maintain a healthy stable deer population in balance with existing habitat.

All State wildlife areas will be open for the new days except for the Augustine, Assawoman, Cedar Swamp, Woodland Beach and Ted Harvey areas. These areas will continue to offer archery only hunting during the new firearm seasons.

The Department held three public workshops in May and June and a public hearing in June before implementing the new deer hunting season.

*For more information about the new deer season dates, contact the Wildlife Section at (302) 739-5297 or Ken Reynolds, 302-653-2883.*

## **New Deer Management Practices In Place on Cedar Swamp and Woodland Beach State Wildlife Areas**

The Cedar Swamp and Woodland Beach State Wildlife Areas are now Quality Deer Management Areas. All deer hunters (except hunters under 17 years of age and non-ambulatory hunters) hunting these areas shall not take an antlered deer with a minimum outside antler spread of less than 15 inches at any time. Only bucks that qualify for the existing Quality Buck Tag are now legal. Antlerless deer can still be legally harvested.

Quality Deer Management is a management philosophy/practice that typically involves the protection of young bucks (yearlings and some 2 1/2 year-olds) combined with an adequate harvest of female deer to maintain a healthy population in balance with the existing habitat conditions. This level of deer management involves the production of quality deer (bucks, does, and fawns), quality habitat, and quality hunting experiences.

According to Ken Reynolds, Division of Fish and Wildlife, "When judging size in the field, remember the guideline that you can't shoot a buck in a Quality Deer Management area unless it has an outside antler spread that is wider than its ears (at least 15 inches). If the outside spread doesn't extend beyond its ears, let it walk."

Hunters under age 17 and non-ambulatory hunters are exempt from the 15-inch minimum outside spread but must abide by all other area and statewide regulations.

*For additional information about these new management practices and any other management practices on wildlife areas call the appropriate office, Cedar Swamp, 302-834-8433, Woodland Beach, 302-284-9417, or Dover, 302-739-5297.*

## **Public Hearing on Proposed Revisions to Septic Regulations Set for Sept. 13 in Dover**

The Division of Water Resources of the Department of Natural Resources and Environmental Control will hold a public hearing on proposed revisions to the regulations governing on-site wastewater treatment and disposal (septic) systems from 6 to 9 p.m. Monday, Sept. 13 in Downs Lecture Hall, Delaware Technical and Community College, Terry Campus, Dover, Del.

Proposed changes include:

- Creation of a Class H System Inspector License as required under HB 150;
- A revamped procedural process for subdivision feasibility studies and determination of the required system size (large system versus individual on-site systems);
- Updating and/or correction of certain exhibits and deletion of redundant sections.

Public workshops were held in each county during development of the proposed revisions prior to a final workshop held June 21 in Dover this year. The Division also held several community meetings on the regulations.

Electronic or hard copy versions of the proposed revised regulations may be obtained or reviewed at the Division's Ground Water Discharges Section offices at 89 Kings Highway in Dover or in Georgetown at 422 North DuPont Highway, Suite 1.

Comments can be presented at the hearing or submitted prior to the day of the hearing to: Dave Schepens or Jack Hayes, Ground Water Discharges Section, 89 Kings Highway, Dover, DE 19901.

*For more information or questions regarding the hearing, contact Dave Schepens or Jack Hayes, 302-739-4762.*

## **Eastern Equine Encephalitis Found in Mosquito Control's Sentinel Chickens Monitored for Mosquito-Borne Diseases**

The first 2004 finding of eastern equine encephalitis (EEE) virus in Delaware was found Aug. 3 in blood samples of sentinel chickens monitored for mosquito-borne diseases. The finding is part of a statewide surveillance program conducted by the Department of Natural Resources and Environmental Control's (DNREC) Mosquito Control Section.

The test results, provided by the Delaware Division of Public Health Laboratory, came from a sentinel chicken sampled on July 26 from a cage in Blackbird State Forest in southwestern New Castle County. This EEE finding joins with the July 19 finding of West Nile virus in sentinel chickens caged in the Great Cypress Swamp in south-central Sussex County.

According to William Meredith, Mosquito Control Section administrator, the appearance of EEE is cause for concern, but not alarm. "These results show that mosquito-borne viruses are again active in Delaware this year," Meredith said. In response, Meredith said workers will set additional mosquito sampling traps in the Blackbird vicinity. They will continue to monitor mosquito populations, track virus activity and take appropriate control actions, such as fogging and spraying. Meredith advises Delawareans to help by emptying water-filled containers around homes and businesses.

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“People and horses could become ill with EEE when infected salt marsh or fresh floodwater mosquitoes bite them,” Meredith said. “These are different species than the common house mosquito and its brackish marsh cousin that transmit West Nile.”

According to Paul Silverman of Delaware’s Division of Public Health, symptoms of EEE range from mild headache and mild flu-like illness to encephalitis (inflammation of the brain), coma and death. People with severe early symptoms should see their physician immediately since EEE can permanently damage the nervous system. Because of EEE’s high death rate, it is regarded as one of the more serious mosquito-borne diseases in the United States. However, EEE does not occur in humans as often as West Nile virus. Delaware has not had a confirmed human case of EEE since 1979. There is no human vaccine for EEE.

Dr. Wesley Towers, state veterinarian, urges horse owners to contact their veterinarian if they suspect a horse has EEE or West Nile virus. Symptoms in horses include listlessness, muscle spasms in the head and neck, and hind-limb weakness. Equine vaccines for both viruses are available through veterinarians.

Since both EEE and West Nile virus have been found in Delaware this year, it is important that Delawareans take precautions to prevent mosquito bites. Limit outdoor activities when mosquitoes are active, such as at dusk. Purchase repellent containing less than 50 percent DEET for adults and less than 30 percent DEET for children, and apply it carefully to skin and clothing. When outside, wear protective clothing such as shoes, long-sleeved shirts, and pants. Use mosquito netting on infant carriages, strollers and playpens. Keep windows and doors closed or use screens.

DNREC encourages the public to report dead crows, blue jays, hawks or owls to call the Mosquito Control Section, Monday through Friday from 8 a.m. to 4 p.m. at these numbers:

New Castle County (302) 836-2555

Kent or Sussex County (302) 422-1512

For human health questions about West Nile Virus, call DPH at 1-888-295-5156.

For questions about mosquito biology and control, call DNREC at (302) 739-3493.

For questions about West Nile in animals, call DDA at (800) 282-8685 and ask for poultry-animal health.

Delawareans handling dead birds should wear gloves to avoid direct skin contact.

*For further information, contact William Meredith, Division of Fish and Wildlife, 302-739-3493, or Melinda Carl, Public Affairs, 302-739-4506.*

## Regulatory Update

### Recently Adopted Regulations and Regulations Under Appeal

**99-12: Triennial Review of the Delaware Surface Water Quality Standards (as amended Feb. 26, 1993).** This review meets requirements of the federal Clean Water Act with the adoption of revised standards. Contact Dave Wolanski - 739-4590. **Effective date – July 11, 2004**

**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 changes the reportable quantity for the flammable substance hydrogen, clarifies flammable reportable quantities and corrects several technical mistakes in the list of substances. Contact Jay Brabson, 323-4542. **Effective date – July 11, 2004**

**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 modifies DEDO's existing regulations to reflect movement of the Energy Office and the program, and amends the regulations for consistency with provisions in Senate Bill 93 and amendments in Senate Bill 145. Contact Charlie Smisson Jr., 739-1530. **Effective date – July 11, 2004**

**2002-16: 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. **Effective date – June 11, 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 changes the mid-course review due date to Dec. 31, 2004 and allows inclusion of the NOx Transport SIP Call implementation (a significant part of the overall attainment strategy) in the analysis and puts 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. **Effective date – June 11, 2004**

**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. **Effective date – June 11, 2004**

**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**

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:**

2004-05: **Amendments to Delaware Regulations Governing Solid Waste.** This action would update and enhance various sections of the regulations and help improve understanding and implementation of the solid waste requirements. Contact Karen J'Anthony, 739-3689

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

**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

**Public hearing – Sept. 13, 2004**

**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

**2003-10: 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

**2003-03: 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

**2002-08: 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

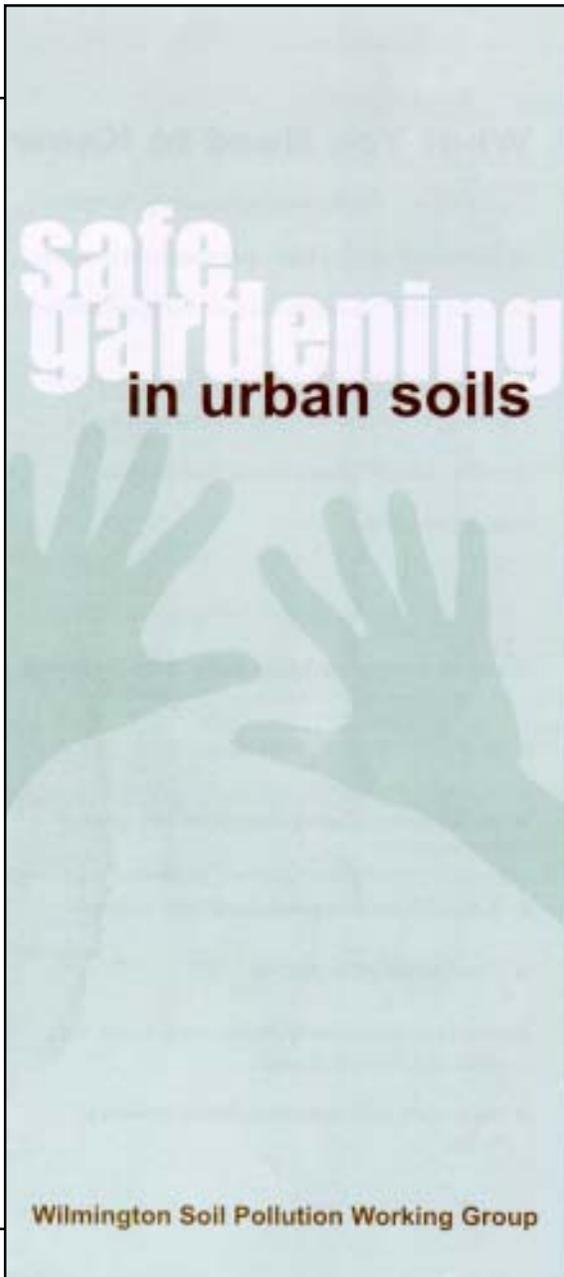
**2002-07: Pollution Control Strategy (PCS) for implementing nutrient load reductions set by the TMDL for the Nanticoke River, Broad Creek and their tributaries.** The PCS will cover activities in the entire watershed. This regulation will establish actions to achieve the maximum nutrient loading and 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

**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



### **Garden Safely in Urban Soils**

The Soil Pollution Working Group, a collaborative group concerned about residents' health and outdoor activities, has developed and published a brochure for safe gardening in urban soils.

Information on safe gardening in urban soils is targeted to residents living in or around areas with historic industrial pollution. These areas may be contaminated with chemicals that are left in the soil from leather factories, pressure treated wood, waste dumping, lead paint, leaded gasoline and other sources.

Soil contamination continues to happen when people dump trash, oil, paints, chemicals and pesticides on the ground, or when old lead paint peels fall onto the soil.

For additional information on how to prevent pollution in urban soils, or to request a brochure, contact the Soil Pollution Working Group by calling the Delaware Center for Horticulture, Jonathan Lukens, (302) 658-6262, ext. 35.

## Hurricane Preparedness

It's that time of year when tropical storms develop. As they intensify, some turn into hurricanes that can wreak havoc along coastal shores as well as inland. The key to survival, according to the Delaware Emergency Management Agency, is advanced preparation. Keep basic supplies handy, not only for a hurricane, but for all emergencies as well.

- Emergency light sources, like flashlights (one per person), extra batteries and bulbs, along with a portable radio and batteries are extremely important.
- Create a first aid kit containing Band-Aids, aspirins, gauze pads and related supplies. Also, store all necessary medications that must be taken regularly in this kit.
- Have plenty of baby supplies on hand for infants, including food, canned milk or formula, disposable diapers and other necessities.
- Store food that does not need to be refrigerated or cooked, such as canned meats, vegetables, fruits, juices, etc. Store enough supplies to last for several days.
- Most importantly – Have a supply of stored water, for both drinking and for sanitation purposes. Store water in plastic jugs or covered containers. Plan on using one gallon per day per person for drinking and personal hygiene.
- Plan your escape route early. Consider the travel time for you to evacuate to a safe area during peak evacuation traffic.
- If you live near the seashore, plan to evacuate early. If you live in a mobile home, always plan to relocate.

A complete inventory of personal property will help in obtaining insurance settlements and/or tax deductions for losses. Inventory checklists can be obtained from your insurance representative. Don't trust your memory. List descriptions and take pictures. Store these and other important insurance papers in waterproof containers or in a safety deposit box.

Review your insurance policies and your coverage to avoid misunderstandings later. Take advantage of flood insurance. Separate policies are needed for protection against wind and flood damage, which people frequently don't realize until it is too late.

## **Yard Waste Piling Up? Compost it!**

- Select a flat, well-drained spot that gets full sun. Try to build the pile in the middle of the garden.
- Construct a compost bin out of scrap lumber, bricks, concrete blocks, or wire. Make sure the bin has openings to let air penetrate the pile.
- Feed the pile, mixing coarse and fine materials in 6- to 8-inch layers. The bottom layer should contain twigs, chopped cornstalks, or other coarse material. Next, add a layer high in nitrogen such as grass clippings or manure. Top with soil and repeat the process. Sprinkle the pile with water.
- Mix the layers well and shape so the center is lower than the sides to help water flow into the pile. Turn the pile once a month and remoisten the material as you turn it.
- Plant material should decompose into compost within five months in warm weather, longer under cool/dry conditions. Spread compost in the garden and till it under to benefit soil and plants.

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