

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Section 103 (7 Del.C. §103)
7 DE Admin. Code 3304

PROPOSED

REGISTER NOTICE SAN #2009-29

1. Title of the Regulations:

Amend Non-tidal Finfish Regulation No. 3304, Creel Limits and Seasons.

2. Brief Synopsis of the Subject, Substance and Issues:

The Department promulgated these specialized largemouth bass size regulations in May 1990 to address an unbalanced bass population within three state-managed impoundments. The specialized regulations were designed to allow harvest of smaller bass in order to allow better growth of the remaining larger fish. However, the high incidence of catch and release fishing by Delaware anglers did not affect the hoped-for result. The regulations have occasionally had a negative effect on scheduled fishing tournaments in these ponds by not allowing the weigh-in of bass within the protected slot-size. Recent surveys of the bass populations have shown a more normal size distribution and the special regulations are no longer necessary. Therefore the Division has no reason to maintain these specialized size regulations.

3. Possible Terms of the Agency Action:

These changes would go into effect February, 2010 and remain in effect indefinitely unless changed.

4. Statutory Basis or Legal Authority to Act:

7 Delaware Code; Chapter 1, §103; Chapter 11 §1104.

5. Other Regulations That May Be Affected By The Proposal:

This would eliminate under 3304 subsection 2.3 Andrews Lake 2.3.1 and 2.3.2 and subsection 2.4 Derby Pond and Hearn's Pond 2.4.1 and 2.4.2. No other regulations are affected.

6. Notice of Public Comment:

Individuals may address questions to the Fisheries Section, Division of Fish and Wildlife, 89 Kings Highway, Dover, DE 19901 or phone (302)-739-9914. A public hearing on these proposed regulations will be held in the Department of Natural Resources and Environmental Control auditorium at 5:00 PM on Tuesday, December 29, 2009. Individuals may present their opinions and evidence either at the hearing or in writing to Lisa Vest, Hearing Officer, DNREC, 89 Kings Highway, Dover, DE 19901, or via email to Lisa.Vest@state.de.us. The hearing record will remain open for written or email comments until 4:30 PM December 31, 2009.

7. Prepared By:

Craig A. Shirey Phone # 302-739-9914 November 13, 2009

3304 Creel Limits and Seasons

(Penalty Section 7 Del.C. §1304)

1.0 Closed Seasons.

- 1.1** Unless otherwise provided by law or regulation of the Department, there shall be no closed season, size limits or possession limits on any species of fish taken by hook and line in any non-tidal waters of this State.

2.0 Bass.

2.1 Statewide limits.

- 2.1.1 It shall be unlawful for any person to have in possession more than six (6) largemouth and/or smallmouth bass at or between the place where said largemouth and/or smallmouth bass were caught and said person's personal abode or temporary or transient place of lodging.
- 2.1.2 Unless otherwise authorized in this regulation, it shall be unlawful for any person to possess any largemouth bass that measure less than twelve (12) inches in total length. Any largemouth bass taken which is less than the twelve (12) inches in total length shall be immediately returned to the water with the least possible injury.
- 2.1.3 It shall be unlawful for any person to possess any smallmouth bass measuring from twelve (12) inches to and including (17) inches in total length. Any smallmouth bass taken which is greater than twelve (12) inches and less than seventeen (17) inches shall be immediately returned to the water with the least possible injury.
- 2.1.4 Notwithstanding 2.1.1 of this section, it shall be unlawful for any person to have in possession more than one (1) smallmouth bass measuring more than seventeen (17) inches in total length at or between the place where said smallmouth bass was caught and said person's personal abode or temporary or transient place of lodging.
- 2.1.5 It shall be lawful for any person to have in possession while fishing up to six (6) smallmouth bass that are less than twelve (12) inches in total length.

2.2 Becks Pond.

- 2.2. Notwithstanding 2.1.1 of this section, it shall be unlawful for any person to have in possession while fishing on Becks Pond more than two (2) largemouth bass.
- 2.2.2 Notwithstanding 2.1.2 of this section, it shall be unlawful for any person to have in possession while fishing on Becks Pond any largemouth bass less than fifteen (15) inches in total length. Any largemouth bass less than fifteen (15) inches in total length shall be immediately returned to Becks Pond with the least possible injury.

~~2.3 Andrews Lake.~~

- ~~2.3.1 Notwithstanding 2.1.1 of this section, it shall be unlawful for any person to have in possession while fishing on Andrews Lake more than one (1) largemouth bass of the six (6) allowed in possession to be larger than fifteen (15) inches in total length. Largemouth bass measuring less than twelve (12) inches may be taken and possessed within the six (6) allowed in possession while fishing on Andrews Lake.~~
- ~~2.3.2 Notwithstanding 2.1.2 of this section, it shall be unlawful for any person to have in possession while fishing on Andrews Lake any largemouth bass measuring from twelve (12) inches to and including fifteen (15) inches in total length.~~

2.4 Derby Pond and Hearn's Pond.

- 2.4.1 Notwithstanding 2.1 of this section, it shall be unlawful for any person to have in possession while fishing on Derby Pond or Hearn's Pond more than one (1) largemouth bass of the six (6) allowed in possession to be larger than eighteen (18) inches. Largemouth bass measuring less than fifteen (15) inches may be taken and retained up to the legal possession limit while fishing on Derby Pond or Hearn's Pond.
- 2.4.2 Notwithstanding the provisions of 2.1.2 of this section, it shall be unlawful for any person to have in possession while fishing on Derby Pond or Hearn's Pond any largemouth bass measuring from fifteen (15) inches to and including eighteen (18) inches in total length.

2.53 Trout.

- 2.53.1 Season. It shall be unlawful for any person to fish for rainbow, brown and/or brook trout in designated trout streams, except between and including the first Saturday of April and the second Saturday of March of each succeeding year.
- 2.53.2 Hours of Fishing. It shall be unlawful for any person to fish for rainbow, brown and/or brook trout in designated trout streams on the opening day of the trout season before 7:30 a.m.

and thereafter for the remainder of the trout season between one-half hour after sunset and one-half hour before sunrise.

2.53.3 Possession. It shall be unlawful for any person to catch and/or have in his or her possession in any one day during the prescribed open season more than six (6) rainbow, brown and/or brook trout. On any day after a person takes his or her legal limit of trout, said person shall be prohibited from fishing in a designated trout stream on the same day, unless otherwise authorized by law or this regulation.

2.53.4 Trout Stamp. It shall be unlawful for any person to fish in a designated trout stream on or before the first Saturday in April and June 30, of the same year, and on or before the first Saturday in October and November 30, of the same year, unless said person has in his or her possession a valid trout stamp, or, unless said person is exempted by law from having a trout stamp.

2.53.5 Restricted Trout Stream.

2.53.5.1 It shall be unlawful for any person to fish in a restricted trout stream with more than two (2) flies on a line at any one time.

2.53.5.2 It shall be unlawful for any person to use any metallic, wooden, plastic or rubber spinners, spoons, lures, plugs and/or natural bait on any restricted trout stream.

2.53.5.3 It shall be unlawful for any person to have in his or her possession more than four (4) trout within 50 feet of any restricted trout stream. On the restricted trout stream only, trout may be caught and released as long as the four (4) trout possession limit is not exceeded. All trout released must be returned to the water as quickly as possible with the least possible injury.

2.53.6 Closure of Trout Stream. It shall be unlawful for any person to fish in a designated trout stream within two weeks (14 days) of a scheduled opening of the trout season.

2.64 Striped Bass (hybrids)

2.64.1 It shall be unlawful for any person to have in his or her possession while fishing in the non-tidal waters of this State more than two (2) striped bass (*Morone saxatilis*) and/or striped bass hybrids (*Morone saxatilis crysops*) or any striped bass or striped bass hybrid under the length of fifteen (15) inches measured from the tip of the snout to the tip of the tail.

2.75 Panfish Limits.

2.75.1 It shall be unlawful for any person to have in possession while fishing in any State-owned non-tidal water more than fifty (50) panfish in aggregate to include bluegill, pumpkinseed, redear sunfish, black crappie, white crappie, white perch or yellow perch, provided no more than twenty-five (25) of the fifty (50) allowed in possession are of any one species.

3 DE Reg. 289 (8/1/99)

3 DE Reg. 1738 (6/1/00)

13 DE Reg. 813 (12/01/09) (Prop.)