

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Section 103(a) & (b) (7 Del.C. §103(a) & (b))
7 DE Admin. Code 3301

PROPOSED

REGISTER NOTICE

SAN# 2019-09

Hearing Docket No.: 2019 -R-F-0031

3300 Non-Tidal Finfish 3301 Definitions

1. TITLE OF THE REGULATIONS:

Amend 7 DE Admin. Code 3300 Non-Tidal Finfish - 3301 Definitions.

2. BRIEF SYNOPSIS OF THE SUBJECT, SUBSTANCE, AND ISSUES:

The Department provides a put-and-take freshwater trout fishery each spring in select piedmont streams of New Castle County. Appropriate waters for stocking freshwater trout are limited due to restricted public access and trout habitat requirements. Development, property rights and population growth have reduced public access on some of Delaware's Designated Trout Streams, while freshwater trout angling has remained a seasonally popular activity. The acquisition of property along Pike Creek by Delaware State Parks (White Clay Creek State Park - Judge Morris Estate) provides an opportunity to expand Delaware's trout stocking sites and increase public access to Pike Creek's freshwater trout fishery.

The amendment proposed by this action will extend the defined Designated Trout Waters on Pike Creek downstream approximately 0.9 miles to the bridge at Route 2 (Kirkwood Highway). This will accommodate freshwater trout stocking and improve angler access to the put-and-take freshwater trout fishery on Pike Creek. Waters defined as a Designated Trout Stream are closed to all fishing 14 days before the trout season's opening day to provide for stocking, fish acclimation and dispersion and to provide fair access through an established starting time and date. Unless lawfully exempt, a trout stamp is required to fish a Designated Trout Stream from the first Saturday in April through June 30 and from the first Saturday in October through November 30 (\$2.10 resident youth / \$4.20 resident adult / \$6.20 non-resident). Trout stamp revenues support the purchase of trout in subsequent years. Delaware's Advisory Council on Wildlife and Freshwater Fish endorsed this proposed action.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

N/A

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

7 Del.C. §103 (a & b)

5. OTHER REGULATIONS THAT MAY BE AFFECTED BY THE PROPOSAL:

N/A

6. NOTICE OF PUBLIC COMMENT:

The hearing record on the proposed changes to 7 DE Admin. Code 3300 Non-Tidal Finfish - 3301 Definitions opens January 1, 2020 (Hearing Docket No.: 2019 -R-F-0031). A public hearing on the proposed amendment will be held on Wednesday, January 29, 2020 beginning at 6:00 PM in the DNREC Auditorium, located at the Richardson & Robbins Building, 89 Kings Highway, Dover, DE 19901. Individuals may submit written comments regarding the proposed changes via e-mail to DNRECHearingComments@delaware.gov, or via USPS to the DNREC Hearing Officer, 89 Kings Highway, Dover, DE 19901. Public comments will be received until close of business Thursday, February 13, 2020.

7. PREPARED BY:

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3300 Non-Tidal Finfish

1.0 For purposes of Regulations 3301 through 3311, the following words and terms shall have the following meaning, unless the context clearly indicates otherwise:

“Administered by the Division” means owned, leased or licensed by the Division.

“Bait” means any nontoxic food material, compound or mixture of ingredients which wildlife is able to consume.

“Baited Field” means include any farm field, woodland, marsh, water body or other tract of land where minerals, grain, fruit, crop or other nontoxic compounds have been placed to attract wildlife to be hunted.

“Designated Trout Pond” means:

Newton Pond in Sussex county (near Greenwood);

Tidbury Pond in Kent County.

“Designated Trout Stream” means:

“Beaver Run”, from the boundary line between this State and the Commonwealth of Pennsylvania to the Brandywine River;

“Christina Creek”, from the boundary line between this State and the State of Maryland through Rittenhouse Park;

“Mill Creek”, from Brackenville Road to Route 7;

“Pike Creek”, from Route 72 to the bridge at ~~Pike Creek Road~~ Route 2 (Kirkwood Highway);

“Red Clay Creek”, from the dam just below the boundary between the State of Delaware and the Commonwealth of Pennsylvania to the bridge at Yorklyn Road;

“White Clay Creek”, from the boundary line between this State and the Commonwealth of Pennsylvania to the downstream side of Paper Mill Road; and

“Wilson Run”, from Route 92 through Brandywine Creek State Park; ~~and.~~

“Director” means the Director or Acting Director of the Division.

“Division” means the Division of Fish and Wildlife of the Department.

“Established road” means a road maintained for vehicular use by the Division and designated for such use by the Division on current wildlife area maps.

“Fishing” or **“to fish”** means to take, catch, kill or reduce to possession or attempt to take, catch, kill or reduce to possession any fish by any means whatsoever.

“Game fish” means smallmouth bass, largemouth bass, black or white crappie, rock bass, white bass, walleye, northern pike, chain pickerel, muskellunge (or hybrids), salmon, trout, sunfishes and white bass/striped bass hybrids.

“Possession” means either actual or constructive possession of or any control over the object referred to.

“Refuge” means an area of land, whether in public or private ownership, designated by the Department as a refuge. Land shall only be designated with the permission of the landowner and if such designation is thought to be in the best interest of the conservation of wildlife. Refuges shall normally be closed at all times to all forms of hunting, except as permitted by the Director in writing for wildlife management purposes.

“Restricted Trout Stream” means the White Clay Creek from a point 25 yards above Thompson Bridge at Chambers Rock Road to the boundary line between this State and the Commonwealth of Pennsylvania.

“Roadway” means any road, lane or street, including associated right-of-ways, maintained by this State or any political subdivision of this State.

“Season” means that period of time during which a designated species of wildlife may be lawfully hunted or a designated species of fish may be lawfully fished.

“Vehicle” means in or by which someone travels or something is carried or conveyed or a means of conveyance or transport, whether or not propelled by its own power.

3 DE Reg. 289 (08/01/99)

3 DE Reg. 1738 (06/01/00)

16 DE Reg. 788 (01/01/13)

21 DE Reg. 886 (05/01/18)

22 DE Reg. 776 (03/01/19)

23 DE Reg. 543 (01/01/20) (Prop.)