

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF FISH AND WILDLIFE

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

PROPOSED

REGISTER NOTICE

SAN #2017-16

3300 Non-Tidal Finfish 3301 Definitions

1. TITLE OF THE REGULATIONS:

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

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

To expand recreational freshwater trout angling opportunities, this action proposes to amend Delaware's non-tidal finfish regulation (7 **DE Admin Code** 3301 (1.0)) by defining that portion of 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 as a designated trout stream. Trout stream stocking provides an important recreational fishing opportunity in a densely populated area of the State, which has few other freshwater fishing opportunities. Red Clay Creek was formerly included as a designated trout stream, but fish tissue contamination resulting from industrial discharges precluded stocking since 1986. Research trout stockings conducted in Red Clay Creek by the Department in 2011 and 2016 demonstrated that trout once again can be safely stocked and consumed as a result of improving water quality.

Waters designated as trout streams are closed to all fishing 14 days prior to the first Saturday in April to provide for stocking time and fair access and to deter poaching. Such designation also requires an annual trout stamp (\$2.10 resident youth/ \$4.20 resident adult/ \$6.20 non-resident) to fish from the first Saturday in April through June 30 and the first Saturday in October through November 30. No environmental impact is expected as the result of the proposed amendment. The proposed amendment will increase angling opportunities for Delaware's trout anglers and it is anticipated that the return of trout fishing to Red Clay Creek will better distribute trout angling pressure.

3. POSSIBLE TERMS OF THE AGENCY ACTION:

None

4. STATUTORY BASIS OR LEGAL AUTHORITY TO ACT:

7 **Del.C.** §103(b)

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

None

6. NOTICE OF PUBLIC COMMENT:

The hearing record on the proposed changes to 7 **DE Admin. Code** 3301 Definitions will open February 1, 2018. Individuals may submit written comments regarding the proposed changes via e-mail to Lisa.Vest@state.de.us or via the USPS to Lisa Vest, Hearing Officer, DNREC, 89 Kings Highway, Dover, DE 19901 (302) 739-9042. A public hearing on the proposed amendment will be held on February 22, 2018 beginning at 6:00 PM in the DNREC Auditorium, located at the Richardson & Robbins Building, 89 Kings Highway, Dover, DE 19901. Public comments will be received until close of business Friday, March 9, 2018.

7. PREPARED BY:

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3300 Non-Tidal Finfish

3301 Definitions

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 Henderson Road;

"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;

"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. 613 (02/01/18) (Prop.)