

Secretary's Order No.: **2007-F-0028**

RE: Proposed Amendments to the State of Delaware  
Regulation No. 3901: Definitions (2007)

Date of Issuance: August 15, 2007

Effective Date of the Amendment: September 11, 2007

**I. Background:**

A public hearing was held on Tuesday, July 31, 2007, at 6:00 p.m. at the DNREC Richardson & Robbins Building Auditorium to receive comment on proposed amendments to the existing Delaware Wildlife Regulation No. 3901: Definitions (2007). This proposed action is needed to define the term "black powder" as it pertains to muzzle-loading rifles, and to provide clarity with regard to what the Division views as an acceptable propellant for muzzleloaders in Delaware, while providing options to hunters regarding this issue. Furthermore, this action is needed to create a definition for the term "deer", so that hunters will be allowed to legally harvest sika deer and white-tailed deer during any and all of the established deer hunting seasons.

Numerous members of the public attended this hearing on July 31, 2007, however, no public comment or questions were received by the Department regarding this proposed action. Proper notice of the hearing was provided as required by law.

**II. Findings:**

The Department has carefully considered all relevant public input regarding its proposed regulation, and has provided a reasoned analysis and a sound conclusion with regard to the response given to each such comment, as reflected in the Hearing Officer's Report of August 13, 2007, which is attached and expressly incorporated into this Order. Moreover, the following findings and conclusions are entered at this time:

1. Proper notice of the hearing was provided as required by law.
2. The Department has jurisdiction under its statutory authority to make a determination in this proceeding;
3. The Department provided adequate public notice of the proceeding and the public hearing in a manner required by the law and regulations;
4. The Department held a public hearing in a manner required by the law and regulations;
5. The Department considered all timely and relevant public comments in making its determination;

6. Promulgation of these proposed amendments would provide better understanding to the regulated community with regard to the actual defining of “black powder” and “deer” for Delaware hunters;
7. Promulgation of these proposed amendments would also provide additional means by which to discourage the growing population of sika deer, thus effectuating a reduction in potential human/sika deer conflicts, the potential for disease transmission, and competition with white-tailed deer and other native wildlife;
8. The Department has reviewed this proposed amendment in the light of the Regulatory Flexibility Act, and believes the same to be lawful, feasible and desirable, and that the recommendations as proposed should be applicable to all Delaware citizens equally;
9. The Department’s proposed amendments to Regulation 3901 are adequately supported, not arbitrary or capricious, and are consistent with the applicable laws and regulations. Consequently, it should be approved as a final regulation, which shall go into effect ten days after its publication in the next available issue of the *Delaware Register of Regulations*; and that

10. The Department has an adequate record for its decision, and no further public hearing is appropriate or necessary.

**III. Order:**

Based on the record developed, as reviewed in the Hearing Officer's Report dated August 13, 2007, and expressly incorporated herein, it is hereby ordered that the proposed amendments to State of Delaware Regulation No. 3901 be promulgated in final form in the customary manner and established rule-making procedure required by law.

**IV. Reasons:**

The promulgation of the Division of Fish and Wildlife Regulation No. 3901, will aide the Department in its ability to provide better clarity to Delaware hunters with regard to the formal definitions of "black powder" and "deer". Additionally, this rulemaking represents careful, deliberate and reasoned action by this agency to discourage the growing population of sika deer while simultaneously reducing the potential for disease transmission and competition with native white-tailed deer and other native wildlife. Furthermore, it takes steps to further reduce potential human/sika deer conflicts as well.

In developing this regulation, the Department has balanced the absolute environmental need for the State of Delaware to promulgate regulations concerning this matter with the important interests and

public concerns surrounding the same, in furtherance of the policy and purposes of 7 Del. C., Ch. 60.

/s/ John A. Hughes  
John A. Hughes  
Secretary