

**DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL
DIVISION OF FISH & WILDLIFE
Statutory Authority: 7 Delaware Code,
Section 103(a)(1) and (b),
(7 Del.C. 103(a)(1) and (b))**

**Secretary's Order No.: 2004-F-0038
Date of Issuance: July 14, 2004
Effective Date of the Amendment: August 11, 2004**

**Wildlife and Non-Tidal Fishing Regulations – 4.0 Seasons (Formerly WR4) and 7.0 Deer
(Formerly WR-7)**

FINAL

I. Background

On Wednesday, June 30, 2004 a public hearing was held in the DNREC Auditorium in Dover to receive comment on proposed amendments to the Delaware Wildlife and Non-Tidal Fishing Regulations – 4.0 Seasons (Formerly WR4) and 7.0 Deer (Formerly WR-7). Prior to the hearing, public workshops concerning these proposed changes were held by the Department on May 20th, May 27th, and again on June 2nd. Public comments were received on the Department's proposed changes during the pre-hearing, hearing and post-hearing phases of this rulemaking procedure, and this public input was incorporated into the formal record generated as a result of the same. No subsequent changes and/or additions were made to these proposed amendments as a result of the aforementioned public comments. Proper notice of the hearing was provided as required by law.

After the hearing, the Department performed an evaluation of the evidence entered into the record in this matter. Thereafter, the Hearing Officer prepared her report and recommendation in the form of a Hearing Officer's Report to the Secretary dated July 12, 2004, and that memorandum is expressly incorporated herein by reference.

II. Findings and Conclusions

All of the findings and conclusions contained in the Hearing Officer's Memorandum dated July 12, 2004, are expressly incorporated herein and explicitly adopted as the findings and conclusions of the Secretary.

III. Order

In view of the above, I hereby order that the proposed amendments to the Delaware Wildlife and Non-Tidal Fishing Regulations, 4.0 Seasons (Formerly WR4) and 7.0 Deer (Formerly WR-7), be promulgated and implemented in the manner and form provided for by law pursuant to the changes proposed during this rulemaking process and as recommended in the Hearing Officer's Report.

IV. Reasons

Adopting the proposed amendments to the Delaware Wildlife and Non-Tidal Fishing Regulations, 4.0 Seasons (Formerly WR4) and 7.0 Deer (Formerly WR-7), will be beneficial to the State of Delaware, in that these amendments will add consistency and/or clarification to the existing regulations. Additionally, some of these amendments will enable the State of Delaware to improve and/or enhance the overall performance of Delaware's deer management program. Furthermore, the adoption of these amendments will permit the State of Delaware to further the purposes of Title 7, Delaware Code, Chapter 7.

John A. Hughes, Secretary

4.0 Seasons (Formerly WR-4)

(Penalty Section 7 Del.C. 1304)

4.1 Season Dates. Hunting and trapping season dates will be published each year in an annual publication

entitled "Delaware Hunting and Trapping Guide."

4.2 General. It shall be unlawful for any person to hunt those species of wildlife for which a season is designated at any time other than during that season.

4.3 Protected Wildlife.

4.3.1 Unless otherwise provided by law or regulation of the Department, it shall be unlawful for any person to hunt any species of protected wildlife.

4.3.2 It shall be unlawful for any person to sell, transport or possess any species of protected wildlife, except when:

4.3.2.1 Otherwise provided by law or regulation of the Department; or

4.3.2.2 The wildlife was lawfully taken outside of this State in accordance with the laws or regulations of the state or nation where the wildlife was taken.

4.4 Beaver.

4.4.1 Unless otherwise provided by law or regulation of the Department, it shall be unlawful for any person to hunt or trap beaver during any period of the year, however, from December 1 through March 20, landowners (or their agents) may take up to eight beavers from their property without a permit, provided the beavers are causing crop or property damage.

4.4.2 Beaver hides and the meat of lawfully taken beaver harvested anywhere within or outside of Delaware may be sold.

4.5 Bullfrogs.

4.5.1 Season. Bullfrogs may be hunted in accordance with the statutes and regulations of the State of Delaware governing the hunting of bullfrogs: from May 1 through September 30.

4.5.2 Limit. It shall be unlawful for any person to take more than twenty-four (24) bullfrogs in any one day.

4.5.3 License. A hunting or fishing license is required to take bullfrogs.

4.6 Crows.

It shall be unlawful for any person to hunt common crows during any period of the year, except Thursdays, Fridays and Saturdays between and including the fourth Thursday of June and the last Saturday of March, unless said person holds a valid depredation permit. The hunting of common crows is restricted only by the provisions of federal regulations pertaining to the taking of common crows. Crows may be taken without a permit when committing damage or about to commit damage.

4.7 Gray Squirrel.

4.7.1 Season. Gray squirrel may be hunted in accordance with the statutes and regulations of the State of Delaware governing the hunting of gray squirrel: from September 15 (September 14, if September 15 is a Sunday) through the first Saturday in November; and from the Monday that immediately precedes Thanksgiving through the day that precedes the January shotgun deer season. Squirrel hunting shall be unlawful during any period and in any area when it is lawful to hunt deer with a firearm. Notwithstanding the foregoing, when squirrel season overlaps with an October firearms deer season, squirrel may be hunted when hunter orange is displayed in accordance with §718 of Title 7.

4.7.2 Limit. It shall be unlawful for any person to take more than four gray squirrels in any one day.

4.8 Opossum.

The opossum may only be hunted or trapped during the lawful season to hunt or trap raccoons.

4.9 Pheasant.

4.9.1 Season. Male pheasant may be hunted in accordance with the statutes and regulations of the State of Delaware governing the hunting of pheasant: from the Monday that immediately precedes Thanksgiving through the day that precedes the January shotgun deer season, except that no pheasant hunting shall be lawful during any period when it is lawful to hunt deer with a firearm. Notwithstanding the foregoing, pheasant may be hunted during the December firearm deer season when hunter orange is displayed in accordance with § 718 of Title 7.

4.9.2 Female Pheasant. It shall be unlawful for any person to hunt or possess any female pheasant at any time, except as permitted on game preserves, by licensed game breeders or as otherwise permitted by law.

4.9.3 Male Pheasant Limit. It shall be unlawful for any person to hunt or possess more than two (2) male pheasants in any one day during the pheasant season, except as permitted by law.

4.9.4 Scientific or Propagating Purposes. It shall be unlawful for any person to possess pheasants for scientific and propagating purposes without a valid permit from the Director.

4.9.5 Game Preserves. Nothing in this regulation shall be construed so as to limit the number or sex of

pheasants that may be harvested by any one person on licensed game preserves.

4.10 Quail.

4.10.1 Season. Bobwhite quail may be hunted in accordance with the statutes and regulations of the State of Delaware governing the hunting of bobwhite quail: from the Monday that immediately precedes Thanksgiving through the first Saturday of February, except that no quail hunting shall be lawful during any period when it is lawful to hunt deer with a firearm. Notwithstanding the foregoing, quail may be hunted during the December or January firearm deer seasons when hunter orange is displayed in accordance with § 718 of Title 7.

4.10.2 Limit. It shall be unlawful for any person to take more than six (6) quail in any one day.

4.11 Rabbit.

4.11.1 Season. Rabbits may be hunted in accordance with the statutes and regulations of the State of Delaware governing the hunting of rabbits: from the Monday that immediately precedes Thanksgiving through the first Saturday in February, except that no rabbit hunting shall be lawful during any period when it is lawful to hunt deer with a firearm. Notwithstanding the foregoing, rabbit may be hunted during the December or January firearm deer seasons when hunter orange is displayed in accordance with § 718 of Title 7.

4.11.2 Limit. It shall be unlawful for any person to take more than four (4) rabbits in any one day.

4.12 Raccoon.

4.12.1 Trapping Season. Raccoon may be trapped in accordance with the statutes and regulations of the State of Delaware governing the trapping of raccoon: from December 1 through March 10 (March 20 on embanked meadows) in New Castle County; and from December 15 through March 15 in Kent and Sussex counties. The season is open throughout the year on private land, except on Sundays, in eastern New Castle and Kent counties pursuant to § 786 of Title 7 and Section 4(b) of WR-2.

4.12.2 Hunting Season. Raccoon may be hunted in accordance with the statutes and regulations of the State of Delaware governing the hunting of raccoon: from September 1 (September 2, if September 1 is a Sunday) through October 31 for chase only whereby it shall be unlawful to kill raccoon and opossum; from November 1 through the last day of February; and from March 1 through March 31 for chase only whereby it shall be unlawful to kill raccoon and opossum. The season is open throughout the year on private land in eastern New Castle and Kent counties, except on Sundays, pursuant to § 786 of Title 7.

4.12.3 Notwithstanding subsection 4.3.2 of this section, it shall be unlawful for any person to hunt raccoon or opossum during any period when it is lawful to hunt deer with a firearm, except that it shall be lawful to hunt raccoon from 7:00 p.m. until midnight during the December and January firearm deer seasons.

4.13 Red Fox.

Red fox may be hunted in accordance with the statutes and regulations of the State of Delaware governing the hunting of red fox: from October 1 through April 30 for chase only whereby it shall be unlawful to kill red fox, except no red fox hunting shall be lawful during any period when it is lawful to hunt deer with a firearm. Notwithstanding the foregoing, red foxes may be killed in accordance with Section 8 of WR-2 and § 788 of Title 7.

4.14 Ruffed Grouse.

It shall be unlawful for any person to hunt for ruffed grouse during any period of the year.

4.15 Snapping Turtles.

4.15.1 Season. It shall be unlawful for any person to hunt for snapping turtles during any period of the year, except between and including June 15 and May 15.

4.15.2 Size. It shall be unlawful for any person to sell, offer for sale or kill any snapping turtle with a carapace length of less than eight inches, measured on the curvature.

4.16 Terrapin.

4.16.1 Season. It shall be unlawful for any person to hunt for diamondback terrapin during any period of the year, except between and including September 1 and November 15.

4.16.2 Limit. It shall be unlawful for any person to take more than four (4) diamondback terrapin in any one day.

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

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

6 DE Reg. 536 (10/1/02)

7.0 Deer (Formerly WR-7)

(Penalty Section 7 Del.C. 1304)

7.1 Limit.

7.1.1 Unless otherwise provided by law or regulation of the Department, it shall be unlawful for any person to:

7.1.1.1 Kill or take or attempt to kill or take more than ~~two~~ four antlerless deer in any license year;

7.1.1.2 Kill or take ~~two~~ four antlerless deer in any license year without at least ~~one~~ two of the ~~two~~ four deer being ~~an antlerless female~~ female deer; or

7.1.1.3 Possess or transport any deer that was unlawfully killed.

7.1.1.4 Kill any antlered deer without first purchasing a Delaware Resident Hunter's Choice Deer Tag or a Delaware Non Resident Antlered Deer Tag, except that persons exempt from purchasing a hunting license shall be entitled to take one Hunter's Choice deer at no cost.

7.1.2 For the purposes of this section, a person "driving deer" and not in possession of any weapon or firearm shall not be treated as if they are hunting deer, provided they are assisting lawful hunters.

7.1.3 It shall be unlawful for any person to purchase, sell, expose for sale, transport or possess with the intent to sell, any deer or any part of such deer at any time, except that hides from deer lawfully killed and checked may be sold when tagged with a non-transferable tag issued by the Division. Said tag must remain attached to the hide until it leaves the State or is commercially processed into leather. This subsection shall not apply to venison approved for sale by the United States Department of Agriculture and imported into Delaware.

7.1.4 Notwithstanding subsection 7.1 of this section, a person may purchase ~~an~~ Antlerless Deer Tag Tags for \$10 each to kill or take ~~an~~ additional antlerless deer during the open season. ~~, provided:~~

7.1.4.1 ~~The tag is valid for the season in which it is used; and~~

7.1.4.2 ~~The tag is valid in the deer management zone from which the deer is taken.~~ Hunters may take additional antlerless deer on Antlerless Deer Damage Tags at no cost.

7.1.5 Notwithstanding subsection 7.1.1 of this section, a person may use one Quality Buck tag to take an antlered deer with a minimum outside antler spread of fifteen inches, provided the tag is valid for the season in which it is used. Hunters exempt from the requirement to purchase a hunting license must purchase a Quality Buck tag in order to take a second antlered deer in any one license year.

7.2 Tagging and Designated Checking Stations.

7.2.1 Attaching Tags. – Each licensed person who hunts and kills a deer shall, immediately after the killing and before removing the deer from the location of the killing, attach an approved tag to the deer. An approved tag shall mean an Antlerless Deer Tag or Doe Tag received with the hunting license, a Delaware Resident Quality Buck Deer Tag, a Delaware Resident Hunter's Choice Deer Tag, a Delaware Non Resident Quality Buck Deer Tag, a Delaware Non Resident Antlered Deer Tag, an Antlerless Deer Damage Tag, ~~a Sportsmen Against Hunger tag~~ or an Antlerless Tag purchased in addition to the hunting license tags. ~~a tag detached from a Delaware hunting license.~~ Any unlicensed person not required to secure a license shall make and attach a tag to the deer that contains the person's name, address and reason for not having a valid Delaware hunting license.

7.2.2 this section shall remain attached to the deer until the deer is presented to an official checking station for examination and tagging, or registered by phone or over the internet, as prescribed by subsection 7.1.3 of this section.

7.2.3 Checking Stations. – Each person who hunts and kills a deer shall, within 24 hours of killing said deer, present the deer to a checking station designated by the Division or to an authorized employee of the Division. ~~or register the deer by phone.~~ Hunters may also check deer by phone or over the internet through systems authorized by the Division.

7.2.4 Dressing. – It shall be unlawful for any person to remove from any deer any part thereof, except those internal organs known as the viscera, or cut the meat thereof into parts, until such deer has been examined by an authorized employee of the Division or a checking station, as prescribed by subsection (c) of this section or registered using the phone or internet system.

7.2.5 Receipt Tag. – The Division shall issue, at a checking station or otherwise, an official receipt tag proving the deer was examined by an authorized employee of the Division or a checking station, as prescribed by subsection (c) of this section. The receipt tag shall remain with the deer until such time as the deer is processed for consumption or prepared for mounting. Deer checked over the phone or internet will be given a registration number. These deer shall be tagged by the hunter, butcher or taxidermist with the registration number, hunter's first and last name, hunter's date of birth, and date of kill. This tag may be homemade or be one provided by the Division and must remain with the head and/or carcass until the mount is picked up from the taxidermist or the meat is processed and stored as food.

7.2.6 ~~Hunting with Tags Detached from License. It shall be unlawful for any person to hunt deer with any license that has the applicable deer tag detached from the license, even though said tag may be in the possession of the hunter. Any person with a detached deer tag may, upon application to the Division, have a duplicate license issued in order to obtain a valid deer tag.~~

7.3 Method of Take.

7.3.1 Shotgun. It shall be unlawful for any person to hunt deer during the shotgun season using a shotgun of a caliber smaller than 20 gauge, or have in his or her possession any shell loaded with shot smaller than what is commonly known as "buckshot."

7.3.2 Bow and Arrow. It shall be unlawful for any person to hunt deer during the longbow season and have in his or her possession any weapon or firearm other than a knife, a bow and sharpened broadhead arrows having minimum arrowhead width of 7/8 of an inch.

7.3.3 Muzzle-loading Pistols. A single shot muzzle-loading pistol of .42 caliber or larger using a minimum powder charge of 40 grains may be used to provide the coupe-de-grace on deer during the primitive firearm season.

7.3.4 Refuge in Water. It shall be unlawful for any person to shoot, kill or wound or attempt to shoot, kill or wound any deer that is taking refuge in or swimming through the waters of any stream, pond, lake or tidal waters.

7.3.5 Dogs. It shall be unlawful for any person to make use of a dog for hunting during the shotgun or muzzleloader seasons for deer (in each county), except as permitted in the hunting of migratory waterfowl from an established blind or for hunting dove, quail, raccoon or rabbit on properties closed to deer hunting with firearms during December and January.

7.4 Illegal Hunting Methods; Baiting.

It shall be unlawful for any person to set, lay or use any trap, snare, net, or pitfall or make use of any artificial light, or other contrivance or device, for the purpose of hunting deer. This subsection does not preclude the use of bait for the purpose of attracting deer in order to hunt them on private land.

7.5 Seasons.

7.5.1 Shotgun Seasons. Deer may be hunted with shotgun in accordance with the statutes and regulations of the State of Delaware governing the hunting of deer: from the Friday in November that precedes Thanksgiving by thirteen (13) days through the second Saturday succeeding said Friday; and from the Saturday that precedes the third Monday in January through the following Saturday in January.

7.5.2 Archery Seasons. Deer may be hunted with longbow in accordance with statutes and regulations of the State of Delaware governing the hunting of deer: from September 1 (September 2, if September 1 is a Sunday) through the last day of January, provided hunter orange is displayed in accordance with § 718 of Title 7 when it also lawful to hunt deer with a firearm.

7.5.3 Muzzleloader Seasons. – Deer may be hunted with muzzle-loading rifles in accordance with the statutes and regulations of the State of Delaware governing the hunting of deer: from the ~~Saturday~~ Friday that precedes the second Monday in October through the ~~next second~~ second Saturday that succeeds the Friday opening day; and from the Monday that follows the close of the January shotgun season through the next Saturday.

7.5.4 Special Antlerless Seasons. – Antlerless deer may be hunted with a shotgun in accordance with the statutes and regulations of the State of Delaware governing the hunting of deer during all Fridays, Saturdays and Mondays in October except for during the October Muzzleloader season and the last Monday prior to the opening Friday of the October Muzzleloader season. Notwithstanding the foregoing, antlered deer may be taken with archery equipment that is legal during this October shotgun season. Antlerless deer may be hunted with shotgun in accordance with the statutes and regulations of the State of Delaware governing the hunting of deer: from the second Saturday in December through the third Saturday in December.

7.5.5 Crossbow Seasons. Crossbows may be used in lieu of shotguns during that part of the November shotgun season that runs from Monday through Saturday of each year and in any shotgun or muzzleloader deer season open in December or January.

7.5.6 Special Shotgun Season for Young and Disabled Hunters. Deer may be hunted on the first Saturday of November by disabled (non-ambulatory) hunters using a wheelchair for mobility, and hunters 12 years of age or older but less than 16 years of age (12 to 15 inclusive) who have completed an approved course in hunter training. Young hunters must be accompanied by a licensed non-hunting adult who is 21 years of age or older. Young hunters must be of sufficient size, physical strength and emotional maturity to safely handle a shotgun.

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

6 DE Reg. 536 (10/1/02)

8 DE Reg. 355 (8/1/04)