DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Sections 102 and 103 (7 **Del.C.** §§102 & §103)
7 **DE Admin. Code** 3900

FINAL

3900 Wildlife

Secretary's Order No.: 2013-F-0057
RE:Approving Final Regulations to Amend 7 DE Admin. Code 3900,
***Delaware Regulations Governing Wildlife*: Sections 1.0 (Definitions); Sections 2.0 (Method of Take);**
4.0 (Seasons); 7.0 (Deer); and 23.0 (Non-Native/Invasive Wildlife)

Date of Issuance: December 17, 2013
Effective Date of the Amendment: January 11, 2014

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC") the following findings, reasons and conclusions are entered as an Order of the Secretary in the above-referenced rulemaking proceeding.

Background and Procedural History

This Order considers proposed revised regulations to amend 7 **DE Admin. Code** 3900, *Delaware Regulations Governing Wildlife*. The Department's Division of Fish and Wildlife commenced the regulatory development process with Start Action Notice 2013-21. The Department published its initial proposed regulation Amendments in the August 1, 2013 *Delaware Register of Regulations*, and held a public hearing on September 4, 2013.

The Department proposed its initial amendments to 7 **DE Admin. Code** 3900, *Delaware Regulations Governing Wildlife* at the aforementioned public hearing held on September 4, 2013, to wit: Section 1.0 (Definitions); Section 2.0 (Method of Take); 4.0 (Seasons); 7.0 (Deer); and 23.0 (Non-Native/Invasive Wildlife) to enable DNREC to (1) create a definition for the terms "Cable Restraint", "Foothold Trap", "Jaw Spread", and "Waterline"; (2) require written permission before trapping on private or public property; (3) make it unlawful to set traps near exposed meat to prevent capture of raptors; (4) make it unlawful to tend or disturb another person's traps without their permission; (5) prohibit the use of toothed or serrated jawed foothold traps; (6) define the types and sizes of foothold traps permitted to be set both above and below the waterline; (7) allow the use of foot encapsulating traps; (8) require identification tags on all trap types; (9) set a maximum height in which cable restraints may be set above the ground; (10) establish a fox trapping season; (11) authorize a new method in which hunters can validate a harvested deer; (12) make it unlawful to possess a live coyote or nutria without a permit, establish hunting and trapping seasons for coyotes, and establish a trapping season for nutria; (13) require reporting of harvested coyotes and nutria; (14) make it unlawful to release swine into the wild, require individuals to notify the State if swine escape and cannot be recaptured, and make it illegal to kill feral swine unless authorized by the Division; and (15) make it illegal to recreationally hunt feral swine or charge a fee to hunt feral swine.

The Department has the statutory basis and legal authority to act with regard to the proposed amendments to 7 **DE Admin. Code** 3900, *Delaware Regulations Governing Wildlife*, pursuant to 7 **Del.C.** §§102-103, 7 **Del.C.** §§801-802, and 7 **Del.C.,** Chapter 60. A voluminous amount of public comment was received by the Department regarding this proposed promulgation, and the same was thoroughly addressed and responded to by the Division of Fish & Wildlife in its formal Technical Response Memorandum dated December 3, 2013. Proper notice of the hearing was provided as required by law. The Department's presiding hearing officer, Lisa A. Vest, prepared a Hearing Officer's Report, dated December 10, 2013 ("Report"), which recommends certain findings and the adoption of the proposed *revised* Amendments, as attached to the Report as Appendix A.

Findings and Discussion

The Delaware Division of Fish and Wildlife (Division) is charged by law with the protection, management and conservation of all forms of protected wildlife within the State for all the constituents of Delaware. In July 2012, the General Assembly passed legislation establishing a new Subchapter VIII of Delaware's wildlife code, authorizing the Department to designate and manage non-native wildlife species. 7 **Del.C.** §801 authorizes the Division to establish rules and regulations associated with the management of non-native wildlife species, such as coyotes, nutria and feral hogs. In response to the passage of this statute, the Division has developed a set of proposed regulations amending 7 **DE Admin. Code** 3900, *Delaware Regulations Governing Wildlife*, to address the management of these non-native species. In order to properly

manage several of these species, namely, coyotes and nutria, the existing trapping regulations also needed to be revised to accommodate the different trapping techniques and tools used for these species. In doing so, the Division also revised other aspects of the trapping regulations in order to address issues identified by the public as improvements in the science of furbearer management. Additionally, in an effort to add efficiency to the ongoing regulatory process, the Division also included in this proposed regulation package a proposed deer tagging change that it had been considering for some time.

Of note is the fact that 7 **Del.C.** §802 authorizes the Department to issue a Secretary's Order specifying the times and means for which person(s) can take, harvest or capture non-native wildlife species that have the potential to become, as determined by the Department upon appropriate evaluation or investigation, seriously injurious to native wildlife or their habitat or to agriculture, domestic animals, property, or human health or safety. Although this Secretary's Order is not part of this present regulation package, it should be noted that the same is being developed in parallel with the proposed non-native species regulations since it is designed to address aspects of non-native species control beyond those being appropriately considered within the proposed regulation package.

Throughout the regulatory development process regarding this particular promulgation, the Department received a voluminous amount of public comment, as noted in the Report. After the hearing record closed with respect to public comment on September 19, 2013, an exhaustive review of the same was undertaken by the Department's Division of Fish & Wildlife. This comprehensive review subsequently yielded a formal Technical Response Memorandum, dated December 3, 2013, which the Hearing Officer then expressly incorporated into her Report.

The aforementioned Technical Response Memorandum encompassed the full spectrum of comment contained in the record concerning this matter. Each comment was meticulously organized and grouped according its subject matter, followed by a thorough and rational discussion of the issue based upon the record developed in this promulgation. Following the discussion of each subject matter, the Division of Fish & Wildlife offered its recommendation as to what the position of the Department should be with respect to each issue. In most instances, the Division believed that no changes to the Department's proposed amendments were warranted. There were, however, four specific instances which, in light of the meritorious comment received, the Division has proposed to revise from its initial proposed amendments, in order to provide additional clarity with regard to the original intent of the proposed amendments and improve upon their intent, as well as to accommodate other meritorious suggested changes. It is the Division's position that these proposed *revisions* to the Department's amendments to 7 **DE Admin. Code** 3900 are not substantive in nature, and thus no additional vetting of the proposed regulatory amendments is necessary at this time.

The proposed *revisions* to the Department's initial proposed regulation amendments are as follows:

(1) **Coyote Hunting Season** -- The Division received numerous comments that the initial proposed coyote hunting season of November 1 through the last day of February should be extended to a longer time period. The Division recognizes the recreational opportunities and benefits of a longer hunting season within our existing hunting season framework, and is proposing the following modification to 23.1.1.3 Non-Native Wildlife to extend the coyote hunting season by an additional two months, as follows:

23.1.1.3 Hunting Season. Coyotes may be hunted and harvested from **September 1** through the last day of February.

(2) **Relaxing lock definition** -- The Division received numerous comments suggesting a definition was needed for a "relaxing lock" in associated with the use of cable restraints. The Division agrees a definition within the regulation itself will provide clarity on the use of these trapping devices, and is therefore proposing the following definition be added to 1.0 Definitions:

"**Relaxing Lock**" shall mean a device installed on a cable restraint that allows the loop to release constriction pressure on the captured animal when the cable is not taut and the animal stops pulling.

(3) **Use of exposed meat as bait in box traps** -- The Division's initial proposed regulations would establish that it shall be unlawful to bait a trap with meat or animal product visible from above and within 10 feet of a trap in an effort to minimize the chance of capturing raptors or vultures that can be inadvertently captured when they attempt to consume the bait. This regulation was directed towards foothold traps and cable restraints and several commenters asked if this prohibition of exposed bait near a trap would apply to box traps. Because the capture of raptors or vultures within a box trap is very unlikely, and because the intent of the regulation was for foothold traps and cable restraints, the Division is proposing the following modification to 2.1.10 Method of Take to provide clarity on its intent:

2.1.10 It shall be unlawful to bait a trap with meat or animal products**, except box/cage traps,** if the bait is visible from above and within 10 feet of the trap. The use of animal fur or feathers without any attached animal tissues is not restricted.

(4) **Use of laminated jawed traps** -- The Division's initial proposed regulations would establish that all foothold traps set above the waterline must be have padded or offset jaws, in an effort to improve capture effectiveness and efficiency and reduce animal injury. Several commenters asked if laminated jaw traps would be permitted, as they function similarly to padded jaw traps by increasing the surface area of the trap jaw on a trapped animal's foot, thereby improving capture effectiveness and efficiency while reducing animal injury. Because the use of laminated jaw traps would be consistent with the intent of the regulation (increased capture efficiency and humanness), the Division is proposing the following modification to 2.4.1 Foothold Traps to include laminated jaws as an acceptable foothold above the waterline:

2.4.1 Notwithstanding statutes § 703 and 788 of Title 7, It shall be unlawful for any person to set a leghold foothold trap at any time in this State, except from December 1 through March 10 (March 20 on embanked meadows) in New Castle County and December 15 through March 15 in Kent and Sussex counties. The use of toothed or serrated jawed traps is prohibited. All foothold traps set above the waterline must have padded**, laminated** or offset jaws, with the exception being that coil-spring traps with a jaw spread of 4 inches or less and long-spring traps with a jaw spread of 4 ½ inches or less do not need to be padded**, laminated** or have offset jaws.

I find that the Department's experts in the Division of Fish and Wildlife fully developed the record to support adoption of these *revised* Amendments. I find that the *revised* proposed Amendments are well-supported by the record developed by the Department, and I adopt the Report to the extent it is consistent with this Order. I also find that the proposed *revisions* to the Department's amendments to 7 **DE Admin. Code** 3900 are not substantive in nature, and thus no additional vetting of these proposed regulatory amendments is necessary at this time.

With the adoption of this Order, Delaware will be enabled to properly address the management of non-native wildlife species such as coyotes, nutria, and feral swine. The revisions to existing trapping regulations will accommodate the different trapping techniques and tools used for management of these non-native species. Again, additional revisions to various aspects of Delaware's trapping regulations have also been made at this time to address issues identified by the public as improvements in the science of furbearer management. Lastly, revisions to Delaware's existing deer tagging procedure (which had been under consideration for some time) were also included in this present promulgation, and thus the adoption of this Order will aid in the Department's ongoing initiative to increase its efficiency agency wide.

In conclusion, the following findings and conclusions are entered:

1.) The Department has jurisdiction under its statutory authority to issue an Order adopting these *revised* proposed Amendments as final;

2.) The Department provided adequate public notice of the proposed Amendments, and provided the public with an adequate opportunity to comment on the same, including at the public hearing held on September 4, 2013;

3.) The Department held a public hearing on September 4, 2013 in order to consider public comment before making any final decision;

4.) The Department's Hearing Officer's Report, including its recommended record and the recommended *revised* Amendments as set forth in Appendix A, and the Technical Response Memorandum as set forth in Appendix B, are adopted to provide additional reasons and findings for this Order;

5.) The recommended *revised* Amendments should be adopted as final regulation Amendments because Delaware will be able to (1) properly address the management of non-native wildlife species such as coyotes, nutria, and feral swine; (2) accommodate the different trapping techniques and tools used for management of these non-native species; (3) address issues identified by the public as improvements in the science of furbearer management; (4) promulgate revisions to Delaware's existing deer tagging procedure (which had been under consideration for some time); (5) further the Department's ongoing initiative to increase its regulatory efficiency agency wide; and, lastly, because (6) the *revised* amendments are well supported by documents in the record;

6.) The Department shall submit this Order approving the final regulation to the *Delaware Register of Regulations* for publication in its next available issue, and provide such other notice as the law and regulation require and the Department determines is appropriate.

Collin P. O'Mara, Secretary

3900 Wildlife

1.0 Definitions

For purposes of Regulations 1.0 through 2~~2~~3.0, the following words and phrases shall have the meaning ascribed to them, unless the context clearly indicates otherwise:

"Administered by the Division" shall mean owned, leased or licensed by the Division.

"Antlered Deer" shall mean any deer with one or more antlers three inches long or longer, measured from the base of the antler where it joins the skull to the tip of the antler following any curve of the antler.

"Antlerless Deer" shall mean any deer that has no antlers or antlers less than three inches in length.

"Bait" shall mean any nontoxic food material, compound or mixture of ingredients which wildlife is able to consume.

"Baited Field" shall 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.

"Black Powder" shall mean a manufacturer's approved muzzleloading propellant.

"Cable Restraint" formerly referred to as "**snare**", shall be considered a trapping device made of stranded steel cable with a minimum diameter of 5/64 inches. Cable restraints must be equipped with a relaxing-type lock. The cable may not exceed 7 feet in length from the anchor point to the relaxing lock and must be equipped with at least one swivel device, which allows for 360° rotation, between the loop and the anchor. The cable restraint must have stops affixed to the cable to ensure that the cable that makes up the loop may not have a circumference greater than 38 inches when fully open, or a circumference less than 6 ¼ inches when fully closed. Cable restraints with a maximum loop circumference of 12 ½ inches do not require cable stops. Cable restraints must be maintained in good condition so that all components operate properly.

"Deer" shall mean white-tailed deer (*Odocoileus virginianus*) and/or Sika deer (*Cervus nippon*).

"Director" shall mean the Director or Acting Director of the Division.

"Division" shall mean the Division of Fish and Wildlife of the Department.

"Established Blind" shall mean a structure or pit constructed for the purpose of hunting migratory waterfowl by a landowner on his or her property or by another person with the permission of the landowner or the landowner's duly authorized agent.

"Established Road" shall mean a road maintained for vehicular use by the Division and designated for such use by the Division on current wildlife area maps.

"**Foothold Trap**" formerly referred to as "**leghold trap**", shall refer to a type of trap with a mechanism that is designed to catch and hold a mammal by one of its feet or legs.

"**Jaw Spread**" shall mean the distance between the inside of both jaws, when measured across the trap jaws on a line perpendicular to a line drawn through the jaw pivot points when the trap is in the set position.

"Liberated Game" shall mean cottontail rabbits and game birds, including bobwhite quail, mallard duck, chukar and pheasant released pursuant to § 568 of Title 7.

"Loaded Muzzle-Loading Rifle" shall mean the powder and ball, bullet or shot is loaded in the bore. A muzzle-loading rifle shall not be considered loaded if the cap, primer, or priming powder (in a flintlock) is removed and:

The striking mechanism used to ignite the cap, primer or priming powder is removed or rendered inoperable; or

The rifle is enclosed in a case.

"Lure" shall mean any mixture of ingredients, element or compound that attract wildlife, but the wildlife is unlikely to consume.

"Longbow" shall mean a straight limb, reflex, recurve or compound bow. All crossbows or variations thereof and mechanical holding and releasing devices are expressly excluded from the definition.

"Nongame Wildlife" shall mean any native wildlife, including rare and endangered species, which are not commonly trapped, killed, captured or consumed, either for sport or profit.

"Possession" shall mean either actual or constructive possession of or any control over the object referred to.

"Quality Buck" shall mean an antlered deer with an outside antler spread of at least 15 inches. This measurement is taken across the outside of the main beams at their widest point; this measurement's path must be perpendicular to the center line of the skull and parallel to the top of the skull plate.

"Refuge" shall mean 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.

["Relaxing Lock" shall mean a device installed on a cable restraint that allows the loop to release constriction pressure on the captured animal when the cable is not taut and the animal stops pulling.]

"Roadway" shall mean any road, lane or street, including associated right-of-ways, maintained by this State or any political subdivision of this State.

"Season" shall mean 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" shall include any 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.

"**Waterline**" shall refer to beneath the surface of the water or below the mean high tide line in an area ordinarily subject to the rise and fall of the tide.

"Wildlife" shall mean any member of the animal kingdom, including without limitation, any amphibian, arthropod, bird, mammal or reptile.

3 DE Reg. 289 (8/1/99)
3 DE Reg. 1738 (6/1/00)
11 DE Reg. 334 (09/01/07)
14 DE Reg. 52 (07/01/10)
15 DE Reg. 1505 (04/01/12)

2.0 Method of Take

(Penalty Section 7 **Del.C.** §103(d)**)**

2.1 General.

Unless otherwise provided by law or regulation of the Department, it shall be unlawful to hunt any protected wildlife with any weapon or firearm other than a longbow or shotgun (10 gauge or smaller), except that:

2.1.1 Crossbows may be used during all deer seasons;

2.1.2 A muzzle-loading rifle with a barrel length of at least twenty inches and loaded with black powder may be used to hunt deer during muzzleloader and shotgun deer seasons;

2.1.3 A .22 caliber rimfire pistol may be used to hunt raccoons and opossums and to take wildlife lawfully confined in a trap;

2.1.4 A hook, spear or gig may be used to take frogs; and

2.1.5 Snapping turtles may be taken by hand or by using a spear, gig, fyke net or turtle trap. Turtle traps can have only one throat or funneling device.

2.1.6 A single shot ~~an~~ antique or authentic reproduction black powder Sharps rifle of 45 to 60 caliber shall be lawful for use during shotgun deer seasons using paper patched bullets.

2.1.7 No person shall place in the field any set or unset equipment associated with the trapping of game animals until the opening day of any state approved trapping season.

2.1.8 Any person who sets or makes use of any trap, ~~snare~~ cable restraint or other approved wildlife capture device during any lawful trapping season, shall remove all trapping equipment by the last day of the approved trapping season.

2.1.9 It shall be unlawful to set a trap on public or private property without first acquiring written permission from the landowner or managing agency and having said permission in possession while tending traps.

2.1.10 It shall be unlawful to bait a trap with meat or animal products**[, except box/cage traps,]** if the bait is visible from above and within 10 feet of the trap. The use of animal fur or feathers without any attached animal tissue is not restricted.

2.1.11 Without first acquiring specific advance permission, it shall be unlawful for any person other than the rightful owner of a trap, to move, take, or damage any trap, or take, or attempt to take, wildlife from any trap.

2.2 Archery and Crossbow.

2.2.1 General. No person shall use or have in his or her possession, while hunting, any: poison arrow, arrow with and explosive tip, or any longbow with a minimum pull less than 35 pounds.

2.2.2 Crossbows used for deer hunting must have a minimum pull weight of 125 pounds, be manufactured after 1980, and have a mechanical safety. Crossbows may be equipped with a scope.

2.2.2.1 It shall be unlawful to transport a crossbow on or within any vehicle while the crossbow is in the cocked position.

2.3 Hunting from Boats.

2.3.1 Distance from Blinds. During the season for the hunting of migratory waterfowl, it shall be unlawful for any person to hunt from a boat of any kind that is within 1500 feet of an established blind, except that:

2.3.1.1 Any person may use a boat to tend lawfully set traps for fur-bearing wildlife;

2.3.1.2 Any person may retrieve crippled waterfowl by the use of a boat in accordance with federal regulations;

2.3.1.3 Any person may use a boat for transportation to and from an established blind lawfully used by such person;

2.3.1.4 Any person may hunt from a boat that is firmly secured and enclosed in an established blind.

2.3.2 Notwithstanding the provisions of subsection 2.~~2~~3.1 of this section, any person may hunt migratory waterfowl within 1500 feet of an established blind, from a boat, with permission of the blind owner.

2.3.3 Gunning Rigs.

2.3.3.1 During the season for hunting migratory waterfowl, it shall be unlawful for any person to hunt within 900 feet of the shoreline (high tide line) of the Delaware River and Bay, between the Appoquinimink River and the Smyrna River, without written permission of the closest adjoining landowner(s).

2.3.3.2 During the season for hunting migratory waterfowl, it shall be unlawful for any person to hunt within 1500 feet of the shoreline (high tide line) of the Delaware River and Bay, between the Smyrna River and the Murderkill River, without written permission of the closest adjoining landowner(s).

2.3.4 Tender Boats. It shall be unlawful for tender boats servicing gunning (layout) rigs to be further than 1500 feet from the rig or to conduct any activity, except to pick up downed birds or service the rig.

2.3.5 During the season for hunting migratory waterfowl, it shall be unlawful for any person to hunt from a boat, or a floating or fixed blind in the Little River in areas bounded on both sides by land administered by the Division, except as permitted in writing by the Director.

2.4 ~~Leghold~~ Foothold Traps.

2.4.1 Notwithstanding statutes § 703 and 788 of Title 7, ~~I~~it shall be unlawful for any person to set a ~~leghold~~ foothold trap at any time in this State, except from December 1 through March ~~10~~ 20 ~~(March 20 on embanked meadows) in New Castle County and December 15 through March 15 in Kent and Sussex counties~~. The use of toothed or serrated jawed traps is prohibited. All foothold traps set above the waterline must have padded**[, laminated]** or offset jaws, with the exception being that coil-spring traps with a jaw spread of 4 inches or less and long-spring traps with a jaw spread of 4 ½ inches or less do not need to be padded**[, laminated]** or have offset jaws.

2.4.2 ~~Notwithstanding subsection 2.4.1 of this section, it shall be lawful to trap raccoons with leghold traps in New Castle County or Kent County from the southerly boundary of New Castle County Route 380 and east and southeast of the center line of U.S. Route No. 13, thence following said center line of U.S. Route No. 13 to the point where U.S. Route No. 13 forms a junction with U.S. Route No. 113 and thence along the center line of U.S. Route No. 113 to a line dividing Kent County from Sussex County during any time of the year, except on Sundays. Notwithstanding the foregoing, this subsection shall not apply to lands in Kent County lying east of the center line of Rt. 113, north of the Sussex County line and south of the St. Jones River.~~ It shall be unlawful for any person to set foothold traps with a jaw spread larger than 6 ½ inches above the waterline. The jaw spread of traps set below the waterline shall not exceed 7 ¾ inches.

~~2.4.3 It shall be unlawful for any person to set long-spring traps, "Stop-Loss" traps or jump traps larger than No. 1½ or coil-spring traps larger than No. 1 in any location, except:~~

~~2.4.3.1 In any marsh ordinarily subject to the rise and fall of the tide;~~

~~2.4.3.2 In a diked marsh that was formerly tidal;~~

~~2.4.3.3 Below the mean high tide line in a river ordinarily subject to the rise and fall of the tide;~~

~~2.4.3.4 On an island surrounded by tidal marsh or diked marsh that was formerly tidal; or~~

~~2.3.4.5 In the areas described in subsection 2.4.2 of this section.~~

~~The term "diked marsh" shall not include millponds or any stream running into a millpond.~~

~~2.4.4 In addition to the areas listed in subsection 2.4.3 of this section, traps described in said subsection may be set for river otter and/or beavers in tax ditches, millponds and streams leading into such ponds only by underwater sets.~~

2.4.~~5~~3 It shall be unlawful for any person to set or make use of ~~long-spring traps, "Stop-Loss" traps or jump traps larger than No. 1½ or coil-spring traps larger than No. 1~~ any foothold, except coil-spring traps with a jaw spread of 4 inches or less and long-spring traps with a jaw spread of 4 ½ inches or less, without first permanently attaching a metallic tag on each trap, bearing:

2.4.~~5~~3.1 The words "Trapping License, Delaware", the number of the trapping license issued to the owner of the traps and the year of issuance; or

2.4.~~5~~3.2 The owner's name and address.

~~2.4.6 It shall be unlawful for any person to set a long-spring trap, "Stop-Loss" trap, jump trap No. 1½ or smaller or a coil-spring trap No. 1 or smaller in any location in this State, except in the areas described in subsections 2.4.3 and 2.4.4 of this section and in the following locations:~~

~~2.4.6.1 A ditch;~~

~~2.4.6.2 A stream; or~~

~~2.4.6.3 On land not subject to cultivation of crops due to a normally marshy condition.~~

~~2.4.7 For the purposes of subsection 2.4.6 of this section, the term "ditch" shall mean a long, narrow channel dug into the earth as a trough for drainage or irrigation of the soil that normally contains flowing water.~~

~~2.4.8 For the purposes of subsection 2.4.6 of this section, the term "normally marshy condition" shall mean land with one or more of the following associated plant groupings growing upon it: cordgrass, sedges, rushes, cattails, threesquare or phragmites.~~

2.4.~~9~~4 When information is furnished to ~~a Fish and Wildlife Agent~~ the Division from the owner, tenant or sharecropper of any land that any species of wildlife is detrimental to crops, property or other interests on land on which he or she resides or controls, upon investigation, ~~that Fish and Wildlife Agent~~ the Division may issue a permit to such person or his or her agent for the use of ~~leghold~~ foothold traps to control said species of wildlife. Said permit may be issued at any time of the year.

2.4.~~10~~5 The setting of each trap in violation of this section shall be a separate offense.

2.4.6 Foot encapsulating traps shall be considered foothold traps.

2.5 Gray Squirrel.

Hunting gray squirrels with a .17 through .22 caliber rimfire or pellet firearm with a rifled barrel, or muzzle-loading rifle not larger than .36 caliber is permitted south of the Chesapeake and Delaware Canal.

2.6 Muskrats.

It shall be unlawful for any person to shoot muskrats at any time, except with written permission of the Director.

2.7 Otters.

Each otter trapped in Delaware must be tagged by an authorized representative of the Division. Each otter sold in Delaware or shipped out of the State must be tagged in accordance with the requirements of the Convention on International Trade in Endangered Species.

2.8 Red Fox.

2.8.1 Red foxes may be killed or trapped in accordance with § 788 of Title 7 and the regulations found within this Section with the following: longbow and crossbow, shotgun, rimfire rifle or centerfire rifle up to .25 caliber, or a muzzle-loading rifle, foothold trap, cable restraint, or box trap.

2.8.2 Notwithstanding subsection 2.8.1 of this section, during any deer firearms season, it shall be unlawful to hunt red fox with any firearm that is not also legal for deer hunting.

2.8.3 Notwithstanding subsection 2.8.1 of this section, it shall be unlawful to kill a red fox that is being pursued by dogs.

2.9 Snapping Turtles

2.9.1 Turtle traps must have either an escape hole below water measuring a minimum of 7.5" in all directions or floats inserted inside the trap or attached to the trap or be set in such a way so that the trap provides sufficient breathing space for all captured turtles at all times.

2.9.2 Each trap shall be marked with a metallic tag bearing the trapper's name and address or current year's trapping license number. The tag shall be attached to the trap in a manner that allows it to remain visible, at all times.

2.9.3 All turtle traps must be lifted and emptied of catch at least once every 24 hours.

2.9.4 An annual permit must be obtained from the Division in order to trap snapping turtles. This permit is free.

2.10 Cable Restraints

2.10.1 It shall be unlawful for any person to set or make use of any cable restraint without first permanently attaching a metallic tag on each cable restraint, bearing:

2.10.1.1 The words "Trapping License, Delaware", the number of the trapping license issued to the owner of the traps and the year of issuance; or

2.10.1.2 The owner's name and address.

2.10.2 It shall be unlawful to set a cable restraint with the bottom of the loop any higher than 12 inches above the ground.

2.11 Box/Cage Traps

2.11.1 It shall be unlawful for any person to set or make use of any box/cage trap without first permanently attaching a metallic tag on each trap, bearing:

2.11.1.1 The words “Trapping License, Delaware”, the number of the trapping license issued to the owner of the traps and the year of issuance; or

2.11.1.2 The owner's name and address.

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

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

11 DE Reg. 334 (09/01/07)

14 DE Reg. 52 (07/01/10)

15 DE Reg. 1505 (04/01/12)

17 DE Reg. 238 (08/01/13)

3.0 Federal Laws and Regulations Adopted

(Penalty Section 7 **Del.C.** §103(d))

3.1 Federal Laws.

It shall be unlawful for any person to hunt, buy, sell or possess any protected wildlife or part thereof, except in such manner and numbers as may be prescribed by the following federal laws and regulations promulgated thereunder: Airborne Hunting Act (16 USC § 742j-l et seq.), Eagle Act (16 USC § 668 et seq.), Endangered Species Act (16 USC 1531 et seq.), Lacey Act (16 USC § 3371 et seq.), Marine Mammal Protection Act (16 USC § 1361 et seq.), and the Migratory Bird Treaty Act (16 USC § 703 et seq.). Notwithstanding the foregoing, the federal laws and regulations shall be superseded by more stringent restrictions prescribed by State law or regulation of the Department.

3.2 Sea Ducks.

Scoters, eiders and old squaw ducks may be taken during their special season not less than 800 yards seaward from the Delaware Bay shore beginning at an east/west line between Port Mahon and the Elbow Cross Navigation Light south to the Atlantic Ocean or in the Atlantic Ocean.

3.3 Non-toxic Shot.

3.3.1 Required Usage. Non-toxic shot, as defined by federal regulations, shall be required for hunting waterfowl, rails, snipe, and moorhens in Delaware. It shall be unlawful for any person to possess shells loaded with lead shot while hunting waterfowl, rails, snipe, and moorhens.

3.3.2 Maximum Shot Size. It shall be unlawful for any person to hunt, except for deer, in Delaware with any size non-toxic shot (as defined by federal regulations) pellet(s) larger than size T (.20 inches in diameter).

3.4 Special Mallard Release Areas.

The Division may issue permits to allow the taking of captive-reared mallards during the established waterfowl season under applicable federal regulations. Permits shall only be issued to persons who: control at least 100 acres of land on which there is suitable waterfowl habitat; agree to follow a management plan and federal regulations; and maintain a log of guests and birds harvested. Failure to follow the management plan or a violation of State or federal laws may result in the revocation of a Special Mallard Release Area Permit. Waterfowl may only be hunted on Special Mallard Release Areas from one-half hour after sunrise to one hour before sunset.

3.5 Mute Swans *(Cygnus olor)*

3.5.1 Mute swans shall be considered an exotic, invasive species that is not subject to state protection. Mute swans may only be taken during legal waterfowl hunting seasons and shooting hours. The method of take for mute swans is restricted to shotguns no larger than 10 gauge and with non-toxic ammunition no larger than size T.

3.5.2 It shall be unlawful to possess, buy, sell, barter, trade, or transfer any live mute swan or their eggs to or from another person unless permitted by the Director of the Division of Fish and Wildlife.

3.5.3 It shall be unlawful to release any mute swan into the wild.

3.6 Special Shotgun Season for Young and Disabled Hunters

3.6.1 Waterfowl may be hunted on special days established annually by the Division for disabled (non-ambulatory) hunters using a wheelchair for mobility and hunters 10 years of age or older but less than 16 years of age (10-15 years inclusive). Hunters 13-15 years of age must have completed an approved course in hunter training and possess a Delaware Resident or Non-Resident Junior Hunting License. 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)
12 DE Reg. 496 (10/01/08)
14 DE Reg. 52 (07/01/10)

4.0 Seasons

(Penalty Section 7 **Del.C.** §103(d))

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 February. Squirrel hunting shall be unlawful during the November deer firearms season. When squirrel season overlaps with a 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 six 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 first Saturday in February, provided that during a deer firearms season 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 January, provided that during a deer firearms season 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 last day of February or the last Saturday of February if February ends on a Sunday provided that during a deer firearms season 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.

4.13.1 Harvest Season. Red fox may be killed in accordance with the statutes and regulations of the State of Delaware governing the hunting of red fox: from November 1 through the last day of February, excluding Sundays. Notwithstanding the foregoing, red foxes may be killed in accordance with Section 8 of WR-2 and § 788 of Title 7.

4.13.2 Trapping Season. Red fox may be trapped with foothold, cable restraint, or cage/box traps from December 1 through March 10.

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 straight-line carapace (top shell) length of less than eleven inches, measured on the curvature. This straight-line measurement is taken from the nuchal scute directly behind the turtle's head to the base of the notch where the two most posterior scutes meet over the tail.

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.

4.17 Muskrats

4.17.1 7 Day Season Extension. The Department may extend the muskrat trapping season 7 days if the Department determines that the statewide muskrat population can sustain additional harvest and the average mean temperature for February was below 32^0F and the total February snowfall exceeded 12 inches as determined by the National Weather Service station at Wilmington, Delaware.

4.17.2 14 Day Season Extension. The Department may extend the muskrat trapping season 14 days if the Department determines that the statewide muskrat population can sustain additional harvest and the

average mean temperature for February was below 28^0F and the total February snowfall exceeded 24 inches as determined by the National Weather Service station at Wilmington, Delaware.

3 DE Reg. 289 (8/1/99)
3 DE Reg. 1738 (6/1/00)
6 DE Reg. 536 (10/1/02)
8 DE Reg. 352 (8/1/04)
11 DE Reg. 334 (09/01/07)
13 DE Reg. 941 (01/01/10)
14 DE Reg. 52 (07/01/10)
15 DE Reg. 1505 (04/01/12)

5.0 Wild Turkeys

(Penalty Section 7 **Del.C.** §103(d))

5.1 Possession of Wild Turkey Prohibited; Exceptions.

It shall be unlawful for any person, other than authorized representatives of the Division, to release or possess *Meleagris gallopavo* (wild turkey) in Delaware without a permit from the Division. The prohibition to possess and/or release *Meleagris gallopavo* shall include both birds taken from the wild and birds bred in captivity.

5.2 Instruction Requirement.

5.2.1 It shall be unlawful for any person 13 years of age or older to hunt wild turkeys in Delaware before passing a Division approved course of instruction in turkey hunting. In addition to official Delaware Division of Fish and Wildlife sponsored courses, official NRA Wild Turkey Hunting Clinics, official NWF Turkey Hunting Courses and out-of-state Turkey Hunting Courses (minimum of 4 hours) officially sponsored and sanctioned by other state or provincial Hunter Education Programs shall be recognized as being Division approved courses of instruction in turkey hunting. This includes Division approved internet courses.

5.2.1.1 Youth hunters under the age of 13 must be accompanied by an adult 21 years of age or older who has had a Division approved course of instruction in turkey hunting. The adult must have a valid hunting license or license exempt number (LEN).

5.3 Method of Take.

5.3.1 It shall be unlawful for any person to use any firearm to hunt wild turkeys, except a 10, 12, 16, or 20 gauge shotgun loaded with size 4, 5, or 6 shot or a longbow, compound bow or crossbow with a broadhead arrow, 7/8 inches in minimum width. Notwithstanding the foregoing, 7 or 7 1/2 shot may be used in shotguns if it is part of a duplex or triplex load that also contains 4, 5 or 6 shot.

5.3.2 It shall be unlawful for any person to use bait or dogs to hunt wild turkeys.

5.3.3 It shall be unlawful for any person to “drive” wild turkeys.

5.3.4 It shall be unlawful for any person to shoot any wild turkey that is in a roost tree.

5.3.5 It shall be unlawful for any person to hunt wild turkeys unless said person is wearing camouflage clothing.

5.3.6 It shall be unlawful for any person to hunt wild turkeys if said person is wearing any garment with the colors white, red, or blue.

5.3.7 It shall be unlawful for any person to hunt wild turkeys and use artificial turkey decoys of either sex that are wholly or partially made from any part of a turkey that was formerly alive.

5.3.8 It shall be unlawful for any person to hunt wild turkeys using an electronic calling device.

5.4 Season and Limit.

5.4.1 The Division may establish a season for hunting bearded wild turkeys. The Division will determine the season length and bag limit. Except for persons 12 years of age or younger, it shall be unlawful for any person to hunt wild turkey without the written authorization of the Division in their possession. Proof of course completion referenced in 5.2 of this section shall serve as written authorization for private land hunters. Public land hunters must have both an annual permit from the Division as well as proof of course completion in their possession while turkey hunting.

5.4.2 It shall be unlawful for any person to hunt wild turkeys, except from one-half hour before sunrise to 1:00 p.m.

5.4.3 It shall be unlawful for any person to not check a wild turkey at an authorized checking station by 2:30 p.m. on the day of kill.

5.4.4 It shall be unlawful for any person to take or attempt to take more than one bearded wild turkey per season.

5.5 Special Season for Young and Disabled Hunters

5.5.1 Turkeys may be hunted on private land and selected public land on the Saturday prior to the opening of the regular spring turkey hunting season by disabled (non-ambulatory) hunters using a wheelchair for mobility,

and hunters 10 years of age or older but less than 16 years of age (10-15 years inclusive). Hunters 13-15 years of age must have completed an approved course in hunter training as well as a Division approved turkey hunter safety class and possess a Delaware Resident or Non-Resident Junior Hunting License. Young hunters must be accompanied by a licensed non-hunting adult who is 21 years of age or older who has also completed a Delaware approved turkey hunter safety class. Young hunters must be of sufficient size, physical strength and emotional maturity to safely handle a shotgun.

3 DE Reg. 289 (8/1/99)
11 DE Reg. 334 (09/01/07)
12 DE Reg. 496 (10/01/08)
15 DE Reg. 1505 (04/01/12)
17 DE Reg. 238 (08/01/13)

6.0 Game Preserves

(Penalty Section 7 **Del.C.** §103(d))

It shall be unlawful for any person to hunt liberated game on licensed game preserves from April 1 through October 14.

3 DE Reg. 289 (8/1/99)
3 DE Reg. 1738 (6/1/00)

7.0 Deer

(Penalty Section 7 **Del.C.** §103(d))

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 four antlerless deer in any license year;

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

~~7.1.1.3~~ Possess or transport an antlered deer that was unlawfully killed.

7.1.1.~~4~~3 Possess or transport an antlerless deer that was unlawfully killed.

7.1.1.~~5~~4 Kill any antlered deer without first purchasing a Delaware Resident Combination Hunter's Choice Deer tag and Quality Buck Deer Tag, a Delaware Non Resident Antlered Deer Tag, or a Non-Resident Quality Buck Deer Tag except that persons exempt from purchasing a hunting license shall be entitled to take one Hunter's Choice deer at no cost.

7.1.1.~~6~~5 No hunter may harvest more than two antlered deer during a license year between July 1st. and June 30th of the next calendar year.

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. 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 7.1.1 of this section, a person may purchase Antlerless Deer Tags for $10 each to kill or take additional antlerless deer during the open season. 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~~ Deer Harvest Report Cards, and Registering Harvested Deer.

7.2.1 Attaching Tags or Punching Deer Harvest Report Cards. 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 or punch/cut the appropriate section of their approved Deer Harvest Report Card and record in ink the date of harvest on the tag or Deer Harvest Report Card. 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, or an Antlerless Tag

purchased in addition to the hunting license tags. Any unlicensed person not required to secure a license shall make and attach a tag to the deer that contains the person's name, license exempt number (LEN), address and reason for not having a valid Delaware hunting license or punch/cut the appropriate section of their Deer Harvest Report Card.

7.2.2 Retention of Tag. If required, ~~T~~the tag required by subsection 7.2.1 of this section shall remain attached to the deer until the deer is processed for consumption.

7.2.3 Registering Deer. Each person who hunts and kills a deer shall, within 24 hours of killing said deer, register their deer by phone or over the internet through systems authorized by the Division. Deer taken to a processor or taxidermist must be registered before the animal is delivered, even if this occurs within the 24-hour timeframe. After registering a deer, hunters will be given a deer registration number. This number must be recorded in ink on the approved tags or the hunter's approved Deer Harvest Report Card listed in subsection 7.2.1 of this section. It shall be unlawful to knowingly enter incorrect information when registering a deer.

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 registered using the phone or internet system authorized by the Division.

7.2.5 Deer Registration Number. The Deer Registration number provided by the automated phone/internet system 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.

7.3 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 Archery and Crossbow Seasons. It shall be unlawful for any person to hunt deer during the archery season or crossbow season and have in his or her possession any weapon or firearm other than a knife, a longbow or crossbow 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 gun.

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 Friday that precedes the second Monday in October through the 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 Season. 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. Deer may be hunted with crossbows 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 gun.

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 10 years of age or older but less than 16 years of age (10 to 15 inclusive). Hunters 13-15 years of age must have completed an approved course in hunter training and possess a Delaware Resident or Non-Resident Junior Hunting License. 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.

7.6 Carcass Importation Ban.

7.6.1 Importation. It shall be unlawful to import or possess any carcass or part of a carcass of any member of the family Cervidae (deer) originating from a state, Canadian province, country or any portion of the aforementioned jurisdictions thereof as determined by the Division, in which Chronic Wasting Disease has been found in free-ranging or captive Cervids. Notwithstanding the foregoing, the following parts may be imported into the state:

7.6.1.1 Boned-out meat that is cut and wrapped;

7.6.1.2 Quarters or other portions of meat with no part of the spinal column or skull attached;

7.6.1.3 Hides or capes with no skull attached;

7.6.1.4 Clean (no meat or tissue attached) skull plates with antlers attached;

7.6.1.5 Antlers (with no meat or tissue attached);

7.6.1.6 Upper canine teeth (buglers, whistlers, or ivories); and

7.6.1.7 Finished taxidermy products.

7.6.2 Carcass Notification. Any person who imports into Delaware any deer carcass or parts described in subsection 7.6.1 of this section and is notified that the animal has tested positive for Chronic Wasting Disease must report the test results to the department within 72 hours of receiving the notification. In order to facilitate the proper disposal of any infected material, the department may take into possession any imported carcass or carcass part of an animal if the animal has tested positive for Chronic Wasting Disease.

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

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

8 DE Reg. 352 (8/1/04)

11 DE Reg. 334 (09/01/07)

12 DE Reg. 496 (10/01/08)

14 DE Reg. 52 (07/01/10)

15 DE Reg. 1505 (04/01/12)

8.0 General Rules and Regulations Governing Land and Waters Administered by the Division

8.1 Motorized Vehicles.

8.1.1 General. It shall be unlawful for any person to drive or operate a motorized vehicle upon any lands administered by the Division, except on established roads or as otherwise authorized by the Director.

8.1.2 Noise. It shall be unlawful for any person to drive or operate a motorized vehicle upon any lands administered by the Division, unless such vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise.

8.1.3 Speed Limit. It shall be unlawful for any person to drive or operate a vehicle in excess of twenty (20) miles per hour when on lands administered by the Division, unless otherwise authorized by the Director.

8.1.4 Unlicensed Vehicles. It shall be unlawful for any person to drive or operate any motorized vehicle upon any lands administered by the Division, unless said vehicle is licensed for use upon public highways and roadways or the driver or operator of said vehicle has been issued a permit from the Division.

8.1.5 Parking.

8.1.5.1 It shall be unlawful for any person to park any vehicle on lands administered by the Division in such a manner as to obstruct the use of a boat ramp, roadway or trail. Any vehicle parked in such manner shall be subject to removal, and the owner of said vehicle shall bear all costs involved with such removal.

8.1.5.2 Unless otherwise authorized by the Director, it shall be unlawful for any person to park and leave unattended any vehicle or trailer in any Division parking lot, unless said lot is lawfully being used for direct access to lands or waters administered by the Division.

8.1.5.3 Unless otherwise authorized by the Director, it shall be unlawful for any person to leave any vehicle on lands administered by the Division for a period exceeding 24 hours.

8.2 Conditions of Use.

8.2.1 Trespass. It shall be unlawful for any person to enter upon lands or waters administered by the Division when those lands or waters have been closed by the Division to: protect public safety; protect Department property; or manage wildlife. Persons shall adhere to special entry restrictions as listed on official area maps signed by the Division Director.

8.2.2 Hours of Entry. It shall be unlawful for any person to be present upon lands or waters administered by the Division between sunset and sunrise, unless such person is lawfully hunting or fishing or has been authorized by written permission of the Director.

8.2.3 Camping. It shall be unlawful for any person to camp on lands administered by the Division, except conservation oriented groups may, with written permission of the Director, camp in areas specified in such permit.

8.2.4 Swimming. It shall be unlawful for any person to swim in waters administered by the Division, except by written permission of the Director.

8.2.5 Dumping.

8.2.5.1 It shall be unlawful for any person to place, dump, deposit, throw or leave any garbage, refuse or similar debris within or upon any lands or waters administered by the Division, except in receptacles provided for such purpose;

8.2.5.2 It shall be unlawful for any person to bring any trash, refuse or similar material onto lands administered by the Division for the purpose of disposing such in Division receptacles.

8.2.5.3 Unless otherwise authorized by the Director, it shall be unlawful for any person to deposit any material, structure, debris or other objects on lands or waters administered by the Division.

8.2.6 Destruction of State Property.

8.2.6.1 It shall be unlawful for any person to deface, damage, remove or alter any structures, buildings, natural-land features, or other property or equipment belonging to the Division.

8.2.6.2 Unless authorized by the Division for management, research or educational purposes, it shall be unlawful for any person to cut, injure or remove trees, shrubs, wildflowers, ferns, mosses or other plants from lands administered by the Division.

8.2.6.3 It shall be unlawful for any person to erect or use any portable or permanent deer stand that involves the use of nails or screws placed in a tree.

8.2.6.4 Unless otherwise authorized by the Director, it shall be unlawful for any person to kindle, build, maintain or use a fire on lands administered by the Division.

8.2.7 Collection of Wildlife.

8.2.7.1 Collection and removal of any wildlife species from a State Wildlife Area is prohibited unless otherwise provided by statute, regulation or authorized by the Division Director.

8.2.8 Fishing.

8.2.8.1 It shall be unlawful to fish in any Division managed ponds except in accordance with conditions set forth on area maps and/or signs.

8.3 Hunting and Firearms.

8.3.1 Hunting.

8.3.1.1 It shall be unlawful for any person to hunt on lands administered by the Division, except as permitted by the Director in writing and specified on current wildlife area maps distributed by the Division.

8.3.1.2 A daily permit must be obtained before hunting waterfowl at Augustine, Cedar Swamp, Little Creek, Woodland Beach, Ted Harvey, Prime Hook and Assawoman wildlife areas. Permits may be obtained on-site from an authorized agent of the Division and must be returned upon leaving the area. The Director may specify the hours of a permit's effectiveness and determine the conditions of its issuance.

8.3.2 Waterfowl.

8.3.2.1 It shall be unlawful for any person to hunt waterfowl on areas administered by the Division, except from State built blinds, or other blinds authorized by the Division, or by written permission of the Director.

8.3.2.2 It shall be unlawful for any person to enter tidal and/or impounded areas administered by the Division during the waterfowl season, except for access as authorized by paragraph (1) of this subsection.

8.3.3 Trapping. It shall be unlawful for any person to trap or attempt to trap on areas administered by the Division, except for: persons holding a valid contract with the Division to do so; authorized agents of the Division who are conducting authorized wildlife management practices; or scientific purposes as specifically authorized in writing by the Director.

8.3.4 Firearms on Division Areas.

8.3.4.1 It shall be unlawful for any person to possess a firearm on lands or waters administered by the Division from March 1 through August 31, except as authorized by the Director in writing.

8.3.4.2 It shall be unlawful for any person to possess a rifled firearm of any description at any time on those lands bordering the Chesapeake and Delaware Canal and licensed to the Department by the Government of the United States for wildlife management purposes, except that muzzleloaders and shotguns with rifle barrels may be used during deer seasons when it is lawful to use those firearms.

8.3.4.3 It shall be unlawful for any person to discharge any firearm on lands or waters administered by the Division on Sunday, except in areas designated by the Director or with a permit from the Director.

8.3.4.4 It shall be unlawful for any person to discharge any firearm on lands or waters administered by the Division for any purpose, including target shooting, other than to hunt during an open season, under conditions approved by the Director and specified on the current wildlife area map.

8.3.4.5 It shall be unlawful to possess, consume or be under the influence of alcoholic beverages, liquors or drugs while hunting or in the possession of firearms when on lands administered by the Division.

8.3.5 Dikes. It shall be unlawful for any person to be in possession of any firearm on any dike administered by the Division, unless such person is temporarily crossing a dike at a ninety degree angle or traversing a dike to reach a Division authorized deer stand location during a deer firearms hunting season.

8.3.6 Deer Hunting By Driving. It shall be unlawful for residents to participate in deer drives, except where authorized on current wildlife area maps between the hours of 9:00 a.m. and 3:00 p.m. No more than six (6) resident hunters may participate in driving deer at any one time. Nonresidents may not participate in deer drives at any time. Nonresidents are restricted to hunting deer from stationary locations. Nonresidents may not possess a loaded firearm during the deer season, except to hunt from a stationary location or to retrieve a deer that they wound.

8.4 Horses and Bicycles. It shall be unlawful to ride horses or bicycles on, or allow horses to use, any lands or waters administered by the Division, except on established roads or trails that have been designated by the Division for such purposes on current wildlife area maps.

8.5 Concessions, Posters and Solicitations.

8.5.1 It shall be unlawful for any person to erect, post or distribute any placard, sign, notice, poster, billboard or handbill on lands or waters administered by the Division without written authorization of the Director.

8.5.2 It shall be unlawful for any person to engage in the vending of merchandise, food or services on lands or waters administered by the Division without written authorization of the Director.

8.5.3 It shall be unlawful for any person to do any form of solicitation for money or goods on any lands or waters administered by the Division without written authorization of the Director.

8.6 Firewood. It shall be unlawful for any person to remove firewood from lands administered by the Division without a permit from the Division, except when special firewood areas are designated by the Director in writing.

8.7 Dog Training.

8.7.1 General. It shall be unlawful for any person to train a dog on lands or waters administered by the Division, except:

8.7.1.1 During open hunting seasons for the game that the dog is being trained to hunt;

8.7.1.2 Within a dog training area established by the Division; and

8.7.1.3 As permitted by the Director in writing on current wildlife area maps.

8.7.2 C&D Canal Summit Area. It shall be unlawful for any person to enter the dog training area west of the Summit Bridge (Rt. 896), designated on the current wildlife area map of the C&D Canal Wildlife Area, for any purpose other than to train dogs or hunt for deer during the shotgun deer seasons. It shall be unlawful for any person to fish, operate a model or full size boat, ride horses or bicycles, or conduct any other activity on the area.

8.8 Geocaching

8.8.1 It shall be unlawful to place caches or letterboxes on Division of Fish and Wildlife property without a permit from the Division. Permits may be obtained by submitting a completed permit application to the appropriate Fish and Wildlife Regional Office. The proposed caching location will be specified in the application. The Regional Fish and Wildlife Manager will review and approve or deny the permit request. A permit will be valid for a maximum of one year from the date of issue at which time the geocache or letterbox must be removed or re-permitted. The permitted time frame will be determined by the area manager and be based on the local wildlife species present and the management activities planned for the area. The area manager will be provided the location of the cache or letterbox and may remove it at his or her discretion, with notice to the permit holder, should circumstances warrant. Online geocache and letterbox descriptions, such as those on geocaching.com or letterboxing.org must include information about access during hunting seasons and provide a link to Delaware Division of Fish and Wildlife Hunting Information.Geocache and letterbox contents must be suitable for all ages. Food, alcohol, tobacco, weapons or other dangerous items, prescription or illegal drugs and adult items are prohibited. From September 1st. through February 15th. of each year and during the spring turkey hunting season, the placement of or searching for geocaches and letterboxes may only occur on Sundays from sunrise to sunset. During the remainder of the year, geocaching and letterbox activities may occur 7 days per week from sunrise to sunset.

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

11 DE Reg. 334 (09/01/07)

12 DE Reg. 496 (10/01/08)

15 DE Reg. 1505 (04/01/12)

9.0 Wildlife Theft Prevention Fund.

(Penalty Section 7 **Del.C.** §103(d))

9.1 Schedule of Rewards.

9.1.1 The Division shall pay up to $1000 for information leading to the arrest and conviction of any person found guilty of:

9.1.1.1 Commercialization of wildlife; or

9.1.1.2 Killing an endangered species or a species classified as a threatened species in accordance with the Endangered Species Act of 1973, as amended.

9.1.2 The Division shall pay up to $500 for information leading to the arrest and conviction of any person found guilty of:

9.1.2.1 Illegally hunting black ducks, canvasbacks, Canada geese or turkeys;

9.1.2.2 Poisoning wildlife;

9.1.2.3 Gross over-limits of wildlife;

9.1.2.4 Illegally hunting waterfowl or deer on State game refuges;

9.1.2.5 Hunting or trapping out of season;

9.1.2.6 Illegally hunting at night;

9.1.2.7 Hunting during license revocation; or

9.1.2.8 Possessing, tending or setting killer traps with a jaw spread in excess of 5 inches.

9.1.3 The Division shall pay up to $100 for information leading to the arrest and conviction of any person found guilty of illegally taking or wounding wildlife with a rifle.

9.1.4 The confidentiality of informants and their payments shall be maintained by administrative procedures. Peace officers, Department employees or members of their immediate families are not eligible for rewards.

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

10.0 Nuisance Wildlife

(Penalty Section 7 **Del.C.** §103(d))

10.1 Incorporated Cities or Towns. Within the limits of residential or commercial areas of incorporated cities or towns, or within residential or commercial structures, the following game animals may be controlled (killed) without a permit when they are causing damage: gray squirrel, raccoon and opossum. Methods used to control said animals must be consistent with the laws of this State and the regulations of the Department and only live traps may be used (without a depredation permit) outside of established trapping seasons.

10.2 Commercial Nuisance Wildlife Control Operators. The Division may certify and permit commercial nuisance wildlife control operators to resolve human/wildlife conflicts.

10.2.1 Certification. To be permitted, all operators must complete and satisfactorily pass a nuisance wildlife control certification program designated by the Division. The certification will be for the owner/operator or proprietor of the business. Re-certification must occur every five years. Once permitted, the operator will be responsible for training all users under their permit. Operators must abide by all Division policies and notify potential clients of their fees. Failure to follow Division polices may result in the revocation of the Nuisance Wildlife Control Operator permit.

3 DE Reg. 289 (8/1/99)
17 DE Reg. 238 (08/01/13)

11.0 Shoreline Refuges of the Delaware River and Bay

(Penalty Section 7 **Del.C.** §103(d))

11.1 State Wildlife Area Protection for Intertidal Areas.

Any land located between the high tide line and the low tide line, between the Smyrna River and the St. Jones River and adjoining the Delaware River and Bay is hereby designated a State wildlife area and subject to the rules and regulations pertaining thereto, provided the adjoining landowners to said lands agree to their designation and agree to co-sign complaints concerning violations.

11.2 Exemptions.

Woodland Beach, Pickering Beach, and Kitts Hummock shall be exempt from this regulation. This regulation shall not affect surf fishing vehicles in areas where such vehicles are permitted or other uses of intertidal areas authorized by permit from the Division.

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

12.0 Waterfowl Refuge

(Penalty Section 7 **Del.C.** §103(d))

It shall be unlawful for any person to hunt waterfowl in that part of Drawer Creek west of U.S. Route 13 to where the tributaries of the creek meet routes 428 and 429.

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

13.0 Wildlife Rehabilitation Permits

(Penalty Section 7 **Del.C.** §103(d))

13.1 Permit from Division; Exemption.

13.1.1 It shall be unlawful for any person to hold native wildlife in captivity for the purpose of rehabilitation without a permit from the Division and any other permits required by the U.S. Fish and Wildlife Service.

13.1.2 Licensed veterinarians are exempt from the permitting requirements of this regulation when rendering treatment to injured wildlife and provisions are made to return any recovered animals to the wild or transfer them to a permitted rehabilitator for further care. Licensed veterinarians may only hold wildlife for as long as veterinary care is required.

13.2 Training, Housing and Veterinary Care; Inspections.

13.2.1 Permit holders must conform to the training, housing, release and veterinary care standards as written in the document “Minimum Standards for Wildlife Rehabilitation” published by the National Wildlife Rehabilitators Association and the International Wildlife Rehabilitation Council. Permit holders must also abide by the rules and policies set forth in the “State of Delaware Wildlife Rehabilitation Rules and Policies” document. Failure to abide by both of these documents may result in revocation of the rehabilitation permit. Animals held under rehabilitation permits must be released to the wild according to policies set forth in the document “State of Delaware Wildlife Rehabilitation Rules and Policies” or euthanized, if release is not feasible, unless the Division under §555 of Title 7 authorizes possession for scientific propagation or educational purposes. For federally listed endangered species and migratory birds an extension must be granted by the migratory bird permit office of the United State Fish and Wildlife Service, and the Division for each individual case. Rehabilitators must not release sick animals into the wild.

13.2.2 Rehabilitation facilities must be available for inspection by Division employees during normal business hours. Normal business hours shall mean Monday through Friday, except those days designated as holidays, during the hours in which the staff of the Division is scheduled to work. Violations of compliance with the Minimum Standards or the Rules and Policies noted in 13.2.1 will result in a written warning or immediate revocation of the rehabilitation permit depending on the violation. Persons receiving a warning will have their facility re-inspected. Failure to address the problem(s) in a timely manner will result in permit revocation. Upon permit revocation, all animals will be removed from the facility and either placed with another rehabilitator, released into the wild, placed with an educational facility, or humanly euthanized.

13.3 Rabies Vector Species

13.3.1 It shall be unlawful for any person to attempt rehabilitation of a rabies vector species without having proof of current pre-exposure immunization against the rabies virus. No permitted rehabilitator shall knowingly expose other non-immunized persons to a rabies vector species. For the purpose of the Delaware Wildlife Rehabilitator Permit, rabies vector species are defined as bats, raccoons, skunks, foxes, coyotes and woodchucks.

13.3.2 All rehabilitated rabies vector species must be released in the county of origin and the Division must be notified of the release location in the rehabilitator's annual report to the Division. It shall be unlawful for rehabilitated rabies vector species to be released on State Wildlife Management Areas without the consent of the Division Director.

3 DE Reg. 289 (8/1/99)
11 DE Reg. 334 (09/01/07)

14.0 Falconry

(Penalty Section 7 **Del.C.** §103(d))

14.1 Federal Regulations Adopted.

It shall be unlawful for any person to practice the sport of falconry, except in such a manner as prescribed by regulations promulgated under provisions of 50 CFR (Code of Federal Regulations) §§ 21.29 and 21.30. The Federal regulations are hereby made part of the regulations of the Department as prescribed in § 725 of Title 7. Notwithstanding the foregoing, the federal regulations governing falconry shall be superseded by more stringent restrictions prescribed by law or regulation of the Department.

14.2 Permits.

14.2.1 A resident wishing to practice falconry shall apply to the Division for a falconry permit. To be issued a falconry permit, the person shall successfully pass a written test and have their facilities and equipment inspected by Division staff or an appointed Master Falconer to ensure that they meet the standards as prescribed by the federal regulations.

14.2.2 A nonresident falconer who possesses a valid falconry permit issued by any other state listed in 50CFR21.29 may possess, import, export, or transport migratory birds of the orders Accipitriformes, Falconiformes, and/or Strigiformes held under the authority of such a permit in Delaware.

14.2.3 No additional falconry permit shall be required for a non-resident falconry permit holder to practice falconry in Delaware.

14.2.4 Falconers who take up residence in Delaware shall have 60 days to obtain a Delaware falconry permit. During this interim period, a current falconry permit issued by the previous state of residence shall be recognized for the purposes of legally practicing falconry in Delaware.

14.2.5 Falconry permits shall be effective, unless revoked, for a period of up to three years and coincide with the license period for the hunting license.

14.3 Taking of Raptors.

14.3.1 It shall be unlawful for any person to take any birds of prey from the wild without a permit from the Division. Each capture permit will be limited to the taking of one bird of prey.

14.3.2 In 2012, and each year thereafter until changed, the Division may allow the taking of a total of 12 birds of prey from the wild in Delaware. Upon request, the Director shall propose a revised annual limit on the number of raptors which may be taken from the wild and shall appear before the Council on Wildlife and Freshwater Fish to receive input on such limit before its revision or adoption.

14.3.3 Falconers may possess wild caught raptors identified as state threatened or endangered under Regulation 16.0 and §602 of Title 7, provided they were acquired in Delaware prior to the species being listed, or if they were acquired from a state in which their take was legal.

14.3.4 The taking of eyas (nestling) birds shall be limited to red-tailed hawks and great horned owls on Thursdays, Fridays and Saturdays from February 1 through July 15. No more than three (3) eyas red-tailed hawks or three (3) nestling great horned owls, or any combination thereof, may be taken during this period

each year. Nonresident falconers may apply for available permits to take eyas raptors, provided the state in which the nonresident resides allows Delaware residents the reciprocal opportunity to remove eyas raptors.

14.3.5 Apprentices may only possess wild caught red-tailed hawks, red shouldered hawks, and wild captured American kestrels legally obtained from another state. Apprentices may not possess captive reared birds or hybrids.

14.3.6 The season for the taking of passage birds shall be from August 15 through March 31. Raptors in adult plumage must be released immediately at the site of capture. Nonresident falconers may apply to obtain any available permits to take passage raptors in Delaware, provided the state in which the nonresident resides has a reciprocal arrangement that permits Delaware residents to take passage raptors.

14.3.7 It shall be unlawful to remove raptors from private property without the express consent of the landowner. It shall also be unlawful for any person to remove raptors from State parks, State forests, State wildlife areas, State owned wetland mitigation sites, national wildlife refuges, nature preserves, natural areas, and county or local parks without written approval of the agency administering the property. The permit to remove a raptor from the wild must be in possession of the falconer when attempting to capture a raptor. Apprentice falconers must be under the direct supervision of the Apprentice's sponsor or a Master or General class falconer when removing raptors from the wild.

14.4 Hunting.

14.4.1 Resident and nonresident falconers shall be properly licensed to hunt game in the State of Delaware as described under Chapter 5 of Title 7.

14.4.2 Falconry shall be a legal method of take for all game birds and game animals in Delaware. The hunting season for resident game shall be from September 1 through February 28.

14.4.3 A falconer whose raptor accidentally kills wildlife during a closed season for such wildlife shall leave the dead wildlife where it lies, except the raptor may feed upon the wildlife before leaving the site of the kill, provided that the wildlife shall not be reduced to possession by the falconer.

14.5 Transition period. These regulations shall take effect on January 1, 2014. Until that time, falconers shall abide by regulation 3914 as it existed on January 1, 2013. On and after January 1, 2014, all permitted falconers shall comply with these new regulations as they appear here.

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

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

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

17 DE Reg. 238 (08/01/13)

15.0 Collection or Sale of Native Wildlife

(Penalty Section 7 **Del.C.** §103(d))

15.1 Commercial Collection.

15.1.1 Unless otherwise provided by law or regulation of the Department, it shall be unlawful for any person to collect, possess, import, cause to be imported, export, cause to be exported, buy, sell or offer for sale any native wildlife species or any part thereof for commercial purposes without a permit from the Director. The permit shall limit the terms and conditions for collecting or possessing said wildlife within the State.

15.1.2 Notwithstanding subsection 15.1.1 of this section, native wildlife species may be possessed, imported, sold or offered for sale for commercial purposes without a permit from the Director if there is written documentation to confirm that said wildlife was legally taken in and transported from another state.

15.2 Collection and Possession of Reptiles and Amphibians.

15.2.1 Unless otherwise provided by law or regulation of the Department, it shall be unlawful for any person to remove from the wild or possess any native reptile or amphibian species, their eggs or parts without a permit from the Director.

15.2.2 Notwithstanding subsection 15.1.1 of this section, one individual of each of the following species or subspecies of reptiles and amphibians, may be collected and possessed without a permit.

Reptiles

Lizard, Northern Fence (*Sceloporus undulatus hyacinthinus*)
Racer, Northern Black (*Coluber constrictor constrictor*)
Skink, Five-lined (*Eumeces fasciatus*)
Snake, Black Rat (*Elaphe obsoleta obsoleta*)
Snake, Eastern Garter (*Thamnophis sirtalis sirtalis*)
Snake, Eastern Hognose (*Heterodon platirhinos*)

Snake, Eastern Worm (*Carphophis amoenus amoenus*)
Snake, Northern Water (*Nerodia sipedon sipedon*)
Snake, Ringneck (*Diadophis punctatus*)
Terrapin, Diamondback (*Malaclemys terrapin*)
Turtle, Common Musk (*Sternotherus odoratus*)
Turtle, Eastern Box (*Terrapene carolina carolina*)
Turtle, Eastern Mud (*Kinosternon subrubrum subrubrum*)
Turtle, Painted (*Chrysemys picta*)
Turtle, Redbelly (*Pseudemys rubriventris*)
Turtle, Snapping (*Chelydra serpentina*)

Amphibians
Bullfrog (*Rana catesbeiana*)
Frog, Green (*Rana clamitans melanota*)
Frog, New Jersey Chorus (*Pseudacris triseriata kalmi*)
Frog, Northern Cricket (*Acris crepitans crepitans*)
Frog, Pickerel (*Rana palustris*)
Frog, Southern Leopard (*Rana utricularia*)
Frog, Wood (Rana sylvatica)
Newt, Red-spotted (*Notophthalmus viridescens viridescens*)
Peeper, Northern Spring (*Pseudacris crucifer crucifer*)
Salamander, Northern Dusky(*Desmognathus fuscus fuscus*)
Salamander, Northern Two-lined (*Eurycea bislineata*)
Salamander, Redback (*Plethodon cinereus*)
Spadefoot, Eastern (*Scaphiopus holbrookii holbrookii*)
Toad, American (*Bufo americanus*)
Treefrog, Gray (*Hyla versicolor and Hyla chrysoscelis*)

15.2.3 It shall be unlawful to remove any reptile or amphibian from the wild and later release said reptile or amphibian back to the wild if it has been held in captivity for more than thirty (30) days.

15.2.4 Notwithstanding subsection 15.1.1 of this section, native reptiles and amphibians taken from the wild and lawfully possessed prior to August 15, 1999, may continue to be held in captivity, provided that written notification of the numbers and species being held is given to the Division prior to December 15, 1999.

15.3 Captive Breeding.

15.3.1 It shall be unlawful for any person to breed in captivity any native wildlife species without a permit from the Director. Said permit shall limit the terms and conditions for captive breeding of said wildlife.

15.3.2 It shall be unlawful for any person to release captive-bred species into the wild. A signed bill of sale shall accompany any captive-bred species that are sold.

15.3.3 This section shall not apply to accredited zoos or to raptors regulated by federal and State falconry or raptor propagation regulations.

15.4 Sale or Possession of CITES Listed Species.

It shall be unlawful for any person to sell or possess bear gall bladder, or other viscera from any species of bear, or any part of other species listed as prohibited by the Convention on International Trade in Endangered Species (CITES). The possession of any part of a bear must be in conformance with CITES.

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

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

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

15 DE Reg. 1505 (04/01/12)

16.0 Endangered Species.

(Penalty Section 7 **Del.C.** §103(d))

16.1 Importation, Transportation and Possession.

16.1.1 Pursuant to §601 of Title 7, the importation, transportation, possession or sale of any endangered species of fish or wildlife, or hides or other parts thereof, or the sale or possession with the intent to sell of any article made in whole or in part from the skin, hide or other parts of endangered species of fish or wildlife is prohibited, except under license or permit from the Division.

16.2 Designation and Removal from Designation of Species by Division.

16.2.1 Pursuant to §601 of Title 7, the Division may designate species of fish and wildlife that are seriously threatened with extinction as endangered species. The Division may also remove the designation of

endangered from species of fish and wildlife that are no longer seriously threatened with extinction, including species as suggested by the public with sufficient documentation for listing.

16.2.2 For the purposes of this section, the phrase “seriously threatened with extinction” shall mean that the species satisfies one or more of the following criteria:

16.2.2.1 Appears on the federal list of endangered, threatened, or candidate species; or

16.2.2.2 Ranked as “globally rare” (G1, G2, G3, T1, T2, or T3), which means 100 or fewer populations worldwide; or

16.2.2.3 Is rare or declining within the State and rare or declining in the region; or.

16.2.2.4 Is rare in Delaware and disjunct from known distribution and/or near the extreme northern or southern limits of distribution; or

16.2.2.5 Is imminently threatened by natural or human-made factors that are affecting continued survival of that species within the State.

16.2.3 Based upon the criteria prescribed by subsection 16.2.2 of this section, the following species are declared endangered in this State and are afforded the protection provided by § 601 of Title 7:

Amphibians

Salamander, Eastern Mud (Pseudotriton montanus montanus)

Salamander, Eastern Tiger (Ambystoma tigrinum tigrinum)

Treefrog, Barking (Hyla gratiosa)

Birds

Grebe, Pied-billed[BR] (Podilymbus podiceps)

Harrier, Northern[BR] (Circus cyaneus)

Hawk, Broad-winged[BR] (Buteo platypterus)

Heron, Black-Crowned Night- (Nycticorax nycticorax)

Heron, Yellow-Crowned Night- (Nyctanassa violacea)

Kestrel, American (Falco sparverius)

Knot, Red (Calidris canutus)

Plover, Piping (Charadrius melodus)

Owl, Short-earedBR (Asio flammeus)

Oystercatcher, American (Haematopus palliatus)

Rail, Black (Laterallus jamaicensis)

Sandpiper, Upland (Bartramia longicauda)

Skimmer, Black (Rynchops niger)

Sparrow, Henslow's (Ammodramus henslowii)

Tern, CommonBR (Sterna hirundo)

Tern, Forster'sBR (Sterna forsteri)

Tern, Least (Sterna antillarum)

Warbler, Cerulean (Setophaga cerulea)

Warbler, Hooded BR (Setophaga citrina)

Warbler, Swainson's (Limnothlypis swainsonii)

Wren, Sedge (Cistothorus platensis)

[BR] Breeding population only

Fish

Darter, Glassy (Etheostoma vitreum)

Sculpin, Blueridge (Cottus caeruleomentum)

Shiner, Bridled (Notropis bifrenatus)

Shiner, Ironcolor (Notropis chalybaeus)

Sturgeon, Atlantic (Acipenser oxyrhynchus)

Sturgeon, Shortnose (Acipenser brevirostrum)

Sunfish, Blackbanded (Enneacanthus chaetodon)

Insects

Beetle, Little White Tiger (Cicindela lepida)

Beetle, White Tiger (Cicindela dorsalis)

- Beetle, Seth Forest Scavenger (Hydrochus spangleri)
- Bluet, Burgundy (Enallagma dubium)
- Bluet, Pale (Enallagma pallidum)
- Checkerspot, Baltimore (Euphydryas phaeton)
- Clubtail, Banner (Gomphus apomyius)
- Clubtail, Laura's (Stylurus laurae)
- Clubtail, Midland (Gomphus fraternus)
- Clubtail, Sable (Gomphus rogersi)
- Darner, Black-tipped (Aeshna tuberculifera)
- Darner, Taper-tailed (Gomphaeschna antelope)
- Dash, Black (Euphyes conspicua)
- Elfin, Frosted (Incisalia irus)
- Emerald, Treetop (Somatochlora provocans)
- Firefly, Bethany Beach (Photuris bethaniensis)
- Hairstreak, Hessel's (Mitoura hesseli)
- Hairstreak, King's (Satyrium kingi)
- Moth, Aralia Shoot Borer (Papaipema araliae)
- Moth, Dark Stoneroot Borer (Papaipema duplicatus)
- Moth, Maritime Sunflower Borer (Papaipema maritima)
- Moth, Pitcher Plant Borer (Papaipema appassionata)
- Moth, Yellow Stoneroot Borer (Papaipema astuta)
- Skimmer, Elfin (Nannothemis bella)
- Skipper, Rare (Problema bulenta)
- Spiketail, Brown (Cordulegaster bilineata)
- Sundragon, Sely's (Helocordulia selysii)
- Underwing, Marbled (Catocala marmorata)
- Underwing, Ulalume (Catocala ulalume)
- Wing, Mulberry (Poanes massasoit massasoit)
- Wing, Chermock's Mulberry (Poanes massasoit chermocki)

Mammals

- Bat, Little Brown (Myotis lucifugus)
- Bat, Northern Long-eared (Myotis septentrionalis)
- Squirrel, Delmarva Fox (Sciurus niger cinereus)
- Whale, Blue (Balaenoptera musculus)
- Whale, Fin (Balaenoptera physalus)
- Whale, Humpback (Megaptera novaengliae)
- Whale, North Atlantic Right (Eubalaena glacialis)
- Whale, Sei (Balaenoptera borealis)
- Whale, Sperm (Physeter macrocephalus)

Mollusks

- Lampmussel, Yellow (Lampsilis cariosa)
- Lampmussel, Eastern (Lampsilis radiata)
- Wedgemussel, Dwarf (Alasmidonta heterodon)
- Pondmussel, Eastern (Ligumia nasuta)
- Floater, Brook (Alasmidonta varicosa)
- Floater, Triangle (Alasmidonta undulata)
- Mucket, Tidewater (Leptodea ochracea)

Reptiles

- Turtle, Leatherback (Dermochelys coriacea)
- Turtle, Kemp's Ridley (Lepidochelys kempii)
- Turtle, Green (Chelonia mydas)

Turtle, Loggerhead (Caretta caretta)
Turtle, Bog (Clemmys muhlenbergii)
Snake, Corn (Elaphe guttata guttata)
Snake, Eastern Scarlet (Cemophora coccinea)
Watersnake, Redbelly (Nerodia erythrogaster erythrogaster)

16.3 Federally Listed Species.

16.3.1 Pursuant to the Endangered Species Act of 1973 (16 USC §§ 1531-1543), as amended, the Secretary of the Interior must publish in the Federal Register a list of all fish and wildlife species determined by him or her or the Secretary of Commerce to be endangered species. The federal list of endangered species is hereby adopted and all species listed thereon are hereby declared to be endangered species in the State as prescribed in §601 of Title 7.

16.3.2 It shall be unlawful for any person to collect, possess or sell any species of fish or wildlife listed as endangered or threatened pursuant to the Endangered Species Act of 1973, as amended, without the appropriate federal permits.

3 DE Reg. 1738 (6/1/00)
6 DE Reg. 536 (10/01/02)
17 DE Reg. 238 (08/01/13)

17.0 Species of Special Concern

(Penalty Section 7 **Del.C.** §103(d))

17.1 List of Species

The following species or groups of species shall be considered Species of Special Concern for the purpose of qualifying for federal funds for wildlife restoration: Endangered species as designated by state or federal regulations; species designated by WR-16, Section 2, colonial nesting birds; shorebirds; wading birds; neotropical migrant birds; beach nesting birds; bald and golden eagles; peregrine falcons; other raptors, grassland nesting birds; birds of early successional habitat; bobwhite quail; wild turkey; freshwater mussels; bats; nutria; and overly abundant species such as deer, beavers, southern nesting Canada geese, and red fox.

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

18.0 Wanton Waste

Penalty Section 7 **Del.C.** §103(d))

18.1 Retrieval and Possession of Game Animals. A person wounding or killing a game animal shall make a reasonable effort to retrieve the wounded or dead game animal. The retrieved game animal shall be retained in the individual's possession until any of the following occurs:

18.1.1 The game animal is processed for consumption, consumed or utilized for its fur value.

18.1.2 The game animal is transported to the individual's residence, to a taxidermist, or to a place of commercial processing.

18.1.3 The game animal is utilized for scientific, educational or research purposes.

18.2 Any use of a game animal as not described in items 18.1.1 - 18.1.3 above will be deemed wanton waste.

11 DE Reg. 334 (09/01/07)

19.0 (Reserved)

20.0 Game Bird Releases

(Penalty Section 7 **Del.C.** §103(d))

20.1 Permit for releasing game birds

20.1.1 All persons possessing or releasing 25 or fewer domestically raised quail, chukar partridge, Hungarian partridge and pheasants into the wild must obtain a permit from the Division. This permit is free.

20.2 Banding Released Game Birds.

20.2.1 All domestically raised quail, chukar partridge, Hungarian partridge and pheasants must be leg banded with a Division approved band before being released into the wild. Person herein must report the number of birds banded, the type of bird released (quail, chukar partridge, Hungarian partridge or pheasant) and the release date and location.

12 DE Reg. 496 (10/01/08)

21.0 Guide License

(Penalty Section 7 **Del.C.** §103(d))

21.1 Persons required to obtain a Delaware Guide License

21.1.1 All individuals receiving monetary or in-kind compensation for providing personal guide services to hunters are required to have a Delaware Guide License.

21.2 Age Requirement

21.2.1 Persons acquiring a guide license, must be 18 years of age or older

21.3 Fish and Wildlife Violations

21.3.1 Persons acquiring a guide license must not have been convicted for violations of any wildlife or fisheries statutes or regulations within the last three years prior to applying for a Delaware Guide License.

21.4 Reporting

21.4.1 All persons possessing a Delaware Guide License are required to complete and submit an annual report to the Division within seven days after the close of the season to include the following information which must be readily available for inspection by enforcement officers: full name of each hunter, address of each hunter in the party, hunting license number for each hunter, date, number and species of each animal harvested, location of hunts and the name and license number of the guide.

21.5 Record Retention

21.5.1 The guide shall retain all hunting field records for a period of three years.

21.6 General Hunting License

21.6.1 A resident or non resident hunting license is not required for persons holding a valid Delaware Guide License.

21.6.2 A nonresident shall be exempt from the guide licensing requirement of this section only while guiding hunters for snow geese (light geese), provided:

21.6.2.1 The nonresident is properly licensed to guide in another state or Canadian province which extends the same exemption to Delaware residents;

21.6.2.2 The nonresident guide purchases a Delaware migratory waterfowl stamp and obtains a Delaware H.I.P. permit.

21.6.2.3 The nonresident resides in another state or Canadian province which extends the same exemption to Delaware residents.

12 DE Reg. 496 (10/01/08)

14 DE Reg. 52 (07/01/10)

22.0 Hunter and Trapper License Exempt Number

(Penalty Section 7 **Del.C.** §103(d))

Hunters and trappers who are exempt from purchasing a license to hunt or trap in Delaware are required to obtain an annual Hunter and Trapper License Exempt Number from the Division. This number must be carried by the hunter or trapper while engaged in hunting and trapping activities.

12 DE Reg. 496 (10/01/08)

14 DE Reg. 52 (07/01/10)

15 DE Reg. 1505 (04/01/12)

23.0 Non-native/Invasive Wildlife

(Penalty Section 7 **Del.C.** §103(d))

23.1 Non-native Wildlife

23.1.1 Coyotes

23.1.1.1 It shall be unlawful to possess, buy, sell, barter, trade, or transfer any live coyote to or from another person unless permitted by the Director of the Division of Fish and Wildlife.

23.1.1.2 Coyotes may be killed or trapped in accordance with the regulations found within this Section with the following: longbow, crossbow, shotgun, rimfire rifle or centerfire rifle up to .25 caliber, a muzzle-loading rifle, foothold trap, cable restraint, or box trap. Notwithstanding the foregoing, coyotes may be killed in accordance with § 802 of Title 7.

23.1.1.2.1 Notwithstanding subsection 23.1.1.2 of this section, during any deer firearms season, it shall be unlawful to hunt coyotes with any firearm that is not also legal for deer hunting.

23.1.1.3 Hunting Season. Coyotes may be hunted and harvested from **[~~November~~ September]** 1 through the last day of February.

23.1.1.4 Trapping Season. Coyotes may be trapped in accordance with the statutes and regulations of the State of Delaware governing the trapping coyotes: from December 1 through March 10 using foothold, cable restraints, or cage/box traps.

23.1.1.5 Reporting Harvest. After harvesting a coyote, a hunter and/or trapper must report the harvest via the Division of Fish and Wildlife's established reporting system(s).

23.2 Invasive Wildlife

23.2.1 Nutria (*Myocastor coypus*)

23.2.1.1 It shall be unlawful to possess, buy, sell, barter, trade, or transfer any live nutria to or from another person unless permitted by the Director of the Division of Fish and Wildlife.

23.2.1.2 Nutria may only be trapped during the lawful season to trap muskrats. Notwithstanding the foregoing, nutria may be killed in accordance with §802 of Title 7.

23.2.1.2.1 Any nutria captured within a trap must be killed and may not be released back into the wild.

23.2.1.3 Anyone capturing a nutria must notify the Division of Fish & Wildlife within 24 hours of the capture.

23.2.2 Feral Swine

23.2.2.1 It shall be unlawful for any person to release swine into the wild. If swine kept in captivity escape and cannot be recaptured within 72 hours the Delaware Division of Fish & Wildlife and the Delaware Department of Agriculture must be contacted.

23.2.2.2 It shall be unlawful for any person to kill feral swine without first obtaining a permit from the Division.

23.2.2.2.1 It shall be unlawful to recreationally hunt feral swine.

23.2.2.2.2 It shall be unlawful for a landowner to charge a fee for the purpose of killing feral swine.

12 DE Reg. 496 (10/01/08)
14 DE Reg. 52 (07/01/10)
15 DE Reg. 1505 (04/01/12)
17 DE Reg. 746 (01/01/14) (Final)