

# DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

## DIVISION OF FISH AND WILDLIFE AND DIVISION OF PARKS AND RECREATION

Statutory Authority: 7 Delaware Code, Section 4701(a)(4) and 29 Delaware Code, Sections 8003(7) & 10119 (7 **Del.C.** §4701(a)(4) and 29 **Del.C.** §§8003(7) & 10119)  
7 **DE Admin. Code** 3900 and 7 **DE Admin. Code** 9201

### EMERGENCY

**Secretary's Order No. 2017-P-0030**

**3900 Wildlife  
9201 Regulations Governing State Parks**

### AUTHORITY

Pursuant to 29 **Del.C.** §10119, the Department of Natural Resources and Environmental Control adopts the attached emergency amendments to the Regulations Governing State Parks, 7 Delaware Administrative Code §9201, and the Regulations the General Rules and Regulations Governing Land and Waters Administered by the Division of Fish and Wildlife, 7 Delaware Administrative Code §3900.

These regulations are issued by the Secretary pursuant to the power conveyed by the General Assembly for DNREC to "[m]ake and enforce regulations relating to the protection, care and use of the areas it administers", 7 **Del.C.** §4701(a)(4), and to "[e]stablish and promulgate such rules and regulations governing the administration and operation of the Department as may be deemed necessary by the Secretary and which are not inconsistent with the laws of this State". 29 **Del.C.** §8003(7).

It should be noted that the emergency regulations are intended as interim measures, necessary to avoid the risk of harm to public health, safety, and welfare, pending the formal adoption of regulations pursuant to the Administrative Procedures Act, within the 120-day period (renewable for an additional sixty days) allotted to emergency regulations.

### REASON FOR THE EMERGENCY ORDER

The portions of the Regulations referenced above relating to firearms were affected by the recent decision of the Delaware Supreme Court in *Bridgeville R&P Club v. DNREC*, issued on December 7, 2017. The fifteen-day period for filing a motion for reargument passed on December 22, 2017. The decision will have binding effect upon the issuance of a mandate by the Court. The Court found that the existing firearms regulations violated the State of Delaware Constitution, in that they were overly broad in their prohibitions. In the absence of interim regulations, firearms would essentially be unregulated within State Parks and on land and waters administered by the Division of Fish and Wildlife, including facilities such as visitor centers, educational facilities, and offices. A risk of harm from gunfire would be presented in these and other areas where large numbers of visitors gather, including families and children. Law enforcement authorities would lack the ability to screen and check for identification, permits, or credentials of armed visitors to these facilities. The Court recognized that restrictions on firearms are appropriate in limited public areas and facilities; but that licensed and qualified persons must be exempt from such prohibitions. The interim regulations are an effort to strike the balance the Court mandated.

### EFFECTIVE DATE OF ORDER

This Emergency Order shall take effect immediately upon issuance, and shall remain in effect for 120 days; however, at the expiration of 120 days, the Department may choose to renew this Emergency Order once for a period not exceeding 60 days, consistent with 29 **Del.C.** §10119(3). The Department intends to propose regulations that would supersede the interim regulations upon formal approval pursuant to the Administrative Procedures Act, pursuant to 29 **Del.C.** §10115.

### PETITION FOR RECOMMENDATIONS

Consistent with the requirements of 29 **Del.C.** §10119(4) the Department will receive, consider, and respond to petitions by any interested person for the reconsideration or revision of this Order. Petitions should be presented to the Office of the Secretary, Department of Natural Resources and Environmental Control, 89 Kings Highway, Dover, Delaware, 19901.

### ORDER

It is hereby ordered, this 26<sup>th</sup> day of December, 2017 that the attached amendments to the above-referenced Regulations are adopted pursuant to 29 **Del.C.** §10119 and effective immediately.

Shawn M. Garvin, Secretary  
December 26, 2017

#### **Fish & Wildlife Emergency Regulations (Title 7 DAC §3900):**

- 8.3.4.1 It shall be unlawful for any person to possess a firearm ~~on lands or waters~~ within designated areas administered by the Division ~~from March 1 through August 31~~, except as authorized by the Director in writing.
- 8.3.4.6 Designated areas shall include Division offices, visitor centers, nature centers, educational facilities, and maintenance shops, and shall be identified by appropriate signage.
- 8.3.4.7 The Director may grant written approval on a daily basis for the possession of firearms within designated areas, upon written application showing good cause related to self-defense or the defense of family, and due regard for the safety of others within the designated areas.
- 8.3.4.8 Active duty and qualified retired law enforcement officers may possess firearms within areas administered by the Division, including designated areas, provided that proper and current credentials shall be produced upon request of Division authorities.
- 8.3.4.9 Delaware residents holding an active current permit to carry a concealed deadly weapon may carry a firearm within areas administered by the Division, including designated areas, provided that the permit shall be produced upon request of Parks authorities.
- 8.3.4.10 Firearms may be carried within areas administered by the Division, outside of designated areas, by any person not prohibited by 11 **Del.C.** §1448.
- 8.3.4.11 Law enforcement officers may limit the discharge of firearms and the use of other weapons within areas administered by the Division, in order to protect public safety and preserve the peace.
- 8.3.4.12 Any person possessing a firearm shall display identification upon request, sufficient to enable a law enforcement officer to undertake a background check.

#### **Parks Emergency Regulations (Title 7 DAC §9201):**

- 21.1 It shall be unlawful to display, possess or discharge firearms of any description, air rifles, B.B. guns, sling shots, or archery equipment ~~upon lands or waters~~ within designated areas administered by the Division, except with prior written approval of the Director.
  - 21.1.1 Designated areas shall include park offices, visitor centers, nature centers, bathhouses, restaurants and snack bars, stadiums, museums, zoos, stables, educational facilities, dormitories, group camping areas, swimming pools, guarded beaches, and water parks, and shall be identified by appropriate signage.
  - 21.1.2 The Director may grant written approval on a daily basis for the possession of firearms within designated areas, upon written application showing good cause related to self-defense or the defense of family, and due regard for the safety of others within the designated areas.
  - 21.1.3 Active duty and qualified retired law enforcement officers may possess firearms within areas administered by the Division, including designated areas, upon showing proper and current credentials to Parks authorities.
  - 21.1.4 Delaware residents holding an active current license to carry a concealed deadly weapon may carry a firearm within areas administered by the Division, including designated areas, upon showing the license to Parks authorities.
  - 21.1.5 Firearms may be carried within areas administered by the Division, outside of designated areas, by any person not prohibited by 11 **Del.C.** §1448.
  - 21.1.6 Law enforcement officers may limit the discharge of firearms and the use of other weapons within areas administered by the Division, in order to protect public safety and preserve the peace.
  - 21.1.7 Any person possessing a firearm shall display identification upon entry and upon request, sufficient to enable a law enforcement officer to undertake a background check.

### **3900 Wildlife**

#### **1.0 Definitions**

For purposes of Regulations 1.0 through 23.0, 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 (08/01/99)**

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

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

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

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

**17 DE Reg. 746 (01/01/14)**

## **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, 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 2.2.1 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 Foothold Traps.
  - 2.4.1 Notwithstanding statutes § 703 and 788 of Title 7, it shall be unlawful for any person to set a foothold trap at any time in this State, except from December 1 through March 20. 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 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 or make use of 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:
    - 2.4.3.1 The words "Trapping License, Delaware", the number of the trapping license issued to the owner of the traps and the year of issuance; or
    - 2.4.3.2 The owner's name and address.
  - 2.4.4 When information is furnished to 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, the Division may issue a permit to such person or his or her agent for the use of foothold traps to control said species of wildlife. Said permit may be issued at any time of the year.
  - 2.4.5 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 (08/01/99)**  
**6 DE Reg. 536 (10/01/02)**  
**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)**  
**17 DE Reg. 746 (01/01/14)**

### **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 (08/01/99)**

**6 DE Reg. 536 (10/01/02)**

**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 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 and Gray Fox.

- 4.13.1 Red Fox Hunting 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 2.8 of WR-2.0 and §788 of Title 7.
- 4.13.2 Red Fox Trapping Season. Red fox may be trapped with foothold, cable restraint, or cage/box traps from December 1 through March 10.
- 4.13.3 Gray Fox Harvest Reporting. All gray fox taken, killed or captured pursuant to §796 of Title 7 must be reported to the Division of Fish and Wildlife within seven (7) calendar days using its established reporting system(s).
- 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<sup>0</sup>F 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<sup>0</sup>F and the total February snowfall exceeded 24 inches as determined by the National Weather Service station at Wilmington, Delaware.

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

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

**6 DE Reg. 536 (10/01/02)**

**8 DE Reg. 352 (08/01/04)**

**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)**

**17 DE Reg. 746 (01/01/14)**

**19 DE Reg. 927 (04/01/16)**

## **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 (08/01/99)**

**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 (08/01/99)**

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

## 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 Possess or transport an antlered deer that was unlawfully killed.

- 7.1.1.3 Possess or transport an antlerless deer that was unlawfully killed.
- 7.1.1.4 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.
- 7.1.1.5 No hunter may harvest more than two antlered deer during a license year between July 1<sup>st</sup>. and June 30<sup>th</sup> 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, 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, 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 (08/01/99)**

**6 DE Reg. 536 (10/01/02)**

**8 DE Reg. 352 (08/01/04)**

**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)**

**17 DE Reg. 746 (01/01/14)**

## **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~~ within designated areas 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.
- 8.3.4.6 Designated areas shall include Division offices, visitor centers, nature centers, educational facilities, and maintenance shops, and shall be identified by appropriate signage.
- 8.3.4.7 The Director may grant written approval on a daily basis for the possession of firearms within designated areas, upon written application showing good cause related to self-defense or the defense of family, and due regard for the safety of others within the designated areas.
- 8.3.4.8 Active duty and qualified retired law enforcement officers may possess firearms within areas administered by the Division, including designated areas, provided that proper and current credentials shall be produced upon request of Division authorities.
- 8.3.4.9 Delaware residents holding an active current permit to carry a concealed deadly weapon may carry a firearm within areas administered by the Division, including designated areas, provided that the permit shall be produced upon request of Parks authorities.
- 8.3.4.10 Firearms may be carried within areas administered by the Division, outside of designated areas, by any person not prohibited by 11 Del.C. §1448.
- 8.3.4.11 Law enforcement officers may limit the discharge of firearms and the use of other weapons within areas administered by the Division, in order to protect public safety and preserve the peace.
- 8.3.4.12 Any person possessing a firearm shall display identification upon request, sufficient to enable a law enforcement officer to undertake a background check.
- 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 (08/01/99)**

**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 (08/01/99)**

## **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 policies may result in the revocation of the Nuisance Wildlife Control Operator permit.

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

**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 (08/01/99)**

### **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 (08/01/99)**

### **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 (08/01/99)**

**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 (08/01/99)**

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

**6 DE Reg. 536 (10/01/02)**

**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 (08/01/99)**

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

**6 DE Reg. 536 (10/01/02)**

**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<sup>BR</sup> (*Podilymbus podiceps*)

Harrier, Northern<sup>BR</sup> (*Circus cyaneus*)

Hawk, Broad-winged<sup>BR</sup> (*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-eared<sup>BR</sup> (*Asio flammeus*)

Oystercatcher, American (*Haematopus palliatus*)

Rail, Black (*Laterallus jamaicensis*)

Sandpiper, Upland (*Bartramia longicauda*)

Skimmer, Black (*Rynchops niger*)

Sparrow, Henslow's (*Ammodramus henslowii*)

Tern, Common<sup>BR</sup> (*Sterna hirundo*)

Tern, Forster's<sup>BR</sup> (*Sterna forsteri*)

Tern, Least (*Sterna antillarum*)

Warbler, Cerulean (*Setophaga cerulea*)

Warbler, Hooded <sup>BR</sup> (*Setophaga citrina*)

Warbler, Swainson's (*Limnothlypis swainsonii*)

Wren, Sedge (*Cistothorus platensis*)

<sup>BR</sup> Breeding population only

Fish

Darter, Glassy (*Etheostoma vitreum*)

Sculpin, Blueridge (*Cottus caeruleomentum*)

Shiner, Bridled (*Notropis bifrenatus*)

Shiner, Ironcolor (*Notropis chalybaeus*)

Sturgeon, Atlantic (*Acipenser oxyrinchus*)

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 (06/01/00)**

**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 (10/01/02)**

## **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 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 to the Division of Fish and Wildlife by the end of the next business day using its 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 harvesting a nutria must notify the Division of Fish & Wildlife by the end of the next business day using its established reporting system(s).

#### 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)

19 DE Reg. 927 (04/01/16)

## 9201 Regulations Governing State Parks

### 1.0 Definitions

**"Actively Engaged in Surf Fishing"** means when a person is taking all reasonable and necessary actions to maximize the probability of hooking and landing game fish by rod, reel and line attached to a baited rig, artificial lure or artificial fly. A person is also actively engaged in surf fishing when they are within 50 feet of their fishing equipment and are tending, casting and recasting their fishing equipment.

**"Activity Charge"** means any fee assessed to offset the costs associated with a particular program or activity."

**"Alcoholic Liquor", "Alcoholic Beverages"** include the 4 varieties of liquor defined in 4 **Del.C.** §101 (alcohol, spirits, wine and beer) as well as every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed by a human being and any liquid or solid containing more than 1 of the 4 varieties defined in 4 **Del.C.** §101 is considered as belonging to that variety which usually has the higher percentage of alcohol.

**"Authorized Agent"** shall mean any employee of the Division or volunteer who has been delegated the authority to perform or cause to be performed, certain designated acts or functions within the scope of his duties.

**"Bicycle"** shall include that certain class of vehicles which are exclusively human-powered by means of foot pedals, which the driver normally rides astride, which have not in excess of 3 wheels and which may be commonly known as unicycles, bicycles and tricycles. The term "bicycle" also includes a 2- or 3-wheeled vehicle with fully operable pedals and an electric motor of less than 750 watts (1 horsepower), whose maximum speed on a paved level surface, when powered solely by such motor while ridden by an operator who weighs 170 pounds, is less than 20 miles per hour. (21 **Del.C.** §101(4)).

**"Commission"** means the Commission created under 4 **Del.C.** Ch. 3, under the name of "The Delaware Alcoholic Beverage Control Commission".

**"Department"** shall mean the Department of Natural Resources and Environmental Control.

**"Director"** shall mean the Director of the Division of Parks and Recreation or his designee.

**"Division"** shall mean the Division of Parks and Recreation of the Department of Natural Resources and Environmental Control.

**"Drug Paraphernalia"** for the purposes of this chapter shall be defined in 16 **Del.C.** §4701.

**"Firearm"** includes any weapon from which a shot, projectile or other object may be discharged by force of combustion, explosive, gas and/or mechanical means, whether operable or inoperable, loaded or unloaded. (11 **Del.C.** §222(12)).

**"Highway"** means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

**"Hunter Registration Card"** means a document issued by the Division which confers eligibility to participate in hunting programs on parks subject to special restriction.

**"License"** means any license, temporary instructor's permit or temporary license issued under the laws of the state pertaining to the licensing of persons to operate motorized vehicles or vessels. "License" shall also mean any document issued by the State for hunting or fishing.

**"Motorized Vehicle"** means every vehicle which is self-propelled including, but not limited to, mopeds, motorcycles, all terrain vehicles (ATV) and other two, three or four-wheel vehicles, except Other Power-Driven Mobility Devices that comply with the device specifications in the Division of Parks and Recreation's administrative policy.

**"Operator"** means any person who is in actual physical control of any motorized vehicle, vessel, snowmobile or other means of conveyance.

**"Owner"** means a person who holds legal title to a vehicle, vessel or snowmobile.

**"Permit"** shall mean any written license issued by the Department permitting the performance of a specified act or acts.

**"Resident"** shall mean any person, persons or corporations owning a motorized vehicle(s) duly registered by the Delaware Motor Vehicle Division of the Department of Public Safety and possessing a valid Delaware Motor Vehicle operator's license.

**"Restaurant"** means any establishment, provided with special space and accommodation, where, in consideration of payment, food is habitually furnished to a park visitor, and does not include the following types of establishments defined in 4 Del.C. §101, tavern or taproom.

**"Restricted Use Parking Area"** means those parking areas which may be set aside and reserved for use by persons patronizing certain facilities within the park. Such areas will be signed designating type of use: i.e., Restaurant Parking, Marina Parking, etc.

**"Secretary"** shall mean the Secretary of the Department of Natural Resources and Environmental Control.

**"Snowmobile"** means a motorized vehicle designed to travel over ice or snow supported in whole or in part by skis, belts, or cleats, or an engine-driven vehicle of a type which uses sled-type runners or skis or an endless belt tread or any combination of these or other similar means of contact with the surface upon which it is operated, but does not include any farm tractor, highway or other construction equipment or any military or law enforcement vehicle.

**"State"** shall mean the State of Delaware.

**"Surf Fishing Vehicle Permit"** means the owner's copy of the written permit and a surf fishing vehicle plate with current year validation sticker affixed.

**"Vending"** means to: solicit or receive an order for; keep or expose for sale; deliver or value in any other way than purely gratuitously; keep with intent to sell; traffic in; or for any valuable consideration, promise or obtain, directly or indirectly, or under any pretext or by any means whatsoever, procure, or allow to be procured for any other person.

**"Vendor"** means a person who is in the act of vending as defined in these regulations.

**"Vessel"** includes every description of water craft, other than a seaplane on water, used or capable of being used as a means of transportation.

## 19 DE Reg. 854 (03/01/16)

### 2.0 General Information

- 2.1 Purpose. It shall be the intent and purpose of the Division of Parks and Recreation to adopt only those minimal Rules and Regulations that are essential to the protection of Park resources and improvements thereto and to the safety, protection and general welfare of the visitors and personnel on properties under its jurisdiction.
- 2.2 Scope. Unless otherwise provided by statute, the following shall constitute the Rules and Regulations of the Division of Parks and Recreation and shall govern the use of all applicable lands, recreation areas, historic sites, natural areas, nature preserves, rights as grantee to conservation easements, marinas, waters and facilities administered by the Division of Parks and Recreation. No Rule or Regulation herein shall preclude the enforcement of any statute under the Delaware Code.
- 2.3 Regulation Authority. In accordance with Title 7 Del.C. §4702(c), of the Delaware Code Annotated, the Administrative Procedures Act, all Rules and Regulations of the Department of Natural Resources and Environmental Control, Division of Parks and Recreation, shall have the effect of law and shall be published in at least two newspapers, of general circulation in the territory to be affected, 30 days prior to the date the Rules and Regulation become effective, except in the case of an emergency, the Department or Division shall give such advance notice as deemed necessary or desirable.

## 2.4 Construction

- 2.4.1 No Rule or Regulation herein shall be interpreted or construed in such a manner as to prevent or delay authorized personnel of the Department or other state, county or municipal agencies from completing official duties or emergency services.
- 2.4.2 In special circumstances, events or emergencies, the Secretary or Director may, when it is deemed to be in the public interest, waive a specific Rule, Regulation or fee.
- 2.4.3 Failure to enforce a specific Rule or Regulation at a particular instance or instances shall not affect the validity of any other Rule or Regulation or affect the validity of such Rule or Regulation at any other time.

## 2.5 Park Policies

- 2.5.1 In order to promote the safety and welfare of park visitors and protect and manage property in the parks, the Director, Chief of Enforcement, Park Administrators and Superintendents shall have the authority to develop reasonable policies for State Parks that are not in conflict with 7 Del.C. Ch. 47 and these Rules and Regulations. These policies must be approved by the Director and posted in a conspicuous place in the park prior to their becoming effective. Copies of all policies shall also be maintained in the office of the Park Superintendent or Park Administrator and the Central Office.
- 2.5.2 Violation of any park policy shall be grounds for eviction from the park and the denial, revocation or suspension of any permit issued or privilege granted by the Division.
- 2.5.3 The Division shall have the authority to enforce safety rules and/or policies developed in accordance with 2.5.1 of these Regulations for the protection of visitors and property.

- 2.6 Severability. If any section, subsection, paragraph, sentence, phrase or word of these Rules and Regulations are declared unconstitutional by a court of competent jurisdiction, the remainder of these Rules and Regulations shall remain unimpaired and shall continue in full force and effect, and proceedings thereunder shall not be affected.

## 2.7 Any term contained in these Rules and Regulations shall be construed as follows:

- 2.7.1 Any term in the singular shall include the plural and vice versa;
- 2.7.2 Any term in the masculine shall include the feminine and neuter;
- 2.7.3 The prohibition of an act shall tend to include an attempt to commit such act and the causing and/or the procuring directly or indirectly of such act;
- 2.7.4 No provision contained in these Rules and Regulations and no act performed by an officer or employee of the Department in the line of duty or in the scope of employment, or any act performed by a person, his agents, or employees in the performance or execution of the terms of an agreement with the Department shall be cause to be deemed unlawful; and
- 2.7.5 Any reference to the Director, Park Administrator, Superintendent or Marina Manager shall include their authorized agent.

- 2.8 The violation of, or the refusal to obey, any Law, these Rules and Regulations, Park Policies or the terms or conditions of any permit issued or privilege granted by the Division shall be grounds for the suspension or revocation of any permit issued or privilege granted by the Division, the removal or eviction from State Park lands and/or the denial of future entry to, or the denial or future permits or privileges within State Parks. Any and all applicable permit fees shall be forfeited to, and retained by, the Division. Any such suspension, revocation, removal, eviction or the denial of entry, permit or privilege shall not preclude the prosecution of any person for violation of any Law or these Rules and Regulations.

## **19 DE Reg. 854 (03/01/16)**

## **3.0 Use Restriction/Trespassing - Unclassified Misdemeanors**

- 3.1 The Director may limit or close specific public use areas, lands, waters and/or facilities and/or temporarily prohibit certain activities, including possession and/or consumption of alcoholic beverages within those areas when such action is deemed necessary for property management, protection of flora, faunas and their habitats or when it is in the best interest of the health, safety, and the general welfare of the visitors.
- 3.2 Entering or remaining on lands under the jurisdiction of the Division when such lands are closed or entering or remaining within any building, structure or facility when such building, structure or facility is closed, shall be prohibited without written permission from the Director.
- 3.3 No person shall enter upon or be present upon lands administered by the Division, except as authorized by statute, regulation or written permission from the Director.
- 3.4 No structure, facility, building or area administered by the Division shall be used for any activity other than that for which it was intended.

- 3.4.1 No person(s) shall sleep or attempt to sleep or otherwise be present and are not engaged in the activity for which the 24 hour facility or area is used for.
- 3.5 No person shall use or attempt to use a State Park campground or marina as a principle residence or as a base of operations for conducting any type of business either on a permanent or temporary basis.
- 3.6 Use of metal detectors on lands under the jurisdiction of the Division shall be prohibited except during normal park hours in the following areas:
  - 3.6.1 Ocean beaches east of the dune line.
- 3.7 No person shall collect, excavate, injure, destroy or appropriate prehistoric or historic artifacts or human skeletal remains from lands under the jurisdiction of the Division except with written permission from the Director. Violations under this paragraph may be charged under the provisions of 7 **Del.C.** §5306 or 7 **Del.C.** §5411.
  - 3.7.1 Possession or use of tools or devices specifically designed for the excavation and removal of artifacts or human skeletal remains shall be deemed prima facie evidence of a violation of this Regulation and will be confiscated, held as evidence and be subject to forfeiture upon conviction.
- 3.8 The Division maintains exhibits at the Brandywine Zoo, various Nature Centers and temporary exhibits to provide recreational interpretation to the public. The following regulations apply in these areas:
  - 3.8.1 No person shall bring pets or other animals into the Zoo.
  - 3.8.2 No person shall throw any object(s) at animals or into the animal enclosures.
  - 3.8.3 No person shall feed or attempt to feed any animal other than persons designated by the Zoo Director.
  - 3.8.4 No person shall harass or attempt to harass any of the zoo animals by making unreasonable sounds, gestures, movements or use any object to touch the animals.
  - 3.8.5 No person shall attempt to cross any safety barriers to prevent the animals from coming into contact with the general public.
  - 3.8.6 No person shall put or attempt to put any body parts in the animal enclosures.
  - 3.8.7 No person shall throw any object(s) into any exhibit.

**19 DE Reg. 854 (03/01/16)**

**4.0 Campground Policy - Environmental D Violation**

The Division shall develop policies as necessary pursuant to subsection 2.5.1 of these Regulations to ensure the safe and efficient operation of its campgrounds. Copies of the Campground Policy shall be kept on file in the park offices, posted in the campgrounds and will be made available to campers at the time of registration.

**19 DE Reg. 854 (03/01/16)**

**5.0 Vessel Regulations - Environmental D Violation**

- 5.1 No person shall launch or recover vessels from waters within or bordering on State Park lands except at designated boat-launch areas or docks.
- 5.2 No person shall operate a vessel except at slow-no-wake speed on any pond, lake, canal or within any marina under the jurisdiction of the Division.
  - 5.2.1 No person shall launch or operate a vessel powered by an internal combustion engine on Trussum Pond and Raccoon Pond.
- 5.3 All laws, rules and regulations as established by the Department governing boating in the State of Delaware shall apply to all ponds, lakes, rivers, canals, waterways, and marinas owned, leased, licensed or under the jurisdiction of the Division.
- 5.4 No person shall operate or use vessels of any type, including inflatable rafts, sailboats, rowboats, kayaks, and canoes on waters administered by the Division without one (1) Coast Guard approved lifejacket on board for each person.
  - 5.4.1 Operators and passengers of Division rental canoes, sailboats, kayaks or other watercraft rented or provided by the Division must wear a Coast Guard approved life jacket in the manner prescribed at all times while aboard such craft.
- 5.5 No person shall operate any vessel within one hundred (100) feet of a swimmer, surfer, or any designated swimming or surfing area, any swimmer or surfer or the coastline of any ocean beach or inland bay unless designated for such purpose.
- 5.6 Vessels and/or trailers shall not be anchored, moored, beached, stored or left unattended between the hours of sunset and 8 a.m. on lands or waters administered by the Division without authorization of the Park Administrator, Superintendent or Marina Manager.

- 5.7 Swimming or diving from any vessel, including a seaplane is prohibited in waters under the jurisdiction of the Division.
- 5.8 A person renting a vessel from the Division shall comply with the manufacturer's rated capacity for such vessel.
- 5.9 Operation of a vessel in a negligent or reckless manner which could endanger life, limb, or property is prohibited.
- 5.10 The parking or leaving of vessels, or vessel trailers in marina parking lots or marina areas overnight shall be prohibited unless prior written permission is given by the Marina Manager. This shall not apply to vessels and trailers legally stored within designated vessel storage areas or if the area is designated as a 24-hour facility by the Division.

**19 DE Reg. 854 (03/01/16)**

**6.0 Marinas - Environmental D Violations**

The Division shall develop policies as necessary pursuant to subsection 2.5.1 of the Regulations to ensure the safe and efficient operation of its marina. Copies of the Marina policies shall be kept on file in the Marina Office and will be made available upon request.

**19 DE Reg. 854 (03/01/16)**

**7.0 Water Sports - Environmental D Violations**

- 7.1 Persons swimming or sunbathing on areas administered by the Division shall be attired in acceptable swimwear, worn so as to prevent any indecent or lewd exposure of the person.
  - 7.1.1 Males - must cover buttocks and genitals
  - 7.1.2 Females - must cover buttocks, breasts and genitals
- 7.2 Swimsuits must be worn when using Division swimming pools. Cut-off jeans, trousers or other clothing not designed and sold as swimwear will not be permitted.
- 7.3 Lifeguards shall have the authority to enforce safety rules or policies that are deemed necessary for the protection of the public. Such rules shall be posted in a conspicuous place and shall be on file in the Park Administrator/Superintendent's office. Lifeguards shall have the authority to expel any person or persons who violate the Park Rules, Regulations and Policies.
- 7.4 No surfboards, sailboards, kayaks or similar watercraft shall be allowed in designated guarded swimming area unless approved by the Director or their designee.
- 7.5 Water skiing or towing of any persons on any type of device, other than on another vessel, shall be prohibited on all non-tidal waters administered by the Division, except by written permission of the Director or designee.
- 7.6 Use of scuba diving equipment shall be prohibited in all waters administered by the Division, unless written permission is given by the Director.
- 7.7 The possession of glass containers within any swimming area or on any beach administered by the Division shall be prohibited.
- 7.8 Swimming or diving is prohibited from all piers, docks, or bulkheads administered by the Division.
  - 7.8.1 Swimming or diving is prohibited from all vessels within marina waters.

**19 DE Reg. 854 (03/01/16)**

**8.0 Ice Skating - Environmental D Violations**

- 8.1 No person shall ice skate or enter upon any frozen pond, lake or stream administered by the Division except on areas as may be designated by the Division.
- 8.2 Areas where ice skating is permitted by the Division shall be marked and no person shall be permitted on the ice outside of such designated area.

**19 DE Reg. 854 (03/01/16)**

**9.0 Surf Fishing Vehicles - Environmental D Violations**

- 9.1 The Division through its authorized agents shall collect an annual fee and issue an appropriate permit for each 2 axle vehicle, with no less than 4 and no more than 6 wheels, equipped for travel upon sand beaches for the purpose of surf fishing at Cape Henlopen State Park, Delaware Seashore State Park, Fenwick Island State Park, and Beach Plum Island.
  - 9.1.1 Surf Fishing Vehicle Permits shall be issued only to those vehicles duly registered and licensed to operate on public highways.

- 9.2 No person shall operate a vehicle upon the beach areas or dune crossings administered by the Division without a permit for such vehicle as set forth in subsection 10.1.
- 9.2.1 The owner's copy of the permit receipt shall be available for inspection at all times when the vehicle is being operated on such beach areas.
- 9.3 A valid surf fishing vehicle plate with a current surf fishing decal affixed must be properly displayed on the vehicle for which the permit was issued prior to operation on beach areas administered by the Division.
- 9.3.1 The valid surf fishing vehicle plate shall be affixed to the front of the vehicle.
- 9.3.2 A valid blue and white numberless plate will be issued upon the purchase of a permit. Numbered surf fishing plates issued prior to 2015 are hereby invalid.
- 9.3.3 A valid Low Digit Tag may be used in place of the blue and white numberless plate.
- 9.3.3.1 A Low Digit Tag is a black and white numbered plate auctioned by the Division starting in 2015.
- 9.3.3.2 A surf fishing permit must be purchased for the current calendar year for the Low Digit Tag to be valid.
- 9.3.3.3 If a surf fishing permit is not purchased within a current calendar year for the Low Digit Tag, the Division of Parks and Recreation shall have the sole discretion to reissue that Low Digit Tag number.
- 9.3.3.4 If a Low Digit Tag number is reissued, any previously issued iterations of the Low Digit Tag number are henceforth invalid.
- 9.3.3.5 The sale, transfer or inheritance of a low digit tag is permitted. The owner and buyer/receiver of the low-digit tag must be present and complete an Affidavit to Transfer form to authenticate the transfer/sale. By law, surf-fishing tags numbered 200 or below may only be transferred to another Delaware-registered vehicle. All rules and regulations pertaining to the ownership of the low-digit surf fishing tag shall transfer to the new owner.
- 9.4 It shall be a violation of this Section to loan a Surf Fishing Vehicle Permit, or to use or attempt to use a Surf Fishing Vehicle Permit on any vehicle other than the vehicle it is assigned to. In addition to other action that may be taken, the permit will may be confiscated and held as evidence.
- 9.5 It shall be unlawful to operate any vehicle on any authorized dune crossing or on any beach area administered by the Division at any speed that is greater than is reasonable and prudent under the conditions, and having regard to the actual and potential hazards then existing, but never exceeding 15 m.p.h. In every event, speed shall be controlled and limited to that speed necessary to maintain traction and steering.
- 9.6 The capacity of the beaches administered by the Division to absorb the impact of vehicles, without substantial environmental degradations and decreased quality of experience for all visitors is limited. Therefore, vehicle use on the designated beaches is restricted to persons actively engaged in surf fishing. Permitted surf fishing vehicle operation on the beaches administered by the Division for reasons other than traveling to and from fishing areas for the express purpose of actively engaging in surf fishing, is prohibited. Any permitted surf fishing vehicle parked for any period of time on the beaches administered by the Division, without one or more persons who arrived in that vehicle being actively engaged in surf fishing is prohibited. When no one who arrived in the surf fishing vehicle is actively engaged in surf fishing, the surf fishing vehicle shall exit the beach immediately. In addition to other penalties prescribed in these rules and regulations and by statute, violation of this subsection is grounds for suspension or revocation of the permit.
- 9.6.1 Use of a surf fishing permit for the purpose of commercial bait fishing is permitted on the beaches administered by the Division provided all conditions and requirements of said permit are met and a permit is obtained from the Director.
- 9.6.2 All persons actively engaged in surf fishing must possess adequate saltwater fishing tackle, bait and/or lures commonly used for surf fishing.
- 9.6.3 On the beaches administered by the Division, surf fishing vehicles shall park between the toe of the dune and the high tide line in a single row, specifically meaning no vehicle shall park in front of or behind another vehicle.
- 9.7 The Division shall designate areas for surf fishing vehicle use on beaches under its jurisdiction. These areas shall be marked with symbol signs indicating 24-hour access, limited access and no access. Operation of a vehicle in an area not authorized for such use or during times and/or dates the area is closed to vehicles shall be a violation of this regulation.
- 9.8 The use or operation of any vehicle whatsoever, on, over, or across the sand dunes on Division lands is expressly prohibited, except when it is a vehicle displaying a valid Delaware Surf Fishing Vehicle Permit and is crossing dunes at authorized dune crossings, which are designated and maintained for that purpose by the Division.

- 9.8.1 Any other use or operation of a vehicle on, over or across the primary sand dunes, except at authorized crossings, is expressly prohibited. Violators of this regulation may be charged under 7 Del.C. §6805(b) which carries a penalty of \$200 to \$5,000 or imprisonment for up to two years or both, in addition to reimbursing the Department for reasonable expenses in remedying damages created.
- 9.9 Beach areas, including surf fishing areas, may be closed to pedestrians and vehicles, in whole or in part, for resource protection or for health, welfare, and/or safety reasons for such a period as may be determined by the Department. Unauthorized entry into a posted and/or barricaded closed area shall be a violation of this regulation.
- 9.10 The Director shall have the right to suspend Surf Fishing Vehicle Permits for up to 90 days or to revoke permits for up to three (3) years for conviction of reckless operation of a surf fishing vehicle or operation of a surf fishing vehicle under the influence of alcoholic beverages and/or drugs on lands administered by the Division or for violations of these regulations.

**19 DE Reg. 854 (03/01/16)**

**10.0 Vehicles - Environmental D Violations**

- 10.1 Vehicles operated on lands administered by the Division shall be in compliance with all State statutes, laws, rules and regulations.
  - 10.1.1 No person shall operate any motorized vehicle upon any lands administered by the Division, unless said vehicle is licensed for use upon public highways and roadways.
  - 10.1.2 Vehicles operated on lands administered by the Division must be properly equipped with brakes, headlights, tail lights, tag light, turn signal, and horn all in good working order.
  - 10.1.3 Towed trailers must have an adequate towing hook-up, complete with safety chains. They must also be equipped with operating tail lights, turn signals, tag light, and be currently registered to be towed on public roads.
- 10.2 No person shall operate a motorized vehicle, motorcycle, motor bike or other two or three-wheeled motor driven vehicle upon any lands administered by the Division, unless said person has been issued and is the holder of a valid license or permit to operate said vehicle on public highways and roadways.
  - 10.2.1 The license or permit shall be in the immediate possession of the licensee at all times when driving a motorized vehicle, motorcycle, motor bike or other two or three-wheeled motor driven vehicle and he/she shall display same upon demand of Department Enforcement personnel.
- 10.3 No person shall authorize or permit a motorized vehicle of any type owned by him or under his control to be driven by any person on lands administered by the Division, knowing that said person has no legal right to do so, or shall authorize or permit said vehicle to be driven in violation of any of the provisions of the said Division's Rules and Regulations.
- 10.4 The driver of a motorized vehicle when on lands administered by the Division shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicle, the traffic and the condition of the roadway or area.
- 10.5 Every driver shall yield preferential right-of-way at an intersection or other place indicated by stop signs or yield signs authorized and installed by the Division.
  - 10.5.1 Except when directed to proceed by an enforcement officer or traffic control device, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall come to a complete stop before entering the intersection.
  - 10.5.2 The operator of any vehicle who has come to a full stop, as provided in 11.1.1 of this Regulation, shall not enter upon or across such intersection until such movement can be made in safety.
- 10.6 Specific motorized vehicle speed limits on lands administered by the Division:
  - 10.6.1 Every driver shall observe all posted speed limits. When no special hazard exists the following speed shall be lawful, but any speed in excess of such limits shall be absolute evidence that the speed is not reasonable or prudent and that it is a violation of this Section:
    - 10.6.1.1 25 m.p.h. -- on roads administered by the Division unless otherwise posted or stated in Regulations.
    - 10.6.1.2 10 m.p.h. -- in parking, camping and congested areas unless otherwise posted.
- 10.7 No person shall operate a motorized vehicle on lands administered by the Division in a willful or wanton disregard for the safety of person or property.
  - 10.7.1 No person shall operate a motorized vehicle on lands administered by the Division in a careless, inattentive or imprudent manner without due regard for road, weather and traffic conditions.

- 10.7.2 The intentional accelerating of a motorized vehicle causing spinning of tires or what is commonly known as "burning rubber" on any park facility or roadway within an area administered by the Division is prohibited and shall be a violation of this Section.
- 10.8 An operator and/or passenger of a motorcycle under the age of 18 must wear a safety helmet of a type approved by the Secretary of Public Safety.
- 10.9 An operator of a motorized vehicle shall not permit any person riding upon any bicycle, coaster, roller skates, sled or toy vehicle to attach same or himself to any motorized vehicle being operated on lands administered by the Division.
- 10.10 No person, while on lands administered by the Division, shall ride upon any vehicle without the consent of the driver, and when any person is riding on any vehicle with the driver's consent, no part of the person's body may protrude beyond the limits of the vehicle.
- 10.11 No person shall drive or operate a motorized vehicle on lands administered by the Division, unless such motorized vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise.
- 10.12 No vehicle shall be driven, moved or parked on any lands administered by the Division unless so loaded or constructed as to prevent its contents from dropping, sifting, leaking or otherwise escaping therefrom.
- 10.13 It shall be unlawful for any person to operate any motorized vehicle or any other type of vehicle within any area administered by the Division except on such roads or areas specifically designated by the Division for such purpose.
- 10.14 No driver shall at any time drive to the left of a solid center line on a roadway when operating a vehicle on lands administered by the Division.
- 10.15 Where traffic control devices establish one-way traffic, it shall be unlawful to drive in the opposite direction unless directed by a Law Enforcement Officer.
- 10.16 No person shall drive a motorized vehicle on any lands administered by the Division while using an electronic communication device while such motorized vehicle is in motion.
- 10.16.1 "Electronic communication device" shall mean a cell telephone, personal digital assistant, electronic device with mobile data access, laptop computer, pager, broadband personal communication device, 2-way messaging device, electronic game, or portable computing device.
- 10.16.2 "Using" shall mean holding in a person's hand or hands an electronic communication device while: viewing or transmitting images or data; playing games; composing, sending, reading, viewing, accessing, browsing, transmitting, saving or retrieving e-mail, text messages or other electronic data; or engaging in a call. "Using" specifically does not include a person engaging in a call with a hands-free electronic communication device while utilizing hands-free equipment and such person does not hold the hands-free electronic communication device in such person's hand or hands;
- 10.16.3 This section shall not apply to a law-enforcement officer, a firefighter, an emergency medical technician, a paramedic or the operator of an authorized emergency vehicle in the performance of their official duties;
- 10.16.4 This section shall not apply to a person using an electronic communication device to report to appropriate authorities a fire, a traffic accident, a serious road hazard, or medical or hazardous materials emergency, or to report the operator of another motorized vehicle who is driving in a reckless, careless or otherwise unsafe manner or who appears to be driving under the influence of alcohol or drugs, or to report any crime.
- 10.17 The driver of a motorized vehicle operated on any lands administered by the Division shall wear a properly adjusted and fastened seat belt which meets the applicable federal motorized vehicle safety standards. The driver of a motorized vehicle shall secure or cause to be secured in a properly adjusted and fastened seat belt system, as defined by the applicable federal motorized vehicle safety standards, each occupant of the passenger compartment of the motorized vehicle who is 16 years of age or older.
- 10.17.1 As used in this section, "motorized vehicle" does not include motorcycles.
- 10.17.2 This section shall not apply to any person who possesses a written verification from a licensed physician or a licensed physical therapist that such person is unable to wear or use a seat belt for physical or medical reasons or any motorized vehicle which is not required to be equipped with seat belt under federal law or has otherwise been exempted from compliance in conformity with federal law.
- 10.18 The driver of a motorized vehicle shall secure or cause to be secured any child through the age of 7 and up to and including the weight of 65 pounds in a motorized vehicle operated on any lands administered by the Division, for providing protection of the child by properly securing the child in all seating positions, according to manufacturer's instruction, in a child safety seat or booster seat meeting federal motorized vehicle safety standards, and that is appropriate for the child's weight and height. Every child who has either attained the age of 8 or a weight in excess of 65 pounds and has not yet attained the age of 16 shall, in all seating positions, wear a properly secured seatbelt while in a motorized vehicle operated any lands administered by the Division.

**19 DE Reg. 854 (03/01/16)**

**11.0 Parking Violations**

- 11.1 It shall be unlawful to stop, park or leave unattended any motorized vehicle on any roadways, berms, trails, no parking zones or in any other areas not specifically designated as a parking area on lands administered by the Division.
  - 11.1.1 No person shall park any vehicle in a parking space marked or signed as a designated handicap parking space unless such vehicle bears a special handicap license plate or displays an authorized identification card indicating the vehicle is a vehicle of the handicapped and bearing the license number of the vehicle to which it was issued.
  - 11.1.2 No person shall park a vehicle and allow said vehicle to remain parked in an area longer than the posted time limit.
  - 11.1.3 No person shall park in any parking space that is signed and marked as reserved for a Park Ranger, emergency vehicles or employee parking.
  - 11.1.4 No person shall park in a "Restricted Use Parking Area" unless parking is for use of the facility so designated.
  - 11.1.5 No person shall park in any fire lane or within fifteen (15) feet of a fire hydrant.
  - 11.1.6 No person shall park a vehicle in any designated area without first having paid the appropriate rate, fee or charge established by the Division or Department.
- 11.2 It shall be unlawful for any vehicle to remain on lands administered by the Division after "closing hours" for any day-use areas closed from sunset until 8 a.m.
- 11.3 It shall be unlawful to leave any motorized vehicle unattended on lands administered by the Division for a period exceeding 24 hours, without prior notification to the Park Administrator or Superintendent or written approval from the Director.
- 11.4 Any officer empowered to enforce Division Rules and Regulations during the performance of his duties may remove or cause to be removed from any lands administered by the Division, at the owner's or operator's expense, any motorized vehicle, camping unit, or part thereof, parked or standing illegally or in violation of these regulations.
  - 11.4.1 No vehicle or camping unit removed or caused to be removed pursuant to this Section shall be released until payment is made for such removal and/or storage and proper authority to process and operate said vehicle, camping unit or part thereof displayed by the person attempting to recover said vehicle, camping unit or part thereof.
  - 11.4.2 No liability shall occur to the Division or its authorized agents for any damage or loss caused by such removal or storage.

**19 DE Reg. 854 (03/01/16)**

**12.0 Bicycles and Skating Equipment - Environmental D Violations**

- 12.1 Anyone riding a bicycle or propelling a vehicle by human power shall have all the rights and all the duties applicable to the operator of any other vehicle referenced within these Regulations and shall be in compliance with all State laws, rules and regulations when operating on lands administered by the Division.
  - 12.1.1 Bicycling is permitted only on roadways designated for public use, designated and signed bike paths and multiple-use trails designated and signed for such use. Bicycles with electric motors are prohibited on all trails except with written permission from the Director.
  - 12.1.2 Bicycles must be ridden as far to their right as possible on roadways and trails.
  - 12.1.3 Bicyclists must give hand signals when stopping or turning on Park roadways and trails.
  - 12.1.4 Bicycles operated on designated bike trails/paths shall yield right of way at all locations where the trail or path intersects with any roadway. Bicycle riders shall yield to horseback riders and/or hikers encountered on multiple use trails administered by the Division. Bike riders shall come to a complete stop and allow horseback riders and/or hikers to pass.
  - 12.1.5 Bicycles operated at night shall be equipped with:
    - 12.1.5.1 a lamp on the front which shall emit a white light and be visible for 500 feet, and;
    - 12.1.5.2 Reflectors or reflectorized material on the rear and both sides visible from 600 feet.
  - 12.1.6 No one shall operate a bicycle on Park roadways with ear plugs in both ears or while wearing a headset covering both ears.

- 12.1.7 Persons riding bicycles upon a roadway or trail shall not ride more than 2 abreast. Persons riding 2 abreast shall not impede the normal and reasonable movement of traffic.
- 12.1.8 Persons riding bicycles upon a roadway or trail shall obey the instructions of any traffic control device, including traffic signal lights, traffic signs, traffic markings, and trail markings.
- 12.1.9 Bicycles operated upon lands administered by the Division shall not be operated in wilful or wanton disregard for the safety of persons or property, in a careless or imprudent manner, or without due regard for road, weather and traffic conditions then existing, or in an aggressive manner.
- 12.2 Using roller skates, skateboards, roller skis or similar devices is prohibited on lands administered by the Division except in areas which may be designated for such use.
- 12.3 No person shall operate a motorized scooter, moped or similar device not defined in 21 **Del.C.** §101(35).
- 12.4 Persons on skateboards, roller skates, coasters, sleds or toy vehicles are prohibited from being towed or propelled by a motorized vehicle on lands administered by the Division.

**7 DE Reg. 1768 (06/01/04)**

**19 DE Reg. 854 (03/01/16)**

### **13.0 Aviation - Environmental D Violations**

- 13.1 No person shall voluntarily bring, land or cause to descend or alight on or upon any lands or waters administered by the Division any aircraft, flying machine, balloon, parachute, drones or other apparatus for aviation except with the prior consent of the Director. "Voluntarily" shall mean for purposes of this paragraph anything other than a forced or emergency landing.
- 13.2 Flying of radio-controlled model aircraft, including drones, or the launching of model rockets shall not be permitted in areas administered by the Division except in areas set aside and designated for such purposes. Special policies regarding insurance and operating conditions will be posted.

**19 DE Reg. 854 (03/01/16)**

### **14.0 Domesticated Animals/Pets - Environmental D Violations**

- 14.1 No person shall ride or lead a horse through any area or upon any roadway, trail or path administered by the Division unless such area, trail, roadway or path is designated for such use by the Division.
  - 14.1.1 Animal-drawn vehicles are permitted upon roadways and parking areas and shall be granted all the rights and shall be subject to all the regulations applicable to motorized vehicles except for those regulations which by their very nature can have no application.
- 14.2 In areas where horses are permitted on ocean beaches administered by the Division, owners/riders must stay within the parameters outlined in the Horseback Riding Policy.
  - 14.2.1 On State Park ocean beach areas, horses must use the designated crossings as outlined in the Horseback Riding Policy.
  - 14.2.2 Vehicle and trailers used to transport horses shall be parked in accordance with the Division's Horseback Riding Policy.
- 14.3 Horseback riders shall yield to hikers encountered on multiple use trails administered by the Division. The horseback rider shall stop and remain stopped until the hiker passes.
- 14.4 Except service animals as defined by the Americans with Disabilities Act, dogs and other domesticated animals, shall not be permitted within or upon designated picnic areas, nature trails, public buildings, structures and other designated areas administered by the Division.
  - 14.4.1 Except service animals as defined by the Americans with Disabilities Act, dogs and other domesticated animals shall not be permitted upon or within any Division-administered swimming area, or swimming area beach or surfboard/sailboard areas at anytime, day or night, from May 1 through September 30 each year, **7 Del.C.** §1715.
- 14.5 In areas where such animals are permitted, person(s) having custody of said animal must keep it restrained on a leash not to exceed six (6) feet in length and under proper control. The sole use of an electronic lease shall be prohibited.
  - 14.5.1 Leases are not required when lawfully hunting with a dog or when training dogs within designated and authorized hunting and/or training areas.
- 14.6 In areas where such animals are permitted, person(s) having custody of said animal shall not leave the pet unattended.
- 14.7 Any person(s) with a dog or other domesticated animal or pet, that creates a nuisance or disturbance, or who fails to properly control such animals, may be evicted without refund or reduction of fee.

- 14.8 Owners or persons having custody of dogs or other domesticated animals shall be responsible for the clean up and removal of any feces deposited by the animal.

**19 DE Reg. 854 (03/01/16)**

**15.0 Conduct - Unclassified Misdemeanor**

- 15.1 Disorderly conduct is unlawful and enforcement action may be taken against any person who intentionally causes public inconvenience, annoyance, nuisance, or alarm to any other person who creates a risk thereof by:
- 15.1.1 Engaging in fighting or in violent, tumultuous or threatening behavior;
  - 15.1.2 Making an unreasonable noise or an offensively coarse utterance, gesture or display or addressing abusive language to any person present;
  - 15.1.3 Disturbing any lawful assembly or meeting of persons without lawful authority;
  - 15.1.4 Obstructing vehicular or pedestrian traffic;
  - 15.1.5 Congregating with other persons and refusing to comply with a lawful order of an enforcement officer to disperse;
  - 15.1.6 Creating a hazardous or physically offensive condition which serves no legitimate purpose; or
  - 15.1.7 Engaging with at least one other person in a course of disorderly conduct, which is likely to cause substantial harm or serious inconvenience, annoyance or alarm and refuses or knowingly fails to obey an order to disperse made by an enforcement officer to the participants.
- 15.2 No person shall expose themselves in any manner which would be considered as indecent exposure or perform any lewd act which they know is likely to be observed by others who would be affronted or alarmed by such act or exposure on lands or waters or in facilities administered by the Division.
- 15.2.1 The disposal of human body waste is prohibited except within designated facilities provided for that purpose.
- 15.3 Gambling is prohibited and no person shall bring into any area administered by the Division, with the intention of engaging in a game of chance for money or other valuables, any implement or device commonly used or intended for gambling purposes.
- 15.4 Practicing, playing or using equipment pertaining to archery or golf on lands administered by the Division is prohibited except in those areas specifically designated for such use.
- 15.5 The playing of games on lands administered by the Division involving thrown objects such as hardballs, Frisbees, horseshoes, etc. shall be restricted to such areas set aside for such activities.
- 15.6 No person while on lands administered by the Division shall, without a valid written permit, use any radio or other sound-producing device or article which, in any way, may annoy or disturb a reasonable person of normal sensitivities.
- 15.7 No person, while on lands administered by the Division, shall at any time use a horn other than as a reasonable warning signal or make any unnecessary or unreasonable harsh sound by means of a horn or other amplified warning devices.
- 15.8 Reasonable quiet must be maintained at all times within all overnight facilities, particularly between the hours of 10 p.m. and 7 a.m. Unnecessary loud noises or disturbances of any nature, which are disturbing to others, shall be prohibited.

**19 DE Reg. 854 (03/01/16)**

**16.0 Fires - Environmental D Violation**

- 16.1 No person shall kindle, build, maintain or use a fire on lands administered by the Division, unless said fire is in a designated area and confined within fireplaces, grills, fire rings, or other equipment designed for the purpose of containing cooking fires.
- 16.1.1 Any fire shall be under the care and direction of a competent person from the time it is kindled until it is extinguished.
  - 16.1.2 All fires must be properly extinguished and the ashes, embers or coals disposed of in receptacles provided for such purpose, so as to cause no danger whatsoever to persons, structures, animals, plant life, or vehicles.
  - 16.1.3 Fires shall be prohibited on designated swimming/surfing beaches administered by the Division.
  - 16.1.4 No fires larger than necessary for cooking purposes shall be permitted unless there is written permission from the Director.

16.1.5 Fires of any type or the use or possession of lanterns which use inflammable fuel, are not permitted on fishing piers.

16.2 The possession, explosion or discharge of any firecrackers, torpedoes, rockets or other fireworks or explosives in areas administered by the Division is prohibited, except with prior written permission of the Director.

**19 DE Reg. 854 (03/01/16)**

**17.0 Property Violations - Unclassified Misdemeanor**

17.1 It shall be unlawful to place, dump, deposit, throw or leave any garbage, refuse, trash, cans, bottles or other debris of any kind within or upon any public beach, lands or waters administered by the Division, except in receptacles provided for such purpose.

17.1.1 No person shall bring into a State Park from an area outside of the Park any garbage, refuse, waste, rubbish or obnoxious materials for the purpose of disposing of such in park litter receptacles.

17.2 Disposing or discharging of solid waste on lands or waters under the jurisdiction of the Division is prohibited. Violators may be charged under 7 **Del.C.** §6025(b).

17.3 Unless specifically authorized by the Department for management, research or educational purposes, the cutting, injuring or removal of trees, shrubs, wildflowers, ferns, mosses, or other plants from lands administered by the Division is strictly prohibited.

17.4 Removing, defacing, damaging, altering, or tampering of any tangible property, including structures, buildings, natural features, and equipment on lands administered by the Division is strictly prohibited.

17.5 The willful harming, collecting, harassing or possessing of wildlife, flora, or fauna on lands administered by the Division is strictly prohibited.

17.6 Walking on, over, or across a primary dune administered by the Division, except at locations specified by the Department or Division for such use, shall be prohibited.

17.7 Operating a motorized vehicle in such a manner as to cause willful, wanton or reckless damage to lands administered by the Division, is prohibited and shall be a violation of this Section.

17.8 Use of dedicated state nature preserves shall be limited to posted trails and permitted activities. Property violations are enforceable under these Rules and Regulations and 7 **Del.C.** Ch. 73.

17.9 Activities such as rock climbing, rappelling, or similar are only permitted in designated areas and with the proper permit issued by the Division.

**19 DE Reg. 854 (03/01/16)**

**18.0 Public Assemblies, Meetings, Distribution and Posting of Printed Matter - Environmental D Violation**

18.1 In order to maintain the recreational nature of State Parks as a haven for the public from the rigors of work and the commercial environment, and to promote the State's interest in its concessions and sales to the public, no commercial advertising by the distribution or posting of printed matter, other than by the State or its concessionaires, shall be permitted in State Parks.

18.2 Public meetings, assemblies, gatherings, demonstrations and/or the distribution or posting of printed matter are permitted on lands administered by the Division provided that a permit or approval to do so has been issued by the Director.

18.3 A Division Special Use Permit shall be completed and set forth the name of the applicant, the name of the organization (if any), the date, time, duration and the number of persons expected to attend or participate, the location of the proposed distribution or posting of printed matter, and a statement designating the equipment and facilities to be used in connection therewith. The application shall be submitted to the Director at least 7 days in advance of the proposed event, distribution or posting.

18.4 Persons engaged in the distribution or posting of printed matter under this Section shall not obstruct or impede pedestrians or vehicles, harass visitors with physical contact or verbal demands, misrepresent the purposes or affiliations of those engaged in the distribution or misrepresent whether the printed matter is available without cost or donation.

18.5 A Special Use Permit may be revoked for violation of the terms or conditions of the permit, Park Regulations or Park Policies. Such a revocation shall be made in writing with the reason(s) for revocation clearly set forth, except under emergency circumstances, when an immediate verbal revocation or suspension may be made, to be followed by a written confirmation.

**19 DE Reg. 854 (03/01/16)**

**19.0 Solicitations and Concessions - Environmental D Violation**

- 19.1 Vending of merchandise, services or food upon lands administered by the Division is prohibited without the express written approval of the Director.
- 19.2 No person shall solicit for money or goods or services on any lands administered by the Division without the written permission of the Director.
- 19.3 No person, group of persons, nor any business or commercial entity shall utilize parks or their facilities for business gain, whether for profit or otherwise, except those concessionaires or groups who have followed procedures, met established requirements, paid appropriate program charges and have been authorized by the Director.

**19 DE Reg. 854 (03/01/2016)**

**20.0 Alcoholic Beverages and Drugs - Environmental D Violation**

- 20.1 The sale of alcoholic beverages without a permit from the Division of Alcoholic Beverage Control and written permission from the Director is prohibited on lands and waters administered by the Division.
- 20.2 No person under the age of twenty-one (21) years shall possess or consume alcoholic beverages of any type. Any person suspected of being in violation of this subsection, and who fails to provide sufficient identification to prove otherwise may, in addition to any other action taken, be evicted without refund of any fee.
- 20.3 No person who is of legal age to possess or consume alcoholic beverages shall sell, give or in any way provide alcoholic beverages to a person under the age of twenty-one (21) years.
- 20.4 No person under the influence of alcohol, narcotics or any other drug, to the extent of being considered publicly intoxicated, shall enter or remain upon or within lands or waters administered by the Division.
- 20.5 The unlawful possession, use or consumption of narcotics, drugs, drug substances, or controlled substances and/or drug paraphernalia as listed and defined in Title 16, Delaware Code is expressly prohibited upon lands or waters or within facilities administered by the Division.
- 20.6 Unless authorized by the Director the possession, consumption, or public display of alcoholic beverages or intoxicating liquors within or upon the following areas is prohibited:
  - 20.6.1 Brandywine Creek State Park -- Prohibited on all areas.
  - 20.6.2 Fort Delaware State Park -- Prohibited on all areas.
  - 20.6.3 Wilmington State Parks-Prohibited in all areas.
  - 20.6.4 Fox Point State Park-Prohibited in all areas.
  - 20.6.5 Specific Areas Within all State Parks -- All nature trails, nature preserves, youth camps public restrooms, bath houses, parking facilities, roadways, designated swimming areas, pools, or other areas designated by the Director.
- 20.7 No person shall operate or be in actual physical control of any motorized vehicle, vessel, bicycle or any other means of conveyance while under the influence of alcohol or any drug.
  - 20.7.1 Possession and/or use of any alcoholic beverage and/or drugs while aboard Division rental vessels shall be prohibited.
- 20.8 The bringing in of draft beer in kegs or by a vehicle equipped to dispense draft beer shall not be permitted upon lands administered by the Division without prior written permission from the Director.

**19 DE Reg. 854 (03/01/16)**

**21.0 Hunting, Fishing and Wildlife Management - Environmental D Violation**

- 21.1 It shall be unlawful to display, possess or discharge firearms of any description, air rifles, B.B. guns, sling shots, or archery equipment upon lands or waters within designated areas administered by the Division, except with prior written approval of the Director.
  - 21.1.1 Designated areas shall include park offices, visitor centers, nature centers, bathhouses, restaurants and snack bars, stadiums, museums, zoos, stables, educational facilities, dormitories, group camping areas, swimming pools, guarded beaches, and water parks, and shall be identified by appropriate signage.
  - 21.1.2 The Director may grant written approval on a daily basis for the possession of firearms within designated areas, upon written application showing good cause related to self-defense or the defense of family, and due regard for the safety of others within the designated areas.
  - 21.1.3 Active duty and qualified retired law enforcement officers may possess firearms within areas administered by the Division, including designated areas, upon showing proper and current credentials to Parks authorities.

- 21.1.4 Delaware residents holding an active current license to carry a concealed deadly weapon may carry a firearm within areas administered by the Division, including designated areas, upon showing the license to Parks authorities.
- 21.1.5 Firearms may be carried within areas administered by the Division, outside of designated areas, by any person not prohibited by 11 Del.C. §1448.
- 21.1.6 Law enforcement officers may limit the discharge of firearms and the use of other weapons within areas administered by the Division, in order to protect public safety and preserve the peace.
- 21.1.7 Any person possessing a firearm shall display identification upon entry and upon request, sufficient to enable a law enforcement officer to undertake a background check.
- 21.2 No person shall hunt, pursue, trap shoot, injure, kill or molest in any way by hand, gun, archery, equipment or dog any wild bird or animal on lands or waters administered by the Division, nor shall any person have any such wild bird or animal in his possession.
- 21.3 Notwithstanding subsections 21.1 and 21.2 above, hunting may be permitted in certain areas at times authorized by the Division. Hunting shall be in accordance with State and Federal laws, rules and regulations. Those persons lawfully hunting in those areas specifically designated for hunting by the Division may possess and discharge authorized firearms for the purpose of lawfully hunting. Those persons lawfully hunting may possess such wild bird or animal hunted, pursued, trapped, injured or killed by gun, archery equipment or dog in areas designated by the Division for hunting when such hunting is lawful.
- 21.4 A hunter registration card issued by the Division, in addition to a valid Delaware hunting license, is required for hunting on lands administered by the Division that are opened for hunting. Hunting registration cards shall be issued by the Park Administrator or Park Superintendent and shall be valid for the entire hunting season unless revoked for violations of hunting laws, rules or regulations. All hunting activities shall be regulated by the registration card and all card holders shall abide by the conditions of the registration card. This hunting registration card shall not be valid for deer hunting on any park where a drawing is held for assignment of deer stands or hunting areas. A special registration card is required in areas that regulate deer hunting by lottery.
  - 21.4.1 In areas where elevated deer stands are provided or authorized, hunters must remain on their assigned stand during the shotgun season. Archery deer hunters must stay within the area assigned to their stand. Hunting programs in each State Park vary by season, method of take and other restrictions for that specific park. Hunters must follow Park specific requirements for use of hunting stands and designated hunting areas.
  - 21.4.2 Trapping is prohibited except for management purposes as authorized by the Director.
  - 21.4.3 Raccoon hunting is restricted to chase by dogs only, with firearms prohibited. Firearms are prohibited while raccoon hunting.
- 21.5 Persons under the influence of alcoholic beverages, liquors or drugs or possessing and/or consuming alcoholic beverages, liquors or drugs shall not be permitted to hunt on Division lands.
- 21.6 Fishing shall be permitted, in accordance with the laws and regulations as set forth by the Division of Fish and Wildlife. A General Fishing License (GFL) issued by the Division of Fish and Wildlife is required to fish from any lands or in any waters administered by the Division.
  - 21.6.1 Fishing is not permitted in designated swimming areas.
  - 21.6.2 Fishing is prohibited from all piers, docks, bulkheads, and vessels within marina waters.
  - 21.6.3 It shall be unlawful for anyone to utilize an apparatus to cast a fishing hook or bait as a projectile by force of combustion, explosive, gas and/or mechanical means, or to possess such apparatus, whether operable or inoperable, loaded or unloaded.
- 21.7 The disturbance of nesting or interference with the raising of young of wildlife, including amphibians, reptiles, birds or mammals on any lands or waters administered by the Division is prohibited unless authorized by the Director.
  - 21.7.1 The heronry at Pea Patch Island Nature Preserve shall be closed to the public year round. Entry without specific prior written authorization by the Division Director is prohibited.
- 21.8 No person, pet or vehicle shall be permitted to enter an area designated and posted by the Division as a bird-nesting/breeding area.
- 21.9 It shall be prohibited for any person to bring in or otherwise introduce any species of domestic or wild animal onto lands administered by the Division.

**19 DE Reg. 854 (03/01/16)**

**22.0 Rates, Fees and Charges - Environmental D Violation**

- 22.1 No person shall use or gain admittance to, or attempt to use or gain admittance to, any area or facilities for which a rate, fee, or charge is made by the Division or Department unless he/she pays the rate, fee or charge established by said Division or Department.
- 22.2 The purchase or resale of a daily entrance fee ticket, except through an authorized Division agent, is prohibited.
- 22.3 The use or attempt to use any altered daily entrance fee ticket is prohibited.
- 22.4 The vehicle permit for entering a State Park shall be affixed to a conspicuous place on the vehicle as designated by the Division. Adhesive backing on the permit shall be used to attach the permit to the vehicle. Use of any other material or device to attach the permit shall be prohibited.
- 22.5 Use of Senior Annual Pass without a senior being present in the vehicle is prohibited.
  - 22.5.1 Use of a valid Lifetime Pass by a person other than to whom it was issued is prohibited.

**19 DE Reg. 854 (03/01/16)**

### **23.0 Facility Rentals and Special Events - Environmental D Violation**

- 23.1 No person shall make use of or attempt to make use of any State Park pavilion or other facility which has been reserved, unless they are a member of the family or group reserving the pavilion or facility.
- 23.2 No person, group, or organization shall schedule, hold or conduct an activity or event that requires special arrangements, considerations and/or planning by the staff unless a written request is submitted to the Director for approval at least 7 days prior to the activity or event. Additional costs may be charged for special arrangements, considerations and/or planning may include but not be limited to traffic and crowd control, parking, special equipment use, and the use of facilities for activities other than their intended purposes.

**7 DE Reg. 1768 (06/01/04)**

**19 DE Reg. 854 (03/01/16)**

### **24.0 Enforcement Powers - Unclassified Misdemeanor**

- 24.1 In accordance with the provision set forth in 7 **Del.C.** §4701(a)(8), the Division may employ personnel who shall have all the powers of investigation, detention and arrest, conferred by law on peace officers, sheriffs, or constables for the enforcement of the Division Rules and Regulations.
- 24.2 Powers, duties and functions of Law Enforcement Officers of the Department of Natural Resources and Environmental Control:
  - 24.2.1 In accordance with 29 **Del.C.** §8003(a), Law Enforcement Officers of the Department of Natural Resources and Environmental Control shall see to the enforcement of all laws, regulations, rules, permits, licenses, orders and program requirements of the Department of Natural Resources and Environmental Control.
  - 24.2.2 Law Enforcement Officers of the Department of Natural Resources and Environmental Control shall have police powers similar to those of sheriffs, constables, peace officers and other police officers when enforcing the laws, rules, regulations, permits, licenses, orders and program requirements of the Department of Natural Resources and Environmental Control. Such police powers shall include, but not be limited to, powers of investigation, search, seizure, detention and arrest, conferred by law on sheriffs, constables, peace officers and other police officers.
  - 24.2.3 Law Enforcement Officers of the Department of Natural Resources and Environmental Control shall have the authority to serve and return summonses, subpoenas and warrants.
- 24.3 Each employee vested with the enforcement responsibility as authorized above shall be required to show proper identification as issued by the Department of Natural Resources and Environmental Control or other county or state law enforcement agencies.
- 24.4 No person shall willfully fail or refuse to comply with any lawful order or direction of any Enforcement Officer on lands or waters administered by the Division.
- 24.5 Anyone interfering with enforcement personnel during the performance of their duty in enforcing these regulations shall be cited for "interfering with enforcement personnel in the performance of his or her duty".

**7 DE Reg. 1768 (06/01/04)**

**19 DE Reg. 854 (03/01/16)**

### **25.0 Penalty and Court Powers**

- 25.1 In accordance with the provisions set forth in the 7 **Del.C.** §4702(a), any person convicted of violating any rule or regulation promulgated by the Department of Natural Resources and Environmental Control pursuant to this chapter shall be:

- 25.1.1 Fined not less than \$50.00 nor more than \$100.00, plus the costs of prosecution and court costs, for any rule or regulation designated by the Department of Natural Resources and Environmental Control as a class D environmental violation. Any person convicted of a class D environmental violation within 5 years of a prior conviction for a class D environmental violation shall be fined not less than \$100.00 nor more than \$500.00, plus the costs of prosecution and court costs.
  - 25.1.2 Fined not less than \$50 nor more than \$250, plus the costs of prosecution and court costs, or imprisoned not more than 10 days, or both, for any rule or regulation designated by the Department of Natural Resources and Environmental Control as an unclassified misdemeanor.
  - 25.1.3 Fined not less than \$10 nor more than \$25 for all parking violations. No court costs or other administrative fee shall be assessed if a civil penalty is paid by voluntary assessment. A summons in the appropriate form to be adopted by the Department of Natural Resources and Environmental Control may be attached to an unattended vehicle found in violation of any rule or regulation for parking in state parks by an authorized officer.
- 25.2 Justices of the Peace shall have jurisdiction over violations of the Rules and Regulations of the Department of Natural Resources and Environmental Control, Division of State Parks and Recreation, throughout the state, with the condition that any person arrested for such violation be taken before the closest available magistrate in the county where such violation is alleged to have occurred. An arresting officer may issue a summons to any person arrested for any violation of these Rules and Regulations and have said person appear at a subsequent date at the Justice of the Peace Court which is the nearest available Justice of the Peace to the place of arrest during the regularly scheduled hours of said court. For the purposes of this Section, the summons for later appearance shall be sufficient to grant jurisdiction over the offense to the said nearest available Justice of the Peace. A Justice of the Peace is available when he is present at court.
- 25.3 Failure to answer any summons issued for violations of these Rules and Regulations shall result in an additional charge of Failure to Answer Summons.
- 25.4 Nothing contained herein shall preclude an action being brought in a court of equity for injunctive or other relief.
- 19 DE Reg. 854 (03/01/16)**

## **26.0 Effective Date**

The amendments to these regulations become effective April 1, 2016.

**19 DE Reg. 854 (03/01/16)**

Effective Date:

These Amended Rules and Regulations are to take full force and effect at midnight, June 30, 2002

### **Adoption:**

I, John A. Hughes, Secretary of the Department of Natural Resources and Environmental Control, hereby adopt and establish for the Division of Parks and Recreation the foregoing Rules and Regulations of the Department pursuant to 7 Del.C., Ch. 47, Subsection 4702(c).

John A. Hughes, Secretary

Department of Natural Resources and Environmental Control

**7 DE Reg. 1768 (06/01/04)**

**19 DE Reg. 854 (03/01/16)**

**21 DE Reg. 523 (01/01/18) (Emer.)**