

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF FISH AND WILDLIFE

Statutory Authority: 7 Delaware Code, Section 903(e)(2)(a) (7 **Del.C.** §903(e)(2)(a))
7 **DE Admin. Code** 3900

FINAL

Secretary's Order No.: 2010-F-0017

Date of Issuance: June 10, 2010

Effective Date of the Amendment: July 11, 2010

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

Background and Procedural History

This Order considers proposed regulations to amend 7 **DE Admin. Code** 3900, *Delaware Regulations Governing Wildlife*. The Department's Division of Fish and Wildlife commenced the regulatory development process with Start Action Notices 2010-02 through 2010-08, and 2010-11. The Department published its initial proposed regulation Amendments in the March 1, 2010 *Delaware Register of Regulations*, and held a public hearing on March 25, 2010. The public hearing record remained open at that time for public comment through March 31, 2010. Subsequent to the Department's initial publication of its proposed regulation Amendments on March 1, 2010, but prior to the public hearing held on March 25, 2010, the Department received numerous public comments from both individuals and sports clubs concerning the proposed Amendments to establish a formal red fox season (Sections 2.0 and 4.0). These comments centered on public safety issues with regard to the proposed regulation language in these Sections, specifically, with the Subsection pertaining to chasing red fox with hounds. After thorough review by the Department, it was determined that revisions to the initially proposed regulations regarding this matter were necessary in order to ensure public safety during such activities. As a result, the Department *revised* its initially proposed regulation Amendments to 7 **DE Admin. Code** 3900 in a manner to clarify how red foxes may be killed. This change was consistent with the public comment received by the Department. The *revised* proposed Amendments were then thoroughly vetted to the public at the public hearing on March 25, 2010. No further substantive comment was received by the Department subsequent to the holding of said public hearing, and thus no additional revisions have been made to the proposed *revised* regulation Amendments.

The Department's presiding hearing officer, Lisa A. Vest, prepared a Hearing Officer's Report dated May 25, 2010 (Report). The Report recommends certain findings and the adoption of the proposed *revised* Amendments as attached to the Report as Appendix A.

Findings and Discussion

I find that the *revised* proposed Amendments are well-supported by the record developed by the Department, and I adopt the Report to the extent it is consistent with this Order. The Department's experts developed the record and drafted the proposed *revised* Amendments. Throughout the regulatory development process regarding this promulgation, the Department received public comment, as noted in the Report, and the same were fully addressed by Department staff in a thorough and balanced manner, accurately reflecting the information as contained in the public hearing record which was developed in this matter.

I find that the Department's experts in the Division of Fish and Wildlife fully developed the record to support adoption of these *revised* Amendments. With the adoption of this Order, Delaware will (1) define the term, "Quality Buck"; (2) create a crossbow deer hunting season; (3) require non-toxic shot be used when hunting rail, snipe and moorhen; (4) restrict mute swan hunting to the regular waterfowl season; (5) establish a red fox hunting season; (6) provide clarification as to when trapping equipment must be removed from the field; (7) provide clarification with regard to various deer hunting issues related to bag limits, tagging and registration; (8) exempt non-residents from

having to purchase a guide license when guiding for snow geese in Delaware; and (9) require license exempt hunters to obtain a free annual hunting and trapping identification number so that they can be identified for surveying purposes.

In conclusion, the following findings and conclusions are entered:

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

2.) The Department provided adequate public notice of the proposed Amendments, and provided the public with an adequate opportunity to comment on both the initial proposed Amendments, as well as the proposed *revised* Amendments, including at the public hearing held on March 25, 2010;

3.) The Department held a public hearing on March 25, 2010 in order to consider public comment before making any final decision;

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

5.) The recommended *revised* Amendments should be adopted as final regulation Amendments because Delaware will be able to (1) provide additional hunter opportunities for the public with the inclusion of crossbows into its existing archery season; (2) establish a red fox hunting season, in accordance with recent statutory changes made by the Delaware legislature; (3) provide clarifications to existing regulations to promote a greater understanding of the same to hunters; (4) further promote the harvest of snow geese in Delaware; (5) identify license-exempt hunters for future surveying purposes, thus allowing Department personnel to collect more accurate hunter harvest statistics overall; and lastly, because (6) the amendments are well supported by documents in the record;

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

Collin P. O'Mara, Secretary

3901 Definitions

For purposes of Regulations 1.0 through 16.0, 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.

"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.

“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 ~~14~~ 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.

“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.

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

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

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

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

3902 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 ~~A crossbow may be used in lieu of a shotgun to hunt deer during that part of the November shotgun season that runs from Monday through Saturday of each year and in any shotgun or muzzleloader deer season open in December or January; 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 A spear, gig, trap or fyke net may be used to take snapping turtles.
- 2.1.6 A single shot an antique or authentic reproduction black powder Sharps rifle of 45 to 60 caliber shall be lawful for use during shotgun deer seasons using paper patched bullets.
- 2.1.7 No person shall place in the field any set or unset equipment associated with the trapping of game animals until the opening day of any state approved trapping season.
- 2.1.8 Any person who sets or makes use of any trap, snare 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.

2.2 **~~Bow and Arrow.~~ 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 an explosive tip, or any longbow drawn and held by mechanical means (draw locking device), ~~except the Director may issue permits to hunters who are permanently disabled to use crossbows, provided: with a minimum pull less than 35 pounds.~~
 - 2.2.1.1 ~~The applicant has a physician's certification that he or she is unable to use conventional archery equipment;~~
 - 2.2.1.2 ~~The applicant has a disability that requires the use of a wheelchair;~~
 - 2.2.1.3 ~~The applicant is a single or double amputee above the elbow, or a double amputee below the elbow;~~
 - 2.2.1.4 ~~The applicant has a permanent physical disorder which cannot be surgically corrected and prevents the use of an arm or hand;~~
 - 2.2.1.5 ~~The applicant has lung disease to the extent that forced (respiratory) expiratory volume for one (1) second when measured by spirometer is less than one (1) liter or arterial oxygen tension (po) is less than 60 mm/Hg on room air at rest; or~~
 - 2.2.1.6 ~~The applicant has cardiovascular disease to the extent that functional limitations are classified in severity as class III or class IV according to standards accepted by the American Heart Association.~~
- 2.2.2 Crossbows. Crossbows used for deer hunting must ~~be between~~ have a minimum pull weight of 125 and 200 pounds of pull weight, 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 Leghold Traps.

2.4.1 It shall be unlawful for any person to set a leghold trap at any time in this State, except from December 1 through March 10 (March 20 on embanked meadows) in New Castle County and December 15 through March 15 in Kent and Sussex counties.

2.4.2 Notwithstanding subsection 2.4.1 of this section, it shall be lawful to trap raccoons with leghold traps in New Castle County or Kent County from the southerly boundary of New Castle County Route 380 and east and southeast of the center line of U.S. Route No. 13, thence following said center line of U.S. Route No. 13 to the point where U.S. Route No. 13 forms a junction with U.S. Route No. 113 and thence along the center line of U.S. Route No. 113 to a line dividing Kent County from Sussex County during any time of the year, except on Sundays. Notwithstanding the foregoing, this subsection shall not apply to lands in Kent County lying east of the center line of Rt. 113, north of the Sussex County line and south of the St. Jones River.

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

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

2.4.3.2 In a diked marsh that was formerly tidal;

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

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

2.4.3.5 In the areas described in subsection 2.4.2 of this section.

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

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

2.4.5 It shall be unlawful for any person to set or make use of long-spring traps, "Stop-Loss" traps or jump traps larger than No. 1½ or coil-spring traps larger than No. 1 without first permanently attaching a metallic tag on each trap, bearing:

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

2.4.5.2 The owner's name and address.

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

2.4.6.1 A ditch;

2.4.6.2 A stream; or

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

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

- 2.4.8 For the purposes of subsection 2.4.6 of this section, the term "normally marshy condition" shall mean land with one or more of the following associated plant groupings growing upon it: cordgrass, sedges, rushes, cattails, threesquare or phragmites.
- 2.4.9 When information is furnished to a Fish and Wildlife Agent from the owner, tenant or sharecropper of any land that any species of wildlife is detrimental to crops, property or other interests on land on which he or she resides or controls, upon investigation, that Fish and Wildlife Agent may issue a permit to such person or his or her agent for the use of leghold traps to control said species of wildlife. Said permit may be issued at any time of the year.
- 2.4.10 The setting of each trap in violation of this section shall be a separate offense.
- 2.5 Gray Squirrel.
Hunting gray squirrels with a ~~.17 caliber rimfire rifle, a~~ through .22 caliber rimfire rifle 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 in accordance with § 788 of Title 7 with the following: ~~bow and arrow longbow and crossbow; shotgun with shot up to size 2 lead or T steel; rimfire rifle or centerfire rifle up to .25 caliber, using hollow point bullets with a maximum bullet weight of 75 grains; or a muzzle-loading rifle.~~
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.]
- 3 DE Reg. 289 (8/1/99)**
6 DE Reg. 536 (10/1/02)
11 DE Reg. 334 (09/01/07)

3903 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 ~~hunting~~ in Delaware. It shall be unlawful for any person to

possess shells loaded with lead shot while ~~waterfowl~~ 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 a special day established annually by the Division for disabled (non-ambulatory) hunters using a wheelchair for mobility and hunters 10 years of age or older but less than 16 years of age (10-15 years inclusive). Hunters 13-15 years of age must have completed an approved course in hunter training and possess a Delaware Resident or Non-Resident Junior Hunting License. Young hunters must be accompanied by a licensed non-hunting adult who is 21 years of age or older. Young hunters must be of sufficient size, physical strength and emotional maturity to safely handle a shotgun.

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

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

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

3904 Seasons

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

4.1 Season Dates.

Hunting and trapping season dates will be published each year in an annual publication entitled "Delaware Hunting and Trapping Guide."

4.2 General.

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

4.3 Protected Wildlife.

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

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

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

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

4.4 Beaver.

- 4.4.1 Unless otherwise provided by law or regulation of the Department, it shall be unlawful for any person to hunt or trap beaver during any period of the year, however, from December 1 through March 20, landowners (or their agents) may take up to eight beavers from their property without a permit, provided the beavers are causing crop or property damage.
 - 4.4.2 Beaver hides and the meat of lawfully taken beaver harvested anywhere within or outside of Delaware may be sold.
- 4.5 Bullfrogs.
 - 4.5.1 Season. Bullfrogs may be hunted in accordance with the statutes and regulations of the State of Delaware governing the hunting of bullfrogs: from May 1 through September 30.
 - 4.5.2 Limit. It shall be unlawful for any person to take more than twenty-four (24) bullfrogs in any one day.
 - 4.5.3 License. A hunting or fishing license is required to take bullfrogs.
- 4.6 Crows.

It shall be unlawful for any person to hunt common crows during any period of the year, except Thursdays, Fridays and Saturdays between and including the fourth Thursday of June and the last Saturday of March, unless said person holds a valid depredation permit. The hunting of common crows is restricted only by the provisions of federal regulations pertaining to the taking of common crows. Crows may be taken without a permit when committing damage or about to commit damage.
- 4.7 Gray Squirrel.
 - 4.7.1 Season. Gray squirrel may be hunted in accordance with the statutes and regulations of the State of Delaware governing the hunting of gray squirrel: from September 15 (September 14, if September 15 is a Sunday) through the first Saturday in February. Squirrel hunting shall be unlawful during the November deer firearms season. When squirrel season overlaps with a firearms deer season, squirrel may be hunted when hunter orange is displayed in accordance with § 718 of Title 7.
 - 4.7.2 Limit. It shall be unlawful for any person to take more than six gray squirrels in any one day.
- 4.8 Opossum.

The opossum may only be hunted or trapped during the lawful season to hunt or trap raccoons.
- 4.9 Pheasant.
 - 4.9.1 Season. Male pheasant may be hunted in accordance with the statutes and regulations of the State of Delaware governing the hunting of pheasant: from the Monday that immediately precedes Thanksgiving through the first Saturday in February, provided that during a deer firearms season hunter orange is displayed in accordance with §718 of Title 7.
 - 4.9.2 Female Pheasant. It shall be unlawful for any person to hunt or possess any female pheasant at any time, except as permitted on game preserves, by licensed game breeders or as otherwise permitted by law.
 - 4.9.3 Male Pheasant Limit. It shall be unlawful for any person to hunt or possess more than two (2) male pheasants in any one day during the pheasant season, except as permitted by law.
 - 4.9.4 Scientific or Propagating Purposes. It shall be unlawful for any person to possess pheasants for scientific and propagating purposes without a valid permit from the Director.
 - 4.9.5 Game Preserves. Nothing in this regulation shall be construed so as to limit the number or sex of pheasants that may be harvested by any one person on licensed game preserves.
- 4.10 Quail.
 - 4.10.1 Season. Bobwhite quail may be hunted in accordance with the statutes and regulations of the State of Delaware governing the hunting of bobwhite quail: from the Monday that immediately precedes Thanksgiving through the first Saturday of February, provided that during a deer firearms season hunter orange is displayed in accordance with § 718 of Title 7.
 - 4.10.2 Limit. It shall be unlawful for any person to take more than six (6) quail in any one day.
- 4.11 Rabbit.

4.11.1 Season. Rabbits may be hunted in accordance with the statutes and regulations of the State of Delaware governing the hunting of rabbits: from the Monday that immediately precedes Thanksgiving through the last day of February or the last Saturday of February if February ends on a Sunday provided that during a deer firearms season hunter orange is displayed in accordance with § 718 of Title 7.

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

4.12 Raccoon.

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

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

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

4.13 Red Fox.

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

4.14 Ruffed Grouse.

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

4.15 Snapping Turtles.

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

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

4.16 Terrapin.

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

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

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

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

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

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

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

13 DE Reg. 941 (01/01/10)

(Break in Continuity of Sections)

3907 Deer

(Penalty Section 7 Del.C. §103(d))

7.1 Limit.

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

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

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

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

7.1.1.4 Possess or transport an antlerless deer that was unlawfully killed.

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

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

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

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

7.1.4 Notwithstanding subsection 7.1.1 of this section, a person may purchase Antlerless Deer Tags for \$10 each to kill or take additional antlerless deer during the open season. Hunters may take additional antlerless deer on Antlerless Deer Damage Tags at no cost.

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

7.2 Tagging and Designated Checking Stations.

7.2.1 Attaching Tags. Each licensed person who hunts and kills a deer shall, immediately after the killing and before removing the deer from the location of the killing, attach an approved tag to the deer and record in ink the date of harvest on the tag. 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, address and reason for not having a valid Delaware hunting license.

7.2.2 Retention of Tag. The tag required by subsection 7.1.1 of this section shall remain attached to the deer until the deer is ~~presented to an official checking station for examination and tagging or registered by phone or over the internet, as prescribed by subsection 7.1.3 of this section processed for consumption.~~

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

the internet through systems authorized by the Division. After registering a deer, hunters will be given a deer registration number. This number must be recorded in ink on the approved tags 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 examined by an authorized employee of the Division or a checking station, as prescribed by subsection 7.1.3 of this section or registered using the phone or internet system authorized by the Division.

7.2.5 Receipt Tag. ~~The Division shall issue, at a checking station or otherwise, an official receipt tag proving the deer was examined by an authorized employee of the Division or a checking station, as prescribed by subsection 7.1.3 of this section. The receipt tag shall remain with the deer until such time as the deer is processed for consumption or prepared for mounting. Deer checked over the phone or internet will be given a registration number. These deer shall be tagged by the hunter, butcher or taxidermist with the registration number, hunter's first and last name, hunter's date of birth, and date of kill. This tag may be homemade or be one provided by the Division and~~ Deer Registratin 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 ~~Bow and Arrow~~ Archery and Crossbow Seasons. It shall be unlawful for any person to hunt deer during the ~~longbow 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 ~~firearm~~ 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. ~~Crossbows may be used in lieu of shotguns during that part of the November shotgun season that runs from Monday through Saturday of each year and in any shotgun or muzzleloader deer season open in December or January.~~ 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 or Canadian province in which Chronic Wasting Disease has been found in free-ranging or captive deer. Notwithstanding the foregoing, the following parts may be imported into the state:
- 7.6.1.1 Boned-out meat that is cut and wrapped;
 - 7.6.1.2 Quarters or other portions of meat with no part of the spinal column or skull attached;
 - 7.6.1.3 Hides or capes with no skull attached;
 - 7.6.1.4 Clean (no meat or tissue attached) skull plates with antlers attached;
 - 7.6.1.5 Antlers (with no meat or tissue attached);
 - 7.6.1.6 Upper canine teeth (buglers, whistlers, or ivories); and
 - 7.6.1.7 Finished taxidermy products.
- 7.6.2 Carcass Notification. Any person who imports into Delaware any deer carcass or parts described in subsection 7.6.1 of this section and is notified that the animal has tested positive for Chronic Wasting Disease must report the test results to the department within 72 hours of receiving the notification. In order to facilitate the proper disposal of any infected material, the department may take into possession any imported carcass or carcass part of an animal if the animal has tested positive for Chronic Wasting Disease.

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

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

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

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

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

(Break in Continuity of Sections)

3921 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)

3922 Hunter and Trapper Identification 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 Hunting and Trapping Identification Number from the Division, at no cost. This number must be present on the hunter or trappers person while engaged in hunting and trapping activities.

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