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**ENVIRONMENTAL PROTECTION  
DIVISION OF FISH AND WILDLIFE  
FISH AND GAME COUNCIL  
2017-2018 Game Code  
Adopted Amendments: N.J.A.C. 7:25-5**

Proposed: April 3, 2017 at 49 N.J.R. 603(a).

Adopted: by the Fish and Game Council, Dave Burke, Chair.

Filed \_\_\_\_\_, 2017 as R.2017 \_\_\_\_\_, with technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 13:1B-29 et seq. and 23:1-1 et seq.

DEP Docket Number: 03-17-04

Effective Date:.

Operative Date:.

Expiration Date:.

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The Fish and Game Council (Council) is adopting amendments to N.J.A.C. 7:25-5. The periodic promulgation of amendments to the Game Code is necessary in order to adjust hunting and trapping seasons, bag limits and method of take according to management goals and the best scientific information available.

The proposed amendments were published in the New Jersey Register at 49 N.J.R. 603(a) on April 3, 2017. The comment period closed June 2, 2017. Additional notice was sent by email to the news media maintaining a press office in the State House Complex as well as to a Statwide list of newspapers and news outlets. Notice of the proposal and the proposal itself was posted on the Department of Environmental Protection (Department) and the Division of Fish and Wildlife (Division) websites, and sent out through Department and Division listservs. Additional notice was also provided by posting copies of the rule proposal, including summaries of the amendments and notice of the public hearing, in five Division field offices, mailing copies of the rule proposal to interested organizations and persons upon request, and reviewing the proposed amendments at county and State meetings of the Federation of Sportsman's Clubs.

This rule adoption can also be viewed or downloaded from the Department's website at <http://www.nj.gov/dep/rules>.

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**Summary** of Hearing Officer's Recommendation and Agency Response:

The Council held a public hearing on April 18, 2017 at the New Jersey Division of Fish and Wildlife's Central Region Conservation Center, One Eldridge Road, Robbinsville, New Jersey. The Division's rule manager for the Game Code, Carole Stanko, was the hearing officer. One Council member was present to hear oral comments. Five persons commented at the public hearing. All Council members had an opportunity to view all comments and the public hearing transcript. A public meeting was held on June 13, 2017 at the Division's Central Region Office at One Eldridge Road, Robbinsville, New Jersey at which the Council, after having considered the testimony from the April 18 public hearing, written comments received during the comment period and the hearing officer's recommendation, adopted all amendments with technical changes not requiring public notice and comment. A copy of the record of the public hearing is available for inspection in accordance with applicable law by contacting:

Department of Environmental Protection

Office of Legal Affairs

ATTN: DEP Docket No. 03-17-04

401 East State Street

Mail Code 401-04L

PO Box 402

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Trenton, NJ 08625-0402

**Summary** of Public Comments and Agency Response:

The following commenters submitted oral and/or written comments on the proposed amendments to N.J.A.C. 7:25-5.

1. Mort Anderson
2. Wayne Becker
3. Illegible Bicknell
4. Steven Bicknell
5. Wendy Bicknell
6. William Birdsall
7. Kevin Broderick, Clementon Gun Club
8. Frank Burns
9. Michael Christopher
10. Brian Conover, Bayview Gun Club
11. Harold Conover
12. Louis Conover, Bayview Gun Club
13. Ryan Conover
14. Michael Cunningham
15. Lloyd Davis, Monmouth County Federation of Sportsmen's Clubs

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16. Nicholas DellaSerra
17. Alex Denesewich
18. Kevin DiBlasi
19. Sebastian DiMeglio
20. Gene Doble
21. Teresita Doebley
22. Anthony Dogostino
23. Darren Dogostino
24. Charles Doughty
25. Paul R. Fabraio
26. Paul M. Fabraio
27. Gary Gandolfi
28. Clement Green
29. William Harrington
30. Jack Harris
31. Charles Hendrickson
32. Al Illegible
33. Charles Illegible
34. Illegible Illegible
35. Illegible Illegible

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36. Illegible Illegible
37. Scott Illegible
38. Francis Jankowski
39. Edward Kaufman
40. Edward Krause
41. Walter Kuppel, Bayview Gun Club
42. DoreenLaury
43. Doris Lin, Bear Education & Resource Program
44. Doris Lin
45. Douglas Listman
46. Sue Luchs
47. Frank Mangold
48. Robert Mangold
49. Wayne Martka
50. Guy Mauriello
51. John Mazzitelli
52. Michael McGuckin
53. Angi Metler, League of Humane Voters of NJ
54. J Miller
55. James Mong

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56. Curtis Nissley, Clementon Gun Club
57. Pete Pagano
58. Louis Perry, Camden County Federation of Sportsmen's Clubs
59. Saxton Pope
60. Loren Robinson
61. Susan Russell, Animal Protection League of NJ
62. Vincent Sacco
63. Barbara Sachau
64. Thomas Schnepf
65. Louis Schott
66. Isabelle Strauss, Lawyers in Defense of Animals Inc.
67. James Sykes
68. Raymond Szpond, President, NJ State Federation of Sportsmen's Clubs
69. Charles Thornewell
70. Thomas Veasey
71. Thomas Weeast, Southern Region President, NJ State Federation of Sportsmen's Clubs
72. Devin White
73. Daniel Whitehead
74. Ronald Wiggins, Chairman, Federation Deer Committee

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- 75. Edward Williams
- 76. Robert Wright
- 77. Amber Yoder
- 78. John Zander
- 79. Anthony Zarych

A summary of the comments and the Council's responses follows; the number(s) in parentheses after each comment identifies the respective commenter(s) listed above.

**General:**

1. COMMENT: The proposed amendments to the Game Code, N.J.A.C. 7:25-5, are supported in their entirety and should be adopted (2, 8, 9, 13, 15, 20, 28, 33, 34, 35, 36, 37, 47, 48, 62, 65, 67, and 79).

RESPONSE: The Council acknowledges the comments in support of the proposed amendments to the Game Code.

2. COMMENT: Commenters oppose the entire proposal and indicate that they are philosophically opposed to recreational hunting or trapping, any expansion of hunting or trapping opportunities, and the killing of animals (42, 43, 46, 53, 61, 63, and 66).



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RESPONSE: The Council is authorized and required by N.J.S.A. 13:1B-29 et seq. to manage wildlife throughout the State of New Jersey as a renewable resource and to maximize the benefits derived from wildlife resources, including the taking of game and furbearers, while utilizing a flexible system of protection, propagation, increase, control, and conservation of wildlife populations. The Council periodically promulgates amendments to the Game Code to meet its responsibilities by adjusting seasons, bag limits and methods of take on the basis of scientific information. The Council recognizes that comments received in opposition to hunting represent the philosophy of people who may be opposed to the killing and/or use of animals, including recreational hunting as a management tool. However, this rulemaking represents the Council's best efforts to fulfill its statutory mandate to manage the State's game and furbearing animals.

**N.J.A.C. 7:25- 5.1**

3. COMMENT: The institution of an apprentice license program is supported (73).

RESPONSE: The Council acknowledges the comments in support of the proposed amendment to the Game Code.

4. COMMENT: Several commenters are opposed to the institution of an

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apprentice license program (42, 43, 44, 53, 61, and 63). Two commenters believe that program will be dangerous for people and animals because a 21-year old hunter does not have enough experience to mentor a 14-year old (44 and 63). One commenter states that proposed program is not supported scientifically (61).

RESPONSE: Thirty-nine states currently administer an apprentice license program to enhance hunter recruitment; four additional states have similar legislation. None of these states has experienced any safety issues regarding their apprentice license programs. The Council anticipates that the program will be carried out in New Jersey with a similar safety record. Further, license holders who supervise apprentice hunters will be held liable for any infractions committed by the apprentice. This ensures that appropriate oversight will occur, since no hunter wants to lose his or her hunting privileges. Currently, New Jersey youth hunters aged 10 through 13 who have completed a hunter safety education course must supervised by a licensed hunter 21 years of age or older.

**N.J.A.C. 7:25- 5.2**

5. COMMENT: The expansion of the youth pheasant hunt from one day to six days is supported (73).

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RESPONSE: The Council acknowledges the comments in support of the proposed amendment to the Game Code.

6. COMMENT: Several commenters are opposed to the expansion of the youth pheasant hunt from one day to six days (42, 43, 44, 53, 61, and 63). One commenter is opposed to additional youth hunting activity (44). One commenter asserts that the proposed expansion is not supported by science (61). One commenter believes the expansion is a money-making venture that endangers New Jersey children (63).

RESPONSE: The expanded youth pheasant hunt will give youth hunters additional hunting opportunities at no additional cost and there is no evidence to suggest that youths who participate in an extended pheasant hunting season will be endangered.

**N.J.A.C. 7:25- 5.3**

7. COMMENT: The proposal to ban the liberation of quail by private individuals in certain Wildlife Management Areas proximate to quail restoration efforts is supported (43).

RESPONSE: The Council acknowledges the comments in support of the proposed amendment to the Game Code.

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**N.J.A.C. 7:25-5.5**

8. COMMENT: The proposal to extend the gray squirrel hunting season one week to coincide with the closure of the rabbit season is opposed because it is an increase in hunting (43 and 53).

RESPONSE: Squirrels are abundant and ubiquitous and have historically been under-utilized. Although the Division does not have an estimate for a Statewide population, the increasing age of New Jersey forests and recent abundant mast crops indicate that squirrel populations are robust and can support an additional week of hunting pressure.

9. COMMENT: The proposal to alter the boundary for the muzzleloader season for gray squirrel is opposed because the commenter asserts that no squirrel killing should take place within the area affected by the amendment (63).

RESPONSE: The Council establishes zone boundaries for all species by utilizing obvious landmarks, both natural and man-made, including roadways. The existing boundary of the muzzleloader season for gray squirrel includes reference to the former intersection of the Garden State Parkway and Rt. 9 in Somers Point. With the removal of

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the former Rt. 9 bridge across the Great Egg Harbor Bay, the Garden State Parkway no longer intersects with Rt. 9 at Somers Point. Accordingly, the boundary for the muzzleloader season for gray squirrel is proposed to be changed to reflect the dismantling of the Rt. 9 bridge with the boundary to now run from the Parkway intersection with the southern bank of the Great Egg Harbor Bay along the southern bank to Rt. 9.

Division observations indicate that this area continues to support a muzzleloader season for squirrel. Should information going forward suggest that this is changing, the Council will take appropriate action to ensure that this limited hunt does not threaten the squirrel population.

**N.J.A.C. 7:25- 5.6**

10. COMMENT: The proposal to exclude holders of an apprentice hunting license from hunting black bear is supported (43 and 53).

RESPONSE: The Council acknowledges the comments in support of the proposed amendment to the Game Code.

11. COMMENT: The proposal to amend the due date for applications for special farmer black bear permits is opposed because bear hunting is not supported (43, 53, and 63).

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RESPONSE: Black bears have the potential to inflict significant damage to farm crops, and the Council is committed to assisting farmers in mitigating this damage through the use of depredation permits.

**N.J.A.C. 7:25- 5.7**

12. COMMENT: The proposal to separate N.J.A.C. 7:25-5.7(e) into 12 paragraphs to enable law enforcement to issue multiple citations for violators is supported (43 and 53).

RESPONSE: The Council acknowledges the comments in support of the proposed amendment to the Game Code.

13. COMMENT: The proposal to return inadvertently struck language pertaining to the tagging of turkeys in the field by hunters is opposed; turkey hunting should not be allowed (43 and 53).

RESPONSE: Tagging allows the Division to verify legally harvested animals and ensures that hunting does not impact the sustainability of animal populations.

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**N.J.A.C. 7:25- 5.8**

14. COMMENT: Several commenters oppose the amendment to open the trapping season for mink, muskrat, and nutria before January 1 on Wildlife Management Areas (WMAs) that are stocked with pheasant (43, 53, 61, and 63). Two commenters state that mink, muskrat, and nutria do not need to be trapped, skinned, or killed for their fur, and that foothold traps are illegal under State law (43 and 53). One commenter also opposes the amendment because it is not backed by science (61). One commenter is opposed to lethal trapping because these species are part of the environment and should be fully protected (63).

RESPONSE: The use of enclosed foothold traps is permitted by N.J.A.C. 7:25-5.12(g) and was upheld by the Superior Court of New Jersey, Appellate Division in 2016 (see Response to Comment 21). The Council acknowledges that semi-aquatic furbearers are a valuable part of New Jersey's ecosystem, which is why they are protected as a game species by the Game Code. The Game Code sets season dates and bag limits which allow the resource to be utilized without endangering species populations by unregulated market trapping.

New Jersey's land area is 7,354 square miles, or 4,853,640 acres. There are two mink, muskrat and nutria trapping zones separated by US 1, Interstate 287, and Route

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440. The trapping season begins on November 15 west of this demarcation and begins December 1 east of the demarcation. The season concludes Statewide on March 15, with the exception of 23 Wildlife Management Areas (WMAs) designated as Pheasant and Quail Stamp Areas where trapping may not begin until January 1 to minimize conflicts between trappers and hunters using dogs. These 23 WMAs comprise a total 188,746 acres or less than four percent of the State's land area. These species are closely associated with aquatic habitats which comprise a much smaller portion of the 188,746 acres in question. Thus, the Council has determined that the addition of 31 to 46 more trapping days in the 23 WMAs will not have a significant impact on the Statewide mink or muskrat populations. While no nutria have been harvested in the State since the mid-1980s, nutria is an invasive species which competes with native New Jersey species for food and other resources. Accordingly, harvest of nutria will benefit native species that inhabit and rely on local habitats.

15. COMMENT: The amendment to open the trapping season for mink, muskrat, and nutria before January 1 on WMAs stocked with pheasant is opposed because of the potential danger to hunting dogs afield (60).

RESPONSE: Restricting the earlier season segment to the three semi-aquatic species listed virtually eliminates any threat to hunting dogs because of the small snare



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size and the location of the trap. These trapped species require the use of snare sizes too small to lethally ensnare the dog breeds typically used for hunting, and their placement along shorelines means that upland hunting dogs usually do not utilize these portions of the WMAs.

16. COMMENT: Aquatic furbearers harvested in December have lower quality fur with less commercial value, trappers will feel forced to trap despite fur values to avoid giving the opportunity to rival trappers thereby negatively impacting the muskrat population and trappers' livelihoods (78).

RESPONSE: The Council does not anticipate that an earlier season opening in the 23 affected WMAs will result in trappers feeling compelled to trap earlier. While trappers themselves have expressed interest in an earlier season opening in these, which would provide them with more days afield, the Council anticipates that trappers will take into account fur quality and value when deciding when to trap.

**N.J.A.C. 7:25- 5.10**

17. COMMENT: Commenters are opposed to the amendment to increase the recreational river otter trapping permit quota. Two commenters disagree with the use of population modeling from other states and state that the Division of Fish and Wildlife

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does not know how many river otters are in New Jersey (43 and 53). One commenter also asserts that the proposed amendment is not backed by science. (61).

RESPONSE: The Council estimates are based upon river otter populations in the State, not on estimates of river otter populations in other states. The otter population in 1983 was estimated at 585 to 650 otters based on field surveys conducted by the Division. In 2012, the Division estimated there were 936 otters inhabiting the State's inland waterways and an additional 1,725 were estimated to inhabit the nearly 150,000 hectares of the State's tidal waters for a total population estimate of 2,661 otters. These Division estimates supported by studies including Melquist and Hornocker (1983 Wildlife Monograph) and Shirley et al. (1988 Journal of Wildlife Management). While it would not be appropriate to utilize population estimates from other states to estimate how many otters are in New Jersey, it is appropriate to utilize scientific studies conducted in other states to determine what portion of the State's population may generally be taken before the sustainability of the population is impacted.

Research conducted by the Ohio Department of Natural Resources determined that a harvest level less than 15 percent would not have a negative impact on the Ohio otter population. Based on the New Jersey's estimated population, New Jersey trapping permit quotas were increased in 2013 from 106 to 115 and allocated in all 30 management zones based on zone-specific population estimates and historical trapper

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success rates. The Division determined that this resulted in a five to 10 percent otter mortality rate from trapping.

In determining whether the State's otter population can sustain increased trapping, the Division also relied on age analyses conducted on 513 otter carcasses submitted by successful trappers or collected as vehicle mortalities during the period from 2005 to 2017. The Division determined that 70 percent of the samples consisted of non-breeding yearling and juvenile otters and 16 to 17 percent were breeding age females. This juvenile to adult female ratio is indicative of a robust and productive population.

The Statewide harvest averages 45 otters annually, or five percent of the estimated 2012 inland otter population. Constituent demand for trapping permits is usually greater than permit availability. The Division's goals are to maintain river otter at stable, healthy levels while maximizing their recreational and commercial use for present and future generations. The proposal to increase trapping permits from 115 to 146 in 2017 will increase recreational opportunity without adversely affecting the Statewide population. An estimated 66 otters (seven percent of the estimated population available to trappers) are expected to be harvested by the 146 permit holders based on historical success rates.

The permit quota increase is intentionally conservative to maintain otter populations and is expected to result in a harvest which is 10 percent of New Jersey's otter estimated population.

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18. COMMENT: The increase in recreational river otter trapping permit quotas is oppose because river otters do not need to be trapped, killed or skinned for their fur and the foothold traps are illegal under state law (44).

RESPONSE: The use of enclosed foothold traps is permitted by N.J.A.C. 7:25-5.12(g) and was upheld by the Superior Court of New Jersey, Appellate Division in 2016 (see Response to Comment 21). The Council acknowledges that otters are a valuable part of New Jersey's ecosystem, which is why they are protected as a game species by the Game Code. The Game Code sets season dates and bag limits which allows the resource to be utilized without endangering the otter population by unregulated market trapping.

**N.J.A.C. 7:25-5.11**

19. COMMENT: The proposal to open the trapping season for raccoon, red fox, gray fox, Virginia opossum, striped skunk, long-tailed weasel, short-tailed weasel, and coyote earlier on designated WMAs utilizing enclosed foothold traps or box traps is supported (73).

RESPONSE: The Council acknowledges the comments in support of the proposed amendment to the Game Code.

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20. COMMENT: The proposal to open the trapping season for raccoon, red fox, gray fox, Virginia opossum, striped skunk, long-tailed weasel, short-tailed weasel, and coyote earlier on designated WMAs utilizing enclosed foothold traps or box traps is opposed because enclosed foothold traps are illegal in New Jersey and any increase in trapping, and trapping itself, is opposed (43, 53, and 63).

RESPONSE: In 1984, the New Jersey Legislature banned the use and possession of steel-jaw leghold traps. These types of traps have two jaws that open to 180 degrees when set and clamp together to hold an animal's foot or leg when triggered. Conversely, enclosed foothold traps, use of which are permitted by N.J.A.C. 7:25-5.12(g), utilize a round-bar extension which exerts pressure against an animal's foot and the trap casing. N.J.A.C. 7:25-5.12(g) was upheld by the Superior Court of New Jersey, Appellate Division in 2016 (see Animal Prot. League of N.J. v. New Jersey Fish & Game Council, 2016 N.J. Super. Unpub. LEXIS 2340 (App. Div., Oct. 29, 2016)). The Supreme Court of New Jersey denied a petition for certification to review the Appellate Division's decision on March 29, 2017.

**N.J.A.C. 7:25- 5.12 and 5.23**

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21. COMMENT: The proposal to amend N.J.A.C. 7:25-5.12(h) and N.J.A.C. 7:25-5.23(f)2 to allow licensed hunters above the age of 10 years and under 14 years of age to use a .22 caliber rifle to dispatch legally trapped animals other than muskrats if they are accompanied by a licensed hunter 21 years of age or older is opposed; children should not be allowed to use guns (43 and 53). One commenter states that State agencies should be teaching children to respect, protect, and venerate animals, not beat them to death or shoot them (63).

RESPONSE: Hunting and trapping skills are usually acquired from relatives or close friends in one's youth, and are considered a tradition in many families. One of the Council's roles as stewards of New Jersey's wildlife is to foster appreciation for the resource and for the traditions which support and utilize it responsibly. Allowing youth trappers to utilize a .22 rifle enables those trappers to safely and humanely euthanize the legally trapped furbearing animals.

**N.J.A.C. 7:25- 5.13**

22. COMMENT: The amendment to close the waters of Barnegat Inlet to waterfowl hunting is supported (43, 44, 53, 61, and 63).

RESPONSE: The Council acknowledges the comments in support of the proposed

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amendment to the Game Code.

23. COMMENT: The amendment to close the waters of Barnegat Inlet to waterfowl hunting is opposed. One commenter states that though he acknowledges the purpose of the amendment is to promote boater safety, he believes that the U.S. Coast Guard or the New Jersey State Marine Police should instead oversee safety concerns in the inlet. The commenter also states that sea ducks in the Inlet will move on if the volume of boat traffic is high. Lastly, the commenter states that the number of duck hunting vessels present in the inlet is small compared to other types of vessels present, such as boats fishing for summer flounder (49 and 73).

RESPONSE: A significant number of sea ducks occur in the waters of Barnegat Inlet and have drawn an increased amount of hunting activity over the past several years. Barnegat Inlet is a relatively narrow inlet with significant commercial and recreational boating traffic even during winter. Draining a surface area of approximately 65 square miles, tidal currents in Barnegat Inlet are extreme, resulting in a potentially dangerous situation where drifting vessels that are hunting sea ducks may cause conflict or collide with boat traffic under power within the inlet. In addition to the boating traffic traversing the relatively confined waters of the inlet, Barnegat Inlet also attracts a high number of birders during the winter on the jetties on both sides of the inlet. The migratory bird

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hunting season for the coastal zone runs from November through February. Closing Barnegat Inlet to sea duck hunting will result in a safer situation for boating traffic using the inlet, as well as for wildlife watchers on the surrounding jetties. The Division has received expressions of concerns from waterfowl hunting organizations that a safety issue for boaters and birders exists, and the most logical solution is to close the inlet to waterfowl hunting.

24. COMMENT: The proposal to specify dates for Special Youth Waterfowl Hunting Days to comply with U.S. Fish and Wildlife Service at 50 CFR Part 20 is opposed because of children should not allowed to hunt, and because it is wrong to encourage children to pick up weapons to kill waterfowl and wildlife (43, 53, and 63).

RESPONSE: Prior to 2016, participation restrictions for Youth Waterfowl Hunters were defined at 50 CFR Part 20 as persons age 15 or younger to meet the nationwide federal duck stamp requirement. Changes to 50 CFR Part 20 in 2016 allowed states the flexibility to establish state-specific definitions of age for youth hunters; however, youth hunters may not be over the age of 17. These changes allow for a consistent definition of youths across all special youth hunting opportunities in New Jersey and enhances youth hunting opportunity.



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As stated in the Response to Comment 21, one of the Council's roles as stewards of New Jersey's wildlife is to foster appreciation for the resource and for the traditions which support and utilize it responsibly. The Council believes that this is achieved through youth hunting opportunities.

**N.J.A.C. 7:25-5.19**

25. COMMENT: The proposal to exclude holders of an apprentice hunting license from hunting the special nighttime coyote and fox season is supported (43 and 53).

RESPONSE: The Council acknowledges the comments in support of the proposed amendment to the Game Code.

**N.J.A.C. 7:25-5.22**

26. COMMENT: The amendment to ban the use of drones or unmanned aircraft to hunt, harass, drive, or scout wildlife is supported (43, 44, 53, and 72).

RESPONSE: The Council acknowledges the comments in support of the proposed amendment to the Game Code.

**N.J.A.C. 7:25-5.23**

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27. COMMENT: The amendment to ban the use of “smart” guns or rifles for the purposes of hunting is supported (43, 44, 53, 63, and 72).

RESPONSE: The Council acknowledges the comments in support of the proposed amendment to the Game Code.

28. COMMENT: The amendment to clarify language regarding the use of .22 caliber rifles to dispatch legally trapped animals is opposed because .22 caliber rimfire rifles should be outlawed in New Jersey. This change is dangerous to the citizens of New Jersey (63).

RESPONSE: The use of .22 caliber rimfire rifles for the dispatch of legally trapped animals is permitted in New Jersey, as well as for the hunting of numerous species. The Council has determined that these sporting arms pose no greater risk than other firearms legal for hunting in New Jersey.

**N.J.A.C. 7:25-5.25, 5.26, 5.28, 5.29, and 5.30**

29. COMMENT: The Automated Harvest Report System (AHRS) allows massive killing of wildlife species without being properly counted. The AHRS encourages poaching (63).

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RESPONSE: The AHRS was incorporated into the Game Code in 2009 in anticipation of the system being implemented. As indicated at that time, the AHRS was intended to be a cost-saving measure and a more convenient method for hunters to report deer harvested during the various deer seasons, while continuing to provide the Division information necessary to monitor the harvest. The AHRS was implemented in 2012. To date, the Division has not observed any changes in harvest patterns that would indicate that deer populations are being adversely affected.

**N.J.A.C. 7:25-5.25, 5.28, and 5.30**

30. COMMENT: The proposal to reduce the bag limit in deer management zones (DMZ) in Regulation Set 2 from from two deer of either-sex to one antlered and one antlerless deer is opposed. This amendment is proposed to manipulate deer numbers in the given areas (43 and 53).

RESPONSE: The Council recognizes that changes to any hunting, trapping, or fishing seasons alters populations of the affected species; this amendment is meant to moderate the harvest in those deer management zones in Regulation Set 2, all of which have a management strategy of either stabilization or increase. This amendment corresponds to those zone management strategies.

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**N.J.A.C. 7:25-5.25, 5.26, 5.28, 5.29, and 5.30**

31. COMMENT: The amendment to reduce the antlerless bag limit for deer hunting in the deer management zones (DMZ) in Regulation Set 5 from unlimited to five antlerless deer, and from unlimited to nine antlerless deer in the DMZs in Regulation Set 6 is supported (30, 43, 45, 51, 53, and 70).

RESPONSE: The Council acknowledges the comments in support of the proposed amendment to the Game Code.

32. COMMENT: The amendment to reduce the antlerless bag limit for deer hunting in the deer management zones (DMZ) in Regulation Set 5 from unlimited to five antlerless deer, and from unlimited to nine antlerless deer in the DMZs in Regulation Set 6 is opposed because the commenter believes that these reductions will barely have any impact (73).

RESPONSE: Based on harvest data from the DMZs in Regulation Sets 5 and 6, the reduction of the antlerless harvest requested by some sportsmen prior to the proposal of these amendments would result in too great a population increase and would be counter to the management strategies of these DMZs, which are either stabilization or

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reduction. Additionally, significant increases in the deer populations in these areas could be detrimental to farmers, vehicle operators, and homeowners, who might experience increased property damage associated with deer activity. This amendment corresponds to those zone management strategies. As indicated in the summary of the proposal of these changes (see 49 N.J.R. 603(a)), the Council based the amended limits on field observation and analysis of harvest data. The Division will continue to monitor the deer population in these two regulation sets to determine if any further adjustment is necessary in the future.

**N.J.A.C. 7:25- 5.28 and 5.29**

33. COMMENT: The proposal to eliminate the antlerless-only permit shotgun and permit muzzleloader hunting immediately prior to the six-day firearm season in DMZs in Regulation Sets 7 and 8 is supported (43, 45, and 53).

RESPONSE: The Council acknowledges the comments in support of the proposed amendment to the Game Code.

34. COMMENT: The proposal to eliminate the six days of antlerless-only hunting during the permit shotgun and permit muzzleloader seasons which run concurrent

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with the six-day firearm season in DMZs in Regulation Set 6 is supported (43, 45, 53, and 70).

RESPONSE: The Council acknowledges the comments in support of the proposed amendment to the Game Code.

**N.J.A.C. 7:25- 5.28**

35. COMMENT: The proposal to close Christmas Day to muzzleloader hunting on Picatinny Arsenal (DMZ 54) at the request of the managing agency is supported (43 and 53).

RESPONSE: The Council acknowledges the comments in support of the proposed amendment to the Game Code.

**N.J.A.C. 7:25-5.25, 5.26, 5.28, 5.29, and 5.30**

36. COMMENT: The proposal to give the Council authority to eliminate the Earn-A-Buck requirement for deer hunting, provided certain criteria are met, is supported (25 and 45).

RESPONSE: The Council acknowledges the comments in support of the

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proposed amendment to the Game Code.

37. COMMENT: The proposal to close the permit muzzleloader season in DMZs in Regulation Set 0 on December 31 is opposed because regulations in these zones should be made more restrictive, not more liberal, in order to increase the deer herd (7, 15, 31, and 55).

RESPONSE: The Council reviewed data on each of the DMZs in Regulation Set 0 and concluded that an additional day or two, depending on the calendar year, which may result from this amendment would not be detrimental to the deer populations in those zones, as harvest data in those zones indicate stabilized or increasing deer populations.

38. COMMENT: The amendment to increase the permit shotgun season in deer management zones in Regulation Set 0 is supported (8, 14, 16, 20, 21, 29, 32, 33, 36, 37, 47, 48, 62, 65, 67, and 79).

RESPONSE: The Council acknowledges the comments in support of the proposed amendment to the Game Code.

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39. COMMENT: The amendment to increase the number of days for the permit shotgun season in deer management zones in Regulation Set 0 is opposed by several commenters with no reason given (7, 31, 38, 58, 68), and in opposition of deer hunting (43, 53 and 63). Many commenters assert that the amendment contravenes the goals of the most restrictive regulation set and will increase the harvest. Further, these commenters state that the amendment is not in the best interest of the deer herd, and because if the harvest average in 2016 was the same as 2015 the management strategy isn't working, the shotgun season should be eliminated completely in this regulation set or or bow hunting days should be eliminated (4, 5, 6, 10, 11, 13, 15, 19, 24, 27, 34, 35, 40, 54, 55, 64, 69, 74).

40. COMMENT: Commenters state that the amendment will increase the harvest and result in fewer deer where deer are already scarce (1, 12, 18, 22, 23, 28, 41, 50, 52, 57, 71, 77).

RESPONSE TO COMMENTS 39 AND 40: The Council reviewed data on each of the DMZs in Regulation Set 0 and concluded that an additional two mid-week days would not be detrimental to the deer populations in those zones. If a significant increase in harvest was intended, the season extension would include a Saturday, the day of the week other than the season opening day which historically are the days of highest



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harvest. Further, three of the five DMZs in Regulation Set 0 had significant increases in harvest (greater than 15 percent) in 2015, and one other had a moderate harvest increase of six percent. All the zones but one had increases in the antlered harvest; the antlered harvest is used as an index to the overall population levels within each zone. All buck harvests in DMZs in Regulation Set 0 indicate growing or stabilized deer populations which would be unaffected by the possibility of a very slight increase in the harvest which may result from this amendment.

**Summary of Agency-Initiated Changes:**

The Council is modifying the rules on adoption to make the below changes.

1. As indicated in paragraph 17 of the proposal summary (see 49 N.J.R. 605), the Council is amending N.J.A.C. 7:25-5.12(i) to differentiate the timeframe within which traps must be checked in tidal waters as opposed to upland trapping. Particularly, while upland trappers continue to be required to check traps once in every 24 hours, in tidal waters trappers will be required to check the traps once per calendar day. As indicated in the proposal summary, this change takes into account daily tidal fluctuations. The Council is amending the rule text on adoption to more clearly capture the intent expressed in the proposal summary.

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2. The April 3, 2017 proposal included an amendment to eliminate several days of permit muzzleloader and permit shotgun antlerless-only hunting in the DMZs in Regulation Sets 7 and 8 in response to concerns expressed by hunters about the impact of discharge of firearms immediately prior to the week of the six-day firearm season on the hunt during the six-day season. Prior to this rulemaking, the season for permit shotgun antlerless-only hunting in Regulation Sets 7 and 8 designated at N.J.A.C. 7:25-5.29(d)4 and 14 included the Wednesday through Friday preceding the six-day firearm season specified at N.J.A.C. 7:25-5.27(a). During this same calendar week, the season for permit muzzleloader hunting in Regulation Sets 7 and 8 designated at N.J.A.C. 7:25-5.28(d)3 and 15 was the Monday through Friday preceding the six-day firearm season specified at N.J.A.C. 7:25-5.27(a), with the Wednesday through Friday portion of this season segment similarly limited to antlerless-only hunting in accordance with N.J.A.C. 7:25-5.28(c).

In order to address the concern about the impact of discharge of firearms immediately prior to the week of the six-day firearm season, the Council proposed to amend N.J.A.C. 7:25-5.29(d)4 and 14 to eliminate the permit shotgun antlerless-only hunting on the Wednesday through Friday preceding the six-day firearm season specified at N.J.A.C. 7:25-5.27(a). However, in describing corresponding proposed amendments to N.J.A.C. 7:25-5.28(d)3 and 15 to

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eliminate hunting during the same three day period preceding the six-day firearm season, instead of referring to the three-day portion of the corresponding permit muzzleloader season during which harvest is limited to antlerless deer by N.J.A.C. 7:25-5.28(c), the proposal summary referred to the antlerless season as including the full five days of that segment of the muzzleloader season (see paragraph 30 of the proposal summary at 49 N.J.R. 606). Similarly, the rule text reflected proposed deletion of the entire five-day muzzleloader season segment, rather than the three-day antlerless-only portion of the season. The Council is amending N.J.A.C. 7:25-5.28(d)3 and 15 to reflect that only the antlerless-only portion of this segment of the muzzleloader season is eliminated in Regulation Sets 7 and 8, with harvest of either antlered or antlerless deer continuing to be allowed on the Monday and Tuesday prior to the six-day firearm season specified in N.J.A.C. 7:25-5.27(a).

### **Federal Standards Statement**

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. require State agencies which adopt, readopt or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a Federal Standards analysis.

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The United States Fish and Wildlife Service regulates hunting in National Wildlife Refuge areas in New Jersey pursuant to National Wildlife Refuge System Administration Act, 16, U.S.C. §668 dd (1966), and regulations (50 CFR 32.49). The amendments to the Game Code do not contain any standards or requirements that exceed Federal regulations involving National Wildlife Refuge areas.

The Waterfowl hunting regulations (50 CFR 20) and Conservation Order regulations (50 CFR 20) that are promulgated annually by the United States Fish and Wildlife Service allow states to select the dates, times, manner and means for hunting of waterfowl within the allowable Federal framework established by the Fish and Wildlife Service.

Therefore, the Council has determined that the adopted amendments to the Game Code do not contain any standards or requirements that exceed any standards or requirements imposed by Federal law. Accordingly, Executive Order No. 27(1994) and N.J.S.A. 52:14B-1 et seq. do not require further analysis.

**Full text** of the adoption follows (additions to proposal indicated in boldface with asterisks **\*thus\***; deletions from the proposal indicated in brackets with asterisks **\*[thus]\***):

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7:25-5.12 General trapping

- (a) – (e) (No change.)
- (f) (No change from proposal.)
- (g) (No change.)
- (h) (No change from proposal.)
- (i) All traps set or in use must be checked, tended, and maintained at least once **\*for trapping of semi-aquatic species in tidal areas and at least once in every 24 hours for all other trapping\***.
- (j) (No change.)

7:25-5.28 White-tailed deer muzzleloader rifle permit season

- (a) – (b) (No change.)
- (c) (No change from proposal.)
- (d) Duration of the muzzleloader rifle permit season is as set forth in (d)1 through 15 below. There is no season in the following Zones 56 and 64. Legal hunting hours shall be 1/2 hour before sunrise to 1/2 hour after sunset E.S.T.

1 - 2. (No change from proposal.)

3. The **\*Monday and Tuesday preceding the six-day firearm season as specified in N.J.A.C. 7:25-5.27(a), the\*** week of the six-day firearm season, the Monday and Tuesday following the six-day firearm season, and the Saturday

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following the six-day firearm season through December 31, exclusive of Christmas Day, and January 1 through the second Saturday in February in zones in Regulation Set 7.

4.– 14. (No change from proposal.)

15. The Monday through Wednesday and the Friday of Thanksgiving week, **\*the Monday and Tuesday preceding the six-day firearm season as specified in N.J.A.C. 7:25-27\*** the week of the six-day firearm season, the Monday and Tuesday following the six-day firearm season, and the Saturday following the six-day firearm season through December 31, exclusive of Christmas Day, and January 1 through the second Saturday in February in zones in Regulation Set 8.

16. – 17. (No change.)

Based on consultation with staff, I hereby certify that the above statements, including the Federal Standards Analysis addressing the requirements of Executive Order 27 (1994), permit the public to understand accurately and plainly the purpose and expected consequences of these adopted amendments. I hereby authorize this adoption.

\_\_\_\_\_  
Date

\_\_\_\_\_  
David Burke, Chair  
Fish and Game Council

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