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ENVIRONMENTAL PROTECTION

DIVISION OF FISH AND WILDLIFE

Fish and Game Council

2010-2011 Fish Code

Proposed Amendments: N.J.A.C. 7:25-6.1 to 6.3, 7:25-6.5 to 6.10, 7:25-6.13, 7:25-6.18 to 6.20, 7:25-6.22 to 6.24, and 7:25-6.26

Authorized By: Fish and Game Council, Jeanette Vreeland, Acting Chair

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

DEP Docket Number: 11-09-07/742

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number:

A public hearing concerning the proposed amendments will be held on September 8, 2009 at 7:00 p.m. at:

NJ DEP Division of Fish and Wildlife - Central Regional Office
East Branch - Eldridge Road
Assunpink Wildlife Management Area
Robbinsville, New Jersey 08691

Submit written comments by October 16, 2009 to:

Gary J. Brower, Esq.
Attention: Docket Number: 11-09-07/742
Office of Legal Affairs
New Jersey Department of Environmental Protection
401 East State Street, 4th Floor
P.O. Box 402
Trenton, New Jersey 08625-0402

The Fish and Game Council requests that commenters submit comments on disk or CDs as well as on paper. Submittals on disk or CD must not be access-restricted (e.g. not locked or read-only), in order to facilitate use by the Department of the electronically submitted comments. Submission of a disk or CD is not a requirement. The Council prefers Microsoft Word 6.0 or above. MacIntosh formats should not be used. Each comment should be identified by the applicable N.J.A.C. citation, with the commenter's name and affiliation following the comment.

The Council proposal follows:

SUMMARY

The Fish Code (Code), N.J.A.C. 7:25-6, states when, by what means, at which locations, in what numbers, and at what sizes, fish may be pursued, caught, killed, or possessed. As the Fish and Game Council has provided for a 60 day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

The proposed amendments to N.J.A.C. 7:25-6 for the 2010 and 2011 fishing seasons are as follows:

1. In accordance with N.J.S.A. 23:4-63.3, the Council proposes to include in the rules a specific prohibition on the possession or release of live potentially dangerous fish species in N.J.A.C. 7:25-6.1(g). N.J.S.A. 23:4-63.3 prohibits the possession of any live indigenous or exotic animals, or live potentially dangerous animals except as authorized by the Department of Environmental Protection or the Fish and Game Council. As defined in N.J.S.A.

23:4-63.3, potentially dangerous animals are capable of inflicting serious or fatal injuries to humans, livestock, or pets; or possess the potential for becoming a significant threat to indigenous animals or plants, the environment, agriculture, or the public health, safety or welfare. They have characteristics that make them effective invasive species, such as high reproductive fitness, high tolerance for environmental stress, ability to effectively disperse, predate and compete with native species, and have no natural enemies. Anglers are directed in the proposed amendments to destroy any potentially dangerous fish species encountered while fishing. Anglers will be asked to submit specimen(s) to proper Division of Fish and Wildlife personnel for verification. The Council also proposes that no protective seasons or possession limits be established on these species. A list identifying potentially dangerous fish species is proposed in N.J.A.C. 7:25-6.2 (see summary item 6).

2. The scientific name of spotfin killifish is proposed to be changed from *Fundulus lucia*, to *Fundulus luciae* in the definition of “baitfish” in N.J.A.C. 7:25-6.2 in accordance with proper taxonomic nomenclature rules established by the American Fisheries Society.

3. The Council proposes to remove the stonecat, *Noturus flavus*, from the definition of baitfish. The stonecat was originally listed as a baitfish species under N.J.A.C. 7:25-6.2 as a result of historical records indicating its presence in New Jersey waters. Review of the native range of the stonecat, and its absence in any recent sampling indicate its presence in New Jersey was highly unlikely and that specimens historically encountered were instead margined madtoms, *Noturus insignis*. Margined madtoms are already defined under the definition of baitfish.

4. Also in the definition of “baitfish” in N.J.A.C. 7:25-6.2, the Council proposes to add *Notropis*, and *Rhinichthys* to the genera of shiners, dace and minnows listed under the term “baitfish”. Species within these genera have been taken as baitfish for many years. Due to a data processing error, they were inadvertently deleted from the 2008-2009 Fish Code. The Council is proposing to rectify this error. Populations of the various species within the two genera are considered stable and are well distributed throughout the State.

5. The scientific name of American eel, as listed under “other fish species” in N.J.A.C. 7:25-6.2, is proposed to be changed from *Anguilia* to *Anguilla* in accordance with proper taxonomic nomenclature used by the American Fisheries Society.

6. In accordance with N.J.S.A. 23:4-63.3, fish species that possess the potential for becoming a significant threat to indigenous animals, the environment, or public safety are proposed to be defined under the term “Potentially dangerous exotic fish” in N.J.A.C. 7:25-6.2. These species are proposed to include; Asian swamp eel, *Monopterus albus*, Bighead carp, *Hypophthalmichthys nobolis*, Brook stickleback, *Culaea inconstans*, Flathead catfish, *Pylodictis olivaris*, Grass carp (diploid), *Ctenopharyngodon idella*, Green sunfish, *Lepomis cyanelus*, Snakeheads, *Channa spp.*, Oriental weatherfish, *Misgurnus anguillicaudatus*, Silver carp, *Hypophthalmichthys molitrix*, and Warmouth, *Lepomis gulosus*. The possession of these species is proposed to be prohibited in N.J.A.C. 7:25-6.1(g) (see summary item 1).

Snakeheads and flathead catfish are top level predators and may negatively impact the struc-

ture of indigenous and established fish populations. Bighead carp and silver carp threaten human health as they leap out of the water when startled and may intercept passing boaters. If unregulated, grass carp are an invasive species that can over-harvest aquatic vegetation, thus destroying fish habitat. Green sunfish and warmouths possess a larger mouth than the State's native sunfish, thus have the ability to out compete native fish. Asian swamp eel, brook stickleback, and oriental weatherfish are highly tolerant, generalist feeders that compete with native fish.

7. In N.J.A.C. 7:26-6.3(c) and N.J.A.C. 7:26-6.3(e), the term "strain" is proposed to be added to the description of the species of trout that are subject to the size, season and possession limits contained in these subsections. On occasion, private fishing clubs, recreational angling clubs and conservation groups desire to stock for recreational purposes not only hybrids of common trout species but also specific strains. Strains such as the Donaldson rainbow trout are popular among angling groups and pose no threat to the State's aquatic resources. The addition of the term "strain" will ensure these fish are protected under established season, size and creel limits. A permit is required to stock any fish species into fresh waters of the State which deters the introduction of any hybrids or strains which may pose a threat to the State's aquatic resources.
8. For efficiency purposes, the phrase "except as designated in N.J.A.C. 7:25-6.4 to 6.9", which currently appears in the four paragraphs that are part of N.J.A.C. 7:25-6.3(e) is proposed to be added to lead-in language at N.J.A.C. 7:25-6.3(e). As a result, it is no longer necessary to repeat the phrase in N.J.A.C.7:25-6.3(e)1 to 3 and these paragraphs are pro-

posed for amendment to remove this phrase. The unnecessary repetition of the list of trout species, in N.J.A.C.7:26-6.3(e)1 to 3, is also proposed to be removed. The trout species and their hybrids and strains covered by this subsection are already identified in N.J.A.C. 7:26-6.3(e).

9. The Council proposes to amend N.J.A.C. 7:25-6.3(i) to remove six waterbodies, Scarlet Oak Pond (Bergen), Dennisville Lake (Cape May), West Pond (Cape May), Spring Mills Brook (Hunterdon), Rock Brook (Somerset) and Roaring Rock Brook (Warren) from the Division's trout stocking program. Scarlet Oak is stocked only once during the spring. Although suitable for year-round trout survival, the brushy shoreline deters anglers and anglers opt for the nearby Ramapo River. Boating is not permitted preventing anglers from fishing the deep-water area that the trout occupy.

The Council proposes to remove Dennisville Lake due to poor angler interest and safety concerns with the lake's only stocking location. There is also low angler interest documented at West Pond, as well as diminishing water quality. Rock Brook also has low angler interest and limited parking access.

The Council also proposes to remove Spring Mills Brook (Hunterdon) and Roaring Rock Brook (Warren) from the Division's trout stocking program due to concerns of the impacts of cultured trout on native trout populations, particularly on small streams.

10. In addition to recommending to remove the above referenced waters from the list of trout

stocked waters, the Council proposes to amend N.J.A.C. 7:25-6.3(i) to add three waterbodies, Ponderlodge Pond (Cape May), Tuckahoe Lake (Cape May), and Alexauken Creek (Hunterdon) to the Division's trout stocking program. Ponderlodge Pond and Tuckahoe Lake have excellent access and will provide anglers in Cape May enhanced trout fishing opportunities compared to the currently stocked Dennisville Lake and West Pond, which are proposed for removal.

Alexauken Creek was removed from the Division's trout stocking program in 1987 due to poor public access. Since that time, West Amwell Township has acquired public property along the stream corridor resolving previous access issues. The stream is able to support trout throughout the year providing year-round fishing opportunities.

11. In N.J.A.C. 7:25-6.3(i)2, the Council proposes to change the upstream limit of the trout-stocked section of the Saddle River (Bergen) from "State Line" to "Lake Street". Since 2004, the section of the Saddle River, from the State Line to Lake Street has been regulated as a Wild Trout Stream under N.J.A.C. 7:25-6.6(a)25 and is no longer stocked. This change will reflect the current trout stocked section of the Saddle River.

12. In 2008, Green Turtle Pond and surrounding public property was reassigned to the Department's Division of Parks and Forestry and is no longer part of the Wanaque Wildlife Management Area managed by the Division of Fish and Wildlife. As a result, the Council proposes in N.J.A.C. 7:25-6.3(i)16 to remove the "Wanaque Wildlife Management Area" des-

ignation from Green Turtle Pond (Sussex). This change is administrative in nature and does not reflect any change to the current stocking of the pond with trout.

13. As indicated in summary item 22, the Council proposes to regulate the current Trout Conservation Area stretch on the Pequannock River as a Wild Trout Stream. As a result, the section of the Pequannock from Rt. 23 Smoke Rise downstream to Rt. 23 Smith Mills will no longer be stocked with trout. This change is reflected in N.J.A.C. 7:25-6.3(i)16 where the upstream limit of the trout stocked section of the Pequannock River is proposed to be changed from Rt. 23, Smoke Rise to Rt. 23, Smith Mills.
14. For consistency with waterbody names established within the State's Surface Water Quality Standards, at N.J.A.C. 7:9B-1.15, and on United States Geological Survey's Topographical Maps, the Council proposes to modify "Sheppard's Lake" to "Sheppard Lake" in N.J.A.C. 7:25-6.3(i)16 and N.J.A.C. 7:25-6.9(a).
15. For consistency purposes, the Council proposes to remove the "Madison Hill Road to Milton Lake Dam" designation from Milton Lake (Union) in the list of trout stocked waters. Locations of all other lakes listed in N.J.A.C. 7:25-6.3(i)20 are indicated solely by Town or Township, upstream and downstream limits are only afforded to stream segments. This change is administrative in nature and does not change stocking practices in Milton Lake.
16. For clarification and consistency, the Council proposes to identify county locations in stream segments listed as Seasonal Trout Conservation Areas in N.J.A.C. 7:25-6.5(a)1 and 2.

County locations are already included in stream designations for Year-Round Trout Conservation Areas under N.J.A.C. 7:25-6.7(a).

17. Also in N.J.A.C. 7:25-6.5(a)2, the Council proposes to relocate the current Seasonal Trout Conservation Area on the Pequannock River (Morris and Passaic). Access and parking to the current stretch, located between Route 23 bridge (Smith Mills) upstream to Route 23 bridge (Smoke Rise) was provided by a local industrial complex. Anglers have now been prohibited from parking and accessing the river from this area. Few alternate access areas exist along the busy Route 23 corridor. The Council proposes to relocate the trout conservation area further downstream, from the Hamburg Turnpike bridge/Brandt Lane (Bloomingdale) to the Hamburg Turnpike bridge (Pompton Lakes). The proposed stretch provides a similar year-round fishery for both stocked and wild trout, encompasses more than an additional one-half mile of stream (1.8 miles), and provides a number of access options for anglers.
18. The Council proposes to change the designation of the Point Mountain stretch of the Musconetcong River from a Seasonal Trout Conservation Area in N.J.A.C. 7:25-6.5(a)3 to a Year-Round Trout Conservation Area in N.J.A.C. 7:25-6.7(a). The change has been requested by various angling groups and is supported by the Hunterdon County Park System, owner of this stretch of the Musconetcong River. The more conservative regulations applicable to Year-Round Trout Conservation Areas, which limit take to one fish per day over 15 inches and ban use of bait, will help further protect this year-round trout fishery. As a result

- of this change, stocking on this section of the Musconetcong, after opening day, will be reduced from seven weekly stockings to three.
19. For efficiency purposes, the Council proposes to remove the phrase “in total length” from size limits established for trout in Seasonal Trout Conservation Areas, N.J.A.C. 7:25-6.5(b)4, Wild Trout Streams, N.J.A.C. 7:25-6.6(b)4, and Year-Round Trout Conservation Areas, N.J.A.C. 7:25-6.7(b)3. The legal length of any fish is defined as the maximum total length under the term “size limit” in N.J.A.C. 7:25-6.2. Therefore, the phrase “in total length” after established size limits on trout within these subsections is redundant and unnecessary.
 20. The Council proposes to remove provisions in Seasonal Trout Conservation Area regulations, N.J.A.C. 7:25-6.5(b)6, Wild Trout Stream regulations, N.J.A.C. 7:25-6.6(b)6, and Year-Round Trout Conservation Area regulations, N.J.A.C. 7:25-6.7(b)6 that specify that size limits and creel limits on species other than trout are in accordance with Statewide regulations. Size, seasons and creel limits, on all species of fish, unless specifically addressed otherwise within the Code, apply statewide. Therefore, these provisions are redundant and unnecessary. As a result of these changes, the conjunction “; and” is no longer required in N.J.A.C. 7:25-6.5(b)5, and N.J.A.C. 7:25-6.7(b)5 and is removed.
 21. In conjunction with relocating the Trout Conservation Area on the Pequannock River further downstream to provide better access discussed in summary item 17, the Council proposes to regulate the current Trout Conservation Area, Route 23 bridge (Smoke Rise) downstream to

the Route 23 bridge (Smith Mills), as a designated Wild Trout Stream in N.J.A.C. 7:25-6.6(a)22. As a result, this section of the Pequannock will no longer be stocked. An upstream section of the Pequannock River located above the Charlottsburg Reservoir is already regulated as a Wild Trout Stream. Stream segments designated as Wild Trout Streams are not stocked. For consistency purposes, the Council also proposes to apply the 12” minimum size limit for brown trout that applies to the existing Wild Trout Stream section of the Pequannock River to the newly proposed stretch. Wild Trout Stream regulations have a lower minimum size than Trout Conservation Areas. However, the reduced creel limit, shorter season, and year-round artificial lures only requirement will protect the naturally reproducing brown trout population that exists.

22. In N.J.A.C. 7:25-6.7(a)2, the Council proposes to no longer regulate the 2.25 mile stretch of the East Branch of the Paulinskill River (Sussex), from Limecrest Railroad bridge downstream to the confluence with the West Branch, as a Year-Round Trout Conservation Area. The East Branch is a low gradient stream bordered predominantly by wetlands. An artificially maintained flow regime, due to upstream quarry activities, ended within the past decade. As a result, noticeable reductions in flow have been reported by anglers during the summer and fall when streams are already typically at their lowest levels. Electrofishing surveys in 2006 and 2007 yielded few or no stocked trout. The East Branch of the Paulinskill no longer provides an attractive setting for anglers seeking a catch-and-release fishing experience for quality-sized trout and is better suited to be managed as a seasonal trout fishery. As a result of this change, this stretch would be stocked more times and receive additional trout than currently allocated.

23. As addressed in summary item 18, the Council proposes to regulate the Point Mountain stretch of the Musconetcong River as a Year-Round Trout Conservation Area in N.J.A.C. 7:25-6.7(a)2.

24. In N.J.A.C. 7:25-6.8(b)1 and 2, the Council proposes to add brook trout to the list of species regulated under the Trophy Trout regulations, as well as expand the species to include all hybrids and strains of brook, brown and rainbow trout. Currently, brook trout are not stocked in either of the designated Trophy Trout Lakes. A local fishing club has recently expressed interest in stocking tiger trout (a brook and brown trout hybrid) and Donaldson trout (a rainbow trout strain). This proposed change will ensure that these fish are afforded the protection of the current 15 inch minimum size limit for brown and rainbow trout. A permit is required to stock any fish species into fresh waters of the State to deter the introduction of any hybrids or strains which may pose threat to the State's aquatic resources.

25. For consistency with similar regulations within the Code, the term "trout" is proposed to be inserted after the species, brook and brown, and the phrases "or", and "any" are proposed to be deleted in N.J.A.C. 7:25-6.9(b)2. These changes are administrative in nature; they do not change the established daily possession limits for brook trout, brown trout and rainbow trout in designated Holdover Trout Lakes.

26. Also in N.J.A.C. 7:26-6.9(b)2 and 3, the term "strains" is proposed to be added to the description of the species of trout that are subject to the size, season and possession limits con-

tained in these subsections. On occasion, private fishing clubs, recreational angling clubs and conservation groups desire to stock for recreational purposes not only hybrids of common trout species but also specific strains. The addition of the term strains will ensure these fish are protected under established season, size and creel limits. A permit is required to stock any fish species into fresh waters of the State to deter the introduction of any hybrids or strains which may pose threat to the State's aquatic resources.

27. For efficiency purposes, the list of trout species "brook trout, brown trout and rainbow trout", which currently appears N.J.A.C. 7:25-6.9(b)3i, iii and iv with reference to the daily possession limit in regulated Holdover Trout Lakes is proposed to be added to lead-in language at N.J.A.C. 7:25-6.9(b)3. As a result, it is no longer necessary to repeat the list of species within N.J.A.C. 7:25-6.9(b)3i, iii and iv. Accordingly, these subparagraphs are proposed for amendment to remove this list. The Council is additionally proposing to add the term "strains" to the list of covered trout species for the reasons explained in summary item 26 above.

28. Many populations of blueback herring, *Alosa aestivalis*, and alewife, *Alosa pseudoharengus*, collectively known as river herring, have faced anthropogenic threats since colonial times, including commercial and recreational fishing pressure, and both habitat loss and degradation. Recent stock assessments have identified that many populations of river herring along the Atlantic Coast are in decline or at depressed but stable levels. The National Marine Fisheries Service (NMFS), from 1985 to 2004, has documented an approximate 90 percent decline, from 13.7 million pounds to 1.33 million pounds, in commercial landings of

river herring. More recently, total coastwide river herring landings reported by member states and jurisdictions of the Atlantic States Marine Fisheries Commission have ranged between 900,000 to 1.5 million pounds. Concern for declining stocks of river herring has resulted in the states of Connecticut, Massachusetts, North Carolina, Rhode Island and Virginia acting to close their herring fisheries. The Council agrees with concerns about declining herring stocks. In freshwaters of New Jersey, these migratory species are a prized baitfish. Due to identified coastwide concerns, the Council proposes in N.J.A.C. 7:25-6.10(a) to amend the daily creel limit of 35 for baitfish, to provide that no more than 10 of the total 35 baitfish allowed may be alewife or blueback herring, in the aggregate.

29. Some anglers attempt to collect herring in excess of the daily baitfish limit under the premise that they accumulated the excess as a result of multiple days of harvest. To reduce these occurrences, the rules at N.J.A.C. 7:15-6.10(d) make it clear that anglers are allowed to possess only one day's limit at any time. The Council proposes to relocate this restriction, from N.J.A.C. 7:25-6.10(d), to the beginning of the section on baitfish, at N.J.A.C. 7:25-6.10(a). As a result of the proposed change, this restriction, as well as the limit on use of herring described in summary item 28 above, will more appropriately follow the daily take limit for baitfish. This is an organizational change and does not result in any change to the current regulations regarding the harvest of baitfish. For clarification purposes, the Council proposes to replace the phrase "Possession limit is one day's limit, regardless of the intent to use these fish, so taken, as bait or food" with "No person shall possess more than one day's limit, regardless of when the fish were taken and whether the fish are intended to be used as bait or food." For further clarification, the phrase "per person, per day", currently part of

N.J.A.C. 7:25-6.10(b), is proposed to be added to the daily limit for baitfish.

30. For efficiency purposes, in N.J.A.C. 7:25-6.10(b), the Council proposes to replace specific daily limits for baitfish with the phrase “up to the daily limit”. The daily limit for baitfish is already established in N.J.A.C. 7:25-6.10(a) and its repetition is unnecessary.

31. For clarification and organizational purposes, the Council proposes to restructure the list of gear allowed for the harvest of baitfish in N.J.A.C. 7:25-6.10(b). The proposed changes consolidate the listing of gear types and organize the list by type of gear and size allowed as they apply to specific waterbody types. As part of the consolidation of gear types, dip nets, and hook and line are added as acceptable methods for the taking of other species of baitfish, as identified in N.J.A.C. 6.25-6.2, not just alewife and blueback herring. These two methods are not as efficient compared to other methods currently used in the collection of baitfish. Therefore, their addition to allowed gear types, does not pose a threat to the State’s baitfish populations. As a result of this change, the listing of gear types specific to the taking of alewife and blueback herring, two species of baitfish, in N.J.A.C. 7:25-6.10(d) is no longer necessary and is proposed to be removed.

32. For efficiency purposes, the Council proposes to replace the specific date for the start of the closed season on the collection of baitfish from trout stocked waters and special regulation areas with the expression “the pre-season closure” in N.J.A.C. 7:25-6.10(c). Prohibiting the taking of baitfish from trout stocked waters during the pre-season trout stocking period through June 15 has long been established. In 2009, March 22 marked the start of the pre-

- season closure (pre-season trout stocking period) as defined under the term “pre-season closure” in N.J.A.C. 7:25-6.2. This change reduces the number of required season date revisions in subsequent codes, reducing administrative costs. This change is administrative in nature and does not reflect any change in the duration or timing of the closed season for the taking of baitfish in these waters.
33. Also in N.J.A.C. 7:25-6.10(c), the Council proposes for efficiency purposes to replace the phrase “up to 35 ... per person per day” with the phrase “up to the daily limit”. The daily limit for baitfish is already established in N.J.A.C. 7:25-6.10(a) and its repetition is unnecessary.
34. Although there are significant concerns regarding migratory and coastal stocks of herring, landlocked herring populations from waterbodies with permitted commercial operations or from private culture operations are in ample supply. As a result, possession of purchased herring in excess of the proposed daily limit of 10 is proposed in N.J.A.C. 7:25-6.10(d) provided a receipt, dated within seven days, with the name, address and telephone number of the supplier, and quantity purchased is in the possession of the person fishing. The receipt must be without erasures or alterations of any kind and must have a control number.
35. For efficiency purposes, in N.J.A.C. 7:25-6.10(e), the Council proposes to replace specific daily limits for baitfish with the phrase “up to the daily limit”. The daily limit for baitfish is already established in N.J.A.C. 7:25-6.10(a) and its repetition is unnecessary.

36. In N.J.A.C. 7:23-6.13(d), the Council proposes a year-round catch-and-release season for largemouth and smallmouth bass in Lake Audrey (Cumberland County). All bass caught would be returned to the water immediately, unharmed. Acquired by the State in 2004, this 120 acre borrow pit was unable to support any fish due to extremely low pH levels. After undergoing an intensive lake restoration project that included the addition of 136 tons of lime, installation of fish habitat structures, and an aggressive stocking program, a bass fishery has begun to develop. In June 2008, the Fish and Game Council issued an Emergency Closure Notice, under N.J.A.C. 7:25-6.17, closing Lake Audrey to all fishing to protect this fragile developing fishery. The lake is still currently closed to fishing. A year-round catch and release season, which this proposed amendment will create, is the next step in allowing access to this fishery while assuring that it is adequately protected until it becomes fully established.
37. In N.J.A.C. 7:23-6.13(o), the Council proposes to reduce the daily creel and possession limit for American shad from six down to three due to coastwide concerns of declining shad stocks. This change is consistent with a similar change proposed for the Delaware River in N.J.A.C. 7:25-6.20(a)1. See summary item 41 for more information regarding declining shad stocks.
38. In N.J.A.C. 7:25-6.18, the title “Wanton waste of fish prohibited”, is proposed to be changed to “Wanton waste of fish prohibited; tagging and marking of fish” to clarify the content of this section of the Code.

39. For enforcement and management purposes, the Council, and appropriate state Fish and Wildlife Agencies strive for consistent regulations on waterways shared with bordering states. Greenwood Lake is located in Passaic County, New Jersey and Orange County, New York. For consistency with recent amendments to the regulations of the New York State Department of Environmental Conservation pertaining to Greenwood Lake, the catch and release season on largemouth and smallmouth bass, which currently runs from April 15 to June 15, is proposed to be extended an additional four and one-half months. The proposed catch and release period in N.J.A.C. 7:25-6.19(a)1 begins December 1 until the third Saturday in June of the following year. In 2009, the New York State Department of Environmental Conservation extended the catch and release season on Greenwood Lake (see, 6 NYCRR Part 4) to make it consistent with other waters within New York State. The Council agrees this change is appropriate, because the extended catch and release period protects bass not only during their spring spawning period, but also during ice fishing season when bass are also vulnerable.
40. For consistency purposes, the phrase “singly or” is proposed to be removed from the daily bag limit for largemouth and smallmouth bass, and black and white crappie, as it applies to Greenwood Lake, N.J.A.C. 7:25-6.19(a)1, and the Delaware River, N.J.A.C. 7:25-6.20(a)1. This change is administrative in nature; there is no change to the established creel limits for largemouth and smallmouth bass or black and white crappie.
41. American shad, like river herring, are anadromous, migrating every spring into freshwater to spawn. Similar to river herring stocks, Atlantic coast American shad stocks are depressed

and have been declining due to many of the same factors impacting herring stocks. The Delaware River Basin Plan for American shad sets a population goal estimate of 750,000 shad for a two-year period. The last year the shad population was estimated to meet this goal was in 1989. In 2006 and 2007, the two most recent years that population studies were conducted, population estimates were 114,000 and 181,600 shad, respectively. Due to concerns of the declining fishery, and in line with recommendations of the Atlantic States Marine Fisheries Commission's Shad Stock Assessment Committee, the Delaware River Basin Fish & Wildlife Management Cooperative's Fisheries Technical Committee, supports a reduction to current creel limits to help protect the dwindling shad stocks. The Council supports this recommendation. As a result, in N.J.A.C. 7:23-6.20(a)1, the daily limit for American shad on the Delaware River is proposed to be reduced from six to three. The Pennsylvania Fish and Boat Commission is planning to propose a similar reduction for the Delaware River. Pennsylvania's proposal, if approved, would take effect in 2010.

42. Consistent with population concerns that led to the proposed amendment to the daily possession limit in N.J.A.C. 7:25-6.10(a), that will reduce the maximum number of alewife and blueback herring that may be taken as baitfish from 35 to 10 (see summary item 28, above), the Council proposes a similar reduction in the taking of alewife and blueback herring in the Delaware River where these species are regulated as a foodfish in accordance with N.J.S.A. 23:9-5. The Delaware River Basin Fish & Wildlife Management Cooperative's Fisheries Technical Committee supports a reduction to current limits to help protect declining herring stocks. The Pennsylvania Fish and Boat Commission is planning to propose a similar reduction for the Delaware River. Pennsylvania's proposal, if approved, would take effect in

2010.

43. Inconsistencies between baitfish limits pertaining to the Delaware River are proposed to be rectified by increasing the limit of 35 in N.J.A.C. 7:25-6.20(a)5 to equal the established limit of 50 in N.J.A.C. 7:25-6.20(a)1. Because what species of fish that are considered to be baitfish in the Delaware River is statutorily defined to include only species of minnows, killifishes and stone catfish, this proposed change is not contrary to previously proposed reductions in alewife and blueback herring possession limits in other waters of the State where these species are considered baitfish (see N.J.S.A. 23:9-5).

44. To help ensure commercial snapping turtle harvesters are in compliance with Department of Health and Senior Services regulations designed to address potential health concerns related to snapping turtles and *Salmonella*, the Council proposes to add a reference at N.J.A.C. 7:25-6.22(d) to the applicability of those rules to all sales of snapping turtles collected under a Commercial Snapping Turtle Permit, issued by the Division. Currently, the New Jersey Department of Health and Senior Services requires each shipment of snapping turtles to be found free of *Salmonella* contamination, in accordance with N.J.A.C. 8:23-2.1. *Salmonella* genus bacteria can be transmitted to humans, causing salmonellosis. Salmonellosis is characterized by severe gastrointestinal symptoms and occasionally results in death. Because of the serious public health concerns involved, the Council believes that it is important to highlight the applicability of these rules.

45. In N.J.A.C. 7:25-6.22(d)3i, the Council proposes to amend the types of information that

must annually be submitted by commercial harvesters to include the name, address and telephone number of the purchaser(s) of snapping turtles, bull frogs or green frogs. This information will assist enforcement officials to better track the harvest and sale of snapping turtles within the State, particularly in regard to public health concerns (see summary item 44).

46. In N.J.A.C. 7:25-6.23(b), the Council proposes to add the phrase “in the form of a letter of request” to clarify that applications for special limited fishing licenses are submitted in the form of a letter on the requesting organization’s letterhead. No formal application is supplied by the Division.

47. For consistency with the structure of application information associated with other permits issued under N.J.A.C. 7:25-6, application information for scientific collecting permits is proposed to be restructured into a list format, in N.J.A.C. 7:25-6.24(b). The applicant’s name, address and phone number is proposed to be added to the required application information. This basic information has always been a part of the application form, but was not previously identified in the rule. In addition, a copy of the project proposal is required for research or environmental study or assessment related activities. The proposals provide relevant background information as to the purpose and protocols used as part of the project for which scientific collecting permits are requested. The information is helpful in determining if the project is consistent with the goals of the Division and often helps expedite application review. Project proposals for these types of activities are already submitted by applicants. Overall, these changes are for organizational purposes and do not reflect any significant deviations in information that is currently requested from applicants.

48. For consistency with the structure of other permits issued under N.J.A.C. 7:25-6, the basis for approval of scientific collecting permits is proposed to be recodified from N.J.A.C. 7:25-6.24(b) to N.J.A.C. 7:25-6.24(d). The address for acquiring and submission of a scientific collection permit applications is proposed to be recodified from N.J.A.C. 7:25-6.24(b) to N.J.A.C. 7:25-6.24(c). The address information is proposed to be changed from the Division's Trenton Office to the Division's Field Office in Lebanon. This reflects a change in the Division location where permits are issued. In addition, the phrases "An application may be obtained from the Division at:", and "Applications shall be directed to", are proposed to be replaced with the phrase "Application forms may be obtained from and, when complete, shall be submitted to the Division at: ." The location where applications may be obtained is the same as where completed applications are submitted.
49. For consistency with the structure of other permits issued under N.J.A.C. 7:25-6, and as a result of other proposed changes in summary items 47 and 48, conditions that permittees must abide by is proposed to be relocated from N.J.A.C. 7:25-6.24(c) to N.J.A.C. 7:25-6.24(e).
50. In N.J.A.C. 7:25-6.26(g), the Council proposes that any "potentially dangerous fish" species encountered while collecting fish from a waterway, as a result of water lowering, must not be relocated. Potentially dangerous exotic fish are proposed in N.J.A.C. 7:25-6.2 to include species such as; the Asian swamp eel, *Monopterus albus*, Bighead carp, *Hypophthalmichthys nobolis*, Brook stickleback, *Culaea inconstans*, Flathead catfish, *Pylodictis olivaris*,

Grass carp (diploid), *Ctenopharyngodon idella*, Green sunfish, *Lepomis cyanellus*, Snakeheads, *Channa* spp., Oriental weatherfish, *Misgurnus anguillicaudatus*, Silver carp, *Hypophthalmichthys molitrix*, and Warmouth, *Lepomis gulosus*. These exotic species pose a threat to indigenous and established fish populations and some pose human health risks.

Social Impacts

The proposed amendments to the Code balance opportunities for recreational fishing with adequate protection of the natural resource and are anticipated to have a positive social impact. The proposed amendments which add trout stocking locations are designed to increase the overall fishing opportunities in their specific regions. Even the loss of stocked locations benefit the angler since fish can then be reallocated to waters which provide better angling success or access. Negative social impacts will be offset by the alternative trout fishing opportunities which already exist in these areas. The relocation of the Trout Conservation Area on the Pequannock River further downstream where better access is provided to anglers will have positive social benefits. The designation of a 1.8 mile stretch of the Pequannock River as a Wild Trout Stream provides additional protection to this exceptional resource while maintaining recreational opportunities. Even the loss of a Trout Conservation Area on the Paulinskill River will have positive social benefits as it results in this marginal year-round fishery being managed as a more appropriate seasonal trout fishery. Seasonal fisheries are stocked more times during the spring than designated Trout Conservation Areas with additional trout being allocated. This change will have positive social benefits.

The re-designation of the Point Mountain stretch of the Musconetcong River from a Seasonal to a

Year-Round Trout Conservation Area is anticipated to have positive social benefits for anglers who prefer larger minimum size, practice catch and release, and do not fish with bait. There will be negative social impacts to anglers who prefer bait, a smaller minimum size, and a larger creel.

Amendments which provide for the protection of various strains of trout requested to be stocked by various angling groups are anticipated to provide positive social benefits. These strains provide a more diverse trout angling experience not currently provided by the State's stocking programs.

The reopening of Lake Audrey to anglers will have positive social benefits. This lake has been closed to fishing since 2008. Although there may be some negative social impacts from the proposed year-round catch and release requirement for largemouth and smallmouth bass, these concerns are offset by the continued protection of this still developing fishery, which will result in increasing long-term benefits.

The amendment proposed to make New Jersey regulations consistent with those of New York as they relate to Greenwood Lake are expected to have both positive and negative social impacts. The proposed change extends the current catch and release season for an additional four and a half months, proposed to begin December 1. Anglers who target largemouth bass through the winter with the intent of harvesting will be negatively impacted by this change. However, having consistent regulations on boundary waters provides for better understanding and adherence to the regulation by anglers. It also demonstrates a unified approach between states in the management of collective fishery resources to assure that the resources are not negatively impacted by inconsistent protection.

Amendments to reduce the creel for American shad, alewife and blueback herring will have some negative social impacts to anglers who prefer a larger creel, and use herring for bait. These impacts are offset by assuring the long-term future of these important fisheries. These impacts are further offset by amendments which allow anglers to have purchased herring in excess of the proposed reduced creel provided they have a receipt.

Other changes are administrative in nature and do not result in any social impacts.

Economic Impact

Overall, an increase in angling opportunities is anticipated as a result of these amendments which will provide increased revenue for those businesses that support and serve fishermen. There may be slight negative economic impacts in localized areas where trout stocking is proposed to be discontinued. However, other existing trout fishing opportunities that occur in these areas will offset these impacts. Positive economic benefits are anticipated in areas where new trout stocking opportunities are proposed.

Commercial harvesters of fish, turtles or frogs may be negatively impacted by requirements to submit monthly or annual harvest reports. These reporting requirements are minimal in nature, due not require the retention of consultants or other professionals and are not anticipated to have any economic impacts to these persons or businesses.

Environmental Impact

The proposed amendments are designed to have a positive environmental impact in continuing the conservation, management and enhancement of the State's freshwater fisheries resources based on their current population, distribution, and habitat status. Amendments which protect species during their critical spawning periods or set creel or minimum size limits have positive environmental impacts in providing for the protection of species while allowing appropriate recreational and commercial harvest which creates positive environmental impacts by preventing overpopulation.

Amendments identifying and prohibiting the possession of potentially dangerous exotic fish will have positive environmental benefits. These species have characteristics that make them effective invasive species such as high reproductive fitness, high tolerance for environmental stress, the ability to disperse, predate and compete with native species, and the lack of natural enemies. They pose a significant threat to indigenous species and to the aquatic environment as a whole. Amendments requiring anglers to destroy these species when encountered and to provide the specimen to Division staff for confirmation allows the Division to track the spread of these invasive species. Additional amendments which prohibit the transfer of these species during water lowering activities which require fish to be collected and relocated will also help reduce the spread of these invasive species.

Amendments reducing the creel for important commercial and recreational species such as American shad, alewife and blueback herring will have positive environmental benefits in protecting these

declining fisheries. Long-term anthropogenic stressors have resulted in the decline of these migratory species along the entire Atlantic Coast. The reduced creel will help protect these species during their critical spawning runs in fresh waters of the State.

Amendments designating streams as Wild Trout Streams, which will result in these streams no longer being stocked, will have positive environmental impacts as competition between resident trout and cultured trout will be eliminated. Amendments that discontinue the stocking of trout in small streams with resident trout populations also reduces competition for food and habitat between small, resident trout, and the much larger cultured trout. Reducing competition to the benefit of resident trout populations has positive environmental impacts.

Amendments installing a year-round catch and release season on largemouth bass and smallmouth bass in fragile developing fisheries, such as in Lake Audrey, will have positive environmental impacts. The year-round catch and release season permits angling to occur while protecting the developing bass fishery from any harvest, which will provide long-term benefits to the resource.

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. The United States Fish and Wildlife Service regulates the harvesting of freshwater fish in National Wildlife Refuge Areas in New Jersey pursuant to the National Wildlife Refuge System Administration Act, 16 U.S.C. 668dd (1966), and regu-

lations (50 CFR 32-49). In all other areas of the State, where there are no Federal regulations pertaining to the harvest of freshwater fish, the State's Fish Code applies. The proposed amendments to the Fish Code do not contain any standards or requirements that exceed Federal regulations involving the National Wildlife Refuge Areas. Accordingly, Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. do not require further analysis.

Job Impacts

The amendments provide for continued recreational and economic benefits to the citizens of the State and the regulated use and proper management of the State's freshwater fisheries resource. Amendments which protect species during their critical spawning periods or set creel or minimum size limits or provide consistency with regulations on waters bordering other states are not expected to produce any job impacts. These amendments impact recreational fisheries and no impact on fishing related businesses is anticipated. As addressed under Economic Impacts, there may have slight negative economic impacts in localized areas where trout stocking is proposed to be discontinued. However, other existing trout fishing opportunities that occur in these areas will offset these impacts. Positive economic benefits are anticipated in areas where new trout stocking opportunities are proposed. However, these economic impacts, whether positive or negative, are not anticipated to result in either the creation or loss of jobs.

Agricultural Impact Statement

N.J.S.A. 52:14B-4(a)2 requires that agencies proposing a rule include a statement on the impact that

the proposal will have on the agricultural industry. In New Jersey, the raising of fish for sale for food or for stocking purposes falls within the realm of agriculture. Amendments proposed to reduce the daily possession limit on alewife and blueback herring from 35 to 10, exempt herring purchased from suppliers provided a receipt dated within seven days of purchase is in possession. The proposed amendments are not anticipated to have any impacts on the agricultural industry.

Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the Council has determined that the proposed amendments will have a minimal affect on "small businesses" as defined in the Act. The only time small businesses are subject to reporting requirements under N.J.A.C. 7:25-6, is with reference to scientific collecting permits, commercial harvest permits, and fish stocking permits. The proposed re-structuring of the rules pertaining to scientific collecting permits, and snapping turtle and green frog harvester permits is primarily organizational in nature with only a minor change in reporting requirements. Particularly, it is proposed that snapping turtle and green frog harvesters provide general contact information for the purchaser of their catch in addition to existing harvest report requirements. No other amendments are proposed that impose additional reporting, recordkeeping or other compliance requirements. The proposed changes applicable to snapping turtle and green frog harvesters will impose only a minimal additional requirement that will easily be accomplished by the harvesters without a significant expenditure of time or resources. Accordingly, the Council has provided no differentiation in requirements applicable to small businesses.

Smart Growth Impact Statement

Executive Order No. 4 (2002) requires State agencies which adopt, amend or repeal any rule adopted pursuant to Section 4 (a) of the Administrative Procedure Act, to describe the impact of the proposed rule on the achievement of smart growth and implementation of the New Jersey Development and Redevelopment Plan (State Plan). The Fish and Game Council has evaluated this rule-making to determine the nature and extent of the proposed amendments' impact on smart growth and the implementation of the State Plan. The proposed amendments do not involve land use policies or infrastructure development and therefore, do not impact the achievement of smart growth. As to the implementation of the State Plan, the proposed amendments are intended to conserve the State's natural resources, which is one of the overall goals of the State Plan.

Housing Affordability Impact

Pursuant to N.J.S.A. 52:14B-4, as amended effective July 17, 2008, by P.L. 2008, c. 46, the Council has evaluated the proposed amendments to determine their impact, if any, on the affordability of housing. The Council has evaluated this rulemaking to determine the nature and extent the proposed amendments impact on housing affordability and the implementation of the State Plan. Since the proposed amendments relate to daily creel and season limits for fish, and the State's trout stocking program, the Council has determined the proposed amendments do not impact housing affordability. As to the implementation of the State Plan, the proposed amendments are intended to conserve the State's natural resources, which is one of the overall goals of the State Plan.

Smart Growth Development Impact

In accordance with N.J.S.A. 52:14B-4, as amended effective July 17, 2008, by P.L. 2008, c. 46, the Department has evaluated the proposed amendments for purposes of determining their impact, if any, on housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan (State Plan).

As indicated above in the Smart Growth Impact statement, the proposed amendments do not involve land use policies or infrastructure development and therefore, do not impact housing production in Planning Areas 1 or 2, or within designated centers, under the State Plan.

Full text of the proposal follows (additions indicated by boldface **thus**; deletions indicated in brackets [thus]);

TITLE 7. ENVIRONMENTAL PROTECTION

CHAPTER 25. DIVISION OF FISH AND WILDLIFE RULES

SUBCHAPTER 6. [2008-2009] **2010 - 2011** FISH CODE

7:25-6.1 General provisions

(a)-(f) (No change.)

(g) The possession and/or release of live potentially dangerous fish species, identified in N.J.A.C. 7:25-6.2, is strictly prohibited. Potentially dangerous fish species encountered while angling shall be destroyed. There are no season, minimum size or creel limits on these species.

7:25-6.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Baitfish" means the following species:

1.-12. (No change.)

13. Spotfin killifish Fundulus lucia;

[14. Stonecat Noturus flavus;]

[15] Tadpole madtom Noturus gyrinus; and

14.

[16.] All shiner, dace, and Cyprinella, Exoglossum

15.

minnow of the following Hybognathus, Luxilus, **Notropis,**

genera: **Rhinichthys** and Semotilus.

• • •

"Other fish species," and all hybrids and strains thereof, which are provided for by the provisions of this Code, either directly or implied, are as follows:

1. Alewife (andromous form) Alosa pseudoharengus
2. American eel [Anguilia] **Anguilla** rostrata
- 3.- (No change.)
- 14.

• • •

“Potentially dangerous fish” means the following species:

- | | | |
|-------------------|------------------------------------|---|
| <u>1.</u> | <u>Asian swamp eel</u> | <u>Monopterus albus</u> |
| <u>2.</u> | <u>Bighead carp</u> | <u>Hypophthalmichthys nobolis</u> |
| <u>3.</u> | <u>Brook stickleback</u> | <u>Culaea inconstans</u> |
| <u>4.</u> | <u>Flathead catfish</u> | <u>Pylodictis olivaris</u> |
| <u>5.</u> | <u>Grass carp (diploid)</u> | <u>Ctenopharyngodon idella</u> |
| <u>6.</u> | <u>Green sunfish</u> | <u>Lepomis cyanellus</u> |
| <u>7.</u> | <u>Snakeheads</u> | <u>Channa spp.</u> |
| <u>8.</u> | <u>Oriental weatherfish</u> | <u>Misgurnus anguillicaudatus</u> |
| <u>9.</u> | <u>Silver carp</u> | <u>Hypophthalmichthys molitrix</u> |
| <u>10.</u> | <u>Warmouth</u> | <u>Lepomis gulosus</u> |

• • •

7:25-6.3 Trout season and angling in trout stocked waters

(a)-(b) (No change.)

(c) There shall be a nine-inch minimum size for brook trout, brown trout, rainbow trout or hybrids **and strains** thereof except as designated in N.J.A.C. 7:25-6.5 to 6.9. Purchased brown and rainbow trout less than the nine-inch minimum size limit may be possessed, strictly for use as bait, provided a receipt of purchase, dated within 14 days, and indicating the place of purchase is in possession and provided upon request.

(d) (No change.)

(e) **Except as provided in N.J.A.C. 7:25-6.4 to 6.9,** [T]he daily possession limit for brook trout, brown trout, and rainbow trout or their hybrids **and strains thereof** is as follows:

1. A person shall not take, kill or have in possession, in one day, more than four in total [of brook trout, brown trout, rainbow trout, or hybrids thereof,] during the period extending from January 1 to the pre-season closure[, except as designated in N.J.A.C. 7:25-6.4 to 6.9].

2. A person shall not take, kill or have in possession, in one day, more than six in total [of brook trout, brown trout, rainbow trout, or hybrids thereof,] from opening day until May 31[, except as designated in N.J.A.C. 7:25-6.4 to 6.9].

3. A person shall not take, kill or have in possession, in one day, more than four in total [of brook trout, brown trout, rainbow trout, or hybrids thereof,] from June 1 until December 31[, except as designated in N.J.A.C. 7:25-6.4 to 6.9].

(f)-(h) (No change.)

(i) This subsection sets forth trout stocked waters for which no in-season closures will be in force.

1. (No change.)

2. Bergen County

Dahnert's Lake—Garfield

Hackensack River--Lake Tappan to Harriot Avenue,

Harrington Park

Hohokus Brook--Forest Road to Saddle River

Indian Lake--Little Ferry

Mill Pond--Park Ridge

Pascack Creek--Orchard Street, Hillsdale, to Lake

Street, Westwood

Potash Lake—Oakland

Saddle River—[State Line] **Lake Street** to Dunkerhook Road,

Fair Lawn

[Scarlet Oak Pond—Mahwah]

Tenakill Creek--Closter, entire length

Whites Pond—Waldwick

3.-4. (No change.)

5. Cape May County

[Dennisville Lake—Dennisville]

Ponderlodge Pond – Villas

Tuckahoe Lake – Tuckahoe

[West Pond--Cape May Courthouse]

6.-9. (No change.)

10. Hunterdon County

Alexauken Creek – West Amwell Township, entire length

Amwell Lake--East Amwell

Beaver Brook--Clinton Township, entire length

Capoolong Creek--Pittstown, entire length

Delaware--Raritan Feeder Canal--Bulls Island to

Hunterdon--Mercer County line

Hakihokake Creek--Holland Township, entire length

Lockatong Creek--Opdyke Road Bridge, Kingwood

Township to Delaware Raritan Feeder Canal

Mannys Pond--Union Township

Mountain Farm Pond--Lebanon Township

Mulhockaway Creek--Pattenburg, source to Spruce

Run Reservoir

Neshanic River--Kuhl Road to Hunterdon County

Route 514

Nishisakawick Creek--Frenchtown/Everittstown,

entire length

Rockaway Creek--Readington Township, entire

Length

Rockaway Creek, S/Br.--Lebanon to Whitehouse,

entire length

Round Valley Reservoir--Clinton Township

Sidney Brook--Grandin, entire length

[Spring Mills Brook--Spring Mills, entire length]

Spruce Run--Glen Gardner and Lebanon Township,

entire length

Wickecheoke Creek--Covered Bridge County Rt.

604, Sergeantsville to Delaware River

11.-15. (No change.)

16. Passaic County

Barbour's Pond--West Paterson

Clinton Reservoir--Newark Watershed

Green Turtle Pond—[Wanaque Wildlife Management

Area]—Hewitt

Oldham Pond--North Haledon

Pequannock River--Route 23, [Smoke Rise] **Smith Mills** to

Paterson-Hamburg Turnpike, Pompton Lakes

Pompton River--Pompton Lake to Newark-Pompton

Turnpike

Ringwood Brook--State line to Sally's Pond,

Ringwood Park

Sheppard['s] Lake--Ringwood State Park

17. (No change.)

18. Somerset County
- Lamington River--Rt. 523 (Lamington Road) at
 Burnt Mills to Jct. with North Branch of Raritan
 River
- Middle Brook, E/Br.--Martinsville, entire length
- Passaic River--See Morris Co.
- Peapack Brook--Peapack-Gladstone, entire length
- Raritan River--Jct. of Raritan River N/Br. and S/Br.
 to Rt. 206 Bridge
- [Rock Brook--Zion, entire length]
- Spooky Brook Park Pond—Franklin
19. (No change.)
20. Union County
- Green Brook--Route 527, Berkeley Heights, to
 Route 22, Scotch Plains
- Lower Echo Park Pond—Mountainside
- Milton Lake—[Madison Hill Road Bridge to Milton
 Lake Dam,] Rahway
- Rahway River--I-78 Bridge, Springfield, to St.
 George Ave. (Route 27), Rahway
- Seeleys Pond--Berkeley Heights
- Warinanco Park Pond—Roselle
21. Warren County

Beaver Brook--Silver Lake Dam to Pequest River

Blair Creek--Hardwick Center to Blair Lake

Blair Lake—Blairstown

Buckhorn Creek--Roxburg, entire length

Columbia Lake and Gatehole—Knowlton Township

Furnace Brook--Oxford, entire length

Furnace Lake—Oxford

Honey Run--Swayze's Mill Road to Route 519,

Hope Township

Jacksonburg Creek--Jacksonburg, entire length

Lopatcong Creek--Route 519 to South Main Street,

Phillipsburg

Merrill Creek Reservoir—Stewartsville

Pohatcong Creek--Mt. Bethel to Route 31

Pophandusing Creek--Oxford Road, Hazen, to

Delaware River

[Roaring Rock Brook--Brass Castle, entire length]

Trout Brook--Hackettstown, entire length

Trout Brook--Hope, entire length

White Lake--Hardwick Township

7:25-6.5 Special regulation trout fishing areas--Seasonal Trout Conservation Areas

(a) The following stream segments are designated as Seasonal Trout Conservation Areas and are subject to the provisions at (b) below governing these areas during the periods of January 1 up to, but not including, opening day and from the seventh Monday following opening day, through December 31.

1. Pequest River, **Warren County** --An approximate 1.0 mile portion, within the Pequest Wildlife Management Area, extending from the County bridge on Pequest Furnace Road at Pequest upstream to the Conrail Railroad Bridge upstream of the Pequest Trout Hatchery Access Road.

2. Pequannock River, **Morris and Passaic Counties**,--An approximate [1.2] **1.8** mile stretch of river extending from [the Route 23 bridge at Smith Mills upstream to the Route 23 bridge at Smoke Rise] **Hamburg Turnpike bridge/Brandt Lane, Bloomingdale to Hamburg Turnpike bridge, Pompton Lakes.**

[3. Musconetcong River--An approximate 1.2 mile stretch of the Musconetcong River near Point Mountain extending from the Penwell Road bridge downstream to the Point Mountain Road bridge.]

(b) The following shall apply to the Seasonal Trout Conservation Areas designated at (a) above:

1.-3. (No change.)

4. A person shall not kill or have in possession while fishing any trout less than 15 inches[in total length];

5. A person shall not have in possession, while fishing, any more than one dead, creeled or otherwise appropriated trout, except that no trout may be retained during pre-season and in-season closures, which apply to the remainder of the respective rivers where these areas exist[; and].

[6. Size limits and creel limits on species other than trout are in accordance with Statewide regulations.]

7:25-6.6 Special regulation trout fishing areas--Wild Trout Streams

(a) The following streams, or portions thereof, are designated as "Wild Trout Streams." Listing of streams in this category does not convey the right to trespass or fish on private lands without the landowner's permission. These waters will not be stocked with trout. Unless otherwise noted, the entire length of the stream is included in the designation.

1.-21. (No change.)

22. Pequannock River (Newark Watershed, Oak Ridge; Road bridge downstream to railroad bridge; immediately upstream of Charlottesburg Reservoir; **and from Rt. 23 bridge at Smoke Rise downstream to the Rt. 23 bridge at Smith Mills**);

23.-36. (No change.)

(b) The following regulations shall apply to the Wild Trout Streams designated at (a) above.

1.-3. (No change.)

4. A person shall not take, kill or have in possession, while fishing the portions of the Pequannock River, Van Campens Brook and the Wanaque River, designated as Wild Trout Streams, any brown trout less than 12 inches[in total length]. For all other designated Wild Trout Streams, and for brook and rainbow trout in the Wild Trout Stream designated portions of the Pequannock River,

Van Campens Brook, and the Wanaque River, the minimum length for trout shall be nine inches [in total length].

5. (No change.)

[6. Size limits and creel limits on species other than trout are in accordance with Statewide rules.]

7:25-6.7 Special regulation trout fishing areas--Year-Round Trout Conservation Areas

(a) The following stream segments are designated as Year-Round Trout Conservation Areas and are subject to the provisions at (b) below governing these areas on a year-round basis:

1. (No change.)

2. [East Branch of Paulinskill River, Sussex County--from the Limecrest Railroad Spur Bridge downstream to its confluence with the West Branch of the Paulinskill at Warbasse Junction, a distance of approximately 2.25 miles] **Musconetcong River, Hunterdon and Warren Counties, -- An approximate 1.2 mile stretch of the Musconetcong River near Point Mountain extending from the Penwell Road bridge downstream to the Point Mountain Road bridge. ;**

3.-4. (No change.)

(b) The following shall apply to the Year-Round Trout Conservation Areas designated at (a) above:

1.-2. (No change.)

3. A person shall not kill or have in possession, while fishing, any trout less than 15 inches[in total length];

4. (No change.)

5. A person shall not have in possession, while fishing, any more than one dead, creeled or otherwise obtained trout, except that trout may not be retained during pre-season and in-season stocking closures which apply to the remainder of the respective rivers where these areas exist. Additional trout may be caught provided they are returned to the water immediately and unharmed[; and].

[6. Size limits and creel limits on species other than trout are in accordance with Statewide rules.]

7:25-6.8 Special regulation trout fishing areas--Trophy Trout Lake

(a) (No change.)

(b) The following shall apply to the Trophy Trout Lakes designated in (a) above:

1. The minimum size of **brook trout**, brown trout [and], rainbow trout **and all hybrids and strains thereof** shall be 15 inches. Daily bag and possession limit for brown trout and rainbow trout shall be two in total.

2. There shall be no closed season for **brook trout**, brown trout [and], rainbow trout **and all hybrids and strains thereof**

3.-5. (No change.)

7:25-6.9 Special regulation trout fishing areas--Holdover Trout Lakes

(a) The following lakes are designated as Holdover Trout Lakes:

1.-2. (No change.)

3. Sheppard['s] Lake;

4.-5. (No change.)

(b) The following regulations shall apply to Holdover Trout Lakes designated at (a) above:

1. (No change.)

2. There shall be a nine-inch minimum size limit for any species of brook **trout**, brown **trout**, [or] rainbow trout, or [any] hybrids **and strains** thereof.

3. The daily possession limit for **brook trout, brown trout, rainbow trout or hybrids and strains thereof** [waters designated as Holdover Trout Lakes] is as follows:

i. A person shall not take, kill or have in possession, in one day, more than two in total [of brook trout, brown trout, rainbow trout, or hybrids thereof,] during the period extending from January 1 to the pre-season closure.

ii. (No change.)

iii. A person shall not take, kill or have in possession, in one day, more than four in total [of brook trout, brown trout, rainbow trout, or hybrids thereof,] during the period extending from opening day to May 31.

iv. A person shall not take, kill or have in possession, in one day, more than two in total [of brook trout, brown trout, rainbow trout, or hybrids thereof,] from June 1 until December 31.

4. (No change.)

7:25-6.10 Baitfish

(a) Any person, who has a fishing license or is under the age of 16 or over 70 years of age, may take up to 35 baitfish, **per person per day, of which no more than 10, in the aggregate, may be alewife and/or blueback herring,** from the freshwaters of the State. **Except as provided in (d) below, no person shall possess, in any location, more than one day's limit, regardless of when the fish were taken and whether the fish are intended to be used as bait or food**

(b) Except as provided for in trout-stocked waters listed in N.J.A.C. 7:25-6.3 through 6.9 and (c) and (d) below[, up to 35] baitfish [per person per day] **up to the daily limit** may be taken from [the freshwater streams with a seine not to exceed 30 feet in length, or half the width of the stream at the point of use, whichever is less, year-round. In lakes and ponds under 100 acres, a seine not over 30 feet in length may be used, and in lakes over 100 acres, a seine not over 50 feet in length may be used. Minnow traps not larger than 24 inches in length with a funnel mouth no greater than two inches in diameter, and an umbrella net no greater than 3.5 feet square may be used in any of the freshwaters of the State. A cast net no greater than eight feet in diameter may be used in freshwater streams provided it is not a trout stocked water or a special regulation trout fishing area, listed in N.J.A.C. 7:25-6.3 through 6.9.] **freshwaters of the State by the following means: hook and line; dip net not more than 24 inches in diameter; minnow traps not larger than 24 inches in length**

with a funnel mouth no greater than two inches in diameter; a cast net no greater than eight feet in diameter, and an umbrella net no greater than 3.5 feet square.

Seines may also be used subject to the following limitations. In lakes and ponds under 100 acres, the seine shall not be over 30 feet in length. In lakes at or over 100 acres, the seine shall not be over 50 feet in length. In streams, the seine shall not exceed 30 feet in length, or one-half the width of the stream at the point of use, whichever is less.

(c) In trout stocked waters and special regulation areas, listed in N.J.A.C. 7:25-6.3 to 6.9, it is prohibited to net, trap or attempt to net or trap baitfish from [March 22] **the pre-season closure** through June 15 except where the taking is otherwise provided **for in this subchapter.** For the remainder of the year, [up to 35] baitfish [per person per day] , **up to the daily limit,** may be taken with a seine not over 10 feet in length and four feet in depth or a minnow trap not larger than 24 inches in length with a funnel mouth no greater than two inches in diameter or an umbrella net no greater than 3.5 feet square. The use of cast nets is not permitted in these waters at any time.

(d) [Up to 35 per day of alewife or blueback herring in the aggregate, may be taken per person with a dip net not more than 24 inches in diameter, hook and line, a cast net no greater than eight feet in diameter, or as otherwise provided for. Possession limit is one day's limit, regardless of the intent to use these fish, so taken, as bait or food.] **Purchased herring may be possessed in excess of the daily limit, for up to 7 days from date of purchase, when accompanied by a receipt. The receipt must list the name, address and telephone number of the place of purchase, date of purchase, and quantity purchased. This receipt must be without erasures or alterations of any kind and must have a control number.**

(e) Baitfish other than alewife (anadromous and landlocked) and blueback herring may be taken from the freshwaters of the State, in numbers greater than [35 per day] **the daily limit** for the purpose of sale under special permit issued by the Division in its discretion. Alewife may be taken from lakes, 250 acres or greater, in numbers greater than [35 per day] **the daily limit** for the purpose of sale, under special permit issued by the Division in its discretion.

1.-4. (No change.)

7:25-6.13 Warmwater fish

(a)-(c) (No change.)

(d) During the period of April 15 through June 15, the possession of largemouth and smallmouth bass is prohibited and all bass caught shall be immediately returned to the water unharmed; **except for Lake Audrey (Cumberland County) where largemouth and smallmouth bass caught shall be immediately returned to the water unharmed at all times.**

(e)-(n) (No change.)

(o) The daily creel and possession limit for American shad shall be [six] **three**. There is no closed season.

(p)-(u) (No change.)

7:25-6.18 Wanton waste of fish prohibited; **tagging and marking of fish**

(a)-(b) (No change.)

7:25-6.19 Greenwood Lake

(a) In cooperation with the New York State Department of Environmental Conservation, Division of Fish and Wildlife, the following regulations for Greenwood Lake, which lies partly in Passaic County, New Jersey, and partly in Orange County, New York, are made a part of the New Jersey State Fish and Game Code and will be enforced on the whole lake by the conservation authorities of both [S]tates.

1.	Species	Season	Size Limit	Daily Bag Limit
--	-----	-----	-----	-----
	Trout	No closed Season	No minimum	3
	Largemouth bass and smallmouth bass	[Jan. 1-April 14, and June] <u>third Saturday in June until Dec. 1</u> [16-Dec. 31 April 15-June 15] <u>Dec. 1 until third Saturday in June</u>	12 inch minimum	5 [single or] in total Catch and release only
	Chain pickerel	No closed Season	15 inch minimum	5

				Daily Bag
1.	Species	Season	Size Limit	Limit
--	-----	-----	-----	-----
	Muskellunge and any hybrid thereof	No closed Season	36 inch minimum	1
	Walleye	Jan. 1-last day of February and May 1-December 31	18 inches	3
	Channel catfish	No closed Season	12 inches	5
	Black crappie and white crappie	No closed Season	8 inches	10[singly or] in total
	Yellow perch	No closed Season	No minimum	50
	Sunfish	No closed Season	No minimum	50
	All other species	No closed Season	No minimum	No limit

2.-5. (No change.)

7:25-6.20 Delaware River between New Jersey and Pennsylvania

(a) In cooperation with the Pennsylvania Fish and Boat Commission, the following regulations for the Delaware River between New Jersey and Pennsylvania are made a part of the New Jersey State Fish and Game Code and will be enforced by the conservation authorities of each state.

			Daily Bag
1.	Species	Season	Limit
--	-----	-----	-----
	Trout	8:00 A.M. on the first Saturday after April 11 to Oct. 15	5
	American Shad	No closed Season	[6] <u>3</u>
	Hickory shad	Closed season	Closed season
	Largemouth bass and smallmouth bass	Jan. 1 to the first Friday after April 10, and the first Saturday after	5 [singly or] in total

				Daily Bag
1.	Species	Season	Size Limit	Limit
--	-----	-----	-----	-----
		June 11 to Dec. 31		
		First Saturday, after April 11, to the first Friday after June 10	Catch and release Only	
	Walleye	No closed Season	18 inch minimum	3
	Chain pickerel	No closed Season	12 inch minimum	5
	Muskellunge and any hybrid thereof	No closed Season	40 inch minimum	1
	Northern pike	No closed Season	24 inch minimum	2
	Baitfish, fish	No closed	No minimum	50

				Daily Bag
1.	Species	Season	Size Limit	Limit
--	-----	-----	-----	-----
	bait	Season		
	Alewife and blueback (anadromous forms)	No closed Season	No minimum	[35] 10 in total
	Shortnose sturgeon	Closed-endangere d species		
	Atlantic sturgeon	Closed		
	Striped bass and striped bass X white bass hybrid	Downstream of Calhoun Street Bridge [Bridge] season open March 1-30 and June 1-Dec. 31	28 inch minimum	2
		Upstream of Calhoun Street Bridge [Bridge] season	28 inch minimum	2

				Daily Bag
1.	Species	Season	Size Limit	Limit
--	-----	-----	-----	-----
		open March		
		1-Dec. 31		
	All other	No closed	No minimum	No limit
	freshwater	Season		
	species			

2.-4. (No change.)

5. Bait fish may be taken and possessed for personal uses only but not to exceed [35] **50** per day.

6.-7. (No change.)

7:25-6.22 Snapping turtles, bull frogs and green frogs

(a)-(c) (No change.)

(d) Snapping turtles, bull frogs and green frogs may be taken in numbers greater than the daily limit under special permit issued by the Division, for the purposes of sale, at its discretion.. **In addition to any other Federal, State or local requirements that may be applicable to any sale authorized under this section, any sale must comply with** Department of Health and Senior Services **regulations N.J.A.C. 8:23-2.1.**

1.-2. (No change.)

3. The permittee shall agree to:

i. Submit annual harvest reports, including **the** date, waterbody, species, number, and approximate total weights **of snapping turtles, bull frogs or green frogs** harvested, **and the name, address and telephone number of purchaser(s)**, by December 31 of **the** current permit year;

ii.-vii. (No change.)

(e) (No change.)

7:25-6.23 Special limited fishing licenses

(a) (No change.)

(b) Applications shall be made to the Division of Fish and Wildlife, Bureau of Freshwater Fisheries, PO Box 400, Trenton, New Jersey 08625-0400. Applications, **in the form of a letter of request**, shall be submitted at least 21 days prior to the event upon the organization's letterhead stationery. Applications shall contain the date or dates of the proposed event, the body of water involved, the number of disabled persons who will be authorized by the permit, and the number of care providers. Angling under the authority of this permit shall be in accordance to season, size, creel limit and equipment restrictions. The permit shall be issued when the Director determines that the event will provide a natural resource educational experience for disabled persons consistent with the goals of the Division.

7:25-6.24 Permits issued to educational or scientific organizations

(a) (No change.)

(b) [Applications shall contain the dates of the proposed event, the body or bodies of water involved, the details of the activity, including a listing of any equipment that is expected to be used, the disposition of any aquatic life collected, and the number of persons who will be authorized by the permit. The Director shall grant the permit, subject to the requirements of this section, after a determination that the event will provide a natural resource educational experience or a scientific investigation consistent with the goals of the Division that cannot otherwise be accomplished in conformance with N.J.A.C. 7:25-6.

1. An application may be obtained from the Division at:

New Jersey Division of Fish and Wildlife
Bureau of Freshwater Fisheries
P.O. Box 400
Trenton, New Jersey 08625-0400

2. Applications shall be directed to:

New Jersey Division of Fish and Wildlife
Bureau of Freshwater Fisheries
P.O. Box 400
Trenton, New Jersey 08625-0400]

An application for a scientific collecting permit shall be made on an application form obtained from and filed with the Division in accordance with (c) below. Applications shall include:

1. applicant name;

2. applicant address;

3. applicant telephone number;

4. dates of proposed sampling;

5. the body or bodies of water involved;

6. purpose of the activity;

7. listing of any equipment that is expected to be used;

8. species to be collected;

9. disposition of species collected;

10. the names of persons who will be authorized by the permit, and

11. if the activity is related to research or environmental study or assessment, a copy of the project proposal must be attached to the application.

(c) [The permittee shall agree to:

1. Abide by all permit conditions;
2. With the exception of sampling for educational purposes, notify the nearest regional law enforcement office 48 hours prior to sampling;
3. Notify and obtain permission from the owner of the waterbody prior to sampling;
4. Use standardized sampling protocols, as applicable;
5. Not transfer the permit to other researchers;
6. Submit a report of field data by December 31;
7. Submit a copy of the final report, as soon as it becomes available, to New Jersey Division of Fish and Wildlife, Bureau of Freshwater Fisheries, PO Box 400, Trenton, New Jersey 08625-0400; and
8. Comply with any local ordinances and other State laws or regulations.]

Application forms may be obtained from and, when complete, shall be submitted to the

Division at:

New Jersey Division of Fish and Wildlife

Bureau of Freshwater Fisheries

PO Box 394

Lebanon, New Jersey 08833

(d) The Director shall grant the permit, subject to the requirements of this section, after a determination that the event will provide a natural resource educational experience or a scientific investigation consistent with the goals of the Division that cannot otherwise be accomplished in conformance with N.J.A.C. 7:25-6.

(e) The permittee shall agree to:

1. Abide by all permit conditions;

2. With the exception of sampling for educational purposes, notify the nearest regional law enforcement office 48 hours prior to sampling;

3. Notify and obtain permission from the owner of the waterbody prior to sampling;

4. Use standardized sampling protocols, as applicable;

5. Not transfer the permit to other persons;

6. Submit a report of field data by December 31;

7. Submit a copy of the final report, as soon as it becomes available, to New Jersey Division of Fish and Wildlife, Bureau of Freshwater Fisheries, PO Box 394, Lebanon, New Jersey 08833; and

8. Comply with any local ordinances and other State laws or regulations

7:25-6.26 Fish stocking; fish culture facilities

(a)-(f) (No change.)

(g) Except for triploid grass carp for weed control purposes, the stocking of carp, including koi or goldfish, is prohibited. Any carp, including koi and goldfish **and potentially dangerous fish** collected as a result of a permitted lowering must be destroyed.

(h)-(l) (No change.)

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

Date

Jeannette A. Vreeland, Acting Chair
Fish and Game Council