

ENVIRONMENTAL PROTECTION

DIVISION OF FISH AND WILDLIFE

Fish and Game Council

2008-2009 Fish Code

**Proposed Amendments: N.J.A.C. 7:25-6.1 to 6.6, 7:25-6.8 to 6.11, 7:25-6.13 to 6.14,
7:25-6.19-6.20, 7:25-6.22, and 7:25-6.27-6.28**

Proposed new rules: N.J.A.C. 7:25-6.25-6.26

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: 24-07-10/647

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:

January 8, 2008

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 February 1, 2008 to:

Gary J. Brower, Esq.

Attention: Docket Number: 24-07-10/647

Office of Legal Affairs

New Jersey Department of Environmental Protection

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Trenton, New Jersey 08625-0402

The Fish and Game Council requests that commenters submit comments on disk or CDs as well as on paper. 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 2008 and 2009 fishing seasons are as follows:

1. Subsections providing that fishing for all species of freshwater fish is permitted 24 hours daily, and that fish in excess of the daily limit may be caught provided they are released are proposed to be relocated from N.J.A.C. 7:25-6.13(a) and (b), Warmwater Fish, to N.J.A.C. 7:25-6.1(d) and (e), General Provisions. Provisions allowing the catching of warmwater fish in excess of the daily limit to still be caught, provided they are released immediately and unharmed are proposed to be expanded to include all species of fish. Provisions already exist for catching trout in excess of the daily limit in N.J.A.C. 7:25-6.4(c)2, 7:25-6.5(b)5, and 7:25-6.6(b)5. Since trout and warmwater fish, as regulated within specific sections throughout the code, encompass the realm of targeted freshwater fish species within the state this change is administrative in nature. This proposed change eliminates the need for repetitive references to the catching fish in excess of the daily limit, for either trout or warmwater species, in N.J.A.C. 7:25-6.4(c)2, 7:25-6.5(b)5, 7:25-6.6(b)5, and N.J.A.C. 7:25-6.13(b). Since these rules apply to all species subject to this subchapter, they are more appropriate under the General Provisions section of the Code. As a result, similar references in regards to trout caught in excess of the daily limit, in N.J.A.C. 7:25-6.4(c)2, 7:25-6.5(b)5, 7:25-6.6(b)5, would no longer be required and are proposed for deletion.

2. In N.J.A.C. 7:25-6.1(f), the Council proposes to limit the number of fishing rods for a shoreline angler to two. A rod limit will prevent the shoreline of a lake from being monopolized by only a few anglers fishing with numerous rods. This is problematic on small ponds, or lakes with limited shoreline access areas, particularly during trout season. A two-rod limit is already in effect for the Delaware River pursuant to N.J.A.C. 7:25-6.20(a)2.

3. For clarification and organizational purposes, the Council proposes to restructure the species lists associated with the terms “baitfish”, “foodfish”, “other fish species”, “trout”, and “warmwater fish” defined in N.J.A.C. 7:25-6.2. The intent of these changes is to organize the species lists alphabetically, and adhere to commonly accepted taxonomic nomenclature rules established by the American Fisheries Society. In addition to reorganizing the definitions, the following changes are proposed:
 - (a) The scientific name of American brook lamprey, as listed under “baitfish”, is proposed to be changed from *Lampetra lamottei* to *Lampetra appendix*, in accordance with taxonomic nomenclature used by the American Fisheries Society.

 - (b) Also under “baitfish”, the capital “R” in the scientific name for American eel, *Anguilla Rostrata*, is proposed to be changed to a lower case “r” in accordance with proper taxonomic nomenclature rules.

(c) Under the listing of “warmwater fish”, the word “pickerel” is added to the common name “redfin” in accordance to commonly accepted nomenclature used by the American Fisheries Society.

(d) In N.J.A.C. 7:25-6.2, the Council proposes to include banded sunfish, blackbanded sunfish, bluespotted sunfish, and mud sunfish to the list of fish species defined under “Warmwater Fish”. The possession of these unique warmwater Pineland species are proposed to be prohibited in N.J.A.C. 7:25-6.13(u), see summary item 26.

4. Also in the definition of “baitfish” in N.J.A.C. 7:25-6.2, the Council proposes to add *Hybognathus*, and *Exoglossum* to the genera of shiners, dace and minnows listed under the term “baitfish”. Silvery minnows, genera *Hybognathus*, and cutlips minnow, genera *Exoglossum*, are species commonly encountered with other listed baitfish species. Their populations are stable and would not be jeopardized if collected.
5. For efficiency purposes, the Council proposes to define “in-season stocking periods” in N.J.A.C. 7:25-6.2 to describe the dates during the 2008 to 2012 trout seasons when stocking will occur. The term replaces specific season dates, related to trout stocking practices, listed throughout N.J.A.C. 7:25-6.3(h)1-5, 7:25-6.4(a) and 7:25-6.4(b). The change is beneficial to anglers in that it clarifies season dates relative to stocking practices for a five-year period. In addition, by

specifying the dates, which change annually, in one definition under the term “in-season stocking period”, the number of subsequent date changes required throughout the code will be reduced.

6. For efficiency purposes, in N.J.A.C. 7:25-6.2, the dates for the opening day of the 2008 to 2012 trout seasons are proposed to be specified in the new definition of the term “opening day”. The term replaces specific dates listed in N.J.A.C. 7:25-6.3(a), 7:25-6.3(e)2, 7:25-6.4(a)-(c), 7:25-6.5(a), 7:25-6.6(b)5, and 7:25-6.9(b)3iii. The change is beneficial to anglers in that it provides important trout season dates up to five years in advance. By specifying the dates, which change annually, in the definition of the term “opening day”, the number of subsequent date changes required throughout the Code is significantly reduced.

By establishing trout season dates for the next five years into the Code into the definition of “opening day”, annual season dates that currently extend into the following spring at N.J.A.C. 7:25-6.3(a), 7:25-6.4(a), and 7:25-6.4(b), are no longer needed. Instead, each season is proposed to end on December 31.

7. In N.J.A.C. 7:25-6.2, a definition is proposed for “Oswego bass” and “black bass.” These terms, are referenced in N.J.S.A. 23:5-1, 23:5-7, 23:5-10, 23:9-13, and 23:9-16, and refer to largemouth and smallmouth bass.
8. In N.J.A.C. 7:25-6.2, the Council proposes to include grass carp, *Ctenopharyngodon idella*, and goldfish, *Carassius auratus*, to the list of “other

fish species” covered by this code. Both species are proposed to be referenced in the new rule, N.J.A.C. 7:25-6.26. The stocking of grass carp is proposed to be permitted for biological weed control, while the introduction of goldfish is proposed to be prohibited.

The Council also proposes to remove chinook salmon from the listing. In the 1980’s, the feasibility of establishing a chinook salmon fishery was investigated. However, as concerns with impacts on established fisheries were realized, as well as the determination made that poor returns on fish stocked were likely, their introduction is no longer under consideration.

9. For efficiency purposes, the Council proposes to specify the dates for the pre-season stocking closure for the 2008 to 2012 trout seasons as part of the new definition of the term “pre-season closure” in N.J.A.C. 7:25-6.2. The pre-season closure is the three week time period preceding the opening day of trout season where waters are closed to fishing for stocking purposes. The term replaces specific dates in N.J.A.C. 7:25-6.3(a), 7:25-6.3(b), 7:25-6.3(b)1, 7:25-6.3(e)1, 7:25-6.4(a), 7:25-6.4(b), and 7:25-6.9(b)3i-ii. By specifying the dates, which change annually, in the definition of the term “pre-season closure”, the number of subsequent date changes required throughout the code is significantly reduced.
10. At N.J.A.C. 7:25-6.3(b)1, the Council proposes to remove Manasquan Reservoir, Pompton Lake, and Spruce Run Reservoir from the list of waters exempt from the

pre-season trout stocking closure. Since trout stocking was discontinued on all three waters in 2006, the pre-season stocking closure specified in N.J.A.C. 7:25-6.3(b) for waters that are stocked currently does not apply and the exemption is no longer necessary.

The Council also proposes to add Swartswood Lake to the list of waters open to fishing during the pre-season stocking period. As addressed in summary item 20, it is proposed in N.J.A.C. 7:25-6.9(a)1 to no longer regulate Swartswood Lake as a Holdover Trout Lake due to diminishing trout supporting capabilities. The lake would be managed to provide a more appropriate seasonal, rather than a year round trout fishery. As a result of this proposed change, Swartswood Lake would be closed to fishing during the pre-season trout stocking closure in accordance with N.J.A.C. 7:25-6.3(b). Due to the excellent walleye fishery in the lake which occurs during this time frame, it is proposed to exempt Swartswood Lake from the pre-season closure, in N.J.A.C. 7:25-6.3(b)1.

11. The Council proposes to increase the statewide minimum size limit for brook, brown and rainbow trout from seven to nine inches in N.J.A.C. 7:25-6.3(c) and for designated wild trout streams in N.J.A.C. 7:25-6.6(b)4. The minimum size increase will afford a greater level of protection to small, naturally reproducing trout populations. Many of these trout populations have small numbers of spawning adults that exceed seven inches. The proposed minimum size increase will protect trout, between seven and nine inches in length, increasing the number of larger, sexually mature trout. This will help ensure consistent annual

recruitment and help provide for the long term survival of these fisheries. For consistency purposes, the minimum size length on designated holdover trout lakes is also proposed to be increased from seven to nine inches in N.J.A.C. 7:25-6.9(b)2. The majority of anglers target stocked trout, which average 10.5 inches in length. Accordingly, it is anticipated that anglers will experience little or no impact from the proposed change.

12. Also in N.J.A.C. 7:25-6.3(c), it is proposed to allow the possession of trout, less than the proposed 9 inch size limit, when purchased for use as bait. A receipt, dated within 14 days of purchase, will be required as proof of purchase. Small trout are used as bait by some anglers targeting muskellunge.

13. In N.J.A.C. 7:25-6.3(i), the Council is proposing to increase trout stocking in several waterbodies to increase fishing opportunities. Particularly, the Council proposes to extend the trout stocked sections of Hohokus Brook (Bergen), from Whites Pond to the confluence of the Saddle River, and extend the Union County section of the Rahway River into Essex County, from Campbell's Pond to Glen Avenue. Extending these sections will increase trout fishing opportunities within these areas by one and one-half miles.

The Council also proposes to add Manny's Pond (Hunterdon), and Mountain Farm Pond (Hunterdon) to the trout stocking program at N.J.A.C. 7:25-6.3(i)10. The addition of these waters will increase trout fishing opportunities in small

ponds within Hunterdon County. Although Hunterdon County offers numerous opportunities for trout fishing, opportunities in small ponds, targeted by younger anglers and their families, are quite limited.

14. In addition to proposing to add the above referenced waters to the list of trout stocked waters, the Council proposes to amend N.J.A.C. 7:25-6.3(i) to remove two waterbodies, Bostwick Lake (Cumberland) and Barker's Mill Brook (Warren), from the Division's trout stocking program. Bostwick Lake has not been stocked since 2000 due to the sudden failure of the dam. The Council is proposing to formally remove Bostwick Lake since the dam has not been repaired.

The Council proposes to remove Barker's Mill Brook (Warren) from the Division's trout stocking program due to concerns of the impacts of cultured trout on native brook trout populations, particularly on small streams.

The Council also proposes to correctly list Potash Lake under Bergen County at N.J.A.C. 7:25-6.3(i)2 instead of Passaic County where it is currently codified at N.J.A.C. 7:25-6.3(i)16. This change is administrative in nature and does not reflect any change in established stocking practices.

15. For efficiency purposes, the Council proposes to replace the specific date for the start of fly fishing restrictions on designated streams with the expression "the second Monday after opening day" in N.J.A.C. 7:25-6.4(a). This would reduce

the number of required season date revisions in subsequent codes, reducing administrative costs.

16. In N.J.A.C. 7:25-6.4(c)2, the phrases “take”, and “or have in possession” are proposed to be added to the daily creel limit for trout, for designated fly fishing waters, to clarify that the limit applies to both live and dead trout in the anglers possession.
17. In N.J.A.C. 7:25-6.5(a), the year and specific date reference for the early part of the seasonal trout conservation regulations is proposed to be replaced with “up to, but not including, opening day”. The specific date reference for the start of the seasonal trout conservation regulations is also proposed to be replaced with “the seventh Monday following opening day to eliminate the need to amend this subsection through rulemaking on a regular basis to reflect the specific dates these days fall on each year.
18. The Council proposes, in N.J.A.C. 7:25-6.6(a), to regulate a four mile stretch of the Wanaque River, from the Wanaque Reservoir dam downstream to the Wanaque Avenue bridge, as a designated Wild Trout Stream. Stream electrofishing surveys conducted by the Division of Fish and Wildlife indicate that natural reproduction within this section of the Wanaque is more than sufficient to support a recreational fishery for wild trout. In addition, in N.J.A.C. 7:25-6.6(b)4, a 12 inch minimum size is proposed for brown trout within this stretch. This section of the Wanaque has proven ability to produce large wild

brown trout, in excess of 12 inches, with some fish reaching 25 inches in length. For brook trout and rainbow trout, as already addressed in summary item # 11, the Council proposes to increase the minimum size limit from seven to nine inches. The minimum size limit increase will afford a greater level of protection to small, naturally reproducing trout populations. Many of these trout populations have small numbers of spawning adults that exceed seven inches.

19. In N.J.A.C. 7:25-6.8(b)3, the minimum size and possession limit for lake trout in Round Valley Reservoir is proposed to change from one fish, measuring at least 20 inches in length, to three fish, measuring at least 15 inches and less than or equal to 20 inches. It is also proposed that anglers in Round Valley Reservoir be allowed to take one additional lake trout measuring at least 24 inches in length, for a total daily creel of four lake trout.

The existing 15-inch minimum size limit for lake trout, and daily creel of two, for Merrill Creek Reservoir remains unchanged.

Fall netting data indicates a shift in size structure of lake trout at Round Valley Reservoir, with small fish increasing in number and proportion to all fish caught. Fewer fish over 20 inches have been collected in recent years in both total numbers and percentages of the total catch. It is believed that the number of lake trout between 15 and 20 inches is increasing due to the lack of available alewife forage in the reservoir which has curtailed growth. The proposed change in size

and creel limits will reduce the number of small lake trout competing for the limited alewife forage and rebuild the population structure as the remaining fish will have access to a larger share of the available forage, thus allowing them to grow at a normal rate. The closed harvest of lake trout between 20 and 24 inches will protect those fish that reach 20 inches which will assist in rebuilding the population size structure of the fishery, as well as encouraging the harvest of the overabundance of fish between 15 and 20 inches since anglers will no longer be satisfying their creel limit with these larger fish. Permitting the harvest of one fish, measuring at least 24 inches in length, allows anglers the opportunity to keep a trophy size lake trout, if and when caught.

20. In N.J.A.C. 7:25-6.9(a)1, the Council proposes to no longer regulate Swartswood Lake as a Holdover Trout Lake. Holdover trout lakes are those lakes which are able to support trout year round. Due to diminishing trout supporting capabilities, specifically as it relates to temperature and dissolved oxygen, holdover trout regulations are no longer applicable for Swartswood Lake. The lake would be managed to provide a more appropriate seasonal, rather than a year round trout fishery.

As a result of this proposed change, Swartswood Lake would be closed to fishing during the pre-season trout stocking closure in accordance with N.J.A.C. 7:25-6.3(b). Due to the excellent walleye fishery in the lake which occurs during this

time frame, it is proposed to exempt Swartswood Lake from the pre-season closure, in N.J.A.C. 7:25-6.3(b)1.

21. In N.J.A.C. 7:25-6.10(e)4, the Council proposes to incorporate monthly harvest report requirements for baitfish into the administrative code. Reports would be submitted by the 15th of the following month. These brief harvest reports are currently requested from all permitted baitfish collectors. Having specific reporting requirement deadlines within the Code will assist in improving harvest record keeping for these highly variable fisheries.

22. In N.J.A.C. 7:25-6.11(a)6, the Council proposes to incorporate annual harvest report requirements for commercial gill net, haul seine, and fyke net fisheries into the administrative code. Reports would be submitted by December 31. These brief harvest reports are currently requested from all permitted commercial harvesters. Having specific reporting requirement deadlines within the Code will assist in improving harvest record keeping for these highly variable fisheries.

23. In N.J.A.C. 7:25-6.13(g), the minimum size limit for muskellunge and tiger muskie is proposed to be increased from 30 inches to 36 inches, and the possession limit reduced from two to one, combined. Currently, six of the fourteen waters stocked with pure strain muskellunge are regulated under a 36 inch or a 40 inch minimum size and a one fish creel limit. The remaining eight waters were previously stocked with tiger muskie where a 30 inch minimum size

and two fish creel was appropriate. As New Jersey phases out its tiger muskie program and replaces it with true strain muskellunge, it is more appropriate to manage these fisheries as developing muskie fisheries, and apply the more restrictive regulations.

Since northern pike occur at greater densities than true strain muskies the existing creel limit of two per day still applies.

24. Chain pickerel is New Jersey's only major game fish species currently not protected with a statewide minimum size limit. Only Lake Hopatcong, Swartswood Lake, Greenwood Lake, and Hammonton Lake have a minimum size limit of 15 inches. The Council proposes a minimum size limit of 15 inches for chain pickerel statewide. This proposed change would provide consistency in the regulations as well as protect an important game fish species.

Like chain pickerel, redbfin pickerel are currently only a minimally regulated species in New Jersey waters. Since there are concerns about the ability of anglers to distinguish between the two species, a 15" size limit, and a combined daily creel of five is proposed to include redbfin pickerel in N.J.A.C. 7:25-6.13(j) and (k).

25. In N.J.A.C. 7:25-6.13(p) and (r), the Council proposes to clarify the season on striped bass by replacing the designated catch and release season dates, when fish

may not be harvested, and instead reference the dates when striped bass may be legally harvested. This change is administrative in nature; there is no change to the established season for striped bass, or their hybrids.

26. In proposed new N.J.A.C. 7:25-6.13(u), the Council proposes to prohibit the possession of mud sunfish, blackbanded sunfish, bluespotted sunfish, and banded sunfish. Found only in a narrow range of New Jersey's waters, and in low abundance, these important native Pinelands species are not typically targeted by anglers. However, there is potential for these species to be captured while angling and currently there are no creel or size limit restrictions. The proposed possession restriction would result in these unique species being released immediately, unharmed, when encountered by anglers.
27. In N.J.A.C. 7:25-6.14(c), the Council proposes to repeal the existing prohibition on devices with automatic hook setting capability and to allow the use of such devices while ice fishing. A new type of ice fishing device has become available to anglers with automatic hook setting capabilities. Unlike devices historically marketed, this device may reduce hooking mortality as it diminishes the probability of fish ingesting the hook.
28. In N.J.A.C. 7:25-6.19(a)1, the date, February 28, in reference to the walleye season for Greenwood Lake is proposed to be replaced with the "last day of

February.” This reduces the need for future rule amendments to account for the occurrence of leap years.

29. For consistency with regulations of the Pennsylvania Fish and Boat Commission pertaining to the Delaware River (58 PA. CODE CHS. 61), the closing date of the trout season for the Delaware River is proposed to be extended from September 30 to October 15, in N.J.A.C. 7:25-6.20(a)1. In 2006, the Pennsylvania Fish and Boat Commission extended the trout season in the Delaware River. The Fish and Boat Commission is the only agency which stocks trout in the section of the Delaware River between Pennsylvania and New Jersey. The Council is also proposing to eliminate the inclusion of a year with the date to eliminate the necessity of updating the Code to change the year designation on an annual basis. These changes would provide consistency in the regulations governing this multi-state waterway.
30. In addition, specific dates for the opening and closing of trout season for the Delaware River are proposed to be replaced with the expression “8 AM on the first Saturday after April 11 to Oct. 15” for consistency with Pennsylvania’s Fish and Boat Commission (58 PA. CODE CHS. 61), upon which the season dates are based. This would reduce the number of required season date revisions in subsequent codes, reducing administrative costs.
31. For efficiency purposes, in N.J.A.C. 7:25-6.20(a)1, specific dates for largemouth and smallmouth bass seasons for the Delaware River are proposed to be replaced

with the expression “Jan. 1 to the first Friday after April 10, and the first Saturday after June 11 to December 31”, for consistency with Pennsylvania’s Fish and Boat Commission (58 PA. CODE CHS. 61), upon which the season dates are based. This would reduce the number of required season date revisions in subsequent codes, reducing administrative costs.

32. Also, in N.J.A.C. 7:25-6.20(a)1, specific dates for the catch and release season for largemouth and smallmouth bass for the Delaware River are proposed to be replaced with the expression “First Saturday after April 11 to the first Friday after June 10” for consistency with Pennsylvania’s Fish and Boat Commission (58 PA. CODE CHS. 61), upon which the season dates are based. This would reduce the number of required season date revisions in subsequent codes, reducing administrative costs.

33. For consistency with regulations with the Pennsylvania Fish and Boat Commission pertaining to the Delaware River (58 PA. CODE CHS. 61), the minimum size limit for muskellunge and their hybrids is proposed to be increased from 30 inches to 40 inches, and the creel reduced from two fish per day to one, in N.J.A.C. 7:25-6.20(a)1. The Council supports the change to protect the trophy muskellunge fishery that currently exists in the river. The regulation is consistent with rules for other New Jersey trophy musky fisheries for Echo and Mountain Lakes, in N.J.A.C. 7:25-6.13(g).

34. In N.J.A.C. 7:25-6.22(d)3i, the Council proposes annual harvest report requirements for commercial snapping turtle, green frog and bull frog permits. Reports would be submitted by December 31. These brief harvest reports are currently requested from all permitted commercial harvesters. Having specific reporting requirement deadlines within the Code will assist in improving harvest record keeping for these highly variable fisheries.
35. In accordance with N.J.S.A. 23:5-29, the application and approval process for water lowering permits is proposed to be incorporated into N.J.A.C. 7:25-6.25. Water level reductions are often necessary for restoration activities, such as dredging and dam repair, to be completed. Lowering water levels over the winter months is also a common weed control method. Through the use of timing restrictions, withdrawal limits, and project modifications, water lowering permits minimize impacts to aquatic biota which may be adversely affected by water level reductions.
- (a) In N.J.A.C. 7:25-6.25(a), the Council proposes to state that the drawing off or shutting off of waters from any pond, lake or stream must be done in accordance with this subsection, regardless if the waterbody is in public or private ownership. This proposed subsection reiterates the restrictions contained in N.J.S.A. 23:5-29.

(b) In N.J.A.C 7:25-6.25(b), the Council proposes to exempt water uses authorized by the Water Supply Allocation Permits rules, N.J.A.C. 7:19, or for agricultural uses pursuant to the Agricultural, Aquacultural and Horticultural Water Usage Certification rules, N.J.A.C. 7:20A. These uses, which include, but are not limited to, potable water supply, industrial uses, and irrigation, are regulated by the Department of Environmental Protection with permits approvals issued under these other rules including analysis of the environmental impacts of any lowering permitted, making additional analysis of these same impacts unnecessary.

(c) In N.J.A.C. 7:25-6.25(c), the Council proposes to clarify that a water lowering permit is issued for the sole purpose of protecting the State's aquatic resources.

(d) In N.J.A.C. 7:25-6.25(d), the Council proposes that water lowering applications must be submitted 60 days in advance of the requested lowering date. For applications associated with unsafe or hazardous dam conditions, a 15 day period, from receipt of notification from the Department's Division of Dam Safety, is proposed within which an application must be filed. It is also proposed that a copy of the Dam Safety notification be submitted with the application. These time frames allow for the timely processing of the applications prior to anticipated lowering dates

(e) In N.J.A.C 7:25-6.25(e), the Council proposes to identify the Division's Field Office in Lebanon as the location for potential applicants to obtain and submit lake lowering applications.

(f) Specific information requested for water lowering applications is proposed to be identified in N.J.A.C 7:25-6.25(f). This information is proposed to include applicant contact information, waterbody location information, general waterbody information (size, depth), reason for the lowering request, and the extent and duration of the lowering, as well as, the intended method of release. The application is also proposed to include a property owner's certification to help assure that the rightful owner of the dam, or outlet structure has been notified of the proposed lowering. In the instance that the applicant or owner has obtained the services of an agent to act on their behalf, additional agent contact information is also requested. It is also proposed that the applicant provide the status of other Department of Environmental Protection permit applications which may be relevant to the project for which the lowering is requested. Absence of this information indicates to the Division that the applicant may be unaware of other necessary permit requirements.

(g) In N.J.A.C 7:25-6.25(g), the Council proposes to require submission of additional information requirements for applications submitted for flood control purposes. Repeated lowerings, which typically occur with this practice, can result in severe impacts to aquatic biota. Accordingly, additional

justification addressing flood storage capacities gained and their beneficial impacts to the community, as well as the adverse impacts to the aquatic biota, is proposed as a requirement of the application. This allows consideration for these impacts during the permitting decision.

(h) In N.J.A.C 7:25-6.25(h), the Council proposes that an application may be denied if the applicant submits an incomplete application form, or if additional information requested by the Division is not supplied within the time frame specified. This provision enables the Division to review applications within a timely fashion.

(i) In N.J.A.C 7:25-6.25(i)1-9, the Council proposes to identify timing restrictions during which water lowerings will not be approved. These restrictions are based on the type of biota present, and provide protection during critical spawning and breeding periods.

General timing restrictions for anadromous, warmwater, and coldwater (trout) fish populations are proposed. The presence of pickerel in a warmwater fish population, in N.J.A.C 7:25-6.25(i)4, requires an extended timing restriction since they spawn earlier than other species of warmwater fish.

In addition to protecting critical spawning periods, the timing restrictions also minimize the interruption of large-scale statewide stocking activities which occur annually from March to mid June.

The Council also proposes, in N.J.A.C. 7:25-6.25(i)5, to generally prohibit lowering of water levels from July 1 to September 15. High summer water temperatures often result in depleted dissolved oxygen levels. This, coupled with the relative shallowness of New Jersey lakes, results in highly stressed fish populations. The new paragraph provides an exception to this prohibition if it is determined by the Department that the lowering will have no adverse impacts to aquatic biota. It is anticipated that this exception will rarely be satisfied with the primary exception being situations involving a minimal lowering of a relatively deep, and well-oxygenated lake or reservoir.

Proposed November deadlines, by which waters must be lowered to their approved extent, serve to protect turtles during their critical hibernation period. Turtles hibernate by burying in the sediments of shallow water areas. By lowering water levels prior to the onset of hibernation, the rule will assure that turtles will seek hibernating areas at appropriate depths which will not be further reduced subsequent to the turtles going into hibernation. This protects the turtles from freezing which could occur should the water be further lowered over the winter months which would expose them to the elements. Due to the earlier onset

of winter temperatures in the north, a slightly earlier time frame is proposed to account for the earlier hibernation period.

(j) In N.J.A.C. 7:25-6.25(j), the Council proposes that additional timing restrictions may apply where threatened or endangered species are present to minimize impacts to the spawning, breeding, and or hibernation of these species. Considering the variety of types of threatened or endangered species, some of which exhibit complicated life cycles, specific time frames are not proposed. In the limited occurrences, when threatened or endangered species may be impacted, appropriate site-specific timing restrictions will be applied. These species are identified in N.J.A.C. 7:25-4.13 and 4.17.

(k) In N.J.A.C. 7:25-6.25(k), the Council proposes that, in the event multiple timing restrictions may apply, the Director will balance the impacts to the various species affected and prioritize or determine the most appropriate timing restriction(s). This will prevent timing restrictions from precluding necessary activities, associated with the lowering request, while assuring aquatic biota present are adequately protected.

(l) In N.J.A.C 7:25-6.25(l), the Council proposes that applications will be approved, after the Director has determined that the lowering is necessary, and that appropriate timing conditions, specified in N.J.A.C 7:25-6.25(i), are met. Additionally, in order to be able to approve an application for a water lowering

permit, the Director must determine that impacts to aquatic biota affecting growth, spawning, stocking, breeding and hibernation, as well as impacts to endangered species dependent upon the waterbody, have been minimized to the maximum extent possible.

(m) Provisions for lowerings due to unsafe or hazardous dam conditions, as determined by the Department's Division of Dam Safety, are proposed in N.J.A.C. 7:25-6.25(m). Considering the potential for the failure of these structures to cause property damage, injury or death, permits issued under these conditions will be exempt from timing restrictions. However, the permittee must abide by all other permit conditions, including the collection and relocation of biota if determined necessary by the Division.

(n) In N.J.A.C 7:25-6.25(n), the Council proposes that no lowering will be approved if significant concerns still exist about the survival of biota after impacts have been minimized to the maximum extent.

(o) In N.J.A.C. 7:25-6.25(o), the Council proposes that, when a project requires water levels to be lowered to such an extent that the survival of aquatic biota is uncertain, the Division may require the permittee to collect and relocate biota to another waterbody or hold biota for re-introduction purposes. Appropriate timing restrictions would still be applicable to prevent lowerings from occurring during critical spawning and hibernating periods. This provision

does not excuse a permittee from the need to obtain additional permits, such as a scientific collecting permit (required to collect biota other than by angling) or a stocking permit, proposed in N.J.A.C. 7:25-6.26, for the stocking of fish in a new location, if the proposed activities would involve activities covered by these other permits.

(p) In N.J.A.C. 7:25-6.25(p), the Council proposes to clarify that at all times during the course of the lowering and refilling, permittees are responsible for protecting the aquatic biota. This provision accounts for unforeseen circumstances which may occur, unforeseen project impacts, elevated water temperatures due to unseasonably warm weather and other extraordinary circumstances, which may further strain populations already stressed due to the reduced water level. The permittee would be responsible to take action to offset these factors to the best of their ability.

(q) General conditions for all lake lowering permits are proposed in N.J.A.C. 7:25-6.25(q). These provisions would require applicants to notify the Division 24 hours prior to lowering, and again 24 hours prior to refilling. This allows for Division staff to be kept informed of lowering progress, and assists with assessing compliance with lowering and refilling deadlines. Other basic conditions require compliance with the identified lowering and refilling dates, and the extent of the lowering approved. In addition, the Council proposes to include general conditions applicable to all permits that will protect the resources

downstream by providing that releases must be controlled to prevent over-bank flow, and increased turbidity. Further, all permittees would be required to assure that downstream flows are maintained during the course of the project. Over bank flows can damage property, destroy in-stream habitat and destabilize stream banks. Increased suspended sediments, resulting in an increase in turbidity, can clog fish's gills, smother eggs and destroy in-stream habitat. During refilling, water flow downstream of the waterbody must be maintained to assure that downstream biota are not impacted by fluctuating flows or low flows.

(r) Since the majority of water lowering permits are issued relative to necessary dam repair, lake dredging or restoration projects, it is not uncommon for delays in the original project schedule to occur for a variety of reasons. As a result, the Council proposes in N.J.A.C. 7:25-6.25(r) that a permittee may seek to modify a permit expiration date by submitting a written request, at least 21 days prior to the permit's expiration date, requesting a modification to the original permit. The Director shall review the information, as well as the reason for the request and then approve or disapprove the request.

(s) In N.J.A.C. 7:25-6.25(s), the Council proposes provisions for water lowering permits issued for flood control purposes. These permits would be issued on a calendar year basis, to assist with record keeping. In addition, this allows the Division to reassess impacts to biota associated with these permits on

an annual basis. All other general permit conditions, already addressed in (m) above, would also apply.

36. In accordance with N.J.S.A. 23:3-63.3, the application and approval process for fish stocking permits are proposed to be incorporated into N.J.A.C. 7:26-6.26. Typically, fish are introduced for recreation, education, weed control, or to balance existing fish populations. Stocking permits minimize the potential for the introduction of invasive exotic species, over stocking, transference of disease, and assure that the stocking is consistent with Division management plans, and established stocking programs as they relate to a specific waterway.

(a) In N.J.A.C. 7:25-6.26(a), the Council proposes to specify that, for the purposes of this subchapter, indigenous and exotic species shall include all fish species, their subspecies and hybrids. Due to the existence of several subspecies, as well as a variety of crosses artificially propagated between species, which may be difficult to classify as either indigenous or exotic, and the impacts that can be caused by introduction of inappropriate types or numbers of fish to a waterbody, the Council proposes to establish that a stocking permit is required to introduce any and all fish.

(b) In N.J.A.C. 7:25-6.26(b), the Council proposes to identify the Division's Field Office in Lebanon as the location for potential applicants to obtain and submit fish stocking applications. Applications are proposed to be

submitted at least four weeks prior to the requested stocking date to allow sufficient time for review.

(c) Specific information required for fish stocking applications is proposed to be identified in N.J.A.C 7:25-6.26(c). This information is proposed to include applicant contact information; waterbody owner information, if different from applicant; general waterbody information, including location; dates proposed for stocking; size, species, number and source of fish requesting to stock; and specification of whether the stocking is connected to a specific event. Additional information is also proposed to be required for applications to stock triploid grass carp, such as percent weed cover, description of weed problem, and photographs of inlet and outlet structures. The stocking of triploid grass carp offers lake owners a biological alternative to chemical weed control treatments. Although sterile, triploid grass carp are a long lived exotic species and pose a threat to open river systems where vegetation is scarce. To ensure grass carp will remain confined within the waterbody stocked, photographs of the inlet and outlet structures are proposed as a requirement of the application.

(d) In N.J.A.C. 7:25-6.26(d), the Council proposes that an application may be denied if the applicant submits an incomplete application form, or if additional information requested by the Division is not supplied within the time frame specified. This provision will enable the Division to review applications within a timely fashion.

(e) In N.J.A.C. 7:25-6.26(e), the Council proposes that an application will be approved if the Director has determined that the species of fish, the number requested, and the source of the fish will not negatively impact the State's freshwater resources. The suitability of existing habitat, proper stocking rates, potential for disease transference and the effect of the stocking on the existing fishery must be considered prior to the introduction of any fish species. In addition, certain species of fish are considered exotic invasive species. They can easily over populate a waterbody and out-compete resident species. Once introduced, these species can be incredibly difficult to control. Assuring that the stocking is consistent with Division management plans and established stocking programs will prevent the introduction of fish species that may compete, directly or indirectly, with species currently stocked or actively managed by the Division.

(f) In N.J.A.C. 7:25-6.26(f), the Council proposes that a stocking permit must be in the possession of the individual performing the stocking on the day of the event. This proposed requirement provides documentation to State and local officials, and the general public that may be present at the time of the event, that the stocking has been approved and is consistent with fish health policies and specific waterbody management objectives.

(g) In N.J.A.C. 7:25-6.26(g), the Council proposes to prohibit the stocking of carp, including koi, and goldfish. Koi are actually carp that have been

bred for specific color patterns for ornamental purposes, and vary in color, and in combinations of bright orange to white, and black. Common carp and goldfish are considered exotic invasive species and they can easily over-populate a waterbody and out-compete more desirable resident species. Once introduced, these species can be incredibly difficult to control. Only grass carp are permitted to be stocked as they provide a biological alternative to aquatic weed control.

(h) In N.J.A.C. 7:25-6.26(h), the Council proposes to allow the introduction of triploid grass carp, strictly for weed control purposes. Although an exotic species, grass carp provide pond owners an alternative to chemical and mechanical weed control. This Asian species is known to consume large amounts of rooted aquatic plants. It is also, however, considered an escape artist, and prefers to seek its more native riverine habitat than to remain in impounded systems. Although aquatic vegetation reaches problematic proportions in many New Jersey lakes, vegetation in river systems is usually sparse. To protect the State's rivers and streams, and to keep the distribution of this exotic species in controllable numbers their introduction is proposed to be permitted provided they are stocked in waterbodies less than ten acres in size. Other restrictions to assure that these fish are kept in control include requirements that the inlet or outlet structures are situated or constructed in a way to prevent the escape of fish from the impoundment, and that no more than a total of 100 grass carp are stocked in any one location.

(i) In order to minimize the potential for the introduction of disease into the State's fish culture facilities, the Council proposes, in N.J.A.C. 7:25-6.26(i), that no stocking permits will be approved for the Pequest Wildlife Management Area, or within Trout Brook (Hackettstown). New Jersey's only two State operated fish culture facilities, the Pequest Trout Hatchery, and the Hackettstown State Hatchery are located in these areas. These two facilities will serve as the only source of fish for these areas.

Fish pathogens are easily transported through water. Since the outflows of these facilities are connected to waters within these areas, the transfer of fish from outside sources poses a significant risk of disease introduction into the facilities. Disease outbreaks within these facilities could jeopardize millions of dollars of cultured fish.

(j) Due to similar fish health concerns, the Council also proposes, in N.J.A.C. 7:25-6.26(j), not to approve stocking permits for the introduction of esocids (muskellunge, northern pike, and tiger muskies) in Budd Lake, Echo Lake Reservoir, Farrington Lake, Mercer Lake, Monksville Reservoir, Mountain Lake or Spruce Run Reservoir. These waterbodies provide brood stock for the State's stocking program for these species. Each year large trophy specimens are collected and transported to the State's warmwater culture facility in Hackettstown. At the facility, eggs and milt are collected, and eggs are fertilized, hatched and reared for distribution throughout the State. Disease outbreaks within

these lakes would not only jeopardize the fisheries specific to these waters but also carry the potential for introducing diseases into the State's culture facility, and potentially throughout the State.

(k) To reduce the risk of disease introduction into wild populations, the Council proposes in N.J.A.C. 7: 25-6.26(k) that fish for stocking purposes, unless associated with a fish salvage from an approved water lowering, must be from an approved fish culture facility appearing on the listing of approved fish culture facilities supplied by the Division with the blank application for a fish stocking permit. The basic provisions proposed within this section are consistent with Federal standards resulting from recent viral hemorrhagic septicemia (VHS) outbreaks in the Great Lakes and address concerns of the potential transfer of other identified disease outbreaks in other associated areas of the country, as they relate to specific species.

(l) In N.J.A.C. 7:25-6.26(l), the Council proposes the following basic fish health requirements for fish culture facilities to receive approval to supply fish for stocking in fresh waters of the State:

1. In N.J.A.C. 7:25-6.26(l)1, the Council proposes that a fish culture facility must submit a completed Fish Health History Request form. This simple form includes basic information such as which fish species are offered for sale and the origin of the fish stocks (either supplied from

another facility, from the wild, or from their own broodstock). Fish transferred from another facility may have been tested, which assures that they are disease-free, or they may have not been tested, which makes information as to whether they come from a facility that has had a recent disease issue of critical importance in assuring disease are not introduced into the State's waters. This data provides information concerning the overall potential for disease, for a specific species within a particular facility. The form also requests information on whether routine health inspections are completed. Health inspections are basic assessments of the overall health of individual specimens at the facility. The number and degree to which health inspections are completed varies considerably between facilities. Information concerning disease outbreaks, when they last occurred and with which species is also requested. Information within the Fish Health History Form helps determine the risk associated with allowing the introduction of fish from a particular fish culture facility. For facilities raising triploid grass carp, agency contact information for triploid certification is also requested.

2. The Council proposes to identify the Division's main office in Trenton as the location for potential applicants to obtain and submit Fish Health History Request forms, in N.J.A.C. 7:25-6.26(1)2.

3. In N.J.A.C. 7:25-6.26(1)3, the Council proposes that documentation must be provided that demonstrates that all fish received from sources within the enzootic area of Infectious Hematopoietic Necrosis (IHN) or Viral Hemorrhagic Septicemia (VHS) viruses, have been inspected and found free of those viruses. Both IHN and VHS are two extremely serious diseases which have been documented to occur in wild fish populations, and continue to pose a serious threat to both wild and cultured stocks of fish. Enzootic areas are locations where the disease is known to continue to exist, and therefore pose the potential for transfer to otherwise unaffected areas. These areas are continually updated, and assessed as disease outbreaks are confirmed.

4. In N.J.A.C. 7:25-6.26(1)4, the Council proposes that fish culture facilities which have obtained fish stocks from the wild must provide documentation demonstrating that a complete health inspection, including a parasitological examination, has been performed. Stocks collected from the wild may not only pose a disease risk but they also have the potential to spread various parasites that occur in the wild. Requiring health inspections and parasitological exams will help reduce these risks.

5. In N.J.A.C. 7:25-6.26(1)5, the Council proposes that salmonids (trout or salmon) to be stocked in waters with reproducing trout populations, or in designated Holdover or Trophy Trout lakes, must be inspected and

found free of major pathogens known to pose a risk to salmonid populations. These pathogens include Infectious Pancreatic Necrosis Virus (IPN), Infectious Hematopoietic Necrosis (IHN), Viral Hemorrhagic Septicemia (VHS), Bacterial kidney disease (BKD), Bacterial Furunculosis (BF), Bacterial redmouth (BRM) and whirling disease, *Myxobolus cerebralis*. Requiring fish to be certified free of these pathogens will help reduce the risk of these major pathogens being introduced into existing trout or salmon populations. To minimize the potential for these same pathogens to be transferred to fish culture facilities operating within the State, the Council also proposes that these disease inspections be required for salmonids to be stocked in the Pequest and or Musconetcong River drainages.

6. A variety of laboratory methods exist, with varying degrees of accuracy, that may be performed to test for a particular disease. Since these methods are continuously being improved and updated, the Council proposes in N.J.A.C. 7:25-6.26(1)6, that all inspections required as part of this subsection be performed using sample sizes and methods recommended by the American Fisheries Society Fish Health Section, the World Organization for Animal Health (Office International des Epizooties) or by generally accepted methods published in peer-reviewed journals. The American Fisheries Society Fish Health Section, and the World Organization for Animal Health are the established experts in the

field of fish pathology. Using the recommendations of these organizations assures that the best accepted methods are being utilized when testing for these pathogens.

7. In N.J.A.C. 7:25-6.26(1)7, the Council specifies that the cost for any fish health or disease inspection relative to this subsection are the responsibility of the individual importing the fish, or the fish culture facility of origin. Private fish culture facilities typically purchase fish, and/or eggs from one or several other independent culture facilities. It is not uncommon for fish to be transferred more than once prior to reaching their final destination. Since the level of risk to the State's resources is largely dependent on decisions made by a network of private fish culture operators, the cost of fish health and disease related inspections are proposed to be the responsibility of the private hatcheries involved or the individual importing the fish. This is consistent with State owned and operated fish culture facilities. The State solicits the services of outside laboratories to meet established fish health policies and disease certifications.

8. In N.J.A.C. 7:25-6.26(1)8, the Council proposes that approved fish culture facilities must maintain accurate records of fish health and disease related inspections, as well as, records of transfers of fish both into and out of their facility. The Council also proposes that these records be open for

inspection by Division employees or representatives, at reasonable hours. In the event of a disease outbreak in New Jersey waters, this information will be critical in determining its source, and identifying other waterbodies that may be at risk. Accurate maintenance of these records will also assist fish culture operators in supplying necessary fish health information required for approval.

9. In N.J.A.C. 7:25-6.26(1)9i, the Council proposes to require fish culture facilities located either west of the continental divide or outside of North America to have all fish stocks certified and found free of Infectious Hematopoietic Necrosis (IHN) or Viral Hemorrhagic Septicemia (VHS) viruses, the PKX organism, and *Ceratomyxa shasta*. Outbreaks of these diseases have occurred within fish culture facilities located west of the Continental Divide, and documentation of their occurrence in facilities located outside of North America is not always known. These testing requirements will assure that these diseases are not introduced into facilities located within New Jersey, helping to reduce the potential for their introduction into wild populations.

In addition, the Council also proposes in N.J.A.C. 7:25-6.26(1)9ii, that no salmonids (trout or salmon), fry, fingerling, or adult, other than certified, disinfected eggs may be brought into New Jersey from areas located west of the continental divide or outside of North America, where Infectious

Hematopoietic Necrosis (IHN) or Viral Hemorrhagic Septicemia (VHS) viruses are considered to be enzootic in salmonid (trout) stocks. Enzootic areas are locations where these diseases are known to continue to exist, and therefore pose the potential for transfer to otherwise unaffected areas. These areas are continually updated, and assessed as disease outbreaks are confirmed.

Social Impacts

The proposed amendments to the Code attempt to balance opportunities for recreational fishing with adequate protection of the natural resource and are anticipated to have a positive social impact. The proposed amendment to limit the number of fishing rods for shoreline anglers is anticipated to have positive social benefits since it prevents a small number of anglers from monopolizing the shoreline, thus opening up opportunities for recreational fishing for additional members of the public. 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 designation of a four-mile stretch of the Wanaque River as a Wild Trout Stream provides additional protection to this exceptional resource while maintaining recreational opportunities.

Amendments proposed to make New Jersey regulations consistent with those of Pennsylvania as they relate to the Delaware River are expected to have positive social benefits. 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. Proposed minimum size limit increase, and related decreases in daily creel limits on trophy fisheries, such as muskellunge, are supported by the majority of anglers targeting these trophy specimens. Negative social impacts to a small minority of anglers who prefer a smaller minimum size, and larger creel, are offset by assuring the long term future of these fisheries.

In the past, water lowering and fish stocking permits have been issued pursuant to statutes, N.J.S.A. 23:5-29 and N.J.S.A. 23:4-63.3 et seq. Proposed amendments codify the procedural aspects of the issuance of these two permits into the New Jersey Administrative Code. No new requirements, or permitting procedures are proposed, so no additional social impacts result from these proposed amendments. Currently, negative social impacts may be perceived by residents, municipalities, and other entities required to obtain a permit to lower the water level or stock fish within their lake, pond or stream. These concerns are outweighed by the large-scale environmental benefits in protecting the States freshwater fisheries resources from poorly timed water lowerings, overly aggressive lowering activities, and the potential introduction of invasive or diseased fish stock. These negative impacts are also offset by the minimal \$ 2 application fee, per

N.J.S.A. 23:3-1c, simple application procedure, and the free technical assistance provided to applicants.

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.

Some immediate negative economic impact to those culturing fish for stocking purposes is anticipated as a result of the proposed amendments for fish stocking requirements. It is proposed that all businesses providing fish for stocking within the State will be required to submit Fish Health History Forms, and keep accurate records of health inspections, and of transfers of fish into and out of their facility. Businesses located within geographic areas where potentially serious pathogens are known to occur will be required to obtain health certifications that fish have been tested and are free of these viruses, or that eggs from these areas have been disinfected prior to transport. Additional testing is proposed for seven major fish pathogens for facilities seeking to provide trout for stocking in streams with naturally producing trout populations, in trophy trout waters, and

in waters connected to State operated culture facilities. The costs of these certifications, and health inspections are the responsibility of the individual importing the fish or the hatchery of origin and will result in a negative economic impact to either entity. Costs will vary on the variety of species, and the number of fish raised at each facility, as well as, the suppliers selected by the individual fish culture facility operators. However, as major disease outbreaks have recently occurred in both wild and cultured populations in adjoining states which have connecting waterways, the additional protection afforded to the State's aquatic resources through the proposed health inspections and disease testing requirements is critical to ensure its long-term future.

Commercial harvesters of fish, turtles or frogs may be negatively impacted by the proposed requirement to submit monthly or annual harvest reports. These proposed reporting requirements are minimal in nature and therefore 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 recreational and commercial harvest which also have positive environmental ramifications in preventing overpopulation.

Proposed new fish stocking permit requirements protect the State's freshwater resources from the potential introduction of disease or invasive fish species. As major disease outbreaks have occurred in adjoining states, these protections are critical to ensure the long term survival of the State's fishery resources.

Proposed new rules to regulate lake lowering activities help minimize impacts to aquatic biota by controlling the extent, duration and timing of these events to avoid critical spawning, breeding and hibernating periods.

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 regulations (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.

Since harvest report requirements for commercial harvesters are minimal and sufficient time is provided at the conclusion of harvest seasons to submit reports in a timely fashion no job impacts are expected.

Although proposed amendments regulating the stocking of fish are expected to result in a negative economic impact on businesses that culture fish for stocking purposes, due to the cost of health inspections and disease certification requirements, these impacts are not anticipated to result in the creation or loss of jobs. Businesses which perform health inspections and disease certifications may yield a positive economic benefit. However,

these benefits are anticipated to be minimal in nature and not result in the creation of additional 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. The proposed new rules requiring fish culture facilities to comply with the submission of fish health reports and health certifications for specific identified pathogens known to be problematic to both wild and cultured fish populations will effect New Jersey agriculture. As addressed in the economic impact statement, these proposed requirements are expected to have negative economic impacts on these businesses due to costs associated with fish health inspections and disease certifications. These impacts are offset by the greatly reduced potential for disease to be introduced not only in wild populations but also within cultured ones. Several identified pathogens are known to be especially problematic under culture conditions. In addition, the New Jersey Department of Agriculture is already working with fish culture facilities located within the State to assist with disease testing to protect their hatchery stocks which will help offset these costs.

Although farmers may be affected by proposed water lowering and stocking permit requirements, they are impacted in the same manner as any other potential applicant.

Therefore, there are no additional impacts than those already addressed under social, economic and job impact statements.

Regulatory Flexibility Statement

The only time small businesses, as defined under the New Jersey Flexibility Act, N.J.S.A. 52:14B-16 et seq., are subject to reporting requirements under N.J.A.C. 7:25-6, is with the commercial harvest permits, and the proposed new fish stocking permit requirements. Reporting requirements associated with fish stocking require the submission of health history reports, fish health inspections and disease certifications from hatcheries culturing fish for stocking purposes. Hatcheries located within, or have purchased fish or eggs from, geographic areas, where potentially serious pathogens are known to occur will be required to obtain health certifications that fish have been tested and are free of these viruses, or that eggs from these areas have been disinfected prior to transport. Additional testing is proposed for seven major fish pathogens for facilities seeking to provide trout for stocking in streams with naturally producing trout populations, in trophy trout waters, and in waters connected to State operated culture facilities. The costs of these certifications, and health inspections are the responsibility of the individual importing the fish or the hatchery of origin and will result in a negative economic impact to either entity. The services of professional laboratories to perform the testing, and health inspections would be necessary in most cases. Costs will vary on the variety of species, and the number of fish raised at each facility, as well as, the suppliers selected by the individual fish culture facility operators. These provisions are critical to protecting both

wild and cultured fish populations within the State as major disease outbreaks have occurred in adjoining states. Since risks associated with the potential importation of disease exist for both large and small-scale culture operations, no differentiation is made. To ensure protection of their own fish stocks many private fish culture facilities already test for major disease pathogens, or purchase fish from suppliers that have certified virus-free stocks.

Proposed amendments will also require fish culture facilities to maintain accurate records of fish health and disease related inspections, as well as, records of transfers of fish both into and out of their facility. It is also proposed that these records be open for inspection by Division employees or representatives, at reasonable hours. In the event of a disease outbreak in New Jersey waters, this information will be critical in identifying potential sources, and identifying other waterbodies that may be at risk. Although critical to the protection of the State's fishery resources proposed record keeping requirements are minimal in nature.

Since proposed harvest report requirements for commercial harvesters are minimal and sufficient time is provided at the conclusion of harvest seasons to submit reports in a timely fashion no impacts to small businesses are anticipated.

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.

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

[2006-2007] **2008-2009** FISH CODE

7:25-6.1 General Provisions

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

(d) Fishing for all species of freshwater fish is permitted 24 hours daily except on those days that certain trout waters are closed for stocking during March, April and May, pursuant to N.J.A.C. 7:25-6.3 and 7:25-6.4.

(e) Freshwater fish in excess of the daily limit may be caught, when permitted, provided they are immediately returned to the water unharmed.

(f) Except as provided in N.J.A.C. 7:25-6.20, or when fishing from a boat, canoe, kayak or similar vessel, the number of rods, and lines or hand lines shall not exceed two per person.

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. Alewife | Alosa pseudoharengus; |
| (anadromous and | i. except in the |
| landlocked forms) | Delaware River, where alewife |
| | is a foodfish in accordance |
| | with N.J.S.A. 23:9-5; |

- | | | |
|-----|---|--|
| 2. | Blueback Herring | Alosa aestivalis;

i. except in the Delaware River, where blueback herring is a foodfish in accordance with N.J.S.A. 23:9-5; |
| 3. | Golden shiner | Notemigonus crysoleucas; |
| 4. | Banded killifish | Fundulus diaphanus; |
| 5. | Mummichog | Fundulus heteroclitus; |
| 6. | Spotfin killifish | Fundulus lucia; |
| 7. | Rainwater killifish | Lucania parva; |
| 8. | American brook lamprey | Lampetra lamottei; |
| 9. | Fathead minnow | Pimephales promelas; |
| 10. | Bluntnose minnow | Pimephales notatus; |
| 11. | Stonecat | Noturus flavus; |
| 12. | Tadpole madtom | Noturus gyrinus; |
| 13. | Margined madtom | Noturus insignis; |
| 14. | All shiner, dace, and minnow of the following genera: | Luxilus, Cyprinella, and Semotilus; |
| 15. | American eel | Anguilla Rostrata,

greater than six inches in length; |
| 16. | Gizzard shad | Dorosoma cepedianum.] |

1. Alewife Alosa pseudoharengus;

- (anadromous and i. except in the Delaware River,
landlocked forms) where alewife is a foodfish in
accordance with N.J.S.A. 23:9-5;
2. American brook lamprey Lampetra appendix;
3. American eel Anguilla rostrata,
greater than six inches in length;
4. Banded killifish Fundulus diaphanus;
5. Blueback Herring Alosa aestivalis,
i. except in the Delaware
River, where blueback herring is a
foodfish in accordance with N.J.S.A.
23:9-5;
6. Bluntnose minnow Pimephales notatus;
7. Fathead minnow Pimephales promelas;
8. Gizzard shad Dorosoma cepedianum;
9. Golden shiner Notemigonus crysoleucas;
10. Margined madtom Noturus insignis;
11. Mummichog Fundulus heteroclitus;
12. Rainwater killifish Lucania parva;
13. Spotfin killifish Fundulus lucia;
14. Stonecat Noturus flavus;
15. Tadpole madtom Noturus gyrinus; and
16. All shiner, dace, and Cyprinella, Exoglossum

minnow of the following Hybognathus, Luxilus,
genera: and Semotilus.

•••

"Foodfish" for the purpose of N.J.A.C. 7:25-6.11 only, means the following species:

1. White sucker *Catostomus commersoni*;
2. Carp *Cyprinus carpio*;
3. American eel *Anguilla rostrata*;
4. Blueback herring *Alosa aestivalis*;
5. American shad *Alosa sapidissima*;
6. Gizzard shad *Dorosoma cepedianum*;
7. Yellow perch *Perca flavescens*;
8. White perch *Morone americana*;
9. White catfish *Ameiurus catus*;
10. Black bullhead *Ameiurus melas*;
11. Brown bullhead *Ameiurus nebulosus*;
12. Yellow bullhead *Ameiurus natalis*;
13. Channel catfish *Ictalurus punctatus*;
14. Bowfin *Amia calva*; and
15. Any other marine fish species

that is legal for taking with

net in marine waters, except

striped bass and

alewife herring.]

1. American eel *Anguilla rostrata*;
2. American shad *Alosa sapidissima*;
3. Black bullhead *Ameiurus melas*;
4. Blueback herring *Alosa aestivalis*;
5. Bowfin *Amia calva*;
6. Brown bullhead *Ameiurus nebulosus*;
7. Carp *Cyprinus carpio*;
8. Channel catfish *Ictalurus punctatus*;
9. Gizzard shad *Dorosoma cepedianum*;
10. White catfish *Ameiurus catus*;
11. White perch *Morone americana*;
12. White sucker *Catostomus commersoni*;
13. Yellow bullhead *Ameiurus natalis*;
14. Yellow perch *Perca flavescens*; and
15. Any other marine fish species

that is legal for taking with

net in marine waters, except

striped bass and alewife herring.

“In-season stocking period” shall mean April 7, 2008 through May 23, 2008 for the 2008 trout season, April 13, 2009 through May 29, 2009 for the 2009 trout season; April 12, 2010 through May 28 for the 2010 trout season; April 11, 2011 through May 27, 2011 for the 2011 trout season; and April 9, 2012 through May 25, 2012 for the 2012 trout season.

•••

“Opening day” shall mean 8 AM on April 5, 2008 for the 2008 trout season; 8 AM on April 11, 2009 for the 2009 trout season; 8 AM on April 10, 2010 for the 2010 trout season; 8 AM on April 9, 2011 for the 2011 trout season; and 8 AM on April 7, 2012 for the 2012 trout season.

•••

“Oswego bass” or “black bass” shall mean largemouth and smallmouth bass.

"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. | Shortnose sturgeon | Acipenser brevirostrum |
| 2. | Atlantic sturgeon | Acipenser oxyrinchus |
| 3. | Striped bass hybrid | Morone saxatilis x Morone chrysops |
| 4. | White sucker | Catostomus commersoni |

- | | | |
|-----|---------------------------|---------------------------------------|
| 5. | Creek chubsucker | <i>Erimyzon oblongus</i> |
| 6. | American eel | <i>Anguilla rostrata</i> |
| 7. | Blueback herring | <i>Alosa aestivalis</i> |
| 8. | Hickory shad | <i>Alosa mediocris</i> |
| 9. | American shad | <i>Alosa sapidissima</i> |
| 10. | Gizzard shad | <i>Dorosoma cepedianum</i> |
| 11. | Alewife (anadromous form) | <i>Alosa pseudoharengus</i> |
| 12. | Chinook salmon | <i>Oncorhynchus tshawytscha</i> ; and |
| 13. | Sea lamprey | <i>Petromyzon marinus</i>] |

- | | | |
|-------------------|---|--|
| <u>1.</u> | <u>Alewife (anadromous form)</u> | <u><i>Alosa pseudoharengus</i></u> |
| <u>2.</u> | <u>American eel</u> | <u><i>Anguilla rostrata</i></u> |
| <u>3.</u> | <u>American shad</u> | <u><i>Alosa sapidissima</i></u> |
| <u>4.</u> | <u>Atlantic sturgeon</u> | <u><i>Acipenser oxyrhynchus</i></u> |
| <u>5.</u> | <u>Blueback herring</u> | <u><i>Alosa aestivalis</i></u> |
| <u>6.</u> | <u>Creek chubsucker</u> | <u><i>Erimyzon oblongus</i></u> |
| <u>7.</u> | <u>Gizzard shad</u> | <u><i>Dorosoma cepedianum</i></u> |
| <u>8.</u> | <u>Goldfish</u> | <u><i>Carassius auratus</i></u> |
| <u>9.</u> | <u>Grass carp</u> | <u><i>Ctenopharyngodon idella</i></u> |
| <u>10.</u> | <u>Hickory shad</u> | <u><i>Alosa mediocris</i></u> |
| <u>11.</u> | <u>Sea lamprey</u> | <u><i>Petromyzon marinus</i></u> |
| <u>12.</u> | <u>Shortnose sturgeon</u> | <u><i>Acipenser brevirostrum</i></u> |

13. Striped bass hybrid Morone saxatilis x Morone chrysops; and

14. White sucker Catostomus commersoni

...

“Pre-season closure” shall be the period from midnight March 16, 2008 8:00 AM April 5, 2008 for the 2008 trout season; the period from midnight March 22, 2009 to 8:00 AM April 11, 2009 for the 2009 trout season; the period from midnight March 21, 2010 to 8:00 AM April 10, 2010 for the 2010 trout season; the period from midnight March 20, 2011 to 8:00 AM April 9, 2011 for the 2011 trout season; and the period from midnight March 18, 2012 to 8:00 AM April 7, 2012 for the 2012 trout season. Unless otherwise specified, this closure applies to all waters, both public and private, stocked with trout.

...

"Trout" shall include the following species and all hybrids and strains thereof:

- | | | |
|----|------------------------------|-----------------------|
| 1. | Brook trout | Salvelinus fontinalis |
| 2. | Lake trout | Salvelinus namaycush |
| 3. | Brown trout | Salmo trutta |
| 4. | Rainbow trout | Oncorhynchus mykiss |
| 5. | Atlantic (landlocked) salmon | Salmo salar] |

- | | | |
|------------------|--|-------------------------------------|
| <u>1.</u> | <u>Atlantic (landlocked) salmon</u> | <u>Salmo salar</u> |
| <u>2.</u> | <u>Brook trout</u> | <u>Salvelinus fontinalis</u> |
| <u>3.</u> | <u>Brown trout</u> | <u>Salmo trutta</u> |
| <u>4.</u> | <u>Lake trout</u> | <u>Salvelinus namaycush</u> |
| <u>5.</u> | <u>Rainbow trout</u> | <u>Oncorhynchus mykiss</u> |

•••

"Warmwater fish" includes the following species and all hybrids and strains thereof:

- | | | |
|-----|-------------------|------------------------|
| 1. | Largemouth bass | Micropterus salmoides |
| 2. | Smallmouth bass | Micropterus dolomieu |
| 3. | Black crappie | Pomoxis nigromaculatus |
| 4. | White crappie | Pomoxis annularis |
| 5. | Rock bass | Ambloplites rupestris |
| 6. | Redbreast sunfish | Lepomis auritus |
| 7. | Green sunfish | Lepomis cyanellus |
| 8. | Pumpkinseed | Lepomis gibbosus |
| 9. | Bluegill | Lepomis macrochirus |
| 10. | Longear sunfish | Lepomis megalotis |
| 11. | Redear sunfish | Lepomis microlophus |
| 12. | Yellow perch | Perca flavescens |

13.	Walleye	<i>Sander vitreus</i>
14.	White perch	<i>Morone americana</i>
15.	White catfish	<i>Ameiurus catus</i>
16.	Black bullhead	<i>Ameiurus melas</i>
17.	Brown bullhead	<i>Ameiurus nebulosus</i>
18.	Yellow bullhead	<i>Ameiurus natalis</i>
19.	Channel catfish	<i>Ictalurus punctatus</i>
20.	Redfin	<i>Esox americanus americanus</i>
21.	Northern pike	<i>Esox lucius</i>
22.	Muskellunge	<i>Esox masquinongy</i>
23.	Chain pickerel	<i>Esox niger</i>
24.	Bowfin	<i>Amia calva</i>
25.	Carp	<i>Cyprinus carpio</i>
26.	Striped bass	<i>Morone saxatilis</i>

<u>1.</u>	<u>Banded sunfish</u>	<u><i>Enneacanthus obesus</i></u>
<u>2.</u>	<u>Blackbanded sunfish</u>	<u><i>Enneacanthus chaetodon</i></u>
<u>3.</u>	<u>Black bullhead</u>	<u><i>Ameiurus melas</i></u>
<u>4.</u>	<u>Black crappie</u>	<u><i>Pomoxis nigromaculatus</i></u>
<u>5.</u>	<u>Bluegill</u>	<u><i>Lepomis macrochirus</i></u>
<u>6.</u>	<u>Bluespotted sunfish</u>	<u><i>Enneacanthus gloriosus</i></u>
<u>7.</u>	<u>Bowfin</u>	<u><i>Amia calva</i></u>
<u>8.</u>	<u>Brown bullhead</u>	<u><i>Ameiurus nebulosus</i></u>
<u>9.</u>	<u>Carp</u>	<u><i>Cyprinus carpio</i></u>

<u>10.</u>	<u>Chain pickerel</u>	<u>Esox niger</u>
<u>11.</u>	<u>Channel catfish</u>	<u>Ictalurus punctatus</u>
<u>12.</u>	<u>Green sunfish</u>	<u>Lepomis cyanellus</u>
<u>13.</u>	<u>Largemouth bass</u>	<u>Micropterus salmoides</u>
<u>14.</u>	<u>Longear sunfish</u>	<u>Lepomis megalotis</u>
<u>15.</u>	<u>Mud sunfish</u>	<u>Acantharchus pomotis</u>
<u>16.</u>	<u>Muskellunge</u>	<u>Esox masquinongy</u>
<u>17.</u>	<u>Northern pike</u>	<u>Esox lucius</u>
<u>18.</u>	<u>Pumpkinseed</u>	<u>Lepomis gibbosus</u>
<u>19.</u>	<u>Redbreast sunfish</u>	<u>Lepomis auritus</u>
<u>20.</u>	<u>Redear sunfish</u>	<u>Lepomis microlophus</u>
<u>21.</u>	<u>Redfin pickerel</u>	<u>Esox americanus americanus</u>
<u>22.</u>	<u>Rock bass</u>	<u>Ambloplites rupestris</u>
<u>23.</u>	<u>Smallmouth bass</u>	<u>Micropterus dolomieu</u>
<u>24.</u>	<u>Striped bass</u>	<u>Morone saxatilis</u>
<u>25.</u>	<u>Walleye</u>	<u>Sander vitreus</u>
<u>26.</u>	<u>White catfish</u>	<u>Ameiurus catus</u>
<u>27.</u>	<u>White crappie</u>	<u>Pomoxis annularis</u>
<u>28.</u>	<u>White perch</u>	<u>Morone americana</u>
<u>29.</u>	<u>Yellow bullhead</u>	<u>Ameiurus natalis; and</u>
<u>30.</u>	<u>Yellow perch</u>	<u>Perca flavescens</u>

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

(a) Except as provided in N.J.A.C. 7:25-6.4, 6.6 to 6.9, 6.19, 6.20 and (b)(1) below, [the] trout season [for 2006] shall commence 12:01 A.M. January 1[, 2006] and extend to [midnight March 19, 2006] **the pre-season closure**. The trout season shall re-open [at 8:00 A.M. Saturday, April 8, 2006] **on opening day** and extend to include midnight December 31[, 2006]. The trout season for 2007 shall commence 12:01 A.M. January 1, 2007 and extend to midnight March 18, 2007. The trout season shall re-open at 8:00 A.M. Saturday, April 7, 2007 and extend to include midnight March 17, 2008.]

(b) Except as provided in N.J.A.C. 7:26-6.4, 6.6 to 6.9 and (b)(1) below, it shall be unlawful to fish for any species of fish [from midnight March 19, 2006 to 8:00 A.M. on April 8, 2006, and from midnight March 18, 2007 to 8:00 A.M. on April 7, 2007] **during the pre-season closure** in ponds, lakes or those portions of streams that are listed herein for stocking.

1. [Spruce Run Reservoir, Hunterdon County;] Farrington Lake, Middlesex County; Lake Hopatcong, Morris/Sussex County; **Swartwood Lake, Sussex County;** Shenandoah Lake, **and** Prospertown Lake, Ocean County; [Pompton Lake, Passaic County; and the Manasquan Reservoir, Monmouth County], will remain open to angling year-round. Trout [, if] taken **during the pre-season closure** [period commencing at midnight, March 19, 2006 and extending to 8:00 A.M. April 8, 2006; and during the period commencing at

midnight, March 18, 2007 and extending to 8:00 A.M. April 7, 2007] must be returned to the water immediately and unharmed.

(c) There shall be a [seven-inch] **nine-inch** minimum size for brook trout, brown trout, rainbow trout or hybrids thereof except as designated in N.J.A.C. 7:25-6.5 to 6.9. **Purchased 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) The daily possession limit for brook trout, brown trout, and rainbow trout or their hybrids 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[, 2006 until midnight March 19, 2006 and from January 1, 2007 until midnight March 18, 2007] **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, [during the period extending] from [8:00 A.M. April 8, 2006] **opening day** until May 31[, 2006 and from 8:00 A.M. April 7, 2007 until May 31, 2007], except as designated in N.J.A.C. 7:25-6.4 to 6.9.

3. (No change.)

(f)-(g) (No change.)

(h) Except as provided in N.J.A.C. 7:25-6.6 to 6.9, in trout-stocked waters for which in-season closures will be in force, waters will be closed from 5:00 A.M. to 5:00 P.M. for stocking on the dates and at the locations indicated below, provided that in the event of emergent conditions, the Division may suspend stocking of any or all of the waters listed below:

1. Each Monday [from April 10, 2006 to May 22, 2006 and from April 9, 2007 to May 21, 2007, inclusive] **during the in-season stocking period.**

i.-vi. (No change.)

2. Each Tuesday [from April 11, 2006 to May 23, 2006 and from April 10, 2007 to May 22, 2007, inclusive] **during the in-season stocking period.**

i.-ii. (No change.)

3. Each Wednesday [from April 12, 2006 to May 24, 2006 and from April 11, 2007 to May 23, 2007, inclusive] **during the in-season stocking period.**

i. (No change.)

4. Each Thursday [from April 13, 2006 to May 25, 2006 and from April 12, 2007 to May 24, 2007, inclusive] **during the in-season stocking period.**

i.-iii. (No change.)

5. Each Friday [from April 14, 2006 to May 26, 2006 and from April 13, 2007 to May 25, 2007, inclusive] **during the in-season stocking period.**

i.-iv. (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 [Whites Pond] **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 to Dunkerhook Road, Fair Lawn

Scarlet Oak Pond - Mahwah

Tenakill Creek - Closter, entire length

Whites Pond - Waldwick

3.-5. (No change.)

6. Cumberland County

[Bostwick Lake – Friesburg]

Cohansey River - Dam at Seeley's Pond to Powerline above Sunset Lake,

Bridgeton

Giampietro Park Lake - Vineland

Mary Elmer Lake - Bridgeton

Maurice River - Willow Grove Lake dam to Sherman Avenue, Vineland

Shaw's Mill Pond - Newport

7. Essex County

Branch Brook Park Lake - Newark

Clarks Pond - Bloomfield

Diamond Mill Pond - Millburn

Rahway River W/Br – Campbells Pond to Glen Ave.

Verona Park Lake - Verona

8.-9. (No change.)

10. Hunterdon County

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 to Paterson-Hamburg
Turnpike, Pompton Lakes

Pompton River - Pompton Lake to Newark-Pompton Turnpike

[Potash Lake – Oakland]

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

Sheppard's Lake - Ringwood State Park

17.-20. (No change.)

21. Warren County

[Barker's Mill Brook - Vienna, entire length]

Beaver Brook - Silver Lake Dam to Pequest River

Blair Creek - Hardwick Center to Blair Lake

Blair Lake - Blirstown

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

7:25-6.4 Special regulation trout fishing areas - fly fishing waters

(a) Beginning January 1[, 2006 to midnight March 19, 2006] **to pre-season closure** and from 5:00 A.M. on [Monday, April 17, 2006 to midnight March 18, 2007] **the second Monday after opening day** [, and from 5:00 A.M. on Monday April 16, 2007 to midnight March 17, 2008] **to December 31**, the following stretch is open to fly-fishing only, and closed to all fishing from 5:00 A.M. to 5:00 P.M. on the days listed for stocking **during the in-season stocking period**:

1. (No change.)

(b) Beginning January 1[, 2006] to [midnight March 19, 2006] **the pre-season closure** and from 8:00 A.M. on [April 8, 2006] **opening day** to [midnight March 18, 2007; and from 8:00 A.M. on April 7, 2007 to midnight March 17, 2008] **December 31**; the following stretch is open to fly-fishing only, but is closed to all fishing from 5:00 A.M. to 5:00 P.M. on days listed for stocking **during the in-season stocking period**:

1. (No change.)

(c) The following rules shall apply to the above designated fly-fishing waters.

1. (No change.)

2. A person shall not **take, kill, or have in possession** more than six trout daily from [April 8, 2006] **opening day** through May 31[, 2006, and from April 7, 2007 through May 31, 2007]; at other times the limit is four. [Trout in excess of the creel limit may be caught provided such trout are immediately returned to the water unharmed.]

3.-6. (No change.)

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

(c) 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[, 2006 through April 7, 2006] **up to, but not including, opening day** and [May 22, 2006 through December 31] **from the seventh Monday following opening day,** [, 2006 and during the period of January 1, 2007 through April 6, 2007 and May 21, 2007] through December 31[, 2007].

1.-3. (No change.)

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

1.-4. (No change.)

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[. Additional trout may be caught providing they are returned to the water immediately and unharmed.]; and

6. (No change.)

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. – 32. (No change.)

33. Wanaque River (Wanaque Reservoir dam to Wanaque Avenue bridge);

[33.-35.] **34. – 36.** (No change in text.)

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

1.-3. (No change.)

4. No person shall **take,** kill or have in possession, while fishing the portions of the Pequannock River, [and] 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, [and] Van Campens Brook, **and the Wanaque River,** the minimum length for trout shall be [seven] **nine** inches in total length.

5. During the period[s] extending from [8:00 A.M. April 8, 2006 to September 15, 2006, and from 8:00 A.M. April 7, 2007] **opening day** to September 15[, 2007,] no person shall have in possession while fishing any more than two legally sized dead, creel or otherwise appropriated trout. No trout may be killed or possessed during other times of the year. [Any number of trout may be caught provided they are immediately returned to the water unharmed.]

6. (No change.)

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.-2. (No change.)

3. The minimum size for lake trout shall be [20 inches at Round Valley Reservoir and] 15 inches at Merrill Creek Reservoir **with a daily creel and possession limit of two.** The daily [bag] **creel** and possession limit shall be [one] **three fish, 15 inches to less than or equal to 20 inches in length, and one additional fish, 24 inches or greater, for a total of four lake trout** at Round Valley Reservoir [and two at Merrill Creek Reservoir].

4.-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. (No change.)

2. [Swartswood Lake];

[3. - 6.] **2. - 5.** (No change in text.)

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

1. (No change.)

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

3. The daily possession limit for 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[, 2006 until midnight March 19, 2006 and the period from January 1, 2007 until] [midnight March 18, 2007] **to the pre-season closure.**

ii. Trout[, if] taken during the [period commencing at midnight, March 19, 2006 and extending to 8:00 A.M., April 8, 2006 and the period from midnight March 18, 2007 and extending to 8:00 A.M., April 7, 2007] **pre-season closure** must be returned to the water immediately and unharmed.

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 [8:00 A.M. April 8, 2006 until May 31, 2006 and the period from 8:00 A.M. April 7, 2007 until] **opening day to** May 31[, 2007].

iv. (No change.)

4. (No change.)

7:25-6.10 Baitfish

(a)-(d) (No change.)

(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 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 for the purpose of sale, under special permit issued by the Division in its discretion.

1.-3. (No change.)

4. The permittee shall agree to:

i. [All reporting requirements] **Submit harvest reports by the 15th day of the following month;**

ii.-viii. (No change.)

7:25-6.11 Nets and alternative gear

(a) Except as provided for the taking of baitfish, it shall be illegal to take fish from the freshwaters of the State by means of nets except under special permit issued by the Division at its discretion and as hereafter provided for in the tidal freshwaters of New Jersey, other than the Delaware River:

1.-5. (No change.)

6. The permittee shall agree to:

i. [Comply with all reporting requirements] **Submit annual harvest reports, including species, and number of fish harvested, by date, by December 31;**

ii.-viii. (No change.)

7:25-6.13 Warmwater fish

(a) [Fishing for all species of freshwater fish is permitted 24 hours daily except on those days that certain trout waters are closed for stocking during March, April and May.] **(Reserved)**

(b) [Warmwater fish in excess of the daily limit may be caught, when permitted, provided they are immediately returned to the water unharmed.] **(Reserved)**

(c)-(f) (No change.)

(g) The minimum length for northern pike shall be 24 inches, [and 30 inches] **with a daily creel and possession limit of two. The minimum length** for [the] muskellunge and tiger muskie, **shall be 36 inches,** [and the daily creel and possession limit for these species shall be two in aggregate] except for [Lake Hopatcong, Mercer Lake (Mercer County) and Monksville Reservoir (Passaic County) where the minimum length for muskellunge and tiger muskie shall be 36 inches and the daily creel and possession limit shall be one and] Mountain Lake (Warren County) and Echo Lake Reservoir (Passaic County) where the minimum length shall be 40 inches, [and the] **The** daily creel and possession limit **for muskellunge and tiger muskie** shall be one **in total**.

(h)-(i) (No change.)

(j) Except as provided in N.J.A.C. 7:25-6.19 and 6.20, [there is no minimum length for chain pickerel except in Lake Hopatcong, Swartswood Lake (Sussex County) and Hammonton Lake (Atlantic County) where the minimum length shall be 15 inches] **the minimum length for chain pickerel and redbfin pickerel shall be 15 inches** .

(k) The daily creel and possession limit for chain pickerel **and redfin pickerel** shall be five **in total**. There is no closed season.

(l)-(o) (No change.)

(p) Striped bass may [not] be taken or possessed during the period of [January 1 through February 28] **March 1 to December 31**.

(q) (No change.)

(r) Hybrid striped bass may [not] be taken in the Raritan River downstream of the Duke Island Park dam during the period of [January 1 through February 28.] **March 1 to December 31**.

(s)-(t) (No change.)

(u) Mud sunfish, blackbanded sunfish, bluespotted sunfish, and banded sunfish may not be taken or possessed at any time.

7:25-6.14 Ice fishing

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

(c) [Expressly prohibited are any devices with automatic hook setting capability.] Natural bait may be used on the hooks of the artificial jigging lure. All devices that are not hand-held must be clearly marked with the name and address of the user and shall not be left unattended.

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 States.

1.	<u>Species</u>	<u>Season</u>	<u>Size Limit</u>	<u>Daily Bag Limit</u>
	Trout	No closed season	No minimum	3
	Largemouth bass and smallmouth bass	Jan. 1 - April 14, and June 16 - Dec. 31 April 15 - June 15	12 inch minimum Catch and release only	5 singly or in total
	Chain pickerel	No closed season	15 inch minimum	5
	Muskellunge and any hybrid thereof	No closed season	36 inch minimum	1

Walleye	Jan. 1-[Feb. 28 and]	18 inches	3
	<u>Last day of</u>		
	<u>February and</u>		
	May 1 –		
	December 31		
Channel catfish	No closed season	12 inches	5
Black crappie	No closed season	8 inches	10 singly or in
and white crappie			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.

1.

<u>Species</u>	<u>Season</u>	<u>Size Limit</u>	<u>Daily Bag Limit</u>
Trout	[April 15, 2006 - to Sept. 30, 2006 <u>8:00 AM on the first Saturday after April 11 to Oct. 15</u> [April 14, 2007 - to Sept. 30, 2007]	No minimum	5
American Shad	No closed season	No minimum	6
Hickory shad	Closed season	Closed season	Closed season
Largemouth bass and smallmouth bass	[Jan. 1 - April 14, 2006 and June 17, 2006- Dec. 31, 2006] <u>Jan. 1 to the first Friday after April 10, and the first Saturday after June 11 to Dec. 31</u> [April 15, 2006 - June 16, 2006] <u>First Saturday, after April 11, to the</u>	12 inch minimum	5 singly or in total
		Catch and release only	

first Friday after

June 10

[Jan. 1 - April 13, 2007 [12 inch [5 singly
and June 16, 2007- minimum] or in total]
Dec. 31, 2007]

[April 14, 2007 – [Catch and release only]
June 15, 2007]

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	[30] 40 inch minimum	[2] 1
Northern pike	No closed season	24 inch minimum	2
Baitfish, fish bait	No closed season	No minimum	50
Alewife and blueback (anadromous forms)	No closed season	No minimum	35 in total
Shortnose sturgeon	Closed-endangered 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	28 inch minimum	2

June 1 – Dec. 31

Upstream of	28 inch	2
Calhoun Street Bridge	minimum	
Bridge season open		
March 1 – Dec. 31		

All other freshwater species	No closed season	No minimum	No limit
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2.-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.

1.-2. (No change.)

3. The permittee shall agree to:

- i. [Comply with all reporting requirements in this subchapter;] **Submit annual harvest reports, including date, waterbody, species, number, and approximate total weights harvested, by December 31 of current permit year;**
- ii.-vii. (No change.)

(e) (No change.)

7:25-6.25 Water lowering

(a) Except as otherwise permitted in this section, no person shall shut off water to, or draw off waters from any pond, stream or lake, public or private within the State.

(b) Water withdrawals authorized for water supply purposes pursuant to N.J.A.C. 7:19 or for agricultural, aquacultural or horticultural uses pursuant to N.J.A.C. 7:20A shall not require a water lowering permit pursuant to this section.

(c) Water lowering permits are issued for the sole purpose of protecting the State's aquatic biological resources.

(d) An application for a water lowering, including all information required by this section, shall be submitted at least 60 days prior to the requested lowering date. In the event the lowering is required due to unsafe or hazardous dam conditions, as determined by the Department's Division of Dam Safety, the dam owner or the owner or operator of the outlet structure shall submit a completed application form within 15 days of notification from the Division of Dam Safety. The application shall include a copy of the written documentation received from the Department's Division of Dam Safety.

(e) 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

P.O. Box 394

Lebanon, New Jersey 08833

(f) An application for a water lowering permit shall include the following information as well as any supplemental information required by this section:

i. Applicant name

ii. Applicant address

iii. Applicant Phone Number

iv. Waterbody location

- v. Reason the lowering is requested
- vi. Date requested to begin
- vii. Refill date
- viii. Water body size
- ix. Maximum depth
- x. Extent of drawdown requested
- xi. Method of water release
- xii. DEP Permits applied for relative to the project
- xiii. Applicant signature
- xiv. Property owner's certification
- xv. Contact information for agent acting on behalf of the applicant, if applicable

(g) For applications submitted for flood control purposes, the application shall additionally include a written justification identifying the need for the water lowering, flood storage capacities gained and their beneficial impacts to the community, as well as the adverse impacts of repeated lowerings on the associated waterway.

(h) If information submitted to the Division is incomplete, the Division may either deny the application or request that the applicant provide additional information within a specified timeframe. Failure to provide the additional information within the time frame specified shall result in denial of the application.

(i) Except as provided in N.J.A.C. 7:25-6.25(s), the following time restrictions shall apply:

(1) Lowering may not occur from February 1 to March 15, when reproducing populations of rainbow trout may be adversely impacted;

(2) Lowering may not occur from March 1 to June 30, when anadromous fish populations may be adversely impacted;

(3) Lowering may not occur from March 15 to June 15, when trout maintenance waters and/or the stocking of trout may be adversely impacted by the lowering;

(4) Except when the extent of the lowering requires the collection and relocation of aquatic biota, lowering may not occur from April 1 to June 15, when warmwater fish populations, which include pickerel are present, otherwise lowering may not occur from May 1 to June 15;

(5) Except in the event the Division determines that the lowering will have no adverse impacts to aquatic biota present, lowerings may not occur from July 1 to September 15;

(6) Lowering may not occur from September 15 to March 15, when reproducing populations of brook and brown trout may be adversely impacted;

(7) Lowering may not occur from September 15 to December 1, when reproducing populations of lake trout may be adversely impacted;

(8) For waterways located north of Route 195, water levels must be lowered to the full approved extent by November 1; or

(9) For waterways located south of Route 195, water levels must be lowered to the full approved extent by November 15;

(j) Additional timing restrictions may be imposed pursuant to 7:25-6.25 (i) to minimize impacts to growth, spawning, breeding, and or hibernation, of threatened or endangered species, in accordance with N.J.A.C. 7:25-4.13 and 4.17, which may also be adversely affected by the lowering.

(k) In the event multiple timing restrictions would apply, the Director will assess the impacts to the spawning, breeding, growth and hibernation of biota present and determine the most appropriate timing for the lowering.

(l) Except as otherwise provided in this section, an application for a water lowering permit shall be approved if the Director determines that the lowering is necessary, timing restrictions, pursuant to 7:25-6.25(i) are satisfied and the applicant demonstrates, to the satisfaction of the Director, that impacts to aquatic biota as a result of the lowering, have been minimized to the maximum extent possible. In determining whether to approve a water lowering permit application, the Director shall consider potential impacts to growth, spawning, stocking, breeding and hibernation of biota, as well as impacts to endangered species dependent upon the waterbody, or otherwise affected by the lowering.

(m) A water lowering permit shall be authorized by the Division when a draw down is required due to unsafe or hazardous dam conditions, as determined by the Department's Division of Dam Safety. Emergency water lowering permits issued pursuant to this subsection will be exempt from timing restrictions, as specified in (i) through (k). The permittee, however, must abide by all other permit conditions including the collection and relocation of biota if determined necessary by the Division.

(n) In no event shall a water lowering permit be approved if maximum minimization of impacts continues to result in the potential for significant mortality to the aquatic biota present.

(o) In the event, the Division determines the lowering is necessary, and the extent, and duration necessary poses an unavoidable threat to aquatic biota present, permittees may be required to collect and relocate aquatic biota to waters designated by the Division, or hold biota for re-introduction purposes. Appropriate timing restrictions shall still apply. A scientific collecting permit, scientific holding permit and/or stocking permit may also be required for the collection, relocation or retention of biota.

(p) For the duration of the lowering, permittees are responsible for the welfare of aquatic biota and are required to alleviate harmful conditions that may result from either the water level manipulation or from unforeseen changes in environmental conditions, including but not limited to unseasonably warm temperatures or periods of low water.

(q) The following general conditions shall apply to any permit for water lowering:

1. The permittee shall notify the Division 24 hours prior to lowering, and again 24 hours prior to refilling.

2. Initial water lowering shall not begin prior to the effective date of the water lowering permit, and refilling must commence no later than the expiration date.

3. At no point shall the water lowering exceed the amount specified on the permit.

4. For water lowering to be accomplished by a release of water from the waterbody, the rate of release at the time of lowering must be controlled to prevent any over-bank flow of the primary downstream channel, or increased turbidity.

5. During the period that the waterbody is lowered downstream flow must be maintained at a flow equivalent, including amount and rate of flow, to conditions present immediately upstream of the waterbody for which the permit is issued.

(r) Requests to modify the expiration date of an existing water lowering permit must be submitted by the permittee in writing. Requests to extend the permit's expiration date must be submitted at least 21 days prior to the original expiration date. Requests shall include the permit number, waterbody name,

location, owner, the change requested and the reason the modification is necessary.

Requests shall be submitted to the Division at:

New Jersey Division of Fish and Wildlife

Bureau of Freshwater Fisheries

P.O. Box 394

Lebanon, New Jersey 08833

1. In determining whether to approve a modification to an existing water lowering permit, the Director shall consider the impacts to the growth, spawning, stocking, breeding and hibernation of biota present, as well as impacts to endangered species dependent upon the waterbody, that may result from the change.

(s) For water lowering permits issued for flood control purposes, lowering may begin within 24 hours prior to a forecasted storm event of 1 inch of rain or more in the area. Permits are valid from January 1 to December 31.

7:25-6.26 Fish stocking; fish culture facilities

(a) No person may release any live indigenous or exotic fish, or their eggs, into the aquatic environment without a permit. For the purposes of this

subchapter, indigenous and exotic fish shall include all fish species, their subspecies and hybrids.

(b) An application for a fish stocking permit must be submitted at least four weeks prior to the requested stocking date. Applications 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

P.O. Box 394

Lebanon, New Jersey 08833

(c) An application for a fish stocking permit shall include the following information as well as any supplemental information required by this section:

- i. Applicant name;**
- ii. Applicant address;**
- iii. Applicant Phone Number;**
- iv. If different, pond owner's name and address;**
- v. Pond owner's signature;**
- vi. Waterbody location;**
- vii. Water body size;**
- viii. Fish species present in the waterbody;**

- ix. Waterbody access, public or private;
- x. Species of fish requesting to stock;
- xi. Number of fish requesting to stock;
- xii. Size range of fish requesting to stock;
- xiii. Source of fish;
- xiv. If stocking is relative to an event or tournament, date of event;
- xv. If the fish are marked or tagged, the type of tag to be used;
- xvi. Anticipated stocking date;
- xvii. Applicant signature; and
- xviii. If requesting to stock grass carp, the following additional information is required;
 - 1. Percent weed cover;
 - 2. Description of weed problem, including species;
 - 3. Photographs of inlet and outlet structures.

(d) If information submitted to the Division is incomplete, the Division may either deny the application or request that the applicant provide additional information within a specified timeframe. Failure to provide the additional information within the time frame specified shall result in denial of the application.

(e) An application for a fish stocking permit shall be approved if the Director determines that the introduction of the fish species, the number of fish

proposed to be introduced, and the source of the fish proposed to be introduced will not create a potential risk to the freshwater resources of the State, and the proposed fish stocking is consistent with Division management plans and established stocking programs.

(f) The permit must be in the possession of the individual(s) performing the stocking on the day of the stocking event.

(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 collected as a result of a permitted lowering must be destroyed.

(h) Only sterile triploid grass carp may be approved for stocking, strictly for the purposes of biological weed control, provided;

- 1. The waterbody is less than ten surface acres in size;**
- 2. Inlet or outlet structures in the impoundment are situated and constructed in a way that prevents escape of fish from the impoundment;**
- 3. No more than a total of 100 grass carp may be stocked into any single impoundment;**

(i) Permits will not be approved to stock any species of fish in the Pequest Wildlife Management Area, or within Trout Brook (Hackettstown). The Pequest State Fish Hatchery, or Hackettstown State Hatchery will be the only sources approved for stocking within these areas.

(j) Permits will not be approved to stock esocids in Budd Lake, Echo Lake Reservoir, Farrington Lake, Mercer Lake, Monksville Reservoir, Mountain Lake, or Spruce Run Reservoir. The Hackettstown State Fish Hatchery will be the only source approved for stocking within these areas.

(k) Except for fish taken from one waterbody and reintroduced to another waterbody pursuant to N.J.A.C. 7:25-6.25, the source of all fish to be introduced to the waters of the State must be from an approved fish culture facility. A list of approved fish culture facilities shall be provided by the Division with the application for a fish stocking permit.

(l) To be approved, fish culture facilities must:

1. Submit a completed "Fish Health History Request" form to the Division on an annual basis. The Fish Health History Request form shall include the following information, as well as any supplemental information required by this section:

- i. Name of the fish culture facility**
- ii. Address of the facility**
- iii. Identification of the owner of the facility**
- iv. Contact Information for facility**
- v. Fish species offered for sale**
- vi. Origin of all fish stocks**
- vii. Occurrence of disease outbreaks within the facility**
- viii. Confirm that fish health inspections were performed
at the facility over the last year**
- ix. Origin of any eggs brought into the facility**
- x. For facilities offering triploid grass carp, contact
information for the agency that performed triploid
certification.**

**2. Obtain a Fish Health History Request Form from, and when
complete, submit to the Division at:**

New Jersey Division of Fish and Wildlife

Bureau of Freshwater Fisheries

P.O. Box 400

Trenton, NJ 08625

3. Provide documentation (health inspection or certification reports) that all fish (including eggs or gametes) received from sources within the enzootic area of the Infectious Hematopoietic Necrosis (IHN) or Viral Hemorrhagic Septicemia (VHS) viruses, have been inspected and found free of those viruses; and,

4. provide documentation that a complete health inspection, including parasitological examination, has been performed on all fish stocks that have been obtained from the wild.

5. provide documentation that all production lots of fish have been inspected and found free of Infectious Pancreatic Necrosis Virus (IPN), Infectious Hematopoietic Necrosis (IHN), Viral Hemorrhagic Septicemia (VHS), Bacterial kidney disease (BKD), Bacterial Furunculosis (BF), and Bacterial redmouth (BRM) and whirling disease, Myxobolus cerebralis, when providing salmonids for stocking in waters with reproducing trout populations, designated as Holdover and Trophy Trout lakes, and the Pequest River or Musconetcong River drainages.

6. perform any inspections required by this subsection using sample sizes and methods recommended by the American Fisheries Society Fish Health Section, located in Juneau, Alaska , or The World Organization for Animal Health (also known as Office International

des Epizooties), located in Paris, France, or generally accepted methods published in peer-reviewed journals. Additional information provide at the American Fisheries Society website at <http://web.fisheries.org/units/fhs/>, or the website of the The World Organization for Animal Health at www.oie.int/eng/en_index.html.

7. Accept the responsibility for, and cost of any fish health inspections required for approval.

8. Keep accurate records of fish health inspections and transfers of fish into and out of the facility. These records shall be open for inspection by Division employees or representatives, at reasonable hours.

9. If located west of the continental divide or outside of North America, or identifies its source of fish, or eggs, from a facility located within this area:

i. provide documentation that all stocks of fish reared in the hatchery have been inspected and found free of Infectious Hematopoietic Necrosis (IHN) or Viral Hemorrhagic Septicemia (VHS) viruses, the PKX organism, and Ceratomyxa shasta; and,

ii. supply only fertilized eggs which have been subjected to iodine disinfection. No salmonid fish (fry, fingerling, or adult) other than certified, disinfected eggs may be brought into New Jersey from areas where Infectious Hematopoietic Necrosis (IHN) or Viral Hemorrhagic Septicemia (VHS) viruses are enzootic in salmonid stocks.

7:25-[6.25]6.27 Revocation of Permits; Penalties

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

7:25-[6.26]6.28 Requests for adjudicatory hearings

(a)-(e) (No change.)

Based on consultation with staff, I hereby certify that the above statements, including 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 those proposed amendments. I hereby authorize the proposal of these amendments.

Date: _____

Jeanette Vreeland, Acting Chairperson

New Jersey Fish and Game Council