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**ENVIRONMENTAL PROTECTION**

**DIVISION OF FISH AND WILDLIFE**

**Conserve Wildlife Matching Grants Program**

**Proposed Amendments:** N.J.A.C. 7:5-2.2, 3.2, 3.3, 3.5, and 4.1 through 4.3

**Authorized by:** Shawn M. LaTourette, Commissioner

**Department of Environmental Protection**

**Authority:** N.J.S.A. 39:3-33.11

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

**DEP Docket Number:** 01-22-01

**Proposed Number:** PRN 2021 -

Submit comments by April 8, 2022, electronically at [www.nj.gov/dep/rules/comments](http://www.nj.gov/dep/rules/comments).

The Department of Environmental Protection (Department) encourages electronic submittal of comments. In the alternative, comments may be submitted on paper to:

Robert Guzek, Esq.

Attn: DEP Docket Number: 01-22-01

Office of Legal Affairs

Department of Environmental Protection

401 East State Street, 7<sup>th</sup> Floor

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Mail Code 401-04L

P.O. Box 402

Trenton, NJ 08625-0402

This rule proposal may be viewed or downloaded from the Department's website at [www.nj.gov/dep/rules](http://www.nj.gov/dep/rules).

The agency proposal follows:

### **Summary**

As the Department has provided a 60-day comment period on this notice of proposal, this notice is exempted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

In 1995, a portion of the Motor Vehicle laws was amended to create the Conserve Wildlife dedicated motor vehicle license plate. See N.J.S.A. 39:3-33.11. The law includes a provision that \$2.00 of every wildlife conservation license plate's yearly renewal fee be made available to the Division of Fish and Wildlife (Division) to provide grants for endangered and non-game wildlife conservation projects. In 1990, the Department adopted the rules at N.J.A.C. 7:5, thus establishing the Conserve Wildlife Matching Grants Program. Since 1990, the rules have been amended with the last amendments adopted in 2001.

The annual grant revenue from these plates has gradually declined in recent years, from approximately \$24,000 in 2011 to less than \$15,000 in 2020. The rules currently provide for grants between \$1,000 and \$3,500 and require that the grantee contribute at least 50 percent

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of the cost of the eligible project (a 100 percent or one-to-one match of the funding provided by ENSP through the grant), with no more than 75 percent of the match in the form of in-kind services and a one-year project duration. Because of the high workload involved for Department staff to secure spending approvals, issue requests for grants, rate the grant proposals, prepare and authorize grant agreements, review completed projects for compliance, and coordinate payments, in 2009 the Division decided to issue grants every other year rather than annually. This extended grant cycle also allows the grant funds to accumulate so the Department can make additional grant awards during each round of funding. Since 2011, approximately a dozen grants are awarded per two-year grant cycle with an average award amount of \$3,200.

Based on the results of an October 2020 stakeholder survey of current and former grantees, past applicants, and eligible nonprofit organizations, it was determined that higher grant amounts, a lower match requirement, and a longer project duration would better serve these constituents. Accordingly, the Department proposes to amend N.J.A.C. 7:5-3.3 to increase the grant amount range from \$1,000 to \$3,500 per project to \$2,500 to \$10,000 per project.

With an increase in the grant amounts, a requirement that the applicant fully match the grant amount and that projects be completed within one year would become even more challenging for small non-profit grantees, particularly for projects involving high out-of-pocket costs (for example projects involving radio-transmitters or plant materials), or for season-

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dependent projects whose goals must be accomplished during a certain phenological timeline (such as during a nesting or migration period), or during a treatment window (such as when the ground must be prepared in anticipation of tree planting). Therefore, the Department is also proposing at N.J.A.C. 7:5-3.5 to reduce the match requirement from 100 percent to 50 percent of the grant amount and eliminate the 25 percent cash-match rule. The Department is proposing to allow grantees as much flexibility as possible with the match by allowing all, some, or none of it to be in cash value and the remainder to be in in-kind services, such as volunteer hours.

The last request of respondents to the Department's survey is to increase the project duration limit from one year to two years. Increasing the project duration limit to two years will enable grantees to include a second year of outreach or surveys, complete another phase of restoration or research, accomplish post-treatment monitoring, or perform adaptive management resulting in more robust data, deliverables, and success metrics. Although the higher grant awards would result in fewer overall grants, the higher grant awards are anticipated to result in projects or studies that are of longer duration, include more animals or species in a study or project, cover a wider project area, and/or increase other project parameters. Also, issuing fewer but higher value grants would reduce the already high workload for Department staff to process and monitor the grants.

In addition to the above proposed changes, the Department is further proposing to remove the phrase "each year" from N.J.A.C. 7:5-3.2 and to remove the last sentence in N.J.A.C.

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7:5-3.3. The phrase “each year” is being removed from N.J.A.C. 7:5-3.2 as the Department proposes to review grants less often than yearly. The last sentence in N.J.A.C. 7:5-3.3 is being removed because the modification of “matching grant” to “grant amount” in the sentence prior to the last sentence in section 3.3 makes it clear that the Department means the amount awarded by the Department and therefore the last sentence is not needed. The proposed amendments in N.J.A.C. 7:5-4.1 and 4.2 revise how the Department communicates with proposed grantees. The notice that currently must be published in newspapers and posted on the Department’s website is proposed to continue to be posted on the Department’s website, but instead of additionally being published in newspapers, the notice is proposed to be distributed to all persons who subscribe to the Division’s listserv for Endangered Species. A link to where a person can sign up for the listserv is included in the proposal. The Department and Division have moved toward communicating directly with interested persons via various listservs as a more direct and effective means of communication. The Department has, as part of its business practices, sent out press releases notifying the public of grant funding availability and will continue to do so. Additionally, the Department has posted the application and information about the grants on the Department’s website for ease in finding the information. Grant applications are to be submitted electronically to the Department. Also, current rule language dictating that applications are to be mailed is proposed for removal. Lastly, because the grant agreement is modified by the Department based upon the awarded grant application,

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the Department is proposing to remove N.J.A.C. 7:5-4.2(b)4 requiring that the grant agreement be signed and submitted along with the application.

### **Social Impact**

The Department anticipates that the proposed amendments will have a positive social impact on some grantees and a negative impact on other non-profits. Increasing the maximum grant amount, reducing the match requirement, and increasing the maximum grant duration to two years will widen the diversity of projects and allow both small and larger non-profit organizations to apply for grant funding for startup and scaled-up projects. For example, the grant program could still fund small inquisitive projects like the dune ghost tiger beetle transect survey which was funded in 2017, involving just one researcher's time to learn about an understudied species. The larger grant awards could fund efforts like native habitat restoration, nest box installations, environmental education programs, or wildlife tagging projects nearly three times the current size or audience. A shortage of other available grant programs in the \$10,000 funding range limits many non-profits' ability to plan and undertake research or management projects of meaningful size, and this proposal addresses that issue. It also reduces the need for organizations to piece together multiple funding sources, making it more efficient to accomplish larger, impactful projects.

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The larger grants from an increasingly smaller fund may also have a negative social impact as small non-profits that typically complete small-scale projects or studies may no longer receive grants in favor of larger, more comprehensive projects or studies.

The general public benefits from the flexibility provided by the proposed changes to fund both deserving small projects or larger projects which often incorporate societal benefits like community education about wildlife diversity and conservation, volunteer engagement in habitat restoration or research, and enhanced recreational experiences in nature. Smaller projects or studies may incorporate a minor educational component as a part of the in-kind match, whereas larger projects may incorporate paid educational staff and/or resources for the staff to provide high-quality educational materials to the public.

### **Economic Impact**

As discussed above, the revenue from the Conserve Wildlife license plate has been decreasing despite the per-plate fee that is paid to the Division remaining the same amount. This is the direct result of fewer people renewing the specialty plate, attributed in part to the growing number of dedicated plates offered in New Jersey which results in a dilution of the impact any one plate can have on a cause. Over the past ten years (2011-2020), grant program revenues from the license plate renewal fee have declined by 39 percent.

While potentially higher grant awards may result in fewer overall grants, the anticipated projects are expected to encompass larger scopes and accomplish greater purpose. Compared

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to current rules, grantees will benefit from not only larger potential awards, but also a lower cost-share burden and longer project duration. The Department will benefit from greater administrative efficiency as larger grant amounts will likely result in fewer projects to administer and manage. Excluding time and resources spent on general and “batch” grant administration, the cost to the Department of managing each individual grant is estimated at roughly \$800. By this estimation, the proposed amendments will save the Department around \$5,000 in staff resources over each two-year cycle, freeing up time for other demands.

### **Environmental Impact**

The rules proposed for amendment are expected to have a positive environmental impact on the State’s wildlife. A higher award will encourage larger-scale projects and greater competition for the available funds, resulting in funded projects that are the most responsive to current priorities and promise the greatest benefits to wildlife conservation in New Jersey. For example, based on current priorities a funded project could restore a larger area of forest for habitat connectivity, create twice as many pollinator waystations for migrating Monarchs, deploy more tracking devices, or establish a new telemetry receiver station to learn about the movements of at-risk or understudied wildlife like shorebirds or bats. Currently, the small grants allow organizations to chip away at important goals, like one grantee from 2019 who fully restored and deer-proofed one acre for an endangered cedar-glade butterfly. The grantee pieced together funding from three additional sources to accomplish this work, whereas a

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single larger grant would have enabled the same work to be done far more efficiently, or on a more impactful conservation scale. Similarly, the Conserve Wildlife Matching Grants Program has funded organizations multiple times to continue with high-priority projects, like The Wetland Institute's work to locate and retrieve abandoned crab pots from the bays to prevent terrapin by-catch, while a larger grant could have allowed this work to be done in essentially half the time, saving additional turtles' lives. Increasing the project duration limit to two years would also enable grantees to include a second year of outreach or surveys, complete another phase of restoration or research, accomplish post-treatment monitoring, or perform adaptive management, resulting in more robust ecological results, data, and success metrics from which to learn. As New Jersey continues to urbanize, these metrics become more urgent and important in steering meaningful conservation activities.

### **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 Federal standards or requirements to include in the rulemaking document a comparison with Federal law. The Conserve Wildlife Matching Grants Program is authorized by, and implements, State statutory authority. The proposed amendments are not promulgated under the authority of, or in order to implement, comply with, or participate in any program established under Federal law or

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under a State statute that incorporates or refers to Federal law, standards, or requirements.

Accordingly, no further analysis is required.

### **Jobs Impact**

The Department has evaluated this rulemaking to determine the impact of the proposed amendments on jobs. The proposed rules will have a net-neutral effect on jobs. Despite the potential for larger individual grants to be offered, the same overall amount of grant funds will be distributed among the non-profit community. The larger grants will result in larger study or project parameters, such as a larger number of animals being studied, over a larger area, or for a longer period of time, but the grants will not equate to the need to hire more staff to complete the studies or projects.

Similarly, the Department will neither gain nor lose jobs due to these proposed amendments. The staff who process the grants have been doing so in addition to other job responsibilities, such as the Department's fiscal staff whose jobs are to process fiscal documents. These staff will now simply process fewer grants, freeing time for a myriad of other duties.

### **Agriculture Industry Impact Statement**

Pursuant to N.J.S.A. 52:14B-4(a)2, the Department has evaluated this rulemaking to determine the nature and extent of the proposed amendments' impact on the agriculture

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industry. The proposed amendments will have a net-neutral effect upon the agriculture or aquaculture industries. Individual grants for endangered and non-game wildlife conservation projects or studies may take place on agricultural lands, such as grassland or pollinator habitat management, wetland buffering, or wildlife studies. These activities would not necessarily take land out of production, and the studies or projects may be beneficial to agriculture by virtue of conserving soil, water, and pollinator resources. However, the basis of all of these grants is the impacts to wildlife and not any potential impacts to agriculture or aquaculture.

### **Regulatory Flexibility Analysis**

In accordance with the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16, et seq., the Department has reviewed the proposed amendments for reporting, recordkeeping or other compliance requirements on small businesses. The proposed amendments will not result in a change in the amount of reporting, paperwork, professional services, or other compliance requirements or costs to the non-profit organizations eligible for these grants. The size of a grant does not increase or reduce the amount of paperwork or reporting required of a grantee as the larger grants will only result in the funding of studies or projects larger in scope, area, number of species or number of animals involved, or other study or project parameters.

### **Housing Affordability Impact**

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Pursuant to N.J.S.A. 52:14B-4(a), the Department has evaluated the proposed rule amendments to determine what, if any, impact they will have on the affordability of housing. The Department has determined that the rules will have no impact on the affordability of housing. The Conserve Wildlife Matching Grants rules at N.J.A.C. 7:5 do not implicate land use policies or development and, therefore, do not have any impact on the average cost of housing.

#### **Smart Growth Development Impact**

Pursuant to N.J.S.A. 52:14B-4(a), the Department has evaluated the proposed rules to determine what, if any, impact these rules will have on smart growth development. The rules do not impact the type or number of housing units, increase or decrease the availability of affordable housing in any manner, or affect new construction within Planning areas 1, 2, or within designated centers, under the State Development and Redevelopment Plan.

#### **Racial and Ethnic Community Criminal Justice and Public Safety Impact**

The Department has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

**Full text** of the proposed amendments and new rules follows (addition indicated in boldface **thus**;) deletions indicated in brackets [thus]:

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## SUBCHAPTER 2 ELIGIBILITY FOR CONSERVE WILDLIFE MATCHING GRANTS

### 7:5-2.2 Eligible projects

(a) – (b) (No change.)

(c) Projects shall be completed within [one year] **two years** of notification of grant approval and a final project report shall be submitted to the ENSP at the completion of the project. The project report shall include, but not be limited to, a description of the final product as described in the scope of work, any documentation supporting the completion of the grant project (that is, photographs, newspaper articles), the manner in which the funds were expended and all associated receipts.

## SUBCHAPTER 3. ALLOCATION OF CONSERVE WILDLIFE MATCHING GRANT FUNDING

### 7:5-3.2 Ranking of grant applications

(a) [Each year, available] Conserve Wildlife matching grant funds shall, for the purpose of determining priority for funding, be ranked on the basis of the degree to which the proposed project:

1. - 5. (No change).

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#### 7:5-3.3 Grant amount

The minimum [matching] grant **amount provided by the ENSP** shall be [\$ 1,000] **\$ 2,500**; the maximum [matching] grant **amount** shall be [\$ 3,500] **\$ 10,000**. [The contribution by the ENSP shall not exceed 50 percent of the cost of an eligible project that qualifies for funding under the Act and this chapter.]

#### 7:5-3.5 Matching fund

[At least 25 percent of the] **The** grantee's share of project funding shall [be in a dollar amount and the remainder may] **equal at least 50 percent of the grant amount, and shall** be in in-kind support [of the project], **cash match, or in any combination of in-kind support and cash match**. The availability of the **grantee's** matching funds shall be certified by a resolution adopted by the nonprofit organization as required under N.J.A.C. 7:5-4.2(b)(1).

### SUBCHAPTER 4 APPLICATION AND GRANT AWARD PROCEDURES

#### 7:5-4.1 Announcement of grant funding availability

(a) (No change.)

(b) [Notice] **A notice** shall also be [published in four New Jersey newspapers Statewide and] **posted** on the Department's website **and sent to email addresses via the Division's listserv for**

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**Endangered Species. A person may subscribe to the Division’s Endangered Species listserv at <https://www.njfishandwildlife.org/lstsub.htm>.**

#### 7:5-4.2 Application and review sequence

(a) Nonprofit organizations shall [contact the ENSP as set forth in the notification and request an application] **find instructions on how to apply for grant funds on the Division’s website at [njfishandwildlife.com](http://njfishandwildlife.com).**

(b) [Upon request, an application package provided by the ENSP shall be mailed to all eligible applicants and shall include a grant agreement form to be executed by the person authorized to obligate the applicant to the terms and conditions of the contract.] A completed application shall be submitted to the ENSP as directed in the application [package] **instructions** and shall include:

1. – 2. (No change.)

3. A completed grant applicant data form; **and**

[4. A signed grant agreement setting forth the terms and requirements that must be met in order for the applicant to receive reimbursement for the proposed project; and]

[5.]**4.** (No change.)

(c) – (e) (No change.)

#### 7:5-4.3 Development and execution of grant agreement

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(a) If the ENSP approves the application submitted pursuant to N.J.A.C. 7:5-4.2, the grant amount shall be determined by the ENSP consistent with N.J.A.C. 7:5-3.3 and in accordance with an executed grant agreement between the Department and the applicant. The grant agreement shall specify, among other things, the following:

1. – 2. (No change.)

3. The work period, not to exceed [one year] **two years**;

4. - 5. (No change.)

(b) – (e) (No change.)