

Statement of Imminent Peril to Public Health, Safety, and Welfare Mandating
Adoption of Amendments to the Game Code and Adoption of the Comprehensive
Black Bear Management Policy
by Emergency Procedures

New Jersey has a burgeoning black bear population that, aided by management measures, has grown considerably over the past several decades since the New Jersey Fish and Game Council first closed the black bear hunting season in 1971 out of concern for the declining black bear population. In accordance with N.J.S.A. 13:1B-28 and the State Supreme Court's decision in U.S. Sportsman's Alliance Foundation v. NJDEP, 182 N.J. 461 (2005), the Fish and Game Council since 2010 has authored a Comprehensive Black Bear Management Policy (CBBMP) that outlines non-lethal and lethal management actions to ensure the longevity of this species, provide for human safety, and reduce bear-human conflict. With the 2021 expiration of the prior CBBMP, the bear season specified in N.J.A.C. 7:25-5.6 closed and has not reopened since. The State of New Jersey and the Department of Environmental Protection (Department) have invested significantly in black bear research, response, and non-lethal management measures over the past several years, including adding a \$1.5M supplemental appropriation to the Department's FY22 and FY23 budgets for this work. Despite these added efforts, the bear population in New Jersey has continued to grow.

Because of this continued growth in population, and because of significant increases in bear incidents, maintaining public safety requires immediate action by the Council to control the bear population. A regulated bear hunt is the most effective tool available to control New Jersey's wild black bear population, keep it within its cultural carrying capacity, and maintain its health and sustainability. A regulated bear season will reduce the number of bears in the State and thereby reduce the likelihood of life-threatening bear-human interactions. The CBBMP works in conjunction with the New Jersey State Game Code at N.J.A.C. 7:25-5.6, which delineates season dates and bag limits and establishes safeguards to allow for the closure of the hunting season should harvest targets be reached. Some changes within the Game Code are being enacted through this emergency rule which will prohibit

the take of small cubs and the adult bears traveling with these cubs, and limit the use of baiting for bears during the regulated season. Other states have incorporated similar restrictions into their regulations, and effective bear population control will still be possible with these modifications to New Jersey's Game Code.

Concerns for imminent peril to public health, safety, and welfare are based on the following:

- Historically, State biologists have estimated the size of the black bear population in the northwest portion of New Jersey (area open to bear hunting). In 2020, the black bear population in this area was estimated to be 3,158 bears. State biologists have continued to monitor this population and it is projected that its size will approach or exceed 4,000 bears within the next two years if immediate measures to control the population are not implemented.
- The probability of human-bear conflict is a direct result of density-dependent factors. The Department's data shows that the number of black bear incidents in New Jersey correlates closely with the bear population in the northwest portion of the State. Because bear habitat is so broadly interspersed with human development in northern New Jersey, and because an increasing bear population increases the likelihood that bears will venture to other, less suitable, habitat areas in a state that has the highest human population density in the nation, the likelihood of potentially dangerous bear-human interactions is a growing concern with the projected increase in bear population numbers.
- The Department has received 1,538 bear damage and nuisance reports between January 1, 2022 and October 21, 2022, which represents a 237% increase compared to the same time period in 2021. These 1538 incidents, in less than a full year, are higher than in any full year since 2014. The most concerning of these incidents include: 62 aggressive encounters with humans, 1 human attack, 12 dog attacks, 12 home entries, 15 attempted

home entries, 89 instances of property damage, and 52 attacks on protected livestock.

- Black bears are capable of inflicting great bodily harm to humans during negative bear-human interactions. In 2014, a young man was killed during an aggressive interaction with a bear on public open space.
- The Department has invested significantly in non-lethal management over the past 2 years but, while these expanded outreach measures have been effective in educating the public about black bears and how to reduce the likelihood of negative interactions, these practices are incapable of controlling the bear population by themselves and cannot fully offset the increasing likelihood of bear-human interaction when the bear population continues to grow.
- The increasing black bear population also has a detrimental impact on agriculture in the State. In the absence of immediate bear population control measures, farmers will experience increased crop damage due to black bears, and significant crop losses are expected.
- As winter approaches, black bears in New Jersey will enter a dormant state known as torpor (sometimes referred to as hibernation). Come spring 2023, the bear population will be larger as result of annual cub production. Black bears in New Jersey, as well as those in adjacent northeastern Pennsylvania and southeastern New York, are some of the most productive bears in North America. In New Jersey, the average female bear produces 2.7 offspring per litter, with first-year cub survivorship at 70 percent. New Jersey has excellent bear habitat and a consistent natural food base, so control of human-provided food alone cannot control bear population growth. Acting to reduce the black bear population in the remaining months of 2022 is critical to avoid continued unchecked growth of the population and to reduce the likelihood of negative bear-human interactions, both of which are

projected to increase in 2023. An updated review of scientific literature for non-lethal options for black bear population control found no new research on fertility control and immunocontraception of wild bear populations.

Without a new CBBMP authorizing a regulated bear hunt, the safety of New Jerseyans and visitors to New Jersey is at an elevated risk. Using non-lethal management methods alone will allow the population of bears to continue to grow, with a resulting increase in the number of bears found in and around neighborhoods. Despite the increased black bear research, response and non-lethal management measures undertaken the last several years, the increase in the bear population will result in a corresponding increase in human-bear conflicts since bear habitat is so broadly interspersed with human development in northern New Jersey, and bears have large home ranges. When the bear population reaches a point that there is a concern for public safety it is an indication that cultural carry capacity has been exceeded. Without immediate action, the risk to human safety will continue to increase and farmers will experience increased crop damage, especially in years when natural foods are not abundant. The regulated hunting season is a critical component in controlling the size of New Jersey's black bear population, and the CBBMP must be promulgated for the hunt to proceed. To not authorize a black bear hunt in light of a rapidly increasing bear population puts the safety of the citizenry of New Jersey at risk.

Through careful evaluation of the issues described above, the New Jersey Fish and Game Council finds an imminent peril exists to the safety, health, and welfare of the citizens of this State that justifies the adoption of the CBBMP and related amendments to the Game Code as emergency regulations pursuant to N.J.S.A. 52:14B-4(c). The adoption of the CBBMP and amendments to the New Jersey State Game Code at N.J.A.C. 7:25-5.6 on an emergency basis will allow a regulated hunt of black bears in New Jersey to occur in in December 2022 accordance with the limits imposed in the Game Code, thereby helping to reduce the current pattern of black bear population growth and the imminent

regulations pursuant to N.J.S.A. 52:14B-4(c). The adoption of the CBBMP and amendments to the New Jersey State Game Code at N.J.A.C. 7:25-5.6 on an emergency basis will allow a regulated hunt of black bears in New Jersey to occur in in December 2022 accordance with the limits imposed in the Game Code, thereby helping to reduce the current pattern of black bear population growth and the imminent threat that the continued unchecked population growth of black bears poses to public safety and agriculture. Immediate action to implement a regulated December hunt is the only reasonable way to limit the population growth of black bears in New Jersey before the next cycle of population growth in early 2023.

11/15/2022
Date

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