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SUBCHAPTER 10. Possession, Propagation, Liberation, Sale and Importation of Game Animals and Game Birds

7:25-10.1 Scope

This subchapter shall constitute the rules governing the possession, propagation, liberation, sale and importation of game mammals and game birds pursuant to N.J.S.A. 23:3-28 through 39.

7:25-10.2 Construction

This subchapter shall be liberally construed to permit the department to discharge its statutory functions.

7:25-10.3 Purpose

This subchapter is promulgated to regulate the possession, propagation, liberation, sale, and importation of game mammals and game birds through a permit system, with conditions associated therewith, to be issued at the discretion of the division.

7:25-10.4 Definitions

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

"Department" means the New Jersey Department of Environmental Protection.

"Division" means the Division of Fish and Wildlife or its successor within the Department of Environmental Protection.

"Director" means the Director of Fish and Wildlife or his successor within the Department of Environmental Protection.

"Game animal" means any mammal for which a legal hunting or trapping season has been established in New Jersey, identified in this subchapter, or designated a game animal by the Fish and Game Council in the annual game code.

"Game bird" means any bird for which a legal hunting season has been established in New Jersey, identified in this subchapter, or designated a game bird by the Fish and Game Council in the annual game code.

"Person" shall include, but is not limited to, corporations, companies, associations, societies including nonprofit organizations, firms, partnerships, joint stock companies, individuals, and governmental entities.

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"Qualified person" means a natural person presenting to the division the written testimonials from two well-known scientists certifying to the good character and fitness of the person to be entrusted with the privilege of holding the relevant permit.

7:25-10.5 Permit required

(a) Except as hereinafter provided, no person shall have in possession any game animal or game bird unless that person has first received a permit from the division. The permit form and permit application form shall be prescribed by and be obtainable from the division.

(b) No person shall liberate within this state any game animal or game bird unless that person has first received a permit therefor from the division.

(c) No person shall import into this state any game animal or game bird unless that person has first received a permit therefor from the division.

(d) The permit requirement pursuant to this section shall not apply to game animals and game birds legally taken or killed pursuant to the general hunting and fishing license statutes, N.J.S.A. 23:3-1 through 22, and during the season therefor.

7:25-10.6 Game animals and game birds for which a permit is required for possession

(a) A permit shall be required for possession of game animals including the following mammals:

1. Eastern cottontail rabbit (*Sylvilagus floridanus*);
2. Whitetail jackrabbit (*Lepus townsendi*);
3. Blacktail jackrabbit (*Lepus californicus*);
4. European hare (*Lepus europaeus*);
5. Eastern gray squirrel (*Sciurus carolinensis*);
6. Woodchuck (*Marmota monax*);
7. Beaver (*Castor canadensis*);
8. River otter (*Lutra canadensis*);
9. Muskrat (*Ondatra zibethicus*);
10. Nutria (*Myocaster coypus*);

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11. Mink (*Mustela vison*);
12. Weasel (*Mustela* spp.);
13. Virginia opossum (*Didelphis virginiana*);
14. Striped skunk (*Mephitis mephitis*);
15. Raccoon (*Procyon lotor*);
16. Red fox (*Vulpes vulpes*);
17. Gray fox (*Urocyon cinereoargenteus*);
18. Coyote (*Canis latrans*);
19. Black bear (*Ursus americanus*);
20. Bobcat (*Felis rufus*);
21. Whitetail deer (*Odocoileus virginianus*).

(b) A permit shall be required for possession of the following game birds:

1. Family Anatidae:
 - i. Geese;
 - ii. Brant;
 - iii. Tundra swans; and
 - iv. Whistling, dabbling, diving, and sea ducks;
2. Family Rallidae:
 - i. Rails;
 - ii. Moorhens;
 - iii. Coots; and
 - iv. Mud hens;

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3. Family Charadriidae:

- i.** Plovers;
- ii.** Surf birds; and
- iii.** Shorebirds;

4. Family Scolopacidae:

- i.** Sand pipers;
- ii.** Woodcock;
- iii.** Snipe;
- iv.** Curlews; and
- v.** Tattlers;

5. Family Meleagrididae:

- i.** Wild turkeys;

6. Family Tetraonidae:

- i.** Grouse; and
- ii.** Prairie chickens;

7. Family Phasianidae:

- i.** Pheasants;
- ii.** Partridges; and
- iii.** Quails;

8. Family Columbidae:

- i.** Mourning dove; and

9. Family Corvidae:

- i.** Common crow.

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(c) The division may issue a permit for the possession of the mammals or birds listed in (a) and (b) above provided the applicant has satisfactorily met the criteria contained within N.J.A.C. 7:25-10.8.

7:25-10.7 Categories of permits, expiration, fees, sales receipt required, records and reports required

(a) The division, when it appears to be in the public interest, may issue the following permits:

1. "Individual Hobby" may be issued to persons holding game animals for hobby purposes or as pets;
2. "Scientific Holding" may be issued to qualified persons holding game animals or game birds for scientific observation, captive breeding attempts and other scientific or educational study;
3. "Zoological" may be issued to private and public institutions which exhibit game animals or game birds for possession, importation, exportation, and sale of species listed in the permit;
4. "Propagation and Sales" may be issued to persons engaged in the propagation and/or sale of game animals or game birds for importation, exportation, and sale of species listed in the permit;
5. "Animal Exhibitor" may be issued to exhibitors of game animals or game birds other than zoos, including traveling exhibits, small exhibitions not qualifying as zoos, and circuses;
6. "Animal Theatrical Agency" may be issued to persons owning game animals or game birds to be used for advertising, acting, or theatrical appearances, permitting importation, exportation, and sale of species listed in the permit;
7. "Fur Farming" may be issued to persons engaged in the business of fur farming the species listed at N.J.A.C. 7:25-10.6(a)7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 20; and
8. "Cooperator" may be issued to persons who are deemed qualified by the Division under the criteria set forth in the most current edition of the "Cooperator's Manual" or, in the absence of such manual, based on the need as determined by the Division to rear orphaned juvenile wildlife species and rehabilitate injured wildlife species listed under N.J.A.C. 7:25-10.6(a) and (b). Persons issued this permit must also maintain applicable federal permits where required.

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- (b)** All possession permits shall expire on December 31 of the year of issue.
- (c)** The license fee for each permit shall be \$ 5.00; provided, however, that there shall be no fee for the Cooperator permit.
- (d)** All permits must be displayed in a prominent place. The sale of game animals or game birds to any person must be accompanied by a "Game Animal or Game Bird Sales Receipt," the form of which shall be prescribed by and obtainable from the Division, and which shall serve as a temporary possession permit for a period of 20 days after the date of sale.
- (e)** Propagation and sales dealers shall submit to the Division an annual inventory of acquisitions, sales, and exchanges upon expiration or renewal of their permits.
- (f)** Zoological, Exhibitor, Theatrical, and Cooperator permit holders must submit quarterly reports of births, deaths, acquisitions, and disposals.
- (g)** Periodic inspections may be made by Division-designated personnel and shall consist of examination of game animal or game bird, their food, facilities, holding pen and exhibit area, and a review of relevant records pertaining to these species.
- (h)** Animal exhibitors and animal theatrical agencies shall notify the Division no less than two weeks prior to any scheduled activity in New Jersey covered by their permits in order to allow inspection of the activity by Division personnel.

7:25-10.8 General possession criteria

- (a)** Prior to the issuance of any permit under this subchapter, the applicant shall, on forms provided by the Division, demonstrate the following:
 - 1.** The origin of the animal is not from the wild stock of this State or any other state except where authorized by the Division for rehabilitative, scientific or other purposes consistent with the purposes of this subchapter as determined by the Division.
 - 2.** The animal will be fed an adequate diet;
 - 3.** The animal is housed or caged in a manner that:
 - i.** Allows the animal to perform the normal behavior patterns of its species; and
 - ii.** Prevents disease, liberation, or accidental injury to the animal and the public;

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4. The method of acquisition did not violate the laws and regulations of this State, any other state, or the federal government;
5. Competent and adequate licensed veterinary services for the care and treatment of the animal are readily available; and
6. The animal is free of infectious diseases and parasites which may be dangerous to the animal, livestock, or people of the State. The Division may request certification from a licensed New Jersey veterinarian or a person recognized as qualified by the director to make such certification that the animal for which the permit is being sought is free from infectious diseases and parasites.

7:25-10.9 Emergency possession

(a) Persons may temporarily possess without permit a game animal or game bird, other than a potentially dangerous species defined at N.J.A.C. 7:25-10.10, which is orphaned, injured, or displaced provided that:

1. The Division law enforcement office of jurisdiction, DEP Emergency Hotline, or the Wildlife Control Unit is notified of such emergency possession within 12 hours of acquisition;
2. The Division Wildlife Control Unit reviews the case for the purpose of prescribing a course of action that is in the best interest of the animal or bird so possessed; and
3. The emergency possession of the game animal or game bird does not violate any local ordinances or requirements;
4. Contact phone numbers for cases of emergency possession are as follows:
 - i. Northern Region Law Enforcement Office (201) 735-8240;
 - ii. Central Region Law Enforcement Office (201) 259-2120;
 - iii. Southern Region Law Enforcement Office (609) 629-0555;
 - iv. DEP Emergency Action Hotline (24 hours) (609) 292-7172; and
 - v. Wildlife Control Unit (201) 735-8793.

(b) The game animal or bird held without a permit therefor shall be surrendered upon demand by the Division.

7:25-10.10 Potentially dangerous species

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(a) "Potentially dangerous species" is defined as any game animal or game bird which, in the opinion of the Division, is potentially capable of inflicting serious or fatal injuries, of being an agricultural pest, of being detrimental to existing or future wild populations, or of being a menace to public health, including, but not limited to, the following:

Order

Carnivora

Artiodactyla

Family

Canidae--Nondomestic dogs

Ursidae--Bears

Felidae--Nondomestic cats

Cervidae--Deer

(b) The Division, in its discretion, may issue a permit for possession of a potentially dangerous game animal or game bird only after a clear showing that the criteria for the possession of such potentially dangerous game animal or game bird have been met

7:25-10.11 Criteria for the possession of potentially dangerous species

(a) In addition to the general criteria enumerated in N.J.A.C. 7:25-10.8, every person applying for a permit to possess potentially dangerous species shall meet each of the following criteria to the satisfaction of the Division:

1. Education and background: Persons wishing to apply for a permit to possess a potentially dangerous species must have extensive experience in maintaining the species desired or related species;
2. Knowledge: Persons wishing to apply for a permit to possess potentially dangerous species must demonstrate a working knowledge and expertise in handling and caring for each of the species desired;
3. Other licenses and permits: Persons applying to possess potentially dangerous species must obtain, in addition to New Jersey Captive Game Animal or Game Bird Permit, all other applicable permits covering the possession of such species. Any permit issued for the possession of such animal by the Division shall not exempt an applicant from compliance with any other law of the State, or subDivision of the State, any municipality, or the Federal government, regarding construction necessary to house the animal, or other local requirements;
4. Purpose and intent: Persons applying to possess potentially dangerous species must submit a written statement of the purpose and intent of keeping the species;
5. Housing and feeding: Persons applying for a permit to possess a potentially dangerous species must supply a written description of the housing and caging facilities for the species required including a summary detailing a continuous source of food appropriate for the specific diet of the animals. Facilities must be constructed to prevent the possible escape of the animal. Division personnel may

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inspect the completed facilities to determine if the facilities are suitable for the game animal or game birds; and

6. Protection of the public: The housing facilities must also be constructed to prevent public access to, and contact with, the animal. The potentially dangerous species may not be kept as a household pet except when compelled by the infancy of the animal. The public must not be allowed access to the animal, including animals used for exhibition purposes.

7:25-10.12 Denial, suspension, revocation and hearings

(a) The department may suspend the permits described in N.J.A.C. 7:25-10.7 and 7:25-10.10 for periods of time up to their duration upon the violation of any permit condition or any regulation appearing in this subchapter. The department may revoke the permits described in N.J.A.C. 7:25-10.7 and 7:25-10.10 upon finding in any five-year period two or more violations of any permit condition(s) or any regulation appearing in this subchapter. After revocation, no permit shall be issued to the violator within two years from the date of the second violation, or within three years from the date of the third or subsequent violation.

(b) In the event the department determines the necessity for denial of a permit application for, suspension of, or revocation of, any permit described in N.J.A.C. 7:25-10.7 and 7:25-10.10, the department shall issue a notice of intent to deny, suspend, or revoke, setting forth the reasons for such action. Where appropriate, a compliance directive shall accompany the notice of intent.

(c) The recipient of the notice of intent may request a contested case hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, by filing a written request with the Department therefor within 20 days from the receipt of the notice of intent described above at (b). The request for a hearing shall be sent to the New Jersey Department of Environmental Protection, Office of Administrative Hearings and Dispute Resolution, ATTENTION: Adjudicatory Hearing Requests, 401 E. State Street, Mail Code 401-07A, PO Box 420, Trenton, New Jersey 08625-0420.

1. A request for a contested case hearing shall clearly state:

- i.** The name of the recipient;
 - ii.** The departmental decision from which the recipient seeks relief;
 - iii.** The details of how the departmental decision aggrieves the recipient;
- and

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iv. The findings of fact incorporated within the notice of intent that the recipient contests.

2. The department shall review each hearing request and, upon a determination that the matter constitutes a contested case, grant a hearing. The denial of a request for a contested case hearing shall be considered to be final agency action on the matter.

3. The granting of a request for a contested case hearing shall not automatically stay the suspension or revocation.

(d) In the case of a notice of suspension or revocation of a permit issued pursuant to N.J.A.C. 7:25-10.10(b), the recipient of such notice shall immediately comply with any departmental directive as to disposal of the captive potentially dangerous species.

(e) Notwithstanding the provision at (c)3 above, in the case of a notice of suspension or revocation of a permit issued pursuant to N.J.A.C. 7:25-10.7, the recipient of such notice shall comply with any departmental directive as to disposal of the captive species upon final suspension or revocation.

7:25-10.13 Miscellaneous provisions

(a) Any person who transfers possession, as distinguished from ownership, or location of any game animal or game bird for which a permit has been issued, shall, within 48 hours, report in writing to the division exactly which animal(s) was transferred, the name and address of the person to whom the animal(s) was transferred and the location to which the animal(s) was transferred. No transfer shall be permitted without prior written approval of the division of a potentially dangerous species as defined at N.J.A.C. 7:25-10.10.

(b) Any person, issued a permit, who violates or fails to continually conform to the criteria established for the issuance of his permit, shall be considered to have violated an express condition of the permit and shall be deemed to be in possession of the animal or bird without a permit. Permit violators shall be subject to prosecution for possession of the animal or bird without a permit, and may be subject to the penalty prescribed by statute.

(c) No person shall acquire additional game animals or game birds under any one permit without prior written permission from the division. Progeny of permitted captive game animals or game birds are exempt from this requirement provided the permittee can biologically substantiate the increase in numbers from permitted captive game animals or game birds and reports the increase on the annual inventory report.

(d) As a condition of any permit issued under this subchapter the division may require the permitted game animal or game bird be quarantined for the period specified by the division.

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(e) Any permittee shall allow division personnel, at any reasonable time, to inspect the housing facilities of the permitted species to determine compliance with the permit requirements and criteria.

(f) Nothing in this subchapter relative to the possession of Game Animals and Game Birds is intended to preempt any federal, state, or local requirement that is more stringent nor exempt any person from obtaining any permit required by these governmental entities.

(g) Game animals and birds possessed under these permits may be dispatched in a manner as directed by N.J.S.A. 23:3-31 for legitimate purpose, including, but not limited to, the following:

1. Euthanasia of sick, injured or surplus animals, in order to cull individuals to prevent overcrowding or spread of disease; such euthanasia can also be ordered by the Commissioner when necessary to prevent spread of disease;
2. To utilize as food, or to utilize the hide, skin, or other body parts; record-keeping and tagging requirements must comply with those described in N.J.S.A. 23:3-28 to 39;
3. Euthanasia by an agent of the Division or as ordered by the Commissioner;
4. When an animal creates a danger or serious threat to persons or other animals as determined by the Commissioner; or
5. Euthanasia of research animals held under the scientific holding permit