

321 CMR: DIVISION OF FISHERIES AND WILDLIFE

321 CMR 2.00: MISCELLANEOUS REGULATIONS RELATING TO FISHERIES AND WILDLIFE

Section

- 2.01: Retriever or Bird Dog Trials In Massachusetts
- 2.02: Permits to Take or Possess
- 2.03: Possession and Use of Shotgun Shells Loaded with Lettered Birdshot
- 2.04: Salvage, Disposition and Possession of Deer Killed by Means Other than by Sport Hunting
- 2.05: Commercial Shooting Preserves
- 2.06: Classes of Hunting, Fishing, and Trapping Licenses
- 2.07: Possession, Sale, and Use of Ferrets
- 2.08: Use of Certain Traps for the Taking of Fur-bearing Mammals
- 2.09: Trapping of Birds by Farmers
- 2.10: Issuance of Permits to Expose Poisons for the Control of Mammal and Bird Species Not Protected by Federal or State Statutes
- 2.11: Display of Sporting, Hunting, Fishing, and Trapping Licenses
- 2.12: Artificial Propagation of Birds, Mammals, Reptiles and Amphibians
- 2.13: Wildlife Rehabilitation
- 2.14: Problem Animal Control
- 2.15: Importation, Liberation, and Transportation of Fish, Amphibians, Reptiles, Birds, and Mammals

2.01: Retriever or Bird Dog Trials in Massachusetts

In accordance with the authority vested in me by M.G.L. c. 131, § 21, and in addition to the provisions of M.G.L. c. 131, §§ 20 and 21, I hereby declare 321 CMR 2.00 relative to retriever or bird dog trials in Massachusetts.

(1) Upon application to the Director by a club or organization, and upon payment of a fee by the applicant, the amount of which shall be determined annually by the Commissioner of Administration and Finance under the provisions of M.G.L. c. 7, § 3B, while in effect, the Director may issue a license under M.G.L. c. 131, § 20, to such club or organization to hold a special bird dog trial or retriever trial at the time and place stated in the license.

(2) Clubs or organizations desiring to hold a bird dog trial or retriever trial on properties owned or administered by the Division of Fisheries and Wildlife, or on other properties where the services of an employee or employees of the Division of Fisheries and Wildlife are deemed necessary, may apply to the Director for a permit to hold said trial under M.G.L. c. 131, § 21. Such a permit may be issued upon payment of a reasonable fee, the amount of which shall be determined annually by the Commissioner of Administration and Finance. Said permit shall not authorize the killing or taking of game birds and mammals. No fee will be charged for M.G.L. c. 131, § 21 field trial permits issued for trials held on private grounds not involving the services of Division of Fisheries and Wildlife employees.

(3) Organizations desiring to apply for field trials or to purchase birds for use in field trials shall apply to the Division of Fisheries and Wildlife, District Office for the area in which the trial is to be held at least four weeks prior to the date of the licensed trial. Applicants shall provide the Division with the name of the club sponsoring the trial, the date(s) and location of the trial site, and the name and address of a club officer who will act as representative at the trial. Date and location of the trial shall be approved by the Director or his authorized agent prior to the approval of bird liberations.

(4) No club or organization shall liberate any pheasant, quail, chukar partridge, mallard duck, or other game bird unless said club or organization possesses a permit from the Director so to do, and unless any pheasant or quail so liberated has been individually tested within six months, or the parent flock tested within one year, and certified by the Department of Agricultural Resources as free of salmonella pullorum as required in the official Massachusetts pullorum passed grade for poultry, or any transmissible poultry disease by the animal science department of the University of Massachusetts, or shall have been so certified by a corresponding agency or official of another state. No individual, club or organization shall import any game bird unless said individual, club or organization possesses a permit from the Director so to do.

2.01: continued

(5) No club or organization licensed or permitted to hold a retriever or bird dog field trial on wildlife management areas, nor any individual or officer belonging to or associated with said club or organization, shall dump or discard any trash, bottles, signs, posters, or other debris within or upon any wildlife management area or on the grounds of adjacent installations, or inside of any buildings or facilities which may be provided for use by field trial licensees or permittees, nor shall any club, organization, or individual associated therewith discard or deposit hay, straw, manure, or other debris from or within any horse trailer or animal transporter onto or upon any lawn or parking lot of any wildlife management area or other Division installation. Licensees, permittees, or their representative shall inspect the premises utilized by them for said field trial and shall remove or cause to be removed, no later than the last day of the trial, any such debris, trash, manure, or material of like nature. Field trial chairmen will make any special arrangements with the Wildlife District Manager.

(6) The issuance of a field trial license or permit to an organization for a trial on a wildlife management area grants exclusive use of that area actually being used by the licensed organization and does not extend to other portions of the wildlife management area. Licensees, permittees, and participants engaged in field trials on wildlife management areas shall abide by the provisions of 321 CMR 3.01(1) and unless herein excepted or excepted in the license or permit granted for said field trial, and shall further adhere to and abide by any special requirements issued or required by the Director or his authorized agent as conditional for a particular bird dog or retriever trial.

(7) Field trials may be conducted on the Crane, High Ridge, and Herman J. Covey (Swift River) Wildlife Management Areas from the first Saturday in March to the first Friday following Columbus Day prior to October 10. During the upland game bird season at Crane, High Ridge and Herman J. Covey (Swift River) Wildlife Management Areas, trials may be conducted only on Sundays. From the first Friday following Columbus Day through the last Sunday in November, pheasants only will be used on the High Ridge and Herman J. Covey (Swift River) Wildlife Management Areas, and pheasants and quail only permitted on the Crane Wildlife Management Area. Trials may be conducted on other wildlife management areas at such times as may be authorized in writing by the Director or his agent.

(8) Horses may be used by handlers, judges, recorders, or scouts. All horses must travel in marked lanes or vehicle roads only unless involved in the handling of a dog as authorized by the field trial judge or unless otherwise authorized by the Director or his agent. No horses shall be permitted at any time in those fields or mown areas maintained for the purpose of flying model airplanes.

(9) Overnight camping in self-contained units may be conducted in conjunction with field trials when so stated on the field trial permit. All campers, trailers and other vehicles not authorized by the permittee for overnight camping or in trials not allowing overnight camping, must leave the trial grounds no later than four hours after the last brace of the day has been completed. *No* overnight camping will be allowed on the Herman J. Covey (Swift River) Wildlife Management Area. Parking and overnight camping for handlers, judges, committee members, participants and observers shall be in accordance with those areas designated by the Director or his authorized agent.

(10) Electrical, water, or sewage hookups shall not be made to Division outlets or buildings without the express permission of the Director or his authorized agent.

(11) For trials on any wildlife management area, licensees, permittees, or their authorized representative in charge of the trial must contact the Wildlife District Manager in charge thereof prior to said trial to receive any special instructions pertinent to the trial.

(12) No trials licensed under provisions of M.G.L. c. 131, § 20, shall be held on the High Ridge and Herman J. Covey (Swift River) Wildlife Management Areas.

(13) The Director may deny or revoke a permit for just cause at any time.

2.02: Permits to Take or Possess

(1) Definitions. For the purposes of 321 CMR 2.02, and unless the context requires otherwise, the following words shall have the following meanings:

Board means the Fisheries and Wildlife Board established pursuant to M.G.L. c. 21, § 7.

Director means the Director of the Division of Fisheries and Wildlife.

Person means any named individual, partnership, corporation, whether profit or non-profit, firm, business, or other commercial or non-commercial entity, club, organization, or association.

(2) Authority of Director. In accordance with the provisions of M.G.L. c. 131, § 4(2), the director may take or in writing authorize employees of the Division of Fisheries and Wildlife or other persons to take and possess fish, fish spawn, birds, the nest and eggs thereof, mammals, reptiles and amphibians at any time or in any manner for the purposes of observation, research, control or management, and, in his or her discretion, excuse certain persons so authorized from any licensing provision of M.G.L. c. 131.

(3) Scope. The provisions of 321 CMR 2.02 set forth certain special permits which may be granted pursuant to M.G.L. c. 131, § 4(2) and establish procedures for the granting of special permits or exemptions to certain classes of persons. 321 CMR 2.02 does not apply to permits or licenses issued pursuant to other provisions of M.G.L. c. 131 or c. 131A.

(4) Categories of Permits. Permits which may be issued pursuant to M.G.L. c. 131, § 4(2) may include, but not be limited to, bird-banding, salvage, and scientific collecting permits, or letter permits incorporating specialized authorizations. The director may establish reasonable standards and conditions for each category of special permit, consistent with the intent and purpose of the permit, and such standards and conditions shall be construed as limiting the authority of the permit to such extent. The director may further require a permittee to keep certain records or submit certain reports as a condition of the permit, or renewal thereof, and failure to keep or submit such records or reports, when required, may be cause for suspension, revocation, or non-renewal of the permit.

(5) Exceptions. Notwithstanding the provisions of 321 CMR 2.02(4), wildlife rehabilitation permits shall be administered in accordance with 321 CMR 2.13 and problem animal control permits in accordance with 321 CMR 2.14.

(6) Beaver Dams. Beaver are aquatic mammals which depend on impounded water as an essential part of their life cycle. Beaver construct dams from natural materials to provide such impounded water where not existing naturally in proximity to their food supply. The destruction or damaging of a beaver dam therefore may cause harm to or loss of the beavers inhabiting the water impounded by the dam. This destruction or damage, when caused by humans, is construed to constitute a take of the beavers harmed, or potentially harmed, by such action. The destruction, altering, or damage of a beaver dam as defined in 321 CMR 3.02(5)(a): *Definitions* is prohibited without a permit to do so. The director is authorized to issue such permit, when, in his judgement, such permit is necessary to avoid harm to essential human interests including, but not limited to, flooding of roads, structures, septic systems, agricultural crops, and wellfields, or the cutting of ornamental or fruit-bearing trees.

2.02: continued

(7) Requirements for Group Permits and Exemptions. The director may, subject to federal law, issue a permit to any group or class of persons to take or possess fish, fish spawn, amphibians, reptiles, birds, the nest or eggs thereof, mammals, or invertebrates, or may issue an exemption for the taking thereof or for the manner, time or purpose of taking or other related requirements, in accordance with 321 CMR 2.02(8). Such permit or exemption may provide that such group or class of persons are authorized to engage in the specified activity, or to be exempted from certain requirements, as the case may be, by expanding the authority of such other permit or license as may be held by such persons. Alternatively, the director may determine that a notice published in the Massachusetts Register shall constitute the permit or exemption for those persons so authorized or exempted and such persons shall not be required to receive a individual permit to engage in the specified activity or exemption. In the case of 321 CMR 2.02(8)(d) and (e), the director may determine in writing, subject to the provisions of 321 CMR 2.02(9) and (10) that no permit is required to engage in certain specified activities. The provisions of 321 CMR 2.02(7) shall not be construed to limit the issuance of group fishing permits to the head of a veteran's hospital or to the administration of a publicly supported school for the mentally retarded, as provided for in M.G.L. c. 131, § 13.

(8) Determination. The director may issue a permit or make a determination pursuant to 321 CMR 2.02(7) if:

- (a) the proposed activity is necessary or appropriate to preserve, protect, or enhance the public health or welfare;
- (b) the proposed activity is necessary or appropriate to preserve, protect or enhance the health of fish, birds, amphibians, reptiles, birds, mammals, or invertebrates;
- (c) the proposed activity is necessary or appropriate as a part of research or management of fish, amphibians, reptiles, birds, mammals, or invertebrates;
- (d) the proposed activity is necessary or appropriate as part of observation or inventory of fish, amphibians, reptiles, birds, mammals, or invertebrates;
- (e) the proposed activity is necessary or appropriate to promote interest in or understanding of fish, amphibians, reptiles, birds, mammals, or invertebrates.

(9) Procedure. A written determination made by the director in accordance with 321 CMR 2.02(7) shall not be effective until:

- (a) such determination is approved in writing by the Board;
- (b) such determination is published in the Massachusetts Register stating the reasons therefor;
- (c) such determination is made available to the public at all the Division field installations and its Board offices;
- (d) included with such determination is a statement that comments as to such determination may be submitted to the Division for a two-week period.

(10) Comments. The director shall consider any written comments which may be submitted to the Division for a period of two weeks after the publication date. Based upon these written comments the director may amend, alter or rescind the determination.

(11) Denials. In the event of the denial, non-renewal, or suspension of a permit, other than a letter permit, the director shall follow those procedures set forth in 321 CMR 2.12(9), (20) and (21).

(12) A permit to use bear hounds or bait may be issued by the Director upon written application for the control of individual animals specifically identified as posing a threat to human safety or individuals that have destroyed livestock, property, or crops, or for legitimate scientific research projects that are conducted in a humane manner.

2.02: continued

(a) Definitions:

Bear hound means a dog, regardless of breed, which is used to harass, hunt, pursue, scent, take, or trail black bear.

Director means the Director of the Division of Fisheries and Wildlife, as specified in M.G.L. c. 21, § 7F through 7G, or his authorized agent.

Training means the harassment, hunting, pursuing, scenting, taking, or trailing of black bear with or by means of bear hounds, and includes attempts and acts of assistance for such purposes.

(b) Registration. All bear hounds used for training in Massachusetts shall be registered with the Director who may issue a permit for such use in accordance with M.G.L. c. 131, § 21A and 321 CMR 2.01(12). Such permit shall be valid for a period not to exceed one calendar year and shall be restricted to such locality or geographical area(s) as shall be approved by the Director.

(c) Applications. A person seeking a permit as provided in 321 CMR 2.01(12)(b) shall submit a written application to the Director. Such permit may be issued to the applicant or to such agent of the applicant as shall be approved by the Director. Completed applications shall include a self-addressed stamped business-size envelope and shall be addressed to the Director of the Division of Fisheries and Wildlife.

(d) Information and Requirements for Applications. All applications shall include the following information:

1. name, street address, and telephone number of applicant;
2. name, street address, and telephone number of dog owner and/or trainer/handler; if different from 321 CMR 2.02(12)(d)1.;
3. license plate number and state of registration of vehicle used to transport bear hounds;
4. for each individual bear hound, the breed, color, sex, tattoo number (if any), dog license or kennel number and city or town where licensed, and radio frequency of telemetry collar (if any);
5. signature of the applicant and owner or trainer/handler, executed under the pains and penalties of perjury;
6. date the application was executed; and
7. such other information as the Director shall require.

(e) Amendments. A permittee may add or delete individual bear hounds or vehicles to his permit at any time during the period during which such permit is valid. Such additions or deletions shall otherwise conform to the provisions of 321 CMR 2.01(12).

(f) Permit to be Carried. A person shall not train a bear hound unless he possesses on his person at all times during such training a bear hound registration permit as provided in 321 CMR 2.01(12)(b).

(g) Bear Hound Pack Limitations. Possession, use or control of more than four bear hounds while training, in any vehicle or in any field or woodland, is prohibited. Combined or relayed packs of more than four bear hounds by one or more permittees are prohibited.

(h) Baiting. A permit to use bait shall generally conform to the provisions of 321 CMR 2.01(12)(b) through (f) and shall include such other restrictions or conditions as the Director shall deem advisable, including, but not limited to, kinds and amount of bait, placement of bait, and bait removal requirements.

(13) A permit to use bobcat hounds may be issued by the Director for the purposes and in like manner as provided for in 321 CMR 2.02(12).

2.03: Possession and Use of Shotgun Shells Loaded with Lettered Birdshot

In accordance with the authority found in M.G.L. c. 131, §§ 5 and 66, rules and regulations relative to the possession of shotgun shells loaded with lettered birdshot are hereby adopted.

(1) Definitions.

Birdshot means those sizes of shotgun shot which have a pellet diameter equal to or less than 0.160 inches in the American standard.

Buckshot means those sizes of shotgun shot which have a pellet diameter equal to or greater than 0.240 inches in the American standard, but excluding a single ball or slug.

Coot means the coot or American coot (*Fulica americana*).

Lettered Birdshot means those sizes of shotgun shot which have a pellet diameter not less than 0.170 inches and not greater than 0.230 inches in the American standard, and shall include B, BB, BBB, T, TT, F and FF shot, so-called.

Non-toxic Shot means steel shot or such other non-toxic shot as shall be approved by the United States Fish and Wildlife Service as an acceptable non-toxic alternative to lead shot.

Shotgun Shell means a cartridge or round of ammunition consisting of primer, case, propellant (powder) and projectile (one or more shot, balls, or slugs) designed to be fired from a shotgun.

Shotgun Shell Loaded with Shot means loose shot carried in a shot pouch or similar container, or which is carried on the person and could readily be so loaded, as well as shot which has been loaded in a shotgun shell or in the barrel of a primitive firearm.

Waterfowl means migratory game birds of the family *Anatidae* (ducks, mergansers, geese, and brant).

(2) Persons licensed to hunt in Massachusetts, or persons lawfully hunting without a license, may possess and use birdshot for hunting for those birds and mammals and during those seasons when hunting with a shotgun is otherwise lawful. Persons licensed to hunt in Massachusetts, or persons lawfully hunting without a license, may use and possess for the purposes of hunting waterfowl, coot, or coyote, shotgun shells loaded with birdshot or lettered birdshot during the annual open seasons for waterfowl and coot as provided in 321 CMR 3.02(2), or the annual open seasons for coyote as provided in 321 CMR 3.02(3), provided that only non-toxic shot may be used or possessed for the hunting of waterfowl and coot. Nothing in 321 CMR 2.03(2) shall be construed to allow the use of shotgun shells loaded with birdshot, lettered birdshot, buckshot, slugs, or single balls of any size during those seasons or at those times or in those places where hunting by means of a shotgun is otherwise disallowed.

(3) Possession of shotgun shells loaded with buckshot, slugs, or single balls shall be subject to the provisions of M.G.L. c. 131, § 66, and shall not be possessed in any place where birds and mammals may be found, except during the period when deer may be hunted lawfully by means of a shotgun as provided in 321 CMR 3.02(4)(b)3. and 5. Notwithstanding the foregoing, shotgun shells loaded with buckshot, slugs, or single balls may be possessed on a skeet, trap, or target range between sunrise and sunset, when otherwise lawful.

2.04: Salvage, Disposition and Possession of Deer Killed by Means Other than by Sport Hunting

(1) Purpose: The purpose of 321 CMR 2.04 is to provide a procedure for the salvage, disposition and utilization of deer killed by means other than by sport hunting and to thereby eliminate or reduce the wastage of edible meat or specimens for scientific study. No person, except as provided in 321 CMR 2.04, shall take, transport, or possess a salvageable deer as defined in 321 CMR 2.04(2).

2.04: continued

(2) Definitions. For the purposes of 321 CMR 2.04, the following words or phrases shall have the following meanings:

Approved Organization. Any non-profit Massachusetts sportsman's club, civic organization, church, synagogue or other religious entity, museum, natural history association, or similar non-profit organization.

Director. The Director of the Division of Fisheries and Wildlife, or his or her agents.

Eligible Person. The driver of the motor vehicle which collided with a salvageable deer, or any passenger in such vehicle, provided that such person shall be domiciled in Massachusetts.

Environmental Police Officer or EPO. The Director of the Office of Law Enforcement, deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, environmental police officers, and such other enforcement officers of the Office of Law Enforcement as may be appointed pursuant to M.G.L. c. 21, § 6.

Salvage. The lawful rendering into possession of a salvageable deer by an eligible person in accordance with provisions of 321 CMR 2.04.

Salvageable Deer. Deer killed by collision with a motor vehicle on a Massachusetts way, or by being seriously injured by such collision and subsequently killed at the scene of the collision by a law enforcement officer.

(3) Upon the killing of a salvageable deer, an eligible person who intends to salvage the deer shall immediately, upon taking the carcass of the deer into his or her possession, notify the Office of Law Enforcement (1-(800) 632-8075) of such intent and shall report to said Office his or her name and address and the date, place, and time of the killing of the deer. In the event that the Office of Law Enforcement cannot be so contacted, the eligible person shall immediately notify the municipal police in which the deer was killed, or the nearest State Police Barracks, and shall request that such police log the incident, including the name and address of the eligible person and the date, place, and time of the killing of the deer.

(4) Within 24 hours after the killing of a salvageable deer, the eligible person shall transport the carcass of the deer to an installation or field office of the Division of Fisheries and Wildlife or of the Office of Law Enforcement, or, if so directed when reporting as specified in 321 CMR 2.04(3), to an Environmental Police Officer at such place and time as the EPO shall specify. The EPO or official agent in charge of the installation or field office shall cause the deer to be tagged with an official seal and shall complete and issue to the eligible person a permit which shall be issued at no charge and which shall allow him or her to possess and transport the salvageable deer. The official seal shall remain attached to the deer carcass while the carcass is being transported and until the carcass is butchered or otherwise prepared for food purposes. The eligible person shall retain the permit until all edible parts of the deer shall have been consumed.

(5) Deer or parts thereof salvaged under provisions of 321 CMR 2.04 shall not be sold, bartered, or exchanged for consideration, provided that nothing in 321 CMR 2.04(5) shall be deemed to preclude the retention for personal use by an eligible person of the head, hide, hooves, and shinbones of such salvageable deer as he shall have been permitted to possess. In the event that the salvageable deer shall be disposed of in accordance with 321 CMR 2.04(6)(a) to an approved organization for a game dinner or similar purpose, it shall be understood that any charge or fee requested by such approved organization shall be considered a donation to the organization and not a charge or fee for the purchase of any meal containing deer meat.

2.04: continued

(6) In the event that an eligible person does not desire to salvage a salvageable deer, or if the deer is killed by a motor vehicle of which the driver and any passenger is not an eligible person, the deer may be disposed of in the following manner:

(a) by an Environmental Police Officer, who may dispose of the deer to any approved organization or to any person domiciled in Massachusetts who is otherwise ineligible under provisions of 321 CMR 2.04(3), provided that any deer so disposed of shall be tagged and a permit issued as specified in 321 CMR 2.04(4). The permit shall be issued in the name of the approved organization or person receiving the deer and shall, if applicable, also bear the name and address of a principal officer of the approved organization. Deer which shall be inedible or otherwise unsuited for salvage shall be disposed of by lawful burial or incineration or as otherwise ordered by the Director or the Director of the Office of Law Enforcement; or,

(b) by employees of a city or town or of the Department of Transportation, by burial or incineration in accordance with such permit or authorization as shall have been issued by the Director, or by disposition to such person or approved organization as shall be approved by the Director or an Environmental Police Officer; or,

(c) in the event that an Environmental Police Officer shall come into possession of a deer other than a salvageable deer or a deer which has been lawfully killed and tagged in accordance with provisions of 321 CMR 3.02(4): *Hunting and Tagging of Deer*, such EPO may dispose of the deer in accordance with provisions of 321 CMR 2.04(6)(a).

2.05: Commercial Shooting Preserves

(1) Purpose and Scope. The purpose of 321 CMR 2.05 is to establish procedural and substantive requirements for the licensing and operation of commercial shooting preserves. A permit to operate a commercial shooting preserve shall entitle the permittee, and his or her clients, guests, or members, to hunt, kill, and take game birds of those species and at those times and in accordance with such conditions as shall be prescribed pursuant to M.G.L. c. 131, § 31, and 321 CMR 2.05. Permittees may charge such fee for membership or admittance to the commercial shooting preserve as they shall determine, subject to provisions of state law.

(2) Definitions.

Class A Preserve means a shooting preserve operated on a commercial basis and open to the general public, and on which the holder of a permit charges a daily fee for hunting, or a fee for each bird killed, or a combination thereof.

Class B Preserve means a shooting preserve operated as a nonprofit shooting preserve or a nonprofit club or membership shooting preserve with use limited to members and their guests.

Commercial Shooting Preserve or Preserve means a Class A or Class B shooting preserve licensed pursuant to M.G.L. c. 131, § 31.

Director means the Director of the Division of Fisheries and Wildlife, or his or her agents.

Environmental Police Officer means the Director of the Office of Law Enforcement, deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, environmental police officers, and such other enforcement officers of the Office of Law Enforcement as may be appointed pursuant to M.G.L. c. 21, § 6.

Gender means, unless the context requires otherwise, that words importing the masculine gender shall include the feminine and neuter.

Permit means a permit to operate a commercial shooting preserve, including both Class A and Class B preserves, issued pursuant to M.G.L. c. 131, § 31.

Person means any individual, partnership, corporation, whether profit or non-profit, firm, business or other commercial or non-commercial club, organization, or association.

2.05: continued

(3) Application. A person seeking a commercial shooting preserve permit shall complete a written application on forms supplied by the Director. Applications shall be addressed to: Division of Fisheries and Wildlife, Field Headquarters, 1 Rabbit Hill Road, Westborough, MA 01581, ATTN: Commercial Shooting Preserves.

(4) Information and Requirements for Application. All initial applications shall contain the following information:

- (a) the name of the individual, organization or group to whom the permit is to be issued;
- (b) the name, mailing address and telephone number of the applicant or principal officer or contact person;
- (c) the street address or equivalent descriptive location of the preserve and a plot plan thereof;
- (d) the total number of acres of the preserve and the acreage of woodland, cultivated land and other land use types;
- (e) a statement as to whether the applicant owns or leases the property on which the preserve is located;
- (f) if leased, the name and address of the owner and a copy of the lease, which shall therein specify the dates or period for which the property has been leased;
- (g) the type of activity to be conducted, whether a public or private preserve;
- (h) evidence of the applicant's ability to raise or purchase for liberation those numbers of game birds specified in 321 CMR 2.05(14)(d) or (e), as the case may be;
- (i) the estimated number of game birds, by species, to be released on the preserve during the period for which the permit is valid;
- (j) the date the application was executed;
- (k) the applicant's signature, executed under the pains and penalties of perjury;
- (l) such other information as the Director may require.

(5) Renewal Applications. Information for renewal applications shall include, but not be limited to:

- (a) information set forth in 321 CMR 2.05(4) (a), (b), (d), (g), (f), (h), (i), and (j);
- (b) evidence of compliance during the previous year with the requirements of 321 CMR 2.05(14)(d);
- (c) a copy of the commercial shooting preserve summary report for the previous year.

(6) Agreement. All permits issued pursuant to 321 CMR 2.05 shall be signed by the permittee. Such signature shall constitute:

- (a) an agreement by the permittee to fully comply with all relevant provisions of law, including but not limited to M.G.L. c. 131, 321 CMR, and all applicable conditions and restrictions of the permit;
- (b) liability agreement.

(7) Fees. All applications and renewals shall be accompanied by the appropriate fee indicated on the permit application, or renewal as the case may be, in the form of a check or money order payable to the Division of Fisheries and Wildlife. Cash may be used only when the application is made in person.

(8) Abandoned Applications. Incomplete or improperly executed applications shall be treated as provided in 321 CMR 2.12(8).

(9) Denial. Applications for a permit shall be denied when:

- (a) the applicant has within one year preceding the date of application been convicted of a violation of M.G.L. c. 131, c. 131A, or any rule or regulation issued under authority thereof, or any federal statute or regulation which is related to the activity for which the permit is sought;
- (b) the applicant has failed to disclose material information or has made false statements as to any fact in connection with the application;
- (c) the applicant has failed to pay the required fee;
- (d) the applicant does not own, lease, or have title to the land on which the preserve is located;

2.05: continued

- (e) an inspection of the facilities on which the preserve is located has disclosed that the facilities do not meet the requirements found in 321 CMR 2.05(11) and such deficiencies have not been corrected within 30 days from the date of the inspection;
- (f) the applicant has failed to comply with the zoning requirements of the city or town in which the preserve is located;
- (g) the Director determines that the operation of the preserve is not in the public interest.

(10) Conditions. The Director may at any time, in writing, establish conditions or restrictions to a permit issued pursuant to 321 CMR 2.05 if, in his or her opinion, the conditions or restrictions are necessary for the preservation and protection of the health, welfare or safety of the wildlife or the citizens of Massachusetts.

(11) Inspections. Upon submission of a properly completed application for a permit to be issued pursuant to 321 CMR 2.05, and all required supporting documentation and fees, an agent of the Director, or an Environmental Police Officer, or both, shall inspect the facilities and ascertain that they meet the following minimum requirements:

- (a) the preserve consists of a single contiguous parcel of land containing not less than 100 acres nor more than 500 acres;
- (b) the preserve is posted conspicuously with printed notices at intervals of not more than 150 feet apart;
- (c) the preserve has adequate facilities for parking by members, guests, and clients;
- (d) towers, holding pens, and other facilities for holding or releasing game birds are in good repair and suitable to the purpose thereof;
- (e) such other conditions as may have been stipulated pursuant to 321 CMR 2.05(10).

The Director or his or her agents or an Environmental Police Officer may also conduct inspections, announced or unannounced, at reasonable times for insuring compliance, inspecting records, or for scientific investigation.

(12) Period of Operation. A Class A preserve may operate from January 1st to December 31st in the calendar year only. A Class B preserve may operate only from September 15th to the following March 31st.

(13) Propagation Requirements. When propagating or maintaining game birds, a permittee shall comply with the licensing requirements specified in 321 CMR 2.12.

(14) Importation and Liberation Requirements.

- (a) When importing game birds, a permittee shall obtain an importation permit and otherwise comply with the relevant provisions of M.G.L. c. 131, § 19A and 321 CMR 2.15.
- (b) A permittee shall not be required to obtain a liberation permit to liberate on a commercial shooting preserve those game birds specified in 321 CMR 2.05(15), provided that the permittee complies with 321 CMR 2.05(14)(c).
- (c) No game bird shall be imported or liberated unless it has been certified by the Department of Agricultural Resources that it has been individually tested within the past six months, or the parent stock tested within the past one year, and found free of salmonella pullorum as required in the official Massachusetts pullorum passed grade for poultry or of any transmissible poultry disease by the veterinary department of the University of Massachusetts, or shall have been so certified by the corresponding official of another state.
- (d) A Class A permittee shall, during the first year of operation, liberate at least 500 game birds as listed in 321 CMR 2.05(15), singly or in the aggregate, per 100 acres of preserve annually between January 1st and the following December 31st. A Class A permittee shall, during the second and subsequent years of operation, liberate at least 1000 game birds as listed in 321 CMR 2.05(15), singly or in the aggregate, per 100 acres of preserve annually between January 1st and the following December 31st.
- (e) A Class B permittee shall liberate at least 200 game birds as listed in 321 CMR 2.05(15), singly or in the aggregate, per 100 acres of preserve annually between September 15th and the following March 31st.

2.05: continued

(15) Game Bird Requirements. Game birds liberated on a commercial shooting preserve may be killed and taken only by shooting or by falconry as provided in 321 CMR 2.05(18). Only the following game birds may be propagated or imported, and liberated on a commercial shooting preserve:

- (a) ring-necked pheasant;
- (b) bobwhite quail;
- (c) chukar partridge;
- (d) Hungarian or gray partridge;
- (e) captive-reared mallard ducks, as defined by the U.S. Fish and Wildlife Service pursuant to the Code of Federal Regulations, 50 CFR 21.13, provided that such ducks may be liberated, hunted, or taken in tower shoots only and that only non-toxic shot as approved by the U.S. Fish and Wildlife Service be used in hunting such ducks.

(16) Hunting. All persons hunting on a commercial shooting preserve shall have a current and valid Massachusetts hunting or sporting license, as follows:

- (a) a current and valid resident or non-resident hunting or sporting license which shall entitle the holder thereof to hunt those game birds specified in 321 CMR 2.05(15), and, in addition, any other species for which the season is open pursuant to provisions of 321 CMR, as follows: on a Class A preserve, from January 1 to December 31 in the calendar year, and, on a Class B preserve, from January 1 to March 15 and from September 15 to December 31 in the calendar year, provided that for both Class A and Class B preserves any other license, permit, or stamp as required by M.G.L. c. 131 or 321 CMR has been obtained; or
- (b) a current and valid resident or non-resident 1-day hunting license, valid only on commercial shooting preserves, which shall entitle the holder to hunt only those game birds specified in 321 CMR 2.05(15). Such license shall be valid only on the date specified on the license.
- (c) A person hunting on a commercial shooting preserve, except persons hunting waterfowl or wild turkey, shall wear a cap or hat of "hunter orange" color as defined in 321 CMR 3.01(2), provided that persons hunting deer shall comply with 321 CMR 2.05(19).
- (d) A person purchasing a resident or non-resident 1-day hunting license, valid only on commercial shooting preserves, shall be exempt from the provisions of M.G.L. c. 131, § 14, provided that such exemption shall be applicable only to one who purchases such resident or non-resident commercial shooting preserve hunting license on no more than four separate occasions in any calendar year.

(17) Sunday Hunting. In accordance with the provisions of M.G.L. c. 131, § 57, permittees, members, guests, and clients may hunt on a commercial shooting preserve on a Sunday, within the period of operation for Class A and Class B permits as provided for in 321 CMR 2.05(12), provided that during the open season on ducks as established pursuant to 321 CMR 3.02(2) a person may hunt on Sunday only ring-necked pheasant, bobwhite quail, chukar partridge, and Hungarian partridge. Outside the open season on ducks, a person may hunt on Sunday only those five species listed in 321 CMR 2.05(15).

(18) Falconry. A person holding a current and valid resident or non-resident hunting or sporting license, may hunt by means of falconry on a commercial shooting preserve, provided:

- (a) the falconer is in compliance with the provisions of 321 CMR 3.04, or the equivalent requirements of another state; and
- (b) such falconry hunting is conducted during the falconry hunting seasons for particular game as specified in 321 CMR 3.02 and 321 CMR 3.04(10).

(19) Deer Hunting. During the shotgun period or the primitive firearms period of the open deer season as provided in 321 CMR 3.02(4), a permittee may authorize the hunting of deer only, or, the hunting of those game birds specified in 321 CMR 2.05(15) only. During any period when deer are hunted with a firearm on a commercial shooting preserve, no person shall hunt any species other than deer. A person hunting deer with a firearm on a commercial shooting preserve shall wear in a conspicuous manner on his head, chest, and back a minimum of 500 square inches of clothing or material of a "hunter orange" color as defined in 321 CMR 3.01(2).

2.05: continued

(20) Tagging Requirements. Before any propagated or liberated game bird as specified in 321 CMR 2.05(15) is consumed on the premises or removed therefrom, the permittee shall attach a tag to each bird. Each tag shall be numbered consecutively and shall be supplied by the Director at a cost to be determined annually by the Commissioner of Administration and Finance. The tag shall remain on the individual bird until it is prepared for consumption. Tags shall not be used more than once and shall be immediately destroyed upon removal from the bird.

(21) Records and Reporting Requirements. Permittees shall maintain a daily log bearing the name, address, and hunting or sporting license number of each hunter using the preserve, the numbers and species of birds released, the dates of such releases, and the numbers and species of birds harvested. Such logs shall be maintained for a period of two years. Logs shall be available for inspection at reasonable times by the Director, his agents, or an Environmental Police Officer. The permittee shall provide with his application for renewal a summary report in such form as shall be stipulated by the Director with the request for renewal of his permit.

(22) Suspension or Revocation. A permit issued pursuant to 321 CMR 2.05 may be suspended or revoked in accordance with the relevant provisions of M.G.L. c. 30A and 801 CMR 1.00 for:

- (a) a violation of any provision of M.G.L. c. 131 or c. 131A;
- (b) a violation of any provision of 321 CMR;
- (c) a violation of any federal statute or regulation which is related to the activity for which the permit has been obtained;
- (d) a violation of any condition or restriction of the permit;
- (e) upon the request of an Environmental Police Officer, if it is determined that the permittee's operation causes an unnecessary threat to the public health, welfare, or safety.

(23) Compliance with Other Laws. Issuance of a commercial shooting preserve permit under 321 CMR 2.05 shall not exempt the permittee or his members, clients, or guests from compliance with the provisions of any other federal, state, or local law or bylaw, wherein not specifically exempted.

2.06: Classes of Hunting, Fishing, and Trapping Licenses

In accordance with the provisions of M.G.L. c. 131, § 11, as amended by Chapter 495, St. 1993, the following classes of hunting, fishing, sporting, and trapping licenses are hereby established:

2.06: continued

Fishing:

- F1 Resident Citizen/Alien Fishing, to be issued upon payment of the required fee to any resident citizen or alien 18 years of age or older whose legal residence in Massachusetts covers a period of at least six consecutive months immediately preceding the date of application, or to non-resident military personnel on active duty and stationed in Massachusetts. This license entitles the holder thereof to angle for fish in inland waters in accordance with the seasons and regulations established by law.
- F2 Resident Citizen/Alien Minor Fishing, to be issued without a license fee to any resident citizen or alien, 15 through 17 years of age, whose legal residence in Massachusetts covers a period of at least six consecutive months immediately preceding the date of application. This license entitles the holder thereof to angle for fish in inland waters in accordance with the seasons and regulations established by law.
- F3 Resident Citizen Fishing (Ages 65 through 69), to be issued upon payment of the required fee to any resident citizen of the United States, 65 through 69 years of age, whose legal residence in Massachusetts covers a period of at least six consecutive months immediately preceding the date of application. This license entitles the holder thereof to angle for fish in inland waters in accordance with the seasons and regulations established by law.
- F4 Resident Citizen Fishing (Blind, Paraplegic, Intellectually Disabled, and 70 years of age or older), to be issued without a license fee to any resident citizen of the United States, 18 years of age or older, whose legal residence in Massachusetts covers a period of at least six months immediately preceding the date of application and who meets at least one of the requirements in 321 CMR 2.06F4(a) through (d).
- (a) Blind. A Division application form completed by the applicant and a copy of a certificate of blindness issued by the Commission for the Blind to the applicant;
 - (b) Paraplegic. A Division application form completed by the applicant and an attestation on the form by a physician that the applicant is a person who has total paralysis of the lower half of the body, or a condition that prevents any use of the lower limbs;
 - (c) Intellectually Disabled. A Division application form completed by the applicant and an attestation on the form by a physician that the applicant is a person with an intellectual disability within the meaning of M.G.L. c. 123B, § 1, which is defined thereunder as, "a person who, as a result of inadequately developed or impaired intelligence, as determined by clinical authorities as described in the regulations of the Department of Developmental Services, is substantially limited in the person's ability to learn or adapt, as judged by established standards available for the evaluation of a person's ability to function in the community. As provided in 115 CMR 2.01: *Definitions*, intellectual disability is the preferred term to describe the condition of mental retardation and is synonymous with the term mental retardation;
 - (d) Resident Citizen 70 Years of Age or Older. Shows sufficient documentation to the satisfaction of the Director of being of the 70 years of age or older.
- F5 (Reserved).
- F6 Non-resident Citizen/Alien Fishing, to be issued upon payment of the required fee to any non-resident citizen or alien, 18 years of age or older, whose legal residence is outside Massachusetts. This license entitles the holder thereof to angle for fish in inland waters in accordance with the seasons and regulations established by law.
- F7 Non-resident Citizen/Alien Three-day Fishing, to be issued upon payment of the required fee to any non-resident citizen or alien, 15 years of age or older, whose legal residence is outside Massachusetts. The license shall specify in the space provided on the face of the license the inclusive and consecutive dates for which the license is valid, and which shall encompass a span of three consecutive calendar days. This license entitles the holder thereof to angle for fish in inland waters in accordance with the seasons and regulations established by law, and only during those dates specified on the license.

2.06: continued

- F8 Resident Citizen/Alien Three-day Fishing, to be issued upon payment of the required fee to any resident citizen or alien, 18 years of age or older, whose legal residence is in Massachusetts covers a period of at least six months immediately preceding the date of application, or to non-resident military personnel on active duty and stationed in Massachusetts. The license shall specify in the space provided on the face of the license the inclusive and consecutive dates for which the license is valid, and which shall encompass a span of three consecutive calendar days. This license entitles the holder thereof to angle for fish in inland waters in accordance with the seasons and regulations established by law, and only during those dates specified on the license.
- F9 Non-resident Citizen/Alien Minor Fishing, to be issued upon payment of the required fee to any non-resident citizen or alien, 15 through 17 years of age, whose legal residence is outside Massachusetts. This license entitles the holder thereof to angle for fish in inland waters in accordance with the seasons and regulations established by law.
- F10 Resident/Non-Resident Citizen/Alien One-day Fishing (Quabbin Reservoir), to be issued upon payment of the required fee to any resident or non-resident citizen or alien, 18 years of age or older. The license shall specify in the space provided on the face of the license the date for which the license is valid, which shall encompass a single calendar day. This license entitles the holder thereof to angle for fish in the Quabbin Reservoir in accordance with the seasons and regulations established by law, and only on that date specified on the license.

Hunting:

- H1 Resident Citizen Hunting, to be issued upon payment of the required fee to any resident citizen of the United States, 18 years of age or older, whose legal residence in Massachusetts covers a period of at least six months immediately preceding the date of application, or to non-resident military personnel on active duty and stationed in Massachusetts. This license entitles the holder thereof to hunt game birds and mammals in accordance with the seasons and regulations established by law.
- H2 Resident Citizen Hunting (Ages 65 through 69), to be issued upon payment of the required fee to any resident citizen of the United States, 65 through 69 years of age, whose legal residence in Massachusetts covers a period of at least six months immediately preceding the date of application. This license entitles the holder thereof to hunt game birds and mammals in accordance with the seasons and regulations established by law.
- H3 Resident and Non-resident Citizen Paraplegic Hunting, to be issued without a license fee to any resident citizen of the United States, 15 years of age or older, whose legal residence in Massachusetts covers a period of at least six months immediately preceding the date of application and a Division application form completed by the applicant and an attestation on the form by a physician that the applicant is a person who has total paralysis of the lower half of the body, or a condition that prevents any use of the lower limbs. This license may also be issued without a license fee to a paraplegic person who is a non-resident citizen of the United States provided that in addition to the above described application requirements, the applicant submits documentation to the satisfaction of the Director showing that the applicant resides in a state that provides a reciprocal privilege to residents of this commonwealth who are similarly afflicted. This license entitles the holder thereof to hunt game birds and mammals in accordance with the seasons and regulations established by law.
- H4 Resident Alien Hunting, to be issued upon payment of the required fee to any resident alien, 15 years of age or older, whose legal residence in Massachusetts covers a period of at least six months immediately preceding the date of application. Applicants shall hold a valid permit issued under the provisions of M.G.L. c. 140, § 131H. This license entitles the holder thereof to hunt game birds and mammals in accordance with the seasons and regulations established by law.

2.06: continued

- H5 Non-resident Citizen/Alien Hunting (Big Game), to be issued upon payment of the required fee to any non-resident citizen or alien, 15 years of age or older, whose legal residence is outside Massachusetts. In the case of Aliens, the applicant shall hold a valid permit issued under the provisions of M.G.L. c. 140, § 131H. This license entitles the holder thereof to hunt game birds and mammals (including deer, bear, and wild turkey) in accordance with the seasons and regulations established by law.
- H6 Non-resident Citizen/Alien Hunting (Small Game), to be issued upon payment of the required fee to any non-resident citizen or alien, 15 years of age or older, whose legal residence is outside Massachusetts. In the case of Aliens, the applicant shall hold a valid permit issued under the provisions of M.G.L. c. 140, § 131H. This license entitles the holder thereof to hunt game birds and mammals (except deer, bear, and wild turkey) in accordance with the seasons and regulations established by law.
- H7 Non-resident Citizen/Alien Commercial Shooting Preserve (One-day), to be issued upon payment of the required fee to any non-resident citizen or alien, 15 years of age or older, whose legal residence is outside Massachusetts. The license shall specify in the space provided on the face of the license the date for which the license is valid, which shall encompass a single calendar day. In the case of Aliens, the applicant shall hold a valid permit issued under the provisions of M.G.L. c. 140, § 131H. This license shall entitle the holder thereof to hunt on commercial shooting preserves in accordance with the seasons and regulations established by law, and only on that date specified on the license.
- H8 Resident Citizen Minor Hunting, to be issued upon payment of the required fee to any resident citizen of the United States, 15 through 17 years of age, whose legal residence in Massachusetts covers a period of at least six consecutive months immediately preceding the date of application. This license entitles the holder thereof to hunt game birds and mammals in accordance with the seasons and regulations established by law.
- H9 Resident Citizen/Alien Commercial Shooting Preserve (One-day), to be issued upon payment of the required fee to any resident citizen or alien, 15 years of age or older, whose legal residence in Massachusetts covers a period of at least six months immediately preceding the date of application, or to non-resident military personnel on active duty and stationed in Massachusetts. In the case of Aliens, the applicant shall hold a valid permit issued under the provisions of M.G.L. c. 140, § 131H. This license shall specify in the space provided on the face of the license the date for which the license is valid, which shall encompass a single calendar day. This license shall entitle the holder thereof to hunt on commercial shooting preserves in accordance with the seasons and regulations set forth by law, and only on that date specified on the license.

Sporting:

- S1 Resident Citizen/Alien Sporting, to be issued upon payment of the required fee to any resident citizen or alien 18 years of age or older whose legal residence in Massachusetts covers a period of at least six consecutive months preceding the date of application, or to non-resident military personnel on active duty and stationed in Massachusetts. In the case of Aliens, the applicant shall hold a valid permit issued under the provisions of M.G.L. c. 140, § 131H. This license entitles the holder thereof to angle for fish in inland waters and to hunt game birds and mammals, in accordance with the seasons and regulations established by law.
- S2 Resident Citizen Sporting (Ages 65 through 69), to be issued upon payment of the required fee to any resident citizen of the United States, 65 through 69 years of age, whose legal residence in Massachusetts covers a period of at least six consecutive months immediately preceding the date of application. This license entitles the holder thereof to angle for fish in inland waters and to hunt game birds and mammals, in accordance with the seasons and regulations established by law.

2.06: continued

- S3 Resident Citizen Sporting 70 of age or older, to be issued without a license fee to any resident citizen of the United States, 70 of age or older, whose legal residence in Massachusetts covers a period of at least six months immediately preceding the date of application. This license entitles the holder thereof to angle for fish in inland waters, to hunt game birds and mammals, and to trap fur-bearing mammals, in accordance with the seasons and regulations established by law.
- S4 Resident and Non-resident Paraplegic Sporting, to be issued without a license fee to any resident citizen of the United States, 15 years of age or older, whose legal residence in Massachusetts covers a period of at least six months immediately preceding the date of application and a Division application form completed by the applicant and an attestation on the form by a physician that the applicant is a person who has total paralysis of the lower half of the body, or a condition that prevents any use of the lower limbs. This license may also be issued without a license fee to a paraplegic person who is a non-resident citizen of the United States provided that in addition to the above described application requirements, the applicant submits documentation to the satisfaction of the Director showing that the applicant resides in a state that provides a reciprocal privilege to residents of this commonwealth who are similarly afflicted.

Trapping:

- T1 Resident Citizen Trapping, to be issued upon payment of the required fee to any resident citizen of the United States, 18 years of age or older, whose legal residence in Massachusetts covers a period of at least six consecutive months immediately preceding the date of application, or to non-resident military personnel on active duty and stationed within Massachusetts. This license entitles the holder thereof to trap fur-bearing mammals in accordance with the seasons and regulations established by law.
- T2 Resident Citizen Minor Trapping, to be issued upon payment of the required fee to any resident citizen of the United States, 12 through 17 years of age, whose legal residence in Massachusetts covers a period of at least six consecutive months immediately preceding the date of application. This license entitles the holder thereof to trap fur-bearing mammals in accordance with the seasons and regulations established by law.
- T3 Resident Citizen Trapping (Aged 65 through 69), to be issued upon payment of the required fee to any resident citizen of the United States, 65 through 69 years of age, whose legal residence in Massachusetts covers a period of at least six consecutive months immediately preceding the date of application. This license entitles the holder thereof to trap fur-bearing mammals in accordance with the seasons and regulations established by law.
- T4 (Reserved).

Stamps:

- M1 Archery Stamp, to be issued upon payment of the required fee to any resident or non-resident citizen or alien. This stamp, in conjunction with the appropriate class of hunting or sporting license, entitles the holder thereof to participate in the exclusive archery hunting season for deer.
- M2 Massachusetts Waterfowl Stamp, to be issued upon payment of the required fee to any resident or non-resident citizen or alien. This stamp, in conjunction with the appropriate class of hunting or sporting license and a federal Migratory Bird Hunting and Conservation stamp, entitles the holder thereof to hunt waterfowl in accordance with the seasons and regulations established by law.
- M3 Primitive Firearms Stamp, to be issued upon payment of the required fee to any resident or non-resident citizen or alien. This stamp, in conjunction with the appropriate class of hunting or sporting license, entitles the holder thereof to participate in the primitive firearms hunting season for deer. This stamp shall also be required of a person who hunts by means of archery during the primitive firearms season for deer.

2.06: continued

- W1 Resident Wildlands Conservation Stamp, to be issued upon payment of the required fee to any resident citizen or resident alien who obtains a fishing, hunting, sporting, or trapping license, provided that such stamp shall not be required in order to obtain an F2, F4, H3, S3 or S4 license. Such stamp shall be purchased only with the first license purchased during the calendar year. This stamp, in conjunction with a fishing, hunting, sporting, or trapping license entitles the holder thereof to participate in the activity authorized by such license.
- W2 Non-resident Wildlands Conservation Stamp, to be issued upon payment of the required fee to any non-resident citizen or non-resident alien who obtains a fishing, hunting, sporting, or trapping license. This stamp shall be purchased with every license purchased during the calendar year. This stamp, in conjunction with a fishing, hunting, sporting, or trapping license entitles the holder thereof to participate in the activity authorized by such license.
- W3 Wildlands Conservation Stamp (Collector's Edition), to be issued upon payment of the required fee to any resident or non-resident citizen or alien who desires to contribute to the Wildlands Conservation Fund or who is a stamp collector. This stamp does not convey fishing, hunting, sporting, or trapping privileges, unless accompanied by a W1 or W2 stamp and the appropriate class of license.

2.07: Possession, Sale, and Use of Ferrets

In accordance with the provisions of M.G.L. c. 131, § 77, as amended by St. 1995, c. 290, rules and regulations regarding the possession, sale, and use of ferrets are hereby established.

(1) Definitions.

Director means the Director of the Division of Fisheries and Wildlife, or his or her agents.

Educational Institution means a person meeting those standards for educational use specified in 321 CMR 2.12(2) and (10)(b).

Environmental Police Officer means the Director of the Office of Law Enforcement, deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, environmental police officers, deputy environmental police officers, and such other enforcement officers of the Office of Law Enforcement as may be appointed pursuant to M.G.L. c. 21, § 6.

Ferret means the ferret, fitch, or fitchew (*Mustela furo* or *Mustela putorius furo*).

Person means any individual, partnership, corporation, whether profit or non-profit, firm, business or other commercial or non-commercial entity, club, organization, institution, or association.

Pet Shop means a pet shop as defined in M.G.L. c. 129, § 1.

Received Inoculations Against Canine Distemper and Rabies means that the subject ferret shall have received a minimum of the first shot in the inoculation series for those diseases and such others as may be required by the Director, provided that the subject ferret shall subsequently receive the remainder of the inoculation series, if any, and shall periodically receive any required booster shots or reinoculations, if any, and provided further that the burden of proof shall rest upon the owner thereof to demonstrate that such requirements for periodic shots or inoculations have been complied with. The earliest date at which said inoculations may begin shall be determined by the schedule set forth on the manufacturer's label or instructions for the particular vaccine being used, or equivalent standards set by a competent veterinary authority.

Research Institution means a person meeting those standards for scientific use specified in 321 CMR 2.12(2) and (10)(a).

- (2) Possession and Sale of Ferrets. Ferrets may be possessed as a household pet, for research by a research institution, for educational purposes by an educational institution, for breeding purposes by a licensed breeder, or sale by any such person, when in accordance with provisions of M.G.L. c. 131, § 77, and 321 CMR 2.07.

2.07: continued

- (3) Inoculations. Ferrets possessed as a household pet or by an educational institution must have received inoculations against canine distemper and rabies at time of purchase. Ferrets offered for wholesale or retail sale by a licensed breeder or a pet shop must have received inoculations against rabies and canine distemper prior to sale or offering for sale.
- (4) Neutering and spaying. No person, except a research institution, or a licensed breeder as provided in 321 CMR 2.07(5), shall possess, sell, or offer for sale a ferret which has not been surgically neutered or spayed and rendered incapable of breeding.
- (5) Breeding of ferrets. No person, except a research institution, shall breed a ferret or possess a ferret for breeding purposes without obtaining a license so to do from the Director. Persons so licensed shall be allowed to offer for wholesale or retail sale ferrets which are the offspring of animals propagated or maintained by said breeder, provided that ferrets so offered for sale shall have received inoculations and have been neutered or spayed as provided in 321 CMR 2.07(3) and (4). The offspring of ferrets bred by a research institution shall not be sold or offered for sale.
- (6) Breeding facilities. Licensed breeders, as provided for in 321 CMR 2.07(5), shall comply with the standards for licensing, facilities, inspections, renewals, reports, and related provisions as provided for in 321 CMR 2.12(4) through (9), (15), (17), (18), and (21) through (23).
- (7) Certificates to accompany sale of ferrets. Any ferret sold or offered for sale by any person must be accompanied by certificate(-s) from a licensed veterinarian, or in the case of canine distemper by any other proper person, stating that the ferret has received inoculations against rabies and canine distemper and, in addition, has been neutered or spayed and rendered incapable of breeding, provided, that ferrets which have not been rendered incapable of breeding may be sold by a licensed breeder or research institution to another licensed breeder or research institution. Each such certificate shall include the name, address, telephone number, and veterinary license number of the veterinarian or other person administering inoculations, or performing neutering or spaying, as the case may be, and the date(-s) on which inoculations, neutering or spaying, took place.
- (8) Record keeping. Any person, except a research institution, possessing a ferret shall possess and keep the two most recent certificate(-s) of inoculations as provided for in 321 CMR 2.07(7). Any person, except a licensed breeder or a research institution, possessing a ferret shall have in their possession certificate(-s) of neutering or spaying as provided for in 321 CMR 2.07(7). Licensed breeders shall have in their possession the license issued by the Director allowing them to breed and possess ferrets which have not been neutered or spayed and rendered incapable of breeding. Any such records, certificates or licenses shall be shown upon demand at reasonable hours to the Director, an Environmental Police Officer, or other officer empowered to enforce M.G.L. c. 131.
- (9) Prohibitions. It is unlawful for any person:
- (a) to possess, sell or offer for sale a ferret which has not been neutered or spayed, except by a licensed breeder or a research institution;
 - (b) to possess, except by a research institution, or, in the case of a licensed breeder a ferret which has not attained the minimum age for inoculations, a ferret which has not received inoculations against canine distemper and rabies;
 - (c) to sell or offer for sale a ferret which has not received inoculations against canine distemper and rabies;
 - (d) to falsify any license application or renewal or certificate; provide false documentation in support of a license application or renewal or certificate; or fail to provide relevant and material information regarding a license application or renewal or certificate;
 - (e) who is a breeder to keep and maintain ferrets in enclosures or under conditions which fail to meet inspection standards or conditions set by the Director;
 - (f) to liberate or allow the escape of any ferret to the wild;
 - (g) to hunt for, catch, kill or cause to permit the hunting of any vertebrate animal with or through the use of a ferret;
 - (h) to have a ferret in one's possession or under one's control in any field, forest, or woodland or other place where wild birds or mammals may be found; and

321 CMR: DIVISION OF FISHERIES AND WILDLIFE

2.07: continued

(i) to fail to maintain records or certificates of inoculations against rabies and canine distemper, and of neutering and spaying, or to refuse to provide such records or certificates to any Environmental Police Officer or the Director.

(10) Forfeitures. Any ferret which has not been neutered or spayed, except as provided in 321 CMR 2.07(4), or which has not received inoculations against rabies and canine distemper, or which is used for hunting or to catch or kill any vertebrate animal, or which is in a person's possession in any field, forest, or woodland or other place where wild birds and mammals may be found, or which is escaped or at large may be seized by any Environmental Police Officer and disposed of to the best interest of the Commonwealth.

(11) Disposal of Ferrets Causing Injury. Any ferret which bites a person or an animal may be quarantined by the Director as provided for in M.G.L. c. 131, § 25A, for such period as he may deem appropriate, or, at his or her discretion, when in his professional judgement such is necessary, may be seized by him or her or an Environmental Police Officer and destroyed without liability for rabies testing in accordance with standards set forth by the Centers for Disease Control or similar competent authority.

(12) Temporary Possession. Notwithstanding the foregoing, ferrets imported into Massachusetts for a period not exceeding two weeks for pet shows, exhibitions, or as a personal pet, shall be exempt from the requirements requiring neutering and spaying as provided for in 321 CMR 2.07(4), provided that such ferrets shall not be bred nor offered for sale while within Massachusetts.

2.08: Use of Certain Traps for the Taking of Fur-bearing Mammals

(1) Definitions: for the purposes of 321 CMR 2.08, the following words and phrases have the following meanings:

Agriculture or Agricultural Use means farming or agriculture as defined in M.G.L. c. 111, § 1.

Cage or Box Type Trap means a trap that confines the whole animal without grasping any part of the animal.

Conibear Type Trap means "Conibear" model traps and similar body-gripping traps and devices, whether or not enclosed in or comprising part of a box, tube, or other enclosing device.

Department of Environmental Protection means the Department of Environmental Protection within the Executive Office of Energy and Environmental Affairs, as provided for in M.G.L. c. 21A, § 7.

Department of Public Health means the Department of Public Health within the Executive Office of Health and Human Services, as provided for in M.G.L. c. 6A, § 7G.

Director means the Director of the Division of Fisheries and Wildlife, as provided for in M.G.L. c. 21, § 7G.

Division means the Division of Fisheries and Wildlife within the Department of Fish and Game, as provided for in M.G.L. c. 21A, § 8.

Federal Department of Public Health means the United States Public Health Service.

Fur-bearing Mammals means all mammals in the Class Mammalia, as defined in M.G.L. c. 131, § 1.

Municipal Board of Health means a board of health as defined in M.G.L. c. 111, § 1.

Municipal Conservation Commission means a conservation commission as provided for in M.G.L. c. 40, § 8C, provided that, if a town or city does not have a conservation commission, the authority thereof shall be exercised by the board of selectmen in a town or the mayor in a city.

2.08: continued

Permissible Traps means cage or box type traps, common type mouse and rat traps, and net traps.

Prohibited Traps means all traps used for the capture of fur-bearing mammals except cage or box type traps, common type mouse and rat traps, and net traps.

Restricted Traps means conibear type traps.

(2) Use of Certain Traps Prohibited. Except as provided in M.G.L. c. 131, § 80A, and 321 CMR 2.08, a person shall not use, set, place, maintain, or possess for the purpose of capturing fur-bearing mammals, any prohibited trap in any wood, field, or waters of Massachusetts or in any other place where fur-bearing mammals may be found.

(3) Health and Safety Exceptions. Notwithstanding the provisions of 321 CMR 2.08(2), the Department of Public Health, the federal department of public health, or a municipal board of health may use prohibited traps for the purpose of protection from threats to human health and safety.

(4) Criteria for Determining Threats to Human Health and Safety. A threat to human health and safety may include, but not be limited to, one or more of the following situations:

- (a) beaver or muskrat occupancy of a public water supply;
- (b) beaver or muskrat-caused flooding of drinking water wells, wellfields, or water pumping stations;
- (c) beaver or muskrat-caused flooding of sewage beds, septic systems, or sewage pumping stations;
- (d) beaver or muskrat-caused flooding of a public or private way, driveway, railway, or airport runway or taxiway;
- (e) beaver or muskrat-caused flooding of electrical or gas generation plants or transmission or distribution structures or facilities, telephone or other communications facilities, or other public utilities;
- (f) beaver or muskrat-caused flooding affecting the public use of hospitals, emergency clinics, nursing homes, homes for the elderly, or fire stations;
- (g) beaver or muskrat-caused flooding affecting hazardous waste sites or facilities, incineration or resource recovery plants, or other structures or facilities whereby flooding may result in the release or escape of hazardous or noxious materials or substances;
- (h) the gnawing, chewing, entering, or damage to electrical or gas generating or transmission equipment, cables, alarm systems, or facilities by any beaver or muskrat;
- (i) beaver or muskrat-caused flooding or structural instability on property owned by the applicant if such animal problem poses an imminent threat of substantial property damage or income loss, which shall be limited to:
 1. flooding of residential, commercial, industrial or commercial buildings or facilities;
 2. flooding of or access to commercial agricultural lands which prevents normal agricultural practices from being conducted on such lands;
 3. reduction in the production of an agricultural crop caused by flooding or compromised structural stability of commercial agricultural lands;
 4. flooding of residential lands in which the municipal board of health, its chair or agent or the state or federal department of health has determined a threat to human health and safety exists.

(5) Special Permits to Use Restricted Traps or Other Means of Relief. A person or his duly authorized agent may apply for a permit to use restricted traps or other means of relief, as follows:

- (a) to the municipal board of health, in situations involving a threat to human health and safety, in accordance with 321 CMR 2.08(6) through (14);
- (b) to the director, in situations not involving a threat to human health and safety, in accordance with 321 CMR 2.08(16) through (18).

2.08: continued

(6) Emergency Permit to Use Restricted Traps, Breaching of Water Impedance Structures, or Water Flow Control Devices. An applicant or his duly authorized agent may apply to the municipal board of health for an emergency permit to immediately alleviate a threat to human health and safety pursuant to 321 CMR 2.08(4), on property owned, leased, or lawfully occupied by the applicant, provided, that in the case of a tenant or lessee, such applicant shall secure the authorization of the property owner prior to making such application.

(7) Authorizations Under an Emergency Permit. Such emergency permit shall authorize the applicant or his duly authorized agent, as named in the permit, to immediately remedy the threat to human health and safety, by one or more of the following options, for a period not to exceed ten consecutive days:

- (a) the use of restricted traps or permissible traps, subject to the provisions of 321 CMR 2.08(21);
- (b) the breaching of dams, dikes, bogs or berms, so-called, subject to the determinations and conditions of municipal conservation commissions pursuant to provisions of M.G.L. c. 131, § 40;
- (c) the employment of any non-lethal management control devices or water flow control devices, subject to the determinations and conditions of municipal conservation commissions pursuant to provisions of M.G.L. c. 131, § 40.

(8) Determination of Threat to Human Health and Safety and Issuance of Emergency Permit. The municipal board of health shall, after receipt of an application for an emergency permit pursuant to 321 CMR 2.08(6), and after making a determination that such threat exists, and subject to the provisions of 321 CMR 2.08(7)(b) and (c), immediately issue said emergency permit for a period not to exceed ten consecutive days.

(9) Exception to Determination of Threat to Human Health and Safety. Notwithstanding the provisions of 321 CMR 2.08(8), the department of environmental protection shall make any determination of a threat to a public water supply, pursuant to 321 CMR 2.08(4)(a). The municipal board of health and the department of public health shall receive such determination from the department of environmental protection prior to issuing an emergency permit for such public water supply.

(10) Denial of Application for an Emergency Permit to Use Restricted Traps. If an application for such emergency permit is denied, an applicant may:

- (a) appeal to the department of public health, if the denial involves a determination as to the existence of a *bona-fide* threat to human health and safety. If such alleged threat involves a public water supply, the department of public health shall consult with the department of environmental protection prior to rendering a decision on the appeal.
- (b) if the department of public health determines that a *bona-fide* threat to public health and safety exists, it shall render such decision to the municipal board of health, which shall, subject to the provisions of 321 CMR 2.08(7)(b) and (c), immediately issue said emergency permit for a period not to exceed ten consecutive days.
- (c) appeal to the director, if the municipal board of health determines that a *bona-fide* threat to human health and safety exists, but the board's denial involves a question as to whether the threat is caused by the activities of beaver or muskrat.
- (d) if the director determines that such threat to human health and safety is caused by the activities of beaver or muskrat, he shall render such decision to the municipal board of health, which shall, subject to the provisions of 321 CMR 2.08(7)(b) and (c), immediately issue said emergency permit for a period not to exceed ten consecutive days.

(11) Extension of Existing Emergency Permit. In the event that a threat to human health and safety, as specified in an emergency permit issued pursuant to 321 CMR 2.08(8), has not been abated or alleviated within the authorized ten day period, the applicant or his duly authorized agent, with the concurrence of the municipal board of health, shall apply to the director for an extension to such permit for a period not to exceed 30 consecutive days. If the director determines that a *bona-fide* threat to human health and safety exists, as advised by the municipal board of health, the department of public health, or the department of environmental protection, as the case may be, he shall immediately issue such extension permit for a period not to exceed 30 calendar days.

2.08: continued

(12) Development of Abatement Plans. If the director determines that an extension to an emergency permit should be issued, he shall, within 30 days of such decision, develop a plan using alternative, non-lethal management techniques to address the beaver or muskrat problem which instigated the issuance of the permit. Such plan shall:

- (a) be developed with the participation and assistance of the applicant or his duly authorized agent, the municipal board of health, and the municipal conservation commission as required pursuant to M.G.L. c. 131, § 40; and
- (b) describe measures which may be employed to address said beaver or muskrat problem, using barriers, fencing, or other alternative non-lethal management techniques, water flow control devices, if appropriate to the situation, subject to the determinations and conditions of municipal conservation commissions pursuant to M.G.L. c. 131, § 40, and, if necessary, continued use of permissible traps to provide a long-term solution.
- (c) The director shall, after development of such a plan, provide such reasonable technical advice, assistance, and support as shall be necessary for the applicant or his agent to implement the abatement plan.

(13) Additional Emergency Permits. Notwithstanding the provisions of 321 CMR 2.08(6) through (12), an applicant or his duly authorized agent may apply to the municipal board of health for additional emergency permits, provided:

- (a) the applicant states in writing that there exists on property owned, leased or lawfully occupied by him a beaver or muskrat problem which the applicant or his authorized agent has:
 1. attempted to address using alternative, non-lethal management techniques or permissible traps, and the problem cannot reasonably be abated by the continued use of such alternative, non-lethal management techniques or permissible traps; or
 2. the applicant has applied for and is awaiting an extension emergency permit pursuant to 321 CMR 2.08(11).
- (b) an applicant or his duly authorized agent, in the case of application for an additional emergency permit pursuant to 321 CMR 2.08(13)(a), shall be eligible for only two such additional emergency permits, in accordance with 321 CMR 2.08(14).

(14) Authorizations Under an Additional Emergency Permit. An additional emergency permit shall be authorized and valid as follows:

- (a) application shall be made in the same manner as provided for in 321 CMR 2.08(6), (8) and (9);
- (b) the first such permit shall authorize the applicant or his duly authorized agent, as named in the permit, to use any or all of the measures specified in 321 CMR 2.08(7). Said additional emergency permit shall be valid for a period of ten consecutive days;
- (c) if the director has not approved an extension emergency permit within the ten day period provided in 321 CMR 2.08(14)(b), the applicant or his duly authorized agent may apply for a second additional emergency permit. Such second additional emergency permit shall authorize the applicant or his duly authorized agent, as named in the permit, to use only those measures provided for in 321 CMR 2.08(7)(b) and (c). Such additional emergency permit shall be valid for a period not to exceed ten consecutive days, or until the date on which the director renders his decision regarding the applicant's extension emergency permit, whichever period is shorter.

(15) Recommended Subregulatory Guidelines and Standards. For the purposes of 321 CMR 2.08(5) through (14), the director, in consultation with the departments of environmental protection and public health, may recommend guidelines and standards for permits, applications, reports, site inspections, dam or dike breaching periods, and water flow control structure installation. Such guidelines and standards may be set forth or distributed to boards of health, municipal conservation commissions, applicants or their agents, by postal mail or agency websites, or otherwise, and may include reference to published or unpublished agency documents, brochures, or handouts relevant to such activities. Such standards and guidelines may be issued jointly with the departments of environmental protection and public health. Such standards and guidelines, where not repugnant to law, shall be construed consistently with the provisions of 321 CMR 2.08 and M.G.L. c. 131, § 80A. Nothing in 321 CMR 2.08(15) shall be construed to limit the powers and authorities of the departments of environmental protection and public health.

2.08: continued

(16) Non-emergency Special Permit to Use Restricted Traps in Situations Not Involving Threats to Human Health and Safety. The director may authorize an applicant or his duly authorized agent, as named in the permit, to use restricted traps to abate animal problems on property owned by the applicant, in accordance with 321 CMR 2.08(16) through (18).

(17) Application Procedure for Obtaining Non-emergency Special Permit to Use Restricted Traps. The applicant shall apply to the director in writing and the application shall contain the following information:

- (a) name, address, and telephone number of the applicant where the applicant may be reached between the hours of 9:00 A.M. and 5:00 P.M. and name of corporation or business represented by the applicant, if any;
- (b) name, address, and telephone number of the property owner or lessee, if different;
- (c) a statement by the applicant that there exists on property owned or leased by him, or on which the applicant intends to act as agent for the owner or lessee, a problem caused by fur-bearing mammals which cannot reasonably be abated by the use of permissible traps;
- (d) a statement by the applicant that he, or the owner or lessee, has attempted to abate the problem using permissible traps and has failed to make such abatement;
- (e) description of the type of damage caused by fur-bearing mammals, and the kind of mammal;
- (f) street address or geographical location where the mammal damage is occurring;
- (g) trap registration number of the applicant, if required pursuant to M.G.L. c. 131, § 80;
- (h) the date the application was executed;
- (i) the applicant's signature, executed under the pains and penalties of perjury; and
- (j) the signature of the property owner or lessee, if different, executed under the pains and penalties of perjury.

(18) Review and Approval Procedure for Obtaining Non-emergency Special Permit. When the director receives an application for a non-emergency special permit to use a restricted trap, as provided for in 321 CMR 2.08(17), he shall:

- (a) review the application and the type and circumstances of the mammal problem described therein and may, at his discretion, additionally cause a field inspection to be made of the situation; and shall further, if he determines that the circumstances warrant issuance of such permit,
- (b) cause the applicant to demonstrate that he has used permissible traps for a period of at least 15 consecutive days, and that usage of such traps has failed to abate the mammal problem, and a signed statement by the applicant, signed under the pains and penalties of perjury, shall be accepted by the director as sufficient evidence of such permissible trap usage; and shall further, if he determines that the circumstances warrant issuance of such permit,
- (c) cause the applicant to demonstrate that he has attempted to resolve the mammal problem with alternative, non-lethal management techniques, including, where appropriate, flow devices, exclosures, barriers, or harassment, and that usage of such alternative, non-lethal techniques has failed to abate the problem, and a signed statement by the applicant, signed under the pains and penalties of perjury, shall be accepted by the director as sufficient evidence of such usage of alternative, non-lethal techniques; and
- (d) when the applicant has complied with 321 CMR 2.08(18)(a) through (c), to the satisfaction of the director, the director may authorize in writing the use, setting, placing, tending, and maintenance of restricted traps, of such number and type as he shall determine, and subject to the provisions of 321 CMR 2.08(21), for a period not to exceed 30 consecutive days at the address or location specified in the application by the named applicant.
- (e) At the conclusion of the 30 day period, the applicant shall make a report in writing to the director, and shall state the number of days and/or trap-nights during which restricted traps were used, the success or failure of trap usage, and the number and kind of fur-bearing mammals trapped, if any, their disposition, and any other information as shall have been required by the director in the permit.
- (f) If the applicant was unsuccessful in abating the mammal problem in accordance with such non-emergency special permit, the applicant may reapply and shall again comply with provisions of 321 CMR 2.08(18)(a) through (c).

2.08: continued

(19) Procedure for Reviewing Complaints of Damage by Fur-bearing Mammals. If a report is received by the division of damage by or problems with beaver, muskrat, or other fur-bearing mammals:

- (a) the circumstances of the complaint shall be ascertained; and
- (b) if the complaint or problem is alleged to pose a threat to human health and safety as provided for in 321 CMR 2.08(4), the complainant shall be referred to the municipal board of health in the city or town in which the problem occurs, or, if on federal property, to the federal department of public health; or
- (c) if the complaint or problem is alleged not to pose a threat to human health and safety, as provided for in 321 CMR 2.08(4), the division may record the complaint data and may thereafter provide technical information, conduct a site visit, issue a dam-breaching permit pursuant to 321 CMR 2.02(6) subject to the determinations and conditions of municipal conservation commissions pursuant to provisions of M.G.L. c. 131, § 40, refer the complainant to a licensed hunter or trapper for harvest using firearms or permissible traps during the lawful open season, refer the complainant to a licensed problem animal control agent for taking with firearms or permissible traps, issue a permit to the applicant or a duly authorized agent to control the animal out of season using firearms, advise the complainant of the process for obtaining a non-emergency special permit to use restricted traps as provided for in 321 CMR 2.08(17) and (18), or take such other actions or provide such advice as is deemed appropriate to the situation.

(20) Denial of Non-emergency Special Permit to Use Restricted Traps. Where not repugnant to provisions of M.G.L. c. 30A, the procedure for appealing the denial of a non-emergency special permit to use restricted traps shall be as provided in 321 CMR 2.02(11).

(21) Use of Traps and Firearms. Traps and firearms may be used, set, placed, maintained, tended, or possessed for the capture of fur-bearing mammals in accordance with M.G.L. c. 131, §§ 4, 5, and 37, and 321 CMR 2.14 and 321 CMR 3.02(5), provided that a person lawfully using traps pursuant to permits issued under provisions of 321 CMR 2.08 shall:

- (a) register all traps used, placed, set, maintained, possessed or tended on land of another, in accordance with provisions of M.G.L. c. 131, § 80.
- (b) use restricted traps with a jaw spread not less than four inches and not greater than seven inches, provided such traps are used only when completely submerged in water or when set inside a dwelling or other building with the permission of the owner or occupant thereof. When set inside a building, such traps must have two functioning springs. Notwithstanding the foregoing, restricted traps with a maximum jaw spread not greater than ten inches may be used for the trapping of beaver only, provided that such traps are used only when completely submerged in water.
- (c) use permissible traps only when in conformance with the provisions of 321 CMR 2.14(24) and 321 CMR 3.02(5)(c), unless otherwise allowed by law.
- (d) for the purposes of 321 CMR 2.08, determine the jaw spread of a trap by measuring midway across the open jaws at right angles to the hinges between the extreme outside edges; and all persons subject to M.G.L. c. 131 shall
- (e) use firearms only when in conformance with the provisions of 321 CMR 2.14(24)(f) and 321 CMR 3.00, and M.G.L. c. 140, unless otherwise allowed by law.

(22) Use of Certain Alternative Management Techniques. Notwithstanding the provisions of M.G.L. c. 131, § 80A and 321 CMR 2.08, a person not wishing to obtain an emergency permit or non-emergency special permit to use restricted traps pursuant to 321 CMR 2.08 shall not otherwise be required to obtain a permit to use certain alternative, non-lethal management techniques for the abatement or alleviation of problems caused by fur-bearing mammals, including, but not restricted to, barriers, exclosures, repellents registered and applied consistent with provisions of M.G.L. c. 131, § 43, and c. 132B, harassment, and similar techniques not otherwise repugnant to law, and subject to the determinations and conditions of municipal conservation commissions pursuant to provisions of M.G.L. c. 131, § 40, and the determinations and conditions of the division pursuant to 321 CMR 2.02(6).

2.08: continued

(23) Agents. Licensed trappers, including licensed problem animal control agents, may act as agent for an applicant pursuant to 321 CMR 2.08, provided that such agent shall comply with the trapper training provisions of 321 CMR 2.14(24)(b) and (26), and 321 CMR 3.02(5)(c) and (f), and such other provisions of 321 CMR as shall be applicable.

(24) Incidental Capture. Any person taking a fur-bearing mammal or any other vertebrate animal under provisions of a permit issued pursuant to 321 CMR 2.08 shall, if the animal is killed in the trap, surrender the entire carcass of such animal within 48 hours to the Division, provided that if the animal is a beaver or a muskrat, or such other fur-bearing mammal as shall be specifically named in the permit as causing a threat to human health and safety, the permittee may retain the animal subject to relevant provisions of 321 CMR and M.G.L. c. 131. If an animal other than a beaver, a muskrat, or other fur-bearing mammal as shall be specifically named in the permit is taken alive in a trap, such animal shall immediately be released at the site of capture.

(25) Validity of Permits. Except where a shorter time period is specified in M.G.L. c. 131, § 80A and 321 CMR 2.08, all permits issued pursuant to 321 CMR 2.08 shall be issued and may be reapplied for consistent with provisions of M.G.L. c. 131, § 32.

2.09: Trapping of Birds by Farmers

(1) Permits may be issued to farmers to trap alive and subsequently destroy English (house) sparrows, starlings, and common pigeons if they are destroying agricultural crops or endangering the health of livestock, poultry, or fur-bearing animals.

(2) If any bird protected by state or federal law, other than birds specified in the permit, be trapped, permittee shall immediately release it unharmed.

(3) Applications for permits shall be in writing, and shall state: the damage being done, the extent of such damage, the species of birds to be trapped, the type of trap to be used, the location of each such trap, and the period within which he intends to use such trap(s). Each application shall be accompanied by a fee, the amount of which shall be determined annually by the Commissioner of Administration and Finance pursuant to M.G.L. c. 7, § 3B.

(4) No trap other than a New York Starling Trap or trap of similar design shall be used in conjunction with this permit.

(5) Each trap shall be marked with the permittee's name and address and his permit number. The permittee or his agent shall check each such trap twice daily.

(6) Permittees must comply with any special terms, conditions, or restrictions prescribed in the permit.

(7) Unprotected birds trapped under this permit shall be destroyed as soon as possible after trapping, and shall not be kept for food or other purpose.

(8) At the end of the period specified in the permit, permittee shall send the director a written report, signed by him, stating the number and species of birds trapped and destroyed.

(9) This permit may be suspended or revoked by the director for cause after due notice and hearing.

2.10: Issuance of Permits to Expose Poisons for the Control of Mammal and Bird Species not Protected by Federal or State Statutes

(1) Definitions:

(a) Avitrol® means a brand of 4-aminopyridine, a bird management chemical registered as a flock-frightening repellent.

(b) Board means the Fisheries and Wildlife Board as constituted in M.G.L. c. 21, § 7.

2.10: continued

- (c) Director means the Director of the Division of Fisheries and Wildlife or his or her agents.
 - (d) Orchard means a cultivated aggregate of fruit-producing trees or shrubs.
- (2) Exposing of Poisons. No poisons or registered frightening agents shall be exposed for the control of bird or mammal species not protected by state or federal law, except as provided for in M.G.L. c. 131, § 43 or 321 CMR 2.10. Avitrol® may be used in accordance with 321 CMR 2.10 for repelling or frightening crows, blackbirds, pigeons, and gulls.
- (3) Permits. No person, except as otherwise provided by law, shall place or expose poisons or registered frightening agents for the purpose of killing or frightening wild birds or mammals without obtaining from the Director a permit so to do, the cost of which shall be determined annually by the commissioner of administration pursuant to M.G.L. c. 7, § 3B.
- (4) Issuance of Permits.
- (a) Permits may be issued to the owner or agents of forest plantations or orchards to place poison for the extermination of rats, mice, and other pests of like nature, upon written request stating the specific area involved, toxicant, bait, and period of time during which such work will be conducted, in connection with public health and safety, the suppression of ticks and other animals or pests which may constitute a public nuisance, protection of wild birds and mammals, and purposes of a like nature.
 - (b) For the purposes stated in M.G.L. c. 131, § 43 and 321 CMR 2.10, permits may be issued to agents of the U.S. Department of the Interior, the U.S. National Biological Service, and the U.S.D.A. Animal and Plant Health Inspection Service.
 - (c) For the purposes of M.G.L. c. 131, § 43 and 321 CMR 2.10, permits may also be issued to commercial pest control operators, employees of the Commonwealth, or employees of political subdivisions of the Commonwealth, when in conformance or with the approval of the Massachusetts Department of Agricultural Resources and rules and regulations thereof.
 - (d) All persons must be certified by the Massachusetts Pesticide Board either as a private applicator in case of persons described in 321 CMR 2.10(4)(a), or a commercial applicator (subcategory vertebrate) in the case of persons described in 321 CMR 2.10(4)(c).
 - (e) Notwithstanding the provisions of 321 CMR 2.10(4)(d), the director may issue permits for the use of Avitrol® as a frightening or repelling agent to any person otherwise authorized by the Department of Agricultural Resources. Such permit shall authorize the use of Avitrol® only on the property of the permittee.
 - (f) A person holding a permit issued under 321 CMR 2.10 must be in direct and constant charge of any applications made under such a permit and must adhere to all rules and regulations of the Department of Food and Agriculture and 321 CMR 2.10.
- (5) Duration and Time Limits of Permits. Permits shall allow exposure of poison for the control of birds only for the period specified therein: which period or any part thereof may not be between March 15th and the following November 15th; except that, the Director may authorize the placement of Avitrol® or of certain poisons on specific bait materials in specific situations provided that in his or her judgment sufficient scientific evidence has been presented to show that such placement will not be hazardous to migratory birds or other wildlife. Permits to expose poisons for the control of mammals shall be for such period as specified by the director, in conformance with M.G.L. c. 131, § 32. All permits may be revoked for cause at any time by the Director.
- (6) Materials Which May be Used Under Permits.
- (a) All materials used under a permit issued pursuant to 321 CMR 2.10 must be registered with the Food Protection Program, in the Bureau of Environmental Health, Department of Public Health, or the Massachusetts Pesticide Board, Department of Agricultural Resources, when so required by law; and, in addition.
 - (b) only such materials as may be approved by the Director may be used under these permits.
 - (c) The use of all materials approved under 321 CMR 2.10(6)(a) and (b) must be in conformance with any instructions therefor issued by the manufacturer thereof and with any added restrictions, conditions, or standards which may be placed on such use by the Director in order to protect migratory birds or other wildlife or components of the environment.

2.10: continued

(7) Notification and Reporting of Operations.

(a) All persons holding permits shall notify the Director of writing prior to the application, indicating the date(-s) and place(-s) of application.

(b) Within one month following each operation, the person holding the permit under which the work is done shall report in summary form to the Director:

1. Location of operation
2. Dates of operation
3. Material exposed
4. Amount of material exposed
5. Evaluation of the results of the operation
6. Safety measures and precautions instituted

(c) In the case of operations undertaken by a county or a municipality, permit holders shall notify all proper authorities including Selectmen or Mayors, local public health officials, and local police, as required by such county or municipality.

(8) Policing of Operation.

(a) Permittee shall make every effort to collect and dispose of all dead mammals or birds killed under the permit.

(b) Permittee shall remove all bait, toxicants, or frightening agents from the area immediately upon completion of the operation.

(9) Proof of Financial Responsibility.

(a) Private applicators holding permits must produce evidence of comprehensive insurance in the amount of or in excess of \$25,000- \$50,000 for public liability and \$5000 for property damage.

(b) In the issuance of a permit under M.G.L. c. 131, § 43 and 321 CMR 2.10, the Commonwealth, the Director, or the Board assume no liability of any name or nature.

2.11: Display of Sporting, Hunting, Fishing, and Trapping Licenses

(1) Definitions.

Mobile Device means any electronic device that can be carried on one's person, such as a smart phone, which is capable of displaying a true, complete and legible image of a current and valid hunting, fishing, or trapping license issued by the Division.

Online System means the online licensing and game harvest reporting system of the Department of Fish and Game and Division of Fisheries and Wildlife accessible via the Department's and the Division's website that allows for automated licensing and game harvest reporting, including issuance of applicable official seals or tags via the internet in accordance with M.G.L. c. 131. § 12. The purchase online of a license, official seal, tag or other applicable required permit to hunt, fish or trap for inland fish and wildlife species requires an electronic signature made after an online affirmation under the pains and penalties of perjury by the applicant that the information provided is true and accurate and that the applicant shall comply with all applicable hunting, fishing and trapping rules and regulations.

(2) Each person, except those lawfully hunting, fishing or trapping without a license under provisions of M.G.L. c. 131, § 13, shall while hunting, fishing, or trapping possess on their person a current and valid license to do so and such license shall be signed on the face thereof by the person to whom issued or electronically signed when such license is purchased through the Online System. Persons may show that they possess a current and valid license on their person by displaying a true, complete and legible image of it on their mobile device.

2.11: continued

(3) Each person hunting waterfowl, except certain persons 12 through 14 years of age as provided in 321 CMR 3.02(2): *Table 1E*, shall possess on their person a Massachusetts waterfowl stamp as provided in M.G.L. c. 131, § 13 and 321 CMR 3.02(2)(e)8. Such persons shall sign their license as provided in 321 CMR 2.11(2) and such signature shall constitute compliance with the requirement specified in M.G.L. c. 131, § 13, paragraph 3. The license documenting the issuance of such stamp shall be carried on the person at all times while exercising the authority granted thereby. Persons may show that they possess on their person the license documenting the issuance of the stamp by displaying a true, complete and legible image of it on their mobile device.

(4) Each person hunting deer during the exclusive archery season or the exclusive primitive firearms season, or during any other season during which an archery stamp or a primitive firearms stamp may be required by law, shall possess on their person a Massachusetts archery stamp or primitive firearms stamp, as the case may be, as provided in M.G.L. c. 131, § 13. Such person shall sign their license, or the form on which the stamp is imprinted, as the case may be, as provided in 321 CMR 2.11(2) and such signature shall constitute compliance with the requirement specified in M.G.L. c. 131, § 13, paragraph 2. The license documenting the issuance of such stamp shall be carried on the person at all times while exercising the authority granted thereby. Persons may show that they possess on their person the license documenting the issuance of the stamp by displaying a true, complete and legible image of it on their mobile device.

(5) When engaged in the act of hunting deer, wild turkey or black bear, a paper copy of the applicable license or permit with associated tags shall be carried on the person in accordance with the requirements of 321 CMR 3.02(1)(f), (4)(h) and (9)(g). No person shall detach or remove from their license or permit, as the case may be, their deer, wild turkey, or black bear tag or tags, except as provided in 321 CMR 3.02(1)(f), (4)(h), and (9)(g). Any such tags detached or removed except as provided therein shall be void and shall be surrendered on demand to any officer empowered to enforce the provisions of M.G.L. c. 131.

(6) All persons hunting, fishing, or trapping pursuant to M.G.L. c. 131 shall produce for examination upon demand of any officer or other person specified in M.G.L. c. 131, § 32 any licenses, permits, stamps, or certificates issued to them. Persons may produce any such license or permit, including those that document the issuance of a stamp or certificate, by displaying a true, complete and legible image of it on their mobile device.

2.12: Artificial Propagation of Birds, Mammals, Reptiles, and Amphibians

(1) Purpose and Scope. The purpose of 321 CMR 2.12 is to establish the procedural and substantive requirements for the licensing, possession, propagation, maintenance, and disposition of wild birds, mammals, reptiles and amphibians. 321 CMR 2.12 is designed to protect wild animals from unnecessary or undesirable interference and from improper treatment. 321 CMR 2.12 is also necessary for the protection of the public health, welfare and safety when wild animals are possessed, maintained or propagated in Massachusetts.

Wild animals, regardless of whether or not they are born in captivity, often revert to their wild nature when sexually mature and can do considerable harm to persons. Furthermore, wild animals retained in captivity and dependent on humans for care may not be capable of surviving in the wild if problems arise and they are ejected by those who had attempted to care for them. The result is an animal that may suffer a lingering fate prior to death and may be a potential danger to the public. The purpose of 321 CMR 2.12 is to prevent not only the potential public menace, disease, personal injury and property damage which result when the animals are ejected, but to protect the animals from the potential for needless or unnecessary suffering as well. Thus, the scope of 321 CMR 2.12 is to regulate:

2.12: continued

- (a) the importation, taking from the wild, possession, propagation, purchasing or receipt of protected animals intended to be kept by any person in Massachusetts;
- (b) to define specific categories for which licenses may be issued for the possession, maintenance, propagation or cultivation of protected wildlife;
- (c) to establish minimum requirements for the possession, maintenance and artificial propagation of protected animals;
- (d) to establish administrative procedures for the initial issuance and subsequent renewal of licenses; and
- (e) to otherwise implement the licensing provisions of M.G.L. c. 131, § 23.

321 CMR 2.12 is promulgated and effective in addition to and in conjunction with 7 U.S.C. § 2132 *et seq.* as amended, commonly known as the federal Animal Welfare Act and the licensing program of the United States Department of Agriculture. Compliance with the requirements of the United States Department of Agriculture does not exempt an applicant from compliance with 321 CMR 2.12 or other laws of Massachusetts. Thus, the issuance of the so-called federal exhibitor's permit to any person other than a zoo, as defined in 321 CMR 2.12(2), does not exempt that person from compliance with 321 CMR 2.12 and its licensing provisions.

(2) Definitions. For the purposes of 321 CMR 2.12, the following words have the following meanings:

Animals means any undomesticated bird, mammal, reptile or amphibian, that is not the product of hybridization with a domestic form and not otherwise contained in the exemption list found at 321 CMR 9.01: *Exemption List*.

Class 4 - Class 8 Licenses means respectively licenses issued under authority of clauses 4 through 8, M.G.L. c. 131, § 23.

Director means the Director of the Division of Fisheries and Wildlife, or his or her agents.

Educational Use means a use or uses as contained in a course of training, of any extent or duration, and which pertains to the acquisition, development, or maintenance of a person's moral, intellectual, vocational, and physical faculties, insofar as such course of training shall relate to fisheries or wildlife, and the habitats, ecological relationships, or the environment thereof.

Environmental Police Officer means the Director of the Office of Law Enforcement, deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, environmental police officers, and such other enforcement officers of the Office of Law Enforcement as may be appointed pursuant to M.G.L. c. 21, § 6.

Person means an individual, corporation, partnership, trust, association or other private entity or any officer, agent, department or instrumentality of the federal government or any state or its political subdivisions, including but not limited to any agency, department, board, commission or authority thereof.

Scientific Use means a use or uses concerned with the classification, formulation, verification, and documentation of various natural laws, principles, and events by induction, deduction, hypothesis, and experimentation, including, but not limited to, the collection, analysis, propounding, and display of data, whether written, recorded or otherwise, and of artifacts, specimens, and similar physical samples, and shall further relate generally to the physical world and its associated phenomena, and specifically to those branches of systematized knowledge categorized as zoology, botany, ecology, wildlife management, fisheries management, medicine, and veterinary medicine, or such other skills and disciplines which shall require such use or uses.

Wild Animal Farm means a person licensed pursuant to 321 CMR 2.12(10)(d).

Zoo means a permanent site or a permanent location where a collection of living nondomesticated animals are maintained for regular exhibition to the public.

2.12: continued

(3) Licenses. Unless otherwise provided by law, it is unlawful for any person to possess, maintain, propagate or cultivate, sell or offer to sell any animal without having a valid license issued to them by the Director in one of five classes.

(a) A class 4 propagator's license authorizes a person to possess, maintain, propagate, buy, sell or otherwise lawfully dispose of specified birds, mammals, reptiles or amphibians. A Class 4 license may, in addition and as a condition of the license, allow the liberation and recapture of bobwhite quail or ring-necked pheasant for the sole purpose of training dogs.

(b) A class 5 public stocking license (including a Class 5 special propagator's license) authorizes any individual, club or association to possess, maintain and propagate birds or mammals for the sole purpose of liberation into covers open for public hunting. A Class

2.12: continued

5 public stocking license may be issued as a Letter Permit in accordance with M.G.L. c. 131, § 4(2) and 321 CMR 2.02 but shall otherwise conform to the requirements of 321 CMR 2.12.

(c) A class 6 dealer's license authorizes a person to possess or maintain for food purposes, and to purchase, sell, offer to sell, barter, offer to barter, or conduct commercial transactions of any nature, fish, birds, or mammals which have been lawfully imported into Massachusetts or lawfully propagated within Massachusetts, provided that dealing in fish shall be in accordance with 321 CMR 4.09: *Propagation, Culture, Maintenance and Sale of Protected Freshwater Fish*. A class 6 dealer's license issued for purposes other than human food shall be issued at the discretion of the director, and the director shall not issue such permit unless, in his discretion, such permit is in the public interest and is not detrimental to the fish and wildlife resources of Massachusetts or the populations of the fish and wildlife proposed for the license, wherever found. When a fish, bird, or mammal proposed for licensing closely resembles a fish, bird, or mammal not so proposed, or for which a license may not be issued, or which derives from a source not authorized pursuant to 321 CMR 2.12(16)(a), the director may consider such similarity of appearance as constituting an adverse or detrimental effect on such protected or non-licensed fish, birds, and mammals, or on the enforcement of laws relating to the conservation and management of the same, and may deny the license on such basis.

(d) A class 7 possessor's license authorizes a person to possess and maintain, but not to propagate, sell or barter, a non-exempt bird or mammal in accordance with 321 CMR 2.12(10)(l); or a non-exempt mammal for the sole purpose of training dogs, when such mammal was lawfully possessed and held under a Class 7 license prior to December 31, 1994; or for the possession of a non-exempt reptile or amphibian. After December 31, 1994, no initial Class 7 license may be issued for the purpose of possessing a non-exempt mammal for the purpose of training dogs. A Class 7 license may be issued as a Letter Permit in accordance with M.G.L. c. 131, § 4(2) and 321 CMR 2.02 but shall otherwise conform to the requirements of 321 CMR 2.12.

(e) A dog training license (including a Class 8 quail license) authorizes a person to possess no more than 25 quail, six ring-necked pheasant, and two chukar partridge to liberate and recapture for the sole purpose of training dogs.

(4) Application. A person seeking a license provided for in 321 CMR 2.12(3) shall complete a written application on forms supplied by the Director. Completed applications shall include a self-addressed stamped envelope and be addressed to the Permit Section, Division of Fisheries and Wildlife, 251 Causeway Street, Suite 400, Boston, MA 02114.

(5) Information and Requirements. All initial license applications shall contain the following information. Renewal license applications shall include but not be limited to 321 CMR 2.12(5)(a), (c), (f), and (g):

- (a) the applicant's name, address and telephone number where he or she can be reached between the hours of 9:00 A.M. to 5:00 P.M.;
- (b) the applicant's date of birth;
- (c) in the event the applicant is a corporation, firm, partnership, institution or agency, either public or private, the name, address and telephone number of the president, director, head or principal officer;
- (d) the location or locations where the licensed activity will be conducted;
- (e) the specific source or sources from which the animals are to be obtained;
- (f) the date of the application;
- (g) the applicant's signature executed under the pains and penalties of perjury;
- (h) for a class 4 license, accurate diagrams, models or drawings in scale or pictures depicting the precise physical conditions under which the animals will be maintained;
- (i) for a commercial license requested pursuant to 321 CMR 2.12(10)(c) or (d), a signed affidavit certifying that the applicant has to the best of his or her knowledge paid all state taxes as required by the Massachusetts Department of Revenue; and
- (j) a written plan detailing the intended activity for which the animals are to be maintained, the disposition of the animals if relevant, and other information pertinent to a full explanation and justification for the possession of the animals.

2.12: continued

- (k) for a license requested pursuant to 321 CMR 2.12(10)(a), (b), (c), (d), (f), or (g), a copy of the applicant's résumé, letters of recommendation, diplomas or certificates, and such other documentary items as shall provide evidence of the applicant's qualifications, training, and experience in the activity which has been applied for.
- (6) Fees. All applications and renewals shall be accompanied by the appropriate fee indicated on the application in the form of a check or money order payable to the Division of Fisheries and Wildlife. Cash may be used only when the application is made in person.
- (7) Exception. Payment of fees shall not be required of any federal, state, or municipal agency or official, nor of any person under contract to the Division of Fisheries and Wildlife or otherwise involved in projects conducted or directly supervised by the Division of Fisheries and Wildlife.
- (8) Abandoned Applications. Upon receipt of an incomplete application, an improperly executed application, or an insufficient fee, the applicant shall be notified of the deficiency. If the applicant fails to supply the requested information, pay the required fee or otherwise fails to correct the deficiency within 60 days following the date of notification, the application shall be considered abandoned and shall be returned to the applicant.
- (9) Denials. Applications for a license provided for in 321 CMR 2.12(3), including both initial applications and renewals, shall, unless otherwise provided, be denied when:
- (a) the application is for a license to possess, maintain, propagate or cultivate animals as pets except as otherwise provided for in 321 CMR 2.12(10)(h) and (i);
 - (b) the application is for a class 4 license to possess, maintain, or propagate animals for purposes or intentions based purely on curiosity, impulse or novelty, or to provide for personal amusement or entertainment;
 - (c) the applicant has within one year preceding the date of application been criminally convicted of a violation of any provision of M.G.L. c. 131, c. 131A, any provision of 321 CMR, or any federal statute or federal regulation which is related to the activity for which the license is sought;
 - (d) the applicant has failed to disclose material information or has made false statements as to any fact in connection with the application;
 - (e) a prior inspection of the facilities where the animal will be possessed, maintained, propagated or cultivated by a duly authorized state or federal official has disclosed that the facilities do not meet the requirements found in 321 CMR 2.12(11) and (15) and such deficiencies have not been corrected within 30 days;
 - (f) the application is for a license to possess an animal in a commercial venture involving amusement or sport;
 - (g) the applicant for a Class 4 license has imported into or received in Massachusetts any animal without a valid importation license as required by M.G.L. c. 131, §§ 19 and 19A, and 321 CMR 2.15;
 - (h) the applicant has failed to satisfy the director that his or her qualifications, training, and experience are sufficient to properly maintain, propagate or care for the animals in question, or to adequately provide for the safety and well-being of the public and the environment;
 - (i) the applicant has failed to satisfy the director that the applicant is actively engaged in the activity granted by the permit;
 - (j) the application is for a class 6 dealer's license other than for purposes of human food and the applicant has failed to satisfy the director that the application is in the public interest and is non-detrimental to fish and wildlife resources pursuant to 321 CMR 2.12(3)(c);
 - (k) the application is for the commercial farming of more than 100 turtles for the purposes of sale.
- (10) Issuance. A Class 4 license may be issued only to applicants who substantially document that the intended possession, maintenance or propagation is for:
- (a) an authentic and legitimate scientific use certified by officials of a generally recognized scientific institution such as museums of a zoological or biological nature, zoological or biological departments of an accredited college or university, or a public or private research institute for wildlife population or management studies;

2.12: continued

- (b) an authentic and legitimate educational use certified by zoological or biological officials of a generally recognized educational institution such as an accredited college or university or a public or private school;
- (c) a commercial use in conjunction with an applicant's primary existing occupation or livelihood in Massachusetts and for which the animal is an inherently necessary and an essential element;
- (d) commercial propagation of protected animals for sale other than sale as pets, which shall be issued only for those species listed in 321 CMR 2.12(11);
- (e) an authentic use in conjunction with legitimate sporting events involving the training of dogs;
- (f) animals held or propagated under holding agreements or in conjunction with breeding programs of established zoos licensed by the United States Department of Agriculture;
- (g) captive propagation of threatened or endangered animals under the auspices of a written captive propagation program approved by both the Director and the Fisheries and Wildlife Board, when such captive propagation is in accordance with the recovery or action plans or recommendations of the International Union for the Conservation of Nature and Natural Resources, the American Association of Zoological Parks and Aquariums, or of the United States or of Massachusetts, and, in the opinion of the director will make a meaningful contribution to the ultimate survival and recovery of the animal. Such captive propagation shall be restricted to genetically pure animals of known lineage unless otherwise specified in the recovery or action plans or recommendations;
- (h) the aviculture of non-exempt birds, including federally threatened and endangered species as authorized by the United States Fish and Wildlife Service, that are documented to be the product of captive propagation or that were legally held prior to the approval of 321 CMR 2.12 and are members of the following taxonomic groups: *Ciconiiformes* (e.g., flamingo), *Anseriformes* (e.g., ducks, geese, swans), *Galliformes* (e.g., pheasant, quail, grouse), *Gruiformes* (e.g., cranes, coots), *Columbiformes* (e.g., pigeons, doves), *Psittaciformes* (e.g., parrots), *Piciformes* (e.g., toucans), *Passeriformes* (e.g., songbirds). The foregoing shall not include the Wild Turkey (*Meleagris gallopavo*) or the following potential pest species: Pink Starling (*Sturnus roseus*), Red-billed Dioch including the Black-fronted and Sudan Diochs (*Quelea quelea*), and Red-whiskered Bulbul (*Pycnonotus jocosus*);
- (i) the propagation of non-exempt reptiles, including federally endangered and threatened species as authorized by the United States Fish and Wildlife Service, that are documented to be the product of captive propagation or that were lawfully held prior to the approval of 321 CMR 2.12 on May 8, 1986, and are members of the taxonomic groups which include turtles and lizards, except venomous lizards in the genus *Heloderma*;
- (j) the training of animals to aid the handicapped; or
- (k) any protected animal lawfully possessed prior to July 1, 1980.

(11) Commercial Propagation-- Allowable Species. Only the following species or groups of species may be commercially propagated:

- (a) fallow deer (*Cervus dama*);
- (b) red deer (*Cervus elaphus*);
- (c) sika deer (*Cervus nippon*);
- (d) aoudad (Barbary sheep)(*Ammotragus lervia*);
- (e) mouflon (*Ovis musimon*);
- (f) red fox (*Vulpes vulpes*), including silver fox, cross fox, and color variants thereof;
- (g) Arctic fox (*Alopex lagopus*);
- (h) pheasants, quail, partridges (*Phasianidae*);
- (i) waterfowl (*Anseriformes*); and
- (j) federally endangered and threatened species of birds listed in 321 CMR 9.01(11): *List of Birds*, when approved by the U.S. Fish and Wildlife Service if required, and the Director.

(12) Exemption. Licensed veterinarians temporarily treating sick and injured animals are exempt from the licensing requirements provided that:

- (a) accurate records are kept on forms provided by the Director and submitted annually not later than January 31st; and

2.12: continued

(b) the Director is notified immediately of the presence of any endangered, threatened or special concern species listed pursuant to the U.S. Endangered Species Act or to 321 CMR 10.60.

(13) Temporary Possession Permit. Persons may temporarily possess animals in Massachusetts provided a temporary possession permit is obtained from the Division. The applicant shall supply the Division with the dates, times and locations where the animals will be possessed, the purposes of the temporary possession, a list of the animals being temporarily possessed and the dates of their removal. For the purposes of 321 CMR 2.12, a temporary possession permit may also be issued to a wild animal farm or a zoo for exhibiting animals off the premises of such farm or zoo.

(14) Grace Period. Persons presently possessing, maintaining, propagating or cultivating animals other than as pets, without a valid license or otherwise unlawfully, will be allowed a 30 day grace period from 6/30/95 in which applications for a license may, if submitted in accordance and in compliance with 321 CMR 2.12 and within the 30 day period, be approved and issued by the Director.

(15) Inspections. Upon submission of a properly completed application for a Class 4 license to be issued pursuant to 321 CMR 2.12(3) or for a wildlife rehabilitation permit issued under authority of M.G.L. c. 131, § 4, clause 2, and all required supporting documentation, an Environmental Police Officer or an official of the Division of Fisheries and Wildlife, or both, shall inspect the facilities to be used by the applicant for the maintenance of the following animals: any mammal in the order *Carnivora* (wild cats, wolves, bears, raccoons, weasels, and others); any mammal in the order *Proboscidea*; any mammal in the families *Cervidae* (deer, elk, and others) and any venomous reptiles. If, upon receiving a properly completed application for a Class 4 license for any other species, the Director determines that an inspection of the applicant's facilities is in the public interest, he may cause such inspection to be made by an official of the Division or an Environmental Police Officer or both. An applicant's facilities, whether or not inspected as provided in 321 CMR 2.12(15), shall meet the following minimum requirements:

- (a) animals shall be kept in approved enclosures under conditions that give the licensee exclusive control over them at all times and at the location(s) to be designated in the license, except as otherwise provided by law or the Director;
- (b) approved enclosures shall be designed so as to provide adequate physical comfort to the animal and shall:
 - 1. keep the animal clean and dry, except for those species requiring a moist environment;
 - 2. maintain an ambient temperature compatible with the animal's needs;
 - 3. keep the animal in complete and continuous captivity;
 - 4. restrict the entry of unauthorized persons or predatory animals;
 - 5. provide access to clean food and fresh water in clean containers; and
 - 6. sufficient fresh food and water fulfilling the animal's dietary requirements shall be made available and shall be presented in a manner compatible with the animal's particular eating habits;
- (c) maintain all enclosures in a sanitary condition and in good repair;
- (d) have equipment available for proper storage and disposal of waste material to control vermin, insects and obnoxious odors;

2.12: continued

- (e) take effective measures to prevent and control infection and infestation of the animal and premises with disease, parasites and vermin;
 - (f) provide adequate shelter for the comfort of the animal and adequate facilities, when necessary, for isolation of diseased animals;
 - (g) if animals are group housed, maintain animals in compatible groups without overcrowding;
 - (h) ensure the enclosures are adequately designed to minimize any potential danger to the public, or to the licensee;
 - (i) in the case of venomous reptiles, arrange for antivenin to be readily available through a local hospital, the name, address and telephone number of which shall be affixed to the enclosure; and
 - (j) provide for the maintenance or disposition of all animals in case of the licensee's absence, illness, or death.
 - (k) comply with any special conditions or restrictions as stipulated by the Director, pursuant to 321 CMR 2.12(16).
- (16) Restrictions. Applications for a license issued pursuant to 321 CMR 2.12(3) shall comply with the following restrictions.
- (a) Animals may be procured in the following manner only:
 - 1. lawfully propagated, harvested, or taken outside of Massachusetts; or
 - 2. lawfully propagated within Massachusetts; and
 - 3. unless otherwise provided for by the Director, animals taken from the wild within Massachusetts may not be propagated, cultivated or maintained for purposes of sale pursuant to M.G.L. c. 131, § 23.
 - (b) Birds and mammals possessed and maintained under authority of a class 5 license shall be liberated into the wild within one year under the supervision of and in covers approved by the Director.
 - (c) Birds and mammals sold for food purposes must first be killed and to each carcass or part thereof shall be attached a tag furnished by the Director at a cost to the licensee established by the Executive Office of Administration and Finance. This tag shall remain on the carcass or any portion thereof until the bird or mammal is prepared for consumption.
- (17) Conditions. The Director may at any time, in writing, establish conditions or restrictions to a license issued pursuant to 321 CMR 2.12(3) if, in his or her opinion, the conditions or restrictions are necessary for the preservation and protection of the health, welfare or safety of the citizens of Massachusetts or of the animal.
- (18) Agreement. All licenses issued pursuant to 321 CMR 2.12(3) shall be signed by the licensee and such signature shall constitute:
- (a) an agreement by the licensee to fully comply with all relevant provisions of law including but not limited to M.G.L. c. 131, c. 131A, 321 CMR, and all applicable conditions and restrictions of the license;
 - (b) an agreement by the licensee to allow inspections at reasonable times of the premises where the animals are kept by the Director or by an Environmental Police Officer of the Office of Law Enforcement; and
 - (c) liability agreement.
- (19) Amendments. Class 4 license holders shall submit to the Director in writing any change in protected animal stock covered by a pending application or a current license. No change in protected animals, except in the instance of animals giving birth, held under authority of a class 4 license may be made until an appropriate amendment covering such change in stock is approved by the Director. All such requested amendments and modifications shall be subject to the provisions of 321 CMR 2.12.
- (20) Records. Licensees shall keep and maintain for no less than two years accurate records on forms supplied by the Division of all animals possessed and maintained under authority of a license. Said records shall be made available to the Director or to an Environmental Police Officer upon request.

2.12: continued

- (21) Renewal. Applications for renewal of any license authorized to be renewed:
- (a) shall be filed with the Division no later than December 31 of each year;
 - (b) shall contain any change in protected animals to be maintained;
 - (c) shall be subject to the provisions of 321 CMR 2.12 and relevant provisions of M.G.L. c. 131; and
 - (d) are subject to M.G.L. c. 30A, § 13, and 801 CMR 1.00 in the event a renewal is denied.
- (22) Suspension or Revocation. Licenses issued pursuant to 321 CMR 2.12 may be suspended or revoked in accordance with the relevant provisions of M.G.L. c. 30A and 801 CMR 1.00 for:
- (a) a violation of any provision of M.G.L. c. 131 or c. 131A;
 - (b) a violation of any provision of 321 CMR;
 - (c) a violation of any federal statute or regulation which is related to the activity for which the license has been obtained;
 - (d) a violation of any condition or restriction of the license; or
 - (e) upon the request of any Environmental Police Officer if it is determined that the licensee's operation causes an unnecessary threat to the public health, welfare or safety or is not in the best interest to the animal.
- (23) Effect of Suspension, Revocation, or Non-Renewal. In the event a license is suspended, revoked or not renewed, the licensee shall dispose of the animals within 60 days in a manner required by the Director or in a manner provided for by the licensee with the approval of the Director.
- (24) Prohibitions. It is unlawful for any person:
- (a) to import, possess, maintain, propagate or have custody of in Massachusetts any animal without a valid license issued pursuant to 321 CMR 2.12 or 2.15;
 - (b) to falsify any license application or renewal, provide false documentation in support of a license application or renewal or fail to provide relevant and material information regarding a license application or renewal;
 - (c) to refuse to allow reasonable inspections of the premises where the animals are kept at reasonable times by any Environmental Police Officer or by the Director;
 - (d) who is a veterinarian to fail to keep accurate records of the treatment of an animal or to falsify such records;
 - (e) who is a veterinarian to fail to notify the Director immediately of the presence of any endangered, threatened or special concern species;
 - (f) to keep and maintain any animal in a condition or under conditions which do not comply with provisions of 321 CMR 2.12(15)(a) through (k);
 - (g) to import, possess or purchase any animal which was propagated unlawfully in or out of Massachusetts;
 - (h) not to liberate into the wild within one year birds and mammals possessed and maintained under authority of a class 5 license;
 - (i) to liberate into the wild birds and mammals possessed and maintained under authority of a class 5 license without the Director or his agent being present or provided such opportunity, or into covers not otherwise approved by the Director;
 - (j) to sell a bird or mammal for food purposes which has not been killed first and affixed with a tag furnished by the Director;
 - (k) to remove any tag which has been affixed to the carcass of a bird or mammal sold for food purposes at any time other than immediately prior to preparation for consumption;
 - (l) to violate any condition or restriction of a license issued prior to 321 CMR 2.12;
 - (m) not to provide the Director with written notification of a change in protected animal stock which is covered by a pending application or a current license;
 - (n) not to maintain for at least two years accurate records of all animals maintained and possessed or to falsify any such record or to refuse to provide such records upon request to any Environmental Police Officer or the Director;
 - (o) to refuse or fail to comply with a disposal order of the Director issued pursuant to 321 CMR 2.12(23).

2.12: continued

(25) Grandfather Clause. A person licensed as a Class 4 propagator on May 1, 1995 who is commercially propagating animals pursuant to 321 CMR 2.12 (10)(d) and, in addition, who is propagating animals not listed in 321 CMR 2.12(11), shall be allowed to continue propagation of such animals at the same site and of the same numbers of animals as on May 1, 1995, provided that a person so propagating white-tailed deer shall be allowed to propagate only the individual deer in possession on May 1, 1995, and such deer shall not be replaced when dead. Permittees shall comply with all other provisions of 321 CMR 2.12.

2.13: Wildlife Rehabilitation

(1) Purpose. The purpose of 321 CMR 2.13 is to provide for the care of sick, injured, debilitated, and orphaned wildlife by trained wildlife rehabilitators and to provide criteria for the issuance of permits to such wildlife rehabilitators. In accordance with M.G.L. c. 131, § 4, wildlife rehabilitators issued permits pursuant to 321 CMR 2.13(11) or 2.13(14), or persons exempted from the permit requirement pursuant to 321 CMR 2.13(15), may acquire sick, injured, debilitated, or orphaned wildlife and provide necessary care and treatment so that the animal may be returned to live in the wild independent of human aid and sustenance. Nothing in 321 CMR 2.13 shall authorize or be construed to authorize a wildlife rehabilitator permitted under 321 CMR 2.13(11) or (14) to practice veterinary medicine contrary to M.G.L. c. 112.

(2) Definitions. For the purposes of 321 CMR 2.13 and unless the context requires otherwise, the following words or phrases shall have the following meanings:

At or Near the Point of Capture means a location within five miles of the point of capture, or within the same county in which the permittee maintains facilities inspected and approved pursuant to 321 CMR 2.13(16), provided that in the case of a permittee whose inspected and approved facilities are located in Suffolk County "at or near the point of capture" shall further include any county which borders on Suffolk County.

Contact: shall include, but not be limited to, physical contact between the public and wildlife, including the unauthorized provision of food and liquids, and also visual, auditory, or olfactory contact between the public and wildlife which may cause or result in subjecting the wildlife to stress, behavioral anomalies including taming or imprinting, or in any diminishment of the capacity of such wildlife to subsequently survive in the wild independent of human aid and sustenance.

Director: the Director of the Division of Fisheries and Wildlife, or his or her agents.

Division: the Massachusetts Division of Fisheries and Wildlife.

Emergency Basis means the rehabilitation of six or less animals per calendar year.

Environmental Police Officer: the Director of the Office of Law Enforcement, deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, environmental police officers, and such other enforcement officers of the Office of Law Enforcement as may be appointed pursuant to M.G.L. c. 21, § 6.

Person: any individual, partnership, profit or non-profit corporation, firm, business or other commercial or non-commercial entity, club, organization, or association.

Promptly Released means for birds a period not to exceed 90 days from the time of acquisition, and for mammals, a period not to exceed one year (365 days) from the time of acquisition.

2.13: continued

Public includes, but is not limited to, all persons other than wildlife rehabilitators permitted under 321 CMR 2.13(11) and 2.13(14), members of their immediate family, providers of temporary care authorized under 321 CMR 2.13(17), veterinarians licensed under M.G.L. c. 112, Environmental Police Officers, and employees of the Division.

Rehabilitate means the provision of care and treatment to sick, injured, debilitated, or orphaned wildlife for the purpose of returning such animals to the wild in a condition which enables them to survive independent of human aid and sustenance.

Wildlife: non-domesticated amphibians, reptiles, birds, and mammals.

Wildlife Rehabilitator or Permittee: a person who has been issued a permit, or who has been exempted from the permit requirement in accordance with the provisions of 321 CMR 2.13 for the purpose of providing care, aid, and treatment to sick, injured, debilitated, or orphaned wildlife with the goal of returning such wildlife to the wild independent of human aid or sustenance.

Wildlife Rehabilitation Permit: a permit issued pursuant to 321 CMR 2.13, including a provisional wildlife rehabilitation permit and such equivalent permit as may have been issued by the Division prior to the publication of 321 CMR 2.13 in the Massachusetts Register.

(3) Scope of Permit Requirement. No person, except as otherwise authorized under provisions of M.G.L. c. 131, or as exempted in 321 CMR 2.12(11) and 321 CMR 2.13(15), shall rehabilitate wildlife without complying with the provisions of 321 CMR 2.13.

(4) Application. A person seeking a wildlife rehabilitation permit shall complete a written application on forms supplied by the Director. Completed applications shall be addressed to the Permit Section of the Division.

(5) Information. All initial permit applications shall contain the following information. Renewal applications, including applications for a provisional permit, shall include, but not necessarily be limited to, those items in 321 CMR 2.13(5)(a), (c), (h), and (i):

- (a) the applicant's name, address, and telephone number where he or she can be reached between the hours of 9:00 A.M. to 5:00 P.M.;
- (b) the applicant's date of birth;
- (c) in the event the applicant is a corporation, partnership, firm, business or other commercial entity, club, organization, or association, either public or private, the name, address, telephone number and date of birth of the president, director, head, or principal officer;
- (d) the location or locations where the activity to be permitted under 321 CMR 2.13(11) or 2.13(14) will be conducted;
- (e) the species or categories (such as "small mammals", "songbirds", "waterfowl", "reptiles and amphibians") of wildlife which the applicant is prepared to rehabilitate;
- (f) a description of the cages and other facilities which the applicant has available for rehabilitation purposes;
- (g) the name, address, and telephone number of a veterinarian registered and licensed under provisions of M.G.L. c. 112 to practice veterinary medicine in Massachusetts who is available for consultation with and advice to the applicant;
- (h) the date the application was executed; and
- (i) the applicant's signature, executed under the pains and penalties of perjury.

(6) Agreement. All permits issued pursuant to 321 CMR 2.13 shall be signed by the permittee. Such signature shall constitute:

- (a) an agreement by the permittee to fully comply with all relevant provisions of law including but not limited to M.G.L. c. 131, 321 CMR and all applicable conditions and restrictions of the license; and
- (b) liability agreement.

2.13: continued

- (7) Qualifications. In order to qualify for a wildlife rehabilitation permit a person must:
- (a) be at least 18 years of age and domiciled in the Commonwealth of Massachusetts; and
 - (b) pass a written examination as stipulated in 321 CMR 2.13(18) administered by the Director or his authorized agent, except as provided for in 321 CMR 2.13(15) and 2.13(20).
- (8) Fees. A fee may be charged for the issuance of a wildlife rehabilitation permit and for the administration of a written wildlife rehabilitation examination. The amount of the fees shall be determined by the commissioner of administration under the provisions of M.G.L. c. 7, § 3B, unless otherwise determined by the Legislature.
- (9) Abandoned Applications. Incomplete or improperly executed applications shall be treated as provided for in 321 CMR 2.12(8).
- (10) Denial. Applications for a wildlife rehabilitation permit shall, unless otherwise provided, be denied when:
- (a) the applicant has within five years preceding the date of application been assessed a civil or administrative penalty for, or been convicted of a violation of any provision of M.G.L. c. 131, or of any provision of M.G.L. c. 266 or c. 272 involving cruelty to animals, or of any provision of 321 CMR, or of any federal statute or regulation which is related to the activity for which the permit is sought;
 - (b) the applicant has failed to disclose material information or has made false statements as to any fact in connection with the application;
 - (c) the applicant has failed to submit the required fee with the application, unless the applicant is exempt from such fee as provided in 321 CMR 2.13(15), or unless no fee has been established;
 - (d) an inspection by a duly authorized state or federal official of the facilities where wildlife will be maintained has disclosed that the facilities do not meet the requirements of 321 CMR 2.13(16);
 - (e) the applicant fails, when required, to fulfill the examination requirement established at 321 CMR 2.13(18); or
 - (f) the applicant fails, when required, to meet the recertification requirement established at 321 CMR 2.13(19).
- (11) Permit. A wildlife rehabilitation permit may be issued to a person based on his or her demonstrated experience, successful completion of a written examination, the availability of adequate facilities at his or her rehabilitation site or sites, and other provisions of 321 CMR 2.13.
- (12) Provisional Permit. A provisional wildlife rehabilitation permit may, at the discretion of the Director, be issued to an applicant in accordance with the provisions of 321 CMR 2.13(11) and 2.13(14).
- (13) Expiration Date. The expiration date for a wildlife rehabilitation permit shall be midnight of December 31 in the calendar year. The expiration date for a provisional wildlife rehabilitation permit shall not exceed 180 days from the date of issuance.

2.13: continued

(14) Provisional Status. Upon receipt of a properly executed application and the completion of a satisfactory inspection of the applicant's facilities, a person who has held a wildlife rehabilitation permit for at least one full calendar year, but for less than three full calendar years, immediately prior to the publication date of 321 CMR 2.13 in the Massachusetts Register may be granted a provisional wildlife rehabilitation permit. A provisional wildlife rehabilitation permit authorizes the permittee to carry out all activities of a wildlife rehabilitator until such time as the applicant passes or fails the written examination. Such examination shall be taken within 180 days following the issuance of a provisional wildlife rehabilitation permit. A person may hold a provisional wildlife rehabilitation permit for a period not to exceed 180 days. A person who, having passed the written examination and been issued a wildlife rehabilitation permit, shall not subsequently be issued a provisional wildlife rehabilitation permit. A provisional wildlife rehabilitation permit held by any person who fails the written examination shall automatically be void. A person who has not held a wildlife rehabilitation permit for at least one full calendar year immediately prior to the publication of 321 CMR 2.13 in the Massachusetts Register shall not be grandfathered or granted provisional status.

(15) Exemptions. The following exemptions shall apply to veterinarians properly licensed in the Commonwealth.

(a) Veterinarians licensed under the provisions of M.G.L. c. 112 who rehabilitate animals only on an emergency basis shall be exempt from the fees, permit, inspection, examination, and recertification requirements of 321 CMR 2.13(8), 2.13(11), 2.13(16), 2.13(18), and 2.13(19) provided that such veterinarians comply with 321 CMR 2.13(22), 2.13(24) and all other provisions of 321 CMR 2.13 wherein not specifically exempted. Veterinarians exempted under 321 CMR 2.13(15)(a) shall not advertise or otherwise promote their services as a wildlife rehabilitator.

(b) Veterinarians licensed under the provisions of M.G.L. c. 112 who rehabilitate or intend to rehabilitate animals on a regular basis or who advertise or promote or intend to advertise or promote their services as a wildlife rehabilitator and who are not otherwise exempt under the provisions of 321 CMR 2.13(15)(a) shall be exempt from the fees and examination requirements of 321 CMR 2.13(8) and 2.13(16), provided that such veterinarians comply with all other provisions of 321 CMR 2.13.

(16) Inspections. Upon receipt of a properly executed application for a wildlife rehabilitation permit and all required supporting documentation, an Environmental Police Officer or an official of the Division or both shall inspect the facilities to be used by the applicant for the rehabilitation of wildlife and shall certify that they meet or fail to meet the minimum requirements established in 321 CMR 2.12(16) or requirements otherwise established by the Director. Wildlife rehabilitation facilities and records, including those of persons exempted under 321 CMR 2.13(15)(a), shall be available for inspection by Environmental Police Officers or officials of the Division at any reasonable hour in order to examine or inspect the conditions, standards, and methods of care and keeping of wildlife. The applicant agrees as a condition to a renewal of his or her application that the facilities and records will be subject to periodic and unannounced inspections at reasonable hours. When authorized by the Director, Environmental Police Officers or officials of the Division may order that specific wildlife be released, transferred, surrendered, or humanely destroyed, and may seize and remove wildlife from the custody of the permittee if they deem it necessary for the welfare of such wildlife, of other wildlife, of domestic animals, for the welfare and safety of humans, or for failure to comply with any provision of the permit, or 321 CMR 2.12, or 2.13.

2.13: continued

(17) Temporary Care. Any other person may care for the wildlife held by a permittee when authorized in writing by the permittee provided that if the period of care exceeds 30 days the Director shall be notified in writing of such temporary care provisions within three calendar days from the inception of temporary care. Such written notification shall include the name or names of the persons providing temporary care, the reason or need for temporary care status, and the number of days temporary care is to be maintained. Nothing in 321 CMR 2.13(17) shall be construed to allow the provision of temporary care at facilities other than those approved and inspected pursuant to 321 CMR 2.13(16) unless so approved in writing by the Director. An Environmental Police Officer or an official of the Division may remove wildlife from temporary care when such temporary care has been instituted contrary to provisions of 321 CMR 2.13(17) or for those reasons specified in 321 CMR 2.13(16). Those persons specified in 321 CMR 2.13(10)(a) may not be authorized to perform temporary care.

(18) Examination Requirements.

(a) Except as provided for in 321 CMR 2.13(15) and (20), applicants a wildlife rehabilitation permit shall successfully complete a written examination relating to biology, care, handling, diets, animal welfare, statutes and regulations, and such other appropriate subject matter as shall be determined by the Director. A person must attain a passing grade as determined by the Director. An applicant who fails may not be eligible to retake the examination for two months or more from the date of the failed examination.

(b) The maximum duration of a provisional wildlife rehabilitation permit shall be 180 days. If the written examination is not passed within the above stated time period for provisional status, the applicant shall no longer be authorized to possess and rehabilitate wildlife until such time as the written examination is successfully completed.

(19) Periodic Recertification. Except as provided for in 321 CMR 2.13(15)(a) proof of participation in a wildlife rehabilitation seminar, workshop, or training session approved by the Director, at least once in every three consecutive years shall be required for continued renewal of a wildlife rehabilitation permit. Failure to complete such periodic recertification by December 31st of the third calendar year following the most recent renewal, or issuance of the initial permit, whichever is most recent, shall result in non-renewal of the permit until such time as the recertification requirement is satisfied.

(20) Grandfather Clause. All persons who held a valid wildlife rehabilitation permit for three or more consecutive calendar years immediately prior to the initial publication of 321 CMR 2.13 in the Massachusetts Register shall be exempt from the written examination requirement set forth in 321 CMR 2.13(18). However, such grandfathered persons shall not be exempt from the recertification requirements set forth in 321 CMR 2.13(19).

(21) Revocation and Non-renewal. A wildlife rehabilitation permit, or an exemption pursuant to 321 CMR 2.13(15) may be revoked by the Director at any time upon failure to comply with any condition of the permit, or 321 CMR 2.13, or failure to provide the care and treatment necessary to prepare wildlife held under authority of the permit for successful release to the wild. Wildlife possessed or maintained by a person whose permit or exemption has been revoked or which has not been renewed shall be disposed of by that person in a manner required in writing by the Director. Any wildlife not disposed of may be seized by an Environmental Police Officer or official of the Division and disposed of in the best interest of the Commonwealth.

2.13: continued

(22) Restrictions:

(a) A wildlife rehabilitation permit may not authorize the rehabilitation of endangered or threatened wildlife listed in 321 CMR 10.60, venomous snakes, black bear, moose, or white-tailed deer. All wildlife held under authority of a wildlife rehabilitation permit may not be maintained as pets, intentionally tamed, transferred to a person not properly licensed or otherwise authorized, sold, exchanged for consideration, bartered, maintained in unapproved facilities or by unauthorized persons, or maintained for a period longer than that specified in 321 CMR 2.13(22). All wildlife which has recovered from disease, injury, or debilitation, or successfully raised as an orphan, shall be promptly released into the wild at or near the point of capture unless otherwise instructed by the Director. The Director may authorize in writing a longer holding period or a more distant release site when, in his judgement, such holding period or release site is necessary for the welfare of the wildlife so held or released and is not detrimental to human health and safety or the health and welfare of free-ranging wildlife or domestic animals.

(b) Wildlife, except endangered, threatened, or special concern species listed in 321 CMR 10.60 for which recovery from disease, injury, or debilitation in the permittee's judgement is not anticipated shall be donated to an approved zoo, museum, or natural history organization, or shall be euthanized, unless the permittee is otherwise instructed by the Director. Orphaned wildlife which, in the judgement of the permittee, cannot be released to the wild due to a lack of behavioral traits enabling such wildlife to survive without dependence on human aid and sustenance, or to imprinting on humans, shall be disposed of as stipulated in 321 CMR 2.13(22)(b). Dead wildlife shall be transferred to the Division upon request of the Director. If not requested by the Director dead wildlife shall be disposed of at an approved museum, or scientific or educational institution, or disposed of by lawful incineration or burial. The Director reserves the right to make final judgement as to the capacity of wildlife to recover from disease, injury, or debilitation, or for orphans to be successfully reared and released. He may direct the disposal of such wildlife by transfer to another rehabilitator, release to the wild, or euthanasia when, in his judgement, the health, welfare, and safety of such wildlife, the public, free-ranging wildlife, or domestic animals shall be best served by such disposal. In making such judgements, the Director may consult with veterinarians, rehabilitators, or such other experts or qualified persons as he shall deem advisable.

(c) The acquisition of endangered, threatened, and special concern wildlife, as listed in 321 CMR 10.60 whether dead or alive shall be reported immediately to the Division for special instructions relative to the disposition of such wildlife. In the case of an acquisition on a Saturday, Sunday, or legal holiday it shall be reported on the work day, Monday-Friday, immediately following.

(d) A federal permit issued by the U.S. Fish and Wildlife Service or such other federal agency as may have jurisdiction shall be obtained by the permittee prior to receiving or rehabilitating any wildlife protected by federal law. This shall not preclude emergency care by licensed veterinarians pursuant to 321 CMR 2.12(11). Salvage and rehabilitation of raptors by falconers licensed under provisions of 321 CMR 3.04 may only be undertaken in accordance with the provisions of 321 CMR 3.04 and other applicable state and federal law.

(e) No public contact shall be allowed with any wildlife held under a wildlife rehabilitation permit unless otherwise approved in writing by the Director.

(23) Costs. Any costs, charges, or fees, including but not limited to food, shelter, equipment, labor, veterinarian or other specialist consultation or services, transportation, federal or other licensing fees, and any other expenses associated with the rehabilitation of wildlife shall be the responsibility of the permittee. The permittee shall not charge the Director, the Division or any third party for such costs or expenses. Donations may be accepted if otherwise permitted by law.

2.13: continued

(24) Reporting Requirements. An annual report shall be filed with the Permit Section of the Division at the end of each calendar year. Such report shall be filed no later than January 31st for the preceding calendar year. The report shall be on forms provided by the Director or in a format specified by the Director and shall report full details on the wildlife handled or rehabilitated, including, but not limited to, species, number of individuals, acquisition source, reason for acquisition, disposition, and such other information as the Director may require. Failure to submit such annual report or failure to provide required information or the making of false statements shall be cause for suspension, revocation, or non-renewal of the permit.

(25) Compliance with Other Laws. Issuance of a wildlife rehabilitation permit under 321 CMR 2.13 shall not exempt the permittee from compliance with the provisions of any other local, state, or federal law.

2.14: Problem Animal Control

(1) Purpose. The purpose of 321 CMR 2.14 is to control problem animals. In accordance with M.G.L. c. 131, § 4, problem animal control agents may harass, take, and destroy, or may release or liberate as stipulated in 321 CMR 2.14(20), such problem animals as are set forth in 321 CMR 2.14(20). Problem animal control agents may also disturb, remove, or destroy dens, lodges, burrows, or nests of such problem animals on property of such persons as who have engaged the services of the problem animal control agent. Nothing in 321 CMR 2.14 shall allow or be construed to allow the propagation of wildlife contrary to 321 CMR 2.12 or the rehabilitation of wildlife contrary to 321 CMR 2.13.

(2) Definitions. For the purposes of 321 CMR 2.14 and unless the context requires otherwise, the following words or phrases shall have the following meanings:

Box or Cage Type Trap means a trap that confines the whole animal without grasping any part of the animal.

Conibear Type Trap means "Conibear" model traps and similar body-gripping traps and devices, whether or not enclosed in or comprising part of a box, tube, or other enclosing device.

Control means to harass, take, or destroy, or attempt to harass, take, or destroy; placing, setting, and tending of traps and similar capture devices; disturbing, removing, or destroying, or attempting to disturb, remove, or destroy dens, lodges, burrows, or nests; and to possess, transport, or liberate or attempt to possess, transport, or liberate problem animals.

Director means the Director of the Massachusetts Division of Fisheries and Wildlife, or his or her agents.

Division means the Massachusetts Division of Fisheries and Wildlife.

Employees of a Municipal Entity shall include permanent or provisional full-time or part-time paid employees whose principal duty is that of animal control, but shall not include consultant or contract employees or volunteers or employees whose principal duty is not that of animal control.

Environmental Police Officer or EPO means the Director of the Office of Law Enforcement, deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, environmental police officers, and such other enforcement officers of the Office of Law Enforcement as may be appointed pursuant to M.G.L. c. 21A, § 10C.

Fur-bearing Mammals means all mammals in the Class Mammalia, as defined in M.G.L. c. 131, § 1.

2.14: continued

Gender means, unless the context requires otherwise, that words of one gender may be construed to include the other gender and the neuter.

Municipal Entity means towns and cities incorporated as political subdivisions of the Commonwealth of Massachusetts.

Person means an individual, corporation, partnership, trust, association or other private entity or any officer, agent, department or instrumentality of the federal government or any state or its political subdivisions, including but not limited to any agency, department, board, commission or authority thereof.

Problem Animals means non-domesticated reptiles, birds, and mammals the actions of which have or are endangering the life and health of humans or domestic animals; damaging the property of a person except grass or other natural vegetation growing without cultivation and which is not harvested or otherwise put to material use by the owner or tenant thereof; obstructing the reasonable and comfortable use of property by the owner or tenant thereof and which cannot be abated in another fashion; or otherwise producing such material annoyance, inconvenience, and discomfort that can reasonably be presumed to result in damage or hurt to persons or their property.

Problem Animal Control Agent or Permittee means a person who has been issued a permit in accordance with the provisions of 321 CMR 2.14 for the control of problem animals and further including but not limited to those persons exempted from the permit requirement pursuant to 321 CMR 2.14(15).

Problem Animal Control Permit means a permit which shall have been issued by the Division pursuant to 321 CMR 2.14.

Site of Capture means the parcel of land on which the problem animal was captured and which is owned or leased by the person who controlled the problem animal or who engaged a problem animal control agent to effect such control.

(3) Scope of Permit Requirement. No person, except as otherwise authorized by state or federal law or as exempted in 321 CMR 2.14(15) shall control problem animals without obtaining a problem animal control permit and otherwise complying with the additional provisions of 321 CMR 2.14.

(4) Application. A person seeking a problem animal control permit shall complete a written application on forms supplied by the Director.

(5) Information and Requirements for Application. All initial permit applications shall contain the following information.

- (a) the applicant's name, address, and telephone number where he can be reached between the hours of 9:00 A.M. to 5:00 P.M.;
- (b) the applicant's date of birth;
- (c) in the event the applicant is a corporation, partnership, firm, business or other commercial entity, club, organization, or association, either public or private, the name, address, telephone number and date of birth of the president, director, head, or principal officer;
- (d) the license number and class of the applicant's trapping license, unless exempted pursuant to 321 CMR 2.14(15);
- (e) the license number and class of the applicant's hunting or sporting license, if taking animals by shooting.
- (f) the applicant's trap registration number, unless exempted pursuant to 321 CMR 2.14(15);

2.14: continued

- (g) in instances where the permittee charges a fee or otherwise receives consideration for his services, a signed affidavit that the applicant has to the best of his knowledge paid all state taxes as required by the Massachusetts Department of Revenue;
 - (h) the date the application was executed;
 - (i) the applicant's signature, executed under the pains and penalties of perjury;
 - (j) any letters of recommendation for the intended activity.
- (6) Renewal Applications. Information for renewal applications shall include that information set forth in 321 CMR 2.14(5)(a) and (c) through (j).
- (7) Agreement. All permits issued pursuant to 321 CMR 2.14 shall be signed by the permittee. Such signature shall constitute:
- (a) an agreement by the permittee to fully comply with all relevant provisions of law including but not limited to M.G.L. c. 131, 321 CMR, and all applicable conditions and restrictions of the license; and
 - (b) liability agreement.
- (8) Qualifications. In order to qualify for a problem animal control permit, a person shall:
- (a) be at least 18 years of age;
 - (b) pass a written examination as stipulated in 321 CMR 2.14(16) administered by the Director or his authorized agent, except as provided for in 321 CMR 2.14(15) and 2.14(18);
 - (c) successfully complete a trapper training course as provided for in 321 CMR 2.14(23);
 - (d) possess a current and valid Massachusetts trapping license as provided in M.G.L. c. 131, § 11;
 - (e) register, tag, and identify all traps used on land of another in accordance with provisions of M.G.L. c. 131, § 80, and 321 CMR 3.02(5);
 - (f) when taking animals by means of a firearm, possess a current and valid Massachusetts hunting or sporting license as provided in M.G.L. c. 131, § 11, and, in addition, a current and valid Massachusetts Firearms Identification Card or License to Carry Firearms, as provided for in M.G.L. c. 140, §§ 129B, 131, and 131F.
- (9) Exceptions.
- (a) The provisions of 321 CMR 2.14(8)(d) through (f) shall not apply to employees of a municipal entity acting as an agent for such municipal entity, provided that all traps used by such employees shall be tagged with a metal tag bearing the name and principal address of the municipal entity whose agent is using the trap.
 - (b) Notwithstanding the provisions of 321 CMR 2.14, chimney sweeps when acting in the course of their normal business as a chimney sweep may harass birds or mammals roosting, nesting, or otherwise present in chimneys and may remove the same from such chimneys to the adjacent roof or other site immediately associated with the chimney, provided that no birds or mammals are thereby killed, injured, or taken, and that traps, firearms, and like devices are not used.
- (10) Fees. A fee shall be charged for the issuance of a problem animal control permit and a written problem animal control permit examination. The amount of the fees shall be determined by the Commissioner of Administration and Finance under the provisions of M.G.L. c. 7, § 3B. No fee shall be charged for the issuance of a problem animal control permit to an employee of a municipal entity, when such employee is acting in the course of his duties as an employee of municipal entity, provided that if such municipal entity charges a fee to any landowner, tenant, or resident for the services of the municipal employee, such municipal entity shall thereby not be exempted from the fee specified in 321 CMR 2.14(10).
- (11) Abandoned Applications. Incomplete or improperly executed applications shall be treated as provided in 321 CMR 2.12(8).
- (12) Denial. Applications for a problem animal control permit shall, unless otherwise provided, be denied when:

2.14: continued

- (a) the applicant has within one year preceding the date of application been convicted of a violation of any provision of M.G.L. c. 131 or c. 131A, or of any provision of 321 CMR, or of any federal statute or regulation which is related to the activity for which the permit is sought; or has twice been convicted or penalized for a violation of M.G.L. c. 131, § 80A,
- (b) the applicant has failed to disclose material information or has made false statements as to any fact in connection with the application;
- (c) the applicant has failed to submit the required fee with the application, unless the applicant is exempt from such fee as provided in 321 CMR 2.14(10);
- (d) the applicant fails to fulfill the examination requirement established by 321 CMR 2.14(16);
- (e) the applicant fails to successfully complete the trapper training course established by 321 CMR 2.14(23);
- (f) the applicant fails to fulfill the recertification requirement established by 321 CMR 2.14(17) by December 31 of the Calendar year following the issuance of the initial permit, or the most recent recertification.

(13) Permit. A problem animal control permit may be issued to a person based on his demonstrated experience, letters of recommendation, results of the written examination, results of the trapper training course, and other provisions of 321 CMR 2.14. No person, unless otherwise provided by state or federal law, or unless exempted pursuant to 321 CMR 2.14(15) may control problem animals without being issued a problem animal control permit.

(14) Expiration Date. The expiration date for a problem animal control permit shall be midnight of December 31 in the calendar year.

(15) Requirements and Exemptions for Municipal Employees. Employees of a municipal entity whether elected, appointed or otherwise authorized by the Board of Selectmen or the Mayor to act as problem animal control agents for the municipal entity in which they are employed shall be required to comply with the examination and recertification requirements stipulated in 321 CMR 2.14(16) and 2.14(17). Such employees, however, shall be exempt from the permit and examination requirements stipulated in 321 CMR 2.14(13) and (16) in the following circumstances:

- (a) when acting as an agent for the municipal entity, on land owned or leased by such municipal entity, in accordance with M.G.L. c. 131, § 37;
- (b) for the control of English (house) sparrows, starlings, and pigeons (rock doves) in accordance with M.G.L. c. 131, § 83;
- (c) for the destruction and control of rats, mice, and woodchucks, and such other vertebrates as may be unprotected by law, when authorized by the Department of Agricultural Resources in order to protect food supplies, agricultural produce, growing crops, livestock, manufactured goods and buildings, and to safeguard the public health, in accordance with M.G.L. c. 128, § 8A;
- (d) for the harassment or destruction of gulls and terns in order to preserve the purity and prevent the pollution of the waters of a reservoir, pond, and stream used for domestic water supply, provided that all necessary permits, authorizations, or requirements pursuant to M.G.L. c. 111, § 174A and applicable federal law shall be complied with;
- (e) for the immediate protection of human life and limb, and to take, possess, transport, and destroy problem animals, notwithstanding the species restrictions in 321 CMR 2.14(20), which, having bitten or injured a human or a domestic animal shall, in the opinion of a licensed physician or the Massachusetts Department of Public Health, be examined, tested, or analyzed for a communicable or infectious disease, parasite, infection, or intoxication. In addition, any state or municipal police officer, or any municipal animal control officer, may kill any raccoon, skunk, red or gray fox, bat or woodchuck which is displaying behavior which causes the officer to reasonably conclude that the animal is diseased, or which has attacked a human. Symptoms of such behavior may include but not be limited to: convulsions, swaying or weakness, paralyzed limbs, rigid posture, disoriented appearance or a transfixed stare, drooling of saliva or frothing at the mouth, repeated yawning, extreme tense or alert behavior, awkward or uncoordinated movements, or hoarse vocalizations.

2.14: continued

(16) Examination Requirements.

(a) Except as provided for in 321 CMR 2.14(15) and 2.14(18), applicants for a problem animal control permit shall successfully complete a written examination relating to wildlife biology and management, capture and handling techniques, ethics, animal welfare, diseases and parasites, statutes and regulations, and such other appropriate subject matter as shall be determined by the Director. A person must attain a passing grade as determined by the Director. An applicant who fails may not be eligible to retake the examination until two months or more from the date of the failed examination.

(b) Notwithstanding 321 CMR 2.14(16)(a), the Director may, at his discretion, waive all or part of the examination requirement for a person who has been designated a Certified Wildlife Control Professional by the National Wildlife Control Operators Association, provided that any such person shall be required to complete such portion of the examination as shall pertain to the statutes and regulations of Massachusetts pertaining to wildlife and problem animal control.

(17) Periodic Recertification. Except as provided for in 321 CMR 2.14(15), a permittee shall be required to successfully complete a recertification training at least once within the three consecutive 12-month periods immediately following the completion of the initial examination, or the most recent re-examination. Successful completion of a problem animal control seminar, workshop, or training course by the U.S. Fish and Wildlife Service, the U.S. Animal and Plant Health Inspection Service, the National Wildlife Control Operators Association, or such other agencies or organizations as shall be approved by the Director, may be substituted for all or part of the required recertification.

(18) Grandfather Clause. All persons who have held a valid problem animal control permit for three or more consecutive calendar years immediately prior to the publication of 321 CMR 2.14 in the Massachusetts Register on June 9, 1989, shall be exempted from the written examination requirement set forth in 321 CMR 2.14(16). However, such persons shall not be exempt from the recertification requirements stipulated by 321 CMR 2.14(17).

(19) Revocation and Non-renewal. A problem animal control permit may be revoked by the Director at any time upon evidence of failure to comply with the conditions of the permit or of 321 CMR 2.14. Such evidence regarding the activities of the permittee shall form the basis of an adjudicatory proceeding pursuant to M.G.L. c. 30A, § 13, M.G.L. c. 131, § 32, and 801 CMR 1.00 prior to permit revocation.

(20) Conditions.

(a) A problem animal control permit shall authorize the permittee to control problem animals of the following species or groups of species: snapping turtle, starling, pigeon (rock dove), house (English) sparrow, opossum, moles, bats except those species listed in 321 CMR 10.60, cottontail rabbits, European rabbit, chipmunk, gray squirrel, red squirrel, flying squirrels, woodchuck, muskrat, rats, mice, and voles except those species listed in 321 CMR 10.90, porcupine, raccoon, weasels (*Mustela erminea* and *M. frenata*), red and gray fox, coyote, and striped skunk. The Director may authorize individual permittees to control problem animals of other species or groups of species at such times and in such locations as he shall determine.

(b) A problem animal control permit shall authorize the permittee to remove those mammals specified in 321 CMR 2.14(20)(a) from a hole in a tree or in the ground or a stone wall, or from within or under any ledge, stone or log, or to disturb the den or burrow of such mammals, on the property of such person as has engaged the services of the permittee. A problem animal control permit shall also authorize the permittee to destroy or disturb the nest or eggs of pigeons (rock doves), starlings, or house (English) sparrows on the property of such persons as shall have engaged the services of the permittee.

(c) Problem animals which are captured alive shall be disposed of by destruction in a humane manner, immediate liberation at the site of capture, or, in the case of a sick or injured animal, by transferral to a wildlife rehabilitator authorized under 321 CMR 2.13.

2.14: continued

(d) Permittees shall fully describe to the client the nature of the animal problem, the control methods to be used to alleviate the problem, and shall further advise clients as to those means and practices which the client may employ in the future to avoid a recurrence of problem animal complaints. Where possible and practical, permittees shall employ or recommend exclusionary means in preference to lethal means for the control of problem animals.

(e) The Director may impose such other reasonable conditions or restrictions as shall be relevant and necessary.

(f) Notwithstanding the provisions of 321 CMR 2.14(20)(a), a permittee may control beaver when such permittee is acting as a duly authorized agent pursuant to 321 CMR 2.08, provided, that such permittee shall otherwise be in compliance with provisions of 321 CMR 2.08 and 321 CMR 2.14, including, but not limited to, the reporting and record-keeping requirements set forth in 321 CMR 2.14(28) and (29).

(g) Notwithstanding the provisions of 321 CMR 2.14(20)(a), a permittee may control coyote only when, in addition to all other provisions of 321 CMR 2.14, the permittee has successfully completed the training and certification requirement as set forth in 321 CMR 2.14(24).

(21) Authorized Means of Taking. Permittees may control or attempt to control problem animals by means of:

(a) Trap Types for Fur-bearing Mammals-- Live Restraining Traps and Sets:

1. a box or cage type trap when tended, used, or set to insure that the device captures only one animal at a time, and which provides reasonable shelter and security to the animal trapped therein. Bailey and Hancock beaver traps and other suitcase type cage traps of similar design may be used only for the taking of beaver in accordance with 321 CMR 2.14(20)(f) and (21)(b); and
2. net type traps.

(b) Bailey and Hancock beaver traps and other suitcase type cage traps of similar design shall not be used unless the person using, placing, setting, tending, or maintaining such trap has completed a training session in the proper use of such trap and has been issued a certificate of completion of such training. The Director is hereby authorized to coordinate with the Director of Law Enforcement in establishing such training course and to provide for the issuance of certificates to such persons as shall have satisfactorily completed the training. Such certificate shall be carried on the person when using such traps, and the certificate shall be shown upon demand to any officer empowered to enforce M.G.L. c. 131.

(c) Trap Types for Fur-bearing Mammals-- Kill Traps and Sets.

1. a common type mouse or rat trap, when set and baited in such a manner as to minimize the capture of birds;
2. Conibear type traps, only in accordance with a permit issued pursuant to 321 CMR 2.08, provided that such traps are used only in accordance with provisions of 321 CMR 2.08(21).

(d) Trap Types for Birds-- Live Restraining Devices. A New York starling trap or other cage trap of similar type and design.

(e) Trap Types for Turtles-- Live Restraining Devices.

1. a wire or twine hoop or funnel trap, when partially submerged and set in such a manner that all reasonable care is taken to insure that turtles and other animals trapped therein may rise to the surface of the water to breathe;
2. a basking-type trap, wherein turtles climb a ramp and dive therefrom into an enclosed holding pen, when set in such a manner that turtles enclosed in the holding pen may rise to the surface of the water to breathe.

(f) Other Allowable Methods include shooting with a firearm when done in accordance with provisions of M.G.L. c. 131, c. 140, and c. 269; hand nets or noose poles; fumigant cartridges for the control of woodchucks; and anticoagulant rodenticides for the control of rats, mice and voles when not in conflict with M.G.L. c. 131, § 43, or c. 270, § 3A. Dogs may be used to track or locate problem animals. The Director may authorize the chemical restraint of certain problem animals by employees of a municipal entity, provided that such persons satisfy the Director as to their training and experience in such chemical restraint and provided that such persons are otherwise authorized in accordance with M.G.L. c. 94C and applicable federal law.

2.14: continued

(22) Prohibitions. Except as otherwise provided for in M.G.L. c. 131 and 321 CMR 2.08, it shall be unlawful for any person:

- (a) to trap any fur-bearing mammal with any trap other than a box or cage type trap, a common type mouse or rat trap, or a net trap.
- (b) to trap with Conibear-type traps, except as provided in 321 CMR 2.08 and 321 CMR 2.14(21); to trap with any device when set which discharges or causes the discharge of a shell, cartridge, explosive, poison, or flammable material of any kind; colony traps, or any other trap type not specifically allowed pursuant to 321 CMR 2.08 and 321 CMR 2.14(21).
- (c) to trap with a Bailey or Hancock beaver trap or other suitcase type cage trap of similar design without having completed a training course as provided for in 321 CMR 2.14(21)(b), or to fail to carry on the person while using such traps a certificate of completion of such training course;
- (d) to possess or have under his control an unregistered trap on land of another in any place where furbearing mammals or any animal species listed in 321 CMR 2.14(20) may be found, except for common type mouse or rat traps used inside a building;
- (e) to possess or have under his control the registered trap of another;
- (f) to trap on land of another as posted in M.G.L. c. 131, § 36, without the written permission of the owner or tenant of such land;
- (g) to tear open, disturb, or destroy a beaver lodge or beaver dam;
- (h) to fail to visit and remove all animals trapped in at least once within a 24-hour period, all traps by him staked out, set, used, tended, placed, or maintained;
- (i) to destroy, mutilate, spring, or remove the trap of another;
- (j) to take any wild animal from the trap of another unless he possesses on his person specific written authorization to do so;
- (k) to set, use, place, locate, tend, or maintain a trap, except a common type mouse or rat trap set inside a building, not bearing on a metal tag the name, town of residence or business, and trap registration number of the person or persons using the same in a manner as to be legible at all times. Said registration number shall be permanently embedded in or marked on the traps with letters and figures not less than 1/8 inches high in such a manner as to be legible at all times;
- (l) to set, use, place, locate, tend, or maintain a trap on land of another unless such person carries on his person a current and valid trap registration certificate issued by the Director or a photocopy thereof, and a current a valid Massachusetts trapping license. Such trap registration certificate or photocopy, and license, shall be shown upon demand to any officer empowered to enforce the provisions of M.G.L. c. 131;
- (m) to trap on land with a Bailey or Hancock beaver trap or other suitcase type cage trap of similar design, except when set upon a beaver lodge or beaver dam, snag, stump, rock, or other above-water protrusion entirely or substantially surrounded by water, or, when the pan of such trap is not completely submerged in water;
- (n) to rent, lend, or otherwise transfer traps to clients or other persons who are not problem animal control agents or to knowingly allow such clients or persons to tend or check the permittee's traps, provided, that clients may visually check the permittee's traps only when specified in a written contract between the permittee and the client and only when such traps are set in or on a building. When so contracted, clients shall contact the permittee prior to 9:00 A.M. and report the presence or absence of animals in the traps. If the client shall fail to do so the permittee shall respond to check the traps personally. Nothing in 321 CMR 2.14(22)(n) shall supersede the permittee's requirements under 321 CMR 2.14(22)(h).
- (o) to retain, sell, barter, or exchange for consideration problem animals or their carcasses or parts thereof, provided that in the event the trapping or hunting season for the particular species is open and the permittee has a valid hunting, sporting, or trapping license, as the case may be, and takes the animal in such a location where hunting or trapping is otherwise lawful, then the permittee may retain the carcass or parts thereof, provided that any tagging requirements or other conditions of 321 CMR shall be complied with.

2.14: continued

(23) Trapper Training Course. No person shall, after September 1, 1989, be issued a trap registration certificate or certificate of partnership pursuant to M.G.L. c. 131, § 80, or trap on land of another unless such person has completed a trapper training course and been issued a certificate of completion of such training, or unless such person has been issued a resident or non-resident Massachusetts trapping license or trap registration certificate or certificate of partnership in a previous year and shall prove the same to the satisfaction of the Director. The Director is hereby authorized to coordinate with the Director of Law Enforcement in establishing such training course and the curriculum thereof and to provide for the issuance of certificates to such persons as shall have satisfactorily completed the training.

(24) Coyote Training and Certification Requirement. A permittee shall not take or attempt to take coyotes unless said permittee has successfully completed a training and certification program and written examination as prescribed by the Director. Said training and certification program shall include, but not be limited to: coyote biology and behavior, non-lethal and lethal control techniques, damage identification, communications skills, statutes and regulations, and such other appropriate subject matter as shall be determined by the Director. A person must attain a passing grade as determined by the Director. The provisions and requirements of such training and certification shall constitute permit conditions and restrictions as provided for in 321 CMR 2.14(20)(e).

(25) Presumption. Registered traps set, used, maintained or tended in violation of 321 CMR 3.02(5)(b) and (c) and 321 CMR 2.14(21) and (22) shall be *prima facie* evidence that such traps were set, used, maintained or tended by the registered owner thereof, unless such owner has notified the Division of Law Enforcement in writing within 48 hours of the loss or theft of such registered traps, the number and type of traps, and the date, time, place and circumstance of such loss or theft. Such notification shall be signed under the pains and penalties of perjury.

(26) Forfeitures. Any trap or trapping device set, used, maintained, or tended in violation of law and any nondomesticated animals caught therein shall be seized by any Environmental Police Officer and shall, in accordance with M.G.L. c. 131 and c. 257, be forfeited to the Commonwealth and disposed of by the Director of Law Enforcement to the best interests of the Commonwealth.

(27) Costs. Any costs, charges, or fees, or other expenses involved with problem animal control exercised by the permittee shall be the responsibility of the permittee. The permittee shall not charge the Division or the Commonwealth for any such costs.

(28) Record Keeping Requirements. All permittees must keep records on all problem animal complaints investigated or handled by them. Records shall include, but not be limited to, date(s) the complaint was investigated or handled, name and address of the complainant, species of animal(s) involved in the complaint, and disposition of the complaint. Records shall be available for inspection by an Environmental Police Officer or officials of the Division at any reasonable time.

(29) Reporting Requirements. An annual report shall be filed with the Division at the end of each calendar year. Such report shall be filed no later than January 31 for the preceding calendar year. The report shall be in such manner as provided by the Director and shall report full details on the number of problem animal complaints acted on including, but not limited to: total number of complaints responded to; species of animal involved; number of individual animals taken, destroyed, or surrendered; disposition of animals taken; and such other information as the Director may require. Failure to submit such annual report or failure to provide required information or the making of false statements shall be cause for suspension, revocation, or non-renewal of the permit.

Notwithstanding the foregoing, a permittee who takes or attempts to take a coyote shall additionally provide a written report to the Director within 48 hours of such taking or attempt, stating the location, date, nature of the problem which initiated the control action, circumstances attendant to the taking or attempt, number and sex of coyotes taken or attempted to be taken, and the disposition of the animals or outcome of the attempt. In the event that a coyote or coyotes are taken, the permittee shall surrender the carcass or carcasses of the animal(s) to the Director, within said 48 hour period.

321 CMR: DIVISION OF FISHERIES AND WILDLIFE

2.14: continued

(30) Compliance with Other Laws. Issuance of a problem animal control permit under 321 CMR 2.14 shall not exempt the permittee from compliance with the provisions of any other local, state, or federal law.

(31) Limitations. Nothing in 321 CMR 2.14 shall be deemed to limit any other provision of M.G.L. c. 131 or any rule or regulation issued under authority thereof.

2.15: Importation, Liberation, and Transportation of Fish, Amphibians, Reptiles, Birds, and Mammals

(1) Definitions. For the purposes of 321 CMR 2.15 and unless the context requires otherwise, the following words or phrases shall have the following meanings:

Bird means any bird, wild by nature, not otherwise exempted in the list found at 321 CMR 9.01: *Exemption List* and shall additionally include the nest and eggs thereof.

Cervid(s) means any deer, moose, or elk or any other species in the family *Cervidae*, and including parts thereof.

Director means the director of the Division of Fisheries and Wildlife or his or her agent.

Division means the Massachusetts Division of Fisheries and Wildlife.

Environmental Police Officer means the director of the Office of Law Enforcement, deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, environmental police officers, and such other enforcement officers of the Office of Law Enforcement as may be appointed pursuant to M.G.L. c. 21A, § 10A.

Fish means any freshwater fish not otherwise exempted in the list found at 321 CMR 9.01: *Exemption List* and shall additionally include the spawn and viable eggs thereof.

Permit means an importation permit, or a liberation permit, issued pursuant to M.G.L. c. 131, §§ 19 and 19A, and 321 CMR 2.15.

Person means an individual, corporation, partnership, trust, association or other private entity or any officer, agent, department or instrumentality of the federal government or any state or its political subdivisions, including but not limited to any agency, department, board, commission or authority thereof.

Wildlife means non-domesticated amphibians, reptiles, birds, and mammals.

(2) Importation. No person shall import any live fish, amphibian, reptile, bird, or mammal, or the dead bodies or carcasses or parts thereof, except in accordance with 321 CMR 2.15. Except as otherwise provided in 321 CMR 2.15, no fish or wildlife shall be imported to Massachusetts prior to the issuance of an importation permit.

(3) Exceptions to Importation Requirement. Notwithstanding the provisions of 321 CMR 2.15(2):

- (a) a person may import and transport within Massachusetts, but may not liberate, those live fish, fish spawn, amphibians, reptiles, birds, and mammals, and parts thereof, which are exempt and may be kept without a permit pursuant to 321 CMR 9.01: *Exemption List*;
- (b) a fur dealer licensed in accordance with M.G.L. c. 131, § 28 may import the skins or pelts of fur-bearing animals, when in compliance with tagging, marking, record-keeping, and other requirements of M.G.L. c. 131, § 28;
- (c) hunter or trapper licensed under the laws of another state may import the skins or pelts of fur-bearing animals for sale or exchange at a Massachusetts fur auction or to a licensed Massachusetts dealer, provided that such skins or pelts shall be tagged in accordance with the provisions of M.G.L. c. 131 and 321 CMR, when required;
- (d) a Class 6 dealer may import or transport animal parts as provided for in 321 CMR 2.15(8), except as provided in 321 CMR 2.15(10).

2.15: continued

(4) Liberation. No person shall liberate or cause or allow to be liberated any live fish, amphibian, reptile, bird, or mammal, except in accordance with 321 CMR 2.15. The director may require, as a condition of a liberation permit, that he or his agent be provided an opportunity to be present at any liberation of fish and wildlife. Only the following fish species may be considered for liberation: brook trout, brown bullhead, brown trout, chain pickerel, golden shiner, largemouth bass, pumpkinseed, rainbow trout, white sucker, yellow perch. Only the following wildlife species may be considered for liberation: ringnecked pheasant, bobwhite quail, snowshoe hare. Applications for liberation permits may be denied if the Director determines that the fish or wildlife species for the proposed liberation would not be compatible with the fish or wildlife species or management practices on the lands or waters indicated on the permit application. Except as otherwise provided in 321 CMR 2.15, no fish or wildlife shall be liberated within Massachusetts prior to the issuance of a liberation permit.

(5) Exceptions to Liberation Requirement. Notwithstanding the provisions of 321 CMR 2.15(4):

- (a) a wildlife rehabilitator licensed pursuant to 321 CMR 2.13 may transport within Massachusetts and liberate rehabilitated wildlife in accordance with the provisions and restrictions of 321 CMR 2.13(22)(a);
- (b) a problem animal control agent licensed pursuant to 321 CMR 2.14(3) or (18) may liberate problem animals at the site of capture in accordance with 321 CMR 2.14(23)(a), or may transport within Massachusetts such animals to a licensed wildlife rehabilitator;
- (c) a person possessing a current and valid Class 11 raptor salvage permit in accordance with 321 CMR 3.04(1)(e), may transport within Massachusetts and liberate rehabilitated raptors;
- (d) a person holding a commercial shooting preserve permit pursuant to 321 CMR 2.05 may liberate on such preserve those game birds specified in 321 CMR 2.05(14);
- (e) a person holding a Class 2 public stocking license pursuant to 321 CMR 4.09, or a Class 5 special propagator's license pursuant to 321 CMR 2.12, or the equivalent Letter Permit, may liberate fish, birds, or mammals, as the case may be, when so authorized in such license;
- (f) a person holding a Class 8 quail license, or the equivalent dog training license, or a Class 4 license issued for the sole purpose of possessing pheasant and quail for the purpose of training dogs, may liberate and recapture such quail or pheasant for dog training purposes only pursuant to 321 CMR 2.12;
- (g) a person may liberate and recapture homing pigeons.

(6) Transportation.

- (a) The issuance of an importation permit or a liberation permit, or any permit or exception pursuant to 321 CMR 2.15(3) and (5), shall convey to the permittee the authority to transport live fish, amphibians, reptiles, birds, mammals or the dead bodies or carcasses or parts thereof within Massachusetts from the point of origin to the permittee's place of business, domicile, or other destination, as the case may be, provided that the director may establish conditions to any importation or liberation permit relative to the standards, security, housing or caging requirements, or other aspects of fish and wildlife in transit within Massachusetts and such conditions shall be construed as requirements for the permit.
- (b) The importation permit or liberation permit or a copy thereof shall accompany the fish or wildlife being imported or liberated at all times while being transported within Massachusetts between the point of entry or point of origin, as the case may be, and the delivery or liberation point.
- (c) Live reptiles and amphibians lawfully taken and possessed pursuant to 321 CMR 3.05 may be transported within Massachusetts without a transportation permit.
- (d) Live fish, except for bait fish lawfully taken pursuant to 321 CMR 4.01, shall not be removed or transported from the water body where taken.
- (e) Any person lawfully possessing an amphibian, reptile, bird, or mammal pursuant to any provision of M.G.L. c. 131, or any rule or regulation promulgated under authority thereof, may transport said amphibian, reptile, bird or mammal within Massachusetts for the purpose of euthanasia.
- (f) Except as otherwise provided in 321 CMR 2.15, live fish, amphibians, reptiles, birds, or mammals shall not be transported within Massachusetts without a permit.

2.15: continued

(7) Personal Use Exemption. Except as provided in 321 CMR 2.15(10), nothing in 321 CMR 2.15 shall be held to prohibit a person from bringing into Massachusetts and transporting therein for personal use but not for sale, the dead bodies or carcasses or parts thereof of fish, amphibians, reptiles, birds, or mammals which were lawfully taken or killed in another state, province, or country, unless prohibited by federal statute or regulation so to do, if before any such fish, amphibians, reptiles, birds or mammals are so imported they are tagged or marked in accordance with the laws of such other state, province, or country and with the federal laws relating to interstate commerce, and if no more such fish, amphibians, reptiles, birds or mammals are imported at one time than is permitted by the laws of such other state, province, or country to be exported therefrom; but the burden of proof shall be on such person to prove that such importation and possession was lawful in its origin. Additionally, any person who holds a Massachusetts sporting, hunting, fishing, or trapping license issued to him may transport and carry from or within Massachusetts the dead bodies or carcasses of such fish, amphibians, reptiles, birds or mammals, or parts thereof, as shall have been lawfully taken within Massachusetts, but no person shall transport or cause to be transported into or out of Massachusetts any fish, amphibians, reptiles, birds or mammals which have been taken or killed or are possessed contrary to the laws of any state, or of the United States, or of any foreign nation.

(8) Dealer's Exemption. Except as provided in 321 CMR 2.15(10), any Class 6 dealer licensed pursuant to M.G.L. c. 131, § 23 and 321 CMR 2.12 or 4.09 may purchase and import the dead bodies or carcasses of fish, amphibians, reptiles, birds, or mammals, or parts thereof, lawfully taken or lawfully propagated without Massachusetts, provided that the export and sale is lawful in the state, province, or country in which said fish, amphibians, reptiles, birds, or mammals are taken or propagated or from which exported, as the case may be, and provided further that all shipments shall bear the name of the consignee, the name of the consignor and, if enclosed, a statement of the contents contained therein, the tag, license or permit number as the case may be, or to the carton, package, box, or crate in which such are shipped, transported or delivered to any point within Massachusetts, is attached whatever mark of identification is required by the state, province, or country from which such carcasses or parts thereof are so shipped, transported or delivered; and provided further, that such sale, transportation or export is not contrary to federal statute or regulation.

(9) Permit. The director may issue an importation permit, or a liberation permit, as the case may be, in accordance with provisions of M.G.L. c. 131, §§ 19 and 19A, and 321 CMR 2.15. Except as provided in 321 CMR 2.01, 2.02 or 2.05, importation permits or liberation permits shall not be issued to persons who do not have a valid license issued pursuant to 321 CMR 2.12 or 321 CMR 4.09.

(10) Determination.

(a) Prior to issuing a permit, the director shall determine that such importation or liberation, as the case may be, is not detrimental to the inland fisheries or the wildlife resources of Massachusetts, or the habitats thereof.

(b) The Director has determined that chronic wasting disease (CWD), a contagious, transmissible neurological disease which is fatal to deer and elk, poses a clear and imminent threat to the wildlife resources of Massachusetts. In order to prevent the spread of CWD, no person shall possess, transfer, process, receive or import into Massachusetts any live deer or other member of the family Cervidae, including, but not restricted to, white-tailed deer, mule deer, red deer, moose or elk, or any parts thereof, except: meat which has been cut and wrapped (commercially or privately), deboned meat, hides with no head attached, cleaned skull caps (no muscle or brain tissue attached) with attached antlers, antlers with no muscle or brain tissue attached, fixed taxidermy mounts, or upper canine teeth (also known as "buglers", "whistlers", or "ivories"). The importation of brains, spinal columns, or any meat or parts containing brain or spinal column tissue is expressly prohibited. Live animals or parts thereof imported, possessed, transferred, processed, or received in violation of 321 CMR 2.15(10) may be seized and disposed of as provided for in 321 CMR 2.15(22). The prohibitions in 321 CMR 2.15(10)(b) shall pertain to:

1. live deer or other cervids from any state, any Canadian province or any country, and, in addition,

2.15: continued

2. any parts of deer or other cervids, except as provided in 321 CMR 2.15(10)(b), from any state, province or country within which CWD has been identified in either wild or captive deer or other cervids, as determined by the director in consultation with the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture. The director shall, from time to time, provide the director of law enforcement with a list of states, provinces, or countries within which CWD has been identified.

(11) Tests for Diseases and Parasites. The immediate source of fish, amphibians, reptiles, birds or mammals to be imported or liberated shall be certified by a person recognized by the director as qualified to diagnose fish or wildlife diseases, as the case may be, as free of infectious diseases and parasites, if in the director's judgment such certification is necessary. Such tests and certifications shall include, but not be limited to, those specified in M.G.L. c. 131, §§ 19 and 19A. The director may establish conditions to any permit relative to the standards or tests for particular fish and wildlife diseases and parasites and such conditions shall be construed as requirements for such permit.

(12) Application. A person seeking a permit provided for in 321 CMR 2.15 shall complete a written application on forms supplied by the director. Completed applications shall include a self-addressed stamped envelope and be addressed to the Permit Section of the Division. Applications for a permit to import fish shall be received not less than 15 nor more than 30 days prior to shipment. Applications for a permit to import amphibians, reptiles, birds or mammals shall be received not less than ten days prior to the importation date. Applications for a liberation permit shall be received not less than 15 days prior to the liberation date.

(13) Information and Requirements. All permit applications shall contain the following information, where applicable.

- (a) the applicant's name, address and telephone number where he can be reached between the hours of 9:00 A.M. and 5:00 P.M.;
- (b) the applicant's date of birth;
- (c) in the event the applicant is a corporation, firm, partnership, institution or agency, either public or private, the name, address, and telephone number of the president, director, head or principal officer;
- (d) for an importation permit, the street address and mailing address of the facility or business from which fish and wildlife are to be imported, if such are propagated.
- (e) for an importation permit, the street and mailing address of the facility, business, or destination to which fish and wildlife are to be imported;
- (f) for an importation permit, the geographical location from which fish and wildlife are taken, if lawfully taken from the wild, the date(s) of the importation, and a signed statement from the applicant that such taking and export is lawful under the laws of the state, province, or country from which taken;
- (g) for a liberation permit, the geographical area, water body, or site at which fish and wildlife are to be liberated, and the date(s) of the liberation;
- (h) the species or parts thereof of fish and wildlife which are to be imported or liberated;
- (i) the numbers or quantity of fish and wildlife which are to be imported or liberated;
- (j) the date of the application;
- (k) the applicant's signature executed under the pains and penalties of perjury;
- (l) a health certificate(s) when required by the director; and
- (m) such other information as the director may require.

(14) Fees. All applications and renewals shall be accompanied by the appropriate fee indicated on the application in the form of a check or money order payable to the Division of Fisheries and Wildlife. Cash may be used only when the application is made in person.

(15) Exception. Payment of fees shall not be required of any federal, state, or municipal agency or official, nor of any person under contract to the Division or otherwise involved in projects conducted or directly supervised by the Division.

2.15: continued

(16) Abandoned Applications. Upon receipt of an incomplete application, an improperly executed application, or an insufficient fee, the applicant shall be notified of the deficiency. If the applicant fails to supply the requested information, pay the required fee or otherwise fails to correct the deficiency within 60 days following the date of notification, the application shall be considered abandoned and shall be returned to the applicant.

(17) Denials. Applications for a permit provided for in 321 CMR 2.15 shall, unless otherwise provided, be denied when:

- (a) the application is for an importation permit to subsequently propagate, maintain, cultivate, possess, or deal in fish, amphibians, reptiles, birds, or mammals pursuant to any provision of M.G.L. c. 131, and the applicant lacks the required license or permit under M.G.L. c. 131 or 321 CMR to do so;
- (b) the applicant has within one year prior to the date preceding the application been criminally convicted of a violation of any provision of M.G.L. c. 131 or c. 131A, any provision of 321 CMR, or any federal statute or regulation which is related to the activity for which the permit is sought;
- (c) the applicant has failed to disclose or submit material information or has made false statements as to any fact in connection with the application;
- (d) the applicant has failed to submit the required health certificate, or has submitted an incomplete, unsatisfactory, or altered certificate, or has proposed to import fish or wildlife from a source not approved by the director;
- (e) the director has determined pursuant to 321 CMR 2.15(10) that the importation or liberation, as the case may be, is detrimental to the fish and wildlife resources of Massachusetts, or their habitats, and is not in the public interest.

(18) Inspections. Fish, amphibians, reptiles, birds, and mammals imported pursuant to M.G.L. c. 131, §§ 19 and 19A, may be subject to inspection by the director, his agents, or an Environmental Police Officer at any reasonable time. Such inspections may include the taking of fish, fish eggs, or biological samples for examination and testing.

(19) Conditions. The director may, at any time, in writing, establish conditions or restrictions to a permit issued pursuant to 321 CMR 2.15(9) if, in his opinion, the conditions or restrictions are necessary for the preservation and protection of the health, welfare or safety of humans or of fish and wildlife or their habitats, or to establish criteria in furtherance of the purposes of the permit.

(20) Agreement. All permits issued pursuant to 321 CMR 2.15(9) shall be signed by the permittee and such signature shall constitute:

- (a) an agreement by the permittee to fully comply with all relevant provisions of law including but not limited to M.G.L. c. 131, 321 CMR, and all applicable conditions and restrictions of the permit;
- (b) an agreement by the permittee to allow inspections, testing, or biological sampling at reasonable times of fish and wildlife imported or proposed for liberation, by the director, his agents, or an Environmental Police Officer; and
- (c) liability agreement.

(21) Records and Reports. Permittees shall keep and maintain for no less than two years accurate records of fish and wildlife imported and liberated. Said records shall be made available to the director, his agents, or an Environmental Police Officer upon request. Records shall contain the source, destination, number or quantity, species or kind, and date of the activity, and such other information as the director may require. The director may require statements or reports as a condition for issuance of subsequent importation or liberation permits to the applicant.

321 CMR: DIVISION OF FISHERIES AND WILDLIFE

2.15: continued

(22) Seizure of Diseased Fish and Wildlife. Any fish, viable eggs thereof, amphibians, reptiles, birds, or mammals and including any parts thereof, which are brought into Massachusetts in violation of 321 CMR 2.15, or which are so brought in under authority of a permit issued thereunder and are subsequently found to be diseased, shall be confiscated by any officer empowered to enforce M.G.L. c. 131 and shall be forfeited to the commonwealth and disposed of by the director of the Office of Law Enforcement to the best interests of the Commonwealth.

REGULATORY AUTHORITY

321 CMR 2.00: M.G.L. c. 131, §§ 4, 19 and 19A.