



MASSWILDLIFE

## DIVISION OF FISHERIES & WILDLIFE

1 Rabbit Hill Road, Westborough, MA 01581

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### **PUBLIC HEARING NOTICE** **on Draft Division of Fisheries and Wildlife Regulations at** **321 CMR 2.00 and 3.02**

In accordance with the Massachusetts General Laws, Chapter 131, Sections 1 and 5, and Chapter 30A, Section 2, NOTICE is hereby given of two (2) upcoming public hearings to be conducted by the Division of Fisheries and Wildlife ("MassWildlife") on proposed new regulations, summarized below. The first public hearing will be held on Tuesday, October 22, 2019, at 7:00 p.m., at the Lenox Town Hall, 6 Walker Street, Lenox. The second public hearing will be held on Tuesday, October 29, 2019, at 7:00 p.m., at the Field Headquarters, Richard Cronin Building, 1 Rabbit Hill Road, off North Drive, Westborough.

MassWildlife is proposing a new section at 321 CMR 2.16 that would prohibit contests for the capture, take or waste of certain predator or furbearing animals, and a new section at 2.17 that would prohibit the "waste" of certain game animals and birds. Finally, MassWildlife is proposing an amendment to 321 CMR 3.02 that would change the time for checking harvested fox and coyote from four (4) days from the end of the season to within forty-eight (48) hours of harvest.

The above-described draft MassWildlife regulations, as well a related summary and other explanatory information, are available for review by the public at <https://www.mass.gov/service-details/fisheries-and-wildlife-board-public-hearings>.

A handwritten signature in black ink that reads "Mark S. Tisa".

Mark S. Tisa, Ph.D., M.B.A.  
Director

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### **Division of Fisheries and Wildlife (“MassWildlife”)**

#### **Summary of Proposed Draft Regulations**

**at 321 CMR 2.16, 2.17, and 3.02**

#### **Concerning Predator and Furbearer Contests, the Waste of Certain Game Animals and Birds, and Harvest Reporting Requirements for Fox and Coyote**

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### **I. Background**

In response to public concern related to coyote hunting contests sponsored by private entities in the Commonwealth, MassWildlife and its Governor-appointed Fisheries and Wildlife Board conducted a review of policies and regulations associated with coyote hunting generally and wildlife hunting contests specifically. Prior to deciding whether to undertake regulatory action, MassWildlife held a total of four (4) listening sessions from April through June of 2019 in Barnstable, Shelburne Falls, Westford, and Bourne. The purpose of these listening sessions was to hear directly from the general public and from hunters and other sportsmen and sportswomen on their questions and concerns, including whether and the extent to which regulatory action by MassWildlife is warranted. In addition to the feedback obtained through these listening sessions, MassWildlife also reviewed and considered the large number of phone calls, letters, and emails received from the public on this issue.

Finally, MassWildlife professionals considered the best available science and consulted with wildlife professionals from other state agencies, including analyzing the assumptions that coyote contests, or coyote hunting in general, serve the purposes of managing coyote population size or protecting the deer population in Massachusetts from undue predation by coyotes. MassWildlife determined that, due to the coyote’s unique reproductive biology, it would take an annual 70% harvest to reduce coyote populations. Over the past 10 years, the annual coyote harvest has comprised less than 10% of the statewide population. The current harvest from coyote hunting does not reduce the coyote population, nor would hunting have an appreciable impact on coyote population size under any realistic scenarios. Furthermore, despite the presence of coyotes, the deer population and harvests are at historical highs and deer populations are thriving in Massachusetts. Consistent with these deer population numbers, recent research shows that coyote predation on fawns and adult deer does not impact deer populations. While biologists estimate that coyotes annually kill about 20%–30% of fawns, scientific studies have shown that fawn survival rates are similar with or without coyote predation. Coyotes rarely kill adult deer, and in Massachusetts, adult doe survival rates are very high. Thus, high adult female survival translates into more fawns produced over a number of years, contributing to a flourishing statewide population.

In a July 17, 2019, presentation to the Fisheries and Wildlife Board, MassWildlife staff summarized the results of its comprehensive review and presented MassWildlife’s proposal to move forward with draft regulations for public comment that would prohibit contests for the capture, take, or waste of certain predator or furbearing animals; the waste of certain game animals and birds; and modify the time for reporting harvested fox and coyote. At its July 17, 2019, meeting, the Fisheries and Wildlife Board

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approved MassWildlife's proposal to advance draft regulations to public hearing and comment. MassWildlife intends to hold two public hearings on the draft regulations as well as separately accept written comments from the public.

In summary, MassWildlife's proposed regulations address public concerns that certain hunting contests are unethical, contribute to the waste of animals, and incentivize indiscriminant killing of wildlife, which is inconsistent with the North American Model of Wildlife Conservation. Recognizing that ensuring ethical hunting practices promotes and sustains support for hunting by the general public, the draft regulations fulfill one of MassWildlife's core functions and its statutory responsibility to develop and maintain hunting, fishing, and trapping opportunities in Massachusetts. Without reducing the opportunity for hunting coyotes or furbearers, the proposed regulatory changes discourage the waste of wildlife and reinforce a core principle and expectation that all animals taken during the regulated seasons are utilized to the greatest extent possible, as taught by MassWildlife's Hunter Education Program.

Additional background and supporting information can be found at MassWildlife's website:

<https://www.mass.gov/news/masswildlife-proposes-regulations-to-ban-predator-contests-and-prohibit-wanton-waste>.

## II. Summary of MassWildlife's authority for its proposed regulations

"Duly promulgated regulations of an administrative agency are presumptively valid and must be accorded all of the deference due to a statute." *Pepin v. Division of Fisheries and Wildlife*, 467 Mass. 210, 221 (2014). In assessing whether an agency has exceeded its authority under a statute, the court "look[s] to the statute as a whole to determine the scope of the agency's power." *Pepin* at 222. The Massachusetts Supreme Judicial Court (SJC) held that a regulation "need not necessary find support in a particular section of [the statute]; it is enough if it carries out the scheme or design of the chapter and is thus consistent with it." *Pepin* at 222 (affirming MassWildlife's authority to promulgate the priority habitat provisions in its MA Endangered Species Act (MESA) regulations even though the MESA statute makes no mention of "priority habitat").

The Commonwealth holds title to wild animals and game in trust for the public, to be devoted to common welfare. *Commonwealth v. Worth*, 304 Mass. 313 (1939). As reflected in its enabling statute, M.G.L. c. 131 ("Chapter 131), MassWildlife serves as the Commonwealth's trustee of its inland wildlife resources and freshwater fisheries. Chapter 131, in turn, confers comprehensive authority and duties on MassWildlife to manage the Commonwealth's wildlife resources. The term "management" is broadly defined in § 1 of the statute to include, but not be limited to:

"research, census, law enforcement, habitat acquisition, preservation and maintenance, propagation, live trapping and transplantation, education *and other activities effective in encouraging better conservation of wildlife in the Commonwealth.*" (Emphasis added.)

Similarly, the powers of MassWildlife's Director set forth in § 4(13) of Chapter 131 include conducting "*statewide information and promotion programs in wildlife conservation, including the utilization of wildlife compatible with good conservation principles.*" (Emphasis added.)

Thus, the Legislature has conferred wide-ranging authority on MassWildlife to manage wildlife as it deems appropriate, including engaging in or regulating activities that will, in MassWildlife's judgment, use wildlife in a manner that is compatible with good conservation principles.

Section 5 of Chapter 131 prohibits a person from fishing for, hunting, or trapping wildlife except as provided for in MassWildlife's regulations. Section 5 essentially authorizes the Director of MassWildlife to regulate all aspects of hunting in the Commonwealth, including to:

“declare an open season of fish, birds, reptiles, amphibians, or mammals in any county where such open season seems advisable, and *may make rules and regulations relating to the time and length of such open season, bag limits, possession limits, methods of taking, time and methods of reporting and all other matters pertaining to such open season as he may deem necessary and expedient*, and may suspend or modify the open season whenever in his opinion such action becomes necessary.” (Emphasis added.)

In short, sections 1, 4 and 5 of Chapter 131 can be reasonably read together to authorize MassWildlife to promulgate any regulation – including on the methods for taking wildlife during an open hunting season – that, in the judgment of MassWildlife, will ensure that wildlife is harvested in a manner that is compatible with good conservation principles and that encourages better conservation of wildlife.

Other sections of Chapter 131 confer related authority on MassWildlife’s Director to comprehensively regulate the hunting of wild animals, including by establishing classes of hunting licenses and the time period for which they will be valid (§ 11), and through the issuance of hunting licenses (§ 12). As affirmed by the SJC in another decision, Chapter 131 sets forth “carefully guarded conditions by which one may hunt in the Commonwealth safely, provisions by which one is licensed, and provisions designed to preserve and maintain the wildlife and natural resources of the Commonwealth.” *Amherst v. Attorney General*, 398 Mass. 793, 797 (1986).

Chapter 131 also includes several provisions mandating certain ethical hunting practices. As examples:

- Section 64 prohibits the use of automatic firearms or tracer ammunition for hunting purposes.
- Section 65 prohibits hunting by the aid or use of a motor vehicle, aircraft or water craft (unless an exception applies).
- Section 65A prohibits the use of a computer or other device to remotely control the aiming or discharge of a weapon used to hunt wildlife.

These specific provisions of Chapter 131 – together with the broad grant of authority to MassWildlife throughout its enabling statute – can be reasonably read as reflecting the Legislature’s intent that the regulation of hunting in Massachusetts may take into account ethical considerations, and that the Director is allowed, through duly promulgated regulations subject to public review and comment, to address any such ethical matters as they may arise in the future. Consistent with this principle, MassWildlife’s Hunter Education Program has long taught students about ethical hunting practices, including the expectation that all animals taken during an open hunting season are used to the greatest extent possible.

Finally, in a separate statute, at Chapter 21A § 2(3), MassWildlife also has a duty to “*promote and further develop hunting, fishing, recreational and competitive marksmanship, and trapping opportunities in the Commonwealth.*” (Emphasis added.) To accomplish the mutually dependent responsibilities of conserving wildlife and promoting hunting, MassWildlife seeks to regulate hunting in a manner that not only minimizes the waste of the Commonwealth’s wildlife resources but also mandates ethical hunting practices that, in turn, promote or sustain support for hunting by the general public.

### **III. Summary of MassWildlife’s Draft Regulations**

MassWildlife is proposing to amend its regulations at 321 CMR 2.00 (Miscellaneous Regulations relating to the Division of Fisheries and Wildlife) and 321 CMR 3.02 (Hunting) to:

1. **Add a new section 2.16 (Prohibition on Contests for the Capture, Take or Waste of Predator and Furbearer Animals)** that would make it unlawful for any person to organize, sponsor, promote, conduct or participate in a contest in which participants compete for prizes or other inducements that result in the capture, take, or waste of those predatory or furbearing animals regulated by MassWildlife pursuant to 321 CMR 3.02(3) or 3.02(5)(b)(2) and (5-11) (i.e., coyote, bobcat, red fox, gray fox, weasels, mink, skunk, river otter, muskrat, beaver, fisher, raccoon, and opossum).
2. **Add a new section 2.17 (Prohibition on the Waste of Certain Game Animals and Birds)** that would prohibit the waste of such animals and birds, with the term “waste” defined in the regulation as “intentionally or knowingly leave a wounded or dead animal or bird in the field or the forest without making a reasonable effort to retrieve the animal or bird and use it.” The regulation would further require that each retrieved animal or bird shall be retained or transferred to another until processed or used for food, fur, feathers, or taxidermy. Finally, the proposed section 2.17 provides that the prohibition against waste shall not apply to:
  - Animals that are “unfit for consumption or use,” defined in the regulation to mean “animals or birds or their parts that are damaged, destroyed, decayed, rotting, diseased or infected”;
  - Animals or birds taken pursuant to M.G.L. c. 131 § 37 (i.e., in defense of a person or property);
  - Those animals identified under M.G.L. c. 131 § 5, with the exception of bobcat and fox, the take of which is regulated by MassWildlife pursuant to 321 CMR 3.02(3);
  - Any animals taken in accordance with 321 CMR 2.08 (i.e., pursuant to an emergency permit because an animal such as a beaver presents a threat to public safety) or 2.14 (i.e., for the purposes of controlling a problem animal).
3. **Amend the existing regulations at 321 CMR 3.02(3)(d)(1) and 3.02(5)(b)(12) to modify the harvest reporting requirements for fox and coyote** – which may be checked online or in person – from 4 days following the close of the season to within 48 hours of harvest. These regulatory changes are consistent with MassWildlife’s current reporting requirements for deer, turkey, and bear.

***MassWildlife is seeking comments from the public on all aspects of these proposed regulations, including their scope of application, definitions (where applicable), and substantive requirements.***

## 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
- 2.3 : Possession and Use of Shotgun Shells Loaded with Lettered Birdshot
- 2.4 : 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
- [2.16: Prohibition on Contests for the Capture, Take or Waste of Predator and Furbearer Animals](#)
- [2.17: Prohibition on the Waste of Certain Game Animals and Birds](#)

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.

2.15: 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.

2.16: Prohibition on Contests for the Capture, Take or Waste of Predator and Furbearer Animals

It shall be unlawful for any person to organize, sponsor, promote, conduct or participate in a contest in which participants compete for prizes or other inducements that results in the capture, take or waste of those predatory or furbearing animals regulated by the Division pursuant to 321 CMR 3.02(3) or 3.02(5)(b)(2.) and (5.-11.).

2.17: Prohibition on the Waste of Certain Game Animals and Birds

(1) It is unlawful for any person while hunting or trapping in accordance with 321 CMR 3.02 to waste an animal or bird. For the purposes of 321 CMR 2.16 and 2.17, “waste” means to intentionally or knowingly leave a wounded or dead animal or bird that the person has hunted or trapped in the field or the forest without making a reasonable effort to retrieve the animal or bird and use it.

(2) Each retrieved animal or bird shall be retained in the individual’s possession or transferred to another and retained in their possession until processed or used as food, or for its fur, feathers, or for taxidermy.

(3) Each retrieved animal or bird shall be checked in accordance with 321 CMR 3.02.

(4) The requirements of 321 CMR 2.17 (1) and (2) shall not apply to animals that are unfit for consumption or use. For the purposes of this section, “unfit for consumption or use” shall mean animals or birds or their parts that are damaged, destroyed, decayed, rotting, diseased or infected.

(5) The prohibition of waste in 321 CMR 2.17(1) and (2) shall not apply to:

(a) any animal or bird taken pursuant to M.G.L. c. 131, § 37; or

(b) those animals and birds identified in M.G.L. c. 131, § 5 except for fox and wildcat, the take of which are regulated pursuant to 321 CMR 3.02(3); or

(c) any animal or bird taken in accordance with 321 CMR 2.08 or 2.14.

REGULATORY AUTHORITY

321 CMR 2.00: M.G.L. c. 131, §§ 4, ~~5, 19,~~ and 19A and 37.

## 321 CMR: DIVISION OF FISHERIES AND WILDLIFE

## 321 CMR 2.00: MISCELLANEOUS REGULATIONS RELATING TO FISHERIES AND WILDLIFE

## Section

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- 2.10: Issuance of Permits to Expose Poisons for the Control of Mammal and Bird Species Not Protected by Federal or State Statutes
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- 2.12: Artificial Propagation of Birds, Mammals, Reptiles and Amphibians
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- 2.15: Importation, Liberation, and Transportation of Fish, Amphibians, Reptiles, Birds, and Mammals
- 2.16: Prohibition on Contests for the Capture, Take or Waste of Predator and Furbearer Animals
- 2.17: Prohibition on the Waste of Certain Game Animals and Birds

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.

2.15: 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.

2.16: Prohibition on Contests for the Capture, Take or Waste of Predator and Furbearer Animals

It shall be unlawful for any person to organize, sponsor, promote, conduct or participate in a contest in which participants compete for prizes or other inducements that results in the capture, take or waste of those predatory or furbearing animals regulated by the Division pursuant to 321 CMR 3.02(3) or 3.02(5)(b)(2.) and (5.-11.).

2.17: Prohibition on the Waste of Certain Game Animals and Birds

- (1) It is unlawful for any person while hunting or trapping in accordance with 321 CMR 3.02 to waste an animal or bird. For the purposes of 321 CMR 2.16 and 2.17, “waste” means to intentionally or knowingly leave a wounded or dead animal or bird that the person has hunted or trapped in the field or the forest without making a reasonable effort to retrieve the animal or bird and use it.
- (2) Each retrieved animal or bird shall be retained in the individual’s possession or transferred to another and retained in their possession until processed or used as food, or for its fur, feathers, or for taxidermy.
- (3) Each retrieved animal or bird shall be checked in accordance with 321 CMR 3.02.
- (4) The requirements of 321 CMR 2.17 (1) and (2) shall not apply to animals that are unfit for consumption or use. For the purposes of this section, “unfit for consumption or use” shall mean animals or birds or their parts that are damaged, destroyed, decayed, rotting, diseased or infected.
- (5) The prohibition of waste in 321 CMR 2.17(1) and (2) shall not apply to:
  - (a) any animal or bird taken pursuant to M.G.L. c. 131, § 37; or
  - (b) those animals and birds identified in M.G.L. c. 131, § 5 except for fox and wildcat, the take of which are regulated pursuant to 321 CMR 3.02(3); or
  - (c) any animal or bird taken in accordance with 321 CMR 2.08 or 2.14.

REGULATORY AUTHORITY

321 CMR 2.00: M.G.L. c. 131, §§ 4, 5, 19, 19A and 37.

## 321 CMR: DIVISION OF FISHERIES AND WILDLIFE

## 321 CMR 3.00: HUNTING

3.02 : Hunting, Particular Game

(3) Hunting of Bobcat, Fox and Coyote in Massachusetts. In accordance with the authority vested in me by M.G.L. c. 131, § 5, as amended by St. 1967, c. 802, the annual open seasons for the hunting of fox, coyote, and bobcat are hereby adopted, subject to the following:

(a) Definitions. For the purposes of 321 CMR 3.02(3), the following words or phrases shall have the following meanings:

Bobcat means the bobcat or wildcat (*Felis [Lynx] rufus*) but not the lynx or Canada lynx (*Felis [Lynx] canadensis*).

Division means the Massachusetts Division of Fisheries and Wildlife.

Fox means the red fox (*Vulpes vulpes*) and the gray fox (*Urocyon cinereoargenteus*).

Green Pelt means a pelt which has not been dried, cured, or tanned.

Online means a Division of Fisheries and Wildlife licensing and game harvest reporting system accessible at the MassWildlife website that allows for automated licensing and game harvest reporting, including issuance of an official seal via the internet.

Raw Pelt or Raw Fur means a green pelt which has been dried, fleshed, or cured.

State means the several states, territories, and possessions of the United States of America, and any foreign nation and any political subdivision, possession, or occupied area thereof.

Zone or Zones means the Massachusetts wildlife management zones as described in 321 CMR 3.02(4)(o).

(b) Open Seasons and Zones.

1. The dates of the open seasons shall be as follows: for bobcat, beginning December 20<sup>th</sup> and ending the following March 8<sup>th</sup>; for fox, beginning November 1<sup>st</sup> and ending the following last day of February; and for coyote, beginning on the first Saturday after Columbus Day and ending the following March 8<sup>th</sup>, except that a person shall not hunt or take a fox except by means of a trap during the shotgun deer season as provided for in 321 CMR 3.02(4)(b)3.a.

2. Fox and coyote may be hunted throughout Massachusetts.

3. Bobcat may be hunted only in Zones 01 through 08.

(c) Hunting Hours. The hunting hours during each calendar day of the open season shall begin at ½ hour before sunrise and,

3.02: continued

1. for bobcat shall end at ½ hour after sunset, except on wildlife management areas as provided for in 321 CMR 3.01(1)(n); and
2. for fox shall end at midnight, except on wildlife management areas as provided for in 321 CMR 3.01(1)(n); and
3. for coyote shall end at midnight, except on wildlife management areas as provided for in 321 CMR 3.01(1)(n), and except during the shotgun deer season when the hunting hours shall end at ½ hour after sunset.

(d) Restrictions.

1. In addition to the provisions of 321 CMR 3.02(3)(b) and (c), all fox, coyote, and bobcat taken or salvaged shall be brought to a designated representative of the Division and sealed with an official seal by said representative, or the person who took or salvaged the fox, coyote or bobcat shall access the Online system to report the take or salvage. The person shall receive an Online system confirmation number, which shall be the official seal issued by the Division of Fisheries and Wildlife, and affix it to the fox, coyote or bobcat taken or salvaged. The official seal shall be non-transferable and shall be valid only for the animal or carcass to which it is applied.

The official seal shall remain attached to the pelt or animal until the pelt is dressed or tanned, or prepared for mounting by a taxidermist, or the animal is otherwise disposed of. Coyote and fox shall be sealed no later than 48 hours after the animal is killed. Bobcat, ~~fox and coyote~~ shall be sealed no later than four working days after the closing day of the open season for that species. Working days are defined as the days Monday through Friday, except legal state holidays as defined in M.G.L. c. 4, § 7(18).

2. No raw bobcat, fox, or coyote pelt, regardless of state of origin, shall be sold, exchanged, bartered, or offered for sale within Massachusetts unless said pelt bears an official tag, seal, or stamp issued or applied by the state within which said bobcat, fox, or coyote was taken, or by another governmental jurisdiction empowered to tag, seal, or stamp such pelts. Such tag, seal, or stamp shall be identified as to the issuing jurisdiction. No person shall alter, tamper with, or reapply any such tag, seal, or stamp, nor possess any altered, tampered, or reapplied tag, seal, or stamp (except if such tag, seal, or stamp is destroyed to such a degree that it cannot be reapplied), or any pelt bearing the same.

3. Bobcat shall not be hunted or pursued with the aid of a dog.

4. During the shotgun deer season, coyote may be hunted throughout Massachusetts only by means of a shotgun not larger than ten gauge, including shotguns with a rifled bore, by means of a muzzle-loading firearm, fired from the shoulder, .44 to .775 caliber, or by means of a bow and arrow.

5. During the shotgun deer season, a person hunting coyote shall not use any electronic call or other noise-making device. Nothing in 321 CMR 3.02(3)(d)5. shall be construed to prohibit the use of deer antlers or replicas thereof or grunt tubes by persons lawfully hunting deer, or the use of hand or mouth operated waterfowl callers by persons lawfully hunting waterfowl.

(e) Limitations. Nothing in 321 CMR 3.02(3) shall be deemed to limit any other provision of M.G.L. c. 131 or any rule or regulation issued under authority thereof.

(f) Savings Clause. If any part, section, subsection, division, or subdivision of 321 CMR 3.02(3) or the application thereof is held invalid, unconstitutional, or inoperative as to any particular person, persons, or conditions, the remainder thereof or the application of any such part, section, subsection, division, or subdivision shall not be affected thereby.

(4) Hunting and Tagging of Deer. In accordance with the authority vested in me by M.G.L. c. 131, §§ 5 and 72, I hereby declare an open season for the hunting of deer in Massachusetts, subject to the following rules and regulations:

(a) Definitions: For the purposes of 321 CMR 3.02(4) and unless the context requires otherwise, the following words or phrases shall have the following meanings:

Antlerless Deer means a deer without antlers, or with antlers the longer of which is less than three inches in length measured on a straight line from the center of the anterior base of the antler burr to the antler tip.

Bait means any natural or artificial substance, including but not restricted to, shucked or unshucked corn, wheat or other grains, hay, silage, apples or other fruits or vegetables, and salt or other chemical compounds of a like nature which may be fed upon, ingested by or which otherwise constitute a nutritive attraction or enticement to deer.

3.02: continued

8. Zone 08 is bounded as follows: northerly by Zone 05; westerly by Zones 06 and 07; southerly by the Connecticut and Rhode Island borders; and easterly by a line running from the intersection of Rt. 62 and Rt. 31 in the Town of Princeton, south on Rt. 31 to Rt. 56 in the Town of Paxton, south on Rt. 56 to Rt. 9 in the Town of Leicester, east on Rt. 9 to Cambridge Street in the City of Worcester, east on Cambridge Street to Rt. 146, and southeast on Rt. 146 to the Rhode Island border.

9. Zone 09 is bounded as follows: northerly by the New Hampshire border; westerly by Zones 05 and 08; southerly by the Rhode Island border; and easterly by a line running from the New Hampshire border southeast on Rt. 3 to the intersection with Rt. I-495 in the Town of Chelmsford, south on Rt. I-495 to the intersection with Rt. 121 in the Town of Wrentham, and southwest on Rt. 121 to the Rhode Island border.

10. Zone 10 is bounded as follows: northerly by the New Hampshire border; westerly by Zone 09; southerly by a line running from the intersection of Rt. I-495 and Rt. 121 in the Town of Wrentham, northeast along Rt. 121 to the intersection with Rt. 1A, northeast along Rt. 1A to the intersection with Rt. 128 in the Town of Dedham, east on Rt. 128 to the intersection with Rt. 3 in the Town of Braintree, east on Rt. 3 to the intersection with Rt. 228 in the Town of Rockland, and north on Rt. 228 to the Hull town line (at the crossing of Rt. 228 and the Weir River), including the Town of Hull.

11. Zone 11 is bounded as follows: northerly by Zones 09 and 10; westerly by the Rhode Island border; southerly by Buzzards Bay and the Cape Cod Canal; and easterly by the Atlantic Ocean.

12. Zone 12 is bounded as follows: northerly by the Atlantic Ocean (Cape Cod Bay); westerly by Zone 11; southerly by the Atlantic Ocean (Vineyard Sound); and easterly by the Atlantic Ocean.

13. Zone 13 shall consist of Dukes County.

14. Zone 14 shall consist of Nantucket County.

(5) Hunting and Trapping of Certain Mammals. In accordance with the authority found in M.G.L. c. 131, § 5, and subject to 321 CMR 3.02(5), the annual open seasons for the hunting and trapping of certain mammals are hereby adopted.

(a) Definitions. For the purposes of 321 CMR 3.02(5), the following words or phrases shall have the following meanings.

Beaver Dam means an obstruction comprised of an aggregate of sticks and mud, which may additionally include natural vegetation or stones, constructed by beaver and which impounds or has impounded the flowage of water along a stream or other water body or through or over a water control structure.

Beaver Lodge means a den comprised of an aggregate of sticks and mud which is constructed or built by beaver and which is either free-standing in water or connected to an embankment, but excluding holes or burrows which lack a visible or external aggregate of sticks and mud.

Bobcat means the bobcat or wildcat (*Felis [Lynx] rufus*) but not the lynx or Canada lynx (*Felis [Lynx] canadensis*).

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.

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

Division means the Massachusetts Division of Fisheries and Wildlife.

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, § 10A.

3.02: continued

Fox means the red fox (*Vulpes vulpes*) and the gray fox (*Urocyon cinereoargenteus*).

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

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

Green Pelt means a pelt which has not been dried, cured, or tanned.

Hunt, for the purposes of 321 CMR 3.02(5)(b)1. through 3., "hunted" or "kill or take by hunting" means a process excluding the use of traps.

Online means a Division of Fisheries and Wildlife licensing and game harvest reporting system accessible at the MassWildlife website that allows for automated licensing and game harvest reporting, including issuance of an official seal via the internet.

Raw Pelt means a green pelt which has been dried, fleshed, or cured.

State means the several states, territories, and possessions of the United States of America, and any foreign nation and any political subdivision, possession, or occupied area thereof.

Weasel means the ermine or short-tailed weasel (*Mustela erminea*) and the long-tailed weasel (*Mustela frenata*).

Zone or Zones means the Massachusetts wildlife management zones as described in 321 CMR 3.02(4)(o).

(b) Management Measures. Notwithstanding any municipal bylaw or ordinance to the contrary, the following management measures are hereby adopted and effective.

1. No trap may be used, set, placed, maintained, or possessed for the purpose of capturing fur-bearing mammals pursuant to 321 CMR 3.02(5), except for box or cage type traps or common type rat traps.
2. Opossum and raccoon may be hunted throughout Massachusetts, with or without the use of dogs, except as provided in M.G.L. c. 131, § 70, from October 1<sup>st</sup> through the following January 31<sup>st</sup>, except that raccoon and opossum may be taken only by trapping during the shotgun deer season as specified in 321 CMR 3.02(4)(b)3.
3. During the period from sunset of one day to sunset of the following day, a person shall not kill or take by hunting more than three raccoons, nor shall two or more persons hunting in one party kill or take by hunting more than six raccoons.
4. A person shall not remove or attempt to remove a beaver, bobcat, coyote, fisher, fox, mink, muskrat, opossum, raccoon, or river otter from any hole in the ground, stone wall, from within any ledge, or from under any stone, or from any hole in any log or tree.
5. Coyote, fox, and weasel may be taken by trapping throughout Massachusetts from November 1<sup>st</sup> through the following November 30<sup>th</sup>.
6. Bobcat may be taken by trapping only in Zones 01 through 08 from November 1<sup>st</sup> through the following November 30<sup>th</sup>.
7. Fisher may be taken by trapping throughout Massachusetts from November 1<sup>st</sup> through the following November 22<sup>nd</sup>.
8. Mink and river otter may be taken by trapping throughout Massachusetts from November 1<sup>st</sup> through the following December 15<sup>th</sup>.
9. Muskrat may be taken by trapping throughout Massachusetts from November 1<sup>st</sup> through the following last day of February.
10. Beaver may be taken by trapping throughout Massachusetts from November 1<sup>st</sup> through the following April 15<sup>th</sup>.
11. Raccoon, opossum, and skunk may be taken by trapping throughout Massachusetts from November 1<sup>st</sup> through the following last day of February.

3.02: continued

12. In addition to the provisions of 321 CMR 3.02(5)(b)5. through 10., all beaver, bobcat, coyote, fisher, fox, wild mink, and river otter taken or salvaged shall be brought to a designated representative of the Division and sealed with an official seal by said representative, or the person who took or salvaged the beaver, bobcat, coyote, fisher, fox, wild mink, and river otter shall access the Online system to report the take or salvage. The person shall receive an Online system confirmation number, which shall be the official seal issued by the Division of Fisheries and Wildlife, and affix it to the beaver, bobcat, coyote, fisher, fox, wild mink, and river otter taken or salvaged. The official seal shall be non-transferable and shall be valid only for the animal or carcass to which it is applied.

The official seal shall remain attached to the pelt or animal until the pelt is dressed or tanned, or prepared for mounting by a taxidermist, or the animal is otherwise disposed of. Coyote and fox shall be sealed no later than 48 hours after the animal is killed. Beaver, bobcat, ~~coyote~~, fisher, ~~fox~~, mink, and river otter shall be sealed no later than four working days after the closing day of the open season for that species. Working days are defined as the days Monday through Friday, except legal state holidays as defined in M.G.L. c. 4, § 7(18).

13. No raw beaver, bobcat, coyote, fisher, fox, gray wolf, lynx, marten, mink, or river otter pelt, regardless of state of origin, shall be sold, exchanged, bartered, or offered for sale, exchange, or barter within Massachusetts unless said pelt bears an official tag, seal, or stamp issued or applied by the state within which said beaver, bobcat, coyote, fisher, fox, gray wolf, lynx, marten, mink, or river otter was taken, or by another governmental jurisdiction empowered to tag, seal, or stamp such pelts. Such tag, seal, or stamp shall be identifiable as to the issuing jurisdiction. No person shall alter, tamper with, or reapply any such tag, seal, or stamp, nor possess any altered, tampered, or reapplied tag, seal, or stamp (except if such tag, seal, or stamp is destroyed to such a degree that it cannot be reapplied), or any pelt bearing the same.

14. Except as otherwise provided for in M.G.L. c. 131, and 321 CMR 3.02(3), those mammals named in the last paragraph of M.G.L. c. 131, § 5, may be hunted throughout Massachusetts from January 1<sup>st</sup> through the following December 31<sup>st</sup>, except during the shotgun deer season as provided for in 321 CMR 3.02(4)(b)3.a.

(c) Authorized Means of Trapping-- 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 mammal at a time. Bailey and Hancock beaver traps and other suitcase type traps of similar design may be used only for the taking of beaver, and in accordance with 321 CMR 3.02(5)(c)2. and 3.;

2. 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. Such traps may be used only for the taking of beaver. 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 the provisions of M.G.L. c. 131; and

3. Bailey and Hancock beaver traps and other suitcase type cage traps of similar design shall not be used except when set in water, or when set upon a beaver lodge or beaver dam, snag, stump, rock, or other above-water protrusion entirely or substantially surrounded by water. In addition, whenever and wherever set, the pan of such traps must be completely submerged in water.

(d) Authorized Means of Trapping-- Kill Traps and Sets.

1. Common type rat traps for the taking of weasel;

2. Conibear-type traps may be used only in accordance with 321 CMR 2.08 and 321 CMR 2.14(24).

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

1. to have in his or her possession the green pelt of any fur-bearing mammal or any part of such pelt except during the open season for such mammal and for ten days thereafter;

2. to possess or have under his or her control a trap on land of another in any place where fur-bearing mammals might be found from April 16<sup>th</sup> of any year through 6:00 A.M. on the following November 1<sup>st</sup>;

## 321 CMR: DIVISION OF FISHERIES AND WILDLIFE

## 321 CMR 3.00: HUNTING

3.02 : Hunting, Particular Game

(3) Hunting of Bobcat, Fox and Coyote in Massachusetts. In accordance with the authority vested in me by M.G.L. c. 131, § 5, as amended by St. 1967, c. 802, the annual open seasons for the hunting of fox, coyote, and bobcat are hereby adopted, subject to the following:

(a) Definitions. For the purposes of 321 CMR 3.02(3), the following words or phrases shall have the following meanings:

Bobcat means the bobcat or wildcat (*Felis [Lynx] rufus*) but not the lynx or Canada lynx (*Felis [Lynx] canadensis*).

Division means the Massachusetts Division of Fisheries and Wildlife.

Fox means the red fox (*Vulpes vulpes*) and the gray fox (*Urocyon cinereoargenteus*).

Green Pelt means a pelt which has not been dried, cured, or tanned.

Online means a Division of Fisheries and Wildlife licensing and game harvest reporting system accessible at the MassWildlife website that allows for automated licensing and game harvest reporting, including issuance of an official seal via the internet.

Raw Pelt or Raw Fur means a green pelt which has been dried, fleshed, or cured.

State means the several states, territories, and possessions of the United States of America, and any foreign nation and any political subdivision, possession, or occupied area thereof.

Zone or Zones means the Massachusetts wildlife management zones as described in 321 CMR 3.02(4)(o).

(b) Open Seasons and Zones.

1. The dates of the open seasons shall be as follows: for bobcat, beginning December 20<sup>th</sup> and ending the following March 8<sup>th</sup>; for fox, beginning November 1<sup>st</sup> and ending the following last day of February; and for coyote, beginning on the first Saturday after Columbus Day and ending the following March 8<sup>th</sup>, except that a person shall not hunt or take a fox except by means of a trap during the shotgun deer season as provided for in 321 CMR 3.02(4)(b)3.a.

2. Fox and coyote may be hunted throughout Massachusetts.

3. Bobcat may be hunted only in Zones 01 through 08.

(c) Hunting Hours. The hunting hours during each calendar day of the open season shall begin at ½ hour before sunrise and,

3.02: continued

1. for bobcat shall end at ½ hour after sunset, except on wildlife management areas as provided for in 321 CMR 3.01(1)(n); and
2. for fox shall end at midnight, except on wildlife management areas as provided for in 321 CMR 3.01(1)(n); and
3. for coyote shall end at midnight, except on wildlife management areas as provided for in 321 CMR 3.01(1)(n), and except during the shotgun deer season when the hunting hours shall end at ½ hour after sunset.

(d) Restrictions.

1. In addition to the provisions of 321 CMR 3.02(3)(b) and (c), all fox, coyote, and bobcat taken or salvaged shall be brought to a designated representative of the Division and sealed with an official seal by said representative, or the person who took or salvaged the fox, coyote or bobcat shall access the Online system to report the take or salvage. The person shall receive an Online system confirmation number, which shall be the official seal issued by the Division of Fisheries and Wildlife, and affix it to the fox, coyote or bobcat taken or salvaged. The official seal shall be non-transferable and shall be valid only for the animal or carcass to which it is applied.

The official seal shall remain attached to the pelt or animal until the pelt is dressed or tanned, or prepared for mounting by a taxidermist, or the animal is otherwise disposed of. Coyote and fox shall be sealed no later than 48 hours after the animal is killed. Bobcat shall be sealed no later than four working days after the closing day of the open season for that species. Working days are defined as the days Monday through Friday, except legal state holidays as defined in M.G.L. c. 4, § 7(18).

2. No raw bobcat, fox, or coyote pelt, regardless of state of origin, shall be sold, exchanged, bartered, or offered for sale within Massachusetts unless said pelt bears an official tag, seal, or stamp issued or applied by the state within which said bobcat, fox, or coyote was taken, or by another governmental jurisdiction empowered to tag, seal, or stamp such pelts. Such tag, seal, or stamp shall be identified as to the issuing jurisdiction. No person shall alter, tamper with, or reapply any such tag, seal, or stamp, nor possess any altered, tampered, or reapplied tag, seal, or stamp (except if such tag, seal, or stamp is destroyed to such a degree that it cannot be reapplied), or any pelt bearing the same.

3. Bobcat shall not be hunted or pursued with the aid of a dog.

4. During the shotgun deer season, coyote may be hunted throughout Massachusetts only by means of a shotgun not larger than ten gauge, including shotguns with a rifled bore, by means of a muzzle-loading firearm, fired from the shoulder, .44 to .775 caliber, or by means of a bow and arrow.

5. During the shotgun deer season, a person hunting coyote shall not use any electronic call or other noise-making device. Nothing in 321 CMR 3.02(3)(d)5. shall be construed to prohibit the use of deer antlers or replicas thereof or grunt tubes by persons lawfully hunting deer, or the use of hand or mouth operated waterfowl callers by persons lawfully hunting waterfowl.

(e) Limitations. Nothing in 321 CMR 3.02(3) shall be deemed to limit any other provision of M.G.L. c. 131 or any rule or regulation issued under authority thereof.

(f) Savings Clause. If any part, section, subsection, division, or subdivision of 321 CMR 3.02(3) or the application thereof is held invalid, unconstitutional, or inoperative as to any particular person, persons, or conditions, the remainder thereof or the application of any such part, section, subsection, division, or subdivision shall not be affected thereby.

(4) Hunting and Tagging of Deer. In accordance with the authority vested in me by M.G.L. c. 131, §§ 5 and 72, I hereby declare an open season for the hunting of deer in Massachusetts, subject to the following rules and regulations:

(a) Definitions: For the purposes of 321 CMR 3.02(4) and unless the context requires otherwise, the following words or phrases shall have the following meanings:

Antlerless Deer means a deer without antlers, or with antlers the longer of which is less than three inches in length measured on a straight line from the center of the anterior base of the antler burr to the antler tip.

Bait means any natural or artificial substance, including but not restricted to, shucked or unshucked corn, wheat or other grains, hay, silage, apples or other fruits or vegetables, and salt or other chemical compounds of a like nature which may be fed upon, ingested by or which otherwise constitute a nutritive attraction or enticement to deer.

3.02: continued

8. Zone 08 is bounded as follows: northerly by Zone 05; westerly by Zones 06 and 07; southerly by the Connecticut and Rhode Island borders; and easterly by a line running from the intersection of Rt. 62 and Rt. 31 in the Town of Princeton, south on Rt. 31 to Rt. 56 in the Town of Paxton, south on Rt. 56 to Rt. 9 in the Town of Leicester, east on Rt. 9 to Cambridge Street in the City of Worcester, east on Cambridge Street to Rt. 146, and southeast on Rt. 146 to the Rhode Island border.

9. Zone 09 is bounded as follows: northerly by the New Hampshire border; westerly by Zones 05 and 08; southerly by the Rhode Island border; and easterly by a line running from the New Hampshire border southeast on Rt. 3 to the intersection with Rt. I-495 in the Town of Chelmsford, south on Rt. I-495 to the intersection with Rt. 121 in the Town of Wrentham, and southwest on Rt. 121 to the Rhode Island border.

10. Zone 10 is bounded as follows: northerly by the New Hampshire border; westerly by Zone 09; southerly by a line running from the intersection of Rt. I-495 and Rt. 121 in the Town of Wrentham, northeast along Rt. 121 to the intersection with Rt. 1A, northeast along Rt. 1A to the intersection with Rt. 128 in the Town of Dedham, east on Rt. 128 to the intersection with Rt. 3 in the Town of Braintree, east on Rt. 3 to the intersection with Rt. 228 in the Town of Rockland, and north on Rt. 228 to the Hull town line (at the crossing of Rt. 228 and the Weir River), including the Town of Hull.

11. Zone 11 is bounded as follows: northerly by Zones 09 and 10; westerly by the Rhode Island border; southerly by Buzzards Bay and the Cape Cod Canal; and easterly by the Atlantic Ocean.

12. Zone 12 is bounded as follows: northerly by the Atlantic Ocean (Cape Cod Bay); westerly by Zone 11; southerly by the Atlantic Ocean (Vineyard Sound); and easterly by the Atlantic Ocean.

13. Zone 13 shall consist of Dukes County.

14. Zone 14 shall consist of Nantucket County.

(5) Hunting and Trapping of Certain Mammals. In accordance with the authority found in M.G.L. c. 131, § 5, and subject to 321 CMR 3.02(5), the annual open seasons for the hunting and trapping of certain mammals are hereby adopted.

(a) Definitions. For the purposes of 321 CMR 3.02(5), the following words or phrases shall have the following meanings.

Beaver Dam means an obstruction comprised of an aggregate of sticks and mud, which may additionally include natural vegetation or stones, constructed by beaver and which impounds or has impounded the flowage of water along a stream or other water body or through or over a water control structure.

Beaver Lodge means a den comprised of an aggregate of sticks and mud which is constructed or built by beaver and which is either free-standing in water or connected to an embankment, but excluding holes or burrows which lack a visible or external aggregate of sticks and mud.

Bobcat means the bobcat or wildcat (*Felis [Lynx] rufus*) but not the lynx or Canada lynx (*Felis [Lynx] canadensis*).

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.

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

Division means the Massachusetts Division of Fisheries and Wildlife.

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, § 10A.

3.02: continued

Fox means the red fox (*Vulpes vulpes*) and the gray fox (*Urocyon cinereoargenteus*).

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

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

Green Pelt means a pelt which has not been dried, cured, or tanned.

Hunt, for the purposes of 321 CMR 3.02(5)(b)1. through 3., "hunted" or "kill or take by hunting" means a process excluding the use of traps.

Online means a Division of Fisheries and Wildlife licensing and game harvest reporting system accessible at the MassWildlife website that allows for automated licensing and game harvest reporting, including issuance of an official seal via the internet.

Raw Pelt means a green pelt which has been dried, fleshed, or cured.

State means the several states, territories, and possessions of the United States of America, and any foreign nation and any political subdivision, possession, or occupied area thereof.

Weasel means the ermine or short-tailed weasel (*Mustela erminea*) and the long-tailed weasel (*Mustela frenata*).

Zone or Zones means the Massachusetts wildlife management zones as described in 321 CMR 3.02(4)(o).

(b) Management Measures. Notwithstanding any municipal bylaw or ordinance to the contrary, the following management measures are hereby adopted and effective.

1. No trap may be used, set, placed, maintained, or possessed for the purpose of capturing fur-bearing mammals pursuant to 321 CMR 3.02(5), except for box or cage type traps or common type rat traps.
2. Opossum and raccoon may be hunted throughout Massachusetts, with or without the use of dogs, except as provided in M.G.L. c. 131, § 70, from October 1<sup>st</sup> through the following January 31<sup>st</sup>, except that raccoon and opossum may be taken only by trapping during the shotgun deer season as specified in 321 CMR 3.02(4)(b)3.
3. During the period from sunset of one day to sunset of the following day, a person shall not kill or take by hunting more than three raccoons, nor shall two or more persons hunting in one party kill or take by hunting more than six raccoons.
4. A person shall not remove or attempt to remove a beaver, bobcat, coyote, fisher, fox, mink, muskrat, opossum, raccoon, or river otter from any hole in the ground, stone wall, from within any ledge, or from under any stone, or from any hole in any log or tree.
5. Coyote, fox, and weasel may be taken by trapping throughout Massachusetts from November 1<sup>st</sup> through the following November 30<sup>th</sup>.
6. Bobcat may be taken by trapping only in Zones 01 through 08 from November 1<sup>st</sup> through the following November 30<sup>th</sup>.
7. Fisher may be taken by trapping throughout Massachusetts from November 1<sup>st</sup> through the following November 22<sup>nd</sup>.
8. Mink and river otter may be taken by trapping throughout Massachusetts from November 1<sup>st</sup> through the following December 15<sup>th</sup>.
9. Muskrat may be taken by trapping throughout Massachusetts from November 1<sup>st</sup> through the following last day of February.
10. Beaver may be taken by trapping throughout Massachusetts from November 1<sup>st</sup> through the following April 15<sup>th</sup>.
11. Raccoon, opossum, and skunk may be taken by trapping throughout Massachusetts from November 1<sup>st</sup> through the following last day of February.

3.02: continued

12. In addition to the provisions of 321 CMR 3.02(5)(b)5. through 10., all beaver, bobcat, coyote, fisher, fox, wild mink, and river otter taken or salvaged shall be brought to a designated representative of the Division and sealed with an official seal by said representative, or the person who took or salvaged the beaver, bobcat, coyote, fisher, fox, wild mink, and river otter shall access the Online system to report the take or salvage. The person shall receive an Online system confirmation number, which shall be the official seal issued by the Division of Fisheries and Wildlife, and affix it to the beaver, bobcat, coyote, fisher, fox, wild mink, and river otter taken or salvaged. The official seal shall be non-transferable and shall be valid only for the animal or carcass to which it is applied.

The official seal shall remain attached to the pelt or animal until the pelt is dressed or tanned, or prepared for mounting by a taxidermist, or the animal is otherwise disposed of. Coyote and fox shall be sealed no later than 48 hours after the animal is killed. Beaver, bobcat, fisher, mink, and river otter shall be sealed no later than four working days after the closing day of the open season for that species. Working days are defined as the days Monday through Friday, except legal state holidays as defined in M.G.L. c. 4, § 7(18).

13. No raw beaver, bobcat, coyote, fisher, fox, gray wolf, lynx, marten, mink, or river otter pelt, regardless of state of origin, shall be sold, exchanged, bartered, or offered for sale, exchange, or barter within Massachusetts unless said pelt bears an official tag, seal, or stamp issued or applied by the state within which said beaver, bobcat, coyote, fisher, fox, gray wolf, lynx, marten, mink, or river otter was taken, or by another governmental jurisdiction empowered to tag, seal, or stamp such pelts. Such tag, seal, or stamp shall be identifiable as to the issuing jurisdiction. No person shall alter, tamper with, or reapply any such tag, seal, or stamp, nor possess any altered, tampered, or reapplied tag, seal, or stamp (except if such tag, seal, or stamp is destroyed to such a degree that it cannot be reapplied), or any pelt bearing the same.

14. Except as otherwise provided for in M.G.L. c. 131, and 321 CMR 3.02(3), those mammals named in the last paragraph of M.G.L. c. 131, § 5, may be hunted throughout Massachusetts from January 1<sup>st</sup> through the following December 31<sup>st</sup>, except during the shotgun deer season as provided for in 321 CMR 3.02(4)(b)3.a.

(c) Authorized Means of Trapping-- 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 mammal at a time. Bailey and Hancock beaver traps and other suitcase type traps of similar design may be used only for the taking of beaver, and in accordance with 321 CMR 3.02(5)(c)2. and 3.;

2. 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. Such traps may be used only for the taking of beaver. 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 the provisions of M.G.L. c. 131; and

3. Bailey and Hancock beaver traps and other suitcase type cage traps of similar design shall not be used except when set in water, or when set upon a beaver lodge or beaver dam, snag, stump, rock, or other above-water protrusion entirely or substantially surrounded by water. In addition, whenever and wherever set, the pan of such traps must be completely submerged in water.

(d) Authorized Means of Trapping-- Kill Traps and Sets.

1. Common type rat traps for the taking of weasel;

2. Conibear-type traps may be used only in accordance with 321 CMR 2.08 and 321 CMR 2.14(24).

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

1. to have in his or her possession the green pelt of any fur-bearing mammal or any part of such pelt except during the open season for such mammal and for ten days thereafter;

2. to possess or have under his or her control a trap on land of another in any place where fur-bearing mammals might be found from April 16<sup>th</sup> of any year through 6:00 A.M. on the following November 1<sup>st</sup>;