

PROPOSED RULEMAKING

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 93]

Corrections to Drainage Lists

The Environmental Quality Board (Board) proposes to amend §§ 93.9c—93.9g, 93.9i, 93.9l, 93.9n, 93.9o, 93.9q, 93.9r, 93.9t, 93.9w and 93.9x to read as set forth in Annex A.

This order was adopted by the Board at its meeting of June 18, 1996.

A. Effective Date

These proposed amendments are effective upon publication in the *Pennsylvania Bulletin* as final rulemaking.

B. Contact Persons

For further information, contact Edward R. Brezina, Chief, Division of Assessment and Standards, Bureau of Water Quality Management, 10th Floor, Rachel Carson State Office Building, P. O. Box 8465, 400 Market Street, Harrisburg, PA 17105-8465, (717) 787-9637 or William J. Gerlach, Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) and request that the call be relayed. This proposal is available electronically through the Department of Environmental Protection (Department) Web site (<http://www.dep.state.pa.us>).

C. Statutory Authority

These proposed amendments are made under the authority of the following acts: sections 5(b)(1) and 402 of The Clean Streams Law (35 P.S. §§ 691.5(b)(1) and 691.402); and section 1920-A of The Administrative Code of 1929 (71 P.S. § 510-20), which grant to the Board the authority to develop and adopt rules and regulations to implement the provisions of The Clean Streams Law.

D. Background of the Amendment

The Commonwealth's Water Quality Standards, which are set forth in part in Chapter 93 (relating to water quality standards) implement the provisions of sections 5 and 402 of The Clean Streams Law and section 303 of the Federal Clean Water Act (33 U.S.C.A. § 1313). Water quality standards are in-stream water quality goals which are implemented by imposing specific regulatory requirements (such as treatment requirements and effluent limits) on individual sources of pollution.

The Department considers candidates for special protection status or redesignation, or both, in its ongoing review of water quality standards. Candidates may be identified by the Department based on routine waterbody investigations. Requests for consideration may also be initiated by other agencies, such as the Fish and Boat Commission, and by the general public through a rulemaking petition to the Board. The Department also continuously reviews the water quality standards and receives various requests to investigate possible errors that have been found in Chapter 93. The Department reviewed the stream listings and the suggested errors that are summarized in Section E of this Preamble in response to requests from regional staff, the Fish and Boat Commission and the general public who brought various errors or inconsistencies in the stream lists to the Department's attention.

The Department investigated the alleged errors by researching previous rulemaking activities, changes that resulted from the 1992 Reformatting of Stream Drainage Lists in Chapter 93 and by comparing the drainage lists to the Gazetteer of Streams and topographic maps for these streams. Based upon the data collected in this research, the Board has made the proposed revisions described in Section E of this Preamble. The recommended revisions do not change the protected uses or impose any additional requirements than that which have been implemented for any of the streams within this proposal. This proposed rulemaking merely corrects duplicate entries, typographic errors or reinserts entries that have been incorrectly removed or changed.

E. Summary of Regulatory Revisions

<i>Drainage List</i>	<i>Stream</i>	<i>Brief Description of Revision Needed</i>
93.9c	4—Sand Hill	Creek missing from stream name
	2—Cherry Creek	Add entry for missing lower reach, it appeared in the <i>Pennsylvania Bulletin</i> (18 Pa.B. 5260 (November 26, 1988)) notice during redesignation, but was incorrectly codified in 25 Pa. Code Ch. 93
93.9d	4—Hummer Run	Should be 4— <i>Hummler Run</i>
	4—Tunkhanna Creek	Should be 4— <i>Upper Tunkhannock Creek</i>
93.9e	2—Neshaminy Creek	<i>PA 614 Dam</i> should refer to it being <i>Proposed</i> , since it was never built according to available records
	3—UNT Nesh. Creek	<i>PA Rte 620 Dam</i> should not contain reference to <i>Rte</i>
93.9f	3—Core Creek	<i>Schuylkill Haven Dam</i> should be <i>Tumbling Run Dam</i> . Also note the label of <i>Silver Creek Res</i> on the Pottsville Topo map is incorrect and should be corrected by Geological Survey/USGS.
	3—Tumbling Run	

<i>Drainage List</i>	<i>Stream</i>	<i>Brief Description of Revision Needed</i>
	3—UNT to Schuylkill River	Montgomery County UNTs should not be HQ-TSF, but should be WWF. Also add entries for missing reference to UNTs from Valley Creek to head of tide. Errors resulted from reformatting. Also note that 3— <i>Matsunk Creek</i> and 3— <i>Glanraffan Creek</i> , are not listed for this reach, but these changes require additional study and/or stream evaluations to determine the appropriate use.
	3—Perkiomen Creek	Should reference that it is the second <i>LR 06119 (SR 1010)</i> bridge at Hereford
93.9g	4—Goose Creek	Should be 4— <i>Unnamed Tributary to East Branch Chester Creek at RM 0.4 ("Goose Creek")</i> since Goose Creek is not found on topos or in Gazetteer of Streams, and is a local name for an UNT (#00605, near State Rt 926)
	2—Chester Creek	Clarify that Chester Creek does not start at the confluence of the East and West Branches of Chester Creek as currently stated
93.9i	2—Starrucca Creek	<i>RM 11.28</i> should be <i>11.68</i>
	2—Wyalusing Creek	Should delete <i>Bradford WWF None</i> from the first 2— <i>Wyalusing Creek</i> entry, which serves only as a marker
	3—Sugar Hollow	<i>Creek</i> missing from the stream name
93.9l	5—Clear Creek	6— <i>Mud Run</i> and the rest of 5— <i>Clear Creek</i> basin not listed in Ch. 93, although it was listed prior to reformatting. Add the missing entries.
	5—Logan Branch	<i>HQ-CWF</i> is a typo resulting from the redesignation of 5— <i>Buffalo Run</i> from <i>CWF</i> to <i>HQ-CWF</i> , which originally was codified incorrectly and is the stream which follows the 5— <i>Logan Branch</i> entry. A correction for 5— <i>Buffalo Run</i> was published at 24 Pa.B. 4461 (Sept. 3, 1994), but the Buffalo Run HQ that was incorrectly applied to Logan Branch was not corrected by the Sept. 3, 1994 Notice of Corrective Amendments.
	4—Slate Run and 4—UNT to Slate Run	Extraneous entries for 4— <i>Slate Run (Main Stem)</i> and 4— <i>UNT to Slate</i> should delete first entries referring to the <i>Main Stem</i> . The correct entries appear later in drainage list.
	4—Kettle Creek and 5—Ogdonia Creek	4— <i>Kettle Creek</i> is a trib to 5— <i>Ogdonia Creek</i> , so the stream order and drainage numbers should be switched accordingly
	3—Buffalo Creek	(<i>SR 1004</i>) should be (<i>SR 3005</i>)
93.9n	3—Frankstown Branch	Source of Frankstown Br is at the confluence of Beaverdam Creek and South Poplar Run, but Ch. 93 does not reflect this.
	4—Pine Run	4— <i>Pine Run</i> is a trib to Beaverdam Creek, so should be 5— <i>Pine Run</i> and since 4— <i>Pine Run</i> is WWF, while the rest of Beaverdam Creek basin is CWF, will have to use basin zones to show this.
93.9o	3—Reynolds Run	Duplicate entries, and HQ-TSF should be HQ-CWF according to pre-reformatted code
93.9q	3—Nigger Run	<i>Nigger Run</i> does not appear in current Gazetteer of Streams, but is an UNT to the Allegheny River, so it is covered by the UNT zone described as <i>Basins, PA-NY State Border to French Creek</i> . The 3— <i>Nigger Run</i> entry should be deleted.
93.9r	4—Elk Creek	Entry should appear between 4— <i>Mason Creek</i> and 4— <i>Island Run</i> . 4— <i>Elk Creek</i> entry was lost during reformatting
93.9t	5—Laughlintown Run	6— <i>McMullen Run</i> is called <i>McCullen Run</i> on the topo map. 5— <i>Laughlintown Run</i> had a <i>Basin</i> designation prior to the Rosetown, et al rulemaking, which incorrectly changed the zone description to a <i>Main Stem</i> format. The code should be changed back to a basin zone format.
93.9w	4—Shenango River	Should be 3— <i>Shenango River Basin, Source to Pymatuning Reservoir</i>
93.9x	3—Fish Creek, 3—Foster Run and 3—Crazy Run	These streams do not enter <i>Erie County</i> ; but are entirely within Crawford County. Change County for these three tribs and add <i>Crawford</i> to County column for the first 3— <i>Unnamed Tributaries to Conneaut Creek</i> entry.

The purpose of these proposed regulatory amendments is to clarify stream designations, correct misspellings, reinsert entries that have been incorrectly changed or dropped from Chapter 93 and correct errors that have resulted from the reformatting of Chapter 93 for these waterbody segments. These changes allow wastewater treatment requirements for dischargers to these streams to be consistent with the water uses to be protected. The proposed rulemaking makes only nonsubstantive modifications to Chapter 93 and does not alter the protected uses that have been implemented for the stream sections in questions.

F. Benefits, Costs and Compliance

Executive Order 1996-1 requires a cost/benefit analysis of the proposed amendments.

1. *Benefits*—Overall, the citizens of this Commonwealth will benefit from these recommended changes because they will reflect the appropriate designated use and maintain the most appropriate degree of protection for each stream in question by correcting errors or clarifying descriptions of stream zones or stream orders.

2. *Compliance Costs*—The changes should have no fiscal impact on, or create additional compliance costs for the Commonwealth, political subdivisions or the private sector. No costs will be imposed directly upon local government by this recommendation. There are no changes with this proposal which impose more stringent requirements than would already be imposed for these streams.

3. *Compliance Assistance Plan*—The Department does not anticipate the need for compliance assistance plans to support this regulation since this proposal does not impose more stringent requirements than would already be imposed for these streams.

4. *Paperwork Requirements*—The regulatory revisions should have no paperwork impact on the Commonwealth, its political subdivisions, or the private sector since the revisions do not change the designated uses already being implemented for the streams contained in this proposal. The proposal is based on existing Department programs and policies.

G. Sunset Review

This chapter will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended.

H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of the proposed rulemaking on July 24, 1996, to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House Environmental Resources and Energy Committees. In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the Department. A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed amendments, it will notify the Department within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for the Department, the Governor and the General Assembly to review these objections before final publication of the regulations.

I. Public Comments

Written Comments—Interested persons are invited to submit comments, suggestions or objections regarding the proposed amendments to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 15th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by September 17, 1996. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by September 17, 1996. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final regulation will be considered.

Electronic Comments—Comments may be submitted electronically to the Board at RegComments@A1.dep.state.pa.us. A subject heading of the proposal and return name and address must be included in each transmission. Comments submitted electronically must also be received by the Board by September 17, 1996.

JAMES M. SEIF,
Chairperson

Fiscal Note: 7-299. No fiscal impact; (8) recommends adoption.

Annex A

**TITLE 25. ENVIRONMENTAL PROTECTION
PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION
Subpart C. PROTECTION OF NATURAL RESOURCES
ARTICLE II. WATER RESOURCES
CHAPTER 93. WATER QUALITY STANDARDS**

§ 93.9c. Drainage List C.

Delaware River Basin in Pennsylvania

Delaware River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
	* * * * *			

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
3—Unnamed Tributaries to Bush Kill	Basins, Saw Creek to Mouth	Monroe	HQ-CWF	None
4—Sand Hill Creek	Basin	Monroe	HQ-CWF	None
4—Little Bush Kill	Basin	Pike	HQ-CWF	None
	* * * *	*		
2—Cherry Creek	Basin, Source to LR 45010 (SR 2006) Bridge	Monroe	HQ-CWF, MF	None
2—Cherry Creek	Basin, LR 45010 Bridge to Mouth	Monroe	CWF, MF	None
	* * * *	*		

§ 93.9d. Drainage List D.

Delaware River Basin in Pennsylvania

Lehigh River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
	* * * *	*		
4—Pollys Run	Basin	Monroe	HQ-CWF	None
4—[Hummer] Hummler Run	Basin	Monroe	HQ-CWF	None
	* * * *	*		
4—Wagner Run	Basin	Monroe	HQ-CWF	None
4—Upper [Tunkhanna] Tunkhannock Creek	Basin	Monroe	HQ-CWF	None
	* * * *	*		

§ 93.9e. Drainage List E.

Delaware River Basin in Pennsylvania

Delaware River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
	* * * *	*		
2—Neshaminy Creek	Main Stem, Confluence of West and North Branches to Proposed PA 614 Dam	Bucks	TSF, MF	Add Col ₂ , Tur ₄
3—Unnamed Tributaries to Neshaminy Creek	Basins, Confluence of West and North Branches [of] to Proposed PA 614 Dam	Bucks	TSF, MF	Add Col ₂ , Tur ₄
	* * * *	*		
2—Neshaminy Creek	Non-Tidal Portion of Main Stem, Proposed PA 614 Dam to Mouth	Bucks	WWF, MF	Add Col ₂ , Tur ₃
3—Unnamed Tributaries to Neshaminy Creek	Non-Tidal Portions of Basins, Proposed PA 614 Dam to Mouth	Bucks	WWF, MF	Add Col ₂ , Tur ₃
	* * * *	*		
3—Core Creek	Basin, Source to PA [Rte] 620 Dam	Bucks	CWF, MF	Add Col ₂ , and Tur ₄
3—Core Creek	Basin, PA [Rte] 620 Dam to Mouth	Bucks	WWF, MF	Add Col ₂ , and Tur ₃
	* * * *	*		

§ 93.9f. Drainage List F.

Delaware River Basin in Pennsylvania

Schuylkill River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
3—Tumbling Run	Basin, Source to [Schuylkill Haven Dam] Tumbling Run Dam	Schuylkill	HQ-CWF	None
3—Tumbling Run	Basin, [Schuylkill Haven Dam] Tumbling Run Dam to Mouth	Schuylkill	CWF	None
3—Unnamed Tributaries to Schuylkill River	Basins, Berks-Chester-Montgomery County Border to Valley Creek, (except those in Spring City and Phoenixville)	Chester [-Montgomery]	HQ-TSF	None
3—Unnamed Tributaries to Schuylkill River	Basins, Berks-Chester-Montgomery County Border to Valley Creek	Montgomery	WWF	None
3—Perkiomen Creek	Basin, Source to Second LR 06119 (SR 1010) Bridge at Hereford	Berks	CWF	None
3—Valley Creek	Basin	Montgomery-Chester	EV	None
3—Unnamed Tributaries to Schuylkill River	Basins, Valley Creek to Tide	Chester-Montgomery	WWF	None
3—Mellshamic Creek	Basin	Montgomery	WWF	None

§ 93.9g. Drainage List G.

Delaware River Basin in Pennsylvania

Delaware River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
2—Chester Creek	Basin, Source to East Branch Chester Creek	Chester	TSF	None
3—East Branch Chester Creek	Basin, Source to Unnamed Tributary at RM 0.4 ("Goose Creek")	Chester	TSF	None
4—Unnamed Tributary to East Branch Chester Creek at RM 0.4 ("Goose Creek")	Basin	Chester	WWF	None
3—East Branch Chester Creek	Basin, [Goose Creek] Unnamed Tributary at RM 0.4 to [Rocky Run] Mouth	[Delaware] Chester	TSF	None
2—Chester Creek	Basin, East Branch Chester Creek to Rocky Run	Delaware	TSF	None

PROPOSED RULEMAKING

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
[4] 3—Rocky Run	Basin	Delaware	HQ-CWF, MF	None
[3] 2—[East Branch] Chester Creek	Basin, Rocky Run to Confluence with West Branch	Delaware	TSF, MF	None
3—West Branch Chester Creek	Basin, Source to Green Creek	Delaware	TSF	None
4—Green Creek	Basin	Delaware	CWF, MF	None
3—West Branch Chester Creek	Basin, Green Creek to [Confluence with East Branch] Mouth	Delaware	TSF, MF	None
2—Chester Creek	Basin[, Confluence of East and] West [Branches] Branch to Dutton Mills Road Bridge	Delaware	TSF, MF	None
	* * * * *			

§ 93.9i. Drainage List I.

Susquehanna River Basin in Pennsylvania

Susquehanna River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
	* * * * *			
2—Starrucca	Basin, (all sections in PA) Unnamed Tributary at RM 11.[2]68 to Mouth	Susquehanna	CWF	None
	* * * * *			
2—Rummerfield Creek	Basin	Bradford	WWF	None
2—Wyalusing Creek		[Bradford]	[WWF]	[None]
	* * * * *			
3—Sugar Hollow Creek	Basin	Wyoming	HQ-CWF	None
3—Benson Hollow	Basin	Wyoming	HQ-CWF	None
	* * * * *			

§ 93.9l. Drainage List L.

Susquehanna River Basin in Pennsylvania

West Branch Susquehanna River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
	* * * * *			
5—Clear Creek	Basin, Source to Mud Run	Cameron	EV	None
6—Mud Run	Basin	Cameron	HQ-CWF	None
5—Clear Creek	Basin, Mud Run to Mouth	Cameron	HQ-CWF	None
	* * * * *			
5—Unnamed Tributaries to Spring Creek	Basins, PA 550 Bridge to Mouth	Centre	CWF	None
5—Logan Branch	Basin	Centre	[HQ-] CWF	None
	* * * * *			

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
4—Unnamed Tributaries to Pine Creek	Basins, South Branch Pine Creek to Marsh Creek	Potter-Tioga	HQ-CWF	None
[4—Slate Run]	[Main Stem, Confluence of Francis and Cushman Branches to Mouth]	[Lycoming]	[HQ-CWF]	[None]
[4—Unnamed Tributaries to Slate Run]	[Basins, Confluence of Francis and Cushman Branches to Mouth]	[Tioga-Lycoming]	[HQ-CWF]	[None]
	* * * *	*		
[4—Kettle Creek]	[Basin, Source to Ogdonia Creek]	[Sullivan]	[EV]	[None]
[5] 4-Ogdonia Creek	Basin, Source to Kettle Creek	Sullivan	HQ-CWF	None
[4] 5—Kettle Creek	Basin[, Ogdonia Creek to Mouth]	Sullivan	[HQ-CWF] EV	None
4—Ogdonia Creek	Basin, Kettle Creek to Mouth	Sullivan	HQ-CWF	None
	* * * *	*		
3—Buffalo Creek	Basin, Source to LR 59042 (SR [1004] 3005) Bridge	Union	HQ-CWF	None
	* * * *	*		

§ 93.9n. Drainage List N.

Susquehanna River Basin in Pennsylvania

Juniata River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
	* * * *	*		
3—Frankstown Branch Juniata River	[Main Stem, Source to South Poplar Run]	[Blair]	[CWF]	[None]
[3—Unnamed Tributaries to Frankstown Branch]	[Basins, Source to South Poplar Run to Halter Creek]	[Blair]	[CWF]	[None]
4—Beaverdam Creek	Basin, Source to Pine Run	Blair	CWF	None
[4] 5—Pine Run	Basin	Blair	WWF	None
4—Beaverdam Creek	Basin, Pine Run to Confluence with South Poplar Run	Blair	CWF	None
4—South Poplar Run	Basin, Source to Confluence with Beaverdam Creek	Blair	CWF	None
3—Frankstown Branch Juniata River	Main Stem, Confluence of Beaverdam Creek and South Poplar Run to Halter Creek	Blair	TSF	None

PROPOSED RULEMAKING

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
4—Unnamed Tributaries to Frankstown Branch	Basins, Confluence of Beaverdam Creek and South Poplar Run to Halter Creek	Blair	WWF	None
	* * * * *			

§ 93.9o. Drainage List O.

Susquehanna River Basin in Pennsylvania
Susquehanna River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
3—Reynolds Run	Basin	Lancaster	HQ-[TSF] CWF; MF	None
[3—Reynolds Run]	[Basin]	[Lancaster]	[HQ-TSF; MF]	[None]
2—Octoraro Creek (MD)				
	* * * * *			

§ 93.9q. Drainage List Q.

Ohio River Basin in Pennsylvania
Allegheny River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
3—Charley Run	Basin	Warren	CWF	None
[3—Nigger Run]	[Basin]	[Warren]	[CWF]	[None]
3—Hedgehog Run	Basin	Warren	HQ-CWF	None
	* * * * *			

§ 93.9r. Drainage List R.

Ohio River Basin in Pennsylvania
Clarion River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
4—Mason Creek	Basin	Elk	CWF	Add TON
4—Elk Creek	Basin	Elk	CWF	Add TON
4—Island Run	Basin	Elk	CWF	Add TON
	* * * * *			

§ 93.9t. Drainage List T.

Ohio River Basin in Pennsylvania
Kiskiminetas River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
5—Laughlintown Run	[Main Stem] Basin, Source to Furnace Run	Westmoreland	HQ-CWF	None
	* * * * *			

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
[6—Unnamed Tributaries to Laughlintown Run]	[Basins]	[Westmoreland]	[HQ-CWF]	[None]
[6—McMullen Run]	[Basin]	[Westmoreland]	[HQ-CWF]	[None]
6—Furnace Run	Basin	Westmoreland	EV	None
5—Laughlintown Run	Basin, Furnace Run to Mouth	Westmoreland	HQ-CWF	None
	* * * * *			

§ 93.9w. Drainage List W.

Ohio River Basin in Pennsylvania
Ohio River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
	* * * * *			
[4] 3—Shenango River	Basin, Source to Pymatuning Reservoir	Crawford	WWF	None
	* * * * *			

§ 93.9x. Drainage List X.

Lake Erie

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
	* * * * *			
3—Unnamed Tributaries to Conneaut Creek	Basins (all sections in PA) Source to PA-OH State [order] Border	Erie-Crawford	CWF; MF	None
3—Fish Creek	Basin	[Erie] Crawford	CWF; MF	None
3—Foster Run	Basin	[Erie] Crawford	CWF; MF	None
3—Crazy Run	Basin	[Erie] Crawford	CWF; MF	None
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[Pa.B. Doc. No. 96-1253. Filed for public inspection August 2, 1996, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CHS. 135, 141 AND 143]

Lands and Buildings; Hunting and Trapping; and Hunting and Furtaker Licenses

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its June 25, 1996, meeting, proposed the following amendments:

Amend § 135.48 (relative to State Game Lands) to provide for additional time to use certain roads on designated State Game Lands by individuals issued a Disabled Persons Permit under section 2923(a) of the code (relating to disabled person permits) and to give those permittees the privilege of having their children accompany them, provided the children are in possession of a valid junior hunting or furtakers license.

Amend § 141.25 (relating to early and late goose hunting seasons) by removing the language concerning the required permit since it will no longer be necessary due to the new Migratory Game Bird License.

Amend Chapter 143 by adding Subchapter J (relating to migratory game bird license). This new subchapter will provide for the implementation of this new license authorized by the act.

These amendments will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposal is 34 Pa.C.S. (relating to the Game and Wildlife Code) (code).

These proposals were made public at the June 25, 1996, meeting of the Commission and comments on these proposals can be sent to the Executive Director of the Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797 until August 30, 1996.

*Proposed Amendment to § 135.48*1. *Introduction*

During meetings held between representatives of the Commission and representatives of organizations of sportsmen with disabilities (Sportsmen), Sportsmen requested changes to the Commission's regulations relating to access to State game lands by individuals with a disability. After careful staff consideration of these requests, the Commission, at its June 25, 1996, meeting, proposed changing § 135.48 to permit wider access for sportsmen holding disabled permits. These changes are adopted under section 721(a) of the code (relating to control of property) and are consistent with the spirit of Title II of the Federal Americans with Disabilities Act.

2. *Purpose and Authority*

As was indicated in the Introduction, representatives of the Commission have met with representatives of groups of sportsmen with disabilities to discuss matters of mutual concern. During one meeting, a request was made to open the designated roads on game lands prior to the hunting season to allow individuals holding disabled permits to scout for deer. At another meeting a request was made to allow children, who cannot legally hunt alone, to accompany a disabled permit holder in addition to the one person currently authorized. After careful consideration, it was decided that both of these requests could be granted in the form of the proposed changes.

Section 721(a) of the code authorizes the Commission to promulgate regulations necessary to properly manage lands under its control. Section 2923 of the code provides for disabled person permits and allows individuals holding these permits to hunt from a vehicle.

3. *Regulatory Requirements*

Both of the proposed changes relax current restrictions. Children accompanying a disabled permit holder would be required to hold a valid junior hunting or furtakers license.

4. *Persons Affected*

Individuals holding disabled person permits and their families will be affected by the amendments.

5. *Cost and Paperwork Requirements*

The proposed amendments would not involve additional cost or paperwork.

*Proposed Amendment to § 141.25*1. *Introduction*

Under Act No. 1996-19 (Act 19), adopted on April 4, 1996, the General Assembly adopted changes to sections 102, 2705 and 2709 of the code (relating to definitions; classes of licenses; and license costs and fees) to provide for migratory game bird licenses. With the passage of Act 19, there is no longer a need for the special permit created for the early and late Canada goose seasons. As a result, at its meeting held on June 25, 1996, the Commission proposed eliminating § 141.25(d), relating to permit required. This action is being proposed under section 2901(b) of the code (relating to regulations).

2. *Purpose and Authority*

The early and late Canada goose permit was created originally to obtain information with regard to goose harvests in the seasons involved. This information will now be obtained through return of survey cards completed as part of the migratory game bird license issuing process. The permit is therefore unnecessary and the

Commission is proposing changes to the regulations to eliminate it. The permit was created under section 2901(b) of the code and is being eliminated under that same authority.

3. *Regulatory Requirements*

The proposed amendment eliminates a requirement.

4. *Persons Affected*

Individuals hunting Canada geese in the early or late seasons would be affected.

5. *Cost and Paperwork Requirements*

Current cost and paperwork requirements would be eliminated as a result of the proposed amendment.

*Proposed amendment to Chapter 143*1. *Introduction*

Under Act 19, adopted on April 4, 1996, the General Assembly adopted changes to sections 102, 2705 and 2709 to provide for migratory game bird licenses. Section 2705(14) of the code specifically provides for these licenses to be "... subject to the regulations, requirements and conditions which the Commission shall establish." At its meeting held on June 25, 1996, the Commission proposed adding Subchapter J, relating to hunting and furtaker licenses, to provide for the implementing regulations.

2. *Purpose and Authority*

By final rule adopted by the United States Fish and Wildlife Service published in the *Federal Register* on August 18, 1995 (Vol. 60, No. 160), 50 CFR Part 20 was amended to provide for a Migratory Bird Harvest Information Program (Program). That regulation contemplated that the Commonwealth would start participating in the Program in 1996.

In order to implement the Commonwealth participation in the Program, the General Assembly enacted Act 19, which changed sections 102, 2705 and 2709 of the code to provide for a migratory game bird license. Those revisions specifically contemplated the adoption by the Commission of implementing regulations. In addition, section 2721 of the code (relating to license issuance supervision) requires that license issuance be in accordance with regulations of the Commission. The proposed amendments fulfill these purposes. In addition to providing procedures for the issuance of migratory game bird licenses, the proposed amendments provide for submission of the survey cards required by the Federal Program.

3. *Regulatory Requirements*

Act 19 requires the purchasing of a migratory game bird license in order to hunt migratory game birds. The proposed amendments would provide detailed procedures and require return of the survey card under the Federal Program.

4. *Persons Affected*

Individuals wishing to hunt migratory game birds in this Commonwealth and authorized hunting license issuing agents would be affected by the proposed amendments.

5. *Cost and Paperwork Requirements*

The only cost for the migratory game bird license is 75¢ which is the hunting license issuing agent's fee. A simple application for the license and survey card would need to be completed prior to issuance. Hunting license issuing

agents will be required to return completed survey cards directly to the United States Fish and Wildlife Service once per month.

Effective Dates

The proposed amendments would be effective on final adoption and publication in the *Pennsylvania Bulletin* and would remain in effect until changed by the Commission.

Contact Person

For further information on the proposed amendments, contact James R. Fagan, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

DONALD C. MADL,
Executive Director

Fiscal Note: 48-94. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 135. LANDS AND BUILDINGS

Subchapter C. STATE GAME LANDS

§ 135.48. State game lands roads open to vehicular traffic for disabled persons.

(a) *Vehicular traffic permitted.* Vehicular traffic will be permitted on designated roads on State game lands for persons issued a Disabled Persons Permit under section 2923(a) of the act (relating to disabled person permits).

(1) Roads will be open for one-way travel, weather permitting, from **14 days prior** to the opening day of archery season to the closing day of the muzzleloader/archery season.

(2) A permittee may be accompanied by only one person, and that person shall be in possession of a valid Pennsylvania hunting or furtakers license. **The permittee may also be accompanied by one or more of the permittee's children who hold a valid junior hunting or furtakers license.**

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CHAPTER 141. HUNTING AND TRAPPING

Subchapter B. SMALL GAME

§ 141.25. Early and late goose hunting seasons.

* * * * *

[(d) Permit required.

(1) Licensed hunters wishing to hunt Canada geese during the early or late season shall obtain a permit and goose harvest report card for the respective season in one of the following ways:

(i) By sending their name, address and telephone number together with a self-addressed stamped envelope to the Harrisburg Office of the Commission.

(ii) By submitting their name, address and telephone number at the sales counter of the Commission's Harrisburg Office or one of its regional offices.

(2) Early and late goose hunting permits will be issued free-of-charge.

(3) Individuals hunting geese during the early or late goose season shall have in their possession a valid Pennsylvania hunting license, the appropriate early or late goose hunting permit and a Migratory Bird Hunting and Conservation (Duck) Stamp, if they are 16 years of age or older.

(4) Recipients of early and late goose hunting permits shall return a properly completed goose harvest report card to the Harrisburg Office of the Commission within 10 days following the close of the respective early and late seasons. Failure to return a properly completed goose harvest report card could result in the loss of eligibility to receive future early or late goose season permits.

(e)] (d) Unlawful acts. It is unlawful to **[(1) Hunt]** Canada geese during the early or late goose hunting seasons inside the boundaries of the closed areas.

[(2) Hunt Canada geese during the early or late goose hunting seasons without the required permit for the respective season.

(3) Fail to return the goose harvest report card within the allotted time, even if no harvest occurred.

(4) Provide false information on the goose harvest report card.]

CHAPTER 143. HUNTING AND FURTKAKER LICENSES

(Editor's Note: The following subchapter is proposed to be added and is being printed in regular typeface to enhance readability.)

Subchapter J. MIGRATORY GAME BIRD LICENSE

- Sec.
- 143.181. Purpose and scope.
- 143.182. Definitions.
- 143.183. Application.
- 143.184. Issuance of license.
- 143.185. The license.
- 143.186. Processing survey cards.
- 143.187. Unlawful acts.
- 143.188. Penalties.

§ 143.181. Purpose and scope.

This subchapter establishes rules for application and issuance of Migratory Game Bird Licenses and survey cards.

§ 143.182. Definitions.

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

Migratory Game Bird License—The numbered, wallet-size card authorizing the holder thereof to hunt for migratory game birds. The license is not valid unless used in conjunction with a regular resident or nonresident hunting license.

Survey card—The matching, numbered Migratory Game Bird Harvest Information Program card that is attached to the Migratory Game Bird License. The survey card will be completed at the time the license is issued.

§ 143.183. Application.

Application may be made when purchasing a hunting license, or at any time thereafter. In addition to filling out the application for a hunting license, the applicant shall complete the matching numbered Migratory Game Bird Harvest Information Program survey card.

§ 143.184. Issuance of license.

After confirming that the survey card has been completed in its entirety, the issuing agent shall enter the date of issuance in ink on the license and the matching numbered survey card in the spaces provided and issue the license.

§ 143.185. The license.

The Migratory Game Bird License shall be signed by the holder in the space provided and shall be carried at all times while hunting for migratory game birds. The holder shall produce the license upon demand of an officer authorized to enforce the act and this title.

§ 143.186. Processing survey cards.

Issuing agents shall forward survey cards completed each month directly to the United States Fish and Wildlife Service, Office of Migratory Bird Management, no later than the 5th day of the following month. Issuing agents shall forward the survey cards in the postage-paid envelopes provided by the Commission, as per the in-

structions set forth in the current issuing agents instruction manual.

§ 143.187. Unlawful acts.

It is unlawful to:

- (1) Issue a Migratory Game Bird License contrary to this subchapter.
- (2) Process survey cards contrary to § 143.186 (relating to processing survey cards).
- (3) Apply for or receive a Migratory Game Bird License contrary to the act or this subchapter.
- (4) Violate other provisions of this subchapter.

§ 143.188. Penalties.

A person violating this subchapter shall, upon conviction, be sentenced to pay the penalties prescribed in the act.

[Pa.B. Doc. No. 96-1254. Filed for public inspection August 2, 1996, 9:00 a.m.]
