

RULES AND REGULATIONS

Title 58—RECREATION

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 24, 1997 meeting, adopted the following changes:

Amend § 135.41 (relating to State game lands) by granting the Executive Director authority to restrict recreational or other uses of State game lands.

Amend § 141.25 (relating to early and late goose hunting seasons) by increasing the daily bag and possession limits and establishing new geographical boundaries for these seasons.

Amend § 143.51 (relating to application and issuance of bonus tags) by removing the dollar amount of the fee for antlerless deer licenses.

These amendments are adopted under the authority of 34 Pa.C.S. §§ 101—2965 (relating to the Game and Wildlife Code) (code).

Amendment to § 135.41

1. *Introduction*

Section 722(a) of the code (relating to use of property) provides that lands or waters title to which has been acquired by the Commission "... may be used only to create and maintain public hunting and furtaking, game or wildlife propagation areas... or other uses incidental to hunting, furtaking and game or wildlife resource management." The Commission has had a policy of allowing bicycle riding and horseback riding on trails on game lands as an incidental public use. Unfortunately, intense use of some game lands for those purposes has led to erosion and habitat destruction.

Section 721(a) of the code (relating to control of property) places the administration of all lands and waters owned or controlled by the Commission under the sole control of the director (Executive Director) and authorizes the Commission to promulgate regulations "... for its use and protection as necessary to properly manage these lands or waters." Although the Executive Director has the authority to control the use of game lands under section 721 of the code, the Commission wishes to confirm that authority and establish guidelines for closure of game lands to uses by means of the change to § 135.41. The change was proposed by the Commission at its public meeting held on April 15, 1997, and finally adopted at a public meeting held on June 24, 1997. The change is adopted under authority contained in section 721 of the code.

2. *Purpose and Authority*

The purpose and authority of the change are outlined in the Introduction of this Preamble. The change would confirm the Executive Director's authority to close all or part of State game lands to specified uses where those uses may or have become detrimental or where they conflict with the statutorily mandated uses of the lands.

3. *Regulatory Requirements*

The change makes it unlawful to violate restrictions on and closure of State game lands. It is anticipated that this authority will be used only when necessary and will therefore be limited.

4. *Persons Affected*

Individuals wishing to use State game lands for specified detrimental uses will be limited. Most affected will likely be trail bikers and horseback riders.

5. *Comment and Response Summary*

No comments were received with regard to the amendment. There has been a great deal of discussion with regard to the use of trails on State game lands for horseback riding and trail biking but no comments were received specifically addressing the change.

6. *Cost and Paperwork Requirements*

There will be additional cost to the Commission in posting closed or restricted areas. It is anticipated that the additional cost will be fairly small.

Amendment to § 141.25

1. *Introduction*

To more effectively manage the wildlife resources of this Commonwealth, the Commission, at its April 15, 1997, meeting proposed, and at its June 24, 1997, meeting finally adopted, changing § 141.25(a)(3) to provide for an increased daily bag limit and possession limit in an area encompassing approximately the southeastern one-eighth of this Commonwealth. This change would be made under the authority contained in sections 322(c)(3) and 2102 of the code (relating to powers and duties of commission; and regulations).

2. *Purpose and Authority*

Southeastern Pennsylvania continues to have a problem with damage caused by nuisance Canada geese. Since the United States Fish and Wildlife Service has not provided for a regular Canada goose hunting season in the area, the problem must be dealt with in the early and late seasons. The Federal framework allows the Commonwealth to have a daily bag limit of five and possession limit of ten. The late season already has those limits. The change would establish the same limits for the early season.

Section 322(c)(3) of the code authorizes the Commission to "increase or reduce bag limits or possession limits." Section 2102(b) of the code directs the Commission to promulgate regulations relating to bag limits. The change is being adopted under these provisions.

3. *Regulatory Requirements*

The change would increase bag and possession limits during the early Canada goose season in the southeastern part of this Commonwealth.

4. *Persons Affected*

Individuals wishing to hunt Canada geese in the southeastern part of this Commonwealth in the early season would be affected. Individuals suffering damage from nuisance Canada geese should benefit from the change.

5. *Comment and Response Summary*

No comments were received with regard to the change.

6. *Cost and Paperwork Requirements*

The change will not result in any additional cost or paperwork requirements.

Amendment to § 143.51

1. *Introduction*

Section 143.51(e) requires the payment of a specific amount, \$5.75, to accompany an application for a bonus tag. There is currently a bill pending before the Legislature which would increase hunting license fees. To avoid confusion and the need to change this section with any changes in fees, the Commission at its April 15, 1997, meeting proposed, and at its June 24, 1997, meeting finally adopted, changing the regulation to require payment as specified in the code. This is being done under the authority of sections 2102 and 2721 of the code (relating to regulations; and license issuance supervision).

2. *Purpose and Authority*

As is outlined in the Introduction, the change is being made to eliminate mention of a specified dollar amount which would require modification with every license fee change. Section 2102 of the code authorizes the Commission to promulgate regulations "... permitting or prohibiting hunting or furtaking." Section 2721 of the code requires that the issuance of all hunting and furtaking licenses be "... in accordance with the regulations of the Commission."

3. *Regulatory Requirements*

The change does not involve any additional regulatory requirements.

4. *Persons Affected*

The change does not create any additional requirements. Hunters seeking "bonus" or "surplus" antlerless deer licenses would be affected.

5. *Comment and Response Summary*

No comments were received with regard to the change.

6. *Cost and Paperwork Requirements*

The change will not result in any additional cost or paperwork requirements.

Effective Date

The changes are effective on final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

Contact Person

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

Findings

The Commission finds that:

(1) Public notice of intention to adopt the administrative amendments adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 469, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The adoption of the amendments of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapters 135, 141 and 143, are amended by amending §§ 135.41, 141.25 and 143.51 to read as set forth at 27 Pa.B. 2553 (May 24, 1997).

(b) The Executive Director of the Commission shall submit this order and 27 Pa.B. 2553 and deposit them with the Legislative Reference Bureau as required by law.

(c) This order amending §§ 135.41, 141.25 and 143.51 shall become effective upon final publication in the *Pennsylvania Bulletin*.

DONALD C. MADL,
Executive Director

Fiscal Note: Fiscal Note 48-99 remains valid for the final adoption of the subject regulations.

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