

PROPOSED RULEMAKING

DEPARTMENT OF AGRICULTURE

[7 PA. CODE CHS. 3 AND 7]

Importation and Intrastate Transportation of Animals; Brucellosis

The Department of Agriculture (Department) published a notice of proposed rulemaking for 7 Pa. Code Chapters 3 and 7 (relating to health requirements for importation and intrastate transportation of animals; brucellosis) at 30 Pa.B. 768 (February 12, 2000). The public comment period for these proposed regulations is 30 days. The close of the public comment period for the proposed regulations will be March 13, 2000.

Further information is available by contacting Dr. Phillip Debok, Bureau of Animal Health and Diagnostic Services at (717) 783-8555.

SAMUEL E. HAYES, Jr.,
Secretary

[Pa.B. Doc. No. 00-372. Filed for public inspection March 3, 2000, 9:00 a.m.]

[7 PA. CODE CH. 138i]

Farm Safety and Occupational Health Tuition Assistance Program

The Department of Agriculture (Department) published a notice of proposed rulemaking for 7 Pa. Code Chapter 138i (relating to Farm Safety and Occupational Health Tuition Assistance Program) at 30 Pa.B. 771 (February 12, 2000). The public comment period for these proposed regulations is 30 days. The close of the public comment period for the proposed regulations will be March 13, 2000.

Further information is available by contacting John Tacosky, Chief, Division of Health and Safety, Bureau of Plant Industry at (717) 772-5217.

SAMUEL E. HAYES, Jr.,
Secretary

[Pa.B. Doc. No. 00-373. Filed for public inspection March 3, 2000, 9:00 a.m.]

[7 PA. CODE CH. 138j]

Farm Safety and Occupational Health Developmental and Instructional Program

The Department of Agriculture (Department) published a notice of proposed rulemaking for 7 Pa. Code Chapter 138j (relating to Farm Safety and Occupational Health Developmental and Instructional Program) at 30 Pa.B. 776 (February 12, 2000). The public comment period for these proposed regulations is 30 days. The close of the public comment period for the proposed regulations will be March 13, 2000.

Further information is available by contacting John Tacosky, Chief, Division of Health and Safety, Bureau of Plant Industry at (717) 772-5217.

SAMUEL E. HAYES, Jr.,
Secretary

[Pa.B. Doc. No. 00-374. Filed for public inspection March 3, 2000, 9:00 a.m.]

[7 PA. CODE CH. 138k]

Farm Safety and Occupational Health Grant Program

The Department of Agriculture (Department) published a notice of proposed rulemaking for 7 Pa. Code Chapter 138k (relating to Farm Safety and Occupational Health Grant Program) at 30 Pa.B. 781 (February 12, 2000). The public comment period for these proposed regulations is 30 days. The close of the public comment period for the proposed regulations will be March 13, 2000.

Further information is available by contacting John Tacosky, Chief, Division of Health and Safety, Bureau of Plant Industry at (717) 772-5217.

SAMUEL E. HAYES, Jr.,
Secretary

[Pa.B. Doc. No. 00-375. Filed for public inspection March 3, 2000, 9:00 a.m.]

DEPARTMENT OF STATE

[4 PA. CODE CH. 177]

Campaign Finance Forms

The Department of State (Department), Bureau of Commissions, Elections and Legislation (Bureau) proposes to amend § 177.9 (relating to official forms), to read as set forth in Annex A.

This proposal revises the references to four of the six existing forms in the current regulation and adds references to two additional forms, which have been in use since 1980 but never incorporated by reference in the regulation. The Department has modernized all the campaign finance forms that will ease documentation for the filers. Additionally, the regulation incorporates a provision announcing that reports may be filed on diskette.

Although the existing forms are included in the current regulation, the Department proposes to delete the forms from the regulation to comply with Rule 2.10(a) of the *Pennsylvania Code and Bulletin Style Manual*, which recommends that the forms be referenced in regulations rather than adopted in regulations. The information required to be reported continues to exist in Chapter 177.

While the new forms will be sent to all candidates and political committees for reporting during the 2000 elections, the Department will allow candidates and political committees to continue to file the current forms during the 2000 election year.

Statutory Authority

The Secretary of the Department (Secretary) has the authority to promulgate regulations on reporting forms under section 201(a) of the act of June 3, 1937 (P. L. 1333, No. 320) (25 P. S. § 2621(a)).

Description of Proposed Revisions

A. Reports by Candidates, Political Committees and Other Persons

The titles of Forms DSEB-502 and DSEB-503 were changed from Campaign Expense to Campaign Finance because the report includes not only campaign expenses but also receipts, contributions, in-kind contributions and unpaid debts. The statement includes both receipts and disbursements.

The Secretary also proposes to revise the reference to two additional forms that have been in use since the regulation was last promulgated in 1980:

(1) Form DSEB-504 (Contributions By Nonbid Contract Recipients).

(2) Form DSEB-505 (Independent Expenditure Report).

Finally, a reference is added to § 177.9 to indicate that reports will be accepted on diskette as long as it meets the technical specifications of the Department.

B. Forms of Reports by Candidates, Political Committees and Other Persons

Copies of all of these forms and the technical specifications for diskette filing are available from the Bureau, 302 North Office Building, Harrisburg, PA 17120. The Secretary proposes to delete from the regulation copies of the forms. Executive Order 1996-1 directs that agencies eliminate unnecessary regulatory provisions. The forms themselves are nonregulatory documents and do not impose any additional duties or liabilities on the general public or on the political committees that file reports. Furthermore, the Legislative Reference Bureau recommends that forms not be adopted in the *Code* and *Bulletin* but be referred to in regulations. See § 2.10 of the *Pennsylvania Code and Bulletin Style Manual*.

Fiscal Impact

This proposal would have no measurable fiscal impact on the Commonwealth, its political subdivisions or the private sector because the Commonwealth charges no fees for filing these reports. The Commonwealth will continue to charge a nominal fee for photocopies of the reports. However, reports will be made available on the Department's web page. Therefore, individuals with access to the Internet would no longer need to pay to obtain copies of the campaign finance reports.

Paperwork Requirements

Although this proposal requires the Department to revise its campaign finance reporting forms, these amendments would not create new paperwork for other agencies of the Commonwealth. As in the past, county boards of elections will be required to reproduce and distribute the forms prescribed by the Secretary to local candidates and political committees.

Regulatory Review

On February 22, 2000, as required by section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted copies of this notice of proposed rulemaking to the Independent Regulatory Review Commission (IRRC), the Senate Standing Committee on State Government and the House Standing Committee on State

Government. The Department also provided IRRC and the Committees with copies of a regulatory analysis form prepared by the Department in compliance with Executive Order 1996-1 (relating to regulatory review and promulgation). Copies of the regulatory analysis form are available to the public upon request.

If IRRC has objections to any portion of this proposal, it will notify the Department within 10 days after the close of the Committees' review period, specifying the regulatory review criteria that have not been met. The Regulatory Review Act sets forth procedures for review, prior to final adoption of the amendment, by IRRC, the General Assembly and the Governor of objections raised.

Public Comment

The Department invites interested persons to submit written comments, suggestions or objections regarding this proposal to Mary S. Heinlen, Director of Campaign Finance, Bureau of Commissions, Elections and Legislation, Department of State, 302 North Office Building, Harrisburg, PA 17120, within 30 days following publication of this notice of proposed rulemaking in the *Pennsylvania Bulletin*.

KIM PIZZINGRILLI,
Secretary of the Commonwealth

Fiscal Note: 16-22. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 4. ADMINISTRATION

**PART VIII. BUREAU OF LEGISLATION,
COMMISSIONS AND ELECTIONS**

Subpart D. ELECTIONS

**CHAPTER 177. REPORTS BY CANDIDATES,
POLITICAL COMMITTEES AND OTHER PERSONS**

§ 177.9. Official forms.

(a) The following official forms have been promulgated under [the provisions set forth in] this chapter.

* * * * *

(3) Form DSEB-502 (Campaign [Expense] Finance Report).

(4) Form DSEB-503 (Campaign [Expense] Finance Statement).

(5) Form DSEB-504 (Contributions By Nonbid Contract Recipients).

(6) Form DSEB-505 (Independent Expenditure Report).

(b) The Department also accepts campaign finance reports on diskette in lieu of a paper report as long as it meets the technical specifications of the Department and is accompanied by a cover page and signed affidavit.

(c) A copy of the technical specifications and approved list of vendors can be obtained by accessing the Department's website at www.dos.state.pa.us or contacting the Bureau at (717) 787-5280.

(Editor's Note: The Department is proposing to delete the forms which appear following this section in the

Pennsylvania Code on pages 177-9—177-22 (serial pages (201059)—(201072).)

[Pa.B. Doc. No. 00-376. Filed for public inspection March 3, 2000, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CH. 139]

Seasons and Bag Limits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) at its January 11, 2000, meeting, proposed the following:

Amend § 139.2 (relating to definitions) by adding field possession limit for deer, and § 139.4 (relating to seasons and bag limits for the license year) to provide dates for the 2000-2001 hunting license year.

These proposed amendments to Chapter 139 will have no adverse impact on the wildlife resources of this Commonwealth.

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

These proposals were made public at the January 11, 2000, 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 March 24, 2000.

Amendment to § 139.2

1. *Introduction*

To more effectively manage the wildlife resources of this Commonwealth, the Game Commission at its January 11, 2000, meeting proposed changing § 139.2 to add a definition of "field possession limit—deer." The use of this term in the deer bag limits in § 139.4 will add a requirement to secure a harvested deer before seeking another. This change was proposed under the provisions of sections 322(c)(1) and 2102(b)(1) of the code (relating to powers and duties of Commission; and regulations).

2. *Purpose and Authority*

In the proposed seasons and bag limits for 2000-2001, the Commission has proposed to allow the taking of an antlerless deer in addition to an antlered deer or the taking of more than one antlerless deer in 1 day. To allow a more equitable harvest among competing hunters, however, the Commission decided to require that the carcass of a harvested deer must first be secured at a motor vehicle, hunting camp, residence or deer processing facility before another can be taken. The proposed change would impose this requirement.

Section 322(c) of the code specifically empowers the Commission to "... fix seasons ... and daily, season and possession limits for any species of game or wildlife." Section 2102(b) of the code mandates that the Commission promulgate regulations relating to seasons and bag limits.

3. *Regulatory Requirements*

The proposed change would require deer hunters to secure a harvested deer before seeking to take another.

4. *Persons Affected*

Deer hunters possessing an antlerless deer license who wish to take more than one deer in 1 day will be affected by the proposed change.

5. *Cost and Paperwork Requirements*

The proposed change should not result in additional cost or paperwork.

6. *Effective Date*

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

Amendment to § 139.4

1. *Introduction*

To effectively manage the wildlife resources of this Commonwealth, the Commission, at its January 11, 2000, meeting proposed changing § 139.4 to provide for seasons and bag limits for the 2000-2001 license year. These seasons and bag limits were proposed under the provisions of sections 322(c)(1) and 2102(b)(1) of the code. Notable changes for the 2000-2001 year include a Statewide antlerless season that begins on a Saturday, the last day of the rifle buck season; an early Statewide muzzleloader antlerless deer season that also starts on a Saturday; and a proposed bobcat hunting and trapping season with the required permit.

2. *Purpose and Authority*

The Commission is required to set hunting and furtaking seasons and bag limits on an annual basis. Section 322 of the code specifically empowers the Commission to "... fix seasons ... and daily, season and possession limits for any species of game or wildlife." Section 2102(b) of the code mandates that the Commission promulgate regulations relating to seasons and bag limits.

Changes that have been proposed for the 2000-2001 season are primarily intended to increase the harvest of antlerless deer and to maximize recreational opportunities where game and wildlife populations allow. Major changes are as follows:

1. The start of the Statewide 3-day antlerless deer season will be moved to the last Saturday of the rifle buck season. A provision has also been built into the regulation to allow a 1-day extension of the antlerless season, if it is required.

2. An additional early Statewide muzzleloader antlerless deer season will be held.

3. Junior and senior license holders and holders of disabled person permits (to use a vehicle) will be allowed to shoot an antlerless deer during antlered deer season for each antlerless deer license they possess.

4. Hunters will be limited to one antlered deer per year, but may take one antlerless for each antlerless deer license held. Hunters must, however, secure any deer they harvest before they can harvest another deer.

5. The start of the early small game season will be moved back approximately 2 weeks from the most recent start date under the proposal.

6. A bobcat hunting and trapping season will be established but a permit to harvest a bobcat will be required.

7. An additional week will be added to the fall turkey season in Turkey Management Area 7-A.

3. *Regulatory Requirements*

These proposed seasons and bag limits would establish when and where it is lawful to hunt and trap various game species and place limits on the numbers that can be legally take.

4. *Persons Affected*

Persons wishing to hunt and trap in this Commonwealth would be affected by these seasons and bag limits.

5. *Cost and Paperwork Requirements*

The proposed new seasons and bag limits would not result in any additional cost either to the Commission or to hunters and furtakers.

6. *Effective Dates*

The effective dates are July 1, 2000 to June 30, 2001.

Contact Person

For further information on the proposed changes the contact person is William L. Hutson, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,
Executive Director

Fiscal Note: 48-116. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 139. SEASONS AND BAGS LIMITS

§ 139.2. Definitions.

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

* * * * *

Field possession limit—deer—When multiple harvests of deer per day are authorized, only one deer at a time may be harvested and possessed in the field or forest. Before harvesting additional deer, the deer previously harvested must be transported and secured at the hunter's motor vehicle, permanent or temporary camp, residence or deer processing facility.

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§ 139.4. Seasons and bag limits for the license year.

(Editor's Note: As part of the proposed rulemaking, the Commission is proposing to delete the existing text which appears at 58 Pa. Code pages 139-3—139-11, serial pages (255561)—(255569), and replace it with the following text, which has been printed in regular type to enhance readability.)

**2000-2001 OPEN HUNTING AND FURTAKING SEASONS, DAILY LIMIT,
FIELD POSSESSION LIMIT AND SEASON LIMIT
OPEN SEASON INCLUDES FIRST AND LAST DATES LISTED**

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
Squirrels—(Combined species) Eligible Junior Hunters only, with or without the required license, when properly accompanied as required by law	Oct. 7	Oct. 9	6	12
Squirrels—(Combined species)	Oct. 14	Nov. 25	6	12
	and	Feb. 10, 2001		
Ruffed Grouse—(Statewide)	Oct. 14	Nov. 25	2	4
	and	Jan. 27, 2001		
Ruffed Grouse—There is no open season for taking ruffed grouse in that portion of State Game Lands No. 176 in Centre County which is posted "RESEARCH AREA—NO GROUSE HUNTING"				
Rabbits, Cottontail	Oct. 28	Nov. 25	4	8
	and	Feb. 10, 2001		
Ringneck Pheasant—Male only	Oct. 28	Nov. 25	2	4
Ringneck Pheasant—Male or female combined when hunting in designated hen shooting area only	Oct. 28	Nov. 25	2	4
	and	Feb. 10, 2001		

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
Bobwhite Quail—The hunting and taking of bobwhite quail is permitted in all counties except Adams, Chester, Cumberland, Dauphin, Delaware, Franklin, Fulton, Juniata, Lancaster, Lebanon, Perry, Snyder and York where the season is closed.	Oct. 28	Nov. 25	4	8
Hares (Snowshoe Rabbits) or Varying Hares	Dec. 26	Dec. 30	2	4
Woodchucks (Groundhog)	No closed season except during the antlered and antlerless deer season and until 12 noon daily during the spring gobbler turkey season		Unlimited	

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Turkey—Male or Female			1	1
Management Areas #1-A, 1-B & 2	Oct. 28	Nov. 11		
Management Area #7-B	Oct. 28	Nov. 4		
Management Areas #3, 4, 5, 6, 7-A & 8	Oct. 28	Nov. 18		
Management Area #9-A	Oct. 30	Nov. 1		
Management Area #9-B	Oct. 30	Nov. 4		
Turkey (Spring Gobbler) Statewide Bearded Bird only	April 28, 2001	May 26, 2001	1	1

MIGRATORY GAME BIRDS

Except as further restricted by this chapter, the seasons, bag limits, hunting hours and hunting regulations for migratory game birds shall conform to regulations adopted by the United States Secretary of the Interior under authority of the Migratory Bird Treaty Act (16 U.S.C.A. §§ 703—711) as published in the *Federal Register* on or about August 27 and September 28 of each year. Exceptions:

- (a) Hunting hours in § 141.4 (relating to hunting hours).
- (b) Nontoxic shot as approved by the Director of the United States Fish and Wildlife Service is required for use Statewide in hunting and taking of migratory waterfowl.
- (c) Subject to approval by the United States Fish and Wildlife Service, an early and late season for Canada geese will be held as defined in § 141.25.

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
Crows (Hunting permitted on Friday, Saturday and Sunday only)	July 1	Nov. 26	Unlimited	
	Dec. 29	April 1, 2001		
Starlings and English Sparrows	No closed season except during the antlered and antlerless deer seasons and until 12 noon daily during the spring gobbler turkey season		Unlimited	

FALCONRY

Squirrels—(Combined species)	Sep. 1	Mar. 31, 2001	6	12
Quail	Sep. 1	Mar. 31, 2001	4	8

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
Ruffed Grouse	Sep. 1	Mar. 31, 2001	2	4
Cottontail Rabbits	Sep. 1	Mar. 31, 2001	4	8
Snowshoe or Varying Hare	Sep. 1	Mar. 31, 2001	2	4
Ringneck Pheasant—Male and Female—(Combined)	Sep. 1	Mar. 31, 2001	2	4

Migratory Game Birds—Seasons and bag limits shall be in accordance with Federal regulations.

DEER

Deer (Archery), Antlered—(Statewide) with 2 or more points to an antler or a spike 3 or more inches long	Sept. 30	and	Oct. 20	One antlered.**
	Oct. 25	and	Nov. 11	
	Dec. 26		Jan. 13, 2001	
Deer (Archery), Antlerless—(Statewide)	Sept. 30	and	Nov. 11	An antlerless deer with each required antlerless license.
	Dec. 26		Jan. 13, 2001	
Deer, Regular Antlered—(Statewide) with 2 or more points to an antler or a spike 3 or more inches long	Nov. 27		Dec. 9	One antlered.**
Deer, Antlerless—(Statewide) Junior and Senior License Holders, and Disabled Person Permit (to use a vehicle) Holders Only, with required antlerless license	Nov. 27		Dec. 9	An antlerless deer with each required antlerless license.
Deer, Regular Antlerless—(Statewide)	Dec. 9		Dec. 12*	An antlerless deer with each required antlerless license.
Deer, Antlerless (Presque Isle State Park, Erie County)	Dec. 6		Dec. 8	One antlered.** An antlerless deer with each required antlerless license.
Deer, Antlerless only—(Statewide) (Flintlock Muzzleloading firearms only)	Oct. 21		Oct. 24	An antlerless deer with each required antlerless license.
Deer, Antlered or Antlerless—(Statewide) (Flintlock Muzzleloading firearms only)	Dec. 26		Jan. 13, 2001	One antlered ** or one antlerless-plus an additional antlerless deer with each required antlerless license.
Deer, Antlerless Only on those lands designated by the Executive Director as "Deer Damage Areas" and posted with approved signs	Nov. 27		Dec. 9	An antlerless deer with each required antlerless license.

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
Deer, Antlerless (Letterkenny Army Depot, Franklin County and New Cumberland Army Depot, York County and Fort Ritchie, Raven Rock Site, Adams County)	Hunting is permitted on days established by the Unites States Department of the Army			An antlerless deer with each required antlerless license.

**SPECIAL REGULATIONS AREAS
SOUTHEASTERN PENNSYLVANIA AND ALLEGHENY COUNTY**

Deer, Antlered with 2 or more points to an antler or a spike 3 or more inches long	Nov. 27	Dec. 9		One antlered deer.**
Deer, Antlerless	Nov. 27 Dec. 26	and Dec. 12 Jan 13, 2001		An antlerless deer with each required antlerless license.

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
BEAR				
Bear, any age	Nov. 20	Nov. 22	1	1

FUR TAKING—TRAPPING

Minks and Muskrats—(Statewide)	Nov. 18	Jan. 7, 2001		Unlimited
Beaver—(Statewide)	Dec. 26	Mar. 31, 2001		
Zones 1, 2 & 3 (except Bradford, McKean, Potter, Susquehanna, Tioga and Wayne Counties)			10	20
Bradford, McKean, Potter, Susquehanna Tioga and Wayne Counties			10	40
Zone 4 & 5			10	10
Zone 6			6	6
Coyotes, Foxes, Opossums, Raccoons, Skunks, Weasels—Statewide	Oct. 15	Feb. 24, 2001		Unlimited
Bobcat (Zones 2 & 3)	Oct. 15	Feb. 24, 2001	1	1***

FUR TAKING—HUNTING

Coyotes—(Statewide)	No closed season. Coyotes may be taken during the regular antlered and antlerless deer seasons or extensions only by hunters who have a valid deer tag or during the spring gobbler turkey season by hunters who have a valid spring turkey tag and meet fluorescent orange and shot size requirements.			Unlimited
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<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Opossums, Skunks, Weasels— Statewide	No closed season. These species may not be hunted prior to 12 noon during the spring gobbler turkey season.			
Raccoons and Foxes—(Statewide)	Oct. 14	Feb. 24, 2001	Unlimited	
Bobcat (Zones 2 & 3)	Oct. 14	Feb. 24, 2001	1	1***

No open seasons on other wild birds or wild mammals.

* The executive director is hereby authorized to extend, by order, in accordance with § 139.3, this season by 1 day either Statewide or on a designated area basis where it appears, after polling the Commissioners and regional offices, that there has been an underharvest of antlerless deer. Public notice of the extension shall be given by extensive publication.

** Only one antlered deer (buck) may be taken during the hunting license year.

***Bobcat may only be taken by furtakers in possession of a Bobcat Hunting-Trapping Permit.

[Pa.B. Doc. No. 00-377. Filed for public inspection March 3, 2000, 9:00 a.m.]

[58 PA. CODE CH. 141] Hunting and Trapping

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) at its January 11, 2000, meeting, proposed the following:

Amend Chapter 141 (relating to hunting and trapping):

Subchapter A (relating to general):

§ 141.1 (relating to special regulations areas), to allow the .410 shotgun with single projectile ammunition for deer hunting in the special regulations areas, and clarification that the 20 gauge shotgun or larger would continue to be lawful for buckshot in the Southeast special regulations areas.

§ 141.4 (relating to hunting hours), to allow the hunting of bobcat any hour, day or night.

§ 141.5 (relating to furbearer tagging requirements), to require the tagging of bobcat taken under a special permit.

§ 141.6 (relating to illegal devices), to allow the hunting of bobcat by the use of electronic calls, and permitting snares to be completely or partially submerged in water to be used to take beaver.

Subchapter B (relating to small game):

§ 141.21 (relating to hen ringneck pheasant), to expand the male and female pheasant area to include additional counties with low wild pheasant populations and low capability (due to natural succession and land use practices) to support a long-term wild pheasant population.

Subchapter C (relating to big game):

§ 141.43 (relating to deer), to address hunter safety concerns by requiring fluorescent orange during the overlap with the flintlock muzzleloading season that precedes the regular firearms season for deer, and to allow the use of muzzleloading pistols and expand types of lawful ammunition.

§ 141.45 (relating to turkey), by limiting lawful hunting devices to shotguns and archery in certain turkey management areas.

Subchapter D (relating to trapping):

§ 141.63 (relating to definitions), by changing the stop location to allow the snare loop to close to a minimum circumference of 7 inches.

These proposed amendments to Chapter 141 will have no adverse impact on the wildlife resources of this Commonwealth.

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

These proposals were made public at the January 11, 2000, meeting of the Commission, and comments on these proposals can be sent to the Executive Director of the Pennsylvania Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until March 24, 2000.

Amendment to § 141.1

1. Introduction

To more effectively manage the wildlife resources of this Commonwealth, the Commission at its meeting held on January 11, 2000, proposed changing § 141.1 to allow the use of the .410 shotgun with single projectile ammunition for deer hunting in special regulations areas. This would allow more flexibility for muzzleloaders in special regulations areas and create more consistency with what exists in the rest of this Commonwealth. These changes are adopted under authority contained in section 2102 of the code (relating to regulations).

2. Purpose and Authority

The .410 shotgun with single projectile ammunition can currently be lawfully used to hunt deer through most of this Commonwealth. Section 141.1 has a limitation that at least a 20 gauge long gun or shotgun propelling a single projectile must be used. This has led to confusion for deer hunters who hunt both inside and outside of special regulations. The proposed changes will eliminate this limitation with regard to single projectile ammunition in special regulations areas but retain the requirement when using buckshot.

Section 2102(a) code directs the Commission to “. . . promulgate such regulations as it deems necessary and appropriate concerning . . . the ways, manner, methods, and means of hunting or furtaking . . .” Section 2102(d) also directs the Commission to promulgate regulations stipulating “. . . the type of firearms and ammunition and

other devices which may be used . . ." The proposed changes would be adopted under this authority.

3. Regulatory Requirements

The proposed amendments would relax current requirements.

4. Persons Affected

Individuals wishing to hunt deer in special regulations areas with muzzleloading long guns or shotguns using single projectile ammunition would be affected by the proposals.

Amendment to Subchapter A

1. Introduction

To more effectively manage the wildlife resources of this Commonwealth, the Commission at its meeting held on January 11, 2000, proposed having a bobcat hunting and trapping season and also proposed changing §§ 141.4—141.6 to regulate the taking and tagging of bobcats. The Commission also proposed changing § 141.6 to permit partially submerged snares to be used to take beaver. These changes were proposed under section 322 (relating to powers and duties of the Commission) and section 2102(a) of the code.

2. Purpose and Authority

After some years of studying bobcats and bobcat populations in this Commonwealth, the Commission's biologists have concluded that limited numbers of bobcats can be safely harvested by hunting and trapping. The Commission has therefore proposed a bobcat season as part of its seasons and bag limit proposals for 2000-2001. To regulate the taking of bobcats other changes to 58 Pa. Code (relating to recreation) will be required.

The Commission has proposed that § 141.4 be changed to specify hunting hours for bobcats. Also, under the proposal, § 141.5 would be changed to require tagging of bobcats. Finally, § 141.6 would be changed to allow use of electronic devices to take bobcats.

In addition, the Commission has proposed to allow partially submerged snares to be used to take beaver. This proposed change should increase snare capture efficiency and eliminate problems caused by fluctuating water levels.

Section 322(c) of the code empowers the Commission to fix daily shooting or taking hours and devices that can be used. Section 2102(a) of the code authorizes the Commission to promulgate regulations relating to the hunting of game or wildlife in this Commonwealth. The changes were proposed under this authority.

3. Regulatory Requirements

The proposed changes would set hours for hunting bobcats, require tagging of harvested bobcats and allow the use of electronic devices to take bobcats.

4. Persons Affected

Individuals wishing to hunt or trap bobcats or trap beaver would be affected.

Amendment to § 141.21

1. Introduction

To more effectively manage the wildlife resources of this Commonwealth, the Commission at its January 11, 2000, meeting proposed changing § 141.21 to allow the taking of female pheasants in a larger area of this Commonwealth. This change was proposed under the provisions of sections 322(c)(1) and 2102(b)(1) of the code.

2. Purpose and Authority

The Commission is required to set hunting and furtaking season and bag limits on an annual basis. Section 322 of the code specifically empowers the Commission to fix seasons for any species of game or wildlife. Section 2102(b) of the code mandates that the Commission promulgate regulations relating to seasons and bag limits.

It has become apparent that a larger area of this Commonwealth, for various reasons, is incapable of supporting a long-term wild pheasant population. Pheasants that are harvested in that area are essentially birds that were stocked by the Commission. To maximize the benefit of those stocked pheasants, the Commission has proposed allowing pheasants of either sex to be taken in the shaded areas of the map.

3. Regulatory Requirements

The proposed change will relax current regulatory requirements.

4. Comment and Paperwork Requirements

Persons wishing to hunt pheasants in this Commonwealth would be affected by the change.

Amendment to § 141.43

1. Introduction

To provide for the safety of hunters in the field and to provide more options to hunters wishing to take advantage of the muzzleloader deer season, the Commission at its January 11, 2000, meeting proposed changes to § 141.43, to require archers to wear daylight fluorescent orange-colored material during the proposed early flintlock muzzleloader season and to allow the use of muzzleloading pistols and maxi and mini ball ammunition during muzzleloading season. These changes are proposed under the authority contained in section 2102 of the code.

2. Purpose and Authority

As part of the proposed 2000-2001 seasons and bag limits, the Commission decided to propose a 3 day early flintlock muzzleloader antlerless deer season. Since this season would overlap the archery deer season, and, at some time in the future, may overlap turkey season it was decided to require archers to wear daylight fluorescent orange-colored material while moving. This necessitated changing § 141.43. In addition, to expand the variety of firearms and ammunition available during the muzzleloader deer season, the Commission proposed changing § 141.43 to allow the use of pistols and mini and maxi balls.

Section 2101(a) of the code directs the Commission to "... promulgate such regulations as it deems necessary and appropriate concerning . . . the ways, manner, methods, and means of hunting or furtaking and the health and safety of persons who hunt or take wildlife . . ." This provision provides the authority for the proposed changes.

3. Regulatory Requirements

The proposed changes require the archery deer hunters to wear daylight fluorescent orange-colored material while moving during the early flintlock muzzleloader antlerless deer season. The other changes relax current restrictions.

4. Persons Affected

Those desiring to hunt that part of the archery deer season that overlaps with the early flintlock muzzleloader antlerless deer season will be affected by the proposed changes.

Amendment to § 141.45

1. Introduction

To more effectively manage the wildlife resources of this Commonwealth, the Commission at its January 11, 2000, meeting proposed changing § 141.45 to allow for the fact that Turkey Management Areas 1 and 9 have been split into Turkey Management Areas 1-A and 1-B and 9-A and 9-B. This change would be adopted under authority contained in sections 322(c)(4) and 2102(a) of the code.

2. Purpose and Authority

To better manage turkey populations in this Commonwealth, the Commission has split the turkey management areas, Nos. 1 and 9 in the more populous parts of the State, each into areas A and B, as is shown on the map in Chapter 141, Appendix C. The provision of § 141.45 prohibiting single projectile ammunition in those areas was not changed accordingly. The proposed change will make this adjustment.

Section 322(c)(4) of the code authorizes the Commission to define geographic limitations or restrictions. Section 2102(a) of the code directs the Commission to promulgate regulations it deems necessary and appropriate concerning hunting or furtaking. The proposed change would be adopted under this authority.

3. Regulatory Requirements

The proposed change will not change any regulatory requirements.

4. Persons Affected

Since the proposed change is essentially editorial, it will have no real impact.

Amendment to § 141.63

1. Introduction

To more effectively manage the wildlife resources of this Commonwealth, the Commission at its meeting held on January 11, 2000, proposed changing § 141.63 to reduce the minimum circumference of snare loops used in trapping beaver from 20 inches to 7 inches. This change would be adopted under authority contained in sections 322(c)(5) and 2102(a) of the code.

2. Purpose and Authority

In 1998, the Commission changed its trapping regulations to allow snaring of beaver but required that the snare be crimped so it closed to a minimum circumference of 20 inches. This minimum circumference has been very inefficient in snaring beaver. As a result, the Commission has proposed reducing the circumference to 7 inches.

Section 322(c)(5) of the code directs the Commission to: "Fix the type and number of devices which may be used to take game or wildlife." Section 2102(a) of the code directs the Commission to promulgate regulations concerning the "... ways, manner, methods and means of hunting or furtaking." The proposed change would be adopted under this authority.

3. Regulatory Requirements

The proposed change relaxes a restriction and should enable beaver trappers to be more successful.

4. Persons Affected

Individuals wishing to trap beaver with snares would be affected by the change.

Cost and Paperwork Requirements

The proposed changes should not result in any additional cost or paperwork.

Effective Date

The changes will be 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 proposed rulemaking contact William L. Huston, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS, Executive Director

Fiscal Note: 48-119. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Subchapter A. GENERAL

§ 141.1 Special regulations areas.

* * * * *

(d) Permitted acts. It is lawful to:

(1) Hunt and kill deer through the use of a muzzleloading long gun or a shotgun, at least [20] .410 gauge (rifled barrels permitted), including semiautomatics which, upon discharge, propel a single projectile.

* * * * *

(4) Take deer with a shotgun 20 gauge or larger, using buckshot in the Southeast area only.

* * * * *

§ 141.4. Hunting hours.

During open hunting seasons, wild birds and animals may be taken 1/2 hour before sunrise to sunset unless further restricted.

* * * * *

(2) Raccoon, fox, skunk, opossum, coyote, bobcat and weasel may be taken any hour, day or night, except during restricted periods in paragraph (1), and wookchuck, coyote, opossum, skunk and weasel may not be hunted prior to 12 noon during the spring gobbler season.

* * * * *

§ 141.5. Furbearer tagging requirements.

* * * * *

(d) Bobcat tag. Bobcat lawfully taken with a special permit shall be tagged as required in § 147.701(8) (relating to general).

(e) Instructions for tags. When wildlife is required to be tagged under this section, it shall be unlawful to fail to follow instructions on or given with the tag for completion and attachment to the bird or animal.

§ 141.6. Illegal devices.

It is unlawful to:

(1) Use electronic calls to take wildlife except bobcats, foxes, raccoons, coyotes and crows.

(2) Use snares to take wildlife or furbearers except beavers may be taken with snares completely or partially submerged [under water] in water in a waterway or watercourse, marsh, pond or dam.

* * * * *

Subchapter C. BIG GAME

§ 141.43. Deer.

(a) Archery season. It is unlawful while hunting deer with a bow and arrow during the archery season to:

* * * * *

(3) Move about or relocate during that portion of the archery deer season that is concurrent with [the] any flintlock muzzleloading season (antlerless only) that precedes the regular firearms season for deer or is concurrent with fall turkey season without wearing a minimum of 250 square inches of daylight fluorescent orange-colored material. The material shall be worn on the head, chest and back combined so it is visible in a 360° arc.

(4) Be on stand and stationary during that portion of the archery deer season that is concurrent with [the] any flintlock muzzleloading season (antlerless only) that precedes the regular firearms season for deer or is concurrent with fall turkey season without placing a band containing a minimum of 100 square inches of daylight fluorescent orange-colored material, in lieu of the required 250 square inches, within 15 feet of their location so it is visible in a 360° arc.

(b) Muzzleloading season. Firearms lawful for use are original muzzleloading single-barrel [long] guns manufactured prior to 1800, or a similar reproduction of an original muzzleloading single-barrel [long] gun which:

- (1) [Is fired from the shoulder.
(2)] Is .44 caliber or larger and has open sights.

[(3)] (2) Propels a single spherical lead ball [using] with a cloth patch or a maxi-ball or mini-ball.

* * * * *

(d) Prohibitions. It is unlawful to:

* * * * *

(3) Use or possess single projectile ammunition [or use or possess a projectile] other than [spherical lead ball] specified in subsection (b)(2).

* * * * *

§ 141.45. Turkey.

(a) While hunting wild turkey it is unlawful to:

* * * * *

(4) Use or possess rifles or single projectile ammunition, except arrows, in Turkey Management [Area #1 and Turkey Management Area #9] Areas 1-A, 1-B, 9-A and 9-B.

* * * * *

Subchapter D. TRAPPING

§ 141.63. Definitions.

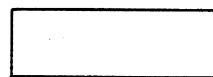
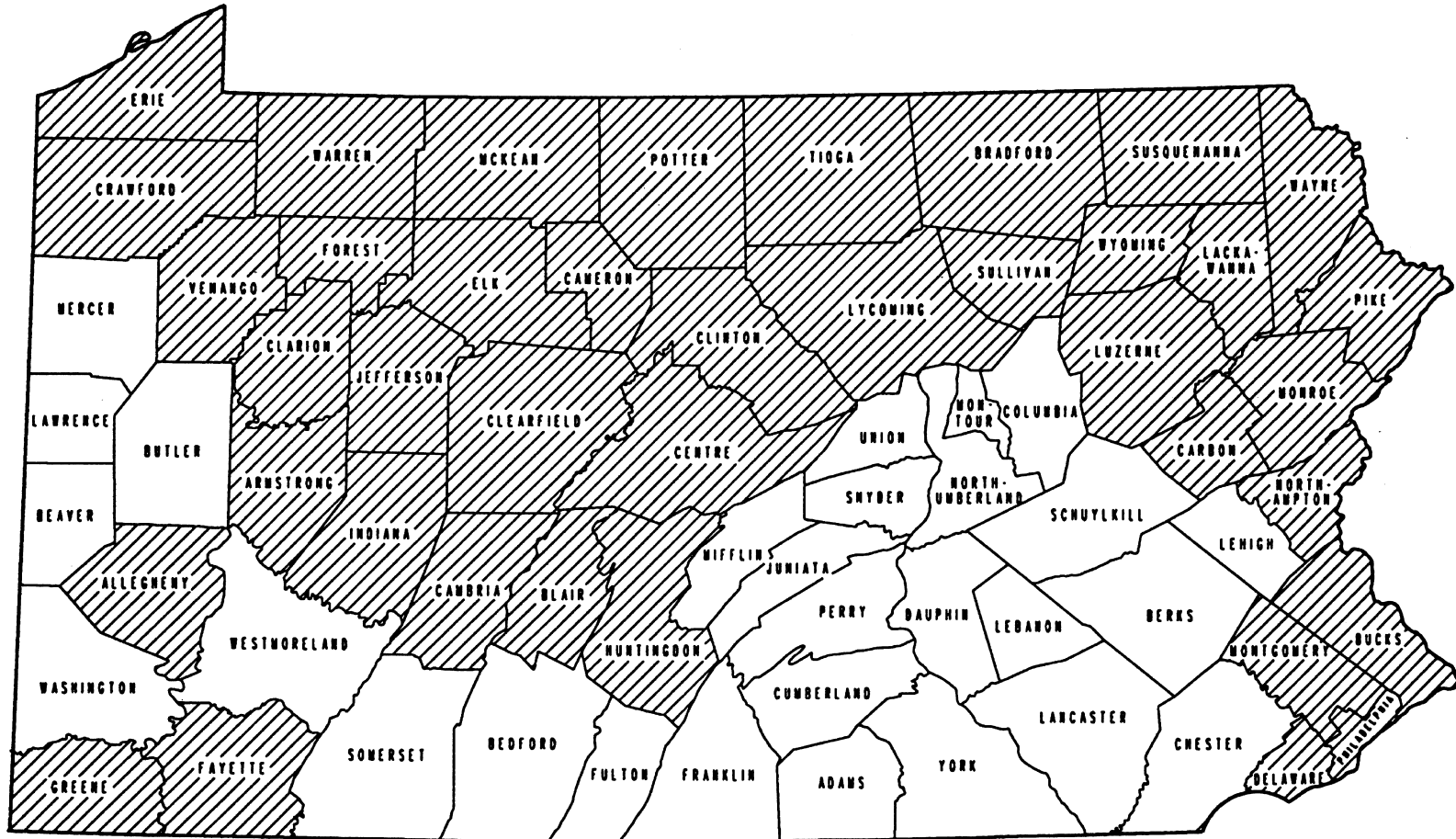
In addition to the definitions contained in the act and this part, the following words, when used in the enforcement of 34 Pa.C.S. § 2361(a)(11) (relating to unlawful acts concerning taking of furbearers) have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Snare—A looped galvanized or stainless stranded steel cable 3/32 inches in diameter equipped with a mechanical sliding metal release lock. A metal ferrule shall be crimped on the cable to prevent the snare loop from closing to a circumference less than [20] 7 inches.

* * * * *

APPENDIX B
 PENNSYLVANIA PHEASANT HUNTING AREAS



MALE PHEASANTS ONLY



MALE AND FEMALE PHEASANT AREA

[Pa.B. Doc. No. 00-378. Filed for public inspection March 3, 2000, 9:00 a.m.]

**[58 PA. CODE CH. 143]
Hunting and Furtaker Licenses**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) at its January 11, 2000, meeting, proposed the following:

Amend Chapter 143, Subchapter C (relating to hunting and furtaker licenses), to allow ample time for license processing, issuance and delivery in time for the first day of archery season; by changing the name of surplus tags to unsold tags, and make unsold tags valid only on private land or on public land with a deer management plan approved by the Commission.

These amendments to Chapter 143 will have no adverse impact on the wildlife resources of this Commonwealth.

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

These proposals were made public at the January 11, 2000, 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 March 24, 2000.

Proposed Amendments to Chapter 143, Subchapter C

1. *Introduction*

To more effectively manage the wildlife resources of this Commonwealth, the Commission at its meeting held on January 11, 2000, proposed changes to Subchapter C to modify provisions for procedures for issuing antlerless deer licenses. The proposed changes would change the name of surplus licenses to unsold licenses, make those licenses available throughout the State, and make these licenses valid only on private land or on public land with an approved deer management plan.

The proposed changes would also require county treasurers to send out antlerless licenses no later than the third Monday in September rather than the last Wednesday. These changes were proposed under authority contained in section 2722(g) of the code (relating to authorized license-issuing agents).

2. *Purpose and Authority*

The primary mechanism by which the Commission manages the deer herd in this Commonwealth is by the allocation of antlerless licenses. In recent years, the Commission has had difficulty in selling all allocated antlerless licenses. To deal with this situation, the Commission has proposed to rename surplus antlerless licenses, which were available only in the southwest region, to "unsold" and make them available throughout this Commonwealth. Also, part of the perceived problem of deer management in this Commonwealth is that public lands are overhunted while private lands are underhunted. The usage of unsold licenses would therefore be essentially limited to private land. Finally, the current deadline for the mailing by county treasurers of antlerless licenses only allows 2 days for delivery of the license before the start of archery season. Moving the deadline forward in excess of 1 week should allow more time for delivery of those licenses.

Section 2722(g) of the code directs the Commission to adopt regulations for the administration, control and performance of license issuance. The proposed changes would be made under this authority.

3. *Regulatory Requirements*

The proposed changes will require county treasurers to send out antlerless licenses at least 9 days earlier than in the past. Also, although unsold licenses can be available Statewide, their use will be limited to private land or to public land with a Commission approved deed management plan.

4. *Persons Affected*

County treasurers and those wishing to harvest at least one antlerless deer could be affected by the proposed changes.

5. *Cost and Paperwork Requirements*

The proposed changes should not result in any additional cost or paperwork.

6. *Effective Date*

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

7. *Contact Person*

For further information on the proposed changes contact William L. Hutson, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,
Executive Director

Fiscal Note: 48-120. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 143. HUNTING AND FURTKER LICENSES

Subchapter C. ANTLERLESS DEER LICENSES

§ 143.42. Definitions.

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

* * * * *

License—The numbered back tag which is issued by the county treasurer authorizing the holder thereof to hunt antlerless deer in a specific county [**during the regular firearms antlerless deer season or the archery deer seasons**]. Each license has its own antlerless deer ear tag and antlerless deer harvest report card attached to be used only for tagging and reporting an antlerless deer harvested.

* * * * *

[*Surplus*] *Unsold tag*—An antlerless deer license permitting properly licensed persons to take an antlerless deer during the regular firearms antlerless deer season, archery or flintlock muzzleloader deer seasons in the county of issue.

[*Surplus*] *Unsold tag application*—The form contained in the "Hunting and Trapping Digest" used in applying for [**a surplus**] **an unsold tag**.

§ 143.49. Issuing licenses.

* * * * *

(c) Except as otherwise provided in § 143.52 (relating to procedure for unlimited antlerless licenses) and for qualified landowners, licenses issued shall be delivered to successful applicants in the envelope by standard first class mail through and by the United States Postal Service. Licenses shall be placed with the United States Postal Service no later than the [last Wednesday] third Monday in September. If more than one application is mailed to the county treasurer in the same envelope, the licenses shall be mailed to the person whose name appears on the return section of the envelope. The person receiving the additional licenses is responsible for delivering them to the appropriate people.

§ 143.51. Application and issuance of [surplus] unsold tags.

(a) Except as provided in § 143.52 (relating to procedures for unlimited antlerless licenses), beginning on the fourth Monday in August, residents and nonresidents of this Commonwealth are eligible to receive [a surplus] an unsold tag [in one of the following counties: Armstrong, Beaver, Cambria, Fayette, Greene, Indiana, Somerset, Washington and Westmoreland]. Unsold tags are valid only on private land or on public land with a deer management plan approved by the Commission.

(b) An applicant for this tag may not use the regular antlerless deer license application. An applicant shall only use the [surplus] unsold application contained in the "Hunting and Trapping Digest" or a reasonable facsimile thereof.

* * * * *

(e) [Surplus] Unsold tags shall be validated by the addition of the county treasurer's signature or signature stamp, date of issue and the applicant's regular hunting license back tag number. The county treasurer shall write in ink the applicant's regular hunting license back tag number on the antlerless deer ear tag.

§ 143.55. Unlawful acts.

It is unlawful:

* * * * *

(5) Except as specified in §§ 143.52(a) and (b) and 143.53 (relating to procedure for unlimited antlerless licenses; and reapplication), to apply for or receive more than one antlerless license or more than one [surplus] unsold license.

* * * * *

[Pa.B. Doc. No. 00-379. Filed for public inspection March 3, 2000, 9:00 a.m.]

[58 PA. CODE CH. 147]
Bobcat Hunting-Trapping Permit

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) at its January 11, 2000, meeting, proposed the following:

Amend Chapter 147, by adding Subchapter S (relating to bobcat hunting-trapping permit) to allow properly license hunters and trappers to obtain a permit to take a bobcat.

This proposed amendment to Chapter 147 will have no adverse impact on the wildlife resources of this Commonwealth.

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

This proposal was made public at the January 11, 2000, meeting of the Commission, and comments on this proposal can be sent to the Executive Director of the Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until March 24, 2000.

Proposed Amendments to Chapter 147

1. Introduction

To more effectively manage the wildlife resources of this Commonwealth, the Commission, at its January 11, 2000, meeting proposed a bobcat hunting and trapping season. It is believed that bobcat populations are sufficient to allow a limited harvest. To regulate the bobcat harvest it will be necessary to add Subchapter S to Chapter 147 (relating to special permits), to establish a permit to accomplish that purpose. A new Subchapter S for a bobcat hunting-trapping permit was proposed at the January 11, 2000 meeting. Section 2901(b) of the code (relating to regulations for permits), authorizes the Commission to promulgate regulations for the issuance of any permit.

2. Purpose and Authority

After some years of studying bobcats and bobcat populations in this Commonwealth, the Commission's biologists have concluded that limited numbers of bobcats can be safely harvested by hunting and trapping. The Commission has therefore proposed a bobcat season as part of its season and bag limit proposals for 2000-2001. To control the harvest, however, the Commission has decided to propose a permit system to strictly limit the harvest and allow monitoring of the harvest. Permits would be issued on a random drawing basis to individuals holding a furtaking or combination license.

Section 2901(b) of the code authorizes the Commission to promulgate regulations for the issuance of any permit. Section 2902(c) of the code (relating to general categories of permits) authorizes the director to "...issue other permits, with or without charge, as required to control the taking of game or wildlife. ..." Finally, section 2904(18) of the code (relating to permit fees), mandates that the Commission "...shall set a reasonable fee for any permit required by this title which is not specifically set forth in this section." These sections provide the authority for the proposed regulations.

3. Regulatory Requirements

The proposal requires holders of furtaker or combination licenses to submit an application together with a nonrefundable fee between July 1 and August 31. Those receiving a permit and harvesting a bobcat will be required to comply with tagging requirements.

4. Persons Affected

Persons wishing to harvest a bobcat by hunting or trapping will be affected by the proposed regulations.

5. Cost and Paperwork Requirement

Applicants for a permit will be required to pay a nonrefundable fee of \$5 which should cover the cost of issuing permits and tagging bobcats.

6. *Effective Date*

This proposal will be effective on final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

7. *Contact Person*

For further information on the proposal contact William L. Hutson, Director, Bureau of Law Enforcement, (717) 783-6526, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

VERNON R. ROSS,
Executive Director

Fiscal Note: 48-117. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 147. SPECIAL PERMITS

Subchapter S. BOBCAT HUNTING-TRAPPING PERMIT

Sec.
147.701. General.
147.702. Unlawful acts.

§ 147.701. General.

This section provides for permits to be issued for the hunting and trapping of bobcat during the season established and in areas designated under § 139.4 (relating to seasons and bag limits for the license year).

(1) A permit will only be issued to residents of this Commonwealth who possess a valid resident furtakers license, junior combination license, senior combination license or qualify for license and fee exemptions under section 2706 of the act (relating to resident license and fee exemptions) or to persons who qualify under section 2363 of the act (relating to trapping exception for certain persons).

(2) The fee for a permit to take a bobcat is \$5.

(3) Applications shall be submitted on a form supplied by the Commission and shall contain the required information as requested. A check or money order in the amount of \$5 payable to the Pennsylvania Game Commission shall accompany the application and is nonrefundable. Applications shall be mailed to the Commission's Bureau of Wildlife Management, 2001 Elmerton Avenue, Harrisburg, Pennsylvania 17110-9797.

(4) Applications may only be submitted by mail between July 1 and August 31. Applications received later than August 31 will be rejected.

(5) Only one application per person may be submitted. Anyone submitting more than one application for a permit will have all applications rejected.

(6) The selection of mailed application forms will be made by random drawing from all eligible applications submitted. The drawing will be held at the Commission's Harrisburg Headquarters on the second Friday in September and shall be open to the public.

(7) A special permit authorizing the lawful taking of one bobcat will be delivered to successful applicants by standard first class mail through and by the United States Postal Service. Permits shall be mailed by the first Friday in October and will be limited to the first 290 valid applications drawn.

(8) Tagging requirements are as follows:

(i) A permitted person taking a bobcat shall immediately, before removing the bobcat from the location of the taking, fully complete a temporary carcass tag furnished with the permit, which contains in English the person's name, address, special permit number, date of harvest, county and township of harvest, furbearer management zone of harvest and method of harvest. The bobcat carcass shall remain intact, that is, with entrails, until examined and tagged by a Commission representative. The temporary carcass tag shall remain attached to the animal until it is tagged with a numbered permanent interlocking tag.

(ii) A permitted person taking a bobcat shall contact the Commission within 48 hours of the taking by telephoning the number specified on the permit to arrange for carcass examination, data collection and tagging.

(iii) A bobcat taken under authority of a special permit shall be tagged with a numbered permanent interlocking tag no later than 4 p.m. on the 10th day following the closing of the bobcat season.

(iv) The tag shall remain attached to the bobcat until it is mounted, tanned, made into a commercial fur or prepared for consumption.

§ 147.702. Unlawful acts.

A person who fails or neglects to conform with or violates this subchapter or a permit issued under this subchapter shall be subject to penalties provided in the act.

[Pa.B. Doc. No. 00-380. Filed for public inspection March 3, 2000, 9:00 a.m.]

**[58 PA. CODE CH. 147]
Deer Control**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) at its January 11, 2000, meeting, proposed the following:

Amend Chapter 147, Subchapter R (relating to deer control) by adding §§ 147.661—147.668 (relating to forestry), to provide relief to persons whose land is open to public deer hunting.

This amendment to Chapter 147 will have no adverse impact on the wildlife resources of the Commonwealth.

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

This proposal was made public at the January 11, 2000, meeting of the Commission, and comments on this proposal can be sent to the Executive Director of the Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until March 24, 2000.

Amendments to Subchapter R

1. *Introduction*

To more effectively manage the wildlife resources of this Commonwealth, the Commission at its January 11, 2000, meeting proposed adding a new category of permit, "Forestry." This proposed change would involve adding §§ 147.661—147.668 which would allow the issuance of permits to shoot deer inside deer exclosures on lands enrolled in the Commission's Forest Game or other public access programs. This change was proposed under authority contained in section 2901(b) of the code (relating to regulations for permits).

2. Purpose and Authority

A common practice in forestry operations is to erect deer "enclosure" fences to keep deer from eating tender seedlings. Deer are normally driven out when an enclosure fence is erected. Deer do manage to get inside these fences, however, and once growth regenerates it is a very difficult to drive deer out. As a result, the Commission at its January 11, 2000, meeting proposed regulations which would allow the issuance of permits to qualified landowners and their "legitimate employees" to shoot deer within these enclosures.

Section 2901(b) of the code authorizes the Commission to promulgate regulations for the issuance of any permit. Section 2902(c) of the code (relating to general categories of permits), authorizes the director to "...issue other permits, with or without charges, as required to control the taking of game or wildlife..." These sections provide authority for the proposed action.

3. Regulatory Requirements

To obtain the proposed permits, landowners must be enrolled in a Commission Forest Game or other public access program, have a Commission approved enclosure fence, and make a reasonable effort to drive deer from the enclosure. Application requirements include submitting a deed or lease establishing control of the property, a map of the property and enclosure, and a statement that the land within the enclosure is being managed on a sustained yield basis. Finally, harvested deer must be tagged, reported and properly handled.

4. Persons Affected

The proposal will affect owners, operators and employees of tree nurseries who have problems with deer.

5. Cost and Paperwork Requirements

The permits in question will be issued at no cost. As was outlined under "Regulatory Requirements" an application with copies showing control of the property and a map must be submitted.

6. Effective Date

The proposal will be effective on final publication in the Pennsylvania Bulletin and will remain in effect until changed by the Commission.

7. Contact Person

For further information on the proposal, contact William L. Hutson, Director, Bureau of Law Enforcement, (717) 783-6526, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

VERNON R. ROSS, Executive Director

Fiscal Note: 48-118. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 58. RECREATION
PART III. GAME COMMISSION
CHAPTER 147. SPECIAL PERMITS
Subchapter R. DEER CONTROL
FORESTRY

- Sec. 147.661. General.
147.662. Application.
147.663. Fencing.
147.664. Permit.
147.665. Reporting of deer taken.
147.666. Tagging of deer taken.
147.667. Carcass handling.
147.668. Violations.

§ 147.661. General.

This section and §§ 147.662—147.668 (relating to forestry) provide for permits to be issued to qualified persons to remove deer by shooting on lands under their ownership or control or both if the lands are contained within a properly maintained fence designed to exclude deer.

§ 147.662. Application.

(a) Application for the deer control permit shall be made through the district wildlife conservation officer on a form provided by the Commission.

(b) Applications will only be accepted from persons who have been enrolled in the Commission's Forest Game Program for at least two hunting seasons immediately preceding their applications; or from persons who have been enrolled in one of the other Commission public access programs (Farm Game Project or Safety Zone - P.1-2-3) for a minimum of 2 years and are currently enrolled in the Program. Applications will also be made available to Managers of Department of Conservation and Natural Resources Lands and Allegheny National Forest Lands, which are open to public deer hunting.

(c) An application for a deer control permit shall contain the following information:

(1) A copy of a deed, lease or legal agreement showing the applicant to be the owner or have control, or both, of the land to be permitted shall accompany the application.

(2) A complete map showing the boundaries of the entire property and the location and boundaries of the fenced enclosure being considered.

(3) A statement from the applicant that the land within the enclosure is being managed on a sustained yield basis as defined in § 131.2 (relating to definitions).

(4) The names of all individuals who may act under authority of this permit.

(5) Certification that the fence will be properly maintained to exclude deer, as designed and intended, for the full length of the permit period.

§ 147.663. Fencing.

Fences will be inspected and approved by a Commission officer as part of the application.

(1) The fence shall form a complete enclosure. Buildings may form a part of the enclosure provided there are no gaps.

(2) The fence may be either woven wire at least 8 feet high with the bottom edge maintained tight to the ground, or high tensile electrified wire at least 5 feet high. Woven wire fencing may not have openings larger than 6" square. Individual wires on electrified fencing may not be spaced greater than 10" apart. Other designs of barrier-type fencing enclosures may be approved if the Commission is satisfied the design will exclude deer.

(3) The Commission officer will examine the entire perimeter of the enclosure. If the basic design of the fence, or its state of maintenance, is such that deer can enter the enclosure, the Commission officer will not approve the permit.

(4) Gates shall be closed except during actual times of ingress and egress.

(5) The applicant shall have made a reasonable effort to drive deer from the enclosure.

(6) There shall be a reasonable number of hunter access points along the enclosure. "Reasonable" means a minimum of one point for every 4,000 feet of fenceline, or part thereof. Gates used as hunter access points shall have a self-closing mechanism.

§ 147.664. Permit.

(a) The deer control permit is subject to annual renewal and shall authorize the permittee or the permittee's legitimate employees to remove deer from the enclosed property by shooting:

(1) Any time between February 1 and September 30, outside the established deer hunting seasons as set by the Commission in § 139.4 (relating to seasons and bag limits for the license year).

(2) With any lawful firearm for big game as described in section 2322 (a) of the act (relating to prohibited devices and methods).

(3) At any time of the day or night with, or without, an artificial light.

(b) The appropriate Commission regional office shall be notified of the date and time of anticipated deer removal.

(c) Deer killed shall be reported to the appropriate Commission regional office immediately after killing.

(d) For the purposes of this section, "legitimate employe" means an employe of record, one for which the employer deducts taxes or other fees required by any local, state or Federal government and is listed on the permit.

(e) A copy of the permit shall be carried by an authorized person when engaged in activities described and presented upon request of an officer of the Commission or person empowered to enforce the act or this part.

§ 147.665. Reporting of deer taken.

In addition to the requirements of § 147.664(c) (relating to permit), the permittee shall report on a form provided by the Commission, the number of deer killed and other information the Commission deems necessary. The completed report shall be submitted to the district wildlife conservation officer within 5 days after the end of each month while the permit is valid. If no deer are killed, a negative report shall be submitted.

§ 147.666. Tagging of deer taken.

Deer taken under the authority of the permit shall immediately be tagged with a tag provided by the Commission. The tag shall be attached to the head of the deer and may not be removed. Unused tags shall be returned to the district wildlife conservation officer within 5 days of the expiration of the permit.

§ 147.667. Carcass handling.

(a) The Commission will determine the disposition of all deer killed. Disposition shall be through a food bank, to a needy family, proper disposal by the permittee, or turned over to a Commission officer.

(b) Each deer harvested shall have the entrails removed and due care shall be taken with each carcass to preserve the meat for human consumption.

(c) Antlers from deer taken under the authority of this permit shall be submitted to the Commission for disposal by the Director.

§ 147.668. Violations.

In addition to penalties provided in the act, the Director may revoke a permit for a violation of this subchapter,

conditions of a permit or failure to maintain the enclosure fence.

[Pa.B. Doc. No. 00-381. Filed for public inspection March 3, 2000, 9:00 a.m.]

STATE BOARD OF ACCOUNTANCY

[49 PA. CODE CH. 11]

Commissions and Referral Fees

The State Board of Accountancy (Board) proposes to amend § 11.24 (relating to commissions) to read as set forth in Annex A.

Background

Section 11.24, which was adopted in 1970 and amended in 1980, currently provides that a licensee (that is, a certified public accountant, public accountant or public accounting firm) may not pay a commission to obtain a client or accept a commission for referring a client to the products and services of others. The section does not prohibit payments for the purchase of the assets of an accounting practice, retirement payments to former practitioners, or payments to the heirs and estates of retired practitioners.

Section 11.24 was superseded by section 12(p) of the CPA Law (63 P. S. § 9.12(p)), which was added by the act of December 4, 1996 (P. L. 851, No. 140) (Act 140). Section 12(p)(1) of the CPA Law permits a licensee in public practice to receive a commission—defined as compensation for recommending or referring to a client a product or service to be supplied by another person—provided the licensee or the licensee's firm does not also perform any of the following attest activities for the client: (i) audit or review of a financial statement; (ii) compilation of a financial statement, when it is reasonably expected that a third party would use the financial statement and there is no disclosure of lack of independence; or (iii) examination of prospective financial information. Section 12(p)(3) of the CPA Law permits a licensee to pay or accept a referral fee, which is defined as compensation paid to a licensee for recommending another licensee's professional services. Section 12(p)(2) and (3) of the CPA Law require a licensee to disclose to a client payment or receipt of a commission or referral fee. Section 12(p)(4) of the CPA Law requires that the disclosure be clear, conspicuous and in writing; state the amount of the commission or referral fee or the basis on which its computed; and be made, in the case of a commission, at or before the time when the recommendation or the referral of the product or service is made, or, in the case of a referral fee, at or before the time the client retains the licensee to whom the client has been referred. Section 12(p)(4) of the CPA Law also directs the Board to promulgate regulations specifying the terms and manner of disclosure. Section 12(p)(5) of the CPA Law exempts the same three categories in the current § 11.24 and adds a fourth, incentive or bonus payments to a licensee by the licensee's employing firm.

The Board's proposal is intended to revise § 11.24 so that it is complementary of the provisions set forth in section 12(p) of the CPA Law.

Description of Amendments

The amendments would delete the existing language in § 11.24, which prohibits commissions and referral fees absolutely, and replace it with seven new subsections.

General. Subsection (a) would provide that a licensee is permitted to receive commissions or to accept or pay referral fees subject to the requirements of section 12(p) of the CPA Law and this section.

Notification to Board. Subsection (b) would require a licensee who receives or intends to receive commissions to report that fact on the application for biennial renewal of licensure. The information would assist the Board in determining which licensees require monitoring to ensure compliance with disclosure and other requirements.

Cooperation with peer reviewers. Subsection (c) would require a licensee who receives commissions and who is subject to peer review under section 8.9 of the CPA Law (63 P.S. § 9.8i), to furnish peer reviewers with the necessary documentation to establish the licensee's compliance with section 12(p) of the CPA Law and this section. A licensee who sells commission-based products or services to attest clients will not receive an unqualified peer review report.

Related licensure/registration. Subsection (d) would require a licensee, prior to receiving commissions, to acquire and maintain in good standing any license or registration required by any governmental or regulatory agency for receiving commissions. Licensees who sell securities, for example, may need to be registered with the Pennsylvania Securities Commission or the National Association of Securities Dealers.

Disclosure to client. Subsection (e) would require a licensee who receives commissions or who accepts or pays referral fees to make the disclosures required by section 12(p)(4) of the CPA Law in engagement or representation letters that are signed by the clients. This requirement would help to ensure that clients receive meaningful and timely disclosures, and would provide a context in which clients may evaluate the commissions or referral fees in connection with other fees charged by the licensee.

Workpapers. Subsection (f) would require a licensee who receives commissions to maintain workpapers that document discussions regarding the clients' investment needs, the investment strategies considered, and the bases for the investment strategies recommended by the licensee. This requirement would ensure that a licensee exercise professional judgment in the course of recommending or referring commission-based products or services to clients. A licensee's referral of a client to the public accounting services of another licensee generally does not involve the exercise of professional judgment.

Attest client. Subsection (g) would provide that for purposes of section 12(p)(1) of the CPA Law, a licensee who performs an attest activity for a client (except for a compilation of financial statements accompanied by a disclosure of lack of independence as permitted under section 12(p)(ii) of the CPA Law), may not receive a commission for recommending or referring a product or service to an individual or entity that can exercise significant influence over the client's operating, financial and accounting policies. "Significant influence" would include, but not be limited to, situations in which the individual or entity (1) is connected with the client as a promoter, underwriter, voting trustee, general partner or non-honorary director; (2) is connected with the client in a policy-making position related to the client's primary operating, financial, or accounting policies, such as chief

executive officer, chief operating officer, chief financial officer, or chief accounting officer; or (3) meets the criteria established in Accounting Principles Board Opinion No. 18, "The Equity Method of Accounting for Investments in Common Stock," and its interpretations, to determine the ability of an investor to exercise the influence with respect to the client.

This subsection addresses the situation, not specifically dealt with in section 12(p)(1) of the CPA Law, where a licensee receives a commission for a product or service sold to an individual or entity that, although not an attest client of the licensee, can nevertheless directly and substantially impact the business affairs of another client for which the licensee performs attest services. An example would be where a licensee has a two-member partnership as an attest client, and the licensee receives a commission on the sale of a product or service to a nonattest client that is a 50% partner in the partnership. The Board believes that a licensee's receipt of a commission in these circumstances could have an adverse impact on the licensee's independence with respect to the attest client. The Board's proposed "significant influence" standard is derived verbatim from the American Institute of Certified Public Accountants' Code of Professional Conduct's Ethical Interpretation relating to the effect that a certified public accountant's financial interest in a nonclient has on his independence with a client when the nonclient has an investor or investee relationship with the client (ET § 101.10).

Statutory Authority

Section 3(a)(11) and (12) of the CPA Law empowers the Board to promulgate, respectively, regulations relating to professional conduct and administrative regulations necessary to carry out of the CPA Law. Section 12(p)(4) of the CPA Law empowers the Board to promulgate regulations specifying minimum disclosure requirements when receiving commissions or accepting or paying referral fees.

Fiscal Impact and Paperwork Requirements

The amendments' principal fiscal impact on the regulated community would be the loss of potential commissions in situations where, as set forth in proposed § 11.24(g), the party to whom a licensee desires to recommend a commission-based product or service is in the position of exercising significant influence over an attest client of the licensee. The Board has no way to estimate the financial cost to licensees of lost commission opportunities. The amendments would not have a fiscal impact on the Commonwealth's agencies or its political subdivisions.

The amendments would require licensees to maintain records of their disclosures of commissions and referral fees as well as workpapers documenting the appropriateness of recommending or referring particular commission-based products or services to clients. The amendments would require the Board to revise its biennial renewal form to include a question about whether the licensee receives commissions; the Board intends to use this information for the purpose of monitoring compliance with the amendments' other requirements. The amendments would not create new paperwork requirements for the Commonwealth's other agencies, the Commonwealth's political subdivisions, or other segments of the private sector.

Compliance with Executive Order 1996-1

In accordance with Executive Order 1996-1 (relating to regulatory review and promulgation), the Board, in developing the amendments, solicited comments from the

major professional organizations that represent certified public accountants and public accountants in this Commonwealth.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 23, 2000, the Board submitted copies of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC), the Senate Standing Committee on Consumer Protection and Professional Licensure, and the House Standing Committee on Professional Licensure. The Board also provided IRRC and the Committees with copies of a regulatory analysis form prepared in compliance with Executive Order 1996-1. Copies of these forms are available to the public upon request.

If IRRC has objections to any portion of the proposed amendment, it will notify the Board within 10 days following the close of the Committees' review period, specifying the regulatory review criteria that have not been met. The Regulatory Review Act sets forth procedures that permit IRRC, the General Assembly and the Governor to review any objections prior to final adoption of the amendments.

Public Comment

The Board invites interested persons to submit written comments, suggestions or objections regarding the proposed amendments to Steven Wennberg, Esq., State Board of Accountancy, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of this notice of proposed rulemaking in the *Pennsylvania Bulletin*.

THOMAS J. BAUMGARTNER, CPA,
Chairperson

Fiscal Note: 16A-557. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 11. STATE BOARD OF ACCOUNTANCY

GENERAL PROVISIONS

§ 11.24. Commissions and referral fees.

(a) General. [A licensee may not pay a commission to obtain a client nor accept a commission for a referral to a client of products or services of others. This section does not prohibit payments for the purchase of all or a material part of an accounting practice, or retirement payments to persons formerly engaged in the practice of public accounting or payments to the heirs or estates of those persons.] A licensee engaged in public practice is permitted to receive commissions and accept or pay referral fees subject to the requirements in section 12(p) of the act (63 P. S. § 9.12(p)) and this section.

(b) Notification to Board. A licensee who receives or intends to receive commissions shall report this fact on the application for biennial renewal of the license.

(c) Cooperation with peer reviewer. A licensee who receives commissions and who is subject to peer review under section 8.9 of the act (63 P. S. § 9.8i) shall furnish peer reviewers with the necessary documentation to establish compliance with section 12(p) of the act and this section.

(d) Related licensure/registration. Prior to receiving commissions, a licensee shall acquire and maintain in good standing any license or registration required by another governmental or regulatory body for the purpose of receiving commissions.

(e) Disclosure to client. A licensee who receives a commission or who accepts or pays a referral fee shall make the disclosures required by section 12(p)(4) of the act in an engagement or representation letter that is signed by the client.

(f) Workpapers. A licensee who receives a commission shall maintain workpapers that document discussions regarding the client's investment needs, the investment strategies considered, and the basis for the investment strategy recommended by the licensee.

(g) Attest clients. For purposes of section 12(p)(1) of the act, a licensee who performs an attest activity for a client, except as set forth in section 12(p)(1)(ii) of the act, may not receive a commission for recommending or referring a product or service to an individual or entity that can exercise significant influence over the operating, financial or accounting policies of the client. For purposes of this subsection, "significant influence" includes the following situations:

(i) The individual or entity is connected with the client as a promoter, underwriter, voting trustee, general partner or director (other than an honorary director as defined in the AICPA Code of Professional Conduct).

(ii) The individual or entity is connected with the client in a policymaking position related to the client's primary operating, financial, or accounting policies, such as chief executive officer, chief operating officer, chief financial officer or chief accounting officer.

(iii) The individual or entity meets the criteria established in Accounting Principles Board Opinion No. 18. *The Equity Method of Accounting for Investments in Common Stock*, and its interpretations, to determine the ability of an investor to exercise such influence with respect to the client.

[Pa.B. Doc. No. 00-382. Filed for public inspection March 3, 2000, 9:00 a.m.]