

RULES AND REGULATIONS

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF MEDICINE

[49 PA. CODE CH. 16]

Health Care Services Malpractice

The State Board of Medicine (Board) amends § 16.32 (relating to requirements of the Health Care Services Malpractice Act). The proposed amendment is set forth in Annex A.

Amendments to the Health Care Services Malpractice Act (act) (40 P. S. §§ 1301.101—1301.1006), increased minimum basic malpractice insurance amounts from \$200,000/\$600,000 to \$300,000/\$900,000 for policies written in years 1997-1998; \$400,000/\$1.2 million for years 1999-2000 policies; and \$500,000/\$1.5 million for year 2001, and thereafter.

Rather than unnecessarily duplicating provisions of the act and periodically updating the regulations, the Board has retained the cross reference to the statute but has eliminated repetition of the dollar amounts.

Section 204 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204) (CDL) provides that proposed rulemaking may be omitted if the regulation relates to the interpretation of a self-executing act of Assembly. The minimum basic malpractice coverage amounts are established in section 701 of the act (40 P. S. § 1301.701). Thus, this regulation relates to the self-executing provisions of the act. Accordingly, proposed rulemaking is unnecessary.

A. Effective Date

The amendment is effective upon publication of the final-form regulation in the *Pennsylvania Bulletin*.

B. Statutory Authority

The amendment is authorized under section 8 of the Medical Practice Act (63 P. S. § 422.8).

C. Compliance with Executive Order 1996-1

In accordance with the requirements of Executive Order 1996-1 (February 6, 1996), in drafting and promulgating the regulation the Board considered the least restrictive alternative to regulate costs for services requested by licensees and applicants.

D. Fiscal Impact and Paperwork Requirements

The amendment will have no adverse fiscal impact on this Commonwealth or its political subdivisions.

F. Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on January 18, 2000, the Board submitted a copy of the final-omitted regulation to the Independent Regulatory Review Commission (IRRC) and the Chairperson of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee (Committees). On the same date, the final-omitted regulation was submitted to the Attorney General for review and comment under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5.1(d) of the Regulatory Review Act, the final-omitted regulation was deemed approved by the House and Senate Committees on February 1, 2000, and by IRRC on February 17, 2000.

G. Additional Information

Individuals who desire information are invited to submit inquiries to Cindy L. Warner, Board Administrator, State Board of Medicine, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-1400.

The Board finds that:

(1) Public notice of intention to amend its regulations as adopted by this order under the procedures specified in sections 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202) has been omitted under the authority contained in section 204(1) and (3) of the CDL because the Board has, for good cause, found that the procedures specified in sections 201 and 202 of the CDL, are, in this circumstance, unnecessary because the provisions repealed were found to be duplicative of self-executing statutory language.

(2) The amendment of the regulations of the Board in the manner provided in this order is necessary and appropriate for the administration of its authorizing statute.

The Board, acting under its authorizing statute, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 16, are amended by amending § 16.32, to read as set forth in Annex A.

(b) The Chairperson of the Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as to legality as required by law.

(c) The Chairperson of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall become effective immediately upon publication in the *Pennsylvania Bulletin*.

DANIEL B. KIMBALL, Jr., M.D.,
Chairperson

Fiscal Note: 16A-4911. No fiscal impact; (8) recommends adoption.

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 30 Pa.B. 1320 (March 4, 2000).)

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 16. STATE BOARD OF MEDICINE

GENERAL PROVISIONS

§ 16.32. Requirements of the Health Care Services Malpractice Act.

An applicant for licensure or a licensee applying for biennial review as required by the Health Care Services Malpractice Act (40 P. S. §§ 1301.101—1301.1006), and

the regulations pertaining thereto, shall maintain the required amount of professional liability insurance or an approved self-insurance plan and shall have paid the required fee and surcharges as set forth therein.

(1) A licensee practicing solely as a Federal employe is not required to participate in the professional liability insurance program, nor is the licensee required to comply with the Health Care Services Malpractice Act.

(2) A licensee who provides no medical service in this Commonwealth is not required to pay the arbitration fees or comply with the insurance requirements of the Health Care Services Malpractice Act. Proof of nonpractice shall be furnished by notarized statement.

[Pa.B. Doc. No. 00-838. Filed for public inspection May 19, 2000, 9:00 a.m.]

**STATE BOARD OF OPTOMETRY
[49 PA. CODE CH. 23]**

[Correction]

Application Fees

An error appeared in the adoption of an amendment to 49 Pa. Code § 23.91 as it appeared at 30 Pa.B. 2355, 2357 (May 13, 2000). The correct version of § 23.91 appears in Annex A.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

**CHAPTER 23. STATE BOARD OF OPTOMETRY
FEES**

§ 23.91. Fees.

The following is the schedule of fees for services charged by the Board:

License application	\$25
Certified copy of license for each additional practice location	\$25
Certification of scores or licensure, or both	\$25
Verification of licensure	\$15
Biennial renewal—optometrist license.....	\$135
Biennial renewal—certified copy of license for each additional practice location.....	\$20
Application for certification to prescribe and administer pharmaceutical agents for therapeutic purposes	\$25
Application for continuing education program approval	\$45

[Pa.B. Doc. No. 00-784. Filed for public inspection May 12, 2000, 9:00 a.m.]

Title 58—RECREATION

GAME COMMISSION

[58 PA. CODE CH. 143]

Hunting and Furtaker Licenses

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 4, 2000, meeting, adopted the following change:

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 unsold tags to private land tags, and make private land tags valid only on private land or on public land with a deer management plan approved by the Commission.

This amendment is adopted under the authority of 34 Pa.C.S. §§ 101—2965 (relating to Game and Wildlife Code) (code).

1. Introduction

To more effectively manage the wildlife resources of this Commonwealth, the Commission at its meeting held on January 11, 2000, proposed, and at its meeting held on April 4, 2000, finally adopted, changes to Chapter 143, Subchapter C to modify provisions for procedures for issuing antlerless deer licenses. The amendments change the name of surplus licenses to “private land licenses,” make those licenses available throughout this Commonwealth and make licenses valid only on private land or on public land with a deer management plan approved under procedures provided for in the amendments.

The changes 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 adopted under authority contained in section 2722(g) of the code (relating to regulations).

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 originally proposed to rename surplus antlerless licenses, which were available only in the Southwest Region, “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 adopted amendments will limit usage of unsold licenses to private land and public land with a deer management plan approved under procedures provided for in the amendments. In final adoption, the Commission decided that the name “private land” more accurately reflects this limitation and adopted that name change instead of “unsold.”

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 a 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 changes were made under this authority.

3. Regulatory Requirements

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

4. Persons Affected

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

5. Comment and Response Summary

A total of 19 comments were received with regard to the proposed changes, 12 favored the proposals and 7 opposed them. The Commission decided to adopt the changes with the modification mentioned under *Purpose and Authority*.

6. Cost and Paperwork Requirements

The changes should not result in additional cost or paperwork.

7. Effective Date

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

8. Contact Person

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

Findings

The Commission finds that:

(1) The 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. 769, 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 Chapter 143, are amended by amending § 143.49 to read as set forth at 30 Pa.B. 1267 (March 4, 2000) and by amending §§ 143.42, 143.51 and 143.55 to read as set forth in Annex A.

(b) The Executive Director of the Commission shall submit this order and Annex A, and deposit them with the Legislative Reference Bureau as required by law.

(c) This order amending §§ 143.42, 143.49, 143.51 and 143.55, shall become effective upon final publication in the *Pennsylvania Bulletin*.

VERNON R. ROSS,
Executive Director

Fiscal Note: Fiscal Note 48-120 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 143. HUNTING AND FURTKAKER 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:

Application—The form issued with a regular hunting license used in applying for an antlerless license.

County allocation—The number of licenses allocated by the Commission to an individual county.

County treasurer—A county treasurer in this Commonwealth or a person carrying out the duties and responsibilities of a county treasurer in counties functioning under a home rule charter.

Date issued—The date placed on the license by a county treasurer indicating when the license was mailed or given to the person named on the license.

Envelope—The official envelope issued with a regular hunting license which shall be used by the applicant to mail completed applications to the county treasurer.

Home address—The location where a person is legally domiciled; a true, fixed and permanent home and principal residence; and the place to which, whenever the applicant is temporarily absent, he intends to return.

License—The numbered back tag which is issued by the county treasurer authorizing the holder thereof to hunt antlerless deer in a specific county. 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.

Private land—Land that is not defined as public land.

Private land 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.

Private land tag application—The form contained in the "Hunting and Trapping Digest" used in applying for a private land tag.

Public drawing—An impartial, random drawing, open to public view to select successful applicants for licenses.

Public land—Any land owned or controlled by a Federal or State agency, or municipal political subdivision.

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

Surplus tag application—The form contained in the "Hunting and Trapping Digest" used in applying for a surplus tag.

Void—A voided license which remains nonissuable.

§ 143.51. Application and issuance of private land 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 private land tag. Private land 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 private land application contained in the "Hunting and Trapping Digest" or a reasonable facsimile thereof.

(c) The applicant shall use the official antlerless deer license application envelope.

(d) Remittance in the form of a negotiable check or money order for the total amount due as specified in the act, payable to "County Treasurer," shall accompany the application.

(e) Private land 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 and stamp the face of the license "private land only" with a stamp provided by the Commission.

(f) The procedure for approval of a deer management plan is as follows:

(1) An application for approval of a deer management plan that would allow private land tags to be used on a designated area of public land shall be submitted by an authorized officer or employe of the political subdivision in a form required by the Director.

(2) An application for approval of a deer management plan that will allow the use of private land tags on a designated public land area shall contain the following information:

(i) The name of the political subdivision that is requesting approval of a deer management plan.

(ii) The name and address of the authorized officer or employe of the political subdivision who will be the contact person for the plan.

(iii) A map showing the location and boundaries of the area and the county, township and Commission deer management unit the site is located in.

(iv) A description of the management area delineated on the map in subparagraph (iii) including the size in acres, cover types (forested, nonforested), principal land uses, huntable areas and safety zones, and hunter access points.

(v) A brief description of the area including access points that the person in control of the land wants to have posted on the Commission web site, as well as the name and address of a contact person for more information.

(vi) An explanation of deer management goals and objectives for the area. Goals include deer density, habitat condition, forest regeneration, other wildlife and recreational opportunities.

(vii) An explanation to substantiate why the person in control of the land wants to increase the harvest of antlerless deer by allowing use of private land tags on the area. Area specific information shall be provided that supports the deer management goals and objectives, such as deer density estimates, indices of deer abundance, buck/doe ratios, fawn/doe ratios, deer condition, habitat

conditions, plant species abundance or diversity, forest regeneration, and hunter success rates.

(3) Completed applications shall be received at least 2 months before the first day that applications for private land tags can be accepted. The person in control of the land will be notified of approval or disapproval at least 1 month before the first day that applications for private land tags can be accepted.

(4) Upon approval of the deer management plan, the person in control of the land will conspicuously post the site boundary and all public roadways traversing the property with signs provided by the Commission. Posting shall be completed by the opening date of the first fall antlerless deer season.

§ 143.55. Unlawful acts.

It is unlawful:

(1) For a county treasurer to accept an application or to issue a license contrary to the act or this part.

(2) For a person to apply for or to receive a license contrary to the act or this part.

(3) For a person to aid another person in applying for or receiving a license contrary to this subchapter.

(4) For a person to transfer or reissue a license or back tag, or to issue a void.

(5) For a person to apply for or receive more than one antlerless license or more than one private land tag, except as specified in §§ 143.52(a) and (b) and 143.53 (relating to procedure for unlimited antlerless licenses; and reapplication).

(6) For a person to submit a nonnegotiable check or sight draft as payment for a license issued under this chapter.

[Pa.B. Doc. No. 00-839. Filed for public inspection May 19, 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 April 4, 2000, meeting, adopted the following change:

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

This amendment is hereby adopted under the authority of 34 Pa.C.S. §§ 101—2965 (relating to Game and Wildlife Code) (code).

1. Introduction

To more effectively manage the wildlife resources of this Commonwealth, the Commission, at its January 11, 2000, meeting proposed and at its April 4, 2000, meeting finally adopted 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 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 and finally adopted by the Commission at its April 4, 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 biologists have concluded that limited numbers of bobcats can be safely harvested by hunting and trapping. The Commission has therefore adopted a bobcat season as part of its seasons and bag limits for 2000-2001. To control the harvest, however, the Commission has decided to adopt a permit system to strictly limit the harvest and allow monitoring of the harvest. Permits will be issued on a random drawing basis to individuals holding a furtaking or combination license.

Section 2901(b) of the code (relating to regulations for permits), 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 adopted regulations.

3. Regulatory Requirements

The adopted regulations require 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 adopted regulations.

5. Comment and Response Summary

The Commission received a total of 6,271 comments with regard to the proposed bobcat season, seven of which were in favor and 6,264 were opposed. Over 70% of the opposition comments were in the form of signatures on petitions. It was quite clear that the opposition was based on general opposition to hunting and trapping of any species.

Section 103(b) of the code (relating to method of management), mandates that: "the Commission shall utilize hunting and trapping as methods of effecting necessary management of game, furbearer and wildlife populations." The Commission closed the bobcat season in 1970 because of concerns about bobcat populations. The Commission biologists have been studying bobcat populations for over 10 years and have concluded that populations are adequate to support very limited recreational harvests of bobcats. The adopted permit provisions will provide the necessary limits for the harvest.

6. 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.

7. Effective Date

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

8. Contact Person

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

Findings

The Commission finds that:

(1) The 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. 769, 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.

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 147, are amended by adding § 147.702 to read as set forth at 30 Pa.B. 1268 (March 4, 2000) and adding § 147.701 to read as set forth in Annex A.

(b) The Executive Director of the Commission shall submit this order and Annex A, and deposit them with the Legislative Reference Bureau as required by law.

(c) This order adding §§ 147.701 and 147.702, shall become effective upon final publication in the *Pennsylvania Bulletin*.

VERNON R. ROSS,
Executive Director

Fiscal Note: Fiscal Note 48-117 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 147. SPECIAL PERMITS

Subchapter S. BOBCAT HUNTING-TRAPPING PERMIT

§ 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 and attach the tag to the bobcat. 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. The person taking the bobcat may remove the pelt provided the pelt is kept with the carcass for examination and tagging.

(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.

[Pa.B. Doc. No. 00-840. Filed for public inspection May 19, 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 April 4, 2000, meeting, adopted the following change:

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

This amendment is hereby adopted under the authority of 34 Pa.C.S. §§ 101—2965 (relating to Game and Wildlife Code) (code).

1. Introduction

To more effectively manage the wildlife resources of this Commonwealth, the Commission at its January 11, 2000, meeting proposed, and at its April 4, 2000, meeting

finally adopted amendments adding a new category of permit, Forestry, to Chapter 147, Subchapter R. This change involves adding §§ 147.661—147.668 to the subchapter which would allow the issuance of permits to shoot deer inside deer enclosures on lands enrolled in the Commission's Forest Game or other public access programs. This change was adopted 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 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. On final adoption, the Commission modified some of the language in § 147.663(2) relating to construction of the fence and also added a requirement to § 147.665 requiring forwarding of copies of activity reports to all Commissioners.

Section 2901(b) of the code (relating to regulations for permits), 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 amendment.

3. Regulatory Requirements

To obtain a permit, a landowner 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 new regulations will affect owners, managers and employees of commercial forest lands who have problems with deer.

5. Comment and Response Summary

No written comments were received with regard to the amendments.

6. 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.

7. Effective Date

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

8. Contact Person

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

Findings

The Commission finds that:

(1) The 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. 769, 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.

Orders

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code, Chapter 147, Subchapter R, is amended by adding §§ 147.661, 147.662, 147.664 and 147.666—147.668 to read as set forth at 30 Pa.B. 1269 (March 4, 2000) and adding §§ 147.663 and 147.665 to read as set forth in Annex A.

(b) The Executive Director of the Commission shall submit this order and Annex A, and deposit them with the Legislative Reference Bureau as required by law.

(c) This order amending Chapter 147, Subchapter R, §§ 147.661—147.668, shall become effective upon final publication in the *Pennsylvania Bulletin*.

VERNON R. ROSS,
Executive Director

Fiscal Note: Fiscal Note 48-118 remains valid for the final adoption of the subject regulations.

Annex A**TITLE 58. RECREATION****PART III. GAME COMMISSION****CHAPTER 147. SPECIAL PERMITS****Subchapter R. DEER CONTROL****FORESTRY****§ 147.663. Fencing.**

Fences shall 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 shall be constructed of woven wire at least 8 feet high with the bottom edge maintained tight to the ground, and with openings no larger than 6 inches square, or high tensile electrified wire at least 5 feet high. Woven wire fencing may not have openings larger than 6 inches square. Individual wires on electrified fencing may not be spaced greater than 10 inches apart. Other designs of barrier-type fencing enclosures may be acceptable if the Commission is satisfied the design will exclude deer. Fences constructed after April 4, 2000, shall be woven wire as described in this paragraph to be eligible for a deer control forestry permit.

(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.

§ 147.665. 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. Copies of all completed reports shall be forwarded to all Commissioners.

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