

# RULES AND REGULATIONS

## Title 28—HEALTH AND SAFETY

DEPARTMENT OF HEALTH

[28 PA. CODE CH. 23]

### Intention to Amend Regulations Relating to School Immunizations

The Department of Health (Department) is hereby providing notice that it intends to amend its regulations relating to immunizations required for school entry to reflect recent recommendations of the Advisory Committee on Immunization Practices (ACIP) of the Centers for Disease Control and Prevention (CDC) for the allowance of a 4-day grace period for certain vaccine administration. Until that amendment can occur, the Department will accept as within the regulatory requirements of § 23.83 (relating to immunization requirements) those vaccines administered 4 days prior to the earliest date for vaccination permitted by the regulations.

On February 8, 2002, ACIP published revised immunization recommendations in the Morbidity and Mortality Weekly Report (MMWR) stating that it recommended accepting vaccinations given at a time less than or equal to 4 days prior to the minimal interval and age limit for a valid dose of vaccine administration. This recommendation conflicts with the Commonwealth's school immunization requirement for measles, mumps, rubella and varicella vaccines, which states that the vaccines for these diseases must be administered on or after a child turns 12 months of age for the vaccine to be accepted as a valid dose. With respect to varicella, the Department's regulations for entry into seventh grade require either one dose of vaccine at 12 months of age or older or two doses of vaccine at 13 years of age or older. See § 23.83.

The Department has followed ACIP recommendations for Statewide immunization recommendations and school immunization requirements. The Commonwealth chapter of the American Academy of Pediatrics supports ACIP's recent recommendations allowing a 4-day grace period for dose interval and age limit. After consideration of ACIP's February 8, 2002, recommendation and review of the relevant information relating to that recommendation, the Department agrees with ACIP's determination that administering a vaccine dose a few days earlier than the minimum interval or age limit is unlikely to have a significant negative effect on the immune response to that dose.

The Department intends to amend its regulations relating to school immunizations to reflect this 4-day grace period. Until that amendment can occur, the Department will accept vaccinations for measles, mumps, rubella and varicella given within the 4-day grace period.

Questions regarding this notice should be directed to Alice Gray, Director, Division of Immunization, Department of Health, P. O. Box 90, Harrisburg, PA 17108-0090, (717) 787-5681 or V/TT: (717) 783-6154 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 [TT]. Persons with a disability who require an alternative format of this notice

(for example, large print, audiotape or Braille), should contact Alice Gray at the previously listed address and telephone numbers.

ROBERT S. ZIMMERMAN, Jr.,  
*Secretary*

[Pa.B. Doc. No. 02-377. Filed for public inspection March 8, 2002, 9:00 a.m.]

## Title 58—RECREATION

GAME COMMISSION

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

### All-Terrain Vehicles; Elk Hunting; Return Postage Fee

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 15, 2002, meeting, adopted the following amendments:

Amend § 135.50 (relating to definitions) to establish weight and width specification for all-terrain vehicles (ATVs) not defined as Class I ATVs under 75 Pa.C.S. Chapter 77 (relating to Snowmobile and All-Terrain Vehicle Law) (ATV law) and § 135.53 (relating to operation of ATVs on designated State game land roads by permitted persons) to accurately reflect and abide by the changes in the ATV law.

Amend § 141.42 (relating to big game animal hunting roster) by adding elk to ensure elk hunters may not cooperate to hunt elk in groups larger than 25 persons.

Amend § 143.10 (relating to fee for return postage) to allow the Director to establish return postage fees commensurate with changing first-class postage rates.

These amendments were adopted under the authority of 34 Pa.C.S. (relating to the Game and Wildlife Code) (code).

#### *Amendments to §§ 135.50 and 135.53*

##### *1. Introduction*

The act of June 25, 2001 (P.L. 701, No. 68) (Act 68) amended the ATV law to change the definitions of Class I and Class II ATVs. Class II ATVs no longer have a maximum width or weight. Section 135.50 incorporates these definitions. In addition, the act amended sections 7711.1 and 7711.2 of the ATV law (relating to registration of dealers; and registration of snowmobiles and registration and issuance of certificates of titles for ATVs) to require the display of registration plates on ATVs. To adjust for these changes, the Commission, at its October 2, 2001, meeting proposed, and at its January 15, 2002, meeting adopted, an amendment to § 135.50 to put width and weight limits on ATVs that can be used on State game lands and amended § 135.53 to require the display of a valid registration plate on ATVs used on State game lands. These final-form amendments were made under authority contained in section 2901(b) of the code (relating to authority to issue permits).

##### *2. Purpose and Authority*

As was indicated in the Introduction, Act 68 changed the definition of Class II ATVs to eliminate width and

weight restrictions. Since ATVs of an excessive size can cause damage to State game lands, the Commission has decided to retain the limitation for ATVs permitted to go on State game lands. Act 68 also changes sections 7711.1 and 7711.2 of the ATV law to require the display of registration plates on ATVs. With this change, the requirement of displaying a valid decal currently contained in § 135.53 is superseded by the registration plate requirement.

Section 2901(b) of the code provides that the Commission may "... promulgate regulations to control the activities which may be performed under the authority of any permit issued." This provision provides the authority for the final-form amendments.

### 3. *Regulatory Requirements*

The final-form amendments will retain the size limitations on ATVs that may be used on State game lands that existed prior to the effective date of Act 68 and will require the displaying of a valid registration plate rather than a decal.

### 4. *Persons Affected*

Disabled person permit holders desiring to use ATVs on State game lands will be affected by the final-form amendments.

### 5. *Comment and Response Summary*

Two official comments were received with regard to the final-form amendments, opposing the restrictions because they might limit opportunities for the disabled. The Commission believes that the restrictions are necessary to prevent damage and that an adequate number of models meeting the restrictions are available to the disabled.

### 6. *Cost and Paperwork Requirements*

The final-form amendments should not result in any additional cost or paperwork.

#### *Amendment to § 141.42*

#### 1. *Introduction*

To more effectively manage the elk population of this Commonwealth and to standardize hunting methods, the Commission, at its October 2, 2001, meeting proposed, and at its January 15, 2002, meeting adopted, an amendment to § 141.42(e) to limit the number of individuals in parties hunting elk to 25 persons. Section 2102 of the code (relating to regulations) directs the Commission to promulgate regulations concerning the ways, manner, methods and means of hunting. This provision provides the authority for the final-form amendment.

#### 2. *Purpose and Authority*

The act of December 20, 2000 (P. L. 452, No. 111) added section 2705(15) of the code (relating to classes of licenses), which provides for issuance by the Commission of elk hunting licenses. In addition, the Commission has adopted regulations providing for an elk hunting season in this Commonwealth in 2001 and will most likely adopt regulations for a similar season for 2002. The Commission is now in the process of standardizing requirements and limitations for elk hunting with hunting of other big game species. The Commission has therefore adopted an amendment to § 141.42(e) to limit parties hunting elk to 25 persons to promote safety and fair chase.

Section 2102 of the code provides that: "The commission shall promulgate such regulations as it deems necessary and appropriate concerning . . . the ways, manner, methods, and means of hunting or furtaking . . ." The amendment is adopted under this authority.

### 3. *Regulatory Requirements*

The final-form amendment will limit the number of individuals who can be involved in hunting elk together to 25. This is also currently true of parties hunting deer and bear.

### 4. *Persons Affected*

Individuals hunting elk either as license holders or as guides will be affected by the final-form amendment.

### 5. *Comment and Response Summary*

No official comments were received with regard to the final-form amendment.

### 6. *Cost and Paperwork Requirements*

The final-form amendment should not result in any additional cost or paperwork.

#### *Amendment to § 143.10*

#### 1. *Introduction*

In recent years, the Commission has experienced increasing sales of hunting and furtaking licenses by means of mail, fax and the Internet. In June 2001, the Commission added § 143.10, providing for a \$1.50 fee per license order to cover postage and packaging costs. Since that recent change, the actual cost per order has increased to \$1.95. To deal with rapidly changing costs, the Commission, at its October 2, 2001, meeting proposed, and at its January 15, 2002, meeting adopted, an amendment to § 143.10 to allow the Executive Director to change the fee based on postage rates. This amendment is adopted on the basis of section 2722(g) of the code (relating to authorized license-issuing agents).

#### 2. *Purpose and Authority*

As was indicated in the Introduction, although the Commission recently established a fee for postage and packaging of hunting and furtaking licenses ordered by mail, fax or on the Internet, the fee is already too low. To provide maximum flexibility, the Commission is adopting an amendment to § 143.10 to allow the fee to be set by the Executive Director, based on first class postage rates.

Section 2722(g) of the code directs the Commission to adopt regulations for "The administration, control and performance of activities conducted pursuant to the provisions of this chapter." This section provides the authority for the final-form amendment.

### 3. *Regulatory Requirements*

The final-form amendment will allow changes of fees for postage and packaging for licenses ordered by mail, fax or Internet by order of the Executive Director.

### 4. *Persons Affected*

Individuals applying for hunting or furtaking licenses by mail, fax or Internet may be affected by the final-form amendment.

### 5. *Comment and Response Summary*

No official comments were received with regard to the final-form amendment.

### 6. *Cost and Paperwork Requirements*

The final-form amendment may result in additional cost to license buyers for postage and packaging.

#### *Effective Date*

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

*Contact Person*

For further information regarding the final-form amendments, contact David E. Overcash, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

*Findings*

The Commission finds that:

(1) Public notice of intention to adopt the administrative amendments adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 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 Chapters 135, 141 and 143, are amended by amending §§ 135.50 and 135.53, 141.42 and 143.10, to read as set forth at 31 Pa.B. 6189 (November 10, 2001).

(b) The Executive Director of the Commission shall submit this order and 31 Pa.B. 6189, to the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final publication in the *Pennsylvania Bulletin*.

VERNON R. ROSS,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48-136 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 02-378. Filed for public inspection March 8, 2002, 9:00 a.m.]

**GAME COMMISSION**  
**[58 PA. CODE CH. 147]**  
**Wildlife Rehabilitation; Special Permits**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 15, 2002, meeting, adopted the following amendments:

Amend §§ 147.301—147.304, 147.306, 147.308 and 147.309. With the advice and cooperation of the Wildlife Rehabilitation Council, the Commission wanted to apply some needed changes in the regulations to make the Commission's rehabilitation program more functional and easier to administer. The final-form amendments will help to clarify the various aspects of this program.

Amend § 147.553 (relating to permit) to establish posting requirements for farms enrolled in the deer control program.

These final-form amendments were adopted under the authority of 34 Pa.C.S. (relating to the Game and Wildlife Code) (code).

*Amendments to §§ 147.301—147.309*

*1. Introduction*

The Commission has had regulations relating to wildlife rehabilitation permits in Subchapter P (relating to wildlife rehabilitation) since 1992. Although the regulations have generally worked well, the Commission decided to propose some modifications. Therefore, at its October 2, 2001, meeting, the Commission proposed, and at its January 15, 2002, meeting, adopted, amendments to §§ 147.301—147.309 relating to wildlife rehabilitation permits. These amendments are adopted under authority contained in section 2901(b) of the code (relating to authority to issue permits).

*2. Purpose and Authority*

As was pointed out in the Introduction, the Commission has had regulations relating to wildlife rehabilitation permits for approximately 9 years. The Commission has decided to modify some policies and procedures as follows:

Section 147.301 (relating to definitions) defines "assistant" and redefines "wildlife rehabilitation."

Section 147.302(a)(5) (relating to general) authorizes rehabilitator use of unlicensed volunteers.

Section 147.302(b) authorizes the holding of injured wildlife by a licensed veterinarian for up to 48 hours before notifying the Commission and requires transfer to a licensed rehabilitator.

Section 147.302(j) allows disposal of terminated wildlife in an appropriate manner.

Section 147.302(k) requires submission of a copy of permit records annually by July 30.

Section 147.302(o) makes renewal of permit contingent upon compliance with all relevant legal requirements.

Sections 147.303(b)(6) and 147.304(a)(1)(iv) (relating to permit applications; and wildlife rehabilitation permits) amend "passerines" to "nonraptor" avian species for purposes of identifying types of wildlife.

Sections 147.303(b)(7) and 147.304(d) eliminate the master class of permit.

Section 147.304(c)(1)(ii) eliminates the requirement of passing a written test and requires submission of photographs or a videotape of the permittee's facility.

Section 147.306(b)(4) (relating to endangered or threatened species certification) allows submission of a videotape of facilities for endangered or threatened species certification.

Section 147.306(c) requires attendance at a certification workshop or seminar for endangered or threatened species certification.

Section 147.308(a) (relating to training and education requirements) allows approval by the Wildlife Rehabilitation and Educational Council and the Commission of equivalent training for certification.

Section 147.309(d)(3) (relating to educational use of rehabilitation wildlife permits) prohibits free flying by any species not just avian species.

Section 2901(b) of the code authorizes the Commission "... as deemed necessary to properly manage the game or wildlife resources, ... promulgate regulations for the issuance of any permit and ... to control the activities which may be performed under authority of any permit issued." This section authorizes the final-form amendments.

### 3. *Regulatory Requirements*

See Purpose and Authority.

### 4. *Persons Affected*

Individuals wishing to engage in wildlife rehabilitation activities will be affected by the adopted changes.

### 5. *Comment and Response Summary*

No official comments were received with regard to the final-form amendments.

### 6. *Cost and Paperwork Requirements*

The final-form amendments should not result in any substantial additional cost or paperwork.

#### *Amendment to § 147.553*

##### 1. *Introduction*

The Commission, at its June 12, 2001, meeting, adopted the deletion of § 139.16 (relating to deer damage areas). Posting of deer damage areas under § 139.16 was a prerequisite to obtaining a deer control permit under Subchapter R (relating to deer control). As a result, the Commission, at its October 2, 2001, meeting, proposed, and at its January 15, 2002, meeting, adopted, an amendment to § 147.553 to add paragraph (3), requiring posting of the property.

Section 2901(b) of the code authorizes the Commission to promulgate regulations to control activities performed under authority of a permit.

##### 2. *Purpose and Authority*

As a result of the Commission's adopting of concurrent antlerless and antlered deer seasons, the need for a special season for deer damage areas was eliminated and § 139.16 was deleted. Participation in the deer damage farm program, including posting of the property involved, was a prerequisite to obtaining an agricultural deer control permit under Subchapter R. The Commission has decided to retain the posting requirement of the deer damage farm program and has therefore adopted adding the posting requirement to § 147.553.

Section 2901(b) of the code authorizes the Commission to promulgate regulations to control activities which may be performed under the authority of a permit. This section provides the authority for the adoption.

### 3. *Regulatory Requirements*

The final-form amendment will continue the requirement that signs be posted on boundaries and along public roads identifying a farm as experiencing deer damage as a prerequisite to obtain an agricultural deer control permit.

### 4. *Persons Affected*

Individuals owning or leasing farms experiencing deer damage and hunters desiring to hunt on the land would be affected by the final-form amendment.

### 5. *Comment and Response Summary*

No official comments were received with regard to the final-form amendment.

### 6. *Cost and Paperwork Requirements*

The final-form amendment will continue an existing requirement and therefore, should not result in any additional cost or paperwork.

#### *Effective Date*

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

#### *Contact Person*

For further information regarding the final-form amendments, contact David E. Overcash, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

#### *Findings*

The Commission finds that:

(1) Public notice of intention to adopt the administrative amendments adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 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 147, are amended by amending §§ 147.301—147.304, 147.306, 147.308, 147.309 and 147.553, to read as set forth at 31 Pa.B. 6191 (November 10, 2001).

(b) The Executive Director of the Commission shall submit this order and 31 Pa.B. 6191 and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final publication in the *Pennsylvania Bulletin*.

VERNON R. ROSS,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48-137 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 02-379. Filed for public inspection March 8, 2002, 9:00 a.m.]