

# RULES AND REGULATIONS

## Title 25—ENVIRONMENTAL PROTECTION

### ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 93]

#### Stream Redesignations (Class A Wild Trout Waters)

The Environmental Quality Board (Board) by this order amends Chapter 93 (relating to water quality standards) to read as set forth in Annex A.

This order was adopted by the Board at its meeting of July 16, 2002.

##### A. *Effective Date*

This final-form rulemaking is effective upon publication in the *Pennsylvania Bulletin*.

##### B. *Contact Persons*

For further information, contact Edward R. Brezina, Chief, Division of Water Quality Assessment and Standards, Bureau of Water Supply and Wastewater Management, 11th Floor, Rachel Carson State Office Building, P. O. Box 8467, 400 Market Street, Harrisburg, PA 17105-8467, (717) 787-9637 or Michelle Moses, Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposal is available electronically through the Department of Environmental Protection's (Department) website (<http://www.dep.state.pa.us>).

##### C. *Statutory and Regulatory Authority*

This final-form rulemaking is being made under the authority of sections 5(b)(1) and 402 of The Clean Streams Law (35 P. S. §§ 691.5(b)(1) and 691.402), which authorize the Board to develop and adopt rules and regulations to implement The Clean Streams Law and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), which grants to the Board the power and duty to formulate, adopt and promulgate rules and regulations for the proper performance of the work of the Department. In addition, section 303 of the Federal Clean Water Act (33 U.S.C.A. § 1313) sets forth requirements for water quality standards and 40 CFR 131.32 (relating to Pennsylvania) which sets forth certain requirements for portions of the Commonwealth's antidegradation program.

##### D. *Background of the Amendments*

Water quality standards are in-stream water quality goals that are implemented by imposing specific regulatory requirements (such as treatment requirements and effluent limits) on individual sources of pollution.

The Department considers candidates for High Quality (HQ) or Exceptional Value (EV) Waters designation in its ongoing review of water quality standards. In general, HQ and EV waters shall be maintained at their existing quality, and wastewater treatment requirements shall ensure the attainment of designated and existing uses.

The Department may identify candidates during routine waterbody investigations. Requests for consideration may also be initiated by other agencies, such as the Fish and Boat Commission (Commission). Organizations, businesses or individuals may submit a rulemaking petition to the Board. These streams were evaluated in response to a submittal from the Commission under § 93.4b (relating to qualifying as High Quality or Exceptional Value Waters). Section 93.4b(a)(2)(ii) is the Class A wild trout stream qualifier. It states that a surface water that has been designated a Class A wild trout stream by the Commission following public notice and comment qualifies for HQ designation. The Commission published notice and requested comments on the Class A designation of these streams at 29 Pa.B. 4624 (August 28, 1999) and 29 Pa.B. 4831 (September 11, 1999). The Commissioners approved these waters on September 27, 1999, and this action was announced at 29 Pa.B. 6202 (December 4, 1999).

Department staff conducted an independent review of the trout biomass data in the fisheries management reports for these streams. This review was conducted to ensure that the Class A criteria were met.

Copies of the Commission's fisheries management reports for these waterbodies are available from Edward R. Brezina whose address and telephone number are listed in Section B of this Preamble.

##### E. *Summary of Comments and Responses on the Proposed Rulemaking*

A total of 145 form letters were received by e-mail in support of the redesignations. The letters read, in part, "I am writing to show my support for your current proposal to add over 100 segments of waterways to the state's Special Protection Waters Program. Working to protect the state's waterways is an important part of protecting Pennsylvania's natural heritage and safeguarding our streams from potential pollution and degradation." The United States Environmental Protection Agency (EPA) Region 3 submitted a letter indicating that they had no comments on the proposed rulemaking and they commended the Department for its continuing efforts to upgrade streams.

##### F. *Summary of Changes to the Proposed Rulemaking*

No changes were made to the proposed rulemaking.

##### G. *Benefits, Costs and Compliance*

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

1. *Benefits.* Overall, the citizens of this Commonwealth will benefit from these recommended changes because they will reflect the appropriate designated use and maintain the most appropriate degree of protection for each stream in accordance with the existing use of the stream.

2. *Compliance Costs.* Generally, the changes should have no fiscal impact on, or create additional compliance costs for the Commonwealth or its political subdivisions. The streams are already protected at their existing use, and therefore the designated use changes will have no impact on treatment requirements. Costs will not be imposed directly upon local governments by this recom-

mendation. Political subdivisions that add a new sewage treatment plant or expand an existing plant in these basins may experience changes in cost as noted in this Preamble in the discussion of impacts on the private sector.

Persons conducting or proposing activities or projects that result in new or expanded discharges to streams must comply with the regulatory requirements relating to designated and existing uses. These persons could be adversely affected if they expand a discharge or add a new discharge point since they may need to provide a higher level of treatment to meet the designated and existing uses of the stream. These increased costs may take the form of higher engineering, construction or operating costs for wastewater treatment facilities. Treatment costs are site-specific and depend upon the size of the discharge in relation to the size of the stream and many other factors. It is therefore not possible to precisely predict the actual change in costs.

3. *Compliance Assistance Plan.* The regulatory revisions have been developed as part of an established program that has been implemented by the Department since the early 1980s. The revisions are consistent with and based on existing Department regulations. The revisions extend additional protection to selected waterbodies that exhibit high water quality and are consistent with antidegradation requirements established by the Federal Clean Water Act and The Clean Streams Law. Surface waters in this Commonwealth are afforded a minimum level of protection through compliance with the water quality standards, which prevent pollution and protect existing water uses.

The amendments will be implemented through the National Pollutant Discharge Elimination System (NPDES) permitting program since the stream use designation is a major basis for determining allowable stream discharge effluent limitations. These permit conditions are established to assure water quality criteria are achieved and designated and existing uses are protected. New and expanding dischargers with water quality based effluent limitations are required to provide effluent treatment according to the water quality criteria associated with existing uses and revised designated water uses.

4. *Paperwork Requirements.* The regulatory revisions should have no direct paperwork impact on the Commonwealth, local governments and political subdivisions or the private sector. These regulatory revisions are based on existing Department regulations and simply mirror the existing use protection that is already in place for these streams. There may be some indirect paperwork requirements for new or expanding dischargers to streams upgraded to HQ. For example, NPDES general permits are not currently available for new or expanded discharges to these streams. Thus an individual permit, and its associated paperwork, would be required. Additionally, paperwork associated with demonstrating social and economic justification, and the nonfeasibility of nondischarge alternatives, will be required for new or expanded discharges to certain HQ Waters.

#### H. *Pollution Prevention*

The antidegradation program is a major pollution prevention tool because its objective is to prevent degradation by maintaining and protecting existing water quality and existing uses. Although the antidegradation program does not prohibit new or expanded wastewater dis-

charges, nondischarge alternatives are encouraged, and required when environmentally sound and cost effective. Nondischarge alternatives, when implemented, remove impacts to surface water and reduce the overall level of pollution to the environment by remediation of the effluent through the soil.

#### I. *Sunset Review*

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

#### J. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 27, 2001, the Department submitted a copy of the proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House Environmental Resources and Energy Committees for review and comment.

Under section 5(c) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of the comments received, as well as other documentation. In preparing this final-form rulemaking, the Department has considered all comments received from the public. IRRC and the Committees did not provide comments on the proposed rulemaking.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5(d)), the final-form rulemaking was deemed approved by the House and Senate Committees on August 13, 2002. IRRC met on August 22, 2002, and approved the final-form rulemaking in accordance with section 5.1(e) of the Regulatory Review Act.

#### K. *Findings*

The Board finds that:

(1) Public notice of proposed rulemaking was 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 regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law, and all comments were considered.

(3) This final-form rulemaking does not enlarge the purpose of the proposal published at 31 Pa.B 6678 (December 8, 2001).

(4) This final-form rulemaking is necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this Preamble.

(5) This final-form rulemaking does not contain standards or requirements that exceed requirements of the companion Federal regulations.

#### L. *Order*

The Board, acting under the authorizing statutes, orders that:

(a) The regulations of the Department, 25 Pa. Code Chapter 93, are amended by amending §§ 93.9d, 93.9f, 93.9h, 93.9j, 93.9k, 93.9l, 93.9n, 93.9o, 93.9p, 93.9q, 93.9r, 93.9t, 93.9v and 93.9z to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(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 and review as to legality and form, as required by law.

(c) The Chairperson of the Board shall submit this order and Annex A to IRRC and the Senate and House Environmental Resources and Energy Committees, as required by the Regulatory Review Act.

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

(e) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

DAVID E. HESS,  
*Chairperson*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 32 Pa.B. 4405 (September 7, 2002).)*

**Fiscal Note:** Fiscal Note 7-366 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 25. ENVIRONMENTAL PROTECTION**

**PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**Subpart C. PROTECTION OF NATURAL RESOURCES**

**ARTICLE II. WATER RESOURCES**

**CHAPTER 93. WATER QUALITY STANDARDS**

**§ 93.9d. Drainage List D.**

**Delaware River Basin in Pennsylvania**

***Lehigh River***

<b>Stream</b>	<b>Zone</b>	<b>County</b>	<b>Water Uses Protected</b>	<b>Exceptions To Specific Criteria</b>
* * * * *				
3—Pohopoco Creek	Basin, Source to SR 3016 Bridge at Merwinsburg	Monroe	CWF	None
3—Pohopoco Creek	Main Stem, SR 3016 Bridge to SR 0209 Bridge at Kresgeville	Monroe	HQ-CWF	None
4—Unnamed Tributaries to Pohopoco Creek	Basins, SR 3016 Bridge to SR 0209 Bridge at Kresgeville	Monroe	CWF	None
4—Sugar Hollow Creek	Basin	Monroe	CWF	None
4—Weir Creek	Basin	Monroe	CWF	None
4—Middle Creek	Basin, Source to T-444 Bridge	Monroe	CWF	None
4—Middle Creek	Basin, T-444 Bridge to Mouth	Monroe	HQ-CWF	None
3—Pohopoco Creek	Basin, Middle Creek to Wild Creek	Carbon	CWF	None
* * * * *				
3—Saucon Creek	Basin, Source to Black River	Northampton	CWF	None
4—Black River	Basin	Northampton	CWF	None
3—Saucon Creek	Main Stem, Black River to SR 412 Bridge	Northampton	HQ-CWF	None
4—Unnamed Tributaries to Saucon Creek	Basins, Black Creek to SR 412 Bridge	Northampton	CWF	None
3—Saucon Creek	Basin, SR 412 Bridge to Mouth	Northampton	CWF	None
3—Nancy Run	Basin, Source to SR 3007 Bridge	Northampton	CWF, MF	None
3—Nancy Run	Basin, SR 3007 Bridge to Mouth	Northampton	HQ-CWF, MF	None
* * * * *				

**§ 93.9f. Drainage List F.**

**Delaware River Basin in Pennsylvania**

***Schuylkill River***

<b>Stream</b>	<b>Zone</b>	<b>County</b>	<b>Water Uses Protected</b>	<b>Exceptions To Specific Criteria</b>
* * * * *				
2—Schuylkill River	Main Stem, Source to Little Schuylkill River	Schuylkill	CWF	None

<b>Stream</b>	<b>Zone</b>	<b>County</b>	<b>Water Uses Protected</b>	<b>Exceptions To Specific Criteria</b>
* * * * *				
3—Bear Creek	Basin, Source to UNT 02300 at River Mile 7.6	Schuylkill	HQ-CWF	None
4—Unnamed Tributary 02300 to Bear Creek	Basin	Schuylkill	CWF	None
3—Bear Creek	Basin, UNT 02300 to Mouth	Schuylkill	CWF	None
* * * * *				
3—Little Schuylkill River	Basin, Still Creek to Owl Creek	Schuylkill	CWF	None
4—Owl Creek	Basin	Schuylkill	HQ-CWF	None
3—Little Schuylkill River	Basin, Owl Creek to Cold Run	Schuylkill	CWF	None
4—Cold Run	Basin, Source to Beaver Creek	Schuylkill	HQ-CWF	None
5—Beaver Creek	Basin, Source to Church Lane at River Mile 1.5	Schuylkill	HQ-CWF	None
5—Beaver Creek	Basin, River Mile 1.5 to Mouth	Schuylkill	CWF	None
4—Cold Run	Basin, Beaver Creek to Mouth	Schuylkill	CWF	None
3—Little Schuylkill River	Basin, Cold Run to UNT 02206 at River Mile 4.3	Schuylkill	CWF	None
4—Unnamed Tributary 02206 to Little Schuylkill River	Basin	Schuylkill	HQ-CWF	None
3—Little Schuylkill River	Basin, UNT 02206 to Rattling Run	Schuylkill	CWF	None
* * * * *				
3—Maiden Creek	Main Stem, Pine Creek to Moselem Creek	Berks	TSF	None
* * * * *				
4—Furnace Creek	Basin, Source to River Mile 3.0	Berks	HQ-CWF	None
4—Furnace Creek	Basin, River Mile 3.0 to Mouth	Berks	TSF	None
* * * * *				
3—Wyomissing Creek	Basin, Source to Inlet of Pond at Reading Public Museum	Berks	HQ-CWF	None
3—Wyomissing Creek	Basin, Inlet of Pond at Reading Public Museum to Mouth	Berks	CWF	None
* * * * *				
3—Perkiomen Creek	Basin, Source to SR 1010 Bridge at Hereford	Berks	HQ-CWF	None
3—Perkiomen Creek	Basin, SR 1010 Bridge to Green Lane Reservoir Dam	Montgomery	TSF	None
* * * * *				

§ 93.9h. Drainage List H.

Susquehanna River Basin in Pennsylvania

*Tioga River*

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
		*****		
3—Cowanesque River	Main Stem, North Fork to PA-NY State Border	Tioga	WWF	None
		*****		
4—Jemison Creek	Basin, Source to T-559 Bridge at Azelta	Tioga	HQ-CWF	None
4—Jemison Creek	Basin, T-559 Bridge to Mouth	Tioga	WWF	None
		*****		

§ 93.9j. Drainage List J.

Susquehanna River Basin in Pennsylvania

*Lackawanna River*

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
		*****		
2—Lackawanna River	Main Stem, Confluence East and West Branches to SR 0347 Bridge at Dickson City	Lackawanna	HQ-CWF	None
3—Unnamed Tributaries to Lackawanna River	Basins, Confluence of East and West Branches to SR 0347 Bridge at Dickson City	Susquehanna-Wayne-Lackawanna	CWF	None
		*****		
3—Hull Creek	Basin	Lackawanna	CWF	None
2—Lackawanna River	Main Stem, SR 0347 Bridge to Mouth	Luzerne	CWF	None
3—Unnamed Tributaries to Lackawanna River	Basins, SR 0347 Bridge to Mouth	Luzerne	CWF	None
3—Eddy Creek	Basin	Lackawanna	WWF	None
		*****		

§ 93.9k. Drainage List K.

Susquehanna River Basin in Pennsylvania

*Susquehanna River*

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
		*****		
2—Solomon Creek	Basin, Source to Pine Creek	Luzerne	HQ-CWF	None
3—Pine Creek	Basin	Luzerne	CWF	None
2—Solomon Creek	Basin, Pine Creek to Mouth	Luzerne	CWF	None
		*****		
2—Tenmile Run	Basin, Source to UNT 28081 at River Mile 2.49	Columbia	HQ-CWF	None
3—Unnamed Tributary 28081 to Tenmile Run	Basin	Columbia	CWF	None
2—Tenmile Run	Basin, UNT 28081 to Mouth	Columbia	CWF	None
		*****		
2—Catawissa Creek	Main Stem, Source to Rattling Run	Schuylkill	CWF	None
		*****		
3—Rattling Run	Basin	Schuylkill	HQ-CWF	None

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
* * * * *				
3—Little Catawissa Creek	Basin, Source to T-431	Schuylkill	HQ-CWF	None
3—Little Catawissa Creek	Basin, T-431 to Trexler Run	Schuylkill	CWF	None
4—Trexler Run	Basin	Schuylkill	HQ-CWF	None
3—Little Catawissa Creek	Basin, Trexler Run to Mouth	Schuylkill	CWF	None
3—Tomhicken Creek	Basin, Source to Little Crooked Run	Schuylkill	CWF	None
4—Little Crooked Run	Basin	Schuylkill	HQ-CWF	None
3—Tomhicken Creek	Basin, Little Crooked Run to Raccoon Creek	Schuylkill	CWF	None
4—Raccoon Creek	Basin	Schuylkill	HQ-CWF	None
3—Tomhicken Creek	Basin, Raccoon Creek to Mouth	Schuylkill	CWF	None
3—Crooked Run	Basin	Schuylkill	HQ-CWF	None
3—Cranberry Run	Basin	Columbia	CWF	None
3—Klingermans Run	Basin	Columbia	HQ-CWF	None
3—Beaver Run	Basin	Columbia	CWF	None
3—Mine Gap Run	Basin	Columbia	CWF	None
3—Fisher Run	Basin	Columbia	HQ-CWF	None
3—Scotch Run	Basin	Columbia	CWF	None
3—Furnace Run	Basin	Columbia	HQ-CWF	None
* * * * *				

## § 93.91. Drainage List L.

## Susquehanna River Basin in Pennsylvania

*West Branch Susquehanna River*

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
* * * * *				
3—Clearfield Creek	Main Stem	Clearfield	WWF	None
* * * * *				
4—Sandy Run	Basin	Cambria	HQ-CWF	None
4—Powell Run	Basin	Cambria	CWF	None
4—Fallentimber Run	Basin	Cambria	CWF	None
4—Beaverdam Run	Basin	Cambria	CWF	None
* * * * *				
3—Moshannon Creek	Basin, Source to Roup Run	Clearfield-Centre	HQ-CWF	None
4—Unnamed Tributaries to Moshannon Creek	Basins, Roup Run to Mouth	Clearfield-Centre	CWF	None
* * * * *				
4—Laurel Run	Basin, Source to Simeling Run	Clearfield	CWF	None
5—Simeling Run	Basin	Clearfield	HQ-CWF	None
4—Laurel Run	Basin, Simeling Run to Mouth	Clearfield	CWF	None
* * * * *				
3—Sinnemahoning Creek				
* * * * *				

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<b>Stream</b>	<b>Zone</b>	<b>County</b>	<b>Water Uses Protected</b>	<b>Exceptions To Specific Criteria</b>
4—Bennett Branch Sinnemahoning Creek	Main Stem, Mill Run to Confluence with Driftwood Branch	Cameron	WWF	None
* * * * *				
5—Trout Run	Basin, Source to Spring Run	Elk	CWF	None
6—Spring Run	Basin	Elk	HQ-CWF	None
5—Trout Run	Basin, Spring Run to Mouth	Elk	CWF	None
* * * * *				
5—Dents Run	Basin	Elk	HQ-CWF	None
* * * * *				
5—Miller Run	Basin	Cameron	HQ-CWF	None
* * * * *				
4—Driftwood Branch Sinnemahoning Creek	Basin, Source to Elk Fork	Cameron	HQ-CWF	None
5—Elk Fork	Basin, Source to Nichols Run	Cameron	EV	None
6—Nichols Run	Basin	Cameron	HQ-CWF	None
5—Elk Fork	Basin, Nichols Run to Mouth	Cameron	HQ-CWF	None
4—Driftwood Branch Sinnemahoning Creek	Main Stem, Elk Fork to Confluence with Bennett Branch	Cameron	TSF	None
5—Unnamed Tributaries to Driftwood Branch Sinnemahoning Creek	Basins, Elk Fork to Confluence with Bennett Branch	Cameron	HQ-CWF	None
* * * * *				
3—Kettle Creek	Basin, Alvin Bush Dam to Twomile Run	Clinton	TSF	None
4—Twomile Run	Basin, Source to Middle Branch Twomile Run	Clinton	HQ-CWF	None
5—Middle Branch Twomile Run	Basin	Clinton	TSF	None
4—Twomile Run	Basin, Middle Branch to Mouth	Clinton	TSF	None
3—Kettle Creek	Basin, Twomile Run to Mouth	Clinton	TSF	None
* * * * *				
3—Bald Eagle Creek	Main Stem, Laurel Run to Nittany Creek	Centre	TSF	None
* * * * *				
4—Wallace Run	Basin, Unnamed Tributary at Gum Stump to Mouth	Centre	HQ-CWF	None
* * * * *				
4—Spring Creek	Main Stem, Source to PA 550 Bridge	Centre	HQ-CWF	None
* * * * *				
5—Slab Cabin Run	Basin, PA 26 at RM 9.0 to UNT 23037	Centre	CWF	None
6—Unnamed Tributary 23037 (locally Thompson Run)	Basin	Centre	HQ-CWF	None
5—Slab Cabin Run	Basin, UNT 23037 to Mouth	Centre	CWF	None
4—Spring Creek	Main Stem, PA 550 Bridge to Mouth	Centre	HQ-CWF	None
* * * * *				

<b>Stream</b>	<b>Zone</b>	<b>County</b>	<b>Water Uses Protected</b>	<b>Exceptions To Specific Criteria</b>
5—Logan Branch	Basin, Source to T-371 Bridge	Centre	CWF	None
5—Logan Branch	Main Stem, T-371 Bridge to Mouth	Centre	HQ-CWF	None
6—Unnamed Tributaries to Logan Branch	Basins, T-371 Bridge to Mouth	Centre	CWF	None
		* * * * *		
4—Nittany Creek	Basin, Source to I-80	Centre	CWF	None
4—Nittany Creek	Basin, I-80 to Mouth	Centre	HQ-CWF	None
		* * * * *		
3—Henry Run	Basin	Clinton	HQ-CWF	None
		* * * * *		
3—Pine Creek	Main Stem, South Branch Pine Creek to Marsh Creek	Tioga	EV	None
		* * * * *		
4—Marsh Creek	Main Stem, Source to Straight Run	Tioga	WWF	None
		* * * * *		
5—Baldwin Run	Basin	Tioga	HQ-CWF	None
		* * * * *		
5—Canada Run	Basin	Tioga	HQ-CWF	None
		* * * * *		
4—Little Pine Creek				
		* * * * *		
5—Blockhouse Creek	Basin, Source to Flicks Run	Lycoming	CWF	None
6—Flicks Run	Basin	Lycoming	HQ-CWF	None
5—Blockhouse Creek	Basin, Flicks Run to Confluence with Texas Creek	Lycoming	CWF	None
		* * * * *		
3—Aughanbaugh Run	Basin	Lycoming	HQ-CWF	None
3—Antes Creek				
4—Unnamed Tributary 21134	Basin, Source to Rauchtown Creek	Lycoming	CWF	None
5—Rauchtown Creek	Basin, Source to Confluence of Rockey Run and Gottshall Run	Clinton	HQ-CWF	None
5—Rauchtown Creek	Basin, Confluence of Rockey Run and Gottshall Run to Mouth	Lycoming	CWF	None
4—UNT 21134	Basin, Rauchtown Creek to Confluence with UNT 21135	Lycoming	CWF	None
4—UNT 21135	Basin, Source to McMurrin Run	Lycoming	CWF	None
5—McMurrin Run	Basin	Lycoming	HQ-CWF	None
4—UNT 21135	Basin, McMurrin Run to Confluence with UNT 21134	Lycoming	CWF	None
3—Antes Creek	Basin, Confluence of UNT 21134 and 21135 to Morgan Valley Run	Lycoming	CWF	None
4—Morgan Valley Run	Basin	Lycoming	HQ-CWF	None
3—Antes Creek	Basin, Morgan Valley Run to Mouth	Lycoming	CWF	None
		* * * * *		



Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
3—Big Run	Basin	Lycoming	HQ-CWF	None
* * * * *				

§ 93.9n. Drainage List N.

Susquehanna River Basin in Pennsylvania

*Juniata River*

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
* * * * *				
3—Frankstown Branch Juniata River	Main Stem, Piney Creek to US 22 Bridge	Huntingdon	TSF	None
* * * * *				
4—Fox Run	Basin	Blair-Huntingdon	HQ-CWF	None
* * * * *				
3—Kishacoquillas Creek	Basin, Source to Frog Hollow	Mifflin	CWF	None
4—Frog Hollow	Basin	Mifflin	HQ-CWF	None
3—Kishacoquillas Creek	Basin, Frog Hollow to Tea Creek	Mifflin	CWF	None
4—Tea Creek	Basin	Mifflin	HQ-CWF	None
3—Kishacoquillas Creek	Main Stem, Tea Creek to Railroad Bridge between Yeagertown and Burnham	Mifflin	TSF	None
4—Unnamed Tributaries to Kishacoquillas Creek	Basins, Tea Creek to Yeagertown/Burnham Railroad Bridge	Mifflin	TSF	None
4—Honey Creek	Basin	Mifflin	HQ-CWF, MF	None
3—Kishacoquillas Creek	Main Stem, Yeagertown/Burnham Railroad Bridge to SR 2005 (Mill Road) Bridge at Mount Rock	Mifflin	HQ-CWF	None
4—Unnamed Tributaries to Kishacoquillas Creek	Basins, Yeagertown/Burnham Railroad Bridge to Mill Road Bridge	Mifflin	TSF	None
4—Hungry Run	Basin	Mifflin	TSF	None
4—Buck Run	Basin	Mifflin	TSF	None
3—Kishacoquillas Creek	Main Stem, Mill Road Bridge to Mouth	Mifflin	TSF	None
4—Unnamed Tributaries to Kishacoquillas Creek	Basins, Mill Road Bridge to Mouth	Mifflin	TSF	None
* * * * *				
3—Lost Creek	Basin, Source to SR 35 Bridge at Oakland Mills	Juniata	HQ-CWF	None
3—Lost Creek	Basin, SR 35 Bridge to Little Lost Creek	Juniata	CWF	None
3—Lost Creek	Basin, Little Lost Creek to Big Run	Juniata	TSF	None
4—Big Run	Basin	Juniata	CWF	None

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
3—Lost Creek	Basin, Big Run to Mouth	Juniata	TSF	None

\* \* \* \* \*

## § 93.9o. Drainage List O.

## Susquehanna River Basin in Pennsylvania

*Susquehanna River*

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
		* * * * *		
2—Conodoquinet Creek	Main Stem, PA 997 at Roxbury to Mouth	Franklin	WWF	None
		* * * * *		
3—Letort Spring Run	Basin, Railroad Bridge at Letort Park to T-710 (Post Road) Bridge	Cumberland	HQ-CWF	None
3—Letort Spring Run	Basin, T-710 Bridge to Mouth	Cumberland	CWF	None
		* * * * *		
3—Trindle Spring Run	Basin, Source to Spring near the Silver Spring Meeting House	Cumberland	CWF	None
3—Trindle Spring Run	Basin, Spring near the Silver Spring Meeting House to Mouth	Cumberland	HQ-CWF	None
		* * * * *		
2—Codorus Creek	Main Stem, West Branch to Oil Creek	York	HQ-CWF	None
		* * * * *		
2—Conowingo Creek	Basin, Source to SR 3005 Bridge	Lancaster	HQ-CWF	None
2—Conowingo Creek	Main Stem, SR 3005 to Mouth	Lancaster	CWF	None
3—Unnamed Tributaries to Conowingo Creek	Basins, (all sections in PA) SR 3005 to PA-MD State Border	Lancaster	HQ-CWF	None
		* * * * *		

## § 93.9p. Drainage List P.

## Ohio River Basin in Pennsylvania

*Allegheny River*

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
		* * * * *		
3—Dwight Creek	Basin	Potter	HQ-CWF	None
		* * * * *		
3—Allegheny Portage Creek	Main Stem, Source to Brown Hollow	Potter	TSF	None
4—Unnamed Tributaries To Allegheny Portage Creek	Basins	Potter-McKean	CWF	None
4—Planing Mill Hollow	Basin	Potter	CWF	None
4—Brown Hollow	Basin	Potter	HQ-CWF	None
3—Allegheny Portage Creek	Main Stem, Brown Hollow to Scaffold Lick Run	McKean	HQ-CWF	None
4—Indian Run	Basin	McKean	CWF	None

<b>Stream</b>	<b>Zone</b>	<b>County</b>	<b>Water Uses Protected</b>	<b>Exceptions To Specific Criteria</b>
4—Heath Hollow	Basin	McKean	CWF	None
4—Fair Run	Basin	McKean	HQ-CWF	None
4—Rock Run	Basin	McKean	CWF	None
4—Scaffold Lick Run	Basin	McKean	CWF	None
3—Allegheny Portage Creek	Main Stem, Scaffold Lick Run to Mouth	McKean	TSF	None
4—Cady Hollow	Basin	McKean	CWF	None
4—Hamilton Run	Basin	McKean	CWF	None
4—Tramroad Hollow	Basin	McKean	CWF	None
4—Combs Creek	Basin	McKean	CWF	None
* * * * *				
3—Tunungwant Creek				
* * * * *				
4—East Branch Tunungwant Creek	Basin, Railroad Run to T-331 Bridge	McKean	HQ-CWF	None
4—East Branch Tunungwant Creek	Main Stem, T-331 Bridge to SR 4002 Bridge	McKean	HQ-CWF	None
5—Unnamed Tributaries to East Branch Tunungwant Creek	Basins, T-331 Bridge to SR 4002	McKean	CWF	None
5—Sheppard Run	Basin	McKean	CWF	None
5—Minard Run	Basin	McKean	EV	None
4—East Branch Tunungwant Creek	Basin, SR 4002 to Confluence with West Branch	McKean	CWF	None
* * * * *				

§ 93.9q. Drainage List Q.

**Ohio River Basin in Pennsylvania**

*Allegheny River*

<b>Stream</b>	<b>Zone</b>	<b>County</b>	<b>Water Uses Protected</b>	<b>Exceptions To Specific Criteria</b>
* * * * *				
3—French Creek	Main Stem, PA-NY State Border to Mouth	Venango	WWF	None
* * * * *				
4—Le Boeuf Creek	Basin, Source to Trout Run	Erie	TSF	None
5—Trout Run	Basin	Erie	HQ-CWF	None
* * * * *				
4—Sugar Creek	Basin, Source to East Branch Sugar Creek (RM 17.0)	Crawford	CWF	None
5—East Branch Sugar Creek	Basin, Source to SR 0428 Bridge	Crawford	CWF	None
5—East Branch Sugar Creek	Basin, SR 0428 Bridge to Mouth	Crawford	HQ-CWF	None
4—Sugar Creek	Basin, East Branch Sugar Creek to Mouth	Venango	CWF	None
* * * * *				

## § 93.9r. Drainage List R.

Ohio River Basin in Pennsylvania  
*Clarion River*

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
		* * * * *		
4—Little Toby Creek	Main Stem	Elk	CWF	None
		* * * * *		
5—Vineyard Run	Basin	Elk	HQ-CWF	None
		* * * * *		

## § 93.9t. Drainage List T.

Ohio River Basin in Pennsylvania  
*Kiskiminetas River*

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
		* * * * *		
6—Quemahoning Creek	Main Stem	Somerset	CWF	None
		* * * * *		
7—Higgins Run	Basin Source to River Mile (RM) 1.37	Somerset	CWF	None
7—Higgins Run	Main Stem, RM 1.37 to Mouth	Somerset	HQ-CWF	None
8—Unnamed Tributaries to Higgins Run	Basins, RM 1.37 to Mouth	Somerset	CWF	None
		* * * * *		
6—Shade Creek	Main Stem	Somerset	CWF	None
		* * * * *		
7—Dark Shade Creek	Basin, Source to Laurel Run	Somerset	CWF	None
8—Laurel Run	Basin, Source to Beaverdam Run	Somerset	CWF	None
9—Beaverdam Run	Basin, Source to River RM 1.93	Somerset	HQ-CWF	None
9—Beaverdam Run	Basin, RM 1.93 to Mouth	Somerset	CWF	None
8—Laurel Run	Basin, Beaverdam Run to Mouth	Somerset	CWF	None
7 -Dark Shade Creek	Basin, Laurel Run to Mouth	Somerset	CWF	None
		* * * * *		

## § 93.9v. Drainage List V.

Ohio River Basin in Pennsylvania  
*Monongahela River*

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
		* * * * *		
4—Indian Creek	Basin, Camp Run to Champion Creek	Fayette	HQ-CWF	None
		* * * * *		
5—Laurel Run	Basin, Source to Buck Run	Fayette	CWF	None
6—Buck Run	Source to River Mile (RM) 1.38	Fayette	HQ-CWF	None
6—Buck Run	Basin, RM 1.38 to Mouth	Fayette	CWF	None
5—Laurel Run	Basin, Buck Run to Mouth	Fayette	CWF	None
		* * * * *		

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
5—Rasler Run	Basin	Fayette	HQ-CWF	None
*****				

§ 93.9z. Drainage List Z.

**Potomac River Basin in Pennsylvania**  
*Potomac River*

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
*****				
3—West Branch Antietam Creek	Basin, Source to SR 997 Bridge	Franklin	HQ-CWF	None
3—West Branch Antietam Creek	Basin, SR 997 Bridge to Confluence with East Branch	Franklin	CWF	None
*****				

[Pa.B. Doc. No. 02-1670. Filed for public inspection September 27, 2002, 9:00 a.m.]

## Title 58—RECREATION

### FISH AND BOAT COMMISSION

#### [58 PA. CODE CH. 69]

#### Fishing

The Fish and Boat Commission (Commission) by this order amends Chapter 69 (relating to fishing in Lake Erie and boundary lakes). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code).

*A. Effective Date*

The final-form rulemaking will go into effect on December 1, 2002, instead of January 1, 2003, as stated in the notice of proposed rulemaking.

*B. Contact Person*

For further information on the final-form rulemaking, contact Laurie E. Shepler, Assistant Counsel, P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7815. This final-form rulemaking is available electronically through the Commission's website (<http://www.fish.state.pa.us>).

*C. Statutory Authority*

The amendment to § 69.12 (relating to seasons, sizes and creel limits—Lake Erie) is published under the statutory authority of section 2102 of the code (relating to rules and regulations).

*D. Purpose and Background*

The final-form rulemaking is designed to update, modify and improve the Commission's regulations pertaining to fishing. The specific purpose of the final-form rulemaking is described in more detail under the summary of changes.

*E. Summary of Changes*

Current angling regulations, established in 1996 to conserve yellow perch in the waters of Lake Erie and Presque Isle Bay, include a daily possession limit of 20 fish, an 8-inch minimum size limit and no closed season

for sport fishing. On the open lake, these regulations were expected to constrain the harvest at or below the annual quota or total allowable catch (TAC) and reduce the harvest of small immature perch.

The same angling regulations were imposed upon the yellow perch fishery in Presque Isle Bay that has been subjected to very high fishing mortality especially during the ice fishery. The ice fishery had been responsible for the excessive over-fishing harvest prior to the implementation of the 8-inch minimum size limit and 20 perch per day possession limit.

The Commission's Lake Erie Research Unit is committed to continuing an intensive assessment of yellow perch to evaluate the yellow perch population, angler use and yellow perch harvest and to make appropriate adjustments to the yellow perch regulations. On the open lake, strong yellow perch year classes and conservative regulations have resulted in increased population abundance at the highest levels since 1990, and yellow perch catch rates continue to increase. However, a sizeable proportion of the open lake angler catch was released under the 8-inch minimum size limit and mortality of these release fish was high because of hydraulic decompression. The Lake Erie Boat Angler Survey in the summer of 2001 demonstrated that the 20 yellow perch creel limit was constraining the yellow perch harvest within the Lake Erie Committee TAC. The Presque Isle Bay yellow perch population has also rebounded subsequent to the implementation of the regulations. However, because of the high minimum size limit relative to the relatively slow perch growth, the Presque Isle Bay creel rate has been low. The harvest of Bay caught yellow perch was only 7—19% of those caught during the years 1997-2001.

These intensive yellow perch assessments have shown that reducing the minimum size limit to 7 inches will continue to adequately protect yellow perch spawning stock under the condition of higher yellow perch population sizes. This should reduce complaints about catch and release mortality on the open lake and complaints about the low harvest rates on Presque Isle Bay. Commission staff expect harvest to increase by at least 30% by

Presque Isle Bay anglers; however, on the open lake harvest, increases due to reducing the minimum size limit should be a little more than 15%.

Accordingly, the Commission proposed to amend § 69.12 to reduce the minimum size limit of yellow perch on Lake Erie and Presque Isle Bay from 8 inches to 7 inches and to keep the daily creel limit of 20 and the no closed season in effect. The Commission, on final-form rulemaking, adopted an amendment that reduces the minimum size limit of yellow perch on Lake Erie and Presque Isle Bay from 8 inches to 7 inches during the period, December 1 through March 31, and that maintains the current 8 inch minimum size limit during the period, April 1 through November 30. According to input received from the Commission's fisheries management staff, this change is as protective of yellow perch as the proposed amendment and will provide additional recreational opportunities for anglers.

#### F. Paperwork

The final-form rulemaking will not increase paperwork and will create no new paperwork requirements.

#### G. Fiscal Impact

The final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The final-form rulemaking will impose no new costs on the private sector or the general public.

#### H. Public Involvement

A notice of proposed rulemaking was published at 32 Pa.B. 1728 (April 6, 2002). Prior to the public comment period, the Commission received four comments opposing the proposed rulemaking. No comments were received during the public comment period. Copies of all public comments were provided to the Commissioners.

#### Findings

The Commission finds that:

(1) Public notice of intention to adopt the amendment 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 promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided, and the comments that were received were considered.

(3) The adoption of the rulemaking of the Commission in the manner provided in this order is necessary and appropriate for administration and enforcement of the authorizing statutes.

#### Order

The Commission, acting under the authorizing statutes, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 69, are amended by amending § 69.12 to read as set forth in Annex A.

(b) The Executive Director will submit this order and Annex A to the Office of Attorney General for approval as to legality as required by law.

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

(d) This order shall take effect on December 1, 2002.

PETER A. COLANGELO,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48A-126 remains valid for the final adoption of the subject regulation.

### Annex A

## TITLE 58. RECREATION

### PART II. FISH AND BOAT COMMISSION

#### Subpart B. FISHING

### CHAPTER 69. FISHING IN LAKE ERIE AND BOUNDARY LAKES

#### Subchapter B. SPORT FISHING AND ANGLING

#### § 69.12. Season, sizes and creel limits—Lake Erie.

(a) It is unlawful to take, catch, kill or possess fish, except during the seasons specified in this section. It is not a violation of this section if a fish caught out of season from water where fishing for other species is lawful is immediately returned unharmed to the waters from which it was taken.

(b) It is unlawful to take, catch, kill or possess fish of less than the minimum size specified in this section. It is not a violation of this section if an undersized fish taken from waters where fishing is otherwise lawful is immediately returned unharmed to the waters from which it was taken.

(c) It is unlawful to take, catch or kill more than 1 day's limit of any species of fish as specified in the following chart during 1-calendar day. It is unlawful to possess more than 1 day's limit of any species of fish as specified in the following chart except under the following circumstances:

(1) A person may possess any number of lawfully caught fish at the person's residence.

(2) A person who is engaged in a fishing trip away from home for 2 or more consecutive calendar days may, while transporting fish from the place where caught to his residence, possess a number of fish equal to no more than two times the daily creel limit for that species of fish. In prosecution for violation of this section, it shall be a rebuttable presumption that a person transporting fish from a fishing site caught all the fish during 1-calendar day.

(3) A fish will not be considered to be caught in violation of this section if it is immediately returned unharmed to the waters from which it was taken.

(4) A fish caught that is not to be counted in the creel limit shall be immediately released unharmed into the water from which taken. Except as otherwise provided in § 53.24 or § 63.40 (relating to tournament and fishing derby permits; and fishing tournament and fishing derbies), a fish placed on a stringer, or confined by any type of container, structure or device, or not returned immediately to the water, will be considered as part of the daily creel or possession limits. Fish returned to the water shall be handled carefully and be returned unharmed to the water from which taken.

(5) Fish may be given to another person, but the fish will be counted in the donor's creel limit and neither the donor nor the recipient may kill or possess (while in the act of fishing) more than the limit allowed.

(d) The following seasons, sizes and creel limits apply to Lake Erie and Presque Isle Bay, including peninsular waters:

<i>SPECIES</i>	<i>SEASONS</i>	<i>MINIMUM SIZE</i>	<i>DAILY LIMIT</i>
MUSKELLUNGE and MUSKELLUNGE HYBRIDS PIKE Northern	Inland seasons apply: See § 61.1.	40 inches  24 inches	1  2
WALLEYE*	January 1 to midnight March 15 and 12:01 a.m. the first Saturday in May to December 31	15 inches	6
BASS Largemouth Smallmouth	January 1 to opening day of trout season in April and first Saturday after June 11 until December 31  Opening day of trout season in April until first Saturday after June 11.*	15 inches  20 inches	4 (combined species)  1
TROUT and SALMON	First Saturday after April 11 until midnight Labor Day.  12:01 a.m. the day after Labor Day until midnight on the Friday before the first Saturday after April 11	9 inches  15 inches	8 (combined species only 2 of which may be lake trout). Of the entire catch (combined species) only 5 fish total may exceed 15 inches in length.  3 (combined species only 2 of which may be lake trout)
STURGEON	No open season	ENDAGERED SPECIES	
SUNFISH, CRAPPIES, CATFISH, ROCK BASS, SUCKERS, EELS, CARP, WHITE BASS	Open year round	None	50 (combined species)
YELLOW PERCH	From December 1 through March 31  From April 1 through November 30	7 inches  8 inches	20  20
BAIT FISH FISH BAIT	Open year-round	None	50 (combined species)
BURBOT (when taken by scuba divers by use of nonmechanical spears or gigs at a depth of at least 60 feet)	June 1 to September 30	None	5
ALL OTHER SPECIES	Inland regulations apply: See § 61.1		

\*It is unlawful to conduct or participate in a fishing tournament (as defined in § 63.40 (relating to seasons for fishing tournaments)) for bass on Lake Erie or Presque Isle Bay during the period from opening day of trout season in April until the first Saturday after June 11.

[Pa.B. Doc. No. 02-1671. Filed for public inspection September 27, 2002, 9:00 a.m.]

**GAME COMMISSION**  
**[58 PA. CODE CH. 135]**

**State Game Land Roads; Disabled Persons**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its July 28, 2002, meeting, adopted the following change:

Amend § 135.48 (relating to State game lands roads open to vehicular traffic for disabled persons) to no longer require the person who accompanies a disabled hunter to have a valid hunting license.

This final-form rulemaking was adopted under the authority of 34 Pa.C.S. (relating to the Game and Wildlife Code) (code).

Notice of proposed rulemaking was published at 32 Pa.B. 2894 (June 15, 2002).

*1. Introduction*

The Commission is amending § 135.48 to no longer require the person who simply accompanies a disabled hunter to have a valid hunting license.

*2. Purpose and Authority*

Many times the only person available to accompany disabled persons in their vehicles on game land roads

open for travel to disabled persons do not hunt and do not possess a hunting license as currently required. This limits the hunting opportunities available to disabled hunters. As a result, the Commission is only requiring individuals actually participating in the hunt to have a hunting license. This final-form rulemaking should expand hunting opportunities for disabled hunters.

Section 2102(a) of the code (relating to regulations) directs the Commission to promulgate regulations, as it deems necessary and appropriate, concerning game or wildlife and hunting or furtaking in this Commonwealth. This provides the regulatory authority for the final-form rulemaking.

### 3. *Regulatory Requirements*

The final-form rulemaking will relax current requirements.

### 4. *Persons Affected*

Individuals accompanying disabled hunters and the hunters themselves will benefit from this adoption.

### 5. *Comment and Response Summary*

There were no official comments received with regard to this final-form rulemaking.

### 6. *Cost and Paperwork Requirements*

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

### 7. *Effective Date*

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

### 8. *Contact Person*

For further information regarding this final-form rulemaking, 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 amendment 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 amendment 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 135, are amended by amending § 135.48 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 shall become effective upon final publication in the *Pennsylvania Bulletin*.

VERNON R. ROSS,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48-147 remains valid for the final adoption of the subject regulation.

## Annex A

### TITLE 58. RECREATION

#### PART III. GAME COMMISSION

#### CHAPTER 135. LANDS AND BUILDINGS

##### Subchapter C. STATE GAME LANDS

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

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

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

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

#### (b) *Designated roads on State game lands.*

(1) State Game Lands No. 110—Berks and Schuylkill Counties—Game lands road beginning at State Route 183 to a parking lot located on Township Road T-720, north of Shartlesville, Pennsylvania, a distance of approximately 7.6 miles.

(2) State Game Lands No. 117—Washington County—game lands road beginning .5 miles north of Burgettstown Community Park along State Route 4007 to the intersection of State Route 18, a distance of approximately 2.5 miles.

(3) State Game Lands No. 12—Bradford and Sullivan Counties—Game lands road beginning at village of Wheelerville, Pennsylvania, along State Route 154 to the intersection of Township Road T-359 south of the town of Laquin, a distance of approximately 8.5 miles.

(4) State Game Lands No. 49—Bedford and Fulton Counties—Game lands road beginning 1.5 miles east of Robinsonville, Pennsylvania, along State Route 2006 to a parking lot located on Township Road T-316, a distance of approximately 3.8 miles.

(5) State Game Lands No. 244—Jefferson County—Game lands road beginning 3.5 miles east of Knox Dale, Pennsylvania, along State Route 2025 to a parking lot located on this game land, a distance of approximately 3 miles.

(6) State Game Lands No. 134—Lycoming and Sullivan Counties—Game lands road beginning 2.5 miles west of Hillsgrove, Pennsylvania, along State Route 4010 to the intersection of State Route 1005, a distance of approximately 6 miles.

(7) State Game Lands No. 210—Dauphin County—Game lands road (Lukes Trail) beginning at western



game lands boundary to the intersection of State Route 4013, a distance of approximately 1.4 miles.

(8) State Game Lands No. 59—McKean and Potter Counties—Game lands road beginning at northern game lands boundary on Township Route T-342 to the intersection of State Route 4001, a distance of approximately 2.4 miles.

(9) State Game Lands No. 37—Tioga County—Game lands road beginning at northern game lands boundary on Stephenhouse Run Road to Rarick Fire Tower and intersection of Township Route T-710, a distance of approximately 2.1 miles.

[Pa.B. Doc. No. 02-1672. Filed for public inspection September 27, 2002, 9:00 a.m.]

**GAME COMMISSION**  
**[58 PA. CODE CH. 141]**  
**Hunting and Trapping; Big Game**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its July 28, 2002, meeting, adopted the following changes:

Add § 141.8a (relating to accompanying junior hunters) to clarify what “accompany” means as well as require those accompanying junior hunters to wear required safety orange; add § 141.19 (relating to killing game or wildlife to protect property) to list approved methods to kill game or wildlife for crop damage and to require advanced written permission from the District Wildlife Conservation Officer; and § 141.41(4) and (5) (relating to general) to clarify the procedure of tagging and reporting of animals killed by accident or mistake.

These amendments were hereby adopted under the authority of 34 Pa.C.S. (relating to the Game and Wildlife Code) (code). Notice of proposed rulemaking was published at 32 Pa.B. 2891 (June 15, 2002).

*Adopted of § 141.8a*

*1. Introduction*

The Commission is adding § 141.8a to further clarify the term “accompany” as it is used in section 2711(a)(8) of the code (relating to unlawful acts concerning licenses) and require those accompanying junior hunters to wear required safety orange.

*2. Purpose and Authority*

Section 2711(a)(8) of the code requires persons accompanying junior hunters to be close enough that verbal instructions and guidance can be easily understood. Many sportsmen are questioning and do not clearly understand current language regarding accompanying junior hunters. Some are “accompanying” by radio or walkie-talkie. Adding § 141.8a will clarify what “accompany” means as well as require those accompanying junior hunters to be physically present and to wear required safety orange.

Section 2102(a) of the code (relating to regulations) authorizes the Commission to promulgate regulations relating to the hunting of game or wildlife and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth. This change was adopted under that authority.

*3. Regulatory Requirements*

The section clarifies the term “accompany” and requires those accompanying junior hunters to be physically present and to wear required safety orange.

*4. Persons Affected*

Junior hunters and those accompanying them will be affected by this adoption.

*Amendment to § 141.19*

*1. Introduction*

The Commission is adding § 141.19 to list approved methods to kill game or wildlife for crop damage.

*2. Purpose and Authority*

Section 2126(a)(2) of the code (relating to unlawful activities) provides that it is unlawful for persons killing game or wildlife for crop damage to use any method not approved by the Commission. The Commission has never formally listed approved methods. This can be accomplished by adding § 141.19.

Section 2102(a) of the code authorizes the Commission to promulgate regulations as it deems necessary and appropriate concerning game or wildlife in this Commonwealth. The changes were adopted under that authority.

*3. Regulatory Requirements*

The adopted change will list approved methods to kill game or wildlife for crop damage.

*4. Persons Affected*

Farmers wishing to kill animals for crop damage will be affected.

*Amendment to § 141.41*

*1. Introduction*

The Commission is adding § 141.41(4) and (5) to clarify the procedure for tagging and reporting of animals killed by accident or mistake.

*2. Purpose and Authority*

Section 2306 of the code (relating to killing game of wildlife by mistake) allows persons who have killed game or wildlife by mistake to deliver the animal to an officer of the Commission and pay restitution in lieu of penalty. There is often confusion regarding the tagging and reporting of animals killed by accident or mistake. The procedure has been clarified by amending § 141.41.

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 adopted under this authority.

*3. Regulatory Requirements*

The adopted change clarifies the procedure for tagging and reporting of animals killed by accident or mistake.

*4. Persons Affected*

Hunters who kill animals by accident or mistake will be affected.

*Comment and Response Summary*

There were no official comments received with regard to this final-form rulemaking.

*Cost and Paperwork Requirements*

This final-form rulemaking will not result in additional cost or paperwork.

*Effective Date*

This final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

*Contact Person*

For further information regarding this final-form rulemaking, 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 141, are amended by adding §§ 141.8a and 141.19; and by amending § 141.41 to read as set forth in Annex A.

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

(c) This order takes effect upon publication in the *Pennsylvania Bulletin*.

VERNON R. ROSS,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48-144 remains valid for the final adoption of the subject regulations.

**Annex A****TITLE 58. RECREATION****PART III. GAME COMMISSION****CHAPTER 141. HUNTING AND TRAPPING****Subchapter A. GENERAL****§ 141.8a. Accompanying junior hunters.**

It is unlawful while accompanying junior hunters under section 2711(a)(8) of the act (relating to unlawful acts concerning licenses) to be out of sight of or unable to physically or verbally control the junior hunter or to fail to comply with fluorescent orange requirements. Verbal instructions given through the use of an electronic or other sound amplification device do not meet this requirement.

**§ 141.19. Killing game or wildlife to protect property.**

(a) Persons authorized to kill game or wildlife under the authority of Chapter 21, Subchapter B of the act (relating to destruction for agricultural protection) shall be limited to use only those firearms and types of ammunition that have been approved by the Commission with regard to particular classifications, for the taking of game or wildlife during an open season.

(b) It is unlawful for a person to use bows and arrows or crossbows and bolts or a muzzleloading firearm of any kind to kill game or wildlife under the authority of Chapter 21, Subchapter B of the act, without advanced written permission from the District Wildlife Conservation Officer.

**Subchapter C. BIG GAME****§ 141.41. General.**

*(Editor's Note: The amendment to § 141.41 has been incorporated into the amendments published at 32 Pa.B. 4712, 4713 (September 28, 2002).)*

[Pa.B. Doc. No. 02-1673. Filed for public inspection September 27, 2002, 9:00 a.m.]

**GAME COMMISSION****[58 PA. CODE CH. 141]****Hunting and Trapping; Crossbow**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its July 28, 2002, meeting, adopted the following changes:

Amend § 141.1 (relating to special regulations areas) by making crossbows lawful for hunting deer during the Statewide regular firearms season in the special regulations areas; § 141.41 (relating to general) by making it unlawful to hunt deer, bear or elk with a crossbow that does not have a draw weight between 125 and 200 pounds, and to allow crossbows to be used to hunt with during the regular firearms season for deer; and § 141.43 (relating to deer) to require persons hunting deer during the archery seasons Statewide to have a valid disabled persons crossbow permit to take deer with a crossbow except during the Statewide regular firearms season for deer.

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

Notice of proposed rulemaking was published at 32 Pa.B. 2892 (June 15, 2002).

*Amendments to §§ 141.1, 141.41 and 141.43*

**1. Introduction**

The Commission is changing §§ 141.1, 141.41 and 141.43 to make crossbows with a draw weight between 125 and 200 pounds lawful for hunting deer during the regular firearms deer season Statewide, and for hunting bear and elk during the appropriate seasons.

**2. Purpose and Authority**

The Commission has allowed hunters in the special regulations areas to use crossbows with a draw weight between 125 and 200 pounds to take deer during the firearms deer seasons. The Commission has adopted changes expanding the use of crossbows to include their use during the regular firearms deer season Statewide, and to hunt bear and elk during their respective seasons.

Section 2102(b)(1) of the code (relating to regulations) authorizes the Commission to promulgate regulations relating to seasons and bag limits for hunting or furtaking and the number and types of devices and equipment allowed. Section 2102(d) of the code authorizes the Commission to promulgate regulations stipulating the type of firearms and ammunition and other devices which may be used, the manner in which and the location where the

devices may be used, the species the devices may be used for and the season when the devices may be used. The changes were adopted under this authority.

3. *Regulatory Requirements*

The adopted changes will allow the use of crossbows during the regular firearms deer season Statewide, and during bear and elk seasons.

4. *Persons Affected*

Individuals wishing to hunt deer, bear or elk using a crossbow may be affected by these amendments.

5. *Comment and Response Summary*

A total of 94 comments were received with regard to these amendments. Those supporting voiced many reasons for supporting crossbows, headed by ease of use by those with some physical handicap. Those opposing focused on crossbows not being true archery equipment and that, if permitted in archery seasons, crossbow use would attract many unskilled hunters afield.

6. *Cost and Paperwork Requirements*

The adopted changes should not result in additional cost or paperwork.

7. *Effective Date*

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

8. *Contact Person*

For further information regarding these changes, 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 141, are amended by amending §§ 141.1, 141.41 and 141.43 to read as set forth in Annex A.

(*Editor's Note:* Amendments to § 141.41 contained in the rulemaking at 32 Pa.B. 4711 (September 28, 2002) have been incorporated into this rulemaking.)

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

(c) This order is effective upon final-form publication in the *Pennsylvania Bulletin*.

VERNON R. ROSS,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48-143 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 58. RECREATION**

**PART III. GAME COMMISSION**

**CHAPTER 141. HUNTING AND TRAPPING**

**Subchapter A. GENERAL**

**§ 141.1. Special regulations areas.**

(a) *Name.* The areas shall be known and referred to as special regulations areas.

(b) *Descriptions.*

(1) *Southwest area.* Includes the County of Allegheny.

(2) *Southeast area.* Includes the Counties of Bucks, Montgomery, Chester, Delaware and Philadelphia and also includes Tyler and Ridley Creek State Parks and other publicly-owned lands therein.

(c) *Prohibitions.*

(1) Except as provided in subsection (d), it is unlawful to take, kill or attempt to take or kill wildlife through the use of a firearm of any description which discharges single-projectile ammunition, or, while hunting for wild birds or wild animals, to possess single-projectile ammunition, except for employees of political subdivisions and other persons who have a valid deer control permit issued under the authority of Chapter 29 of the act (relating to special licenses and permits).

(2) It is unlawful to use buckshot in Allegheny or Philadelphia Counties without specific authorization of the Director.

(d) *Permitted acts.* It is lawful to:

(1) Except in Philadelphia County, Ridley Creek State Park, Delaware County and Tyler State Park, Bucks County, hunt and kill deer through the use of a muzzleloading long gun or a shotgun, at least .410 gauge (rifled barrels permitted), including semiautomatics which, upon discharge, propel a single projectile.

(2) Take deer with a shotgun 20 gauge or larger—including semiautomatic—using buckshot in the Southeast area only.

(3) Take small game, furbearing animals, crows or wildlife with a manually operated .22 caliber rimfire rifle or handgun.

(4) Kill an animal legally caught in a trap with a manually operated .22 caliber rimfire rifle or handgun while trapping.

(5) Take deer with a crossbow with a draw weight of not less than 125 pounds nor more than 200 pounds during the Statewide regular firearms season.

**Subchapter C. BIG GAME**

**§ 141.41. General.**

(a) *Permitted acts.* It is lawful to take:

(1) Bear or elk with a crossbow with a draw weight of not less than 125 pounds nor more than 200 pounds.

(2) Deer during the regular firearms deer season with a crossbow with a draw weight of not less than 125 pounds nor more than 200 pounds.

(b) *It is unlawful to:*

(1) Hunt for big game birds or animals with arrows or crossbow bolts other than those tipped with broadheads of a cutting-edge design.

(2) Hunt for or assist to hunt for deer, bear or elk during the regular firearms season or special firearms 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.

(3) Hunt for deer, bear or elk through the use of any muzzleloading handgun.

(4) Kill big game by mistake or accident and immediately after killing and before removing any big game from the location of the killing, fail to fully complete the proper game kill tag in compliance with the instructions printed on the tag and attach only the game kill tag to the big game.

(5) Kill big game by mistake or accident and fail to report the killing to the appropriate Commission regional office as soon as possible but no later than 12 hours after the time of kill.

#### § 141.43. Deer.

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

(1) Possess a firearm.

(2) Take a deer with a device not provided for in the act or this title.

(3) Move about or relocate during that portion of the archery deer season that is concurrent with any flintlock muzzleloading season (antlerless only) that precedes the regular firearms season for deer or is concurrent with the 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 any flintlock muzzleloading season (antlerless only) that precedes the regular firearms season for deer or is concurrent with the 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.

(5) Hunt or take deer with a crossbow without a valid disabled persons crossbow permit.

(b) *Flintlock muzzleloading and 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 .44 caliber or larger and has open sights.

(2) Propels single-projectile ammunition.

(c) *Ignition.* Flintlock mechanisms shall consist of a hammer containing a naturally occurring stone which is spring propelled onto an iron or steel frizzen which, in turn, creates sparks to ignite a priming powder.

(d) *Prohibitions.* It is unlawful to:

(1) Use manmade materials attached to the hammer or frizzen to create sparks.

(2) Use telescope, aperture or peep sights.

(3) Use or possess single projectile ammunition other than specified in subsection (b)(2).

(4) Hunt, take or attempt to take deer through the use of a device not specifically described in this subsection.

(5) Hunt for or assist to hunt for deer during any flintlock muzzleloading or muzzleloading season that precedes the regular firearms season for deer without wearing a minimum of 250 square inches of daylight fluorescent orange-colored material on the head, chest and back combined so that it is visible in a 360° arc.

(e) *Archery, special firearms, flintlock muzzleloader and muzzleloader seasons.* When archery, special firearms, flintlock muzzleloader or muzzleloader seasons run concurrently, holders of any of the appropriate licenses or stamps may cooperate if pertinent provisions of this section and the act are met.

(f) *.22 caliber rimfire required for furbearers.* When using a firearm only a .22 caliber rimfire may be used to dispatch legally trapped furbearers during the regular or special firearms deer seasons.

[Pa.B. Doc. No. 02-1674. Filed for public inspection September 27, 2002, 9:00 a.m.]

## GAME COMMISSION

### [58 PA. CODE CHS. 141 AND 143]

#### Muzzleloading

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its July 28, 2002, meeting, adopted the following changes:

Amend § 141.43 (relating to deer) by allowing any long gun muzzleloading firearm to be used in the early muzzleloading season to make available more options and opportunities to hunters.

Amend § 143.82 (relating to definitions) by removing the word "flintlock" in the license definition to allow the use of any long gun muzzleloading firearm to be used in the early muzzleloading season.

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

Notice of proposed rulemaking was published at 32 Pa.B. 2889 (June 15, 2002).

#### 1. Introduction

The Commission is amending § 141.43 to allow any long gun muzzleloading firearm to be used in the early muzzleloading season and § 143.82 to change "flintlock" to "muzzleloading." This will expand opportunities for hunters to use a wider range of firearms during the early muzzleloading season.

#### 2. Purpose and Authority

Under current § 141.43, those wishing to hunt deer during the flintlock muzzleloading and muzzleloading seasons are limited to single-barrel long guns manufactured prior to 1800 or a similar reproduction. Although this provides a primitive touch to the seasons, it severely limits the options available to those wishing to hunt deer during those seasons. As a result, the Commission is amending § 141.43 to allow the use of any .44 caliber or larger muzzleloading single barrel long gun during the early muzzleloading season. This amendment also necessitated deleting "flintlock" and only having "muzzleloading" in the definition in § 143.82.

Section 322(c)(5) of the code (relating to powers and duty of commission) authorizes the Commission to fix the type and number of devices which may be used to take game and wildlife. Section 2102(d) of the code (relating to regulations) directs the Commission to promulgate regulations stipulating the size and type of traps, the type of firearms and ammunition and other devices which may be used, the manner in which and the location where the devices may be used, the species the device may be used for and the season when the device may be used.

3. *Regulatory Requirements*

The final-form rulemaking will authorize the use of any muzzleloading long gun during the early muzzleloading season, easing current restrictions.

4. *Persons Affected*

Individuals wishing to hunt with muzzleloading long guns during the early muzzleloader season will be affected by this final-form rulemaking.

5. *Comment and Response Summary*

A total of 91 comments were received with regard to this final-form rulemaking. Those supporting liked the opportunity to use what they viewed as more effective firearms in this deer season. They also pointed out that they could use muzzleloading firearms currently legal in other states. Those opposing voiced fear that these changes would take away from the tradition of flintlock muzzleloader hunting in this Commonwealth.

6. *Cost and Paperwork Requirements*

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

7. *Effective Date*

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

8. *Contact Person*

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

*Findings*

The Game 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 141 and 143, are amended by amending § 141.43 to read as set forth at 32 Pa.B. 2889 and by amending § 143.82 to read as set forth in Annex A.

(b) The Executive Director of the Game Commission shall certify this order, 32 Pa.B. 2889 and Annex A, and deposit them with the Legislative Reference Bureau as required by law.

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

VERNON R. ROSS,  
*Executive Director*

*(Editor's Note: The amendment to § 143.82 was not included in the proposed rulemaking at 32 Pa.B. 2889.)*

**Fiscal Note:** Fiscal Note 48-142 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 58. RECREATION**

**PART III. GAME COMMISSION**

**CHAPTER 143. HUNTING AND FURTKER LICENSES**

**Subchapter E. FLINTLOCK (MUZZLELOADER) DEER LICENSES**

**§ 143.82. Definitions.**

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

*License*—The special stamp issued by a license issuing agent authorizing the holder thereof to hunt deer with a muzzleloading firearm during the special season.

[Pa.B. Doc. No. 02-1675. Filed for public inspection September 27, 2002, 9:00 a.m.]

**GAME COMMISSION**

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

**Sale of Wildlife and Wildlife Parts**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its July 28, 2002, meeting, adopted the following change:

Amend § 147.141 (relating to sale of wildlife and wildlife parts) to establish prices for the sale of elk or elk parts.

This final-form rulemaking was adopted under the authority of 34 Pa.C.S. (relating to the Game and Wildlife Code) (code).

Notice of proposed rulemaking was published at 32 Pa.B. 2893 (June 15, 2002).

1. *Introduction*

The Commission is amending § 147.141 to provide a fee schedule for persons who wish to purchase elk or elk parts from the Commission.

2. *Purpose and Authority*

Under section 103(a) of the code (relating to ownership, jurisdiction and control of game and wildlife), the ownership, jurisdiction over and control of game and wildlife is vested in the Commission. Often game and wildlife comes into the possession of the Commission for various reasons including being accidentally killed on highways, being killed for crop damage or being unlawfully taken or removed from the wild. To avoid waste of these wildlife resources, the Commission issues permits to various persons to possess all or part of game and wildlife. The fee schedule for these permits currently does not include elk.

Section 2102(a) of the code (relating to regulations) authorizes the Commission to promulgate regulations as

are necessary concerning game or wildlife in this Commonwealth. Section 2901(b) of the code (relating to authority to issue permits) authorizes the Commission to promulgate regulations for the issuance of any permit. In addition, section 2904(c) of the code (relating to permit fees) authorizes the Commission to set a reasonable fee for any permit required but not specifically set forth in the section. The final-form rulemaking is adopted under this authority.

### 3. *Regulatory Requirements*

The final-form rulemaking will provide a fee schedule for persons wishing to purchase elk or elk parts from the Commission.

### 4. *Persons Affected*

Persons wishing to purchase elk or elk parts from the Commission will be affected.

### 5. *Comment and Response Summary*

There were no official comments received with regard to this final-form rulemaking.

### 6. *Cost and Paperwork Requirements*

The final-form rulemaking will result in fees being established to obtain a permit to possess elk or elk parts.

### 7. *Effective Date*

The final-form rulemaking 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 regarding this final-form rulemaking, 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 amendment 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 amendment 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 § 147.141 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 shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

VERNON R. ROSS,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48-145 remains valid for the final adoption of the subject regulations.

## Annex A

### TITLE 58. RECREATION

#### PART III. GAME COMMISSION

#### CHAPTER 147. SPECIAL PERMITS

#### Subchapter H. PROTECTED SPECIMEN

#### § 147.141. Sale of wildlife and wildlife parts.

(a) Wildlife or parts of wildlife accidentally killed on the highway or by other causes, illegally taken, shot for crop damage or live deer removed from the wild, may be sold to a person under the following minimum fee schedule:

- (1) Deer antlers—\$10 per point.
- (2) Deer cape—to include entire hide—\$25.
- (3) Doe or spike buck head and hide—\$25.
- (4) Fawn deer—\$75.
- (5) Any live deer—\$150.
- (6) Deer hide only—\$5.
- (7) Pheasant, grouse, quail, squirrel, rabbit, hare, woodchuck, mink, muskrat, opossum, skunk, weasel and raccoon—\$25.
- (8) Other small mammals—\$25.
- (9) Turkey, beaver and fox—\$50.
- (10) Bobcat, otter and fisher—\$100.
- (11) Bears—minimum of \$100.
- (12) Cow or spike elk head and hide—\$100.
- (13) Elk cape—to include entire head—\$100 plus \$20 per point.
- (14) Elk antlers—\$20 per point.
- (15) Elk hide—\$25.
- (16) Live elk—minimum of \$100.
- (17) Any other species may be sold at public auction or through sealed bid.

(b) An official Commission receipt shall serve as a person's permit to possess and retain the wildlife sold under authority of subsection (a).

(c) Live deer may only be sold to persons holding an existing and current Wildlife Propagation or Wildlife Menagerie Permit.

(d) Except those accidentally killed by a vehicle, sales of wildlife or wildlife parts may not be made to the person who caused the death or removal from the wild of the bird or animal or a member of the immediate household, or a person acting on their behalf.

[Pa.B. Doc. No. 02-1676. Filed for public inspection September 27, 2002, 9:00 a.m.]