

RULES AND REGULATIONS

Title 28—HEALTH AND SAFETY

HEALTH CARE COST CONTAINMENT COUNCIL

[28 PA. CODE CH. 912]

Uniform Claims and Billing Forms Reporting Manual

The Health Care Cost Containment Council (Council), under the authority of section 5(b) of the Pennsylvania Health Care Cost Containment Act (act) (35 P. S. § 449.5(b)), amends Chapter 912, Appendix A (relating to Pennsylvania Uniform Claims and Billing Forms Reporting Manual) to read as set forth in Annex A.

Notice of proposed rulemaking is omitted in accordance with section 204(3) of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204(3)) (CDL). In accordance with section 204(3) of the CDL, notice of proposed rulemaking may be omitted when the agency, for good cause, finds that public notice of its intention to amend an administrative regulation is unnecessary under the circumstances.

Purpose

The purpose of this final-omitted rulemaking is to conform the data reporting requirements in Appendix A to the data reporting requirements in the text of Chapter 912 (relating to data reporting requirements). The text of Chapter 912 was amended at 29 Pa.B. 5093 (October 2, 1999) by removing all specific references to the MedisGroups methodology. The purpose of the 1999 amendment was to give the Council greater flexibility in selecting a methodology for measuring provider quality and provider service effectiveness. Although it was the Council's stated intention to remove all references to the MedisGroups methodology from the regulations in 1999, four references to the methodology inadvertently remained in Appendix A. This final-omitted rulemaking is promulgated to finish the regulatory changes initiated in 1999 by deleting the remaining references to MedisGroups that inadvertently remained in Appendix A after the 1999 amendments to Chapter 912.

Explanation of Regulatory Requirements

Section 5(d)(4) of the act (35 P. S. § 449.5(d)) directs the Council to "Adopt and implement a methodology to collect and disseminate data reflecting [health care] provider service effectiveness." Section 6(d) of the act (35 P. S. § 449.6(d)) permits the Council to "adopt a Nationally recognized methodology of quantifying and collecting the data." In 1987, the Council selected the MedisGroups methodology offered by MediQual Systems, Inc. In 1988, the MedisGroups methodology was incorporated by name into Chapter 912 and Appendix A. To afford the Council the flexibility to utilize a vendor other than MediQual Systems, Inc. if a more effective and economical system became available from another source, the Council amended its regulations in 1999 by deleting all references to MedisGroups from Chapter 912. Although it was the Council's stated intention to eliminate all references to MedisGroups from the regulations in 1999, four additional references to the MedisGroups methodology were in Appendix A that were not identified or deleted at that time. This oversight was recently brought to the attention

of the Council. This final-omitted rulemaking deletes the remaining references to MedisGroups from Appendix A, completing the regulatory changes initiated in 1999.

Fiscal Impact

The regulated community (hospitals and other health care providers) will not incur additional costs on account of this final-omitted rulemaking, nor will it require the Council or any other State agency or local government to incur additional costs. At the present time, the Council continues to utilize the MedisGroups methodology for reporting. The authority for the Council to select another vendor if deemed desirable was created by the 1999 rulemaking; this is a ministerial change that does nothing more than conform the text of the forms' reporting manual to the existing text of the regulation. Therefore, there is no fiscal impact on government or the regulated community.

Effectiveness/Sunset Date

This final-omitted rulemaking is effective upon publication in the *Pennsylvania Bulletin*. No sunset date has been assigned. The Council constantly monitors its regulations to insure maximum effectiveness and to implement changes as necessary.

Paperwork

Adoption of this final-omitted rulemaking will not require any additional paperwork for hospitals and other regulated health care providers since it merely conforms the reporting manual to the requirements of the existing regulation.

Persons Regulated

Approximately 200 hospitals are required to submit health care provider service effectiveness data to the Council.

Contact Person

Questions regarding the final-omitted rulemaking should be addressed to Marc P. Volavka, Executive Director, Health Care Cost Containment Council, Suite 400, 225 Market Street, Harrisburg, PA 17101.

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), the Council submitted copies of this final-omitted rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Health and Human Services Committee and the Senate Public Health and Welfare Committee on April 22, 2003. On the same date, the final-omitted rulemaking was submitted to the Office of the Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5.1(e) and (j.2) of the Regulatory Review Act, on May 12, 2003, this final-omitted rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, on May 29, 2003, IRRC met and approved this final-omitted rulemaking.

Findings

The Council finds that:

(1) There is good cause to amend Appendix A, effective upon publication of the final-omitted rulemaking. Deferral of the effective date of this final-omitted rulemaking is

unnecessary and would not serve the public interest. Under section 204(3) of the CDL, there is no purpose to be served by deferring the effective date.

(2) There is good cause to forego public notice of the intention to amend Appendix A because notice of the amendment under the circumstances is unnecessary for the following reasons:

(i) The amendments made merely conform the reporting forms and the manual advising the regulated community how to fill in the report forms; they do not change the substance of what the regulations require the regulated community to do or to be reported.

(ii) The amendments to Appendix A complete the regulatory changes initiated in 1999, when the references to MedisGroups were eliminated from the text of Chapter 912. The 1999 amendments were published as proposed rulemaking. Comments from several interested parties in the regulated community were received, reviewed and responded to during the course of the 1999 rulemaking. Additional public comment concerning the ministerial changes being made by this final-omitted rulemaking to conform the report form and reporting manual to what the regulations already permit is unnecessary.

(iii) Additional public comment cannot change the fact that Chapter 912, which has already been amended, sets forth the requirements of what is to be reported and

Appendix A only advises the regulated community how those reports should be made.

Order

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

(a) The regulations of the Council, 28 Pa. Code Chapter 912, are amended by amending Appendix A to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

(c) The Council 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 upon its publication in the *Pennsylvania Bulletin*.

MARC P. VOLAVKA,
Executive Director

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 33 Pa.B. 2831 (June 14, 2003).)

Fiscal Note: 100-16. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 28. HEALTH AND SAFETY
PART VI. HEALTH CARE COST CONTAINMENT COUNCIL
CHAPTER 912. DATA REPORTING REQUIREMENTS
APPENDIX A
Pennsylvania Uniform Claims and Billing Forms Reporting Manual

* * * * *

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Diagnosis Related Group (DRG)	24	2h
Procedure Coding Method Used	25	79
Admission—Type of	26	19
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Patient Relationship to Insured	28a—c	59
Certification/SSN/Health Insurance Claim Number	29a—c	60
Employer Name	32a—c	65
Employment Status	34a—c	64
Hispanic/Latino Origin or Descent	35a	2i

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Physician Identification—Referring	38	82
Federal Tax ID	39	5
Admission Hour	40	18
Discharge Hour	41	21

Hospital and Ambulatory Service Facility Reporting Manual

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Field 21a Revised 7/1/88, 6/21/03

Data Element: Provider Quality

Definition: Provider quality consistent with section 6(d) of the act (35 P. S. § 449.6(d)) and with § 911.3 (relating to council adoption of methodology). Periodically, the Council will review the methodology, and if change is necessary, it will be made by majority vote of the Council at a public meeting. Notice of the change will be given to all appropriate data sources within 30 days and at least 180 days before the change is to be implemented.

Field Size: 1 field, 1 character

Record Position: 1577

Format: Alphanumeric

Reference: UB-92, Item 2d (Pos 1 of 30 character field, lower line)

Field 21b Revised 7/1/88, 4/1/90, 6/21/03

Data Element: Provider Service Effectiveness

Definition: Provider service effectiveness consistent with section 6(d) of the act (35 P. S. § 449.6(d)) and with § 911.3. Periodically, the Council will review the methodology, and if change is necessary, it will be made by majority vote of the Council at a public meeting. Notice of the change will be given to all appropriate data sources within 30 days and at least 180 days before the change is to be implemented.

Field Size: 1 field, 1 character

Record Position: 1578

Format: Alphanumeric

Reference: UB-92, Item 2e (Pos 2 of 30 character field, lower line)

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Hospital and Ambulatory Service Facility Tape Format

<i>Data Element</i>	<i>Data Element Description</i>	<i>Position From</i>	<i>To</i>	<i>Picture</i>	<i>Format</i>
		*	*	*	*

21a	Provider Quality	1577	X(1)	Provider quality consistent with section 6(d) of the act and with § 911.3. Periodically, the Council will review the methodology, and if change is necessary, it will be made by majority vote of the Council at a public meeting. Notice of the change will be given to all appropriate data sources within 30 days and at least 180 days before the change is to be implemented.
21b	Provider Service Effectiveness	1578	X(1)	Provider service effectiveness consistent with section 6(d) of the act and with § 911.3. Periodically, the Council will review the methodology, and if change is necessary, it will be made by majority vote of the Council at a public meeting. Notice of the change will be given to all appropriate data sources within 30 days and at least 180 days before the change is to be implemented.

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[Pa.B. Doc. No. 03-1174. Filed for public inspection June 20, 2003, 9:00 a.m.]

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF CERTIFIED
REAL ESTATE APPRAISERS

[49 PA. CODE CH. 36]

Continuing Education for Appraisers and Broker/ Appraisers

The State Board of Certified Real Estate Appraisers (Board) amends § 36.41 (relating to continuing education requirement) to read as set forth in Annex A.

Omission of Proposed Rulemaking

Under authority of section 204(2) and (3) of the act of July 31, 1968 (P.L. 769, No. 240) (CDL) (45 P.S. § 1204(2) and (3)), the Board has omitted the procedures for proposed rulemaking set forth in sections 201 and 202 of the CDL (45 P.S. §§ 1201 and 1202). Proposed rulemaking has been omitted because all affected certificateholders have been given actual notice of the Board's intention to adopt the amendments in advance of

final rulemaking and public comment is unnecessary in that the amendments implement mandatory Federal and State continuing education requirements and make editorial changes.

Description of Final-Omitted Rulemaking

Section 36.41 currently requires certified general appraisers and certified residential appraisers to complete 28 classroom hours of continuing education during each biennial renewal period as a condition of renewal of certification for the next biennial renewal period. (A new biennial renewal period begins July 1 of every odd-numbered year.) The 28 hours shall include at least 4 hours on the Uniform Standards of Professional Appraisal Practice (USPAP) and at least 2 hours on the Real Estate Appraisers Certification Act (REACA) (63 P.S. §§ 457.1—457.19) and the regulations and policies of the Board. General appraisers and residential appraisers who receive initial certification after January 1 of a biennial renewal year are exempt from having to complete continuing education as a condition of renewal of certification in that biennial renewal year.

The final-omitted rulemaking makes the continuing education requirement applicable to certified broker/

appraisers effective with renewal of certification for the 2003-2005 biennial renewal period (July 1, 2003—June 30, 2005); allows broker/appraisers credit for continuing education hours earned between January 1, 2001, and June 30, 2001, toward their initial continuing education requirement; and replaces the 4-hour USPAP requirement with the 7-hour National USPAP Update Course, or its equivalent, for all certificateholders effective with renewal of certification for the 2005-2007 biennial renewal period (July 1, 2005—June 30, 2007). The final-omitted rule-making also makes editorial changes.

Reason for Amendments and Notice to Certificateholders

Enacted in 1990, the REACA initially established the certification classes of general appraiser and residential appraiser. Under section 10(b) of the REACA (63 P. S. § 457.10(b)), the Board is required to impose a continuing education requirement upon general appraisers and residential appraisers for biennial renewal of certification to the extent required under the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) (Pub. L. No. 101-73, 103 Stat. 103). The Appraisal Qualifications Board (AQB) of the Appraisal Foundation is charged with establishing education and experience requirements for appraisers under the FIRREA. Section 36.41, which was initially adopted in July 1992 and revised in March 1999, is intended to implement the continuing education requirement under the FIRREA.

In 1996, the REACA was amended to establish the special certification class of broker/appraiser which was closed to new applicants after September 3, 1998. The act of December 20, 2000 (P. L. 733, No. 103) (Act 103) amended the REACA to provide that broker/appraisers must meet the same continuing education requirement for biennial renewal of certification as general appraisers and residential appraisers. The Board was empowered to promulgate implementing regulations.

Immediately following the enactment of Act 103, many broker/appraisers enrolled in continuing education courses in the mistaken belief that Act 103 would be interpreted as requiring them to complete 28 hours of continuing education as a condition of renewal of certification for the 2001-2003 biennial renewal period (July 1, 2001—June 30, 2003).

In April 2001, as part of its mailing of biennial renewal applications to current certificateholders, the Board included a copy of Act 103 and the current continuing education requirement with each broker/appraiser's renewal application. The Board's notice advised broker/appraisers that a regulation would be promulgated requiring them to complete 28 hours of continuing education (including 4 hours on the USPAP and 2 hours on the REACA and the Board's regulations and policies) between January 1, 2001, and June 30, 2003, as a condition of renewal of certification for the 2003-2005 biennial renewal period. The Board's notice also advised broker/appraisers that they were not required to complete continuing education as a condition of renewal of certification for the 2001-2003 biennial renewal period.

In October 2001, the AQB issued a new interpretation of a continuing education rule, adopted in October 2000, that requires general appraisers and residential appraisers to complete a 7-hour National USPAP Update Course, or an equivalent course approved by the AQB, every 2 years, beginning January 1, 2003. Under the new interpretation, implementation of the 7-hour USPAP requirement may occur during a biennial continuing education cycle that begins after January 1, 2003, as long as the required hours have been taken by December 31, 2005.

In its Fall 2002 newsletter, which was sent to all current certificateholders, the Board gave notice that, consistent with AQB standards, a regulation would be promulgated substituting a 7-hour USPAP requirement for the current 4-hour USPAP requirement as a condition of renewal of certification for the 2005-2007 biennial renewal period. The Board also reminded broker/appraisers of their obligation to complete 28 hours of continuing education (including 4 hours on the USPAP, 2 hours on the REACA and the Board's regulations and policies) before the start of the 2003-2005 biennial renewal period on July 1, 2003. The Board further reminded broker/appraisers that the Board would accept continuing education hours completed between January 1, 2001, and June 30, 2001, toward the continuing education requirement for the 2003-2005 biennial renewal period.

Following the processing of renewal applications for the 2003-2005 biennial renewal period, the Board intends to send an additional notice to all current certificateholders reminding them of their obligation to complete the 7-hour National USPAP Update Course, or an equivalent course approved by the AQB, before the start of the 2005-2007 biennial renewal period on July 1, 2005. The Board will furnish its education providers with information about offering the 7-hour National USPAP Course as well as the AQB's equivalency criteria for approval of an equivalent 7-hour USPAP course.

Effective Date

The final-omitted rulemaking will become effective upon publication in the *Pennsylvania Bulletin*. The 28-hour continuing education requirement for broker/appraisers will initially apply to renewal of certification for the 2003-2005 biennial renewal period. The 7-hour National USPAP Update Course for all certificateholders will initially apply to renewal of certification for the 2005-2007 biennial renewal period.

Statutory Authority

Section 10(b) and (b.1) of the REACA (63 P. S. § 457.10(b) and (b.1)) authorizes the Board to promulgate regulations relating to continuing education for general appraisers, residential appraisers and broker/appraisers.

Fiscal Impact and Paperwork Requirements

The final-omitted rulemaking will cause broker/appraisers to incur costs in meeting the 28-hour continuing education requirement. The costs cannot be quantified because of the large number and types of continuing education courses available; however, the costs are not believed to be substantial or burdensome. It may be possible for broker/appraisers to count towards the new continuing education requirement certain courses used to satisfy the 14-hour continuing education requirement for biennial renewal of their real estate broker's licenses under the Real Estate Licensing and Registration Act (63 P. S. §§ 455.101—455.902).

The final-omitted rulemaking will cause the Board to incur unspecified costs relating to auditing compliance with the continuing education requirement. The Board anticipates that new biennial renewal fees that will be charged to all certificateholders beginning with the 2003-2005 biennial renewal period will defray these costs. Proposed rulemaking relating to the new biennial renewal fees was published at 32 Pa.B. 4871 (October 5, 2002) and the final-form rulemaking was submitted in April 2003.

The final-omitted rulemaking will require broker/appraisers to maintain records of their compliance with

the continuing education requirement. The final-omitted rulemaking also will require the Board to revise its biennial renewal applications. The final-omitted rulemaking will not impose new paperwork requirements on the Commonwealth's other agencies or its political subdivisions.

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on April 21, 2003, the Board submitted copies of the final-omitted rulemaking for review and comment to the Independent Regulatory Review Commission (IRRC), the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. On the same date, the Board submitted a copy of the final-omitted rulemaking for review and comment to the Office of Attorney General under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5.1(e) and (j.2) of the Regulatory Review Act, the final-omitted rulemaking was approved by the House Committee on May 6, 2003, and deemed approved by the Senate Committee on May 28, 2003. Under section 5.1(e) of the Regulatory Review Act, the final-omitted rulemaking was approved by IRRC on May 29, 2003.

Additional Information

For additional information about the final-omitted rulemaking, submit inquiries to Michelle T. DeMerice, Administrator, State Board of Certified Real Estate Appraisers, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-4866, appraise@pados.dos.state.pa.us.

Findings

The Board finds that:

(1) Public notice of the Board's intention to amend the regulation adopted by this order under procedures in sections 201 and 202 of the CDL has been omitted under section 204(2) and (3) of the CDL because all persons affected by the amendment adopted by this order have been given actual notice in advance of final rulemaking of the Board's intention to amend the regulation and public comment is unnecessary because the amendments adopted by this order implement mandatory Federal and State continuing education requirements and make editorial changes.

(2) The amendment of the Board's regulation in the manner provided in this order is necessary and appropriate for the administration of the REACA.

Order

The Board, acting under the REACA, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 36, are amended by amending § 36.41 to read as set forth in Annex A.

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

(c) The Board 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 upon publication in the *Pennsylvania Bulletin*.

GEORGE D. SINCLAIR,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 33 Pa.B. 2831 (June 14, 2003).)

Fiscal Note: 16A-7012. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 36. STATE BOARD OF CERTIFIED REAL ESTATE APPRAISERS

**Subchapter A. GENERAL PROVISIONS
CONTINUING EDUCATION**

§ 36.41. Continuing education requirement.

(a) Continuing education for certified general appraisers, residential appraisers and broker/appraisers is necessary to ensure that they maintain and increase their skill, knowledge and competency in real estate appraising. Except as provided in subsection (b), every certified general appraiser, residential appraiser and broker/appraiser shall complete 28 classroom hours of continuing education—including at least 4 hours on the Uniform Standards of Professional Appraisal Practice (USPAP) and at least 2 hours on the act, this chapter and the policies of the Board—during each biennial renewal period as a condition of renewal of certification for the next biennial renewal period. Effective with renewal of certification for the 2005-2007 biennial renewal period, the 7-hour National USPAP Update Course, or an equivalent 7-hour course approved by the Appraiser Qualifications Board, will replace the minimum 4-hour requirement on the USPAP.

(b) A certified general appraiser or residential appraiser whose initial certification becomes effective between January 1 and June 30 of a biennial renewal year will not be required to furnish proof of continuing education as a condition of renewal of certification in that biennial renewal year.

(c) The Board will accept continuing education hours completed by a certified broker/appraiser between January 1, 2001, and June 30, 2001, toward the continuing education requirement for renewal of certification for the 2003-2005 biennial renewal period.

[Pa.B. Doc. No. 03-1175. Filed for public inspection June 20, 2003, 9:00 a.m.]

Title 58—RECREATION

**GAME COMMISSION
[58 PA. CODE CHS. 135 AND 147]**

[Correction]

Lands and Buildings; Special Permits

An error occurred in the final-form rulemaking which appeared at 33 Pa.B. 2748, 2749 (June 14, 2003). A typographical error appeared in § 147.701(9). The correct version is as follows, with ellipses referring to the existing text of the regulation:

Annex A
TITLE 58. RECREATION
PART III. GAME COMMISSION
CHAPTER 147. SPECIAL PERMITS
Subchapter S. BOBCAT HUNTING-TRAPPING PERMIT

§ 147.701. General.

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

* * * * *

(9) An applicant issued a bobcat hunting-trapping permit is not permitted to apply for another bobcat hunting-trapping permit the next license year. Applications from current applicants who have applied in the 2003-2004 license year and proceeding years will be included in the drawing until the applicant is successfully drawn and issued a permit.

* * * * *

[Pa.B. Doc. No. 03-03-1111. Filed for public inspection June 13, 2003, 9:00 a.m.]

GAME COMMISSION
[58 PA. CODE CH. 139]
Seasons and Bag Limits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 8, 2003, meeting, adopted the following change:

Amend § 139.4 (relating to seasons and bag limits for the license year) to provide dates for the 2003-2004 hunting license year.

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

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

Notice of proposed rulemaking was published at 33 Pa.B. 1098 (March 1, 2003).

1. Introduction

The Commission amended § 139.4 to provide for seasons and bag limits for the 2003-2004 license year. These seasons and bag limits were adopted under sections 322(c)(1) and 2102(b)(1) of the code (relating to powers and duties of commission; and regulations).

2. Purpose and Authority

The Commission is required to set hunting and furtaking seasons and bag limits on an annual basis. Although the 2003-2004 seasons and daily season and possession limits are essentially the same as set in 2002-2003, they will now be based on the new wildlife management units (WMU). (See final-form rulemaking concerning UMUs at 33 Pa.B. 2878 (June 21, 2003).) The new WMUs will apply only to the hunting and trapping of bear, beaver, bobcat, deer, pheasant, quail and turkey within this Commonwealth. An additional change will include an additional hunting opportunity for bearded spring gobblers on April 24, 2004, for eligible junior hunters. Junior hunters must possess the required license and be prop-

erly accompanied, as required by law. Another change will include a change in the dates of the elk season to November 10-15, which is a week earlier than the previous two seasons.

Section 322(c)(1) of the code specifically empowers the Commission to "fix seasons... and daily season and possession limits for any species of game or wildlife." Section 2102(b)(1) of the code authorizes the Commission to "promulgate regulations relating to seasons and bag limits for hunting..." These provisions provide the statutory authority for the final-form rulemaking.

3. Regulatory Requirements

The final seasons and bag limits will establish when and where it is lawful to hunt and trap various game species and place limits on the numbers that can be legally taken.

4. Persons Affected

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

5. Comment and Response Summary

There were no official comments received regarding this final-form rulemaking.

6. Cost and Paperwork Requirements

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

7. Effective Date

The effective dates are July 1, 2003, to June 30, 2004.

8. Contact Person

For further information regarding the final-form rulemaking, contact Michael A. Dubaich, 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 139, are amended by amending § 139.4 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 shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

VERNON R. ROSS,
Executive Director

Fiscal Note: Fiscal Note 48-154 remains valid for the final adoption of the subject regulation.

**Annex A
TITLE 58. RECREATION
PART III. GAME COMMISSION
CHAPTER 139. SEASONS AND BAG LIMITS**

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

**(SEASONS AND BAG LIMITS TABLE)
2003-2004 OPEN HUNTING AND FURTAKING SEASONS, DAILY LIMIT,
FIELD POSSESSION LIMIT AND SEASON LIMIT
OPEN SEASON INCLUDES FIRST AND LAST DATES LISTED**

<i>Species</i>	<i>Limit</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
Squirrels—(Combined species) Eligible Junior Hunters only, with or without the required license, when properly accompanied as required by law		Oct. 11	Oct. 13	6	12
Squirrels—(Combined species)		Oct. 18 and Dec. 15 and Dec. 26	Nov. 29 and Dec. 23 and Feb. 7, 2004	6	12
Ruffed Grouse—(Statewide)		Oct. 18 and Dec. 15 and Dec. 26	Nov. 29 and Dec. 23 and Jan. 10, 2004	2	4
Ruffed Grouse—There is no open season for taking ruffed grouse in that portion of State Game Lands No. 176 in Centre County which is posted "RESEARCH AREA—NO GROUSE HUNTING"					
Rabbits, Cottontail		Oct. 25 and Dec. 15 and Dec. 26	Nov. 29 and Dec. 23 and Feb. 7, 2004	4	8
Ringneck Pheasant—Male only in Wildlife Management Units 1A, 2A, 2B, 2C, 4A, 4B, 4C, 4D, 4E, 5A, 5B, 5C & 5D		Oct. 11	Oct. 13	2	2
Eligible Junior Hunters only, with or without the required license, when properly accompanied as required by law					
Ringneck Pheasant—Male or female combined in Wildlife Management Units 1B, 2D, 2E, 2F, 2G, 3A, 3B, 3C & 3D		Oct. 11	Oct. 13	2	2
Eligible Junior Hunters only, with or without the required license, when properly accompanied as required by law					
Ringneck Pheasant—Male only in Wildlife Management Units 1A, 2A, 2B, 2C, 4A, 4B, 4C, 4D, 4E, 5A, 5B, 5C & 5D		Oct. 25	Nov. 29	2	4

<i>Species</i>	<i>Limit</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>	
Ringneck Pheasant—Male or female combined in Wildlife Management Units 1B, 2D, 2E, 2F, 2G, 3A, 3B, 3C & 3D		Oct. 25 Dec. 15 Dec. 26	and and	Nov. 29 Dec. 23 Feb. 7, 2004	2	4
<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>		
Bobwhite Quail—The hunting and taking of bobwhite quail is permitted in all Wildlife Management Units except in Wildlife Management Units 4A, 4B, 5A, 5B, 5C & 5D where the season is closed.	Oct. 25	Nov. 29	4	8		
Hares (Snowshoe Rabbits) or Varying Hares	Dec. 26	Jan. 3, 2004	1	2		
Woodchucks (Groundhog)	No closed season except during the antlered and antlerless deer season and until 12 noon daily during the spring gobbler turkey season.		Unlimited			
<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>		
Turkey—Male or Female			1	1		
Wildlife Management Units 1A, 2A & 2B	Nov. 1	Nov. 22				
Wildlife Management Unit 1B	Nov. 1	Nov. 15				
Wildlife Management Units 2C, 2D, 2E, 2F, 2G, 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D & 4E	Nov. 1	Nov. 22				
Wildlife Management Units 5A & 5B	Closed to fall turkey hunting					
Wildlife Management Units 5C & 5D	Nov. 1	Nov. 8				
Turkey (Spring Gobbler) Statewide Bearded Bird only	May 1, 2004	May 29, 2004	1	1		
Turkey (Spring Gobbler) Statewide Bearded Bird only Eligible Junior hunter with required license, when properly accompanied as required by law	April 24, 2004	April 24, 2004	1	1		

MIGRATORY GAME BIRDS

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

(a) Hunting hours in § with each required antlerless license. 141.4 (relating to hunting hours).

(b) Nontoxic shot as approved by the Director of the United States Fish and Wildlife Service is required for use Statewide in hunting and taking of migratory waterfowl.

(c) Subject to approval by the United States Fish and Wildlife Service, an early season for Canada geese will be held as defined in § 141.25.

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
Crows (Hunting permitted on Friday, Saturday and Sunday only)	July 4	Nov. 30	Unlimited	
	and			
	Dec. 26	April 4, 2004		
Starlings and English Sparrows	No closed season except during the antlered and antlerless deer seasons and until 12 noon daily during the spring gobbler turkey season		Unlimited	

FALCONRY

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
Squirrels—(Combined species)	Sept. 1	Mar. 31, 2004	6	12
Quail	Sept. 1	Mar. 31, 2004	4	8
Ruffed Grouse	Sept. 1	Mar. 31, 2004	2	4
Cottontail Rabbits	Sept. 1	Mar. 31, 2004	4	8
Snowshoe or Varying Hare	Sept. 1	Mar. 31, 2004	1	2
Ringneck Pheasant—Male and Female—(Combined)	Sept. 1	Mar. 31, 2004	2	4

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

DEER

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Season Limit</i>	<i>Field Possession Limit</i>
Deer, Antlered—(Statewide) ¹ (Archery—Bows and Arrows Only)	Oct. 4	Nov. 15	1	One antlered.
	and			
	Dec. 26	Jan. 10, 2004		
Deer, Antlerless—(Statewide) (Archery—Bows and Arrows Only)	Oct. 4	Nov. 15		An antlerless deer with each required antlerless license.
	and			
	Dec. 26	Jan. 10, 2004		
Deer, Regular Antlered—(Statewide) ¹	Dec. 1	Dec. 13	1	One antlered.

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Season Limit</i>	<i>Field Possession Limit</i>
Deer, Antlerless only— (Statewide) Only Junior and Senior License Holders, ² Disabled Person Permit (to use a vehicle) Holders and Residents serving on active duty in the U. S. Armed Forces, or in the U. S. Coast Guard, with required antlerless license	Oct. 23	Oct. 25		An antlerless deer with each required antlerless license.
Deer, Regular Antlerless— (Statewide)	Dec. 1	Dec. 13		An antlerless deer with each required antlerless license.
Deer, Antlerless only— (Statewide) (Muzzleloading season)	Oct. 18	Oct. 25		An antlerless deer with each required antlerless license.
Deer, Antlered or Antlerless—(Statewide) ¹ (Flintlock Muzzleloading season)	Dec. 26	Jan. 10, 2004		One antlered, or one antlerless—plus an additional antlerless deer with each required antlerless license.
Deer, Antlerless in Wildlife Management Units 2B, 5C & 5D	Dec. 26	Jan. 10, 2004		An antlerless deer with each required antlerless license.
Deer, Antlerless (Letterkenny Army Depot, Franklin County and New Cumberland Army Depot, York County and Fort Detrick, Raven Rock Site, Adams County)	Hunting is permitted on days established by the United States Department of the Army.			An antlerless deer with each required antlerless license.

BEAR

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Bear, any age—(Statewide)	Nov. 24	Nov. 26	1	1 ⁴
Bear, any age in Wildlife Management Unit 3D	Dec. 1	Dec. 6	1	1 ⁴

ELK

Elk, Antlered	Nov. 10	Nov. 15	1	1
Elk, Antlerless	Nov. 10	Nov. 15	1	1

FUR TAKING—TRAPPING

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Minks and Muskrats— (Statewide)	Nov. 22	Jan. 10, 2004		Unlimited
Beaver—(Statewide) ⁵	Dec. 26	Mar. 31, 2004		
Wildlife Management Units 1A, 1B, 2F & 2G			20	20

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Wildlife Management Unit 3A, 3B, 3C & 3D			20	40
Wildlife Management Units 2A, 2B, 2C, 2D, 2E, 4A, 4B, 4C, 4D & 4E			10	10
Wildlife Management Units 5A, 5B, 5C & 5D			6	6
Coyotes, Foxes, Opossums, Raccoons, Skunks, Weasels—(Statewide)	Oct. 19	Feb. 21, 2004		Unlimited
Bobcat ³				
Wildlife Management Units 2F, 2G, 3A, 3B, 3C & 3D	Oct. 19	Feb. 21, 2004	1	1

FUR TAKING—HUNTING

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Coyotes—(Statewide)	No closed season. Coyotes may be taken from the first day to the last day inclusive of any deer or bear season only by persons who possess a valid furtaker's license and wear 250 square inches of daylight fluorescent orange-colored material visible in a 360° arc from 2 hours before sunrise to 2 hours after sunset or by persons lawfully engaged in hunting deer or bear and have a valid tag, or during the spring gobbler turkey season by persons who have a valid spring turkey tag and meet fluorescent orange and shot size requirements.			Unlimited
Opossums, Skunks, Weasels—(Statewide)	No closed season. These species may not be hunted prior to 12 noon during the spring gobbler turkey season.			
Raccoons and Foxes— (Statewide)	Oct. 18	Feb. 21, 2004		Unlimited
Bobcat ³				
Wildlife Management Units 2F, 2G, 3A, 3B, 3C & 3D	Oct. 18	Feb. 21, 2004	1	1

No open seasons on other wild birds or wild mammals.

¹Only one antlered deer (buck) may be taken during the hunting license year. This includes protected deer killed in mistake for an antlered deer.

²Includes persons who have reached or will reach their 65th birthday in the year of the application for the license and hold a valid adult license or qualify for license and fee exemptions under section 2706 of the act (relating to resident license and fee exemptions).

³Bobcat may only be taken by furtakers in possession of a Bobcat Hunting-Trapping Permit.

⁴Only one bear may be taken during the hunting license year.

⁵In years when inclement weather conditions or other factors result in a underharvest of beaver the Director may extend the beaver season.

GAME COMMISSION

[58 PA. CODE CHS. 139 AND 141]

Seasons and Bag Limits; Hunting and Trapping

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 8, 2003, meeting, adopted the following amendments:

Amend §§ 139.2, 141.45 and 141.62 (relating to definitions; turkey; and beaver trapping), add § 139.17 (relating to wildlife management units) and delete §§ 141.21, 141.46 and 141.64 (relating to hen ringneck pheasant; turkey management areas; and furbearer management areas) to implement a uniform wildlife management unit (WMU) system.

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

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

Notice of proposed rulemaking was published at 33 Pa.B. 1103 (March 1, 2003).

1. Introduction

The Commission amended §§ 139.2, 141.45 and 141.62, added § 139.17 and reserved §§ 141.21, 141.46 and 141.64 to implement a uniform WMU system.

2. Purpose and Authority

Wildlife populations are not equally distributed or abundant across this Commonwealth. Accordingly, the Commission has regulated the harvest of species using species-specific management units made up of multiple counties. The use of different species-specific units and clusters of counties for delineating management units has, in the past, created complexity and confusion for hunters, trappers and Commission staff. To alleviate some of these problems, the wildlife management staff took a critical look at current species management units to evaluate the feasibility of implementing a uniform WMU system for improved resource management and hunter and trapper use.

Using data solicited and incorporated from central office and field staff within the Commission, the Commission was able to generate a single, uniform WMU map for all species by incorporating landscape, human population, land ownership and wildlife data to set readily identifiable boundaries. Using recognizable physical features on the landscape as boundaries rather than intangible boundaries, such as county lines, simplifies the unit system for both users and resource managers. Once the WMUs are incorporated, the individual pheasant area maps, turkey management area maps and furbearer management area maps will no longer be required.

Section 322(c)(1) of the code (relating to powers and duties of commission) specifically empowers the Commission to "fix seasons . . . and daily, season and possession limits for any species of game or wildlife." Section 322(c)(4) of the code specifically authorizes the Commission to "Define geographic limitations or restrictions." Section 2102(a) of the code (relating to regulations) authorizes the Commission to "promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting . . ." These provisions provide the statutory basis for the final-form rulemaking.

3. Regulatory Requirements

The final-form rulemaking will simplify the current management areas system for users and resource managers by creating a single, uniform management system for all species with boundaries using recognizable physical features on the landscape.

4. Persons Affected

Persons who wish to hunt deer, ringneck pheasant and turkey and trap furbearers will be affected by the final-form rulemaking.

5. Comment and Response Summary

In total, 8 official comments were received in support and 72 official comments, plus 1 petition containing 230 signatures, were received in opposition to the amendments to Chapter 139 (relating to seasons and bag limits). It should be noted that the majority of those that responded were not opposed to the concept of the new WMUs in general, but for more specific reasons generated by local changes including: single counties being divided by more than one WMU; changes to antler restrictions; lengths of fall turkey seasons; and late antlerless deer seasons formerly found only in special regulations area counties. Additionally, five official comments were received in opposition to the new system for handling antlerless license applications.

6. Cost and Paperwork Requirements

The final-form rulemaking should not result in 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 Michael A. Dubaich, 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 139 and 141, are amended by deleting §§ 141.21, 141.46 and 141.64 and Appendices B—D, by amending §§ 141.45 and 141.62 and by adding § 139.17 to read as set forth at 33 Pa.B. 1103 and by amending § 139.2 to read as set forth in Annex A.

(b) The Executive Director of the Commission shall certify this order, 33 Pa.B. 1103 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

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

VERNON R. ROSS,
Executive Director

Fiscal Note: Fiscal Note 48-155 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 139. SEASONS AND BAG LIMITS

§ 139.2. Definitions.

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

Antlered deer—

(i) In Wildlife Management Units 1A, 1B, 2A, 2B and 2D, a deer having four or more points to one antler.

(ii) In all other wildlife management units, a deer having three or more points to one antler.

(iii) In all wildlife management units, junior license holders, disabled person permit (to use a vehicle) holders and residents serving on active duty in the United States Armed Forces, or in the United States Coast Guard, a deer having two or more points to one antler, or with one antler 3 inches or more in length.

Antlered elk—An elk having at least one spike visible above the hairline.

Antlerless deer—A deer without antlers, or a deer with antlers both of which are less than 3 inches in length.

Antlerless elk—An elk without antlers, or an elk with no visible spike above the hairline.

Client—A person who receives the services of a guide.

Closed season—Periods of the calendar year and hours during which it is unlawful to take game or wildlife.

Daily limit—The maximum number permitted to be taken by one person in 1 day during the open season.

Early small game hunting season—A designated period when only squirrels and grouse may be hunted and taken.

Field possession limit—The maximum number of legally taken wildlife of a species which a person may legally possess or transport between the place of taking and the person's permanent place of residence.

Field possession limit—deer—When multiple harvests of deer per day are authorized, only one deer at a time may be harvested. Before harvesting additional deer, the deer previously harvested shall be lawfully tagged.

Guide—A person who assists another person to hunt or take game by locating game, calling game or directing another to game.

Hunting hours—The period each day of the open season, Sundays excepted, when game and wildlife may be lawfully taken.

Point—An antler projection at least 1 inch in length from base to tip, the main beam tip shall be counted as a point regardless of length.

Protected deer—A deer not defined as an antlered deer or an antlerless deer.

Regular firearms deer season—The designated period of time when deer may be hunted and taken by a person who possesses a general hunting license or a general hunting license and antlerless license only.

Regular small game hunting season—The designated period of time when resident small game species may be hunted and taken.

Season limits—The maximum number of wildlife which may be taken during a designated open season or license year.

Special firearms deer season—Any firearms deer season, except muzzleloader season, that precedes the regular firearms deer season.

[Pa.B. Doc. No. 03-1177. Filed for public inspection June 20, 2003, 9:00 a.m.]
