

PROPOSED RULEMAKING

GAME COMMISSION

[58 PA. CODE CH. 141]

Hunting and Trapping

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 7, 2003, meeting, proposed the following amendment:

Amend § 141.22 (relating to small game) to create a safety zone around Commission vehicles to reduce the chances of employees who are releasing pheasants from being injured.

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

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

The proposed rulemaking was made public at the October 7, 2003, meeting of the Commission. Comments can be sent until January 27, 2004, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Introduction

Every year as Commission employees release pheasants for hunting during the open season, hunters shoot the pheasants at or near the vehicles being used to transport the pheasants. Not only is this contrary to fair chase, it jeopardizes the safety of Commission employees releasing the pheasants. Adding § 141.22(a)(9) reduces the chances of Commission employees being injured when stocking pheasants.

2. Purpose and Authority

Because of increased incidents of careless hunters shooting at pheasants being released by Commission employees from their vehicles during the hunting season and the potential of serious physical injury, the Commission proposes to impose a safety zone of 150 yards around the vehicles. The safety zone distance is the same that is currently in place surrounding occupied dwellings and structures per section 2505(a) of the code (relating to safety zones). The intent of this proposed rulemaking is to provide the same safety parameters and protection for Commission employees releasing pheasants from their vehicles that is currently afforded to the general public at their residences.

Section 2102 of the code (relating to regulations) provides that the Commission shall promulgate regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking 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 provision provides the authority for the proposed rulemaking.

3. Regulatory Requirements

The proposed rulemaking will make it unlawful for hunters to shoot at pheasants within 150 yards of a Commission vehicle involved in releasing pheasants.

4. Persons Affected

Persons who hunt for pheasants will be affected by the proposed rulemaking.

5. Cost and Paperwork Requirements

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

6. Effective Date

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

7. Contact Person

For further information regarding the proposed rulemaking, contact Michael A. Dubaich, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,
Executive Director

Fiscal Note: 48-173. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Subchapter B. SMALL GAME

§ 141.22. Small game.

(a) *Unlawful activities.* It is unlawful to:

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(9) Discharge a firearm within 150 yards of a Game Commission vehicle releasing pheasants.

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[Pa.B. Doc. No. 04-140. Filed for public inspection January 23, 2004, 9:00 a.m.]

[58 PA. CODE CH. 143]

Hunting and Furtaker Licenses

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 7, 2003, meeting, proposed the following amendments:

Amend §§ 143.45 and 143.52 (relating to completing and submitting applications; and procedure for unlimited antlerless licenses) by eliminating the requirement to circle the appropriate number on the antlerless license application envelope and to move the date when county treasurers begin accepting over the counter antlerless license applications.

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

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

The proposed rulemaking was made public at the October 7, 2003, meeting of the Commission. Comments can be sent until January 27, 2004, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Introduction

This proposed rulemaking eliminates the legal requirement that an applicant for an antlerless license circle the appropriate number on the application envelope, so it can be properly processed without being placed in a dead letter file, while another amendment adjusts the date for treasurers accepting over the counter applications so as not to conflict with the mail-in application processing demands.

2. Purpose and Authority

By eliminating the requirement that the preprinted number on the outside of the envelopes for those applying for antlerless deer licenses be circled indicating the number of applications enclosed, the Commission will not be forced into placing them into a dead letter file because of an inadvertent mistake, but rather can legally accept them and the enclosed applications and process them without unnecessary delay and extra mail handling.

By adjusting the date when county treasurers can begin accepting over the counter applications for antlerless deer licenses to the third Monday in September, the burden on the treasurers who are still processing mail-in applications will be lessened and allow ample time for applicants who have applied by mail to have their applications received and processed before others can purchase them over the counter.

Section 2705(13) of the code (relating to classes of licenses) lists antlerless deer licenses as one of the licenses that the Commission administers by establishing regulations, requirements and conditions. Section 2722(g)(2) of the code (relating to authorized license-issuing agents) provides that "The commission shall adopt regulations for the administration, control and performance of activities conducted pursuant to the provisions of this chapter." These provisions provide the statutory authority for the proposed rulemaking.

3. Regulatory Requirements

The proposed rulemaking allows applicants for antlerless licenses who fail to circle the number of applications enclosed within their envelope to have their applications legally accepted and processed. This proposed rulemaking also allows county treasurers to legally accept over the counter antlerless applications at a later date to ease processing demands and conflicts with the mail-in applications.

4. Persons Affected

Persons who wish to apply for an antlerless deer license will be affected by the proposed rulemaking.

5. Cost and Paperwork Requirements

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

6. Effective Date

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

7. Contact Person

For further information regarding the proposed rulemaking, contact Michael A. Dubaich, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,
Executive Director

Fiscal Note: 48-176. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 143. HUNTING AND FURTKAKER LICENSES

Subchapter C. ANTLERLESS DEER LICENSES

§ 143.45. Completing and submitting applications.

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(g) [**The appropriate preprinted number on the outside of the envelope shall be circled indicating the number of applications enclosed.**

(h)] The envelope shall contain return first class postage and be self-addressed. If requirements of this subsection are not met, applications [**shall**] will be placed in a dead letter file and may be reclaimed by the applicant upon contacting the Commission's Hunting License Division in Harrisburg. Postage, both forward and return, is the responsibility of the applicant.

[(i)] (h) * * *

§ 143.52. Procedure for unlimited antlerless licenses.

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(c) Beginning on the [**date specified in subsection (b)] third Monday in September**, county treasurers within the designated wildlife management units shall accept antlerless applications over the counter from residents and nonresidents of this Commonwealth and may immediately issue licenses to applicants.

[Pa.B. Doc. No. 04-141. Filed for public inspection January 23, 2004, 9:00 a.m.]

[58 PA. CODE CH. 147]

Special Permits; Commercial Wildlife Pest Control

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 7, 2003, meeting, proposed the following amendment:

Amend § 147.721 (relating to general) to include the act of soliciting in the definition of activities requiring a commercial wildlife pest control permit.

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

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

The proposed rulemaking was made public at the October 7, 2003, meeting of the Commission. Comments can be sent until January 27, 2004, to the Director,

Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. *Introduction*

The Commission is proposing to amend § 147.721 to include the act of soliciting as one of the requirements for a commercial wildlife pest control permit. This is currently not unlawful and has resulted in several incidents of nonpermitted persons taking advantage of the public.

2. *Purpose and Authority*

The purpose of the proposed rulemaking is to protect the public from unscrupulous persons who advertise to perform commercial wildlife pest control services while not currently possessing a permit. There have been several incidents of persons offering their services and activities for wildlife pest control when neither they nor their employees, who were to perform the actual control service, possessed a current commercial wildlife pest control permit from the Commission. Since the timing of some wildlife pest control methods and techniques is often critical, it is vitally important to more effectively regulate the activity.

Section 2901(b) of the code (relating to authority to issue permits), provides that "Unless otherwise provided in this title, the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued."

3. *Regulatory Requirements*

The proposed rulemaking will make the act of soliciting to provide commercial wildlife pest control services without a current permit from the Commission unlawful.

4. *Persons Affected*

Persons who advertise or solicit wildlife pest control services who are not currently permitted by the Commission will be affected by the proposed rulemaking. Wildlife pest control permittees will be affected through protection from the competition from unpermitted individuals, while the general public will be affected by not hiring someone advertising wildlife pest control services when they are not permitted by the Commission.

5. *Cost and Paperwork Requirements*

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

6. *Effective Date*

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

7. *Contact Person*

For further information regarding the proposed rulemaking, contact Michael A. Dubaich, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,
Executive Director

Fiscal Note: 48-174. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 147. SPECIAL PERMITS

Subchapter T. COMMERCIAL WILDLIFE PEST CONTROL

§ 147.721. General.

A commercial wildlife pest control permit is required for [a] any person to take, harass, transport, release or dispatch designated wildlife [,] for another person [for a fee or other consideration,] or to solicit or offer their services to another to take, harass, transport or dispatch designated wildlife that is creating a nuisance, causing damage to property or is a risk to human health or safety. This permit authorizes the agent to control designated wildlife for another at any time of the year.

[Pa.B. Doc. No. 04-142. Filed for public inspection January 23, 2004, 9:00 a.m.]

[58 PA. CODE CH. 147]

Special Permits; Falconry

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 7, 2003, meeting, proposed the following amendment:

Amend § 147.103 (relating to classes of permits) to allow residents of this Commonwealth to apply for a falconry permit at 16 years of age.

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

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

The proposed rulemaking was made public at the October 7, 2003, meeting of the Commission. Comments can be sent until January 27, 2004, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. *Introduction*

The act of June 17, 2003 (P. L. 12, No. 5) (Act 5) amended section 2901 of the code (relating to authority to issue permits) to allow residents of this Commonwealth who are at least 16 years of age to apply for a falconry permit. Currently, § 147.103(a) requires a person to be 18 years of age. This conflict can be eliminated by amending § 147.103(a).

2. *Purpose and Authority*

Act 5 amended section 2901 of the code by changing the age requirement for eligible residents of this Commonwealth to apply for apprentice falconry permits from 18 years of age to 16 years of age. Current regulations require persons applying for a falconry permit to be at least 18 years of age. To make the regulations compatible with the code, § 147.103(a) needs to be amended to allow persons at least 16 years of age to apply for an apprentice falconry permit.

Section 2901(b) of the code states that unless otherwise provided in the code, the Commission may, as deemed necessary to properly manage game or wildlife resources,

promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued. This provision provides statutory authority for the proposed rulemaking.

3. *Regulatory Requirements*

The proposed rulemaking will allow a person 16 years of age to apply for a falconry permit.

4. *Persons Affected*

Persons who wish to apply for a falconry permit will be affected by the proposed rulemaking.

5. *Cost and Paperwork Requirements*

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

6. *Effective Date*

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

7. *Contact Person*

For further information regarding the proposed rulemaking, contact Michael A. Dubaich, Director, Bureau of

Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,
Executive Director

Fiscal Note: 48-175. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 147. SPECIAL PERMITS

Subchapter F. FALCONRY

§ 147.103. Classes of permits.

(a) *Apprentice.* A permittee shall be [18] 16 years of age or older.

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