

PROPOSED RULEMAKING

GAME COMMISSION

[58 PA. CODE CHS. 135]

Lands and Buildings

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 26, 2005, meeting, proposed the following rule-making:

Amend § 135.107 (relating to Middle Creek Wildlife Management Area) to permit the Director to designate dates for deer hunting outside of the established seasons and bag limits in the Middle Creek Wildlife Management Area and to eliminate redundant language.

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 April 26, 2005, meeting of the Commission. Comments can be sent until June 24, 2005, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. *Purpose and Authority*

Section 137.107 allows special deer hunts to take place on controlled areas of the Middle Creek Wildlife Management Area. However, hunters are required to apply for and receive a permit prior to taking part in these special hunts. Under § 135.161(2) (relating to Commission-owned or leased), these special hunts are currently required to be held in conformity with established seasons and bag limits.

The Commission has recently identified a trend indicating that, in addition to the properly permitted hunters who are authorized to hunt inside of these controlled areas, a heavy concentration of hunters tend to surround the boundary lines of these areas hoping to harvest deer as they go to and from the Middle Creek Wildlife Management Area. The combination of increased deer movement and the high concentration of hunters in and around these controlled areas poses a significant safety concern. To address this safety concern, the Commission is proposing to amend § 135.107 to allow the Director to designate dates for the special deer hunts in the Middle Creek Wildlife Management Area to take place outside of the established seasons and bag limits. This amendment should help dilute the heavy concentration of hunters in and around the Middle Creek Wildlife Management Area during established deer hunting seasons.

Section 135.107(b)(4) and (c)(4) currently contains the language "or a designee." The creation of this language was intended to allow the Director to designate another individual the authority to suspend special hunts and cancel the remaining permits when an adequate number of game animals had been harvested. However, after additional review of the definition of "Director" in section 102 of the code (relating to definitions), it is apparent that the term "designee" is already covered by the definition. Therefore, the Commission is proposing to amend § 135.107(b)(4) and (c)(4) by eliminating the "or a designee" language in these provisions since it is redundant and unnecessary.

Section 322(c)(2) of the code (relating to powers and duties of the commission) specifically empowers the commission to "Remove protection, declare an open season or increase, reduce or close a season." Section 322(c)(6) of the code specifically empowers the Commission to "Limit the number of hunters or furtakers in any designated area. . . ." Section 322(c)(10) of the code specifically empowers the commission to "Manage and develop its lands and waters...as it considers advisable and, by proper action and proceedings, enact and enforce regulations to insure the prudent and proper use of these lands." Section 721(a) of the code (relating to control of property) provides "The administration of all lands and waters owned, leased or otherwise controlled by the commission shall be under the sole control of the Director, and the commission shall promulgate regulations . . .for its use and protection as necessary to properly manage these lands or waters." Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such 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." The amendments to § 135.107 were proposed under this authority.

2. *Regulatory Requirements*

The proposed rulemaking will permit the Director to designate dates for deer hunting outside of the established seasons and bag limits in the Middle Creek Wildlife Management Area and will eliminate redundant language.

3. *Persons Affected*

Persons wishing to take part in any special game hunts that take place on controlled areas of the Middle Creek Wildlife Management Areas may be affected by the proposed rulemaking.

4. *Cost and Paperwork Requirements*

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

5. *Effective Date*

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

6. *Contact Person*

For further information regarding the proposed rule-making, 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: 48-210. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 135. LANDS AND BUILDINGS

Subchapter F. SPECIAL WILDLIFE MANAGEMENT AREAS

§ 135.107. Middle Creek Wildlife Management Area.

* * * * *

(b) The following apply to special deer hunts on the controlled areas:

* * * * *

(4) The Director [or a designee] reserves the right to suspend the hunt and cancel remaining permits when an adequate number of deer have been taken.

* * * * *

(8) Notwithstanding the provisions in § 135.161(2) (relating to Commission-owned or leased lands or waters), the Director may designate dates for deer hunting outside of established seasons and bag limits.

(c) The following apply to special rabbit and squirrel hunts on the controlled hunting areas:

* * * * *

(4) The Director [or a designee reserve] reserves the right to suspend the hunt and cancel remaining permits when an adequate number of rabbits [and] or squirrels, or both, have been taken.

* * * * *

[Pa.B. Doc. No. 05-1079. Filed for public inspection June 3, 2005, 9:00 a.m.]

[58 PA. CODE CH. 141]
Hunting and Trapping

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 26, 2005, meeting, proposed the following rule-making:

Amend Chapter 141, Appendix G (relating to hunting hours) to reflect the annual change in days and subsequent hunting times for the 2005-2006 hunting license year.

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 April 26, 2005, meeting of the Commission. Comments can be sent until June 24, 2005, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

Each year there is a shift in calendar days for each month. As a result of this occurrence, the table of hunting hours found in Appendix G must be amended and updated on an annual basis to reflect the upcoming year's accurate dates and hours for legal hunting. Towards this end, the Commission is proposing to amend Appendix G by updating the table of hunting hours to accurately reflect the dates and hours of legal hunting for the 2005-2006 hunting year.

Section 322(c)(1) of the code (relating to powers and duties of the Commission) specifically empowers the Commission to "fix seasons, daily shooting or taking hours, and any modification thereof, and daily, season and possession limits for any species of game or wildlife." Section 2102(a) of the code (relating to regulations) provides that "The Commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth. . . ." The amendment to Appendix G was proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend Appendix G to update the table of hunting hours to accurately reflect the dates and hours of legal hunting for the 2005-2006 hunting year.

3. Persons Affected

Persons wishing to hunt or trap within this Commonwealth will be affected by the proposed rulemaking.

4. Cost and Paperwork Requirements

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

5. Effective Date

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

6. Contact Person

For further information regarding the proposed rule-making, 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: 48-211. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Appendix G

(Editor's Note: As part of this proposal, the Commission is proposing to delete the Table of Hunting Hours, which appears at 58 Pa. Code pages 141-25 and 141.26, serial pages (304857) and (304858), and replace it with the following table.)

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TABLE OF HUNTING HOURS FOR JUNE 26, 2005 THROUGH JULY 1, 2006

<i>Dates</i>	<i>Begin a.m.</i>	<i>End p.m.</i>	<i>Dates</i>	<i>Begin a.m.</i>	<i>End p.m.</i>
June 26—July 2	5:06	8:33	Jan. 1—Jan. 7	6:53	4:46
July 3—July 9	5:10	8:31	Jan. 8—Jan. 14	6:52	4:53
July 10—July 16	5:15	8:28	Jan. 15—Jan. 21	6:51	5:00
July 17—July 23	5:21	8:23	Jan. 22—Jan. 28	6:47	5:08
July 24—July 30	5:27	8:16	Jan. 29—Feb. 4	6:42	5:16
July 31—Aug. 6	5:34	8:09	Feb. 5—Feb. 11	6:35	5:25
Aug. 7—Aug. 13	5:40	8:00	Feb. 13—Feb. 19	6:27	5:33
Aug. 14—Aug. 20	5:47	7:50	Feb. 19—Feb. 25	6:18	5:41
Aug. 21—Aug. 27	5:54	7:40	Feb. 26—Mar. 4	6:09	5:49
Aug. 28—Sept. 3	6:00	7:29	Mar. 5—Mar. 11	5:58	5:57
Sept. 4—Sept. 10	6:07	7:17	Mar. 12—Mar. 18	5:47	6:04
Sept. 11—Sept. 17	6:14	7:06	Mar. 19—Mar. 25	5:37	6:12
Sept. 18—Sept. 24	6:20	6:54	Mar. 26—Apr. 1	5:24	6:19
Sept. 25—Oct. 1	6:27	6:43	Apr. 2—Apr. 8	6:13	7:26
Oct. 2—Oct. 8	6:34	6:31	Apr. 9—Apr. 15	6:02	7:33
Oct. 9—Oct. 15	6:41	6:21	Apr. 16—Apr. 22	5:51	7:40
Oct. 16—Oct. 22	6:49	6:11	Apr. 23—Apr. 29	5:41	7:47
Oct. 23—Oct. 29	6:56	6:02	Apr. 30—May 6	5:32	7:54
Oct. 30—Nov. 5	6:04	4:54	May 7—May 13	5:24	8:01
Nov. 6—Nov. 12	6:13	4:47	May 14—May 20	5:16	8:08
Nov. 13—Nov. 19	6:21	4:41	May 21—May 27	5:10	8:14
Nov. 20—Nov. 26	6:28	4:38	May 28—June 3	5:06	8:20
Nov. 27—Dec. 3	6:35	4:36	June 4—June 10	5:03	8:25
Dec. 4—Dec. 10	6:42	4:35	June 11—June 17	5:01	8:29
Dec. 11—Dec. 17	6:47	4:35	June 18—June 24	5:01	8:32
Dec. 18—Dec. 24	6:50	4:37	June 25—July 1	5:03	8:33
Dec. 25—Dec. 31	6:52	4:41			

[Pa.B. Doc. No. 05-1080. Filed for public inspection June 3, 2005, 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 April 26, 2005, meeting, proposed the following rule-making:

Amend §§ 143.201 and 143.203 (relating to purpose and scope; and drawing) to correct language recognizing the different classifications of elk licenses available and make the drawing requirements for the different classifications of the elk license more consistent.

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 April 26, 2005, meeting of the Commission. Comments can be sent until June 24, 2005, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. *Purpose and Authority*

Since the creation of the elk license a short time ago, only two classifications of the elk license have been available, the antlered and the antlerless elk license. In an effort to promote and increase elk hunter success within this Commonwealth, the Commission has added a third classification to the elk license. This new classification entitles the holder of the license to harvest either an antlered or antlerless elk. This means that the hunter may choose which sex of elk is harvested according to factors such as preference, availability, weather conditions, and the like.

The new antlered and/or antlerless elk license classification should be available to elk hunters in the near future. However, before this new classification of elk license can be sold, the Commission must amend §§ 143.201 and 143.203 to correct language recognizing the different classifications of elk licenses available and also to make the drawing requirements for the different classifications of the elk license more consistent. Currently, § 143.201 only recognizes that the Commission will establish a quantity of tags for antlered and antlerless elk. Since the new classification of elk license permits

either antlered or antlerless elk to be harvested, the Commission is proposing to amend this language by inserting "/or" to recognize all classifications of the elk license currently available.

Currently, § 143.203 only restricts successful applicants issued an "antlered elk license" from applying for another elk license for 5 license years. Due to the fact that the new classification of elk license entitles the holder to harvest either an antlered or antlerless elk, the Commission is proposing to amend § 143.203 to restrict successful applicants issued any license entitling them to take an antlered elk from applying for another elk license for 5 license years. This amendment should maintain a certain level of fairness in the lottery drawing process for all applicants.

Section 2705(15) of the code (relating to classes of licenses) provides that "To ensure sound management of Pennsylvania's wild elk population, the commission may promulgate regulations to establish a limited number of licenses." Section 2722(g) of the code (relating to authorized license-issuing agents) directs the Commission to adopt regulations for the administration, control and performance of license issuing activities. Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such 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 . . . in this Commonwealth." The amendments to §§ 143.201 and 143.203 were proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will correct language referring to the different classifications of the elk license available to hunters by adding the language "/or" and also make the drawing requirements for the different classifications of the elk license more consistent by prohibiting all applicants successfully drawn for any elk license entitling them to take an antlered elk from reapplying for another elk license for 5 license years.

3. Persons Affected

Persons wishing to apply for an elk license entitling them to harvest an antlered or an antlerless elk within this Commonwealth will be affected by the proposed rulemaking.

4. Cost and Paperwork Requirements

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

5. Effective Date

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

6. 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: 48-208. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 143. HUNTING AND FURTKAKER LICENSES

Subchapter K. ELK LICENSES

§ 143.201. Purpose and scope.

If the Commission approves an elk hunting season, this subchapter establishes methods of applying for elk licenses. The Commission will set the number of licenses to be issued, establishing a quantity of tags for antlered and/or antlerless elk.

§ 143.203. Drawing.

* * * * *

(c) [**An applicant issued an antlered elk license is not permitted to apply for another elk license for 5 license years.**] Applicants issued a license entitling them to take an antlered elk are not permitted to apply for an elk license for 5 license years.

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