

PROPOSED RULEMAKING

GAME COMMISSION

[58 PA. CODE CH. 141]

Hunting and Trapping; Electronic Devices for Dogs

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 24, 2006, meeting, proposed to amend § 141.18 (relating to permitted devices).

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 January 24, 2006, meeting of the Commission. Comments can be sent, until April 14, 2006, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

The Commission has recently received a number of requests from various persons who use dogs to hunt a variety of game species to amend existing regulations to specifically permit the use of electronic devices used for the purpose of locating dogs while hunting or training. The devices specifically requested for permitted use are e-collars, radio-telemetry tracking systems and beeper collars. The requests have resulted from fears that strict interpretation of the provisions prohibiting use of electronic devices to hunt or take wildlife could put persons who use electronic devices to locate their dogs while hunting or training at risk of being found in violation.

From a fundamental perspective, the Commission accepts the use of electronic devices to locate dogs while hunting or training just as much as it currently accepts the use of electronic devices to locate fellow hunters (that is, two-way radios, cell phones, and the like). Use of electronic devices in this manner does not give a hunter an unfair advantage over game or violate principles of fair chase. However, the Commission is concerned that the specific permitted use of these types of electronic devices intended to locate dogs while hunting or training will encourage hunters to misuse these devices to also locate game. Despite this concern, after consideration of the relevant issues, the Commission believes that it is appropriate to accommodate these requests. Therefore, the Commission is proposing to amend § 141.18 to specifically permit the use of electronic devices used for locating dogs while hunting or training, including devices such as e-collars, radio-telemetry dog tracking systems and beeper collars.

Section 322(c)(5) of the code (relating to powers and duties of commission) specifically empowers the Commission to "Fix the type and number of devices which may be used to take game or wildlife." Section 2102(b)(1) of the code (relating to regulations) authorizes the commission to "promulgate regulations relating to . . . the number and types of devices and equipment allowed, the identification of devices and the use and possession of devices." Section 2102(a) of the code 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 amendment to § 141.18 was proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend § 141.18 to specifically permit the use of electronic devices used for locating dogs while hunting or training, including devices such as e-collars, radio-telemetry dog tracking systems and beeper collars.

3. Persons Affected

Persons wishing to use electronic devices to locate dogs while hunting or training will be affected by the proposed rulemaking.

4. Cost and Paperwork Requirements

The proposed rulemaking should not result in any 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.

CARL G. ROE,
Executive Director

Fiscal Note: 48-228. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Subchapter A. GENERAL

§ 141.18. Permitted devices.

The following devices may be used to hunt or take wildlife:

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(3) Electronic devices used for locating dogs while training or hunting, including devices such as e-collars, radio-telemetry dog tracking systems and beeper collars.

[Pa.B. Doc. No. 06-486. Filed for public inspection March 24, 2006, 9:00 a.m.]

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

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 24, 2006, meeting, proposed to amend §§ 147.552—147.554 (relating to application; permit; and subpermit).

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 January 24, 2006, meeting of the Commission. Comments can be sent, until April 14, 2006, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

The Commission recognizes the unique challenges faced by farmers in this Commonwealth's most urban areas. White-tailed deer have certainly proven themselves able to create significant agricultural destruction, even in moderate numbers. Unfortunately, for farmers in highly developed or urban areas deer population issues are complicated. As a measure to help combat high deer populations and their associated problems, the Commission provides farmers with a number of deer management programs, including agricultural deer control permits. The permits generally allow for a focused deer harvest in a designated area in addition to the harvest authorized by the various traditional hunting seasons. Unfortunately, it appears that despite the availability of these permits, farmers in Wildlife Management Units (WMU) 5C and 5D continue to suffer significant agricultural destruction.

In response to the aforementioned damage, a number of farmers or those representing their interests, or both, have requested additional relief from the Commission. Specifically, these individuals are requesting that the following requirements be eliminated for permittees in WMUs 5C and 5D: 1) minimum of 2 years and current enrollment in one of the Commission's public access programs; 2) conspicuous posting of deer control permit signs on the boundaries of and along all public roadways traversing the permitted property; and 3) limitation preventing permittees from issuing more than one subpermit to a qualified individual. Although the Commission's staff has some reservation in eliminating public access requirements from agricultural deer control permits, the Commission is nonetheless convinced that it needs to provide some measure of additional relief to affected farmers in WMUs 5C and 5D. Therefore, the Commission is proposing to amend §§ 147.552, 147.553 and 147.554 to modify the public access, signage posting and subpermit issuance requirements for agricultural deer control permit permittees in WMUs 5C and 5D.

Section 2901(b) of the code (relating to authority to issue permits) provides "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." 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 §§ 147.552, 147.553 and 147.554 were proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend §§ 147.552, 147.553 and 147.554 to modify the public access, signage posting and subpermit issuance requirements for agricultural deer control permit permittees in WMUs 5C and 5D.

3. Persons Affected

Persons wishing to obtain an agricultural deer control permit or operate under the authority of another's agricultural deer control permit in WMUs 5C and 5D will be affected by the proposed rulemaking.

4. Cost and Paperwork Requirements

The proposed rulemaking should not result in any 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.

CARL G. ROE,
Executive Director

Fiscal Note: 48-227. No fiscal impact; (8) recommends adoption.

**Annex A
TITLE 58. RECREATION
PART III. GAME COMMISSION
CHAPTER 147. SPECIAL PERMITS
Subchapter R. DEER CONTROL
AGRICULTURE**

§ 147.552. Application.

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(b) **[Applications]** Except in wildlife management units 5C and 5D, applications will only be accepted from persons who have been enrolled in one of the Commission public access programs (Farm Game Project or Safety Zone—P.1-2-3) for a minimum of 2 years and are currently enrolled in the Program.

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§ 147.553. Permit.

The deer control permit authorizes the permittee to enlist the aid of a limited number of subpermits. The maximum number of subpermits issued will be no more than one for every 5 acres of land that is under cultivation unless the wildlife conservation officer recommends an increase in the number due to warranted circumstances.

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(3) *Posting.* **[Deer]** Except in wildlife management units 5C and 5D, deer control permit signs provided by the Commission shall be conspicuously posted on the boundary of and along all public roadways traversing the property by the landowner/cooperator on all contiguous acres of the farm under agreement. Posting shall be completed prior to February 1.

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§ 147.554. Subpermit.

The permittee may acquire from the Commission subpermits, not to exceed the number provided for in § 147.553 (relating to permit), to be issued to qualified individuals of the permittee's choosing for the purpose of removing deer from the permittee's property by shooting. There is no fee charged for the subpermit. Qualifications are as follows:

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(3) A permittee may not issue more than one subpermit to a person to take deer on the permittee's land enrolled in the Agricultural Deer Control Program, **except in wildlife management units 5C and 5D, where a permittee may not issue more than two subpermits to a person.**

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[Pa.B. Doc. No. 06-487. Filed for public inspection March 24, 2006, 9:00 a.m.]
