

RULES AND REGULATIONS

Title 52—PUBLIC UTILITIES

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 5]

Corrective Amendment to 52 Pa. Code § 5.351

The Pennsylvania Public Utility Commission has discovered a discrepancy between the agency text of 52 Pa. Code § 5.351(a) (relating to on the record data requests), as deposited with the Legislative Reference Bureau, and the official text published at 36 Pa.B. 2097, 2153 (April 29, 2006) and the text scheduled to be published in the July 2006 *Pennsylvania Code Reporter* (Master Transmittal Sheet No. 380). The amendment of § 5.351 inadvertently omitted text in subsection (a).

Therefore, under 45 Pa.C.S. § 901: the Public Utility Commission has deposited with the Legislative Reference Bureau a corrective amendment to 52 Pa. Code § 5.351(a). The corrective amendment to 52 Pa. Code § 5.351(a) is effective as of April 29, 2006, the effective date for the amendment of § 5.351 as ordered by the Commission.

The correct version of 58 Pa. Code § 5.351(a) appears in Annex A, with ellipses referring to the existing text of the regulation.

Annex A

TITLE 52 PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart A. GENERAL PROVISIONS

CHAPTER 5. FORMAL PROCEEDINGS

Subchapter D. DISCOVERY

TYPES OF DISCOVERY

§ 5.351. On the record data requests.

(a) A party may request that a witness provide information or documents at a later time as part of the witness' response to a question posed during cross-examination in the course of a rate proceeding. The request may be made orally or in writing and shall be presented at the time the witness appears for cross-examination.

* * * * *

[Pa.B. Doc. No. 06-1063. Filed for public inspection June 16, 2006, 9:00 a.m.]

Title 58—RECREATION

GAME COMMISSION

[58 PA. CODE CHS. 131 AND 139]

Preliminary Provisions; Seasons and Bag Limits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 24, 2006, meeting, adopted amendments to §§ 131.2 and 139.2 (relating to definitions).

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

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

Notice of proposed rulemaking was published at 36 Pa.B. 12 (January 7, 2006).

1. Purpose and Authority

Formerly, certain definitions in § 139.2 defined various terms for the purposes of Chapter 139 (relating to seasons and bag limits) only. The unfortunate result was that some of the important terms defined in this section had no definition for the purposes of other chapters. To better serve the Commission and the public, the Commission relocated the majority of the definitions in § 139.2 with cross-chapter application to § 131.2, which should now permit these definitions to have broader application.

Section 2102(b)(1) of the code (relating to regulations) authorizes the Commission to "promulgate regulations relating to seasons and bag limits for hunting or furtaking, the possession of certain species or parts thereof, 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 of §§ 131.2 and 139.2 was adopted under this authority.

2. Regulatory Requirements

The final-form rulemaking amends §§ 131.2 and 139.2 by relocating the majority of the definitions in § 139.2 to § 131.2 to permit cross-chapter application of the subject definitions.

3. Persons Affected

Persons wishing to hunt and trap in this Commonwealth may be affected by the final-form rulemaking.

4. Comment and Response Summary

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

5. Cost and Paperwork Requirements

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

6. Effective Date

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

7. 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 131 and 139, are amended by amending §§ 131.2 and 139.2 to read as set forth at 36 Pa.B. 12.

(b) The Executive Director of the Commission shall certify this order and 36 Pa.B. 12 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*.

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-225 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 06-1064. Filed for public inspection June 16, 2006, 9:00 a.m.]

—————

GAME COMMISSION
[58 PA. CODE CH. 137]
Wildlife

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 24, 2006, meeting, adopted an amendment to § 137.33 (relating to feeding of certain wildlife prohibited) and rescinded § 137.32 (relating to feeding of elk prohibited).

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 35 Pa.B. 6106 (November 5, 2005).

1. *Purpose and Authority*

The Commission added § 137.33 to prohibit the feeding of bears outside of specified exceptions. This section was an addition to existing § 137.32, which already prohibited the feeding of elk outside of specified exceptions. The Commission recognized the duplication and redundancy of maintaining both of these sections due to their similarity in language and restriction. Therefore, the Commission rescinds § 137.32 and enlarges the scope of § 137.33 to include the elk feeding prohibition. As part of this final-form rulemaking, the Commission is eliminating the emergency elk feeding provision because it is no longer necessary.

Section 103(a) of the code (relating to ownership, jurisdiction and control of game and wildlife) states that

“The ownership, jurisdiction over and control of game or wildlife is vested in the commission as an independent agency of the Commonwealth in its sovereign capacity to be controlled regulated and disposed of in accordance with this chapter.” 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...in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife...in this Commonwealth.” The rescission of § 137.32 and the amendment of § 137.33 was adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking rescinds § 137.32 and amends § 137.33 to incorporate the provisions currently in § 137.32, which restrict the feeding of elk outside of specified exceptions. This final-form rulemaking is essentially a relocation or restructuring of existing regulatory language that does not add or expand any requirements. This final-form rulemaking will, however, eliminate the emergency elk feeding provision and restructure the public written notice provision to expand its coverage.

3. *Persons Affected*

Persons living within areas where elk are located may be affected by the final-form rulemaking.

4. *Comment and Response Summary*

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

5. *Cost and Paperwork Requirements*

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

6. *Effective Date*

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

7. *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 137, are amended by deleting § 137.32 to read as set forth at 35 Pa.B. 6106 and by amending § 137.33 to read as set forth in Annex A.

(b) The Executive Director of the Commission shall certify this order, Annex A and 35 Pa.B. 6106 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*.

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-213 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 137. WILDLIFE

§ 137.33. Feeding of certain wildlife prohibited.

It is unlawful to, except for normal or accepted farming, habitat management practices, oil and gas drilling, mining, forest management activities or other legitimate commercial or industrial practices, intentionally lay or place food, fruit, hay, grain, chemical, salt or other minerals anywhere in this Commonwealth for the purpose of feeding bear or elk, or to intentionally lay or place food, fruit, hay, grain, chemical, salt or other minerals that may cause bear or elk to congregate or habituate an area. If otherwise lawful feeding is attracting bear or elk, the Commission may provide written notice prohibiting the activity.

[Pa.B. Doc. No. 06-1065. Filed for public inspection June 16, 2006, 9:00 a.m.]

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 January 24, 2006, meeting, rescinded §§ 141.25—141.27 (relating to early goose hunting season; early Canada goose hunting season on Middle Creek Wildlife Management Area; and early Canada goose hunting season on Pymatuning Wildlife Management Area).

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

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

Notice of proposed rulemaking was published at 36 Pa.B. 19 (January 7, 2006).

1. *Purpose and Authority*

Section 139.4 (relating to seasons and bag limits for the license year) states that “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 the authority of the Migratory Bird Treaty Act (16 U.S.C.A. §§ 703—711) as published in the Federal Register” Since the early goose seasons,

including hunting zone definitions, are presently published and adopted each year by the United States Secretary of the Interior in the manner previously described, §§ 141.25, 141.26 and 141.27 were redundant and unnecessary and were therefore eliminated.

Section 2102(b)(1) of the code (relating to regulations) authorizes the Commission to “promulgate regulations relating to seasons and bag limits for hunting or furtaking, the possession of certain species or parts thereof, 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 rescission of §§ 141.25—141.27 was adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking rescinds §§ 141.25—141.27 to remove redundant and unnecessary language.

3. *Persons Affected*

Persons wishing to hunt migratory birds within this Commonwealth may be affected by the final-form rulemaking.

4. *Comment and Response Summary*

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

5. *Cost and Paperwork Requirements*

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

6. *Effective Date*

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

7. *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 141, are amended by deleting §§ 141.25—141.27 to read as set forth at 36 Pa.B. 19.

(b) The Executive Director of the Commission shall certify this order and 36 Pa.B. 19 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*.

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-226 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 06-1066. Filed for public inspection June 16, 2006, 9:00 a.m.]

GAME COMMISSION [58 PA. CODE CH. 141]

Hunting and Trapping; Artificial Lights

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 24, 2006, meeting, adopted an amendment to § 141.7 (relating to use of artificial lights).

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

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

Notice of proposed rulemaking was published at 36 Pa.B. 20 (January 7, 2006).

1. *Purpose and Authority*

The Commission recognizes that recreational spotlighting can have substantial negative impacts on landowner, public and wildlife management concerns. In the past, by and through § 141.7, the Commission has consistently prohibited recreational spotlighting, but only during the 2-week concurrent antlered and antlerless deer rifle seasons. However, the former language of this section was inflexible and unable to adapt to the Commission's recent use of the extended regular firearms seasons in certain wildlife management units (WMU). Since the justifications for the recreational spotlighting prohibition are equally applicable to the extended firearms deer seasons, the Commission amended § 141.7 by extending the recreational spotlighting ban to all "regular firearms deer seasons" within each individual WMU. Section 139.2 (relating to definitions) defines "regular firearms deer season" as that "designated period of time when deer may be hunted and taken by any person who possesses a General Hunting License or a General Hunting License and Antlerless License only." This expansion will have no effect on recreational spotlighting during the early archery, early muzzleloader or special firearms seasons of all WMUs. However, this expansion will impact recreational spotlighting during the late archery and (flintlock) muzzleloader seasons, but only in those WMUs when the regular firearms deer season extends into and runs concurrent with the late archery and (flintlock) muzzleloader seasons.

Section 2102(b)(1) of the code (relating to regulations) authorizes the Commission to "promulgate regulations relating to seasons and bag limits for hunting or furtaking, . . . 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 . . . wildlife in this Commonwealth." The amendment of § 141.7 was adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking amends § 141.7 to extend the recreational spotlighting ban to all regular firearms deer seasons within each individual management unit.

3. *Persons Affected*

Persons wishing to engage in recreational spotlighting within any WMU having an extended regular firearms deer season will be affected by the final-form rulemaking.

4. *Comment and Response Summary*

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

5. *Cost and Paperwork Requirements*

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

6. *Effective Date*

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

7. *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 amendment adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The adoption of the amendment of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 141, are amended by amending § 141.7 to read as set forth at 36 Pa.B. 20.

(b) The Executive Director of the Commission shall certify this order and 36 Pa.B. 20 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*.

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-220 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 06-1067. Filed for public inspection June 16, 2006, 9:00 a.m.]

GAME COMMISSION
[58 PA. CODE CH. 141]
Hunting and Trapping; Cable Restraints

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 24, 2006, meeting, adopted an amendment to § 141.63 (relating to definitions).

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

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

Notice of proposed rulemaking was published at 36 Pa.B. 21 (January 7, 2006).

1. *Purpose and Authority*

The Commission added § 141.66 (relating to cable restraints) to permit the lawful use of cable restraint devices to trap certain furbearers. This regulatory addition required the Commission to amend § 141.63 to provide a definition for “cable restraint.” Unfortunately, due either to typographical error or plain misstatement, this definition of “cable restraint” did not accurately describe its intended meaning. Therefore, the Commission amended § 141.63 in an effort to correct this mistake and provide a more accurate definition of “cable restraint.”

Section 322(c)(5) of the code (relating to powers and duties of the commission) specifically empowers the Commission to “Fix the type and number of devices which may be used to take game or wildlife.” Section 2102(d) of the code (relating to regulations) authorizes the Commission to “promulgate regulations stipulating the size and type of traps . . . and other devices which may be used, the manner in which and the location where the devices may be used, the species the devices may be used for and the season when the devices may be used.” 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 of § 141.63 was adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking amends § 141.63 to provide a more accurate definition of “cable restraint” by making two minor language adjustments to the existing definition.

3. *Persons Affected*

Persons wishing to use cable restraint devices to trap certain furbearers will be affected by the final-form rulemaking.

4. *Comment and Response Summary*

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

5. *Cost and Paperwork Requirements*

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

6. *Effective Date*

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

7. *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 amendment adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The adoption of the amendment of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 141, are amended by amending § 141.63 to read as set forth at 36 Pa.B. 21.

(b) The Executive Director of the Commission shall certify this order and 36 Pa.B. 21 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*.

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-222 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 06-1068. Filed for public inspection June 16, 2006, 9:00 a.m.]

GAME COMMISSION
[58 PA. CODE CH. 141]
Hunting and Trapping; Waterfowl and Dove Hunting

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 24, 2006, meeting, adopted an amendment to § 141.22 (relating to small game).

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

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

Notice of proposed rulemaking was published at 36 Pa.B. 22 (January 7, 2006).

1. Purpose and Authority

The original intent of § 141.22(a)(5) was to limit to five persons the number of small game hunters who cooperate by lining up across a field and moving forward to flush game before the gun. This regulation was later amended to allow six persons in the hunting party. The regulation was never intended to prevent more than six persons from hunting together from a blind or from stationary positions when the hunters are not flushing game. Therefore, the Commission amended § 141.22(a)(5) to identify the inapplicability of the same to waterfowl or dove hunters when hunting from a blind or other stationary position.

Section 322(c)(6) of the code (relating to powers and duties of commission) specifically empowers the Commission to "Limit the number of hunters or furtakers in any designated area and prescribe the lawful methods of hunting or taking furbearers in these areas." 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 . . . in this Commonwealth, including regulations relating to . . . the ways, manner, methods and means of hunting . . . in this Commonwealth." The amendment of § 141.22 was adopted under this authority.

2. Regulatory Requirements

The final-form rulemaking amended § 141.22 to identify the inapplicability of the same to waterfowl or dove hunters when hunting from a blind or other stationary position.

3. Persons Affected

Persons wishing to hunt waterfowl or dove from a blind or other stationary position will be affected by the final-form rulemaking.

4. Comment and Response Summary

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

5. Cost and Paperwork Requirements

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

6. Effective Date

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

7. 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 amendment adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The adoption of the amendment of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 141, are amended by amending § 141.22 to read as set forth at 36 Pa.B. 22.

(b) The Executive Director of the Commission shall certify this order and 36 Pa.B. 22 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*.

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-219 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 06-1069. Filed for public inspection June 16, 2006, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CHS. 143 AND 147]

Hunting and Furtaker Licenses and Special Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 24, 2006, meeting, adopted amendments to §§ 143.202, 143.222, 143.224, 147.674 and 147.701.

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 36 Pa.B. 23 (January 7, 2006).

1. Purpose and Authority

Former regulations provided customers with (at most) only two methods to apply for elk licenses, special wild turkey licenses, bobcat permits and Deer Management Assistance Program (DMAP) harvest permits: 1) electronic application over the Commission's website; and 2) paper application through the United States Postal Service. In an effort to improve customer service, the Commission amended §§ 143.202, 143.222, 147.674 and 147.701 to provide customers with a third option, which will allow customers to apply for these various licenses and permits over-the-counter at any Commission office. The amended regulatory language will also provide the Commission with the increased flexibility to expand the sale of various licenses and permits through the anticipated automated point-of-sale issuance system, which should be available in the short-term future.

Section 2323 of the code (relating to tagging and reporting big game kills) requires that "[w]ithin ten days of the kill, the person shall report the killing of any big game in the manner or methods prescribed by the [C]ommission regulations." The Commission formerly prescribed the harvest reporting requirements for each of the various big game licenses except for the special wild turkey license. The Commission recognizes that harvest reports prove to be necessary and important tools for the accurate assessment of the impacts and effectiveness of the Commission's management of the wildlife resources of

this Commonwealth. Since the justifications supporting the reporting harvest information for the other various big game licenses are equally applicable to the special wild turkey license, the Commission amends § 143.224 to require hunters to complete and submit a harvest report card after harvesting a wild turkey under a special wild turkey license.

The Commission recently amended § 147.674 to prevent the issuance of DMAP permits to persons who fail to complete and submit harvest report and survey information from the prior season. After implementation of this provision, the Commission recognized that enforcement of the same is an untenable and overly burdensome administrative requirement. Therefore, the Commission amended § 147.674 to eliminate the hunter application ineligibility provision.

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 2901(b) of the code (relating to authority to issue permits) provides "the [C]ommission 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 [C]ommission 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 of §§ 143.202, 143.222, 143.224, 147.674 and 147.701 was adopted under this authority.

2. *Regulatory Requirements*

This final-form rulemaking amends §§ 143.202, 143.222, 147.674 and 147.701 to provide hunters with expanded application opportunities for elk licenses, special wild turkey licenses, bobcat permits and DMAP harvest permits, § 143.224 to require hunters to complete and submit a harvest report card after harvesting a wild turkey under a special wild turkey license and § 147.674 to eliminate the hunter application ineligibility provision for DMAP harvest permits.

3. *Persons Affected*

Persons wishing to make application for elk licenses, special wild turkey licenses, bobcat permits and DMAP harvest permits, harvest a wild turkey under a special wild turkey license and DMAP permittees who fail to complete and submit harvest report and survey information from the prior season may be affected by the final-form rulemaking.

4. *Comment and Response Summary*

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

5. *Cost and Paperwork Requirements*

Sections 143.202, 143.222, 143.224, 147.674 and 147.701 of the final-form rulemaking may result in some additional administrative costs to the Commission in the form of additional administrative expenditure and paper-

work. However, to the extent there is any additional expense the Commission has determined it would not be substantial and would be absorbed by the current budget. Section 147.674 of the final-form rulemaking will eliminate some administrative costs to the Commission by eliminating certain internal permit eligibility processing steps.

6. *Effective Date*

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

7. *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 143 and 147, are amended by amending §§ 143.202, 143.222, 143.224, 147.674 and 147.701 to read as set forth at 36 Pa.B. 23.

(b) The Executive Director of the Commission shall certify this order and 36 Pa.B. 23 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*.

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-217 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 06-1070. Filed for public inspection June 16, 2006, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CH. 147]

Special Permits; Depredation Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 24, 2006, meeting, adopted an amendment to § 147.745 (relating to exclusions).

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

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

Notice of proposed rulemaking was published at 36 Pa.B. 25 (January 7, 2006).

1. Purpose and Authority

The Commission recently adopted various classification changes to the State endangered/threatened status for several bird species. In most cases, these changes were prompted by recent declines in population due to habitat loss or alteration, disturbance and competition at breeding sites. These classification changes are important because they will add further protection to imperiled populations of these species. Despite the importance of protecting our most imperiled species and promoting their recovery within this Commonwealth, it is also important to manage these species' impact on human property and economic endeavors, even when a species is classified as endangered or threatened. Section 2121(b) of the code (relating to killing game or wildlife to protect property) epitomizes this need for balance by acknowledging that a person may kill an endangered or threatened species destroying agricultural crops if the person first gives the Commission the opportunity to trap and transfer the animal causing the damage. Unfortunately, trap and transfer efforts do not generally provide a permanent solution to the problem, nor do these efforts protect and conserve the endangered or threatened species.

Depredation permits are special permits issued to take certain wildlife to protect property and help prevent economic loss. As currently written, § 147.745 prohibits the issuance of a depredation permit for the taking of any endangered or threatened species, whether Federally or State listed. The Commission amended § 147.745 to allow a depredation permit to be issued for a limited take of State listed endangered or threatened species if the taking is part of an integrated damage management program and the taking would not be detrimental to the sustainability of the Statewide population of the species.

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." The amendment of § 147.745 was adopted under this authority.

2. Regulatory Requirements

The final-form rulemaking amends § 147.745 to allow the issuance of depredation permits for a limited take of State listed endangered or threatened species if the taking were part of an integrated damage management program and the taking would not be detrimental to the sustainability of the Statewide population of the species.

3. Persons Affected

Persons wishing to obtain a depredation permit to take any State listed endangered or threatened species may be affected by the final-form rulemaking.

4. Comment and Response Summary

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

5. Cost and Paperwork Requirements

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

6. Effective Date

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

7. 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 amendment adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The adoption of the amendment of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 147, are amended by amending § 147.745 to read as set forth at 36 Pa.B. 25.

(b) The Executive Director of the Commission shall certify this order and 36 Pa.B. 25 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*.

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-224 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 06-1071. Filed for public inspection June 16, 2006, 9:00 a.m.]

GAME COMMISSION [58 PA. CODE CH. 147]

Special Permits; Falconry Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 24, 2006, meeting, adopted amendments to §§ 147.102 and 147.109 (relating to examination and fees; and restrictions on taking raptors).

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

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

Notice of proposed rulemaking was published at 36 Pa.B. 26 (January 7, 2006).

1. Purpose and Authority

The Commission recently consulted with the Pennsylvania Falconry and Hawk Trust regarding the relaxation of current time limitations restricting falconry permit applicants. Formerly, § 147.102 stated that examinations for falconry permits would be provided only during the month of May each year. In addition, § 147.109 stated that applications for nonresident falconry permits must be submitted between January 1 and February 28 annually. In an effort to provide more opportunities to falconry

permit applicants, the Commission amended § 147.102 to expand the falconry permit examination period to January 1 through June 30 annually and also amended § 147.109 to expand the nonresident application period to January 1 through August 15 annually.

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.” The amendment of §§ 147.102 and 147.109 was adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking amends § 147.102 to expand the falconry permit examination period to January 1 through June 30 annually and also amends § 147.109 to expand the nonresident application period to January 1 through August 15 annually.

3. *Persons Affected*

Persons wishing to apply for a falconry permit within this Commonwealth may be affected by the final-form rulemaking.

4. *Comment and Response Summary*

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

5. *Cost and Paperwork Requirements*

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

6. *Effective Date*

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

7. *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 147, are amended by amending §§ 147.102 and 147.109 to read as set forth at 36 Pa.B. 26.

(b) The Executive Director of the Commission shall certify this order and 36 Pa.B. 26 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*.

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-223 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 06-1072. Filed for public inspection June 16, 2006, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CH. 147]

Special Permits; Protected Specimen

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 24, 2006, meeting, adopted an amendment to § 147.142 (relating to possession of wildlife accidentally killed by a motor vehicle).

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

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

Notice of proposed rulemaking was published at 36 Pa.B. 27 (January 7, 2006).

1. *Purpose and Authority*

The skins from the various furbearers found in the wilds of this Commonwealth are a valuable Pennsylvania resource. Each year many of these furbearers are accidentally struck and killed on this Commonwealth’s highways by automobiles, which typically results in the unfortunate waste of many of the skins from these animals. Former regulations prohibited anyone, including licensed furtakers, from utilizing road-killed furbearers without first purchasing them from the Commission, because these animals were not lawfully taken or harvested with a firearm or trap. Unfortunately, it is not always economical for someone to purchase a road-killed furbearer for utilization. In an effort to reduce the waste of this Commonwealth’s valuable resources and provide additional opportunity to licensed furtakers, the Commission amended § 147.142 to permit persons possessing a valid furtaking license to take possession and make use of certain furbearers (excepting river otters, bobcats and fishers) accidentally killed on this Commonwealth’s highways.

Section 103(a) of the code (relating to ownership, jurisdiction and control of game and wildlife) states that “The ownership, jurisdiction over and control of game or wildlife is vested in the commission as an independent agency of the Commonwealth in its sovereign capacity to be controlled regulated and disposed of in accordance with this chapter.” 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 amendment of § 147.142 was adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking amends § 147.142 to permit the lawful possession of certain furbearers (excepting river otters, bobcats and fishers) accidentally killed on the highway by persons possessing a valid furtaking license.

3. *Persons Affected*

Persons wishing to take possession of certain furbearers accidentally killed on the highway will be affected by the final-form rulemaking.

4. *Comment and Response Summary*

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

5. *Cost and Paperwork Requirements*

The final-form rulemaking may result in some additional costs to the Commission by creating increased demand on regional dispatcher resources regarding receiving calls from person taking possession of furbearers accidentally killed on the highway during the closed season of that furbearer. However, to the extent there are any additional expenses, the Commission has determined they would not be substantial and would be absorbed by the current budget.

6. *Effective Date*

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

7. *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 147, are amended by amending § 147.142 to read as set forth at 36 Pa.B. 27.

(b) The Executive Director of the Commission shall certify this order and 36 Pa.B. 27 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*.

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-218 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 06-1073. Filed for public inspection June 16, 2006, 9:00 a.m.]