

PROPOSED RULEMAKING

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 127]

Permit Streamlining

The Environmental Quality Board (Board) proposes to amend Chapter 127 (relating to construction, modification, reactivation and operation of sources) to read as set forth in Annex A.

This notice is given under the Board's order at its meeting of January 17, 2007.

A. *Effective Date*

These amendments will be effective upon final-form publication in the *Pennsylvania Bulletin*.

B. *Contact Persons*

For further information, contact John Slade, Chief, Division of Permits, Bureau of Air Quality, 12th Floor, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 783-9476; or Robert "Bo" Reiley, Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060.

Information regarding submitting comments on this proposed rulemaking appears in Section J of this preamble. Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposed rulemaking is available on the Department of Environmental Protection's (Department) website: www.depweb.state.pa.us.

C. *Statutory Authority*

This rulemaking is proposed under the authority in section 5(a)(1) of the Air Pollution Control Act (APCA) (35 P. S. § 4005(a)(1)), which grants to the Board the authority to adopt regulations for the prevention, control, reduction and abatement of air pollution and section 6.1(b.3) of the APCA (35 P. S. § 4006.1(b.3)), which requires the Board by regulation to establish adequate, streamlined and reasonable procedures for expeditiously determining when applications are complete and for expeditious review of applications.

D. *Background and Summary*

As part of an effort to streamline the air quality permitting process, the Department investigated ways to reduce the plan approval application time, reduce unnecessary costs to industry and continue to ensure that citizens receive adequate notice of potential plan approval/permitting actions to enable timely comment on issues of public concern. The Department wants to employ faster response times for minor permitting actions for needed product improvements, which allows industry to be responsive to free market changes, while at the same time ensuring that those changes do not degrade existing air quality. In addition, the Department wanted to ensure that the permit streamlining effort benefited the Department, as well, by allowing it to focus scarce administrative resources on evaluating major source permit applications that will likely have significant environmental impacts. As part of this effort, the Department proposes amendments to extend the authorization of a

source to temporarily operate to facilitate shake-down and to revise the public notice provisions which address receipt of applications for plan approval and intent to issue certain plan approvals. In addition, the Department is proposing provisions regarding completeness criteria for applications for plan approval. The Department believes that these proposed amendments will continue to protect air quality, allow business to respond to market changes and allow for adequate public participation.

The Department worked with the Air Quality Technical Advisory Committee (AQTAC) in the development of this proposed rulemaking. At its March 13, 2006, meeting, the AQTAC recommended that the Board consider the proposed amendments in the near future.

E. *Summary of Regulatory Revisions*

Section 127.12b (relating to plan approval terms and conditions) is proposed to be amended to extend from 120 to 180 days the duration for temporary "shake-down" operation of new equipment subject to the plan approval requirements.

New § 127.12d (relating to completeness determination) sets forth the criteria the Department will use to determine if an application for plan approval is complete.

Section 127.44 (relating to public notice) is proposed to be amended to, among other things, require the Department to publish in the *Pennsylvania Bulletin* a notice of receipt and intent to issue certain minor plan approvals.

Section 127.45 (relating to contents of notice) is proposed to be amended to make certain corrections to the text related to clarity.

Section 127.48 (relating to conferences and hearings) is proposed to be amended to require, in certain instances, that the Department publish notice of hearings or conferences in a newspaper of general circulation and the *Pennsylvania Bulletin*.

F. *Benefits, Costs and Compliance*

Benefits

Overall, the citizens of this Commonwealth will benefit from this proposed rulemaking because the Department will be able to focus scarce administrative resources on evaluating major source permit applications that will likely have significant environmental impacts. In addition, the proposed amendments will allow industry to be responsive to free market changes while at the same time ensuring that those changes do not degrade existing air quality.

Compliance Costs

This proposed rulemaking will reduce the operating costs of industry through enhanced operational flexibility.

Compliance Assistance

The Department plans to educate and assist the public and regulated community with understanding newly revised requirements and how to comply with them. This will be accomplished through the Department's ongoing Regional Compliance Assistance Program.

Paperwork Requirements

The proposed amendments will not increase the paperwork that is already generated during the normal course of business.

G. Pollution Prevention

The Pollution Prevention Act of 1990 (42 U.S.C.A. §§ 13101—13109) established a National policy that promotes pollution prevention as the preferred means for achieving state environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally friendly materials, more efficient use of raw materials and the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance. This proposed rulemaking will allow industry to be responsive to free market changes, while at the same time ensuring that those changes do not degrade existing air quality.

H. Sunset Review

The regulations will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended.

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on March 9, 2007, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Environmental Resources and Energy Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

J. Public Comments

Written comments. Interested persons are invited to submit comments, suggestions or objections regarding the proposed rulemaking to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be postmarked by May 25, 2007. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be postmarked May 25, 2007. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final-form rulemaking will be considered.

Electronic comments. Comments may be submitted electronically to the Board at RegComments@state.pa.us and must also be received by the Board by May 25, 2007. A

subject heading of the proposal and a return name and address must be included in each transmission.

K. Public Hearings

The Board will hold three public hearings for the purpose of accepting comments on this proposal. The hearings will be held as follows:

- April 24, 2007 1 p.m. Department of Environmental Protection
Southwest Regional Office
Waterfront A and B Conference Room
400 Waterfront Drive
Pittsburgh, PA 15222
- April 24, 2007 1 p.m. Department of Environmental Protection
Southeast Regional Office
Delaware Room
2 East Main Street
Norristown, PA 19401
- April 24, 2007 1 p.m. Department of Environmental Protection
Rachel Carson State Office Building
Room 105
400 Market Street
Harrisburg, PA 17105

Persons wishing to present testimony at a hearing are requested to contact the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526 at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony is limited to 10 minutes for each witness. Witnesses are requested to submit three written copies of their oral testimony to the hearing chairperson at the hearing. Organizations are limited to designating one witness to present testimony on their behalf at each hearing.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Board at (717) 787-4526 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,
Chairperson

Fiscal Note: 7-408. No fiscal impact; (8) recommends adoption.

Annex A

**TITLE 25. ENVIRONMENTAL PROTECTION
PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION**

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE III. AIR RESOURCES

CHAPTER 127. CONSTRUCTION, MODIFICATION, REACTIVATION AND OPERATION OF SOURCES

Subchapter B. PLAN APPROVAL REQUIREMENTS

§ 127.12b. Plan approval terms and conditions.

* * * * *

(d) The plan approval shall authorize temporary operation to facilitate shakedown of sources and air cleaning devices, to permit operations pending issuance of a permit under Subchapter F (relating to operating permit requirements) or Subchapter G (relating to Title V operating

permits) or to permit the evaluation of the air contamination aspects of the source. This temporary operation period will be valid for a limited time, not to exceed 180 days, but may be extended for additional limited periods, each not to exceed [120] 180 days.

* * * * *

§ 127.12d. Completeness determination.

(a) The Department will determine if an application for plan approval is administratively complete and will provide written notice of the completeness determination to the applicant.

(b) For purposes of this section, an application is administratively complete if it contains the necessary information, maps, fees and other documents, regardless of whether the information, maps and documents would be sufficient to justify issuance of the plan approval.

(c) If the Department determines that the application is not administratively complete, the Department will return the application and fees to the applicant, along with a written statement of the specific information, maps, fees and documents that are required to make the application administratively complete.

§ 127.44. Public notice.

(a) The Department will publish in the Pennsylvania Bulletin a notice of receipt and intent to issue for each plan approval application, except plan approval applications subject to the notice requirements of subsection (b). The notice of receipt and intent to issue must include the following:

- (1) The name and address of the applicant.
- (2) The location and name of the plant or facility at which the construction, modification, reactivation or installation is proposed.
- (3) A brief description of the proposed action, including a general description of the equipment to be installed or modified along with the anticipated pollutant emission increases or decreases.
- (4) The name and telephone number of a person to contact for additional information.
- (5) The location of the regional office where the application will be reviewed.

(b) The Department will prepare a notice of action to be taken on applications for plan approvals for the following:

* * * * *

(5) [Other sources required to obtain plan approval.

(6)] Other sources, including synthetic minor permit applications, for which the Department has determined there is substantial public interest or for which the Department invites public comment.

[(b)] (c) The notice required by subsection [(a)] (b)(1)—(4) will be completed and sent to the applicant, the EPA, any state within 50 miles of the facility and any state whose air quality may be affected and that is contiguous to this Commonwealth. The applicant shall, within 10 days of receipt of notice, publish the notice on at least 3 separate days in a prominent place and size in a newspaper of general circulation in the county in which the source is to be located; proof of the publication shall

be filed with the Department within 1 week thereafter. A plan approval will not be issued by the Department in the event of failure by the applicant to submit the proof of publication.

[(c)] (d) If the Department denies a plan approval, the requirements of subsection [(b)] (c) do not apply. Written notice of a denial will be given to requestors and to the applicant in accordance with § 127.13c (relating to notice of basis for certain plan approval decisions).

[(d)] (e) In each case, the Department will publish notices required in [subsection (a)] this section in the Pennsylvania Bulletin.

[(e)] (f) The notice will state, at a minimum, the following:

* * * * *

(3) Plan approvals issued to sources identified in subsection [(a)] (b)(1)—(4) or plan approvals issued to sources with limitations on the potential to emit may become part of the SIP and will be submitted to the EPA for review and approval.

§ 127.45. Contents of notice.

The [notice] notices of proposed plan approval issuance required by § 127.44 [(a)] (b) (relating to public notice) [shall] must include the following:

* * * * *

(2) The location and name of the plant or facility at which construction [or], modification or installation is [taking place] proposed.

* * * * *

(5) [The] A brief description of the conditions being placed in the plan approval [and a brief description of the reasons for including these conditions] with reference to applicable State and Federal requirements.

(6) A description of the procedures for reaching a final decision on the proposed plan approval action including:

(i) The ending date for the receipt of written comments or written protests.

* * * * *

§ 127.48. Conferences and hearings.

* * * * *

(b) The applicant, the protestant, commentators and other participants will be notified of the date, time, place and purpose of a conference or hearing, in writing or by publication in a newspaper [or] of general circulation in the county in which the source is to be located and the Pennsylvania Bulletin, except [where] when the Department determines that notification by telephone will be sufficient.

[Pa.B. Doc. No. 07-492. Filed for public inspection March 23, 2007, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CH. 141]

Hunting and Trapping; Big Game

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 23, 2007, meeting, proposed to amend §§ 141.41, 141.43 and 141.47 (relating to general; deer; and elk).

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 23, 2007, meeting of the Commission. Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until April 13, 2007.

1. Purpose and Authority

The Commission has received a number of requests from hunters to permit the lawful use of muzzleloading handguns to hunt various big game animals. Currently, all muzzleloading handguns are prohibited from use while hunting any big game animals. The Commission has determined that use of muzzleloading handguns would be reasonable so long as their use is limited to deer, bear and elk and to .50 caliber or larger muzzleloading handguns only. Therefore, the Commission is proposing to amend §§ 141.41, 141.43 and 141.47 to permit the lawful use of .50 caliber or larger muzzleloading handguns while hunting deer, bear and elk.

The Commission has also received requests from certain hunters to permit the lawful use of aperture or peep sights during the flintlock muzzleloading season. Currently, § 141.43 prohibits the use of aperture or peep sights during the flintlock muzzleloading season. The Commission has determined that the use of aperture or peep sights during the flintlock muzzleloading season would be permissible since their use appears to be consistent with 18th century technology and therefore would not undermine the traditional nature of the flintlock muzzleloading season. Therefore, the Commission is proposing to amend § 141.43 to permit the lawful use of aperture or peep sights during the flintlock muzzleloading season.

The Commission has also received a number of requests from hunters to permit the lawful use and possession of both a bow and arrow or crossbow and a muzzleloading firearm during the overlaps of the early archery and muzzleloader seasons and the late archery and flintlock muzzleloading seasons. Currently, § 141.43 prohibits the possession of any firearm while hunting during the early and late archery seasons with a bow and arrow or crossbow. The Commission has determined that the dual use and possession of both a bow and arrow or crossbow and a muzzleloading firearm during the overlaps of the early archery and muzzleloader seasons and the late archery and flintlock muzzleloading seasons would be permissible only to the extent that the person is in possession of both a valid archery license and valid muzzleloader license and meets the greater protective material requirements for the muzzleloader season, if applicable. Therefore, the Commission is proposing to amend § 141.43 to permit the lawful use and possession of both a bow and arrow or crossbow and a muzzleloading

firearm during the overlaps of the early archery and muzzleloader seasons and the late archery and flintlock muzzleloading seasons.

Section 2102(d) of the code (relating to regulations) authorizes the Commission to "promulgate regulations stipulating the size and type of traps, the type of firearms and ammunition 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 amendments to §§ 141.41, 141.43 and 141.47 were proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend §§ 141.41, 141.43 and 141.47 to permit the lawful use of .50 caliber or larger muzzleloading handguns while hunting deer, bear and elk. The proposed rulemaking will also amend § 141.43 to permit the lawful use of aperture or peep sights during the flintlock muzzleloading season and to permit the lawful use and possession of both a bow and arrow or crossbow and a muzzleloading firearm during the overlaps of the early archery and muzzleloader seasons and the late archery and flintlock muzzleloading seasons.

3. Persons Affected

Persons wishing to hunt deer, bear or elk in this Commonwealth with a muzzleloading firearm 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 rulemaking, contact Richard A. Palmer, Acting Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-247. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Subchapter C. BIG GAME

§ 141.41. General.

* * * * *

(b) It is unlawful to:

* * * * *

(2) [Hunt for deer or bear through the use of any one or more of the following:

(i) A muzzleloading handgun.

(ii) A muzzleloading firearm that is not .44 caliber or larger.]

Hunt for deer or bear through the use of a muzzleloading long gun that is not .44 caliber or larger or a muzzleloading handgun that is not .50 caliber or larger.

* * * * *

§ 141.43. Deer.

(a) Archery season. It is unlawful while hunting deer with a bow and arrow or crossbow during the archery season to:

(1) Possess a firearm, except during the overlaps of the early archery and muzzleloader seasons and the late archery and flintlock muzzleloading seasons, when a person may use and possess both a bow and arrow or crossbow and a muzzleloading firearm only if that person is in possession of both a valid archery license and a valid muzzleloader license and meets the greater protective material requirements for the muzzleloader season, if applicable.

* * * * *

(b) Flintlock muzzleloading season. Firearms lawful for use are original muzzleloading single-barrel [long guns] firearms manufactured prior to 1800, or [a similar reproduction] similar reproductions of [an] original muzzleloading single-barrel [long gun] firearms which:

(1) [Is .44 caliber or larger and has open sights.] Are .44 caliber or larger long guns or .50 caliber or larger handguns.

* * * * *

(d) Prohibitions. While hunting deer during the flintlock muzzleloading season, it is unlawful to:

* * * * *

(2) [Use telescope, aperture or peep sights.] Use telescopic sights.

* * * * *

(e) Muzzleloading season. Firearms lawful for use are muzzleloading single-barrel [long guns] firearms which:

(1) Are .44 caliber or larger long guns or .50 caliber or larger handguns.

* * * * *

§ 141.47. Elk.

It is unlawful while hunting elk to:

(1) Use any [rifle or handgun which is not centerfire and at least .27 caliber] centerfire firearm less than .27 caliber or that propels a single-projectile less than 130 grains.

(2) Use any [projectile which is not all lead or designed to expand on impact and at least 130

grains] muzzleloading firearms less than .50 caliber or that propels a single-projectile less than 210 grains.

(3) [Use muzzleloading firearms other than long guns which are at least .50 caliber and propel a single-projectile that weighs at least 210 grains.

(4)] Use any shotgun less than 12 gauge.

[(5)] (4) * * *

[(6)] (5) * * *

[(7)] (6) * * *

[(8)] (7) * * *

[(9)] (8) * * *

[(10)] (9) * * *

[(11)] (10) * * *

[(12)] (11) * * *

[(13)] (12) * * *

[Pa.B. Doc. No. 07-493. Filed for public inspection March 23, 2007, 9:00 a.m.]

[58 PA. CODE CH. 141]

Hunting and Trapping; Cable Restraint

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 23, 2007, meeting, proposed to amend §§ 141.63 and 141.66 (relating to definitions; and cable restraints).

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 23, 2007, meeting of the Commission. Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until April 13, 2007.

1. Purpose and Authority

Regulations concerning the use of cable restraint devices were first proposed at the Commission's October 5, 2004, meeting and were finally adopted at its January 25, 2005, meeting. These regulations essentially define the nature of the device, the manner of its use, as well as the time period for its use. Upon final completion of the 2005-2006 furtaking season, the Commission conducted a survey of all certified cable restraint users to assess use, efficiency, selectivity and capture related injuries or mortalities. The survey results indicated the following findings: 1) recent trap testing data now supports the use of 1 x 19 cable; 2) extending cable length by 1 foot will allow for cable restraints to be set legally in a variety of winter snow conditions; 3) a clearer definition of "relaxing-type lock" will reduce confusion for trappers purchasing commercially available devices; and 4) increasing the weight rating of the breakaway device will improve efficiency and effectiveness of cable restraint devices when large coyotes are captured. Based upon the results of these postseason surveys, the Commission is proposing to

amend § 141.63 to improve the definition of "cable restraint" by permitting the use of 1 x 19 cable, extending the cable length limit to 7 feet, more clearly defining "relaxing-type lock" and increasing the weight rating of the breakaway device to 375 pounds.

It has come to the attention of the Commission that § 141.66 overly restricts the classes of persons that are eligible to be certified through the Commission's cable restraint training course in apparent contravention of certain statutory exemptions in sections 2363 and 2706 of the code (relating to trapping exception for certain persons; and resident license and fee exemptions). In an effort to permit individuals who are permitted to trap without license to more fully enjoy their privilege by being eligible to participate in the Commission's cable restraint training course, the Commission is proposing to amend § 141.66.

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(d) of the code authorizes the Commission to "promulgate regulations stipulating the size and type of traps, the type of firearms and ammunition 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 amendments to §§ 141.66 and 141.66 were proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend § 141.63 to improve the definition of "cable restraint" by permitting the use of 1 x 19 cable, extending the cable length limit to 7 feet, more clearly defining "relaxing-type lock" and increasing the weight rating of the breakaway device to 375 pounds. The proposed rulemaking will also amend § 141.66 to permit individuals meeting certain statutory license exemptions to participate in cable restraint training courses.

3. Persons Affected

Persons wishing to trap in this Commonwealth with cable restraint devices 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 Richard A. Palmer, Acting Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-245. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Subchapter D. FURBEARERS

§ 141.63. Definitions.

In addition to the definitions contained in the act and this part, the following words, when used in the enforcement of section 2361(a)(11) of the act (relating to unlawful acts concerning taking of furbearers) have the following meanings, unless the context clearly indicates otherwise:

Cable restraint—A galvanized stranded steel cable with a minimum diameter of 3/32 inches. The cable must be constructed of either 7 bundles comprised of 7 wires per bundle [or], 7 bundles comprised of 19 wires per bundle [and be equipped with a mechanical sliding metal release lock] or 1 bundle comprised of 19 wires. The cable may not exceed [6] 7 feet in length from the anchor point to the relaxing lock contacting the fully closed loop stop, must be equipped with at least one swivel device (which allows for 360° rotation) between the loop and the anchor and must have stops affixed to the cable to ensure that the circumference of the cable which makes up the loop may not be greater than 38 inches when fully open, or less than 8 inches when fully closed. **Cable restraints must be equipped with a relaxing-type lock. The relaxing-type lock may not be constructed with moving parts.** A cable restraint must include a breakaway device affixed [to the lock or] between the relaxing-type lock and cable or at the end of the cable that is rated at [325] 375 pounds or less. The cable must be maintained in good condition so that all components operate properly.

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§ 141.66. Cable restraints.

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(b) Cable restraint devices may only be set by furtakers who [possess a valid furtakers license and who] have completed a certified cable restraint training course approved by the Director and possess a valid furtakers license, qualify for license and fee exemptions under section 2706 of the act (relating to resident license and fee exemptions) or qualify for trapping exceptions under section 2363 of the act (relating to trapping exception for certain persons). The Director will establish a fee for the course and the fee will only be what is necessary to cover the cost of the course. The trapper shall have a certificate from this course in

possession while setting or checking sets using cable restraints and present the certificate upon the request of any person whose duty it is to enforce this title.

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[Pa.B. Doc. No. 07-494. Filed for public inspection March 23, 2007, 9:00 a.m.]

**[58 PA. CODE CH. 141]
Hunting and Trapping; Hunting Hours**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 23, 2007, meeting, proposed to amend § 141.4 and Chapter 141, Appendix G (relating to hunting hours).

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 23, 2007, meeting of the Commission. Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until April 13, 2007.

1. Purpose and Authority

In recent years there has been a growing interest among hunters to expand legal hunting hours to include the 1/2-hour period after sunset (also known as evening civil twilight). While the Commission is always looking for appropriate ways to increase hunting opportunity for sporting men, it recognizes its responsibility to do so with caution. The Commission is aware that permissive hunting occurring during the 1/2-hour period after sunset has the distinct possibility of causing confusion amongst hunters regarding differing closing times for certain wildlife, increasing the occurrence of wounding loss of game animals and, most importantly, increasing safety hazards associated with hunting activities due to rapidly decreasing levels of light during that time period. However, after review of available data regarding hunting hours in other states as well as safety statistics from this Commonwealth, the Commission has determined that the risks of expansion are acceptable. Therefore, the Commission is proposing to amend § 141.4 to expand legal hunting hours to include the 1/2-hour period after sunset for certain species.

It is important to note that as a result of the proposed amendments, the Commission has determined that the current table of hunting hours should be replaced with a sunrise/sunset table that will have cross application to the differing legal hunting hour periods of the various game species. Therefore, the Commission is also proposing to amend Appendix G to replace the table of hunting hours with a sunrise/sunset table for the 2007-2008 license year.

Section 322(c)(1) of the code (relating to powers and duties of 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, includ-

ing 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 § 141.4 and Appendix G were proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend § 141.4 to expand legal hunting hours to include the 1/2-hour period after sunset for certain species and also replace the table of hunting hours in Appendix G with a sunrise/sunset table for the 2007-2008 license 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 any additional cost or paperwork.

5. Effective Date

The effective dates of the proposed rulemaking are July 1, 2007, to June 30, 2008.

6. Contact Person

For further information regarding the proposed rulemaking, contact Richard A. Palmer, Acting Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-246. No fiscal impact; (8) recommends adoption.

**Annex A
TITLE 58. RECREATION
PART III. GAME COMMISSION
CHAPTER 141. HUNTING AND TRAPPING
Subchapter A. GENERAL**

§ 141.4. Hunting hours.

[During open hunting seasons, wild birds and animals may be taken 1/2 hour before sunrise to sunset unless further restricted.] Except as otherwise provided, wild birds and animals may be hunted 1/2 hour before sunrise to 1/2 hour after sunset.

(1) During the regular antlered and antlerless deer seasons, it is unlawful to take or attempt to take other wild birds or mammals **[from 1/2 hour before sunrise to sunset. Game birds on regulated hunting grounds and migratory waterfowl are excepted] except game birds on regulated hunting grounds, migratory waterfowl, coyotes and bear.** Coyotes may be **[taken] hunted** from the first day to the last day inclusive of any deer or bear season only by persons who possess a valid furtaker's license, or by persons lawfully engaged in hunting deer or bear who have a valid tag.

(2) Raccoon, fox, skunk, opossum, coyote, bobcat and weasel may be **[taken] hunted** any hour, day or night, except during restricted periods in paragraph (1), and

woodchuck, opossum, skunk and weasel may not be hunted prior to 12 noon during the spring gobbler season.

(3) Turkey [**hunting hours are**] may be hunted from 1/2 hour before sunrise to 12 noon during the spring gobbler season.

* * * * *

(5) Migratory birds may only be hunted 1/2 hour before sunrise until sunset, except during the September resident Canada goose season, when Canada geese may be hunted 1/2 hour before sunrise until 1/2 hour after sunset.

Appendix G

(Editor's Note: As part of this proposal, the Commission is proposing to rescind the Table of Hunting Hours, which appears at 58 Pa. Code pages 141-25 and 141-26, serial pages (320727) and (320728), and replace it with the following table.)

* * * * *

**SUNRISE/SUNSET TABLE
FOR JULY 1, 2007 THROUGH JULY 5, 2008**

<i>Dates</i>	<i>Sunrise</i>	<i>Sunset</i>
July 1—July 7	5:39	8:32
July 8—July 14	5:43	8:29
July 15—July 21	5:49	8:25
July 22—July 28	5:55	8:20
July 29—Aug. 4	6:01	8:10
Aug. 5—Aug. 11	6:08	8:05
Aug. 12—Aug. 18	6:15	7:55
Aug. 19—Aug. 25	6:21	7:43
Aug. 26—Sept. 1	6:28	7:33
Sept. 2—Sept. 8	6:35	7:21
Sept. 9—Sept. 15	6:40	7:10
Sept. 16—Sept. 22	6:48	6:58
Sept. 23—Sept. 29	6:55	6:47
Sept. 30—Oct. 6	7:00	6:35
Oct. 7—Oct. 13	7:09	6:25
Oct. 14—Oct. 20	7:15	6:15
Oct. 21—Oct. 27	7:25	6:05
Oct. 28—Nov. 3	7:26	6:03
Nov. 4—Nov. 10	6:40	4:50
Nov. 11—Nov. 17	6:50	4:45
Nov. 18—Nov. 24	6:56	4:40
Nov. 25—Dec. 1	7:05	4:36
Dec. 2—Dec. 8	7:10	4:35
Dec. 9—Dec. 15	7:15	4:36
Dec. 16—Dec. 22	7:20	4:39
Dec. 23—Dec. 29	7:22	4:43
Dec. 30—Jan. 5	7:23	4:49
Jan. 6—Jan. 12	7:22	4:55
Jan. 13—Jan. 19	7:20	4:57
Jan. 20—Jan. 26	7:20	5:05
Jan. 27—Feb. 2	7:15	5:15
Feb. 3—Feb. 9	7:10	5:25
Feb. 10—Feb. 16	7:00	5:30
Feb. 17—Feb. 23	6:50	5:40
Feb. 24—Mar. 1	6:40	5:48
Mar. 2—Mar. 8	6:30	5:55
Mar. 9—Mar. 15	7:20	7:05
Mar. 16—Mar. 22	7:10	7:10
Mar. 23—Mar. 29	6:58	7:17
Mar. 30—Apr. 5	6:47	7:25
Apr. 6—Apr. 12	6:35	7:30
Apr. 13—Apr. 19	6:25	7:40
Apr. 20—Apr. 26	6:15	7:45
Apr. 27—May 3	6:05	7:55

<i>Dates</i>	<i>Sunrise</i>	<i>Sunset</i>
May 4—May 10	5:55	8:00
May 11—May 17	5:49	8:05
May 18—May 24	5:41	8:14
May 25—May 31	5:36	8:20
June 1—June 7	5:34	8:25
June 8—June 14	5:32	8:30
June 15—June 21	5:30	8:31
June 22—June 28	5:32	8:34
June 29—July 5	5:35	8:33

[Pa.B. Doc. No. 07-495. Filed for public inspection March 23, 2007, 9:00 a.m.]

[58 PA. CODE CH. 141]

Hunting and Trapping; Protective Material

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 23, 2007, meeting, proposed to amend § 141.20 (relating to protective material required).

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 23, 2007, meeting of the Commission. Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until April 13, 2007.

1. Purpose and Authority

The Commission has received a number of calls from hunters regarding protective material requirements for hunters hunting from artificial or manufactured blinds during the deer, elk or bear seasons. These hunters have pointed out that there is a conceptual conflict in requiring hunters to wear protective material inside a blind where its visual effectiveness is severely diminished. These hunters have requested the ability to post protective material outside the blind where it is more readily observable instead of wearing the required amount of protective material on their person in the blind. Since the posting of protective material outside of an artificial or manmade blind that conceals movement from within is undeniably more consistent with the safety interests involved, the Commission has determined that permitting hunters to post a minimum of 100 square inches of protective material within 15 feet from the blind in a manner so that it is visible in a 360° arc is acceptable. Therefore, the Commission is proposing to amend § 141.20 to permit the posting of 100 square inches of daylight fluorescent orange-colored material within 15 feet of any blind meeting the requirements in section 2308(b)(3) of the code (relating to unlawful devices and methods) instead of wearing the required 250 square inches of daylight fluorescent orange-colored material on the head, chest and back combined.

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 to § 141.20 was proposed under this authority.

2. *Regulatory Requirements*

The proposed rulemaking will amend § 141.20 to permit the posting of 100 square inches of daylight fluorescent orange-colored material within 15 feet of any blind meeting the requirements in section 2308(b)(3) of the code instead of wearing the required 250 square inches of daylight fluorescent orange-colored material on the head, chest and back combined.

3. *Persons Affected*

Persons wishing to hunt deer, elk or bear from any blind meeting the requirements in section 2308(b)(3) of the code 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 Richard A. Palmer, Acting Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-248. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Subchapter A. GENERAL

§ 141.20. Protective material required.

* * * * *

(b) *Permitted acts.* It is lawful to:

* * * * *

(5) Hunt during any firearms season for deer, elk or bear from any blind meeting the requirements in section 2308(b)(3) of the act and, in lieu of wearing the required 250 square inches of daylight fluorescent orange-colored material on the head, chest and back combined, place a minimum of 100 square inches of daylight fluorescent orange-colored material within 15 feet from the blind in a manner that it is visible in a 360° arc.

* * * * *

[Pa.B. Doc. No. 07-496. Filed for public inspection March 23, 2007, 9:00 a.m.]

[58 PA. CODE CH. 131]

Preliminary Provisions; Wildlife Conservation Officers

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 23, 2007, meeting, proposed to amend § 131.6 (relating to administration of police powers by wildlife conservation officers).

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 23, 2007, meeting of the Commission. Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until April 13, 2007.

1. *Purpose and Authority*

An issue that has proven perpetually problematic for the Commission has been the exercise of police powers by wildlife conservation officers. Section 901(a)(17) of the code (relating to powers and duties of enforcement officers) provides clear and broad police power authority to wildlife conservation officers acting within the scope of their employment. Despite this broad authorization, however, it is the general policy of the Commission that the primary responsibility of the wildlife conservation officer is the enforcement of the code and that general law enforcement duties remain the responsibility of the appropriate law enforcement agencies empowered to conduct those activities. In an effort to reduce legal challenges, reduce potential civil liability and provide recognition to the importance of the relevant competing interests on this issue, the Commission is proposing to amend § 131.6 to redirect the extent and manner in which it authorizes wildlife conservation officers to engage in the administration of police powers.

Section 901(a)(17) of the code states in relevant part "All powers as provided for in this paragraph will be limited by such administrative procedure as the director, with the approval of the commission, shall prescribe." Section 322(c)(12) of the code (relating to powers and duties of commission) specifically empowers the commission to "Take any necessary action to accomplish and assure the purposes of this title." The amendment to § 131.6 was proposed under this authority.

2. *Regulatory Requirements*

The proposed rulemaking will amend § 131.6 to redirect the extent and manner in which the Commission authorizes salaried wildlife conservation officers to engage in the administration of police powers.

3. *Persons Affected*

Persons within the jurisdictional limits of this Commonwealth 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 Richard A. Palmer, Acting Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-244. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 131. PRELIMINARY PROVISIONS

§ 131.6. Administration of police powers by wildlife conservation officers.

(a) [*General policy.*

(1) The primary responsibility of a wildlife conservation officer is the enforcement of the act and this part.

(2) Section 901(17) of the act (relating to powers and duties of enforcement officers) confers police powers upon wildlife conservation officers acting within the scope of their employment.

(3) It is the policy of the Commission that general law enforcement activities shall be the responsibility of the appropriate law enforcement agencies empowered to conduct those activities. Complaints or information received shall be forwarded to the enforcement agency having jurisdiction.

(b) *Powers and procedures.*

(1) A wildlife conservation officer may arrest for offenses enumerated in subsection (c) which constitute misdemeanors or felonies when the offenses occur in the officer's presence and while acting within the scope of the officer's employment.

(2) A wildlife conservation officer shall arrest for offenses enumerated in subsection (c) only when necessary to protect life and property. The officer shall immediately notify the appropriate law enforcement agency. Evidence and information in the possession of the officer shall be transmitted to the law enforcement agency responsible for further investigation or prosecution, or both.

(3) A wildlife conservation officer may institute proceedings for violations listed in subsection (c) that are misdemeanors or felonies which occur on State game lands or arise out of Commission operations.

(c) *Violations.* A wildlife conservation officer may, subject to the limitations in subsections (a) and (b), act only in cases of violations of the following provisions:

(1) Title 18 of the *Pennsylvania Consolidated Statutes* (relating to the Crimes code) including the following chapters:

- (i) 9 Inchoate Crimes.
- (ii) 25 Criminal Homicide.
- (iii) 27 Assault.
- (iv) 29 Kidnapping.
- (v) 31 Sexual Offenses.

(vi) 33 Arson, Criminal Mischief and Other Property Destruction.

(vii) 35 Burglary and Other Criminal Intrusion, limited to §§ 3501, 3502 and 3503(a).

(viii) 37 Robbery.

(ix) 39 Theft and Related Offenses, limited to violations of §§ 3921, 3924, 3925, 3928 and 3929.

(x) 41 Forgery and Fraudulent Practices, limited to §§ 4104 and 4105.

(xi) 47 Bribery and Corrupt Influence.

(xii) 49 Falsification and Intimidation.

(xiii) 51 Obstructing Government Operations limited to §§ 5101, 5102, 5104, 5105, 5121, 5124 and 5125.

(xiv) 55 Riot, Disorderly Conduct and Related Offenses, limited to §§ 5501—5511 only.

(xv) 59 Public Indecency, limited to § 5901.

(xvi) 61 Firearms and Other Dangerous Articles.

(xvii) 63 Minors, limited to § 6308.

(xviii) 65 Nuisances.

(2) The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144).

(3) Title 75 of the *Pennsylvania Consolidated Statutes* §§ 3731, 3732, 3735 and 3742.

(4) The Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), limited to misdemeanors and felonies.

(5) The Clean Streams Law (35 P. S. §§ 69.1—691.1001), limited to misdemeanors.

(d) *Construction.* The administrative procedures set forth in this section are intended to serve as guidelines for wildlife conservation officers in the performance of their duties. The administrative limitations in this subchapter do not invalidate an arrest, prosecution or law enforcement action incident thereto which a wildlife conservation officer may undertake, but which exceeds the limitations of subsections (a)—(c). Whenever wildlife conservation officers are acting within the scope of their employment, the principles of justification that apply to peace officers under 18 Pa.C.S. Chapter 5 (relating to general principles of justification) shall apply to their acts.]

General.

(1) Section 901(a)(17) of the act (relating to powers and duties of enforcement officers) authorizes wildlife conservation officers, when acting within the scope of their employment, to pursue, apprehend or arrest any individual suspected of violating any provision of 18 Pa.C.S. (relating to the Crimes code) or any other offense classified as a misdemeanor or felony.

(2) For the purposes of enforcement of the authority granted by section 901(a)(17) of the act, "when acting within the scope of their employment" means that period of time that a wildlife conservation officer is currently engaged in any activity the officer is employed to perform at the time and places the officer is authorized to perform the activity.

(b) Procedures.

(1) A wildlife conservation officer shall arrest or take other appropriate enforcement action pursuant to the authority vested by section 901(a)(17) of the act only to the degree necessary to protect life and property in the following circumstances:

- (i) The offense occurs in the officer's presence.**
- (ii) The offense occurs on State game lands.**
- (iii) The offense arises out of Commission operations.**
- (iv) Another law enforcement agency has reasonably requested the assistance.**

(2) A wildlife conservation officer who exercises any authority vested by section 901(a)(17) of the act shall do the following, without unreasonable delay:

- (i) Notify the appropriate State or local law enforcement agency of the enforcement action.**
- (ii) Secure and maintain onsite information and evidence as deemed appropriate.**
- (iii) Transmit secured information and evidence to the appropriate State or local law enforcement agency for further investigation or prosecution, or both.**
- (iv) Prosecute violations, as may be reasonably necessary if the appropriate State or local law enforcement agency declines further action.**

[Pa.B. Doc. No. 07-497. Filed for public inspection March 23, 2007, 9:00 a.m.]

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

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 23, 2007, meeting, proposed to amend § 139.4 (relating to seasons and bag limits for the 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 January 23, 2007, meeting of the Commission. Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until April 13, 2007.

1. Purpose and Authority

The Commission is required to set hunting and furtaking seasons and bag limits on an annual basis. Although the 2007-2008 seasons and daily season and possession limits are similar to those set in 2006-2007, the 2007-2008 seasons and bag limits have been amended to conform to current available scientific data, population and harvest records, field surveys and professional staff observations, as well as recommendations received from staff, organized sporting groups, members of the agricultural community and others interested in the wildlife resources of this Commonwealth. Some notable proposed

amendments for hunters next season will be expanded squirrel, rabbit and pheasant hunting opportunities Statewide, additional expanded pheasant hunting opportunities in Wildlife Management Units (WMU) 5C and 5D, expanded fall turkey hunting opportunities in WMUs 2G and 4D, reduced fall turkey hunting opportunities in WMUs 2A and 2F, expanded spring turkey hunting opportunities Statewide, expanded deer hunting opportunities in WMUs 2B, 5C and 5D, expanded elk hunting opportunities in Elk Hunt Zone 1 during the September season and expanded mink and bobcat hunting/trapping opportunities. As the next license year is fast approaching, the Commission is proposing to amend § 139.4 to provide updated seasons and bag limits for the 2007-2008 license year.

Section 322(c)(1) of the code (relating to powers and duties of 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(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 amendment to § 139.4 was proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend § 139.4 by establishing when and where it is lawful to hunt and trap various game species and also place limits on the numbers that can be legally taken during the 2007-2008 license year.

3. Persons Affected

Persons wishing to hunt or trap game or wildlife within this Commonwealth during the 2007-2008 license year 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 effective dates of the proposed rulemaking are July 1, 2007, to June 30, 2008.

6. Contact Person

For further information regarding the proposed rulemaking, contact Richard A. Palmer, Acting Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-251. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 139. SEASONS AND BAG LIMITS

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

(Editor's Note: As part of the proposed rulemaking, the Commission is proposing to rescind the contents of § 139.4 which appears at 58 Pa. Code pages 139-3—139-13, serial pages (320709) to (320718) and (322027) and replace it with the following text.)

(SEASONS AND BAG LIMITS TABLE)

**2007-2008 OPEN HUNTING AND FURTAKING SEASONS, DAILY LIMIT,
FIELD POSSESSION LIMIT AND SEASON LIMIT
OPEN SEASON INCLUDES FIRST AND LAST DATES LISTED**

Species	First Day	Last Day	Daily Limit	Field Possession Limit After First Day
Squirrels—(Combined species) Eligible Junior Hunters only, with or without the required license, when properly accompanied as required by law	Oct. 6	Oct. 12	6	12
Squirrels—(Combined species)	Oct. 13 and Dec. 10 and Dec. 26	Nov. 24 and Dec. 22 and Feb. 9, 2008	6	12
Ruffed Grouse—(Statewide)	Oct. 13 and Dec. 10 and Dec. 26	Nov. 24 and Dec. 22 and Jan. 26, 2008	2	4
Ruffed Grouse—There is no open season for taking ruffed grouse in that portion of State Game Lands No. 176 in Centre County which is posted "RESEARCH AREA—NO GROUSE HUNTING"				
Rabbits, Cottontail	Oct. 20 and Dec. 10 and Dec. 26	Nov. 24 and Dec. 22 and Feb. 9, 2008	4	8
Ringneck Pheasant—Male only in Wildlife Management Units 2A, 2B, 2C, 4C, 4E, 5A and 5B Eligible Junior Hunters only, with or without the required license, when properly accompanied as required by law	Oct. 6	Oct. 12	2	4
Ringneck Pheasant—Male or female combined in Wildlife Management Units 1A, 1B, 2D, 2E, 2F, 2G, 3A, 3B, 3C, 3D, 4A, 4B, 4D, 5C and 5D Eligible Junior Hunters only, with or without the required license, when properly accompanied as required by law	Oct. 6	Oct. 12	2	4
Ringneck Pheasant—Male only in Wildlife Management Units 2A, 2B, 2C, 4C, 4E, 5A and 5B	Oct. 20	Nov. 24	2	4
Ringneck Pheasant—Male or female combined in Wildlife Management Units 1A, 1B, 2D, 2E, 2F, 2G, 3A, 3B, 3C, 3D, 4A, 4B, 4D, 5C and 5D	Oct. 20 and Dec. 10 and Dec. 26	Nov. 24 and Dec. 22 and Feb. 9, 2008	2	4
Bobwhite Quail—The hunting and taking of bobwhite quail is permitted in all Wildlife Management Units except in Wildlife Management Units 4A, 4B, 5A, 5B, 5C and 5D where the season is closed.	Oct. 20	Nov. 24	4	8

Species	First Day	Last Day	Daily Limit	Field Possession Limit After First Day
Hares (Snowshoe Rabbits) or Varying Hares	Dec. 26	Jan. 1, 2008	1	2
Woodchucks (Groundhog)	No closed season except during the regular firearms deer seasons and until noon daily during the spring gobbler turkey season.		Unlimited	

Species	First Day	Last Day	Daily Limit	Season Limit
Turkey—Male or Female			1	1
Wildlife Management Units 1A, 1B and 2A (Shotgun, Bow and Arrow only)	Oct. 27	Nov. 12		
Wildlife Management Units 2B (Shotgun, Bow and Arrow only)	Oct. 27	Nov. 17		
Wildlife Management Units 2C, 2E, 2F, 4A and 4B	Oct. 27	Nov. 12		
Wildlife Management Units 2D, 2G, 3A, 3B, 3C, 3D, 4C, 4D and 4E Wildlife Management Units 5A and 5B	Oct. 27	Nov. 17		
Wildlife Management Units 5C and 5D (Shotgun, Bow and Arrow only)	Oct. 27	Nov. 2		
Turkey (Spring Gobbler) Statewide ⁵ Bearded Bird only	April 26, 2008	May 26, 2008	1	2
Turkey (Spring Gobbler) Statewide Youth Hunt ⁵ Bearded Bird only Eligible junior hunters only with the required license and when properly accompanied	April 19, 2008	April 19, 2008	1	1

MIGRATORY GAME BIRDS

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

Exceptions:

(a) Hunting hours in § 141.4 (relating to hunting hours).

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

Species	First Day	Last Day	Daily Limit	Field Possession Limit After First Day
Crows (Hunting permitted on Friday, Saturday and Sunday only)	July 1 and Dec. 28	Nov. 24 and April 6, 2008		Unlimited
Starlings and English Sparrows	No closed season except during the regular firearms deer seasons and until noon daily during the spring gobbler turkey season.		Unlimited	

Species	First Day	Last Day	Daily Limit	Field Possession Limit After First Day
FALCONRY				
Squirrels—(Combined species)	Sept. 1	Mar. 31, 2008	6	12
Quail	Sept. 1	Mar. 31, 2008	4	8
Ruffed Grouse	Sept. 1	Mar. 31, 2008	2	4
Cottontail Rabbits	Sept. 1	Mar. 31, 2008	4	8
Snowshoe or Varying Hare	Sept. 1	Mar. 31, 2008	1	2
Ringneck Pheasant—Male and Female—(Combined)	Sept. 1	Mar. 31, 2008	2	4

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

DEER

Species	First Day	Last Day	Season Limit
Deer, Antlered and Antlerless—(Statewide) ¹ (Archery—Bows and Arrows Only) Crossbows may be used in Wildlife Management Units 2B, 5C and 5D	Sept. 29 Dec. 26	Nov. 10 and Jan. 12, 2008	One antlered and an antlerless deer with each required antlerless license.
Deer, Antlerless—Wildlife Management Unit 2B, 5C and 5D (Archery—Bows and Arrows and Crossbows)	Sept. 15 Nov. 12	Sept. 28 and Nov. 24	An antlerless deer with each required antlerless license.
Deer, Antlerless—Wildlife Management Unit 2B (Archery—Bows and Arrows and Crossbows)	Dec. 10	Dec. 22	An antlerless deer with each required antlerless license.
Deer, Regular Antlered & Antlerless—(Statewide) ¹	Nov. 26	Dec. 8	One antlered, and An antlerless deer with each required antlerless license.
Deer, Antlerless only—(Statewide) Only Junior and Senior License Holders, ² PGC Disabled Person Permit Holders (to use a vehicle as a blind), and Residents serving on active duty in the U.S. Armed Forces, or in the U.S. Coast Guard, with required antlerless license	Oct. 18	Oct. 20	An antlerless deer with each required antlerless license.
Deer, Antlerless only—(Statewide) (Muzzleloading season)	Oct. 13	Oct. 20	An antlerless deer with each required antlerless license.
Deer, Antlered or Antlerless—(Statewide) ¹ (Flintlock Muzzleloading season)	Dec. 26	Jan. 12, 2008	One antlered, or one antlerless—plus an additional antlerless deer with each required antlerless license.
Deer, Antlerless Wildlife Management Unit 2B	Dec. 26	Jan. 26, 2008	An antlerless deer with each required antlerless license.

Species	First Day	Last Day	Season Limit
Deer, Antlerless Wildlife Management Units 5C and 5D	Dec. 10 and Dec. 26	Dec. 22 Jan. 26, 2008	An antlerless deer with each required antlerless license.
Deer, Antlerless (Letterkenny Army Depot, Franklin County and New Cumberland Army Depot, York County and Fort Detrick, Raven Rock Site, Adams County)	Hunting is permitted on days established by the United States Department of the Army.		An antlerless deer with each required antlerless license.

BEAR

Species	First Day	Last Day	Daily Limit	Season Limit
Bear, any age—(Bows and Arrows only) ⁴ Wildlife Management Units 2C, 2D, 2E, 2F, 2G, 3A, 4A, 4B and 4D	Nov. 14	Nov. 15	1	1
Bear, any age—(Statewide) ⁴	Nov. 19	Nov. 21	1	1
Bear, any age ⁴ Wildlife Management Units 3C and that portion of 3B, East of Rt. 14 from Troy to Canton, East of Rt. 154 from Canton to Rt. 220 at Laporte and East of Rt. 42 from Laporte to Rt. 118 and that portion of 4E, East of Rt. 42.	Nov. 26	Dec. 1	1	1

Also, those portions of Wildlife Management Units 2G and 3B in Lycoming County that Lie North of the West branch of the Susquehanna River from the Rt. 405 bridge, West to the Rt. 220 bridge, East of Rt. 220 to Rt. 44 and East of Rt. 44 to Rt. 973, South of Rt. 973 to Rt. 87, West of Rt. 87 to Rt. 864, South of Rt. 864 to Rt. 220 and West of Rt. 220 to Rt. 405 and West of Rt. 405 to the West branch of the Susquehanna River.

Bear, any age ⁴ Wildlife Management Unit 3D	Nov. 28	Dec. 1	1	1
Bear, any age ⁴ Rockview Prison	Nov. 26	Dec. 1	1	1

ELK

Species	First Day	Last Day	Daily Limit	Season Limit
Elk, Antlered & Antlerless ⁶ (With each required license)	Nov. 5	Nov. 10	1	1
Elk, Antlered & Antlerless ⁶ (With each required license) Elk Hunt Zone 1	Sept. 3 and Sept. 1, 2008	Sept. 29 Sept. 27, 2008	1	1

FURTAKING—TRAPPING

Species	First Day	Last Day	Daily Limit	Season Limit
Minks and Muskrats—(Statewide)	Nov. 17	Jan. 6, 2008		Unlimited
Beaver—(Statewide)	Dec. 26	Mar. 31, 2008		
Wildlife Management Units 2E, 2F and 2G (Combined)			20	20
Wildlife Management Units 1A, 1B, 3A, 3B, 3C and 3D (Combined)			20	40
Wildlife Management Units 2A, 2B, 2C, 2D, 4A, 4B, 4C, 4D, 4E, 5A, 5B, 5C and 5D (Combined)			10	10

PROPOSED RULEMAKING

Species	First Day	Last Day	Daily Limit	Season Limit
Coyotes, Foxes, Opossums, Raccoons, Skunks, Weasels—(Statewide)	Oct. 22	Feb. 17, 2008		Unlimited
Coyotes and Foxes—(Statewide) (Cable restraint devices may be used)	Jan. 1	Feb. 17, 2008		Unlimited
Bobcat ³ Wildlife Management Units 2A, 2C, 2E, 2F, 2G, 3A, 3B, 3C and 3D	Oct. 22	Feb. 17, 2008	1	1

FUR TAKING—HUNTING

Species	First Day	Last Day	Daily Limit	Season Limit
Coyotes—(Statewide)		Outside of any deer or bear season may be taken with a hunting license or a furtaker's license and without wearing orange.		Unlimited
Coyotes—(During any archery deer season)		May be taken while lawfully hunting deer or with a furtaker's license.		
Coyotes—(During the regular firearms deer season and any bear season)		May be taken while lawfully hunting deer or bear or with a furtaker's license while wearing 250 square inches of daylight fluorescent orange-colored material in a 360° arc.		
Coyotes—(During the spring gobbler turkey season)		May be taken by persons who have a valid tag and meet fluorescent orange and shot size requirements.		
Opossums, Skunks, Weasels ⁷ (Statewide)		No closed season. These species may not be hunted prior to noon during the spring gobbler turkey season.		
Raccoons and Foxes—(Statewide) ⁷	Oct. 21	Feb. 16, 2008		Unlimited
Bobcat ³ Wildlife Management Units 2A, 2C, 2E, 2F, 2G, 3A, 3B, 3C and 3D	Oct. 21	Feb. 16, 2008	1	1

No open seasons on other wild birds or wild mammals.

¹Only one antlered deer (buck) may be taken during the hunting license year.

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

³Bobcat may only be taken by furtakers in possession of a Bobcat Hunting-Trapping Permit and may not be taken during the regular antlered and antlerless deer season from 1/2 hour before sunrise to 1/2 hour after sunset.

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

⁵Second spring gobbler may only be taken by persons who possess a valid special wild turkey license as provided for in section 2709 of the act (relating to license costs and fees).

⁶Only one elk may be taken during the hunting license year.

⁷May not be taken during the regular antlered and antlerless deer season from 1/2 hour before sunrise to 1/2 hour after sunset.

[58 PA. CODE CH. 147]

Special Permits; Deer Management Assistance Program Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 23, 2007, meeting, proposed to amend § 147.674 (relating to issuance of DMAP harvest permits).

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 23, 2007, meeting of the Commission. Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until April 13, 2007.

1. *Purpose and Authority*

Since the implementation of the Deer Management Assistance Program (DMAP) in 2003, harvest permit fees for residents and nonresidents have remained unchanged. However, operating costs throughout the Commission have increased significantly, especially since the Commission's last license fee increase occurred in 1999. Given the added recreational opportunities that DMAP harvest permits offer and the nominal cost currently associated with them, the Commission has determined that an increase in permit fees will better represent the value of the privilege and improve funding for the management of wildlife resources. Therefore, the Commission is proposing to amend § 147.674 to increase DMAP harvest permit fees from \$6 to \$10 for residents and \$26 to \$35 for nonresidents.

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 amendment to § 147.674 was proposed under this authority.

2. *Regulatory Requirements*

The proposed rulemaking will amend § 147.674 to increase DMAP harvest permit fees from \$6 to \$10 for residents and \$26 to \$35 for nonresidents.

3. *Persons Affected*

Persons wishing to purchase DMAP harvest permits from the Commission 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 Richard A. Palmer, Acting Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-249. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 147. SPECIAL PERMITS

Subchapter R. DEER CONTROL

DEER MANAGEMENT ASSISTANCE PROGRAM PERMITS

§ 147.674. Issuance of DMAP harvest permits.

* * * * *

(c) Coupon holders shall submit the completed coupons and remittance as determined by the Director. The fee for the harvest permit is \$ [**6**] **10** for residents and \$ [**26**] **35** for nonresidents.

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[Pa.B. Doc. No. 07-499. Filed for public inspection March 23, 2007, 9:00 a.m.]

[58 PA. CODE CH. 137]

Wildlife; Release of Animals

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 23, 2007, meeting, proposed to amend § 137.2 (relating to release of animals).

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 23, 2007, meeting of the Commission. Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until April 13, 2007.

1. *Purpose and Authority*

Wild boar, Russian boar or feral hog all refer to a breed of pigs that are believed to have been brought into this Commonwealth by hunting preserves. Many of these feral hogs have either escaped or been intentionally released into the wild and evidence suggests they are successfully reproducing. The Commission's participation in the Commonwealth's Invasive Species Council has resulted in a collaborative determination that feral hogs are an invasive species that must be eliminated and kept out of the wild. Feral hogs are known to pose a number of threats to the health, safety and welfare of wildlife,

wildlife habitat, private property, humans and this Commonwealth's agricultural industry. The Commission is currently taking a number of steps to help combat this growing problem but it recognizes that eliminating feral hogs from the wild cannot be successful if their continued release into the wild is not restricted. Therefore, the Commission is proposing to amend § 137.2 to prohibit the release of members of the porcine family into the wild.

Section 322(c)(9) of the code (relating to powers and duties of commission) specifically empowers the Commission to "Prohibit the possession, importation, exportation or release of any species of birds or animals which may be considered dangerous or injurious to the general public or to the wildlife of this Commonwealth." 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 to § 137.2 was proposed under this authority.

2. *Regulatory Requirements*

The proposed rulemaking will amend § 137.2 to prohibit the release of members of the porcine family into the wild.

3. *Persons Affected*

Persons who release members of the porcine family into the wild 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 Richard A. Palmer, Acting Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-250. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 137. WILDLIFE

§ 137.2. Release of animals.

(a) Except as otherwise provided, it is unlawful to release captive held or captive raised game or wildlife on to any lands, public or private, without first securing a permit from the Commission. Lawfully acquired mallard ducks, ringneck pheasant, bobwhite quail and chukar partridge may be released for dog training or hunting purposes.

(b) It is unlawful to release any domestic or feral hogs in to the wild. Domestic or feral hogs include any animals from the porcine family.

(c) A person violating this section is subject to the penalties provided in the act.

[Pa.B. Doc. No. 07-500. Filed for public inspection March 23, 2007, 9:00 a.m.]