

# PROPOSED RULEMAKING

## DEPARTMENT OF PUBLIC WELFARE

[ 55 PA. CODE CH. 2800 ]

### Assisted Living Residences; Correction

The Department of Public Welfare is adding additional information to the Public Comment section of the Preamble to the rulemaking which appeared at 38 Pa.B. 4459, 4460 (August 9, 2008). The correct version appears as follows:

#### *Public Comment*

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to the Department at the following address: Gail Weidman, Office of Long-Term Care Living, Bureau of Policy and Strategic Planning, P. O. Box 2675, Harrisburg, PA 17105, by September 15, 2008. Reference Regulation No. 14-514 when submitting comments.

ESTELLE B. RICHMAN,  
*Secretary*

[Pa.B. Doc. No. 08-1481. Filed for public inspection August 8, 2008, 9:00 a.m.]

[ 55 PA. CODE CHS. 108 AND 187 ]

### Family Violence and TANF and GA; and Support From Relatives Not Living With the Client

#### *Statutory Authority*

The Department of Public Welfare (Department) under the authority of sections 201(2) and 403(b) the Public Welfare Code (62 P. S. §§ 201(2) and 403(b)); Titles I and III of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) (Pub. L. No. 104-193); and 23 Pa.C.S. §§ 4301—4381, 5103, 7101—7901 and 8101—8418 intends to propose the regulations in Chapter 108 (relating to Family Violence and TANF and GA) and amend the regulations in Chapter 187 (relating to support from relatives not living with the client) as set forth in Annex A.

#### *Purpose of Regulation*

The purpose of this proposed rulemaking is to add a new Chapter 108 to 55 Pa. Code. The Department proposes to codify requirements that support victims of domestic violence who apply for or receive benefits under the Temporary Assistance for Needy Families (TANF) or General Assistance (GA) cash assistance programs.

The proposed rulemaking also amends 55 Pa. Code Chapter 187 by amending regulations relating to domestic violence that will be incorporated into the newly proposed Chapter 108.

The Department will apply the policies in this proposed rulemaking to help identify victims of domestic violence, refer them to appropriate services, waive certain TANF or GA program requirements when appropriate and protect the confidentiality of domestic violence victims.

#### *Background*

Concerned about the pervasiveness of domestic violence and its impact on families needing assistance, Congress addressed these issues in PRWORA under the "Family Violence Option" (FVO) in 42 U.S.C.A. §§ 602(a)(7) and 608(a)(7)(C)(iii) (relating to eligible states; state plan; and prohibitions; requirements). The Department recognizes that clients may rely on public assistance as a means to escape domestic violence, address safety issues and become financially independent of abusive partners or family members. Domestic violence can interfere with a client's ability to comply with welfare requirements, causing the loss of needed benefits. At times, welfare requirements such as cooperating in establishing paternity and establishing and enforcing child support, engaging in job training, looking for work and getting a job, can place victims and their families at risk of further domestic violence.

States that adopt the FVO may waive one or more public assistance program requirements for a victim of domestic violence if complying with those requirements would make it more difficult for the victim to escape domestic violence, unfairly penalize the individual or place the individual at risk of further domestic violence. Under the FVO, states certify that they will develop a system to screen for victims of domestic violence and refer them to appropriate counseling and supportive services. The Commonwealth elected to adopt the FVO in its 1997 TANF State Plan and confirmed this election in subsequent plans submitted to the Federal Department of Health and Human Services, Administration for Children and Families.

In implementing the FVO, the Department developed policies to provide applicants and recipients with information about domestic violence, the availability of supportive services and the option to waive certain program requirements such as support cooperation, time limits and work. One or more program requirements may be waived if compliance would make it more difficult for the individual to escape domestic violence or unfairly penalize individuals who are victims, have been victims or who are at risk of further domestic violence.

#### *Requirements*

The following is a summary of the specific provisions in the proposed rulemaking:

##### *§ 108.1. (relating to purpose).*

The Department describes reasons for adoption of the FVO and ways in which it will use policies to assist victims of domestic violence who apply for or receive TANF or GA cash assistance. The Department will use the policies in this chapter to help identify victims of domestic violence; refer victims to counseling, shelter or other appropriate services; and waive certain TANF or GA program requirements when appropriate.

##### *§§ 108.3—108.5 (relating to universal notification; written notification; and individual notification).*

The Department describes universal notification policies relating to domestic violence, referral to domestic violence services, confidentiality protections and waivers of TANF or GA program requirements.

The Department describes the requirements for providing written and oral notification to applicants and recipients.

*§§ 108.7 and 108.8. (relating to requirements subject to waiver based on domestic violence; and claiming good cause based on domestic violence).*

The Department describes standards for waivers of support cooperation, work requirements, time limits, minor parent live-at-home rules, verification and other TANF or GA program requirements, based on domestic violence.

*§ 108.9. (relating to time limits).*

The Department currently provides up to 12 months of cash assistance benefits that do not count towards the 60-month TANF time limit to victims of domestic violence. In 2002, the Department codified regulations governing these benefits in Chapter 281 (relating to time-out benefits) which sunset effective July 1, 2004. This rulemaking proposes to codify the time-out provisions of obsolete Chapter 281 that relate to victims of domestic violence under Chapter 108.

The Department also provides Extended TANF benefits to victims of domestic violence who are otherwise eligible as provided in § 141.53 (relating to eligibility based on domestic violence). This proposed rulemaking codifies under Chapter 108 that victims of domestic violence may receive Extended TANF and cross references § 141.53.

*§ 108.10. (relating to verification).*

The Department explains the verification form to be completed by an individual who wishes to establish good cause for a waiver of TANF or GA program requirements based on domestic violence.

*§§ 108.11 and 108.12. (relating to time frames for good cause waiver determinations based on domestic violence; and notice of good cause waiver determinations based on domestic violence).*

The Department describes policies relating to the time frames within which it will determine an individual's eligibility for domestic violence waivers and policies relating to written notice of its determination.

*§§ 108.14–108.16 (relating to safeguarding information; alternate address; and DRS responsibility for the FVI).*

The Department describes policies relating to safeguarding information about victims of domestic violence. The Department explains that a victim of domestic violence may use an alternate address for receipt of mail. The Department also explains how confidential information is safeguarded by requiring the DRS to place a Family Violence Indicator (FVI) on Department files.

*§ 108.17. (relating to Agreement of Mutual Responsibility (AMR)).*

The Department describes the policy for completing an AMR for an individual who has disclosed domestic violence.

*§§ 187.22 and 187.27 (relating to definitions; and waiver of cooperation for good cause).*

The Department proposes to amend regulations relating to domestic violence from this chapter and add cross references to Chapter 108. The Department also proposes minor technical revisions to this chapter. For example, the acronym "CAO" is replaced with the term "Department."

#### *Affected Individuals and Organizations*

This proposed rulemaking affects applicants and recipients who are victims of domestic violence. This proposed

rulemaking also affects community referral agencies such as counseling, shelter and other domestic violence service providers.

#### *Accomplishments and Benefits*

This proposed rulemaking will benefit TANF and GA applicants and recipients who are victims, have been victims, or are at risk of further victimization due to domestic violence.

Individuals who disclose domestic violence will be referred for appropriate voluntary counseling and supportive services. Those individuals who request and receive a waiver of TANF or GA program requirements will be temporarily excused from those requirements when compliance could jeopardize their safety, make it more difficult for them to escape domestic violence or place them at risk of further violence. Individuals who receive waivers of the 60-month time limit on receipt of TANF benefits will have more time to avail themselves of programs and supportive services that are designed to move them toward self-sufficiency.

Approximately 3,500 individuals currently receiving cash assistance have good cause waivers for child support or work requirements.

According to a study by Richard Tolman and Jody Raphael in "A Review of the Research on Welfare and Domestic Violence." *Journal of Social Issue* and Sharmila Lawrence's issue brief titled "Domestic Violence and Welfare Policy: Research Findings That Can Inform Policies on Marriage and Child Well-Being" from the Research Forum on Children, Families and the New Federalism. National Center for Children in Poverty, approximately 25% of current welfare recipients have a history of domestic violence. With the current TANF population, these regulations could benefit approximately 30,000 individuals and families.

#### *Fiscal Impact*

There are no costs or savings associated with these proposed regulations.

#### *Paperwork Requirements*

A new written consent form is needed to allow the Department to release information to a third party about the applicant or recipient that is not subject to disclosure as provided under proposed § 108.14 (relating to safeguarding information). Completion of this form should not have a significant impact on CAO workload as it will be used under limited circumstances.

#### *Effective Date*

This proposed rulemaking is effective upon final publication in the *Pennsylvania Bulletin*.

#### *Public Comment*

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to the Department at the following address: Edward J. Zogby, Director, Bureau of Policy, Room 431, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-4081, within 30 calendar days after the date of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference Regulation No. 14-513 when submitting comments.

Persons with a disability who require an auxiliary aid or service may submit comments by using the AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

*Regulatory Review Act*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 5, 2008, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. In addition to submitting the proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a Regulatory Analysis Form prepared by the Department. A copy of this form is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has any comments, recommendations or objections to any portion of the proposed rulemaking, it may notify the Department and the Committees within 30 days after the close of the public comment period. The notification shall specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed policies for review by the Department, the General Assembly and the Governor, of any comments, recommendations or objections raised, prior to final publication of the regulations.

ESTELLE B. RICHMAN,  
*Secretary*

**Fiscal Note:** 14-513. No fiscal impact; (8) recommends adoption.

**Annex A****TITLE 55. PUBLIC WELFARE****PART II. PUBLIC ASSISTANCE MANUAL****Subpart A. ASSISTANCE POLICIES AND PROCEDURES****CHAPTER 108. FAMILY VIOLENCE AND TANF AND GA****GENERAL PROVISIONS**

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**§ 108.1. Purpose.**

This chapter establishes rules and policies that apply to victims of domestic violence who are applicants for or recipients of TANF or GA cash assistance. These policies reflect the Department's commitment to address domestic violence among welfare recipients and are based on the Department's election of the FVO, authorized under Federal law.

**§ 108.2. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*DRS—Domestic Relations Section*—The section of a court of common pleas responsible for establishing and enforcing support orders.

*Domestic violence*—One or more of the following:

- (i) Physical acts that resulted in, or threatened to result in, physical injury to the individual.
- (ii) Sexual abuse.
- (iii) Sexual activity involving a dependent child.
- (iv) Being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities.
- (v) Threats or attempts of physical or sexual abuse.
- (vi) Mental abuse.
- (vii) Neglect or deprivation of medical care.

*FVI—Family violence indicator*—A marker placed on Department and DRS records to indicate one or more individuals in the file are victims of domestic violence.

*FVO—Family violence option*—An option under Federal law that allows the state to identify individuals with a history of domestic violence, refer them for counseling and supportive services and, upon a showing of good cause, waive one or more program requirements for these individuals.

*Federal parent locator database*—A National computer location system operated by the Federal Office of Child Support Enforcement, to assist states in locating non-custodial parents, putative fathers and custodial parties for the establishment of paternity and child support obligations, as well as the enforcement and modification of orders for child support, custody and visitation.

*PACSES—Pennsylvania Automated Child Support Enforcement System*—Pennsylvania's single Statewide automated data processing and information retrieval system for child support enforcement under Title IV-D of the Social Security Act (42 U.S.C.A. §§ 651—669b).

*Work requirements*—Requirements set forth in Chapter 165 (relating to Road to Economic Self-Sufficiency through Employment and Training (RESET) Program).

**§ 108.3. Universal notification.**

The Department will provide applicants and recipients with information about:

- (1) Policies and procedures relating to domestic violence.
- (2) Referrals to domestic violence services.
- (3) Good cause waivers of certain TANF and GA program requirements including:

(i) Specific information about program requirements and what activities and contact with others, such as a noncustodial parent, is required if a waiver is not requested.

(ii) Safeguards that may help the individual safely comply with program requirements, including placement of an FVI as defined in § 108.2 (relating to definitions) on Department and DRS files and other confidentiality protections.

(iii) Opportunities to participate as a volunteer in work or work-related activities and to receive supportive services, if the individual receives a good cause waiver.

**§ 108.4. Written notification.**

The Department will provide applicants and recipients with written notification of the information described in § 108.3 (relating to universal notification).

**§ 108.5. Individual notification.**

(a) The Department will provide applicants with written notification of the right to claim good cause based on domestic violence.

(b) The Department will provide recipients, who have not previously disclosed domestic violence, with written notification of the right to claim good cause based on domestic violence as follows:

(1) Prior to referral to the DRS.

(2) When the Department has reason to believe a family or household member has been subjected to or is at risk of further domestic violence.

(3) Prior to reducing benefits for noncooperation with child support requirements according to § 187.26 (relating to noncooperation).

(4) When compliance with work requirements as defined in § 108.2 (relating to definitions) is discussed according to § 165.51 (relating to compliance review) and prior to imposing a sanction for noncooperation with work requirements according to § 165.61 (relating to sanctions).

(5) Prior to denying, terminating, reducing or suspending benefits due to failure to comply with a TANF or GA program requirement.

(c) The Department will provide recipients, who have previously disclosed domestic violence, with written notification of the right to claim good cause based on domestic violence according to subsection (b)(1)—(5) if providing written notification does not place the recipient at risk of further domestic violence.

(d) The written notification must include an explanation of:

(1) The availability of referrals for assistance for victims of domestic violence.

(2) The availability of a good cause waiver of certain TANF or GA program requirements based on domestic violence.

(3) The confidentiality protections.

(e) The Department will provide oral notification to applicants and recipients of the right to claim good cause based on domestic violence as follows:

(1) Prior to a referral to the DRS.

(2) When the Department has reason to believe a family or household member has been subjected to or is at risk of further domestic violence.

(3) At a compliance review according to § 165.51 in which the recipient participates.

**§ 108.6. Policy for applicants or recipients in immediate danger.**

If an applicant or recipient is in immediate danger, the Department will:

(1) Provide a private space to allow the applicant or recipient to call a domestic violence hotline, if requested.

(2) Offer the applicant or recipient help in making arrangements for emergency shelter, medical care, transportation, child care and work.

**§ 108.7. Requirements subject to waiver.**

(a) The policies in §§ 108.8—108.13 apply to good cause waivers of requirements for support cooperation, work, time limits, teen parents, verification and other TANF and GA program requirements, based on domestic violence.

(b) The Department may not waive the following TANF or GA program requirements except as provided in subsection (c):

(1) Minor child under § 145.41 (relating to policy).

(2) Specified relative under § 151.41 (relating to policy).

(3) Income under § 183.5 (relating to income verification).

(4) Resources under § 177.1 (relating to general requirements).

(5) Citizenship under § 149.23 (relating to requirements).

(6) Deprivation under § 153.41 (relating to policy).

(7) Enumeration under § 155.2 (relating to general).

(8) Identity under § 125.1 (relating to policy).

(9) Criminal status under sections 432(9) and 481.1 of the Public Welfare Code (62 P. S. §§ 432(9) and 481.1) regarding eligibility; false statements; investigations; and penalty.

(10) Residency under § 147.23 (relating to requirements).

(11) GA categorical eligibility requirement under § 141.61 (relating to policy).

(12) Signature on required forms, such as the application for benefits and authorization for release of information form under § 125.1.

(13) Permanent sanction under § 165.61 (relating to sanctions).

(14) Application for and cooperation in establishing eligibility for potential income under section 432.21(a) of the Public Welfare Code (62 P. S. § 432.21(a)) regarding the requirement that certain Federal benefits be the primary source of assistance.

(c) The Department will determine whether to approve a request to waive one or more requirements in subsection (3)—(14)(b) on a case-by-case basis.

**§ 108.8. Claiming good cause based on domestic violence.**

(a) An individual may request a good cause waiver of a TANF or GA program requirement based on past, present or risk of further domestic violence, as defined in § 108.2 (relating to definitions).

(b) The Department will grant a good cause waiver of a TANF or GA program requirement if compliance with the program requirement would result in one of the following:

(1) Making it more difficult for the individual or family member to escape domestic violence.

(2) Placing the individual or family member at risk of further domestic violence.

(3) Unfairly penalizing the individual or family member because of domestic violence.

(c) The Department may grant a good cause waiver regardless of whether the alleged abuser is in the household.

**§ 108.9. Time limits.**

(a) An applicant or recipient may receive up to 12 months of TANF cash assistance that do not count towards the 60-month TANF time limit according to § 141.41(d) (relating to policy) based on past, present or risk of further domestic violence to the individual or family member. The months need not be sequential.

(b) Individuals may receive Extended TANF, as defined in § 141.52 (relating to definitions), if the individual or family member is or has been a victim of domestic violence or is at risk of further domestic violence according to § 141.53 (relating to eligibility based on domestic violence).

(c) Individuals may be eligible for cash assistance under this section regardless of whether the alleged abuser is in the household.

**§ 108.10. Verification.**

(a) An individual who requests a good cause waiver of a TANF or GA program requirement based on domestic violence shall complete the verification form provided by the Department.

(b) The Department will provide the individual with the verification form and instruct the individual to provide verification that may include one of the following:

- (1) Law enforcement records.
- (2) Court records.
- (3) Medical or treatment records, or both.
- (4) Social services records.
- (5) Child protective services records.
- (6) Other records that may verify domestic violence.
- (7) Third party verification from a public or private organization or an individual with knowledge of the circumstances including:
  - (i) A domestic violence service provider.
  - (ii) A medical, psychological or social services provider.
  - (iii) A law enforcement professional.
  - (iv) A legal representative.
  - (v) An acquaintance, friend, relative, or neighbor of the claimant, or other individual.

(c) If the individual cannot safely obtain verification described in subsection (b), the individual may affirm on the verification form provided by the Department that the individual cannot safely comply with a TANF or GA program requirement due to domestic violence.

(d) When an individual claims good cause based on domestic violence, the Department may not:

- (1) Contact the alleged abuser.
- (2) Require the individual to obtain a Protection from Abuse Order.

**§ 108.11. Time frames for good cause waiver determinations based on domestic violence.**

The Department will make a good cause waiver determination within 15 calendar days from the date the claim was initiated by the applicant or recipient.

**§ 108.12. Notice of good cause waiver determinations based on domestic violence.**

(a) The Department will provide written notice to the individual of its determination regarding the good cause waiver request.

(b) If the Department grants the waiver request, the notice will:

- (1) State the program requirement being waived.
- (2) Explain the duration of the waiver. If the Department is uncertain of the duration, the notice will explain that the waiver will remain in effect as long as necessary, subject to review every 6 months.

(c) If the Department denies the waiver request, the notice will:

- (1) State the program requirement is not waived and the basis for the determination.
- (2) State the legal authority for the denial.
- (3) Explain the right to appeal.
- (4) State what additional verification or information is needed to substantiate good cause and the time frame in which the information shall be provided.

(5) Explain that the individual shall comply with the program requirement for which the waiver was requested.

**§ 108.13. Review of waivers.**

When the Department determines that a waiver of a TANF or GA program requirement based on domestic violence is appropriate, it will grant the waiver for as long as necessary, subject to review every 6 months as follows:

- (1) An individual who verified domestic violence under § 108.10(b) (relating to verification) need not provide new or additional verification at the 6-month review if circumstances have not changed since the waiver was initially granted or since the last 6-month review.
- (2) An individual who affirmed domestic violence under § 108.10(c) may provide verification as listed under § 108.10(b) to have the waiver continue.
- (3) An individual who affirmed domestic violence but remains unable to provide verification under § 108.10(b) may again affirm domestic violence on the verification form provided by the Department under § 108.10(c). The individual may receive a waiver for an additional 6 months.

(4) An individual who remains unable to provide verification under § 108.10(b) after 12 months, may have the waiver continue by affirming domestic violence under § 108.10(c), subject to approval by the Department. The individual's waiver and benefits will continue pending the approval process. If the waiver is approved, the individual may, if necessary, continue to affirm at each subsequent 6-month redetermination.

**§ 108.14. Safeguarding information.**

(a) Unless required by law or pursuant to the individual's written authorization, the Department may not disclose or release the following information about an applicant, recipient or family member who has disclosed domestic violence, has a Protection from Abuse Order or is at risk of further domestic violence by the disclosure of information:

- (1) The residential address, the name and address of the individual's employer, education, training, or work program or other work activity, the name and address of the children's school and the identity and location of child care or medical providers.
- (2) Whether the individual or family member is living in a domestic violence shelter and location of the shelter.

(3) The amount of benefits received by the individual or family member.

(b) The individual's written authorization must be provided on a form approved by the Department. The form must include the name of the requestor, the information requested and the purpose of the request.

(c) The Department will place an FVI, as defined in § 108.2 (relating to definitions), on the electronic and paper files of an individual or family member who has disclosed domestic violence, has a Protection from Abuse Order or is at risk of further physical or emotional harm by the disclosure of confidential information.

**§ 108.15. Alternate address.**

(a) A victim of domestic violence may use an alternate mailing address if one of the following applies:

(1) The individual has applied for or received a good cause waiver based on domestic violence.

(2) The individual is at risk of further domestic violence.

(3) The individual is a participant in the Address Confidentiality Program administered by the Pennsylvania Office of Victim Advocate. See 37 Pa. Code Chapter 802 (relating to Domestic and Sexual Violence Address Confidentiality Program).

(b) The Department will ask an individual who discloses domestic violence, has applied for or received a good cause waiver or is at risk of domestic violence, whether it is safe to send mail to the home address or whether it would be safer to send mail to an alternate address.

**§ 108.16. DRS responsibility for the FVI.**

(a) The Department will instruct the DRS to place an FVI in PACSES, as defined in § 108.2 (relating to definitions), for an individual who receives cash assistance and discloses domestic violence.

(b) If the FVI is placed on the file:

(1) The DRS will not disclose information according to § 108.14 (relating to safeguarding information).

(2) The DRS and other Department staff will not access a DRS file unless authorized to do so.

(3) DRS will transmit the FVI to the Federal parent locator database as defined in § 108.2.

**§ 108.17. Agreement of Mutual Responsibility (AMR).**

(a) To ensure confidentiality, the Department will not record information about domestic violence on the AMR, as defined in § 123.22 (relating to definitions).

(b) If the Department has waived a TANF or GA program requirement based on domestic violence, the Department will record on the AMR that a waiver of that requirement has been granted, but not the basis for the waiver.

**§ 108.18. Referral for services.**

When an applicant or recipient discloses domestic violence or requests a referral to domestic violence services, the Department will provide the individual with names, phone numbers and information about the services of local domestic violence agencies, which may include shelter, safety planning and counseling.

**Subpart D. DETERMINATION OF NEED AND AMOUNT OF ASSISTANCE**

**CHAPTER 187. SUPPORT FROM RELATIVES NOT LIVING WITH THE CLIENT**

**SUPPORT PROVISIONS FOR CASH ASSISTANCE**

**§ 187.22. Definitions.**

\* \* \* \* \*

[ *Domestic violence*—One or more of the following:

(i) Physical acts that resulted in, or threatened to result in, physical injury to the individual.

(ii) Sexual abuse.

(iii) Sexual activity involving a dependent child.

(iv) Being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities.

(v) Threats of, or attempts at, physical or sexual abuse.

(vi) Mental abuse.

(vii) Neglect or deprivation of medical care. ]

\* \* \* \* \*

**§ 187.27. Waiver of cooperation for good cause.**

(a) *Good cause circumstances.* Cooperation requirements may be waived for good cause. [ **Good** ] Requirements for granting a good cause waiver based on a claim of domestic violence, as defined in § 108.2 (relating to definitions), may be provided under §§ 108.7 and 108.8 (relating to requirements subject to waiver; and claiming good cause based on domestic violence). Other good cause circumstances include the following:

\* \* \* \* \*

[ (4) Action to establish paternity or obtain child or spousal support would make it more difficult for the individual or family member to escape domestic violence, as defined in § 187.22 (relating to definitions), or unfairly penalize the individual who has been victimized by the violence, or who is at risk of further violence. ]

(b) *Proving the good cause claim.* The applicant or recipient of cash assistance shall provide relevant verification.

(1) A good cause claim may be verified with the following types of evidence:

\* \* \* \* \*

(v) Court, medical, criminal, child protective services, social services, psychological or law enforcement records [ **which verify domestic violence, as defined in § 187.22** ].

\* \* \* \* \*

[ (vii) *Domestic Violence Verification Form.* The CAO and applicant or recipient will complete this form for all good cause claims based on domestic violence in accordance with one of the following circumstances:

# GAME COMMISSION

[ 58 PA. CODE CH. 143 ]

## Hunting and Furtaker Licenses

(A) To accompany acceptable verification as specified in subparagraph (iv), (v) or (vi) that an applicant or recipient has provided.

(B) To grant good cause upon written consent of the applicant or recipient based on verification of the good cause claim provided by a third party on the form.

(C) To grant good cause for up to 6 months when an applicant or recipient affirms she is at risk of domestic violence and unable to safely obtain other evidence to verify the claim of domestic violence within the established time frames for providing verification. ]

(2) When the [ applicant or recipient of cash assistance ] individual initiates a claim of good cause, the [ CAO ] Department, court or the DRS may provide [ assistance ] help with obtaining verification. If requested by the [ applicant or recipient ] individual, the [ CAO ] Department, court or DRS will provide [ assistance ] help in securing the needed evidence by advising how to obtain specific documents that may be available and by undertaking to obtain specific documents the [ applicant or recipient ] individual is not able to obtain. [The CAO may not contact the putative father or noncustodial parent to verify good cause based on a claim of domestic violence. ]

\* \* \* \* \*

(c) *Good cause determination.* The [ CAO, ] court or the DRS will make a determination within 45 days from the day the claim was initiated by the applicant or recipient of cash assistance. **The Department will make a determination within 15-calendar days from the date the claim was initiated by the applicant or recipient.** The [ CAO ] Department, court or the DRS may approve additional days for the determination to be completed.

\* \* \* \* \*

(4) When good cause is determined to exist, the [ CAO ] Department will review the circumstances upon which the good cause determination is based, at least every 6 months.

\* \* \* \* \*

[ (ii) If the good cause waiver was granted based on the recipient's affirmation under subsection (b)(1)(vii)(C), and she is unable to provide verification as specified in subsection (b)(1)(iv)—(vii)(A) and (B), the CAO will make a determination of good cause based on a current assessment of the recipient's circumstances. This assessment will be completed by an individual with domestic violence training and substantiated by completion of the verification of good cause based on the domestic violence form under subsection (b)(1)(vii). ]

[Pa.B. Doc. No. 08-1489. Filed for public inspection August 15, 2008, 9:00 a.m.]

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its June 24, 2008, meeting, proposed the following rule-making:

Amend § 143.243 (relating to general) to expand the list of species that mentored youth are eligible to pursue to include coyotes.

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 June 24, 2008, meeting of the Commission. Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until October 17, 2008.

### 1. Purpose and Authority

Since the successful implementation of the Mentored Youth Hunting Program in the fall of 2006, the Commission has been seeking input from sportsmen and sporting organizations on ways to improve this innovative new program. Towards this end, two organizations, the Governor's Youth Council for Hunting, Fishing and Conservation and the PA Fox and Coyote Hunters Association, have organized to recommend that the program could be improved with the addition of coyotes to the list of species that may be lawfully pursued by mentored youth. In its continuing interest to find new opportunities to expose youth to this State's wildlife resources and enduring hunting heritage, the Commission is proposing to amend § 143.243 by expanding the list of species that mentored youth are eligible to pursue to include coyotes.

Section 2722(g)(2) of the code (relating to authorized license-issuing agents) provides that the Commission shall adopt regulations for "The administration, control and performance of activities conducted pursuant to the provisions of this chapter." 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 § 143.243 was proposed under this authority.

### 2. Regulatory Requirements

The proposed rulemaking will amend § 143.243 to expand the list of species that mentored youth are eligible to pursue to include coyotes.

### 3. Persons Affected

Mentored youth wishing to hunt or trap within this Commonwealth may be affected by the proposed rule-making.

4. *Cost and Paperwork Requirements*

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

5. *Effective Date*

The proposed rulemaking will be effective upon final 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, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,  
*Executive Director*

**Fiscal Note:** 48-273. No fiscal impact; (8) recommends adoption.

ANNEX A

TITLE 58. GAME COMMISSION

CHAPTER 143. HUNTING AND FURTKER  
LICENSES

Subchapter M. MENTORED YOUTH HUNTING  
PROGRAM LICENSE EXEMPTION

§ 143.243. General.

\* \* \* \* \*

(b) A mentored youth's hunting [ **eligibility** ] **ability** is restricted to the following species: squirrel, woodchuck, **coyote, deer** and wild turkey [ **(spring gobbler season only) beginning in the 2006-2007 hunting license year** ]. A mentored youth's hunting **eligibility** is further limited to:

(i) [ **Beginning in the 2007-2008 hunting license year, antlered deer will be included in the mentored youth hunts.** ] **Spring gobbler season only for turkey.**

(ii) [ **Mentored youth hunters shall comply with the same antler requirements as junior license holders.** ] **Antlered deer only during any applicable deer seasons. However, mentored youth hunters shall be eligible for the same antler restrictions that apply to junior license holders as provided in § 131.2 (relating to definitions).**

\* \* \* \* \*

[Pa.B. Doc. No. 08-1490. Filed for public inspection August 15, 2008, 9:00 a.m.]

[ 58 PA. CODE CH. 147 ]  
Special Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its June 24, 2008, meeting, proposed the following rulemaking:

Amend §§ 147.721—147.726 and 147.728 and 147.729 (relating to commercial wildlife pest control) by changing the name of the permit, and to update and expand nuisance wildlife control operator standards.

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 June 24, 2008, meeting of the Commission. Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until October 17, 2008.

1. *Purpose and Authority*

Chapter 147, Subchapter T provides the regulatory structure for the Commission to authorize persons to engage in nuisance wildlife control activities. The Commission has identified that these regulations have over time become inadequate to address the needs of the Commission and the public concerning the persistent problem of nuisance wildlife and therefore needed to be amended. Some notable recommendations generated by the Commission include the renaming of permit holders as "nuisance wildlife control operators" rather than the current "wildlife pest control agents," the expansion of applicant eligibility standards to permit application from nonresidents, new requirements for the control of rabies vector species and, finally, new testing standards for applicants working in deer control. Therefore, the Commission is proposing to amend §§ 147.721—147.726 and 147.728 and 147.729 to update and expand nuisance wildlife control operator standards.

Section 2901(b) of the code (relating to authority to issue permits) provides "the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued." Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendments to §§ 147.721—147.726 and 147.728—147.729 were proposed under this authority.

2. *Regulatory Requirements*

The proposed rulemaking will amend §§ 147.721—147.726 and 147.728—147.729 to update and expand nuisance wildlife control operator standards.

3. *Persons Affected*

Persons wishing to engage in nuisance wildlife control activities 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 proposed rulemaking will be effective upon final 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, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,  
*Executive Director*

**Fiscal Note:** 48-275. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 58. GAME COMMISSION  
CHAPTER 147. SPECIAL PERMITS**

**Subchapter T. [ COMMERCIAL WILDLIFE PEST CONTROL ] NUISANCE WILDLIFE CONTROL OPERATOR**

**§ 147.721. General.**

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

**§ 147.722. Definitions.**

In addition to the definitions contained in the act and § 131.2 (relating to definitions), the following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

*Agent*—A holder of a valid [ **Commercial** ] **Nuisance Wildlife [ Pest ] Control Operator** Permit or a legitimate employee.

\* \* \* \* \*

**§ 147.723. Application.**

(a) An application for examination shall be submitted on a form supplied by the Commission. A nonrefundable fee of \$25 **for each test** shall be submitted with the application for new agents only. An additional \$50 shall be submitted for [ **the** ] **each** permit if the examination is passed.

\* \* \* \* \*

(c) Conviction of a violation of the act within 5 years of the date of application [ **may** ] **shall** preclude the issuance of a permit.

(d) **An agent whose permit lapses for 2 or more years shall apply as a new applicant.**

§ 147.724. [ **Commercial** ] **Nuisance** wildlife [ **pest** ] control **operator** examination.

\* \* \* \* \*

**§ 147.724a. Nuisance deer control examination.**

(a) **New agents shall be required to obtain a minimum score of 80% on a supervised written examination approved by the Director.**

(b) **The examination must include the following subject matter:**

(1) **Biology, life history and habits of white-tailed deer.**

(2) **Control methods, care and handling and euthanasia.**

(3) **Laws and regulations.**

(4) **Diseases and parasites.**

(5) **Public relations.**

**§ 147.725. Records and reports.**

\* \* \* \* \*

(d) **Nonresidents shall submit their report forms directly to the Bureau of Wildlife Protection.**

**§ 147.726. Operation.**

(a) **Approved methods and devices are as follows:**

(1) **Foot hold traps, body gripping traps, box traps, clover traps, cage traps, nets and snares.**

\* \* \* \* \*

(4) **Dogs used to harass nuisance geese. The authorization to harass geese with dogs is prohibited at any time when goslings are present at the site and during the period from June 16 to July 20, when the majority of adult birds are flightless.**

\* \* \* \* \*

(g) **Nuisance wildlife captured alive shall within 24 hours be dispatched in a humane manner or released in an area open to hunting or trapping. Nontarget animals may be released at the site of capture [ . ] , with the following exceptions:**

(1) **Except as provided in paragraph (2), rabies vector species (RVS), as defined in § 147.301 (relating to definitions) shall be euthanized in a humane manner rather than released.**

(2) **An agent may not, without special written permission from the director, destroy or euthanize five or more bats at any one location.**

(h) **Carcasses shall be disposed of by incineration or in an approved landfill in a manner consistent with the solid waste laws of the Commonwealth. The taking of any white-tailed deer shall be reported within 24 hours and turned over to the district wildlife conservation officer, unless alternative arrangements are accepted by the district wildlife conservation officer.**

**§ 147.728. Unlawful acts.**

It is unlawful to:

\* \* \* \* \*

(6) [ **Violate any other provisions of this subchapter** ] **Conduct roundups or gather large numbers of resident Canada geese for removal from an area without prior approval from the Bureau of Wildlife Protection. Prior to authorization of a roundup, an applicant shall have conducted at least 2 consecutive years of nonlethal harassment techniques.**

(7) **Violate other provisions of this subchapter.**

**§ 147.729. Exemptions.**

(a) **A nuisance wildlife control operator permit will not be required for municipal, State or Federal employees conducting animal control activities if the following conditions are met:**

(1) The municipal, State or Federal employee has agreed, in writing, to conduct animal control in accordance with this subchapter. However, permit testing and permit possession requirements do not apply.

(2) Written request for exemption shall be made to the district wildlife conservation officer on letterhead from the municipal, State or Federal entity. The request must state that the employee is a legitimate employee of the entity, is employed as an animal control officer and that the entity has accepted responsibility for the employee's training and supervision as it relates to this subchapter.

(3) This exemption is valid only if an animal control officer is acting within his scope of duty.

[Pa.B. Doc. No. 08-1491. Filed for public inspection August 15, 2008, 9:00 a.m.]

[ 58 PA. CODE CH. 147 ]  
Special Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its June 24, 2008, meeting, proposed the following rule-making:

Amend §§ 147.301—147.307 and 147.309 (relating to wildlife rehabilitation) to update and expand wildlife rehabilitation standards.

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 June 24, 2008, meeting of the Commission. Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until October 17, 2008.

1. Purpose and Authority

The Commission has been working in consultation with the Wildlife Rehabilitation Council (Council) to update and amend the wildlife rehabilitation regulations in an effort to redress concerns the Commission and Council share respecting the inadequacy of current permitting standards. Some notable recommendations generated include the creation of new rehabilitation facility caging and sanitation requirements for all wildlife, new requirements for the rehabilitation of rabies vector species and, finally, new application, qualification and testing standards for permit applicants. Therefore, the Commission is proposing to amend §§ 147.301—147.307 and 147.309 to update and expand wildlife rehabilitation standards.

Section 2901(b) of the code (relating to authority to issue permits) provides "the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued." Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or

wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendments to §§ 147.301—147.307 and 147.309 were proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend §§ 147.301—147.307 and 147.309 to update and expand wildlife rehabilitation standards.

3. Persons Affected

Persons wishing to rehabilitate game or wildlife 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 proposed rulemaking will be effective upon final 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, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,  
Executive Director

**Fiscal Note:** 48-274. No fiscal impact; (8) recommends adoption.

ANNEX A

TITLE 58. GAME COMMISSION

CHAPTER 147. SPECIAL PERMITS

Subchapter P. WILDLIFE REHABILITATION

§ 147.301. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

**RVS—Rabies vector species—All raccoons, skunks, foxes, bats, coyotes, groundhogs and other species designated by the Director.**

\* \* \* \* \*

§ 147.302. General.

\* \* \* \* \*

(f) Nonreleasable wildlife, which visibly appears to be in good condition, may be held by authority of an educational use of rehabilitation wildlife permit or transferred to a zoological park or garden which is open to the public or to the holder of a wildlife menagerie permit. Raptors may additionally be transferred to holders of falconry or raptor propagation permits. A wildlife transfer permit, available from the Bureau of [ **Law Enforcement** ] **Wildlife Protection**, shall be obtained for each specimen prior to any transaction.

(g) Nonreleasable wildlife may be held, with the approval of the Bureau of [ **Law Enforcement** ] **Wildlife Protection**, for cross-fostering purposes.

\* \* \* \* \*

(i) Wildlife may be transferred to or from properly permitted facilities outside of this Commonwealth only upon issuance of a wildlife importation or exportation permit by the Bureau of [ **Law Enforcement** ] **Wildlife Protection**.

\* \* \* \* \*

(l) A wildlife rehabilitation facility and its records shall be available for inspection by an officer of the Commission at any reasonable hour. These officers may remove wildlife from the custody of the permittee if it is deemed necessary for the welfare of the wildlife. During an inspection, members of the Council may accompany these officers to act in an advisory capacity.

(1) **Caging.** Cages used for the rehabilitation of wildlife must be of adequate size, design and strength to provide for the good health, comfort and secure containment of the animal.

(2) **Sanitation.** Wildlife held under this subchapter shall be kept in a sanitary manner consistent with the standards in § 147.283 (relating to sanitation).

(3) **RVS.** RVS shall be housed in a manner to prevent escape of the animal and exposure to people, pets, livestock and other captive or free-ranging wildlife. Exterior caging must be locked and improved by double fencing or solid wall barrier of adequate design and strength to ensure proper containment and exclusion of animals. RVS may not be removed from their containment except for their treatment, destruction, release or maintenance of the facility.

\* \* \* \* \*

(p) A permitted wildlife rehabilitation facility shall be active and open to receive wildlife from the public and the Commission, unless the facility has either exceeded its capacity or otherwise provided the Commission with reasonable justification for inactivity or closure. An inactive or closure period deemed unreasonable may result in suspension, denial or recall of permit privileges.

(q) As of January 1, 2009, a new wildlife rehabilitator may not possess a menagerie, propagation, exotic wildlife possession or exotic wildlife dealer permit.

§ 147.303. Permit applications.

\* \* \* \* \*

(b) Each application [ **shall** ] **must** include the following:

\* \* \* \* \*

(8) [ **The** ] A letter from a sponsoring wildlife rehabilitator. The letter must include the name, address and permit number of the sponsoring wildlife rehabilitator. (Capture and transportation and novice wildlife rehabilitation permits only).

(9) [ **The** ] A letter from a sponsoring veterinarian. The letter must include the name and address of

the veterinarian who will be assisting and advising the applicant (required for wildlife rehabilitation permit only).

(c) A wildlife rehabilitator whose permit lapses for 2 or more years shall apply as a new applicant.

(d) A wildlife rehabilitator whose permit was recalled shall be ineligible for reapplication for a minimum period of 2 years and shall be required to retest.

§ 147.304. Wildlife rehabilitation permits.

(a) *Wildlife rehabilitation permits.* Wildlife rehabilitation permits will be limited as follows:

\* \* \* \* \*

(3) Exceptions will be recommended by the Council and approved by the Bureau of [ **Law Enforcement** ] **Wildlife Protection**.

(b) *Novice class wildlife rehabilitation permits.*

(1) *Qualifications.*

(i) [ **The applicant** ] New applicants shall successfully pass a [ **written examination administered by the Bureau of Law Enforcement** ] supervised examination with a minimum score of 80%.

(ii) The applicant shall appear for and successfully pass an oral examination/interview which shall be conducted by members of the Council and the Bureau of Wildlife Protection. The applicant shall submit photographs or videotape with commentary of their facility for review.

(2) *Permit conditions.*

\* \* \* \* \*

(iii) Educational use of rehabilitation wildlife permits will not be issued to novice wildlife rehabilitators unless specifically recommended by the Council and approved by the Bureau of [ **Law Enforcement** ] **Wildlife Protection**.

\* \* \* \* \*

(v) A novice wildlife rehabilitator may appoint no more than five responsible individuals to assist in providing food and housing for wildlife being rehabilitated. It is the permittee's responsibility to notify the Bureau of [ **Law Enforcement** ] **Wildlife Protection** in writing of the names, addresses and telephone numbers of the appointees and necessary changes as they occur.

(vi) A novice wildlife rehabilitator shall only renew his permit for 1 permit year at a time.

(vii) A novice wildlife rehabilitator may only remain as a novice for a period not to exceed 2 years. After the second year is reached, the permit will be voided and game or wildlife held under that permit shall be removed and relocated to another permitted facility, unless the novice has applied for an upgrade or as otherwise directed by the Director.

(viii) A novice wildlife rehabilitator shall have outside conditioning or prerelease cages established before an upgrade to a general class will be approved.

(ix) A novice wildlife rehabilitator request for upgrade to the class of general shall be reviewed and considered during the month of April only.

(c) *General class wildlife rehabilitation permits.*

(1) *Qualifications.*

(i) The applicant shall have actively rehabilitated wildlife for a minimum of 2 years as a novice wildlife rehabilitator or equivalent experience approved by the Council and the Bureau of [ **Law Enforcement** ] **Wildlife Protection**.

(ii) [ **Submit photographs or videotape with commentary of the permittee's facility to the Bureau of Law Enforcement for review by the Council.**

(iii) [ The applicant shall appear for and successfully pass an oral examination/interview [ **which shall be** ] conducted by members of the Council and the Bureau of **Wildlife Protection**. The applicant shall also submit **photographs or videotape with commentary of his facility for review.**

(2) *Permit conditions.*

\* \* \* \* \*

(ii) A permittee may accept endangered [ **or** ], threatened [ **wildlife** ] or **RVS** for rehabilitation following proper additional certification under § 147.306 (relating to endangered [ **or** ], threatened [ **species** ] **RVS** certification).

\* \* \* \* \*

(iv) A general class wildlife rehabilitator may appoint no more than ten responsible individuals to assist in providing food and housing for wildlife being rehabilitated, with the exception of endangered or threatened species. It shall be the permittee's responsibility to notify the Bureau of [ **Law Enforcement** ] **Wildlife Protection** in writing of the names, addresses and telephone numbers of the appointees and necessary changes as they occur.

(v) Additional capture and transportation permittees and assistants may be listed, only with the advance approval of the Council and the Bureau of [ **Law Enforcement** ] **Wildlife Protection**. A request [ **shall** ] **must** be in writing with justification for an increase.

**§ 147.305. Wildlife capture and transportation permits.**

\* \* \* \* \*

(b) Qualifications are as follows:

\* \* \* \* \*

(2) The applicant shall successfully pass a **Council-approved wildlife capture and transport** written examination [ **administered by the Bureau of Law Enforcement** ] **with a minimum score of 80%.**

(3) The applicant [ **shall successfully pass an oral examination/interview which will be conducted by members of the Council** ], upon completion of testing, shall obtain a certificate from the Council approved written examination. This certificate, along with a permit application shall be mailed to the district wildlife conservation officer to receive a permit.

\* \* \* \* \*

§ 147.306. Endangered, [ **or** ] threatened [ **species** ] or **RVS** certification.

(a) A written request for the endangered [ **or** ], threatened [ **species** ] or **RVS** certification examination shall be made to the Bureau of [ **Law Enforcement** ] **Wildlife Protection**.

\* \* \* \* \*

(c) Attend a certification workshop or seminar as established by council and the Bureau of [ **Law Enforcement** ] **Wildlife Protection**.

(d) **RVS-certified permittees shall operate their facilities in accordance with the guidelines in the RVS protocol established by the Council, the Commission and the Department of Health.**

**§ 147.307. Areas of service.**

(a) The area serviced by wildlife rehabilitators will be restricted to the county or portion of a county in which facilities are established unless otherwise approved by the Bureau of [ **Law Enforcement** ] **Wildlife Protection**.

(b) Capture and transportation permittees will be restricted to the area serviced by their sponsoring permittee unless otherwise approved by the Bureau of [ **Law Enforcement** ] **Wildlife Protection**.

**§ 147.309. Educational use of rehabilitation wildlife permits.**

\* \* \* \* \*

(b) Permit applications [ **shall** ] **must** be made in writing to the Bureau of [ **Law Enforcement** ] **Wildlife Protection** and [ **shall** ] include the following:

\* \* \* \* \*

(c) Permit applications will be approved by the Council and the Bureau of [ **Law Enforcement** ] **Wildlife Protection**.

(d) Permit conditions are as follows:

\* \* \* \* \*

(2) Not more than [ **four** ] **ten** specimens of wildlife which are determined to be nonreleasable may be used by the permittee for educational exhibits or programs held away from the established rehabilitation facility, **unless further restricted by State or Federal permits.**

\* \* \* \* \*

(4) **RVS may not be used for educational programs or exhibits.**

(e) Records shall be maintained by the permittee and [ **shall** ] include the date, location and listing of wildlife used for each exhibit or program conducted. These records shall be retained for 2 years and be available for inspection by the wildlife conservation officer or other officers of the Commission at any reasonable hour. A copy of these records shall be made available to the Bureau of [ **Law Enforcement** ] **Wildlife Protection** upon request.

(f) [ **Failure to comply with one or more conditions of the permit will be reason for recall of the permit** ] **Educational use of rehabilitation wildlife permit holders may apply for salvage permits.**

**(g) Failure to comply with one or more conditions of the permit will be reason for suspension, denial or recall of the permit.**

[Pa.B. Doc. No. 08-1492. Filed for public inspection August 15, 2008, 9:00 a.m.]

[ 58 PA. CODE CH. 147 ]  
Special Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its June 24, 2008, meeting, proposed the following rule-making:

Amend §§ 147.322, 147.324 and 147.325 (relating to application for deer control permit; privileges authorized under the permit; and special conditions of permit) to expand the list of authorized applicants to also include homeowners associations and nonprofit land-holding organizations.

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 June 24, 2008, meeting of the Commission. Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until October 17, 2008.

1. *Purpose and Authority*

In developed landscapes, lower deer populations result in fewer deer/human conflicts. Therefore, alternative herd reduction tools are necessary for communities to address growing deer populations. Although the Commission is directed by law to use hunting in managing white-tailed deer, hunting is not always feasible in an urbanized setting. Currently, only political subdivisions may apply for a Deer Control Permit. Recognizing that urban deer issues do not always affect an entire township or borough, the Commission is proposing to amend §§ 147.322, 147.324 and 147.325 to expand the list of authorized applicants to also include homeowners associations and nonprofit land-holding organizations. This does not change the requirements or review process of an application. It merely makes this tool available to more groups experiencing unacceptable levels of deer/human conflicts in a developed area.

Section 2901(b) of the code (relating to authority to issue permits) provides "the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued." Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game

or wildlife in this Commonwealth." The amendments to §§ 147.322, 147.324 and 147.325 were proposed under this authority.

2. *Regulatory Requirements*

The proposed rulemaking will amend §§ 147.322, 147.324 and 147.325 to expand the list of authorized applicants to also include homeowners associations and nonprofit land-holding organizations.

3. *Persons Affected*

Homeowners associations and nonprofit land-holding organizations wishing to engage in deer control activities within this Commonwealth may be affected by the proposed rulemaking.

4. *Cost and Paperwork Requirements*

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

5. *Effective Date*

The proposed rulemaking will be effective upon final 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, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,  
*Executive Director*

**Fiscal Note:** 48-272. No fiscal impact; (8) recommends adoption.

**Annex A**

**CHAPTER 147. SPECIAL PERMITS**

**Subchapter R. DEER CONTROL**

**POLITICAL SUBDIVISIONS, HOMEOWNERS ASSOCIATIONS AND NONPROFIT LAND-HOLDING ORGANIZATIONS**

**§ 147.322. Application for deer control permit.**

(a) An application for a deer control permit shall be completed in conjunction with the Commission and submitted by an authorized officer or employee of the political subdivision, **homeowners association or nonprofit land-holding organization** in the form required by the Director and contain the information requested by the Director.

(b) An application for a deer control permit [ **shall** ] **must** contain the following information:

(1) A complete map showing the boundaries of the area being considered and indicating the land use within the area, cover types, huntable areas, damage areas, deer concentration areas, **all** safety zones and proposed control areas within the [ **municipal boundary** ] **proposed boundaries**.

(2) A deer management plan shall be submitted with each application which provides deer [ **density estimates** ] **management goals** and requesting the number of animals to be removed.

\* \* \* \* \*

(c) **Public land within the proposed boundaries shall be open to lawful public hunting unless otherwise prohibited under this title or as otherwise authorized by the Director. Private land within the**

proposed boundaries may be closed to public hunting at the landowner's discretion. However, if closed, deer control activities may not occur thereon.

§ 147.324. Privileges authorized under the permit.

Deer [ may ] shall be taken:

(1) [ Outside the established hunting seasons as set by the Commission in § 139.4 (relating to seasons and bag limits for the license year) ] Regardless of age or sex.

(2) [ Regardless of age or sex ] From February 1 to September 30, unless otherwise authorized by the Director and listed on the permit.

(3) [ From February 1 to September 30, unless otherwise authorized by the Director and listed on the permit ] At any hour, day or night, and with or without an artificial light.

(4) [ At any hour, day or night, and with or without an artificial light ] With any lawful firearm for big game as described in section 2322(a) of the act (relating to prohibited devices and methods) or other device authorized by the Director and listed on the permit.

(5) [ With any lawful firearm for big game as described in section 2322(a) of the act (relating to prohibited devices and methods) ] Only in areas

designated by the political subdivision, homeowners association or nonprofit land-holding organization.

[ (6) Only in areas designated by the political subdivision. ]

§ 147.325. Special conditions of permit.

\* \* \* \* \*

(b) Permits shall list the applicant's name, who shall be an authorized officer or [ employe ] employee of the political subdivision, homeowners association or nonprofit land-holding organization responsible for the activities conducted under this permit and list [ not more than five subpermittees who shall be licensed hunters or law enforcement officers, or both ] all subpermittees.

\* \* \* \* \*

(d) Unless otherwise exempted under this title, a permittee or subpermittee who engages in the taking of deer shall first apply for and receive a nuisance wildlife control operator permit as provided in Chapter 147, Subchapter T (relating to nuisance wildlife control operator).

[Pa.B. Doc. No. 08-1493. Filed for public inspection August 15, 2008, 9:00 a.m.]

\_\_\_\_\_