

PROPOSED RULEMAKING

COAL AND CLAY MINE SUBSIDENCE INSURANCE BOARD

[25 PA. CODE CH. 401]

Mine Subsidence Fund

The Coal and Clay Mine Subsidence Insurance Board (Board) proposes to amend Chapter 401 (relating to mine subsidence fund), regarding the administration of the Mine Subsidence Insurance Fund (Fund), to read as set forth in Annex A. The proposed amendments will clarify the regulations concerning issuance of Mine Subsidence Insurance (MSI) policies. It will also propose new regulations codifying the insurance producer program, as well as, explicitly authorizing the issuance of grants and loans to assist in developing new technologies or services.

This proposal was adopted by the Board at its meeting of September 4, 2008.

A. *Effective Date*

These amendments will go into effect upon publication in the *Pennsylvania Bulletin* as final-form rulemaking.

B. *Contact Persons*

For further information contact Lawrence Ruane, Administrator, Mine Subsidence Program, P. O. Box 8462, Rachel Carson State Office Building, Harrisburg, PA 17105-8462, (717) 783-9590; or Marc A. Roda, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Information regarding submitting comments on this proposal appears in Section J of this preamble. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposal is available electronically through the DEP web site www.depweb.state.pa.us.

C. *Statutory Authority*

This proposed rulemaking is being made under the authority of section 19 of the act of August 23, 1961 (P. L. 1068, No. 484) (52 P. S. § 3219) (act) which provides, inter alia, that the Board shall have the power to make rules and regulations.

D. *Purpose and Background*

The Fund was created in 1961 to provide a reliable source of compensation for damage to structures caused by underground coal and clay mine subsidence, a risk excluded from standard property and casualty insurance policies. This insurance pool of moneys for compensating owners of structures damaged by underground coal or clay mine subsidence is vital to the economic well being of this Commonwealth's coal mining regions.

The Fund is administered by a Board consisting of the Secretary of the Department of Environmental Protection (Department) as Chairperson, the State Treasurer and the Insurance Commissioner. See, section 3 of the act (52 P. S. § 3203). A listing of Board members is available upon request from Lawrence Ruane, whose name, address and phone number appears in Section B of this preamble. The Board's responsibilities include, inter alia approving: insurance premiums, the terms of insurance, the amount

of commission to be paid to insurance producers, approving funds for administering the MSI Program and the adoption of implementing regulations. See sections 3, 10 and 19 of the act (52 P. S. §§ 3203, 3210 and 3219). The Department is responsible for the day-to-day administration of the MSI Program. See sections 4, 10 and 22 of the act (52 P. S. §§ 3204, 3210 and 3222).

The amendments will clarify the regulations concerning issuance of MSI policies by: (1) revising some of the definitions to ensure consistency with the MSI insuring agreement; (2) codifying standards for issuing MSI policies for structures owned either as a condominium, cooperative or conventionally but having multiple units; (3) simplifying and expanding the criteria for covering multiple purpose structures at the residential rate; and (4) codifying the Board's recently adopted policy for issuing MSI policies for damaged structures. The standard for waiving the loss deductible is amended to be consistent with current practice. Finally, this proposal will establish new regulations: (1) codifying the submission of MSI applications by insurance producers; and (2) explicitly authorizing the issuance of grants and loans to foster the development of new technologies or services which can assist the Board and Department in administering the Fund.

E. *Summary of Regulatory Requirements*

There are no companion Federal laws or regulations that govern the provisions of mine subsidence insurance. The proposed regulatory changes are as follows.

§ 401.1. Definitions.

There will be new definitions for "association," "common elements," "commissions," "condominium," "cooperative," "insurance producers" and "units." The terms "commission" and "insurance producers" are used in proposed §§ 401.41—401.45 (relating to insurance producers). The terms "association," "common elements," "condominium," "cooperative" and "units" are used in the amendment to § 401.11 (relating to eligibility for insurance) clarifying the issuance of MSI policies covering structures owned either as a condominium, cooperative or conventionally but having multiple units.

The definitions for "mine subsidence" and "structure" are amended to ensure consistency with the MSI insuring agreement. In particular, the definition for "structure" will include appurtenances as defined in the insurance policy. At its December 2006 meeting, the Board expanded the MSI policy's coverage by amending the insuring agreement's definition of "structures" to include some of the appurtenances associated with the building to be covered. By referencing appurtenances as defined in the MSI insuring agreement, the Board is left the flexibility to modify the scope of this coverage as experience indicates.

§ 401.11. Eligibility for insurance.

Many of the amendments to this section are for the purpose of simplicity and clarity of language. However, the following amendments establish substantive changes. The amendment to subsection (b) adds new standards specifying how MSI policies are to be issued for structures owned as a condominium or cooperative. The different ownership rights associated with structures owned as a condominium or cooperative have been the source of confusion concerning to whom the policy is to be issued, that is, the condominium association, cooperative or the

individual unit owner, and what part of the structure the policy can cover. These amendments are based on 68 Pa.C.S. §§ 3101—3414 and 4101—4113 and will eliminate that confusion. It is anticipated that eliminating this confusion will facilitate the sale of MSI policies, especially by the submission of MSI applications through insurance producers.

Subsection (c) is simplified to focus on insurance rates for structures partially used for residential purposes. The requirement that there cannot be more than four units is being dropped, leaving the requirement that at least half the structure must be used for residential purposes. In the Board's experience, the key issue in determining whether such a mixed use structure is to be insured as a residential structure is the percentage of the structure used for residential purposes.

The requirement in subsection (d) that a double home is insured as one structure is deleted. This issue is now covered by the new subsection (f). Subsection (e) becomes subsection (d) and is amended to codify the Board's recently developed policy for issuing MSI policies to damaged structures. This codification provides insurance producers with clear standards for accepting MSI applications for damaged structures, and implements the Board's commitment to maximizing the availability of MSI policies.

The new subsection (e) clarifies that the Board can refuse to issue an MSI policy covering a structure that is being damaged. Until the damage event is completed it is impossible to either repair the damage or meet the requirements for issuing a policy to a damaged structure.

The new subsection (f) specifies how a conventionally owned structure comprised of multiple units can be covered. These standards will ensure a consistent approach for insuring these structures.

§ 401.13. Coverage limits and insurance premiums.

The amendment to subsection (a) deletes the requirement that the Board set rates for MSI policies covering individual structures. This can be read as a limitation on the Board's authority to set policy rates, which is inappropriate.

The amendment to subsection (b) deletes the requirement that the premium check must be submitted within 80 days of the filing of the MSI application. This restriction was added to ensure that the MSI policy is purchased before a structure is damaged. In the Board's experience, this restriction is unnecessary.

§ 401.22. Loss deductible amount.

The last sentence is rewritten to accurately state the Board's long-standing practice of waiving the loss deductible when the amount of the loss suffered exceeds the coverage limit.

§ 401.41. Submission of applications.

This section codifies the current practice of requiring insurance producers to submit MSI applications by means of the MSI web site.

§ 401.42. Commission rates.

This section restates the Board's statutory authority for annually setting the insurance producer's commission rates.

§ 401.43. Payment of commission.

The insurance producer will retain its commission from the MSI policy premium to be paid. This is a change from current practice, which calls for the Board to separately

pay the insurance producer its commission. It takes 3 months for the Department to pay the commission. Having the insurance producer retain its commissions from premium payments is consistent with industry practice, reduces the Department's operating costs and facilitates the insurance producer's cash flow.

§ 401.44. Repayment of commission.

This section addresses repayment of commissions that have become unearned due to either the MSI policy application being rejected or the MSI policy being canceled. Failure to repay an unearned commission may result in the insurance producer's exclusion from submitting MSI applications. The Board's exclusion of an insurance producer from submitting applications is an action of the Department appealable to the Environmental Hearing Board.

§ 401.45. Confidentiality of policyholder information.

Insurance producers are required to adhere to the Board's policy of maintaining the confidentiality of all applicant and policyholder information. Failure to maintain this confidentiality may result in the insurance producer's exclusion from submitting MSI applications. The Board's exclusion of an insurance producer from submitting MSI applications is an action of the Department appealable to the Environmental Hearing Board.

§ 401.51. Loans and grants.

This section gives the Board the explicit authority to make loans and grants to entities to encourage the development of technologies or services that will benefit the fund. These are technologies and services such as robotic sensing devices or geographic information systems that provide value to the MSI program's policy, application and claim investigation processes. A grant or loan, rather than a service purchase contract, is the appropriate vehicle for providing financial assistance to encourage the development of these technologies and services. The limitation on the amount of excess moneys that can be used to finance loans or grants ensures the Fund's financial integrity.

F. Benefits, Costs and Compliance

Benefits—The amendment to § 401.11(c) makes the residential rate, about 1/3 of the commercial rate, available to more structures used for both residential and commercial purposes. Section 401.43 (relating to payment of commission) benefits insurance producers because the commission is retained from the premium payment, that is, immediately paid, rather than waiting 3 months to receive a payment from the Board. Learning institutions and other entities developing technologies and services potentially valuable to the Board will benefit from the availability of grants or loans to foster those developments.

Compliance Costs

There are no costs associated with this proposed rulemaking.

Compliance Assistance Plan

The Department will notify policyholders at the time of policy renewal of the broader application of residential rates to mixed-use structures. Insurance producers registered to submit MSI applications will also be notified of changes in procedures and their obligations due to this proposed rulemaking. Finally, a link to the *Pennsylvania Bulletin* Notice of Proposed Rulemaking will be placed on the MSI web site.

Paperwork Requirements

This proposed rulemaking will not impose any additional paperwork requirements on MSI policyholders or insurance producers.

G. Pollution Prevention

The regulations affected by this proposed rulemaking address the administration of the Commonwealth's Mine Subsidence Insurance Program. They do not address pollution prevention.

H. Sunset Review

These 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

In accordance with section 5(a) and (f) of the Regulatory Review Act (71 P.S. §§ 745.5a and (f)), the Department submitted a copy of the proposed amendments on December 10, 2008, to the Legislative Reference Bureau for publication of notice of proposed rulemaking in the *Pennsylvania Bulletin*, and to the Independent Regulatory Review Commission (IRRC). In accordance with section 5(f) of the act, the Department will submit the proposed amendments and the required material to the Chairpersons of the House Environmental Resources and Energy Committee and the Senate Environmental Resources and Energy Committee (Committees) no later than the second Monday after the date by which both Committees designations have been published in the *Pennsylvania Bulletin*. In addition to submitting the proposed amendments, the Department has provided IRRC and will provide the Committees with a copy of detailed Regulatory Analysis Form. 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, recommendation or objects raised.

J. Public Comments

Written Comments—Interested persons are invited to submit comments, suggestions or objections regarding the proposed rulemaking to the Coal and Clay Mine Subsidence Insurance Board, P.O. Box 8462, Harrisburg, PA 17105-8462 (express mail: Rachel Carson State Office Building, 5th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by January 20, 2009. 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 received by the Board by January 20, 2009. 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 regulation 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 January 20, 2009. A subject heading of the proposal and a return

name and address must be included in each transmission. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

JOHN HANGER,
Acting Chairperson

Fiscal Note: 7-424. No fiscal impact; (8) recommends adoption.

Annex A

**TITLE 25. ENVIRONMENTAL PROTECTION
PART III. COAL AND CLAY MINE SUBSIDENCE
INSURANCE BOARD
CHAPTER 401. MINE SUBSIDENCE FUND
GENERAL PROVISIONS**

§ 401.1. Definitions.

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

* * * * *

Association—One of the following:

(i) **The unit owners' association organized under 68 Pa.C.S. § 3301 (relating to organization of unit owners' association) for condominiums.**

(ii) **The proprietary lessees' association organized under 68 Pa.C.S. § 4301 (relating to organization of association) for cooperatives.**

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Commissions—Fees paid to insurance producers as compensation for the applications they submit to the Board.

Common elements—All portions of a condominium or cooperative other than the units.

Condominium—Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners. Ownership of the real estate is in accordance with 68 Pa.C.S. Subpart B (relating to Uniform Condominium Act).

Cooperative—Real estate owned by an association, each of whose members is entitled, by virtue of his ownership interest in the association, to exclusive possession of a unit. Ownership of the real estate is in accordance with 68 Pa.C.S. Subpart C (relating to Real Estate Cooperative Act).

* * * * *

Insurance producer—A person that sells, solicits or negotiates contracts of insurance.

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Mine subsidence—The movement of the ground's surface as a result of the [**partial or complete cave-in or the**] collapse of underground coal or clay mine workings.

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Structure—A complete building, [**that**] **which** contains a roof, walls and a foundation [**which**] **that** firmly attaches the structure to the earth, **and its appurtenances as defined in the insurance policy.**

Units—

(i) Specific areas of a building that are separate and distinct from other areas of the building, having an individual entrance accessing either a common entry or the building's exterior.

(ii) For the purposes of the definition of "common elements" and § 401.11(b)(2) (relating to eligibility for insurance), the following apply:

(A) Units in a condominium are portions of the condominium designated for separate ownership, the boundaries of which are described in the condominium declaration.

(B) Units in a cooperative are physical portions of the cooperative designated for separate occupancy under a proprietary lease.

INSURANCE POLICIES**§ 401.11. Eligibility for insurance.**

(a) [To be eligible for a mine subsidence insurance policy, the insured shall be the owner of a structure within the anthracite or bituminous coal or clay mine regions, the territorial extent of which will be designated by the Board. The Board may add to, subtract from or change the territorial classifications] Structures located within the coal and clay regions of this Commonwealth are eligible for coverage.

(b) Only [a title] an owner of a structure may be named as the [insured in an insurance policy and an insurance policy will not be issued to another person] policyholder.

(1) If there [are several owners of one structure, they] is more than one owner of a structure, the owners shall designate one owner whose name shall appear on the insurance policy. The other [owners] policyholders shall be listed in the application for insurance.

(2) If the structure is owned as a condominium or cooperative:

(i) The association is the policyholder if the policy covers all common elements and units.

(ii) The unit owner shall be the policyholder if the policy only covers the unit and there is a separate policy covering the common elements.

(iii) A unit owner may purchase coverage for the unit and common elements if the association will not purchase insurance. However, the unit association shall be the named policyholder with the unit owner being listed in the application. Renewals will be sent to the unit owner.

(c) [An individual, corporation or group of individuals holding title to more than one structure within the anthracite or bituminous coal or clay mine regions may insure these structures.] Structures which are at least 50% residential [and have at most four residential units] are eligible for residential rates. [Other structures shall be insured at commercial rates.]

(d) [A double home shall be considered one structure if both sides of the home are owned by the same person.

(e) The Board, or its agents, may refuse to issue an insurance policy for] If a structure [previously] is damaged by mine subsidence or by another cause, [if this] and the Board determines that the damage could not be separated or apportioned from subsequent damage, [until the previous damage has been repaired to the satisfaction of the Board, or its agents.] the Board will issue a policy if the applicant either:

(1) First repairs the damages to the Board's satisfaction.

(2) Submits to the Board an estimate, prepared by a reputable expert, of the cost to repair the damages to the Board's satisfaction. The cost to repair, adjusted for inflation, would be excluded from any damage claim settlement. However, a policy would not be issued if the cost to repair exceeded the replacement cost of the structure or the policy limit, which ever is less, because the policy would have no value.

(e) The Board may refuse to issue a policy while the structure to be covered is being damaged by mine subsidence or by another cause, until the Fund determines that the cause of damage has ceased.

(f) Multiple unit structures are insured as follows:

(1) Structures comprised of vertically stacked units are only insurable under a single policy.

(2) Other unit configurations are insurable under a single or multiple policy at the owner's discretion.

§ 401.13. Coverage limits and premiums for insurance.

(a) The maximum amount of insurance [for a single covered structure], the term or duration of the policy, and the premium rate shall be determined by the Board.

(b) An insurance policy is effective upon the date a complete application and its premium is received by the Board or its agent [provided the premium associated with that application is received by the Board or its agent within the next 80 days] and provided that the applicant and structure meet the eligibility requirements in the act and in § 401.11 (relating to eligibility for insurance).

INSURANCE COVERAGE**§ 401.22. Loss deductible amount.**

Every insurance policy [shall] must include a loss deductible amount for which the Fund is not liable. The amount will be determined by the Board and may be changed as experience may warrant, and will be included in the schedule of premium rates adopted by the Board. [The Fund will be liable for only a specified percentage of a loss in excess of the deductible amount as will be adopted in the schedule of premium rates.] The loss deductible will be waived if the cost to repair the damage exceeds the amount of coverage under the policy.

INSURANCE PRODUCERS

(Editor's Note: The following text is new and has been printed in regular print to enhance readability.)

§ 401.41. Submission of applications.

Insurance producers may only submit applications for mine subsidence insurance to the Board electronically from the Board's web site.

§ 401.42. Commission rates.

The Board will annually establish commission rates.

§ 401.43. Payment of commissions.

The insurance producer shall retain the commission from the premium collected. The Board may authorize other forms of payment.

§ 401.44. Repayment of commissions.

Commissions in excess of \$5 that are unearned due to the Board's rejection of a mine subsidence insurance application or the cancellation of a policy shall be repaid to the Board upon its demand. Failure by an insurance producer to promptly repay commissions as directed by the Board may result in exclusion from participation with the Fund.

§ 401.45. Confidentiality of policyholder information.

Insurance producers are responsible to safeguard all applicant and policyholder information and are responsible for the misuse of information that is under their control. Failure by an insurance producer to safeguard applicant and policyholder information may result in exclusion from participation with the Fund.

LOANS AND GRANTS

§ 401.51. Loans and grants.

Each year the Board may authorize up to 1% of the Fund's Unreserved Fund Balance, as declared by the Board under section 10(c) of the act (52 P. S. § 3210(c)), to be used to provide loans and grants to entities that develop technologies, perform services or engage in other activities that benefit the Fund by improving its ability to provide mine subsidence insurance coverage or to improve the efficiency, economy and effectiveness of the Fund's operations.

[Pa.B. Doc. No. 08-2292. Filed for public inspection December 19, 2008, 9:00 a.m.]

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 61]

Fishing

The Fish and Boat Commission (Commission) proposes to amend Chapter 61 (relating to seasons, sizes and creel limits). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code).

A. Effective Date

The proposed rulemaking, if approved on final-form rulemaking, will go into effect on April 1, 2009.

B. Contact Person

For further information on the proposed rulemaking, contact Laurie E. Shepler, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rulemaking is available on the Commission's web site at www.fish.state.pa.us.

C. Statutory Authority

The proposed amendment to § 61.2 (relating to Delaware River and River Estuary) is published under the statutory authority of section 2102(b) of the code (relating to rules and regulations).

D. Purpose and Background

The proposed rulemaking is designed to improve, enhance and update the Commission's fishing regulations. The specific purpose of the proposed amendment is described in more detail under the summary of proposal.

E. Summary of Proposal

Since 1992, during the time period when Delaware River and Estuary striped bass were in restoration mode, there has been an April and May closure to the harvest of striped bass from the spawning grounds in this Commonwealth, New Jersey and Delaware. The Commission's regulation in § 61.2 defines the segment to which the closure applies as extending from the Pennsylvania/Delaware state line upstream to the Calhoun Street Bridge, which is located just upstream from the head-of-tide and joins Morrisville, PA with Trenton, NJ.

In 1997, the Atlantic States Marine Fisheries Commission (ASMFC) declared that the Delaware River stock of striped bass had been restored to historical population levels based on high juvenile recruitment, high spawning stock biomass and low fishing mortality. Despite being restored, management of the fishery within the Basin states remained conservative with high size limits (28 inches), low creel limits (2 fish per day) and spawning ground closures to harvest. In this Commonwealth, this meant that the season downstream from Calhoun Street Bridge closed on April 1, just as the adult striped bass population was building, and reopened on June 1, just as the bulk of the adult striped bass population had emigrated from the Commonwealth. This Commonwealth's anglers were given little opportunity to harvest striped bass, and striped bass angling when fish were most abundant was discouraged by the season closure.

Delaware River and Estuary striped bass harvest has been low. During the 2002, four state creel census, only 582 striped bass were harvested in the stretch that extended from the Delaware River Memorial Bridge near Wilmington, DE upstream to the river's branches in New York. Pennsylvania's tagging data supported this observation of low harvest, particularly from this Commonwealth. Of the 2,872 striped bass that were tagged in the Delaware Estuary spawning grounds between Pennsylvania and New Jersey from 1995 through 2007, only 34 tags were returned from this Commonwealth's waters. Observations by the Commission's waterways conservation officers and biologists have been that the vast majority of striped bass caught in this Commonwealth are yearlings, 2-year old and some 3-year olds caught in late spring and summer as by-catch in other fisheries and as a targeted catch and release fishery in the tidal and nontidal river.

Male striped bass are abundant during April and May on the spawning grounds and about 90% are shorter than the 28 inch length limit. Furthermore, very few sublegal female striped bass are present on the spawning grounds. This Commonwealth's anglers desire an opportunity to take advantage of this restored striped bass population and the potentially excellent fishing that it could provide. Past regulatory and habitat protection efforts by the Commission have largely benefited coastal anglers and anglers outside of this Commonwealth.

The Commission therefore proposes that an April and May fishery be established in the seasonally closed portions of the Delaware River and Estuary that is designed to specifically target mature male striped bass. The Commission further proposes that this fishery be regulated with a 20 inch to 26 inch slot limit from which two fish per day can be harvested during April and May. There will be a 28 inch length limit and two fish per day creel limit in all other months of the year, and there will be no closed season. Regulations for the remainder of the river will remain unchanged. The Commission proposes to amend § 61.2 to read as set forth in Annex A.

The Commission coordinated this proposal with the State of Delaware, which took the lead in data analysis and reporting. The two states have made similar slot and creel limit proposals that will apply to different months of the year. Delaware's proposal will target male striped bass in summer and fall that have emigrated from the spawning grounds and taken up residency in Delaware. ASMFC's Striped Bass Management Board approved both proposals on October 20, 2008.

F. Paperwork

The proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

G. Fiscal Impact

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions.

The proposed rulemaking will impose no new costs on the private sector or the general public.

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/reg comments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

DOUGLAS J. AUSTEN, Ph.D.,
Executive Director

Fiscal Note: 48A-209. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 58. RECREATION
PART II. FISH AND BOAT COMMISSION
Subpart B. FISHING
CHAPTER 61. SEASONS, SIZES AND CREEL LIMITS

§ 61.2. Delaware River and River Estuary.

* * * * *

(d) The following seasons, sizes and creel limits apply to the Delaware River, West Branch Delaware River and to Delaware River tributaries, from the mouths of the tributaries upstream to the limit of the tidal influence and the Lehigh River from its mouth upstream to the first dam in Easton, Pennsylvania:

SPECIES	SEASONS	MINIMUM SIZE	DAILY LIMIT
	* * * * *		
STRIPED BASS and HYBRID STRIPED BASS	From Pennsylvania line upstream to Calhoun Street Bridge: [March 1 until March 31, and June 1 until December 31] January 1 until March 31 and June 1 until December 31. April 1 through May 31 From Calhoun Street Bridge upstream: open year-round	28 inches 20 to 26 inches 28 inches	2
	* * * * *		

[Pa.B. Doc. No. 08-2293. Filed for public inspection December 19, 2008, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CH. 141]

Hunting and Trapping

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

Amend §§ 141.41, 141.43, 141.44, 141.45 and 141.47 to restructure the regulatory provisions relating to big game hunting to promote consistency and clarity in the regulations and also permit the full inclusion of crossbows during the various big game seasons to expand opportunity and increase participation in big game hunting within this Commonwealth.

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 October 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 January 23, 2009.

1. Purpose and Authority

In recent years, the Commission has been moving towards a comprehensive restructuring of the regulations attending the code. The goals of the restructuring of the regulations are primarily focused on simplifying and making the language more understandable to its users. To this end, the Commission has begun rewriting the regulatory structures relating to the big game seasons. As time progresses, the Commission intends to carry the theme set forth in these changes to other chapters of the regulations to establish clear correlations between related seasonal information. As part of this comprehensive effort, the Commission desires to address the usage of crossbows during the various big game seasons. The Commission recognizes that over the past decade there has been a growing debate concerning the full inclusion of the use of crossbows during the various big game archery seasons. The Commission has identified that there are scores of hunters on both sides of the issue and that each side staunchly supports their respective point of view. In an effort to promote consistency and clarity in the regulations pertaining to big game seasons as well as expand opportunity and increase participation in big game hunting within this Commonwealth, the Commission is proposing to amend §§ 141.41, 141.43, 141.44, 141.45 and 141.47. Some notable substantive changes include the full inclusion of crossbows during the various big game archery seasons as well as the prohibition on the usage of crossbows during the various muzzleloader deer seasons without an archery deer license.

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, 141.44, 141.45 and 141.47 were proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend §§ 141.41, 141.43, 141.44, 141.45 and 141.47 to restructure the regulatory provisions relating to big game hunting to promote consistency and clarity in the regulations and also permit the full inclusion of crossbows during the various big game seasons to expand opportunity and increase participation in big game hunting within this Commonwealth.

3. Persons Affected

Persons wishing to hunt big game 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. Rather, the proposed rulemaking will substantially reduce, if not eliminate, all fees, costs and paperwork associated with the disabled persons crossbow permit application process.

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, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-276. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Subchapter C. BIG GAME

§ 141.41. General.

[(a) *Permitted acts. It is lawful to take:*

(1) **Bear or elk with a crossbow with a draw weight of not less than 125 pounds nor more than 200 pounds.**

(2) **Deer during any firearms season for deer with a crossbow with a draw weight of not less than 125 pounds nor more than 200 pounds.**

(3) **Deer with a crossbow with a draw weight of not less than 125 pounds nor more than 200 pounds in Wildlife Management Units 2B, 5C and 5D.**

(b) **It is unlawful to:**

(1) **Hunt for big game birds or animals with arrows or crossbow bolts other than those tipped with broadheads of a cutting-edge design.**

(2) 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.

(3) Kill big game by mistake or accident and immediately after killing and before removing any big game from the location of the killing, fail to fully complete the proper game kill tag in compliance with the instructions printed on the tag and attach only the game kill tag to the big game.

(4) Kill big game by mistake or accident and fail to report the killing to the appropriate Commission regional office as soon as possible but no later than 12 hours after the time of kill.

(5) Within 10 days of the kill, fail to complete the report card supplied with the hunting license for reporting big game killed and mail the report card to the Commission at Harrisburg or by any other method designated by the Director.

(6) Receive a DMAP permit without reporting in the manner prescribed on the permit.]

It is unlawful to:

(1) Kill big game by mistake or accident and immediately after killing and before removing any big game from the location of the killing, fail to fully complete the proper game kill tag in compliance with the instructions printed on the tag and attach only the game kill tag to the big game.

(2) Kill big game by mistake or accident and fail to report the killing to the appropriate Commission regional office as soon as possible but no later than 12 hours after the time of kill.

(3) Fail, within 10 days of the kill, to complete the report card supplied with the hunting license for reporting big game killed and mail the report card to the Commission at Harrisburg or by any other method designated by the Director.

(4) Receive a DMAP permit without reporting in the manner prescribed on the permit.

§ 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.

(2) Take a deer with a device not provided for in the act or this title.

(3) Except in Wildlife Management Units 2B, 5C and 5D, hunt or take deer with a crossbow without a valid disabled persons crossbow permit.

(b) *Flintlock muzzleloading season.* Firearms lawful for use are original muzzleloading single-barrel firearms manufactured prior to 1800, or similar reproductions of original muzzleloading single-barrel firearms which:

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

(2) Propel single-projectile ammunition.

(c) *Ignition.* Flintlock mechanisms shall consist of a hammer containing a naturally occurring stone which is spring propelled onto an iron or steel frizzen which, in turn, creates sparks to ignite a priming powder.

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

(1) Use manmade materials attached to the hammer or frizzen to create sparks.

(2) Use telescopic sights.

(3) Use or possess single projectile ammunition other than specified in subsection (b)(2) and in section 2322(a)(4) of the act (relating to prohibited devices and methods).

(4) Unless otherwise provided in this chapter, hunt, take or attempt to take deer through the use of a device not specifically described in subsection (b) or (c).

(e) *Muzzleloading season.* Firearms lawful for use are muzzleloading single-barrel firearms which:

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

(2) Propel single projectile ammunition.

(f) *Prohibitions.* While hunting deer during muzzleloading season it is unlawful to:

(1) Use or possess single projectile ammunition other than specified in subsection (e)(2) and in section 2322(a)(4) of the act.

(2) Hunt, take or attempt to take deer through the use of a device not specifically described in subsection (e).

(g) Cooperating while hunting during any deer season. Holders of any of the appropriate licenses or stamps may cooperate while hunting antlered or antlerless deer if pertinent provisions of this section and the act are met.

(h) *.22 caliber or less rimfire required for furbearers.* When using a firearm only a rimfire rifle or handgun .22 caliber or less may be used to dispatch legally trapped furbearers during the regular or special firearms deer seasons.]

(a) *Archery deer season.*

(1) *Permitted devices.* It is lawful to hunt deer during the archery deer season with any of the following devices:

(i) *A bow and arrow.* A bow must have a peak draw weight of at least 35 pounds. An arrow must be equipped with a broadhead that has an outside diameter or width of at least 7/8 inch with at least two fixed cutting edges located on the same plane throughout the cutting surface.

(ii) *A crossbow and bolt.* A crossbow must have a peak draw weight of at least 125 pounds. A bolt must be equipped with a broadhead that has an outside diameter or width of at least 7/8 inch with at least two fixed cutting edges located on the same plane throughout the cutting surface.

(2) *Prohibitions.* While hunting deer during the archery deer season, it is unlawful to:

(i) Use or possess a firearm. Exceptions:

(A) A person may possess certain firearms during the archery deer season pursuant to the authorizations of section 2525 of the act (relating to possession of a firearm for protection of self or others).

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

(ii) Use a device not provided for in the act or in this subsection.

(b) *Flintlock muzzleloading deer season.*

(1) *Permitted devices.* It is lawful to hunt deer during the flintlock muzzleloading deer season with a flintlock muzzleloading firearm.

(i) *A flintlock muzzleloading firearm.* The firearm must be an original or similar reproduction of muzzleloading firearm manufactured prior to 1800. The firearm's ignition mechanism must consist of a hammer containing a naturally occurring stone that is spring propelled onto an iron or steel frizzen which, in turn, creates sparks to ignite a priming powder. The firearm must have open sights and be a .44 caliber or larger single-barrel long gun or a .50 caliber or larger single-barrel handgun that propels single-projectile ammunition.

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

(i) Use manmade materials attached to the hammer or frizzen to create sparks.

(ii) Use telescopic sights.

(iii) Use or possess multiple projectile ammunition or ammunition other than required by section 2322 (a)(4) of the act (relating to prohibited devices and methods).

(iv) Use a device not provided for in the act or in this subsection.

(c) *Muzzleloading deer season.*

(1) *Permitted devices.* It is lawful to hunt deer during the muzzleloading deer season with a muzzleloading firearm:

(i) A muzzleloading firearm. The firearm's ignition mechanism must consist of a percussion cap, primer or flintlock fired design. The firearm must be a .44 caliber or larger single-barrel long gun or a .50 caliber or larger single-barrel handgun that propels single-projectile ammunition.

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

(i) Use or possess multiple projectile ammunition or ammunition other than required by section 2322 (a)(4) of the act (relating to prohibited devices and methods).

(ii) Use a device not provided for in the act or in this subsection.

(d) *Regular and special firearms deer seasons.*

(1) *Permitted devices.* It is lawful to hunt deer during the regular and special firearms deer seasons with any of the following devices:

(i) A manually operated, centerfire firearm.

(ii) A bow and arrow as permitted under subsection (a)(1)(i).

(iii) A crossbow and bolt as permitted under subsection (a)(1)(ii).

(iv) A muzzleloading firearm as permitted under subsection (b)(1) or (c)(1).

(2) *Prohibitions.* While hunting deer during the regular and special firearms deer seasons, it is unlawful to:

(i) Use or possess multiple projectile ammunition or ammunition other than required by section 2322 (a)(4) of the act (relating to prohibited devices and methods).

(ii) Use a device not provided for in the act or in this subsection.

(e) *Cooperating while hunting during any deer season.* Holders of any of the appropriate licenses or stamps may cooperate while hunting antlered or antlerless deer if pertinent provisions of the act and this season are met.

(f) *.22 caliber or less rimfire required for furbearers.* When using a firearm only a rimfire rifle or handgun .22 caliber or less may be used to dispatch legally trapped furbearers during the regular or special firearms deer seasons.

§ 141.44. Bear.

[It is unlawful to:

(1) Disturb, wound or kill a bear in a den.

(2) Assist, conspire or use a device to locate a bear to which a transmitter has been attached.]

(a) *Archery bear season.*

(1) *Permitted devices.* It is lawful to hunt bear during the archery bear season with any of the following devices:

(i) *A bow and arrow.* A bow must have a peak draw weight of at least 35 pounds. An arrow must be equipped with a broadhead that has an outside diameter or width of at least 7/8 inch with at least two fixed cutting edges located on the same plane throughout the cutting surface.

(ii) *A crossbow and bolt.* A crossbow shall have a peak draw weight of at least 125 pounds. A bolt must be equipped with a broadhead that has an outside diameter or width of at least 7/8 inch with at least two fixed cutting edges located on the same plane throughout the cutting surface.

(2) *Prohibitions.* While hunting bear during the archery bear season, it is unlawful to:

(i) Use or possess a firearm or while in possession of a firearm, except as otherwise authorized by section 2525 of the act (relating to possession of a firearm for protection of self or others).

(ii) Use a device not provided for in the act or in this subsection.

(iii) Disturb, wound or kill a bear in a den.

(iv) Assist, conspire or use a device to locate a bear to which a transmitter has been attached.

(b) *Regular and extended firearms bear seasons.*

(1) *Permitted devices.* It is lawful to hunt bear during the regular and extended firearms bear seasons with any of the following devices:

(i) A manually operated, centerfire firearm.

(ii) A bow and arrow as permitted under subsection (a)(1)(i).

(iii) A crossbow and bolt as permitted under subsection (a)(1)(ii).

(iv) *A muzzleloading firearm.* The firearm's ignition mechanism must consist of a percussion cap, primer or flintlock fired design. The firearm must be a .44 caliber or larger single-barrel long gun or a .50 caliber or larger single-barrel handgun that propels single-projectile ammunition.

(2) *Prohibitions.* While hunting for bear during the regular and extended firearms bear seasons, it is unlawful to:

(i) Use or possess multiple projectile ammunition or ammunition other than required by section 2322 (a)(4) of the act (relating to prohibited devices and methods).

(ii) Use a device not provided for in the act or in this subsection.

(iii) Disturb, wound or kill a bear in a den.

(iv) Assist, conspire or use a device to locate a bear to which a transmitter has been attached.

§ 141.45. Turkey.

[(a) While hunting wild turkey it is unlawful to:

(1) Possess or use a live turkey as a decoy.

(2) Use drives or electronic callers.

(3) Use shot larger than # 4 lead, # 4 Bismuth/tin or # 2 steel.

(4) Use or possess rifles or single projectile ammunition, except arrows, in Wildlife Management Units 1A, 1B, 2A, 2B, 5B, 5C and 5D.

(5) Use anything other than rimfire, centerfire or muzzleloading rifles and handguns or shotguns, bows or crossbows.

(b) While hunting turkey during the spring gobbler season it is:

(1) Lawful to use bows, crossbows and shotguns with shot no larger than # 4 lead, # 4 Bismuth/tin and # 2 steel and mouth or hand operated callers.

(2) Unlawful to use or possess rifles or single projectile ammunition, except arrows.

(3) Unlawful to hunt spring gobbler by a method other than calling.]

(a) *Fall turkey season.*

(1) *Permitted devices.* It is lawful to hunt turkey during the fall turkey season with any of the following devices:

(i) Except as otherwise prohibited in paragraph (2)(i), a manually operated centerfire, rimfire or muzzleloading firearm using single projectile ammunition.

(ii) A manually operated or semiautomatic, centerfire shotgun or muzzleloading shotgun using shot ammunition no larger than # 4 lead, # 4 Bismuth/tin or # 2 steel.

(iii) *A bow and arrow.* A bow must have a peak draw weight of at least 35 pounds. An arrow must be equipped with a broadhead that has an outside diameter or width of at least 7/8 inch with at least two fixed cutting edges located on the same plane throughout the cutting surface.

(iv) *A crossbow and bolt.* A crossbow must have a peak draw weight of at least 125 pounds. A bolt shall be equipped with a broadhead that has an outside diameter or width of at least 7/8 inch with at least two fixed cutting edges located on the same plane throughout the cutting surface.

(2) *Prohibitions.* While hunting turkey during the fall turkey season, it is unlawful to:

(i) Use a manually operated centerfire, rimfire or muzzleloading firearm using single projectile ammunition in Wildlife Management Units 1A, 1B, 2A, 2B, 5B, 5C and 5D.

(ii) Use drives or any method other than hand or mouth calling.

(iii) Use or possess an electronic caller or a live turkey as a decoy.

(iv) Use a device not provided for in the act or in this subsection.

(b) *Spring turkey season.*

(1) *Permitted devices.* It is lawful to hunt turkey during the spring turkey season with any of the following devices:

(i) A manually operated or semiautomatic, centerfire shotgun or muzzleloading shotgun using shot ammunition no larger than # 4 lead, # 4 Bismuth/tin or # 2 steel.

(ii) A bow and arrow as permitted under subsection (a)(1)(iii).

(iii) A crossbow and bolt as permitted under subsection (a)(1)(iv).

(2) *Prohibitions.* While hunting turkey during the spring turkey season, it is unlawful to:

(i) Use a centerfire, rimfire or muzzleloading firearm using single projectile ammunition.

(ii) Use or possess single projectile ammunition, except arrows or bolts.

(iii) Use drives or any method other than hand or mouth calling.

(iv) Use or possess an electronic caller or a live turkey as a decoy.

(v) Use a device not provided for in the act or in this subsection.

§ 141.47. Elk.

[It is unlawful while hunting elk to:

(1) Use any centerfire firearm less than .27 caliber or that propels a single-projectile less than 130 grains.

(2) Use any muzzleloading firearms less than .50 caliber or that propels a single-projectile less than 210 grains.

(3) Use any shotgun less than 12 gauge.

(4) Use any bow with a draw weight less than 45 pounds.

(5) Use any arrow that is not equipped with a broadhead that has an outside diameter or width of at least 1 inch with no less than 2 fixed, steel cutting edges and each cutting edge must be in the same plane throughout the length of the cutting surface.

(6) Use any crossbow with a draw weight less than 125 pounds or more than 200 pounds.

(7) After lawfully killing an elk, fail to mark the kill sight under Commission instructions provided at the orientation.

(8) Act or conspire to act as a guide for any person without first securing a permit from the Commission and attending an orientation program sponsored by the Commission.

(9) Act or conspire to act as a client for any guide who has not secured a permit from the Commission and attended an orientation program sponsored by the Commission.

(10) Drive or herd elk.

(11) Hunt within 150 yards from the center line of Route 555, from the intersection of Routes 255 and 555, to the intersection of Huston Hill Road and Route 555.

(12) Hunt within the Hick's Run no hunt zone, this being the area immediately adjacent to and north of Route 555, between Hick's Run Road and Huston Hill Road and within .3 mile of Route 555.]

(a) *Permitted devices.* It is lawful to hunt elk during the elk season with any of the following devices:

(1) *A manually operated, centerfire rifle or handgun.* The firearm must be a .27 caliber or larger firearm that propels single-projectile ammunition 130 grains or larger.

(2) *A manually operated, centerfire shotgun.* The firearm must be a 12 gauge or larger firearm.

(3) *A muzzleloading firearm.* The firearm must be .50 caliber or larger firearm that propels single-projectile ammunition 210 grains or larger.

(4) *A bow and arrow.* A bow must have a peak draw weight of at least 45 pounds. An arrow must be equipped with a broadhead that has an outside diameter or width of at least 1 inch with at least two fixed cutting edges located on the same plane throughout the cutting surface.

(5) *A crossbow and bolt.* A crossbow must have a peak draw weight of at least 125 pounds. A bolt must be equipped with a broadhead that has an outside diameter or width of at least 1 inch with at least two fixed cutting edges located on the same plane throughout the cutting surface.

(b) *Prohibitions.* While hunting elk during the elk season, it is unlawful to:

(1) Use or possess multiple projectile ammunition or ammunition other than that required under section 2322 (a)(4) of the act (relating to prohibited devices and methods).

(2) Use a device not provided for in the act or in this section.

(3) Fail to mark the kill site after lawful harvest in accordance with Commission instructions provided during the elk season orientation.

(4) Act or conspire to act as a guide for any person without first securing a permit from the Commission and attending an orientation program sponsored by the Commission.

(5) Act or conspire to act as a client for any guide who has not secured a permit from the Commission and attended an orientation program sponsored by the Commission.

(6) Drive or herd elk.

(7) Hunt within 150 yards from the center line of Route 555, from the intersection of Routes 255 and 555, to the intersection of Huston Hill Road and Route 555.

(8) Hunt within the Hick's Run no hunt zone, this being the area immediately adjacent to and north of Route 555, between Hick's Run Road and Huston Hill Road and within .3 mile of Route 555.

[Pa.B. Doc. No. 08-2294. Filed for public inspection December 19, 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 October 24, 2008, meeting, proposed the following rulemaking:

Amend § 147.783 (relating to permit) to authorize the limited use of electronic calls for all hunting and taking activities conducted under a snow goose conservation hunt permit.

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 October 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 January 23, 2009.

1. *Purpose and Authority*

In recent years, continental snow goose populations have experienced a rapid growth in their numbers. This dramatic increase in population size has in turn resulted in extensive, possibly irreversible, damage to arctic and subarctic breeding habitats of the continental snow goose, as well as other bird populations dependant on these habitats. In January 2008, the Commission, working in conjunction with the Federal government, created Subchapter W (relating to snow goose conservation hunt permit) in Chapter 147 (relating to special permits) to define and create the regulatory structure necessary to

implement the new snow goose conservation hunt program within this Commonwealth. However, since the adoption of this rulemaking, the Commission has continued to receive extensive public input from various sources including the Susquehanna River Waterfowling Association, hunters and guides on ways to improve the program. In particular, these sources have strongly encouraged the permitted use of electronic calls during the snow goose conservation hunt, a proven method that is effective in increasing harvest rates. In light of the Commission's continued recognition to dramatically increase the harvest of snow geese in this Commonwealth to assist in the reduction of the overall continental populations, the Commission is proposing to amend § 147.783 (relating to permit) to authorize the limited use of electronic calls for all hunting and taking activities conducted under a snow goose conservation hunt permit.

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 § 147.783 was proposed under this authority.

2. *Regulatory Requirements*

The proposed rulemaking will amend § 147.783 to authorize the limited use of electronic calls for all hunting and taking activities conducted under a snow goose conservation hunt permit.

3. *Persons Affected*

Persons wishing to hunt snow geese under a snow goose conservation hunt permit 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 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: 48-277. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

CHAPTER 147. SPECIAL PERMITS

PART III. GAME COMMISSION

Subchapter W. SNOW GOOSE CONSERVATION HUNT PERMIT

§ 147.783. Permit.

* * * * *

(c) [Except as provided for in § 141.4 (relating to hunting hours), the permittee shall comply with all applicable state and federal regulations relating to the hunting and taking of snow geese during regular seasons as adopted by the United States Secretary of the Interior as published in the *Federal Register* each year.] Except as otherwise provided in this subchapter, all State and Federal requirements and limitations relating to the hunting and taking of snow geese during regular open seasons apply to any activities conducted pursuant to the authorizations of a snow goose conservation hunt permit. The following specific exceptions apply:

(1) **Hunting hours.** All hunting and taking activities conducted pursuant to the authorizations of a snow goose conservation hunt permit shall be conducted in accordance with the adjusted hunting hours authorized for the snow goose conservation season provided in § 141.4 (relating to hunting hours).

(2) **Electronic calling.** Notwithstanding the general prohibition against the use of electronic calls found in section 2308 of the act (relating to unlawful devices and methods), the limited use of electronic calls shall be authorized for all hunting and taking activities conducted pursuant to the authorizations of a snow goose conservation hunt permit.

[Pa.B. Doc. No. 08-2295. Filed for public inspection December 19, 2008, 9:00 a.m.]