

# RULES AND REGULATIONS

## Title—58 RECREATION

### GAME COMMISSION

[ 58 PA. CODE CHS. 141 AND 147 ]

#### Hunting and Trapping and Special Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) adopted the following rulemaking at its October 6, 2009, meeting:

Amend §§ 141.20 and 147.101—147.114 (relating to protective material required and falconry) to meet the new Federal standards as well as simplify, reorganize and enhance current State regulations pertaining to falconry.

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

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

Notice of proposed rulemaking was published at 39 Pa.B. 5153 (August 29, 2009).

#### 1. Purpose and Authority

A dual State and Federal permitting system has been in place since the initial implementation of the Federal regulations governing falconry. Notwithstanding the separation and independence of these dual permitting structures, the states have always been obliged to operate their individual falconry programs within the bounds of the Federal regulations. On October 8, 2008, the United States Fish and Wildlife Service published new changes to the Federal regulations. Most significantly, the new language eliminated the requirement for a Federal permit to practice falconry. The new language also established a deadline of January 1, 2014, at which time the Federal permit program will be discontinued. For the Commonwealth's falconry program to continue beyond this deadline, it must adopt and implement regulations that meet the standards of the new Federal regulations. Once these standards are met, falconers will only be required to possess a State permit. To this end, the Commission amended §§ 141.20 and 147.101—147.114 to meet the new Federal standards as well as simplify, reorganize and enhance current State regulations pertaining to falconry.

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." Section 2901(b) of the code (relating to authority to issue permits) provides "the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under

authority of any permit issued." The amendments to §§ 141.20 and 147.101—147.114 were adopted under this authority.

#### 2. Regulatory Requirements

The final-form rulemaking amended §§ 141.20 and 147.101—147.114 to meet the new Federal standards as well as simplify, reorganize and enhance current state regulations pertaining to falconry.

#### 3. Persons Affected

Persons wishing to engage in falconry activities within this Commonwealth may be affected by the final-form rulemaking.

#### 4. Comment and Response Summary

The Commission received one official written comment concerning this final-form rulemaking from the United States Fish and Wildlife Service. This comment provided various and comprehensive recommended changes to the Commission's August 29, 2009, proposal, including a specific request to reorganize the banding requirements to enhance clarity.

#### 5. Cost and Paperwork Requirements

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

#### 6. Effective Date

The final-form rulemaking will be effective January 1, 2010, to coincide with Federal regulations and will remain in effect until changed by the Commission.

#### 7. Contact Person

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

#### 8. Findings

The Commission finds that:

(1) Public notice of intention to adopt the administrative regulations adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

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

#### 9. Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapters 141 and 147, are amended by adding §§ 147.105a, 147.106a, 147.107a, 147.108a, 147.109a, 147.110b, 147.111a and 147.112a; by deleting §§ 147.105—147.110, 147.110a and 147.111—147.114; and by amending §§ 141.20 and 147.101—147.104 to read as set forth in Annex A.

(b) The Executive Director of the Commission shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

CARL G. ROE,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48-292 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 58. RECREATION**

**PART III. GAME COMMISSION**

**CHAPTER 141. HUNTING AND TRAPPING**

**Subchapter A. GENERAL**

**§ 141.20. Protective material required.**

(a) *General.* Except as otherwise provided in subsection (b), it is unlawful to hunt or assist to hunt game or wildlife or move to or from a hunting location, from 1 hour before legal hunting hours to 1 hour after legal hunting hours outside of a motorized vehicle, at any time without wearing a minimum of 250 square inches of daylight fluorescent orange-colored material on the head, chest and back combined so that it is visible in a 360° arc. This shall include going to or from a hunting location before or after legal shooting hours. Except as provided in subsection (b)(2) and (3), camouflage orange clothing is lawful provided it contains the minimum amount of fluorescent orange-colored material.

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

(1) Hunt without wearing daylight fluorescent orange-colored material for:

- (i) Crows.
- (ii) Doves.
- (iii) Waterfowl.

(iv) Any wildlife that can be lawfully harvested while hunting under the authority of a valid falconry permit.

(v) Deer during the flintlock muzzleloader season with lawful firearms and ammunition for the flintlock muzzleloader season by properly licensed flintlock muzzleloader hunters.

(vi) Deer during the archery deer season with a bow and arrow or crossbow and bolt by properly licensed archery hunters except as provided in paragraphs (3)(iii) and (4).

(vii) Bear during the archery bear season with a bow and arrow by properly licensed bear hunters except as provided in paragraph (3)(iv).

(viii) Furbearers.

(ix) Coyotes except from the first day to the last day inclusive of the regular firearms deer season, any firearms bear season and spring turkey season within each wildlife management unit.

(x) Turkey during the spring turkey season.

(2) Hunt for woodchucks while wearing a hat made of solid daylight fluorescent orange-colored material on the head only.

(3) Move about or relocate while wearing a hat containing a minimum of 100 square inches of a solid daylight fluorescent orange-colored material on the head only and be stationary without wearing the required orange-colored material when hunting for:

(i) Turkey during the fall turkey season in Wildlife Management Units 1A, 1B, 2A, 2B, 5B, 5C and 5D.

(ii) Deer with a bow and arrow or crossbow and bolt during any deer archery season which is concurrent with the fall turkey season within each wildlife management unit.

(iii) Bear with a bow and arrow during any bear archery season, which is concurrent with the fall turkey season within each wildlife management unit.

(4) Be on stand and stationary while hunting for turkey during the fall season in Wildlife Management Units 2C, 2D, 2E, 2F, 2G, 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D, 4E and 5A or deer during any firearms deer season that precedes the regular firearms deer season and in lieu of the required 250 square inches place a minimum of 100 square inches of daylight fluorescent orange-colored material within 15 feet of the hunter's location so it is visible in a 360° arc.

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

(c) A person who violates this section shall be subject to the penalties as provided in the act.

**CHAPTER 147. SPECIAL PERMITS**

**Subchapter F. FALCONRY**

**§ 147.101. Definitions.**

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

*Bate*—Attempt to fly.

*Eyas*—A young bird not yet capable of flight.

*Facilities*—Equipment and shelters necessary to protect and train raptors.

*Falconry*—The wild capture, husbandry and training of raptors for the pursuit of wildlife, and the hunting of wildlife with raptors.

*Hacking*—The controlled release of a raptor to the wild.

*Hybrid*—The offspring of birds listed as two or more distinct species in 50 CFR 10.13 (relating to list of migratory birds), offspring of birds recognized by ornithological authorities as two or more distinct species listed in 50 CFR 10.13 and the offspring of any hybrid birds.

*Imprint*—For the purposes of falconry, a bird that is hand-raised in isolation from the sight of other raptors until it has fledged. An imprinted bird is considered to be so for its entire lifetime.

*Nestlings* or *eyases*—Young raptors not yet capable of flight.

*Passage birds*—

(i) Raptors in their first year of life, postfledging and possessing no more than two adult feathers.

(ii) A Golden Eagle taken as a juvenile must possess at least one subadult feather when it is taken from the wild.

*Raptors*—Live migratory birds of the order *Falconiformes* or the order *Strigiformes* including the Bald Eagle—*Haliaeetus leucocephalus*—and the Golden Eagle—*Aquila chrysaetos*, wherever its place of origin, whether or not raised in captivity or a hybrid of those species.

*Sponsor*—The holder of a general or master falconry permit who has accepted the responsibility for the conduct and training of an apprentice falconer.

*Take*—In addition to the definition in section 102 of the act (relating to definitions), the term also includes the purchase or acquisition of a raptor for the purpose of falconry.

*Transfer*—The term includes barter, sale, purchase, loan or gift, of a raptor excluding the temporary holding as provided in this subchapter.

#### § 147.102. Application, examination and fees.

(a) *Application*. Applications for falconry permits issued under this subchapter shall be made through the regional office on the appropriate form provided by the Commission.

(1) Applications will only be accepted from persons who possess a valid hunting license or qualify for license and fee exemptions under section 2706 of the act (relating to license and fee exemptions).

(2) Applications must include the name, address and telephone number of the applicant, a photocopy of the applicant's valid Pennsylvania hunting license and a nonrefundable examination fee of \$25.

(3) An applicant who is 17 years of age or younger is additionally required to have a parent or legal guardian co-sign the application and assume legal responsibility for the applicant's falconry activities.

(b) *Examination*.

(1) New applicants shall pass a supervised examination with a minimum grade of 80%.

(2) Examinations must cover the following subjects:

- (i) Laws and regulations.
- (ii) Raptor biology and raptor identification.
- (iii) Trapping methods.
- (iv) Facilities requirements.
- (v) Care of raptors held for falconry.
- (vi) Disease and health problems of raptors.
- (vii) Training methods.

(3) Examinations are administered by the Commission at each regional office between January 1 and June 30 each year.

(c) *Validation*. A new applicant's falconry permit is validated at the apprentice class only upon passage of the supervised examination, passage of facility inspection, and payment of the falconry permit fee set forth in section 2904 of the act (relating to permit fees).

(d) *Lapsed permit*. A falconer whose permit lapses for 2 or more years shall apply as a new applicant.

#### § 147.103. Classes.

(a) *Apprentice*. Permittees of the apprentice class shall be subject to the following requirements and limitations:

(1) Permittees shall be 12 years of age or older.

(2) Permittees shall be sponsored, at all times, by a Pennsylvania general or master class falconry permit holder. If a permittee's sponsorship is withdrawn or lost for any reason, the permittee shall provide written notification of the loss to the Commission within 5 days and shall be required to replace the sponsorship within 15 days.

(3) A first year permittee of this class may take and possess only one raptor with no replacement during the first permit year. Other permittees of this class may take and possess only one raptor with only one replacement during each permit year.

(4) Permittees are limited to taking and possessing only wild passage (no eyases) raptors of the following species:

- (i) American Kestrel (*Falco sparverius*).
- (ii) Red-tailed Hawk (*Buteo jamaicensis*).

(5) Permittees are required to trap their first passage raptor under the direct supervision of a Pennsylvania general or master class falconry permit holder.

(b) *General*. Permittees of the general class shall be subject to the following requirements and limitations:

(1) Permittees shall be 18 years of age or older.

(2) General class permit applicants shall have maintained their apprentice class permit status in good standing for a minimum of 2 years and during that period shall have maintained a raptor for a minimum of 12 months. An application to advance to the general class shall be accompanied by a written letter of recommendation from the permittee's sponsor representing that the permittee possesses the competency and skills necessary to become a member of the general class.

(3) A first year permittee of this class may take only one additional raptor and possess up to a total of two raptors with only one replacement during the first permit year. Other permittees of this class may possess up to a total of three raptors with two replacements during each permit year. Captive-bred raptors shall be included in these quota limits.

(4) Except as further limited under § 147.109a (relating to hunting and training with raptors), permittees are authorized to take and possess any wild passage or eyas raptors except the following species:

- (i) Golden Eagle (*Aquila chrysaetos*).
- (ii) Bald Eagle (*Haliaeetus leucocephalus*).
- (iii) White-tailed Eagle (*Haliaeetus albicilla*).
- (iv) Steller's Sea-eagle (*Haliaeetus pelagicus*).

(v) Other raptor species listed or classified as threatened or endangered by the United States Department of Interior or the Commission.

(c) *Master*. Permittees of the master class shall be subject to the following requirements and limitations:

(1) Permittees shall be 23 years of age or older.

(2) Master class permit applicants shall have maintained their general class permit in good standing for a minimum of 5 years and during that period shall have maintained a raptor for a minimum of 3 years.

(3) A first year permittee of this class may take only one additional raptor and possess up to a total of four raptors with only one replacement during the first permit year. Other permittees of this class may each possess a total of five raptors with two replacements during each permit year. Captive-bred raptors will not be included in these quota limits.

(4) Except as otherwise provided under § 147.109a and paragraph (5), permittees are authorized to take and possess any wild passage or eyas raptors except the following species:

- (i) Golden Eagle (*Aquila chrysaetos*).

- (ii) Bald Eagle (*Haliaeetus leucocephalus*).
- (iii) White-tailed Eagle (*Haliaeetus albicilla*).
- (iv) Steller's Sea-eagle (*Haliaeetus pelagicus*).

(v) Other raptor species listed or classified as threatened or endangered by the United States Department of Interior or the Commission, unless authorized in writing by the United States Department of Interior or the Commission, or both, to possess up to a maximum of one threatened or endangered raptor as part of their total possession allowance.

(5) Upon additional written authorization provided by the Commission, permittees may possess up to a maximum of three eagles, regardless of captive-bred or wild caught, limited to golden eagles, white-tailed eagles and Steller's sea-eagles, as part of their total possession allowance. An application to possess eligible eagles shall be accompanied by two written letters of recommendation from persons with experience handling or flying large raptors, such as eagles, ferruginous hawks (*Buteo regalis*), goshawks (*Accipiter gentilis*) or great horned owls (*Bubo virginianus*). Each letter of reference must contain a concise history of the author's experience with large raptors and an explicit representation that the permittee possesses the competency and skills necessary to possess eagles.

**§ 147.104. Shelter, care and protection.**

(a) *Housing.* Any raptor possessed under a falconry permit shall be housed in a permanent indoor or outdoor facility that provides humane and healthful living conditions, including suitable protection from the environment, predators and disturbance.

(1) *Size.* Housing facilities must be large enough to afford the permittee easy access to provide for the care and feeding of raptors housed within. Each raptor must have an area large enough to allow it to fly if it is untethered or, if tethered, to fully extend its wings and bate without damaging its feathers or contacting other raptors.

(2) *Containment.* Housing facilities must be totally enclosed and of a design, strength, quality and condition to provide for the adequate containment of any raptor housed within and exclusion of any predators from without. If two or more raptors are housed in the same housing facilities, each raptor shall be separated from other raptors by partitioning walls or suitable tethering. Compatible raptors may be housed together.

(3) *Protection.* Housing facilities must provide areas of refuge that provide adequate protection from excessive sun, wind, inclement weather and disturbance to any raptor housed within.

(4) *Perches.* Housing facilities must provide a suitable perch for each raptor housed within.

(5) *Sunlight.* Housing facilities must provide at least one opening or window to permit the admission of sunlight. The opening or window must be protected on the inside with visible bars spaced narrower than the width of the raptor's body to deter in flight impacts.

(6) *Cleaning and drainage.* Housing facilities must be of a design and condition to permit easy cleaning and adequate drainage.

(7) *Transportation.* Raptors may be transported to and from their permanent or temporary housing facilities provided they have a suitable perch and protection from extreme temperatures, wind and excessive disturbance.

(8) *Temporary housing.* Raptors may be housed outside of their permanent housing facilities, provided they have a suitable perch and protection from extreme temperatures, wind and excessive disturbance for a period not to exceed 30 days without additional authorization from the Commission. Permittees are required to notify the district wildlife conservation officer within 5 days of the commencement of use of a temporary housing facility.

(b) *Equipment.* Permittees shall possess the following equipment suitable for the maintenance of raptors:

(1) *Jesses.* At least one pair of Aylmeri jesses or jesses of similar type or design and constructed of pliable, high quality leather or suitable synthetic material for use when free flying the raptor. Traditional one piece jesses may only be used for hunting or free flight if they do not have slits.

(2) *Leashes and swivels.* At least one flexible weather resistant leash and one strong swivel.

(3) *Bath container.* At least one suitable container accessible to each raptor for drinking and bathing purposes. The container must be 2 to 6 inches deep and wider than the length of the raptor.

(4) *Outdoor perches.* At least one suitable weathering area perch for each raptor.

(5) *Weighing device.* A reliable scale or balance suitable for weighing raptors. The device must be graduated in increments of not more than 1/2 ounce or 15 grams.

(c) *Maintenance, care and sanitation.* Permittees shall maintain all raptors and their attendant housing facilities in a safe, sanitary and humane condition.

(1) *Food.* Permittees shall provide each raptor with adequate supplies of palatable, uncontaminated and nutritionally adequate food suitable to ensuring the normal health and maintenance of raptors.

(2) *Water.* Permittees shall provide each raptor with adequate supplies of fresh, uncontaminated water that is available at all times.

(3) *Waste.* Permittees shall remove fecal, food and other waste from housing facilities as needed.

(4) *Care.* Permittees shall provide any necessary health care or seek care through a licensed veterinarian or wildlife rehabilitator for any sick or injured raptor.

(d) *Inspection.* A permittee's raptors, housing facilities, equipment and records are subject to inspection by the Commission during normal business hours on any day of the week. All housing, equipment, maintenance, care and sanitation conditions are subject to the initial and ongoing approval of the Commission. Any required modifications shall be completed within 30 days after official oral or written notice of deficiency received from the Commission.

**§ 147.105. (Reserved).**

**§ 147.105a. Resident falconers.**

Taking restrictions for resident falconers are as follows:

(1) A valid falconry permit is required prior to obtaining a raptor.

(2) Eyases may only be taken by a General or Master falconer. No more than two wild eyases may be taken by a permittee per permit year. A permittee may not take the last remaining eyas from the nest.

(3) A raptor, other than an endangered or threatened species, taken under a depredation permit or rehabili-

tated by a licensed rehabilitator determined to be unfit for return to the wild, may, with written authorization of the Commission, be used by falconers as long as they do not exceed limits set by its classification and this subchapter.

(4) A bal-chatri type live trap, other live traps and nets may be used to take raptors if they are used in a manner that minimizes the danger of injuring the raptor.

(5) Owners of escaped raptors that are banded as required by § 147.107a (relating to marking of certain raptors) may recapture the banded raptors.

(6) Permittees may take no more than two raptors from the wild during any given permit year for replacement or other purposes regardless of their permit quota allowances.

**§ 147.106. (Reserved).**

**§ 147.106a. Nonresident falconers.**

(a) *Temporary importation.* A nonresident may temporarily import raptors into this Commonwealth for the purpose of attending a falconry meeting or to hunt, provided the possession and importation of the raptors is in compliance with all applicable Federal and State laws and regulations. The temporary importation may not exceed 30 days without additional authorization from the Commission.

(b) *Permanent importation.* A nonresident who moves into this Commonwealth for the purpose of becoming a resident may permanently import raptors into this Commonwealth provided the following conditions are met:

(1) Possession and importation of the raptors is otherwise in compliance with applicable State and Federal laws and regulations.

(2) Establishes permanent housing facilities for the raptors that meet or exceed the requirements of § 147.104 (relating to shelter, care and protection) within 30 days of importation.

(3) Obtain a Pennsylvania falconry permit no later than 60 days after relocation into this Commonwealth. A relocating nonresident is eligible to receive a Pennsylvania falconry permit of the same or equivalent classification. The falconry permit issued by the former state of residence will be deemed the nonresident's temporary authority to possess and exercise imported raptors until the Pennsylvania permit is issued. This temporary authority may not be construed to permit the taking of additional raptors from the wild in this Commonwealth.

(c) *Taking restriction.* Taking restrictions for nonresidents are as follows:

(1) A nonresident permittee possessing a current and active falconry permit in the General or Master classification in a state listed in 50 CFR 21.29(k) (relating to Federal falconry standards), may apply for a special permit to take one raptor from the wild in this Commonwealth if the home state of the applicant allows the taking of raptors by nonresidents.

(2) The fee for a permit to take a raptor is \$100 and is not refundable.

(3) Applications for this permit shall be submitted directly to the Bureau of Wildlife Protection with the applicant's name, address, telephone number, date of birth, and the species desired and whether a nestling (eyas) or passage bird is requested. Copies of the applicant's current state or Federal, or both, falconry permit along with a valid import permit or letter from the

applicant's home state authorizing the import of the raptor being requested shall accompany the application. A certified check or money order in the amount of \$100 payable to "Pennsylvania Game Commission" must accompany the application.

(4) Periods for taking raptors as authorized under a nonresident take permit are May 8 to July 15, inclusive for nestling (eyas) birds, or September 19 to December 31, inclusive for passage birds.

(5) A permittee may not take the last remaining nestling-eyas-from a nest.

(6) The number of permits issued annually will not exceed:

| <i>Number</i> | <i>Type</i>     |
|---------------|-----------------|
| 5             | Nestling (Eyas) |
| 15            | Passage         |

(7) Eyas Goshawk birds may not be taken.

(8) Permits will be issued under a first-come-first-served basis until the annual allocation is exhausted.

(9) The acquisition of a raptor taken from the wild as authorized by the take permit shall be reported to the United States Fish and Wildlife Service by completing a Form 3-186A (Migratory Bird Acquisition and Disposition Report) and forwarding a copy to the Bureau of Wildlife Protection within 5 days.

(10) Raptors taken under the authority of this permit shall be used for falconry purposes only.

**§ 147.107. (Reserved).**

**§ 147.107a. Marking of certain raptors.**

(a) *Banding.* Raptors used for falconry purposes shall be banded as follows:

(1) *Wildlife raptors.* The following raptors taken from the wild shall be marked immediately upon capture by a permanent, numbered, nonreusable band supplied by the Commission:

- (i) Peregrine Falcons (*Falco peregrinus*).
- (ii) Goshawks (*Accipiter gentilis*).
- (iii) Gryfalcons (*Falco rusticolus*).
- (iv) Harris's Hawks (*Parabuteo unicinctus*).

(2) *Captive bred and hybrid raptors.* Captive bred and hybrid raptors shall be marked immediately upon acquisition by a seamless numbered band supplied by the Commission.

(b) *Replacement bands.* Any band required under subsection (a) that becomes mutilated, illegible or lost shall be replaced with a permanent, numbered, nonreusable band supplied by the Commission. Permittees shall report any damage or loss requiring replacement to the Bureau of Wildlife Protection within 72 hours of the damage to or loss of the band. A mutilated or illegible band shall be returned to the Commission prior to replacement.

(c) *Return of unused bands.* Permittees shall return any unused bands in their possession by June 30 to the Bureau of Wildlife Protection.

(d) *Radio transmitters.* Permittees shall attach two radio transmitters on any hybrid raptor that is flown for falconry purposes or for a falconry demonstration.

(e) *Unlawful acts.* It is unlawful for any person to transfer, alter or deface a lawfully issued band or to use or possess a counterfeit band.

§ 147.108. (Reserved).

§ 147.108a. Reporting requirements.

(a) *Raptor acquisition, transfer or disposition report.* Permittees shall complete and submit a Form 3-186A (Migratory Bird Acquisition and Disposition Report) to the United States Fish and Wildlife Service and forward a copy to the Bureau of Wildlife Protection within 5 days for the following types of transactions or events:

- (1) The acquisition of a raptor taken from the wild or received by transfer from another person.
- (2) The loss of a raptor previously held through release, escape, theft or death.
- (3) The transfer of a raptor to another person.
- (4) The banding or rebanding of any raptor which requires banding.
- (5) The loss or removal of banding from any raptor that does not presently require banding.

(b) *Annual report.* Each permittee shall complete and submit an annual report to the Bureau of Wildlife Protection by July 31, on forms supplied by the Commission. The report must include an accurate accounting of all activities conducted under the authority of the permittee's falconry permit during the preceding permit year. Permittees shall complete and submit a similar report within 30 days of the termination of their permit.

§ 147.109. (Reserved).

§ 147.109a. Hunting and training with raptors.

(a) Permittees may only hunt wildlife through the use of raptors in accordance with the requirements of the act and this part.

(b) Permittees may train raptors on propagated game birds during the period August 1 to March 31, inclusive, and are subject to the following conditions:

- (1) Quarry shall be released either by hand or by means of electronic, spring or box holding devices.
- (2) Game birds released shall be obtained from a licensed propagator.
- (3) Released game birds which escape shall be considered wild birds, and no further attempt may be made to pursue them except during the open season for hunting small game.

(c) Permittees shall possess their hunting license and falconry permit on their person at all times while engaged in any raptor hunting or training activities.

§ 147.110. (Reserved).

§ 147.110a. (Reserved).

§ 147.110b. Educational use of raptors.

(a) *Falconry and raptor lectures.* General or Master class permittees may engage in noncommercial educational lecture activities using live raptors subject to the following conditions:

- (1) The educational lecture activities shall be focused on the natural history of raptors, the conservation of raptors, the sport of falconry and other related topics.
- (2) Raptors used in educational lecture activities may not have physical contact with members of the audience or general public.
- (3) Raptors used in educational lecture activities shall be maintained either tethered and on the permittee's gloved hand or in a transport carrier. No flight is permitted.

(4) The permittee may not receive any form of compensation for the lecture.

(5) The permittee is encouraged, but not required, to notify the regional office in advance of conducting any scheduled educational lecture activities.

(b) *Falconry demonstrations.* General or Master class permittees may engage in noncommercial falconry demonstrations using live raptors subject to the following conditions:

- (1) Raptors used in falconry demonstrations activities may not have any physical contact with members of the audience or general public.
- (2) Outdoor raptor free-flight demonstrations may be conducted only by Master class permittees.
- (3) Indoor raptor flight demonstrations shall be conducted with the raptor tethered in a manner that prevents physical contact with the audience or general public or with physical structures such as walls, windows or furniture. Indoor raptor free-flight demonstrations are prohibited.

(4) The permittee may not receive any form of compensation for the falconry demonstration.

(5) The permittee shall notify the regional office in writing at least 5 days in advance of conducting any scheduled falconry demonstration activities.

(c) *Other education uses of raptors.* Permittees may engage in other forms of noncommercial educational activities using live raptors, such as photography or filming, subject to the following conditions:

- (1) The activities shall be focused on the natural history of raptors, the conservation of raptors, the sport of falconry and other related topics.
- (2) The permittee may not receive any form of compensation for the activity.

(3) The permittee may not use raptors for entertainment, advertisements, promotion or endorsements of any products, merchandise, goods, services, meetings, fairs or as a representation of any business, company, corporation or other organization.

§ 147.111. (Reserved).

§ 147.111a. Additional requirements for permittee.

(a) A permittee is prohibited from propagating raptors held under the authority of a falconry permit unless they possess a joint State/Federal raptor propagation permit.

(b) A permittee whose permit lapses or is otherwise suspended or revoked shall return any raptors possessed into the wild by hacking, transferring the raptors to another permitted falconer, or forfeiting the raptors to the Commission. Propagated, hybrid and nonindigenous raptors may not be released into the wild.

(c) A permittee may not sell, purchase, barter or offer to sell, purchase or barter a propagated raptor unless the raptor is marked on the metatarsus by a seamless, numbered band supplied by the United States Fish and Wildlife Service or the Commission.

(d) If a permittee's raptor unintentionally injures or kills any wildlife during a closed season while engaged in falconry activities, the permittee shall comply with the notification and reporting requirements in section 2306 of the act (relating to killing game or wildlife by mistake). The permittee will not be required to pay any restitution fees unless the injury or taking is determined to be the result of carelessness or negligence. The permittee is not

required to put the carcass of the injured or killed wildlife in a place of safekeeping, but rather may leave the carcass in the field and allow the raptor to feed upon it. Once the raptor is finished feeding, it may not be hunted the rest of that day.

(e) A raptor possessed under authority of a falconry permit may be temporarily held by a person other than the permittee only if that person is otherwise authorized to possess raptors, and only if the raptor is accompanied at all times by a properly completed United States Fish and Wildlife Service Form 3-186A designating the permittee as the possessor of record and by a signed, dated statement from the permittee. If the period of care will exceed 30 days, written permission shall be obtained from the Commission. Illness or disability of the permittee would be cause for temporary transfer of the raptors to another authorized person for care. The Commission shall be notified of this action within 5 days following the temporary transfer. Final disposition of the raptors will be at the discretion of the Commission.

(f) Molted feathers, or feathers from birds held in captivity that die, may be retained by the permittee for imping purposes only. Molted feathers and retrices from a golden eagle shall be collected and used for imping purposes or submitted to the National Eagle Repository.

(g) Carcasses of dead raptors shall be disposed in a proper waste receptacle or buried underground unless otherwise authorized by the Commission. The entire carcass of dead golden eagles, including all feathers, talons and other parts shall be submitted to the National Eagle Repository.

(h) Propagated, hybrid and nonindigenous raptors may not be intentionally released into the wild without prior written approval of the Commission.

(i) A sponsor may not have more than three apprentices at one time.

**§ 147.112. (Reserved).**

**§ 147.112a. Violations.**

The Director may deny, revoke or suspend any permit for any violation of this subchapter upon written notice to the permittee.

**§ 147.113. (Reserved).**

**§ 147.114. (Reserved).**

[Pa.B. Doc. No. 09-2177. Filed for public inspection November 25, 2009, 9:00 a.m.]

**GAME COMMISSION**  
**[ 58 PA. CODE CH. 143 ]**  
**Hunting and Furtaker Licenses**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) adopted the following rulemaking at its October 6, 2009, meeting:

Add § 143.203a (relating to special elk conservation license auction) to Chapter 143 to establish the special elk conservation license auction and license issuance process.

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

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

Notice of proposed rulemaking was published at 39 Pa.B. 5152 (August 29, 2009).

**1. Purpose and Authority**

On October 9, 2008, House Bill 747 (Act 101 of 2008) was signed into law. This legislation effectively amended section 2706.2 of the code (relating to elk hunting licenses) to authorize the Commission to sell one elk license per year by auction sale through an eligible wildlife conservation organization. Due to the intermediary role the wildlife conservation organization serves in the sale of the license, the Commission determined that the implementation of the voucher procedures under section 2712 of the code (relating to vouchers for licenses and permits) will streamline and simplify the process of transferring the license to the winning bidder of the auction. Under this process, the wildlife conservation organization will issue the winning bidder of the auction a voucher which then may be redeemed from the Commission for the official elk license. To this end, the Commission added § 143.203a to establish the special elk conservation license auction and license issuance process.

Section 2706.2 of the code provides that "The commission shall promulgate regulations for the use of the license, remitting funds to the commission and conduct of the auction." Section 2712 of the code provides that "The commission may promulgate regulations to implement this section." Section 2722(g) of the code directs the Commission to adopt regulations for the administration, control and performance of license issuing activities. The addition of § 143.203a was adopted under this authority.

**2. Regulatory Requirements**

The final-form rulemaking added § 143.203a to establish the special elk conservation license auction and license issuance process.

**3. Persons Affected**

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

**4. Comment and Response Summary**

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

**5. Cost and Paperwork Requirements**

The final-form rulemaking may result in some additional cost and paperwork associated with the production and distribution of the special elk conservation license. However, the Commission determined any additional expense associated with this initiative, if it exists, will be nominal and will be absorbed by the current budget.

**6. Effective Date**

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

**7. Contact Person**

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

**Findings**

The Commission finds that:

(1) Public notice of intention to adopt the administrative regulation adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the

regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

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

*Order*

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 143, are amended by adding § 143.203a to read as set forth at 39 Pa.B. 5152.

(b) The Executive Director of the Commission shall certify this order and 39 Pa.B. 5152 and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

CARL G. ROE,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48-291 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 09-2178. Filed for public inspection November 25, 2009, 9:00 a.m.]

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

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) adopted the following rulemaking at its July 9, 2009, meeting:

Amend Chapter 147, by adding § 147.558a (relating to political subdivisions as applicants) to authorize political subdivisions to apply for an agricultural deer control permit for the limited purpose of managing the agricultural deer control activities occurring on a conglomeration of separate, but otherwise individually eligible properties located within the jurisdictional boundaries of the political subdivision.

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

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

Notice of proposed rulemaking was published at 39 Pa.B. 5163 (August 29, 2009).

1. *Purpose and Authority*

The Agricultural Deer Control Permit (commonly referred to as “Red Tag”) is a very useful program that assists landowners in achieving their land use goals by managing deer densities on their respective properties through the use of licensed hunters. Traditionally, this program has required landowners to individually manage the application, reporting and deer control activities themselves. This higher level of individual responsibility has proven to be an impediment to participation for some landowners that are greatly interested in controlling deer densities on their properties, but are not capable of dedicating the necessary resources to manage the pro-

gram on their property. In an effort to enhance public access to this program, the Commission amended Chapter 147, by adding § 147.558a to authorize political subdivisions to apply for an agricultural deer control permit for the limited purpose of managing the agricultural deer control activities occurring on a conglomeration of separate, but otherwise individually eligible properties located within the jurisdictional boundaries of the political subdivision. This structure will not only reduce the demands on each respective landowner, but it will enhance the effectiveness of a larger deer control plan promoted by the community by consolidating the management of the agricultural deer control activities into one centralized location.

Section 2901(b) of the code (relating to authority to issue permits) provides “the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued.” The amendment to Chapter 147, by adding § 147.558a was adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking amended Chapter 147, by adding § 147.558a to authorize political subdivisions to apply for an agricultural deer control permit for the limited purpose of managing the agricultural deer control activities occurring on a conglomeration of separate, but otherwise individually eligible properties located within the jurisdictional boundaries of the political subdivision.

3. *Persons Affected*

Persons wishing to engage in agricultural deer control activities within this Commonwealth may be affected by the final-form rulemaking.

4. *Comment and Response Summary*

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

5. *Cost and Paperwork Requirements*

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

6. *Effective Date*

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

7. *Contact Person*

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

*Findings*

The Commission finds that:

(1) Public notice of intention to adopt the administrative regulation adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

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

*Order*

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 147, are amended by adding § 147.558a to read as set forth at 39 Pa.B. 5163.

(b) The Executive Director of the Commission shall certify this order and 39 Pa.B. 5163 and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

CARL G. ROE,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48-293 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 09-2179. Filed for public inspection November 25, 2009, 9:00 a.m.]