

PROPOSED RULEMAKING

GAME COMMISSION

[58 PA. CODE CH. 139]

Seasons and Bag Limits; Private Property Coupons

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed, at its June 29, 2010, meeting, to amend § 139.4 (relating to seasons and bag limits for the license year) to reinstate 2,761 coupons on private land that would otherwise be denied.

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

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

The proposed rulemaking was made public at the June 29, 2010, meeting of the Commission. Comments can be sent until August 16, 2010, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

The Commission is required to set hunting and furtaking seasons and bag limits on an annual basis. For the 2010-2011 seasons, the number of Deer Management Assistance Program permits was capped at the 2009-2010 totals within each wildlife management unit without further action by the Board. The Board subsequently learned that applying this cap would result in 2,761 coupons not being issued for private property that is not enrolled in the Commission's Public Access programs. After public comment, the Commission determined it was never its intent to take action that would result in these 2,761 coupons not being issued. This proposed rulemaking is to reinstate those coupons that would otherwise be denied.

Section 322(c)(1) of the code (relating to powers and duties of commission) specifically empowers the Commission to "fix seasons, daily shooting or taking hours, and any modification thereof, and daily, season and possession limits for any species of game or wildlife." Section 2102(b)(1) of the code authorizes the Commission to "promulgate regulations relating to seasons and bag limits for hunting or furtaking. . . ." The amendments to § 139.4 were proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking amends § 139.4 by establishing when and where it is lawful to hunt deer and also place limits on the numbers that can be legally taken during the 2010-2011 license year.

3. Persons Affected

Persons wishing to hunt deer within this Commonwealth during the 2010-2011 license year may be affected by the proposed rulemaking.

4. Cost and Paperwork Requirements

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

5. Effective Date

The proposed rulemaking will be effective upon 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: 48-310. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 139. SEASONS AND BAG LIMITS

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

(SEASONS AND BAG LIMITS TABLE)

2010-2011 OPEN HUNTING AND FURTAKING SEASONS, DAILY LIMIT, FIELD POSSESSION LIMIT AND SEASON LIMIT OPEN SEASON INCLUDES FIRST AND LAST DATES LISTED

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November 2010 Elk License Allocations

<i>Elk Hunt Zones</i>	<i>Antlered</i>	<i>License Type</i>	<i>Antlerless</i>
			<i>Open</i>
1	Open		Open
2	2		6
3	2		4
4	2		2
5	0		0
6	0		0
7	3		8
8	2		6
9	3		5
10	3		2
<i>Subtotal:</i>	17		33
<i>Total Allocations:</i>		50	

2010 Antlerless Deer Allocations

<i>Wildlife Management Units (WMUs)</i>	<i>2010 Allocations</i>
1A	42,000
1B	28,500
2A	55,000
2B	68,000
2C	44,100
2D	50,400
2E	21,000
2F	25,200
2G	26,000
3A	26,000
3B	35,000
3C	27,000
3D	33,300
4A	29,000
4B	23,000

<i>Wildlife Management Units (WMUs)</i>	<i>2010 Allocations</i>
4C	35,000
4D	32,000
4E	27,000
5A	19,000
5B	51,000
5C	122,000
5D	22,000
<i>Total Allocations:</i>	841,500

The antlerless allocation as approved for each WMU for the 2010-2011 seasons shall be automatically reduced by the number of DMAP permits issued in that WMU for the 2009-2010 seasons and the DMAP permits issued for the 2010-2011 seasons shall not exceed the 2009-2010 totals in each said WMU without further action by this Board. **Except that the Board reinstates 2,761 coupons on private land that would otherwise be denied.**

[Pa.B. Doc. No. 10-1430. Filed for public inspection August 6, 2010, 9:00 a.m.]

**[58 PA. CODE CH. 147]
Special Permits; Falconry**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its June 29, 2010, meeting, proposed to amend §§ 147.101 and 147.103 (relating to definitions; and classes) to require that a sponsor for a new falconer be a general or master class falconer having at least 2 years experience as a general class falconer and expand the list of eligible species of eagles that a master class falconer may possess with additional written authorization to include eagles not covered by the Migratory Bird Treaty Act (act) (16 U.S.C.A. §§ 703—712).

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

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

The proposed rulemaking was made public at the June 29, 2010, meeting of the Commission. Comments can be sent until September 30, 2010, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

On October 6, 2009, the Commission finally adopted comprehensive changes to the various standards and conditions concerning falconry permits within this Commonwealth. See 39 Pa.B. 6760 (November 28, 2009). These amendments were primarily intended to bring the Commonwealth into compliance with new Federal permitting standards concerning falconry that become fully effective January 1, 2014. Since the adoption of these amendments, the Commission has come to the recognition that the standards concerning whom is eligible to sponsor new falconers are insufficient to ensure that sponsors have enough experience to properly guide new falconers. To this end, the Commission is proposing to amend § 147.101 to require that a sponsor for a new falconer be a general or master class falconer having at least 2 years experience as a general class falconer. The Commission is also proposing to amend § 147.103 to expand the list of eligible species of eagles that a master class falconer may

possess with additional written authorization to include eagles not covered by the act.

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 §§ 147.101 and 147.103 were proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking amends §§ 147.101 and 147.103 to require that a sponsor for a new falconer be a general or master class falconer having at least 2 years experience as a general class falconer and expand the list of eligible species of eagles that a master class falconer may possess with additional written authorization to include eagles not covered by the act.

3. Persons Affected

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

4. Cost and Paperwork Requirements

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

5. Effective Date

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

6. Contact Person

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

CARL G. ROE,
Executive Director

Fiscal Note: 48-309. No fiscal impact; (8) recommends adoption.

**Annex A
TITLE 58. RECREATION
PART III. GAME COMMISSION
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:

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Sponsor—The holder of a general or master falconry permit **with at least 2 years experience as a general class falconer**, who has accepted the responsibility for the conduct and training of an apprentice falconer.

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§ 147.103. **Classes.**

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

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(2) Permittees shall be sponsored, at all times, by a Pennsylvania general or master class falconry permit holder **who has at least 2 years experience as a general class falconer**. 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.

* * * * *

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

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(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 or any other eagle not covered by the Migratory Bird Treaty Act (16 U.S.C.A. §§ 703—712), 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 possess the competency and skills necessary to possess eagles.

[Pa.B. Doc. No. 10-1431. Filed for public inspection August 6, 2010, 9:00 a.m.]

JOINT COMMITTEE ON DOCUMENTS

[1 PA. CODE CH. 1]

Preliminary Provisions; Definitions

The Joint Committee on Documents (JCD) proposes to amend 1 Pa. Code § 1.4 (relating to definitions).

Statutory Authority

Section 1.4 is proposed to be amended under 45 Pa.C.S. § 503 (relating to general administration of part) and section 506 of The Administrative Code of 1929 (71 P. S. § 186).

Background of the Amendments

The Legislative Reference Bureau (LRB) purchases paper copies of the *Pennsylvania Bulletin* (*Bulletin*) and *Pennsylvania Code* (*Code*) for a variety of government entities enumerated in 1 Pa. Code Chapter 15 (relating to distribution of publications). This has been the policy of

the JCD since the inception of the *Bulletin* in 1970. Under 45 Pa.C.S. § 503, the JCD is required to encourage "the widest possible dissemination" of documents appearing in the *Code* and *Bulletin*.

The *Code* and *Bulletin* have been available at no charge on the Internet since 1996. The web sites receive approximately 500,000 visits each month. Subscribers to the print versions have steadily declined as a result of free electronic access.

This proposed rulemaking will amend § 1.4 to define a "copy" to include a printed or electronic version. As a result, most entities listed in Chapter 15 will no longer receive paper copies of the *Code* and *Bulletin* paid for by the LRB. Budgetary constraints require that the LRB cease these payments. Informal surveys conducted by the staff of the JCD indicate that most of the Chapter 15 entities use the electronic versions of the *Code* and *Bulletin*.

Contact Person

Comments and questions regarding this proposed rulemaking may be referred to Mary Jane Phelps, Director of the *Code* and *Bulletin* and Secretary to the JCD, Legislative Reference Bureau, 647 Main Capitol Building, Harrisburg, PA 17120, (717) 783-1530. Interested persons are invited to submit written comments regarding the proposed amendment within 30 days following publication in the *Bulletin*.

Effective Date

It is anticipated that the final-form regulation will go into effect on July 1, 2011.

Fiscal Impact

There will be no fiscal impact on the general public as a result of this proposed rulemaking. Political subdivisions may be slightly impacted if magisterial district judges choose to continue paper subscriptions. The LRB paid \$472,538 for Chapter 15 subscriptions in 2009. The Commonwealth will realize a savings but it is difficult to predict how many State entities will choose to purchase the print versions. It is anticipated that most will rely on the web sites, so substantial savings should result.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on July 28, 2010, the JCD submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the House State Government Committee and the Senate Rules and Executive Nominations Committee. 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 shall 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 JCD, IRRC, the General Assembly and the Governor of comments, recommendations or objections raised.

MARY JANE PHELPS,
Secretary

Fiscal Note: 53-9. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 1. GENERAL PROVISIONS

PART I. JOINT COMMITTEE ON DOCUMENTS

CHAPTER 1. PRELIMINARY PROVISIONS

§ 1.4. Definitions.

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

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***Copy*—The term includes an electronic or printed version.**

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[Pa.B. Doc. No. 10-1432. Filed for public inspection August 6, 2010, 9:00 a.m.]
