

# RULES AND REGULATIONS

## Title 58—RECREATION

### GAME COMMISSION

[ 58 PA. CODE CH. 135 ]

#### Lands and Buildings; State Game Lands

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) at its February 1, 2011, meeting, amended § 135.41 (relating to State game lands) to limit the overnight placement of portable hunting blinds and stands on State game lands (SGLs).

The final-form rulemaking will not have an 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 40 Pa.B. 6534 (November 13, 2010).

#### 1. Purpose and Authority

The Commission has historically permitted the placement and use of portable hunting blinds and stands on SGLs and continued support for their allowance has not diminished. However, the Commission has identified that this allowance has, in certain instances, resulted in the unintended consequence of some portable hunting blinds and stands on SGLs seemingly becoming permanent fixtures due to long term placement by hunters. While the Commission continues to support the placement and use of portable hunting blinds and stands on SGLs, it amended § 135.41 to limit the overnight placement of portable hunting blinds and stands to 2 weeks before the opening of the first deer season to 2 weeks after the close of the last deer season within each respective wildlife management unit and also limit the overnight placement of portable hunting blinds to the calendar dates of the spring turkey season.

Section 721(a) of the code (relating to control of property) provides "The administration of all lands and waters owned, leased or otherwise controlled by the commission shall be under the sole control of the Director, and the commission shall promulgate regulations . . . for its use and protection as necessary to properly manage these lands or waters." The amendments to § 135.41 were adopted under this authority.

#### 2. Regulatory Requirements

The final-form rulemaking amends § 135.41 by adding language limiting the overnight placement of portable hunting stands to 2 weeks before the opening of the first deer season to 2 weeks after the close of the last deer season within each respective wildlife management unit and also limit the overnight placement of portable hunting blinds to the calendar dates of the spring turkey season.

#### 3. Persons Affected

Persons wishing to place portable hunting blinds or stands on SGLs may be affected by the final-form rulemaking.

#### 4. Comment and Response Summary

The Commission received a total of three official written comments concerning this final-form rulemaking. Each written comment generally supported the amendment.

#### 5. Cost and Paperwork Requirements

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

#### 6. Effective Date

The final-form rulemaking will be effective upon 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 amendment 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.

(2) The adoption of the amendment 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 135, are amended by amending § 135.41 to read as set forth at 40 Pa.B. 6534.

(b) The Executive Director of the Commission shall certify this order and 40 Pa.B. 6534 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 48-311 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 11-506. Filed for public inspection March 25, 2011, 9:00 a.m.]

### GAME COMMISSION

[ 58 PA. CODE CH. 135 ]

#### Lands and Buildings; State Game Farms

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its February 1, 2011, meeting, amended § 135.61 (relating to State game farms) to make State game lands (SGLs) regulations equally applicable to State game farms.

The final-form rulemaking will not have an 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 40 Pa.B. 6533 (November 13, 2010).

### 1. Purpose and Authority

“State game farms” are the only lands and waters under Commission ownership that do not enjoy the wide range of enumerated protections from various conduct provided under § 135.41 (relating to State game lands) in addition to the protections currently provided under § 135.2 (relating to unlawful acts). The Commission amended § 135.61 to make SGLs regulations equally applicable to State game farms.

Section 721(a) of the code (relating to control of property) provides “The administration of all lands and waters owned, leased or otherwise controlled by the commission shall be under the sole control of the director, and the commission shall promulgate regulations . . . for its use and protection as necessary to properly manage these lands or waters.” Section 741(b) of the code (relating to commission actions for damage to buildings or property) provides “The commission shall promulgate regulations to protect users, improvements, lands and buildings under its control.” The amendments to § 135.61 were adopted under this authority.

### 2. Regulatory Requirements

The final-form rulemaking amended § 135.61 by adding language expanding the application of SGLs regulations to lands and waters designated as State game farms.

### 3. Persons Affected

Persons wishing to utilize lands designated as State game farms 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 additional cost or paperwork.

### 6. Effective Date

The final-form rulemaking will be effective upon 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 amendment 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.

(2) The adoption of the amendment 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 135, are amended by amending § 135.61 to read as set forth at 40 Pa.B. 6533.

(b) The Executive Director of the Commission shall certify this order and 40 Pa.B. 6533 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 48-312 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 11-507. Filed for public inspection March 25, 2011, 9:00 a.m.]

## GAME COMMISSION

### [ 58 PA. CODE CH. 141 ]

#### Hunting and Trapping; Artificial Lights

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its February 1, 2011, meeting, amended § 141.7 (relating to use of artificial lights) to remove conflicting language purporting to continue prohibitions on the usage of gun-mounted lights by hunters and furtakers.

The final-form rulemaking will not have an 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 40 Pa.B. 6532 (November 13, 2010).

### 1. Purpose and Authority

House Bill 881 became law as the act of July 3, 2007 (P. L. 79, No. 26) (Act 26). Act 26 amended sections 2308 and 2310 of the code (relating to unlawful devices and methods; and unlawful use of lights while hunting) to permit furbearer hunters or trappers to take furbearers with a firearm having a flashlight or spotlight mounted to it as long as the sole source of power for the flashlight or spotlight was contained within the light or possessed on their person. In an effort to enhance consistency of the Commission's regulations with Act 26, the Commission amended § 141.7 to remove conflicting language purporting to continue prohibitions on the usage of gun-mounted lights by hunters and furtakers.

Section 2102(d) of the code (relating to regulations) provides “The commission shall 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.” The amendment to § 141.7 was adopted under this authority.

### 2. Regulatory Requirements

The final-form rulemaking amends § 141.7 by removing language purporting to continue to prohibitions on the usage of gun-mounted lights by hunters and furtakers.

### 3. Persons Affected

Persons wishing to use gun-mounted lights while hunting any species where use of lights while hunting is permitted 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 additional cost or paperwork.

6. *Effective Date*

The final-form rulemaking will be effective upon 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 amendment 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.

(2) The adoption of the amendment 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 141, are amended by amending § 141.7 to read as set forth at 40 Pa.B. 6532.

(b) The Executive Director of the Commission shall certify this order and 40 Pa.B. 6532 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 48-313 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 11-508. Filed for public inspection March 25, 2011, 9:00 a.m.]

**GAME COMMISSION**  
**[ 58 PA. CODE CH. 141 ]**  
**Hunting and Trapping; Turkey**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its February 1, 2011, meeting, amended § 141.45 (relating to turkey) to expand the nontoxic shot authorization to both fall and spring turkey seasons as well.

The final-form rulemaking will not have an 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 40 Pa.B. 6532 (November 13, 2010).

1. *Purpose and Authority*

On January 26, 2010, the Commission adopted amendments to § 141.22 (relating to small game) that expanded the types of nontoxic shot that could be used to hunt small game to include a wide variety of commercially available nontoxic shot in addition to steel and Bismuth/tin shot ammunition. See 40 Pa.B. 1737 (April 3, 2010). The Commission amends § 141.45 to expand the nontoxic shot authorization to both fall and spring turkey seasons as well.

Section 2102(d) of the code (relating to regulations) provides “The commission shall 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.” The amendments to § 141.45 were adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking amends § 141.45 by replacing language to expand the nontoxic shot authorization to both fall and spring turkey seasons.

3. *Persons Affected*

Persons wishing to use nontoxic shot ammunition to hunt wild turkey 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 additional cost or paperwork.

6. *Effective Date*

The final-form rulemaking will be effective upon 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 amendment 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.

(2) The adoption of the amendment 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 141, are amended by amending § 141.45 to read as set forth at 40 Pa.B. 6532.



(b) The Executive Director of the Commission shall certify this order and 40 Pa.B. 6532 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 48-314 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 11-509. Filed for public inspection March 25, 2011, 9:00 a.m.]

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

**Special Permits; Snow Goose Conservation Hunt Permit**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its February 1, 2011, meeting, amended § 147.783 (relating to permit) to authorize the use of electronic decoys for hunting and taking activities conducted under a snow goose conservation hunt permit.

The final-form rulemaking will not have an 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 40 Pa.B. 6688 (November 20, 2010).

**1. Purpose and Authority**

In recent years, continental snow goose populations have experienced rapid growth in numbers. This dramatic increase in population size has in turn resulted in extensive damage to arctic and subarctic breeding habitats of the continental snow goose, as well as other bird populations dependent on these habitats. In January 2008, the Commission, working in conjunction with the United States Fish and Wildlife Service, added Chapter 147, Subchapter W (relating to snow goose conservation hunt permit) to define and create the regulatory structure necessary to implement the new Snow Goose Conservation Hunt Program (Program) in this Commonwealth. See 38 Pa.B. 1472 (March 29, 2008). In January 2009, the Commission amended the Program to authorize the limited use of electronic calls for hunting and taking activities conducted under a snow goose conservation hunt permit. See 39 Pa.B. 1205 (March 7, 2009). In light of the Commission's continued recognition of the need to dramatically increase the harvest of continental snow geese in this Commonwealth, the Commission amends § 147.783 to authorize the use of electronic decoys for 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." The amendments to § 147.783 are adopted under this authority.

**2. Regulatory Requirements**

The final-form rulemaking amends § 147.783 by adding language to authorize the use of electronic decoys for hunting and taking activities conducted under a snow goose conservation hunt permit.

**3. Persons Affected**

Persons hunting snow geese during the snow goose conservation season 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. This written comment supported the legalization of the use of electronic decoys during the snow goose conservation season.

**5. Cost and Paperwork Requirements**

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

**6. Effective Date**

The final-form rulemaking will be effective upon 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 amendment 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.

(2) The adoption of the amendment 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 amending § 147.783 to read as set forth at 40 Pa.B. 6688.

(b) The Executive Director of the Commission shall certify this order and 40 Pa.B. 6688 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 48-318 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 11-510. Filed for public inspection March 25, 2011, 9:00 a.m.]