

# RULES AND REGULATIONS

## Title 58—RECREATION

### GAME COMMISSION

[ 58 PA. CODE CHS. 135 AND 147 ]

#### Lands and Buildings; Special Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its February 1, 2011, meeting, amended § 135.181 (relating to rifle and handgun ranges) and added Chapter 147, Subchapter Z (relating to State game lands range permits) to require users of shooting ranges on State game lands to possess either a valid Pennsylvania hunting or furtaker license or a Commission-issued range permit. The Commission also amended § 135.41 (relating to State game lands) to redirect target shooting activities of all unlicensed individuals to designated State game land ranges.

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. 6685 (November 20, 2010).

#### 1. Purpose and Authority

Over the past few years, the Commission has made large investments in its various shooting ranges on State game lands across this Commonwealth. These investments have taken the form of lead remediation, safety barrier reconstruction, shooting range redesign and other related projects. These investments came at a high cost but kept many shooting ranges open and available to the public. Historically, hunters and furtakers have provided most if not all of the resources for keeping the Commission's shooting ranges open to the public through their license dollars. Additionally, the open use of game lands for shooting activities by those not licensed or otherwise permitted has resulted in situations when persons have used ranges and game lands for illicit activities. The Commission has made amendments to regulate unlicensed recreational shooters to accomplish the twin goals of having those unlicensed persons contribute toward the cost of the program and to better quantify and control use of State game lands and game land ranges. To this end, the Commission amends § 135.181 and adds Chapter 147, Subchapter Z to require users of shooting ranges on State game lands to possess either a valid Pennsylvania hunting or furtaker license or a Commission-issued range permit. The Commission also amends § 135.41 to redirect target shooting activities of unlicensed individuals to designated State game land ranges. These changes will not result in increased cost or change in privileges for licensed hunters and furtakers.

Section 721(a) of the code (relating to control of property) provides "The administration of all lands or 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 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 issu-

ance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued." The amendments to §§ 135.41 and 135.181 and the addition of Chapter 147, Subchapter Z are adopted under this authority.

#### 2. Regulatory Requirements

The final-form rulemaking amends § 135.181 and adds Chapter 147, Subchapter Z by replacing and creating language to require users of shooting ranges on State game lands to possess either a valid Pennsylvania hunting or furtaker license or a Commission-issued range permit. The final-form rulemaking also amends § 135.41 by adding language to redirect target shooting activities of unlicensed individuals to designated State game land ranges.

#### 3. Persons Affected

Persons engaged in target shooting activities on State game lands or designated ranges may be affected by the final-form rulemaking.

#### 4. Comment and Response Summary

The Commission received a total of eight official written comments concerning this final-form rulemaking. One written comment supported a higher range fee for non-residents than provided for in the proposed rulemaking. One written comment supported a lower range fee than provided for in proposed 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 amendments 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 amendments 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 Chapters 135 and 147, are amended by amending § 135.41 and adding §§ 147.1001—147.1004 to read as set forth at 40 Pa.B. 6685; and by amending § 135.181 to read as set forth in Annex A.

(b) The Executive Director of the Commission shall certify this order, 40 Pa.B. 6685 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 48-319 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 58. RECREATION**

**PART III. GAME COMMISSION**

**CHAPTER 135. LANDS AND BUILDINGS**

**Subchapter J. SHOOTING RANGES**

**§ 135.181. Rifle and handgun ranges.**

(a) *General provisions.* In addition to § 135.2 (relating to unlawful actions) and except as provided in § 135.182 (relating to Ranges, State Game Lands No. 176), the following pertain to lands under Commission ownership, lease or jurisdiction, designated as rifle or handgun ranges:

(1) Rifle and handgun ranges are open from 8 a.m., prevailing time, until sunset Monday through Saturday and from 12 noon to sunset Sundays, unless otherwise posted; except the Sunday immediately preceding the regular antlered and antlerless deer seasons and the regular bear season, when the hours are 8 a.m. to sunset.

(2) A range may be reserved for exclusive use by an organized group from January 1 through October 1. An organized group desiring to reserve the range shall make necessary arrangements through the appropriate regional director or a designee at least 20 days in advance.

(3) An individual may not use the range when in use on days when it is reserved by an organized group.

(4) An individual or an organized group using the range is responsible for keeping the area clean and free of debris, and may not discard, deposit, leave or throw litter except in approved refuse containers. Range users shall remove targets from range backboards when shooting is completed and prior to leaving the range.

(5) The Commission is not responsible for anyone injured on the range. An individual using Commission owned ranges does so at his own risk and assumes all responsibility for injuries to a person or property caused by or to him.

(6) When more than one person is using the range, a range officer shall be designated.

(7) An individual under 16 years of age may not use the range unless accompanied by a person 18 years of age or older.

(8) The appropriate regional director or designee may close a range by posting signs to that effect.

(b) *Prohibited acts.* At a rifle and handgun range located on land under Commission ownership, lease or jurisdiction, except when authorized by the appropriate regional director or a designee, it is unlawful to:

(1) Possess a loaded firearm, except at an established shooting station on the firing line.

(2) Discharge a firearm, except from an established shooting station on the firing line at a paper target placed on a permanent target backboard.

(3) Discharge armor piercing, incendiary, explosive, tracer or multiple projectile ammunition.

(4) Be intoxicated, use or possess an intoxicating beverage or controlled substance on the range.

(5) Possess an automatic weapon.

(6) Possess, load or discharge a firearm that contains more than three rounds of single projectile ammunition, except as provided in subsection (c).

(7) Shoot clay birds anywhere except areas designated by the Director by signs stating that clay bird shooting is permitted.

(8) Possess, load or discharge a firearm for any reason without possessing a valid Pennsylvania hunting or furtaker license or a Commission-issued range permit signed by its holder. This prohibition does not apply to persons 15 years of age or younger or up to one person accompanying another person in possession of a valid Pennsylvania hunting or furtaker license or a Commission-issued range permit.

(c) *Exceptions for a handgun range.* At a Commission range specifically designated as a handgun range, it is permitted for an individual to load and discharge a handgun containing a maximum of six rounds of single projectile ammunition at any one time. Other rules and regulations pertaining to shooting ranges under Commission ownership, lease or jurisdiction shall be in effect.

[Pa.B. Doc. No. 11-556. Filed for public inspection April 1, 2011, 9:00 a.m.]

**GAME COMMISSION**

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

**Hunting and Trapping; Prohibited Devices**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its February 1, 2011, meeting, added § 141.68 (relating to prohibited devices) to specifically prohibit the usage of fishing hooks or snagging hooks or other devices that are not lawful traps, firearms, bows or crossbows from being utilized during licensed trapping activities.

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. 6685 (November 20, 2010).

**1. Purpose and Authority**

The Commission has recently identified anecdotal evidence of the usage of fishing or snagging hooks in certain trapping activities. While this practice has never been accepted by the Commission or the broader trapping community as an acceptable device for the harvesting of furbearers, current applicable statutes and regulations do not expressly prohibit their usage. The Commission adds § 141.68 to specifically prohibit the usage of fishing hooks or snagging hooks or other devices that are not lawful traps, firearms, bows or crossbows from being utilized during licensed trapping activities.

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." Section 141.68 is adopted under this authority.

### 2. *Regulatory Requirements*

The final-form rulemaking adds § 141.68 by creating language to specifically prohibit the usage of fishing hooks or snagging hooks or other devices that are not lawful traps, firearms, bows or crossbows from being utilized during licensed trapping activities.

### 3. *Persons Affected*

Persons wishing to hunt or trap furbearers 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 adding § 141.68 to read as set forth at 40 Pa.B. 6685.

(b) The Executive Director of the Commission shall certify this order and 40 Pa.B. 6685 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 48-315 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 11-557. Filed for public inspection April 1, 2011, 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), at its February 1, 2011, meeting, amended § 147.673 (relating to eligibility and application for DMAP) to require that public landowners provide approved management plans along with applications and also advance applications date 1 month earlier.

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. 6687 (November 20, 2010).

### 1. *Purpose and Authority*

In April 2010, the Commission directed staff to review the Deer Management Assistance Program (DMAP) as it related to public landowners to enhance accountability for DMAP on public lands. Based upon this review, the Commission amends § 147.673 to require that public landowners provide an approved management plan along with applications. The Commission also advanced the application date 1 month earlier to allow staff adequate time to review and process DMAP applications in a timely manner as well as notify applicants about permit availability prior to the issuance of regular antlerless licenses.

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 § 147.673 are adopted under this authority.

### 2. *Regulatory Requirements*

The final-form rulemaking amends § 147.673 by replacing language to require that public landowners provide an approved management plans along with application and also advance the application date 1 month earlier.

### 3. *Persons Affected*

Persons engaged in DMAP white-tailed deer control activities may be affected by the final-form rulemaking.

### 4. *Comment and Response Summary*

The Commission received a total of two official written comments concerning this final-form rulemaking. Both written comments supported requiring public landowners to submit a written deer management plan with DMAP applications.

### 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 rule-making, 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 § 147.673 to read as set forth at 40 Pa.B. 6687.

(b) The Executive Director of the Commission shall certify this order and 40 Pa.B. 6687 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 48-317 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 11-558. Filed for public inspection April 1, 2011, 9:00 a.m.]

**GAME COMMISSION**  
**[ 58 PA. CODE CH. 147 ]**  
**Special Permits; White-Tailed Deer**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its February 1, 2011, meeting, amended §§ 147.552 and 147.556 (relating to application; and lawful devices and methods) to create a focused, limited authorization permitting the baiting of white-tailed deer in wildlife management units (WMUs) 5C and 5D on approved properties enrolled in the Red Tag Program.

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. 6689 (November 20, 2010).

1. *Purpose and Authority*

On March 31, 2010, the Commission's 3-year evaluation of the effectiveness of a broad scale and widely accessible authorization permitting the baiting of white-tailed deer across the southeast special regulations areas expired.

The Commission's final review of the baiting authorization generally concluded that broad scale and widely accessible baiting did not establish viable increases in harvest rates to justify an extension of the experimental program. In furtherance of the Commission's continuing efforts to find effective tools to manage the population on agriculture lands in this Commonwealth, the Commission amends §§ 147.552 and 147.556 to create a focused, limited authorization permitting the baiting of white-tailed deer in WMUs 5C and 5D on approved properties enrolled in the Red Tag Program.

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 §§ 147.552 and 147.556 are adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking amends §§ 147.552 and 147.556 by adding language to create a focused, limited authorization permitting the baiting of white-tailed deer in WMUs 5C and 5D on approved properties enrolled in the Red Tag Program.

3. *Persons Affected*

Persons engaged in Red Tag white-tailed deer control activities in WMUs 5C and 5D 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 rule-making, 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 amendments 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 amendments 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 §§ 147.552 and 147.556 to read as set forth at 40 Pa.B. 6689.

## RULES AND REGULATIONS

(b) The Executive Director of the Commission shall certify this order and 40 Pa.B. 6689 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 48-316 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 11-559. Filed for public inspection April 1, 2011, 9:00 a.m.]

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