

RULES AND REGULATIONS

Title 58—RECREATION

GAME COMMISSION

[58 PA. CODE CHS. 133 AND 147]

Wildlife Classification of Birds; Special Permits for Falconry

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 27, 2015, meeting adopted amendments to §§ 133.21 and 147.101 (relating to classification of birds; and definitions) and adopted § 147.111b (relating to Arctic Peregrine Falcon limited take special permit) to authorize the limited take of Arctic Peregrine Falcons (*Falco peregrinus tundrius*) within this Commonwealth by qualified falconers.

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 44 Pa.B. 7074 (November 8, 2014).

1. Purpose and Authority

The United States Fish and Wildlife Service (Service) has the authority to grant states within the Atlantic Flyway the ability to permit certain qualified falconers the opportunity to take Arctic Peregrine Falcons (*Falco peregrinus tundrius*) for falconry purposes. Although various states within the Atlantic Flyway currently participate in the limited allowable take of Arctic Peregrine Falcons (*Falco peregrinus tundrius*), the Commonwealth does not.

For the Commission and qualified falconers in this Commonwealth to participate in this program, it must amend its regulations to distinguish between Arctic Peregrine Falcons (*Falco peregrinus tundrius*) and Peregrine Falcons (*Falco peregrinus anatum*) which are currently listed as a Pennsylvania endangered species. Furthermore, the Commission must define the allowable take to establish limitations on the number of Arctic Peregrine Falcons (*Falco peregrinus tundrius*) that can be taken in any given permit year. Finally, the Commission must establish a special permit program that includes eligibility criteria as well as application and issuance standards.

Upon the establishment of this regulatory structure, the Commission will seek approval from the Service for the Commonwealth and qualified falconers to participate in the limited take of Arctic Peregrine Falcons (*Falco peregrinus tundrius*) within this Commonwealth. The Commission amends §§ 133.21 and 147.101 and adds § 147.111b to authorize the limited take of Arctic Peregrine Falcons (*Falco peregrinus tundrius*) within this Commonwealth by qualified falconers.

Section 322(c)(8) of the code (relating to powers and duties of commission) specifically empowers the Commission to “[a]dd to or change the classification of any wild bird or wild animal.” Section 2901(b) of the code (relating to authority to issue permits) provides that “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 §§ 133.21 and 147.101 and the addition of § 147.111b are adopted under this authority.

2. Regulatory Requirements

The final-form rulemaking amends §§ 133.21 and 147.101 and adds § 147.111b to authorize the limited take of Arctic Peregrine Falcons (*Falco peregrinus tundrius*) within this Commonwealth by qualified falconers.

3. Persons Affected

Qualified falconers wishing to participate in the limited take of passage Peregrine Falcons within this Commonwealth will 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 will 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 Thomas P. Grohol, 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 the authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapters 133 and 147, are amended by adding § 147.111b and amending §§ 133.21 and 147.101 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(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*.

R. MATTHEW HOUGH,
Executive Director

Fiscal Note: Fiscal Note 48-372 remains valid for the final adoption of the subject regulations.

Annex A
TITLE 58. RECREATION
PART III. GAME COMMISSION
CHAPTER 133. WILDLIFE CLASSIFICATION
Subchapter B. BIRDS

§ 133.21. Classification of birds.

The following birds are classified:

(1) *Endangered.*

* * * * *

(v) Peregrine Falcon (*Falco peregrinus anatum*).

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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:

Allowable take—The total number of Arctic Peregrine Falcons authorized by the United States Fish and Wildlife Service to be taken from the wild within this Commonwealth during a given permit year.

Bate—Attempt to fly.

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§ 147.111b. Arctic Peregrine Falcon limited take special permit.

(a) *Purpose.* This permit is intended to permit the limited take of the Arctic Peregrine Falcon (*Falco peregrinus tundrius*) solely for use in the practice of falconry.

(b) *Application.*

(1) Applications for the Arctic Peregrine Falcon limited take special permit issued under this section shall be made on PGC-12 (Special Permit/Examination Request—Application).

(2) Applications shall be completed in full and include a copy of the applicant's falconry permit, Pennsylvania hunting license and a nonrefundable application fee of \$25.

(3) Applications shall be sent directly to the Special Permits Enforcement Division in Harrisburg.

(4) Applications will be accepted beginning May 1 and must be submitted no later than July 31 to be eligible for the drawing for that permit year.

(5) Only one application per eligible falconer may be submitted during each permit year. If more than one application is submitted by an eligible falconer, the applications submitted by the applicant will be rejected and the applicant will be ineligible for that year's drawing.

(c) *Eligibility.*

(1) Applications will only be accepted from persons who possess a current and valid master class falconry permit issued under this subchapter and a Pennsylvania resident hunting license.

(2) Applicants shall be a resident of this Commonwealth.

(3) Applicants who were successfully drawn for an Arctic Peregrine Falcon limited take special permit during the previous 2 permit years are ineligible to make application.

(d) *Drawing.*

(1) Each year the Commission will determine the allowable take of Arctic Peregrine Falcons for the season based on the guidelines provided by the United States Fish and Wildlife Service.

(2) If the allowable take authorized for this Commonwealth is one or more in any given year, the Commission will hold a public drawing by August 15 at a location to be determined by the Commission to determine the successful applicants.

(3) The Commission will randomly draw the names of eligible applicants up to and including the total allowable take. The number of permits issued will be based solely on the total allowable take each year. When the total allowable take number is reached, the drawing will be closed and additional permits will not be issued.

(4) The Commission will issue an Arctic Peregrine Falcon limited take special permit to successful applicants by August 31 each year.

(e) *Authorized activities.*

(1) Arctic Peregrine Falcons (*Falco peregrinus tundrius*) may only be taken by persons in possession of a valid master class falconry permit, a resident Pennsylvania hunting license and an Arctic Peregrine Falcon limited take special permit.

(2) Arctic Peregrine Falcons (*Falco peregrinus tundrius*) may be taken only during the period of September 20 to October 20, inclusive.

(3) Banded Peregrine Falcons may not be taken under the authorizations of this section. Banded Peregrine Falcons shall be released immediately upon capture and the band numbers of the released birds shall be reported to the Special Permits Enforcement Division within 24 hours.

(4) Arctic Peregrine Falcons may only be captured by devices authorized under § 147.105a(4) (relating to resident falconers).

(5) Persons issued an Arctic Peregrine Falcon limited take special permit shall abide by other applicable State and Federal falconry laws and regulations.

(6) Upon successful capture of an Arctic Peregrine Falcon, the permittee shall notify the Special Permits Enforcement Division with 24 hours. The permittee shall arrange for inspection within 3 days of the capture as directed by the Special Permits Enforcement Division.

(7) Upon inspection by the Commission as indicated, the Arctic Peregrine Falcon shall be marked with a permanent, nonreusable numbered leg band provided by the Commission.

(f) *Conformance with Federal regulations.* If the Federal regulations regarding dates or times of application, drawing or take change, the Executive Director has the authority to conform the Commonwealth's dates to the Federal regulations for that year in which the dates under Federal regulations have changed.

(g) *Violations.* Violations of the requirements of this section are subject to the penalties in the act.

[Pa.B. Doc. No. 15-498. Filed for public inspection March 20, 2015, 9:00 a.m.]

GAME COMMISSION
[58 PA. CODE CH. 143]

Hunting and Furtaker Licenses; Hunter Education Training

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 27, 2015, meeting adopted amendments to § 143.12 (relating to hunter education training) to authorize the Commission to develop and implement an online hunter-trapper education course of study and assess vendor fees that may be incurred through the course of instruction and certification.

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 44 Pa.B. 7071 (November 8, 2014).

1. *Purpose and Authority*

Hunter education delivery methods continue to evolve across the United States. The use of independent study is one delivery method which has been in use for nearly a decade in this Commonwealth. A student studies the majority of the course on his own then attends an abbreviated 2-hour class to meet the local Wildlife Conservation Officer, who leads a lesson on hunting laws and regulations. At the conclusion of this lesson, the student completes the certification exam and receives a training certificate.

Recently, online training programs have been developed to not only provide the training component, but also enable online testing and certification of students as well. Upon successful completion of the course of study, a student can print a certificate of training and purchase a hunting license. This capability continues to improve customer service and convenience. Additionally, it removes potential barriers for students who are unable to attend a traditional, instructor-led class or one of the Commission's independent study classes. It provides another tool for the Commission to reach a large audience of people interested in hunting or trapping.

The Commission adopted amendments to § 143.12 to authorize the Commission to develop and implement an online hunter-trapper education course of study and assess vendor fees that may be incurred through the course of instruction and certification. Vendors who develop and manage online hunter education training and certification courses typically charge a user fee to recover the ongoing development and maintenance costs of the program. This final-form rulemaking enables the Commission to offer a completely online hunter-trapper education training and certification course while providing for a convenience fee to be paid by those students who choose this option. The Commission will continue to offer nearly 1,000 instructor-led hunter-trapper education classes each year. These classes will continue to meet the legislative mandate for hunter-trapper education instruction to be free of charge.

Section 2102(a) of the code (relating to regulations) provides that "[t]he commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting

hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendments to § 143.12 are adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking amends § 143.12 to authorize the Commission to develop and implement an online hunter-trapper education course of study and assess vendor fees that may be incurred through the course of instruction and certification.

3. *Persons Affected*

Persons seeking hunter-trapper education within this Commonwealth may be affected by the final-form rulemaking.

4. *Comment and Response Summary*

The Commission received one official comment in opposition to the final-form rulemaking.

5. *Cost and Paperwork Requirements*

The final-form rulemaking will 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 Thomas P. Grohol, 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 the authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 143, are amended by amending § 143.12 to read as set forth at 44 Pa.B. 7071.

(b) The Executive Director of the Commission shall certify this order and 44 Pa.B. 7071 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*.

R. MATTHEW HOUGH,
Executive Director

Fiscal Note: Fiscal Note 48-369 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 15-499. Filed for public inspection March 20, 2015, 9:00 a.m.]

GAME COMMISSION
[58 PA. CODE CH. 147]

Special Permits; Nuisance Wildlife Control Operator

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 27, 2015, meeting adopted amendments to § 147.726 (relating to operation) to authorize the use of raptors for nuisance wildlife abatement by persons in possession of a Nuisance Wildlife Control Operator Permit and a Special Purpose—Abatement Using Raptors 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 44 Pa.B. 7073 (November 8, 2014).

1. Purpose and Authority

The United States Fish and Wildlife Service has the authority to issue a Special Purpose—Abatement Using Raptors Permit. This permit generally allows qualified individuals to utilize raptors to handle nuisance wildlife issues for other persons. The Commission requires a person to obtain a Nuisance Wildlife Control Operators Permit if that person conducts nuisance wildlife control work for another person in this Commonwealth. The Commission amends § 147.726 to authorize the use of raptors for nuisance wildlife abatement by persons in possession of a Nuisance Wildlife Control Operator Permit and a Special Purpose—Abatement Using Raptors Permit.

Section 2901(b) of the code (relating to authority to issue permits) provides that “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 § 147.726 are adopted under this authority.

2. Regulatory Requirements

The final-form rulemaking amends § 147.726 to authorize the use of raptors for nuisance wildlife abatement by persons in possession of a Nuisance Wildlife Control Operator Permit and a Special Purpose—Abatement Using Raptors Permit.

3. Persons Affected

Persons wishing to utilize raptors for nuisance wildlife abatement within this Commonwealth will 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 will not result in additional cost or paperwork.

6. Effective Date

The final-form rulemaking will be effective upon final-form 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 Thomas P. Grohol, 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 the authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 147, are amended by amending § 147.726 to read as set forth at 44 Pa.B. 7073.

(b) The Executive Director of the Commission shall certify this order and 44 Pa.B. 7073 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*.

R. MATTHEW HOUGH,
Executive Director

Fiscal Note: Fiscal Note 48-371 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 15-500. Filed for public inspection March 20, 2015, 9:00 a.m.]