

# RULES AND REGULATIONS

## Title 58—RECREATION

### GAME COMMISSION

[ 58 PA. CODE CH. 131 ]

#### Preliminary Provisions; Replacement Costs for Wildlife Killed

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its September 29, 2015, meeting, amended § 131.8 (relating to replacement costs for wildlife killed) to increase replacement costs for bald and golden eagles from \$200 to \$2,500.

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 45 Pa.B. 4921 (August 22, 2015).

##### 1. Purpose and Authority

In accordance with goals established in the Pennsylvania Bald Eagle Management Plan, 2010-2019, the Commission determined that the bald eagle (*Haliaeetus leucocephalus*) achieved a population level and geographical distribution that no longer met the definition of a threatened species. As a result, on March 15, 2014, the bald eagle was officially removed from the Commonwealth's threatened species list. Notwithstanding the delisting, the bald eagle's population and the population of the golden eagle (*Aquila chrysaetos*) necessitate further protection from unlawful takings in the form of increased replacement costs.

Section 925(i) of the code (relating to jurisdiction and penalties) specifically states that "[i]n addition to the fines and costs imposed for violations pursuant to subsection (b), the costs incurred by the commission for the replacement of the species involved in the violation shall be assessed by the magisterial district judge in such amount as is fixed by regulation of the commission." The Commission amends § 131.8 to increase replacement costs for bald and golden eagles from \$200 to \$2,500.

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 § 131.8 are adopted under this authority.

##### 2. Regulatory Requirements

The final-form rulemaking amends § 131.8 to increase replacement costs for bald and golden eagles from \$200 to \$2,500.

##### 3. Persons Affected

Persons who unlawfully take or kill bald or golden eagles in 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 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 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 Chapter 131, are amended by amending § 131.8 to read as set forth at 45 Pa.B. 4921.

(b) The Executive Director of the Commission shall certify this order and 45 Pa.B. 4921 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 48-386 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 15-1966. Filed for public inspection November 6, 2015, 9:00 a.m.]

### GAME COMMISSION

[ 58 PA. CODE CH. 133 ]

#### Wildlife Classification; Mammals

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its September 29, 2015, meeting, amended § 133.41 (relating to classification of mammals) to remove the Delmarva Fox Squirrel from the State endangered species list and update the common name of the Eastern woodrat to the Allegheny woodrat.

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 45 Pa.B. 4922 (August 22, 2015).

#### 1. Purpose and Authority

The Commission amends § 133.41 to remove the Delmarva Fox Squirrel from the State endangered species list and update scientific nomenclature. The first amendment pertains to the Delmarva Fox Squirrel (*Scuirus niger niger*). This is one of three subspecies of fox squirrel listed in this Commonwealth. The species was historically present in only a very limited portion of southeastern Pennsylvania. A reintroduction attempted in 1989 resulted in no documented survival past 1 year. Suitable habitat for this species within its historic range no longer exists. No documented sightings of this species have been recorded in the 25 years subsequent to the reintroduction effort. The Mammal Technical Committee, a scientific advisory committee of the Pennsylvania Biological Survey, recommended that the status of the fox squirrel be changed to State extirpated and that it be removed from the list of State endangered mammals. The Delmarva Fox Squirrel population across the species core range in coastal portions of Delaware, Maryland and Virginia is considered stable.

The second amendment updates the common name of the Eastern woodrat to the Allegheny woodrat. Based upon genetic and morphological evidence, the Eastern woodrat has been split into two species—the Eastern woodrat and the Allegheny woodrat. The Allegheny woodrat (*Neotoma magister*) inhabits this Commonwealth and is currently listed as threatened. The Eastern woodrat is not found in this Commonwealth.

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 2167(a) of the code (relating to endangered or threatened species) states that “[t]he commission may, by regulation, add or remove any wild bird or wild animal native to this Commonwealth to or from the Pennsylvania native list of endangered or threatened species.” The amendments to § 133.41 are adopted under this authority.

#### 2. Regulatory Requirements

The final-form rulemaking amends § 133.41 to remove the Delmarva Fox Squirrel from the State endangered species list and also update the common name of the Eastern woodrat to the Allegheny woodrat.

#### 3. Persons Affected

Persons interacting with the Delmarva Fox Squirrel or Allegheny woodrat 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 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 Chapter 133, are amended by amending § 133.41 to read as set forth at 45 Pa.B. 4922.

(b) The Executive Director of the Commission shall certify this order and 45 Pa.B. 4922 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 48-384 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 15-1967. Filed for public inspection November 6, 2015, 9:00 a.m.]

## GAME COMMISSION

### [ 58 PA. CODE CH. 135 ]

#### Lands and Buildings; Goose Hunting Areas

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its September 29, 2015, meeting, amended § 135.104 (relating to restrictions on controlled goose hunting areas) to limit persons to harvesting one Canada goose per person per season at the Middle Creek Wildlife Management Area controlled goose hunting area.

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 45 Pa.B. 4920 (August 22, 2015).

#### 1. Purpose and Authority

The controlled goose hunting program on the Middle Creek Wildlife Management Area provides opportunities for hunters to harvest Canada geese during the regular goose hunting season. Each year a number of hunters are selected to hunt from blinds through a public drawing. Hunters may subsequently enter into a drawing on later

days for unclaimed blinds where they may take additional geese, but remain within the 1 goose per day daily bag limit.

Hunter success rates have been declining in the controlled goose hunting area due in part to declining resident goose populations, fewer migrant geese and higher harvest rates on geese in areas surrounding Middle Creek. The September season daily limits and regular season daily bag limits have been reduced to increase resident goose populations. Additionally, the September hunting season was closed on State Game Land No. 46. In a further effort to help increase Canada goose populations on Middle Creek, the Commission amends § 135.104 to limit the take in the controlled goose hunting area to one Canada goose per person per season.

Section 721(a) of the code (relating to control of property) provides “[t]he 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.” The amendments to § 135.104 are adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking amends § 135.104 to limit persons to harvesting one Canada goose per person per season at the Middle Creek Wildlife Management Area controlled goose hunting area.

3. *Persons Affected*

Persons wishing to hunt Canada geese at the Middle Creek Wildlife Management Area controlled goose hunting area 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 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 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 Chapter 135, are amended by amending § 135.104 to read as set forth at 45 Pa.B. 4920.

(b) The Executive Director of the Commission shall certify this order and 45 Pa.B. 4920 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 48-383 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 15-1968. Filed for public inspection November 6, 2015, 9:00 a.m.]

GAME COMMISSION

[ 58 PA. CODE CHS. 143 AND 147 ]

Hunting and Furtaker Licenses; Special Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its September 29, 2015, meeting, amended §§ 143.182, 143.185 and 147.804 (relating to definitions; the license; and general) to add cottontail rabbit and mourning dove to the list of species that mentored youth are eligible to hunt and also require that mentored youth obtain a Migratory Game Bird License prior to hunting mourning dove.

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 45 Pa.B. 4919 (August 22, 2015).

1. *Purpose and Authority*

Since the successful implementation of the Mentored Youth Hunting Program in fall 2006, the Commission has been striving to improve upon the successes of this mentor-based program. Sporting organizations and other interested groups have continued to encourage the Commission to expand mentored youth hunting opportunities in this Commonwealth to additional species, including the cottontail rabbit and mourning dove. Importantly, the mourning dove is defined as a migratory bird species and requires the acquisition of a Migratory Game Bird License to facilitate the Harvest Information Program (HIP). HIP is a cooperative state and Federal program designed to improve the information collected regarding the harvest of migratory game birds. The Commission amends §§ 143.182, 143.185 and 147.804 to add cottontail rabbit and mourning dove to the list of species that mentored youth are eligible to hunt and also require that mentored youth obtain a Migratory Game Bird License prior to hunting mourning dove.

Section 2722(g) of the code (relating to authorized license-issuing agents) directs the Commission to adopt regulations for the administration, control and performance of license issuing activities. 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 §§ 143.182, 143.185 and 147.804 are adopted under this authority.

### 2. *Regulatory Requirements*

The final-form rulemaking amends §§ 143.182, 143.185 and 147.804 to add cottontail rabbit and mourning dove to the list of species that mentored youth are eligible to hunt and also require that mentored youth obtain a Migratory Game Bird License prior to hunting mourning dove.

### 3. *Persons Affected*

Persons wishing to hunt cottontail rabbit and mourning dove under the Mentored Youth Hunting Program will be affected by the final-form rulemaking.

### 4. *Comment and Response Summary*

The Commission received one official comments in general opposition to 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 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 143 and 147, are amended by amending §§ 143.182, 143.185 and 147.804 to read as set forth at 45 Pa.B. 4919.

(b) The Executive Director of the Commission shall certify this order and 45 Pa.B. 4919 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 48-387 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 15-1969. Filed for public inspection November 6, 2015, 9:00 a.m.]