

PROPOSED RULEMAKING

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 65]

Fishing; Special Fishing Regulations

The Fish and Boat Commission (Commission) proposes to amend Chapter 65 (relating to special fishing regulations). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code).

A. Effective Date

This proposed rulemaking, if approved on final-form rulemaking, will go into effect upon final-form publication in the *Pennsylvania Bulletin*.

B. Contact Person

For further information on this proposed rulemaking, contact Laurie E. Shepler, Esq., P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rulemaking is available on the Commission's website at www.fishandboat.com.

C. Statutory Authority

The proposed amendments to § 65.24 (relating to miscellaneous special regulations) are published under the statutory authority of section 2307 of the code (relating to waters limited to specific purposes).

D. Purpose and Background

This proposed rulemaking is designed to improve, enhance and update the Commission's fishing regulations. The specific purpose of the proposed amendments is described in more detail under the summary of proposal.

E. Summary of Proposal

In 2011 and 2012, the Commission applied two black bass angling regulation changes to the Susquehanna River from Sunbury downriver to York Haven (middle Susquehanna River), the Susquehanna River from York Haven downriver to Holtwood Dam (lower Susquehanna River) and the Juniata River from Port Royal downriver to the mouth (lower Juniata River). In 2011, the Commission removed these river sections from the Big Bass Program and a year-round catch-and-immediate release regulation was enacted. In 2012, the Commission adjusted this regulation to include a closed season for black bass from May 1 to the opening day of bass season in mid-June, with a catch and immediate release regulation remaining for the rest of the year. Bass tournaments were limited to catch-measure-immediate release only, with no weigh-in tournaments allowed.

The regulations implemented during 2011 and 2012 to protect Smallmouth Bass residing in the middle and lower Susquehanna River and the lower Juniata River were not intended to be permanent. Additionally, the Commission has received a number of complaints since these regulations went into effect stating that anglers are violating the closed season and the regulation is largely unenforceable. Further, recent changes in population characteristics of Smallmouth Bass in the middle Susquehanna River, lower Susquehanna River and lower

Juniata River warrant a review of the current regulations to determine whether they are continuing to serve their intended role as part of managing this fishery.

The Commission proposes to use an adaptive management approach to remove and reinstitute, if necessary, closed season regulations currently applied to these river reaches. By establishing a set of population recovery benchmarks, Commission staff developed guidance on when to remove current closed season regulations as well as when to reinstitute them should conditions change negatively in the future. A secondary benefit of this approach is public transparency as benchmark values for different metrics will be disseminated and annual evaluations will allow for up-to-date comparisons against benchmarks. This approach may streamline and expedite future regulatory action.

Commission staff developed a series of metrics to assess changes to the Smallmouth Bass population that could warrant removal as well as the application of closed season regulations based upon population characteristics. These data and literature-derived values set benchmarks for amending existing regulations as well as provide guidance for reinstitution should conditions change negatively in the future. These benchmarks are scientifically based using available data and literature and are set at a standard to reflect the world-class fishery for which these waters are renowned. The application of the benchmarks will be similar to adaptive management strategies utilized by the Atlantic States Marine Fisheries Commission and the Great Lakes Fishery Commission. These metrics focus on a combination of measures of relative abundance and size composition of the population.

Commission staff recommend a review period of at least 5 years be used for evaluation based on the inherent variability in the factors controlling the population, variability in data collection and longevity of Smallmouth Bass. For these same reasons, staff propose that benchmarks must be met for minimum time periods (for example, 3 of 5 years) rather than for definitive time periods (for example, consecutive years) given natural variability in healthy fish populations. Additionally, staff suggest that benchmarks be achieved for two of the three metrics for each reach for a five-survey evaluation period.

Review of the most contemporary survey data revealed that all three of the subject reaches met the recovery benchmarks to allow removal of closed season regulations beginning in the 2017 season. Staff will continue to survey population characteristics moving forward to guide future regulatory actions should population characteristics change.

Based on the foregoing, the Commission proposes that the closed bass (Smallmouth Bass and Largemouth Bass) season be removed from May 1 to mid-June (with dates described by the usual formula) and no tournaments be permitted during this period. Catch and release restrictions will continue to be applied to those portions of the Susquehanna River and Juniata River currently included under this miscellaneous special regulation (Figure 1). Bass tournaments occurring outside of the mid-April to mid-June period will continue to be restricted to catch-measure-immediate release only as will all bass angling. The Commission proposes that § 65.24 be amended to read as set forth in Annex A.

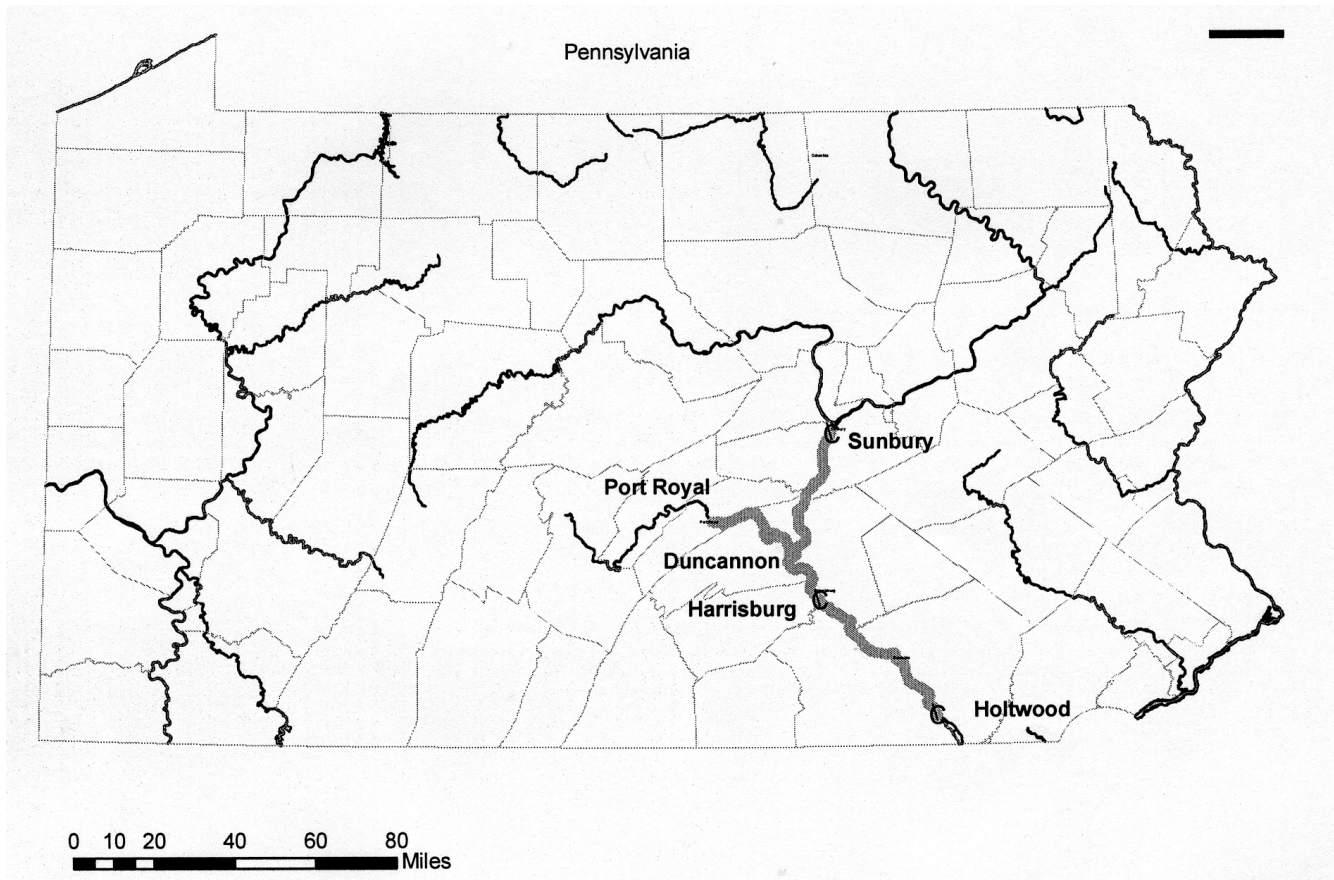


Figure 1. Location on the lower Susquehanna River and lower Juniata River where a closed bass season with no tournaments permitted will be removed. Year-round black bass catch and immediate release regulations will continue to apply to these locations. No tournaments will be permitted during the mid-April to mid-June closed season consistent with other waters in the Commonwealth. Catch-measure-immediate release tournaments will be permitted at other times of year.

Commission staff also recommend that in the future the lower Susquehanna River reach be treated independently while the middle Susquehanna River and lower Juniata River reaches be treated jointly for removal or application of closed season regulations. Unrestricted movement of fish between the two systems would complicate treatment of each exclusively. The joint treatment of those reaches would defer to the most conservative option for either reach based upon their data relative to benchmarks.

F. Paperwork

This proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

G. Fiscal Impact

This proposed rulemaking will not have adverse fiscal impacts on the Commonwealth or its political subdivisions. This proposed rulemaking will not impose new costs on the private sector or the general public.

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about this proposed rulemaking to the Executive Director, Fish and Boat Commission, P.O. Box 67000, Harrisburg, PA 17106-7000 within 60 days after publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

JOHN A. ARWAY,
Executive Director

Fiscal Note: 48A-274. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 65. SPECIAL FISHING REGULATIONS

§ 65.24. Miscellaneous special regulations.

The following waters are subject to the following miscellaneous special regulations:

<i>County</i>	<i>Name of Water</i>	<i>Special Regulations</i>
* * * * *		
Cumberland, Dauphin, Juniata, Lancaster, Northumberland, Perry, Snyder, York	Susquehanna River (98.0 miles) from the inflatable dam near Sunbury downstream to Holtwood Dam, including all tributaries to a point 1/2 mile upstream from the confluence	<p>[Bass (smallmouth and largemouth)—From May 1 to 12:01 a.m. the first Saturday after June 11—Closed season; no tournaments. During the closed season, it is unlawful to target or attempt to catch a bass. A bass that is accidentally caught during the closed season must be immediately released unharmed without being removed from the water. It is unlawful to possess bass in, on or along these waters. Remainder of the year—No harvest—Catch and immediate release only; catch-measure-immediate release tournaments only.]</p> <p>Bass (Smallmouth and Largemouth)—No harvest year-round—catch and immediate release only.</p> <p>From 12:01 a.m. the first Saturday after April 11 to 12:01 a.m. the first Saturday after June 11—No Bass tournaments.</p> <p>Remainder of the year—Catch-measure-immediate release tournaments only.</p>
Dauphin, Juniata, Perry	Juniata River (31.7 miles) from SR0075 bridge at Port Royal downstream to the mouth, including all tributaries to a point 1/2 mile upstream from the confluence	<p>[Bass (smallmouth and largemouth)—From May 1 to 12:01 a.m. the first Saturday after June 11—Closed season; no tournaments. During the closed season, it is unlawful to target or attempt to catch a bass. A bass that is accidentally caught during the closed season must be immediately released unharmed without being removed from the water. It is unlawful to possess bass in, on or along these waters. Remainder of the year—No harvest—Catch and immediate release only; catch-measure-immediate release tournaments only.]</p> <p>Bass (Smallmouth and Largemouth)—No harvest year-round—catch and immediate release only.</p> <p>From 12:01 a.m. the first Saturday after April 11 to 12:01 a.m. the first Saturday after June 11—No Bass tournaments.</p> <p>Remainder of the year—Catch-measure-immediate release tournaments only.</p>
* * * * *		

[Pa.B. Doc. No. 17-413. Filed for public inspection March 10, 2017, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CH. 141]

Hunting and Trapping; Hunting Hours

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its January 31, 2017, meeting to amend Chapter 141, Appendix G (relating to hunting hours) to replace the current hunting hours table and migratory bird hunting hours table to accurately reflect the dates and hours of legal hunting for the 2017-2018 hunting/trapping license year.

This proposed rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

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

This proposed rulemaking was made public at the January 31, 2017, meeting of the Commission. Comments can be sent until March 24, 2017, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

The Commission is proposing to amend Appendix G to replace the current hunting hours table and migratory bird hunting hours table to accurately reflect the dates and hours of legal hunting for the 2017-2018 hunting/trapping license year.

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 Appendix G are proposed under this authority.

2. Regulatory Requirements

This proposed rulemaking will amend Appendix G by replacing the current hunting hours table and migratory bird hunting hours table to accurately reflect the dates and hours of legal hunting for the 2017-2018 hunting/trapping license year.

3. Persons Affected

Persons wishing to hunt or trap game or wildlife within this Commonwealth during the 2017-2018 hunting/trapping license year will be affected by this proposed rulemaking.

4. Cost and Paperwork Requirements

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

5. Effective Date

The effective dates of this proposed rulemaking are July 1, 2017, to June 30, 2018.

6. Contact Person

For further information regarding this proposed rulemaking, contact Thomas P. Grohol, Director, Bureau of

Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

R. MATTHEW HOUGH,
Executive Director

Fiscal Note: 48-407. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Appendix G. HUNTING HOURS

(Editor’s Note: As part of this proposed rulemaking, the Commission is proposing to replace the tables which appear in 58 Pa. Code pages 141-34—141-36, serial pages (381024)—(381026), with the following tables.)

HUNTING HOURS TABLE FOR JULY 1, 2017, THROUGH JUNE 30, 2018

Dates	Begin A.M.	End P.M.
July 1	5:06	9:03
July 2—8	5:10	9:01
July 9—15	5:15	8:58
July 16—22	5:20	8:53
July 23—29	5:27	8:47
July 30—Aug. 5	5:33	8:39
Aug. 6—12	5:40	8:31
Aug. 13—19	5:46	8:21
Aug. 20—26	5:53	8:07
Aug. 27—Sept. 2	6:00	8:00
Sept. 3—9	6:06	7:49
Sept. 10—16	6:13	7:37
Sept. 17—23	6:19	7:25
Sept. 24—30	6:26	7:14
Oct. 1—7	6:33	7:03
Oct. 8—14	6:40	6:52
Oct. 15—21	6:48	6:42
Oct. 22—28	6:55	6:33
Oct. 29—Nov. 4	7:03	6:25
Nov. 5—11 **Ends	6:11	5:18
Nov. 12—18	6:19	5:12
Nov. 19—25	6:27	5:08
Nov. 26—Dec. 2	6:35	5:05
Dec. 3—9	6:41	5:05
Dec. 10—16	6:45	5:06
Dec. 17—23	6:50	5:07
Dec. 24—30	6:52	5:11
Dec. 31—Jan. 6	6:52	5:16
Jan. 7—13	6:51	5:22
Jan. 14—20	6:51	5:29
Jan. 21—27	6:47	5:37
Jan. 28—Feb. 3	6:42	5:45
Feb. 4—10	6:36	5:54
Feb. 11—17	6:28	6:02
Feb. 18—24	6:19	6:10
Feb. 25—Mar. 3	6:10	6:18
Mar. 4—10	5:59	6:26
Mar. 11—17 *Begins	6:48	7:33
Mar. 18—24	6:37	7:41
Mar. 25—31	6:24	7:49
Apr. 1—7	6:15	7:55
Apr. 8—14	6:04	8:02
Apr. 15—21	5:53	8:09
Apr. 22—28	5:43	8:16
Apr. 29—May 5	5:35	8:23
May 6—12	5:25	8:30
May 13—19	5:17	8:37

<i>Dates</i>	<i>Begin A.M.</i>	<i>End P.M.</i>
May 20—26	5:11	8:44
May 27—June 2	5:06	8:50
June 3—9	5:03	8:55
June 10—16	5:02	9:01
June 17—23	5:03	9:02
June 24—30	5:05	9:03

*Daylight Saving Time Begins

**Ends

**MIGRATORY GAME BIRD HUNTING
HOURS TABLE
2017-2018**

<i>Dates</i>	<i>Begin A.M.</i>	<i>End P.M.</i>
Aug. 27—Sept. 2	6:00	7:30
Sept. 3—9	6:06	7:19
Sept. 10—16	6:13	7:07
Sept. 17—23	6:19	6:55
Sept. 24—30	6:26	6:43
Oct. 1—7	6:33	6:34
Oct. 8—14	6:40	6:22
Oct. 15—21	6:48	6:12
Oct. 22—28	6:55	6:03
Oct. 29—Nov. 4	7:03	5:55
Nov. 5—11 **Ends	6:11	4:48
Nov. 12—18	6:19	4:42
Nov. 19—25	6:27	4:38
Nov. 26—Dec. 2	6:35	4:35
Dec. 3—9	6:41	4:35
Dec. 10—16	6:45	4:36
Dec. 17—23	6:50	4:37
Dec. 24—30	6:52	4:41
Dec. 31—Jan. 6	6:52	4:46
Jan. 7—13	6:51	4:52
Jan. 14—20	6:51	4:59
Jan. 21—27	6:47	5:07
Jan. 28—Feb. 3	6:42	5:15
Feb. 4—10	6:36	5:24
Feb. 11—17	6:28	5:32
Feb. 18—24	6:19	5:40
Feb. 25—Mar. 3	6:10	5:48
Mar. 4—10	5:59	5:56
Mar. 11—17 *Begins	6:48	7:03
Mar. 18—24	6:37	7:11
Mar. 25—31	6:24	7:19
Apr. 1—7	6:15	7:25
Apr. 8—14	6:04	7:32

*Daylight Saving Time Begins

**Ends

[Pa.B. Doc. No. 17-414. Filed for public inspection March 10, 2017, 9:00 a.m.]

[58 PA. CODE CH. 141]

Hunting and Trapping; Wild Pheasant Recovery Areas

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its January 31, 2017, meeting to amend § 141.28 (relating to wild pheasant recovery areas) to reduce the size of the Central Susquehanna Wild Pheasant Recovery Area (WPRAs), open the Central Susquehanna WPRAs to limited youth pheasant hunting opportunities authorized by executive order, eliminate small game hunting restrictions within WPRAs and shorten the dog training restricted period within WPRAs.

This proposed rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

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

This proposed rulemaking was made public at the January 31, 2017, meeting of the Commission. Comments can be sent until March 24, 2017, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

Huntible populations of wild pheasants have been successfully established in portions of the Central Susquehanna WPRAs, while other portions of the WPRAs contain very few or no pheasants. In keeping with the goals of the WPRAs program, a reduction in size of the WPRAs is being proposed which will open unsuccessful portions to general pheasant hunting and to the stocking of pen-reared pheasants. Simultaneously, as a conservative approach in reopening the successful portions of the WPRAs to pheasant hunting, a proposed amendment will enable the Executive Director to authorize permit-based, youth-only pheasant hunting opportunities in the Central Susquehanna WPRAs. A hunt could occur as early as 2017-2018.

When WPRAs were established, restrictions on small game hunting and dog training were included to avoid potential negative impacts to reintroduced pheasant populations. Research and monitoring results for all WPRAs have demonstrated that outside the nesting season, effects of these activities on pheasants are negligible. Therefore, it is proposed that small game hunting restrictions (except for those related to pheasants) be removed from WPRAs and that the restricted period for dog training be shortened. As the WPRAs program transitions to an operational phase, these changes will provide additional recreational opportunities for hunters and dog handlers without jeopardizing wild pheasant populations.

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 § 141.28 are proposed under this authority.

2. Regulatory Requirements

This proposed rulemaking will amend § 141.28 to reduce the size of the Central Susquehanna WPRAs, open the Central Susquehanna WPRAs to limited youth pheasant hunting opportunities authorized by executive order, eliminate small game hunting restrictions within WPRAs and shorten the dog training restricted period within WPRAs.

3. Persons Affected

Persons wishing to hunt or take pheasants or train dogs on small game within this Commonwealth may be affected by this proposed rulemaking.

4. *Cost and Paperwork Requirements*

The majority of this proposed rulemaking should not result in additional cost or paperwork. However, this proposed rulemaking will result in the creation of a new class of permit that will be required for youth hunters. The Commission anticipates that this permit will be made available through the Pennsylvania Automated License System, therefore paperwork requirements to the general public will be nominal. The Commission determined that there will be limited personnel and administrative costs associated with the implementation of this new permit program. The Commission anticipates that these costs will be accommodated through existing staffing and existing budgets.

5. *Effective Date*

This 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 this proposed rulemaking, contact Thomas P. Grohol, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

R. MATTHEW HOUGH,
Executive Director

Fiscal Note: 48-403. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Subchapter B. SMALL GAME

§ 141.28. Wild pheasant recovery areas.

(a) *Definition.* For the purpose of this section, the phrase “wild pheasant recovery area” (WPRAs) includes and is limited to the following geographic locations.

* * * * *

(2) *Central Susquehanna WPRAs.* [Portions of WMU 4E in Northumberland, Montour, Columbia and Lycoming counties from the West Branch of the Susquehanna River south to the intersection with PA Rt. 642 and the West Branch of the Susquehanna River in Milton. The southern boundary is defined by PA Rt. 642 east from Milton to Maudsley, then north on PA Rt. 642 to just south of Jerseytown, proceeding east on Eversgrove Rd. to Evers Grove at PA Rt. 42. Proceeding south on PA Rt. 42 to Mordansville, northeast of Mordansville along Robbins Rd. (Rt. 600) to Mordansville Rd. (Rt. 541), south on Millertown Rd. (Rt. 4011), then continuing east to follow Mount Pleasant Rd. (Rt. 4020) and Mount Pleasant St. (PA Rt. 4034) to Orangeville at the southeast corner of the WPRAs. PA Rt. 487 lines the eastern boundary from Orangeville north to Maple Grove/intersection with PA Rt. 254. The northern boundary begins with PA Rt. 254 west of Maple Grove to the intersection with Winters Rd. (Rt. 459) proceeding west to the intersection with Austin Trail (PA Rt. 4039). Continuing west on Owl Rd. (Rt. 599), north and west on Reese Rd. (Rt. 578), and north and west on Trivelpiece Rd. (Rt. 576). Eagle Rd. (PA Rt. 4037) then continues northwest to the intersection with Whitehorse Rd./Whitehorse

Pike (Rt. 661) heading west to just south of Sereno, and then south on PA Rt. 42 to Millville. From Millville, proceeding southwest on PA Rt. 254 to Jerseytown. Then northwest on PA Rt. 44, north on Swartz Rd., west on Shultz Rd., north on Ants Hill Rd., west on Wolf Hollow Rd., then north on Katy’s Church Rd. Crossing into Lycoming County and proceeding northwest on G Wagner Rd., west on Ridge Rd., crossing into Montour County, southwest on County Line Rd., south on Muncy Exchange Rd. (PA Rt. 1003), west on Hickory Rd. (PA Rt. 1008), west on Mingle Rd. (Rt. 433), west on Hickory Rd. (PA Rt. 1008) for the second time, and proceeding north on Gearhart Hollow Rd. (Rt. 441). Continuing west on Showers Rd. (PA Rt. 1010), crossing into Northumberland County, proceeding north and west on Pugmore Lane, north on Hockley Hill Rd. (PA Rt. 1011), west on Miller Rd. (Rt. 653), continuing southwest on Balliet Rd. (Rt. 664). Proceeding northwest and west on Schmidt Rd. (Rt. 564), continuing north on Susquehanna Trail (PA Rt. 1007), continuing west on Hughes Rd. (Rt. 655), crossing under I-180, proceeding south on Crawford Rd. (Rt. 507) to PA Rt. 54. Proceeding northwest on PA Rt. 54 to the West Branch of the Susquehanna River.] Portions of WMU 4E in Northumberland, Montour and Columbia Counties, bounded and described as follows. Beginning in the southwestern extent of the WPRAs at the intersection of Interstate 80 and Interstate 180, proceed north on Interstate 80 for approximately 7.2 miles to the intersection of Hughes Road. The boundary follows Hughes Road east for 0.2 mile to Susquehanna Trail. Follow Susquehanna Trail south for 0.2 mile to Schmidt Road. Follow Schmidt Road for 1.6 miles to Miller Road. Follow Miller Road east for 1.1 miles to intersection of Hockey Hill Road. Go right on Hockey Hill Road then left onto Pugmore Lane. Follow Pugmore Lane for 0.7 mile to Harrison Road. The boundary follows Harrison Road south for 0.7 mile to Showers Road. Follow Showers Road for 1.2 miles east to intersection of Gearhart Road. Turn right on Gearhart Road and go south for 0.6 mile to the intersection of Hickory Road. The boundary follows Hickory Road east for 0.6 mile then left onto Mingle Road for 0.9 mile until rejoining Hickory Road for another 0.8 mile to the intersection of Muncy Exchange Road. The boundary follows Muncy Exchange Road south for 1.4 miles to bridge over the West Branch of Chillisquaque Creek near the intersection of State Highway 44. The boundary follows the West Branch of Chillisquaque Creek south for approximately 2.1 miles to the bridge on Arrowhead Road. The boundary follows Arrowhead Road west for 0.8 mile to the intersection of State Highway 54. Follow State Highway 54 south for 2.6 miles to the intersection of State Highway 254. Follow State Highway 254 east for 5.9 miles to the intersection of State Highway 44. Follow State Highway 44 south for 1.1 miles to the intersection of State Highway 642. Follow State Highway 642 southwest for 2.3 miles to the intersection of Billhime Road. Turn right onto Billhime Road and go 1.1 miles to the intersection of East Diehl Road. Turn left on East Diehl Road then right onto Camelton Hill Road. Follow Camelton Hill Road for 1 mile to the intersection of Blee Hill Road. The boundary follows Blee Hill Road northwestward for 0.6 mile to the intersection of Hillside Drive. Turn left onto Hillside Drive and

follow west for 3.2 miles until State Highway 54. Cross State Highway 54 onto Steckermill Road and go 0.4 mile to the intersection of Keefer Mill Road. Turn right onto Keefer Mill Road and follow north for 0.8 mile to the intersection Mexico Road. Turn right on Mexico Road for 0.1 mile and then turn left onto Keefer Mill Road for 0.6 mile to the intersection of State Highway 254. The boundary follows State Highway 254 west for 5.5 miles to the intersection of Interstate 80. Follow Interstate 80 west for 3.4 miles to the intersection Interstate 180 and the point of origin.

* * * * *

(b) *Prohibitions.* It is unlawful to:

(1) Release artificially propagated pheasants any time within any area designated as a [**wild pheasant recovery area**] WPRA.

(2) Train dogs in any manner [**or hunt small game except crows, woodchucks and waterfowl from the first Sunday in February**] from March 1 through July 31 within any area designated as a WPRA.

(3) **Hunt pheasants within any area designated as a WPRA, except the Director may authorize limited youth pheasant hunting opportunities by Commission-issued access permit in the Central Susquehanna WPRA. During any year youth pheasant hunting opportunities are authorized in the Central Susquehanna WPRA, the Director will establish the number of hunting access permits to be issued, a manner of distribution for a limited number of access permits to be raffled off by an organization promoting pheasant recovery efforts within this Commonwealth, and designate one or more pheasant hunt zones within the WPRA prior to the opening of the earliest established youth pheasant season. The Director or a designee will establish the application deadline and the date, time and location for the random drawing of applications for the issuance of any remaining limited youth pheasant hunting access permits within the Central Susquehanna WPRA. Limited youth pheasant hunting access permits are not transferrable. A pheasant hunting access permit shall be signed and carried on person when hunting or taking pheasants within the Central Susquehanna WPRA.**

[Pa.B. Doc. No. 17-415. Filed for public inspection March 10, 2017, 9:00 a.m.]

[58 PA. CODE CH. 135]

Lands and Buildings; Pymatuning Wildlife Management Area

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its January 31, 2017, meeting to amend § 135.106 (relating to Pymatuning Wildlife Management Area) to establish new parameters for establishing and managing the Pymatuning Wildlife Management Area (PWMA) controlled deer hunt.

This proposed rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

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

This proposed rulemaking was made public at the January 31, 2017, meeting of the Commission. Comments can be sent until March 24, 2017, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. *Purpose and Authority*

Controlled deer hunts have been held at the PWMA (State Game Lands 214) since at least the 1970s. Over the years various formats have been used to manage the controlled deer hunts, including hunts during the regular firearms deer season, flintlock/archery hunts during the after-Christmas season and flintlock/archery hunts outside the regular seasons. Season lengths have also varied over the years ranging from hunts lasting 1 day to others lasting 5 days. The Commission has observed that the very limited time frame and extent of this hunting pressure within the PWMA coupled with the higher hunting pressure on surrounding areas outside of the PWMA has resulted in dramatic increases in deer populations during the fall. This increase in population, albeit temporary, has had a significant negative impact on the PWMA's existing habitat.

The PWMA controlled deer hunts have proven quite popular with hunters, with over 1,000 applications received every year. The prehunt influx and retention of higher deer populations is expected to be the cause of this popularity as hunters have regularly described abundant deer sightings. The Commission has observed that typical hunts in the PWMA result in low harvest, but high wounding loss, likely the result of the high hunting pressure in the area during the controlled deer hunt.

The Commission proposes to amend § 135.106 to establish new parameters for establishing and managing the PWMA controlled deer hunt. The goal of these proposed amendments is to provide a higher quality hunt for the participants of this limited program primarily by spreading the same number of hunters across a few weeks of the regularly established fall deer seasons rather than a few days. Hunting opportunities within the PWMA will be managed by a lottery process that is intended to more predictably and logically distribute hunting access to participants.

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 § 135.106 are proposed under this authority.

2. *Regulatory Requirements*

This proposed rulemaking will amend § 135.106 to establish new parameters for establishing and managing the PWMA controlled deer hunt.

3. *Persons Affected*

Persons wishing to participate in the PWMA controlled deer hunt will be affected by this proposed rulemaking.

4. *Cost and Paperwork Requirements*

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

5. *Effective Date*

This 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 this proposed rule-making, contact Thomas P. Grohol, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

R. MATTHEW HOUGH,
Executive Director

Fiscal Note: 48-411. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 135. LANDS AND BUILDINGS

Subchapter F. SPECIAL WILDLIFE MANAGEMENT AREAS

§ 135.106. Pymatuning Wildlife Management Area.

(a) In addition to §§ 135.2 and 135.41 (relating to unlawful actions; and State game lands) and this subchapter, the following pertain to the Pymatuning Wildlife Management Area:

(1) Entering, hunting or trapping on the controlled goose and duck areas is by permit only.

(2) Waterfowl hunting is permitted Monday, Wednesday, Friday and Saturday. **[Starting time shall conform with State and Federal regulations. Shooting ends at 12:30 p.m.]**

(3) **Hunting shall conform to the legal hunting hours in § 141.4 and Chapter 141, Appendix G (relating to hunting hours), except legal hunting hours for waterfowl hunting ends each open day at 12:30 p.m.**

(b) The following apply to reservations for the controlled duck hunting area:

(1) Reservations will be made on each designated shooting day at the registration center. Hunting is limited to 85 hunters at one time on the **[two] 2** areas combined. Reservations will be issued on a first-come, first served basis if there are 85 hunters or less applying at the registration center and 1 1/2 hours prior to the opening hunting hour. If there are more than 85 applicants present, a drawing will be held to determine to whom the 85 permits are issued.

(2) Permits returned to the registration center prior to 10 a.m. may be released to another applicant.

(c) The following apply to the controlled duck hunting areas:

(1) Ducks, **coots and mergansers** are the only legal game; taking other wild birds or mammals is prohibited, except by permit issued by the Director or a designee.

(2) A hunter shall **[display] possess on his person** the identification tag furnished by the Commission while on the areas. The identification tag is valid for entry upon the area indicated on the tag. Entry upon another area is prohibited. Identification tags shall be returned to the registration center at check-out time.

[(3) Boats without motors are permitted on controlled duck areas.

(d) The following apply to special hunts on the controlled area:

(1) Special deer hunts will be by permit only, limited to archery and muzzleloading firearms.

(2) Notwithstanding the provisions in § 135.161(2) (relating to Commission-owned or leased lands or waters), the Executive Director may designate dates for deer hunting outside of established seasons and bag limits.

(3) A drawing of applications to determine successful hunters will be held at the Pymatuning Wildlife Management Area headquarters on a date and time designated by the Executive Director or a designee.

(4) Applications will be received at the area headquarters no later than the close of business of the day prior to the date and time of the drawing.

(5) One official application per person to hunt deer on the controlled area may be submitted each license year. Anyone submitting more than one application for a permit will have all applications rejected. The application shall contain archery or muzzleloading license stamp numbers.

(6) The number of permits to be drawn shall be set by the Executive Director or a designee prior to the drawing.

(7) If a successful applicant does not appear to claim a reservation on the day assigned, prior to the opening hunting hour, the permit becomes invalid and is not transferable.

(8) A successful hunter shall submit a harvested deer for examination to the management area headquarters on the date of the permit, no later than 1 hour after the daily closing of hunting hours.

(9) Unsuccessful hunters shall return the permit to the management area headquarters on the date of the permit, no later than 1 hour after the daily closing of hunting hours.

(10) Hunters participating in the special archery and muzzleloading hunts inside the controlled area shall wear a minimum of 250 square inches of fluorescent orange-colored material on the head, back and chest combined.]

(d) The following apply to special deer hunts within the Pymatuning Wildlife Management Area:

(1) **Authority to establish special hunt.** The Director may authorize special deer hunts within the Pymatuning Wildlife Management Area by permit. The Director will establish the number of access permits to be issued and designate the one or more hunt zones within the controlled area prior to the opening of the earliest established deer season.

(2) **Permit authorization.** During any year the Director authorizes a special deer hunt within the Pymatuning Wildlife Management Area, permitted hunters are eligible to access the controlled area to hunt deer during any applicable antlered or antlerless deer season established in § 139.4 (relating to seasons and bag limits for the license year) using valid antlered and antlerless licenses and harvest tags issued to them. Notwithstanding § 135.161(2) (relating to Commission-owned or leased), the Executive Director may designate dates for deer hunting outside of established seasons and bag limits within the controlled area as authorized by § 139.3 (relating to authority to alter seasons and bag limits).

(3) *Applications.* An individual possessing a valid hunting license for the current license year may submit a maximum of one application per year to participate in a special deer hunt within the Pymatuning Wildlife Management Area. Applications must include the applicant's name, address, date of birth, Commission-issued Customer Identification Number and any other information required by the Commission. Applicants shall submit completed applications in the manner directed by the Director or a designee. Incomplete, illegible or duplicate applications will not be included in the drawing.

(4) *Drawing.* The Director or a designee will establish the application deadline and the date, time and location for the random drawing of applications for the issuance of special deer hunt permits within the Pymatuning Wildlife Management Area. Special deer hunt access permits are not transferable.

(5) *Hunting hours and duration of access limited.* Hunting during the special deer hunt shall conform to the legal hunting hours in § 141.4 and Chapter 141, Appendix G, except legal hunting hours for deer begins each open day at 12:30 p.m. Permittees may access the controlled area no sooner than the start of legal hours and all permittees shall vacate the controlled area within 1 hour after the close of hunting hours. Entering or remaining in the controlled area after this period shall be authorized in advance by the Commission after a report is made to the Commission's Northwest Regional Office.

(6) *Access to controlled area limited.* A permittee may enter and hunt deer only within the hunt zone or hunt zones designated by his permit. Entry into other hunt zones or areas outside of the hunt zones to pursue a wounded deer shall be authorized in advance by the Commission after a report is made to the Commission's Northwest Regional Office.

(7) *Parking.* A permittee shall park only in assigned parking areas and shall display the provided parking placard on the dashboard of the vehicle in a manner that allows it to be read from the exterior of the vehicle.

(8) *Reporting.* A permittee that successfully harvests a deer during the special deer hunt shall report the harvest to the Commission within 10 days of the kill by completing the report card supplied with the special deer hunt permit for reporting deer killed and mail the report card to the Pymatuning Wildlife Management Area in Hartstown, PA, or by any other method designated by the Director.

(9) *Violations.* A person violating any requirement or restriction established within this section may be prosecuted under section 721 of the act (relating to control of property) or other applicable provision of the act and, upon conviction, be sentenced to pay the fine prescribed in the act. Furthermore, the Director may deny, revoke or suspend a permit for any violation of the requirements of this subchapter upon written notice to the permittee.

[Pa.B. Doc. No. 17-416. Filed for public inspection March 10, 2017, 9:00 a.m.]

[58 PA. CODE CH. 135]

Lands and Buildings; Shooting Ranges

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its January 31, 2017, meeting to amend § 135.181 (relating to rifle and handgun ranges) to address various substantive and housekeeping concerns within the State game lands firearms range usage requirements.

This proposed rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

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

This proposed rulemaking was made public at the January 31, 2017, meeting of the Commission. Comments can be sent until March 24, 2017, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

State game land range users, Commission staff and other interested parties have identified a number of areas in need of improvement in the Commission's shooting range use regulation. The Commission proposes to amend § 135.181 to address the following substantive and housekeeping concerns: 1) expand the 8 a.m. to sunset operational hours on Sundays preceding regular firearms deer and bear seasons to also include Sundays occurring throughout the duration of these seasons to improve hunter access to its ranges when they are most needed; 2) prohibit range users from intentionally shooting at or damaging the target frames or stands in an effort to reduce waste and improve operational availability of ranges; 3) provide clarity that use of automatic firearms, not to include semi-automatic firearms, is prohibited at Commission ranges; 4) expand the six-round loading and discharge limitation to both rifle and handgun ranges; 5) prohibit range users from operating, manipulating or discharging a loaded firearm in negligent disregard for the safety of other persons present at or nearby the range to improve safety; 6) provide greater clarity concerning range reservation, range closure, range designation and general range usage violations; and 7) remove firearms possession related violations from this section to more closely conform to the limitations in 18 Pa.C.S. § 6109(m.3)(2) (relating to licenses).

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 § 135.181 are proposed under this authority.

2. Regulatory Requirements

This proposed rulemaking will amend § 135.181 to address various substantive and housekeeping concerns within the State game lands firearms range usage requirements.

3. Persons Affected

Persons wishing to State game lands firearms ranges will be affected by this proposed rulemaking.

4. Cost and Paperwork Requirements

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

5. *Effective Date*

This 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 this proposed rulemaking, contact Thomas P. Grohol, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

R. MATTHEW HOUGH,
Executive Director

Fiscal Note: 48-408. No fiscal impact; (8) recommends adoption.

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] 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 **and any Sunday throughout the duration of** the regular **[antlered and antlerless] firearms** deer seasons and the regular **firearms** bear **[season] seasons**, 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] Applications for a range reservation shall be made** 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] during any period** 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. **An individual or organized group may not use the range during a period when it is posted as closed.**

(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.] Discharge a firearm from any location on the range other than an established shooting station on the firing line.**

(2) Discharge a firearm **[, except from an established shooting station on the firing line] at any target other than** a paper target placed on a permanent target backboard **mounted by the Commission. Users are prohibited from intentionally shooting at or damaging the frames or stands constructed by the Commission to mount permanent target backboards.**

(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.] Discharge an automatic firearm.**

(6) **[Possess, load] Load or discharge a firearm that contains more than [three] six 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] Load or discharge a firearm or use a range facility** 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.

(9) **Operate, manipulate or discharge a firearm in negligent disregard for the safety of other persons present at or nearby the range. This is specifically intended to include loading a firearm, operating or manipulating a loaded firearm or discharging a firearm anywhere on the firing range while another person is downrange.**

(10) **Use a Commission range in violation of any other requirement of this section or posted signage.**

(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.] Range designation.** The default designation for Commission ranges, regardless of length or size, is as a rifle

range. The Commission may designate any range as a handgun only range by posting appropriate signage.

[Pa.B. Doc. No. 17-417. Filed for public inspection March 10, 2017, 9:00 a.m.]

[58 PA. CODE CH. 135]

Lands and Buildings; State Game Lands

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its January 31, 2017, meeting to amend § 135.41 (relating to State game lands) to prohibit a person from engaging in dog training activities from the Monday prior to the start of the youth pheasant season until the opening of the regular pheasant season on lands designated as State game lands.

This proposed rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

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

This proposed rulemaking was made public at the January 31, 2017, meeting of the Commission. Comments can be sent until March 24, 2017, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. *Purpose and Authority*

The Commission traditionally conducts the majority of its annual pheasant stocking operations on State game lands to provide adequate pheasant hunting opportunities across this Commonwealth. Pheasant hunting opportunities in this Commonwealth are directly linked to and limited by the existence and availability of pheasants stocked by the Commission each year. The Commission has become increasingly aware that dog training activities occurring on State game lands during the periods just prior to and concurrent with the youth pheasant season and prior to the opening of the regular pheasant season are consistently causing pheasants recently stocked by the Commission to scatter and disperse far away from designated release sites where they are intended to temporarily remain for the duration of the pheasant seasons. The Commission proposed to amend § 135.41 to prohibit a person from engaging in dog training activities from the Monday prior to the start of the youth pheasant season until the opening of the regular pheasant season on lands designated as State game lands. The proposed amendment will not limit dog training activities on private lands.

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 amendment to § 135.41 is proposed under this authority.

2. *Regulatory Requirements*

This proposed rulemaking will amend § 135.41 to prohibit a person from engaging in dog training activities from the Monday prior to the start of the youth pheasant

season until the opening of the regular pheasant season on lands designated as State game lands.

3. *Persons Affected*

Persons wishing to engage in dog training activities on State game lands may be affected by this proposed rulemaking.

4. *Cost and Paperwork Requirements*

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

5. *Effective Date*

This 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 this proposed rulemaking, contact Thomas P. Grohol, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

R. MATTHEW HOUGH,
Executive Director

Fiscal Note: 48-414. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 135. LANDS AND BUILDINGS

Subchapter C. STATE GAME LANDS

§ 135.41. State game lands.

* * * * *

(c) *Additional prohibitions.* In addition to the prohibitions contained in the act pertaining to State game lands and § 135.2, except with the written permission of the Director, it is unlawful to:

* * * * *

(23) Operate, control, retrieve or launch an unmanned aerial vehicle of any size, design or specification on or from lands or waters designated as State game lands. This provision may not be construed to limit activities specifically authorized by the Commission in writing or Federal, State or local governmental response to fire, rescue, police or other emergency matter, or engagement in legitimate governmental function.

(24) Engage in dog training activities on small game from the Monday prior to the start of the youth pheasant season until the opening of the regular pheasant season in § 139.4 (relating to seasons and bag limits for the license year). This paragraph may not be construed to limit dog training activities on any other public or private lands or waters not designated as State game lands.

[Pa.B. Doc. No. 17-418. Filed for public inspection March 10, 2017, 9:00 a.m.]

[58 PA. CODE CH. 139]
Seasons and Bag Limits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its January 31, 2017, meeting to amend § 139.4 (relating to seasons and bag limits for the license year) to provide updated seasons and bag limits for the 2017-2018 hunting/trapping license year.

This proposed rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

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

This proposed rulemaking was made public at the January 31, 2017, meeting of the Commission. Comments can be sent until March 24, 2017, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. *Purpose and Authority*

To effectively manage the wildlife resources and provide hunting and trapping opportunities in this Commonwealth during the upcoming license year, the Commission is proposing to amend § 139.4 to provide updated seasons and bag limits for the 2017-2018 license year. The 2017-2018 seasons and bag limits are proposed to be amended to reflect current available scientific data, population and harvest records, field surveys and professional staff observations, as well as recommendations received from staff, organized sporting groups, members of the agricultural community and others interested in the management of the wildlife resources of this Commonwealth.

Proposed amendments to small game seasons include: eliminating the post-Christmas segment of the ruffed grouse season in an effort to improve adult survival in light of significant recent population declines; opening the Central Susquehanna Wild Pheasant Recovery Area to a youth-only pheasant hunting season; and opening wildlife management unit (WMU) 5A to put-and-take bobwhite quail hunting given the lack of wild quail in this area and the low likelihood of reintroduction efforts in this WMU in the near future—closures can be enacted at this WMU or smaller scales as needed if and when restoration activities occur.

Proposed amendments to wild turkey seasons include opening a conservative, midweek fall season in WMU 5B while reducing fall season length in three WMUs that have exhibited declining trends in turkey population indices. Specifically, seasons would decrease from 2 weeks + 3 days to 1 week + 3 days in WMUs 4A and 4B, and from 3 weeks + 3 days to 2 weeks + 3 days in WMU 4E.

Proposed amendments to white-tailed deer seasons include adjusting WMUs 5A and 5B from a concurrent

antlered/antlerless white-tailed deer season to a split antlered/antlerless white-tailed deer season. While not a seasons and bag limits issue per se, it should be noted that the use of large Deer Management Assistance Program areas surrounding locations of Chronic Wasting Disease-positive deer is being recommended instead of Disease Management Area permits to provide a simpler mechanism for hunters to reduce deer populations around known disease hotspots.

For black bear, the Commission is recommending an earlier and 1-day longer Statewide archery season, concurrent with the Monday through Saturday of the next to last week of the Statewide archery deer season. This proposed amendment addresses requests from staff and constituents and would likely provide for a moderate increase in overall bear harvest.

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 (relating to regulations) authorizes the Commission to “promulgate regulations relating to seasons and bag limits for hunting or furtaking. . . .” The amendments to § 139.4 are proposed under this authority.

2. *Regulatory Requirements*

This proposed rulemaking will amend § 139.4 to provide updated seasons and bag limits for the 2017-2018 hunting/trapping license year.

3. *Persons Affected*

Persons wishing to hunt or trap game or wildlife within this Commonwealth during the 2017-2018 hunting/trapping license year will be affected by this proposed rulemaking.

4. *Cost and Paperwork Requirements*

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

5. *Effective Date*

The effective dates of this proposed rulemaking are July 1, 2017, to June 30, 2018.

6. *Contact Person*

For further information regarding this proposed rulemaking, contact Thomas P. Grohol, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

R. MATTHEW HOUGH,
Executive Director

Fiscal Note: 48-405. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 58. RECREATION
PART III. GAME COMMISSION
CHAPTER 139. SEASONS AND BAG LIMITS

(Editor's Note: As part of this proposed rulemaking, the Commission is proposing to replace the table which appears in 58 Pa. Code pages 139-3—139-13, serial pages (381003)—(381013), with the following table.)

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

**2017-2018 OPEN HUNTING AND FUR TAKING SEASONS, DAILY LIMIT,
 FIELD POSSESSION LIMIT AND SEASON LIMIT
 OPEN SEASON INCLUDES FIRST AND LAST DATES LISTED**

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
Squirrel—(Combined species) Eligible Junior Hunters only, with or without the required junior license	Sept. 30	Oct. 14	6	18
Squirrel—(Combined species)	Oct. 14	Nov. 25	6	18
	and			
	Dec. 11	Dec. 23		
	and			
	Dec. 26	Feb. 28, 2018		
Ruffed Grouse	Oct. 14	Nov. 25	2	6
	and			
	Dec. 11	Dec. 23		
Rabbit, Cottontail—Eligible Junior Hunters only, with or without the required junior license	Sept. 30	Oct. 14	4	12
Rabbit, Cottontail	Oct. 14	Nov. 25	4	12
	and			
	Dec. 11	Dec. 23		
	and			
	Dec. 26	Feb. 28, 2018		
Ring-necked Pheasant—There is no open season for the taking of pheasants in the Somerset, Hegins-Gratz or Franklin County Wild Pheasant Recovery Areas.				
Ring-necked Pheasant Eligible Junior Hunters only, with or without the required junior license WMUs 2A, 2C, 4C, 4E, 5A and 5B— Male only	Oct. 7	Oct. 14	2	6
WMUs 1A, 1B, 2B, 2D, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4A, 4B, 4D, 5C and 5D— Male or female				
Central Susquehanna Wild Pheasant Recovery Area—Male only	As authorized by the Executive Order.			
Ring-necked Pheasant	Oct. 21	Nov. 25	2	6
	and			
WMUs 2A, 2C, 4C, 4E, 5A and 5B— Male only	Dec. 11	Dec. 23		
	and			
	Dec. 26	Feb. 28, 2018		
WMUs 1A, 1B, 2B, 2D, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4A, 4B, 4D, 5C and 5D— Male or female				

PROPOSED RULEMAKING

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
Bobwhite Quail	Oct. 21	Nov. 25	4	12
Hare (Snowshoe Rabbits) or Varying Hare	Dec. 26	Jan. 1, 2018	1	3
Woodchuck (Groundhog)	No closed season except during the regular firearms deer season(s). Hunting on Sundays is prohibited.		Unlimited	
<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Turkey, Fall—Male or Female			1	1
WMU 2B (Shotgun, Bow and Arrow only)	Oct. 28	Nov. 17		
	and			
	Nov. 23	Nov. 25		
WMU 1B	Oct. 28	Nov. 4		
WMUs 1A, 2A, 4A and 4B	Oct. 28	Nov. 4		
	and			
	Nov. 23	Nov. 25		
WMUs 2D, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4C, 4D and 4E	Oct. 28	Nov. 11		
	and			
	Nov. 23	Nov. 25		
WMU 2C	Oct. 28	Nov. 17		
	and			
	Nov. 23	Nov. 25		
WMU 5A	Nov. 2	Nov. 4		
WMU 5B	Oct. 31	Nov. 2		
WMUs 5C and 5D	Closed to fall turkey hunting.			
Turkey, Spring ¹ Bearded Bird only, Eligible Junior Hunters only with the required junior license	Apr. 21, 2018	Apr. 21, 2018	1	1
Turkey, Spring ¹ Bearded Bird only			1	2
	Apr. 28, 2018	May 12, 2018	May be hunted 1/2 hour before sunrise to 12 noon	
	and			
	May 14, 2018	May 31, 2018	May be hunted 1/2 hour before sunrise to 1/2 hour after sunset	

MIGRATORY GAME BIRDS

Except as further restricted by this chapter, the seasons, bag limits, hunting hours and hunting regulations for migratory game birds shall conform to regulations adopted by the United States Secretary of the Interior under authority of the Migratory Bird Treaty Act (16 U.S.C.A. §§ 703—712) as published in the *Federal Register* on or about February 28 of each year.

Exceptions:

(a) Hunting hours in § 141.4 (relating to hunting hours).

(b) Nontoxic shot as approved by the Director of the United States Fish and Wildlife Service is required for use Statewide in hunting and taking of migratory waterfowl.

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
Crow (Hunting permitted on Friday, Saturday and Sunday only)	July 1	Apr. 8, 2018	Unlimited	

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
Starling and English Sparrow	No closed season except during the regular firearms deer seasons.		Unlimited	

FALCONRY

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
Squirrel—(Combined species)	Sept. 1	Mar. 31, 2018	6	18
Quail	Sept. 1	Mar. 31, 2018	4	12
Ruffed Grouse	Sept. 1	Mar. 31, 2018	2	6
Cottontail Rabbits	Sept. 1	Mar. 31, 2018	4	12
Snowshoe or Varying Hare	Sept. 1	Mar. 31, 2018	1	3
Ring-necked Pheasant—Male and Female—(Combined)	Sept. 1	Mar. 31, 2018	2	6

Migratory Game Bird—Seasons and bag limits shall be in accordance with Federal regulations.

WHITE-TAILED DEER

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Season Limit</i>
Deer, Archery (Antlered and Antlerless) ² With the required archery license WMUs 2B, 5C and 5D	Sept. 16	Nov. 25	One antlered deer, and an antlerless deer with each required antlerless license.
	Dec. 26	Jan. 27, 2018	
Deer, Archery (Antlered and Antlerless) ² With the required archery license WMUs 1A, 1B, 2A, 2C, 2D, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D, 4E, 5A and 5B	Sept. 30	Nov. 11	One antlered deer, and an antlerless deer with each required antlerless license.
	Dec. 26	Jan. 13, 2018	
Deer, Muzzleloading (Antlerless only) With the required muzzleloading license	Oct. 14	Oct. 21	An antlerless deer with each required antlerless license.
Deer, Special firearms (Antlerless only) Only Junior and Senior License Holders, ³ Commission Disabled Person Permit Holders (to use a vehicle as a blind) and Residents serving on active duty in the United States Armed Forces or United States Coast Guard	Oct. 19	Oct. 21	An antlerless deer with each required antlerless license.
Deer, Regular firearms (Antlered and Antlerless) ² WMUs 2B, 5C and 5D	Nov. 27	Dec. 9	One antlered deer, and an antlerless deer with each required antlerless license.
Deer, Regular firearms (Antlered only) ² WMUs 1A, 1B, 2A, 2C, 2D, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D, 4E, 5A and 5B	Nov. 27	Dec. 1	One antlered deer.
Deer, Regular firearms (Antlered and Antlerless) ² WMUs 1A, 1B, 2A, 2C, 2D, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D, 4E, 5A and 5B	Dec. 2	Dec. 9	One antlered deer, and an antlerless deer with each required antlerless license.
Deer, Flintlock (Antlered or Antlerless) ² With the required muzzleloading license WMUs 1A, 1B, 2A, 2C, 2D, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D, 4E, 5A and 5B	Dec. 26	Jan. 13, 2018	One antlered or one antlerless deer, plus an additional antlerless deer with each required antlerless license.

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Season Limit</i>
Deer, Flintlock (Antlered or Antlerless) ² With the required muzzleloading license WMUs 2B, 5C and 5D	Dec. 26	Jan. 27, 2018	One antlered or one antlerless deer, plus an additional antlerless deer with each required antlerless license.
Deer, Extended Regular firearms (Antlerless) Allegheny, Bucks, Chester, Delaware, Montgomery and Philadelphia Counties	Dec. 26	Jan. 27, 2018	An antlerless deer with each required antlerless license.
Deer, Antlerless (Letterkenny Army Depot, Franklin County and New Cumberland Army Depot, York County, and Fort Detrick, Raven Rock Site, Adams County)	Hunting is permitted on days established by the United States Department of the Army.		An antlerless deer with each required antlerless license.

BLACK BEAR

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Season Limit</i>
Bear, Archery ⁴ WMUs 2B, 5C and 5D	Sept. 16	Nov. 25	1
Bear, Archery ⁴ WMU 5B	Sept. 30	Nov. 11	1
Bear, Archery ⁴ WMUs 1A, 1B, 2A, 2C, 2D, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D, 4E and 5A	Oct. 30	Nov. 4	1
Bear, Muzzleloader ⁴ WMUs 2B, 5B, 5C and 5D	Oct. 14	Oct. 21	1
Bear, Special firearms ⁴ Only Junior and Senior License Holders, ³ Commission Disabled Person Permit Holders (to use a vehicle as a blind) and Residents serving on active duty in the United States Armed Forces or in the United States Coast Guard, with required bear license WMUs 2B, 5B, 5C and 5D	Oct. 19	Oct. 21	1
Bear, Regular Firearms ⁴ (Statewide)	Nov. 18	Nov. 22	1
Bear, Extended firearms ⁴ WMUs 3B, 3C and 3D	Nov. 27	Dec. 2	1
Bear, Extended firearms ⁴ WMUs 2B, 5B, 5C and 5D	Nov. 27	Dec. 9	1
Bear, Extended firearms ⁴ WMUs 1B, 2C, 3A, 4B, 4C, 4D and 4E	Nov. 29	Dec. 2	1

ELK

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Season Limit</i>
Elk, Special Conservation Tag ⁵ and Special-License Tag ⁵ (Antlered and Antlerless)	Sept. 1	Nov. 4	1
Elk, Regular ⁵ (Antlered and Antlerless)	Oct. 30	Nov. 4	1
Elk, Extended ⁵ (Antlered and Antlerless)	Nov. 6	Nov. 11	1

FUR TAKING—TRAPPING

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Mink and Muskrat	Nov. 18	Jan. 7, 2018	Unlimited	
Beaver	Dec. 26	Mar. 31, 2018		
WMUs 1A, 1B and 3C (Combined)			20	40
WMUs 2A, 2B, 2C, 2D, 2E, 2F, 3A, 3B, 3D, 5C and 5D (Combined)			20	20
WMUs 2G, 2H, 4A, 4B, 4C, 4D, 4E, 5A and 5B (Combined)			5	5
Coyote, Fox, Opossum, Raccoon, Striped Skunk and Weasel	Oct. 22	Feb. 18, 2018	Unlimited	
Coyote and Fox Use of cable restraint devices authorized with required certification	Dec. 26	Feb. 18, 2018	Unlimited	
Bobcat, with required bobcat permit WMUs 2A, 2C, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4A, 4C, 4D and 4E	Dec. 16	Jan. 7, 2018	1	1
Fisher, with required fisher permit WMUs 1B, 2C, 2D, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4D and 4E	Dec. 16	Dec. 27	1	1
River Otter, with required otter permit WMUs 3C and 3D	Feb. 17, 2018	Feb. 24, 2018	1	1

FUR TAKING—HUNTING

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Coyote—(Outside of any big game season)	May be taken with a hunting license or a furtaker's license.		Unlimited	
Coyote—(During any big game season)	May be taken while lawfully hunting big game or with a furtaker's license.		Unlimited	
Opossum, Striped Skunk, Weasel	No closed season.			
Raccoon and Fox	Oct. 21	Feb. 17, 2018	Unlimited	
Bobcat, with required bobcat permit WMUs 2A, 2C, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4A, 4C, 4D and 4E	Jan. 13, 2018	Feb. 7, 2018	1	1
Porcupine	Sept. 1	Mar. 31, 2018	3	10
No open seasons on other wild birds or wild mammals.				

¹ Only persons who possess a special wild turkey license as provided for in section 2709 of the act (relating to license costs and fees) may take a second spring gobbler during the hunting license year; all other persons, including mentored youth hunters, may take only one spring gobbler. A maximum of two spring gobblers per license year may be taken by any combination of licenses or exceptions for mentored youth.

² Only one antlered deer (buck) may be taken during the hunting license year.

³ Includes residents and nonresident license holders who have reached or will reach their 65th birthday in the year of the application for the license and hold a valid adult license or qualify for license and fee exemptions under section 2706 of the act (relating to resident license and fee exemptions).

⁴ Only one bear may be taken during the hunting license year with the required bear license.

⁵ Only one elk may be taken during the hunting license year with the required elk license.

[Pa.B. Doc. No. 17-419. Filed for public inspection March 10, 2017, 9:00 a.m.]

[58 PA. CODE CH. 139]

Seasons and Bag Limits; Field Possession and Transportation Limits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its January 31, 2017, meeting to amend § 139.6 (relating to field possession and transportation limits) to increase the daily possession limit from double to triple the daily limit.

This proposed rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

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

This proposed rulemaking was made public at the January 31, 2017, meeting of the Commission. Comments can be sent until March 24, 2017, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. *Purpose and Authority*

The Commission first established triple possession limits in § 139.4 (relating to seasons and bag limits for the license year) for the 2014-2015 license year. Unfortunately, the Commission did not contemporaneously amend § 139.6 with these same amendments. The Commission proposes to amend § 139.6 to increase the daily possession limit from double to triple the daily limit.

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 (relating to regulations) authorizes the Commission to “promulgate regulations relating to seasons and bag limits for hunting or furtaking. . . .” The amendments to § 139.6 are proposed under this authority.

2. *Regulatory Requirements*

This proposed rulemaking will amend § 139.6 to increase the daily possession limit from double to triple the daily limit.

3. *Persons Affected*

Persons wishing to hunt or trap game or wildlife within this Commonwealth will be affected by this proposed rulemaking.

4. *Cost and Paperwork Requirements*

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

5. *Effective Date*

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

6. *Contact Person*

For further information regarding this proposed rulemaking, contact Thomas P. Grohol, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

R. MATTHEW HOUGH,
Executive Director

Fiscal Note: 48-415. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 139. SEASONS AND BAG LIMITS

§ 139.6. **Field possession and transportation limits.**

(a) *Opening day of season.* It is unlawful for a person to possess or transport game or wildlife [,] in excess of the daily limit as set forth in § 139.4 (relating to seasons and bag limits for the license year).

(b) [*Following opening*] *Second day of season.* [**It**] **On the second day of the season, it** is unlawful for a person to possess or transport game or wildlife, at or between the place where taken and his place of permanent residence, in excess of twice the daily limit, or the season limit, whichever applies, as set forth in § 139.4.

(c) *Following the second day of season. After second day of the season, it is unlawful for a person to possess or transport game or wildlife, at or between the place where taken and his place of permanent residence, in excess of triple the daily limit, or the season limit, whichever applies, as set forth in § 139.4.*

[Pa.B. Doc. No. 17-420. Filed for public inspection March 10, 2017, 9:00 a.m.]

[58 PA. CODE CH. 139]

Seasons and Bag Limits; Wildlife Management Units

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its January 31, 2017, meeting to amend § 139.17 (relating to wildlife management units) to expand wildlife management unit (WMU) 2E southward into WMU 2C to realign the southwest boundary line of WMU 2E from Route 422 to Route 22.

This proposed rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

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

This proposed rulemaking was made public at the January 31, 2017, meeting of the Commission. Comments can be sent until March 24, 2017, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. *Purpose and Authority*

A uniform system of WMUs was implemented in 2003 to replace the system of multiple species-specific management units. The primary objective of this new WMU system was to develop and implement wildlife management decisions on a system of more homogenous units based on physiographic, land cover and use, human population density and land ownership. WMU boundaries were defined using readily recognizable features on the landscape rather than hard to identify political boundaries. In 2008, the Commission conducted a 5-year evaluation of the structure of the WMU system which resulted in the development and implementation of four WMU map revisions. The Commission has again conducted an evaluation of the structure of the WMU system and developed a WMU map revision to expand WMU 2E

southward into WMU 2C to realign the southwest boundary line of WMU 2E from Route 422 to Route 22.

Section 322(c)(4) of the code (relating to powers and duties of commission) specifically authorizes the commission to “[d]efine geographic limitations or restrictions.” Section 322(c)(6) of the code specifically empowers the commission to “[l]imit the number of hunters or furtakers in any designated area and prescribe the lawful methods of hunting or taking furbearers in these areas.” 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 § 139.17 are proposed under this authority.

2. Regulatory Requirements

This proposed rulemaking will amend § 139.17 to expand WMU 2E southward into WMU 2C to realign the

southwest boundary line of WMU 2E from Route 422 to Route 22.

3. Persons Affected

Persons wishing to hunt or take game or wildlife within WMUs 2C and 2E may be affected by this proposed rulemaking.

4. Cost and Paperwork Requirements

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

5. Effective Date

This 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 this proposed rulemaking, contact Thomas P. Grohol, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

R. MATTHEW HOUGH,
Executive Director

Fiscal Note: 48-404. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 139. SEASONS AND BAG LIMITS

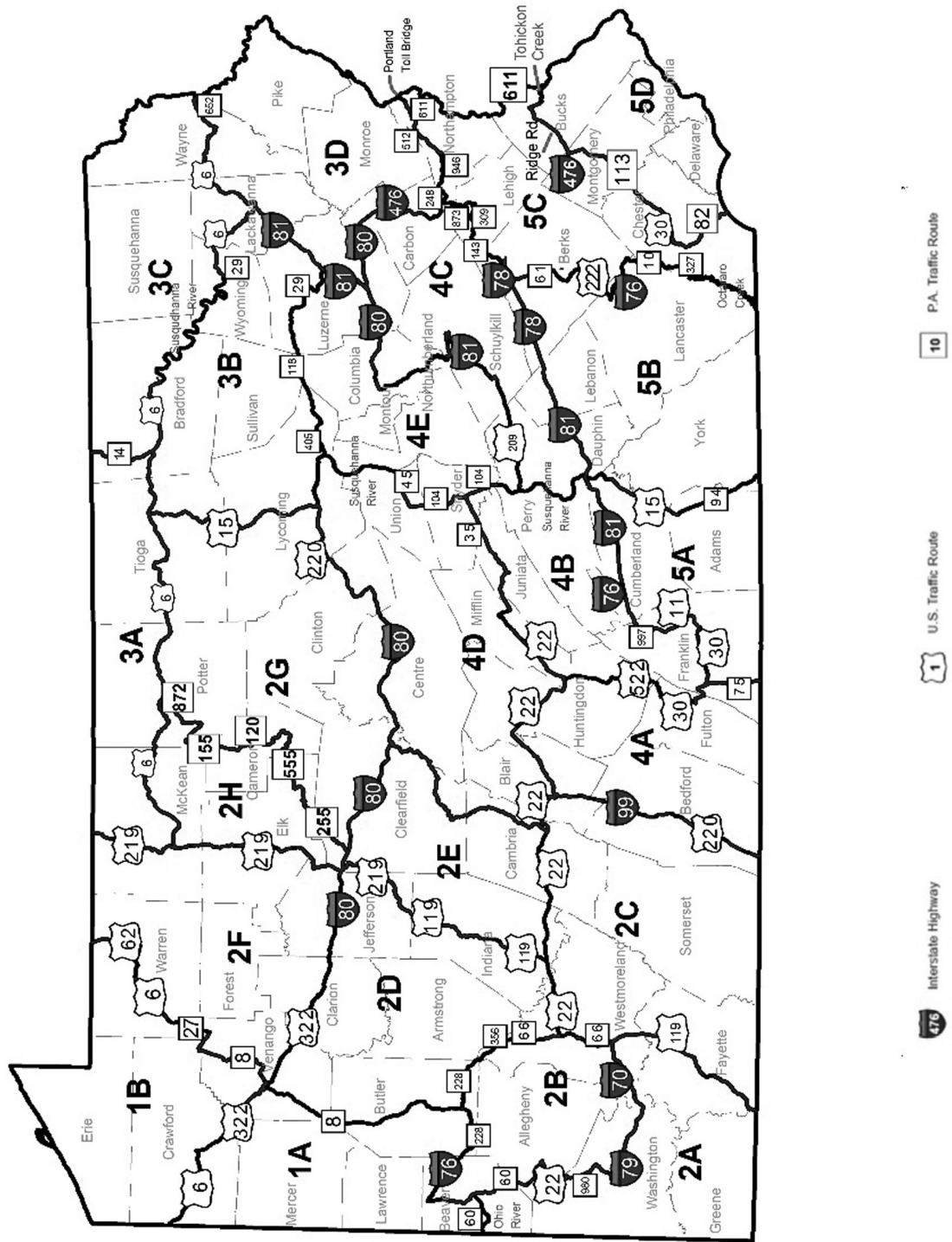
§ 139.17. Wildlife management units.

(a) The divisional line between two or more wildlife management units shall be the center of the highway, natural water course or other natural boundary.

(b) The outline map of Pennsylvania sets forth wildlife management units.

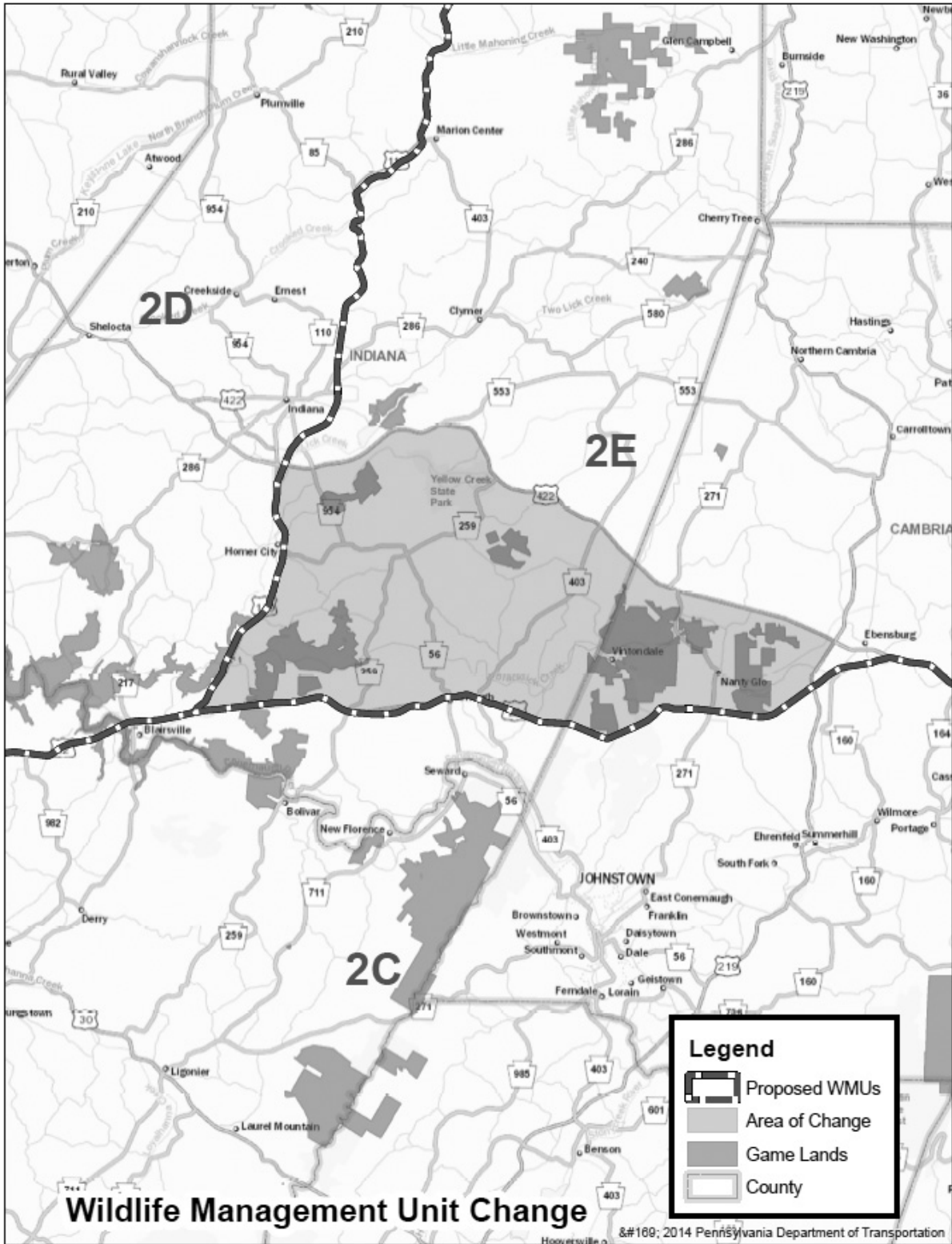
(Editor’s Note: As part of this proposed rulemaking, the Commission is proposing to replace the map which appears in 58 Pa. Code page 139-18, serial page (381018), with the following map.)

Wildlife Management Units



New WMU 2C—From the West Virginia/PA state line, US Route 119 north to Toll Road Route 66 near New Stanton. Toll Road Route 66 north to US Route 22 near Delmont. US Route 22 east to I-99 near Hollidaysburg. I-99 south to US Route 220 near Bedford. US Route 220 south to the Maryland/PA state line.

New WMU 2E—From near DuBois, I-80 east to PA Route 53 near Kylertown. PA Route 53 south to US Route 22 near Cresson. US Route 22 west to US Route 119 near Blairsville. US Route 119 north to US Route 219 near DuBois. US Route 219 north to I-80 near DuBois.



[Pa.B. Doc. No. 17-421. Filed for public inspection March 10, 2017, 9:00 a.m.]

[58 PA. CODE CH. 147]
Special Permits; Deer Control

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its January 31, 2017, meeting to amend §§ 147.552 and 147.553 (relating to application; and permit) to replace the dawn to dusk terminology with a reference to legal hunting hours as set forth in § 141.4 and Chapter 141, Appendix G (relating to hunting hours) and to delete the requirement that an applicant be enrolled in one of the Commission's public access programs for 2 years to be eligible for the Red Tag permit.

This proposed rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

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

This proposed rulemaking was made public at the January 31, 2017, meeting of the Commission. Comments can be sent until March 24, 2017, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

Current regulations limit subpermittees exercising the privileges of a Red Tag permit to hunting and taking white-tailed deer from "dawn to dusk." Most participants in this program understand this ambiguous time frame to coincide with legal hunting hours, but this link is not clear in the regulations. The Commission proposes to amend § 147.553 to replace the dawn to dusk terminology with a reference to legal hunting hours as set forth in § 141.4 and Chapter 141, Appendix G. These proposed amendments will more effectively guide and instruct subpermittees on the lawful periods during which they may exercise the privileges of this program. The Commission is also proposing to amend § 147.552 to delete the requirement that an applicant be enrolled in one of the Commission's public access programs for 2 years to be eligible for the Red Tag permit. This proposed amendment will alleviate constraints on farmers wishing to participate in the Red Tag Program who cannot wait the 2-year public access program enrollment period due to current deer damage problems.

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 147.553 are proposed under this authority.

2. Regulatory Requirements

This proposed rulemaking will amend §§ 147.552 and 147.553 to replace the dawn to dusk terminology with a reference to legal hunting hours as set forth in § 141.4 and Chapter 141, Appendix G and to delete the requirement that an applicant be enrolled in one of the Commission's public access programs for 2 years to be eligible for the Red Tag permit.

3. Persons Affected

Persons wishing to make application and participate in the Red Tag deer control program may be affected by this proposed rulemaking.

4. Cost and Paperwork Requirements

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

5. Effective Date

This 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 this proposed rulemaking, contact Thomas P. Grohol, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

R. MATTHEW HOUGH,
Executive Director

Fiscal Note: 48-409. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 58. RECREATION
PART III. GAME COMMISSION
CHAPTER 147. SPECIAL PERMITS
Subchapter R. DEER CONTROL
AGRICULTURE

§ 147.552. Application.

* * * * *

(b) [**Except in wildlife management units 5C and 5D, applications**] Applications will only be accepted from persons who [**have been**] are currently enrolled in one of the Commission public access programs (Farm Game Project or Safety Zone—P.1-2-3) [**for a minimum of 2 years and are currently enrolled in the Program**].

* * * * *

§ 147.553. Permit.

The deer control permit authorizes the permittee to enlist the aid of a limited number of subpermits. The maximum number of subpermits issued will be no more than one for every 5 acres of land that is under cultivation unless the wildlife conservation officer recommends an increase in the number due to warranted circumstances.

(1) *Validity.* The permit is valid from February 1 to September 28 each calendar year, excluding Sundays, during [**the hours of dawn to dusk only**] legal hunting hours as set forth in § 141.4 and Chapter 141, Appendix G (relating to hunting hours).

* * * * *

[Pa.B. Doc. No. 17-422. Filed for public inspection March 10, 2017, 9:00 a.m.]

[58 PA. CODE CH. 147]
Special Permits; Deer Management Assistance
Program Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its January 31, 2017, meeting to amend § 147.673 (relating to eligibility and application for

DMAP) to allow the Commission to accept Deer Management Assistance Program (DMAP) applications from political subdivisions and government agencies to enable them to manage deer harvest within a conglomeration of distinct, privately-owned and publically-owned lands under their jurisdiction.

This proposed rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

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

This proposed rulemaking was made public at the January 31, 2017, meeting of the Commission. Comments can be sent until March 24, 2017, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. *Purpose and Authority*

The Commission is statutorily charged with managing white-tailed deer herds in this Commonwealth on behalf of citizens. To accomplish this responsibility, the Commission allocates antlerless deer licenses across this Commonwealth among its various wildlife management units to utilize hunter harvest as the primary management tool of white-tailed deer. These allocations are adjusted each year to allow the deer herd to grow, stabilize or decrease, and are based on the best available science and in consideration of the broad and disparate interests of various stakeholders in this Commonwealth. This system addresses deer management Statewide.

In 2003, DMAP was established to provide both public and private landowners with an additional tool for the management of local white-tailed deer herds on lands where excessive deer numbers have compromised the landowners' land uses and other interests. Some communities in more urbanized areas have documented evidence that requiring individual landowners to individually submit DMAP applications has not been an effective method towards resolving localized deer management concerns. Subsequently, the Commission has recognized the need to increase deer harvests in local areas in response to growing concerns related to disease outbreaks.

The Commission is proposing to amend § 147.673 to allow the Commission to accept DMAP applications from political subdivisions and government agencies to enable them to manage deer harvest within a conglomeration of distinct, privately-owned and publically-owned lands under their jurisdiction. By expanding political subdivisions' and government agencies' ability to apply for permits on behalf of property owners, the Commission hopes to improve efforts to control deer populations using regulated DMAP hunting. Political subdivisions and government agencies making application in this manner will be required to submit a management plan. The Commission will allocate DMAP harvest permits based on current conditions relative to goals and objectives outlined in the Commission-approved management plan.

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 proposed under this authority.

2. *Regulatory Requirements*

This proposed rulemaking will amend § 147.673 to allow the Commission to accept DMAP applications from

political subdivisions and government agencies to enable them to manage deer harvest within a conglomeration of distinct, privately-owned and publically-owned lands under their jurisdiction.

3. *Persons Affected*

Political subdivisions and government agencies wishing to make application for participation in DMAP on behalf of a conglomeration of distinct, privately-owned and publically-owned lands may be affected by this proposed rulemaking.

4. *Cost and Paperwork Requirements*

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

5. *Effective Date*

This 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 this proposed rulemaking, contact Thomas P. Grohol, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

R. MATTHEW HOUGH,
Executive Director

Fiscal Note: 48-406. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 147. SPECIAL PERMITS

Subchapter R. DEER CONTROL

DEER MANAGEMENT ASSISTANCE PROGRAM PERMITS

§ 147.673. Eligibility and application for DMAP.

(a) Owners or lessees of private land, hunting clubs or authorized officers or employees of political subdivisions or government agencies [**shall apply for the DMAP on a form provided by the Commission**] are eligible to make application for a DMAP.

(1) Applications shall be submitted **on a form provided by the Commission** to a regional office by May 1 immediately preceding the first fall deer season and include the name of the owner, lessee, political subdivision or government agency that is applying for the DMAP and the name and address of the contact person for the DMAP as well as other information required on the application.

(2) One DMAP harvest permit will be allocated for every 5 acres of land enrolled in the DMAP where material destruction of cultivated crops, fruit trees or vegetables by deer has been or can be documented. One DMAP harvest permit will be allocated for every 50 acres of land enrolled in the DMAP for all other lands. Additional DMAP harvest permits may be allocated dependent on current conditions relative to goals and objectives outlined in a Commission-approved management plan.

(3) Applications will not be accepted for the following areas without an approved management plan:

(i) Areas within 1 air mile of another DMAP area that is owned, leased or controlled by the same person, political subdivision or governmental agency.

(ii) Areas owned or leased by a Federal agency, State agency or municipal political subdivision.

(iii) Areas with less than 5 acres of cultivated crops, fruit trees or vegetables, or less than 50 acres of other lands.

(iv) **Collective areas comprised of distinct, privately-owned and publically-owned lands managed by a local political subdivision or government agency applicant.**

(b) Management plans must include at least the following information:

* * * * *

[Pa.B. Doc. No. 17-423. Filed for public inspection March 10, 2017, 9:00 a.m.]

[58 PA. CODE CH. 147]

Special Permits; Pheasant Permit

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its January 31, 2017, meeting to add Chapter 147, Subchapter Q (relating to pheasant permit) to define and implement the Pheasant Hunting Permit Program in this Commonwealth and provide for the issuance of hunting permits authorizing eligible individuals to hunt pheasants during applicable pheasant hunting seasons.

This proposed rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

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

This proposed rulemaking was made public at the January 31, 2017, meeting of the Commission. Comments can be sent until March 24, 2017, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. *Purpose and Authority*

Pheasant hunting in this Commonwealth has relied entirely upon stocking of farm-raised pheasants during the past 20—30 years subsequent to disappearance of the wild pheasant population in this Commonwealth. Four pheasant farms operated by the Commission have historically produced about 200,000 pheasants per year. This program is popular and has many values related to hunter recruitment/retention/reactivation as well as providing an upland game bird hunting opportunity at a time when wild upland game bird populations are gone or in serious decline. However, the pheasant program has been costing the Commission about \$4.7 million per year with no fee mechanism established to sustain the program. Recent budget pressures caused by increases in personnel benefit costs and declines in revenue have forced the Commission to initiate cost cutting measures including closure of two of the four pheasant farms. These closures are estimated to save \$1.7 million per year while changes in operations are being implemented to further reduce costs while minimizing adverse impacts on the bird quality and quantity. The Commission is proposing to add Chapter 147, Subchapter Q to define and implement the Pheasant Hunting Permit Program in this Commonwealth and provide for the issuance of hunting permits authorizing eligible individuals to hunt pheasants during applicable pheasant hunting seasons. Adoption of the

proposed pheasant hunting permit at cost of \$25 for adults is projected to produce about \$1.5 million of new revenue. Adoption of this pheasant stamp would make the program more self-sufficient and help ensure the future of pheasant hunting 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.” Chapter 147, Subchapter Q is proposed under this authority.

2. *Regulatory Requirements*

This proposed rulemaking will add Chapter 147, Subchapter Q to define and implement the Pheasant Hunting Permit Program in this Commonwealth and provide for the issuance of hunting permits authorizing eligible individuals to hunt pheasants during applicable pheasant hunting seasons.

3. *Persons Affected*

Persons wishing to hunt or take pheasants in this Commonwealth will be affected by this proposed rulemaking.

4. *Cost and Paperwork Requirements*

This proposed rulemaking will result in the creation of a new class of permit that will be required for adult hunters. The Commission anticipates that this permit will be made available through the Pennsylvania Automated License System, therefore paperwork requirements to the general public will be nominal. The Commission determined that there will be limited personnel and administrative costs associated with the implementation of this new permit program. The Commission anticipates that these costs will be accommodated through existing staffing and existing budgets.

5. *Effective Date*

This 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 this proposed rulemaking, contact Thomas P. Grohol, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

R. MATTHEW HOUGH,
Executive Director

Fiscal Note: 48-402. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 147. SPECIAL PERMITS

Subchapter Q. PHEASANT PERMIT

- Sec. 147.315. Purpose.
- 147.316. Application.
- 147.317. Permit.
- 147.318. Violations.

§ 147.315. Purpose.

The purpose of this subchapter is to define and implement the Pheasant Hunting Permit Program in this Commonwealth and provide for the issuance of hunting permits authorizing eligible individuals to hunt pheasants

during applicable pheasant hunting seasons established in § 139.4 (relating to seasons and bag limits for the license year).

§ 147.316. Application.

(a) *Form and content.* Applications for pheasant hunting permits issued under this subchapter shall be made through the Commission or any of its authorized license-issuing agents on the appropriate form designated by the Commission for this purpose. Each application must include the applicant's name, address, date of birth and Commission-issued Customer Identification Number, and any other information required by the Commission.

(b) *Eligibility.* Adult pheasant hunting permit applications are available for submission by applicants in possession of a valid resident or nonresident adult or senior hunting license or a valid mentored adult hunting permit. The fee for an adult pheasant hunting permit is \$25, plus any applicable transactional and issuing agent fees.

§ 147.317. Permit.

(a) A pheasant hunting permit is required for an adult to hunt or take pheasants by any means or manner or device, including the use of dogs, in this Commonwealth.

(b) A pheasant hunting permit shall be signed and carried on person when hunting or taking pheasants in this Commonwealth.

(c) This section and subchapter may not be construed to require a permit for individuals engaged in lawful pheasant hunting activities under a valid commercial or noncommercial regulated hunting grounds issued under section 2928 of the act (relating to regulated hunting grounds permits).

§ 147.318. Violations.

Violations of this subchapter will be prosecuted under section 2908 of the act (relating to violations). Furthermore, the Director may deny, revoke or suspend a permit for a violation of this subchapter upon written notice to the permittee.

[Pa.B. Doc. No. 17-424. Filed for public inspection March 10, 2017, 9:00 a.m.]

[58 PA. CODE CH. 137]

Wildlife; Chronic Wasting Disease Restrictions

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its January 31, 2017, meeting to adopt § 137.35 (relating to Chronic Wasting Disease restrictions) to give more permanent status and structure to the requirements and restrictions previously established and maintained by executive order during the past decade.

This proposed rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

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

This proposed rulemaking was made public at the January 31, 2017, meeting of the Commission. Comments can be sent until March 24, 2017, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

Chronic Wasting Disease (CWD) is an infectious and progressive neurological disease that is found in, and

always proves fatal to, members of the family Cervidae (deer, elk and moose, and other susceptible species, collectively called cervids). CWD is caused by prions (abnormal infectious protein particles) that are known to be concentrated in the nervous system and lymphoid tissues of infected cervids. There are no known treatments for CWD infection, no vaccines to protect against CWD infection and no approved tests that can detect the presence of CWD in live cervids. CWD is designated as a "dangerous transmissible disease" of animals by order of the Secretary of Agriculture under 3 Pa.C.S. § 2321(d) (relating to dangerous transmissible diseases). CWD is known to be transmissible from infected to uninfected cervids by contact with or ingestion of CWD-infected or contaminated cervid parts or materials. CWD is of particular concern to this Commonwealth because it has potential to have a catastrophic detrimental impact on both wild and captive cervid populations in this Commonwealth. The Department of Agriculture has detected CWD in captive deer in Adams, Franklin, Jefferson and York Counties. The Commission has also detected CWD in free-ranging deer in Bedford, Blair, Cambria and Fulton Counties. The Maryland Department of Natural Resources has detected CWD in free-ranging deer in Allegany County within 10 miles of the Pennsylvania border. The Commission proposes to add § 137.35 to give more permanent status and structure to the requirements and restrictions previously established and maintained by executive order during the past decade.

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." Section 137.35 is proposed under this authority.

2. Regulatory Requirements

This proposed rulemaking will add § 137.35 to give more permanent status and structure to the requirements and restrictions previously established and maintained by executive order during the past decade.

3. Persons Affected

Persons wishing to import high-risk parts or materials from cervids harvested, taken or killed within a CWD-endemic state or Canadian province or persons wishing to remove or export high-risk parts or materials from cervids harvested, taken or killed within a Disease Management Area within this Commonwealth will be affected by this proposed rulemaking.

4. Cost and Paperwork Requirements

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

5. Effective Date

This 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 this proposed rulemaking, contact Thomas P. Grohol, Director, Bureau of

Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

R. MATTHEW HOUGH,
Executive Director

Fiscal Note: 48-412. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 137. WILDLIFE

§ 137.35. Chronic Wasting Disease restrictions.

(a) *Importation.*

(1) It is unlawful to import any high-risk parts or materials from cervids harvested, taken or killed within any Chronic Wasting Disease (CWD)-endemic state or Canadian province into this Commonwealth.

(2) This subsection may not be construed to limit the importation of non-high-risk parts or materials from cervids harvested, taken or killed within any CWD-endemic state or Canadian province into this Commonwealth.

(b) *Exportation.*

(1) It is unlawful to remove or export any high-risk parts or materials from cervids harvested, taken or killed, including by vehicular accident, within any Disease Management Area established within this Commonwealth.

(2) This subsection may not be construed to limit the removal or exportation of non-high-risk parts or materials from cervids harvested, taken or killed within any Disease Management Area established within this Commonwealth.

(3) This subsection may not be construed to limit the removal or exportation of high-risk parts or materials from cervids harvested, taken or killed in any Disease Management Area established within this Commonwealth if the parts or materials are transported directly to any location or facility designated and approved in advance by the Commission to receive high-risk cervid parts for waste disposal, taxidermy or butchering purposes. Locations or facilities designated and approved to receive high-risk cervid parts for waste disposal, taxidermy or butchering purposes will be made known through public announcement, web site and other means reasonably intended to reach the widest audience.

(4) All cervids harvested, taken or killed within any Disease Management Area established within this Commonwealth are subject to disease testing. This testing may require hunters to present cervids, or cervid parts, for checking and sampling at prescribed locations under conditions in a forthcoming notice. The submission process, if any, will be made known through public announcement, web site and other means reasonably intended to reach the widest audience. The cost of testing, sampling and analysis will be borne by the Commission.

(5) It is unlawful to rehabilitate wild, free-ranging cervids within any Disease Management Area established within this Commonwealth.

(6) It is unlawful to use or possess cervid urine-based attractants in any outdoor setting within any Disease Management Area established within this Commonwealth.

(7) It is unlawful to directly or indirectly feed wild, free-ranging cervids within any Disease Management

Area established within this Commonwealth. This prohibition may not be construed to apply to normal or accepted agricultural, habitat management, oil and gas drilling, mining, forest management, or other legitimate commercial or industrial practices. If otherwise lawful feeding is attracting cervids, the Commission may provide written notice prohibiting this activity. Failure to discontinue this activity is a violation of this section.

(8) The Commission will not issue any new permit to possess or transport live cervids within any Disease Management Area established within this Commonwealth.

(c) *Nonapplicability.*

(1) Nothing in this section shall be construed to extend to the regulation of captive cervids held under 3 Pa.C.S. Chapter 23 (relating to Domestic Animal Law) or the requirements of a lawful quarantine order issued by the Department of Agriculture.

(2) Nothing in this section shall be construed to limit the Commission's authority to establish or enforce additional importation, exportation, possession, transportation, or testing requirements or restrictions on cervid parts or materials under the authority of § 137.34 (relating to Chronic Wasting Disease and emergency authority of Director).

(d) *Authority to designate.* The Executive Director has the authority to designate and publish a list of current CWD-endemic states and Canadian provinces and Disease Management Areas established within this Commonwealth. The Executive Director will publish this list and any updates in the *Pennsylvania Bulletin*.

(e) *Definitions.* The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

CWD—Chronic Wasting Disease—The transmissible spongiform encephalopathy of cervids.

CWD-endemic states or Canadian provinces—States or Canadian provinces where CWD has been detected in wild or captive cervid populations.

Cervid—Any member of the family Cervidae (deer), specifically including the following species: black-tailed deer; caribou; elk; fallow deer; moose; mule deer; red deer; sika deer; white-tailed deer; and any hybrids thereof.

Disease Management Area—Any geographic area of this Commonwealth influenced by a positive case of CWD and targeted by the Commission for CWD management activities.

Feeding—The act of placing any artificial or natural substance for the use or consumption of wild, free-ranging cervids on an annual, seasonal or emergency basis.

High-risk parts or materials—Any parts or materials, derived from cervids, which are known to accumulate abnormal prions. This includes any of the following: head (including brain, tonsils, eyes and lymph nodes); spinal cord/backbone (vertebra); spleen; skull plate with attached antlers, if visible brain or spinal cord material is present; cape, if visible brain or spinal cord material is present; upper canine teeth, if root structure or other soft material is present; any object or article containing visible brain or spinal cord material; and brain-tanned hide.

Non-high-risk parts or materials—Any parts or materials, derived from cervids, which are not known to accumulate abnormal prions. This includes any of the following: meat, without the backbone; skull plate with

attached antlers, if no visible brain or spinal cord material is present; tanned hide or rawhide with no visible brain or spinal cord material present; cape, if no visible brain or spinal cord material is present; upper canine teeth, if no root structure or other soft material is present; and taxidermy mounts, if no visible brain or spinal cord material is present.

(f) *Violations.* A person violating a requirement or restriction in this section may be prosecuted under section 2102 or 2307 of the act (relating to regulations; and unlawful taking or possession of game or wildlife) and, upon conviction, be sentenced to pay the fine prescribed in the act.

[Pa.B. Doc. No. 17-425. Filed for public inspection March 10, 2017, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CH. 682a AND 683a]

Four Card Prime and Cajun Stud; Table Game Rules of Play

The Pennsylvania Gaming Control Board (Board), under the general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers) and the specific authority in 4 Pa.C.S. § 13A02(1) and (2) (relating to regulatory authority), proposes to add Chapters 682a and 683a (relating to Four Card Prime; and Cajun Stud) to read as set forth in Annex A.

Purpose of the Proposed Rulemaking

This proposed rulemaking will add new table games to the compliment of games available for play in this Commonwealth.

Explanation

Sections 682a.1 and 683a.1 (relating to definitions) contain the definitions used throughout the chapters. Sections 682a.2 and 683a.2 (relating to Four Card Prime table physical characteristics; and Cajun Stud table physical characteristics) contain the physical characteristics of the table layout. Sections 682a.3 and 683a.3 (relating to cards; number of decks) detail the number of cards and decks used to play the game. Sections 682a.4 and 683a.4 (relating to opening of the table for gaming) address how the dealer is to open the table game for play.

Sections 682a.5 and 683a.5 (relating to shuffle and cut of the cards) detail how the cards are to be shuffled and cut. Sections 682a.6 and 683a.6 (relating to Four Card Prime rankings; and Cajun Stud rankings) address the rank of the cards and hands. Sections 682a.7 and 683a.7 (relating to wagers) outline the permissible wagers players may place during a round of play.

Sections 682a.8—682a.10 and 683a.8—683a.10 address how the cards are to be dealt and the number of cards dealt to each player. Sections 682a.11 and 683a.11 (relating to procedures for completion of each round of play) specify how wagers are to be settled and a round of play completed. Sections 682a.12 and 683a.12 (relating to payout odds; Bad Beat Bonus; payout limitation; and payout odds; payout limitation) outline the permissible payout odds for winning wagers and allow the operator to place a payout limit, per player per round of play.

Sections 682a.13 and 683a.13 (relating to irregularities) address how a dealer is to handle irregularities during play.

In Four Card Prime, the approved payout tables in § 682a.12 have a hold percentage of between 2.13% and 2.63% for required wagers. For optional wagers, the hold percentage ranges from 1.11% to 6.6% for the Aces Bonus Wager, between 6.74% to 18.1% for the All Six Bonus Wager and from 4.74% to 9.8% for the Prime Wager.

In Cajun Stud, the approved payout tables in § 683a.12 have a hold percentage of between 1.37% and 4.28% for the required wagers. For optional wagers, the hold percentage ranges from 7.18% to 8.71% for the Lo Ball Wager, between 2.14% and 7.1% for the Board Bonus, between 6.74% and 18.1% for the All Six Bonus Wager (the same wager offered in Four Card Prime) and between 4.52% and 9.95% for the Pocket Bonus Wager.

Fiscal Impact

Commonwealth. The Board does not expect that this proposed rulemaking will have a fiscal impact on the Board or other Commonwealth agencies. Updates to Rules Submission forms and internal control procedures will be reviewed by existing Board staff.

Political subdivisions. This proposed rulemaking will not have fiscal impact on political subdivisions of this Commonwealth.

Private sector. This proposed rulemaking will provide certificate holders with additional table game options. If a certificate holder decides to offer Four Card Prime or Cajun Stud within the licensed facility, the certificate holder will be required to train their dealers on the rules of play and purchase new equipment—specifically table layouts corresponding to the game and wagers offered. Costs incurred to train employees or purchase/lease equipment should be offset by the proceeds of gaming.

General public. This proposed rulemaking will not have fiscal impact on the general public.

Paperwork Requirements

If a certificate holder selects different options for the play of table games, the certificate holder will be required to submit an updated Rules Submission form reflecting the changes. These forms are available and submitted to Board staff electronically.

Effective Date

The proposed rulemaking will become effective upon final-form publication in the *Pennsylvania Bulletin*.

Public Comments

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking within 30 days after the date of publication in the *Pennsylvania Bulletin*. Public comments should be addressed to Susan A. Yocum, Senior Counsel, Attention: Regulation # 125-204 Public Comment, Pennsylvania Gaming Control Board, P.O. Box 69060, Harrisburg, PA 17106-9060.

Contact Person

The contact person for questions about this proposed rulemaking is Susan Yocum, Senior Counsel, (717) 346-8300.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on March 1, 2017, the Board 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 Chairpersons of the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee.

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 must specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The Regulatory Review Act specifies detailed procedures for review prior to final publication of the rulemaking by the Board, the General Assembly and the Governor.

DAVID M. BARASCH,
Chairperson

Fiscal Note: 125-204. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart K. TABLE GAMES

CHAPTER 682a. FOUR CARD PRIME

Sec.	
682a.1.	Definitions.
682a.2.	Four Card Prime table physical characteristics.
682a.3.	Cards; number of decks.
682a.4.	Opening of the table for gaming.
682a.5.	Shuffle and cut of the cards.
682a.6.	Four Card Prime rankings.
682a.7.	Wagers.
682a.8.	Procedures for dealing the cards from a manual dealing shoe.
682a.9.	Procedures for dealing the cards from the hand.
682a.10.	Procedures for dealing the cards from an automated dealing shoe.
682a.11.	Procedures for completion of each round of play.
682a.12.	Payout odds; Bad Beat Bonus; payout limitation.
682a.13.	Irregularities.

§ 682a.1. Definitions.

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

Aces Bonus Wager—An optional wager a player shall make prior to any cards being dealt to compete against a posted payout table.

All-Six Bonus Wager—An optional wager a player shall make prior to any cards being dealt to compete against a posted payout table.

Ante Wager—The wager that a player is required to make prior to any cards being dealt to compete against the dealer's hand.

Bad Beat Bonus—A payout based the player's Ante Wager when the rank of the player's four-card hand is a three-of-a-kind or higher but is lower in rank than the dealer's four-card hand.

Prime Wager—An optional wager a player shall make prior to any cards being dealt to compete against a posted payout table.

Raise Wager—An additional wager of one, two or three times the player's Ante Wager that a player shall make if the player opts to remain in competition against the dealer.

Win Bonus—An additional payout based on the value of the player's Ante Wager when the rank of the player's

four-card hand is a three-of-a-kind or higher and is higher in rank than the dealer's four-card hand.

§ 682a.2. Four Card Prime table physical characteristics.

(a) Four Card Prime shall be played at a table having betting positions for no more than six players on one side of the table and a place for the dealer on the opposite side of the table.

(b) The layout for a Four Card Prime table shall be submitted to the Bureau of Gaming Operations in accordance with § 601a.10(a) (relating to approval of table game layouts, signage and equipment) and contain, at a minimum:

(1) The name or logo of the certificate holder.

(2) Two separate betting areas designated for the placement of Ante and Raise Wagers for each player.

(3) If the certificate holder offers the optional Prime Wager authorized under § 682a.7(d)(2) (relating to wagers), the Aces Bonus Wager authorized under § 682a.7(d)(3) or the All-Six Bonus Wager authorized under § 682a.7(d)(4), a separate area designated for the placement of each of the wagers for each player.

(4) Inscriptions that advise patrons of the payout odds for all permissible wagers offered by the certificate holder. If payout odds are not inscribed on the layout, a sign indicating the payout odds for all permissible wagers shall be posted at each Four Card Prime table.

(5) If the certificate holder establishes a payout limit per player, per round of play, as authorized under § 682a.12(g) (relating to payout odds; Bad Beat Bonus; payout limitation), inscriptions that advise patrons of the payout limit. If the payout limit is not inscribed on the layout, a sign identifying the payout limit shall be posted at each Four Card Prime table.

(c) Each Four Card Prime table must have a drop box and a tip box attached on the same side of the table as, but on opposite sides of, the dealer, as approved by the Bureau of Casino Compliance in accordance with § 601a.10(g). The Bureau of Casino Compliance may approve an alternative location for the tip box when a card shuffling device or other table game equipment prevents the placement of the drop box and tip box on the same side of the gaming table as, but on opposite sides of, the dealer.

(d) Each Four Card Prime table must have a discard rack securely attached to the top of the dealer's side of the table.

§ 682a.3. Cards; number of decks.

(a) Except as provided in subsection (b), Four Card Prime shall be played with 1 deck of 52 cards that are identical in appearance and 1 cover card.

(b) If an automated card shuffling device is utilized, Four Card Prime may be played with 2 decks of 52 cards in accordance with the following requirements:

(1) The cards in each deck must be of the same design. The backs of the cards in one deck must be of a different color than the cards included in the other deck.

(2) One deck of cards shall be shuffled and stored in the automated card shuffling device while the other deck is being used to play the game.

(3) Both decks are continuously alternated in and out of play, with each deck being used for every other round of play.

(4) The cards from only one deck are placed in the discard rack at any given time.

(c) The decks of cards used in Four Card Prime shall be changed at least every:

(1) Four hours if the cards are dealt by hand.

(2) Eight hours if the cards are dealt from a manual or automated dealing shoe.

§ 682a.4. Opening of the table for gaming.

(a) After receiving one or more decks of cards at the table, the dealer shall inspect the cards for any defects. The floorperson assigned to the table shall verify the inspection.

(b) After the cards are inspected, the cards shall be spread out face up on the table for visual inspection by the first player to arrive at the table. The cards shall be spread in horizontal fan shaped columns by deck according to suit and in sequence.

(c) After the first player arriving at the table has been afforded an opportunity to visually inspect the cards, the cards shall be turned face down on the table, mixed thoroughly by a washing of the cards and stacked. Once the cards have been stacked, the cards shall be shuffled in accordance with § 682a.5 (relating to shuffle and cut of the cards).

(d) If an automated card shuffling device is utilized and two decks of cards are received at the table, each deck of cards shall be spread for inspection, mixed, stacked and shuffled in accordance with subsections (a)—(c).

(e) If the decks of cards received at the table are preinspected and preshuffled in accordance with § 603a.16(u) or (v) (relating to cards; receipt, storage, inspection and removal from use), subsections (a)—(d) do not apply.

§ 682a.5. Shuffle and cut of the cards.

(a) Immediately prior to commencement of play, unless the cards were preshuffled in accordance with § 603a.16(u) or (v) (relating to cards; receipt, storage, inspection and removal from use), after each round of play has been completed or when directed by a floorperson or above, the dealer shall shuffle the cards, either manually or by use of an automated card shuffling device, so that the cards are randomly intermixed. Upon completion of the shuffle, the dealer or automated card shuffling device shall place the deck of cards in a single stack. The certificate holder may use an automated card shuffling device which, upon completion of the shuffling of the cards, inserts the stack of cards directly into a dealing shoe.

(b) If an automated card shuffling device is being used, which counts the number of cards in the deck after the completion of each shuffle and indicates whether 52 cards are present, and the device reveals that an incorrect number of cards are present, the deck shall be removed from the table.

(c) After the cards have been shuffled and stacked, the dealer shall:

(1) If the cards were shuffled using an automated card shuffling device, deal the cards in accordance with § 682a.8, § 682a.9 or § 682a.10 (relating to procedures for dealing the cards from a manual dealing shoe; procedures for dealing the cards from the hand; and procedures for dealing the cards from an automated dealing shoe).

(2) If the cards were shuffled manually or were preshuffled, cut the cards in accordance with subsection (d).

(d) If a cut of the cards is required, the dealer shall place the cover card in the stack at least ten cards in from the top of the stack. Once the cover card has been inserted, the dealer shall take all cards above the cover card and the cover card and place them on the bottom of the stack. The stack of cards shall then be inserted into the dealing shoe for the commencement of play.

(e) After the cards have been cut and before any cards have been dealt, a floorperson or above may require the cards to be recut if the floorperson determines that the cut was performed improperly or in any way that might affect the integrity or fairness of the game.

(f) If there is no gaming activity at a Four Card Prime table which is open for gaming, the cards shall be removed from the dealing shoe and discard rack and spread out on the table face down unless a player requests that the cards be spread face up on the table. After the first player arriving at the table is afforded an opportunity to visually inspect the cards, the procedures in § 682a.4(c) (relating to opening of the table for gaming) and this section shall be completed.

(g) A certificate holder may utilize a dealing shoe or other device that automatically reshuffles and counts the cards provided that the device is submitted to the Bureau of Gaming Laboratory Operations and approved in accordance with § 461a.4 (relating to submission for testing and approval) prior to its use in the licensed facility. If a certificate holder is utilizing the approved device, subsections (d)—(f) do not apply.

§ 682a.6. Four Card Prime rankings.

(a) The rank of the cards used in Four Card Prime, in order of highest to lowest rank, shall be: ace, king, queen, jack, 10, 9, 8, 7, 6, 5, 4, 3 and 2. Notwithstanding the foregoing, an ace may be used to complete a straight flush or a straight with a 2, 3 and 4 but may not be combined with any other sequence of cards (for example, queen, king, ace and 2). All suits shall be equal in rank.

(b) The permissible Poker hands in the game of Four Card Prime, in order of highest to lowest rank, shall be:

(1) A four-of-a-kind, which is a hand consisting of four cards of the same rank with four aces being the highest ranking four-of-a-kind and four 2s being the lowest ranking four-of-a-kind.

(2) A straight flush, which is a hand consisting of four cards of the same suit in consecutive ranking, with an ace, king, queen and jack being the highest ranking straight flush and an ace, 2, 3 and 4 being the lowest ranking straight flush.

(3) A three-of-a-kind, which is a hand consisting of three cards of the same rank, with three aces being the highest ranking three-of-a-kind and three 2s being the lowest ranking three-of-a-kind.

(4) A flush, which is a hand consisting of four cards of the same suit, regardless of rank.

(5) A straight, which is a hand consisting of four cards of more than one suit and of consecutive rank, with an ace, king, queen and jack being the highest ranking straight and an ace, 2, 3 and 4 being the lowest ranking straight.

(6) Two pairs, which is a hand consisting of two sets of two cards of the same rank, with two aces and two kings

being the highest ranking two pairs and two 3s and two 2s being the lowest ranking two pair.

(7) A pair, which is a hand consisting of two cards of the same rank, with two aces being the highest ranking pair and two 2s being the lowest ranking pair.

(c) When comparing two Poker hands that are of identical rank under subsection (b), or that contain none of the hands in subsection (b), the hand that contains the highest ranking card under subsection (a), which is not contained in the other hand, shall be considered the higher ranking hand. If the hands are of equal rank after the application of this section, the hands shall be considered a tie.

(d) If a certificate holder offers the Aces Bonus Wager, the hands eligible for a payout shall be:

(1) Four aces, which is a hand consisting of four aces.

(2) A four-of-a-kind, which is a hand consisting of four cards of the same rank, other than four aces.

(3) A royal flush, which is a hand consisting of an ace, king, queen, jack and 10 of the same suit.

(4) A straight flush, which is a hand consisting of five cards of the same suit in consecutive ranking, other than a royal flush.

(5) Three aces, which is a hand consisting of three aces.

(6) A three-of-a-kind, which is a hand consisting of three cards of the same rank, other than three aces.

(7) A flush, which is a hand consisting of five cards of the same suit.

(8) A straight, which is a hand consisting of five cards of consecutive rank, regardless of suit.

(9) Two pair, which is a hand consisting of two sets of two cards of the same rank.

(10) Two aces, which is a hand consisting of two aces.

(e) If a certificate holder offers the All-Six Bonus Wager, the rank of the hands shall be:

(1) A six-card royal flush, which is a hand consisting of an ace, king, queen, jack, 10 and 9 of the same suit.

(2) A royal flush, which is a hand consisting of an ace, king, queen, jack and 10 of the same suit.

(3) A straight flush, which is a hand consisting of five cards of the same suit in consecutive ranking, other than a royal flush.

(4) A four-of-a-kind, which is a hand consisting of four cards of the same rank, regardless of suit.

(5) A full house, which is a hand consisting of three-of-a-kind and a pair.

(6) A flush, which is a hand consisting of five cards of the same suit.

(7) A straight, which is a hand consisting of five cards of consecutive rank, regardless of suit.

(8) A three-of-a-kind, which is a hand consisting of three cards of the same rank, regardless of suit.

§ 682a.7. Wagers.

(a) Wagers at Four Card Prime shall be made by placing value chips, plaques or other Board-approved table game wagering instruments on the appropriate areas of the table layout. Verbal wagers accompanied by cash may not be accepted.

(b) Only players who are seated at a Four Card Prime table may wager at the game. Once a player has placed a wager and received cards, that player shall remain seated until the completion of the round of play. If a player leaves the table during a round of play, any wagers made by the player may be considered abandoned and may be treated as losing wagers.

(c) All wagers, except the Raise Wager, shall be placed prior to the dealer announcing "no more bets" in accordance with the dealing procedures in § 682a.8, § 682a.9 or § 682a.10 (relating to procedures for dealing the cards from a manual dealing shoe; procedures for dealing the cards from the hand; and procedures for dealing the cards from an automated dealing shoe). Except as provided in § 682a.11(b) (relating to procedures for completion of each round of play), a wager may not be made, increased or withdrawn after the dealer has announced "no more bets."

(d) The following wagers may be placed in the game of Four Card Prime:

(1) A player may compete solely against the dealer's Four Card Prime hand by placing an Ante Wager then a Raise Wager, in an amount equal to one, two or three times the player's Ante Wager, in accordance with § 682a.11(b).

(2) If specified in its Rules Submission under § 601a.2 (relating to table games Rules Submissions), a certificate holder may offer to each player at a Four Card Prime table the option to make an additional Prime Wager which shall win if at least four of player's five cards are of the same color.

(3) If specified in its Rules Submission under § 601a.2, a certificate holder may offer to each player at a Four Card Prime table the option to make an additional Aces Bonus Wager, which shall win if the player's five cards contain a pair of aces or better as provided in § 682a.6(d) (relating to Four Card Prime rankings).

(4) If specified in its Rules Submission under § 601a.2, a certificate holder may offer to each player at a Four Card Prime table the option to make an additional All-Six Bonus Wager, which shall win if the player's five cards and the additional All-Six Bonus card form a three-of-a-kind or better as provided in § 682a.6(e).

(e) A certificate holder shall specify in its Rules Submission under § 601a.2 the number of adjacent boxes on which a player may place a wager in one round of play.

§ 682a.8. Procedures for dealing the cards from a manual dealing shoe.

(a) If a manual dealing shoe is used, the dealing shoe must be located on the table in a location approved by the Bureau of Casino Compliance in accordance with § 601a.10(g) (relating to approval of table game layouts, signage and equipment). Once the procedures required under § 682a.5 (relating to shuffle and cut of the cards) have been completed, the stacked deck of cards shall be placed in the dealing shoe by the dealer or by an automated card shuffling device.

(b) Prior to dealing any cards, the dealer shall announce "no more bets." To deal the cards, the dealer shall remove each card from the dealing shoe with the hand of the dealer that is closest to the dealing shoe and place it on the appropriate area of the layout with the opposite hand.

(c) If a player has placed an All-Six Bonus Wager, the dealer shall deal the first card face down to the area of

the layout designated for the All-Six Bonus card. Thereafter, starting with the player farthest to the dealer's left and continuing around the table in a clockwise manner, the dealer shall deal one card at a time to each player who has placed an Ante Wager in accordance with § 682a.7(d)(1) (relating to wagers) and to the dealer until each player who placed an Ante Wager has five cards and the dealer has six cards. All cards shall be dealt face down.

(d) After five cards have been dealt to each player and six cards to the dealer, the dealer shall remove the stub from the manual dealing shoe and, except as provided in subsection (e), place the stub in the discard rack without exposing the cards.

(e) If an automated card shuffling device, which counts the number of cards in the deck after the completion of each shuffle and indicates whether 52 cards are present, is not being used, the dealer shall count the stub at least once every 5 rounds of play to determine if the correct number of cards are still present in the deck. The dealer shall determine the number of cards in the stub by counting the cards face down on the layout.

(f) If the count of the stub indicates that 52 cards are in the deck, the dealer shall place the stub in the discard rack without exposing the cards.

(g) If the count of the stub indicates that the number of cards in the deck is incorrect, the dealer shall determine if the cards were misdealt. If the cards were misdealt but 52 cards remain in the deck, all hands shall be void and all wagers shall be returned to the players. If the cards were not misdealt, all hands shall be void, all wagers shall be returned to the players and the entire deck of cards shall be removed from the table.

§ 682a.9. Procedures for dealing the cards from the hand.

(a) If the cards are dealt from the dealer's hand, the following requirements shall be observed:

(1) An automated card shuffling device shall be used to shuffle the cards.

(2) After the procedures required under § 682a.5 (relating to shuffle and cut of the cards) have been completed, the dealer shall place the stacked deck of cards in either hand. After the dealer has chosen the hand in which to hold the cards, the dealer shall continue to use that hand whenever holding the cards during that round of play. The cards held by the dealer shall be kept over the table inventory container and in front of the dealer at all times.

(3) Prior to dealing any cards, the dealer shall announce "no more bets."

(b) To deal the cards, the dealer shall hold the deck of cards in the chosen hand and use the other hand to remove the top card of the deck and place it face down on the appropriate area of the layout. If a player has placed an All-Six Bonus Wager, the dealer shall deal the first card face down to the area of the layout designated for the All-Six Bonus card. Thereafter, starting with the player farthest to the dealer's left and continuing around the table in a clockwise manner, the dealer shall deal one card at a time to each player who has placed an Ante Wager in accordance with § 682a.7(d)(1) (relating to wagers) and to the dealer until each player who placed an Ante Wager has five cards and the dealer has six cards. All cards shall be dealt face down.

(c) After five cards have been dealt to each player and six cards to the dealer, the dealer shall, except as

provided in subsection (d), place the stub in the discard rack without exposing the cards.

(d) If an automated card shuffling device that counts the number of cards in the deck after the completion of each shuffle and indicates whether 52 cards are present is not being used, the dealer shall count the stub at least once every 5 rounds of play to determine if the correct number of cards are still present in the deck. The dealer shall determine the number of cards in the stub by counting the cards face down on the layout.

(e) If the count of the stub indicates that 52 cards are in the deck, the dealer shall place the stub in the discard rack without exposing the cards.

(f) If the count of the stub indicates that the number of cards in the deck is incorrect, the dealer shall determine if the cards were misdealt. If the cards were misdealt but 52 cards remain in the deck, all hands shall be void and all wagers shall be returned to the players. If the cards were not misdealt, all hands shall be void, all wagers shall be returned to the players and the entire deck of cards shall be removed from the table.

§ 682a.10. Procedures for dealing the cards from an automated dealing shoe.

(a) If the cards are dealt from an automated dealing shoe, the following requirements shall be observed:

(1) After the procedures required under § 682a.5 (relating to shuffle and cut of the cards) have been completed, the cards shall be placed in the automated dealing shoe.

(2) Prior to the shoe dispensing any stacks of cards, the dealer shall announce "no more bets."

(b) The dealer shall deliver the first stack of five cards dispensed by the automated dealing shoe face down to the player farthest to the dealer's left who has placed an Ante Wager in accordance with § 682a.7(d)(1) (relating to wagers). As the remaining stacks are dispensed to the dealer by the automated dealing shoe, the dealer shall, moving clockwise around the table, deliver a stack face down to each of the other players who has placed an Ante Wager. The dealer shall then deliver a stack of five cards face down to the area designated for the placement of the dealer's cards. The dealer shall then remove the next stack of five cards dispensed by the automated dealing shoe and if any player placed an All-Six Bonus Wager, the dealer shall deal the top card of the stack face down to the area of the layout designated for the All-Six Bonus card. The dealer shall then deal a sixth card face down to the dealer's hand and place the remaining cards in the discard rack.

(c) After all cards have been dispensed and delivered in accordance with subsection (b), the dealer shall remove the stub from the automated dealing shoe and, except as provided in subsection (d), place the cards in the discard rack without exposing the cards.

(d) If an automated card shuffling device, which counts the number of cards in the deck after the completion of each shuffle and indicates whether 52 cards are present, is not being used, the dealer shall count the stub at least once every 5 rounds of play to determine if the correct number of cards are still present in the deck. The dealer shall determine the number of cards in the stub by counting the cards face down on the layout.

(e) If the count of the stub indicates that 52 cards are in the deck, the dealer shall place the stub in the discard rack without exposing the cards.

(f) If the count of the stub indicates that the number of cards in the deck is incorrect, the dealer shall determine if the cards were misdealt. If the cards were misdealt but 52 cards remain in the deck, all hands shall be void and all wagers shall be returned to the players. If the cards were not misdealt, all hands shall be void, all wagers shall be returned to the players and the entire deck of cards shall be removed from the table.

§ 682a.11. Procedures for completion of each round of play.

(a) After the dealing procedures required under § 682a.8, § 682a.9 or § 682a.10 (relating to procedures for dealing the cards from a manual dealing shoe; procedures for dealing the cards from the hand; and procedures for dealing the cards from an automated dealing shoe) have been completed, each player shall examine his cards subject to the following limitations:

(1) Each player who wagers at Four Card Prime shall be responsible for his own hand and no person other than the dealer and the player to whom the cards were dealt may touch the cards of that player.

(2) Each player shall keep his five cards in full view of the dealer at all times.

(b) After each player has examined his cards, the dealer shall, beginning with the player farthest to the dealer's left and moving clockwise around the table, ask each player who placed an Ante Wager if he wishes to make a Raise Wager in an amount equal to one, two or three times the player's Ante Wager or forfeit the Ante Wager and end his participation in the round of play. If a player has placed an Ante Wager and an optional Prime, Aces Bonus or All-Six Bonus Wager but does not make a Raise Wager, the player shall forfeit the Ante Wager but does not forfeit the Prime, Aces Bonus or All-Six Bonus Wager.

(c) After each player who has placed an Ante Wager has either placed a Raise Wager on the designated area of the layout or forfeited his Ante Wager, the dealer shall collect all forfeited wagers and associated cards, except for the cards of those players who placed an optional Prime, Aces Bonus or All-Six Bonus Wager, and place the cards in the discard rack.

(d) The dealer shall then reveal the dealer's cards and place the cards so as to form the highest possible ranking four-card hand. After the dealer's cards are turned face up, the dealer shall, beginning with the player farthest to the dealer's right and continuing around the table in a counterclockwise direction, complete the following applicable procedures in succession for each player:

(1) The dealer shall turn the cards of each player face up on the layout and compare the player's four-card hand to the dealer's four-card hand.

(2) If the player's highest ranking four-card hand is:

(i) Higher than or equal to the dealer's hand, as described in § 682a.6(b) (relating to Four Card Prime rankings), the dealer shall pay the winning Ante and Raise Wagers in accordance with § 682a.12(a) (relating to payout odds; Bad Beat Bonus; payout limitation). Additionally, after paying the player's winning Ante and Raise Wagers, if the player's hand is a three-of-a-kind or better,

the dealer shall pay a Win Bonus, based on the value of the player's Ante Wager, in accordance with § 682a.12(b).

(ii) Lower than the dealer's hand, and the player's losing hand:

(A) Is not a three-of-a-kind or better, the dealer shall collect the player's losing Ante and Raise Wagers.

(B) Is a three-of-a-kind or better, the dealer shall collect the player's losing Raise Wager, return the player's Ante Wager and pay the player a Bad Beat Bonus on the player's Ante Wager in accordance with § 682a.12(c).

(e) After settling the player's Ante and Raise Wagers, the dealer shall settle any optional wagers as follows:

(1) For the Prime Wager, if four or more of the player's five cards:

(i) Are not the same color, the dealer shall collect the losing Prime Wager.

(ii) Are of the same color, the dealer shall pay the winning Prime Wager in accordance with § 682a.12(d).

(2) For the Aces Bonus Wager, if the player's five-card hand:

(i) Does not contain a pair of aces or better, as described in § 682a.6(d), the dealer shall collect the losing Aces Bonus Wager.

(ii) Contains a pair of aces or better, as described in § 682a.6(d), the dealer shall pay the winning Aces Bonus Wager in accordance with § 682a.12(e).

(3) For the All-Six Bonus Wager, the dealer shall expose the All-Six Bonus card and combine it with the player's five cards to form the highest ranking six-card hand as provided in § 682a.6(e). If the hand:

(i) Does not contain a three-of-a-kind or better, as described in § 682a.6(e), the dealer shall collect the losing All-Six Bonus Wager.

(ii) Contains a three-of-a-kind or better, as described in § 682a.6(e), the dealer shall pay the winning All-Six Bonus Wager in accordance with § 682a.12(f).

(f) After all wagers of the player have been settled, the dealer shall remove any remaining cards from the table and place them in the discard rack in a manner that permits the reconstruction of each hand in the event of a question or dispute.

§ 682a.12. Payout odds; Bad Beat Bonus; payout limitation.

(a) A certificate holder shall pay winning Ante and Raise Wagers at odds of 1 to 1.

(b) A certificate holder shall pay a Win Bonus based on the value of the player's Ante Wager in accordance with the following payout table:

<i>Hand</i>	<i>Payout</i>
Four-of-a-kind	25 for 1
Straight flush	20 for 1
Three-of-a-kind	2 for 1

(c) A certificate holder shall pay a Bad Beat Bonus on the player's Ante Wager in accordance with one of the following payout tables selected by the certificate holder in its Rules Submission filed in accordance with § 601a.2 (relating to table games Rules Submissions):

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<i>Hand</i>	<i>Paytable A</i>	<i>Paytable B</i>	<i>Paytable C</i>	<i>Paytable D</i>
Four-of-a-kind	25 to 1	50 to 1	100 to 1	100 to 1
Straight flush	20 to 1	40 to 1	50 to 1	50 to 1
Three-of-a-kind	2 to 1	5 to 1	5 to 1	10 to 1

(d) A certificate holder shall pay out winning Prime Wagers in accordance with one of the following payout tables selected by the certificate holder in its Rules Submission filed in accordance with § 601a.2:

<i>Hand</i>	<i>Paytable A</i>	<i>Paytable B</i>
All five same color	6 to 1	5 to 1
Four of the same color	1 to 1	1 to 1

(e) A certificate holder shall pay out winning Aces Bonus Wagers in accordance with one of the following payout tables selected by the certificate holder in its Rules Submission filed in accordance with § 601a.2:

<i>Hand</i>	<i>Paytable A</i>	<i>Paytable B</i>	<i>Paytable C</i>	<i>Paytable D</i>
Four aces	500 to 1	500 to 1	500 to 1	500 to 1
Four-of-a-kind	100 to 1	100 to 1	100 to 1	100 to 1
Royal flush	50 to 1	40 to 1	50 to 1	50 to 1
Straight flush	30 to 1	30 to 1	40 to 1	30 to 1
Three aces	20 to 1	15 to 1	25 to 1	20 to 1
Three-of-a-kind	10 to 1	10 to 1	10 to 1	10 to 1
Flush	5 to 1	5 to 1	5 to 1	5 to 1
Straight	4 to 1	4 to 1	3 to 1	3 to 1
Two pair	2 to 1	2 to 1	2 to 1	2 to 1
Two aces	1 to 1	1 to 1	1 to 1	1 to 1

<i>Hand</i>	<i>Paytable E</i>	<i>Paytable F</i>	<i>Paytable G</i>	<i>Paytable H</i>
Four aces	500 to 1	50 to 1	50 to 1	50 to 1
Four-of-a-kind	100 to 1	50 to 1	50 to 1	50 to 1
Royal flush	50 to 1	30 to 1	30 to 1	40 to 1
Straight flush	20 to 1	30 to 1	30 to 1	40 to 1
Three aces	15 to 1	7 to 1	9 to 1	8 to 1
Three-of-a-kind	10 to 1	7 to 1	9 to 1	8 to 1
Flush	5 to 1	6 to 1	6 to 1	5 to 1
Straight	3 to 1	5 to 1	4 to 1	4 to 1
Two pair	2 to 1	2 to 1	2 to 1	3 to 1
Two aces	1 to 1	1 to 1	1 to 1	1 to 1

(f) A certificate holder shall pay out winning All-Six Bonus Wagers as provided in one of the following payout tables selected by the certificate holder in its Rules Submission filed in accordance with § 601a.2:

<i>Hand</i>	<i>Paytable A</i>	<i>Paytable B</i>	<i>Paytable C</i>
Royal flush	1,000 to 1	1,000 to 1	1,000 to 1
Straight flush	200 to 1	200 to 1	200 to 1
Four-of-a-kind	50 to 1	50 to 1	100 to 1
Full house	25 to 1	25 to 1	20 to 1
Flush	20 to 1	15 to 1	15 to 1
Straight	10 to 1	10 to 1	9 to 1
Three-of-a-kind	5 to 1	5 to 1	8 to 1

<i>Hand</i>	<i>Paytable D</i>	<i>Paytable E</i>
Six-card royal flush—diamonds		200,000 to 1
Six-card royal flush—hearts, spades or clubs		20,000 to 1
Royal flush	1,000 to 1	1,000 to 1
Straight flush	200 to 1	200 to 1

<i>Hand</i>	<i>Paytable D</i>	<i>Paytable E</i>
Four-of-a-kind	100 to 1	50 to 1
Full house	20 to 1	20 to 1
Flush	15 to 1	15 to 1
Straight	10 to 1	10 to 1
Three-of-a-kind	7 to 1	5 to 1

(g) Notwithstanding the payout odds in subsections (e) and (f), if specified in its Rules Submission form filed in accordance with § 601a.2, the certificate holder may establish an aggregate payout limit per player per round of play which may not be less than \$50,000 or the maximum amount that one patron could win per round when betting the minimum wager, whichever is greater. If the certificate holder is offering the All-Six Bonus Wager and selects payable E, the aggregate payout limit established may not include the payout for the six card royal flush.

§ 682a.13. Irregularities.

(a) A card that is found face up in the shoe or the deck while the cards are being dealt may not be used in that round of play and shall be placed in the discard rack. If more than one card is found face up in the shoe or the deck during the dealing of the cards, all hands shall be void, all wagers shall be returned to the players and the cards shall be reshuffled.

(b) A card drawn in error without its face being exposed shall be used as though it were the next card from the shoe or the deck.

(c) If a player or the dealer is dealt an incorrect number of cards, all hands shall be void, all wagers shall be returned to the players and the cards shall be reshuffled.

(d) If one or more of the dealer’s cards is inadvertently exposed prior to the player’s placing a Raise Wager in accordance with § 682a.11(b) (relating to procedures for completion of each round of play), all hands shall be void, all Ante and Raise Wagers shall be returned to the players and the cards shall be reshuffled, provided that if any player placed a Prime, Aces Bonus or All-Six Bonus Wager, those wagers shall be settled in accordance with § 682a.11(e).

(e) If an automated card shuffling device is being used and the device jams, stops shuffling during a shuffle or fails to complete a shuffle cycle, the cards shall be reshuffled.

(f) If an automated dealing shoe is being used and the device jams, stops dealing cards or fails to deal all cards during a round of play, the round of play shall be void, all wagers shall be returned to the players and the cards shall be removed from the device and reshuffled with any cards already dealt.

(g) If an automated card shuffling device or automated dealing shoe malfunctions and cannot be used, the automated card shuffling device or automated dealing shoe must be covered or have a sign indicating that the automated card shuffling device or automated dealing shoe is out of order placed on the device before any other method of shuffling or dealing may be utilized at that table.

<i>Paytable D</i>	<i>Paytable E</i>
100 to 1	50 to 1
20 to 1	20 to 1
15 to 1	15 to 1
10 to 1	10 to 1
7 to 1	5 to 1

CHAPTER 683a. CAJUN STUD

- Sec.
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§ 683a.1. Definitions.

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

All-Six Bonus Wager—An optional wager a player shall make prior to any cards being dealt to compete against a posted payout table.

Ante Wager—The wager a player is required to make prior to any cards being dealt to participate in a round of play.

Board Bonus Wager—An optional wager a player shall make prior to any cards being dealt to compete against a posted payout table.

Community card—A card which is used by all players to form the best possible five-card Poker hand.

Fold—The withdrawal of a player from a round of play by not making Raise Wagers.

Lo Ball Wager—An optional wager a player shall make prior to any cards being dealt to compete against a posted payout table.

Pocket Bonus Wager—An optional wager a player shall make prior to any cards being dealt to compete against a posted payout table.

Raise Wager—An additional wager of one, two or three times the player’s Ante Wager that a player shall make after examining the two cards dealt to the player and after the first and second community cards are revealed if the player opts to remain in the round of play.

§ 683a.2. Cajun Stud table physical characteristics.

(a) Cajun Stud shall be played on a table having betting positions for no more than six players on one side of the table and a place for the dealer on the opposite side of the table.

(b) The layout for a Cajun Stud table shall be submitted to the Bureau of Gaming Operations in accordance with § 601a.10(a) (relating to approval of table game layouts, signage and equipment) and contain, at a minimum:

(1) The name or logo of the certificate holder.

(2) A separate betting area designated for the placement of the Ante Wager and three separate betting areas designated for the placement of the Raise Wagers for each player.

(3) If the certificate holder offers the optional Pocket Bonus Wager authorized under § 683a.7(d)(2) (relating to wagers), the Board Bonus Wager authorized under § 683a.7(d)(3), the Lo Ball Wager authorized under § 683a.7(d)(4) or the All-Six Bonus Wager authorized under § 683a.7(d)(5), a separate area designated for the placement of each of the wagers for each player.

(4) Inscriptions that advise patrons of the payout odds for all permissible wagers offered by the certificate holder. If payout odds are not inscribed on the layout, a sign indicating the payout odds for all permissible wagers shall be posted at each Cajun Stud table.

(5) If the certificate holder establishes a payout limit, per player, per round of play, as authorized under § 683a.12(f) (relating to payout odds; payout limitation), inscriptions that advise patrons of the payout limit. If the payout limit is not inscribed on the layout, a sign identifying the payout limit shall be posted at each Cajun Stud table.

(c) Each Cajun Stud table must have a drop box and a tip box attached on the same side of the table as, but on opposite sides of, the dealer, as approved by the Bureau of Casino Compliance in accordance with § 601a.10(g). The Bureau of Casino Compliance may approve an alternative location for the tip box when a card shuffling device or other table game equipment prevents the placement of the drop box and tip box on the same side of the gaming table as, but on opposite sides of, the dealer.

(d) Each Cajun Stud table must have a discard rack securely attached to the top of the dealer's side of the table.

§ 683a.3. Cards; number of decks.

(a) Except as provided in subsection (b), Cajun Stud shall be played with 1 deck of 52 cards that are identical in appearance and 1 cover card.

(b) If an automated card shuffling device is utilized, Cajun Stud may be played with 2 decks of 52 cards in accordance with the following requirements:

(1) The cards in each deck must be of the same design. The backs of the cards in one deck must be of a different color than the cards included in the other deck.

(2) One deck of cards shall be shuffled and stored in the automated card shuffling device while the other deck is being used to play the game.

(3) Both decks are continuously alternated in and out of play, with each deck being used for every other round of play.

(4) The cards from only one deck shall be placed in the discard rack at any given time.

(c) The decks of cards used in Cajun Stud shall be changed at least every:

(1) Four hours if the cards are dealt by hand.

(2) Eight hours if the cards are dealt from a manual or automated dealing shoe.

§ 683a.4. Opening of the table for gaming.

(a) After receiving one or more decks of cards at the table, the dealer shall inspect the cards for defects. The floorperson assigned to the table shall verify the inspection.

(b) After the cards are inspected, the cards shall be spread out face up on the table for visual inspection by the first player to arrive at the table. The cards shall be spread in horizontal fan shaped columns by deck according to suit and in sequence.

(c) After the first player arriving at the table has been afforded an opportunity to visually inspect the cards, the cards shall be turned face down on the table, mixed thoroughly by a washing of the cards and stacked. Once the cards have been stacked, the cards shall be shuffled in accordance with § 683a.5 (relating to shuffle and cut of the cards).

(d) If an automated card shuffling device is utilized and two decks of cards are received at the table, each deck of cards shall be spread for inspection, mixed, stacked and shuffled in accordance with subsections (a)—(c).

(e) If the decks of cards received at the table are preinspected and reshuffled in accordance with § 603a.16(u) or (v) (relating to cards; receipt, storage, inspection and removal from use), subsections (a)—(d) do not apply.

§ 683a.5. Shuffle and cut of the cards.

(a) Immediately prior to commencement of play, unless the cards were reshuffled in accordance with § 603a.16(u) or (v) (relating to cards; receipt, storage, inspection and removal from use), after each round of play has been completed or when directed by a floorperson or above, the dealer shall shuffle the cards, either manually or by use of an automated card shuffling device, so that the cards are randomly intermixed. Upon completion of the shuffle, the dealer or automated card shuffling device shall place the deck of cards in a single stack. The certificate holder may use an automated card shuffling device which, upon completion of the shuffling of the cards, inserts the stack of cards directly into a dealing shoe.

(b) If an automated card shuffling device is being used, which counts the number of cards in the deck after the completion of each shuffle and indicates whether 52 cards are present, and the device reveals that an incorrect number of cards are present, the deck shall be removed from the table.

(c) After the cards have been shuffled and stacked, the dealer shall:

(1) If the cards were shuffled using an automated card shuffling device, deal the cards in accordance with § 683a.8, § 683a.9 or § 683a.10 (relating to procedures for dealing the cards from a manual dealing shoe; procedures for dealing the cards from the hand; and procedures for dealing the cards from an automated dealing shoe).

(2) If the cards were shuffled manually or were reshuffled, cut the cards in accordance with subsection (d).

(d) If a cut of the cards is required, the dealer shall place the cover card in the stack at least ten cards in from the top of the stack. Once the cover card has been inserted, the dealer shall take all cards above the cover card and the cover card and place them on the bottom of the stack. The stack of cards shall then be inserted into the dealing shoe for the commencement of play.

(e) After the cards have been cut and before any cards have been dealt, a floorperson or above may require the cards to be recut if the floorperson determines that the

cut was performed improperly or in any way that might affect the integrity or fairness of the game.

(f) If there is no gaming activity at a Cajun Stud table that is open for gaming, the cards shall be removed from the dealing shoe and discard rack and spread out on the table face down unless a player requests that the cards be spread face up on the table. After the first player arriving at the table is afforded an opportunity to visually inspect the cards, the procedures in § 683a.4(c) (relating to opening of the table for gaming) and this section shall be completed.

(g) A certificate holder may utilize a dealing shoe or other device that automatically reshuffles and counts the cards provided that the device is submitted to the Bureau of Gaming Laboratory Operations and approved in accordance with § 461a.4 (relating to submission for testing and approval) prior to its use in the licensed facility. If a certificate holder is utilizing the approved device, subsections (d)—(f) do not apply.

§ 683a.6. Cajun Stud rankings.

(a) The rank of the cards used in Cajun Stud, in order of highest to lowest rank, must be: ace, king, queen, jack, 10, 9, 8, 7, 6, 5, 4, 3 and 2. Notwithstanding the foregoing, an ace may be used to complete a straight flush or a straight with a 2, 3, 4 and 5 but may not be combined with any other sequence of cards (for example, queen, king, ace and 2). All suits shall be equal in rank.

(b) The permissible Poker hands in the game of Cajun Stud, in order of highest to lowest rank, must be:

(1) A royal flush, which is a hand consisting of an ace, king, queen, jack and 10 of the same suit.

(2) A straight flush, which is a hand consisting of five cards of the same suit in consecutive ranking, other than a royal flush.

(3) A four-of-a-kind, which is a hand consisting of four cards of the same rank.

(4) A full house, which is a hand consisting of a three-of-a-kind and a pair.

(5) A flush, which is a hand consisting of five cards of the same suit, not in consecutive order.

(6) A straight, which is a hand consisting of five cards of more than one suit and of consecutive rank.

(7) A three-of-a-kind, which is a hand consisting of three cards of the same rank.

(8) Two pairs, which is a hand consisting of two sets of two cards which are of the same rank.

(9) Pair, which is a hand consisting of two cards of the same rank.

(c) If a certificate holder offers the Pocket Bonus Wager, the player's two cards eligible for a payout must be:

(1) A pair of aces, which is a hand consisting of two aces.

(2) Suited ace, which is a hand consisting of a jack, queen or king and an ace all of the same suit.

(3) Unsuited ace, which is a hand consisting of a jack, queen or king and an ace of different suits.

(4) Pair, which is a hand consisting of two cards of the same rank.

(d) If a certificate holder offers the Board Bonus Wager, the hands eligible for a payout must be:

(1) A mini-royal, which is a hand consisting of an ace, king and queen of the same suit.

(2) A straight flush, which is a hand consisting of three cards of the same suit in consecutive ranking, other than a mini-royal.

(3) A three-of-a-kind, which is a hand consisting of three cards of the same rank.

(4) A straight, which is a hand consisting of three cards of more than one suit and of consecutive rank.

(5) A flush, which is a hand consisting of three cards of the same suit, regardless of rank.

(6) Pair, which is a hand consisting of two cards of the same rank.

(e) If a certificate holder offers the All-Six Bonus Wager, the rank of the hands must be:

(1) A six-card royal flush, which is a hand consisting of an ace, king, queen, jack, 10 and 9 of the same suit.

(2) A royal flush, which is a hand consisting of an ace, king, queen, jack and 10 of the same suit.

(3) A straight flush, which is a hand consisting of five cards of the same suit in consecutive ranking, other than a royal flush.

(4) A four-of-a-kind, which is a hand consisting of four cards of the same rank, regardless of suit.

(5) A full house, which is a hand consisting of three-of-a-kind and a pair.

(6) A flush, which is a hand consisting of five cards of the same suit.

(7) A straight, which is a hand consisting of five cards of consecutive rank, regardless of suit.

(8) A three-of-a-kind, which is a hand consisting of three cards of the same rank, regardless of suit.

§ 683a.7. Wagers.

(a) Wagers at Cajun Stud shall be made by placing value chips, plaques or other Board-approved table game wagering instruments on the appropriate areas of the table layout. Verbal wagers accompanied by cash may not be accepted.

(b) Only players who are seated at a Cajun Stud table may wager at the game. Once a player has placed a wager and received cards, that player shall remain seated until the completion of the round of play. If a player leaves the table during a round of play, any wagers made by the player may be considered abandoned and may be treated as losing wagers.

(c) All wagers, except Raise Wagers, shall be placed prior to the dealer announcing "no more bets" in accordance with the dealing procedures in § 683a.8, § 683a.9 or § 683a.10 (relating to procedures for dealing the cards from a manual dealing shoe; procedures for dealing the cards from the hand; and procedures for dealing the cards from an automated dealing shoe). Except as provided in § 683a.11(b), (d) and (f) (relating to procedures for completion of each round of play), a wager may not be made, increased or withdrawn after the dealer has announced "no more bets."

(d) The following wagers may be placed in the game of Cajun Stud:

(1) To compete in a round of play, a player shall place an Ante Wager then Raise Wagers, in an amount equal to one, two or three times the player's Ante Wager, in accordance with § 683a.11(b), (d) and (f).

(2) If specified in its Rules Submission under § 601a.2 (relating to table games Rules Submissions), a certificate holder may offer to each player at a Cajun Stud table the option to make an additional Pocket Bonus Wager which shall win if the two cards dealt to the player are a pair or better as provided in § 683a.6(c) (relating to Cajun Stud rankings).

(3) If specified in its Rules Submission under § 601a.2, a certificate holder may offer to each player at a Cajun Stud table the option to make an additional Board Bonus Wager, which shall win if the three community cards contain a pair or better as provided in § 683a.6(d).

(4) If specified in its Rules Submission under § 601a.2, a certificate holder may offer to each player at a Cajun Stud table the option to make an additional Lo Ball Wager which shall win if the highest five-card hand formed from the player's two cards and the three community cards is a single jack or lower or a single queen or lower, depending on the payout table selected by the certificate holder.

(5) If specified in its Rules Submission under § 601a.2, a certificate holder may offer to each player at a Cajun Stud table the option to make an additional All-Six Bonus Wager, which shall win if the player's two cards and the four additional All-Six cards form a three-of-a-kind or better as provided in § 683a.6(e).

(e) A certificate holder shall specify in its Rules Submission under § 601a.2 the number of adjacent boxes on which a player may place a wager in one round of play.

§ 683a.8. Procedures for dealing the cards from a manual dealing shoe.

(a) If a manual dealing shoe is used, the dealing shoe must be located on the table in a location approved by the Bureau of Casino Compliance in accordance with § 601a.10(g) (relating to approval of table game layouts, signage and equipment). Once the procedures required under § 683a.5 (relating to shuffle and cut of the cards) have been completed, the stacked deck of cards shall be placed in the dealing shoe by the dealer or by an automated card shuffling device.

(b) Prior to dealing any cards, the dealer shall announce "no more bets." To deal the cards, the dealer shall remove each card from the dealing shoe with the hand of the dealer that is closest to the dealing shoe and place it on the appropriate area of the layout with the opposite hand.

(c) If a player has placed an All-Six Bonus Wager, the dealer shall deal the first four cards face down to the area of the layout designated for the All-Six Bonus cards. Thereafter, starting with the player farthest to the dealer's left and continuing around the table in a clockwise manner, the dealer shall deal one card at a time to each player who has placed an Ante Wager in accordance with § 683a.7(d)(1) (relating to wagers) until each player who placed an Ante Wager has two cards and the area designated for the placement of the community cards has three cards. All cards shall be dealt face down.

(d) After two cards have been dealt to each player and three cards have been dealt to the area designated for the community cards, the dealer shall remove the stub from the manual dealing shoe and, except as provided in subsection (e), place the stub in the discard rack without exposing the cards.

(e) If an automated card shuffling device, which counts the number of cards in the deck after the completion of each shuffle and indicates whether 52 cards are present,

is not being used, the dealer shall count the stub at least once every 5 rounds of play to determine if the correct number of cards are still present in the deck. The dealer shall determine the number of cards in the stub by counting the cards face down on the layout.

(f) If the count of the stub indicates that 52 cards are in the deck, the dealer shall place the stub in the discard rack without exposing the cards.

(g) If the count of the stub indicates that the number of cards in the deck is incorrect, the dealer shall determine if the cards were misdealt. If the cards were misdealt but 52 cards remain in the deck, all hands shall be void and all wagers shall be returned to the players. If the cards were not misdealt, all hands shall be void, all wagers shall be returned to the players and the entire deck of cards shall be removed from the table.

§ 683a.9. Procedures for dealing the cards from the hand.

(a) If the cards are dealt from the dealer's hand, the following requirements shall be observed:

(1) An automated card shuffling device shall be used to shuffle the cards.

(2) After the procedures required under § 683a.5 (relating to shuffle and cut of the cards) have been completed, the dealer shall place the stacked deck of cards in either hand. After the dealer has chosen the hand in which to hold the cards, the dealer shall continue to use that hand whenever holding the cards during that round of play. The cards held by the dealer shall be kept over the table inventory container and in front of the dealer at all times.

(3) Prior to dealing any cards, the dealer shall announce "no more bets."

(b) To deal the cards, the dealer shall hold the deck of cards in the chosen hand and use the other hand to remove the top card of the deck and place it face down on the appropriate area of the layout. If a player has placed an All-Six Bonus Wager, the dealer shall deal the first four cards face down to the area of the layout designated for the All-Six Bonus cards. Thereafter, starting with the player farthest to the dealer's left and continuing around the table in a clockwise manner, the dealer shall deal one card at a time to each player who has placed an Ante Wager in accordance with § 683a.7(d)(1) (relating to wagers) until each player who placed an Ante Wager has two cards and the area designated for the placement of the community cards has three cards. All cards shall be dealt face down.

(c) After two cards have been dealt to each player and three cards have been dealt to the area designated for the community cards, the dealer shall remove the stub from the manual dealing shoe and, except as provided in subsection (d), place the stub in the discard rack without exposing the cards.

(d) If an automated card shuffling device that counts the number of cards in the deck after the completion of each shuffle and indicates whether 52 cards are present is not being used, the dealer shall count the stub at least once every 5 rounds of play to determine if the correct number of cards are still present in the deck. The dealer shall determine the number of cards in the stub by counting the cards face down on the layout.

(e) If the count of the stub indicates that 52 cards are in the deck, the dealer shall place the stub in the discard rack without exposing the cards.

(f) If the count of the stub indicates that the number of cards in the deck is incorrect, the dealer shall determine if the cards were misdealt. If the cards were misdealt but 52 cards remain in the deck, all hands shall be void and all wagers shall be returned to the players. If the cards were not misdealt, all hands shall be void, all wagers shall be returned to the players and the entire deck of cards shall be removed from the table.

§ 683a.10. Procedures for dealing the cards from an automated dealing shoe.

(a) If the cards are dealt from an automated dealing shoe, the following requirements shall be observed:

(1) After the procedures required under § 683a.5 (relating to shuffle and cut of the cards) have been completed, the cards shall be placed in the automated dealing shoe.

(2) Prior to the shoe dispensing any stacks of cards, the dealer shall announce “no more bets.”

(b) The dealer shall deliver the first stack of two cards dispensed by the automated dealing shoe face down to the player farthest to the dealer’s left who has placed an Ante Wager in accordance with § 683a.7(d)(1) (relating to wagers). As the remaining stacks are dispensed to the dealer by the automated dealing shoe, the dealer shall, moving clockwise around the table, deliver a stack face down to each of the other players who has placed an Ante Wager.

(c) After each stack of two cards has been dispensed and delivered in accordance with this section, the dealer shall remove the remaining cards from the automated dealing shoe and follow the procedures in § 683a.9(a)(2) (relating to procedures for dealing the cards from the hand) and deal the remaining cards as follows:

(1) If any player placed an All-Six Bonus Wager, deal four cards face down to the area of the layout designated for the placement of the All-Six Bonus Wager.

(2) Deal the three community cards. Except as provided in subsection (d), after all three community cards have been dealt, the dealer shall place the stub in the discard rack without exposing the cards.

(d) If an automated card shuffling device, which counts the number of cards in the deck after the completion of each shuffle and indicates whether 52 cards are present, is not being used, the dealer shall count the stub at least once every 5 rounds of play to determine if the correct number of cards are still present in the deck. The dealer shall determine the number of cards in the stub by counting the cards face down on the layout.

(e) If the count of the stub indicates that 52 cards are in the deck, the dealer shall place the stub in the discard rack without exposing the cards.

(f) If the count of the stub indicates that the number of cards in the deck is incorrect, the dealer shall determine if the cards were misdealt. If the cards were misdealt but 52 cards remain in the deck, all hands shall be void and all wagers shall be returned to the players. If the cards were not misdealt, all hands shall be void, all wagers shall be returned to the players and the entire deck of cards shall be removed from the table.

§ 683a.11. Procedures for completion of each round of play.

(a) After the dealing procedures required under § 683a.8, § 683a.9 or § 683a.10 (relating to procedures for dealing the cards from a manual dealing shoe; procedures for dealing the cards from the hand; and procedures

for dealing the cards from an automated dealing shoe) have been completed, each player shall examine his cards subject to the following limitations:

(1) Each player who wagers at Cajun Stud shall be responsible for his own hand and no person other than the dealer and the player to whom the cards were dealt may touch the cards of that player.

(2) Each player shall keep his five cards in full view of the dealer at all times.

(b) After each player has examined his cards, the dealer shall, beginning with the player farthest to the dealer’s left and moving clockwise around the table, ask each player who placed an Ante Wager if he wishes to make a Raise Wager in an amount equal to one, two or three times the player’s Ante Wager or forfeit the Ante Wager and end his participation in the round of play. If a player has placed an Ante Wager and an optional Pocket Bonus, Board Bonus, Lo Ball or All-Six Bonus Wager but does not make a Raise Wager, the player shall forfeit the Ante Wager but does not forfeit the Pocket Bonus, Board Bonus, Lo Ball or All-Six Bonus Wager. After each player who has placed an Ante Wager has either placed a Raise Wager on the designated area of the layout or forfeited his Ante Wager, the dealer shall collect all forfeited wagers and associated cards, except for the cards of those players who placed an optional Pocket Bonus, Board Bonus, Lo Ball or All-Six Bonus Wager, and place the cards in the discard rack.

(c) Once all players have either placed a Raise Wager or folded, the dealer shall turn over and reveal the first community card.

(d) Each player shall then make a second Raise Wager, in an amount equal to one, two or three times the player’s Ante Wager or forfeit the Ante Wager and the first Raise Wager and end his participation in the round of play. If a player has placed an optional Pocket Bonus, Board Bonus, Lo Ball or All-Six Bonus Wager but does not make a Raise Wager, the player shall forfeit the Ante Wager and the first Raise Wager but does not forfeit the Pocket Bonus, Board Bonus, Lo Ball or All-Six Bonus Wager. After each player who has placed an Ante Wager has either placed a second Raise Wager on the designated area of the layout or forfeited, the dealer shall collect all forfeited wagers and associated cards, except for the cards of those players who placed an optional Pocket Bonus, Board Bonus, Lo Ball or All-Six Bonus Wager, and place the cards in the discard rack.

(e) Once all remaining players have either placed a second Raise Wager or folded, the dealer shall turn over and reveal the second community card.

(f) Each player shall then make a third Raise Wager, in an amount equal to one, two or three times the player’s Ante Wager or forfeit the Ante Wager and the first and second Raise Wagers and end his participation in the round of play. If a player has placed an optional Pocket Bonus, Board Bonus, Lo Ball or All-Six Bonus Wager but does not make a Raise Wager, the player shall forfeit the Ante Wager and the first and second Raise Wagers but does not forfeit the Pocket Bonus, Board Bonus, Lo Ball or All-Six Bonus Wager. After each player who has placed an Ante Wager has either placed a third Raise Wager on the designated area of the layout or forfeited, the dealer shall collect all forfeited wagers and associated cards, except for the cards of those players who placed an optional Pocket Bonus, Board Bonus, Lo Ball or All-Six Bonus Wager, and place the cards in the discard rack.

(g) Once all remaining players have either placed a third Raise Wager or folded, the dealer shall turn over and reveal the third community card.

(h) Beginning with the player farthest to the dealer's right and continuing around the table in a counterclockwise direction, the dealer shall turn over and reveal the player's cards. The dealer shall then evaluate and announce the best possible five-card Poker hand that can be formed using the player's two cards and the three community cards. The wagers of each remaining player shall be resolved one player at a time regardless of outcome. All Ante and Raise Wagers shall be settled as follows:

(1) If a player's highest ranking five-card hand is a pair of sixes or higher, as provided in § 683a.6(b) (relating to Cajun Stud hand rankings), the dealer shall pay the winning Ante and Raise Wagers in accordance with § 683a.12(a) (relating to payout odds; payout limitation).

(2) If a player's highest ranking five-card hand is lower than a pair of sixes, as provided in § 683a.6(b), the dealer shall collect the player's losing Ante and Raise Wagers.

(i) After settling the player's Ante and Raise Wagers, the dealer shall settle any optional wagers as follows:

(1) For the Pocket Bonus Wager, if the two cards dealt to the player:

(i) Are not a pair or better, as provided in § 683a.6(c), the dealer shall collect the losing Pocket Bonus Wager.

(ii) Are a pair or better, as provided in § 683a.6(c), the dealer shall pay the winning Pocket Bonus Wager in accordance with § 683a.12(b).

(2) For the Board Bonus Wager, if the three community cards:

(i) Do not contain a pair or better, as provided in § 683a.6(d), the dealer shall collect the losing Board Bonus Wager.

(ii) Contains a pair or better, as provided in § 683a.6(d), the dealer shall pay the winning Board Bonus Wager in accordance with § 683a.12(c).

(3) For the Lo Ball Wager, if the player's five-card hand formed from the player's two cards and the three community cards:

(i) Forms a five-card Poker hand, as provided in § 683a.6(b), or is higher than a single jack or a single queen, depending on the payout table selected by the certificate holder, the dealer shall collect the losing Lo Ball Wager.

(ii) Does not form a five-card Poker hand, as provided in § 683a.6(b), but is a single jack or lower, or a single queen or lower, depending on the payout table selected by the certificate holder, the dealer shall pay the winning Lo Ball Wager in accordance with § 683a.12(d).

(4) For the All-Six Bonus Wager, the dealer shall expose the four All-Six Bonus cards and combine them with the player's two cards to form the highest ranking six-card hand as provided in § 683a.6(e). If the hand:

(i) Does not contain a three-of-a-kind or better, as provided in § 683a.6(e), the dealer shall collect the losing All-Six Bonus Wager.

(ii) Contains a three-of-a-kind or better, as provided in § 683a.6(e), the dealer shall pay the winning All-Six Bonus Wager in accordance with § 683a.12(e).

(j) After all wagers of the players have been settled, the dealer shall remove any remaining cards from the table and place them in the discard rack in a manner that permits the reconstruction of each hand in the event of a question or dispute.

§ 683a.12. Payout odds; payout limitation.

(a) A certificate holder shall pay winning Ante and Raise Wagers in accordance with one of the following payout tables selected by the certificate holder in its Rules Submission filed in accordance with § 601a.2 (relating to table games Rules Submissions):

<i>Hand</i>	<i>Paytable A</i>	<i>Paytable B</i>	<i>Paytable C</i>
Royal flush	500 to 1	500 to 1	500 to 1
Straight flush	100 to 1	100 to 1	100 to 1
Four-of-a-kind	40 to 1	40 to 1	40 to 1
Full house	10 to 1	11 to 1	11 to 1
Flush	6 to 1	7 to 1	7 to 1
Straight	4 to 1	4 to 1	5 to 1
Three-of-a-kind	3 to 1	3 to 1	3 to 1
Two pair	2 to 1	3 to 2	3 to 2
Pair of jacks or better	1 to 1	1 to 1	1 to 1
Pair of 6s to 10s	Push	Push	Push

(b) A certificate holder shall pay out winning Pocket Bonus Wagers in accordance with one of the following payout tables selected by the certificate holder in its Rules Submission filed in accordance with § 601a.2:

<i>Hand</i>	<i>Paytable A</i>	<i>Paytable B</i>	<i>Paytable C</i>
Pair of aces	30 to 1	25 to 1	30 to 1
Ace and a king, queen or jack of the same suit	20 to 1	20 to 1	20 to 1
Ace and a king, queen or jack of different suits	10 to 1	10 to 1	10 to 1
Pair of 2s—kings	5 to 1	5 to 1	4 to 1

(c) A certificate holder shall pay out winning Board Bonus Wagers in accordance with one of the following payout tables selected by the certificate holder in its Rules Submission filed in accordance with § 601a.2:

<i>Hand</i>	<i>Paytable A</i>	<i>Paytable B</i>	<i>Paytable C</i>	<i>Paytable D</i>
Mini-royal	40 to 1	40 to 1	50 to 1	50 to 1
Straight flush	40 to 1	40 to 1	40 to 1	40 to 1
Three-of-a-kind	30 to 1	30 to 1	30 to 1	30 to 1
Straight	6 to 1	5 to 1	5 to 1	6 to 1
Flush	4 to 1	4 to 1	4 to 1	3 to 1
Pair	1 to 1	1 to 1	1 to 1	1 to 1

(d) A certificate holder shall pay out winning Lo Ball Wagers as provided in one of the following payout tables selected by the certificate holder in its Rules Submission filed in accordance with § 601a.2:

<i>Hand</i>	<i>Paytable A</i>	<i>Paytable B</i>
7 high	100 to 1	100 to 1
8 high	50 to 1	50 to 1
9 high	15 to 1	10 to 1
10 high	5 to 1	5 to 1
Jack high	1 to 1	1 to 1
Queen high	Loss	Push

(e) A certificate holder shall pay out winning All-Six Bonus Wagers as provided in one of the following payout tables selected by the certificate holder in its Rules Submission filed in accordance with § 601a.2:

<i>Hand</i>	<i>Paytable A</i>	<i>Paytable B</i>	<i>Paytable C</i>
Royal flush	1,000 to 1	1,000 to 1	1,000 to 1
Straight flush	200 to 1	200 to 1	200 to 1
Four-of-a-kind	50 to 1	50 to 1	100 to 1
Full house	25 to 1	25 to 1	20 to 1
Flush	20 to 1	15 to 1	15 to 1
Straight	10 to 1	10 to 1	9 to 1
Three-of-a-kind	5 to 1	5 to 1	8 to 1

<i>Hand</i>	<i>Paytable D</i>	<i>Paytable E</i>
Six-card royal flush—diamonds		200,000 to 1
Six-card royal flush—hearts, spades or clubs		20,000 to 1
Royal flush	1,000 to 1	1,000 to 1
Straight flush	200 to 1	200 to 1
Four-of-a-kind	100 to 1	50 to 1
Full house	20 to 1	20 to 1
Flush	15 to 1	15 to 1
Straight	10 to 1	10 to 1
Three-of-a-kind	7 to 1	5 to 1

(f) Notwithstanding the payout odds in subsection (a), if specified in its Rules Submission form filed in accordance with § 601a.2, the certificate holder may establish an aggregate payout limit per player per round of play which may not be less than \$50,000 or the maximum amount that one patron could win per round when betting the minimum Ante and Raise Wager, whichever is greater.

§ 683a.13. Irregularities.

(a) A card that is found face up in the shoe or the deck while the cards are being dealt may not be used in that round of play and shall be placed in the discard rack. If more than one card is found face up in the shoe or the

deck during the dealing of the cards, all hands shall be void, all wagers shall be returned to the players and the cards shall be reshuffled.

(b) A card drawn in error without its face being exposed shall be used as though it were the next card from the shoe or the deck.

(c) If a player or the area designated for the placement of the community cards is dealt an incorrect number of cards, all hands shall be void, all wagers shall be returned to the players and the cards shall be reshuffled.

(d) If any of the community cards are exposed prior to the dealer revealing the community cards in accordance with § 683a.11(c), (e) and (g) (relating to procedures for

completion of each round of play), all hands shall be void, all wagers shall be returned to the players and the cards shall be reshuffled, provided that if any player placed a Pocket Bonus, Board Bonus, Lo Ball or All-Six Bonus Wager, those wagers shall be settled in accordance with § 683a.11(i).

(e) If an automated card shuffling device is being used and the device jams, stops shuffling during a shuffle or fails to complete a shuffle cycle, the cards shall be reshuffled.

(f) If an automated dealing shoe is being used and the device jams, stops dealing cards or fails to deal all cards during a round of play, the round of play shall be void, all wagers shall be returned to the players and the cards shall be removed from the device and reshuffled with any cards already dealt.

(g) If an automated card shuffling device or automated dealing shoe malfunctions and cannot be used, the automated card shuffling device or automated dealing shoe shall be covered or have a sign indicating that the automated card shuffling device or automated dealing shoe is out of order placed on the device before any other method of shuffling or dealing may be utilized at that table.

[Pa.B. Doc. No. 17-426. Filed for public inspection March 10, 2017, 9:00 a.m.]

STATE BOARD OF PHARMACY

[49 PA. CODE CH. 27]

Compounding

The State Board of Pharmacy (Board) proposes to amend §§ 27.1 and 27.12 (relating to definitions; and practice of pharmacy and delegation of duties), and add §§ 27.601—27.624 to read as set forth in Annex A.

Effective Date

This proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*.

Statutory Authority

This rulemaking is proposed under the authority of sections 4(j) and 6(k)(1) and (9) of the Pharmacy Act (act) (63 P.S. §§ 390-4(j) and 390-6(k)(1) and (9)).

Background and Need for the Amendment

Since at least 2010, the Board has been considering promulgating regulations setting standards for the compounding of drug products by pharmacists. In October 2012, National headlines reported a meningitis outbreak of epidemic proportions. The cause was quickly identified as contaminated compounded injectable medications made by a commercial compounding pharmacy in Massachusetts. Since that time, representatives of the Board have met with interested parties and stakeholders, including representatives from the United States Food and Drug Administration (FDA). Through careful review and input from stakeholders, the Board now proposes to update its regulations to incorporate developments and improvements in the profession's safe, sterile practices and procedures for the compounding of pharmaceutical products for patients.

Description of Proposed Amendments

Definitions of "FDA" and "USP" are proposed to be added to § 27.1.

Section 27.12 is proposed to be amended to permit a pharmacy technician to assist the pharmacist in the compounding of drug products.

Description of Proposed Provisions on Compounding

Proposed § 27.601 (relating to compounding of preparations) would require that all compounding shall be done in accordance with the current version of the *United States Pharmacopeia* (USP), specifically chapters governing compounding, which is consistent with Federal law. At the present time, Chapters 795 and 797, regarding pharmaceutical compounding—nonsterile preparations and pharmaceutical compounding—sterile preparations, are the most relevant. There are other chapters of the USP that are relevant and are subject to change. For this reason, the Board refers to the current version of the USP chapters governing compounding. The FDA requires that compounded drug products conform with USP standards in accordance with section 503a of the Federal Food, Drug, and Cosmetic Act (21 U.S.C.A. § 353a), regarding pharmacy compounding. Compounded drugs that do not conform to the USP chapters on compounding may be deemed adulterated or misbranded, which would make them commercially unavailable for consumption. On November 27, 2013, the Federal Drug Quality and Security Act (DQSA) (Pub.L. No. 113-54) was enacted. Title I of the DQSA enacted the Compounding Quality Act, which included important provisions regarding the FDA's oversight of compounding of human drugs, and enhanced communication with state boards of pharmacy. In June 2016, the FDA issued a guidance document, "Pharmacy Compounding of Human Drug Products under Section 503a of the Federal Food, Drug, and Cosmetic Act—Guidance," that is intended to explain how the FDA will interpret section 503a of the Federal Food, Drug and Cosmetic Act while it engages in the rulemaking process. It is available for review on the FDA's web site at <http://www.fda.gov/ucm/groups/fdagov-public/@fdagov-drugs-gen/documents/document/ucm469119.pdf>. Because the FDA requires that pharmacies follow the USP chapters on compounding, the Board proposes to likewise require compounding by pharmacies in this Commonwealth to comply with the USP.

Proposed § 27.602 (relating to compounding commercially available product) would permit compounding of drug products that are commercially available in the marketplace if the compounded product is changed to produce for a patient a significant medical difference, as authorized by the prescriber, between the compounded drug and the comparable commercially available drug product, or if use of the compounded product is in the best interest of the patient. An example of a significant medical difference would include the removal of a dye to which the patient is allergic.

Proposed § 27.603 (relating to bulk drug substances) addresses the use of bulk drug substances for compounding drugs, including the required registration and certification of analysis of these substances.

Proposed § 27.604 (relating to dispensing compounded drugs) addresses dispensing a compounded drug and the circumstances under which compounding is permitted prior to the pharmacist's receipt of a valid prescription for a particular patient, based on that patient's prescription history. Bulk compounding shall comply with proposed § 27.603 and § 27.623 (relating to production record for drugs compounded in bulk quantities).

Proposed § 27.605 (relating to resale of compounded drug products) would prohibit the wholesale distribution of compounded drug products to other pharmacies, commercial entities or prescribers except in certain circumstances relating to medical practitioners. Pharmacists may only compound nonprescription over-the-counter products for sale pursuant to a prescription and shall comply with FDA labeling requirements and restrictions.

Proposed § 27.606 (relating to compounding prohibited) would prohibit compounding of certain FDA-identified drugs and restricts the compounding of certain commercially available products beyond that otherwise permitted under § 27.602.

Proposed § 27.607 (relating to pharmacist responsibilities) would set forth the pharmacist's responsibilities regarding compounding practice.

Proposed § 27.608 (relating to protective apparel) would specify the clothing required to be worn by pharmacy personnel engaged in compounding and, in certain circumstances involving sterile pharmaceuticals, additional gowning components required by the USP.

Proposed § 27.609 (relating to drug compounding facility requirements) would set forth the requirements regarding facility conditions to minimize the possibility of contamination or decomposition.

Proposed § 27.610 (relating to equipment) would require that the equipment used in compounding of drug products must comply with the USP chapters on equipment.

Proposed § 27.611 (relating to equipment maintenance) addresses the cleaning and sanitizing of the equipment and utensils used for compounding prior to their use to prevent contamination of the drug product.

Proposed § 27.612 (relating to specialized equipment) would provide for measures including the use of dedicated equipment or the meticulous cleaning of contaminated equipment prior to its return to inventory to prevent cross-contamination.

Proposed § 27.613 (relating to use of automated equipment) would require the routine inspection and calibration of equipment used in compounding and the maintenance of the related documentation of these tasks.

Proposed § 27.614 (relating to control of containers and closures) would require drug product containers and closures to meet the requirements of the USP chapters regarding drug product containers and closures.

Proposed § 27.615 (relating to storage) would require that components, bulk drug substances and other materials used in compounding drug products shall be stored in accordance with the USP storage requirements. It also describes the requirement that the composition of the drugs, containers or closures permit the appropriate handling and storage, the cleaning of the work area and the rotating of those items to ensure that the oldest stock of each is utilized first.

Proposed § 27.616 (relating to drug compounding controls) expressly assigns the responsibility of accountability for quality control to the compounding pharmacist.

Proposed § 27.617(a) (relating to standard operating procedures required) would require the establishment of standard operating procedures implementing the applicable USP chapters to ensure the safety, identity, strength, quality and purity of the finished product. Subsection (b) requires standard operating procedures that are designed to prevent microbiological contamination

of purportedly sterile compounded drug products. Subsection (c) requires standard operating procedures regarding the tests or examinations to be conducted designed to ensure the reasonable uniformity and integrity of compounded drug products.

Proposed § 27.618 (relating to accuracy) provides additional quantity and quality control procedures regarding weights, measures, subdivision and container labels.

Proposed § 27.619 (relating to production record) specifies the necessary contents and retention of production records for each drug product compounded for an individual patient, as to be distinguished from the production records for each batch of drug product compounded, as required under proposed § 27.623.

Proposed § 27.620 (relating to label information required) itemizes the specific information required on the label affixed to the dispensing container, or on the container itself, of a compounded drug product dispensed by a pharmacy pursuant to a prescription or drug order.

Proposed § 27.621 (relating to compounding records) provides that records required by this chapter shall be retained as original records and shall be readily available at the pharmacy for inspection and photocopying by authorized authorities for at least 2 years following the date of the record. Prescriptions for products compounded at the pharmacy shall be maintained on file at the pharmacy as required under § 27.18(b) (relating to standards of practice).

Proposed § 27.622 (relating to master formula record) specifies the necessary contents of the master formula record for each drug product compounded in bulk quantity.

Proposed § 27.623 specifies the necessary contents and retention of production records for each batch of drug product compounded.

Proposed § 27.624 (relating to label information) itemizes the specific information to be recorded on the label affixed to the container of each batch of drug product compounded.

Fiscal Impact

This proposed rulemaking would have little fiscal impact on the Commonwealth, its political subdivisions or the public. A pharmacy that elects to engage in compounding pharmaceuticals may incur a cost regarding compliance with the standards in this proposed rulemaking. However, as the Board is unable to determine at this time how many pharmacies engage in compounding or may elect to do so at some future date, it is impossible to estimate the fiscal impact on the regulated community.

Paperwork Requirements

This proposed rulemaking would impose additional paperwork requirements on the regulated community. Pharmacies that engage in compounding of pharmaceuticals will have to keep records on file as required by the regulations. The Board will need to alter its inspection forms to capture information relating to compounding, but no other paperwork requirements would be imposed on the Commonwealth.

Sunset Date

The Board continuously monitors the effectiveness of its regulations. Therefore, a sunset date has not been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on March 1, 2017, the Board 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 Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure 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 comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The Regulatory Review Act specifies detailed procedures for review prior to final publication of the rulemaking by the Board, the General Assembly and the Governor.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to the Board Counsel, State Board of Pharmacy, P.O. Box 69523, Harrisburg, PA 17106-9523, RA-STRegulatoryCounsel@pa.gov within 30 days following publication of this proposed rulemaking. Reference No. 16A-5419 (Compounding) when submitting comments.

JANET GETZEY HART, RPh,
Chairperson

Fiscal Note: 16A-5419. No fiscal impact; additional inspection costs would be absorbed by the Board and licensing fees would be adjusted accordingly; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 27. STATE BOARD OF PHARMACY
GENERAL PROVISIONS

§ 27.1. Definitions.

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

* * * * *

Drug order—

(i) An oral or written order issued by a medical practitioner which is either written on or entered by computer into the medical record of a patient in an institution for the dispensing of a drug or device for administration to the patient.

(ii) The term does not include an order for a drug for a patient in an institution which the patient will self-administer which will be considered a prescription.

FDA—The United States Food and Drug Administration, a division of the United States Department of Health and Human Services.

FDLE—Federal Drug Law Examination.

* * * * *

Satellite pharmacy—

(i) A pharmacy in an institution which provides specialized services for the patients of the institution and which

is dependent upon the centrally located pharmacy for administrative control, staffing and drug procurement.

(ii) The term does not include a pharmacy serving the public on the premises of the institution nor does it include a pharmacy located off premises from the centrally located pharmacy of the institution regardless of whether the pharmacy is owned by the same person or entity which owns the institution.

USP—United States Pharmacopeia—A compendium of drug information published by the United States Pharmacopeial Convention.

STANDARDS

§ 27.12. Practice of pharmacy and delegation of duties.

* * * * *

(d) Pharmacy technicians.

(1) A pharmacy technician may work only under the direct, immediate, personal supervision of a pharmacist in accordance with subsection (b)(2).

(2) The following are examples of the types of activities which a pharmacy technician may perform:

* * * * *

(vi) Enter prescription, drug order or patient information in a patient profile.

(vii) Assist the pharmacist in the compounding of drug products.

(3) A pharmacy technician may not:

* * * * *

(Editor's Note: Sections 27.601—27.624 are new and printed in regular type to enhance readability.)

COMPOUNDING

§ 27.601. Compounding of preparations.

The compounding of sterile and nonsterile preparations shall be done in accordance with the current version of the USP chapters governing compounding.

§ 27.602. Compounding commercially available product.

Based on the existence of a pharmacist/patient/prescriber relationship and the presentation of a valid prescription or drug order, pharmacists may compound, for an individual patient, drug products that are commercially available in the marketplace if one of the following conditions is met:

(1) The compounded preparation is changed to produce for that patient a significant medical difference, as authorized by the prescriber, between the compounded drug and the comparable commercially available drug product. An example of "significant medical difference" includes the removal of a dye for a medical reason such as an allergic reaction.

(2) Use of the compounded preparation is in the best interest of the patient.

§ 27.603. Bulk drug substances.

Bulk drug substances to be used in compounding drugs must meet one of the following:

(1) When a monograph exists, bulk drug substances must comply with the applicable USP or National Formulary monograph and the USP chapters on pharmaceutical compounding.

(2) If not subject to a monograph, bulk drug substances must meet one of the following:

(i) The bulk drug substances are ingredients of drugs that the FDA has approved.

(ii) The bulk drug substances appear on the FDA list of approved bulk drug substances not subject to a monograph.

(iii) Peer-reviewed medical literature supports and, in the professional judgment of the pharmacist and prescriber, demonstrates the safety and effectiveness of the bulk drug substances.

§ 27.604. Dispensing compounded drugs.

A compounded drug shall only be dispensed pursuant to a prescription or drug order by the prescriber for a specific patient. Pharmacists may compound drugs in anticipation of receiving a valid prescription based on a history of receiving valid prescriptions generated solely within an established practitioner/patient/pharmacist relationship. Bulk compounding shall comply with §§ 27.603 and 27.623 (relating to bulk drug substances; and production record for drugs compounded in bulk quantities).

§ 27.605. Resale of compounded drug products.

(a) The wholesale distribution of compounded drug products to other pharmacies, commercial entities or prescribers is considered manufacturing and is prohibited, except for distribution to a medical practitioner to administer to an individual patient if the medical practitioner has an administrative system whereby the product can be tracked through the medical practitioner to the individual patient.

(b) Pharmacists may compound for sale over-the-counter products in which all components are nonprescription. The products may be compounded only pursuant to a prescription and shall comply with FDA labeling requirements and restrictions in 21 CFR Part 201 (relating to labeling).

§ 27.606. Compounding prohibited.

Pharmacists may not compound any of the following:

(1) Drugs that have been identified by the FDA as withdrawn or removed from the market because the drugs were found to be unsafe or ineffective as set forth in 21 CFR 216.24 (relating to drug products withdrawn or removed from the market for reasons of safety or effectiveness).

(2) Drugs that are essentially copies of a commercially available drug product, except as provided in § 27.602 (relating to compounding commercially available product).

(3) Drugs that have been identified by the FDA in the Federal Food, Drug, and Cosmetic Act (21 U.S.C.A. §§ 301—399h) or the *Code of Federal Regulations* as products which may not be compounded.

§ 27.607. Pharmacist responsibilities.

(a) As in the dispensing of prescription drugs, the pharmacist has the responsibility for all of the following:

(1) Inspection and approval or rejection of all components, bulk drug substances, drug product containers, closures, in-process materials and labeling.

(2) Preparation and review of all compounding records to assure that errors have not occurred in the compounding process.

(3) Proper maintenance, cleanliness and use of all facilities and equipment used in compounding practice.

(b) If errors have occurred, the pharmacist is responsible for conducting a full investigation, and creating and maintaining a record of the investigation which must include conclusions and corrective action.

§ 27.608. Protective apparel.

Pharmacy personnel engaged in the compounding of drugs shall wear clean clothing appropriate to the operation being performed. Protective apparel, such as a coat or jacket, apron, or hand or arm coverings, shall be worn as necessary to protect drug products from contamination. For a sterile compounding operation involving one or more aseptic manipulations, sterile gowning components are necessary as required by the USP chapter on sterile compounding.

§ 27.609. Drug compounding facility requirements.

Pharmacies engaged in compounding shall provide all of the following:

(1) A specifically designated area for the orderly placement of equipment and materials to be used to compound medications and to prevent mix-ups or contamination among components, containers, labels, in-process materials and finished drug products.

(2) Washing facilities, easily accessible to the compounding area of the pharmacy, including a sink with hot and cold running water, soap or detergent, and air driers or single use towels.

(3) Lighting, heating, ventilation and air conditioning to prevent contamination or decomposition of components in compliance with the USP provisions regarding facility requirements.

§ 27.610. Equipment.

Equipment used in the compounding of drug products must comply with the USP chapters on equipment.

§ 27.611. Equipment maintenance.

Equipment and utensils used for compounding shall be cleaned and sanitized in accordance with the USP chapters on equipment maintenance prior to use to prevent contamination that would alter the safety, identity, strength, quality or purity of the drug product beyond that desired.

§ 27.612. Specialized equipment.

If drug products with special precautions to prevent contamination are involved in a compounding operation, appropriate measures, including either the dedication of equipment for the operations or the meticulous cleaning of contaminated equipment prior to its return to inventory, shall be utilized to prevent cross-contamination.

§ 27.613. Use of automated equipment.

Automatic, mechanical or electronic equipment, or other types of equipment or related systems, may be used in the compounding of drug products. If this equipment is used, it shall be inspected and calibrated in accordance with the manufacturer's recommendations to ensure proper performance. Documentation of inspection and calibration shall be kept on file for 2 years from the date of inspection and calibration.

§ 27.614. Control of containers and closures.

Drug product containers and closures must meet the requirements of the USP chapters regarding drug product containers and closures.

§ 27.615. Storage.

(a) Components, bulk drug substances and other materials used in the compounding of drug products shall be stored in accordance with the USP storage requirements.

(b) Components, bulk drug substances, drug product containers, closures, and bagged or boxed parts of drug product containers and closures used in the compounding of drug products must allow for all of the following:

(1) Handling and storage in a manner to prevent contamination and to permit inspection.

(2) Cleaning of the work area, including floors.

(3) Rotating of components, bulk drug substances, drug product containers and closures for use in compounding of drug products to ensure use of oldest stock first.

§ 27.616. Drug compounding controls.

Accountability for quality control is the responsibility of the compounding pharmacist.

§ 27.617. Standard operating procedures required.

(a) The pharmacist shall establish and implement standard operating procedures for the compounding of drug products in accordance with applicable USP chapters to ensure the safety, identity, strength, quality and purity of the finished product. These procedures must include maintaining a listing of the bulk drug substances and components, their amounts in weight or volume, the order of bulk drug substance and component addition, and a description of the compounding processes. Equipment, utensils and the container closure system relevant to the sterility and stability of the intended use of the compounded drug product must be listed.

(b) The pharmacist shall establish standard operating procedures in accordance with applicable USP chapters that are designed to prevent microbiological contamination of compounded drug products purported to be sterile, including validation of any sterilization process.

(c) To ensure the reasonable uniformity and integrity of compounded drug products, the pharmacist shall establish standard operating procedures that describe the tests or examinations to be conducted on the product being compounded. Control procedures must include all of the following, as appropriate:

(1) Capsule weight variation.

(2) Adequacy of mixing to ensure uniformity and homogeneity.

(3) Clarity, completeness or pH of solutions.

§ 27.618. Accuracy.

(a) Components and bulk drug substances used in the compounding of drug products shall be accurately weighed, measured or subdivided as appropriate. These operations shall be verified at each stage of the process to ensure that each weight or measure is correct as stated in the compounding procedures.

(b) If a component or bulk drug substance is removed from the original container and stored in another container, the new container must be identified with all of the following:

(1) Name.

(2) Lot number.

(3) Manufacturer's name.

(4) Beyond-use date.

§ 27.619. Production record.

The pharmacist shall prepare and keep a production record for a minimum of 2 years for each drug product compounded. The record must include all of the following information:

(1) Production date.

(2) List of ingredients and quantity of each ingredient used.

(3) Initials or other identifier of the person or persons involved in the compounding.

(4) Initials or other identifier of the pharmacist verifying the final compounded product.

(5) Internal control or prescription number and, if the prescription is filled using a product compounded in bulk, the internal control number assigned to the batch and recorded in the batch production record in accordance with § 27.623 (relating to production record for drugs compounded in bulk quantities).

§ 27.620. Label information required.

The label affixed to or on the dispensing container of a compounded drug product dispensed by a pharmacy pursuant to a prescription or drug order must bear the information as required in § 27.18(d) (relating to standards of practice) and all of the following:

(1) The name of the compounded drug, the strength, dosage form and quantity of the drug dispensed.

(2) Beyond-use date.

§ 27.621. Compounding records.

Compounding records required by this chapter shall be retained as the original records and shall be readily available at the pharmacy for inspection and photocopying by agents of the Board or other authorized authorities for at least 2 years following the date of the record. Prescriptions for all products compounded at the pharmacy shall be maintained on file at the pharmacy as required under § 27.18(b) (relating to standards of practice).

BULK COMPOUNDING

§ 27.622. Master formula record.

A pharmacist may compound drugs in bulk quantities for subsequent prescription labeling and dispensing in accordance with § 27.604 (relating to dispensing compounded drugs). For each drug product compounded in bulk quantity, a master formula record shall be prepared containing all of the following information:

(1) Name, strength and dosage form of the drug product compounded.

(2) All components and an accurate statement of the weight or measure of each component.

(3) Equipment needed to prepare the drug product.

(4) Mixing instructions.

(5) Beyond-use date.

(6) Container, closures and packaging materials used in dispensing.

(7) Storage requirements.

(8) Labels and labeling with appropriate beyond-use date and instructions for storage and use.

(9) Quality control procedures to include identification of the person or persons performing and directly supervising or checking each significant step in the compounding.

(10) Other factors pertinent to the replication of the drug product as compounded.

§ 27.623. Production record for drugs compounded in bulk quantities.

For each batch of drug product compounded, a production record shall be prepared and maintained containing all of the following information:

- (1) The information from the master formula record.
- (2) Records of each step in the compounding process including all of the following:
 - (i) Documentation of the name and strength of the compounded drug product.
 - (ii) Formulation record reference for the drug product.
 - (iii) Sources and lot numbers of the components.
 - (iv) Total number of dosage units compounded.
 - (v) Name of the person who prepared the drug product.
 - (vi) Name of the pharmacist who approved the drug product.
 - (vii) Date of preparation.
 - (viii) Prescription number or assigned internal identification number.

(ix) The results of quality control procedures as described in the pharmacy's continuous quality improvement program.

- (3) Beyond-use date.
- (4) Internal control number.
- (5) Total yield.

§ 27.624. Label information.

For each batch of drug product compounded, labels containing all of the following information shall be prepared and affixed to each container:

- (1) Drug product name or formula.
- (2) Dosage form.
- (3) Strength.
- (4) Quantity per container.
- (5) Internal control number.
- (6) Beyond-use date.

[Pa.B. Doc. No. 17-427. Filed for public inspection March 10, 2017, 9:00 a.m.]