

PROPOSED RULEMAKING

GAME COMMISSION

[58 PA. CODE CH. 147]

Deer Control; Special Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its July 31, 2018, meeting, proposed to amend § 147.322 (relating to application for deer control permit) to provide greater clarity of what circumstances will satisfy the public hunting requirement.

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 July 31, 2018, meeting of the Commission. Comments can be sent until September 21, 2018, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

Section 147.322 has historically required that all “[p]ublic land within the proposed boundaries be open to lawful public hunting unless otherwise prohibited under this title or as otherwise authorized or waived by the Director.” In large part, this requirement is derived directly from section 103 of the act which provides, in relevant part, that “[t]he commission shall utilize hunting and trapping as methods of effecting necessary management of game, furbearer and wildlife populations.” While section 103 does not limit management of wild resources to public hunting only, the Commission has concluded that it is clearly intended as the primary method of management.

Over the years, the Commission has observed that deer control permit applicants utilize varying degrees of use of public hunting as a prerequisite to meeting the public hunting requirement of § 147.322. Many applicants have established organized controlled hunts, while others have organized or invited established hunting clubs onto the public or private, or both, properties covered by the permit to help reduce deer populations. Still others invite only local government (permittee) employees to engage in hunting on the public or private, or both, properties covered by the permit. While the Commission has approved permit applications in the past involving this latter method of satisfying the public hunting component, it has more recently recognized the importance of pushing deer control back, primarily, into the hands of the public through more clearly defined public hunting. This action will still allow landowners (both public and private) to allow hunting, in whole or in limited part, to meet their deer control and land use goals.

To this end, the Commission is proposing to amend § 147.322 to provide greater clarity of what circumstances will satisfy the public hunting requirement. The Commission specifically intends with this action to reject hunting opportunity that is afforded to an individual or class of individuals solely by virtue of their public employment as satisfying the public hunting requirement. This

action will improve the use and prominence of public hunting as the primary method of wild resource management without unduly restricting the purpose and ultimate goals of the deer control permit program. This action will formalize into the deer control permit regulations the current policy being used to evaluate and approve deer control permit applications.

Section 2901(b) of the code (relating to authority to issue permits) provides that “the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued.” The amendments to § 147.322 are proposed under this authority.

2. Regulatory Requirements

This proposed rulemaking will amend § 147.322 to provide greater clarity of what circumstances will satisfy the public hunting requirement.

3. Persons Affected

Political subdivision or government agency applicants wishing to participate in the Commission’s deer control permit program will be affected by this proposed rulemaking.

4. Cost and Paperwork Requirements

This proposed rulemaking should not result in any 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 Randy L. Shoup, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

BRYAN J. BURHANS,
Executive Director

Fiscal Note: 48-435. No fiscal impact; (8) recommends adoption.

ANNEX A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 147. SPECIAL PERMITS

Subchapter R. DEER CONTROL

POLITICAL SUBDIVISIONS

§ 147.322. Application for deer control permit.

(a) An application for a deer control permit shall be completed and submitted by an authorized officer or employee of the political subdivision, homeowners association or nonprofit land-holding organization in the form and manner required by the Director.

(b) An application for a deer control permit must contain the following information:

(1) *Description.* A comprehensive description of the background and scope of the white-tailed deer population or damage problem, or both. The description must include

a report of all alternative solutions or other steps taken by the applicant to mitigate the white-tailed deer population or damage problem, or both, prior to application for this permit and must specifically define how licensed public hunting for white-tailed deer has been utilized in the problem area and what results hunting activities have had on the population or damage problem, or both.

(2) *Deer management plan.* A comprehensive deer management plan which sets forth the applicant's white-tailed deer management goals, recommended implementation plan and a reference to the specific number of animals sought to be removed. The applicant shall specifically define how licensed public hunting for white-tailed deer will be utilized in the problem area during the term of the requested deer control permit.

(3) *Map.*

(i) A map or set of maps showing the proposed project area and its boundaries and clearly illustrating all of the following distinct features and areas within the proposed project area:

- (A) Land uses.
- (B) Cover types.
- (C) Areas open to public hunting for white-tailed deer.
- (D) Areas damaged by white-tailed deer.
- (E) Areas of white-tailed deer congregation.
- (F) Applicable safety zones.
- (G) Proposed white-tailed deer control areas.

(ii) The map must indicate the individual acreage values for each of the listed features and acres.

(c) Public land within the proposed boundaries shall be open to lawful public hunting unless otherwise prohibited under this title or as otherwise authorized or waived by the Director. Private land within the proposed boundaries may be closed to public hunting at the landowner's discretion. However, if closed, deer control activities may not occur thereon.

(d) For the purposes of this section, the term "public hunting" shall be defined as hunting opportunity that is available, in whole or in part, to members of the general public, but shall not include hunting opportunity that is afforded to an individual or class of individuals solely by virtue of their public employment.

[Pa.B. Doc. No. 18-1401. Filed for public inspection September 7, 2018, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CHS. 133 and 137]

Wildlife Classification; Wildlife

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), proposed at its July 31, 2018, meeting to amend § 137.2 (relating to release of animals) to add the Hungarian partridge to the list of species that may be lawfully released on public or private lands for dog training or

hunting purposes without first securing a permit. The Commission is also proposing to add § 133.7 (relating to Hungarian partridge) to reclassify the Hungarian partridge as a wild bird and not a game bird in an effort to treat this species in a similar manner to the Chukar partridge.

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 July 31, 2018, meeting of the Commission. Comments can be sent until September 21, 2018, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

The Hungarian partridge (also known as the grey partridge) is a non-native bird first introduced to the United States from Hungary in the early 1900s. Wildlife agencies, including the Commission, stocked many thousands of these birds in an attempt to establish wild populations and to maintain quality small game hunting opportunities. Hungarian partridges were stocked by the Commission in the 1920s, 1930s and then again in the 1950's. These efforts failed and a population of wild Hungarian partridges was never established within this Commonwealth. The Commission has determined that there are currently no wild populations of Hungarian partridges found within this Commonwealth.

The Commission has received a public request to consider adding Hungarian Partridges to the list of birds that may be released for dog training purposes. The Commission has reviewed the proposal and determined there to be no significant biological concerns in moving forward with this proposal. As a result, the Commission is proposing to amend § 137.2 to add the Hungarian partridge to the list of species that may be lawfully released on public or private lands for dog training or hunting purposes without first securing a permit. The Commission is also proposing to add § 133.7 to reclassify the Hungarian partridge as a wild bird and not a game bird in an effort to treat this species in a similar manner to the Chukar partridge.

Section 322(c)(8) of the code (relating to powers and duties of commission) specifically empowers the commission to "Add to or change the classification of any wild bird or wild animal." Section 2102(c) of the code (relating to regulations) directs that "The commission shall promulgate regulations concerning the transportation, introduction into the wild, importation, exportation, sale, offering for sale or purchase of game or wildlife or the disturbing of game or wildlife in their natural habitat." The addition of § 133.7 and amendments to § 137.2 are proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend § 137.2 to add the Hungarian partridge to the list of species that may be lawfully released on public or private lands for dog training or hunting purposes without first securing a permit. The proposed rulemaking will also add § 133.7 to reclassify the Hungarian partridge as a wild bird and not a game bird in an effort to treat this species in a similar manner to the Chukar partridge.

3. *Persons Affected*

Persons wishing to release Hungarian partridges into the wild on public or private lands and hunt or train dogs over same within this Commonwealth will be affected by this proposed rulemaking.

4. *Cost and Paperwork Requirements*

This proposed rulemaking should not result in any 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 Randy L. Shoup, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

BRYAN J. BURHANS,
Executive Director

Fiscal Note: 48-434. No fiscal impact; (8) recommends adoption.

ANNEX A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 133. WILDLIFE CLASSIFICATION

Subchapter A. GENERAL

§ 133.7. Hungarian partridge.

Notwithstanding the listing of the Hungarian partridge in the definition of a game bird in section 102 of the act (relating to definitions), the Hungarian partridge shall be reclassified as a wild bird generally and will no longer be classified as a game bird.

CHAPTER 137. WILDLIFE

§ 137.2. **Release of animals.**

(a) Except as otherwise provided, it is unlawful to release captive held or captive raised game or wildlife on any lands, public or private, without first securing a permit from the Commission. Lawfully acquired mallard ducks, ringneck pheasant, bobwhite quail [**and**], chukar partridge **and Hungarian partridge** may be released for dog training or hunting purposes.

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