

# RULES AND REGULATIONS

## Title 25—ENVIRONMENTAL PROTECTION

### ENVIRONMENTAL QUALITY BOARD

[ 25 PA. CODE CH. 77 ]

#### Noncoal Mining Program Fees

The Environmental Quality Board (Board) amends Chapter 77 (relating to noncoal mining) to read as set forth in Annex A. This final-form rulemaking increases noncoal mining permit application fees and annual administration fees to provide funds necessary for the Department of Environmental Protection (Department) to administer the noncoal mining program.

This final-form rulemaking was adopted by the Board at its meeting on December 18, 2018.

#### A. *Effective Date*

This final-form rulemaking will take effect on January 1, 2020, to give permittees and applicants additional time to plan for the new fees.

#### B. *Contact Persons*

For further information, contact William Allen, Director, Bureau of Mining Programs, Rachel Carson State Office Building, 5th Floor, 400 Market Street, P.O. Box 8461, Harrisburg, PA 17105-8461, (717) 787-5015; or Joseph Iole, Assistant Counsel, Bureau of Regulatory Counsel, P.O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. This final-form rulemaking is available on the Department's web site at [www.dep.pa.gov](http://www.dep.pa.gov) (select "Public Participation," then "Environmental Quality Board (EQB)").

#### C. *Statutory Authority*

This final-form rulemaking has been developed under the authority of sections 7(a) and 11(a) of the Noncoal Surface Mining Conservation and Reclamation Act (Noncoal Act) (52 P.S. §§ 3307(a) and 3311(a)), which authorize the Department to charge and collect a reasonable permit filing fee, which may not exceed the cost of reviewing, administering and enforcing the permit, and authorize the Board to promulgate regulations as it deems necessary to carry out the provisions and purposes of the Noncoal Act; section 6 of The Clean Streams Law (CSL) (35 P.S. § 691.6), which authorizes the Department to charge and collect reasonable filing fees for applications filed and for permits issued; and section 1920-A of The Administrative Code of 1929 (71 P.S. § 510-20), which authorizes the Board to adopt rules and regulations necessary for the performance of the work of the Department.

#### D. *Background and Purpose*

This final-form rulemaking is necessary because sufficient money is not available for the Department to support the implementation of the Noncoal Act, the purpose of which is to, among other things, prevent water pollution, maintain water supply, provide for the conservation and improvement of areas of land affected in the surface mining of noncoal minerals, and eliminate hazards to health and safety and generally to improve the use and enjoyment of the lands. See 52 P.S. § 3302. The Department is also responsible for issuing, administering and enforcing permits under the CSL (35 P.S. §§ 691.1—

691.1001), the objective of which is "not only to prevent further pollution of the waters of the Commonwealth, but also to reclaim and restore to a clean, unpolluted condition every stream in Pennsylvania that is presently polluted." See 35 P.S. § 691.4(3). The Department fulfills its responsibilities under the Noncoal Act and CSL through the implementation of its noncoal mining program and collects fees from noncoal mining permit applicants and permittees to cover the costs incurred by the Department to implement that program.

The majority of residents in this Commonwealth will benefit from the adequate implementation of the Noncoal Act. Noncoal mining operations occur in every county in this Commonwealth, except Philadelphia. The residents of this Commonwealth will directly benefit from this final-form rulemaking because the additional fees will allow the Department to adequately implement the provisions of the Noncoal Act and CSL. As a result, the purpose of these laws, which is to protect public health and the environment, will be fulfilled. Additionally, the regulated community will benefit because there will be sufficient Department staff to issue permits to allow operators to mine and generate revenue for their businesses.

The Department implements the noncoal mining program through the review of permit applications for the various types of noncoal mining operations and the inspection of these operations to ensure operators' compliance with their permits. There are approximately 1,200 noncoal mining operators in this Commonwealth. These operations range from small quarries that produce less than 2,000 tons of material per year to large quarries that produce millions of tons of aggregate per year. The Department issues permits for the term of the expected mining activity, which also varies from a few years to decades. Operators can request modifications of their permits if their plans change, which require further staff review. The Department inspects permitted noncoal mines for compliance with their permits and environmental and safety laws and regulations, including the Noncoal Act, the CSL, Chapter 77 and Chapter 209a (relating to surface mining).

The imbalance between the revenues and expenditures of the noncoal mining program is attributable to several factors. The personnel costs for Department staff in the noncoal mining program have increased over time. In addition, the workload has changed, because the time necessary to review new noncoal mining permit applications has increased due to the complexity of the review of newly proposed noncoal mining operations.

The Department has funded the activities necessary to administer the noncoal mining program through permit application fees, annual administration fees and funds appropriated by the General Assembly annually from general tax revenue through the budget process. The Board promulgated the current noncoal mine permit application fees and annual administration fees in § 77.106 (relating to fees) at 42 Pa.B. 6536 (October 13, 2012). These fee regulations were based on a cost analysis performed by the Department in 2009, which estimated the annual cost to administer the noncoal mine program to be \$2.5 million. The noncoal mining program has not received support from General Fund moneys since 2008.

The Department is required to review the noncoal mining program fees income relative to noncoal mining program costs every 3 years and recommend any neces-

sary changes to the Board as provided under § 77.106(d). The fees in this final-form rulemaking were designed based on the 3-year fee report and associated workload analysis from 2015, which is when discussions with stakeholders began.<sup>1</sup> Financial data from that report are shown as follows, under Tables 1A and 2A, which are followed by updated current data, under Tables 1B and 2B.<sup>2</sup> In its analysis, the Department reviewed the time necessary to administer the noncoal mining program and the associated staff costs (salary and benefits) and overhead costs (for example, offices, computers, other equipment and supplies). Tables 1A and 1B clearly demonstrate that program costs exceed revenues. Tables 1B and 2B show that revenue sources remain constant. This analysis supports the fee schedule for this final-form rulemaking.

Table 1A: Revenues and Costs (as presented in 2015 Fee Report)

Fiscal Year (FY)	Revenue	Program Costs
2012-2013	\$1,704,234.96	\$2,815,131.75
2013-2014	\$2,452,449.76	\$3,019,992.63
2014-2015 (estimated)	\$2,500,000.00	\$3,100,000.00

Table 1B: Revenues and Costs (current)

FY	Revenue	Program Costs
2014-2015	\$2,569,751.41	\$2,912,236.93
2015-2016	\$2,532,837.75	\$3,195,984.00
2016-2017	\$2,437,195.07	\$4,485,000.00
2017-2018	\$2,617,771.00	\$3,589,781.00
2018-2019 (projected)	\$2,266,130.00	\$3,984,000.00
2019-2020 (projected)	\$2,265,000.00	\$4,074,000.00

A breakdown of the sources of revenue for the noncoal mining program is as follows:

Table 2A: Revenue Sources (as presented in 2015 Fee Report)

Category	Percentage
Annual Administration Fees	56%
Permit Application Fees	17%
License Fees	9%
Civil Penalties	6%
Interest and Other	12%

Table 2B: Revenue Sources (from FY 2016-2017)

Category	Percentage
Annual Administration Fees	53%
Permit Application Fees	11%
License Fees	7%
Civil Penalties	3%
Interest and Other	26%

Based on its analysis, the Department concluded that it would have insufficient funds to administer the noncoal mining program consistent with its statutory responsibilities without an increase in the permit application fees and annual administration fees. The Department has implemented measures to decrease costs for the noncoal

mining program. For example, the noncoal mining program has partnered with the coal mining program to reduce overhead costs and has reduced its administrative costs to less than 5% of the total program costs. However, while the efficiencies have reduced the cost of administering the noncoal mining program, these efficiencies alone could not offset the projected shortfall in funding that was identified in the 2015 cost analysis. Based on the Department's cost analysis and recommendation, the Board is increasing the noncoal mining fees.

#### Permit application fee—§ 77.106(e)

The Department is responsible for reviewing permit applications for noncoal mining operations and issuing permits consistent with both the Noncoal Act and the CSL. The permit application fees in this final-form rulemaking are based on the 2015 cost analysis. As part of that analysis, the Department reviewed the number of hours required to review permit applications and issue permits for each type of noncoal mining operation. The Department also reviewed the wage rate for the employees that conduct the permit reviews, along with the cost of employee benefits and associated overhead costs. The workload analysis data the Department used in the development of the proposed rulemaking is included in a spreadsheet with multiple pages available on the Aggregate Advisory Board's webpage at <http://www.dep.pa.gov/Business/Land/Mining/BureauofMiningPrograms/Aggregate-Advisory-Board/Pages/2015.aspx> (under "Aggregate Advisory Board RLT Meeting Agenda (9-22-15) (PDF)" select "2015 Inspection Staff Analysis (XLSM)"). Workload data for the Department's review of permit applications (labeled "authorizations" in the spreadsheet) as well as its administration and enforcement of permits is included in this document.

The increases for noncoal mining permit application fees vary based on the nature of the permit application. The time required by the Department to review a permit application varies depending on the complexity of the proposed noncoal mining operation. For example, applications for large noncoal surface mining operations that propose to pump groundwater take significantly more time to review because of their potential hydrologic impact. Therefore, the permit application fees in § 77.106(e) for these operations is higher than for an operation that does not include groundwater pumping. Similarly, if blasting is proposed, then the blasting inspector is involved in the review of the blast plan for the application. Therefore, the fee schedule in § 77.106(e), includes an increase in the application fee for review of blast plans, based on the cost to review those plans.

As part of the 2015 workload analysis, the Department determined that the time necessary to review new noncoal mining permit applications has increased because of the complexity of the review of new noncoal mining operations being proposed. Thus, although the Department has experienced a decrease in the total number of permit applications received, it has experienced an overall increase in its permitting workload for noncoal mining operations.

#### Annual administration fee—§ 77.106(f)

In addition to the Department's review of permit applications, it routinely inspects noncoal mining operations for which permits have been issued and takes appropriate actions to ensure these operations comply with their permits, and statutory and regulatory requirements. The Department has established inspection frequencies based upon the type of noncoal mining permit

<sup>1</sup> See the "3-Year Regulatory Fee and Program Cost Analysis Report to the Environmental Quality Board" presented at the May 20, 2015, meeting of the Board (available at <https://goo.gl/V1WszB>).

<sup>2</sup> Updated figures are from current spend plans and projections.

issued and the status of activity being conducted (for example, active, inactive, not started). Activities conducted by a Department inspector include review of the permit file for the noncoal mining operation, review of the submissions made by the permittee under the permit and verification of compliance through a site review.

The Department categorizes noncoal mining operations based on size. Small operations are those authorized to produce up to 10,000 tons per year and large operations are those that produce more than this amount. The Department typically inspects large operations four times per year and small operations two times per year. For noncoal mining operations that are authorized through a permit to conduct blasting, the Department also conducts a blasting inspection each year. As a result, the fee schedules in § 77.106(f) reflect these operational differences.

The annual administration fees for noncoal mining operations are based on the Department's 2015 workload analysis for conducting inspections and taking actions necessary to ensure these operations comply with their permits. The Department provided its calculations for the annual administration fees to the Aggregate Advisory Board in 2016, available at [http://files.dep.state.pa.us/Mining/BureauOfMiningPrograms/BMPPortalFiles/AAB/Agendas\\_and\\_Handouts/2016/January%202016%20Noncoal%20Admin%20Fee%20Phases.pdf](http://files.dep.state.pa.us/Mining/BureauOfMiningPrograms/BMPPortalFiles/AAB/Agendas_and_Handouts/2016/January%202016%20Noncoal%20Admin%20Fee%20Phases.pdf).

#### *Advisory board collaboration and outreach*

The Department engaged in extensive outreach and collaboration efforts related to the fee schedules in both the proposed rulemaking and this final-form rulemaking. For example, the Department shared revenue and cost data with the Pennsylvania Aggregate and Concrete Association periodically since the fee schedule was revised in 2012. See 42 Pa.B. 6536. In 2014, the Surface Mining Conservation and Reclamation Act (52 P.S. §§ 1396.1—1396.19b) was amended to create the Aggregate Advisory Board to advise the Department on matters pertaining to surface mining. See 52 P.S. § 1396.18(g.1). The Aggregate Advisory Board reviewed the draft 2015 cost analysis at its initial meeting on May 13, 2015. In addition, the Department provided detailed data about the mining program's expenses and revenue at this meeting. The Aggregate Advisory Board conducted additional review of the cost and revenue data at its meeting on August 12, 2015.

By letter dated June 12, 2015, the Pennsylvania Concrete and Aggregate Association and the Pennsylvania Bluestone Association requested detailed information about the revenue and expenses for the coal mining and noncoal mining programs, including information on Federal grants provided the Department to implement Title V of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C.A. §§ 1251—1279). The Department posted data responding to this request on the Aggregate Advisory Board webpage and reviewed the data with the Aggregate Advisory Board's Regulatory, Legislative and Technical (RLT) Committee on September 22, 2015, and October 23, 2015. The data included the Department's Title V grant applications for the previous 5 years, the Federal Financial Reports for closing out its Title V grant for 5 years and the five most recent annual reports regarding the Department's administration of the Title V program. The Department also provided its workload analysis for the mining program, the total fees collected, the number and types of applications and inspections, and the hours worked by Department employees for the coal and noncoal mining programs. The Department also

reviewed the data, including additional revenue data, with the Aggregate Advisory Board at its November 10, 2015, meeting.

The Department posted additional data on the Aggregate Advisory Board webpage and reviewed the data with the RLT Committee at its January 19, 2016, meeting. The data included the Department's spend plan, which analyzed existing and projected revenue and expenses for the noncoal mining program. At this meeting, the Department introduced the concept of phasing in fee increases and presented a preliminary draft of the proposed revisions to § 77.106, which included a proposed fee schedule.

On February 18, 2016, the RLT Committee met to review the preliminary draft revisions to § 77.106. At a meeting of the full Aggregate Advisory Board on February 18, 2016, members discussed recommendations to the Department's draft revisions, but did not vote on a final recommendation. On May 4, 2016, the Aggregate Advisory Board met and referred the draft fee revisions to the RLT Committee for further review. The RLT Committee met on June 9, 2016, June 30, 2016, July 18, 2016, and August 3, 2016, and provided its recommendation to the full Aggregate Advisory Board at the November 2, 2016, meeting. The RLT Committee recommended to the full Aggregate Advisory Board that the rulemaking proceed with the draft fee schedule as presented in January 2016, which phased in the proposed fee increases over 6 years, and adjusted the fee schedule annually after the phased increases are implemented based on an index from the United States Bureau of Labor Statistics. Further, this recommendation would coincide with continued collaboration with the Department on programmatic issues identified by the Aggregate Advisory Board. These issues are outlined in a Framework Document presented at the Aggregate Advisory Board's meeting on August 3, 2016. By letter dated October 3, 2016, the Secretary of the Department sent notice to the Aggregate Advisory Board of the Department's "commitment to fully collaborate with the Aggregate Advisory Board on prioritizing and resolving the issues identified in the Framework Document."

Following the Aggregate Advisory Board's acceptance of the RLT Committee's report, the Department recommended that the proposed rulemaking move forward for consideration by the Board, and the Aggregate Advisory Board concurred. The data the Department provided to the Aggregate Advisory Board during the development of the noncoal fee rulemaking is available on the Aggregate Advisory Board's webpage at <http://www.dep.pa.gov/Business/Land/Mining/BureauofMiningPrograms/Aggregate-Advisory-Board/Pages/default.aspx>.

This final-form rulemaking was reviewed with the Aggregate Advisory Board at its May 9, 2018, meeting. The Aggregate Advisory Board, with the proviso that the actual dates be inserted in the language for when the various schedules come into effect, concurred with the Department's recommendation to proceed with this final-form rulemaking process.

#### *E. Summary of Changes to the Proposed Rulemaking*

This final-form rulemaking includes two revisions from the proposed rulemaking. A definition for the term *Aggregate Advisory Board* is added in § 77.1 (relating to definitions).

Additionally, dates have been inserted in § 77.106(e) and (f) for when the various schedules come into effect in 2020, 2022 and 2024, respectively.

F. *Summary of Comments and Responses on the Proposed Rulemaking*

Comments were received from one public commentator and the Independent Regulatory Review Commission (IRRC).

The public commentator observed that Department personnel worked with stakeholders to ensure their complete understanding of the fiscal and resource needs behind the fees and encouraged the Board to consider this type of stakeholder involvement with all advisory boards and upcoming fee packages.

IRRC suggested that the Board provide a projection of the expenses for the program in order to ensure that the revised fees will not exceed the cost of reviewing, administering and enforcing permits. The projections should, at a minimum, cover 7 years.

The Department designed the noncoal permit application fees and annual administration fees to correlate to the workload of the noncoal program to which the permit application fees and annual administration fees relate—reviewing, administering and enforcing permits. For example, permit application fees accompany permit applications that the Department reviews, and so the number of permit applications and associated amount of work (that is, Department costs) are reflected in the fees charged. Similarly, the annual administration fees correlate to the workload associated with the inspection and compliance activities. However, the workload analysis that the Department used to calculate these fees includes work related to these functions for which the Department cannot impose fees because the work is too variable among permits to accurately capture in an up-front fee. For example, it is not possible to impose fees for complaint investigations because there is no reliable correlation between the number or type of complaints a particular operation might generate. The fact that the Department cannot account for these costs in the annual administration fee eliminates the likelihood that the Department will collect more money in permit application fees and annual administration fees than it costs to review, administer and enforce permits. Further, due to the fees being established through the rulemaking process, which takes substantial time, this also makes it unlikely that revenue will exceed costs. Finally, the Board has revised § 77.106(g) to ensure that the fee adjustment under the Employment Cost Index for State and Local Government Compensation is not applied if doing so would result in fees that exceed the Department's cost of reviewing, administering and enforcing the permit.

The 3-year fee report presented to the Board in May 2015 was the basis for the initial discussion of this fee increase with the Aggregate Advisory Board in 2015. That report included an analysis that the costs were increasing each year at a rate of about 3.3%.

Recent fiscal year expenses are as follows:

<i>FY</i>	<i>Expenses</i>	<i>Percent Change</i>
2013-2014	\$3,045,286	-
2014-2015	\$2,912,237	-4.4%
2015-2016	\$3,195,984	9.7%
2016-2017	\$4,485,000	40.3%

In response to IRRC's request to project costs for a 7-year period, the following estimate is provided:

<i>FY</i>	<i>Estimated Expenses</i>	<i>Estimated Fee Revenue</i>
2018-2019	\$3,984,000	\$2,266,130
2019-2020	\$4,074,000	\$2,265,000
2020-2021	\$4,001,550	\$2,850,000
2021-2022	\$4,121,597	\$3,150,000
2022-2023	\$4,245,244	\$3,400,000
2023-2024	\$4,372,602	\$3,700,000
2024-2025	\$4,503,780	\$3,885,000

This estimate is based on the assumption that the Department's workload will remain the same. Estimated expenses are based on special fund spend plan preliminary numbers through FY 2021-2022. Projections of expenses for FY 2022-2023 through FY 2024-2025 are estimated to increase at about 3% per year.

IRRC expressed concern that the proposed automatic incremental fee increases conflict with the existing regulation that requires the Department to, at least every 3 years, recommend to the Board regulatory changes to the fees to address any disparity between program income and costs. The concern was that automatic fee increases would potentially make § 77.106(d) obsolete.

The automatic adjustment in § 77.106(g) does not conflict with the requirement in § 77.106(d) that the Department recommend regulatory changes to the fees every 3 years to the Board so that it may address any disparity between the fees and the program costs. The Department's triennial recommendation in § 77.106(d) does not mandate any particular action other than the Department's recommendation based on whether any disparity exists at the time of the Department's analysis of program costs and fee revenue.

By keeping fees at pace with inflation, § 77.106(g) reduces the likelihood of any disparity and the need to recommend that the Board proceed with a rulemaking to adjust the fees. The 3-year review provides a check on the effectiveness of the automatic adjustment. If a disparity arises in the program costs and fee revenue, the 3-year review will provide an opportunity to address that disparity on a regular basis. Because the Department will still rely on a 3-year review and recommendation, it is not necessary to amend or delete § 77.106(d).

IRRC inquired as to whether there is a statutory minimum amount of money that must be kept in reserve in the Noncoal Surface Mining Fund (Fund). IRRC also suggested that, instead of the proposed fee increases, the Board consider spending down the reserve.

The Fund serves several purposes—holding cash deposited by permittees as bond; earmarking the proceeds of bond forfeitures; and for conservation purposes provided by the Noncoal Act. As a result, there are three accounts established in the Fund. The first account is the Mining Permit Collateral Guarantee Restricted Receipt Account for collateral deposits made by permittees for their bonding obligations under the Noncoal Act. Money in this account is returned to the permittees when they complete the required reclamation of their permitted area. The second account is the Forfeiture of Bonds Account, where bonds forfeited because of noncompliance with the Noncoal Act are deposited. Money in this account is required to be used to reclaim abandoned mine sites for which the bond was posted. See 52 P.S. § 3317. The third account is the Noncoal General Operations Account,

which is used to manage the day-to-day operations of the Noncoal Program and support the Payment-in-Lieu-of-Bond program.

The Noncoal General Operations Account had a balance of \$3,802,581.54 as of July 1, 2018. The fiscal year-end (June 30) balances for this unrestricted account are as follows:

FY	Year-end Balance
2010-2011	\$10,565,327.87
2011-2012	\$8,309,176.34
2012-2013	\$7,750,609.74
2013-2014	\$7,261,735.92
2014-2015	\$6,954,553.85
2015-2016	\$6,425,248.72
2016-2017	\$4,472,979.69

These balances indicate that the Department has been spending down the balance while awaiting the required fee increases.

The balance of the Noncoal General Operations Account covers less than 2 years' worth of program costs. A portion of the money in the General Operations Account must be retained by the Commonwealth to provide funds for reclamation under the Payment-in-Lieu-of-Bond (PILB) Program. Under this program, the account underwrites bonding obligations of permittees who pay an annual fee, deposited into the General Operations Account, instead of posting a surety or collateral bond. In 2018, the PILB Program underwrote between \$3.0 and \$4.0 million of bond liability. While there is no statutory requirement to maintain a specific amount of reserve, it is necessary to maintain a reasonable reserve to support the PILB Program.

As the Board noted in the proposed rulemaking, in order to lessen the financial burden on noncoal operators, most of which are considered small businesses, the fee increase phases in over 4 years, followed by an adjustment to account for the cost of inflation or deflation every 2 years thereafter. Under this system, only a portion of the actual costs are recovered between Years 1 and 4. In other words, the fee schedule is already effectively a temporary draw-down of the fund until the 4th year.

IRRC also observed that the new language in § 77.106(g) states that the permit application fee and annual administration fees will be adjusted by the Department every 2 years, requiring fees to be raised or lowered, regardless of the findings of the Department during the 3-year review required in § 77.106(d). To provide discretion, IRRC suggested that "will" be changed to "may."

The requirements in §§ 77.106(d) and (g) are intended to work in concert with one another. The use of the word "will" in § 77.106(g) is intentional to require that the changes be made rather than provide discretion to the Department, in order to ensure fee revenue keeps pace with costs so as to alleviate future fee increases. The Board is satisfied that the adjustment will unlikely exceed the costs of reviewing, administering and enforcing the permit due to the following factors: the long historical trend in the noncoal program of costs greatly outpacing fee revenue; the adjustment factor only accounts for employee-related costs; and not all costs associated with reviewing, administering and enforcing permits are reflected in the permit application fees and annual administration fees. If during the 3-year review a dispar-

ity is identified between the results of the index adjustment and the needs of the program, then the rulemaking process will be initiated to address the issue.

IRRC inquired as to whether the Department has the statutory authority to make the adjustments contemplated by § 77.106(g). Specifically, what specific statutory authority allows the Department to amend a regulation by publishing notice in the *Pennsylvania Bulletin* without going through the rulemaking process.

This provision was added at the request of the Aggregate Advisory Board. The adjustment is a product of subsection (g) itself, not of decision-making by the Department. In January 2026, subsection (g) supersedes, in part, subsections (e) and (f) such that the fees therein are subject to an automatic adjustment and directs the Department to publish the adjusted fees in the *Pennsylvania Bulletin* to demarcate their effective date. Under subsection (g), the Board is exercising its rulemaking authority under section 11(a) of the Noncoal Act, which provides, in relevant part:

The Environmental Quality Board may promulgate such regulations as it deems necessary to carry out the provisions and purposes of this Act. 52 P.S. § 3311(a).

Moreover, no provision of the Noncoal Act requires fees to be set by regulations promulgated by the Board. In fact, as IRRC notes, section 7(a) of the Noncoal Act provides, in relevant part:

The department is authorized to charge and collect from persons a reasonable filing fee, which shall not exceed the cost of reviewing, administering and enforcing the permit. 52 P.S. § 3307(a) (emphasis added).

Nothing in either of these provisions limits the type of fee schedule that can be established by regulation. In fact, from 1990 to 2012, the Board used its general statutory authority under the Noncoal Act to promulgate § 77.106, which at that time provided that "...a permit application for noncoal mining activities shall be accompanied by a check...in the amount set forth by the Department. The Department may require other fees set by the act, the environmental acts, this title or the Secretary." 20 Pa.B. 1653 (March 17, 1990). This discretionary approach was modified in 2012, and § 77.106 established sum-certain fees that must be collected. 42 Pa.B. 6536. These various regulatory designs are similar to regulations deemed valid and binding by the Commonwealth Court in *Naylor v. Dep't of Public Welfare*, 54 A.3d 429 (Pa. Cmwlth. 2012), aff'd, 76 A.3d 563 (Pa. 2013), which allowed an agency to adjust the amounts of certain payments through publication in the *Pennsylvania Bulletin* absent statutory language that would limit that practice. In *Naylor*, the Commonwealth Court found, among other things, that regulations allowing the Department of Public Welfare to reduce State Supplementary Payments (SSP) through notice in the *Pennsylvania Bulletin* were authorized by the Public Welfare Code and reasonable because no provision of the Code "restricts or directs the manner by which the Department must establish SSP payment amounts." 54 A.3d at 435. Accordingly, the general statutory authority here under the Noncoal Act is sufficient authority to establish the fee adjustment provision in this final-form rulemaking.

IRRC also noted that, as written, in § 77.106(g), it appears that the Department would be the agency amending the regulation by publishing a revised fee schedule in the *Pennsylvania Bulletin*.

Prior to publication, the Department is required to provide the proposed fee schedule to the Aggregate Advisory Board. As a result, any Department action would be reviewed by the Aggregate Advisory Board. Moreover, any increases could not exceed the adjustment based on the Employment Cost Index.

IRRC also recommended that this final-form rulemaking include a definition for the Aggregate Advisory Board.

This final-form rulemaking reflects the addition of a definition for the Aggregate Advisory Board.

IRRC inquired as to why the United States Bureau of Labor Statistics Employment Cost Index for State and Local Government Compensation is the most appropriate for adjusting fee amounts. Subsection 77.106(g) also indicates that another index could be used if it is found to be more appropriate.

IRRC also asked for clarification about how the Department will implement the use of a different index.

The primary cost factor in implementing the noncoal mining program is personnel costs. For this reason, the Employment Cost Index for State and Local Government Compensation was chosen as the appropriate index to make adjustments to the fees. This index is tailored to the labor costs of government employees. The regulation provides the Department with very limited discretion/authority to choose an alternative index. This would only occur if the United States Department of Labor terminates the Employment Cost Index for State and Local Government Compensation, so an alternative will be necessary, or renames it.

IRRC requested that the Board provide a 10-year history for the United States Bureau of Labor Statistics Employment Cost Index for State and Local Government Compensation.

The following table lists the United States Bureau of Labor Statistics Employment Cost Index for State and Local Government Compensation for each calendar year:

<i>Year</i>	<i>End of Year Index</i>
2007	4.1
2008	3.0
2009	2.3
2010	1.8
2011	1.3
2012	1.9
2013	1.9
2014	2.0
2015	2.5
2016	2.4
2017	2.5

The index applies to this final-form rulemaking as follows. The first fee adjustment will be done in 2025 to be effective January 1, 2026. This adjustment will use the end-of-year indices from 2023 and 2024, since these will represent the most recent 2-year period in 2025. To clarify, the following examples are provided. The highest fee amount in the fee schedule to be in effect in 2025 is \$29,500 for the Large Surface Mining Permit—Groundwater Pumping Authorized application. For the purpose of the example, using the two most recently available indices (2.4% for 2016 and 2.5% for 2017), results in a

new fee amount of \$30,975 ( $\$29,500 \times 1.024 \times 1.025 = \$30,963.20$ ) rounding to the nearest \$25 increment. However, the calculations may result in no change to the fee amount or a decrease to the fee amount. For example, for the annual administration fee for permits in the Not Started status in 2025 will be \$175. The fee amount will remain \$175 ( $\$175 \times 1.024 \times 1.025 = \$183.68$ ) since this result rounds down.

#### G. *Benefits, Costs and Compliance*

This final-form rulemaking updates the existing permit application fee and annual administration fee schedules for noncoal mining operations to provide funding for the Department to carry out its responsibilities under the Noncoal Act and the CSL. This final-form rulemaking will benefit the public and the noncoal mining operators by enabling the Department to provide timely permit review and effective oversight of permitted noncoal mining operations to achieve the purposes of the Noncoal Act. While this final-form rulemaking will increase the cost of compliance with the Noncoal Act, the fee increases will be phased in over 4 years to allow the noncoal mine operators to plan for these increased costs. However, these fee increases are necessary to administer the noncoal mining program consistent with the Department's responsibilities under the Noncoal Act.

#### *Benefits*

As described in the purpose of the Noncoal Act discussed in Section D of this preamble, this final-form rulemaking will ensure that the benefits of the Noncoal Act will be achieved, which are to ensure that noncoal mining operations conducted in this Commonwealth prevent pollution of Commonwealth rivers and streams, restore the land for future beneficial use, protect water supplies, as well as soil and wildlife resources, and eliminate health and safety hazards. See 52 P.S. § 3302. The Department is also responsible for issuing, administering and enforcing permits under the CSL, the purpose of which is to, among other things, prevent water pollution. See 35 P.S. § 691.4(3). The Department fulfills its responsibilities under the Noncoal Act and CSL through the implementation of its noncoal mining program and collects fees from noncoal mining permit applicants and permittees to cover the costs incurred by the Department to review, administer and enforce noncoal mining permits.

This final-form rulemaking is necessary to provide the Department with funding necessary to carry out the purposes of the Noncoal Act. Adequate funding for the Department is critical to ensuring that noncoal mining operations are conducted consistent with the Noncoal Act to protect the natural resources of this Commonwealth, restore the land for future beneficial uses, and ensure the health and safety of the public. With these additional funds, the Department will be able to continue to review permit applications, inspect permitted operations and take appropriate actions to ensure compliance in a timely manner.

The Department's ability to fulfill its responsibilities under the Noncoal Act is essential to the vitality of noncoal mining in this Commonwealth because this activity can only occur consistent with the mandates of the Noncoal Act when the Department can properly issue and administer noncoal mining permits. Each year, the Department processes approximately 500 noncoal mining permits and conducts approximately 5,000 inspections of noncoal mining operations to ensure this industry can benefit this Commonwealth's economy while protecting its natural resources consistent with the Noncoal Act. The

noncoal mining industry generates approximately \$20 billion per year in this Commonwealth and consistently ranks among the top ten noncoal mineral producers in the United States.

#### *Compliance costs*

The permit application fees and annual administration fees for noncoal mining operations would increase incrementally over 6 years. For small noncoal surface mining operations, the permit application fee will increase from the current \$525 to \$775, with a \$75 increase for each of the first and second phases, and a \$100 increase for the third phase. The annual administration fee for these small noncoal operations will increase from \$200 to \$500, with a \$200 increase in the first phase, and a \$50 increase in each of the second and third phases.

The increase in fees for small noncoal mining operations is attributable to several factors. The salary and benefit costs for Department staff in the noncoal mining program have increased between 2009 and 2015. In addition, the Department determined an average of 3 hours is needed to inspect a small noncoal mine operation, rather than the 2 hours estimated in the prior analysis. Finally, certain indirect costs and overhead costs were not accounted for in the prior cost analysis.

For large noncoal surface mining operations, as well as underground noncoal mining operations, the permit application fees will also increase. For example, the permit application fee for large noncoal surface mining operations that require groundwater pumping will increase from \$20,225 to \$29,500, with a \$2,225 increase in the first phase, a \$3,075 increase in the second phase and a \$3,975 increase in the third phase. The annual administration fee for active large surface mining operations with blasting will increase from \$1,850 to \$2,250, with an actual decrease of \$175 in the first phase, an increase of \$75 above the current fee in the second phase, and a further increase of \$325 in the third phase.

As with the increase in fees for small noncoal mining operations, the increases for the large noncoal surface mining operations and underground operations are attributable to several factors. As discussed in section D of this preamble, the salary and benefit costs for Department staff in the noncoal mining program have increased between 2009 and 2015. The percent increase to annual administration fees for large noncoal operations was less than that for small noncoal operations because the Department determined that an average of 5 hours is needed to inspect the larger operations rather than the 7 hours used in the prior cost analysis.

The total increased costs to the industry for the fees in this final-form rulemaking is estimated to be about \$1.3 million when all phases of the increases are implemented. Fee increases beyond that time would depend on the change in the United States Bureau of Labor Statistics Employment Cost Index for State and Local Government Compensation applied every 2 years.

#### *Compliance assistance plan*

Compliance assistance for this final-form rulemaking will be provided through routine interaction with the Aggregate Advisory Board, trade groups and individual applicants.

#### *Paperwork requirements*

No additional paperwork is required under this final-form rulemaking.

#### *H. Pollution Prevention*

The Pollution Prevention Act of 1990 (42 U.S.C.A. §§ 13101—13109) established a National policy that promotes pollution prevention as the preferred means for achieving state environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally friendly materials, more efficient use of raw materials and the incorporation of energy efficiency strategies. Pollution prevention practices (as opposed to pollution control) can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance. This final-form rulemaking has minimal impact on pollution prevention as contemplated in the Pollution Prevention Act of 1990 since it is focused on establishing appropriate fees to cover the Department's costs to administer the Noncoal Act.

#### *I. Sunset Review*

The Board is not establishing a sunset date for this final-form rulemaking, since it is needed for the Department to carry out its statutory authority. The Department will continue to closely monitor this regulation for its effectiveness and recommend updates to the Board at least every 3 years according to 25 Pa. Code § 77.106(d).

#### *J. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on January 17, 2018, the Department submitted a copy of the proposed rulemaking, published at 48 Pa.B. 733 (February 3, 2018), to IRRC and to the Chairpersons of the House and Senate Environmental Resources and Energy Committees, for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the House and Senate Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing this final-form rulemaking, the Department has considered all comments from IRRC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on March 20, 2019, this final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on March 21, 2019, and approved this final-form rulemaking.

#### *K. Findings of the Board*

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and regulations promulgated thereunder at 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law, and all comments were considered.

(3) These regulations do not enlarge the purpose of the proposal published at 48 Pa.B. 733.

(4) These regulations are necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this preamble.

*L. Order of the Board*

The Board, acting under the authorizing statutes, orders that:

(1) The regulations of the Department, 25 Pa. Code Chapter 77, are amended by amending §§ 77.1 and 77.106 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(2) The Chairperson of the Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form, as required by law.

(3) The Chairperson shall submit this order and Annex A to IRRC and the Senate and House Environmental Resources and Energy Committees as required by the Regulatory Review Act (71 P.S. §§ 745.1—745.14).

(4) The Chairperson of the Board shall certify this order and Annex A, as approved for legality and form, and deposit them with the Legislative Reference Bureau, as required by law.

(5) This order shall take effect on January 1, 2020.

PATRICK McDONNELL,  
*Chairperson*

*(Editor’s Note:* See 49 Pa.B. 1735 (April 6, 2019) for IRRC’s approval order.)

**Fiscal Note:** Fiscal Note 7-523 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 25. ENVIRONMENTAL PROTECTION**

**PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**Subpart C. PROTECTION OF NATURAL RESOURCES**

**ARTICLE I. LAND RESOURCES**

**CHAPTER 77. NONCOAL MINING**

**Subchapter A. GENERAL PROVISIONS**

**§ 77.1. Definitions.**

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

\* \* \* \* \*

*Adjacent area*—Land located outside the permit area within 1,000 feet.

*Aggregate Advisory Board*—The Board created by section 18(g.1) of the Surface Mining Conservation and Reclamation Act (52 P.S. § 1396.18(g.1)) regarding the creation, composition and duties of the Aggregate Advisory Board.

*Annual administration fee*—A nonrefundable filing fee assessed on an annual basis for the cost to the Department of inspecting a permitted activity or facility to administer the permit.

\* \* \* \* \*

**Subchapter C. PERMITS AND PERMIT APPLICATIONS**

**GENERAL**

**§ 77.106. Fees.**

(a) *Payment.* A permit application for noncoal mining activities shall be accompanied by a nonrefundable payment for the permit application fee payable to the

“Commonwealth of Pennsylvania.” The applicable permit application fee amount is specified in subsection (e). For purposes of this subsection, permit applications include all of the applications listed in subsection (e).

(b) *Assessment.* The Department will assess an annual administration fee for each permitted activity and facility. For licensed mine operators, this annual administration fee will be assessed annually, will be collected as part of the mine operator’s license renewal application and will include the appropriate annual administration fee for each of the licensee’s permitted facilities. If the permittee is not required to maintain a mining license, a notice of the annual administration fee will be sent to the permittee for all of the permittee’s permitted facilities and the fee must be paid within 30 days of receipt of the notice. The applicable fee amounts are specified in subsection (f).

(c) *Deposit of funds.* Fees collected under this section and all enforcement cost recovery funds will be deposited in the Noncoal Surface Mining Conservation and Reclamation Fund. The fees collected under this section will be used by the Department for the purposes specified by the act.

(d) *Regulatory amendment.* At least every 3 years, the Department will recommend regulatory changes to the fees in this section to the EQB to address any disparity between the program income generated by the fees and program costs. The regulatory amendment will be based upon an evaluation of the program fees income and the Department’s costs of administering the program.

(e) *Permit application fee schedule.*

(1) Effective January 1, 2020, the permit application fee schedule is as follows:

(i) <i>New Permits.</i>	<i>Fee</i>
Large Surface Mining Permit—Groundwater Pumping Authorized	\$22,450
Large Surface Mining Permit—No Groundwater Pumping	\$15,000
Small Surface Mining Permit	\$600
Underground Mining Permit	\$22,450
(ii) <i>Major Amendments.</i>	<i>Fee</i>
Large Surface Mining Permit—Groundwater Pumping Authorized	\$4,250
Large Surface Mining Permit—No Groundwater Pumping	\$1,775
Underground Mining Permit	\$2,950
(iii) <i>Minor Amendments.</i>	<i>Fee</i>
Large Surface Mining Permit	\$775
Small Surface Mining Permit	\$200
(iv) <i>Transfers.</i>	<i>Fee</i>
Large Surface Mining Permit	\$975
Underground Mining Permit	\$975
(v) <i>Other Actions.</i>	<i>Fee</i>
Bonding Increment	\$500
Completion Report Application	\$650
Blast Plan	\$550
Notice of Intent to Explore	\$65
Pre-applications	\$3,750
Renewal	\$175



(2) Effective January 1, 2022, the permit application fee schedule is as follows:

(i) <i>New Permits.</i>	<i>Fee</i>
Large Surface Mining Permit—Groundwater Pumping Authorized	\$25,525
Large Surface Mining Permit—No Groundwater Pumping	\$17,025
Small Surface Mining Permit	\$675
Underground Mining Permit	\$25,525
(ii) <i>Major Amendments.</i>	<i>Fee</i>
Large Surface Mining Permit—Groundwater Pumping Authorized	\$4,850
Large Surface Mining Permit—No Groundwater Pumping	\$2,000
Underground Mining Permit	\$3,350
(iii) <i>Minor Amendments.</i>	<i>Fee</i>
Large Surface Mining Permit	\$900
Small Surface Mining Permit	\$225
(iv) <i>Transfers.</i>	<i>Fee</i>
Large Surface Mining Permit	\$1,125
Underground Mining Permit	\$1,125
(v) <i>Other Actions.</i>	<i>Fee</i>
Bonding Increment	\$550
Completion Report Application	\$750
Blast Plan	\$675
Notice of Intent to Explore	\$75
Pre-applications	\$4,250
Renewal	\$200

(3) Effective January 1, 2024, the permit application fee schedule is as follows:

(i) <i>New Permits.</i>	<i>Fee</i>
Large Surface Mining Permit—Groundwater Pumping Authorized	\$29,500
Large Surface Mining Permit—No Groundwater Pumping	\$19,750
Small Surface Mining Permit	\$775
Underground Mining Permit	\$29,500
(ii) <i>Major Amendments.</i>	<i>Fee</i>
Large Surface Mining Permit—Groundwater Pumping Authorized	\$5,625
Large Surface Mining Permit—No Groundwater Pumping	\$2,350
Underground Mining Permit	\$3,900
(iii) <i>Minor Amendments.</i>	<i>Fee</i>
Large Surface Mining Permit	\$1,050
Small Surface Mining Permit	\$250
(iv) <i>Transfers.</i>	<i>Fee</i>
Large Surface Mining Permit	\$1,300
Underground Mining Permit	\$1,300

(v) <i>Other Actions.</i>	<i>Fee</i>
Bonding Increment	\$650
Completion Report Application	\$875
Blast Plan	\$775
Notice of Intent to Explore	\$85
Pre-applications	\$4,950
Renewal	\$225

(f) *Annual administration fee schedule.*

(1) Effective January 1, 2020, the annual administration fee schedule will be as follows:

<i>Permit Category—Permit Status</i>	<i>Annual Fee</i>
Large Surface Mining Permit—Active	\$1,300
Large Surface Mining Permit—Active with Blasting	\$1,675
Small Surface Mining Permit—Active	\$400
Small Surface Mining Permit—Active with Blasting	\$550
Underground Mining Permit—Active	\$1,300
General Permit	\$400
All Permits—Not Started	\$125
All Permits—Inactive	\$125

(2) Effective January 1, 2022, the annual administration fee schedule will be as follows:

<i>Permit Category—Permit Status</i>	<i>Annual Fee</i>
Large Surface Mining Permit—Active	\$1,500
Large Surface Mining Permit—Active with Blasting	\$1,925
Small Surface Mining Permit—Active	\$450
Small Surface Mining Permit—Active with Blasting	\$625
Underground Mining Permit—Active	\$1,500
General Permit	\$450
All Permits—Not Started	\$150
All Permits—Inactive	\$150

(3) Effective January 1, 2024, the annual administration fee schedule will be as follows:

<i>Permit Category—Permit Status</i>	<i>Annual Fee</i>
Large Surface Mining Permit—Active	\$1,750
Large Surface Mining Permit—Active with Blasting	\$2,250
Small Surface Mining Permit—Active	\$500
Small Surface Mining Permit—Active with Blasting	\$700
Underground Mining Permit—Active	\$1,750
General Permit	\$500
All Permits—Not Started	\$175
All Permits—Inactive	\$175

(g) The fees in subsections (e) and (f) will be adjusted by the Department every 2 years, beginning on January 1, 2026, based on the United States Bureau of Labor Statistics Employment Cost Index for State and Local Government Compensation, or an equivalent index recognized by the United States Department of Labor. The adjustment will be based upon the cost difference for the most recent 2-year period prior to the calculation. The fee schedule will be adjusted in increments of \$25. The Department will provide the proposed fee schedule to the Aggregate Advisory Board for review prior to publication. The final adjusted fee schedule will be effective upon publication in the *Pennsylvania Bulletin*. The fees shall not be adjusted if application of the index would result in fees exceeding the Department's costs of reviewing, administering and enforcing the permit.

[Pa.B. Doc. No. 19-750. Filed for public inspection May 17, 2019, 9:00 a.m.]

## Title 58—RECREATION

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

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 9, 2019, meeting, amended § 139.4 (relating to seasons and bag limits for the license year) to provide updated seasons and bag limits for the 2019-2020 hunting/furtaking license year.

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

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

Notice of proposed rulemaking was published at 49 Pa.B. 1390 (March 23, 2019).

#### 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 amends § 139.4 to provide updated seasons and bag limits for the 2019-2020 hunting/furtaking license year. The 2019-2020 seasons and bag limits have been 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.

To provide an overall increase in black bear hunting opportunity and harvest, and to better align open seasons with dates when agricultural producers are experiencing bear damage, the Commission shifted the archery bear season to mid-October and expanded the October muzzleloader and special firearms seasons (previously limited to wildlife management units (WMU) on the periphery of the bear range) Statewide. Also, the Commission increased the length of the extended firearms bear season in several WMUs from 4 to 6 days to increase bear harvest and reduce regulations complexity.

For elk, the Commission added a September archery season and a January antlerless season to address hunter

crowding issues during the regular season while simultaneously reducing elk habituation toward humans and residential areas, and improving the agency's ability to respond to elk-human conflicts and to potential future chronic wasting disease infection.

Expansions of bobcat hunting and trapping opportunity to WMU 4B, and of fisher trapping opportunity to WMU 4A, were added in light of population indices in these units that are comparable to those in other WMUs where harvest is occurring sustainably. For beaver, an increase in the season bag limit from 20 to 40 was added for WMUs 2A and 2B in response to increasing nuisance complaints in these units. For porcupine, the Commission reduced the season length to ensure population sustainability given significant uncertainty about the impacts of harvest on this species.

To increase hunting opportunities for younger deer hunters, the Commission added a Saturday opener for the regular firearms deer season. Changing the historic opening day from the Monday following Thanksgiving to the Saturday following Thanksgiving represents a significant change in tradition. However, retaining our younger hunters is important to preserving our hunting heritage. By shifting the opening day to a Saturday this change will create more hunting opportunity by selecting a day which better fits the working/school schedule of youth and young adults. Minor changes were also added for small game and turkey season closing dates to accommodate the 1-day shift in the opening of the regular firearms deer season.

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 adopted under this authority.

#### 2. *Regulatory Requirements*

This final-form rulemaking amends § 139.4 to provide updated seasons and bag limits for the 2019-2020 hunting/furtaking license year.

#### 3. *Persons Affected*

Persons wishing to hunt or trap game or wildlife within this Commonwealth during the 2019-2020 hunting/furtaking license year may be affected by this final-form rulemaking.

#### 4. *Comment and Response Summary*

The Commission received a total of 1,222 official comments concerning this final-form rulemaking. The comments received concerned the following subtopics:

*Deer Seasons:* Out of a total of 1,178 comments received concerning this subtopic, 217 supported and 935 opposed a Saturday opener for regular firearms deer season, 1 supported being able to harvest a buck in early season, 5 supported concurrent antlered/antlerless seasons, 1 opposed the extended season, 1 supported opening the regular firearms deer season the a week earlier, 6 supported shortening archery season, 6 supported lengthening archery season, 1 supported a longer archery season in special regulation areas, 1 supported shifting the start and end dates of archery season to 1 week later, 1 supported creating a separate crossbow season from archery season, 1 opposed the overlap of small game season with archery deer season, 1 opposed the October

muzzleloader season, 1 supported having antlered deer lawful for harvest during all early deer seasons and 1 supported having antlerless deer season limited to 2 days.

*Turkey Seasons:* A total of three comments were received concerning this subtopic in opposition to removing the last day of turkey season to accommodate the Saturday opening day of regular firearm deer season.

*Bear Seasons:* A total of 25 comments were received concerning this subtopic, 1 supported moving bear season to the last week of September, 3 supported having a special firearms bear season for seniors, 6 supported the muzzleloading bear season, 2 supported the additional archery hunting opportunity, 6 opposed the early muzzleloader and special firearm bear seasons, 1 supported extending bear hunting opportunities in WMU 2F, 1 supported moving archery bear season before archery deer season, 2 supported and 2 opposed the expansion of bear seasons and 1 opposed the concurrent bear and deer seasons.

*Small Game Seasons:* A total of 13 comments were received concerning this subtopic, 1 supported starting squirrel season on September 1, 5 opposed removing the last day of small game season to accommodate the Saturday opening day of regular firearm deer season, 1 supported extending small game seasons through March,

1 supported shortening grouse season, 4 supported closing grouse season and 1 supported shortening the late season hunt to 6 days.

*Furbearer Seasons:* A total of three comments were received concerning this subtopic, one opposed the unlimited coyote bag limit and two supported opening bobcat season in WMU 2D.

5. *Cost and Paperwork Requirements*

This final-form rulemaking should not result in any additional cost or paperwork.

6. *Effective Date*

This final-form rulemaking will be effective July 1, 2019, to June 30, 2020.

7. *Contact Person*

For further information regarding this final-form 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:** Fiscal Note 48-439 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 139. SEASONS AND BAG LIMITS

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

2019-2020 OPEN HUNTING AND FURTAKING 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 Second Day</i>
Squirrel—(Combined species) Eligible Junior Hunters only, with or without the required junior license	Oct. 5		Oct. 19	6	18
Squirrel—(Combined species)	Oct. 19		Nov. 29	6	18
	Dec. 16	and	Dec. 24		
	Dec. 26	and	Feb. 29, 2020		
Ruffed Grouse	Oct. 19		Nov. 29	2	6
	Dec. 16	and	Dec. 24		
Rabbit, Cottontail— Eligible Junior Hunters only, with or without the required junior license	Oct. 5		Oct. 19	4	12
Rabbit, Cottontail	Oct. 19		Nov. 29	4	12
	Dec. 16	and	Dec. 24		
	Dec. 26	and	Feb. 29, 2020		

RULES AND REGULATIONS

<i>Species</i>	<i>First Day</i>		<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After Second Day</i>
Ring-necked Pheasant—There is no open season for the taking of pheasants in any area designated as a wild pheasant recovery area, except as authorized by Executive Order.					
Ring-necked Pheasant Eligible Junior Hunters only, with or without the required junior license WMUs 4E and 5A—Male only WMUs 1A, 1B, 2A, 2B, 2C, 2D, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D, 5B, 5C and 5D—Male or female	Oct. 12		Oct. 19	2	6
Central Susquehanna Wild Pheasant Recovery Area—Male only	As authorized by the Executive Order				
Ring-necked Pheasant  WMUs 4E and 5A—Male only  WMUs 1A, 1B, 2A, 2B, 2C, 2D, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D, 5B, 5C and 5D—Male or female	Oct. 26  Dec. 16  Dec. 26	 and  and	Nov. 29  Dec. 24  Feb. 29, 2020	2	6
Bobwhite Quail	Oct. 19  Dec. 16  Dec. 26	 and  and	Nov. 29  Dec. 24  Feb. 29, 2020	8	24
Hare (Snowshoe Rabbits) or Varying Hare	Dec. 26		Jan. 1, 2020	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 WMU 2B (Shotgun, Bow and Arrow only)	Nov. 2  Nov. 28	 and	Nov. 22  Nov. 29	1	1
WMU 1B	Nov. 2		Nov. 9		
WMUs 1A, 2A, 4A and 4B	Nov. 2		Nov. 9		
		and			
WMUs 2D, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4C, 4D and 4E	Nov. 28 Nov. 2		Nov. 29 Nov. 16		
		and			
WMU 2C	Nov. 28 Nov. 2		Nov. 29 Nov. 22		
		and			
WMU 5A	Nov. 7		Nov. 9		
WMU 5B	Nov. 5		Nov. 7		
WMUs 5C and 5D	Closed to fall turkey hunting				

<i>Species</i>	<i>First Day</i>		<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Turkey, Spring <sup>1</sup> Bearded Bird only, Eligible Junior Hunters only, with the required junior license	Apr. 25, 2020		Apr. 25, 2020	1	1
Turkey, Spring <sup>1</sup> Bearded Bird only	May 2, 2020		May 16, 2020	1	2
		and	May 30, 2020	May be hunted 1/2 hour before sunrise to 12 noon	
	May 18, 2020			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 Second Day</i>
Crow (Hunting permitted on Friday, Saturday and Sunday only)	July 5		Apr. 12, 2020	Unlimited	
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 Second Day</i>
Squirrel—(Combined species)	Sept. 2		Mar. 31, 2020	6	18
Quail	Sept. 2		Mar. 31, 2020	8	24
Ruffed Grouse	Sept. 2		Mar. 31, 2020	2	6
Cottontail Rabbits	Sept. 2		Mar. 31, 2020	4	12
Snowshoe or Varying Hare	Sept. 2		Mar. 31, 2020	1	3
Ring-necked Pheasant—Male and Female—(Combined)	Sept. 2		Mar. 31, 2020	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) <sup>2</sup> With the required archery license WMUs 2B, 5C and 5D	Sept. 21		Nov. 29	One antlered deer, and an antlerless deer with each required antlerless license.
	Dec. 26	and	Jan. 25, 2020	
Deer, Archery (Antlered and Antlerless) <sup>2</sup> 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	Oct. 5		Nov. 16	One antlered deer, and an antlerless deer with each required antlerless license.
	Dec. 26	and	Jan. 20, 2020	
Deer, Muzzleloading (Antlerless only) With the required muzzleloading license	Oct. 19		Oct. 26	An antlerless deer with each required antlerless license.

<i>Species</i>	<i>First Day</i>		<i>Last Day</i>	<i>Season Limit</i>
Deer, Special firearms (Antlerless only) Only Junior and Senior License Holders, <sup>3</sup> 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. 24		Oct. 26	An antlerless deer with each required antlerless license.
Deer, Regular firearms (Antlered and Antlerless) <sup>2</sup> WMUs 2B, 5C and 5D	Nov. 30		Dec. 14	One antlered deer, and an antlerless deer with each required antlerless license.
Deer, Regular firearms (Antlered only) <sup>2</sup> WMUs 1A, 1B, 2A, 2C, 2D, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D, 4E, 5A and 5B	Nov. 30		Dec. 6	One antlered deer.
Deer, Regular firearms (Antlered and Antlerless) <sup>2</sup> WMUs 1A, 1B, 2A, 2C, 2D, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D, 4E, 5A and 5B	Dec. 7		Dec. 14	One antlered deer, and an antlerless deer with each required antlerless license.
Deer, Flintlock (Antlered or Antlerless) <sup>2</sup> 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. 20, 2020	One antlered or one antlerless deer, plus an additional antlerless deer with each required antlerless license.
Deer, Flintlock (Antlered or Antlerless) <sup>2</sup> With the required muzzleloading license WMUs 2B, 5C and 5D	Dec. 26		Jan. 25, 2020	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. 25, 2020	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 <sup>4</sup> WMUs 2B, 5C and 5D	Sept. 21		Nov. 29		1
Bear, Archery <sup>4</sup> WMU 5B	Oct. 5		Nov. 16		1
Bear, Archery <sup>4</sup> WMUs 1A, 1B, 2A, 2C, 2D, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D, 4E and 5A	Oct. 28		Nov. 9		1
Bear, Muzzleloader <sup>4</sup> (Statewide)	Oct. 19		Oct. 26		1
Bear, Special firearms <sup>4</sup> Only Junior and Senior License Holders <sup>3</sup> , 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 (Statewide)	Oct. 24		Oct. 26		1
Bear, Regular Firearms <sup>4</sup> (Statewide)	Nov. 23		Nov. 27		1

**RULES AND REGULATIONS**

**2505**

<i>Species</i>	<i>First Day</i>		<i>Last Day</i>		<i>Season Limit</i>
Bear, Extended firearms <sup>4</sup> WMUs 2B, 5B, 5C and 5D	Nov. 30		Dec. 14		1
Bear, Extended firearms <sup>4</sup> WMUs 1B, 2C, 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D, 4E and 5A	Nov. 30		Dec. 7		1

**ELK**

<i>Species</i>	<i>First Day</i>		<i>Last Day</i>		<i>Season Limit</i>
Elk, Special Conservation Tag <sup>5</sup> and Special-License Tag <sup>5</sup> (Antlered and Antlerless)	Sept. 2		Nov. 9		1
Elk, Archery <sup>5</sup>	Sept. 14		Sept. 28		1
Elk, Regular <sup>5</sup> (Antlered and Antlerless)	Nov. 4		Nov. 9		1
Elk, Extended <sup>5</sup> (Antlered and Antlerless)	Nov. 11		Nov. 16		1
Elk, Late <sup>5</sup> (Antlerless only)	Jan. 4, 2020		Jan. 11, 2020		1

**FURTAKING—TRAPPING**

<i>Species</i>	<i>First Day</i>		<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Mink and Muskrat	Nov. 23		Jan. 12, 2020	Unlimited	
Beaver WMUs 1A, 1B, 2A, 2B and 3C (Combined) WMUs 2C, 2D, 2E, 2F, 3A, 3B, 3D, 5C and 5D (Combined) WMUs 2G, 2H, 4A, 4B, 4C, 4D, 4E, 5A and 5B (Combined)	Dec. 26		Mar. 31, 2020	20 20 5	40 20 5
Coyote, Fox, Opossum, Raccoon, Striped Skunk and Weasel	Oct. 27		Feb. 23, 2020	Unlimited	
Coyote and Fox Use of cable restraint devices authorized with required certification	Dec. 26		Feb. 23, 2020	Unlimited	
Bobcat, with required bobcat permit WMUs 2A, 2C, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D and 4E	Dec. 21		Jan. 12, 2020	1	1
Fisher, with required fisher permit WMUs 1B, 2C, 2D, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D and 4E	Dec. 21		Jan. 5, 2020	1	1
River Otter, with required otter permit WMUs 3C and 3D	Feb. 15, 2020		Feb. 22, 2020	1	1

**FURTAKING—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. 26		Feb. 22, 2020	Unlimited	
Bobcat, with required bobcat permit WMUs 2A, 2C, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D and 4E	Jan. 11, 2020		Feb. 5, 2020	1	1
Porcupine	Oct. 12		Feb. 1, 2020	3	10

No open seasons on other wild birds or wild mammals.

<sup>1</sup> 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 2 spring gobblers per license year may be taken by any combination of licenses or exceptions for mentored youth.

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

<sup>3</sup> 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).

<sup>4</sup> Only one bear may be taken during the hunting license year with the required bear license.

<sup>5</sup> Only one elk may be taken during the hunting license year with the required elk license.

[Pa.B. Doc. No. 19-751. Filed for public inspection May 17, 2019, 9:00 a.m.]

## Title 58—RECREATION

### GAME COMMISSION

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

#### Hunting and Trapping; General

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 9, 2019, meeting amended § 141.20 (relating to protective material required) to eliminate requirements for wearing of fluorescent orange protective material for archery deer seasons, archery bear seasons, archery elk seasons and fall turkey seasons, including where these seasons overlap with other firearms seasons.

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

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

Notice of proposed rulemaking was published at 49 Pa.B. 1386 (March 23, 2019).

#### 1. Purpose and Authority

Requirements for the wearing of fluorescent orange protective material within this Commonwealth are complex and make up a significant number of violations detected each year by State Game Wardens. On a National scale, the requirements for fluorescent orange protective material vary from state-to-state. Those regulations include 11 states, such as Texas and New York, which do not require any fluorescent orange protective material to be worn; 10 states only requiring it to be worn while hunting big game; 20 states only requiring it to be worn when hunting big game with a firearm; and 9 states, including this Commonwealth, having a mixture of instances in which the wearing of fluorescent orange is required. The Commission amends § 141.20 to eliminate the requirements for the wearing of fluorescent orange protective material for archery deer seasons, archery bear seasons, archery elk seasons and fall turkey seasons, including where these seasons overlap with other firearms seasons. While representing a significant reduction to the current requirements for fluorescent orange protective material requirements, the proposed changes will still maintain Commonwealth's position as one of the more restrictive states in the nation.

Section 2102(a) of the code (relating to regulations) provides that "The 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 pro-

tection, 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 § 141.20 are adopted under this authority.

#### 2. Regulatory Requirements

This final-form rulemaking amends § 141.20 by eliminating requirements for wearing of fluorescent orange protective material for archery deer seasons, archery bear seasons, archery elk seasons and fall turkey seasons, including where these seasons overlap with other firearms seasons.

#### 3. Persons Affected

Persons wishing to hunt or take wildlife during applicable archery deer seasons, archery bear seasons, archery elk seasons and fall turkey seasons within each Wildlife Management Unit may be affected by this final-form rulemaking.

#### 4. Comment and Response Summary

The Commission received a total of eight official comments concerning this final-form rulemaking. A total of four comments generally opposed and a total of two generally supported the proposal. One comment supported making possession of a given weapon dictate the amount of fluorescent orange worn by a hunter while another one comment supported archery deer and fall turkey hunters wearing fluorescent orange if other concurrent hunting seasons authorized the use of firearms.

#### 5. Cost and Paperwork Requirements

This final-form rulemaking should not result in any additional cost or paperwork.

#### 6. Effective Date

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

#### 7. Contact Person

For further information regarding this final-form 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:** Fiscal Note 48-441 remains valid for the final adoption of the subject regulation.



Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Subchapter A. GENERAL

§ 141.20. Protective material required.

(a) The following requirements apply:

(1) *General rule.* Except as otherwise provided in subsection (b), it is unlawful to hunt or assist to hunt game or wildlife or move to or from a hunting location, from 1 hour before legal hunting hours to 1 hour after legal hunting hours outside of a motorized vehicle, at any time without wearing a minimum of 250 square inches of daylight fluorescent orange-colored material on the head, chest and back combined so that it is visible in a 360° arc. This shall include going to or from a hunting location before or after legal shooting hours. Except as provided in subsection (b)(2), camouflage orange clothing is lawful provided it contains the minimum amount of fluorescent orange-colored material.

(2) *Additional requirements.* It is unlawful to hunt during any firearms season for deer, elk or bear from any blind meeting the requirements in section 2308(b)(3) of the act (relating to unlawful devices and methods) without placing a minimum of 100 square inches of daylight fluorescent orange-colored material within 15 feet from the blind so it is visible in a 360° arc.

(b) *Permitted acts.* It is lawful to:

(1) Hunt without wearing daylight fluorescent orange-colored material for applicable wildlife during the following seasons:

- (i) All crow seasons.
- (ii) All dove seasons.
- (iii) All waterfowl seasons.
- (iv) All falconry small game seasons.
- (v) All flintlock muzzleloading deer seasons.
- (vi) All archery deer seasons.
- (vii) All archery bear seasons.
- (viii) All furbearer seasons, except coyote seasons.
- (ix) All coyote seasons, except during the respective portion of any coyote season that runs concurrent with the legal hunting hours of any special firearms or regular firearms seasons for deer, bear or elk within each wildlife management unit, when the requirements of subsection (a) remain applicable.
- (x) All turkey seasons.
- (xi) All archery elk seasons.

(2) Hunt for woodchucks during any woodchuck season while wearing a hat made of solid daylight fluorescent orange-colored material on the head only.

(c) A person who violates this section shall be subject to the penalties as provided in the act.

[Pa.B. Doc. No. 19-752. Filed for public inspection May 17, 2019, 9:00 a.m.]

Title 58—RECREATION

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), at its April 9, 2019, meeting, amended § 141.4, 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 2019-2020 hunting/furtaking license year.

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

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

Notice of proposed rulemaking was published at 49 Pa.B. 1388 (March 23, 2019).

1. *Purpose and Authority*

The Commission amended § 141.4, 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 2019-2020 hunting/furtaking license year.

Section 2102(a) of the code (relating to regulations) provides that “The 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 § 141.4, Appendix G are adopted under this authority.

2. *Regulatory Requirements*

This final-form rulemaking amended § 141.4 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 2019-2020 hunting/furtaking license year.

3. *Persons Affected*

Persons wishing to hunt or trap game or wildlife within this Commonwealth during the 2019-2020 hunting/furtaking license year may be affected by this final-form rulemaking.

4. *Comment and Response Summary*

There were no official comments received regarding this final-form rulemaking.

5. *Cost and Paperwork Requirements*

This final-form rulemaking should not result in any additional cost or paperwork.

6. *Effective Date*

This final-form rulemaking will be effective July 1, 2019, to June 30, 2020.

7. *Contact Person*

For further information regarding this final-form 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:** Fiscal Note 48-440 remains valid for the final adoption of the subject regulation.

**Annex A**

**TITLE 58. RECREATION**

**PART III. GAME COMMISSION**

**CHAPTER 141. HUNTING AND TRAPPING**

**Subchapter A. GENERAL**

**§ 141.4. Hunting hours.**

Except as otherwise provided, wild birds and mammals may be hunted 1/2 hour before sunrise to 1/2 hour after sunset.

\* \* \* \* \*

**Appendix G. Hunting Hours**

**HUNTING HOURS TABLE  
FOR JULY 1, 2019, THROUGH JUNE 30, 2020**

<i>Dates</i>	<i>Begin A.M.</i>	<i>End P.M.</i>
July 1—July 6	5:08	9:02
July 7—13	5:13	8:59
July 14—20	5:18	8:55
July 21—27	5:24	8:49
July 28—Aug. 3	5:31	8:42
Aug. 4—10	5:37	8:34
Aug. 11—17	5:44	8:25
Aug. 18—24	5:51	8:15
Aug. 25—31	5:57	8:04
Sept. 1—7	6:04	7:53
Sept. 8—14	6:10	7:41
Sept. 15—21	6:17	7:30
Sept. 22—28	6:24	7:18
Sept. 29—Oct. 5	6:31	7:07
Oct. 6—12	6:38	6:56
Oct. 13—19	6:45	6:46
Oct. 20—26	6:53	6:36
Oct. 27—Nov. 2	7:00	6:27
Nov. 3—9 **Ends	6:08	5:20
Nov. 10—16	6:16	5:14
Nov. 17—23	6:24	5:09
Nov. 24—30	6:32	5:06
Dec. 1—7	6:39	5:05
Dec. 8—14	6:44	5:05
Dec. 15—21	6:49	5:06
Dec. 22—28	6:51	5:09
Dec. 29—Jan. 4	6:53	5:19
Jan. 5—11	6:53	5:25
Jan. 12—18	6:52	5:26
Jan. 19—25	6:49	5:34

<i>Dates</i>	<i>Begin A.M.</i>	<i>End P.M.</i>
Jan. 26—Feb. 1	6:44	5:42
Feb. 2—8	6:38	5:51
Feb. 9—15	6:31	5:59
Feb. 16—22	6:23	6:07
Feb. 23—29	6:13	6:15
Mar. 1—7	6:03	6:23
Mar. 8—14 *Begins	6:52	7:31
Mar. 15—21	6:41	7:38
Mar. 22—28	6:30	7:45
Mar. 29—Apr. 4	6:19	7:52
Apr. 5—11	6:07	7:59
Apr. 12—18	5:57	8:07
Apr. 19—25	5:46	8:14
Apr. 26—May 2	5:37	8:21
May 3—9	5:28	8:28
May 10—16	5:20	8:35
May 17—23	5:13	8:41
May 24—30	5:08	8:47
May 31—June 6	5:04	8:53
June 7—13	5:02	8:57
June 14—20	5:02	9:01
June 21—27	5:04	9:03
June 28—30	5:08	9:03

\*Daylight Saving Time Begins

\*\*Ends

**MIGRATORY GAME BIRD HUNTING HOURS  
TABLE FOR JULY 1, 2019, THROUGH  
JUNE 30, 2020**

<i>Dates</i>	<i>Begin A.M.</i>	<i>End P.M.</i>
July 1—6	5:08	8:32
July 7—13	5:13	8:29
July 14—20	5:18	8:25
July 21—27	5:24	8:19
July 28—Aug. 3	5:31	8:12
Aug. 4—10	5:37	8:04
Aug. 11—17	5:44	7:55
Aug. 18—24	5:51	7:45
Aug. 25—31	5:57	7:34
Sept. 1—7	6:04	7:23
Sept. 8—14	6:10	7:11
Sept. 15—21	6:17	7:00
Sept. 22—28	6:24	6:48
Sept. 29—Oct. 5	6:31	6:37
Oct. 6—12	6:38	6:26
Oct. 13—19	6:45	6:16
Oct. 20—26	6:53	6:06
Oct. 27—Nov. 2	7:00	5:57

<i>Dates</i>	<i>Begin A.M.</i>	<i>End P.M.</i>
Nov. 3—9 **Ends	6:08	4:50
Nov. 10—16	6:16	4:44
Nov. 17—23	6:24	4:39
Nov. 24—30	6:32	4:36
Dec. 1—7	6:39	4:35
Dec. 8—14	6:44	4:35
Dec. 15—21	6:49	4:36
Dec. 22—28	6:51	4:39
Dec. 29—Jan. 4	6:53	4:49
Jan. 5—11	6:53	4:55
Jan. 12—18	6:52	4:56
Jan. 19—25	6:49	5:04
Jan. 26—Feb. 1	6:44	5:12
Feb. 2—8	6:38	5:21
Feb. 9—15	6:31	5:29
Feb. 16—22	6:23	5:37
Feb. 23—29	6:13	5:45
Mar. 1—7	6:03	5:53
Mar. 8—14 *Begins	6:52	7:01
Mar. 15—21	6:41	7:08

<i>Dates</i>	<i>Begin A.M.</i>	<i>End P.M.</i>
Mar. 22—28	6:30	7:15
Mar. 29—Apr. 4	6:19	7:22
Apr. 5—11	6:07	7:29
Apr. 12—18	5:57	7:37
Apr. 19—25	5:46	7:44
Apr. 26—May 2	5:37	7:51
May 3—9	5:28	7:58
May 10—16	5:20	8:05
May 17—23	5:13	8:11
May 24—30	5:08	8:17
May 31—June 6	5:04	8:23
June 7—13	5:02	8:27
June 14—20	5:02	8:31
June 21—27	5:04	8:33
June 28—30	5:08	8:33

\*Daylight Saving Time Begins

\*\*Ends

[Pa.B. Doc. No. 19-753. Filed for public inspection May 17, 2019, 9:00 a.m.]