

# PROPOSED RULEMAKING

## GAME COMMISSION

[ 58 PA. CODE CH. 141 ]

### Hunting and Trapping; General

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its July 25, 2020, meeting to amend § 141.18 (relating to permitted devices) to authorize the use of hand-held and firearm-mounted night-vision and infrared optics used solely for furbearer hunting.

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 25, 2020, meeting of the Commission. Comments can be sent until September 23, 2020, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

#### 1. Purpose and Authority

With the recent passage of House Bill 1188, the Commission now has the regulatory oversight to approve the use of night vision (light enhancement) and infrared (thermal) optical equipment. Each year the Commission is asked to review the prospective use of certain devices for hunting or trapping purposes that are otherwise prohibited by statute or regulation. As part of the review process, the Commission generally reviews to what degree use of a given device might negatively impact principles of resource conservation, equal opportunity, fair chase or public safety. The Commission has recently been requested to formally review the use of hand-held and firearm-mounted night-vision and infrared optics for furbearer hunting. The Commission has reviewed these devices and determined that their use will have no or negligible impacts to the previously mentioned principles. The Commission is proposing to amend § 141.18 to authorize the use of hand-held and firearm-mounted night-vision and infrared optics used solely for furbearer hunting.

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 § 141.18 are proposed under this authority.

#### 2. Regulatory Requirements

This proposed rulemaking will amend § 141.18 to authorize the use of hand-held and firearm-mounted night-vision and infrared optics used solely for furbearer hunting.

#### 3. Persons Affected

Persons wishing to hunt furbearers using hand-held or firearm-mounted night-vision or infrared optics 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 Jason L. DeCoskey, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

BRYAN J. BURHANS,  
*Executive Director*

**Fiscal Note:** 48-461. No fiscal impact; (8) recommends adoption.

### Annex A

#### TITLE 58. RECREATION

#### PART III. GAME COMMISSION

#### CHAPTER 141. HUNTING AND TRAPPING

#### Subchapter A. GENERAL

#### § 141.18. Permitted devices.

Notwithstanding the prohibitions in § 141.6 (relating to illegal devices), the following devices may be used to hunt or take wildlife:

(1) Firearms that use an electronic impulse to initiate discharge of ammunition. This provision is not intended to authorize use of these devices when these firearms are otherwise prohibited devices for the applicable hunting or trapping season.

\* \* \* \* \*

(10) Electronic dove decoys used solely for hunting dove.

**(11) Electronic hand-held and firearm-mounted night-vision and infrared optics used solely for furbearer hunting.**

[Pa.B. Doc. No. 20-1269. Filed for public inspection September 18, 2020, 9:00 a.m.]

## GAME COMMISSION

[ 58 PA. CODE CH. 147 ]

### Special Permits; Canada Geese Depredation

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its July 25, 2020, meeting to amend § 147.746 (relating to exceptions for resident Canada geese) to align State-level regulations with recent Federal amendments to depredation orders.

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 25, 2020, meeting of the Commission. Comments can be sent until September 23, 2020, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

#### 1. *Purpose and Authority*

The Commission is proposing to amend § 147.746 to align State-level regulations with recent Federal amendments to depredation orders. Depredation orders for resident Canada geese were established in Federal and State regulations in 2006 and have been successful in providing affected individuals and businesses with methods to reduce goose-related damage and conflicts, especially in situations where recreational hunting is impractical or insufficient for population control. Based on a recent review of the existing depredation orders which found the time frames for certain control activities to be overly restrictive, the United States Fish and Wildlife Service has amended depredation order regulations to allow nest and egg control to occur at any time of year and to expand the previous May–August time period for take under the agricultural depredation order to also include the month of April in the Atlantic Flyway. Incorporating these Federal changes into State regulations is not expected to result in a large increase in take of Canada geese and will have little to no impact on overall goose populations. However, individual landowners, property managers and agricultural producers will benefit from additional flexibility to address localized instances of negative impacts from this species.

Section 2901(b) of the code (relating to authority to issue permits) provides “[t]he 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 § 147.746 are proposed under this authority.

#### 2. *Regulatory Requirements*

This proposed rulemaking will amend § 147.746 to align State-level regulations with recent Federal amendments to depredation orders.

#### 3. *Persons Affected*

Persons wishing to control Canada goose populations using a depredation permit within this Commonwealth may 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 Jason L. DeCoskey, Director, Bureau of

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

BRYAN J. BURHANS,  
*Executive Director*

**Fiscal Note:** 48-459. No fiscal impact; (8) recommends adoption.

### Annex A

#### TITLE 58. RECREATION

#### PART III. GAME COMMISSION

#### CHAPTER 147. SPECIAL PERMITS

#### Subchapter U. DEPREDAATION

#### § 147.746. Exceptions for resident Canada geese.

(a) *Egg addling and nest destruction.* Private landowners and managers of public lands and their employees or agents may destroy the nests and eggs of resident Canada geese on lands under their jurisdiction when necessary to resolve or prevent injury to people or damage to property or agricultural crops [ **between March 1 and June 30** ] without the need for a joint state/Federal permit when the following conditions have been met:

(1) Private landowners or managers of public land have registered with the United States Fish and Wildlife Service at [ [www.fws.gov/permits/mbpermits/gooseeggregistration.html](http://www.fws.gov/permits/mbpermits/gooseeggregistration.html) ] <https://epermits.fws.gov/eRCGR/geSI.aspx>. Each person who will be conducting the activity shall be registered at this site prior to implementing control activities.

(i) Eggs may be addled by shaking, freezing with CO<sub>2</sub> or oiling. If addled by oil, only 100% corn oil may be [ **use** ] **used**.

(ii) Nests and eggs may be disposed of by burying or burning.

(2) Persons exercising privileges authorized by this subchapter shall file a report with the United States Fish and Wildlife Service at [ [www.fws.gov/permits/mbpermits/gooseeggregistration.html](http://www.fws.gov/permits/mbpermits/gooseeggregistration.html) ] <https://epermits.fws.gov/eRCGR/geSI.aspx> no later than October 31 of each year. Failure to file a report may result in the denial of permission to addle the eggs or destroy the nests of resident Canada geese in subsequent years.

(3) It shall be unlawful to interfere with the nest or eggs of resident Canada geese without first registering with the United States Fish and Wildlife Service as required by this subchapter.

#### (b) *Agricultural facilities.*

(1) *Commercial agricultural production.* Persons actively engaged in commercial agriculture production may apply for a State-issued resident Canada goose depredation permit. This permit allows a commercial agricultural producer and its legitimate employees and agents to engage in the shooting or capture of resident Canada geese when necessary to prevent damage to agricultural crops and other interests by resident Canada geese. The permit will prescribe the method of taking and the number of resident Canada geese that may be taken. The permit will be valid from [ **May** ] **April** 1—August 31 of the year in which the permit was issued. The permittee shall file a written report on a form provided by the Commission, regarding the activities authorized by the permit no later than October 31 of the year in which the

permit was issued. Failure to file the report as required may result in future applications being denied.

(2) *Application fee.* An application fee of \$50 in the form of check or money order shall be remitted to the Commission by the applicant at the time of application.

(c) *Airports and military airfields.*

(1) *Federal requirement.* Airports that are part of the National Plan of Integrated Airport Systems and have received Federal grant-in aid assistance and military airfields may control resident Canada geese on property that is under their jurisdiction without the need for a State or joint state/Federal depredation permit if they

comply with 50 CFR 21.49 (relating to control order for resident Canada geese at airports and military airfields).

(2) *Unlawful acts.* It shall be unlawful to control resident Canada geese on airport or military airfield property through lethal control or to destroy eggs and nests of resident Canada geese unless the participants are in compliance with 50 CFR 21.49 or are in possession of a joint state/Federal Canada goose depredation permit as prescribed in § 147.744 (relating to depredation permits for migratory waterfowl).

[Pa.B. Doc. No. 20-1270. Filed for public inspection September 18, 2020, 9:00 a.m.]