

RULES AND REGULATIONS

Title 58—RECREATION

GAME COMMISSION

[58 PA. CODE CH. 135]

Lands and Buildings; State Game Lands

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) at its July 25, 2020, meeting amended § 135.41 (relating to State game lands) to eliminate the Sunday exemption from the fluorescent orange wearing requirement.

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 50 Pa.B. 2279 (May 2, 2020).

1. Purpose and Authority

On February 25, 2019, the act of November 27, 2019 (P.L. 739, No. 107) (Act 107) became effective. Among other things, the final legislation amended § 2303 (relating to hunting on Sunday prohibited) to allow the Commission to authorize three designated days of hunting on Sunday in addition to existing authorizations. All three of the Sunday dates selected by the Commission fall within the date range found in § 135.41(c)(21), which requires persons entering State game lands that are not hunting or trapping to wear fluorescent orange colored material for their safety during the overlapping big game seasons. Entries on Sunday have previously been exempted from the requirement since no big game hunting typically occurred on these days. With the passage of Act 107 this will no longer be the case. The Commission amends § 135.41 to eliminate the Sunday exemption from the fluorescent orange wearing requirement.

Section 721(a) of the code (relating to control of property) provides “The administration of all lands and waters owned, leased or otherwise controlled by the commission shall be under the sole control of the Director, and the commission shall promulgate regulations...for its use and protection as necessary to properly manage these lands or waters.” The amendments to § 135.41 are adopted under this authority.

2. Regulatory Requirements

This final-form rulemaking amends § 135.41 to eliminate the Sunday exemption from the fluorescent orange wearing requirement.

3. Persons Affected

Persons wishing to enter State game lands that are not hunting or trapping during periods overlapping with big game seasons will 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 upon 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 Jason L. DeCoskey, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

Findings

The Commission finds that:

(1) Public notice of intention to adopt the administrative amendments adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), known as the Commonwealth Documents Law, and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking; and adoption of regulations).

(2) The adoption of the amendments of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

The Commission, acting under the authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 135, are amended by amending § 135.41 to read as set forth in Annex A.

(b) The Executive Director of the Commission shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

BRYAN J. BURHANS,
Executive Director

Fiscal Note: Fiscal Note 48-458 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 135. LANDS AND BUILDINGS

Subchapter C. STATE GAME LANDS

§ 135.41. State game lands.

* * * * *

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

* * * * *

(21) Be present on State game lands from November 15 through December 15 inclusive when not engaged in lawful hunting or trapping and fail to wear a minimum of 250 square inches of daylight fluorescent orange-colored material on the head, chest and back combined or, in lieu thereof, a hat of the same colored material. The material shall be worn so it is visible in a 360° arc. Persons using shooting ranges are exempted from this requirement.

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[Pa.B. Doc. No. 20-1268. Filed for public inspection September 18, 2020, 9:00 a.m.]