

# PROPOSED RULEMAKING

## BOARD OF COAL MINE SAFETY

[ 25 PA. CODE CH. 208 ]

### Prohibiting Electronic Liquid-Vaporizing Devices at Underground Bituminous Coal Mines

The Board of Coal Mine Safety proposes to amend Chapter 208 (relating to underground coal mine safety) to read as set forth in Annex A.

This proposed rulemaking was adopted by the Board at its meeting of September 1, 2020.

#### A. *Effective Date*

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

#### B. *Contact Persons*

For further information, contact Richard Wagner, Director, Bureau of Mine Safety, P.O. Box 133, New Stanton, PA 15672, (724) 925-5551; or Christopher Minott, Assistant Counsel, Bureau of Regulatory Counsel, P.O. Box 8464, 9th Floor, Rachel Carson State Office Building, Harrisburg, PA 17105, (717) 787-9372. Information regarding submitting comments on this proposal appears in section J of this preamble. Persons with a disability may use the Pennsylvania Hamilton Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

#### C. *Statutory Authority*

This proposed rulemaking is authorized under section 106.1(a) of the Bituminous Coal Mine Safety Act (BCMSA) (52 P.S. § 690-106.1(a)), which grants the Board of Coal Mine Safety (Board) the authority to adopt regulations that are necessary or appropriate to implement the requirements of the BCMSA and to protect the health, safety and welfare of miners and other individuals in and about mines. Section 106.1(f)(2) of the BCMSA further provides that regulations may address any hazards not addressed by existing safety standards.

#### D. *Background and Purpose*

On July 7, 2008, the BCMSA was enacted, which was the first significant update of the Commonwealth's underground bituminous coal mine safety laws since 1961. Section 106 of BCMSA (52 P.S. § 690-106) establishes the Board, which consists of three members representing mine workers, three members representing underground bituminous coal mine operators and the Secretary of the Department of Environmental Protection (Department) who serves as the Board's chairperson.

The purposes of BCMSA, enumerated under section 103(b) (52 P.S. § 690-103(b)), include the establishment and promulgation of improved mandatory standards to protect the health and safety of miners and other individuals in and about mines. To protect the health and safety of miners and other individuals, this proposed rulemaking will amend the smoking prohibition at underground bituminous coal mines to expressly prohibit the use or possession, or both, of electronic liquid-vaporizing devices, including electronic cigarettes, and impose a penalty for violations of the prohibition. By prohibiting the use of or possession, or both, of electronic liquid vaporizing devices at underground bituminous coal mines, this proposed rulemaking addresses both explosive

and distraction hazards these devices present at underground bituminous coal mining operations.

Currently, under section 510(b) (52 P.S. § 690-510(b)), the Department decertifies individuals who violate smoking safety standards. This proposed rulemaking would give the Department additional authority to assess a civil monetary penalty, stating that the Department will assess a civil penalty of up to the regulatory maximum amount for each violation, which is currently at \$338. The civil penalty will provide the Department with flexibility to punish smoking safety standard violations where decertification may not be appropriate or sufficient as a standalone penalty. In determining whether to deviate from the maximum civil penalty, the Department will consider the number of smoking articles confiscated during a search, the number of previous violations, the experience level and certification status of the offending individual, and any unique circumstances that may constitute a mitigating factor. However, the Board is interested to hear from commentators on whether the proposed language should be modified to say that the Department shall assess a fine at the regulatory maximum amount for each violation. This change would take away the Department's discretion to assess a fine lower than the regulatory maximum amount.

This proposed rulemaking will also separately distinguish the prohibition at surface work areas of underground bituminous coal mines from the prohibition inside these mines.

Coal mine fires pose a constant danger to the safety of miners and to their livelihood. Underground mine fires pose an added hazard because of the confined environment with remote exits. The Federal government has enacted safety regulations for underground coal mines that has greatly improved the safety of miners. See 30 CFR Part 75 (relating to mandatory safety standards—underground coal mines). However, mine fires and fire injuries remain serious hazards for all coal mining operations. The combination of an electronic cigarette and a lithium-ion battery is a new and unique hazard. There is no analogy among consumer products to the risk of a severe, acute injury presented by an e-cigarette. Fires or explosions caused by the batteries used in electronic cigarette are uncommon. However, the consequences can be devastating and life-altering for the victims. This is especially a concern in the underground mining environment, where explosions in underground mines are caused by accumulations of flammable gas or combustible dust, or both, mixed with air in the presence of an ignition source. While much progress has been made in preventing explosion disasters in coal mines, explosions still occur, sometimes producing multiple fatalities. Preventing fires is essential to the health and safety of mine workers.

Miners, their families, mining companies and others will benefit from the additional safety ensured by the avoided hazards associated with the use or possession of electronic liquid-vaporizing devices at underground bituminous coal mines. Additionally, miners, mine officials, mine operators and the Department will benefit from clarity regarding how the use and possession of these devices are regulated at underground bituminous coal mines.

### E. Summary of Regulatory Requirements

This proposed rulemaking amends the existing smoking prohibition at § 208.375 (relating to smoking prohibition), which applies at surface work areas of underground bituminous coal mines.

#### § 208.375. Smoking prohibition: surface work areas

Subsection (a) retains the existing smoking prohibition at surface work areas of underground bituminous coal mines, which incorporates the Federal regulation at 30 CFR 77.1711 (relating to smoking prohibition).

Proposed subsection (b) expressly prohibits electronic liquid-vaporizing devices and authorizes the imposition of a penalty for violations of this section. The penalty refers to the penalty imposed under Federal law, so as not to be more stringent. See 30 CFR 100.5(d) (relating to determination of penalty amount; special assessment). Under the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C.A. §§ 2461—2467), the maximum penalty is updated every year to reflect inflation and is currently set at \$338 as of January 15, 2020. See 85 FR 2299 (January 15, 2020). The penalty will not be exclusive of any other enforcement option the Department determines is warranted under the particular circumstances of the violation.

#### § 208.376. Smoking prohibition: underground areas

Proposed subsections (a)—(c) are based on the existing provisions of the smoking prohibition in underground bituminous coal mines from section 268(b) of the BCMSA (52 P.S. § 690-268(b)) and add clarification that this prohibition applies to the use and possession of electronic liquid-vaporizing devices. Subsection (a) prohibits the use of smoking materials, subsection (b) prohibits the possession of smoking materials and subsection (c) authorizes operators to search any individual entering the mine.

Proposed subsection (d) will authorize the imposition of a penalty for violations of this section. Just as in § 208.375, described previously, the penalty refers to the penalty imposed under Federal law, so as not to be more stringent. See 30 CFR 100.5(d). Under the Federal Civil Penalties Inflation Adjustment Act of 1990, the maximum penalty is updated every year to reflect inflation and is currently set at \$338 as of January 15, 2020. See 85 FR 2299. The penalty will not be exclusive of any other enforcement option the Department determines is warranted under the particular circumstances of the violation.

### F. Benefits, Costs and Compliance

#### Benefits

This proposed rulemaking will improve safety by expressly prohibiting the use or possession, or both, of electronic liquid-vaporizing devices, which present safety hazards, under the existing prohibitions against smoking and possession of smoking materials. The safety of miners in the workplace is a compelling public interest. All miners, their families, mining companies and others will benefit from the additional safety ensured by the avoided hazards associated with the use or possession of electronic liquid-vaporizing devices at underground bituminous coal mines, such as explosive hazards and distraction hazards. Additionally, miners, mine officials, mine operators and the Department will benefit from clarity regarding how the use and possession of these devices are regulated at underground bituminous coal mines.

#### Compliance costs

This proposed rulemaking will not create any compliance costs and therefore does not minimize compliance costs. Because this proposed rulemaking prohibits the use or possession of certain items by persons at underground bituminous coal mines, the only requirement to comply is that persons not use or possess these items, which they can do at no cost.

#### Paperwork requirements

This proposed rulemaking does not generate additional paperwork because mining operators must comply with the existing statute and regulation.

### G. Pollution Prevention

The Federal Pollution Prevention Act of 1990 (42 U.S.C.A. §§ 13101—13109) establishes 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 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 proposed rulemaking has minimal impact on pollution prevention since it is focused on mine safety.

### H. Sunset Review

The Board is not proposing a sunset date for these regulations, since they are needed for the Department to carry out its statutory authority. The Department will continue to review these regulations for their effectiveness and recommend updates to the Board as necessary.

### I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on February 25, 2021, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Environmental Resources and Energy Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor.

### J. Public Comments

Interested persons are invited to submit to the Board written comments, suggestions, support or objections regarding this proposed rulemaking. Comments, suggestions, support or objections must be received by the Board by April 12, 2021. Comments may be submitted to the Board online, by e-mail, by mail or express mail as follows.

Comments may be submitted to the Board by accessing the Board's online comment system, eComment, at <http://www.ahs.dep.pa.gov/eComment>.

Comments may be submitted to the Board by e-mail at RegComments@pa.gov. A subject heading of the proposed rulemaking and a return name and address must be included in each transmission.

If an acknowledgement of comments submitted online or by e-mail is not received by the sender within 2 working days, the comments should be retransmitted to the Board to ensure receipt. Comments submitted by facsimile will not be accepted.

Written comments should be mailed to the Board of Coal Mine Safety, P.O. Box 8477, Harrisburg, PA 17105. Express mail should be sent to the Board of Coal Mine Safety, Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301.

PATRICK McDONNELL,  
*Chairperson*

**Fiscal Note:** 7-588. No fiscal impact; (8) recommends adoption.

#### Annex A

**TITLE 25. ENVIRONMENTAL PROTECTION**  
**PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**Subpart D. ENVIRONMENTAL HEALTH AND SAFETY**  
**ARTICLE IV. OCCUPATIONAL HEALTH AND SAFETY**  
**CHAPTER 208. UNDERGROUND COAL MINE SAFETY**

#### MISCELLANEOUS

§ 208.375. Smoking prohibition: surface work areas.

(a) The provisions of 30 CFR 77.1711 (relating to smoking prohibition) are incorporated by reference.

**(b) An individual who violates the mandatory safety standards relating to smoking, including the use of electronic liquid-vaporizing devices or e-cigarettes, shall be subject to a civil penalty assessed by the Department, which penalty:**

**(1) May not be more than the maximum civil penalty provided under 30 CFR 100.5(d) (relating to determination of penalty amount; special assessment) for each occurrence of this violation.**

**(2) May not preclude the Department from exercising any other remedy available to it.**

*(Editor's Note: The following text is proposed to be added and printed in regular type to enhance readability.)*

§ 208.376. Smoking prohibition: underground areas.

(a) An individual may not smoke or use an open flame in any underground bituminous coal mine.

(b) An individual may not at any time enter a mine with or carry into the mine any smoking or smoker related articles, matches, pipes, cigars, cigarettes, electronic liquid-vaporizing devices, including e-cigarettes, or any device for making flames or fire not approved under section 350 of the act (52 P.S. § 690-350).

(c) In all mines the operator may search or cause to be searched any individual, including the individual's clothing and material belongings, entering or about to enter the mine, or inside the mine, to prevent an individual from taking or carrying into the mine any of the articles prohibited by this section.

(d) An individual who violates the mandatory safety standards relating to smoking or the use or carrying of smoking materials, including electronic liquid-vaporizing devices, including e-cigarettes, matches or lighters, shall be subject to a civil penalty assessed by the Department that:

(1) May not be more than the maximum civil penalty provided under 30 CFR 100.5(d) (relating to determination of penalty amount; special assessment) for each occurrence of this violation.

(2) May not preclude the Department from exercising any other remedy available to it.

[Pa.B. Doc. No. 21-366. Filed for public inspection March 12, 2021, 9:00 a.m.]

## UNEMPLOYMENT COMPENSATION BOARD OF REVIEW

[ 34 PA. CODE CH. 101 ]

### Appeals from Determinations of Department

In accordance with section 203(d) of the Pennsylvania Unemployment Compensation Law (UC Law) (43 P.S. § 763(d)) and section 506 of the Administrative Code of 1929 (71 P.S. § 186) the Unemployment Compensation Board of Review (Board) is submitting this proposed rulemaking for the purpose of providing additional means for the filing of electronic appeals.

The Board proposes the following amendments to §§ 101.2 and 101.82(b) (relating to definitions; and time for filing appeal from determination of Department) as set forth in Annex A.

#### *Statutory Authority*

This proposed rulemaking is issued under the authority provided in section 203(d) of the UC Law which authorizes the Board to adopt, amend or rescind rules of procedure related to appeals. Section 506 of the Administrative Code of 1929 provides authority for the promulgation of rules and regulations for departmental administrative boards, stating: “[T]he several departmental administrative boards and commissions, are hereby empowered to prescribe rules and regulations, not inconsistent with law, for the government of their respective departments, boards, or commissions. . . [and] the distribution and performance of their business. . . .”

#### *Background*

The Board is a departmental administrative board under section 203(c) of the UC Law, which provides that it “shall have all the powers and perform all the duties generally vested in, and imposed upon, departmental administrative boards and commissions” by the Administrative Code of 1929. The Board is established under sections 202, 207.1 and 503 of the Administrative Code of 1929 (71 P.S. §§ 62, 67.1 and 183). The Board voted to adopt the proposed amendments in Annex A on January 6, 2021.

Under sections 501(e) and 502 of the UC Law (43 P.S. §§ 821(e) and 822) parties have 15 days to file an appeal from a Department of Labor and Industry (Department) determination or referee decision. Section 101.82 establishes the methods by which an appeal may be filed and how the date of filing is determined for each filing method. The regulation was last amended on September

20, 2003, to expand the methods of filing beyond only personal delivery or delivery by United States mail. Existing § 101.82(b) allows for filing by United States mail, common carrier, fax transmission, “electronic transmission other than fax transmission” and personal delivery. It also determines the date of filing by each method, including by postage meter mark if there is no United States postmark on a mailed appeal.

The Department is in the process of establishing a new electronic “Pennsylvania UC Claims System” that will allow parties to securely file and manage unemployment compensation (UC) claims online. It will also enable the parties to file appeals electronically by means of the system at no cost. These amendments to the regulation are necessary to permit filing appeals by means of this online system, establish the date of filing and allocate the accountability of errors by the electronic system to the Department. The proposed amendment also distinguishes filing by means of e-mail from filing through the new system.

*Compliance with Executive Order 1996-1, Regulatory Review and Promulgation*

On March 6, 2020, the Board sent an e-mail explaining the amendments to the regulations and soliciting comments by April 10, 2020, to Geoffrey Moomaw, President, Interstate Tax Service; Brian Phillips, Executive Assistant to the President, PA AFL-CIO; Alex Halper, Director, Government Affairs, PA Chamber of Commerce; Barney Oursler, Co-founder, Mon Valley Unemployment Project; Rebecca Oyler, Legislative Director, National Federation of Independent Business; Sharon Dietrich, Managing Attorney and Litigation Director, Community Legal Services; Julia Simon-Mishel, Supervising Attorney of the Unemployment Compensation Unit, Philadelphia Legal Assistance; John Dodds, Director, Philadelphia Unemployed Project; Irwin Aronson, PA Building Trades and PA AFL-CIO; and John Stember, Board Chairperson, Mon Valley Unemployed Committee. On March 12, 2020, the Board sent the same e-mail to Joseph Fogarty, Equifax Manager UI Program Relationship. No comments were received from any of the recipients.

*Purpose*

This proposed rulemaking amends the existing regulation establishing methods by which a party can file an appeal. It simplifies and clarifies e-mail appeals and establishes appeals filed by means of the Pennsylvania UC Claims System.

*Summary of Proposed Rulemaking*

*34 Pa. Code § 101.2*

This section is proposed to be amended to add a definition of “Pennsylvania UC Claims System.”

*34 Pa. Code § 101.82(b)(4)*

The proposed amendment to this paragraph eliminates “electronic transmission other than fax transmission” and replaces it with “e-mail.” This will simplify and clarify that the subsection is only applicable to electronic mail communication, as opposed to other forms of electronic communication. It also provides that the party will receive a confirmation e-mail that the appeal has been received. This effectively places the party on notice that if the confirmation e-mail is not received, the appeal has not been filed, prompting additional action by the party. This should reduce the number of untimely or misdirected appeals.

*34 Pa. Code § 101.82(b)(4.1)*

This proposed amendment establishes the filing of an appeal by means of the Department’s new Pennsylvania UC Claims System. The amendment provides that the party will receive a confirmation from the system that the appeal has been received. This effectively places the party on notice that if the confirmation is not received, the appeal has not been filed, prompting additional action by the party. This should reduce the number of untimely or misfiled appeals. Additionally, the amendment provides that if there is a delay in transmission due to system or technological failure of the Pennsylvania UC Claims System, the date of filing will be redetermined by means of the adjudicatory process. Further, the Board will make available to its referees any relevant records regarding system outages. This places the accountability on the Department and Board, rather than the party.

*Affected Persons*

This proposed regulation will affect all employees in this Commonwealth who have filed claims for UC benefits, received adverse decisions, and who wish to file appeals, and all employers with former or current employees who have filed claims for UC benefits, received adverse decisions and who wish to file appeals.

*Fiscal Impact*

These proposed amendments do not have any appreciable fiscal impact.

*Reporting, Recordkeeping and Paperwork Requirements*

This proposed rulemaking will not require the creation of new forms or reporting requirements.

*Sunset Date*

A sunset date is not appropriate for this proposed rulemaking. However, the Board will continue to monitor its effectiveness.

*Effective Date*

This proposed rulemaking will become effective upon publication in the *Pennsylvania Bulletin* on the date of implementation of the Pennsylvania UC Claims System.

*Contact Person*

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendments to Brian Parr, UC Appeals System Administrator, Unemployment Compensation Board of Review, 651 Boas Street, Room 1114, Harrisburg, PA 17121, (717) 787-5122 or by e-mail to RA-LIUCBR-REGCOMM@pa.gov within 30 days of publication in the *Pennsylvania Bulletin*.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)) on March 1, 2021, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Labor and Industry Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria which have not been met. The Regulatory

Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

RICHARD W. BLOOMINGDALE,  
*Chairperson*

**Fiscal Note:** 12-112. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 34. LABOR AND INDUSTRY**

**PART VI. UNEMPLOYMENT COMPENSATION BOARD OF REVIEW**

**CHAPTER 101. GENERAL REQUIREMENTS**

**Subchapter A. GENERAL PROVISIONS**

**§ 101.2. Definitions.**

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

\* \* \* \* \*

*Party*—The Department, the claimant, the last employer of the claimant and another employer affected by the appeal proceedings.

**Pennsylvania UC Claims System**—The Department’s information technology system of record for the filing, management and processing of unemployment compensation claims and appeals.

*Personal delivery*—Delivery by or on behalf of a party that is not enumerated in § 101.82(b)(1)—(4) (relating to time for filing appeal from determination of Department) where a person personally files the appeal at a Board office or workforce investment office.

\* \* \* \* \*

**Subchapter C. APPEALS FROM DETERMINATIONS OF DEPARTMENT**

**§ 101.82. Time for filing appeal from determination of Department.**

(a) A party seeking to appeal a Department determination shall file an appeal in the form and manner specified in § 101.81 (relating to filing of appeal from determination of Department) and this section on or before the 15th day after the date on which notification of the decision of the Department was delivered personally to the appellant or mailed to him at his last known post office address.

(b) A party may file a written appeal by any of the following methods:

\* \* \* \* \*

(4) *Electronic [transmission other than fax transmission] mail (e-mail)*. The date of filing is the receipt date recorded by the Department appeal office or the Board’s [electronic transmission] e-mail system, if the [electronic record] e-mail message is in a form capable of being processed by that system. **Filing will be acknowledged by a confirmation e-mail.** A party filing by [electronic transmission] e-mail shall comply with Department instructions concerning format. A party filing an appeal by [electronic transmission] e-mail is responsible for using the proper format and for delay, disruption, interruption of electronic signals and readability of the document and accepts the risk that the appeal may not be properly or timely filed.

**(4.1) Pennsylvania UC Claims System.** The date of filing is the receipt date recorded by the Pennsylvania UC Claims System. Filing will be acknowledged by a confirmation from the Pennsylvania UC Claims System. If the filing is delayed as a result of system or technological failure of the Pennsylvania UC Claims System, the date of filing will be redetermined through the adjudicatory process. The Board will make available to the Referee relevant Department records regarding system outages where a party alleges a late filing due to system or technological failure.

(5) *Personal delivery to a workforce investment office or the Board.* The filing date will be the date the appeal was personally delivered to the workforce investment office or the Board during its normal business hours.

[Pa.B. Doc. No. 21-367. Filed for public inspection March 12, 2021, 9:00 a.m.]

**STATE BOARD OF FUNERAL DIRECTORS**

[ 49 PA. CODE CH. 13 ]

**Child Abuse Reporting Requirements**

The State Board of Funeral Directors (Board) proposes to amend §§ 13.11, 13.231, 13.301—13.307 and 13.401, and add §§ 13.308 and 13.309 (relating to child abuse recognition and reporting—mandatory training requirement; and child abuse recognition and reporting course approval process) to read as set forth in Annex A.

*Effective Date*

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

*Statutory Authority*

Section 16(a) of the Funeral Director Law (63 P.S. § 479.16(a)) sets forth the Board’s general rulemaking authority. Under sections 6301—6387 of 23 Pa.C.S. (relating to Child Protective Services Law (CPSL)), specifically, section 6383(b)(2) of the CPSL, the Board is required to promulgate regulations to implement the mandatory reporting requirements for licensees of the Board.

*Background and Purpose*

Beginning in 2014 and continuing through 2019, the General Assembly made numerous amendments to the CPSL, including the requirement imposed by the act of April 15, 2014 (P.L. 411, No. 31) (Act 31) on many professional and occupational licensing boards, including the Board, to require training in child abuse recognition and reporting. Section 2 of Act 31 provides that these training requirements would apply to all persons applying for a license, or applying for renewal of a license, on or after January 1, 2015, and were implemented as of that date. These amendments are required to update the Board’s existing regulations on the subject of child abuse reporting to be consistent with the numerous amendments made to the CPSL.

*Description of the Proposed Amendments*

The Board proposes to amend § 13.11 (relating to general requirements) to include the requirement that any applicant for licensure as a funeral director complete at least 3 hours of training in child abuse recognition and

reporting as a condition of licensure as required by section 6383(b)(3)(i) of the CPSL (relating to education and training). Similarly, the Board proposes to amend § 13.231 (relating to biennial registration; unregistered status and inactive status; failure to renew), to incorporate the requirement that funeral directors complete at least 2 hours of approved courses in child abuse recognition and reporting as a condition of renewal as required under section 6383(b)(3)(ii) of the CPSL.

The Board next proposes comprehensive amendments to the child abuse reporting requirements. First, the Board proposes to amend § 13.301 (relating to definitions relating to child abuse reporting requirements) to update the definitions of terms used in the CPSL. Specifically, the Board finds it necessary to define the terms “bodily injury,” “child,” “parent,” “program, activity or service” and “serious physical neglect” and to amend the definitions of “child abuse,” “perpetrator,” “person responsible for the child’s welfare,” “recent acts or omissions” and “sexual abuse or exploitation” to comport with amendments made to the CPSL. The Board has also added a definition for the term “mandated reporter” for ease of reference. The Board proposes to delete definitions for “individual residing in the same home as the child” and “serious physical injury” because these terms have been deleted from the CPSL. The Board also proposes to amend, where necessary throughout this proposed rulemaking, “Department of Public Welfare” to “Department of Human Services,” as the name of that agency has changed.

The Board is proposing to amend § 13.302 (relating to suspected child abuse—mandated reporting requirements) to provide the general rule that all funeral directors are considered mandated reporters, and to set forth the mandated reporting requirements as provided in section 6311(b) of the CPSL (relating to persons required to report suspected child abuse), and the reporting procedures in section 6313 of the CPSL (relating to reporting procedure). The Board has also determined that it is necessary to propose amendments to § 13.303 (relating to photographs, medical tests and X-rays of child subject to report) to set forth the requirement to submit documentation relating to photographs, medical test and X-rays to the county children and youth social service agency within 48 hours of making an electronic report in accordance with section 6314 of the CPSL (relating to photographs, medical test and X-rays of child subject to report).

The Board is proposing to amend § 13.304 (relating to suspected death as a result of child abuse—mandated reporting requirement) to incorporate an amendment made to section 6317 of the CPSL (relating to mandatory reporting and postmortem investigation of deaths) to permit such a report to be made to the medical examiner of the county where the death occurred or of the county where the injuries were sustained. Further, the Board is proposing to amend § 13.305 (relating to immunity from liability) to incorporate amendments made to section 6318 of the CPSL (relating to immunity from liability). Likewise, the Board proposes to amend § 13.307 (relating to noncompliance) to update the criminal penalties for willful failure to make a report or referral to conform to the increased criminal penalties in section 6319 of the CPSL (relating to penalties).

The Board proposes to add two new sections to incorporate the mandatory training requirements set forth in section 6383(b)(3)(i) and (ii) of the CPSL. Section 13.308 sets forth the requirements that all individuals applying to the Board for an initial license are required to

complete at least 3 hours of training in child abuse recognition and reporting which has been approved by the Department of Human Services; and that all licensees seeking renewal are required to complete at least 2 hours of continuing education in child abuse recognition and reporting as a requirement of renewal. These 2 hours of training would be accepted as a portion of the total continuing education required for biennial renewal, and not an additional requirement, as provided in section 6383(b)(3)(ii) of the CPSL.

This section would also include the process for applying for an exemption from the mandatory training requirements as set forth in section 6383(b)(4) and (6) of the CPSL, for individuals who have already completed similar training or who otherwise should be exempt from the training requirements. The Board notes that section 6383(b)(4)(ii)(B) of the CPSL provides an exemption for individuals who have already completed child abuse recognition training required by the Human Services Code (62 P.S. §§ 101—1503) (formerly known as the Public Welfare Code), and the training was approved by the Department of Human Services. However, the Department of Human Services has confirmed that there is no provision in the Human Services Code that requires this training. Instead, section 6383(c) of the CPSL sets forth the requirement that certain individuals and entities regulated by the Department of Human Services complete mandated reporter training. Therefore, the Board believes it is appropriate to include an exemption for a licensee who has already completed comparable training in child abuse recognition and reporting required by the Department of Human Services under section 6383(c). For example, if a funeral director happened to be a foster parent and, therefore, was required to complete the training under section 6383(c), there would be no need to repeat the training as a condition of licensure or license renewal under section 6383(b). In addition, section 6383(b)(6) permits the Board to exempt a licensee from the training requirement if the licensee “submits documentation acceptable to the licensing board that the licensee should not be subject to the training or continuing education requirement.” The Board believes that this section also provides authority to the Board to determine that those licensees who are required to complete comparable training under section 6383(c) should be exempt from the training requirement under section 6383(b), provided they submit acceptable documentation to the Board evidencing completion of comparable training.

Additionally, the Board proposes to add § 13.309 to set forth the administrative process developed by the Bureau of Professional and Occupational Affairs (Bureau), in conjunction with the Department of Human Services, for individuals, entities and organizations to apply for approval to deliver the training required under Act 31. The Bureau has established a requirement that to be approved to provide the mandatory training in child abuse recognition and reporting, an applicant must be able to report participation/attendance electronically to the Bureau. In this manner, the completion of the training is automatically imported into the individual’s record with the Board at the time the course is completed. Then, prior to issuing or renewing a license, the system verifies that the training was completed as required. If no record exists, the applicant or licensee would be notified of the need to complete an approved course before the license can be issued or renewed.

Finally, the Board proposes to amend § 13.401 (relating to credit hour requirements) to incorporate the required

2 hours of continuing education in child abuse recognition and reporting, and to clarify the fact that, although the Board generally waives the continuing education requirement during the renewal period in which the funeral director is initially licensed, there is no such exception in the CPSL pertaining to the required child abuse education. Thus, all newly licensed funeral directors would need to complete only 2 hours of continuing education (in child abuse recognition and reporting) during their first renewal period, unless granted an exemption as provided in § 13.308(c)(3).

*Fiscal Impact and Paperwork Requirements*

The Board does not anticipate any significant fiscal impact or paperwork requirements relating to these amendments. Because licensees are already required to complete mandatory continuing education, and these 2 hours in child abuse recognition and reporting are incorporated in the existing requirement, there would be no increased burden. Only applicants for licensure as a funeral director would incur an additional requirement, and as there are many low-cost and free options available to complete the training, the Board anticipates this impact to also be minimal. Because all approved training providers of the mandatory training in child abuse recognition and reporting are required to report attendance/participation electronically, there are no additional paperwork requirements imposed on licensees or certificate holders. In addition, the implementation of an electronic reporting system for mandated reporters of child abuse under the CPSL by the Department of Human Services has decreased the paperwork requirements related to the mandatory reporting requirements.

*Sunset Date*

The Board continuously monitors the effectiveness of its regulations on a fiscal year and biennial basis. Therefore, no sunset date has been assigned.

*Regulatory Review*

Under Section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on February 26, 2021, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor.

*Public Comment*

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to the Regulatory Counsel, Department of State, P.O. Box 69523, Harrisburg, PA 17106-9523 or by e-mail to RA-STRegulatoryCounsel@pa.gov, within

30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Comments should be identified as pertaining to rulemaking 16A-4824 (Child Abuse Reporting Requirements).

WILLIAM G. HARRIS,  
*Chairperson*

**Fiscal Note:** 16A-4824. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 13. STATE BOARD OF FUNERAL DIRECTORS**

**LICENSURE**

**§ 13.11. General requirements.**

\* \* \* \* \*

(c) In addition to the educational and training requirements, an applicant for licensure in this Commonwealth shall pass a combined oral, practical and written examination. A limited exception will be the granting of a restricted license to estates, widow's or widower's of deceased funeral directors.

**(d) An applicant for licensure as a funeral director in this Commonwealth shall complete at least 3 hours of training in child abuse recognition and reporting in accordance with § 13.308(a) (relating to child abuse recognition and reporting—mandatory training requirement) as a condition of licensure.**

**LICENSE RENEWAL**

**§ 13.231. Biennial registration; unregistered status and inactive status; failure to renew.**

(a) A licensee shall register each biennial period to retain the right to practice. Initial registration shall automatically occur when a license is issued. Registration for a biennial period expires on the first day of February of every even numbered year. Unless excused by the Board for good cause under section 10(b)(4) of the act (63 P.S. § 479.10(b)(4)), the Board will not grant an application for renewal of a funeral director license unless the licensee has certified that the licensee has completed the amount of continuing education required by § 13.401 (relating to credit hour requirements), **including at least 2 hours of approved courses in child abuse recognition and reporting in accordance with § 13.308(b) (relating to child abuse recognition and reporting—mandatory training requirement).**

\* \* \* \* \*

**CHILD ABUSE REPORTING REQUIREMENTS**

**§ 13.301. Definitions relating to child abuse reporting requirements.**

The following words and terms, when used in this section and [ §§ 13.302—13.307 ] §§ 13.302—13.309 (relating to child abuse reporting requirements), have the following meanings, unless the context clearly indicates otherwise:

**Bodily injury—Impairment of physical condition or substantial pain.**

**Child—An individual under 18 years of age.**

*Child abuse*—[ A term meaning any of the following:

(i) A recent act or failure to act by a perpetrator which causes nonaccidental serious physical injury to a child under 18 years of age.

(ii) An act or failure to act by a perpetrator which causes nonaccidental serious mental injury to or sexual abuse or sexual exploitation of a child under 18 years of age.

(iii) A recent act, failure to act or series of acts or failures to act by a perpetrator which creates an imminent risk of serious physical injury to or sexual abuse or sexual exploitation of a child under 18 years of age.

(iv) Serious physical neglect by a perpetrator constituting prolonged or repeated lack of supervision or the failure to provide the essentials of life, including adequate medical care, which endangers a child's life or development or impairs the child's functioning. ]

Intentionally, knowingly or recklessly doing any of the following:

(i) Causing bodily injury to a child through any recent act or failure to act.

(ii) Fabricating, feigning or intentionally exaggerating or inducing a medical symptom or disease which results in a potentially harmful medical evaluation or treatment to the child through any recent act.

(iii) Causing or substantially contributing to serious mental injury to a child through any act or failure to act or a series of such acts or failures to act.

(iv) Causing sexual abuse or exploitation of a child through any act or failure to act.

(v) Creating a reasonable likelihood of bodily injury to a child through any recent act or failure to act.

(vi) Creating a likelihood of sexual abuse or exploitation of a child through any recent act or failure to act.

(vii) Causing serious physical neglect of a child.

(viii) Engaging in any of the following recent acts:

(A) Kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child.

(B) Unreasonably restraining or confining a child, based on consideration of the method, location or duration of the restraint or confinement.

(C) Forcefully shaking a child under 1 year of age.

(D) Forcefully slapping or otherwise striking a child under 1 year of age.

(E) Interfering with the breathing of a child.

(F) Causing a child to be present at a location while a violation of 18 Pa.C.S. § 7508.2 (relating to operation of methamphetamine laboratory) is occurring, provided that the violation is being investigated by law enforcement.

(G) Leaving a child unsupervised with an individual, other than the child's parent, who the actor knows or reasonably should have known:

(I) Is required to register as a Tier II or Tier III sexual offender under 42 Pa.C.S. Chapter 97, Subchapter H (relating to registration of sexual offenders), when the victim of the sexual offense was under 18 years of age when the crime was committed.

(II) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.24 (relating to assessments) or any of its predecessors.

(III) Has been determined to be a sexually violent delinquent child as defined in 42 Pa.C.S. § 9799.12 (relating to definitions).

(IV) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.58 (relating to assessments) or has to register for life under 42 Pa.C.S. § 9799.55(b) (relating to registration).

(ix) Causing the death of the child through any act or failure to act.

(x) Engaging a child in a severe form of trafficking in persons or sex trafficking as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000 (Division A of Pub.L. No. 106-386).

*ChildLine*—An organizational unit of the Department of [ Public Welfare ] Human Services, which operates a 24-hour a day Statewide [ toll free ] toll-free telephone system for receiving reports of suspected child abuse, referring reports for investigation and maintaining the reports in the appropriate file.

[ *Individual residing in the same home as the child*—An individual who is 14 years of age or older and who resides in the same home as the child. ]

*Mandated reporter*—A person who is required under 23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse) to make a report of suspected child abuse. For purposes of this chapter, the term includes licensed funeral directors.

*Parent*—A biological parent, adoptive parent or legal guardian.

*Perpetrator*—[ A person who has committed child abuse and is a parent of the child, a person responsible for the welfare of a child, an individual residing in the same home as a child or a paramour of a child's parent ] A person who has committed child abuse as defined in this section.

(i) This term includes only the following:

(A) A parent of the child.

(B) A spouse or former spouse of the child's parent.

(C) A paramour or former paramour of the child's parent.

(D) A person 14 years of age or older and responsible for the child's welfare or having direct contact with children as an employee of child-care services, a school or through a program, activity or service.

(E) An individual 14 years of age or older who resides in the same home as the child.



(F) An individual 18 years of age or older who does not reside in the same home as the child but is related within the third degree of consanguinity or affinity by birth or adoption to the child.

(G) An individual 18 years of age or older who engages a child in severe forms of trafficking in persons or sex trafficking, as those terms are defined under section 103 of the Trafficking Victims Protection Act of 2000 (Division A of Pub.L. No. 106-386).

(ii) Only the following may be considered a perpetrator for failing to act, as provided in this section:

(A) A parent of the child.

(B) A spouse or former spouse of the child's parent.

(C) A paramour or former paramour of the child's parent.

(D) A person 18 years of age or older and responsible for the child's welfare.

(E) A person 18 years of age or older who resides in the same home as the child.

*Person responsible for the child's welfare*—A person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control. [The term does not include a person who is employed by or provides services or programs in a public or private school, intermediate unit or area vocational-technical school.]

*Program, activity or service*—Any of the following in which children participate and which is sponsored by a school or a public or private organization:

(i) A youth camp or program.

(ii) A recreational camp or program.

(iii) A sports or athletic program.

(iv) A community or social outreach program.

(v) An enrichment or educational program.

(vi) A troop, club or similar organization.

*Recent [acts or omissions*—Acts or omissions] *act or failure to act*—An act or failure to act committed within 2 years of the date of the report to the Department of [Public Welfare] Human Services or county agency.

*Serious mental injury*—A psychological condition, as diagnosed by a physician or licensed psychologist, including the refusal of appropriate treatment, that does one or more of the following:

(i) Renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that the child's life or safety is threatened.

(ii) Seriously interferes with a child's ability to accomplish age-appropriate developmental and social tasks.

[*Serious physical injury*—An injury that causes a child severe pain or significantly impairs a child's physical functioning, either temporarily or permanently.]

*Serious physical neglect*—Any of the following when committed by a perpetrator that endangers a child's life or health, threatens a child's well-being, causes bodily injury or impairs a child's health, development or functioning:

(i) A repeated, prolonged or egregious failure to supervise a child in a manner that is appropriate considering the child's developmental age and abilities.

(ii) The failure to provide a child with adequate essentials of life, including food, shelter or medical care.

*Sexual abuse or exploitation*—[The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another person to engage in sexually explicit conduct or a simulation of sexually explicit conduct for the purpose of producing a visual depiction, including photographing, videotaping, computer depicting or filming, of sexually explicit conduct or the rape, sexual assault, involuntary deviate sexual intercourse, aggravated indecent assault, molestation, incest, indecent exposure, prostitution, statutory sexual assault or other form of sexual exploitation of children.] Any of the following:

(i) The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another individual to engage in sexually explicit conduct, which includes the following:

(A) Looking at sexual or other intimate parts of a child or another individual for the purpose of arousing or gratifying sexual desire in any individual.

(B) Participating in sexually explicit conversation either in person, by telephone, by computer or by a computer-aided device for the purpose of sexual stimulation or gratification of any individual.

(C) Actual or simulated sexual activity or nudity for the purpose of sexual stimulation or gratification of any individual.

(D) Actual or simulated sexual activity for the purpose of producing visual depiction, including photographing, videotaping, computer depicting or filming.

(ii) Any of the following offenses committed against a child:

(A) Rape as defined in 18 Pa.C.S. § 3121 (relating to rape).

(B) Statutory sexual assault as defined in 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).

(C) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).

(D) Sexual assault as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault).

(E) Institutional sexual assault as defined in 18 Pa.C.S. 3124.2 (relating to institutional sexual assault).

(F) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).

(G) Indecent assault as defined in 18 Pa.C.S. § 3126 (relating to indecent assault).

(H) Indecent exposure as defined in 18 Pa.C.S. § 3127 (relating to indecent exposure).

(I) Incest as defined in 18 Pa.C.S. § 4302 (relating to incest).

(J) Prostitution as defined in 18 Pa.C.S. § 5902 (relating to prostitution and related offenses).

(K) Sexual abuse as defined in 18 Pa.C.S. § 6312 (relating to sexual abuse of children).

(L) Unlawful contact with a minor as defined in 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).

(M) Sexual exploitation as defined in 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).

(iii) For the purposes of subparagraph (i), the term does not include consensual activities between a child who is 14 years of age or older and another person who is 14 years of age or older and whose age is within 4 years of the child's age.

§ 13.302. Suspected child abuse—mandated reporting requirements.

(a) General rule. Under 23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse), funeral directors [ who, in the course of their employment, occupation or practice of their profession, come into contact with children shall report or cause a report to be made to the Department of Public Welfare when they have reasonable cause to suspect on the basis of their professional or other training or experience, that a child coming before them in their professional or official capacity is a victim of child abuse ] are considered mandated reporters. A mandated reporter shall make a report of suspected child abuse in accordance with this section if the mandated reporter has reasonable cause to suspect that a child is a victim of child abuse under any of the following circumstances:

(1) The mandated reporter comes into contact with the child in the course of employment, occupation and practice of the profession or through a regularly scheduled program, activity or service.

(2) The mandated reporter is directly responsible for the care, supervision, guidance or training of the child, or is affiliated with an agency, institution, organization, school, regularly established church or religious organization or other entity that is directly responsible for the care, supervision, guidance or training of the child.

(3) A person makes a specific disclosure to the mandated reporter that an identifiable child is the victim of child abuse.

(4) An individual 14 years of age or older makes a specific disclosure to the mandated reporter that the individual has committed child abuse.

(b) Staff members of public or private agencies, institutions and facilities. [ Funeral directors who are staff members of a medical or other public or private institution, school, facility or agency, and who, in the course of their employment, occupation or practice of their profession, come into contact with children shall immediately notify the person in charge of the institution, school, facility or agency

or the designated agent of the person in charge when they have reasonable cause to suspect on the basis of their professional or other training or experience, that a child coming before them in their professional or official capacity is a victim of child abuse. Upon notification by the funeral director, the person in charge or the designated agent shall assume the responsibility and have the legal obligation to report or cause a report to be made in accordance with subsections (a), (c) and (d) ] Whenever a mandated reporter is required to make a report under subsection (a) in the capacity as a member of the staff of a medical, dental or other public or private institution, school, facility or agency, that licensee shall report immediately in accordance with subsection (c) and shall immediately thereafter notify the person in charge of the institution, school, facility or agency or the designated agent of the person in charge.

(c) Reporting procedure. [ Reports of suspected child abuse shall be made by telephone and by written report.

(1) Oral reports. Oral reports of suspected child abuse shall be made immediately by telephone to ChildLine, (800) 932-0313.

(2) Written reports. Written reports shall be made within 48 hours after the oral report is made by telephone. Written reports shall be made on forms available from a county children and your social service agency. ]

A mandated reporter shall immediately make a report of suspected child abuse to the Department of Human Services by either:

(1) Making an oral report of suspected child abuse by telephone to ChildLine at (800) 932-0313, followed by a written report within 48 hours to the Department of Human Services or the county agency assigned to the case in a manner and format prescribed by the Department of Human Services. The written report submitted under this paragraph may be submitted electronically.

(2) Making an electronic report of suspected child abuse in accordance with 23 Pa.C.S. § 6305 (related to electronic reporting) through the Department of Human Service's Child Welfare Information Solution self-service portal at [www.compass.state.pa.us/cwis](http://www.compass.state.pa.us/cwis). A confirmation by the Department of Human Services of the receipt of a report of suspected child abuse submitted electronically relieves the mandated reporter of the duty to make an additional oral or written report.

(d) Written or electronic reports. [ Written reports shall be made in the manner and on forms prescribed by the Department of Public Welfare. The following information shall be included in the written reports, if available ] A written or electronic report of suspected child abuse, shall include the following information, if known:

(1) The names and addresses of the child [ and ], the child's parents [ or ] and any other person responsible for the [ care of the child, if known ] child's welfare.

(2) Where the suspected child abuse occurred.

(3) The age and sex of [ the subjects ] each subject of the report.

(4) The nature and extent of the suspected child abuse including any evidence of prior abuse to the child or **[ siblings ] any sibling** of the child.

(5) The name and relationship of **[ the persons ] each individual** responsible for causing the suspected abuse **[, if known, ]** and any evidence of prior abuse by **[ those persons ] each individual**.

(6) Family composition.

(7) The source of the report.

(8) The **name, telephone number and e-mail address of the** person making the report **[ and where that person can be reached ]**.

(9) The actions taken by the **[ reporting source, including the taking of photographs and X-rays, removal or keeping of the child or notifying the medical examiner or coroner ] person making the report, including actions taken under 23 Pa.C.S. §§ 6314—6317.**

(10) **Other information required by Federal law or regulation.**

(11) Other information which the Department of **[ Public Welfare ] Human Services** may require by regulation.

**§ 13.303. Photographs, medical tests and X-rays of child subject to report.**

A funeral director may take or cause to be taken photographs of the child who is subject to a report and, if clinically indicated, cause to be performed a radiological examination and other medical tests on the child. Medical summaries or reports of the photographs, X-rays and relevant medical tests taken shall be sent to the county children and youth social service agency at the time the written report is sent, **or within 48 hours after an electronic report is made under § 13.302(c)(2) (relating to suspected child abuse—mandated reporting requirements)**, or as soon thereafter as possible. The county children and youth social service agency shall have access to actual photographs or duplicates and X-rays and may obtain them or duplicates of them upon request.

**§ 13.304. Suspected death as a result of child abuse—mandated reporting requirement.**

A funeral director who has reasonable cause to suspect that a child died as a result of child abuse shall report that suspicion to the coroner **or medical examiner** of the county where death occurred or, in the case where the child is transported to another county for medical treatment, to the coroner **or medical examiner** of the county where the injuries were sustained.

**§ 13.305. Immunity from liability.**

Under 23 Pa.C.S. § 6318 (relating to immunity from liability) a funeral director who participates in good faith in the making of a report **of suspected child abuse, making a referral for general protective services, cooperating or consulting with an investigation including providing information to a child fatality or near fatality review team**, testifying in a proceeding arising out of an instance of suspected child abuse **or general protective services** or **[ the taking of photographs ] engaging in any action authorized under 23 Pa.C.S. §§ 6314—6317**, shall have immunity from civil and criminal liability that might **otherwise** result by reason

of the funeral director's actions. For the purpose of any civil or criminal proceeding, the good faith of the funeral director shall be presumed. The Board will uphold the same good faith presumption in any disciplinary proceeding that might result by reason of a funeral director's actions **[ in participating in good faith in the making of a report, cooperating with an investigation, testifying in a proceeding arising out of an instance of suspected child abuse or the taking of photographs ] under §§ 13.302—13.304 (relating to suspected child abuse—mandated reporting requirements; photographs, medical tests and X-rays of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement).**

**§ 13.306. Confidentiality—waived.**

To protect children from abuse, the reporting requirements of §§ 13.302—13.304 (relating to suspected child abuse—mandated reporting requirements; photographs, medical tests and X-rays of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement) take precedence over the provisions in § 13.201 (relating to professional responsibilities) and any other client confidentiality, ethical principle or professional standard that might otherwise apply.

**§ 13.307. Noncompliance.**

(a) *Disciplinary action.* A funeral director who willfully fails to comply with the reporting requirements in §§ 13.302—13.304 (relating to suspected child abuse—mandated reporting requirements; photographs, medical tests and X-rays of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement) will be subject to disciplinary action under section 11 of the act (63 P.S. § 479.11).

(b) *Criminal penalties.* **[ Under 23 Pa.C.S. § 6319 (relating to penalties for failure to report), a funeral director who is required to report a case of suspected child abuse who willfully fails to do so commits a summary offense for the first violation and a misdemeanor of the third degree for a second or subsequent violation. ] Under 23 Pa.C.S. § 6319 (relating to penalties), a funeral director who is required to report a case of suspected child abuse or to make a referral to the appropriate authorities and who willfully fails to do so commits a criminal offense, as follows:**

**(1) An offense not otherwise specified in paragraphs (2), (3) or (4) is a misdemeanor of the second degree.**

**(2) An offense is a felony of the third degree if all of the following apply:**

**(i) The mandated reporter willfully fails to report.**

**(ii) The child abuse constitutes a felony of the first degree or higher.**

**(iii) The mandated reporter has direct knowledge of the nature of the abuse.**

**(3) If the willful failure to report continues while the mandated reporter knows or has reasonable cause to suspect a child is being subjected to child abuse by the same individual or while the mandated reporter knows or has reasonable cause to suspect that the same individual continues to have direct contact with children through the individual's employment, program, activity or**

**service, the mandated reporter commits a felony of the third degree, except that if the child abuse constitutes a felony of the first degree or higher, the mandated reporter commits a felony of the second degree.**

**(4) A mandated reporter who, at the time of sentencing for an offense under 23 Pa.C.S. § 6319, has been convicted of a prior offense under § 6319, commits a felony of the third degree, except that if the child abuse constitutes a felony of the first degree or higher, the penalty for the second or subsequent offense is a felony of the second degree.**

*(Editor's Note: The following sections are proposed to be added and printed in regular type to enhance readability.)*

**§ 13.308. Child abuse recognition and reporting—mandatory training requirement.**

(a) Except as provided in subsection (c), individuals applying to the Board for a license shall submit proof of completion of at least 3 hours of training in child abuse recognition and reporting requirements which has been approved by the Department of Human Services.

(b) Except as provided in subsection (c), licensees seeking renewal of a license issued by the Board shall complete, as a condition of biennial renewal of the license, at least 2 hours of approved continuing education in child abuse recognition and reporting. This 2 hours of continuing education in child abuse recognition and reporting will be accepted as a portion of the continuing education required under § 13.401 (relating to credit hour requirements) regardless of whether it otherwise meets the requirements of §§ 13.402—13.405. For credit to be granted, the continuing education course or program must be approved by the Bureau, in consultation with the Department of Human Services, as set forth in § 13.309 (relating to child abuse recognition and reporting course approval process). The Board will not renew a license unless the Bureau has received an electronic report from an approved course provider documenting the attendance/participation by the licensee in an approved course or the licensee has obtained an exemption under subsection (c).

(c) An applicant or licensee may apply in writing for an exemption from the training/continuing education requirements set forth in subsections (a) and (b) provided the applicant, or licensee holder meets one of the following:

(1) The applicant or licensee submits documentation demonstrating that:

(i) The applicant or licensee has already completed child abuse recognition training as required by section 1205.6 of the Public School Code of 1949 (24 P.S. § 12-1205.6).

(ii) The training was approved by the Department of Education in consultation with the Department of Human Services.

(iii) The amount of training received equals or exceeds the amount of training or continuing education required under subsection (a) or (b), as applicable.

(2) The applicant or licensee submits documentation demonstrating that:

(i) The applicant or licensee has already completed child abuse recognition training required under 23 Pa.C.S. § 6383(c) (relating to education and training).

(ii) The training was approved by the Department of Human Services.

(iii) The amount of training received equals or exceeds the amount of training or continuing education required under subsection (a) or (b), as applicable.

(3) The applicant or licensee submits documentation demonstrating that the applicant or licensee should not be subject to the training or continuing education requirement. Each request for an exemption under this paragraph will be considered on a case-by-case basis.

**§ 13.309. Child abuse recognition and reporting course approval process.**

(a) An individual, entity or organization may apply for approval to provide mandated reporter training as required under 23 Pa.C.S. § 6383(b) (relating to education and training) by submitting the course materials set forth in subsection (b) simultaneously to the Department of Human Services, Office of Children, Youth and Families, and to the Bureau at the following addresses:

(1) Department of Human Services, Office of Children, Youth and Families, Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120; or electronically at RA-PWOCYFCPSL@pa.gov.

(2) Bureau of Professional and Occupational Affairs, 2601 North Third Street, P.O. Box 2649, Harrisburg, PA 17105-2649; or electronically at RA-steps1\_course\_app@pa.gov.

(b) Submissions shall include the following:

(1) Contact information (mailing address, e-mail address and telephone number) for the agency/course administrator.

(2) General description of the training and course delivery method.

(3) Title of the course.

(4) Timed agenda and estimated hours of training.

(5) Learning objectives.

(6) Intended audience.

(7) All course related materials including, as applicable:

(i) Handouts.

(ii) Narrated script or talking points.

(iii) Interactive activities or exercises.

(iv) Videos and audio/visual content.

(v) Knowledge checks, quizzes or other means of assessing participant's understanding of the material.

(vi) For online courses, a transcript or recording of audio training.

(8) Citation of sources, including written permission to use copyrighted material, if applicable.

(9) Anticipated credentials or experience of the presenter, or biography of presenter, if known.

(10) Printed materials used to market the training.

(11) Evaluation used to assess participants' satisfaction with the training.

(12) Sample certificate of attendance/participation, which shall include:

(i) Name of participant.

(ii) Title of training.

- (iii) Date of training.
  - (iv) Length of training (2 or 3 hours).
  - (v) Name and signature of the authorized representative of the approved provider. The signature may be an electronic signature.
  - (vi) Statement affirming the participant attended the entire course.
- (13) Verification of ability to report participation/attendance electronically to the Bureau in a format prescribed by the Bureau.
- (c) The Bureau will notify the applicant in writing upon approval of the course and will post a list of approved courses on the Bureau's web site and the Board's web site.

### CONTINUING EDUCATION

#### § 13.401. Credit hour requirements.

(a) During each biennial renewal period, a licensed funeral director shall complete 6 hours of continuing education, **including at least 2 hours of approved courses in child abuse recognition and reporting in accordance with § 13.308(b) (relating to child abuse recognition and reporting—mandatory training requirement).** [ This ] **Except for the mandatory training in child abuse recognition and reporting, this provision does not require a funeral director to complete continuing education during the renewal period in which the funeral director is first issued a license.**

(b) Except as permitted in § 13.231(d) (relating to biennial registration; unregistered status and inactive status; failure to renew) or as directed by the Board, continuing education may satisfy the requirement of subsection (a) only for the biennium during which it was completed. No hour of continuing education may be used to satisfy the requirement of subsection (a) for more than 1 biennium.

**[ (c) The requirement of subsection (a) will take effect, beginning with the biennial renewal period of February 1, 2006—January 31, 2008. ]**

[Pa.B. Doc. No. 21-368. Filed for public inspection March 12, 2021, 9:00 a.m.]

## GAME COMMISSION

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

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its January 23, 2021, meeting to amend § 139.4 (relating to seasons and bag limits for the license year) to provide updated seasons and bag limits for the 2021-2022 hunting/furtaking license year.

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

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

This proposed rulemaking was made public at the January 23, 2021, meeting of the Commission. Comments can be sent until April 7, 2021, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

#### 1. Purpose and Authority

To effectively manage the wildlife resources and provide hunting and trapping opportunities in this Commonwealth during the upcoming license year, the Commission is proposing to amend § 139.4 to provide updated seasons and bag limits for the 2021-2022 license year. The 2021-2022 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.

Proposed Sunday hunting dates are similar to those used in 2020-2021. However, expansions of Sunday opportunity are proposed in that the Sundays during the archery deer and firearms bear seasons would also be open for other species (except migratory game birds and wild turkey) with seasons encompassing those dates. These expansions of Sunday opportunity are the only changes proposed for small game and furbearer seasons.

With wild turkey population trends declining in many wildlife management units, closure of the fall season in Wildlife Management Unit (WMU) 5A and reductions in season length for 14 other WMUs are recommended in accordance with Wild Turkey Management Plan guidelines to increase hen survival. For deer, a Statewide 14-day concurrent antlered and antlerless firearms season is recommended to simplify regulations and provide increased opportunity, especially for younger hunters. Also, the extended (post-Christmas) firearms season is proposed to be set at the WMU level (2B, 5C and 5D) rather than at the county level to simplify regulations, given that antlerless harvests are evenly distributed throughout these WMUs regardless of firearms restrictions.

Minor expansions of archery bear hunting opportunity are proposed in WMUs 2B, 5B, 5C and 5D. Other black bear season recommendations are similar to those in 2020. The antlerless designation is proposed to be removed from the late elk season to provide the Commission the flexibility to issue antlered elk licenses for this season, if and when appropriate. Specific license allocation recommendations for all elk seasons will be provided in April.

Section 322(c)(1) of the code (relating to powers and duties of the commission) specifically empowers the commission to “fix seasons, daily shooting or taking hours, and any modification thereof, and daily, season and possession limits for any species of game or wildlife.” Section 2102(b)(1) of the code (relating to regulations) authorizes the commission to “promulgate regulations relating to seasons and bag limits for hunting or furtaking. . .” The amendments to § 139.4 are proposed under this authority.

#### 2. Regulatory Requirements

This proposed rulemaking will amend § 139.4 to provide updated seasons and bag limits for the 2021-2022 hunting/furtaking license year.

#### 3. Persons Affected

Persons wishing to hunt or trap game or wildlife within this Commonwealth during the 2021-2022 hunting/furtaking license year 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*

The effective dates of this proposed rulemaking are July 1, 2021, to June 30, 2022.

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

BRYAN J. BURHANS,  
*Executive Director*

6. *Contact Person*

For further information regarding this proposed rulemaking, contact Jason L. DeCoskey, Director, Bureau of

**Fiscal Note:** 48-465. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 139. SEASONS AND BAG LIMITS

(*Editor's Note:* As part of this proposed rulemaking, the Commission is proposing to replace the table which appears in § 139.4, 58 Pa. Code pages 139-3—139-14, serial pages (401511)—(401522), with the following table.)

§ 139.4 Seasons and bag limits for the license year.

**2021-2022 OPEN HUNTING AND FUR TAKING SEASONS, DAILY LIMIT, FIELD POSSESSION LIMIT AND SEASON LIMIT  
OPEN SEASON INCLUDES FIRST AND LAST DATES LISTED**

<i>Species</i>	<i>First Day</i>		<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After Second Day</i>
<i>Squirrel</i> —(Combined species) <sup>1</sup> <i>Eligible Junior Hunters only, with or without the required junior license</i>	Sept. 11		Sept. 25	6	18
<i>Squirrel</i> —(Combined species) <sup>2</sup>	Sept. 11 Sun. <sup>3</sup> , Nov. 14 Nov. 15 Sun. <sup>3</sup> , Nov. 21 Nov. 22 Dec. 13 Dec. 27	and and and and and and	Nov. 13 Sun. <sup>3</sup> , Nov. 14 Nov. 20 Sun. <sup>3</sup> , Nov. 21 Nov. 26 Dec. 24 Feb. 28, 2022	6	18
<i>Ruffed Grouse</i> <sup>2</sup>	Oct. 16 Sun. <sup>3</sup> , Nov. 14 Nov. 15 Sun. <sup>3</sup> , Nov. 21 Nov. 22 Dec. 13	and and and and and	Nov. 13 Sun. <sup>3</sup> , Nov. 14 Nov. 20 Sun. <sup>3</sup> , Nov. 21 Nov. 26 Dec. 24	2	6
<i>Rabbit, Cottontail</i> <sup>1</sup> <i>Eligible Junior Hunters only, with or without the required junior license</i>	Oct. 2		Oct. 16	4	12
<i>Rabbit, Cottontail</i> <sup>2</sup>	Oct. 16 Sun. <sup>3</sup> , Nov. 14 Nov. 15 Sun. <sup>3</sup> , Nov. 21 Nov. 22 Dec. 13 Dec. 27	and and and and and and	Nov. 13 Sun. <sup>3</sup> , Nov. 14 Nov. 20 Sun. <sup>3</sup> , Nov. 21 Nov. 26 Dec. 24 Feb. 28, 2022	4	12

PROPOSED RULEMAKING

<i>Species</i>	<i>First Day</i>		<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After Second Day</i>
<i>Ring-necked Pheasant</i> —There is no open season for the taking of pheasants in the Franklin County Wild Pheasant Recovery Area.					
Central Susquehanna Wild Pheasant Recovery Area— <i>Male only</i> <sup>1</sup>	As authorized by the Executive Order				
<i>Ring-necked Pheasant—Male or Female</i> <sup>1</sup> <i>Eligible Junior Hunters only, with or without the required junior license</i>	Oct. 9		Oct. 16	2	6
<i>Ring-necked Pheasant—Male or Female</i> <sup>2</sup>	Oct. 23 Sun. <sup>3</sup> , Nov. 14 Nov. 15 Sun. <sup>3</sup> , Nov. 21 Nov. 22 Dec. 13 Dec. 27	and and and and and and	Nov. 13 Sun. <sup>3</sup> , Nov. 14 Nov. 20 Sun. <sup>3</sup> , Nov. 21 Nov. 26 Dec. 24 Feb. 28, 2022	2	6
<i>Bobwhite Quail</i> <sup>2</sup>	Oct. 23 Sun. <sup>3</sup> , Nov. 14 Nov. 15 Sun. <sup>3</sup> , Nov. 21 Nov. 22 Dec. 13 Dec. 27	and and and and and and	Nov. 13 Sun. <sup>3</sup> , Nov. 14 Nov. 20 Sun. <sup>3</sup> , Nov. 21 Nov. 26 Dec. 24 Feb. 28, 2022	8	24
<i>Hare (Snowshoe Rabbits) or Varying Hare</i> <sup>1</sup>	Dec. 27		Jan. 1, 2022	1	3
<i>Woodchuck (Groundhog)</i> <sup>2</sup>	July 1 Sun. <sup>3</sup> , Nov. 14 Nov. 15 Sun. <sup>3</sup> , Nov. 21 Nov. 22 Dec. 13	and and and and and	Nov. 13 Sun. <sup>3</sup> , Nov. 14 Nov. 20 Sun. <sup>3</sup> , Nov. 21 Nov. 26 June 30, 2022	Unlimited	

TURKEY

<i>Species</i>	<i>First Day</i>		<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After Season Limit</i>
<i>Turkey, Fall—Male or Female</i> <sup>1</sup> WMU 2B (Shotgun, Bow and Arrow only)  WMU 1A, 1B, 4A, 4B, 4D and 4E WMUs 2A, 2F, 2G, 2H, 3A, 3B, 3C, 3D and 4C	Oct. 30 Nov. 24 Oct. 30 Oct. 30	and	Nov. 19 Nov. 26 Nov. 6 Nov. 13	1	1

<i>Species</i>	<i>First Day</i>		<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After Season Limit</i>
WMU 2C, 2D and 2E	Oct. 30	and	Nov. 13		
WMU 5B	Nov. 24		Nov. 26		
WMUs 5A, 5C and 5D	Nov. 2	Nov. 4			
	Closed to fall turkey hunting				
<i>Turkey, Spring</i> <sup>1</sup> <i>Bearded Bird only,</i> <i>Eligible Junior Hunters only,</i> with the required junior license	Apr. 23, 2022		Apr. 23, 2022	1	1
<i>Turkey, Spring</i> <sup>1,4</sup> <i>Bearded Bird only</i>	April 30, 2022	and	May 14, 2022	1	2
	May 16, 2022		May 31, 2022	May be hunted 1/2 hour before sunrise to 12 noon	May be hunted 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.
- (c) Hunting on Sunday not authorized.<sup>1</sup>

<i>Species</i>	<i>First Day</i>		<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After Second Day</i>
<i>Crow</i> <sup>3</sup> (Hunting permitted on Friday, Saturday and Sunday only)	July 2		Apr. 10, 2022	Unlimited	
<i>Starling and English Sparrow</i> <sup>3</sup>	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>
<i>Squirrel</i> —(Combined species) <sup>2</sup>	Sept. 1	and and and and and	Nov. 13	6	18
	Sun. <sup>3</sup> , Nov. 14		Sun. <sup>3</sup> , Nov. 14		
	Nov. 15		Nov. 20		
	Sun. <sup>3</sup> , Nov. 21		Sun. <sup>3</sup> , Nov. 21		
	Nov. 22		Nov. 26		
	Dec. 13		Mar. 31, 2022		
<i>Quail</i> <sup>2</sup>	Sept. 1	and	Nov. 13	8	24
	Sun. <sup>3</sup> , Nov. 14		Sun. <sup>3</sup> , Nov. 14		



PROPOSED RULEMAKING

<i>Species</i>	<i>First Day</i>		<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After Second Day</i>
	Nov. 15 Sun. <sup>3</sup> , Nov. 21 Nov. 22 Dec. 13	and and and and	Nov. 20 Sun. <sup>3</sup> , Nov. 21 Nov. 26 Mar. 31, 2022		
<i>Ruffed Grouse</i> <sup>2</sup>	Sept. 1 Sun. <sup>3</sup> , Nov. 14 Nov. 15 Sun. <sup>3</sup> , Nov. 21 Nov. 22 Dec. 13	and and and and and	Nov. 13 Sun. <sup>3</sup> , Nov. 14 Nov. 20 Sun. <sup>3</sup> , Nov. 21 Nov. 26 Mar. 31, 2022	2	6
<i>Cottontail Rabbits</i> <sup>2</sup>	Sept. 1 Sun. <sup>3</sup> , Nov. 14 Nov. 15 Sun. <sup>3</sup> , Nov. 21 Nov. 22 Dec. 13	and and and and and	Nov. 13 Sun. <sup>3</sup> , Nov. 14 Nov. 20 Sun. <sup>3</sup> , Nov. 21 Nov. 26 Mar. 31, 2022	4	12
<i>Snowshoe or Varying Hare</i> <sup>2</sup>	Sept. 1 Sun. <sup>3</sup> , Nov. 14 Nov. 15 Sun. <sup>3</sup> , Nov. 21 Nov. 22 Dec. 13	and and and and and	Nov. 13 Sun. <sup>3</sup> , Nov. 14 Nov. 20 Sun. <sup>3</sup> , Nov. 21 Nov. 26 Mar. 31, 2022	1	3
<i>Ring-necked Pheasant—Male<sup>2</sup> and Female—(Combined)</i>	Sept. 1 Sun. <sup>3</sup> , Nov. 14 Nov. 15 Sun. <sup>3</sup> , Nov. 21 Nov. 22 Dec. 13	and and and and and	Nov. 13 Sun. <sup>3</sup> , Nov. 14 Nov. 20 Sun. <sup>3</sup> , Nov. 21 Nov. 26 Mar. 31, 2022	2	6
<i>Migratory Game Bird</i> <sup>1</sup> —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>
<i>Deer, Archery (Antlered and Antlerless)</i> <sup>2,5</sup> With the required archery license WMUs 2B, 5C and 5D	Sept. 18 Sun. <sup>3</sup> , Nov. 14 Nov. 15	and and and	Nov. 13 Sun. <sup>3</sup> , Nov. 14 Nov. 20	One antlered deer, and an antlerless deer with each required and antlerless license.

<i>Species</i>	<i>First Day</i>		<i>Last Day</i>	<i>Season Limit</i>
	Sun. <sup>3</sup> , Nov. 21 Nov. 22 Dec. 27	and and	Sun. <sup>3</sup> , Nov. 21 Nov. 26 Jan. 29, 2022	
<i>Deer, Archery (Antlered and Antlerless)</i> <sup>2,5</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. 2 Sun. <sup>3</sup> , Nov. 14 Nov. 15 Dec. 27	and and and	Nov. 13 Sun. <sup>3</sup> , Nov. 14 Nov. 19 Jan. 17, 2022	One antlered deer, and an antlerless deer with each required antlerless license.
<i>Deer, Muzzleloading (Antlerless only)</i> <sup>1</sup> With the required muzzleloading license	Oct. 16		Oct. 23	An antlerless deer with each required antlerless license.
<i>Deer, Special firearms (Antlerless only)</i> Only Junior and Senior License Holders, <sup>6</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. 21		Oct. 23	An antlerless deer with each required antlerless license.
<i>Deer, Regular Firearms (Antlered and Antlerless)</i> <sup>2,5</sup> Statewide	Nov. 27 Sun. <sup>3</sup> , Nov. 28 Nov. 29	and and	Nov. 27 Sun. <sup>3</sup> , Nov. 28 Dec. 11	One antlered deer, and an antlerless deer with each required antlerless license.
<i>Deer, Flintlock (Antlered or Antlerless)</i> <sup>1,5</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. 27		Jan. 17, 2022	One antlered or one antlerless deer, plus an additional antlerless deer with each required antlerless license.
<i>Deer, Flintlock (Antlered or Antlerless)</i> <sup>1,5</sup> With the required muzzleloading license WMUs 2B, 5C and 5D	Dec. 27		Jan. 29, 2022	One antlered or one antlerless deer, plus an additional antlerless deer with each required antlerless license.
<i>Deer, Extended Regular firearms (Antlerless)</i> <sup>1</sup> WMUs 2B, 5C, and 5D	Dec. 27		Jan. 29, 2022	An antlerless deer with each required antlerless license.
<i>Deer, Antlerless</i> <sup>1</sup> (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>
<i>Bear, Archery</i> <sup>2,7</sup> WMUs 2B, 5C and 5D	Sept. 18 Sun. <sup>3</sup> , Nov. 14 Nov. 15 Sun. <sup>3</sup> , Nov. 21 Nov. 22	and and and and	Nov. 13 Sun. <sup>3</sup> , Nov. 14 Nov. 20 Sun. <sup>3</sup> , Nov. 21 Nov. 26	1
<i>Bear, Archery</i> <sup>2,7</sup> WMU 5B	Oct. 2 Sun. <sup>3</sup> , Nov. 14 Nov. 15	and and	Nov. 13 Sun. <sup>3</sup> , Nov. 14 Nov. 19	1

<i>Species</i>	<i>First Day</i>		<i>Last Day</i>		<i>Season Limit</i>
<i>Bear, Archery</i> <sup>1,7</sup> WMUs 1A, 1B, 2A, 2C, 2D, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D, 4E and 5A	Oct. 16		Nov. 6		1
<i>Bear, Muzzleloader</i> <sup>1,7</sup> (Statewide)	Oct. 16		Oct. 23		1
<i>Bear, Special firearms</i> <sup>7</sup> Only Junior and Senior License Holders <sup>6</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, with required antlerless license (Statewide)	Oct. 21		Oct. 23		1
<i>Bear, Regular Firearms</i> <sup>2,7</sup> (Statewide)	Nov. 20 Sun. <sup>3</sup> , Nov. 21 Nov. 22	and and	Nov. 20 Sun. <sup>3</sup> , Nov. 21 Nov. 23		1
<i>Bear, Extended firearms</i> <sup>1,7</sup> WMUs 2B, 5B, 5C and 5D	Nov. 29		Dec. 11		1
<i>Bear, Extended firearms</i> <sup>1,7</sup> WMUs 1B, 2C, 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D, 4E and 5A	Nov. 29		Dec. 4		1

## ELK

<i>Species</i>	<i>First Day</i>		<i>Last Day</i>		<i>Season Limit</i>
<i>Elk, Special Conservation Tag</i> <sup>1,8</sup> <i>and Special-License Tag</i> <sup>1,8</sup> (Antlered and Antlerless)	Sept. 1		Nov. 6		1
<i>Elk, Archery</i> <sup>1,8</sup>	Sept. 11		Sept. 25		1
<i>Elk, Regular</i> <sup>8</sup> (Antlered and Antlerless)	Nov. 1		Nov. 6		1
<i>Elk, Late</i> <sup>1,8</sup>	Jan. 1, 2022		Jan. 8, 2022		1

## FURTAKING—TRAPPING

<i>Species</i>	<i>First Day</i>		<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
<i>Mink and Muskrat</i>	Nov. 20		Jan. 9, 2022	Unlimited	
<i>Beaver</i> WMUs 1A and 1B (Combined) WMUs 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. 18		Mar. 31, 2022	20 20 20 5	60 40 20 5
<i>Coyote, Fox, Opossum, Raccoon, Striped Skunk and Weasel</i>	Oct. 23		Feb. 20, 2022	Unlimited	
<i>Coyote and Fox</i> Use of cable restraint devices authorized with required certification	Dec. 26		Feb. 20, 2022	Unlimited	
<i>Bobcat, with required bobcat permit</i> WMUs 2A, 2B, 2C, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D and 4E	Dec. 18		Jan. 9, 2022	1	1
<i>Fisher, with required fisher permit</i> WMUs 1B, 2C, 2D, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D and 4E	Dec. 18		Jan. 2, 2022	1	1
<i>River Otter, with required otter permit</i> WMUs 1A, 1B, 2F, 3C and 3D	Feb. 12, 2022		Feb. 19, 2022	1	1

FURTKING—HUNTING

<i>Species</i>	<i>First Day</i>		<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
<i>Coyote—(Outside of any big game season)</i> <sup>3</sup>	May be taken with a hunting license or a furtaker's license.			Unlimited	
<i>Coyote—(During any big game season)</i>	May be taken while lawfully hunting big game or with a furtaker's license.			Unlimited	
<i>Opossum, Striped Skunk, Weasel</i> <sup>2</sup>	July 1 Sun. <sup>3</sup> , Nov. 14 Nov. 15 Sun. <sup>3</sup> , Nov. 21 Nov. 22 Dec. 13	and and and and and	Nov. 13 Sun. <sup>3</sup> , Nov. 14 Nov. 20 Sun. <sup>3</sup> , Nov. 21 Nov. 26 June 30, 2022	Unlimited	
<i>Fox</i> <sup>3</sup>	Oct. 23		Feb. 19, 2022	Unlimited	
<i>Raccoon</i> <sup>2</sup>	Oct. 23 Sun. <sup>3</sup> , Nov. 14 Nov. 15 Sun. <sup>3</sup> , Nov. 21 Nov. 22 Dec. 13	and and and and and	Nov. 13 Sun. <sup>3</sup> , Nov. 14 Nov. 20 Sun. <sup>3</sup> , Nov. 21 Nov. 26 Feb. 19, 2022	Unlimited	
<i>Bobcat, with required bobcat permit</i> <sup>1</sup> WMUs 2A, 2B, 2C, 2E, 2F, 2G, 2H, 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D and 4E	Jan. 8, 2022		Feb. 2, 2022	1	1
<i>Porcupine</i> <sup>2</sup>	Oct. 9 Sun. <sup>3</sup> , Nov. 14 Nov. 15 Sun. <sup>3</sup> , Nov. 21 Nov. 22	and and and and	Nov. 13 Sun. <sup>3</sup> , Nov. 14 Nov. 20 Sun. <sup>3</sup> , Nov. 21 Jan. 29, 2022	3	10

No open seasons on other wild birds or wild mammals.

<sup>1</sup> No hunting on Sunday authorized. See 34 Pa.C.S. § 2303.

<sup>2</sup> Hunting on Sunday authorized on separately delineated Sunday date(s) only. See 34 Pa.C.S. § 2303.

<sup>3</sup> Hunting on Sunday is authorized. See 34 Pa.C.S. § 2303.

<sup>4</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>5</sup> Only one antlered deer (buck) may be taken during the hunting license year.

<sup>6</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>7</sup> Only one bear may be taken during the hunting license year with the required bear license.

<sup>8</sup> Only one elk may be taken during the hunting license year with the required elk license.

## GAME COMMISSION

[ 58 PA. CODE CHS. 139 AND 143 ]

### Seasons and Bag Limits; Elk Management Area and Hunt Zones; Hunting and Furtaker Licenses; Elk Licenses

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its January 23, 2021, meeting to amend §§ 143.203, 143.203a and 143.206 (relating to random drawing elk licenses; special elk conservation license auction; and validity of elk licenses) and add §§ 139.18 and 143.203b (relating to elk management area and hunt zones; and special-license fundraiser elk license) to define the elk management area and elk hunt zones, better delineate and describe the three available elk licenses and close all elk hunting in any elk hunt zone that does not receive an allocation for a given hunting license year.

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

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

This proposed rulemaking was made public at the January 23, 2021, meeting of the Commission. Comments can be sent until April 7, 2021, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

#### 1. Purpose and Authority

The Commission has identified that current regulations concerning elk licenses do not adequately describe the three available elk licenses and their authorized uses. Furthermore, current regulations do not even define the extent and location of the elk management area or elk hunt zones. The Commission is proposing to amend §§ 143.203, 143.203a and 143.206 and add §§ 139.18 and 143.203b to define the elk management area and elk hunt zones, better delineate and describe the three available elk licenses and close all elk hunting in any elk hunt zone that does not receive an allocation for a given hunting license year.

Section 2722(g) of the code (relating to authorized licensed-issuing agents) directs the Commission to adopt regulations for the administration, control and performance of license issuing activities. 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 §§ 143.203, 143.203a and 143.206 and addition of §§ 139.18 and 143.203b are proposed under this authority.

#### 2. Regulatory Requirements

This proposed rulemaking will amend §§ 143.203, 143.203a and 143.206 and add §§ 139.18 and 143.203b to define the elk management area and elk hunt zones, better delineate and describe the three available elk licenses and close all elk hunting in any elk hunt zone that does not receive an allocation for a given hunting license year.

#### 3. Persons Affected

Persons wishing to hunt elk within the 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:** 48-469. No fiscal impact; (8) recommends adoption.

### Annex A

#### TITLE 58. RECREATION

#### PART III. GAME COMMISSION

#### CHAPTER 139. SEASONS AND BAG LIMITS

#### APPENDIX C

(*Editor's Note:* The following text is proposed to be added and printed in regular type to enhance readability.)

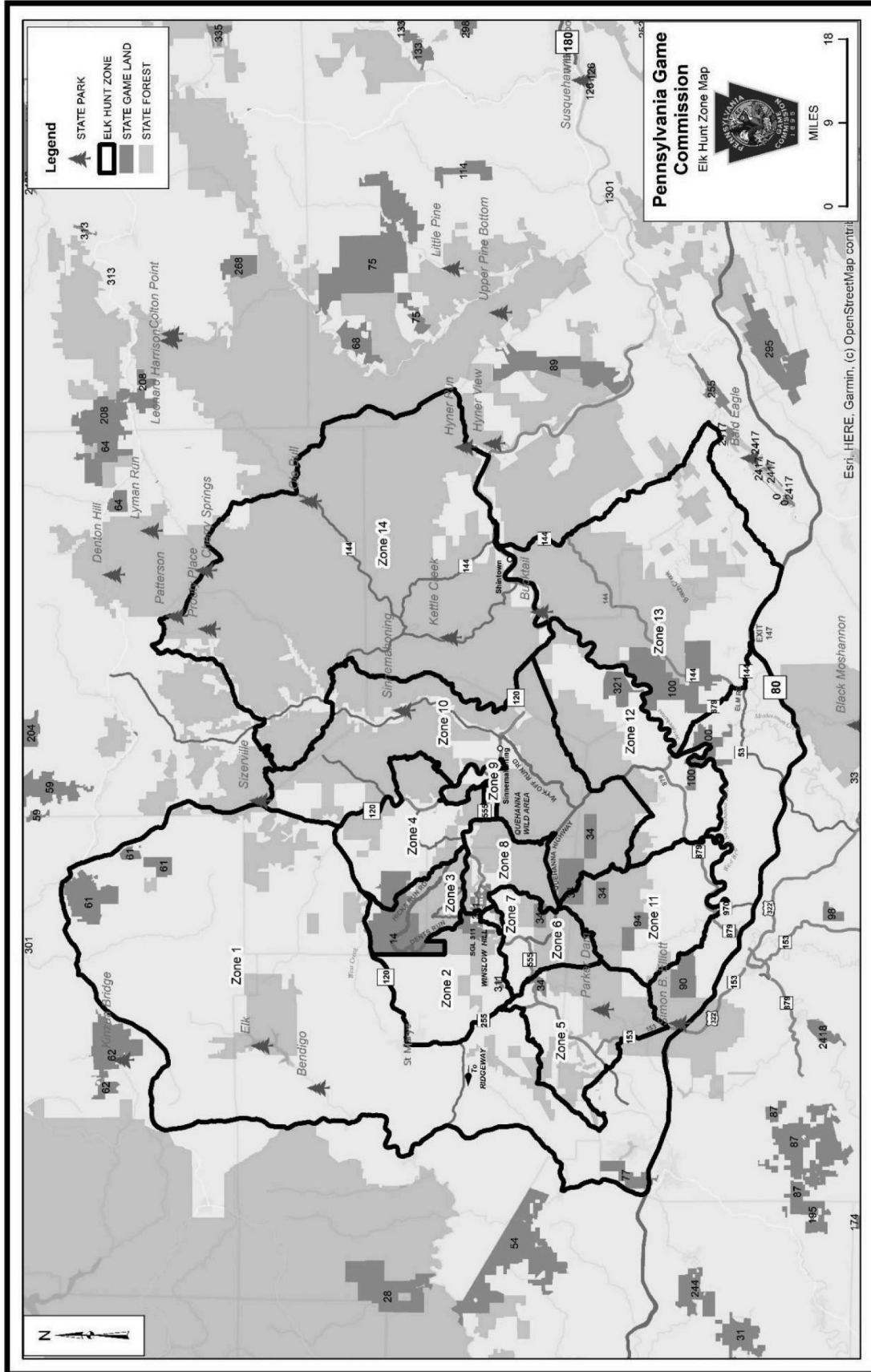
#### § 139.18. Elk management area and hunt zones.

(a) The elk management area is broad geographical range used for management of the Commonwealth's elk population.

(b) Elk hunt zones are those individual and distinct areas within the elk management area in which elk may be hunted according to annual elk allocations.

(c) The division line between two or more hunt zones shall be the center of the highway, road, natural water course or other natural boundary.

(d) The outline map of the elk management area sets forth the elk hunt zones.



CHAPTER 143. HUNTING AND  
FURTAKEER LICENSES

Subchapter K. ELK LICENSES

§ 143.203. [ Drawing ] Random drawing elk licenses.

(a) The Executive Director will set the date [ and location ] for the random drawing of applications for the issuance of random drawing elk licenses. [ Incomplete, illegible or duplicate applications will not be included in the drawing. ]

(b) Applications from current applicants who have applied in the 2003-2004 license year and subsequent years will be included in the random drawing until the applicant is successfully drawn and issued a license.

(c) Applicants issued a random drawing elk license entitling them to take an antlered elk are not permitted to apply for [ an ] a random drawing elk license for 5 license years.

(d) Qualified applicants and alternates drawn for [ an ] a random drawing elk license shall be required to obtain a regular hunting license and complete an orientation program as prescribed by the Director.

(e) Qualified applicants drawn for [ an ] a random drawing elk license whose military obligation prevents them from hunting the current elk season shall be eligible to hunt in the next available elk season.

(f) The number of available random drawing elk licenses each year shall be limited to [ a number ] the allocations set by the Commission for each Elk Hunt Zone. Any Elk Hunt Zone that does not receive an allocation for a given hunting license year is closed to all elk hunting, unless the zone is designated as open to all elk license holders by the Commission.

§ 143.203a. Special elk conservation license auction.

(a) Each year the Commission may contract with an eligible wildlife conservation organization to conduct an auction sale of one special elk conservation license in accordance with [ the mandates under section 2706.2 ] section 2706.2(b) of the act (relating to elk hunting licenses).

(b) Upon conclusion of the auction, the wildlife conservation organization shall issue the winning bidder a license voucher which may be redeemed for a special elk conservation license under section 2712 of the act (relating to vouchers for licenses and permits).

(c) Except as authorized by § 143.206(c) (relating to validity of elk licenses), special conservation license auction elk licenses are limited to use within the Elk Hunt Zones receiving allocations for a given hunting license year under section § 143.203(f) (relating to random drawing elk licenses). Any Elk Hunt Zone that does not receive an allocation for a given hunting license year under section § 143.203(f) is closed to all elk hunting, unless the zone is designated as open to all elk license holders by the Commission.

(Editor's Note: The following text is proposed to be added and printed in regular type to enhance readability.)

§ 143.203b. Special-license fundraiser elk license.

(a) Each year the Commission may contract with an eligible Pennsylvania-based nonprofit organization to con-

duct an auction or raffle sale of one special-license fundraiser elk license in accordance with section 2706.2(c) of the act (relating to elk hunting licenses).

(b) Upon conclusion of the auction or raffle, the Pennsylvania-based nonprofit organization shall issue the winning bidder a license voucher which may be redeemed for a special-license fundraiser elk license under section 2712 of the act (relating to vouchers for licenses and permits).

(c) Except as authorized by § 143.206(c) (relating to validity of elk licenses), special-license fundraiser elk license auction licenses are limited to use within the Elk Hunt Zones receiving allocations for a given hunting license year under section § 143.203(f) (relating to random drawing elk licenses). Any elk hunt zone that does not receive an allocation for a given hunting license year under section § 143.203(f) is closed to all elk hunting, unless the zone is designated as open to all elk license holders by the Commission.

§ 143.206. Validity of [ license ] elk licenses.

(a) Elk hunt zones. Except as provided in subsection (c), an elk license is valid for taking elk only in the elk hunt zones designated on the elk license, unless the zone is designated as open to all elk license holders by the Commission.

(b) Elk gender. Except as provided in subsection (c), an elk license is valid for taking only an antlerless, antlered or either sex elk as designated on the elk license.

(c) Exception. Any unfilled antlered or antlerless elk license for any designated elk hunt [ zones is ] zones are additionally valid for taking either an antlered or antlerless elk anywhere within this Commonwealth outside of the elk management area during any [ designated ] extended elk season [ following ] established in § 139.4 (relating to seasons and bag limits for the license year) that follows the regular elk season.

[Pa.B. Doc. No. 21-370. Filed for public inspection March 12, 2021, 9:00 a.m.]

## GAME COMMISSION

[ 58 PA. CODE CH. 141 ]

### Hunting and Trapping; Big Game

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its January 23, 2021, meeting to amend § 141.45 (relating to turkey) to eliminate the use of rifles during the fall turkey season.

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

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

This proposed rulemaking was made public at the January 23, 2021, meeting of the Commission. Comments can be sent until April 7, 2021, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

#### 1. Purpose and Authority

Manually operated rifles, including both centerfire and rimfire, are listed as permitted devices for use by hunters

during the fall turkey seasons in all Wildlife Management Units (WMU) with an open fall turkey season excluding those portions found within the Special Regulations Areas designated in § 141.1 (relating to special regulations areas). Notwithstanding their permitted use, the Commission has observed that very few hunters hunt during the fall turkey season with a rifle. The 2020 general turkey hunter survey showed 14% of respondents primarily used rifles to hunt fall turkey, whereas 33% of the Statewide harvest was with a rifle, but this varied by WMU (19% in 1A to 52% in 3A). Most fall turkey hunters (70%) primarily used shotguns (53% of harvest), 9% used crossbows (10% of harvest), 8% used vertical bows (4% of harvest) and a few used muzzleloaders or handguns (<1% of harvest). Were it assumed that all rifle hunters in 2020 used a shotgun and had the same efficiency as other shotgun hunters, fall harvest could decrease Statewide by approximately 20%, but that figure would vary by WMU.

The Commission’s turkey management plan provides guidance to adjust fall season lengths by 1 week at a time to manage turkey population trends. For example, when populations are declining, the plan calls for fall season length to be reduced by 1 week. The Commission has observed evidence of declining turkey populations in 15 of 23 WMUs and has therefore proposed season length reductions in those areas. However, the Commission is also investigating alternative methods of stabilizing fall turkey harvest numbers without focusing solely on further reductions in hunting opportunity as measured by season length. The Commission has determined that the elimination of rifles during fall turkey season may aid in this goal. Based on the results from the 2020 Turkey Hunter Survey, the Commission observed that the elimination of rifles during the fall turkey season could reduce fall harvest by as much as 20%. Depending on the actual impact of removing rifles from fall turkey seasons, the Commission anticipates that recent fall turkey season length reductions could eventually be reversed and more hunting opportunities added. The Commission is proposing to amend § 141.45 to eliminate the use of rifles during the fall turkey season.

Section 2102(d) of the code (relating to regulations) authorizes the Commission to “promulgate regulations stipulating the size and type of traps, the type of firearms and ammunition and other devices which may be used, the manner in which and the location where the devices may be used, the species the devices may be used for and the season when the devices may be used.” The amendments to § 141.45 are proposed under this authority.

2. *Regulatory Requirements*

This proposed rulemaking will amend § 141.45 to eliminate the use of rifles during the fall turkey season.

3. *Persons Affected*

Persons wishing to hunt turkeys with a rifle during the fall turkey season 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 rule-making, 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:** 48-467. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART III. GAME COMMISSION**

**CHAPTER 141. HUNTING AND TRAPPING**

**Subchapter C. BIG GAME**

§ 141.45. Turkey seasons.

(a) *Fall turkey season.*

(1) *Permitted devices.* It is lawful to hunt turkey during the fall turkey season with any of the following devices:

(i) [ **A manually operated rifle or handgun that propels single-projectile ammunition.** ] **(Reserved).**

(ii) A manually operated or semiautomatic, centerfire shotgun or muzzleloading shotgun that propels single-projectile ammunition or multiple projectile shotgun ammunition no larger than # 4 lead, # 2 steel, or # 4 of any other composition or alloy of nontoxic shot approved by the Director of the United States Fish and Wildlife Service or an authorized representative under 50 CFR 20.134 (relating to approval of nontoxic shot types and shot coatings). A centerfire shotgun’s magazine capacity may not exceed two rounds. The shotgun’s total aggregate ammunition capacity may not exceed three rounds.

(iii) A muzzleloading rifle or handgun that propels single-projectile ammunition.

(iv) *A bow and arrow.* A bow must have a peak draw weight of at least 35 pounds. An arrow must be equipped with a broadhead that has an outside diameter or width of at least 7/8 inch and may not exceed 3.25 inches in length.

(v) *A crossbow and bolt.* A crossbow must have a peak draw weight of at least 125 pounds. A bolt must be equipped with a broadhead that has an outside diameter or width of at least 7/8 inch and may not exceed 3.25 inches in length.

\* \* \* \* \*

[Pa.B. Doc. No. 21-371. Filed for public inspection March 12, 2021, 9:00 a.m.]

**GAME COMMISSION**

[ 58 PA. CODE CH. 141 ]

**Hunting and Trapping; General**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) pro-



posed at its January 23, 2021, meeting to amend § 141.4 (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 2021-2022 hunting/furtaking license year.

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

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

This proposed rulemaking was made public at the January 23, 2021, meeting of the Commission. Comments can be sent until April 7, 2021, 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 § 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 2021-2022 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 are proposed under this authority.

2. Regulatory Requirements

This proposed rulemaking will amend § 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 2021-2022 hunting/furtaking license year.

3. Persons Affected

Persons wishing to hunt or trap game or wildlife within this Commonwealth during the 2021-2022 hunting/furtaking license year 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

The effective dates of this proposed rulemaking are July 1, 2021, to June 30, 2022.

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: 48-468. No fiscal impact; (8) recommends adoption.

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.

\* \* \* \* \*

(Editor's Note: As part of this proposed rulemaking, the Commission is proposing to replace the tables which appear in Appendix G, 58 Pa. Code pages 141-37—141-40, serial pages (401539)—(401542), with the following tables.)

Appendix G. HUNTING HOURS

HUNTING HOURS TABLE FOR JUNE 27, 2021, THROUGH JULY 2, 2022

Table with 3 columns: Dates, Begin A.M., End P.M. Rows include dates from June 27 to July 2, 2022, with corresponding start and end times.

<i>Dates</i>	<i>Begin A.M.</i>	<i>End P.M.</i>
Jan. 30—Feb. 5	6:41	5:48
Feb. 6—12	6:34	5:56
Feb. 13—19	6:26	6:04
Feb. 20—26	6:17	6:12
Feb. 27—March 5	6:07	6:20
March 6—12	5:56	6:28
March 13—19 * Begins	6:45	7:35
March 20—26	6:34	7:43
March 27—Apr. 2	6:23	7:50
April 3—9	6:11	7:57
April 10—16	6:00	8:04
April 17—23	5:50	8:11
April 24—30	5:40	8:24
May 1—7	5:31	8:25
May 8—14	5:23	8:32
May 15—21	5:15	8:39
May 22—28	5:10	8:45
May 29—June 4	5:05	8:51
June 5—11	5:01	8:56
June 12—18	5:02	9:00
June 19—25	5:03	9:02
June 26—July 2	5:06	9:03

\*Daylight Saving Time Begins

\*\*Ends

**MIGRATORY GAME BIRD HUNTING  
HOURS TABLE 2021-2022**

<i>Dates</i>	<i>Begin A.M.</i>	<i>End P.M.</i>
June 27—July 3	5:07	8:33
July 4—10	5:11	8:31
July 11—17	5:16	8:27
July 18—24	5:22	8:22
July 25—31	5:28	8:15
Aug. 1—7	5:35	8:07
Aug. 8—14	5:42	7:58
Aug. 15—21	5:48	7:48
Aug. 22—28	5:55	7:38
Aug. 29—Sept. 4	6:02	7:27
Sept. 5—11	6:08	7:15
Sept. 12—18	6:15	7:04
Sept. 19—25	6:21	6:52
Sept. 26—Oct. 2	6:28	6:41
Oct. 3—9	6:35	6:30
Oct. 10—16	6:42	6:19
Oct. 17—23	6:50	6:09
Oct. 24—30	6:58	6:00
Oct. 31—Nov. 6	7:06	5:52
Nov. 7—13 ** Ends	6:07	4:51

<i>Dates</i>	<i>Begin A.M.</i>	<i>End P.M.</i>
Nov. 14—20	6:22	4:41
Nov. 21—27	6:29	4:37
Nov. 28—Dec. 4	6:36	4:35
Dec. 5—11	6:42	4:35
Dec. 12—18	6:47	4:38
Dec. 19—25	6:51	4:38
Dec. 26—Jan. 1	6:52	4:44
Jan. 2—8	6:52	4:53
Jan. 9—15	6:50	4:54
Jan. 16—22	6:47	5:01
Jan. 23—29	6:46	5:09
Jan. 30—Feb. 5	6:41	5:18
Feb. 6—12	6:34	5:26
Feb. 13—19	6:26	5:34
Feb. 20—26	6:17	5:42
Feb. 27—March 5	6:07	5:50
March 6—12	5:56	5:58
March 13—19 * Begins	6:45	7:05
March 20—26	6:34	7:13
March 27—April 2	6:23	7:20
April 3—9	6:11	7:27
April 10—16	6:00	7:34
April 17—23	5:50	7:41
April 24—30	5:40	7:54
May 1—7	5:31	7:56
May 8—14	5:23	8:02
May 15—21	5:15	8:09
May 22—28	5:10	8:15
May 29—June 4	5:05	8:21
June 5—11	5:01	8:26
June 12—18	5:02	8:30
June 19—25	5:03	8:32
June 26—July 2	5:06	8:33

\*Daylight Saving Time Begins

\*\*Ends

[Pa.B. Doc. No. 21-372. Filed for public inspection March 12, 2021, 9:00 a.m.]

**GAME COMMISSION**

[ 58 PA. CODE CH. 143 ]

**Hunting and Furtaker Licenses; Antlerless Deer Licenses**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its January 23, 2021, meeting to amend §§ 143.45 and 143.52 (relating to completing and submitting applications; and procedure for unlimited antlerless

licenses) to authorize unlimited over-the-counter sales of antlerless licenses in any open (unexhausted) Wildlife Management Unit (WMU) on the second Monday in September until these quotas are exhausted.

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

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

This proposed rulemaking was made public at the January 23, 2021, meeting of the Commission. Comments can be sent until April 7, 2021, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

#### 1. *Purpose and Authority*

The term 'personal limit' refers to the number of antlerless deer licenses a hunter may possess at any given time. Current rules differ between WMUs that are generally within and those that are outside areas defined as special regulation areas (WMUs 2B, 5C and 5D). Persons hunting outside of WMUs 2B, 5C and 5D are currently restricted to acquiring a maximum personal limit of up to three antlerless licenses. Persons hunting within WMUs 2B, 5C and 5D currently have no personal limit on the number of antlerless licenses they may acquire from WMUs with a remaining antlerless license allocation. The allowance of the 'unlimited' personal limit in WMUs 2B, 5C and 5D was originally intended to ensure that the quota of antlerless licenses set by the Commission for WMUs 2B, 5C and 5D was issued to the fullest extent possible in an effort to achieve deer management goals. The 'unlimited' personal limit does not permit a person to obtain antlerless licenses beyond a given WMUs' annual allocation of antlerless licenses.

The Commission recently observed that, as of mid-November, there were still well over 16,000 antlerless deer licenses available in WMUs 2A and 4A. Persons hunting in these areas where significant numbers of antlerless deer licenses have remained unsold late into the deer hunting seasons have questioned whether the current personal limit continues to make sense. More to the point, these hunters have inquired whether it makes more sense for the Commission to ensure that the quota of antlerless licenses allocated to the various WMUs across this Commonwealth are issued to the fullest extent possible to achieve the goals behind the original allocations in the same manner as in WMUs 2B, 5C and 5D. The Commission agrees with this approach. The Commission is proposing to amend §§ 143.45 and 143.52 to authorize unlimited over-the-counter sales of antlerless licenses in any open (unexhausted) WMU on the second Monday in September until these quotas are exhausted.

These proposed amendments will maintain the current conventional pre-season application three-round structure for mailed antlerless deer license applications. This unchanged process will continue to ensure equitable and fair distribution of antlerless licenses for hunters in the WMUs of their choice, assuming quotas remain available within these WMUs at each round of distribution. However, these proposed amendments will expand the availability of unlimited over-the-counter sales of antlerless licenses to all WMUs that have an available quota remaining on the second Monday in September, not just WMUs 2B, 5C and 5D.

For most hunters, this means that they would be authorized to purchase their fourth antlerless license over-the-counter starting on the second Monday in September as long as a quota remains available. For other

hunters late to the antlerless license purchase process, a maximum of four antlerless licenses would be authorized for purchase over-the-counter starting on the second Monday in September, again assuming a quota remains available. One important facet to this new structure will be a restriction limiting all hunters to possessing no more than four active antlerless licenses at any given time. Purchase of a fifth or subsequent antlerless deer license will require a hunter to exhaust and report online the harvest of one or more of their previously issued antlerless deer licenses before becoming eligible to purchase additional antlerless deer licenses. Over-the-counter sales of antlerless deer licenses will continue in this manner within each WMU until the quota assigned to each WMU is exhausted.

This new method maintains equitable and fair distribution of antlerless licenses, and importantly, also helps ensure that the quota of antlerless licenses set by the Commission for each WMU is issued to the fullest extent possible, thus supporting its deer management goals. This new process will simplify the antlerless deer license regulations by applying the same distribution rules to all WMUs across the board. The Commission also expects to see the collateral benefit of increased harvest reporting rates with this new process due to the harvest reporting requirements applied to the issuance of subsequent antlerless deer licenses. Lastly, the Commission also sees the potential for antlerless deer license sales to stretch into regular firearms deer seasons for some WMUs, thus making some antlerless deer licenses available to hunters purchasing their hunting license later in the hunting season.

Section 2722(g) of the code (relating to authorized license-issuing agents) directs the Commission to adopt regulations for the administration, control and performance of license issuing activities. The amendments to §§ 143.45 and 143.52 are proposed under this authority.

#### 2. *Regulatory Requirements*

This proposed rulemaking will amend §§ 143.45 and 143.52 to authorize unlimited over-the-counter sales of antlerless licenses in any open (unexhausted) WMU on the second Monday in September until these quotas are exhausted.

#### 3. *Persons Affected*

Persons wishing to hunt or trap game and wildlife 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:** 48-464. No fiscal impact; (8) recommends adoption.

Annex A  
**TITLE 58. RECREATION**  
**PART III. GAME COMMISSION**  
**CHAPTER 143. HUNTING AND FURTKAKER**  
**LICENSES**

**Subchapter C. Antlerless Deer Licenses**

**§ 143.45. Completing and submitting applications.**

(a) Except as otherwise provided in § 143.52 (relating to procedure for unlimited antlerless licenses) and for those applications submitted by qualified landowners, it is unlawful for a county treasurer to accept an application other than by regular first class mail delivered through and by the United States Postal Service. Applications for unsold antlerless deer licenses shall be accepted by county treasurers over the counter and may immediately be processed if any licenses [ are ] remain available in any wildlife management unit beginning on the [ first ] second Monday in [ October ] September.

\* \* \* \* \*

**§ 143.52. Procedure for unlimited antlerless licenses.**

**[ (a) The Executive Director will designate by April 30 of each year those wildlife management units where hunters will be allowed to apply for an unlimited number of antlerless deer licenses.**

**(b) Beginning on the first Monday in August residents and nonresidents of this Commonwealth shall be eligible to apply by mail to a county treasurer for an unlimited number of antlerless deer licenses for designated units.**

**(c) Beginning on the fourth Monday in August, county treasurers shall accept antlerless applications over the counter for designated units from residents and nonresidents of this Commonwealth and may immediately issue licenses to applicants. ]**

**(a) Subject to the procedures and limitations of this section, applicants are eligible to make application to receive an unlimited number of antlerless licenses within each wildlife management unit that remains unexhausted beginning on the second Monday in September.**

**(b) Unexhausted antlerless licenses allocated to a wildlife management unit shall be made available to eligible applicants over the counter starting the second Monday in September, subject to the following limitations:**

**(1) An applicant is eligible to make application for an antlerless license under this section only when the Commission's PALS licensing system shows three or less active and unfulfilled antlerless licenses on their license profile.**

**(2) Once an applicant has been issued a fourth cumulative antlerless license, the applicant will not be eligible to make reapplication for additional antlerless licenses until one or more previously issued antlerless licenses have been exhausted by harvest and the harvest or harvests have resulted in a verified completed harvest report in PALS.**

**(3) At no time is an applicant authorized to exceed four cumulative active and unfulfilled antlerless licenses in their PALS license profile.**

**(c) The authorizations of this section will terminate automatically for each wildlife management unit once its antlerless license allocation quota is exhausted.**

[Pa.B. Doc. No. 21-373. Filed for public inspection March 12, 2021, 9:00 a.m.]

**GAME COMMISSION**

**[ 58 PA. CODE CH. 143 ]**

**Hunting and Furtaker Licenses; General**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its January 23, 2021, meeting to amend § 143.1 and add § 143.5a (relating to definitions; and digital hunting and furtaking licenses) to define and authorize the use of hunting and furtaking eLicenses and certain electronic permits.

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

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

This proposed rulemaking was made public at the January 23, 2021, meeting of the Commission. Comments can be sent until April 7, 2021, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

*1. Purpose and Authority*

The Commission currently issues various hunting and furtaking license products to customers in physical form only on the familiar durable yellow stock. New features in the PALS (HuntFishPA) system are expected to go live for the 2021-2022 license year and will have the capacity to provide hunters and trappers with a digital versions of its license and certain permit products by e-mail and through the PALS system. However, current regulations will need to be amended to authorize and define their use. The Commission is proposing to amend § 143.1 and to add § 143.5a to define and authorize the use of hunting and furtaking eLicenses. This authorization will also extend to certain permits also sold through the PALS system, such as mentored permits, bobcat permits, range permits, and the like.

An eLicense is generally defined as a digital (electronic) copy of a hunting or furtaking license or permit provided to customers in the form of a PDF document. An eLicense will be issued to the hunter or trapper at the time of purchase and will be authorized for use in the same manner and as an alternative to traditional physical license documents. When used, the eLicense will be stored and displayed by the customer on a mobile device such as a smartphone or tablet. The customer will also have the option of printing a copy of eLicense products on their own printer using appropriate paper stock.

Carcass harvest tags will continue to be provided to customers in physical form only on the familiar durable stock. No digital versions of these documents will be issued to customers or authorized for use. Customers that elect to purchase license products online will be provided with digital copies of their license products and thereafter mailed physical carcass harvest tags by first class mail. Customers that elect to purchase license products at an agent location will be issued physical carcass harvest tags

at the time of purchase and will also have the opportunity to have digital licenses provided to them electronically when a valid e-mail address is provided. There will be no additional fee for customers to retrieve eLicense products from the Commission's PALS system. However, replacement license fees will still apply where replacement carcass harvest tags are requested or where the customer opts for a physical reprint of license products.

Section 2722(g) of the code (relating to authorized license-issuing agents) directs the Commission to adopt regulations for the administration, control and performance of license issuing activities. The amendments to § 143.1 and addition of § 143.5a are proposed under this authority.

## 2. Regulatory Requirements

This proposed rulemaking will amend § 143.1 and add § 143.5a to define and authorize the use of hunting and furtaking eLicenses and certain electronic permits.

## 3. Persons Affected

Persons wishing to hunt or trap game and wildlife 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:** 48-463. No fiscal impact; (8) recommends adoption.

### Annex A

#### TITLE 58. RECREATION

#### PART III. GAME COMMISSION

#### CHAPTER 143. HUNTING AND FURTAKE LICENSES

#### Subchapter A. GENERAL

### § 143.1. Definitions.

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

*Agent*—A person appointed under Chapter 27, Subchapter B of the act (relating to agents) who is authorized to issue the licenses provided for in the act and this part.

*Customer ID number*—The unique customer identifier permanently assigned to each customer of the Commission's PALS.

**License**—A physical or digital document issued by the Commission authorizing the holder to hunt for, take, kill and possess certain types of game or wildlife during a specified period.

*PALS—Pennsylvania Automated Licensing System*—The Commission's computer-based automated licensing system that facilitates the purchase and creation of license products at the agent location.

(*Editor's Note:* The following text is proposed to be added and printed in regular type to enhance readability.)

### § 143.5a. Digital hunting and furtaking licenses.

This section applies only to persons that have elected to conduct hunting and furtaking license transactions by electronic means as determined from the context and surrounding circumstances of the acquisition and production of these digital license documents. Upon the Commission establishing a system to distribute and make available digital license documents, holders of these issued digital documents may produce them as required under the act or this part in digital or printed physical form in the same manner as physical printed licenses issued directly by the Commission or any of its agents, subject to the following:

(1) *Digital documents.* Digital license documents issued by the Commission and stored on a personal electronic device must be capable of immediate retrieval and clear display of the digital document to ensure the readability of all license information contained on the digital document, including any bar codes or QR codes. Failure to retrieve and produce this digital document or its physical alternative to any landowner upon whose land that person may be occupying or to any officer whose duty it is to enforce this title shall constitute a violation under section 2711(a)(12) of the act (relating to unlawful acts concerning licenses).

(2) *Printed digital license documents.* Digital license documents issued by the Commission and subsequently reduced to physical form must be printed on paper or another substantially equivalent medium of such quality, color and contrast to clearly display and ensure the readability of all license information contained on the digital document, including any bar codes or QR codes. Failure to produce this printed digital document or its original physical alternative to any landowner upon whose land that person may be occupying or to any officer whose duty it is to enforce this title shall constitute a violation under section 2711(a)(12) of the act.

(3) *Harvest tags.* The Commission will not issue any digital harvest tags with digital license documents. The Commission or any of its eligible issuing agents will issue harvest tags directly to the holder in physical form only. No further reproduction of these physical documents, digital or otherwise, is authorized to satisfy tagging or marking requirements under the act or this part, except as may be authorized by section 2710 of the act (relating to replacement of lost licenses). Section 2323(c) of the act (relating to tagging and reporting big game kills) regarding licenses issued without tags shall not be construed to apply to digitally issued license documents supplemented by the issuance of physical harvest tags.

(4) *Electronic Transactions Act.* The Electronic Transactions Act (73 P.S. §§ 2260.101—2260.5101), as amended, shall apply to any automated transaction conducted under this section. It is specifically intended that any license acquired and used in a digital format under the authorizations of this section is deemed to be electronically signed and certified by the holder of the document. Digital license documents issued by the Commission and subsequently reduced to physical form shall be signed

and certified by the holder in the same manner as physical printed licenses issued directly by the Commission or any of its agents.

[Pa.B. Doc. No. 21-374. Filed for public inspection March 12, 2021, 9:00 a.m.]

**GAME COMMISSION**

[ 58 PA. CODE CH. 147 ]

**Special Permits; Deer Control**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its January 23, 2021, meeting to amend § 147.673 (relating to eligibility and application for DMAP) to make July 1st the deadline for DMAP applications.

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

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

This proposed rulemaking was made public at the January 23, 2021, meeting of the Commission. Comments can be sent until April 7, 2021, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. *Purpose and Authority*

Section 147.673 currently provides an application deadline of May 1st. Reviews by external users and Commission staff identified a deadline of May 1st as too early. For many users of DMAP, the May 1st deadline does not allow adequate time to collect post-winter data, analyze the data and incorporate those results into DMAP applications. In addition, a later deadline will allow more time for landowners to prepare and submit applications. The Commission is proposing to amend § 147.673 to make July 1st the deadline for DMAP applications.

Section 2901(b) of the code (relating to authority to issue permits) provides “the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued.” The amendments to § 147.673 are proposed under this authority.

2. *Regulatory Requirements*

This proposed rulemaking will amend § 147.673 to make July 1st the deadline for DMAP applications.

3. *Persons Affected*

Persons wishing to make application to the DMAP program will be affected by this proposed rulemaking.

4. *Cost and Paperwork Requirements*

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

5. *Effective Date*

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

6. *Contact Person*

For further information regarding this proposed rulemaking, contact 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:** 48-466. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART III. GAME COMMISSION**

**CHAPTER 147. SPECIAL PERMITS**

**Subchapter R. DEER CONTROL**

**DEER MANAGEMENT ASSISTANCE PROGRAM PERMITS**

**§ 147.673. Eligibility and application for DMAP.**

(a) Owners or lessees of private land, hunting clubs or authorized officers or employees of political subdivisions or government agencies are eligible to make application for a DMAP.

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

\* \* \* \* \*

[Pa.B. Doc. No. 21-375. Filed for public inspection March 12, 2021, 9:00 a.m.]