

RULES AND REGULATIONS

Title 58—RECREATION

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Game Commission (Commission) at its April 9, 2022, meeting amends § 141.47 (relating to elk seasons) to eliminate the outdated reference to the elk season orientation.

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

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

Notice of proposed rulemaking was published at 51 Pa.B. 6611 (October 23, 2021).

1. Purpose and Authority

The Commission has historically required mandatory hunter orientation for all hunters successfully drawn for an elk license. The purpose of this orientation was to provide hunters with important information about this unique hunt. The Commission has since transitioned away from this in-person orientation training and now provides hunters with all of the necessary instructions by mail along with their licensing materials. In light of this change in process, the Commission amends § 141.47 to eliminate the outdated reference to the elk season orientation.

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 § 141.47 are adopted under this authority.

2. Regulatory Requirements

This final-form rulemaking amends § 141.47 to eliminate the outdated reference to the elk season orientation.

3. Persons Affected

Persons interested or required to receive important information about hunting elk within this Commonwealth will be affected by this final-form rulemaking.

4. Comment and Response Summary

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

5. Cost and Paperwork Requirements

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

6. Effective Date

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

7. Contact Person

For further information regarding this final-form rulemaking, contact Jason L. DeCoskey, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

Findings

The Commission finds that:

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

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

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 141, are amended by amending § 141.47 to read as set forth in Annex A.

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

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

BRYAN J. BURHANS,
Executive Director

Fiscal Note: Fiscal Note 48-476 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Subchapter C. BIG GAME

§ 141.47. Elk seasons.

(a) *Archery elk season.*

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

* * * * *

(2) *Prohibitions.* While hunting elk during the archery elk season, it is unlawful to:

* * * * *

(iii) Fail to mark the kill site after lawful harvest in accordance with instructions provided by the Commission.

* * * * *

(b) *Regular, extended and late firearms elk seasons and elk seasons established for the Special Conservation License and the Special License.*

(1) *Permitted devices.* It is lawful to hunt elk during the regular, extended and late firearms elk seasons and

elk seasons established for the Special Conservation License and the Special License with any of the following devices:

* * * * *

(2) *Prohibitions.* While hunting elk during the regular, extended and late firearms elk seasons and elk seasons established for the Special Conservation License and the Special License, it is unlawful to:

* * * * *

(iii) Fail to mark the kill site after lawful harvest in accordance with instructions provided by the Commission.

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[Pa.B. Doc. No. 22-773. Filed for public inspection May 27, 2022, 9:00 a.m.]

Title 58—RECREATION

GAME COMMISSION

[58 PA. CODE CH. 147]

Special Permits; Deer Control; Agriculture

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) at its April 9, 2022, meeting amends §§ 147.551—147.559 (relating to agriculture), adds § 147.551a (relating to definitions) and deletes § 147.554 (relating to subpermit) to update and improve the agriculture deer control permit program.

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

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

Notice of proposed rulemaking was published at 51 Pa.B. 6611 (October 23, 2021).

1. *Purpose and Authority*

The agricultural deer control program is a special permit for deer control related to agricultural depredation that generally authorizes farmers to enlist the aid of hunters to remove additional antlerless deer from their agricultural properties outside of regular deer hunting seasons and annual harvest tag allocations. Under the former “red tag” program, farmers applied for and received red plastic tags at a rate of one tag for every 5 acres under cultivation. The farmers were then permitted to distribute these tags out to hunters at a rate of one per hunter, including themselves. Additionally, the farmers themselves, and not the hunters, were responsible for providing monthly harvest reports and collecting and returning all the unused red plastic tags to the Commission.

Over the years, farmers and program administrators have identified issues with the logistics and lack of efficiencies within the program. In response to public requests for various modifications, the Commission organized a meeting of organizations who use or represent groups who use the program. Participants were asked to provide input on what works, what does not work and how the Commission could fix the items that do not work. From this input, the Commission developed a number of amendments intended to improve efficiency and effectiveness of the program for both farmers and hunters.

The first amendment deletes the public access requirement and signage requirements as eligibility criteria for applicants. Properties in Wildlife Management Units 5C and 5D are already exempt from these requirements and this change would remove disparity in program eligibility standards for certain applicants. Furthermore, farmers and Commission staff have identified this requirement as an unnecessary barrier to participation that was not significantly improving hunter access on these properties.

The second amendment increases the number of harvest tags a single hunter can be issued by the farmer from one to four. This change also makes it clear that successful hunters are authorized to keep all deer harvested. This change brings the program into harmony with the four harvest tags per hunter standard under the separate, but related, Deer Management Assistance Program (DMAP). Farmers and Commission staff have identified the old quota as an unnecessary barrier to harvest success that was not significantly improving hunter participation on these properties.

The third amendment alters the program effective dates to August 1 to September 15 and February 1 to April 15. This amendment expanded the summer closure period to protect deer from pressure during peak fawning periods and also reorganized the permit effective dates to run by fiscal year rather than by calendar year. The latter change allows the program application and distribution methods to be consistent with other permits issued by the Commission, including allowing for autorenewals.

The fourth amendment transitions program reporting responsibilities from the farmer to the hunter. This amendment deletes unnecessary paperwork and record keeping responsibilities for farmers and brings the program into harmony with reporting requirements under DMAP where hunters fulfill these roles. With this change, hunters will report both positive and negative harvests for each harvest permit by April 30 each year.

The fifth amendment deletes the former requirement that applicants be residents of this Commonwealth to be eligible for participation in this program. Farmers and Commission staff have identified this requirement as an unnecessary barrier to harvest success that was not significantly improving resident hunter access on these properties.

The sixth amendment replaces the red snap tags formerly issued under this program with harvest permits and associated carcass tags. Also similar to the structure of DMAP, this change will allow the farmer to distribute coupons to hunters who will in turn submit the coupons for harvest permits issued through the Commission’s Pennsylvania Automated License System (PALS). Incidentally, this amendment also necessitates changing the colloquial program reference from “Reg Tag Deer Control Permit” to “agriculture deer control permit” due to the elimination of the red snap tags.

The seventh amendment replaces the program’s very basic baiting authorization standards with the standards currently outlined in § 141.1 (relating to special regulations areas). This change reduces confusion and brings consistency between the baiting authorization under this program and that currently authorized during regular deer hunting seasons.

On April 9, 2022, the Commission also approved a number of floor amendments to the original proposal to further improve and clarify the provisions of the agriculture deer control program. The amendments are in addition to the amendments described previously. The

first change to the original proposal amends the definition of the term “coupon” in § 147.551a to provide greater clarity of this term’s meaning. The second change redefines the process by which an applicant requests and the Commission approves a request for the issuance of additional coupons exceeding the default of one coupon for every 5 acres under cultivation in § 147.552(d) (relating to application), again, to provide clarity. The third change to the original proposal amends § 147.552(f) to highlight that the issuance of coupons limit applies to a permittee’s distribution of coupons to him/herself, thus inferring that the permittee is authorized to receive coupons. The fourth and final change to the original proposal amends the definition of “agriculture deer control permit” in § 147.551a by deleting the criteria establishing who a “qualified person” is under the term “agriculture deer control permit” and creating a new definition for the term “qualified person” to both re-establish this criteria and also highlight the continued allowance of political subdivisions to make application for a conglomeration of separate, but otherwise individually eligible properties located within the jurisdictional boundaries of the political subdivision.

The Commission amends §§ 147.551—147.559, adds § 147.551a and deletes § 147.554 to update and improve the agriculture deer control program. The Commission does not intend these changes take effect immediately, but rather intends that they take effect on November 1, 2022, to allow for a smooth transition to the new program standards.

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 §§ 147.551—147.559, addition of § 147.551a and deletion of § 147.554 are adopted under this authority.

2. *Regulatory Requirements*

This final-form rulemaking amends §§ 147.551—147.559, adds § 147.551a and deletes § 147.554 to update and improve the agriculture deer control program.

3. *Persons Affected*

Persons who use or participate in the agriculture deer control program will be affected by this final-form rulemaking.

4. *Comment and Response Summary*

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

5. *Cost and Paperwork Requirements*

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

6. *Effective Date*

This final-form rulemaking will go into effect on November 1, 2022, and will remain in effect until changed by the Commission.

7. *Contact Person*

For further information regarding this final-form rulemaking, contact Jason L. DeCoskey, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

Findings

The Commission finds that:

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

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

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 147, are amended by amending §§ 147.551—147.559, adding § 147.551a and deleting § 147.554 to read as set forth in Annex A.

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

(c) This order shall become effective on November 1, 2022, and will remain in effect until changed by the Commission.

BRYAN J. BURHANS,
Executive Director

Fiscal Note: Fiscal Note 48-474 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 147. SPECIAL PERMITS

Subchapter R. DEER CONTROL

AGRICULTURE

§ 147.551. General.

Sections 147.552—147.559 (relating to agriculture) establish rules for the submission of applications and the issuance of agriculture deer control harvest permits on lands enrolled in the agriculture deer control program.

§ 147.551a. Definitions.

The following words and phrases, when used in this subchapter shall have the meanings given to them in this section, unless the context clearly indicates otherwise:

Agriculture deer control permit—The permit issued to a qualified person that authorizes its holder to issue harvest permit coupons to aid in the removal of deer by shooting on lands under their ownership or control, or both.

Coupon—The coupon issued by the Commission to the holder of an approved agriculture deer control area permit for distribution to qualified hunters entitling the holder to one agriculture deer control harvest permit for the area indicated on the coupon.

Harvest permit—The numbered agriculture deer control harvest permit issued through the Commission’s Pennsylvania Automated Licensing System (PALS), authorizing the holder thereof to hunt antlerless deer in the area

indicated on the coupon. Each harvest permit has its own antlerless deer ear tag attached to be used only for tagging an antlerless deer harvested in the designated area.

Qualified person—An individual defined as a person, as defined in section 2121(c) of the act (relating to killing game or wildlife to protect property). This term also includes political subdivisions as applicants for a conglomeration of separate, but otherwise individually eligible properties located within the jurisdictional boundaries of the political subdivision as set forth in § 147.558a (relating to political subdivisions as applicants).

§ 147.552. Eligibility and application for agriculture deer control permit.

(a) Application for the agriculture deer control permit shall be made on a form provided by the Commission.

(b) An applicant shall submit a copy of a deed or lease showing the applicant to be the owner or have control, or both, of the hunting rights of the land to be covered by the permit.

(c) The applicant shall designate the location and boundaries of the area to be covered by the permit in a manner approved by the Commission.

(d) By default, the Commission will allocate one agriculture deer control coupon for every 5 acres of land that the agriculture deer control permit holder has under cultivation. Applicants may submit a request to the Commission for the issuance of additional coupons. This request must be accompanied by a written deer management plan describing in detail current deer population data and landscape conditions relative to the applicant's land use goals and objectives. The request must also identify the specific number of additional coupons requested. The Commission, in its sole discretion, may approve a request for the issuance of additional coupons if the applicant's deer management plan both justifies an increase and such increase does not conflict with the Commission's broader deer management goals and objectives for any affected Wildlife Management Units.

(e) There is no fee to apply for the agriculture deer control permit.

(f) An agriculture deer control permit holder may not issue more than four coupons to any person, including him/herself, to take deer on the agriculture deer control permit holder's land enrolled in the agriculture deer control program.

§ 147.553. Agriculture deer control harvest permit.

(a) *Validity.* An agriculture deer control harvest permit is valid from August 1 to September 15 and February 1 to April 15 each license year, excluding Sundays, during legal hunting hours as set forth in § 141.4 and Chapter 141, Appendix G (relating to hunting hours).

(b) *Fee for permit.* Coupon holders shall submit a valid, completed coupon and pay the applicable transaction and issuing agent fees to receive a harvest permit.

(c) *Hunting license or exemption.* A harvest permit will only be issued to a person who possesses a valid Pennsylvania hunting license or qualifies for license and fee exemptions under section 2706 of the act (relating to resident license and fee exemptions) for the property covered by the agriculture deer control permit.

(d) *Protective material requirements.* A person issued a harvest permit shall comply with the protective material

requirements of § 141.20(a) (relating to protective material required) at all times while engaged in activities authorized by the permit.

(e) *Possession of permit.* A person issued a harvest permit shall possess the permit at all times while engaged in activities authorized by the permit.

§ 147.554. (Reserved).

§ 147.555. Antlerless deer only.

Only antlerless deer may be taken under this subchapter, unless otherwise authorized by the Director. For the purposes of enforcing this chapter, the term "antlerless deer" has the meaning as defined in § 131.2 (relating to definitions).

§ 147.556. Lawful devices and methods.

(a) *Devices.* A person issued a harvest permit is authorized to hunt and take deer with firearms, bows and crossbows as may be authorized for hunting deer during the regular firearms deer season as provided in the act and § 141.43 (relating to deer seasons).

(b) *Methods.* A person issued a harvest permit for an agriculture deer control area in the southeast special regulations areas is authorized to hunt or take deer through the use of or by taking advantage of bait in the manner set forth in § 141.1(d)(7) (relating to special regulations areas).

(c) *Further restrictions.* An agriculture deer control permit holder may further restrict the use of devices and methods authorized under this section on lands under the agriculture deer control permit holder's ownership or control, or both.

§ 147.557. Reporting requirements.

A person issued an agriculture deer control harvest permit shall report either a positive or negative harvest report, whichever is applicable, on a form provided by the Commission by April 30 each year.

§ 147.558. Tagging requirements.

A person who harvests a deer under the authorization of a harvest permit shall tag the deer in accordance with the requirements of section 2323(a)(1) of the act (relating to tagging and reporting big game kills).

§ 147.558a. Political subdivisions as applicants.

(a) *Eligibility.* Political subdivisions are authorized to apply for an agriculture deer control permit under this subchapter for the limited purpose of managing the agriculture deer control activities occurring on a conglomeration of separate, but otherwise individually eligible properties located within the jurisdictional boundaries of the political subdivision. Any lands, other than those publicly owned, which lie immediately adjacent to and are connected with otherwise individually eligible lands may be included in the conglomeration of properties with the written consent of the owner or lessee thereof.

(b) *Application.* Political subdivisions applying for an agriculture deer control permit are responsible for the collection and submission of the application records required under § 147.552 (relating to eligibility and application for agriculture deer control permit) for each of the properties included in the conglomeration.

§ 147.559. Violations.

(a) It is unlawful to:

(1) Use, possess or attempt to use or possess more than four agriculture deer control harvest permits for a specific agriculture deer control area in any permit year.

(2) Use or possess or attempt to use or possess agriculture deer control harvest permit that was issued to another person.

(3) Lend or transfer an agriculture deer control harvest permit to any other person regardless of the purpose.

(4) Issue more than four coupons to any person for a specific agriculture deer control area in any permit year.

(5) Fail to tag any deer taken with an agriculture deer control harvest permit in accordance with provisions of this part and the act relating to tagging big game.

(6) Fail to submit harvest report and survey information in accordance with instructions provided.

(7) Charge or accept any fee or consideration for a coupon.

(8) Fail to comply with any other provisions of §§ 147.551—147.558a (relating to agriculture).

(b) The Director may revoke a permit for a violation of this subchapter upon written notice to the agriculture deer control permit holder.

[Pa.B. Doc. No. 22-774. Filed for public inspection May 27, 2022, 9:00 a.m.]