

# PROPOSED RULEMAKING

## GAME COMMISSION

[58 PA. CODE CHS. 135 and 141]  
Game Lands and Goose Hunting

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 8, 1996, meeting, proposed the following amendments:

Amend § 135.2 (relating to unlawful actions) to allow individuals permanently confined to wheelchairs to use electric powered wheelchairs on State Game Lands.

Amend § 141.25 (relating to early and late goose hunting seasons) by establishing new season dates with the guidelines approved by the United States Fish and Wildlife Service and establishing new geographical boundaries for this season.

The amendments are made under 34 Pa. Code (relating to the Game and Wildlife Code) (code).

*Proposed Amendment to § 135.2*

### 1. Introduction

During meetings held between representatives of the Commission and representatives of organizations of sportsmen with disabilities (Sportsmen), the Sportsmen requested changes to Commission regulations relating to disabled access to State Game Lands. After careful staff consideration of these requests, the Commission, at its October 8, 1996, meeting, proposed changing § 135.2, relating to unlawful acts on State Game Lands, to permit additional access for Sportsmen permanently confined to wheelchairs. This change is adopted under section 721(a) of the code (relating to control of property) and is consistent with the spirit of Title II of the Federal Americans with Disabilities Act.

### 2. Purpose and Authority

As was indicated in the Introduction paragraph of this Preamble, representatives of the Commission are regularly meeting with representatives of groups of sportsmen with disabilities to discuss matters of mutual concern. During one meeting, a request was made to allow wheelchairs on State Game Lands. After staff consideration, it was decided that individuals permanently confined to wheelchairs could be permitted on game lands in electric wheelchairs without excessive damage to wildlife and wildlife habitat.

Section 721(a) of the code authorizes the Commission to promulgate regulations necessary to properly manage lands under its control. Section 2923 of the code (relating to disabled person permits) provides for disabled person permits and allows individuals holding these permits to hunt from a vehicle.

### 3. Regulatory Requirements

The proposed change relaxes current restrictions. Individuals taking advantage of this change must be permanently confined to a wheelchair and use an electric powered wheelchair.

### 4. Persons Affected

Individuals permanently confined to wheelchairs will be affected by the change.

### 5. Cost and Paperwork

The proposed change would not involve additional cost or paperwork.

### 6. Effective Dates

The proposed change would be effective on final adoption and publication in the *Pennsylvania Bulletin* and would remain in effect until changed by the Commission.

*Proposed Amendment to § 141.25*

### 1. Introduction

To more effectively manage the wildlife resources of the Commonwealth, the Commission at its October 8, 1996, meeting proposed updating § 141.25 relating to early and late goose hunting seasons for 1997. The proposed change would provide for a late Canada goose hunting season from January 15 through February 15, 1997, in most of this Commonwealth with the exception of parts of the northwestern and southeastern regions.

These special seasons, which were originally adopted under sections 322(c)(1) and 2102(b)(1) of the code (relating to powers and duties of Commission; and regulations) would be established with the approval of the Atlantic Waterfowl Council (AWC) and the United States Fish and Wildlife Service (USFWS). The primary purpose of the early and late seasons is to reduce resident Canada goose populations which should reduce crop damage and nuisance goose complaints.

### 2. Purpose and Authority

Resident Canada goose populations have been increasing in most of this Commonwealth since the 1970's. Associated with these increases have been increases in crop damage and nuisance complaints. The Commission has sought to direct harvest pressure at growing resident goose populations through longer seasons and larger bag limits. At the same time, the USFWS has closed the regular goose season because of concerns about migratory populations.

The early and late Canada goose seasons allowed in prior years were successful in harvesting nuisance geese and providing additional recreational opportunities. This solution to the nuisance resident goose problem can only work over a period of time, however. That is why the Commission has proposed a late season for 1997. Part of northwestern Pennsylvania has been excluded from the late season because the USFWS has allowed a regular goose season. Part of southeastern Pennsylvania has been excluded by the USFWS because of a concern that a high percentage of migratory geese may be harvested.

Section 322 of the code specifically empowers the Commission to "... fix seasons ... and daily, season, and possession limits for any species of game or wildlife." Section 2102(b) of the code mandates that the Commission promulgate regulations relating to seasons and bag limits. The authority for the permit aspects of the proposed amendment is section 2901(b) of the code (relating to authority to issue permits).

### 3. Regulatory Requirements

The proposed change would not involve regulatory requirements exceeding what is already in § 141.25. A migratory game bird license would be required to hunt Canada geese in the late season.

4. *Persons Affected*

Persons wishing to hunt Canada geese in this Commonwealth in the late season would be affected by this amendment. Farmers and others experiencing crop and other goose damage in the affected area would benefit from the reduction in populations.

5. *Cost and Paperwork Requirements*

There would be no additional cost or paperwork.

6. *Effective Dates*

The effective dates are January 15, 1997, to June 30, 1997.

*Contact Person*

For further information on the proposed changes, contact James R. Fagan, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

(*Editor's Note:* A document amending § 141.25, which is proposed to be amended in this document, appears at 26 Pa.B. 5440 (November 9, 1996).)

**Fiscal Note:** 48-95. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART III. GAME COMMISSION**

**CHAPTER 135. LANDS AND BUILDINGS**

**Subchapter A. GENERAL PROVISIONS**

**§ 135.2. Unlawful actions.**

In addition to the prohibitions in the act on lands, waters or buildings under Commission ownership, lease or jurisdiction, it is unlawful, except with the permission of the person in charge of the lands, to:

\* \* \* \* \*

(6) Travel on lands by means of vehicle or conveyance propelled by motorized power. **This prohibition does not include the travel by individuals permanently confined to a wheelchair propelled by electric power obtained from batteries. Individuals desiring to hunt from an electric powered wheelchair shall**

have a disabled person permit under section 2923 of the code (relating to disabled person permits).

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**CHAPTER 141. HUNTING AND TRAPPING**

**Subchapter B. SMALL GAME**

**§ 141.25. Early and late goose hunting seasons.**

\* \* \* \* \*

**(b) *Bag limit, late season and description.*** There is a daily bag limit of five and a possession limit of ten geese. Subject to approval of the United States Fish and Wildlife Service, there is a late Canada goose hunting season beginning on January 20 (except when Sunday, then January 21), and ending February 5 (except when Sunday, then February 4), on and within 5 miles of the Susquehanna, West Branch of the Susquehanna and Juniata Rivers and designated bridges. Designated bridges are the Interstate Route 76 bridge on the south, the State Route 103 bridge at Lewistown on the west, the Constitution Bridge at Lock Haven on the northwest, and the Interstate Route 80 bridge on the northeast. Portions of the following counties are included: Clinton, Columbia, Cumberland, Dauphin, Juniata, Lycoming, Mifflin, Montour, Northumberland, Perry, Snyder, Union and York.]

**(b) *Late season and description.***

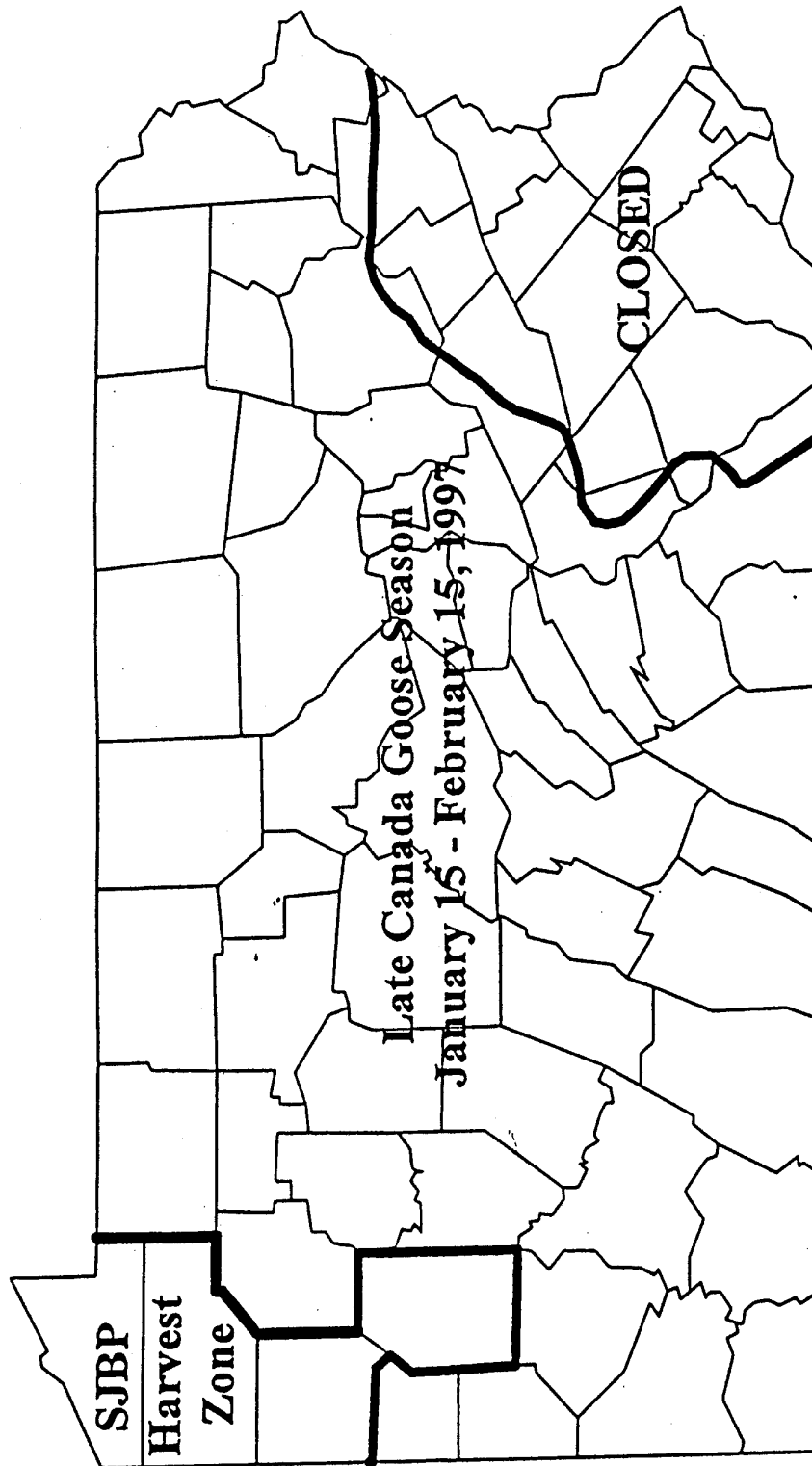
(1) Subject to approval of the United States Fish and Wildlife Service, there is a late Canada goose hunting season beginning on January 15 (except when Sunday, then January 16), and ending on February 15 (except when Sunday, then February 14) Statewide, with the exception of Erie, Mercer, Butler, Crawford and the area east of I-83 from the Maryland State line to the intersection of U. S. Route 30 to the intersection of S. R. 441, east of S. R. 441 to intersection of I-283, east of I-283 to I-83, east of I-83 to intersection of I-81, east of I-81 to intersection of I-80, and south of I-80 to the New Jersey State line.

(2) ***Bag limit.*** There is a daily bag limit of five and a possession limit of ten geese.

(3) ***Map.*** See map of Late Canada Goose Areas in Appendix E.

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APPENDIX E



[Pa.B. Doc. No. 96-1887. Filed for public inspection November 8, 1996, 9:00 a.m.]