

# RULES AND REGULATIONS

## Title 58—RECREATION

### GAME COMMISSION

#### [58 PA. CODE CHS. 135 AND 147]

#### Lands and Buildings; Special Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 8, 2003, meeting, adopted the following amendments:

Amend § 135.41 (relating to State game lands) to exempt persons who may lawfully hunt without orange from the requirement to wear orange on state game lands (SGL) from November 15 through December 15; and § 147.701 (relating to general) to allow bobcat permit applications from applicants who have applied for bobcat permits in previous years to be included in the drawing until the applicant is successfully drawn.

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

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

Notice of proposed rulemaking was published at 33 Pa.B. 1350 (March 15, 2003).

#### 1. *Introduction*

The Commission has amended §§ 135.41 and 147.701.

#### 2. *Purpose and Authority*

New State game lands regulations were promulgated in April 2002, which included the broad requirement for anyone present on SGL from November 15 through December 15 to wear fluorescent orange. There are, however, open hunting seasons during that same time period that do not require hunters to wear fluorescent orange (for example, duck hunting). A conflict of regulations may be created in this circumstance, since some hunters are permitted by the regulations to hunt without wearing any fluorescent orange during certain open seasons, yet would be required to wear fluorescent orange while on SGL from November 15 through December 15. This final-form rulemaking is designed to remove this inconsistency by providing an exception to the requirement to wear fluorescent orange for those persons *lawfully* engaged in hunting (emphasis added). This exception will apply only to those persons lawfully hunting from November 15 through December 15 during an open season that does not require the wearing of fluorescent orange.

The amendments to § 147.701 provide for a preference for those applicants who have applied annually for bobcat hunting/trapping permits but have been unsuccessful in having their application drawn. Under this preference, those applicants who have applied in the previous year or previous consecutive years will have their prior years applications remain in the pool of applications from which successful applicants are drawn, thus accruing preference and increasing their chances of being drawn for a permit. For example, if a person has applied for the 5th consecutive year, but has not been successfully drawn during the previous 4 years, that person will have five chances to be drawn in that 5th year's drawing.

Section 721(a) of the code (relating to control of property) provides "The administration of all lands or waters

owned, leased or otherwise controlled by the commission shall be under the sole control of the director; and the commission shall promulgate regulations . . . for its use and protection as necessary to properly manage these lands or waters." Section 2102(a) of the code (relating to regulations) authorizes the Commission to: "promulgate such regulations as it deems necessary and appropriate concerning . . . 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 amendment to § 135.41 was made under this authority.

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 amendment to § 147.701 was made under this authority.

#### 3. *Regulatory Requirements*

The final-form rulemaking will permit hunters who are lawfully hunting during an open season that does not require the wearing of fluorescent orange to hunt on SGL without wearing fluorescent orange and will allow bobcat permit applicants to accrue preference and increase their chances of being drawn for a permit by applying annually.

#### 4. *Persons Affected*

Persons wishing to hunt on SGL and persons applying for bobcat permits will be affected by the final-form rulemaking.

#### 5. *Comment and Response Summary*

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

#### 6. *Cost and Paperwork Requirements*

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

#### 7. *Effective Date*

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

#### 8. *Contact Person*

For further information regarding the final-form rulemaking, contact Michael A. Dubaich, Director, Bureau of Law Enforcement, 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) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(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 Chapters 135 and 147, are amended by amending § 135.41 to read as set forth at 33 Pa.B. 1350 and by amending § 147.701 to read as set forth in Annex A.

(b) The Executive Director of the Commission shall certify this order, 33 Pa.B. 1350 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*.

VERNON R. ROSS,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48-160 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 58. RECREATION**

**PART III. GAME COMMISSION**

**CHAPTER 147. SPECIAL PERMITS**

**Subchapter S. BOBCAT HUNTING-TRAPPING PERMIT**

**§ 147.701. General.**

This section provides for permits to be issued for the hunting and trapping of bobcat during the season established and in areas designated under § 139.4 (relating to seasons and bag limits for the license year).

(1) A permit will only be issued to residents of this Commonwealth who possess a valid resident furtakers license, junior combination license, senior combination license or qualify for license and fee exemptions under section 2706 of the act (relating to resident license and fee exemptions) or to persons who qualify under section 2363 of the act (relating to trapping exception for certain persons).

(2) The fee for an application for a permit to take a bobcat is \$5.

(3) Applications shall be submitted on a form supplied by the Commission or by using an electronic application on the Commission's Internet website and shall contain the required information as requested. For the purpose of having a unique identifier assigned to each individual in the database, permitting a crosscheck for duplicates, applicants shall provide their Social Security number on the application, or some other appropriate form of individual identification. A \$5 application fee shall accompany the application and is nonrefundable. Applications shall be submitted to the Commission's Harrisburg Headquarters.

(4) Applications may only be submitted between July 1 and the third Friday in August. Applications post marked later than the third Friday in August will be rejected.

(5) Only one application per person may be submitted. Anyone submitting more than one application for a permit will have all applications rejected.

(6) The selection of applications will be made by random drawing from all eligible applications submitted. Incomplete, illegible or duplicate applications will not be included in the drawing. The drawing will be held at the Commission's Harrisburg Headquarters on the second Friday in September and shall be open to the public.

(7) A special permit authorizing the lawful taking of one bobcat will be delivered to successful applicants by standard first class mail through and by the United States Postal Service. Permits shall be mailed by the first Friday in October. The number of permits issued shall be set by the Executive Director no later than the first day of June.

(8) Tagging requirements are as follows:

(i) A permitted person taking a bobcat shall immediately, before removing the bobcat from the location of the taking, fully complete a temporary carcass tag furnished with the permit, which contains in English the person's name, address, special permit number, date of harvest, county and township of harvest, wildlife management unit of harvest and method of harvest and attach the tag to the bobcat. The bobcat carcass shall remain intact, that is, with entrails, until examined and tagged by a Commission representative. The temporary carcass tag shall remain attached to the animal until it is tagged with a numbered permanent interlocking tag. The person taking the bobcat may remove the pelt provided the pelt is kept with the carcass for examination and tagging.

(ii) A permitted person taking a bobcat shall contact the Commission within 48 hours of the taking by telephoning the number specified on the permit to arrange for carcass examination, data collection and tagging.

(iii) A bobcat taken under authority of a special permit shall be tagged with a numbered permanent interlocking tag no later than 4 p.m. on the 10th day following the closing of the bobcat season.

(iv) The tag shall remain attached to the bobcat until it is mounted, tanned, made into a commercial fur or prepared for consumption.

(9) An applicant issued a bobcat hunting-trapping permit is not permitted to apply for another bobcat hunting-trapping permit the next license year. Applications from current applicants who have applied in the 2003-2004 license year and preceding years will be included in the drawing until the applicant is successfully drawn and issued a permit.

(10) A bobcat guide permit will be issued as follows:

(i) A person who assists another person to hunt or take bobcats in any manner shall first secure a bobcat guide permit from the Commission.

(ii) The fee for a bobcat guide permit is \$10 for residents and \$25 for nonresidents.

[Pa.B. Doc. No. 03-1111. Filed for public inspection June 13, 2003, 9:00 a.m.]

**[58 PA. CODE CH. 141]  
Hunting and Trapping**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 8, 2003, meeting, proposed the following amendments:

Amend § 141.7(b) (relating to use of artificial lights) to make an editorial change to clarify a reference to the concurrent antlered and antlerless deer season; § 141.25 (relating to early goose hunting season) to make an editorial change to bring regulations in compliance with season frameworks approved by the United States Fish

and Wildlife Service (Service); and § 141.48 (relating to elk management units) to provide fewer but larger management areas.

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

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

Notice of proposed rulemaking was published at 33 Pa.B. 1351 (March 15, 2003).

#### 1. Introduction

The Commission has amended §§ 141.7(b), 141.25 and 141.48.

#### 2. Purpose and Authority

With the advent of the concurrent antlered/antlerless deer season, there is no longer a need for the separate antlered deer season and antlerless deer season reference found in § 141.7(b). The final-form rulemaking corrects language in § 141.7(b) to reflect current regulations.

The Service has made changes in Federal season frameworks. One change, regarding Canada goose hunting, removes the reference to "late goose hunting" from the Federal regulations. The amendments to § 141.25 removes the reference to "late goose hunting season" to stay in compliance with the Federal regulations.

In April 2002, the elk management areas were revised to provide fewer, but larger, management areas. This revision improved hunter opportunity and management capability, except in management area 11. This area, found in the vicinity of the community of Saint Marys, is largely private agricultural and forestland with very limited public hunting access. Elk hunting harvest success was only 17% in this area, as opposed to the average of 94% in all other areas last season. The amendments to § 141.48 combine elk management units 1 and 11 into a single unit in an effort to improve hunter success rates and provide additional opportunities for a hunter to be selected for an elk license in this area of the elk range.

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." Section 2102(a) of the code provides "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." These provisions provide the statutory authority for the amendment to § 141.7(b).

Section 322(c)(1) of the code (relating to powers and duties of commission) specifically empowers the Commission to "fix seasons . . . and daily, season and possession limits for any species of game or wildlife." Section 2102(b)(1) of the code authorizes the Commission to "promulgate regulations relating to seasons and bag limits for hunting. . . ." Section 2102(a) of the code provides "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. . . ." These provisions provide the statutory authority for the amendment to § 141.25.

Section 2705(15) of the code (relating to classes of licenses) provides that: "To ensure sound management of Pennsylvania's wild elk population, the commission may promulgate regulations to establish a limited number of licenses." Section 322(c)(4) of the code specifically authorizes the Commission to "Define geographic limitations or restrictions." Section 2102(a) of the code provides "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. . . ." These provisions provide the statutory authority for the amendment to § 141.48.

#### 3. Regulatory Requirements

The final-form rulemaking makes an editorial change to remove the reference to the concurrent antlered and antlerless deer season to reflect current regulations, makes an editorial change to remove the reference to "late goose hunting" to reflect current Federal waterfowl regulations and provides fewer, but larger, elk management units by combining elk management units 1 and 11 into a single unit.

#### 4. Persons Affected

Persons wishing to spotlight during deer season, hunt Canadian geese and hunt elk will be affected by the final-form rulemaking.

#### 5. Comment and Response Summary

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

#### 6. Cost and Paperwork Requirements

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

#### 7. Effective Date

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

#### 8. Contact Person

For further information regarding the final-form rulemaking, contact Michael A. Dubaich, Director, Bureau of Law Enforcement, 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) and the regulations thereunder, 1 Pa. Code § 7.1 and 7.2.

(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 §§ 141.7, 141.25 and 141.48 and Appendix F to read as set forth at 33 Pa.B. 1351.

(b) The Executive Director of the Commission shall certify this order and 33 Pa.B. 1351 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*.

VERNON R. ROSS,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48-161 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 03-1112. Filed for public inspection June 13, 2003, 9:00 a.m.]

[58 PA. CODE CH. 141]

**Hunting and Trapping; Rimfire Rifle**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 8, 2003, meeting, adopted the following amendments:

Amend §§ 141.1(d) and 141.22(a)(4) (relating to special regulations areas; and small game) to permit the use of the new .17 caliber rimfire cartridge.

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

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

Notice of proposed rulemaking was published at 33 Pa.B. 1353 (March 15, 2003).

1. *Introduction*

The Commission has amended §§ 141.1(d) and 141.22(a)(4) to permit the use of the new .17 caliber rimfire cartridge.

2. *Purpose and Authority*

The Commission recently promulgated language making the .17 caliber rimfire legal for taking small game. Formerly, the use of the .17 caliber rimfire cartridge was not permitted for taking small game, furbearing animals, crows or other wildlife in the special regulations areas or for dispatching an animal legally caught in a trap. The final-form rulemaking permits use of the .17 caliber rimfire cartridges lawful in all these situations.

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 possession of certain species or parts thereof, the number and types of devices and equipment allowed, the identification of devices and the use and possession of devices.” Section 2102(d) of the code 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 §§ 141.1(d) and 141.22(a)(4) were made under these provisions of the code.

3. *Regulatory Requirements*

The final-form rulemaking does not impose any additional restrictions, but rather permits all hunters and furtakers to use the new .17 caliber rimfire cartridge.

4. *Persons Affected*

Persons wishing to hunt small game or dispatch furbearers will be affected by the final-form rulemaking.

5. *Comment and Response Summary*

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

6. *Cost and Paperwork Requirements*

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

7. *Effective Date*

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

8. *Contact Person*

For further information regarding the final-form rulemaking, contact Michael A. Dubaich, Director, Bureau of Law Enforcement, 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) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(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 § 141.1 to read as set forth in Annex A and by amending § 141.22 to read as set forth at 33 Pa.B. 1353.

(b) The Executive Director of the Commission shall certify this order, 33 Pa.B. 1353 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*.

VERNON R. ROSS,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48-159 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 58. RECREATION**

**PART III. GAME COMMISSION**

**CHAPTER 141. HUNTING AND TRAPPING**

**Subchapter A. GENERAL**

**§ 141.1. Special regulations areas.**

(a) *Name.* The areas shall be known and referred to as special regulations areas.

(b) *Descriptions.*(1) *Southwest area.* Includes the County of Allegheny.(2) *Southeast area.* Includes the Counties of Bucks, Montgomery, Chester, Delaware and Philadelphia and also includes Tyler and Ridley Creek State Parks and other publicly-owned lands therein.(c) *Prohibitions.*

(1) Except as provided in subsection (d), it is unlawful to take, kill or attempt to take or kill wildlife through the use of a firearm of any description which discharges single-projectile ammunition, or, while hunting for wild birds or wild animals, to possess single-projectile ammunition, except for employees of political subdivisions and other persons who have a valid deer control permit issued under the authority of Chapter 29 of the act (relating to special licenses and permits).

(2) It is unlawful to use buckshot in Allegheny or Philadelphia Counties without specific authorization of the Director.

(d) *Permitted acts.* It is lawful to:

(1) Except in Philadelphia County, Ridley Creek State Park, Delaware County and Tyler State Park, Bucks County, hunt and kill deer through the use of a muzzleloading long gun or a shotgun, at least .410 gauge (rifled barrels permitted), including semiautomatics which, upon discharge, propel a single projectile.

(2) Take deer with a shotgun 20 gauge or larger-including semiautomatic-using buckshot in the Southeast area only.

(3) Take small game, furbearing animals, crows or wildlife with a manually operated rimfire rifle or handgun .22 caliber or less.

(4) Kill an animal legally caught in a trap with a manually operated rimfire rifle or handgun .22 caliber or less while trapping.

[Pa.B. Doc. No. 03-1113. Filed for public inspection June 13, 2003, 9:00 a.m.]

[58 PA. CODE CH. 141]  
Hunting and Trapping; Shooting Hours

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 8, 2003, meeting, adopted the following amendment:

Amend Chapter 141 (relating to hunting and trapping) to add Appendix G to provide actual hunting hours by adding the table of shooting hours and the Pennsylvania meridian map.

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

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

Notice of proposed rulemaking was published at 33 Pa.B. 1355 (March 15, 2003).

1. *Introduction*

The Commission has amended Chapter 141 by adding Appendix G.

2. *Purpose and Authority*

Although § 141.4 (relating to hunting hours) does provide that hunting hours are 1/2 hour before sunrise to sunset, the actual times are not stated in Chapter 141. Therefore, the Commission added the table of hunting hours and Pennsylvania Meridian Map to Chapter 141 to clearly define the legal hunting hours and also make them available for reference.

Section 322(c)(1) of the code (relating to powers and duties of commission) specifically empowers the Commission to "fix seasons, daily shooting or taking hours, and any modifications thereof. . . ." Section 2102(a) of the code (relating to regulations) authorizes the Commission to "promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting. . . ." Section 2102(b)(1) of the code authorizes the Commission to "promulgate regulations relating to seasons and bag limits for hunting. . . ." These provisions provide the statutory authority for the final-form rulemaking.

3. *Regulatory Requirements*

The final-form rulemaking does not change any existing regulations but rather adds a table listing the legal hunting hours and an accompanying Pennsylvania Meridian Map to the regulations.

4. *Persons Affected*

Persons wishing to find a table of shooting hours in the regulations will be affected by the final-form rulemaking.

5. *Comment and Response Summary*

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

6. *Cost and Paperwork Requirements*

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

7. *Effective Date*

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

8. *Contact Person*

For further information regarding the final-form rulemaking, contact Michael A. Dubaich, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

*Findings*

The Commission finds that:

(1) Public notice of intention to adopt the administrative amendment 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) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(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 adding Appendix G to read as set forth at 33 Pa.B. 1355 and by amending § 141.4 to read as set forth in Annex A, with ellipses referring to the existing text of the regulation.

(b) The Executive Director of the Commission shall certify this order, 33 Pa.B. 1355 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*.

VERNON R. ROSS,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48-158 remains valid for the final adoption of the subject regulations.

**Annex A**  
**TITLE 58. RECREATION**  
**PART III. GAME COMMISSION**  
**CHAPTER 141. HUNTING AND TRAPPING**  
**Subchapter A. GENERAL**

**§ 141.4. Hunting hours.**

During open hunting seasons, wild birds and animals may be taken 1/2 hour before sunrise to sunset unless further restricted. (See Pennsylvania Meridian Map and Table of Hunting Hours in Appendix G.)

\* \* \* \* \*

[Pa.B. Doc. No. 03-1114. Filed for public inspection June 13, 2003, 9:00 a.m.]

**[58 PA. CODE CHS. 141 AND 143]**

**Hunting and Trapping; Hunting and Furtaker Licenses**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 8, 2003, meeting, adopted the following amendments:

Amend § 141.43(a)(3) and (4) (relating to deer) to remove the reference to flintlock muzzleloading season and replace it with firearms deer season and delete subsection (d)(5) to remove any inconsistency in the regulations; and § 143.84 (relating to application) by extending the date to apply for a flintlock muzzleloader license.

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

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

Notice of proposed rulemaking was published at 33 Pa.B. 1357 (March 15, 2003).

**1. Introduction**

The Commission amended § 141.43(a)(3) and (4) and deleted subsection (d)(5) to remove any inconsistency in the regulations and amended § 143.84 to extend the application date for a flintlock muzzleloader license.

**2. Purpose and Authority**

After implementing an early rifle season for qualified hunters and an early muzzleloader season that is no longer restricted to flintlock muzzleloaders, § 141.43(a)(3) and (4) needed to be amended to replace any references to "flintlock muzzleloader season" with "firearms season." These changes should remove any inconsistency in the regulations. For these same reasons, § 141.43(d)(5) needed to be completely removed. Additionally, the Com-

mission extended the purchase deadline for muzzleloader licenses from the current date of August 31 to no later than the second Saturday in November to allow muzzleloader hunters more time to purchase a muzzleloader license.

Section 2102(a) of the code (relating to regulations) authorizes the Commission to "promulgate such regulations as it deems necessary and appropriate concerning . . . 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 § 141.43(a)(3) and (4) and (d) were made under this authority. 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 § 143.84 were made under this authority.

**3. Regulatory Requirements**

The final-form rulemaking removes language regarding flintlock muzzleloader seasons that is inconsistent with recent amendments to the regulations and extends the date to apply for a muzzleloader license.

**4. Persons Affected**

Persons wishing to hunt during the muzzleloader seasons will be affected by the final-form rulemaking.

**5. Comment and Response Summary**

There were two official comments received in support of the muzzleloader license purchase date extension.

**6. Cost and Paperwork Requirements**

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

**7. Effective Date**

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

**8. Contact Person**

For further information regarding the final-form rulemaking, contact Michael A. Dubaich, Director, Bureau of Law Enforcement, 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) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(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 Chapters 141 and 143, are amended by amending § 141.43 to read as set forth at 33 Pa.B. 1357 and by amending § 143.84 to read as set forth in Annex A.

(b) The Executive Director of the Commission shall certify this order, 33 Pa.B. 1357 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*.

VERNON R. ROSS,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48-157 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 58. RECREATION**

**PART III. GAME COMMISSION**

**CHAPTER 143. HUNTING AND FURTAKE  
LICENSES**

**Subchapter E. FLINTLOCK (MUZZLELOADER)  
DEER LICENSES**

**§ 143.84. Application.**

(a) Application shall be made no later than the second Saturday in November.

(b) A collector may, upon completing an application, purchase a muzzleloading firearm deer season license only after the close of the special flintlock season and is not bound by the procedures in this section.

[Pa.B. Doc. No. 03-1115. Filed for public inspection June 13, 2003, 9:00 a.m.]

**[58 PA. CODE CH. 147]**

**Deer Management Assistance Program**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 8, 2003, meeting, adopted the following amendments:

Add §§ 147.671—147.676 (relating to deer management assistance program permits) to establish rules for the application and issuance of Deer Management Assistance Program (DMAP) harvest permits for use on lands enrolled in a DMAP.

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

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

Notice of proposed rulemaking was published at 33 Pa.B. 1484 (March 22, 2003).

**1. Introduction**

The Commission added §§ 147.671—147.676 to establish rules for the application and issuance of DMAP harvest permits for use on lands enrolled in a DMAP.

**2. Purpose and Authority**

The DMAP was established to provide both public and private landowners with an additional tool for the future management of local white-tailed deer herds on lands where excessive deer numbers have compromised the landowners' land uses and other interests. The additional regulations to Chapter 147 (relating to special permits) will permit qualified landowners to be eligible for a determined allotment of coupons, which may then be distributed by the landowners to hunters. A hunter receiving a coupon will be required to submit the coupon to the Commission, which will authorize and issue a harvest permit for the qualified specific area related to

the submitted coupon. The number of coupons that will be issued to an applicant landowner will be determined by what the landowner's land qualifies for. Where material destruction of cultivated crops, fruit trees or vegetables by deer has been or can be documented, one DMAP harvest permit may be allocated for every 5 acres of land enrolled in the DMAP. On other lands, one DMAP harvest permit will be allocated for every 50 acres enrolled in the DMAP. Additional DMAP harvest permits may be allocated dependent on current conditions relative to goals and objectives outlined in a Commission approved management plan. The new regulations will outline eligibility standards and application procedures for DMAP coupons and harvest permits.

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." Section 2102(a) of the code (relating to regulations) provides "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting . . . in this Commonwealth, including regulations relating to the . . . management of game or wildlife . . ." These provisions provide the statutory authority for the final-form rulemaking.

**3. Regulatory Requirements**

The final-form rulemaking will establish rules for the application and issuance of DMAP harvest permits for use on lands enrolled in a DMAP.

**4. Persons Affected**

Persons wishing to hunt for antlerless deer and persons wishing to have more deer harvested from their land may be affected by the final-form rulemaking.

**5. Comment and Response Summary**

In total, one official comment was received in support and ten official comments were received in opposition to the amendments to Chapter 147. Those opposed to the rulemaking were not opposed to the concept of the DMAP in general, but rather were opposed to the inclusion of the requirement that private lands enrolled in the DMAP be open to public hunting.

**6. Cost and Paperwork Requirements**

The final-form rulemaking will result in some additional cost to the Commission in the form of printing additional antlerless deer licenses and printing and distributing coupons to landowners for the DMAP.

**7. Effective Date**

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

**8. Contact Person**

For further information regarding the final-form rulemaking, contact Michael A. Dubaich, Director, Bureau of Law Enforcement, 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) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(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 adding §§ 147.671—147.676 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*.

VERNON R. ROSS,  
*Executive Director*

**Fiscal Note:** 48-156. (1) Game Fund; (2) Implementing Year 2003-04 is \$1,490; (3) 1st Succeeding Year 2004-05 is \$1,490; 2nd Succeeding Year 2005-06 is \$1,490; 3rd Succeeding Year 2006-07 is \$1,490; 4th Succeeding Year 2007-08 is \$1,490; 5th Succeeding Year 2008-09 is \$1,490; (4) 2002-03 Program—\$N/A; 2001-02 Program—\$N/A; 2000-01 Program—\$N/A; (7) General Government Operations; (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**

Sec.

- 147.671. Purpose and scope.
- 147.672. Definitions.
- 147.673. Eligibility and application for DMAP.
- 147.674. Issuance of DMAP harvest permits.
- 147.675. Validity of permit.
- 147.676. Unlawful acts.

**§ 147.671. Purpose and scope.**

Sections 147.672—147.676 establish rules for application and issuance of DMAP harvest permits for use on lands enrolled in a DMAP.

**§ 147.672. Definitions.**

The following words and terms, when used in this section and §§ 147.671 and §§ 147.673—147.676, have the following meanings unless the context clearly indicates otherwise:

*Coupon*—The coupon issued by the Commission to approved DMAP areas entitling the holder to one DMAP harvest permit for the DMAP area indicated on the coupon.

*DMAP*—Deer Management Assistance Program.

*DMAP harvest permit*—The numbered permit which is issued by the Commission, authorizing the holder thereof to hunt antlerless deer in a specific DMAP area in accordance with provisions in the act and this part as

they pertain to lawfully hunting deer. Each DMAP harvest permit has its own antlerless deer ear tag and antlerless deer harvest report card attached to be used only for tagging and reporting an antlerless deer harvested.

*Public land*—Any land owned or controlled by a Federal or State agency, or municipal political subdivision.

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

(a) In the 2003-2004 license year, DMAP applications will only be accepted for public land, and private land enrolled in one of the Commission's public access programs (Farm Game, Forest Game or Safety Zone—P.1-2-3). Owners or lessees of private land or authorized officers or employees of political subdivisions or government agencies shall apply for the DMAP in a manner and on a form required by the Director. Separate applications for DMAP areas will not be accepted for areas that are within 1 air mile of another area that is owned, leased or controlled by the same person, political subdivision or government agency.

(1) Where material destruction of cultivated crops, fruit trees or vegetables by deer has been or can be documented, one DMAP harvest permit may be allocated for every 5 acres of land enrolled in the DMAP. On other lands one DMAP harvest permit will be allocated for every 50 acres enrolled in the DMAP. Additional DMAP harvest permits may be allocated dependent on current conditions relative to goals and objectives outlined in a Commission-approved management plan.

(b) Applications shall be submitted to a regional office by July 1 immediately preceding the first fall deer hunting season and shall 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 person who will be the contact person for the DMAP as well as other information required on the application.

(1) An application for approval of a management plan that will allow the use of additional DMAP harvest permits on a designated land area shall contain the following information:

(i) A map showing the location and boundaries of the area and the county, township and Commission wildlife management unit the site is located in.

(ii) A description of the management area delineated on the map in subparagraph (i) including the size in acres, cover types (forested, nonforested), principal land uses, huntable areas and safety zones.

(iii) An explanation of deer management goals and objectives for the area.

(iv) An explanation to substantiate why the person in control of the land wants to increase the harvest of antlerless deer by allowing use of DMAP on the area. Area specific information shall be provided that supports the deer management goals and objectives.

(c) Upon approval of the application, the location and boundaries of the area shall be designated in a manner approved by the Commission.

(d) Approved applicants will receive one coupon for each DMAP permit the DMAP area is entitled to.



§ 147.674. Issuance of DMAP harvest permits.

(a) DMAP harvest permits will be made available without regard to quota limitations and will be issued by the Commission.

(b) One coupon for the DMAP area may be issued each license year to persons who possess a valid Pennsylvania hunting license or qualify for license and fee exemptions under section 2706 of the act (relating to resident license and fee exemptions).

(c) Coupon holders shall mail the completed coupon to the Commission along with a \$6 check or money order payable to the "Pennsylvania Game Commission."

(d) While hunting deer, the DMAP harvest permit shall be possessed by the hunter at all times.

§ 147.675. Validity of permit.

(a) DMAP harvest permits are valid only during open seasons for hunting antlerless deer.

(b) DMAP harvest permits are valid only on the DMAP area indicated on the license.

§ 147.676. Unlawful acts.

It is unlawful to:

(1) Use, possess or attempt to use or possess more than one DMAP harvest permit for a specific DMAP area in any license year.

(2) Use or possess or attempt to use or possess a DMAP harvest permit that was issued to another person.

(3) Lend or transfer in any manner whatsoever a DMAP harvest permit to any other person regardless of the purpose.

(4) Issue more than one coupon to any person for a specific DMAP area in any license year.

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

(6) Fail to complete harvest report and survey information in accordance with instructions provided on the report card or the survey, or both.

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

(8) Fail to comply with any other provisions of §§ 147.672—147.675.

[Pa.B. Doc. No. 03-1116. Filed for public inspection June 13, 2003, 9:00 a.m.]

Title 61—REVENUE

DEPARTMENT OF REVENUE

[61 PA. CODE CH. 34]

Corrective Amendment to 61 Pa. Code § 34.4(b)(5)

The Department of Revenue has discovered a discrepancy between the agency text of 61 Pa. Code § 34.4(b)(5) (relating to direct payment permit) as deposited with the Legislative Reference Bureau and as published at 2 Pa.B. 1686 (September 9, 1972) and the official text as published in the *Pennsylvania Code Reporter* (Master Transmittal Sheet No. 208, March 1992) and as currently appearing in the *Pennsylvania Code*.

Therefore, under 45 Pa.C.S. § 901, the Department of Revenue has deposited with the Legislative Reference Bureau a corrective amendment to 61 Pa. Code § 34.4(b)(5). The corrective amendment is effective as of February 29, 1992, the date the defective official text was announced in the *Pennsylvania Bulletin*.

The correct version of 61 Pa. Code § 34.4(b)(5) appears in Annex A, with ellipses referring to the existing text of the regulation.

Annex A

TITLE 61. REVENUE

PART I. DEPARTMENT OF REVENUE

Subpart B. GENERAL FUND REVENUES

ARTICLE II. SALES AND USE TAX

CHAPTER 34. REGISTRATION, RECORDKEEPING AND RETURNS

§ 34.4. Direct payment permit.

\* \* \* \* \*

(b) *Requirements.* To receive a Direct Payment Permit, the following requirements shall be met by the taxpayer:

\* \* \* \* \*

(5) Direct Payment Permit holders are required, as a condition of the issuance of the permission, to provide the Department access to all records maintained to account for the tax due.

\* \* \* \* \*

[Pa.B. Doc. No. 03-1117. Filed for public inspection June 13, 2003, 9:00 a.m.]