

RULES AND REGULATIONS

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE ARCHITECTS LICENSURE BOARD [49 PA. CODE CH. 9] Definitions and Fees

The State Architects Licensure Board (Board) amends §§ 9.2 and 9.3 (relating to definitions; and fees) by defining “sole proprietorship” and clarifying which firm practices are subject to the annual renewal fee to read as set forth in Annex A.

A. *Effective Date*

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

B. *Statutory Authority*

The final-form rulemaking is authorized under section 6(a) of the Architects Licensure Law (act) (63 P. S. § 34.6(a)).

C. *Background and Purpose*

On January 4, 2003, the Board implemented a regulation that assesses a \$50 annual renewal fee for registered architecture firms. Currently registered architecture firms received notice of this new regulation and an assessment of \$100 (the fee is collected biennially). Under section 13(j) of the act (63 P. S. § 34.13(j)), this fee shall be paid by partnerships, professional associations, professional corporations, business corporations, limited liability companies and limited liability partnerships. Although sole proprietorship is listed under section 13 of the act as an acceptable type of firm practice, it is excluded from the list of firm practices in section 13(j) of the act that are required to pay the annual renewal fee. However, sole proprietors received the annual renewal fee bill in error. Once the error was realized, a refund check was issued to those sole proprietors who paid the bill.

The final-form rulemaking, therefore, defines “sole proprietorship” and clarifies which firm practices are subject to the annual renewal fee.

D. *Description of Amendment*

The final-form rulemaking amends § 9.2 to define sole proprietorship as “[a] business form solely owned by an individual architect licensed in this Commonwealth.”

The final-form rulemaking further amends § 9.3 to clarify that only partnerships, professional associations, professional corporations, limited liability companies and limited liability partnerships are subject to the annual renewal fee for registered architecture firms.

E. *Comment and Regulatory Review of Proposed Rulemaking*

On March 30, 2004, the Board, in accordance with the Regulatory Review Act (71 P. S. §§ 745.1—745.15), submitted a copy of proposed rulemaking to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC), the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC). Notice of proposed

rulemaking was published at 34 Pa.B. 1948 (April 10, 2004) with an invitation for public comment.

The Board did not receive any comments from the SCP/PLC, the HPLC or IRRC. A comment was received from AIA Pennsylvania (a Society of the American Institute of Architects). AIA Pennsylvania commented that, in its opinion, the Board’s definition of “sole proprietorship” in § 9.2 was confusing because it might be interpreted as not including a Pennsylvania architect who practices under a fictitious name. The Board adopted its suggestion that the definition in final-form rulemaking read as follows: “A business form solely owned by an individual architect licensed in this Commonwealth.” The Board also adopted an editorial change to § 9.3.

F. *Fiscal Impact and Paperwork Requirements*

The final-form rulemaking should have no fiscal impact on the Commonwealth or its political subdivisions. Likewise, the final-form rulemaking should not necessitate any legal, accounting, reporting or other paperwork requirements.

G. *Sunset Date*

The Board continuously monitors the effectiveness of its regulations. Therefore, no sunset date has been assigned.

H. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 30, 2004, the Board submitted a copy of the notice of proposed rulemaking, published at 34 Pa.B. 1948, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the HPLC and the SCP/PLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on May 10, 2005, the final-form rulemaking was approved by the HPLC. On May 25, 2005, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on May 26, 2005, and approved the final-form rulemaking.

I. *Contact Person*

Further information can be obtained by contacting Roberta Silver, Counsel, State Architects Licensure Board, P. O. Box 2649, Harrisburg, PA 17105-2649, rsilver@state.pa.us.

J. *Findings*

The Board finds that:

(1) Public notice of proposed rulemaking was 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 promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered.

(3) This final-form rulemaking does not enlarge the purpose of proposed rulemaking published at 34 Pa.B. 1948.

(4) This final-form rulemaking is necessary and appropriate for administering and enforcing the authorizing act identified in Part B of this preamble.

K. Order

The Board, acting under its authorizing statutes, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 9, are amended by amending §§ 9.2 and 9.3 to read as set forth in Annex A.

(b) The Board shall submit this order and Annex A to the Office of General Counsel and to the Office of Attorney General as required by law.

(c) The Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect on publication in the *Pennsylvania Bulletin*.

JOHN C. HAAS,
President

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 35 Pa.B. 3368 (June 11, 2005).)

Fiscal Note: Fiscal Note 16A-418 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 9. STATE ARCHITECTS LICENSURE BOARD

GENERAL PROVISIONS

§ 9.2 Definitions.

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

ARE—Architect Registration Examination of the NCARB approved by the Board as the architecture licensure examination.

Accredited program—A program accredited by the National Architectural Accrediting Board to provide courses in architecture and related subjects and empowered to grant professional and academic degrees in architecture.

Act—The Architects Licensure Law (63 P. S. § § 34.1—34.22).

Administrative Code—The Administrative Code of 1929 (71 P. S. § § 51—732).

Board—The Architects Licensure Board as defined in section 4 of the act (63 P. S. § 34.4).

Board prosecutor—An attorney employed through the Office of General Counsel to act as the prosecutor for the Commonwealth before the Board.

Bureau—The Bureau of Professional and Occupational Affairs.

Commissioner—The Commissioner of the Bureau.

Examination—The examination for architectural registration approved by the Board.

IDP—Intern Development Program of NCARB.

IDP council record—A detailed authenticated record of an individual's education, training and character maintained by NCARB.

NAAB—National Architectural Accrediting Boards, Inc.

NCARB—National Council of Architectural Registration Boards, 1735 New York Avenue, NW, Suite 700, Washington, DC 20006.

Plans and models—Drawings, graphic representations or scaled models, or a combination of drawings, graphic representations or models, or reproduction thereof, prepared for the purpose of illustrating proposed or intended designs for the construction, enlargement or alteration of a building or project.

Sole proprietorship—A business form solely owned by an individual architect licensed in this Commonwealth.

Specifications—A written instruction or reproduction thereof describing a material or method of construction proposed or intended to be employed in the construction, enlargement or alteration of a building or project.

§ 9.3. Fees.

Table with 2 columns: Fee description and Amount. Includes items like Initial license (\$40), Reciprocal license with NCARB Certification (\$30), Certification of licensure, registration or scores (\$25), etc.

[Pa.B. Doc. No. 05-1328. Filed for public inspection July 15, 2005, 9:00 a.m.]

Title 58—RECREATION

GAME COMMISSION

[58 PA. CODE CH. 135]

Lands and Buildings

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 26, 2005, meeting, adopted an amendment to § 135.2 (relating to unlawful actions) to improve consistency in the regulations by allowing the Director to authorize and designate the location of certain uses of lands, waters and buildings owned by the Commission.

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 35 Pa.B. 2310 (April 16, 2005).

1. *Purpose and Authority*

Sections 135.41 and 135.51 (relating to State game lands; and designated roads on State game lands open to ATVs) empower the Director to authorize and designate the location of certain uses of lands, waters and buildings owned by the Commission. Formerly, § 135.2 did not provide the same empowerment to the Director and therefore was inconsistent with the previously mentioned sections. The Commission amended § 135.2 to eliminate this inconsistency in the regulations.

The Commission had originally proposed to amend §§ 135.2, 135.41 and 135.51 by adding the words “or designee” after “Director” to allow the Director to authorize another individual to authorize and designate the location of certain uses of lands, waters and buildings owned by the Commission. The purpose of this proposed rulemaking was to allow the Commission to be more responsive to requests for permission for these restricted uses. However, after additional review of the definition of “Director” in section 102 of the code (relating to definitions) it is apparent that the term “designee” is already covered by the definition of “Director,” therefore this amendment was unnecessary.

Section 322(c)(10) of the code (relating to powers and duties of commission) specifically empowers the Commission to “Manage and develop its lands and waters and other government or private lands and waters under agreement with the owners as it considers advisable and, by proper action and proceedings, enact and enforce regulations to insure the prudent and proper use of these lands.” Section 721(a) of the code (relating to control of property) provides “The administration of all lands and waters owned, leased or otherwise controlled by the commission shall be under the sole control of the Director, and the commission shall promulgate regulations . . . for its use and protection as necessary to properly manage these lands or waters.” 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 . . . in this Commonwealth.” The amendment to § 135.2 was adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking will make the language of § 135.2 more consistent with §§ 135.41 and 135.51 by empowering the Director to authorize and designate the location of certain uses of lands, waters and buildings owned by the Commission.

3. *Persons Affected*

Persons using the lands, waters and buildings owned by the Commission 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*

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

6. *Effective Date*

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

7. *Contact Person*

For further information regarding 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 amendment 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 135, are amended by amending § 135.2 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

(Editor's Note: The proposal to amend §§ 135.41 and 135.51, included in the proposal at 35 Pa.B. 2310, has been withdrawn by the Commission.)

Fiscal Note: Fiscal Note 48-202 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 135. LANDS AND BUILDINGS

Subchapter 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, or the written permission of the Director to:

(1) Camp or use campsites.

(2) Plant, gather, cut, dig, remove or otherwise injure plants or parts thereof, including trees, shrubs, vines, flowering plants, cultivated crops, mushrooms and fruits of berry-producing plants.

(3) 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 act (relating to disabled person permits).

(4) Swim in a dam, pond, lake or stream.

(5) Injure, destroy or cause damage to property—real, personal or mixed.

(6) Remove or attempt to remove any manmade or natural object except wildlife and fish lawfully taken. Objects which may not be removed include animals, rocks, minerals, sand and historical or archaeological artifacts.

(7) Participate in, become a part of, contribute to or engage in disorderly conduct as defined in 18 Pa.C.S. §§ 5503 and 5505 (relating to disorderly conduct; and public drunkenness).

(8) Kindle, use or maintain an open fire.

(9) Travel on roads open to vehicular travel with vehicle or conveyance propelled by motorized power which is not licensed or authorized for operation on a public highway under 75 Pa.C.S. (relating to the Vehicle Code).

(10) Violate, fail or neglect to follow instructions posted on signs authorized by the Director.

(11) Travel by mechanical or motorized conveyance or ride animals on newly constructed, seeded or planted roads, or other areas, when posted against the travel.

[Pa.B. Doc. No. 05-1329. Filed for public inspection July 15, 2005, 9:00 a.m.]

GAME COMMISSION [58 PA. CODE CH. 135]

Middlecreek and Pymatuning Waterfowl Management Areas; Youth Shooting Day

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 26, 2005, meeting, adopted an amendment to § 135.103 (relating to registration for controlled goose hunting areas) to allow the Director to designate 1 shooting day at the Middlecreek and Pymatuning Wildlife Management Areas as a youth-only day.

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 35 Pa.B. 2311 (April 16, 2005).

1. Purpose and Authority

The Commission is constantly looking for ways to attract the attention of younger hunters to get them involved or keep them involved with the traditional sport of hunting and trapping. One tool that has been largely successful towards this end has been the creation of expanded or youth-only hunting opportunities. In an effort to continue attracting and maintaining younger generations, the Commission amended § 135.103 to allow the Director to designate a youth-only hunting day at the Middlecreek and Pymatuning Wildlife Management Areas. Specifically, the amended § 135.103 will allow for a special drawing of “junior license holder” applicants prior to the regular drawing. After the special drawing is completed, all unsuccessful “junior license holder” applicants and all other “regular” applicants will be eligible for the remainder of the scheduled shooting days.

Section 322(c)(6) of the code (relating to powers and duties of commission) specifically empowers the Commis-

sion to “Limit the number of hunters or furtakers in any designated area and prescribe the lawful methods of hunting or taking furbearers in these areas.” Section 721(a) of the code (relating to control of property) provides “The administration of all lands and waters owned, leased or otherwise controlled by the commission shall be under the sole control of the Director, and the commission shall promulgate regulations..for its use and protection as necessary to properly manage these lands or waters.” 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 amendment to § 135.103 was adopted under this authority.

2. Regulatory Requirements

The final-form rulemaking will amend § 135.103 to allow the Director to designate 1 shooting day at the Middlecreek and Pymatuning Wildlife Management Areas as a youth-only day.

3. Persons Affected

Persons wishing to hunt waterfowl at the Middlecreek and Pymatuning Wildlife Management Areas may be affected by the final-form rulemaking.

4. Comment and Response Summary

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

5. Cost and Paperwork Requirements

The final-form rulemaking may result in minor additional cost or paperwork, or both, associated with the expanded drawing process.

7. Effective Date

The final-form rulemaking will be effective upon 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 amendment 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 135, are amended by amending § 135.103 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: Fiscal Note 48-203 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 135. LANDS AND BUILDINGS

Subchapter F. SPECIAL WILDLIFE MANAGEMENT AREAS

§ 135.103. Registration for controlled goose hunting areas.

The following apply to reservations for controlled goose hunting areas:

(1) Applications are available in, and shall be submitted from, the current edition of *Digest of Pennsylvania Hunting and Trapping Regulations* supplied with each hunting license.

(2) Reservation requests on official application forms shall be submitted by mail. An application shall contain requested information, including the applicant's current valid hunting license back tag number, including letter.

(i) *Middle Creek Wildlife Management Area.* Applications shall be received by the close of business on the second Tuesday in September. Applications received later than the close of business on the second Tuesday in September will be rejected.

(ii) *Pymatuning Wildlife Management Area.* Applications shall be received by the close of business on the second Saturday in September. Applications received later than the close of business on the second Saturday of September will be rejected.

(3) One official application per person to hunt on one controlled goose hunting area in this Commonwealth may be submitted. Anyone submitting more than one application for a reservation will have all applications rejected.

(4) Selections of mailed application forms will be made by random drawing from all eligible applications submitted. The Director will establish, no later than 20 days prior to the drawing, the number of applications to be drawn.

(i) *Middle Creek Wildlife Management Area.* The drawing will be held on the second Wednesday in September and shall be open to the public.

(ii) *Pymatuning Wildlife Management Area.* The drawing will be held on the third Saturday in September and shall be open to the public.

(iii) *Disabled access blinds.*

(A) A separate drawing shall also be held for the disabled access blinds for persons in possession of a disabled person permit issued under section 2923(a) of the act (relating to disabled person permits). A copy of the current disabled person permit shall accompany the application.

(B) Other provisions of this section apply to disabled access blinds.

(iv) The Director may designate 1 shooting day at the Middle Creek and Pymatuning Wildlife Management Areas as a youth-only day. Adults who accompany a junior hunter on this day may participate in the hunt by calling only. Applications received from junior hunters will be separated and drawn prior to the other applications on the established drawing date for the management area. Unsuccessful applicants for the youth shooting day will then be placed with all other applications and the drawing will proceed until all shooting days are filled.

(5) A reservation is not transferable. The person whose name appears on the reservation shall present the reservation in person at the wildlife management area registration center designated. A reservation shall entitle the applicant to bring not more than three guests with him. Guests shall be present and register.

(6) An individual may hunt 1 day per season on one controlled goose hunting area as a reservation holder, a guest of a reservation holder or by applying for unclaimed reservations. An individual filing more than one application or hunting more than one time per season on a controlled goose hunting area in this Commonwealth shall be denied the privilege of hunting on these areas for 3 years.

(7) A reservation for 1 day is valid only up to 1/2 hour before the daily shooting time.

(8) Blinds will be assigned, by drawing, to reservation holders on the morning of the designated shooting day. A blind which is unclaimed will be assigned by drawing to persons present and applying for the unclaimed blinds on the morning of each shooting day, 1/2 hour prior to shooting time.

[Pa.B. Doc. No. 05-1330. Filed for public inspection July 15, 2005, 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), at its April 26, 2005, meeting, adopted an amendment to § 139.2 (relating to definitions) to remove redundant language to prevent confusion in the regulations regarding hunting hours.

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 35 Pa.B. 2312 (April 16, 2005).

1. Purpose and Authority

It was brought to the attention of Commission staff that certain regulatory language in § 139.2 was redundant and therefore unnecessary. Section 139.2, in relevant part, formerly provided a one-sentence definition of "hunting hours." However, § 141.4 (relating to hunting hours) already establishes when legal hunting hours occur in general and for certain specific seasons. To remove this redundancy and prevent confusion in the regulations, the Commission removed the redundant language in § 139.2.

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 modification thereof . . ." 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 amendment to § 139.2 was adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking eliminates the redundant language in § 139.2 regarding hunting hours.

3. *Persons Affected*

Persons wishing to hunt or trap within this Commonwealth will be affected by the final-form rulemaking.

4. *Comment and Response Summary*

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

5. *Cost and Paperwork Requirements*

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

6. *Effective Date*

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

7. *Contact Person*

For further information regarding 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 amendment 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 139, are amended by amending § 139.2 to read as set forth at 35 Pa.B. 2312.

(b) The Executive Director of the Commission shall certify this order and 35 Pa.B. 2312 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 48-204 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 05-1331. Filed for public inspection July 15, 2005, 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), at its April 26, 2005, meeting, adopted an amendment to § 139.4 (relating to seasons and bag limits for the license year) to provide updated seasons and bag limits for the 2005-2006 hunting license year.

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 35 Pa.B. 1766 (March 19, 2005).

1. *Purpose and Authority*

The Commission is required to set hunting and furtaking seasons and bag limits on an annual basis. The 2005-2006 seasons and bag limits have been amended to conform to current scientific data, harvest reports, field surveys and observations, staff and field input, as well as recommendations received from organized sporting groups, members of the agricultural community and others interested in the wildlife resources of this Commonwealth. Some notable changes for hunters next season will be expanded deer hunting opportunities in Wildlife Management Units (WMU) 5C and 5D, expanded deer hunting opportunities through the Deer Management Assistance Program, expanded bear hunting opportunities, expanded elk hunting opportunities and new and expanded youth-only hunting seasons. Additionally, the Commission has given final approval to the addition of the special wild turkey license, which will enable hunters who purchase this license the ability to harvest a second spring gobbler in the 2006 spring gobbler season. As the next license year is fast approaching, the Commission has amended § 139.4 to provide updated seasons and bag limits for the 2005-2006 license year.

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 amendment to § 139.4 was adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking will establish when and where it is lawful to hunt and trap various game species and also place limits on the numbers that may be legally harvested.

3. *Persons Affected*

Persons wishing to hunt and trap game and wildlife in this Commonwealth will be affected by the final rulemaking.

4. *Comment and Response Summary*

The Commission received a total of 14,354 official comments and 9 petitions containing a total of 4,623 signatures regarding this final-form rulemaking. The comments received regarded the following subtopics:

Deer Season (in general)

Out of a total of 5,120 comments received regarding this subtopic, 963 support concurrent deer season, 3,992 oppose concurrent deer season, 135 oppose open antlerless season for the 2005-2006 hunting license year, 52 oppose current deer bag limits (allow too many per year) and 9 oppose October special firearms season. The breakdown of the 9 petitions received is as follows: 1) 826 oppose concurrent deer season and oppose open antlerless season on public lands north of I-80; 2) 1,677 oppose duration of antlerless season in north central Pennsylvania (too long); 3) 146 support antler restrictions but oppose duration of antlerless season (too long); 4) 46 oppose duration of antlerless season (too long); 5) 410 oppose open antlerless season in WMU 2C; 6) 147 oppose duration of antlerless season (too long); 7) 432 oppose concurrent deer seasons and oppose duration of antlerless season (too long); 8) 833 oppose concurrent deer seasons and oppose duration of antlerless season (too long); and 9) 106 oppose open antlerless season for the 2005-2006 hunting license year.

Archery Season

Out of a total of 4,701 comments received regarding this subtopic, 2,129 oppose duration of archery season (too long), 2,569 support duration of archery season and 3 oppose lack of bear archery season.

Muzzleloader Season

Out of a total of 4,530 comments received regarding this subtopic, 1,685 support October muzzleloader season and 2,845 oppose October muzzleloader season.

Small Game Season

All three comments received regarding this subtopic oppose the duration of small game season (too short).

5. *Cost and Paperwork Requirements*

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

6. *Effective Date*

The effective dates of the final-form rulemaking are July 1, 2005, to June 30, 2006.

7. *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 amendment 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 139, are amended by amending § 139.4 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 be effective from July 1, 2005, to June 30, 2006.

VERNON R. ROSS,
Executive Director

Fiscal Note: Fiscal Note 48-199 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 139. SEASONS AND BAG LIMITS

§ 139.4. Seasons and bag limits for the license year.

(SEASONS AND BAG LIMITS TABLE)

**2005-2006 OPEN HUNTING AND FURTAKING 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 First Day</i>
Squirrels—(Combined species) Eligible Junior Hunters only, with or without the required license, when properly accompanied as required by law	Oct. 8	Oct. 14	6	12
Squirrels—(Combined species)	Oct. 15	Nov. 26	6	12
	Dec. 12	Dec. 23		
	Dec. 26	Feb. 4, 2006		

<i>Species</i>	<i>First Day</i>		<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
Ruffed Grouse—(Statewide)	Oct. 15		Nov. 26	2	4
		and			
	Dec. 12		Dec. 23		
		and			
	Dec. 26		Jan. 28, 2006		
Ruffed Grouse—There is no open season for taking ruffed grouse in that portion of State Game Lands No. 176 in Centre County which is posted "RESEARCH AREA—NO GROUSE HUNTING"					
Rabbits, Cottontail	Oct. 22		Nov. 26	4	8
		and			
	Dec. 12		Dec. 23		
		and			
	Dec. 26		Feb. 4, 2006		
Ringneck Pheasant—Male only in Wildlife Management Units 2A, 2B, 2C, 4C, 4E, 5A, 5B, 5C & 5D Eligible Junior Hunters only, with or without the required license, when properly accompanied as required by law	Oct. 8		Oct. 14	2	4
Ringneck Pheasant—Male or female combined in Wildlife Management Units 1A, 1B, 2D, 2E, 2F, 2G, 3A, 3B, 3C, 3D, 4A, 4B & 4D Eligible Junior Hunters only, with or without the required license, when properly accompanied as required by law	Oct. 8		Oct. 14	2	4
Ringneck Pheasant—Male only in Wildlife Management Units 2A, 2B, 2C, 4C, 4E, 5A, 5B, 5C & 5D	Oct. 22		Nov. 26	2	4
Ringneck Pheasant—Male or female combined in Wildlife Management Units 1A, 1B, 2D, 2E, 2F, 2G, 3A, 3B, 3C, 3D, 4A, 4B & 4D	Oct. 22		Nov. 26	2	4
		and			
	Dec. 12		Dec. 23		
		and			
	Dec. 26		Feb. 4, 2006		
Bobwhite Quail—The hunting and taking of bobwhite quail is permitted in all Wildlife Management Units except in Wildlife Management Units 4A, 4B, 5A, 5B, 5C & 5D where the season is closed.	Oct. 22		Nov. 26	4	8
Hares (Snowshoe Rabbits) or Varying Hares	Dec. 26		Dec. 31	1	2
Woodchucks (Groundhog)	No closed season except during the regular firearms deer seasons and until noon daily during the spring gobbler turkey season.			Unlimited	
<i>Species</i>	<i>First Day</i>		<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Turkey—Male or Female				1	1
Wildlife Management Units 1A & 1B (Shotgun, Bow & Arrow only)	Oct. 29		Nov. 12		
Wildlife Management Units 2A & 2B (Shotgun, Bow & Arrow only)	Oct. 29		Nov. 19		
Wildlife Management Units 2C, 2E, 4A, 4B & 4D	Oct. 29		Nov. 12		

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Wildlife Management Units 2D, 2F, 2G, 3A, 3B, 3C, 3D, 4C & 4E	Oct. 29	Nov. 19		
Wildlife Management Units 5A & 5B (Shotgun, Bow & Arrow only)	Closed to fall turkey hunting			
Wildlife Management Units 5C & 5D	Oct. 29	Nov. 4		
Turkey (Spring Gobbler) Statewide ⁵ Bearded Bird only	April 29, 2006	May 27, 2006	1	2
Turkey (Spring Gobbler) Statewide Youth Hunt ⁵ Bearded Bird only Eligible junior hunters only with the required license and when properly accompanied	April 22, 2006	April 22, 2006	1	1

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—711) as published in the *Federal Register* on or about August 27 and September 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) Subject to approval by the United States Fish and Wildlife Service, an early season for Canada geese will be held as defined in § 141.25.

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
Crows (Hunting permitted on Friday, Saturday and Sunday only)	July 1	Nov. 27		Unlimited
	Dec. 30	April 2, 2006		
Starlings and English Sparrows	No closed season except during the regular firearms deer seasons and until noon daily during the spring gobbler turkey season			Unlimited

FALCONRY

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
Squirrels—(Combined species)	Sept. 1	Mar. 31, 2006	6	12
Quail	Sept. 1	Mar. 31, 2006	4	8
Ruffed Grouse	Sept. 1	Mar. 31, 2006	2	4
Cottontail Rabbits	Sept. 1	Mar. 31, 2006	4	8
Snowshoe or Varying Hare	Sept. 1	Mar. 31, 2006	1	2
Ringneck Pheasant—Male and Female—(Combined)	Sept. 1	Mar. 31, 2006	2	4

Migratory Game Birds—Seasons and bag limits shall be in accordance with Federal regulations.

DEER

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Season Limit</i>
Deer, Antlered & Antlerless—(Statewide) ¹ (Archery—Bows and Arrows Only) Crossbows may be used in Wildlife Management Units 2B, 5C and 5D	Oct. 1	Nov. 12	One antlered and an antlerless deer with each required antlerless license.
	Dec. 26	Jan. 14, 2006	
Deer, Regular Antlered & Antlerless—(Statewide) ¹	Nov. 28	Dec. 10	One antlered, and an antlerless deer with each required antlerless license.

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Season Limit</i>
Deer, Antlerless only—(Statewide) Only Junior and Senior License Holders, ² PGC Disabled Person Permit Holders (to use a vehicle as a blind), and Residents serving on active duty in the U.S. Armed Forces, or in the U.S. Coast Guard, with required antlerless license	Oct. 20	Oct. 22	An antlerless deer with each required antlerless license.
Deer, Antlerless only—(Statewide) (Muzzleloading season)	Oct. 15	Oct. 22	An antlerless deer with each required antlerless license.
Deer, Antlered or Antlerless—(Statewide) ¹ (Flintlock Muzzleloading season)	Dec. 26	Jan. 14, 2006	One antlered, or one antlerless-plus an additional antlerless deer with each required antlerless license.
Deer, Antlerless Wildlife Management Unit 2B	Dec. 26	Jan. 14, 2006	An antlerless deer with each required antlerless license.
Deer, Antlerless Wildlife Management Units 5C & 5D	Dec. 12 and Dec. 26	Dec. 23 and Jan. 28, 2006	An antlerless deer with each required antlerless license.
Deer, Antlerless (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.

BEAR

	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Bear, any age—(Statewide) ⁴	Nov. 21	Nov. 23	1	1
Bear, any age ⁴ Wildlife Management Units 3B, 3C, 3D, 4C and 4E	Nov. 28	Dec. 3	1	1
Bear, any age ⁴ Rockview Prison	Nov. 28	Dec. 3	1	1

ELK

	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Elk, Antlered & Antlerless ⁶ (With each required license)	Nov. 7, 2005	Nov. 12, 2005	1	1
Elk, Antlered & Antlerless ⁶ (With each required license)	Sept. 18, 2006	Sept. 23, 2006	1	1

FURTAKING—TRAPPING

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Minks and Muskrats—(Statewide)	Nov. 19	Jan. 7, 2006	Unlimited	
Beaver—(Statewide)	Dec. 26	Mar. 31, 2006		
Wildlife Management Units 2F & 2G (Combined)			20	20
Wildlife Management Units 1A, 1B, 3A, 3B, 3C & 3D (Combined)			20	40
Wildlife Management Units 2A, 2B, 2C, 2D, 2E, 4A, 4B, 4C, 4D & 4E (Combined)			10	10
Wildlife Management Units 5A, 5B, 5C & 5D (Combined)			6	6

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Coyotes, Foxes, Opossums, Raccoons, Skunks, Weasels—(Statewide)	Oct. 16	Feb. 18, 2006		Unlimited
Bobcat ³ Wildlife Management Units 2C, 2E, 2F, 2G, 3A, 3B, 3C & 3D	Oct. 16	Feb. 18, 2006	1	1

FURTKING—HUNTING

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Coyotes—(Statewide)		Outside of any deer or bear season may be taken with a hunting license or a furtaker's license and without wearing orange.		Unlimited
Coyotes—(During any archery deer season)		May be taken while lawfully hunting deer or with a furtaker's license.		
Coyotes—(During the regular firearms deer season and any bear season)		May be taken while lawfully hunting deer or bear or with a furtaker's license while wearing 250 square inches of daylight fluorescent orange-colored material in a 360° arc.		
Coyotes—(During the spring gobbler turkey season)		May be taken by persons who have a valid tag and meet fluorescent orange and shot size requirements.		
Opossums, Skunks, Weasels ⁷ (Statewide)		No closed season. These species may not be hunted prior to noon during the spring gobbler turkey season.		
Raccoons and Foxes—(Statewide) ⁷ Bobcat ³ Wildlife Management Units 2C, 2E, 2F, 2G, 3A, 3B, 3C & 3D	Oct. 15	Feb. 18, 2006		Unlimited
	Oct. 15	Feb. 18, 2006	1	1

No open seasons on other wild birds or wild mammals.

¹ Only one antlered deer (buck) may be taken during the hunting license year.

² Includes persons 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).

³ Bobcat may only be taken by furtakers in possession of a Bobcat Hunting-Trapping Permit and may not be taken during the regular antlered and antlerless deer season from 1/2 hour before sunrise to sunset.

⁴ Only one bear may be taken during the hunting license year.

⁵ Second spring gobbler may only be taken by persons who possess a valid special wild turkey license as provided for in section 2709 (relating to license costs and fees) of the act.

⁶ Only one elk may be taken during the hunting license year.

⁷ May not be taken during the regular antlered and antlerless deer season from 1/2 hour before sunrise to sunset.

[Pa.B. Doc. No. 05-1332. Filed for public inspection July 15, 2005, 9:00 a.m.]

**GAME COMMISSION
[58 PA. CODE CH. 141]**

Big Game Harvest Report Requirement

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 26, 2005, meeting, adopted an amendment to § 141.41 (relating to general) to establish a big game harvest report requirement.

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 35 Pa.B. 2313 (April 16, 2005).

1. Purpose and Authority

The Legislature recently amended section 2323 of the code (relating to tagging and reporting big game kills) by eliminating the statutory language setting forth the lawful methods and manners for reporting big game kills. The intent behind this amendment was to shift the authority to establish lawful methods and manners for reporting big game kills to the Commission to promote and facilitate alternative methods and manners for reporting other than the harvest report card. To reestablish the big game harvest report requirement in the regulations, the Commission amended § 141.41.

Section 322(c)(11) of the code (relating to powers and duties of commission) specifically empowers the Commission to "Collect, classify and preserve such statistics, data and information as in its judgment will tend to promote the object of this title and take charge and keep all reports, books, papers and documents which shall, in the discharge of its duties, come into its possession or under its control." 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 . . . in this Commonwealth." The amendment to § 141.41 was adopted under this authority.

2. Regulatory Requirements

The final-form rulemaking establishes a big game harvest report requirement in § 141.41.

3. Persons Affected

Persons wishing to harvest big game within this Commonwealth will be affected by the final-form rulemaking.

4. Comment and Response Summary

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

5. Cost and Paperwork Requirements

The final-form rulemaking may result in minor additional cost or paperwork if alternative forms of reporting big game kills are created and implemented.

6. Effective Date

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

7. Contact Person

For further information regarding 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 amendment 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 § 141.41 to read as set forth in Annex A.

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

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

VERNON R. ROSS,
Executive Director

Fiscal Note: Fiscal Note 48-205 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

§ 141.41. General.

(a) *Permitted acts.* It is lawful to take:

(1) Bear or elk with a crossbow with a draw weight of not less than 125 pounds nor more than 200 pounds.

(2) Deer during any firearms season for deer with a crossbow with a draw weight of not less than 125 pounds nor more than 200 pounds.

(3) Deer with a crossbow with a draw weight of not less than 125 pounds nor more than 200 pounds in Wildlife Management Units 2B, 5C and 5D.

(b) It is unlawful to:

(1) Hunt for big game birds or animals with arrows or crossbow bolts other than those tipped with broadheads of a cutting-edge design.

(2) Hunt for deer or bear through the use of any one or more of the following:

(i) A muzzleloading handgun.

(ii) A muzzleloading firearm that is not .44 caliber or larger.

(3) Kill big game by mistake or accident and immediately after killing and before removing any big game from the location of the killing, fail to fully complete the proper game fill tag in compliance with the instructions printed on the tag and attach only the game kill tag to the big game.

(4) Kill big game by mistake or accident and fail to report the killing to the appropriate Commission regional office as soon as possible but no later than 12 hours after the time of kill.

(5) Within 10 days of the kill, fail to complete the report card supplied with the hunting license for reporting big game killed and mail the report card to the Commission at Harrisburg or by any other method designated by the Director.

(6) Receive a DMAP permit without reporting in the manner prescribed on the permit.

[Pa.B. Doc. No. 05-1333. Filed for public inspection July 15, 2005, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CH. 143]

Deadline for Purchasing a Bear License

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 26, 2005, meeting, adopted an amendment to § 143.67 (relating to application) to establish a deadline

for purchasing a bear license prior to the opening of regular firearms deer season.

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 35 Pa.B. 2313 (April 16, 2005).

1. *Purpose and Authority*

Formerly, a hunter could purchase a bear license at the time he purchased his license or at any time up to the close of established bear seasons. This expansive purchasing period had provided certain individuals with the opportunity to abuse the bear license requirement. Specifically, the Commission is aware of certain instances where individuals (without bear licenses) unlawfully harvested bears during the concurrent bear/deer season only to thereafter purchase a bear license to generate the false proof that they had lawfully harvested the bear. To prevent this type of abuse in the future, the Commission amended § 143.67 to establish a deadline for purchasing bear licenses prior to the opening of regular firearms deer 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. 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 amendment to § 143.67 was adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking amends § 143.67 to establish a deadline for purchasing bear licenses prior to the opening of regular firearms deer season.

3. *Persons Affected*

Persons wishing to purchase a bear license to hunt bear in this Commonwealth will be affected by the final-form rulemaking.

4. *Comment and Response Summary*

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

5. *Cost and Paperwork Requirements*

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

6. *Effective Date*

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

7. *Contact Person*

For further information regarding 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 amendment 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 143, are amended by amending § 143.67 to read as set forth at 35 Pa.B. 2313.

(b) The Executive Director of the Commission shall certify this order and 35 Pa.B. 2313 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 48-206 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 05-1334. Filed for public inspection July 15, 2005, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CH. 143]

Hunting and Furtaker Licenses

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 26, 2005, meeting, adopted Chapter 143, Subchapter L (relating to special wild turkey licenses) to provide regulations establishing the opportunity for hunters to purchase a special wild turkey license to take a second bird during the spring gobbler season if the Commission sets a two bird bag limit for the spring gobbler season.

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 35 Pa.B. 1765 (March 19, 2005).

1. *Purpose and Authority*

The General Assembly recently amended section 2705 of the code (relating to classes of licenses) to permit the creation of a "special wild turkey license" to be used in conjunction with an adult or junior resident license, adult or junior nonresident license, senior resident lifetime license, senior lifetime combination hunting and furtaking license or junior resident and nonresident combination hunting and furtaking license. However, before the Commission could make this special license available, it had

to generate the regulatory framework to implement its creation and use. The Commission added Subchapter L accomplish this task.

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. Section 322(c)(3) of the code (relating to powers and duties of commission) specifically empowers the Commission to "Increase or reduce bag limits or possession limits." 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(a) of the code 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 addition of Chapter 143, Subchapter L was adopted under this authority.

2. Regulatory Requirements

The final-form rulemaking will establish the regulatory framework for the creation and use of the special wild turkey license by licensed hunters.

3. Persons Affected

Persons wishing to apply for a special wild turkey license to hunt for and take an additional turkey during the spring gobbler season will be affected by the final-form rulemaking.

4. Comment and Response Summary

The Commission received a total of 11 official comments regarding this final-form rulemaking. Of this total, five comments were in support and six comments were in opposition to the special wild turkey license.

5. Cost and Paperwork Requirements

The final-form rulemaking will result in minor additional cost to the Commission in the form of printing and issuing the proposed special wild turkey licenses.

6. Effective Date

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

7. Contact Person

For further information regarding 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 143, are amended by adding §§ 143.221—147.225 to read as set forth at 35 Pa.B. 1765.

(b) The Executive Director of the Commission shall certify this order and 35 Pa.B. 1765 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 48-201 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 05-1335. Filed for public inspection July 15, 2005, 9:00 a.m.]

GAME COMMISSION [58 PA. CODE CH. 147] Special Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 26, 2005, meeting, adopted amendments to §§ 147.672, 147.674 and 147.676 (relating to definitions; issuance of DMAP harvest permits; and unlawful acts) to allow any defined hunting club to enroll its property in the Deer Management Assistance Program (DMAP), to allow a DMAP applicant to issue up to two coupons per qualified individuals per license year and to allow the Commission to deny refund of any application fees paid for DMAP harvest permits to persons who fail to complete and submit report and survey information from the prior season.

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 35 Pa.B. 1771 (March 19, 2005).

1. Purpose and Authority

DMAP has been in effect for almost two full seasons and has already proven to be an asset to both public and private landowners as a tool for the effective management of local white-tailed deer herds on lands where excessive deer numbers have compromised the landowners' land management objectives, land uses and other legitimate interests. In response to these successes, the Commission has identified a few changes that should make DMAP even more effective in the future.

Formerly, hunting clubs that wished to enroll in DMAP were required to own and enroll 1,000 or more contiguous acres in the program. This restriction severely limited the eligibility of DMAP to smaller hunting clubs. In light of the proven effectiveness of DMAP thus far, the Commission has expanded accessibility to DMAP for smaller hunting clubs that wish to enroll in DMAP. Specifically, the Commission redefined "hunting club" in § 147.672 by removing the restrictive and limiting language regarding required minimum acreage. This amendment should make DMAP more accessible to hunting clubs that do not own or do not wish to enroll 1,000 or more contiguous acres.

Formerly, the requirements and restrictions of §§ 147.674 and 147.676 prevented a DMAP enrollee's ability to issue more than one coupon for each qualified individual per license year. In light of the proven effectiveness of DMAP thus far, the Commission has increased the number of coupons that may be issued by DMAP enrollees. Specifically, the Commission has replaced language in §§ 147.674 and 147.676 limiting the allowable number of coupons a DMAP enrollee may issue to one coupon per qualified individual per license year and replaced it with language limiting the allowable number of coupons a DMAP enrollee may issue to two coupons per qualified individual per license year. This amendment should help make DMAP even more effective in the future towards meeting the deer management goals of both public and private landowners.

The Commission recently amended § 147.674 to allow the Commission to deny issuance of DMAP harvest permits to persons who fail to complete and submit harvest report and survey information from the prior season. As previously mentioned, DMAP is a special program designed to assist landowners in reducing deer herd sizes in certain areas where specific problems exist due to excessive herd sizes. However, accurate harvest data is critically important to making DMAP work effectively. Without accurate harvest data, the Commission is unable to adequately determine DMAP's effectiveness in reaching the landowner's, as well as the Commission's, deer management goals. While the Commission believes that this recent amendment should encourage some complete and timely submissions by current DMAP harvest permitholders, it believes that additional measures are needed to ensure complete compliance with reporting requirements by all DMAP harvest permitholders. Towards this end, the Commission amended § 147.674 to allow the Commission to deny the refund of any application fees paid for DMAP harvest permits to persons who fail to complete and submit harvest report and survey information from the prior season.

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 . . ." The amendments to §§ 147.672, 147.674 and 147.676 were adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking will remove some limitations and expand the eligibility of hunting clubs to enroll in DMAP, will expand a DMAP applicant's ability to issue two coupons per qualified individuals per license year rather than one and will allow the Commission to deny refund of any application fees paid for DMAP harvest permits to persons who fail to complete and submit harvest report and survey information from the prior season.

3. *Persons Affected*

Persons wishing to apply to have their land enrolled in DMAP and persons wishing to submit a DMAP coupon for a DMAP harvest permit will be affected by the final-form rulemaking.

4. *Comment and Response Summary*

The Commission received a total of 138 official comments regarding DMAP. From this total, 65 comments were in support of DMAP, 64 comments were in opposition to the Department of Conservation and Natural Resource's eligibility for DMAP and 9 comments were in support of an increase in the number of coupons a DMAP applicant may issue to each qualified individuals per license year. The Commission also received a petition signed by 1,677 individuals recommending that DMAP be eliminated on public lands north of I-80.

5. *Cost and Paperwork Requirements*

The final-form rulemaking may result in minor additional cost or paperwork associated with additional enrollment and coupon processing costs.

6. *Effective Date*

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

7. *Contact Person*

For further information regarding 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 amending §§ 147.672, 147.674 and 147.676 to read as set forth at 35 Pa.B. 1771.

(b) The Executive Director of the Commission shall certify this order and 35 Pa.B. 1771 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 48-200 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 05-1336. Filed for public inspection July 15, 2005, 9:00 a.m.]

Title 67—TRANSPORTATION

DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CH. 88]

Ignition Interlock

The Department of Transportation (Department), under the authority in 75 Pa.C.S. §§ 3805 and 6103 (relating to ignition interlock; and promulgation of rules and regulations by department), amends Chapter 88 (relating to ignition interlock) to read as set forth in Annex A.

Purpose of this Chapter

The purpose of this final-form rulemaking is to provide standards and procedures for compliance with 75 Pa.C.S. § 3805 regarding the installation of ignition interlock systems on vehicles as a condition for the restoration of the driving privilege after serving suspension for DUI convictions.

Publication for Public Comment

Proposed rulemaking was published at 34 Pa.B. 4885 (September 4, 2004) and the public was invited to submit comments. The proposed rulemaking was also submitted to the Independent Regulatory Review Commission (IRRC) and the House and Senate Transportation Committees (Committees). No comments or objections to the proposed rulemaking were received from the public, IRRC or the Committees.

Persons and Entities Affected

This final-form rulemaking will affect drivers required to install an ignition interlock system on one or more of their vehicles under 75 Pa.C.S. § 3805.

Clarifying Amendment

Federal policy guidelines are based on family income and the size of the family unit. Consequently, the word "household" was inserted into § 88.102(e)(1)(i) (relating to installation of ignition interlock system) to be consistent with the Federal guidelines.

Fiscal Impact

This final-form rulemaking will not require the expenditure of any significant additional funds by the Commonwealth. Providers of ignition interlock systems may incur additional costs in the maintenance of the systems and in monitoring and reporting driver compliance with the final-form rulemaking. These costs will be recouped in the installation and maintenance fee charged to the individual vehicle owners or lessees on whose vehicles an ignition interlock system is installed.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 4, 2004, the Department submitted a copy of the notice of proposed rulemaking, published at 34 Pa.B. 4885, to IRRC and the Chairpersons of the Committees for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on April 22, 2005, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on May 12, 2005, and approved the final-form rulemaking.

Effective Date

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

Sunset Date

The Department is not establishing a sunset for these regulations, since the regulations are needed to administer provisions required by 75 Pa.C.S. (relating to the Vehicle Code). The Department, however, will continue to closely monitor these regulations for their effectiveness.

Contact Person

The contact person for this final-form rulemaking is Anne P. Titler, Acting Manager, Driver Safety Division, Bureau of Driver Licensing, 4th Floor, Riverfront Office Center, 1101 S. Front Street, Harrisburg, PA 17104, (717) 783-4737.

Order

The Department orders that:

(a) The regulations of the Department, 67 Pa. Code Chapter 88, are amended by deleting §§ 88.1—88.8 and by adding §§ 88.101 and 88.103—88.108 to read as set forth at 34 Pa.B. 4885 and by adding § 88.102 to read as set forth in Annex A.

(b) The Secretary of the Department shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as to legality and form, as required by law.

(c) The Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

ALLEN D. BIEHLER, P. E.,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 35 Pa.B. 3179 (May 28, 2005).)

Fiscal Note: Fiscal Note 18-395 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

Subpart A. VEHICLE CODE PROVISIONS

ARTICLE IV. LICENSING

CHAPTER 88. IGNITION INTERLOCK

§ 88.102 Installation of ignition interlock system.

(a) *General rule.* A person subject to 75 Pa.C.S. § 3805 (relating to ignition interlock) who seeks a restoration of operating privileges shall engage a provider, at the person's own expense, to install the ignition interlock systems required under 75 Pa.C.S. § 3805, and otherwise ensure compliance with this chapter.

(b) *Identification of owned vehicles.* The person seeking a restoration of operating privilege under 75 Pa.C.S. § 3805 shall submit to the provider a certification, on a form provided by the Department, that identifies each motor vehicle owned by the person or registered to the person. A vehicle is considered registered to a person under this chapter if Department records reflect that the vehicle is registered to a person or the person is otherwise designated as the registrant of the vehicle or named as the lessee of the vehicle under 75 Pa.C.S. § 1305 (relating to application for registration). The provider shall verify the accuracy of the facts in the person's certification through an inquiry to the Department's motor vehicle records system.

(c) *Installation and certification.* The provider shall install an ignition interlock system on each motor vehicle owned by the person or registered to the person and shall certify to the Department that the installation has been completed.

(d) *Installation not required.* Installation of an ignition interlock system is not required in the following situations:

(1) *No motor vehicles owned or registered.* If the person certifies to the provider, on a form provided by the Department, that there are no motor vehicles owned by the person or registered to the person, installation is not required on any motor vehicle.

(2) *Inoperable vehicles.* If the person certifies to the provider, on a form provided by the Department, that a motor vehicle owned or registered to the person is inoperable, installation is not required on the inoperable vehicle.

(3) *Verification.* The provider shall verify the accuracy of a certification submitted under paragraph (1) or (2) through an inquiry to the Department's motor vehicle records system and shall certify to the Department that the person is in compliance with this subsection.

(e) *Economic hardship exemption.* A person will be exempt from the requirement to install an ignition interlock system on each of the person's motor vehicles if the person demonstrates that the requirement will result in undue financial hardship.

(1) Undue financial hardship shall be demonstrated only by one of the following:

(i) Evidence on the person's most recently filed Federal Income Tax return showing an adjusted gross household income below 200% of the poverty guidelines issued for that tax year by the United States Department of Health and Human Services for the person's family size.

(ii) Documentation of participation in a governmental assistance program included on a list of applicable programs published by the Department in the *Pennsylvania Bulletin*.

(2) The person shall submit to the provider an application for a hardship exemption on a form provided by the Department along with the required documentation.

(3) The provider shall review the required documentation to confirm that it meets the requirements of paragraph (1).

(4) The provider shall then install an ignition interlock system on only one vehicle owned by the person or registered to the person, forward the application to the Department, and certify to the Department that the person has complied with this section.

[Pa.B. Doc. No. 05-1337. Filed for public inspection July 15, 2005, 9:00 a.m.]