

RULES AND REGULATIONS

Title 58—RECREATION

GAME COMMISSION [58 PA. CODE CH. 141] Hunting and Trapping

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 27, 2009, meeting, adopted the following rulemaking:

Amend §§ 141.41—141.45 and 141.47 to restructure the regulatory provisions relating to big game hunting to promote consistency and clarity in the regulations and also permit the full inclusion of crossbows during the various big game seasons to expand opportunity and increase participation in big game hunting within this Commonwealth.

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 38 Pa.B. 6937 (December 20, 2008).

1. Purpose and Authority

In recent years, the Commission has been moving towards a comprehensive restructuring of the regulations attending the code. The goals of the restructuring of the regulations are primarily focused on simplifying and making the language more understandable to its users. To this end, the Commission has begun rewriting the regulatory structures relating to the big game seasons. As time progresses, the Commission intends to carry the theme set forth in these changes to other chapters of the regulations to establish clear correlations between related seasonal information. As part of this comprehensive effort, the Commission desires to address the usage of crossbows during the various big game seasons. The Commission recognizes that over the past decade there has been a growing debate concerning the full inclusion of the use of crossbows during the various big game archery seasons. The Commission has identified that there are scores of hunters on both sides of the issue and that each side staunchly supports their respective point of view. In an effort to promote consistency and clarity in the regulations pertaining to big game seasons as well as expand opportunity and increase participation in big game hunting within this Commonwealth, the Commission amended §§ 141.41, 141.43—141.45 and 141.47. Some notable substantive changes include the full inclusion of crossbows during the various big game archery seasons as well as the prohibition on the usage of crossbows during the various muzzleloader deer seasons without an archery deer license.

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 that “The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or

furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth.” The amendments to §§ 141.41, 141.43—141.45 and 141.47 were adopted under this authority.

2. Regulatory Requirements

The final-form rulemaking amended §§ 141.41, 141.43—141.45 and 141.47 to restructure the regulatory provisions relating to big game hunting to promote consistency and clarity in the regulations and also permit the full inclusion of crossbows during the various big game seasons to expand opportunity and increase participation in big game hunting within this Commonwealth.

3. Persons Affected

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

4. Comment and Response Summary

Out of a total of 382 official written comments concerning this final-form rulemaking, 123 supported and 252 opposed the the full inclusion of crossbows during the big game archery seasons, one supported the inclusion of crossbows in big game archery and muzzleloader seasons, three supported the full inclusion of crossbows during the big game archery seasons for junior and senior hunters only, one supported the full inclusion of crossbows during the big game archery seasons for mentored youth hunters only, one supported the creation of a crossbow season during the first 2 weeks of November and one supported increasing the maximum poundage for crossbows.

5. Cost and Paperwork Requirements

The final-form rulemaking should not result in any additional cost or paperwork. Rather, the rulemaking will substantially reduce, if not eliminate, all fees, costs and paperwork associated with the disabled persons crossbow permit application process.

6. Effective Date

The final-form rulemaking will be effective upon final 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 Richard A. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

Findings

The Commission finds that:

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

(2) The adoption of these 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 §§ 141.1 141.43—141.45 and 141.47 to read as set forth in Annex A.

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

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

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-276 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 C. BIG GAME

§ 141.41. General.

It is unlawful to:

(1) 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 kill tag in compliance with the instructions printed on the tag and attach only the game kill tag to the big game.

(2) 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.

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

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

(5) Harvest more than one deer at a time before lawfully tagging a deer previously harvested when multiple harvests of deer per day are authorized, except as otherwise provided in § 141.1 (relating to special regulations areas).

§ 141.43. Deer.

(a) *Archery deer season.*

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

(i) *A bow and arrow.* A bow must have a peak draw weight of at least 35 pounds. An arrow must be equipped with a broadhead that has an outside diameter or width of at least 7/8 inch with at least two cutting edges located on the same plane throughout the length of the cutting surface, and may not exceed 3 inches in length.

(ii) *A crossbow and bolt.* A crossbow must have a peak draw weight of at least 125 pounds. A bolt must be equipped with a broadhead that has an outside diameter or width of at least 7/8 inch with at least two cutting edges located on the same plane throughout the length of

the cutting surface, and may not exceed 3 inches in length. This subparagraph shall become effective July 1, 2009, and expire on June 30, 2012, unless the Commission authorizes its continued legal effectiveness prior to June 30, 2012.

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

(i) Use or possess a firearm. Exceptions:

(A) A person may possess certain firearms during the archery deer season under the authorizations of section 2525 of the act (relating to possession of firearm for protection of self or others).

(B) A person may possess and use both a bow or crossbow and a muzzleloading firearm during the overlaps of the early archery and muzzleloader deer seasons and the late archery and flintlock muzzleloading deer seasons if that person is in possession of both a valid archery deer license and a valid muzzleloader deer license and meets the greater protective material requirements for the muzzleloader deer season, if applicable.

(ii) Use a device not provided for in the act or in this subsection.

(iii) Use magnifying telescopic sights.

(b) *Flintlock muzzleloading deer season.*

(1) *Permitted devices.* It is lawful to hunt deer during the flintlock muzzleloading deer season with a flintlock muzzleloading firearm. The firearm must be an original or similar reproduction of muzzleloading firearm manufactured prior to 1800. The firearm's ignition mechanism must consist of a hammer containing a naturally occurring stone that is spring propelled onto an iron or steel frizzen which, in turn, creates sparks to ignite a priming powder. The firearm must have open sights and be a .44 caliber or larger single-barrel long gun or a .50 caliber or larger single-barrel handgun that propels single-projectile ammunition.

(2) *Prohibitions.* While hunting deer during the flintlock muzzleloading deer season, it is unlawful to:

(i) Use manmade materials attached to the hammer or frizzen to create sparks.

(ii) Use telescopic sights.

(iii) Use or possess multiple projectile ammunition or ammunition other than required by section 2322(a)(4) of the act (relating to prohibited devices and methods).

(iv) Use a device not provided for in the act or in this subsection.

(c) *Muzzleloading deer season.*

(1) *Permitted devices.* It is lawful to hunt deer during the muzzleloading deer season with a muzzleloading firearm. The firearm's ignition mechanism must consist of a percussion cap, primer or flintlock fired design. The firearm must be a .44 caliber or larger single-barrel long gun or a .50 caliber or larger single-barrel handgun that propels single-projectile ammunition.

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

(i) Use or possess multiple projectile ammunition or ammunition other than required by section 2322(a)(4) of the act.

(ii) Use a device not provided for in the act or in this subsection.

(d) *Regular and special firearms deer seasons.*

(1) *Permitted devices.* It is lawful to hunt deer during the regular and special firearms deer seasons with any of the following devices:

- (i) A manually operated, centerfire firearm.
- (ii) A bow and arrow as permitted under subsection (a)(1)(i).
- (iii) A crossbow and bolt as permitted under subsection (a)(1)(ii).
- (iv) A muzzleloading firearm as permitted under subsection (b)(1) or (c)(1).

(2) *Prohibitions.* While hunting deer during the regular and special firearms deer seasons, it is unlawful to:

- (i) Use or possess multiple projectile ammunition or ammunition other than required by section 2322(a)(4) of the act.
- (ii) Use a device not provided for in the act or in this subsection.
- (e) *Cooperating while hunting during any deer season.* Holders of any of the appropriate licenses or stamps may cooperate while hunting antlered or antlerless deer if pertinent provisions of the act and this season are met.

(f) *.22 caliber or less rimfire required for furbearers.* When using a firearm only a rimfire rifle or handgun .22 caliber or less may be used to dispatch legally trapped furbearers during the regular or special firearms deer seasons.

§ 141.44. Bear.

(a) *Archery bear season.*

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

- (i) *A bow and arrow.* A bow must have a peak draw weight of at least 35 pounds. An arrow must be equipped with a broadhead that has an outside diameter or width of at least 7/8 inch with at least two cutting edges located on the same plane throughout the length of the cutting surface, and may not exceed 3 inches in length.
- (ii) *A crossbow and bolt.* A crossbow must have a peak draw weight of at least 125 pounds. A bolt must be equipped with a broadhead that has an outside diameter or width of at least 7/8 inch with at least two cutting edges located on the same plane throughout the length of the cutting surface, and may not exceed 3 inches in length. This subparagraph shall become effective July 1, 2009, and expire on June 30, 2012, unless the Commission authorizes its continued legal effectiveness prior to June 30, 2012.

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

- (i) Use or possess a firearm or while in possession of a firearm, except as otherwise authorized by section 2525 of the act (relating to possession of firearm for protection of self or others).
- (ii) Use a device not provided for in the act or in this subsection.
- (iii) Disturb, wound or kill a bear in a den.
- (iv) Assist, conspire or use a device to locate a bear to which a transmitter has been attached.
- (v) Use magnifying telescopic sights.
- (b) *Regular and extended firearms bear seasons.*

(1) *Permitted devices.* It is lawful to hunt bear during the regular and extended firearms bear seasons with any of the following devices:

- (i) A manually operated, centerfire firearm.
- (ii) A bow and arrow as permitted under subsection (a)(1)(i).
- (iii) A crossbow and bolt as permitted under subsection (a)(1)(ii).
- (iv) *A muzzleloading firearm.* The firearm's ignition mechanism must consist of a percussion cap, primer or flintlock fired design. The firearm must be a .44 caliber or larger single-barrel long gun or a .50 caliber or larger single-barrel handgun that propels single-projectile ammunition.

(2) *Prohibitions.* While hunting for bear during the regular and extended firearms bear seasons, it is unlawful to:

- (i) Use or possess multiple projectile ammunition or ammunition other than required by section 2322(a)(4) of the act (relating to prohibited devices and methods).
- (ii) Use a device not provided for in the act or in this subsection.
- (iii) Disturb, wound or kill a bear in a den.
- (iv) Assist, conspire or use a device to locate a bear to which a transmitter has been attached.

§ 141.45. Turkey.

(a) *Fall turkey season.*

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

- (i) A manually operated centerfire, rimfire or muzzleloading firearm using single-projectile ammunition, except as otherwise prohibited in paragraph (2)(i).
- (ii) A manually operated or semiautomatic, centerfire shotgun or muzzleloading shotgun using shot ammunition no larger than #4 lead, #4 Bismuth/tin or #2 steel.
- (iii) *A bow and arrow.* A bow must have a peak draw weight of at least 35 pounds. An arrow must be equipped with a broadhead that has an outside diameter or width of at least 7/8 inch with at least two cutting edges located on the same plane throughout the length of the cutting surface, and may not exceed 3 inches in length.
- (iv) *A crossbow and bolt.* A crossbow must have a peak draw weight of at least 125 pounds. A bolt must be equipped with a broadhead that has an outside diameter or width of at least 7/8 inch with at least two cutting edges located on the same plane throughout the length of the cutting surface, and may not exceed 3 inches in length.

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

- (i) Use a manually operated centerfire, rimfire or muzzleloading firearm using single projectile ammunition in Wildlife Management Units 1A, 1B, 2A, 2B, 5B, 5C and 5D.
- (ii) Use drives or any method other than hand or mouth calling.
- (iii) Use or possess an electronic caller or a live turkey as a decoy.
- (iv) Use a device not provided for in the act or in this subsection.
- (b) *Spring turkey season.*

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

(i) A manually operated or semiautomatic, centerfire shotgun or muzzleloading shotgun using shot ammunition no larger than #4 lead, #4 Bismuth/tin or #2 steel.

(ii) A bow and arrow as permitted under subsection (a)(1)(iii).

(iii) A crossbow and bolt as permitted under subsection (a)(1)(iv).

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

(i) Use a centerfire, rimfire or muzzleloading firearm using single projectile ammunition.

(ii) Use or possess single projectile ammunition, except arrows or bolts.

(iii) Use drives or any method other than hand or mouth calling.

(iv) Use or possess an electronic caller or a live turkey as a decoy.

(v) Use a device not provided for in the act or in this subsection.

§ 141.47. Elk.

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

(1) *A manually operated, centerfire rifle or handgun.* The firearm must be a .27 caliber or larger firearm that propels single-projectile ammunition 130 grains or larger.

(2) *A manually operated, centerfire shotgun.* The firearm must be a 12 gauge or larger firearm.

(3) *A muzzleloading firearm.* The firearm must be .50 caliber or larger firearm that propels single-projectile ammunition 210 grains or larger.

(4) *A bow and arrow.* A bow must have a peak draw weight of at least 45 pounds. An arrow must be equipped with a broadhead that has an outside diameter or width

of at least 1 inch with at least two cutting edges located on the same plane throughout the length of the cutting surface, and may not exceed 3 inches in length.

(5) *A crossbow and bolt.* A crossbow must have a peak draw weight of at least 125 pounds. A bolt must be equipped with a broadhead that has an outside diameter or width of at least 1 inch with at least two cutting edges located on the same plane throughout the length of the cutting surface, and may not exceed 3 inches in length.

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

(1) Use or possess multiple projectile ammunition or ammunition other than that required under section 2322 (a)(4) of the act (relating to prohibited devices and methods).

(2) Use a device not provided for in the act or in this section.

(3) Fail to mark the kill site after lawful harvest in accordance with Commission instructions provided during the elk season orientation.

(4) Act or conspire to act as a guide for any person without first securing a permit from the Commission and attending an orientation program sponsored by the Commission.

(5) Act or conspire to act as a client for any guide who has not secured a permit from the Commission and attended an orientation program sponsored by the Commission.

(6) Drive or herd elk.

(7) Hunt within 150 yards from the center line of Route 555, from the intersection of Routes 255 and 555, to the intersection of Huston Hill Road and Route 555.

(8) Hunt within the Hick's Run no hunt zone, this being the area immediately adjacent to and north of Route 555, between Hick's Run Road and Huston Hill Road and within .3 mile of Route 555.

[Pa.B. Doc. No. 09-356. Filed for public inspection February 27, 2009, 9:00 a.m.]