

PROPOSED RULEMAKING

GAME COMMISSION

[58 PA. CODE CH. 141]

Hunting and Trapping; Prohibited Devices

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 5, 2010, meeting, proposed to add § 141.68 (relating to prohibited devices) to specifically prohibit the usage of fishing hooks or snagging hooks or other devices that are not lawful traps, firearms, bows or crossbows from being utilized during licensed trapping activities.

The proposed rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

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

The proposed rulemaking was made public at the October 5, 2010, meeting of the Commission. Comments can be sent until January 21, 2011, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. *Purpose and Authority*

The Commission recently identified anecdotal evidence of the usage of fishing or snagging hooks in certain trapping activities. While this practice has never been accepted by the Commission or the broader trapping community as an acceptable device for the harvesting of furbearers, current applicable statutes and regulations do not expressly prohibit their usage. The Commission is proposing to fill this gap by proposing § 141.68 to specifically prohibit the usage of fishing hooks or snagging hooks or other devices that are not lawful traps, firearms, bows or crossbows from being utilized during licensed trapping activities.

Section 2102(d) of the code (relating to regulations) provides "The commission shall 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 141.68 was proposed under this authority.

2. *Regulatory Requirements*

The proposed rulemaking adds § 141.68 by creating language to specifically prohibit the usage of fishing hooks or snagging hooks or other devices that are not lawful traps, firearms, bows or crossbows from being utilized during licensed trapping activities.

3. *Persons Affected*

Persons wishing to hunt or trap furbearers within this Commonwealth may be affected by the proposed rulemaking.

4. *Cost and Paperwork Requirements*

The proposed rulemaking should not result in additional cost or paperwork.

5. *Effective Date*

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

6. *Contact Person*

For further information regarding the proposed rulemaking, contact Richard R. Palmer, Director, Bureau of

Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-315. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Subchapter D. FURBEARERS

§ 141.68. Prohibited devices.

It is unlawful to take furbearers through the use of the following devices:

(1) Fish hooks, snagging hooks or any other hooks of similar design.

(2) Implements that are not lawful traps, firearms, bows or crossbows.

[Pa.B. Doc. No. 10-2197. Filed for public inspection November 19, 2010, 9:00 a.m.]

[58 PA. CODE CHS. 135 AND 147]

Lands and Buildings; Special Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 5, 2010, meeting, proposed to amend § 135.181 (relating to rifle and handgun ranges) and to add Chapter 147, Subchapter Z (relating to State game lands range permits) to require users of shooting ranges on State game lands to possess either a valid Pennsylvania hunting or furtaker license or a Commission-issued range permit. The Commission is also proposing to amend § 135.41 (relating to State game lands) to redirect target shooting activities of all unlicensed individuals to designated State game land ranges.

The proposed rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

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

The proposed rulemaking was made public at the October 5, 2010, meeting of the Commission. Comments can be sent until January 21, 2011, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. *Purpose and Authority*

Over the past few years, the Commission has made large investments into its various shooting ranges located on State game lands across this Commonwealth. These investments have taken the form of lead remediation, safety barrier reconstruction, shooting range redesign and other related projects. These investments came at a high cost but kept many shooting ranges open and available to the public. Historically, hunters and furtakers have provided most if not all of the resources for keeping the Commission's shooting ranges open to the public through their license dollars. Additionally, the open use of game lands for shooting activities by those not licensed or otherwise permitted has resulted in situations where

persons have used ranges and game lands for illicit activities. The Commission is proposing to regulate unlicensed recreational shooters to accomplish the twin goals of having those unlicensed persons contribute toward the cost of the program and to better quantify and control use of game lands and game lands ranges. To this end, the Commission is proposing to amend § 135.181 and to add Chapter 147, Subchapter Z to require users of shooting ranges on State game lands to possess either a valid Pennsylvania hunting or furtaker license or a Commission-issued range permit. The Commission is also proposing to amend § 135.41 to redirect target shooting activities of unlicensed individuals to designated State game land ranges. These proposals will not result in increased cost or change in privileges for licensed hunters and furtakers.

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 2901(b) of the code (relating to authority to issue permits) provides "the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued." The amendments to §§ 135.41 and 135.181 and the addition of Chapter 147, Subchapter Z were proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend § 135.181 and add Chapter 147, Subchapter Z by replacing and creating language to require users of shooting ranges on State game lands to possess either a valid Pennsylvania hunting or furtaker license or a Commission-issued range permit. The proposed rulemaking will also amend § 135.41 by adding language to redirect target shooting activities of unlicensed individuals to designated State game land ranges.

3. Persons Affected

Persons engaged in target shooting activities on State game lands or designated ranges may be affected by the proposed rulemaking.

4. Cost and Paperwork Requirements

The proposed rulemaking will result in additional cost and paperwork associated with the creation and implementation of the new range permit program. This increase in cost and paperwork will be minimal and should be covered by current budgets.

5. Effective Date

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

6. Contact Person

For further information regarding the proposed rulemaking, contact Richard R. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-319. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 135. LANDS AND BUILDINGS

Subchapter C. STATE GAME LANDS

§ 135.41. State game lands.

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(c) *Additional prohibitions.* In addition to the prohibitions contained in the act pertaining to State game lands and § 135.2, except with the written permission of the Director, it is unlawful to:

* * * *

(15) [**Target shoot with firearms, bows and arrows or devices capable of launching projectiles in a manner that could cause injury to persons or property, or on areas posted closed to those activities.**] **Target shoot with firearms, bows and arrows or devices capable of launching projectiles, unless the person is in possession of a valid hunting or furtaker license signed by its holder. Exercise of privileges shall be done in a manner as to not cause injury to persons or property, or on areas not otherwise posted closed to those activities.**

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Subchapter J. SHOOTING RANGES

§ 135.181. Rifle and handgun ranges.

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(b) *Prohibited acts.* At a rifle and handgun range located on land under Commission ownership, lease or jurisdiction, except when authorized by the appropriate regional director or a designee [**for military or law enforcement training**], it is unlawful to:

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(8) **Possess, load or discharge a firearm for any reason without possessing a valid Pennsylvania hunting or furtaker license or a Commission-issued range permit signed by its holder. This prohibition does not apply to persons 15 years of age or younger or up to one person accompanying another person in possession of a valid Pennsylvania hunting or furtaker license or a commission-issued range permit.**

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CHAPTER 147. SPECIAL PERMITS

Subchapter Z. STATE GAME LANDS RANGE PERMITS

(*Editor's Note:* The following subchapter is new and printed in regular type to enhance readability.)

Sec.

- 147.1001. Purpose and scope.
- 147.1002. Eligibility and application.
- 147.1003. Range permit.
- 147.1004. Violations.

§ 147.1001. Purpose and scope.

This subchapter provides for range permits to be issued to eligible persons to authorize their holders to utilize established rifle or handgun ranges or designated clay bird shooting areas located on State game lands.

§ 147.1002. Eligibility and application.

(a) Range permits will only be issued to persons 16 years of age or older who do not possess a valid Pennsylvania hunting or furtaker license.

(b) Applications for range permits issued under this subchapter shall be made on a form provided by the Commission.

(c) Applications must include the name and contact information of the permit applicant.

(d) The fee for a range permit will be \$30 for residents and nonresidents.

§ 147.1003. Range permit.

(a) A range permit issued under this subchapter authorizes the permittee to utilize established rifle or handgun ranges or designated clay bird shooting areas located on State game lands.

(b) Permittees shall utilize established rifle or handgun ranges or designated clay bird shooting areas located on State game lands in a manner consistent with applicable requirements, conditions and restrictions provided for in the act and §§ 135.2, 135.41 and 135.181 (relating to unlawful actions; State game lands; and rifle and handgun ranges).

§ 147.1004. Violations.

The Director may deny, revoke or suspend any permit for any violation of this subchapter upon written notice to the permittee.

[Pa.B. Doc. No. 10-2198. Filed for public inspection November 19, 2010, 9:00 a.m.]

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

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 5, 2010, meeting, proposed to amend § 147.673 (relating to eligibility and application for DMAP) to require that public landowners provide approved management plans along with applications and also advance applications date 1 month.

The proposed rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

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

The proposed rulemaking was made public at the October 5, 2010, meeting of the Commission. Comments can be sent until January 21, 2011, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

In April 2010, the Commission directed staff to review the Deer Management Assistance Program (DMAP) as it related to public landowners to enhance accountability for DMAP on public lands. Based upon this review, the Commission is proposing to amend § 147.673 to require that public landowners provide approved management plans along with applications. The Commission is also proposing to advance the application date 1 month earlier to allow staff adequate time to review and process DMAP

applications in a timely manner, as well as notify applicants about permit availability prior to the issuance of regular antlerless licenses.

Section 2901(b) of the code (relating to authority to issue permits) provides “the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued.” The amendments to § 147.673 were proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend § 147.673 by replacing language to require that public landowners provide approved management plans along with applications and also advance the application date 1 month.

3. Persons Affected

Persons engaged in DMAP white-tailed deer control activities may be affected by the proposed rulemaking.

4. Cost and Paperwork Requirements

The proposed rulemaking will result in additional cost and paperwork associated with the review and approval of an increased volume of applications accompanied by an approved management plan. This increase in cost and paperwork will be minimal and should be covered by current budgets.

5. Effective Date

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

6. Contact Person

For further information regarding the proposed rulemaking, contact Richard R. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-317. No fiscal impact; (8) recommends adoption.

**Annex A
TITLE 58. RECREATION
PART III. GAME COMMISSION
CHAPTER 147. SPECIAL PERMITS
Subchapter R. DEER CONTROL
DEER MANAGEMENT ASSISTANCE PROGRAM
PERMITS**

§ 147.673. Eligibility and application for DMAP.

(a) [**Owners or lessees of private land, hunting clubs or authorized officers or employees of political subdivisions or governmental agencies shall apply for the DMAP in a manner and on a form required by the Director. Separate applications for DMAP areas will not be accepted for areas within 1 air mile of another area that is owned, leased or controlled by the same person, political subdivision or government agency without an approved management plan.**

(1) Where material destruction of cultivated crops, fruit trees or vegetables by deer has been or can be documented, one DMAP harvest permit may be allocated for every 5 acres of land enrolled in

the DMAP. On other lands one DMAP harvest permit will be allocated for every 50 acres enrolled in the DMAP. Additional DMAP harvest permits may be allocated dependent on current conditions relative to goals and objectives outlined in a Commission-approved management plan.

(b) Applications shall be submitted to a regional office by July 1 immediately preceding the first fall deer hunting season and shall include the name of the owner, lessee, political subdivision or government agency that is applying for the DMAP and the name and address of the person who will be the contact person for the DMAP as well as other information required on the application.

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

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

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

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

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

Owners or lessees of private land, hunting clubs or authorized officers or employees of political subdivisions or governmental agencies shall apply for the DMAP on a form provided by the Commission.

(1) Applications shall be submitted to a regional office by June 1 immediately preceding the first fall deer season and include the name of the owner, lessee, political subdivision or government agency that is applying for the DMAP and the name and address of the contact person for the DMAP as well as other information required on the application.

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

(3) Applications will not be accepted for the following areas without an approved management plan:

(i) Areas within 1 air mile of another DMAP area that is owned, leased or controlled by the same person, political subdivision or governmental agency.

(ii) Areas owned or leased by a Federal agency, State agency or municipal political subdivision.

(iii) Areas with less than 5 acres of cultivated crops, fruit trees or vegetables, or less than 50 acres of other lands.

(b) Management plans must include at least the following information:

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

(2) A description of the management area delineated on the map in paragraph (1) including the size in acres, cover types (forested or nonforested), principle land uses, huntable areas and safety zones.

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

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

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[Pa.B. Doc. No. 10-2199. Filed for public inspection November 19, 2010, 9:00 a.m.]

[58 PA. CODE CH. 147]

Special Permits; Snow Goose Conservation Hunt Permit

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 5, 2010, meeting, proposed to amend § 147.783 (relating to permit) to authorize the use of electronic decoys for hunting and taking activities conducted under a snow goose conservation hunt permit.

The proposed rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

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

The proposed rulemaking was made public at the October 5, 2010, meeting of the Commission. Comments can be sent until January 21, 2011, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

In recent years continental snow goose populations have experienced rapid growth in numbers. This dramatic increase in population size has in turn resulted in extensive damage to arctic and subarctic breeding habitats of the continental snow goose, as well as other bird populations dependent on these habitats. In January 2008, the Commission, working in conjunction with the United States Fish and Wildlife Service, added Chapter 147, Subchapter W (relating to snow goose conservation hunt permit) to define and create the regulatory structure necessary to implement the snow goose conservation hunt program (program) in this Commonwealth. In January 2009, the Commission amended the program to authorize the limited use of electronic calls for hunting and taking activities conducted under a snow goose conservation hunt permit. In light of the Commission's continued recognition of the need to dramatically increase the

harvest of continental snow geese in this Commonwealth, the Commission is proposing to amend § 147.783 to authorize the use of electronic decoys for hunting and taking activities conducted under a snow goose conservation hunt permit.

Section 2901(b) of the code (relating to authority to issue permits) provides “the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued.” The amendments to § 147.783 were proposed under this authority.

2. *Regulatory Requirements*

The proposed rulemaking will amend § 147.783 by adding language to authorize the use of electronic decoys for hunting and taking activities conducted under a snow goose conservation hunt permit.

3. *Persons Affected*

Persons hunting snow geese during the snow goose conservation season may be affected by the proposed rulemaking.

4. *Cost and Paperwork Requirements*

The proposed rulemaking should not result in any additional cost or paperwork.

5. *Effective Date*

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

6. *Contact Person*

For further information regarding the proposed rulemaking, contact Richard R. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-318. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 147. SPECIAL PERMITS

Subchapter W. SNOW GOOSE CONSERVATION HUNT PERMIT

§ 147.783. Permit.

* * * * *

(c) Except as otherwise provided in this subchapter, all State and Federal requirements and limitations relating to the hunting and taking of snow geese during regular open seasons apply to any activities conducted pursuant to the authorizations of a snow goose conservation hunt permit. The following specific exceptions apply:

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(2) *Electronic [calling] devices.* Notwithstanding the general prohibition against the use of electronic [calls] devices found in section 2308 of the act (relating to unlawful devices and methods) and § 141.6 (relating to illegal devices), the limited use of electronic calls and electronic decoys shall be authorized for all hunting

and taking activities conducted pursuant to the authorizations of a snow goose conservation hunt permit.

[Pa.B. Doc. No. 10-2200. Filed for public inspection November 19, 2010, 9:00 a.m.]

[58 PA. CODE CH. 147]

Special Permits; White-Tailed Deer

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 5, 2010, meeting, proposed to amend §§ 147.552 and 147.556 (relating to application; and lawful devices and methods) to create a focused, limited authorization permitting the baiting of white-tailed deer in wildlife management units (WMUs) 5C and 5D on approved properties enrolled in the Red Tag Program.

The proposed rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

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

The proposed rulemaking was made public at the October 5, 2010, meeting of the Commission. Comments can be sent until January 21, 2011, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. *Purpose and Authority*

On March 31, 2010, the Commission’s 3-year evaluation of the effectiveness of a broad scale and widely accessible authorization permitting the baiting of white-tailed deer across the southeast special regulations areas expired. The Commission’s final review of the baiting authorization generally concluded that broad scale and widely accessible baiting did not establish viable increases in harvest rates to justify an extension of the experimental program. In furtherance of the Commission’s continuing efforts to find effective tools to manage the population on agriculture lands in this Commonwealth, the Commission is proposing to amend §§ 147.552 and 147.556 to create a focused, limited authorization permitting the baiting of white-tailed deer in WMUs 5C and 5D on approved properties enrolled in the Red Tag Program.

Section 2901(b) of the code (relating to authority to issue permits) provides “the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued.” The amendments to §§ 147.552 and 147.556 were proposed under this authority.

2. *Regulatory Requirements*

The proposed rulemaking will amend §§ 147.552 and 147.556 by adding language to create a focused, limited authorization permitting the baiting of white-tailed deer in WMUs 5C and 5D on approved properties enrolled in the Red Tag Program.

3. *Persons Affected*

Persons engaged in Red Tag white-tailed deer control activities in WMUs 5C and 5D may be affected by the proposed rulemaking.

4. *Cost and Paperwork Requirements*

The proposed rulemaking should not result in additional cost or paperwork.

5. *Effective Date*

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

6. *Contact Person*

For further information regarding the proposed rule-making, contact Richard R. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-316. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 147. SPECIAL PERMITS

Subchapter R. DEER CONTROL

AGRICULTURE

§ 147.552. Application.

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(d) Applicants from wildlife management units 5C and 5D only may be eligible to obtain approval to engage in limited baiting activities to enhance deer control activities on their properties. Approval will be based solely upon an applicant's demonstrable need for a baiting authorization as evidenced by written justifications or other evidence

submitted on or in addition to the application at the time of application or renewal.

§ 147.556. Lawful devices and methods.

[A permittee may restrict the type of firearm or bow used to take deer on lands under the permittee's ownership or control, or both. Devices used shall be in compliance with the act and this title as applicable.]

(a) *Devices.* Subpermittees are authorized to hunt and take deer with firearms, bows and crossbows as may be authorized for hunting deer during the regular firearms deer season as provided in the act and § 141.43 (relating to deer).

(b) *Methods.* Subpermittees operating under the authority of a permit with an approved baiting authorization are authorized to hunt or take deer through the use of or by taking advantage of bait subject to the following limitations:

(1) This authorization applies to private lands in wildlife management units 5C and 5D only.

(2) Bait may be placed or distributed 2 weeks prior to the validity period of the deer control permit through the close of the validity period as established in § 147.553 (relating to permit).

(3) Bait accumulation in any one location may not exceed 5 gallons total volume at any given time.

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

[Pa.B. Doc. No. 10-2201. Filed for public inspection November 19, 2010, 9:00 a.m.]