

RULES AND REGULATIONS

Title 58—RECREATION

GAME COMMISSION

[58 PA. CODE CHS. 133 and 137]

Wildlife Classification; Wildlife

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its September 25, 2018, meeting amended § 137.2 (relating to release of animals) to add the Hungarian partridge to the list of species that may be lawfully released on public or private lands for dog training or hunting purposes without first securing a permit. The Commission also added § 133.7 (relating to Hungarian partridge) to reclassify the Hungarian partridge as a wild bird and not a game bird in an effort to treat this species in a similar manner to the Chukar partridge.

This final-form rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

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

Notice of proposed rulemaking was published at 48 Pa.B. 5608 (September 8, 2018).

1. Purpose and Authority

The Hungarian partridge (also known as the grey partridge) is a non-native bird first introduced to the United States from Hungary in the early 1900s. Wildlife agencies, including the Commission, stocked many thousands of these birds in an attempt to establish wild populations and to maintain quality small game hunting opportunities. Hungarian partridges were stocked by the Commission in the 1920s, 1930s and then again in the 1950s. These efforts failed and a population of wild Hungarian partridges was never established within this Commonwealth. The Commission has determined that there are currently no wild populations of Hungarian partridges found within this Commonwealth.

The Commission has received a public request to consider adding Hungarian Partridges to the list of birds that may be released for dog training purposes. The Commission has reviewed the proposal and determined there to be no significant biological concerns in moving forward with this proposal. As a result, the Commission amended § 137.2 to add the Hungarian partridge to the list of species that may be lawfully released on public or private lands for dog training or hunting purposes without first securing a permit. The Commission also created § 133.7 to reclassify the Hungarian partridge as a wild bird and not a game bird in an effort to treat this species in a similar manner to the Chukar partridge.

Section 322(c)(8) of the code (relating to powers and duties of commission) specifically empowers the commission to “Add to or change the classification of any wild bird or wild animal.” Section 2102(c) of the code (relating to regulations) directs that “The commission shall promulgate regulations concerning the transportation, introduction into the wild, importation, exportation, sale, offering for sale or purchase of game or wildlife or the disturbing of game or wildlife in their natural habitat.” The addition of § 133.7 and amendments to § 137.2 are adopted under this authority.

2. Regulatory Requirements

This final-form rulemaking amends § 137.2 to add the Hungarian partridge to the list of species that may be lawfully released on public or private lands for dog training or hunting purposes without first securing a permit. This final-form rulemaking adds § 133.7 to reclassify the Hungarian partridge as a wild bird and not a game bird in an effort to treat this species in a similar manner to the Chukar partridge.

3. Persons Affected

Persons wishing to release Hungarian partridges into the wild on public or private lands and hunt or train dogs over same within this Commonwealth 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

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

6. Effective Date

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

7. Contact Person

For further information regarding this final-form rulemaking, contact Randy L. Shoup, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

BRYAN J. BURHANS,
Executive Director

Fiscal Note: Fiscal Note 48-434 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 133. WILDLIFE CLASSIFICATION

Subchapter A. GENERAL

§ 133.7. Hungarian partridge.

Notwithstanding the listing of the Hungarian partridge in the definition of a game bird in section 102 of the act (relating to definitions), the Hungarian partridge shall be reclassified as a wild bird generally and will no longer be classified as a game bird.

CHAPTER 137. WILDLIFE

§ 137.2. Release of animals.

(a) Except as otherwise provided, it is unlawful to release captive held or captive raised game or wildlife on any lands, public or private, without first securing a permit from the Commission. Lawfully acquired mallard ducks, ringneck pheasant, bobwhite quail, chukar partridge and Hungarian partridge may be released for dog training or hunting purposes.

* * * * *

[Pa.B. Doc. No. 18-1782. Filed for public inspection November 16, 2018, 9:00 a.m.]

Title 58—RECREATION

GAME COMMISSION

[58 PA. CODE CH. 147]

Deer Control; Special Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its September 25, 2018, meeting amended § 147.322 (relating to application for deer control permit) to provide greater clarity of what circumstances will satisfy the public hunting requirement.

This final-form rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

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

Notice of proposed rulemaking was published at 48 Pa.B. 5607 (September 8, 2018).

1. Purpose and Authority

Section 147.322 has historically required that all “[p]ublic land within the proposed boundaries be open to lawful public hunting unless otherwise prohibited under this title or as otherwise authorized or waived by the Director.” In large part, this requirement is derived directly from section 103 of the act which provides, in relevant part, that “[t]he commission shall utilize hunting and trapping as methods of effecting necessary management of game, furbearer and wildlife populations.” While section 103 does not limit management of wild resources to public hunting only, the Commission has concluded that it is clearly intended as the primary method of management.

Over the years, the Commission has observed that deer control permit applicants utilize varying degrees of use of public hunting as a prerequisite to meeting the public hunting requirement of § 147.322. Many applicants have established organized controlled hunts, while others have organized or invited established hunting clubs onto the public or private, or both, properties covered by the permit to help reduce deer populations. Still others invite only local government (permittee) employees to engage in hunting on the public or private, or both, properties covered by the permit. While the Commission has approved permit applications in the past involving this latter method of satisfying the public hunting component, it has more recently recognized the importance of pushing deer control back, primarily, into the hands of the public through more clearly defined public hunting. This action will still allow landowners (both public and private) to allow hunting, in whole or in limited part, to meet their deer control and land use goals.

To this end, the Commission amended § 147.322 to provide greater clarity of what circumstances will satisfy the public hunting requirement. The Commission specifically intends with this action to reject hunting opportunity that is afforded to an individual or class of individuals solely by virtue of their public employment as satisfying the public hunting requirement. This action will improve the use and prominence of public hunting as the primary method of wild resource management without unduly restricting the purpose and ultimate goals of the deer control permit program. This action formalized into the deer control permit regulations the current policy being used to evaluate and approve deer control permit applications.

Section 2901(b) of the code (relating to authority to issue permits) provides that “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 § 147.322 are adopted under this authority.

2. Regulatory Requirements

This final-form rulemaking amends § 147.322 to provide greater clarity of what circumstances will satisfy the public hunting requirement.

3. Persons Affected

Political subdivision or government agency applicants wishing to participate in the Commission’s deer control permit program 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

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

6. Effective Date

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

7. Contact Person

For further information regarding this final-form rulemaking, contact Randy L. Shoup, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

BRYAN J. BURHANS,
Executive Director

Fiscal Note: Fiscal Note 48-435 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 147. SPECIAL PERMITS

Subchapter R. DEER CONTROL

POLITICAL SUBDIVISIONS

§ 147.322. Application for deer control permit.

(a) An application for a deer control permit shall be completed and submitted by an authorized officer or employee of the political subdivision, homeowners association or nonprofit land-holding organization in the form and manner required by the Director.

(b) An application for a deer control permit must contain the following information:

(1) *Description.* A comprehensive description of the background and scope of the white-tailed deer population or damage problem, or both. The description must include a report of all alternative solutions or other steps taken by the applicant to mitigate the white-tailed deer population or damage problem, or both, prior to application for this permit and must specifically define how licensed public hunting for white-tailed deer has been utilized in the problem area and what results hunting activities have had on the population or damage problem, or both.

(2) *Deer management plan.* A comprehensive deer management plan which sets forth the applicant's white-tailed deer management goals, recommended implementation plan and a reference to the specific number of animals sought to be removed. The applicant shall specifically define how licensed public hunting for white-tailed deer will be utilized in the problem area during the term of the requested deer control permit.

(3) *Map.*

(i) A map or set of maps showing the proposed project area and its boundaries and clearly illustrating all of the following distinct features and areas within the proposed project area:

- (A) Land uses.
- (B) Cover types.
- (C) Areas open to public hunting for white-tailed deer.
- (D) Areas damaged by white-tailed deer.
- (E) Areas of white-tailed deer congregation.
- (F) Applicable safety zones.
- (G) Proposed white-tailed deer control areas.

(ii) The map must indicate the individual acreage values for each of the listed features and acres.

(c) Public land within the proposed boundaries shall be open to lawful public hunting unless otherwise prohibited under this title or as otherwise authorized or waived by the Director. Private land within the proposed boundaries may be closed to public hunting at the landowner's discretion. However, if closed, deer control activities may not occur thereon.

(d) For the purposes of this section, the term "public hunting" shall be defined as hunting opportunity that is available, in whole or in part, to members of the general public, but shall not include hunting opportunity that is afforded to an individual or class of individuals solely by virtue of their public employment.

[Pa.B. Doc. No. 18-1783. Filed for public inspection November 16, 2018, 9:00 a.m.]

Title 61—REVENUE

DEPARTMENT OF REVENUE

[61 PA. CODE CH. 113]

Withholding of Tax

The Department of Revenue (Department), under authority contained in section 354 of the Tax Reform Code of 1971 (72 P.S. § 7354), amends 61 Pa. Code § 113.4 (relating to time and place for filing reconciliation and withholding statements) to read as set forth in Annex A.

Purpose of Final-Form Rulemaking

The purpose of this final-form rulemaking is to improve the efficiency and accuracy of the Department's tax system by further automating the reporting of tax information.

Explanation of Regulatory Requirements

The final-form rulemaking amendments to § 113.4(c) reduce the threshold for the electronic transmission requirement of the annual reconciliation statement from 250 to 10 or more withholding statements (Form W-2). In addition, "magnetic media" will be deleted and replaced

with "electronic transmission." Electronic transmission is defined in subsection (d). This final-form rulemaking amends the method of filing for certain affected employers, not the information that is required to be reported. Finally, reference to specific form numbers in subsections (b) and (c) will be deleted. Given that form numbers change periodically, the Department is removing the numbers to avoid confusion and the forms are being referenced in accordance with § 2.12 (relating to forms) of the *Pennsylvania Code & Bulletin Style Manual*.

Affected Parties

Employers and tax practitioners in this Commonwealth will be affected by the regulation.

Comment and Response Summary

Notice of proposed rulemaking was published at 47 Pa.B. 6726 (October 28, 2017). This final-form rulemaking is being adopted to read as set forth in Annex A.

The Department has prepared a comment and response document that covers the public comments and the comments of the Independent Regulatory Review Commission (IRRC) to the proposed rulemaking and the Department's responses thereto. It is available to interested parties by contacting Maria L. Miller, Office of Chief Counsel, Department of Revenue, P.O. Box 281061, Harrisburg, PA 17128-1061.

In its evaluation of provisions, during the proposal stage, the Department received comments from IRRC and the Pennsylvania Institute of Certified Public Accountants (PICPA). No official comments were received from either the House Finance Committee or the Senate Finance Committee. The following is a summary of the Department's response to the key issues referenced in the comments:

As requested by IRRC, the Department is adding more detailed information on the Regulatory Analysis Form (RAF) to support why the regulation is in the public interest.

To address the concerns of PICPA regarding notice to the public of the new electronic filing requirements, the Department is formalizing a communications plan to publish compliance information on the Department's web site, distribute information through the electronic filing system e-TIDES and conduct a mailing to non-eTIDES filers.

Fiscal Impact

The Department has determined that the amendments in this final-form rulemaking will have minimal revenue effect on the Commonwealth. This final-form rulemaking is not designed to be revenue generating. It is an administrative processing change that will lower the Department's operating costs.

Paperwork

This final-form rulemaking will not create additional paperwork for the public or the Commonwealth. It will require certain employers to file their annual withholding reconciliation statements and accompanying wage and tax withholding statements by means of electronic transmission instead of on paper.

Effective Date

This final-form rulemaking will become effective upon publication in the *Pennsylvania Bulletin*. Its provisions

will be applicable to annual withholding reconciliations statements that are required to be filed after the effective date of the regulation.

Sunset Date

This final-form rulemaking is scheduled for review within 5 years of final publication. A sunset date has not been assigned.

Contact Person

The contact person for an explanation of the amendments is Maria L. Miller, Office of Chief Counsel, Department of Revenue, P.O. Box 281061, Harrisburg, PA 17128-1061.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on October 18, 2017, the Department submitted a copy of the notice of proposed rulemaking, published at 47 Pa.B. 6726 and a copy of a RAF to IRRC and to the Chairpersons of the House Committee on Finance and the Senate Committee on Finance. In compliance with section 5(c) of the Regulatory Review Act, the Department also provided IRRC and the House and Senate Committees with copies of the comments received, as well as other documentation.

In preparing this final-form rulemaking, the Department has considered the comments received from IRRC and PICPA.

This final-form rulemaking was deemed approved by the House and Senate Committees on October 17, 2018, and was approved by IRRC on October 18, 2018, in accordance with section 5.1(e) of the Regulatory Review Act (71 P.S. § 745.5a(e)).

Finding

The Department of Revenue finds that:

(1) Public notice of intention to amend the regulations 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 in 1 Pa. Code §§ 7.1 and 7.2.

(2) The amendments are necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

The Department, acting under the authorizing statute, orders that:

(1) The regulations of the Department, 61 Pa. Code Chapter 113, are amended by amending § 113.4 to read as set forth in Annex A.

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

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

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

C. DANIEL HASSELL,
Secretary

(Editor's Note: See 48 Pa.B. 7085 (November 3, 2018) for IRRC's approval order.)

Fiscal Note: Fiscal Note 15-459 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 61. REVENUE

PART I. DEPARTMENT OF REVENUE

Subpart B. GENERAL FUND REVENUES

ARTICLE V. PERSONAL INCOME TAX

CHAPTER 113. WITHHOLDING OF TAX

§ 113.4. Time and place for filing reconciliation and withholding statements.

(a) An employer shall furnish a wage and tax withholding statement to each of his employees on or before January 31 following the year of payment of compensation, or within 30 days from the date of the last payment of compensation if employment or the business is terminated.

(1) An employer shall use the combined Federal-State Wage and Tip Withholding Statement (Form W-2) issued by the Internal Revenue Service or one that conforms thereto with the word "Commonwealth" printed, stamped or typed thereon. The statement must show the name of employer, address and identification number of the employer; the name, address and Social Security number of the employee; the total compensation paid during the taxable year; and the total amount of Pennsylvania tax withheld during the taxable year.

(2) The wage and tax withholding statements required in this chapter shall be in addition to a requirement of the Federal or a local government.

(b) Every employer who withholds tax under this chapter shall file with the Department an annual withholding reconciliation statement, on a form provided by the Department, along with a copy of all employee wage and tax withholding statements, by the following:

(1) A going business for tax withheld in the prior year, annually, by January 31.

(2) A terminated business within 30 days after the end of the month in which business or payment of compensation ceased.

(c) The annual withholding reconciliation statement and accompanying wage and tax withholding statements as required under subsection (b) shall be forwarded to the Department by electronic transmission as specified in instructions of the Department. If an employer is required to furnish nine or less wage and tax withholding statements under subsection (a), the employer may forward the annual withholding reconciliation statement and accompanying wage and tax withholding statements to the Department by first class mail.

(d) For purposes of this section, the term "electronic transmission" means the process of sending digital or analog data over a communication medium to one or more computing, network, communication or electronic devices.

[Pa.B. Doc. No. 18-1784. Filed for public inspection November 16, 2018, 9:00 a.m.]