

PROPOSED RULEMAKING

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 271, 279, 287 AND 293]

Notification of Proximity to Airports

The Environmental Quality Board (Board) proposes to amend Chapters 271, 279, 287 and 293. The amendments are based on a petition by the United States Department of Defense (DOD) requesting that the Department of Environmental Protection (Department) address the potential hazards posed to military aircraft from bird strikes near waste landfill and transfer facilities. The proposed rulemaking would broaden the definition of "airport" to include military airports, extend existing airport notification requirements for waste landfills to military airports and impose an airport notification requirement on waste transfer facilities.

This proposed rulemaking was adopted by the Board at its meeting of October 17, 2006.

A. Effective Date

This proposed rulemaking will go into effect upon final-form publication in the *Pennsylvania Bulletin*.

B. Contact Persons

For further information, contact Stephen Socash, Chief, Division of Municipal and Residual Waste, P. O. Box 8472, Rachel Carson State Office Building, Harrisburg, PA 17105-8472, (717) 787-7381; or Susan Seighman, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Information regarding submitting comments on this proposed rulemaking appears in Section I of this preamble. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposed rulemaking is available on the Department's website: www.depweb.state.pa.us.

C. Statutory Authority

The proposed rulemaking is being made under the authority of the following:

The Solid Waste Management Act (SWMA) (35 P. S. §§ 6018.101—6018.1003), which in section 105(a) of the SWMA (35 P. S. § 6018.105(a)) grants the Board the power and the duty to adopt the rules and regulations of the Department to accomplish the purposes and carry out the provisions of the SWMA. Sections 102(4) and 104(6) of the SWMA (35 P. S. §§ 6018.102(4) and 6018.104(6)) provide the Department with the power and duty to regulate the storage, collection, transportation, processing, treatment and disposal of solid waste to protect the public health, safety and welfare.

The Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101) (53 P. S. §§ 4000.101—4000.1904), which in section 302 (53 P. S. § 4000.302) gives the Board the power and duty to adopt the regulations of the Department to accomplish the purposes and carry out the provisions of Act 101. Sections 102(b)(3) and 301(6) of Act 101 (53 P. S. §§ 102(b)(3) and 301(6)) state the intent of protecting the public health, safety and welfare from the dangers associated with transportation, processing, treatment, storage and disposal of municipal

waste and provide the Department with the power and duty to abate public nuisances.

Section 1917-A of The Administrative Code of 1929 (71 P. S. § 510-17) authorizes and requires the Department to protect the citizens of this Commonwealth from unsanitary conditions and other nuisances, including a condition that is declared to be a nuisance by any law administered by the Department. Section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20) grants the Board the power and the duty to formulate, adopt and promulgate rules and regulations as determined by the Board for the proper performance of the work of the Department.

D. Background and Purpose

Current municipal and residual waste regulations require applicants for municipal and residual waste landfills, construction and demolition waste landfills and residual waste disposal impoundments to notify public airports if a new or expanded facility is proposed within 6 miles of an airport runway. There is no similar notification requirement for municipal or residual waste transfer facilities because these operations are primarily conducted in enclosed structures. The DOD maintains, and the Department concurs, that there is a concern that waste transfer activities, such as waste loading, unloading and storage, may still occur outside of an enclosed building and pose a risk to aircraft approaching or departing from nearby airports. This is a risk to public health and safety and includes military personnel and people living in the area. The risk of bird strikes to aircraft becomes negligible when the airport runway is greater than 6 miles from the waste transfer facility. Accordingly, the DOD petitioned the Department on July 28, 2004, to require an airport notification from waste transfer facilities. Furthermore, since the current definition of "airport" in §§ 271.1 and 287.1 (relating to definitions) does not include the term "military airports," the petition also requests that the Department include this term in the definition.

The Board accepted the petition for further study on October 19, 2004. The Department agreed with the petition and submitted a Petition Report to the Board on April 19, 2005, recommending that the municipal and residual waste regulations be amended as requested by the DOD.

Adding the term "military airport" to the definition of "airport" in §§ 271.1 and 287.1 will broaden the definition to address DOD airfields as well as public airports. With the exception of two strictly military airports in this Commonwealth, many public airports also serve as military airports. New §§ 279.112 and 293.112 (relating to notification of proximity to airport) will require a new or expanding waste transfer facility to provide notification to airports, including military airports, if the facility is within 6 miles of the airport runway. By including military airports in the definition of "airport," the notification requirements are also being extended to military airports for new or expanded landfills.

The proposed rulemaking was presented to the Solid Waste Advisory Committee (SWAC) on July 14, 2005. Some members of the SWAC, representing the interests of the waste industry, opposed this proposed rulemaking. These members asserted that, unlike landfills, waste transfer facilities do not attract birds as the activities are primarily conducted in enclosed structures. Another industry concern was the potential lack of a timely response

to the notice from the airport, which might delay permit issuance. Other concerns expressed included: the intent of the petition; the additional notification burden imposed on the waste industry; the airport not responding in a timely fashion or commenting on nontechnical issues; and this requirement applying to a large number of facilities.

The Department, in agreement with the petition filed by the DOD, maintains that this proposed rulemaking will provide for increased safety for both military and nonmilitary personnel operating aircraft from airports in the vicinity of waste transfer facilities and landfills. The Department further discussed its position with the SWAC on May 11, 2006, but the SWAC voted against the proposed rulemaking.

E. Summary of Regulatory Requirements

A description of the proposed regulations is as follows:

§§ 271.1 and 287.1. Definitions.

The term "airport" is proposed to be amended in these sections by adding "military airport" to the definition. By including "military airport" in the definition of "airport," regulatory requirements that relate to airports, current and proposed, will apply to military airports.

§§ 279.112 and 293.112. Notification of proximity to airport.

These new sections would require applicants to notify the Bureau of Aviation (Bureau) of the Department of Transportation, the Federal Aviation Agency (FAA) and the applicable airport if the proposed new or expanding municipal waste transfer facility will be within 6 miles of the airport runway. The proposed sections would also require the applicant to include copies of these notifications in the permit application. The proposed sections would not affect most existing transfer facilities; they would apply only to new facilities and expansions of existing facilities.

Since there are no comparable Federal regulations that address waste transfer facilities, these regulations are considered to be more stringent than Federal requirements.

The proposed rulemaking will have a minimal economic impact on the regulated community. Waste landfill and transfer facility applicants will incur the costs associated with notifying the Bureau, the FAA and the airport. It is anticipated that the cost of each notification will not exceed \$50, with the total cost therefore not exceeding \$150 per application. These costs represent estimated charges for certified mail to these three entities. No additional Department permit fees are being imposed on the applicant through the proposed rulemaking.

The proposed rulemaking will be available for public review and comment following publication in the *Pennsylvania Bulletin*, as provided under the public participation provisions required by regulation and as described in Section I of this preamble. The public comment period will extend for 30 days. Public comments will be addressed in a comment and response document prepared by the Department after the comment period has expired.

F. Benefits, Costs and Compliance

Benefits

The proposed rulemaking will benefit both military and nonmilitary personnel operating and traveling in aircraft near waste landfill and transfer facilities, as they either approach or depart the airport runway, by reducing the potential risk of bird strikes to their aircraft, which can cause hazards to surrounding communities, as well.

Compliance costs

The proposed rulemaking will minimally increase the application cost, by means of the proposed notification requirement, only for a new or expanding waste landfill or transfer facility and in these cases, only for those facilities that are proposed within 6 miles of an airport runway. As applications for new or expanding landfills are estimated at less than ten, and new and expanding transfer facilities at a frequency of two or three per year, this minimal application cost increase will not affect the several hundred municipal and residual waste transfer facilities that are currently permitted in this Commonwealth. The applicant will be required to notify the relevant airport, the Bureau and the FAA. The cost of each notice, sent by certified mail including a request for a return receipt, is estimated to be no more than \$50 current value, with the total cost of notification for each applicant estimated at \$150. The total cost per year, therefore, for up to 12 applicants sending notification to the two agencies and the airport is estimated at \$1,800.

There are no additional permit fees associated with the proposed rulemaking and no indirect cost to the regulated community or the Department.

Compliance assistance plan

Since the proposed rulemaking would impose notification requirements only, a compliance assistance plan is not required.

Paperwork requirements

As part of its permit application, an applicant for a new or expanding waste landfill or transfer facility will be required to send to the Department copies of responses received from the two agencies and airport in response to the notices. This is not expected to increase compliance costs.

G. Sunset Review

The regulations will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended.

H. Regulatory Review

In accordance with section 5(a) and (f) of the Regulatory Review Act (71 P. S. §§ 745.1—745.15), the Department submitted a copy of the proposed amendments, on December 6, 2006, to the Legislative Reference Bureau for publication of notice of proposed rulemaking in the *Pennsylvania Bulletin*, and to the Independent Regulatory Review Commission (Commission). In accordance with section 5(f) of the act (71 P. S. § 745.5(f)), the Department will submit the proposed regulations and the required material to the Chairpersons of the House Environmental Resources and Energy Committee and the Senate Environmental Resources and Energy Committee (Committees) no later than the second Monday after the date by which both Committees designations have been published in the *Pennsylvania Bulletin*. In addition to submitting the proposed amendments, the Department has provided the Commission and will provide the Committees with a copy of a detailed Regulatory Analysis Form. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory

review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

I. Public Comments

Written comments. Interested persons are invited to submit comments, suggestions or objections regarding the proposed rulemaking to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be postmarked by January 22, 2007. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be postmarked by January 22, 2007. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final regulation will be considered.

Electronic comments. Comments may be submitted electronically to the Board at RegComments@state.pa.us and must be received by the Board by January 22, 2007. A subject heading of the proposal and a return name and address must be included in each transmission.

KATHLEEN A. MCGINTY,
Chairperson

Fiscal Note: 7-406. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION
PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION
Subpart D. ENVIRONMENTAL HEALTH AND SAFETY

ARTICLE VIII. MUNICIPAL WASTE

CHAPTER 271. MUNICIPAL WASTE MANAGEMENT—GENERAL PROVISIONS

Subchapter A. GENERAL

§ 271.1. Definitions.

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

* * * * *

Airport—"Public airport," as defined in 67 Pa. Code § 471.2 (relating to definitions). [The term does not include heliports.]

- (i) The term includes military airports.
(ii) The term does not include heliports.

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CHAPTER 279. TRANSFER FACILITIES

Subchapter B. APPLICATION REQUIREMENTS FOR TRANSFER FACILITIES

GENERAL

§ 279.112. Notification of proximity to airport.

An applicant shall notify the Bureau of Aviation of the Department of Transportation, the Federal Aviation Administration and the airport if a proposed transfer facility or expansion is within 6

miles of an airport runway. The application must include a copy of each notification and each response to each notification received by the applicant.

ARTICLE IX. RESIDUAL WASTE MANAGEMENT

CHAPTER 287. RESIDUAL WASTE MANAGEMENT—GENERAL PROVISIONS

Subchapter A. GENERAL

§ 287.1. Definitions.

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

* * * * *

Airport—A public airport, as defined in 67 Pa. Code § 471.2 (relating to definitions). [The term does not include heliports.]

- (i) The term includes military airports.
(ii) The term does not include heliports.

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CHAPTER 293. TRANSFER FACILITIES FOR RESIDUAL WASTE

Subchapter B. APPLICATION REQUIREMENTS FOR TRANSFER FACILITIES

§ 293.112. Notification of proximity to airport.

An applicant shall notify the Bureau of Aviation of the Department of Transportation, the Federal Aviation Administration and the airport if a proposed transfer facility or expansion is within 6 miles of an airport runway. The application must include a copy of each notification and each response to each notification received by the applicant.

[Pa.B. Doc. No. 06-2515. Filed for public inspection December 22, 2006, 9:00 a.m.]

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 October 3, 2006, meeting, proposed to amend §§ 135.41 and 135.181 (relating to State game lands; and rifle and handgun ranges).

The proposed rulemaking will have no 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 3, 2006, meeting of the Commission. Comments can be sent, until January 19, 2007, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

Current regulations do not either explicitly permit or prohibit persons from engaging in clay bird shooting activities on most areas of Commission owned lands.

Despite the lack of regulatory clarity on this issue, the Commission has widely accepted the occurrence of clay bird shooting activities on its lands. While the Commission intends to continue the promotion of recreational shooting activities on its lands, it has determined that due to lead management and recovery concerns, clay bird shooting activities must be limited to designated locations only. Therefore, the Commission is proposing to amend §§ 135.41 and 135.181 to specifically authorize clay bird shooting activities on Commission owned lands, but only in those areas designated by the Director.

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 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 §§ 135.41 and 135.181 were proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend §§ 135.41 and 135.181 to specifically authorize clay bird shooting activities on Commission owned lands, but only in areas designated by the Director.

3. Persons Affected

Persons wishing to engage in clay bird shooting activities on Commission owned lands will 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 A. Palmer, Acting Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-242. 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.

* * * * *

(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:

* * * * *

(22) Shoot clay birds anywhere except areas designated by the Director by signs stating that clay bird shooting is permitted.

Subchapter J. SHOOTING RANGES

§ 135.181. Rifle and handgun ranges.

* * * * *

(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:

* * * * *

(7) Shoot clay birds anywhere except areas designated by the Director by signs stating that clay bird shooting is permitted.

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[Pa.B. Doc. No. 06-2516. Filed for public inspection December 22, 2006, 9:00 a.m.]

**[58 PA. CODE CHS. 137 AND 147]
Wildlife; Special Permits**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 3, 2006, meeting, proposed to amend §§ 137.1 and 147.203 (relating to importation, sale and release of certain wildlife; and pens, shelters and enclosures).

The proposed rulemaking will have no 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 3, 2006, meeting of the Commission. Comments can be sent, until January 19, 2007, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

On June 29, 2006, the Governor signed into law the act of June 29, 2006 (P. L. 206, No. 51), which effectively transferred regulatory authority over cervidae propagation activities from the Commission to the Department of Agriculture as of June 29, 2006. To complete this transition, the Commission must amend §§ 137.1 and 147.203 to delete the remaining regulatory language concerning cervidae livestock activities no longer regulated by the Commission. Therefore, the Commission is proposing to amend §§ 137.1 and 147.203 to eliminate the remaining regulatory language concerning cervidae livestock activities no longer regulated by the Commission.

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 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 §§ 137.1 and 147.203 were proposed under this authority.

2. *Regulatory Requirements*

The proposed rulemaking will amend §§ 137.1 and 147.203 to eliminate the remaining regulatory language concerning cervidae livestock activities no longer regulated by the Commission.

3. *Persons Affected*

Persons wishing to engage in cervidae livestock activities within this Commonwealth will 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 A. Palmer, Acting Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-239. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 137. WILDLIFE

§ 137.1. Importation, sale and release of certain wildlife.

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[(g) Except as provided in subsection (h), a person wishing to import any members of the family cervidae shall first obtain an importation permit from the Commission subject to the following:

(1) An application for an importation permit shall state the name and address of the applicant, name and address of the person supplying the cervid, the common and scientific name and the number of cervids to be covered by the permit, the purpose for which the cervids are being imported, the qualifications of the applicant to use the cervids for the stated purpose and the location where the cervids will be housed or retained. The application shall be received by the Commission at least 10 days prior

to the proposed import date and be accompanied by an owner's statement that to his knowledge the cervids to be imported have never resided on a premise or come in contact with equipment used on a premise where Chronic Wasting Disease (CWD) was ever diagnosed. If the cervids are to be purchased at auction the name and address of the person supplying the cervids and number of cervids purchased shall be reported to the Commission by telephone or fax on the date of purchase. An applicant must receive a confirmation number before the animals are imported. A copy of the completed permit will be forwarded to the applicant.

(2) The shipment shall be accompanied at all times by a certificate of veterinary inspection completed by an accredited veterinarian in compliance with the Department of Agriculture health requirements. The certificate shall remain with the permittee's records for 5 years. The applicant shall identify the herd of origin and the herd of destination on both the permit application and the certificate of veterinary inspection. The cervids to be imported shall be identified to the herd they are being transferred or sold from by at least one permanent unique identifier to include, legible tattoo, United States Department of Agriculture (USDA) approved eartag, breed registration or other state approved permanent identification methods and one temporary identifier. If a microchip is used for identification, the owner shall provide the necessary reader.

(3) In states or provinces where CWD has been detected, herds of origin shall be able to demonstrate a minimum of 5 years in a CWD monitoring program. In states or provinces where CWD has not been detected, herds of origin shall be able to demonstrate a minimum of 3 years in a CWD monitoring program. CWD monitoring programs shall meet the following minimum standards or adopted National standards acceptable to the Commission.

(i) In states where CWD has been found in free-ranging wildlife, the state program shall have perimeter fencing requirements adequate to prevent ingress, egress or contact with cervids.

(ii) Surveillance based on testing of all cervid deaths over 16 months of age.

(iii) Physical herd inventory with annual verification reconciling animals with records by an accredited veterinarian or state or Federal personnel is required. Inventory is to include a cross-check of all available animal identifications with the herd inventory and specific information on the disposition of all animals not present.

(iv) Herd additions are allowed from herds with equal or greater time in an approved state CWD monitoring program with no negative impact on the certification status of the receiving herd. If herd additions are acquired from a herd with a later date of enrollment, the receiving herd reverts to the enrollment date of the sending herd. If a herd participating in the monitoring program acquires animals from a nonparticipating herd, the

receiving herd shall start over with a new enrollment date based upon the date of acquisition of the animals. If a new herd begins with animals of a given status, that status will be retained by the new herd, based upon the lowest status of animals received. Animals of different status which are commingled during marketing or transport will revert to the lowest status.

(v) The state or province of origin shall list CWD as a reportable disease and impose an immediate quarantine on a herd or premise, or both, when a CWD animal is found.

(vi) Animal health officials in the state or province of origin shall have access to herd records from the time the herd is enrolled in the CWD monitoring program or for 5 years, whichever is less, including records of deaths and causes of death.

(h) A person wishing to import any members of the family cervidae for slaughter within 72 hours at a USDA inspected facility and in accordance with the Department of Agriculture requirements shall first obtain an importation permit from the Commission subject to the following:

(1) An application for importation permit shall state the name and address of the applicant, name and address of the person supplying the cervid, the common and scientific name and the number of cervids to be covered by the permit, that the cervids are being imported for immediate slaughter, and the location where the cervids will be slaughtered. The application must be received by the Commission at least 10 days prior to the proposed import date and be accompanied by an owner's statement that to his knowledge the cervids to be imported have never resided on a premise or come in contact with equipment used on a premise where CWD was ever diagnosed.

(2) Cervids from herds that are known to have been infected with CWD within the last 5 years may not be imported.

(3) If cervids are from states or provinces where CWD has been detected herds of origin shall be able to demonstrate a minimum of 5 years in a CWD monitoring program as described in subsection (g)(3).

(4) Cervids shall be individually identified as to the herd of origin by legible tattoo, ear tag or other method approved by the Commission.

(5) Cervids may not have contact with any other animals not for immediate slaughter.

(i) A person violating this section is subject to the penalties provided in the act.]

CHAPTER 147. SPECIAL PERMITS

Subchapter K. PROPAGATING

§ 147.203. Pens, shelters and enclosures.

(a) Pens, shelters and enclosures [shall] must be:

* * * * *

(2) Covered and completely surrounded by appropriate materials to confine the species being propagated and exclude surrounding wildlife. [Areas for hooved animals which are surrounded by a fence at least 10 feet in height need not be covered.]

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[Pa.B. Doc. No. 06-2517. Filed for public inspection December 22, 2006, 9:00 a.m.]

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

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 3, 2006, meeting, proposed to amend §§ 141.41, 141.43 and 141.47 (relating to general; deer; and elk).

The proposed rulemaking will have no 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 3, 2006, meeting of the Commission. Comments can be sent, until January 19, 2007, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

The Commission has received a number of requests from hunters to permit the lawful use of muzzleloading handguns to hunt various big game animals. Currently, muzzleloading handguns are prohibited from use while hunting big game animals. Commission staff has determined that use of muzzleloading handguns would be reasonable so long as their use is limited to deer, bear and elk and to .50 caliber or larger muzzleloading handguns only. Therefore, the Commission is proposing to amend §§ 141.41, 141.43 and 141.47 to permit the lawful use of .50 caliber or larger muzzleloading handguns while hunting deer, bear and elk.

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 (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 amendments to §§ 141.41, 141.43 and 141.47 were proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend §§ 141.41, 141.43 and 141.47 to permit the lawful use of .50 caliber or larger muzzleloading handguns while hunting deer, bear and elk.

3. Persons Affected

Persons wishing to hunt deer, bear or elk in this Commonwealth with a muzzleloading handgun will 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 A. Palmer, Acting Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE, Executive Director

Fiscal Note: 48-238. No fiscal impact; (8) recommends adoption.

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

§ 141.41. General.

* * * * *

(b) It is unlawful to:

* * * * *

(2) Hunt for deer or bear through the use of [any one or more of the following:] a muzzleloading long gun that is not .44 caliber or larger or a muzzleloading handgun that is not .50 caliber or larger.

[(i) A muzzleloading handgun.

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

* * * * *

§ 141.43. Deer.

* * * * *

(b) Flintlock muzzleloading season. Firearms lawful for use are original muzzleloading single-barrel [long guns] firearms manufactured prior to 1800, or [a similar reproduction] similar reproductions of an original muzzleloading single-barrel [long gun] firearm which:

(1) [Is .44 caliber or larger and has open sights] Are .44 caliber or larger long guns or .50 caliber or larger handguns.

* * * * *

(3) Have open sights.

* * * * *

(e) Muzzleloading season. Firearms lawful for use are muzzleloading single-barrel [long guns] firearms which:

(1) Are .44 caliber or larger long guns or .50 caliber or larger handguns.

* * * * *

§ 141.47. Elk.

It is unlawful while hunting elk to:

(1) Use any [rifle or handgun which is not centerfire and at least .27 caliber] centerfire firearm less than .27 caliber or that propels a single-projectile less than 130 grains.

(2) Use any [projectile which is not all lead or designed to expand on impact and at least 130 grains] muzzleloading firearm less than .50 caliber or that propels a single-projectile less than 210 grains.

(3) [Use muzzleloading firearms other than long guns which are at least .50 caliber and propels a single-projectile that weighs at least 210 grains.

(4)] Use any shotgun less than 12 gauge.

[(5)] (4) * * *

[(6)] (5) * * *

[(7)] (6) * * *

[(8)] (7) * * *

[(9)] (8) * * *

[(10)] (9) * * *

[(11)] (10) * * *

[(12)] (11) * * *

[(13)] (12) * * *

[Pa.B. Doc. No. 06-2518. Filed for public inspection December 22, 2006, 9:00 a.m.]

[58 PA. CODE CHS. 141, 143 AND 147]
Hunting and Trapping; Hunting and Furtaker Licenses; Special Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 3, 2006, meeting, proposed amendments to Chapters 141, 143 and 147 (relating to hunting and trapping; hunting and furtaker licenses; and special permits).

The proposed rulemaking will have no 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 3, 2006, meeting of the Commission. Comments can be sent, until January 19, 2007, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

The Commission has been working in joint partnership with the Fish and Boat Commission (FBC) to create and implement this Commonwealth's first Point-of-Sale (POS) licensing system. The Commission and the FBC intend to replace their own individual paper-based licensing systems with a common computer-based automated licensing system. Implementing this computerized POS licensing system within this Commonwealth will significantly streamline the application and purchase process for customers, virtually eliminate manual auditing and reporting for agents, and provide tremendous new electronic functionality to assist the Commission and the FBC support staff in monitoring license administration. In addition, the data from the POS licensing system will enable the Commission and the FBC to monitor license sales, create strategic business plans based on trend analysis and, most importantly, create marketing plans based on more accurate customer demographics. Therefore, in an effort to accommodate the implementation of the Commission's new POS licensing system within this Commonwealth, the Commission is proposing to amend Chapter 143, Subchapters A—E, J and K, and Chapter 147, Subchapters R and S (relating to deer control; and bobcat hunting-trapping permit).

The Commission recently redesignated the "elk management areas/units" in this Commonwealth's north central region as "elk hunt zones." This redesignation is reflected in the Commission's elk management plan as well as the 2006/2007 "Hunting and Trapping Digest." However, this change is not properly reflected in current regulations. Therefore, in an effort to correct this lack of consistency, the Commission is proposing to amend §§ 141.48, 143.206 and 143.207 (relating to elk management units; validity of license; and unlawful acts) by redesignating "elk management areas/units" as "elk hunt zones."

Section 2722(g)(2) of the code (relating to authorized license-issuing agents) provides that the Commission shall adopt regulations for "The administration, control and performance of activities conducted pursuant to the provisions of this chapter." 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 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 Chapter 143, Subchapters A—E, J and K, and Chapter 147, Subchapters R and S were proposed under this authority.

Section 322(c)(4) of the code (relating to powers and duties of commission) specifically authorizes the Commission to "define geographic limitations or restrictions." 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 §§ 141.48, 143.206 and 143.207 were proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend Chapter 143, Subchapters A—E, J and K, and Chapter 147, Subchapters R and S to accommodate the implementation of the Commission's new POS licensing system within this Commonwealth. The proposed rulemaking will also amend §§ 141.48, 143.206 and 143.207 to redesignate "elk management areas/units" as "elk hunt zones."

3. Persons Affected

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

4. Cost and Paperwork Requirements

The adoption of this proposed rulemaking may result in some additional cost and paperwork associated with the implementation of the Commission's new POS licensing system within this Commonwealth. However, the Commission has determined that if there is an additional expense associated with this effort, it will not be substantial and would be absorbed by the current budget. The proposed rulemaking should not result in any other 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 A. Palmer, Acting Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-236. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Subchapter C. BIG GAME

§ 141.48. Elk [management units] hunt zones.

(a) The divisional line between two or more elk [**management units**] **hunt zones** shall be the center of the highway, natural water course [**or**], other natural boundary **or marked boundary**.

(b) The elk [**management units**] **hunt zones** [**shall**] **will** be established by the Director prior to the opening of elk season.

CHAPTER 143. HUNTING AND FURTKER LICENSES

Subchapter A. GENERAL

§ 143.1. Definitions.

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

* * * * *

Customer ID number—The unique customer identifier permanently assigned to each customer of the Commission's Point-of-Sale automated licensing system.

Point-of-Sale—The Commission's computer-based automated licensing system that facilitates the purchase and creation of license products at the agent location.

§ 143.11. Internet license sales.

[To fulfill Internet orders for general hunting licenses, the Commission may print specific license privileges directly on the hunting license back tag. For individuals who already possess a valid hunting license and opt to purchase an archery, muzzleloader, migratory game bird or bear license using the Commission's website, the Commission may assign a web order number to issue these additional license privileges. To validate these additional privileges, the license holder shall enter his web order number on the general hunting license back tag and sign in the spaces provided.] For individuals who already possess a valid hunting license and opt to purchase an archery, muzzleloader or migratory game bird license online, the license holder shall print the receipt, sign in the space provided and carry while afield.

Subchapter B. APPOINTMENT OF AGENTS

§ 143.26. Time for rebate.

Rebate to the agent will be [drawn from the Game Fund and returned to the agent in lump sum as soon as practicable after the agent's yearly sales are audited] credited to his account at the beginning of the license year following his first year as an agent.

Subchapter C. ANTLERLESS DEER LICENSES

§ 143.41. Purpose and scope.

* * * * *

(b) The Commission, after reviewing reproductive data, will establish the number of antlerless deer licenses allocated to each wildlife management unit. [Licenses will be distributed among county treasurers for issuance on the basis of percentage of land each county represents in the unit.]

(c) An application shall be accepted without restriction or regard to the applicant's county of residence. The following procedure shall be adhered to when determining successful applicants for licenses:

* * * * *

(2) [The Commission in Harrisburg will serve as the central receiver for all mail-in applications in all wildlife management units.] Envelopes received by first class mail delivered through and by the

United States Postal Service will be processed and licenses issued as soon as practicable.

(3) [Envelopes received by first class mail delivered through and by the United States Postal Service will be examined as soon as practicable, unopened, to determine the number of applications received as well as to verify delivery to the intended wildlife management unit.] This process of license issuance will continue until the available supply of licenses for that wildlife management unit is exhausted.

(4) This process of [application distribution] license issuance will continue until the available supply of licenses for that wildlife management unit is exhausted.

(d) The Commission may act in the capacity of a county treasurer for issuing antlerless licenses [in a wildlife management unit] if authority to issue licenses has been removed from any or all county treasurers [in the wildlife management unit].

(e) Notwithstanding the provisions of this chapter limiting the number of licenses available, the Commission will authorize antlerless deer licenses to be issued regardless of an established quota to:

(1) A resident of this Commonwealth within 60 days of discharge from active duty under honorable conditions from the United States Armed Forces or United States Coast Guard. [The issuing county treasurer will designate the license for a specific wildlife management unit by writing the unit's alphanumeric designation on the face of the license.]

(2) A disabled veteran as defined in 34 Pa.C.S. § 2706(b)(1) (relating to resident license and fee exemptions). [The issuing county treasurer will designate the license for a specific wildlife management unit by writing the unit's alphanumeric designation on the face of the license.]

* * * * *

§ 143.42. Definitions.

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

Application—[The form issued with a regular hunting license used in applying for an antlerless license.] The universal form contained in the "Hunting and Trapping Digest" or a reasonable facsimile thereof used in applying for an antlerless license or an unsold tag.

[County allocation—The number of licenses allocated by the Commission to an individual county.]

* * * * *

Date issued—The date [placed on the license by a county treasurer or the Commission] printed on the license at the time of issuance indicating when the license was mailed or given to the person named on the license.

Envelope—The official envelope issued with a regular hunting license which shall be used by the applicant to mail completed applications to [the Commission] a county treasurer.

* * * * *

License—The numbered [**back tag**] license which is issued by the county treasurer or the Commission authorizing the holder thereof to hunt antlerless deer in a specific wildlife management unit.

* * * * *

[*Unsold tag application*—The form contained in the “Hunting and Trapping Digest” used in applying for an unsold tag.]

* * * * *

§ 143.43. Preamble.

(a) An application shall be submitted to [**the Commission wildlife management unit address in Harrisburg**] a county treasurer and a license shall be issued only in accordance with the act and this subchapter.

* * * * *

§ 143.44. Application.

[(a) Only the original current application is valid for making application.

(b) It is unlawful to apply for more than one license.

(c) The application is not transferable by the person receiving it. The application may not be used by another person to apply for a license.]

It is unlawful to apply for more than one license before the unsold tag and unlimited antlerless license application periods as set forth in this chapter.

§ 143.45. Completing and submitting applications.

(a) Except as otherwise provided in § 143.52 (relating to procedure for unlimited antlerless licenses) and for those applications submitted by qualified landowners, it is unlawful for a county treasurer to accept an application other than [**from the Commission**] by regular first class mail delivered through and by the United States Postal Service. [**County treasurers with unsold antlerless deer licenses shall accept applications over the counter and may immediately issue licenses beginning on the first Monday in November.**] Applications for unsold antlerless deer licenses shall be accepted by county treasurers over the counter and may immediately be processed if licenses are available beginning on the first Monday in November.

(b) [**The Commission will not accept antlerless deer license applications other than by regular first class mail delivered through and by the United States Postal Service.**] Applications will not be accepted by county treasurers prior to the start of the normal business day on the third Monday in July.

(c) [**Applications will not be accepted by the Commission prior to the start of the normal business day on the first Monday in August.**

(d)] The application shall be legibly completed, in its entirety, in accordance with instructions on the application. **An applicant may enter up to three units, in order of preference, on the application.**

[(e)] (d) * * *

[(f)] (e) * * *

[(g)] (f) The envelope [**shall**] **must** contain return first class postage and a return address. If requirements of this subsection are not met, applications will be placed in a dead letter file and may be reclaimed by the applicant upon contacting the [**Commission’s Hunting License Division in Harrisburg**] county treasurer’s office. Postage, both forward and return, is the responsibility of the applicant.

[(h)] (g) * * *

§ 143.48. First-come-first-served license issuance.

(a) Envelopes containing applications will be accepted on a first-come-first-served basis. [**Envelopes will be inspected by the Commission in Harrisburg, unopened, to determine if they comply with § 143.45(b), (c), (e) and (g) (relating to completing and submitting applications).**]

(b) [**If the conditions in § 143.45(b), (c) and (e) are met, it constitutes initial acceptance, and the applications will be forwarded to a county treasurer within the wildlife management unit for issuance of the appropriate number of licenses. If the conditions are not met, the enclosed applications will be rejected and returned to the sender as soon as possible.**] If there are more than three applications in one envelope, the enclosed applications will be rejected and returned to the sender as soon as possible.

* * * * *

(e) [**Envelopes containing applications initially accepted for the issuance of a license shall be opened and inspected by the county treasurer at his earliest convenience. If an application in an accepted envelope fails to comply with § 143.45 (relating to completing and submitting applications), applications enclosed in the accepted envelope shall be rejected and returned by the county treasurer to the sender as soon as practicable. The back tags initially assigned to the envelope shall be marked VOID across the face in ink.**] If an application fails to be in compliance with § 143.45 (relating to completing and submitting applications), applications enclosed in the envelope shall be rejected and returned by the county treasurer to the sender as soon as practicable.

§ 143.49. Issuing licenses.

(a) Licenses may be issued by county treasurers immediately following receipt of applications [**from the Commission**].

(b) Licenses shall be [**validated by the addition of the county treasurer’s or the Director’s signature or signature stamp, date of issue and the applicant’s regular hunting license back tag number. The county treasurer shall write in ink the applicant’s regular hunting license back tag number on the antlerless deer ear tag. The county treasurer shall write in ink the assigned antlerless license number on the face of the check or money order**] issued through the Commission’s Point-of-Sale automated licensing system. The county treasurer shall write in ink the applicants’ customer ID numbers on the

face of the check or money order. If there are no licenses available in the applicant's first unit of preference, the county treasurer shall issue a license for the applicant's next unit of preference in the order given. If all three units have no licenses available, the county treasurer shall return the application to the applicant indicating that the selected units were sold out.

(c) Except as otherwise provided in § 143.52 (relating to procedure for unlimited antlerless licenses) and for qualified landowners, licenses issued shall be delivered to successful applicants in the envelope by first class mail through and by the United States Postal Service. Licenses shall be placed with the United States Postal Service no later than the [third] second Monday in September, except for licenses issued under § 143.51(f) (relating to application and issuance of unsold tags) which shall be placed with the United States Postal Service no later than [October 1] the fourth Monday in September. If more than one application is mailed to the county treasurer in the same envelope, the licenses shall be mailed to the person whose name appears on the return section of the envelope. The person receiving the additional licenses is responsible for delivering them to the appropriate people.

§ 143.50. Procedure for nonresidents of this Commonwealth.

[The Commission having unsold licenses on the third Monday in August and thereafter will accept applications for those units in compliance with § 143.45 (relating to completing and submitting applications) from nonresidents of this Commonwealth.] Nonresidents may apply for unsold licenses on the last Monday in July and thereafter in compliance with § 143.45 (relating to completing and submitting applications).

§ 143.51. Application and issuance of unsold tags.

(a) Except as provided in § 143.52 (relating to procedures for unlimited antlerless licenses), beginning on the [fourth] first Monday in August, residents and nonresidents of this Commonwealth are eligible to receive an unsold tag.

(b) [An applicant for this tag may not use the regular antlerless deer license application.] An applicant shall only use the [unsold] application contained in the "Hunting and Trapping Digest" or a reasonable facsimile thereof.

* * * * *

(e) Unsold tags shall be [validated by the addition of the county treasurer's or Director's signature or signature stamp, date of issue and the applicant's regular hunting license back tag number. The county treasurer shall write in ink the applicant's regular hunting license back tag number on the antlerless deer ear tag] issued through the Commission's Point-of-Sale automated licensing system. The county treasurer shall write in ink the applicants' customer ID numbers on the face of the check or money order. If there are no licenses available in the applicant's first unit of preference, the county treasurer shall issue a license for the applicant's next unit of preference in the order given. If all three units have no licenses available,

the county treasurer shall return the application to the applicant indicating that the selected units were sold out.

(f) Beginning on the [second Monday in September, residents and nonresidents of this Commonwealth are eligible to apply for one additional unsold tag by mailing to the appropriate Commission wildlife management unit address in Harrisburg.] third Monday in August, residents and nonresidents of this Commonwealth are eligible to apply for one additional unsold tag by mailing to a county treasurer.

§ 143.52. Procedure for unlimited antlerless licenses.

* * * * *

(b) Beginning on the [fourth Monday in August, residents and nonresidents of this Commonwealth shall be eligible to apply to designated wildlife management units for an unlimited number of antlerless deer licenses by mailing the application to the appropriate Commission wildlife management unit address in Harrisburg.] first Monday in August residents and nonresidents of this Commonwealth shall be eligible to apply by mail to a county treasurer for an unlimited number of antlerless deer licenses for designated units.

(c) Beginning on the [third Monday in September, county treasurers within the designated wildlife management units shall accept antlerless applications over the counter from residents and nonresidents of this Commonwealth and may immediately issue licenses to applicants.] fourth Monday in August, county treasurers shall accept antlerless applications over the counter for designated units from residents and nonresidents of this Commonwealth and may immediately issue licenses to applicants.

§ 143.53. Reapplication.

(a) A person whose application has been rejected and returned may secure a new official envelope from a hunting license issuing agent and reapply for a license by:

(1) If applicable, correcting the errors which caused the original application to be rejected and returning it to [the Commission wildlife management unit address in Harrisburg] a county treasurer.

(2) Changing on the application the designated wildlife management [unit] units in which the applicant desires to hunt and forwarding it to [another Commission wildlife management unit address in Harrisburg] a county treasurer.

(b) A person who was issued a license that was subsequently lost in the United States mail and never received by the licensee may, upon submitting an affidavit stating this fact, receive a replacement license from any county treasurer. There will be no additional cost for this license. Prior to issuing a replacement license, county treasurers shall first verify through [their records or through communication with another county treasurer] the Commission's Point-of-Sale automated licensing system that the applicant was issued the original license.

Subchapter D. BEAR LICENSES

§ 143.68. Carry the license.

[The] For a bear license issued subsequent to the owner's general hunting license, the bear license shall be signed by the owner in the space provided and shall be carried on the person at all times when the owner is hunting for bear. The bear license does not need to be displayed but shall be produced for inspection upon demand of any officer authorized to enforce this title.

Subchapter E. [FLINTLOCK (MUZZLELOADER) DEER LICENSES] (Reserved)

§ 143.81. [Purpose and scope] (Reserved).

[This subchapter establishes methods for application and issuance of a license.]

§ 143.82. [Definitions] (Reserved).

[The following words or terms, when used in this subchapter, have the following meaning, unless the context clearly indicates otherwise:

License—The special stamp issued by a license issuing agent authorizing the holder thereof to hunt deer with a muzzleloading firearm during the special season.]

§ 143.83. [Preamble] (Reserved).

[Applications shall be submitted to authorized issuing agents and licenses issued by them under the act and this subchapter.]

§ 143.84. [Application] (Reserved).

[(a) Applications for flintlock (muzzleloader) deer licenses shall be submitted to authorized issuing agents for licenses issued by them under the act and this subchapter.

(b) Applications for flintlock (muzzleloader) deer licenses may be made when purchasing a regular hunting license, or any time thereafter, upon presentation of the regular hunting license.]

§ 143.85. [Issuance of licenses] (Reserved).

[When the conditions in § 143.84 (relating to application) have been met, the agent may issue the appropriate license.]

§ 143.86. [Unlawful acts] (Reserved).

[It shall be unlawful to:

(1) Accept an application or issue a license contrary to the act or this chapter.

(2) Apply for or receive a license contrary to the act or this chapter.

(3) Aid another person in applying for or receiving a license contrary to the act or this subchapter.

(4) Transfer a license to another individual.]

§ 143.87. [Penalties] (Reserved).

[A person violating this subchapter shall, upon conviction, be sentenced as prescribed by the act.]

Subchapter J. MIGRATORY GAME BIRD LICENSE

§ 143.181. Purpose and scope.

This subchapter establishes rules for application and issuance of Migratory Game Bird License and [survey cards] HIP surveys.

§ 143.182. Definitions.

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

HIP survey—The Migratory Game Bird Harvest Information Program (HIP) survey that will be completed at the time the license is issued.

Migratory Game Bird License—The [numbered, wallet size card] license authorizing the holder thereof to hunt for migratory game birds. The license is not valid unless used in conjunction with a regular resident or nonresident hunting license.

[Survey card—The matching, numbered Migratory Game Bird Harvest Information Program card that is attached to the Migratory Game Bird License. The survey card will be completed at the time the license is issued.]

§ 143.183. Application.

Application may be made when purchasing a hunting license, or at any time thereafter upon completion of the HIP survey. [In addition to filling out the application for a hunting license, the applicant shall complete the matching numbered Migratory Game Bird Harvest Information Program survey card.]

§ 143.184. Issuance of license.

After confirming that the HIP survey [card] has been completed in its entirety, the issuing agent shall [enter the date of issuance in ink on the license and the matching numbered survey card in the space provided and issue the license] issue the license.

§ 143.186. Processing [survey cards] HIP surveys.

[Issuing agents shall forward survey cards completed each month directly to the United States Fish and Wildlife Service, Office of Migratory Bird Management, no later than the 5th day of the following month. Issuing agents shall forward the survey cards in the postage-paid envelopes provided by the Commission, as per the instructions set forth in the current issuing agents instruction manual.] HIP survey data shall be forwarded electronically to the United States Fish and Wildlife Service, Office of Migratory Bird Management, through the Commission's Point-of-Sale automated licensing system no later than 30 days after license issuance.

§ 143.187. Unlawful acts.

It is unlawful to:

* * * * *

(2) [Process survey cards contrary to § 143.186 (relating to processing survey cards).

(3) Apply for or receive a Migratory Game Bird License contrary to the act or this subchapter.

[(4) (3) * * *

Subchapter K. ELK LICENSES

§ 143.203. Drawing.

* * * * *

(d) Qualified applicants and alternates drawn for an elk license shall be required to obtain a regular hunting license and complete an orientation program as prescribed by the Director. [Persons who are eligible for license and fee exemptions and meet the requirements prescribed in section 2706 of the act (relating to resident license and fee exemptions) are not required to purchase a regular hunting license.]

* * * * *

§ 143.206. Validity of license.

An elk license is valid for taking elk only in the elk [management area] hunt zones designated on the elk license and is valid for an antlerless [or], antlered or either sex elk as designated on the elk license.

§ 143.207. Unlawful acts.

It is unlawful for a person to:

* * * * *

(3) Hunt for elk in an elk [management area] hunt zone other than the elk [management area] hunt zone designated on the elk license.

* * * * *

CHAPTER 147. SPECIAL PERMITS

Subchapter R. DEER CONTROL

DEER MANAGEMENT ASSISTANCE PROGRAM PERMITS

§ 147.672. Definitions.

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

* * * * *

DMAP harvest permit—The numbered permit which is issued [by the Commission] through the Commission's Point-of-Sale automated licensing system, authorizing the holder thereof to hunt antlerless deer in a specific DMAP area in accordance with provisions in the act and this part as they pertain to lawfully hunting deer. Each DMAP harvest permit has its own antlerless deer ear tag [and antlerless deer harvest report card] attached to be used only for tagging [and reporting] an antlerless deer harvested.

* * * * *

§ 147.673. Eligibility and application for DMAP.

* * * * *

(d) Approved applicants will receive one coupon for each DMAP permit the DMAP area is entitled to. In DMAP areas designated by the Director, DMAP harvest permits may be made available directly through authorized issuing agents without coupons being issued.

§ 147.674. Issuance of DMAP harvest permits.

(a) DMAP harvest permits will be made available without regard to quota limitations and will be issued [by the Commission] through the Commission's Point-of-Sale automated licensing system.

(b) Two harvest permits for the DMAP area may be issued each license year to persons who possess a valid Pennsylvania hunting license [or qualify for license

and fee exemptions under section 2706 of the act (relating to resident license and fee exemptions)].

* * * * *

(e) In DMAP areas designated by the Director, applicants may apply for DMAP harvest permits without possessing a coupon as long as harvest permits remain available for that area.

§ 147.675. Validity of permit.

* * * * *

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

§ 147.676. Unlawful acts.

It is unlawful to:

* * * * *

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

* * * * *

Subchapter S. BOBCAT HUNTING-TRAPPING PERMIT

§ 147.701. General.

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

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

* * * * *

[Pa.B. Doc. No. 06-2519. Filed for public inspection December 22, 2006, 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 3, 2006, meeting, proposed to rescind Chapter 147, Subchapter G (relating to taxidermy) and amend § 147.146 (relating to sale of inedible wildlife parts).

The proposed rulemaking will have no 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 3, 2006, meeting of the Commission. Comments can be sent, until January 19, 2007, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

On July 7, 2006, the Governor signed into law the act of July 7, 2006 (P.L. 358, No. 77), which effectively transferred regulatory authority over taxidermy activities from the Commission to the Department of Agriculture as

of October 5, 2006. The statutory amendments made to the code were limited to a minor amendment to section 2904 of the code (relating to permit fees) and the rescission of section 2926 of the code. To complete this transition, the Commission must eliminate the majority of the remaining taxidermy regulations in §§ 147.121—147.129. However, in an intentional effort to continue certain accommodations made for taxidermists respecting the sale of unclaimed specimens, the Commission must relocate and incorporate the provisions currently in § 147.126 (relating to unclaimed specimen procedure) to § 147.146 (relating to sale of inedible wildlife parts). Therefore, the Commission is proposing to rescind Chapter 147, Subchapter G to eliminate the remaining regulatory language concerning taxidermy activities no longer regulated by the Commission and amend § 147.146 to relocate provisions permitting the sale of unclaimed specimens by taxidermists.

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 2312(c)(2) of the code (relating to buying and selling game) specifically states “The commission may, by regulation, authorize the buying and selling of inedible parts of game and wildlife as it deems appropriate.” 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 rescission of Chapter 147, Subchapter G and amendment of § 147.146 were proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will rescind Subchapter G to eliminate the remaining regulatory language concerning taxidermy activities no longer regulated by the Commission and amend § 147.146 to relocate provisions permitting the sale of unclaimed specimens by taxidermists.

3. Persons Affected

Persons wishing to engage in taxidermy related activities or sell unclaimed specimens, or both, within this Commonwealth will 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 A. Palmer, Acting Director, Bu-

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

CARL G. ROE,
Executive Director

Fiscal Note: 48-240. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 147. SPECIAL PERMITS

Subchapter G. [TAXIDERMY] (Reserved)

(Editor’s Note: As part of this proposed rulemaking, the Commission is proposing to delete the text of Subchapter G, which appears in 58 Pa. Code pages 147-16—147-18.4, serial pages (230320), (315261), (315262), (306267), (306268), (292857) and (292858).)

§§ 147.121.—147.129. (Reserved).

Subchapter H. PROTECTED SPECIMEN

§ 147.146. Sale of inedible wildlife parts.

(a) Wildlife lawfully taken within this Commonwealth that has been mounted, tanned or completely prepared for study or display in accordance with generally accepted taxidermy procedures may be sold if one of the following conditions is met:

* * * * *

(3) The original owner’s specimen is determined to be unclaimed as provided for in subsection (b).

(b) A specimen will be considered unclaimed when the following conditions are met:

(1) The specimen was lawfully possessed when originally deposited with the taxidermist.

(2) The specimen was mounted, tanned or completely prepared for study or display in accordance with generally accepted taxidermy procedures.

(3) The taxidermist has made a reasonable effort to contact the original owner or depositor through any means generally available to inform the owner or depositor that the specimen is complete and should be picked up within a certain time period.

(4) The owner, or the original depositor of the specimen, has been notified by certified, first-class mail and has failed to contact the taxidermist within 30 days of receipt of the notice; or the taxidermist is notified by the postal authorities the certified mail is unclaimed or undeliverable. The specimen will be considered unclaimed after 30 days from the date the taxidermist was notified.

(c) Before selling a specimen, a permit shall be obtained from a Commission officer.

[(c)] (d) * * *

[(d)] (e) * * *

[(e)] (f) * * *

[(f)] (g) * * *

[(g)] (h) * * *

[(h)] (i) * * *

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