

PROPOSED RULEMAKING

Title 7—AGRICULTURE

DEPARTMENT OF AGRICULTURE

[7 PA CODE CH. 39]

Frozen Desserts Standards; Intent to Rescind

The Department of Agriculture (Department) intends to rescind 7 Pa. Code Chapter 39 (relating to frozen desserts standards). Chapter 39 was promulgated under authority of The Frozen Dessert Law (act) (31 P.S. §§ 417-1—417-14).

The subject matter of Chapter 39 is addressed by other statutes and regulations administered by the Department, including 3 Pa.C.S. §§ 5701—5714 (relating to Retail Food Facility Safety Act), 3 Pa.C.S. §§ 5721—5737 (relating to Food Safety Act) and the Milk Sanitation Law (31 P.S. §§ 645—660g).

The act authorizes the Department to promulgate regulations as necessary to carry out the provisions and intent of that statute, but requires this be done “after public hearing.” (31 P.S. § 417-9(b)). In this instance—where the Department seeks to rescind an outdated regulatory chapter the subject matter of which is addressed by other Department-administered statutes and regulations—the Department believes convening a public hearing on the proposed regulatory rescission would be unnecessary and contrary to the public interest.

The Department hereby provides notice of its intention to rescind Chapter 39 without first convening a public hearing. The Department will consider any request for a public hearing that is made in writing and delivered by Friday, October 5, 2018, to the Department of Agriculture, Legal Office, 2301 North Cameron Street, Harrisburg, PA 17110.

RUSSELL C. REDDING,
Secretary

[Pa.B. Doc. No. 18-1450. Filed for public inspection September 14, 2018, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CH. 147]

Special Permits; Guiding Permit

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its July 31, 2018, meeting to add §§ 147.903.1 and 147.904.1 (relating to examination; and records and reports) and amend §§ 147.901—147.905 to enhance and expand the scope of the guide permit program.

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

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

This proposed rulemaking was made public at the July 31, 2018, meeting of the Commission. Comments can be sent until September 21, 2018, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

The Commission is proposing to add §§ 147.903.1 and 147.904.1 and amend §§ 147.901—147.905 to enhance and expand the scope of the guide permit program. These amendments will expand the scope of this program to cover all commercial guiding activities on State game lands and all commercial and noncommercial guiding activities for elk on all other lands and waters. This effort is intended to provide greater legitimacy to the holders of guiding permits within the Commonwealth by establishing minimum standards for the required knowledge base required to be a guide, including basic biology and identification of applicable game and wildlife species, methods of safe and ethical use of firearms, trap and other devices, applicable Federal and State laws concerning to hunting and trapping, basic land navigation, basic first-aid and CPR skills.

Section 2901(b) of the code (relating to authority to issue permits) provides “the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued.” The addition of §§ 147.903.1 and 147.904.1 and amendments to §§ 147.901—147.905 are proposed under this authority.

2. Regulatory Requirements

This proposed rulemaking will add §§ 147.903.1 and 147.904.1 and amend §§ 147.901—147.905 to enhance and expand the scope of the guide permit program.

3. Persons Affected

Persons wishing to engage in any commercial guiding activities on lands designated as State game lands or engage in any commercial or noncommercial guiding activities for elk anywhere within this Commonwealth will be affected by this proposed rulemaking.

4. Cost and Paperwork Requirements

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

5. Effective Date

This 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 this proposed 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: 48-433. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 147. SPECIAL PERMITS

Subchapter Y. GUIDING PERMIT

§ 147.901. Purpose and scope.

The purpose of this subchapter is to provide for the issuance of guiding permits to authorize eligible appli-

cants to serve as guides for persons hunting, trapping or otherwise taking [**certain designated species of] game or wildlife.**

§ 147.902. **Definitions.**

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

Commercial guiding activity—Any guiding activity provided by any person to another person for any fee, remuneration or other economic gain, including bartered goods or services.

Guide—A person who assists another person in any manner to hunt, trap or otherwise take [**certain designated species of] game or wildlife, including the use of dogs. This definition does not include the use of leashed tracking dogs for deer, bear, and elk.**

Guiding activity—

(i) The act of assisting or conspiring to assist another person in any manner to hunt, trap or otherwise take [**certain designated species of] game or wildlife by locating, calling or directing another person to the quarry, including the use of dogs. This definition does not include the use of leashed tracking dogs for deer, bear, and elk.**

(ii) The term is not intended to include or authorize the assistance taking the form of any overt act directly connected with harvesting **game or wildlife** by discharging a firearm, bow or crossbow or setting or resetting a trap or cable restraints.

§ 147.903. **Application.**

(a) Applications for guiding permits issued under this subchapter shall be made through the [**applicants' local district wildlife conservation officers] Commission's Special Permit Enforcement Division** on the appropriate form provided by the Commission.

(b) Each application must include the name, address, telephone number and date of birth of the applicant [, **as well as the specific eligible species of wildlife sought to be covered by the permit] . In addition, applications shall be accompanied by copies of any license(s) or training certifications required under subsection (c).**

(c) Applications for guiding permits will only be accepted from persons who possess a valid hunting or **furtaking** license [or qualify for license and fee exemptions under section 2706 of the act (relating to license and fee exemptions)], **possess a valid first aid and CPR training certifications from a nationally recognized source(s)** and have no prior record of violations of the act or this title or related license revocations within the previous 10 years.

(d) [**The fee for a guiding permit will be \$25 for residents and \$50 for nonresidents for each respective eligible species of wildlife to be covered by the permit.] Examination and permit fees.**

(1) **Examination fee. Each new application shall be accompanied by a nonrefundable \$50 examination fee and shall specify each applicable category of game and wildlife species the applicant is requesting certification to guide for. The eligible categories are big game, small game and furbearers.**

(2) **Permit fee.**

i. Commercial guiding permit. After the required examination is passed successfully for each applicable category of game and wildlife species, the applicant shall submit a permit fee in the amount of \$100 for each applicable category of game and wildlife species the applicant is requesting certification to guide for.

ii. Noncommercial elk guiding permit. The permit applicant shall submit a permit fee in the amount of \$25.

(e) Any guide whose permit is not renewed for a period of 1 or more years shall reapply as a new applicant.

(Editor's Note: The following section is proposed to be added and printed in regular type to enhance readability.)

§ 147.903.1. **Examination.**

(a) Any new applicants for a commercial guiding permit issued under this subchapter are required to pass a supervised written, oral and practical examination approved by the director. The minimum score to achieve passage is 80% correct.

(b) Examinations for new applicants for a commercial guiding permit will include all of the following subject matter:

(1) Biology, life history and habits of each applicable category of game and wildlife species.

(2) Identification of each applicable category of game and wildlife species.

(3) State and Federal laws and regulations applicable to the hunting, trapping and taking of each applicable category of game and wildlife species.

(4) Basic orienteering using map and compass.

(5) Safe and ethical operation of firearms, traps, cable restraints and other devices.

(c) *Inapplicability.* The examination requirements of this section shall not be construed to apply to persons that held a guide permit, in good standing, issued by the Commission, for the 5 previous permit years preceding the effective date of this section. Nothing in this section shall be construed to require an examination for applicants for a noncommercial guiding permit.

§ 147.904. **Permit.**

(a) *General rule.* A guiding permit issued under this subchapter is required for any person to engage in [**any commercial or noncommercial guiding activity for the following designated species of wildlife: elk and bobcat. A guiding permit is required for any person to engage in any commercial guiding activity for coyotes on State game lands.] either of the following activities:**

(1) Commercial guiding activities on lands and waters designated as State game lands.

(2) Commercial or noncommercial guiding activities for elk.

(b) *Additional permits.* Possession of a guiding permit issued under this subchapter does not diminish an individual's obligation to obtain any other applicable Federal, State or local permits concerning the guiding activities.

(c) *Guiding on State game lands.* Notwithstanding the general prohibitions of § 135.41 (relating to state game lands), a guiding permit issued pursuant to this

subchapter shall authorize its holder to engage in commercial guiding activities on State game lands [for an eligible species of wildlife].

(d) [***Orientation.*** In any year the Commission establishes an orientation program for an eligible species of wildlife, the continuing validity of any guiding permit issued under this subchapter covering the eligible species, is premised upon the permit holder's completion of the orientation program prior to engaging in any guiding activities for the eligible species of wildlife.] **Licenses, permits and stamps required. A guide shall maintain valid licenses, permits and stamps for all of the species for which they are conducting guiding activities, excepting only elk licenses, if applicable. A guide shall carry the licenses, permits and stamps required by this subsection on their person while conducting any guiding activities and shall produce same, upon demand, to any officer whose duty it is to enforce the title.**

(*Editor's Note:* The following section is proposed to be added and printed in regular type to enhance readability.)

§ 147.904.1. Records and reports.

(a) *Records.* A guide shall maintain legible, accurate and complete field records of all guiding activities conducted under the authority of the guiding permit on a

form supplied by the Commission. These field records shall be maintained and made available for inspection in accordance with section 2906 of the act (relating to records). A guide shall complete the field records form according to the instructions on the form and must contain all of the following information for each guiding activity:

- (1) Name, address and C.I.D. number for each client.
- (2) Date of guided activity.
- (3) Quantity and species of game or wildlife harvested by each client.
- (4) Name and guide permit number of any accompanying guide permit holder for each guided activity.

(b) *Reports.* All field records shall be submitted to the Commission annually in accordance with section 2907 of the act (relating to reports).

§ 147.905. Violations.

Violations of this subchapter will be prosecuted under applicable provisions of the act, including section 2908 of the act (relating to violations). The Director may deny, revoke or suspend any permit for any violation of this subchapter upon written notice to the permittee.

[Pa.B. Doc. No. 18-1451. Filed for public inspection September 14, 2018, 9:00 a.m.]