

PROPOSED RULEMAKING

GAME COMMISSION

[58 PA. CODE CH. 141]

Hunting and Trapping; Big Game

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its September 11, 2021, meeting to amend § 141.47 (relating to elk seasons) to eliminate the outdated reference to the elk season orientation.

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 September 11, 2021, meeting of the Commission. Comments can be sent until January 19, 2022, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

The Commission historically required mandatory hunter orientation for all hunters that were successfully drawn for an elk license. The purpose of this orientation was to provide hunters with important information about this unique hunt. The Commission has since transitioned away from this in-person orientation training and instead now provides hunters with all of the necessary instructions by mail with their licensing materials. Considering this change, the Commission is proposing to amend § 141.47 to eliminate the outdated reference to the elk season orientation.

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 § 141.47 are proposed under this authority.

2. Regulatory Requirements

This proposed rulemaking will amend § 141.47 to eliminate the outdated reference to the elk season orientation.

3. Persons Affected

Persons interested or required to receive important information about hunting elk 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 Jason L. DeCoskey, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

BRYAN J. BURHANS,
Executive Director

Fiscal Note: 48-476. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Subchapter C. BIG GAME

§ 141.47. Elk seasons.

(a) *Archery elk season.*

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

* * * * *

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

* * * * *

(iii) Fail to mark the kill site after lawful harvest in accordance with [**Commission**] instructions provided [**during the elk season orientation**] by the Commission.

* * * * *

(b) *Regular, extended and late firearms elk seasons and elk seasons established for the Special Conservation License and the Special License.*

(1) *Permitted devices.* It is lawful to hunt elk during the regular, extended and late firearms elk seasons and elk seasons established for the Special Conservation License and the Special License with any of the following devices:

* * * * *

(2) *Prohibitions.* While hunting elk during the regular, extended and late firearms elk seasons and elk seasons established for the Special Conservation License and the Special License, it is unlawful to:

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(iii) Fail to mark the kill site after lawful harvest in accordance with [**Commission**] instructions provided [**during the elk season orientation**] by the Commission.

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[Pa.B. Doc. No. 21-1756. Filed for public inspection October 22, 2021, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CH. 147]

Special Permits; Deer Control; Agriculture

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) pro-

posed at its July 24, 2021, meeting to amend §§ 147.551—147.559 (relating to agriculture), add § 147.551a (relating to definitions) and delete § 147.554 (relating to subpermit) to update and improve the agriculture deer control 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 24, 2021, meeting of the Commission. Comments can be sent until January 19, 2022, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. *Purpose and Authority*

The agricultural deer control program is a special permit for deer control related to agricultural depredation that generally authorizes farmers to enlist the aid of hunters to remove additional antlerless deer from their agricultural properties outside of regular deer hunting seasons and annual harvest tag allocations. Under the current program, farmers apply for and receive red plastic tags at a rate of one tag for every 5 acres under cultivation. The farmers are then permitted to distribute these tags out to hunters at a rate of one per hunter, including themselves. Additionally, the farmers themselves, and not the hunters, are responsible for providing monthly harvest reports and collecting and returning all the unused red plastic tags to the Commission.

Over the years, farmers and program administrators have identified issues with the logistics and lack of efficiencies within the program. In response to public requests for various modifications, the Commission organized a meeting of organizations who use or represent groups who use the program. Participants were asked to provide input on what works, what does not work, and how the Commission could fix the items that do not work. From this input, the Commission developed a number of amendments intended to improve efficiency and effectiveness of the program for both farmers and hunters.

The first amendment involves removing public access requirement and signage requirements as eligibility criteria for applicants. Properties in Wildlife Management Units 5C and 5D are already exempt from these requirements and this change would remove disparity in program eligibility standards for certain applicants. Furthermore, farmers and Commission staff have identified this requirement as an unnecessary barrier to participation that was not significantly improving hunter access on these properties.

The second amendment involves increasing the number of harvest tags a single hunter can be issued by the farmer from one to four. This change also makes it clear that successful hunters are authorized to keep all deer harvested. This change brings the program into harmony with the four harvest tags per hunter standard under the separate, but related, Deer Management Assistance Program (DMAP). Farmers and Commission staff have identified this requirement as an unnecessary barrier to harvest success that was not significantly improving hunter participation on these properties.

The third amendment involves altering the program effective dates to August 1 to September 15 and February 1 to April 15. This change expanded the summer closure period to protect deer from pressure during peak fawning periods and also reorganized the program effective dates

to start July 1 and end June 30 of the following fiscal year rather than by calendar year. The latter change allows the program application and distribution to be consistent with other permits issued by the Commission, including allowing for autorenewals.

The fourth amendment transitions program reporting responsibilities from the farmer to the hunter. This change removes unnecessary paperwork and record keeping responsibilities for farmers and brings the program into harmony with reporting requirements under DMAP where hunters fulfill these roles. With this change, hunters will report both positive and negative harvests for each harvest permit by April 30 each year.

The fifth amendment removes the current requirement that applicants be residents of this Commonwealth to be eligible for participation in this program. Farmers and Commission staff have identified this requirement as an unnecessary barrier to harvest success that was not significantly improving resident hunter access on these properties.

The sixth amendment replaces the red snap tags issued under this program and replaces them with harvest permits and associated tags. Also similar to the structure of DMAP, this change will allow the farmer to distribute coupons to hunters who will in turn submit the coupons for harvest permits issued through the Commission's Pennsylvania Automated License System (PALS). Incidentally, this change also necessitates changing the program name from "Reg Tag Deer Control Permit" to "agriculture deer control permit" due to the elimination of the red snap tags.

The seventh amendment replaces the program's very basic baiting authorization standards with the standards currently outlined in § 141.1 (relating to special regulations areas). This change reduces confusion and brings consistency between the baiting authorization under this program and that currently authorized during regular deer hunting seasons.

The Commission does not intend these changes take effect immediately, but rather intend that they take effect on July 1, 2022, to allow for a smooth transition to the new program standards. The Commission is proposing to amend §§ 147.551—147.559, add § 147.551a and delete § 147.554 to update and improve the agriculture deer control program.

Section 2901(b) of the code (relating to authority to issue permits) provides "the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued." The amendments to §§ 147.551—147.559, addition of § 147.551a and deletion of § 147.554 are proposed under this authority.

2. *Regulatory Requirements*

This proposed rulemaking will amend §§ 147.551—147.559, add § 147.551a and delete § 147.554 to update and improve the agriculture deer control program.

3. *Persons Affected*

Persons who use or participate in the agriculture deer control program 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, if approved on final-form rulemaking, will go into effect on July 1, 2022, and will remain in effect until changed by the Commission.

6. *Contact Person*

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

BRYAN J. BURHANS,
Executive Director

Fiscal Note: 48-474. No fiscal impact; (8) recommends adoption.

Annex A

**TITLE 58. RECREATION
PART III. GAME COMMISSION
CHAPTER 147. SPECIAL PERMITS
Subchapter R. DEER CONTROL
AGRICULTURE**

§ 147.551. **General.**

[This section and §§ 147.552—147.559 (relating to agriculture) provide for permits to be issued to a qualified person as defined in section 2121(c) of the act (relating to killing game or wildlife to protect property) to remove deer by shooting on lands under their ownership or control, or both] Sections 147.552—147.559 (relating to agriculture) establish rules for the submission of applications and the issuance of agriculture deer control harvest permits on lands enrolled in the agriculture deer control program.

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

§ 147.551a. **Definitions.**

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

Agriculture deer control permit—The permit issued to a qualified person, as defined in section 2121(c) of the act (relating to killing game or wildlife to protect property), that authorizes its holder to issue harvest permit coupons to aid in the removal of deer by shooting on lands under their ownership or control, or both.

Coupon—The coupon issued by the Commission for an approved agriculture deer control area entitling the holder to one agriculture deer control harvest permit for the area indicated on the coupon.

Harvest permit—The numbered agriculture deer control harvest permit issued through the Commission's Pennsylvania Automated Leasing System (PALS), authorizing the holder thereof to hunt antlerless deer in the area indicated on the coupon. Each harvest permit has its own antlerless deer ear tag attached to be used only for tagging an antlerless deer harvested in the designated area.

§ 147.552. [**Application**] **Eligibility and application for agriculture deer control permit.**

(a) Application for the **agriculture deer control permit** shall be made through the [**wildlife conservation officer**] **applicant's local game officer** on a form provided by the Commission.

(b) [**Except in wildlife management units 5C and 5D, applications will only be accepted from persons who are currently enrolled in one of the Commission public access programs (Farm Game Project or Safety Zone—P.1-2-3)**] **An applicant shall submit a copy of a deed or lease showing the applicant to be the owner or have control, or both, of the hunting rights of the land to be covered by the permit.**

(c) [**A copy of a deed or lease showing the applicant to be the owner or have control, or both, of the hunting rights of the land to be permitted must accompany the application**] **The applicant shall designate the location and boundaries of the area to be covered by the permit in a manner approved by the Commission.**

(d) [**Applicants from the southeast special regulations areas only may be eligible to obtain approval to engage in limited baiting activities to enhance deer control activities on their properties. Approval will be based solely upon an applicant's demonstrable need for a baiting authorization as evidenced by written justifications or other evidence submitted on or in addition to the application at the time of application or renewal**] **The Commission will allocate one agriculture deer control coupon for every 5 acres of land that the agriculture deer control permit holder has under cultivation, except the local game officer may recommend an increase in this allocation under warranted circumstances.**

(e) **There is no fee to apply for the agriculture deer control permit.**

(f) **An agriculture deer control permit holder may not issue more than four coupons to a person to take deer on the agriculture deer control permit holder's land enrolled in the agriculture deer control program.**

§ 147.553. [**Permit**] **Agriculture deer control harvest permit.**

[**The deer control permit authorizes the permittee to enlist the aid of a limited number of subpermits. The maximum number of subpermits issued will be no more than one for every 5 acres of land that is under cultivation unless the wildlife conservation officer recommends an increase in the number due to warranted circumstances.**

(1) **Validity.** The permit is valid from February 1 to September 28 each calendar year, excluding Sundays, during legal hunting hours as set forth in § 141.4 and Chapter 141, Appendix G (relating to hunting hours).

(2) **Exceptions.** The permit is not valid from May 16 to June 30 during peak fawning season.

(3) **Posting.** Except in wildlife management units 5C and 5D, deer control permit signs provided by the Commission shall be conspicuously posted on the boundary of and along all public roadways traversing the property by the landowner/cooperator on all contiguous acres of the farm under agreement. Posting shall be completed prior to February 1.

(4) **Fee for permit.** There is no fee for the issuance of the deer control permit.]

(a) *Validity.* An agriculture deer control harvest permit is valid from August 1 to September 15 and February 1 to April 15 each license year, excluding Sundays, during legal hunting hours as set forth in § 141.4 and Chapter 141, Appendix G (relating to hunting hours).

(b) *Fee for permit.* Coupon holders shall submit a valid, completed coupon and pay the applicable transaction and issuing agent fees to receive a harvest permit.

(c) *Hunting license or exemption.* A harvest permit will only be issued to a person who possesses a valid Pennsylvania hunting license or qualifies for license and fee exemptions under section 2706 of the act (relating to resident license and fee exemptions) for the property covered by the agriculture deer control permit.

(d) *Protective material requirements.* A person issued a harvest permit shall comply with the protective material requirements of § 141.20(a) (relating to protective material required) at all times while engaged in activities authorized by the permit.

(e) *Possession of permit.* A person issued a harvest permit shall possess the permit at all times while engaged in activities authorized by the permit.

§ 147.554. [Subpermit] (Reserved).

[The permittee may acquire from the Commission subpermits, not to exceed the number provided for in § 147.553 (relating to permit) to be issued to qualified individuals of the permittee's choosing for the purpose of removing deer from the permittee's property by shooting. There is no fee charged for the subpermit. Qualifications are as follows:

(1) A subpermit will only be issued to residents of this Commonwealth who possess a valid resident hunting license or qualify for license and fee exemptions under section 2706 of the act (relating to resident license and fee exemptions).

(2) A person issued a subpermit will be required to wear a minimum of 250 square inches of daylight fluorescent orange-colored material on the head, chest and back combined so it is visible in a 360° arc when involved in taking deer under this subchapter.

(3) A permittee may not issue more than one subpermit to a person to take deer on the permittee's land enrolled in the Agricultural Deer Control Program, except in wildlife management units 5C and 5D, where a permittee may not issue more than two subpermits to a person.

(4) Each deer taken under the permit shall be tagged with a tag provided by the Commission.

(5) Each person issued a subpermit shall report each deer taken to the permittee.

(6) Deer taken under the permit may be utilized by the person with the subpermit or donated to a valid food bank.

(7) Unused subpermits shall be returned to the district wildlife conservation officer within 5 days of the expiration of the permit.]

§ 147.555. Antlerless deer only.

Only antlerless deer may be taken under this subchapter unless otherwise authorized by the Director.

For the purposes of enforcing this chapter, the term "antlerless deer" has the meaning as defined in § [139.2] 131.2 (relating to definitions).

§ 147.556. Lawful devices and methods.

(a) *Devices.* [Subpermittees are] A person issued a harvest permit is authorized to hunt and take deer with firearms, bows and crossbows as may be authorized for hunting deer during the regular firearms deer season as provided in the act and § 141.43 (relating to deer seasons).

(b) *Methods.* [Subpermittees operating under the authority of a permit with an approved baiting authorization are] A person issued a harvest permit for an agriculture deer control area in the southeast special regulations areas is authorized to hunt or take deer through the use of or by taking advantage of bait [subject to the following limitations:] in the manner set forth in § 141.1(d)(7) (relating to special regulations areas).

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

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

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

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

§ 147.557. Reporting [of deer taken] requirements.

[The permittee shall report, on a form provided by the Commission, the number of deer killed and other information the Commission deems necessary. The completed report shall be submitted to the district wildlife conservation officer within 5 days after the end of each month while the permit is valid. If no deer are killed, a negative report shall be submitted] A person issued an agriculture deer control harvest permit shall report either a positive or negative harvest report, whichever is applicable, on a form provided by the Commission by April 30 each year.

§ 147.558. Tagging [of deer taken] requirements.

[Deer taken under the authority of the permit shall immediately be tagged with a tag provided by the Commission. The tag shall be attached to the head of the deer and may not be removed. Unused tags shall be returned to the district wildlife conservation officer within 5 days of the expiration of the permit] A person who harvests a deer under the authorization of a harvest permit shall tag the deer in accordance with the requirements of section 2323(a)(1) of the act (relating to tagging and reporting big game kills).

§ 147.558a. Political subdivisions as applicants.

(a) *Eligibility.* Political subdivisions are authorized to apply for an agricultural deer control permit under this

subchapter for the limited purpose of managing the agricultural deer control activities occurring on a conglomeration of separate, but otherwise individually eligible properties located within the jurisdictional boundaries of the political subdivision. Any lands, other than those publicly owned, which lie immediately adjacent to and are connected with otherwise individually eligible lands may be included in the conglomeration of properties with the written consent of the owner or lessee thereof.

(b) *Application.* Political subdivisions [**applying**] **applying** for an agricultural deer control permit are responsible for the collection and submission of the application records required under § 147.552 (relating to **eligibility and application for agriculture deer control permit**) for each of the properties included in the conglomeration.

(c) *Management.* Political subdivision permittees shall manage the distribution of agricultural deer control subpermits to qualified individuals in accordance with the eligibility criteria and quota limitations in §§ 147.553 and 147.554 (relating to permit; and subpermit). Political subdivision permittees shall appoint an officer or employee of the political subdivision to manage the permit activities and serve as a point of contact for affected land owners and the Commission.

(d) *Reporting.* Political subdivision permittees are responsible for the collection and submission of reporting records required under § 147.557 (relating to reporting of deer taken) for each of the properties included in the conglomeration.]

§ 147.559. Violations.

[The Director may revoke a permit for a violation of this subchapter, conditions of a permit or

for failing to submit a report as required, upon written notice to the permittee.]

(a) **It is unlawful to:**

(1) Use, possess or attempt to use or possess more than four agriculture deer control harvest permits for a specific agriculture deer control area in any permit year.

(2) Use or possess or attempt to use or possess an agriculture deer control harvest permit that was issued to another person.

(3) Lend or transfer an agriculture deer control harvest permit to any other person regardless of the purpose.

(4) Issue more than four coupons to any person for a specific agriculture deer control area in any permit year.

(5) Fail to tag any deer taken with an agriculture deer control harvest permit in accordance with provisions of this part and the act relating to tagging big game.

(6) Fail to submit harvest report and survey information in accordance with instructions provided.

(7) Charge or accept any fee or consideration for a coupon.

(8) Fail to comply with any other provisions of §§ 147.551—147.558a (relating to agriculture).

(b) The Director may revoke a permit for a violation of this subchapter upon written notice to the agriculture deer control permit holder.

[Pa.B. Doc. No. 21-1757. Filed for public inspection October 22, 2021, 9:00 a.m.]