

PROPOSED RULEMAKING

DEPARTMENT OF EDUCATION

[22 PA. CODE CH. 73]

Definitions; Fees

The State Board of Private Licensed Schools (Board), under the authority granted by the Private Licensed Schools Act (act) (24 P.S. §§ 6501—6518), proposes to amend §§ 73.1 and 73.151 (relating to definitions; and fees) to read as set forth in Annex A.

Description of Proposed Amendments

The proposed amendment of § 73.1 adds a new definition for “seminars” and revises the definition of “nonresident.”

The proposed amendment of § 73.151(a) prescribes a new fee for initial licensure of schools that only present seminars, and revises fees for biennial licensure or registration of all schools, and licensure of admissions representatives.

The proposed amendment of § 73.151(b) increases the user fees for other services provided by the Board, which services are in addition to the processing and issuance of original or renewal school licenses, registration and admissions representative licenses.

Reason for Proposed Amendments

The Board’s current fees are fixed by § 73.151. Section 10 of the act (24 P.S. § 6510) authorizes the Board to increase its fees by regulation if the Board’s revenues from fees, fines and civil penalties are not sufficient to meet Board expenditures over a 2-year period.

The Board recently reviewed its fees and determined that current fees are inadequate to meet anticipated revenue needs. The Board estimates that its expenditures for the biennial period covering Fiscal Years 2000-01 and 2001-02 will be \$1,172,033. In contrast, the estimated revenues under the existing fee structure are \$1,044,500.

The proposed fees in § 73.151 should raise sufficient revenue to offset the Board’s projected expenditures for Fiscal Years 2000-01 and 2001-02 while maintaining a surplus, projected to be about \$259,080 by June 30, 2002, as a cushion against unanticipated expenditures or additional revenue shortfalls.

The Board last increased its fees on July 1, 1991. At that time, the Board’s projections assumed substantial growth in the number of original and renewal licenses,

registrations and program applications submitted. The numbers of license, registration, admission representatives and new program applications have decreased since that time and the Board has operated at a deficit in 5 of the 9 preceding fiscal years under the current fee structure. Although the Board has covered previous deficits by drawing on the year-to-year carryover of unused funds, the carryover will be depleted in FY 2001-02, resulting in a negative balance in the Board’s budget. At the same time, estimated expenditures will exceed revenue projections. The current staffing level will need to be maintained for the foreseeable future.

In regard to the inclusion of seminars, an unlicensed school, business or entity that meets the definition of a seminar will be required to submit an original application for licensure or registration and will pay the \$750 initial application fee. Licensure will discourage a business or entity from bait and switch advertising or solicitation under the term “seminar.” It also will provide protection for the consumer in the areas of advertisements and representation, curriculum standards and qualified instructional staff. The reduced original application fee will benefit smaller schools and businesses presenting only seminars. It will not create an onerous burden for schools seeking initial licensure to offer short-term training courses. This type of school will not be required to submit a lengthy application for initial licensure and will be permitted to offer courses in various locations across the State under the revised definition of “nonresident” as set forth in Annex A. After 1 year of operation, biennial renewal fees are on an assessed graduated scale based upon gross tuition revenue. The lower end of the graduated scale will benefit smaller schools where their gross tuition revenue collected is less in comparison to already established private licensed schools.

The new and revised proposed fees are set forth in Annex A. The proposed fees will meet the anticipated need for additional revenue.

Fiscal Impact

There is no fiscal impact from the proposed new or modified definitions. If the existing fee structure is not revised, total revenue, combined with current carry-over for the 1999-00 fiscal year, is expected to be \$1,086,293 for the biennial period ending 2001-02. The proposed increased fees, together with fees which will not be increased, and the amount carried over from the 1999-00 fiscal year are expected to generate revenues totaling \$1,389,320 for the Board for the period ending 2001-02. Following is a table showing how much of the Board’s total revenue each fee is expected to generate:

	<i>Estimated Number of Fee Payers Biennially Times Amount of Fee</i>		
	<i>FY 2000-01</i>	<i>FY 2001-02</i>	<i>Est. Revenue</i>
<i>Board Activity</i>			
1. Original School License or Registration	40×\$1,500a	40×\$1,500b	\$60,000 \$60,000
2. Biennial School Licensure or Registration	\$0		
	6×\$1,200a	9×\$1,200b	\$7,200 \$10,800
	\$150—9,999	8×\$1,400a	\$11,200
	\$10,000—49,999	10×\$1,400b	\$14,000
		24×\$1,500a	\$36,000

		<i>Estimated Number of Fee Payers Biennially Times Amount of Fee</i>	<i>Est. Revenue</i>
	<i>FY 2000-01</i>	<i>FY 2001-02</i>	
	\$50,000—99,999	25×\$1,600a	\$44,000
			\$40,000
	\$100,000—199,999	26×\$2,300b	\$59,800
		18×\$2,600b	\$90,720
	\$200,000—499,999	25×\$2,100a	\$46,800
		24×\$3,000b	\$52,500
	\$500,000—999,999	17×\$2,400a	\$72,000
		24×\$3,500b	\$40,800
	\$1,000,000—1,999,999	18×\$2,800a	\$84,000
		29×\$4,100b	\$81,200
	\$2,000,000 and over	12×\$3,000a	\$118,900
		21×\$4,400b	\$36,000
3. Admission Representative License	240×\$150a	240×\$300b	\$72,000
4. New Program Application	150×\$350a	150×\$700b	\$52,500
5. Change of Ownership	10×\$600a	10×\$1,200b	\$105,000
6. New School Orientation Seminar	50×\$100a	50×\$200b	\$6,000
7. School Site Inspection	40×\$250a	40×\$500b	\$12,000
			\$5,000
			\$10,000
			\$20,000.
a. For fees collected 7/01/00—6/30/01.			
b. For fee collected under proposed fee increase 7/01/01—6/30/02.			
8. Estimated Revenue from New Fees			\$824,200
9. Estimated Revenue from Fees not Increase			\$565,120
Total Estimated Revenue			\$1,389,320
Total Estimate Expenditure			\$1,172,033
Rollover Amount from FY 1999-00			\$41,793
Surplus for Unanticipated Expenditures or Revenue Shortfall			\$259,080

Paperwork Requirements

The proposed amendments require the Board to alter some of its forms to reflect the new fees. The proposed amendments will create no additional paperwork for the private sector.

Effective Date

These proposed amendments take effect upon final publication in the *Pennsylvania Bulletin*.

Sunset Date

The act requires that the Board monitor its revenues and costs on a biennial basis, and revise its regulations as necessary. Therefore, no sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 4, 2001, the Department of Education (Department) submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Committees on Education. In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1 "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

If the Committees have any objections to any portion of the proposed amendments, they will notify the Department of Education within 20 days of the close of the public comment period. Under section 5(g) of the Regulatory Review Act, if IRRC has any objections to any of the proposed amendments, it will notify the Department within 10 days of the close of the Committees' comment period. The notification shall specify the regulatory review criteria that have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review of objections raised, prior to final publication of the regulations, by the Board, the General Assembly and the Governor.

Public Comments and Contact Person

Interested persons are invited to submit to the Board their written comments, suggestions or objections regarding these proposed amendments within 30 days following publication in the *Pennsylvania Bulletin*. Written comments, suggestions or objections for Board consideration should be sent to Sharon Lane, Acting Coordinating Secretary, State Board of Private Licensed Schools, 333 Market Street, Harrisburg, PA 17126-0333, and (717) 783-8228.

CHARLES D. ZOGBY,
Acting Secretary

Fiscal Note: 6-272. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 22. EDUCATION
PART III. STATE BOARD OF PRIVATE LICENSED SCHOOLS
CHAPTER 73. GENERAL PROVISIONS
DEFINITIONS

§ 73.1. Definitions.

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

* * * * *

Nonresident—A student who is [off the premises of a school facility] receiving instruction by correspondence, telecommunication or similar means including seminar.

* * * * *

Seminar—Training or instruction that is one of the following:

(i) Noncumulative short-term training of no more than 15 hours duration, not scheduled in a regular calendar format and offered as an introduction or orientation to an occupation.

(ii) Instruction for an entry-level occupation offered at a total contract price, of less than \$300, which includes all costs charged to students, including tuition, fees, books and supplies, provided that the total contract price for all courses to any enrolled student is less than \$300 in any one calendar year.

* * * * *

FEES

§ 73.151. Fees.

(a) License fees. The fees for school and admissions representative licenses shall accompany both original and renewal license and registration applications. The fee schedule is:

(1) For an original school license or registration—\$1,500 [annually].

(2) For an original school license or registration of a school that only presents seminars—\$750.

(3) For a renewal school license or registration—biennial fee based on gross tuition revenue:

Table with 2 columns: Gross Tuition Revenue and Fee. Rows include ranges from \$0-2,499 to \$2,000,000 and over with corresponding fees like \$1200, \$1400, \$1000, etc.

(3) (4) For an admission representative license—\$[150] 300 annually.

(b) User fees. Fees will also be assessed for other services provided by the Board, which services are in addition to the processing and issuance of original or

renewal school licenses or registration and admissions representative licenses. These user fees are as follows:

(1) A \$[350] 700 fee shall accompany each application for approval of a new program.

(2) A \$[600] 1,200 fee shall accompany notification to the Board of a change in ownership of the school.

(3) A \$[100] 200 fee per participant will be charged for participation in new school orientation seminars.

(4) A \$[250] 500 fee will be charged for each site inspection of the following types: new school, change in location, expansion of instructional space, temporary relocation, branch facility and remote training facility. This fee shall be paid before commencement of the visit.

(5) The fee for a Board-directed visit is \$[250] 500 per day if the visit is conducted by staff; \$[400] 800 per day plus team member expenses for a visit conducted by a team with nonstaff members. The fee for a Board-directed visit shall be paid before commencement of the visit.

[Pa.B. Doc. No. 01-639. Filed for public inspection April 13, 2001, 9:00 a.m.]

GAME COMMISSION

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

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) at its January 23, 2001, meeting, proposed the following amendments:

Amend § 141.1 (relating to special regulations areas) by prohibiting the use of a muzzleloading handgun to hunt deer, bear and elk, and by making a crossbow a lawful device to hunt deer in the special regulations areas, § 141.5 (relating to furbearer tagging requirements) by removing the fee for tags for beaver, § 141.18 (relating to permitted devices) to allow the use of an electronic device to be worn on the ear and § 141.21 (relating to hen ringneck pheasant) by adding four additional counties to the either-sex pheasant hunting zones.

Amend § 141.41 (relating to general) to add elk to existing language regarding daylight fluorescent orange-colored material and to prohibit the use of a muzzleloading handgun to hunt for deer, bear or elk, § 141.42 (relating to big game animal hunting roster) by adding elk, § 141.43 (relating to deer) to change the name of the late muzzleloader season to flintlock muzzleloader season, § 141.45 (relating to turkey) by removing the unlawful use of a blind while hunting wild turkey and to remove area 9-A, § 141.46 (relating to the map of Pennsylvania turkey management areas) by changing the boundary lines that separate turkey management areas 9-A and 9-B to be consistent with the Hunting and Trapping Digest, and §§ 141.47 and 141.48 (relating to elk; and elk management areas) by adding new language regarding hunting methods and license application requirements.

Amend § 141.62 (relating to beaver trapping) to lessen restrictions on beaver trapping in Furbearer Management Area No. 3, and § 141.65 (relating to trapping restrictions on Pine Creek) to make it reserved.

These amendments will have no adverse impact on the wildlife resources of this Commonwealth.

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

These proposals were made public at the January 23, 2001, meeting of the Commission, and comments on these proposals can be sent to the Executive Director of the Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until April 6, 2001.

Proposed Amendment to § 141.1

1. *Introduction*

To more effectively manage the wildlife resources of this Commonwealth, the Commission at its January 23, 2001, meeting proposed changing § 141.1 to allow the use of a bows and arrows, crossbows and muzzleloading long guns to kill deer. To be lawful, a crossbow must have a draw weight of not less than 125 pounds nor more than 200 pounds. This change is proposed under section 2102 of the code (relating to regulations).

2. *Purpose and Authority*

At its October 12, 2000, meeting, the Commission adopted a change to § 141.1 to allow the use of all types of muzzleloading firearms to hunt deer in special regulation areas. Since that final adoption, some safety concerns have arisen, so that the Commission is now proposing only the use of muzzleloading long guns. In addition, the act of December 20, 2000 (P. L. 452, No. 111) (Act 111) amended section 2308(a) of the code (relating to unlawful devices and methods), to remove the crossbow from the list of unlawful devices. To provide more options for deer hunters in special regulation areas, the Commission is proposing to additionally allow the use of bows and arrows, during all seasons and crossbows with a draw weight of not less than 125 pounds nor more than 200 pounds during the regular firearms seasons.

Section 2102(a) of the code directs the Commission to "... promulgate such regulations as it deems necessary and appropriate concerning... the ways, manner, methods, and means of hunting or furtaking..." Section 2102(d) of the code also directs the Commission to promulgate regulations stipulating "...the type of firearms and ammunition and other devices which may be used..." The change is proposed under this authority.

3. *Regulatory Requirements*

The proposed amendment will expand options for deer hunters in special regulations areas, however, they will limit the use of crossbows and the use of muzzleloading firearms to long guns.

4. *Persons Affected*

Individuals wishing to hunt deer in special regulations areas with muzzleloading firearms, bows and arrows, and crossbows will be affected by the proposals.

5. *Cost and Paperwork Requirements*

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

Proposed Amendment to § 141.18

1. *Introduction*

To more effectively manage the wildlife resources of this Commonwealth, the Commission at its meeting held on January 23, 2001, proposed amending § 141.18 to authorize the use of electronic sound amplification devices while hunting. This change is proposed under section 2102(d) of the code.

2. *Purpose and Authority*

Section 141.6(6) provides that it is unlawful to "hunt or take wildlife through the use of an electronic contrivance or device not permitted by Commission regulation." This provision could be construed as prohibiting hearing aids and other hearing assisting devices which do not give hunters an unfair advantage. The proposed addition of paragraph (2) will clearly permit the use of these devices.

Section 2102(d) of the code directs the Commission to "... promulgate regulations stipulating... the type of firearms and ammunition and other devices which may be used..." to hunt. This provision provides authority for the proposed amendment.

3. *Regulatory Requirements*

The proposed amendment will clarify and potentially expand what is currently allowed.

4. *Persons Affected*

Individuals wishing to use hearing assisting devices to hunt will be allowed to do so.

5. *Cost and Paperwork Requirements*

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

Proposed Amendment to § 141.21

1. *Introduction*

To more effectively manage the wildlife resources of this Commonwealth, the Commission at its January 23, 2001, meeting proposed changing the map contained in § 141.21 to add four counties, Beaver, Butler, Lawrence and Mercer, to those where pheasants of either sex can be harvested. This change was proposed under section 322(c)(1) of the code (relating to powers and duties of commission) and section 2102(b)(1) of the code.

2. *Purpose and Authority*

Section 141.21 currently allows the hunting of male pheasants only in Beaver, Butler, Lawrence and Mercer Counties. The poor quality of the pheasant habitat in these counties and the fact that no significant pheasant habitat restoration work is taking place make it very unlikely that wild pheasant populations will recover. At the same time, the harvest of stocked pheasants is reduced by the male pheasant only restriction. The Commission is therefore proposing to allow the taking of pheasants of either sex in those counties to maximize harvest of stocked pheasants.

Section 322 of the code specifically empowers the Commission to remove protection from any species of game or wildlife. Section 2102(b) of the code mandates that the Commission promulgates regulations relating to seasons and bag limits. These sections provide the authority for the proposed change.

3. *Regulatory Requirements*

The proposed change would relax current regulatory requirements.

4. *Persons Affected*

Persons wishing to hunt pheasants in Beaver, Butler, Lawrence and Mercer Counties would be affected by the change.

5. *Cost and Paperwork Requirements*

The proposed change would not result in any additional cost, either to the Commission or to hunters.

Proposed Amendments to §§ 141.41, 141.42, 141.47 and 141.48

1. *Introduction*

Act 111 added paragraph (15) to section 2705 of the code (relating to classes of licenses), which provides for issuance by the Commission of elk hunting licenses. In addition, the Commission has proposed regulations providing for an elk hunting season in this Commonwealth in 2001. As a result, the Commission at its January 23, 2001, meeting proposed amending §§ 141.41, 141.42, 141.47 and 141.48 to regulate elk hunting. These changes were proposed under section 2102 of the code.

2. *Purpose and Authority*

The elk population in this Commonwealth has been increasing in recent years. This has resulted in increased complaints of nuisance elk and a larger number of incidents of elk being shot for crop damage. Also, as was previously stated, the legal framework for an elk hunting season is being established. One of the final steps is the establishment of lawful methods and procedures that may be used to hunt elk.

The proposed changes to § 141.41 involve adding elk hunting to the requirement to wear fluorescent orange-colored material and elk to a prohibition against using a muzzleloading handgun. The proposed changes to § 141.41 will require a roster for groups of five or more persons who hunt elk together. The remaining proposed changes will add §§ 141.47 and 141.48 relating to big game. Section 141.47 will establish what firearms are lawful for hunting elk and § 141.48 will establish elk management areas.

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." This provision supplies the authority for the proposed changes.

3. *Regulatory Requirements*

The proposed changes establish the following requirements for those wishing to hunt elk.

- a. Must wear fluorescent orange-colored material.
- b. Maintain a roster where five or more persons hunt together or cooperate.
- c. Rifles, shotguns, long gun muzzleloaders, bows and arrows and crossbows may be used but each firearm has specific requirements.
- d. Elk management units are specifically designated.

4. *Persons Affected*

Persons wishing to hunt elk or living in the elk range may be affected by the proposed changes.

5. *Cost and Paperwork Requirement*

There should be no additional cost to the Commission or to hunters resulting from the proposed changes. The only paperwork requirement is the maintenance of a roster where five or more persons hunt together.

Proposed Amendment to § 141.45

1. *Introduction*

The act of December 20, 2000 (P. L. 937, No. 125) (Act 125) amended section 2308 of the code to allow the use of limited types of turkey blinds to hunt turkeys. As a result, the Commission has proposed amending § 141.45(a)(2) to eliminate a provision making it unlawful to use a blind to hunt wild turkey. In addition, § 141.45(a)(4) contained an exception to allow possession of rifles and single projectile ammunition in Turkey Management Area 9-A. The Commission is planning on releasing wild turkeys into this area and closing the turkey season in this area in the fall. These changes are proposed under section 2102 of the code.

2. *Purpose and Authority*

As was indicated in the Introduction, the use of certain turkey blinds to hunt turkey has been removed from the list of unlawful devices and methods contained in section 2308 of the code. To follow through on this action, the Commission is proposing to amend § 141.45(a)(2) to eliminate the prohibition against using a blind to hunt wild turkey.

Also because wild turkey populations are below satisfactory levels in Turkey Management Area 9-A, the Commission is planning to release wild turkeys in that area. The Commission is planning to close the turkey season in the fall. This requires an amendment to § 141.45(a)(4).

Section 2102 of the code directs the Commission to promulgate regulations "... as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth." This section provides authority for the proposed change.

3. *Regulatory Requirements*

The proposed change to § 141.45(a)(2) relaxes current requirements. The proposed change to (a)(4) prohibits hunting turkeys with rifles in Turkey Management Area 9-A.

4. *Persons Affected*

Those wishing to hunt turkeys will be affected by the proposed change.

5. *Cost and Paperwork Requirements*

The proposed change would not result in additional cost, either to the Commission or to hunters.

Proposed Amendments to §§ 141.5, 141.62 and 141.65

1. *Introduction*

The beaver population in this Commonwealth has been increasing. There has been a corresponding increase in complaints about beavers and damage they may cause. As a result, the Commission at its January 23, 2001, meeting proposed changing §§ 141.5, 141.62 and 141.65 to expand opportunities to harvest beavers and simplify requirements to do so. These changes were proposed under section 2102(a) of the code.

2. *Purpose and Authority*

As was mentioned in the Introduction, the beaver population in this Commonwealth is increasing. With this increase come more complaints of nuisance beavers, particularly flooding areas. The increasing population will allow for an increased harvest of beavers which would eliminate some of the conflicts.

The proposed changes to § 141.5 will eliminate a 50¢ beaver tagging fee which trappers and wildlife conservation officers have found burdensome. The proposed change to § 141.62 will relax restrictions on placement of a trap or snare near a beaver dam or house in Furbearer Management Area No. 3 which encompasses northeastern Commonwealth. Finally, the Commission has proposed deleting § 141.65 relating to trapping restrictions on Pine Creek.

Section 2102(a) of the code directs the Commission to “. . . promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth. . .” This provision authorizes the proposed change.

3. *Regulatory Requirements*

The proposed changes will relax current requirements.

4. *Persons Affected*

Individuals wishing to trap beavers in this Commonwealth will be affected by the proposals.

5. *Cost and Paperwork Requirements*

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

Proposed Amendments to §§ 141.41 and 141.43

1. *Introduction*

To more effectively manage the wildlife of this Commonwealth and provide for the safety of persons involved in muzzleloader hunting, the Commission at its January 23, 2001, meeting proposed amending §§ 141.41 and 141.43 to prohibit the use of muzzleloading handguns to hunt for deer, bear or elk. This change is proposed under section 2102(d) of the code.

2. *Purpose and Authority*

Although the Commission only legalized the use of muzzleloading handguns in 2000, concerns about safety and “quick-kill” have arisen with regard to the use of these firearms for big game hunting.

Section 2102(d) of the code provides that: “The Commission shall promulgate regulations stipulating “. . . the type of firearms and ammunition and other devices which may be used. . .” This section provides the authority for the proposed changes.

3. *Regulatory Requirements*

The proposed changes make it unlawful to hunt for deer, bear or elk through the use of a muzzleloading handgun.

4. *Persons Affected*

Those wishing to hunt for deer, bear or elk using a muzzleloading handgun would be affected by the proposed changes.

5. *Cost and Paperwork Requirements*

The proposed changes would not result in any additional cost, either to the Commission or to hunters.

Proposed Amendment to § 141.43

1. *Introduction*

Act 111 removed the crossbow from the list of unlawful hunting devices contained in section 2308 of the code. As a result, the crossbow can be used to hunt when authorized by the Commission. Use of the crossbow is currently limited to the hunting of deer in the Special Regulations Areas during the rifled deer season. This may be expanded, however, and the Commission at its January 23,

2001, meeting has therefore proposed adding “or crossbow” to § 141.43(a) of the code. In addition, the Commission has decided to have two muzzleloader deer seasons, one in the fall and one in winter, after Christmas. To distinguish between them, the Commission has decided to change the section to refer to “flintlock muzzleloading” season (after Christmas) and “muzzleloading” season (fall). These changes are proposed in section 2102 of the code.

2. *Purpose and Authority*

As was indicated in the Introduction, with the change in the law to remove the crossbow from the unlawful device list, it is important to establish that the restrictions contained in § 141.43(a) would also apply in a season where the crossbow could be used.

Also, with the addition of a second muzzleloading deer hunting season, the Commission has decided to refer to those seasons using different terminology. The fall season will be the “muzzleloading season” and the winter season will be “flintlock muzzleloading season.” The proposed changes to § 141.43 of the code will reflect this change.

Section 2102(b)(1) of the code directs the Commission to promulgate “. . . regulations relating to seasons and bag limits for hunting. . . and the number and types of devices and equipment allowed. . .” This section provides the authority for the proposed changes.

3. *Regulatory Requirements*

No additional regulatory requirements will be imposed as a result of the proposed change.

4. *Persons Affected*

Persons wishing to hunt deer using a crossbow or during muzzleloading seasons may be affected by the proposed change.

5. *Cost and Paperwork Requirements*

The proposed change would not result in additional cost, either to the Commission or to hunters.

Proposed Amendment to § 141.46

1. *Introduction*

It has been determined that there is an inconsistency in the boundary line between Turkey Management Areas 9-A and 9-B as shown on the maps contained in the “Pennsylvania Digest of Hunting and Trapping Regulations,” Wild Turkey Management Plan and the map contained in § 141.46. To reconcile these maps, the Commission at its January 23, 2001, meeting, proposed to amend that section to include a consistent map. This change is proposed under sections 322(c)(4) and 2102 of the code.

2. *Purpose and Authority*

The map currently contained in § 141.46 shows the boundary between Turkey Management Areas 9-A and 9-B as being Route I-76. The map contained on page 13 of the “Pennsylvania Digest of Hunting and Trapping Regulations, July 1, 2000—June 30, 2001” shows the boundary being Route I-276. The proposed change to § 141.46 will make the boundary I-276 and make all maps consistent.

Section 322(c)(4) of the code authorizes the Commission to “define geographic limitations or restrictions.” Section 2102 of the code directs the Commission to promulgate “. . . such regulations as it seems necessary appropriate concerning game or wildlife. . .” These sections provide authority for the proposed change.

3. *Regulatory Requirements*

This slight change in boundary, which mostly involves the city of Philadelphia, will not impose additional requirement, but rather clear up some confusion.

4. *Persons Affected*

Those wishing to hunt turkey between Routes I-76 and I-276 could be affected by the proposed change.

5. *Cost and Paperwork Requirements*

The proposed change would not result in additional cost, either to the Commission or to hunters.

Effective Date

This change would be effective on final publication in the *Pennsylvania Bulletin* and would remain in effect until changed by the Commission.

Contact Person

For further information on the proposed changes the contact persons is David E. Overcash, Acting Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,
Executive Director

(Editor's Note: An outstanding amendment to § 141.1 is scheduled to be printed in the May 2001 Pennsylvania Code Reporter.)

Fiscal Note: 48-129. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Subchapter A. GENERAL

§ 141.1. Special regulations areas.

* * * * *

(d) *Permitted acts.* It is lawful to:

(1) Except in Philadelphia County, Ridley Creek State Park, Delaware County and Tyler State Park, Bucks County, hunt and kill deer through the use of a **bow and arrow**, muzzleloading [**firearm**] **long gun** or a shotgun, at least .410 gauge (rifled barrels permitted), including semiautomatics which, upon discharge, propel a single projectile.

* * * * *

(5) **Take deer with a crossbow with a draw weight of not less than 125 pounds nor more than 200 pounds during the regular firearms seasons.**

§ 141.5. Furbearer tagging requirements.

(a) *Tag required.*

* * * * *

(3) The fee for the tag is 50¢ **except for beaver.**

* * * * *

§ 141.18. Permitted devices.

The following devices may be used to hunt or take wildlife:

(1) Any manually operated firearm that uses an electronic impulse to detonate the primer or main powder charge of the cartridge unless manually operated firearms are a specifically prohibited device.

(2) **Electronic sound amplification devices that are completely contained in and or on the hunter's ear. This does not include any device or devices that completely cover the ear or ears.**

Subchapter B. SMALL GAME

§ 141.21. Hen ringneck pheasant.

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(Editor's Note: See 31 Pa.B. 2025 (April 14, 2001) for the map of Pennsylvania Pheasant Hunting Areas.)

Subchapter C. BIG GAME

§ 141.41. General.

It is unlawful to:

* * * * *

(2) Hunt for or assist to hunt for deer [**or**], bear **or elk** during the regular firearms season without wearing a minimum of 250 square inches of daylight fluorescent orange-colored material. The material shall be worn on the head, chest and back combined so it is visible in a 360° arc.

(3) **Hunt for deer, bear or elk through the use of any muzzleloading handgun.**

§ 141.42. Big game animal hunting roster.

(a) Rosters are required for groups of five or more persons who are members of a permanent camp and hunt together for deer [**or**], bear [,] **or elk**, or cooperate with others to hunt for deer [**or**], bear **or elk**.

* * * * *

§ 141.43. Deer.

(a) *Archery season.* It is unlawful while hunting deer with a bow and arrow **or crossbow** during the archery season to:

* * * * *

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

* * * * *

(d) *Prohibitions.* It is unlawful to:

* * * * *

(5) Hunt for or assist to hunt for deer during any flintlock muzzleloading **or muzzleloading** season that precedes the regular firearms season for deer without wearing a minimum of 250 square inches of daylight fluorescent orange-colored material on the head, chest and back combined so that it is visible in a 360° arc.

(e) *Archery, flintlock muzzleloader and muzzleloader seasons.* When archery, **flintlock muzzleloader or muzzleloader** seasons run concurrently, holders of [**either license**] **any of the appropriate licenses** or

[stamp] stamps may cooperate if pertinent provisions of this section and the act are met.

* * * * *

§ 141.45. Turkey.

(a) While hunting wild turkey it is unlawful to:

* * * * *

(2) Use [a blind,] dogs, drives or electronic callers.

* * * * *

(4) Use or possess rifles or single projectile ammunition, except arrows, in Turkey Management Areas 1-A, 1-B[, 9-A] and 9-B.

* * * * *

§ 141.46. Turkey management areas.

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(Editor's Note: See 31 Pa.B. 2026 (April 14, 2001) for the map of Pennsylvania Turkey Management Areas.)

§ 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.

(2) Use any shotgun less than 12 gauge.

(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 projectile which is not all lead or designed to expand on impact and at least 130 grains.

(5) Use any bow with a draw weight less than 45 pounds or a draw length less than 28 inches.

(6) Use any arrow that is not equipped with a broadhead that has an outside diameter or width of at least 1 inch with no less than 2 fixed, steel cutting edges and each cutting edge must be in the same plane throughout the length of the cutting surface.

(7) Use any crossbow with a draw weight less than 125 pounds or more than 200 pounds.

(8) After lawfully killing an elk, fail to mark the kill sight under Commission instructions provided at the orientation.

§ 141.48. Elk management areas.

(a) The divisional line between two or more elk management areas shall be the center of the highway, natural water course or other natural boundary.

(b) The outline map of Pennsylvania sets forth elk management areas.

(Editor's Note: See 31 Pa.B. 2027 (April 14, 2001) for the map of Pennsylvania Elk Management Areas.)

Subchapter D. TRAPPING

§ 141.62. Beaver trapping.

* * * * *

(b) Unlawful acts. It is unlawful to:

* * * * *

(2) [Place] Except in Furbearer Management Area No. 3, place, check, reset or tend a trap or snare on an established beaver dam or beaver house, or within 15 feet of either a dam, or a house. Measurement shall be from directly above the trap or snare, across the water, ice or land to the nearest point of the structure.

* * * * *

(4) In an area where beavers are known to inhabit, set tend or operate more than a combined total of [ten] 20 traps or snares no more than 10 of which may be traps. No more than two of the traps may be body gripping traps except in Furbearer Management Area No. 3 and the counties of [Bradford,] McKean, Potter, [Susquehanna,] and Tioga [and Wayne] where the two body gripping trap limit does not apply.

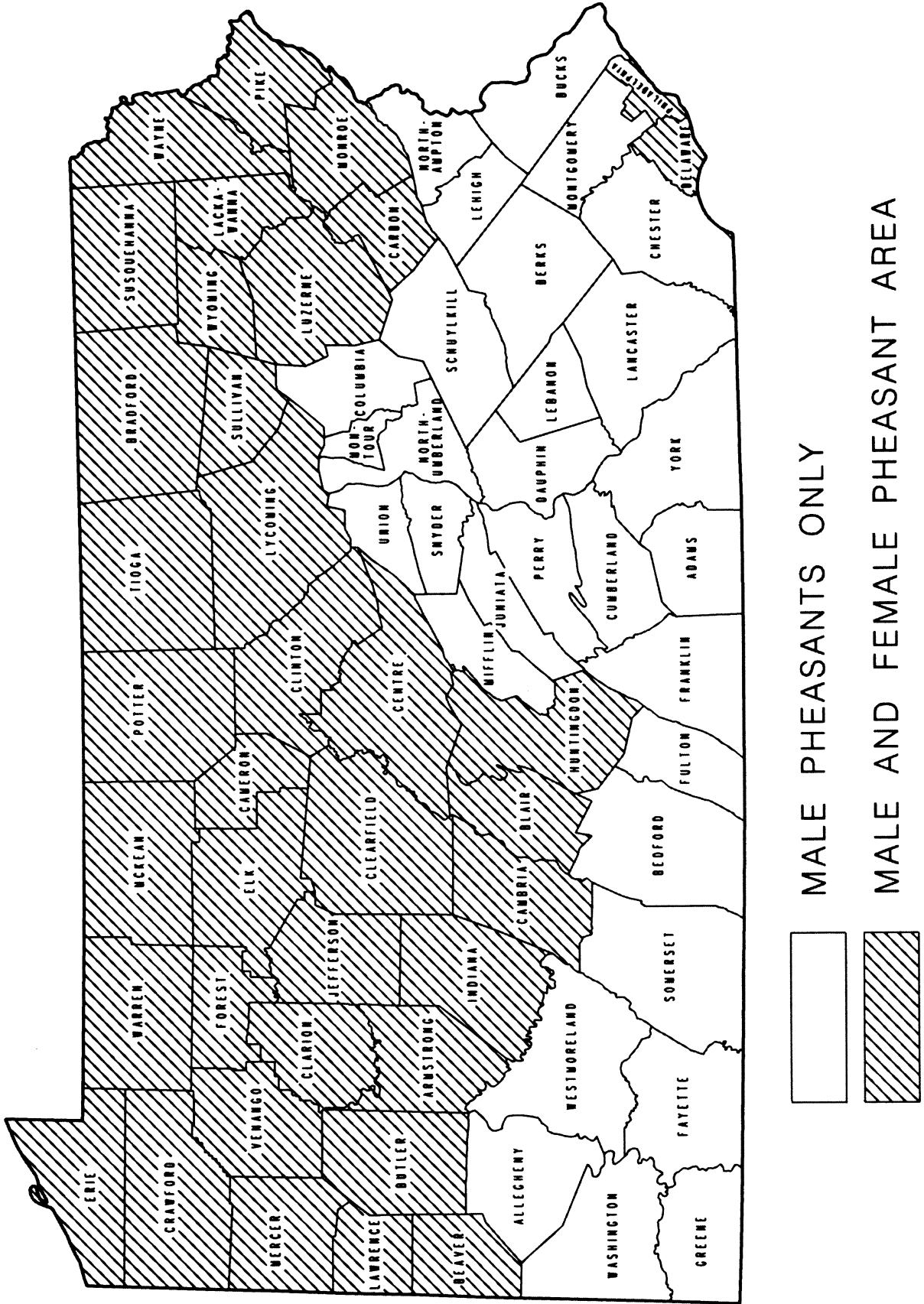
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§ 141.65. [Trapping restrictions on Pine Creek] (Reserved).

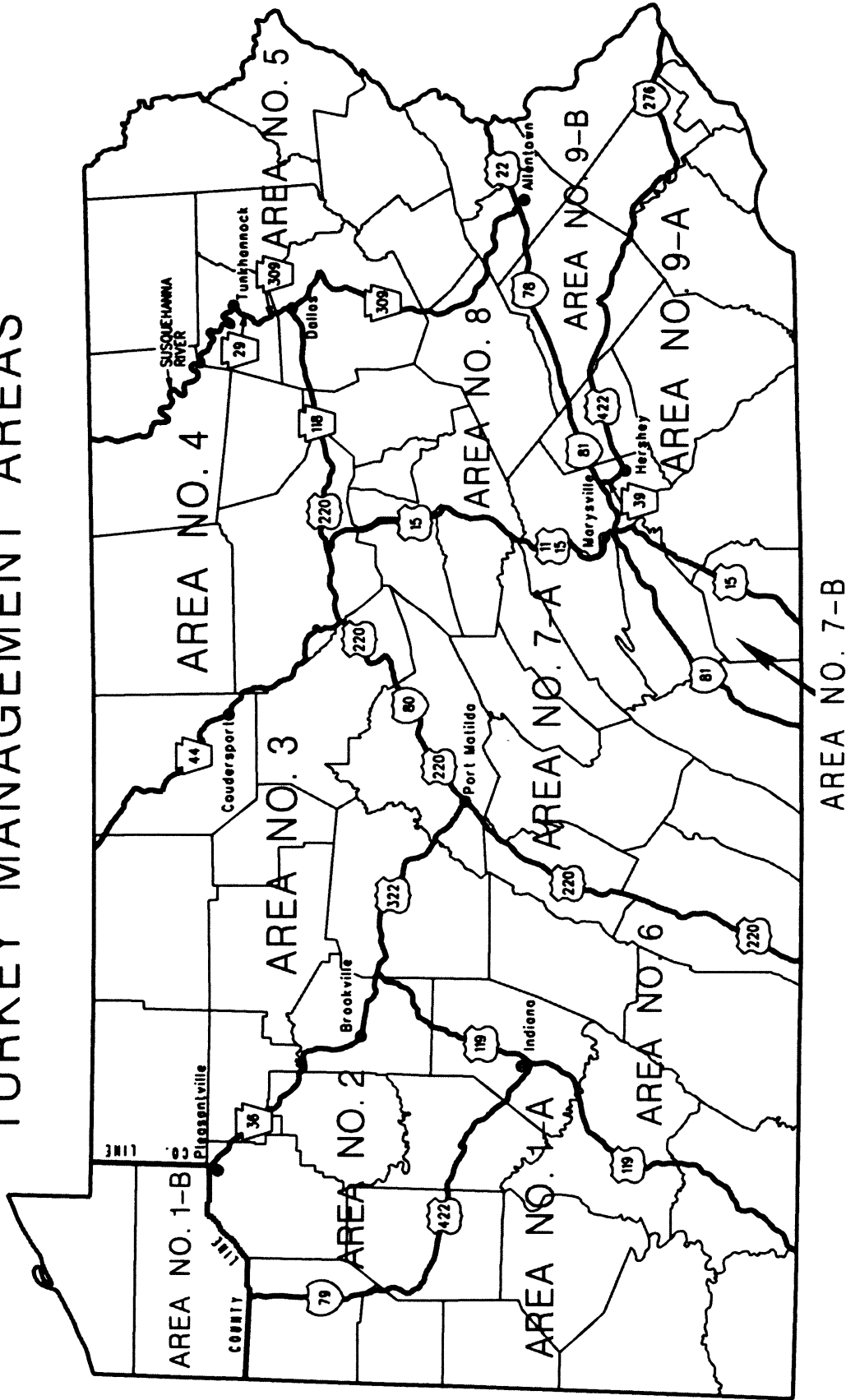
[(a) It is unlawful to place, set, tend, check or reset a trap larger than a 4-1/2 inch jaw spread. Measurement shall be made across the trigger area of the trap.

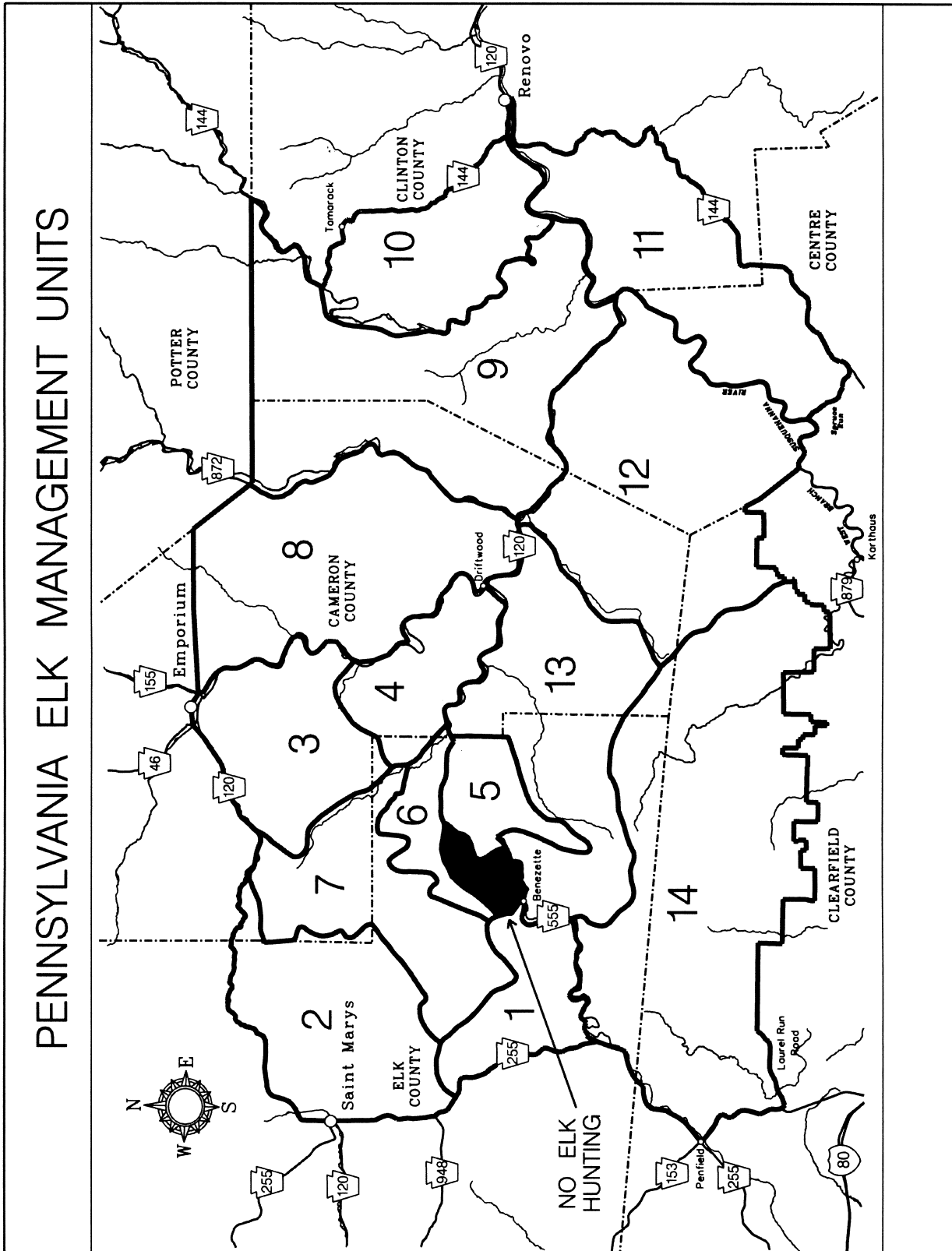
(b) This trap restriction will be in the Pine Creek or within 25 feet of the water's edge beginning at the confluence of the Pine Creek with the west branch of the Susquehanna River and continuing upstream to the dam, located in the Borough of Galeton.]

PENNSYLVANIA PHEASANT HUNTING AREAS



PENNSYLVANIA TURKEY MANAGEMENT AREAS





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