

RULES AND REGULATIONS

Title 58—RECREATION

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 April 10, 2001, meeting, adopted the following changes:

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; amend § 141.5 (relating to furbearer tagging requirements) by removing the fee for tags for beaver; and amend § 141.18 (relating to permitted devices) to allow the use of an electronic device to be worn on the ear.

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; amend § 141.42 (relating to big game animal hunting roster) by adding elk; amend § 141.43 (relating to deer) by adding the word "crossbow" to mandate that persons using crossbows during the archery season comply with restrictions listed therein, and to change the name of the late muzzleloader season to flintlock muzzleloader season; amend § 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*; amend §§ 141.47 and 141.48 (relating to elk; and elk management areas) by adding new language regarding hunting methods and license application requirements; and adding § 141.49 (relating to elk guide permits) to establish a fee for an elk guide permit.

Amend § 141.62 (relating to beaver trapping) to lessen restrictions on beaver trapping in Furbearer Management Area No. 3; and delete § 141.65 (relating to trapping restrictions on Pine Creek).

These amendments are adopted under the authority of 34 Pa.C.S. (relating to the Game and Wildlife Code) (code).

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, and at its April 10, 2001, meeting finally adopted, changes to § 141.1 to allow the use of 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. These changes were adopted 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 has decided to allow 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 decided to allow the use of 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 adopted under this authority.

3. *Regulatory Requirements*

The adopted 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 and crossbows will be affected by the change.

5. *Comment and Response Summary*

No official comments were received with regard to the adopted changes.

6. *Cost and Paperwork Requirements*

The adopted change should not result in any additional cost or paperwork.

Amendments to §§ 141.5, 141.62 and 141.65

1. *Introduction*

The beaver population 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, and at its April 10, 2001, meeting finally adopted, changes to §§ 141.5, 141.62 and 141.65 to expand opportunities to harvest beavers and simplify requirements to do so. These changes were adopted 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 comes 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 adopted change to § 141.5 will eliminate a 50¢ beaver tagging fee which trappers and wildlife conservation officers have found burdensome. The adopted 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 the north-eastern area of this Commonwealth. Finally, the Commission has adopted striking and reserving § 141.65.

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 adopted changes.

3. *Regulatory Requirements*

The adopted changes will relax current requirements.

4. *Persons Affected*

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

5. *Comment and Response Summary*

No official comments were received with regard to the adopted changes.

6. *Cost and Paperwork Requirements*

The adopted changes should not result in any additional cost or paperwork.

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, and its meeting held on April 10, 2001, finally adopted, adding a new paragraph (2) to authorize the use of electronic sound amplification devices while hunting. This change is adopted under section 2102(d) of the code.

2. *Purpose and Authority*

Section 141.6(6) (relating to illegal devices) 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 amendment will clearly permit the use of those 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 adopted amendment.

3. *Regulatory Requirements*

The 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. *Comment and Response Summary*

No official comments were received with regard to the adopted change.

6. *Cost and Paperwork Requirements*

The adopted change should not result in any additional cost or paperwork.

§§ 141.41, 141.42 and 141.47—141.49

1. *Introduction*

Act 111 added section 2705(15) of the code 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, and at its April

10, 2001, meeting finally adopted amendments to §§ 141.41 and 141.42, and adoption of §§ 141.47 and 141.48 to regulate elk hunting. These changes were adopted 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 adopted changes to § 141.41 relating to elk involve adding elk hunting to the requirement to wear fluorescent orange-colored material and "elk" to a prohibition against using a muzzleloading handgun. The adopted change to § 141.42 will require a roster for groups of five or more persons who hunt elk together. The remaining adopted changes will add §§ 141.47—141.49. Section 141.47 will establish what firearms are lawful for hunting elk and prohibit elk hunt guiding activities without meeting requirements. Section 141.48 will establish elk management areas. Section 141.49 establishes fees to obtain elk guide permits.

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 adopted changes.

3. *Regulatory Requirements*

The adopted changes establish the following requirements for those wishing to hunt elk or guide elk hunts:

a. Must wear fluorescent orange-colored material.

b. Maintain a roster when 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.

e. Those wishing to guide elk hunts must obtain a permit involving a fee and attend an orientation.

4. *Persons Affected*

Persons wishing to hunt elk, guide elk hunts or living in the elk range may be affected by the adopted changes.

5. *Comment and Response Summary*

No official comments were received with regard to the adopted changes.

6. *Cost and Paperwork Requirement*

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

wishing to guide elk hunts must pay a fee of \$10 and nonresidents must pay a fee of \$25.

Amendment of §§ 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, and at its April 10, 2001, meeting finally adopted amendments to §§ 141.41 and 141.43 to prohibit the use of muzzleloading handguns to hunt for deer, bear or elk. This change is adopted under section 2102(d) of the code.

2. *Purpose and Authority*

Although the 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 those 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 adopted changes.

3. *Regulatory Requirements*

The adopted 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 adopted changes.

5. *Comment and Response Summary*

No official comments were received with regard to the adopted changes.

6. *Cost and Paperwork Requirements*

The adopted changes should not result in any additional cost or paperwork.

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 and to holders of disabled person crossbow permits. This may be expanded, however, and the Commission at its January 23, 2001, meeting has therefore proposed, and at its April 10, 2001, meeting finally adopted adding "or crossbow" to § 141.43(a). 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 aforesaid regulation section to refer to "flintlock muzzleloading" season (after Christmas) and "muzzleloading" season (fall). These changes were adopted under 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 and to disabled person crossbow permit holders.

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 adopted changes to § 141.43 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 adopted changes.

3. *Regulatory Requirements*

No additional regulatory requirements will be imposed as a result of the changes, although the changes will clarify the applicability of restrictions to disabled person crossbow permit holders.

4. *Persons Affected*

Persons, including disabled person crossbow permit holders, wishing to hunt deer using a crossbow or during muzzleloading seasons may be affected by the changes.

5. *Comment and Response Summary*

No official comments were received with regard to the adopted changes.

6. *Cost and Paperwork Requirements*

The adopted changes would not result in additional cost or paperwork.

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 at its January 23, 2001, meeting proposed, and at its April 10, 2001, meeting finally adopted amendments to § 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. This change is adopted 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 has amended § 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 adopted change.

3. *Regulatory Requirements*

The adopted changes to § 141.45(a)(2) relax current requirements. The adopted change to § 141.45(a)(4) pro-

hibits use or possession of a rifle or single projectile ammunition while hunting turkeys with rifles in Turkey Management Area 9-A.

4. *Persons Affected*

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

5. *Comment and Response Summary*

No official comments were received with regard to the adopted change.

6. *Cost and Paperwork Requirements*

The adopted change should not result in any additional cost or paperwork.

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, and at its April 10, 2001, meeting finally adopted an amendment to that section to include a consistent map. This change is adopted 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 adopted 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 deems necessary and appropriate concerning game or wildlife . . ." These sections provide authority for the adopted change.

3. *Regulatory Requirements*

This slight change in boundary, which mostly involves the city of Philadelphia, will not impose any 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 adopted change.

5. *Comment and Response Summary*

No official comments were received with regard to the adopted change.

6. *Cost and Paperwork Requirements*

The adopted change would not result in any additional cost or paperwork.

Effective Date

The adopted changes will be effective on final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

Contact Person

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

Findings

The Commission finds that:

(1) Public notice of intention to adopt the administrative amendments adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 469, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The adoption of the amendments of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 141, are amended by amending §§ 141.5, 141.18, 141.21, 141.41—141.43, 141.45, 141.46 and 141.62; and by deleting § 141.65 to read as set forth at 31 Pa.B. 2019 (April 14, 2001); and by amending § 141.1 and adding §§ 141.47—141.49 to read as set forth in Annex A.

(b) The Executive Director of the Commission shall submit this order, 31 Pa.B. 2019 and Annex A, and deposit them with the Legislative Reference Bureau as required by law.

(c) This order amending Chapter 141 shall become effective upon final publication in the *Pennsylvania Bulletin*.

VERNON R. ROSS,
Executive Director

(Editor's Note: The addition of § 141.49 was not included in the proposal at 31 Pa.B. 2019.)

Fiscal Note: Fiscal Note 48-129 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

Subchapter A. GENERAL

§ 141.1. Special regulations areas.

(a) *Name.* The areas shall be known and referred to as special regulations areas.

(b) *Descriptions.*

(1) *Southwest area.* Includes the County of Allegheny.

(2) *Southeast area.* Includes the Counties of Bucks, Montgomery, Chester, Delaware and Philadelphia and also includes Tyler and Ridley Creek State Parks and other publicly-owned lands therein.

(c) *Prohibitions.*

(1) Except as provided in subsection (d), it is unlawful to take, kill or attempt to take or kill wildlife through the use of a firearm of any description which discharges single-projectile ammunition, or, while hunting for wild birds or wild animals, to possess single-projectile ammunition, except for employes of political subdivisions and other persons who have a valid deer control permit issued

under the authority of Chapter 29 of the act (relating to special licenses and permits).

(2) It is unlawful to use buckshot in Allegheny or Philadelphia Counties without specific authorization of the Director.

(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 muzzleloading long gun or a shotgun, at least .410 gauge (rifled barrels permitted), including semiautomatics which, upon discharge, propel a single projectile.

(2) Take deer with a shotgun 20 gauge or larger—including semiautomatic—using buckshot in the Southeast area only.

(3) Take small game, furbearing animals, crows or wildlife with a manually operated .22 caliber rimfire rifle or handgun.

(4) Kill an animal legally caught in a trap with a manually operated .22 caliber rimfire rifle or handgun while trapping.

(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.

Subchapter C. BIG GAME

§ 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 projectile which is not all lead or designed to expand on impact and at least 130 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) Use any bow with a draw weight less than 45 pounds.

(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.

(9) Act or conspire to act as a guide for any person without first securing a permit from the Commission and attending an orientation program sponsored by the Commission.

(10) Act or conspire to act as a client for any guide who has not secured a permit from the Commission and attended an orientation program sponsored by the Commission.

§ 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. Elk Management Area 15 comprises all areas outside Areas 1-14 inclusive.

(See map of Pennsylvania Elk Management Areas at 31 Pa.B. 2019, 2027 (April 14, 2001)).

§ 141.49. Elk guide permits.

The fee for elk guide permits shall be:

(1) Resident—\$10.

(2) Nonresident—\$25.

[Pa.B. Doc. No. 01-858. Filed for public inspection May 18, 2001, 9:00 a.m.]