

# PROPOSED RULEMAKING

## DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CH. 491]

### Administrative Practice and Procedure

The Department of Transportation, Office of Chief Counsel, under the authority in 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), proposes to amend Chapter 491 (relating to administrative practice and procedure) to read as set forth in Annex A.

#### *Purpose of this Chapter*

The purpose of Chapter 491 is to supplement 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) (General Rules). In accordance with 1 Pa. Code § 31.1(c) (relating to scope), Chapter 491 supersedes any inconsistent provisions in the General Rules in proceedings before the Department.

#### *Purpose of this Rulemaking*

The purpose of this proposed rulemaking is to clarify the separation of the adjudicatory and adversarial functions performed by Department attorneys and officials in the conduct of administrative hearings. The proposed rulemaking also clarifies that the Secretary of Transportation has discretion to direct that an administrative record be certified to the Secretary for decision without the preparation of a proposed report. The proposed rulemaking also clarifies that proposed orders of any appropriate type are to be forwarded to the Secretary with the record when exceptions to a proposed report are filed.

#### *Persons and Entities Affected*

This proposed rulemaking will affect all Department personnel involved in matters brought to administrative hearing as well as any persons, and their counsel, who have occasion to request administrative review of a Department determination.

#### *Fiscal Impact*

The proposed rulemaking will not result in any increased costs to individuals, local governments or to the Commonwealth. The proposed rulemaking will not require the development of additional reports or result in other additional paperwork.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 5, 2005, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Transportation Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department,

the General Assembly and the Governor of comments, recommendations or objections raised.

#### *Sunset Date*

The Department is not establishing a sunset date for these regulations, as these regulations are needed to administer provisions under 2 Pa.C.S. §§ 501—508 and 701—704. The Department, however, will continue to closely monitor these regulations for their effectiveness.

#### *Public Comment*

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to Andrew H. Cline, Deputy Chief Counsel, Office of Chief Counsel, 9th Floor, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120 within 30 days of publication of this notice in the *Pennsylvania Bulletin*.

#### *Contact Person*

The contact person for this proposed rulemaking is Stephen F. J. Martin, Regulatory Counsel, Office of Chief Counsel, 9th Floor, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120, (717) 787 5079.

ALLEN D. BIEHLER, P. E.,  
*Secretary*

**Fiscal Note:** 18-401. No fiscal impact; (8) recommends adoption.

### Annex A

#### TITLE 67. TRANSPORTATION

#### PART I. DEPARTMENT OF TRANSPORTATION

#### Subpart B. NONVEHICLE CODE PROVISIONS

#### ARTICLE V. GENERAL PROCEDURES

#### CHAPTER 491. ADMINISTRATIVE PRACTICE AND PROCEDURE

§ 491.2a. [Separation of adjudicatory function from representation of the Department] (Reserved).

**[(a) Separation of adjudicatory function.** The adjudicatory function performed in accordance with this chapter and the General Rules will be separated from the function of representing the Department in administrative hearing matters. This chapter prescribes that an administrative hearing officer will preside over any hearing and, if exceptions are filed by any party, the decision ultimately is made by the Secretary. The Department's Chief Counsel advises the Secretary in his adjudicatory capacity.

**(b) Ex parte discussions.** Under no circumstances may any Department attorney representing the Department in an administrative hearing matter, or any Department employee involved in such a matter, discuss the case ex parte with the Administrative Hearing Officer, the Chief Counsel or the Secretary.

**(c) Prohibited discussions with employees.** The Administrative Hearing Officer, the Chief Counsel and the Secretary may not discuss with, or exercise any supervisory responsibility over, any employee with respect to an administrative hearing matter with which that employee is involved.

# GAME COMMISSION

[58 PA. CODE CH. 135]

Lands and Buildings

(d) *Designation by Chief Counsel and Secretary.* If it becomes necessary for the Chief Counsel or the Secretary to become involved on behalf of the Department in any administrative hearing matter, they are prohibited from participating in the adjudication of the case and shall designate appropriate individuals to exercise their adjudicatory functions. ]

### § 491.2b. Separation of adjudicatory and adversarial functions.

(a) *Adjudicatory function and officials.* The adjudicatory function in proceedings under this chapter and the General Rules shall be performed by the Secretary, or a designee, and Department hearing officers as may be appointed by the Secretary. The Secretary's review of the actions of subordinate officers, including the proposed reports of Department hearing officers, will be de novo. The Department's Chief Counsel, or a designee, will serve as legal counsel to the Secretary in the performance of the Secretary's adjudicatory function.

(b) *Due process.* The adjudicatory function in a proceeding will be performed in a manner that is fair, impartial and separated from any adversarial function in the proceeding.

(c) *Restrictions on activities and communications.* The following restrictions will be observed in proceedings under this chapter and the General Rules:

(1) A person who has been significantly involved in a matter prior to the initiation of a proceeding may not perform adjudicatory functions with respect to that matter.

(2) Adjudicatory officials may not exercise substantive supervisory responsibility over Department staff or staff counsel with respect to a matter before them.

(3) Ex parte communications between Department staff or staff counsel and adjudicatory officials that may create an appearance of impropriety in a matter shall be avoided.

(d) *Supplementation.* This section supplements 1 Pa. Code § 35.188 (relating to restrictions on duties and activities).

### § 491.11 Proposed report.

(a) *General.* Following the hearing and the timely submission of any posthearing filings, the Department hearing officer, **unless directed by the Secretary to certify the record without a proposed report**, will prepare and file a proposed report with the docket clerk.

\* \* \* \* \*

### § 491.12 Exceptions.

\* \* \* \* \*

(c) *Record.* When timely exceptions are filed, the docket clerk will forward the following to the Secretary:

\* \* \* \* \*

(4) **[ A ] Any proposed [ order ] orders to grant or deny the exceptions [ , that is prepared for the Secretary's signature ] submitted by the parties.**

\* \* \* \* \*

[Pa.B. Doc. No. 05-709. Filed for public inspection April 15, 2005, 9:00 a.m.]

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 25, 2005, meeting, proposed the following rulemaking:

Amend §§ 135.2, 135.41 and 135.51 (relating to unlawful actions; State game lands; and designated roads on state game lands open to ATVs) to allow the Director to permit another individual to authorize and designate the location of certain uses of lands, waters and buildings owned by the Commission and to improve consistency in the regulations.

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

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

The proposed rulemaking was made public at the January 25, 2005, meeting of the Commission. Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until April 22, 2005.

#### 1. Purpose and Authority

Currently, §§ 135.41 and 135.51 empower the Director to authorize and designate the location of certain uses of lands, waters and buildings owned by the Commission. However, § 135.2 does not provide the same empowerment to the Director and therefore is not consistent with aforementioned sections. The Commission is proposing to amend § 135.2 to eliminate this inconsistency in the regulations. The Commission is also proposing to amend §§ 135.2, 135.41 and 135.51 to allow the Director to permit another individual to authorize and designate the location of certain uses of lands, waters and buildings owned by the Commission to allow the Commission to be more responsive to requests for permission for these restricted uses.

Section 322(c)(10) of the code (relating to powers and duties of the commission) specifically empowers the commission to "Manage and develop its lands and waters and other government or private lands and waters under agreement with the owners as it considers advisable and, by proper action and proceedings, enact and enforce regulations to insure the prudent and proper use of these lands." Section 721(a) of the code (relating to control of property) provides "The administration of all lands and waters owned, leased or otherwise controlled by the commission shall be under the sole control of the Director, and the commission shall promulgate regulations . . .for its use and protection as necessary to properly manage these lands or waters." Section 2102(a) of the code (relating to regulations) provides that "The Commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat . . .in this Commonwealth." The amendments to §§ 135.2, 135.41 and 135.51 were proposed under this authority.

#### 2. Regulatory Requirements

The proposed rulemaking will make the language of § 135.2 more consistent with §§ 135.41 and 135.51 by

empowering the Director to authorize and designate the location of certain uses of lands, waters and buildings owned by the Commission. The proposed rulemaking will also amend §§ 135.2, 135.41 and 135.51 to allow the Director to permit another individual to authorize and designate the location of certain uses of lands, waters and buildings owned by the Commission.

3. *Persons Affected*

Persons using the lands, waters and buildings owned by the Commission will be affected by the proposed rulemaking.

4. *Cost and Paperwork Requirements*

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

5. *Effective Date*

The proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

6. *Contact Person*

For further information regarding the proposed rulemaking, contact Michael A. Dubaich, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,  
*Executive Director*

**Fiscal Note:** 48-202. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART III. GAME COMMISSION**

**CHAPTER 135. LANDS AND BUILDINGS**

**Subchapter A. GENERAL PROVISIONS**

**§ 135.2. Unlawful actions.**

In addition to the prohibitions in the act on lands, waters or buildings under Commission ownership, lease or jurisdiction, it is unlawful, except with the permission of the person in charge of the lands, **or the written permission of the Director or a designee** to:

\* \* \* \* \*

**§ 135.41. State game lands.**

\* \* \* \* \*

(c) *Additional prohibitions.* In addition to the prohibitions contained in the act pertaining to State game lands and § 135.2 (relating to unlawful actions), except with the written permission of the Director **or a designee**, it is unlawful to:

\* \* \* \* \*

**§ 135.51. Designated roads on State game lands open to ATVs.**

State game lands roads that will be open for use by permitted persons operating ATVs will be designated by the Director **or a designee**. The Commission will make a list of these open roads available to the permittee, and will provide the list by mail to a permitted person that has applied for a towing vehicle placard.

\* \* \* \* \*

[Pa.B. Doc. No. 05-710. Filed for public inspection April 15, 2005, 9:00 a.m.]

**[58 PA. CODE CH. 135]**

**Middlecreek and Pymatuning Waterfowl Management Areas; Youth Shooting Day**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 25, 2005, meeting, proposed the following rulemaking:

Amend § 135.103 (relating to registration for controlled goose hunting areas) to allow the Commission to designate 1 shooting day at the Middlecreek and Pymatuning Waterfowl Management Areas as a youth-only day.

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

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

The proposed rulemaking was made public at the January 25, 2005, meeting of the Commission. Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until April 22, 2005.

1. *Purpose and Authority*

The Commission is constantly looking for ways to attract the attention of younger hunters to get them involved or keep them involved with the traditional sport of hunting and trapping. One tool that has been largely successful towards this end has been the creation of expanded or youth-only hunting opportunities. In an effort to continue attracting and maintaining younger generations, the Commission is proposing to create a youth-only hunting day at the Middlecreek and Pymatuning Waterfowl Management Areas. Specifically, the proposed rulemaking will allow for a special drawing of junior license holder applicants prior to the regular drawing. After the special drawing is completed, all unsuccessful junior license holder applicants and all other regular applicants will be eligible for the remainder of the scheduled shooting days.

Section 322(c)(6) of the code (relating to powers and duties of the commission) specifically empowers the commission to "Limit the number of hunters or furtakers in any designated area and prescribe the lawful methods of hunting or taking furbearers in these areas." Section 721(a) of the code (relating to control of property) provides "The administration of all lands and waters owned, leased or otherwise controlled by the commission shall be under the sole control of the Director, and the commission shall promulgate regulations . . . for its use and protection as necessary to properly manage these lands or waters." Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking . . ." The amendment to § 135.103 was proposed under this authority.

2. *Regulatory Requirements*

The proposed rulemaking will amend § 135.103 to allow the Commission to designate 1 shooting day at the Middlecreek and Pymatuning Waterfowl Management Areas as a youth-only day.

3. *Persons Affected*

Persons who wish to hunt waterfowl at the Middlecreek and Pymatuning Waterfowl Management Areas may be affected by the proposed rulemaking.

4. *Cost and Paperwork Requirements*

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

5. *Effective Date*

The proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

6. *Contact Person*

For further information regarding the proposed rulemaking, contact Michael A. Dubaich, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,  
*Executive Director*

**Fiscal Note:** 48-203. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART III. GAME COMMISSION**

**CHAPTER 135. LANDS AND BUILDINGS**

**Subchapter F. SPECIAL WILDLIFE MANAGEMENT AREAS**

**§ 135.103. Registration for controlled goose hunting areas.**

The following apply to reservations for controlled goose hunting areas:

\* \* \* \* \*

(4) Selections of mailed application forms will be made by random drawing from all eligible applications submitted. The Director will establish, no later than 20 days prior to the drawing, the number of applications to be drawn.

\* \* \* \* \*

**(v) The Director may designate 1 shooting day at the Middle Creek and Pymatuning Waterfowl Management Areas as a youth-only day. Adults who accompany a junior hunter on this day may participate in the hunt by calling only. Applications received from junior hunters will be separated and drawn prior to the other applications on the established drawing date for the management area. Unsuccessful applicants for the youth shooting day will then be placed with all other applications and the drawing will proceed until all shooting days are filled.**

\* \* \* \* \*

[Pa.B. Doc. No. 05-711. Filed for public inspection April 15, 2005, 9:00 a.m.]

**[58 PA. CODE CH. 139]  
Seasons and Bag Limits**

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

its January 25, 2005, meeting, proposed the following rulemaking:

Amend § 139.2 (relating to definitions) to prevent confusion in the regulations relating to hunting hours by eliminating redundant language.

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

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

The proposed rulemaking was made public at the January 25, 2005, meeting of the Commission. Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until April 22, 2005.

1. *Purpose and Authority*

It has been brought to the attention of Commission staff that certain regulatory language found in § 139.2 is redundant and therefore unnecessary. Section 139.2, in relevant part, provides a one-sentence definition of "hunting hours." However, § 141.4 already establishes when legal hunting hours occur in general and for certain specific seasons. To remove this redundancy and prevent confusion in the regulations the Commission is proposing to remove the redundant language found in § 139.2.

Section 322(c)(1) of the code (relating to powers and duties of the commission) specifically empowers the commission to "fix seasons, daily shooting or taking hours, and any modification thereof . . ." 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 amendment to § 139.2 was proposed under this authority.

2. *Regulatory Requirements*

The proposed rulemaking will eliminate redundant language found in § 139.2.

3. *Persons Affected*

Persons who wish to hunt or trap within this Commonwealth will be affected by the proposed rulemaking.

4. *Cost and Paperwork Requirements*

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

5. *Effective Date*

The proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

6. *Contact Person*

For further information regarding the proposed rulemaking, contact Michael A. Dubaich, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,  
*Executive Director*

**Fiscal Note:** 48-204. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART III. GAME COMMISSION**

**CHAPTER 139. SEASONS AND BAG LIMITS**

**§ 139.2. Definitions.**

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

\* \* \* \* \*

**[ Hunting hours—The period each day of the open season, Sundays excepted, when game and wildlife may be lawfully taken. ]**

\* \* \* \* \*

[Pa.B. Doc. No. 05-712. Filed for public inspection April 15, 2005, 9:00 a.m.]

**[58 PA. CODE CH. 141]**

**Big Game Harvest Report Requirement**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 25, 2005, meeting, proposed the following rulemaking:

Amend § 141.41 (relating to definitions) to establish a big game harvest report requirement.

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

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

The proposed rulemaking was made public at the January 25, 2005, meeting of the Commission. Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until April 22, 2005.

**1. Purpose and Authority**

The Legislature recently amended section 2323 of the code (relating to tagging and reporting big game kills) by eliminating the statutory language setting forth the lawful methods and manners for reporting big game kills. The intent behind this amendment was to shift the authority to establish lawful methods and manners for reporting big game kills to the Commission to promote and facilitate alternative methods and manners for reporting other than the harvest report card. To reestablish the big game harvest report requirement in the regulations, the Commission must amend § 141.41.

Section 322(c)(11) of the code (relating to powers and duties of the commission) specifically empowers the commission to "Collect, classify and preserve such statistics, data and information as in its judgment will tend to promote the object of this title and take charge and keep all reports, books, papers and documents which shall, in the discharge of its duties, come into its possession or under its control." 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 . . . in this Commonwealth." The amendment to § 141.41 was proposed under this authority.

**2. Regulatory Requirements**

The proposed rulemaking will establish a big game harvest report requirement in § 141.41.

**3. Persons Affected**

Persons who wish to harvest big game within this Commonwealth will be affected by the proposed rulemaking.

**4. Cost and Paperwork Requirements**

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

**5. Effective Date**

The proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

**6. Contact Person**

For further information regarding the proposed rulemaking, contact Michael A. Dubaich, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,  
*Executive Director*

**Fiscal Note:** 48-205. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART III. GAME COMMISSION**

**CHAPTER 141. HUNTING AND TRAPPING**

**Subchapter C. BIG GAME**

**§ 141.41. General.**

\* \* \* \* \*

(b) It is unlawful to:

\* \* \* \* \*

**(5) Within 10 days of the kill, fail to complete the report card supplied with the hunting license for reporting big game killed and mail the report card to the Commission at Harrisburg or by any other method designated by the Director.**

**(6) Kill deer with a Deer Management Assistance Program (DMAP) permit without reporting in the manner prescribed on the permit.**

[Pa.B. Doc. No. 05-713. Filed for public inspection April 15, 2005, 9:00 a.m.]

**[58 PA. CODE CH. 143]**

**Deadline for Purchasing a Bear License**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 25, 2005, meeting, proposed the following rulemaking:

Amend § 143.67 (relating to application) to establish a deadline for purchasing a bear license prior to the opening of regular firearms deer season.

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

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

The proposed rulemaking was made public at the January 25, 2005, meeting of the Commission. Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until April 22, 2005.

#### 1. *Purpose and Authority*

Currently, a hunter can purchase a bear license at the time the hunter purchases a license or at any time up to the close of established bear seasons. This expanded purchasing period, however, has provided certain individuals with the opportunity to abuse the bear license requirement. Specifically, the Commission is aware of certain individuals (without bear licenses) unlawfully shooting bears during the concurrent bear/deer season only to thereafter purchase a bear license to lawfully possess and retain the bear carcass. To prevent this type of abuse in the future, the Commission is proposing to amend § 143.67 to establish a deadline for purchasing bear licenses to a date prior to the opening of regular firearms deer season.

Section 2722(g) of the code (relating to authorized license-issuing agents) directs the Commission to adopt regulations for the administration, control and performance of license issuing activities. 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 amendment of § 143.67 was proposed under this authority.

#### 2. *Regulatory Requirements*

The proposed rulemaking will establish a deadline in § 143.67 for purchasing bear licenses to a date prior to the opening of regular firearms deer season.

#### 3. *Persons Affected*

Persons who wish to purchase a bear license in this Commonwealth will be affected by the proposed rulemaking.

#### 4. *Cost and Paperwork Requirements*

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

#### 5. *Effective Date*

The proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

#### 6. *Contact Person*

For further information regarding the proposed rulemaking, contact Michael A. Dubaich, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,  
*Executive Director*

**Fiscal Note:** 48-206. No fiscal impact; (8) recommends adoption.

#### Annex A

#### TITLE 58. RECREATION

#### PART III. GAME COMMISSION

#### CHAPTER 143. HUNTING AND FURTAKER LICENSES

#### Subchapter D. BEAR LICENSES

#### § 143.67. Application.

\* \* \* \* \*

(b) Applications for bear licenses may be made [ **when purchasing a regular hunting license, or any time thereafter, upon presentation of the regular hunting license** ] prior to the opening of the regular firearms deer season by persons who hold a valid regular hunting license.

[Pa.B. Doc. No. 05-714. Filed for public inspection April 15, 2005, 9:00 a.m.]