

PROPOSED RULEMAKING

GAME COMMISSION

[58 PA. CODE CHS. 143 AND 147]

Hunting and Furtaking Licenses and Special Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 29, 2008, meeting, proposed to amend Chapter 143, Subchapters A—E, J and K and Chapter 147, Subchapters R and S (relating to deer control and bobcat hunting-trapping permit) to accommodate the implementation of the Commission's new Point-of-Service (POS) licensing system within this Commonwealth.

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 29, 2008, meeting of the Commission. Comments can be sent, until April 18, 2008, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

The Game Commission (Commission) has been working in joint partnership with the Fish and Boat Commission (FBC) to create and implement the Commonwealth's first POS licensing system. The Commission and FBC intend to replace their own individual paper-based licensing systems with a common computer-based automated licensing system. Implementing this computerized POS licensing system within this Commonwealth will significantly streamline the application and purchase process for customers, virtually eliminate manual auditing and reporting for agents, and provide tremendous new electronic functionality to assist the Commission and FBC support staff in monitoring license administration. In addition, the data from the POS licensing system will enable the Commission and FBC to monitor license sales, create strategic business plans based on trend analysis and, most importantly, create marketing plans based on more accurate customer demographics. Therefore, in an effort to accommodate the implementation of the Commission's new POS licensing system within this Commonwealth, the Commission is proposing to amend Chapter 143, Subchapters A—E, J and K, and Chapter 147, Subchapters R and S.

Section 2722(g)(2) of the code (relating to authorized license-issuing agents) provides that the Commission shall adopt regulations for "The administration, control and performance of activities conducted pursuant to the provisions of this chapter." Section 2901(b) of the code (relating to authority to issue permits) provides "the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued." 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, preserva-

tion and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendments in Chapter 143, Subchapters A—E, J and K, and Chapter 147, Subchapters R and S were proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend Chapter 143, Subchapters A—E, J and K and Chapter 147, Subchapters R and S to accommodate the implementation of the Commission's new POS licensing system within this Commonwealth.

3. Persons Affected

Persons wishing to hunt or trap game or wildlife within this Commonwealth will be affected by the proposed rulemaking.

4. Cost and Paperwork Requirements

The final rulemaking may result in some additional cost and paperwork associated with the implementation of the Commission's new POS licensing system within this Commonwealth. However, the Commission has determined that if there is any additional expense associated with this effort, it will not be substantial and would be absorbed by the current budget. The proposed rulemaking should not result in any other additional cost or paperwork.

5. Effective Date

The proposed rulemaking will be effective upon final 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 Richard R. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-268. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 143. HUNTING AND FURTAKER LICENSES

Subchapter A. GENERAL

§ 143.1. Definitions.

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

* * * * *

Customer ID number—The unique customer identifier permanently assigned to each customer of the Commission's Point-of-Sale automated licensing system.

Point-of-Sale—The Commission’s computer-based automated licensing system that facilitates the purchase and creation of license products at the agent location.

§ 143.11. Internet license sales.

[To fulfill Internet orders for general hunting licenses, the Commission may print specific license privileges directly on the hunting license back tag. For individuals who already possess a valid hunting license and opt to purchase an archery, muzzleloader, migratory game bird or bear license using the Commission’s website, the Commission may assign a web order number to issue these additional license privileges. To validate these additional privileges, the license holder shall enter his web order number on the general hunting license back tag and sign in the spaces provided.] For individuals who already possess a valid hunting license and opt to purchase an archery, muzzleloader or migratory game bird license online, the license holder shall print the receipt, sign in the space provided and carry while afield.

Subchapter B. APPOINTMENT OF AGENTS

§ 143.26. Time for rebate.

Rebate to the agent will be [drawn from the Game Fund and returned to the agent in lump sum as soon as practicable after the agent’s yearly sales are audited] credited to his account at the beginning of the license year following his first year as an agent.

Subchapter C. ANTLERLESS DEER LICENSES

§ 143.41. Purpose and scope.

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(b) The Commission, after reviewing [reproductive] available management data, will establish the number of antlerless deer licenses allocated to each wildlife management unit. [Licenses will be distributed among county treasurers for issuance on the basis of percentage of land each county represents in the unit.]

(c) An application shall be accepted without restriction or regard to the applicant’s county of residence. The following procedure shall be adhered to when determining successful applicants for licenses:

* * * * *

(2) [The Commission in Harrisburg will serve as the central receiver for all mail-in applications in all wildlife management units.] Envelopes received by first class mail delivered through and by the United States Postal Service will be processed and licenses issued as soon as practicable.

(3) [Envelopes received by first class mail delivered through and by the United States Postal Service will be examined as soon as practicable, unopened, to determine the number of applications received as well as to verify delivery to the intended wildlife management unit.

(4) [This process of [application distribution] license issuance will continue until the available supply of licenses for that wildlife management unit is exhausted.

(d) The Commission may act in the capacity of a county treasurer for issuing antlerless licenses [in a wildlife management unit] if authority to issue licenses has been removed from any or all county treasurers [in the wildlife management unit].

(e) Notwithstanding the provisions of this chapter limiting the number of licenses available, the Commission will authorize antlerless deer licenses to be issued regardless of an established quota to:

(1) A resident of this Commonwealth within 60 days of discharge from active duty under honorable conditions from the United States Armed Forces or United States Coast Guard. [The issuing county treasurer will designate the license for a specific wildlife management unit by writing the unit’s alphanumeric designation on the face of the license.]

(2) A disabled veteran as defined in 34 Pa.C.S. § 2706(b)(1) (relating to resident license and fee exemptions). [The issuing county treasurer will designate the license for a specific wildlife management unit by writing the unit’s alphanumeric designation on the face of the license.]

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§ 143.42. Definitions.

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

Application—[The form issued with a regular hunting license used in applying for an antlerless license.] The universal form contained in the “*Hunting and Trapping Digest*” or a reasonable facsimile thereof used in applying for an antlerless license or an unsold tag.

[**County allocation**—The number of licenses allocated by the Commission to an individual county.]

* * * * *

Date issued—The date [placed on the license by a county treasurer or the Commission] printed on the license at the time of issuance indicating when the license was mailed or given to the person named on the license.

Envelope—The official envelope issued with a regular hunting license which shall be used by the applicant to mail completed applications to [the Commission] a county treasurer.

* * * * *

License—The numbered [back tag] license which is issued by the county treasurer or the Commission authorizing the holder thereof to hunt antlerless deer in a specific wildlife management unit.

* * * * *

[**Unsold tag application**—The form contained in the “*Hunting and Trapping Digest*” used in applying for an unsold tag.]

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§ 143.43. Preamble.

(a) An application shall be submitted to [the Commission wildlife management unit address in Harrisburg] a county treasurer and a license shall be issued only in accordance with the act and this subchapter.

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§ 143.44. Application.

[(a) Only the original current application is valid for making application.

(b) It is unlawful to apply for more than one license.

(c) The application is not transferable by the person receiving it. The application may not be used by another person to apply for a license.]

It is unlawful to apply for more than one license before the unsold tag and unlimited antlerless license application periods as set forth in this chapter.

§ 143.45. Completing and submitting applications.

(a) Except as otherwise provided in § 143.52 (relating to procedure for unlimited antlerless licenses) and for those applications submitted by qualified landowners, it is unlawful for a county treasurer to accept an application other than [from the Commission] by regular first class mail delivered through and by the United States Postal Service. [County treasurers with unsold antlerless deer licenses shall accept applications over the counter and may immediately issue licenses beginning on the first Monday in November.] Applications for unsold antlerless deer licenses shall be accepted by county treasurers over the counter and may immediately be processed if licenses are available beginning on the first Monday in November.

(b) [The Commission will not accept antlerless deer license applications other than by regular first class mail delivered through and by the United States Postal Service.] Applications will not be accepted by county treasurers prior to the start of the normal business day on the second Monday in July.

(c) [Applications will not be accepted by the Commission prior to the start of the normal business day on the first Monday in August.

(d)] The application shall be legibly completed, in its entirety, in accordance with instructions on the application. An applicant may enter up to three units, in order of preference, on the application.

[(e)] (d) * * *

[(f)] (e) * * *

[(g)] (f) The envelope [shall] must contain return first class postage and a return address. If requirements of this subsection are not met, applications will be placed in a dead letter file and may be reclaimed by the applicant upon contacting the [Commission's Hunting License Division in Harrisburg] county treasurer's office. Postage, both forward and return, is the responsibility of the applicant.

[(h)] (g) * * *

§ 143.48. First-come-first-served license issuance.

(a) Envelopes containing applications will be accepted on a first-come-first-served basis. [Envelopes will be inspected by the Commission in Harrisburg, unopened, to determine if they comply with § 143.45(b), (c), (e) and (g) (relating to completing and submitting applications).]

(b) [If the conditions in § 143.45(b), (c) and (e) are met, it constitutes initial acceptance, and the applications will be forwarded to a county treasurer within the wildlife management unit for issuance of the appropriate number of licenses. If the conditions are not met, the enclosed applications will be rejected and returned to the sender as soon as possible.] If there are more than three applications in one envelope, the enclosed applications will be rejected and returned to the sender as soon as practicable.

* * * * *

(e) [Envelopes containing applications initially accepted for the issuance of a license shall be opened and inspected by the county treasurer at his earliest convenience. If an application in an accepted envelope fails to comply with § 143.45 (relating to completing and submitting applications), applications enclosed in the accepted envelope shall be rejected and returned by the county treasurer to the sender as soon as practicable. The back tags initially assigned to the envelope shall be marked VOID across the face in ink.] If an application fails to be in compliance with § 143.45 (relating to completing and submitting applications), applications enclosed in the envelope shall be rejected and returned by the county treasurer to the sender as soon as practicable.

§ 143.49. Issuing licenses.

(a) Licenses may be issued by county treasurers immediately following receipt of applications [from the Commission].

(b) Licenses [shall] will be [validated by the addition of the county treasurer's or the Director's signature or signature stamp, date of issue and the applicant's regular hunting license back tag number. The county treasurer shall write in ink the applicant's regular hunting license back tag number on the antlerless deer ear tag. The county treasurer shall write in ink the assigned antlerless license number on the face of the check or money order] issued through the Commission's Point-of-Sale automated licensing system. The county treasurer shall write in ink the applicants' customer ID numbers on the face of the check or money order. If there are no licenses available in the applicant's first unit of preference, the county treasurer shall issue a license for the applicant's next unit of preference in the order given. If all three units have no licenses available, the county treasurer shall return the application to the applicant indicating that the selected units were sold out.

(c) Except as otherwise provided in § 143.52 (relating to procedure for unlimited antlerless licenses) and for qualified landowners, licenses issued shall be delivered to successful applicants in the envelope by first class mail through and by the United States Postal Service. Licenses shall be placed with the United States Postal Service no

later than the [**third**] **second Monday in September**, except for licenses issued under § 143.51(f) (relating to application and issuance of unsold tags) which shall be placed with the United States Postal Service no later than [**October 1**] **the fourth Monday in September**. If more than one application is mailed to the county treasurer in the same envelope, the licenses shall be mailed to the person whose name appears on the return section of the envelope. The person receiving the additional licenses is responsible for delivering them to the appropriate people.

§ 143.50. Procedure for nonresidents of this Commonwealth.

[**The Commission having unsold licenses on the third Monday in August and thereafter will accept applications for those units in compliance with § 143.45 (relating to completing and submitting applications) from nonresidents of this Commonwealth.**] Nonresidents may apply for unsold licenses on the last Monday in July and thereafter in compliance with § 143.45 (relating to completing and submitting applications).

§ 143.51. Application and issuance of unsold tags.

(a) Except as provided in § 143.52 (relating to procedures for unlimited antlerless licenses), beginning on the [**fourth**] **first Monday in August**, residents and nonresidents of this Commonwealth are eligible to receive an unsold tag.

(b) [**An applicant for this tag may not use the regular antlerless deer license application.**] An applicant shall only use the [**unsold**] application contained in the "*Hunting and Trapping Digest*" or a reasonable facsimile thereof.

* * * * *

(e) Unsold tags shall be [**validated by the addition of the county treasurer's or Director's signature or signature stamp, date of issue and the applicant's regular hunting license back tag number. The county treasurer shall write in ink the applicant's regular hunting license back tag number on the antlerless deer ear tag**] issued through the Commission's Point-of-Sale automated licensing system. The county treasurer shall write in ink the applicants customer ID numbers on the face of the check or money order. If there are no licenses available in the applicant's first unit of preference, the county treasurer shall issue a license for the applicant's next unit of preference in the order given. If all three units have no licenses available, the county treasurer shall return the application to the applicant indicating that the selected units were sold out.

(f) Beginning on the [**second Monday in September**, residents and nonresidents of this Commonwealth are eligible to apply for one additional unsold tag by mailing to the appropriate Commission wildlife management unit address in Harrisburg] **third Monday in August**, residents and nonresidents of this Commonwealth are eligible to apply for one additional unsold tag by mailing to a county treasurer.

§ 143.52. Procedure for unlimited antlerless licenses.

* * * * *

(b) Beginning on the [**fourth Monday in August**, residents and nonresidents of this Commonwealth shall be eligible to apply to designated wildlife management units for an unlimited number of antlerless deer licenses by mailing the application to the appropriate Commission wildlife management unit address in Harrisburg] **first Monday in August** residents and nonresidents of this Commonwealth shall be eligible to apply by mail to a county treasurer for an unlimited number of antlerless deer licenses for designated units.

(c) Beginning on the [**third Monday in September**, county treasurers within the designated wildlife management units shall accept antlerless applications over the counter from residents and nonresidents of this Commonwealth and may immediately issue licenses to applicants] **fourth Monday in August**, county treasurers shall accept antlerless applications over the counter for designated units from residents and nonresidents of this Commonwealth and may immediately issue licenses to applicants.

§ 143.53. Reapplication.

(a) A person whose application has been rejected and returned may secure a new official envelope from a hunting license issuing agent and reapply for a license by:

(1) If applicable, correcting the errors which caused the original application to be rejected and returning it to [**the Commission wildlife management unit address in Harrisburg**] a county treasurer.

(2) Changing on the application the designated wildlife management [**unit**] **units** in which the applicant desires to hunt and forwarding it to [**another Commission wildlife management unit address in Harrisburg**] a county treasurer.

(b) A person who was issued a license that was subsequently lost in the United States mail and never received by the licensee may, upon submitting an affidavit stating this fact, receive a replacement license from any county treasurer. There will be no additional cost for this license. Prior to issuing a replacement license, county treasurers shall first verify through [**their records or through communication with another county treasurer**] the Commission's Point-of-Sale automated licensing system that the applicant was issued the original license.

Subchapter D. BEAR LICENSES

§ 143.68. Carrying the license.

[**The**] **For a bear license issued subsequent to the owner's general hunting license, the bear license shall be signed by the owner in the space provided and shall be carried on the person at all times when the owner is hunting for bear. The bear license does not need to be displayed but shall be produced for inspection upon demand of any officer authorized to enforce this title.**

Subchapter E. [FLINTLOCK (MUZZLELOADER) DEER LICENSES] (Reserved)

§ 143.81. [Purpose and scope] (Reserved).

[**This subchapter establishes methods for application and issuance of a license.**]

§ 143.82. [Definition] (Reserved).

[The following words or terms, when used in this subchapter, have the following meaning, unless the context clearly indicates otherwise:

License—The special stamp issued by a license issuing agent authorizing the holder thereof to hunt deer with a muzzleloading firearm during the special season.]

§ 143.83. [Preamble] (Reserved).

[Applications shall be submitted to authorized issuing agents and licenses issued by them under the act and this subchapter.]

§ 143.84. [Application] (Reserved).

[(a) Applications for flintlock (muzzleloader) deer licenses shall be submitted to authorized issuing agents for licenses issued by them under the act and this subchapter.

(b) Applications for flintlock (muzzleloader) deer licenses may be made when purchasing a regular hunting license, or any time thereafter, upon presentation of the regular hunting license.]

§ 143.85. [Issuance of licenses] (Reserved).

[When the conditions in § 143.84 (relating to application) have been met, the agent may issue the appropriate license.]

§ 143.86. [Unlawful acts] (Reserved).

[It shall be unlawful to:

(1) Accept an application or issue a license contrary to the act or this chapter.

(2) Apply for or receive a license contrary to the act or this chapter.

(3) Aid another person in applying for or receiving a license contrary to the act or this subchapter.

(4) Transfer a license to another individual.]

§ 143.87. [Penalties] (Reserved).

[A person violating this subchapter shall, upon conviction, be sentenced as prescribed by the act.]

Subchapter J. MIGRATORY GAME BIRD LICENSE

§ 143.181. Purpose and scope.

This subchapter establishes rules for application and issuance of Migratory Game Bird License and [survey cards] HIP surveys.

§ 143.182. Definitions.

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

HIP survey—The Migratory Game Bird Harvest Information Program (HIP) survey that will be completed at the time the license is issued.

Migratory Game Bird License—The [numbered, wallet size card] license authorizing the holder thereof to hunt for migratory game birds. The license is not valid unless used in conjunction with a regular resident or nonresident hunting license.

[**Survey card**—The matching, numbered Migratory Game Bird Harvest Information Program card that is attached to the Migratory Game Bird License. The survey card will be completed at the time the license is issued.]

§ 143.183. Application.

Application may be made when purchasing a hunting license, or at any time thereafter upon completion of the HIP survey. [In addition to filling out the application for a hunting license, the applicant shall complete the matching numbered Migratory Game Bird Harvest Information Program survey card.]

§ 143.184. Issuance of license.

After confirming that the HIP survey [card] has been completed in its entirety, the issuing agent shall [enter the date of issuance in ink on the license and the matching numbered survey card in the spaces provided and] issue the license.

§ 143.186. Processing [survey cards] HIP surveys.

[Issuing agents shall forward survey cards completed each month directly to the United States Fish and Wildlife Service, Office of Migratory Bird Management, no later than the 5th day of the following month. Issuing agents shall forward the survey cards in the postage-paid envelopes provided by the Commission, as per the instructions set forth in the current issuing agents instruction manual.] HIP survey data shall be forwarded electronically to the United States Fish and Wildlife Service, Office of Migratory Bird Management, through the Commission's Point-of-Sale automated licensing system no later than 30 days after license issuance.

§ 143.187. Unlawful acts.

It is unlawful to:

* * * * *

(2) [Process survey cards contrary to § 143.186 (relating to processing survey cards).

(3) Apply for or receive a Migratory Game Bird License contrary to the act or this subchapter.

[(4)] (3) * * *

CHAPTER 147. SPECIAL PERMITS

Subchapter R. DEER CONTROL

DEER MANAGEMENT ASSISTANCE PROGRAM PERMITS

§ 147.672. Definitions.

The following words and terms, when used in this section and §§ 147.671 and 147.673—147.676, have the following meanings, unless the context clearly indicates otherwise:

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DMAP harvest permit—The numbered permit which is issued [by the Commission,] through the Commission's Point-of-Sale automated licensing system, authorizing the holder thereof to hunt antlerless deer in a specific DMAP area in accordance with provisions in the act and this part as they pertain to lawfully hunting deer. Each DMAP harvest permit has its own antlerless deer

ear tag [**and antlerless deer harvest report card**] attached to be used only for tagging [**and reporting**] an antlerless deer harvested.

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§ 147.673. Eligibility and application for DMAP.

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(d) Approved applicants will receive one coupon for each DMAP permit the DMAP area is entitled to. **In DMAP areas designated by the Director, DMAP harvest permits may be made available directly through authorized issuing agents without coupons being issued.**

§ 147.674. Issuance of DMAP harvest permits.

(a) DMAP harvest permits will be made available without regard to quota limitations and will be issued [**by the Commission**] through the Commission's Point-of-Sale automated licensing system.

(b) Two harvest permits for the DMAP area may be issued each license year to persons who possess a valid Pennsylvania hunting license [**or qualify for license and fee exemptions under section 2706 of the act (relating to resident license and fee exemptions)**].

* * * * *

(e) In DMAP areas designated by the Director, applicants may apply for DMAP harvest permits without possessing a coupon as long as harvest permits remain available for that area.

§ 147.675. Validity of permit.

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(b) DMAP harvest permits are valid only on the DMAP area indicated on the [**license**] permit.

§ 147.676. Unlawful acts.

It is unlawful to:

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(6) Fail to [**complete**] submit harvest report and survey information in accordance with instructions provided [**on the report card or the survey, or both**].

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[Pa.B. Doc. No. 08-574. Filed for public inspection March 28, 2008, 9:00 a.m.]

[58 PA. CODE CHS. 141 AND 143]

Hunting and Trapping and Hunting and Furtaker Licenses

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 29, 2008, meeting, proposed to amend §§ 141.48, 143.203 and 143.206 (relating to elk hunt zones; drawing; and validity of license) to redesignate "elk management areas/units" as "elk hunt zones."

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 29, 2008, meeting of the Commission. Comments can be sent until April 18, 2008, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

The Commission recently redesignated all the "elk management areas/units" found within this Commonwealth's North central region as "elk hunt zones." This redesignation is reflected in the Commission's elk management plan as well as the *Hunting & Trapping Digest*, however, this change is not properly reflected in current regulations. Therefore, in an effort to correct this lack of consistency, the Commission is proposing to amend §§ 141.48, 143.206 and 143.207 by redesignating "elk management areas/units" as "elk hunt zones."

Section 322(c)(4) of the code (relating to powers and duties of the commission) authorizes the Commission to "define geographic limitations or restrictions." Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendments to §§ 141.48, 143.206 and 143.207 were proposed under this authority.

2. Regulatory Requirements

The proposed rulemaking will amend §§ 141.48, 143.206 and 143.207 to redesignate "elk management areas/units" as "elk hunt zones."

3. Persons Affected

Persons wishing to hunt elk 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 Richard A. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-264. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Subchapter C. BIG GAME

§ 141.48. Elk [management units] hunt zones.

(a) The divisional line between two or more elk [**management units**] hunt zones shall be the center of the

highway, natural water course [or], other natural boundary or marked boundary.

(b) The elk [management units shall] hunt zones will be established by the Director prior to the opening of elk season.

CHAPTER 143. HUNTING AND FURTKAKER LICENSES

Subchapter K. ELK LICENSES

§ 143.203. Drawing.

* * * * *

(d) Qualified applicants and alternates drawn for an elk license shall be required to obtain a regular hunting license and complete an orientation program as prescribed by the Director. [Persons who are eligible for license and fee exemptions and meet the requirements in section 2706 of the act (relating to resident license and fee exemptions) are not required to purchase a regular hunting license.]

* * * * *

§ 143.206. Validity of license.

An elk license is valid for taking elk only in the elk [management area] hunt zones designated on the elk license and is valid for an antlerless [or], antlered or either sex elk as designated on the elk license.

§ 143.207. Unlawful acts.

It is unlawful for a person to:

* * * * *

(3) Hunt for elk in an elk [management area] hunt zone other than the elk [management area] hunt zone designated on the elk license.

* * * * *

[Pa.B. Doc. No. 08-575. Filed for public inspection March 28, 2008, 9:00 a.m.]

**[58 PA. CODE CH. 147]
Special Permits**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 29, 2008, meeting, proposed to amend § 147.701 (relating to general) to permit nonresident furtaker license holders to apply for and receive a bobcat hunting/trapping permit, to permit the Commission to automatically select bobcat hunting/trapping permit applicants who have attained the maximum number of preference points first with the random drawing for all other eligible applicants to follow, and to update the bobcat tagging procedures and remove the requirement that all bobcat carcasses be physically presented to the Commission for examination, data collection and permanent tagging.

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 29, 2008, meeting of the Commission. Comments can be sent, until April 18, 2008, to the Director, Informa-

tion and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

The Commission first authorized the hunting/trapping of bobcats in 2000 after 30 years of complete protection. Due to the low numbers of bobcat permits initially made available, the Commission limited the issuance of permits to residents of this Commonwealth only. The number of bobcat permits currently issued now exceeds 1,000 annually and a growing number of nonresidents have requested to have the opportunity to apply for and receive a bobcat hunting/trapping permit. Due to the abundance of the number of available bobcat hunting/trapping permits as well as the fact that nonresident furtakers make up less than 1% of the total number of licensed furtakers in this Commonwealth, the Commission is proposing to amend § 147.701 to permit nonresident furtaker license holders to apply for and receive a bobcat hunting/trapping permit.

In 2003, the Commission began awarding preference points to individuals who applied for but did not receive a bobcat harvest permit during a given year. The preference point system was designed to incrementally increase the probability of an individual's chances of being drawn for a bobcat hunting/trapping permit each year the applicant was unsuccessful. After reviewing the relevant data, the Commission has found that the current drawing process, albeit completely random, has the capability of allowing an applicant to attain the maximum number of preference points, yet never be drawn for a permit while at the same time allowing another applicant to be successfully drawn multiple times over the course of a number of years. In an effort to reduce this real or perceived inequity in the drawing process, the Commission is proposing to amend § 147.701 to permit the Commission to automatically select bobcat hunting/trapping permit applicants who have attained the maximum number of preference points first with the random drawing for all other eligible applicants to follow.

Currently, the tagging requirements found in § 147.701, require a successful hunter/trapper to submit the bobcat carcass to the Commission for examination, data collection and permanent tagging. The Commission has determined that it is no longer necessary for the carcass to be presented to the Commission and that administration of the permanent tag issuance can be accomplished by means of telephone and mail. Therefore, the Commission is proposing to amend § 147.701 to update the bobcat tagging procedures and remove the requirement that all bobcat carcasses be physically presented to the Commission for examination, data collection and permanent tagging.

Section 2901(b) of the code (relating to authority to issue permits) provides that "the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued." Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking and the health and safety of persons who hunt or take wildlife or

may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendments to § 147.701 were proposed under this authority.

2. *Regulatory Requirements*

The proposed rulemaking will amend § 147.701 to permit nonresident furtaker license holders to apply for and receive a bobcat hunting/trapping permit, to permit the Commission to automatically select bobcat hunting/trapping permit applicants who have attained the maximum number of preference points first with the random drawing for all other eligible applicants to follow, and to update the bobcat tagging procedures and remove the requirement that all bobcat carcasses be physically presented to the Commission for examination, data collection and permanent tagging.

3. *Persons Affected*

Persons wishing to hunt or trap bobcat 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 Richard A. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-265. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 147. SPECIAL PERMITS

Subchapter S. BOBCAT HUNTING-TRAPPING PERMIT

§ 147.701. General.

This section provides for permits to be issued for the hunting and trapping of bobcat during the season established and in areas designated under § 139.4 (relating to seasons and bag limits for the license year).

(1) A permit will only be issued to **[residents of this Commonwealth]** those who possess a valid **[resident]** furtakers license, junior combination license[,] or senior combination license **[or qualify for license and fee exemptions under section 2706 of the act (relating to resident license and fee exemptions) or to persons who qualify under section 2363 of the act (relating to trapping exception for certain persons)]**.

* * * * *

(5) **Current applicants with the maximum number of preference points as specified by the Director will automatically receive a bobcat harvest permit.** The selection of **additional permit** applications

will be made by random drawing from all eligible applications submitted. Incomplete, illegible or duplicate applications will not be included in the drawing. The drawing will be held at the Commission's Harrisburg Headquarters on the second Friday in September and **[shall] will** be open to the public.

(6) A special permit authorizing the lawful taking of one bobcat will be delivered to successful applicants by standard first class mail through and by the United States Postal Service. Permits **[shall] will** be mailed by the first Friday in October. The **total** number of permits issued **for the license year [shall] will** be set by the **[Executive]** Director no later than the first day of June.

(7) Tagging requirements are as follows:

(i) A permitted person taking a bobcat shall immediately, before removing the bobcat from the location of the taking, fully complete a temporary carcass tag furnished with the permit, which contains in English the person's name, address, special permit number, date of harvest, county and township of harvest, wildlife management unit of harvest and method of harvest and attach the tag to the bobcat. **[The bobcat carcass shall remain intact, that is, with entrails, until examined and tagged by a Commission representative. The temporary carcass tag shall remain attached to the animal until it is tagged with a numbered permanent interlocking tag. The person taking the bobcat may remove the pelt provided the pelt is kept with the carcass for examination and tagging.]** The temporary carcass tag must remain attached to the animal until a permanent tag is provided. The permanent tag must be locked through the eyes of the pelt if it is to be exported beyond this Commonwealth.

(ii) A permitted person taking a bobcat shall **[contact] report the harvest** to the Commission within 48 hours of the taking by telephoning the number specified on the permit **[to arrange for carcass examination, data collection and tagging]**.

(iii) A permanent tag for a bobcat taken under authority of a special permit shall be **[tagged with a numbered permanent interlocking tag no later than 4 p.m. on the 10th day following the closing of the bobcat season]** in the persons' possession and locked immediately upon receipt of the tag.

* * * * *

[Pa.B. Doc. No. 08-576. Filed for public inspection March 28, 2008, 9:00 a.m.]

[58 PA. CODE CH. 137]
Wildlife

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 29, 2008, meeting, proposed to amend § 137.1 (relating to importation, possession, sale and release of certain wildlife) to require propagation, exotic wildlife dealer and exotic wildlife possession permit holders to acquire an importation permit prior to importing any wildlife into this Commonwealth and to prohibit the importation, possession, sale and release of all non-human primates within this Commonwealth.

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 29, 2008, meeting of the Commission. Comments can be sent, until April 18, 2008, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. *Purpose and Authority*

Currently, § 137.1 requires a person importing lawfully acquired wildlife, or parts thereof, for menagerie, educational or scientific purposes to obtain an importation permit, but does not require an importation permit for exotic wildlife dealer or exotic wildlife possession permit holders. In an effort to create consistency in the regulations and increase the Commission's capabilities to address wildlife epidemiological concerns, the Commission is proposing to amend § 137.1 to specifically require propagation, exotic wildlife dealer and exotic wildlife possession permit holders to acquire an importation permit prior to importing any wildlife into this Commonwealth. The Commission is also proposing to prohibit the importation, possession, sale and release of all nonhuman primates within this Commonwealth in response to human health/safety and wildlife habitat health purposes.

Section 2901(b) of the code (relating to authority to issue permits) provides that "the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued." 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 § 137.1 was proposed under this authority.

2. *Regulatory Requirements*

The proposed rulemaking will amend § 137.1 to require propagation, exotic wildlife dealer and exotic wildlife possession permit holders to acquire an importation permit prior to importing any wildlife into this Commonwealth and to prohibit the importation, possession, sale and release of all nonhuman primates within this Commonwealth.

3. *Persons Affected*

Persons wishing to import, possess, sell or release exotic or nonindigenous wildlife, including nonhuman primates, 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 Richard R. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

CARL G. ROE,
Executive Director

Fiscal Note: 48-267. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 137. WILDLIFE

§ 137.1. Importation, **possession**, sale and release of certain wildlife.

(a) Unless otherwise provided in this section or the act, it is unlawful for a person to import, possess, sell, offer for sale or release within this Commonwealth the following **wild** animals or **wild** birds or the eggs of the birds or a crossbreed or hybrid of the **wild** animals or **wild** birds, which are similar in appearance:

(1) *In the family Felidae.* Species and subspecies, except species which are commonly called house cats which may be possessed but not released into the wild. Lawfully acquired bobcats—*Lynx rufus*—may be imported **or possessed, or both**, by licensed propagators specifically for propagation for fur farming purposes. Importation permits and transfer permits as mentioned in subsections (d) and (e) are not required for bobcats imported for propagation for fur farming purposes. Bobcats imported under this exception and their progeny may not be sold or transferred for wildlife pet purposes or released into the wild.

(2) *In the family Canidae.* Species and subspecies of the coyote, the red and gray fox and a full-blooded wolf or crossbreed thereof not licensed by the Department of Agriculture. Lawfully acquired coyotes and red or gray foxes may be imported **or possessed, or both**, by licensed propagators specifically for propagation for fur farming purposes. Coyotes and red and gray foxes imported under this exception and their progeny may not be sold or transferred for wildlife pet purposes or released into the wild. This subsection does not permit the sale for release or the release of the mammals into the wild.

* * * * *

(7) [***Threatened, endangered or injurious.*** An animal, bird or egg of a bird listed by the Commonwealth or the United States Department of the Interior as threatened, endangered or injurious.] **The order Primates. All families of nonhuman primates.**

(8) [***The Monk Parakeet. Myiopsitts Monachus,*** sometimes referred to as the Quaker Parakeet or Gray-headed Parakeet.] **An animal, bird or egg of a bird listed by the Commonwealth or the United States Department of the Interior as threatened, endangered or injurious.**

(9) [***Game or wildlife from the wild.*** Game or wildlife taken alive from the wild, except the Commission may import wildlife taken from the wild for enhancement of the Commonwealth's wild fauna.]

The Monk Parakeet, *Myiopsitts monachus*, sometimes referred to as the Quaker Parakeet or Gray-headed Parakeet.

(10) [**Game or wildlife held captive. Game or wildlife held in captivity or captive bred in another state or nation.**] **Game or wildlife taken alive from the wild, except the Commission may import wildlife taken from the wild for enhancement of this Commonwealth's wild fauna.**

(11) **Game or wild held captive. Game or wildlife held in captivity or captive bred in another state or nation.**

* * * * *

(c) Nothing in this section prevents zoological gardens [, **exotic wildlife dealers or exotic wildlife possession permit holders**] from importing wildlife.

(d) A person wishing to import lawfully acquired wildlife, or parts thereof, [**for menagerie, educational or scientific purposes**] shall first obtain an importation permit from the Commission subject to the following:

* * * * *

(2) A person wishing to import wildlife for a menagerie, **exotic wildlife possession, exotic wildlife dealer or propagation** purposes shall be in possession of a menagerie, **exotic wildlife possession, exotic wildlife dealer or propagation** permit prior to submitting the application for an import permit. See Chapter 147 (relating to special permits).

* * * * *

[Pa.B. Doc. No. 08-577. Filed for public inspection March 28, 2008, 9:00 a.m.]

MUNICIPAL POLICE OFFICERS' EDUCATION AND TRAINING COMMISSION

[37 PA. CODE CH. 221]

Retired Law Enforcement Officers Identification and Qualification Cards

Description and Purpose

Under section 7 of the Retired Law Enforcement Identification Act (act) (53 P. S. § 753.7), the Municipal Police Officers' Education and Training Commission (Commission) is required to promulgate regulations necessary to carry out the provisions of the act. This proposed rulemaking provides for the eligibility, requirements, contents, issuance and replacement of identification and qualification cards for retired Pennsylvania law enforcement officers.

Statutory Authority

This proposed rulemaking is authorized under section 7 of the act.

Effect

This proposed rulemaking will affect former law enforcement officers who retired from Pennsylvania law enforcement agencies.

Effective Date/Sunset Date

This proposed rulemaking will be continually monitored and updated as needed. Therefore, no sunset date has been set.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (act) (71 P. S. § 745.5(a)), on March 14, 2008, the Commission submitted a copy of the proposed rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Judiciary Committee and the Senate Law and Justice Committee. A copy of these materials are available to the public upon written request.

Under section 5(g) of the act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days after the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The act specifies detailed procedures for review, prior to final publication of the regulation, by the Commission, the General Assembly and the Governor of comments, recommendations or objections raised.

Contact Person/Public Comment

Interested persons wishing to comment are invited to submit all written comments within 30 days of the publication of this notice in the *Pennsylvania Bulletin*. Each written comment must include the name, address and telephone number of the interested party and a concise statement with sufficient detail on the subject. Written statements may be directed to Syndi L. Guido, Policy Director, Pennsylvania State Police, 1800 Elmerton Avenue, Harrisburg, PA 17110, (717) 772-0905. Persons with a disability and who require an alternative format of this document (such as, large print, audio tape, Braille) may contact Syndi Guido so that she may make the necessary arrangements.

COL. JEFFREY B. MILLER,
Commissioner

Fiscal Note: 17-75. (1) General Fund and Motor License Fund;

	<i>General Fund Municipal Police Training</i>	<i>Motor License Fund Municipal Police Training</i>
(2) Implementing Year 2007-08	\$0	\$0
(3) 1st Succeeding Year 2008-09	\$14,000	\$14,000
2nd Succeeding Year 2009-10	\$14,000	\$14,000
3rd Succeeding Year 2010-11	\$14,000	\$14,000
4th Succeeding Year 2011-12	\$14,000	\$14,000
5th Succeeding Year 2012-13	\$14,000	\$14,000
(4)	<i>General Fund Municipal Police Training</i>	<i>Motor License Fund Municipal Training</i>
2006-07 Program—	\$3,846,000	\$3,846,000
2005-06 Program—	\$3,846,000	\$3,846,000
2004-05 Program—	\$3,509,000	\$3,509,000

(8) No fiscal impact; recommends adoption. The Pennsylvania State Police/Municipal Police Officers' Education and Training Commission will fund the additional expenses through their existing budgets.

Annex A

TITLE 37. LAW

PART IV. MUNICIPAL POLICE OFFICERS' EDUCATION AND TRAINING COMMISSION

Subpart B. RETIRED LAW ENFORCEMENT IDENTIFICATION AND QUALIFICATION

CHAPTER 221. RETIRED LAW ENFORCEMENT OFFICERS IDENTIFICATION AND QUALIFICATION CARDS

Subch.

A. GENERAL PROVISIONS

B. RETIRED LAW ENFORCEMENT IDENTIFICATION CARDS

C. QUALIFICATION CARD

Subchapter A. GENERAL PROVISIONS

Sec.	
221.1.	Purpose.
221.2.	Definitions.

§ 221.1. Purpose.

This chapter provides for the issuance of identification and qualification cards for retired law enforcement officers as provided under section 7 of the act (53 P. S. § 753.7), regarding rules and regulations.

§ 221.2. Definitions.

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

Act—The Retired Law Enforcement Identification Act (53 P. S. §§ 753.1—753.9).

Certified law enforcement firearm instructor—An individual who possesses a current police firearms instructor rating from the National Rifle Association, the Pennsylvania State Police, the Municipal Police Officers' Education and Training Commission, the Deputy Sheriffs' Education and Training Board, the Federal Bureau of Investigation, the Smith & Wesson Academy, the Philadelphia Police Academy or the United States Secret Service or other certification approved by the Municipal Police Officers' Education and Training Commission.

Commission—The Municipal Police Officers' Education and Training Commission.

Commonwealth's standards for training and qualification for active law enforcement officers to carry a firearm—The standards established by the law enforcement agency from which an officer retired or by the Commission for training and qualification to carry a firearm of the same type as the concealed firearm, provided that the Commission does not charge a fee to certified law enforcement firearm instructors and officers for the standards, whether access to the standards is given through the Internet or some other form for publication.

Confirmation number—A unique approval number provided by the Pennsylvania State Police to the sheriff after a check of the applicant's criminal history record, juvenile delinquency record and mental health record.

Identification card—A retired law enforcement officer identification card authorized under section 4 of the act (53 P. S. § 753.4), regarding retired law enforcement identification card.

Qualification card—A valid firearm training and qualification card authorized under section 5 of the act (53 P. S. § 753.5), regarding firearm training and qualification card. When carried with an identification card, a qualification card constitutes a Pennsylvania license to carry a firearm.

Retired law enforcement officer or officer—A qualified retired law enforcement officer as defined in 18 U.S.C. § 926C(c) (relating to carrying of concealed firearms by qualified retired law enforcement officers).

Subchapter B. RETIRED LAW ENFORCEMENT IDENTIFICATION CARDS

Sec.	
221.21.	Eligibility.
221.22.	Identification card contents.
221.23.	Identification card issuance.
221.24.	Replacement; change in material information.
221.25.	Challenge to issuance of identification card.

§ 221.21. Eligibility.

An identification card shall only be issued to an individual who meets the following conditions:

(1) Retired in good standing, for reasons other than mental instability, from service with a public agency as a law enforcement officer.

(2) Before retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest.

(3) Before retirement, was regularly employed as a law enforcement officer for an aggregate of 15 years or more or retired from service with the public agency, after completing any applicable probationary period of service, due to a service-connected disability, as determined by the agency.

(4) Has a nonforfeitable right to benefits under the retirement plan of the public agency.

(5) Has met, at the expense of the individual, the State's standards for training and qualification for active law enforcement offers to carry firearms during the most recent 12-month period.

(6) Is not prohibited by Federal law from receiving a firearm.

§ 221.22. Identification card contents.

(a) Identification cards must be uniform throughout this Commonwealth and on a form prescribed by the Commission.

(b) The identification card must contain the following:

(1) The caption "Retired Law Enforcement Identification Card."

(2) The photograph of the retired law enforcement officer.

(3) The name, address, date of birth, race, sex, height, weight, color of hair, color of eyes, and signature of the retired law enforcement officer.

(4) The signature of the law enforcement officer issuing the identification card.

(5) The name, telephone number and address of the law enforcement agency issuing the identification card.

(6) The date the identification card was issued.

(7) The statement that "this card does not give the retired law enforcement officer any police powers, including any authority to arrest."

(8) The statement that “the retired law enforcement officer must carry both the identification card and qualification card in order to carry a concealed firearm.”

(9) Other information designated by the Commission.

§ 221.23. Identification card issuance.

(a) A law enforcement agency shall provide each retired law enforcement officer with an identification card, within 60 days of the officer’s retirement.

(b) If an officer has retired prior to _____ (*Editor’s Note:* The blank refers to the effective date of adoption of these regulations.), upon request of the retired law enforcement officer, a law enforcement agency shall provide the officer with an identification card, within 60 days of the officer’s request.

(c) A law enforcement agency may charge a reasonable fee, not to exceed \$15, for each identification card, or replacement card. The identification card may not be issued until the retired law enforcement officer has paid the fee.

§ 221.24. Replacement; change in material information.

(a) *Replacement.* If an identification card is lost, stolen, destroyed, mutilated or becomes illegible, the retired law enforcement officer may obtain a replacement identification card upon request to the issuing agency and payment of the required fee.

(b) *Error or change in information.* If any information on an identification card has changed, or is in error, from the information originally set forth, the retired law enforcement officer shall obtain from the issuing agency, within 15 days of the change or discovery of the error, a new identification card.

§ 221.25. Challenge to issuance of identification card.

The Commission will have standing to contest issuance of any identification card subject to the provisions of §§ 203.101—203.103 (relating to notice and hearings).

Subchapter C. QUALIFICATION CARD

Sec.

221.31	Eligibility.
221.32	Qualification card contents.
221.33	Qualification card issuance.
221.34	Replacement; change in material information.
221.35	Challenge to issuance of identification card.

§ 221.31. Eligibility.

A retired law enforcement officer shall be eligible for a qualification card if the retired law enforcement officer meets one of the following conditions:

(1) Resides in this Commonwealth.

(2) Is retired from a law enforcement agency from this Commonwealth or any political subdivision thereof and prior to each annual qualification, completes a Pennsylvania Retired Officer Concealed Carry Acknowledgement, on a form prescribed by the Commission, attesting to all of the following, subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

(i) Prior to retirement, the applicant was employed as a law enforcement officer for an aggregate of 15 years or more or retired from service with that agency after completing any applicable probationary period of service, due to a service-connected disability, as determined by the law enforcement agency.

(ii) Whether the person intends to fire and carry a revolver, semi-automatic or automatic weapon.

(iii) The law enforcement agency from which the applicant retired has issued the applicant an identification card under § 221.23 (relating to identification card issuance).

(iv) The applicant retired in good standing, specifying the agency, city and state from which the applicant retired.

(v) Whether the applicant retired for reasons of mental instability.

(vi) The applicant is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.

(vii) The applicant will not carry a firearm while under the influence of alcohol or another intoxicating or hallucinatory drug or substance.

(viii) The applicant is not prohibited by Federal or State law from receiving or possessing a firearm.

(ix) The applicant understands and acknowledges that the definition of a firearm does not include any machine gun, firearms silencer, destructive device or prohibited offensive weapon.

(x) The applicant understands and acknowledges that he shall meet Pennsylvania’s standards of requalification for active law enforcement officers to carry a firearm of the same type as the applicant’s concealed weapon.

(xi) The applicant understands and acknowledges that he shall carry Pennsylvania’s qualification card, along with the identification card issued by the retiring agency, when carrying the concealed weapon.

(xii) The applicant understands and acknowledges that the certification expires 12 months from the date of issue and it is the applicant’s responsibility to reapply if the applicant wants to continue to carry the weapon under this law.

(xiii) The applicant understands and acknowledges that this authorization applies only to the type of weapon with which the applicant qualified.

(xiv) The applicant understands and acknowledges that the Pennsylvania’s certification does not give him any right whatsoever to exercise law enforcement authority or take police action under any circumstances.

(xv) The applicant understands and acknowledges that that a background investigation is required and authorizes one to be conducted to determine if the applicant has been convicted of any criminal offenses or has any mental health issues that would disqualify the applicant from possessing a concealed weapon.

(xvi) The applicant has not been charged with nor convicted of any felony or misdemeanor or similar offenses in this Commonwealth or any other State or Federal law that would prohibit the applicant from possessing a firearm.

§ 221.32. Qualification card contents.

(a) A qualification card shall be issued to indicate compliance with the Commonwealth’s standards for training and qualification for active law enforcement officers to carry a firearm. The qualification cards must be uniform throughout this Commonwealth and on a form issued by the Commission.

(b) The qualification card must contain the following:

(1) The caption "Retired Law Enforcement Officer Qualification Card."

(2) The name, address, date of birth, race, sex, height, weight, color of hair, color of eyes and signature of the retired law enforcement officer.

(3) The date of completion of the most recent firearms training and qualification by the retired law enforcement officer.

(4) An expiration date 12 months later than the date of completion of the most recent firearms training and qualification by the retired law enforcement officer.

(5) The name and signature of the certified law enforcement firearms instructor issuing the qualification card.

(6) The name and signature of a sheriff.

(7) A confirmation number provided by the sheriff who signed the qualification card.

(8) A statement that the retired law enforcement officer has a duty to surrender the qualification card when the officer becomes legally ineligible either under Federal or State law to receive, possess, use, manufacture, control, sell or transfer a firearm.

(9) Other information designated by the Commission.

§ 221.33. Qualification card issuance.

(a) A retired law enforcement officer shall produce the identification card and another form of official/governmental identification, which includes a photograph of the officer, to the certified law enforcement firearm instructor prior to participating in firearms training and qualification.

(b) A retired law enforcement officer may not participate in firearms training and qualification if the certified law enforcement firearm instructor determines that the officer presents a safety hazard to himself or others on the range or if the officer is not able to produce the two forms of identification required in subsection (a).

(c) A retired law enforcement officer shall meet the firearms standards established by the law enforcement agency from which the officer retired or the guidelines established by the Commission to carry a firearm of the same type as the concealed firearm that the officer intends to carry. As part of firearms training, the certified law enforcement firearm instructor shall provide instruction on the use of force by a civilian under 18 Pa.C.S. Chapter 5 (relating to general principles of justification).

(d) The certified law enforcement firearms instructor may issue a qualification card to a retired law enforcement officer who has met the Commonwealth's standards for training and qualification for active law enforcement officers to carry a firearm.

(e) The certified law enforcement firearm instructor shall obtain the qualification cards, for a fee of \$2 for each card, from the Commission.

(f) The certified law enforcement firearms instructor shall keep a record of each qualification card issued, including the following:

(1) The name of the retired law enforcement officer to whom the qualification card was issued.

(2) The make and model of the weapons the retired law enforcement officer qualified on.

(3) The type of ammunition utilized by the retired law enforcement officer.

(4) The course of fire completed by the retired law enforcement officer.

(5) The date of qualification.

(g) Within 30 days of a retired law enforcement officer being issued a qualification card, the certified law enforcement firearm instructor shall provide the Commission with a copy of the record maintained under subsection (f).

(h) The following apply to sheriffs:

(1) Prior to signing the qualification card, in addition to other requirements contained in section 5 of the act (53 P. S. § 753.5), the sheriff shall require the retired law enforcement officer to display the identification card and another form of official/governmental identification, which includes a photo of the retired law enforcement officer. The sheriff shall make a photocopy of both forms of identification.

(2) The sheriff shall keep a record of the following:

(i) Each qualification card signed.

(ii) The name and address of the retired law enforcement officer appearing on the card.

(iii) The date the sheriff signed the card.

(3) The sheriff shall confiscate the qualification card from any retired law enforcement officer who is not issued a unique approval number. Confiscated qualification cards shall be returned to the Commission.

(4) The sheriff shall collect the expired qualification card from the retired law enforcement officer and return the card to the Commission.

(5) Within 30 days of signing a qualification card, the sheriff shall provide the Commission with a copy of the record maintained under paragraph (2).

§ 221.34. Replacement; change in material information.

(a) *Replacement.* If a qualification card is lost, stolen, destroyed, mutilated or becomes illegible, the retired law enforcement officer may obtain a replacement qualification card upon request to the certified law enforcement firearm instructor and payment of the required fee.

(b) *Error or change in information.* If any information on a qualification card has changed, or is in error, from the information originally set forth, the retired law enforcement officer shall obtain a new qualification card from the certified law enforcement firearm instructor, within 15 days of the change or discovery of the error.

§ 221.35. Challenge to issuance of qualification card.

The Commission will have standing to contest issuance of any identification card subject to §§ 203.101—203.103 (relating to notice and hearings).

[Pa.B. Doc. No. 08-578. Filed for public inspection March 28, 2008, 9:00 a.m.]