

# RULES AND REGULATIONS

## Title 58—RECREATION

### GAME COMMISSION

[ 58 PA. CODE CHS. 135 AND 143 ]

#### Lands and Buildings—Special Wildlife Management Areas; Hunting and Furtaker Licenses—Antlerless Deer Licenses

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its June 26, 2017, meeting, amended §§ 135.103 and 143.42 (relating to registration for controlled goose hunting areas; and definitions) to require that registrations for controlled goose hunting areas and antlerless licenses be submitted on a form and in the manner designated by the Commission. These amendments will allow the Commission and public greater access to electronic sources and methods of application. The Commission also amended § 135.103 and § 135.104 (relating to restrictions on controlled goose hunting areas) to update the parameters for establishing and managing the controlled hunts at the Middle Creek and Pymatuning Wildlife Management Areas.

This final-form rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

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

Notice of proposed rulemaking was published at 47 Pa.B. 2774 (May 13, 2017).

#### 1. Purpose and Authority

To efficiently use the Commonwealth's resources, beginning in 2017, the Commission will no longer provide hard copies of the entire *Hunting & Trapping Digest (Digest)* to license buyers free of charge. Rather, the Commission will be providing an abbreviated version of the seasons and bag limits, and directing license buyers to the web site and smartphone application for the entire version of the *Digest*. This cost saving measure is made necessary by the fact that the Commission has not had a license increase since 1999. As a consequence of the move away from the paper *Digest*, the Commission has identified regulations that need to be updated to provide for alternative registration and license application processes. To this end, the Commission amends §§ 135.103 and 143.42 to require that registrations for controlled goose hunting areas and antlerless licenses be submitted on a form and in the manner designated by the Commission. These amendments will allow the Commission and public greater access to electronic sources and methods of application. The Commission also amends §§ 135.103 and 135.104 to update the parameters for establishing and managing the controlled hunts at the Middle Creek and Pymatuning Wildlife Management Areas. These amendments allow for greater flexibility, consistency and clarity in the regulations.

Section 721(a) of the code (relating to control of property) provides that "[t]he administration of all lands or 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 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. The amendments to §§ 135.103, 135.104 and 143.42 are adopted under this authority.

#### 2. Regulatory Requirements

This final-form rulemaking amends §§ 135.103 and 143.42 to require that registrations for controlled goose hunting areas and antlerless licenses be submitted on a form and in the manner designated by the Commission. The final-form rulemaking also amends §§ 135.103 and 135.104 to update the parameters for establishing and managing the controlled hunts at the Middle Creek and Pymatuning Wildlife Management Areas.

#### 3. Persons Affected

Persons wishing to hunt or take geese at the controlled goose hunting areas within the Middle Creek and Pymatuning Wildlife Management Areas will be affected by this final-form rulemaking. Persons wishing to hunt or take antlerless deer in this Commonwealth may also be affected by this final-form rulemaking.

#### 4. Comment and Response Summary

There were no official comments received regarding this final-form rulemaking.

#### 5. Cost and Paperwork Requirements

This final-form rulemaking should not result in additional cost or paperwork.

#### 6. Effective Date

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

#### 7. Contact Person

For further information regarding this final-form rulemaking, contact Thomas P. Grohol, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

#### Findings

The Commission finds that:

(1) Public notice of intention to adopt the administrative amendments adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

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

#### Order

The Commission, acting under the authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapters 135 and 143, are amended by amending §§ 135.103, 135.104 and 143.42 to read as set forth at 47 Pa.B. 2774.

(b) The Executive Director of the Commission shall certify this order and 47 Pa.B. 2774 and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

BRYAN J. BURHANS,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48-416 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 17-1408. Filed for public inspection August 25, 2017, 9:00 a.m.]

**GAME COMMISSION**  
**[ 58 PA. CODE CH. 141 ]**  
**Hunting and Trapping; General**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its March 28, 2017, meeting, amended § 141.15 (relating to loaded firearms or devices in vehicles) to clarify that any air gun with a pellet or bullet ammunition in either the chamber or magazine will be considered “loaded” for the purposes of 34 Pa.C.S. § 2503 (relating to loaded firearms in vehicles).

This final-form rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

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

Notice of proposed rulemaking was published at 47 Pa.B. 2774 (May 13, 2017).

1. *Purpose and Authority*

In relevant part, the act of November 21, 2016 (P.L. 1317, No. 168) amended section 2308 of the code (relating to unlawful devices and methods) to eliminate the Commonwealth’s historic prohibition against the use of air guns for hunting. On March 28, 2017, the Commission amended §§ 131.2, 141.22 and 141.67 (relating to definitions; small game seasons; and furbearer seasons) to define and authorize the use of air guns for small game and furbearers. In light of this approval, the Commission identified a need to highlight the applicability of section 2503 of the code and this section’s long standing prohibitions against loaded firearms in, on or against motor vehicles to these new devices. The Commission amends § 141.15 to clarify that any air gun with a pellet or bullet ammunition in either the chamber or magazine will be considered “loaded” for the purposes of section 2503 of the code.

Section 2102(a) of the code (relating to regulations) provides that “[t]he 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 § 141.15 are adopted under this authority.

2. *Regulatory Requirements*

This final-form rulemaking amends § 141.15 to clarify that any air gun with a pellet or bullet ammunition in

either the chamber or magazine will be considered “loaded” for the purposes of section 2503 of the code.

3. *Persons Affected*

Persons wishing to hunt or take small game or furbearers with an air gun may be affected by this final-form rulemaking.

4. *Comment and Response Summary*

There were no official comments received regarding this final-form rulemaking.

5. *Cost and Paperwork Requirements*

This final-form rulemaking should not result in additional cost or paperwork.

6. *Effective Date*

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

7. *Contact Person*

For further information regarding this final-form rulemaking, contact Thomas P. Grohol, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

*Findings*

The Commission finds that:

(1) Public notice of intention to adopt the administrative amendments adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

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

*Order*

The Commission, acting under the authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 141, are amended by amending § 141.15 to read as set forth at 47 Pa.B. 2774.

(b) The Executive Director of the Commission shall certify this order and 47 Pa.B. 2774 and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

BRYAN J. BURHANS,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48-417 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 17-1409. Filed for public inspection August 25, 2017, 9:00 a.m.]

**GAME COMMISSION**  
**[ 58 PA. CODE CH. 147 ]**  
**Special Permits; Falconry**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its June 26, 2017, meeting, amended §§ 147.106a and 147.111b (relating to nonresident falconers; and Arctic

Peregrine Falcon limited take special permit) to expand the limited take of Arctic Peregrine Falcons (*Falco peregrinus tundrius*) in this Commonwealth to also include general class and nonresident falconry permit holders.

This final-form rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

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

Notice of proposed rulemaking was published at 47 Pa.B. 2777 (May 13, 2017).

#### 1. Purpose and Authority

The United States Fish and Wildlife Service (USFWS) has the authority to grant states within the Atlantic Flyway the ability to permit certain qualified falconers the opportunity to take passage Arctic Peregrine Falcons for falconry purposes. Various states within the Atlantic Flyway, including the Commonwealth, participate in the limited allowable take of passage Arctic Peregrine Falcons. The Commission expects the USFWS to issue a moderate increase to the Commonwealth's annual allocation of Arctic Peregrine Falcon take authorization. The Commission has determined that an increase in the Commonwealth's take allowance justifies expansion of this program's eligibility class to include a greater range of eligible participants. The Commission amended §§ 147.106b and 147.111b to expand the limited take of Arctic Peregrine Falcons in this Commonwealth to also include general class and nonresident falconry permit holders.

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." The amendments to §§ 147.106a and 147.111b are adopted under this authority.

#### 2. Regulatory Requirements

This final-form rulemaking amends §§ 147.106b and 147.111b to expand the limited take of Arctic Peregrine Falcons within this Commonwealth to also include general class and nonresident falconry permit holders.

#### 3. Persons Affected

Persons wishing to take Arctic Peregrine Falcons within this Commonwealth under a falconry permit will be affected by this final-form rulemaking.

#### 4. Comment and Response Summary

There were no official comments received regarding this final-form rulemaking.

#### 5. Cost and Paperwork Requirements

This final-form rulemaking should not result in additional cost or paperwork.

#### 6. Effective Date

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

#### 7. Contact Person

For further information regarding this final-form rulemaking, contact Thomas P. Grohol, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

#### Findings

The Commission finds that:

(1) Public notice of intention to adopt the administrative amendments adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

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

#### Order

The Commission, acting under the authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 147, are amended by amending §§ 147.106a and 147.111b to read as set forth at 47 Pa.B. 2777.

(b) The Executive Director of the Commission shall certify this order and 47 Pa.B. 2777 and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

BRYAN J. BURHANS,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48-419 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 17-1410. Filed for public inspection August 25, 2017, 9:00 a.m.]

## GAME COMMISSION

### [ 58 PA. CODE CH. 147 ]

#### Special Permits; Deer Control

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its June 26, 2017, meeting, rescinded § 147.687 to eliminate the sunset clause and establish the continued effectiveness of the deer attractant permit program (program).

This final-form rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

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

Notice of proposed rulemaking was published at 47 Pa.B. 2776 (May 13, 2017).

#### 1. Purpose and Authority

On March 31, 2010, the Commission's 3-year evaluation of the effectiveness of a broad scale and widely accessible authorization permitting the baiting of white-tailed deer across the southeast special regulations areas expired. The Commission's final review of the baiting authorization generally concluded that broad scale and widely accessible baiting did not establish viable increases in harvest rates to justify an extension of the experimental program. On April 8, 2014, the Commission amended § 141.1 (relating to special regulations areas) and added §§ 147.681—147.687 (relating to deer attractant permit) to create and implement a deer attractant permit to authorize focused and limited baiting activities on private, township or municipal property in the southeast special regulations area. However, per former § 147.687,

the regulatory authorization for the program expired on June 30, 2017. The Commission rescinds § 147.687 to eliminate the sunset clause and establish the continued effectiveness of the program.

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 wild-life resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued.” The rescission of § 147.687 is adopted under this authority.

2. *Regulatory Requirements*

This final-form rulemaking rescinds § 147.687 to eliminate the sunset clause and establish the continued effectiveness of the program.

3. *Persons Affected*

Persons wishing to hunt or take white-tailed deer under the program will be affected by this final-form rulemaking.

4. *Comment and Response Summary*

There were no official comments received regarding this final-form rulemaking.

5. *Cost and Paperwork Requirements*

This final-form rulemaking should not result in additional cost or paperwork.

6. *Effective Date*

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

7. *Contact Person*

For further information regarding this final-form rule-making, contact Thomas P. Grohol, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

*Findings*

The Commission finds that:

(1) Public notice of intention to adopt the administrative amendment adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

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

*Order*

The Commission, acting under the authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 147, are amended by deleting § 147.687 to read as set forth in Annex A.

(b) The Executive Director of the Commission shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

BRYAN J. BURHANS,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48-418 remains valid for the final adoption of the subject regulation.

**Annex A**

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

**§ 147.687. (Reserved).**

[Pa.B. Doc. No. 17-1411. Filed for public inspection August 25, 2017, 9:00 a.m.]