

CHAPTER 133. WILDLIFE CLASSIFICATION

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A. GENERAL	133.1
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Cross References

This chapter cited in 7 Pa. Code § 128.102 (relating to protected designated areas).

Subchapter A. GENERAL

- Sec. 133.1. Protected mammals.
- 133.2. Protected birds.
- 133.3. [Reserved].
- 133.4. Definitions.
- 133.5. Furbearers.

§ 133.1. Protected mammals.

Wild mammals not defined in the act as furbearers or game animals shall be classified as protected mammals to be taken only under the act and this part. See Chapter 21, Subchapters B and C of the act (relating to destruction for agricultural protection; and destruction of game or wildlife in self-defense) and § 141.3 (relating to protection removed under certain circumstances).

Source

The provisions of this § 133.1 adopted January 6, 1966; reserved June 18, 1982, effective June 19, 1982, 12 Pa.B. 1868; amended June 19, 1987, effective July 1, 1987, 17 Pa.B. 2464. Immediately preceding text appears at serial page (104913).

Cross References

This section cited in 58 Pa. Code § 131.2 (relating to definitions); and 58 Pa. Code § 147.121 (relating to definitions).

§ 133.2. Protected birds.

Wild birds not defined in the act as game birds shall be classified as protected birds to be taken only under the act and this part. See Chapter 21, Subchapters B and C of the act (relating to destruction for agricultural protection; and destruction of game or wildlife in self-defense) and § 141.3 (relating to protection removed under certain circumstances).

Source

The provisions of this § 133.2 adopted December 18, 1958; reserved June 18, 1982, effective June 19, 1982, 12 Pa.B. 1868; amended June 19, 1987, effective July 1, 1987, 17 Pa.B. 2464. Immediately preceding text appears at serial page (104913).

Notes of Decisions*Excessive Killing of Wildlife*

The petitioner testified that he read both the Pennsylvania and Federal regulations on a regular basis; therefore, petitioner had four opportunities to read the federal regulations and thereby realize that the seven duck bonus had been eliminated. Therefore petitioner's arguments that the regulations were vague or confusing was rejected. *Marich, Jr. v. Game Commission*, 676 A.2d 1325 (Pa. Cmwlth. 1996).

Cross References

This section cited in 58 Pa. Code § 131.2 (relating to definitions); and 58 Pa. Code § 147.121 (relating to definitions).

§ 133.3. [Reserved].**Source**

The provisions of this § 133.3 adopted April 21, 1970; amended June 18, 1982, effective June 19, 1982, 12 Pa.B. 1868; amended November 18, 1983, effective November 19, 1983, 13 Pa.B. 3668; amended February 21, 1986, effective February 22, 1986, 16 Pa.B. 525; reserved June 19, 1987, effective July 1, 1987, 17 Pa.B. 2464. Immediately preceding text appears at serial pages (104913) to (104915).

§ 133.4. Definitions.

In addition to the definitions contained in section 102 of the act (relating to definitions), the following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Endangered—Species in imminent danger of extinction or extirpation throughout their range in this Commonwealth if the deleterious factors affecting them continue to operate. The term includes:

- (i) Species whose numbers have already been reduced to a critically low level or whose habitat has been so drastically reduced or degraded that immediate action is required to prevent their extirpation from this Commonwealth.
- (ii) Species whose extreme rarity or periphery places them in potential danger of precipitous declines or sudden extirpation throughout their range in this Commonwealth.
- (iii) Species that have been classified as "Pennsylvania Extirpated", but which are subsequently found to exist in this Commonwealth as long as the conditions listed in subparagraph (i) or (ii) are met.
- (iv) Species determined to be "endangered" under the Endangered Species Act of 1973 (16 U.S.C.A. §§ 1531—1544).

Threatened—Species that may become endangered within the foreseeable future throughout their range in this Commonwealth unless the casual factors affecting the organism are abated. The term includes:

(i) Species whose populations within this Commonwealth are decreasing or have been heavily depleted by adverse factors and while not actually endangered, are still in critical condition.

(ii) Species whose populations may be relatively abundant in this Commonwealth but are under severe threat from serious adverse factors that have been identified and documented.

(iii) Species whose populations are rare or peripheral and in possible danger of severe decline throughout their range in this Commonwealth.

(iv) Species determined to be “threatened” under the Endangered Species Act of 1973, that are not listed as “Pennsylvania Endangered.”

Source

The provisions of this § 133.4 adopted November 30, 1990, effective December 1, 1990, 20 Pa.B. 5939.

§ 133.5. Furbearers.

The coyote is classified as a furbearing animal. For the purpose of licensing, coyotes may be hunted with a hunting license or hunted and trapped with a furtakers license as described in section 2705 of the act (relating to classes of licenses).

Source

The provisions of this § 133.5 adopted October 8, 1993, effective October 9, 1993, 23 Pa.B. 4793.

Subchapter B. BIRDS

Sec.
133.21. Classification of birds.

§ 133.21. Classification of birds.

The following birds are classified:

- (1) *Endangered.*
 - (i) King Rail (*Rallus elegans*)
 - (ii) Short-eared Owl (*Asio flammeus*)
 - (iii) Black Tern (*Chlidonias niger*)
 - (iv) Least Bittern (*Ixobrychus exilis*)
 - (v) Peregrine Falcon (*Falco peregrinus*)
 - (vi) Loggerhead Shrike (*Lanius ludovicianus*).
 - (vii) American Bittern (*Botaurus lentiginosus*).
 - (viii) Great Egret (*Ardea alba*).
 - (ix) Yellow-crowned Night Heron (*Nycticorax violaceus*).
 - (x) Common Tern (*Sterna hirundo*).
 - (xi) Blackpoll Warbler (*Dendroica striata*)

- (xii) Black-crowned Night-Heron (*Nycticorax nycti-corax*)
 - (xiii) Dickcissel (*Spiza americana*)
 - (xiv) Sedge Wren (*Cistothorus platensis*)
 - (xv) Yellow-bellied Flycatcher (*Empidonax flavi-ventris*)
- (2) *Threatened.*
- (i) Osprey (*Pandion haliaetus*)
 - (ii) Bald Eagle (*haliaetus leucocephalus*)
 - (iii) Upland Sandpiper (*Bartramia longicauda*)

Authority

The provisions of this § 133.21 amended under the Game and Wildlife Code, 34 Pa.C.S. §§ 2167(a) and 322(c)(8).

Source

The provisions of this § 133.21 adopted June 19, 1987, effective July 1, 1987, 17 Pa.B. 2464; amended November 30, 1990, effective December 1, 1990, 20 Pa.B. 5939; amended November 20, 1992, effective November 21, 1992, 22 Pa.B. 5608; amended February 26, 1999, effective February 27, 1999, 29 Pa.B. 1071; amended December 2, 2005, effective December 3, 2005, 35 Pa.B. 6534. Immediately preceding text appears at serial pages (303749) to (303750).

Cross References

This section cited in 58 Pa. Code § 147.745 (relating to exclusions).

Subchapter C. MAMMALS

Sec.
133.41. Classification of mammals.

§ 133.41. Classification of mammals.

The following mammals are classified:

- (1) *Endangered.*
 - (i) Indiana Bat (*Myotis sodalis*)
 - (ii) Least Shrew (*Cryptotis parva*)
 - (iii) Delmarva Fox Squirrel (*Sciurus niger cinerus*)
 - (iv) Northern flying squirrel (*Glaucomys sabrinus macrotis*)
- (2) *Threatened.*
 - (i) Small-footed Myotis (*Myotis leibii*)
 - (ii) Eastern Woodrat (*Neotoma magister*)
 - (iii) West Virginia Water Shrew (*Sorex palustris punctulatus*)

Source

The provisions of this § 133.41 adopted June 19, 1987, effective July 1, 1987, 17 Pa.B. 2464; amended November 30, 1990, effective December 1, 1990, 20 Pa.B. 5939; amended December 21, 2007, effective December 22, 2007, 37 Pa.B. 6748. Immediately preceding text appears at serial page (316090).

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