

PROPOSED RULEMAKING

FISH AND BOAT COMMISSION

[58 PA. CODE CHS. 61 AND 75]

Delaware River and River Estuary; Endangered, Threatened and Candidate Species

The Fish and Boat Commission (Commission) proposes to amend §§ 61.2 and 75.1—75.3. The Commission is publishing these amendments as a notice of proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). The proposed amendments deal with fishing.

A. Effective Date

These proposed amendments will, if approved on final rulemaking, go into effect upon publication of an order adopting the amendments.

B. Contact Person

For further information on the proposed changes, contact Laurie E. Shepler, Assistant Counsel, (717) 657-4546, P. O. Box 67000, Harrisburg, PA 17106-7000. This proposal is available electronically through the Commission's Web site (<http://www.fish.state.pa.us>).

C. Statutory Authority

These proposed amendments are published under the statutory authority of section 2102 of the code (relating to rules and regulations).

D. Purpose and Background

The proposed amendments are designed to update, modify and improve Commission regulations pertaining to fishing. The specific purpose of the various amendments is described in more detail under the summary of proposal.

E. Summary of Proposal

(1) *Section 61.2 (relating to Delaware River and River Estuary)*. There is a several hundred foot section of the Lehigh River between the Easton dam and the confluence with the Delaware River where a change in regulations is warranted. Differing seasons, sizes and creel limits on the Delaware River versus the Lehigh River have complicated enforcement of the regulations. The two major problems are with walleye and striped bass where the minimum sizes and creel limits differ. Individuals are catching fish in the Delaware River, which has larger minimum size requirements than the Lehigh River, and are claiming that they caught these fish in that short section of the Lehigh River. In order to provide uniformity for the enforcement officers as well as the angling public, the Commission proposes that the existing Delaware River sizes, seasons and creel limits for all species of fish apply also to this short section of the Lehigh River.

(2) *Sections 75.1—75.3 (relating to endangered species; threatened species; and candidate species)*. The Commission maintains a list of fishes, reptiles, amphibians and aquatic organisms that have declined in distribution and abundance to levels resulting in a determination that these species are endangered, threatened or candidate species in this Commonwealth. These lists have been

developed over the years with the help and judgment of recognized experts on Pennsylvania species, such as the informal fishes advisory committee. This committee is an official Commission committee that makes recommendations to the Commission regarding the species lists.

A multiyear cooperative study involving staff and faculty from the Pennsylvania State University and the Commission by means of funding from the Wild Resource Conservation Fund has resulted in a method of objectively classifying fish species as to their distribution and abundance within this Commonwealth. The number of locations where a species has been found is combined with the number of individuals of that species found at each location to develop a standardized method of ranking the level of endangerment for all species of fish known to occur in this Commonwealth. This cutting-edge work combines the more than 11,000 fish records from the Commission's fisheries management database with those of retired Penn State professor Dr. Edwin Cooper, the Penn State Fish Museum, University of Michigan Museum of Zoology, Cornell University, National Museum of Natural History, Environmental Protection Agency and the Academy of Natural Sciences in Philadelphia. All records were entered into a computer database and converted to Geographic Information System (GIS) data coverages. A ranking system was created to determine the relative rarity of each species of fish found in this Commonwealth.

The results indicate that changes to the current endangered, threatened and candidate lists are necessary. Presently, 46 fish species are listed. The Commission's proposed list includes 33 fish species as Endangered, 16 as Threatened and 12 as Candidate for a total of 61 fish species. This list represents approximately 40% of our native fishes. Four species were taken off the current list either because they were more common than previously believed or because they are now believed to be extirpated. The informal fishes advisory committee met, discussed and concurred with this proposal.

F. Paperwork

The proposed amendments will not increase paperwork and will create no new paperwork requirements.

G. Fiscal Impact

The proposed amendments will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed amendments will impose no new direct costs on the private sector or the general public.

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about the proposed amendments to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically at regulations@fish.state.pa.us. A subject heading of the proposal and a return name and address must be included in each transmission. If an acknowledgment of electronic comments is not received by the sender within

2 working days, the comments should be retransmitted to ensure receipt.

PETER A. COLANGELO,
Executive Director

(Editor's Note: A proposal to amend § 61.2 remains outstanding at 28 Pa.B. 1840 (April 10, 1998).)

Fiscal Note: 48A-82. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 61. SEASONS, SIZES AND CREEL LIMITS

§ 61.2. Delaware River and River Estuary.

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(d) The following seasons, sizes and creel limits apply to the Delaware River and to Delaware River tributaries from the mouths of the tributaries upstream to the limit of the tidal influence **and the Lehigh River from its mouth upstream to the first dam in Easton, Pennsylvania:**

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CHAPTER 75. ENDANGERED SPECIES

§ 75.1. Endangered species.

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(b) *Fish.* The following species are endangered:

- [(1) Shortnose Sturgeon, *Acipenser brevirostrum*.
(2) Lake Sturgeon, *Acipenser fulvescens*.
(3) North Brook Lamprey, *Ichthyomyzon fossor*.
(4) Gravel Chub, *Hypopsis X-punctata*.
(5) Eastern Sand Darter, *Ammocrypta pellucida*.
(6) Longnose Sucker, *Catostomus catostomus*.
(7) Spotted Darter, *Etheostoma maculatum*.
(8) Tippecanoe Darter, *Etheostoma tippecanoe*.
(9) Longhead Darter, *Percina macrocephala*.
(10) Northern Riffleshell Mussel, *Epioblasma torulosa rangiana*.
(11) Clubshell Mussel, *Pleurobema clava*.]
- (1) Northern brook lamprey, *Ichthyomyzon fossor*.
(2) Shortnose sturgeon, *Acipenser brevirostrum*.
(3) Lake sturgeon, *Acipenser fulvescens*.
(4) Atlantic sturgeon, *Acipenser oxyrhynchus*.
(5) Spotted gar, *Lepisosteus oculatus*.
(6) Hickory shad, *Alosa mediocris*.
(7) Cisco, *Coregonus clupeaformis*.
(8) Brassy minnow, *Hybognathus regius*.
(9) Silver chub, *Macrhybopsis storeriana*.
(10) Gravel chub, *Erimystax x-punctatus*.
(11) River shiner, *Notropis blennius*.
(12) Ghost shiner, *Notropis buechanani*.
(13) Ironcolor shiner, *Notropis chaleybaeus*.

- (14) Blackchin shiner, *Notropis heterodon*.
(15) Redfin shiner, *Lythurus umbratilis*.
(16) Bullhead minnow, *Pimephales vigilax*.
(17) River carpsucker, *Carpionodes carpio*.
(18) Longnose sucker, *Catostomus catostomus*.
(19) Blue sucker, *Cycleptus elongatus*.
(20) Bigmouth buffalo, *Ictiobus cyprinellus*.
(21) Black bullhead, *Amerius melas*.
(22) Mountain madtom, *Noturus eleutherus*.
(23) Northern madtom, *Noturus stigmosus*.
(24) Tadpole madtom, *Noturus gyrinus*.
(25) Burbot, *Lota lota* (inland populations only).
(26) Threespine stickleback, *Gasterosteus aculeatus*.
(27) Blackbanded sunfish, *Enneacanthus chae-todon*.
(28) Banded sunfish, *Enneacanthus obesus*.
(29) Warmouth, *Lepomis gulosus*.
(30) Orangespotted sunfish, *Lepomis humilis*.
(31) Longear sunfish, *Lepomis megalotis*.
(32) Eastern sand darter, *Etheostoma pellucida*.
(33) Iowa darter, *Etheostoma exile*.
(34) Northern riffleshell mussel, *Epioblasma torulosa rangiana*.
(35) Clubshell mussel, *Pleurobema clava*.

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§ 75.2. Threatened species.

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(b) *Fish.* The following species are threatened:

- [(1) Ohio Lamprey, *Ichthyomyzon bdellium*.
(2) Mountain Brook Lamprey, *Ichthyomyzon greeleyi*.
(3) Atlantic Sturgeon, *Acipenser oxyrhynchus*.
(4) Mountain Madtom, *Noturus eleutherus*.
(5) Northern Madtom, *Noturus stigmosus*.
(6) Burbot, *Lota lota* (except in Lake Erie and Presque Isle Bay, including peninsula waters).
(7) Bluebreast Darter, *Etheostoma camurum*.
(8) Channel Darter, *Percina copelandi*.
(9) Gilt Darter, *Percina evides*.]
- (1) Skipjack herring, *Alosa chrysochloris*.
(2) Mooneye, *Hiodon tergisus*.
(3) Goldeye, *Hiodon alosoides*.
(4) Central mudminnow, *Umbra limi*.
(5) Eastern mudminnow, *Umbra pygmaea*.
(6) Southern redbelly dace, *Phoxinus erythro-gaster*.
(7) Bigmouth shiner, *Notropis dorsalis*.
(8) Smallmouth buffalo, *Ictiobus bubalus*.
(9) Spotted sucker, *Minytrema melanops*.
(10) Greater redhorse, *Moxostoma valenciennesi*.

- (11) Brindled madtom, *Noturus miurus*.
- (12) Bluebreast darter, *Etheostoma camurum*.
- (13) Spotted darter, *Etheostoma maculatum*.
- (14) Tippecanoe darter, *Etheostoma tippecanoe*.
- (15) Gilt darter, *Percina evides*.
- (16) Channel darter, *Percina copelandi*.

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§ 75.3. Candidate species.

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(b) *Fishes.*

- [(1) Silver Lamprey, *Ichthyomyzon unicuspis*.
- (2) Spotted Gar, *Lepisosteus oculatus*.
- (3) Longnose Gar, *Lepisosteus osseus*.
- (4) Bowfin, *Amia calva*.
- (5) Skipjack Herring, *Alosa chrysochloris*.
- (6) Hickory Shad, *Alosa mediocris*.
- (7) Goldeye, *Hiodon alosoides*.
- (8) Mooneye, *Hiodon tergisus*.
- (9) Silver Chub, *Hybopsis storeriana*.
- (10) Hornyhead Chub, *Nocomis biguttatus*.
- (11) Bridle Shiner, *Notropis bifrenatus*.
- (12) Ghost Shiner, *Notropis buechanani*.
- (13) Blackchin Shiner, *Notropis heterodon*.
- (14) Redfin Shiner, *Notropis umbratilis*.
- (15) Blue Sucker, *Cycleptus elongatus*.
- (16) Smallmouth Buffalo, *Ictiobus bubalus*.
- (17) Spotter sucker, *Minytrema melanops*.
- (18) River Redhorse, *Moxostoma carinatum*.
- (19) Black Bullhead, *Ameiurus melas*.
- (20) Tadpole Madtom, *Noturus gyrinus*.
- (21) Brindled Madtom, *Noturus miurus*.
- (22) Banded Sunfish, *Enneacanthus obesus*.
- (23) Warmouth, *Lepomis gulosus*.
- (24) Longear Sunfish, *Lepomis megalotis*.
- (25) Iowa Dater, *Etheostoma exile*.
- (26) Potomac Sculpin, *Cottus girardi*.
- (27) Spoonhead Sculpin, *Cottus ricei*.
- (28) Deepwater Sculpin, *Myoxocephalus thompsoni*.]
- (1) Ohio lamprey, *Ichthyomyzon bdellium*.
- (2) Mountain brook lamprey, *Ichthyomyzon greeleyi*.
- (3) Least brook lamprey, *Lampetra aepyptra*.
- (4) American brook lamprey, *Lampetra appendix*.
- (5) Longnose gar, *Lepisosteus osseus*.

- (6) Bowfin, *Amia calva*.
- (7) Hornyhead chub, *Nocomis biguttatus*.
- (8) Bridle shiner, *Notropis bifrenatus*.
- (9) Brook silverside, *Labidesthes sicculus*.
- (10) Longhead darter, *Percina macrocephala*.
- (11) Potomac sculpin, *Cottus girardi*.
- (12) Brook stickleback, *Culaea inconstans*.

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[Pa.B. Doc. No. 98-1232. Filed for public inspection July 31, 1998, 9:00 a.m.]

STATE BOARD OF DENTISTRY

[49 PA. CODE CH. 33]

[Corrections]

Continuing Dental Education and Biennial Renewals

An error occurred in a document which appeared at 28 Pa.B. 3293, 3295 (July 11, 1998). Some language was inadvertently omitted from § 33.105(b). The correct version appears in Annex A, with ellipses referring to the proposed text.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 33. STATE BOARD OF DENTISTRY

Subchapter B. LICENSURE OF DENTISTS AND DENTAL HYGIENISTS.

§ 33.105. Biennial renewal of licenses and certificates.

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(b) As a condition of biennial renewal, licensees and certificate holders shall maintain current certification in cardiopulmonary resuscitation from the American Heart Association or the American Red Cross. Effective with the 1999-2001 renewal period, licensees and certificate holders shall also satisfy the continuing education requirements specified in §§ 33.401—33.404 (relating to continuing dental education).

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[Pa.B. Doc. No. 98-1098. Filed for public inspection July 10, 1998, 9:00 a.m.]