

PROPOSED RULEMAKING

ENVIRONMENTAL QUALITY BOARD

Acceptance of Rulemaking Petition for Study

On November 19, 2013, the Environmental Quality Board (Board) accepted a rulemaking petition for study under 25 Pa. Code Chapter 23 (relating to Environmental Quality Board policy for processing petitions—statement of policy).

The petition, submitted by Kenneth T. Kristl, Esq. on behalf of *Ashley Funk and Kids vs. Global Warming*, requests the Board promulgate a rulemaking to limit and regulate fossil fuel carbon dioxide emissions and to establish an effective emissions reduction strategy that will achieve safe atmospheric concentrations of carbon dioxide by 2100.

Under the Board's acceptance of the petition, the Department of Environmental Protection (Department) will prepare a report evaluating the petition. This report, which must be completed within 60 days from the date the petition was accepted by the Board, will include a recommendation on whether the Board should approve the action requested in the petition. If the recommendation is to change a regulation, the report will also specify the anticipated date that the Board will consider a proposed rulemaking.

The previously-referenced petition is available to the public for review by contacting the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526, and is accessible on the Department's web site at http://www.portal.state.pa.us/portal/server.pt/community/Environmental_Quality_Board/21511/EQB_Meeting_Schedule_2013/1615627 (see November 19, 2013, meeting).

E. CHRISTOPHER ABRUZZO,
Acting Chairperson

[Pa.B. Doc. No. 13-2262. Filed for public inspection December 6, 2013, 9:00 a.m.]

FISH AND BOAT COMMISSION

[58 PA. CODE CHS. 61 AND 69]

Fishing; American Eel

The Fish and Boat Commission (Commission) proposes to amend Chapters 61 and 69 (relating to seasons, sizes and creel limits; and fishing in Lake Erie and boundary lakes). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code).

A. *Effective Date*

The proposed rulemaking, if approved on final-form rulemaking, will go into effect upon final-form publication in the *Pennsylvania Bulletin*.

B. *Contact Person*

For further information on the proposed rulemaking, contact Wayne Melnick, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rulemaking is available on the Commission's web site at www.fish.state.pa.us.

C. *Statutory Authority*

The proposed amendments to §§ 61.1, 61.2, 61.4 and 69.12 are published under the statutory authority of section 2102(b) of the code (relating to rules and regulations).

D. *Purpose and Background*

The specific purpose and background of the proposed rulemaking is described in more detail under the summary of proposal.

E. *Summary of Proposal*

In May 2012, the Atlantic States Marine Fisheries Commission (ASMFC) approved a coastwide stock assessment of American eel that concluded that the American eel population is depleted in United States waters. The stock is at or near historically low levels due to a combination of historical overfishing, habitat loss, food web alterations, predation, turbine mortality, environmental changes, toxins and contaminants, and disease. An independent panel of scientists that reviewed the stock assessment urged the ASMFC Board to examine alternative reference points to provide more protection to the spawning stock biomass.

In response to these findings, the ASMFC Board tasked the ASMFC American Eel Technical Committee with developing potential management actions which would reduce mortality on all life stages of American eel. A range of options was developed by the ASMFC American Eel Technical Committee and subsequent action was taken by the ASMFC Board to release certain management options for public comment. These comments were considered by the ASMFC Board when, on August 8, 2013, it approved Amendment III to the ASMFC American Eel Fisheries Management Plan. Among the requirements of this amendment is a reduction in recreational harvest of eels by way of a coastwide establishment of a creel limit of 25 fish and a size limit of 9 inches. Currently, the Commonwealth has a 50 fish creel limit for American eel coupled with an 8-inch size limit for recreational harvested eels and a 6- to 8-inch slot limit for eels harvested for bait.

The ASMFC-directed regulatory change is to be implemented by January 1, 2014. Although final adoption of the amendment by the Commission by January 1, 2014, will not be possible, the Commission's Executive Director will exercise his authority under § 65.25 (relating to temporary changes to fishing regulations) to make a temporary modification.

To address the coastwide regulation directed by ASMFC, the Commission proposes to amend §§ 61.1, 61.2, 61.4 and 69.12 to read as set forth in Annex A.

F. *Paperwork*

The proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

G. *Fiscal Impact*

The proposed rulemaking will not have adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will not impose new 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 rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

JOHN A. ARWAY,
Executive Director

(*Editor's Note:* See 43 Pa.B. 7194 (December 7, 2013) for a notice relating to this proposed rulemaking.)

Fiscal Note: 48A-254. 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

§ 61.1. **Commonwealth inland waters.**

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(d) Except as otherwise provided in this subpart, the following seasons, sizes and creel limits apply to inland waters of this Commonwealth and the Youghiogheny Reservoir:

<i>SPECIES</i>	<i>SEASONS</i>	<i>MINIMUM SIZE</i>	<i>DAILY LIMIT</i>
* * * * *			
AMERICAN EEL	Open year-round	[8] 9 inches	[50] 25
* * * * *			
[AMERICAN EEL (as baitfish)	Open year-round	6 inches to 8 inches	50]
BAIT FISH FISH BAIT except American eel , mud bugs and mussels/clams	Open year-round	No minimum	50 (combined species)
* * * * *			

§ 61.2. **Delaware River, West Branch Delaware River and River Estuary.**

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(d) The following seasons, sizes and creel limits apply to the Delaware River, West Branch Delaware River and 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:

<i>SPECIES</i>	<i>SEASONS</i>	<i>MINIMUM SIZE</i>	<i>DAILY LIMIT</i>
* * * * *			
AMERICAN EEL	Open year-round	[8] 9 inches	[50] 25
[AMERICAN EEL (as baitfish)	Open year-round	6 inches to 8 inches	50]
* * * * *			
BAIT FISH FISH BAIT, except American eel and mussels/clams	Open year-round	No minimum	50 (combined species)
* * * * *			

§ 61.4. Conowingo Reservoir.

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(d) The following seasons, sizes and creel limits apply to the Conowingo Reservoir, which includes the Susquehanna River from the Maryland State Line upstream to Holtwood Dam:

<i>SPECIES</i>	<i>SEASONS</i>	<i>MINIMUM SIZE</i>	<i>DAILY LIMIT</i>
	* * * * *		
[EELS] AMERICAN EEL	Open year-round	[6] 9 inches	25
	* * * * *		
BAIT FISH FISH BAIT, except American eel	Open year-round	No minimum	35
	* * * * *		

CHAPTER 69. FISHING IN LAKE ERIE AND BOUNDARY LAKES

Subchapter B. SPORT FISHING AND ANGLING

§ 69.12. Seasons, sizes and creel limits—Lake Erie, Lake Erie tributaries and Presque Isle Bay including peninsula waters.

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(f) Subject to the provisions of subsections (d) and (e), the following seasons, sizes and creel limits apply to Lake Erie, Lake Erie tributaries and Presque Isle Bay, including peninsula waters:

<i>SPECIES</i>	<i>SEASONS</i>	<i>MINIMUM SIZE</i>	<i>DAILY LIMIT</i>
	* * * * *		
AMERICAN EEL	Open year-round	9 inches	25
BAIT FISH FISH BAIT, except American eel and mussels/clams	Open year-round	None	50 (combined species)
	* * * * *		

[Pa.B. Doc. No. 13-2263. Filed for public inspection December 6, 2013, 9:00 a.m.]

[58 PA. CODE CHS. 61 AND 65]

Fishing; Seasons, Sizes and Creel Limits; Special Fishing Regulations

The Fish and Boat Commission (Commission) proposes to amend Chapters 61 and 65 (relating to seasons, sizes and creel limits; and special fishing regulations). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code).

A. *Effective Date*

The proposed rulemaking, if approved on final-form rulemaking, will go into effect on January 1, 2015.

B. *Contact Person*

For further information on the proposed rulemaking, contact Wayne Melnick, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rulemaking is available on the Commission's web site at www.fish.state.pa.us.

C. *Statutory Authority*

The proposed amendments to § 61.1 (relating to Commonwealth inland waters) are published under the statutory authority of section 2102(b) of the code (relating to rules and regulations). The proposed amendments to

§ 65.12 (relating to the Regional Opening Day of Trout Season Program) are published under the statutory authority of section 2102(a) of the code.

D. *Purpose and Background*

The specific purpose and background of the proposed rulemaking is described in more detail under the summary of proposal.

E. *Summary of Proposal*

Under a proposed statement of policy, the Commission proposes to amend § 57.8a (relating to Class A wild trout streams). Specifically, the Commission proposes the stocking of a limited number of Class A designated streams under certain conditions. Along with this proposed change, the Commission proposes that any Class A streams that are stocked be treated the same as other wild trout streams with respect to harvest during the extended season. Specifically, wild trout streams are closed to harvest beginning 12:01 a.m. the day after Labor Day to midnight the last day of February of the following year. Under §§ 61.1 and 65.12, approved trout waters and all waters downstream of approved trout waters are open to harvest with a three fish limit. There are currently at least 22 streams comprising 29 stream

sections designated as Class A and that occur downstream of an approved trout water section. The proposed amendments will result in all Class A streams being regulated the same relative to harvest and consistent with other wild trout streams that are not approved trout waters. This additional level of protection is consistent with treating our best wild trout waters with a greater level of protection than streams whose trout fisheries are partially or totally provided by stocking, where put-and-take is the preferred management approach.

The Commission therefore proposes to amend §§ 61.1 and 65.12 to read as set forth in Annex A.

F. Paperwork

The proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

G. Fiscal Impact

The proposed rulemaking will not have adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will not impose new 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 rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 90 days after publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

JOHN A. ARWAY,
Executive Director

(Editor's Note: See 43 Pa.B. 7107 (December 7, 2013) for a proposed statement of policy relating to this proposed rulemaking.)

Fiscal Note: 48A-253. 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

§ 61.1. Commonwealth inland waters.

* * * * *

(d) Except as otherwise provided in this subpart, the following seasons, sizes and creel limits apply to inland waters of this Commonwealth and the Youghiogheny Reservoir:

<i>SPECIES</i>	<i>SEASONS</i>	<i>MINIMUM SIZE</i>	<i>DAILY LIMIT</i>
ALL SPECIES OF TROUT AND SALMON (except landlocked Atlantic salmon)	Regular Season: 8 a.m. first Saturday after April 11 to midnight Labor Day	7 inches	5 (combined species) except areas with special regulations (see Chapter 65 (relating to special fishing regulations))
	Extended Season: Approved trout waters and all waters downstream of approved trout waters	7 inches	3 (combined species), except Class A wild trout streams, where the daily limit is 0, and areas with special regulations (see Chapter 65)
	12:01 a.m. day after Labor Day to midnight last day of February of the following year		
* * * * *			

CHAPTER 65. SPECIAL FISHING REGULATIONS

§ 65.12. Regional Opening Day of Trout Season Program.

* * * * *

(b) It is unlawful to fish in waters designated as part of the Regional Opening Day of Trout Season Program except in compliance with the following seasons, sizes and creel limits:

<i>SEASONS</i>	<i>MINIMUM SIZE</i>	<i>DAILY LIMIT</i>
Regular Season: 8 a.m. first Saturday after March 28 to midnight Labor Day	7 inches	5 (combined species) except areas with special regulations (see Chapter 65 (relating to special fishing regulations))

SEASONS	MINIMUM SIZE	DAILY LIMIT
Extended Season: Approved trout waters and all waters downstream of approved trout waters 12:01 a.m. day after Labor Day to midnight last day of February of the following year	7 inches	3 (combined species) except Class A wild trout streams where the daily limit is 0, and areas with special regulations (see Chapter 65)

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[Pa.B. Doc. No. 13-2264. Filed for public inspection December 6, 2013, 9:00 a.m.]

[58 PA. CODE CH. 65]

Special Fishing Regulations; Mentored Youth Fishing Day Program

The Fish and Boat Commission (Commission) proposes to amend Chapter 65 (relating to special fishing regulations). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code).

A. Effective Date

The proposed rulemaking, if approved on final-form rulemaking, will go into effect upon final-form publication in the *Pennsylvania Bulletin*.

B. Contact Person

For further information on the proposed rulemaking, contact Laurie E. Shepler, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rulemaking is available on the Commission's web site at www.fish.state.pa.us.

C. Statutory Authority

Proposed § 65.20 (relating to Mentored Youth Fishing Day Program) is published under the statutory authority of section 2102 of the code (relating to rules and regulations).

D. Purpose and Background

Most often, parents or guardians are the source of both instruction and serve as mentors to young anglers and hunters. The role of a mentor is that of long-term development and socialization. An instructor can teach someone to fish, while a mentor helps them become an angler (Duda M.D., 2010). That is, while proper instruction is important, it alone does not guarantee adoption. This is especially true if a mentor or other social support is absent.

Benefits of mentored experiences also extend to the parents or mentors. A 2007 survey of trout anglers in this Commonwealth showed that 98% of those surveyed would go trout fishing more if asked by a child (Responsive Management, 2008). Of that number, 84% indicated that being asked by a child to take them fishing was a strong encouragement to go trout fishing more in this Commonwealth.

Mentored opportunities differ from educational programs significantly in that mentored experiences extend beyond the instructional period. Mentors plan and discuss the trip with the apprentice before, during and after. An instructor only has contact with the young angler during the presentation. It is this premise on which youth hunts and mentored hunting programs are based (DJ Case & Associates, 2007) (Responsive Management, 2011) (Responsive Management and Southwick Associates, 2012).

This premise is the supporting rationale behind the Commission's Mentored Youth Fishing Day Program.

On March 23, 2013, the Commission piloted a Mentored Youth Trout Fishing Day on 12 waters in the regional opening day zone, covering 18 southcentral and southeast counties. This day was accomplished by the Commission's Executive Director acting under the authority of § 65.25 (relating to temporary changes to fishing regulations). The temporary change was published at 43 Pa.B. 114 (January 5, 2013).

To participate, anglers 16 years of age or older (adult anglers) were required to possess a valid Pennsylvania fishing license and current trout/salmon permit and be accompanied by a youth (less than 16 years of age) who registered with the Commission. Youth anglers must have been registered with the Commission and accompanied by an adult angler to participate. During the Mentored Youth Trout Fishing Day, the minimum size limit for trout was 7 inches and the creel limit was two trout per day (combined species). Other Commonwealth inland regulations applied. It was unlawful for adult anglers to fish in waters designated under the Mentored Youth Trout Fishing Day Program without a valid fishing license and trout permit and without being accompanied by a registered youth.

A total of 5,110 youth registered to participate in the Mentored Youth Trout Fishing Day pilot, accompanied by 3,846 adult mentors. A survey of mentors conducted by the Commission showed that 90% of the registered youth participated, resulting in an estimated 7,300 youth and their mentors taking part. These anglers fished an estimated 22,000 hours and released nearly 15,000 trout while harvesting slightly more than 6,000. Public, partner and staff feedback received before, during and immediately after the pilot day was predominantly positive. The results of the 2013 pilot program support expansion of the program to create additional opportunities for parents and mentors to take the children in their lives fishing as a way to reactivate anglers of all ages.

E. Summary of Proposal

Under this proposed rulemaking, the Executive Director may annually designate Mentored Youth Fishing Days and, when doing so, he will identify the species, waters, dates, creel and minimum size limits and other limitations that will apply. The specific details of these mentored youth fishing opportunities will be published in the *Pennsylvania Bulletin*. Staff will also post the Mentored Youth Fishing Day Program guidelines to the Commission's web site and promote it through various media outlets.

To participate, an angler 16 years of age or older must be accompanied by a youth (less than 16 years of age) who is registered with the Commission. Youth anglers must be registered with the Commission and be accompa-

nied by an angler 16 years of age or older. Youth anglers will be able to register at no cost through the Commission's existing Pennsylvania Automated Licensing Service.

The Commission proposes to add § 65.20 to read as set forth in Annex A.

F. *Paperwork*

The proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

G. *Fiscal Impact*

The proposed rulemaking will not have adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will not impose new 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 rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000 within 30 days after publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

JOHN A. ARWAY,
Executive Director

Fiscal Note: 48A-252. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 65. SPECIAL FISHING REGULATIONS

§ 65.20. Mentored Youth Fishing Day Program.

(a) The Executive Director may annually designate Mentored Youth Fishing Days. As part of the designation, the Executive Director will identify the species, waters, dates, creel and minimum size limits and other applicable limitations. The designation will be effective upon publication of a notice in the *Pennsylvania Bulletin*.

(b) It is unlawful to fish in waters designated as part of the Mentored Youth Fishing Day Program except in compliance with the following requirements:

(1) Anglers shall adhere to the limitations as established by the Executive Director by notice in the *Pennsylvania Bulletin*.

(2) An angler 16 years of age or older shall be accompanied by a youth (less than 16 years of age) who is registered with the Commission.

(3) A youth angler shall be registered with the Commission and be accompanied by an angler 16 years of age or older.

(c) Notwithstanding the requirements of this section, an angler in a boat may possess fish caught in compliance with the seasons, sizes and creel limits in effect for the water from which taken, provided that the boat angler floats through the water designated as part of the Mentored Youth Fishing Day Program without stopping or engaging in the act of fishing or the boat angler takes out his boat at an access point within the water designated as part of the Mentored Youth Fishing Day Program.

[Pa.B. Doc. No. 13-2265. Filed for public inspection December 6, 2013, 9:00 a.m.]