

RULES AND REGULATIONS

Title 58—RECREATION

FISH AND BOAT COMMISSION

[58 PA. CODE CHS. 75 AND 79]

Fishing; Endangered Species; Reptiles and Amphibians

The Fish and Boat Commission (Commission) amends Chapters 75 and 79 (relating to endangered species; and reptiles and amphibians) to read as set forth in Annex A. The Commission is publishing this final-omitted rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code).

A. Effective Date

This final-omitted rulemaking will go into effect immediately upon publication of this order in the *Pennsylvania Bulletin*.

B. Contact Person

For further information on this final-omitted rulemaking, contact Wayne Melnick, Esq., P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This final-omitted rulemaking is available on the Commission's web site at www.fishandboat.com.

C. Statutory Authority

These amendments are published under the statutory authority of section 506 of The Administrative Code of 1929 (71 P.S. § 186). These amendments also are published in accordance with section 204 of the act of July 31, 1968 (P.L. 769, No. 240) known as the Commonwealth Documents Law (CDL) (45 P.S. § 1204), which provides that an agency may omit or modify the procedures specified in sections 201 and 202 of the CDL (45 P.S. §§ 1201 and 1202) if the administrative regulation or change relates to agency organization, management or personnel; agency procedure or practice; or Commonwealth property or if the agency for good cause finds (and incorporates the finding and a brief statement of the reasons therefor in the order adopting the administrative regulation or change therein) that the procedures specified in sections 201 and 202 of the CDL are under the circumstances impracticable, unnecessary or contrary to the public interest.

D. Purpose and Background

Under 58 Pa. Code § 51.5 (relating to correction of regulations), the Executive Director is authorized to take immediate corrective action on the Commission's behalf if the Executive Director or the Commission's staff discovers an error or omission in the text of a Commission regulation as published in the *Pennsylvania Code* or *Pennsylvania Bulletin*. Taxonomy and species nomenclature are a dynamic field where the classification of species, both common and scientific names, occurs on a regular basis. Based on the most recent compilation of information on the taxonomy of fish, reptiles and amphibians, and invertebrates, the Commission reviewed its regulations that refer to specific species. This review has revealed that there are inaccuracies in the text of several Commission regulations as related to the common and scientific names of fish, reptiles and amphibians, and invertebrates as more particularly described in the summary of changes. The purpose of this final-omitted rulemaking is to correct these inaccuracies and update the Commission's

regulations with the latest scientific consensus on the proper species nomenclature.

E. Summary of Changes

Taxonomy and species nomenclature are a dynamic field, and research geneticists are regularly revising the classification of species. Recognizing the importance of maintaining consistency in the use of both scientific and common names of reptiles and amphibians for regulatory, conservation and educational applications, two herpetological societies maintain regularly updated lists of common and scientific names of reptiles and amphibians.

The Society for the Study of Amphibians and Reptiles, a nonprofit organization established to advance research, conservation and education concerning amphibians and reptiles, publishes a list of the scientific and common names of North American amphibians and reptiles (Crother 2008).

The Herpetological Technical Committee of the Pennsylvania Biological Survey (PABS) recently undertook a comprehensive review of the Commonwealth's list of native species of reptiles and amphibians and has recommended numerous name changes to better reflect current taxonomic understanding and maintain consistency with the herpetological community. The PABS is a nonprofit scientific, educational and advisory organization that was formed to foster the perpetuation of the natural biological diversity of this Commonwealth. It has a number of technical committees that serve in an advisory role to Commission staff. Each technical committee of the PABS is made up of volunteer taxonomic experts recognized in their field.

(1) Section 75.1(b)(8) and (28) (relating to endangered species) has been revised as follows: The revised scientific name of the Northern redbelly dace is *Chrosomus eos*; and the revised scientific name of the Eastern sand darter is *Ammocrypta pellucida*.

Section 75.1(c)(3), (4), (7), (8) and (10) has been revised as follows: The revised common and scientific name of the Southern Leopard Frog is Coastal Plain Leopard Frog complex, *Lithobates sphenoccephalus/L. kauffeldi*; the revised common and scientific name of the Massasauga Rattlesnake is Eastern Massasauga, *Sistrurus catenatus*; the revised common and scientific name of the Rough Green Snake is Northern Rough Greensnake, *Opheodrys aestivus aestivus*; the revised common name of the Northern Cricket Frog is Eastern Cricket Frog; and the revised common name of the Eastern Mud Turtle is Southeastern Mud Turtle.

Section 75.1(d)(1), (5) and (9) has been revised as follows: The revised scientific name of the Northern riffleshell mussel is *Epioblasma rangiana*; the revised scientific name of the Rabbitsfoot mussel is *Theliderma cylindrica*; and the revised scientific name of the Pistolgrip mussel is *Tritogonia verrucosa*.

(2) Section 75.2(b)(2) (relating to threatened species) has been revised as follows: The revised scientific name of the Southern redbelly dace is *Chrosomus erythrogaster*.

Section 75.2(c)(2) has been revised to change as follows: The revised common name of the Eastern Redbelly Turtle is Northern Red-bellied Cooter.

(3) Section 75.3(c)(2) (relating to candidate species) has been revised as follows: The revised common name for Broadhead Skink is the Broad-headed Skink.

(4) Section 79.3(h) (relating to season and daily possession limits) has been revised as follows:

- The common and scientific names for the Mudpuppy have been revised to Common Mudpuppy, *Necturus maculosus maculosus*.
- The common and scientific names for the Bullfrog have been revised to American Bullfrog, *Lithobates catesbeianus*.
- The common and scientific names of the Northern Green Frog have been revised to Green Frog, *Lithobates clamitans*.
- The common name of the Eastern Box Turtle has been revised to Woodland Box Turtle.
- The common name of the Eastern Worm Snake has been revised to Eastern Wormsnake.
- The common name of the Eastern Hognose Snake has been revised to Eastern Hog-nosed Snake.
- The common name of the Queen Snake has been revised to Queensnake.
- The common name of the Shorthead Garter Snake has been revised to Short-headed Gartersnake.
- The common and scientific names of the Eastern Ribbon Snake have been revised to Eastern Ribbonsnake, *Thamnophis saurita*.
- The common name of the Eastern Smooth Earth Snake has been revised to Eastern Smooth Earthsnake.
- The common and scientific names of the Mountain Earth Snake have been revised to Mountain Earthsnake, *Virginia valeriae pulchra*.
- The common and scientific names of the Smooth Green Snake have been revised to Smooth Greensnake, *Ophedrys vernalis*.
- The common name of the Copperhead has been revised to Eastern Copperhead.

(5) Section 79.6(a) and (b) (relating to venomous snake permits) has been revised to substitute the new common name of "Eastern copperhead" for "copperhead."

The Commission has adopted the amendments to §§ 75.1, 75.2, 75.3, 79.3 and 79.6 to read as set forth in Annex A.

F. Paperwork

This final-omitted rulemaking will not increase paperwork and will create no new paperwork requirements.

G. Fiscal Impact

This final-omitted rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. This final-omitted rulemaking will impose no new costs on the private sector or the general public.

H. Public Involvement

Under section 204 of the CDL, an agency may omit the procedures specified in sections 201 and 202 of the CDL if the agency finds that these procedures are impractical or unnecessary or if the administrative regulation or change relates to agency procedure or practice. The Commission, therefore, did not publish these amendments as a notice of proposed rulemaking or solicit public comment.

Findings

The Commission finds:

- (1) Inaccuracies with respect to the most up-to-date scientifically recognized common and scientific names of species were discovered in the text of 58 Pa. Code §§ 75.1, 75.2, 75.3, 79.3 and 79.6 as published in the *Pennsylvania Code*.
- (2) Under § 51.5, the Executive Director is authorized to take immediate corrective action on behalf of the Commission, including, if necessary, the issuance of an order to make the necessary correction, if the Executive Director or the Commission's staff discovers an error or omission in the text of a Commission regulation as published in the *Pennsylvania Code*.
- (3) The nature of the amendments is minor and designed to update the common and scientific names of species contained within the Commission's regulations to reflect the latest taxonomy and species nomenclature.
- (4) The changes adopted in this final-omitted rulemaking do not affect the substance of the Commission's regulations in any way, as no species is added or removed and no changes in any seasons, sizes and creel limits are made.
- (5) Seeking public comment on the updating of the common and scientific names of these species is unnecessary and impractical.

(6) For the foregoing reasons, the Commission finds that the procedures of sections 201 and 202 of the CDL are impracticable and unnecessary for this final-omitted rulemaking.

Order

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

- (a) The regulations of the Commission, 58 Pa. Code Chapters 75 and 79, are amended by amending §§ 75.1, 75.2, 75.3, 79.3 and 79.6 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.
- (b) The Executive Director will submit this order and Annex A to the Attorney General for approval as to legality as required by law.
- (c) The Executive Director shall certify this order and Annex A and deposit the same with the Legislative Reference Bureau as required by law.
- (d) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

TIMOTHY D. SCHAEFFER,
Executive Director

Fiscal Note: 48A-290. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 58. RECREATION
PART II. FISH AND BOAT COMMISSION
Subpart B. FISHING
CHAPTER 75. ENDANGERED SPECIES

§ 75.1. Endangered species.

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

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(8) Northern redbelly dace, *Chrosomus eos*.
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(28) Eastern sand darter, *Ammocrypta pellucida*.
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(c) *Reptiles and Amphibians*. The following species are endangered:

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(3) Coastal Plain Leopard Frog complex, *Lithobates sphenoccephalus/L. kauffeldi*.

(4) Eastern Massasauga, *Sistrurus catenatus*.
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(7) Northern Rough Greensnake, *Opheodrys aestivus aestivus*.

(8) Eastern Cricket Frog, *Acris crepitans*.
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(10) Southeastern Mud Turtle, *Kinosternon subrubrum subrubrum*.

(d) *Invertebrates*. The following species are endangered:

(1) Northern riffleshell mussel, *Epioblasma rangiana*.
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(5) Rabbitsfoot mussel, *Theliderma cylindrica*.
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(9) Pistolgrip mussel, *Tritogonia verrucosa*.
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§ 75.2. Threatened species.

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

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(2) Southern redbelly dace, *Chrosomus erythrogaster*.
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(c) *Amphibians and reptiles*. The following species are threatened:

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(2) Northern Red-bellied Cooter, *Pseudemys rubriventris*.
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§ 75.3. Candidate species.

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(c) *Amphibians and reptiles*.

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(2) Broad-headed Skink, *Plestiodon laticeps*.

CHAPTER 79. REPTILES AND AMPHIBIANS

§ 79.3. Season and daily possession limits.

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(h) The following seasons, sizes, catch and possession limits apply to reptiles and amphibians except endangered and threatened species:

SPECIES	SEASON	DAILY LIMIT	POSSESSION LIMIT
American Bullfrog (<i>Lithobates catesbeianus</i>)	July 1 to October 31	10 (combined species)	20 (combined species)
Green frog (<i>Lithobates clamitans</i>)	July 1 to October 31	10 (combined species)	20 (combined species)
Common snapping turtle (<i>Chelydra serpentina</i>)	July 1 to October 31	15	30
Blanding's turtle (<i>Emydoidea blandingii</i>)	No open season	0	0
Spotted turtle (<i>Clemmys guttata</i>)	No open season	0	0
Wood turtle (<i>Glyptemys insculpta</i>)	No open season	0	0
Woodland box turtle (<i>Terrapene carolina carolina</i>)	No open season	0	0
Broad-headed skink (<i>Plestiodon laticeps</i>)	No open season	0	0
Northern coal skink (<i>Plestiodon anthracinus anthracinus</i>)	No open season	0	0
Common Mudpuppy (<i>Necturus maculosus maculosus</i>)	No open season	0	0

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<i>SPECIES</i>	<i>SEASON</i>	<i>DAILY LIMIT</i>	<i>POSSESSION LIMIT</i>
Eastern hellbender (<i>Cryptobranchus alleganiensis alleganiensis</i>)	No open season	0	0
Marbled salamander (<i>Ambystoma opacum</i>)	No open season	0	0
Jefferson salamander (<i>Ambystoma jeffersonianum</i>)	No open season	0	0
Four-toed salamander (<i>Hemidactylium scutatum</i>)	No open season	0	0
Northern ravine salamander (<i>Plethodon lectromorphus</i>)	No open season	0	0
Northern cricket frog (<i>Acris crepitans crepitans</i>)	No open season	0	0
Mountain chorus frog (<i>Pseudacris brachyphona</i>)	No open season	0	0
Upland chorus frog (<i>Pseudacris feriarum</i>)	No open season	0	0
Western chorus frog (<i>Pseudacris triseriata</i>)	No open season	0	0
Northern fence lizard (<i>Sceloporus undulatus</i>)	No open season	0	0
Queensnake (<i>Regina septemvittata</i>)	No open season	0	0
Short-headed Gartersnake (<i>Thamnophis rachystoma</i>)	No open season	0	0
Eastern Ribbonsnake (<i>Thamnophis saurita</i>)	No open season	0	0
Mountain Earthsnake (<i>Virginia valeriae pulchra</i>)	No open season	0	0
Eastern Smooth Earthsnake (<i>Virginia valeriae valeriae</i>)	No open season	0	0
Smooth Greensnake (<i>Opheodrys vernalis</i>)	No open season	0	0
Eastern Hog-nosed Snake (<i>Heterodon platirhinos</i>)	No open season	0	0
Eastern wormsnake (<i>Carphophis amoenus amoenus</i>)	No open season	0	0
Amphibian eggs and tadpoles	No closed season	15 (combined species)	15 (combined species)
Timber rattlesnake (<i>Crotalus horridus</i>)	Second Saturday in June to July 31*	1 annual limit** (must be at least 42 inches in length, measured lengthwise along the dorsal surface from the snout to the tail, excluding the rattle and must possess 21 or more subcaudal scales.)	
Eastern Copperhead (<i>Aghistrodon contortrix</i>)	Second Saturday in June to July 31	1 annual limit**	
Native species not listed in this subsection	No closed season	1	1

* It is unlawful for a person to hunt, take, catch or kill timber rattlesnakes west of Route 15 and south of Interstate 81 to the Maryland line where there is no open season.

** It is unlawful for a person to take, catch or kill more than one timber rattlesnake or copperhead per calendar year except as provided in § 79.7(f) (relating to organized reptile and amphibian hunt permits). It is unlawful for a person to possess more than one timber rattlesnake or copperhead at any time except as provided in § 79.7(f).

§ 79.6. Venomous snake permits.

(a) *Application.* The Commission finds, under section 2904 of the code (relating to permits for protection and management of particular fish), that it is necessary for the proper protection and management of the timber rattlesnake (*Crotalus horridus*) and Eastern copperhead (*Agkistrodon contortrix*) that persons who hunt, take, catch or kill these species have a permit for the activity. Application for a permit must be made on a form prescribed by the Commission and accompanied by the appropriate fee. Permits may be obtained by applying to: Natural Diversity Section Chief, Division of Environmental Services, 450 Robinson Lane, Bellefonte, Pennsylvania 16823-9616. The fee for residents is \$30 per year; the fee for nonresidents is \$60 per year. The denial of a permit under this section is appealable in the manner provided by Chapter 51, Subchapter E (relating to permit procedures).

(b) *Required permit.* It is unlawful to hunt, take, catch, kill or possess a timber rattlesnake or Eastern copperhead, in whole or in parts, without first procuring the required permit from the Commission. The required permit shall be in the possession of the permittee at all times while hunting. Permittees shall comply with the terms and conditions of the permit and furnish the reports required thereby. It is unlawful to alter, borrow, lend or transfer a permit under this section.

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[Pa.B. Doc. No. 19-1418. Filed for public inspection September 20, 2019, 9:00 a.m.]
