

RULES AND REGULATIONS

Title 58—RECREATION

FISH AND BOAT COMMISSION

[58 PA. CODE CHS. 61, 63, 69, 71 AND 73]

Fishing

The Fish and Boat Commission (Commission) amends Chapters 61, 63, 69, 71 and 73. The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code).

A. Effective Date

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

B. Contact Person

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

C. Statutory Authority

The final-form amendments to §§ 61.1—61.4, 63.46, 69.12, 71.6 and 73.1 are published under the statutory authority of section 2102 of the code (relating to rules and regulations).

D. Purpose and Background

The specific purpose and background of the amendments are described in more detail under the summary of changes.

E. Summary of Changes

Crayfish are one of the most conspicuous and ecologically important components of aquatic communities in this Commonwealth and across the globe. They are an important forage item for fishes, mammals, birds, reptiles and amphibians and facilitate the transfer of nutrients up through the food chain to higher trophic levels. About half of North America's crayfish fauna is imperiled, and native crayfishes across the continent and in this Commonwealth are rapidly being replaced by introduced (exotic) crayfishes.

The replacement of native crayfish by introduced crayfish represents a significant threat to aquatic communities. Introduced crayfish attain densities that are exceedingly high (sometimes in excess of 200 individuals/m²), often eliminate aquatic macrophytes and suppress benthic invertebrate communities. They can have strong negative effects on amphibians, mussels and fishes.

Stopping the spread of introduced crayfish is difficult once they become widespread. Since the distributions of most introduced crayfishes in this Commonwealth are still limited, there is still time to stop the spread of exotic crayfishes and preserve the native stocks that remain.

Exotic crayfishes occur in a number of water bodies in this Commonwealth and are available from bait shops, biological warehouses, pet stores, live food vendors and aquaculture facilities. To help prevent additional introductions of crayfish in this Commonwealth, stringent regulations and their enforcement is warranted.

The invasive rusty crayfish (*Orconectes rusticus*) has been tightly regulated in this Commonwealth since 2005, and live individuals cannot be possessed, sold, trans-

ported or cultured within this Commonwealth. However, there are five other introduced crayfishes that occur in this Commonwealth that are currently unregulated. These exotic crayfishes can be purchased from commercial dealers or collected from invaded water bodies and released legally into the Commonwealth's waters with potentially devastating effects on native communities. Additionally, although the invasive red swamp crayfish (*Procambarus clarkii*) cannot be propagated in flow-through systems or introduced into Commonwealth waters, the species can be possessed, sold and transported legally within this Commonwealth.

Extending the *Orconectes rusticus* ban to other exotic crayfish species would be impossible to enforce because most natural resource managers and conservation officers have difficulty identifying crayfish species. For this reason, the Commission restricted the sale, possession, introduction, transportation and culture of all live native and nonnative crayfishes in this Commonwealth. Similar restrictions have been passed elsewhere (for example, Wisconsin and parts of Maryland and Canada) with broad public support.

With these amendments, licensed anglers will still be allowed to harvest up to 50 crayfish per day. However, the head must be immediately removed behind the eyes upon capture unless the crayfish are used as bait in the water from which they were taken. When crayfish are used as bait in the water from which they were taken, the head does not have to be removed. When crayfish are transported from the water from which they were collected, the head must be removed behind the eyes. The amendments also restrict the sale of all live native and nonnative crayfishes in this Commonwealth except when they are sold for testing and scientific purposes or restaurant consumption, adequate measures have been taken to prevent their escape and they are accompanied by documentation stating the point of origin and the destination to which they are to be delivered. The amendments also restrict possession, introduction and transportation of all live native and nonnative crayfishes except when: (i) they are possessed and used as bait on, in or about the water from which taken; or (ii) they are possessed or imported for testing and scientific purposes or restaurant consumption, adequate measures have been taken to prevent their escape and they are accompanied by documentation stating the point of origin and the destination to which they are to be delivered. Except when they are used as bait as previously described, the introduction of any live crayfish into Commonwealth waters will be strictly prohibited.

Although propagation is not specifically addressed by this final-form rulemaking, Commission staff worked with the Department of Agriculture (Department) and registered propagators to address issues pertaining to crayfish culture. Section 71.2 (relating to fish species approved for artificial propagation and introduction) provides that the Bureau of Fisheries (Bureau) will maintain a list of species by watershed for which the Department may issue registrations for artificial propagation and registrations for dealers of live aquatic animals. The section further provides that the Bureau may update or modify the list of authorized species by adding species to or deleting species from the list as necessary to provide for the protection and management of fish in this Commonwealth. Therefore, concurrent with this final-form rulemaking, the Commission will remove all crayfish species from the list of species approved for open-system propagation and

introduction in the Commonwealth. The culture and propagation of crayfish will still be permitted in closed systems.

The Commission amends §§ 61.1—61.4, 63.46, 69.12, 71.6 and 73.1 to restrict the sale, possession, introduction and transportation of all crayfish species in this Commonwealth to read as set forth in the notice of proposed rulemaking published at 44 Pa.B. 901 (February 15, 2014).

F. Paperwork

The final-form rulemaking will not increase paperwork and will not create new paperwork requirements.

G. Fiscal Impact

The final-form rulemaking will not have adverse fiscal impact on the Commonwealth or its political subdivisions. The final-form rulemaking will not impose new costs on the private sector or the general public. Any fiscal impact to the private sector is expected to be nominal. Some businesses sell crayfish as pets or bait, but the revenue generated is typically a very minor component of total sales. Other commercial uses include testing and scientific purposes and restaurant consumption. However, under the final-form rulemaking, the sale, possession and transportation of live crayfish is permitted for those purposes when adequate measures have been taken to prevent their escape and they are accompanied by documentation stating the point of origin and the destination to which they are to be delivered. Therefore, laboratories, research facilities and restaurants will not be significantly affected by the final-form rulemaking.

H. Public Involvement

Notice of proposed rulemaking was published at 44 Pa.B. 901. The Commission solicited public comments for a period of 60 days. The Commission received a total of 30 comments generally supporting the proposed rulemaking and were summarized in a comment and re-

sponse document. Copies of the public comments and the comment and response document were provided to the Commissioners.

Findings

The Commission finds that:

(1) Public notice of intention to adopt the 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 promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided, and the public comments that were received were considered.

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

Order

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

(a) The regulations of the Commission, 58 Pa. Code Chapters 61, 63, 69, 71 and 73, are amended by amending §§ 61.1—61.4, 63.46, 69.12, 71.6 and 73.1 to read as set forth at 44 Pa.B. 901.

(b) The Executive Director will submit this order and 44 Pa.B. 901 to the Office of Attorney General for approval as to legality and form as required by law.

(c) The Executive Director shall certify this order and 44 Pa.B. 901 and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect on January 1, 2015.

JOHN A. ARWAY,
Executive Director

Fiscal Note: Fiscal Note 48A-256 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 14-1388. Filed for public inspection July 3, 2014, 9:00 a.m.]