

RULES AND REGULATIONS

Title 58—RECREATION

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 63]

Fishing; American Eels

The Fish and Boat Commission (Commission) amends Chapter 63 (relating to general fishing regulations). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code).

A. *Effective Date*

The final-form rulemaking will go into effect upon publication in the *Pennsylvania Bulletin*.

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 website at www.fish.state.pa.us.

C. *Statutory Authority*

The addition of § 63.49 (relating to reporting by dealers of American eels) is published under the statutory authority of section 2102 of the code (relating to rules and regulations).

D. *Purpose and Background*

The final-form rulemaking is designed to improve, enhance and update the Commission's fishing regulations. The specific purpose of the amendment is described in more detail under the summary of change.

E. *Summary of Change*

At its February 2006 meeting in Arlington, Virginia, the American Eel Management Board of the Atlantic States Marine Fisheries Commission (ASMFC) approved Addendum I to the Interstate Fishery Management Plan for American Eel with member states implementing either Option 1A or Option 2 of the Addendum. The goal of Addendum I is to provide accurate catch and effort data for use in future stock assessments. Option 1A of the Addendum requires implementation of a license and reporting program for commercial fisheries for American eel. Option 2 requires implementation of a dealer permit with a mandatory purchase reporting requirement. This will provide an important validation of the catch and effort data being reported by harvesters. Because there is no commercial eel fishery in this Commonwealth, Option 1A does not apply. However, there are approximately 40 American eel dealers who are registered as dealers of live aquatic animals with the Department of Agriculture (Department). Therefore, the Commission decided to implement Option 2 to address dealer reporting.

The Department regulates aquaculture in this Commonwealth. Under 3 Pa.C.S. § 4222 (relating to registration for dealers of live aquatic animals), the Department requires the registration of dealers of live aquatic animals. Chapter 42 of 3 Pa.C.S. (relating to Aquacultural Development Law) (act) further provides that distribution by registered dealers is limited to species of fish approved by the Department. The Department defers to a list of species of fish that the Commission has approved for propagation in open systems. The Commission maintains

this list and updates it annually prior to January 31. The American eel is on this Commission list.

Under the act, registered dealers are subject to certain reporting and recordkeeping requirements. However, the act's reporting and recordkeeping requirements do not extend to the type of reports that the ASMFC is seeking. In addition, the act does not apply to dealers that are not required to be registered. Therefore, the Commission proposed a regulation requiring dealers of American eels to report the amounts of American eels that they buy and sell.

Reporting will be done on forms developed by the Commission and provided to the dealers by the Commission. Required information will include the date of purchase or sale, harvester, pounds purchased or sold by life stage, purpose of purchase or sale (bait, food, and the like), amount exported and other information the Commission deems necessary. This information will be required on the basis of individual purchases from harvesters or individual sales. Reports will be provided on a quarterly basis and be provided to the Commission by the 10th of the month in the next quarter. Reports will document purchases or sales for the preceding quarter on a monthly basis. The Commission will in turn maintain a database in a format acceptable to the ASMFC and provide the information on a schedule established by the ASMFC. The Commission proposed to add § 63.49 to address these reporting requirements. On final-form rulemaking, the Commission adopted the proposed addition as set forth in the proposed rulemaking.

F. *Paperwork*

The final-form rulemaking will increase paperwork and will create new paperwork requirements. Dealers of American eels in this Commonwealth will be required to provide quarterly reports to the Commission on forms developed by the Commission.

G. *Fiscal Impact*

The final-form rulemaking will have no adverse fiscal impact on the political subdivisions of the Commonwealth. The final-form rulemaking will impose no new costs on the private sector or the general public. The final-form rulemaking, however, will result in a modest increase in program costs to the Commonwealth. The costs incurred by the Commonwealth include development of the form, creation of a database, entry of data from the forms received each quarter and the preparation of an annual report.

H. *Public Involvement*

Notice of proposed rulemaking was published at 37 Pa.B. 2196 (May 12, 2007). In addition to publishing the proposed rulemaking, the Commission also sent a letter to dealers of live aquatic animals that are currently registered with the Department to make them aware of the proposed reporting requirements. The Commission did not receive public comments regarding the proposed rulemaking.

Findings

The Commission finds that:

(1) Public notice of intention to adopt the regulation 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 no public comments were received.

(3) The adoption of the regulation 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 Chapter 63, are amended by adding § 63.49 to read as set forth at 37 Pa.B. 2196.

(b) The Executive Director will submit this order and 37 Pa.B. 2196 to the Office of Attorney General for approval as to legality as required by law.

(c) The Executive Director shall certify this order and 37 Pa.B. 2196 and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

DOUGLAS J. AUSTEN, Ph.D.,
Executive Director

Fiscal Note: Fiscal Note 48A-192 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 07-1651. Filed for public inspection September 7, 2007, 9:00 a.m.]

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 65]

Fishing; Special Fishing Regulations

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

A. Effective Date

The final-form rulemaking will go into effect on January 1, 2008.

B. Contact Person

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

C. Statutory Authority

The amendment to § 65.24 (relating to miscellaneous special regulations) is published under the statutory authority of section 2307 of the code (relating to waters limited to specific purposes).

D. Purpose and Background

The final-form rulemaking is designed to improve, enhance and update the Commission's fishing regulations. The specific purpose of the amendment is described in more detail under the summary of change.

E. Summary of Change

Sugar Lake is a 90-acre natural lake in southeastern Crawford County. A miscellaneous special regulation has been in place on this lake that provides for a 36-inch minimum size limit and 1 per day creel limit on muskellunge. The Commission recently amended Chapter 61 (relating to seasons, sizes and creel limits) to implement a 40-inch minimum size and 1 per day creel limit for muskellunge Statewide. The Commission therefore proposed that Sugar Lake be removed from management under the miscellaneous special regulations and be managed under the new Statewide regulation for muskellunge. The Commission adopted the proposed amendment as set forth in the proposed rulemaking.

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

H. Public Involvement

A proposed rulemaking was published at 37 Pa.B. 1220 (March 17, 2007). The Commission did not receive public comments regarding the proposed rulemaking.

Findings

The Commission finds that:

(1) Public notice of intention to adopt the amendment 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 no public comments were received.

(3) The adoption of the amendment 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 Chapter 65, are amended by amending § 65.24 to read as set forth at 37 Pa.B. 1220.

(b) The Executive Director will submit this order and 37 Pa.B. 1220 to the Office of Attorney General for approval as to legality as required by law.

(c) The Executive Director shall certify this order and 37 Pa.B. 1220 and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect on January 1, 2008.

DOUGLAS J. AUSTEN, Ph.D.,
Executive Director

Fiscal Note: Fiscal Note 48A-190 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 07-1652. Filed for public inspection September 7, 2007, 9:00 a.m.]