

Note: The following sections are as they appear in the 2nd notice of proposed rulemaking. Language to be added is in capital letters. Language to be deleted contains strike-throughs.

§79.8. Artificial propagation AND DEALERS OF LIVE AQUATIC ANIMALS.

(A) GENERAL. Except for hobby breeders AND PET STORES as defined in 3 Pa. C.S. Ch. 42

(relating to aquaculture development), it is unlawful to artificially propagate OR DEAL IN

LIVE reptiles and amphibians without being registered with the Department of Agriculture

(DEPARTMENT) under 3 Pa. C.S. Ch. 42. It is unlawful FOR ANYONE, REGARDLESS OF

WHETHER OR NOT REGISTERED, to artificially propagate reptiles and amphibians except

those species, SUBSPECIES AND COLOR MORPHS that the Commission has approved for

artificial propagation in the Commonwealth IN ACCORDANCE WITH THIS SECTION.

(B) APPROVED LISTS. The Bureau of Fisheries will maintain a~~list~~ LISTS of species,

SUBSPECIES AND COLOR MORPHS for which the Department of Agriculture may issue

registrations for artificial propagation and registrations for dealers of live aquatic animals.

THE BUREAU OF FISHERIES WILL MAINTAIN TWO SEPARATE LISTS – ONE THAT

THE COMMISSION HAS APPROVED FOR ARTIFICIAL PROPAGATION IN AN OPEN

SYSTEM AND ONE THAT THE COMMISSION HAS APPROVED FOR ARTIFICIAL

PROPAGATION IN A CLOSED SYSTEM OR A SYSTEM WITH DISCHARGES

RENDERED INCAPABLE OF CONTAINING SELF-PERPETUATING LIVING

ORGANISMS. The Director of the Bureau of Fisheries may update or modify the ~~list~~ LISTS of

~~authorized~~ APPROVED species, SUBSPECIES AND COLOR MORPHS by adding species,

SUBSPECIES OR COLOR MORPHS to or deleting species, SUBSPECIES OR COLOR

MORPHS from the ~~list~~ LISTS as necessary for the protection and management of reptiles and

amphibians in this Commonwealth. The Commission will provide the ~~list~~ LISTS to the

Department of Agriculture on or before January 31 each year and whenever the Commission updates or modifies the list LISTS. Copies of the list LISTS of authorized APPROVED species, SUBSPECIES AND COLOR MORPHS are available upon request from the Pennsylvania Fish and Boat Commission, Bureau of Fisheries, 450 Robinson Lane, Bellefonte, PA 16823.

(C) OPEN SYSTEMS. REPTILES AND AMPHIBIANS MAY BE ARTIFICIALLY PROPAGATED OR HELD BY DEALERS IN AN OPEN SYSTEM ONLY WHERE THE COMMISSION HAS APPROVED THE SPECIES, SUBSPECIES OR COLOR MORPHS FOR ARTIFICIAL PROPAGATION IN AN OPEN SYSTEM.

(D) CLOSED SYSTEMS OR SYSTEMS WITH DISCHARGES RENDERED INCAPABLE OF CONTAINING SELF-PERPETUATING LIVING ORGANISMS.

(1) REPTILES AND AMPHIBIANS MAY BE ARTIFICIALLY PROPAGATED OR HELD BY DEALERS IN A CLOSED SYSTEM OR IN A SYSTEM WITH DISCHARGES RENDERED INCAPABLE OF CONTAINING SELF-PERPETUATING LIVING ORGANISMS THAT MEETS THE REQUIREMENTS OF THIS SUBSECTION ONLY WHERE THE COMMISSION HAS APPROVED THE SPECIES, SUBSPECIES OR COLOR MORPHS FOR ARTIFICIAL PROPAGATION IN A CLOSED SYSTEM OR A SYSTEM WITH DISCHARGES RENDERED INCAPABLE OF CONTAINING SELF-PERPETUATING LIVING ORGANISMS.

(2) TO ARTIFICIALLY PROPAGATE OR DEAL IN LIVE REPTILES AND AMPHIBIANS IN A CLOSED SYSTEM, AN APPLICANT FOR REGISTRATION SHALL CERTIFY THAT ALL OF THE FOLLOWING CONDITIONS ARE MET:

(I) THE CLOSED SYSTEM WILL BE HOUSED INDOORS IN A STRUCTURE ENCLOSED BY SOLID WALLS, FLOOR AND ROOF. FOR

PURPOSES OF THIS PARAGRAPH, A WALL, FLOOR OR ROOF WILL BE CONSIDERED “SOLID” IF IT IS CONSTRUCTED AND MAINTAINED TO PREVENT UNAUTHORIZED HUMAN OR ANIMAL INTRUSIONS INTO THE CLOSED SYSTEM FACILITY AND TO PREVENT RELEASE OR ESCAPE OF LIVE REPTILES OR AMPHIBIANS FROM THE CLOSED SYSTEM.

(II) IF WATER WILL BE USED IN NORMAL OPERATIONS, NO DISCHARGE WILL BE ALLOWED ONTO THE LANDS OR INTO THE WATERS OF THIS COMMONWEALTH.

(III) WATER WILL BE ADDED TO THE SYSTEM ONLY FOR MAKING UP EVAPORATIVE LOSS, CLEANING, HARVESTING OR CONSUMPTION.

(IV) NO LIVE REPTILES OR AMPHIBIANS OR LIVE REPTILE OR AMPHIBIAN EGGS WILL BE PERMITTED TO ESCAPE. ACCIDENTAL ESCAPE, SPILLAGE OR LOSS OF LIVE REPTILES OR AMPHIBIANS INCLUDING THEIR EGGS WILL BE CONTAINED WITHIN THE FACILITY IN A MANNER THAT PREVENTS THE REPTILES AND AMPHIBIANS OR THEIR EGGS FROM ESCAPING ONTO THE LANDS OR INTO THE WATERS OF THIS COMMONWEALTH.

(3) TO ARTIFICIALLY PROPAGATE OR DEAL IN LIVE REPTILES AND AMPHIBIANS IN A SYSTEM WITH DISCHARGES RENDERED INCAPABLE OF CONTAINING SELF-PERPETUATING LIVING ORGANISMS, AN APPLICANT FOR REGISTRATION SHALL CERTIFY THAT ONE OF THE FOLLOWING CONDITIONS IS MET:

(I) DISCHARGED WATER WILL BE SUBJECT TO TREATMENT PROCESSES THAT WILL DESTROY LIVING ORGANISMS, OR

(II) WATER WILL BE DISCHARGED IN A MANNER THAT LIVING ORGANISMS CANNOT SURVIVE.

(4) THE COMMISSION MAY REQUEST FROM THE DEPARTMENT A LIST OF REGISTERED PROPAGATORS AND DEALERS THAT HOLD REPTILES AND AMPHIBIANS IN CLOSED SYSTEMS OR SYSTEMS WITH DISCHARGES RENDERED INCAPABLE OF CONTAINING SELF-PERPETUATING LIVING ORGANISMS. THE COMMISSION, IN ITS DISCRETION, MAY INSPECT THESE SYSTEMS TO ENSURE THAT THEY ARE DESIGNED AND CONSTRUCTED IN A MANNER TO PREVENT ESCAPE OF LIVE REPTILES OR AMPHIBIANS OR THEIR LIVE EGGS ONTO LANDS OR INTO THE WATERS OF THIS COMMONWEALTH OR SO THAT THEIR DISCHARGES ARE RENDERED INCAPABLE OF CONTAINING LIVE AMPHIBIANS OR REPTILES OR THEIR EGGS. IN ADDITION, THE COMMISSION, IN ITS DISCRETION, MAY INSPECT THESE SYSTEMS AT ANY TIME TO ENSURE COMPLIANCE WITH THE REQUIREMENTS OF THIS SUBSECTION, AND THE COMMISSION MAY ISSUE AN ORDER TO SUSPEND OPERATIONS OF ANY OF THESE SYSTEMS WHEN AN INSPECTION DISCLOSES THAT IT IS NOT IN COMPLIANCE WITH THE REQUIREMENTS OF THIS SUBSECTION.

(5) THE COMMISSION WILL INVITE THE DEPARTMENT'S AQUACULTURE ADVISORY COMMITTEE OR A SUBCOMMITTEE THEREOF TO DRAFT AND PERIODICALLY UPDATE CONSTRUCTION GUIDELINES FOR CLOSED SYSTEM PROPAGATORS AND DEALERS TO HELP THEM ENSURE CLOSED SYSTEMS PREVENT ESCAPE OF REPTILES AND AMPHIBIANS ONTO THE LANDS OR INTO THE WATERS OF THIS COMMONWEALTH. THESE GUIDELINES WILL ASSIST REGISTERED PROPAGATORS AND DEALERS IN THE DESIGN, CONSTRUCTION

AND MAINTENANCE OF CLOSED SYSTEMS AND WILL ASSIST THE COMMISSION
IN INSPECTING THESE SYSTEMS.

(6) IT IS UNLAWFUL FOR AN OPERATOR OF A SYSTEM DESCRIBED IN THIS
SUBSECTION TO ALLOW LIVE REPTILES OR AMPHIBIANS TO ESCAPE ONTO
LANDS OR INTO THE WATERS OF THIS COMMONWEALTH.

(7) A REGISTERED OPERATOR OF ANY SYSTEM DESCRIBED IN THIS
SUBSECTION SHALL DEVELOP, MAINTAIN AND MAKE AVAILABLE FOR
IMMEDIATE INSPECTION BY THE COMMISSION AND THE DEPARTMENT UPON
REQUEST A WRITTEN PLAN FOR CONTAINING OR TREATING DISCHARGED
ANIMALS IN THE EVENT OF A CLOSED SYSTEM FAILURE .

(8) A REGISTERED OPERATOR OF ANY SYSTEM DESCRIBED IN THIS
SUBSECTION SHALL NOTIFY BOTH THE COMMISSION'S DIRECTOR OF THE
BUREAU OF FISHERIES AND THE DEPARTMENT'S AQUACULTURE COORDINATOR
IMMEDIATELY IN THE EVENT OF AN ESCAPE OR A DISCHARGE FAILURE THAT IS
LIKELY TO CONTAIN VIABLE LIVING ORGANISMS.

§79.11. Introduction of nonnative species.

(A) *NONNATIVE SPECIES.* It is unlawful to introduce any species of reptile or amphibian
into the natural environment of this Commonwealth if that species is not native to this
Commonwealth. Persons who import nonnative reptiles or amphibians into this
Commonwealth shall institute appropriate safeguards to prevent their introduction into the
environment of this Commonwealth.

(B) NATIVE SPECIES.

(1) GENERAL RULE. EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, NATIVE SPECIES OF REPTILES AND AMPHIBIANS MAY BE INTRODUCED INTO THE NATURAL ENVIRONMENT OF THIS COMMONWEALTH ONLY WHERE THE COMMISSION HAS APPROVED THE NATIVE SPECIES FOR INTRODUCTION. EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, IT IS UNLAWFUL TO INTRODUCE OR FACILITATE THE INTRODUCTION OF NATIVE SPECIES OF REPTILES AND AMPHIBIANS EXCEPT THOSE NATIVE SPECIES THAT THE COMMISSION HAS APPROVED FOR INTRODUCTION. THE COMMISSION WILL MAINTAIN A LIST OF NATIVE SPECIES THAT THE COMMISSION HAS APPROVED FOR INTRODUCTION. THE DIRECTOR OF THE BUREAU OF FISHERIES MAY UPDATE OR MODIFY THE LIST OF APPROVED SPECIES BY ADDING SPECIES TO OR DELETING SPECIES FROM THE LIST AS NECESSARY FOR THE PROTECTION AND MANAGEMENT OF REPTILES AND AMPHIBIANS IN THIS COMMONWEALTH. COPIES OF THE LIST OF APPROVED SPECIES ARE AVAILABLE UPON REQUEST FROM THE PENNSYLVANIA FISH AND BOAT COMMISSION, BUREAU OF FISHERIES, 450 ROBINSON LANE, BELLEFONTE, PA 16823.

(2) EXCEPTION. A PERSON WHO LAWFULLY CATCHES AND POSSESSES A REPTILE OR AMPHIBIAN IN ACCORDANCE WITH SECTION 79.3 (RELATING TO SEASON AND DAILY POSSESSION LIMITS) MAY REINTRODUCE THAT REPTILE OR AMPHIBIAN INTO THE NATURAL ENVIRONMENT OF THIS COMMONWEALTH AS LONG AS ALL OF THE FOLLOWING CONDITIONS ARE MET:

(I) THE PERSON OTHER THAN A COMMISSION-RECOGNIZED REHABILITATOR RELEASES THE REPTILE OR AMPHIBIAN TO THE POINT OF CAPTURE. IF THE POINT OF CAPTURE IS UNKNOWN, A COMMISSION-RECOGNIZED REHABILITATOR MAY RELEASE THE ANIMAL TO APPROPRIATE HABITAT.

(II) THE PERSON OTHER THAN A COMMISSION-RECOGNIZED REHABILITATOR RELEASES THE REPTILE OR AMPHIBIAN WITHIN 30 DAYS OF CAPTURE. A COMMISSION-RECOGNIZED REHABILITATOR MAY RELEASE THE ANIMAL MORE THAN 30 DAYS AFTER CAPTURE.

(3) THE PERSON RELEASES THE REPTILE OR AMPHIBIAN DURING THE PERIOD, MAY 1 THROUGH LABOR DAY.

(4) THE REPTILE OR AMPHIBIAN IS IN GOOD HEALTH.

§79.12. Color morphs.

For purposes of this chapter, it is presumed that color morphs of certain native species that are held in captivity were not taken from the wild. Therefore, the Commission has determined that color morphs of certain native species are exempt from the requirements of this chapter as provided in this section. The Commission will from time to time publish in the *Pennsylvania Bulletin* a list of color morphs of native species to which the following provisions apply:

(1) Color morphs of native species designated by the Commission are not subject to the possession limits of §79.3 (relating to seasons and daily possession limits) provided they are not taken from the wild.

(2) Color morphs of native species designated by the Commission may be artificially propagated provided they are not taken from the wild AND THEY ARE PROPAGATED IN A

**CLOSED SYSTEM MEETING THE REQUIREMENTS OF §79.8 (RELATING TO
ARTIFICIAL PROPAGATION AND DEALERS OF LIVE AQUATIC ANIMALS).**

**(3) Color morphs of native species designated by the Commission may be sold provided they
are not taken from the wild.**