

## Order Adopting Amendments

### COMMONWEALTH OF PENNSYLVANIA PENNSYLVANIA FISH AND BOAT COMMISSION

#### Title 58. Recreation Part II. Fish and Boat Commission Chapters 75 and 79

#### Fishing

## Preamble

The Fish and Boat Commission (Commission) amends 58 Pa. Code Chapters 75 and 79 (relating to endangered species; and reptiles and amphibians). The Commission is publishing this final-form rulemaking under the authority of 30 Pa. C.S. (relating to the Fish and Boat Code) (code) and other authorities described below.

A. *Effective date*

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

B. *Contact person*

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

C. *Statutory authority*

These amendments are published under the statutory authority of section 506 of The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, *as amended*, 71 P.S. §186.

These amendments also are published in accordance with section 204 of the Commonwealth Documents Law (CDL), Act of July 31, 1968, P.L. 769, *as amended*, 45 P.S. §1204, which provides that an agency may omit or modify the procedures specified in sections 201 and 202 of the CDL 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*

Pursuant to 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 is 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 reptiles and amphibians, the Commission reviewed its regulations that refer to specific species of reptiles and amphibians. This review has revealed that there are inaccuracies in the text of several Commission regulations as related to the common and scientific names of reptiles and amphibians, as more particularly described in the summary of changes below. The purpose of this final-form 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 is 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 Center for North American Herpetology (CNAH) serves as a data bank for information about North American amphibians, turtles, reptiles and crocodilians. The sixth edition of their common name compilation (Collins and Taggart 2009), published in printed form on April 5, 2009, lists 621 species of amphibians, turtles, reptiles and crocodilians in the United States and Canada, an increase of 167 species since 1978 and an increase of 232 species since 1956. The Society for the Study of Amphibians and Reptiles (SSAR), a nonprofit organization established to advance research, conservation and education concerning amphibians and reptiles, publishes a similar 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 in order to better reflect current taxonomic understanding and maintain consistency with the herpetological community. PABS is a nonprofit scientific, educational and advisory organization that was formed to foster the perpetuation of the natural biological diversity of the Commonwealth. It has a number of technical committees that serve in an advisory role to Commission staff. Each technical committee of PABS is made up of volunteer taxonomic experts recognized in their field.

All of the proposed name changes were recommended by PABS in order to update the Commission's regulations and maintain consistency with the published lists referenced above. In cases where the two lists (CNAH and SSAR) conflicted, the PABS committee determined the

name that would be most consistent with current use in this Commonwealth, for the most part deferring to Crother (2008).

(1) Section 75.1(c)(2) & (3) (relating to endangered species) has been revised as follows: The revised scientific name of the New Jersey Chorus Frog is *Pseudacris kalmi*; the Coastal Plain Leopard Frog, *Rana sphenocephala*, has been removed from the large and predominately Eurasian genus, *Rana*, and is now classified as the Southern Leopard Frog, *Lithobates sphenocephalus utricularius*.

(2) Section 75.2(c)(2) (relating to threatened species) has been revised to change the common name of the Red-bellied Turtle to the Eastern Redbelly Turtle. This change will provide consistency with other published lists for this species.

(3) Section 75.3(c)(1) & (2) (relating to candidate species) has been revised as follows: The revised scientific name of the Blanding's Turtle is *Emydoidea blandingii*; the revised common and scientific name for the Broad-headed Skink, *Eumeces laticeps*, is Broadhead Skink, *Plestiodon laticeps*.

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

- The revised scientific names for the Blanding's Turtle and Broadhead Skink outlined for section 75.3(c) above have been made.
- The common name for the Northern Copperhead has been changed to simply Copperhead as the "northern" designation belongs to a sub-specific designation that is not in use in the Commonwealth.
- The scientific name of the Eastern Worm Snake has been revised to *Carphophis amoenus amoenus*.

- The scientific name of the Northern Coal Skink has been revised to *Plestiodon anthracinus anthracinus*.
- The common and scientific names for the Ravine Salamander, *Plethodon richmondi*, have been revised to Northern Ravine Salamander, *Plethodon electromorphus*, to reflect its classification as a distinct species of Ravine Salamander.
- The Striped Chorus Frog Complex, *Pseudocris feriarum feriarum*, *Pseudocris feriarum triseriata* has been split into Upland Chorus Frog, *Pseudocris feriarum*, and Western Chorus Frog, *Pseudocris triseriata*.
- The scientific name of the Bullfrog has been revised to *Lithobates catesbeiana*, to remove it from the large and predominately Eurasian genus *Rana*.
- The common and scientific names of the Green Frog, *Rana clamitans*, have been revised to Northern Green Frog, *Lithobates clamitans melanotus*, to remove it from the large and predominately Eurasian genus *Rana*.
- The common and scientific names of the Smooth Earth Snake, *Virginia valeriae*, have been revised to Eastern Smooth Earth Snake, *Virginia valeriae valeriae*, to promote consistency with published lists.

(5) Section 79.6(a) & (b) (relating to venomous snake permits) has been revised to substitute the new common name of “Copperhead” for “Northern Copperhead”.

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

#### F. *Paperwork*

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

G. *Fiscal Impact*

This 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*

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 58 Pa. Code §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-form 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 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 at Annex A.

(B) The Acting Executive Director will submit this order and Annex A to the Attorney General for approval as to legality as required by law.

(C) The Acting 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*.

For the Pennsylvania Fish and Boat Commission

Brian P. Barner  
Acting Executive Director

Annex A

Regulation No. 48A-217

Title 58. Recreation

Part II. Fish and Boat Commission

Subpart B. Fishing

CHAPTER 75. ENDANGERED SPECIES

§ 75.1. Endangered species.

\* \* \*

(c) *Reptiles and amphibians.* The following species are endangered:

\* \* \*

(2) New Jersey Chorus Frog, *Pseudacris [triseriata] kalmi*.

(3) [**Coastal Plain**] **Southern** Leopard Frog, [*Rana sphenoccephala*] **Lithobates sphenoccephalus utricularius.**

\* \* \*

§ 75.2. Threatened species.

(c) *Amphibians and reptiles.* The following species are threatened:

\* \* \*

(2) [**Red-bellied**] **Eastern Redbelly** Turtle, *Pseudemys rubriventris*.

\* \* \*

§ 75.3. Candidate species.

(c) *Amphibians and reptiles.*

(1) Blandings Turtle, [*Emys*] **Emydoidea blandingii.**

(2) [**Broad-headed**] **Broadhead** Skink, [*Eumeces*] **Plestiodon laticeps.**

\* \* \*

CHAPTER 79. REPTILES AND AMPHIBIANS

§ 79.3. Season and daily possession limits.

\* \* \*

(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
Bullfrog ( <b>[Rana]</b> <b><i>Lithobates catesbeiana</i></b> )	July 1 to October 31	10 (combined species)	20 (combined species)
<b>Northern [G]green frog</b> ( <b>[Rana]</b> <b><i>Lithobates clamitans melanotus</i></b> )	July 1 to October 31	10 (combined species)	20 (combined species)
* * *	* * *	* * *	* * *
Blanding's turtle ( <b>[Emys]</b> <b><i>Emydoidea blandingii</i></b> )	No open season	0	0
* * *	* * *	* * *	* * *
Broadhead skink ( <b>[Eumeces]</b> <b><i>Plestiodon laticeps</i></b> )	No open season	0	0
Northern coal skink ( <b>[Eumeces]</b> <b><i>Plestiodon anthracinus anthracinus</i></b> )	No open season	0	0
* * *	* * *	* * *	* * *
<b>Northern [R]ravine salamander</b> ( <i>Plethodon</i> <b><i>[richmondi] electromorphus</i></b> )	No open season	0	0
* * *	* * *	* * *	* * *
<b>[Striped chorus frog complex</b> ( <i>Pseudacris feriarum feriarum</i> , <i>P. feriarum triseriata</i> )] <b>Upland Chorus Frog</b> ( <i>Pseudacris feriarum</i> )	No open season	0	0

SPECIES	SEASON	DAILY LIMIT	POSSESSION LIMIT
<b>Western Chorus Frog</b> <i>(Pseudacris triseriata)</i>	<b>No open season</b>	<b>0</b>	<b>0</b>
***	***	***	***
<b>Eastern [S]smooth earth snake</b> <i>(Virginia valeriae valeriae)</i>	No open season	0	0
***	***	***	***
Eastern worm snake <i>(Carphophis amoenus amoenus)</i>	No open season	0	0
***	***	***	***
<b>[Northern c]Copperhead</b> <i>(Agkistrodon contortrix)</i>	Second Saturday in June to July 31	1 annual limit**	
***	***	***	***

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\*\*It is unlawful for a person to take, catch or kill more than one timber rattlesnake or [northern] 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 [northern] 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 [northern] copperhead (*Agkistrodon contortrix*) that persons who hunt, take, catch or kill these species have a permit for the activity. \*\*\*

(b) *Required permit.* It is unlawful to hunt, take, catch, kill or possess a timber rattlesnake or **[northern]** copperhead, in whole or in parts, without first procuring the required permit from the Commission. \* \* \*