

## Order Adopting Amendments

### COMMONWEALTH OF PENNSYLVANIA PENNSYLVANIA FISH AND BOAT COMMISSION

#### Title 58. Recreation Part II. Fish and Boat Commission Chapters 61 and 69 Fishing

### **Preamble**

The Fish and Boat Commission (Commission) amends Chapter 61 and Chapter 69 (relating to seasons, sizes, and creel limits; fishing in Lake Erie and boundary lakes). 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 Wayne Melnick, 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](http://www.fish.state.pa.us).

C. *Statutory Authority*

The amendments to §§61.1, 61.2, 61.4 and 69.12 are published under the statutory authority of section 2102(b) 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 and background of the amendments is described in more detail under the summary of changes.

E. *Summary of Changes*

In May 2012, the Atlantic States Marine Fisheries Commission (ASMFC) approved a coastwide stock assessment of American eel that concluded that the American eel population is depleted in United States waters. The stock is at or near historically low levels due to a combination of historical overfishing, habitat loss, food web alterations, predation, turbine mortality, environmental changes, toxins and contaminants, and disease. An independent panel of scientists that reviewed the stock assessment urged the ASMFC Board to examine alternative reference points to provide more protection to the spawning stock biomass.

In response to these findings, the ASMFC Board tasked the ASMFC American Eel Technical Committee with developing potential management actions which would reduce mortality on all life stages of American eel. A range of options was developed by the ASMFC American Eel Technical Committee and subsequent action was taken by the ASMFC Board to release certain management options for public comment. These comments were considered by the ASMFC Board when, on August 8, 2013, it approved Amendment III to the ASMFC American Eel Fisheries Management Plan. Among the requirements of this amendment is a reduction in recreational harvest of eels by way of a coastwide establishment of a creel limit of 25 fish and a size limit of 9 inches. Currently, the Commonwealth has a 50 fish creel limit for American eel coupled with an 8-inch size limit for recreational harvested eels and a 6- to 8-inch slot limit for eels harvested for bait.

ASMFC requested that its member states implement the regulatory changes by January 1, 2014. Because the Commission's final adoption of these amendments by January 1, 2014 was not possible, the

Commission's Executive Director exercised his authority under §65.25 (relating to temporary changes to fishing regulations) to make temporary modifications. The temporary modifications went into effect on January 1, 2014.

To address the coastwide regulation directed by ASMFC, the Commission amends §§ 61.1, 61.2, 61.4 and 69.12 to increase the size limit and decrease the daily limit for American eel in this Commonwealth. The Commission amends these sections to read as set forth in the notice of 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 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.

H. *Public Involvement*

A notice of proposed rulemaking containing the amendments was published at 43 Pa. B. 7095 (December 7, 2013). The Commission did not receive any public comments concerning this proposal.

## **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, 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 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 and 69, are amended by amending §§ 61.1, 61.2, 61.4 and 69.12 to read as set forth at 43 Pa. B. 7095.

(B) The Executive Director will submit this order and 43 Pa. B. 7095 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 43 Pa. B. 7095 and deposit them with the Legislative Reference Bureau as required by law.

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

For the Pennsylvania Fish and Boat Commission

John A. Arway  
Executive Director