

Notice of Proposed Rulemaking

COMMONWEALTH OF PENNSYLVANIA PENNSYLVANIA FISH AND BOAT COMMISSION

Title 58. Recreation Part II. Fish and Boat Commission Chapters 71 and 79 Fishing

Preamble

The Fish and Boat Commission (Commission) proposes to amend Chapter 71 (relating to introduction of fish into Commonwealth waters) and Chapter 79 (relating to reptiles and amphibians). The Commission is publishing this proposed rulemaking under the authority of 30 Pa. C.S. (relating to the Fish and Boat Code) (code).

A. *Effective Date*

The proposed rulemaking, if approved on final-form rulemaking, will go into effect on January 1, 2019.

B. *Contact Person*

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

C. *Statutory Authority*

The proposed amendments to § 71.7 (relating to triploid grass carp) are published under the statutory authority of section 2102 of the code (relating to rules and regulations). The proposed

amendments to §§ 79.5 (relating to snapping turtle permits), 79.6 (relating to venomous snake permits), and 79.7 (relating to organized reptile and amphibian hunt permits), are published under the statutory authority of 2904 of the code (relating to permits for protection and management of particular fish).

D. *Purpose and Background*

The specific purpose and background of the proposed amendments is described in more detail under the Summary of Proposal.

E. *Summary of Proposal*

The Commission adopted regulations at 58 Pa. Code §71.7 pertaining to the possession and introduction of triploid grass carp (white amur). To provide for proper protection and management of these fish and other fish in the waters of this Commonwealth, section 71.7 provides that permits shall be required for possessing triploid grass carp, introducing them into Commonwealth waters and importing or transporting them into this Commonwealth. A pond owner, landowner or other person who wishes to possess triploid grass carp and introduce them into a pond or waters located on property owned, leased or otherwise controlled by the person shall, before placing triploid grass carp in the waters, obtain from the Commission a Triploid Grass Carp Possession/Introduction Permit. A person who wishes to import triploid grass carp into this Commonwealth shall obtain from the Commission a Triploid Grass Carp Importation/Transportation Permit.

This Program was initiated by the Commission in January 1994. Two types of permits with associated fees were established. A Triploid Grass Carp Possession/Introduction Permit was \$20. A Triploid Grass Carp Importation/Transportation Permit was \$50. In 2012, the fee structure was re-assessed and increased to offset inflation and increasing program costs. A Triploid Grass Carp

Possession/Introduction Permit was increased to \$75. A Triploid Grass Carp Importation/Transportation Permit was increased to \$75.

The Aquatic Resource Section within the Commission's Bureau of Fisheries, Division of Environmental Services, administers the Triploid Grass Carp Program. Administering the Program requires staff to review permit applications, maintain a database, process and approve the permits. Reviewing the applications requires a technical review, some field views and clerical support. The Commission currently issues approximately 350 Triploid Grass Carp Permits per year. Staff proposes to increase the permit fees to offset increasing Program costs using the U.S. Department of Labor, Bureau of Labor Statistics Consumer Price Index (CPI), tool that is based on annual inflation rates since the fee structure was last updated in January 2012. The proposed permit fee changes adjusted with CPI inflation rate values since January 2012 for the Triploid Grass Carp Possession/Introduction Permit is proposed to be \$85; and the Triploid Grass Carp Importation/Transportation permit is proposed to be \$85.

Similarly, several amphibian and reptile permits have increasing program cost demands, and a similar increase in the fee structure approach to offset inflation and increasing program costs are proposed (e.g., using the CPI Inflation tool).

In January 2008, section 79 (Amphibian and Reptiles) was overhauled, reorganized, and updated. A permit was developed for individuals interested in the commercial collection and sale of Snapping Turtles (§ 79.5). The Snapping Turtle Permit fee was established at \$50 for PA residents and \$100 for non-residents. Under § 79.6, the Venomous Snake Permit was updated to allow permit holders to hunt for both the Copperhead and Timber Rattlesnake. The fee for the Venomous Snake Permit was increased from \$5 to \$25 for PA residents, and \$50 for non-residents in January 2008. This Program has grown significantly. The past two years have experienced a record number of permits issued since the Program began in 1984. In 2017, 1,437 Venomous Snake Permits were issued. For groups or organizations that want to conduct competitive Organized Hunts for Reptiles

and Amphibians, an Organized Reptile and Amphibian Hunt Permit may be obtained (§ 79.7). There are currently only six permits issued per year, which mainly focuses on the Timber Rattlesnake, where competitions for the largest and heaviest male snakes occur. One “turtle derby” organized hunt is also permitted annually. The Organized Reptile and Amphibian Hunt Permit was updated in January 2008 from \$25 to \$100.

The Commission’s Bureau of Law Enforcement issues the Snapping Turtle and Venomous Snake Permits. BLE staff review incoming applications and issue permits, answer questions from hunters about the application process and hunting regulations, and process permits and payments. A significant amount of time is spent on law enforcement details and permit compliance for the Venomous Snake Permit Program. The Natural Diversity Section of the Division of Environmental Services receives, reviews, and databases hunter reports, and develops end-of-year summary reports for the programs. Natural Diversity Section staff also administer the Reptile and Amphibian Organized Hunt Program (review permit applications, issue permits, and attend hunts for permit compliance purposes).

The Commission proposes to increase the permit fees for these three permit programs to offset increasing program costs using the U.S. Department of Labor, Bureau of Labor Statistics Consumer Price Index (CPI), tool that is based on annual inflation rates since the fee structure was last updated in January 2008. The table below summarizes the last fees update and newly proposed fees for January 2019:

Chapter 79 Permit	2008	2019 (proposed)
Snapping Turtle Permit-Resident	\$50	\$60
Snapping Turtle Permit-Non-Resident	\$100	\$120
Venomous Snake-Resident	\$25	\$30

Venomous Snake-Non-Resident	\$50	\$60
Organized Reptile and Amphibian Hunt	\$100	\$120

The Commission proposes to amend §§ 71.7, 79.5, 79.6, and 79.7 to read as set forth in Annex A.

F. *Paperwork*

The proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

G. *Fiscal Impact*

The proposed rulemaking will not have adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed amendment to § 71.7 will increase the Triploid Grass Carp Permit fee from \$75 to \$85. The proposed amendment to § 79.5 will increase the Snapping Turtle Permit from \$50 to \$60 for Pennsylvania residents and from \$100 to \$120 for non-residents. The proposed amendment to § 79.6 will increase the Venomous Snake Permit from \$25 to \$30 for Pennsylvania residents and from \$50 to \$60 for non-residents. The proposed amendment to § 79.7 will increase the organized Reptile and Amphibian Hunt Permit fee from \$100 to \$120.

H. *Public Comments*

Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commission, P.O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

For the Pennsylvania Fish and Boat Commission

John A. Arway
Executive Director

Annex A

Regulation No. 48A-287

Title 58. Recreation

Part II. Fish and Boat Commission

Subpart B. Fishing

CHAPTER 71. INTRODUCTION OF FISH INTO COMMONWEALTH WATERS

§ 71.7. Triploid grass carp.

* * *

(c) *Permit required.*

(1) The Commission finds, under section 2904 of the code (relating to permits for protection and management of particular fish), that permits shall be required for possessing triploid grass carp (white amur) or introducing them into Commonwealth waters and for importing or transporting triploid grass carp into this Commonwealth to provide for proper protection and management of these fish and other fish in the waters of this Commonwealth. A pondowner, landowner or other

person who wishes to possess triploid grass carp and introduce them into a pond or waters located on property owned, leased or otherwise controlled by the person shall, before placing triploid grass carp in the waters, obtain from the Commission a triploid grass carp possession/introduction permit for a fee of ~~[\$75]~~ \$85. A person who wishes to import triploid grass carp into this Commonwealth shall, before doing so, obtain from the Commission a triploid grass carp importation/ transportation permit for a fee of ~~[\$75]~~ \$85 Permits shall be applied for on forms supplied by the Commission.

Applications for permits may be obtained from: Triploid Grass Carp Manager, Bureau of Fisheries, **[450 Robinson Lane] East Rolling Ridge Drive**, Bellefonte, PA 16823[-**9616**]. Permits will not be issued until after January 1, 1994.

CHAPTER 79. REPTILES AND AMPHIBIANS

§ 79.5. Snapping turtle permits.

(a) 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 common snapping turtle (*Chelydra serpentina*) that persons who hunt, take, catch or kill this species for the purpose of sale, barter or trade have an annual permit for the activity. Application for a permit must be made on a form prescribed by the Commission and must be accompanied by the appropriate fee. Permits may be obtained by applying to: Natural Diversity Section Chief, Division of Environmental Services, **[450 Robinson Lane] East Rolling Ridge Drive**, Bellefonte, PA 16823[-**9616**]. The fee for residents is ~~[\$50]~~ \$60 per year; the fee for nonresidents is ~~[\$100]~~ \$120 per year.

The denial of a permit under this section is appealable in the manner provided by Chapter 51, Subchapter E (relating to permit procedures).

§ 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 copperhead (*Agkistrodon contortrix*) that persons who hunt, take, catch or kill these species have a permit for the activity. Application for a permit must be made on a form prescribed by the Commission and accompanied by the appropriate fee. Permits may be obtained by applying to: Natural Diversity Section Chief, Division of Environmental Services, 450 Robinson Lane, Bellefonte, Pennsylvania 16823-9616. The fee for residents is ~~[\$25]~~ \$30 per year; the fee for nonresidents is ~~[\$50]~~ \$60 per year. The denial of a permit under this section is appealable in the manner provided by Chapter 51, Subchapter E (relating to permit procedures).

(b) *Required permit.* It is unlawful to hunt, take, catch, kill or possess a timber rattlesnake or copperhead, in whole or in parts, without first procuring the required permit from the Commission. The required permit shall be in the possession of the permittee at all times while hunting. Permittees shall comply with the terms and conditions of the permit and furnish the reports required thereby. It is unlawful to alter, borrow, lend or transfer a permit under this section.

(c) *Reporting.* Within 10 business days following the capture or kill, or if no snake is captured or killed, within 10 days of the conclusion of the season, the permittee shall complete a report on the

form prescribed by the Commission and shall mail the report to the Commission's Natural Diversity Section, **[450 Robinson Lane] East Rolling Ridge Drive**, Bellefonte, PA 16823**[-9616]**.

§ 79.7. Organized reptile and amphibian hunt permits.

(a) *Application.* The Commission finds, under section 2904 of the code (relating to permits for protection and management of fish), that it is necessary for the proper protection and management of reptiles and amphibians in this Commonwealth that organized reptile and amphibian hunts be conducted under permits issued under this section. The sponsor of an organized reptile and amphibian hunt shall apply for a permit by no earlier than January 1 and no later than March 1 of the year for which the hunt is proposed. Application for a permit must be made on a form prescribed by the Commission and must be accompanied by the appropriate fee. Permits may be obtained by applying to: Natural Diversity Section Chief, Division of Environmental Services, **[450 Robinson Lane] East Rolling Ridge Drive**, Bellefonte, PA 16823**[-9616]**. The fee for the permit is **[\$100]** **\$120**. The denial of a permit under this section is appealable in a manner provided by Chapter 51, Subchapter E (relating to permit procedures).