

Notice of Proposed Rulemaking

COMMONWEALTH OF PENNSYLVANIA PENNSYLVANIA FISH AND BOAT COMMISSION

Title 58. Recreation Part II. Fish and Boat Commission Chapter 63 Fishing

Preamble

The Fish and Boat Commission (Commission) proposes to amend Chapter 63 (relating to general fishing regulations). 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, 2009.

B. *Contact Person*

For further information on the proposed rulemaking, contact Laurie E. Shepler, 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 addition of § 63.53 (relating to egg collection) is published under the statutory authority of section 2102(a) of the code (relating to rules and regulations).

D. *Purpose and Background*

The proposed rulemaking is designed to improve, enhance and update the Commission's fishing regulations. The specific purpose of the proposed regulation is described in more detail under the summary of proposal.

E. *Summary of Proposal*

The Commission's waterways conservation officers during the past year encountered anglers catching large female brown trout and removing the eggs contained within the fish. The fish were released back into the waters from which they were taken. The anglers indicated that they used these eggs as bait to fish for trout in other water areas. The continued removal of eggs from large female trout may have a detrimental effect on the numbers of young of the year fish in a wild trout population and likely cause undue harm to a fish that is released. Currently, the regulations require that fish must be released immediately unharmed from most specially regulated trout waters. Officers successfully charged two individuals for a violation of this regulation and, in doing so, had to prove that the fish were harmed by the removal of the eggs. In order to clearly prohibit this activity, the Commission proposes that a new regulation be added to read as set forth in Annex A.

By notice published in the *Pennsylvania Bulletin* at 38 Pa. B. 3875 (July 12, 2008), the Executive Director, acting under the authority of §65.25 (relating to temporary changes to fishing regulations), took immediate action to make it unlawful to take eggs from a fish taken from waters of this Commonwealth outside the Lake Erie watershed or to possess these eggs or use them as bait. Eggs taken from lawfully harvested fish from the Lake Erie watershed may be

possessed and used as bait in the Lake Erie watershed only. This temporary modification went into effect immediately and will remain in effect until January 1, 2009, unless the Commission, by appropriate action, adopts the new regulation.

F. *Paperwork*

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

G. *Fiscal Impact*

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

H. *Public Comments*

Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Pennsylvania 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

Douglas J. Austen, Ph.D.
Executive Director

Annex A

Regulation No. 48A-205

Title 58. Recreation

Part II. Fish and Boat Commission

Subpart B. Fishing

CHAPTER 63. GENERAL FISHING REGULATIONS

§63.53. Egg collection.

It is unlawful to take eggs from a fish taken from waters of this Commonwealth outside the Lake Erie watershed or to possess these eggs or use them as bait. Eggs taken from lawfully harvested fish from the Lake Erie watershed may be possessed and used as bait in the Lake Erie watershed only. This section does not prohibit the possession of eggs contained within a lawfully harvested fish that is possessed for the purpose of human consumption.