

Notice of Proposed Rulemaking

COMMONWEALTH OF PENNSYLVANIA PENNSYLVANIA FISH AND BOAT COMMISSION

Title 58. Recreation Part II. Fish and Boat Commission Chapter 69 Fishing

Preamble

The Fish and Boat Commission (Commission) proposes to amend Chapter 69 (relating to fishing in Lake Erie and boundary lakes). 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, 2011.

B. *Contact Person*

For further information on the proposed rulemaking, contact Jason E. Oyler, 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 amendment to § 69.31 (relating to seasons) is published under the statutory authority of section 2903 of the code (relating to boats and net licenses for boundary lakes).

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 amendment is described in more detail under the summary of proposal.

E. *Summary of Proposal*

The harvest of Lake Erie walleye and yellow perch is managed through a quota management system, where each Lake Erie jurisdiction on the Lake Erie Committee (Pennsylvania, Ohio, Michigan, New York and Ontario) is allocated a portion of a total lake wide annual quota, based on the surface area of each jurisdictional water. Jurisdictional Total Allowable Catch (TAC) is the maximum harvest allowed by sport and commercial sources in individual jurisdictional waters.

The Commission's Lake Erie Research Unit generates an internally derived commercial TAC for the Commonwealth's yellow perch and walleye trap net fisheries. The Commission's current regulations provide that the commercial trap net TAC for the Commonwealth must be published annually in the *Pennsylvania Bulletin* by March 1. This date poses two problems: (1) the most recent year's fishery data is still being finalized at that time; and (2) this date precedes announcement of the Lake Erie Committee TAC, which sets the TAC (sport and commercial) permissible in Commonwealth waters. Extending the announcement of the walleye and yellow perch TAC for the Commonwealth until April 15 will allow the Commission's Lake Erie management biologists additional time to review and integrate contemporary fishing data into the Commonwealth's TAC calculations and provide time for the formal announcement of Lake Erie Committee TAC. This also will ensure that the Commonwealth's trap net harvest limits are aligned with lake wide harvest strategies. The Commission therefore proposes to amend section 69.31 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 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

Brian P. Barner
Acting Executive Director

Annex A

Regulation No. 48A-218

Title 58. Recreation

Part II. Fish and Boat Commission

Subpart B. Fishing

CHAPTER 69. FISHING IN LAKE ERIE AND BOUNDARY LAKES

§69.31. Seasons.

* * *

(b) The commercial fishing season for walleye is January 1 to March 14 and 12:01 a.m. the first Saturday in May to December 31. This season will close on the date established by the Executive Director as marking the probable attainment of the total allowable catch for walleye for that year. The total allowable catch for walleye for any year will be determined by the Executive Director and announced annually on or before **[March 1] April 15**. After the announcement, the Executive Director may, from time to time, revise the total allowable catch for that year if he determines that conditions so warrant. * * *

(c) The commercial fishing season for yellow perch is January 1 until the date established by the Executive Director as marking the probable attainment of the total allowable catch for yellow perch for that year. The total allowable catch for yellow perch for any year will be determined by the Executive Director and announced on or before **[March 1] April 15**. After the announcement, the Executive Director may revise the total allowable catch for that year if he determines that conditions so warrant. * * *