

## Notice of Proposed Rulemaking

### COMMONWEALTH OF PENNSYLVANIA PENNSYLVANIA FISH AND BOAT COMMISSION

#### Title 58. Recreation Part II. Fish and Boat Commission Chapter 65 Fishing

## Preamble

The Fish and Boat Commission (Commission) proposes to amend 58 Pa. Code Chapter 65 (relating to special 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). The proposed amendments modify and update the Commission's fishing regulations.

#### A. *Effective Date*

The proposed rulemaking, if approved on final-form rulemaking, will go into effect upon publication in the *Pennsylvania Bulletin*.

#### 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](http://www.fish.state.pa.us).

#### C. *Statutory Authority*

The proposed amendment to §65.24 (relating to miscellaneous special regulations) is published under the statutory authority of section 2307 of the code (relating to waters limited to specific purposes).

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*

Opossum Lake, a 59-acre impoundment owned by the Commission, is located in Lower Frankford Township, Cumberland County, approximately six miles west-northwest of the Borough of Carlisle. This lake was completely dewatered in 2008 to make dam and spillway repairs and modifications per Pennsylvania Department of Environmental Protection Dam Safety standards. The dam, constructed in 1960, impounds Opossum Creek approximately one-half mile upstream from the mouth at Conodoguinet Creek. Access to the shoreline is primarily from the eastern shore where a paved road parallels 75% of this shoreline. Additionally, two concrete boat ramps provide boat access for non-powered and electric motor craft. Prior to the drawdown, the lake offered angling opportunities for multiple warm and coolwater fish species and adult stocked trout originating from Commission spring, fall and winter plants. This is the second time the lake has been subject to a full drawdown, the first occurring in 1985. A successful grass roots effort was launched to secure funding to assist in the rebuilding of the dam structure. As a result, refilling of the lake is anticipated to begin in the spring of 2012.

The Commission plans to reclaim the lake and establish a high quality warm and coolwater fishery through fingerling plants of select species and a two-year moratorium on adult trout stocking. This approach is necessary to facilitate development of a self-sustaining shiner population, which will provide forage for game and panfish populations. The Commission proposes to open the lake to fishing under a miscellaneous special regulation that will allow for the harvest of trout under Commonwealth inland seasons, sizes and creel limits but allow only catch and release fishing for all

other fish species. The Commission believes this approach will allow the fishery to develop under protective regulations while offering acceptable levels of recreational angling opportunities.

The positive aspect of this proposal is that the lake will provide anglers the opportunity to fish for adult trout beginning two years following refilling and provide immediate angling opportunities for warm and cool water fish populations as they grow and reach acceptable lengths for angling. The two-year loss of recreational angling opportunities for stocked adult trout is a negative aspect of this restoration plan; however, the Commission believes that the benefits outweigh the short-term loss of recreation. Commission staff will monitor the fish populations and recommend appropriate special regulations prior to 2016 should the fish populations develop more quickly than anticipated. The black bass population previously residing in Opossum Lake was managed through the Big Bass Program. With respect to the catchable trout program, there are numerous alternative stream fishing opportunities throughout the Cumberland Valley and surrounding areas, and several lakes in the area stocked with adult trout have been providing recreational angling opportunities during the current draw down period.

The Commission proposes that §65.24 be amended to read as set forth in Annex A.

F. *Paperwork*

The proposed rulemaking will not increase paperwork and will create no 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, 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](http://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-233**

**Title 58. Recreation**

**Part II. Fish and Boat Commission**

***Subpart B. Fishing***

CHAPTER 65. **SPECIAL** FISHING REGULATIONS

§65.24. Miscellaneous special regulations.

The following waters are subject to the following miscellaneous special regulations:

<i>County</i>	<i>Name of Water</i>	<i>Special Regulations</i>
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<b><u>Cumberland</u></b>	<b><u>Opossum Lake</u></b>	<p><b><u>All species except trout – catch and release/no harvest; it is unlawful to take, kill or possess any fish except trout. All fish caught other than trout must be immediately returned unharmed.</u></b></p> <p><b><u>Trout – inland regulations apply. See §61.1 (relating to Commonwealth inland waters). This miscellaneous special regulation will remain in effect until June 18, 2016.</u></b></p>
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