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PROPOSED RULEMAKING

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 69]

Fishing; Sport Fishing and Angling

[51 Pa.B. 5685]

[Saturday, September 4, 2021]

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 Fish and Boat Code) (code). The proposed amendments will simplify regulations pertaining to the Lake Erie basin while improving salmonid management and improving the fishery for that species group.

A. *Effective Date*

This proposed rulemaking, if approved on final-form rulemaking, will go into effect on January 1, 2022.

B. *Contact Person*

For further information on this 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 web site at www.fishandboat.com.

C. *Statutory Authority*

The proposed amendments to § 69.12 (relating to seasons, sizes and creel limits—Lake Erie, Lake Erie tributaries and Presque Isle Bay including peninsula waters) are published under the statutory authority of section 2102(b) (relating to rules and regulations) of the code.

D. *Purpose and Background*

The specific purpose and background of the proposed amendments are described in more detail under the summary of proposal.

E. *Summary of Proposal*

The Commission has identified an opportunity to simplify regulations pertaining to the Lake Erie basin while improving upon salmonid management and optimizing the fishery for that species group. A modification to regulations applied to trout and salmon to align with a proposed amendment to Commonwealth inland waters regulations in § 61.1 (relating to Commonwealth inland waters) pertaining to the start of the trout season would allow anglers to more easily identify when fishing and harvest are permitted. Current regulations prohibit fishing and possession of trout and salmon from 12:01 a.m. on the Friday before the first Saturday after April 11 until 8 a.m. on the first Saturday after April 11. If the proposed amendments to Commonwealth inland waters regulations were to be adopted, it would result in one Statewide opening day of regular season for

trout on the first Saturday in April. To better align these regulations to those of the Lake Erie basin, § 69.12 could be amended to prohibit fishing and possession of trout and salmon from 12:01 a.m. on the Friday before the first Saturday in April until 8 a.m. on the opening day of regular season for trout (that is, first Saturday in April).

In addition to regulation simplification and alignment, a modification to the daily creel and minimum size limits for both rainbow trout (steelhead) and lake trout would potentially enhance angling opportunities for those species. Current daily creel limits allow for the harvest of five fish (only two of which may be lake trout) greater than or equal to 9 inches in total length from 8 a.m. on the first Saturday after April 11 through Labor Day. Lake Erie and its tributaries generate hundreds of thousands of angler trips for steelhead resulting in millions of dollars of economic benefit to local economies around Lake Erie. Lower daily creel and increased minimum size limits would reduce the potential for overharvest and prohibit harvest of intermediate-sized rainbow trout and lake trout while further promoting the trophy component of the fishery.

Lake trout are an important component of the Lake Erie ecosystem and recreational fishery. Through representation on the Lake Erie Committee, the Commission cooperatively manages lake trout with other member jurisdictions to advance restoration and optimize the recreational fishery. A reduction in the daily creel to one fish per day during the open season could potentially improve lake trout rehabilitation efforts by minimizing the number of spawning stock harvested. Additionally, a daily creel limit of one fish per day would align regulations pertaining to lake trout in Commonwealth waters of Lake Erie with New York.

In summary, Commission staff recommend amendments to the Lake Erie basin angling regulations pertaining to salmonids for regulatory consistency and simplicity by aligning the trout and salmon seasons with the proposed amendment to Commonwealth inland waters regulations, and modifying the daily creel and minimum size limits for rainbow trout and lake trout to optimize those fisheries. It should be noted that amending the daily creel limit of rainbow trout from five to three and minimum size limit from 9 inches to 15 inches from 8 a.m. on the opening day of the regular season for trout and salmon through Labor Day will not impact the creel or size limit for brown trout, a popular put-and-take fishery during the months of April and May. Additionally, a reduction to the daily creel limit of lake trout from two to one and increase in the minimum size from 9 inches to 15 inches provides further protection to the population which is consistent with ongoing multijurisdictional rehabilitation efforts in Lake Erie.

The Commission proposes that § 69.12 be amended to read as set forth in Annex A.

F. Paperwork

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

G. Fiscal Impact

This proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions.

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about this 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.

TIMOTHY D. SCHAEFFER,
Executive Director

Fiscal Note: 48A-319. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 69. FISHING IN LAKE ERIE AND BOUNDARY LAKES

Subchapter B. SPORT FISHING AND ANGLING

§ 69.12. Seasons, sizes and creel limits—Lake Erie, Lake Erie tributaries and Presque Isle Bay including peninsula waters.

* * * * *

(d) It is unlawful to fish in or along any Lake Erie tributary stream from 12:01 a.m. on the Friday before the **[first Saturday after April 11 until 8 a.m. on the first Saturday after April 11] opening day of the regular season for trout until 8 a.m. on the opening day of the regular season for trout.**

(e) It is unlawful to possess trout or salmon in or along any Lake Erie tributary stream from 12:01 a.m. on the Friday before the **[first Saturday after April 11 until 8 a.m. on the first Saturday after April 11] opening day of the regular season for trout until 8 a.m. on the opening day of the regular season for trout.**

(f) Except as otherwise provided in subsections (d) and (e) and this subpart, the following seasons, sizes and creel limits apply to Lake Erie, Lake Erie tributaries and Presque Isle Bay, including peninsula waters:

SPECIES	SEASONS	MINIMUM	DAILY
		SIZE	LIMIT
	* * * * *		
BASS Largemouth Smallmouth	January 1 to first Saturday after April 11 and first Saturday after June 11 until December 31.	15 inches	4 (combined species)
	First Saturday after April 11 until first Saturday after June 11.*	20 inches	1

BROOK and BROWN TROUT
[and SALMON]

8 a.m. [**first Saturday after April 11**] **the opening day of the regular season for trout** until midnight Labor Day.

9 inches

5 (combined species [**only 2 of which may be lake trout**]).

12:01 a.m. the day after Labor Day until 12:01 a.m. on the Friday before the [**first Saturday after April 11**] **opening day of the regular season for trout.**

15 inches

3 (combined species [**only 2 of which may be lake trout**]).

RAINBOW TROUT and SALMON

8 a.m. the opening day of the regular season for trout until 12:01 a.m. the Friday before the opening day of the regular season for trout the following year.

15 inches

3

LAKE TROUT

8 a.m. the opening day of the regular season for trout until 12:01 a.m. the Friday before the opening day of the regular season for trout the following year.

15 inches

1

STURGEON

No open season

ENDANGERED SPECIES

* * * * *

[Pa.B. Doc. No. 21-1466. Filed for public inspection September 3, 2021, 9:00 a.m.]

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