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PROPOSED RULEMAKING

FISH AND BOAT COMMISSION

[58 PA. CODE CHS. 61, 63, 65 AND 69]

Fishing

[51 Pa.B. 5679]

[Saturday, September 4, 2021]

The Fish and Boat Commission (Commission) proposes to amend Chapters 61, 63, 65 and 69. 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 black bass, while improving their management and optimizing the fishery for this 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 §§ 61.1, 61.2 and 69.12 (relating to Commonwealth inland waters; Delaware River, West Branch Delaware River and River Estuary; and 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. The proposed amendments to §§ 63.43 and 65.9 (relating to fishing for bass during spring season; and big bass) are published under the statutory authority of section 2102(a) of the code. The proposed amendment to § 65.24 (relating to miscellaneous special regulations) is published under the statutory authority of section 2307(a) (relating to waters limited to specific purposes) 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*

Commission staff have identified an opportunity to simplify regulations pertaining to black bass (that is, largemouth bass, smallmouth bass and spotted bass) while improving upon black bass management and optimizing the fishery for that species group. A modification to black bass regulations pertaining to the start and end of seasons, creel and minimum size limits and uniformity among resources categories (that is, lakes, rivers and streams) would allow anglers to interpret

regulations more easily. Amendments to Commonwealth inland waters in § 61.1, big bass in § 65.9, miscellaneous special regulations in § 65.24 and Lake Erie basin regulations in § 69.12 are warranted.

Current Commonwealth inland waters angling regulations require catch and immediate release of black bass from 12:01 a.m. the first Saturday after April 11 to 12:01 a.m. the first Saturday after June 11. Black bass seasons defined in Commonwealth inland waters regulations are also incorporated in other special regulations or watershed-specific regulations, or both, requiring changes to multiple regulations specific to the management of black bass throughout the Commonwealth. Additionally, black bass daily creel and minimum size limits are not consistent among lakes, rivers and streams, which can lead to regulatory confusion by anglers.

For these reasons, Commission staff recommend amendments to Commonwealth inland waters regulations specific to black bass. In doing so, amendments to seasons as defined in big bass regulations, miscellaneous special regulations and Lake Erie basin regulations are warranted to establish regulatory consistency. This slight modification to seasons is expected to have minimal impact to both general angling for black bass as well as tournaments. Additionally, aligning black bass daily creel and minimum size limits for waters managed under Commonwealth inland waters regulations eliminates regulatory complexity, while continuing to provide adequate protection to the resource.

The Commission proposes that §§ 61.1, 61.2, 63.43, 65.9, 65.24 and 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 two 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-320. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 61. SEASONS, SIZES AND CREEL LIMITS

§ 61.1. Commonwealth inland waters.

* * * * *

(d) Except as otherwise provided in this subpart, the following seasons, sizes and creel limits apply to inland waters of this Commonwealth and the Youghiogeny Reservoir:

SPECIES	SEASONS					MINIMUM DAILY SIZE	LIMIT
	*	*	*	*	*		
AMERICAN EEL						9 inches	25
[BASS—Largemouth and Smallmouth and Spotted Lakes:]						[15 inches]	[4 (combined species from all habitats)]
[12:01 a.m. the first Saturday after April 11 to 12:01 a.m. the first Saturday after June 11]						[NO HARVEST—Catch and immediate release only (No Tournaments Permitted)]	
[12:01 a.m. the first Saturday after June 11 to midnight October 31]						[12 inches]	[6 (combined species)]
BASS—Largemouth and Smallmouth and Spotted [Rivers and Streams*:]						15 inches	4 (combined species)
12:01 a.m. the [first Saturday after April 11] <u>second Saturday in April</u> to 12:01 a.m. the [first Saturday after June 11] <u>second Saturday in June</u>						NO HARVEST—Catch and immediate release only (No Tournaments Permitted)	
12:01 a.m. the [first Saturday after June 11] <u>second Saturday in June</u> to midnight September 30						12 inches	6 (combined species)
	*	*	*	*	*		

[*For purposes of this subsection, power dam pools and recreational dam pools on the Susquehanna River and navigational pools in the Ohio drainage are "rivers."]

[] * Note:** Stocked trout waters are closed to all fishing from **[March 1 to the first Saturday after April 11 unless included in the Regional Opening Day of Trout Season Program (see § 65.12 (relating to regional opening day of trout season)). Waters included in the Regional Opening Day of Trout Season Program are closed to all fishing from March 1 to the first Saturday after March 28] the third Monday in February to the second Saturday in April.**

[*] Note:** Unlawful to take, catch or kill American shad, hickory shad and river herring (alewife and blueback herring) in Susquehanna River and its tributaries. See §§ 61.4 and 61.7 (relating to Conowingo Reservoir; and Susquehanna River and tributaries).

§ 61.2. Delaware River, West Branch Delaware River and River Estuary.

* * * * *

(e) The following seasons, sizes, and creel limits apply to the Delaware River, West Branch Delaware River and Delaware River tributaries, from the mouths of the tributaries upstream to the limit of the tidal influence and the Lehigh River from its mouth upstream to the first dam in Easton, Pennsylvania:

SPECIES	SEASONS	MINIMUM DAILY SIZE	LIMIT
BASS Largemouth Smallmouth	January 1 to midnight the day before the [first Saturday after April 11] <u>second Saturday in April</u> and 12:01 a.m. the [first Saturday after June 11] <u>second Saturday in June</u> to midnight December 31	12 inches	5 (combined species)
12:01 a.m. the [first Saturday after April 11] <u>second Saturday in April</u> to 12:01 a.m. the [first Saturday after June 11] <u>second Saturday in June</u>	NO HARVEST—Catch and immediate release only		

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CHAPTER 63. GENERAL FISHING REGULATIONS

§ 63.43. Fishing for bass during spring season.

(a) During the period from 12:01 a.m. on the **[first Saturday after April 11] second Saturday in April** until 12:01 a.m. on the **[first Saturday after June 11] second Saturday in June**:

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CHAPTER 65. SPECIAL FISHING REGULATIONS

§ 65.9. Big bass.

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(b) It is unlawful to take, catch, kill or possess a largemouth, smallmouth or spotted bass on or in designated "big bass" waters except in compliance with the following seasons and size and creel limits. It is not a violation of this section if the bass is immediately returned unharmed to the waters from which it is taken.

Seasons	Size (in)	Creel Limit
<i>Lakes:</i>		
January 1 to midnight the day before the [first Saturday after April 11] second Saturday in April and 12:01 a.m. the [first Saturday after June 11] second Saturday in June to midnight December 31	15	4 (combined species)
12:01 a.m. the [first Saturday after April 11] second Saturday in April to 12:01 a.m. the [first Saturday after June 11] second Saturday in June		NO HARVEST— Catch and immediate release only
<i>Rivers and Streams:</i>		
January 1 to midnight the day before the [first Saturday after April 11] second Saturday in April and October 1 to midnight December 31	18	2 (combined species)
12:01 a.m. the [first Saturday after April 11] second Saturday in April to 12:01 a.m. the [first Saturday after June 11] second Saturday in June		NO HARVEST— Catch and immediate release only
12:01 a.m. the [first Saturday after June 11] second Saturday in June to midnight September 30	15	4 (combined species)

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§ 65.24. Miscellaneous special regulations.

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

County	Name of Water	Special Regulations
	* * * * *	
Clarion	Beaver Creek Ponds	Closed to fishing from 12:01 a.m. January 1 to 12:01 a.m. the [first Saturday after June 11] second Saturday in June of each year. Bass—15 inch minimum size limit and a 2 bass daily creel limit for the total project area. Panfish (combined species) 10 fish daily creel limit for the total project area. Other species-inland regulations apply.
	* * * * *	
Cumberland, Dauphin, Juniata, Lancaster, Northumberland, Perry, Snyder, York	Susquehanna river (98.0 miles) from the inflatable dam near Sunbury downstream to Holtwood Dam, including all tributaries to a point 1/2 mile upstream from the confluence	Bass (Smallmouth and Largemouth)—No harvest year-round—catch and immediate release only. From 12:01 a.m. the [first Saturday after April 11] second Saturday in April to 12:01 a.m. the [first Saturday after June 11] second Saturday in June —No Bass tournaments. Remainder of the year—Catch-measure—immediate release tournaments only. It is unlawful for an angler to repeatedly cast into a

Dauphin,
Juniata, Perry

Juniata River (31.7 miles) from SR0075 bridge at Port Royal downstream to the mouth, including all tributaries to a point 1/2 mile upstream from the confluence

clearly visible bass spawning nest or bed in an effort to catch or take bass. A bass caught and immediately returned unharmed to the waters from which taken will not be considered a violation of this section.

Bass (Smallmouth and Largemouth)—No harvest year-round—catch and immediate release only. From 12:01 a.m. the **[first Saturday after April 11] second Saturday in April** to 12:01 a.m. the **[first Saturday after June 11] second Saturday in June**—No Bass tournaments.

Remainder of the year—Catch-measure—immediate release tournaments only. It is unlawful for an angler to repeatedly cast into a clearly visible bass spawning nest or bed in an effort to catch or take bass. A bass caught and immediately returned unharmed to the waters from which taken will not be considered a violation of this section.

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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.

* * * * *

(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] second Saturday in April and [first Saturday after June 11] second Saturday in June until December 31.	15 inches	4 (combined species)
	[First Saturday after April 11] Second Saturday in April until [first Saturday after June 11] second Saturday in June. *	20 inches	1
	* * * * *		

* It is unlawful to conduct or participate in a fishing tournament (as defined in § 63.40 (relating to fishing tournaments and fishing derbies)) for bass on Lake Erie, Lake Erie tributaries or Presque Isle Bay during the period from the **[first Saturday after 11 until the first Saturday after June 11] second Saturday in April until the second Saturday in June.**

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