

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 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).

A. *Effective Date*

The proposed rulemaking, if approved on final-form rulemaking, will go into effect on June 19, 2016.

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 amendments to § 65.24 (relating to miscellaneous special regulations) are 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 amendments is described in more detail under the summary of proposals.

E. *Summary of Proposals*

(1) Opossum Lake, a 47-acre impoundment owned by the Commonwealth and managed by the Commission, is located in Lower Frankford Township, Cumberland County, approximately six miles west-northwest of the Borough of Carlisle. The dam impounds Opossum Creek at river-mile 0.5. This lake was completely dewatered in October 2008 to make dam and spillway repairs and modifications per dam safety standards of the Pennsylvania Department of Environmental Protection (DEP). Following completion of the dam and spillway repairs and modifications as well as construction of numerous habitat enhancement devices, the impoundment was refilled and the Commission resumed annual adult trout stocking during spring 2013 to provide angling opportunities for stocked trout. Additionally, the Commission began to re-establish a high quality warm- and cool-water fishery through fingerling plants of select fish species beginning in summer 2013. This process remains on-going.

Immediately upon refilling of the lake, the Commission opened the lake to fishing under a miscellaneous special regulation that allows for the harvest of trout under Commonwealth inland seasons, sizes, and creel limits but allows catch and release fishing only for all other fish species. The Commission took this approach to allow a balanced fishery to develop under protective regulations while offering acceptable levels of recreational angling opportunities. This regulation will remain in effect until June 18, 2016.

Based on a recent assessment of the fish community, the fishery continues to develop; however, the fishery has not progressed to levels where the Commission believes that regulations should be relaxed at this time. Therefore, the Commission proposes that the current miscellaneous special regulation be extended until such time as deemed appropriate for its removal. Commission staff will continue to monitor the fish populations as they develop and make the necessary adjustments to the species being stocked and the regulations governing the fishery to continually provide high quality recreational angling opportunities at Opossum Lake. Once the warmwater fishery has been re-established, the Commission will propose that the lake be removed from the miscellaneous special regulation and included in one of the Commission's existing warmwater regulation programs.

The Commission proposes to amend § 65.24 to read as set forth in Annex A.

(2) Leaser Lake, a 117-acre impoundment owned by the Commonwealth and managed by the Commission, is located in Lynn Township, Lehigh County, approximately 20 miles west-northwest of Allentown. The dam impounds an unnamed tributary to Ontelaunee Creek. This lake was completely dewatered in 2008-2009 to make dam and spillway repairs and modifications per DEP dam safety standards. Following completion of the dam and spillway repairs and modifications as well as construction of numerous habitat enhancement devices, the impoundment was nearly refilled by spring 2013, then partially drained by 20 feet in late summer 2014 for additional repairs and fully refilled in 2015. The Commission resumed annual adult trout stocking during spring 2013 to provide angling opportunities for stocked trout. Additionally, the Commission began to re-establish a high quality warm- and cool-water fishery through fingerling plants of select fish species beginning in 2013. This process remains on-going albeit with some cancellations, such as walleye fingerlings, required in 2014 due to the partial drawdown.

Immediately upon refilling of the lake, the Commission opened the lake to fishing under a miscellaneous special regulation that allowed for the harvest of trout under Commonwealth inland seasons, sizes, and creel limits but allowed catch and release fishing only for all other fish species. The Commission took this approach to permit balanced fish populations to develop under protective regulations while offering acceptable levels of recreational angling opportunities. This regulation will remain in effect until June 18, 2016.

Based on the stocking delay that occurred, a recent fisheries management assessment of the fish community and information from Commission staff and anglers regarding their catches, the growth and abundances of warmwater/coolwater fish populations have not progressed to levels where staff believe that regulations should be relaxed at this time. Therefore, the Commission proposes that the current miscellaneous special regulation be extended until such time as deemed appropriate for its removal. Commission staff will continue to monitor the fish populations as they mature, make necessary adjustments to the species and numbers being stocked, and select regulations governing the fisheries with the goal of providing high quality recreational angling opportunities at Leaser Lake. Once the warmwater/coolwater fish populations have been re-established, the Commission will propose that the lake be removed from the miscellaneous special regulation and included in one of the Commission's existing warmwater regulation programs.

The Commission proposes to amend § 65.24 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 not have adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will not impose 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. 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-269

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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<u>Cumberland</u>	<u>Opossum Lake</u>	<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> <u>Trout—Inland regulations apply. See § 61.1 (relating to Commonwealth inland waters).</u>
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<u>Lehigh</u>	<u>Leaser Lake</u>	<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> <u>Trout—Inland regulations apply. See § 61.1 (relating to Commonwealth inland waters).</u>
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