

Notice of Proposed Rulemaking

COMMONWEALTH OF PENNSYLVANIA PENNSYLVANIA FISH AND BOAT COMMISSION

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

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). The proposed amendments update the Commission's waters subject to special fishing regulations.

A. *Effective Date*

This 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 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 § 65.24 (relating to miscellaneous special regulations) are published under the statutory authority of section 2307 of the code (relating to waters limited to a specific purpose).

D. *Purpose and Background*

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

E. *Summary of Proposal*

Donegal Lake, a 90-acre impoundment owned by the Commonwealth of Pennsylvania and managed by the Pennsylvania Fish and Boat Commission, is located in Donegal Township, Westmoreland County, approximately 1.2 miles northeast of the Borough of Donegal. This reservoir was completely dewatered during fall 2016 to complete a control tower, dam and spillway repairs, and modifications per Pennsylvania Department of Environmental Protection dam safety standards. The earth-fill dam, constructed in 1967, impounds Fourmile Run at river-mile 13.0 upstream from its confluence with Loyalhanna Creek at river-mile 32.7. Prior to the drawdown in 2016, the lake offered angling opportunities for multiple warm-water and cool-water fish species, as well as adult trout stocked by the Commission. Dam and spillway repairs are expected to be completed by early-winter 2019 with re-filling initiated soon after.

The Commission plans to initiate stocking the lake beginning in spring 2020 or as soon as refilling conditions allow with fingerling plants of select fish species to establish a high quality warm-water fishery. Immediately upon refilling of the lake, staff propose to open the lake to fishing under a miscellaneous special regulation that will allow for the harvest of trout under Commonwealth Inland Waters angling regulations but allow only catch and release fishing for all other fish species. Staff believe that this approach will allow for the most rapid development

of a balanced warm-water and cool-water fish community, while offering acceptable levels of recreational angling opportunities. Fisheries Management staff will monitor the fish populations as needed while they develop and make necessary modifications to the species stocked and recommend adjustments to the regulations governing fish harvest to the Board of Commissioners to continually provide high quality recreational angling opportunities at Donegal Lake. Once the warm-water fishery has been reestablished, the lake will be recommended for removal from the miscellaneous special regulation and inclusion in one of the Commission's existing warm-water regulation programs.

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 not create new paperwork requirements.

G. *Fiscal Impact*

The 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.

For the Pennsylvania Fish and Boat Commission

Timothy D. Schaeffer
Executive Director

Annex A

Regulation No. 48A-293

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>Westmoreland</u>	<u>Donegal 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. Trout – inland regulations apply. See §61.1 (relating to Commonwealth inland waters). This miscellaneous special regulation will remain in effect until further notice.</u>
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