

## **Notice of Proposed Rulemaking**

### **COMMONWEALTH OF PENNSYLVANIA PENNSYLVANIA FISH AND BOAT COMMISSION**

#### **Title 58. Recreation Part II. Fish and Boat Commission Chapter 61 Seasons, Sizes, and Creel Limits**

### **Preamble**

The Fish and Boat Commission (Commission) proposes to amend Chapter 61 (relating to seasons, sizes, and creel limits). 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 regulations concerning Striped Bass fishing in the Delaware River and Estuary.

#### **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 website at [www.fishandboat.com](http://www.fishandboat.com).

#### **C. *Statutory Authority***

The proposed amendments to § 61.2 (relating to Delaware River, West Branch Delaware River, and River Estuary) are published under the statutory authority of 2102(b) of the code (relating to rules and regulations).

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*

The Atlantic States Marine Fisheries Commission's (ASMFC) management plan for Striped Bass calls for management actions when the coast-wide spawning stock biomass (SSB) or fishing mortality rates reach thresholds set within the management plan. The SSB threshold is 201 million pounds, and the current SSB is 151 million pounds. At the current fishing mortality rates, there is concern that the SSB will fall further below the threshold. Also, because catch and release practices contribute substantially to overall fishing mortality, states are also required to implement mandatory circle hook requirements when fishing with bait to reduce release mortality in recreational Striped Bass fisheries. The ASFMC Striped Bass Management Board, which includes the Commonwealth as a member, has directed all coastal states to reduce fishing mortality rates by 18% beginning in 2020 and require circle hooks by 2021. This Commonwealth is taking proactive measures to implement circle hook requirements beginning in 2020 to inform anglers and facilitate compliance with this important conservation measure ahead of the ASMFC mandate for implementation beginning in 2021. The amendments to 58 Pa. Code § 61.2 are designed to meet this objective.

ASMFC has directed that the reduction in harvest be implemented no later than April 1, 2020. To meet this deadline, the Executive Director of the Fish and Boat Commission

(Commission), acting under the authority of 58 Pa. Code § 65.25 (relating to temporary changes to fishing regulations), has taken immediate action to amend 58 Pa. Code § 61.2 (relating to Delaware River, West Branch Delaware River and River Estuary). Specifically, the Executive Director has amended this section to change the minimum size limit for Striped Bass to a 28 inches to less than 35 inches slot limit in the Delaware Estuary (from the Pennsylvania line upstream to Calhoun Street Bridge) and Delaware River (from the Calhoun Street Bridge upstream) during the periods January 1 through March 31 and June 1 through December 31 (one fish daily limit), and to change the slot limit during the period April 1 through May 31 to 21 inches to less than 24 inches (two fish daily limit). The Executive Director also has amended the section to require the use of non-offset (in-line) circle hooks when fishing with bait for any species of fish in the tidal Delaware Estuary, including tributaries from the mouths of the tributaries upstream to the limit of tidal influence. These actions were taken to meet the requirements of the ASMFC and a notice of a Temporary Change to Fishing Regulations appeared in the Pennsylvania Bulletin at 50 Pa. B. 1625 (March 14, 2020). The temporary changes went into effect on April 1, 2020 and will remain in effect until the Commission, by appropriate action, amends 58 Pa. Code § 61.2.

The Commission proposes that § 61.2 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](http://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.

For the Pennsylvania Fish and Boat Commission

/s/ Timothy D. Schaeffer  
Timothy D. Schaeffer  
Executive Director

**Annex A**

**TITLE 58. RECREATION**

**PART II. FISH AND BOAT COMMISSION**

**CHAPTER 61. SEASONS, SIZES, AND CREEL LIMITS**

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

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(d) It is unlawful to fish with bait for any species of fish in the tidal Delaware Estuary, including tributaries from the mouths of the tributaries upstream to the limit of tidal influence using any hook type other than non-offset (in-line) circle hooks. The definition of a non-offset (in-line) circle hook is a non-offset hook

where the point is pointed perpendicularly back towards the shank. The term “non-offset” means the point and the barb are in the same plane as the shank.

[(d)] (e) The following seasons, sizes, and creel limits apply to the Delaware River, West Branch Delaware River, and Delaware Estuary and 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:

<i>SPECIES</i>	<i>SEASONS</i>	<i>MINIMUM SIZE</i>	<i>DAILY LIMIT</i>
* * * * *			
STRIPED BASS and HYBRID STRIPED BASS	From Pennsylvania line upstream to Calhoun Street Bridge: January 1 until March 31 and June 1 until December 31.	[28] <u>28 to less than 35 inches</u>	1
	April 1 through May 31	21 to [25] <u>less than 24 inches</u>	2
	From Calhoun Street Bridge upstream: open year-round	[28] <u>28 to less than 35 inches</u>	1
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