

# PROPOSED RULEMAKING

## FISH AND BOAT COMMISSION

[58 PA. CODE CH. 65]

### Fishing

The Fish and Boat Commission (Commission) proposes to amend Chapter 65 (relating to special fishing regulations). The Commission is publishing this proposed regulation under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The proposed regulation deals with fishing.

#### A. *Effective Date*

This proposed regulation will, if approved on final rulemaking, go into effect on January 1, 1999, or upon publication of an order adopting the regulation, whichever occurs later.

#### B. *Contact Person*

For further information on the proposed regulation, contact Laurie E. Shepler, Assistant Counsel, (717) 657-4546, P. O. Box 67000, Harrisburg, PA 17106-7000. This proposal is available electronically through the Commission's Web site (<http://www.fish.state.pa.us>).

#### C. *Statutory Authority*

This proposed regulation is published under the statutory authority of section 2102 of the code (relating to rules and regulations).

#### D. *Purpose and Background*

The proposed regulation is designed to update, modify and improve Commission regulations pertaining to fishing. The specific purpose of the proposed regulation is described in more detail under the summary of proposal.

#### E. *Summary of Proposal*

Fishing for panfish in this Commonwealth represents one of the most popular forms of recreational angling. Panfish may include sunfish, yellow perch, crappies, catfish, rock bass, suckers, eels, carp and white bass. The popularity of this broad array of species has been documented in United States Fish and Wildlife surveys which show that, in this Commonwealth, with the exception of trout, anglers spend more time fishing for these species than any other. In 1991, anglers spent at least 8,023,000 days fishing for panfish in this Commonwealth. By comparison, 11,125,000 angler days were directed towards trout and 7,186,000 angler days were directed towards black bass.

In most inland waters in this Commonwealth, harvest of panfish is regulated with a 50-fish combined species creel limit. Size restrictions and seasonal harvest restrictions do not apply. As might be expected, those individual species that comprise the panfish group exhibit different levels of popularity among anglers and different levels of vulnerability to capture by anglers. This proposal is specifically directed to lake populations of bluegill, pumpkinseed and redear sunfish referred to as sunfish; black crappie and white crappie referred to as crappie; and yellow perch.

Lake angler surveys conducted by the Commission (1978-1990) show that 47 % of all fishing time is spent in pursuit of sunfish, crappie and yellow perch, as defined in

this Preamble. The ease with which these species are caught, as described by their high catch rate in creel surveys, contributes to their broad popularity and provides an ideal means by which to introduce youth and others to fishing. Their ease of capture, however, particularly in waters containing more robust populations, may in certain cases, contribute to reduced availability of "desirable size" fish. Desirable size panfish represent the size most anglers like to catch. Carefully crafted harvest restrictions have increased the abundance of larger individuals of various other species within this Commonwealth. For example, black bass populations have improved through the Conservation Lake and Big Bass Programs. Examination of sunfish, crappie and yellow perch size structure data revealed that many panfish populations across the State yield good numbers of desirable size fish; however, some waters were identified where angler harvest was suspected to reduce the abundance of desirable size fish.

The Commission staff's goals for a small group of panfish study lakes are to 1) increase the number of desirable size panfish available to anglers; and 2) increase the number of satisfied anglers targeting panfish. To meet these goals, staff have identified the following objectives that will serve to gauge progress toward goal achievement and ultimately provide a benchmark by which to judge success of this initiative:

1) Increase the number of sunfish over 7 inches and number of crappie and yellow perch over 9 inches available for harvest, as measured in biological assessment catches (example: net catch, electrofishing catch).

2) Increase the number of satisfied anglers targeting sunfish, crappie and yellow perch as measured through angler contact surveys.

3) Increase the number of desirable size panfish harvested, as measured by creel surveys on selected waters.

Minimum length limits and creel limits represent some of the best tools available to reduce angler harvest and increase the number of larger panfish. Minimum length limits have the most utility in fostering an increase in abundance of desirable size panfish sufficient to reach objectives. A reduced creel limit may have less utility initially, but as populations of desirable size fish increase, they will play a more important role.

The Commission therefore proposes to add § 65.11 (relating to panfish enhancement special regulations). This proposed special regulation would impose a 7 inch length limit for sunfish (principally bluegill, pumpkinseed and redear sunfish), a 9 inch length limit for crappie (black and white crappie) and a 9 inch length limit for yellow perch. Any one or all three length regulations might apply to any given lake. The Commission also proposes the following daily creel limits for the waters to be subject to the proposed regulation: 20 for each species group with a length limit and a total creel limit of 50 (combined species).

The Commission's staff have some concerns that anglers may view this proposed regulation as the answer to all problems when it comes to panfish. Thus, some commentary on fisheries biology and angler expectations seems to be in order. Numerous biological and physical elements combine to shape the abundance and size structure of panfish populations, in addition to angler harvest. For example, density of predators, density of

other competing species, quantity of aquatic vegetation (that affords necessary nursery and food producing habitat for panfish), quantity of forage organisms and water quality are a few elements that affect the abundance of desirable size panfish. All of these elements combine to influence the number of young produced, their growth rate and the rate at which they survive to adulthood or desirable size. Survival is influenced by natural loss (for example, predation) and by loss due to angler harvest. This illustrates that angler removals represent just one component that could influence the abundance of desirable size panfish.

Biologists will propose for Commission consideration study waters for inclusion in the program based upon their understanding of these elements and based upon a review of panfish population data throughout the State. In addition, measurable guidelines have been developed to indicate when a panfish population might be reduced in quality due to angler harvest, and where the special regulation might be expected to attain target objectives. It should be known that biologists use other management tools, in addition to special regulations, to enhance panfish abundance each and every day (for example, predator-prey balance is frequently adjusted by stocking a predator fish, and manipulation of over-winter lake water levels is frequently carried out to adjust the quantity of macrophyte habitat available for some panfish.)

Using measurements of vital rates such as growth and mortality, coupled with assumptions relative to production of young, Commission biologists predict that the proposed special regulation applied to selected lakes will, over time, yield an approximate 50 % increase in abundance of sunfish age 3 and older as well as crappie and yellow perch age 4 and older (all desirable size fish). However, it has also been determined that immediately after imposition of the proposed regulation, there will be a reduction in angler harvest, simply because it will take several years for fish to increase in number below the newly established minimum size limit and before the increase will yield measurable quantities of fish above the length limit. An overall measurable increase is expected in about 5 years based upon model computations and past experience with other warmwater species. Increases will only be realized in waters where fishing intensity reduces the abundance of desirable size panfish. That is, the special regulation should not be considered to yield similar effects where abundance of desirable size individuals is below expectations for other biological or physical reasons. For example, restricting harvest at a lake with a stunted panfish population might increase the stunting problem, so care will be used in selecting experimental lakes for inclusion in the program.

The Commission's Fisheries staff feel that the proposed panfish special regulation in selected lakes will: (1) meet

objectives, since computations using measured vital rates indicate that substantive increases in abundance of larger fish will be attained after a number of years; and (2) be well received by anglers since angler opinion surveys demonstrate that those anglers polled favored panfish harvest restrictions similar to those proposed herein.

*F. Paperwork*

The proposed regulation will not increase paperwork and will create no new paperwork requirements.

*G. Fiscal Impact*

The proposed regulation will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed regulations will impose no 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 regulation to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 60 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically at "regulations.fish.state.pa.us." A subject heading of the proposal and a return name and address must be included in each transmission. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

PETER A. COLANGELO,  
*Executive Director*

**Fiscal Note:** 48A-73. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART II. FISH AND BOAT COMMISSION**

**Subpart B. FISHING**

**CHAPTER 65. SPECIAL FISHING REGULATIONS**

**§ 65.11. Panfish enhancement special regulation.**

(a) The Executive Director, with the approval of the Commission, may designate waters as "Panfish Enhancement Special Regulation" waters. The designation shall be effective when the waters are so posted after publication of a notice of designation in the *Pennsylvania Bulletin*.

(b) It is unlawful to fish in designated and posted "Panfish Enhancement Special Regulation" waters except in compliance with the following size and creel limits:

<i>Species</i>	<i>Size</i>	<i>Creel Limit</i>
Sunfish (bluegill, pumpkinseed and redear)	7 inches	20 (combined species)
Crappie (black and white)	9 inches	20 (combined species)
Yellow perch	9 inches	20
Subject to individual creel limits for each species category set forth in this subsection, a 50 fish (combined species—sunfish, crappie and yellow perch) creel limit applies.		
Other species—Inland size and creel limits apply.		