

PROPOSED RULEMAKING

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 65]

Panfish Enhancement Special Regulation

The Fish and Boat Commission (Commission) proposes to amend Chapter 65 (relating to special fishing regulations). The Commission is publishing these amendments as a notice of proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The proposed amendments relate to fishing.

A. Effective Date

The proposed amendments, if approved on final rulemaking, will go into effect on January 1, 2000, or upon publication of an order adopting the amendments in the *Pennsylvania Bulletin*, whichever occurs later.

B. Contact Person

For further information on the proposed changes, contact Delano R. Graff, Director, Bureau of Fisheries, (814) 359-5154, 450 Robinson Lane, Bellefonte, PA 16823, or 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

The proposed amendments are published under the statutory authority of sections 2102 and 2307 of the code (relating to rules and regulations; and waters limited to specific purposes).

D. Purpose and Background

The proposed amendments are designed to update, modify and improve Commission regulations relating to fishing. The specific purpose of each amendment is described in more detail under the summary of proposal.

E. Summary of Proposal

(1) *Section 65.11 (relating to panfish enhancement special regulation)*. When the Commission adopted this regulation last year, it opted to apply harvest restrictions to all species or species groups (sunfish, crappie and yellow perch) found in waters managed under the program. While this approach was straightforward, further reflection revealed that this approach was not the best fisheries management approach to the issue. Subsequently, the Commission substantially reduced the number of waters to which the regulation applies.

The Commission now proposes to amend the regulation to allow the Commission to apply the designation to only those species groups where angling has been observed to negatively affect panfish density and size structure, not all species groups. Application of the panfish enhancement special regulation to selected species groups within a water will yield several important benefits. First, differences in biological characteristics among species groups inhabiting a particular water will be able to be accounted for in a management program. For example, in a lake, one particular panfish population may be comprised of small individuals for reasons not associated with

angling (exhibited stunting) and in the same lake a different species may be comprised of small individuals due to angler removal of larger panfish. Improvements in size structure would be expected in association with greater harvest restrictions in one case but not the other. Indeed, there may be benefits to the less protected panfish species groups (without the panfish enhancement special regulation) if harvest shifted away from the protected species group (with panfish enhancement special regulation) to the less protected group. Here, thinning the population associated with harvest may improve growth and consequently improve the size structure of the less protected species, thereby enhancing the overall number of desirable size panfish available to anglers.

The second benefit is associated with maintaining appealing panfish fishing opportunities for anglers on a particular water. Application of harvest restrictions will constrain angler harvest of panfish that provide the basis for extremely popular fishing opportunities for Pennsylvania anglers. 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 to trout, and 7,186,000 angler days were directed to black bass. (United States Department of the Interior, Fish and Wildlife Service and United States Department of Commerce, Bureau of the Census. 1991 National Survey of Fishing, Hunting, and Wildlife Associated Recreation, Pennsylvania. United States Government Printing Office, Washington D.C. 1993). The Commission does not want to constrain panfish harvest opportunities on a particular water so that angler participation is reduced if harvest regulations for a particular species are not expected to yield any improvement in number of desirable size fish in an angler's catch. In some cases, harvest of some panfish species is simply not great enough to substantially affect the species size structure. The principal intent of special panfish regulations is to enhance fishing opportunities. Constricting harvest of species groups affected by intense angling and maintaining harvest of species groups not affected by angling will maximize fishing opportunities. Simply stated, it is the Commission's goal to improve size structure where possible and not restrict angling opportunities unnecessarily for species groups where no benefit is expected. Therefore, the Commission has proposed amendments to § 65.11 so that harvest restrictions on a particular water may apply to one, two or all three panfish species groups as approved by the Commission.

(2) *Section 65.24 (relating to miscellaneous special regulations)*. Spring Creek, Centre County, supports an excellent Class A wild brown trout population and provides a very popular year round trout fishery for anglers in central Pennsylvania. Currently, no harvest is permitted on this water from SR 3010 in Oak Hall downstream to the mouth due to a fish consumption advisory. In recognition of the outstanding wild trout fishery provided by this water, the Commission believes that it is necessary to adopt special trout angling regulations for Spring Creek. The Commission therefore has proposed special trout management regulations for the 16.6 miles of Spring Creek extending from the SR 3010 bridge in Oak Hall downstream to the mouth (excluding the established Heritage Trout Angling project at Fisherman's Paradise and the exhibition area in Bellefonte). The proposed regulations will involve no change from the current management, as angling will be permitted year round (no

closed season) under no-harvest regulations with no tackle restrictions.

F. *Paperwork*

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

G. *Fiscal Impact*

The proposed amendments will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed amendments 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 amendments 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 at "regulations@fish.state.pa.us." A subject heading of the proposal and a return name and address must be included in each transmission. In addition, all electronic comments must be contained in the text of the transmission, not in an attachment. 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-99. 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 may be limited to one, two or all three of the panfish species listed in subsection (b).** 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 seasons and size and creel limits:

<i>Species</i>	<i>Seasons</i>	<i>Minimum Size</i>	<i>Daily Limit</i>
Sunfish (bluegill, pumpkinseed and redear)	Open year-round	7 inches	20 (combined species)*
Crappie (black and white)		9 inches	
Yellow perch		9 inches	
Other species—inland seasons and size and creel limits apply.			

* **Anglers may catch and possess up to 30 (combined species) of catfish, rockbass, suckers, carp and white bass in addition to the daily limit of 20 (combined species) of sunfish, crappies and yellow perch.**

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§ 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>
		* * * * *
Centre	Spring Creek—16.6 miles downstream from the SR 3010 bridge to the mouth (excluding the established Heritage Trout Angling project at Fisherman's Paradise and the exhibition area in Bellefonte). This area shall be known as "Spring Creek Special Trout Management Area."	Trout (all species)—No closed season under no-harvest regulations with no tackle restrictions.

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[Pa.B. Doc. No. 99-1090. Filed for public inspection July 9, 1999, 9:00 a.m.]