

# RULES AND REGULATIONS

## Title 58—RECREATION

### FISH AND BOAT COMMISSION

[58 PA. CODE CHS. 61 AND 65]

#### Seasons, Sizes and Creel Limits; Warmwater/ Coolwater Species Special Conservation Waters; Big Bass Special Regulations

The Fish and Boat Commission (Commission) by this order amends Chapters 61 and 65 (relating to season, sizes and creel limits; and special fishing regulations). The Commission is publishing these amendments under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The amendments relate to fishing.

##### A. *Effective Date*

These amendments will go into effect on January 1, 2000.

##### B. *Contact Person*

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

##### C. *Statutory Authority*

These amendments are published under the statutory authority of section 2102 of the code (relating to rules and regulations).

##### D. *Purpose and Background*

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

##### E. *Summary of Changes*

Acting on a recommendation of the Fisheries Committee, the Commission established a Bass Workgroup chaired by Commissioner Anderson and comprised of Commission staff and various public representatives with a demonstrated interest in bass fishing. The workgroup's discussions focused on ways to increase bass angling opportunity by permitting a catch-and-release fishery for bass in the spring while assuring that populations are adequately protected at other times of the year to compensate for any possible increase in fishing mortality resulting from the catch-and-release fishery. The workgroup met twice (details of discussions and results were provided in a briefing book at the Commission's July 1997 meeting) and developed recommendations for changes in regulations and for actions to be taken by Commission staff relative to public education and resource classification.

The results of workgroup discussions were presented to the Fisheries Committee, and the Committee recommended that the Commission accept the results. The report was accepted, and staff were instructed to bring the workgroup recommendations to the Commission at a subsequent Commission meeting as a proposed rulemaking item.

The proposed regulation package included several major changes. These were:

1. Rivers and streams (mostly smallmouth) will be under different regulations than lakes and ponds (mostly largemouth).

2. A catch-and-release fishery, a No Harvest-Immediate Release regulation, will be in effect for bass during the spring period when bass season (harvest) is not "open."

3. A 15-inch minimum size, 4-bass creel limit will be in effect on lakes and ponds from January 1 to mid-April and November through December (essentially a Big Bass regulation for the late fall through spring fishery).

4. A 20-inch minimum size, 1 bass creel limit will be in effect on rivers and streams from January 1 to mid-April and October through December (harvest limited to only the exceptional trophy-sized bass). This change also will apply to those river reaches contained within the Big Bass Program.

It was proposed that Commission staff develop a system of resource classification to identify those lakes and ponds where reproduction and production of bass is such that any increase in fishing mortality or disruption of reproductive activity could be expected to have a negative impact on populations. These waters should be excluded from the spring No Harvest-Immediate Release fishery. It was also proposed that the Commission initiate an informational campaign, including a publication or pamphlet to advise anglers on how to handle and release bass to assure maximum likelihood of survival of fish taken in a catch-and-release fishery. This could be done as a cooperative effort with organized bass angling groups or members of the workgroup, or both, who have writing/communication skills and who volunteer to assist.

A notice of proposed rulemaking containing the proposed changes was published at 28 Pa.B. 45 (January 3, 1998). After the publication of the notice of proposed rulemaking, the Bass Workgroup met again. The meeting included an extended discussion of several aspects of the proposed rulemaking in light of the public comment, the results of the public hearing and other available information. As a result of those discussions, the Bass Workgroup recommended that the Commission finally adopt the changes to the proposed bass season regulations with several changes:

1. A 15-inch minimum size, 4 bass per day creel limit will be in effect on rivers and streams from January 1 to mid-April and October through December. This change replaces the 20-inch size, 1 per day creel limit in the proposed regulation. From a biological standpoint, based on modeling, it appears that this change will have an extremely modest (about 1%) impact on populations of bass over 12". This change will not apply to those river reaches contained within the Big Bass Program.

2. For rivers and streams in the Big Bass Program, an 18-inch, 2 bass per day creel limit will be in effect from January 1 to mid-April and October 1 through December 31. This size and creel limit replaces the 20-inch size, 1 per day creel limit in the proposed regulation. Based on biological modeling, it appears that this change will have no numerically significant impact on populations of bass over 12" in length.

3. The Bass Workgroup recommended that bass season/size/creel limits for lakes (both Big Bass/Conservation Regulations and Statewide Regulations) remain the same as proposed in the notice of proposed rulemaking.

4. The Bass Workgroup recommended that the Commission create and implement a new special regulation category for lakes the biorankings of which indicate a possible need for additional protection during the period from mid-April through mid-June. These regulations would prohibit or substantially limit catch-and-release (no-harvest) fishing for bass on these lakes during the normal spawning period.

On final rulemaking, the Commission adopted the amendments as set forth in the notice of proposed rulemaking with the three changes recommended by the Bass Workgroup, effective January 1, 2000. The Commission also approved the publication of a separate notice of proposed rulemaking containing a change to the State-wide bass regulations to specify restrictions on catch and release fishing during the normal bass spawning period. This notice of proposed rulemaking was published at 29 Pa.B. 822 (February 13, 1999).

*F. Paperwork*

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

*G. Fiscal Impact*

The amendments will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The amendments will impose no new costs on the private sector or the general public.

*H. Public Involvement*

A notice of proposed rulemaking containing the proposed amendments was published at 28 Pa.B. 45. The Commission provided for an extended public comment period until June 15, 1998. During the public comment period, the Commission received 1,869 comments, including letters from individuals and clubs, form letters and petitions. Of these comments, 123 were generally in favor of the proposal, 1,743 (which included a petition signed by 1,500 individuals) were generally against it, and 3 were unsure. The Commission also received many public comments prior to and after the public comment period. Some individuals wrote directly to the Commissioners (instead of the Executive Director as specified in the notice of proposed rulemaking). Commissioner Enoch "Inky" Moore received more than 500 comments in favor of the proposed amendments. Copies of all public comments submitted in accordance with the notice of proposed rulemaking (regardless of whether they were received before, during or after the public comment period) were provided to the Commissioners.

In addition, public hearings were held on March 4, 1998, in Harrisburg (with 21 persons in attendance); on March 11, 1998, in Leesport (with 26 persons in attendance); on March 19, 1998, in Monroeville (with 75 persons in attendance); and on April 8, 1998 in Hawley

(with about 45 persons in attendance). Copies of all hearing transcripts also were provided to the Commissioners.

*Findings*

The Commission finds that:

(1) Public notice of intention to adopt the amendments adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided and that all comments received were considered.

(3) The adoption of the amendments of the Commission in the manner provided in this order is necessary and appropriate for administration and enforcement of the authorizing statutes.

*Order*

The Commission, acting under the authorizing statutes, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapters 61 and 65, are amended by amending §§ 61.1, 65.8 and 65.9 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Executive Director will submit this order and Annex A to the Office of Attorney General for approval as to legality as required by law.

(c) The Executive Director shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin*

PETER A. COLANGELO,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48A-75 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 58. RECREATION**

**PART II. FISH AND BOAT COMMISSION**

**Subpart B. FISHING**

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

**§ 61.1. Commonwealth inland waters.**

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(d) Except as otherwise provided in this subpart, the following seasons, sizes and creel limits apply to inland waters of this Commonwealth and the Youghiogheny Reservoir:

<i>SPECIES</i>	<i>SEASONS</i>	<i>MINIMUM SIZE</i>	<i>DAILY LIMIT</i>
	* * * * *		
BASS—Largemouth and Smallmouth and Spotted  Lakes:	January 1 to midnight the day before the opening day of trout season in April and November 1 to midnight December 31 **	15 inches	4 (combined species)

<i>SPECIES</i>	<i>SEASONS</i>	<i>MINIMUM SIZE</i>	<i>DAILY LIMIT</i>
	12:01 a.m. the opening day of trout season in April to 12:01 a.m. the first Saturday after June 11	NO HARVEST—Catch and immediate release only (No Tournaments Permitted)	
	12:01 a.m. the first Saturday after June 11 to midnight October 31	12 inches	6 (combined species)
BASS—Largemouth and Smallmouth and Spotted Rivers and Streams*:	January 1 to midnight the day before the opening day of trout season in April and October 1 to midnight December 31 **	15 inches	4 (combined species)
	12:01 a.m. the opening day of trout season in April to 12:01 a.m. the first Saturday after June 11	NO HARVEST—Catch and immediate release only (No Tournaments Permitted)	
	12:01 a.m. the first Saturday after June 11 to midnight September 30	12 inches	6 (combined species)
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\* For purposes of this subsection, power dam pools and recreational dam pools on the Susquehanna River and navigational dam pools in the Ohio drainage are “rivers.”

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**CHAPTER 65. SPECIAL FISHING REGULATIONS**

**§ 65.8. Warmwater/coolwater species special conservation waters.**

(a) The Executive Director, with the approval of the Commission, may designate waters as warmwater/coolwater special conservation waters. The designation of the waters shall be effective when the waters are posted after publication of a notice of designation in the *Pennsylvania Bulletin*.

(b) It is unlawful to fish for the following species in designated and posted warmwater/coolwater special conservation waters except in compliance with the seasons established in § 61.1 (relating to the Commonwealth inland waters) and the following size and creel limits:

<i>Species</i>	<i>Size (in)</i>	<i>Creel Limit</i>
Walleye and hybrids	20	2
Muskellunge and Muskellunge hybrids	36	1
Chain pickerel	20	2
Northern pike	28	1
Sunfish		10
Crappie and White bass		10
Yellow perch		10
Catfish		50
Carp and suckers		50
White perch		50

Other species—Inland size and creel limits apply.

(c) It is unlawful to fish for bass (all species) in designated and posted warmwater/coolwater special conservation waters except in compliance with the following seasons and size and creel limits. It is not a violation of this subsection if the bass is immediately returned unharmed to the waters from which it is taken.

<i>Seasons</i>	<i>Size (in)</i>	<i>Creel Limit</i>
Lakes: January 1 to midnight the day before the opening day of trout season in April and 12:01 a.m. the first Saturday after June 11 to midnight December 31	15	4 (combined species)

<i>Seasons</i>	<i>Size (in)</i>	<i>Creel Limit</i>
12:01 a.m. the opening day of trout season in April to 12:01 a.m. the first Saturday after June 11	NO HARVEST—Catch and immediate release only (No Tournaments Permitted)	
Rivers and Streams: January 1 to midnight the day before the opening day of trout season in April and October 1 to midnight December 31	15	4 (combined species)
12:01 a.m. the opening day of trout season in April to 12:01 a.m. the first Saturday after June 11	NO HARVEST—Catch and immediate release only (No Tournaments Permitted)	
12:01 a.m. the first Saturday after June 11 to midnight September 30	15	4 (combined species)

*Note:* For purposes of this subsection, power dam pools and recreational dam pools on the Susquehanna River and navigational dam pools in the Ohio drainage are “rivers.”

**§ 65.9. Big bass special regulations.**

(a) The Executive Director, with the approval of the Commission, may designate waters as “Big Bass 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 take, catch, kill or possess a largemouth, smallmouth or spotted bass on or in designated “Big Bass Regulation” waters except in compliance with the following seasons and size and creel limits. It is not a violation of this section if the bass is immediately returned unharmed to the waters from which it is taken.

<i>Seasons</i>	<i>Size (in)</i>	<i>Creel Limit</i>
Lakes: January 1 to midnight the day before the opening day of trout season in April and 12:01 a.m. the first Saturday after June 11 to midnight December 31	15	4 (combined species)
12:01 a.m. the opening day of trout season in April to 12:01 a.m. the first Saturday after June 11	NO HARVEST—Catch and immediate release only (No Tournaments Permitted)	
Rivers and Streams: January 1 to midnight the day before the opening day of trout season in April and October 1 to midnight December 31	18	2 (combined species)
12:01 a.m. the opening day of trout season in April to 12:01 a.m. the first Saturday after June 11	NO HARVEST—Catch and immediate release only (No Tournaments Permitted)	
12:01 a.m. the first Saturday after June 11 to midnight September 30	15	4 (combined species)

*Note:* For purposes of this section, power dam pools and recreational dam pools on the Susquehanna River and navigational dam pools in the Ohio drainage are “rivers.”

(c) Other Commonwealth inland fishing regulations apply to designated “Big Bass Regulation” waters.

[Pa.B. Doc. No. 99-1088. Filed for public inspection July 9, 1999, 9:00 a.m.]

**[58 PA. CODE CH. 63]**

**Fishing for Bass During Spring Season**

The Fish and Boat Commission (Commission) by this order amends Chapter 63 (relating to general fishing regulations). The Commission is publishing this amendment under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The amendment relates to fishing for bass during the spring season.

**A. Effective Date**

The amendment will go into effect on January 1, 2000.

**B. Contact Person**

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

**C. Statutory Authority**

The amendment is published under the statutory authority of section 2102 of the code (relating to rules and regulations).

*D. Purpose and Background*

The amendment is designed to update, modify and improve Commission regulations relating to fishing for bass during the spring season. The specific purpose is described in more detail under the summary of change.

*E. Summary of Change*

One of the issues raised by the Commission's recent changes to bass season, size and creel limits was the perception that bass populations require special protection during the traditional closed season from mid-April until mid-June. Therefore, the Commission has adopted a regulation that provides that during the period from 12:01 a.m. on the first Saturday after April 11 until 12:01 a.m. on the first Saturday after June 11, it is unlawful to kill or possess (while in the act of fishing) any largemouth, smallmouth or spotted bass. Under the new regulation, no tournaments are permitted during this time period. Catch and release fishing for bass during this period is limited. It is unlawful for an angler to repeatedly cast into a clearly visible bass spawning nest or redd in an effort to catch or take bass. Otherwise, a bass caught and immediately returned unharmed to the waters from which taken during this period will not be considered a violation of the regulation.

*F. Paperwork*

The amendment will not increase paperwork and will create no new paperwork requirements.

*G. Fiscal Impact*

The amendment will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The amendment will impose no new costs on the private sector or the general public.

*H. Public Involvement*

A notice of proposed rulemaking was published at 29 Pa.B. 822 (February 13, 1999). The Commission received five public comments concerning the proposal: two in favor, one opposed and two inquiries. Copies of all public comments were provided to the Commissioners.

*Findings*

The Commission finds that:

(1) Public notice of intention to adopt the amendment adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided and all comments received were considered.

(3) The adoption of the amendment of the Commission in the manner provided in this order is necessary and appropriate for administration and enforcement of the authorizing statutes.

*Order*

The Commission, acting under the authorizing statutes, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 63, are amended by adding § 63.43 to read as set forth at 29 Pa.B. 822.

(b) The Executive Director will submit this order and 29 Pa.B. 822 to the Office of Attorney General for approval as to legality as required by law.

(c) The Executive Director shall certify this order and 29 Pa.B. 822 and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

PETER A. COLANGELO,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48A-92 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 99-1089. Filed for public inspection July 9, 1999, 9:00 a.m.]