

RULES AND REGULATIONS

Title 37—LAW

PART I. STATE POLICE

[37 PA. CODE CHS. 11, 13, 14, 21, 31, 33, 41, 51, 53, 55, 56, 58 AND 59]

Reorganization of 37 Pa. Code Part I

(Editor's Note: The regulations of the State Police, 37 Pa. Code Part I, have been reorganized by eliminating the subpart designations. The new arrangement of the chapters in Part I will be as indicated by the following designations. There has been some editorial amendment of the titles of the chapters to account for the elimination of the subpart headings.)

Chapter 11. Flammable and Combustible Liquids; Preliminary Provisions

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Chapter 13. Storage and Use of Flammable and Combustible Liquids

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Chapter 14. Vaults for the Storage of Flammable and Combustible Liquids—Statement of Policy

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Chapter 21. Administration of the Lethal Weapons Training Program

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Chapter 31. Standards for Licensed Retail Dealers Under the Uniform Firearms Act

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Chapter 33. Procedures and Specifications for Firearm Record Forms Under the Uniform Firearms Act

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Chapter 41. Designation of Emergency Vehicles

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Chapter 51. Training and Minimum Standards Under the Wiretapping and Electronic Surveillance Control Act

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Chapter 53. Collection, Preservation, Protection and Dissemination of Ethnic Intimidation Statistics

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Chapter 55. Administration of Megan's Law—Neighbor Notification

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Chapter 56. Guidelines for Administration of Megan's Law—Statement of Policy

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Chapter 58. DNA Detection of Sexual and Violent Offenders

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Chapter 59. [Reserved]

[Pa.B. Doc. No. 03-1590. Filed for public inspection August 15, 2003, 9:00 a.m.]

Title 58—RECREATION

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 65]

Wild Brook Trout Enhancement

The Fish and Boat Commission (Commission) amends Chapter 65 (relating to special fishing regulations). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). This final-form rulemaking relates to enhancing wild brook trout populations.

A. *Effective Date*

This final-form rulemaking will go into effect on January 1, 2004.

B. *Contact Person*

For further information on this final-form rulemaking, contact Laurie E. Shepler, Assistant Counsel, P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7815. This final-form rulemaking is available electronically through the Commission's website (<http://www.fish.state.pa.us>).

C. *Statutory Authority*

This final-form rulemaking is published under the statutory authority of section 2102 of the code (relating to rules and regulations).

D. *Purpose and Background*

This final-form rulemaking is designed to update, modify and improve the Commission's regulations pertaining to fishing. The specific purpose of the final-form rulemaking is described in more detail under the summary of changes.

E. *Summary of Changes*

Historically, brook trout are the only stream dwelling trout native to this Commonwealth's streams. Currently, special regulations for wild trout are typically applied to waters that support wild brown trout or a combination of wild brook and brown populations. Because brook trout dominate in smaller headwater reaches and tributary streams and there typically is a transition to brown trout downstream areas, very few waters under special regulations are dominated by wild brook trout. Based on discussions with various wild trout angling groups and feedback from the recent Trout Summit, there is interest in developing regulations directed at enhancing the abundance of larger, older wild brook trout in the streams in this Commonwealth. The general concept is to reduce the effect of harvest of brook trout on the number of older and larger brook trout. The approach is to apply regulations on a watershed basin level (main stem and tributaries) or a portion of the basin to provide a larger area for

this management strategy to provide increased protection for larger brook trout in selected streams.

The Commission considered two options on proposed rulemaking: catch and release and a 7-inch maximum size limit on wild brook trout. On final-form rulemaking, the Commission adopted the regulation to read as set forth in the notice of proposed rulemaking. This final-form rulemaking creates a new wild brook trout enhancement program that provides for catch and release of wild brook trout. Catch and release of wild brook trout in this program will allow fishing year-round (no closed season) with no tackle restrictions. This final-form rulemaking will provide the maximum protection for all wild brook trout while appealing to a broad range of anglers. All other trout species will be under conventional seasons, sizes and creel limits.

F. *Paperwork*

This final-form rulemaking will not increase paperwork and will create no new paperwork requirements.

G. *Fiscal Impact*

This final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. This final-form rulemaking will impose no new costs on the private sector or the general public.

H. *Public Involvement*

A notice of proposed rulemaking was published at 33 Pa.B. 2760 (June 14, 2003). The Commission received 69 public comments: 7 prior to the formal comment period, 56 during the formal comment period and 6 after the formal public comment period. A majority of the commenters favored the catch and release proposal. Of those preferring this option, many favored tackle restrictions. Copies of all public comments were provided to the Commissioners.

The Commission also held a public informational meeting on the proposed rulemaking on July 9, 2003. Those attending generally supported the catch and release option with tackle restrictions.

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 the 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 65, are amended by adding § 65.13 to read as set forth at 33 Pa.B. 2760.

(B) The Deputy Executive Director shall submit this order and 33 Pa.B. 2760 to the Office of Attorney General for approval as to legality as required by law.

(C) The Deputy Executive Director shall certify this order and 33 Pa.B. 2760 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*.

DENNIS T. GUISE,
Deputy Executive Director

Fiscal Note: Fiscal Note 48A-144 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 03-1591. Filed for public inspection August 15, 2003, 9:00 a.m.]