

RULES AND REGULATIONS

Title 7—AGRICULTURE

MILK MARKETING BOARD

[7 PA. CODE CH. 145]

Transactions Between Dealers and Customers; Dealer Inducements

The Milk Marketing Board (Board), under authority of section 307 of the Milk Marketing Law (act) (31 P. S. § 700j-307), amends §§ 145.11, 145.21 and 145.26 (relating to financing; giveaways; and extension of credit to wholesale customers) and deletes § 145.25 (relating to loans and credit; wholesale customers).

Notice of proposed rulemaking was published at 35 Pa.B. 1772 (March 19, 2005) with an invitation to submit written comments within 30 days. The Board received no comments during the public comment period. The Senate Committee on Agriculture and Rural Affairs and the House Agriculture and Rural Affairs Committee offered no comments, suggestions or objections to the proposed rulemaking. The Independent Regulatory Review Commission (IRRC) offered no comments, suggestions or objections to the proposed rulemaking.

Purpose

The principal purpose of the final-form rulemaking is to prohibit loans made by Board licensed milk dealers to their customers. Section 807 of the act (31 P. S. § 700j-807) provides that “no method or device shall be lawful whereby milk is bought or received . . . , or sold . . . or delivered . . . , or offered to be bought or received . . . , or sold . . . or delivered . . . , at a price less than the minimum price applicable to the particular transaction” Milk dealers, in the course of acquiring new customers, sometimes make loans to these customers. Examining these loans to determine if they have the effect of bringing any particular transaction below the minimum price applicable for that transaction raises a myriad of valuation and enforcement issues. Widespread use of loans also has the potential to cause market disruption in some areas of this Commonwealth. In addition, the Board believes that the majority of milk dealers do not want to provide loans to customers, but in many cases the dealers feel that they must make a loan to retain or acquire a customer. The Board believes that prohibiting loans will tend to reduce the potential for market disruption and will lead to improved compliance with the act’s minimum pricing provisions.

A secondary purpose of the final-form rulemaking is to achieve greater clarity and consistency in the regulations.

Paperwork Estimates

There will be no additional paperwork requirements due to this final-form rulemaking.

Effective Date

The final-form rulemaking will become effective upon publication in the *Pennsylvania Bulletin*.

Sunset Date

There is no sunset date.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 4, 2005, the Board submitted a copy of the notice of proposed rulemaking, published at 35 Pa.B. 1772, to IRRC and the Chairpersons of the Senate Committee on Agriculture and Rural Affairs and the House Agriculture and Rural Affairs Committee for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on July 13, 2005, the final-form rulemaking was deemed approved by the House and Senate Committees. The final-form rulemaking was deemed approved by IRRC under section 5(g) of the Regulatory Review Act, effective July 13, 2005.

Contact Person

The official responsible for information on this final-form rulemaking is Keith Bierly, Secretary, Milk Marketing Board, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 787-4194.

Findings

The Board finds that:

(1) Public notice of the intention to adopt the final-form rulemaking was 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 as required by law.

(3) The final-form rulemaking is necessary and appropriate for the administration of the act.

Order

The Board, acting under authorizing statute, orders that:

(a) The regulations of the Board, 7 Pa. Code Chapter 145, are amended by amending §§ 145.11, 145.21 and 145.26 and by deleting § 145.25 to read as set forth at 35 Pa.B. 1772.

(b) The Board will submit this order and 35 Pa.B. 1772 to the Office of Attorney General for review and approval as to legality and form as required by law.

(c) The Board shall certify this order and 35 Pa.B. 1772 and deposit them with the Legislative Reference Bureau as required by law.

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

BOYD E. WOLFF,
Chairperson

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 35 Pa.B. 4270 (July 30, 2005).)

Fiscal Note: Fiscal Note 47-11 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 05-1771. Filed for public inspection September 23, 2005. 9:00 a.m.]

Title 58—RECREATION

STATE ATHLETIC COMMISSION

[58 PA. CODE CHS. 1 AND 21]

Communicable Disease Testing

The State Athletic Commission (Commission) amends §§ 1.1 and 21.8 (relating to definitions; and boxers) as they pertain to the testing of professional boxers for communicable diseases to read as set forth in Annex A.

A. *Effective Date*

The final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin*.

B. *Statutory Authority*

The final-form rulemaking was authorized under 5 Pa.C.S. § 103 (relating to duties of commission), which authorizes the Commission to establish policy and promulgate rules and regulations regarding professional boxing contests and exhibitions and all matters pertaining thereto.

C. *Comments Received*

The Commission did not receive any public comments or comments from the House or Senate State Government Committees. The Independent Regulatory Review Commission (IRRC) commented that the Commission should delete the phrase "such as Hepatitis" from the definition of "communicable disease" in § 1.1 to be consistent with the Department of Health definition of communicable disease in 28 Pa. Code § 27.1 (relating to definitions). The Commission agreed with IRRC's comment and deleted the phrase.

IRRC also commented that for consistency with the existing language of § 21.8 that sets forth the requirements for testing for Human Immunodeficiency Virus (HIV), the requirements for Hepatitis testing should be included in this section and deleted from the § 1.1. Since the Commission would like to test for all communicable diseases and the same requirements for the testing of HIV will apply to that testing, subsequent discussions with IRRC revealed that it would be acceptable to retain the phrase "and any other communicable disease" in § 21.8. Therefore, as a condition for an initial or renewed license as a professional boxer, in addition to being required to be tested for HIV, an applicant would also be required to be tested for communicable diseases as defined in § 1.1.

D. *Background and Purpose*

Increasing concerns about the rapid spread of communicable diseases has led to an ever greater call for testing professional boxers for communicable diseases. Given the devastating long-term health consequences of Hepatitis C, which according to the Centers for Disease Control and Prevention often includes chronic liver disease, cirrhosis and even death in 3% of those infected, the American

Association of Boxing Commissions and the American Association of Professional Ringside Physicians recently recommended that the boxing commissions in various states consider adopting a requirement for the testing of Hepatitis C and other communicable diseases. The Commission's Medical Advisory Board also unanimously endorses the adoption of a requirement with the concurrence of the Commission.

Therefore, the Commission amends its current regulations pertaining to professional boxers to require annual testing for communicable diseases. It is the intent of the final-form rulemaking to better protect professional boxers, who frequently come into direct contact with the blood of an opponent in a boxing contest or exhibition, from contracting a communicable disease. The cost for the additional test will be limited to no more than \$50 per annual test, which is outweighed by the benefit of the protection that the test affords.

E. *Fiscal Impact and Paperwork Requirements*

The final-form rulemaking will have no adverse fiscal impact on the Department of State (Department) or the Commission. The final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions and will not impose any additional paperwork requirements upon the Commonwealth, its political subdivisions or the private sector. The final-form rulemaking will have a minimal fiscal impact on the professional boxers the Commission regulates by requiring that they must incur the cost for an annual test for communicable diseases but at an estimated cost of no more than \$50 per test.

F. *Sunset Date*

The Commission and the Department monitor the regulations of the Commission on a continuing basis. Therefore, no sunset date has been assigned.

H. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 1, 2004, the Commission submitted a copy of the notice of proposed rulemaking, published at 34 Pa.B. 6150 (November 13, 2004), to IRRC and the Chairpersons of the Senate and House State Government Committees for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on August 24, 2005, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on August 25, 2005, and approved the final-form rulemaking.

I. *Additional Information*

Individuals who require information about the final-form rulemaking should contact Gregory P. Sirb, Executive Director, State Athletic Commission, 2601 North Third Street, Harrisburg, PA 17110.

J. *Findings*

The Chairperson of the Commission finds that:

(1) Public notice of intention to adopt these regulations was given under sections 201 and 202 of the act of July

31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) (CDL) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered.

(3) The amendments made to the final-form rule-making do not enlarge the original purpose of the proposed rulemaking as published under section 201 of the CDL.

(4) These regulations are necessary and appropriate for administering and enforcing the authorizing acts identified in Part B of this preamble.

K. Order

The Chairperson of the Commission, acting under the authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapters 1 and 21, are amended by amending §§ 1.1 and 21.8 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Commission shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General as required by law.

(c) The Commission 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 on publication in the *Pennsylvania Bulletin*.

CHARLES BEDNARIK,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 35 Pa.B. 5068 (September 10, 2005).)

Fiscal Note: Fiscal Note 16-34 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART I. STATE ATHLETIC COMMISSION

Subpart A. GENERAL PROVISIONS

CHAPTER 1. PRELIMINARY PROVISIONS

§ 1.1. Definitions.

(a) The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

Athletic Code—5 Pa.C.S. Part I (relating to boxing and wrestling).

Commission—The State Athletic Commission of the Commonwealth.

Commission credentials—Documents issued by the Commission to individuals approved by the Commission granting them the authority to attend a specific event, without payment of an entry fee, on behalf of the Commission.

Commissioner—A member of the Commission, as defined in section 101 of the code (relating to definitions).

Communicable disease—An illness which is capable of being spread to a susceptible host through the direct or indirect transmission of an infectious agent or its toxic product by an infected person, animal or arthropod, or through the inanimate environment.

Event—One or more contests, as defined in section 302 of the code (relating to definitions), conducted at the same location on the same day.

Knockdown—When any part of a boxer's body, except the feet, touch the ring canvass, at the hand of the opponent, as determined by the referee.

Licensee—A person licensed by the Commission to perform duties in relation to an event.

Main contest—The most important contest during an event for which the public interest is the greatest.

Second—

(i) An individual licensed by the Commission to work in a professional boxer's corner during an event, as provided in section 716 of the Athletic Code (relating to seconds).

(ii) The term also includes a trainer.

(b) The definitions in section 302 of the Athletic Code (relating to definitions) are incorporated for the regulatory provisions relating to boxing which include this subpart and Subpart B (relating to boxing).

(c) The definitions in section 1902 of the Athletic Code (relating to definitions) are incorporated for the regulatory provisions relating to wrestling, which include this subpart and Subpart C (relating to wrestling).

Subpart B. BOXING

CHAPTER 21. PROFESSIONAL BOXING

§ 21.8. Boxers.

(a) Professional boxers shall be licensed by the Commission. The Commission will not license or renew the license of a professional boxer unless the license application is accompanied by a report from a Department of Health facility, a laboratory possessing a permit from the Department of Health under 28 Pa. Code § 5.11 (relating to permit, requirements, application and conditions) or a report from a laboratory licensed in another jurisdiction that meets the requirements to be issued a permit under 28 Pa. Code § 5.11, and is acceptable to the Commission, which indicates that the applicant has been tested for any virus, antibody, antigen or etiologic agent determined to cause or indicate the presence of human immunodeficiency virus and any other communicable disease and the results of those tests were negative. The tests shall have been initiated no more than 60 days prior to the date of filing the application. A boxer whose application for license has been denied has the right to a hearing before the Commission under 2 Pa.C.S. §§ 501—508 (relating to practice and procedure of Commonwealth agencies). The applicant shall apply, in writing, to the Commission requesting a hearing. The Commission will conduct a hearing within 10 business days from the receipt of the written request.

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[Pa.B. Doc. No. 05-1772. Filed for public inspection September 23, 2005, 9:00 a.m.]

FISH AND BOAT COMMISSION
[58 PA. CODE CHS. 63 AND 69]
[58 PA. CODE CH. 75]

Fishing

[Correction]

The Fiscal Note numbers were incorrect in two documents which appeared at:

(1) 35 Pa.B. 5008, 5010 (September 10, 2005). The correct Fiscal Note number for this document, which amended Chapters 63 and 69, is 48A-174.

(2) 35 Pa.B. 5010, 5012 (September 10, 2005). The correct Fiscal Note number for this document, which amended Chapter 75, is 48A-167.

[Pa.B. Doc. Nos. 05-1674 and 05-1675. Filed for public inspection September 9, 2005, 9:00 a.m.]

FISH AND BOAT COMMISSION
[58 PA. CODE CH. 65]

Fishing; Special Trout Fishing Regulations

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). The final-form rulemaking simplifies the existing special trout fishing regulations by combining certain existing programs and makes certain conditions consistent across all special trout regulation programs.

A. Effective Date

The final-form rulemaking will go into effect on January 1, 2006.

B. Contact Person

For further information on the final-form rulemaking, contact Laurie E. Shepler, Chief Counsel, P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This final-form rulemaking is available on the Commission's website at www.fish.state.pa.us.

C. Statutory Authority

The amendments to §§ 65.2, 65.3, 65.4a, 65.5, 65.6, 65.7 and 65.24 and new §§ 65.14 and 65.15 (relating to catch and release fly-fishing only areas; and catch and release all-tackle areas) 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

In the recent past, there were at least 12 different special regulations programs used in trout stream management. They included Selective Harvest, All-Tackle Selective Harvest, Delayed Harvest Fly-Fishing-Only, Heritage Trout Angling, Trophy Trout, All-Tackle Trophy Trout, Catch and Release, Delayed Harvest Artificial Lures Only, Wild Brook Trout Enhancement and at least three different miscellaneous special regulations. In January 2005, the Commission eliminated the Selective Harvest and All-Tackle Selective Harvest Programs. The Commission has not contemplated any changes to the recently created Wild Brook Trout Enhancement Program, and only minor changes to the Delayed Harvest

Artificial Lure Only Program have been considered to make it consistent with other special trout regulation programs.

As part of the simplification process and to promote consistency within the special trout regulations programs, the Commission approved the publication of a proposed rulemaking seeking public comments on two options: one focusing on catch and release and the other focusing on trophy trout. The proposed rulemaking for which the Commission primarily sought public comment contained the trophy trout focus. However, the Commission also sought public comment on an alternative proposed rulemaking that focused on catch and release and would not allow the harvesting of any fish in certain special regulation waters.

This final-form rulemaking is designed to simplify, improve and make consistent the Commission's special trout regulations. The specific purpose of the final-form rulemaking is described in more detail under the summary of changes.

E. Summary of Changes

The Commission's primary proposed rulemaking had the following components:

(1) The Commission proposed establishing a new program called Catch and Release Fly-Fishing Only. Under the proposed rulemaking, the Heritage Trout Angling Program and the Delayed Harvest Fly-Fishing Only Program would be eliminated, and all waters currently in them (7 waters in the Heritage Program and 26 waters in the Delayed Harvest Fly-Fishing Only Program) would be designated into the new Catch and Release Fly-Fishing Only Program. This program, as proposed, would provide no closed season with no harvest, no hourly restrictions, no restriction on wading and no requirement for barbless hooks. During the public comment period for a prior Commission proposed rulemaking to permit all-tackle on delayed harvest waters during the harvest season, a large segment of the fly fishing community indicated a preference for no-harvest in the current Delayed Harvest Fly-Fishing Only Program. The main amendment for current delayed harvest fly-fishing-only waters was the removal of the former summer harvest season.

On final-form rulemaking, the Commission adopted the changes as proposed with the following exceptions. The Commission added a provision restricting the fishing hours to 1 hour before sunrise to 1 hour after sunset, and it added a provision clarifying that wading is permitted unless otherwise posted. The Commission determined, based upon recent discussions among the Trout Management Workgroup (Workgroup), that barbless hooks should not be required. However, the Commission believes that it is appropriate to include language in future summary books, beginning with the 2006 edition, that encourages anglers to use barbless hooks to facilitate catch and release angling. The Commission further believes that it is appropriate to undertake efforts to further educate anglers on the benefits of barbless hooks.

The Commission also took action to redesignate the 7 waters that are currently in the Heritage Trout Angling Program and the 26 waters in the Delayed Harvest Fly-Fishing Only Program into the new Catch and Release Fly-Fishing Only Program.

(2) The Commission proposed to rename the All-Tackle Trophy Trout to Trophy Trout All-Tackle. Under the proposed rulemaking, the program would offer a year-round harvest season (increased from mid-April to Labor Day) with a 24-inch minimum length limit (increased

from 14 inches), a one trout daily creel limit and no wading restrictions. A section of the Allegheny River, Warren County, would be moved from miscellaneous special regulation under § 65.24 (relating to miscellaneous special regulations) to the renamed Trophy Trout All-Tackle program.

Based upon recent discussions among the Workgroup, the Commission, on final-form rulemaking, decided to defer consideration of the proposed amendments and to leave the existing regulations for the All-Tackle Trophy Trout Program unchanged with the exception of stylistic changes and the clarification that a trout/salmon permit is required. The Commission also decided to defer consideration of the proposed rulemaking to delete the miscellaneous special regulation for the Allegheny River, Warren County, and to leave the regulation unchanged.

(3) The Commission proposed renaming the existing Trophy Trout Program to the Trophy Trout Artificial Lures Only Program and eliminating the existing Catch and Release Program. Under the proposed rulemaking, all waters in the existing Trophy Trout Program would remain in the renamed program and all waters in the existing Catch and Release Program would be designated to the Trophy Trout Artificial Lures Only Program. Tackle for this program would remain artificial lures only as currently specified in both existing programs, except barbed hooks would be allowed. Fishing would be permitted year-round with no hourly restriction and no taking of bait fish or fish bait. A 24-inch minimum length limit and a one trout per day creel limit would apply.

Based upon the recent discussions among the Workgroup, the Commission, on final-form rulemaking, decided to defer consideration of the proposed changes and to leave the existing regulations for the Trophy Trout Program and Catch and Release Program unchanged with the exception of stylistic changes and the clarification that a trout/salmon permit is required. The Commission also removed the requirement for barbless hooks in the current Catch and Release Program to achieve consistency among programs.

(4) The Commission proposed creating a new program called Catch and Release All-Tackle Areas. Under the proposed rulemaking, one miscellaneous special regulation water, Spring Creek, Centre County, and one water designated under § 65.23 (relating to special restrictions on polluted zones), Valley Creek, Chester County, would be designated into the new program.

Based upon recent discussions among the Workgroup, the Commission, on final-form rulemaking, adopted the new regulations for Catch and Release All-Tackle Areas, eliminated the miscellaneous special regulation for Spring Creek, Centre County, and removed the special restrictions on Valley Creek, Chester County. In addition, the Commission took action to designate Spring Creek and Valley Creek as waters to be regulated and managed under the new Catch and Release All-Tackle regulations.

(5) The Commission proposed amending the Delayed Harvest Artificial Lures Only Program to remove the daily fishing time restriction and to clarify that a current trout/salmon permit is required. Based upon recent discussions among the Workgroup, the Commission, on final-form rulemaking, adopted the changes as set forth in the notice of proposed rulemaking with the exception of removing the time restriction.

F. Paperwork

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

G. Fiscal Impact

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

H. Public Involvement

Notice of proposed rulemaking was published at 35 Pa.B. 2634 (April 30, 2005). The Commission solicited public comments for an extended period of 45 days. Prior to the formal public comment period, the Commission received 116 comments. The Commission received 42 public comments during the formal public comment period. After the close of the formal public comment period and as of July 8, 2005, the Commission received 67 public comments. The Commission received approximately 225 public comments as of July 8.

Regarding overall simplification, the Commission received 62 comments. Of those, 87% were in favor of simplification and 13% were opposed.

Regarding the proposed rulemaking with a trophy trout focus, 113 comments were received. Of those, 24% were in favor and 76% were opposed. In comparison, the Commission received 114 comments regarding the alternative focusing on catch and release. Of those, 97% were in favor and 3% were opposed.

The Commission received comments on particular aspects of the trophy trout focus, including a 24-inch minimum size limit, a reduction in the creel limit from two fish per day to one fish per day and a proposed year-round trophy trout harvest season. The comments may be summarized as follows: (1) 24-inch minimum: 40 comments were received—70% in favor, 30% opposed; (2) creel limit of one fish per day: 26 comments were received—85% in favor, 15% opposed; and (3) year-round harvest of trophy trout: 31 comments were received—16% in favor, 84% opposed.

The Commission received comments regarding its proposed rulemaking to simplify the restrictions across all special trout regulations, including provisions that barbed hooks, wading and 24-hour fishing be allowed on all special regulation waters. These comments may be summarized as follows: (1) barbed hooks allowed: 76 comments were received—7% in favor, 93% opposed; (2) wading allowed: 53 comments were received—11% in favor, 89% opposed; and (3) 24-hour fishing allowed: 46 comments were received—20% in favor, 80% opposed. Copies of all public comments 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 the comments that were 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 Chapter 65, are amended by deleting §§ 65.2 and 65.3 as set forth at 35 Pa.B. 2634 and by amending §§ 65.4a, 65.5, 65.6, 65.7 and 65.24 and adding §§ 65.14 and 65.15 to read as set forth in Annex A.

(b) The Executive Director will submit this order, 35 Pa.B. 2634 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, 35 Pa.B. 2634 and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect on January 1, 2006.

DOUGLAS J. AUSTEN, Ph.D.,
Executive Director

(Editor's Note: Documents relating to the amendment of § 65.24 appear at 35 Pa.B. 5124 (September 17, 2005) and 35 Pa.B. 5268 (September 24, 2005).)

Fiscal Note: Fiscal Note 48A-170 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 65. SPECIAL FISHING REGULATIONS

§ 65.4a. All-tackle trophy trout.

(a) The Executive Director, with the approval of the Commission, may designate waters as all-tackle trophy trout areas. The designation of waters as all-tackle trophy trout areas 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 all-tackle trophy trout areas except in compliance with the following requirements:

(1) The program is open to fishing year-round; there is no closed season.

(2) Minimum size is 14 inches, caught on, or in possession on, the waters under regulation.

(3) The daily creel limit is two trout-combined species from 8 a.m. on the opening day of trout season in April until midnight Labor Day, except during the period from the day after Labor Day to the opening day of regular trout season of the following year, when no trout may be killed or had in possession on the waters under regulation.

(4) A current trout/salmon permit is required.

(c) This section applies to trout only. Inland regulations apply to all other species.

§ 65.5. Catch and release areas.

(a) The Executive Director, with the approval of the Commission, may designate waters as catch and release areas. The designation of waters as catch and release areas 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 catch and release areas except in compliance with the following requirements:

(1) Fishing may be done with artificial lures only constructed of metal, plastic, rubber or wood or with flies

and streamers constructed of natural or synthetic materials. Lures may be used with spinning or fly fishing gear.

(2) The use or possession of any natural bait, baitfish, fishbait, bait paste and similar substances, fish eggs (natural or molded) or any other edible substance is prohibited.

(3) Fishing hours are 1 hour before sunrise to 1 hour after sunset.

(4) No trout may be killed or had in possession.

(5) The program is open to fishing year-round; there is no closed season.

(6) Wading is permitted unless otherwise posted.

(7) Taking of baitfish or fishbait is prohibited.

(8) A current trout/salmon permit is required.

§ 65.6. Delayed harvest artificial lures only areas.

(a) The Executive Director, with the approval of the Commission, may designate waters as delayed-harvest, artificial lures only areas. The designation of waters as delayed-harvest, artificial lures only areas 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 delayed-harvest, artificial lures only areas except in compliance with the following requirements:

(1) Fishing may be done with artificial lures only constructed of metal, plastic, rubber or wood or with flies or streamers constructed of natural or synthetic materials. Lures may be used with spinning or fly fishing gear.

(2) The use or possession of any natural bait, baitfish, fishbait, bait paste and similar substances, fish eggs (natural or molded) or any other edible substance is prohibited.

(3) Fishing hours are 1 hour before sunrise to 1 hour after sunset during the regular and any extended trout season.

(4) A current trout/salmon permit is required.

(5) The daily creel limit is: three combined species except during the period after Labor Day and before June 15 when the daily limit shall be zero trout combined species, caught on or in possession on the waters under regulation.

(6) Taking of baitfish or fishbait is prohibited.

§ 65.7. Trophy Trout Program.

(a) The Executive Director, with the approval of the Commission, may designate waters as trophy trout areas. The designation of waters as trophy trout areas 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 trophy trout areas except in compliance with the following requirements:

(1) Fishing may be done with artificial lures only, constructed of metal, plastic, rubber or wood or with flies and streamers constructed of natural or synthetic materials. Lures may be used with spinning or fly fishing gear. Anything other than these items is prohibited.

(2) The use or possession of any natural bait, baitfish, fishbait, bait paste and similar substances, fish eggs (natural or molded) or any other edible substance is prohibited.

(3) The program is open to fishing year-round; there is no closed season.

(4) The minimum size is 14 inches, caught on or in possession on the waters under regulation.

(5) The daily creel limit is two trout—combined species—except during the period from the day after Labor Day to 8 a.m. of the opening day of regular trout season of the following year, when no trout may be killed or had in possession on the waters under regulation.

(6) Taking of baitfish or fishbait is prohibited.

(7) A current trout/salmon permit is required.

§ 65.14. Catch and release fly-fishing only areas.

(a) The Executive Director, with the approval of the Commission, may designate waters as catch and release fly-fishing only areas. The designation of waters as catch and release fly-fishing only areas 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 catch and release fly-fishing only areas except in compliance with the following requirements:

(1) Fishing may be done with artificial flies and streamers constructed of natural or synthetic materials so long as all flies are constructed in a normal fashion on a single hook with components wound on or about the hook. Anything other than these items is prohibited.

(2) Fishing shall be done with tackle which is limited to fly rods, fly reels and fly line with a maximum of 18 feet in leader material or monofilament line attached. Spinning, spincast and casting rods and reels are prohibited.

(3) The use or possession of any natural bait, baitfish, fishbait, bait paste and similar substances, fish eggs (natural or molded) or any other edible substance is prohibited.

(4) No trout may be killed or had in possession.

(5) The program is open to fishing year-round; there is no closed season.

(6) Fishing hours are 1 hour before sunrise to 1 hour after sunset.

(7) Taking of baitfish or fishbait is prohibited.

(8) Wading is permitted unless otherwise posted.

(9) A current trout/salmon permit is required.

§ 65.15. Catch and release all-tackle areas.

(a) The Executive Director, with the approval of the Commission, may designate waters as catch and release all-tackle areas. The designation of waters as catch and release all-tackle areas 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 catch and release all-tackle areas except in compliance with the following requirements:

(1) No trout may be killed or had in possession.

(2) The program is open to fishing year round; there is no closed season.

(3) A current trout/salmon permit is required.

§ 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>
Allegheny	Pine Township Park Pond	Fishing permitted on a catch-and-release basis. It is unlawful for a person to take or kill fish caught from these waters.
Beaver	Hopewell Township Park Lake	Bass—15-inch minimum size limit and a two bass daily creel limit. Panfish (combined species): ten fish daily creel limit. Use of live fish for bait is prohibited.
Beaver	Raccoon Creek State Park Upper Pond	This is a catch and release/no harvest fishery for all species. It is unlawful to take, kill or possess any fish. All fish caught must be immediately returned unharmed.
Blair, Huntingdon, Juniata, Mifflin and Perry	Juniata River and its tributaries	Rock bass—Daily creel limit is 10; open year-round; no minimum size limit.
Butler	Lake Arthur	The Executive Director or a designee may issue permits for use of cast nets or throw nets for taking only gizzard shad and alewife. In addition to other permit conditions that the Executive Director may require, the permits shall be limited to cast nets or throw nets of no greater than 10 feet in radius (20 feet in diameter) with a mesh size of at least 3/8 inches.
Chester	Elk Creek (Big Elk Creek)	The maximum size limit for alewife and blueback herring is 8 inches. It is unlawful to take, catch, kill or possess, while in the act of fishing, blueback herring or alewife 8 inches or more in length.
Clarion	Beaver Creek Ponds	Closed to fishing from 12:01 a.m. January 1 to 12:01 a.m. the first Saturday after June 11 of each year. Bass—15-inch minimum size limit and a two bass daily creel limit for the total project area. Panfish (combined species) ten fish daily creel limit for the total project area. Other species—inland regulations apply.

<i>County</i>	<i>Name of Water</i>	<i>Special Regulations</i>
Columbia and Northumberland	Bear Gap Reservoir, McWilliams Reservoir, Klines Reservoir and the South Branch of Roaring Creek from the bridge on State Route 3008 at Bear Gap upstream to the bridge on State Route 42	This is a catch and release/no harvest fishery for all species. It is unlawful to take, kill or possess any fish. All fish caught must be immediately returned unharmed.
Crawford and Erie	Conneaut Creek E. Branch Conneaut Creek M. Branch Conneaut Creek W. Branch Conneaut Creek Mud Run Stone Run	Salmon and Steelhead: 12:01 a.m. the day after Labor Day until midnight the Thursday before the opening day of trout season in April. Minimum size limit: 15 inches. Daily creel limit: 3 (combined species). Lake Erie fishing permit is not required.
Crawford	Crazy Run	Salmon and Steelhead: 12:01 a.m. the day after Labor Day until midnight the Thursday before the opening day of trout season in April. Minimum size limit: 15 inches. Daily creel limit: 3 (combined species). Lake Erie fishing permit is not required.
Crawford	Pymatuning Reservoir	Only carp and suckers may be taken by means of spearing or archery in compliance otherwise with § 63.8 (relating to long bow, spears and gigs). Minnow seines and dip nets are restricted to no more than 4 feet in size, and the mesh of the nets shall measure no less than 1/8 nor more than 1/2-inch on a side. Float line fishing is prohibited.
Crawford	Sugar Lake	Muskellunge—36-inch minimum size limit and a one muskellunge daily creel limit. Other species—inland regulations apply.
Elk	West Branch, Clarion River	The following additional restrictions apply to the “Delayed-Harvest, Fly-Fishing Only” area located on a 1/2-mile stream section from the intersection of S. R. 219 and S. R. 4003, upstream to the Texas Gulf Sulphur Property: Wading prohibited. Fishing permitted from east shore only.
Erie	E. Branch Conneaut Creek Marsh Run Temple Run Turkey Creek	Salmon and Steelhead: 12:01 a.m. the day after Labor Day until midnight the Thursday before the opening day of trout season in April. Minimum size limit: 15 inches. Daily creel limit: 3 (combined species). Lake Erie fishing permit is not required.
Huntingdon	Raystown Lake (includes Raystown Branch from the Raystown Dam downstream to the confluence with the Juniata River).	Trout (all species)—no closed season. Creel limits: Regular inland season—5. Day after Labor Day to opening day of next regular inland season—3 (combined species). Size limits: Inland rules apply. Smelt may be taken from shore or by wading by means of dip nets not to exceed 20 inches in diameter or 20 inches square. The daily limit per person is the greater of 1 gallon of smelt by volume or 200 smelt by number. The Executive Director or a designee may issue permits for use of cast nets or throw nets for taking only gizzard shad and alewife on Lake Raystown. In addition to other permit conditions that the Executive Director may require, the permits shall be limited to cast nets or throw nets of no greater than 10 feet in radius (20 feet in diameter) with a mesh size of at least 3/8 inches.
Lackawanna	Lake Scranton	It is unlawful for a person to fish from the fishing pier designated for use by persons with disabilities unless the person is: totally blind; or so severely disabled that the person is unable to cast or retrieve a line or bait hooks or remove fish without assistance; or deprived of the use of both legs; or participating in a special fishing event for persons with disabilities under conditions approved by the owner of the lake. The person may fish with only one legal device and shall be within 10 feet of the device being used. A person authorized to fish from the fishing pier under this section may be attended by another individual who may assist the person with the disability in using the fishing device.

<i>County</i>	<i>Name of Water</i>	<i>Special Regulations</i>
Luzerne	Harveys Lake	During the period from the opening day of trout season through midnight March 31, the daily creel limit for trout (combined species) is 3, only one of which may exceed 18 inches in length. Fishing is prohibited from April 1 through 8 a.m. of the opening day of regular trout season. Warmwater/coolwater species, except as provided in this section. Inland regulations apply.
Mercer	Shenango River from the dam downstream to SR 3025, a distance of 1.5 miles.	Closed season on trout: April 1 until 8 a.m., first Saturday after April 11. Daily limit—Opening day of trout season in April until Labor Day: five trout per day; day after Labor Day to midnight, March 31 of the following year—three trout per day. Inland regulations apply to warmwater/coolwater species.
Monroe and Pike	Delaware Water Gap National Recreation Area	The use of eel chutes, eelpots and fyke nets is prohibited. The taking of the following fishbait is prohibited: crayfish or crabs, mussels, clams and the nymphs, larva and pupae of all insects spending any part of their life cycle in the water. The taking, catching, killing and possession of any species of amphibians or reptiles within the boundaries of the Delaware Water Gap National Recreation Area is prohibited.
Somerset, Fayette, Westmoreland and Allegheny	Youghiogheny River from confluence with Casselman River downstream to the confluence with Ramcat Run Youghiogheny River from the pipeline crossing at the confluence with Lick Run downstream to the mouth of the river. Youghiogheny River from Reservoir downstream to confluence with Casselman River.	No closed season on trout. Daily limit opening day of trout season to Labor Day—5 trout; day after Labor Day to succeeding opening day of trout season—3 trout per day. Inland regulations apply to warmwater/coolwater species. Closed season on trout: April 1 until 8 a.m., first Saturday after April 11. Daily limit—Opening day of trout season in April until Labor Day—five trout per day; day after Labor Day to midnight, March 31 of following year: three trout per day. Inland regulations apply to warmwater/coolwater species.
Warren	Allegheny River—8.75 miles downstream from the outflow of the Allegheny Reservoir to the confluence with Conewago Creek	Trout—minimum size limit—14 inches; daily creel limit—2 trout per day (combined species) from 8 a.m. on the opening day of regular trout season through midnight Labor Day, except during the period from the day after Labor Day to the opening day of regular trout season of the following year, when no trout may be killed or had in possession. Other inland seasons, sizes and creel limits apply.
Washington	Little Chartiers Creek from Canonsburg Lake Dam approximately 1/2 mile downstream to mouth of Chartiers Creek	Fishing is prohibited from 12:01 a.m. March 1 to 8 a.m. opening day of trout season.
Washington	Cross Creek Lake	Bass—15-inch minimum size limit. Panfish groupings—10 per day creel limit combined species within grouping. Sunfish, crappies, rock bass—10 per day creel limit; combined species. Perch—10 per day creel limit; combined species. Catfish—10 per day creel limit; combined species. Other panfish (except those specified above)—10 per day creel limit; combined species. All other species—Inland seasons, size and creel limits apply. See § 61.1.

<i>County</i>	<i>Name of Water</i>	<i>Special Regulations</i>
Wayne	West Branch Delaware River	Trout: From the Pennsylvania/New York border downstream to the confluence with the East River Branch of the Delaware River: no-harvest artificial lures only season on trout from October 16 until midnight of the Friday before opening day of trout season. During the no-harvest artificial lures only season: 1. Fishing may be done with artificial lures only, constructed of metal, plastic, rubber or wood, or flies or streamers constructed of natural or synthetic materials. Lures may be used with spinning or fly fishing gear. 2. The use or possession of any natural bait, baitfish, fishbait, bait paste and similar substances, fish eggs (natural or molded) or any other edible substance is prohibited. 3. The daily creel limit for trout is 0.
Westmoreland	Indian Lake	The following size and creel limits apply: Bass—15 inch minimum size limit; 2 bass per day creel limit (combined species). Panfish: 10 fish per day creel limit (combined species). Other species—Inland regulations apply.
Westmoreland	Lower Burrell Park Pond	This is a catch and release/no harvest fishery for all species. It is unlawful to take, kill or possess any fish. All fish caught must be immediately returned unharmed.
Wyoming	Lake Winola	Bass—It is unlawful to take, catch, kill or possess bass that are 12 to 18 inches in length. The daily creel limit for bass less than 12 inches in length and greater than 18 inches in length is 6, only one of which may exceed 18 inches in length. Closed to all fishing from 12:01 a.m. March 1 to 8 a.m. the first Saturday after April 11.

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