

# RULES AND REGULATIONS

## Title 58—RECREATION

### FISH AND BOAT COMMISSION

[ 58 PA. CODE CH. 65 ]

#### Fishing; Special 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 Fish and Boat Code) (code).

##### A. *Effective Date*

The final-form rulemaking will go into effect on June 19, 2016.

##### B. *Contact Person*

For further information on the final-form rulemaking, contact Laurie E. Shepler, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This final-form rulemaking is available on the Commission's web site at [www.fish.state.pa.us](http://www.fish.state.pa.us).

##### C. *Statutory Authority*

The amendments to § 65.24 (relating to miscellaneous special regulations) are published under the statutory authority of section 2307 of the code (relating to waters limited to specific purposes).

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

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

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

(1) Opossum Lake, a 47-acre impoundment owned by the Commonwealth and managed by the Commission, is located in Lower Frankford Township, Cumberland County, approximately 6 miles west-northwest of the Borough of Carlisle. The dam impounds Opossum Creek at river mile 0.5. This lake was completely dewatered in October 2008 to make dam and spillway repairs and modifications per dam safety standards of the Department of Environmental Protection (Department). Following completion of the dam and spillway repairs and modifications as well as construction of numerous habitat enhancement devices, the impoundment was refilled and the Commission resumed annual adult trout stocking during spring 2013 to provide angling opportunities for stocked trout. Additionally, the Commission began to re-establish a high quality warmwater and coolwater fishery through fingerling plants of select fish species beginning in summer 2013. This process was completed during fall 2015. However, additional fingerlings may be stocked as deemed necessary.

Immediately upon refilling of the lake, the Commission opened the lake to fishing under a miscellaneous special regulation that allows for the harvest of trout under Commonwealth inland seasons, sizes and creel limits but allows catch and release fishing only for all other fish species. The Commission took this approach to allow a balanced fishery to develop under protective regulations while offering acceptable levels of recreational angling opportunities. This regulation will remain in effect until June 18, 2016.

Based on a recent assessment of the fish community, the fishery continues to develop. However, the fishery has not progressed to levels where the Commission believes that regulations should be relaxed at this time. Therefore, the Commission amends the current miscellaneous special regulation to extend it until the Commission deems it appropriate for removal. Commission staff plan to monitor the fishery biennially. Once the warmwater fishery has been re-established, Commission staff will recommend that the lake be removed from the miscellaneous special regulation and included in one of the Commission's existing warmwater regulation programs.

The Commission amends § 65.24 to read as set forth in the proposed rulemaking published at 45 Pa.B. 6695 (November 21, 2015).

(2) Leaser Lake, a 117-acre impoundment owned by the Commonwealth and managed by the Commission, is located in Lynn Township, Lehigh County, approximately 20 miles west-northwest of Allentown. The dam impounds an unnamed tributary to Ontelaunee Creek. This lake was completely dewatered in 2008-2009 to make dam and spillway repairs and modifications per Department dam safety standards. Following completion of the dam and spillway repairs and modifications as well as construction of numerous habitat enhancement devices, the impoundment was nearly refilled by spring 2013, then partially drained by 20 feet in late summer 2014 for additional repairs and fully refilled in 2015. The Commission resumed annual adult trout stocking during spring 2013 to provide angling opportunities for stocked trout. Additionally, the Commission began to re-establish a high quality warmwater and coolwater fishery through fingerling plants of select fish species beginning in 2013. This process remains on-going albeit with some cancellations, such as walleye fingerlings, required in 2014 due to the partial drawdown.

Immediately upon refilling of the lake, the Commission opened the lake to fishing under a miscellaneous special regulation that allowed for the harvest of trout under Commonwealth inland seasons, sizes and creel limits but allowed catch and release fishing only for all other fish species. The Commission took this approach to permit balanced fish populations to develop under protective regulations while offering acceptable levels of recreational angling opportunities. This regulation will remain in effect until June 18, 2016.

Based on the stocking delay that occurred, a recent fisheries management assessment of the fish community and information from Commission staff and anglers regarding their catches, the growth and abundances of warmwater/coolwater fish populations have not progressed to levels where staff believe that regulations should be relaxed at this time. Therefore, the Commission amends the current miscellaneous special regulation to extend it until the Commission deems it appropriate for removal. Commission staff plan to monitor the fishery biennially. Once the warmwater/coolwater fish populations have been re-established, Commission staff will recommend that the lake be removed from the miscellaneous special regulation and included in one of the Commission's existing warmwater regulation programs.

The Commission amends § 65.24 to read as set forth at 45 Pa.B. 6695.

*F. Paperwork*

The final-form rulemaking will not increase paperwork and will not create new paperwork requirements.

*G. Fiscal Impact*

The final-form rulemaking will not have adverse fiscal impact on the Commonwealth or its political subdivisions. The final-form rulemaking will not impose new costs on the private sector or the general public.

*H. Public Involvement*

Notice of proposed rulemaking was published at 45 Pa.B. 6695. The Commission received one public comment opposing the proposed amendments. Copies of the public comment 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 public comment was 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 amending § 65.24 to read as set forth at 45 Pa.B. 6695.

(b) The Executive Director will submit this order and 45 Pa.B. 6695 to the Office of Attorney General for approval as to legality and form as required by law.

(c) The Executive Director shall certify this order and 45 Pa.B. 6695 and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect June 19, 2016.

JOHN A. ARWAY,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48A-269 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 16-555. Filed for public inspection April 1, 2016, 9:00 a.m.]