

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). The amendments update the Commission's waters subject to special fishing regulations.

A. *Effective Date*

This final-form rulemaking will go into effect upon publication in the *Pennsylvania Bulletin*.

B. *Contact Person*

For further information on this final-form rulemaking, contact Wayne Melnick, 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.fishandboat.com.

C. *Statutory Authority*

The amendment 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 specific purpose and background of the amendment is described in more detail under the summary of changes.

E. *Summary of Changes*

Minsi Lake, a 122-acre fertile impoundment owned by the Commonwealth and managed by the Commission, is located in Upper Mount Bethel Township in Northampton County, approximately 3.1 miles northeast of the Borough of Bangor. This reservoir was completely dewatered in June 2017 to complete dam and spillway repairs and modifications per Department of Environmental Protection dam safety standards. The earth-fill dam impounds the East Fork Martins Creek at river-mile 2.3 upstream from its confluence with the West Fork Martins Creek. Prior to the drawdown in 2017, the lake offered angling opportunities for multiple warm-water and cool-water fish species, as well as adult trout stocked by the Commission. Dam and spillway repairs are expected to be completed by early-winter 2019 with refilling initiated soon after.

The Commission plans to initiate stocking the lake beginning in spring 2020 or as soon as refilling conditions allow with fingerling plants of select fish species to establish a high quality warm-water and cool-water fishery. Immediately upon refilling of the lake, Commission staff propose to open the lake to fishing under a miscellaneous special regulation that will allow for the harvest of trout under Commonwealth Inland Waters angling regulations but allow only catch and release fishing for all other fish species. Commission staff believe that this approach will allow for the most rapid development of a balanced warm-water and cool-water fish community, while offering acceptable levels of recreational angling opportunities. Fisheries Management staff will monitor the fish populations as needed while they develop and

make necessary modifications to the species stocked and recommend adjustments to the regulations governing fish harvest to the Board of Commissioners to continually provide high quality recreational angling opportunities at Minsi Lake. Once the warm-water fishery has been reestablished, the lake will be recommended for removal from the miscellaneous special regulation and inclusion in one of the Commission's existing warm-water regulation programs.

The Commission amends § 65.24 to read as set forth in the proposed rulemaking published at 49 Pa.B. 5213 (September 7, 2019).

F. *Paperwork*

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

G. *Fiscal Impact*

This final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions.

H. *Public Comments*

A notice of proposed rulemaking was published at 49 Pa.B. 5213. The Commission received a total of seven public comments, all in support of the proposed rulemaking.

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 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) A public comment period was provided, and seven public comments were received.

(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 49 Pa.B. 5213.

(b) The Executive Director will submit this order and 49 Pa.B. 5213 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 49 Pa.B. 5213 and deposit them with the Legislative Reference Bureau as required by law.

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

TIMOTHY D. SCHAEFFER,
Executive Director

Fiscal Note: Fiscal Note 48A-292 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 19-1850. Filed for public inspection December 13, 2019, 9:00 a.m.]

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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). The amendment updates the Commission's waters subject to special fishing regulations.

A. Effective Date

This final-form rulemaking will go into effect upon publication in the *Pennsylvania Bulletin*.

B. Contact Person

For further information on this final-form rulemaking, contact Wayne Melnick, 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.fishandboat.com.

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 specific purpose and background of the amendment is described in more detail under the summary of changes.

E. Summary of Changes

Donegal Lake, a 90-acre impoundment owned by the Commonwealth and managed by the Commission, is located in Donegal Township, Westmoreland County, approximately 1.2 miles northeast of the Borough of Donegal. This reservoir was completely dewatered during fall 2016 to complete control tower, dam and spillway repairs and modifications per Department of Environmental Protection dam safety standards. The earth-fill dam, constructed in 1967, impounds Fourmile Run at river-mile 13.0 upstream from its confluence with Loyalhanna Creek at river-mile 32.7. Prior to the drawdown in 2016, the lake offered angling opportunities for multiple warm-water and cool-water fish species, as well as adult trout stocked by the Commission. Dam and spillway repairs are expected to be completed by early-winter 2019 with refilling initiated soon after.

The Commission plans to initiate stocking the lake beginning in spring 2020 or as soon as refilling conditions allow with fingerling plants of select fish species to establish a high quality warm-water fishery. Immediately upon refilling of the lake, Commission staff propose to open the lake to fishing under a miscellaneous special regulation that will allow for the harvest of trout under Commonwealth Inland Waters angling regulations but allow only catch and release fishing for all other fish species. Commission staff believe that this approach will allow for the most rapid development of a balanced warm-water and cool-water fish community, while offering acceptable levels of recreational angling opportunities. Fisheries Management staff will monitor the fish popula-

tions as needed while they develop and make necessary modifications to the species stocked and recommend adjustments to the regulations governing fish harvest to the Board of Commissioners to continually provide high quality recreational angling opportunities at Donegal Lake. Once the warm-water fishery has been reestablished, the lake will be recommended for removal from the miscellaneous special regulation and inclusion in one of the Commission's existing warm-water regulation programs.

The Commission amends § 65.24 to read as set forth in the proposed rulemaking published at 49 Pa.B. 5214 (September 7, 2019).

F. Paperwork

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

G. Fiscal Impact

This final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions.

H. Public Comments

A notice of proposed rulemaking was published at 49 Pa.B. 5214. The Commission did not receive any public comments.

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 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) A public comment period was provided, and no comments were received.

(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 49 Pa.B. 5214.

(b) The Executive Director will submit this order and 49 Pa.B. 5214 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 49 Pa.B. 5214 and deposit them with the Legislative Reference Bureau as required by law.

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

TIMOTHY D. SCHAEFFER,
Executive Director

Fiscal Note: Fiscal Note 48A-293 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 19-1851. Filed for public inspection December 13, 2019, 9:00 a.m.]