

PROPOSED RULEMAKING

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 63]

Fishing; General Fishing Regulations

The Fish and Boat Commission (Commission) proposes to amend Chapter 63 (relating to general fishing regulations). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). The proposed amendment updates the Commission's regulations pertaining to bowfishing.

A. Effective Date

This proposed rulemaking, if approved on final-form rulemaking, will go into effect upon publication in the *Pennsylvania Bulletin*.

B. Contact Person

For further information on this proposed rulemaking, contact Wayne Melnick, Esq., P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rulemaking is available on the Commission's web site at www.fishandboat.com.

C. Statutory Authority

This proposed amendment to § 63.8 (relating to long bows, crossbows, spears and gigs) is published under the statutory authority of section 2102(b) of the code (relating to rules and regulations).

D. Purpose and Background

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

E. Summary of Proposal

The Commission, specifically the Bureau of Law Enforcement (Bureau), has received an increasing number of complaints regarding bowfishing. Most of these complaints revolve around the intense bright lighting used to locate fish along the shoreline. In addition to the lighting, the noise created by the internal combustion, gas-powered generators used by some to operate the lighting has also generated complaints to the Bureau and created conflicts with property owners along Commonwealth waterways.

After receiving feedback from agency staff, property owners, anglers, fishing guides and legislators, Commission staff have conferred and support a clarification of the regulation listed as follows.

The Law Enforcement Committee considered this proposal on December 15, 2021, and recommended the Commission approve the publication of a notice of proposed rulemaking containing the amendment.

The Commission proposes that § 63.8 be amended to read as set forth in Annex A.

F. Paperwork

This proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

G. Fiscal Impact

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

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about this proposed rulemaking to the Executive Director, Fish and Boat Commission, P.O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

TIMOTHY D. SCHAEFFER,
Executive Director

Fiscal Note: 48A-321. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 63. GENERAL FISHING REGULATIONS

§ 63.8. Long bows, crossbows, spears and gigs.

* * * * *

(c) *Restrictions.* Spears or gigs may not be mechanically propelled, may not have more than five barbed points, and may not be used in stocked trout waters.

(d) *Exceptions:*

(1) It is unlawful to use bow and arrow (including compound bows and crossbows), spears and gigs in any special regulation trout waters.

(2) It is unlawful to cast direct rays of a spotlight, mounted headlight or any other artificial light of any kind from any watercraft upon any occupied building or another watercraft.

(3) It is unlawful to use generators on board a watercraft engaged in bowfishing with a noise level that exceeds 90 dB(a). The noise emission test measurement will be made with the sound level meter at a distance of at least 4 feet above the water at a point where the transom gunwale and the port or starboard gunwale intersects.

[Pa.B. Doc. No. 22-377. Filed for public inspection March 11, 2022, 9:00 a.m.]

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 65]

Fishing; Special Fishing Regulations

The Fish and Boat Commission (Commission) proposes to amend Chapter 65 (relating to special fishing regulations). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to

Fish and Boat Code) (code). The proposed amendment would remove Penns Creek, Section 03, from the Commission's miscellaneous special regulations.

A. *Effective Date*

This proposed rulemaking, if approved on final-form rulemaking, will go into effect on January 1, 2023.

B. *Contact Person*

For further information on this proposed rulemaking, contact Wayne Melnick, Esq., P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rulemaking is available on the Commission's web site at www.fishandboat.com.

C. *Statutory Authority*

This proposed amendment to § 65.24 (relating to miscellaneous special regulations) is published under the statutory authority of section 2307(a) of the code (relating to waters limited to specific purposes).

D. *Purpose and Background*

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

E. *Summary of Proposal*

Penns Creek is a large, limestone-influenced stream that supports a robust wild brown trout fishery in its upstream reaches. The stream is approximately 67 miles in length and is delineated into 8 stream sections for fisheries management purposes. The Commission has documented wild trout in approximately 37 miles of the stream from the headwaters downstream to Glen Iron, with approximately 29 miles being designated as Class A wild trout waters. Penns Creek, Section 03, extends for 7.0 miles from the confluence with Elk Creek in Coburn downstream to 600 meters downstream of the confluence with Swift Run. Section 03 was managed as a stocked trout fishery until 1992 when it was designated by the Commission as a Class A wild trout stream and the stocking of hatchery-reared trout was discontinued in favor of wild trout management.

To address landowner and angler feedback, increase the abundance of large wild brown trout in the population, and provide the opportunity to use all tackle types and harvest some trout, a new miscellaneous special regulation in § 65.24 regarding slot limit was established on Penns Creek, Section 03, beginning January 1, 2014. The slot limit regulation allows for year-round fishing, use of all tackle types and the harvest of two trout per day that are at least 7 inches but less than 12 inches in length, from the opening day of the regular season for trout through Labor Day, with no harvest permitted the remainder of the year.

Penns Creek, Section 03, provided a unique opportunity to evaluate this new special regulation on a productive limestone stream. The Penns Creek trout population was monitored before and after implementation of the slot limit regulation. Results of the monitoring revealed a substantial increase in the electrofishing catch rates of larger brown trout (greater than or equal to 16 inches in length) during the slot limit regulation implementation period (2014–2019). These results suggest that the slot limit regulation likely played an important role in the increased electrofishing catch of large brown trout in Section 03. In addition to fishery independent monitoring,

Commission staff conducted an angler use, harvest and opinion survey to evaluate the social aspects of the regulation change and estimate angler harvest in 2019. Results documented low harvest of trout during the survey and high angler support for continuance of the slot limit regulation. Despite low angler harvest under the current slot limit regulation, this regulation provides the opportunity for anglers to harvest intermediate-sized trout if desired, which was an important social consideration when the regulation was originally implemented.

Given the success of the experimental slot limit regulation program on Penns Creek, Section 03, and potential opportunities to utilize this regulation at other suitable wild trout waters, the Commission established a new special regulation program known as trout slot limit in 2021. The trout slot limit program has two subprograms: all-tackle trout slot limit and artificial lures only trout slot limit. As such, it is recommended that Penns Creek, Section 03, be removed from miscellaneous special regulations in favor of management under the newly established trout slot limit program. Upon removal of this regulation, Penns Creek, Section 03, will be proposed for designation into the all-tackle trout slot limit program under § 65.4c (relating to all-tackle trout slot limit) at a quarterly Commission meeting later in 2022 with an implementation date of January 1, 2023. If approved, the name of the regulation applied to Penns Creek, Section 03, will change; however, the regulation itself would remain the same.

To facilitate transition of Section 03 into the all-tackle trout slot limit program, this water must first be removed from miscellaneous special regulations. Other fish species will be managed with Commonwealth inland waters angling regulations in § 61.1 (relating to Commonwealth inland waters).

The Commission proposes that § 65.24 be amended to read as set forth in Annex A.

F. *Paperwork*

This proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

G. *Fiscal Impact*

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

H. *Public Comments*

Interested persons are invited to submit written comments, objections or suggestions about this proposed rulemaking to the Executive Director, Fish and Boat Commission, P.O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

TIMOTHY D. SCHAEFFER,
Executive Director

Fiscal Note: 48A-324. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 58. RECREATION
PART II. FISH AND BOAT COMMISSION
Subpart B. FISHING
CHAPTER 65. SPECIAL FISHING REGULATIONS

§ 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>
* * * * *		
Centre	Foster Joseph Sayers Lake	Crappie—10 fish daily creel limit of which no more than 5 fish may be greater than or equal to 9 inches in length
[Centre and Mifflin	Penns Creek, from the confluence of Elk Creek downstream 7 miles to 600 meters downstream of Swift Run	Open to fishing year-round. All tackle types are permitted. From 8 a.m. on the opening day of the regular season for trout through Labor Day—the daily creel limit for trout is 2 (combined species). Trout must be at least 7 inches but less than 12 inches in length to be killed or possessed. From the day after Labor Day until 8 a.m. on the opening day of the regular season for trout, no trout may be killed or possessed. Inland regulations apply to all other species. This miscellaneous special regulation will remain in effect until further notice.]
Clarion	Beaver Creek Ponds	Closed to fishing from 12:01 a.m. January 1 to 12:01 a.m. the second Saturday in June of each year. Bass—15 inch minimum size limit and a 2 bass daily creel limit for the total project area. Panfish (combined species) 10 fish daily creel limit for the total project area. Other species-inland regulations apply.
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[Pa.B. Doc. No. 22-378. Filed for public inspection March 11, 2022, 9:00 a.m.]

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 65]

Fishing; Special Fishing Regulations

The Fish and Boat Commission (Commission) proposes to amend Chapter 65 (relating to special fishing regulations). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). The proposed amendment would remove Little Chartiers Creek, Section 05, from the Commission’s miscellaneous special regulations.

A. Effective Date

This proposed rulemaking, if approved on final-form rulemaking, will go into effect on January 1, 2023.

B. Contact Person

For further information on this proposed rulemaking, contact Wayne Melnick, Esq., P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rulemaking is available on the Commission’s web site at www.fishandboat.com.

C. Statutory Authority

This proposed amendment to § 65.24 (relating to miscellaneous special regulations) is published under the statutory authority of section 2307(a) of the code (relating to waters limited to specific purposes).

D. Purpose and Background

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

E. Summary of Proposal

Little Chartiers Creek is a 17.5-mile long tributary to Chartiers Creek in Washington County, approximately 6 miles east-northeast of the City of Washington. Little Chartiers Creek is delineated into five stream sections for fisheries management purposes and is impounded at river mile 0.37, creating Canonsburg Lake, a 76-acre impoundment owned by the Commonwealth and managed by the Commission. Little Chartiers Creek, Section 02, is managed as a stocked trout water (STW) and Canonsburg Lake is managed as a stocked trout water open to year-round fishing. The remainder of Little Chartiers Creek (Sections 01, 03—05) is not managed as an STW and not stocked by the Commission with hatchery-reared trout.

Little Chartiers Creek, Section 05, is approximately 0.5 mile in length and extends from the outflow of Canonsburg Lake downstream to the confluence with Chartiers Creek. Although Section 05 is not managed as an STW, this section has been managed under miscellaneous special regulations since the early 1980s. This regulation prohibits angling from the end of the extended season for trout through 8 a.m. on the opening day of the regular season for trout, which aligns with the management of STWs. Historically, the rationale for this special regulation was to prohibit angling in Section 05 during

the closure period following the stocking of trout in Canonsburg Lake, which could escape downstream into Little Chartiers Creek. Escapement of stocked trout created unwanted and disruptive angler behavior in Section 05 and warranted management with these special regulations. During the annual regulatory review process, Commission staff determined that these regulations are no longer necessary and recommend removal. If removed, this change would simplify regulations and increase angling opportunities while continuing to provide adequate resource protection.

Upon removal of this special regulation, Section 05 will revert to Commonwealth inland waters angling regulations in § 61.1 (relating to Commonwealth inland waters). To facilitate transition of Section 05 to management with Commonwealth inland waters angling regulations, this water must first be removed from miscellaneous special regulations.

The Commission proposes that § 65.24 be amended to read as set forth in Annex A.

F. Paperwork

This proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

G. Fiscal Impact

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

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about this proposed rulemaking to the Executive Director, Fish and Boat Commission, P.O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

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TIMOTHY D. SCHAEFFER,
Executive Director

Fiscal Note: 48A-323. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 65. SPECIAL FISHING REGULATIONS

§ 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>
* * * * *		
Warren	Chapman Dam Reservoir	All species except trout—catch and release/no harvest; it is unlawful to take, kill or possess any fish except trout. All fish caught other than trout must be immediately returned unharmed. Trout—inland regulations apply. See § 61.1 (relating to Commonwealth inland waters). This miscellaneous special regulation will remain in effect until further notice.
[Washington	Little Chartiers Creek, from Canonsburg Lake Dam approximately 1/2 mile downstream to the mouth of Chartiers Creek	Fishing is prohibited from 12:01 a.m. the third Monday in February to 8 a.m. the opening day of the regular season for trout.]
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 the first Saturday after April 11. 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. Use or possession of any other lures or substances is prohibited. 2. The daily creel limit for trout is 0.
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[Pa.B. Doc. No. 22-379. Filed for public inspection March 11, 2022, 9:00 a.m.]