

## Notice of Proposed Rulemaking

COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA FISH AND BOAT COMMISSION

Title 58. Recreation  
Part II. Fish and Boat Commission  
Chapter 65  
Fishing

### **Preamble**

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 the Fish and Boat Code) (code).

A. *Effective Date*

The proposed rulemaking, if approved on final-form rulemaking, will go into effect on January 1, 2016.

B. *Contact Person*

For further information on the 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 website at [www.fish.state.pa.us](http://www.fish.state.pa.us).

C. *Statutory Authority*

The proposed amendments to § 65.6 (relating to delayed harvest artificial lures only areas) are published under the statutory authority of section 2102 of the code (relating to rules and regulations).

D. *Purpose and Background*

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

E. *Summary of Proposal*

The Delayed Harvest Artificial Lures Only (DHALO) Program was established in 1983. As a first-of-its-kind regulation in the country, Delayed Harvest management was designed to provide for an extended period of catch and release angling for stocked trout. As angler interest for stocked trout fishing declined on these waters and stream conditions became less favorable for stocked hatchery trout survival (due to decreased flow and elevated water temperatures) later in the year, harvest using a low creel limit was permitted. The harvest season was designed to allow for harvest of stocked trout before they were lost to natural mortality. Since the program's inception it has been one of the Commission's most popular programs.

In the 31 years since the program began, angler attitudes, preferences and interest in stocked trout fishing have changed as evidenced by on-the-water angler interviews conducted by Commission biologists as well as data from contracted statewide trout angler telephone surveys conducted in 1991 and 2008. Furthermore, Commission biologists have a better understanding of the performance of this regulation through evaluations of the biology and water temperatures of the streams that are managed in the program. Through these observations, the Commission has determined that modifications to the DHALO Program can be made that will simplify the regulation, increase angler success for stocked trout, allow for a more efficient use of expensive hatchery raised trout and encourage use by more anglers.

The specific modifications to the DHALO Program along with the rationale for the proposed changes follow:

(1) Move the start of the trout harvest period from June 15 to the Saturday before Memorial Day.

Rationale: Moving the start of the trout harvest period from June 15 to late May coincides with a period of time when anglers are still most interested in fishing for stocked trout and water conditions are more conducive to trout feeding activity. This proposed change is intended to increase angler participation, increase angling success and improve utilization of stocked trout prior to their loss to natural mortality. The anticipated results of this proposed change are increased angler use and increased return on the investment of stocked trout.

(2) Allow the use of bait by all anglers during the trout harvest period.

Rationale: This proposed change will generate additional angling opportunities for a segment of the angling population that is currently unable to fish in a DHALO area utilizing their preferred method of angling. The anticipated results of this proposed change are increased angler use during the harvest period, increased harvest of stocked trout prior to their loss to natural mortality and increased return on the investment of stocked trout. Additionally, this Commonwealth is the only state among the nine eastern states that have Delayed Harvest regulations for stocked trout that does not allow bait to be used in a Delayed Harvest area during the harvest period. Allowing bait during the harvest period in this Commonwealth could result in increased use of these waters by out-of-state anglers that enjoy the Delayed Harvest program in neighboring states.

(3) Allow youth anglers under the age of 16 to use bait year-round in DHALO areas.

Rationale: This proposed change will generate additional angling opportunities for a segment of the angling population that may not have mastered the use of flies or lures, especially youth and families. With this proposed change, a mentor will be able to fish in Delayed Harvest waters with flies and lures while the youth utilize bait. This approach is consistent with the Commission's

commitment to secure this Commonwealth's angling heritage by introducing more opportunities to engage youth in angling. The anticipated results of this proposed change are increased angler use by both adults and youth in waters managed with Delayed Harvest regulations and increased return on the investment of stocked trout.

(4) Change the minimum length limit from 9 inches to 7 inches.

Rationale: This proposed change will simplify regulations by reducing the number of different trout length limit requirements that the Commonwealth's anglers need to remember. The length limit change will be the same as the statewide minimum length limit. Because the length of stocked trout exceeds 10 inches, a change in the length limit from 9 inches to 7 inches will have no effect on the harvest of these fish.

The Commission proposes to amend § 65.6 to read as set forth in Annex A.

F. *Paperwork*

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

G. *Fiscal Impact*

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

H. *Public Comments*

Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commission, P.O. Box 67000,

Harrisburg, PA 17106-7000, within 60 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](http://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.

For the Pennsylvania Fish and Boat Commission

John A. Arway  
Executive Director

## **Annex A**

### **Regulation No. 48A-263**

#### **Title 58. Recreation**

#### **Part II. Fish and Boat Commission**

#### ***Subpart B. Fishing***

#### CHAPTER 65. **SPECIAL** FISHING REGULATIONS

#### § 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 **areas** 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.] The catch and release period for trout is the day after Labor Day to the Friday before Memorial Day. During the catch and release period, anglers 16 years of age and older may fish 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. Use or possession of any other lures or substances is prohibited. For anglers less than 16 years of age, all tackle is permitted. The daily creel limit for trout for all anglers is zero.

(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.] The harvest period for trout is the Saturday before Memorial Day to Labor Day. During the harvest period, all tackle is permitted. The daily creel limit for trout is three combined species. The minimum size for trout is 7 inches.

(3) [Minimum size is: 9 inches, caught on, or in possession on, the waters under regulation.

**(4) 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.] Delayed harvest areas are open to fishing year-round.**

[(5) (4) Taking of baitfish or fishbait is prohibited.

[(6) (5) A current trout/salmon permit is required.

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