

**Commonwealth of Pennsylvania  
Pennsylvania Fish & Boat Commission  
Bureau of Law Enforcement**

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# **FISHING and BOATING REGULATIONS**

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**COMMONWEALTH OF PENNSYLVANIA**

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**Note:** This document is not the official text of Fish and Boat Commission regulations. Regulations are changed through publications of the *Pennsylvania Code* and *Pennsylvania Bulletin*.



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PART II. FISH AND BOAT COMMISSION INDEX  
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**ANNEX A**  
**TITLE 58. PENNSYLVANIA CODE**  
**PART II. FISH AND BOAT COMMISSION INDEX**

Subpart

- A. General Provisions
- B. Fishing
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**CHAPTER 51.**  
**ADMINISTRATIVE PROVISIONS**

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- A. Preliminary Provisions
- B. Administration of Limited Police Powers by Waterways Conservation Officers
- C. Suspension, Denial, or Revocation of Licenses, Permits, Registrations, or Privileges
- D. Issuing Agents
- E. Permit Procedures
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- J. Royalties for Sand and Gravel Permits
- K. Civil Penalty Forfeiture Process
- L. Charter Boat/Fishing Guide Operations

**SUBCHAPTER A.**  
**PRELIMINARY PROVISIONS**

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- 51.1. Statutory Authority.
- 51.2. Commission Offices.
- 51.3. [Reserved]
- 51.4. Definitions.
- 51.5. Corrections of Regulations.
- 51.6. Petitions or Requests for Regulations.
- 51.7. Public Comments at Commission Meetings.
- 51.8. Counties Where the Use of the Field Acknowledgement of Guilt is authorized.
- 51.9. Release of Documents and Records.

51.10. Representation as Issuing Agent.

**§51.1. Statutory Authority.**

This chapter is promulgated under the code.

**§51.2. Commission Offices.**

(a) The address of the principal office of the Fish and Boat Commission is:

**Pennsylvania Fish and Boat Commission  
P.O. Box 67000  
Harrisburg, Pennsylvania 17106-7000**

(b) The address of the Bureau of Fisheries and The Bureau of Property & Facilities Management of the Pennsylvania Fish and Boat Commission are as follows:

**Pennsylvania Fish and Boat  
Commission  
Bureau of Fisheries  
450 Robinson Lane  
Belleville, Pennsylvania 16823**

**Pennsylvania Fish and Boat  
Commission  
Bureau of Property & Facilities  
Management  
450 Robinson Lane  
Belleville, Pennsylvania 16823**

(c) The address of the Boat Registration Section of the Bureau of Administration is:

**Pennsylvania Fish and Boat Commission  
Boat Registration Section  
P.O. Box 68900  
Harrisburg, Pennsylvania 17106-8900**

**§51.3. [Reserved]**

**§51.4. Definitions.**

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

*Code* – The Fish and Boat Code, Title 30 of the Pennsylvania Consolidated Statutes.

*Commission* – The Pennsylvania Fish and Boat Commission.

*Executive Director* – The Executive Director of the Commission.

**§51.5. Correction of Regulations.**

If the Executive Director or the staff of the Commission discovers an error or omission in the text of Commission regulations as published in the *Pennsylvania Code* or *Pennsylvania Bulletin*, the Executive Director is authorized to take immediate corrective action on behalf of the Commission, including, if necessary, the issuance of such orders or notices required to make the necessary corrections.

**§51.6. Petitions or Requests for Regulations.**

(a) *Form*. – Petitions or requests for regulations addressed to the Commission shall be submitted in the format set forth in 1 Pa. Code §35.18 (relating to petitions for issuance, amendment, waiver or deletion of regulations).

- (b) *Initial staff reviews.* –
- (1) The staff will review every petition for regulations to ensure that:
    - (i) It is complete as required by 1 Pa Code §35.18.
    - (ii) The petition requests an action within the authority or jurisdiction of the Commission.
    - (iii) The petition does not conflict with applicable Commonwealth or Federal law.
  - (2) If the staff determines the petition is not acceptable for one of the reasons set forth in paragraph (1), it will return the petition to the petitioner together with a statement of the reason why it is not acceptable.
- (c) *Oral presentation.* – A petitioner will be given the opportunity to make a 5-minute oral presentation on a petition that the staff determines is appropriate for further consideration. The oral presentation will be scheduled for the next meeting of the Commission occurring more than 30 days after completion of the initial staff review.
- (d) *Commission determination.* – After the oral presentation, the Commission will determine whether or not to accept the petition for further review. The Commission may refuse to accept the petition when one or more of the following conditions exist:
- (1) The Commission has within the previous 3 years considered the issue addressed by the petition or request.
  - (2) The action requested by the petitioner concerns a matter in litigation.
  - (3) The action is not appropriate for rulemaking by the Commission.
  - (4) The petition involves an issue previously considered by the Commission and it does not contain information which is new or sufficiently different to warrant reconsideration. If a petition does present new or sufficiently different information, this information must have been unavailable at the time of the Commission's previous decision.
- (e) *Staff report.* – If the Commission accepts the petition, the staff has 180 days to prepare a report evaluating the petition and containing the staff's recommendations for disposition. The staff may request additional time to evaluate a petition. Upon completion of the staff report, it will be sent to the petitioner who may, within 30 days, submit written comments, objections, or suggestions concerning the staff report. The staff may append their response to the petitioner's comments when forwarding the report and the comments to the Boating Advisory Board, in cases of petitions for boating regulations, or the Commission, in the cases of other regulations.
- (f) *Boating regulations.* – For boating regulations, the staff will submit the petition, the staff report, the petitioner's response, if any, and the staff response, if any, to the Boating Advisory Board for review and consideration at its next regular meeting occurring more than 30 days after the file is deemed complete. The Boating Advisory Board shall review the materials and provide their advice and recommendations to the Commission as provided in 30 Pa.C.S. §5121(c) (relating to promulgation).
- (g) *Commission action.* – The staff shall submit the petition, the staff report, the petitioner's response, if any, the staff response, if any and, in the case of boating regulations, the advice and opinions of the Boating Advisory Board to the Commission for consideration as part of the agenda of the next regular

meeting occurring more than 30 days after the file is deemed complete. The Commission will determine what action to undertake with respect to the petition at a public meeting.

**§51.7. Public Comments at Commission Meetings.**

- (a) Public comments at meetings of the full Board.
  - (1) *General rules.* – The Commission will provide a brief public comment period at the beginning of each public meeting. The Commission ordinarily will accept public comments following its committee reports and prior to its consideration of the formal agenda. The Commission may limit comments to matters that are within the Commission’s jurisdiction that are not repetitive or duplicative of other comments. The Commission president or presiding officer will request members of the public wishing to comment to indicate prior to the start of the meeting that they wish to provide public comment. The Commission president or presiding officer will determine the appropriate time limit for individual comments and announce that limit prior to receiving any comments. If members of the public prepare a written statement, they will be asked to provide a copy to the designated staff person. Members of the public representing a specific organization will be requested to designate one spokesperson to present their collective comments.
  - (2) *Consideration of agenda items.* – The Commission ordinarily will not permit public comments during the course of its meetings when it considers agenda items or other matters before the Commission. The Commission president or other presiding officer may invite brief public comments on items other than regulatory action when he determines that allowing the comments will be useful in the best interests of the Commission.
- (b) *Public comments at committee meetings.* The committee chair will provide a brief public comment period at the beginning of each committee meeting. The committee chair will determine an appropriate format for this period, including its length. The Committee chair may limit comments to matters that are related to the charge of the committee that are not repetitive or duplicative of other comments.

**§51.8. Counties Where the Use of the Field Acknowledgement of Guilt is authorized.**

Under section 925(d) of the code (relating to acknowledgement of guilt and receipts for payment), the field acknowledgement of guilt may be used in Philadelphia County.

**§51.9. Release of Documents and Records.**

- (a) Consistent with the Right-to-Know Law (65 P.S. §67.101 – 67.3104), and sections 324 and 5503 of the code (relating to Commission records; and accident reports), the Commission will make public records contained in its files available to requesters for inspection and duplication during the Commission’s regular business hours of 8 a.m. to 4 p.m., Monday through Friday (excluding Commonwealth holidays).

- (b) Requests for release of public records contained in Commission files must be made in writing and submitted to: Director, Bureau of Administration, Pennsylvania Fish and Boat Commission, Post Office Box 67000, Harrisburg, Pennsylvania 17106-7000. Written requests for release of public records may be sent by mail or by means of facsimile or by e-mail, or they may be delivered in person during the Commission's regular business hours. The Commission will not accept anonymous or oral requests.
- (c) The requester will be charged the fee prescribed by the Office of Open Records for the reproduction and release of documents on paper or in electronic media. The Commission will charge \$1 per page up to \$5 per document for certified copies. If the Commission mails copies of documents duplicated under this section to the requester, the requester will be charged the actual cost of postage or shipping. All charges shall be payable by check or money order made payable to "Pennsylvania Fish and Boat Commission". The Commission may require a requester to prepay fees if the fees are expected to exceed \$100. The Commission may waive copy charges and mailing charges for good cause or in the public interest.
- (d) Request for records made by subpoena, in addition to collection of subpoena fees, are subject to a reproduction charge of \$0.50 per page for black and white copies and \$1 per page for color copies. Copies provided on electronic media will be charged at \$1 per document, plus \$2 per diskette or compact disc. The Commission will charge \$1 per page up to \$5 per document for certified copies requested under a subpoena

**§51.10. Representation as Issuing Agent. – 2711(a); 5304(a)**

It is unlawful for persons to perform the functions of or to represent themselves as fishing license issuing agents or issuing agents for temporary boat registrations without being appointed or designated as such by the Commission.

**SUBCHAPTER B.**

**ADMINISTRATION OF LIMITED POLICE POWERS BY WATERWAYS  
CONSERVATION OFFICERS**

Sec.

- 51.11. General.
- 51.12. Policies.
- 51.13. Procedures.
- 51.14. [Reserved]

**§51.11. General.**

- (a) The primary responsibility of a waterways conservation officer is the enforcement of the code and this part. Section 901(a)(12) of the code (relating to powers and duties of waterways conservation officers and deputies) authorizes waterways conservation officers, when acting within the scope of their employment, to pursue, apprehend, or arrest a person suspected of violating 18 Pa.C.S. (Relating to the Crimes Code) or another offense classified as a misdemeanor or felony.
- (b) This subchapter sets forth the Commission's policies and procedures on administration of police powers by waterways conservation officers. These



policies and procedures are intended to serve as internal operating guidelines for waterways conservation officers. These policies and procedures will not be construed to detract from the authority granted by section 901(a) (12) of the code and to invalidate or otherwise affect the validity of an arrest, prosecution or other law enforcement actions undertaken by a waterways conservation officer. These policies and procedures confer no rights on persons charged with offenses by waterways conservation officers.

**§51.12. Policies.**

- (a) It is the policy of the Commission that a waterways conservation officer should arrest or take other appropriate enforcement actions with respect to a violation of 18 Pa.C.S. (relating to the Crimes Code) or other offenses classified as misdemeanors or felonies only when the offense occurs in the officer's presence while performing normal Commission law enforcement duties and there is no other officer present whose primary duty is enforcement of applicable state laws.
- (b) It is the policy of the Fish and Boat Commission that a waterways conservation officer should become involved in enforcement of violations described in section 901(a) (12) of the code (relating to powers and duties of waterways conservation officers and deputies) only to the degree necessary to protect life and property.
- (c) The public may not be encouraged to believe that a waterways conservation officer carries out general law enforcement work in parts of this Commonwealth that are some distance from police services. Complaints received shall be relayed to the proper enforcement agency, and the complainant so advised.

**§51.13. Procedures.**

- (a) As soon as possible after taking action with respect to an offense described in section 901(a)(12) of the code (relating to powers and duties of waterways conservation officers and deputies), the officer will take reasonable steps to notify the law enforcement agency with primary jurisdiction over the offense so that it may initiate necessary further action.
- (b) A waterways conservation officer involved in enforcement actions with respect to offenses described in section 901(a) (12) of the code shall secure and maintain onsite information and evidence as deemed appropriate.
- (c) A waterways conservation officer involved in enforcement actions with respect to offenses described in section 901(a) (12) of the code shall file reports with supervisors that the Bureau of Law Enforcement requires.
- (d) The Bureau of Law Enforcement shall annually report to the Commission's Law Enforcement Committee on the number and types of law enforcement actions undertaken under section 901(a) (12) of the code in the preceding year.

**§51.14. [Reserved]**

**SUBCHAPTER C.**  
**SUSPENSION, DENIAL, OR REVOCATION OF LICENSES, PERMITS,**  
**REGISTRATIONS, OR PRIVILEGES**

Sec.

- 51.21. Scope.
- 51.22. Initiation of Proceedings.
- 51.23. Order to Show Cause.
- 51.24. Answer to Order to Show Cause.
- 51.25. Demand for or Waiver of Hearing.
- 51.26. Procedure in Lieu of Hearing.
- 51.27. Hearings.
- 51.28. Report of the Presiding Officer.
- 51.29. Final Action.

**§51.21. Scope.**

- (a) This subchapter, adopted pursuant to 30 Pa.C.S. §928, sets forth the procedures to be followed by the Commission in suspending, denying or revoking licenses, permits, special licenses, and boat registration issued under the authority of the code, of persons convicted of offenses under the code. For purposes of this subchapter, a person will be deemed to be convicted of an offense under the code if he voluntarily acknowledges guilt pursuant to 30 Pa. C.S. §925.
- (b) Except as otherwise specifically provided in this subchapter, 1 Pa. Code Part II (relating to general rules of administrative practice and procedure) will apply to proceedings hereunder. This subsection supplements 1 Pa. Code §31.1 (relating to scope of part).

**§51.22. Initiation of Proceedings.**

- (a) When an officer of the Commission or other officer authorized to enforce the code believes that a violator of the code – one who has been convicted or acknowledged guilt for an offense thereunder – should be subject to suspension, or revocation of a license, special license, permit, registration, or privilege, the officer shall submit a report outlining the facts and circumstances of the violation and other surrounding or relevant facts to the Director of the Law Enforcement Bureau. When a deputy waterways conservation officer or waterways conservation officer initiates the proceedings, the report shall be submitted through normal law enforcement channels. Each reviewer of the report shall add a recommendation as to disposition.
- (b) The Director of the Law Enforcement Bureau will review the report together with such members of the Commission staff as the Executive Director shall designate for this purpose. The Director will report to the Executive Director as to whether or not the staff recommends further action.

**§51.23. Order to Show Cause.**

- (a) If, after review of the staff report, the Executive Director determines that revocation/suspension proceedings should go forward, he will cause the violator to be served with an order to show cause on a form prescribed by the

Director, which form shall be in substantial compliance with 1 Pa. Code §35.14 (relating to orders to show cause).

- (b) Service of the order to show cause shall be by certified or registered mail. Service is complete upon delivery of the mail. If the mail is returned by the postal authorities with a notation that the violator refused to accept the mail or that the mail was unclaimed, the Commission will serve the order to show cause by ordinary mail with the return address of the Commission appearing thereon. Service by ordinary mail is complete if the mail is not returned to the Commission within 15 days after mailing. Other documents served by the agency shall be served by first class mail in accordance with 1 Pa. Code §33.31 (relating to service by the agency).

**§51.24. Answer to Order to Show Cause.**

A respondent shall file a written answer to an order to show cause. The answer must be received at the Harrisburg Office of the Commission no later than 20 days after the respondent received the order. The answer shall be in compliance with 1 Pa. Code §35.37 (relating to answers to orders to show cause). Any respondent failing to file a timely answer that conforms to 1 Pa. Code §35.37 (relating to answers to orders to show cause) will be deemed in default, and relevant facts stated in the order to show cause be deemed admitted.

**§51.25. Demand for or Waiver of Hearing.**

- (a) A respondent shall submit a timely demand for hearing with the answer to the order to show cause. The demand shall be in writing and shall be accompanied by a nonrefundable filing fee of \$35 in the form of a money order, certified check or bank cashier's check made payable to "Pennsylvania Fish and Boat Commission." A hearing will not be conducted nor a demand deemed filed until the complete filing fee is received by the Commission in the form specified and within the same frame designated. Failure to file a demand for a hearing or to submit the filing fee in the amount and form specified within the time limit set for filing an answer will be deemed a waiver of the right to hearing. The Commission will return to the respondent any filing fee that it receives that does not comply with this subsection.
- (b) A respondent may choose to waive a hearing and submit written comments, objections, or matters in mitigation or extenuation with regard to the proposed suspension, denial, or revocation.
- (c) If a respondent demands a hearing and subsequently fails to appear at the hearing after being given written notice of the date and time, the respondent's failure to appear will be deemed a waiver of the right to a hearing, and a hearing will not be conducted and the filing fee will not be refunded.
- (d) Subsection (a) supplements 1 Pa. Code §33.21 and §33.22 (relating to failing fees; and mode of payment of fees).

**§51.26. Procedure in Lieu of Hearing.**

- (a) When for any reason a hearing is not held with regard to a proposed suspension, denial, or revocation of any license, permit, registration, or privilege granted under the code, the entire written file on the case shall be submitted to the Commission's Law Enforcement Committee, which shall review the matter and make a final determination as to its disposition. The

action of the Law Enforcement Committee is considered the final agency action.

- (b) Subsection (a) supersedes 1 Pa. Code §35.226 (relating to final orders).

**§51.27. Hearings.**

- (a) If a respondent demands a hearing, the Executive Director will appoint a presiding officer to conduct the hearing on behalf of the Commission. The presiding officer may be an employee of the Commission who has not reviewed the proposed revocation action after proceedings were initiated under §51.22. (Relating to initiation of proceedings). This subsection supersedes 1 Pa. Code §35.185 (relating to designation of presiding officer).
- (b) Hearings will be conducted at the Harrisburg office of the Commission or at such other location in the Harrisburg area as the Executive Director may designate. Respondents will be given at least ten days written notice of the date and time of the hearing.
- (c) The burden of proof to justify the proposed suspension, denial, or revocation will be on the Commission to prove by a preponderance of the evidence that the proposed action is justified by the facts and circumstances.
- (d) The presiding officer will permit either oral argument at the conclusion of the hearing or the filing of written briefs, but not both, except in cases of extraordinary complexity where he finds, upon motion of the parties or his own motion, that the ends of justice require allowance of both. In cases where briefs are to be filed, the procedures of 1 Pa. Code §35.191-35.193 (relating to briefs) will be followed. This subsection supersedes 1 Pa. Code §35.204 (relating to oral argument before presiding officer).

**§51.28. Report of the Presiding Officer.**

- (a) After the hearing is closed, the transcript prepared, and briefs, if any, received, the presiding officer will prepare a proposed report, the contents of which shall be in substantial compliance with 1 Pa. Code §35.205 (relating to contents of proposed reports).
- (b) A copy of the proposed report shall be served on respondent and all other parties of record who shall thereafter have 30 days to file exceptions. Briefs opposing exceptions may be filed in accordance with 1 Pa. Code §35.211 (relating to procedure to except proposed report).
- (c) If exceptions to the proposed report are not filed, the proposed report will be considered the final administrative adjudication of the Commission.
- (d) If exceptions to the proposed report are filed, the proposed report, together with the entire record, the briefs, the exceptions, and briefs on and opposing exceptions will be filed by the Executive Director with the Chairperson of the Commission's Law Enforcement Committee.

**§51.29. Final Action.**

- (a) The members of the Commission's Law Enforcement Committee will review the proposed report, together with all other matters of record and filings in the proceedings. The Committee will consider the matter at a public meeting duly convened under the Open Meeting Law. Unless ordered by the Committee, no oral argument will be permitted at the public meeting nor will the respondent be permitted to reargue or retry matters that were raised or could have been

raised before the presiding officer. The Committee will vote to approve or disapprove a proposed report. If Committee action results in a suspension, denial, or revocation of any license, permit, privilege, or registration, the Committee will set the date upon which the action will take effect.

- (b) The action by the Committee will be considered the final administration adjudication of the Commission with respect to the suspension, denial, or revocation. The respondent will be notified in writing of the final action. The Final order will be considered officially entered on the date it is mailed or otherwise served, whichever comes first.
- (c) If, after the entry of a final order, the respondent files a timely petition for review of the adjudication, he may apply in writing to the Executive Director for a stay of the effective date of the order. The filing of a petition for review shall not operate as an automatic stay. The Executive Director may grant a stay for good cause shown. Unless stayed by the Executive Director or a court of competent jurisdiction, the suspension, denial, or revocation will take effect on the date provided in the order.

#### **SUBCHAPTER D. ISSUING AGENTS**

Sec.

- 51.31. Responsibility of Issuing Agents.
- 51.32. Resident and Nonresident Licenses.
- 51.33. Effective Dates of Licenses and Permits.
- 51.34. Stamps and Permits.
- 51.35. Operation of the Issuing Agency.
- 51.36. Lost License Certificates.
- 51.37. Application and Prerequisites for Becoming an Issuing Agent for the Pennsylvania Automated Licensing Service (PALS).
- 51.38. Operation of the Issuing Agent for the Pennsylvania Automated Licensing Service (PALS).

#### **§51.31. Responsibility of Issuing Agents. – 2711(c)**

- (a) Issuing agents are responsible to ensure that the fishing license is fully completed. The applicant shall make sure the information entered on the license form is correct, and shall sign his own name or place his mark in the place indicated on the reverse of the license certificate.
- (b) Issuing agents shall verify the eligibility of the applicant for the class of license indicated on the license in accordance with §51.32. (Relating to resident and nonresident licenses).
- (c) The issuing agent shall transfer the information provided by the applicant to the license certificate, assuring that the information can be easily read. Information on the license certificate shall agree with the information provided and be typed or printed in ink.
- (d) Agents shall use standard abbreviations supplied by the Commission for color of eyes.
- (e) Each license shall bear the account number of the issuing agent and the signature or initials of the person issuing the license.
- (f) Issuing agents shall issue licenses in numerical sequence.

- (g) Issuing agents shall provide a Summary of Fishing Regulations and Laws with each license issued. Issuing agents also shall provide a copy of the summary book to any holder of a Senior Resident Lifetime Fishing License who requests one. Failure to comply with this subsection will be grounds for recall of the issuing agency as provided in section 2711 of the code (relating to issuing agents). Issuing agents are encouraged to provide a copy of the summary book, if adequate numbers are available, to other individuals who request one.
- (h) Issuing agents are responsible to ensure that when someone buys a license as a gift for another person, the person buying the license signs his name on the reverse of the agency's copy of the license and indicates that the license was purchased as a gift. The recipient of the gift license shall sign his name on the original of the license.

**§51.32. Resident and Nonresident Licenses. – 2711(c)**

- (a) Only bona fide residents of this Commonwealth who establish their resident status by producing a Pennsylvania motor vehicle driver's license or other positive means of identification are entitled to one of the various forms of a resident fishing license.
  - (1) Other positive means of identification for establishing bona fide residence in this Commonwealth include, proof of payment of Pennsylvania Personal Income Tax as a resident of this Commonwealth; proof of payment of earned income tax, personal income tax or per capita taxes showing residence in a Pennsylvania municipality; current Pennsylvania firearms permit; Pennsylvania voter registration card; Pennsylvania non-driver identification card; or a signed affidavit of Pennsylvania residency on the form prescribed by the Commission.
  - (2) For purposes of this subsection, a bona fide resident of this Commonwealth is a permanent resident who has a fixed intent to return to this Commonwealth when he leaves it and maintains a permanent place of abode here. A person may not be a bona fide resident of this Commonwealth for this purpose while claiming residence in another state for any purpose.
- (b) *Military personnel* who are stationed in this Commonwealth under permanent change of station orders (PCS) for a duration of 6 months or more may qualify as bona fide residents for the purpose of obtaining resident fishing licenses regardless of the fact they may maintain a legal domicile in another state as authorized by the Service Members' Civil Relief Act (50 U.S.C.A. App. §501-596). Military personnel who are domiciled in this Commonwealth but who are stationed in another state or country qualify as bona fide residents of this Commonwealth for fishing license purposes so long as they do not become domiciles of another state.
- (c) A person who does not qualify as a bona fide resident of this Commonwealth under subsection (a) or (b) is considered a nonresident for purposes of obtaining a fishing license.
- (d) A resident fishing license will remain valid for the year or years for which it is issued regardless of whether the holder is no longer a bona fide resident of this Commonwealth.

**§51.33. Effective Dates of Licenses and Permits.**

- (a) Fishing licenses and related permits are valid for the year printed on the license certificate or permit and the month of December of the preceding year, except for one-day and tourist licenses that are valid for the dates specified on the license certificate.

**§51.34. Stamps and Permits. – 2711(c)**

- (a) The Commission may require licensees to possess stamps or permits to fish for certain species or in certain bodies of water.
- (b) Individuals who purchase the stamp or permit to fish for the specified species or in designated bodies of water shall permanently affix the stamp or permit to their license certificate, sign their names (or in the instance of small stamps or permits, their initials) in ink across the face of the stamp or permit and display the stamped or permitted license certificate when fishing for the specified species or on the designated body of water. The buyer is not required to affix The stamp or permit on the license certificate until he actually engages in the stamped or permitted activity.
- (c) Issuing agents shall make stamps and permits available to individuals purchasing them as collectibles. The buyer does not have to sign the stamp or permit.

**§51.35. Operation of the Issuing Agency. – 2711(c)**

- (a) A person, sole proprietorship, partnership or corporation may apply to become an issuing agent of the Commission for the purpose of selling fishing licenses. An applicant seeking to become an issuing agent shall complete and submit to the Commission an application on the form prescribed by the Commission and shall pay a one-time, nonrefundable fee of \$100. Applications shall be accompanied by a bond in favor of the Commission, or other security in a form satisfactory to the Commission, in a minimum amount specified by the Executive Director or designee.
- (b) An entity accepted by the Commission to act as an issuing agent shall perform in the following manner:
  - (1) An issuing agent, including county treasurers, may not appoint subagents to issue fishing licenses, stamps or permits.
  - (2) Issuing agents shall file monthly reports of all fishing licenses, stamps and permits sold during the month in the manner determined by the Commission. Agents may file reports more frequently at the discretion of the agent.
    - (i) Agents shall include in their monthly report detailed sales information and remittance for all licenses, stamps and permits sold during the reporting period.
    - (ii) Agents shall file their reports so that they are received in the Harrisburg office by the 15th of the month following the reportable month.
    - (iii) Agents shall file a report even if there is no sales activity to report for the month. Failure to file a report places the agency in a delinquent status.
    - (iv) Agents shall indicate their agent number on the report, as well as the remittance.

- (3) Issuing agents shall retain the third copy of the license certificate for 1 year after the close of any given license year.
- (4) Issuing agents shall maintain a bond in favor of the Commission in a minimum amount specified by the Commission for each location where licenses, stamps and permits are issued.
- (5) An issuing agent may not borrow, lend or otherwise transfer a supply of licenses, stamps or permits to another agent without the prior written consent of the Commission.
- (6) An issuing agent or an issuing agent's employee may not provide false or misleading information on a license issued. The date reported on a license sold shall be the date of the actual sale.

**§51.36. Lost License Certificates. – 2711(c)**

- (a) An issuing agent shall replace a lost license regardless of where the licensee purchased the original license.
- (b) If a licensee seeks to purchase a replacement license at the agency where he bought the original license, the licensee shall present the original license number and complete the form provided by the Commission relating to the lost license certificate. If the original license number is not known, the form shall be notarized.
- (c) If a licensee seeks to purchase a replacement license at an agency other than the agency where he bought the original license, the licensee shall complete the form provided by the Commission relating to the lost license certificate and have it notarized.
- (d) The issuing agent shall write the word "DUPLICATE" and the original number, if known, across the face of the replacement license certificate.
- (e) The issuing agent shall attach to the monthly report the form relating to the lost license certificate, any voided license certificate and the original and duplicate of the license certificate. The issuing agent shall record the certificate number in the body of the report.
- (f) If the original license was sold through the Pennsylvania Automated Licensing Service (PALS) and the licensee seeks to purchase a replacement license, the licensee shall present the original license number or licensee's PALS customer identification number to the issuing agent, and the issuing agent shall issue a replacement license, including associated permits, through the PALS.

**§51.37. Application and Prerequisites for Becoming an Issuing Agent for the Pennsylvania Automated Licensing Service (PALS). – 2711(c)**

- (a) A person, sole proprietorship, partnership, or corporation may apply to become an issuing agent of the Commission for the purpose of selling fishing licenses and permits through the PALS.
  - (1) An applicant seeking to become an issuing agent shall complete and submit to the Commission an application on the form prescribed by the Commission and pay a one-time, nonrefundable fee of \$150.
  - (2) Applications shall be accompanied by a bond in favor of the Commission, or other security in a form satisfactory to the Commission, in a minimum amount specified by the Executive Director or designee.
  - (3) A person, sole proprietorship, partnership, or corporation that is an agent of the Commission for the sale of paper licenses may sell licenses through



PALS without making a new application under this subsection.

- (b) An entity accepted by the Commission to act as an issuing agent shall perform in the following manner and meet the following prerequisites:
  - (1) An issuing agent, including county treasurers, may not appoint subagents to issue fishing licenses or permits.
  - (2) Issuing agents shall enter into a Fishing License Issuing Agent Agreement with the Commission that covers the issuance of fishing licenses and permits and the electronic transfer of funds through the PALS.
  - (3) Issuing agents shall maintain a bond in favor of the Commission, or other security in a form satisfactory to the Commission, in a minimum amount specified by the Commission for each location where licenses and permits are issued.
  - (4) Issuing agents shall maintain an account in a federally insured financial institution organized under the authority of the Commonwealth or the United States. This bank account must be able to accept electronic funds transfers. Issuing agents shall provide the Commission with account information upon the request of the Commission.

**§51.38. Operation of the Issuing Agent for the Pennsylvania Automated Licensing Service (PALS). – 2711(c)**

(a) *Sale of licenses.*

- (1) Issuing agents shall collect all required customer information, including social security numbers, at the time of purchase and shall ensure that the fishing license is accurate, correct, and fully completed. The applicant shall verify the information provided to the issuing agent and entered into the PALS is accurate and correct and shall sign his own name or place his mark in the place indicated on the face of the license certificate. A license is not valid unless it is signed by the applicant. If an applicant indicates to the issuing agent that he does not have a social security number, the issuing agent shall ask the applicant to complete an affidavit on the form prescribed by the Commission certifying under penalty of law that the applicant does not have a social security number and the reason therefore. Upon completion and execution of the form by the applicant, the issuing agent may issue the license to the applicant. Issuing agents shall deny the issuance of a license to an applicant who fails to provide his social security number or who fails to sign an affidavit as required by this paragraph. Issuing agents shall retain the affidavits and shall submit them to the Commission at least once a month or in such other manner prescribed by the Commission.
- (2) Issuing agents shall verify the eligibility of the applicant for the class of license indicated on the license in accordance with §51.32. (Relating to resident and nonresident licenses). If an applicant for a resident license indicates that he is unable to establish that he is a resident of the Commonwealth by any of the means identified in §51.32. Other than by signing an affidavit of Pennsylvania residency, the issuing agent shall ask the applicant to complete the form prescribed by the Commission certifying under penalty of law that the applicant is a bona fide resident of the Commonwealth. Issuing agents shall deny the issuance of a resident license to an applicant who fails to establish his residency by signing the form or as otherwise provided in §51.32. Issuing agents shall retain the

affidavits of Pennsylvania residency and shall submit them to the Commission at least once a month or in such other manner prescribed by the Commission.

- (3) Issuing agents shall transfer the information provided by the applicant to the PALS and ensure that the PALS is otherwise operational and prints the license certificate legibly. Issuing agents may not provide a customer with more than one copy of a license certificate issued under PALS.
  - (4) Issuing agents shall provide a *Summary of Fishing Regulations and Laws* with each license issued. Issuing agents also shall provide a copy of the summary book to any holder of a Senior Resident Lifetime Fishing License who requests one. Issuing agents are encouraged to provide a copy of the summary book, if adequate numbers are available, to other individuals who request one.
  - (5) Issuing agents shall make available licenses and permits for sale to the public in strict accordance with all policies, instructions, rules and regulations of the Commission.
  - (6) Issuing agents and their employees may not provide false or misleading information on a license. The date reported on a license sold must be the date of the actual sale.
  - (7) Issuing agents shall keep all customer information confidential and not use, release, or permit the use of this information for any purpose not specifically authorized by the Commission or applicable law.
  - (8) Issuing agents shall return all original voided licenses to the Commission within 15 days of their issuance. Issuing agents shall pay the license fees for voided licenses that are not returned to the Commission within 15 days of issuance.
  - (9) Issuing agents shall return all documents designated by the Commission within the time frame specified by the Commission.
  - (10) Issuing agents shall maintain, as instructed by the Commission, displays, notices, or other informational materials relating to licenses and permits provided by the Commission, distribute to customers and fishing guides other compliance or educational materials provided by the Commission and promote and market new products or privileges as required by the Commission.
  - (11) Issuing agents shall sell licenses and permits only at the business location specified in their application or approved by the Commission and at a place on the premises accessible to the public.
  - (12) Issuing agents may not offer or provide licenses or permits free of charge or for any fee not authorized by section 2715 of the code (relating to license, permit and issuing agent fees).
  - (13) Issuing agents shall redeem a license or permit voucher regardless of where the voucher was purchased.
- (b) *PALS equipment.*
- (1) Issuing agents shall ensure proper use of the PALS equipment and follow the PALS operating manual and subsequent amendments and revisions thereto.
  - (2) An issuing agent may not borrow, lend, or otherwise transfer PALS equipment to another agent without the prior written consent of the Commission.
  - (3) Issuing agents shall safeguard PALS equipment and supplies from unauthorized, wasteful, inappropriate, or fraudulent use. Issuing agents

shall place the equipment and supplies in a secure location. Issuing agents shall use license paper stock only for purposes of printing licenses, permits, reports, and receipts. Issuing agents shall promptly notify the Commission or its designee of equipment malfunction. PALS equipment and supplies are not transferable to other locations without the prior written consent of the Commission. Issuing agents shall return the defective equipment immediately to the repair center identified by the Commission.

- (4) Issuing agents shall notify the Commission by telephone within 48 hours and submit a written report within 10 days after any fire, theft, or natural disaster affecting PALS equipment and supplies or records.
- (5) Issuing agents shall be responsible for the PALS equipment and the supplies relating to the issuance of licenses and permits, except for events beyond their control, and they shall assume financial responsibility for any damage to the PALS equipment resulting from negligence, malicious activity, abandonment, failure to return upon request of the Commission, or improper electrical service to the equipment.
- (6) Issuing agents shall carry appropriate insurance covering PALS equipment and supplies in an amount determined by the Commission. Issuing agents shall provide proof of insurance coverage upon the request of the Commission.

(c) *Access and auditing.*

- (1) Issuing agents, their employees, and subcontractors shall allow the Commission or other authorized representatives access to periodically inspect, review, or audit PALS associated records, reports, canceled checks, and similar material pertaining to PALS. Issuing agents shall maintain these records for 5 years.
- (2) Issuing agents shall allow the Commission access to all material and equipment related to the PALS operations. Issuing agents shall allow access to the Commission to make inspections during reasonable business hours, with or without notice to the issuing agent, to determine whether the issuing agent is in compliance with this section.

(d) *Financial provisions.*

- (1) Issuing agents shall deposit all money received from the sale of licenses and permits in a designated bank account less the amount retained as an issuing agent fee under section 2715 of the code.
- (2) Issuing agents shall have sufficient funds available in the designated bank account at the time of the electronic funds transfers. Upon notification of insufficient funds for payment to the Commission, the Commission may immediately and without notice suspend an issuing agent's authority to issue licenses and permits, may assess an administrative fee in accordance with section 502 of the code (relating to collection fee for uncollectible checks) and may require the issuing agent to increase the amount of the bond or other security or to provide adequate bank account overdraft protection.
- (3) Issuing agents shall provide written notification on the form prescribed by the Commission at least 15 days prior to changing banks, account numbers, ownership status, business status, or other information used by the Commission or its designee for the purpose of collecting monies owed by the issuing agent.

- (e) *Suspension or recall of agency.*
  - (1) The Commission may suspend the issuing agency of any agent that no longer meets the Commission's criteria for acceptance for participation in PALS until the agent becomes compliant.
  - (2) The Commission may recall the issuing agency of any agent that violates the requirements of this section.

## **SUBCHAPTER E. PERMIT PROCEDURES**

Sec.

- 51.41. General.
- 51.42. Applications.
- 51.43. Staff Review.
- 51.44. Appeals.
- 51.45. Procedures.
- 51.46. Final Agency Action.

### **§51.41. General.**

This subchapter establishes the agency practices and procedures to be followed in consideration and disposition of applications for permits, the granting or denial of which is discretionary, including permits issued under 30 Pa.C.S. §2902 (relating to net permits), 2903 (relating to boat and net licenses for boundary lakes), 2905 (relating to permits for fish collecting activities), 2906 (relating to permits for use of explosives), 3106 (relating to classification of lakes), and 3509 (relating to obstructing migration of fish) and including permits issued under provisions of the code which contain the word, "may."

### **§51.42. Applications.**

- (a) *Forms.* – Applications shall be made on forms prescribed by the Executive Director. In addition to the information required by 1 Pa. Code 35.4 (relating to contents of applications), applicants shall provide all other information as may be required by the Executive Director to enable the Commission to fully review the application. Incomplete applications will be returned without action.
- (b) *Time.* – An application for permit shall be filed no later than 40 days before the activity to be permitted, however the Executive Director may waive this limitation for good cause in cases where the permitted activity is found by the staff to be unlikely to result in significant adverse impacts on fish, fish habitat, fishing, boating, or other matters within the cognizance of the Commission.

### **§51.43. Staff Review.**

- (a) The staff will administratively review all applications filed with the Commission.
- (b) If, after administrative review, the staff concludes that the proposed activity is unlikely to result in significant adverse impacts on fish, fish habitat, fishing, boating, or other matters within the cognizance of the Commission as a trustee of Commonwealth's environment, the staff may dispose of the application by appropriate action.
- (c) If, after administrative review of the application, the staff finds that the proposed permitted activity creates a substantial likelihood of significant

adverse impacts on fish, fishing, fish habitat, boating, or other matters within the cognizance of the Commission as a trustee of Commonwealth's environment, the staff will defer action on the application until after publication of a notice in the *Pennsylvania Bulletin* under 1 Pa. Code 35.105 (relating to notice of non-rulemaking proceedings).

**§51.44. Appeals.**

A party aggrieved by any staff decision under this subchapter may appeal to the Commission in the manner provided by 1 Pa. Code 35.20. A party appealing a staff decision may request the Executive Director to stay the staff decision pending disposition of the appeal, and the Executive Director will grant a stay for good cause shown to preserve the status quo, avoid irreparable harm to any party, or in other circumstances where the grant of a stay has been found appropriate in similar proceedings.

**§51.45. Procedures.**

- (a) The Commission shall designate one or more presiding officers to conduct hearings on issuance or denials of permits.
- (b) Part II of Title 1 of the Pa. Code (relating to General Rules of Administrative Practice and Procedure) shall apply to proceedings under this subchapter.
- (c) The presiding officer shall file a proposed report with the Commission as provided in 1 Pa. Code 35.202 (relating to proceedings in which proposed reports are prepared).
- (d) Any party filing exceptions to a proposed report may, by motion, request the opportunity to present oral argument to the Commission. If the motion is granted, oral argument will ordinarily be scheduled as part of a regular public meeting of the Commission. Oral argument to the Commission will not exceed 15 minutes per party unless the Commission, for cause shown, votes to adopt another schedule for a particular oral argument. The subsection supplements 1 Pa. Code §35.214 (relating to oral argument on exceptions).
- (e) The Commission's chief counsel will either represent the staff in proceedings before the presiding officer and the Commission or will advise the Commission on its final decision.

**§51.46. Final Agency Action.**

After considering the entire record in the case, including any oral argument permitted before the Commission, the Commission will vote at a regular public meeting on whether to grant or deny the requested permit. The Commission's decision will be forwarded to the parties in writing and will constitute the agency adjudication on the matter under review.

**SUBCHAPTER F.  
CHEMICAL TESTS**

**§51.51. Chemical Tests.**

- (a) The same devices, equipment, and training required for administrative chemical tests, test procedures, and accuracy certifications for breath test devices that apply to prosecutions under 75 Pa.C.S. (relating to vehicles) apply to prosecution under Part III (relating to boats and boating) of 30 Pa.C.S. (relating to fish).

- (b) The Commission approves the devices, equipment, and training required for administering chemical tests, test procedures, and accuracy certifications for breath test devices prescribed jointly by the Department of Health and Department of Transportation at 67 Pa. Code Chapter 77 (relating to equipment and training required for administering chemical test, test procedures, and accuracy certification for breath test devices) and prescribed by the Department of Health at 28 Pa. Code §5.101-5.104 (relating to equipment to determine blood alcohol content under the Vehicle Code and the Fish and Boat Code) and in other regulations, as amended from time to time.

## **SUBCHAPTER G. PERMIT REQUIREMENTS**

### **§51.61. Permits Required for Disturbance of Waterways or Watershed.**

- (a) A permit shall be deemed necessary under 30 Pa.C.S. §2502 (relating to disturbance of waterways or watersheds) if the activity would be a violation of statutes or regulations administered by the Commission, the Department of Environmental Protection, the United States Environmental Protection Agency, the United States Army Corps of Engineers, or local municipalities if the activity were performed without a permit. The failure of the agency charged with enforcement or issuance responsible for a permit to prosecute or take civil action for failure to obtain a permit or other permit violation shall not affect the validity of a prosecution under 30 Pa.C.S. §2502.
- (b) Examples of permits that may be required to undertake specific activities in the waters or watersheds of this Commonwealth include the following:
- (1) Permits for use of explosives in waters of this Commonwealth (Fish and Boat Commission).
  - (2) Sewage facilities permit (Department of Environmental Protection).
  - (3) Solid waste management permits (Department of Environmental Protection).
  - (4) Oil and gas well drilling permits (Department of Environmental Protection).
  - (5) Coal mining permits (Department of Environmental Protection).
  - (6) Surface mining operator's license (Department of Environmental Protection).
  - (7) Coal refuse disposal permit (Department of Environmental Protection).
  - (8) Natural Pollutant Discharge Elimination System (NPDES) permits (Department of Environmental Protection).
  - (9) Mine drainage permits (Department of Environmental Protection).
  - (10) Erosion and sedimentation control permits (Department of Environmental Protection).
  - (11) Dam, water obstruction or encroachment permits (including permits required by 25 Pa. Code Chapter 105 (relating to dam safety and waterway management)) (Department of Environmental Protection).
  - (12) Floodplain management permits (Department of Environmental Protection).
  - (13) Blasters' licenses and explosives permit (Department of Environmental Protection).
  - (14) Building permits (local municipalities).
  - (15) Army Corps of Engineers' permits (United States).

- (16) Delaware River Basin Commission permits.
- (17) Susquehanna River Basin Commission permits.
- (18) Permit for use of an algicide, herbicide or fish control chemical in waters of this Commonwealth.
- (19) Permit to draw off impounded water.

## SUBCHAPTER H. PERMITS FOR FISH COLLECTING ACTIVITIES

Sec.

51.71 Scientific Collector's Permits.

### **§51.71. Scientific Collector's Permits. – 2905**

- (a) A valid and current scientific collector's permit issued by the Commission is required to collect, take, or maintain, for scientific or educational research purposes, any species of Pennsylvania fishes, amphibians, reptiles, or aquatic organisms, during seasons not permitted by regulations governing holders of a valid Pennsylvania fishing license, venomous snake permit, organized reptile, and amphibian hunt permit, or other license or permit.
- (b) The Commission will issue three categories of scientific collector's permits: nonprofit research and education, governmental, and consulting.
  - (1) *Type I Permit: Nonprofit Research and Education.* The Commission will issue a Type I (Nonprofit Research and Education) permit to individuals whom the Commission deems to be qualified to competently and capably conduct research or educational programs and who are not engaged in scientific collecting for monetary gain.
    - (i) *Qualifications.* To qualify for a Type I permit, applicants shall demonstrate to the satisfaction of the Commission that they meet one or more of the following conditions:
      - (A) They possess a Bachelor's Degree, are pursuing studies toward an advanced degree, and have a demonstrable need to collect fishes, reptiles, amphibians or aquatic invertebrates to complete the degree.
      - (B) They possess an advanced academic degree and are conducting biological research that requires field specimens.
      - (C) They are associated with or employed by a museum or an accredited institution of higher learning and are academically or professionally, or both, qualified to conduct biological research or have a valid need for collection of specimens for science or education.
      - (D) They have gained, through association with a museum, zoological institution, or personal endeavor, recognized expertise in some area of herpetology, fisheries science, limnology, aquatic entomology or related sciences.
    - (ii) *Geographic area covered.* A Type I permit will be generally limited to a specific geographic area (that is, county or specific water area), except that the Commission may issue a Statewide collector's permit to persons serving as members of an advisory board or advisory committee to the Commission or, in exceptional cases, to persons conducting critical research that the Commission recognizes as justification for Statewide collecting.

- (iii) *Fees.* The fee for a Type I permit holder is \$30. Each assistant is free. Permit amendments are \$15 each.
- (2) *Type II Permit: Governmental.* A Type II (Governmental) permit is a free permit that the Commission issues, at the discretion of the Executive Director, to State and Federal employees who are engaged in scientific collecting as a part of their required duties. A Type II permit may be Statewide or regional depending upon the application.
- (3) *Type III Permit: Consulting.* The Commission will issue a Type III (Consulting) permit to individuals whom the Commission deems to be qualified to engage in scientific collecting and who are engaged in private consulting for profit. The Commission will issue a Type III permit to qualified individuals only and will not issue one in the name of a corporation or other business entity.
  - (i) *Qualifications.* To qualify for a Type III permit, applicants shall demonstrate to the satisfaction of the Commission that they possess at a minimum a Bachelor's Degree in biological science, zoology, fisheries science, herpetology, or a related field that is specific to the purpose of the scientific collecting described in their application. The Commission will consider professional experience, certification by a professional society or recommendations by acknowledged authorities in the appropriate field of biological science when evaluating an applicant's qualifications.
  - (ii) *Geographic area covered.* A Type III permit will be limited to specific site as described in the conditions of the permit. A holder may change the area of coverage to accommodate new projects by applying to the Commission for a permit amendment.
  - (iii) *Fees.* The fee for a Type III permit holder is \$150. Each assistant is \$30. Permit amendments are \$75 each.
- (c) Holders of scientific collector's permits and their assistants shall comply with terms and conditions of the permit, including the requirement for a report of collecting activities. Permit holders and their assistants shall possess a valid Pennsylvania fishing license. Permit holders shall be personally present any time collecting activities under the permit take place. Permits will cover the permit holder and the assistants named in the permit.

## SUBCHAPTER I.

### PERMITS TO DRAW OFF IMPOUNDED WATERS

- Sec.
- 51.81. Permit Required.
  - 51.82. Application for Permits.
  - 51.83. Other Permits Required.
  - 51.84. Review of Permit Applications.
  - 51.85. Taking and Disposal of Fish.
  - 51.86. Responsibility of Permittee.
  - 51.87. Refilling of Impoundments.
  - 51.88. Extension of Permit.
  - 51.89. General Permits.



**§51.81. Permit Required. – 3506**

A permit from the Commission is required under section 3506 of the code (relating to drawing off or interference with dams or devices) for the following activities:

- (1) Drawing down impounded waters inhabited by fish.
- (2) Destruction, removal, breach or disturbance of a dam, deflector, retard, or similar device in waters inhabited by fish.

**§51.82. Application for Permits.**

- (a) An application for a permit to draw down impounded waters is available from the Fish and Boat Commission, Division of Environmental Services, 450 Robinson Lane, Bellefonte, Pennsylvania 16823-9616.
- (b) A completed permit application shall be submitted to the address set forth in subsection (a) no later than 30 days prior to proposed commencement of draw down operations.

**§51.83. Other Permits Required.**

The issuance of a draw down permit under section 3506 of the code (relating to drawing off or interference with dams or devices) does not constitute a waiver of the requirement for applicants to obtain other State, local or Federal permits for the proposed activity.

**§51.84. Review of Permit Applications.**

A permit application will be reviewed by the Commission's Division of Environmental Services and by the Department of Environmental Protection, Bureau of Dams and Waterways Management. The Division of Environmental Services will issue permits for the Commission.

**§51.85. Taking and Disposal of Fish. – 2102(a)**

- (a) A permit issued under the authority of section 3506 of the code (relating to drawing off or interference with dams or devices) authorizes the permittee to take, catch, kill, or possess fish taken from the drawn down waters regardless of seasons, sizes, and creel limits or manner of taking.
- (b) Disposal of fish and aquatic life shall be done in conformance with applicable State and local laws and regulations.
- (c) It is unlawful to stock fish salvage as a result of draw down operations in waters without the permission of the owners of the waters. It is unlawful to stock fish salvage as a result of draw down operations in any waters of this Commonwealth designated by the Commission as inappropriate for stocking of salvage fish.

**§51.86. Responsibility of Permittee.**

A permittee is solely responsible for the consequences of drawing down the impounded waters. A permittee is responsible to ensure compliance with laws and regulations governing downstream flooding. A permittee is responsible for acquiring property rights, flowage easements or other interests required to accomplish the draw down. A permittee is responsible to allow a minimum flow of water determined by the Commission to be sufficient at all times to flow in a natural stream on which the impoundment is located to provide for the protection and conservation of fish downstream from the site.

**§51.87. Refilling of Impoundments.**

Except when the purpose of the permitted draw down is to remove or eliminate the impoundment, the permittee shall refill the impoundment when the permit expires or the work is completed, whichever occurs first. In refilling the impoundment, the permittee is responsible to allow a minimum flow of water determined by the Commission to be sufficient at all times to flow in a natural stream on which the impoundment is located to provide for the protection and conservation of fish downstream from the site.

**§51.88. Extension of Permit.**

An application to extend the permit expiration date shall be received by the issuing office no later than 30 days prior to the expiration date of the permit.

**§51.89. General Permits.**

- (a) Notwithstanding the other provisions of this subchapter, this section constitutes a general permit for persons to draw down impounded waters without applying for an individual permit when the following circumstances exist:
  - (1) The water area to be drawn down is 1 acre or less.
  - (2) The draw down operations are for a type that do not require other State permits, such as erosion and sedimentation control permits and Dams and Waterways Management permits.
- (b) Notwithstanding the other provisions of this subchapter, this section constitutes a general permit for the Commission and cooperative nurseries recognized by the Commission to draw down impounded waters without applying for an individual permit when the waters to be drawn down are located on hatchery property and the draw down is in connection with hatchery operations. The general permit authorized by this subsection does not waive a requirement for a permittee to apply for and obtain other necessary permits.

**SUBCHAPTER J.  
ROYALTIES FOR SAND AND GRAVEL PERMITS**

Sec.

51.91. Authority.

51.92. Royalty Rates.

**§51.91. Authority.**

Under section 503(c) of the Conservation and Natural Resources Act (71 P.S. §1340.503(c)), the Commission with the concurrence of the Department of Environmental Protection, is authorized to adjust the amount of royalty payments per ton or cubic yard of usable or merchantable, or both, sand or gravel, or both, extracted from Commonwealth waters.

**§51.92. Royalty Rates.**

Persons holding permits granting them nonexclusive rights and privileges of dredging, excavating, removing, and carrying away merchantable sand and gravel under agreements between the permittees and the Department of Environmental Protection shall pay royalties in accordance with the following schedule.

- (1) During the period, January 1 through December 31, 2011, the greater of \$1,000 or \$0.48 per dry ton.

- (2) During the period, January 1, 2012 through December 31, 2015, the greater of \$1,000 or 6.75 % of the immediately preceding year's published price, average value, dollars per metric ton (converted to U.S. ton) for the community sand and gravel in the United States Geological Survey, Mineral Commodity Summary per dry ton, provided that the rate per dry ton is not less than \$0.48.
- (3) During the period, January 1, 2016, through December 31, 2020 the greater of \$1,000 or 7.0 % of the immediately preceding year's published price, average value, dollars per metric ton (converted to U.S. ton) for the community sand and gravel in the United States Geological Survey, Mineral Commodity Summary per dry ton, provided that the rate per dry ton is not less than \$0.48.

## **SUBCHAPTER K. CIVIL PENALTY FORFEITURE PROCESS**

Sec.

- 51.101. General.
- 51.102. Initiation of Process.
- 51.103. Compliance Notification.
- 51.104. Order to Show Cause for Forfeiture of Civil Penalty.
- 51.105. Amount of Proposed Civil Penalty Forfeiture.
- 51.106. Procedure in Lieu of Hearing.
- 51.107. Hearings.
- 51.108. Report of the Presiding Officer.
- 51.109. Final Administrative Action.

### **§51.101. General.**

- (a) Under section 3510(h) of the code (relating to marking of dams), a person failing to comply with section 3510(a) or (b) of the code shall forfeit a civil penalty of not less than \$500 nor more than \$5,000.
- (b) Under section 3510(h) of the code, a person failing to comply with section 3510(c) of the code shall forfeit a civil penalty of not less than \$250 nor more than \$5,000.
- (c) The civil penalties described in subsections (a) and (b) may be recovered by civil suit or process in the name of the Commonwealth. The purpose of this subchapter is to describe the administrative process for forfeiture of civil penalties under the code.

### **§51.102. Initiation of Process.**

- (a) The administrative process to affect the forfeiture of a civil penalty under section 3510(h) of the code may be initiated by any person authorized to enforce the code and any employee of the Commission or the Department of Environmental Protection authorized by the Executive Director to initiate the process.
- (b) A person authorized to initiate the process under subsection (a) shall do so by completing a report on a form approved by the Executive Director. The report, to be executed under penalty of law, will, at a minimum, describe:
  - (1) The name of the owner or permittee of the dam.
  - (2) The location of the dam, including county and township or other political subdivision.

- (3) The dates the dam was inspected.
- (4) The nature of the noncompliance.

**§51.103. Compliance Notification.**

- (a) Prior to serving an order to show cause for civil penalty under section 3510 of the code, the Executive Director or a designee will send the owner or permittee of the dam in question a written compliance notification that will describe the nature of the alleged noncompliance with section 3510 of the code.
- (b) The compliance notification shall give the owner or permittee of the dam not less than 15 nor more than 30 days to demonstrate to the satisfaction of the Executive Director or a designee that the owner or permittee has brought the dam into compliance with section 3510 of the code or face forfeiture of civil penalties.

**§51.104. Order to Show Cause for Forfeiture of Civil Penalty.**

- (a) If the owner or permittee fails to demonstrate compliance after the notification described in §51.103 (relating to compliance notification), the Executive Director or a designee will serve on the owner or permittee of the dam an order to show cause for forfeiture of civil penalty in a form approved by the Executive Director or designee. Service will be by registered or certified mail, or by personal service. If the mail is tendered at the address in the permit, or at an address where the owner or permittee is located, and delivery is refused, or mail is not collected, the requirements of this section shall be deemed to have been complied with upon tender.
- (b) The owner or permittee who has been served with an order to show cause in accordance with subsection (a) has 30 days to file an answer to the order to show cause. If no answer is submitted, the failure to submit a timely answer will operate as a waiver and the proposed forfeiture of civil penalty will become a final forfeiture upon the expiration of the 30-day period unless the Executive Director or a designee determines to hold a hearing on the proposed forfeiture under the procedures in §51.107 (relating to hearings).

**§51.105. Amount of Proposed Civil Penalty Forfeiture.**

- (a) *Amount.* – The amount of the proposed civil penalty forfeiture will be set forth in the order to show cause for civil penalty forfeiture. In determining the amount of the proposed forfeiture, the Executive Director or a designee will consider:
  - (1) *Health and safety of public.* – The hazards proposed to the health or safety of the public. The minimum proposed civil penalty forfeiture will be \$2,500 if the Executive Director or a designee determines, based on the uses of the waters, that the unmarked dam poses substantial danger to the angling, boating, and wading public.
  - (2) *Negligence, recklessness, or intentional failure.* – Whether the violation was caused by a negligent, reckless, or intentional failure to comply. A civil penalty of at least \$500 should be proposed in cases of negligent failure to comply. A civil penalty of at least \$2,000 should be proposed where there is probable cause to believe that the lack of compliance was based on reckless misconduct. A civil penalty of at least \$3,000 should be proposed when there is probable cause to believe that the lack of compliance was based on willful or intentional misconduct.

- (3) *Speed of compliance.* – A credit will be given of up to \$1,000 based on the attempt of the owner or permittee to achieve rapid compliance after the owner or permittee knew or should have known of the violation. The credit will be available to offset only civil penalties assessed for the specific violation at issue.
- (4) *Cost to the Commonwealth.* – In proposing the amount of civil penalty forfeiture, the costs to the Commonwealth will be considered. The costs may include:
  - (i) Administrative costs.
  - (ii) Costs of inspection.
  - (iii) Costs of preventive or restorative measures taken by the Commission or the Department of Environmental Protection to prevent or lessen the threat of damage to persons or property.
- (5) *Savings to the dam owner/permittee.* – If the owner or permittee of the dam who fails to comply gains economic benefit as a result of the noncompliance, the proposed civil penalty may include an amount equal to the savings up to the statutory maximum for each violation.
- (6) *History of previous violations.* – In determining a proposed civil penalty for a violation, the Executive Director or a designee will consider previous noncompliance with the requirements of section 3510 of the code (relating to marking of dams) for which the same owner or permittee has been found to have been responsible in a prior adjudicated proceeding, agreement, consent order or decree that became final within the previous 3-year period. The penalty otherwise assessable for noncompliance shall be increased by a factor of 25% for each previous violation. The total increase in assessment based on the history of the previous violation will not exceed \$1,000.
  - (i) A previous instance of noncompliance will not be counted if it is the subject of pending administrative or judicial review, or if the time to request the review or to appeal the administrative or judicial decision determining the previous violations has not expired.
  - (ii) Each previous instance of noncompliance will be counted without regard to whether it led to a civil penalty assessment.
- (b) *Maximum penalty.* – If consideration of the factors described in this section yields a penalty in excess of the statutory maximum, the maximum civil penalty will be proposed for that violation.
- (c) *Revision of proposed civil penalty.* – The Executive Director, upon his own initiative or upon written request received within 15 days of issuance of an order to show cause, may revise a proposed civil penalty calculated in accordance with the dollar limits in subsection (a). If the Executive Director revises the civil penalty, the Commission will use the general criteria in subsection (a) to determine the appropriate civil penalty. When the Executive Director has elected to revise a civil penalty, he will give a written explanation of the basis for the revised civil penalty to the dam owner or permittee to whom the order to show cause was issued.

**§51.106. Procedure in Lieu of Hearing.**

- (a) When for any reason a hearing is not held with regard to forfeiture, the entire written file on the cause shall be submitted to the Commission, which will review the matter and make a final determination as to its disposition. The

- action of the Commission is considered the final agency action.
- (b) Subsection (a) supersedes 1 Pa. Code §35.226 (relating to final orders).

**§51.107. Hearings.**

- (a) If an owner or permittee of a dam requests a hearing, or the Executive Director or a designee determines a hearing is appropriate, the Executive Director will appoint a presiding officer to conduct the hearing on behalf of the Commission. This subsection supersedes 1 Pa. Code §35.185 (relating to designation of presiding officers).
- (b) Hearings will be conducted at the Harrisburg office of the Commission or at another location the presiding officer or Executive director may designate. Dam owners or permittees will be given at least 10 days written notice of the date and time of the hearing.
- (c) The burden of proof to justify the proposed forfeiture will be on the Commission to prove by a preponderance of the evidence that the proposed action is justified by the facts and circumstances.
- (d) The presiding officer will permit either oral argument at the conclusion of the hearing or the filing of written briefs, but not both, except in cases of extraordinary complexity when the presiding officer finds, upon motion of the parties or his own motion, that the ends of justice require allowance of both. When briefs are to be filed, the procedures of 1 Pa. Code §35.191-35.193 relating to proceedings in which briefs are to be filed; content and form of briefs; and filing and service of briefs) will be followed. This subsection supersedes 1 Pa. Code §35.204 (relating to oral argument before presiding officer).

**§51.108. Report of the Presiding Officer.**

- (a) After the hearing is closed, the transcript prepared, and briefs, if any, received, the presiding officer will prepare a proposed report, the contents of which shall be in substantial compliance with 1 Pa. Code §35.205 (relating to contents of proposed reports).
- (b) A copy of the proposed report shall be served on the owner or permittee of the dam, the Commission staff and other parties of record who shall thereafter have 30 days to file exceptions to the report together with any brief on exceptions. Briefs opposing exceptions may be filed in accordance with 1 Pa. Code §35.211 (relating to procedure to except to proposed report).
- (c) If no timely exceptions to the proposed report are filed, the proposed report will be considered the final administrative adjudication of the Commission.
- (d) If exceptions to the proposed report are filed, the proposed report, together with the entire report, the briefs, the exceptions, and briefs on and opposing exceptions will be subject to review by the Commission under §51.109 (relating to final administrative action).

**§51.109. Final Administrative Action.**

- (a) When exceptions are filed to the proposed report or which are disposed of under §51.106. (relating to procedure in lieu of hearing), the members of the Commission will review the case file, together with other matters of record and filings in the proceedings. At a public meeting convened under 65 Pa. C.S. Chapter 7 (relating to the Sunshine Act), the Commission will consider the matter. Unless ordered by the Commission, oral argument will not be

permitted at the public meeting nor will the respondent be permitted to reargue or retry matters that were raised or would have been raised before the presiding officer. The Commission will vote to approve or disapprove a proposed report or, in cases under §51.106., to issue an order as appropriate.

- (b) The action by the Commission will be considered the final administrative adjudication with respect to the forfeiture of civil penalties. The dam owner or permittee will be notified in writing of the final action. The final order will be considered officially entered on the date it is mailed or otherwise served, whichever comes first.
- (c) If, after the entry of a final order, the dam owner or permittee files a timely petition for review of judicial appeal of the adjudication, the owner or permittee may apply in writing to the Executive Director for a stay of the effective date of the order. The filing of a petition for review or judicial appeal does not operate as an automatic stay. The Executive Director may grant a stay for good cause shown.

## **SUBCHAPTER L. CHARTER BOAT/FISHING GUIDE OPERATIONS**

Sec.

- 51.121. Definitions.
- 51.122. Permits.
- 51.123. Display of Permits.
- 51.124. Boating Safety Education.
- 51.125. Insurance.
- 51.126. CPR and First Aid.
- 51.127. Fishing License and Permits.
- 51.128. Compliance with Laws and Regulations.
- 51.129. Special Issuing Agents.
- 51.130. Boundary Waters.

### **§51.121. Definitions. – 2907.3**

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise.

*Charter boat* – A boat operated as a commercial enterprise which carries passengers for hire for the purpose of fishing on the waters of this Commonwealth.

*Charter boat operator* – A person who operates or is in actual physical control of the movement of a charter boat.

*Commercial enterprise* – An operation where a person provides fishing guide or charter boat services in exchange for any consideration, including money, goods or services.

*Fishing guide* – A person who operates a commercial enterprise whereby he guides or leads other persons for the purpose of fishing on the waters of this Commonwealth.

### **§51.122. Permits. – 2907.3**

- (a) *Application.* – A person desiring to be a charter boat operator or a fishing guide on the waters of this Commonwealth shall first apply for a permit on the form provided by the Commission. The applicant shall submit the completed form to the Commission along with the fee specified in section 2715 of the code (relating to license, permit and issuing agent fees). The applicant shall be 16 years of age or older.

- (b) *Duration.* – Charter boat/fishing guide permits are valid for a calendar year and expire on December 31 of the year for which they were issued.
- (c) *Renewal.* – A holder of a charter boat/fishing guide permit shall apply to the Commission for renewal of the permit by completing the renewal application form provided by the Commission and by submitting it along with the appropriate fee to the Commission.
- (d) *Suspension or revocation of permit.* – The Commission may suspend or revoke a charter boat/fishing guide permit for noncompliance with the terms and conditions of this chapter or when the charter boat operator or fishing guide is convicted or acknowledges guilt of a violation of the code or this chapter. Suspension or revocation procedures shall comply with Chapter 51, Subchapter C (relating to suspension, denial or revocation of licenses, permits, registrations or privileges).
- (e) *Prima facie evidence.* – Advertising by any means, including, but not limited to, websites, business cards, brochures, newspapers, periodicals, or billboards, that a person provides fishing guide or charter boat services shall be prima facie evidence of a commercial enterprise.

**§51.123. Display of Permits. – 2907.3**

- (a) *Display of permit on outer garment.* – While operating a charter boat or fishing guide operation, charter boat operators and fishing guides shall display their permits on a hat or an outer garment in plain view. The charter boat operator and fishing guide may carry and display the permit in the same holder containing a fishing license.
- (b) *Officers designated to check permits.* – Charter boat operators and fishing guides shall present their charter boat/fishing guide permits upon the request of an officer authorized to enforce the code.
- (c) *Display of decal on charter boats.* – When a boat is used in the charter boat/fishing guide operation, the charter boat operator shall display a decal supplied by the Commission on both sides of the boat hull above the waterline and below the gunwale near the stern of the boat or on each side window of the cockpit on the boat. While onboard a boat displaying a decal, the charter boat operator is exempt from the permit display requirements of this section provided the permit is onboard the boat. When, due to exigent circumstances, a charter boat operator must use a boat that does not display a charter boat/fishing guide decal, the charter boat operator shall display the permit on a hat or outer garment as required by this section.

**§51.124. Boating Safety Education. – 2907.3**

When a boat is used in the charter boat/fishing guide operation, the charter boat operator shall possess a boating safety education certificate issued by the Commission or by another state in accordance with criteria of the National Association of State Boating Law Administrators or a boat operator's license issued by the United States Coast Guard. Applicants and holders of charter boat/fishing guide permits shall provide proof of certification of boating safety education upon the request of the Commission.

**§51.125. Insurance. – 2907.3**

Charter boat operators and fishing guides shall possess and maintain in full force and effect general liability insurance for all periods during which they are operating a



charter boat/fishing guide operation on the waters of this Commonwealth. The minimum amount of coverage is \$250,000 for each occurrence and \$500,000 in the aggregate. Applicants and holders of charter boat/fishing guide permits shall provide proof of insurance upon the request of the Commission.

**§51.126. CPR and First Aid. – 2907.3**

Charter boat operators and fishing guides shall possess and maintain current certification in basic CPR and basic first aid skills. Applicants and holders of the charter boat/fishing guide permits shall provide proof of CPR or basic first aid certification upon the request of the Commission.

**§51.127. Fishing License and Permits. – 2907.3**

Charter boat operators and their crewmembers and fishing guides shall possess valid fishing licenses and the stamps and permits required for the waters in which they fish. Charter boat operators and fishing guides are responsible for ensuring that their employees, passengers, and customers possess a valid fishing license and the appropriate stamps and permits.

**§51.128. Compliance with Laws and Regulations. – 2907.3**

Charter boat operators and fishing guides shall comply with all Federal, State, and local laws and regulations. Charter boat operators and fishing guides are responsible for ensuring that their employees, passengers, and customers comply with all fishing and boating laws and regulations.

**§51.129. Special Issuing Agents. – 2907.3**

- (a) The Commission may designate holders of charter boat/fishing guide permits as special issuing agents for the purpose of selling to their customers. One-Day Fishing Licenses, Three-Day Tourist Fishing Licenses, Seven-Day Tourist Fishing Licenses, and trout/salmon permits and special permits for fishing Lake Erie and tributaries.
- (b) A holder of a charter boat/fishing guide permit may seek to become a special issuing agent by completing and submitting to the Commission an application on the form prescribed by the Commission. Applications to become a special issuing agent shall be accompanied by a bond or other security in a form satisfactory to the Commission in an amount equal to the value of the licenses, stamps, and permits being requested by the applicant. The one-time nonrefundable fee required by §51.35. (relating to operation of the issuing agency) is waived.
- (c) Special issuing agents shall file quarterly reports of all fishing licenses, stamps, and permits sold during the quarter in the manner determined by the Commission. Special issuing agents may file reports more frequently at the discretion of the agent.
  - (1) Special issuing agents shall include in their quarterly report detailed sales information and remittance for all licenses, stamps, and permits sold during the reporting period.
  - (2) Special issuing agents shall file their reports so that they are received in the Harrisburg office by the 15th of the month following the reportable quarter.
  - (3) Special issuing agents shall file a report even if there is no sales activity to report for the quarter. Failure to file a report places the agency in a

delinquent status.

- (4) Special issuing agents shall indicate their agent number on the report, as well as the remittance.
- (d) Special issuing agents shall maintain a bond or other security in a form satisfactory to the Commission in an amount equal to the value of all licenses, stamps, and permits they wish to possess at each location where they issue licenses, stamps and permits.
- (e) Except as otherwise provided by this section, Chapter 51, Subchapter D (relating to issuing agents) applies to special issuing agents under this section.

**§51.130. Boundary Waters. – 2907.3**

- (a) Residents of this Commonwealth who operate charter boats or fishing guide operations on boundary waters under the jurisdiction of the Commonwealth shall possess a resident charter boat/fishing guide permit.
- (b) Nonresidents of this Commonwealth who operate charter boats or fishing guide operations on boundary waters under the jurisdiction of the Commonwealth shall possess a nonresident charter boat/fishing guide permit.
- (c) For purposes of this section, there shall be a rebuttable presumption that a person, operating a charter boat or fishing guide operation is operating on the waters of this Commonwealth if the person uses a boat launch in this Commonwealth.

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**CHAPTER 53.  
FISH AND BOAT COMMISSION PROPERTY**

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- 53.26. Dogs.
- 53.27. Use Permits for Unpowered Boats.

**§53.1. Definition.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Commission property* – Includes either of the following:

- (i) Property owned or leased by the Commission.
- (ii) Property controlled by the Commission or held open to public use under an agreement conferring sufficient jurisdiction on the Commission to publish regulations under 30 Pa.C.S. §741 (relating to control of property).

*Fishing tournament* – An organized event where two or more individuals fish during a specified time period. An activity that involves any of the following factors is considered a fishing tournament:

- (i) The event is sponsored or promoted by an individual organization.
- (ii) The event involves the award of trophies, prizes or other recognition to participants for catching fish during the tournament.
- (iii) The sponsors or promoters of the event have their own rules or requirements for participants in the tournament.

**§53.2. Camping and Cooking. – 741(a)**

Except as otherwise provided in subsection (b), it is unlawful for a person to camp overnight on or in Commission-owned or controlled property or waters, to erect a tent or other device used for, or capable of being used for cooking or sleeping, or to build or maintain open fires on such property.

**§53.3. Littering, Abuse, and Destruction. – 741(a)**

- (a) It is unlawful to deposit a substance on Commission property except in containers provided for such disposal. It is unlawful for any person to deposit on Commission-owned property any refuse, trash, garbage, debris or other substance accumulated at any place other than Commission property.
- (b) It is unlawful for any person to remove or deface any sign, poster, or property or to damage in any manner any lands, fixtures, devices, structures or otherwise thereon, or to alter or to interfere with in any way the flow of water over or through any structure owned, leased or otherwise controlled by the Commission.
- (c) It is unlawful for any person to remove any flowers, plants, shrubs, or trees on Commission-owned or controlled property except in compliance with a permit for such purpose issued by the Executive Director.

**§53.4. Limiting Access to Commission Property and Other Restrictions. – 741(a)**

- (a) Commission-owned or -controlled property, including Commission lakes and access areas, may be closed to the public during hours as the Executive Director may direct. The Executive Director will publish a notice in the *Pennsylvania Bulletin* and will cause the hours to be posted at the site. Time

restrictions imposed under this subsection will be effective when posted at the site. It is unlawful for any person to enter or remain upon Commission property during the times it is closed to public use, without the express written consent of the Executive Director or a designee.

- (b) The Executive Director or a designee may issue an order barring any person from entering or remaining upon a named Commission property when the Executive Director finds that the presence of the person on Commission property constitutes a substantial disruption of Commission operations or a reasonable threat to the health and safety of Commission personnel or other persons who are engaged in other lawful uses of the property. Orders issued under this subsection may be appealed to the Commission under 1 Pa. Code §35.20 (relating to appeals from the actions of the staff).
- (c) The Executive Director may impose additional restrictions on the use of Commission property, including prohibitions on use or possession of beer and alcoholic beverages and restrictions on fires at times and for periods as the Director deems appropriate for the protection and management of Commission-owned or -controlled property. The Executive Director will publish a notice in the *Pennsylvania Bulletin* and will cause the additional restrictions to be posted at the site. Additional restrictions imposed under this subsection will be effective when posted at the site. It is unlawful to violate restrictions imposed by the Executive Director on behalf of the Commission under this subsection.

**§53.5. Hunting and Trapping. – 741(a)**

Legal hunting and trapping are permitted on property owned or controlled by the Commission in conformance with the Game and Wildlife Code (34 §101-2965) Pa.C.S. and Part III (relating to Game Commission) unless otherwise posted.

**§53.6. Miscellaneous Prohibitions. – 741(a)**

- (a) It is unlawful to fish from the breast of any dam on Commission-owned or -controlled properties where so posted.
- (b) It is unlawful to trespass in or on Commission-owned or -controlled property where so posted.
- (c) It is unlawful to swim in waters on Commission-owned or -controlled property, unless otherwise posted.

**§53.7. Use of Firearms. – 741(a)**

It is unlawful for any person to carry or use firearms on Commission-owned or -controlled properties except for persons:

- (1) Engaged in lawful hunting and trapping under §53.5 (relating to hunting and trapping).
- (2) Licensed to carry firearms under 18 Pa.C.S. §6109 (relating to licenses) or authorized to do so in conformance with 18 Pa.C.S. §6106 (relating to firearms not to be carried without a license).

**§53.8. Boats. – 741(a)**

- (a) An internal combustion engine may not be used to propel a boat or to provide energy to the electric motor on Commission lakes. Boats propelled by battery-powered electric motors and non-mechanically propelled boats, subject to restrictions on sailboats and inflatables, may be used either with or without internal combustion engines attached. Notwithstanding this subsection,

internal combustion engines may be used in the performance of official duties by persons so authorized by the Commission.

- (b) Overnight mooring of boats is permitted at designated mooring areas from March 1 to November 30. A boat utilizing mooring areas shall be registered and display the official registration number and current validation sticker described under subpart C (relating to boating) and Part III of the Code (relating to boats and boating). The mooring is at the sole risk of the owner.
- (c) The Commission may refuse to permit the mooring of a boat considered unseaworthy. Boats may not be rented or offered for hire at Commission lakes except for boats owned and moored by authorized concessionaires.
- (d) Boats abandoned, sunken, obviously unseaworthy or unidentifiable will be impounded. The district waterways conservation officer will notify the owner, if known, of the impoundment and require the removal of the vessel within 10 days. Impounded vessels will be sold or destroyed if not claimed by the owner within 3 months.
- (e) Boats may not remain at boarding piers on Commission lakes or controlled property longer than the time necessary for loading and unloading.
- (f) Inflatable boats used on Commission lakes shall be at least 7 feet in length, made of durable, reinforced fabric and have at least two separate buoyancy chambers exclusive of any inflatable floor or bottom.
- (g) A boat using a Commission lake or access area shall be registered and display the official registration number and current validation stickers described under Subpart C and Part III of the Code.
  - (1) This subsection does not apply to:
    - (i) Unpowered boats that display an official and valid use permit issued by the Commission under §53.27 (relating to use permits for unpowered boats) or that display an official and valid watercraft launch or mooring permit issued by the Department of Conservation and Natural Resources for use of launch or mooring facilities at this Commonwealth's State parks and forests.
    - (ii) Noncommercial users of access areas on the West Branch of the Delaware River and the portion of the Delaware River upstream of the Interstate 84 Bridge.
    - (iii) Unpowered public service boats as defined under section 5302(c) (2) of the code (relating to exemptions from registration).
    - (iv) Unpowered boats participating in events authorized under §109.6 (relating to special marine events).
  - (2) Registered unpowered kayaks, sculls, sailboards, and other low volume boats of similar design are exempt from displaying registration numbers but shall display a current validation sticker.

**§53.9. Ice Shanties. – 741(a)**

Only ice fishing shanties or shelters of a type which can be taken onto the ice and removed when fishing for a day is finished, are allowed. No such shelters shall remain unattended on the ice or stored on Commission property.

**§53.10. Vehicles. – 741(a)**

- (a) *Registration required.* – Vehicles properly registered in conformity with 75 Pa.C.S. (relating to the Vehicle Code), except all-terrain vehicles (ATVs), are permitted on Commission-owned or -controlled property on those areas that

are open to vehicular traffic, such as roadways, driveways, launch ramps, and designated parking areas.

- (b) *Prohibited vehicle operations.* – It is unlawful to operate a vehicle on Commission property as follows:
  - (1) Off-road or on road not open to the public.
  - (2) In any manner not in conformity with 75 Pa.C.S.
  - (3) In any negligent or reckless manner.
  - (4) In any manner that obstructs or impedes free public access to driveways, access roads, and launching ramps.
  - (5) In a manner not in conformity with posted traffic control signs or devices.
  - (6) On forest lands, grass areas, wetlands, and lands under cultivation.
  - (7) On frozen lakes, ponds, rivers, and streams.
- (c) *Parking regulations.* – It is unlawful to park a vehicle on Commission property except in a designated parking area. It is unlawful to park in an area designated for handicapped parking unless the vehicle clearly displays a disability plate or disability parking placard.

**§53.11. Off-highway Vehicles and Snowmobiles. – 741(a)**

- (a) *General rule.* – Except as provided in subsection (c), the use of off-road motorized vehicles including trail bikes, Tote Gotes, all-terrain vehicles (ATVs), air cushioned vehicles, track vehicles, hydrofoils and the like, is prohibited on Commission-owned or -controlled property.
- (b) It is unlawful to operate a snowmobile on Commission-owned or -controlled property except in areas designated for use by the Executive Director and so posted. The Commission will maintain a list of areas where use is permitted. In those areas where use of snowmobiles is permitted, the following conditions apply:
  - (1) Snowmobiles may be loaded or unloaded in Commission parking areas unless otherwise posted.
  - (2) Snowmobiles may be operated in parking areas only for the purpose of direct access and egress to other areas where operation is permitted. Parking areas may not be used for general snowmobile operation.
  - (3) The operation of snowmobiles on Commission-owned and -controlled property is at the sole risk of the operator. The Commission assumes no responsibility for the operations and makes no representation as to the suitability of trails or areas for their use.
  - (4) The operation of snowmobiles on frozen lakes, ponds, rivers, and streams is prohibited.
- (c) *Persons with disabilities.* –
  - (1) *Motorized wheelchairs.* – A person whose disability requires him to use a motorized wheelchair or similar device powered by an electric motor may use the device on Commission property. The Commission does not represent that Commission properties, except those specifically marked and designated for access by persons with disabilities, are suitable for this use.
  - (2) *Other motorized vehicles.* – The Executive Director or a designee may permit persons exempt from the fishing license requirement under section 2709(b) of the code (relating to exemptions from license requirements) and persons who are deprived of the use of a leg or both legs in a manner that significantly limits mobility to use an off-road motorized vehicle on

Commission property for the purpose of gaining access to fishing or boating opportunities under the following conditions:

- (i) The person applies in writing for permission stating the nature of the disability, the description of the vehicle, and the areas for which use is proposed. The application should be sent to: Director, Bureau of Law Enforcement, Pennsylvania Fish and Boat Commission, P.O. Box 67000, Harrisburg, PA 17106-7000. The application shall include a statement from a physician or a chiropractor licensed to practice in this Commonwealth describing the disability and certifying that the applicant meets the requirements of this section.
  - (ii) The vehicle is operated by the person with a disability or a person identified in the application to operate the vehicle for the person with a disability.
  - (iii) The person agrees that he will be responsible for the operation of the vehicle, the suitability of the site for the operation, and for damages caused by operation of the vehicle.
  - (iv) The person acknowledges that the Commission does not represent that Commission properties, except those specifically marked and designated for access by persons with disabilities, are suitable for any such use.
- (d) As used in this section, the term, "off-road motorized vehicle," means a motorized vehicle specifically designed for this use. The term does not include a vehicle licensed or registered for on-road use, such as a 4 by 4 sports utility vehicle and the like.

#### **§53.12. [Reserved]**

#### **§53.12a. Access Areas and Marinas. – 741(a)**

(a) *General provisions. –*

- (1) The Commission will from time to time establish and modify the seasonal, daily, and other boat mooring fees and fees for overnight parking of boats applicable to access areas and marinas under the ownership or control of the Commission. The Commission will publish a notice containing the fees or the revision to the fees as a notice in the Pennsylvania Bulletin.
- (2) The Executive Director will establish the terms and conditions for slip rentals, boat mooring and other agreements for use of Commission access areas and marinas. The terms and conditions shall be set forth in the slip rental, boat mooring or other use agreement or permit. Violation of the terms and conditions of the agreement or permit is grounds for termination or revocation of the slip rental, boat mooring, or other use agreement or permit.
- (3) The Executive Director will establish operational procedures and guidelines for use of Commission access areas and marinas. The Executive Director will establish opening and closing dates for the boating season and hours of operation of access areas and marinas.
- (4) The Executive Director may impose additional restrictions on use of Commission access areas and marinas. Additional restrictions imposed under this section shall be effective when posted at the site. It is unlawful for a person to violate restrictions imposed by the Executive Director, on behalf of the Commission, under this section.

- (5) Boats have the right-of-way over fishing from boat launch areas or boat docks. It is unlawful for persons fishing from a boat launch area or boat dock to permit their fishing activity to interfere with boat traffic into and out of the boat launch area or boat dock. It is unlawful to fish from a boat launch area or boat dock when posted at the site.
- (b) *Walnut Creek Access, Erie County.* – The following restrictions apply to the Walnut Creek Access area:
  - (1) Boats have the right-of-way over fishing from shore in both the channel and the basin. It is unlawful for a person fishing from shore in the channel to permit lines to interfere with boat traffic into and out of the channel. It is unlawful to fish from shore in the basin except in designated locations at designated times.
  - (2) It is unlawful to fish from boats in either the channel or the basin.
- (c) *North East Access and Marina, Erie County.* – The following restrictions apply to the North East Access area and Marina: It is unlawful to hunt on Commission property at the North East Access area and Marina.

**§53.13. Domestic Water Supply Reservoirs. – 741(a)**

- (a) Except as otherwise provided in this section, all domestic water supply reservoirs subject to an agreement between the owners thereof and the Fish and Boat Commission shall be subject to all property regulations contained in this chapter, and all other general fishing and boating regulations contained in this part.
- (b) When the agreement between the Commission and the owners of a domestic water supply reservoir specifies additional, alternative, or different restrictions or conditions and the Executive Director, on behalf of the Commission, approves the conditions or restrictions for posting at the site and enforcement, such posted conditions and restrictions are fully enforceable when posted at the site. It is unlawful to violate any conditions, restrictions, or prohibitions posted by the Commission at the site of a domestic water supply reservoir with which the Commission has an agreement.

**§53.14. Misuse of Commission-Owned or -Controlled Property. – 741(a)**

- (a) It is unlawful to construct, place, or maintain tangible property, including but not limited to, docks, picnic tables, and recreational devices, on Commission-owned or -controlled property or waters unless the person obtains a permit for use of Commission property from the Executive Director or his designee.
- (b) It is unlawful for any person to encroach upon, appropriate, post, or otherwise use Commission-owned or -controlled property in a manner incompatible with public use and access or in a manner that limits public access to, or use of, the property.
- (c) Before prosecution for violation of this section is initiated, the suspected violator will be given at least ten days written notice to remove from Commission property tangible property constructed, placed or maintained in violation of subsection (a), or to cease encroachment, appropriation, posting, or other use in violation of subsection (b). After notice has been provided, each day's continued violation of either subsection (a) or (b), shall constitute a separate and distinct offense punishable in accordance with law. The notice contemplated by this subsection will be considered sufficient if it is sent by certified mail, return receipt requested, to the suspected violator at his last known address; if it is served in person on the person, or if it is posted on or



affixed to the property where the violation exists. The decision as to which manner of notice should be issued in a particular case will be made in the sole discretion of the Executive Director or his designee.

**§53.15. [Reserved]**

**§53.16. Special Use. – 741(a)**

- (a) Property owned or controlled by the Commission is intended for use as is related to fishing, boating, and other public purposes of the Commission. Except with the express written permission of the Executive Director or his designee, it is unlawful for any person to use Commission-owned or -controlled property for any personal, organizational, or commercial purpose other than the intended use of such property.
- (b) The Executive Director or his designee may issue Special Activity Permits for special uses of Commission property to persons and organizations such as scout, church groups, fire and rescue organizations, Red Cross, and like organizations, when it is determined that such use will not damage Commission property or interfere with its use for its normally intended purposes by members of the public. The sponsors of any special activity permitted to take place on Commission property shall have a copy of the permit issued pursuant to this authority in their possession during such activity or event and shall, upon request, display such permit to authorized Commission personnel.
- (c) It is unlawful to launch or retrieve swimming aids, such as inner tubes, from Commission-owned or -controlled access areas.
- (d) *Commercial use.* – Commission-owned and controlled access areas are for the use of the fishing and boating public and will not be converted to any commercial use that in any way impairs free public use of such areas. Limited commercial use relating to fishing and boating that does not interfere with free public use of the access will be permitted subject to the following conditions:
  - (1) Boats launched or retrieved from Commission-owned and -controlled access areas must be currently registered or display current launch permit decals.
  - (2) the commercial enterprise may not interfere in any way with the free public use of the ramp, parking or other facilities at the access area.
    - (i) For Commission-owned and -controlled access areas with eight parking spaces or less, no more than one of the available parking spaces may be used by the commercial enterprise.
    - (ii) For Commission-owned and -controlled access areas with nine to 20 parking spaces, no more than three of the available parking spaces may be used by the commercial enterprise.
    - (iii) For Commission-owned and -controlled access areas of 21 parking spaces or more, no more than five of the available parking spaces may be used by the commercial enterprise.
    - (iv) Pre-trip instructions provided by the commercial enterprise to its customers shall be conducted in an area at the access area away from the launch ramp so as to not interfere with other parties launching boats.
  - (3) the commercial enterprise shall yield at all times to other public users of the boat ramp when launching or retrieving boats.
  - (4) The use of a Commission-owned and -controlled access area shall be based on the facility in its current condition. The Commission will not add

amenities or make improvements at the access based on increased commercial use of the access.

(5) this subsection does not apply to persons who operate an authorized concession at Commission-owned or -controlled access areas.

(6) this subsection does not apply to accesses on the upper Delaware River where Commercial Use Authorization Provisions for Guides are in force by the National Park Service.

(7) as used in this subsection, the term "commercial enterprise" means a business that rents or loans boats for consideration.

**§53.17. Cutting and Removal of Firewood from Commission Property. –741(a)**

- (a) It is unlawful to cut or remove any timber, tree, firewood, or kindling from Commission property except in compliance with this section and the terms and conditions of a permit for such purpose issued by the Executive Director or his designee.
- (b) The Executive Director or his designee may issue permits to interested persons for the cutting and removal of dead firewood from Commission property when it is determined that such cutting and removal is in the best interests of the Commission. The number of permits shall be limited and controlled so as to prevent excessive cutting and removal and to better manage this resource.
- (c) Firewood permits cost \$10.00 per standard rough cord. A standard rough cord is a pile of stacked wood 4 by 4 by 8 feet (128 cubic feet, including air spaces).
- (d) Each permit will specify the number of standard rough cords that the permittee is allowed to cut and remove. The maximum quantity of wood that any one household, that is, the permittee and persons who reside with the permittee, shall be permitted to cut and remove is three standard rough cords in a calendar year.
- (e) Fuel wood permits will be valid from January 1 to December 31 of the year for which it is issued. Under no circumstances shall the Commission refund any monies to permittee because of his or her failure to cut and remove the amount of wood authorized during the time specified.
- (f) Wood harvested and removed from Commission property under permit issued under this chapter shall be for the personal use of the permittee and the household of the permittee. It is unlawful for any person to sell wood removed from Commission property under a permit.
- (g) No live timber or living tree may be cut and removed from Commission property. In addition to the penalties provided for violation of this section, any person who cuts or removes live timber or living trees shall be liable to the Commission for the full commercial value of the trees or timber cut, destroyed or removed.
- (h) Permits are not transferable. The permittee shall be present when wood is being cut and removed from Commission property and shall assume full responsibility for such cutting and removal.
- (i) The Executive Director, or his designee, may place such other terms and conditions on permits for the cutting and removal of firewood as he deems appropriate to promote effective management of this program. It is unlawful for any person to violate any of the terms and conditions set forth on such permit.
- (j) The Commonwealth and the Commission shall not be liable for any accidents, injuries, damages, or losses incurred or caused by the permittee in cutting and removing wood. Each permittee shall agree to indemnify, hold harmless, and

defend the Commonwealth, the Commission, and their agents, employees, successors, and assigns from and against any liability of any nature, regardless of cause, arising out of, or related to, the activities of the permittee under the permit.

**§53.18. [Reserved]**

**§53.19. Use of Float Tubes on Commission Controlled Lakes. – 741(a)**

- (a) A float tube is a device constructed to provide stable flotation and a level ride to a single angler in a manner that minimizes the possibility of a capsizing. The float tube shall consist of a bladder system made of heavy gauge rubber or rubber impregnated support fabric. The bladder shall be covered with a durable fabric shell which provides a seat for the user and two leg holes. A secondary bladder in the form of a backrest or similar component shall be included with a float tube to provide additional emergency flotation.
- (b) It is unlawful to use a float tube or similar device on Commission-owned or -controlled lakes other than a float tube as defined in subsection (a).
- (c) It is unlawful to use a float tube on Commission-owned or -controlled waters unless the user is properly wearing a Coast Guard approved personal flotation device at all times while using the float tube on the water.
- (d) It is unlawful to propel float tubes on Commission-owned or -controlled waters by motors or other mechanical propulsion devices of any type or description.
- (e) It is unlawful to use a float tube on Commission-owned or -controlled waters except for the purpose of lawful public fishing.
- (f) Float tubes shall be used under this section only on lakes or still waters.

**§53.20. [Reserved]**

**§53.21. Tagged-Fish Contests. – 741(a)**

- (a) *Definition.* – A tagged-fish contest is an event where a person who has paid a fee to enter the contest wins a prize for catching a specially tagged, marked or branded fish.
- (b) *Prohibited acts.* – It is unlawful to conduct a tagged-fish contest as defined in subsection (a) on Commission property.

**§53.22. [Reserved]**

**§52.23. [Reserved]**

**§53.24. Tournament and Fishing Derby Permits. – 741(a)**

- (a) *Definitions.* – The following terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:
  - Fishing tournament.* – An organized competitive fishing event, other than a fishing derby, where ten or more individuals fish during a specified time period. An activity that involves one or more of the following factors is considered a fishing tournament:
    - (i) The event is sponsored or promoted by an individual or organization.
    - (ii) The event involves the award of trophies, prizes, or other recognition for participation in the tournament.
    - (iii) The event is conducted during a distinct time period (usually 72 hours or

less) on a particular body of water.

*Fishing derby.* – An organized event involving 10 or more participants conducted for children under the age of 16, senior citizens (as defined in section 2701 of the code (relating to definitions)), anglers with disabilities, special populations, or other group when the principal purpose is education or enjoyment, rather than competition among anglers.

(b) *General.* – The Commission finds that fishing tournaments and fishing derbies that use Commission property constitute special uses of that property which place special demands on Commission facilities.

(c) *Special activity permit for fishing tournaments.* –

(1) *Special activity permit.* – It is unlawful for a person to conduct a fishing tournament on a Commission lake or using Commission access areas, without first obtaining a special activity permit from the Executive Director or a designee.

(2) *Content of application.* – An application for a special activity permit for a fishing tournament shall contain the following information:

- (i) The date, time, and place.
- (ii) The nature of the proposed tournament.
- (iii) The anticipated number of participants, watercraft, and vehicles that will use Commission property.
- (iv) The proposed disposition of fish caught.
- (v) The species and source of fish sought.
- (vi) Whether or not the sponsor charges an entry fee.

(3) *Deadline for submission.* – The deadline for submission of applications for special activity permits for fishing tournaments shall be as follows:

- (i) For tournaments involving 50 or more boats, the application shall be submitted between October 1 and December 1 of the year prior to the year of the proposed tournaments.
- (ii) For tournaments involving 49 or less boats or fishing from shore, the application shall be submitted at least 60 days prior to the date of the proposed tournament.
- (iii) The Commission may consider applications submitted after the deadlines established in this section but final action may be delayed.

(4) *Review of applications.* –

- (i) The Commission staff will review applications for special activity permits to conduct fishing tournaments on Commission property and will endeavor to issue or deny permits within 45 days after the receipt of the application. The factors to be reviewed include:
  - (A) Whether the proposed tournament at the proposed time and location will have adverse impacts on the protection and management of fish in the waters to be fished in connection with the tournaments.
  - (B) Whether the proposed tournament at the proposed time and location will impede or reduce fishing and boating opportunities for members of the angling and boating public who are not participants in the tournament.
  - (C) Whether the proposed tournament is scheduled on the opening weekend of the season for any species of game fish.
  - (D) Whether the proposed tournament at the proposed time and location competes with another tournament already permitted

for the same time and place. In the event of competing applications, a fishing tournament where fish are intended to be released alive shall be given preference over a fishing tournament where fish are intended to be killed or taken.

- (E) Whether the proposed tournament at the proposed time and location may result in congestion of vehicles on Commission property or watercraft on the waters of this Commonwealth.
  - (F) Whether the sponsors of the proposed tournament have demonstrated their ability to conduct the tournament in accordance with the rules and regulations of the Commission and the conditions of the permit.
- (ii) If the Bureau of Law Enforcement determines to deny the application for the special activity permit for a fishing tournament, it will notify the applicant in writing of the denial and the reasons. The applicant may, within 10 days of notification, request the Executive Director to reconsider the denial of the permit. The Executive Director will act on the request for reconsideration within 10 days of its receipt. If the Executive Director denies the permit after reconsideration, the applicant may appeal to the Commission under 1 Pa. Code §35.20 (relating to appeals from actions of staff).
- (5) *Permit conditions.* – The Bureau of Law Enforcement may impose conditions in connection with the issuance of a permit under this section. The conditions may include.
- (i) Requirements for offsite parking when the number of vehicles involved in the proposed tournament exceeds the capacity of the parking facility taking into account other permitted activities at the same time and place.
  - (ii) Limitations on the numbers of boats or participants in the tournament when the number of boats or participants involved in the proposed tournament exceeds the capacity of the facilities taking into account other permitted activities at the same time and place.
  - (iii) Limitations on the time or duration of the tournament when reasonably necessary and appropriate to provide for the protection of fish. The Commission may, for tournaments conducted during the months of July and August, include a condition limiting the duration of the tournament to no more than 10 hours of fishing.
  - (iv) Limitations on taking, catching, possessing, and killing fish, including, when necessary for the protection and management of fish, requiring that the tournament be conducted as a catch-measure-and release or aerated livewell tournament.
  - (v) Requirements for the proper disposal of fish taken in the tournament. Tournament sponsors engaged in returning live fish to the waters of this Commonwealth after completion of a tournament may possess fish in excess of the daily possession limit if they carry the tournament permit and can document the catch of the individual tournament participants. The permit condition may provide that live fish will be distributed to the waters from which taken away from the ramp or access area where the weigh-in occurs.
  - (vi) When the applicant previously sponsored a tournament on Commission property and when, within 30 days after the prior

tournament, the Commission provided written notice to the applicant that the site had not been cleaned up to the satisfaction of the Commission, the permit may include a requirement for the posting of a bond or security to guarantee that Commission property is restored to its prior condition.

- (vii) Requirements for filing of catch reports within 30 days after completion of the tournament.
  - (viii) Requirements for locating weigh-in stations and prize awarding events at locations that will not interfere with other public use of Commission facilities.
  - (ix) Upon request of an applicant for a tournament permit, the Commission may include a condition providing that one or more uninjured large-mouth bass, smallmouth bass or spotted bass that an angler is landing, measuring or in the process of releasing from a recirculated or aerated livewell will not be considered as part of the daily creel limit if the fish is caught during a tournament that as part of its rules penalizes the return of any dead or distressed bass to the water, requires use of recirculating or aerated temperature-controlled livewells, distributes to the contestants instructions on the proper maintenance and use of livewells and limits the fishing hours to no more than 9 hours per day. This permit condition will be included only in circumstances when the Commission finds that permitting culling will have no substantial adverse impacts on the protection and management of fish.
- (d) *Special activity permits for fishing derbies on Commission property.*
- (1) It is unlawful for a person to conduct a fishing derby on a Commission lake or using Commission access areas, without first obtaining a special activity permit from the Executive Director or a designee.
  - (2) An applicant for a special activity permit for a fishing derby shall apply at least 60 days before the date of the proposed derby and indicate the following:
    - (i) The date, time, and place.
    - (ii) The nature of the proposed derby.
    - (iii) The anticipated number of participants, watercraft, and vehicles that will use Commission property.
    - (iv) The proposed disposition of fish caught.
    - (v) The species and source of fish sought.
    - (vi) Whether or not the sponsor charges an entry fee.
  - (3) The Commission staff will review applications for special activity permits to conduct fishing derbies on Commission property and will endeavor to issue or deny permits within 45 days after the receipt of the application. The factors to be reviewed include:
    - (i) Whether the proposed derby at the proposed time and location will have adverse impacts on the protection and management of fish in the waters to be fished in connection with the derby.
    - (ii) Whether the proposed derby at the proposed time and location will impede or reduce fishing and boating opportunities for members of the angling and boating public who are not participants in the derby.
    - (iii) Whether the proposed derby is scheduled on the opening weekend of the season for any species of game fish.

- (iv) Whether the proposed derby at the proposed time and location competes with another derby or fishing tournament already permitted for the same time and place.
  - (v) Whether the proposed derby at the proposed time and location may result in congestion of vehicles on Commission property or watercraft on the waters of this Commonwealth.
  - (vi) Whether the sponsors of the proposed derby have demonstrated their ability to conduct the derby in accordance with this title and the conditions of the permit.
- (4) If the Bureau of Law Enforcement determines to deny the application for the special activity permit for a fishing derby, it will notify the applicant in writing of the denial and the reasons. The applicant may, within 10 days of notification, request the Executive Director to reconsider the denial of the permit. The Executive Director will act on the request for reconsideration within 10 days of its receipt. If the Executive Director denies the permit after reconsideration, the applicant may appeal to the Commission under 1 Pa. Code §35.20 (relating to appeals from actions of staff).
- (5) The Bureau of Law Enforcement may impose conditions in connection with the issuance of a permit under this section. The conditions may include:
- (i) Requirements for offsite parking when the number of vehicles involved in the proposed derby exceeds the capacity of the parking facilities taking into account other permitted uses of the site at the same time.
  - (ii) Limitations on the numbers of boats or participants in the derby when the number of boats or participants involved in the proposed derby exceeds the capacity of the facilities taking into account other permitted uses of the facility at the same time.
  - (iii) Limitations on the time or duration of the derby, if reasonably necessary and appropriate to provide for the protection of fish.
  - (iv) Limitations on taking, catching, possessing, and killing fish.
  - (v) Requirements for the proper disposal of fish taken in the derby. Derby sponsors engaged in returning live fish to the waters of this Commonwealth after completion of a derby may possess fish in excess of the daily possession limit if they carry the derby permit and can document the catch of the individual derby participants. The permit condition may provide that live fish will be distributed to the waters from which taken away from the ramp or access area where the weigh-in occurs.
  - (vi) Clean-up requirements. When the applicant previously sponsored a derby on Commission property and when, within 30 days after the prior derby, the Commission provided written notice to the applicant that the site had not been cleaned up to the satisfaction of the Commission, the permit may include a requirement for the posting of a bond or security to guarantee that Commission property is restored to its prior condition.
  - (vii) Requirements for locating prize awarding events at locations that will not interfere with other public use of Commission facilities.
- (e) *Prohibited acts.* – It is unlawful to conduct a fishing tournament or fishing

derby on Commission-owned or -controlled property except in compliance with permit conditions. It is unlawful to conduct a tournament or fishing derby on Commission-owned or -controlled property on the opening day for any species of game fish unless the applicant has made an extraordinary showing that the proposed tournament will not interfere with other fishing and boating activities and the Commission issues a special activity permit containing a specific finding, based upon the applicant's showing, that the permitted activity will not constitute interference. It is unlawful to conduct or participate in a fishing tournament or fishing derby involving the catch or attempted catch of a particular species of fish during the closed season for that species. It is unlawful to conduct a fishing tournament on the North Branch, West Branch, or main stem of the Susquehanna River that allows tournament anglers to kill black bass.

- (f) *Joint permit.* – An application for a special activity permit under this section shall also constitute an application for a special activity permit for a fishing tournament under §63.40 (relating to seasons for fishing tournaments), and a permit issued under this section shall constitute a joint permit for use of Commission property and for a fishing tournament under §63.40.

**§53.25. Use or Possession of Beer or Alcoholic Beverages on Commission Property. – 741(a)**

It is unlawful for any person, less than 21 years of age, to consume, possess or transport any alcohol, liquor, beer, malt or brewed beverage on Commission property.

**§53.26. Dogs. – 741(a)**

- (a) Dogs are permitted on Commission property if they are licensed and otherwise in compliance with the other provisions of the Dog Law (3 P.S. §459-101 to 459-1205).
- (b) The maximum number of dogs that an owner or handler is permitted to have on Commission property at one time is two.
- (c) The owner or handler shall keep the dogs on a leash not exceeding 6 feet in length or on a multi length mechanical retractable leash while on Commission property.
- (d) The owner or handler shall keep the dogs under supervision and control while on Commission property.
- (e) The owner or handler shall immediately scoop, contain, and retain all droppings of the dog. The owner or handler may not dispose of the dog droppings on Commission property.
- (f) The owner or handler is responsible for the conduct of the dog while on Commission property.
- (g) Subsection (c) does not apply when an owner or handler meets one of the following:
  - (1) Is training a dog for water retrieval purposes and when the following apply:
    - (i) The dog is actually performing customary water retrieval functions.
    - (ii) The dog remains within 10 feet of the owner/handler while on land.
    - (iii) The dog is under the immediate control of the owner/handler at all times.
    - (iv) The dog does not interfere with anglers or boaters engaged in fishing, boating, or other lawful activities.



- (2) Has the dogs under his control onboard a boat.
- (h) An owner or handler of a hunting dog is exempt from subsections (c) and (e) when he keeps his dog off lawn areas, trails, and parking lots and when he is engaged in legal hunting or training during the seasons established by the Game Commission.

**§53.27. Use Permits for Unpowered Boats. – 741(a)**

- (a) The Commission and issuing agents designated by the Commission will issue use permits for unpowered boats when their owners choose not to register them to use Commission lakes and access areas.
- (b) Use permits will be issued in the form of decals, showing the expiration date. Decals shall be clearly displayed on both sides of the hull amidships below the gunwale. For low-volume boats, such as kayaks, decals shall be placed on both sides of the deck amidships.
- (c) An applicant for a use permit shall provide the following:
  - (1) The name, address, and telephone number of the applicant.
  - (2) A description of the boat (make, model, year).
  - (3) The Hull Identification Number (HIN) of the boat (if readily available).
- (d) A use permit is issued for a specific boat. It is unlawful to transfer a use permit issued for a specific boat to another boat. A use permit remains effective for the boat for which it is issued even if ownership of the boat is changed during the term of the permit.
- (e) Use permits are valid for 1 or 2 years. The expiration date of a 1-year use permit is December 31 of the year for which it is issued. The expiration date of a 2-year use permit is December 31 of the second year from which it was issued.
- (f) The initial fees for the use permits are \$10 for a 1-year permit and \$18 for a 2-year permit. The Executive Director may, by notice published in the *Pennsylvania Bulletin*, adjust these fees so that they remain the same as the resident price for 1-year and 2-year boat launching permits as established in the schedule of fees published, and from time-to-time revised, by the Department of Conservation and Natural Resources for State parks and forests. Whenever a use permit authorized by this section is issued by an issuing agent other than the Commission or the Department of Conservation and Natural Resources, the issuing agent may charge an issuing agent fee not to exceed \$1 per transaction for issuing the permit.

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**CHAPTER 55.  
[RESERVED]**

**CHAPTER 57.  
STATEMENTS OF POLICY**

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Subchapter

- A. Fisheries Policies
- B. Policies on Development of Hydropower at Existing or Proposed Dams in Pennsylvania
- C. Law Enforcement Policies
- D. Administrative Policies
- E. Boating Policies

## SUBCHAPTER A. FISHERIES POLICIES

Sec.

- 57.1. Policy for the Conservation and Management of Fishery Resources.
- 57.2. Allocation and Stocking of Trout.
- 57.3. Policy on Water Quality Designation.
- 57.4. Wilderness Trout Streams.
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### **§57.1. Policy for the Conservation and Management of Fishery Resources.**

It will be the policy of the Commission to protect, conserve, and enhance the quality and diversity of the fishery resources of this Commonwealth including reptiles and amphibians and to provide continued and varied angling opportunity through scientific inventory, classification, and management of that resource. To achieve the objective of this policy, the Commission will:

- (1) Establish and maintain a current data base on the quality and quantity of the aquatic and fishery resources of the Commonwealth for effective environmental protection and resource conservation.
- (2) Develop statewide management programs to assure consistent treatment of all resources within any given class. Similar waters will be managed to meet the same objectives under the same philosophy on a statewide basis.
- (3) Manage self-sustaining fish populations as a renewable natural resource to conserve that resource and the angling it provides.
- (4) Use hatchery fish to provide recreation in those waters where fish populations are inadequate to sustain the fishery at desired levels.
- (5) Develop appropriate regulations and operational strategies to replace policies that are not compatible with management through resource classification.

### **§57.2. Allocation and Stocking of Trout.**

- (a) The Commission will allocate trout, except fingerlings, to individual waters with the rate and frequency to be determined by the assignment of each water to a resource category.
- (b) The Commission will assign water areas to resource categories based on the appropriately weighted biological and social factors, including the status of wild trout populations, stream width or lake area, and recreational use potential as indicated by public access, parking spaces, ownership, proximity to roads, proximity to urban areas, and activities of resource adoption organizations.
- (c) The Division of Fisheries Management will maintain a current list of resource categories, trout allocation processes, and trout allocations.

- (d) This section supersedes all other Commission policies or operating procedures to the extent inconsistent with this section.

**§57.3. Policy on Water Quality Designation.**

It will be the policy of the Commission to advance and seek, where supported by the current data base, the highest Department of Environmental Protection water quality designation for waters of the Commonwealth in order to achieve the objectives of this chapter.

**§57.4. Wilderness Trout Streams.**

It is the policy of the Commission to maintain the wilderness trout streams program where stream remoteness and populations of naturally reproducing trout combine to offer sport fishing opportunity for the recreation of anglers in a wilderness setting away from roads or vehicular access. It is the Commission's intent to advocate proper watershed management to maintain the wilderness setting and to advance and seek the highest water quality standards through the Department of Environmental Protection.

**§57.5. Special Regulations Policy.**

It is the policy of the Commission to utilize regulations differing from those in application on a statewide basis when deemed necessary or desirable to protect, conserve, or enhance the quality, quantity, and diversity of this Commonwealth's fisheries, to maintain public access or to provide for the safety of the users of the resource. It is the intention of the Commission to use the minimum necessary regulation to maintain the philosophy of its conservation policy and to minimize variations in regulations on similar waters having like management objectives.

**§57.6. Restocking After Fish Kills.**

- (a) It is the policy of the Commission to investigate fish kills, seek restitution for damage from those responsible for causing or allowing fish kill, and restore through stocking, if necessary, or natural means, those recreational fisheries affected by a significant kill.
- (b) If stocking is deemed necessary as determined by Fisheries Management personnel, it will receive a higher priority than those stockings of a normal maintenance or introductory effort and will occur when conditions are deemed suitable for restocking. The species, size, and numbers of fish to be stocked will be determined by Fisheries Management and will be governed by hatchery availability.

**§57.7. Policy on Acid Precipitation.**

It is the policy of the Commission to urge:

- (1) The Congress and President to take prompt and decisive action to reduce emissions of sulfur dioxide and nitrogen oxides in the eastern half of the United States by the year 1993, as recommended by the National Academy of Science.
- (2) The Federal government to vigorously enforce existing Clean Air Act limitations on emissions of sulfur and nitrogen oxides until appropriate new legislation is enacted.

- (3) The Commonwealth, as the keystone State in this national issue, to take a leading role by enacting a unilateral 50% reduction in sulfur dioxide and nitrogen oxides emissions from Commonwealth sources.

**§57.8. [Reserved]**

**§57.8a. Class A Wild Trout Streams.**

It is the policy of the Commission to manage self-sustaining Class A wild trout populations as a renewable natural resource to conserve that resource and the angling it provides. Class A wild trout populations represent the best of this Commonwealth's naturally reproducing trout fisheries. With rare exceptions, these stream sections are managed solely for the perpetuation of the wild trout fishery with no stocking. However, there may be circumstances that justify stocking a Class A wild trout stream. Prior to granting permission to stock a Class A wild trout stream under §71.4 (relating to stocking of designated waters), the Executive Director will obtain the approval of the Commission.

- (1) Criteria developed for Class A Wild Trout fisheries are species specific.
- (2) Wild Trout Biomass Class Criteria include provisions for:
  - (i) *Wild brook trout fisheries.* –
    - (A) Total brook trout biomass of at least 30 kg/ha (26.7 lbs/acre).
    - (B) Total biomass of brook trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).
    - (C) Brook trout biomass must comprise at least 75% of the total trout biomass.
  - (ii) *Wild brown trout fisheries.* –
    - (A) Total brown trout biomass of at least 40 kg/ha (35.6 lbs/acre).
    - (B) Total biomass of brown trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).
    - (C) Brown trout biomass shall comprise at least 75% of the total trout biomass
  - (iii) *Mixed wild brook and brown trout fisheries.* –
    - (A) Combined brook and brown trout biomass of at least 40 kg/ha (35.6 lbs/acre).
    - (B) Total biomass of brook trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).
    - (C) Total biomass of brown trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).
    - (D) Brook trout biomass shall comprise less than 75% of the total trout biomass.
    - (E) Brown trout biomass shall comprise less than 75% of the total trout biomass.
  - (iv) *Wild rainbow trout fisheries.* – Total biomass of rainbow trout less than 15 cm (5.9 inches) in total length of at least 2.0 kg/ha (1.78 lbs/acre).
  - (v) *Mixed wild brook and rainbow trout fisheries.*
    - (A) Combined brook and rainbow trout biomass of at least 40 kg/ha (35.6 lbs/acre).
    - (B) Total biomass of brook trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

- (C) Total biomass of rainbow trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).
- (D) Brook trout biomass shall comprise less than 75% of the total trout biomass.
- (E) Rainbow trout biomass shall comprise less than 75% of the total trout biomass.
- (vi) *Mixed wild brown and rainbow trout fisheries.*
  - (A) Combined brown and rainbow trout biomass of at least 40 kg/ha (35.6 lbs/acre).
  - (B) Total biomass of brown trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).
  - (C) Total biomass of rainbow trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).
  - (D) Brown trout biomass shall comprise less than 75% of the total trout biomass.
  - (E) Rainbow trout biomass shall comprise less than 75% of the total trout biomass.
- (3) A water will not be removed from the Class A Wild Trout Streams designation unless the cause leading to the reduction in the wild trout population has been clearly identified and it has been determined that the water is beyond remediation to re-establish the Class A wild trout population. Possible reasons include the following:
  - (i) Human caused conditions or sources of pollution prevent the attainment of a Class A wild trout fishery and cannot be remedied or will cause more environmental damage to correct than to leave in place.
  - (ii) Dams, diversions or other types of hydrologic modifications preclude the attainment of a Class A wild trout fishery, and it is not feasible to restore the water body to its original condition or to operate the modification in a way that will result in the attainment of a Class A wild trout fishery.

#### **§57.9. [Reserved]**

#### **§57.9a. Publicizing Stocking of Fish.**

- (a) All stockings will be publicly announced.
- (b) The Executive Director, in his discretion, may announce the date, time, location, number, or weight of all stockings and may withhold announcements based on certain factors, including but not limited to, safety.

#### **§57.10. Riparian Buffer Policy.**

It is the policy of the Commission to pursue establishment and preservation of a stable, vegetated riparian buffer zone between waters of this Commonwealth and other land uses on Commonwealth property under the management and control of the Commission. It is the Commission's intent to improve stream bank and shoreline stabilization and water quality and to enhance fish and wildlife habitats in these areas, consistent with available fiscal and personnel resources. It is the policy of the Commission to encourage partnerships with other agencies, conservation organizations and the private sector to providing funding and volunteer assistance to establish and preserve riparian buffer zones under this policy.

**§57.11. Listing of Wild Trout Streams.**

- (a) *Maintenance of list.* – It is the policy of the Commission to accurately identify and classify streams supporting naturally reproducing populations of trout as wild trout streams. The Fisheries Management Division will maintain the list of wild trout streams. The Executive Director, with the approval of the Commission, will from time-to-time publish the list of wild trout streams in the *Pennsylvania Bulletin* and on the World Wide Web. Persons with comments, objectives, or suggestions about the classification of streams listed may submit them to the Commission for review.
- (b) *Criteria for classifying wild trout streams.* – The classification of a stream as a wild trout stream means that the trout found there have resulted from natural reproduction and that the habitat supports wild trout. Identification of streams for the presence of wild trout typically involves:
  - (1) *Location and habitat.* – Classifications of wild trout streams will involve examination of one or more sites, which may vary in size, within the stream. The exercise of judgment by the investigator is essential in describing the extent of the stream continuum to which the examination applies. The investigator should find that the habitat is such as would support natural reproduction of trout.
  - (2) *Exclusion of stocked trout.* – In classifying a wild trout stream, the investigator should find trout resulting from natural reproduction in the stream section or upstream and downstream areas and their tributaries. In making this finding, the investigator will specifically exclude trout stocked as fingerlings or adults and trout that escape from a hatchery. The exercise of judgment is required in examining the trout for physical appearance such as coloration, fin condition, and body configuration as indicators of the source of the trout. Direct evidence of natural reproduction of trout is a factor in making this classification, but it is not required if the other elements are present.
  - (3) *Biological criteria.* – In identifying a wild trout stream, the investigator should find one or more of the following:
    - (i) Young of the year trout less than 150 mm occur at some time in the stream section.
    - (ii) Two or more ages of wild trout occur at some time within the stream section.
  - (4) *Tributary linkages.* – Tributaries to wild trout streams are classified as wild trout streams for their function as habitat for segments of wild trout populations, including nurseries and refuges, and in sustaining water quality necessary for wild trout.
- (c) *Existing list.* – The streams identified as wild trout streams on or before January 1, 2002, and listed as such by the Fisheries Management Division will continue to be considered as wild streams by the Commission.
- (d) *Requests for evaluation or reevaluation of streams.* – The Commission staff will evaluate or reevaluate the classification of streams as wild trout streams at the request of the Department of Environmental Protection (DEP) in connection with permitting decisions. Requests for evaluation or reevaluation from persons or parties other than DEP will be considered for a review consistent with available staff and resources and prioritized based on the status of DEP permitting decisions related to the sites. Requests that the Commission staff evaluate or reevaluate stream sections for inclusion on or removal from

the list of streams supporting naturally reproducing populations of trout may be addressed to the Bureau of Fisheries, Pennsylvania Fish and Boat Commission, 450 Robinson Lane, Bellefonte, Pennsylvania 16823-9616. In evaluating requests to remove streams from the list of wild trout streams, the Commission will take into account circumstances where human intervention or manmade changes have diminished the capacity of a stream to meet the criteria set forth in this section. Streams will not be removed from the list of wild trout streams in circumstances where the investigator finds evidence that their characteristics and trout populations have been changed solely or principally as a result of human intervention.

- (e) *Appeals.* – A person aggrieved by the classification of a stream section as a wild trout stream section may appeal the agency action by filing a notice of appeal with the Executive Director, Pennsylvania Fish and Boat Commission, Post Office Box 67000, Harrisburg, Pennsylvania 17106-7000 within 15 days after publication of the notice that the stream section had been so classified in the *Pennsylvania Bulletin*. Nothing in this subsection will be construed to enlarge or diminish the appeal rights of persons or parties in connection with permitting decisions or other actions of DEP.

#### **§57.12. Policy on Wind Power Projects.**

It is the policy of the Commission to have its staff fully coordinate agency concerns in the review of wind power development projects with all involved local, State and Federal regulatory agencies to avoid, minimize, and mitigate harmful impacts to fish, other aquatic life, reptiles, amphibians, and their habitats. Commission staff will seek the collection of adequate data for risk analysis when necessary in the environmental review process, the avoidance of threatened and endangered species and their habitats, the avoidance of ecologically sensitive areas when siting projects, the reduction of habitat fragmentation, and the development of mitigation strategies for unavoidable impacts.

### **SUBCHAPTER B.**

## **POLICIES ON DEVELOPMENT OF HYDROPOWER AT EXISTING OR PROPOSED DAMS IN PENNSYLVANIA**

Sec.

- 57.21. General.
- 57.22. Fish Passage Facilities.
- 57.23. Adequate Stream Flows.
- 57.24. Water Quality Protection.
- 57.25. Turbine Operation Practices.
- 57.26. Public Recreational Access.

#### **§57.21. General.**

It is the policy of the Commission that hydroelectric development on existing or planned dams on Commonwealth waters must not adversely affect the existing or potential fisheries at the location of the dam.

#### **§57.22. Fish Passage Facilities.**

- (a) *General.* – Persons, corporations, or other legal entities that erect or maintain dams on the waters of this Commonwealth are required upon order of the Commission to provide such fish passage facilities as the Commission may

deem necessary to enable fish to ascend and descend the waters at all seasons of the year.

- (b) *Migratory waters.* – The Commission finds that it is in the public interest for fish passage facilities to be included in all dams on waters that historically provide habitat for migratory fish, and it is the policy of the Commission to promote early installation of fish passage facilities at such dams.
  - (1) The Commission will endeavor to identify existing dams where upstream and downstream fish passage facilities for migrating fish are required and will provide appropriate notice to the owners. The Commission may defer the requirement for actual construction until developments downstream from the dam site indicate construction of fish passage facilities for migratory fish is advisable.
  - (2) The Commission will additionally review existing and proposed dams as candidates for installation of fish passage facilities when hydroelectric facilities are proposed. If the Commission agrees to defer immediate construction of fish passage facilities pending implementation of a plan for availability of fish passage facilities at downstream obstructions to fish migration, the developer shall insure that hydropower development at the site will in no way impede the installation of fish passage facilities when required. All hydropower development at dams in this Commonwealth shall be compatible with ultimate installation and operation of fish passage facilities.
  - (3) When the Commission determines that installation of fish passage facilities at a dam site is required to promote restoration of migratory fish to their historic range but further determines that immediate installation is not practicable or desirable, the Commission may seek to enter into an agreement with the owner, lessee, or operator of the dam or associated hydroelectric development for the payment of so called “in lieu of payments” under 30 Pa.C.S. §3501(b) (relating to devices in dams to permit fish migration).
- (c) *Other waters.* – On waters where restoration of migratory fish to their historic habitat is not a consideration, the Commission will require installation of fish passage facilities on existing or planned dams upon a written order and finding that such installation will have an appreciable beneficial impact on the indigenous fishery. The Commission may defer installation of fish passage facilities at dams where the Commission orders installation of such facilities after finding of an appreciable beneficial impact to existing or potential indigenous fishery. In such cases the Commission may seek to enter into an agreement for the payment of “in lieu of payments” under 30 Pa.C.S. §3501(b) (relating to devices in dams to permit fish migration). However, in all cases, the developer of hydropower installations at such dams shall insure that such development will not impede or make more difficult the installation of such fish passage facilities as may ultimately be required.

#### **§57.23. Adequate Stream Flows.**

Operators of dams and hydropower installations shall maintain adequate continuous stream flows over the dam to protect fisheries resources and habitat located between the toe of the dam and the tailrace of the hydro units. The habitat which is necessary for any portion of the life cycle of existing or potential fisheries must receive adequate flow to maintain such habitat in a usable condition. The



Commission will determine the minimum flow required and provide them to the developer early in the consultation process.

**§57.24. Water Quality Protection.**

Water quality must not be adversely affected by the hydro development. Water leaving the hydro development tailrace must have oxygen levels comparable to the oxygen levels in the free flowing streams just above the tailrace. This may require the developer to monitor the stream oxygen levels and provide aeration equipment to increase the tail-race oxygen level to approximate that found in the upstream waters. Other water quality parameters shall also be protected.

**§57.25. Turbine Operation Practices.**

Hydroelectric units must operate strictly as run-of-the-river operations without peaking or pulsing modes of operation. Run-of-the-river operation prevents undesirable lake level fluctuations and rapid changes in stream flows below the facility to protect boating and fishing recreational interests. Flashboards not exceeding 6 inches in height will not be considered a peaking or pulsing mode of operation; but, when flashboards are placed in use, specified minimum flows must be continuously maintained. Debris removal plans shall be implemented when flashboard installations are breached by high waters, ice, or any other influence.

**§57.26. Public Recreational Access.**

The developer should plan to provide safe access for recreational purposes adjacent to the completed installations. Streams and tailraces below the dams are heavily utilized for fishing purposes and the fisherman's ability to utilize these areas shall not be decreased by the hydro development.

**SUBCHAPTER C.  
LAW ENFORCEMENT POLICIES**

Sec.

- 57.41. Deputy Waterways Conservation Officers.
- 57.42. [Reserved]
- 57.43. [Reserved]
- 57.44. Honorary Deputy Waterways Conservation Officer.
- 57.45. Suspensions of Licenses and Privileges under the Accelerated Rehabilitative Disposition Program.

**§57.41. Deputy Waterways Conservation Officers.**

- (a) The Commission's Bureau of Law Enforcement will establish and implement policies as necessary to administer a volunteer deputy waterways conservation officer program. The policies, at a minimum, shall address the following:
  - (1) Eligibility and procedure for appointment.
  - (2) Training, law enforcement procedures and firearms, and other qualifications.
  - (3) Wearing of uniforms.
- (b) Commissions for deputy waterways conservation officers expire on December 31 of the year in which they were issued. No person has a right, title, or interest in being commissioned as a deputy waterways conservation officer nor an expectation that his commission will be reissued for a subsequent year. Commissions are issued until December 31 and no longer.

- (c) The district waterways conservation officer or region manager may temporarily suspend the commission of a deputy waterways conservation officer for failure to comply with the policies established by the Bureau of Law Enforcement. The Executive Director or a designee may permanently revoke the commission of a deputy waterways conservation officer when revocation is deemed to be in the best interest of the Commission.

**§57.42. [Reserved]**

**§57.43. [Reserved]**

**§57.44. Honorary Deputy Waterways Conservation Officers.**

- (a) *Former members of the Commission.* – All former members of the Commission are designated special honorary deputy waterways conservation officers unless they apply for and are appointed as active deputies.
- (b) Other responsible individuals recommended by the members of the Commission or the Executive Director may be designated as honorary deputy waterways conservation officers.
- (c) *Status.* – Honorary deputy waterways conservation officers shall receive no badge or commission and are not authorized to perform any law enforcement duties. They will receive a suitable certificate attesting to their status recognizing their contributions to the Commonwealth and the Commission.

**§57.45. Suspension of Licenses and Privileges under the Accelerated Rehabilitative Disposition Program.**

- (a) Upon receipt of an order of court directing the suspension or revocation of fishing and/or boating privileges of a person placed in the Accelerated Rehabilitative Disposition (ARD) program, the Executive Director or his designee shall issue a written notice of suspension or revocation as provided in the order.
- (b) If the period of suspension or revocation provided in the ARD order is less than one year, the notice of suspension or revocation issued under (a) shall provide that the suspension or revocation shall be effective during the period from April 15 until September 15, if the order provides for suspension or revocation for 120 days or more, or during such part of the period from April 15 until September 15 that the Executive Director deems appropriate if the order provides for a suspension or revocation for less than 120 days.
- (c) It is the policy of the Commission that when a suspension or revocation of a license or privilege is ordered under the ARD program for an offense that carries a mandatory period of suspension or revocation under the Code, the ARD-ordered period of suspension or revocation should be no less than the mandatory minimum period(s) for suspension/revocation upon conviction of the charged offense(s).

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**SUBCHAPTER D.  
ADMINISTRATIVE POLICIES**

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Sec.

- 57.61. Designation of Areas for the Exclusive Use of Children and Special Population.

57.62. Access for Special Populations.

**§57.61. Designation of Areas for the Exclusive Use of Children and Special Populations.**

It is the policy of the Commission to ordinarily limit designation of waters for the exclusive use of children and special populations as defined in 58 PA Code 65.21 to specific events for limited periods of time. Sponsors who apply for new designations of such exclusive use areas on a full-time or year-round basis should be advised that they bear the burden of showing why such designation is in the best interests of the fishery and the angling public.

**§57.62. Access for Special Populations.**

It is the policy of the Commission to identify areas with access for special populations (as defined in 58 PA Code 65.21) and to encourage use of such waters by special populations on a nonexclusive basis.

**SUBCHAPTER E.  
BOATING POLICIES**

Sec.

57.81. Policy on Special Boating Regulations on Waters with No Public Access.

**§57.81. Policy on Special Boating Regulations on Waters with No Public Access.**

- (a) As used in this subchapter, the phrase “waters with no public access” means lakes, ponds, impoundments, or other waters on which there is located no public access area, launch ramp, or other launch facility owned, controlled, or operated by Federal, State, or local government agencies.
- (b) The Commission has statutory authority to make and enforce special boating regulations for particular areas of water “limiting, restricting or prohibiting the operation or navigation of boats thereon to promote the interests of the public or to preserve aquatic life.” See section 5124 of the code (relating to particular areas of water). The Commission’s statutory authority to make general and special boating regulations preempts local regulation of boating – based on exercise of police powers – on the waters of this Commonwealth.
- (c) It is the policy of the Commission to encourage local interests – residents, property owners, and other users – to resolve issues relating to special boating restrictions on waters with no public access by means of agreement, deed, deed restriction, or contract without resort to special boating regulations.
- (d) It is the policy of the Commission to exercise its discretion to promulgate special boating regulations on waters of this Commonwealth with no public access only in circumstances when:
  - (1) The public interest and the interests of the boating public clearly show the need for the special regulations as evidenced by a formal resolution requesting the regulations approved by the governing body (for example, township supervisors, borough council, county commissioners) of the political subdivision in which the waters are located. The resolution also should include evidence of the political subdivision’s willingness to enforce the additional restrictions under to the reciprocal enforcement provisions of section 903 of the code (relating to delegation of enforcement powers).

- (2) The Bureau of Law Enforcement determines that the proposed special boating regulations are readily enforceable without unduly diverting officers from enforcement activities on waters with public access.
- (3) The proponent of the special regulations makes a clear and convincing showing that the proposed regulations are necessary in the particular circumstances to provide for the health and safety of persons on, in and along the waters in question, including persons who boat on those waters, or to protect aquatic life in those waters or both.

## SUBPART B. FISHING

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### CHAPTER 61. SEASONS, SIZES, AND CREEL LIMITS

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Sec.

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|-------|--|
| 61.1. | Commonwealth Inland Waters.                      |
| 61.2. | Delaware River and River Estuary.                |
| 61.3. | Pymatuning Reservoir.                            |
| 61.4. | Conowingo Reservoir.                             |
| 61.5. | [Reserved]                                       |
| 61.6. | [Reserved]                                       |
| 61.7. | Susquehanna River and Tributaries.               |
| 61.8. | Lehigh River, Schuylkill River, and Tributaries. |

**§61.1. Commonwealth Inland Waters. – 2102(b)**

- (a) It is unlawful to take, catch, kill, or possess fish except during the seasons specified in this section. It is not a violation of this section if a fish caught out of season from water where fishing for other species is lawful is immediately returned unharmed to the waters from which it was taken.
- (b) It is unlawful to take, catch, kill, or possess fish of less than the minimum size specified in this section. It is not a violation of this section if an undersized fish taken from waters where fishing is otherwise lawful is immediately returned unharmed to the waters from which it was taken.
- (c) It is unlawful to take, catch, or kill more than one day's limit of any species of fish as specified in the following chart during one (1) calendar day. It is unlawful to possess more than one (1) day's limit of any species of fish as specified in the following chart except under the following circumstances:
  - (1) A person may possess any number of lawfully caught fish at the person's residence.
  - (2) A person who is engaged in a fishing trip away from home for two (2) or more consecutive calendar days may, while transporting fish from the place where caught to his residence, possess a number of fish equal to no more than two times the daily creel limit for that species of fish. In prosecution for violation of this section, it shall be a rebuttable presumption that a person transporting fish from a fishing site caught the fish during one calendar day.
  - (3) A fish is not considered caught in violation of this section if it is immediately returned unharmed to the waters from which it was taken.
  - (4) Any fish caught that is not to be counted in the creel limit shall be immediately released unharmed into the water from which taken. Except

as otherwise provided in §53.24 or §63.40 (relating to tournament and fishing derby permits; and fishing tournaments and fishing derbies), a fish placed on a stringer, or confined by any type of container, structure or device, or not returned immediately to the water, will be considered as part of the daily creel or possession limits. Fish returned to the water shall be handled carefully and be returned unharmed to the water from which taken.

- (5) Fish may be given to another person, but the fish shall be counted in the donor's creel limit and neither donor nor the recipient may kill or possess (while in the act of fishing) more than the limit allowed.
- (d) Except as otherwise provided in this subpart, the following seasons, sizes, and daily limits apply to inland waters of this Commonwealth and the Youghioghny Reservoir:

<b>SPECIES</b>	<b>SEASONS</b>	<b>MINIMUM SIZE</b>	<b>DAILY LIMIT</b>
ALL SPECIES OF TROUT AND SALMON (except landlocked Atlantic salmon)	Regular Season: 8 a.m. first Saturday after April 11 to midnight Labor Day	7 inches	5 (combined species) except areas with special regulations (see Chapter 65 (relating to special fishing regulations))
	Extended Season: Stocked trout waters and all waters downstream of stocked trout waters 12:01 a.m. day after Labor Day to midnight last day of February of the following year.	7 inches	3 (combined species), except Class A wild trout streams, where the daily limit is 0, and areas with special regulations (see Chapter 65)
AMERICAN EEL	Open year-round	9 inches	25

<b>SPECIES</b>	<b>SEASONS</b>	<b>MINIMUM SIZE</b>	<b>DAILY LIMIT</b>
BASS—Largemouth and Smallmouth and Spotted Lakes:	January 1 to midnight the day before first Saturday after April 11 and November 1 to midnight December 31**	15 inches	4 (combined species from all habitats)
	12:01 a.m. the first Saturday after April 11 to 12:01 a.m. the first Saturday after June 11	NO HARVEST—Catch and immediate release only (No Tournaments Permitted)	
	12:01 a.m. the first Saturday after June 11 to midnight October 31	12 inches	6 (combined species)
BASS—Largemouth and Smallmouth and Spotted Rivers and Streams*:	January 1 to midnight the day before the first Saturday after April 11 and October 1 to midnight December 31**	15 inches	4 (combined species)
	12:01 a.m. the first Saturday after April 11 to 12:01 a.m. the first Saturday after June 11	NO HARVEST—Catch and immediate release only (No Tournaments Permitted)	
	12:01 a.m. the first Saturday after June 11 to midnight September 30	12 inches	6 (combined species)
MUSKELLUNGE and MUSKELLUNGE HYBRIDS	Open year-round	40 inches	1
PICKEREL		18 inches	4
NORTHERN PIKE		24 inches	2
WALLEYE and hybrids (Saugeye)	January 1—March 14; and 12:01 a.m. first Saturday in May to midnight, December 31	15 inches	6
SAUGER		12 inches	6
AMERICAN SHAD***	Open year-round	No minimum	3

HICKORY SHAD***	Closed year-round		0
<b>SPECIES</b>	<b>SEASONS</b>	<b>MINIMUM SIZE</b>	<b>DAILY LIMIT</b>
GIZZARD SHAD	Open year-round	No minimum	50
RIVER HERRING (alewife and blueback herring)***	Open year-round	No minimum	50
STRIPED BASS and STRIPED BASS/WHITE BASS HYBRIDS	Open year-round	20 inches	2 (combined species)
SUNFISH, YELLOW PERCH, CRAPPIES, CATFISH, ROCK BASS, SUCKERS, CARP, WHITE BASS AND OTHER GAMEFISH NOT OTHERWISE LISTED	Open year-round	No minimum	50 (combined species)
BAIT FISH FISH BAIT except American cel, mud bugs, mussels/clams and crayfish	Open year-round	No minimum	50 (combined species)
MUD BUGS (dragonfly nymphs)	Open year-round	No minimum	Unlimited if taken from lakes, ponds, swamps and adjacent areas; 50 per day if taken from moving waters (rivers and streams)
MUSSELS/CLAMS	Closed year-round		0
PADDLEFISH	Closed year-round		0
CRAYFISH ( ALL SPECIES)	Open year-round		50. The head must be immediately removed behind the eyes upon capture unless used as bait in the water from which taken.

- \* **Note:** For purposes of this subsection, power dam pools and recreational dam pools on the Susquehanna River and navigational dam pools in the Ohio drainage are "rivers."
- \*\* **Note:** Stocked trout waters are closed to all fishing from March 1 to the first Saturday after April 11 unless included in the Regional Opening Day of Trout Season Program (see §65.12 (relating to Regional Opening Day of Trout Season Program)). Waters included in the Regional Opening Day of Trout Season Program are closed to all fishing from March 1 to the first Saturday after March 28.
- \*\*\* **Note:** Unlawful to take, catch or kill American shad, hickory shad and river herring (alewife and blueback herring) in Susquehanna River and its tributaries. See §61.4 and 61.7 (relating to Conowingo Reservoir; and Susquehanna River, West Branch Delaware River and River Estuary).



**§61.2. Delaware River, West Branch Delaware River, and River Estuary. – 2102(b)**

- (a) It is unlawful to take, catch, kill, or possess fish except during the seasons specified in this section. It is not a violation of this section if a fish caught out of season from water where fishing for other species is lawful is immediately returned unharmed to the waters from which it was taken.
- (b) It is unlawful to take, catch, kill, or possess fish of less than the minimum size specified in this section. It is not a violation of this section if an undersized fish taken from waters where fishing is otherwise lawful is immediately returned unharmed to the waters from which it was taken.
- (c) It is unlawful to take, catch, or kill more than one (1) day's limit of any species of fish as specified in the following chart during one (1) calendar day. It is unlawful to possess more than one day's limit of any species of fish as specified in the chart in subsection (d) except under the following circumstances:
  - (1) A person may possess any number of lawfully caught fish at the person's residence.
  - (2) A person who is engaged in a fishing trip away from home for two or more consecutive calendar days may, while transporting fish from the place where caught to his residence, possess a number of fish equal to no more than two (2) times the daily creel limit for that species of fish. In prosecution for violation of this section it shall be a rebuttable presumption that a person transporting fish from a fishing site caught all such fish during one (1) calendar day.
  - (3) A fish will not be considered to be caught in violation of this section if it is immediately returned unharmed to the waters from which it was taken.
  - (4) A fish caught that is not to be counted in the creel limit shall be immediately released unharmed into the water from which it was taken. Except as otherwise provided in §53.24 or §63.40 (relating to tournament and fishing derby permits; and fishing tournaments and fishing derbies), a fish placed on a stringer, or confined by any type of container, structure or device, or not returned immediately to the water, will be considered as part of the daily creel or possession limits. Fish returned to the water shall be handled carefully and be returned unharmed to the water from which taken.
  - (5) Fish may be given to another person, but the fish shall be counted in the donor's creel limit and neither the donor nor the recipient may kill or possess (while in the act of fishing) more than the limit allowed.
- (d) The following seasons, sizes and creel limits apply to the Delaware River, West Branch Delaware River and to Delaware River tributaries from the mouths of the tributaries upstream to the limit of the tidal influence and the Lehigh River from its mouth upstream to the first dam in Easton, Pennsylvania:

SPECIES	SEASONS	MINIMUM SIZE	DAILY LIMIT
TROUT	8 a.m., first Saturday after April 11 to midnight, October 15	North of I-84: 14 inches	North of I-84: 1 (combined species)
		South of I-84: no minimum	South of I-84: 5 (combined species)
		West Branch Delaware River: * 12 inches	West Branch Delaware River: * 2 (combined species)
AMERICAN EEL	Open year-round	9 inches	25
BASS Largemouth and Smallmouth	January 1 to midnight the day before the first Saturday after April 11 and 12:01 a.m. the first Saturday after June 11 to midnight December 31	12 inches	5 (combined species)
	12:01 a.m. the first Saturday after April 11 to 12:01 a.m. the first Saturday after June 11	NO HARVEST—Catch and immediate release only	
MUSKELLUNGE and MUSKELLUNGE HYBRIDS	Open year-round	40 inches	1
PICKEREL		12 inches	5
WALLEYE	Open year-round on the portion of the Delaware River between New Jersey and Pennsylvania; January 1 until midnight, March 14 and 12:01 a.m. first Saturday in May until midnight December 31, on the portion of the Delaware River between New York and Pennsylvania.	18 inches	3
AMERICAN SHAD	Open year-round	No minimum	3

SPECIES	SEASONS	MINIMUM SIZE	DAILY LIMIT
HICKORY SHAD	Closed year-round		0
RIVER HERRING (alewife and blueback herring)	Closed year-round		0
STRIPED BASS and HYBRID STRIPED BASS	From Pennsylvania line upstream to Calhoun Street Bridge: January 1 until March 31 and June 1 until December 31.	28 inches	1
	April 1 through May 31	21 to 25 inches	2
	From Calhoun Street Bridge upstream: open year-round	28 inches	1
STURGEON	No open season: Endangered Species		
BAIT FISH FISH BAIT, except American eel, mussels/clams and crayfish	Open year-round	No minimum	50 (combined species)
MUSSELS/CLAMS	Closed year-round		0
BLUE CRAB**	Open year-round	Hard shell: 4 inches measured point to point.  Soft shell: 3.5 inches measured point to point	1 bushel (combined species)
PIKE Northern	Open year-round	24 inches	2
CRAYFISH (ALL SPECIES)	Open year-round		50. The head must be immediately removed behind the eyes upon capture unless used as bait in the water from which taken.
OTHER SPECIES	Inland seasons, size and creel limits apply except for waters under special regulations (See Chapter 65). See §61.1 (relating to Commonwealth inland waters).		

*\*A special no-kill artificial lures only season is in effect on the West Branch of the Delaware River from October 1 to midnight on the Friday before the first Saturday after April 11. See §65.24.*

*\*\*It is unlawful for any person to possess a female crab bearing eggs from which the egg pouch or bunion has been removed.*

**§61.3. Pymatuning Reservoir. – 2102(b)**

- (a) It is unlawful to take, catch, kill, or possess fish of less than the minimum size specified in this section. However, it may not be a violation of this section if an undersized fish taken from waters where fishing is otherwise lawful is immediately returned unharmed to the waters from which it was taken.
- (b) It is unlawful to take, catch or kill more than one (1) day's limit of a species of fish as specified in the following chart during one (1) calendar day. It is unlawful to possess more than one (1) day's limit of a species of fish as specified in the following chart except under the following circumstances:
  - (1) A person may possess any number of lawfully caught fish at the person's residence.
  - (2) A person who is engaged in a fishing trip away from home for two or more consecutive calendar days may, while transporting fish from the place where caught to his residence, possess a number of fish equal to no more than two (2) times the daily creel limit for that species of fish. In prosecution for violation of this section it shall be a rebuttable presumption that a person transporting fish from a fish site caught all the fish during one calendar day.
  - (3) A fish may not be considered to be caught in violation of this section if it is immediately returned unharmed to the waters from which it was taken.
  - (4) A fish caught that is not to be counted in the creel limit shall be immediately released unharmed into the water from which taken. Except as otherwise provided in §53.24 or §63.40 (relating to tournament and fishing derby permits; and fishing tournaments and fishing derbies), a fish placed on a stringer, or confined by any type of container, structure or device, or not returned immediately to the water, will be considered as part of the daily creel or possession limits. Fish returned to the water shall be handled carefully and be returned unharmed to the water from which taken.
  - (5) Fish may be given to another person, but the fish shall be counted in the donor's creel limit and neither donor nor recipient may kill or possess (while in the act of fishing) more than the limit allowed.
- (c) Except as provided by special regulations the following sizes and creel limits apply to Pymatuning Reservoir; no closed season applies:

SPECIES	SEASONS	MINIMUM SIZE	DAILY LIMIT
WALLEYE	Open year-round	15 inches	6
BASS	Open year-round	12 inches	5
MUSKELLUNGE AND MUSKELLUNGE HYBRIDS	Open year-round	30 inches	2
OTHERS (including Bait Fish and Fish Bait)	Open year-round	None	None

SPECIES	SEASONS	MINIMUM SIZE	DAILY LIMIT
TURTLES (each species other than snapping turtles)	Open year-round	None	2
MUSSELS/CLAMS	Closed year-round		0
CRAYFISH (ALL SPECIES)	Open year-round		50. The head must be immediately removed behind the eyes upon capture unless used as bait in the water from which taken.

Frogs and tadpoles may be taken only from July 1 to October 31, both dates inclusive. Lights or firearms may not be used to take frogs. Not over 15 tadpoles or frogs may be taken or possessed. Possession limit for each turtle species (other than snapping turtle) is two.\* Hooks used to take turtles shall be at least 3 1/2 inches long with at least 1 inch space between point and shank. No closed season on turtles other than snapping turtles.  
 \*Snapping turtles—Statewide regulations apply (see section 79.3).

**§61.4. Conowingo Reservoir. – 2102(b)**

- (a) It is unlawful to take, catch, kill, or possess fish except during the seasons specified in this section. However, it is not a violation of this section if a fish caught out of season from water where fishing for other species is lawful is immediately returned unharmed to the water from which it was taken.
- (b) It is unlawful to take, catch, kill, or possess fish of less than the minimum size specified in this section. However, it is not a violation of this section if an undersized fish taken from waters where fishing is otherwise lawful is immediately returned unharmed to the waters from which it was taken.
- (c) It is unlawful to take, catch, or kill more than one (1) day's limit of a species of fish as specified in the chart in subsection (d) during one (1) calendar day. It is unlawful to possess more than one (1) day's limit of a species of fish as specified in the chart in subsection (d) except under the following circumstances:
  - (1) A person may possess any number of lawfully caught fish at the person's residence.
  - (2) A person who is engaged in a fishing trip away from home for two (2) or more consecutive calendar days may, while transporting fish from the place where caught to his residence, possess a number of fish equal to no more than two times the daily creel limit for that species of fish. In prosecution for violation of this section, it shall be a rebuttable presumption that a person transporting fish from a fishing site caught at all the fish during one (1) calendar day.
  - (3) A fish is not considered to be caught in violation of this section if it is immediately returned unharmed to the waters from which it was taken.

- (4) A fish caught that is not to be counted in the creel limit shall be immediately released unharmed into the water from which taken. Except as otherwise provided in §53.24. or §63.40. (relating to tournament and fishing derby permits; and fishing tournaments and fishing derbies), a fish placed on a stringer, or confined by any type of container, structure or device, or not returned immediately to the water, will be considered as part of the daily creel or possession limits. Fish returned to the water shall be handled carefully and be returned unharmed to the water from which taken.
- (5) Fish may be given to another person, but the fish shall be counted in the donor's creel limit and neither donor nor recipient may kill or possess (while in the act of fishing) more than the limit allowed.
- (d) The following seasons, sizes, and creel limits apply to the Conowingo Reservoir, which includes the Susquehanna River from the Maryland State Line upstream to Holtwood Dam:

<b>SPECIES</b>	<b>SEASONS</b>	<b>MINIMUM SIZE</b>	<b>DAILY LIMIT</b>
All Species of Trout and Salmon	Open year-round	No minimum	2 (combined species)
BASS Largemouth Smallmouth	January 1 until midnight last day of February and 12:01 a.m., June 16 until December 31	12 inches	5 (combined species)
PIKE Northern	Open year-round	30 inches	2 (combined species)
WALLEYE	Open year-round	15 inches	5
MUSKELLUNGE and MUSKELLUNGE HYBRIDS	Open year-round	36 inches	1
PICKEREL	Open year-round	14 inches	5
STRIPED BASS and STRIPED BASS/WHITE BASS HYBRIDS	Open year-round	18 inches	2 (combined species), only one of which may exceed 30 inches in length
AMERICAN and HICKORY SHAD	Closed (No open season)	Closed	0
RIVER HERRING (alewife and blueback herring)	Closed (no open season)	Closed	0
SUNFISH (BLUE GILL and ROCK BASS)	Open year-round	No minimum	15 (combined species)
CRAPPIES	Open year-round	No minimum	15
CARP	Open year-round	No minimum	15
CHANNEL CATFISH	Open year-round	No minimum	5
SUCKERS	Open year-round	No minimum	30

SPECIES	SEASONS	MINIMUM SIZE	DAILY LIMIT
AMERICAN EELS	Open year-round	9 inches	25
YELLOW PERCH	Open year-round	No minimum	No daily limit
BAIT FISH FISH BAIT, except American eel, mussels/clams and crayfish	Open year-round	No minimum	35
ALL OTHER FISH SPECIES	Open year-round	No minimum	No daily limit
BIVALVES/SHELLFISH (Mussels/Clams)	Closed (no open season)	Closed	0
CRAYFISH (ALL SPECIES)	Open year-round		50. The head must be immediately removed behind the eyes upon capture unless used as bait in the water from which taken.

**§61.5. [Reserved]**

**§61.6. [Reserved]**

**§61.7. Susquehanna River and Tributaries. – 2102(b)**

- (a) It is unlawful to take, catch, kill, or possess fish except during the seasons specified in this section. However, it is not a violation of this section if a fish is caught out of season from water where fishing for other species is lawful is immediately returned unharmed to the waters from which it is taken.
- (b) It is unlawful to take, catch, kill, or possess a fish of less than the minimum size specified in this section. However, it is not a violation of this section if an undersized fish taken from waters where fishing is otherwise lawful is immediately returned unharmed to the waters from which it was taken.
- (c) It is unlawful to take, catch, or kill more than one (1) day's limit of a species of fish as specified in the following chart during one (1) calendar day. It is unlawful to possess more than one (1) day's limit of a species of fish as specified in the chart in subsection (d) except under the following circumstances:
  - (1) A person may possess any number of lawfully caught fish at the person's residence.
  - (2) A person who is engaged in a fishing trip away from home for two (2) or more consecutive calendar days may, while transporting fish from the place where caught to his residence, possess a number of fish equal to no more than two times the daily creel limit for that species of fish. In prosecution for violation of this section it shall be a rebuttable presumption that a person transporting fish from a fishing site caught the fish during one (1) calendar day.
  - (3) A fish is not considered to be caught in violation of this section if it is immediately returned unharmed to the waters from which it was taken.
  - (4) A fish caught that is not to be counted in the creel limit shall be immediately released unharmed into the water from which taken. Except as otherwise provided in §53.24 or §63.40 (relating to tournament and fishing derby

permits; and fishing tournaments and fishing derbies), a fish placed on a stringer, or confined by any type of container, structure or device, or not returned immediately to the water, will be considered as part of the daily creel or possession limits. Fish returned to the water shall be handled carefully and be returned unharmed to the water from which taken.

- (5) Fish may be given to another person, but the fish shall be counted in the donor's creel limit and neither donor nor recipient may kill or possess (while in the act of fishing) more than the limit allowed.
- (d) The following seasons, sizes, and creel limits apply to the Susquehanna River and its tributaries including the Juniata River, the West Branch, "North Branch," and other tributaries within the Susquehanna River basin except the Conowingo Reservoir – see §61.4 (relating to Conowingo Reservoir) and except for waters subject to special regulations (see Chapter 65 (relating to special fishing regulations)):

SPECIES	SEASONS	MINIMUM SIZE	DAILY LIMIT
AMERICAN and HICKORY SHAD and RIVER HERRING (alewife and blueback herring)*	Closed (no open season)	Closed	0
BASS Largemouth Smallmouth Spotted	Inland seasons, sizes and creel limits apply except for waters under special regulations (See Chapter 65). See §61.1 (relating to Commonwealth inland waters). For Conowingo Reservoir, see §61.4 (relating to Conowingo Reservoir).		
OTHER SPECIES	Inland seasons, sizes and creel limits apply except for waters under special regulations (See Chapter 65). See §61.1 (relating to Commonwealth inland waters). For Conowingo Reservoir see §61.4 (relating to Conowingo Reservoir).		

**§61.8. Lehigh River, Schuylkill River, and Tributaries. – 2102(b)**

- (a) It is unlawful to take, catch, kill, or possess fish except during the seasons specified in this section. It is not a violation of this section if a fish caught out of season from water where fishing for other species is lawful is immediately returned unharmed to the waters from which it was taken.
- (b) It is unlawful to take, catch, kill, or possess a fish of less than the minimum size specified in this section. It is not a violation of this section if an undersized fish taken from waters where fishing is otherwise lawful is immediately returned unharmed to the waters from which it was taken.
- (c) It is unlawful to take, catch, or kill more than one (1) day's limit of a species of fish as specified in the following chart during one (1) calendar day. It is unlawful to possess more than one (1) day's limit of a species of fish as specified in the chart in subsection (d) except under the following circumstances:
  - (1) A person may possess any number of lawfully caught fish at his residence.
  - (2) A person who is engaged in a fishing trip away from home for two (2) or more consecutive calendar days may, while transporting fish from the place where caught to his residence, possess a number of fish equal to no more than two (2) times the daily creel limit for that species of fish. In



prosecution for violation of this section, it shall be a rebuttable presumption that a person transporting fish from a fishing site caught the fish during one (1) calendar day. A fish is not considered to be caught in violation of this section if it is immediately returned to the waters from which it was taken.

- (d) The following seasons, sizes, and creel limits apply to the Lehigh River upstream of the first dam in Easton, Pennsylvania and its tributaries and the Schuylkill River upstream of the I-95 bridge and its tributaries:

<b>SPECIES</b>	<b>SEASONS</b>	<b>MINIMUM SIZE</b>	<b>DAILY LIMIT</b>
AMERICAN SHAD	Open year-round	No Minimum	Catch and release only
RIVER HERRING (alewife and blueback herring)	Closed (no open season)	Closed	0
OTHER SPECIES	Inland seasons, size and creel limits apply except for waters under special regulations (see Chapter 65 (relating to special fishing regulations)). See §61.1 (relating to Commonwealth inland waters).		

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## **CHAPTER 63.**

### **GENERAL FISHING REGULATIONS**

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- Sec.
- 63.1. Time.
  - 63.2. Display of Fishing License and Verification of License Purchase.
  - 63.3. Fishing in Stocked Trout Waters.
  - 63.4. Fishing in Areas of Water Where Fishing is prohibited.
  - 63.5. Methods of Fishing.
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  - 63.10. Ice Fishing.
  - 63.11. [Reserved]
  - 63.12. [Reserved]
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- 63.55. Saltwater Angler Registration
- 63.56. Replacement costs for fish killed.

**§63.1. Time. – 2102(a)**

Whenever a time is specified in this part the time shall be prevailing local time.

**§63.2. Display of Fishing License and Verification of License Purchase. – 2703(a)**

- (a) *Officers designated to check licenses.* – A person fishing in waters of this Commonwealth or in boundary waters shall show his fishing license upon the request of a waterways conservation officer, deputy waterways conservation officer, or other officer authorized to enforce the Code or this title by 30 Pa.C.S. §903 (relating to delegation of enforcement powers).
- (b) *Display on an outer garment.* – It is unlawful for a person required by Chapter 27 of the Code (relating to fishing licenses) to purchase a fishing license to fish in the waters of this Commonwealth or in boundary waters unless the person displays the license certificate, a license button or other device approved by the Executive Director on a hat or outer garment while fishing. A warning will be issued for a first violation of this section if the person has a valid fishing license in his possession and about his person and shows it upon request. An institutional license issued under section 2708 of the Code (relating to institutional licenses) may be displayed or maintained by the person fishing or by the person attending the person who is fishing. If a license button or other device is displayed instead of the license certificate, the person shall carry the license certificate about his person.
- (c) *Fishing without a license in possession.* –
  - (1) When a resident of this Commonwealth is apprehended for fishing without a license in his possession and claims that a valid fishing license was previously purchased for that year, the officer apprehending the individual shall give the individual 7 days to produce the original of the license certificate, if the individual provides to the officer's satisfaction, at the time of apprehension, positive proof of identity and a residence address within this Commonwealth. The original license certificate must show all required permits and a purchase date and time prior to the date

and time of apprehension.

- (2) If it is inconvenient for the individual to produce the certificate in person, the officer may permit the individual to mail the original license certificate to the officer together with a stamped, self-addressed return envelope. If the officer permits the individual to mail the original license certificate to the officer, the officer shall provide the individual with a receipt or other documentation allowing the individual to fish during the period that the original license certificate is not in his possession.
- (3) Upon receipt of the original license certificate, the officer shall examine and verify it and return it to the licensee.
- (4) If the person apprehended fails to send the original license certificate and required permits to the officer within the time allotted, the officer shall institute summary proceedings against the individual in the manner prescribed by law.

**§63.3. Fishing in Stocked Trout Waters. – 2102(a)**

It is unlawful to fish in stocked trout waters regulated under §61.1. (relating to Commonwealth inland waters) from 12:01 a.m. on March 1 to 8 a.m. on the first Saturday after April 11 and in stocked trout waters regulated under §65.12. (relating to regional opening day of trout season) from 12:01 a.m. on March 1 to 8 a.m. on the first Saturday after March 28. As used in this subpart, the term “stocked trout waters” means waters that are stocked with adult trout by the Commission. A listing of stocked trout waters is published in the Commission’s “Summary of Fishing Regulations and Laws,” which is available from the Commission at Post Office Box 67000, Harrisburg, Pennsylvania 17106-7000. The Executive Director or a designee may, from time to time, supplement or modify the list of stocked trout waters, and additions or deletions will be published in the *Pennsylvania Bulletin*.

**§63.4. Fishing in Areas of Waters Where Fishing is prohibited. – 2102(b)**

A person will be deemed to be fishing in violation of this subpart if the person has in his possession a fishing line, rod, or other device that may be used for fishing while on or in water where fishing is prohibited or on the banks within 25 feet of such waters.

**§63.5. Methods of Fishing. – 2102(a)**

It is unlawful to use a method for taking fish from the waters of the Commonwealth, including boundary lakes and rivers, unless the use of the method is specifically authorized by law or regulations set forth in this part.

**§63.6. Authorized Devices for Game Fish, Bait Fish, and Fish Bait. – 2102(b)**

- (a) It is unlawful to fish for game fish with more than three lines of any description, whether fished by rod or by hand, at any one time except while ice fishing in accordance with §63.10. (relating to ice fishing). There is no restriction on the number of hooks used for fishing for game fish except when fishing in the Pymatuning Reservoir where no more than three hooks shall be attached to each line used in fishing.. All rods, lines, and hooks shall be under the immediate control of the person using them. A fishing device shall be deemed to be under the immediate control of the person using it if, when the terminal device (hook, bait, or lure) is taken by a fish, the person using the device has direct control over it and it is not connected at that point to a casting or depth placement aid such as a casting boat or downrigger. Casting

or depth placement aids such as downriggers or small remote controlled boats are not prohibited by this chapter.

- (b) It is unlawful to fish for bait fish with more than three lines of any description whether fished by rod or by hand, at any one time a dip-net or minnow seine over four feet square or four feet in diameter, and a minnow trap, with more than two openings which shall not exceed one inch in diameter. There is no restriction on the number of hooks used for fishing for baitfish except when fishing in the Pymatuning Reservoir where no more than three hooks shall be attached to each line used in fishing. All rods, lines, hooks, nets, and seines used in fishing for fish bait and bait fish shall be under the immediate control of the person using the same. For the purposes of this subpart gizzard shad (*Dorosoma cepedianum*) 8 inches or less in length are considered bait fish.
- (c) For purposes of this section, a hook is considered a fishing device with no more than three points or barbs.
- (d) It is unlawful to use more than three lines at any time except while ice fishing in accordance with §63.10. (relating to ice fishing) when fishing for game fish, bait fish, or both.
- (e) It is unlawful to use any type of net or seine to catch or take game fish. A landing net may be used to land game fish legally caught by hook and line.

#### **§63.7. Exceptions to Limitations on Devices.**

The limitations on fishing devices contained in this chapter do not:

- (1) Prohibit the use of a gaff or landing net to assist in landing fish caught by a lawful device.
- (2) Limit devices by which holders of artificial propagation licenses may remove artificially propagated fish at the licensed premises.
- (3) Limit the means or devices by which fish may be taken under special permits issued under Chapter 29 of the code (relating to special licenses and permits), except trout/salmon permits.
- (4) Apply to the taking, catching, or killing of amphibians and reptiles – see Chapter 79 (relating to reptiles and amphibians).
- (5) Apply to taking, catching, or killing of blue crabs – see §63.18. (relating to blue crabs – prohibited acts).

#### **§63.8. Long Bows, Crossbows, Spears, and Gigs. – 2102(b)**

- (a) *General.* – Except as otherwise provided in this part, carp, suckers, and catfish may be taken with long bows and arrow, including compound bows, crossbows, spears, or gigs, at any hour of the day or night aided by a light at night if so desired, in Commonwealth waters and waters bounding and adjacent thereto.
- (b) *Lake Erie.* – Scuba divers, who possess a valid fishing license and Lake Erie stamp, shall be permitted to take burbot at a depth of at least 60 feet.
- (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.

#### **§63.9. Snatch Fishing; Foul Hooking, and Snag Fishing. – 2102(a)**

- (a) It is unlawful to take or attempt to take fish by the methods known as snatch fishing, foul hooking, or snag fishing or to take, or attempt to take, fish with a snagging hook or device which may be used to capture the fish by engaging

such device in, to, with, or around any part of the body of the fish. In addition, it is unlawful to possess a snagging hook while in the act of fishing. A snagging hook is a fishing device that is designed or modified to facilitate the snagging of fish. It is either of the following:

- (1) A hook with other than a single barb which is weighted on the shank or any point below the eye of the hook and above the barbs thereof; or
  - (2) A hook that is otherwise designed or modified in any other way so as to make the snagging of fish more likely when it is used than snagging would be if a normal hook or fishing device were used.
- (b) Nothing in this section shall be construed to prohibit the use of long bow, crossbow, spear, and gigs as provided in §63.8. (relating to long bows, crossbows, spears, and gigs), or other net or devices specifically authorized by law or regulation.

**§63.10. Ice Fishing. – 2102(b)**

- (a) Ice fishing is fishing through holes in the ice.
- (b) It is unlawful while ice fishing to use more than five fishing devices, which may consist of rods, hand lines, tip ups, or any combination thereof. Each device shall contain a single fishing line. There is not a restriction on the number of hooks that may be used for ice fishing, except when fishing in the Pymatuning Reservoir where no more than three hooks shall be attached to each line used in fishing.
- (c) All rods, lines, and tip-ups used by persons engaged in ice fishing shall be under the immediate control of the person using the same.
- (d) It is unlawful to fish through holes in the ice that measure more than 10 inches between the farthest points as measured in any direction.

**§63.11. [Reserved]**

**§63.12. [Reserved]**

**§63.13. Nets Unlawful Without Permit. – 2902; 2102(d)**

- (a) It is unlawful for any person to make, sell, or have in his possession while on, in or about Commonwealth waters, including while within 25 feet of such waters, a net larger than four feet square or four feet in diameter unless said person has in possession a permit issued pursuant to section 2902 of the Code (relating to net permits).
- (b) It is unlawful for any person to violate any terms and conditions set forth on any permit issued under section 2902 of the Code (relating to net permits) including, but not limited to, when and where the nets shall be used.
- (c) The Commission may waive the issuance of a new permit to cooperative nurseries, persons who possess an artificial propagation license or permit for special fish collecting activities, and such other persons as the Commission shall designate.

**§63.14. Identification of Fish Bait and Bait Fish Containers. – 2102(b)**

It shall be unlawful for any person to leave unattended a container for fish bait or bait fish in any waters of this Commonwealth unless such container has attached a tag or other means of identification setting forth the name, address, and telephone number of the owner or user of the container.

**§63.15. Field Dressing and Disposal of Fish. – 2102(a)**

- (a) Except as otherwise provided in this section, it is unlawful to possess a fish in any form or condition other than in the whole or having the entrails removed while on shore, along the waters of this Commonwealth, onboard a boat or on a dock, pier, launch area, or a parking lot adjacent thereto.
- (b) Fish may be processed fully if they are being prepared for immediate consumption.
- (c) This section does not apply to fish processed at a fish cleaning station officially recognized under §63.15a. (relating to officially-recognized fish cleaning stations).
- (d) Provided that the requirements of this subsection are met, this section does not apply to fish processed by a permitted charter boat/fishing guide operation. The charter boat operator or fishing guide may fully process the fish at any time provided the charter boat operator or fishing guide retains the carcass until possession of the fish is transferred to the customer on shore. The charter boat operator or fishing guide shall give the customer who receives the processed fish a signed, dated receipt on the form prescribed by the Commission.
- (e) This section does not apply to fish caught or sold in compliance with Chapter 31 of the code (relating to regulated fishing lakes).
- (f) This section does not apply to fish caught under a Lake Erie commercial license issued consistent with Chapter 29 of the code (relating to special licenses and permits) after the fish reach established retail or wholesale markets.
- (g) It is unlawful to discard any fish carcass or parts thereof into the waters of this Commonwealth or upon any public or private lands contiguous to the waters unless one of the following conditions apply:
  - (1) On lands with the permission of the landowner.
  - (2) Where fish are properly disposed into suitable garbage or refuse collection systems or at officially recognized fish cleaning stations.

**§63.15a. Officially-Recognized Fish Cleaning Stations. – 2102(a)**

- (a) *Types.*
  - (1) *Commercial.* – An operator of a fish cleaning station that provides services to the public for a fee may apply for recognition as an official commercial fish cleaning station.
  - (2) *Noncommercial.* – An operator of a fishing cleaning station that provides services at no cost may apply for recognition as an official noncommercial fish cleaning station.
- (b) *Receipts* – Except as provided in this subsection, the operator of an officially-recognized fish cleaning station shall give the person who receives the filleted fish a signed, dated receipt on the form prescribed by the Commission. This subsection does not apply to the operator of a noncommercial fish cleaning station.
- (c) *Inspection.* – The operator of an officially-recognized fish cleaning station shall allow officers authorized to enforce the code unrestricted access to the station to inspect angler catches for compliance with seasons, sizes, and creel limits.
- (d) *Application.* – An operator of a fish cleaning station may apply for official recognition to:

**Director, Bureau of Law Enforcement  
Pennsylvania Fish and Boat Commission  
Post Office Box 67000  
Harrisburg, Pennsylvania 17106-7000**

**§63.16. Fishing in the Vicinity of Fishways. – 3507(a)**

- (a) It is unlawful for any person to fish within any fishway, chute, slope, fish ladder, fish lift, or other fish passage facility located on or in connection with any dam on the waters of the Commonwealth.
- (b) It is unlawful for any person to fish in an area within a radius of 100 feet of the entrance or exit points from any fishway, chute, slope, fish ladder, fish lift or other fish passage facility located on or in connection with any dam on the waters of the Commonwealth.

**§63.17. Importation and Sale of Hard Clams. – 2102(b)**

- (a) Except as otherwise provided in subsection (b), it is unlawful for a person to possess, import into this Commonwealth, sell, offer for sale, or purchase a hard clam (*mercenaria* species) measuring less than 1 inch in thickness.
- (b) The size (thickness) limit in subsection (a) does not apply to hard clams cultured by a clam hatchery or clam aquaculture operation, if the origin of the culture clams is documented that permits immediate determination of the point of origin and the ultimate destination. The documentation will include, at a minimum, bill of lading or bill of sale stating the origin of the clams and a signed certification from the clam hatchery or clam aquaculture operation identifying the volume or number of the clams in the shipment. The documentation required by this subsection shall be displayed upon request to officers authorized to enforce the Code and this part.

**§63.18. Blue Crabs. – 2102(b)**

Prohibited Acts. In harvesting blue crabs, it is unlawful:

- (1) For a person to use more than two pots at any one time;
- (2) For a person to use unattended pot for taking blue crabs unless the pot is labeled with the name and address of the owner or user;
- (3) for a person other than the owner, user, members of the owner's or user's immediate family and officers, and authorized representatives of the Commission to disturb unattended pots used for taking blue crabs under this section;
- (4) For a person to possess female blue crab bearing eggs or from which the egg pouch or bunion has been removed.

**§63.19. Sale and Purchase of Fish. – 2102(c)**

- (a) Except as otherwise provided in subsection (d), it is unlawful for a person to sell, purchase, offer for sale or exchange or export for consideration, trade or barter any fish, whether dead or alive, in whole or in part, including eggs and any lifestage of the fish caught or taken from the waters of this Commonwealth
- (b) Except as otherwise provided in subsection (d), it is unlawful for a person to take, catch, kill or possess any fish, whether dead or alive, in whole or in part, including eggs and any lifestage of the fish, for the purpose of selling the fish or offering it for sale.

- (c) In prosecutions for violation of this section, there shall be a rebuttable presumption that a species of fish that occurs within the waters of this Commonwealth was taken or caught from Commonwealth waters. A receipt or other document showing the lawful origin of the fish from waters in a state other than this Commonwealth or from an artificial propagator or dealer in live aquatic organisms registered in this Commonwealth, shall be sufficient to rebut the presumption created in this subsection.
- (d) This section does not prohibit the sale, purchase, offer for sale, trade or barter of any fish propagated by or from a propagator or dealer of live aquatic animals registered under 3 Pa. C.S. Chapter 42 (relating to aquaculture development), if the fish are lawfully propagated or acquired by means other than fishing from the waters of this Commonwealth in accordance with the requirements of applicable laws and regulations. This section does not prohibit the sale, purchase, offer for sale, trade or barter of any fish by or from the holder of a commercial fishing license issued under Chapter 29 of the code (relating to special licenses and permits), if the fish are lawfully caught or taken in accordance with the requirements of applicable laws and regulations. This section does not prohibit the sale of mounted fish.

**§63.20. Permits for the Protection and Management of Trout and Salmon.**

**– 2904(a)**

- (a) *Finding.* – The Commission finds under section 2904 of the Code (relating to permits for the protection and management of particular fish) that it is necessary for the protection and management of trout and salmon in the waters of this Commonwealth that persons who fish for trout or salmon have a permit for that activity.
- (b) *Permit required.* – It is unlawful for a person required by Chapter 27 of the Code (relating to fishing licenses) to procure a fishing license, to fish for trout or salmon unless that person has first procured a valid trout/salmon permit or a combination trout/salmon permit and Lake Erie permit.
- (c) *Exceptions.*
  - (1) The Commission will issue a trout/salmon permit without fee to disabled veterans who possess a free fishing license under section 2707 of the Code (relating to disabled veterans).
  - (2) A person who is exempt from the fishing license requirements of Chapter 27 of the Code (relating to fishing licenses) or who is issued an institutional fishing license under section 2708 of the code (relating to institutional licenses) is exempt from this section.
  - (3) A person who purchased a senior resident lifetime fishing license and a trout/salmon permit or a combination trout/salmon permit and Lake Erie permit prior to January 1, 2015 shall be exempt from the requirements of this section.
  - (4) A trout/salmon permit is not required to fish for trout or salmon on free fishing days designated by the Commission under section 2709(d) of the Code (relating to exemptions from license requirements).
  - (5) A trout/salmon permit is not required to fish for trout or salmon on Class A regulated fishing lakes. A trout/salmon permit is not required to fish for trout or salmon on designated Class B regulated fishing lakes that have the following characteristics:



- (i) The lake is a natural pond or impoundment located wholly on private property and constructed and maintained wholly with private funds.
  - (ii) The lake is operated by a private club or organization.
  - (iii) The lake is not open for fishing by the general public, and fishing is restricted to members only.
  - (iv) The trout/salmon population of the lake is composed entirely of trout or salmon stocked from private resources and contains no trout or salmon stocked by the Commission, the United States Government, or cooperative nurseries recognized by the Commission.
- (d) *Fish for trout or salmon.* – A person fishes for trout or salmon when one of the following applies:
- (1) The person fishes in waters under special trout regulations designated under those sections of Chapter 65 (relating to special fishing regulations) that require a trout/salmon permit, wilderness trout streams or their tributaries or Class A wild trout waters or their tributaries.
  - (2) The person fishes in streams or rivers that are listed as stocked trout waters as defined in §63.3. (relating to fishing in stocked trout waters) or their tributaries during the period from 12:01 a.m. on March 1 until midnight May 31.
  - (3) The person takes, kills, or possesses, while in the act of fishing, a trout or salmon on or in waters of this Commonwealth or boundary waters.

**§63.21. Designation of Fishing Regulations.**

- (a) The following regulations are designated under section 2102(a) of the Code (relating to rules and regulations) as being for the protection of fish or fish habitat or for the health and safety of persons who fish:
  - (1) Section 63.9. (relating to snatch fishing, foul hooking, and snag fishing.)
  - (2) Section 65.23. (relating to special restrictions on polluted zones).
  - (3) Section 67.2. (relating to refuge areas).
  - (4) Section 63.5. (relating to methods of fishing).
- (b) Section 63.16. (relating to fishing in the vicinity of fishways) is designated under section 3507 of the Code (relating to protection of fish near dams) as being for the protection of fish near dams.

**§63.22. through §63.29. [Reserved]**

**§63.30. Importation of Weakfish. – 2102(c)**

It is unlawful for a person to import into this Commonwealth, sell, offer for sale, or purchase weakfish measuring less than 13 inches in length.

**§63.31. Importation and Transportation of Horseshoe Crabs. – 2102(c)**

It is unlawful for a person to import into or transport in this Commonwealth horseshoe crabs for the purpose of sale at wholesale or retail. It is unlawful to sell, offer for sale or purchase any horseshoe crabs.

**§63.32. through §63.39. [Reserved]**

**§63.40. Fishing Tournaments and Fishing Derbies. – 2102(a)**

- (a) *Definitions.* – The following terms, when used in this section, have the

following meanings, unless the context clearly indicates otherwise:  
*Fishing tournament.* – An organized competitive fishing event, other than a fishing derby, where ten or more individuals fish during a specified time period. An activity that involves one or more of the following factors is considered a fishing tournament:

- (i) The event is sponsored or promoted by an individual or organization.
- (ii) The event involves the award of trophies, prizes, or other recognition for participation in the tournament.
- (iii) The event is conducted during a distinct time period (usually 72 hours or less) on a particular body of water.

*Fishing derby.* – An organized event involving 10 or more participants conducted for children under the age of 16, senior citizens (as defined in section 2701 in the code (relating to definitions)), anglers with disabilities, special populations or other group when the principal purpose is education or enjoyment, rather than competition among anglers.

(b) *Permits.* – It is unlawful to conduct a fishing tournament on Commonwealth waters without obtaining a special activity permit under this section.

(1) *Content of application.* – An application for a special activity permit for a fishing tournament shall contain the following information:

- (i) The date, time, and place.
- (ii) The nature of the proposed tournament.
- (iii) The anticipated number of participants and watercraft.
- (iv) The proposed disposition of fish caught.
- (v) The species and source of fish sought.
- (vi) Whether or not the sponsor charges an entry fee.

(2) *Deadline for submission.* – The deadline for submission of applications for special activity permits for fishing tournaments shall be as follows:

- (i) For tournaments involving 50 or more boats, the application shall be submitted after October 1 and before December 1 of the year prior to the year of the proposed tournaments.
- (ii) For tournaments involving 49 or less boats or fishing from shore, the application shall be submitted at least 60 days prior to the date of the proposed tournament.
- (iii) The Commission may consider applications for tournaments submitted after the deadlines established by this section.

(3) *Review of applications.*

- (i) The Commission staff will review applications for special activity permits to conduct fishing tournaments on Commonwealth waters and will endeavor to issue or deny permits within 45 days after the receipt of the application. The factors to be reviewed include:
  - (A) Whether the proposed tournament at the proposed time and location will have adverse impacts on the protection and management of fish in the waters to be fished in connection with the tournaments.
  - (B) Whether the proposed tournament at the proposed time and location will impede or reduce fishing and boating opportunities for members of the angling and boating public who are not participants in the tournament.

- (C) Whether the proposed tournament is scheduled on the opening weekend of the season for any species of game fish.
  - (D) Whether the proposed tournament at the proposed time and location competes with another tournament already permitted for the same time and place. In the event of competing applications, a fishing tournament where fish are intended to be released alive shall be given preference over a fishing tournament where fish are intended to be killed or taken.
  - (E) Whether the proposed tournament at the proposed time and location may result in congestion of watercraft on the waters of this Commonwealth.
  - (F) Whether the sponsors of the proposed tournament have demonstrated their ability to conduct the tournament in accordance with this title and the conditions of the permit.
- (ii) If the Bureau of Law Enforcement determines to deny the application for the special activity permit for a fishing tournament, it will notify the applicant in writing of the denial and the reasons. The applicant may, within 10 days of notification, request the Executive Director to reconsider the denial of the permit. The Executive Director will act on the request for reconsideration within 10 days of its receipt. If the Executive Director denies the permit after reconsideration, the applicant may appeal to the Commission under 1 Pa. Code §35.20 (relating to appeals from actions of staff).
- (4) *Permit conditions.* – The Bureau of Law Enforcement may impose conditions in connection with the issuance of a permit under this section. The conditions may include:
- (i) Limitations on the numbers of boats or participants in the tournament when the number of boats or participants involved in the proposed tournament exceeds the capacity of the waters being fished taking into account other permitted activities at the same time and place.
  - (ii) Limitations on the time or duration of the tournament. When reasonably necessary and appropriate to provide for the protection of fish, the Commission may, for tournaments conducted during the months of July and August, include a condition limiting the duration of the tournament to no more than 10 hours of fishing.
  - (iii) Limitations on taking, catching, possessing, and killing fish, including, when necessary for the protection and management of fish, requiring that the tournament be conducted as a catch-measure-and release or aerated livewell tournament.
  - (iv) Requirements for the proper disposal of fish taken in the tournament. Tournament sponsors engaged in returning live fish to the waters of this Commonwealth after completion of a tournament may possess fish in excess of the daily possession limit if they carry the tournament permit and can document the catch of the individual tournament participants. The permit condition may provide that live fish will be distributed to the waters from which taken away from the ramp or access area where the weigh-in occurs.
  - (v) Requirements for filing of catch reports within 30 days after completion of the tournament.

- (vi) Upon request of an applicant for a tournament permit, the Commission may include a condition providing that one or more uninjured largemouth bass, smallmouth bass or spotted bass that an angler is landing, measuring, or in the process of releasing from a recirculated or aerated livewell will not be considered as part of the daily creel limit if the fish is caught during a tournament that as part of its rules penalizes the return of any dead or distressed bass to the water, requires use of recirculating or aerated temperature-controlled livewells, distributes to the contestants instructions on the proper maintenance and use of livewells and limits the fishing hours to no more than 9 hours per day. This permit condition will be included only in circumstances when the Commission finds that permitting culling will have no substantial adverse impacts on the protection and management of fish.
- (c) *Fishing derbies.*
- (1) *General rule.* – It is unlawful to conduct a fishing derby as defined in this section on Commonwealth waters without first obtaining a special activity permit from the Commission except that this requirement does not apply to fishing derbies to be held on privately owned lakes or ponds that are not open to the public.
  - (2) *Special activity permit.* – An applicant for a special activity permit for a fishing derby shall apply at least 60 days before the date of the proposed derby and indicate the following:
    - (i) The date, time, and place.
    - (ii) The nature of the proposed derby.
    - (iii) The anticipated number of participants and watercraft.
    - (iv) the proposed disposition of fish caught.
    - (v) The species and source of fish sought.
  - (3) *Review of applications.*
    - (i) The Commission staff will review applications for special activity permits to conduct fishing derbies and will endeavor to issue or deny permits within 45 days after the receipt of the application. The factors to be reviewed include:
      - (A) Whether the proposed derby at the proposed time and location will have adverse impacts on the protection and management of fish in the waters to be fished in connection with the derby.
      - (B) Whether the proposed derby at the proposed time and location will impede or reduce fishing and boating opportunities for members of the angling and boating public who are not participants in the derby.
      - (C) Whether the proposed derby is scheduled on the opening weekend of the season for any species of game fish.
      - (D) Whether the proposed derby at the proposed time and location competes with another derby already permitted for the same time and place.
      - (E) Whether the proposed derby at the proposed time and location may result in unsafe congestion of watercraft on the waters of this Commonwealth.
      - (F) Whether the sponsors of the proposed derby have demonstrated their ability to conduct the derby in accordance with this title

and the conditions of the permit.

- (ii) If the Bureau of Law Enforcement determines to deny the application for the special activity permit for a fishing derby, it will notify the applicant in writing of the denial and the reasons. The applicant may, within 10 days of notification, request the Executive Director to reconsider the denial of the permit. The Executive Director will act on the request for reconsideration within 10 days of its receipt. If the Executive Director denies the permit after reconsideration, the applicant may appeal to the Commission under 1 Pa. Code §35.20 (relating to appeals from actions of staff).
- (4) *Permit conditions.* – The Bureau of Law Enforcement may impose conditions in connection with the issuance of a permit under this section. The conditions may include:
- (i) Limitations on the numbers of boats or participants in the derby when the number of boats or participants involved in the proposed derby exceeds the capacity of the waters to be fished taking into account other permitted uses of the facility at the same time and place.
  - (ii) Limitations on the time or duration of the derby, when reasonably necessary and appropriate to provide for the protection of fish.
  - (iii) Limitations on taking, catching, possessing, and killing fish.
  - (iv) Requirements for the proper disposal of fish taken in the derby. Derby sponsors engaged in returning live fish to the waters of this Commonwealth after completion of a derby may possess fish in excess of the daily possession limit if they carry the derby permit and can document the catch of the individual derby participants. The permit condition may provide that live fish will be distributed to the waters from which taken away from the ramp or access area where the weigh-in occurs.
- (d) *Prohibited acts.* – It is unlawful to conduct a fishing tournament or fishing derby on Commonwealth waters except in compliance with permit conditions. It is unlawful to conduct a tournament or fishing derby on Commonwealth waters on the opening day for any species of game fish unless the applicant has made an extraordinary showing that the proposed tournament will not interfere with other fishing and boating activities and the Commission issues a special activity permit containing a specific finding, based upon the applicant's showing, that the permitted activity will not constitute interference. It is unlawful to conduct or participate in a fishing tournament or fishing derby involving the catch or attempted catch of a particular species of fish during the closed season for that species. It is unlawful to conduct a fishing tournament on the North Branch, West Branch, or main stem of the Susquehanna River that allows tournament anglers to kill black bass.

#### **§63.41. [Reserved]**

#### **§63.42. Sale, Purchase, or Barter of Fish Parts and Fish Eggs. – 2102(c)**

It is unlawful for a person to sell, purchase, offer for sale, or barter any fish parts or fish eggs obtained from fish taken from the waters of this Commonwealth, including boundary waters. This prohibition does not apply to fish parts and fish eggs lawfully taken and sold or offered for sale by holders of commercial fishing licenses under

Chapter 29 of the code (relating to special licenses and permits), if the particular species of fish is authorized for taking by commercial licensees. This prohibition does not apply to the sale, purchase, offer for sale, or barter of fish parts and fish eggs legally obtained from fish taken lawfully from waters outside this Commonwealth, if the seller or purchaser is able to document the source of the fish parts or fish eggs from lawful sources outside this Commonwealth.

**§63.43. Fishing for Bass during Spring Season. – 2102(a)**

- (a) During the period from 12:01 a.m. on the first Saturday after April 11 until 12:01 a.m. on the first Saturday after June 11:
  - (1) It is unlawful to kill or possess, while in the act of fishing, any largemouth, smallmouth, or spotted bass.
  - (2) Tournaments are not permitted.
  - (3) Catch and release fishing for bass is limited as follows: It is unlawful for an angler to repeatedly cast into a clearly visible bass spawning nest or bed in an effort to catch or take bass. Otherwise, a bass caught and immediately returned unharmed to the waters from which taken during this period will not be considered a violation of this section.
- (b) This section does not apply to portions of the Susquehanna and Juniata Rivers and their tributaries that are regulated under §65.24 (relating to miscellaneous special regulations).

**§63.44. Illegal Bait Fish. – 2102(a)**

It is unlawful for a person to use or possess Goldfish (*Carassius auratus*), Comets (*Carassius auratus*), Koi (*Cyprinus carpio*), and Common carp (*Cyprinus carpio*) as bait fish while fishing.

**§63.45. Tagging, Branding, Marking, and Fin Clipping of Fish. – 2102(a)**

- (a) It is unlawful for a person to implant tracking devices in or to tag, brand, mark or fin clip any fish taken from the waters of this Commonwealth, unless the fish are purchased from an authorized commercial aquaculture facility, are part of a Commission-recognized and sanctioned stocking by a cooperative nursery, are authorized by a scientific collector's permit issued by the Commission, or are part of a tagged fish contest in a boundary lake for which the Commission has issued a permit.
- (b) There shall be a rebuttable presumption that a person implanting a tracking device in or tagging, branding, marking, or fin clipping a fish is in violation of this section if the person does not have in his possession proof that the fish was purchased from an authorized commercial aquaculture facility, is part of a Commission-recognized and sanctioned stocking by a cooperative nursery, is authorized by a scientific collector's permit, or is part of a tagged fish contest in a boundary lake for which the Commission has issued a permit.

**§63.46. Sale, Purchase or Barter of Injurious, Nonnative Species. – 2102(a)**

It is unlawful for a person to sell, purchase, offer for sale, or barter the following live species in this Commonwealth.

- (1) Snakehead (all species).
- (2) Black carp (*Mylopharyngodon piceus*).
- (3) Bighead carp (*Hypophthalmichthys nobilis*).
- (4) Silver carp (*Hypophthalmichthys molitrix*).

- (5) Zebra mussel (*Dreissena polymorpha*).
- (6) Quagga mussel (*Dreissena bugensis*).
- (7) Round goby (*Neogobius melanostomus*).
- (8) Tubenose goby (*Proterorhinus marmoratus*).
- (9) European rudd (*Scardinius erythrophthalmus*).
- (10) Crayfish (all species except when:
  - (i) They are sold, purchased, offered for sale or battered for testing and scientific purposes or restaurant consumption.
  - (ii) Adequate measures have been taken to prevent their escape.
  - (iii) They are accompanied by documentation stating the point of origin and the destination to which they are to be delivered.
- (11) Ruffe (*Gymnocephalus cernuus*).

**§63.47. Landing of Finfish, Shellfish, Crustaceans, and Other Marine Seafood. – 2102(c)**

- (a) Except as otherwise provided in this section, it is unlawful to land finfish, shellfish, crustaceans, or other marine seafood in this Commonwealth when harvest quota allocations to this Commonwealth have been met or otherwise capped by action of the Executive Director pursuant to the fishery management plans and harvest allocations of the Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission. If quotas have been met or otherwise capped in this Commonwealth, the landing of finfish, shellfish, crustaceans, and other marine seafood in this Commonwealth is permitted only if the species have been properly reported as part of an unmet quota of another jurisdiction.
- (b) For purposes of this section, “land” or “landing” means to enter port with finfish, shellfish, crustaceans, or other marine seafood on board any vessel to begin offloading or to offload finfish, shellfish, crustaceans or other marine seafood.
- (c) This section does not apply to the landing of fish at Lake Erie that is governed by Chapter 69 (relating to fishing in Lake Erie and boundary lakes).

**§63.48. Permit for the Use of Cast Nets or Throw Nets. – 2102(a)**

- (a) The Executive Director or a designee may issue permits for the use of cast nets or throw nets for the taking of gizzard shad and alewife only in waters to be determined by the Executive Director. A separate permit will be required for each body of water.
- (b) In addition to other permit conditions that the Executive Director may require, the cast nets or throw nets shall be no greater than 10 feet in radius (20 feet in diameter) with a mesh size of at least 3/8 inch.
- (c) Notwithstanding the provisions of §61.1. (relating to Commonwealth inland waters), holders of permits for the use of cast nets or throw nets may take, catch, kill or possess a daily creel limit of 100 gizzard shad and alewife (combined species).
- (d) A person may apply for a permit for the use of cast nets or throw nets by completing the form prescribed by the Commission. The applicant shall submit the completed form to the Commission along with the fee specified in section 2902 of the code (relating to net permits).

- (e) It is unlawful to use cast nets or throw nets for the taking of gizzard shad and alewife or to take, catch, kill, or possess more than the daily creel limit of gizzard shad and alewife as set forth in §61.1. without the required permit. A permit for the use of cast nets or throw nets shall be carried so that it can be presented to an officer authorized to enforce the code.
- (f) It is unlawful to use gizzard shad or alewife taken under a permit for the use of cast nets or throw nets as live bait in any waters other than the water from which it was taken.

**§63.49. Reporting by Dealers of American Eels. – 2102(c)**

Dealers of American eels shall report to the Commission the amount of American eels that they buy and sell.

- (1) Reports shall be provided on forms prescribed by the Commission on a quarterly basis or as otherwise established by the Commission. Data to be reported includes the following:
  - (i) The date of purchase or sale.
  - (ii) The origin or destination of eels, pounds or number purchased or sold by life stage (glass eel, elvers, yellow eel, and silver eel).
  - (iii) The purpose of purchase or sale (bait, food, and the like).
  - (iv) The amount exported.
  - (v) Other information the Commission requires.
- (2) Dealers shall present these reports upon the request of an officer authorized to enforce the code. Dealers shall allow officers authorized to enforce the code unrestricted access to the dealer's place of business during normal business hours to inspect the reports.

**§63.50 Importation of Tautog. – 2102(c)**

It is unlawful for a person to import into this Commonwealth, sell, offer for sale, or purchase tautog (*Tautoga onitis*) measuring less than 15 inches in length.

**§63.51. Sale of VHS-Susceptible Species of Fish. – 2102(c)**

- (a) For purposes of this section, the following terms shall have the following meanings:
  - (1) Species of fish that are susceptible to viral hemorrhagic septicemia (VHS) are those species that the Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS) designates by order or the Commission defines by notice in the *Pennsylvania Bulletin*.
    - (i) The term "VHS-susceptible species" shall include fish that are dead or alive, preserved or unpreserved, and the parts thereof.
    - (ii) The term "VHS-susceptible species" does not include the eggs of these species.
  - (2) A VHS-affected or VHS-at risk state includes Illinois, Indiana, Michigan, Minnesota, New York, Ohio, and Wisconsin or any other state that APHIS later designates by order or the Commission later defines by notice in the *Pennsylvania Bulletin* as being VHS-affected or VHS-at risk.
  - (3) A VHS-affected or VHS-at risk region includes the Canadian provinces of Ontario and Quebec or any other region that APHIS later designates by order or the Commission later defines by notice in the *Pennsylvania Bulletin* as being VHS-affected or VHS-at risk.



- (b) It is unlawful to sell VHS-susceptible species of fish from the portion of the Lake Erie Watershed in this Commonwealth in other watersheds of this Commonwealth except in accordance with §69.3.(e) (relating to transportation, introduction, and sale of VHS-susceptible species of fish out of the Lake Erie Watershed).
- (c) It unlawful to sell in this Commonwealth VHS-susceptible species of fish from a VHS-affected or VHS-at risk state, unless the following conditions are met:
  - (1) The sale meets the requirements of 30 Pa. C.S. §2507 (relating to sale of certain fish, reptiles, and amphibians prohibited).
  - (2) The fish are from a group of fish certified as having tested negative for VHS or are from an artificial propagation facility certified as having tested negative for VHS in accordance with the testing protocols adopted by the Pennsylvania Department of Agriculture and approved by the Commission. Persons selling these fish shall have in their possession, and present upon the request of an officer authorized to enforce the code, either a copy of the fish health certification reports for all VHS-susceptible fish kept at the place of sale or a copy of the fish health certification report for the artificial propagation facility if the fish are from a facility certified as having tested negative for VHS.
- (d) It unlawful to sell in this Commonwealth VHS-susceptible species of fish from a VHS-affected or VHS-at risk region, unless the fish meet the requirements of §73.3. (d)(1) (relating to transportation and importation of VHS-susceptible species of fish).

**§63.53. Egg Collection. – 2102(b)**

It is unlawful to remove or strip eggs from fish taken from waters of this Commonwealth except for trout and salmon taken from waters in the Lake Erie watershed.

**§63.54. Possession or Use of Eggs as Bait. – 2102(b)**

Except as otherwise provided in this section, it is unlawful to possess or use as bait unpreserved, refrigerated, or frozen fish eggs regardless of their origin while in the act of fishing in or along waters of this Commonwealth. Unpreserved, refrigerated, or frozen eggs from trout or salmon may be used and possessed as bait while fishing in or along the waters of the Lake Erie watershed.

**§63.55. Saltwater Angler Registration. – 2102 (a)**

It is unlawful for a person required under 30 Pa.C.S. Chapter 27 (relating to fishing licenses) to procure a resident fishing license, a nonresident fishing license, a senior resident lifetime fishing license or an annual senior resident fishing license to fish for shad, striped bass or river herring in the Delaware River below Trenton Falls or in the Delaware Estuary unless that person has obtained a saltwater angler registration from the Commission, has registered with the National Saltwater Angler Registry Program administered by the National Oceanic and Atmospheric Administration or has met the saltwater angler registration requirements of another state.

**§63.56. Replacement costs for fish killed.**

- (a) Under section 923(c.1) of the code (relating to classification of offenses and penalties), the Commission established the following replacement costs in 2012 dollars for fish killed in violation of sections 2109 and 2110 of the code

(relating to serious unlawful take; and taking or possessing by illegal methods):

- (1) Game fish.
    - (i) Trout, 14 to 20 inches, \$14.
    - (ii) Trout, 21 to 30 inches, \$53.
    - (iii) Trout, greater than 30 inches, \$106.
    - (iv) Black bass (largemouth, smallmouth and spotted), 15 to 21 inches, \$19.
    - (v) Black bass (largemouth, smallmouth and spotted), greater than 21 inches, \$36.
    - (vi) Striped bass and hybrids, 15 to 27 inches, \$78.
    - (vii) Striped bass and hybrids, 28 to 39 inches, \$360.
    - (viii) Striped bass and hybrids, greater than 39 inches, \$693.
    - (ix) Walleye/Sauger, 15 to 18 inches, \$17.
    - (x) Walleye/Sauger, 19 to 23 inches, \$48.
    - (xi) Walleye/Sauger, 24 to 28 inches, \$74.
    - (xii) Walleye/Sauger, greater than 28 inches, \$149.
    - (xiii) Northern pike, 24 to 28 inches, \$71.
    - (xiv) Northern pike, greater than 28 inches, \$143.
    - (xv) Muskellunge and hybrids, 30 to 40 inches, \$188.
    - (xvi) Muskellunge and hybrids, 41 to 50 inches, \$442.
    - (xvii) Muskellunge and hybrids, greater than 50 inches, \$693.
  - (2) Reptiles and amphibians.
    - (i) Wood turtle, \$300.
    - (ii) Spotted turtle, \$225.
    - (iii) Eastern box turtle, \$80.
    - (iv) Snapping turtle, \$160.
    - (v) Timber rattlesnake, \$188.
    - (vi) Copperhead, \$40.
    - (vii) Spotted salamander, \$30.
    - (viii) Marble salamander, \$30.
    - (ix) Northern spring salamander, \$51.
    - (x) Blanding's turtle, \$275.
    - (xi) Eastern spiny softshell, \$40.
    - (xii) Eastern hognose snake, \$88.
  - (3) Federally listed threatened and endangered species.
    - (i) Bog turtle, \$1,200.
- (b) The replacement costs in subsection (a) will be adjusted annually for inflation in accordance with the Consumer Price Index.

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

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Sec.	
65.1.	[Reserved]
65.2.	[Reserved]
65.3.	[Reserved]
65.4.	[Reserved]

- 65.4a. All Tackle Trophy Trout.
- 65.4b. [Reserved]
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- 65.17. Catch and Release Lakes.
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- 65.19. Stocked Trout Waters Open to Year-Round Fishing.
- 65.20. Mentored Youth Fishing Day Program
- 65.21. Waters Limited to Specific Purposes – Exclusive Use Fishing Areas.
- 65.22. [Reserved]
- 65.23. Special Restrictions on Polluted Zones.
- 65.24. Miscellaneous Special Regulations.
- 65.25. Temporary Changes to Fishing Regulations.
- 65.26. Extended Trout Season.

**§65.1. [Reserved]**

**§65.2. [Reserved]**

**§65.3. [Reserved]**

**§65.4. [Reserved]**

**§65.4a. All-Tackle Trophy Trout. – 2102(a)**

- (a) The Executive Director, with the approval of the Commission, may designate waters as all-tackle trophy trout. The designation of waters as all-tackle trophy trout 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) Open to fishing year-round.
  - (2) There are no tackle restrictions.
  - (3) Minimum size is: 14 inches, caught on, or in possession on, the waters under regulation.
  - (4) The daily creel limit is: two trout – combined species except for the period from the day after Labor Day to 8 a.m. of the first Saturday after April 11 of the following year, when trout may not be killed or had in possession.
  - (5) A current trout/salmon permit is required.
- (c) This section applies to trout only. Inland regulations apply to all other species.

- (d) Notwithstanding the requirements of this section, an angler in a boat may possess fish caught in compliance with the seasons, sizes, and creel limits in effect for the water from which taken, provided that the boat angler floats through the all-tackle trophy trout area without stopping or engaging in the act of fishing or the boat angler takes out his boat at an access point within the all-tackle trophy trout area.

**§65.4b. [Reserved]**

**§65.5. Catch-and-Release artificial lures only. – 2102(a)**

- (a) The Executive Director, with the approval of the Commission, may designate waters as catch-and-release. The designation of waters as catch-and-release shall be effective when the waters are so posted after publication of a notice of such designation in the *Pennsylvania Bulletin*.
- (b) It is unlawful to fish in areas designated and posted catch-and-release 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. Use of possession of any other lures or substances is prohibited.
  - (2) No trout may be killed or had in possession.
  - (3) Open to fishing year-round.
  - (4) Wading is permitted unless otherwise posted.
  - (5) Taking of bait fish or fish bait is prohibited.
  - (6) A current trout/salmon permit is required.
- (c) Notwithstanding the requirements of this section, an angler in a boat may possess bait and fish caught in compliance with the seasons, sizes, and creel limits in effect for the water from which taken, provided that the boat angler floats through the catch and release area without stopping or engaging in the act of fishing or the boat angler takes out his boat at an access point within the catch and release area.

**§65.6. Delayed Harvest Artificial Lures Only Areas. – 2102(a)**

- (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 such 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, bait fish, fish bait, bait paste and similar substances, fish eggs (natural or molded), or any other edible substance is prohibited.
  - (3) Minimum size is: Nine 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.
- (5) Taking of bait fish or fish bait is prohibited.
- (6) A current trout/salmon permit is required.
- (c) Notwithstanding the requirements of this section, an angler in a boat may possess bait and fish caught in compliance with the seasons, sizes, and creel limits in effect for the water from which taken, provided that the boat angler floats through the delayed harvest artificial lures only area without stopping or engaging in the act of fishing or the boat angler takes out his boat at an access point within the delayed harvest artificial lures only area.

**§65.7. Trophy Trout Artificial Lures Only. – 2102(a)**

- (a) The Executive Director, with the approval of the Commission, may designate waters as trophy trout artificial lures only. The designation of waters as trophy trout artificial lures only 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 trophy trout artificial lures only 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. Use or possession of other lures or substances is prohibited.
  - (2) Open to fishing year round.
  - (3) The minimum size is 14 inches, caught on or in possession on the waters under regulation.
  - (4) 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 first Saturday after April 11 of the following year when no trout may be killed or had in possession on the waters under regulation.
  - (5) Taking of bait fish or fish bait is prohibited.
  - (6) A current trout/salmon permit is required.
- (c) Notwithstanding the requirements of this section, an angler in a boat may possess bait and fish caught in compliance with the seasons, sizes, and creel limits in effect for the water from which taken, provided that the boat angler floats through the trophy trout area without stopping or engaging in the act of fishing or the boat angler takes out his boat at an access point within the trophy trout area.

**§65.8. [Reserved]**

**§65.9. Big Bass – 2102(a)**

- (a) The Executive Director, with the approval of the Commission, may designate waters as “big bass” waters. The designation 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 take, catch, kill, or possess a largemouth, smallmouth or spotted bass on or in designated “big bass” waters except in compliance with the following seasons and size and creel limits. It is not a violation of this

section if the bass is immediately returned unharmed to the waters from which it is taken.

- (c) Other Commonwealth inland fishing regulations apply to designated “big bass” waters.
- (d) Tournaments are permitted only during the designated harvest periods.

SEASONS	MINIMUM SIZE	DAILY LIMIT
Lakes: January 1 to midnight the day before the first Saturday after April 11 and 12:01 a.m. the first Saturday after June 11 to midnight December 31	15	4 (combined species)
12:01 a.m. the first Saturday after April 11 to 12:01 a.m. the first Saturday after June 11	NO HARVEST—Catch and immediate release only	
Rivers and Streams: January 1 to midnight the day before the first Saturday after April 11 and October 1 to midnight December 31	18	2 (combined species)
12:01 a.m. the first Saturday after April 11 to 12:01 a.m. the first Saturday after June 11	NO HARVEST—Catch and immediate release only	
12:01 a.m. the first Saturday after June 11 to midnight September 30	15	4 (combined species)

*Note: For purposes of this section, power dam pools and recreational dam pools on the Susquehanna River and navigational dam pools in the Ohio drainage are “rivers.”*

#### §65.10. [Reserved]

#### §65.11. Panfish Enhancement. – 2102(a)

- (a) The Executive Director, with the approval of the Commission may designate waters as “panfish enhancement” waters. The designation may be limited to one, two, or all three of the panfish species listed in subsection (b). The designation 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 “panfish enhancement” waters except in compliance with the following size and creel limits:

SPECIES	SEASONS	MINIMUM SIZE	DAILY LIMIT
Sunfish (bluegill, pumpkinseed and redear)	Open year- round	7 inches	20 *
Crappie (black and white)		9 inches	
Yellow perch		9 inches	
Other species—inland seasons and size and creel limits apply.			

*\* When panfish enhancement regulations apply to more than 1 species in the same waterway, the creel limit is 20 for each species with the total creel not to exceed 50 panfish combined. For purposes of this section, panfish include catfish, rock bass, suckers, carp and white bass.*

**§65.12. Regional Opening Day of Trout Season – 2102(a)**

- (a) The Executive Director, with the approval of the Commission may designate waters in certain regions as part of the Regional Opening Day of Trout Season. The designation of waters as part of the Regional Opening Day of Trout Season Program shall be effective upon publication of a notice of designation in the *Pennsylvania Bulletin*.
- (b) It is unlawful to fish in waters designated as part of the Regional Opening Day of Trout Season Program except in compliance with the following seasons, sizes, and creel limits:

SEASONS	MINIMUM SIZE	DAILY LIMIT
Regular Season: 8 a.m. first Saturday after March 28 to midnight Labor Day	7 inches	5 (combined species) except areas with special regulations (see Chapter 65 ( relating to special fishing regulations))
Extended Season: Stocked trout waters and all waters downstream of stocked trout waters 12:01 a.m. day after Labor Day to midnight last day of February of the following year.	7 inches	3 (combined species) except Class A wild trout streams where the daily limit is 0, and areas with special regulations (see Chapter 65)

- (c) It is unlawful to take, catch, kill, or possess trout except during the seasons specified in this section. It is not a violation of this section if a trout caught out of season from waters where fishing for other species is otherwise lawful is immediately returned unharmed to the waters from which it was taken.
- (d) It is unlawful to take, catch, kill, or possess trout of less than the minimum size specified in this section. It is not a violation of this section if an undersized trout taken from waters where fishing is otherwise lawful is immediately returned unharmed to the waters from which it was taken.
- (e) It is unlawful to take, catch, or kill more than 1 day's limit of any species of trout as specified in this section during 1 calendar day. It is unlawful to possess more than 1 day's limit of any species of trout as specified in this section except under the following circumstances:
- (1) A person may possess any number of lawfully caught trout at the person's residence.
  - (2) A person who is engaged in a fishing trip away from home for 2 or more consecutive calendar days may possess, while transporting trout from the place where caught to his residence, a number of trout equal to no more than two times the daily creel limit for trout. In prosecutions for violations of this section, it shall be a rebuttable presumption that a person transporting trout from a fishing site caught all of the trout during 1 calendar day.
  - (3) A trout will not be considered to be caught in violation of this section if it is immediately returned unharmed to the waters from which it was taken.
  - (4) Any trout caught that is not to be counted in the creel limit shall be immediately released unharmed to the waters from which taken. Except as otherwise provided in §53.24. or 63.40. (relating to tournament and fishing derby permits; and fishing tournaments and fishing derbies), a

trout placed on a stringer or confined by any type of container, structure or device or not returned immediately to the water will be considered as part of the daily creel or possession limits. Trout returned to the water shall be handled carefully and be returned unharmed to the waters from which taken.

- (5) Trout may be given to another person, but the trout shall be counted in the donor's creel limit and neither donor nor the recipient may kill or possess (while in the act of fishing) more than the limit allowed.

**§65.13. [Reserved] – 2102(a)**

**§65.14. Catch and Release Fly-Fishing Only. – 2102(a)**

- (a) The Executive Director, with the approval of the Commission, may designate waters as catch and release fly-fishing only. The designation of waters as catch and release fly-fishing only 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 waters designated and posted as catch and release fly-fishing only 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 with components wound on or about the hook or hooks. Use or possession of other lures or substances is prohibited.
  - (2) Fishing shall be done with tackle which is limited to fly rods and fly reels, and fly line with a maximum of 18 feet in leader material or monofilament line attached. Spinning, spincast, and casting rods are prohibited.
  - (3) No trout may be killed or had in possession.
  - (4) Open to fishing year-round.
  - (5) Taking of baitfish or fishbait is prohibited.
  - (6) Wading is permitted unless otherwise posted.
  - (7) A current trout/salmon permit is required.
- (c) Notwithstanding the requirements of this section, an angler in a boat may possess bait and fish caught in compliance with the seasons, sizes, and creel limits in effect for the water from which taken, provided that the boat angler floats through the catch and release fly-fishing only area without stopping or engaging in the act of fishing or the boat angler takes out his boat at an access point within the catch and release fly-fishing only area.

**§65.15. Catch and Release All-Tackle. – 2102(a)**

- (a) The Executive Director, with the approval of the Commission, may designate waters as catch and release all-tackle. The designation of waters as catch and release all-tackle 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 waters designated and posted catch and release all-tackle except in compliance with the following requirements:
  - (1) There are no tackle restrictions.
  - (2) No trout may be killed or had in possession.
  - (3) Open to fishing year-round; there is no closed season.
  - (4) A current trout/salmon permit is required.



- (c) Notwithstanding the requirements of this section, an angler in a boat may possess fish caught in compliance with the seasons, sizes, and creel limits in effect for the water from which taken, provided that the boat angler floats through the catch and release all-tackle area without stopping or engaging in the act of fishing or the boat angler takes out his boat at an access point within the catch and release all-tackle area.

**§65.16. Musky Enhancement. – 2102(a)**

- (a) The Executive Director, with the approval of the Commission, may designate waters as Musky Enhancement. The designation of waters Musky Enhancement will be effective when the waters are so posted after publication of a notice of designation in the *Pennsylvania Bulletin*.
- (b) It is unlawful to take, catch, kill, or possess muskellunge or muskellunge hybrids on or in waters designated as Musky Enhancement except in compliance with the following season and size and creel limits: Open year-round, minimum size of 45 inches and daily limit of 1. It is not a violation of this section if the muskellunge or muskellunge hybrid is immediately returned unharmed to the waters from which it was taken.

**§65.17. Catch and Release Lakes. – 2102(a)**

- (a) The Executive Director, with the approval of the Commission, may designate lakes as catch and release lakes. The designation of lakes as catch and release lakes will be effective upon publication of a notice of designation in the *Pennsylvania Bulletin*.
- (b) It is unlawful to fish in the lakes designated as catch and release lakes except in compliance with the following requirements:
  - (1) Fishing for all species is permitted on a catch and release/no harvest basis only.
  - (2) It is unlawful to take, kill, or possess any fish taken from lakes designated under this section.
  - (3) Fish caught shall be immediately returned unharmed to the lake from which taken.

**§65.18. Brood Stock Lakes. – 2102(a)**

- (a) The Executive Director, with the approval of the Commission, may designate lakes as brood stock lakes. The designation of lakes as part of the brood stock lakes will be effective upon publication of a notice of designation in the *Pennsylvania Bulletin*.
- (b) It is unlawful to fish in the lakes designated as part of the brood stock lakes except in compliance with the following requirements:
  - (1) From 12:01 a.m. April 1 to midnight May 31, fishing for muskellunge and muskellunge hybrids, northern pike, and pickerel is permitted on a catch and release/no harvest basis only.
  - (2) From 12:01 a.m. April 1 to midnight May 31, it is unlawful to take, kill, or possess any muskellunge and muskellunge hybrids, northern pike, and pickerel taken from lakes designated under this section.
  - (3) From 12:01 a.m. April 1 to midnight May 31, all muskellunge and muskellunge hybrids, northern pike, and pickerel caught shall be immediately returned unharmed to the lake from which taken.

**§ 65.19. Stocked Trout Waters Open to Year-Round Fishing. – 2102(a)**

- (a) The Executive Director, with the approval of the Commission, may designate waters as stocked trout waters open to year-round fishing. The designation of waters as stocked trout waters open to year-round fishing shall be effective upon publication of a notice of designation in the *Pennsylvania Bulletin*.
- (b) It is unlawful to fish in waters designated as stocked trout waters open to year-round fishing except in compliance with the following seasons and size and creel limits. It is not a violation of this section if a trout is immediately returned unharmed to the waters from which it is taken.

SPECIES	SEASONS	MINIMUM SIZE	DAILY LIMIT
ALL SPECIES OF TROUT AND SALMON (except landlocked Atlantic salmon)	Regular Season: 8 a.m. first Saturday after April 11 (or the first Saturday after March 28 for waters designated as part of the regional opening day of trout season) to midnight Labor Day	7 inches	5 (combined species)
	Extended Season: 12:01 a.m. day after Labor Day to midnight last day of February of the following year.	7 inches	3 (combined species)
	12:01 first day of March to first Saturday after April 11 (or the first Saturday after March 28 for waters designated as part of the regional opening day of trout season.)	NO HARVEST —Catch and immediate release only	

- (c) It is unlawful to fish in rivers and streams designated as stocked trout waters open to year-round fishing without a current trout/salmon permit. A trout/salmon permit is not required to fish in lakes and ponds that have been designated as stocked trout waters open to year-round fishing unless the person takes, kills or possesses, while in the act of fishing, a trout or salmon on or in these waters.

**§65.20. Mentored Youth Fishing Day Program. – 2102(a)**

- (a) The Executive Director may annually designate Mentored Youth Fishing Days. As part of the designation, the Executive Director will identify the species, waters, dates, creel and minimum size limits and other applicable limitations. The designation will be effective upon publication of a notice in the *Pennsylvania Bulletin*.
- (b) It is unlawful to fish in waters designated as part of the Mentored Youth Fishing Day Program except in compliance with the following requirements when participating in the program:
  - (1) Anglers shall adhere to the limitations as established by the Executive Director by notice in the *Pennsylvania Bulletin*.
  - (2) An angler 16 years of age or older shall be accompanied by a youth (less than 16 years of age) who has obtained a mentored youth permit or a voluntary youth fishing license from the Commission.
  - (3) A youth angler shall obtain a mentored youth permit or a voluntary youth fishing license from the Commission and be accompanied by an angler 16 years of age or older.

- (4) A current trout/salmon permit is required for an angler 16 years of age or older when participating in a Mentored Youth Fishing Day Program that relates to trout.
- (c) Notwithstanding the requirements of this section, an angler in a boat may possess fish caught in compliance with the seasons, sizes and creel limits in effect for the water from which taken, provided that the boat angler floats through the water designated as part of the Mentored Youth Fishing Day Program without stopping or engaging in the act of fishing or the boat angler takes out his boat at an access point within the water designated as part of the Mentored Youth Fishing Day Program.

**§65.21. Waters Limited to Specific Purposes – Exclusive Use Fishing Areas. – 2307 (a)**

- (a) The Executive Director, with the approval of the Commission, may designate waters as being for the exclusive use of children or special populations or both, for the purpose of fishing. The designation is effective when the waters are so posted after publication of a notice of such designation in the *Pennsylvania Bulletin*.
- (b) As used in this section, the term “children” means persons 12 years of age or under. The term “special populations” means persons who are exempt from the fishing license requirement by 30 Pa.C.S. §2709(b) (relating to exemption from license requirements), persons whose visual acuity with best correcting lens is 3/60 or 10/200 or poorer in the better eye, persons whose vision is such that the widest diameter of the visual field of the better eye has contracted to such an extent that it subtends an angular distance of not greater than 20° or persons permanently deprived of the full use of a leg or both legs.
- (c) It is unlawful for a person other than a child or member of special populations (as applicable) to fish in a designated exclusive use area.
- (d) The Commission will not designate waters under this section:
  - (1) As being for the exclusive use of children unless the sponsor of the proposed exclusive use area agrees to be responsible for the administration and control of the area, posting signs and assisting in enforcement; the owner of the waters agrees to the designation in writing; and the political subdivision where the area is to be located approves the designation in writing. The sponsor also shall establish that the proposed exclusive use area will be used year-round by showing that fishing tournaments/derbies, stocking, or special events are planned throughout the year.
  - (2) As being for the exclusive use of special populations unless the sponsor of the proposed exclusive use area agrees to be responsible for the administration and control of the area, posting of signs and assisting in enforcement; the owner of the waters agrees to the designation in writing; and the political subdivision where the area is to be located approves the designation in writing. The sponsor also shall describe how the proposed exclusive use area is accessible and what accommodations have been made for use by special populations. The sponsor further must certify that the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C.A. §12210-12213) and the regulations promulgated thereunder are currently met and will be met in the future.

- (3) As being for the exclusive use of both children and special populations unless the sponsor meets the requirements of paragraphs (1) and (2).
- (c) In determining whether to designate areas for the exclusive use of children, special populations or both, the Commission will consider whether the sponsors of the proposed areas have demonstrated the ability to meet the requirements of this section and whether exclusive use areas already exist within the same geographical area as the proposed areas.
- (f) If a sponsor of an exclusive use area fails to continue to meet the requirements of this section, the Commission may remove the designation of the area as being for the exclusive use of children or special populations, or both.
- (g) The provisions of subsection (a) requiring advance approval of the Commission and publication of a notice of designation in the *Pennsylvania Bulletin* do not apply to temporary designations of exclusive use areas for children or special populations, or both. Sponsors seeking a temporary designation of an area for the exclusive use of children or special populations, or both, shall apply for a special activities permit in accordance with §63.40. (relating to fishing tournaments and fishing derbies). Sponsors shall apply for designation of temporary exclusive use areas no later than 30 days before the proposed designation is to take effect. The Executive Director or a designee may approve the temporary designation of waters for exclusive use for no more than 60 consecutive days upon application of project sponsors. Temporary designations shall be effective upon posting of the area. Sponsors are responsible for administering and controlling the area, posting signs, and assisting in enforcement.
- (h) In designating an area for the exclusive use of children or special populations, the Commission makes no representation that the areas are suitable for any particular purpose. The sponsors of the area assume the responsibility for the suitability of the area.

**§65.22. [Reserved]**

**§65.23. Special Restrictions on Polluted Zones. – 2102(a)**

- (a) The Executive Director, with the approval of the Commission, may determine that fishing should be curtailed or prohibited in polluted waters or that the taking or killing of fish from the waters should be prohibited. Special restrictions imposed under this section shall be effective when the waters are so posted after publication of a notice of such restriction in the *Pennsylvania Bulletin*; the Executive Director or his designee may take immediate action to post waters when he finds it appropriate to further the health and safety of persons who fish.
- (b) It is unlawful for a person to take, catch, possess while in the act of fishing, or kill fish from polluted zones in violation of the posted conditions imposed under this section.
- (c) This section may not be construed to relieve the person or entity responsible for placing or allowing harmful substances to be present in fishing waters from criminal or civil liability, for acts or omissions with regard to the substances. This section does not place liability or duty on the Commonwealth or the Commission or their employees, officers, agents or assigns, to locate, identify, or post waters where harmful substances may be present; nor may the Commonwealth, the Commission, or their officers, employees, agents or

assigns be liable for the consequences of harmful substances being present in fishing waters. This section does not confer or convey an ownership, control, jurisdiction, over these waters on the Commission except as may be otherwise provided by law or regulation.

**§65.24. Miscellaneous Special Regulations. – 2307(a)**

The following waters are subject to the following miscellaneous special regulations.

COUNTY	NAME OF WATER	SPECIAL REGULATIONS
Beaver	Hopewell Township Park Lake	Bass – 15 inch minimum size limit and a 2 bass daily creel limit. Panfish (combined species): 10 fish daily creel limit. Use of live fish for bait is prohibited.
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.
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 first Saturday after April 11 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 first Saturday after April 11, no trout may be killed or possessed.  Inland regulations apply to all other species.  This miscellaneous special regulations will remain in effect until December 31, 2020.

COUNTY	NAME OF WATER	SPECIAL REGULATIONS
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 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.
Columbia and Northumberland	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 shall be immediately returned unharmed.
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 bows, crossbows, 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.
Cumberland	Opossum Lake	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 June 18, 2016.

COUNTY	NAME OF WATER	SPECIAL REGULATIONS
Cumberland, Dauphin, Juniata, Lancaster, Northumberland, Perry, Snyder, York	Susquehanna river (98.0 miles) from the inflatable dam near Sunbury downstream to Holtwood Dam, including all tributaries to a point ½ mile upstream from the confluence.	<p>Bass (smallmouth and largemouth) – From May 1 to 12:01 a.m. the first Saturday after June 11 – closed season: no tournaments. During the closed season, it is unlawful to target or attempt to catch a bass. A bass that is accidentally caught during the closed season must be immediately released unharmed without being removed from the water. It is unlawful to possess bass in, on or along these waters.</p> <p>Remainder of the year – No harvest – catch and immediate release only: catch measure- immediate release tournaments only.</p>
Dauphin, Juniata, Perry	Juniata River (31.7 miles) from SR0075 bridge at Port Royal downstream to the mouth, including all tributaries to a point ½ mile upstream from the confluence.	<p>Bass (smallmouth and largemouth) – From May 1 to 12:01 a.m. the first Saturday after June 11 – closed season; no tournaments. During the closed season, it is unlawful to target or attempt to catch a bass. A bass that is accidentally caught during the closed season must be immediately released unharmed without being removed from the water. It is unlawful to possess bass in, on or along these waters.</p> <p>Remainder of the year – No harvest-catch and immediate release only. Catch measure- immediate release tournaments only.</p>

COUNTY	NAME OF WATER	SPECIAL REGULATIONS
Huntingdon	Lake Perez	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. Sec § 61.1. This miscellaneous special regulation will remain in effect until June 16, 2018.
Huntingdon	Raystown Lake (includes Raystown Branch from the Raystown Dam downstream to the confluence with the Juniata River).	Trout (all species)-no closed season. Daily limit: First Saturday after April 11 until Labor Day – 5 trout per day; day after Labor Day to first Saturday after April 11 of the following year – 3 trout per day. 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.
Lehigh	Leaser Lake	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 June 18, 2016.



COUNTY	NAME OF WATER	SPECIAL REGULATIONS
Luzerne	Harveys Lake	<p>During the period from the first Saturday after April 11 through midnight March 31, the daily creel limit for trout (combined species) is 3, only one of which may exceed 18 inches in length.</p> <p>Fishing is prohibited from April 1 through 8 a.m. of the first Saturday after April 11.</p> <p>Warmwater/coolwater species, except as provided in this section- Inland regulations apply.</p>
Monroe and Pike	Delaware Water Gap National Recreation Area	<p>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.</p>

COUNTY	NAME OF WATER	SPECIAL REGULATIONS
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.	Trout (all species) – no closed season. Daily limit: First Saturday after April 11 until Labor Day – 5 trout per day; day after Labor Day to first Saturday after April 11 of the following year – 3 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 first Saturday after April 11 through midnight Labor Day, except during the period from the day after Labor Day to the first Saturday after April 11 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 ½ mile downstream to mouth of Chartiers Creek.	Fishing is prohibited from 12:01 a.m. March 1 to 8 a.m. the first Saturday after April 11.

COUNTY	NAME OF WATER	SPECIAL REGULATIONS
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 of fly fishing gear. Use or possession of any other lures or substances is prohibited. 2. The daily creel limit for trout is 0.

**§65.25. Temporary Changes to Fishing Regulations. – 2102(a); 2102(c)**

- (a) Notwithstanding any other provisions of this chapter requiring the advance approval of the Commission for designation or withdrawal of designation of waters as specially regulated areas, the Executive Director is hereby authorized to take immediate action to temporarily modify fishing regulations when he finds that such modifications are necessary and appropriate for the protection, preservation, and management of fish or fish habitat, to conserve and preserve fishing opportunities, or to provide for health and safety of persons who fish such waters. The Executive Director will cause such temporary modifications to be duly posted in the vicinity of the regulated waters, and, when so posted, the modified regulations shall be fully effective and enforceable. As soon as practicable after taking immediate action to temporarily modify fishing regulations, the Executive Director will cause a notice of such action to be published in the *Pennsylvania Bulletin*.
- (b) When the Executive Director takes immediate action to temporarily modify fishing regulations, he will notify the members of the Commission of his action and cause the matter to be placed on the agenda of the next regular or special meeting of the Commission. Temporary modifications effected under this authority shall expire January 1 of the following year or 6 months after they are affected, whichever comes later unless the Commission shall by then, by appropriate action, have approved the designation or redesignation of waters or shall have approved the revision to the regulation in question.

**§65.26. Extended Trout Season. – 2102(b); 2307(a)**

- (a) *General rule.* – The extended trout season is in effect from the day after Labor Day until the last day of February of the following year on stocked trout waters and all waters downstream of stocked trout waters. A creel limit of three trout per day and a minimum size limit of 7 inches apply during this season (except Class A wild trout streams where the creek limit is 0 and areas with special regulations.)
- (b) *Waters not stocked trout waters.* – The Executive Director may grant a permit to apply extended trout regulations to waters that are not stocked trout waters upon written application of the owner or lessee of the lands on which the waters are located. Applications will be reviewed to ensure that applying extended trout season regulations to the waters in question will have no adverse effect on the preservation and expansion of public fishing opportunities within the Commonwealth. Approval or disapproval of applications shall be subject to review under Subchapter E of Chapter 51 (relating to permit procedures). Permits for extended trout season on waters other than approved trout waters will be valid until the last day of February of the 6th year after the year in which they are issued. For example, a permit issued in June 1984 will expire on February 28, 1990.

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**CHAPTER 67.  
NURSERY WATER**

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Sec.

- 67.1. Nursery Waters and Exhibition Areas.
- 67.2. Refuge Areas.
- 67.3. Cooperative Nurseries.

**§67.1. Nursery Waters and Exhibition Areas. – 2106(a), 2102(a)**

- (a) The Executive Director, with the approval of the Commission, may designate waters as nursery waters or exhibition areas to which the penalty of Section 2106 of the Code (relating to fishing in hatchery or nursery waters) applies. The designation of waters as nursery waters or exhibition areas shall be effective upon posting of the waters after publication of a notice that the waters have been so designated in the *Pennsylvania Bulletin*.
- (b) A person commits a summary offense of the first degree as provided by Section 2106 of the Code (relating to fishing in hatchery or nursery waters) if he fishes or trespasses with intent to fish in designated nursery waters or exhibition areas.
- (c) It is unlawful to disturb fish or other aquatic life in nursery waters or exhibition areas by throwing stones, rocks, or other objects or otherwise agitating the waters.

**§67.2. Refuge Areas. – 2306(a)**

- (a) The Executive Director, with the approval of the Commission, may designate waters as refuge areas to which Section 2306 of the Code shall apply. The designation of water as refuge areas shall be effective upon posting of the waters after publication of a notice that the waters have been so designated in the *Pennsylvania Bulletin*.

- (b) Refuge areas are closed to public fishing except during the period from June 15 until the last day of February of the following year.
- (c) It is unlawful to disturb fish or other aquatic life in refuge areas by any means, including wading, throwing stones, rocks, or other objects or otherwise agitating the waters. This subsection will not be construed to prohibit fishing in such areas during the extended trout season.
- (d) A person violating this section or fishing or entering a refuge area when fishing is prohibited shall be punished as provided by 30 Pa.C.S. 2306.

**§67.3. Cooperative Nurseries. – 2106(a)**

- (a) The Executive Director with the approval of the Commission, may designate cooperative nurseries throughout the Commonwealth.
- (b) The waters of any designated cooperative nursery are considered nursery waters for purposes of §67.1. (relating to nursery waters).
- (c) The Executive Director shall cause a list of designated cooperative nurseries to be maintained for the Commission and shall cause the list from time to time to be updated and revised.

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**CHAPTER 69.**  
**FISHING IN LAKE ERIE AND BOUNDARY LAKES**

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**Subchapter**

- A. General Provisions
- B. Sport Fishing and Angling
- C. Commercial Fishing Licenses
- D. Commercial Fishing, Seasons and Nets
- E. Tagged Fish Contests in Boundary Lakes

**SUBCHAPTER A.**  
**GENERAL PROVISIONS**

**Sec.**

- 69.1. Statutory Authority.
- 69.2. Scope.
- 69.3. Transportation, introduction and sale of VHS Susceptible Fish Out of the Lake Erie Watershed.

**§69.1. Statutory Authority.**

- (a) Subchapter B (relating to sport fishing and angling) is promulgated under sections 741, 2102, and 2106 of the Code (relating to control of property; rules and regulations; and fishing in hatchery or nursery waters).
- (b) Subchapters C and D (relating to commercial fishing and licenses; and commercial fishing, seasons and nets) are promulgated under section 2903 of the Code (relating to boat and net licenses for boundary lakes).

**§69.2. Scope.**

This chapter governs sport fishing and angling and commercial fishing in Lake Erie and its tributaries.

**§69.3. Transportation, introduction and sale of VHS-Susceptible Fish Out of the Lake Erie Watershed. – 2102(c)**

- (a) For purposes of this section, species of fish that are susceptible to Viral Hemorrhagic Septicemia (VHS) are those species that the Animal and Plant Health Inspection Service of the United States Department of Agriculture designates by order of the Commission defines by notice published in the *Pennsylvania Bulletin*.
  - (1) The term “VHS-susceptible species” includes fish that are dead or alive, preserved or unpreserved, and the parts thereof.
  - (2) The term “VHS-susceptible species” does not include the eggs of these species.
- (b) It is unlawful to transport or cause the transportation of VHS-susceptible species of fish out of the portion of the Lake Erie watershed in this Commonwealth except when one of the following conditions is met:
  - (1) The fish are being transported to a disease testing facility and the persons transporting the fish have taken adequate measures to prevent escape and to disinfect discharged water and equipment used in the transportation of the fish and the fish are accompanied in transit by documentation stating the point of origin of the fish and the destination to which they are to be delivered for testing.
  - (2) The fish are from a group of fish certified as having tested negative for VHS in accordance with the testing protocols adopted by the Department of Agriculture (Department) and approved by the Commission. Persons selling the fish shall have in their possession, and present upon the request of an officer authorized to enforce the code, a copy of the fish health certification reports for all VHS-susceptible fish owned or kept at the place of sale.
  - (3) The fish are from an artificial propagation facility certified as having tested negative for VHS in accordance with the testing protocols adopted by the Department and approved by the Commission. Artificial propagation facilities shall have in their possession, and present upon the request of an officer authorized to enforce the code, a copy of the fish health certification report for the facility.
  - (4) The fish are being transported to a slaughter facility, processing plant, or restaurant and the fish are accompanied in transit by documentation stating the point of origin of the fish and the destination to which they are to be delivered for slaughter, processing, or consumption.
  - (5) The fish are dead, recreationally caught fish that are being transported solely for the purpose of human consumption.
- (c) It is unlawful to possess and use VHS-susceptible species of fish from the Lake Erie watershed as bait in other watersheds of this Commonwealth except when the fish are from a group of fish certified as having tested negative for VHS or are from an artificial propagation facility certified as having tested negative for VHS in accordance with the testing protocols adopted by the Department and approved by the Commission.
- (d) It is unlawful to introduce VHS-susceptible species of fish from the Lake Erie watershed into other watersheds of this Commonwealth except when the fish are from a group of fish certified as having tested negative for VHS or are from an artificial propagation facility certified as having tested negative for VHS in accordance with the testing protocols adopted by the Department and approved by the Commission.

- (e) It is unlawful to sell VHS-susceptible species of fish from the Lake Erie watershed in other watersheds of this Commonwealth unless the following conditions are met:
- (1) The sale meets the requirements of 30 Pa.C.S. §2507 (relating to sale of certain fish, reptiles and amphibians prohibited).
  - (2) The fish are from a group of fish certified as having tested negative for VHS or are from an artificial propagation facility certified as having tested negative for VHS in accordance with the testing protocols adopted by the Department and approved by the Commission. Persons selling these fish shall have in their possession, and present upon the request of an officer authorized to enforce the code, either a copy of the fish health certification reports for all VHS-susceptible fish kept at the place of sale or a copy of the fish health certification report for the artificial propagation facility if the fish are from a facility certified as having tested negative for VHS.

## **SUBCHAPTER B. SPORT FISHING AND ANGLING**

Sec.

- 69.11. Applicability of Fishing Regulations.
- 69.12. Seasons, Sizes, and Creel Limits – Lake Erie and Lake Erie Tributaries and Presque Isle Bay including peninsula waters.
- 69.12a. Special Regulations Applicable to Lake Erie Tributary Streams.
- 69.12b. Lake Erie walleye and yellow perch adaptive management for establishing daily limits.
- 69.13. [Reserved]
- 69.14. [Reserved]
- 69.15. [Reserved]
- 69.16. Nursery Waters.
- 69.17. Sale of Fish.
- 69.18. [Reserved]
- 69.19. Permit for the use of cast nets, throw nets or dip nets by sport anglers.

### **§69.11. Applicability of Fishing Regulations. – 2102(b)**

Except as otherwise provided in this subchapter, this subpart applies to fish and sport fishing in Lake Erie, Lake Erie tributaries and Presque Isle Bay, including peninsula waters.

### **§69.12. Seasons, Sizes, and Creel Limits – Lake Erie, Lake Erie Tributaries and Presque Isle Bay including peninsula waters. – 2102(b)**

- (a) It is unlawful to take, catch, kill, or possess fish except during the seasons specified in this section. It is not a violation of this section if a fish caught out of season from water where fishing for other species is lawful is immediately returned unharmed to the waters from which it was taken.
- (b) It is unlawful to take, catch, kill, or possess fish of less than the minimum size specified in this section. It is not a violation of this section if an undersized fish taken from waters where fishing is otherwise lawful is immediately returned unharmed to the waters from which it was taken.
- (c) It is unlawful to take, catch, or kill more than 1 day's limit of any species of fish as specified in the following chart during 1 calendar day. It is unlawful to

possess more than 1 day's limit of any species of fish as specified in the following chart except under the following circumstances:

- (1) A person may possess any number of lawfully caught fish at the person's residence.
- (2) A person who is engaged in a fishing trip away from home for 2 or more consecutive calendar days may, while transporting fish from the place where caught to his residence, possess a number of fish equal to no more than two times the daily creel limit for that species of fish. In prosecution for violation of this section, it shall be a rebuttable presumption that a person transporting fish from a fishing site caught all of the fish during 1 calendar day.
- (3) A fish will not be considered to be caught in violation of this section if it is immediately returned unharmed to the waters from which it was taken.
- (4) A fish caught that is not to be counted in the creel limit shall be immediately released unharmed into the water from which taken. A fish that is injured or is bleeding as a result of being caught will not be considered unharmed and will be considered as part of a daily creel or possession limits. Except as otherwise provided in §53.24. or §63.40. (relating to tournament and fishing derby permits; and fishing tournaments and fishing derbies), a fish placed on a stringer, or confined by any type of container, structure or device, or not returned immediately to the water, will be considered as part of the daily creel or possession limits. Fish returned to the water shall be handled carefully and be returned unharmed to the water from which taken.
- (5) Fish may be given to another person, but the fish shall be counted in the donor's creel limit and neither the donor nor the recipient may kill or possess (while in the act of fishing) more than the limit allowed.
- (d) It is unlawful to fish in or along any Lake Erie tributary stream from 12:01 a.m. on the Friday before the first Saturday after April 11 until 8:00 a.m. on the first Saturday after April 11.
- (e) It is unlawful to possess trout or salmon in or along any Lake Erie tributary stream from 12:01 a.m. on the Friday before the first Saturday after April 11 until 8:00 a.m. on the first Saturday after April 11.
- (f) Except as otherwise provided in subsections (d) and (e), and this subpart, the following seasons, sizes and creel limits apply to Lake Erie, Lake Erie tributaries, and Presque Isle Bay, including peninsula waters:

SPECIES	SEASONS	MINIMUM SIZE	DAILY LIMIT
MUSKELLUNGE and MUSKELLUNGE HYBRIDS	Inland seasons apply. See § 61.1 (relating to Commonwealth inland waters).	40 inches	1
PIKE Northern	Inland seasons apply. See § 61.1 (relating to Commonwealth inland waters).	24 inches	2
WALLEYE	January 1 to March 14 and May 1 to December 31.	15 inches	Established annually by April 15**



SPECIES	SEASONS	MINIMUM SIZE	DAILY LIMIT
BASS Largemouth Smallmouth	January 1 to first Saturday after April 11 and first Saturday after June 11 until December 31.	15 inches	4 (combined species)
	First Saturday after April 11 until first Saturday after June 11.*	20 inches	1
TROUT and SALMON	8 a.m. first Saturday after April 11 until midnight Labor Day.	9 inches	5 (combined species only 2 of which may be lake trout).
	12:01 a.m. the day after Labor Day until 12:01 a.m. on the Friday before the first Saturday after April 11.	15 inches	3 (combined species only 2 of which may be lake trout).
STURGEON	No open season	ENDANGERED SPECIES	
YELLOW PERCH	From December 1 through April 30	7 inches	Established annually by April 15**
	From May 1 through November 30	None	Established annually by April 15**
SUNFISH, CRAPPIES, CATFISH, ROCK BASS, SUCKERS, EELS, CARP, WHITE BASS	Open year-round	None	50 (combined species)
BURBOT (when taken by hook and line)	Open year-round	None	5
BURBOT (when taken by scuba divers by use of non- mechanical spears or gigs at a depth of at least 60 feet)	June 1 to September 30	None	5
SMELT (when taken by hook and line)	Open year-round	None	None
AMERICAN EEL	Open year-round	9 inches	25
BAIT FISH FISH BAIT, except American ccl, mussels/clams and crayfish	Open year-round	None	50 (combined species)
MUSSELS/CLAMS	Closed year-round		0

SPECIES	SEASONS	MINIMUM SIZE	DAILY LIMIT
CRAYFISH (ALL SPECIES)	Open year-round		50. The head must be immediately removed behind the eyes upon capture unless used as bait in the water from which taken.
ALL OTHER SPECIES	Inland Regulations apply. (See §61.1.)		

*\* It is unlawful to conduct or participate in a fishing tournament (as defined in §63.40 (relating to fishing tournaments and fishing derbies)) for bass on Lake Erie, Lake Erie tributaries or Presque Isle Bay during the period from the first Saturday after April 11 until the first Saturday after June 11.*

*\*\* See §69.12b (relating to Lake Erie walleye and yellow perch adaptive management for establishing daily limit). After the Executive Director establishes the daily limit for the year, the information will be posted on the agency webpage and will be available from any Commission office.*

**§69.12a. Special Regulations Applicable to Lake Erie Tributary Streams. – 2102 (b)**

- (a) The following Lake Erie tributary stream are designated as Nursery Waters – Trout Run and its tributaries; Godfrey Run; Orchard Beach Run; and Crooked Creek (where posted). It is unlawful to fish, wade, or possess fishing equipment while in or along Lake Erie tributary streams designated as Nursery Waters.
- (b) Archery fishing or spear fishing is prohibited in or along Lake Erie tributary streams.
- (c) From 12:01 a.m. on the day after Labor Day, until the first Saturday after April 11 of the following year, all Lake Erie tributary streams are closed to fishing from 10 p.m. until 5 a.m. on the following day except for Walnut Creek north of Manchester Road Bridge and Elk Creek north of Route 5.
- (d) It is unlawful to fish from 10 p.m. until 5 a.m. of the following day within 50 yards of the mouth of both Trout Run and Godfrey Run while fishing the Lake Erie shoreline.

**§69.12b. Lake Erie walleye and yellow perch adaptive management for establishing daily limits. – 2102 (b)**

The Executive Director or designee will monitor the walleye and yellow perch populations in Lake Erie taking into account commercial and recreational harvest. Based on that information, the Executive Director will establish daily limits for walleye and yellow perch that are necessary and appropriate for the better protection and management of the fishery. The Executive Director will establish the daily limits for walleye and yellow perch each year and will announce them on or before April 15. In any given year, the Executive Director may revise the daily limit for walleye or yellow perch if he determines that conditions so warrant. The daily limits will remain in effect until the Executive Director establishes new daily limits. Anglers are

responsible for obtaining the current daily limits for walleye and yellow perch on Lake Erie including Presque Isle Bay prior to fishing those waters.

**§69.13. [Reserved]**

**§69.14. [Reserved]**

**§69.15. [Reserved]**

**§69.16. Nursery Waters. – 2106(a)**

The Executive Director, with the approval of the Commission, may designate nursery waters or exhibition areas on Lake Erie and its tributaries to which the penalties of Section 2106 of the Code (relating to fishing in hatchery or nursery waters) shall apply. The designation of Lake Erie or tributary waters as nursery waters or exhibition areas shall be effective upon posting of the waters after publication of a notice of such designation in the *Pennsylvania Bulletin*.

**§69.17. Sale of Fish. – 2903**

- (a) It is unlawful for any person other than the holder of a Lake Erie commercial fishing license issued under section 2903 of the Code (relating to boat and net licenses for boundary lakes), or the agents and employes of such licensee to take, catch, or kill any fish from the Pennsylvania waters of Lake Erie or its tributaries for the purpose of selling such fish or offering them for sale.
- (b) It is unlawful for any person, other than the holder of a Lake Erie commercial fishing license issued under section 2903 of the Code (relating to boat and net licenses for boundary lakes), or the agents and employes of such licensee to sell or offer for sale any fish that was taken from, caught, or killed from the Pennsylvania waters of Lake Erie or its tributaries.
- (c) It is unlawful for any person to knowingly purchase fish taken, caught, or killed from the Pennsylvania waters of Lake Erie and its tributaries except from the holder of a commercial license issued under section 2903 of the Code (relating to boat and net licenses for boundary lakes), or the agent or employe of such licensee.
- (d) In prosecutions for violations of this section, it will be presumed that any species of fish that lives or occurs within the Pennsylvania waters of Lake Erie or its tributaries which fish is sold, offered for sale, or purchased in this Commonwealth was taken, caught, or killed from the Pennsylvania waters of Lake Erie or its tributaries. A person accused of a violation of this section may rebut the presumption that fish were taken, caught, or killed from the Pennsylvania waters of Lake Erie or its tributaries by proving that he lawfully obtained the fish from a source other than the Pennsylvania waters of Lake Erie or its tributaries.

**§69.18 [Reserved]**

**§69.19 Permit for the use of cast nets, throw nets or dip nets by sport anglers. 2102(a)**

- (a) The Executive Director or designee may issue permits for the use of cast nets, throw nets or dip nets for the taking of emerald shiners or spottail shiners from Lake Erie including Presque Isle Bay.

- (b) In addition to other permit conditions that the Executive Director may require, the cast nets or throw nets may be no greater than 10 feet in radius (20 feet in diameter) and dip nets may be no greater than 10 feet in diameter.
- (c) Notwithstanding the provisions of §69.12 (relating to seasons, sizes and creel limits – Lake Erie, Lake Erie tributaries and Presque Isle Bay including peninsula waters), holders of a permit issued under this section may take, catch, kill or possess a daily limit of 200 emerald shiners and spottail shiners (combined species).
- (d) A person may apply for a permit for the use of cast nets, throw nets or dip nets by completing the form prescribed by the Commission. The applicant shall submit the completed form to the Commission along with the fee specified in section 2902 of the code (relating to net permits).
- (e) It is unlawful to use cast nets, throw nets or dip nets for the taking of emerald shiners or spottail shiners or to take, catch, kill or possess more than the daily creel limit of emerald shiners or spottail shiners as set forth in §69.12 without the required permit. A permit for the use of cast nets, throw nets or dip nets shall be carried so that it can be presented to an officer authorized to enforce the code. The permit holder is the only person authorized to use the cast net, throw net or dip net.
- (f) It is unlawful to use emerald shiners or spottail shiners taken under a permit for the use of cast nets, throw nets or dip nets as bait in any water other than Lake Erie and Lake Erie tributaries including Presque Isle Bay.
- (g) It is unlawful to sell, offer for sale, trade or barter live, dead or preserved emerald shiners or spottail shiners taken under a permit for the use of cast nets, throw nets or dip nets.
- (h) It is unlawful to transport or export live, dead or preserved emerald shiners or spottail shiners taken under a permit for the use of cast nets, throw nets or dip nets out of the Lake Erie watershed.
- (i) The holder of a permit for the use of cast nets, throw nets or dip nets may possess an unlimited number of preserved emerald shiners or spottail shiners at his residence provided the residence is located within the Lake Erie watershed.
- (j) It is unlawful for a holder of a permit under this section to use a cast net, throw net or dip net within 100 yards of a holder of a commercial seine license.
- (k) It is unlawful for a holder of a permit under this section to use a cast net, throw net or dip net within an area 300 feet from the mouth of any stream or within the confines of a tributary stream to Lake Erie.
- (l) It is unlawful for a holder of a permit under this section to use a cast net, throw net or dip net to interfere with sport anglers or boaters.

## SUBCHAPTER C. COMMERCIAL FISHING LICENSES

Sec.

- 69.21. Limitations on Numbers and Types of Commercial Licenses.
- 69.22. Applications.
- 69.23. Responsibilities of Licensees.
- 69.24. Limitations on Gear.
- 69.25. Transfer of Licenses.
- 69.26. Reports.
- 69.27. Expiration of License.

69.28. Commercial Fishing Without License.

69.29. [Reserved]

**§69.21. Limitations on Numbers and Types of Commercial Licenses.**

The number and types of commercial fishing licenses for fishing in Lake Erie shall be limited as follows:

- (1) Trap Nets: Up to three applicants may be licensed to fish up to six trap nets each. Each trap net requires a separate license.
- (2) Seines: Forty license. An applicant may be issued up to three seine licenses in a year. Each seine requires a separate license.

**§69.22. Applications.**

- (a) *Renewals.* – Licensees applying for renewal of a Lake Erie commercial fishing license shall submit their application on forms provided by the Commission by no later than March 1 of the year for which the license is sought. The applicant shall fully complete the application and provide requested information.
- (b) *Nonrenewals.* – Applicants for new licenses shall submit their applications on forms provided by the Commission by no later than March 15 of the year for which the license is sought. Applicants shall fully and accurately complete the application and provide requested information. No new licenses shall be issued until on or after April 1. If there are more applicants for new licenses than the number of licenses available after renewals have been issued, on or after April 1, the Executive Director will cause a random drawing to be conducted to determine which applicants for new licenses shall be issued their licenses.
- (c) *Residency.* – Applicants for resident commercial fishing licenses shall submit proof of their residence in this Commonwealth by showing that they paid personal income tax to the Commonwealth for the year prior to the year of application. Such proof shall include evidence that the applicant paid resident personal income tax to the Commonwealth and did not pay income tax as a resident of any other state or sovereignty. Applicants for resident commercial licenses shall also submit proof that boats used for fishing in Commonwealth waters of Lake Erie are either registered with the Commonwealth or documented in accordance with Federal law. To qualify for a resident license, both the applicant and the principal operators of the gear subject to licensing shall prove to the satisfaction of the Commission that they are bona fide residents of this Commonwealth. The applicant shall submit the names and addresses of all operators of the gear to be licensed, including proof of their residence in this Commonwealth.
- (d) *Ownership.* – The applicant for a Lake Erie commercial fishing license shall prove to the satisfaction of the Commission that the applicant is the owner or lessee of the gear to be licensed. No license shall be issued to an individual who is not the owner or lessee of the gear for which application is made for licensing.
- (e) *Age.* – Applicants for a commercial fishing license under this chapter shall submit proof that they are at least 18 years of age.
- (f) *Boats.* – Applicants for a commercial fishing license under this chapter shall provide a description of the boats to be used with licensed gear.

**§69.23. Responsibility of Licensees. – 2903**

- (a) Licensees shall personally sign and attest to all reports required by this chapter or by statute.
- (b) Trap net licensees are personally responsible for, and shall be physically present during, the day-to-day operation of gear licensed under this chapter and section 2903 of the Code (relating to boat and net licenses for boundary lakes). Day-to-day operation of gear includes setting, lifting, pulling, and clearing of nets and the sorting and the landing of catch. If exigent circumstances preclude the physical presence of the licensee during the day-to-day operation of gear, the licensee shall notify in advance the Northwest Region Law Enforcement Office.
- (c) Seine net licensees are personally responsible for the day-to-day operation of gear licensed under this chapter and section 2903 of the code. The seine net licensee, agent or employee of such licensee may conduct day-to-day operation of the licensed seine net. Day-to-day operation of gear includes setting, pulling and cleaning of the seine net and the sorting and landing of catch.
- (d) A licensee shall prove to the satisfaction of the Commission that the licensee is responsible to carry out the obligations of the license. The proof shall consist of the following:
  - (1) For the first year of application for a license, the applicant shall show proof of ownership or lease of gear authorized for license under this chapter and section 2903 of the code.
  - (2) For the second and all subsequent years, the trap net licensee shall show proof of at least 50 days of commercial fishing with the licensed gear in the Commonwealth waters of Lake Erie in the previous year.
  - (3) For the second and all subsequent years, the seine net licensee shall show proof of at least 10 days of commercial fishing with the licensed gear in the Commonwealth waters of Lake Erie including Presque Isle Bay in the previous year.
- (e) Licensees that fail to show proof of the required minimum of days of commercial fishing with the licensed gear shall not be eligible for renewal of the license for the next year.

**§69.24. Limitations on Gear. – 2903**

- (a) A licensed trap netter may not use or fish more than six trap nets, singularly or in a series or tandem set, at any one time.
- (b) No more than two licensed trap netters may fish from the same boat at any one time. If two licensed trap netters fish from the same boat at the same time, the trap netters shall clearly and distinctly separate their catch into containers or boxes marked with their respective license numbers.

**§69.25. Transfer of Licenses. – 2903**

Lake Erie commercial fishing licenses are the sole property of the Commonwealth. When a licensee of gear licensed under §63.21. (relating to limitations on numbers and types of licenses) ceases commercial fishing, that license for that gear may be transferred to a qualified applicant who acquires possession of the licensed gear. The transferee shall pay the full license fee for the year in which the license is transferred. Transfers of licenses are subject to approval of the Commission based upon conditions existing at the time of proposed transfer. Licensees shall not

represent to potential transferees that the transfer of a license is a right or is otherwise guaranteed by statute or regulation.

**§69.26. Reports. – 2903**

- (a) The holder of license described in this chapter or section 2903 of the Code, (relating to boat and net licenses for boundary lakes), shall file a monthly report with the Commission describing the licensee's daily catch for each grid fished during the period. When a trap net licensee holds multiple trap net licenses, the licensee shall only file one consolidated report each month for catches with all trap nets. Separate reports shall be filed for other types of licensed gear. Reports shall be made on forms furnished by the Commission and shall be received on or before the 5th day of the month following the month to which the report pertains. Reports shall be sent to the Fish and Boat Commission, Northwest Region Law Enforcement Office.
- (b) Whenever the Executive Director deems it necessary to provide for better protection and management of the Lake Erie fishery, the Executive Director may require that commercial licensees submit weekly or daily reports of their catches. A weekly report is due on or before noon of Wednesday of the week following the week to which the report pertains. A daily report is due by 4 p.m. of the day following the day to which it pertains. Licensees will be advised in writing of the requirement to submit weekly or daily reports. Weekly or daily reports shall be submitted to the same address as monthly reports.
- (c) It is unlawful for licensee to fail to report accurately and in a timely manner matters required by reports of daily catches. It is unlawful to fail to file a report for a specified period of time even if the licensee conducts no fishing activity during the time period.
- (d) If a report required by this section is not received by the Commission by the date when it is due, the Executive Director or designee will issue an order directing the licensee to suspend fishing operations until the required report is submitted. It is unlawful for licensee to fish in violation of an order from the Executive Director or a designee to suspend operation for failure to submit a report. The Executive Director or a designee may extend the deadline for receipt of a report of not more than five days for a monthly report, three days for a weekly report, and one day for daily report – upon written application of the licensee showing good cause for the delay. This subsection does not limit prosecution for failure to submit timely and accurate reports or to limit the Commission from taking appropriate action in accordance with Chapter 51, Subchapter C (relating to suspension, denial, or revocation of licenses, permits, registrations, or privileges) when a licensee is convicted of a violation of statute or regulations.
- (e) Information contained in reports submitted under this section may be used for governmental purposes by the Commission and other agencies. Information contained in the reports will not be released to the public without consent of the licensee except as may be required in compliance with actions and prosecutions for violation of reporting requirements or as otherwise required by law.
- (f) At least one copy of the monthly report shall be kept on the boat and be available for inspection and review by an officer authorized to enforce the code or this part. This report form shall be updated by the captain or principal

operator on a daily basis. Information entered on this report shall be complete, up-to-date and accurately reflect daily catches for the month.

- (g) The holder of a license described in this chapter or section 2903 of the code shall estimate the weight of the daily catch before landing and document this information on forms provided by the Commission.

**§69.27. Expiration of License.**

A commercial license issued under this chapter or section 2903 of the Code (relating to boat and net license for boundary lakes) shall expire on December 31 of the year for which it was issued.

**§69.28. Commercial Fishing Without License. – 2903**

It is unlawful for any person to fish commercially or with any device subject to license under section 2903 of the Code in the Pennsylvania waters of Lake Erie except pursuant to a commercial license issued under this chapter and section 2903 of the Code (relating to boat and net licenses for boundary lakes), and in compliance with all requirements, statutes, regulations, and the terms and conditions set forth in the license.

**§69.29. [Reserved]**

**SUBCHAPTER D.  
COMMERCIAL FISHING, SEASONS, AND NETS**

Sec.

- 69.31. Seasons.
- 69.32. [Reserved]
- 69.33. Use of Commercial Trap Nets.
- 69.34. [Reserved]
- 69.35. Use of Commercial Seines.
- 69.36. [Reserved]
- 69.37. Prohibited Acts.
- 69.38. Clearing of Nets.
- 69.39. Landing of Catch.

**§69.31. Seasons. – 2903; 2902**

- (a) Commercial fishing in the Pennsylvania waters of Lake Erie is permitted throughout the year. After December 31 and before June 1, commercial fishing may be limited by the Executive Director to fishing days as he deems necessary and appropriate to provide for the better protection and management of fish. It is unlawful to fish commercially or with a device subject to licensing under this chapter and section 2903 of the Code (relating to boat and net licenses for boundary lakes) in the Pennsylvania waters of Lake Erie – including setting and lifting of nets or other activities – on days when the Executive Director restricts such fishing after December and before June 1.
- (b) The commercial fishing season for walleye is January 1 to March 14 and 12:01 a.m. the first Saturday in May to December 31. This season will close on the date established by the Executive Director as marking the probable attainment of the total allowable catch for walleye for that year. The total allowable catch for walleye for any year will be determined by the Executive Director and announced annually on or before April 15. After the announcement, the



Executive Director may, from time to time, revise the total allowable catch for that year if he determines that conditions so warrant. The Executive Director or a designee will monitor monthly, weekly, and daily reports of catch of walleye and will declare the season to be closed on a date the Director determines will probably mark attainment of the total allowable catch. It is unlawful for a person fishing under a commercial fishing license or with a device subject to licensing under section 2902 of the Code (relating to net permits) to take, catch, or attempt to catch walleye except during the walleye season established under this subsection. Walleye accidentally caught out of season shall be immediately returned to the waters from which it was taken regardless of its condition and reported within 2 business days to the Commission at the address where commercial catch reports are filed.

- (c) The commercial fishing season for yellow perch is January 1 until the date established by the Executive Director as marking the probable attainment of the total allowable catch for yellow perch for that year. The total allowable catch for yellow perch for any year will be determined by the Executive Director and announced on or before April 15. After the announcement, the Executive Director may, from time to time, revise the total allowable catch for that year if he determines that conditions so warrant. The Executive Director or his designee will monitor the monthly, weekly, and daily reports of catch of yellow perch and will declare the season to be closed on the date the Director determines will probably mark attainment of the total allowable catch. It is unlawful for any person fishing under a commercial fishing license or with a device subject to licensing under section 2902 of the Code (relating to net permits) to take, catch, or attempt to catch any yellow perch except during the yellow perch season established under this subsection. Yellow perch accidentally caught out of season shall be immediately returned to the waters from which it was taken regardless of its condition and reported within 2 business days to the Commission at the address where commercial catch reports are filed.

**§69.32. [Reserved]**

**§69.33. Use of Commercial Trap Nets. – 2903**

- (a) *Size.* – Trap nets, cribs, and associated leads shall be constructed of twine not lighter than number 12 thread-cord. A trap net lead or lifting crib with a mesh in violation of this section, whether being fished or held in possession, shall be subject to confiscation by the Commission.
- (b) *Species.* – A commercial trap net licensee shall not possess or sell a fish except in compliance with the following size limits and seasons. The following size limits apply to commercial trap net licensees except that 5% of each licensee's daily catch by number per species may be undersized fish that may be lawfully sold.

SPECIES	SIZE LIMIT	SEASONS
Yellow Perch ( <i>Perca flavescens</i> )	None	No closed season until total allowable catch is taken. See §69.31 (relating to seasons).
Walleye ( <i>Stizostedion vitreum</i> )	15 inches	January 1 to March 14 and May 1 to December 31. This season will close when the total allowable catch for walleye is taken. See §69.31 (relating to seasons).
White fish ( <i>Coregonus spp.</i> )	17 inches	No closed season.
White perch ( <i>Morone americana</i> )	No size limit	No closed season.
Cisco ( <i>Coregonus spp. except C. artedii</i> )	No size limit	No closed season.
White bass ( <i>Morone chrysops</i> )	No size limit	No closed season.
Burbot ( <i>Lota lota</i> )	No size limit	No closed season.
Sheepshead ( <i>Aplodinotus grunniens</i> )	No size limit	No closed season.
Gizzard shad ( <i>Dorosma cepedianum</i> )	No size limit	No closed season.
Goldfish ( <i>Carassius auratus</i> )	No size limit	No closed season.
Lake whitefish ( <i>Coregonus clupeaformis</i> )	No size limit	No closed season.
Brown bullhead ( <i>Ictalurus nebulosus</i> )	No size limit	No closed season.
Yellow bullhead ( <i>Ictalurus natalis</i> )	No size limit	No closed season.
Rainbow smelt ( <i>Osmerus mordax</i> )	No size limit	No closed season.
Channel catfish ( <i>Ictalurus punctatus</i> )	No size limit	No closed season.
Suckers ( <i>Carpides sp., Catostomus sp., Ictiobus sp. And Moxmostoma sp.</i> )	No size limit	No closed season.
Carp ( <i>Cyprinus carpio</i> )	No size limit	No closed season.

- (c) *Buoys/tags.* – Marker buoys shall be attached to the beginning of each lead and to the back of the crib. A staff extending 8 feet above the water with a minimum size flag of 18 inches by 18 inches secured near the top shall be attached to the anchor for the beginning of the lead and a staff extending 8 feet above the water with 2 minimum size flags of 18 inches by 18 inches (double flags) shall be attached to the anchor for the crib. The licensee shall affix a metal, numbered tag provided by the Commission to each of the required staffs

showing the name and address of the owner or the lessee. Licensees shall report a seal that is lost, misplaced, or stolen orally within 24 hours of discovery and in writing to the Commission at Northwest Law Enforcement Region within 2 business days. Improperly marked or tagged nets shall be subject to confiscation by the Commission. Officers authorized to enforce the code and this part may mark trap nets for the purpose of determining the number of trap nets being used by a particular licensee.

- (d) *Limitations on use.* – From January 1 through June 15, no part of a trap net may be set within 0.5 miles of the Lake Erie shoreline, except between longitudes 80°00” and 80°10” where no part of a trap net may be set within 1.5 miles of the Lake Erie shoreline. From June 16 through December 31, no part of a trap net may be set within 1.5 miles of the Lake Erie shoreline.
- (e) *Restricted waters.* The use of trap nets to harvest yellow perch from Lake Erie shall be prohibited from an area bound on the west by the 80°00 longitudinal line and on the east at the Commonwealth/New York border (79°45’43”) and on the south by the Lake Erie shoreline and on the north by the international border between the Commonwealth and Ontario, Canada.
- (f) *Time.* – Trap nets may be fished 24 hours a day, but it is unlawful to set or lift them during the period from 30 minutes after sunset to 30 minutes before sunrise. Trap nets may be set or fished, or both, from March 1 to November 30.
- (g) *Description of Trap Net.* –
  - (1) In the most general sense, a trap net is a compartmentalized trap, consisting of a lead, heart, tunnel, and crib with wings and funnels. Fish are entrapped in the crib by swimming along a lead which directs the animal progressively through the heart, tunnel, and into the crib. The netting and webbing which make up the crib shall be a single sheet external panel, subject to mesh size regulation to allow small, young fish a means of escape.
  - (2) A trap net fishing device is designed to catch fish by impoundment. Fish caught by impoundment remain alive and swimming for an extended period while confined within the trap net crib. The elements of netting, webbing, and twine (thread) size (diameter) used in the construction of a trap net shall be of design and dimension that will discourage, prohibit, and preclude the enmeshing and entanglement of fish in the netting of any part of the trap net device. The netting of the crib shall be constructed as a single panel or sheeting of webbing. Lawful trap nets shall not have liners or covers which would make the external crib webbing two (2) or more sheets in thickness.
  - (3) As used in this chapter, the term “trap net” includes hoop nets and fyke nets.
- (h) *Setting or tending trap nets.* A boat engaged in the setting or tending of trap nets shall comply with Navigation Rule 26 (United States Coast Guard) from the time the boat leaves the dock until it arrives back at the dock.

#### **§69.34. [Reserved]**

#### **§69.35. Use of Commercial Seines. – 2903**

- (a) *Species.* – It is unlawful to use a seine for commercial fishing in Lake Erie except for the taking of emerald shiners, spottail shiners, gizzard shad and

alewife. There shall be no minimum length or daily limit for those legal species captured by means of seines.

- (b) *Taking shiners, gizzard shad and alewife.* – It is unlawful to use a seine for the purpose for the taking of emerald shiners, spot tail shiners, gizzard shad and alewife within an area 300 feet from the mouth of any stream or within the confines of a tributary stream to Lake Erie.
- (c) *Lake Erie proper.* – Shore seining and seining from docks and boats with no restrictions on the size of seine used is permitted for legal species designated in subsection (a).
- (d) *Identification of seine.* – Each seine used shall be licensed separately and shall carry the identifying plastic tag furnished with the license.
- (e) *Sale.* Emerald shiners, spottail shiners, gizzard shad or alewife caught by the holder of a seine license issued under this chapter may be sold either alive, dead or preserved by the holder of the license in the Lake Erie watershed only. It is unlawful to sell such fish in other watersheds of this Commonwealth except in accordance with §69.3 (e) (relating to transportation, introduction and sale of VHS-susceptible species of fish out of the Lake Erie watershed).
- (f) *Interference with sport anglers or boaters.* It is unlawful for a holder of a seine license issued under this chapter to interfere with sport anglers or boaters.
- (g) *Interference with other holders of commercial seine license.* It is unlawful for the holder of a commercial seine license to use a seine within 100 yards of another holder of a commercial seine license.

#### **§69.36. [Reserved]**

#### **§69.37. Prohibited Acts. – 2903**

- (a) It is unlawful for any person fishing pursuant to a commercial fishing license, for commercial purposes or with devices subject to licensing under this Chapter and 30 Pa.C.S. §2903 (relating to boat and net licenses for boundary lakes) to attempt to catch any species of salmon, trout – including lake trout, sauger, largemouth bass, smallmouth bass, muskellunge, northern pike, and longjawed cisco. Any such fish that is accidentally caught shall be returned immediately to the waters from which it was taken regardless of its condition and reported to the Fish and Boat Commission.
- (b) It is unlawful for a person other than the holder of a commercial fishing license, and the agents and employees of such holder or an officer authorized to enforce the code or this part to lift, clear, or disturb a commercial net or net-marking buoy.
- (c) It is unlawful while fishing under a commercial license or otherwise fishing with any device subject to commercial licensing to manipulate, alter, or otherwise use a commercial fishing device in a way as to reduce the effective mesh size of the net being fished.
- (d) It is unlawful to fish by hook and line from a boat engaged in commercial fishing under this chapter.

#### **§69.38. Clearing of Nets. – 2903**

All nets fished pursuant to a commercial fishing license or subject to licensing under this chapter and section 2903 of the Code (relating to boat and net licenses for boundary lakes), shall be lifted and cleared of catch on such schedule as the Executive Director may establish to provide for the better protection and management

of fish, except under circumstances where the Executive Director or his designee, upon a showing of good cause by the licensee, authorizes the licensee to lift and clear his nets on an alternate schedule.

**§69.39. Landing of Catch. – 2903**

- (a) All fish caught under a Commonwealth commercial fishing license shall be landed in this Commonwealth. Each licensee shall notify the Commission of the location and address where the licensee proposes to land fish. It is unlawful to land fish caught under a Commonwealth commercial fishing license for fishing the Commonwealth waters of Lake Erie at any location outside this Commonwealth.
- (b) Fish caught under a Commonwealth commercial fishing license shall be landed in this Commonwealth not later than 2 hours after sunset the same day as the net is cleared.
- (c) Fish caught under a Commonwealth commercial fishing license may not be off-loaded onto a boat other than a boat on which they were caught.

**SUBCHAPTER E.  
TAGGED FISH CONTESTS IN BOUNDARY LAKES**

Sec.

- 69.41. Definitions.
- 69.42. Policy.
- 69.43. Applications for Permits.
- 69.44. Review of Permit Applications.

**§69.41. Definitions.**

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

*Boundary lake.* – Lake Erie, Pymatuning Reservoir, Yougiogheny Reservoir, Allegheny River (Kinzua) Reservoir, and the portions of other natural lakes or impoundments that lie between this Commonwealth and another state or nation over which the Commonwealth exercises jurisdiction.

*Tagged-fish contests.* – An event where a person who has paid a fee to enter the contest wins a prize for catching a specially tagged, marked, or branded fish.

**§69.42. Policy. – 2907.1**

- (a) It is unlawful for a person to conduct a tagged-fish contest on Commonwealth waters unless the person has first procured a permit issued by the Commission under section 2907.1 of the code (relating to tagged fish contests on boundary lakes) and this subchapter.
- (b) As required by section 2907.1 of the code, the Commission will issue permits for tagged-fish contests on boundary lakes where the other state which bounds the lake permits the contests under the procedures in this subchapter unless the Commission finds that the proposed contest threatens the fisheries resources of the Pennsylvania portion of the boundary lake where the contest is to be conducted. Before issuing a permit, the Commission staff will make two findings as follows:
  - (1) Whether the other state which bounds the lake permits the contests.
  - (2) Whether the proposed contest threatens the fisheries resources of the Commonwealth portion of the boundary lake where the contest is to be conducted.

- (c) The issuance of a permit under section 2907.1 of the code and this subchapter does not constitute a Commission endorsement of the permitted tagged-fish contest nor does the issuance of a permit constitute a finding that the permitted contest is otherwise lawful or complies with other Commonwealth statutes or regulations. The sponsors of tagged-fish contests are solely responsible to ensure compliance with applicable statutes and regulations. It is unlawful for the sponsors of a tagged-fish contest permitted under section 2907.1 of the code and this subchapter to advertise, publicize, or otherwise indicate that the contest is endorsed by the Commission.
- (d) With the exception of the issuance of a permit as required by section 2907.1 of the code and routine law enforcement on the waters where a permitted contest is to be held, the Commission and its staff will not be involved in the administration, conduct, management, or control of a tagged-fish contest. The Commission will not:
  - (1) Provide fish for the contests from Commission hatcheries or from cooperative nurseries recognized by the Commission.
  - (2) Catch, tag, or mark fish for the contests.
  - (3) Enforce the rules of the tagged-fish contest.
  - (4) Receive or inspect tags or fish caught in a tagged-fish contest.
  - (5) Determine or assist in the determination of whether prizes should be awarded for fish caught in a tagged-fish contest.
  - (6) Award prizes.
  - (7) Perform other activities related to the administration of the contest.
- (e) Except as otherwise specifically provided in this subchapter, the review and disposition of applications for tagged-fish contest permits shall follow the procedures specified in §51.41.-51.46. (relating to permit procedures).

**§69.43. Applications for Permits.**

- (a) Applications for permits to conduct tagged-fish contests shall be submitted on forms approved by the Commission.
- (b) The permit application shall be accompanied by an original letter, signed by the head of the agency or a designee responsible for regulating fishing and boating in the state, province, or nation which bounds the boundary lake where the proposed contest is to be conducted indicating that the other state permits the proposed contest.
- (c) The application shall include information on the species of fish to be marked and tagged, the number and species of fish to be released, the anticipated number of anglers and boaters who may participate in the contest, the duration of the contests, the number of fish expected to be caught by participants in the contest, and a description of the applicant's assessment of the impacts that the tagged-fish contest will have on fisheries resources of Commonwealth waters where the contest is to be conducted.
- (d) To permit the Commission adequate time to review the fishery resource implication of a proposed tagged-fish contest on Commonwealth boundary lakes, the application for a proposed contest shall be received by the Commission at the address indicated in subsection (f) at least 90 days in advance of the date of the proposed contest. The 90-day time limit for filing permit applications for tagged-fish contests is an exception of §51.42. (relating to applications).

- (e) Permits issued under section 2907.1 of the code are deemed by the Commission to be permits for the protection and management of the particular species of fish targeted by the proposed tagged-fish contest. The application for a permit shall be accompanied by a permit fee of \$100.
- (f) Questions concerning permit applications may be referred to the Bureau of Law Enforcement at (717) 705-7861. Applications for permits are available from and shall be submitted to:

**Pennsylvania Fish and Boat Commission  
Bureau of Law Enforcement  
Post Office Box 67000  
Harrisburg, Pennsylvania 17106-7000**

**§69.44. Review of Permit Applications.**

- (a) The Bureau of Law Enforcement will review permit applications for completeness. Incomplete applications will be returned without action to the applicant.
- (b) When a permit application is deemed complete, the Bureau of Law Enforcement will publish a notice of the receipt of the application in the *Pennsylvania Bulletin*. The notice will provide the public with at least 15 days to offer comments, protests, interventions, or objections with respect to the application for the proposed tagged-fish contest. Permit applications, together with public comments or objections, will be reviewed, at a minimum, by the Bureau of Fisheries and the Bureau of Law Enforcement. The comments and recommendations of fisheries and enforcement personnel with responsibility for the site of the proposed contest will be solicited.
- (c) If the Director of the Bureau of Fisheries or a designee makes a recommended finding that the proposed contest is likely to result in substantial public interest or controversy, significant adverse impacts on fisheries resources or threats to the fisheries resources of Commonwealth waters of the boundary lake where the contest is to be conducted, the Director of the Bureau of Law Enforcement will:
  - (1) Notify the applicant.
  - (2) Publish a notice in the *Pennsylvania Bulletin* under §51.43.(c) (relating to staff review), which will provide at least 15 days notice of the day, time and place of a public hearing on the proposed permit and at least 15 days for the submission of written comments, protests, and interventions concerning the proposed permit.
- (d) After completion of the public hearing and consideration of the public comments, the Executive Director will issue or deny the permit based upon a finding of whether or not the proposed contest threatens the fisheries resources of Commonwealth waters of the boundary lake where the proposed contest is to be conducted. The applicant and a person aggrieved by the Executive Director's action may appeal as provided in §51.44.-51.46. (relating to appeals; procedures; and final agency action).
- (e) If the Director of the Bureau of Fisheries or a designee makes a recommended finding that none of the factors listed in subsection (c) applies to the proposed contest, the Director of the Bureau of Law Enforcement will issue the permit without further proceedings.

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**CHAPTER 71.**  
**INTRODUCTION OF FISH INTO COMMONWEALTH WATERS**

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Sec.

- 71.1. General.
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**§71.1. General. – 2102(c)**

The introduction of the grass carp or white amur into Commonwealth waters is prohibited, except that triploid grass carp may be introduced into Commonwealth waters as provided in §71.7. (relating to triploid grass carp). It is unlawful to propagate grass carp (diploid or triploid) in this Commonwealth.

**§71.2. Fish Species Approved for Artificial Propagation and Introduction.**

The Bureau of Fisheries will maintain a list of species by watershed for which the Department of Agriculture may issue registrations for artificial propagation and registrations for dealers of live aquatic animals. The Director of the Bureau of Fisheries may update or modify the list of authorized species by adding species to, or deleting species from, the list as necessary to provide for the protection and management of fish and fishing in this Commonwealth. The Commission will provide the list to the Department of Agriculture on or before January 31 each year and whenever the Commission updates or modifies the list. Copies of the list of authorized species are available upon request from the Pennsylvania Fish and Boat Commission, Bureau of Fisheries, 450 Robinson Lane, Bellefonte, Pennsylvania 16823.

**§71.3. Closed System Propagation. – 2102(c)**

- (a) *Closed (no discharge) system.* – A propagating system may be designated as a closed system only if all of following criteria are met:
  - (1) There will be 100% recycling water as normal operations.
  - (2) Closed systems will be housed indoors in a structure enclosed by solid walls, floor, and roof. For purposes of this subsection, a wall, floor, or roof will be considered “solid” if it is constructed and maintained to prevent unauthorized human or animal intrusions into the closed system facility and to prevent release or escape of aquatic organisms from the closed system.
  - (3) Water can be added to the system only for making up evaporative loss, cleaning and fish harvesting, or to reduce toxic ammonia/nitrates by diluting.
  - (4) The system does not discharge water into waters of this Commonwealth.
  - (5) No live fish or live fish eggs will be allowed to escape with water discharges. Accidental spillage of live fish or live fish eggs (including truck loading, and the like) will be contained within the facility in a manner that will prevent fish and fish eggs from escaping into the waters of this Commonwealth.



- (6) The system operator is registered with the Department of Agriculture (Department). The Department will notify the Commission when it receives an application to register a proposed closed system, and the Commission may, within 30 days of receipt of the notice, inspect the system to ensure that it is designed and constructed in a manner to prevent escapement of live fish or live fish eggs into the waters of this Commonwealth. Closed systems registered under this subsection shall, in addition to an initial inspection, be subject to inspection at any time to ensure compliance with the requirements of this section and the Commission may issue an order to suspend operations of any closed system when an inspection discloses that it is not in compliance.
- (7) The Commission will invite the Department's Aquaculture Advisory Committee or a subcommittee thereof to draft and periodically update construction guidelines for closed system propagators to help them ensure enclosed facilities prevent escape of aquatic organisms into the waters of this Commonwealth. These guidelines will assist registered propagators in the design, construction, and maintenance of closed systems and will assist the Commission in inspecting these systems.
- (b) *Systems with discharges rendered incapable of containing living organisms.* – A system whose discharge of water is rendered incapable of containing self-perpetuating living organisms shall be registered with the Department. The Department will notify the Commission when it receives an application to register a proposed system under this subsection, and the Commission may, within 30 days of receipt of the notice, inspect the system to ensure that it is designed and constructed so that its discharge is rendered incapable of containing live fish or live fish eggs. Systems registered under this subsection shall, in addition to an initial inspection, be subject to inspection at any time to ensure compliance with this section and the Commission may issue an order to suspend operations of any system when an inspection discloses that it is not in compliance. The registration of this system may include any species of fish with the approval of the Department.
- (c) *Escape of fish into waters of this Commonwealth.* – It is unlawful for an operator of any system registered under subsection (a) or (b) to allow fish to escape into the waters of this Commonwealth.
- (d) *Written plans for discharge.* – An operator of any system registered under subsection (a) or (b) shall develop, maintain, and make available for immediate inspection by the Commission and the Department upon request a written plan for containing or treating discharge in the event of a discharge system failure.
- (e) *Satisfaction in event of discharge.* – An operator of any system registered under subsection (a) or (b) shall notify both the Commission's Director of the Bureau of Fisheries and the Department's Aquaculture Coordinator immediately in the event of a discharge system failure that is likely to contain viable living organisms.

**§71.4. Stocking of Designated Waters. – 2102(a)**

It is unlawful to place fish in waters that have been designated by the Commission as catch and release, wilderness trout or wild trout management waters except with the express written consent of the Executive Director or his designee. This section does not prohibit a person from returning fish unharmed to the water from which they were caught or taken.

**§71.5. Improper Stocking of Commission Fish. – 2102(a)**

In stocking fish reared or salvaged by the Commission or a cooperative nursery recognized by the Commission, the following acts are prohibited:

- (1) Failure to stock fish in waters designated by Commission personnel.
- (2) Diversion of fish to be stocked to any waters not open or accessible to free public fishing.
- (3) Mishandling or misuse of fish being stocked in any manner so as to damage or destroy such fish.

**§71.6. Prohibited Acts. – 2102(c)**

- (a) Except as otherwise provided in §71.7. (relating to triploid grass carp), it is unlawful to introduce or import grass carp (white amur) into this Commonwealth. Except as otherwise provided in §71.7., it is unlawful to possess grass carp (white amur) in this Commonwealth.
- (b) It is unlawful to introduce tilapia, including blue tilapia and tilapia hybrids, into the waters of this Commonwealth.
- (c) As an exception to subsection (a), §71.1. and 73.1. (relating to general; and transportation) the Executive Director may authorize the Research Division of the Bureau of Fisheries to possess grass carp (white amur) and introduce them into waters within the confines of the Commonwealth hatchery system as part of a carefully controlled research effort, subject to conditions as the Executive Director may prescribe.
- (d) It is unlawful to possess the following live species in this Commonwealth. It is unlawful to introduce or import the following live species into the waters of this Commonwealth.
  - (1) Snakehead (all species).
  - (2) Black carp (*Mylopharyngodon piceus*).
  - (3) Bighead carp (*Hypophthalmichthys nobilis*).
  - (4) Silver carp (*Hypophthalmichthys molitrix*).
  - (5) Zebra mussel (*Dreissena polymorpha*).
  - (6) Quagga mussel (*Dreissena bugensis*).
  - (7) Round goby (*Neogobius melanostomus*).
  - (8) Tubenose goby (*Proterorhinus marmoratus*).
  - (9) European rudd (*Scardinius erythrophthalmus*).
  - (10) Crayfish (all species).
    - (i) Except when they are either:
      - (a) Possessed and used as bait on, in or about the water from which taken.
      - (b) Possessed or imported for testing and scientific purpose or restaurant consumption, adequate measures have been taken to prevent their escape and they are accompanied by documentation stating the point of origin and the destination to which they are to be delivered.
    - (ii) Except when used as bait as provided in this section, introduction of live crayfish (all species) into the waters of the Commonwealth is prohibited.
  - (11) Ruffe (*Gymnocephalus cernuus*).

**§71.7. Triploid Grass Carp. – 2102(c), 2904(a)**

- (a) *Policy.* – As a limited exception to the prohibition of grass carp (white amur)

in this Commonwealth, it is the policy of the Commission to permit triploid grass carp, certified as such by the United States Fish and Wildlife Service (USFWS) and procured from a producer participating in the USFWS certification program, to be introduced into Commonwealth waters and imported and transported into this Commonwealth in accordance with this section.

- (b) *Status.* – The triploid grass carp (white amur) (*Ctenophryngodon idella*) is not a game fish.
- (c) *Permit required.* –
  - (1) The Commission finds, under section 2904 of the code (relating to permits for protection and management of particular fish), that permits shall be required for possessing triploid grass carp (white amur) or introducing them into Commonwealth waters and for importing or transporting triploid grass carp into this Commonwealth to provide for proper protection and management of these fish and other fish in the waters of this Commonwealth. A pondowner, landowner, or other person who wishes to possess triploid grass carp and introduce them into a pond or waters located on property owned, leased, or otherwise controlled by the person shall, before placing triploid grass carp in the waters, obtain from the Commission a triploid grass carp possession/introduction permit for a fee of \$75. A person who wishes to import triploid grass carp into this Commonwealth shall, before doing so, obtain from the Commission a triploid grass carp importation/transportation permit for a fee of \$75. Permits shall be applied for on forms supplied by the Commission. Applications for permits may be obtained from: Triploid Grass Carp Manager, Bureau of Fisheries, 450 Robinson Lane, Bellefonte, PA 16823-9616. Permits will not be issued until after January 1, 1994.
  - (2) A person aggrieved by the Commission staff action on a permit application may appeal under chapter 51, Subchapter E (relating to permit procedures) and 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure).
- (d) *Dealers and importers.* – In addition to the triploid grass carp permit required by subsection (c), dealers and importers shall obtain and maintain all licenses, permits, and registrations required by the Department of Agriculture for the sale or transportation of fish.
- (e) *Restrictions on introduction of triploid grass carp.* –
  - (1) The Commission will not approve the stocking or release of triploid grass carp into a water body wholly or partially in this Commonwealth that is currently known to be inhabited by a species of animal or plant currently listed as status endangered, threatened, candidate, or other special concern status, by a state or Federal agency with jurisdiction for the species, without prior written approval for the stocking or release by the agencies which classified the species as endangered, threatened, candidate, or of a special concern.
  - (2) The Commission will not approve stocking or release of triploid grass carp into wetlands under Federal or state jurisdiction except in compliance with applicable Federal or state regulations including, when required, the written approval for the stocking or release by the involved agencies.

- (3) The Commission will not approve stocking or release of triploid grass carp into a body of water more than 5 acres in surface area until the applicant submits an environmental inspection report prepared by a biologist or fisheries or environmental scientist acceptable to the Commission. The environmental inspection report shall include a certification that the preparer has personally inspected the pond or body of water and that the stocking of triploid grass carp will have no adverse environmental impacts on the waters stocked or waters upstream or downstream of the waters. The report shall describe the measures taken by the applicant to prevent escape of the grass carp into waters upstream or downstream of the stocked waters. The environmental inspection report shall also include additional information as the Commission may require.
  - (4) The Commission may require an applicant for a permit to stock triploid grass carp in a pond or body of water of 5 or less acres in surface area to submit an environmental inspection report in the format described in paragraph (3) when the staff's review of the application indicates that further inspection or review of the proposed stocking is appropriate under the circumstances.
  - (5) The issuance of permits under this section will be subject to the public notice and comment provisions of Chapter 51, Subchapter E.
- (f) *Prohibited Acts.* –
- (1) It is unlawful to transport, import, possess, or introduce triploid grass carp in this Commonwealth unless the person possessing, transporting, importing, or introducing the grass carp obtains and maintains required permits. Permits shall be displayed upon request to an officer authorized to enforce the code or this part.
  - (2) It is unlawful to transport, import, possess, or introduce grass carp in this Commonwealth unless the person possessing, transporting, importing, or introducing the grass carp possesses a valid bill of sale or bill of origin from a producer participating in the USFWS triploid grass carp certification program.
  - (3) It is unlawful to transport, import, possess, or introduce grass carp in this Commonwealth unless the grass carp are certified by the USFWS to be triploid grass carp. The certification of triploid status shall be obtained from the producer at the time of purchase.
  - (4) It is unlawful to import, transport, possess, or introduce triploid grass carp into Commonwealth waters except in compliance with this section and conditions of the applicable permits.
  - (5) Persons, organizations, or companies are prohibited from giving, trading, or exchanging triploid grass carp except to persons holding valid triploid grass carp possession/introduction permits.
- (g) *Revocation or suspension of permits.* – Failure to abide by regulations, permits, and permit conditions pertinent to triploid grass carp possession, transportation, and introduction may result in suspension or revocation of the applicable permits in accordance with Chapter 51, Subchapter C (relating to suspension, denial, or revocation of licenses, permits, registrations, or privileges). Revocation or suspension shall be in addition to other applicable penalties provided by law or regulation.

**§71.8. Introduction of VHS-Susceptible Species of Fish. – 2102(c)**

- (a) For purposes of this section, the following terms shall have the following meanings:
- (1) Species of fish that are susceptible to viral hemorrhagic septicemia (VHS) are those species that the Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS) designates by order or the Commission defines by notice in the *Pennsylvania Bulletin*.
    - (i) The term “VHS-susceptible species” shall include fish that are dead or alive, preserved or unpreserved, and the parts thereof.
    - (ii) The term “VHS-susceptible species” does not include the eggs of these species.
  - (2) A VHS-affected or VHS-at risk state includes Illinois, Indiana, Michigan, Minnesota, New York, Ohio, and Wisconsin or any other state that APHIS later designates by order or the Commission later defines by notice in the *Pennsylvania Bulletin* as being VHS-affected or VHS-at risk.
  - (3) A VHS-affected or VHS-at risk region includes the Canadian provinces of Ontario and Quebec or any other region that APHIS later designates by order or the Commission later defines by notice in the *Pennsylvania Bulletin* as being VHS-affected or VHS-at risk.
- (b) It is unlawful to introduce VHS-susceptible species of fish from the portion of the Lake Erie watershed in this Commonwealth into other watersheds of this Commonwealth except in accordance with §69.3(d) (relating to transportation, introduction, and sale of VHS-susceptible species of fish out of the Lake Erie watershed).
- (c) It unlawful to introduce into the waters of this Commonwealth VHS-susceptible species of fish from an affected or at-risk state unless the fish are from a group of fish certified as having tested negative for VHS or are from an artificial propagation facility certified as having tested negative for VHS in accordance with the testing protocols adopted by the Pennsylvania Department of Agriculture and approved by the Commission.
- (d) It unlawful to introduce into the waters of this Commonwealth VHS-susceptible species of fish from an affected or at-risk region unless the fish meet the requirements of §73.3(d)(1) (relating to transportation and importation of VHS-susceptible species of fish).

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**CHAPTER 73.**

**TRANSPORTATION OF LIVE FISH INTO THE COMMONWEALTH**

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Sec.

73.1. Transportation.

73.2. [Reserved]

73.3. Transportation and Importation of VHS - Susceptible Species of Fish.

**§73.1. Transportation. – 2102(c)**

- (a) Species of fish may not be transported into this Commonwealth from another state, province, or country and liberated in a watershed of this Commonwealth without previous written permission from the Commission, nor may a species of fish be transferred from waters in this Commonwealth into another drainage

of this Commonwealth where this particular species is not always present without prior written consent from the Commission. Inspection for species composition or presence of disease, or both, will be required at the discretion of the Commission on all lots of fish transported into this Commonwealth.

- (b) Permission is not required for the importation of tropical fish unless the Commission considers them to be potentially dangerous to native fish species or to man. Permission is not required for the stocking of farm ponds or licensed fee fishing ponds which receive fish stocks from Commonwealth commercial fish hatcheries except for the following kinds of fish: goldfish, golden orfe, or fish species not native to this Commonwealth.
- (c) Except as provided in §71.7 (relating to triploid grass carp), transportation of the grass carp (white amur) in this Commonwealth is prohibited.
- (d) Transportation of the following live species in or through this Commonwealth is prohibited.
  - (1) Snakehead (all species).
  - (2) Black carp (*Mylopharyngodon piceus*).
  - (3) Bighead carp (*Hypophthalmichthys nobilis*).
  - (4) Silver carp (*Hypophthalmichthys molitrix*).
  - (5) Zebra mussel (*Dreissena polymorpha*).
  - (6) Quagga mussel (*Dreissena bugensis*).
  - (7) Round goby (*Neogobius melanostomus*).
  - (8) Tubenose goby (*Proterorhinus marmoratus*).
  - (9) European rudd (*Scardinius erythrophthalmus*).
  - (10) Crayfish (all species) except when they are either transported:
    - (i) As bait, in or about the water form which taken.
    - (ii) For testing and scientific purposes or restaurant consumption, adequate measures have been taken to prevent their escape and they are accompanied by documentation stating the point of origin and the destination to which they are to be delivered.
  - (11) Ruffe (*Gymnocephalus cernuus*).

**§73.2. [Reserved]**

**§73.3. Transportation and Importation of VHS-Susceptible Species of Fish.  
– 2102(c)**

- (a) *Definitions.* For purposes of this section, the following terms shall have the following meanings:
  - (1) Species of fish that are susceptible to viral hemorrhagic septicemia (VHS) are those species that the Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS) designates by order or the Commission defines by notice in the *Pennsylvania Bulletin*.
    - (i) The term “VHS-susceptible species” shall include fish that are dead or alive, preserved or unpreserved, and the parts thereof.
    - (ii) The term “VHS-susceptible species” does not include the eggs of these species.
  - (2) A VHS-affected or VHS-at risk state includes Illinois, Indiana, Michigan, Minnesota, New York, Ohio, and Wisconsin or any other state that APHIS later designates by order or the Commission later defines by notice in the *Pennsylvania Bulletin* as being VHS-affected or VHS-at risk.
  - (3) A VHS-affected or VHS-at risk region includes the Canadian provinces of

Ontario and Quebec or any other region that APHIS later designates by order or the Commission later defines by notice in the *Pennsylvania Bulletin* as being VHS-affected or VHS-at risk.

- (b) *IntraState transportation*. It is unlawful to transport or cause the transportation of VHS-susceptible species of fish out of the portion of the Lake Erie watershed in this Commonwealth into other watersheds of this Commonwealth except in accordance with §69.3(b) (relating to transportation, introduction, and sale of VHS-susceptible species of fish out of the Lake Erie watershed).
- (c) *InterState transportation*. It unlawful to transport or cause the transportation of VHS-susceptible species of fish into this Commonwealth from a VHS-affected or VHS-at risk state, except when one of the following conditions is met:
  - (1) The fish are from a group of fish certified as having tested negative for VHS or are from an artificial propagation facility certified as having tested negative for VHS in accordance with the testing protocols adopted by the Pennsylvania Department of Agriculture (Department) and approved by the Commission. Persons transporting these fish shall have in their possession, and present upon the request of an officer authorized to enforce the code, a copy of the fish health certification reports for all VHS-susceptible fish being transported or a copy of the fish health certification report for the artificial propagation facility if the fish are from a facility that has been certified as having tested negative for VHS.
  - (2) The fish are being transported through this Commonwealth and the shipping container (tank, trailer, holding vessel, or other container) remains biosecure in transit and the fish are accompanied in transit by documentation stating the point of origin of the fish and the location outside of this Commonwealth to which they are to be delivered.
  - (3) The fish are being transported to facilities located within the Commonwealth for testing and scientific purposes and the persons transporting the fish have taken adequate measures to prevent escape and to disinfect discharged water and equipment used in the transportation of the fish and the fish are accompanied in transit by documentation stating the point of origin of the fish and the destination to which they are to be delivered for testing or scientific purposes.
  - (4) The fish are being transported to a slaughter facility, processing plant, or restaurant within the Commonwealth and the fish are accompanied in transit by documentation stating the point of origin of the fish and the destination to which they are to be delivered for slaughter, processing, or consumption.
  - (5) The fish are dead, recreationally caught fish that are being transported solely for the purpose of human consumption.
- (d) *International movement*. It unlawful to import or cause the importation of VHS-susceptible species of fish into this Commonwealth from a VHS-affected or VHS-at risk region, except as follows: VHS-susceptible species of dead fish may be imported into the United States if the fish are recreationally caught and are for human consumption.

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**CHAPTER 75.**  
**ENDANGERED SPECIES**

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- Sec.
- 75.1. Endangered Species.
  - 75.2. Threatened Species.
  - 75.3. Candidate Species.
  - 75.4. Special Permits.
  - 75.5. Qualified surveyors for endangered and threatened species and their habitat.

**§75.1. Endangered Species. – 2305(b)**

- (a) *General.* – The species of fish, amphibians, and reptiles listed in subsections (b) and (d) are classified as endangered. The catching, taking, killing, possessing, importing to or exporting from this Commonwealth, selling, offering for sale or purchasing, of any individual of these species, alive or dead, or any part thereof, without a special permit from the Executive Director is prohibited.
- (b) *Fish.* – The following species are endangered:
  - (1) Northern brook lamprey, *Ichthyomyzon fossor*.
  - (2) Shortnose sturgeon, *Acipenser brevirostrum*.
  - (3) Lake sturgeon, *Acipenser fulvescens*.
  - (4) Atlantic sturgeon, *Acipenser oxyrinchus*.
  - (5) Spotted gar, *Lepisosteus oculatus*.
  - (6) Hickory shad, *Alosa mediocris*.
  - (7) Cisco, *Coregonus artedii*.
  - (8) Northern redbelly dace, *Phoxinus eos*.
  - (9) Gravel chub, *Erimystax x-punctatus*.
  - (10) Bridle shiner, *Notropis bifrenatus*.
  - (11) River shiner, *Notropis blennioides*.
  - (12) Ghost shiner, *Notropis burchanani*.
  - (13) Ironcolor shiner, *Notropis chalybaeus*.
  - (14) Blackchin shiner, *Notropis heterodon*.
  - (15) Redfin shiner, *Lythrurus umbratilis*.
  - (16) Longnose sucker, *Catostomus commersoni*.
  - (17) Bigmouth buffalo, *Ictiobus cyprinellus*.
  - (18) Black bullhead, *Ameriurus melas*.
  - (19) Mountain madtom, *Noturus eleutherus*.
  - (20) Tadpole madtom, *Noturus gyrinus*.
  - (21) Northern madtom, *Noturus stigmosus*.
  - (22) Burbot, *Lota lota* (inland populations only).
  - (23) Threespine stickleback, *Gasterosteus aculeatus*.
  - (24) Banded sunfish, *Enneacanthus obesus*.
  - (25) Warmouth, *Lepomis gulosus*.
  - (26) Longear sunfish, *Lepomis megalotis*.
  - (27) Iowa darter, *Etheostoma exile*.
  - (28) Eastern sand darter, *Etheostoma pullucida*.
- (c) *Reptiles and Amphibians.* – The following species are endangered:
  - (1) Bog Turtle, *Glyptemys muhlenbergii*.
  - (2) New Jersey Chorus Frog, *Pseudacris feriarum kalmi*.
  - (3) Southern Leopard Frog, *Lithobates sphenoccephalus utricularius*.
  - (4) Massasauga Rattlesnake, *Sistrurus catenatus*.



- (5) Kirtland's Snake, *Clonophis kirtlandii*.
- (6) Eastern Mud Salamander, *Pseudotriton m. montanus*.
- (7) Rough Green Snake, *Opheodrys aestivus*.
- (8) Northern Cricket Frog, *Acris crepitans*.
- (9) Blue-spotted Salamander, *Ambystoma laterale*.
- (10) Eastern Mud Turtle, *Kinosternon subrubrum subrubrum*.

(d) *Invertebrates*. The following species are endangered:

- (1) Northern riffleshell mussel, *Epioblasma torulosa rangiana*.
- (2) Clubshell mussel, *Pleurobema clava*.
- (3) Dwarf wedgemussel, *Alasmidonta heterodon*.
- (4) Eastern pearlshell mussel, *Margaritifera margaritifera*.
- (5) Rabbitsfoot mussel, *Quadrula cylindrical cylindrical*.
- (6) Snuffbox mussel, *Epioblasma triquetra*.
- (7) Salamander mussel, *Simpsonaias ambigua*.
- (8) Round hickorynut mussel, *Ohovaria Subrotunda*
- (9) Pistolgrip mussel, *Quadrula verrucosa*
- (10) Rayed bean mussel, *Villosa fabalis*

#### **§75.2. Threatened Species. – 2305(b)**

(a) *General*. – The species of fish, amphibians, and reptiles listed in subsections (b) and (d) are classified as threatened. The catching, taking, killing, possessing, importing to or exporting from this Commonwealth, selling, offering for sale or purchasing, of any individual of these species, alive or dead, or any part thereof, without a special permit from the Executive Director is prohibited.

(b) *Fish*. – The following species are threatened:

- (1) Mountain brook lamprey, *Ichthyomyzon greeleyi*.
- (2) Bigmouth shiner, *Notropis dorsalis*.
- (3) Southern redbelly dace, *Phoxinus erythrogaster*
- (4) Spotted sucker, *Minytrema melanops*.
- (5) Brindled madtom, *Noturus miurus*.
- (6) Chesapeake Logperch, *Percina bimaculata*

(c) *Amphibians and reptiles*. – The following species are threatened:

- (1) Green Salamander, *Aneides aeneus*.
- (2) Eastern Redbelly Turtle, *Pseudemys rubriventris*.
- (3) Eastern Spadefoot Toad, *Scaphiopus holbrookii*.

(d) *Invertebrates*. The following species are threatened:

- (1) Sheepnose mussel, *Plethobasus cyphyus*.

#### **§75.3. Candidate Species.**

(a) *General*. – The species listed in subsections (b) and (c) are considered candidate species which would achieve endangered or threatened status in the future. They are subject to seasons, size, creel – bag – and possession limits specified in this subpart. A person who catches these species is encouraged to release them immediately and unharmed to the waters or other area from which they were taken.

- (b) *Fishes.*
  - (1) Ohio lamprey, *Ichthyomyzon bdellium*.
  - (2) Least brook lamprey, *Lampetra aepyptera*.
  - (3) Bowfin, *Amia calva*.
  - (4) Central mudminnow, *Umbra limi*.
  - (5) Eastern mudminnow, *Umbra pygmaea*.
  - (6) Hornyhead chub, *Nocomis biguttatus*
  - (7) Brook stickleback, *Culaea inconstans*.
- (c) *Amphibians and reptiles.*
  - (1) Blandings Turtle, *Emys blandingii*.
  - (2) Broad-headed Skink, *Eumeces laticeps*.
  - (3) Timber Rattlesnake, *Crotalus horridus*.

#### **§75.4. Special Permits.**

The Executive Director, or a designee, may issue special permits under 30 Pa.C.S. §2305 (relating to threatened and endangered species) to take, catch, kill, or possess threatened or endangered species upon written application on forms provided by the Commission.

- (1) Special permits will be issued only upon a showing of unique or extraordinary circumstances justifying the permit and the applicant shows that the permitted action does one of the following:
  - (i) Has no demonstrable adverse impacts on the population of the species in this Commonwealth.
  - (ii) Is in the best interest of the protection, conservation, and management of the species.
  - (iii) Is necessary and appropriate in the interests of public health and safety or promotes essential research or public education and information.
- (3) Persons and institutions requesting special permits shall apply before taking, catching, killing, possessing, or acquiring the threatened or endangered species. Application forms and information are available from the National Diversity Section, Division of Environmental Services, 450 Robinson Lane, Bellefonte, Pennsylvania 16823-9616.

#### **§75.5. Qualified surveyors for endangered and threatened species and their habitat.**

- (a) *Requirement.* To conduct surveys for endangered or threatened species or their habitat in connection with an application for a proposed or planned development activity, a surveyor shall be deemed qualified by the Commission.
- (b) *Qualification.* An individual who wishes to be qualified by the Commission to conduct surveys for endangered or threatened species shall demonstrate to the Commission's satisfaction that he meets the qualified surveyor requirements as approved by the Executive Director and published in the *Pennsylvania Bulletin*. The individual shall demonstrate his qualifications by submitting the completed application provided by the Commission. Individuals on existing Commission lists as of January 5, 2013, will be deemed qualified for purposes of this section provided they submit the completed application provided by the Commission.
- (c) *List.* Upon qualification, the Commission will place the names of the individuals meeting these requirements on its qualified surveyor list for the

species described in the application. The Commission will make these lists available to the public on its web site at [www.fishandboat.com](http://www.fishandboat.com).

- (d) *Duration.* The Commission's qualification of a surveyor is valid for 10 calendar years and expires on December 31 of the 10<sup>th</sup> year for which it was granted.
- (e) *Renewal.* A qualified surveyor shall apply for renewal of the Commission's qualification every 10 years by submitting the completed renewal application provided by the Commission within 90 days prior to the qualification's expiration.
- (f) *Denial and revocation.* The Commission may deny qualification of a surveyor who does not meet the requirements of this section. The Commission may revoke the qualification of a surveyor when the surveyor no longer meets the requirements of this section. A person aggrieved under this subsection may appeal to the Executive Director in accordance with 1 Pa. Code §35.20 (relating to appeals from actions of the staff). Part II of 1 Pa. Code (relating to General Rules of Administrative Practice and Procedures) applies.
- (g) *Other requirements.* When applicable a qualified surveyor shall meet the requirements of §§ 51.71 and 75.4 (relating to scientific collector's permits; and special permits).

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## CHAPTER 77. (RESERVED)

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Sec.

77.1. through 77.8. [Reserved]

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## CHAPTER 79. REPTILES AND AMPHIBIANS

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- 79.1. Definitions.
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### **§79.1. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Color morph* – A distinct color variant form of a reptile or amphibian.

*Hunt* – The act of pursuing reptiles or amphibians in an attempt to catch, take, kill,

or remove them, or to catch, take, kill, or remove any reptile or amphibian from any waters of this Commonwealth or other areas within this Commonwealth by any means or method for any purpose whatsoever.

*Native species* – A reptile or amphibian species or subspecies, where applicable, that has not been introduced into this Commonwealth and occurs historically within the boundaries of this Commonwealth. The Commission will from time to time publish in the *Pennsylvania Bulletin* a list of reptile and amphibian species and subspecies, where applicable, that it has determined are native species.

*Organized reptile and amphibian hunt* – A hunt for reptiles or amphibians involving two or more persons acting in concert to seek, pursue, catch, take, kill, or remove native species of reptiles or amphibians at an event where the reptiles or amphibians are hunted on a competitive basis. When one or more of the following factors are present, an event will be considered an organized reptile and amphibian hunt as the term is used in this chapter:

- (i) The event is sponsored or promoted by a person or organization.
- (ii) The event involves the award of trophies, prizes, or other recognition to persons or groups for catching reptiles or amphibians.
- (iii) The sponsors of the events or others publicize the event to encourage attendance of spectators.
- (iv) The sponsors or organizers of the event have their own rules for the conduct of the hunt.

*Sacking contest* – A competition where participants place reptiles or amphibians in a sack, bag, or similar container in a timed event.

*Snake hooks or tongs* – Implements used to grasp or lift snakes with minimal risk of injury to the animal.

*Subcaudal scale* – Large flat scales that are located on the rear ventral portion (underside) of a timber rattlesnake between the vent (anal scale) and the base of the rattle.

*Turtle hooks* – Hooks used for taking turtles that are at least 3 1/2 inches in total length with not less than a 1 inch space between the point and the shank.

## **§79.2. Taking Reptiles or Amphibians. – 2102(b)**

### **(a) General.**

- (1) Except as otherwise provided in this section, reptiles and amphibians may only be taken by hand, hook and line, snake hooks or tongs, turtle hooks, traps, and nets less than four feet square or four feet in diameter.
- (2) It is unlawful to take, catch, or kill a reptile or amphibian through use of a firearm.
- (3) It is unlawful to take, catch, or kill a reptile or amphibian through the use of chemicals, smoke, explosives, winches, jacks, or other devices or materials or manually in a manner that may disrupt, damage, or destroy dens or the immediate surroundings thereof. While hunting reptiles and amphibians, it is unlawful to possess chemicals, explosives, winches, jacks, or other devices or materials that may disrupt, damage, or destroy dens and their immediate surroundings. It is unlawful to alter or destroy habitat in the pursuit of a reptile or amphibian.
- (4) It is unlawful to damage or disrupt the nest or eggs of a reptile or to gather, take, or possess the eggs of any reptile.

(b) *Turtles.*

- (1) It is unlawful to take, catch, or kill a turtle by means of a hook other than a turtle hook as defined in §79.1. (relating to definitions).
- (2) It is unlawful for a person to leave a set line, turtle trap, or other device for catching turtles unattended unless the device has attached a tag or other means of identification containing the name, address, and telephone number of the owner or user of the device. Traps, nets, or devices used for catching turtles must be of a floating or partially submerged design so as to allow for the release of untargeted turtles unharmed.

(c) *Frogs.*

- (1) Frogs may be taken with long bows and arrow, including compound bows, crossbows, spears, or gigs. 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.
- (2) It is unlawful to take, catch, or kill a frog by use of artificial light at night.

**§79.3. Season and Daily Possession Limits. – 2102(b)**

- (a) Except as otherwise provided in subsections (b), (c), (d), and (e), it is unlawful for a person to take, catch or kill more than the daily limit specified in subsection (h) in 1 calendar day or to have in possession more than the possession limit, dead or alive, in whole or in parts, specified in subsection (g) or to hunt, take, catch, or kill reptiles or amphibians during the closed season. A reptile or amphibian will not be considered to be in the possession of a person if, after it is taken or caught, it is immediately released unharmed to the exact location from which it was taken and is not confined to a sack, bag or other container.
- (b) This section does not prohibit the sponsors of an organized reptile/amphibian hunt conducted under a permit issued under §79.7. (relating to organized reptile and amphibian hunt permits) from possessing more than the daily limit of the species of reptiles or amphibians hunted if the total number of reptiles and amphibians held in possession during each hunt does not exceed the daily limit for the species hunted times the number of registered participants in the organized hunt. This subsection applies to possession limits only. It does not permit the sponsors of a hunt or individual hunters to take, catch, or kill any number of reptiles and amphibians in excess of the daily limits.
- (c) This section does not prohibit possession of numbers of reptiles and amphibians in excess of possession limits by zoos and other accredited institutions for scientific, educational, or research purposes or licensed taxidermists for the purpose of mounting for properly permitted customers, Commission-recognized rehabilitators, or licensed pest control agents with the written permission of the Executive Director or a designee. These persons and institutions shall maintain a current open inventory of and report annually changes in the number of reptiles and amphibians possessed. The Executive Director may limit the number of reptiles and amphibians that a person or institution may possess when the Executive Director or a designee issues permission under this subsection.
- (d) This section does not prohibit possession of numbers of reptiles and amphibians in excess of possession limits by persons who have obtained a permit under §79.4. (relating to possession permits for native species).

- (e) This section does not prohibit possession of numbers of reptiles and amphibians artificially propagated in accordance with this chapter in excess of the possession limits by artificial propagators and dealers of live reptiles and amphibians registered with the Department of Agriculture in accordance with 3 Pa. C.S. Chapter 42 (relating to aquaculture development).
- (f) In prosecutions for violations of the possession limits, when venomous reptiles have been killed in apparent violation of the limits, it shall be a defense that the person who killed the venomous reptiles acted under a reasonable apprehension of immediate death or bodily harm to himself or other persons in his immediate vicinity, if no more venomous reptiles are killed than necessary to protect life and limb and if the person reported the kills in writing to the Natural Diversity Section Chief, Division of Environmental Services, 450 Robinson Lane, Bellefonte, Pennsylvania 16823-9616, within 5 business days after the kill. It is unlawful for a person to possess a venomous reptile, in whole or in parts, that was killed under this subsection.
- (g) When season or annual limits apply, a season or annual limit has been reached once a reptile or amphibian, dead or alive, in whole or in parts, has not been immediately released to the exact location from which taken and is in the possession of a person.
- (h) The following seasons, sizes, catch, and possession limits apply to reptiles and amphibians except endangered and threatened species:

SPECIES	SEASON	DAILY LIMIT	POSSESSION LIMIT
Bullfrog ( <i>Lithobates catesbeiana</i> )	July 1 to October 31	10 (combined species)	20 (combined species)
Northern green frog ( <i>Lithobates clamitans melanotus</i> )	July 1 to October 31	10 (combined species)	20 (combined species)
Common snapping turtle ( <i>Chelydra serpentine</i> )	July 1 to October 31	15	30
Blanding's turtle ( <i>Emydoidea blandingii</i> )	No open season	0	0
Spotted turtle ( <i>Clemmys guttata</i> )	No open season	0	0
Wood turtle ( <i>Glyptemys insculpta</i> )	No open season	0	0
Eastern box turtle ( <i>Terrapene Carolina Carolina</i> )	No open season	0	0
Broadhead skink ( <i>Plestiodon laticeps</i> )	No open season	0	0
Northern coal skink ( <i>Plestiodon anthracinus anthracinus</i> )	No open season	0	0
Mudpuppy ( <i>Necturus maculosus</i> )	No open season	0	0

SPECIES	SEASON	DAILY LIMIT	POSSESSION LIMIT
Eastern hellbender ( <i>Cryptobranchus alleganiensis alleganiensis</i> )	No open season	0	0
Marbled salamander ( <i>Ambystoma opacum</i> )	No open season	0	0
Jefferson salamander ( <i>Ambystoma jeffersonianum</i> )	No open season	0	0
Four-toed salamander ( <i>Hemidactylium scutatum</i> )	No open season	0	0
Northern ravine salamander ( <i>Plethodon electromphus</i> )	No open season	0	0
Northern cricket frog ( <i>Acris crepitans crepitans</i> )	No open season	0	0
Mountain chorus frog ( <i>Pseudacris brachyphona</i> )	No open season	0	0
Upland chorus frog ( <i>Pseudacris feriarum</i> )	No open season	0	0
Western chorus frog ( <i>Pseudacris triseriata</i> )	No open season	0	0
Northern fence lizard ( <i>Sceloporus undulates</i> )	No open season	0	0
Queen snake ( <i>Regina septemvittata</i> )	No open season	0	0
Shorthead garter snake ( <i>Thamnophis brachystoma</i> )	No open season	0	0
Eastern ribbon snake ( <i>Thamnophis sauritus</i> )	No open season	0	0
Mountain earth snake ( <i>Virginia pulchra</i> )	No open season	0	0
Eastern smooth earth snake ( <i>Virginia valeriae valeriae</i> )	No open season	0	0
Smooth green snake ( <i>Liochlorophis vernalis</i> )	No open season	0	0
Eastern hognose snake ( <i>Heterodon platirhinos</i> )	No open season	0	0
Eastern worm snake ( <i>Carphophis amoenus amoenus</i> )	No open season	0	0
Amphibian eggs and tadpoles	No closed season	15 (combined species)	15 (combined species)
Timber rattlesnake ( <i>Crotalus horridus</i> )	Second Saturday in June to July 31*	1 annual limit** (must be at least 42 inches in length, measured lengthwise along the dorsal surface from the snout to the tail, excluding the rattle, and must possess 21 or more subcaudal scales.)	
Copperhead ( <i>Agkistrodon contortrix</i> )	Second Saturday in June to July 31	1 annual limit**	

SPECIES	SEASON		
Native species not listed in this subsection	No closed season	1	1

- \* *It is unlawful for a person to hunt, take, catch, or kill timber rattlesnakes west of Route 15 and south of Interstate 81 to the Maryland line where there is no open season.*
- \*\* *It is unlawful for a person to take, catch, or kill more than one timber rattlesnake or northern copperhead per calendar year except as provided in §79.7.(f) (relating to organized reptile and amphibian hunt permits). It is unlawful for a person to possess more than one timber rattlesnake or northern copperhead at any time except as provided in 79.7. (f).*

**§79.4. Possession Permits for Native Species. – 2904(a)**

- (a) *Application.* – The Commission finds, under section 2904 of the code (relating to permits for the protection and management of particular fish), that it is necessary for persons who possess a live reptile or amphibian as of January 1, 2007 in compliance with the possession limits in effect on December 31, 2006, but not in compliance with the possession limits in effect on January 1, 2007, to have a permit for the continued possession of the reptile or amphibian for the remainder of the animal's life. Application for a one-time permit under this section shall be made on a form prescribed by the Commission, shall be accompanied by the appropriate fee and shall be made by no later than June 30, 2007. Permits may be obtained by applying to: Bureau of Law Enforcement, 1601 Elmerton Avenue, P.O. Box 67000, Harrisburg, PA 17106-7000. The fee is \$10.
- (b) *Transfer.* – If a permittee gives a reptile or amphibian covered by a permit under this section to another person, the permit may be transferred to the new owner upon completion of an application on the form provided by the Commission, surrender of the original permit and payment of the appropriate fee. The new owner shall apply for transfer of the permit prior to taking possession of the animal. The fee to transfer a permit under this section is \$10.
- (c) *Denial.* – The denial of a permit under this section is appealable in the manner provided by §51.41.-§51.46. (relating to permit procedures). A person who is denied a permit under this section shall surrender the reptile or amphibian to an officer authorized to enforce the code or provide proof that the animal was humanely euthanized or given to a person or organization that can lawfully possess it. Under no circumstances may a person who is denied a permit under this section release the animal into the wild.
- (d) *Required permit.* – It is unlawful to retain possession of a live reptile or amphibian possessed as of January 1, 2007, that is in compliance with the possession limits in effect on December 31, 2006, but not in compliance with the possession limits in effect on January 1, 2007, without the required permit from the Commission. A permit is required for continued possession regardless of the animal's origin. A separate permit shall be obtained for each reptile or amphibian and shall be kept at the location where the animal is held. Upon request, the permit shall be presented to an officer authorized to enforce the code. Permittees shall comply with the terms and conditions of the permit. It is unlawful to alter, borrow, or lend a permit under this section.



- (e) *Exceptions.* – This section shall not apply to the possession of reptiles and amphibians that are covered by permissions and other permits issued under this subpart.

**§79.5. Snapping Turtle Permits. – 2904(a)**

- (a) The Commission finds, under section 2904 of the code (relating to permits for protection and management of particular fish), that it is necessary for the proper protection and management of the common snapping turtle (*Chelydra serpentina*) that persons who hunt, take, catch, or kill this species for the purpose of sale, barter, or trade have an annual permit for the activity. Application for a permit shall be made on a form prescribed by the Commission and shall be accompanied by the appropriate fee. Permits may be obtained by applying to: Natural Diversity Section Chief, Division of Environmental Services 450 Robinson Lane, Bellefonte, Pennsylvania 16823-9616. The fee for residents is \$50 per year; the fee for non-residents is \$100 per year. The denial of a permit under this section is appealable in the manner provided by §51.41.-51.46. (relating to permit procedures).
- (b) It is unlawful to hunt, take, catch, kill, or possess the common snapping turtle for purposes of sale, barter, or trade without first procuring the required permit. The required permit shall be in possession of the permittee at all times while hunting. Permittees shall comply with the terms and conditions of the permit and furnish the reports required thereby. It is unlawful to alter, borrow, lend, or transfer a permit under this section.
- (c) It is unlawful to sell, barter, trade, or offer for sale a common snapping turtle, dead or alive, in whole or in parts, taken from lands or waters of this Commonwealth without first procuring the permit required under this section.

**§79.6. Venomous Snake Permits. – 2904(a)**

- (a) *Application.*– The Commission finds, under section 2904 of the code (relating to permits for protection and management of particular fish), that it is necessary for the proper protection and management of the timber rattlesnake (*Crotalus horridus*) and northern copperhead (*Agkistrodon contortrix*) that persons who hunt, take, catch or kill these species have a permit for the activity. Application for a permit shall be made on a form prescribed by the Commission and accompanied by the appropriate fee. Permits may be obtained by applying to: Natural Diversity Section Chief, Division of Environmental Services, 450 Robinson Lane, Bellefonte, Pennsylvania 16823-9616. The fee for residents is \$25 per year; the fee for non-residents is \$50 per year. The denial of a permit under this section is appealable in the manner provided by §51.41.-§51.46. (relating to permit procedures).
- (b) *Required permit.* – It is unlawful to hunt, take, catch, kill or possess a timber rattlesnake or northern copperhead, in whole or in parts, without first procuring the required permit from the Commission. The required permit shall be in the possession of the permittee at all times while hunting. Permittees shall comply with the terms and conditions of the permit and furnish the reports required thereby. It is unlawful to alter, borrow, lend or transfer a permit under this section.
- (c) *Reporting.*– Within 10 business days following the capture or kill, or if no snake is captured or killed, within 10 days of the conclusion of the season, the permittee shall complete a report on the form prescribed by the Commission

and shall mail the report to the Commission's Natural Diversity Section, 450 Robinson Lane, Bellefonte, PA 16823.

(d) *Tagging of timber rattlesnakes.* –

- (1) A person who takes, catches, kills, or possesses a timber rattlesnake shall immediately complete the possession tag that is attached to his permit and detach the tag from the permit in the field. The possession tag shall be completed in accordance with the instructions printed on the tag, and the information to be provided includes, but is not limited to, the municipality and county where the snake was captured or killed, the date of capture or kill, and a description of the snake, including color phase, sex, number of subcaudal scales, and length in inches. The possession tag shall be kept in a safe location so that it can be presented along with the timber rattlesnake to which it pertains upon the request of an officer authorized to enforce the code.
- (2) After the possession tag is detached from the permit, it is unlawful to take, catch, kill, or possess another timber rattlesnake except as otherwise provided in this chapter.
- (3) It is unlawful to alter, borrow, lend, or transfer possession tags under this section.
- (4) When presenting a timber rattlesnake to a taxidermist for mounting, the tag shall remain with the rattlesnake while in the possession of the taxidermist.

(e) *Field dressing of timber rattlesnakes.* – A permittee may field dress a timber rattlesnake so long as the head and tail remain intact.

(f) *Measurement of timber rattlesnakes.* – Upon the request of an officer authorized to enforce the code, a permittee shall measure a timber rattlesnake to determine its length. If the permittee is unable to measure the timber rattlesnake, the officer may seize the snake so that a measurement may be taken at another location.

**§79.7. Organized Reptile and Amphibian Hunt Permits. – 2904(a), 2102(c)**

(a) *Application.* – The Commission finds, under section 2904 of the code (relating to permits for protection and management of fish), that it is necessary for the proper protection and management of reptiles and amphibians in this Commonwealth that organized reptile and amphibian hunts be conducted under permits issued under this section. The sponsor of an organized reptile and amphibian hunts shall apply for a permit by no earlier than January 1 and no later than March 1 of the year for which the hunt is proposed. Application for a permit shall be made on a form prescribed by the Commission and accompanied by the appropriate fee. Permits may be obtained by applying to: Natural Diversity Section Chief, Division of Environmental Services, 450 Robinson Lane, Bellefonte, Pennsylvania 16823-9616. The fee for the permit is \$100. The denial of a permit under this section is appealable in a manner provided by §51.41.-§51.46. (relating to permit procedures).

(b) *Permit issuance.*

- (1) The Executive Director will issue permits to applicants who demonstrate that they are responsible and qualified to conduct an organized reptile and amphibian hunt. In determining the qualifications of an applicant, the Executive Director, or his designee, may consider factors as he deems appropriate, including, but not limited to, the experience of the applicant in conducting the events, the responsiveness of the applicant to reporting

requirements, the safety record of the applicant, the ability of the applicant to conduct educational programs, the context of the event, and competing applications.

- (2) The Executive Director may limit the number of organized reptile and amphibian hunt permits to be issued for a particular vicinity and time proximity. In general, permits will be issued to qualified applicants no earlier than March 15 of the year in which the application is submitted. If the Commission is aware of events scheduled in the vicinity of one another within 4 weeks, and the Executive Director determines that all events cannot be permitted consistent with resource management and protection, the Executive Director may designate the applicants as competing applications. If competing applications are designated, the Executive Director may, if the parties cannot agree on the withdrawal of one or more applications, award a permit on a random basis, an alternate year basis, or some other rational basis as the interests of fairness may dictate.
- (c) *Required permit.* – It is unlawful to engage in organized reptile and amphibian hunts unless the sponsors of the hunts have first procured the required permit for each hunt. The required permits shall be held in possession of the sponsor at all times during each hunt. Permittees shall comply with the terms and conditions of each permit and furnish reports required thereby.
- (d) *Reporting.* – At the location of the hunt, the permittee shall complete a report on the form prescribed by the Commission that will include, at a minimum, the location of the hunt; the names of the registered participants; the species name of the reptile or amphibian that was captured or killed; a description of the reptile or amphibian that was captured or killed; the date and time the reptile or amphibian was brought to the hunt; and the permit number of the person who captured or killed the reptile or amphibian. The permittee shall complete the form as registered participants deliver their reptiles or amphibians for entry into the competition. This form shall be presented upon the request of an officer authorized to enforce the code. Within 10 days following the conclusion of the event, the permittee shall submit the form to the Commission.
- (e) *Season.* – It is unlawful to conduct an organized reptile or amphibian hunt for any species of reptile or amphibian except during the open season for the reptile or amphibian as specified in §79.3. (relating to season and daily possession limits).
- (f) *Provisional timber rattlesnake permits.*
- (1) *Conditions.* – A permitted sponsor of an organized hunt may issue provisional permits on the form prescribed by the Commission subject to the following conditions:
  - (i) A provisional permit allows the holder thereof to take, catch, or possess one timber rattlesnake without tagging the snake as required by §79.6.(d) (relating to venomous snake permits).
  - (ii) Provisional permits shall be issued only in connection with an organized hunt and shall be valid only during the period of the organized hunt as stated in the permit.
  - (iii) Provisional permits shall only be issued to holders of permits under §79.6. who are registered participants in the organized hunt.

- (iv) A snake caught under a provisional permit shall be entered into the hunt and shall become the possession of the permitted sponsor of the organized hunt until such time as the permitted sponsor returns the snake to the holder of the provisional permit.
  - (v) The holder of a provisional permit shall be responsible for returning a snake caught under a provisional permit unharmed to the site from which it was taken by sunset of the last day of the organized hunt.
  - (vi) Provisional permits shall in no way allow the holders thereof to possess a snake beyond the period of the organized hunt. The holder of a provisional permit who wishes to retain possession of a snake caught under a provisional permit must tag the snake in accordance with §79.6(d) (relating to venomous snake permits).
- (2) *Prohibited acts.* – The following acts are unlawful:
- (i) A permitted sponsor of an organized hunt issues a provisional permit in violation of this subsection.
  - (ii) The holder of a provisional permit violates the terms and conditions of the provisional permit.
  - (iii) The holder of the provisional permit possesses a snake beyond the period of the organized hunt.
  - (iv) The holder of a provisional permit to release the snake to a site other than the site from which it was taken.
- (g) *Sacking contests.* – Sacking contests of native species regardless of origin are prohibited. It is unlawful to import timber rattlesnakes or any subspecies, hybrid or variety of *Crotalus horridus*, into this Commonwealth for use in connection with a sacking contest.
- (h) *Treatment of reptiles and amphibians.* – Reptiles and amphibians held in connection with an organized hunt shall not be confined without water or shade or otherwise physically abused or handled roughly. Free-handling of native, venomous reptiles in an organized hunt is prohibited. At the conclusion of the organized hunt, the sponsor shall return the snakes to the registered participants who entered the snakes in the event.

**§79.8. Artificial Propagation and Dealers of Live Reptiles and Amphibians.**  
**– 2102(c)**

- (a) *General.* – Except for hobby breeders and pet stores as defined in 3 Pa. C.S. Chapter 42 (relating to aquaculture development), it is unlawful to artificially propagate or deal in live reptiles and amphibians without being registered with the Department of Agriculture (Department) under 3 Pa. C.S. Chapter 42. It is unlawful for anyone, regardless of whether or not registered, to artificially propagate reptiles and amphibians except those species, subspecies, and color morphs that the Commission has approved for artificial propagation in the Commonwealth in accordance with this section.
- (b) *Approved Lists.* – The Bureau of Fisheries will maintain lists of species, subspecies, and color morphs for which the Department may issue registrations for artificial propagation and registrations for dealers of live reptiles and amphibians. The Bureau of Fisheries will maintain two separate lists – one that the Commission has approved for artificial propagation in an open system and one that the Commission has approved for artificial propagation in a closed system. The Director of the Bureau of Fisheries may update or modify the lists of approved species, subspecies, and color morphs

by adding species, subspecies, or color morphs to or deleting species, subspecies, or color morphs from the lists as necessary for the protection and management of reptiles and amphibians in this Commonwealth. The Commission will provide the lists to the Department on or before January 31 each year and whenever the Commission updates or modifies the lists. Copies of the lists of approved species, subspecies, and color morphs are available upon request from the Pennsylvania Fish and Boat Commission, Bureau of Fisheries, 450 Robinson Lane, Bellefonte, PA 16823.

- (c) *Open Systems.* – Reptiles and amphibians may be artificially propagated or held by dealers in an open system only when the Commission has approved the species, subspecies, or color morphs for artificial propagation in an open system.
- (d) *Closed Systems.*
  - (1) Reptiles and amphibians may be artificially propagated or held by dealers in a closed system that meets the requirements of this subsection only when the Commission has approved the species, subspecies, or color morphs for artificial propagation in a closed system.
  - (2) To artificially propagate or deal in live reptiles and amphibians in a closed system, an applicant for registration shall certify that all of the following conditions are met:
    - (i) The closed system will be constructed and operated in a manner that prevents the escape or liberation of live animals. Typically, a closed system will be housed indoors in a structure enclosed by solid walls, floor, and roof. For purposes of this paragraph, a wall, floor, or roof will be considered “solid” if it is constructed and maintained to prevent unauthorized human or animal intrusions into the closed system facility and to prevent release or escape of live reptiles or amphibians from the closed system. Other types of housing structures will be considered closed if they are appropriate for the species being held and prevent their escape or liberation onto the lands or into the waters of this Commonwealth.
    - (ii) If water will be used in the propagator’s or dealer’s normal operations, discharge or disposal of the water will be in a manner that prevents the escape or liberation of live animals onto the lands or into the waters of this Commonwealth.
    - (iii) No live reptiles or amphibians or live reptile or amphibian eggs will be permitted to escape. Accidental escape, spillage, or loss of live reptiles or amphibians including their eggs will be contained within the facility in a manner that prevents the reptiles and amphibians or their eggs from escaping onto the lands or into the waters of this Commonwealth.
  - (3) The Commission may request from the Department a list of registered propagators and dealers that hold reptiles and amphibians in closed systems. The Commission, in its discretion, may inspect the closed systems to ensure that they are designed and constructed in a manner to prevent escape of live reptiles or amphibians or their live eggs onto lands or into the waters of this Commonwealth. In addition, the Commission, in its discretion, may inspect the closed systems at any time to ensure compliance with this subsection, and the Commission may issue an order to suspend operations of any of these systems when an inspection

discloses that it is not in compliance with this subsection.

- (4) The Commission will invite the Department's Aquaculture Advisory Committee or a subcommittee thereof to draft and periodically update construction guidelines for closed system propagators and dealers to help them ensure closed systems prevent escape of reptiles and amphibians onto the lands or into the waters of this Commonwealth. These guidelines will assist registered propagators and dealers in the design, construction, and maintenance of closed systems and will assist the Commission in inspecting these systems.
- (5) It is unlawful for an operator of a closed system to liberate or allow live reptiles or amphibians to escape onto lands or into the waters of this Commonwealth.
- (6) A registered operator of a closed system shall develop, maintain, and make available for immediate inspection by the Commission and the Department upon request a written plan for containing or recovering escaped or liberated live reptiles and amphibians in the event of a closed system failure.
- (7) A registered operator of a closed system shall notify both the Commission's Director of the Bureau of Fisheries and the Department's Aquaculture Coordinator immediately in the event of an escape or liberation of live reptiles and amphibians.

**§79.9. Sale of Native Species. – 2102(c)**

Except as otherwise provided in the code or this chapter, it is unlawful to take, catch, kill, or possess for purposes of selling or offering for sale or to sell, offer for sale, import or export for consideration, trade or barter, or purchase an amphibian or reptile that was taken from lands or waters wholly within this Commonwealth, and its progeny, whether dead or alive, in whole or in parts, including eggs or any life stage.

**§79.10. Transportation and Importation of Native Species. – 2102(c)**

- (a) It is unlawful to transport or import into or within this Commonwealth a native species from another jurisdiction.
- (b) It is unlawful to receive a native species that was transported or imported into or within this Commonwealth from another jurisdiction.
- (c) This section does not apply to zoos or other accredited institutions that transport and import native species for scientific, educational, or research purposes and Commission-recognized rehabilitators provided that they have received the written permission of the Executive Director or a designee under §79.3(c) (relating to season and daily possession limits).

**§79.11. Introduction. – 2102(c)**

- (a) *Nonnative Species.* – It is unlawful to introduce a nonnative species into the natural environment of this Commonwealth. Persons who import nonnative reptiles or amphibians into this Commonwealth shall institute appropriate safeguards to prevent their introduction into the natural environment of this Commonwealth.
- (b) *Native Species.*
  - (1) *General Rule.* – It is unlawful to reintroduce a native species taken from the wild into the natural environment of this Commonwealth except when all of the following conditions are met:

- (i) The reptile or amphibian is released to the point of capture.
  - (ii) The reptile or amphibian is released within 30 days of capture.
  - (iii) The reptile or amphibian is released during the period, May 1 through September 30.
  - (iv) The reptile or amphibian is in good health.
  - (v) The reptile or amphibian has not been in physical contact with another reptile or amphibian while in captivity.
- (2) *Artificially Propagated Animals.* – It is unlawful to introduce or facilitate the introduction of a native species that has been artificially propagated except when all of the following conditions are met:
- (i) The Commission has approved the native species for artificial propagation in an open system in accordance with §79.8. (relating to artificial propagation and dealers of live reptiles and amphibians).
  - (ii) The native species has been propagated by a propagator registered by the Department of Agriculture in accordance with 3 Pa. C. S. Chapter 42.

**§79.12. Color Morphs of Native Species.**

- (a) For purposes of this chapter, it is presumed that color morphs of certain native species that are held in captivity were not taken from the wild. Therefore, the Commission has determined that color morphs of certain native species are exempt from the requirements of this chapter as provided in this section. The Commission will publish in the *Pennsylvania Bulletin* a list of color morphs of native species to which the following provisions apply:
- (1) Color morphs of native species designated by the Commission are not subject to the possession limits of §79.3. (relating to season and daily possession limits) provided they are not taken from the wild.
  - (2) Color morphs of native species designated by the Commission may be artificially propagated provided they are not taken from the wild and they are propagated in a closed system meeting the requirements of §79.8. (relating to artificial propagation and dealers of live reptiles and amphibians).
  - (3) Color morphs of native species designated by the Commission may be sold by artificial propagators and dealers registered in accordance with 3 Pa. C.S. Chapter 42 (relating to aquaculture development) provided they are not taken from the wild.
- (b) The Commission recognizes that the captive breeding of color morphs approved for propagation by the Commission in this section may result in animals that have a normal color appearance (typical phenotype). The typical phenotype progeny of these color morphs may be sold provided that all of the following conditions are met:
- (1) They are sold by an artificial propagator or dealer registered in accordance with 3 Pa. C.S. Chapter 42.
  - (2) They were propagated in a closed system meeting the requirements of §79.8 by a registered propagator.
  - (3) The artificial propagator or dealer that intends to sell them shall file an initial inventory on the form prescribed by the Commission that contains the numbers in possession as of December 31, 2006 and such other information that the Commission shall require. The artificial propagator

or dealer shall submit the inventory to the Commission's Natural Diversity Section Chief, Division of Environmental Services, 450 Robinson Lane, Bellefonte, PA 16823 by no later than January 31, 2007.

- (4) The artificial propagator or dealer selling them shall maintain a current inventory on a form prescribed by the Commission, showing their origin, numbers and such other information that the Commission shall require. Artificial propagators or dealers shall maintain the inventory at their place of business and shall have the inventory in their possession when selling them. The inventory shall be presented upon the request of an officer authorized to enforce the code.
- (5) The artificial propagator or dealer selling them shall submit an annual report on the form prescribed by the Commission that includes changes in the numbers possessed (e.g., gains and losses to the inventory) and such other information that the Commission shall require. The artificial propagator or dealer shall submit the report to the Commission's Natural Diversity Section Chief, Division of Environmental Services, 450 Robinson Lane, Bellefonte, PA 16823 by no later than January 31 of the following year.

**§79.13. Natural Areas. – 2102(b)**

- (a) This chapter applies to all native species occurring naturally within the boundaries of selected Natural Areas of the Department of Conservation and Natural Resources.
- (b) The taking, catching, killing, or possession of individuals of any native species occurring naturally within the boundaries of designated Natural Areas by persons other than those possessing a valid scientific collector's permit is prohibited.
- (c) Notice of this section will be posted at parking lots or access areas on the fringe of each designated Natural Area.
- (d) The provisions of subsections (a) and (b) apply to Natural Areas within State Forests posted in accordance with subsection (c).

**SUBPART C. BOATING**

**Chapter**

- 91. General Provisions
- 93. Registration and Numbering
- 95. Manufacturer Installed Equipment
- 97. Operator Provided Equipment
- 99. Capacity Plates
- 101. Boating Accidents
- 103. Rules of the Road
- 105. Operational Conditions
- 107. Boating Restrictions
- 109. Speciality Boats and Waterskiing Activities
- 111. Special Regulations Counties
- 113. Aids to Navigation and Obstructions to Navigation
- 115. Boats Carrying Passengers for Hire
- 117. Boat Rental Business
- 119. Motor Boat Noise Control



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## CHAPTER 91. GENERAL PROVISIONS

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Sec.

- 91.1. Purpose.
- 91.2. Definitions.
- 91.3. Operator Responsibility.
- 91.4. Age of Operator.
- 91.5. Parental and Boat Owner Responsibility.
- 91.6. Boating Safety Education Certificates.
- 91.7. Criteria for Courses of Instruction in Boating Safety Education.

### **§91.1. Purpose.**

The Commission has promulgated and adopted this subpart under the code. This subpart is intended to implement and supplement the code related to boats and boating, and to regulate boats and boating, owners and operators of boats, and the operation and navigation of boats, over, upon, in, or through the waters of this Commonwealth.

### **§91.2. Definitions.**

- (a) Unless expressly provided otherwise in this subpart, or the context clearly indicates otherwise, the definitions provided in section 102 of the Code (relating to definitions) apply to this subchapter.
- (b) The term “underway” means that a vessel is not at anchor, or made fast to the shore, or aground.
- (c) The term “passenger” means any person on a boat, including a person or persons being towed using any device.

### **§91.3. Operator Responsibility. – 5123(a)5**

Unless otherwise provided in this subpart, and except in cases where the context clearly indicates otherwise the operator of a boat shall be responsible for compliance with this subpart and the Code. The operator of a boat which is not equipped, operated, registered, or marked in compliance with this subpart may be charged with a violation.

### **§91.4. Age of Operator. – 5123(a)5**

- (a) A person 11 years of age or younger may not operate a personal watercraft or boat propelled by a motor greater than 25 horsepower.
- (b) A person 12 through 15 years of age may not operate a personal watercraft if there are any passengers onboard 15 years of age or younger.

### **§91.5. Parental and Boat Owner Responsibility. – 5123(a)**

- (a) It is unlawful for the owner of a boat knowingly to allow or permit a child 17 years of age or younger to operate the boat in violation of this subpart.
- (b) It is unlawful for a parent or guardian of a child 17 years of age or younger knowingly to allow or permit the child to operate the boat in violation of this subpart.
- (c) It is unlawful for the owner of a boat knowingly to allow an individual who is required to have a boating safety education certificate to operate the boat without having a boating safety education certificate onboard.

**§91.6. Boating Safety Education Certificates. – 5123(a)1**

(a) *Definition.*

- (1) For residents of this Commonwealth, a Boating Safety Education Certificate is a document issued by the Commission certifying that the person named on the certificate has established proof of competency through the successful completion of a course approved in accordance with §91.7. (relating to criteria for courses of instruction in boating safety education).
- (2) For nonresidents, a Boating Safety Education Certificate is a certificate, card, or other official document that indicates on the certificate, card, or other document successful completion of a course approved by the National Association of State Boating Law Administrators.

(b) *Certificate issuance.* The Commission will issue a Pennsylvania Boating Safety Education Certificate to persons who present proof of successful completion of a boating safety education course approved in accordance with §91.7. and the payment of fees under section 5104 of the code (relating to fees).

(c) *Certificate possession.* When the operator of a boat is required by law or regulation to possess a Boating Safety Education Certificate, it is unlawful to operate the boat on the waters of this Commonwealth without carrying onboard the Boating Safety Education Certificate issued to the operator. A Boating Safety Education Certificate shall be carried so that it can be presented to an officer authorized to enforce this subpart.

(d) *Temporary certificate.* The Executive Director or a designee may authorize the issuance of temporary Boating Safety Education Certificates to persons who successfully complete boating safety education courses approved by the Commission. Temporary Boating Safety Education Certificates expire when the permanent certification is issued or 60 days after issuance, whichever occurs first.

(e) *Boating without a certificate onboard.*

- (1) When an operator is found operating a boat without possessing a Boating Safety Education Certificate, the operator will cease operation of the boat and follow the instructions of the apprehending officer. The operator may not resume operation of the boat until he demonstrates to the Commission's satisfaction that he possesses a certificate.
- (2) When an operator is found operating a boat without a Boating Safety Education Certificate onboard and claims that the certificate is available, the apprehending officer shall give the operator 7 days to produce the original certificate. If it is inconvenient for the operator to produce the certificate in person, the officer may permit the operator to mail the original certificate to the officer for verification. The operator shall provide a stamped self-addressed envelope for the return of the certificate. If the operator fails to send the original certificate within the 7-day period, the officer shall institute summary proceedings against the operator in the manner prescribed by law.

(f) *Prohibitions.* A person may not alter, borrow, lend, or transfer a Boating Safety Education Certificate or give false or misleading information to the Commission, its officers or agents when applying for a temporary or a permanent Boating Safety Education Certificate.

**§91.7. Criteria for Courses of Instruction in Boating Safety Education.**

- (a) The Executive Director will establish criteria for courses of instruction in boating safety education, and the Executive Director will publish the criteria in the *Pennsylvania Bulletin*.
- (b) The Executive Director may approve, by notice, boating safety education courses that meet the course criteria established under this section and will publish a list of approved boating safety education courses in the *Pennsylvania Bulletin* on an annual basis or more frequently as required.

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**CHAPTER 93.**  
**REGISTRATION AND NUMBERING**

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Subchapter

- A. Registration of Boats
- B. Titling of Boats

**SUBCHAPTER A.**  
**REGISTRATION OF BOATS**

Sec.

- 93.1. Registration.
- 93.2. Permanent and Temporary Registration.
- 93.3. Application for Boat Registration.
- 93.4. Certificate of Registration.
- 93.5. Display of Registration Number and Validation Decal.
- 93.6. Numbering Pattern.
- 93.7. Duplicate Certificate of Registration.
- 93.8. Lost, Stolen, Destroyed, or Abandoned Boats.
- 93.9. Surrender of Certificate of Registration.
- 93.10. Change of Address.
- 93.11. Reciprocity and State of Principal Operation.
- 93.12. Dealers, Manufacturers, and Jobbers.
- 93.13. Issuing Agents.
- 93.14. Proof of Ownership for Initial Registration.
- 93.15. Unauthorized Transfer, Use, or Display of Certificate of Registrations, Validation Decals, or Numbers.
- 93.16. Operation of Boat After Death of Registered Owner.
- 93.17. Registration of Abandoned Boats.

**§93.1. Registration.**

- (a) With the exception of a "Manufacturer/Dealer/Jobber" registration certificate, which is valid for 1 year, and a "State Owned" registration certificate, which is valid until the removal of the property from inventory, all other boat registration certificates issued under this chapter are valid for a period not exceeding 2 years. The Commission will not issue 1-year registration certificates except to "Manufacturer/Dealer/Jobber." The registration period expires on March 31 of the second year following issuance.

- (b) Except for Manufacturer/Dealer/Jobber registrations, the fee for the registration will be twice the annual registration fee as set forth in the code.
- (c) Persons registering a boat under a company name shall supply the name of an individual who is responsible for the boat.
- (d) The Commission ordinarily relies solely on the information submitted by an applicant to show that the applicant is the true and lawful owner of the boat for which registration is sought. Issuance of a boat registration does not constitute an adjudication or finding with respect to ownership of the boat. However, the Commission will defer issuance of a new or renewal registration for any boat after it receives written notice of the existence of a reasonable dispute as to the ownership of a boat. The parties who dispute the ownership of the boat shall be responsible to obtain a determination of ownership from an appropriate civil forum or by settlement and to notify the Commission, in writing, of the determination.

**§93.2. Permanent and Temporary Registration. – 5122(a)1**

(a) *Boat not previously registered in this Commonwealth:*

- (1) A person acquiring a boat which has not been previously registered in the person's name in this Commonwealth shall complete an application for boat registration as set forth in §93.3. (relating to application for boat registration). The applicant will receive a copy of the completed application which will be recognized as the boat's certificate of registration for 60 days including the date of issuance. This temporary certificate of registration shall be carried on the boat when the boat is in operation and shall be available for inspection by an authorized officer.
- (2) The owner or operator shall apply the biannual validation decals when received from the Commission. The biannual validation decals shall be displayed on the boat in accordance with §93.5. The new owners will also receive from the Commission a biannual certificate of registration card which shall be carried onboard the boat while it is being operated.

(b) *Boat previously registered in this Commonwealth but having expired registration:*

- (1) A person acquiring a boat which has been previously registered in another person's name in this Commonwealth and possesses an expired registration shall complete an application for boat registration as set forth in §93.3. The applicant will receive a copy of the completed application which will be recognized as the boat's certificate of registration for 60 days including the date of issuance. This temporary certification of registration shall be carried on the boat whenever the boat is in operation and shall be available for inspection by an authorized officer. If the boat is displaying expired validation decals, the owner or operator shall remove the expired validation decals. The previously assigned registration number currently on the boat will remain with the boat as long as the boat is registered in this Commonwealth.
- (2) The owner or operator shall apply the biannual validation decals when received from the Commission. The biannual validation decals shall be displayed on the boat in accordance with §93.5. The new owners will also receive from the Commission a biannual certificate of registration card which shall be carried onboard the boat while it is being operated.

- (c) *Boat previously registered in this Commonwealth having current registration:*
- (1) A person acquiring a boat which has been previously registered in another person's name in this Commonwealth displaying current biannual validation decals shall complete an application for boat registration as set forth in §93.3. The applicant will receive a copy of the completed application which will be recognized as the boat's certificate of registration for 60 days including the date of issuance. This temporary certificate of registration shall be carried on the boat when the boat is in operation and shall be available for inspection by an authorized officer. Before operating the boat on the waters of this Commonwealth, the owner or operator shall remove the prior validation decals. The previously assigned registration number will remain with the boat as long as the boat is registered in this Commonwealth. It is unlawful for a person acquiring a boat described in this subsection to operate the boat on the waters of this Commonwealth until the registration is transferred to the new owner as provided in this section.
  - (2) The Commission will send the registrant biannual validation decals and a new biannual certificate of registration. The registrant shall display the new biannual validation decals in accordance with §93.5. and shall carry the registration card onboard the boat while it is operating.
- (d) *Expiration of new registration.* – In determining the expiration date of a new biannual registration, the Commission will ensure that the duration of temporary and permanent registrations issued to the registrant, taken together, allow the operation of the boat during at least two boating seasons. For purposes of this section, a boating season is the period between the Saturday before Memorial Day and Labor Day.
- (e) *Temporary Internet registration renewals.* – Temporary Internet registration renewals shall be valid for 60 days from the date of issuance. A temporary Internet registration renewal shall be available at all times for inspection on the boat for which it was issued whenever the boat is in operation and shall be carried in such a manner that it can be presented upon request to an officer authorized to enforce the code.

**§93.3. Application for Boat Registration.**

- (a) *New registration.* – Application for a boat registration for a new boat or a used boat that was not previously registered in this Commonwealth shall conform with the following:
- (1) *Forms.* – The owner of a boat desiring registration shall apply on Form REV-336, provided by the Commission. The completed form shall be forwarded to the Pennsylvania Fish and Boat Commission, Licensing and Registration Section.
  - (2) *Required information.* – The applicant shall provide the following information on the application (REV-336) for a boat registration:
    - (i) The name, mailing address, residence address, phone number, county, and zip code of the owner. If there is more than one owner, the principal owner shall be listed first.
    - (ii) The name of the person from whom the boat was purchased.
    - (iii) The state registration number, if any, currently assigned to the boat.
    - (iv) The hull material, such as, wood, steel, aluminum, plastic, or fiberglass or other.

- (v) The full hull identification number (HIN).
- (vi) The make, model, and year built, if known.
- (vii) The length of the boat in feet and inches.
- (viii) The type of propulsion, such as, outboard, inboard, sterndrive, or unpowered.
- (ix) The type of fuel, such as, gas, diesel, or other.
- (x) The temporary validation decal number, if one was issued.
- (xi) The primary usage such as, pleasure, rental/livery, manufacturer/dealer/jobber, commercial passenger, and the like.
- (xii) A certificate of ownership. For initial registration in this Commonwealth this shall be supported by title, bill of sale, a completed PBFC-734 "Affidavit of Purchase/Ownership," or other positive proof of ownership.
- (xiii) The date the applicant completed the form.
- (xiv) The signature of the owners and certification under penalty of law, that he is the owner of the boat and that the information contained in the application is true and correct.
- (xv) Complete sales and use tax information.
- (xvi) The date of birth of the primary registrant.
- (3) *Manufacturers, jobbers, or dealers.* – Paragraph (2)(iv)-(x) and (xvi) do not apply to manufacturers, jobbers, or dealers.
- (4) *Boat rental business.* – Paragraph (2)(viii) and (ix) do not apply to a boat rental business if a motor is not rented with the boat.
- (5) *Incomplete or incorrect applications.* – Incomplete or incorrect applications will not be processed until completed and may be returned by the Commission to the applicant or issuing agent.
- (b) *Renewals.* – Only Forms PFBC-730a and 733 shall be used to renew registrations of boats which are being kept by the same owner. If the registration has lapsed, the owner shall obtain Form PFBC-730a or PFBC-733 from the Licensing and Registration Section of the Commission to renew the lapsed registration.
- (c) *Previously Registered Boats.* Application for a certificate of registration for a boat previously registered in this Commonwealth shall conform with the following:
  - (1) Form REV-336 shall be completed by the purchaser and seller and signed by the last registered owner.
  - (2) A bill of sale, signed by the registered owner may be substituted for the required signatures on REV-336.
  - (3) If the registered owner of a boat to be transferred is deceased, the personal representative (executor/administrator) of the decedent shall sign Form REV-336 for the deceased owner. The personal representative shall indicate his capacity with his signature and shall provide documentation – an original death certificate and letters testamentary, letters of administration, original short certificate, court order filed under small estates procedures or Form PFBC-R1 – certifying to his capacity to act on behalf of the decedent's estate. An original death certificate is not required if form PFBC-R1 is signed by the attending physician or funeral director. If the boat registration is to be transferred from joint ownership, when one of the joint owners is deceased, the other joint owner shall present the original death certificate to affect the transfer.

- (4) When an applicant seeks to register a boat having an expired registration and the last registered owner has not signed the REV-336 or bill of sale because the applicant is not the seller of the boat, the Commission will, prior to processing the application for registration, notify the last registered owner at his last known address that the applicant is seeking to register the boat. If the last registered owner claims an ownership interest in the boat and objects to the transfer of the registration to the applicant, the Commission will defer further processing until the parties resolve the ownership issues through established civil processes. If the last registered owner does not object to the transfer or fails to respond to the notice after 30 days, the Commission may process the request for registration if it is otherwise satisfied that the applicant is the true and lawful owner of the boat and entitled to registration.
- (d) *Transfer of registration to new boat.* – The holder of a valid Pennsylvania registration certificate on a boat previously owned by the holder may transfer the registration certificate for the remainder of the original boat’s registration period to a new boat upon payment of the transfer fee for multiyear registration as set forth in the code and submission of a complete Form PFBC R-4. If the registration fee for the new boat is greater than the registration fee for the old boat based on the length of the boat, the applicant shall also pay the difference between the registration fee for the new and old boat. The applicant shall submit the certificate of registration for the old boat and certify that the validation decals have been removed from the old boat at the time of transfer. The old boat’s number shall remain with the old boat, and the new boat shall be issued a new number unless it was previously numbered in this Commonwealth.

**§93.4. Certificate of Registration. – 5122(a)1**

- (a) The owner shall sign the certificate of registration, Form PFBC-730b, in ink and place a numbered, registration certificate validation decal on the reverse side of the certificate to validate the registration. A registration certificate is not valid unless a decal is applied.
- (b) The Commission will mark a boat rental business’s certificate of registration with “rental business.” When the motor is not rented with the boat, the description of the propulsion and type of fuel shall be omitted from the certificate of registration.
- (c) A boat’s owner or representative who rents or leases a boat less than 26 feet long to someone else for noncommercial use for less than 7 days, may retain the certificate of registration at the place from which the boat is rented. These boats shall be identified as required by §117.2.(f) (relating to standards) while in use and comply with the subpart. A copy of the lease or rental agreement, signed by the owner or his representative and by the person renting or leasing the boat that shows the registration number of the boat and the period of time for which the boat is rented or leased, shall be onboard and presented for inspection by an authorized officer requesting it.
- (d) Each dealer’s, jobber’s, and manufacturer’s certificate shall be plainly marked “dealer,” “jobber,” or “manufacturer” in lieu of the description of the boat. The certificate of registration shall be onboard when a boat displaying the number is in use.
- (e) *Boating without a certificate of registration onboard:*
- (1) When a resident of this Commonwealth is found operating a boat without

the required certificate of registration onboard and claims that the boat is validly registered, the apprehending officer shall give the operator 7 days to produce the original certificate.

- (2) If it is inconvenient for the operator to produce the certificate in person, the officer may permit the operator to mail the original certificate to the officer for verification. The operator will provide a stamped self-addressed envelope for the return of the certificate. If the officer permits the operator to mail the original certificate to the officer, the officer shall provide the operator with a receipt or other documentation allowing continued operation of the boat during the period the original certificate is not in possession.
- (3) If the operator fails to send the original certificate within the 7-day period, the officer shall institute summary proceedings against the operator in the manner prescribed by law.

**§93.5. Display of Registration Number and Validation Decal. – 5122(a)3**

- (a) The registration number shall be displayed above the waterline on both sides of the bow of the boat considered to be any part of a boat's side forward of a point halfway between the front and the back of the boat.
  - (1) The registration number shall be in solid vertical block characters, at least 3 inches in height and of a color which shall contrast with the background.
  - (2) The registration numbers shall be painted on or permanently attached so they read from left to right and are in a position that provides maximum visibility and shall be maintained so they are clearly visible and legible.
  - (3) Inflatable boats and boats configured in a manner that a number on the hull or superstructure would not be easily visible, and unless special provision is made by the manufacturer for display of numbers, may carry registration numbers and validation decals on boards to be lashed to the bow on each side of the boat.
  - (4) Unpowered kayaks, sculls, sailboards, and other low volume boats of similar design are exempt from displaying registration numbers.
  - (5) Boats possessing a valid marine document, when used for recreational purposes and when Pennsylvania is the state of principal operation, must display a valid registration decal but shall not display the registration number.
- (b) A set of two color-coded validation decals will be issued for display with each registration number. The decal shall be displayed within 6 inches of the registration number on a level with the number. The decals shall be approximately 3 inches by 3 inches and color-coded to indicate the registration period. Registration numbers and validation decals shall be displayed in the following manner: PA 12 AM or PA 12 AM. A validation decal may be displayed prior to April 1 of the period for which it is issued.
- (c) No other number may be displayed on either side of the bow of the vessel.
- (d) The displayed registration number of a manufacturer, jobber, or dealer shall have the number printed upon or attached to a removable sign to be temporarily but firmly affixed to the bow of the vessel being operated for demonstration or testing. This temporary placement of the number shall otherwise be as prescribed in this section. This number may be transferred from boat to boat but may be used on only one boat at a time.



- (e) An unauthorized person may not erase, deface, change paint on, or tamper with a registration number or certificate, validation decal, or other identification number on a boat or motor.

**§93.6. Numbering Pattern. – 5122(a)3**

- (a) The registration number shall be divided into three parts. The first or prefix part shall consist of the letters “PA.” The second part shall consist of not more than four Arabic numbers. The third or suffix part shall consist of not more than three letters.
- (b) The parts shall be separated by hyphens or spaces equivalent to a letter.
- (c) Registration numbers issued to a boat rental business shall contain the letter “L” as the last letter in the suffix.
- (d) Registration numbers issued to manufacturers, dealers, and jobbers will consist of the letters “PA” followed by three numerals and ending in three letters, the first two of which shall be “DL.”

**§93.7. Duplicate Certificate of Registration.**

The Commission will issue a duplicate certificate of registration upon receipt of Form PFBC-730a or Form PFBC-732 from the registered owner and payment of the appropriate fee. The Commission will not issue the numbered registration certificate validation decal for duplicate registrations, but the lack of the decal will not affect the validity of a duplicate registration certificate.

**§93.8. Lost, Stolen, Destroyed, or Abandoned Boats. – 5122(a)5**

The loss, theft, destruction, or abandonment of a registered boat shall be reported to the Commission within 5 days. The recovery of a boat that is lost, stolen, or abandoned shall be reported to the Commission within 5 days of recovery.

**§93.9. Surrender of Certificate of Registration. – 5122(a)5**

- (a) The person whose name appears on the certificate of registration as owner of a boat shall surrender the certificate and the validation decals to the Commission within 15 days after it becomes invalid, for one or more of the following reasons:
  - (1) The owner transfers ownership in the boat.
  - (2) The boat is destroyed or abandoned.
  - (3) Sixty days has expired after the date on which the boat is no longer principally used in this Commonwealth.
  - (4) The owner involuntarily loses his interest in the boat by legal process.
  - (5) A false or fraudulent statement is contained in the application or the fees for the issuance of the certificate are not paid.
  - (6) The registration is revoked or suspended.
- (b) If the certificate of registration becomes invalid for the reasons in subsection (a)(3) or (5), the person whose name appears on the certificate as the owner shall remove the number and validation decal from the boat. If the registration becomes invalid for the reasons in subsection (a)(6), the owner shall remove the validation decal but shall leave the registration number fixed to the boat.
- (c) A waterways conservation officer, deputy waterways conservation officer, or authorized Commission employee, or other law enforcement officer may seize the certificate of registration and validation decal for a boat for which the registration has been revoked or suspended.

**§93.10. Change of Address. – 5122(a)1**

The owner shall notify the Commission, in writing, within 15 days after a change of address. The original certificate of registration shall be retained for use until a new certificate is issued.

**§93.11. Reciprocity and State of Principal Operation. – 5122(a)1**

- (a) The state of principal operation is that state where the boat is on its waters more than on any other state's waters. This time includes the time when the boat is not in motion as for instance when the boat is moored or at anchor. The mooring of a boat in a Commonwealth yacht club, marina, boat club private dock, or similar facility for more than 14 days, as evidenced by the signing of a lease, membership permit, or other document resulting in the assignment of, or permission to construct or occupy, dockage space shall be prima facie evidence that Pennsylvania is the state of principal operation.
- (b) When Pennsylvania becomes the state of principal operation of a boat which is validly registered and numbered in another state, the registration and number issued by the other state will be recognized for a period not to exceed 60 days from the date the boat is moved to this Commonwealth during which time the owner of the boat shall apply for and obtain a Pennsylvania registration and number.
- (c) When another state is the state of principal operation of a boat and the boat is numbered and validly registered in that state under a numbering system approved by the Secretary of the United States Department of Transportation, the boat is deemed in compliance with this chapter while temporarily operating on the waters of this Commonwealth.
- (d) It is unlawful to operate a motorboat, whose state of principal operation is Pennsylvania, without first obtaining a Pennsylvania registration in accordance with this chapter.

**§93.12. Dealers, Manufacturers, and Jobbers. – 5122(a)2**

- (a) Dealer, manufacturer, and jobber registrations issued under section 5307 of the code (relating to dealer registration) will be issued only to businesses that prove to the satisfaction of the Commission that they are clearly recognizable as bona fide dealers, manufacturers, or jobbers. Special registrations will not be issued to a person or business that fails to prove to the satisfaction of the Commission that it is regularly engaged in the business of being a boat dealer, manufacturer, or jobber. It is unlawful for a person to provide false information in applying for dealer, manufacturer, or jobber registrations or to seek to obtain special registration for a boat for the purpose of avoiding applicable Commonwealth taxes.
- (b) A dealer is a business regularly engaged in the business of selling new or used boats. An applicant for a dealer's registration shall demonstrate that his business is clearly recognizable as a boat dealership on a regular basis. Applicants shall provide the information requested by the Commission. Proof of bona fide boat dealer status may include the following:
  - (1) Maintenance of a boat display area capable of regularly displaying at least three boats or a minimum of 1,200 square feet, indoors or outdoors.
  - (2) Annual sales of substantial numbers of new and used boats. "Substantial sales" normally means sale of five or more boats unless the applicant can show unusual circumstances justifying lesser sales.

- (3) Consistent identification of the business as a boat dealer in advertising, signs, telephone book listings, and the like. The dealership shall be clearly identifiable as such by a person who visits or deals with it.
- (4) Location of a dealership in areas where zoning permits boat sales and commercial operations.
- (5) Regular hours of operation between April 30 and September 30 on at least 5 days per week.
- (c) To be eligible for a jobber's registration, an applicant shall demonstrate to the satisfaction of the Commission that the applicant is regularly engaged in the boat jobber business. A jobber is a person or business which sells boats only to retailers or institutions.
- (d) A manufacturer is a person or business engaged in building, testing or constructing boats or boat parts from raw material or parts. To be eligible for a manufacturer's registration, an applicant shall demonstrate to the satisfaction of the Commission that the applicant is regularly engaged in the business of manufacturing or testing boats or boat parts for sale.
- (e) Dealer, jobber, and manufacturer registrations shall be issued only in the name under which the applicant is regularly engaged in the business of selling, jobbing, or manufacturing boats.
- (f) The Commission may recall special registrations for dealers, jobbers, and manufacturers upon finding that:
  - (1) The dealer, jobber, or manufacturer is no longer entitled to special registration.
  - (2) The dealer, manufacturer, or jobber has made or permitted to be made an unlawful use of a watercraft certificate of registration, registration number, or validation decal.
- (g) Boat dealers, jobbers, or manufacturers who take in trade or trade a boat bearing previous Pennsylvania boat registration are required, within 15 days of obtaining the boat, to place the boat under the dealer/jobber/manufacturer's dealer registration. The dealer, jobber, or manufacturer shall complete Form TS-1 and forward it to the Licensing and Registration Section. No fee is applicable to a transaction when dealers place boats taken in trade under their dealer registrations. It is unlawful for a boat dealer, jobber, or manufacturer to operate or allow to be operated a boat received in trade bearing a Pennsylvania boat registration until the boat is placed under their dealer registration under this subsection.

**§93.13. Issuing Agents. – 5304(d.1)**

**(a) Designation:**

- (1) The designation of issuing agents for temporary boat registration shall be limited to the Commission and Commission offices, county treasurers, businesses dealing in boats, boating equipment or sporting goods, and temporary tag services or messenger services, approved by the Department of Transportation for the issuance of temporary boat trailer registrations.
- (2) An applicant seeking to become an issuing agent for temporary boat registrations shall complete and submit to the Commission an application on the form prescribed by the Commission and shall pay a one-time, nonrefundable fee of \$100. Applications shall be accompanied by a bond in favor of the Commission in a minimum amount specified by the Executive Director or a designee.

- (3) Upon being designated as an issuing agent, at least one employee of the new agent with primary responsibility for handling boat registrations shall successfully complete a training course offered by the Commission at its Harrisburg office or other location the Executive Director designates.
- (b) *Maintaining an agency:*
  - (1) To maintain an agency, the agent shall issue at least 25 temporary boat registrations each calendar year, unless the Executive Director, for good cause shown, finds that unusual circumstances preclude the agent from issuing the minimum number of temporary boat registrations.
  - (2) To maintain an agency, the agent or a designee who is routinely involved in the issuance of temporary boat registrations shall successfully complete, at least once every 2 years, training offered by the Commission at a location designated by the Executive Director.
- (c) *Insufficient number of agents.* – If the Executive Director determines that a sufficient number of agents is not available in an area reasonably to address the needs of the boating public, the Executive Director may appoint additional agents from other interested individuals or reduce the number of temporary boat registrations that existing agents are required to issue during the year.
- (d) *Change of address, telephone number, or ownership.* – An issuing agent shall notify the Commission, in writing, within 10 days after a change of address, telephone number, or ownership of the agency.
- (e) *Operation of an agency:*
  - (1) Issuing agents shall prominently display the hours of operation and fee schedule at the agent's premises.
  - (2) Issuing agents who conduct transactions via e-commerce shall maintain the same standards as non-e-commerce agents.
  - (3) Issuing agents shall retain copies of all applications and related documentation for the current calendar year and the 2 previous years.
  - (4) Issuing agents shall have access to nonpublic information concerning holders of boat registrations and titles, including their home addresses. Issuing agents who are provided nonpublic information about boat registration holders or boat owners in the course of their duties may not release or disclose the nonpublic information except for official purposes.
  - (5) Issuing agents shall permit the inspection during regular business hours of the agent's premises and business records by Commission employees designated by the Executive Director or officers authorized to enforce the code.
- (f) *Issuance of temporary boat registrations:*
  - (1) An issuing agent is responsible for ensuring that the "Application for Pennsylvania Boat Registration and/or Boat Title" (Form REV-336) is fully completed. An issuing agent shall ensure that the Form REV-336 is legible and accurate.
  - (2) An issuing agent may not knowingly permit an applicant to provide false or misleading information on the Form REV-336 or related documentation. If an issuing agent suspects that an applicant has provided false or misleading information on the Form REV-336 or related documentation, the agent immediately shall notify the Commission. An issuing agent may not provide false or misleading information on the Form REV-336 or related documentation.

- (3) An issuing agent shall issue a temporary boat registration only to the owner or co-owner of the boat being registered. An issuing agent shall verify the identity of the applicant by requiring that the applicant produce positive means of identification.
- (4) An issuing agent shall issue, upon request, a temporary boat registration to any individual who properly completes the form REV-336, submits the appropriate documentation and pays the applicable fees and Sales or Use Tax as required by the Code and this chapter.
- (5) An issuing agent shall issue a temporary boat registration only for new boats, used boats where ownership is being transferred, and boats brought into this Commonwealth from another state.
- (6) An issuing agent shall enter the expiration date (month/day/year) on the completed application which will be recognized as the boat's temporary registration.
- (7) Within 10 days of the issuance of a temporary boat registration, the issuing agent shall submit to the Commission a properly completed "Temporary Registration Summary Report" (Form PFBC-725) along with all applications, related documentation, applicable fees, and Sales and Use Tax as required by the Code, this chapter and the Handbook for Issuing Pennsylvania Boat Registrations and Titles.
- (g) *Used boats sold by dealers.* – An issuing agent may not submit to the Commission a Form REV-336 and related documentation from an applicant who purchased a used boat from a dealer and does not possess a properly completed "Dealer Notification of Boat Trade-In" (Form PFBC-TS1).
- (h) *Acceptance of applications for permanent registrations or titles.* – Within 10 days of the acceptance of the Form REV-336 and related documentation for a permanent registration or title, the issuing agent shall forward to the Commission using the "Temporary Registration Summary Report" (Form PFBC-725), all applications, related documentation, applicable fees, and Sales and Use Tax as required by the Code, this chapter and the Handbook for Issuing Pennsylvania Boat Registrations and Titles.
- (i) *Commission offices.* – The Commission will collect and deposit in the Boat Fund the \$2 issuing agent fee for all temporary boat registrations issued by Commission offices and any boat registration renewals issued online.
- (j) *Recall of agency.* – The Commission may recall the agency of an issuing agent who violates the Code or this chapter. A conviction of an offense under the Code or this chapter is not a prerequisite to initiating an action to recall an agency. The Executive Director or a designee may initiate action to recall an agency by serving an order to show cause on the agent, which order will describe the alleged violation of the Code or this chapter. Proceedings to recall an agency shall be governed by 1 Pa. Code Part II (relating to general rules of administrative practice procedure),
- (k) *Renewal of boat registrations.* – It is unlawful for a person, other than the Commission, Commission offices and on-line messenger services approved by the Department of Transportation, to issue renewals for boat registrations or collect the applicable fees.

**§93.14. Proof of Ownership for Initial Registration. – 5122(a)5**

- (a) This section applies only to the initial registration of a boat in this Commonwealth. It does not apply to registration of boats previously or

- currently registered in this Commonwealth.
- (b) An applicant for initial registration shall establish proof of ownership as follows:
- (1) For a boat manufactured after January 1, 1993, a manufacturer's certificate of origin indicating transfer of ownership from the manufacture, distributor, or dealer to the applicant. The original manufacturer's certificate of origin shall be attached to the Form REV-336 and submitted to the Commission.
  - (2) For a boat manufactured before January 1, 1993, or when the manufacturer's certificate of origin is not available, a bill of sale or invoice issued or prepared by the seller showing all of the following:
    - (i) The name and address of the seller.
    - (ii) The name and address of the purchaser.
    - (iii) The name and address of the legal owner.
    - (iv) The location, date of sale, and description of the boat, including the hull identification number for boats built after October 31, 1972, or other serial number for boats built prior to October 31, 1972.
  - (3) For a boat that was registered and issued a title by another state, a properly endorsed document indicating title.
- (c) If none of the documents described in subsection (b)(1) and (2) are available, the applicant shall submit an executed Form PFBC-734 (Affidavit of Purchase/Ownership) fully setting forth the facts to support the applicant's claim of ownership in the boat. Applications seeking to prove ownership of homemade boats shall be supported with bills of sale for the major components of the boat. Affidavits are executed under penalty of law.
- (d) An applicant for initial registration of a boat with a retail value of less than \$2,000 that is being registered voluntarily under section 5303 of the Code (relating to voluntary and special registrations) may substitute the original receipt issued by a dealer or other retailer for the manufacturer's certificate of origin.
- (e) A manufacturer, dealer, or other person may not sell or otherwise transfer a new boat to a dealer for the purposes of display or resale without delivering to the dealer a completed manufacturer's certificate of origin. A dealer may not purchase or acquire a new boat without obtaining from the seller thereof the manufacturer's certificate.

**§93.15. Unauthorized Transfer, Use, or Display of Certificate of Registrations, Validation Decals, or Numbers. – 5122(a)5**

It is unlawful to use, display, or allow to be used or displayed a certificate of registration or registration number or validation decal on or in connection with a watercraft other than that for which it was issued.

**§93.16. Operation of Boat After Death of Registered Owner.**

When the registered owner of a boat is deceased, the boat may continue to be operated by or for the heir or personal representative of the decedent for the remainder of the current registration period.

**§93.17. Registration of Abandoned Boats.**

- (a) *Policy.* – Before registering a boat, the Commission must be satisfied that the applicant for registration has sufficient ownership interest in the boat to qualify

for registration. Requests to register boats found abandoned on private property and Commonwealth waters present particular problems. It is the policy of the Commission to register these boats only if the applicant demonstrates ownership by taking the steps described in this section and complies with other applicable law and regulations.

(b) *Boats abandoned on private property.* – Subject to the following, a landowner, his lessee or his agent may register a boat that has been abandoned on his land or the waters immediately adjacent to his land for at least 3 months.

(1) A person desiring to register an abandoned boat in his name shall provide written notice to the Commission of his intent to register the boat. The notice shall, at a minimum, set forth the date and place the boat was found, a description of the boat, including the make, model, and year, and if known, the hull identification number, registration number, temporary decal number, and other identifying data. The person desiring to register an abandoned boat may provide written notice to the Commission by completing Form PFBC-R2, “Notice of Intent to Register Boat Abandoned on Private Property” and mailing the form to the Commission.

(2) If a boat abandoned on a person’s land or waters has a hull identification number, registration number, temporary decal number, or other identifying indicia, the Commission will notify the last registrant of the boat that the boat has been abandoned and that the requester desires to register the boat in his name.

(3) Upon receipt of the written request, the Commission will notify the last registrant by certified mail that someone desires to register the boat in his name and if ownership is not claimed and the boat removed within 30 days, the Commission may, upon proper application and payment of fees, register the boat in the name of the person desiring to register it.

(i) The notice shall:

(a) Describe the make, model, hull identification number, and registration number of the boat.

(b) State the location where the boat is being held.

(c) Inform the registrant of his right to reclaim the boat within 30 days after the date of the notice upon payment of all registration fees and other applicable charges.

(d) State that failure of the registrant to reclaim the boat is deemed consent to the registration of the abandoned boat in the name of the requester with dissolution of all interests of the prior registrant.

(ii) If the last known registrant does not respond, the Commission may notify the requester to proceed under paragraph (4). The Commission is not required to send a letter if it cannot identify the boat’s last registrant or ascertain an address. If the abandoned boat has a registration number, temporary decal number, or other identifying indicia, evidencing that the boat is registered in another state, the Commission will notify the other state and ask it to notify the boat’s last registrant by certified mail that someone desires to register the boat in his name. The other state’s notice shall provide that if ownership is not claimed and the boat removed within 30 days, the Commission may, upon proper application and payment of fees, register the boat in the name of the person desiring to register

- it. The other state is not required to send a letter if it cannot identify the boat's last registrant or ascertain an address. When the other state notifies the registrant, if known, as provided in this section and advises the Commission that the transfer of registration to the requester is unobjectionable to the other state, the Commission may notify the requester to proceed under paragraph (4).
- (4) Regardless of whether the abandoned boat has a hull identification number, registration number, temporary decal number, or other identifying indicia, the person desiring to register the boat in his name shall place a notice in a newspaper of general circulation published in the county where the boat is located for 3 consecutive days. The notice shall describe the boat, its location, the date it was abandoned, and any identifying number. The person also shall state in the notice that if the boat is not claimed and removed within 30 days after publication in the newspaper, the person will apply for registration of the boat in his name.
  - (5) After the notices described in paragraphs (3) and (4) have expired, but no earlier than 60 days after the person desiring registration has first notified the Commission, the person may apply to the Commission for registration of the boat in his name.
    - (i) The application shall be accompanied by the following items:
      - (a) A statement made under penalty of law that the boat has been abandoned for at least 3 months.
      - (b) Proof that the applicant provided notices as set forth in this section.
      - (c) Proof that a notice was published in a newspaper as required by paragraph (4).
    - (ii) In cases involving boats registered in other states, the Commission may extend the 60-day period described in paragraph (5) to 180 days.
  - (6) Upon receipt of the required materials and the payment of fees required by law, the Commission will register the boat in the name of the applicant.
- (c) *Boats abandoned on public property or waters.* – A person finding a boat abandoned on public property or waters – that is, property or waters under the ownership or control of the Commonwealth, its agencies and political subdivisions – shall notify the Commission of the description and location of the boat as well as the date on which it was found. A person may notify the Commission by completing form PFBC-R3, “Notice of Abandoned Boat Found on Commonwealth Waters” and mailing the form to the Commission. A person finding a boat abandoned on lands or waters under the jurisdiction or control of the United States Government should contact the Federal agency with jurisdiction over the lands and waters and follow applicable Federal regulations.
- (1) The Commission may take possession of a boat abandoned on public property or waters may authorize a salvor to take possession provided the salvor complies with these provisions, is a vehicle salvage dealer as defined in 75 Pa.C.S. §1337 (relating to use of “Miscellaneous Motor Vehicle Business” registration plates), and holds a current, valid certificate of authorization issued by the Department of Transportation under 75 Pa.C.S. §7302 (relating to certification of authorization).



- (2) Any salvor taking possession of a boat under this section shall notify the Commission in writing within 48 hours after taking possession.
- (3) The Commission, after taking possession of an abandoned boat or after receiving notice that a salvor has taken possession of an abandoned boat, shall notify by certified mail, return receipt requested the last known registrant of the boat. The notice shall:
  - (i) Described the make, model, hull identification number, and registration number of the boat.
  - (ii) State the location where the boat is being held.
  - (iii) Inform the registrant of his right to reclaim the boat within 30 days after the date of the notice upon payment of all towing and storage charges and all registration fees.
  - (iv) State that failure of the registrant to reclaim the boat is deemed consent to the destruction, sale, or other disposition of the abandoned boat with dissolution of all interests of the registrant.
- (4) If the identity of the last registrant cannot be determined, the contents of the notice described in paragraph (3) shall be published three times in a newspaper of general circulation in the area where the boat was found abandoned. If the boat is in possession of a salvor, publication of the notice shall be the responsibility of the salvor. If the boat is in possession of the Commission, publication of the notice is the responsibility of the Commission. Publication of the notice shall have the same effect as the notice sent by certified mail.
- (5) The Commission, after 45 days of the date of notice sent by certified mail described in paragraph (3) or publication of the notice described in paragraph (4), may dispose of the boat if it is in its possession or may authorize the salvor to dispose of the boat in its possession as provided in paragraph (6) or (7).
- (6) The Commission, if in possession of the unclaimed abandoned boat, or the salvor, if in possession of the unclaimed abandoned boat, may sell the boat at public auction if it has value. From the proceeds of the sale of the abandoned boat, the Commission or the salvor, as applicable, shall be reimbursed for the costs of towing, storage, notice, publication, mailing, and costs of the auction. The remainder of the proceeds of the sale shall be forwarded to the Commission, which will hold them for 60 days from the date of sale for claim by the registrant. If the proceeds are not so claimed, they shall be deposited in the boat fund for use of the Commonwealth.
- (7) If an unclaimed abandoned boat is valueless except for salvage, the salvor in possession shall apply to the Commission for registration, and upon issuance of the same, the salvor may destroy, dismantle, salvage, or recycle the boat and retain any proceeds realized therefrom to offset the costs of towing, storage, notice, publication, and mailing.
- (8) The Commonwealth, its agencies, and political subdivisions may register any boat abandoned on areas under their ownership or control by proceeding in the manner set forth in subsection (b) or may follow the procedure set forth in this subsection. The Federal government may register any boat abandoned on areas under its ownership or control by proceeding in the manner set forth in subsection (b), may follow the procedure set forth in this subsection or may follow applicable Federal laws or regulations.

## SUBCHAPTER B. TITLING OF BOATS

Sec.

- 93.101. Definitions.
- 93.102. Application Procedure and Contents of Applications for Certificates of Title.
- 93.103. Boats Brought into this Commonwealth from Outside this Commonwealth.
- 93.104. Boats Purchased from Dealers/Transfer to or from Manufacturer or Dealer.
- 93.105. Boats Sold or Transferred Privately.
- 93.106. Specially Constructed or Reconstructed Boats.
- 93.107. Delivery of Certificate of Title.
- 93.108. Duplicate/Replacement Titles.
- 93.109. Transfer or Repossession of Boat by Operation of Law.
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- 93.111. Voluntary Titling of Boats.
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- 93.113. Creation and Perfection of Security Interests in Boats.
- 93.114. Assignments of Security Interests.
- 93.115. Satisfaction of Security Interests.
- 93.116. Exemption.
- 93.117. Recordkeeping, Documentation, and Information Verification Regarding Boats.
- 93.118. Prohibited Acts.
- 93.119. Forms.

### **§93.101. Definitions**

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

*Dealer.* – A person who engages in whole or in part in the business of buying, selling, or exchanging new and unused boats, or used boats, or both, either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise, and who has an established place of business for the sale, trade, and display of boats. The term includes a yacht broker.

*Manufacturer.* – A person engaged in the business of manufacturing or importing new and used boats, or new and unused outboard motors, for the purpose of sale or trade.

*Reconstructed boat.* – One of the following:

- (i) A boat for which a certificate of title (salvage/junk) has been issued, which is thereafter restored to operating condition and which is substantially in conformance with the specifications of the manufacturer.
- (ii) A boat that has been materially altered by the removal, addition, or substitution of essential parts derived from various other makes or models, or that the Commission has determined is readily recognizable as a boat of a generally recognized make or model.

*Specially constructed boat.* – One of the following:

- (i) A boat not originally constructed by a generally recognized manufacturer of boats under a distinctive name and not materially altered from its original construction, but assembled from parts of various boats or kits, or both, and that would be commonly known as a “homemade” boat.

- (ii) A boat that has been materially altered by the removal, addition, or substitution of essential parts derived from various other makes and models and that the Commission determines cannot be readily identified as a boat of a generally recognized make or model.

**§93.102. Application Procedure and Contents of Applications for Certificates of Title.**

- (a) Boat owners shall apply for a certificate of title on form REV-336, provided by the Commission. The completed form shall be forwarded to the Commission at the address listed on the application.
- (b) The applicant shall provide the following information on the application (REV-336) for a title:
  - (1) The name, mailing address, residence address, phone number, and zip code of the owner. If there are co-owners, the applicants shall provide information relating to both owners and indicate whether the boat is owned as joint tenants with right of survivorship or as tenants in common.
  - (2) The date of birth of the primary purchaser.
  - (3) The name of the person from whom the boat was purchased.
  - (4) The State registration number, if any, currently assigned to the boat.
  - (5) The hull material, such as wood, steel, aluminum, plastic, fiberglass, or other.
  - (6) The full Hull Identification Number (HIN).
  - (7) The make, model, and year built, if known.
  - (8) The length of the boat in feet and inches.
  - (9) The type of propulsion, such as, outboard, inboard, sterndrive, or unpowered.
  - (10) The type of fuel, such as, gas, diesel, electric, or unpowered.
  - (11) The primary usage such as, pleasure, rental/livery, manufacturer/dealer/jobber, commercial passenger, and the like.
  - (12) For boats with outboard internal combustion motors, the serial number, the manufacturer's name, and the horsepower rating. If there are two motors, the applicant shall provide information for both motors.
  - (13) The names and addresses of each lienholder (in the order of priority).
  - (14) The date of lien encumbrance.
  - (15) The date applicant completed the form.
  - (16) The signature of the owner.
  - (17) Complete Sales and Use Tax information.
- (c) An outboard motor is an integral part of a boat and is subject to title and lien requirements. If any information pertaining to the outboard motor changes from that which the applicant provided in the original application, the applicant shall apply for a new title.
- (d) The Commission will not process incomplete applications.
- (e) The Commission will not issue a certificate of title for a boat that is registered or titled, or both, in another state or that is documented by the United States Coast Guard unless the application for title is accompanied by the current certificates of registration or title, or both, for the boat or evidence that the marine document for the boat is no longer in effect.

**§93.103. Boats Brought into this Commonwealth from Outside this Commonwealth. – 5325(a)3**

- (a) When the owner of a boat having a certificate of title from another state brings the boat into this Commonwealth as its state of principal use, the owner shall obtain a Pennsylvania certificate of title for the boat when the boat is registered in this Commonwealth or its ownership is transferred to another person, whichever occurs first.
- (b) When the owner of a boat not having a certificate of title from another state brings the boats into this Commonwealth as its state of principal use, the owner shall obtain a Pennsylvania certificate of title when the boat is sold or is otherwise transferred to another owner. This provision does not apply to boats for which a title is not required under section 5322(a) of the code (relating to when certificate of title not required).

**§93.104. Boats Purchased from Dealers/Transfer to or from Manufacturer or Dealer. – 5325(a)4, 5325(a)10**

- (a) A dealer may not purchase or acquire a new boat without obtaining from the seller a manufacturer's or importer's certificate of origin when provided by the manufacturer or importer.
- (b) When certificates of origin are provided by the manufacturer or importer, a manufacturer or dealer may not transfer ownership of a new boat without supplying the transferee with the certificate of origin signed by the manufacturer's or importer's authorized agent.
- (c) A dealer transferring a boat requiring title under this subchapter shall assign ownership to the new owner, in the case of a previously titled boat, by completing the appropriate assignment portion of the certificate of title, or in the case of a new boat, by completing the assignment portion of the certificate of origin.
- (d) A dealer shall forward all moneys and applications to the Commission within 10 days of transferring ownership.
- (e) Except as otherwise provided in this subsection, a dealer buying or acquiring a used boat for resale need not obtain a certificate of title for the used boat if the dealer reports the acquisition to the Commission within 20 days. In lieu of submitting a report of acquisition, the dealer may apply for and obtain a certificate of title as provided in this subchapter. If a dealer buys or acquires a used unnumbered boat that is otherwise required to be titled, the dealer shall apply for a certificate of title in the dealer's name within 20 days. If a dealer buys or acquires a new boat for resale, the dealer may, but is not required to, apply for a certificate of title for the boat in the dealer's name.
- (f) Every dealer shall maintain for 3 years a record of any boat the dealer's bought, sold, brokered, exchanged, or received for sale or exchange. This record shall be open to inspection by Commission representatives during reasonable business hours.
- (g) A dealer/lessor who leases a boat for more than 30 consecutive days shall obtain a certificate of title for the boat unless exempt under section 5322(a) of the code (relating to when certificate of title not required). The lessor shall maintain the certificate of title of a leased boat.

**§93.105. Boats Sold or Transferred Privately. – 5325(a)5**

- (a) A person transferring a boat requiring title under this subchapter shall assign

ownership to the new owner, in the case of a previously titled boat, by completing the appropriate assignment portion of the certificate of title, or in the case of a new boat, by completing the assignment portion of the certificate of origin.

- (b) Moneys and applications shall be forwarded to the Commission within 10 days of transferring ownership.
- (c) The lessor shall maintain the certificate of title of a leased boat.

**§93.106. Specially Constructed or Reconstructed Boats. – 5325(a)6**

- (a) The owner of a specially constructed or reconstructed boat shall apply for a certificate of title as required by this subchapter.
- (b) The application for certificate of title shall be accompanied by one of the following:
  - (1) The outstanding certificates of title.
  - (2) The manufacturer's certificates of origin or certificates of title (salvage/junk), issued for boats, the parts of which were used in construction of the boat, if the boats are no longer operable or able to be registered.
  - (3) The bills of sale for the major components of the boat for which no other proof of ownership is available.
  - (4) A photograph of the boat, upon the request of the Commission.
- (c) The certificate of title issued for every specially constructed boat and reconstructed boat, as defined in this subchapter, shall clearly describe the boat by type as follows:
  - (1) The certificate of title for every specially constructed boat shall describe the make of boat as "specially constructed."
  - (2) The certificate of title for every reconstructed boat shall describe the boat by its original make or trade name but shall be coded to designate it as a reconstructed boat.

**§93.107. Delivery of Certificate of Title. – 5325(a)7**

The Commission will mail the original certificate of title to the first lienholder named therein, or if there is none, to the owner named therein. The Commission will retain the data necessary to generate a copy of the certificate of title.

**§93.108. Duplicate/Replacement Titles. – 5325(a)8**

- (a) If a title is lost, stolen, mutilated, destroyed, or becomes illegible, the lienholder in possession of the title or, if there is none, the owner named on the title, as shown by the Commission's records, may obtain a duplicate/replacement by applying to the Commission. The applicant shall furnish information concerning the original title and the circumstances of its loss, theft, mutilation or destruction. Applications for replacement titles shall be filed within 30 days of the loss, theft, mutilation, or destruction. Mutilated or illegible titles shall be returned to the Commission with the application for a duplicate/replacement.
- (b) The duplicate/replacement title shall be marked "duplicate" on its face and shall be mailed or delivered to the applicant.
- (c) If a lost or stolen original title for which a duplicate/replacement has been issued is recovered, the original shall be surrendered to the Commission for cancellation within 20 days of its recovery.

**§93.109. Transfer or Repossession of Boat by Operation of Law. – 5325(a)11**

- (a) If ownership of a boat is transferred by operation of law, such as by inheritance, divorce, order in bankruptcy, insolvency, replevin, or executive sale, the transferee, within 30 days after acquiring the right to possession of the boat by operation of law, shall mail or deliver to the Commission a court order or other document evidencing the transfer by operation of law, together with the application for a new title and the required fee.
- (b) If a lienholder repossesses a boat by operation of law and holds it for resale, the lienholder shall secure a new title and shall pay the required fee.
- (c) Issuance of a certificate of title does not constitute an adjudication of issues relating to ownership of boats.

**§93.110. Boats that are Junked, Destroyed, Lost, Stolen, or Abandoned. – 5325(a)12**

- (a) *Reporting requirements.* – The destruction, loss, theft, or abandonment of a boat titled under this subchapter shall be reported to the Commission within 5 days. The recovery of a boat that is lost, stolen, or abandoned shall be reported to the Commission within 5 days of recovery.
- (b) *Acquiring title to boats abandoned on private property:*
  - (1) Subject to the provisions of this subsection, a landowner, a lessee, or an agent may acquire title to any boat abandoned on his land or waters immediately adjacent to it. This subsection applies only to boats that have been abandoned on the property of a person other than the owner of the boat for at least 3 months.
  - (2) A person desiring to obtain a certificate of title for an abandoned boat shall provide written notice to the Commission of intent to obtain title to the boat. The notice shall, at a minimum, set forth the date and place the boat was abandoned, a description of the boat, including the make, model and year, and, if known, the Hull Identification Number, registration number, temporary decal number, and other identifying data.
  - (3) If a boat abandoned on a person's lands or waters has a Hull Identification Number, registration number, temporary decal number, or other identifying indicia, the Commission will notify the boat's owner and lienholder, if any, that the boat has been abandoned and that the requester desires to acquire title to it.
  - (4) Upon receipt of the written request, the Commission will notify the owner and the lienholder by certified mail that someone desires to acquire title to the boat and if ownership is not claimed and the boat removed within 30 days, the Commission may, upon proper application and payment of fees, issue a certificate of title in the name of the person desiring to acquire title. If the owner does not respond, the Commission may notify the requester to proceed under paragraph (5). The Commission is not required to send a letter if it cannot identify a boat's owner or lienholder or ascertain an address. If the abandoned boat has a registration number, temporary decal number, or other identifying indicia, evidencing that the boat is registered in another state, the Commission will notify the other state and ask it to notify the boat's owner and lienholder by certified mail that someone desires to acquire title to the boat. The other state's notice shall provide that if ownership is not claimed and the boat removed within

30 days, the Commission may, upon proper application and payment of fees, issue a certificate of title in the name of the person desiring to acquire title. The other state is not required to send a letter if it cannot identify a boat's owner or lienholder or ascertain an address. When the other state notifies the owner and lienholder, if known, as provided in this section and advises the Commission that the transfer of title to the requester is unobjectionable to the other state, the Commission may notify the requester to proceed under paragraph (5).

- (5) Regardless of whether the abandoned boat has a Hull Identification Number, registration number, temporary decal number, or other identifying indicia, the person desiring to acquire title shall place a notice in a newspaper of general circulation published in the county where the boat is located for 3 consecutive days, describing the boat, its location, the date it was abandoned, and any identifying number. The person shall state in the notice that if the boat is not claimed and removed within 30 days after publication in the newspaper, he will apply for title to the boat in his name.
  - (6) After the notices described in paragraphs (4) and (5) have expired, but no earlier than 60 days after the person desiring to obtain title has first notified the Commission, the person may apply to the Commission for a certificate of title to the boat in his name as required by this subchapter and accompanied by the following affidavits:
    - (i) A statement made under penalty of law that the boat has been abandoned for at least 3 months.
    - (ii) Proof that the applicant provided notice as set forth in paragraphs (2)-(4).
    - (iii) Proof that a notice was published in a newspaper as required by paragraph (5)
  - (7) In cases involving boats registered in other states, the Commission may extend the 60-day period described in paragraph (6) to 180 days.
  - (8) Upon receipt of the material required by this subsection and the payment of any fees required by law, the Commission will issue a certificate of title to the boat to the applicant. Issuance of a certificate of title divests any other person of any interest in the boat.
- (c) *Acquiring title to boats abandoned on public property or waters:*
- (1) A person finding a boat abandoned on public property or waters – that is, property or waters under the ownership or control of the Commonwealth, its agencies or political subdivisions – shall notify the Commission of the description and location of the found boat as well as the date on which it was found.
  - (2) The Commission may take possession of a boat abandoned on public property or waters or may authorize a salvor to take possession if the salvor complies with this section, is a vehicle salvage dealer as defined in 75 Pa. S.C. §1337 (relating to use of miscellaneous motor vehicle business registration plates) and holds a current, valid certificate of authorization issued by the Department of Transportation under 75 Pa. C.S. §7302 (relating to certification of authorization).
  - (3) A salvor taking possession of a boat under this section shall notify the Commission in writing within 48 hours after taking possession.

- (4) The Commission, after taking possession of an abandoned boat or after receiving notice that a salvor has taken possession of an abandoned boat, shall notify by certified mail, return receipt requested the last known registered owner of the boat and all lienholders of record. The notice shall:
- (i) Describe the make, model, HIN number, and registration number of the boat.
  - (ii) State the location where the boat is being held.
  - (iii) Inform the owner and any lienholders of their right to reclaim the boat within 30 days after the date of the notice upon payment of all towing and storage charges and all applicable title and registration fees.
  - (iv) State that failure of the owner or lienholder to reclaim the boat is deemed consent to the destruction, sale, or other disposition of the abandoned boat with dissolution of all interests of the owner and lienholders.
- (5) If the identity of the last registered owner and all lienholders cannot be determined, the contents of the notice described in paragraph (4) shall be published one time in a newspaper of general circulation in the area where the boat was found abandoned. If the boat is in possession of a salvor, publication of the notice shall be the responsibility of the salvor. If the boat is in possession of the Commission, publication of the notice is the responsibility of the Commission. Publication of the notice shall have the same effect as the notice sent by certified mail.
- (6) The Commission, after 45 days of the date of notice sent by certified mail described in paragraph (4) or publication of the notice described in paragraph (5), may dispose of the boat if it is in its possession or may authorize the salvor to dispose of the boat in its possession as provided in paragraph (7) or (8).
- (7) The Commission, if in possession of the unclaimed abandoned boat, or the salvor, if in possession of the unclaimed abandoned boat, may sell the boat at public auction if it has value. The purchaser may apply to the Commission for a title, which shall be free and clear from all previous liens and claims of ownership. From the proceeds of the sale of the abandoned boat, the Commission or the salvor, as applicable, shall be reimbursed for the cost of towing, storage, notice, publication, mailing, and costs of the auction. The remainder of the proceeds of the sale shall be forwarded to the Commission, which shall hold them for 60 days from the date of sale for claim by the registered owner or lienholder. If the proceeds are not claimed, they shall be deposited in the Boat Fund for use of the Commonwealth.
- (8) If an unclaimed abandoned boat is valueless except for salvage, the salvor in possession shall apply to the Commission for a salvor's certificate of title, and, upon issuance of the same, the salvor may destroy, dismantle, salvage, or recycle the boat and retain any proceeds realized therefrom to offset the costs of towing, storage, notice, publication, and mailing. Issuance by the Commission of a salvor's certificate of title shall divest all rights, title and interest in the boat of the registered owner and all lienholders.
- (9) The Commonwealth, its agencies and political subdivisions may acquire title to any boat abandoned on areas under their ownership or control by



proceeding in the manner set forth in subsection (b) or may follow the procedures set forth in this subsection. The Federal government may acquire title to any boat abandoned on areas under its ownership or control by proceeding in the manner set forth in subsection (b), may follow the procedure set forth in this subsection or may follow applicable Federal laws or regulations.

**§93.111. Voluntary Titling of Boat. – 5325(a)13**

- (a) An owner of a boat may voluntarily apply for a certificate of title by applying at any time and paying then fees required under section 5327 of the code (relating to fees). Once an owner voluntarily acquires a certificate of title, titling for the boat is thereafter mandatory.
- (b) A boat owner who voluntarily applies for a certificate of title shall certify under penalty of law that there are no outstanding liens or encumbrances. See 18 Pa.C.S. §4904 (relating to unsworn falsification to authorities).

**§93.112. Suspension, Revocation, or Cancellation of Certificate of Title.  
– 5325(a)14**

- (a) The Commission will initiate an action to suspend or revoke a certificate of title by filing an order to show cause under 1 Pa. Code §35.14. (relating to orders to show cause), when authorized by statutory or other authority, or if the Commission determines that the certificate of title was fraudulently procured.
- (b) The Commission has the authority to cancel a certificate of title when the Commission determines that one of the following applies:
  - (1) The certificate of title was erroneously issued.
  - (2) The boat was junked, destroyed, lost, stolen, or abandoned.
- (c) Suspension, revocation, or cancellation of a certificate of title does not, in itself, affect the validity of a security interest noted on it.
- (d) When the Commission suspends, revokes, or cancels a certificate of title, the owner or person in possession of the certificate shall, upon receiving notice of the suspension, revocation or cancellation, immediately mail or deliver the certificate of title to the Commission.
- (e) The Commission may seize, in accordance with the law, a certificate of title that it has suspended, revoked, or canceled.

**§93.113. Creation and Perfection of Security Interests in Boats. – 5325(a)15**

- (a) When an owner creates a security interest in a boat:
  - (1) The owner shall, at the request of the secured party, immediately execute an application on a form prescribed by the Commission including the name and address of the secured party. The owner shall tender the existing certificate of title, if any, the application, and the required fee to the Commission.
  - (2) The security interest is perfected at the time that the application, existing certificate of title and an amount equal to or greater than the required fee are received by the Commission.
  - (3) Upon receipt of the title, application, and the required filing fee, the Commission will endorse on the existing title or on a new title that it then issues, the name and address of all secured parties, and mail or deliver the title to the secured party.

- (b) Except as provided in 13 Pa.C.S. §9311(d), 9315(c) and (d) and 9316(d) and (e) (relating to perfection of security interests in property subject to certain statutes, regulations and treaties; secured party's rights on dispositions of collateral and in proceeds; and continued perfection of security interest following change in governing law), a security interest in a boat is not valid against creditors of the owner or subsequent transferees or secured parties of the boat until perfected as provided by this subchapter.

**§93.114. Assignments of Security Interests. – 5325(a)16**

- (a) A secured party may assign, absolutely or otherwise, all or part of his security interest in the boat to a person other than the owner without affecting the interest of the owner or the validity of the security interest.
- (b) An assignee who desires to become the secured party of record shall deliver to the Commission the title, if available, and an assignment by the secured party named in the title in the form the Commission may prescribe, accompanied by the filing fee required by law.
- (c) The provisions of this section are subject to 13 Pa.C.S. §9308(c) (relating to when security interest or agricultural lien is perfected; continuity of perfection).

**§93.115. Satisfaction of Security Interests. – 5325(a)17**

- (a) Unless otherwise agreed by the owner, within 20 days of the satisfaction of a security interest in a boat, the secured party shall mail or deliver the title with the release to the owner and notify the Commission of the release of security interest.
- (b) Perfection of a security interest under this subchapter is effective for 10 years, dating from the time of perfection as provided in §93.113 (relating to creation and perfection of security interests in boats) unless renewed as provided in subsection (c).
- (c) The effectiveness of perfection lapses on the expiration of the period specified in subsection (b) unless a renewal form signed by the secured party of record is filed within the 6 months immediately preceding expiration. Upon the timely filing of the renewal form and the tender of the required fee, the effectiveness of perfection continues for 5 years from the date on which perfection would have become ineffective in the absence of renewal. Perfection may be successively renewed.

**§93.116. Exemptions.**

The provisions of this subchapter relating to procedures for creating, perfecting, assigning, and satisfying security interests do not apply to the following:

- (1) A lien given by statute or rule of law to a supplier of services or materials for the boat.
- (2) A lien given by statute to the United States, the Commonwealth, or a political subdivision of this Commonwealth.
- (3) A security interest in a boat held by a manufacturer or a dealer as described in 13 Pa.C.S. §93.11(d) (relating to perfection of security interests in property subject to certain statutes, regulations, and treaties).
- (4) A lien arising out of an attachment of a boat.
- (5) A boat for which a title is not issued under this subchapter.

**§93.117. Recordkeeping, Documentation, and Information Verification**

**Regarding Boats. – 5325(a)18**

- (a) The Commission will maintain a record of any title it issues.
- (b) Upon written request specifically identifying a particular boat, the Commission will provide the following information about a boat having a certificate of title:
  - (1) The name of the owner.
  - (2) The name and address of a lienholder.
  - (3) The date the certificate of title was issued.
  - (4) The make, model, and year of the boat.
- (c) The Commission will not release the home address of a title holder, except with the consent of the title holder or upon court order or subpoena.
- (d) The Commission will not release mailing lists or records of title holders, except to agencies of the Federal, State, and local government for official purposes.
- (e) Nothing in this section affects the authority of the Commission and other agencies of Federal, State, and local government to use information contained in certificates of title for official purposes.

**§93.118. Prohibited Acts. – 5325(a)**

- (a) A person may not sell, assign, or transfer a boat titled by the Commonwealth without delivering to the purchaser or transferee a title with an assignment on it showing title in the purchaser or transferee.
- (b) A person may not purchase or otherwise acquire a boat required to be titled by the Commonwealth without obtaining a title for it in his name.
- (c) A person may not obtain or attempt to obtain title to a boat under this subchapter through fraudulent means or provide false or misleading information in connection with an application for a certificate of title.

**§93.119. Forms. – 5325(a)1, 5325(a)2**

- (a) The Commission will provide suitable forms of applications, title, notice of security interests, and other notices and forms necessary to carry out this subchapter.
- (b) Except as otherwise provided in this subchapter, all forms and notices required in this subchapter shall be forwarded to the Fish and Boat Commission, Licensing and Regulation Section, Post Office 68900, Harrisburg, Pennsylvania 17106-8900.

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**CHAPTER 95.**  
**MANUFACTURER INSTALLED EQUIPMENT**

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Sec.

- 95.1. Safety Standards for Boats.
- 95.2. Removal or Alteration of Certification Label.
- 95.3. Lights for Boats.
- 95.4. Special Anchorage Areas.
- 95.5. Ventilation.
- 95.6. Backfire Flame Control.
- 95.7. Hull Identification Numbers.

95.8. Marine Sanitation Devices.

95.9. Authority for Waiver.

**§95.1. Safety Standards for Boats. – 5123(a)5**

- (a) A boat subject to the code, construction of which commenced on or after November 1, 1972, may not be sold or offered for sale in this Commonwealth which does not have affixed by the manufacturer a label certifying that the boat and associated equipment complies with the safety standards promulgated by the United States Coast Guard in effect on the date construction or assembly began. The label shall be of the construction, contain the information, and be affixed in the manner as required by the Coast Guard.
- (b) Boats built after November 1, 1972, and required to have a Manufacturer Certification of Compliance Label as required by subsection (a) shall be maintained so that the boat and associated equipment and systems remain in good and operable condition and continue to meet the standards for the equipment promulgated by the United States Coast Guard.

**§95.2. Removal or Alteration of Certification Label. – 5123(a)5**

A person may not remove the label, or delete or alter the information required on that label affixed by the manufacturer, unless authorized in writing by the Commission.

**§95.3. Lights for Boats. – 5123(a)5**

- (a) *General rule.* –The navigation lights requirements in this section shall be complied with in all-weather from sunset to sunrise on the waters of this Commonwealth. During these times other lights may not be exhibited, except lights that cannot be mistaken for the lights specified in this section, lights that do not impair their visibility or distinctive character, or interfere with the keeping of a proper lookout. The lights prescribed in this section must, if carried, be exhibited from sunrise to sunset in restricted visibility and may be exhibited in all other circumstances when it is deemed necessary. The lights specified in this section must comply with United States Coast Guard specifications.
- (b) *Definitions.* The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:
  - All-round light*-A light showing an unbroken light over an arc of the horizon of 360°.
  - Docking light*-A flood or spotlight type of light permanently installed or permanently mounted on a motorboat that is used illuminate a boat's forward course of travel.
  - Flashing light*-A light flashing at regular intervals at a frequency of 120 flashes or more per minute.
  - Masthead light*- A white light placed over the fore and aft centerline of the boat showing an unbroken light over an arc of the horizon of 225° and fixed as to show the light from right ahead to 22.5° abaft the beam on either side of the boat, except that on a boat of less than 39.4 feet (12 meters) in length, the masthead light must be placed as nearly as practicable to the fore and aft centerline of the boat.
  - Restricted visibility*- A condition in which visibility is restricted by fog, mist, falling snow, heavy rainstorms, sandstorms or other similar causes.

*Sailboat*– A boat under sail provided that propelling machinery, if fitted, is not being used.

*Sidelights* – A green light on the starboard (right) side and a red light on the port (left) side, each showing an unbroken light over an arc of the horizon of 112.5° and fixed as to show the light from right ahead to 22.5° abaft the beam on its respective side. On a boat of less than 65.6 feet (20 meters) in length, the side lights may be combined in one lantern carried on the fore and aft centerline of the boat. On a boat of less than 39.4 feet (12 meters) in length, the sidelights when combined in one lantern must be placed as nearly as practicable to the fore and aft centerline of the boat.

*Special flashing light* – A yellow light flashing at regular intervals at a frequency of 50 to 70 flashes per minute, placed as far forward and as nearly as practicable on the fore and aft centerline of the tow and showing an unbroken light over an arc of the horizon of not less than 180° nor more than 225° and fixed as to show the light from right ahead to abeam and no more than 22.5° abaft the beam on either side of the boat.

*Sternlight* – A white light placed as nearly as practicable at the stern showing an unbroken light over an arc of the horizon of 135° and fixed as to show the light 67.5° from right aft on each side of the boat.

*Underway* – A boat that is not at anchor, made fast to the shore or aground.

- (c) *Visibility of lights.* – The lights prescribed in this section must have an intensity as specified by the United States Coast Guard so as to be visible at the following minimum ranges:

- (1) In a boat of 164 feet (50 meters) or more in length: a masthead light, 6 miles; a sidelight, 3 miles; a sternlight, 3 miles; a towing light, 3 miles; a white, red, green or yellow all-round light, 3 miles; and a special flashing light, 2 miles.
- (2) In a boat of 39.4 feet (12 meters) or more in length but less than 164 feet (50 meters) in length: a masthead light, 5 miles; except that when the length of the boat is less than 65.6 feet (20 meters), 3 miles; a sidelight, 2 miles; a sternlight, 2 miles; a towing light, 2 miles; a white, red, green or yellow all-round light, 2 miles; and special flashing light, 2 miles.
- (3) In a boat of less than 39.4 feet (12 meters) in length: a masthead light, 2 miles; a sidelight, 1 mile; a sternlight, 2 miles; a towing light, 2 miles; a white, red, green or yellow all-round light, 2 miles; and a special flashing light, 2 miles.
- (4) In an inconspicuous, partly submerged boat or object being towed: a white all-round light, 3 miles.

- (d) *Motorboats underway.*

- (1) A motorboat underway must exhibit the following lights:
  - (i) A masthead light forward.
  - (ii) A second masthead light abaft of and higher than the forward one. A boat of less than 164 feet (50 meters) in length may exhibit this light.
  - (iii) Sidelights .
  - (iv) A sternlight.
- (2) An air-cushion boat when operating in the nondisplacement mode must, in addition to the lights prescribed in paragraph (1), exhibit an all-round flashing yellow light where it can best be seen.

- (3) A motorboat of less than 39.4 feet (12 meters) in length may, instead of the lights prescribed in paragraph (1), exhibit an all-round white light and sidelights.
- (e) *Sailboats underway and unpowered boats.*
  - (1) A sailboat underway must exhibit the following lights:
    - (i) Sidelights.
    - (ii) A sternlight.
  - (2) In a sailboat of less than 65.6 feet (20 meters) in length, the lights prescribed in paragraph (1) may be combined in one lantern carried at or near the top of the mast where it can best be seen.
  - (3) A sailboat underway may, in addition to the lights prescribed in paragraph (1), exhibit at or near the top of the mast, where they can best be seen, two all-round lights in a vertical line, the upper being red and the lower green. These lights may not be exhibited in conjunction with the combined lantern permitted by paragraph (2).
  - (4) A sailboat of less than 23 feet (7 meters) in length must, if practicable, exhibit the lights prescribed in paragraph (1) or (2). If these lights are not exhibited, the sailboat must have ready at hand an electric torch or lighted lantern showing a white light that must be exhibited in sufficient time to prevent collision.
  - (5) A unpowered boat may exhibit the lights prescribed in this subsection for sailboats. If these lights are not exhibited, the unpowered boat must have ready at hand an electric torch or lighted lantern showing a white light that must be exhibited in sufficient time to prevent collision.
- (f) *Anchored boats and boats aground.*
  - (1) A boat at anchor must exhibit an all-round white light where it can best be seen:
    - (i) In the fore part.
    - (ii) At or near the stern and at a lower level than the light prescribed in subparagraph (i).
  - (2) A boat of less than 164 feet (50 meters) in length may exhibit an all-round white light where it can best be seen instead of the lights prescribed in paragraph (1).
  - (3) A boat aground must exhibit the lights prescribed in paragraph (1) where they can best be seen.
  - (4) A boat of less than 65.6 feet (20 meters) in length, when at anchor in a special anchorage area designated by the United States Coast Guard, is not required to exhibit the anchor lights and shapes required under this subsection.
- (g) *Boats being towed.* When, for any sufficient cause, it is impracticable for a boat or object being towed to exhibit the lights prescribed in this section, all possible measures shall be taken to light the boat or object towed or at least to indicate the presence of the unlighted boat or object.
- (h) *Docking lights.* It is unlawful for a boat operator to use docking lights while underway except when docking and the boat is traveling at slow, no wake speed and is within 100 feet of approaching a dock, a mooring buoy or the shoreline.

## APPENDIX A (RESERVED)

### §95.4. Special Anchorage Areas. – 5123(a)6

The Commission will consider for approval as special anchorage areas, areas in which the United States Coast Guard is not interested. These special areas shall be clear of well-defined channels, particularly channels used by deep draft commercial boats, and they shall be marked sufficiently to warn an approaching boat of the presence of anchored or moored boats. In certain cases, lighted buoys may be used to mark offshore extremities. Shore side lights used to illuminate moored boats shall be screened so that the operator of an approaching boat is not blinded.

### §95.5. Ventilation. – 5123(a)5

- (a) Motorboats, except open boats, which have been constructed since April 25, 1940, and which use fuel having a flash point of 110°F or less, shall have at least two ventilator ducts fitted with cowls or their equivalent, for the efficient removal of explosive or flammable gases from the bilges of every engine and fuel tank compartment. There shall be at least one exhaust duct installed extending from the lower portion of the bilge to the open atmosphere and at least one intake duct installed extending to a point at least midway to the bilge or at least below the level of the carburetor air intake. The cowls shall be located and trimmed for maximum effectiveness to prevent displaced fumes from recirculating.
- (b) As used in this section, “open boats” means motorboats with engine and fuel tank compartments, and other spaces to which explosive or flammable gases and vapors from those compartments may flow, open to the atmosphere and arranged to prevent the entrapment of the gases and vapors within the boat. A compartment is to be considered open only if fumes cannot be entrapped. The following conditions shall be met to consider a boat open:
  - (1) The engine and fuel tank compartments shall have as a minimum 15 square inches of open area directly exposed to the atmosphere for each cubic foot of net compartment volume.
  - (2) Compartments shall have at least 1 square inch of open area per cubic foot, within 1 inch of the compartment bilge level or floor, so that vapors will drain into open areas.
  - (3) There may be no long or narrow unventilated spaces accessible from the compartments in which a flame front could propagate.
  - (4) Long, narrow compartments, such as side panels, if joining engine or fuel compartments and not serving as ducts thereto, shall have at least 15 square inches of open area per cubic foot provided by frequent openings along the full length of the compartment formed.
- (c) Boats built after July 31, 1978, are accepted from subsection (a) for fuel tank compartments that contain the following:
  - (1) A permanently installed fuel tank if each electrical component is ignition protected in accordance with applicable United States Coast Guard manufacturer’s standards in effect at the time of construction.
  - (2) Fuel tanks that vent to the outside of the boat.
- (d) Boats built after July 31, 1980, or which are in compliance with United States Coast Guard manufacturer’s standards in effect at the time of construction are accepted from these requirements.

**§95.6. Backfire Flame Control. – 5123(a)5**

- (a) Gasoline engines, except outboard motors, shall be equipped with an acceptable means of backfire flame control. Installations consisting of a backfire flame arrestor bearing basic United States Coast Guard Approval Numbers 162.016 or 162.041 or engine air and fuel induction systems bearing basic United States Coast Guard Approval Numbers 162.15 or 162.42 may be continued in use as long as they are serviceable and in good condition. New installations or replacements shall meet the requirements of this section.
- (b) The following are acceptable means of backfire flame control for gasoline engines:
  - (1) A backfire flame arrestor complying with SAE J-1928 or UL 1111 and marked accordingly. The flame arrestor shall be suitably secured to the air intake with a flame tight connection.
  - (2) An engine air and fuel induction system which provides adequate protection from propagation of backfire flame to the atmosphere equivalent to that provided by an acceptable backfire flame arrestor. A gasoline engine utilizing an air and fuel induction system, and operated without an approved backfire flame arrestor, shall either include a reed valve assembly or be installed in accordance with SAE J-1928.
  - (3) An arrangement of the carburetor or engine air induction system that will disburse flames caused by engine backfire. The flames shall be disbursed to the atmosphere outside the vessel so that the flames will not endanger the vessel, persons onboard, or nearby vessels and structures. Flame dispersion may be achieved by attachments to the carburetor or location of the engine induction system. Attachments shall be of metallic construction with flame tight connections and firmly secured to withstand vibration, shock, and engine backfire. Installations do not require formal approval and labeling but shall comply with this section.
- (c) Flame arrestors shall have tight connections and clean elements and may have no separation of grid elements which would permit flames to bypass the grid elements.

**§95.7. Hull Identification Numbers. – 5123(a)**

- (a) A person who builds a boat for his own use shall identify the boat with two hull identification numbers that meet the requirements of this section.
- (b) Persons who are required to identify boats under subsection (a) shall obtain the required hull identification number from the Commission. Application shall be made on forms provided by the Commission.
- (c) Two identical hull identification numbers are required to be displayed on each boat hull. The first hull identification number shall be affixed as follows:
  - (1) On boats with transoms, to the starboard side of the transom within 2 inches of the top of the transom gunwale or hull/deck joint, whichever is lowest.
  - (2) On boats without transoms or on boats on which it would be impractical to use the transom, to the starboard outboard side of the hull, aft, within 1 foot of the stern and within 2 inches of the top of the hull side, gunwale or hull/deck joint, whichever is lowest.



- (3) On catamarans and pontoon boats which have readily replaceable hulls, to the aft crossbeam within 1 foot of the starboard hull attachment.
- (4) If the hull identification number would not be visible because of rails, fittings, or other accessories, the number shall be affixed as near as possible to the location specified in paragraph (1).
- (d) The duplicate hull identification number shall be affixed in an unexposed location on the interior of the boat or beneath a fitting or item of hardware.
- (e) Each hull identification number shall be carved, burned, stamped, embossed, molded, bonded, or otherwise permanently affixed to the boat so that alternation, removal, or replacement would be obvious. A hull identification number may not be attached to parts of the boat that are removable.
- (f) The character of each hull identification number may not be less than 1/4 of an inch high.
- (g) A person may not remove or alter a number required by this section or 33 CFR 181.23 (relating to hull identification numbers required) unless authorized by the Executive Director.

**§95.8. Marine Sanitation Devices. – 5123(a)5**

- (a) On waters of this Commonwealth, boats which have toilet facilities (a head) permanently installed shall be equipped with a United States Coast Guard certified Marine Sanitation Device (MSD), designed to receive, retain, treat, or discharge human body wastes in accordance with applicable Federal requirements. This section applies only to boats equipped with permanently installed toilet facilities and does not require the installation of this type of facility in boats not already so equipped.
- (b) A no-discharge type MSD, Type III, or a Type I, or II secured against discharge is required in boats operated on no-discharge waters. No-discharge waters are fresh waters not open to interstate passage of any type boats which might have marine toilets installed. All sole Commonwealth waters, including Federal impoundments are no-discharge waters. A boat equipped with a flow-through MSD, Type I, or Type II, which has been secured by a locked shut-off valve, broken line, or blanked-off hull opening to prevent overboard discharge shall be considered equipped with a no-discharge type MSD.
- (c) A flow-through type MSD, Type I, or Type II, as well as, equipment allowed on no-discharge waters may be used in boats operated on treated discharge waters. These are waters open to interstate navigation by the type boat here involved. These waters include the major rivers, Allegheny Reservoir, Youghiogeny Reservoir, and Lake Erie.
- (d) The use of portable toilets that can be emptied ashore in regular sewage treatment systems is entirely within the spirit and letter of this subpart and is encouraged.
- (e) If the MSD was manufactured after January 30, 1976, proof of its being certified by the United States Coast Guard will be evidenced by its label.

**§95.9. Authority for Waiver.**

The Executive Director may waive or modify the equipment requirements of this chapter when a person seeks permission to operate small boats in a restricted area exclusively controlled by the person. The person or his agent shall request the waiver or modification in writing and furnish substantial justification to show that the public safety is not lessened by the action. Action by the Executive Director will be

construed as temporary, pending review by the Boating Advisory Board and the action by the Commission at its next regular scheduled meeting.

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## CHAPTER 97. OPERATOR PROVIDED EQUIPMENT

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Sec.

- 97.1. Personal Flotation Devices.
- 97.2. Fire Extinguishers.
- 97.3. Sound Producing Devices.
- 97.4. Signals to Attract Attention.
- 97.5. Visual Distress Signals.

### **§97.1. Personal Flotation Devices. – 5123(a)5**

- (a) *Definitions.* The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

*Immediately available* – A PFD that is within arm’s reach of the operator or passenger while the boat is being operated. A PFD that is stored in a protective covering or sealed in its original packaging is not immediately available.

*PFD – Personal floatation device* – A life preserver that is approved by the Commandant of the United States Coast Guard under 46 CFR Part 160 (relating to lifesaving equipment).

*Readily accessible* – A PFD that is stowed where it can be easily reached or is out in the open ready for wear. A PFD that is stored in a protective covering or sealed in its original packaging is not readily accessible.

*Serviceable* – When a PFD is fully functional to carry out the purpose for which it was designed and free of tears or defects in the material over the flotation material and the buckles, straps, zippers and other closures are operable.

*Throwable PFD* – A PFD that is intended to be thrown to a person in the water. A PFD marked as throwable, Type IV, or Type V with Type IV performance is considered a throwable PFD. Unless specifically marked otherwise, is a wearable PFD is not a throwable PFD.

*Wearable PFD* – A PFD that is intended to be worn or otherwise attached to a person’s body. A PFD marked as wearable, Type I, Type II, Type III or Type V with Type (I, II or III) performance is considered a wearable PFD.

- (b) A person may not use a boat unless at least one wearable PFD is on board for each person and the PFD is used in accordance with requirements of the approval label.
- (c) A person may not use a boat 16 feet or more in length unless one throwable PFD is on board in addition to the total number of PFD’s required in subsection (b). Canoes and kayaks 16 feet in length and over are exempted from the requirements for carriage of the additional throwable PFD.

- (d) Required PFDs shall be in good, serviceable condition, legibly marked showing the Coast Guard approval number and displaying the PFD's intended or approved use. They shall be of an appropriate size, child or adult, for the person for whom it is intended.
- (e) When not worn, wearable PFD's shall be stowed so as to be readily accessible. Throwable PFD's shall be immediately available.
- (f) This section does not apply to racing shells, rowing sculls, and racing kayaks, such as manually propelled boats recognized by National racing associations for use in competitive racing, where the occupants row, scull, or paddle with the exception of the coxswain, if one is provided, and which are not designed to carry and do not carry equipment not solely for competitive racing.
- (g) Coast Guard approved PFD's shall be acceptable as long as they are in good serviceable condition with the approval clearly legible.
- (h) Children 12 years of age and younger shall wear an approved wearable PFD while underway on any boat 20 feet or less in length and all canoes and kayaks. The operator of the watercraft violates this subsection if he does not cause a child 12 years of age or younger to wear a PFD as required by this subsection.
- (i) Beginning November 1 until midnight April 30 of the following year, a person shall wear a Coast Guard approved wearable PFD while underway or at anchor on boats less than 16 feet in length or any canoe or kayak.

**§97.2. Fire Extinguishers. – 5123(a)5**

- (a) All motorboats shall carry at least the minimum number of Coast Guard approved hand portable fire extinguishers required for their class as specified in Appendix B, except that motorboats less than 26 feet in length, propelled by outboard motors and not carrying passengers for hire, need not carry fire extinguishers if the construction of such motorboats will not permit the entrapment of explosive or flammable gases or vapors.
  - (1) Fire extinguishers shall be carried on motorboats that meet one or more of the following conditions. The motorboats have:
    - (i) Closed compartments under thwarts and seats where portable fuel tanks may be stored.
    - (ii) Double bottoms not sealed to the hulls or that are not completely filled with flotation material.
    - (iii) Closed living spaces.
    - (iv) Closed stowage compartments in which combustible or flammable materials are stowed.
    - (v) Permanently installed fuel tanks.
  - (2) The following conditions do not, in and of themselves, require that fire extinguishers be carried:
    - (i) Bait wells.
    - (ii) Glove compartments.
    - (iii) Buoyant flotation material.
    - (iv) Open slatted flooring.
    - (v) Ice chests.
- (b) Motorboats engaged in a race which has been officially sanctioned, as set forth in §109.6 (relating to special marine events), or while engaged in tuning up for

a race which has been officially sanctioned, need not carry the extinguisher required by this section.

- (c) Fire extinguishers carried in compliance with this section shall be maintained in a usable condition and shall be charged in compliance with the specifications on the manufacturer's certification label. Gauges shall be operable and nozzles shall be free of obstruction. In prosecutions for violations of this section, there shall be a rebuttable presumption that a fire extinguisher is not usable if its gauge shows that the extinguisher is discharged.
- (d) Fire extinguishers shall be installed and maintained so that they are immediately available within arm's reach of the operator or passengers on the boat.

## APPENDIX B FIRE EXTINGUISHERS

MINIMUM NUMBER OF HAND PORTABLE FIRE EXTINGUISHERS REQUIRED* (TYPE B)		
LENGTH, FEET	NO FIXED FIRE EXTINGUISHING SYSTEM IN MACHINERY SPACE	FIXED FIRE EXTINGUISHING SYSTEM IN MACHINERY SPACE
Under 16	1	0
16, but less than 26	1	0
26, but less than 40	2	1
40 and over	3	2

**NOTE:**

\* Extinguishers required by the above table can either be 1-1/4 gal. foam, 4 lb. carbon dioxide, 2 lb. dry chemical, or 1-1/2 lb. Freon (Type B-1) except that two of these sizes can be replaced by one 2-1/2 gal. foam one 15 lb. carbon dioxide, or one 10 lb. dry chemical (Type B-11).

### §97.3. Sound Producing Devices. – 5123(a)5

- (a) *Motorboats 12 meters or more in length.* – A motorboat 12 meters (39.4 feet) or more in length shall carry sound producing devices as prescribed by the Inland Navigation Rules Act of 1980 (33 U.S.C.A. §2001-2073).
- (b) *Motorboats less than 12 meters.* – A motorboat less than 12 meters (39.4 feet) in length shall carry some mechanical means of making a sound signal. This device may be hand, mouth, or power operated. An athletic coach's whistle is an acceptable sound producing device for small motorboats.
- (c) *Unpowered boats.* – Unpowered boat operators are required to carry a device capable of sounding a prolonged blast for 4-6 seconds that can be heard by another boat operator in time to avoid a collision. An athletic coach's whistle is an acceptable sound producing device for unpowered boats. It is unlawful to use a sound producing device on the water under any circumstance except in the following situations:
  - (1) Assistance is needed because of immediate or potential danger to the persons onboard.
  - (2) It is necessary to attract the attention of another boat.
- (d) *Device accessibility.* – Sound signaling devices shall be readily accessible to the operator of the boat.

**§97.4. Signals to Attract Attention.**

If necessary to attract the attention of another vessel, a vessel may make light or sound signals that cannot be mistaken for a signal authorized elsewhere in this subpart, or may direct the beam of her searchlight in the direction of the danger, that does not hinder the other vessel's navigation.

**§97.5. Visual Distress Signals. – 5123(a)5**

- (a) This section applies only to those boats operating on Lake Erie.
- (b) A person may not use a boat 16 feet or more in length or a boat carrying six or less passengers for hire unless visual distress signals selected from the list in Appendix C or the alternatives in the number required are onboard. Devices suitable for day use and devices suitable for night use, or devices suitable for both day and night use, shall be carried.
- (c) Between sunset and sunrise, a person may not use a boat less than 16 feet in length unless visual distress signals suitable for night use, selected from the list in Appendix C or alternatives in the number required are onboard.
- (d) When a visual distress signal carried to meet the requirements of subsection (b) or (c) requires a launcher to activate, a United States Coast Guard approved launcher shall also be carried.
- (e) The persons listed in this subsection need not comply with subsection (b) or (c). Each shall carry onboard the required number of visual distress signals suitable for night use, selected from the list in Appendix C.
  - (1) A person competing in an organized marine parade, regatta, race, or similar event.
  - (2) A person using a manually propelled boat.
  - (3) A person using a sailboat of completely open construction, not equipped with propulsion machinery, under 26 feet in length.
- (f) It is unlawful to operate a boat unless the visual distress signals required by subsection (b) or (c) are readily accessible.
- (g) It is unlawful to operate a boat unless each signal required under subsection (b) or (c) is in serviceable condition and the service life of the signal, if indicated by a date marked on the signal, has not expired. As used in this subsection, the term "serviceable" means that the device is fully functional to carry out the purpose for which it was designed and is free of damage and defects.
- (h) It is unlawful to do the following:
  - (1) Operate a boat unless the signal required by subsection (b) or (c) is legibly marked with the United States Coast Guard approval number or certification statement as specified in the Federal regulations.
  - (2) Display a visual distress signal on water to which this section applies under any circumstances except a situation in which assistance is needed because of immediate or potential danger to the persons onboard.

**APPENDIX C  
VISUAL DISTRESS SIGNALS**

<b>NUMBER MARKED ON DEVICE</b>	<b>DEVICE DESCRIPTION</b>	<b>ACCEPTED FOR USE</b>	<b>NUMBER REQUIRED TO BE CARRIED</b>
160.022	Floating Orange Smoke Distress Signals	Days only	3
160.024	Pistol-Projected parachute Red Flare Distress Signals	Day and night (1)	3
160-036	Hand-Held Rocket-Propelled Parachute Red Flare Distress Signals	Day and night	3
160-037	Hand-Held Orange Smoke Distress Signals	Days only	3
160-057	Floating Orange Smoke Distress Signals	Days only	3
160-066	Distress Signal for Boats, Red Aerial Protechnic Flare	Day and night (2)	3
160-072	Distress Signal for Boats, Orange Flag	Days only	1
160-013	Electric Distress Lights for Boats	Nights only	1

**NOTES:**

- (1) *These signals require use in combination with a suitable launching device approved under 46 C.F.R. §160.028.*
- (2) *These devices may be either self-contained or pistol launched, and either meteor or parachute assisted type. Some of these signals may require use in combination with a suitable launching device approved under 46 C.F.R. §160.028.*

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**CHAPTER 99.  
(RESERVED)**

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**CHAPTER 101.  
BOATING ACCIDENTS**

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Sec.

- 101.1. Applicability.
- 101.2. Reportable Boating Accidents.
- 101.3. Immediate Notification of Death or Disappearance.
- 101.4. Written Boating Accident Report.
- 101.5. Confidentiality of Boating Accident Report.
- 101.6. Investigation Reports by Commission Officers.
- 101.7. Accident Prevention Investigations.
- 101.8. [Reserved]

**§101.1. Applicability.**

This chapter applies to each boat used on waters subject to the jurisdiction of this Commonwealth, either solely or jointly with the United States, and on the high seas beyond the territorial seas for a boat registered in this Commonwealth that is one of the following:

- (1) Used by its operator for recreational purposes.
- (2) Required to be registered under Chapter 93 (relating to boat registration and numbering).

**§101.2. Reportable Boating Accidents.**

Boating accidents shall be reported when one or more of the following conditions exists:

- (1) A person dies.
- (2) A person is injured and requires medical treatment beyond first aid.
- (3) Damage to the vessels and other property totals \$2,000 or more or there is a complete loss of any vessel.
- (4) A person disappears from the boat under circumstances that indicate death or injury is likely.

**§101.3. Immediate Notification of Death or Disappearance. – 5123(a)9**

- (a) If, as a result of an occurrence that involves a boat or its equipment, a person dies or disappears from a boat the operator shall without delay, by the quickest means available, notify the Commission of the following:
  - (1) The date, time, and exact location of the occurrence.
  - (2) The name of each person who died or disappeared.
  - (3) The registration or documentation number and name of boat, as applicable.
  - (4) The names and addresses of the owner and operator.
- (b) If the operator of a boat involved in a boating accident is unable to give the notice required by subsection (a), each person onboard shall notify the Commission or

determine that the notice has been given. If the passengers are unable to give notice, the owner shall give the required notice if the owner was not onboard.

**§101.4. Written Boating Accident Report. – 5123(a)9**

- (a) A written report, PFBC Form 260, is required for accidents as defined by §101.2 (relating to reportable boating accidents).
- (b) Written reports shall be submitted by operators involved in the occurrence according to the following:
  - (1) Within 48 hours if a person does one of the following:
    - (i) Dies within 24 hours of the occurrence.
    - (ii) Is injured and requires medical treatment beyond first aid.
    - (iii) Disappears from a vessel.
  - (2) Within 10 days if an earlier report is not required.
- (c) If an operator is unable to submit a report, the owner shall do so. If the owner and the operator are physically incapable of submitting the report, an officer or designated employee of the Commission may investigate and submit the required report.
- (d) The PFBC Form 260 shall be completely and legibly filled out by the operator or owner.

**§101.5. Confidentiality of Boating Accident Report.**

- (a) In accordance with section 5503 of the code (relating to accident reports), the Boating Accident Report PFBC-260, and accompanying data are confidential. The reports are for the information of the Commission and are not releasable to the public. The reports are not admissible as evidence in a legal action, except to prove compliance with the code. The reports are not discoverable in a civil or criminal proceeding.
- (b) An abstract which contains the date, time, location, weather conditions, names and addresses of the operators, passengers and witnesses, and descriptions of the watercraft involved in releasable upon written request. The Commission may charge a reproduction fee of 50¢ per page.

**§101.6. Investigation Reports by Commission Officers.**

- (a) The Commission may assign a waterways conservation officer or other employee to complete an accident investigation report when an accident involves loss of life, disappearance, medical treatment given beyond first aid, or in other circumstances in which the Executive Director, or a designee, directs an investigation.
- (b) Under section 324 of the code (relating to Commission records), boating accident investigation reports, are not considered public records and they will not be released except for the following:
  - (1) Pursuant to a valid subpoena.
  - (2) When 234 Pa. Code (relating to Rules of Criminal Procedure) requires production of the documents.
  - (3) To other government agencies for official purposes.

**§101.7. Accident Prevention Investigations.**

- (a) The Commission may conduct in-depth investigations into the human, weather, equipment, operational, and environmental aspects of boating accidents for the purpose of reviewing the potential causes of accidents and



ways of preventing similar accidents. The officer or other employee conducting an in-depth accident prevention investigation shall have access to boating accident reports filed by operators and owners, accident investigation reports, and other Commission records related to the accident.

- (b) Information, records, and reports associated with in-depth accident prevention investigations are for the internal use of the Commission in preventing accidents and will not be releasable since they contain privileged and nonpublic information.

**§101.8. [Reserved]**

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**CHAPTER 103.  
RULES OF THE ROAD**

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Sec.

- 103.1. General.
- 103.2. Definitions.
- 103.3. Restrictions for Special Areas.
- 103.4. Lookout.
- 103.5. Safe Speed.
- 103.6. Action to Avoid Collision.
- 103.7. Narrow Channels.
- 103.8. Rules Applicable to Sailboats.
- 103.9. Overtaking.
- 103.10. Head-on Situations.
- 103.11. Crossing Situations.
- 103.12. Action by Giveaway Boat.
- 103.13. Action by Stand-on Boat.
- 103.14. Responsibility Between Vessels.
- 103.15. [Reserved]
- 103.16. Speed Restrictions.

**§103.1. General. – 5123(a)**

- (a) Every boater is responsible for avoiding a boating accident. This subpart is to give predictability to meeting, crossing, and overtaking situations, but does not replace accurate analysis of the situation and taking necessary action to avoid collision, even if it means diverging from this subpart.
- (b) Every boat operating on the inland waters of this Commonwealth, which includes Lake Erie, shall comply with section 2 of the Inland Navigation Rules Act of 1980 (33 U.S.C.A. §2002).

**§103.2. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Motorboat.* – A boat being operated by motor, including a sailboat with sails if the motor is running.

*Sailboat.* – A boat being propelled with only sails; if a motor is attached it is not engaged.

*Slow, no wake speed.* – The slowest possible speed of a motorboat required to maintain maneuverability so that the wake or wash created by the motorboat on the surface of the water is minimal.

**§103.3. Restriction for Special Areas. – 5123(a)**

- (a) Boats are limited to slow, no wake speed when within 100 feet of the shore line; docks; launching ramps; swimmers or downed skiers; persons wading in the water; anchored, moored or drifting boats; floats, except for ski jumps and ski landing floats; or other areas so marked. This subsection does not apply in a zoned ski area or authorized ski return areas when those areas are found within the areas described in this subsection.
- (b) Boats are prohibited within 100 feet of water siphons or intake towers, including associated service bridges and supporting piers where so marked.
- (c) The Executive Director is authorized to take immediate action to post and mark waters, establish speed zones or otherwise when he determines that a hazard exists that may threaten the safety of persons or property, or both. The Executive Director will notify the Boating Advisory Board and the Commission of the action. Zoned areas, speed limits or other markings established under this authority shall be fully effective and enforceable in accordance with law.

**§103.4. Lookout. – 5123(a)**

Every boat shall maintain a proper lookout by sight and hearing as well as by all available means appropriate in the prevailing circumstances and conditions to make full appraisal of the situation and of the risk of collision.

**§103.5. Safe Speed. – 5123(a)**

- (a) Every boat shall proceed at a safe speed so that it can take proper and effective action to avoid collision and be stopped within a distance appropriate to the prevailing circumstances and conditions.
- (b) In determining a safe speed, the following factors shall be among those taken into account:
  - (1) State of visibility.
  - (2) Traffic density, including concentrations of other boats.
  - (3) Weather conditions, currents, and the proximity of navigational hazards.
  - (4) Maneuverability of the boat with special reference to stopping distance and turning ability.

**§103.6. Action to Avoid Collision. – 5123(a)**

- (a) Action taken to avoid collision shall, if the circumstances of the case admit, be positive, made in ample time and with regard to the observance of good seamanship.
- (b) An alteration of course or speed to avoid collision shall, if the circumstances of the case admit, be large enough to be readily apparent to another boat visually; a succession of small alterations of course or speed shall be avoided.
- (c) Action taken to avoid collision with another boat shall result in passing at a safe distance.
- (d) If necessary to avoid collision or allow more time to assess the situation, a boat shall slacken its speed, stop altogether or reverse its means of propulsion.

**§103.7. Narrow Channels. – 5123(a)6**

- (a) A boat proceeding along the course of a narrow channel shall keep as near to the outer limit of the channel which lies on its starboard – right – side as is safe and practicable.
- (b) Notwithstanding subsection (a), a power-driven boat operating in narrow channels on the Great Lakes, Western Rivers, or waters specified by the Commission or Executive Director and proceeding downbound with a following current, shall have the right-of-way over an upbound boat. The boat proceeding upbound against the current shall hold as necessary to permit safe passing.
- (c) A boat of less than 20 meters (39.4 feet) in length, or a sailing boat, may not impede the passage of a boat that can safely navigate only within a narrow channel.
- (d) A boat may not cross a narrow channel if the crossing impedes the passage of a boat which can safely navigate only within that channel.
- (e) A boat shall, if the circumstances of the case admit, avoid anchoring in a narrow channel.
- (f) A boat nearing a bend on an area of a narrow channel where other boats may be obscured by an intervening obstruction shall navigate with particular alertness and caution.
- (g) A boat engaged in fishing may not impede the passage of another boat navigating within a narrow channel or fairway.
- (h) In a narrow channel or fairway when overtaking, a boat intending to overtake shall indicate its intention by sounding the appropriate signal and taking steps to permit safe passage. The overtaken boat, if in agreement, shall sound the same signal. If in doubt it shall sound the prescribed danger signal. This subsection does not relieve the overtaking boat of its obligation under §103.9. (relating to overtaking).

**§103.8. Rules Applicable to Sailboats. – 5123(a)6**

- (a) When two sailboats are approaching one another in a manner that involves risk of collision, one of them shall keep out of the way of the other as follows:
  - (1) When each has the wind on a different side, the boat which has the wind on the port – left – side shall keep out of the way of the other.
  - (2) When both have the wind on the same side, the boat which is to windward shall keep out of the way of the boat which is to leeward.
  - (3) If a boat with the wind on the port – left – side sees a boat to windward and cannot determine with certainty whether the other boat has the wind on the port – left – or the starboard – right – side, the boat shall keep out of the way of the other.
- (b) The windward side shall be deemed to be the side opposite to that on which the mainsail is carried.

**§103.9. Overtaking. – 5123(a)6**

- (a) A boat overtaking another boat shall keep out of the way of the boat being overtaken.
- (b) When a boat is in doubt as to whether it is overtaking another, it shall assume that this is the case and act accordingly.
- (c) A boat shall be deemed to be overtaking when coming up with another from a direction more than 22.5° abaft its beam, that is, in such a position with

reference to the boat it is overtaking that at night it would be able to see only the sternlight of that boat but neither of its sidelights.

- (d) A subsequent alteration of the bearing down between the two boats may not make the overtaking boat a crossing boat within the meaning of this chapter or relieve it of the duty of keeping clear of the overtaken boat until it is finally past and clear.

**§103.10. Head-on Situation. – 5123(a)6**

- (a) When two power-driven boats are meeting on reciprocal or nearly reciprocal courses in a manner that involves risk of collision, each shall alter its course to starboard – right – so that each shall pass on the port – left – side of the other.
- (b) A head-on situation shall be deemed to exist when a boat sees the other ahead or nearly ahead and by night it could see the masthead lights of the other in a line or nearly in a line or both sidelights and by day it observes the corresponding aspect of the other boat.
- (c) When a boat is in doubt as to whether such a situation exists, it shall assume that it does exist and act accordingly.

**§103.11. Crossing Situations. – 5123(a)6**

When two motorboats are crossing as to involve risk of collision, the boat which has the other on its starboard – right – side shall keep out of the way and shall, if the circumstances of the case admit, avoid crossing ahead of the other boat.

**§103.12. Action by Giveway Boat. – 5123(a)6**

A boat which is directed to keep out of the way of another boat shall, so far as possible, take early and substantial action to keep well clear.

**§103.13. Action by Stand-on Boat. – 5123(a)6**

- (a) When one of two boats is to keep out of the way, the other shall maintain its course and speed. The later boat may take action to avoid collision by its maneuver alone, as soon as it becomes apparent to it that the boat required to keep out of the way is not taking appropriate action in compliance with this chapter.
- (b) When the boat required to keep its course and speed finds itself so close that collision cannot be avoided by the action of the giveaway boat alone, it shall take action as will best aid to avoid collision.
- (c) A power driven boat which takes action in a cross situation to avoid collision with another power-driven boat, if the circumstances of the case admit, may not alter course to port – left – for a boat on its own port – left – side.
- (d) This section does not relieve the giveaway boat of its obligation to keep out of the way.

**§103.14. Responsibility Between Boats. – 5123(a)6**

- (a) A power-driven boat underway shall keep out of the way of:
  - (1) A sailing boat.
  - (2) A boat restricted in its ability to maneuver.
- (b) A sailing boat underway shall keep out of the way of a boat restricted in its ability to maneuver.

**§103.15. [Reserved]**

**§103.16. Speed Restrictions. – 5123(a)**

- (a) *General rule.* – A person may not operate a watercraft at a speed greater than is reasonable and prudent under the circumstances, having regard for the actual and potential hazards then existing, nor at a speed greater than will permit the operator to maneuver his boat with safety.
- (b) *Specific speed restrictions.* – In addition to the general restriction on speed of watercraft set forth in subsection (a), the Commission may by general or special boating regulations set forth specific restrictions such as “Slow, no wake” restrictions. The observation of an officer authorized to enforce this part shall be evidence of violation of non-numerical specific speed restrictions.
- (c) *Miles-per-hour speed limits.* – In addition to the general restriction on speed of watercraft set forth in subsection (a) and the non-numerical speed restrictions set forth in subsection (b), the Commission may, by general or special boating regulations, establish speed restrictions based on the miles-per-hour of a boat. The rate of speed of watercraft may be timed by electronic radio-microwave devices, commonly referred to as electronic speed meters or radar, only by a waterways conservation officer who has been certified by the Commission as having completed training to operate the device or a member of the State Police. Electronic devices (radar) used to time speed of watercraft shall be maintained and calibrated to standards set forth in 67 Pa. Code Chapter 105, Subchapter B (relating to electronic devices (radar)). A person may not be convicted of a violation of a miles-per-hour watercraft speed limit timed by an electronic device unless the speed recorded is 6 or more miles per hour in excess of the established speed limit.

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**CHAPTER 105.  
OPERATIONAL CONDITIONS**

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Sec.

- 105.1. Conditions Requiring Immediate Corrective Action.
- 105.2. Correction Actions.
- 105.3. Unacceptable Boating Practices.
- 105.4. Overloading and Improper Loading.

**§105.1. Conditions Requiring Immediate Corrective Action.**

A condition requiring immediate corrective actions shall exist when a boat:

- (1) Does not display the navigation lights prescribed by §95.3. (relating to lights for boats) between sunset and sunrise or during periods of reduced visibility.
- (2) Has fuel leakage from either the fuel system, engine, or another source.
- (3) Has an accumulation of fuel in the bilges or compartment other than a fuel tank.
- (4) Does not meet the ventilation requirements for tanks and engine spaces prescribed by §95.5. (relating to ventilation).
- (5) Does not meet the requirements for backfire flame control prescribed by §95.6. (relating to backfire flame arrestor).
- (6) Is overloaded or improperly loaded.
- (7) Is operating immediately above or below dams and reservoir structures and discharge from water impoundments.
- (8) Is pulling a waterskier without the required observer aboard.

- (9) Is being operated with insufficient serviceable personal flotation devices onboard as described by §97.1. (relating to personal flotation devices).

**§105.2. Corrective Actions. – 5123(a)1**

- (a) It is unlawful for an operator of a boat to fail to follow the directions of a waterways conservation officer or other person authorized to enforce the code to take immediate and reasonable steps necessary for the safety of persons or property when the officer reasonably believes that a condition requiring immediate corrective action may exist.
- (b) Directions may include requiring the operator to do one or more of the following:
  - (1) Correct the condition immediately.
  - (2) Proceed to a mooring, dock, or anchorage.
  - (3) Suspend further use of the boat until the condition is corrected.

**§105.3. Unacceptable Boating Practices. – 5123(a)**

It is unlawful to:

- (1) Operate a motorboat at greater than slow, no wake speed with a person riding outside the passenger carrying area while a person is riding on bow decking, gunwales, transom, or motor cover. It is not a violation of this paragraph to ride on the motor cover on an inboard motorboat while underway at that speed if the motor cover is designed by the manufacturer for the operator or a passenger to ride on it. For the purposes of this paragraph, the passenger carrying area is defined as the space intended by the manufacturer for persons to sit or stand while the boat is underway. This prohibition does not apply when the operator of the boat is docking, mooring, anchoring or rafting the boat.
- (2) Operate a motorboat – less than 20 feet in length – at greater than slow, no wake speed while a person is standing on or in the boat. It is not a violation of this paragraph if the boat is designed for the operator or a passenger, or both, to stand while underway at that speed.
- (3) Operate or stop a boat in a marked marine event area in violation of the conditions of the event.
- (4) Operate or stop a boat in a manner that interferes with the conduct of a permitted marine event.
- (5) Cause a boat to become airborne or completely leave the water while crossing the wake of another boat when within 100 feet of the boat creating the wake.
- (6) Weave through congested traffic.
- (7) Follow too close to another boat, including personal watercraft. For the purposes of this paragraph, following too close shall be construed as operating in excess of slow, no wake speed within 100 feet to the rear or 50 feet to the side of another boat that is underway, unless the boats are operating in a narrow channel, in which case the boats may operate at the speed and flow of other boat traffic.
- (8) Operate within 100 feet of a waterskier being towed by another boat.
- (9) Operate a pontoon boat while a person is riding outside the passenger carrying area. For the purpose of this paragraph, the passenger carrying

area is defined by continuous railings or enclosed spaces intended for persons to use while the pontoon boat is underway. This prohibition does not apply when the operator of the boat is docking, mooring, anchoring or rafting the pontoon boat.

- (10) Operate a motorboat at any speed with a person or persons sitting, riding, or hanging on a swim platform or swim ladder attached to the motorboat, except when launching, retrieving, docking, or anchoring the motorboat.
- (11) Operate a motorboat at any speed when towing a person on waterskis or other devices using a tow rope of 20 feet or less as measured from the transom of the boat. This prohibition does not apply to wake surfing as defined in §109.4 (relating to waterskiing, aquaplaning, kite skiing and similar activities).
- (12) Operate a motorboat propelled by an outboard motor, inboard/outboard motor or water jet while a person is wake surfing in or on the wake of the motorboat.

**§105.4. Overloading and Improper Loading. – 5123(a)4**

- (a) A person may not operate a boat when the boat is loaded with passengers or cargo beyond its safe carrying capacity, taking into consideration weather and other existing operating conditions.
- (b) A person may not operate a boat loaded in a manner that adversely affects its trim or stability.

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**CHAPTER 107.  
BOATING RESTRICTIONS**

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Sec.

- 107.1. Horsepower Restrictions.
- 107.2. Electric Motors.
- 107.3. Enforcement Safety Lights and Sirens.
- 107.4. Public Safety Light.
- 107.5. Streams Less Than 200 Feet Across.
- 107.6. [Reserved]
- 107.7. [Reserved]
- 107.8. Vessels Permitted on Restricted Waters.

**§107.1. Horsepower Restrictions. – 5124(a)**

On waters where horsepower limitations are prescribed, as set forth in Chapter 111 (relating to special regulation counties), boats with motors larger than the maximum horsepower shall be permitted but the motors may not be used.

**§107.2. Electric Motors. – 5124(a)**

Except as otherwise specified in Chapter 111 (relating to special regulation counties):

- (1) Electric motors are permitted on Commission owned or controlled lakes and on State Park lakes where boating is permitted.
- (2) On Commission and State Park owned or controlled lakes, internal combustion motors attached to or installed in boats need not be removed, but the operation of engines is specifically prohibited.

- (3) Officers authorized to enforce the code and this part and, in the case of State Park lakes, officers and officials of the Bureau of State Parks and operators of emergency vessels may operate boats powered by internal combustion motors in the performance of their official duties on waters otherwise restricted to electric motors only.

**§107.3. Enforcement Safety Lights and Sirens. – 5123(a)5**

- (a) The use of a distinctive light, blue-colored revolving or pulsating horizontal beam, is authorized for law enforcement boats and may be displayed during the day or night whenever engaged in law enforcement activities.
- (b) The use of this blue light by other than law enforcement boats or the United States or its political subdivisions, having administrative control over use of the waters of this Commonwealth and authorized by a controlling Federal or State agency, is prohibited.
- (c) A siren may not be used on a boat other than an official patrol boat or other official emergency response boat.

**§107.4. Public Safety Light.**

- (a) Vessels engaged in government sanctioned public safety activities, and commercial vessels performing similar functions, may display an alternately flashing red and yellow light signal. The identification light signal shall be located so that it will not interfere with the visibility of the vessel's navigation lights. The identification light signal may be used only as an identification signal and conveys no special privilege. Vessels using the identification light signal during public safety activities shall abide by the Inland Navigation Rules, and may not presume that the light or the exigency gives them precedence or right-of-way.
- (b) Public safety activities include patrolling marine parades, regattas or special water celebrations; traffic control; salvage; firefighting; medical assistance; assisting disabled vessels; and search and rescue.

**§107.5. Streams Less Than 200 Feet Across. – 5123(a)**

- (a) A boat may not exceed slow, no wake speed on an area of a stream that measures less than 200 feet across except where special regulations have been promulgated by the Commission that provide for zoned areas where higher speeds are permitted under controlled conditions.
- (b) It is unlawful for a person to operate an air-propeller driven boat, an all-terrain vehicle, an air cushion effect vehicle or similar craft on an area of a stream that is less than 200 feet in width except when special regulations provide otherwise.

**§107.6. [Reserved]**

**§107.7. [Reserved]**

**§107.8. Vessels Permitted on Restricted Waters.**

- (a) This Chapter and 111 (relating to special regulations) which apply to electric motors, horsepower restrictions, and speed limitations do not apply to the following boats under circumstances when compliance would impede performance of their designated functions:



- (1) Law enforcement or emergency boats owned by Federal, State, or municipal agencies when engaged in the performance of their duties.
  - (2) Nonemergency boats owned by the Federal, State, or municipal agencies engaged in official functions.
  - (3) United States Coast Guard Auxiliary boats on official patrols requested by the Commission.
  - (4) Emergency boats eligible for assistance referrals from the Commission, United States Coast Guard, or State or municipal law enforcement agencies when responding to emergency situations where life, limb, or property are at risk.
  - (5) Boats operating under the authority or license of a State or municipal agency, or an owner of a body of water when in the performance of official functions related to the operation of that waterway, its facilities, or appurtenances.
- (b) When compliance would impede performance of their official functions, law enforcement boats and emergency boats operated by Federal, State, or local agencies may be operated in violation of Chapters 103 and 105 (relating to rules of the road; and operational conditions).

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## CHAPTER 109. SPECIALTY BOATS AND WATERSKIING ACTIVITIES

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Sec.

- 109.1 Reserved.
- 109.2 Paddleboards and Sailboards.
- 109.3 Personal Watercraft.
- 109.4 Waterskiing, Aquaplaning, Kite Skiing, and Similar Activities.
- 109.5 Divers and Buoys.
- 109.6 Special Marine Events.

### **§109.1. Reserved**

### **§109.2. Paddleboards and Sailboards. – 5123(a)5**

- (a) *Paddleboards.* – For purposes of this subsection, a paddleboard is a boat with no freeboard propelled by a paddle, oar, pole or other device. It is unlawful for a person to operate or attempt to operate a paddleboard on waters of this Commonwealth without having a United States Coast Guard approved wearable personal flotation device on board for each person, unless otherwise required to be worn in accordance with §97.1 (relating to personal flotation devices). This prohibition does not apply to persons operating or attempting to operate a paddleboard in designated swimming, surfing or bathing areas.
- (b) *Sailboards.* – For purpose of this subsection, a sailboard is a type of single or double hulled boat equipped with an articulating mast and designed to be operated by a person standing on the board and maneuvering through the trim of the hand-held sail and distribution of body weight on the board. It is unlawful for a person to operate or attempt to operate a sailboard on waters of this Commonwealth unless the person is wearing a United States Coast Guard approved wearable personal flotation device. Inflatable personal flotation devices may not be used to meet this requirement.

**§109.3. Personal Watercraft. – 5123(a)5, 5123(a)1**

- (a) As used in this section, “personal watercraft” means a boat less than 16 feet in length which meets the following conditions:
  - (1) Uses an internal combustion motor powering a water jet pump as its primary source of motive propulsion.
  - (2) Is designed to be operated by a person sitting, standing, or kneeling on rather than being operated by a person sitting or standing inside the vessel.
- (b) It is unlawful for a person to operate, or be a passenger onboard, a personal watercraft on the waters of this Commonwealth unless the person is wearing a United States Coast Guard approved wearable personal flotation device in accordance with §97.1 (relating to personal flotation devices). Inflatable personal flotation devices may not be used to meet this requirement.
- (c) A person operating a personal watercraft equipped by the manufacturer with a lanyard type engine cutoff switch shall attach the lanyard to his person, clothing, or personal flotation device as appropriate for the specific vessel.
- (d) A person may not operate a personal watercraft between sunset and sunrise.
- (e) Subsections (b) and (c) do not apply to a performer participating in a permitted regatta, race, marine parade, tournament, or exhibition or to a person preparing to participate in the event at the location and within 48 hours prior to the event.
- (f) Except as otherwise provided in this subpart, a person may not operate a personal watercraft on the waters of this Commonwealth unless the person has obtained a Boating Safety Education Certificate as defined in §91.6. (relating to Boating Safety Education Certificates).

**§109.4. Waterskiing, Aquaplaning, Kite Skiing, and Similar Activities.**

**– 5123(a)5**

- (a) *Definitions.* – The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

*Competent observer.* – A person who has the ability to assess when a skier is in trouble, knows and understands the waterskiing hand signals, and is capable of helping a skier.

*PFD.* – Personal Flotation Device.

*Trick skier.* – A waterskier who can be identified by body movements and skiing positions, which readily differentiate the trick skier from the ordinary “forward” skier engaged in straight skiing of slalom and jump events, and also by the following:

- (i) *Skis.* – Short (38-40 inches) and wide (8-9 inches) with no keels on bottom.
- (ii) *Speed of tow.* – Slow (12-18 miles per hour).
- (iii) *Rope.* – Short (40-50 feet) and often with toehold strap attached to handle.

*Wake surfing.* – A competitive or recreational water sport in which a person on a wake board or similar style board rides in or on wake of a motorboat.

*Waterski.* – A device used by a person to be towed through or on water behind a boat. The term includes conventional water skis, aquaplanes, kneeboards, inner tubes, inflatable hot dogs, air mattresses, parasails, kite skis, and similar devices.

*Waterskiing.* – A competitive or recreational water sport in which a person is towed across the water’s surface behind a boat in any fashion on a water ski as defined in this subsection or on his bare feet.

- (b) *Skiing hours.* – Ski activities are prohibited between the hours of sunset and sunrise.
- (c) *Observer required.* – The following conditions apply:
- (1) *General rule.* – Except as otherwise provided in this subsection, it is unlawful for a person to operate a boat towing or otherwise assisting a person on water skis unless there is at least one competent observer in the boat in addition to the operator of the boat. The observer shall be positioned in the boat to observe the progress of the person being towed. It is unlawful for a person to water ski being towed by a watercraft or device not containing an operator and observer as required by this subsection.
  - (2) *Special conditions.* – The Executive Director, or a designee, may issue a permit to allow a limited exception to paragraph (1). A permit issued under this paragraph will permit operation of a boat towing a water skier without an observer, in addition to the operator, on board the boat. These operations will be permitted only under the following conditions:
    - (i) Both the operator of the boat and the water skier meet safety training requirements as evidenced by documented completion of a safe boating course and active membership in a State or National water skiing organization, which provides members with information on water skiing safety.
    - (ii) The operator fulfills the definition of a “competent observer” as set forth in this section, wears an approved PFD, and is a person 18 years of age or older.
    - (iii) The boat is equipped with the following:
      - (A) A rearview mirror which is at least 5 inches by 10 inches configured so that the operator may at all times observe the progress of the person being towed.
      - (B) A ski platform.
      - (C) A boom, towing eye, or pylon mounted permanently inside the hull of the boat to which the towing rope is secured.
    - (iv) Only one person is being towed.
    - (v) The water skis or other device on which the person is riding are attached only to the person and not to the boat.
    - (vi) Conditions, including weather, other boating activities, and congestion in the vicinity of the proposed operation, do not impede safe and prudent boat or water skiing operations.
    - (vii) The water skiing takes place before the hour of 10 a.m. on a day other than a weekend or holiday. The Executive Director, for good cause shown, may permit water skiing under this section on a Saturday or Sunday before the hour of 10 a.m. if the Executive Director finds that other boating activities on the waters at the same time will not interfere with the water skiing.
    - (viii) The water skiing takes place on waters described and approved for the operations in the permit.
    - (ix) The water skiing takes place when the Executive Director or a designee indicates in the permit.
    - (x) The boat towing the water skier displays a special water ski flag of a size and design approved by the Commission.
    - (xi) The permittee carries the permit onboard while operating the boat towing a water skier without an observer.

- (d) *Umbilical or remote controls.* – A person may not operate a device which is controlled by a person connected to the power source by means of an umbilical or remote control, or both, which tows the person on or through the water.
- (e) *Ski tow ropes.* – Ski tow ropes may not exceed the following lengths:
  - (1) Conventional waterskis and similar devices – 80 feet.
  - (2) Non-releasable kite ski – 150 feet.
  - (3) Releasable kite ski – 500 feet.
  - (4) Parasails – 300 feet.
  - (5) Commercial winch boat parasails – 600 feet.
- (f) *PFDs.* – It is unlawful for a person to operate a boat on the waters of this Commonwealth for:
  - (1) Waterskiing unless each person being towed is wearing a United States Coast Guard approved wearable PFD in accordance with § 97.1 (relating to personal flotation devices). Inflatable PFDs may not be used to meet this requirement.
  - (2) Wake surfing unless the wake surfer is wearing a United States Coast Guard approved wearable PFD in accordance with § 97.1 or water ski wetsuit as defined in §109.4(g). Inflatable PFD's may not be used to meet this requirement.
- (g) *Waterski wetsuits.* – A person engaged in slalom skiing on a marked course or a person engaged in barefoot, jump, trick skiing, or wake surfing may elect to wear a wetsuit designed specifically for the activity in lieu of the United States Coast Guard-approved wearable PFD required in §97.1. A United States Coast Guard-approved wearable PFD described in §97.1 shall be carried in the tow boat for each skier electing to wear a waterski wetsuit. The non-approved waterski wetsuit device shall meet the following criteria:
  - (1) The device shall be marked by the manufacturer as a waterski wetsuit.
  - (2) The device shall be constructed of nylon covered neoprene or similar material and may have either long or short sleeves or be sleeveless. The device may have legs.
  - (3) The device shall be equipped with additional flotation padding material of a closed cell non-absorptive type such as PVC foam or Ensolite®. This flotation/padding shall be sewn into the device according to the following:
    - (i) On the front extending from the clavicle to the top of the pelvis vertically and covering the front rib cage area and covering as much of the side area as feasible. A maximum gap between padded area on the side of the suit under the arm is 4 inches.
    - (ii) On the rear of the device, padding/flotation material shall cover the area from the top of the shoulder blade to the top of the pelvis and span the entire width of the back.
    - (iii) Padding/flotation shall be at least 1/2-inch thick. This thickness excludes the thickness of covering material.
- (h) *Starting and returning from shore or dock.* – Notwithstanding the slow, no wake restrictions contained in §103.3.(b) (relating to restriction for special areas), skiers are permitted to start from the shore or dock if the traffic situation permits this to be done safely and in accordance with other water ski regulations. A water skier is not permitted to be returned to dock or shore under power. The skier shall release outside the 100-foot limit. The skier may then coast or glide toward the shore or dock if the skier does not endanger life and property in so doing and steers clear of swimmers, docks, and boats.

- (i) *Ski ramps and jumps.* – Ski ramps or jumps, authorized in accordance with §113.10. (relating to permits for installation and lighting of floats, ski ramps, and other floating structures) shall have attached on each side a sign which will be evidence that the installation is authorized and warn boaters against mooring or drifting within 100 feet of the jump while it is in use.
- (j) *Kite skiing and parasailing.* – The following additional restrictions are applicable to kite skiing and parasailing:
  - (1) Kite skiing and parasailing is prohibited on waters where waterskiing is prohibited or is subject to special regulation.
  - (2) Kite skiing or parasailing is prohibited on water when other boating activities or congestion impedes safe and prudent operations.
  - (3) Kite skiers and parasailers may not fly over or under overhead obstructions such as power and telephone lines or bridges; nor may they fly over dams, locks, docks, launching ramps, swim areas, marinas, or congested areas.
- (k) *Wake surfing.* – Boats engaged in the activity of wake surfing are limited to slow, no wake speed when within 200 feet of the following:
  - (1) Shore line.
  - (2) Docks.
  - (3) Launching ramps.
  - (4) Swimmers or downed skiers.
  - (5) Persons wading in the water.
  - (6) Anchored, moored or drifting boats.
  - (7) Floats, except for ski jumps and ski landing floats.
  - (8) Other marked areas.

**§109.5. Divers and Buoys. – 5123(a)7**

- (a) *Definitions.* – The following words and terms, when used in this section have the following meanings, unless the context clearly indicates otherwise:
  - Code flag alpha.* – A rigid flag not less than 1 meter (39.37 inches) square, with the half closest to the staff being white and the other half being blue. The blue segment has a triangular piece removed. The apex of the triangle extends halfway through the blue field.
  - Divers down flag.* – A flag not less than 14 inches square, red in color with a white stripe running diagonally from the top of the staff to the opposite lower corner. The white stripe shall be one-fifth as wide as the flag.
- (b) *Displaying of flags.* –
  - (1) A boat shall display the code flag alpha while it is restricted in its ability to maneuver due to diving operations. Restricted in its ability to maneuver means that divers are attached to a boat by some physical means.
  - (2) During diving activities a diver's down flag shall be displayed in the water on a buoy, whether a boat is present or not. The buoy shall be placed directly above the diving location.
- (c) *Responsibility of other boaters.* – Boats not engaged in diving operations shall remain at least 100 feet from areas displaying the diver's down flag or boats displaying the code flag alpha.

**§109.6. Special Marine Events. – 5122(a)8**

- (a) A special marine event may be permitted only as authorized by the Commission, or where applicable, Federal authority.
- (b) Persons responsible for holding special marine events shall:
  - (1) Submit a complete Form PFBC-500 in duplicate to the Regional Law Enforcement office for the region where the event is to be held at least 60 days prior to the start of the event.
  - (2) Provide for marking and patrolling the event.
  - (3) Ensure a copy of the special activities permit is available onsite for inspection by authorized personnel of the Commission.
  - (4) Ensure that participants are familiar with the conditions of the special activities permit.
- (c) The Commission will not issue a special activities permit for a marine event unless the applicant first obtains written permission, for the event from the entity that owns or controls the waters on which the event occur. The Commission will require evidence that the applicant has the permission of the controlling entity unless that entity has delegated approval authority to the Commission.
- (d) The Executive Director may impose special regulations designed to protect the safety or limit the activity of either participants or nonparticipants. Regulations which would prohibit the special marine event may be temporarily suspended upon a finding that the event will not significantly impact the long-term management of the source, create a safety hazard, or unreasonably limit the use of the area by other boaters. It shall be the responsibility of the sponsor to advertise these special conditions in a manner satisfactory to the Commission.

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**CHAPTER 111.  
SPECIAL REGULATIONS COUNTIES**

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The Statutory Authority for all of Chapter 111 Special Regulations is Section 5124(a) of the Code.

Sec.

- 111.1. [Reserved]
- 111.2. Allegheny County.
- 111.3. Armstrong County.
- 111.4. Beaver County.
- 111.5. [Reserved].
- 111.6. Berks County.
- 111.7. [Reserved].
- 111.8. [Reserved].
- 111.9. Bucks County.
- 111.10. Butler County.
- 111.11. Cambria County.
- 111.12. [Reserved].
- 111.13. Carbon County.
- 111.14. Centre County.
- 111.15. [Reserved].
- 111.16. [Reserved]
- 111.17. Clearfield County.

111.18. [Reserved].  
111.19. [Reserved].  
111.20. Crawford County.  
111.21. Cumberland County.  
111.22. Dauphin County.  
111.23. Delaware County.  
111.24. Elk County.  
111.25. Erie County.  
111.26. Fayette County.  
111.27. Forest County  
111.28. [Reserved]  
111.29. [Reserved].  
111.30. Greene County.  
111.31. Huntingdon County.  
111.32. Indiana County.  
111.33. [Reserved].  
111.34. [Reserved]  
111.35. [Reserved].  
111.36. Lancaster County.  
111.37. [Reserved].  
111.38. Lebanon County.  
111.39. [Reserved].  
111.40. Luzerne County.  
111.41. Lycoming County.  
111.42. McKean County.  
111.43. Mercer County.  
111.44. [Reserved]  
111.45. Monroe County.  
111.46. Montgomery County.  
111.47. Montour County.  
111.48. Northampton County.  
111.49. Northumberland County.  
111.50. [Reserved].  
111.51. Philadelphia County.  
111.52. Pike County.  
111.53. [Reserved].  
111.54. [Reserved].  
111.55. [Reserved].  
111.56. Somerset County.  
111.57. [Reserved].  
111.58. Susquehanna County.  
111.59. Tioga County.  
111.60. [Reserved]  
111.61. Venango County.  
111.62. Warren County.  
111.63. Washington County.  
111.64. Wayne County.  
111.65. Westmoreland County.  
111.66. Wyoming County.  
111.67. York County.

111.71. General Requirements.

111.72. Definitions.

**111.1. [Reserved]**

**§111.2. Allegheny County.**

- (a) *Allegheny River*. – The following special regulations apply to the Allegheny River:
  - (1) Boats are limited to slow, no wake speed from Mile 12.8 to Lock and Dam Number 2 at Mile 14.5 in the back channel of Twelve and Fourteen Mile Islands.
  - (2) The area behind Nine Mile Island, Mile 10.0 to Mile 10.4 is a designated ski zone. Boats not actively engaged in towing waterskiers are limited to slow, no wake speed.
- (b) *Monongahela River*. – Waterskiing is prohibited from the Glassport Bridge (Mile 19.4) to the Union Railroad Bridge (Mile 21.1) at Clairton.
- (c) *Allegheny, Monongahela, and Ohio Rivers*. (City of Pittsburgh). – Boats are limited to slow, no wake speed from the Fort Pitt Bridge over the Monongahela River and the 9th Street Bridge over the Allegheny River to the West End Bridge over the Ohio River. This changes the upper limit of the slow no wake zone on the Allegheny River. This zone shall be in effect on weekends from May 1 to October 1 from 3 p.m. Friday until midnight Sunday and from 3 p.m. on the day preceding Memorial Day, July 4, and Labor Day until midnight of the holiday.
- (d) *Youghiogheny River*. – Boats are limited to slow, no wake speed from the mouth of the Youghiogheny River to the McKeesport Access Area, a distance of about 200 yards.

**§111.3. Armstrong County.**

- (a) *Crooked Creek Lake*:
  - (1) A boat may not tow more than one waterskier on weekends and holidays from the Saturday preceding Memorial Day through Labor Day.
  - (2) Boats equipped with inboard engines with over-the-transom or straight type exhausts, wet or dry, are prohibited.
  - (3) Air boats are prohibited.
  - (4) Boats are limited to slow, no wake speed in the following areas:
    - (i) From the dam to a buoy line crossing the lake above the swimming beach.
    - (ii) From the shoal buoys to the headwaters.
  - (5) Persons shall wear a Coast Guard approved personal flotation device at all times when on board boats less than 16 feet in length or any canoe or kayak.
- (b) *Keystone Lake*. – The use of motors in excess of 10 horsepower is prohibited.
- (c) *Mahoning Creek Lake*:
  - (1) The use of motors in excess of 10 horsepower is prohibited.
  - (2) Persons shall wear a Coast Guard approved personal flotation device at all times when on board boats less than 16 feet in length or any canoe, or kayak.



**§111.4. Beaver County.**

- (a) *Beaver River.* – Boats are limited to slow, no wake speed from the mouth upstream to mile 2.3.
- (b) *Bradys Run Lake.* – The operation of boats powered by internal combustion motors is prohibited.
- (c) *Little Beaver Creek (Ohioville Area).* – Boats are limited to slow, no wake speed from the mouth upstream to the State line.

**§111.5. [Reserved].**

**§111.6. Berks County.**

- (a) *Blue Marsh Lake.* – The following special regulations apply to Blue Marsh Lake:
  - (1) Boats equipped with inboard engines with over-the-transom or straight stack type exhausts, wet or dry, are prohibited.
  - (2) Boats are limited to a slow, no wake speed in the two arms of the lake formed by the Spring Creek and Tulpehocken Creek.
  - (3) A boat may not tow more than one waterskier.
- (b) *Schuylkill River, Kernsville Pool.* – Boats are limited to slow, no wake speed.

**§111.7. [Reserved].**

**§111.8. [Reserved].**

**§111.9. Bucks County.**

- (a) *Lake Nockamixon.* – The operation of boats powered by internal combustion motors is permitted. The use of motors in excess of 20 horsepower is prohibited.
- (b) *Neshaminy Creek.* – Boats are limited to slow, no wake speed on the entire creek from its headwaters to its confluence with the Delaware River.
- (c) *Tyler State Park.* – The operation of boats powered by internal combustion motors is prohibited.
- (d) *Delaware River:*
  - (1) Boats are limited to slow, no wake speed in the following areas:
    - (i) Franklin Cove.
    - (ii) From the mouth of Paunacussing Creek, approximately 3,000 feet to a point in the vicinity of Green Hill Road, effective from 12:01 a.m. on the Friday before Memorial Day until midnight on Labor Day.
  - (2) Boats are limited to slow, no wake speed while passing through the following bridge spans:
    - (i) Route 263 (Stockton-Center) Bridge.
    - (ii) Route 202 Toll Bridge.
    - (iii) Route 179 (New Hope-Lambertville) Bridge.
    - (iv) Lumberville Foot Bridge.
    - (v) Upper Black Eddy – Milford Bridge.
    - (iv) Riegelsville Bridge.
    - (vii) Frenchtown “Free” Bridge.
  - (3) The requirements in this subsection that affect waters of joint jurisdiction with New Jersey are effective May 1, 1997.

- (4) The mooring of boats within 100 feet of the marina boat dock in Franklin Cove is prohibited.

**§111.10. Butler County.**

- (a) *Lake Arthur-Moraine State Park.* – The operation of boats powered by internal combustion motors is permitted. The use of motors in excess of 20 horsepower is prohibited.

**§111.11. Cambria County.**

- (a) *Glendale Lake-Prince Gallitzin State Park.* – The operation of boats powered by internal combustion motors is permitted. The use of motors in excess of 20 horsepower is prohibited.

**§111.12. [Reserved].**

**§111.13. Carbon County.**

- (a) *Beltzville Lake – Beltzville State Park:*
  - (1) The operation of boats powered by internal combustion motors is permitted. The speed of boats is limited to 45 mph.
  - (2) Boats are limited to slow, no wake speed at Pine Run, Wild Creek, and Pohopoco Creek Bays.
  - (3) Waterskiing is prohibited except between sunrise and sunset in the designated ski zone. Boats in this zoned area shall operate in a counter-clockwise direction. Boats not engaged in waterskiing shall remain outside the ski zone area while waterskiing is in progress. A boat may not tow more than one water ski device on weekends and holidays from the Saturday preceding Memorial Day through Labor Day.
  - (4) It is unlawful to operate boats equipped with inboard engines with over-the-transom or straight stack type exhausts.
  - (5) Kite skiing and parasailing are prohibited at all times.
- (b) *Francis E. Walter Dam.* – The use of motors in excess of 10 horsepower is prohibited.

**§111.14. Centre County.**

*Foster Joseph Sayers Lake – Bald Eagle State Park*

- (1) The operations of boats powered by internal combustion motors is permitted. The speed of boats is limited to 45 mph.
- (2) Boats are limited to slow, no wake speed in the following areas:
  - (i) Hunters Run Cove inlet.
  - (ii) The southern end of Hunters Run Cove in the vicinity of boat launching areas.
  - (iii) The northern end of Hunters Run Cove from the inlet to the dam.
  - (iv) Within 100 feet of either side of the Route 26 highway bridge.
  - (v) From approximately 2,000 feet west of the Upper Greens Run launch ramp through the backwaters of the lake.
- (3) Waterskiing is prohibited in Hunters Run Cove.
- (4) It is unlawful to operate boats equipped with inboard engines with over-the-transom or straight stack type exhausts.

**§111.15. [Reserved].**

**§111.16. Clarion County**

*Clarion River* – Boats are limited to slow, no-wake speed from the mouth of McGourvey Run to the mouth of Blyson Run.

**§111.17. Clearfield County.**

(a) *Treasure Lake.*

- (1) Boats are limited to slow, no wake speed within the established buoy line at the following areas:
  - (i) Lake Marina.
  - (ii) Coral Cove.
  - (iii) Matura Cove.
  - (iv) Galion Bay.
  - (v) Columbus Court Cove.
  - (vi) Treasure Lake Road Cove.
  - (vii) Access areas at Hurricane Cove.

(2) The speed of boats is limited to 35 miles per hour.

(3) Boats longer than 25 feet in length are prohibited.

(b) *Bimini Lake.* – The use of motors in excess of 10 horsepower is prohibited.

(c) *Curwensville Lake.* Boats are limited to slow, no wake speeds in the following areas:

- (1) Upriver of the cliff at Ferguson.
- (2) Between the old viaduct pillars.

**§111.18. [Reserved].**

**§111.19. [Reserved].**

**§111.20. Crawford County.**

(a) *Canadohta Lake.* – The operation of boats powered by internal combustion motors is permitted. The use of motors in excess of 10 horsepower is prohibited.

(b) *Conneaut Lake.* – The anchoring of boats is prohibited in the area along the western shoreline of the lake commonly referred to as the “sand bar.” The no anchor zone will extend along the shoreline to a line of buoys.

(c) *Pymatuning Reservoir – Pymatuning State Park.* – The operation of boats powered by internal combustion motors is permitted. The use of motors in excess of 20 horsepower is prohibited.

(d) *Sugar Lake.* – The use of motors in excess of 10 horsepower is prohibited.

(e) *Woodcock Lake.*

- (1) The use of motors in excess of 10 horsepower is prohibited.
- (2) Waterskiing is prohibited.
- (3) Boats are limited to slow, no wake speed in a zone defined by the area east of the L.R. 20063 Causeway.
- (4) Persons shall wear a Coast Guard approved personal flotation device at all times when on board boats less than 16 feet in length or any canoe or kayak.

**§111.21. Cumberland County.**

*Fuller Lake – Pine Grove Furnace State Park.* – Boating is prohibited.

**§111.22. Dauphin County.**

*Susquehanna River, Lake Frederick.* – Boats are limited to slow, no wake speed between Bashore Island and the York County shoreline.

**§111.23. Delaware County.**

- (a) *Delaware River.* – Boats are limited to slow, no wake speed between Tinicum Island, and the Pennsylvania shoreline.
- (b) *Darby Creek.* – Boats are limited to slow, no wake speed on the entire creek from its headwaters to its confluence with the Delaware River.

**§111.24. Elk County.**

*East Branch Clarion River Lake – Elk State Park:*

- (1) The operation of boats powered by internal combustion motors is permitted. The speed of boats is limited to 45 mph. It is unlawful to operate boats equipped with inboard engines with over-the-transom, or straight stack type exhausts.
- (2) Boats are limited to slow, no wake speed in the following areas:
  - (i) Sevenmile Run Bay.
  - (ii) South Fork/Straight Creek Bay.
  - (iii) East Branch Clarion River Bay from the no-wake buoys to the extreme backwaters of the lake.
- (3) Persons shall wear a Coast Guard approved personal flotation device at all times when on board boats less than 16 feet in length or any canoe, or kayak.

**§111.25. Erie County.**

(a) *Lake Erie and Presque Isle Bay:*

- (1) Boats are limited to slow, no wake speed in the following areas:
  - (i) Through the Erie Harbor Entrance between the North Pierhead Light (fog horn) and Inter Range Tower.
  - (ii) In the area adjacent to the Erie Public Dock, extending from the Erie Sand and Gravel Company on the west to the Continental Grain Company piers on the east. The restricted area will include the Canal Basin and extend northward to the harbor line.
  - (iii) Within the boundaries of Presque Isle State Park, including the waters of Marina, and Misery Bays, and the waters along the bay, and lake shore for a distance of 500 feet from the shore.
- (2) Waterskiing, other than the purpose of take off or approach, is prohibited within 500 feet of the shoreline of Presque Isle peninsula.
- (3) The anchoring of watercraft in the entrance channel to Horseshoe Pond, Fox Pond, Marina Bay, the Lagoons, or the bridge at Misery Bay in a manner that interferes with the public use of these areas or in a manner which creates a hazard to other watercraft is prohibited.
- (4) The mooring of boats to any dock, wharf, pier, ship, or boat launching facility in a manner that interferes with public use or creates a hazard to other watercraft is prohibited.
- (5) Boats are prohibited within 100 feet of designated swimming beaches at Presque Isle State Park.

(6) The internal lagoons from Marina Drive Bridge at the west end of the Long Pond through the northern entrance of Graveyard Pond shall be limited to electric motors only.

(b) *Lake Leboeuf*. – It is unlawful to operate a boat in excess of slow, no wake speed.

(c) *Lake Pleasant*. – The operation of boats powered by motors is prohibited.

**§111.26. Fayette County.**

*Youghioghney River Lake*. – Persons shall wear a Coast Guard approved personal flotation device at all times when on board boats less than 16 feet in length or any canoe or kayak.

**§111.27. Forest County.**

*Tionesta Lake*:

(1) Persons shall wear a Coast Guard approved personal flotation device at all times when on board boats less than 16 feet in length or any canoe or kayak.

(2) Boats are limited to slow, no wake speed upstream from the confluence of Little Piney Run.

**§111.28. [Reserved]**

**§111.29. [Reserved].**

**§111.30. Greene County.**

*Ten Mile Creek*. – It is unlawful to operate a boat in excess of slow, no wake speed.

**§111.31. Huntingdon County.**

(a) *Greenwood Lake – Greenwood Furnace State Park*. It is unlawful to operate a boat powered by a motor.

(b) *Lake Raystown*:

(1) Boats are limited to slow, no wake speed in the following areas:

(i) Seven Points, Yocum Bay, Woodcock Valley Cove, James Creek Cove, Great Trough Creek Cove, Coffee Run Cove, and Shy Beaver Cove.

(ii) From the no-wake buoys between Putts Camp, and Weaver Falls Access to the extreme backwaters of the lake.

(iii) Between peninsula number one and peninsula number three known as the Rothrock Recreation Area above the Route 994 bridge.

(iv) Other coves, bays, inlets, arms, and areas marked with slow, no-wake buoys.

(2) Waterskiing is prohibited between the Route 994 bridge and the point of peninsula number 3 of the Rothrock Recreation Area approximately 3/4 mile upstream.

(c) *Perez Lake*. – The operation of boats powered by internal combustion motors is prohibited.

**§111.32. Indiana County.**

(a) *Conemaugh River Lake*.

(1) Persons shall wear a Coast Guard approved personal flotation device at all

times when on board boats less than 16 feet in length or any canoe or kayak.

- (2) The operation of boats powered by internal combustion motors is prohibited.

(b) *Yellow Creek Lake – Yellow Creek State Park.* – The operation of boats powered by internal combustion motors is permitted. The use of motors in excess of 20 horsepower is prohibited.

**§111.33. [Reserved].**

**§111.34. [Reserved].**

**§111.35. [Reserved].**

**§111.36. Lancaster County.**

- (a) *Lake Aldred – Susquehanna River.* – Boats are limited to slow, no wake speed from the York County shoreline to the northern point of Urey Islands to the southern tip of Blair Island, and back to the York County shoreline. The area is about 1 mile in length.
- (b) *Susquehanna River.* – Boats are limited to slow, no wake speed for both of the following:
  - (1) From the Lancaster County shoreline to the northern point of Shad Island south to the southern point of Green Island and back to the Lancaster County shoreline from January 1 to October 1;
  - (2) In all areas between and within 200 feet of the islands comprising the Conejohola Flats.

**§111.37. [Reserved].**

**§111.38. Lebanon County.**

*Stover's Dam.* – The operation of boats powered by internal combustion motors is prohibited.

**§111.39. [Reserved].**

**§111.40. Luzerne County.**

- (a) *Lily Lake:*
  - (1) Boats with greater than 60 horsepower engines or greater than 18 feet in length are prohibited.
  - (2) Boats are limited to slow, no wake speed except those operating within the buoyed high speed operating zone, between noon and sunset between the Saturday preceding Memorial Day and September 30.
- (b) *Francis E. Walter Dam.* – The use of motors in excess of 10 horsepower is prohibited.
- (c) *Harveys Lake:*
  - (1) The operations of boats powered by internal combustion motors is permitted.
  - (2) The speed of boats is limited to 45 miles per hour from sunrise to sunset on weekends and holidays from the Saturday before Memorial Day through Labor Day.

- (3) The speed of boats is limited to slow, no wake speed between sunset and sunrise.

**§111.41. Lycoming County.**

- (a) *Susquehanna River.* – Boats are limited to slow, no wake speed between Swimmers Island, and the south shore of the Susquehanna River.
- (b) *Pine Creek.* – The operation of internal combustion engines is prohibited from the county line downstream to the Route 220 bridge.

**§111.42. McKean County.**

*Allegheny River Reservoir (Kinzua Dam):*

- (1) Boats are limited to slow, no wake speed in the following areas:
  - (i) Chappel Bay.
  - (ii) The bay formed by Morris Run.
  - (iii) From the sewer plant at Kiasutha to the headwaters above Red Bridge.
  - (iv) Willow Bay.
  - (v) Sugar Bay.
- (2) Persons shall wear a Coast Guard approved personal flotation device at all times when on board boats less than 16 feet in length or any canoe or kayak.

**§111.43. Mercer County.**

(a) *Shenango River Lake:*

- (1) The use of motors in excess of 10 horsepower is prohibited in the area west of the Penn Central Railroad (Levittsburg) causeway to the Ohio line.
  - (2) Boats are prohibited in Game Lands Propagation Areas.
  - (3) Waterskiing is prohibited south of the Conrail Railroad Bridge to the hazard buoys at the dam.
  - (4) Boats are limited to slow, no wake speed in the following areas:
    - (i) Stewarts Bay.
    - (ii) Celery Bay.
    - (iii) The main lake from the vicinity of the Hopper Road Fishermen's Access Area to the extreme backwaters of the lake.
    - (iv) From the hazard buoys above the dam to the Conrail Railroad Bridge.
    - (v) Two hundred feet from the shoreline in the vicinity of the Shenango Day Use Area, and Campground and the Route 18 causeway.
    - (vi) Duck Lake.
  - (5) Persons shall wear a Coast Guard approved personal flotation device at all times when on board boats less than 16 feet in length or any canoe or kayak.
  - (6) Waterskiing is prohibited in the following slow no wake zones:
    - (i) Beneath the State Route 18 and 846 bridges.
    - (ii) Beneath the Parkers Landing railroad trestle.
    - (iii) Beneath the railroad trestle at the Shenango Recreation Area.
- (b) *Lake Wilhelm -- Maurice Goddard State Park.* - The operation of boats powered by internal combustion motors is permitted except from a point approximately 200 yards north of the Interstate 79 causeway over Lake Wilhelm upstream to the Game Commission Propagation Area above the Sheakleyville Causeway (State Route 1018, Milledgeville Road).

**§111.44. [Reserved]**

**§111.45. Monroe County.**

*Delaware River.* – The operation of personal watercraft is prohibited within the Delaware Water Gap National Recreation Area.

**§111.46. Montgomery County.**

*Schuylkill River.* – Boats are limited to slow, no wake speed between:

- (1) Barbadoes Island and the Norristown shore from the Barbadoes Island Bridge downriver to the Norristown Dam.

**§111.47. Montour County.**

*Lake Chillisquaque.*

- (1) The operation of boats powered by internal combustion motors is prohibited.
- (2) Boating is prohibited in Goose Cove.
- (3) Boating is prohibited on the entire lake from March 15 through April 30.
- (4) Inflatable boats shall be at least 7 feet in length, made of durable, reinforced fabric, and have at least two separate buoyancy chambers exclusive of any inflatable floor or bottom.

**§111.48. Northampton County.**

- (a) *Delaware River.* – The operation of personal watercraft is prohibited within the Delaware Water Gap National Recreation Area (upstream from mile 209.5).
- (b) *Lehigh River.* – Boats are limited to slow, no wake speed in the main channel 150 feet upstream and 150 feet downstream from the Route 33 access ramp.

**§111.49. Northumberland County.**

*Susquehanna River.* – Boats are limited to slow, no wake speed from 250 feet downriver of the Shikellamy State Park boat launch on the south side of Packer's Island upriver a distance of 200 feet above the Route 147 bridge.

**§111.50. [Reserved].**

**§111.51. Philadelphia County.**

*Schuylkill River.*

- (1) The use of motors in excess of 10 horsepower is prohibited from Flat Rock Dam downstream to the Girard Avenue Bridge. Waterskiing is prohibited. Enforcement and administrative boats when in the course of their official duties as well as escort boats, coach boats, and safety boats when used in connection with organized sweep or sculling boat activity are exempt.
- (2) Boats, except sweep and sculling boats, their attendant boats, and enforcement and administrative boats are prohibited from the Girard Avenue Bridge to the Fairmount Dam. Traffic shall proceed upstream favoring the west bank and downstream favoring the east bank.

**§111.52. Pike County.**

- (a) *Twin Lakes.* – It is unlawful to operate a boat powered by a motor.
- (b) *Lake Wallenpaupack.*



- (1) Waterskiing is prohibited on weekends and holidays at the western end of the lake between a line about 200 yards east of Cairn's Island, as marked by buoys, and the Ledgeale Recreation Area.
- (2) Kite skiing and parasailing are prohibited on weekends and holidays at all locations. Kite skiing and parasailing are prohibited between the Ledgeale Campsite and the Kipp Island/Wallenpaupack Lake Estates cement boat launch ramp.
- (3) The area extending 100 feet out from the shoreline shall be considered a special anchorage area. Boats anchored or moored within this area shall be exempt from showing the all-around anchor light between sunset and sunrise, but shall be lighted sufficiently by a shore light to warn an approaching boat of their presence. Boats anchored within this special anchorage area not so lighted from the shore, and boats anchored outside this special anchorage area shall comply with §97.4. (relating to signals to attract attention) and show the required light from sunset to sunrise. Shore lights shall be screened so that the operator of an approaching boat is not blinded.
- (4) Boats are limited to slow, no wake speed in the following areas:
  - (i) On Wallenpaupack Creek.
  - (ii) From the Ledgeale Bridge to a point approximately 1,000 feet downstream.
  - (iii) From the dam to a point approximately 600 feet south.
  - (iv) Between Cairn's Island and the Pike County shore line.
- (5) Boats are limited to 45 miles per hour from sunrise to sunset on weekends and holidays from the Saturday before Memorial Day to Labor Day.
- (6) Boats are limited to 25 miles per hour between sunset and sunrise.
- (c) *Fairview Lake.* – Boats are limited to slow, no wake speed from the Commission boat launch to the head of the cove.
- (d) *Delaware River.* – The operation of personal watercraft is prohibited in the following areas:
  - (1) Upper Delaware Scenic and Recreational River (upstream from the mile 258.4).
  - (2) The Delaware Water Gap National Recreation Area (downstream from mile 250).

**§111.53. [Reserved].**

**§111.54. [Reserved].**

**§111.55. [Reserved].**

**§111.56. Somerset County.**

*Youghiogheny River Lake.*

- (1) Persons shall wear a Coast Guard approved personal flotation device at all times when on board boats less than 16 feet in length or any canoe or kayak.
- (2) Boats are limited to slow, no wake speed within the following areas:
  - (i) *Wilkins Hollow Cove.*
  - (ii) *Tub Run Cove* from a line extending in a southwesterly direction

- between the outermost points of land on each side of the cove as marked.
- (iii) *Somerfield Recreation Area* as marked in the vicinity of the boat launch ramp and marina.
  - (iv) *Fall Run Cove*.
  - (v) *Hall Run Cove*.
  - (vi) *Braddocks Run Cove*.
  - (vii) *Reason Run Cove*.
  - (viii) *Off Somerfield Hill*.

**§111.57. [Reserved].**

**§111.58. Susquehanna County.**

- (a) *Cotrell Lake*. – The operation of boats powered by internal combustion motors is prohibited.
- (b) *East Lake*. – The operation of boats powered by internal combustion motors is prohibited.
- (c) *Lakeside Pond*. – The use of motors in excess of 10 horsepower is prohibited.
- (d) *Laurel Lake*.
  - (1) *Internal combustion motors prohibited*. – Internal combustion motors are prohibited except as otherwise provided in this subsection.
  - (2) *Operation of boats powered by motors of up to 60 horsepower*. – Resident property owners at Laurel Lake are permitted to operate boats powered by motors of up to 60 horsepower. It is unlawful for a person, other than a resident property owner or a member of the property owner's immediate family, to operate a boat powered by an internal combustion motor on Laurel Lake. It is unlawful for a person, including a resident property owner and members of the immediate family, to operate a boat powered by a motor rated in excess of 60 horsepower.
  - (3) *Restrictions on operation of boats powered by internal combustion motors*. – Operation of boats powered by internal combustion motors is subject to the following restrictions:
    - (i) *Ski devices*. – A boat may not tow more than one water ski device.
    - (ii) *Upper Lake*. – Boat speed is limited to slow, no wake speed except that, during the period from noon until 6 p.m., no more than two boats powered by internal combustion motors may, at any one time, operate at speeds greater than slow, no wake speed in the marked boat operating zone. Boats operating in the marked zone shall circle in a counter-clockwise direction and shall be subject to the restrictions in this subsection and the code and this subpart. It is unlawful to water ski or to operate a boat at greater than slow, no wake speed at any location on the upper lake from 6 p.m. until noon on the following day.
    - (iii) *Lower Lake*. – It is unlawful to water ski or to operate a boat at greater than slow, no wake speed at any time at any location on the lower lake.
    - (iv) *Personal watercraft*. The operation of personal watercraft is prohibited.
  - (4) *Restrictions on competing uses of marked boat operating zone*. – Boats powered by internal combustion motors operating at authorized speeds

greater than slow, no wake speed in the marked boat operating zone shall have priority during the time periods when the operation is authorized under paragraph (3)(ii). It is unlawful to operate or stop a boat in the marked boat operating zone in a manner that interferes with authorized operation of internal combustion powered motorboats in the zone.

- (e) *Little Elk Lake*. The operation of boats powered by internal combustion motors is prohibited.
- (f) *Quaker Lake*. The operation of motors in excess of 7.5 horsepower is prohibited.
- (g) *Tripp Lake*. The operation of boats powered by internal combustion motors is prohibited.
- (h) *Upper Lake, New Milford Township*. It is unlawful to operate a boat powered by a motor.

**§111.59. Tioga County.**

- (a) *Cowanesque Lake*. – Boats are limited to slow, no wake speed in the following areas:
  - (1) Mapes Creek Cove.
  - (2) Baldwins Creek Cove.
  - (3) Between the buoy lines across the lake in the vicinity of the East and West Boat Launch areas.
  - (4) From the buoy line west of the South Shore Day Use area upstream to the headwaters of the lake.
- (b) *Hammond Lake*. – Boats are limited to slow, no wake speed from a buoy line across the lake in the vicinity of Ives Run to the extreme backwaters of the lake.
- (c) *Tioga Lake*. – Boats are limited to slow, no wake speed in the following areas:
  - (1) Between the Route 15 Bridge and the extreme backwaters of Mill Creek Arm.
  - (2) From the vicinity of Big Rift Creek to the extreme backwaters of the lake.
- (d) *Pine Creek*. – Only boats powered by motors of 10 horsepower or less are permitted from the county line downstream to the Route 220 bridge. After January 1, 1995, the operation of internal combustion engines is prohibited.

**§111.60. Union County.**

*Halfway Lake – R.B. Winter State Park*. – Boating is prohibited.

**§111.61. Venango County.**

*Two Mile Run County Park*:

- (1) The operation of boats powered by internal combustion motors is prohibited.
- (2) Sailboats greater than 14 feet in length and multihull sailboats are prohibited.
- (3) Inflatable boats shall be greater than 7 feet in length, made of tough, reinforced fabric and have at least two separate buoyancy chambers exclusive of any inflatable floor or bottom.

**§111.62. Warren County.**

*Allegheny River Reservoir (Kinzua Dam)*:

- (1) Boats are limited to slow, no wake speed in the following areas:
  - (i) In the vicinity of camping areas and boat launch areas.

- (ii) Dew Drop Bay.
  - (iii) Wolf Run Bay.
  - (iv) Hodge Bay, North, and South Branch.
  - (v) Cornplanter Bay.
  - (vi) Billies Bay.
  - (vii) Willow Bay beginning at the boat launch ramp.
- (2) Persons shall wear a Coast Guard approved personal flotation device at all times when on board boats less than 16 feet in length or any canoe or kayak.

**§111.63. Washington County.**

*Cross Creek Lake.* – The use of motors in excess of 10 horsepower is prohibited.

**§111.64. Wayne County.**

(a) *Duck Harbor Pond:*

- (1) The operation of boats powered by internal combustion motors is permitted.
- (2) A boat may not tow more than one water ski device on weekends and holidays from the Saturday preceding Memorial Day through Labor Day.
- (3) The speed of boats is limited to slow, no wake speed between the hours of 6 p.m. and 10 a.m.

(b) *Long Pond.*

- (1) The operation of boats powered by internal combustion motors is permitted.
- (2) Waterskiing is permitted from 10 a.m. until 5 p.m. on weekends and holidays and from 10 a.m. until sunset on weekdays other than holidays.
- (3) A boat may not tow more than one water ski device on weekends and holidays from the Saturday preceding Memorial Day through Labor Day.
- (4) The speed of boats is limited to slow, no wake speed from sunset until sunrise.

(c) *Prompton Lake -- Prompton State Park.* – The operation of boats powered by internal combustion motors is permitted. The use of motors in excess of 10 horsepower is prohibited.

(d) *Lake Wallenpaupack.* – Pike County special regulations applicable to Lake Wallenpaupack at §111.52 (b) (relating to Pike County) also apply to the Wayne County portion of Lake Wallenpaupack.

(e) *Delaware River.* – The operation of personal watercraft is prohibited within the Upper Delaware Scenic and Recreational River.

**§111.65. Westmoreland County.**

(a) *Conemaugh River Lake:*

- (1) Persons shall wear a Coast Guard approved personal flotation device at all times when on board boats less than 16 feet in length or any canoe, or kayak.
- (2) The operation of boats powered by internal combustion motors is prohibited.

(b) *Loyalhanna River Lake.* – All persons shall wear a Coast Guard approved personal flotation device at all times when on board boats less than 16 feet in length or any canoe, or kayak.

**§111.66. Wyoming County.**

*Lake Winola:*

- (1) The operation of boats powered by internal combustion motors is permitted.
- (2) A boat may not tow more than one water ski device on weekends and holidays from the Saturday preceding Memorial Day through Labor Day.
- (3) The speed of boats is limited to slow, no wake speed from sunset to sunrise, 7 days a week, year-round, and from sunrise to 11 a.m. on Sundays from the day before Memorial Day until Labor Day.
- (4) The speed of boats is limited to 35 miles per hour from sunrise to sunset on weekends and holidays.

**§111.67. York County.**

- (a) *Lake Marburg – Codorus State Park.* – The operation of boats powered by internal combustion motors is permitted. The use of motors in excess of 20 horsepower is prohibited.

(b) *Lake Redman:*

- (1) The operation of internal combustion motors is prohibited, but boats propelled by electric motors and non-mechanically propelled boats may be used either with or without internal combustion motors attached. Internal combustion motors may be used in the performance of official duties by persons so authorized.
- (2) The towing of a device other than devices used in trolling for fish is prohibited.
- (3) The following types of watercraft are prohibited:
  - (i) Inflatable boats except those which are at least 7 feet in length, made of durable, reinforced fabric, and have at least two separate buoyancy chambers exclusive of any inflatable floor or bottom.
  - (ii) Novelty type craft.
  - (iii) Watercraft not constructed or sold for the primary purpose of being used as a means of transportation on the water.
  - (iv) Surfboards, except for rescue purposes.
  - (v) Pontoon boats.

(c) *Lake Williams:*

- (1) The operation of internal combustion motors is prohibited, but boats propelled by electric motors and non-mechanically propelled boats may be used either with or without internal combustion motors attached. Internal combustion motors may be used in the performance of official duties by persons so authorized.
- (2) The towing of a device other than devices used in trolling for fish is prohibited.
- (3) The following type's watercraft are prohibited:
  - (i) Inflatable boats except those which are at least 7 feet in length, made of durable, reinforced fabric and have at least two separate buoyancy chambers exclusive of any inflatable floor, or bottom.
  - (ii) Novelty type craft.
  - (iii) Watercraft not constructed or sold for the primary purpose of being used as a means of transportation on the water.
  - (iv) Surfboard, except for rescue purposes.
  - (v) Pontoon boats.

- (4) The operation of watercraft is prohibited within 100 feet of dams, and in the extreme backwaters of Lake Williams from the buoy markers to the base of Lake Redman.

**§111.71. General Requirements.**

Sections of this chapter establishing horsepower or motor restrictions are qualified by conditions established in §107.1. and 107.2. (relating to horsepower restrictions; and electric motors).

**§111.72. Definitions.**

The following words and terms, when used in this chapter, have the following meaning, unless the context clearly indicates otherwise:

*Holidays* – Federally-recognized holidays.

*Weekdays* – Monday through Friday.

*Weekends* – Saturday and Sunday.

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**CHAPTER 113.**

**AIDS TO NAVIGATION AND OBSTRUCTIONS TO NAVIGATION**

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Sec.

- 113.1. General.
- 113.2. Prohibited Acts.
- 113.3. Operation of Boats.
- 113.4. Permits.
- 113.5. Responsibilities of Permittees.
- 113.6. Maintaining of Aids to Navigation.
- 113.7. Transfer of Permit.
- 113.8. Accidents Involving Aids or Markers.
- 113.9. Marking of Wrecks and Sunken Vessels.
- 113.10. Permits for Installation and Lighting of Floats, Ski Ramps, and Other Floating Structures.
- 113.11. Unpermitted Buoys and Floating Structures.
- 113.12. Reliance on Location of Aids and Markers.

**§113.1. General.**

- (a) The Coast Guard administers the U.S. Aids to Navigation System (33 CFR Part 62.). The system consists of federal aids to navigation operated by the Coast Guard, aids to navigation operated by the other armed services, and private aids to navigation operated by other persons. This system is adopted by the Commission for use in the Commonwealth and is administered on waters not marked by the Coast Guard.
- (b) An aid to navigation is a device external to a vessel intended to assist a boater in determining position, or safe course, or warn of dangers or obstructions to navigation.

**§113.2. Prohibited Acts. – 5123(a)7**

- (a) Aids, other than those placed by the United States government, may not be placed on or along waters of this Commonwealth unless authorized by the Commission under section 113.4. (relating to permits).
- (b) A person may not moor or fasten watercraft to an authorized and lawfully

placed State or Federal buoy, beacon, or bridge. This section does not prohibit mooring of boats to authorized mooring buoys.

- (c) It is unlawful for an unauthorized person to move, remove, tamper, or injure a State or Federal aid or marker.
- (d) A person may not place an aid to navigation that is incompatible with the United States Aids to Navigation System.

**§113.3. Operation of Boats. – 5123(a)**

The Commission or the Executive Director acting under §103.3(c) (relating to restrictions for special areas), may establish or authorize establishment of control zones. Established control zones will be indicated by regulatory markers at the beginning, at the end, and at appropriate intermediate points. It is unlawful for operators to operate a boat contrary to the restrictions of the controlled area.

**§113.4. Permits.**

- (a) Persons, including clubs, individual, State agencies, municipalities, and other groups, wishing to establish an aid shall apply for permission from the Commission on Form PFBC-277 at least 30 days prior to the intend date of installation. Application forms are available from and should be submitted to:

**Aids to Navigation**

**Bureau of Law Enforcement**

**Pennsylvania Fish and Boat Commission**

**Post Office Box 67000**

**Harrisburg, Pennsylvania 17106-7000**

- (a) The authorization of the placement of a private aid to navigation does not grant exclusive privileges nor does it eliminate the necessity to comply with other Federal or State permitting requirements.

**§113.5. Responsibilities of Permittees.**

A permittee is solely responsible for placement and maintenance of private aids to navigation placed in waters of this Commonwealth under this chapter. Private aids to navigation are the property of the permittee only and are not the property of the Commission or the Commonwealth. The permittee alone is responsible for claims related to the placement or maintenance of private aids to navigation. The permit will contain appropriate terms and conditions setting forth the responsibility of the permittee.

**§113.6. Maintaining Aids to Navigation.**

Permittee shall maintain private aids to navigation throughout the period specified in the permit in accordance with permit requirements. If, during the period specified in the permit, the private aid is not in place, the permittee shall notify the Commission in writing within 5 days, stating the status of the aid.

**§113.7. Transfer of Permit.**

Aids to navigation permits are not transferable. The party, or the successor in interest to the party, relinquishing responsibility for maintenance of the private aid to navigation shall advise the Commission in writing. The party accepting responsibility shall submit a new application.

**§113.8. Accidents Involving Aids or Markers. – 5123(a)9**

Accidents involving an aid or marker shall be reported to the Commission as soon

as possible, but not more than 5 days after the accident.

**§113.9. Marking of Wrecks and Sunken Vessels. – 5123(a)7**

- (a) When a sunken or submerged object creates a hazard to navigation, the owner of the boat, barge, raft, or other craft, or of a motor vehicle, or other obstruction which has sunk in waters of this Commonwealth is required to notify the Commission within 24 hours and to mark the hazard with a buoy or daymark during the day and with a light at night as the Commission directs.
- (b) Buoys established by the Commission to mark wrecks may be lighted and placed on the channel side of the wreck and as near to the wreck as conditions will permit.
- (c) Required markings shall be established and maintained until the wreck is removed or otherwise directed by the Commission.

**§113.10. Permits for Installation and Lighting of Floats, Ski Ramps, and Other Floating Structures. – 5123(a)7**

- (a) A person may not place a float, ski ramp, or other floating structure on or along the waters of this Commonwealth unless authorized by the Commission, or an authorized representative of the Federal government.
- (b) Application shall be made on forms provided by the Commission at least 30 days prior to the intended date of installation of the structure.
- (c) A ski ramp, floating dock, swim dock, or other floating structure shall be lighted between sunset and sunrise and at other times when restricted visibility warrants it. Each structure shall show at least one all-around white light visible for a distance of at least 1 mile with a characteristic of flashing or oscillating. “Visible” means visible on a dark night with clear atmosphere.
- (d) The permittee shall maintain the floating structure in accordance with permit requirements. The permittee shall notify the Commission in writing within 5 days if the floating structure is not in place or lighted during the period when the permit specifies that it shall be in place or lighted.
- (e) A structure permitted under this section shall display the permit number in characters at least 3 inches in height in a position where it may be observed easily by an officer empowered to enforce this section.

**§113.11. Unpermitted Buoys and Floating Structures. – 5123(a)7**

- (a) It is unlawful to place or maintain buoys and floating structures on the waters of this Commonwealth without proper permits. The owner of a buoy or structure is responsible for obtaining the necessary permits prior to placing or maintaining the buoy or structure on Commonwealth waters.
- (b) Unpermitted buoys and structures shall be removed by the owner upon order of the Commission. If they are not removed, the Commission will remove or order their removal. The owner will be held responsible for the costs of the removal, in addition to payment of fines resulting from violation of this section.

**§113.12. Reliance on Location of Aids and Markers.**

- (a) The location of buoys and other aids vary in their reliability because:
  - (1) Buoy locations are always approximated.
  - (2) Buoy moorings vary in length allowing a degree of movement depending upon the wind, currents, and water levels.



- (3) Buoys may be dragged off-station, sunk, destroyed, or vandalized.
- (b) Boaters should not rely on buoys alone for determining their position or the degree of hazard present in a body of water. Prudent boaters shall use bearings, soundings, good lookout, and various methods of electronic navigation to assure a safe voyage.

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## CHAPTER 115. BOATS CARRYING PASSENGERS FOR HIRE

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Sec.

- 115.1. Purpose.
- 115.2. Initial Certification.
- 115.3. Recertification.
- 115.4. Annual Safety Inspections.
- 115.5. Certification of Inspection.
- 115.6. Exception.
- 115.7. Accredited Marine Surveyors.
- 115.8. Personnel Requirements for Passenger-Carrying Boats.
- 115.9. Licenses for Operators.
- 115.10. Renewal of Operator's License.
- 115.11. Personal Flotation Devices.
- 115.12. Applicability of Other Regulations.
- 115.13. Authority for Executive Director to Issue Temporary Waiver.
- 115.14. Prohibited Acts.

### **§115.1. Purpose.**

This chapter establishes regulations for boats carrying passengers for hire. All regulations contained in this chapter are promulgated under section 5123(a)(1) of the code (relating to general boating regulations) and are deemed necessary for the health and safety of passengers, operators and persons on, in or towed by boats on, in or along waters of this Commonwealth. The definition "passenger-carrying boat" as set forth at section 102 of the code (relating to definitions) applies to this chapter and to the term "boats carrying passengers for hire."

### **§115.2. Initial Certification.**

- (a) An owner of a boat carrying passengers for hire shall apply for certification of the boat on a form provided by the Commission and shall provide the information requested on the form.
- (b) An applicant shall submit the following documentation in addition to the application form:
  - (1) *Form PFBC-291c.* – A Form PFBC-291c, Vessel Characteristic Report, has two parts. Part A is to be completed and signed by the owner. Part B is to be completed by a qualified accredited marine surveyor, who conducts the inspection within 6 months preceding the date of the application. The inspection report shall include a statement by the marine surveyor as to whether or not the boat is suitable for the use intended, or if not suitable, the requirements necessary to bring about compliance. The report shall also include the opinion of the marine surveyor as to the total number of persons who may be carried on the boat. This opinion shall be based on a United States Coast Guard approved stability test suitable for

the type and size of boat.

- (2) *Proof of financial responsibility.* – An applicant shall furnish the Commission proof of financial responsibility. The proof shall evidence the applicant's ability to respond in damages on account of accidents arising out of the maintenance or usage of the passenger-carrying boat. The minimum amount of coverage shall be \$500,000 because of injury or death to one person in an accident, and \$1,000,000 because of injury or death to two or more persons in an accident, and \$25,000 because of damage to property of others in an accident. Proof of financial responsibility shall be in a form acceptable to the Commission and shall provide for notice to the Commission in the event of cancellation of liability insurance.

### **§115.3. Recertification.**

- (a) A boat carrying passengers for hire shall have re-inspection and re-certifications as follows:
  - (1) A dry dock examination shall be conducted by a qualified accredited marine surveyor at least once every 5 years.
  - (2) A stability test shall be conducted whenever a boat has been involved in an accident or has been structurally modified. The stability test shall be United States Coast Guard-approved, suitable for the type and size of boat and utilize the current Assumed Average Weight per Person (AAWP) standard adopted by the United States Coast Guard.
- (b) The owner will forward to the Commission a copy of the recertification report along with other documents requested by the Commission.

### **§115.4. Annual Safety Inspections.**

- (a) Annual safety inspections are required every year after the year of initial certification. When the vessel is ready for inspection, the owner shall apply for an annual safety inspection by electronic mail or telephone to the regional law enforcement office for the region in which the boat is to operate. The application shall be submitted at least 30 days prior to the requested date of inspection. This annual inspection shall be conducted prior to the first commercial use of the boat or within 30 days of the date of issue on the certificate of inspection if the boat operates year round.
- (b) On the agreed date of inspection, the owner or representative shall be available to conduct the inspection jointly with the inspector designated by the Commission.
- (c) Results of the inspection shall be recorded on Form PFBC-291b "Vessel Inspection Check off List." Upon completion of the inspection, deficiencies shall be noted on the reverse of the form. Upon correction of the deficiencies, the owner or a representative and the inspector designated by the Commission shall sign the respective certifications.
- (d) The owner or a representative shall present on the day of inspection a current certificate of insurance with minimum coverage as described in §115.2.(b)(2) (relating to initial certification) to the inspector designated by the Commission.

### **§115.5. Certification of Inspection. – 5122(a)2 and 5123(a)1**

- (a) *Display of certificate.* – The certificate of inspection shall be framed under transparent material and prominently displayed in a public space aboard the

boat or, if it is not feasible to display the certificate on the boat, it shall be displayed at a prominent place dockside where it can be seen by passengers boarding the boat. It is unlawful for the owner of a boat inspected under this section to fail to display the certificate of inspection as provided in this section.

- (b) *Contents of certificate.* – Form PFBC-291a shall be used as a certificate of inspection. The certificate of inspection shall include the following information:
- (1) The name of the vessel, if applicable.
  - (2) The registration number of the vessel.
  - (3) The hull identification number of the vessel.
  - (4) The name, address and zip code of the owners.
  - (5) The date qualified for initial inspection.
  - (6) Hull material, such as wood, steel, aluminum, plastic, fiberglass, or other.
  - (7) The type of propulsion, such as outboard, inboard, inboard/outboard, or other and the horsepower rating.
  - (8) The type of fuel, such as gas, diesel, or other.
  - (9) The length and beam.
  - (10) The total number of passenger allowed.
  - (11) Operating personnel requirements, such as one or more operators, one or more linehandlers or assistants, or both.
  - (12) The total number of Coast Guard approved flotation devices required by type and size.
  - (13) Fire extinguisher indicating number, type, and size, such as two each Type BI Carbon Dioxide.
  - (14) The body of water upon which the boat is to be employed and route if it is restricted.
  - (15) The seasons of run – starting and closing date.
  - (16) The hours of operation – starting time and final docking time.
- (c) *Validation of certificates.* – The certificate of inspection will be valid with the original signatures of the Director, Bureau of Law Enforcement or a designee, the inspecting officer, and the owner.
- (d) *Compliance.* – It is unlawful to operate a boat carrying passengers for hire if the boat is not in compliance with the certificate of inspection.

#### **§115.6. Exception.**

A boat operating under a certificate of inspection from the United States Coast Guard does not require inspection or certification under this chapter. The operators of the boats are subject to the licensing requirements of the United States Coast Guard certificate of inspection and United States Coast Guard regulations and are not subject to the licensing requirements of §115.9. (relating to licenses for operators).

#### **§115.7. Accredited Marine Surveyors.**

For purposes of this chapter, an accredited marine surveyor is one who has been accredited by one of the national marine surveyors associations.

#### **§115.8. Personnel Requirements of Passenger-Carrying Boats. – 5122(a)2 and 5122(a)6**

- (a) It is unlawful for a person to operate a boat carrying passengers for hire unless the person first obtains an operator's license for passenger-carrying boats

under §115.9. (relating to licenses for operators).

- (b) It is unlawful to operate a boat carrying passengers for hire without an additional qualified crew member if one of the following conditions exists:
  - (1) The length of the boat exceeds 45 feet.
  - (2) The boat is certified to carry more than 49 passengers.
  - (3) The operator cannot handle the mooring lines or associated equipment without assistance.
- (c) To qualify as a crew member, an individual shall meet the following conditions. The individual shall:
  - (1) Be at least 16 years of age.
  - (2) Be capable of performing the duties required.
  - (3) Possess a valid Boating Safety Education Certificate.

**§115.9. Licenses for Operators. – 5122(a)6**

- (a) *Eligibility.* – Persons, 18 years of age and older, in good physical condition and who possess a valid Boating Safety Educator Certificate are eligible for licensing as operators of passenger-carrying boats.
- (b) *Physical examinations.* – The physical condition of an applicant for an operator's license shall be certified by a physician after a physical examination. The physician's certification shall include a statement attesting that the applicant displays normal color vision. This requirement may be waived if the operation of vessels for which the license is sought will be limited to daylight hours.
- (c) *Application.* – An application for a boat operator's license shall be made on the form provided by the Commission. The completed form shall be submitted with the applicable fee as listed in section 5104(a) (6) of the code (relating to fees).
- (d) *Examination.* – An applicant for a boat operator's license shall pass a professional examination to demonstrate sufficient experience and capabilities to assume the responsibilities for operation of a passenger-carrying boat. Examination will include oral questions and a practical test of boating skills using the boat – or a boat of identical size and type – for which an operator's license is being requested. If the applicant does not pass the oral examination or the practical test, 30 days is required prior to taking a retest. A request for the retest shall be submitted on Form PFBC-292.
- (e) *Contents and display of boat operator's license.* – The operator's license shall contain a photograph of the licensee. In addition, it will list the name and the limitations on the operator with respect to size of vessel authorized to operate and day or night restrictions. Licenses issued under this section are valid on any water under the sole jurisdiction of the Commonwealth for boats up to and including the size listed on the license. The Commission will validate the operator's license. The operator shall carry and display the license while in actual operation of a passenger-carrying boat and produce the license upon request of the Commission.
- (f) *Expiration.* – Licenses issued under this section will expire on December 31, 5 years from the date of issuance.
- (g) *Waiver.* – The Commission will waive the licensing requirements of this section for an individual possessing a current valid United States Coast Guard certification appropriate for the size and type of boat he intends to operate

upon presentation of proof of his Coast Guard Merchant Mariner Credential or other Coast Guard certification.

**§115.10. Renewal of Operator's License.**

- (a) Operators may apply for a renewal of their license 60 days prior to its expiration. Applications shall be made on the form provided by the Commission and accompanied by the appropriate fees.
- (b) Applicants for renewal of licenses shall undergo a new physical examination and submit a new physician's certification as described in §115.9(b) (relating to licenses for operators).
- (c) If there are not changes to the limitations imposed by the original license, a practical examination is not required. An oral examination may be required if there have been significant changes to regulations concerning safe operation of boats, carriage requirements for safety equipment, or carrying passengers for hire.
- (d) A licensed operator who does not renew a license as required by subsection (a) shall reapply in accordance with §115.9.

**§115.11. Personal Flotation Devices. – 5123(a)5**

It is unlawful to operate a boat carrying passengers for hire unless it carries sufficient, serviceable United States Coast Guard-approved wearable personal flotation devices in accordance with § 97.1 (relating to personal flotation devices) to provide one for the maximum number of passengers and crew members indicated on the certificate. It is unlawful to operate a boat carrying passengers for hire unless it carries an additional number of personal flotation devices suitable for children equal to at least 10% of the maximum capacity of the boat. If more than 10% of the passengers are children, additional personal flotation devices sized for children are required.

**§115.12. Applicability of Other Regulations.**

The boats governed by this chapter shall comply with this subpart with regard to registration, equipment, accident reporting and operation. Also see Chapters 93, 95, 97, 101, 103, 105, 107.

**§115.13. Authority for Executive Director to Issue Temporary Waiver.**

The Executive Director may waive or modify the operating requirements of this chapter which affect the conduct of a business enterprise in which small boats restricted to an area controlled by the management are used. The owner of the business or an agent shall request the waiver or modification in writing and furnish convincing justification that the public safety is not lessened by the action. The action by the Executive Director shall be construed as temporary pending action by the Commission at its next regularly scheduled meeting.

**§115.14. Prohibited Acts. – 5123(a)**

It is unlawful for a person to operate a passenger-carrying boat or for the owner of a passenger-carrying boat to permit its operation except in compliance with the inspection, certification, and licensing requirements of this chapter.

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## CHAPTER 117. BOAT RENTAL BUSINESSES

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Sec.

- 117.1. Definitions.
- 117.2. Inspections.
- 117.3. Responsibilities.
- 117.4. Motorboat Liveries.
- 117.5. [Reserved]

### **§117.1. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Boat livery.* – A commercial enterprise (person, partnership, corporation, or other legal entity) that rents or leases rental boats to other persons for use on the waters of this Commonwealth.

*Boat rental business.* – A boat livery.

*Boat rental transaction.* – The exchange of consideration in the form of money, goods, or services for the use of a rental boat for a period of time.

*Livery operator.* – The owner or lessee of a boat livery and employees and other persons authorized to act on behalf of the boat livery.

*Rental boat.* – A vessel propelled by oars, paddles, sail, or power, rented or leased in this Commonwealth.

- (i) The term includes canoes, kayaks, inflatable boats, rowboats, sailboats, personal watercraft, and other motorboats.
- (ii) The term does not include inner tubes or similar devices not considered to be boats under this title.

### **§117.2. Inspections. – 5122(a)2**

- (a) A livery operator shall inspect its rental boats on a regular basis and shall maintain its rental boats in good repair. It is unlawful for a livery operator to rent or use a rental boat that is not in good repair and serviceable condition.
- (b) A livery operator shall permit inspection of equipment, facilities, and documentation required by this chapter by a waterways conservation officer or other officer authorized to enforce the code.
- (c) A livery operator shall correct deficiencies noted by a waterways conservation officer or other officer authorized to enforce the code within 2 weeks of notification. If the deficiency involves equipment, the livery may not use the equipment until the deficiency is corrected.

### **§117.3. Responsibilities. – 5122(a)2**

- (a) It is unlawful for a livery operator to permit a rental boat to depart from the boat rental business without the equipment required by this title for the type of boat being rented.
- (b) A livery operator shall offer to all persons renting boats an orientation/introduction to boating safety and conditions, including a review of the laws and regulations applicable to the type of boat being rented and the waters on which the boat will be used. The Executive Director will provide guidance in the preparation of this orientation. Persons who produce a Boating Safety Education Certificate issued or approved by the Commission under

§91.6. (relating to certificates) are exempt from review.

- (c) Boat rental transactions shall be made using a written agreement, specifying the name and address of the lessee, the number of persons in the lessee's party, and date of departure.
- (d) Livery boats shall be clearly marked on both sides for easy identification of the business. Each boat shall be marked with letters, numbers, or decals at least 3 inches tall.
- (e) A livery operator shall only rent boats that meet or exceed minimum United States Coast Guard requirements for boats of that type. Rental boats shall be of a design and material suitable for their intended use.
- (f) A livery operator shall submit a boating accident report for all reportable accidents involving one or more of the rental boats in accordance with Chapter 101 (relating to boating accidents). This requirement is in addition to the requirement that the operator of the boat file a boating accident report.
- (g) It is unlawful for a livery operator to rent or use a boat in excess of its capacity as set forth by the manufacturer for the total number of passengers, total weight, or maximum horsepower.

**§117.4. Motorboat liveries. – 5122(a)2**

- (a) In addition to the requirements of §117.3 (relating to responsibilities), a livery operator that rents boats equipped with motors greater than 25 horsepower and personal watercraft shall verify that operators of these boats either possess a permanent Boating Safety Education Certificate or have obtained a temporary Boating Safety Education Certificate from the livery. The Executive Director may authorize boat liveries to issue temporary Boating Safety Education Certificates, effective for the period of rental only, to operators of these boats if the boat livery and the operator comply with the requirements governing the rental of boats and the operation of boat liveries as defined in this chapter. The Executive Director will establish rules and guidelines for the issuance of temporary certificates.
- (b) A personal watercraft livery shall take measures to oversee the operation of rented personal watercraft by persons who possess only a temporary Boating Safety Education Certificate. These measures shall include one of the following:
  - (1) The designation of a specified, marked area of operation for rented personal watercraft.
  - (2) The provision of qualified observers employed by the livery to directly observe the operation of rented personal watercraft. No more than seven personal watercraft may be under the observation of a single observer at any one time. Qualified observers shall be at least 16 years of age, have at least 10 hours of experience operating personal watercraft, and have successfully completed the requirements for a permanent Boating Safety Education Certificate. The permanent Boating Safety Education Certificate shall be in the observer's possession when performing duties under this paragraph.
- (c) A personal watercraft livery may not lease, hire or rent a personal watercraft to or for use by a person who is 15 years of age or younger.

**§117.5. [Reserved]**

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## CHAPTER 119. MOTORBOAT NOISE CONTROL

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Sec.

- 119.1. Definitions.
- 119.2. Mufflers.
- 119.3. Prohibited Acts.
- 119.4. Prohibition Against Sale of a Vessel not Equipped with a Muffler in Good Working Order.
- 119.5. Stationary Test.
- 119.6. Pass-by Test.
- 119.7. Race Boats.
- 119.8. Enforcement.

### **§119.1. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Efficient.* – A muffler shall be considered efficient if it complies with the following conditions:

- (i) The muffler has the effect of substantially reducing the noise from the motor over that which would be created if the muffler were removed, bypassed, or otherwise rendered inoperable.
- (ii) In comparison to motors of similar characteristics, under similar operating conditions, the noise created by the motor with the muffler in question is not substantially greater.
- (iii) The muffler prevents excessive or unusual noise as defined in §119.5. (relating to stationary tests).

*Muffler.* – A sound suppression device or system designed and installed to abate the sound of exhausted gases emitted from an internal combustion motor and which prevents excessive or unusual noise.

### **§119.2. Mufflers. – 5123(a)5**

Every motorboat operated upon the waters of this Commonwealth shall be equipped with a muffler or a muffler system in good working order and in constant operation and effectively installed to prevent excessive or unusual noise.

### **§119.3. Prohibited Acts. – 5123(a)3 and 5123(a)5**

- (a) A person may not operate and an owner may not give permission for the operation of a motorboat upon the waters of this Commonwealth that is equipped with an altered muffler or muffler cutout, bypass, or other device designed or so installed so that it can be used continually or intermittently to bypass or otherwise reduce or eliminate the effectiveness of a muffler or muffler system installed under this chapter.
- (b) A person may not operate and an owner may not give permission to operate a boat that in the observation of two persons, one of whom shall be a waterways conservation officer, deputy waterways conservation officer, or other law enforcement officer authorized to enforce the code, the sound or noise is so abnormally loud as to constitute a substantial and extraordinary annoyance or distraction to persons in the vicinity of the watercraft.



- (c) A person may not remove, alter, or otherwise modify a muffler or muffler system in a manner which will prevent it from being operated in accordance with this chapter.

**§119.4. Prohibition Against Sale of a Vessel not Equipped with a Muffler in Good Working Order. – 5123(a)5**

A person may not manufacture, sell, or offer for sale a motorboat which is not equipped with a muffler or muffler system in good and constant working condition or which does not otherwise comply with this chapter. This chapter does not apply to power vessels designed, manufactured, and sold for the sole purpose of competing in racing events and for no other purpose. An exemption or exception shall be so documented in every sales agreement and shall be formally acknowledged by signature on the part of both the buyer and seller. Copies of the agreement shall be kept by both parties. A copy shall also be kept onboard or be available when the boat is being operated. A motorboat sold under this exemption may only be operated on the waters of this Commonwealth in accordance with §119.7. (relating to race boats).

**§119.5. Stationary Tests. – 5123(a)3**

- (a) A person may not operate or give permission for the operation of a motorboat upon the waters of this Commonwealth that exceeds the following noise levels measured in accordance with SAE J2005:
  - (1) A noise level of 90 dB(a) when subjected to a stationary sound level test for engines manufactured before January 1, 1993.
  - (2) A noise levels of 88 dB(a) when subjected to a stationary sound level test for engines manufactured on or after January 1, 1993.
- (b) Measurements will be made by a sound level meter which satisfies ANSI-S 1.4-1983, Type 2, or equivalent.
- (c) The noise emission test measurements shall 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 port or starboard gunwale intersects. The vessel being tested shall operate its engine at low throttle setting in neutral gear. Personal watercraft and other boats which have no neutral gear shall operate at the lowest throttle setting with no or minimum headway motion.

**§119.6. Pass-by Test. – 5123(a)3**

A person may not operate a motorboat on the waters of this Commonwealth that exceeds a noise level of 82dB(a) measured as specified in SAE J34. The measurement may not preclude a stationary sound level test as prescribed in §119.5. (relating to stationary test) if an officer has reason to believe that the motorboat is being operated in excess of the noise levels established in §119.5.

**§119.7. Race Boats. – 5122(a)8 and 5123(a)3**

- (a) This chapter does not apply to motorboats registered and actually participating in a racing event or tune-up periods for racing events authorized in accordance with §109.6. (relating to special marine events), or to a motorboat being operated by a boat or engine manufacturer for the purpose of testing or development.
- (b) The operator of a motorboat operated upon the waters of this Commonwealth for the purpose of tune-up for a sanctioned race, or testing and development by a boat or engine manufacturer, shall at all times have in possession and

produce on demand of a law enforcement officer a test permit issued by the Commonwealth.

- (c) The test permit application shall contain the following information:
  - (1) The name and address of the driver.
  - (2) The type and description of the boat.
  - (3) The area of the test.
  - (4) The name and address of the boat owner.
  - (5) The date and location of the next race in which the operator will compete.
  - (6) Other information needed to fully assess the application.
- (d) Race tests will not be permitted on weekends or holidays from May 15 through October 1.
- (e) Race tests shall be conducted between the hours of 10 a.m. and 6 p.m. local time.
- (f) Race tests shall be limited to 30 minutes on the water. No more than four race tests are permitted in 1 day.
- (g) This section does not apply on a body of water in the 3-day period immediately preceding a race on that body of water. Subject to restrictions that may be imposed by race permit, testing may begin 2 hours before the start of the sanctioned race.

**§119.8. Enforcement.**

An officer authorized to enforce this chapter who has reason to believe that a vessel is being operated in excess of the noise levels established in this chapter may direct the operator of the vessel to submit the vessel to an onsite test to measure noise levels. If the vessel exceeds the decibel levels established by this chapter, the officer may direct the operator to take immediate and reasonable measures to correct the violation, including returning the vessel to a mooring and keeping the vessel at the mooring until the violation is corrected or ceases.

## **COMMISSION APPROVED BOATING SAFETY EDUCATION COURSES**

Section 91.6(a)(1) of 58 Pa. Code (relating to Boating Safety Education Certificates) defines a Boating Safety Education Certificate for residents of this Commonwealth as document issued by the Fish and Boat Commission (Commission) certifying that the person named on the certificate has established proof of competency through the successful completion of a course approved in accordance with 58 Pa. Code §91.7 (relating to criteria for courses of instruction in boating safety education). Under 58 Pa. Code §91.7, the Executive Director of the Commission may approve, by notice, boating safety education courses that meet the course criteria established under that section and will publish a list of approved boating safety education courses in the *Pennsylvania Bulletin* on an annual basis or more frequently as required. The Executive Director has approved the following courses in boating safety education for Commonwealth residents, effective July 1, 2013:

- Pennsylvania Fish and Boat Commission (classroom course)
- United States Coast Guard Auxiliary (classroom course)
- United States Power Squadrons (classroom course)
- United States Sailing Association (classroom course)
- Kalkomey Enterprises, Inc. d/b/a Boat Ed (correspondence course)
- BoaterExam America, Inc. (Internet course)
- Kalkomey Enterprises, Inc. d/b/a Boat Ed (Internet course)

For nonresidents, a Boating Safety Education Certificate is a certificate, card, or other official document that indicates on the certificate, card or other document successful completion of a course approved by the National Association of State Boating Law Administrators.

**FISH AND BOAT COMMISSION LAKES OR ACCESS AREAS  
UNDER SPECIAL REGULATION**

53.4 – Previous Regs 53.15 & 53.18 were consolidated into new 53.4 (PAB 9/30/00)  
Original provisions for 53.15 & 53.18 adopted PAB 1/7/84.

**See 53.4 for regulations**

REGULATION	COUNTY	AREA	TIMES	DATE PAB
<b>CLOSED AT ALL TIMES</b>	Erie	West Bank, Manchester Beach - WCAA		3/20/82
<b>CLOSED CERTAIN HOURS</b>  PLUS* INDICATES USE OF BEER OR ALCOHOLIC BEVERAGES PROHIBITED	Adams	Long Pine Res.	9pm-5am	9/25/98
	Adams	Waynesboro Access	9pm-5am	3/20/82
	Allegheny	Tarentum Access*	10pm-5am	10/30/92
	Bradford	Sayre Access	10pm-5am	3/20/82
	Bradford	Wysox Access	10pm-5am	3/20/82
	Berks	Kaercher's Creek Lake	10pm-5am	2/5/83
	Berks	Charming Forge Access	10pm-5am	11/2/01
	Bucks	Levittown Lake	10pm-5am	4/5/86
	Bucks	Upper Black Eddy	10pm-5am	1/7/89
	Bucks	Yardley Access*	10pm-5am	1/7/89
	Chester	Phoenixville Access*	10pm-5am	3/20/81 2/8/03*
	Cumberland	Big Spring Access	10pm-5am	12/5/98
	Cumberland	Opossum Lake	10pm-5am	3/20/82
	Cumberland	SCI Camp Hill Access at Spanglers Mill	10pm-5am	3/8/97
	Fayette	Virgin Run Lake	10pm-5am	3/20/82
	Fayette	Dunlap Lake	10pm-5am	3/20/82
	Fayette	Greenlick Lake	10pm-5am	3/20/82
	Franklin	Letterkenny Res. Access	10pm-5am	3/20/82
	Fulton	Meadow Grounds Lake	10pm-5am	8/11/01
	Lackawanna	Ford's Pond Access	10pm-5am	3/20/82
	Lancaster	Columbia Access	10pm-5am	3/20/82
	Lehigh	Leaser Lake Access	10pm-5am	3/20/82
	Luzerne	Ceasetown Reservior *	10pm-5am	N/A
	Luzerne	Lily Lake Access	9pm-5am	3/20/82
	Luzerne	Mountain Springs Lake	10pm-5am	3/8/08
	Luzerne	Union Access	10pm-5am	3/8/08
	Monroe	Brady's Lake	10pm-5am	3/20/82
	Philadelphia	Frankford*	10pm-5am	8/29/98
	Philadelphia	Tacony Access*	9pm-7am	8/29/98

REGULATION	COUNTY	AREA	TIMES	DATE PAB
<b>CLOSED CERTAIN HOURS</b>  PLUS* INDICATES USE OF BEER OR ALCOHOLIC BEVERAGES PROHIBITED	Pike	Fairview Lake Access	10pm-5am	3/20/82
	Pike	Lake Grreley Access	10pm-5am	3/20/82
	Pike	Matamoras Access	10pm-5am	2/24/90
	Pike	Zane Gray Access	10pm-5am	2/24/90
	Wayne	Balls Eddy Access*	10pm-5am	2/24/90 9/12/04*
	Wayne	Buckingham Access*	10pm-5am	2/24/90 6/12/04*
	Wayne	Callicoon Access*	10pm-5am	2/24/90 6/12/04*
	Wayne	Damascus Access*	10pm-5am	2/24/90 6/12/04*
	Wayne	Narrowsburg Access*	10pm-5am	2/24/90 6/12/04*
	Wayne	Shehawken Access*	10pm-5am	6/12/04
	Wyoming	Stevens Lake	10pm-5am	3/20/82
	York	Goldsboro Access (PWC launch area)	10pm-5am	11/1/97
<b>TEMPORARY RESTRICTIONS</b>  Use or possession of beer and alcoholic beverages AND open fires prohibited 4/1- 5/31 each year.	Beaver	Hereford Manor Lakes		3/7/98
	Washington	Canonsburg Lake		3/7/98
	Washington	Dutch Fork Lake		3/7/98
<b>USE OR POSSESSION OF BEER AND ALCOHOLIC BEVERAGES PROHIBITED.</b>	Berks	Blue Marsh Lake		4/19/03
	Carbon	Mauch Chunk Lake		2/22/97
	Centre	Spring Creek Canyon		9/24/11
	Chester	Chambers Lake		11/29/14
	Chester	Phoenixville Access		2/8/03
	Columbia	Briar Creek Lake		11/1/97
	Fulton	Meadow Grounds Lake		11/29/14
	Lancaster	Rock Hill Access		5/24/08
	Schuylkill	Sweet Arrow Lake		4/19/03
	Snyder	Hoovers Island		11/29/14
	Susquehanna	Great Bend Access		11/29/14
	Wayne	Belmont Lake		6/12/04
	Wayne	Long Pond		6/12/04
	Wayne	Miller Pond		6/12/04
	Wayne	Lower Woods Pond		6/12/04
	Wayne	Upper Woods Pond		6/12/04
	Wayne	Duck Harbor Pond		6/12/04
	Wyoming	Lake Winola		2/1/92
	Wyoming	Falls Access		2/1/92
	Wyoming	Oxbow Lake		8/30/97
	Wyoming	Whites Ferry Access		2/1/92
	Northampton	Route 33		2/8/03
<b>MISCELLANEOUS</b> Access Road from SR 642 to Roxbury Dam closed to all public use.	Franklin	Letterkenny Reservoir	10pm-5am	1/23/99

## DESIGNATIONS EXCLUSIVE USE FISHING AREAS

The Executive Director of the Fish and Boat Commission (Commission), acting under the authority of 58 Pa. Code §65.21. (relating to waters limited to specific purposes – exclusive use fishing areas), designates the following water areas as being for the exclusive use of children, special populations, or both, as indicated. These designations are effective when the waters are so posted after publication of this notice in the *Pennsylvania Bulletin*.

COUNTY	WATER AREA	UPPER LIMIT	LOWER LIMIT
Adams	Latimore Creek	Baltimore Road bridge	Downstream 150 yards from bridge
Cameron	Wykoff Run*	Bridge at Coop Nursery	Mouth of Wykoff Run
Clearfield	Little Muddy Run*	Janesville Dam spillway	Bridge on TR-919 (Walnut St.)
Crawford	Pymatuning Pond	Pymatuning Sportsmen's Club property	Pymatuning Sportsmen's
Dauphin	Clarks Creek	First bridge upstream of Route 225	Route 225 bridge
Dauphin	Powells Creek	1/10 mile upstream of Lebo Road	¼ mile downstream of Lebo Road
Elk	Powers Run*	St. Mary's Sportsmen's Club property	St. Mary's Sportsmen's Club property
Erie	Conneauttee Creek	Edinboro Lake Dam	West Normal St. bridge
Erie	Girard Park Pond	Girard Park property	Girard Park property
Erie	West Canal Basin Erie Harbor**		
Forest	Toms Run	Cable across stream above pond	Cable across stream above pond
Franklin	Carbaugh Run*	Route 30 bridge	Mouth of Carbaugh Run
Franklin	Conococheaque Creek	250 feet below Tallow hill bridge	1300 feet below Tallow Hill bridge
Fulton	Fister Run	From a point opposite the stone house above raceway	Downstream approximately 4/10 mile below T-342 to a steel cable
Lackawanna	Manny Gordon Pond*	McDade Park	McDade Park
Lehigh	Coplay Creek	Chestnut Street bridge	MacArthur Road bridge
McKean	Marvin Creek*	Mouth of Kane Creek	Downstream approximately 1,200 feet to a wire with signs across the stream
Mercer	Wolf Creek	300 feet downstream of concrete siphon box along Greenwood Drive	300 feet upstream of concrete siphon box along Greenwood Drive
Monroe	Tobyhanna Creek	1,250 feet upstream from Main Street Bridge	500 feet upstream from Main Street Bridge
Potter	Kettle Creek	200 yards above T-537 bridge	100 yards below T-537 bridge
Potter	Kettle Creek Old Bull State Park	Dam at beach area	Causeway across stream to campground
Schuylkill	Pine Creek*	Gap Street Bridge	Lower end of trout nursery
Union	Buffalo Creek*	North 8 <sup>th</sup> Street Bridge	North 3 <sup>rd</sup> Street Bridge

\* Children Only area (12 years of age and under)

\*\* Special populations only

## VHS SUSCEPTIBLE SPECIES OF FISH 2012

Under 58 Pa. Code §69.3 (relating to transportation of VHS-susceptible fish out of the Lake Erie watershed), which will go into effect on January 1, 2008, it is unlawful to transport or cause the transportation of fish susceptible to Viral Hemorrhagic Septicemia (VHS) out of the portion of the Lake Erie watershed in this Commonwealth into other watersheds of this Commonwealth except when certain conditions are met. Section 69.3 further provides that for purposes of the section, species of fish that are VHS-susceptible are those species that the Fish and Boat Commission (Commission) has defined as such by notice published in the *Pennsylvania Bulletin*.

For purposes of section 69.3, the Commission has defined the following species of fish as those that are VHS-susceptible, effective January 1, 2008:

- Bluegill (*Lepomis macrochirus*)
- Bluntnose minnow (*Pimephales notatus*)
- Brown trout (*Salmo trutta*)
- Bullhead catfishes (*Ameiurus spp.*)
- Burbot (*Lota lota*)
- Channel catfish (*Ictalurus punctatus*)
- Chinook salmon (*Oncorhynchus tshawytscha*)
- Common carp (*Cyprinus carpio*)
- Crappies (*Pomoxis spp.*)
- Emerald shiner (*Notropis atherinoides*)
- Freshwater drum (*Aplodinotus grunniens*)
- Gizzard shad (*Dorosoma cepedianum*)
- Lake trout (*Salvelinus namaycush*)
- Largemouth bass (*Micropterus salmoides*)
- Muskellunge (*Esox masquinongy*)
- Northern pike (*Esox lucius*)
- Pumpkinseed (*Lepomis gibbosus*)
- Rainbow trout/steelhead (*Oncorhynchus mykiss*)
- Redhorse suckers (*Moxostoma spp.*)
- Rock bass (*Ambloplites rupestris*)
- Round goby (*Apollonia melanostoma*)
- Smallmouth bass (*Micropterus dolomieu*)
- Spottail shiner (*Notropis hudsonius*)
- Trout-perch (*Percopsis omiscomaycus*)
- Walleye (*Sander vitreus*)
- White bass (*Morone chrysops*)
- White perch (*Morone americana*)
- White sucker (*Catostomus commersonii*)
- White fishes (*Coregonus Spp.*)
- Yellow perch (*Perca flavescens*)

## REPTILE & AMPHIBIAN PROTECTION AREAS

On April 9, 1979, the Bureau of Forestry and the Pennsylvania Fish and Boat Commission designated eighteen of the Natural Areas as special regulation areas for the protection of all amphibians and reptiles within the designated areas. Section 79.13 (b) of the Fishing and Boating Regulations states: "The taking, catching, killing and possession of individuals of any species of Pennsylvania amphibians and reptiles occurring naturally within the boundaries of designated Natural Areas, by persons other than those possessing a valid scientific collectors permit is prohibited." On February 27, 1982, seven additional areas were added to the list, and after another review, three more areas were listed on April 13, 1985, bringing the total to 28 Natural Areas where amphibians and reptiles are protected.

Following is a listing of these areas:

### REPTILE & AMPHIBIAN PROTECTION AREAS OF STATE FOREST LANDS

NAME	ACRES	FOREST	LOCATION	FEATURES
Carbaugh Run ARP	780	Michaux	Adams Co. South U.S. 30 near Caledonia	White pine-hemlock stream bottom with mixed oak on the side hills. Heavily cut three times for charcoal.
Sweet Root ARP	1,403	Buchanan	Bedford Co., 2 miles west of Chancysville	Virgin hemlock surrounded by second growth mixed oak.
Frank E. Masland, Jr. ARP	1,270	Tuscarora	Perry Co., 12 miles west of Landisburg on Laurel Run road	Oldest second growth oak on State Forest land.
Roaring Run ARP	3, 090	Forbes	Westmorland Co., south of Rt. 31 on west side of Laurel Ridge	Mountain-stream valley with second and third growth mixed mesophytic forest type.
Bear Meadows ARP	890	Rothrock	Centre Co., 6 miles south of Boalsburg	Spruce-fir bog community.
Big Flat Laurel ARP	184	Rothrock	Huntingdon & Centre Co., intersection of Bear Gap and Gettis Ridge Roads.	Laurel beds.
Detweiler Run ARP	463	Rothrock	Huntingdon Co., one mile north of Alan Seeger Natural Area along Detweiler Run.	Virgin hemlock-white pine with rhododendron understory.
Little Juniata ARP	624	Rothrock	Huntingdon Co., west of Alexandria, a water gap in Tuscy Mountain.	Water gap, major fault line, thrust fault, talus slope.
Charles F. Lewis ARP	384	Gallitzin	Indiana Co., northside of Conemaugh Gap, west of Johnstown.	Steep-sided stream valley, nature trail showing second growth northern hardwood and oak.
The Hook ARP	5, 119	Bald Eagle	Union Co., north Branch Buffalo Creek, 3 miles north of Harleton	Complete watershed in the Ridge and Valley, mixed oak forest.



NAME	ACRES	FOREST	LOCATION	FEATURES
Mt. Logan ARP	512	Bald Eagle	Clinton Co., Bald Eagle Mountain, east of Castanea.	Old growth hemlocks and Tuscarora sandstone outcrop.
Rosecrans Bog ARP	152	Bald Eagle	Clinton Co., north of Loganton along Cranberry Road.	High mountain bog with cranberry, mountain holly, and high bush blueberry.
Tall Timbers ARP	600	Bald Eagle	Snyder Co., west of Snyder-Middleswarth along Swift Run.	Second growth oak, white pine-hemlock, and oak-hard pine.
Marion Brooks ARP	917	Moshannon	Elk Co., at intersection of Quehanna Highway & Losey Road.	White birch, high mountain bog, mixed oak and laurel.
Cranberry Swamp ARP	144	Sproul	Clinton Co., Cranberry Run, 3 miles south of Renovo.	Mountain bog, beaver dams, native cranberry.
East Branch Swamp ARP	186	Sproul	Clinton Co., East Branch Big Run, PA 144 & Beech Creek Road	Mountain swamp, old growth hemlock, portion affected by tornado.
Tamarack Swamp ARP	86	Sproul	Clinton Co., east of Tamarack.	Tamarack-spruce swamp.
Algerine Swamp ARP	84	Tiadaghton	Lycoming Co., south of the Reynolds Spring Trail and Gamble Run Road intersection.	Spruce-fir swamp community with pitcher plant, sundew, sphagnum moss.
Bark Cahin ARP	73	Tiadaghton	Lycoming Co., near Okome on headwaters of Bark Cahin Run.	Old growth hemlocks and second growth oak.
Miller Run ARP	4,987	Tiadaghton	Lycoming Co., west of Pine Creek at Jersey Mills.	High plateau dissected by 4 streams, variety of forest types & sites.
Lower Jerry Run ARP	892	Elk	Headwaters of Lower Jerry Run near Cameron-Clinton Co. line, west of Dutchman Road.	Old growth white pine-hemlock stand.
Wykoff Run ARP	1,215	Elk	Cameron Co., at Junction of Wykoff and New Hoover Roads.	White birch, white pine-hemlock, oak, northern hardwoods, & large open areas.
Forrest H. Dutlinger ARP	1,521	Susquehannock	Clinton Co., Hammersely Fork, Beech Bottom Hollow.	Old growth hemlock-surrounded by second growth hardwoods.
Black Ash Swamp ARP	308	Tioga	Tioga Co., Asaph Run	Old beaver meadow surrounded by northern hardwood forest, once a mountain bog.
Reynolds Spring ARP	1,302	Tioga	Tioga Co., at intersection of Gamble Run and Reynolds Spring Road.	High mountain bog surrounded by white pine and pitch pine, aspen and oak forest.

NAME	ACRES	FOREST	LOCATION	FEATURES
Buckhorn ARP	471	Delaware	Pike Co., one mile east of Pond Eddy.	Mountain swamp, oak forest, rock ledges.
Pennel Run ARP	936	Delaware	Pike Co., two miles west of Twelve Mile Pond.	Scrub oak, mixed oak forest, mountain swamp, sheep laurel.
*Kettle Creek Gorge ARP	774	Loyalsock	Sullivan Co., 5 miles south of Hillsgrove on the Ogdonia Road.	Complete watershed with second growth northern hardwoods, aspen, oak.