

RULES AND REGULATIONS

Title 58—RECREATION

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 61]

Fishing; Seasons, Sizes and Creel Limits

The Fish and Boat Commission (Commission) amends Chapter 61 (relating to seasons, sizes and creel limits). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). This amendment updates the Commission's regulations relating to Atlantic striped bass fishing in the Delaware River, West Branch Delaware River and River Estuary.

A. *Effective Date*

This final-form rulemaking will go into effect January 1, 2025.

B. *Contact Person*

For further information on this final-form rulemaking, contact Renae Kluk Kiehl, Esq., P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This final-form rulemaking is available on the Commission's web site at <https://www.pa.gov/en/agencies/fishandboat.html>.

C. *Statutory Authority*

The amendments to § 61.2 (relating to Delaware River, West Branch Delaware River and River Estuary) are published under the statutory authority of section 2102(b) of the code (relating to rules and regulations).

D. *Purpose and Background*

The specific purpose and background of the amendments are described in more detail under the summary of changes.

E. *Summary of Changes*

At its January 2024 quarterly meeting, the Atlantic States Marine Fisheries Commission's (ASMFC) Atlantic Striped Bass Management Board, which includes the Commonwealth as a member, approved Addendum II to Amendment 7 to the Interstate Fishery Management Plan (FMP) for Atlantic striped bass. The Addendum modifies recreational measures to reduce fishing mortality by 14.1% in 2024 and addresses requirements for recreational filleting and other management provisions. Addendum II builds upon the 2023 emergency action taken by the ASMFC by changing the measures in the FMP to reduce fishing mortality and support stock rebuilding.

Addendum II measures must have been implemented by May 1, 2024. To address the coast-wide regulation directed by the ASMFC, the Commission's Executive Director took immediate actions to make modifications to fishing regulations under § 65.25 (relating to temporary changes to fishing regulations) to amend § 61.2. Specifically, the Executive Director amended this section to reduce the maximum harvestable length in the striped bass slot limit from less than 35 inches to less than 31 inches from the Pennsylvania line upstream to Calhoun Street Bridge (Delaware Estuary) from January 1 through March 31 and June 1 through December 31 and from the Calhoun Street Bridge upstream (Delaware

River) year-round, which was published at 54 Pa.B. 69 (January 6, 2024). The Executive Director amended this section to reduce the daily limit of striped bass from two fish to one fish and adjust the harvestable length slot limit from 21 inches to less than 24 inches and 22 inches to less than 26 inches from the Pennsylvania line upstream to Calhoun Street Bridge (Delaware Estuary) from May 1, 2024, through May 31, 2024, which was published at 54 Pa.B. 2191 (April 20, 2024). Gear restrictions remained unchanged. These temporary changes went into effect on January 1, 2024, and May 1, 2024, and will remain in effect until the Commission, by appropriate action, amends § 61.2. This final-form rulemaking seeks to amend § 61.2 accordingly.

To address concerns about recreational filleting allowances and compliance with harvestable size limits, Addendum II requires states that authorize at-sea or shore-side filleting, or both, of Atlantic striped bass to establish minimum requirements, including requirements for carcasses to be retained and possession to be limited to no more than two fillets per legal fish harvested. Commission staff proposed to add recreational filleting requirements specific to Atlantic striped bass to § 61.2 because it is the primary fishery in which Atlantic striped bass is found in this Commonwealth.

In addition to the ASMFC-mandated amendments, Commission staff identified an opportunity to further clarify language in § 61.2(d) pertaining to the required use of a circle hook when fishing with bait for any species of fish in the tidal Delaware Estuary. The intent of this provision is to require a hook configuration consisting of a single, non-offset (in-line) circle hook; however, the current language is unclear regarding the prohibition of a multiple circle hook configuration. It is recommended to add clarifying language to the body of the text in the regulation.

The Commission amends § 61.2 to read as set forth at 54 Pa.B. 5618 (September 7, 2024).

F. *Paperwork*

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

G. *Fiscal Impact*

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

H. *Public Comments*

A notice of proposed rulemaking was published at 54 Pa.B. 5618. The Commission received no public comments regarding the proposal.

Findings

The Commission finds that:

(1) Public notice of intention to adopt the amendment adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), referred to as the Commonwealth Documents Law, and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

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

(3) The adoption of the amendment of the Commission in the manner provided in this order is necessary and appropriate for administration and enforcement of the authorizing statutes.

Order

The Commission, acting under the authorizing statutes, orders that:

(A) The regulations of the Commission, 58 Pa. Code Chapter 61, are amended by amending § 61.2 to read as set forth at 54 Pa.B. 5618.

(B) The Executive Director will submit this order and 54 Pa.B. 5618 to the Office of Attorney General for approval as to legality and form as required by law.

(C) The Executive Director shall certify this order and 54 Pa.B. 5618 and deposit them with the Legislative Reference Bureau as required by law.

(D) This order shall take effect on January 1, 2025.

TIMOTHY D. SCHAEFFER,
Executive Director

Fiscal Note: Fiscal Note 48A-356 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 24-1698. Filed for public inspection November 27, 2024, 9:00 a.m.]

Title 58—RECREATION

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 95]

Boating; Manufacturer Installed Equipment

The Fish and Boat Commission (Commission) amends Chapter 95 (relating to manufacturer installed equipment). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). This amendment updates regulations pertaining to engine cut-off switch (ECOS) safety standards per the Cooperative Agreement for Recreational Boating Safety with the United States Coast Guard (USCG).

A. Effective Date

This final-form rulemaking will go into effect January 1, 2025.

B. Contact Person

For further information on this final-form rulemaking, contact Renae Kluk Kiehl, Esq., P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This final-form rulemaking is available on the Commission's web site at <https://www.pa.gov/en/agencies/fishandboat.html>.

C. Statutory Authority

The addition of § 95.10 (relating to engine cut-off switch) is published under the statutory authority of section 5123(a) of the code (relating to general boating regulations).

D. Purpose and Background

The specific purpose and background of the amendments are described in more detail under the summary of changes.

E. Summary of Changes

The ECOS is an important tool to prevent unnecessary death and disfigurement caused by a recreational boat operator being unexpectedly displaced from the boat and then struck by the boat's propeller. The ECOS lanyard connects the vessel operator to a switch that shuts off the engine if the operator is displaced from the boat. The lanyard can be looped around the operator's wrist or clipped to a life jacket or clothing. Wireless versions are also available, doing away with the physical tether and allowing the operator a little more flexibility to roam. Section 109.3(c) (relating to personal watercraft) currently requires a person operating a personal watercraft equipped by the manufacturer with a lanyard-type ECOS to attach it to their person, clothing or personal flotation device.

Effective April 1, 2021, section 503(a) of the Frank LoBiondo Coast Guard Authorization Act of 2018 (46 U.S.C. § 4312), requires operators of certain motorized recreational vessels to use an ECOS when operating at greater than displacement speed. The Federal law, enforced by the USCG, applies to operators of all personal watercraft and recreational boats less than 26 feet with motors capable of developing 115 pounds or more of static thrust (approximately 3 horsepower). Boats not equipped by the manufacturer with an ECOS are exempt, but Federal regulations require all boats manufactured beginning January 1, 2020, to have an ECOS installed. The Federal regulation also does not apply to operators of vessels with a main helm inside an enclosed cabin. The law does not require operators to have the lanyard attached when the vessel is idling or performing docking maneuvers.

The Commission is encouraged to align its laws, rules and regulations with Federal law, to the fullest extent practicable, per the Cooperative Agreement for Recreational Boating Safety with the USCG.

The Commission adds § 95.10 to read as set forth at 54 Pa.B. 5619 (September 7, 2024).

F. Paperwork

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

G. Fiscal Impact

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

H. Public Comments

A notice of proposed rulemaking was published at 54 Pa.B. 5619. The Commission received no public comments regarding the proposal.

Findings

The Commission finds that:

(1) Public notice of intention to adopt the amendment adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), referred to as the Commonwealth Documents Law, and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

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

(3) The adoption of the amendment of the Commission in the manner provided in this order is necessary and

appropriate for administration and enforcement of the authorizing statutes.

Order

The Commission, acting under the authorizing statutes, orders that:

(A) The regulations of the Commission, 58 Pa. Code Chapter 95, are amended by adding § 95.10 to read as set forth at 54 Pa.B. 5619.

(B) The Executive Director will submit this order and 54 Pa.B. 5619 to the Office of Attorney General for approval as to legality and form as required by law.

(C) The Executive Director shall certify this order and 54 Pa.B. 5619 and deposit them with the Legislative Reference Bureau as required by law.

(D) This order shall take effect on January 1, 2025.

TIMOTHY D. SCHAEFFER,
Executive Director

Fiscal Note: Fiscal Note 48A-357 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 24-1699. Filed for public inspection November 27, 2024, 9:00 a.m.]

Title 58—RECREATION

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 99a]

Boating; Capacity Plates

The Fish and Boat Commission (Commission) deletes Chapter 99a. The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). The deletion updates the Commission's regulations pertaining to capacity plates.

A. *Effective Date*

This final-form rulemaking will go into effect on January 1, 2025.

B. *Contact Person*

For further information on this final-form rulemaking, contact Renae Kluk Kiehl, Esq., P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This final-form rulemaking is available on the Commission's web site at <https://www.pa.gov/en/agencies/fishandboat.html>.

C. *Statutory Authority*

The deletion of Chapter 99a is published under the statutory authority of section 5122 of the code (relating to registrations, licenses, permits, plates and statistics).

D. *Purpose and Background*

The specific purpose and background of the amendments are described in more detail under the summary of changes.

E. *Summary of Changes*

Prior to January 1, 2013, the Commission issued capacity plates, upon request, for certain boats that were operated or offered for sale within this Commonwealth.

During an audit of the Commission's Recreational Boating Safety Program in 2011, the United States Coast Guard (USCG) identified this practice as a violation of Federal regulations and directed the Commission to stop issuing the plates.

In response to this direction, the Commission deleted Chapter 99 at 42 Pa.B. 7688 (December 22, 2012) of its regulations pertaining to capacity plates. At the time, this decision was thought to be the best way to handle the issue. However, in August 2018, it was determined that the best change would have been to delete only those sections dealing with the Commission's issuance of capacity plates and not to delete other sections that extended the Federal standard to Commonwealth waters. The Commission reinstated and amended certain sections of the former regulations.

Commission staff has again consulted with the USCG and has been advised that Federal capacity plate requirements apply to manufacturers and are enforced by the USCG. It is unnecessary for the Commission to promulgate regulations regarding capacity plate requirements, therefore Chapter 99a can be deleted.

The Commission deletes Chapter 99a as set forth at 54 Pa.B. 5620 (September 7, 2024).

F. *Paperwork*

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

G. *Fiscal Impact*

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

H. *Public Comments*

A notice of proposed rulemaking was published at 54 Pa.B. 5620. The Commission received no public comments regarding the proposed rulemaking.

Findings

The Commission finds that:

(1) Public notice of intention to adopt the amendment adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), referred to as the Commonwealth Documents Law, and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

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

(3) The adoption of the amendment of the Commission in the manner provided in this order is necessary and appropriate for administration and enforcement of the authorizing statutes.

Order

The Commission, acting under the authorizing statutes, orders that:

(A) The regulations of the Commission, 58 Pa. Code Chapter 99a, are amended by deleting §§ 99a.1—99a.4 to read as set forth at 54 Pa.B. 5620.

(B) The Executive Director will submit this order and 54 Pa.B. 5620 to the Office of Attorney General for approval as to legality and form as required by law.

(C) The Executive Director shall certify this order and 54 Pa.B. 5620 and deposit them with the Legislative Reference Bureau as required by law.

(D) This order shall take effect on January 1, 2025.
 TIMOTHY D. SCHAEFFER,
Executive Director

Fiscal Note: Fiscal Note 48A-358 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 24-1700. Filed for public inspection November 27, 2024, 9:00 a.m.]

Title 58—RECREATION

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 117]

Boating; Boat Rental Businesses

The Fish and Boat Commission (Commission) amends Chapter 117 (relating to boat rental businesses). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). This amendment updates the Commission’s regulations relating to boat rental businesses and generally promotes boating safety and ensures renters receive training regarding the boat, waters, safety equipment and rules. The more specific rationale for each amended section is described as follows:

1.) Section 117.1 (relating to definitions) is amended to include paddleboards as a rental boat, which provides standardization and clarity.

2.) Section 117.3 (relating to responsibilities) is amended to include business reporting standards, safety orientation requirements and necessary documentation livery operators are required to provide to the Commission. These amendments will help the Commission identify liveries, facilitate annual safety inspections and standardize regulation updates and best practices. These proposed changes also ensure rental boats are registered or permitted, that those conducting orientation receive standardized education, a written rental agreement that formalizes the transaction and serves as a record of lawful rental and renter orientation, and that the Commission is informed of incidents involving rentals.

3.) Section 117.4 (relating to motorboat liveries) is amended to clarify livery operators’ requirements for verifying proper safety training for renters and proper measures to take to oversee the operation of rented personal watercraft. These amendments will ensure livery operators are monitoring the use of rental boats and providing information about the area in which the rental boat may be used.

A. Effective Date

This final-form rulemaking will go into effect January 1, 2025.

B. Contact Person

For further information on this final-form rulemaking, contact Renae Kluk Kiehl, Esq., P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This final-form rulemaking is available on the Commission’s web site at <https://www.pa.gov/en/agencies/fishandboat.html>.

C. Statutory Authority

The amendments to §§ 117.1, 117.3 and 117.4 are published under the statutory authority of section 5122 of the code (relating to registrations, licenses, permits, plates and statistics).

D. Purpose and Background

The specific purpose and background of the amendments are described in more detail under the summary of changes.

E. Summary of Changes

Boat rental businesses, also known as liveries, provide introductory experiences for newcomers to boating, convenient adventures for outdoor recreationists and opportunities to participate in boating without the commitment of boat ownership. They also provide unique experiences such as whitewater rafting, overnight stays in houseboats and opportunities to try the latest trends in boating technology. Boat rental operations in this Commonwealth have increased in number and expanded available opportunities in recent years. Because these businesses provide a wide variety of services to a broad diversity of people and are often a gateway to boat ownership, boat rental businesses play an important role in boating safety.

The Commission is authorized to promulgate rules and regulations relating to boat rental business operators under section 5122(a)(2) of the code. These regulations authorize the Executive Director to provide guidance relating to boat rental orientation and introduction requirements which are posted on the Pennsylvania Boat Rental Business page of the Commission’s web site. Front-line waterways conservation officers initially identified issues, including lack of clarity, with current boat rental regulations and guidelines. Additionally, technological advances have created specific challenges and opportunities regarding boat rental business operations. In response, Commission staff launched a Livery Workgroup in February 2022, conducting livery visits and interviews, and established an online boat rental business questionnaire to identify challenges, gather information and recommend updates to the Commission’s boat rental business regulations and guidelines to enhance communications and compliance, increase boating safety and reduce conflicts on the water. Boat rental business operators were invited to review and provide feedback on the draft regulatory amendments and safety orientation guidelines prepared by Commission staff. Commission staff reviewed and considered all input as final modifications were made to the drafts before presenting the proposed changes to the Boating Advisory Board.

The Commission amends §§ 117.1, 117.3 and 117.4 to read as set forth at 54 Pa.B. 3633 (June 29, 2024).

F. Paperwork

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

G. Fiscal Impact

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

H. Public Comments

A notice of proposed rulemaking was published at 54 Pa.B. 3633. The Commission received a total of two public comments regarding the proposal, both in support of the proposal.

Findings

The Commission finds that:

(1) Public notice of intention to adopt the amendment adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), referred to as the Commonwealth Documents Law, and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) A public comment period was provided and two public comments were received regarding the proposal, both in support of the proposal.

(3) The adoption of the amendment of the Commission in the manner provided in this order is necessary and appropriate for administration and enforcement of the authorizing statutes.

Order

The Commission, acting under the authorizing statutes, orders that:

(A) The regulations of the Commission, 58 Pa. Code Chapter 117, are amended by amending §§ 117.1, 117.3 and 117.4 to read as set forth at 54 Pa.B. 3633.

(B) The Executive Director will submit this order and 54 Pa.B. 3633 to the Office of Attorney General for approval as to legality and form as required by law.

(C) The Executive Director shall certify this order and 54 Pa.B. 3633 and deposit them with the Legislative Reference Bureau as required by law.

(D) This order shall take effect on January 1, 2025.

TIMOTHY D. SCHAEFFER,
Executive Director

Fiscal Note: Fiscal Note 48A-355 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 24-1701. Filed for public inspection November 27, 2024, 9:00 a.m.]