

# RULES AND REGULATIONS

## Title 31—INSURANCE

### INSURANCE DEPARTMENT

[31 PA. CODE CHS. 149 AND 151]

#### Automatic Subscriptions to the *Pennsylvania Bulletin* and *Pennsylvania Code*

The Insurance Department (Department), by this order, deletes Chapter 149 and amends § 151.14 (relating to fees) as set forth in Annex A, under the authority of 45 Pa.C.S. §§ 502, 503, 729—731, and sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412). Notice of proposed rulemaking is omitted in accordance with section 204(1)(iii) and (3) of the act of July 31, 1968 (P. L. 769, No. 240) (CDL) (45 P. S. § 1204(1)(iii) and (3)).

#### *Purpose*

The purpose of this final/omitted rulemaking is to eliminate obsolete regulations. By order published at 25 Pa.B. 2882 (July 22, 1995), the Joint Committee on Documents terminated the automatic subscription provisions as they related to the Department. The order is retroactive to July 1, 1995. Because there is no longer a requirement for insurance companies and other entities regulated by the Department to subscribe to the *Bulletin* and *Code*, and Chapter 149 and § 151.14(e) relate directly to this issue, there is no longer a need for the regulations.

In accordance with the former regulation at 1 Pa. Code § 15.13, each insurance company and entity regulated by the Department had been required to subscribe to the *Pennsylvania Bulletin* and *Pennsylvania Code*. Under those same provisions, the Department had been required to purchase subscriptions from the Department of General Services in the name of each regulated entity and assess the cost to each entity.

The purpose of §§ 149.1—149.4 was to permit affiliated insurance companies to designate one of their companies to subscribe on behalf of all of the companies affiliated in the group. The purpose of § 151.14(e) was to describe the obligation of continuing care providers to subscribe to the *Bulletin* and *Code*. The termination of the former regulatory provisions has rendered these regulations unnecessary and obsolete.

Notice of proposed rulemaking is omitted under section 204(1)(iii) of the CDL which provides that notice of proposed rulemaking may be omitted when the rulemaking relates to agency procedure or practice. In this instance, the rulemaking relates to procedures and practices of the Department which are no longer applicable. Under section 204(3) of the CDL, notice of proposed rulemaking may also be omitted if the agency finds that the notice procedures are impracticable and unnecessary (45 P. S. § 1204(3)). The Department finds that the proposed rulemaking procedures in sections 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202) are impracticable and unnecessary in this situation. Sections 149.1—149.4 and § 151.14(e) are made obsolete by the Joint Committee on Document's rulemaking eliminating the Department from the automatic subscription provisions of 45 Pa.C.S. § 731. The amendment of these sections relieves the affected parties of a regulatory procedure which no longer serves any purpose. The impacted parties received notice of the decision of the Joint Committee on Docu-

ments' rulemaking by virtue of their subscription to the *Pennsylvania Bulletin*. Furthermore, public comments cannot change the obsolete status of these regulations. Accordingly, the Department determined it is impractical and unnecessary to invite and consider comments from interested parties.

#### *Affected Parties*

The amendment of these sections will affect insurance companies and other entities regulated by the Department.

#### *Fiscal Impact*

There is no fiscal impact from the amendment of these sections.

#### *Paperwork*

There is no impact on paperwork as a result of the amendment of these sections.

#### *Effectiveness/Sunset Date*

This order is effective upon publication in the *Pennsylvania Bulletin*, and is retroactive to July 1, 1995. No sunset date has been assigned because the order amends obsolete regulations.

#### *Contact Person*

The person to contact for information on this matter is Thomas Lavelle, Chief, Budget and Fiscal Management, Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4298.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of the amendments with proposed rulemaking omitted on February 27, 1996, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate Banking and Insurance Committee and the House Insurance Committee. On the same date, the amendments were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506). In accordance with section 5(c) of the Regulatory Review Act, the amendments were deemed approved by the Senate Banking and Insurance Committee on March 18, 1996, and deemed approved by the House Insurance Committee on March 18, 1996. IRRC met on March 21, 1996, and approved the amendments.

#### *Findings*

The Insurance Commissioner finds that there is good cause to forego public notice of the intention to delete §§ 149.1—149.4 and amend § 151.14(e) because the amendments relate to agency procedure and because submitting notice for public comment is unnecessary and impractical under section 204(1)(iii) and (3) of the CDL. Amendment of the regulations eliminates a procedure made obsolete by the elimination of the Department from the automatic subscription provisions. Interested parties have received notice by publication in the *Pennsylvania Bulletin* of the elimination of their automatic subscriptions. Public comment cannot change the obsolete status of these regulations.

#### *Order*

The Insurance Commissioner, acting under the authority of 45 Pa.C.S. §§ 502, 503, 729—731 and sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 orders that:

(a) The regulations of the Department, 31 Pa. Code Chapters 149 and 151, are amended by deleting §§ 149.1—149.4 and amending § 151.14 to read as set forth in Annex A.

(b) The Department shall submit this order and Annex A to the Office of Attorney General and Office of General Counsel for approval as to form and legality as required by law.

(c) The Department shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

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

LINDA S. KAISER,  
Insurance Commissioner

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 26 Pa.B. 1603 (April 6, 1996).)*

**Fiscal Note:** 11-127. No fiscal impact; (8) recommends adoption.

#### Annex A

### TITLE 31. INSURANCE

#### PART VIII. MISCELLANEOUS PROVISIONS

##### CHAPTER 149. (Reserved)

##### §§ 149.1—149.4. (Reserved).

#### CHAPTER 151. CONTINUING CARE PROVIDERS

##### § 151.14. Fees.

(a) Upon each application for a certificate of authority, the applicant shall pay a fee of \$750 to the Commonwealth.

(b) Upon each petition for an extension of a temporary certificate of authority, the applicant shall pay a fee of \$100 to the Commonwealth.

(c) Upon each filing of an annual disclosure statement as required by section 7(b) of the act (40 P. S. § 3207(b)), the provider shall pay a fee of \$750 to the Commonwealth. This fee is not applicable to disclosure statements accompanying an application for a certificate of authority.

(d) A fee may not be charged for an amendment to an application for a certificate of authority, or for an amendment to or update of a disclosure statement or resident's agreement.

(e) Providers shall be subject to the fees set forth in The Administrative Code of 1929 (71 P. S. §§ 51—732), including but not limited to, the fees contained in section 612-A of The Administrative Code of 1929 (71 P. S. § 240.12A).

(f) Whenever an investigation, examination or rehabilitation is undertaken as authorized by the act, or as otherwise authorized by statute, the provider shall be assessed the expenses incurred by the Department, including compensation of Department employees or consultants, agents or trustees acting on behalf of the Department, and the expenses of these persons for travel, lodging and food, which amounts shall be assessed under 4 Pa. Code Chapter 40 (relating to travel and subsistence).

(g) Fees specified in this section shall be assessed and billed to providers in accordance with established Department procedures and this title.

[Pa.B. Doc. No. 96-585. Filed for public inspection April 12, 1996, 9:00 a.m.]

## Title 58—RECREATION

### FISH AND BOAT COMMISSION

#### [58 PA. CODE CHS. 53, 61, 63, 65, 69 AND 97]

#### Commission Property; Fish and Fishing; Boats and Boating

The Fish and Boat Commission (Commission) by this order amends Chapters 53, 61, 63, 65, 69 and 97. The Commission is publishing these amendments under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). The amendments deal with Commission property, fish and fishing and boats and boating.

##### A. Effective Date

These amendments will take effect upon publication of this order.

##### B. Contact Person

For further information on the amendments, contact Dennis Guise, Chief Counsel, (717) 657-4525, P. O. Box 67000, Harrisburg, PA 17106-7000.

##### C. Statutory Authority

The amendments are published under the statutory authority of sections 741, 2102, 2307, 2903, 2907.2 and 5123 of the code.

##### D. Purpose and Background

The amendments update various Commission fishing, boating and property regulations. The amendments on personal flotation devices have been reviewed by the Commission's Boating Advisory Board.

##### E. Summary of Changes

(a) *Use of firearms on Commission property, § 53.7.* The Commission has amended its regulation on use of firearms on Commission property to make it clear that persons otherwise authorized by 18 Pa.C.S. §§ 6106 and 6109 (relating to firearms not to be carried without a license; and licenses) may carry firearms on Commission property. The Commission also reworded this regulation in the interests of clarity. On final rulemaking, the Commission corrected a wording error. The statutory authority for this change is section 741 of the code (relating to control of property).

(b) *Wear of PFDs by children, §§ 53.8 and 97.1.* The Commission has amended its regulations on wear of PFDs by children. Currently children age eight and younger are required to wear PFDs on boats operating on Commission and State Parks property. The amendment requires wear of PFDs by children 12 years of age or younger while underway on all open waters on any boat 20 feet or less in length and all canoes and kayaks. Extending the requirement that children wear PFDs to all waters (not just Commission and State Park lakes) will help promote safety and get youngsters in the habit of wearing these important life-saving devices. On final rulemaking, the Commission corrected a wording error in § 97.1. The statutory authority for this change is sections 741 and 5123 of the code (relating to control of property; and general boating regulations).

(c) *Delaware River and West Branch Delaware River, §§ 61.2 and 65.24.* The Commission has adopted several changes to its regulations on the Delaware River and the West Branch. It has changed the opening day for Walleye on the portion of the Delaware between New York and Pennsylvania from May first to the first Saturday in May. This change will make this opening day consistent with

that on other Commonwealth waters and is agreed to by New York. The second change reduces the minimum size limit and increases the daily limit on striped bass consistent with the recommendations of the Atlantic States Marine Fisheries Commission. The third change relates to establishment of a special no-kill artificial lures only season on trout on the West Branch of the Delaware River (Wayne County). The 8-mile stretch of the border waters of the West Branch of the Delaware River is managed as a trout fishery with a 12-inch two trout per day limit from mid-April through the end of September. This water is no longer stocked but managed through natural reproduction primarily from elsewhere in the drainage in New York. New York Department of Environmental Conservation fisheries personnel have expressed a strong desire to open this water to fall/winter angling but on a no-kill basis. To ease into this program, being that it will be out of phase with other trout waters in New York, use of only artificial lures is suggested. On final rulemaking, the Commission corrected a wording error. The statutory authority for this change is sections 2102 and 2307 of the code (relating to rules and regulations; and waters limited to specific purposes).

(d) *Bows, spears and gigs, § 63.8.* The Commission has adopted a clarifying change to its regulations on use of long bows and spears on the Delaware River. On final rulemaking, the Commission corrected wording errors and clarified that in addition to carp, gar suckers and eels, catfish and herring (except shad) may be taken by long bows, spears and gigs. The Commission also clarified that the special permit allowing persons with disabilities to use cross-bows or mechanically propelled spears and gigs is not available to persons who are blind. The statutory authority for this change is section 2102 of the code.

(e) *Select Trout Stocked Lake Program, § 65.10.* The Select Trout Stocked Lake program, inaugurated in 1995, proved very successful. It allows trout fishing in certain designated approved trout lakes during the month of March. The Commission has further expanded potential fishing opportunities on these lakes by eliminating the restrictions on ice fishing and fishing from boats. Depending on weather conditions and the location of a particular lake, anglers may well be able to fish for trout during this period in a safe and prudent manner from boats or, where applicable, from ice. The statutory authority for this change is sections 2102 and 2307 of the code.

(f) *Special restrictions on polluted zones, § 65.23.* The Commission has adopted a clarifying change to its regulations restricting harvest of fish from designated polluted zones to make it clear that possessing fish while in the act of fishing in these zones is a violation. The statutory authority for this change is sections 2102 and 2307 of the code.

(g) *Miscellaneous special regulations, § 65.24.* In addition to the change for the West Branch of the Delaware River, the Commission has adopted a change to the miscellaneous special fishing regulation applicable to the Little Juniata River in Blair and Huntingdon Counties. The change involves year 'round angling with a 14" minimum length limit and a two trout daily creel limit during the period from the opening day of the regular trout season through Labor Day. This is the same regulation as now applies to a 7 mile stretch of Penns Creek, Centre County, where it has been well received by anglers. The Commission conducted a public information meeting on this proposed change on December 18, 1995. The statutory authority for this change is sections 2102 and 2307 of the code. On final rulemaking, the Commis-

sion corrected the special regulation applicable to Penns Creek by inserting language that had been omitted inadvertently. This correction was made under § 51.5 (relating to correction of regulations).

(h) *Lake Erie and Lake Erie tributaries regulations, §§ 69.12—69.15.* The Commission has adopted several changes to its fishing regulations applicable to Lake Erie and the Lake Erie tributaries. The first relates to yellow perch. The purpose of this amendment is to conserve the yellow perch stocks by reducing recreational angler harvest of yellow perch. These regulations are designed to restore and sustain a yellow perch population in Lake Erie composed of older and larger fish. Reducing the harvest of yellow perch is necessary for recovery and long term stability of the yellow perch population in Lake Erie. Commercial fishing is being constrained by a quota system and gill netting will be eliminated beginning in 1996. Recreational harvest of yellow perch is essentially unrestricted. Presently, there is a year round season, no minimum size limit and the creel limit is 50 in combination with other panfishes. The 50 fish creel limit does not save any appreciable numbers of yellow perch. In order to accomplish these goals, the Commission has reduced the daily limit of yellow perch to 20 and imposed an 8-inch size limit.

The second change relates to trout, including steelhead, and salmon fishing on Lake Erie and its tributaries. Steelhead fishing in Lake Erie and its tributaries is popular. The Lake Erie Research Unit report "Lake Erie Steelhead Fishing Lake Angler Survey 17 April 1993—15 April 1994" indicated that closing the season to trout/salmon fishing in the first 2 weeks of April was eliminating more fishing trips than were produced by the stocked trout fishery which the stream closure protects. This study also showed that the average size of steelhead harvest was nearly 5 pounds and nearly 23 inches long. Recreational anglers have voiced concern over the glut-tony fostered by the regulations which allowed anglers to take up to eight steelhead or salmon during the regular trout season (first Saturday after April 11 to 12:01 a.m. the day after Labor Day). There are two major effects of the regulations:

1. Fishing for and harvesting steelhead and salmon is permitted year round; this will increase angler use of this valuable fishery during the first 2 weeks of April.

2. Harvest of steelhead and salmon is limited to 3 fish per day over 15 inches through the whole year on both Lake Erie and its tributaries.

Size, season and creel limit regulations which affect the harvest of stocked trout remain unchanged. These trout and salmon regulation changes do not apply to Conneaut Creek drainage. On final rulemaking, the Commission corrected the wording and the charts in §§ 69.13—69.15.

The statutory authority for these changes is section 2102 of the code.

(i) *Possession and display of Lake Erie Fishing permit, § 69.18.* A temporary Lake Erie Fishing permit was established by Act 1994-79. The act authorizes the Commission to promulgate regulations on the display of the special permit and the manner of affixing it to the fishing license. The permit is designed as a self-sticking stamp with instructions on where to affix it to the license. The new stamp worked well in the 1995 season. In order to clarify the requirements for display of this permit, which are provided to each angler when the stamp is issued, the Commission has adopted this regulation. This regulation is promulgated under the authority of section 2907.2 of the code.

(j) *Boundary water trap net and commercial fishing regulations, §§ 69.21, 69.24, 69.29, 69.31—69.33.* Effective January 1, 1996, commercial fisheries on Pennsylvania's regulated area of Lake Erie were no longer permitted to use gill nets. There has been interest expressed by the fisheries in pursuing commercial fishing with trap nets, which will continue to be permitted. A review of the trap net regulations indicated a need to make some corrections and clarification of the intentions of these regulations, and definition of the appearance and function of trap nets, as well as the number of separately licensed trap nets that would be permitted for each fishery. The regulations:

- (1) Correct the address for submitting catch reports.
- (2) Update the coordinates for the area where trap net fishing is permitted.
- (3) Provide a more comprehensive definition of trap nets.
- (4) Clarify limitations on use of trap nets.
- (5) Include amendments to commercial fishing regulations so that they conform to Act 1994-79 which banned gill nets on Commonwealth waters.
- (6) Provide that walleye caught out of season must be returned to the waters from which taken regardless of condition. Under prior regulations, such walleye were permitted to be retained and sold and counted against the total allowable catch. With the change in gear to trap nets, which should permit survival of the fish caught, this change is appropriate.

The statutory authority for these changes is section 2903 of the code.

#### F. Paperwork

The amendments will not increase paperwork and will create no new paperwork requirements.

#### G. Fiscal Impact

The amendments will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The amendments impose no new costs on the private sector or the general public.

#### H. Public Involvement

A notice of proposed rulemaking containing the proposed amendments was published at 25 Pa.B. 5738 (December 16, 1995). The Commission did not receive any public comments except as follows:

Prior to publication of the notice, the Commission received 14 comments in favor of changing §§ 53.8 and 97.1. The Commission, however, did not receive any public comments during the public comment period.

Although the Commission did not receive any public comments on the proposed changes to §§ 61.2 and 65.24 during the comment period, it did receive one comment prior to the formal comment period.

The Commission received 14 comments concerning the proposed change to § 65.24. In addition, prior to the formal comment period, the Commission received a petition, signed by 488 individuals, asking for no new regulations on the Little Juniata River. Since the petition was dated prior to consideration of this item by the Commission at its October, 1995 meeting, it is unclear whether the signers objected to the specific proposals. On December 18, 1995, the Commission held a public information meeting on the proposed regulation change. Of the more than 25 anglers in attendance, only two indicated opposi-

tion to the proposed change. Many of the commentators had suggestions for other regulatory schemes, but with the two exceptions, all favored these regulations as at least a first step.

The Commission did not receive any public comments concerning the proposed changes to §§ 69.12—69.15 during the formal public comment period. However, prior to the comment period, the Unified Sportsmen of Pennsylvania contacted the Commission on several occasions to express concerns with respect to the changes to the yellow perch regulations.

#### Findings

The Commission finds that:

(1) Public notice of intention to adopt the amendments adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided and that all comments received were considered.

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

#### Order

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

(a) The regulations of the Commission, 58 Pa. Code Chapters 53, 61, 63, 65, 69 and 97 are amended by amending §§ 53.8, 65.10, 65.23, 69.12, 69.21, 69.24, 69.29, 69.31—69.33; by deleting § 69.32 and by adding § 69.18 to read as set forth at 25 Pa.B. 5738 (December 16, 1995); and by amending §§ 53.7, 61.2, 63.8, 65.24, 69.13—69.15 and 97.1 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Executive Director will submit this order, 25 Pa.B. 5738 and Annex A to the Office of Attorney General for approval as to legality as required by law.

(c) The Executive Director shall certify this order, 25 Pa.B. 5738 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

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

PETER A. COLANGELO,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48A-52 remains valid for the final adoption of the subject regulations.

### Annex A

## TITLE 58. RECREATION

### PART II. FISH AND BOAT COMMISSION

#### Subpart A. GENERAL PROVISIONS

#### CHAPTER 53. COMMISSION PROPERTY

##### § 53.7. Use of firearms.

It is unlawful for a 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 conform-

ance with 18 Pa.C.S. § 6106 (relating to firearms not to be carried without a license).

(3) Using .22 caliber rimfire weapons with shotshell only to take frogs during the open season unless otherwise posted.

**Subpart B. FISHING**

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

**§ 61.2. Delaware River and River Estuary.**

(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. 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. 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.

(d) The following seasons, sizes and creel limits apply to the Delaware River and to Delaware River tributaries from the mouths of the tributaries upstream to the limit of the tidal influence:

<i>SPECIES</i>	<i>SEASONS</i>	<i>MINIMUM SIZE</i>	<i>DAILY LIMIT</i>
TROUT	8 a.m., first Saturday after April 11 to midnight, September 30	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)
BASS Largemouth Smallmouth	Open year-round	12 inches	5 (combined species)
MUSKELLUNGE and MUSKELLUNGE HYBRIDS		30 inches	2 (combined species)
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
SHAD	Open year-round	No minimum	6
HERRING		No minimum	No daily limit
STRIPED BASS and HYBRID STRIPED BASS	From Pennsylvania line upstream to Trenton Falls: March 1 until March 31, and June 1 until December 31. From Trenton Falls upstream: open year-round	28 inches	2
STURGEON	No open season: Endangered Species		
BAIT FISH FISH BAIT	Open year-round	No minimum	50 (combined species)
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)

\*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 opening day of trout season. 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.

**CHAPTER 63. GENERAL FISHING REGULATIONS**

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

(a) *General.* Except as otherwise provided in this part, carp, gar suckers and eels may be taken with a long bow, including compound and arrow; a spear; or gig 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; except that there may be no spearing in the tributaries of Lake Erie from 7 p.m. to 7 a.m. daily.

(b) *Delaware River.* The following provisions apply to use of long bows, spears and gigs on the Delaware River:

(1) In addition to the species in subsection (a), herring, except shad, and catfish may be taken using long bows and arrow, spears or gigs.

(2) It is unlawful to use long bows and arrow, spears or gigs to take fish within 275 yards of an eel weir.

(3) Except as provided in paragraph (1), it is unlawful to take any fish on the Delaware River by means of long bows and arrow, spears or gigs.

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

(d) *Persons with disabilities.* The Executive Director, or a designee, may issue permits to persons exempt from the fishing license requirement under section 2709(b) of the code (relating to exemptions from license requirements)—except a person who is blind—and a person who is permanently deprived of the use of a leg or an arm or both arms allowing them to use crossbows or mechanically propelled spears and gigs subject to limitations and conditions as set forth in the permit. Persons who wish to apply for a permit under this section may apply on forms provided by: Director, Bureau of Law Enforcement, Pennsylvania Fish and Boat Commission, Post Office Box 67000, Harrisburg, Pennsylvania 17106-7000.

**CHAPTER 65. SPECIAL FISHING REGULATIONS**

**§ 65.24. Miscellaneous special regulations.**

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

<i>County</i>	<i>Name of Water</i>	<i>Special Regulations</i>
		* * * * *
Blair and Huntingdon	Little Juniata River from the mouth of Bald Eagle Creek (near Tyrone) downstream to the railroad bridge at the east (downstream) border of Ironville.	No closed season on trout. Daily limit: Opening day of trout season to Labor Day—eight trout. Labor Day to succeeding opening day of trout season—three trout. Inland regulations apply to warmwater species.
	From the railroad bridge at the east (downstream) border of Ironville downstream to the mouth	Trout: Opening day of trout season in April until midnight, day before Labor Day. Minimum size limit: 14 inches Daily creel limit: 2 trout (combined species). Other species: inland regulations apply.
		* * * * *
Centre	Penns Creek	The following size and creel limits apply to an area from the confluence with Elk Creek at Coburn downstream a distance of 7 miles to the catch and release area; Trout—minimum size limit: 14 inches; daily creel limit: 2 trout per day (combined species) except during the period from the day after Labor Day to the opening day of regular trout season of the following year, when no trout may be killed or had in possession on the waters under regulation. Other inland seasons, size and creel limits apply.
		* * * * *
Wayne	West Branch Delaware River	Trout: From the Pennsylvania/New York border downstream to the confluence with the East Branch of the Delaware River: no-harvest artificial lures only season on trout from October 1 until midnight of the Friday before opening day of trout season. During the no-harvest artificial lures only season: 1. Fishing may be done with artificial lures only, constructed of metal, plastic, rubber or wood, or flies or streamers constructed of natural or synthetic materials. Lures may be used with spinning or fly fishing gear. Anything other than these items is prohibited. Specifically prohibited are the use of molded facsimiles or replicas of insects, earthworms, fish eggs, fish or any invertebrate or vertebrate either singly or in combination with other materials. 2. The use or possession of natural bait, baitfish and fishbait and the use of other devices, natural or synthetic, capable of catching fish other than artificial lures is prohibited. 3. The daily creel limit for trout is 0.
		* * * * *

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

**§ 69.13. Seasons, sizes and creel limits—Lake Erie tributaries.**

(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 waters 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 a species of fish as specified in the chart in subsection (d) during 1 calendar day. It is unlawful to possess more than 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 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 is a rebuttable presumption that a person transporting fish from a fishing site caught the fish during 1 calendar day. 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.

(d) Except as provided in §§ 69.14 and § 69.15 (relating to special regulations applicable during the fall season; and miscellaneous special regulations) and for those waters listed as nursery waters, the following seasons, sizes and creek limits apply to the tributary streams of Lake Erie in this Commonwealth:

SPECIES	SEASONS	MINIMUM SIZE	DAILY LIMIT
TROUT and SALMON	8:00 a.m. first Saturday after April 11 until 12:01 a.m. the day after Labor Day.	9 inches	8 (combined species only 2 of which may be lake trout). Of the entire catch (combined species) only 3 fish total may exceed 15 inches in length.
	12:01 a.m. the day after Labor Day until the first Saturday after April 11.	15 inches	3 (combined species only 2 of which may be lake trout).
SMELT*	12:01 a.m. April 1 to midnight, May 31.	No minimum	No limit
FISH BAIT BAIT FISH	Open year-round (Except approved trout waters where fishing is prohibited from April 1 to opening day of trout season).	No minimum	50 (combined species)
BASS Largemouth Bass Smallmouth Bass	January 1 to opening day of trout season in April and first Saturday after June 11 until December 31 Opening day of trout season in April until first Saturday after June 11.	15 inches —	4 (combined species) 0 (closed season)
ALL OTHER SPECIES	Inland regulations apply except as provided in special regulations (See § 61.1)		

\*Smelt may be taken only in that portion of Lake Erie tributaries from the mouth of the stream in a southerly direction to State Highway No. 5, a distance of approximately ½ mile. In taking smelt from tributary streams, devices are limited to dip nets or seines not over 20 inches square or in diameter.

**§ 69.14. Special regulations applicable during the fall season.**

(a) Season.

This section applies from midnight on Labor Day until midnight on November 30.

(b) The following specific restrictions apply to streams marked with an "X" during salmon season described in subsection (a). It is unlawful for a person to fish in violation of these restrictions:

	Fishing permitted, no time restrictions	Fishing permitted except closed from 10 p.m. to 5 a.m.	Fishing permitted except closed from 10 p.m. to 5 a.m. south of Route 5.	Fishing prohibited	Fishing prohibited from 10 p.m. to 5 a.m. in areas of shoreline within 50 yards of mouth of stream	Fishing prohibited in portions designated as nursery waters	Remarks
Conneaut Creek	X						
W. Branch Conneaut Creek	X						
E. Branch Conneaut Creek	X						
Turkey Creek	X						
Raccoon Creek			X				
Crooked Creek			X			X	
Elk Creek			X			X	
Trout Run, including tributary				X	X		Wading Prohibited
Walnut Creek			X				
Godfrey Run				X	X		Wading Prohibited
Four Mile Creek		X					
Six Mile Creek		X					
Seven Mile Creek		X					
Eight Mile Creek		X					
Twelve Mile Creek		X					
Sixteen Mile Creek		X					
Twenty Mile Creek		X					
Peck Run				X			
Orchard Beach Run				X			
Cascade Creek		X					
Mill Creek		X					
Lake Erie Shoreline	X						50 yards (east and west) mouth of Trout Run and Godfrey Run—Closed from 10 p.m. to 5 a.m.
All other tributaries				X			



**§ 69.15 Miscellaneous special regulations.**

The following miscellaneous special regulations apply to the named waters, marked with an "X". It is unlawful to fish in violation of the following restrictions:

	Archery and spearing permitted in compliance with § 63.8 in areas north of Route 5 only during hours 7 a.m. to 7 p.m. only, from Jan. 1 to Labor Day. Archery and spearing prohibited at all other times and places	Fishing prohibited	Inland regulations for trout and salmon apply	Fishing prohibited in areas designated as nursery waters
Conneaut Creek			X	
W. Branch Conneaut Creek			X	
E. Branch Conneaut Creek			X	
Elk Creek	X			X
Trout Run*, including tributary		X*		
Godfrey Run*		X*		
Walnut Creek	X			
Orchard Beach Run		X		
Fairview Gravel Pits			X	

\*Wading prohibited from mouth of streams to weirs

**CHAPTER 97. OPERATOR PROVIDED EQUIPMENT**

**§ 97.1. Personal flotation devices.**

(a) A person may not use a recreational vessel unless at least one personal flotation device (PFD) of the following types is on board for each person:

- (1) Type I.
- (2) Type II.
- (3) Type III.

(b) A person may not use a recreational vessel 16 or more feet in length unless one Type IV PFD is on board in addition to the total number of PFDs required in subsection (a). Canoes and kayaks 16 feet in length and over are exempted from the requirements for carriage of the additional Type IV PFD.

(c) A Type V PFD may be carried in lieu of a PFD required under § 95.1(a) (relating to safety standards for boats) if:

- (1) The approval label on the Type V PFD indicates the device is approved for one of the following:
  - (i) The activity in which the vessel is being used.
  - (ii) As a substitute for a PFD of the type required on the vessel in use.
- (2) The PFD is used in accordance with requirements of the approval label.
- (3) The PFD is used in accordance with requirements in its owners manual, if the label makes reference to the manual.
- (d) Required PFDs shall be in good, serviceable condition, legibly marked showing the Coast Guard approval

number and whether it is a Type I, II, III, IV or V. They shall be of an appropriate size, child or adult, for the person for whom it is intended.

(e) Types I, II and III shall be stowed so as to be readily accessible. Type IV, buoyant cushion and ring buoy designed for throwing or grasping rather than wearing, shall be immediately available.

(1) "Readily accessible" means that PFDs are stowed where they can be easily reached, or are out in the open ready for wear. A PFD that is sealed in its original packaging is not readily accessible.

(2) "Immediately available" means that the PFD cannot be in a protective covering and shall be within arm's reach of the operator or passenger while the boat is being operated.

(3) A PFD that is sealed in its original packaging is neither immediately available nor readily accessible.

(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. Safety boats accompanying the boats shall carry a sufficient number of readily accessible Type I, II, III or V PFDs for the occupants of the shells, sculls or kayaks. This exemption does not apply on Commission and State Park owned or controlled boating waters.

(g) Coast Guard approved PFDs shall be acceptable as long as they are in good, serviceable condition with the approval clearly legible, even though the type number may not be contained in the marking because they are

earlier approved lifesaving devices. "Serviceable" means the 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.

(h) Children 12 years of age and younger shall wear an approved type I, II, III or V PFD while underway on open waters on any boat 20' or less in length and all canoes and kayaks.

(i) Exemptions to this section are as follows:

(1) Prior to May 1, 1995, a Type IV PFD may be carried in lieu of any Type PFD required under subsec-

tion (a) for each person on a boat which is less than 16 feet in length.

(2) Prior to May 1, 1996, a Type IV PFD may be carried in lieu of any Type PFD required under subsection (a) for each person on the boat if the boat is:

(i) Leased or rented to another for the latter's pleasure as part of a livery or rental business.

(ii) Manually propelled.

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