

RULES AND REGULATIONS

Title 40—LIQUOR

LIQUOR CONTROL BOARD

[40 PA. CODE CHS. 11 AND 13]

ID Cards; Sunday Sales; Advertising Displays

The Liquor Control Board (Board) deletes §§ 11.161—11.164 and amends §§ 11.171(b), 11.172(a)(4), 13.42 and 13.43 to read as set forth in Annex A.

Sections 11.161—11.164 are being deleted because section 495 of the Liquor Code (code) (47 P. S. § 495) provides for age identification cards.

The amendment to §§ 11.171(b) and 11.172(a)(4) (relating to statutory provisions; and application for Sunday sales permit) changes the 40% food and nonalcoholic beverage requirement for Sunday sales permits to 30% as set forth in sections 406 and 432(f) of the code (47 P. S. §§ 406 and 432(f)), as amended by Act 49 of 1996 (Act 49).

Sections 13.42 and 13.43 (relating to window and doorway display; and interior display) are amended to comply with section 493(20)(i) of the code (47 P. S. § 493(20)(i)), as amended by Act 49. These amendments will increase the maximum size of window and doorway brand advertising displays for licensees from 300 square inches to 600 square inches. The maximum cost of point of sale advertising has been increased to \$70 per single piece of advertising and \$140 total for any one brand.

Notice of proposed rulemaking is omitted under section 204(1) of the act of July 31, 1968 (CDL) (P. L. 769, No. 240) (45 P. S. § 1204(1)) since these regulatory amendments arise from the interpretation of a self-executing Act of Assembly, and further, are related to agency practice and procedure.

Fiscal Impact

These regulatory changes will impose no new costs upon licensees, the Board or the public.

Paperwork Requirements

These amendments will not impose additional paperwork requirements.

Statutory Authority

The authority for these amendments is section 207(i) of the code (47 P. S. § 2-207(i)).

Contact Person

Anyone requiring an explanation of these amendments or information related thereto, should contact Jerry Danyluk, Room 401, Northwest Office Building, Harrisburg, PA, 17124-0001.

Regulatory Review

Under section 5(f) of the Regulatory Review Act (71 P. S. § 745.5(f)), on October 10, 1996, the Board submitted a copy of these amendments with proposed rulemaking omitted to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Liquor Control and the Senate Committee on Law and Justice. 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, these amend-

ments were deemed approved by the House Liquor Control Committee on October 30, 1996, approved by the Senate Law and Justice Committee on October 25, 1996, and approved by IRRC on November 7, 1996.

Findings

The Board finds that:

(1) The notice of proposed rulemaking is omitted under the authority of section 204(1) of the CDL since these regulatory amendments arise from the interpretation of a self-executing Act of Assembly, and further relate to Board practice and procedure.

(2) The amendment of the Board's regulations in this order is necessary and appropriate for the administration and enforcement of the authorizing statutes.

Order

The Board, acting under the enabling statute orders that:

(a) The regulations of the Board, 40 Pa. Code Chapters 11 and 13, are amended by deleting §§ 11.161—11.164 and by amending §§ 11.171, 11.172, 13.42 and 13.43 to read as set forth in Annex A.

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

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

(d) That this order shall take effect upon publication in the *Pennsylvania Bulletin*.

JOHN E. JONES, III,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 26 Pa.B. 5766 (November 23, 1996).)

Fiscal Note: 54-48. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 40. LIQUOR

PART I. LIQUOR CONTROL BOARD

CHAPTER 11. PURCHASES AND SALES

Subchapter H. (Reserved)

§§ 11.161—11.164. (Reserved).

Subchapter I. SALE OF ALCOHOLIC BEVERAGES ON SUNDAY

§ 11.171. Statutory provisions.

(a) Under sections 406 and 492(5) of the Liquor Code (47 P. S. §§ 4-406 and 4-492(5)), the sale of liquor and malt or brewed beverages by a licensee who qualifies under the act is authorized on Sunday between the hours of 11 a.m. and 2 a.m. Monday.

(b) Section 406 of the Liquor Code provides that hotel and certain restaurant licensees whose sales of food and nonalcoholic beverages equal 30% or more of the combined sales of both food and alcoholic beverages may sell beverages under the conditions described in subsection (a) upon the purchase of a special annual permit from the Board.

(c) Section 492(5) of the Liquor Code provides that hotel and eating place retail dispenser licensees may sell beverages under the conditions described in subsection (a) upon the purchase of a special annual permit from the Board.

§ 11.172. Application for Sunday sales permit.

(a) A licensee who wishes to make Sunday sales of alcoholic beverages shall file an application in the form as may be prescribed by the Board for a Sunday sales permit. The application for a Sunday sales permit shall contain the following:

- (1) The name and address of the licensee.
- (2) The address of the licensed premises.
- (3) The license number.

(4) A certification by a certified public accountant or public accountant that for a period of not less than 90-consecutive days during the 12 months immediately preceding the date of application, sales of food and nonalcoholic beverages by the applicant at the licensed premises were equal to or exceed 30% of the combined gross sale of both food and alcoholic beverages. The form of the certification shall be in a format as the Board may from time to time determine.

(b) The accuracy of the application shall be verified by affidavit of the applicant.

CHAPTER 13. PROMOTION

Subchapter A. ADVERTISING

§ 13.42. Window and doorway display.

(a) A licensee may not install or permit to be installed any electrically operated signs or devices, lithographs, framed pictures, cardboard displays, statuettes, plaques, placards, streamers or similar items advertising brand names and intended for window and doorway display on the licensed premises until the licensee has submitted detailed information to the Board on Form PLCB-948, and obtained Board approval. The signs may not exceed 600 square inches in display area and shall carry a serial or model number permanently affixed to the display for identification purposes. A photograph or sketch of the display sign shall accompany the application form.

(b) When the approved sign is of maximum size, no background material may be used. When installing approved signs of smaller size, the combined area of the sign and background or decoration may not exceed the maximum area of 600 square inches.

(c) Brand name advertising matter may not be painted or affixed in a manner to the inside or outside of the glass in show windows or doorways of licensed establishments.

§ 13.43. Interior display.

(a) A licensee may not install or permit to be installed electrically operated signs or devices, lithographs, framed pictures, cardboard displays, statuettes, plaques, placards, streamers or similar items advertising brand names and intended for interior display on the licensed premises until he has submitted detailed information to the Board on forms provided by the Board, and obtained Board approval. A single piece of advertising may not exceed a cost of \$70, and the signs shall carry a serial or model number permanently affixed to the display for identification purposes. A photograph or sketch of the display sign shall accompany the application form.

(b) When the approved sign, as described in subsection (a), is of maximum value no background material may be

used in conjunction with the installation. When the approved display piece is of less than the maximum value, the combined cost of the piece of advertising and background or decoration may not exceed \$70.

(c) Under the Liquor Code, the total cost of the point-of-sale advertising matter relating to any one brand may not exceed the sum of \$140.

(d) Signs or displays intended for use interchangeable in a window, doorway or in the interior shall meet the requirements for both maximum area, as provided in § 13.42 (relating to window and doorway display), and maximum value.

[Pa.B. Doc. No. 96-1960. Filed for public inspection November 22, 1996, 9:00 a.m.]

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF DENTISTRY

[49 PA. CODE CH. 33]

[Correction]

Child Abuse Reporting Requirements

An error appeared in 49 Pa. Code § 33.1 (relating to definitions) as published at 26 Pa.B. 5410, 5413 (November 9, 1996). The correct version of § 33.1 appears in Annex A, with the ellipses referring to the existing text of the regulations.

Annex A

**TITLE 49. PROFESSIONAL AND VOCATIONAL
STANDARDS**

PART I. DEPARTMENT OF STATE

**Subpart A. PROFESSIONAL AND OCCUPATIONAL
AFFAIRS**

CHAPTER 33. STATE BOARD OF DENTISTRY

Subchapter A. GENERAL PROVISIONS

§ 33.1. Definitions.

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

* * * * *

Board regulated practitioner—A dentist, dental hygienist, expanded function dental assistant or auxiliary personnel.

* * * * *

Child abuse—A term meaning any of the following:

(i) A recent act or failure to act by a perpetrator which causes nonaccidental serious physical injury to a child under 18 years of age.

(ii) An act or failure to act by a perpetrator which causes nonaccidental serious mental injury to or sexual abuse or sexual exploitation of a child under 18 years of age.

(iii) A recent act, failure to act or series of acts or failures to act by a perpetrator which creates an immi-

ment risk of serious physical injury to or sexual abuse or sexual exploitation of a child under 18 years of age.

(iv) Serious physical neglect by a perpetrator constituting prolonged or repeated lack of supervision or the failure to provide the essentials of life, including adequate medical care, which endangers a child's life or development or impairs the child's functioning.

ChildLine—An organizational unit of the Department of Public Welfare, which operates a 24-hour a day State-wide toll free telephone system for receiving reports of suspected child abuse, referring reports for investigation and maintaining the reports in the appropriate file.

* * * * *

Individual residing in the same home as the child—An individual who is 14 years of age or older and who resides in the same home as the child.

Perpetrator—A person who has committed child abuse and is a parent of the child, a person responsible for the welfare of a child, an individual residing in the same home as a child or a paramour of a child's parent.

Person responsible for the child's welfare—A person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control. The term does not include a person who is employed by or provides services or programs in a public or private school, intermediate unit or area vocational-technical school.

Recent acts or omissions—Acts or omissions committed within 2 years of the date of the report to the Department of Public Welfare or county agency.

Serious mental injury—A psychological condition as diagnosed by a physician or licensed psychologist, including the refusal of appropriate treatment, that does one or more of the following:

(i) Renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that the child's life or safety is threatened.

(ii) Seriously interferes with a child's ability to accomplish age-appropriate developmental and social tasks.

Serious physical injury—An injury that causes a child severe pain or significantly impairs a child's physical functioning, either temporarily or permanently.

Sexual abuse or exploitation—The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another person to engage in sexually explicit conduct or a simulation of sexually explicit conduct for the purpose of producing a visual depiction, including photographing, videotaping, computer depicting or filming, of sexually explicit conduct or the rape, sexual assault, involuntary deviate sexual intercourse, aggravated indecent assault, molestation, incest, indecent exposure, prostitution, statutory sexual assault or other form of sexual exploitation of children.

[Pa.B. Doc. No. 96-1880. Filed for public inspection November 8, 1996, 9:00 a.m.]

Title 58—RECREATION

FISH AND BOAT COMMISSION

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

Fish Tournaments

The Fish and Boat Commission (Commission) by this order amends Chapters 53, 61, 63 and 69. 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 and fishing.

A. *Effective Date*

These amendments will go into effect on January 1, 1997.

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 and 2102 of the code (relating to control of property; and rules and regulations).

D. *Purpose and Background*

The amendments are designed to update, modify and improve Commission regulations relating to tournaments. The specific purpose and background of these amendments are described in more detail under the summary of changes.

E. *Summary of Changes*

Under current regulations, fishing tournaments are subject to two permit requirements. Tournaments conducted using Commission access areas or property require a permit for special use of Commission property, and most other tournaments apply for and receive a special activities permit since they involve an unusual congregation of boats for a specific purpose.

In 1991, the Commission proposed to update its tournament regulations and published a notice of proposed rulemaking to seek comment on a comprehensive update. At the October 1991 meeting, the Commission, on an evenly divided vote, failed to approve the regulations as final rulemaking.

Based on input from interested sportsmen and the public, the staff was asked to revisit the subject of tournament regulations during 1994. Draft regulations were prepared and circulated to Commissioners and staff for comment. At the November joint meeting of the Commission's Committees on Fisheries and Law Enforcement, these draft regulations were discussed in considerable detail with representatives of various user groups, including groups that sponsor or participate in tournaments. In November, the Commission received a request from the American Bass Association of the Lake Erie Region to waive culling regulations for so-called catch-and-release tournaments. The Coalition of Concerned Pennsylvania Anglers issued a position statement on fishing tournaments expressing alarm at the number of tournaments within this Commonwealth and the manner in which some tournaments are conducted.

In light of this interest and the need for updated tournament regulations, the Commission published a notice of proposed rulemaking and sought public comment on a comprehensive update to tournament regulations. The proposed amendments were divided into two separate, but somewhat overlapping, provisions. One relates to use of Commission property and the other to general tournament regulations. Both sections list some of the factors to be considered in reviewing applications for tournament permits and describe possible permit conditions. These factors provide expanded scrutiny of tournament applications focusing on fisheries impacts and impacts on fishing and boating opportunities of both tournament and nontournament anglers and boaters.

Under the code, the entire control of Commission property is vested in the Commission, and the agency has broad discretion to regulate the use and protection of its property. The proposed amendments on use of Commission property included items that would not be applicable to general fishing regulations, such as regulation of parking and requirements to clean up and restore the site after the tournament.

Tournaments are an area of some controversy. Tournament anglers are vocal and organized. On the other hand, it is not uncommon for the Commission to receive complaints from anglers who have been unable to gain access to the water because of overcrowding or who are concerned about the impacts of increased fishing pressure caused by tournaments. The goal of the proposed amendments was to take a balanced approach to these divergent views. The proposed amendments were designed to give the Commission more flexibility in dealing with tournaments.

One of the more contentious issues related to tournament fishing relates to culling of fish. Under current regulations, culling is prohibited since a fish counts against the creel limit of the angler once it is reduced to possession by placing it in a livewell regardless of whether it is subsequently released. The tournament anglers insist that placing fish in carefully designed and operated aerated or recirculating livewells does not hurt the fish and that the fish may be returned to the waters from which taken without adverse impacts. Others object to culling as a use of the resource for competitive purposes. The proposed amendments sought public comment on a possible change to culling regulations. Under the proposal, a tournament could ask that its permit include a special provision permitting limited culling under carefully controlled circumstances involving use of aerated or recirculating temperature-controlled livewells.

A notice of proposed rulemaking containing the proposed revisions to tournament regulations was published at 26 Pa.B. 168 (January 13, 1996). Because of the interest in this subject, the notice provided for a 60-day public comment period and two public hearings. The Commission extended the public comment to March 29, 1996. The Commission received 181 written comments on the proposed tournament regulations. Most contained suggestions for changes to one or more provisions in the proposal with an emphasis on the proposed permit conditions. A few commentators continued to express concerns about tournaments. Public hearings were held on March 19, 1996, at Erie and March 21, 1996, at Harrisburg. The Erie hearing, which also took comments on proposed changes to bass regulations on Lake Erie, attracted 139 attendees, of whom 31 made comments. The Harrisburg hearing was attended by 89 individuals, of whom 30 made statements.

After the conclusion of the formal public comment period, the Commission staff asked a number of those who had submitted comments on all sides of the issue to participate in a tournament regulation workgroup to review the text and assist the staff in putting together recommendations to the Commission on changes to the proposed regulation on final rulemaking. The workgroup met in Harrisburg, on May 7, 1996. Its participants included leaders of some of the major tournament groups, as well as spokespersons for groups that have expressed concerns. The Governor's Sportsmen's Advisor, Vern Ross, two members of the Commission and several staff participated in a wide-ranging discussion of issues related to the proposed amendments. After the meeting, a revised draft was sent to all workgroup members for additional input, and the draft final regulations were discussed in detail at the meeting of the Commission's Fisheries Committee on June 21, 1996.

As a result of the public comment and the input received at the workgroup, the Commission made several changes to the proposed amendments on final rulemaking at its July 1996 meeting. The major changes include a new definition for "fishing derby," clarification of several of the possible permit conditions, clarification of the culling provision and other minor editorial changes. The tournament regulations adopted by the Commission at its July 1996 meeting appear to represent a consensus of many divergent viewpoints. There is not universal agreement on all provisions, particularly the provision allowing culling in limited circumstances. However, the amendment that the Commission adopted on final rulemaking represent the culmination of a process that started in 1991, and their adoption represents a major step forward in this area.

F. Paperwork

The amendments hereby adopted 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

As previously stated, a notice of proposed rulemaking containing the proposed amendments was published at 26 Pa.B. 168. Specifics relating to the public's involvement in the rulemaking process are set forth in detail under Section E of this Preamble.

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 regulations 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 and 69, are amended by amending §§ 53.24, 61.1—61.4, 61.7, 63.40, 69.12 and 69.13 to read as set forth at Annex A, with ellipses referring to the existing text of the regulations.

(b) The Executive Director will submit this order 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 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

(Editor's Note: For a document amending §§ 69.12(d) and 69.13(d) as proposed at 26 Pa.B. 2328 (May 18, 1996), see 26 Pa.B. 5711 (November 23, 1996).)

Fiscal Note: 48A-53. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 53. FISH AND BOAT COMMISSION PROPERTY

§ 53.24. Tournament and fishing derby permits.

(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 tournament.

(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 facilities 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 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, establishes a daily limit of at least one fish less than the Statewide creel limit, 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 permit 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 exceed 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.

(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.

CHAPTER 61. SEASONS, SIZES AND CREEL LIMITS

§ 61.1. Commonwealth inland waters.

(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) 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, 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.

* * * * *

§ 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. 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 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.

* * * * *

§ 61.3. Pymatuning Reservoir.

(a) It is unlawful to take, catch, kill or possess a 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 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. 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.

* * * * *

§ 61.4. Conowingo Reservoir.

(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 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. 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 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. Except as otherwise provided in § 53.24 or § 63.40 (relating to tournament and fishing derby permits; and fishing tournament 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.

* * * * *

§ 61.7. Susquehanna River and tributaries.

(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 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. 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 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. 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.

* * * * *

CHAPTER 63. GENERAL FISHING REGULATIONS

§ 63.40. Fishing tournaments and fishing derbies.

(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) *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 tournament.

(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 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, establishes a daily limit of at least one fish less than the Statewide creel limit, 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 if the derby involves an unusual congregation of boats without first obtaining a special activity permit from the Commission.

(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 or fishing tournament 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.

(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.

(5) *Notification required.* It is unlawful to conduct a fishing derby, as defined in this section, on approved trout waters without first notifying the Commission of the date, time and place of the proposed fishing derby and whether the proposed fishing derby involves the stocking of any fish into the waters of this Commonwealth.

(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.

CHAPTER 69. FISHING IN LAKE ERIE AND BOUNDARY LAKES

§ 69.12. Seasons, sizes and creel limits—Lake Erie.

(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. Except as otherwise provided in § 53.24 or § 63.40 (relating to tournament and fishing derby permits; and fishing tournament and fishing der-

bies), 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.

* * * * *

§ 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 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. Except as otherwise provided in § 53.24 or § 63.40 (relating to tournament and fishing derby permits; and fishing tournament 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.

* * * * *

[Pa.B. Doc. No. 96-1961. Filed for public inspection November 22, 1996, 9:00 a.m.]

FISH AND BOAT COMMISSION
[58 PA. CODE CHS. 53, 91, 107 AND 111]
Commission Property; Boating

The Fish and Boat Commission (Commission) by this order amends Chapters 53, 91, 107 and 111. 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 and boating.

A. Effective Date

These amendments will go into effect immediately upon publication of this order adopting the regulations.

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, 5123 and 5124 of the code (relating to control of property; general boating regulations; and particular areas of water).

D. Purpose and Background

The amendments are designed to update, modify and improve Commission regulations on Commission property and boating. The specific purpose of the various amendments is described in more detail under Section E of this Preamble.

E. Summary of Changes

A review of the Commission's property regulations and boating regulations uncovered several sections that required minor word changes or correction. The Commission therefore adopted amendments that:

(a) Change the specific restriction relating to Lettermenny Reservoir, Franklin County from hand powered boating only to electric motors only, § 53.13(c) (relating to domestic water supply reservoirs).

(b) Clarify the age of those individuals who may not operate a motorboat propelled by a motor of greater than 10 horsepower without obtaining a Boating Safety Certificate, unless there is at least one other person in the boat 16 years of age or older, § 91.4(b) (relating to age of operator).

(c) Clarify that law enforcement boats may violate certain boating restrictions when necessary in the performance of their official duties, § 107.8(b) (relating to vessels permitted on restricted waters).

(d) Clarify that no more than one waterskier may be towed behind a boat on Blue Marsh Lake, Berks County, § 111.6(a)(3) (relating to Berks County).

(e) Delete the provision prohibiting the operation of boats powered by internal combustion motors at Mussers Dam, Snyder County because the dam no longer exists, § 111.55(a) (relating to Snyder County).

(f) Delete the provision prohibiting the operation of boats powered by internal combustion motors on Reinings Pond, Wayne County because the pond no longer exists, § 111.64(g) (relating to Wayne County).

(g) Clarify that no more than two waterskiers may be towed behind a boat on Lake Winola, Wyoming County, § 111.66(b)(1) (relating to Wyoming County).

On final rulemaking, the Commission clarified that the Boating Safety Certificate referred to in § 91.4(b) is one that is issued or recognized by the Commonwealth.

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 26 Pa.B. 2709 (June 8, 1996). None of the proposed changes attracted public comment.

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, 91, 107 and 111, are amended by amending §§ 53.13, 107.8, 111.6, 111.55, 111.64 and 111.66 to read as set at 26 Pa.B. 2709 and by amending § 91.4 to read as set forth at Annex A.

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

(c) The Executive Director will certify this order 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: 48A-55. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart C. BOATING

CHAPTER 91. GENERAL PROVISIONS

§ 91.4. Age of operator.

(a) A person 11 years of age or younger may not operate a motorboat propelled by a motor greater than 10 horsepower unless at least one person 16 years of age or older is present on the watercraft.

(b) A person 12 through 15 years of age may not operate a motorboat propelled by a motor of greater than 10 horsepower without obtaining a Boating Safety Certificate issued or recognized by the Commonwealth, unless there is at least one other person in the boat 16 years of age or older.

[Pa.B. Doc. No. 96-1962. Filed for public inspection November 22, 1996, 9:00 a.m.]

FISH AND BOAT COMMISSION
[58 PA. CODE CHS. 69 AND 111]
Fishing and Boating

The Fish and Boat Commission (Commission) by this order amends Chapters 69 and 111 (relating to fishing in Lake Erie and boundary lakes; and special regulations counties). 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 fishing and boating.

A. Effective Date

These amendments will take effect on January 1, 1997.

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 2102 and 5124 of the code (relating to rules and regulations; and particular areas of water).

D. Purpose and Background

The amendments are designed to update, modify and improve Commission regulations on fishing and boating. The specific purpose for the various amendments is described in more detail under Section E of this Preamble.

E. Summary of Changes

(a) *Seasons, sizes and creel limits—Lake Erie and Lake Erie tributaries, §§ 69.12 and 69.13 (relating to seasons, sizes and creel limits—Lake Erie; and seasons, sizes and creel limits—Lake Erie tributaries).* The Commission has amended its regulations to change bass size to a minimum of 20" and the daily creel to one from the first Saturday after April 11 through midnight Friday preceding the first Saturday after June 11. The amendments also prohibit bass tournaments during the trophy bass season on Lake Erie and Presque Isle Bay.

(b) *Bucks County, Delaware River, § 111.9(e) (relating to Bucks County).* The New Hope Borough Council and the Solebury Township Supervisors joined forces to request that several slow, minimum height swell speed zones be created on the Delaware River in their respective municipalities. At its July 1995 meeting, the Commission accepted the petition and ordered the publication of a notice of proposed rulemaking to establish slow no wake zones under three Delaware River bridges and a 3,000 foot area near Lumberville. At the same time, staff was directed to investigate and prepare a report on the proposed no wake zone at New Hope Borough. Although there is little in the record that would indicate that the safety of boat operators is inordinately compromised in this area by high speed operation, the character of this

historic community deserves consideration. The Delaware River is not a large water body. Boating has traditionally amounted to unpowered and small fishing boats. The influx of personal watercraft and other modified outboard driven boats and the resultant noise and congestion has raised the ire of community residents who are finding lifestyles adversely changed. It was therefore proposed that an additional slow, minimum height swell speed zone be established from the Lambertville wing-dam to the New Hope Lambertville Bridge. The Boating Advisory Board (Board) discussed this item at its January 1996 meeting. The Board recommended approval with one change. The Board recommended that the proposed slow, minimum height swell speed zone be effective from 12:01 a.m. on the Friday before Memorial Day until midnight on Labor Day. The Commission approved the publication of a notice of proposed rulemaking containing this change, and the Commission received considerable public comment. After consideration of the staff recommendation and public comments, the Commission unanimously voted at its July 1996 meeting to table this item for further review and discussion.

(c) *Luzerne County, Harveys Lake, § 111.40(f) (relating to Luzerne County).* The Pennsylvania Marine Trades Association submitted a petition asserting that the current regulations establishing a nighttime speed limit on Harveys Lake unnecessarily restrict the use of their boats and waterways and infringes upon their rights as free and responsible citizens. At its July 1995 meeting, the Commission accepted this petition and directed staff to prepare a report and make recommendations relative to the continuation of these regulations. Staff reviewed the record concerning Harveys Lake and recommended that the operation of boats during nighttime hours at slow, minimum height swell speed be replaced with a speed limit of 25 miles per hour. The Board reviewed this proposal at its January 1996 meeting and recommended approval. The Commission approved the publication of a notice of proposed rulemaking containing this amendment, and the Commission received considerable public comment. After consideration of the public comments, staff recommended at the Commission's July 1996 meeting that the Commission not approve this change. The Commission unanimously accepted the staff recommendation to leave this section unchanged.

(d) *Susquehanna County, Laurel Lake, § 111.58(d) (relating to Susquehanna County).* The Laurel Lake Association, Inc. Boating Committee petitioned the Commission to reconsider the current 60 hp restriction on Laurel Lake, Susquehanna County. The petitioners cited the size of the lake (22 acres), more stringent restrictions on lakes of similar size, environmental concerns regarding the use of gasoline motors on such a small lake, the lack of enforcement by the Commission of current restrictions, and interference with other uses of the lake caused by high speed operation of motorboats as valid reasons for the reconsideration. The Commission accepted the petition for further review at its July 1995 meeting and directed staff to prepare a report with recommendations for further action. After considering the use of Laurel Lake and its physical constraints, staff recommend that additional restrictions on the operation of boats on this lake may be appropriate. The Board reviewed the report and staff recommendations at its January 1996 meeting. The Board voted to recommend that the Commission consider an alternative regulation. The Commission's Boating Committee then recommended that the Commission not approve the staff and Board recommendations. The Commission therefore approved the publication of a

notice of proposed rulemaking, amending this regulation to ban the operation of personal watercraft on Laurel Lake. After consideration of the public comments, the Commission approved this amendment on final rulemaking at its July 1996 meeting.

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 26 Pa.B. 2328 (May 18, 1996). The four items attracted public comment before, during and after the public comment period.

At a public hearing on March 19, 1996, in Erie, the Commission also took comments on proposed changes to the bass and tournament regulations. Of the 31 individuals who commented at the hearing, 14 spoke regarding the bass regulation changes. The majority of the commentators (7 out of 14) were in favor of the changes; 2 were generally in favor of an open season—no harvest, catch and release during the spring; and 5 were opposed to the amendments. At the hearing, 13 written comments also were submitted. The majority of the written comments (8 out of 13) were generally in favor of an open season for bass on Lake Erie and Presque Isle Bay; 3 favored the change; and 2 opposed. In addition, the Commission received 8 letters, 7 in favor of the proposed amendments and 1 opposed.

Regarding the proposed change to § 111.9(e), Bucks County, Delaware River, the Commission received 16 letters, opposing the classification of this area of the river as a no wake zone. The Commission also received petitions with the signatures of 155 individuals who are opposed to the change. The Commission did not receive any comments in favor of the proposed amendment during the public comment period. However, it did receive a few inquiries about the proposal prior to the public comment period. Additional comments, including petitions, were received after the public comment period and were considered by the Commission.

The Commission received 14 public comments relating to the proposed change to § 111.40(f). Citing safety as their primary concern, the majority of the commentators (11 out of 14) is opposed to the change. The Commission received and considered additional comments after the public comment period.

With respect to the change to § 111.58(d), the Commission received 43 letters from individuals, all of whom are opposed to the current 60 hp restriction and would like the Commission to reconsider its prior decision. The commentators who addressed the issue, however, favored the proposed ban on the operation of personal watercraft. Additional comments were received and considered after the public comment period.

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 69 and 111, are amended by amending §§ 69.12, 69.13 and 111.58 to read as set forth at 26 Pa.B. 2328 (May 18, 1996).

(b) The Executive Director will submit this order and 26 Pa.B. 2328 to the Office of Attorney General for approval as to legality as required by law.

(c) The Executive Director shall certify this order and 26 Pa.B. 2328 and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect January 1, 1997.

PETER A. COLANGELO,
Executive Director

(Editor's Note: The proposal to amend §§ 111.9 and 111.40, included in the proposal at 26 Pa.B. 2328, has been withdrawn by the Commission. See 26 Pa.B. 5701 (November 23, 1996) for additional amendments to §§ 69.12 and 69.13.)

Fiscal Note: 48A-54. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 96-1963. Filed for public inspection November 22, 1996, 9:00 a.m.]

Title 61—REVENUE

DEPARTMENT OF REVENUE

[61 PA. CODE CH. 869]

Pennsylvania Lottery 25th Anniversary TV Game Show

The Department of Revenue (Department), under the authority in section 6 of the State Lottery Law (act) (72 P. S. § 3761-6), by this notice of proposed rulemaking omitted, adopts Chapter 869 (relating to Pennsylvania Lottery 25th Anniversary TV Game Show). Chapter 869 establishes and details the method of entry, the selection of contestants and alternates, and the requirements of contestants, proxies and stand-ins for the Pennsylvania Lottery 25th Anniversary TV Game Show.

Because of time constraints associated with the establishment, operation and administration of lottery games, the Department, under section 204 of the act of July 31, 1968 (P. L. 769, No. 240) (CDL) (45 P. S. § 1204) and the regulation thereunder, 1 Pa. Code § 7.4, finds that notice of proposed rulemaking is under the circumstances impracticable and, therefore, may be omitted.

The Department's justification for utilizing the proposed rulemaking omitted process is based upon the time constraints associated with the establishment, operation and administration of lottery games. The efficient and

successful operation of the Lottery requires that the Lottery implement the latest innovations and trends in the lottery industry. The inability to adapt marketing strategies quickly may lead to a reduction in lottery revenues. The necessity of the Lottery to react quickly to market forces has been recognized in the past as an appropriate justification for utilizing the proposed rule-making omitted process as evidenced by the approval of these regulations in the past.

The Pennsylvania Lottery 25th Anniversary TV Game Show is being held to commemorate the 25th anniversary of the Pennsylvania Lottery and will conclude a year long celebration. The Pennsylvania Lottery 25th Anniversary TV Game Show will be telecast on Saturday, March 8, 1997, on channels throughout this Commonwealth that normally carry the nightly Pennsylvania Lottery drawings.

With the purchase of five Wild Card Lotto tickets in a single transaction between January 1, 1997, and January 31, 1997, a player will receive one Pennsylvania Lottery 25th Anniversary TV Game Show entry coupon. These entry coupons, when properly completed, signed and returned to the Lottery by the player in accordance with the § 869.4 (relating to how to enter), are valid Pennsylvania Lottery 25th Anniversary TV Game Show drawing entries for a chance to be selected to be on the show, or to be eligible for additional prizes. Entry coupons for the Pennsylvania Lottery 25th Anniversary TV Game Show must be received at Lottery Headquarters no later than February 10, 1997.

In accordance with § 869.5 (relating to Pennsylvania Lottery 25th Anniversary TV Game Show preliminary drawing), the Lottery will conduct a preliminary drawing to select the pool of entries from which the drawing to select the studio contestants will be made. The odds of being selected in the preliminary drawing are dependent upon the number of entries received. Section 869.7 (relating to selection of studio contestants) provides that the Lottery will select from the entries that had been selected in the preliminary drawing 25 studio contestants for the Pennsylvania Lottery 25th Anniversary TV Game Show.

Section 869.8 (relating to studio contestants) provides that the 25 studio contestants selected to participate in the show will each receive a prize of \$2,500 and one night's hotel accommodations during the taping of the show. Two of the 25 studio contestants will be selected at the show taping to be game contestants for additional prizes. Additional prizes may be awarded to one or more remaining studio contestants.

Section 869.9 (relating to description of the Pennsylvania Lottery 25th Anniversary TV Game Show) provides that the Pennsylvania Lottery 25th Anniversary TV Game Show shall consist of at least two main games. Each main game is played by a single contestant, who is chosen randomly from the 25 studio contestants in an authorized manner as prescribed by the Secretary. The main games currently available are Grand Prix and Vortex.

Fiscal Impact

The Department has determined that the regulations will have no significant adverse fiscal impact on the Commonwealth and that the game described by the regulations will produce an undetermined net revenue.

Paperwork

The regulations will not generate substantial paperwork for the public or the Commonwealth.

Effectiveness/Sunset Date

The regulations will become effective upon publication in the *Pennsylvania Bulletin*. These regulations are scheduled for review within 5 years of publication. No sunset date has been assigned.

Contact Person

The contact person for an explanation of the regulations is Anita M. Doucette, Office of Chief Counsel, Department of Revenue, Dept. 281061, Harrisburg, PA 17128-1061.

Statutory Authority

The regulations are promulgated under section 3761-6 of the act. Section 3761-6(a) of the act specifically provides the Secretary of the Department with the power and duty to promulgate rules and regulations governing the establishment and operation of the lottery.

Regulatory Review

Under section 5(f) of the Regulatory Review Act (71 P. S. § 745.5(f)), on October 16, 1996, the Department submitted a copy of the regulations with proposed rule-making omitted to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Finance and the Senate Committee on Finance. On the same date, the regulations 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 regulations were deemed approved by the House Committee on November 5, 1996, and were deemed approved by the Senate Committee on November 5, 1996. IRRC met on November 7, 1996, and approved the regulations.

Findings

The Department finds that the regulations are necessary and appropriate for the administration and enforcement of the authorizing statute. Under section 204 of the CDL, the Department also finds that the proposed rule-making procedures in sections 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202) are impracticable because of the time constraints associated with the establishment, operation and administration of lottery games.

Order

Acting under the authorizing statute, the Department orders that:

- (a) The regulations of the Department, 61 Pa. Code, are amended by adding §§ 869.1—869.15 to read as set forth in Annex A.
- (b) The Secretary of the Department shall submit this order and Annex A to the Office of General Counsel and Office of Attorney General for approval as to form and legality as required by law.
- (c) The Secretary of 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 publication in the *Pennsylvania Bulletin*.

ROBERT A. JUDGE, Sr.,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 26 Pa.B. 5766 (November 23, 1996).)

Fiscal Note: 15-378. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 61. REVENUE

PART V. STATE LOTTERIES

CHAPTER 869. PENNSYLVANIA LOTTERY 25TH ANNIVERSARY TV GAME SHOW

Sec.	Purpose.
869.1.	Definitions.
869.2.	How to obtain an entry.
869.3.	How to enter.
869.4.	Pennsylvania Lottery 25th Anniversary TV Game Show preliminary drawing.
869.5.	Manner of conducting the preliminary drawing.
869.6.	Selection of studio contestants.
869.7.	Studio contestants.
869.8.	Description of the Pennsylvania Lottery 25th Anniversary TV Game Show.
869.9.	Withholding.
869.10.	Unclaimed prize money.
869.11.	Entry restriction.
869.12.	Advertising and publicity for Pennsylvania Lottery 25th Anniversary TV Game Show.
869.13.	Malfunction of equipment or systems.
869.14.	Governing law.
869.15.	

§ 869.1. Purpose.

This chapter establishes the Pennsylvania Lottery 25th Anniversary TV Game Show, and sets forth the method of entry, the selection of contestants and alternates, and the requirements of contestants, proxies and stand-ins for the game show.

§ 869.2. Definitions.

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

Entry—A properly-completed Pennsylvania Lottery 25th Anniversary TV Game Show entry coupon received by the Lottery in accordance with § 869.4 (relating to how to enter).

Game contestant—An individual randomly selected by the Lottery from the 25 studio contestants to participate in the games played during the Pennsylvania Lottery 25th Anniversary TV Game Show.

On-line retailer—A person who is properly authorized by the Lottery to sell on-line tickets.

Stand-in—An individual appointed by the Lottery to act on behalf of a studio contestant if, at the designated time of the taping of the Pennsylvania Lottery 25th Anniversary TV Game Show, the contestant or the contestant's designated proxy does not participate in the show.

Studio contestant—One of the 25 individuals randomly selected by the Lottery from the pool of potential contestants, who has the right to appear in the studio audience during the taping of the Pennsylvania Lottery 25th Anniversary TV Game Show, in person or by proxy, and is eligible to be selected to participate on stage during the show as a game contestant.

§ 869.3. How to obtain an entry.

(a) If a lottery player purchases five Wild Card Lotto tickets in a single transaction, during the period beginning January 1, 1997, and ending January 31, 1997, Pennsylvania State Lottery on-line terminals will automatically print one Pennsylvania Lottery 25th Anniversary TV Game Show entry coupon for that player.

(b) An on-line entry coupon, when properly completed, signed and returned to the Lottery by the player in accordance with § 869.4 (relating to how to enter), is a valid Pennsylvania Lottery 25th Anniversary TV Game

Show drawing entry for a chance to be selected to be a studio contestant or to be eligible for additional prizes.

§ 869.4. How to enter.

(a) To be eligible to be selected to be a studio contestant and to be eligible for other prizes, a player shall mail a completed entry coupon in a Pennsylvania Lottery 25th Anniversary TV Game Show envelope or an envelope no larger than 3 5/8 x 6 1/2 inches addressed to 25th Anniversary Game Show Entry, Pennsylvania Lottery, P. O. Box 999, Middletown, Pennsylvania, 17057-0999. Pennsylvania Lottery 25th Anniversary TV Game Show envelopes will be available at any on-line retailer while supplies last.

(b) Entry coupons received in envelopes larger than 3 5/8 x 6 1/2 inches will be disqualified.

(c) The player's name, street address, city, state, zip code and daytime telephone number shall be printed clearly on the designated lines on the entry coupon. The player shall sign the entry coupon on the line designated for signature. Incomplete entry coupons will be disqualified.

(d) Participants shall be at least 18 years of age or older. If the person whose name appears on the entry coupon is under 18 years of age, the entry coupon will be disqualified.

(e) Only one name per entry coupon may be used. If more than one name appears on an entry coupon, the entry coupon will be disqualified.

(f) Participants may enter as many times as they wish, but each envelope may contain only one entry coupon. If an envelope contains multiple entry coupons, all entry coupons within the envelope shall be disqualified.

(g) An entry coupon will be disqualified if any part of the entry coupon is illegible or if the entry coupon is duplicated.

(h) Only valid entries are eligible for the Pennsylvania Lottery 25th Anniversary TV Game Show Drawing.

(i) Winning lottery tickets submitted for payment in a Pennsylvania Lottery 25th Anniversary TV Game Show envelope or to the Pennsylvania Lottery 25th Anniversary TV Game Show address will not be paid or honored. Winning lottery tickets shall be submitted for payment in accordance with the game regulations for that game.

(j) Entry coupons for the Pennsylvania Lottery 25th Anniversary TV Game Show shall be received at Lottery Headquarters by February 10, 1997.

(k) As entry envelopes are received, they will be placed in numbered containers. These numbered containers will be stored in a secure area.

§ 869.5. Pennsylvania Lottery 25th Anniversary TV Game Show preliminary drawing.

(a) A preliminary drawing from the valid entries will be conducted by the Lottery to select 279 finalists. Each finalist will be eligible to win additional prizes or to participate in the Pennsylvania Lottery 25th Anniversary TV Game Show.

(b) The preliminary drawing will be held on a date after February 10, 1997, to be determined by the Secretary.

(c) The Lottery will make a reasonable effort to ensure that all valid entries are entered into the preliminary

drawing. The Lottery assumes no responsibility for a lost, misplaced or misdirected entry coupon not entered into the preliminary drawing.

(d) If an entry coupon is disqualified during the preliminary drawing, the Lottery will select another entry coupon to replace the disqualified entry coupon in accordance with Lottery procedure.

(e) Determination of the finalists will be made by the Secretary, whose judgment will be final and binding.

(f) The odds of being selected in the preliminary drawing are dependent upon the number of entries received.

§ 869.6. Manner of conducting the preliminary drawing.

(a) The preliminary drawing will be held using the Pennsylvania Lottery 25th Anniversary TV Game Show entry coupons in their envelopes returned for the drawing. With the aid of mechanical or automatic drawing equipment, 279 entry coupons will be randomly selected from all entry coupons received.

(b) The envelopes selected in the preliminary drawing will be opened, and the enclosed entry coupon will be removed from each envelope. The Lottery will determine whether each entry coupon has complied with § 869.4 (relating to how to enter). An entry coupon which does not comply with § 869.4 will be disqualified.

(c) An individual may only qualify as a preliminary finalist once.

(d) The drawing will continue until 279 valid entries are selected.

§ 869.7. Selection of studio contestants.

The Lottery will randomly select from the preliminary finalists previously selected under § 869.5 (relating to Pennsylvania Lottery 25th Anniversary TV Game Show preliminary drawing) for the purpose of selecting 25 studio contestants for the Pennsylvania 25th Anniversary TV Game Show.

§ 869.8. Studio contestants.

(a) The 25 studio contestants will each receive hotel accommodation for the night prior to the taping of the show and a prize of \$2,500. Two of the 25 studio contestants will be selected at the show taping to be game contestants. Additional prizes may be awarded to one or more remaining studio contestants.

(b) The Lottery will attempt to notify the 25 studio contestants by telephone or United States mail within 1 week after they are selected and qualified, and will provide the contestants with the date of the show's taping.

(c) Studio contestants have the choice to appear on the show in person or to designate a proxy to appear on the show on their behalf. Studio contestants designating a proxy to appear on the show shall complete and return a Designation of Proxy Form on a date to be determined by the Lottery.

(d) If the Lottery is unable to locate the studio contestant or the contestant's proxy prior to a designated cut-off time for the taping of the show, the Lottery is authorized to appoint a stand-in for the contestant. The Lottery is also authorized to designate a stand-in to appear on behalf of any studio contestant or proxy who the Lottery determines is unable or unfit to participate in the show.

(e) The proxy or stand-in has the authority to make decisions regarding the play of the game as if the proxy

or stand-in were the contestant. Resulting outcomes are final and binding on the studio contestant for whom the proxy or stand-in is playing. Prizes won will be paid by the Lottery to the studio contestant for whom the proxy or stand-in is playing. To participate, each proxy and stand-in shall execute a Game Show Release Form prior to the taping of the show.

(f) Studio contestants or their designated proxies will be responsible for arranging and providing for their own travel to the taping of the show.

(g) Studio contestants shall execute a Contestant Claim Form prior to payment of prizes won by or for the studio contestant.

§ 869.9. Description of the Pennsylvania Lottery 25th Anniversary TV Game Show.

(a) *Generally.* The Pennsylvania Lottery 25th Anniversary TV Game Show shall consist of at least two main games. Each main game is played by a single contestant, who will be chosen randomly from the 25 studio contestants in an authorized manner prescribed by the Secretary. The main games currently are Grand Prix and Vortex.

(b) *Description of main games.*

(1) *Grand Prix.*

(i) The Grand Prix is a race game in which three different colored race cars are displayed on a board, each car on its own track (red, yellow and blue). Each car will represent a different dollar prize amount. There are five positions on each track. The fifth position is the finish line. The race cars will begin in the first position and can advance one position at a time until one car reaches the finish line. The game contestant will win the amount corresponding to the first car to reach the finish line.

(ii) Before the race begins, specific dollar amounts are assigned to the red track and yellow track. The blue track will begin the game as the "Big Money" car.

(iii) To advance the cars toward the finish line, a second board displaying 12 numbered windows is used. A picture of one race car has been concealed behind each window prior to the start of the game. There are four cars of each color. The contestant selects a numbered window and the color of the car behind that window is revealed. The matching race car on the first board advances one position. This process continues until one car on the board reaches the finish line.

(iv) If the winning car is the "Big Money" car, the studio contestant will choose one plaque from a preloaded rack of four plaques labeled A—D to determine the prize. Each plaque bears a different dollar amount. The dollar amount is revealed as the plaque is removed from the rack.

(2) *Vortex.*

(i) The Vortex is a funnel-shaped device known as a gravity well. When a line of seven balls is rolled onto the surface of the device, just within the perimeter edge, the balls chase each other in rapid elliptical orbits, spiraling downward and eventually dropping into a bowl-shaped bottom. A small speed bump on the side surface of the bowl helps retard the velocity of the balls once they have entered the bowl. The seven balls will usually come to a rest at the bottom of the bowl in a daisy shape: one center ball surrounded by the other six. Regardless of the order in which the balls are rolled into the device, whichever ball ends up in the center of the daisy shape is completely random.

(ii) A launching device is mounted along the inside perimeter of the device. It is essentially a grooved track, angled so that when the balls are released, they roll down the curved track, via gravity, into the Vortex. A handle is attached to a mechanical device which holds back the balls. When the contestant pulls back the handle, the balls are released.

(iii) Before the start of the game, three sets of seven balls each are loaded into the launcher. Any order in which the balls are lined up is for aesthetic purposes only and has no effect on the outcome of the roll. The first pull of the handle releases only the first set of seven balls. Before each subsequent pull of the handle, the previous set of seven balls are removed from the Vortex. For a second play of the device, the second pull of the handle releases the second set of seven balls. For a third play of the device, the third pull of the handle releases the third set of seven balls. At any given time, only the set of seven balls about to be launched is visible; the other balls behind the first set are concealed by an upper cover.

(iv) The wins and losses in this game are determined by the color of the ball in the center of the daisy shape after the balls have come to a complete stop at the bottom of the bowl. To start, the contestant is given a stake.

(A) For the first roll, six of the balls are yellow and one is red. At the end of the roll, if the center ball of the daisy is yellow, the money is doubled. If it is red, the money is unchanged.

(B) For the second roll, five of the balls are yellow and two are red. This time, if the center ball is yellow, the current money is tripled. If it is red, the money remains as it was after the first roll.

(C) At this point the contestant is given a decision: the contestant can stop with the current winnings or roll one more time.

(D) For the final roll, four of the balls are yellow and three are red. If the center ball ends up being one of the yellow balls, the current money is quadrupled and the game is over. If the center ball is red, the contestant loses half of the contestant's current winnings and the game is over.

(c) *Additional games.* If the Department decides to add additional games to the Pennsylvania Lottery 25th Anniversary TV Game Show, the Department will publish a notice in the *Pennsylvania Bulletin* prior to the taping of the show, describing the game and how it is played.

§ 869.10. Withholding.

Federal withholding taxes will be withheld by the Lottery in amounts required in accordance with provisions of law.

§ 869.11. Unclaimed prize money.

Unclaimed prize money on prizes won as a result of the Pennsylvania Lottery 25th Anniversary TV Game Show will be retained by the Secretary for payment to the person entitled thereto for 1 year from the date of the Pennsylvania Lottery 25th Anniversary TV Game Show. If no claim is made within 1 year of the Pennsylvania Lottery 25th Anniversary TV Game Show, the right of the contestant to claim the prize money shall expire and the prize money will be paid into the State Lottery Fund and used for purposes otherwise provided for by statute.

§ 869.12. Entry restrictions.

Officers or employes of a contractor, subcontractor or a spouse, child, brother, sister or parent residing in the same household of a contractor or subcontractor who is

involved in the production, distribution or the operation of systems for the validation or accounting of on-line tickets or the Pennsylvania Lottery 25th Anniversary TV Game Show are ineligible to enter and are disqualified from participating in the Pennsylvania Lottery 25th Anniversary TV Game Show.

§ 869.13. Advertising and publicity for Pennsylvania Lottery 25th Anniversary TV Game Show.

(a) Submission of an entry coupon constitutes permission for the Lottery to use the contestant's name and likeness for the Pennsylvania Lottery 25th Anniversary TV Game Show, advertising, or publicity purposes without additional compensation.

(b) A studio contestant's entry into the taping studio constitutes permission for the Lottery to use that person's name, city or residence, and likeness for the Pennsylvania Lottery 25th Anniversary TV Game Show advertising, or publicity purposes without additional compensation.

§ 869.14. Malfunction of equipment or systems.

In the event a malfunction in the equipment or systems occurs, the Lottery will use substitute procedures that are fair and necessary to conduct the game show. The substitute procedures shall be determined in consultation with the independent auditing firm under contract for the Pennsylvania 25th Anniversary TV Game Show. In using the substitute procedures, the Lottery will strive to maintain the highest level of public confidence and integrity in the Pennsylvania 25th Anniversary TV Game Show.

§ 869.15. Governing law.

(a) By submitting an entry coupon for the Pennsylvania Lottery 25th Anniversary TV Game Show, the person agrees to comply with and abide by applicable laws, this part, instructions, conditions and final decisions of the Secretary and procedures established by the Director for the conduct of the Pennsylvania Lottery 25th Anniversary TV Game Show.

(b) Decisions made by the Director or the Secretary, including the declaration of prizes and the payment thereof, in interpretation of this part are final and binding on a person making a claim in respect thereto.

[Pa.B. Doc. No. 96-1964. Filed for public inspection November 22, 1996, 9:00 a.m.]

Title 67—TRANSPORTATION

DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CH. 211]

Corrective Amendment to 67 Pa. Code §§ 211.253 and 211.256

The Department of Transportation has discovered a discrepancy between the agency text of 67 Pa. Code §§ 211.253 and 211.256 (relating to no stopping on pavement sign, R8-5; and no stopping on bridge sign, R8-20) as deposited with the Legislative Reference Bureau and as published at 5 Pa.B. 749 (April 12, 1975) and the official text as published in the *Pennsylvania Code Reporter* (Master Transmittal Sheet No. 1), and is currently appearing in the *Pennsylvania Code*. Subsection (b) (relating to placement) was never codified in either section.

Therefore, under 45 Pa.C.S. § 901: The Department of Transportation has deposited with the Legislative Refer-

ence Bureau a corrective amendment to 67 Pa. Code §§ 211.253 and 211.256. The corrective amendment to 67 Pa. Code §§ 211.253 and 211.256 is effective as of May 16, 1981, the date the defective official text was announced in the *Pennsylvania Bulletin*.

The correct version of 67 Pa. Code §§ 211.253 and 211.256 appears in Annex A, with ellipses referring to the existing text of the regulations.

Annex A

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

Subpart A. VEHICLE CODE PROVISIONS

ARTICLE VIII. ADMINISTRATION AND ENFORCEMENT

CHAPTER 211. OFFICIAL TRAFFIC CONTROL DEVICES STOPPING, STANDING AND PARKING GROUP, R7 AND R8 SERIES

§ 211.253. No Stopping on Pavement Sign, R8-5.

(a) *Justification.* The No Stopping on Pavement Sign, R8-5, shall be authorized for use in rural areas as provided in §§ 211.231—211.233 (relating to justification and description; placement; and size) when stopping is permissible off the pavement but prohibited on the pavement.

(b) *Placement.* The R8-5 sign should be placed immediately in advance of and at intervals throughout the restricted area.

(c) *Size.* The standard size of R8-5 shall be 24 inches by 30 inches. The standard size for expressways shall be 36 inches by 48 inches.

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§ 211.256. No Stopping on Bridge Sign, R8-20.

(a) *Justification.* The No Stopping on Bridge Sign, R8-20, shall be authorized for use in rural areas as provided in §§ 211.231—211.233 (relating to justification and description; placement; and size) when motorists have a tendency to stop or park on the bridge for purposes other than emergencies.

(b) *Placement.* When used, the R8-20 sign shall be erected immediately in advance of the bridge and at reasonable intervals on the bridge.

(c) *Size.* The standard size for expressways shall be 30 inches by 24 inches.

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