

# PROPOSED RULEMAKING

## FISH AND BOAT COMMISSION

[58 PA. CODE CH. 91]

### Boating

The Fish and Boat Commission (Commission) proposes to amend Chapter 91 (relating to general provisions). The Commission is publishing this amendment as a notice of proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). The proposed amendment deals with boating.

#### A. Effective Date

This proposed amendment, if approved on final rulemaking, will go into effect on January 1, 2000.

#### B. Contact Person

For further information on the proposed change, contact John F. Simmons, Director, Bureau of Boating and Education, (717) 657-4538, or Laurie E. Shepler, Assistant Counsel, (717) 657-4546, P. O. Box 67000, Harrisburg, PA 17106-7000. This proposal is available electronically through the Commission's Web site (<http://www.fish.state.pa.us>).

#### C. Statutory Authority

This proposed amendment is published under the statutory authority of section 5123 of the code (relating to general boating regulations).

#### D. Purpose and Background

The proposed amendment is designed to update, modify and improve Commission regulations pertaining to boating. The specific purpose of the proposed amendment is described in more detail under the summary of proposal. Prior to consideration by the Commission, the Commission's Boating Advisory Board reviewed the proposal and recommended that the Commission approve the publication of a notice of proposed rulemaking containing the amendment.

#### E. Summary of Proposal

*Section 91.4 (relating to age of operator).* The Commission proposes to amend this section so that a person 11 years of age or younger may not operate a motorboat propelled by a motor greater than 10 horsepower, regardless of whether a person 16 years of age or older is present onboard. Subsection (b) currently provides that a person 11 years of age or younger may not operate a personal watercraft (PWCs). The proposed amendment, if adopted, would make the regulations consistent. The proposed amendment also reflects a belief held by some that persons under 12 should not operate any motorboat greater than 10 horsepower (not just PWCs).

#### F. Paperwork

The proposed amendment will not increase paperwork and will create no new paperwork requirements.

#### G. Fiscal Impact

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

#### H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about the proposed amendment to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically at "regulations@fish.state.pa.us." A subject heading of the proposal and a return name and address must be included in each transmission. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

PETER A. COLANGELO,  
*Executive Director*

**Fiscal Note:** 48A-87. 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) The following age restrictions apply to the operation of a motorboat propelled by a motor greater than 10 horsepower (other than personal watercraft):

(1) A person 11 years of age or younger may not operate such a watercraft **[ unless at least one person 16 years of age or older is present onboard ]**.

\* \* \* \* \*

[Pa.B. Doc. No. 98-2063. Filed for public inspection December 18, 1998, 9:00 a.m.]

#### [58 PA. CODE CH. 111]

#### Boating

The Fish and Boat Commission (Commission) proposes to amend Chapter 111 (relating to special regulations counties). The Commission is publishing this amendment as a notice of proposed rulemaking under the authority of 30 Pa. C.S. (relating to Fish and Boat Code) (code). The proposed amendment deals with boating.

#### A. Effective Date

This proposed amendment, if approved on final rulemaking, will go into effect upon publication of an order adopting the amendment in the *Pennsylvania Bulletin*.

#### B. Contact Person

For further information on the proposed change, contact John F. Simmons, Director, Bureau of Boating and Education, (717) 657-4538, or Laurie E. Shepler, Assistant Counsel, (717) 657-4546, P. O. Box 67000, Harrisburg, PA 17106-7000. This proposal is available electronically through the Commission's Web site (<http://www.fish.state.pa.us>).

C. *Statutory Authority*

This proposed amendment is published under the statutory authority of section 5124 of the code (relating to particular areas of water).

D. *Purpose and Background*

The proposed amendment is designed to update, modify and improve the Commission's special boating regulations at Lake Winola. The specific purpose of the proposed amendment is described in more detail under the summary of proposal. Prior to consideration by the Commission, the Commission's Boating Advisory Board reviewed the proposal and recommended that the Commission approve the publication of a notice of proposed rulemaking to seek public comment on the change.

E. *Summary of Proposal*

*Section 111.66 (relating to Wyoming County).* The Commission has received a petition from an adhoc committee at Lake Winola requesting that the Commission adopt special boating regulations to ban, among other things, the use of motor boats on Sunday mornings. Lake Winola, a 185+/- acre lake, is located entirely in Overfield Township in Wyoming County. Wyoming County asserts ownership of all of the land that lies under the lake. Lake Winola is divided into two boating areas by a promontory of land. The lake is surrounded by numerous cottages, many of which have boats at docks or moorings. There is an active Cottagers Association. The Commission maintains an access area at the lake.

The subject of special boating regulations for Lake Winola was discussed in some detail at the last meeting of the Commission's Boating Advisory Board. The Board recommended the Commission initiate immediate regulatory action to address some of the concerns raised in the petition. Even though the petition is undergoing a more formal review process, the Commission is not foreclosed from seeking public comment on proposals as it deems appropriate. In this case, it appears that an informal practice of limiting use of motorboats on Lake Winola during a quiet period on Sunday mornings has been in effect for several summers. The Boating Advisory Board recommended that the Commission publish a notice of proposed rulemaking and seek public comment on an interim change for the 1999 boating season.

F. *Paperwork*

The proposed amendment will not increase paperwork and will create no new paperwork requirements.

G. *Fiscal Impact*

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

H. *Public Comments*

Interested persons are invited to submit written comments, objections or suggestions about the proposed amendment to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically at "regulations@fish.state.pa.us." A subject heading of the proposal and a return name and address must be included in each transmission. If an acknowledgment of

electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

PETER A. COLANGELO,  
*Executive Director*

**Fiscal Note:** 48A-88. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART II. FISH AND BOAT COMMISSION**

**Subpart C. BOATING**

**CHAPTER 111. SPECIAL REGULATIONS  
COUNTIES**

**§ 111.66. Wyoming County.**

\* \* \* \* \*

(b) *Lake Winola.*

\* \* \* \* \*

(2) The speed of boats is limited to slow, minimum height swell speed from sunset to sunrise, **7 days a week, year-round, and from sunrise to 11 a.m. on Sundays from the day before Memorial Day until Labor Day.**

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[Pa.B. Doc. No. 98-2064. Filed for public inspection December 18, 1998, 9:00 a.m.]

**GAME COMMISSION**

**[58 PA. CODE CH. 147]**

**Deer Control Permit**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) at its October 6, 1998, meeting, proposed amendments to read as set forth in Annex A.

The proposed amendment to § 147.552 (relating to application) will allow applications for a deer depredation permit to be received from persons who have been enrolled in the Deer Damage Area Program or one of the Commission public access programs for at least two hunting seasons.

This proposed amendment will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for this proposal is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

This proposal was made public at the October 6, 1998, meeting of the Commission, and comments on this proposal can be sent to the Executive Director of the Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until December 31, 1998.

1. *Introduction*

To more effectively manage the wildlife resources of this Commonwealth, the Commission at its October 6, 1998, meeting proposed changing § 147.552 to reduce the requirement of enrollment in the Deer Damage Area

Program for an agricultural deer control permit from at least 2 years to at least two hunting seasons. This change is proposed under authority contained in section 2901(b) of the code (relating to regulations for permits).

2. Purpose and Authority

For a person to qualify for an agricultural deer control permit, the area to be included must currently be enrolled in the Deer Damage Area Program for at least 2 years. After discussions with a number of agricultural and sportsmen groups, it has been determined that what is important from a deer control point of view is the number of hunting seasons a farm has been enrolled in the deer damage area program rather than the number of years of enrollment. The proposed change will accomplish this modification and somewhat reduce the requirement.

Section 2901(b) of the code authorizes the Commission to promulgate regulations for the issuance of any permit. This provides the authority for the proposed change.

3. Regulatory Requirements

The proposed change would relax an existing requirement.

4. Persons Affected

Only persons wishing to obtain an agricultural deer control permit would be affected by the proposed change.

5. Cost and Paperwork Requirement

The proposed change should not result in any additional cost or paperwork.

6. Effective Date

This change would be effective on final publication in the *Pennsylvania Bulletin* and would remain in effect until changed by the Commission.

7. Contact Person

For further information on the proposed change, contact James R. Fagan, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

DONALD C. MADL,  
*Executive Director*

**Fiscal Note:** 48-106. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART III. GAME COMMISSION**

**CHAPTER 147. SPECIAL PERMITS**

**Subchapter R. DEER CONTROL**

**AGRICULTURE**

**§ 147.552. Application.**

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(b) Applications will only be [made available to] **accepted from** persons who have been enrolled in the Deer Damage Area Program (Program) for at least 2 [years prior to applying and are currently enrolled in the Program at the time of application] **hunting seasons immediately preceding their applications; or from persons who have been enrolled in one of the Commission public access programs (Farm Game Project or Safety Zone—P.1-2-3) for a minimum of 2 years and are currently enrolled in the Program.**

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[Pa.B. Doc. No. 98-2065. Filed for public inspection December 18, 1998, 9:00 a.m.]