

# PROPOSED RULEMAKING

## FISH AND BOAT COMMISSION

[58 PA. CODE CH. 63]

### General Fishing Regulations

The Fish and Boat Commission (Commission) proposes to amend Chapter 63 (relating to general fishing regulations). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code).

#### A. Effective Date

The proposed rulemaking, if approved on final-form, will go into effect upon publication in the *Pennsylvania Bulletin*.

#### B. Contact Person

For further information on the proposed rulemaking, contact Jason E. Oyler, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rulemaking is available on the Commission's website at [www.fish.state.pa.us](http://www.fish.state.pa.us).

#### C. Statutory Authority

The proposed amendment to § 63.11 (relating to eel chutes) is published under the statutory authority of section 2102 of the code (relating to rules and regulations).

#### D. Purpose and Background

The proposed rulemaking is designed to eliminate a Commission permitting program that is not being utilized. The specific purpose of the proposed rulemaking is described in more detail under the summary of proposal.

#### E. Summary of Proposal

Under section 2901 of the code, a person may apply to the Commission for a special license to catch eels by the use and operation of eel chutes and the payment of a \$25 fee. The special eel chute license gives the license holder the right to use and operate an eel chute: (1) in the Susquehanna River below the boundary line of the city of Pittston and Duryea Borough line on the north branch and below the bridge at the Northumberland-Lycoming County line on the west branch; (2) below Mount Union in the Juniata River; and (3) in the Delaware River. Section 63.11 contains provisions regarding the operation of eel chutes.

According to the Commission's records, the Commission has not issued an eel chute license in the last 13 years. The Commission therefore proposes to delete § 63.11 as set forth in Annex A.

#### F. Paperwork

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

#### G. Fiscal Impact

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking 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 rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000 within 30 days after publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at [www.state.pa.us/Fish/regcomments](http://www.state.pa.us/Fish/regcomments). If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

DOUGLAS J. AUSTEN, Ph.D.,  
*Executive Director*

**Fiscal Note:** 48A-177. No fiscal impact; (8) recommends adoption.

#### Annex A

#### TITLE 58. RECREATION

#### PART II. FISH AND BOAT COMMISSION

#### Subpart B. FISHING

#### CHAPTER 63. GENERAL FISHING REGULATIONS

#### § 63.11. [ Eel chutes ] (Reserved).

**[ It is unlawful to operate an eel chute except in compliance with the following terms and conditions:**

**(1) Each eel chute shall be licensed under section 2901 of the code (relating to eel chute licenses), and used exclusively in the waters therein specified.**

**(2) Eel chutes may be operated only during the hours from 4 p.m. to 8 a.m. and only from August 1—November 30.**

**(3) Eel chute operators shall, in addition to the eel chute license required by section 2901 of the code, possess a valid Pennsylvania fishing license.**

**(4) Eel chutes may not have wings or netting of any kind or any cloth or wire netting but shall be constructed of wooden slates or lath which may not be closer than 1/2 inch in the bottom. Eel chutes may not be more than 5 feet long; the width of the entrance to an eel chute may not be more than 10 feet.**

**(5) Eel chute wing walls may not span more than 3/4 of the width of any water upon which the eel chute is constructed. When two or more wing walls are constructed side-by-side, the heads of the wing walls may be no more than 20 feet apart.**

**(6) Eel chutes shall be kept free from rubbish.**

**(7) Game fish found in an eel chute shall be immediately returned unharmed to the waters from which it entered the eel chute.**

**(8) During the hours of 8 a.m. to 4 p.m. when the operation of an eel chute is unlawful, a portion of the bottom of the chutes shall be removed to facilitate the unobstructed passage of fishes.**

**(9) Eel chutes shall be clearly marked with the name and address of the licensee.**

**(10) A person maintaining an eel chute shall post a sign with letters at least 3 inches in height not less than 25 nor more than 100 yards upstream of the eel chute to warn boaters of the location of this possible hazard to navigation.**

**(11) Eel chute operators are required to remove them from the water during the period December 1—July 31. It is unlawful for an eel chute to be placed or maintained in Commonwealth waters during the period December 1—July 31.**

**(12) Licensees under section 2901 of the code shall file a report to the Commission, Bureau of Fisheries, Robinson Lane, Bellefonte, Pennsylvania**

**16823, no later than December 31 of each year. The report shall indicate the total catch of licensee for the preceding year.**

**(13) The Commission hereby determines under section 2507 of the code (relating to sale of certain fish, reptiles and amphibians prohibited) that eels caught lawfully under this section may not be sold or offered for sale.**

**(14) Eels taken with eel chutes shall be subject to the same size and creel limits as eels taken with hook and line. ]**

[Pa.B. Doc. No. 05-1714. Filed for public inspection September 16, 2005, 9:00 a.m.]