

RULES AND REGULATIONS

Title 58—RECREATION

FISH AND BOAT COMMISSION

[58 PA. CODE CHS. 51, 69, 93 AND 113]

General Provisions, Fishing and Boating

The Fish and Boat Commission (Commission) amends Chapters 51, 69, 93 and 113. The Commission is publishing this final-omitted rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code) and the following authorities.

A. *Effective Date*

This final-omitted rulemaking will go into effect upon publication in the *Pennsylvania Bulletin*.

B. *Contact Person*

For further information on the final-omitted rulemaking, contact Laurie E. Shepler, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This final-omitted rulemaking is available on the Commission's web site at www.fish.state.pa.us.

C. *Statutory Authority*

This final-omitted rulemaking is published under the statutory authority of section 506 of The Administrative Code of 1929 (71 P. S. § 186). This final-omitted rulemaking is also published in accordance with section 204 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204), known as the Commonwealth Documents Law (CDL), which provides that an agency may omit or modify the procedures specified in sections 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202) if the administrative regulation or change relates to agency organization, management or personnel; agency procedure or practice; or Commonwealth property or if the agency for good cause finds (and incorporates the finding and a brief statement of the reasons therefor in the order adopting the administrative regulation or change therein) that the procedures specified in sections 201 and 202 of the CDL are under the circumstances impracticable, unnecessary or contrary to the public interest.

D. *Purpose and Background*

Under § 51.5 (relating to correction of regulations), the Executive Director is authorized to take immediate corrective action on the Commission's behalf if the Executive Director or the Commission's staff discovers an error or omission in the text of a Commission regulation as published in the *Pennsylvania Code* or *Pennsylvania Bulletin*. The purpose of this final-omitted rulemaking is to update the Commission's regulations with current contact information, including organizational names, addresses and telephone numbers; to remove references to the miniature registration certificate validation decals that the Commission no longer issues; and to correct a cross reference in § 93.4(c) (relating to certificate of registration).

E. *Summary of Changes*

(1) A recent review of regulations by staff revealed that some of the Commission's contact information, such as organizational names, addresses and telephone numbers, is out-of-date and in need of updating. The Commission is amending §§ 51.2, 69.43, 93.3, 93.12, 93.119 and 113.4 to read as set forth in Annex A.

(2) Due to changes in the format of boat registration decals and cards, the Commission no longer issues the miniature decal that was previously affixed to the back of the registration card. The registration card simply needs to be signed in ink. Therefore, references to the registration certificate validation decals need to be removed from § 93.4 and § 93.7 (relating to duplicate certificate of registration). The Commission is amending §§ 93.4(a) and 93.7 to read as set forth in Annex A.

(3) A recent review of § 93.4 by staff revealed that subsection (c) referenced § 117.2(f) "(relating to standards)." However, when Chapter 117 (relating to boat rental businesses) was amended in 2000, the chapter was reorganized and § 117.2 was renamed "inspections" and subsection (f) was moved to new § 117.3 (relating to responsibilities). Therefore, the reference to § 117.2(f) must be corrected. The Commission is amending § 93.4(c) to read as set forth in Annex A.

F. *Paperwork*

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

G. *Fiscal Impact*

This final-omitted rulemaking will not have adverse fiscal impact on the Commonwealth or its political subdivisions. The final-omitted rulemaking will not impose new costs on the private sector or the general public.

H. *Public Involvement*

Under section 204 of the CDL, an agency may omit the procedures specified in sections 201 and 202 of the CDL if the administrative regulation or change relates to agency organization, management or personnel or agency procedure or practice. The Commission, therefore, did not publish these amendments as a notice of proposed rulemaking or solicit public comment.

Findings

The Commission finds that:

(1) Errors and inaccuracies were discovered in §§ 51.2, 69.43, 93.3, 93.4, 93.7, 93.12, 93.119 and 113.4.

(2) Under § 51.5, the Executive Director is authorized to take immediate corrective action on behalf of the Commission, including, if necessary, the issuance of an order to make the necessary correction, if the Executive Director or the Commission's staff discovers an error in the text of a Commission regulation as published in the *Pennsylvania Code*.

(3) Because the nature of the amendments is minor and designed to correct errors and inaccuracies and because the changes relate to Commission organization and procedure or practice, the Commission finds that the procedures in sections 201 and 202 of the CDL are unnecessary.

Order

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

(a) The regulations of the Commission, 58 Pa. Code Chapters 51, 69, 93 and 113, are amended by amending §§ 51.2, 69.43, 93.3, 93.4, 93.7, 93.12, 93.119 and 113.4 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

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

JOHN A. ARWAY,
Executive Director

Fiscal Note: 48A-246. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart A. GENERAL PROVISIONS

CHAPTER 51. ADMINISTRATIVE PROVISIONS

Subchapter A. PRELIMINARY PROVISIONS

§ 51.2. Commission offices.

(a) The address of the principal office of the Commission is:

Pennsylvania Fish and Boat Commission
Post Office Box 67000
Harrisburg, Pennsylvania 17106-7000

(b) The address of the Bureau of Fisheries, the Bureau of Hatcheries and the Bureau of Engineering of the Commission is as follows:

Pennsylvania Fish and Boat Commission
450 Robinson Lane
Bellefonte, Pennsylvania 16823

(c) The address of the Division of Licensing and Registration is:

Pennsylvania Fish and Boat Commission
Division of Licensing and Registration
Post Office Box 67000
Harrisburg, Pennsylvania 17106-7000

Subpart B. FISHING

CHAPTER 69. FISHING IN LAKE ERIE AND BOUNDARY LAKES

Subchapter E. TAGGED FISH CONTESTS IN BOUNDARY LAKES

§ 69.43. Applications for permits.

(a) Applications for permits to conduct tagged-fish contests shall be submitted on forms approved by the Commission.

(b) The permit application shall be accompanied by an original letter, signed by the head of the agency or a designee responsible for regulating fishing and boating in the state, province or nation which bounds the boundary lake where the proposed contest is to be conducted indicating that the other state permits the proposed contest.

(c) The application shall include information on the species of fish to be marked and tagged, the number and species of fish to be released, the anticipated number of anglers and boaters who may participate in the contest, the duration of the contest, the number of fish expected to be caught by participants in the contest and a description of the applicant's assessment of the impacts that the

tagged-fish contest will have on fisheries resources of Commonwealth waters where the contest is to be conducted.

(d) To permit the Commission adequate time to review the fishery resource implications of a proposed tagged-fish contest on Commonwealth boundary lakes, the application for a proposed contest shall be received by the Commission at the address indicated in subsection (f) at least 90 days in advance of the date of the proposed contest. The 90-day time limit for filing permit applications for tagged-fish contests is an exception to § 51.42 (relating to applications).

(e) Permits issued under section 2907.1 of the code are deemed by the Commission to be permits for the protection and management of the particular species of fish targeted by the proposed tagged-fish contest. The application for a permit shall be accompanied by a permit fee of \$100.

(f) Questions concerning permit applications may be referred to the Bureau of Law Enforcement at (717) 705-7861. Applications for permits are available from and shall be submitted to:

Pennsylvania Fish and Boat Commission
Bureau of Law Enforcement
Post Office Box 67000
Harrisburg, Pennsylvania 17106-7000

Subpart C. BOATING

CHAPTER 93. BOAT REGISTRATION AND NUMBERING

Subchapter A. REGISTRATION OF BOATS

§ 93.3. Application for boat registration.

(a) *New registration.* Application for a boat registration for a new boat or a used boat that was not previously registered in this Commonwealth shall conform with the following:

(1) *Forms.* The owner of a boat desiring registration shall apply on Form REV-336, provided by the Commission. The completed form shall be forwarded to the Fish and Boat Commission, Division of Licensing and Registration.

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(b) *Renewals.* Only Forms PFBC-730a and PFBC-733 shall be used to renew registrations of boats which are being kept by the same owner. If the registration has lapsed, the owner shall obtain Form PFBC-730a or PFBC-733 from the Division of Licensing and Registration of the Commission to renew the lapsed registration.

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§ 93.4. Certificate of registration.

(a) The owner shall sign the certificate of registration, Form PFBC-730b, in ink to validate the registration.

(b) The Commission will mark a boat rental business's certificate of registration with "rental business." When the motor is not rented with the boat, the description of the propulsion and type of fuel shall be omitted from the certificate of registration.

(c) A boat's owner or representative who rents or leases a boat less than 26 feet long to someone else for noncommercial use for less than 7 days may retain the certificate of registration at the place from which the boat is rented. These boats shall be identified as required by § 117.3(d) (relating to responsibilities) while in use and comply with this subpart. A copy of the lease or rental

agreement, signed by the owner or his representative and by the person renting or leasing the boat, that shows the registration number of the boat and the period of time for which the boat is rented or leased, shall be onboard and presented for inspection by an authorized officer requesting it.

(d) Each dealer's, jobber's and manufacturer's certificate shall be plainly marked "dealer," "jobber" or "manufacturer" in lieu of the description of the boat. The certificate of registration shall be onboard when a boat displaying the number is in use.

(e) *Boating without a certificate of registration onboard.*

(1) When a resident of this Commonwealth is found operating a boat without the required certificate of registration onboard and claims that the boat is validly registered, the apprehending officer shall give the operator 7 days to produce the original certificate.

(2) If it is inconvenient for the operator to produce the certificate in person, the officer may permit the operator to mail the original certificate to the officer for verification. The operator shall provide a stamped self-addressed envelope for the return of the certificate. If the officer permits the operator to mail the original certificate to the officer, the officer shall provide the operator with a receipt or other documentation allowing continued operation of the boat during the period the original certificate is not in possession.

(3) If the operator fails to send the original certificate within the 7-day period, the officer shall institute summary proceedings against the operator in the manner prescribed by law.

§ 93.7. Duplicate certificate of registration.

The Commission will issue a duplicate certificate of registration upon receipt of Form PFBC-730a or Form PFBC-732 from the registered owner and payment of the appropriate fee.

§ 93.12. Dealers, manufacturers and jobbers.

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(g) Boat dealers, jobbers or manufacturers who take in trade a boat bearing previous Pennsylvania boat registra-

tion are required, within 15 days of obtaining the boat, to place the boat under the dealer/jobber/manufacturer's dealer registration. The dealer, jobber or manufacturer shall complete Form PFBC-336 and forward it to the Division of Licensing and Registration. No fee is applicable to a transaction when dealers place boats taken in trade under their dealer registrations. It is unlawful for a boat dealer, jobber or manufacturer to operate or allow to be operated a boat received in trade bearing a Pennsylvania boat registration until the boat is placed under their dealer registration under this subsection.

Subchapter B. TITLING OF BOATS

§ 93.119. Forms.

(a) The Commission will provide suitable forms of applications, title, notice of security interests, and other notices and forms necessary to carry out this subchapter.

(b) Except as otherwise provided in this subchapter, all forms and notices required in this subchapter shall be forwarded to the Fish and Boat Commission, Division of Licensing and Registration, Post Office Box 67000, Harrisburg, Pennsylvania 17106-7000.

CHAPTER 113. AIDS TO NAVIGATION AND OBSTRUCTIONS TO NAVIGATION

§ 113.4. Permits.

(a) Persons, including clubs, individuals, State agencies, municipalities and other groups, wishing to establish an aid shall apply for permission from the Commission on Form PFBC-227 at least 30 days prior to the intended date of installation. Application forms are available from and should be submitted to:

Aids to Navigation
Bureau of Law Enforcement
Pennsylvania Fish and Boat Commission
Post Office Box 67000
Harrisburg, Pennsylvania 17106-7000

(b) The authorization of the placement of a private aid to navigation does not grant exclusive privileges nor does it eliminate the necessity to comply with other Federal or state permitting requirements.

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