

RULES AND REGULATIONS

Title 58—RECREATION

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 119]

Boating; Motorboat Noise Control

The Fish and Boat Commission (Commission) amends Chapter 119 (relating to motorboat noise control). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). The amendments update the Commission's methods for enforcement of motorboat noise control.

A. *Effective Date*

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

B. *Contact Person*

For further information on this final-form rulemaking, contact Wayne Melnick, Esq., P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This final-form rulemaking is available on the Commission's web site at www.fishandboat.com.

C. *Statutory Authority*

The amendments to §§ 119.3, 119.6 and 119.8 (relating to prohibited acts; pass-by test; and enforcement) are published under the statutory authority of section 5123 of the code (relating to general boating regulations).

D. *Purpose and Background*

The specific purpose and background of the amendments is described in more detail under the summary of changes.

E. *Summary of Changes*

Over the last several boating seasons the Commission has received multiple complaints about motorboat noise levels and a request for more enforcement. Under 58 Pa. Code Chapter 119, regulations requiring mufflers and various noise levels for motorboats were established in June 1994. This final-form rulemaking package was based on a model act provided by the National Association of State Boating Law Administrators (NASBLA). Even though the Commission adopted most of the recommendations from NASBLA, determining if a boat is in violation of the regulation is very subjective. Additionally, standards adopted have never truly been enforceable due to the lack of training and device guidelines.

Starting in 2018, Commission staff began exploring the standards used and regulations in place in other states. It is believed with a few minor language adjustments, the Commission will be able to establish a training program utilizing recognized devices and be able to better address the complaints from around the waterways in this Commonwealth. This amendment was vetted and approved by the Boating Advisory Board on June 27, 2019.

A notice of proposed rulemaking was published at 49 Pa.B. 5215 (September 7, 2019). The Commission received one public comment in support of the proposed rulemaking.

The Commission amends §§ 119.3, 119.6 and 119.8 to read as set forth in the proposed rulemaking published at 49 Pa.B. 5215.

F. *Paperwork*

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

G. *Fiscal Impact*

This final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions.

H. *Public Comments*

A notice of proposed rulemaking was published at 49 Pa.B. 5215. The Commission received one comment in support of the proposed rulemaking.

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), known as the Commonwealth Documents Law, and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) A public comment period was provided, and one comment was received.

(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 Chapter 119, are amended by amending §§ 119.3, 119.6 and 119.8 to read as set forth at 49 Pa.B. 5215.

(b) The Executive Director will submit this order and 49 Pa.B. 5215 to the Office of Attorney General for approval as to legality and form as required by law.

(c) The Executive Director shall certify this order and 49 Pa.B. 5215 and deposit them with the Legislative Reference Bureau as required by law.

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

TIMOTHY D. SCHAEFFER,
Executive Director

Fiscal Note: Fiscal Note 48A-291 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 20-294. Filed for public inspection February 28, 2020, 9:00 a.m.]