

PROPOSED RULEMAKING

FISH AND BOAT COMMISSION

[58 PA. CODE CHS. 57, 63, 71, 71a AND 73]

Fishing; Propagation and Introduction of Fish Into Commonwealth Waters

The Fish and Boat Commission (Commission) proposes to amend §§ 57.8a and 63.51 (relating to Class A wild trout streams; and sale of VHS-susceptible species of fish), delete Chapters 71 and 73 (relating to propagation and introduction of fish into Commonwealth waters; and transportation of live fish into this Commonwealth) and add Chapter 71a (relating to propagation and introduction of fish into Commonwealth waters). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). The proposed amendments update the Commission's regulations pertaining to the introduction and transportation of fish into waters of this Commonwealth and create new regulatory requirements for fish health certification and watercraft inspections.

A. *Effective Date*

This proposed rulemaking, if approved on final-form rulemaking, shall take effect as follows:

(1) Section 71a.5(a)—(g) shall take effect January 1, 2025.

(2) The remainder of the rulemaking shall take effect January 1, 2023.

B. *Contact Person*

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

C. *Statutory Authority*

The proposed amendment of §§ 57.8a and 63.51, deletion of Chapters 71 and 73 and addition of Chapter 71a are published under the statutory authority of section 2102(a) and (c) of the code (relating to rules and regulations) regarding transportation and sale of fish.

D. *Purpose and Background*

The specific purpose and background of the proposed amendments are described in more detail under the summary of proposal.

E. *Summary of Proposal*

Currently the Commission regulates the introduction and transportation of fish into this Commonwealth through Chapters 71 and 73. In addition, both chapters contain provisions concerning artificial propagation, stocking of Commission fish, prohibited species, triploid grass carp (white amur) (*Ctenophryngodon idella*) and species susceptible to viral hemorrhagic septicemia (VHS). The Commission has identified an opportunity to update the regulations to address current conservation challenges, improve fisheries management and fish health, and simplify the chapters for consistency, flow and ease. Therefore, the addition of new provisions, retention of existing language of several provisions, and the consolidation of Chapters 71 and 73 into Chapter 71a is proposed to accomplish the goals set forth by the Commission.

In this Commonwealth, thousands of lakes, ponds and stream sections are stocked by private individuals each year with fish purchased from commercial fish producers and dealers. To properly manage and protect this Commonwealth's aquatic resources while addressing increased risks associated with aquatic invasive species and pathogens, there is a need to ensure that all proposed stockings of fish into waters of this Commonwealth are reviewed, considered for their ecological risk, and where appropriate, authorized for stocking. As such, the Commission has undertaken an effort to improve management, oversight and regulation of fish and aquatic life transportation and stocking in this Commonwealth through the development of a stocking authorization application and review system, including fish health requirements.

In the United States, over 30 states have requirements (stocking authorizations or regulations) for determining how and when fish are stocked in various waters. States in the Northeast, except this Commonwealth, require individuals to obtain some form of authorization or permission to stock fish. Section 2102 of the code allows the Commission to develop rules and regulations concerning fish and fishing in waters of this Commonwealth, and for the protection, preservation and management of fish and fish habitat. As such, regulations may be developed for the transport, introduction, import and export of fish, as well as inspection for disease. Currently § 73.1 (relating to transportation) of the existing regulations addresses this topic; however, there is need for additional regulatory authority to ensure adequate protection, preservation and management of aquatic resources are in place.

In addition, the Commission has created a regulatory section that prohibits the release or disposal of live bait fish into waters of this Commonwealth. An individual may continue to collect live bait fish for angling purposes, provided that a bait fish species is not transferred into another drainage where the species is not already present. Likewise, to prevent the spread of invasive or unwanted species, Commission staff have added New Zealand mud snail and aquatic plants or the seeds of aquatic plants, that have been designated by the Department of Agriculture, Controlled Plant and Noxious Weed Committee, to the prohibited species list.

In conjunction with ongoing development of a stocking authorization application and review system, the Commission has also developed a fish health inspection protocol to provide additional protection to the Commonwealth's aquatic resources, prevent the introduction of serious pathogens not known to be present in this Commonwealth, and to control the spread and the prevalence of pathogens already present in this Commonwealth. The Commission recognizes that a stocking authorization system, fish health inspection protocol and accompanying regulations will result in changes to the stockings undertaken by private individuals and the aquaculture industry. However, failure to regulate fish stocking and fish health will increase the likelihood of negative impacts to aquatic resources from unauthorized transportation and introduction of fish into this Commonwealth, which could lead to serious ecological and financial damages to the Commonwealth's aquatic resources and aquaculture industry.

In addition to stocking and fish health necessities, watercraft inspection requirements can prevent the

spread of aquatic invasive species by watercraft throughout this Commonwealth. For example, in 2021, invasive zebra mussels were discovered in Raystown Lake, Huntingdon County, likely introduced by a watercraft. Boaters, with limited exceptions, will be required to drain live wells and bilges by removing the drain plug before transporting watercraft away from a water of this Commonwealth. Moreover, boaters will be prohibited from placing a watercraft, trailer or related equipment into a water of this Commonwealth if aquatic macrophytes, plants or prohibited species are present. At least 19 states have created watercraft inspection or decontamination programs.

Besides the creation of new regulatory provisions as previously outlined, the Commission has retained several existing sections from Chapters 71 and 73 relating to closed system propagation, introduction and transportation of VHS-susceptible species, stocking of designated waters and Commission fish, triploid grass carp (white amur) (*Ctenophryngodon idella*) requirements and prohibited species. Through the inclusion of new sections and the retention of existing language, Commission staff believe a proposed consolidated Chapter 71a provides adequate protection for the Commonwealth's aquatic resources in relation to current conservation challenges, aligns with the regulations of several neighboring states, and provides improved flow and clarity for regulatory interpretation.

The Commission proposes that §§ 57.8a and 63.51 be amended, Chapters 71 and 73 be deleted and Chapter 71a be added to read as set forth in Annex A.

F. Paperwork

This proposed rulemaking will increase paperwork and will create new paperwork requirements in that persons intending to stock fish in waters of this Commonwealth will be required to submit a stocking authorization application to the Commission, and the Commission will issue an approved stocking authorization or denial letter. In addition, persons transporting fish into this Commonwealth or stocking fish in waters of this Commonwealth may be required to possess a fish health certificate when conducting those activities to ensure fish are free of specific pathogens, diseases or parasites.

G. Fiscal Impact

This proposed rulemaking will have no adverse fiscal impact on the Commonwealth's political subdivisions or the general public. This proposed rulemaking will have an estimated adverse impact of \$4.6 million on the Commission. This is the cost of a new system to process and track applications and will be spread over the next 5 fiscal years. In addition, this proposed rulemaking will impose new costs on the private sector in that prior to fish being imported into this Commonwealth or stocked in waters of this Commonwealth, the fish or artificial propagation facility where the fish are raised will have to be tested and certified as negative for specific pathogens, diseases and parasites as determined by the Commission. Many of these requirements are already in place in neighboring states.

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about this proposed rulemaking to the Executive Director, Fish and Boat Commission, P.O. Box 67000, Harrisburg, PA 17106-7000, within 60 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/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. Electronic comments submitted in any other manner will not be accepted.

TIMOTHY D. SCHAEFFER,
Executive Director

Fiscal Note: 48A-325. (1) Fish Fund; (2) Implementing Year 2021-22 is \$440,000; (3) 1st Succeeding Year 2022-23 is \$1,645,500; 2nd Succeeding Year 2023-24 is \$1,231,077; 3rd Succeeding Year 2024-25 is \$638,532.86; 4th Succeeding Year 2025-26 is \$646,084.86; 5th Succeeding Year 2026-27 is \$648,389.31; (7) General Operations; (8) recommends adoption. The 2021-22 authorization is able to absorb this increase.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart A. GENERAL PROVISIONS

CHAPTER 57. STATEMENTS OF POLICY

Subchapter A. FISHERIES POLICIES

§ 57.8a. Class A wild trout streams.

It is the policy of the Commission to manage self-sustaining Class A wild trout populations as a renewable natural resource to conserve that resource and the angling it provides. Class A wild trout populations represent the best of this Commonwealth's naturally reproducing trout fisheries. With rare exceptions, these stream sections are managed solely for the perpetuation of the wild trout fishery with no stocking. However, there may be circumstances that justify stocking a Class A wild trout stream. Prior to granting permission to stock a Class A wild trout stream under [§ 71.4 (relating to stocking of designated waters)] § 71a.5 (relating to stocking authorization from Commission), the Executive Director will consult internal decision-making criteria set forth in the *Operational Guidelines for the Management of Trout Fisheries in Pennsylvania Waters* to consider the need for continued stocking at newly designated Class A wild trout streams and obtain the approval of the Commission. Consideration will only be given to requests for continued stocking in stream sections within 1 year of the section being designated as Class A and posted in the *Pennsylvania Bulletin*; however, entities that previously received an exemption or a Special Activities Permit for continued stocking from the Commission between 2010 and the effective date of this amendment will be eligible for consideration.

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Subpart B. FISHING

CHAPTER 63. GENERAL FISHING REGULATIONS

§ 63.51. Sale of VHS-susceptible species of fish.

* * * * *

(d) It is unlawful to sell in this Commonwealth VHS-susceptible species of fish from a VHS-affected region or VHS-at risk region, unless the fish meet the requirements of [§ 73.3. (d)(1) (relating to transportation and importation of VHS-susceptible species of fish)] § 71a.7. (relating to introduction or transportation of VHS-susceptible species of fish).

CHAPTER 71. [PROPAGATION AND
INTRODUCTION OF FISH INTO
COMMONWEALTH WATERS] [Reserved]

§ 71.1. [General] [Reserved].

[The introduction of the grass carp or white amur into Commonwealth waters is prohibited, except that triploid grass carp may be introduced into Commonwealth waters as provided in § 71.7 (relating to triploid grass carp). It is unlawful to propagate grass carp (diploid or triploid) in this Commonwealth.]

§ 71.2. [Fish species approved for artificial propagation and introduction] [Reserved].

[The Bureau of Fisheries will maintain a list of species by watershed for which the Department of Agriculture may issue registrations for artificial propagation and registrations for dealers of live aquatic animals. The Director of the Bureau of Fisheries may update or modify the list of authorized species by adding species to, or deleting species from, the list as necessary to provide for the protection and management of fish and fishing in this Commonwealth. The Commission will provide the list to the Department of Agriculture on or before January 31 each year and whenever the Commission updates or modifies the list. Copies of the list of authorized species are available upon request from the Pennsylvania Fish and Boat Commission, Bureau of Fisheries, 595 East Rolling Ridge Drive, Bellefonte, Pennsylvania 16823.]

§ 71.3. [Closed system propagation] [Reserved].

[(a) *Closed (no discharge) system.* A propagating system may be designated as a closed system only if all of following criteria are met:

(1) There will be 100% recycling water as normal operations.

(2) Closed systems will be housed indoors in a structure enclosed by solid walls, floor and roof. For purposes of this subsection, a wall, floor or roof will be considered "solid" if it is constructed and maintained to prevent unauthorized human or animal intrusions into the closed system facility and to prevent release or escape of aquatic organisms from the closed system.

(3) Water can be added to the system only for making up evaporative loss, cleaning and fish harvesting or to reduce toxic ammonia/nitrates by diluting.

(4) The system does not discharge water into waters of this Commonwealth.

(5) No live fish or live fish eggs will be allowed to escape with water discharges. Accidental spillage of live fish or live fish eggs (including truck loading, and the like) will be contained within the facility in a manner that will prevent fish and fish eggs from escaping into the waters of this Commonwealth.

(6) The system operator is registered with the Department of Agriculture (Department). The Department will notify the Commission when it receives an application to register a proposed closed system, and the Commission may, within 30 days of receipt of the notice, inspect the system to ensure that it is designed and constructed in a manner to

prevent escapement of live fish or live fish eggs into the waters of this Commonwealth. Closed systems registered under this subsection shall, in addition to an initial inspection, be subject to inspection at any time to ensure compliance with the requirements of this section and the Commission may issue an order to suspend operations of any closed system when an inspection discloses that it is not in compliance.

(7) The Commission will invite the Department's Aquaculture Advisory Committee or a subcommittee thereof to draft and periodically update construction guidelines for closed system propagators to help them ensure enclosed facilities prevent escape of aquatic organisms into the waters of this Commonwealth. These guidelines will assist registered propagators in the design, construction and maintenance of closed systems and will assist the Commission in inspecting these systems.

(b) *Systems with discharges rendered incapable of containing living organisms.* A system whose discharge of water is rendered incapable of containing self-perpetuating living organisms shall be registered with the Department. The Department will notify the Commission when it receives an application to register a proposed system under this subsection, and the Commission may, within 30 days of receipt of the notice, inspect the system to ensure that it is designed and constructed so that its discharge is rendered incapable of containing live fish or live fish eggs. Systems registered under this subsection shall, in addition to an initial inspection, be subject to inspection at any time to ensure compliance with this section and the Commission may issue an order to suspend operations of any system when an inspection discloses that it is not in compliance. The registration of this system may include any species of fish with the approval of the Department.

(c) *Escape of fish into waters of this Commonwealth.* It is unlawful for an operator of any system registered under subsection (a) or (b) to allow fish to escape into the waters of this Commonwealth.

(d) *Written plans for discharge.* An operator of any system registered under subsection (a) or (b) shall develop, maintain and make available for immediate inspection by the Commission and the Department upon request a written plan for containing or treating discharge in the event of a discharge system failure.

(e) *Satisfaction in event of discharge.* An operator of any system registered under subsection (a) or (b) shall notify both the Commission's Director of the Bureau of Fisheries and the Department's Aquaculture Coordinator immediately in the event of a discharge system failure that is likely to contain viable living organisms.]

§ 71.4. [Stocking of designated waters] [Reserved].

[It is unlawful to place fish in waters that have been designated by the Commission as catch and release, wilderness trout or wild trout management waters except with the express written consent of the Executive Director or his designee. This section does not prohibit a person from returning fish unharmed to the waters from which they were caught or taken.]

§ 71.5. [Improper stocking of Commission fish]
[Reserved].

[In stocking fish reared or salvaged by the Commission or a cooperative nursery recognized by the Commission, the following acts are prohibited:

- (1) Failure to stock fish in waters designated by Commission personnel.
- (2) Diversion of fish to be stocked to waters not open or accessible to free public fishing.
- (3) Mishandling or misuse of fish being stocked in a manner so as to damage or destroy the fish.]

§ 71.6. [Prohibited acts] [Reserved].

[(a) Except as otherwise provided in § 71.7 (relating to triploid grass carp), it is unlawful to introduce or import grass carp (white amur) into this Commonwealth. Except as otherwise provided in § 71.7, it is unlawful to possess grass carp (white amur) in this Commonwealth.

(b) It is unlawful to introduce tilapia, including blue tilapia and tilapia hybrids, into the waters of this Commonwealth.

(c) As an exception to subsection (a), § § 71.1 and 73.1 (relating to general; and transportation), the Executive Director may authorize the Research Division of the Bureau of Fisheries to possess grass carp (white amur) and introduce them into waters within the confines of the Commonwealth hatchery system as part of a carefully controlled research effort, subject to conditions as the Executive Director may prescribe.

(d) It is unlawful to possess the following live species in this Commonwealth. It is unlawful to introduce or import the following live species into the waters of this Commonwealth:

- (1) Snakehead (all species).
- (2) Black carp (*Mylopharyngodon piceus*).
- (3) Bighead carp (*Hypophthalmichthys nobilis*).
- (4) Silver carp (*Hypophthalmichthys molitrix*).
- (5) Zebra mussel (*Dreissena polymorpha*).
- (6) Quagga mussel (*Dreissena bugensis*).
- (7) Round goby (*Neogobius melanostomus*).
- (8) Tubenose goby (*Proterorhinus marmoratus*).
- (9) European rudd (*Scardinius erythrophthalmus*).
- (10) Crayfish (all species).

(i) Except when they are either:

(A) Possessed and used as bait on, in or about the water from which taken.

(B) Possessed or imported for testing and scientific purposes or restaurant consumption, adequate measures have been taken to prevent their escape and they are accompanied by documentation stating the point of origin and the destination to which they are to be delivered.

(ii) Except when used as bait as provided in this section, introduction of live crayfish (all species) into the waters of the Commonwealth is prohibited.

- (11) Ruffe (*Gymnocephalus cernuus*).]

§ 71.7. [Triploid grass carp] [Reserved].

[(a) *Policy*. As a limited exception to the prohibition of grass carp (white amur) in this Commonwealth, it is the policy of the Commission to permit triploid grass carp, certified as such by the United States Fish and Wildlife Service (USFWS) and procured from a producer participating in the USFWS certification program, to be introduced into Commonwealth waters and imported and transported into this Commonwealth in accordance with this section.

(b) *Status*. The triploid grass carp (white amur) (*Ctenophryngodon idella*) is not a game fish.

(c) *Permit required*.

(1) The Commission finds, under section 2904 of the code (relating to permits for protection and management of particular fish), that permits shall be required for possessing triploid grass carp (white amur) or introducing them into Commonwealth waters and for importing or transporting triploid grass carp into this Commonwealth to provide for proper protection and management of these fish and other fish in the waters of this Commonwealth. A pondowner, landowner or other person who wishes to possess triploid grass carp and introduce them into a pond or waters located on property owned, leased or otherwise controlled by the person shall, before placing triploid grass carp in the waters, obtain from the Commission a triploid grass carp possession/introduction permit for a fee of \$85. A person who wishes to import triploid grass carp into this Commonwealth shall, before doing so, obtain from the Commission a triploid grass carp importation/ transportation permit for a fee of \$85. Permits shall be applied for on forms supplied by the Commission. Applications for permits may be obtained from the Triploid Grass Carp Manager, Bureau of Fisheries, 595 East Rolling Ridge Drive, Bellefonte, Pennsylvania 16823. Permits will not be issued until after January 1, 1994.

(2) A person aggrieved by a Commission staff action on a permit application may appeal under Chapter 51, Subchapter E (relating to permit procedures) and 1 Pa. Code Part II (relating to the general rules of administrative practice and procedure).

(d) *Dealers and importers*. In addition to the triploid grass carp permit required by subsection (c), dealers and importers shall obtain and maintain all licenses, permits and registrations required by the Department of Agriculture for the sale or transportation of fish.

(e) *Restrictions on introduction of triploid grass carp*.

(1) The Commission will not approve the stocking or release of triploid grass carp into a water body wholly or partially in this Commonwealth that is currently known to be inhabited by a species of animal or plant currently listed as status endangered, threatened, candidate or other special concern status, by a state or Federal agency with jurisdiction for the species, without prior written approval for the stocking or release by the agencies which classified the species as endangered, threatened, candidate or of special concern.

(2) The Commission will not approve stocking or release of triploid grass carp into wetlands under Federal or state jurisdiction except in compliance with applicable Federal or state regulations including, when required, the written approval for the stocking or release by the involved agencies.

(3) The Commission will not approve stocking or release of triploid grass carp into a body of water more than 5 acres in surface area until the applicant submits an environmental inspection report prepared by a biologist or fisheries or environmental scientist acceptable to the Commission. The environmental inspection report shall include a certification that the preparer has personally inspected the pond or body of water and that the stocking of triploid grass carp will have no adverse environmental impacts on the waters where stocked or waters upstream or downstream of the waters. The report shall describe the measures taken by the applicant to prevent escape of the grass carp into waters upstream or downstream of the stocked waters. The environmental inspection report shall also include additional information as the Commission may require.

(4) The Commission may require an applicant for a permit to stock triploid grass carp in a pond or body of water of 5 or less acres in surface area to submit an environmental inspection report in the format described in paragraph (3) when the staff's review of the application indicates that further inspection or review of the proposed stocking is appropriate under the circumstances.

(5) The issuance of permits under this section will be subject to the public notice and comment provisions of Chapter 51, Subchapter E.

(f) *Prohibited acts.*

(1) It is unlawful to transport, import, possess or introduce triploid grass carp in this Commonwealth unless the person possessing, transporting, importing or introducing the grass carp obtains and maintains required permits. Permits shall be displayed upon request to an officer authorized to enforce the code or this part.

(2) It is unlawful to transport, import, possess or introduce grass carp in this Commonwealth unless the person possessing, transporting, importing or introducing the grass carp possesses a valid bill of sale or bill of origin from a producer participating in the USFWS triploid grass carp certification program.

(3) It is unlawful to transport, import, possess or introduce grass carp in this Commonwealth unless the grass carp are certified by the USFWS to be triploid grass carp. The certification of triploid status shall be obtained from the producer at the time of purchase.

(4) It is unlawful to import, transport, possess or introduce triploid grass carp into Commonwealth waters except in compliance with this section and conditions of the applicable permits.

(5) Persons, organizations or companies are prohibited from giving, trading or exchanging triploid grass carp except to persons holding valid triploid grass carp possession/introduction permits.

(g) *Revocation or suspension of permits.*

Failure to abide by regulations, permits and permit conditions pertinent to triploid grass carp possession, transportation and introduction may result in suspension or revocation of the applicable permits in accordance with Chapter 51, Subchapter C (relating to suspension, denial or revocation of licenses, permits, registrations or privileges). Revocation or suspension shall be in addition to other applicable penalties provided by law or regulation.]

§ 71.8. [Introduction of VHS-susceptible species of fish] [Reserved].

[(a) For purposes of this section, the following terms have the following meanings:

(1) Species of fish that are susceptible to viral hemorrhagic septicemia (VHS) are those species that the Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS) designates by order or the Commission defines by notice in the *Pennsylvania Bulletin*.

(i) The term "VHS-susceptible species" includes fish that are dead or alive, preserved or unpreserved, and the parts thereof.

(ii) The term "VHS-susceptible species" does not include the eggs of these species.

(2) A VHS-affected or VHS-at risk state includes Illinois, Indiana, Michigan, Minnesota, New York, Ohio and Wisconsin or other state that APHIS later designates by order or the Commission later defines by notice in the *Pennsylvania Bulletin* as being VHS-affected or VHS-at risk.

(3) A VHS-affected or VHS-at risk region includes the Canadian provinces of Ontario and Quebec or other region that APHIS later designates by order or the Commission later defines by notice in the *Pennsylvania Bulletin* as being VHS-affected or VHS-at risk.

(b) It is unlawful to introduce VHS-susceptible species of fish from the portion of the Lake Erie watershed in this Commonwealth into other watersheds of this Commonwealth except in accordance with § 69.3(d) (relating to transportation, introduction and sale of VHS-susceptible species of fish out of the Lake Erie watershed).

(c) It is unlawful to introduce into the waters of this Commonwealth VHS-susceptible species of fish from an affected or at-risk state unless the fish are from a group of fish certified as having tested negative for VHS or are from an artificial propagation facility certified as having tested negative for VHS in accordance with the testing protocols adopted by the Pennsylvania Department of Agriculture and approved by the Commission.

(d) It is unlawful to introduce into the waters of this Commonwealth VHS-susceptible species of fish from an affected or at-risk region unless the fish meet the requirements of § 73.3(d)(1) (relating to transportation and importation of VHS-susceptible species of fish).]

(Editor's Note: The following Chapter is proposed to be added and is printed in regular type to enhance readability.)

**CHAPTER 71a. PROPAGATION AND
INTRODUCTION OF FISH INTO
COMMONWEALTH WATERS**

Subchap.

- A. SCOPE AND ADMINISTRATIVE PROVISIONS**
- B. PROPAGATION OF FISH IN THIS COMMONWEALTH**
- C. FISH INTRODUCTION AND HEALTH MANDATES**
- D. PROHIBITED SPECIES, AQUATIC INVASIVE SPECIES AND VECTOR PREVENTION**

**Subchapter A. SCOPE AND
ADMINISTRATIVE PROVISIONS**

Sec.

- 71a.1. Authority and definitions.
- 71a.2. General.

§ 71a.1. Authority and definitions.

(a) *Authority.* Under section 2102 of the code (relating to rules and regulations), the Commission may promulgate rules and regulations to preserve, protect and enhance the fishery interests of the Commonwealth.

(b) *Definitions.* The following words, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Department—The Department of Agriculture of this Commonwealth.

Diploid—Having two haploid sets of homologous chromosomes.

Genetically modified—An organism whose genome, chromosomal or extrachromosomal, is modified permanently and heritably, using recombinant nucleic acid techniques and includes the progeny of any genetically modified organism derived therefrom.

Grass carp—*Ctenophryngodon idella*, also known as white amur.

Triploid—Having three haploid sets of homologous chromosomes.

§ 71a.2. General.

Except as provided in §§ 71a.5(a)(1) and 71a.13(a) (relating to stocking authorization from the Commission; and bait fish importation and use), no species of fish may be introduced into waters of this Commonwealth, unless baited on a hook for angling purposes, without an approved stocking authorization from the Commission. For the purposes of this section, “waters of this Commonwealth” does not include waters contained within a property or premises of a propagation facility licensed under 3 Pa.C.S. §§ 4201—4223 (relating to Aquacultural Development Law). Fish health certification requirements provided in § 71a.6 (relating to fish health certificate requirements) shall be adhered to, when applicable.

**Subchapter B. PROPAGATION OF FISH
IN THIS COMMONWEALTH**

Sec.

- 71a.3. Fish propagation and introduction list.
- 71a.4. Closed system propagation.

§ 71a.3. Fish propagation and introduction list.

(a) *General.* The Bureau of Fisheries will maintain a list of species by watershed for which the Department may issue registrations for artificial propagation and registrations for dealers of live aquatic animals. The Director of the Bureau of Fisheries may update or modify the list of authorized species by adding species to, or deleting species from, the list as necessary to provide for the protection and management of fish and fishing in this Commonwealth. The Commission will provide the list to the Department on or before January 31 each year and

whenever the Commission updates or modifies the list. Copies of the list of authorized species are available upon request from the Fish and Boat Commission, Bureau of Fisheries, 595 East Rolling Ridge Drive, Bellefonte, Pennsylvania 16823.

(b) *Grass carp.*

(1) It is unlawful to propagate grass carp, diploid or triploid, in this Commonwealth.

(2) The introduction or importation of grass carp into this Commonwealth or waters of this Commonwealth is prohibited, except that triploid grass carp may be introduced as provided in § 71a.10 (relating to triploid grass carp).

(c) *Genetically modified fish.* A genetically modified fish may not be propagated and introduced into waters of this Commonwealth without an approved stocking authorization from the Commission.

§ 71a.4. Closed system propagation.

(a) *Closed (no discharge) system.*

(1) A propagating system may be designated as a closed system only if all of the following criteria are met:

(i) There will be 100% recycling water as normal operations.

(ii) The system will be housed indoors in a structure enclosed by solid walls, floor and roof. For purposes of this subsection, a wall, floor or roof will be considered solid if it is constructed and maintained to prevent unauthorized human or animal intrusions into the closed system facility and to prevent release or escape of aquatic organisms from the closed system.

(iii) Water can be added to the system only for making up evaporative loss, cleaning and fish harvesting or to reduce toxic ammonia/nitrates by diluting.

(iv) The system does not discharge water into waters of this Commonwealth.

(v) No live fish or live fish eggs will be allowed to escape with water discharges. Accidental spillage of live fish or live fish eggs, including truck loading and the like, will be contained within the facility in a manner that will prevent fish and fish eggs from escaping into the waters of this Commonwealth.

(vi) The system operator is registered with the Department.

(2) The Department will notify the Commission when it receives an application to register a proposed closed system, and the Commission may, within 30 days of receipt of the notice, inspect the system to ensure that it is designed and constructed in a manner to prevent escape of live fish or live fish eggs into the waters of this Commonwealth. A closed system registered under this subsection shall, in addition to an initial inspection, be subject to inspection at any time to ensure compliance with the requirements of this section, and the Commission may issue an order to suspend operations of a closed system when an inspection discloses that it is not in compliance.

(3) The Commission will invite the Department’s Aquaculture Advisory Committee or a subcommittee thereof to draft and periodically update construction guidelines for closed system propagators to help them ensure enclosed facilities prevent escape of aquatic organisms into the

waters of this Commonwealth. These guidelines will assist registered propagators in the design, construction, and maintenance of closed systems and will assist the Commission in inspecting these systems.

(b) *Systems with discharges rendered incapable of containing living organisms.* A system whose discharge of water is rendered incapable of containing self-perpetuating living organisms shall be registered with the Department. The Department will notify the Commission when it receives an application to register a proposed system under this subsection, and the Commission may, within 30 days of receipt of the notice, inspect the system to ensure that it is designed and constructed so that its discharge is rendered incapable of containing live fish or live fish eggs. A system registered under this subsection shall, in addition to an initial inspection, be subject to inspection at any time to ensure compliance with this section, and the Commission may issue an order to suspend operations of the system when an inspection discloses that it is not in compliance. The registration of a system may include any species of fish with the approval of the Department.

(c) *Escape of fish into waters of this Commonwealth.* It is unlawful for an operator of a system registered under subsection (a) or (b) to allow fish to escape into the waters of this Commonwealth.

(d) *Written plans for discharge.* An operator of a system registered under subsection (a) or (b) shall develop, maintain and make available for immediate inspection by the Commission and the Department upon request a written plan for containing or treating discharge in the event of a discharge system failure.

(e) *Notification in event of discharge.* An operator of a system registered under subsection (a) or (b) shall notify both the Commission's Director of the Bureau of Fisheries and the Department's Aquaculture Coordinator immediately in the event of a discharge system failure that is likely to contain viable living organisms.

Subchapter C. FISH INTRODUCTION AND HEALTH MANDATES

- Sec. Stocking authorization from the Commission.
- 71a.5. Fish health certificate requirements.
- 71a.6. Introduction or transportation of VHS-susceptible species of fish.
- 71a.7. Stocking of designated waters.
- 71a.8. Improper stocking of Commission fish.
- 71a.9. Triploid grass carp.
- 71a.10.

§ 71a.5. Stocking authorization from the Commission.

(a) *General.*

(1) No species of fish may be introduced, placed or stocked, unless baited on a hook for angling purposes, into waters of this Commonwealth without an approved stocking authorization from the Commission. For the purposes of this subsection, "waters of this Commonwealth" do not include waters contained within a property or premises of a propagation facility licensed under 3 Pa.C.S. §§ 4201—4223 (relating to Aquacultural Development Law). Inspection for species composition or presence of disease, or both, will be required at the discretion of the Commission on all lots of fish transported into this Commonwealth. Persons authorized by the Commission to stock fish shall ensure water used to transport fish does not contain nonnative, injurious or harmful pathogens, or any other fish or aquatic species other than those authorized. An electronic or hard copy of the authorization shall be present at the approved location and date during the time fish are stocked. In the event the authorized

person is not present during the time of stocking, an entity stocking fish on behalf of the authorized person shall possess a copy of the authorization. The Commission retains the right to amend an issued stocking authorization for fisheries management or fish health purposes.

(2) The following apply:

(i) All of the following do not require a stocking authorization:

(A) Fish not on a Commission prohibited species list and raised and sold for the intended uses of indoor aquaria.

(B) Fee fishing operations located on the same property as a propagation facility licensed under 3 Pa.C.S. §§ 4201—4223.

(C) Outdoor ornamental ponds not discharging into a water of this Commonwealth.

(ii) Species obtained through or originating from pet stores or tropical and ornamental fish dealers may not be released into waters of this Commonwealth.

(b) *Stocking authorization applications.* Applications shall be made on forms prescribed by the Commission. In addition to the information required under 1 Pa. Code § 35.2 (relating to contents of applications), applicants must provide other information as may be required by the Commission to fully review the application. Incomplete applications will be returned without action.

(c) *Staff review.* Commission staff will administratively review stocking authorization applications filed with the Commission. If, after administrative review, staff conclude the proposed stocking activity is unlikely to result in adverse impacts to fish, fish habitat or fishing, the stocking authorization may be approved. If, after administrative review of the application, staff determine the proposed stocking activity creates a likelihood of adverse impacts to fish, fish habitat or fishing, staff may amend an application for fisheries management or fish health purposes to approve a proposed stocking activity. If no amendment is possible, a stocking authorization may be denied.

(d) *Appeals.* A party aggrieved by a staff decision under this subchapter may appeal to the Commission in the manner provided under 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

(e) *Procedure.* The Commission will designate one or more presiding officers to conduct hearings on issuance or denials of a stocking authorization. Part II of 1 Pa. Code (relating to General Rules of Administrative Practice and Procedure) applies to proceedings under this subchapter. The presiding officer will file a proposed report with the Commission as provided in 1 Pa. Code § 35.202 (relating to proceedings in which proposed reports are prepared). A party filing exceptions to a proposed report may, by motion, request the opportunity to present oral argument to the Executive Director. If the motion is granted, oral argument will ordinarily be scheduled before the Executive Director. Oral argument to the Executive Director will not exceed 15 minutes per party. This subsection supplements 1 Pa. Code § 35.214 (relating to oral argument on exceptions). The Commission's chief counsel will either represent the staff in proceedings before the presiding officer or the Executive Director, or will advise and counsel the Executive Director on its final decision.

(f) *Final agency action.* After considering the entire record in the case, including an oral argument permitted before the Executive Director, the Executive Director will grant or deny the requested stocking authorization. The

Executive Director's decision will be forwarded to the parties in writing and will constitute the agency adjudication on the matter under review.

(g) *Exceptions.* Exceptions from a stocking authorization will require prior written approval from the Commission.

(h) *Effective Date.* Subsections (a)—(g) shall take effect January 1, 2025. From January 1, 2023, through December 31, 2024, all persons stocking fish in waters of this Commonwealth shall complete and send a notice of stocking to the Commission. The notice of stocking shall be on a form provided by the Commission and possessed by a person while a stocking occurs.

§ 71a.6. Fish health certificate requirements.

(a) A fish health certificate may be required, as specified in subsection (b), for fish being imported into this Commonwealth and shall certify fish intending to be introduced, placed or stocked in waters of this Commonwealth are free of specific diseases, pathogens or parasites determined by the Commission to be of a risk to the fishery interests of the Commonwealth. The Commission will consult with the Department for potential testing of dangerous transmissible diseases of fish.

(b) The Commission shall develop a Fish Health Inspection Protocol for Importation into the Commonwealth and Introduction into Waters of this Commonwealth (protocol). The Commission shall determine which diseases, pathogens or parasites are required for testing for species of fish intending to be introduced into waters of this Commonwealth. The Commission will consult with the Department for potential testing of dangerous transmissible diseases of fish. Fish health certification requirements and procedures shall be modified or updated by the Commission, as necessary. When updates to the protocol occur, the Commission shall publish the protocol as a notice in the *Pennsylvania Bulletin* and notify the Department of the changes.

(c) The Commission may require testing for intrastate introduction, placement or stocking of fish, as specified in subsection (b), to prevent the introduction or spread of specific diseases, pathogens or parasites that pose a risk to the fishery interests of the Commonwealth. The Commission will consult with the Department for potential testing of dangerous transmissible diseases of fish.

(d) The following fish health requirements apply to the importation of fish into this Commonwealth:

(1) Fish and fish eggs imported into this Commonwealth must originate from sources that provide a copy of the fish health certification report for all applicable fish being stocked as indicated in the protocol, or a copy of the fish health certification report for the artificial propagation facility if the fish are from a facility that has been certified as having tested negative for all applicable fish pathogens, unless the fish meet one of the following requirements:

(i) The fish are being transported through this Commonwealth, the shipping container remains bio-secure in transit and the fish are accompanied by documentation stating the point of origin of the fish and the location outside of this Commonwealth where they are to be delivered.

(ii) The fish are being transported to facilities located within this Commonwealth for testing and scientific purposes, the persons transporting the fish have taken adequate measures to prevent escape and to disinfect discharged water and equipment used in the transporta-

tion of the fish, and the fish are accompanied in transit by documentation stating the point of origin of the fish and the destination where they are to be delivered for testing or scientific purposes.

(iii) The fish are being transported to a slaughter facility, processing plant or restaurant within this Commonwealth, and the fish are accompanied in transit by documentation stating the point of origin of the fish and the destination where they are to be delivered for slaughter, processing or consumption.

(iv) The fish are dead, recreationally caught fish that are being transported solely for the purpose of human consumption or taxidermy.

(2) Specific testing requirements may vary depending on the species of fish, geographical location of the shipping facility or source and the final designated end use of the fish being imported into this Commonwealth.

(3) Documentation of testing results shall remain with the fish during transport and be produced upon request.

(e) The following fish health requirements apply to the introduction of fish into waters of this Commonwealth:

(1) Fish being introduced into waters of this Commonwealth must originate from sources that comply with the fish health inspection process described in the protocol.

(2) Specific testing requirements may vary depending on the species, origin and final location of where the fish are being introduced into waters of this Commonwealth.

(3) The stocking authorization applicant or their agent shall have in their possession, and present upon the request of an officer authorized to enforce the code:

(i) a copy of the fish health certification report for all applicable fish being stocked as indicated in the protocol and the approved authorization; or

(ii) the approved authorization and a copy of the fish health certification report for the artificial propagation facility if the fish are from a facility that has been certified as having tested negative for all applicable fish pathogens as indicated in the protocol and authorization.

(4) Fish being introduced into waters of this Commonwealth must be free of clinical signs of disease such as visible lesions, hemorrhaging and visible fungi.

(f) The Commission grants a 2-year period for full implementation of the protocol through December 31, 2024.

§ 71a.7. Introduction or transportation of VHS-susceptible species of fish.

(a) *Intrastate transportation.* It is unlawful to introduce, transport or cause the transportation of VHS-susceptible species of fish from the portion of the Lake Erie watershed in this Commonwealth into other watersheds of this Commonwealth, except in accordance with § 69.3(b) and (d) (relating to transportation, introduction and sale of VHS-susceptible species of fish out of the Lake Erie watershed).

(b) *Interstate transportation.* It is unlawful to introduce, transport or cause the transportation into the waters of this Commonwealth of VHS-susceptible species of fish from an affected or at-risk region or state unless the fish meet one of the following requirements:

(1) The fish are from a group of fish certified as having tested negative for VHS or are from an artificial propagation facility certified as having tested negative for VHS in accordance with the testing protocols adopted by the Department and approved by the Commission. Persons transporting these fish shall have in their possession, and present upon the request of an officer authorized to enforce the code, a copy of the fish health certification reports for all VHS-susceptible species of fish being transported or a copy of the fish health certification report for the artificial propagation facility if the fish are from a facility that has been certified as having tested negative for VHS.

(2) The fish are being transported through this Commonwealth and the shipping container, including a tank, trailer, holding vessel or other container, remains biosecure in transit and the fish are accompanied in transit by documentation stating the point of origin of the fish and the location outside of this Commonwealth to which they are to be delivered.

(3) All of the following apply:

(i) The fish are being transported to facilities located within this Commonwealth for testing and scientific purposes.

(ii) The persons transporting the fish have taken adequate measures to prevent escape and to disinfect discharged water and equipment used in the transportation of the fish.

(iii) The fish are accompanied in transit by documentation stating the point of origin of the fish and the destination to which they are to be delivered for testing or scientific purposes.

(4) The fish are being transported to a slaughter facility, processing plant or restaurant within this Commonwealth and the fish are accompanied in transit by documentation stating the point of origin of the fish and the destination to which they are to be delivered for slaughter, processing or consumption.

(5) The fish are dead, recreationally caught fish that are being transported solely for the purpose of human consumption.

(c) *International movement.*

(1) Except as provided in paragraph (2), it is unlawful to import or cause the importation of VHS-susceptible species of fish into this Commonwealth from a VHS-affected region or VHS-at risk region.

(2) VHS-susceptible species of dead fish may be imported into the United States if the fish are recreationally caught and are for human consumption.

(d) *Definitions.* The following terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

VHS-affected region or *VHS-at risk region*—Includes the Canadian provinces of Ontario and Quebec or other region that the Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS) later designates by order or the Commission later defines by notice in the *Pennsylvania Bulletin* as being a VHS-affected region or VHS-at risk region.

VHS-affected state or *VHS-at risk state*—Includes Illinois, Indiana, Michigan, Minnesota, New York, Ohio and Wisconsin or other state that APHIS later designates by order or the Commission later defines by notice in the *Pennsylvania Bulletin* as being a VHS-affected state or VHS-at risk state.

VHS-susceptible species—Those species of fish that APHIS designates by order or the Commission defines by notice in the *Pennsylvania Bulletin*. The term:

(1) Includes fish that are dead or alive, preserved or unpreserved, and the parts of the fish.

(2) Does not include the eggs of these species.

§ 71a.8. Stocking of designated waters.

It is unlawful to introduce, place or stock fish in waters that have been designated by the Commission as catch and release, wilderness trout or wild trout management waters except with the express written consent of the Executive Director or his designee. This section does not prohibit a person from returning fish unharmed to the waters from which they were caught or taken.

§ 71a.9. Improper stocking of Commission fish.

When stocking fish reared or salvaged by the Commission or a cooperative nursery recognized by the Commission, the following acts are prohibited:

(1) Failure to stock fish in waters designated by Commission personnel.

(2) Diversion of fish to be stocked to waters not open or accessible to free public fishing.

(3) Mishandling or misuse of fish being stocked in a manner so as to damage or destroy the fish.

§ 71a.10. Triploid grass carp.

(a) *Policy.* As a limited exception to the prohibition of grass carp in this Commonwealth, it is the policy of the Commission to permit triploid grass carp, certified as such by the United States Fish and Wildlife Service (USFWS) and procured from a producer participating in the USFWS certification program, to be introduced into Commonwealth waters and imported and transported into this Commonwealth in accordance with this section.

(b) *Status.* The triploid grass carp is not a game fish.

(c) *Permit required.*

(1) The Commission finds, under section 2904 of the code (relating to permits for protection and management of particular fish), that permits shall be required for possessing triploid grass carp or introducing them into Commonwealth waters and for importing or transporting triploid grass carp into this Commonwealth to provide for proper protection and management of these fish and other fish in the waters of this Commonwealth. A pond owner, landowner or other person who wishes to possess triploid grass carp and introduce them into a pond or waters located on property owned, leased or otherwise controlled by the person shall, before placing triploid grass carp in the waters, obtain from the Commission a triploid grass carp possession/introduction permit for a fee of \$85. A person who wishes to import triploid grass carp into this Commonwealth shall, before doing so, obtain from the Commission a triploid grass carp importation/transportation permit for a fee of \$85. Permits shall be applied for on forms supplied by the Commission. Applications for permits may be obtained from the Triploid Grass Carp Manager, Bureau of Fisheries, 595 East Rolling Ridge Drive, Bellefonte, Pennsylvania 16823. Live triploid grass carp imported and intended for introduction into waters of this Commonwealth shall be in compliance with § 71a.6 (relating to fish health certificate requirements).

(2) A person aggrieved by a Commission staff action on a permit application may appeal under Chapter 51, Subchapter E (relating to permit procedures) and 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure).

(d) *Dealers and importers.* In addition to the triploid grass carp permit required under subsection (c), dealers and importers shall obtain and maintain all licenses, permits and registrations required by the Department for the sale or transportation of fish.

(e) *Restrictions on introduction of triploid grass carp.*

(1) The Commission will not approve the stocking or release of triploid grass carp into a water body wholly or partially in this Commonwealth that is currently known to be inhabited by a species of animal or plant currently listed as status endangered, threatened, candidate or other special concern status, by a Federal or state agency with jurisdiction for the species, without prior written approval for the stocking or release by the agencies which classified the species as endangered, threatened, candidate or of special concern.

(2) The Commission will not approve stocking or release of triploid grass carp into wetlands under Federal or state jurisdiction except in compliance with applicable Federal or state regulations including, when required, the written approval for the stocking or release by the involved agencies.

(3) The Commission will not approve stocking or release of triploid grass carp into a body of water more than 5 acres in surface area until the applicant submits an environmental inspection report prepared by a biologist or fisheries or environmental scientist acceptable to the Commission. The environmental inspection report shall include all of the following:

(i) A certification that the preparer has personally inspected the pond or body of water and that the stocking of triploid grass carp will have no adverse environmental impacts on the waters where stocked or waters upstream or downstream of the waters.

(ii) A description of the measures taken by the applicant to prevent escape of the grass carp into waters upstream or downstream of the stocked waters.

(iii) Additional information as the Commission may require.

(4) The Commission may require an applicant for a permit to stock triploid grass carp in a pond or body of water of 5 or less acres in surface area to submit an environmental inspection report in the format described in paragraph (3) when the staff's review of the application indicates that further inspection or review of the proposed stocking is appropriate under the circumstances.

(5) The issuance of permits under this section will be subject to the public notice and comment provisions of Chapter 51, Subchapter E.

(f) *Prohibited acts.*

(1) It is unlawful to transport, import, possess or introduce triploid grass carp in this Commonwealth unless the person possessing, transporting, importing or introducing the grass carp obtains and maintains required permits, possesses a valid bill of sale or bill of origin from a producer participating in the USFWS triploid grass carp certification program, and the grass carp are certified by the USFWS to be triploid grass carp. Permits shall be displayed upon request to an officer authorized to enforce the code or this part. The certification of triploid status shall be obtained from the producer at the time of purchase.

(2) Persons, organizations or companies are prohibited from giving, trading or exchanging triploid grass carp except to persons holding valid triploid grass carp possession/introduction permits.

(g) *Revocation or suspension of permits.* Failure to abide by regulations, permits and permit conditions pertinent to triploid grass carp possession, transportation and introduction may result in suspension or revocation of the applicable permits in accordance with Chapter 51, Subchapter C (relating to suspension, denial or revocation of licenses, permits, registrations or privileges). Revocation or suspension shall be in addition to other applicable penalties provided by law or regulation.

Subchapter D. PROHIBITED SPECIES, AQUATIC INVASIVE SPECIES AND VECTOR PREVENTION

Sec

71a.11. Prohibited species.

71a.12. Watercraft requirements and prohibitions.

71a.13. Bait fish importation and use.

§ 71a.11. Prohibited species.

(a) It is unlawful to introduce, import, possess or transport in or through this Commonwealth, or the waters of this Commonwealth, the following species:

(1) Snakehead (all species).

(2) Black carp (*Mylopharyngodon piceus*).

(3) Bighead carp (*Hypophthalmichthys nobilis*).

(4) Silver carp (*Hypophthalmichthys molitrix*).

(5) Zebra mussel (*Dreissena polymorpha*).

(6) Quagga mussel (*Dreissena rostriformis bugensis*).

(7) New Zealand mud snail (*Potamopyrgus anti podarum*).

(8) Round goby (*Neogobius melanostomus*).

(9) Freshwater tubenose goby (*Proterorhinus semi lunaris*).

(10) European rudd (*Scardinius erythrophthalmus*).

(11) Crayfish (all live species), except when any of the following apply:

(i) Possessed and used as bait on, in or about the water from which taken.

(ii) Possessed or imported for testing and scientific purposes or restaurant consumption, adequate measures have been taken to prevent their escape and they are accompanied by documentation stating the point of origin and the destination to which they are to be delivered.

(iii) Dead with the head removed or salted and dried for angling purposes.

(12) Ruffe (*Gymnocephalus cernua*).

(13) An aquatic plant or the seeds of an aquatic plant that have been designated by the Department's Controlled Plant and Noxious Weed Committee, under 3 Pa.C.S. §§ 1501—1562 (relating to controlled plants and noxious weeds), as a noxious weed or controlled plant, without the proper general or individual permit as required under 3 Pa.C.S. §§ 1512, 1513 and 1514 (relating to permits; general permits; and individual permits).

(b) *Exceptions.* Species in subsection (a)(1)—(4) may be possessed in this Commonwealth for the purposes of consumption or slaughter only. Other exceptions for species in subsection (a) shall require prior written approval from the Commission's Executive Director.

§ 71a.12. Watercraft requirements and prohibitions.

(a) *General.* No person may place or attempt to place a watercraft, trailer or water-related equipment into waters of this Commonwealth, including aquatic plant harvesting or control equipment that has aquatic macrophytes, plants or prohibited invasive species attached, in whole or in part, except as provided in this section.

(b) *Removal and confinement.*

(1) A waterways conservation officer may order the following:

(i) Removal of aquatic macrophytes, plants or prohibited invasive species listed in § 71a.11(a) (relating to prohibited species) from a watercraft, trailer or water-related equipment before being transported or before it is placed into waters of this Commonwealth.

(ii) Confinement of the watercraft at a mooring, dock or other location until the related equipment is removed from the water.

(iii) Removal of watercraft from a water of this Commonwealth to remove prohibited invasive species if the water has not been listed by the Commission as being infected with that species.

(iv) A prohibition on placing a watercraft into a water of this Commonwealth when the watercraft has aquatic macrophytes, plants or prohibited invasive species attached in violation of subsection (a) or when water has not been drained or the drain plug has not been removed in violation of subsection (c).

(v) Decontamination of a watercraft, if possible, on site.

(2) An order for removal of prohibited invasive species under paragraph (1)(i) or decontamination of a watercraft under paragraph (1)(v) may include issuing a notice that specifies a time frame for completing the removal or decontamination and re-inspection of the watercraft.

(c) *Persons transporting watercraft.*

(1) When leaving a water of this Commonwealth, a person must drain a watercraft holding water and live wells and bilges by removing the drain plug before transporting the watercraft. Transporting includes moving the watercraft over land between connected or unconnected waterbodies but does not include moving watercraft within the immediate area required for loading and preparing the watercraft for transport over land. A person transporting game fish as a result of a tournament for weigh-in purposes is not subject to this subsection.

(2) Drain plugs, bailers, valves or other devices used to control the draining of water from ballast tanks, bilges and live wells must be removed or opened while transporting watercraft.

(3) A person shall ensure the watercraft, trailer, motor, fishing supplies, fishing gear and conveyance used to transport the watercraft and trailer are free of aquatic organisms, including vegetation.

§ 71a.13. Bait fish importation and use.

(a) A person may not release or dispose live bait fish into a water of this Commonwealth, except live bait fish baited on a hook for angling purposes. A person may collect live bait fish for angling. A species of bait fish collected for use as bait may not be transferred from waters in this Commonwealth into another drainage of this Commonwealth where this particular species does not already exist. This subsection does not apply to the Commission or a propagation facility licensed by the Department under 3 Pa.C.S. §§ 4201—4223 (relating to Aquacultural Development Law) for the purpose of releasing bait fish into waters of this Commonwealth as food for aquaculture or fisheries management purposes.

(b) Live bait fish imported and intended for introduction into waters of this Commonwealth shall be in compliance with § 71a.6 (relating to fish health certificate requirements).

(c) This section does not apply to dead bait fish, salted or frozen, sold for angling purposes outside the Lake Erie watershed. The provisions of § 71a.7 (relating to introduction or transportation of VHS-susceptible species of fish) shall be adhered to for purposes of this section.

CHAPTER 73. [TRANSPORTATION OF LIVE FISH INTO THE COMMONWEALTH] [Reserved]

§ 73.1. [Transportation] [Reserved].

[(a) Species of fish may not be transported into this Commonwealth from another state, province or country and liberated in a watershed of this Commonwealth without previous written permission from the Commission, nor may a species of fish be transferred from waters in this Commonwealth into another drainage of this Commonwealth where this particular species is not always present without prior written consent from the Commission. Inspection for species composition or presence of disease, or both, will be required at the discretion of the Commission on all lots of fish transported into this Commonwealth.

(b) Permission is not required for the importation of tropical fish unless the Commission considers them to be potentially dangerous to native fish species or to man. Permission is not required for the stocking of farm ponds or licensed fee fishing ponds which receive fish stocks from Commonwealth commercial fish hatcheries except for the following kinds of fish: goldfish, golden orfe or fish species not native to this Commonwealth.

(c) Except as provided in § 71.7 (relating to triploid grass carp), transportation of the grass carp (white amur) in this Commonwealth is prohibited.

(d) Transportation of the following live species in or through this Commonwealth is prohibited.

- (1) Snakehead (all species).**
- (2) Black carp (*Mylopharyngodon piceus*).**
- (3) Bighead carp (*Hypophthalmichthys nobilis*).**
- (4) Silver carp (*Hypophthalmichthys molitrix*).**
- (5) Zebra mussel (*Dreissena polymorpha*).**
- (6) Quagga mussel (*Dreissena bugensis*).**
- (7) Round goby (*Neogobius melanostomus*).**
- (8) Tubenose goby (*Proterorhinus marmoratus*).**
- (9) European rudd (*Scardinius erythrophthalmus*).**
- (10) Crayfish (all species) except when they are either transported:**

(i) As bait on, in or about the water from which taken.

(ii) For testing and scientific purposes or restaurant consumption, adequate measures have been taken to prevent their escape and they are accompanied by documentation stating the point of origin and the destination to which they are to be delivered.

- (11) Ruffe (*Gymnocephalus cernuus*).**]

§ 73.3. [Transportation and importation of VHS-susceptible species of fish] [Reserved].

[(a) Definitions. For purposes of this section, the following terms have the following meanings:

(1) Species of fish that are susceptible to viral hemorrhagic septicemia (VHS) are those species that the Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS) designates by order or the Commission defines by notice in the *Pennsylvania Bulletin*.

(i) The term "VHS-susceptible species" includes fish that are dead or alive, preserved or unpreserved, and the parts thereof.

(ii) The term "VHS-susceptible species" does not include the eggs of these species.

(2) A VHS-affected or VHS-at risk state includes Illinois, Indiana, Michigan, Minnesota, New York, Ohio and Wisconsin or other state that APHIS later designates by order or the Commission later defines by notice in the *Pennsylvania Bulletin* as being VHS-affected or VHS-at risk.

(3) A VHS-affected or VHS-at risk region includes the Canadian provinces of Ontario and Quebec or other region that APHIS later designates by order or the Commission later defines by notice in the *Pennsylvania Bulletin* as being VHS-affected or VHS-at risk.

(b) *Intrastate transportation.* It is unlawful to transport or cause the transportation of VHS-susceptible species of fish out of the portion of the Lake Erie watershed in this Commonwealth into other watersheds of this Commonwealth except in accordance with § 69.3(b) (relating to transportation, introduction and sale of VHS-susceptible species of fish out of the Lake Erie watershed).

(c) *Interstate transportation.* It is unlawful to transport or cause the transportation of VHS-susceptible species of fish into this Commonwealth from a VHS-affected or VHS-at risk state, except when one of the following conditions is met:

(1) The fish are from a group of fish certified as having tested negative for VHS or are from an artificial propagation facility certified as having tested negative for VHS in accordance with the testing protocols adopted by the Pennsylvania Department of Agriculture (Department) and approved by the Commission. Persons transporting these fish shall have in their possession, and present upon the request of an officer authorized to enforce the code, a copy of the fish health certification reports for all VHS-susceptible fish being transported or a copy of the fish health certification report for the artificial propagation facility if the fish are from a facility that has been certified as having tested negative for VHS.

(2) The fish are being transported through this Commonwealth and the shipping container (tank, trailer, holding vessel or other container) remains biosecure in transit and the fish are accompanied in transit by documentation stating the point of origin of the fish and the location outside of this Commonwealth to which they are to be delivered.

(3) The fish are being transported to facilities located within this Commonwealth for testing and scientific purposes and the persons transporting the fish have taken adequate measures to prevent escape and to disinfect discharged water and equipment used in the transportation of the fish and the fish are accompanied in transit by documentation stating the point of origin of the fish and

the destination to which they are to be delivered for testing or scientific purposes.

(4) The fish are being transported to a slaughter facility, processing plant or restaurant within this Commonwealth and the fish are accompanied in transit by documentation stating the point of origin of the fish and the destination to which they are to be delivered for slaughter, processing or consumption.

(5) The fish are dead, recreationally caught fish that are being transported solely for the purpose of human consumption.

(d) *International movement.* It is unlawful to import or cause the importation of VHS-susceptible species of fish into this Commonwealth from a VHS-affected or VHS-at risk region, except as follows: VHS-susceptible species of dead fish may be imported into the United States if the fish are recreationally caught and are for human consumption.]

[Pa.B. Doc. No. 22-895. Filed for public inspection June 17, 2022, 9:00 a.m.]

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 63]

Fishing; 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 Fish and Boat Code) (code). The proposed amendment updates the Commission's regulations pertaining to fish processing at noncommercial officially-recognized fish cleaning stations.

A. *Effective Date*

This proposed rulemaking, if approved on final-form rulemaking, shall take effect upon publication in the *Pennsylvania Bulletin*.

B. *Contact Person*

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

C. *Statutory Authority*

This proposed amendment to § 63.15a (relating to officially-recognized fish cleaning stations) is published under the statutory authority of section 2102(a) of the code (relating to rules and regulations).

D. *Purpose and Background*

The specific purpose and background of the proposed amendment is described in more detail under the summary of proposal.

E. *Summary of Proposal*

Waterways Conservation Officers (WCO) of the Commission are requesting that a 2-inch by 2-inch piece of skin remain on fish fillets and the chunking of the fillets be prohibited. This will assist in the identification of fish that are harvested and processed at noncommercial offi-

cially recognized fish cleaning stations throughout this Commonwealth. Without the skin, it is difficult for WCOs to identify the species of fish from the fillet. Chunking makes it difficult for WCOs to identify the number of fish filleted.

Staff from the Commission’s Bureau of Law Enforcement have conferred and support a change to the regulation which would prohibit the removal of skin from fish fillets at noncommercial officially recognized fish cleaning stations. This will simplify the identification of the fish that are harvested or processed at these locations.

The Commission proposes that § 63.15a be amended to read as set forth in Annex A.

F. *Paperwork*

This proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

G. *Fiscal Impact*

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

H. *Public Comments*

Interested persons are invited to submit written comments, objections or suggestions about this 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 notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/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. Electronic comments submitted in any other manner will not be accepted.

TIMOTHY D. SCHAEFFER,
Executive Director

Fiscal Note: 48A-332. 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

§ 63.15a. Officially-recognized fish cleaning stations.

* * * * *

(d) *Application.* An operator of a fish cleaning station may apply for official recognition to: Director, Bureau of Law Enforcement Pennsylvania Fish and Boat Commission Post Office Box 67000 Harrisburg, Pennsylvania 17106-7000

(e) Identification. Noncommercial officially-recognized fish cleaning station users shall leave at least a 2-inch by 2-inch piece of skin on processed fillets for identification purposes. Cutting the fillets into pieces (also known as chunking) is prohibited.

[Pa.B. Doc. No. 22-896. Filed for public inspection June 17, 2022, 9:00 a.m.]

FISH AND BOAT COMMISSION

[58 PA. CODE CHS. 103, 105, 109 AND 111]

Boating

The Fish and Boat Commission (Commission) proposes to amend Chapters 103, 105, 109 and 111. The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). The proposed amendments update the Commission’s regulations relating to boat-towed watersports.

A. *Effective Date*

This proposed rulemaking, if approved on final-form rulemaking, shall take effect January 1, 2023.

B. *Contact Person*

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

C. *Statutory Authority*

The proposed amendment to § 105.1 (relating to conditions requiring immediate corrective action), is published under the statutory authority of section 5123 of the code (relating to general boating regulations). The proposed amendments to §§ 103.3 and 105.3 (relating to restrictions for special areas; and unacceptable boating practices) are published under the statutory authority of section 5123(a) of the code. The proposed amendment to § 109.4 (relating to waterskiing, aquaplaning, kiteskiing and similar activities) is published under the statutory authority of section 5123(a)(5) of the code. The proposed amendments to §§ 111.2, 111.3, 111.6, 111.13, 111.58, 111.64 and 111.66 are published under the statutory authority of section 5124(a) of the code (relating to particular areas of water).

D. *Purpose and Background*

The specific purpose and background of the proposed amendments are described in more detail under the summary of proposal.

E. *Summary of Proposal*

On September 28, 2021, the National Association of State Boating Law Administrators (NASBLA) membership adopted a model act for safe boating practices for boat-towed watersports. This act was originally adopted in 2003, then modified in 2004, 2005 and 2007 to reflect safety issues and current trends in recreational boating activity. In February 2020, the NASBLA Enforcement and Training Committee accepted a charge to examine and update an earlier version of the act, based on new equipment and technologies in towed watersports activities. The revised model act was presented to the NASBLA membership and voted upon at the 2021 annual conference in Pittsburgh, Pennsylvania. The Commission has reviewed and selected relevant portions of the act to incorporate and modernize its regulations in §§ 103.3, 105.1, 105.3, 109.4, 111.2, 111.3, 111.6, 111.13, 111.58, 111.64 and 111.66. These proposed amendments also include corrections to inconsistent wording relating to these changes.

The Commission proposes that §§ 103.3, 105.1, 105.3, 109.4, 111.2, 111.3, 111.6, 111.13, 111.58, 111.64 and 111.66 be amended to read as set forth in Annex A.

F. Paperwork

This proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

G. Fiscal Impact

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

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about this 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 notice in the Pennsylvania Bulletin. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/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. Electronic comments submitted in any other manner will not be accepted.

TIMOTHY D. SCHAEFFER, Executive Director

Fiscal Note: 48A-329. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart C. BOATING

CHAPTER 103. RULES OF THE ROAD

§ 103.3. Restrictions for special areas.

(a) Boats are limited to slow, no wake speed when within 100 feet of the shore line; docks; launching ramps; swimmers or downed skiers or other boat-towed watersports participants; persons wading in the water; anchored, moored, or drifting boats; floats, except for ski jumps and ski landing floats; or other areas so marked. This subsection does not apply in a zoned ski area or authorized ski return areas when those areas are found within the areas described in this subsection.

* * * * *

CHAPTER 105. OPERATIONAL CONDITIONS

§ 105.1. Conditions requiring immediate corrective action.

A condition requiring immediate corrective actions shall exist when a boat:

* * * * *

(8) Is pulling a [water skier] water-skier or other boat-towed watersports participant without the required observer aboard.

* * * * *

§ 105.3. Unacceptable boating practices.

It is unlawful to:

* * * * *

(8) Operate within 100 feet of a water-skier or other boat-towed watersports participant being towed by another boat.

* * * * *

(11) Operate a motorboat at any speed when towing a person on [waterskis] water skis or other boat-towed devices using a tow rope of 20 feet or less as measured from the transom of the boat. This prohibition does not apply to wake surfing as defined in § 109.4 (relating to waterskiing[, aquaplaning, kiteskiing and similar activities] and other boat-towed watersports).

* * * * *

CHAPTER 109. SPECIALTY BOATS AND [WATERSKIING ACTIVITIES] BOAT-TOWED WATERSPORTS

§ 109.4. Waterskiing[, aquaplaning, kiteskiing, and similar activities] and other boat-towed water sports.

(a) Definitions. The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

Boat-towed device—An inflatable tube or other device designed to be sat, stood, kneeled or laid upon while being towed through or on water behind a boat. The term includes water skis, aquaplanes, kneeboards, inner tubes, inflatable hot dogs, air mattresses, parasails, kite skis and similar devices.

Boat-towed watersports—Activities that involve being towed by a boat or riding in or on the wake of a boat such as, but not limited to, waterskiing, wake surfing and tubing.

Competent observer—A person who has the ability to assess when a [skier] person being towed behind a boat is in trouble, knows and understands the waterskiing hand signals, and is capable of helping [a skier] a person being towed.

FPD—Personal Flotation Device as defined in § 97.1 (relating to personal flotation devices).

* * * * *

Water ski—A [device] single or pair of long flat runners designed to be used by a person [to be towed through or on] for planing over water while being towed behind a boat. [The term includes conventional water skis, aquaplanes, kneeboards, inner tubes, inflatable hot dogs, air mattress, parasails, kite skis and similar devices.]

Waterskiing—A competitive or recreational water sport in which a person is towed across the water's surface behind a boat in any fashion on a water ski as defined in this subsection or on [his] their bare feet.

(b) [Skiing hours. Ski activities] Hours. Waterskiing and other boat-towed watersports are prohibited between the hours of sunset and sunrise.

(c) Observer required. The following conditions apply:

(1) General rule. Except as otherwise provided in this subsection, it is unlawful for a person to operate a boat towing or otherwise assisting a person on water skis or other boat-towed watersports unless there is at least one competent observer in the boat in addition to the operator of the boat. The observer shall be positioned in the boat to observe the progress of the person being towed. It is unlawful for a person to water ski or ride a towed device being towed by a watercraft or device not containing an operator and observer as required by this subsection.

(2) *Special conditions.* The Executive Director, or a designee, may issue a permit to allow a limited exception to paragraph (1). A permit issued under this paragraph will permit operation of a boat towing a [**water skier**] **water-skier** without an observer, in addition to the operator, on board the boat. These operations will be permitted only under the following conditions:

(i) Both the operator of the boat and the [**water skier**] **water-skier** meet safety training requirements as evidenced by documented completion of a safe boating course and active membership in a State or National waterskiing organization, which provides members with information on waterskiing safety.

* * * * *

(vii) The waterskiing takes place before the hour of 10 a.m. on a day other than a weekend or holiday. The Executive Director, for good cause shown, may permit waterskiing under this section on a Saturday or Sunday before the hour of 10 a.m. if the Executive Director finds that other boating activities on the waters at the same time will not interfere with the [**water-skiing**] **water-skiing**.

(viii) The waterskiing takes place on waters described and approved for the operations in the permit.

(ix) The waterskiing takes place when the Executive Director or a designee indicates in the permit.

(x) The boat towing the [**water skier**] **water-skier** displays a special water ski flag of a size and design approved by the Commission.

(xi) The permittee carries the permit onboard while operating the boat towing a [**water skier**] **water-skier** without an observer.

(d) *Umbilical or remote controls.* A person may not operate a device which is controlled by a person connected to the power source by means of an umbilical or remote control, or both, which tows the person on or through the water.

(e) [*Ski tow ropes. Ski tow*] **Tow ropes. Tow** ropes may not exceed the following lengths:

(1) Conventional water skis and [**similar**] **other** devices, **unless listed below**—80 feet.

(2) Nonreleasable kite ski—150 feet.

(3) Releasable kite ski—500 feet.

(4) Parasails—300 feet.

(5) Commercial winch boat parasails—600 feet.

(f) *PFDs.* It is unlawful for a person to operate a boat on the waters of this Commonwealth for:

(1) Waterskiing **and other boat-towed watersports (except wake surfing)** unless each person being towed is wearing a United States Coast Guard approved wearable PFD in accordance with § 97.1 [**(relating to personal flotation devices)**]. Inflatable PFDs may not be used to meet this requirement.

* * * * *

(g) *Water ski wetsuits.* A person engaged in slalom skiing on a marked course or a person engaged in barefoot, jump or trick skiing, or wake surfing may elect to wear a wetsuit designed specifically for the activity in lieu of the United States Coast Guard approved wearable PFD required in § 97.1. A United States Coast Guard approved wearable [**PDF**] **PFD** described in § 97.1

shall be carried in the tow boat for each skier electing to wear a water ski wetsuit. The nonapproved water ski wetsuit device shall meet the following criteria:

* * * * *

(h) *Starting and returning from shore or dock.* Notwithstanding the slow, no wake restrictions contained in § 103.3(b) (relating to restriction for special areas), skiers are permitted to start from the shore or dock if the traffic situation permits this to be done safely and in accordance with other water ski regulations. A [**water skier**] **water-skier** is not permitted to be returned to dock or shore under power. The skier shall release outside the 100-foot limit. The skier may then coast or glide toward the shore or dock, if the skier does not endanger life and property in so doing and steers clear of swimmers, docks and boats.

* * * * *

**CHAPTER 111. SPECIAL REGULATIONS
COUNTIES**

§ 111.2. Allegheny County.

(a) *Allegheny River.* The following special regulations apply to the Allegheny River:

* * * * *

(2) The area behind Nine Mile Island, Mile 10.0 to Mile 10.4 is a designated ski zone. Boats not actively engaged in towing [**water skiers**] **water-skiers or other boat-towed watersport participants** are limited to slow, no wake speed.

(b) *Monongahela River.* Waterskiing [**is**] **and other boat-towed watersports are** prohibited from the Glassport Bridge (Mile 19.4) to the Union Railroad Bridge (Mile 21.1) at Clairton.

* * * * *

§ 111.3. Armstrong County.

(a) *Crooked Creek Lake.*

(1) A boat may not tow more than one [**water-skier**] **boat-towed device** on weekends and holidays from the Saturday preceding Memorial Day through Labor Day.

* * * * *

§ 111.6. Berks County.

(a) *Blue Marsh Lake.*

* * * * *

(3) A boat may not tow more than one [**water ski**] **boat-towed** device.

* * * * *

§ 111.13. Carbon County.

(a) *Beltzville Lake—Beltzville State Park.*

* * * * *

(3) Waterskiing [**is**] **and other boat-towed watersports are** prohibited except between sunrise and sunset in the designated ski zone. Boats in this zoned area shall operate in a counter-clockwise direction. Boats not engaged in waterskiing **and other boat-towed watersports** shall remain outside the ski zone area while waterskiing [**is**] **and other boat-towed watersports are** in progress. A boat may not tow more than one [**water ski**] **boat-towed device** on weekends and holidays from the Saturday preceding Memorial Day through Labor Day.

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§ 111.58. Susquehanna County.

* * * * *

(d) *Laurel Lake.*

* * * * *

(3) *Restrictions on operation of boats powered by internal combustion motors.* Operation of boats powered by internal combustion motors is subject to the following restrictions:

(i) [**Ski**] *Towed* devices. A boat may not tow more than one [**water ski**] *boat-towed* device.

(ii) *Upper Lake.* Boat speed is limited to slow, no wake speed except that, during the period from noon until 6 p.m., no more than two boats powered by internal combustion motors may, at any one time, operate at speeds greater than slow, no wake speed in the marked boat operating zone. Boats operating in the marked zone shall circle in a counter-clockwise direction and shall be subject to the restrictions in this subsection and the code and this subpart. It is unlawful to water ski *or tow any other boat-towed device* or to operate a boat at greater than slow, no wake speed at any location on the upper lake from 6 p.m. until noon of the following day.

(iii) *Lower Lake.* It is unlawful to water ski *or tow any other boat-towed device* or to operate a boat at greater than slow, no wake speed at any time at any location on the lower lake.

* * * * *

§ 111.64. Wayne County.

(a) *Duck Harbor Pond.*

* * * * *

(2) A boat may not tow more than one [**water ski**] *boat-towed* device on weekends and holidays from the Saturday preceding Memorial Day through Labor Day.

* * * * *

(b) *Long Pond.*

* * * * *

(2) Waterskiing [**is**] *and other boat-towed watersports are* permitted from 10 a.m. until 5 p.m. on weekends and holidays and from 10 a.m. until sunset on weekdays other than holidays.

(3) A boat may not tow more than one [**water ski**] *boat-towed device* on weekends and holidays from the Saturday preceding Memorial Day through Labor Day.

* * * * *

§ 111.66. Wyoming County.

Lake Winola.

* * * * *

(2) A boat may not tow more than one [**water ski**] *boat-towed* device on weekends and holidays from the Saturday preceding Memorial Day through Labor Day.

* * * * *

[Pa.B. Doc. No. 22-897. Filed for public inspection June 17, 2022, 9:00 a.m.]