



# PROPOSED RULEMAKING

## FISH AND BOAT COMMISSION

[ 58 PA. CODE CHS. 99a AND 111 ]

### Boating; Capacity Plates; Special Regulations Counties

The Fish and Boat Commission (Commission) proposes to add Chapter 99a (relating to capacity plates) and amend Chapter 111 (relating to special regulations counties) to read as set forth in Annex A. The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code).

#### A. Effective Date

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

#### B. Contact Person

For further information on this proposed rulemaking, contact Wayne Melnick, P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7827. This proposed rulemaking is available on the Commission's web site at [www.fish.state.pa.us](http://www.fish.state.pa.us).

#### C. Statutory Authority

The proposed addition of Chapter 99a is published under the statutory authority of section 5122 of the code (relating to registrations, licenses, permits, plates and statistics). The proposed amendments to §§ 111.3 and 111.16 (relating to Armstrong County; and Clarion County) are published under the statutory authority of section 5124 of the code (relating to particular areas of water).

#### D. Purpose and Background

This proposed rulemaking is designed to improve, enhance and update the Commission's boating regulations. The specific purpose of the proposed amendments is described in more detail under the summary of proposals. On December 7, 2017, the Commission's Boating Advisory Board considered the proposed amendments and recommended that the Commission approve the publication of a proposed rulemaking.

#### E. Summary of Proposals

(1) Prior to January 1, 2013, the Commission issued capacity plates for certain boats that were operated or offered for sale in this Commonwealth. During an audit of the Commission's Recreational Boating Safety Program in 2011, the United States Coast Guard identified this practice as a violation of Federal regulation and directed the Commission to stop issuing the plates. In response to this direction, the Commission rescinded Chapter 99. At the time, this decision was thought to be the best way to handle the issue. However, it has since been determined that the best change would have been to rescind only those sections dealing with the Commission's issuance of capacity plates and not to rescind other sections that extended the Federal standard to Commonwealth waters. Commission staff examined what other states have done regarding capacity plates and recommend that certain sections of the former regulations be reinstated.

The Commission proposes that Chapter 99a be added to read as set forth in Annex A.

(2) Keystone Lake is a 1,000-acre impoundment in Armstrong County that provides water to the Keystone Generation Station, Chief Keystone Power, LLC. The property is leased to the Commission for fishery and aquatic resource management, and recreational fishing and boating purposes. Under a prior agreement, a horsepower restriction for motorboats was set at 10 horsepower. The Commission adopted this restriction in § 111.3(b).

In March 2017, the lease agreement for this property was renewed. As part of that renewal, Chief Keystone Power requested that the 10 horsepower restriction be raised to 20 horsepower. The Commission proposes to amend § 111.3 to read as set forth in Annex A.

(3) At the September 2017 Commission meeting, Jeffrey Pfister approached the Commission on behalf of several landowners adjacent to Redbank Creek, Clarion County. The landowners are concerned about boating safety because the creek traditionally had been locally treated as a slow, no wake (SNW) zone without an official designation.

In recent years, the amount of boating traffic entering Redbank Creek from Pool 9 on the Allegheny River has increased substantially. This traffic goes above SNW even where the creek narrows to less than 200 feet across, creating a safety hazard. The landowners petitioned the Commission for Redbank Creek to be designated as a SNW zone.

The Commission's Bureau of Law Enforcement staff from the Northwest Region were tasked with exploring the issue and to offer an opinion. Upon investigation, they determined that the creek does narrow and the entrance from the river quickly becomes congested with boats. The presence of an old railroad bridge also adds to the congestion as boats have to traverse under and between the bridge abutments to navigate safely.

Allegheny Land Trust (Trust), the owner of the bridge that is now part of a rail to trails, is concerned about erosion damage to the shore line and the bridge itself due to the excessive wake in a confined area. If the proposed amendment is adopted, the Trust has agreed to allow signage to be posted on the bridge structure for the SNW zone.

The Commission proposes to amend § 111.16 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 not have adverse fiscal impacts on the Commonwealth or its political subdivisions. This proposed rulemaking will not impose new costs on the private sector or the general public.

#### H. Public Comments

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

Comments also may be submitted electronically by completing the form at [www.fishandboat.com/regcomments](http://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.

JOHN A. ARWAY,  
Executive Director

Fiscal Note: 48A-279. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart C. BOATING

CHAPTER 99a. CAPACITY PLATES

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

Sec.	
99a.1.	Boats requiring capacity plates.
99a.2.	Information required.
99a.3.	Replacement plates.
99a.4.	Prohibited acts.

§ 99a.1. Boats requiring capacity plates.

(a) A capacity plate must be permanently affixed to a monohull boat less than 20 feet in length designed to carry two or more persons and propelled by machinery or oars as its principal source of power if one of the following applies:

(1) The boat is manufactured, transferred, sold or offered for sale in this Commonwealth.

(2) The boat is operated on waters in this Commonwealth.

(b) Sailboats, canoes, kayaks and inflatable boats are exempt from this chapter.

(c) As used in this chapter, "manufacture" means to construct or assemble a boat or alter a boat in a manner that changes its weight carrying capacity.

§ 99a.2. Information required.

The capacity plate must contain the following information:

(1) For boats designed for or represented by the manufacturer as being suitable for use with outboard motors, all of the following:

(i) The total weight of persons, motor, gear and other articles placed aboard which the boat is capable of carrying safely under normal conditions.

(ii) The recommended number of persons consistent with the weight capacity of the boat and the presumed weight in pounds of those persons. The presumed weight per person may not be less than 150 pounds.

(iii) The maximum horsepower of the motor that the boat is designed or intended to accommodate.

(2) For other boats to which the requirement applies, all of the following:

(i) The total weight of persons, gear and other articles placed aboard which the boat is capable of carrying safely under normal conditions,

(ii) The recommended number of persons consistent with the weight capacity of the boat and the presumed weight in pounds of those persons. The presumed weight per person may not be less than 150 pounds.

§ 99a.3. Replacement plates.

If the manufacturer did not affix a plate, a plate is damaged to the point of being not discernable or a plate is removed, the owner of the boat shall make application to the manufacturer for a replacement.

§ 99a.4. Prohibited acts.

(a) A person may not tamper with or remove a capacity plate or any of the information shown.

(b) A person may not sell or otherwise transfer ownership of a boat subject to this chapter that does not comply with this chapter.

(c) A person may not operate a boat displaying an illegible capacity plate. Owners of these boats shall apply for a replacement plate as provided in § 99a.3 (relating to replacement plates).

(d) A person may not operate a boat for which a capacity plate is required unless the boat displays the capacity plate.

(e) A manufacturer, dealer or other person may not offer a boat for sale for which a capacity plate is required unless a capacity plate is properly affixed.

CHAPTER 111. SPECIAL REGULATIONS  
COUNTIES

§ 111.3. Armstrong County.

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(b) Keystone Lake. The use of motors in excess of [ 10 ] 20 horsepower is prohibited.

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§ 111.16. Clarion County.

(a) Clarion River. Boats are limited to slow, no-wake speed from the mouth of McGourvey Run to the mouth of Blyson Run.

(b) Redbank Creek. Boats are limited to slow, no wake speed on the entire creek from its headwaters to its confluence with the Allegheny River.

[Pa B Doc No 18-686 Filed for public inspection May 4, 2018, 9:00 a.m.]

FISH AND BOAT COMMISSION

[ 58 PA. CODE CH. 53 ]

Commission Property

The Fish and Boat Commission (Commission) proposes to amend Chapter 53 (relating to Commission property) to read as set forth in Annex A. The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code).

A. Effective Date

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