

CHAPTER 69. FISHING IN LAKE ERIE AND BOUNDARY LAKES

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Source

The provisions of this Chapter 69 readopted January 6, 1984, effective January 7, 1984, 14 Pa.B. 46, unless otherwise noted. Immediately preceding text appears at serial pages (68839) and (76829).

Cross References

This chapter cited in 58 Pa. Code § 63.47 (relating to landing of finfish, shellfish, crustaceans and other marine seafood).

Subchapter A. GENERAL PROVISIONS

Sec.	
69.1.	Statutory authority.
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§ 69.1. Statutory authority.

(a) Subchapter B (relating to sport fishing and angling) is promulgated under sections 741, 2102 and 2106 of the code (relating to control of property; rules and regulations; and fishing in hatchery or nursery waters).

(b) Subchapters C and D (relating to commercial fishing licenses; and commercial fishing, seasons and nets) are promulgated under section 2903 of the code (relating to boat and net licenses for boundary lakes).

§ 69.2. Scope.

This chapter governs sport fishing and angling and commercial fishing in Lake Erie and its tributaries.

§ 69.3. Transportation, introduction and sale of VHS-susceptible species of fish out of the Lake Erie watershed.

(a) For purposes of this section, 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 designates by order or the Commission defines by notice published in the *Pennsylvania Bulletin*.

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

(2) The term “VHS-susceptible species” does not include the eggs of these species.

(b) It is unlawful to transport or cause the transportation of VHS-susceptible species of fish out of the portion of Lake Erie watershed in this Commonwealth except when one of the following conditions is met:

(1) The fish are being transported to a disease testing facility 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.

(2) The fish are from a group of fish certified as having tested negative for VHS in accordance with the testing protocols adopted by the Department of Agriculture (Department) and approved by the Commission. Persons selling the 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 owned or kept at the place of sale.

(3) The fish 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. Artificial propagation facilities 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 report for the facility.

(4) The fish are being transported to a slaughter facility, processing plant or restaurant 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) It is unlawful to possess and use VHS-susceptible species of fish from the Lake Erie watershed as bait in other watersheds of this Commonwealth except when 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.

(d) It is unlawful to introduce VHS-susceptible species of fish from the Lake Erie watershed into other watersheds of this Commonwealth except when 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.

(e) It is unlawful to sell VHS-susceptible species of fish from the Lake Erie watershed in other watersheds of this Commonwealth unless the following conditions are met:

(1) The sale meets the requirements of 30 Pa.C.S. § 2507 (relating to sale of certain fish, reptiles and amphibians prohibited).

(2) 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 selling these fish shall have in their possession, and present upon the request of an officer authorized to enforce the code, either a copy of the fish health certification reports for all VHS-susceptible fish kept at the place of sale or a copy of the fish health certification report for the artificial propagation facility if the fish are from a facility certified as having tested negative for VHS.

Authority

The provisions of this § 69.3 adopted under the Fish and Boat Code, 30 Pa.C.S. § 2102.

Source

The provisions of this § 69.3 adopted December 7, 2007, effective January 1, 2007, 37 Pa.B. 6402; amended December 12, 2008, effective January 1, 2009, 38 Pa.B. 6742. Immediately preceding text appears at serial pages (331463) to (331464).

Cross References

This section cited at 58 Pa. Code § 73.3 (relating to transportation and importation of VHS-susceptible species of fish).

Subchapter B. SPORT FISHING AND ANGLING

Sec.

- 69.11. Applicability of fishing regulations.
- 69.12. Seasons, sizes and creel limits—Lake Erie, Lake Erie tributaries and Presque Isle Bay including peninsula waters.
 - 69.12a. Special regulations applicable to Lake Erie tributary streams.
 - 69.12b. Lake Erie walleye and yellow perch adaptive management for establishing daily limits.
- 69.13. [Reserved].
- 69.14. [Reserved].
- 69.15. [Reserved].
- 69.16. Nursery waters.
- 69.17. Sale of fish.
- 69.18. [Reserved].
- 69.19. Permit for the use of cast nets, throw nets or dip nets by sport anglers.

Cross References

This subchapter cited in 58 Pa. Code § 69.1 (relating to statutory authority).

§ 69.11. Applicability of fishing regulations.

Except as otherwise provided in this subchapter, this subpart applies to fish and sport fishing in Lake Erie, Lake Erie tributaries and Presque Isle Bay, including peninsula waters.

Authority

The provisions of this § 69.11 amended under the Fish and Boat Code, 30 Pa.C.S. § 2102.

Source

The provisions of this § 69.11 amended April 10, 2009, effective April 11, 2009, 39 Pa.B. 1859; amended March 23, 2012, effective March 24, 2012, 42 Pa.B. 1502. Immediately preceding text appears at serial page (346701).

§ 69.12. Seasons, sizes and creel limits—Lake Erie, Lake Erie tributaries and Presque Isle Bay including peninsula waters.

(a) It is unlawful to take, catch, kill or possess fish, except during the seasons specified in this section. It is not a violation of this section if a fish caught out of season from water where fishing for other species is lawful is immediately returned unharmed to the waters from which it was taken.

(b) It is unlawful to take, catch, kill or possess fish of less than the minimum size specified in this section. It is not a violation of this section if an undersized fish taken from waters where fishing is otherwise lawful is immediately returned unharmed to the waters from which it was taken.

(c) It is unlawful to take, catch or kill more than 1 day's limit of any species of fish as specified in the following chart during 1-calendar day. It is unlawful to possess more than 1 day's limit of any species of fish as specified in the following chart except under the following circumstances:

(1) A person may possess any number of lawfully caught fish at the person's residence.

(2) A person who is engaged in a fishing trip away from home for 2 or more consecutive calendar days may, while transporting fish from the place where caught to his residence, possess a number of fish equal to no more than two times the daily creel limit for that species of fish. In prosecution for violation of this section, it shall be a rebuttable presumption that a person transporting fish from a fishing site caught all the fish during 1-calendar day.

(3) A fish will not be considered to be caught in violation of this section if it is immediately returned unharmed to the waters from which it was taken.

(4) A fish caught that is not to be counted in the creel limit shall be immediately released unharmed into the water from which taken. A fish that is injured or is bleeding as a result of being caught will not be considered unharmed and will be considered as part of a daily creel or possession limits. Except as otherwise provided in § 53.24 or § 63.40 (relating to tournament and fishing derby permits; and fishing tournament and fishing derbies), a fish placed on a stringer, or confined by any type of container, structure or device, or not returned immediately to the water, will be considered as part of the daily creel or possession limits. Fish returned to the water shall be handled carefully and be returned unharmed to the water from which taken.

(5) Fish may be given to another person, but the fish will be counted in the donor's creel limit and neither the donor nor the recipient may kill or possess (while in the act of fishing) more than the limit allowed.

(d) It is unlawful to fish in or along any Lake Erie tributary stream from 12:01 a.m. on the Friday before the first Saturday after April 11 until 8 a.m. on the first Saturday after April 11.

(e) It is unlawful to possess trout or salmon in or along any Lake Erie tributary stream from 12:01 a.m. on the Friday before the first Saturday after April 11 until 8 a.m. on the first Saturday after April 11.

(f) Except as otherwise provided in subsections (d) and (e) and this subpart, the following seasons, sizes and creel limits apply to Lake Erie, Lake Erie tributaries and Presque Isle Bay, including peninsula waters:

<i>SPECIES</i>	<i>SEASONS</i>	<i>MINIMUM SIZE</i>	<i>DAILY LIMIT</i>
MUSKELLUNGE and MUSKELLUNGE HYBRIDS	Inland seasons apply. See § 61.1 (relating to Commonwealth inland waters).	40 inches	1
PIKE Northern	Inland seasons apply. See § 61.1 (relating to Commonwealth inland waters).	24 inches	2
WALLEYE	January 1 to midnight March 14 and May 1 to December 31.	15 inches	Established annually by April 15*
BASS Largemouth Smallmouth	January 1 to first Saturday after April 11 and first Saturday after June 11 until Decem- ber 31.	15 inches	4 (combined species)
	First Saturday after April 11 until first Saturday after June 11.*	20 inches	1
TROUT and SALMON	8 a.m. first Saturday after April 11 until midnight Labor Day.	9 inches	5 (combined species only 2 of which may be lake trout).
	12:01 a.m. the day after Labor Day until 12:01 a.m. on the Friday before the first Saturday after April 11.	15 inches	3 (combined species only 2 of which may be lake trout).
STURGEON	No open season	ENDANGERED SPECIES	
YELLOW PERCH	From December 1 through April 30	7 inches	Established annually by April 15**
	From May 1 through November 30	None	Established annually by April 15*

<i>SPECIES</i>	<i>SEASONS</i>	<i>MINIMUM SIZE</i>	<i>DAILY LIMIT</i>
SUNFISH, CRAPPIES, CATFISH, ROCK BASS, SUCKERS, EELS, CARP, WHITE BASS	Open year-round	None	50 (combined species)
BURBOT (when taken by hook and line)	Open year-round	None	5
BURBOT (when taken by scuba divers by use of nonmechanical spears or gigs at a depth of at least 60 feet)	June 1 to September 30	None	5
SMELT (when taken by hook and line)	Open year-round	None	None
AMERICAN EEL	Open year-round	9 inches	25
BAIT FISH FISH BAIT, except American eel, mussels/clams and crayfish	Open year-round	None	50 (combined species)
CRAYFISH (ALL SPECIES)	Open year-round		50. The head must be immediately removed behind the eyes upon capture unless used as bait in the water from which taken.
MUSSELS/CLAMS	Closed year-round		0
ALL OTHER SPECIES	Inland Regulations apply. (See § 61.1.)		

* It is unlawful to conduct or participate in a fishing tournament (as defined in § 63.40 (relating to fishing tournaments and fishing derbies)) for bass on Lake Erie, Lake Erie tributaries or Presque Isle Bay during the period from the first Saturday after April 11 until the first Saturday after June 11.

** See § 69.12b (relating to Lake Erie walleye and yellow perch adaptive management for establishing daily limits). After the Executive Director establishes the daily limit for the year, the information will be posted on the Commission's web site and available from any Commission office.

Authority

The provisions of this § 69.12 issued under the Fish and Boat Code, 30 Pa.C.S. §§ 305, 322, 741, 928, 2102, 2307, 2711 and 5122—5124; amended under the Fish and Boat Code, 30 Pa.C.S. § 2102.

Source

The provisions of this § 69.12 amended December 28, 1984, effective December 29, 1984, 14 Pa.B. 4691; amended March 13, 1987, effective March 14, 1987, 17 Pa.B. 1084; amended February 3, 1989, effective February 4, 1989, 19 Pa.B. 405; amended December 14, 1990, effective December

15, 1990, 20 Pa.B. 6182; amended April 12, 1996, effective April 13, 1996, 26 Pa.B. 1706; amended November 22, 1996, effective January 1, 1997, 26 Pa.B. 5701; amended November 22, 1996, effective January 1, 1997, 26 Pa.B. 5711; amended April 18, 1997, effective April 19, 1997, 27 Pa.B. 1934; amended October 31, 1997, effective November 1, 1997, 27 Pa.B. 5605; amended November 7, 1997, effective November 8, 1997, 27 Pa.B. 5779; amended June 15, 2001, effective January 1, 2002, 31 Pa.B. 3205; amended September 27, 2002, effective December 1, 2002, 32 Pa.B. 4707; amended March 7, 2003, effective March 8, 2003, 33 Pa.B. 1230; amended December 12, 2003, effective January 1, 2004, 33 Pa.B. 6061; amended November 24, 2004, effective January 1, 2005, 34 Pa.B. 6328; amended September 9, 2005, effective January 1, 2006, 35 Pa.B. 5007; amended September 9, 2005, effective September 10, 2005, 35 Pa.B. 5008; amended September 22, 2006, effective January 1, 2007, 36 Pa.B. 5872; amended April 10, 2009, effective April 11, 2009, 39 Pa.B. 1859; corrected December 11, 2009, effective April 11, 2009, 39 Pa.B. 7009; amended December 17, 2010, effective December 18, 2010, 40 Pa.B. 7233; amended March 23, 2012, effective March 24, 2012, 42 Pa.B. 1502; amended March 21, 2014, effective March 22, 2014, 44 Pa.B. 1766; amended July 3, 2014, effective January 1, 2015, 44 Pa.B. 4177; amended August 8, 2014, effective August 9, 2014, 44 Pa.B. 5336. Immediately preceding text appears at serial pages (372610) to (372613).

Cross References

This section cited in 58 Pa. Code § 69.19 (relating to permit for the use of cast nets, throw nets or dip nets by sport anglers).

§ 69.12a. Special regulations applicable to Lake Erie tributary streams.

(a) The following Lake Erie tributary streams are designated as Nursery Waters—Trout Run and its tributaries; Godfrey Run; Orchard Beach Run; and Crooked Creek (where posted). It is unlawful to fish, wade or possess fishing equipment while in or along Lake Erie tributary streams designated as Nursery Waters.

(b) Archery fishing or spear fishing is prohibited in or along Lake Erie tributary streams.

(c) From 12:01 a.m. on the day after Labor Day, until the first Saturday after April 11 of the following year, all Lake Erie tributary streams are closed to fishing from 10 p.m. until 5 a.m. on the following day except for Walnut Creek north of Manchester Road Bridge and Elk Creek north of Route 5.

(d) It is unlawful to fish from 10 p.m. until 5 a.m. of the following day within 50 yards of the mouth of both Trout Run and Godfrey Run while fishing the Lake Erie shoreline.

Authority

The provisions of this § 69.12a amended under the Fish and Boat Code, 30 Pa.C.S. § 2102.

Source

The provisions of this § 69.12a adopted March 7, 2003, effective March 8, 2003, 33 Pa.B. 1230; amended September 22, 2006, effective January 1, 2007, 36 Pa.B. 5872; amended August 29, 2008, effective August 30, 2008, 38 Pa.B. 4765. Immediately preceding text appears at serial pages (322918) to (322919).

§ 69.12b. Lake Erie walleye and yellow perch adaptive management for establishing daily limits.

The Executive Director or a designee will monitor the walleye and yellow perch populations in Lake Erie taking into account commercial and recreational harvest. Based on that information, the Executive Director will establish daily limits for walleye and yellow perch that are necessary and appropriate for the better protection and management of the fishery. The Executive Director will establish the daily limits for walleye and yellow perch each year and announce

them on or before April 15. In any given year, the Executive Director may revise the daily limit for walleye or yellow perch if the Executive Director determines that conditions warrant a revision. The daily limits will remain in effect until the Executive Director establishes new daily limits. Anglers are responsible for obtaining the current daily limits for walleye and yellow perch on Lake Erie including Presque Isle Bay prior to fishing those waters.

Authority

The provisions of this § 69.12b issued under the Fish and Boat Code, 30 Pa.C.S. § 2102.

Source

The provisions of this § 69.12b adopted March 23, 2012, effective March 24, 2012, 42 Pa.B. 1502.

§ 69.13. [Reserved].

Source

The provisions of this § 69.13 amended December 28, 1984, effective December 29, 1984, 14 Pa.B. 4691; amended December 14, 1990, effective December 15, 1990, 20 Pa.B. 6182; amended April 23, 1993, effective April 24, 1993, 23 Pa.B. 1952; amended April 12, 1996, effective April 13, 1996, 26 Pa.B. 1706; amended November 22, 1996, effective January 1, 1997, 26 Pa.B. 5701; amended November 22, 1996, effective January 1, 1997, 26 Pa.B. 5711; amended April 18, 1997, effective April 19, 1997, 27 Pa.B. 1934; amended October 31, 1997, effective November 1, 1997, 27 Pa.B. 5609; reserved March 7, 2003, effective March 8, 2003, 33 Pa.B. 1230. Immediately preceding text appears at serial pages (292832), (292131) and (236589) to (236590).

§ 69.14. [Reserved].

Source

The provisions of this § 69.14 amended December 28, 1984, effective December 29, 1984, 14 Pa.B. 4691; amended April 12, 1996, effective April 13, 1996, 26 Pa.B. 1706; amended October 31, 1997, effective November 1, 1997, 27 Pa.B. 5609; reserved March 7, 2003, effective March 8, 2003, 33 Pa.B. 1230. Immediately preceding text appears at serial pages (236590) to (236593).

§ 69.15. [Reserved].

Source

The provisions of this § 69.15 amended December 28, 1984, effective December 29, 1984, 14 Pa.B. 4691; amended April 23, 1993, effective April 24, 1993, 23 Pa.B. 1952; amended April 12, 1996, effective April 13, 1996, 26 Pa.B. 1706; amended October 31, 1997, effective November 1, 1997, 27 Pa.B. 5609; reserved March 7, 2003, effective March 8, 2003, 33 Pa.B. 1230. Immediately preceding text appears at serial pages (236593) to (236594).

§ 69.16. Nursery waters.

The Executive Director, with the approval of the Commission, may designate nursery waters or exhibition areas on Lake Erie and its tributaries to which the penalties of section 2106 of the code (relating to fishing in hatchery or nursery waters) apply. The designation of Lake Erie or tributary waters as nursery waters or exhibition areas shall be effective upon posting of the waters after publication of a notice of designation in the *Pennsylvania Bulletin*.

§ 69.17. Sale of fish.

(a) It is unlawful for a person other than the holder of a Lake Erie commercial fishing license issued under section 2903 of the code (relating to boat and net licenses for boundary lakes), or the agents and employees of the licensee to take,

catch or kill fish from the Pennsylvania waters of Lake Erie or its tributaries for the purpose of selling the fish or offering them for sale.

(b) It is unlawful for a person, other than the holder of a Lake Erie commercial fishing license issued under section 2903 of the code or the agents and employes of the licensee to sell or offer for sale fish that was taken from, caught or killed in from the Pennsylvania waters of Lake Erie or its tributaries.

(c) It is unlawful to knowingly purchase fish taken, caught or killed from or in the Pennsylvania waters of Lake Erie or its tributaries except from the holder of a commercial license issued under section 2903 of the code or the agent or employe of the licensee.

(d) In prosecutions for violations of this section, it shall be presumed that any species of fish that lives or occurs within Pennsylvania waters of Lake Erie or its tributaries which fish is sold, offered for sale or purchased in this Commonwealth was taken, caught or killed from the Pennsylvania waters of Lake Erie or its tributaries. A person accused of a violation of this section may rebut the presumption that fish were taken, caught or killed from the Pennsylvania waters of Lake Erie or its tributaries by proving that he lawfully obtained the fish from a source other than the Pennsylvania waters of Lake Erie or its tributaries.

§ 69.18. [Reserved].

Source

The provisions of this § 69.18 adopted April 12, 1996, effective April 13, 1996, 26 Pa.B. 1706; reserved November 5, 1999, effective November 6, 1999, 29 Pa.B. 5722. Immediately preceding text appears at serial page (227665).

§ 69.19. Permit for the use of cast nets, throw nets or dip nets by sport anglers.

(a) The Executive Director or a designee may issue permits for the use of cast nets, throw nets or dip nets for the taking of emerald shiners or spottail shiners from Lake Erie including Presque Isle Bay.

(b) In addition to other permit conditions that the Executive Director may require, the cast nets or throw nets may not be greater than 10 feet in radius (20 feet in diameter) and the dip nets may not be greater than 10 feet in diameter.

(c) Notwithstanding the provisions in § 69.12 (relating to seasons, sizes and creel limits—Lake Erie, Lake Erie tributaries and Presque Isle Bay including peninsula waters), holders of a permit issued under this section may take, catch, kill or possess a daily creel limit of 200 emerald shiners and spottail shiners (combined species).

(d) A person may apply for a permit for the use of cast nets, throw nets or dip nets by completing the form prescribed by the Commission. The applicant shall submit the completed form to the Commission along with the fee in section 2902 of the code (relating to net permits).

(e) It is unlawful to use cast nets, throw nets or dip nets for the taking of emerald shiners or spottail shiners or to take, catch, kill or possess more than the daily creel limit of emerald shiners or spottail shiners as set forth in § 69.12 without the required permit. A permit for the use of cast nets, throw nets or dip

nets shall be carried so that it can be presented to an officer authorized to enforce the code. The permit holder is the only person authorized to use the cast net, throw net or dip net.

(f) It is unlawful to use emerald shiners or spottail shiners taken under a permit for the use of cast nets, throw nets or dip nets as bait in any water other than Lake Erie and Lake Erie tributaries including Presque Isle Bay.

(g) It is unlawful to sell, offer for sale, trade or barter live, dead or preserved emerald shiners or spottail shiners taken under a permit for the use of cast nets, throw nets or dip nets.

(h) It is unlawful to transport or export live, dead or preserved emerald shiners or spottail shiners taken under a permit for the use of cast nets, throw nets or dip nets out of the Lake Erie watershed.

(i) The holder of a permit for the use of cast nets, throw nets or dip nets may possess an unlimited number of preserved emerald shiners or spottail shiners at the permit holder's residence provided the residence is located within the Lake Erie watershed.

(j) It is unlawful for a holder of a permit under this section to use a cast net, throw net or dip net within 100 yards of a holder of a commercial seine license.

(k) It is unlawful for a holder of a permit under this section to use a cast net, throw net or dip net within an area 300 feet from the mouth of any stream or within the confines of a tributary stream to Lake Erie.

(l) It is unlawful for a holder of a permit under this section to use a cast net, throw net or dip net to interfere with sport anglers or boaters.

Authority

The provisions of this § 69.19 issued under the Fish and Boat Code, 30 Pa.C.S. § 2102.

Source

The provisions of this § 69.19 adopted March 23, 2012, effective March 24, 2012, 42 Pa.B. 1502.

Subchapter C. COMMERCIAL FISHING LICENSES

Sec.

- 69.21. Limitations on numbers and types of commercial licenses.
- 69.22. Applications.
- 69.23. Responsibility of licensees.
- 69.24. Limitations on gear.
- 69.25. Transfer of licenses.
- 69.26. Reports.
- 69.27. Expiration of license.
- 69.28. Commercial fishing without license.
- 69.29. Commercial fishing for underutilized species.

Cross References

This subchapter cited in 58 Pa. Code § 69.1 (relating to statutory authority).

§ 69.21. Limitations on number and types of commercial licenses.

The number and types of commercial fishing licenses for fishing in Lake Erie shall be limited as follows:

- (1) Trap nets: Up to three applicants may be licensed to fish up to six trap nets each. Each trap net requires a separate license.

(2) Seines: 40 licenses. An applicant may be issued up to three seine licenses in a year. Each seine requires a separate license.

Authority

The provisions of this § 69.21 amended under the Fish and Boat Code, 30 Pa.C.S. §§ 2102 and 2903.

Source

The provisions of this § 69.21 amended February 26, 1993, effective February 27, 1993, 23 Pa.B. 942; amended April 12, 1996, effective April 13, 1996, 26 Pa.B. 1706; amended March 7, 1997, effective March 8, 1997, 27 Pa.B. 1155; amended July 18, 2003, effective July 19, 2003, 33 Pa.B. 3496; amended March 23, 2012, effective March 24, 2012, 42 Pa.B. 1502. Immediately preceding text appears at serial page (342729).

Cross References

This section cited in 58 Pa. Code § 69.25 (relating to transfer of licenses).

§ 69.22. Applications.

(a) *Renewals.* Licensees applying for renewal of a Lake Erie commercial fishing license shall submit their application on forms provided by the Commission by no later than March 1 of the year for which the license is sought. The applicant shall fully and accurately complete the application and provide requested information.

(b) *Nonrenewals.* Applicants for new licenses shall submit their applications on forms provided by the Commission by no later than March 15 of the year for which the license is sought. Applicants shall fully and accurately complete the application and provide requested information. A new license will not be issued until on or after April 1. If there are more applicants for new licenses than the number of licenses available after renewals have been issued, on or after April 1, the Executive Director will cause a random drawing to be conducted to determine which applicants for new licenses shall be issued these licenses.

(c) *Residency.* Applicants for resident commercial fishing licenses shall submit proof of their residence in this Commonwealth by showing that they paid personal income tax to the Commonwealth for the year prior to the year of application. Proof shall include evidence that the applicant paid resident personal income tax to the Commonwealth and did not pay income tax as a resident of any other state or sovereignty. Applicants for resident commercial licenses shall also submit proof that boats used for fishing in Commonwealth waters of Lake Erie are either registered with the Commonwealth or documented in accordance with Federal law. To qualify for a resident license, both the applicant and the principal operators of the gear subject to licensing shall prove to the satisfaction of the Commission that they are bona fide residents of this Commonwealth. The applicant shall submit the names and addresses of all operators of the gear to be licensed, including proof of their residence in this Commonwealth.

(d) *Ownership.* The applicant for a Lake Erie commercial fishing license shall prove to the satisfaction of the Commission that the applicant is the owner or lessee of the gear to be licensed. A license will not be issued to an individual who is not the owner or lessee of the gear for which application is made for licensing.

(e) *Age.* Applicants for a commercial fishing license under this chapter shall submit proof that they are at least 18 years of age.

(f) *Boats*. Applicants for a commercial fishing license under this chapter shall provide a description of the boats to be used with licensed gear.

Authority

The provisions of this § 69.22 amended under the Fish and Boat Code, 30 Pa.C.S. §§ 2102 and 2903.

Source

The provisions of this § 69.22 amended March 6, 1992, effective March 7, 1992, 22 Pa.B. 949; amended March 7, 1997, effective March 8, 1997, 27 Pa.B. 1155; amended March 23, 2012, effective March 24, 2012, 42 Pa.B. 1502. Immediately preceding text appears at serial pages (342729) to (342730).

§ 69.23. Responsibility of licensees.

(a) Licensees shall personally sign and attest to all reports required by this chapter or by statute.

(b) Trap net licensees are personally responsible for, and shall be physically present during, the day-to-day operation of gear licensed under this chapter and section 2903 of the code (relating to boat and net licenses for boundary lakes). Day-to-day operation of gear includes setting, lifting, pulling and cleaning of nets and the sorting and landing of catch. If exigent circumstances preclude the physical presence of the licensee during the day-to-day operation of gear, the licensee shall notify in advance the Northwest Region Law Enforcement Office.

(c) Seine net licensees are personally responsible for the day-to-day operation of gear licensed under this chapter and section 2903 of the code. The seine net licensee, agent or employee of a licensee may conduct day-to-day operation of the licensed seine net. Day-to-day operation of gear includes setting, pulling and cleaning of the seine net and the sorting and landing of catch.

(d) A licensee shall prove to the satisfaction of the Commission that the licensee is responsible to carry out the obligations of the license. The proof shall consist of the following:

(1) For the first year of application for a license, the applicant shall show proof of ownership or lease of gear authorized for license under this chapter and section 2903 of the code.

(2) For the second and subsequent years, the trap net licensee shall show proof of at least 50 days of commercial fishing with the licensed gear in the Commonwealth waters of Lake Erie in the previous year.

(3) For the second and subsequent years, the seine net licensee shall show proof of at least 10 days of commercial fishing with the licensed gear in the Commonwealth waters of Lake Erie including Presque Isle Bay in the previous year.

(e) A licensee that fails to show proof of the required minimum number of days of commercial fishing with the licensed gear may not be eligible for renewal of the license for the next year.

Authority

The provisions of this § 69.23 amended under the Fish and Boat Code, 30 Pa.C.S. § 2903.

Source

The provisions of this § 69.23 amended March 7, 1997, effective March 8, 1997, 27 Pa.B. 1155; amended March 23, 2012, effective March 24, 2012, 42 Pa.B. 1502. Immediately preceding text appears at serial pages (342730) to (342731).

§ 69.24. Limitations on gear.

(a) A licensed trap netter may not use or fish more than six trap nets, singularly or in a series or tandem set, at any one time.

(b) No more than two licensed trap netters may fish from the same boat at any one time. If two licensed trap netters fish from the same boat at the same time, the trap netters shall clearly and distinctly separate their catch into containers or boxes marked with their respective license numbers.

Authority

The provisions of this § 69.24 amended under the Fish and Boat Code, 30 Pa.C.S. §§ 2102 and 2903.

Source

The provisions of this § 69.24 amended February 26, 1993, effective February 27, 1993, 23 Pa.B. 942; amended April 12, 1996, effective April 13, 1996, 26 Pa.B. 1706; amended March 7, 1997, effective March 8, 1997, 27 Pa.B. 1155; amended July 18, 2003, effective July 19, 2003, 33 Pa.B. 3496. Immediately preceding text appears at serial pages (227667) to (227668).

§ 69.25. Transfer of licenses.

Lake Erie commercial fishing licenses are the sole property of the Commonwealth. When a licensee of gear licensed under § 69.21 (relating to limitations on numbers and types of licenses) ceases commercial fishing, that license for that gear may be transferred to a qualified applicant who acquires possession of the licensed gear. The transferee shall pay the full license fee for the year in which the license is transferred. Transfers of licenses are subject to approval of the Commission based upon conditions existing at the time of proposed transfer. Licensees may not represent to potential transferees that the transfer of a license is a right or is otherwise guaranteed by statute or regulation.

§ 69.26. Reports.

(a) The holder of a license described in this chapter or section 2903 of the code (relating to boat and new licenses for boundary lakes), shall file a monthly report with the Commission describing the licensee's daily catch for each grid fished during the period. When a trap net licensee holds multiple trap net licenses, the licensee shall only file one consolidated report each month for catches with all trap nets. Separate reports shall be filed for other types of licensed gear. Reports shall be made on forms furnished by the Commission and shall be received on or before the 5th day of the month following the month to which the report pertains. Reports shall be sent to the Fish and Boat Commission, Northwest Region Law Enforcement Office.

(b) Whenever the Executive Director deems it necessary to provide for better protection and management of the Lake Erie fishery, the Executive Director may require that commercial licensees submit weekly or daily reports of their catches. A weekly report is due on or before noon of Wednesday of the week following the week to which the report pertains. A daily report is due by 4 p.m. of the day

following the day to which it pertains. Licensees will be advised in writing of the requirement to submit weekly or daily reports. Weekly or daily reports shall be submitted to the same address as monthly reports.

(c) It is unlawful for a licensee to fail to report accurately and in a timely manner matters required by this section. It is unlawful to fail to file a report for a specified period of time even if the licensee conducts no fishing activity during the time period.

(d) If a report required by this section is not received by the Commission by the date when it is due, the Executive Director or a designee will issue an order directing the licensee to suspend fishing operations until the required report is submitted. It is unlawful for a licensee to fish in violation of an order from the Executive Director or a designee to suspend operations for failure to submit a report. The Executive Director or a designee may extend the deadline for receipt of a report of not more than 5 days for a monthly report, 3 days for a weekly report and 1 day for daily report-upon written application of the licensee showing good cause for the delay. This subsection does not limit prosecution for failure to submit timely and accurate reports or to limit the Commission from taking appropriate action in accordance with Chapter 51 Subchapter C (relating to suspension, denial or revocation of licenses, permits, registrations or privileges) when a licensee is convicted of a violation of statute or regulations.

(e) Information contained in reports submitted under this section may be used for governmental purposes by the Commission and other agencies. Information contained in the reports will not be released to the public without the consent of the licensee except as may be required in compliance actions and prosecutions for violation of reporting requirements or as otherwise required by law.

(f) At least one copy of the monthly report shall be kept on the boat and be available for inspection and review by an officer authorized to enforce the code or this part. This report form shall be updated by the captain or principal operator on a daily basis. Information entered on this report shall be complete, up-to-date and accurately reflect daily catches for the month.

(g) The holder of a license described in this chapter or section 2903 of the code shall estimate the weight of the daily catch before landing and document this information on forms provided by the Commission.

Authority

The provisions of this § 69.26 amended under the Fish and Boat Code, 30 Pa.C.S. §§ 2102 and 2903.

Source

The provisions of this § 69.26 amended March 6, 1992, effective March 7, 1992, 22 Pa.B. 949; amended March 7, 1997, effective March 8, 1997, 27 Pa.B. 1155; amended March 23, 2012, effective March 24, 2012, 42 Pa.B. 1502. Immediately preceding text appears at serial pages (342731) to (342732).

§ 69.27. Expiration of license.

A commercial license issued under this chapter or section 2903 of the code (relating to boat and net licenses for boundary lakes), shall expire on December 31 of the year for which it was issued.

§ 69.28. Commercial fishing without license.

It is unlawful to fish commercially or with a device subject to license under section 2903 of the code (relating to boat and net licenses for boundary lakes) in the Pennsylvania waters of Lake Erie except under a commercial license issued under this chapter and section 2903 of the code and in compliance with all requirements statutes, regulations and the terms and conditions set forth in the license.

§ 69.29. [Reserved].**Source**

The provisions of this § 69.29 amended April 12, 1996, effective April 13, 1996, 26 Pa.B. 1706; reserved March 7, 1997, effective March 8, 1997, 27 Pa.B. 1155. Immediately preceding text appears at serial page (213814).

Subchapter D. COMMERCIAL FISHING, SEASONS AND NETS

Sec.	
69.31.	Seasons.
69.32.	[Reserved].
69.33.	Use of commercial trap nets.
69.34.	[Reserved].
69.35.	Use of commercial seines.
69.36.	[Reserved].
69.37.	Prohibited acts.
69.38.	Clearing of nets.
69.39.	Landing of catch.

Cross References

This subchapter cited in 58 Pa. Code § 69.1 (relating to statutory authority).

§ 69.31. Seasons.

(a) Commercial fishing in Pennsylvania waters of Lake Erie is permitted throughout the year. After December 31 and before June 1, commercial fishing may be limited by the Executive Director to fishing days as he deems necessary and appropriate to provide for the better protection and management of fish. It is unlawful to fish commercially or with a device subject to licensing under this chapter and section 2903 of the code (relating to boat and net licenses for boundary lakes) in the Pennsylvania waters of Lake Erie—including setting and lifting of nets or other activities—on days when the Executive Director restricts such fishing after December 31 and before June 1.

(b) The commercial fishing season for walleye is January 1 to March 14 and 12:01 a.m. the first Saturday in May to December 31. This season will close on the date established by the Executive Director as marking the probable attainment of the total allowable catch for walleye for that year. The total allowable catch for walleye for any year will be determined by the Executive Director and announced annually on or before April 15. After the announcement, the Executive Director may, from time to time, revise the total allowable catch for that year if he determines that conditions so warrant. The Executive Director or a designee

will monitor monthly, weekly and daily reports of catch of walleye and will declare the season to be closed on a date the Director determines will probably mark attainment of the total allowable catch. It is unlawful for a person fishing under a commercial fishing license or with a device subject to licensing under section 2902 of the code (relating to net permits) to take, catch or attempt to catch walleye except during the walleye season established under this subsection. Walleye accidentally caught out of season shall be immediately returned to the waters from which it was taken regardless of its condition and reported within 2 business days to the Commission at the address where commercial catch reports are filed.

(c) The commercial fishing season for yellow perch is January 1 until the date established by the Executive Director as marking the probable attainment of the total allowable catch for yellow perch for that year. The total allowable catch for yellow perch for any year will be determined by the Executive Director and announced on or before April 15. After the announcement, the Executive Director may revise the total allowable catch for that year if he determines that conditions so warrant. The Executive Director or his designee will monitor the monthly, weekly and daily reports of catch of yellow perch and will declare the season to be closed on the date the Director determines will probably mark attainment of the total allowable catch. It is unlawful for any person fishing under a commercial fishing license or with a device subject to licensing under section 2902 of the code, to take, catch, or attempt to catch yellow perch except during the yellow perch season established under this subsection. Yellow perch accidentally caught out of season shall be immediately returned to the waters from which it was taken regardless of its condition and reported within 2 business days to the Commission at the address where commercial catch reports are filed.

Authority

The provisions of this § 69.31 issued under the Fish and Boat Code, 30 Pa.C.S. § 2903; and amended under the Fish and Boat Code, 30 Pa.C.S. 2102.

Source

The provisions of this § 69.31 amended May 25, 1984, effective May 26, 1984, 14 Pa.B. 1805; amended March 6, 1992, effective March 7, 1992, 22 Pa.B. 949; amended February 26, 1993, effective February 27, 1993, 23 Pa.B. 942; amended April 12, 1996, effective April 13, 1996, 26 Pa.B. 1706; amended October 31, 1997, effective November 1, 1997, 27 Pa.B. 5605; amended June 15, 2001, effective January 1, 2002, 31 Pa.B. 3205; amended April 10, 2009, effective April 11, 2009, 39 Pa.B. 1860; amended October 22, 2010, effective October 23, 2010, 40 Pa.B. 6082. Immediately preceding text appears at serial pages (342733) to (342735).

Cross References

This section cited in 58 Pa. Code § 69.33 (relating to use of commercial trap nets).

§ 69.32. [Reserved].

Source

The provisions of this § 69.32 amended March 6, 1992, effective March 7, 1992, 22 Pa.B. 949; amended February 26, 1993, effective February 27, 1993, 23 Pa.B. 942; reserved April 12, 1996, effective April 13, 1996, 26 Pa.B. 1706. Immediately preceding text appears at serial pages (166375) to (166376).

Cross References

This section cited in 58 Pa. Code § 69.34 (relating to use of trawl net).

§ 69.33. Use of commercial trap nets.

(a) *Size.* Trap nets, cribs and associated leads shall be constructed of twine not lighter than number 12 thread/cord. A trap net lead or lifting crib with a mesh in violation of this section, whether being fished or held in possession, shall be subject to confiscation by the Commission.

(b) *Species.* A commercial trap net licensee may not possess or sell a fish except in compliance with the following size limits and seasons. The following size limits apply to commercial trap net licensees except that 5% of each licensee's daily catch by number per species may be undersized fish that may be lawfully sold:

<i>Species</i>	<i>Size Limit</i>	<i>Season</i>
Yellow perch (<i>Perca flavescens</i>)	None	No closed season until the total allowable catch is taken. See § 69.31 (relating to seasons).
Walleye (<i>Stizostedion vitreum</i>)	15 inches	January 1 to March 14 and May 1 to December 31. This season will close when the total allowable catch for walleye is taken. See § 69.31.
White fish (<i>Coregonus spp.</i>)	17 inches	No closed season
White perch (<i>Morone americana</i>)	No size limit	No closed season
Cisco (<i>Coregonus spp.</i> except <i>C. artedii</i>)	No size limit	No closed season
White bass (<i>Morone chrysops</i>)	No size limit	No closed season
Burbot (<i>Lota lota</i>)	No size limit	No closed season
Sheepshead (<i>Aplodinotus grunniens</i>)	No size limit	No closed season

<i>Species</i>	<i>Size Limit</i>	<i>Season</i>
Gizzard shad (<i>Dorosoma cepedianum</i>)	No size limit	No closed season
Goldfish (<i>Carassius auratus</i>)	No size limit	No closed season
Lake whitefish (<i>Coregonus clupeaformis</i>)	No size limit	No closed season
Brown bullhead (<i>Ictalurus nebulosus</i>)	No size limit	No closed season
Yellow bullhead (<i>Ictalurus natalis</i>)	No size limit	No closed season
Rainbow smelt (<i>Osmerus mordax</i>)	No size limit	No closed season
Channel catfish (<i>Ictalurus punctatus</i>)	No size limit	No closed season
Suckers (<i>Carpides sp.</i> , <i>Catostomus sp.</i> , <i>Ictiobus sp.</i> and <i>Moxmostoma sp.</i>)	No size limit	No closed season
Carp (<i>Cyprinus carpio</i>)	No size limit	No closed season

(c) *Buoys/tags.* Marker buoys shall be attached to the beginning of each lead and to the back of the crib. A staff extending 8 feet above the water with a minimum size flag of 18 inches by 18 inches secured near the top shall be attached to the anchor for the beginning of the lead and a staff extending 8 feet above the water with 2 minimum size flags of 18 inches by 18 inches (double flags) shall be attached to the anchor for the crib. The licensee shall affix a metal, numbered tag provided by the Commission to each of the required staffs showing the name and address of the owner or the lessee. Licensees shall report a seal that is lost, misplaced or stolen orally within 24 hours of discovery and in writing to the Commission at Northwest Law Enforcement Region within 2 business days. Improperly marked or tagged nets shall be subject to confiscation by the Com-

mission. Officers authorized to enforce the code and this part may mark trap nets for the purpose of determining the number of trap nets being used by a particular licensee.

(d) *Restricted period.* From January 1 through June 15, no part of a trap net may be set within 0.5 miles of Lake Erie shoreline, except between longitudes 80°00" and 80°10" where no part of a trap net may be set within 1.5 miles of the Lake Erie shoreline. From June 16 through December 31, no part of a trap net may be set within 1.5 miles of the Lake Erie shoreline.

(e) *Restricted waters.* The use of trap nets to harvest yellow perch from Lake Erie will be prohibited from an area bound on the west by the 80°00' longitudinal line and on the east at the Commonwealth/New York border (79°45'43") and on the south by the Lake Erie shoreline and on the north by the international border between the Commonwealth and Ontario, Canada.

(f) *Time.* Trap nets may be fished 24 hours a day, but it is unlawful to set or lift them during the period from 30 minutes after sunset to 30 minutes before sunrise. Trap nets may be set or fished, or both, from March 1 to November 30.

(g) *Description of trap net.*

(1) In the most general sense, a trap net is a compartmentalized trap, consisting of a lead, heart, tunnel and crib with wings and funnels. Fish are entrapped in the crib by swimming along a lead which directs the animal progressively through the heart, tunnel and into the crib. The netting and webbing which make up the crib shall be a single sheet external panel, subject to mesh size regulation to allow small, young fish a means of escape.

(2) A trap net fishing device is designed to catch fish by impoundment. Fish caught by impoundment remain alive and swimming for an extended period while confined within the trap net crib. The elements of netting, webbing and twine (thread) size (diameter) used in the construction of a trap net shall be of design and dimension that will discourage, prohibit and preclude the enmeshing and entanglement of fish in the netting of any part of the trap net device. The netting of the crib shall be constructed as a single panel or sheet of webbing. Lawful trap nets may not have liners or covers which would make the external crib webbing two or more sheets in thickness.

(3) As used in this chapter, the term "trap net" includes hoop nets and fyke nets.

(h) *Setting or tending trap nets.* A boat engaged in the setting or tending of trap nets shall comply with Navigation Rule 26 (United States Coast Guard) from the time the boat leaves the dock until it arrives back at the dock.

Authority

The provisions of this § 69.33 amended under the Fish and Boat Code, 30 Pa.C.S. §§ 2102 and 2903.

Source

The provisions of this § 69.33 amended February 26, 1993, effective February 27, 1993, 23 Pa.B. 942; amended April 12, 1996, effective April 13, 1996, 26 Pa.B. 1706; amended March 7, 1997, effective March 8, 1997, 27 Pa.B. 1155; amended October 31, 1997, effective November 1, 1997, 27 Pa.B. 5605; amended June 15, 2001, effective January 1, 2002, 31 Pa.B. 3205; amended December 12, 2003, effective January 1, 2004, 33 Pa.B. 6061; amended September 9, 2005, effective January 1, 2006, 35 Pa.B. 5007; amended September 9, 2005, effective September 10, 2005, 35 Pa.B. 5008;

amended April 10, 2009, effective April 11, 2009, 39 Pa.B. 1860; amended March 23, 2012, effective March 24, 2012, 42 Pa.B. 1502. Immediately preceding text appears at serial pages (353381) to (353382) and (342737) to (342738).

§ 69.34. [Reserved].

Source

The provisions of this § 69.34 reserved March 7, 1997, effective March 8, 1997, 27 Pa.B. 1155. Immediately preceding text appears at serial page (213817).

§ 69.35. Use of commercial seines.

(a) *Species.* It is unlawful to use a seine for commercial fishing in Lake Erie except for the taking of emerald shiners, spottail shiners, gizzard shad and alewife. There shall be no minimum length or daily limit for legal species captured by means of seines.

(b) *Taking shiners, gizzard shad and alewife.* It is unlawful to use a seine for the purpose of taking emerald shiners, spottail shiners, gizzard shad and alewife within an area 300 feet from the mouth of any stream or within the confines of a tributary stream to Lake Erie.

(c) *Lake Erie proper.* Shore seining and seining from docks and boats with no restrictions on the size of seine used is permitted for legal species designated in subsection (a).

(d) *Identification of seine.* Each seine used shall be licensed separately and shall carry the identifying plastic tag furnished with the license.

(e) *Sale.* Emerald shiners, spottail shiners, gizzard shad or alewife caught by the holder of a seine license issued under this chapter may be sold either alive, dead or preserved by the holder of the license in the Lake Erie watershed only. It is unlawful to sell these fish in other watersheds of this Commonwealth except in accordance with § 69.3(e) (relating to transportation, introduction and sale of VHS-susceptible species of fish out of the Lake Erie watershed).

(f) *Interference with sport anglers or boaters.* It is unlawful for a holder of a seine license issued under this chapter to interfere with sport anglers or boaters.

(g) *Interference with other holders of commercial seine license.* It is unlawful for the holder of a commercial seine license to use a seine within 100 yards of another holder of a commercial seine license.

Authority

The provisions of this section amended under the Fish and Boat Code, 30 Pa.C.S. §§ 2102 and 2903.

Source

The provisions of this § 69.35 amended March 23, 2012, effective March 24, 2012, 42 Pa.B. 1502.

§ 69.36. [Reserved].

Source

The provisions of this § 69.36 reserved March 7, 1997, effective March 8, 1997, 27 Pa.B. 1155. Immediately preceding text appears at serial page (213818).

§ 69.37. Prohibited acts.

(a) It is unlawful, while fishing under a commercial fishing license, for commercial purposes, or with devices subject to licensing under this chapter and section 2903 of the code (relating to boat and net licenses for boundary lakes) to attempt to catch any species of salmon, trout—including lake trout, sauger, largemouth bass, smallmouth bass, muskellunge, northern pike and longjawed cisco. Fish that are accidentally caught shall be returned immediately to the waters from which it was taken regardless of its condition and reported to the Commission.

(b) It is unlawful for a person other than the holder of a commercial fishing license, and the agents and employees of the holder or an officer authorized to enforce the code or this part to lift, clear or disturb a commercial net or net-marking buoy.

(c) It is unlawful while fishing under a commercial license or otherwise fishing with a device subject to commercial licensing to manipulate, alter or otherwise use a commercial fishing device in a way to reduce the effective mesh size of the net being fished.

(d) It is unlawful to fish by hook and line from a boat engaged in commercial fishing under this chapter.

Authority

The provisions of this § 69.37 amended under the Fish and Boat Code, 30 Pa.C.S. §§ 2102 and 2903.

Source

The provisions of this § 69.37 amended March 6, 1992, effective March 7, 1992, 22 Pa.B. 949; amended March 7, 1997, effective March 8, 1997, 27 Pa.B. 1155; amended March 23, 2012, effective March 24, 2012, 42 Pa.B. 1502. Immediately preceding text appears at serial page (342739).

§ 69.38. Clearing of nets.

Nets fished under a commercial fishing license or subject to licensing under this chapter and section 2903 of the code (relating to boat and net licenses for boundary lakes), shall be lifted and cleared of catch on a schedule as the Executive Director may establish to provide for the better protection and management of fish, except under circumstances where the Executive Director or his designee, upon a showing of good cause by the licensee, authorizes the licensee to lift and clear his nets on an alternate schedule.

§ 69.39. Landing of catch.

(a) Fish caught under a Commonwealth commercial fishing license will be landed in this Commonwealth. Each licensee shall notify the Commission of the location and address where the licensee proposes to land fish. It is unlawful to land fish caught under a Commonwealth commercial fishing license for fishing the Commonwealth waters of Lake Erie at any location outside this Commonwealth.

(b) Fish caught under a Commonwealth commercial fishing license shall be landed in this Commonwealth not later than 2 hours after sunset the same day as the net is cleared.

(c) Fish caught under a Commonwealth commercial fishing license may not be off-loaded onto a boat other than a boat on which they were caught.

Authority

The provisions of this § 69.39 amended under the Fish and Boat Code, 30 Pa.C.S. §§ 2102 and 2903.

Source

The provisions of this § 69.39 amended March 7, 1997, effective March 8, 1997, 27 Pa.B. 1155; amended March 23, 2012, effective March 24, 2012, 42 Pa.B. 1502. Immediately preceding text appears at serial page (342740).

**Subchapter E. TAGGED FISH CONTESTS
IN BOUNDARY LAKES**

Sec.

- 69.41. Definitions.
- 69.42. Policy.
- 69.43. Applications for permits.
- 69.44. Review of permit applications.

§ 69.41. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Boundary lake—Lake Erie, Pymatuning Reservoir, Yougiogheny Reservoir, Allegheny River (Kinzua) Reservoir and the portions of other natural lakes or impoundments that lie between this Commonwealth and another state or nation over which the Commonwealth exercises jurisdiction.

Tagged-fish contest—An event where a person who has paid a fee to enter the contest wins a prize for catching a specially tagged, marked or branded fish.

Authority

The provisions of this § 69.41 issued under the Fish and Boat Code, 30 Pa.C.S. §§ 2102 and 2904.

Source

The provisions of this § 69.41 adopted December 14, 1990, effective December 15, 1990, 20 Pa.B. 6179.

§ 69.42. Policy.

(a) It is unlawful for a person to conduct a tagged-fish contest on Commonwealth waters unless the person has first procured a permit issued by the Commission under section 2907.1 of the code (relating to tagged fish contests on boundary lakes) and this subchapter.

(b) As required by section 2907.1 of the code, the Commission will issue permits for tagged-fish contests on boundary lakes where the other state which bounds the lake permits the contests under the procedures in this subchapter unless the Commission finds that the proposed contest threatens the fisheries resources of the Pennsylvania portion of the boundary lake where the contest is to be conducted. Before issuing a permit, the Commission staff will make two findings as follows:

- (1) Whether the other state which bounds the lake permits the contests.

(2) Whether the proposed contest threatens the fisheries resources of the Commonwealth portion of the boundary lake where the contest is to be conducted.

(c) The issuance of a permit under section 2907.1 of the code and this subchapter does not constitute a Commission endorsement of the permitted tagged-fish contest nor does the issuance of a permit constitute a finding that the permitted contest is otherwise lawful or complies with other Commonwealth statutes or regulations. The sponsors of tagged-fish contests are solely responsible to ensure compliance with applicable statutes and regulations. It is unlawful for the sponsors of a tagged-fish contest permitted under section 2907.1 of the code and this subchapter to advertise, publicize or otherwise indicate that the contest is endorsed by the Commission.

(d) With the exception of the issuance of a permit as required by section 2907.1 of the code and routine law enforcement on the waters where a permitted contest is to be held, the Commission and its staff will not be involved in the administration, conduct, management or control of a tagged-fish contest. The Commission will not:

- (1) Provide fish for the contests from Commission hatcheries or from cooperative nurseries recognized by the Commission.
- (2) Catch, tag or mark fish for the contests.
- (3) Enforce the rules of the tagged-fish contest.
- (4) Receive or inspect tags or fish caught in a tagged-fish contest.
- (5) Determine or assist in the determination of whether prizes should be awarded for fish caught in a tagged-fish contest.
- (6) Award prizes.
- (7) Perform other activities related to the administration of the contest.

(e) Except as otherwise specifically provided in this subchapter, the review and disposition of applications for tagged-fish contest permits shall follow the procedures specified in §§ 51.41—51.46.

Authority

The provisions of this § 69.42 issued under the Fish and Boat Code, 30 Pa.C.S. §§ 2102 and 2904.

Source

The provisions of this § 69.42 adopted December 14, 1990, effective December 15, 1990, 20 Pa.B. 6179.

§ 69.43. Applications for permits.

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

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

(c) The application shall include information on the species of fish to be marked and tagged, the number and species of fish to be released, the anticipated

number of anglers and boaters who may participate in the contest, the duration of the contest, the number of fish expected to be caught by participants in the contest and a description of the applicant's assessment of the impacts that the tagged-fish contest will have on fisheries resources of Commonwealth waters where the contest is to be conducted.

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

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

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

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

Authority

The provisions of this § 69.43 issued under the Fish and Boat Code, 30 Pa.C.S. §§ 2102 and 2904; amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186).

Source

The provisions of this § 69.43 adopted December 14, 1990, effective December 15, 1990, 20 Pa.B. 6179; amended July 26, 2013, effective July 27, 2013, 43 Pa.B. 4214. Immediately preceding text appears at serial pages (360751) to (360752).

§ 69.44. Review of permit applications.

(a) The Bureau of Law Enforcement will review permit applications for completeness. Incomplete applications will be returned without action to the applicant.

(b) When a permit application is deemed complete, the Bureau of Law Enforcement will publish a notice of the receipt of the application in the *Pennsylvania Bulletin*. The notice will provide the public with at least 15 days to offer comments, protests, interventions or objections with respect to the application for the proposed tagged-fish contest. Permit applications, together with public comments or objections, will be reviewed, at a minimum, by the Bureau of Fisheries and the Bureau of Law Enforcement. The comments and recommendations of fisheries and enforcement personnel with responsibility for the site of the proposed contest will be solicited.

(c) If the Director of the Bureau of Fisheries or a designee makes a recommended finding that the proposed contest is likely to result in substantial public interest or controversy, significant adverse impacts on fisheries resources or

threats to the fisheries resources of Commonwealth waters of the boundary lake where the contest is to be conducted, the Director of the Bureau of Law Enforcement will:

(1) Notify the applicant.

(2) Publish a notice in the *Pennsylvania Bulletin* under § 51.43(c) (relating to staff review), which will provide at least 15 days notice of the date, time and place of a public hearing on the proposed permit and at least 15 days for the submission of written comments, protests and interventions concerning the proposed permit.

(d) After completion of the public hearing and consideration of the public comments, the Executive Director will issue or deny the permit based upon a finding of whether or not the proposed contest threatens the fisheries resources of Commonwealth waters of the boundary lake where the proposed contest is to be conducted. The applicant and a person aggrieved by the Executive Director's action may appeal as provided in §§ 51.44—51.46 (relating to appeals; procedures; and final agency action).

(e) If the Director of the Bureau of Fisheries or a designee makes a recommended finding that none of the factors listed in subsection (c) applies to the proposed contest, the Director of the Bureau of Law Enforcement will issue the permit without further proceedings.

Authority

The provisions of this § 69.44 issued under the Fish and Boat Code, 30 Pa.C.S. §§ 2102 and 2904.

Source

The provisions of this § 69.44 adopted December 14, 1990, effective December 15, 1990, 20 Pa.B. 6179.

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