

Notice of Proposed Rulemaking

COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA FISH AND BOAT COMMISSION

Title 58. Recreation  
Part II. Fish and Boat Commission  
Chapter 97  
Boating

The Fish and Boat Commission (Commission) proposes to amend Chapter 97 (relating to operator provided equipment). The Commission is publishing this proposed rulemaking under the authority of 30 Pa. C.S. (relating to the Fish and Boat Code) (code). The proposed amendments modify and update the Commission's boating regulations.

A. *Effective Date*

The proposed rulemaking, if approved on final-form rulemaking, will go into effect on November 1, 2012 to allow adequate time for public comment and to notify the public of the new requirement.

B. *Contact Person*

For further information on the 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 website at [www.fish.state.pa.us](http://www.fish.state.pa.us).

C. *Statutory Authority*

The proposed amendment to §97.1 (relating to personal flotation devices) is published under the statutory authority of section 5123(a)(5) of the code (relating to general boating regulations).

D. *Purpose and Background*

The 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 proposal. On June 15, 2010 and February 8, 2011, the Commission's Boating Advisory Board considered this proposal and recommended that the Commission approve the publication of a notice of proposed rulemaking containing the amendment.

E. *Summary of Proposal*

Since 1995, the Commission has used the U.S. Coast Guard's Boating Accident Report Database to submit details of recreational boating accidents that occur in the Commonwealth. This database assists the Coast Guard and the Commission in analyzing recreational boating accident data and identifying trends to inform boating safety decision-making. In the past 15 years, the Commission has reported 1,424 accidents resulting in 187 fatalities in this Commonwealth. Approximately 8% of the accidents (117) occurred during the "off" boating season from November 1<sup>st</sup> through April 30<sup>th</sup>. While only a small percentage of the total accidents, these cold-water incidents resulted in 24% of the fatalities (45) during the 15-year timeframe.

Because boating safety requirements, equipment and recreational trends change over time, it is sufficient to focus a more detailed analysis on the past 10-year period of recreational boating accident records. From 2000 to 2009, boating accident records revealed a total of 125 fatalities of which 34 (27%) occurred between November 1<sup>st</sup> and April 30<sup>th</sup>. More than 82% of these fatalities (28) occurred in unpowered boats and motorboats less than 16 feet in length. Such boats included canoes, rowboats, kayaks and small open motorboats.

The disproportionate number of fatalities in November through April is primarily due to the effects of coldwater immersion. When water temperatures are less than 70 degrees F, cold water

shock is a major factor in boating fatalities. Cold water shock causes an involuntary gasp (often resulting in aspiration of water), hyperventilation, breathlessness and a reduced ability to control breathing and swim. Victims who wear a personal flotation device (PFD) when exposed to cold water have potentially life-saving advantages such as insulation from the cold, buoyancy for victims unable to tread water, and reduced risk of aspiration of water.

The Commission therefore proposes that §97.1 be amended to read as set forth in Annex A.

F. *Paperwork*

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

G. *Fiscal Impact*

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will impose nominal costs on the private sector and the general public. The cost of PFDs ranges from \$10 to \$150.

H. *Public Comments*

Interested persons are invited to submit written comments, objections or suggestions about the 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](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.

For the Pennsylvania Fish and Boat Commission

John A. Arway  
Executive Director

**Annex A**

**Regulation No. 48A-228**

**Title 58. Recreation**

**Part II. Fish and Boat Commission**

***Subpart C. Boating***

**CHAPTER 97. OPERATOR PROVIDED EQUIPMENT**

§97.1. Personal flotation devices.

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**(i) Beginning November 1 until midnight April 30 of the following year, persons shall wear a Coast Guard approved Type I, II, III or V PFD while underway or at anchor on boats less than 16 feet in length or any canoe or kayak.**