

Section 2

Regulation and Statement of Purpose

R-39 Rev. 03/2012
(Title page)

IMPORTANT: Read instructions on back of last page (Certification Page) before completing this form. Failure to comply with instructions may cause disapproval of proposed Regulations

State of Connecticut
REGULATION
of

NAME OF AGENCY
Department of Energy and Environmental Protection

Concerning

SUBJECT MATTER OF REGULATION
Candlewood Lake Vessel Length Restriction

Section 15-121-B 15a of the Regulations of the Connecticut State Agencies is amended by adding subsection (b) as follows:

(NEW) (b) No person shall operate a registered vessel that is 26 feet in length or greater on the waters of Candlewood Lake unless such operation has been exempted or authorized by the commissioner under this subsection. For the purpose of this subsection the registered length of the vessel shall be determined from the length identified on the vessel's certificate of number awarded by this state, by another state or by the United States pursuant to the provisions of the federal Boat Safety Act of 1971, or marine document issued by the United States Coast Guard.

(1) The following vessels are exempt from the requirements of this subsection:

(A) Vessels that while on the waters of Candlewood Lake are operated exclusively by authorized law enforcement personnel in the performance of official duties;

(B) Vessels that while on the waters of Candlewood Lake are used exclusively for invasive species control, sewage transfer, or marine structure or infrastructure construction or maintenance; and

(C) Vessels displaying a valid marine dealer registration number that are being demonstrated for sale, test run in connection with maintenance or repair, or surveyed by a certified marine surveyor.

(2) The Commissioner shall authorize the operation of vessels that are 26 feet in length or greater on the waters of Candlewood Lake that meet one of the following conditions:

(A) The vessel is owned by a person other than a marine dealer and such person purchased and registered the vessel prior to the effective date of this regulation and presents evidence to the Commissioner of one or more of the following:

(i) dockspace on Candlewood Lake for such vessel which dockspace was owned or rented on or before the effective date of this regulation;

(ii) a written contract or agreement executed on or before the effective date of this regulation for the storage of such vessel on property abutting Candlewood Lake;

(iii) a written contract or agreement which explicitly references Candlewood Lake that was executed on or before the effective date of this regulation that includes a provision for the launching of such vessel onto Candlewood Lake or the retrieving of such vessel from Candlewood Lake; or,

(iv) other documentation evidencing the use of the subject vessel on the waters of Candlewood Lake for more than ten consecutive days or twenty days in aggregate, over the twenty four months preceding the effective date of this regulation.

(B) The vessel is owned by a marine dealer located in one of the five surrounding municipalities (Danbury, Brookfield, New Milford, Sherman, or New Fairfield) where the vessel is present in inventory or ordered for inventory prior to the effective date of this regulation.

(C) Notwithstanding subparagraph (B) of this subdivision, for any marine dealer located within one of the five municipalities surrounding Candlewood Lake who shares ownership of vessel inventory with other businesses that are located outside of the five municipalities surrounding Candlewood Lake or with a branch or branches of the same business that are located outside of the five municipalities surrounding Candlewood Lake, the Commissioner may authorize the number of vessels equal to the average number of vessels 26 feet in length or greater that were sold per year over the last five years, rounded up to the nearest whole number, from that business located within one of the five municipalities surrounding Candlewood Lake.

(D) For the purpose of this section, a “marine dealer” means any business that possesses a Marine Dealer Registration Number pursuant to Section 15-145 of the Connecticut General Statutes, or that uses a North American Industry Classification System (NAICS) or Standard Industry Classification (SIC) code for vessels sales in tax filings, and can demonstrate the use of such code in tax filings prior to the effective date of this regulation.

(3) The Commissioner shall provide permanent numbered decals that shall be attached to those vessels that are 26 feet in length or greater that are authorized by the Commissioner to operate on the waters of Candlewood Lake and that are not exempt in accordance with this subsection. The Commissioner shall issue one such authorizing decal for each vessel 26 feet or greater in length meeting one of the conditions of subdivision (2) of this subsection. The authorizing decal shall be affixed to the starboard side of the vessel such that the decal is not obstructed from view on the hull and above the waterline and closer to the stern than the bow, or on a superstructure or windshield near the operator’s station. The authorizing decal shall be permanently affixed to the vessel for the life of the vessel. The authorizing decal shall not be transferable to other vessels or other hulls.

(A) Requests for an authorizing decal made by a person other than a marine dealer shall be made on or before December 31, 2014, and on a form provided by the Commissioner for this purpose.

(B) Requests for an authorizing decal made by a marine dealer shall be made within sixty days of the effective date of this regulation and on a form provided by the Commissioner for this purpose. A marine dealer shall provide proof to the satisfaction of the Commissioner regarding the ownership, identity and number of vessels claimed for authorization, and that such vessels were present in inventory or ordered for inventory prior to the effective date of this regulation.

(4) The Commissioner may issue a replacement authorizing decal at any time upon written application.

(5) An individual vessel owner or marine dealer whose vessel is denied an authorizing decal or a replacement authorizing decal by the Commissioner or the Commissioner's designee may apply to the Commissioner for reconsideration of the denial. Such application shall be made in writing by the vessel owner or owners and shall contain the original signature of the applicant or applicants and the statement, " I (we) declare under penalty of false statement that the information furnished herein is true and complete to the best of my (our) knowledge and belief." Such application shall be notarized and shall include additional evidence not considered in the denied application, which evidence may include but shall not be limited to financial records, contracts or agreements, photographs, vessel safety check records, third party affidavits, government records, newspaper articles, or other information evidencing the right to seek authorization for use of such vessel on Candlewood Lake pursuant to subdivision (2) of this subsection. The Commissioner shall review such application and may issue an authorizing decal or a replacement decal after considering such evidence. The Commissioner shall be the sole judge as to the weight and suitability of such evidence.

(6) The Commissioner may designate the Candlewood Lake Authority (CLA) to act as agent in issuing authorizing decals upon receipt of written agreement from the executive officer of the lake authority. The Commissioner may designate any or each of the governments of the several lakefront municipalities (Danbury, Brookfield, New Milford, Sherman, and New Fairfield) to act as agent in issuing authorizing decals upon receipt of written agreement from the municipality's executive officer. The CLA or any municipality so designated may withdraw from being a designated agent upon written request by the Chairman of the CLA or that municipality's executive officer to the Commissioner, and such withdrawal shall be effective forty-five (45) days from the date which the written withdrawal is received by the Commissioner.

(7) Any law enforcement officer or lake patrolman duly authorized to enforce these regulations may terminate the operation of a vessel that is in violation of this section. On and after the sixth month following the effective date of this regulation, operation of a registered vessel on the waters of Candlewood Lake that is 26 ft in length or greater and that does not have an authorizing decal issued by the Commissioner shall be an infraction.

Statement of Purpose

Pursuant to CGS Section 4-170(b)(3), "Each proposed regulation shall have a statement of its purpose following the final section of the regulation." Enter the statement here.

In 2010 the Connecticut General Assembly (CGA) passed Special Act 10-3, which directed the DEP to propose a regulation implementing a vessel length limit of under 26-feet on Candlewood Lake for the purpose of halting the general escalation of vessel size on the lake, both a cause and a consequence of user conflict.

Under the proposed regulation, persons operating an unauthorized oversized vessel will be subject to ejection from the lake and/or a fine, and the size of the vessel will be determined by the registered length as it appears on its state-issued certificate of registration.

As part of this proposed regulation, authorization to operate will be given to oversized vessels that have historically been used or that have been ordered for use on Candlewood Lake prior to the effective date of the proposed regulation, and for the lifetime of a given vessel. The Commissioner will accomplish this "Grandfathering" function by issuing a numbered decal to the owner of a qualified oversized vessel, the display of which will indicate an oversized vessel's authorized presence on the lake.

Accommodation is also made for oversized commercial and government vessels and vessels that have the function of maintaining the quality of the lake environment. While there is an anticipated impact to small business, measures protective of business have been included.

Implementation of this regulation will have the short term effect of capping the number of oversized vessels on Candlewood Lake, and ending the general escalation of vessel size that is taking place on the lake. The long term effect will be to *reduce* the size of the fleet of oversized vessels, as vessels age and are removed from service.