

PROPOSED RULEMAKING

FISH AND BOAT COMMISSION

[58 PA. CODE CHS. 51, 63 AND 93]

General Provisions; Fishing; Boating

The Fish and Boat Commission (Commission) proposes to amend Chapters 51, 63 and 93 (relating to administrative provisions; general fishing regulations; and boat registration and numbering). 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 rulemaking relates to permits for fish collecting activities, fishing and registration and titling.

A. *Effective Date*

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

B. *Contact Person*

For further information on the proposed rulemaking, contact Laurie E. Shepler, Assistant Counsel, P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7815. This proposed rulemaking is available electronically through the Commission's website (<http://www.fish.state.pa.us>).

C. *Statutory Authority*

The proposed additions of §§ 51.72 and 51.73 (relating to permits for commercial pest control agents; and general permits for fish collecting activities) are published under the statutory authority of section 2905 of the code (relating to permits for scientific and educational fish collecting activities). The proposed amendments to §§ 63.6 and 63.8 (relating to authorized devices for game fish, baitfish and fishbait; and long bows, spears and gigs) are published under the statutory authority of section 2102(b) of the code (relating to rules and regulations). The proposed amendments to § 93.9 (relating to surrender of certificate of registration) are published under the statutory authority of section 5122 of the code (relating to registrations, licenses, permits, plates and statistics). The proposed amendments to § 93.102 (relating to application procedure and contents of applications for certificates of title) are published under the statutory authority of section 5325 of the code (relating to rules and regulations).

D. *Purpose and Background*

The proposed rulemaking is designed to update, modify and improve the Commission's regulations pertaining to permits for fish collecting activities, fishing and registration and titling.

E. *Summary of Proposed Rulemaking*

(1) *Sections 51.72 and 51.73.* From time to time, the Commission's regional law enforcement offices receive calls from individuals seeking assistance in removing snakes or other unwanted "visitors" from their residences. Generally, the response is to refer the individuals to a commercial pest control business. Unlike the Game Commission, the Commission does not have regulations governing commercial pest control agents. Commercial entities that wish to engage in this business as it pertains to fish have been advised by Commission staff in the past to obtain a scientific collectors' permit under § 51.71 (relat-

ing to scientific collectors' permits). The Commission believes that there are issues associated with commercial pest control agents that require regulations that are tailored to this business. Accordingly, the Commission proposes to add § 51.72 to read as set forth in Annex A. The Commission also proposes to add § 51.73 to read as set forth in Annex A to cover fish collecting activities other than for scientific or educational research purposes or pest control.

(2) *Section 63.6.* A recent review of the Commission's regulations has revealed the need to clarify that nets may not be used to catch or take game fish. This issue has arisen with regard to the Lake Erie tributaries and the illegal netting of steelhead. Accordingly, the Commission proposes to amend this section to read as set forth in Annex A.

(3) *Section 63.8.* In recent years, crossbows have become more popular and the Game Commission has relaxed restrictions for their use during the regular firearms season for deer and during the elk and bear seasons. Allowing their use in fishing would have no or little impact and would eliminate the need for a permit for their use for persons with disabilities. Accordingly, the Commission proposes to amend this section to read as set forth in Annex A.

(4) *Section 93.9.* This section sets forth the conditions under which an individual is required to surrender a certificate of registration. The condition in this section dealing with documented vessels is not valid. Documented vessels are exempt from the requirement to display the registration number but are required to be registered, in part, to serve as proof of payment of sales tax. Because documented vessels are required to be registered, their owners must possess a certificate of registration and display a validation decal. Accordingly, the Commission proposes to amend this section to read as set forth in Annex A.

(5) *Section 93.102.* A question has arisen regarding whether it is appropriate for the Commission to issue a certificate of title for a boat that is currently registered in another state. For example, a North Carolina resident recently sought to obtain a Pennsylvania title for a boat that is currently registered in North Carolina. Although North Carolina does not have a mandatory titling program, it does allow individuals to voluntarily title their boats. The individual did not want to title the boat in North Carolina, but wished to keep the boat registered there.

The Commission has determined that as a matter of policy it should not issue certificates of title for boats that are currently registered in other states. Accordingly, the Commission proposes to amend this section to read as set forth in Annex A.

F. *Paperwork*

The proposed additions of §§ 51.72 and 51.73 will create new paperwork requirements in that individuals who wish to apply for permits for commercial pest control agents and general permits for fish collecting activities will have to complete an application on the form prescribed by the Commission. However, the Commission currently is issuing permits covering these activities under its already existing scientific collectors' permit program. Thus, the increase in paperwork will be modest.

The remainder of the proposed rulemaking will not increase paperwork and will create no new paperwork requirements.

G. Fiscal Impact

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed additions of §§ 51.72 and 51.73 will impose new costs on the private sector and the general public in that individuals applying for permits for commercial pest control agents and general permits for fish collecting activities will have to pay a fee. The remainder of the proposed rulemaking will impose no 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 the proposed rulemaking to the Deputy 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 to ra-pfbcregs@state.pa.us. A subject heading of the proposal and a return name and address must be included in each transmission. In addition, all electronic comments must be contained in the text of the transmission, not in an attachment. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

DENNIS T. GUISE,
Deputy Executive Director

Fiscal Note: 48A-149. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart A. GENERAL PROVISIONS

CHAPTER 51. ADMINISTRATIVE PROVISIONS

Subchapter H. PERMITS FOR FISH COLLECTING ACTIVITIES

§ 51.72. Permits for commercial pest control agents.

(a) *General.* An annual commercial pest control permit is required to take, catch, possess, transport, release or dispatch fish, reptiles and amphibians, for another person for a fee or other consideration, that are creating a nuisance or are a risk to human health or safety. This permit authorizes the agent to control designated fish, reptiles and amphibians for another at any time of the year.

(b) *Application.* In addition to the requirements of § 51.42 (relating to applications), an application for an annual commercial pest control permit shall be accompanied by a nonrefundable fee of \$50.

(c) *Operation.*

(1) An agent shall have the approval of the property owner or lessee and confine all activities to that property.

(2) An agent shall carry the permit and a valid Pennsylvania fishing license at all times and present it upon the request of any officer authorized to enforce the code.

(3) An agent shall comply with the terms and conditions of the permit.

(d) *Records and reports.* An agent shall keep a record of all activities conducted under the authority of the permit on the form prescribed by the Commission.

(1) The agent shall keep the records for 3 years following the expiration of the permit, and the records shall be the basis of any reports required by the Commission. Records shall be available for inspection during normal business hours at the request of any officer authorized to enforce the code.

(2) An agent shall submit an annual report of activities to the Commission on the form prescribed by the Commission. The agent shall submit the report by January 31 of the year following the year for which the permit was issued. The report shall list the number of each species taken and their disposition.

(e) *Unlawful acts.* It is unlawful:

(1) To catch, take, kill, possess, export or import any threatened or endangered species without the proper permits and approval of the Commission.

(2) Except with the prior written permission of the Commission, to sell, trade, barter or transfer to another person any live or dead fish, reptile or amphibian, including parts, taken under the authority of a permit.

(3) To release nonnative species of fish, reptiles or amphibians into the waters or other areas of this Commonwealth.

§ 51.73. General permits for fish collecting activities.

(a) A valid and current general permit for fishing collecting activities for purposes other than those described in §§ 51.71 and 51.72 (relating to scientific collectors' permits; and permits for commercial pest control agents) is required to collect, take or maintain any species of Pennsylvania fishes, amphibians, reptiles or aquatic organisms, during seasons not permitted by regulations governing holders of a valid Pennsylvania license, individual rattlesnake hunter permit, organized amphibian and reptile hunt permit or other license or permit.

(b) Holders of general permits and their assistants shall comply with terms and conditions of the permit, including the requirement for a report of collecting activities.

Subpart B. FISHING

CHAPTER 63. GENERAL FISHING REGULATIONS

§ 63.6. Authorized devices for game fish, baitfish and fishbait.

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(e) It is unlawful to use any type of net or seine to catch or take game fish. A landing net may be used to land game fish legally caught by hook and line.

§ 63.8. Long bows, crossbows, spears and gigs.

(a) *General.* Except as otherwise provided in this part, carp, gar, suckers and eels may be taken with [a long bow, including compound, and arrow; a spear; or

gig] long bows and arrow, including compound bows, crossbows, spears or gigs any hour of the day or night aided by a light at night if so desired, in Commonwealth waters and waters bounding and adjacent thereto[; except that there may be no spearing in the tributaries of Lake Erie from 7 p.m. to 7 a.m. daily].

(b) *Delaware River.* The following provisions apply to use of long bows **and arrow**, including compound **bows, crossbows**, spears and gigs on the Delaware River:

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(2) It is unlawful to use long bows and arrow, including compound, **crossbows**, spears or gigs to take fish within 275 yards of an eel weir.

(3) Except as provided in paragraph (1), it is unlawful to take any fish on the Delaware River by means of long bows and arrow, **including compound bows, crossbows**, spears or gigs.

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(d) *Restrictions.* Spears or gigs may not be mechanically propelled, may not have more than five barbed points, and may not be used in approved trout waters. **[Except as provided in subsection (e), the use of crossbows is prohibited.**

(e) *Persons with disabilities.* The Executive Director, or a designee, may issue permits to persons exempt from the fishing license requirement under section 2709(b) of the code (relating to exemptions from license requirements)—except a person who is blind—and a person who is permanently deprived of the use of a leg or an arm or both arms allowing them to use crossbows or mechanically propelled spears and gigs subject to limitations and conditions as set forth in the permit. Persons who wish to apply for a permit under this section may apply on forms provided by: Director, Bureau of Law Enforcement, Pennsylvania Fish and Boat Commission, Post Office Box 67000, Harrisburg, Pennsylvania 17106-7000.]

Subpart C. BOATING

CHAPTER 93. BOAT REGISTRATION AND NUMBERING

Subchapter A. REGISTRATION OF BOATS

§ 93.9. Surrender of certificate of registration.

(a) The person whose name appears on the certificate of registration as owner of a boat shall surrender the certificate and the validation decals to the Commission, within 15 days after it becomes invalid, for one or more of the following reasons:

(1) **[The boat becomes documented.**

(2) **] The owner transfers ownership of the boat.**

[(3)] (2) * * *

[(4)] (3) * * *

[(5)] (4) * * *

[(6)] (5) * * *

[(7)] (6) * * *

(b) If the certificate of registration becomes invalid for the reasons in subsection **[(a)(1), (4) or (6)] (a)(3) or (5)**, the person whose name appears on the certificate as the owner shall remove the number and validation decal from the boat. If the registration becomes invalid for the reasons in subsection (a)**[(7)](6)**, the owner shall remove the validation decal but shall leave the registration number fixed to the boat.

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Subchapter B. TITLING OF BOATS

§ 93.102. Application procedure and contents of applications for certificates of title.

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(e) **The Commission will not issue a certificate of title for a boat that is registered or titled, or both, in another state or that is documented by the United States Coast Guard unless the application for title is accompanied by the current certificates of registration or title, or both, for the boat or evidence that the marine document for the boat is no longer in effect.**

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