

# PROPOSED RULEMAKING

## DELAWARE RIVER BASIN COMMISSION

[25 PA. CODE CH. 901]

### Proposed Temporary Amendments to the Water Quality Regulations, Water Code and Comprehensive Plan to Extend the Designation of the Lower Delaware River as a Special Protection Water

#### Summary

The Delaware River Basin Commission (Commission) will hold a public hearing to receive comments on a proposed amendment to the Commission's *Water Quality Regulations, Water Code and Comprehensive Plan* to extend through September 30, 2007, the temporary classification of the Lower Delaware River as Significant Resource Waters (SRW). The SRW classification was enacted by Commission Resolution No. 2005-2 on January 19, 2005, and initially was due to expire on September 30, 2005. Based upon analysis of additional water quality data, the Commission proposed to decide by that date whether to classify certain sections of the Lower Delaware River as Outstanding Basin Waters and whether to make the SRW classification permanent for some or all of the Lower Delaware. By Resolution No. 2005-15 approved on September 26, 2005, the temporary classification was extended through September 30, 2006, to allow time for the Commission to evaluate implementation options and establish numeric values for existing water quality. To complete its evaluation of implementation approaches, the Commission is proposing to extend the temporary classification for up to 12 months more. If approved, the classification would thus expire on September 30, 2007, unless the Commission should either permanently classify the Lower Delaware River or once again extend the temporary classification by rule amendment prior to that date.

Permanent classification is anticipated, following an additional notice and comment rulemaking when the Commission has resolved remaining implementation issues. Extending the temporary classification will help to protect the exceptional scenic, recreational and water quality values of the Lower Delaware from degradation in the interim.

#### Dates

The public hearing will take place on Wednesday, September 27, 2006, during the Commission's regular business meeting, which will be held at the Commission's office building, located at 25 State Police Drive, West Trenton, NJ, beginning at 1:30 p.m. Driving directions are available on the Commission's website, [www.drbc.net](http://www.drbc.net). Persons wishing to testify are asked to register in advance with the Commission Secretary, at (609) 883-9500, Ext. 203. Written comments will be accepted through the close of the public hearing; however earlier submittals would be appreciated.

#### Supplementary Information

The Lower Delaware extends from the southern boundary of the Delaware Water Gap National Recreation Area at River Mile (RM) 209.4 to the head of tide at Trenton, NJ, RM 144.4. The effect of temporary classification of

the Lower Delaware as SRW has been to make this portion of the main stem Delaware River and its drainage area subject to all applicable provisions of the Commission's Special Protection Waters regulations, Section 3.10.3A.2 of the Commission's *Water Quality Regulations*, except those that depend for implementation upon the use of numeric values for existing water quality.

Key provisions of the Special Protection Waters Regulations that will continue to apply within the drainage area to the Lower Delaware River if the proposed extension of the SRW classification is approved include but are not limited to the following: subsections 3.10.3A.2.c.1 through 3, in part requiring that no new or expanded wastewater discharges may be permitted in waters classified as Special Protection Waters until all nondischarge-load reduction alternatives have been fully evaluated and rejected because of technical or financial infeasibility; subsections 3.10.3A.2.d.1. through 7., setting forth requirements for wastewater treatment facilities; and subsections 3.10.3A.2.e.1. and 2., conditioning project approval on the existence of an approved Non-Point Source Pollution Control Plan for the project area and requiring that approval of a new or expanded withdrawal and/or wastewater discharge project be subject to the condition that new connections to the project system be limited to service areas regulated by a nonpoint source pollution control plan approved by the Commission.

Previous register notices concerning designation of the Lower Delaware River as Special Protection Waters include notices published at 69 FR 57008 (September 23, 2004) (proposed Special Protection Waters designation); FR 48923 (August 22, 2005) (proposed extension); 34 Pa.B. 5557 (October 9, 2004) (proposed designation); and 35 Pa.B. 5005 and 5013 (September 10, 2005) (temporary amendment and proposed extension). The proposed designation and extension, as well as the final rulemakings establishing and extending temporary designation, approved by Resolutions Nos. 2005-2 and 2005-15 respectively, were also published on the Commission's website, [www.drbc.net](http://www.drbc.net).

#### Further Information, Contacts

Resolution No. 2005-2, temporarily amending the *Water Quality Regulations, Water Code and Comprehensive Plan* of the Commission by designating the Lower Delaware River a Special Protection Water, and Resolution No. 2005-15, extending the temporary amendment approved by Resolution No. 2005-2, are available on the Commission's website at [www.drbc.net](http://www.drbc.net) or upon request from the Delaware River Basin Commission, P. O. Box 7360, West Trenton, NJ 08628-0360. Maps depicting the designated area are also available on the website. For further information, please contact Pamela M. Bush, Commission Secretary and Assistant General Counsel, Delaware River Basin Commission, at (609) 883, 9500, Ext. 203.

It is proposed to amend Section 3.10.3A.2.g.6 of the *Water Quality Regulations and Water Code* by replacing the last paragraph of that section with the following:

Sections 3.10.3A.2.g.2.(b) and 3.10.3A.2.g.6). shall expire on September 30, 2007 unless extended by amendment to this rule.

PAMELA M. BUSH,  
Secretary

**Fiscal Note:** 68-48. No fiscal impact; (8) recommends adoption.

## Annex A

## TITLE 25. ENVIRONMENTAL PROTECTION

## PART V. DELAWARE RIVER BASIN COMMISSION

## CHAPTER 901. GENERAL PROVISIONS

## § 901.2. Comprehensive Plan and water quality.

The Comprehensive Plan regulations as set forth in 18 CFR Part 401, Subpart A (2006) and the Water Code and Water Quality Standards as set forth in 18 CFR Part 410 (2006) are hereby incorporated by reference and made a part of this title.

[Pa.B. Doc. No. 06-1682. Filed for public inspection August 25, 2006, 9:00 a.m.]

## FISH AND BOAT COMMISSION

[58 PA. CODE CH. 65]

### Fishing

The Fish and Boat Commission (Commission) proposes to amend Chapter 65 (relating to special fishing regulations). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code).

#### A. Effective Date

The proposed rulemaking, if approved on final-form rulemaking, will go into effect upon publication in the *Pennsylvania Bulletin* or January 1, 2007, whichever occurs later.

#### B. Contact Person

For further information on the proposed rulemaking, contact Laurie E. Shepler, 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

Proposed §§ 65.17 and 65.18 (relating to Catch and Release Lakes Program; and Brood Stock Lakes Program) are published under the statutory authority of section 2102 of the code (relating to rules and regulations). The proposed amendment to § 65.24 (relating to miscellaneous special regulations) is published under the statutory authority of section 2307 of the code (relating to waters limited to specific purposes).

#### D. Purpose and Background

The proposed rulemaking is designed to update, modify and improve the Commission's fishing regulations. The specific purpose of the proposed regulations and amendments is described in more detail under the summary of proposals.

#### E. Summary of Proposals

(1) *Sections 65.17 and 65.24.* Over the years, the Commission has regulated a number of ponds and lakes with no-kill regulations for all species under § 65.24. These lakes and ponds include Pine Township Park Pond, Allegheny County; Raccoon Creek State Park Upper Pond, Beaver County; Bear Gap Reservoir, McWilliams Reservoir and Klines Reservoir; Columbia and Northumberland Counties; and Lower Burrell Pond Park, West-

moreland County. In an effort to simplify and consolidate the Commission's regulations, the Commission proposes the establishment of a new special regulations program called the Catch and Release Lakes Program into which these six lakes and ponds and other impoundments may be designated. Waters in this program will be regulated as catch and release for all species on a year-round basis. The Commission proposes this new section to read as set forth in Annex A.

If the new program is adopted, Commission staff will recommend that the six waters previously named, as well as Owl Creek Reservoir, Schuylkill County, be considered for inclusion in the program. If designated into the new program, the miscellaneous regulations for the six lakes in § 65.24 will no longer be required. Therefore, the Commission further proposes that the miscellaneous special regulations for these six lakes be eliminated to read as set forth in Annex A.

(2) *Section 65.18.* Effective January 1, 2007, amendments to the Commission's regulations pertaining to muskellunge and muskellunge hybrids, northern pike and pickerel will go into effect. Among other things, the amendments provide for a year-round open season for these species on Commonwealth inland waters. Although the new year-round open season will provide additional angling opportunities, the Commission also must take into account the United States Food and Drug Administration mandated withdrawal period of 21 days that is associated with use of fish anesthetics during esocid culture operations. It is important that harvest and consumption of muskellunge and muskellunge hybrids, northern pike and pickerel in brood stock lakes are restricted during the withdrawal period. Therefore, the Commission proposes to restrict harvest of these species from April 1 through May 31 by creating a new program called the Brood Stock Lakes Program into which the brood stock lakes may be designated. The Commission proposes to add this section to read as set forth in Annex A. If the new program is adopted, Commission staff will recommend that the following lakes be designated into the new program: Canadhota Lake, Edinboro Lake, Sugar Lake, Conneaut Lake, Union City Reservoir, Woodcock Lake, Tamarack Lake, Lake Wallenpaupack, Lower Woods Pond, Belmont Lake, Prompton Dam, Duck Harbor Pond, Miller Pond and Howard Eaton Reservoir.

(3) *Section 65.24.* Harris Pond, Luzerne County, becomes congested with several species of aquatic plants each year beginning in late spring. This congestion affects the boat launch and interferes with shore fishing from most access points on the lake. Current fisheries management efforts to control the vegetation at Harris Pond include the periodic stocking of sterile triploid grass carp. Grass carp stocking began in 1997 and continued in 2004. The Commission is aware of the harvest of grass carp from Harris Pond, which runs counter to agency efforts to control vegetation. Therefore, the Commission proposes to make the harvest of grass carp from Harris Pond illegal. The Commission accordingly proposes to amend § 65.24 to read as set forth in Annex A.

#### F. Paperwork

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. However, the Commission will incur relatively nominal costs to print and post new signs for waters included in

the Catch and Release Lakes Program and the Brood Stock Lakes Program. 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 Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000 within 30 days after publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at [www.state.pa.us/Fish/regcomments](http://www.state.pa.us/Fish/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.

DOUGLAS J. AUSTEN, Ph.D.,  
*Executive Director*

**Fiscal Note:** 48A-187 (1) Fish Fund; (2) Implementing Year 2006-07 is \$3,000; (3) 1st Succeeding Year 2007-08 is \$0; 2nd Succeeding Year 2008-09 is \$0; 3rd Succeeding Year 2009-10 is \$0; 4th Succeeding Year 2010-11 is \$0; 5th Succeeding Year 2011-12 is \$0; (4) 2005-06 Program—\$0; 2004-05 Program—\$0; 2003-04 Program—\$0; (7) PA Fish & Boat Commission; (8) recommends adoption.

ANNEX A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 65. SPECIAL FISHING REGULATIONS

§ 65.17. Catch and Release Lakes Program.

(a) The Executive Director, with the approval of the Commission, may designate lakes as part of the

Catch and Release Lakes Program. The designation of lakes as part of the Catch and Release Lakes Program will be effective upon publication of a notice of designation in the *Pennsylvania Bulletin*.

(b) It is unlawful to fish in the lakes designated as part of the Catch and Release Lakes Program except in compliance with the following requirements:

(1) Fishing for all species is permitted on a catch and release/no harvest basis only.

(2) It is unlawful to take, kill or possess any fish taken from lakes designated under this program.

(3) Fish caught shall be immediately returned unharmed to the lake from which taken.

§ 65.18. Brood Stock Lakes Program.

(a) The Executive Director, with the approval of the Commission, may designate lakes as part of the Brood Stock Lakes Program. The designation of lakes as part of the Brood Stock Lakes Program will be effective upon publication of a notice of designation in the *Pennsylvania Bulletin*.

(b) It is unlawful to fish in the lakes designated as part of the Brood Stock Lakes Program except in compliance with the following requirements:

(1) From 12:01 a.m. April 1 to midnight May 31, fishing for muskellunge and muskellunge hybrids, northern pike and pickerel is permitted on a catch and release/no harvest basis only.

(2) From 12:01 a.m. April 1 to midnight May 31, it is unlawful to take, kill or possess any muskellunge and muskellunge hybrids, northern pike and pickerel taken from lakes designated under this program.

(3) From 12:01 a.m. April 1 to midnight May 31, all muskellunge and muskellunge hybrids, northern pike and pickerel caught shall be immediately returned unharmed to the lake from which taken.

§ 65.24. Miscellaneous special regulations.

The following waters are subject to the following miscellaneous special regulations:

<i>County</i>	<i>Name of Water</i>	<i>Special Regulations</i>
[ Allegheny	Pine Township Park Pond	Fishing permitted on a catch-and-release basis. It is unlawful for a person to take or kill fish caught from these waters. ]
	* * *	
[ Beaver	Raccoon Creek State Park Upper Pond	This is a catch and release/no harvest fishery for all species. It is unlawful to take, kill or possess any fish. All fish caught must be immediately returned unharmed. ]
	* * *	
Columbia and Northumberland	[ Bear Gap Reservoir, McWilliams Reservoir, Klins Reservoir and the ] South Branch of Roaring Creek from the bridge on State Route 3008 at Bear Gap upstream to the bridge on State Route 42	This is a catch and release/no harvest fishery for all species. It is unlawful to take, kill or possess any fish. All fish caught must be immediately returned unharmed.
	* * *	

<i>County</i>	<i>Name of Water</i>	<i>Special Regulations</i>
Luzerne	<b>Harris Pond</b>	<b>It is unlawful to take, kill or possess grass carp caught from this water. It is not a violation of this section if the grass carp is immediately returned unharmed.</b>
	* * * * *	
<b>[ Westmoreland</b>	<b>Lower Burrell Pond Park</b>	<b>This is a catch and release/no harvest fishery for all species. It is unlawful to take, kill or possess any fish. All fish caught must be immediately returned unharmed. ]</b>
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[Pa.B. Doc. No. 06-1683. Filed for public inspection August 25, 2006, 9:00 a.m.]

**[58 PA. CODE CH. 51]**

**Pennsylvania Automated Licensing Service**

The Fish and Boat Commission (Commission) proposes to amend Chapter 51 (relating to administrative provisions). 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 pertains to issuing agents providing licenses and permits through a point-of-sale system, the Pennsylvania Automated Licensing Service (PALS), that is currently under development.

*A. Effective Date*

The proposed rulemaking, if approved on final-form rulemaking, will go into effect upon publication in the *Pennsylvania Bulletin* or December 1, 2006, whichever occurs later.

*B. Contact Person*

For further information on the proposed rulemaking, contact Jason E. Oyler, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7827. 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 amendments to §§ 51.32 and 51.36 (relating to resident and nonresident licenses; and lost license certificates) and the addition of §§ 51.37 and 51.38 (relating to application and prerequisites for becoming an issuing agent for the Pennsylvania Automated Licensing Service; and operation of the issuing agent for the Pennsylvania Automated Licensing Service) are published under the statutory authority of section 2711 of the code (relating to issuing agents).

*D. Purpose and Background*

The proposed rulemaking is designed to improve, clarify and update the Commission's issuing agent regulations and to accommodate the implementation of PALS. The specific purpose of the proposed regulations and amendments is described in more detail under the summary of proposals.

*E. Summary of Proposals*

The Commission currently relies on approximately 1,200 issuing agents throughout this Commonwealth to sell and issue approximately 850,000 fishing licenses and

600,000 permits through a paper-based system. In the near future, the Commission will automate the distribution and sale of its licenses and permits through the use of point-of-sale methodologies. To date, over 30 states have automated, or are in the process of automating, their licensing systems. The primary goals of automation are to make delivery of fishing license services more convenient for the license buyers and to provide improved control over the flow of revenues from the issuing agents and to facilitate more effective communications among the license buyer, issuing agent and the Commission.

Upon review of the current regulations regarding the establishment and operations of fishing license issuing agents, the Commission has identified the need to make a series of changes and additions that will allow for a more effective and efficient means of establishing issuing agent policies and guidelines for the automated distribution of licenses and permits.

At this time, the Commission is retaining the current issuing agent regulations applicable to the issuance of paper licenses and permits and proposes to add §§ 51.37 and 51.38 to govern the issuance of licenses and permits through PALS. The Commission anticipates that paper licenses will remain available as a backup during the transition to PALS.

In addition, the Commission proposes to amend § 51.32 to allow for additional methods to prove residency when purchasing a license. The Commission also proposes to amend § 51.36 to provide a procedure for issuing lost license certificates through PALS.

The Commission proposes to amend §§ 51.32 and 51.36 and add §§ 51.37 and 51.38 to read as set forth in Annex A.

*F. Paperwork*

The proposed rulemaking will create a new paperwork requirement in that all issuing agents will be required to enter into a standard Fishing License Issuing Agent Agreement that governs the point-of-sale system and associated equipment. Current paperwork requirements pertaining to applications for new issuing agents and bonding have not changed.

*G. Fiscal Impact*

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. However, the Commission will incur costs associated with processing agent applications and with the standard

Fishing License Issuing Agent Agreement that all PALS agents will be required to sign. For new agents, these costs will be offset by the application fee.

The Commission also will incur costs associated with increased banking fees to the Commission for weekly electronic funds transfers from its issuing agents. These costs will be offset by increased interest earned due to the more timely remittance of license revenues.

The proposed rulemaking will impose a \$150 application fee for new issuing agents under PALS. This fee will only be assessed on new applications for issuing agents and will not be applied to issuing agents that are currently agents with the Commission at the time that the final-form rulemaking is adopted. The fee represents an increase in the application fee that new issuing agents are currently charged from \$100 to \$150. The Commission proposes increasing the fee due to inflation and to accommodate the cost of additional staff review of applications for issuing agents under PALS.

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 30 days after publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at [www.state.pa.us/Fish/reg](http://www.state.pa.us/Fish/reg) comments. 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.

DOUGLAS J. AUSTEN, Ph.D.,  
*Executive Director*

**Fiscal Note:** 48A-186. (1) Fish Fund; (2) Implementing Year 2006-07 is \$32,550; (3) 1st Succeeding Year 2007-08 is \$23,150; 2nd Succeeding Year 2008-09 is \$23,150; 3rd Succeeding Year 2009-10 is \$23,150; 4th Succeeding Year 2010-11 is \$23,150; 5th Succeeding Year 2011-12 is \$23,150; (4) 2005-06 Program—\$N/A; 2004-05 Program—\$N/A; 2003-04 Program—\$N/A; (7) General Government Operations; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART II. FISH AND BOAT COMMISSION**

**Subpart A. GENERAL PROVISIONS**

**CHAPTER 51. ADMINISTRATIVE PROVISIONS**

**Subchapter D. ISSUING AGENTS**

**§ 51.32. Resident and nonresident licenses.**

(a) Only bona fide residents of this Commonwealth who establish their resident status by producing a Pennsylvania motor vehicle driver's license or other positive means of identification are entitled to one of the various forms of a resident fishing license.

(1) Other positive means of identification for establishing bona fide residence in this Commonwealth include proof of payment of Pennsylvania [ **personal income tax** ] **Personal Income Tax** as a resident of [ **Pennsylvania** ] **this Commonwealth**; proof of payment of earned income, [ **Personal Income Tax** ] **personal income tax** or per capita taxes showing residence in a

Pennsylvania municipality; **current Pennsylvania fire-arms permit; Pennsylvania voter registration card; resident hunting license; [ and ] Pennsylvania nondriver identification card; or a signed affidavit of Pennsylvania residency on the form prescribed by the Commission.**

\* \* \* \* \*

**§ 51.36. Lost license certificates.**

\* \* \* \* \*

(f) If the original license was sold through the Pennsylvania Automated Licensing Service (PALS) and the licensee seeks to purchase a replacement license, the licensee shall present the original license number or licensee's PALS customer identification number to the issuing agent, and the issuing agent shall issue a replacement license, including associated permits, through the PALS.

**§ 51.37. Application and prerequisites for becoming an issuing agent for the Pennsylvania Automated Licensing Service (PALS).**

(a) A person, sole proprietorship, partnership or corporation may apply to become an issuing agent of the Commission for the purpose of selling fishing licenses and permits through the PALS.

(1) An applicant seeking to become an issuing agent shall complete and submit to the Commission an application on the form prescribed by the Commission and pay a one-time, nonrefundable fee of \$150.

(2) Applications shall be accompanied by a bond in favor of the Commission, or other security in a form satisfactory to the Commission, in a minimum amount specified by the Executive Director or designee.

(3) A person, sole proprietorship, partnership or corporation that is an agent of the Commission for the sale of paper licenses may sell licenses through PALS without making a new application under this subsection.

(b) An entity accepted by the Commission to act as an issuing agent shall perform in the following manner and meet the following prerequisites:

(1) An issuing agent, including county treasurers, may not appoint subagents to issue fishing licenses or permits.

(2) Issuing agents shall enter into a Fishing License Issuing Agent Agreement with the Commission that covers the issuance of fishing licenses and permits and the electronic transfer of funds through the PALS.

(3) Issuing agents shall maintain a bond in favor of the Commission, or other security in a form satisfactory to the Commission, in a minimum amount specified by the Commission for each location where licenses and permits are issued.

(4) Issuing agents shall maintain an account in a Federally insured financial institution organized under the authority of the Commonwealth or the United States. This bank account must be able to accept electronic funds transfers. Issuing agents shall provide the Commission with account information upon the request of the Commission.

§ 51.38. Operation of the issuing agent for the Pennsylvania Automated Licensing Service (PALS).

(a) *Sale of licenses.*

(1) Issuing agents shall collect all required customer information at the time of purchase and shall ensure that the fishing license is accurate, correct and fully completed. The applicant shall verify the information provided to the issuing agent and entered into the PALS is accurate and correct and shall sign his own name or place his mark in the place indicated on the face of the license certificate.

(2) Issuing agents shall verify the eligibility of the applicant for the class of license indicated on the license in accordance with § 51.32 (relating to resident and nonresident licenses).

(3) Issuing agents shall transfer the information provided by the applicant to the PALS and ensure that the PALS is otherwise operational and prints the license certificate legibly.

(4) Issuing agents shall provide a *Summary of Fishing Regulations and Laws* with each license issued. Issuing agents also shall provide a copy of the summary book to any holder of a Senior Resident Lifetime Fishing License who requests one. Issuing agents are encouraged to provide a copy of the summary book, if adequate numbers are available, to other individuals who request one.

(5) Issuing agents shall make available licenses and permits for sale to the public in strict accordance with all policies, instructions, rules and regulations of the Commission.

(6) Issuing agents and their employees may not provide false or misleading information on a license. The date reported on a license sold must be the date of the actual sale.

(7) Issuing agents shall keep all customer information confidential and not use, release or permit the use of this information for any purpose not specifically authorized by the Commission or applicable law.

(8) Issuing agents shall return all original voided licenses to the Commission within 15 days of their issuance. Issuing agents shall pay the license fees for voided licenses that are not returned to the Commission within 15 days of issuance.

(9) Issuing agents shall return all documents designated by the Commission within the time frame specified by the Commission.

(10) Issuing agents shall maintain, as instructed by the Commission, displays, notices or other informational materials relating to licenses and permits provided by the Commission, distribute to customers and fishing guides other compliance or educational materials provided by the Commission and promote and market new products or privileges as required by the Commission.

(11) Issuing agents shall sell licenses and permits only at the business location specified in their application or approved by the Commission and at a place on the premises accessible to the public.

(12) Issuing agents may not offer or provide licenses or permits free of charge or for any fee not

authorized by section 2715 of the code (relating to license, permit and issuing agent fees).

(13) Issuing agents shall redeem a license or permit gift voucher regardless of where the gift voucher was purchased.

(b) *PALS equipment.*

(1) Issuing agents shall ensure proper use of the PALS equipment and follow the PALS operating manual and subsequent amendments and revisions thereto.

(2) An issuing agent may not borrow, lend or otherwise transfer PALS equipment or supplies to another agent without the prior written consent of the Commission.

(3) Issuing agents shall safeguard PALS equipment and supplies from unauthorized, wasteful, inappropriate or fraudulent use. Issuing agents shall place the equipment and supplies in a secure location. Issuing agents shall use license paper stock only for purposes of printing licenses, permits, reports and receipts. Issuing agents shall promptly notify the Commission or its designee of equipment malfunction. PALS equipment and supplies are not transferable to other locations without the prior written consent of the Commission. Issuing agents shall return the defective equipment immediately to the repair center identified by the Commission.

(4) Issuing agents shall notify the Commission by telephone within 48 hours and submit a written report within 10 days after any fire, theft or natural disaster affecting PALS equipment and supplies or records.

(5) Issuing agents shall be responsible for the PALS equipment and the supplies relating to the issuance of licenses and permits, except for events beyond their control, and they shall assume financial responsibility for any damage to the PALS equipment resulting from negligence, malicious activity, abandonment, failure to return upon request of the Commission or improper electrical service to the equipment.

(6) Issuing agents shall carry appropriate insurance covering PALS equipment and supplies in an amount determined by the Commission. Issuing agents shall provide proof of insurance coverage upon the request of the Commission.

(c) *Access and auditing.*

(1) Issuing agents, their employees and subcontractors shall allow the Commission or other authorized representatives access to periodically inspect, review or audit PALS associated records, reports, canceled checks and similar material pertaining to PALS. Issuing agents shall maintain these records for 5 years.

(2) Issuing agents shall allow the Commission access to all materials and equipment related to the PALS operations. Issuing agents shall allow access to the Commission to make inspections during reasonable business hours, with or without notice to the issuing agent, to determine whether the issuing agent is in compliance with this section.

**(d) Financial provisions.**

(1) Issuing agents shall deposit all money received from the sale of licenses and permits in a designated bank account less the amount retained as an issuing agent fee under section 2715 of the code.

(2) Issuing agents shall have sufficient funds available in the designated bank account at the time of the electronic funds transfers. Upon notification of insufficient funds for payment to the Commission, the Commission may immediately and without notice suspend an issuing agent's authority to issue licenses and permits, may assess an administrative fee in accordance with section 502 of the code (relating to collection fee for uncollectible checks) and may require the issuing agent to increase the amount of the bond or other security or to provide adequate bank account overdraft protection.

(3) Issuing agents shall provide written notification on the form prescribed by the Commission at least 15 days prior to changing banks, account numbers, ownership status, business status or other information used by the Commission or its designee for the purpose of collecting monies owed by the issuing agent.

**(e) Suspension or recall of agency.**

(1) The Commission may suspend the issuing agency of any agent that no longer meets the Commission's criteria for acceptance for participation in PALS until the agent becomes compliant.

(2) The Commission may recall the issuing agency of any agent that violates the requirements of this section.

[Pa.B. Doc. No. 06-1684. Filed for public inspection August 25, 2006, 9:00 a.m.]

## STATE EMPLOYEES' RETIREMENT BOARD

### [4 PA. CODE CH. 250] Appeal Period

The State Employees' Retirement Board (Board) proposes to amend § 250.1 (relating to applicability of general rules) and add § 250.2 (relating to appeal period from decisions of administrative staff) to read as set forth in Annex A.

**A. Effective Date**

The proposed amendments will go into effect upon final-form publication in the *Pennsylvania Bulletin*.

**B. Contact Person**

For further information, contact Robert Gentzel, Director of Communications and Policy, State Employees' Retirement System, 30 North Third Street, P. O. Box 1147, Harrisburg, PA 17108-1147, (717) 787-9657; or Paul M.

Stahlnecker, Counsel, State Employees' Retirement System, 30 North Third Street, Harrisburg, PA 17101, (717) 783-7317. Information regarding submitting comments on this proposed rulemaking appears in Section H of this preamble.

**C. Statutory Authority**

This proposed rulemaking is made under 71 Pa.C.S. § 5902(h) (relating to administrative duties of the Board)

**D. Background and Purpose**

This proposed rulemaking will formalize current Board practice of granting a 30-day appeal period from decisions of administrative staff made under authority delegated by the Board. Part II of 1 Pa. Code (relating to General Rules of Administrative Practice and Procedure), which have been adopted by the Board under § 250.1, only provide for a 10-day appeal period. The proposal is intended to alleviate any confusion and prevent possible disputes with regard to the granting of the additional 20-day period in which an aggrieved party may file an appeal.

**E. Benefits, Costs and Compliance****Benefits**

The proposed rulemaking is intended to alleviate confusion and prevent possible disputes with regard to the granting of the additional 20-day period in which an aggrieved party may file an appeal.

**Costs**

There are no costs to the Commonwealth, its citizens or State employees associated with this proposed rulemaking.

**Compliance Costs**

The proposed rulemaking is not expected to impose any additional compliance costs on State employees.

**F. Sunset Review**

A sunset date is not applicable for this proposed rulemaking.

**G. Regulatory Review**

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 11, 1006, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House State Government Committee and the Senate Finance Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

H. *Public Comments*

*Written comments.* Interested persons are invited to submit comments, suggestions or objections regarding the proposed rulemaking to Robert Gentzel, Director of Communications and Policy, State Employees' Retirement System, 30 North Third Street, 5th Floor, Harrisburg, PA 17101. Comments submitted by facsimile will not be accepted. The Board must receive comments, suggestions or objections within 30 days of publication in the *Pennsylvania Bulletin*.

*Electronic comments.* Comments may be submitted electronically to the Board at [rgentzel@state.pa.us](mailto:rgentzel@state.pa.us) and must be received by the Board within 30 days of publication in the *Pennsylvania Bulletin*. A subject heading of the proposal and a return name and address must be included in each transmission. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

NICHOLAS J. MAIALE,  
*Chairperson*

**Fiscal Note:** 31-6. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 4. ADMINISTRATION

PART X. STATE [ EMPLOYES' ] EMPLOYEES' RETIREMENT BOARD

CHAPTER 250. SPECIAL RULES OF ADMINISTRATIVE PRACTICE AND PROCEDURE

Subchapter A. APPLICABILITY OF RULES

§ 250.1. Applicability of general rules.

Under 1 Pa. Code § 31.1 (relating to scope of part), 1 Pa. Code Part II (relating to [ **general rules of administrative practice and procedure** ] **General Rules of Administrative Practice and Procedure**) is applicable to the activities of and proceedings before the Board, **except as provided in this chapter.**

§ 250.2. Appeal period from decisions of administrative staff.

**Decisions of administrative staff under authority delegated by the Board may be appealed to the Board by filing a formal appeal within 30 days after service of notice of the administrative decision. Extensions of this appeal period may be requested for good cause and will be granted at the discretion of the Board Secretary.**

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