

# RULES AND REGULATIONS

## Title 58—RECREATION

### FISH AND BOAT COMMISSION

#### [58 PA. CODE CHS. 63, 65 AND 93]

#### General Provisions; Fishing; Boating

The Fish and Boat Commission (Commission) amends Chapters 63, 65 and 93 (relating to general fishing regulations; special fishing regulations; and boat registration and numbering). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code).

#### A. Effective Date

This final-form rulemaking will go into effect upon publication of this order in the *Pennsylvania Bulletin*.

#### B. Contact Person

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

#### C. Statutory Authority

The amendments to §§ 63.6, 63.10 and 63.15 (relating to authorized devices for game fish, baitfish and fishbait; ice fishing; and field dressing of fish) are published under the statutory authority of section 2102 of the code (relating to rules and regulations). The 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). The amendment to § 93.2 (relating to permanent and temporary registration) is published under the statutory authority of section 5122 of the code (relating to registrations, licenses, permits, plates and statistics). The amendment to § 93.13 (relating to issuing agents) is published under the statutory authority of section 5304(d.1) of the code (relating to issuing agents). A person violating any of these sections commits a summary offense of the third degree for which a \$50 fine is imposed.

#### D. Purpose and Background

The final-form rulemaking is designed to update, modify and improve the Commission's regulations pertaining to ice fishing, the field dressing of fish, a fishing pier for persons with disabilities at Lake Scranton, Lackawanna County, and temporary Internet boat registration renewals. The specific purpose of the final-form rulemaking is described in more detail under the summary of changes.

#### E. Summary of Proposed Rulemaking

(1) *Sections 63.6 and 63.10.* New and different types of ice fishing devices have been developed for use during the past several years. Therefore, it has become increasingly difficult to determine whether some of these devices are truly tip-ups or just modifications to a fishing rod. The Commission proposed amendments that will allow an angler while ice fishing to fish with a maximum of five fishing devices that may consist of hand lines, tip-ups, fishing rods or any combination thereof. The Commission's Bureau of Fisheries indicates that this change will have no adverse effect upon the fishery. The Commission

has amended these sections to read as set forth in the notice of proposed rulemaking published at 33 Pa.B. 5927 (December 6, 2003).

(2) *Section 63.15.* Subsection (d) does not apply to officially recognized fishing cleaning stations except that for species of fish for which minimum size limits apply, the skin must remain attached to the fillet and the size of the fillet is subject to a size limit of 75% of the size limit for the species. Yellow perch taken from Lake Erie are subject to minimum size limits first established at 8 inches in 1996 and revised in 2002 to provide for a 7-inch limit during the ice fishing period.

Officially recognized fish cleaning stations are in Erie County, and they provide a valuable service to customers who engage in recreational fishing for sport fish in Lake Erie. Because yellow perch is subject to a minimum size limit, the requirement to leave the skin on these fish applies to officially recognized fish cleaning stations. The Commission has been asked to provide some relief from this requirement that causes problems for the fish cleaning stations and their customers. Accordingly, the Commission has amended this section to read as set forth in the notice of proposed rulemaking.

Officially recognized fish cleaning stations are responsible for ensuring that the fish they clean are in compliance with regulations, and they must document compliance by giving their customers signed, dated receipts indicating the species and the number of fish dressed.

(3) *Section 65.24.* Under a 1994 agreement among Pennsylvania Gas and Water Company, Allied Services of Scranton, PA and the Commission, a special fishing pier for persons with disabilities was constructed and opened at Lake Scranton. The agreement provided that fishing from this pier would be subject to certain restrictions, which in turn were subject to some exceptions. These restrictions were, in turn, carried over into a miscellaneous special fishing regulation.

The Lake Scranton fishing pier for persons with disabilities was a model for similar facilities installed at State parks and other lakes under the leadership and encouragement of Commissioner Paul Mahon. The current miscellaneous fishing regulation on Lake Scranton needs to be updated to better reflect the use of the fishing pier by persons with disabilities. Both the owner of Lake Scranton and Allied Services have agreed to modifications to this regulation. The Commission has amended this miscellaneous special fishing regulation to read as set forth in the notice of proposed rulemaking.

(4) *Sections 93.2 and 93.13.* The Department of Transportation currently allows most customers to renew their vehicle registrations online. The customer is then allowed to print a Temporary Internet Vehicle Registration from a computer. This temporary registration is valid for 15 days.

In the near future, the Commission may offer online renewals for its boat registration customers. The Commission solicited cost estimates for this upgrade to the functionality of the "outdoor shop" on the Internet and determined that the Commission will be able to move forward with this project for at least part of the 2004 registration renewal cycle. Customers will be able to renew their boat registrations online and print a temporary Internet registration that will be valid for 30 days. Customers who renew their boat registrations online will pay the Commission a \$2 issuing agent fee.

To implement the online boat registration renewals, the Commission has amended §§ 93.2 and 93.13 to read as set forth in the notice of proposed rulemaking. Staff will carefully monitor the response to the availability of online registration renewals with a \$2 fee and will make recommendations for appropriate adjustment, if any, in the future.

#### F. Paperwork

This final-form rulemaking will not increase paperwork and will create no new paperwork requirements.

#### G. Fiscal Impact

This final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The amendment to § 93.13 will impose new costs on the private sector and the general public in that individuals who renew their boat registrations online will have to pay the Commission a \$2 issuing agent fee. The other amendments will impose no new costs on the private sector or the general public.

#### H. Public Involvement

A notice of proposed rulemaking was published at 33 Pa.B. 5927. The Commission did not receive any public comments concerning the proposals.

#### Findings

The Commission finds that:

(1) Public notice of intention to adopt the amendments adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided, and no comments were received.

(3) The adoption of the amendments of the Commission in the manner provided in this order is necessary and appropriate for administration and enforcement of the authorizing statutes.

#### Order

The Commission, acting under the authorizing statutes, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapters 63, 65 and 93, are amended by amending §§ 63.6, 63.10, 63.15, 65.24, 93.2 and 93.13 to read as set forth at 33 Pa.B. 5927.

(b) The Deputy Executive Director will submit this order and 33 Pa.B. 5927 to the Office of Attorney General for approval as to legality as required by law.

(c) The Deputy Executive Director shall certify this order and 33 Pa.B. 5927 and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

DENNIS T. GUISE,  
Deputy Executive Director

**Fiscal Note:** Fiscal Note 48A-150 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 04-326. Filed for public inspection February 27, 2004, 9:00 a.m.]

## [58 PA. CODE CHS. 63 AND 93]

### Fishing; Boating

The Fish and Boat Commission (Commission) amends Chapters 63 and 93 (relating to general fishing regulations; and boat registration and numbering). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The final-form rulemaking relates to fishing and registration and titling.

#### A. Effective Date

This final-form rulemaking will go into effect upon publication of this order in the *Pennsylvania Bulletin*.

#### B. Contact Person

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

#### C. Statutory Authority

The amendments to §§ 63.6 and 63.8 (relating to authorized devices for game fish, baitfish and fishbait; and long bows, crossbows, spears and gigs) are published under the statutory authority of section 2102(b) of the code (relating to rules and regulations). The 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 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

This final-form rulemaking is designed to update, modify and improve the Commission's regulations pertaining to fishing and registration and titling. The specific purpose of the final-form rulemaking is described in more detail under the summary of changes. The Commission's Boating Advisory Board considered the proposed changes to §§ 93.9 and 93.102 and recommended that the Commission adopt the amendments as set forth in the notice of proposed rulemaking published at 33 Pa.B. 5081 (October 11, 2003).

#### E. Summary of Changes

(1) *Sections 51.72 and 51.73.* The Commission has decided to withdraw temporarily the proposal to add §§ 51.72 and 51.73 (relating to permits for commercial pest control agents; and general permits for fish collecting activities). The Commission intends to consider this proposal at a later date.

(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 has amended this section to read as set forth in the notice of proposed rulemaking.

(3) *Section 63.8.* In recent years, crossbows have become more popular. 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 has amended this section to read as set forth in the notice of proposed rulemaking.

(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 has amended this section to read as set forth in the notice of proposed rulemaking.

(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 his 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 his boat in North Carolina but wished to keep his boat registered there.

The Commission has determined that as a matter of policy, it should not issue a certificate of title for a boat that is currently 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. Accordingly, the Commission has amended this section to read as set forth in the notice of proposed rulemaking.

*F. Paperwork*

This final-form rulemaking will not increase paperwork and will create no new paperwork requirements.

*G. Fiscal Impact*

This final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. This final-form rulemaking will impose no new costs on the private sector or the general public.

*H. Public Involvement*

A notice of proposed rulemaking was published at 33 Pa.B. 5081. The Commission did not receive any public comments concerning the proposals.

*Findings*

The Commission finds that:

(1) Public notice of intention to adopt the amendments adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided, and no comments were received.

(3) The adoption of the amendments of the Commission in the manner provided in this order is necessary and appropriate for administration and enforcement of the authorizing statutes.

*Order*

The Commission, acting under the authorizing statutes, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapters 63 and 93, are amended by amending §§ 63.6, 63.8, 93.9 and 93.102 to read as set forth at 33 Pa.B. 5081.

(b) The Deputy Executive Director will submit this order and 33 Pa.B. 5081 to the Office of Attorney General for approval as to legality as required by law.

(c) The Deputy Executive Director shall certify this order and 33 Pa.B. 5081 and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

DENNIS T. GUISE,  
*Deputy Executive Director*

**Fiscal Note:** Fiscal Note 48A-149 remains valid for the final adoption of the subject regulations.

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