

## Order Adopting Amendments

### COMMONWEALTH OF PENNSYLVANIA PENNSYLVANIA FISH AND BOAT COMMISSION

#### Title 58. Recreation Part II. Fish and Boat Commission Chapters 51 and 101 General Provisions Boating

## Preamble

The Fish and Boat Commission (Commission) amends Chapters 51 and 101 (relating to administrative provisions; and boating accidents). 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*

The final-form rulemaking will go into effect on January 1, 2009.

B. *Contact Person*

For further information on the final-form rulemaking, contact Jason E. Oyler, Esq., P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This final-form rulemaking is available on the Commission's website at [www.fish.state.pa.us](http://www.fish.state.pa.us).

C. *Statutory Authority*

The amendments to §51.9 (relating to release of documents and records) are published under the statutory authority of section 504 of the Right-to-Know Law (65. P.S. §67.504) and section 506 of The Administrative Code of 1929 (71 P.S. §186). The amendment to §101.6 (relating to

investigation reports by commission officers) is published under the statutory authority of section 506 of The Administrative Code of 1929.

D. *Purpose and Background*

The final-form rulemaking is designed to update the Commission's regulations to be consistent with the new Right-to-Know Law and to consolidate its regulations relating to records. The specific purpose of the amendments is described in more detail under the summary of changes.

E. *Summary of Changes*

Act 3 of 2008 has substantially changed the current Right-to-Know Law. Under the new law, which will apply to requests received after January 1, 2009, an agency may promulgate regulations and policies necessary for the agency to implement the statute. Section 51.9 of the Commission's regulations currently provides for the release of Commission documents and records. However, this section must be amended to be consistent with the provisions of the new Right-to-Know Law.

The changes to §51.9 that are necessitated by Act 3 of 2008 include allowing requests for records to come via electronic mail and changing the recipient of the request from the Executive Director to the Director of the Bureau of Administration, who will act as the Commission's Open Records Officer under the new Right-to-Know Law. Act 3 of 2008 provides that most fees charged under the Right-to-Know Law for reproduction of records will now be set for all Commonwealth agencies by the newly created Office of Open Records. The Commission therefore proposed amendments in these regards.

In addition to and separate from the Right-to-Know Law requests, the Commission receives requests for documents through subpoenas. Section 101.6(d) of the Commission's regulations provides for a \$0.50 per page reproduction fee for responses to subpoena requests for investigative reports by Commission officers. The Commission receives subpoenas for a number of documents

other than investigative reports. Accordingly, the Commission also proposed to add new subsection (d) to §51.9 to cover reproduction costs for all subpoena requests and to remove that provision from §101.6.

On final-form rulemaking, the Commission adopted the amendments as set forth in the notice of proposed rulemaking

F. *Paperwork*

The final-form rulemaking will not increase paperwork and will not create new paperwork requirements because the Commission is currently required to respond to Right-to-Know Law requests and subpoenas.

G. *Fiscal Impact*

The final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. With one exception, the final-form rulemaking will impose no new costs on the private sector or the general public as the Commission currently has a reproduction fee for both Right-to-Know Law requests and subpoena requests. With respect to requests for records made by subpoena, the final-form rulemaking imposes a \$1.00 per page charge for color copies and a \$1.00 per document charge on electronic media plus \$2.00 per diskette or compact disc, and a charge of \$1 per page up to \$5 per document for certified copies of documents. The impact of these charges will be nominal.

H. *Public Involvement*

A notice of proposed rulemaking was published at 38 Pa. B. 4909 (September 6, 2008). The Commission did not receive any public comments regarding the proposal.

## **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, 1202) and the regulations promulgated thereunder, 1 Pa. Code §§7.1 and 7.2.

(2) A public comment period was provided, and no public 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 51 and 101, are amended by amending §§51.9 and 101.6 to read as set forth in 38 Pa. B. 4909.

(B) The Executive Director will submit this order and 38 Pa. B. 4909 to the Office of Attorney General for approval as to legality as required by law.

(C) The Executive Director shall certify this order and 38 Pa. B. 4909 and deposit them with the Legislative Reference Bureau as required by law.

(D) This order shall take effect on January 1, 2009.

For the Pennsylvania Fish and Boat Commission

Douglas J. Austen, Ph.D.  
Executive Director