

**Commonwealth of Pennsylvania
Pennsylvania Fish and Boat Commission
Harrisburg, Pennsylvania**

MINUTES

140th Meeting

Volume 71

**HARRISBURG, PENNSYLVANIA
November 4, 2020**

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Commonwealth of Pennsylvania
Pennsylvania Fish and Boat Commission

Minutes

The 140th Meeting of the Pennsylvania Fish and Boat Commission was held on Wednesday, November 4, 2020, remotely, via web conference.

The public session began on November 4, 2020, at approximately 8:00 a.m.

Call to Order

The meeting was called to order by Chief Counsel Wayne Melnick and Commission President Richard Lewis and was followed by the Pledge of Allegiance to the Flag.

Roll Call

Members Present

Richard Lewis, President

Rocco S. Ali

Donald K. Anderson

William C. Brock

Charles J. Charlesworth

William J. Gibney

Eric C. Hussar

Daniel J. Pastore

Robert B. J. Small

Members Not Present

Richard S. Kauffman, Vice President

Public Comment to Commissioners and Staff

None.

LAW ENFORCEMENT FINAL RULEMAKING

A. Amendment to Section 51 Charter Boat/Fishing Guide Operations.

Commentary:

As the Pennsylvania Fish and Boat Commission (Commission) continues to modernize its business practices, several permit application procedures have been evaluated. An internal review of the Charter Boat/Fishing Guide permit application process revealed that the customer and the Commission would benefit greatly by handling the permitting process online.

Currently, to secure or purchase a permit, a written application, payment, and numerous other supporting documents must be provided to the Commission for review, approval, and processing. Once received by the Commission, it generally takes about 30 days to issue a permit, which is then mailed to the permittee.

The proposed plan moving forward is to allow application for, and issuance of, the permit online, exclusively through the Outdoor Shop. Waterways Conservations Officers would verify applicant provided information during standard field checks. As part of this transition, the requirement to display a guide sticker on the boat would be removed. Permits would be fulfilled at the point of purchase. The 30-day wait time for a permit and the time and expense associated with preparing a paper application would be eliminated. Through the automation process, the Commission would substantially lower the cost to review and issue a permit and would eliminate the cost of producing and mailing permits, identification decals, patches, and other informational materials. An additional change to Section 51.127 would require an individual guiding on Commonwealth Waters to have a Pennsylvania fishing license and permits. Under the current language, a loophole was created that allows some nonresidents to guide on Commonwealth Waters utilizing their out-of-state license with a Pennsylvania Nonresident guide permit. The Office of Attorney General suggested the substitution of “Commission issued” for “Pennsylvania” in the regulation text as that office felt the term “Pennsylvania license” could cause confusion.

A notice of proposed rulemaking was published at 50 Pa. B. 5269 (September 26, 2020) (Exhibit A). The Commission did not receive any public comments regarding the proposal.

Staff propose the following amendment:

§ 51.123. Display of permits.

(a) *Display of permit on outer garment.* While operating a charter boat or fishing guide operation, charter boat operators and fishing guides shall display their permits on a hat or an outer garment in plain view. The charter boat operator and fishing guide may carry and display the permit in the same holder containing a fishing license.

(b) *Officers designated to check permits.* Charter boat operators and fishing guides shall present their charter boat/fishing guide permits upon the request of an officer authorized to enforce the code.

[(c) *Display of decal on charter boats.* When a boat is used in the charter boat/fishing guide operation, the charter boat operator shall display a decal supplied by the Commission on both sides of the boat hull above the waterline and below the gunwale near the stern of the boat or on each side window of the cockpit of the boat. While onboard a boat displaying a decal, the charter boat operator is exempt from the permit display requirements of this section provided the permit is onboard the boat. When, due to exigent circumstances, a charter boat operator must use a boat that does not display a charter boat/fishing guide decal, the charter boat operator shall display the permit on a hat or outer garment as required by this section.]

§ 51.127. Fishing license and permits.

Charter boat operators, and their crewmembers, and fishing guides shall possess valid **Commission issued** fishing licenses and the stamps and permits required for the waters in which they fish. Charter boat operators and fishing guides are responsible for ensuring that their employees, passengers, and customers possess a valid **Commission issued** fishing license and the appropriate stamps and permits.

Briefer:

Colonel Corey Britcher, Director, Bureau of Law Enforcement

Recommendation:

Staff recommend the Commission adopt the amendment as set forth in the notice of proposed rulemaking. If adopted, the amendment will go into effect upon publication in the *Pennsylvania Bulletin*.

Action:

A motion was made by Commissioner Hussar and seconded by Commissioner Charlesworth to adopt the amendment as set forth in the notice of proposed rulemaking. If adopted, the amendment will go into effect upon publication in the *Pennsylvania Bulletin*. Motion carried.

B. Amendment to Section 63.19 (Sale and Purchase of Fish).

Commentary:

The Pennsylvania Fish and Boat Commission (Commission) regulates both commercial and private fish cleaning stations under 58 Pa. Code § 63.15a. This regulation allows anglers in certain circumstances to clean fish and dispose of the remains without transporting the intact catch to their home. This is important for many anglers, especially those on extended trips or visiting specific waters such as Lake Erie. Official cleaning stations also assist anglers in complying with regulations which prevent disposing of fish parts into Commonwealth waters. Fish processed at an official cleaning station allow anglers to be exempt from regulations requiring a fish to remain intact until reaching the place of consumption so it can be identified and measured for compliance with seasons, sizes, and creel limits.

As technologies for cleaning stations change, various methods of carcass disposal are utilized. In several states, fish cleaning byproducts may be sold to other entities for further beneficial use such as fertilizer in agriculture. In Pennsylvania, cleaning stations are forced to grind the carcasses and place the byproduct into wastewater treatment or landfills.

A notice of proposed rulemaking was published at 50 Pa. B. 5270 (September 26, 2020) (Exhibit B). The Commission did not receive any public comments regarding the proposal.

To allow fish cleaning stations to provide a better service to Pennsylvania anglers and facilitate better use of fish cleaning byproducts, staff propose the following amendment:

§ 63.19. Sale and purchase of fish.

(d) This section does not prohibit the sale, purchase, offer for sale, trade, or barter of any fish propagated by or from a propagator or dealer of live aquatic animals registered under 3 Pa. C.S. Chapter 42 (relating to aquacultural development) if the fish are lawfully propagated or acquired by means other than fishing from the waters of this Commonwealth in accordance with the requirements of applicable laws and regulations. This section does not prohibit the sale, purchase, offer for sale, trade, or barter of any fish by or from the holder of a commercial fishing license issued under Chapter 29 of the code (relating to special licenses and permits) if the fish are lawfully caught or taken in accordance with the requirements of applicable laws and regulations. This section does not prohibit the sale, purchase, offer for sale, trade or barter of any non-flesh fish parts that are the byproduct from any lawfully taken fish processed at a PA Fish & Boat Commission recognized non-commercial fish cleaning station under Section 63.15a of Title 58. **This section does not prohibit the sale, purchase, offer for sale, trade, or barter for the purpose of disposal of any non-flesh fish parts or roe that are the byproduct from any lawfully taken fish processed at a PA Fish & Boat Commission recognized fish cleaning station under Section 63.15a of Title 58.** This section does not prohibit the sale of mounted fish.

Briefer:

Colonel Corey Britcher, Director, Bureau of Law Enforcement

Recommendation:

Staff recommend the Commission adopt the amendment as set forth in the notice of proposed rulemaking. If adopted, the amendment will go into effect upon publication in the *Pennsylvania Bulletin*.

Action:

A motion was made by Commissioner Pastore and seconded by Commissioner Ali to adopt the amendment as set forth in the notice of proposed rulemaking. If adopted, the amendment will go into effect upon publication in the *Pennsylvania Bulletin*. Motion carried.

Other New Business

President Lewis made closing remarks and urged all anglers and boaters to submit public comments regarding items scheduled for proposed action at Commission meetings.

Time and Place of January 2021 Commission Meeting

The next quarterly meeting will be held on January 25-26, 2021 in Harrisburg.

Adjournment

A motion was made by Commissioner Small and seconded by Commissioner Gibney to adjourn the meeting at approximately 8:25 a.m. Motion carried.

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PROPOSED RULEMAKING

FISH AND BOAT COMMISSION

[58. PA. CODE CH. 51]

General Provisions; Administrative Provisions

[50 Pa.B. 5269]

[Saturday, September 26, 2020]

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 Fish and Boat Code) (code). The proposed amendments update the Commission's regulations for display of permits.

A. *Effective Date*

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

B. *Contact Person*

For further information on this proposed rulemaking, contact Wayne Melnick, Esq., P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rulemaking is available on the Commission's web site at www.fishandboat.com.

C. *Statutory Authority*

The proposed amendments to §§ 51.123 and 51.127 (relating to display of permits; and fishing license and permits) are published under the statutory authority of section 2907.3 of the code (relating to fishing guide and charter boat permits).

D. *Purpose and Background*

The specific purpose and background of the proposed amendments is described in more detail under the summary of proposal.

E. *Summary of Proposal*

As the Commission continues to modernize its business practices, several permit application procedures have been evaluated. An internal review of the Charter Boat/Fishing Guide permit application process revealed that the customer and the Commission would benefit greatly by handling the permitting process online.

Currently, to secure or purchase a permit, a written application, payment and numerous other supporting documents must be provided to the Commission for review, approval and processing. Once received by the Commission, it generally takes about 30 days to issue a permit, which is then mailed to the permittee.

The proposed plan moving forward is to allow application for and issuance of the permit online, exclusively through the Outdoor Shop. Waterways Conservations Officers would verify applicant provided information during standard field checks. As part of this transition, the requirement to display a guide sticker on the boat would be removed. Permits would be fulfilled at the point of purchase. The 30-day wait time for a permit and the time and expense associated with preparing a paper application would be eliminated. Through the automation process, the Commission would substantially lower the cost to review and issue a permit and would eliminate the cost of producing and mailing permits, identification decals, patches and other informational materials.

An additional change to § 51.127 would require an individual guiding on Commonwealth Waters to have Commission issued fishing license and permits. Under the current language a loophole was created that allows some nonresidents to guide on Commonwealth Waters utilizing their out-of-State license with a Pennsylvania Nonresident guide permit.

The Commission proposes that §§ 51.123 and 51.127 be amended as set forth in Annex A.

F. *Paperwork*

This proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

G. *Fiscal Impact*

This proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions.

H. *Public Comments*

Interested persons are invited to submit written comments, objections or suggestions about this 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 notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/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.

TIMOTHY D. SCHAEFFER,
Executive Director

Fiscal Note: 48A-302. 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 L. CHARTER BOAT/FISHING GUIDE OPERATIONS

§ 51.123. Display of permits.

(a) *Display of permit on outer garment.* While operating a charter boat or fishing guide operation, charter boat operators and fishing guides shall display their permits on a hat or an outer garment in plain view. The charter boat operator and fishing guide may carry and display the permit in the same holder containing a fishing license.

(b) *Officers designated to check permits.* Charter boat operators and fishing guides shall present their charter boat/fishing guide permits upon the request of an officer authorized to enforce the code.

[(c) *Display of decal on charter boats.* When a boat is used in the charter boat/fishing guide operation, the charter boat operator shall display a decal supplied by the Commission on both sides of the boat hull above the waterline and below the gunwale near the stern of the boat or on each side window of the cockpit of the boat. While onboard a boat displaying a decal, the charter boat operator is exempt from the permit display requirements of this section provided the permit is onboard the boat. When, due to exigent circumstances, a charter boat operator must use a boat that does not display a charter boat/fishing guide decal, the charter boat operator shall display the permit on a hat or outer garment as required by this section.]

§ 51.127. Fishing license and permits.

Charter boat operators and their crewmembers and fishing guides shall possess valid **Commission issued** fishing licenses and the stamps and permits required for the waters in which they fish. Charter boat operators and fishing guides are responsible for ensuring that their employees, passengers and customers possess a valid **Commission issued** fishing license and the appropriate stamps and permits.

[Pa.B. Doc. No. 20-1308. Filed for public inspection September 25, 2020, 9:00 a.m.]

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PROPOSED RULEMAKING

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 63]

Fishing; General Fishing Regulations

[50 Pa.B. 5270]

[Saturday, September 26, 2020]

The Fish and Boat Commission (Commission) proposes to amend Chapter 63 (relating to general fishing regulations). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). The proposed amendments update the Commission's regulations for the sale and purchase of fish.

A. *Effective Date*

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

B. *Contact Person*

For further information on this proposed rulemaking, contact Wayne Melnick, Esq., P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rulemaking is available on the Commission's web site at www.fishandboat.com.

C. *Statutory Authority*

The proposed amendment to § 63.19(d) (relating to sale and purchase of fish) is published under the statutory authority of section 2102(c) of the code (relating to rules and regulations).

D. *Purpose and Background*

The specific purpose and background of the proposed amendment is described in more detail under the summary of proposal.

E. *Summary of Proposal*

The Commission regulates both commercial and private fish cleaning stations under § 63.15a (relating to officially-recognized fish cleaning stations). This regulation allows anglers in certain circumstances to clean fish and dispose of the remains without transporting the intact catch to their home. This is important for many anglers, especially those on extended trips or visiting specific waters such as Lake Erie. Official cleaning stations also assist anglers in complying with regulations which prevent disposing of fish parts into Commonwealth waters. Fish processed at an official cleaning station allow anglers to be exempt from regulations requiring a fish to remain in-tact until reaching the place of consumption so it can be identified and measured for compliance with seasons, sizes and creel limits.

As technologies for cleaning stations change, various methods of carcass disposal are utilized. In several states, fish cleaning byproducts may be sold to other entities for further beneficial use such as fertilizer in agriculture. In this Commonwealth, cleaning stations are forced to grind the carcasses and place the byproduct into wastewater treatment or landfills.

To allow fish cleaning stations to provide a better service to Commonwealth anglers and facilitate better use of fish cleaning byproducts, the Commission proposes to amend § 63.19(d) of its regulations.

The Commission proposes that § 63.19(d) be amended to read as set forth in Annex A.

F. *Paperwork*

This proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

G. *Fiscal Impact*

This proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions.

H. *Public Comments*

Interested persons are invited to submit written comments, objections or suggestions about this 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 notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/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.

TIMOTHY D. SCHAEFFER,
Executive Director

Fiscal Note: 48A-301. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 63. GENERAL FISHING REGULATIONS

§ 63.19. Sale and purchase of fish.

* * * * *

(d) This section does not prohibit the sale, purchase, offer for sale, trade or barter of any fish propagated by or from a propagator or dealer of live aquatic animals registered under 3 Pa.C.S.

Chapter 42 (relating to aquacultural development), if the fish are lawfully propagated or acquired by means other than fishing from the waters of this Commonwealth in accordance with the requirements of applicable laws and regulations. This section does not prohibit the sale, purchase, offer for sale, trade or barter of any fish by or from the holder of a commercial fishing license issued under Chapter 29 of the code (relating to special licenses and permits), if the fish are lawfully caught or taken in accordance with the requirements of applicable laws and regulations. **This section does not prohibit the sale, purchase, offer for sale, trade or barter for the purpose of disposal of any non-flesh fish parts or roe that are the byproduct from any lawfully taken fish processed at a Pennsylvania Fish and Boat Commission recognized fish cleaning station under § 63.15a (relating to officially-recognized fish cleaning stations).** This section does not prohibit the sale of mounted fish.

[Pa.B. Doc. No. 20-1309. Filed for public inspection September 25, 2020, 9:00 a.m.]

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