

## Notice of Proposed Rulemaking

COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA FISH AND BOAT COMMISSION

Title 58. Recreation  
Part II. Fish and Boat Commission  
Chapter 63  
Fishing

### **Preamble**

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 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*.

B. *Contact Person*

For further information on the 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 website at [www.fish.state.pa.us](http://www.fish.state.pa.us).

C. *Statutory Authority*

The proposed amendment to § 63.2 (relating to display of fishing license and verification of license purchase) are published under the statutory authority of section 2703 of the code (relating to possession and display of licenses). The proposed amendments to § 63.20 (relating to permits for the

protection and management of trout and salmon) are published under the statutory authority of section 2904 of the code (relating to permits for the protection and management of particular fish).

D. *Purpose and Background*

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

E. *Summary of Proposals*

Under § 63.2(b), anglers required under 30 Pa. C.S. Chapter 27 (relating to fishing licenses) to purchase a license to fish in the waters of this Commonwealth or boundary waters must display the actual fishing license certificate on a hat or outer garment while fishing. Starting sometime in March 2014, the Commission will make license buttons available for sale. Therefore, section 63.2 must be amended to allow for the display of license buttons as an alternative to the current display requirement. Under the proposal, a license holder will be required to carry the license certificate on his person if a license button is displayed instead of the license certificate.

To allow the display of license buttons as an alternative to the current display requirement, the Executive Director exercised his authority under §65.25 (relating to temporary changes to fishing regulations). 43 Pa. B. 7602 (December 28, 2013). The temporary modification went into effect on January 1, 2014 and will remain in effect until the Commission, by appropriate action, amends §63.2. In the absence of such action, the temporary modification will expire on December 31, 2014.

Under § 63.20(d)(3), a person who purchases a senior resident lifetime fishing license and who desires to fish for trout or salmon is required to purchase one trout/salmon permit and is then exempt from the requirement to purchase a trout/salmon permit for subsequent years. This effectively means that those licensees may purchase one trout/salmon permit that is valid for the

licensee's lifetime. About 70% of seniors purchase a trout/salmon permit, which mirrors the rate for other anglers.

Since it was instituted in 1979, the Commission has sold 463,714 senior resident lifetime fishing licenses. In 1979, that category of license sales accounted for 1.31% of total license sales (13,179 out of 1,004,003). When license sales peaked in 1990, the sale of senior resident lifetime fishing licenses also reached an all-time high of 18,645. As this Commonwealth's population has aged, so too has the percentage of senior resident lifetime fishing licenses compared to total license sales, with that category accounting for 1.97% of total sales in 2013 (17,004 out of 860,672).

Even more significantly, senior resident lifetime fishing licenses have grown to comprise nearly 50% of all senior licenses sold. Residents 65 years of age and older may purchase either a senior resident lifetime fishing license for \$50 or a senior resident annual fishing license for \$10. In 1979, senior resident lifetime licenses and senior resident annual licenses totaled 87,247, but the lifetime category only accounted for 15.11% of that total. In 2013, of the 34,790 combined senior resident lifetime and senior resident annual licenses, 48.9% were for the lifetime license. As this Commonwealth's seniors continue to account for a larger percentage of the total population (and of anglers), the relative number of anglers buying the lifetime license is expected to continue to rise.

According to the Commission's report *Stocked Trout Program: Cost Report* (March 2009), the Commission's trout program accounts for 36% of the Fish Fund annual expenditures, and the cost of trout production continues to rise. The Commission can no longer afford to allow anyone required to purchase a senior resident lifetime fishing license to fish for trout without paying for the privilege to do so annually.

One thing that the Commission can do by regulation is to require all senior resident lifetime license holders to purchase a trout/salmon permit each year that the license holder desires to fish for trout. At the same time, the Commission can establish that any senior resident lifetime license holder

who purchased a trout/salmon permit before a certain date will remain exempt from the requirement to purchase a permit annually. To use a common term, those individuals will be “grandfathered.”

With the grandfathering clause, there will be no additional revenues generated in the first year of the proposed regulatory change, since all of the licensees who purchase a permit under the regulation will presumably buy it anyway. Assuming senior resident lifetime license holders continue to make up about 50% of all senior license buyers, an estimated 8% drop in sales and associated federal funds due to the new annual requirement, and 70% of seniors will continue to purchase a trout/salmon permit, staff estimate the generation of about \$300,000 in additional annual revenues by the fifth year that the change is in place.

Similar to § 63.20(d)(3), a person who purchases a senior resident lifetime license and fishes in Lake Erie or its tributaries is only required to purchase one special permit which is valid for the licensee’s lifetime pursuant to section 2907.2(c) of the code. However, requiring those anglers to annually purchase a special permit to fish in Lake Erie and its tributaries will require an act of the General Assembly.

The Commission also noted the need for a number of housekeeping changes to § 63.20. In § 63.20(b), eliminating the list of licenses to which the requirement applies makes it clear that any license holder must possess a trout/salmon permit or a combination trout/salmon permit and Lake Erie permit to fish for trout. While section 2907.2(c) of the code already requires all anglers to have a special permit to fish in Lake Erie and its tributaries or a combination trout/salmon permit and Lake Erie permit to fish in those parts of the Lake Erie watershed, adding the combination trout/salmon permit and Lake Erie permit makes it clear that the license holder must have a valid permit to fish for trout in other parts of the Lake Erie watershed (e.g., lakes stocked with trout). Since license holders no longer need to affix a stamp to their license, that requirement in § 63.20(b) should be deleted. In addition, because the Commission no longer issues trout stamps, § 63.20(c) is no longer necessary and should be deleted.

The Commission proposes to amend §§63.2 and 63.20 to read as set forth in Annex A.

F. *Paperwork*

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

G. *Fiscal Impact*

The proposed amendment to § 63.2 will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed amendment to § 63.2 will impose no new costs on the private sector or the general public because the license button is purely voluntary.

The proposed amendments to §63.20 will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed amendments to § 63.20 will impose no new costs on the private sector or the general public except that future purchasers of a senior resident lifetime fishing license will be required to purchase a trout/salmon permit annually. The fee for a trout/salmon permit is set by section 2715(a.1)(1) of the code at \$8.

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 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](http://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.

For the Pennsylvania Fish and Boat Commission

John A. Arway  
Executive Director

## Annex A

### Regulation No. 48A-257

#### Title 58. Recreation

#### Part II. Fish and Boat Commission

#### *Subpart B. Fishing*

#### CHAPTER 63. GENERAL FISHING REGULATIONS

§63.2. Display of fishing license and verification of license purchase.

\* \* \*

(b) *Display on an outer garment.* It is unlawful for a person required by Chapter 27 of the code (relating to fishing licenses) to purchase a fishing license to fish in the waters of this Commonwealth or in boundary waters unless the person displays the license certificate, **a license button or other device approved by the Executive Director** on a hat or outer garment while fishing. A warning will be issued for a first violation of this section if the person has a valid fishing license in his possession and about his person and shows it upon request. An institutional license issued under section 2708 of the code (relating to institutional licenses) may be displayed or maintained by the person fishing or by the person attending the person who is fishing. **If a license button or other device is displayed instead of the license certificate, the person shall carry the license certificate about his person.**

\* \* \*

§ 63.20. Permits for the protection and management of trout and salmon.

\* \* \*

(b) *Permit required.* It is unlawful for a person required by Chapter 27 of the code (relating to fishing licenses) to procure a [resident] fishing license, [**a nonresident fishing license, a senior resident lifetime fishing license or an annual senior resident fishing license,**] to fish for trout or salmon unless that person has first procured a valid trout/salmon permit **or a combination trout/salmon permit and Lake Erie permit** [and affixed it to his fishing license].

(c) [*Form.* Trout/salmon permits issued under this section shall be in the form of a stamp which shall be affixed to the person's fishing license and signed over the face of the stamp. The stamp shall bear a design as may be approved by the Commission together with the year for which it is valid.]

[(d)] *Exceptions.*

\* \* \*

(3) A person who purchased a senior resident lifetime fishing license **and a trout/salmon permit or a combination trout/salmon permit and Lake Erie permit** prior to January 1, [1991] **2015**, shall be exempt from the requirements of this section. [A person who purchases a senior resident lifetime fishing license after January 1, 1991, who desires to fish for trout or salmon shall be required to purchase one valid trout/salmon permit and affix it to his fishing license and shall be exempt from the requirements of this section for second and subsequent years.]

\* \* \*

[(e)] **(d)** *Fish for trout or salmon.* A person fishes for trout or salmon when one of the following applies:

\* \* \*