

Order Adopting Amendments

COMMONWEALTH OF PENNSYLVANIA PENNSYLVANIA FISH AND BOAT COMMISSION

Title 58. Recreation Part II. Fish and Boat Commission Chapter 51 General Provisions

Preamble

The Fish and Boat Commission (Commission) amends Chapter 51 (relating to administrative provisions) to read as set forth in Annex A. The Commission is publishing this final-form rulemaking under the authority of 30 Pa. C.S. (relating to Fish and Boat Code) (code). The amendments update the Commission's fees for scientific collectors' permits.

A. *Effective Date*

This final-form rulemaking will go into effect on January 1, 2019.

B. *Contact Person*

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

C. *Statutory Authority*

The amendments to § 51.71 (relating to scientific collectors' permits) are published under the statutory authority of section 2905 of the code (relating to permits for scientific and educational fish collecting activities).

D. *Purpose and Background*

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

E. *Summary of Changes*

Under section 2905 of the code, the Executive Director, with the Commission's approval, may issue permits to catch fish in waters within or bordering on this Commonwealth at any season of the year and with any kind of devices without regard to size or possession limits to a person who possesses a valid Pennsylvania fishing license and is engaged in scientific or educational research or other collecting activities approved by the Commission. This section also authorizes the Commission to promulgate regulations and to establish fees.

In 1985, the Commission adopted § 51.71, which requires a valid and current scientific collector's permit issued by the Commission to collect, take or maintain for scientific or educational purposes any species of Pennsylvania fishes, amphibians, reptiles or aquatic organisms during seasons not permitted by regulations governing holders of a valid Pennsylvania fishing license or other license or permit issued by the Commission (for example, venomous snake permit, organized reptile and amphibian hunt permit).

In July 1978, the Commission established various fees for different permit types within the Scientific Collector Permit Program through terms and conditions of the scientific collectors'

permit. Three types of permits with associated fees through this Program were developed: Type 1 permit (Research) \$10, assistants and permit amendments had no fee; Type 2 (Government) free permit, assistants and permit amendments had no fee; and Type 3 permit (Consulting) \$50, and \$10 each assistant and permit amendments. Permit conditions require that all collectors (scientific collector permit holders and their assistants) have current valid fishing licenses prior to issuance of the scientific collectors' permit and any subsequent collecting activity. In January 2008, the long-term policy was codified, and the fee structure was updated: Type 1 permit (Research) \$30, assistants free and permit amendments \$15; Type 2 (Government) free permit, assistants and permit amendments free; and Type 3 permit (Consulting) \$150, \$30 each assistant and permit amendments \$75.

The Natural Diversity Section, housed within the Commission's Bureau of Fisheries, Division of Environmental Services, administers the Scientific Collector Permit Program (Program). This Program has significant staff demands. Administering the Program requires staff to receive and review new and renewal permit applications and amendments, and process end-of-year permit reports. A significant part of this administration is ongoing clerical support (dealing with applicant questions, changes to permits, processing payments for permits and amendments) and continual database and system maintenance support provided by our Information Technology staff. Reviewing the applications requires a technical review and substantial staff interaction with potential collectors, often resulting in changes to proposed collections. Staff also periodically check for permit compliance in the field. Permit collection reports are filed by staff and relevant collection information (that is, rare, threatened and endangered species data) is extracted from reports and submitted to the Pennsylvania Natural Heritage Program to be included in a statewide database for rare species (Pennsylvania

Conservation Explorer) that is consulted during the environmental permit review process. Staff also review and issue special permits under § 75.4 (relating to special permits) for applicants that qualify to conduct threatened and endangered species research and surveys.

Currently, Commission staff review new, renewal and amended applications and issue approximately 420 scientific collector's permits annually. To address an increasing trend of permits and ongoing program demands, the Commission's Natural Diversity Section and Information Technology staff have been working together to streamline the permit application process and improve the application and reporting process with an interactive, web-based computer application that is accessible to the public. This web-based application is the first of its kind for the Commission and requires regular maintenance and upgrades. Staff proposes to increase the permit fees to offset increasing program costs using the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index (CPI) tool that is based on annual inflation rates since the fee structure was last updated in January 2008. The proposed permit fee changes adjusted with CPI inflation rate values since January 2008 follow: Type 1 permit (Research) \$40, assistants free and permit amendments \$20; Type 2 (Government) free permit, assistants and permit amendments free (no changes proposed); and Type 3 permit (Consulting) \$180, \$40 each assistant and permit amendments \$90.

The Commission therefore amends § 51.71 to read as set forth at 48 Pa. B. 5497.

F. *Paperwork*

The final-form rulemaking will not increase paperwork and will not create new paperwork requirements.

G. *Fiscal Impact*

This final-form rulemaking will not have adverse fiscal impact on the Commonwealth or its political subdivisions. The increased fees will help offset the Commission's continuing expenses to administer the Program and the costs of the interactive, web-based application.

This final-form rulemaking will increase fees for permit applicants. The fee for a Type I permit for Nonprofit Research and Education will increase from \$30 to \$40, assistants on Type I permits will remain free and the fee for a Type I permit amendment will increase from \$15 to \$20. The fee for a Type II permit for Government remains free and assistants and permit amendment also remain free. The fee for a Type III permit for Consulting will increase from \$150 to \$180, the fee for assistants on Type III permits will increase from \$30 to \$40 and the fee for a Type III permit amendment will increase from \$75 to \$90.

With regard to all permit types, the Commission will utilize the fees to offset the costs associated with permit issuance and processing and data compilation. It is expected that the Commission will recover its costs for the permits for which fees are charged and that the Commission will absorb the costs associated with the free permits.

H. *Public Involvement*

A notice of proposed rulemaking was published at 48 Pa. B. 5497 (September 1, 2018). The Commission received no public comment.

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 are amended in § 51.71 to read as set forth at 48 Pa. B. 5497.

(B) The Executive Director will submit this order and 48 Pa. B. 5497 to the Office of Attorney General for approval as to legality and form as required by law.

(C) The Executive Director shall certify this order and 48 Pa. B. 5497 and deposit them with the Legislative Reference Bureau as required by law.

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

For the Pennsylvania Fish and Boat Commission

Wayne Melnick
Acting Executive Director

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart A. GENERAL PROVISIONS

CHAPTER 51. ADMINISTRATIVE PROVISIONS

Subchapter H. PERMITS FOR FISH COLLECTING ACTIVITIES

§ 51.71. Scientific collectors' permits.

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(b) The Commission will issue three categories of scientific collectors' permits: nonprofit research and education, governmental and consulting.

(1) *Type I Permit: Nonprofit Research and Education.* The Commission will issue a Type I (Nonprofit Research and Education) permit to individuals whom the Commission deems to be qualified to competently and capably conduct research or educational programs and who are not engaged in scientific collecting for monetary gain.

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(iii) *Fees.* The fee for a Type I permit holder is [~~\$30~~] \$40. Each assistant is free. Permit amendments are [~~\$15~~] \$20 each.

(2) *Type II Permit: Governmental.* A Type II (Governmental) permit is a free permit that the Commission issues, at the discretion of the Executive Director, to State and Federal employees who are engaged in scientific collecting as a part of their required duties. A Type II permit may be Statewide or regional depending upon the application.

(3) *Type III Permit: Consulting.* The Commission will issue a Type III (Consulting) permit to individuals whom the Commission deems to be qualified to engage in scientific collecting and who are engaged in private consulting for profit. The Commission will issue a Type III permit to qualified individuals only and will not issue one in the name of a corporation or other business entity.

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(iii) *Fees.* The fee for a Type III permit holder is [~~\$150~~] \$180. Each assistant is [~~\$30~~] \$40. Permit amendments are [~~\$75~~] \$90 each.

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