

Notice of Proposed Rulemaking

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) 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 the Fish and Boat Code) (code). The proposed amendments update the Commission's fees for scientific collectors' permits.

A. *Effective Date*

The proposed rulemaking, if approved on final-form rulemaking, will go into effect on January 1, 2019.

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.

C. *Statutory Authority*

The proposed 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 proposed amendments is described in more detail under the summary of proposal.

E. *Summary of Proposal*

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) \$10.00, assistants and permit amendments had no fee; Type 2 (Government) free permit, assistants and permit amendments had no fee; Type 3 permit (Consulting) \$50.00, and \$10.00 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 of 2008, the long-term policy was codified, and the fee structure was updated: Type 1 permit (Research) \$30.00, assistants free, and permit amendments \$15; Type 2 (Government) free permit, assistants and permit amendments free; Type 3 permit (Consulting) \$150.00, \$30.00 each assistant and permit amendments \$75.00.

The Natural Diversity Section, housed within the Commission's Bureau of Fisheries, Division of Environmental Services, administers the Scientific Collector Permit (SCP) 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 (i.e., 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 58 Pa. Code § 75.4 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 Permits annually. To address an increasing trend of permits and ongoing program demands, Commission 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 U.S. 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) \$40.00, assistants free, and permit amendments \$20; Type 2 (Government) free permit, assistants and permit amendments free (no changes proposed); Type 3 permit (Consulting) \$180.00, \$40.00 each assistant, and permit amendments \$90.00. The following table summarizes the historic and proposed fee structure for the Scientific Collectors' Permit Program:

Scientific Collectors' Permit	1978	2008	2019 (proposed)
Type 1 (Research)	\$10	\$30	\$40
Each Assistant	\$0	\$0	\$0
Permit Amendments	\$0	\$15	\$20
Type 2 (Government)	\$0	\$0	\$0
Each Assistant	\$0	\$0	\$0
Permit Amendments	\$0	\$0	\$0
Type 3 (Consulting)	\$50	\$150	\$180
Each Assistant	\$10	\$30	\$40
Permit Amendments	\$10	\$75	\$90

Staff propose that §51.71 be amended 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 rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The increased fees will help offset the Commission's continuing expenses to administer the SCP Program and the costs of the interactive, Internet-based application.

The proposed 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 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. 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-283

Title 58. Recreation

Part II. Fish and Boat Commission

Subpart A. General Provisions

CHAPTER 51. ADMINISTRATIVE PROVISIONS

§ 51.71. Scientific Collectors' Permits

§ 51.71(b)(1)

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

§ 51.71(b)(3)

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