

RULES AND REGULATIONS

Title 52—PUBLIC UTILITIES

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CHS. 1, 3, 5, 23, 29, 32,
53, 54, 57, 59 AND 62]

[L-2012-2324073]

Paper Copy and Electronic Copy Filing Requirements

The Pennsylvania Public Utility Commission (Commission), on August 15, 2013, adopted a final rulemaking order amending existing Commission paper and electronic filing requirements by eliminating additional paper copies of certain documents, increasing the size limit of eFiled documents and dispensing with the requirement for a paper copy of eFiled documents less than 250 pages.

Executive Summary

In order to facilitate a review of its procedural regulations, the Pennsylvania Public Utility Commission (Commission) formed the Efficient Work Group consisting of internal staff from the Commission's Office of Administrative Law Judge, Secretary's Bureau, Law Bureau, Bureau of Investigation and Enforcement (formally Office of Trial Staff), Bureau of Consumer Services, Bureau of Technical Utility Services, Office of Special Assistants and Management Information Services. After a period of study and discussion, the Efficient Work Group determined that due to the recently completed reorganization of the Commission, advances in technology and the ability of many practitioners to make electronic filings at the Commission, the Commission should change some of its procedural regulations to reduce paper copy filings.

On February 28, 2013, the Commission issued a Proposed Rulemaking Order inviting comment to our proposed amendments to our procedural regulations which will: (1) eliminate the requirement to file additional paper copies, beyond a signed original, of certain documents, (2) increase the size limit of qualified documents that may be electronically filed (eFiled) with the Commission and (3) dispense with the requirement for a paper copy of eFiled documents, that are less than 250 pages in length, to be filed with the Commission. These proposed changes to our procedural regulations will result in savings of time and resources for both parties appearing before the Commission and Commission staff by reducing paper copy filings. Based upon our review and consideration of the single comment filed in support of this rulemaking proceeding by the Energy Association of Pennsylvania, the Commission proposes to adopt the final regulations as set forth at 43 Pa.B. 2602 (May 11, 2013) and Annex A.

Public Meeting held
August 15, 2013

Commissioners Present: Robert F. Powelson, Chairperson; John F. Coleman, Jr., Vice Chairperson; Wayne E. Gardner; James H. Cawley; Pamela A. Witmer

Amendment of Paper Copy and Electronic Copy Filing Requirements; Doc. Nos. L-2012-2324073;

*L-2012-2296005; L-00070187; M-2012-2317481;
M-2008-2072592*

Final Rulemaking Order

By the Commission:

On February 28, 2013, the Pennsylvania Public Utility Commission (Commission) issued a Proposed Rulemaking

Order proposing to implement changes to our procedural regulations to: (1) eliminate the requirement to file additional paper copies, beyond a signed original, of certain documents, (2) increase the size limit of qualified documents that may be electronically filed (eFiled) with the Commission and (3) dispense with the requirement for a paper copy of eFiled documents, that are less than 250 pages in length, to be filed with the Commission. The Commission proposed these changes to our regulations in order to simplify practice before the Commission and diminish the burden upon parties appearing before the Commission by reducing the amount of paper they must file with the agency. Based upon our review and consideration of the comment filed in support of this rulemaking proceeding by the Energy Association of Pennsylvania (EAP), we shall adopt the final regulations as set forth at 43 Pa.B. 2602 and Annex A.

Background. On February 28, 2013, the Commission issued a Proposed Rulemaking Order, Docket Nos. L-2012-2324073, L-2012-2296005, L-00070187, M-2012-2317481 and M-2008-2072592, proposing a number of modifications to our existing regulations to facilitate significant savings of time and resources for both parties appearing before the Commission and Commission staff by reducing paper copy filings in general. To maximize efficiency, the Commission encouraged interested parties filing comments in response to our February 28, 2013 Proposed Rulemaking Order to point out any further regulations containing paper copy filing requirements that may also be appropriate for elimination and/or waiver.

Discussion. In response to our proposed amendments set forth in the February 28, 2013 Proposed Rulemaking Order and Annex A thereto, the Commission received comments in support of the rulemaking from EAP. In its comments, EAP applauded the Commission's initiative to review and streamline its procedural regulations for document filings and supports the amendments. EAP further commented that it looks forward to working with the Commission as it continues to seek to simplify its current processes so as to promote efficiency and administrative economy in its regulatory role.

The Independent Regulatory Review Commission (IRRC) reviewed the Commission's proposed amendments and had no objections, comments or recommendations to offer on the regulations.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 22, 2013, the Commission submitted a copy of the notice of proposed rulemaking, published at 43 Pa.B. 2602 and Annex A, to IRRC and the Chairpersons of the House Consumer Affairs Committee and the Senate Consumer Protection and Professional Licensure Committee for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the House and Senate Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on November 6, 2013, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5(g) of the Regulatory

Review Act, the final-form rulemaking was deemed approved by IRRC effective November 6, 2012.

Conclusion

The amendments to our regulations will simplify practice before the Commission and diminish the burden upon parties appearing before the Commission by reducing the amount of paper they must file with the agency. These amendments will also result in significant savings of time and resources for parties appearing before the Commission and for Commission staff by reducing paper copy filings. The Commission, therefore, formally adopts the final regulations as set forth as proposed at 43 Pa.B. 2602 and Annex A.

Accordingly, pursuant to sections 501, 504, 505, 506, 1501, 3009(b),(d), and 2801, et seq., and the regulations promulgated thereunder at 52 Pa. Code §§ 57.191—57.197; and sections 201 and 202 of the act of July 31, 1968 P. L. 769, No. 240 (45 P. S. §§ 1201 and 1202), and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2 and 7.5; section 204(b) of the Commonwealth Attorneys Act (71 P. S. § 732.204(b)); section 745.5 of the Regulatory Review Act (71 P. S. § 745.5) and section 612 of The Administrative Code of 1929 (71 P. S. § 232), and the regulations promulgated thereunder at 4 Pa. Code §§ 7.231—7.234, we will adopt as final the amendments to the regulations as set forth as proposed at 43 Pa.B. 2602; *Therefore, It Is Ordered That:*

1. The regulations of the Commission, 52 Pa. Code Chapters 1, 3, 5, 23, 29, 32, 53, 54, 57, 59 and 62, are amended by amending §§ 1.32, 1.59, 3.101, 3.381, 3.383, 3.501, 5.502, 23.101, 23.121, 29.303, 32.2, 53.51, 54.32, 54.203, 57.72, 57.74, 57.141, 57.195, 59.81 and 62.103 to read as set forth at 43 Pa.B. 2602 and by amending § 1.37 as set forth in Annex A with the ellipses referring to the existing text of the regulations.

2. The Secretary shall submit this order and 43 Pa.B. 2602 and Annex A to the Office of Attorney General for approval as to legality.

3. The Secretary shall submit this order and 43 Pa.B. 2602 and Annex A to the Governor's Budget Office for review of fiscal impact.

4. The Secretary shall submit this order and 43 Pa.B. 2602 and Annex A for review by the designated standing committees of both houses of the General Assembly, and for review and approval by the Independent Regulatory Review Commission.

5. The Secretary shall duly certify this order and 43 Pa.B. 2602 and Annex A with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

6. These regulations shall become effective upon publication in the *Pennsylvania Bulletin*.

7. This order and 43 Pa.B. 2602 and Annex A be posted on the Commission's web site.

8. A copy of this order and 43 Pa.B. 2602 and Annex A shall be served on the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, and jurisdictional public utility industry and licensee trade associations.

9. The contact person for legal matters for this final rulemaking is Krystle J. Sacavage, Assistant Counsel, Law Bureau, (717) 787-5262. Alternate formats of this document are available to persons with disabilities and may be obtained by contacting Sherri DelBiondo, Regulatory Coordinator, Law Bureau, (717) 772-4597.

ROSEMARY CHIAVETTA,
Secretary

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 43 Pa.B. 6988 (November 23, 2013).)

Fiscal Note: Fiscal Note 57-293 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart A. GENERAL PROVISIONS

CHAPTER 1. RULES OF ADMINISTRATIVE PRACTICE AND PROCEDURE

Subchapter D. DOCUMENTARY FILINGS

§ 1.37. Number of copies.

(a) *Paper filings.* When a pleading, submittal or document other than correspondence is submitted in hard copy, an original and the cover letter shall be furnished to the Commission at the time of filing, except when:

* * * * *

(3) A filing, including attachments, exceeds 10 megabytes, in addition to filing the requisite number of hard copies in accordance with this subpart, a CD-ROM or DVD containing the filing and an index to the filing shall be filed with the Commission.

(b) *Electronic filings.*

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[Pa.B. Doc. No. 14-80. Filed for public inspection January 10, 2014, 9:00 a.m.]

Title 58—RECREATION

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 63]

Fishing; General Fishing Regulations

The Fish and Boat Commission (Commission) amends Chapter 63 (relating to general fishing regulations). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code).

A. *Effective Date*

The final-form rulemaking will go into effect upon publication in the *Pennsylvania Bulletin*.

B. *Contact Person*

For further information on the 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 amendment to § 63.50 (relating to importation of tautog) is published under the statutory authority of section 2102(c) of the code (relating to rules and regulations). The addition of § 63.56 (relating to replacement costs for fish killed) is published under the statutory authority of section 923(c.1) of the code (relating to classification of offenses and penalties).

D. *Purpose and Background*

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

E. *Summary of Changes*

(1) At its July 2007 meeting, the Commission approved a 14-inch minimum size limit on tautog (*Tautoga onitis*)

imported into this Commonwealth. Tautog is a marine fish common on hard bottom from Cape Cod, Massachusetts to Delaware. The Commission promulgated the regulation in 2007 because tautog were being harvested illegally on the Atlantic Coast and being sold in the live fish markets in Philadelphia. The New Jersey Division of Fish and Wildlife (NJDFW) asked the Commission to implement a 14-inch minimum size limit on tautog that are imported into the Commonwealth to address the black market sale of sublegal fish.

Recently, NJDFW raised its size limit to 15 inches. Accordingly, NJDFW requested that the Commission raise its importation size limit to 15 inches. Coastwide, commercial and recreational size limits are currently either 15 or 16 inches. By raising the Commonwealth's importation size limit to 15 inches rather than 16 inches, the Commission maintains consistency with New Jersey, its closest neighbor to the Atlantic Ocean. A size limit of 16 inches would render it illegal for tautog legally caught in New Jersey with a 15-inch size limit to be imported to this Commonwealth. The Commission therefore amends § 63.50 to read as set forth in the proposed rulemaking published at 43 Pa.B. 3235 (June 15, 2013).

(2) The act of October 24, 2012 (P. L. 1323, No. 167) amended section 923 of the code to add subsection (c.1). This subsection provides that in addition to other penalties in section 923 of the code, a person convicted of or acknowledging guilt of violating section 2109 or 2110 of the code (relating to serious unlawful take; and taking or possessing by illegal methods) will be assessed the costs incurred by the Commission for the replacement of the species involved in the violation in an amount determined by Commission regulation consistent with the values established by the American Fisheries Society (AFS) or other recognized professional fisheries organization. Replacement costs may only be assessed for violations relating to Federally listed threatened or endangered species and other species of fish designated by the Commission.

When determining the replacement costs for game fish, the Commission consulted guidelines established by AFS, specifically, Southwick, R. I. and A. J. Loftus, ed. (2003). "Investigation and monetary values of fish and freshwater mussel kills." American Fisheries Society Special Publication 30. The Commission updated AFS's 2003 values to 2012 values using the United States Department of Labor, Bureau of Labor Statistics CPI Inflation Calculator at http://www.bls.gov/data/inflation_calculator.htm. Costs were averaged for the various size groups. The Commission has been relying on AFS values for establishing replacement costs in pollution cases for over 20 years.

AFS has not established values for herptiles and, to the Commission's knowledge, no other recognized professional fisheries organization has done so. However, it is standard practice for state resource agencies, including the Commission, to look to the commercial market when determining replacement costs for reptiles and amphibians in pollution and poaching cases. The Commission last updated its list of commercial values for herptiles in 2010 and therefore relied on those market values when establishing their replacement costs. Specifically, the median cost of each species from commercial vendors was identified on the Internet using values for adults to simplify the process. The herptiles selected represent the animals that are most targeted in poaching cases and that have relatively high commercial values. The Commission has been relying on commercial values to establish replacement costs for reptiles and amphibians for the last 15 years.

With regard to Federally listed species, the Commission determined that the bog turtle is the species most targeted in poaching cases. Its replacement cost was determined in the same manner as the other herptiles, that is, by determining its commercial value on the Internet.

The Commission adds § 63.56 to read as set forth in the proposed rulemaking published at 43 Pa.B. 3235.

F. Paperwork

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

G. Fiscal Impact

The final-form rulemaking will not have adverse fiscal impact on the Commonwealth or its political subdivisions. The amendment to § 63.50 will not impose new costs on the private sector. The addition of § 63.56 will impose new costs on anglers who are convicted of or plead guilty to violating section 2109 or 2110 of code. Because these sections of the code are new, the Commission does not have a long history of violations of these sections and therefore is unable to estimate the impact to anglers who violate them. Since sections 2109 and 2110 of the code went into effect on October 24, 2012, there have been four violations of section 2109 of the code and eight violations of section 2110 of the code. The fish species involved included 41 steelhead (20 to 28 inches), 2 brown trout (20 inches), 1 golden rainbow trout (22 inches), 5 stocked trout (7 to 11 inches) and 1 crappie (not measured).

H. Public Comments

Notice of proposed rulemaking was published at 43 Pa.B. 3235. The Commission did not receive public comments concerning the proposed rulemaking.

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 and 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 Chapter 63, are amended by amending § 63.50 and adding § 63.56 to read as set forth at 43 Pa.B. 3235.

(b) The Executive Director will submit this order and 43 Pa.B. 3235 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 43 Pa.B. 3235 and deposit them with the Legislative Reference Bureau as required by law.

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

JOHN A. ARWAY,
Executive Director

Fiscal Note: Fiscal Note 48A-244 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 14-81. Filed for public inspection January 10, 2014, 9:00 a.m.]