

PROPOSED RULEMAKING

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 51]

Administrative Provisions; General Appeal Provisions

[56 Pa.B. 5429]

[Saturday, August 15, 2026]

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). This rulemaking proposes to add Subchapter N (relating to general appeal provisions) to identify the commission's provisions for its general appeals process.

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 Robert J. Schefter, Esq., P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rulemaking is available on the commission's website at pa.gov/agencies/fishandboat.

C. *Statutory Authority*

This proposed amendment to Chapter 51 is published under the statutory authority of 30 Pa.C.S. §§ 321 and 322 (relating to administration and enforcement; and rules and regulations) regarding the commission's powers and duties in general for administration, enforcement and the promulgation of rules and regulations.

D. *Purpose and Background*

Commission regulations provide specific appeal provisions for certain matters, but they do not provide a general internal appeals process for parties otherwise aggrieved by an adverse action of the commission. Without these regulations in place, the default appeal process for a party aggrieved by the action of a Commonwealth agency is set forth in 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) (GRAPP). The commission needs to promulgate its own general appeals provisions to provide a clear, streamlined process tailored to the needs of the commission and to better serve the needs of those who wish to appeal an adverse action that is not otherwise addressed by commission regulations. This proposed rulemaking satisfies the need by adding a subchapter that provides an appeals process for an adverse action by the commission not otherwise addressed by commission regulations.

E. *Summary of Proposal*

The commission has the authority to create administrative provisions for citizens who want to appeal an adverse action by the commission, which is not otherwise provided for in 30 Pa.C.S. The commission proposes to add Subchapter N to describe the commission's general appeal provisions as set forth in Annex A. Adding Subchapter N is warranted because there are no other subchapters in Chapter 51 related to funding.

§ 51.141. Purpose and scope.

This introductory section defines a general appeal and exempts certain matters where commission regulations set forth a specific appeals process and also exempts personnel actions and other matters governed by a court of law. Subsection (c) is a general statement that the internal appeals process supersedes the GRAPP proceedings.

§ 51.142. Initiation of appeal. Content. Timing.

This section describes the information to be contained in the appeal, the deadline for the appeal and where to file. A request for hearing must be included in the appeal, which is adopted from the GRAPP at 1 Pa. Code § 35.10 (relating to form and content of formal complaints) regarding form of complaints.

§ 51.143. Procedure in lieu of hearing.

This section recognizes that some appellants may not seek a full hearing and provides the option for review and decision by the Executive Director or designee. The ruling provided under this section would be considered the final action of the commission. This section is adopted from the commission's regulation at § 51.106 (relating to procedure in lieu of hearing) regarding civil penalty forfeiture process.

§ 51.144. Scheduling of hearing.

This section directs that the Executive Director will appoint a presiding officer to conduct the hearing. The presiding officer may be an external representative or an internal staff member not involved in the underlying matter. Notice of the hearing and the process for continuance requests are also explained. This section is adopted from the commission's regulation at § 51.27 (relating to hearings) regarding hearings in license suspension matters. The continuance request provision in subsection (c) is adopted from the Pennsylvania Game Commission (PGC) regulation at § 145.7 (relating to continuances).

§ 51.145. Hearing.

This section describes the conduct of the hearing, as well as the burden of proof and rulings on evidentiary matters. Discretion is given to the presiding officer on the particulars of the hearing. This section is based on the GRAPP at 1 Pa. Code § 35.187 (relating to authority delegated to presiding officers) and the PGC regulation at 58 Pa. Code § 145.12 (relating to hearing authority).

§ 51.146. Report of presiding officer.

This section describes the form of the report and the recommendation of the presiding officer to the Executive Director. This section is based on the GRAPP at 1 Pa. Code § 35.205 (relating to contents of proposed reports).

§ 51.147. Order.

This section directs the Executive Director to consider the recommendation of the presiding officer and to prepare a final Order containing the decision on the appeal. This decision is the final adjudication on the matter and will be reported to the commission at its next meeting. This section is

based on the GRAPP at 1 Pa. Code § 35.226 (relating to final orders) and the PGC regulation at 58 Pa. Code § 145.13 (relating to decision of the Director or Commission).

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 to ra-pfbcregulations@pa.gov. Electronic comments submitted in any other manner will not be accepted.

TIMOTHY D. SCHAEFFER,
Executive Director

Fiscal Note: 48A-369. No fiscal impact; recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart A. GENERAL PROVISIONS

CHAPTER 51. ADMINISTRATIVE PROVISIONS

(*Editor's Note:* Subchapter N is proposed to be added and is printed in regular type to enhance readability.)

Subchapter N. GENERAL APPEAL PROVISIONS

Sec.

51.141. Purpose and scope.

51.142. Initiation of appeal. Content. Timing.

51.143. Procedure in lieu of hearing.

51.144. Scheduling of hearing.

51.145. Hearing.

51.146. Report of presiding officer.

51.147. Order.

§ 51.141. Purpose and scope.

(a) An appeal from an adverse action by the commission may be brought under this subchapter by an aggrieved party whose rights have been directly affected by the adverse action.

(b) This subchapter does not apply to the following:

(1) Section 51.6 (relating to petitions or requests for regulations).

(2) Subchapter C (relating to suspension, denial or revocation of licenses, permits, registrations or privileges).

(3) Subchapter E (relating to permit procedures).

(4) Subchapter K (relating to civil penalty forfeiture process).

(5) Section 927 of 30 Pa.C.S. (relating to forfeiture of fish and devices).

(6) Personnel actions.

(7) Orders based upon a proceeding before a court of law.

(c) This subchapter governs where inconsistent with 1 Pa. Code, Part II (relating to General Rules of Administrative Practice and Procedure).

§ 51.142. Initiation of appeal. Content. Timing.

(a) An appeal shall be made in writing and captioned "Appeal" and shall contain the following information:

(1) Name, address, telephone number and email address of the appellant.

(2) Name and address of the person or party within the commission who made the adverse decision being appealed (the "respondent"). (Appellant and respondent are collectively referred to as the "parties".)

(3) A concise statement of relevant facts and grounds upon which the appeal is based. Supporting material may be submitted with the appeal.

(4) Statute, regulation or right alleged to have been violated.

(5) The relief sought.

(6) Whether a hearing is requested.

(b) Appeals shall be submitted in writing by regular mail to the Executive Director within 30 calendar days following issuance of a notice of an adverse action. This subsection supplements 1 Pa. Code Chapter 31 Subchapter A and Subchapter B (relating to general provisions; and time) regarding time.

(c) The Executive Director shall provide a copy of the appeal and any submitted supporting material to the respondent. The respondent may reply in writing to the appeal and deliver the reply to the Executive Director by regular or inter-office mail within 10 days after receipt of the appeal.

§ 51.143. Procedure in lieu of hearing.

(a) When a hearing is not requested, the Executive Director or designee shall review the matter and collect any additional information deemed necessary. The Executive Director or designee shall issue a written order granting or denying the appeal and, if granted, provide a statement of any relief granted. The Executive Director shall deliver the order to the parties.

(b) The order shall be considered the final administrative adjudication of the commission. This subsection supersedes 1 Pa. Code § 35.226 (relating to final orders).

§ 51.144. Scheduling of hearing.

(a) In an appeal where a request for hearing is set forth in the appeal, the Executive Director shall appoint a presiding officer to conduct the hearing on behalf of the commission who is not involved in the underlying adverse action.

(b) *Notice of hearing.* The presiding officer shall provide the parties at least 10 days' written notice of the date, time and location of the hearing. Hearings will be conducted at the Harrisburg office of the commission or at another location as the Executive Director may designate.

(c) *Continuance requests.* Continuance requests shall be made in writing and submitted to the presiding officer and the other party. The request shall state whether the continuance is opposed by the other party. Objections to the request shall be made in writing and submitted to the presiding officer. The presiding officer may grant a continuance for good cause shown. The decision by the presiding officer on a continuance request is final. Failure of the appellant to appear at the hearing shall result in dismissal of the appeal, absent emergency circumstances at the discretion of the presiding officer.

§ 51.145. Hearing.

(a) The presiding officer shall conduct the hearing. The respondent commission bears the burden of proof and shall present its case first through witness and documentary evidence. Witnesses are subject to cross examination. The appellant shall then present its case in the same manner. The presiding officer may question parties and witnesses. Further proceedings at the hearing are at the discretion of the presiding officer.

(b) The burden of proof to justify the action being appealed will be on the commission to prove by a preponderance of the evidence that the action taken is justified by the facts and the circumstances.

(c) Strict adherence to the Pennsylvania Rules of Evidence generally is not required. The presiding officer will rule on questions of admissibility and relevance of evidence and other evidentiary matters.

(d) Opening and closing statements may be permitted at the discretion of the presiding officer.

(e) Stenographic or electronic recordings of the hearing are permitted at the expense of the ordering party. Transcript copies shall be made available to the presiding officer and opposing party for a reasonable fee to be determined by the presiding officer or as set by a professional court reporter hired to transcribe the hearing.

§ 51.146. Report of presiding officer.

(a) After the hearing is closed, the presiding officer shall prepare and deliver to the Executive Director a report, the contents of which shall include, at a minimum, separate sections for the following:

- (1) Findings of fact.
- (2) Conclusions of law.
- (3) A recommended decision to include a grant or denial of the relief sought.

(b) The report of the presiding officer is due to the Executive Director within 30 days after the hearing unless extended by the Executive Director.

§ 51.147. Order.

(a) The Executive Director shall review the report of the presiding officer and issue a written order granting or denying the appeal and, if granted, provide a statement of any relief granted. The Executive Director shall deliver the order to the parties.

(b) The Executive Director shall notify the members of the commission of the order at the next regular or special meeting of the commission.

(c) The order shall be considered the final administrative adjudication of the commission on the appeal. This subsection supersedes 1 Pa. Code § 35.226 (relating to final orders).

[Pa.B. Doc. No. 26-1165. Filed for public inspection August 14, 2026, 9:00 a.m.]

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