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Commonwealth of Pennsylvania  
Pennsylvania Fish and Boat Commission

Minutes

The 129<sup>th</sup> Meeting of the Pennsylvania Fish and Boat Commission was held on Monday and Tuesday, October 15 and 16, 2018 at the Pennsylvania Fish and Boat Commission headquarters, Harrisburg, PA 17110.

Commission committees met on October 15, beginning at approximately 9:45 a.m., and on October 16, beginning at approximately 8:15 a.m. The public session for review of this agenda began on or about 10:00 a.m. on October 16.

**Call to Order**

The meeting was called to order by Commission President Eric Hussar and followed by the Pledge of Allegiance to the Flag.

**Roll Call**

**Members Present**

**Eric C. Hussar, President**  
**Richard Lewis, Vice President**  
**Rocco S. Ali**  
**Donald K. Anderson**  
**Norman R. Gavlick**  
**Richard S. Kauffman**  
**Edward P. Mascharka III**  
**Robert B.J. Small**

**Members Not Present**

**William C. Brock**  
**G. Warren Elliott**

**Review and Approval of Minutes from the July 10, 2018 Meeting**

A motion was made by President Hussar and seconded by Commissioner Gavlick to approve the July 10, 2018 minutes as written. Motion Carried.

### **Awards and Presentations**

The Lifesaving Award was presented Waterways Conservation Officer (WCO) Mark Sweppenhiser. On May 20, 2018, WCO Mark Sweppenhiser observed a driver of a commercial fuel truck collapse in the parking lot of a local fuel station. WCO Sweppenhiser pulled the unresponsive citizen from underneath his truck and called 911. While monitoring and assessing the victims deteriorating medical condition, WCO Sweppenhiser initiated CPR until local EMS professionals arrived. The citizen was successfully resuscitated and transported to the hospital. The quick action by WCO Sweppenhiser saved this gentleman's life. We are thankful for his actions and dedicated service to the citizens of the Commonwealth and the Pennsylvania Fish and Boat Commission.

John Arway was presented a set of framed, Bravo Zulu nautical signal flags, meaning "well done" by President Hussar on behalf of the board. Steve Kralik presented John with a mounted collage consisting of photographs from his long career with PFBC.

### **Executive Director's Report**

The "July-September 2018 Quarterly Report" (Exhibit A) was provided to Commissioners. Director Arway thanked the Board and staff for their dedication during his time as Executive Director as his retirement nears.

### **Announcement of Executive Sessions**

Commissioner Hussar announced that an executive session was held on Monday, October 15, at approximately 8:00 a.m. to discuss personnel matters, potential real estate acquisitions and pending litigations.

### **Announcement of Notational Vote (Exhibit B)**

The Commission voted on one item by notational vote since the July 2018 meeting. The Commission approved acquisition of two parcels of land totaling +/- 3.6 acres with a house in Fairview Township, Erie County, as more particularly described in the exhibit commentary, utilizing monies in the Lake Erie restricted account.

### **Reports of Commissioner Committees**

#### **Executive and Administrative (Commissioner Hussar)**

The Executive and Administrative Committee met on Monday, October 15, at approximately 9:45 a.m. Agenda items were discussed. A 2018 license sales and boat registration sales report was provided by Bernie Matscavage. A non-powered boat registration presentation was given by Brian Barner and Mike Nerozzi.

#### **Boating (Commissioner Lewis)**

The Boating Committee met on Tuesday, October 16, at approximately 8:55 a.m. A low head dam update was provided by Corey Britcher. Ryan Walt, Bud Kauffman and George Drees spoke about the Pennsylvania Helicopter Aquatic Rescue team and their recent efforts in assisting with water rescues in Pennsylvania, Texas and South Carolina. The team showed videos of several of their rescues.

**Fisheries and Hatcheries (Commissioner Hussar)**

The Fisheries and Hatcheries Committee met on Monday, October 15, at approximately 3:00 p.m. Agenda items were discussed.

**Habitat and Environmental (Commissioner Small)**

Ben Page presented videos on lake habitat structures. Dave Lieb provided an in depth look at Pennsylvania burrowing crayfish activities, species locations and history.

**Law Enforcement (Commissioner Gavlick) –**

The Law Enforcement Committee met on Tuesday, October 16, at approximately 8:15 a.m. One Agenda was discussed. Corey Britcher provided a Fiskil Hotline update. The Committee also acted upon proposed revocations. The Committee revoked the fishing privileges of one individual for a period of 1 year and one individual for 5 years.

**Legislation and Public Outreach**

The Legislation and Public Outreach Committee met on Monday, October 15, at approximately 11:30 a.m. Mike Nerozzi provided a Legislation update. Steve Kralik provided a Gaun First Catch Center update. Carl Richardson gave the Recruitment, Retention and Reactivation (R3) Plan update. Amidea Daniel and John Watson provide an update on the Bellefonte Hatchery Fishing and Outreach programs. Charlie Charlesworth the Trout Unlimited partnership successes. Michelle Kittell, from the Wildlife Leadership Academy provided a Pennsylvania BASS School presentation. Tod Pride, from Mid Atlantic Youth Anglers and Outdoors gave an update on the Vamos A Pescar Project update.

**Public Comment to Commissioners and Staff**

Patty Smith, State Representative candidate, voiced her concerns over the closed Halifax boat launch. Carole Engle, of the Engle- Stone Aquatics, provided comment on the ongoing gill lice issue. Charlie Conklin, of the Big Brown Fish Hatchery, provided comment on the ongoing gill lice issue. Mark Ely, of Limestone Springs, provided comment on the ongoing gill lice Issue. Adam Pritts, of the Laurel Hill Trout Farm, provided comment on the ongoing gill lice issue.

**EXECUTIVE AND ADMINISTRATIVE  
PUBLIC ACCESS AND REAL ESTATE MATTERS**

A. Property Disposition of 7-Acres at the Commission's Hereford Manor Property, Beaver County.

Commentary:

The Commission owns a ±412.5-acre property in Franklin Township, Beaver County, known as Hereford Manor. The property was acquired in 1973 from a private landowner at a total cost of \$341,400. When acquired, the property contained two lakes with manmade dams. The lakes were highly popular fishing and boating destinations. However, the manmade dams were subsequently classified as high-hazard, unsafe structures and were removed in 2012. Since that time, the property has remained open for public recreation, which generally consists of hunting, hiking and wildlife viewing activities.

Zelienople Airport is located to the south of Hereford Manor and is managed by Zelienople Airport Authority. In May 2016, the Authority purchased ± 32-acres of land south of State Route 288 and Lake Road from the Commission for their airport rehabilitation project. The Authority approached the Commission and has offered to purchase ±7-acres of land located north of State Route 288 and Lake Road, as depicted on Exhibit C.

As part of the airport rehabilitation project and to satisfy FAA flight obstruction criteria, it is necessary for the Authority to lower and relocate a portion of State Route 288 and excavate and remove a portion of the remaining Hereford Manor Lake lower dam. To accomplish this, the Authority must excavate and remove earth from the ±7-acre tract of land. Additionally, the existing utilities along State Route 288 will need to be moved out of the area being excavated, to the northside of the ±7-acres tract and reconnected at Lake Road.

According to an appraisal report dated July 6, 2018, the appraised value of the property is \$13,400 per acre or roughly \$94,000 for the ±7-acres tract. An approved subdivision plan will determine the final value, acreage and configuration. The ±7-acre area is not actively used by the Commission and its disposition will not adversely impact the Commission, its operations, or future plans to utilize or further develop the property for public fishing and boating.

The Authority will be responsible for all costs associated with the conveyance, including subdivision and recording costs. In addition, any real estate and transfer taxes that are normally shared between the buyer and the seller will be paid by the Authority. The Commission will retain all oil, gas, coal, mineral and timber rights on the property being conveyed. Staff will adhere to the Commission's standard practices for property disposition including meeting due diligence requirements.

Briefer:

Brian P. Barner, Deputy Director, Office of Administration

Recommendation:

Staff recommend that the Commission authorize the disposition of property at Hereford Manor to The Zelenople Airport Authority as described in the Commentary.

Action:

A motion was made by Commissioner Mascharka and seconded by Commissioner Lewis to authorize the disposition of property at Hereford Manor to The Zelenople Airport Authority as described in the Commentary. Motion carried.

B. Disposition of Avigation Easement at the Commission's Hereford Manor Property, Beaver County.

Commentary:

The Commission owns a ± 412.5-acre property in Franklin Township, Beaver County, known as Hereford Manor. The property was acquired in 1973 from a private landowner at a total cost of \$341,400. When acquired, the property contained two lakes with manmade dams. The lakes were highly popular fishing and boating destinations. However, the manmade dams were subsequently classified as high-hazard, unsafe structures and were removed in 2012. Since that time, the property has remained open for public recreation, which generally consists of hunting, hiking and wildlife viewing activities.

Zelienople Airport is located to the south of Hereford Manor and is managed by Zelienople Airport Authority. In May 2016, the Authority purchased ± 32-acres of land south of State Route 288 and Lake Road from the Commission and has offered to purchase an additional ± 7-acres of land located north of State Route 288 and Lake Road, currently under consideration by the Commission, for their airport rehabilitation project.

Federal and state airspace and safety regulations require the Authority to secure the airspace above any property that resides in the approach zone or flight path of the airport. To comply with these regulations, the Authority has offered to purchase an avigation easement (aerial navigation easement) on ± 177 acres of the ± 396.5 acres located north of State Route 288 and Lake Road as depicted on Exhibit C.

Pursuant to an appraisal report dated July 9, 2015, the appraised value of the easement is approximately \$47,000. However, to ensure that the acquisition of the easement rights is conveyed within the timeframe prescribed by the regulations governing the operation of the airport, the Airport has offered the Commission \$70,560 to acquire the avigation easement area. The conveyance of an avigation easement to the Airport will not adversely impact the Commission, its operations, or plans to utilize or further develop the property for public fishing and boating.

The Authority will be responsible for all costs associated with the conveyance, including recording costs. In addition, any real estate and transfer taxes that are normally shared between the buyer and the seller will be paid by the Authority. The Commission will retain all oil, gas, coal, mineral and timber rights on the property being conveyed. Staff will adhere to the Commission's standard practices for property disposition including meeting due diligence requirements.

Briefer:

Brian P. Barner, Deputy Director, Office of Administration

Recommendation:

Staff recommend that the Commission authorize the disposition of an avigation easement at Hereford Manor to The Zelienople Airport Authority as described in the Commentary.

Action:

A motion was made by Commissioner Anderson and seconded by Commissioner Ali to authorize the disposition of an avigation easement at Hereford Manor to The Zelienople Airport Authority as described in the Commentary. Motion carried.

## EXECUTIVE AND ADMINISTRATIVE FINAL RULEMAKING

### C. Amendment to § 51.71 (Scientific Collectors' Permits) to Increase Permit Fees.

#### Commentary:

58 Pa. Code § 51.71 requires a valid and current scientific collectors' permit issued by the Commission for persons engaged in collections for scientific or educational purposes, of any species of Pennsylvania fishes, amphibians, reptiles or aquatic organisms, during seasons not permitted by regulations governing holders of a Pennsylvania fishing license or other license or permit issued by the Commission (e.g., rattlesnake hunter permit, organized amphibian and reptile hunt permit). This program was initiated by the Commission in January 1966 and was revised several times over the years. 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; Type 3 permit (Consulting) \$50, \$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 of 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; Type 3 permit (Consulting) \$150, \$30 each assistant, 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. 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 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 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); Type 3 permit (Consulting) \$180, \$40 each assistant, and permit amendments \$90. 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 as follows:

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**§ 51.71. Scientific collectors' permits.**

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(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.

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(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.

A notice of proposed rulemaking was published at 48 Pa. B. 5497 (September 1, 2018) (Exhibit D). The Commission did not receive any public comments regarding the proposal.

Briefer:

Brian P. Barner, Deputy Director, Office of Administration

Recommendation:

Staff recommend that the Commission adopt the amendment as set forth in the notice of proposed rulemaking. If adopted, the amendment will go into effect on January 1, 2019.

Action:

A motion was made by Commissioner Gavlick and seconded by Commissioner Small to adopt the amendment as set forth in the notice of proposed rulemaking. The amendment will go into effect on January 1, 2019. Motion carried.

D. Amendment to Section 71.7 (Triploid Grass Carp), 79.5 (Snapping Turtles), 79.6 (Venomous Snake Permits), and 79.7 (Organized Reptile and Amphibian Hunt permits) to Increase Permit Fees.

Commentary:

The Commission adopted regulations in §71.7 pertaining to the possession and introduction of triploid grass carp (white amur). To provide for proper protection and management of these fish and other fish in the waters of this Commonwealth. Section 71.7 provides that permits shall be required for possessing triploid grass carp, introducing them into Commonwealth waters and importing or transporting them into this Commonwealth. A pondowner, landowner or other person who wishes to possess triploid grass carp and introduce them into a pond or waters located on property owned, leased or otherwise controlled by the person shall, before placing triploid grass carp in the waters, obtain from the Commission a triploid grass carp possession/introduction permit. A person who wishes to import triploid grass carp into this Commonwealth shall obtain from the Commission a triploid grass carp importation/transportation permit.

This Triploid Grass Carp Program (Program) was initiated by the Commission in January 1994. Two types of permits with associated fees were established. A triploid grass carp possession/introduction permit was \$20. A triploid grass carp importation/transportation permit was \$50. In 2012, the fee structure was re-assessed and increased to offset inflation and increasing program costs. A triploid grass carp possession/introduction permit was increased to \$75. A triploid grass carp importation/transportation permit was increased to \$75.

The Aquatic Resource Section within the Commission's Bureau of Fisheries, Division of Environmental Services, administers the Program. Administering the program requires staff to review permit applications, maintain a database, process and approve the permits. Reviewing the applications requires a technical review, some field views and clerical support.

The Commission currently issues approximately 350 triploid grass carp permits per year. 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 2012. The proposed permit fee changes adjusted with CPI inflation rate values since January 2012 for the triploid grass carp possession/introduction permit is proposed to be \$85; and the triploid grass carp importation/transportation permit is proposed to be \$85.

Similarly, several amphibian and reptile permits have increasing program cost demands, and a similar increase in fee structure approach to offset inflation and increasing program costs are proposed (e.g., using the CPI Inflation tool).

In January 2008, Chapter 79 was overhauled, reorganized, and updated. A permit was developed for individuals interested in the commercial collection and sale of Snapping Turtles in § 79.5. The Snapping Turtle permit fee was established at \$50 for residents of this Commonwealth and \$100 for non-residents. Under § 79.6, the Venomous Snake Permit was updated to allow permit holders to hunt for both the Copperhead and Timber Rattlesnake. The fee for the Venomous Snake Permit was increased from \$5 to \$25 for residents, and \$50 for non-residents in January 2008. This program has grown significantly. The past 2 years have experienced a record number of permits issued since the program began in 1984. In

2017, 1,437 Venomous Snake permits were issued. For groups or organizations that want to conduct competitive Organized Hunts for Reptiles and Amphibians, an Organized Reptile and Amphibian hunt permit may be obtained under § 79.7. There are currently only six permits issued per year, which mainly focus on the Timber Rattlesnake, where competitions for the largest and heaviest male snakes occur. One “turtle derby” organized hunt is also permitted annually. The Organized Reptile and Amphibian hunt permit was updated in January 2008 from \$25 to \$100.

The Bureau of Law Enforcement 1 issues the Snapping Turtle and Venomous Snake Permits. Bureau staff review incoming applications and issue permits, answer questions from hunters about the application process and hunting regulations, process permits and payments. A significant amount of time is spent on law enforcement details and permit compliance for the Venomous Snake Permit program. The Natural Diversity Section of the Division of Environmental Services receives, reviews, and databases hunter reports, and develops end-of-year summary reports for the programs. Natural Diversity Section staff also administer the Reptile and Amphibian Organized Hunt program (review permit applications, issue permits, attend hunts for permit compliance purposes).

Staff proposes to increase the permit fees for these three permit programs to offset increasing program costs using the CPI tool that is based on annual inflation rates since the fee structure was last updated in January 2008. The following table summarizes the last fees update and newly proposed fees for January 2019:

<b>Chapter 79 Permit</b>	<b>2008</b>	<b>2019 (proposed)</b>
Snapping Turtle Permit-Resident	\$50	\$60
Snapping Turtle Permit-Non-Resident	\$100	\$120
Venomous Snake-Resident	\$25	\$30
Venomous Snake-Non-Resident	\$50	\$60
Organized Reptile and Amphibian Hunt	\$100	\$120

Staff propose that § 71.7, § 79.5, § 79.6, and § 79.7 be amended as follows:

§ 71.7. Triploid grass carp.

\* \* \*

(c) *Permit required.*

(1) The Commission finds, under section 2904 of the code (relating to permits for protection and management of particular fish), that permits shall be required for possessing triploid grass carp (white amur) or introducing them into Commonwealth waters and for importing or transporting triploid grass carp into this Commonwealth to provide for proper protection and management of these fish and other fish in the waters of this Commonwealth. A pondowner, landowner or other person who wishes to possess triploid grass carp and introduce them into

a pond or waters located on property owned, leased or otherwise controlled by the person shall, before placing triploid grass carp in the waters, obtain from the Commission a triploid grass carp possession/introduction permit for a fee of ~~[\$75]~~ \$85. A person who wishes to import triploid grass carp into this Commonwealth shall, before doing so, obtain from the Commission a triploid grass carp importation/ transportation permit for a fee of ~~[\$75]~~ \$85. Permits shall be applied for on forms supplied by the Commission. Applications for permits may be obtained from: Triploid Grass Carp Manager, Bureau of Fisheries, **[450 Robinson Lane] East Rolling Ridge Drive**, Bellefonte, PA 16823[-9616]. Permits will not be issued until after January 1, 1994.

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§ 79.5. Snapping turtle permits.

(a) The Commission finds, under section 2904 of the code (relating to permits for protection and management of particular fish), that it is necessary for the proper protection and management of the common snapping turtle (*Chelydra serpentina*) that persons who hunt, take, catch or kill this species for the purpose of sale, barter or trade have an annual permit for the activity. Application for a permit must be made on a form prescribed by the Commission and must be accompanied by the appropriate fee. Permits may be obtained by applying to: Natural Diversity Section Chief, Division of Environmental Services, **[450 Robinson Lane] East Rolling Ridge Drive**, Bellefonte, PA 16823[-9616]. The fee for residents is ~~[\$50]~~ \$60 per year; the fee for nonresidents is ~~[\$100]~~ \$120 per year. The denial of a permit under this section is appealable in the manner provided by Chapter 51, Subchapter E (relating to permit procedures).

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§ 79.6. Venomous snake permits.

(a) *Application.* The Commission finds, under section 2904 of the code (relating to permits for protection and management of particular fish), that it is necessary for the proper protection and management of the timber rattlesnake (*Crotalus horridus*) and copperhead (*Agkistrodon contortrix*) that persons who hunt, take, catch or kill these species have a permit for the activity. Application for a permit must be made on a form prescribed by the Commission and accompanied by the appropriate fee. Permits may be obtained by applying to: Natural Diversity Section Chief, Division of Environmental Services, 450 Robinson Lane, Bellefonte, Pennsylvania 16823-9616. The fee for residents is ~~[\$25]~~ \$30 per year; the fee for nonresidents is ~~[\$50]~~ \$60 per year. The denial of a permit under this section is appealable in the manner provided by Chapter 51, Subchapter E (relating to permit procedures).

(b) *Required permit.* It is unlawful to hunt, take, catch, kill or possess a timber rattlesnake or copperhead, in whole or in parts, without first procuring the required permit from the Commission. The required permit shall be in the possession of the permittee at all times while hunting. Permittees shall comply with the terms and conditions of the permit and furnish the reports required thereby. It is unlawful to alter, borrow, lend or transfer a permit under this section.

(c) *Reporting.* Within 10 business days following the capture or kill, or if no snake is captured or killed, within 10 days of the conclusion of the season, the permittee shall

complete a report on the form prescribed by the Commission and shall mail the report to the Commission's Natural Diversity Section, **[450 Robinson Lane] East Rolling Ridge Drive**, Bellefonte, PA 16823[-9616].

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§ 79.7. Organized reptile and amphibian hunt permits.

(a) *Application.* The Commission finds, under section 2904 of the code (relating to permits for protection and management of fish), that it is necessary for the proper protection and management of reptiles and amphibians in this Commonwealth that organized reptile and amphibian hunts be conducted under permits issued under this section. The sponsor of an organized reptile and amphibian hunt shall apply for a permit by no earlier than January 1 and no later than March 1 of the year for which the hunt is proposed. Application for a permit must be made on a form prescribed by the Commission and must be accompanied by the appropriate fee. Permits may be obtained by applying to: Natural Diversity Section Chief, Division of Environmental Services, **[450 Robinson Lane] East Rolling Ridge Drive**, Bellefonte, PA 16823[-9616]. The fee for the permit is \$[100] **\$120**. The denial of a permit under this section is appealable in a manner provided by Chapter 51, Subchapter E (relating to permit procedures).

A notice of proposed rulemaking was published at 48 Pa. B. 5493 (September 1, 2018) (Exhibit E). The Commission did not receive any public comments regarding the proposal.

Briefer:

Brian P. Barner, Deputy Director, Office of Administration

Recommendation:

Staff recommend that the Commission adopt the amendment as set forth in the notice of proposed rulemaking. If adopted, the amendment will go into effect on January 1, 2019.

Action:

A motion was made by Commissioner Gavlick and seconded by Commissioner Anderson to adopt the amendment as set forth in the notice of proposed rulemaking. The amendment will go into effect on January 1, 2019. Motion carried.

E. Amendment to Section 53.17 (Cutting and Removal of Firewood from Commission Property).

Commentary:

Strategy 1B of the Commission’s Strategic Plan is to “Increase traditional revenue sources and secure alternative funding to deliver core programs and services to benefit anglers, boaters, and trust species; deliver select discretionary programs and services to benefit all residents of this Commonwealth; and meet mandatory personnel costs.” This strategy is designed in part to encourage the review and enhancement of existing revenue sources and to investigate and explore the development of alternative funding concepts.

Declines in traditional revenues, rapidly escalating costs associated with maintaining angler and boater demanded fishing and boating programs, and the lack of an enhancement to the fee structure for fishing licenses and permits necessitates the need to develop and implement several new or alternative funding concepts.

At its January 2018 meeting, staff presented initial information to the Board of Commissioners on 46 funding concepts. As part of the presentation, Board members were asked to individually prioritize the concepts and to provide feedback to the Executive Director. As a result, seven staff proposed concepts were recognized as priorities and one additional concept was added and listed as a priority through the commissioner review process. It was also acknowledged that the remaining concepts, while not a priority, should be advanced as they are more fully reviewed and developed by staff.

One of the remaining funding concepts is to evaluate the fee associated with the Commission’s permit that authorizes the cutting and removal of dead firewood from Commission property. The Executive Director may issue permits to interested persons when it is determined to be in the best interest of the Commission. The current fee of \$10.00 for each standard rough cord of wood was established in 1984. In 2017, the Commission authorized the cutting and removal of 56 cords of firewood.

To bring the per cord permit fee up to current standards, staff propose that § 53.17 be amended as follows:

§ 53.17. Cutting and Removal of Firewood from Commission Property.

\* \* \*

(c) Firewood permits cost [~~\$10.00~~] \$50.00 per standard rough cord. A standard rough cord is a pile of stacked wood 4 by 4 by 8 feet (128 cubic feet, including air spaces).

A notice of proposed rulemaking was published at 48 Pa. B. 5500 (September 1, 2018) (Exhibit F). The Commission did not receive any public comments regarding the proposal.

Briefer:

Brian P. Barner, Deputy Director, Office of Administration

Recommendation:

Staff recommend that the Commission adopt the amendment as set forth in the notice of proposed rulemaking. If adopted, the amendment will go into effect upon publication in the *Pennsylvania Bulletin*.

Action:

A motion was made by Commissioner Gavlick and seconded by Commissioner Small to adopt the amendment as set forth in the notice of proposed rulemaking. The amendment will go into effect upon publication in the *Pennsylvania Bulletin*. Motion carried.

F. Amendment to Section 51.37 (Application and Prerequisites for Becoming an Issuing Agent for the Pennsylvania Automated Licensing Service (PALS)).

Commentary:

Strategy 1B of the Commission’s Strategic Plan is to “Increase traditional revenue sources and secure alternative funding to deliver core programs and services to benefit anglers, boaters, and trust species; deliver select discretionary programs and services to benefit all residents of the Commonwealth; and meet mandatory personnel costs.” This strategy is designed in part to encourage the review and enhancement of existing revenue sources and to investigate and explore the development of alternative funding concepts.

Declines in traditional revenues, rapidly escalating costs associated with maintaining angler and boater demanded fishing and boating programs, and the lack of an enhancement to the fee structure for fishing licenses and permits necessitates the need to develop and implement several new or alternative funding concepts.

At its January 2018 meeting, staff presented initial information to the Board of Commissioners on 46 funding concepts. As part of the presentation, board members were asked to individually prioritize the concepts and to provide feedback to Executive Director Arway. As a result, seven staff-proposed concepts were recognized as priorities and one additional concept was added and listed as a priority through the commissioner review process. It was also acknowledged that the remaining concepts, while not a priority, should be advanced as they are more fully reviewed and developed by staff.

One of the remaining funding concepts is to evaluate the fee associated with the Commission’s required application when a person, sole proprietorship, partnership, or corporation apply to become a fishing license issuing agent of the Commission. The Executive Director may grant an application when accompanied by a security bond and the required application fee. The current application fee of \$150.00 was established in 2006. In 2017, the Commission processed 23 applications.

To bring the application fee up to current standards, staff propose that § 51.37 be amended as follows:

§ 51.37. Application and Prerequisites for Becoming an Issuing Agent for the Pennsylvania Automated licensing Service (PALS).

\* \* \*

(1) An applicant seeking to become an issuing agent shall complete and submit to the Commission an application on the form prescribed by the Commission and pay a one-time, nonrefundable fee of [~~\$150~~] \$250.

A notice of proposed rulemaking was published at 48 Pa. B. 5499 (September 1, 2018) (Exhibit G). The Commission did not receive any public comments regarding the proposal.

Briefer:

Brian P. Barner, Deputy Director, Office of Administration

Recommendation:

Staff recommend that the Commission adopt the amendment as set forth in the notice of proposed rulemaking. If adopted, the amendment will go into effect upon publication in the *Pennsylvania Bulletin*.

Action:

A motion was made by Commissioner Small and seconded by Commissioner Hussar to adopt the amendment as set forth in the notice of proposed rulemaking. The amendment will go into effect upon publication in the *Pennsylvania Bulletin*. Motion carried.

G. Amendment to Section 51.38 (Operation of the Issuing Agent for the Pennsylvania Automated Licensing Service (PALS)).

Commentary:

Strategy 1B of the Commission’s Strategic Plan is to “Increase traditional revenue sources and secure alternative funding to deliver core programs and services to benefit anglers, boaters, and trust species; deliver select discretionary programs and services to benefit all Pennsylvanians; and meet mandatory personnel costs.” This strategy is designed in part to encourage the review and enhancement of existing revenue sources and to investigate and explore the development of alternative funding concepts.

Declines in traditional revenues, rapidly escalating costs associated with maintaining angler and boater demanded fishing and boating programs, and the lack of an enhancement to the fee structure for fishing licenses and permits necessitates the need to develop and implement several new or alternative funding concepts.

At its January 2018 meeting, staff presented initial information to the Board of Commissioners on 46 funding concepts. As part of the presentation, board members were asked to individually prioritize the concepts and to provide feedback to Executive Director Arway. As a result, seven staff proposed concepts were recognized as priorities and one additional concept was added and listed as a priority through the commissioner review process. It was also acknowledged that the remaining concepts, while not a priority, should be advanced as they are more fully reviewed and developed by staff.

One of the remaining funding concepts is to establish a cover price or fee for the annual summary book of Pennsylvania fishing laws and regulations, known also as the “Summary Book or *Summary of Fishing Regulations and Laws*.” This publication is prepared and printed annually by the Commission and contains a summary of Pennsylvania’s fishing regulations and fishing tips. Historically, this publication has been offered to license holders and the public at no cost, or free of charge. To facilitate the operations of the Issuing Agency and to accommodate this funding concept, staff propose that § 51.38 be amended as follows:

§ 51.38. Operation of the Issuing Agent for the Pennsylvania Automated Licensing Service (PALS).

\* \* \*

(a)(4) Issuing agents shall **[provide] offer** a *Summary of Fishing Regulations and Laws* with each license issued. Issuing agents also shall **[provide] offer** a copy of the summary book to any holder of a Senior Resident Lifetime Fishing License **or other individual** who requests one. **[Issuing agents are encouraged to provide a copy of the summary book, if adequate numbers are available, to other individuals who request one.]**

A notice of proposed rulemaking was published at 48 Pa. B. 5496 (September 1, 2018) (Exhibit H). The Commission did not receive any public comments regarding the proposal.

Briefer:

Brian P. Barner, Deputy Director, Office of Administration

Recommendation:

Staff recommend that the Commission adopt the amendment as set forth in the notice of proposed rulemaking. If adopted, the amendment will go into effect upon publication in the *Pennsylvania Bulletin*.

Action:

A motion was made by Commissioner Kauffman and seconded by Commissioner Lewis to adopt the amendment as set forth in the notice of proposed rulemaking. The amendment will go into effect upon publication in the *Pennsylvania Bulletin*. Motion carried.

H. Amendment to Section 93.13 (Issuing Agents).

Commentary:

Strategy 1B of the Commission’s Strategic Plan is to “Increase traditional revenue sources and secure alternative funding to deliver core programs and services to benefit anglers, boaters, and trust species; deliver select discretionary programs and services to benefit all Pennsylvanians; and meet mandatory personnel costs.” This strategy is designed in part to encourage the review and enhancement of existing revenue sources and to investigate and explore the development of alternative funding concepts.

Declines in traditional revenues, rapidly escalating costs associated with maintaining angler and boater demanded fishing and boating programs, and the lack of an enhancement to the fee structure for fishing licenses and permits necessitates the need to develop and implement several new or alternative funding concepts.

At its January 2018 meeting, staff presented initial information to the Board of Commissioners on forty-six funding concepts. As part of the presentation, board members were asked to individually prioritize the concepts and to provide feedback to Executive Director Arway. As a result, seven staff proposed concepts were recognized as priorities and one additional concept was added and listed as a priority through the commissioner review process. It was also acknowledged that the remaining concepts, while not a priority, should be advanced as they are more fully reviewed and developed by staff.

One of the remaining funding concepts is to evaluate the fee associated with the Commission’s required application when a person, sole proprietorship, partnership, or corporation apply to become an issuing agent for temporary boat registrations of the Commission. The Executive Director may grant an application when accompanied by a security bond and the required application fee. The current application fee of \$100.00 was established in 2001. In 2017, the Commission processed 32 applications.

To bring the application fee up to current standards, staff propose that § 93.13 be amended as follows:

§ 93.13. Issuing Agents.

\* \* \*

(2) An applicant seeking to become an issuing agent for temporary boat registrations shall complete and submit to the Commission an application on the form prescribed by the Commission and pay a one-time, nonrefundable fee of ~~[\$100]~~ \$250.

A notice of proposed rulemaking was published at 48 Pa. B. 5499 (September 1, 2018) (Exhibit I). The Commission did not receive any public comments regarding the proposal.

Briefer:

Brian P. Barner, Deputy Director, Office of Administration

Recommendation:

Staff recommend that the Commission adopt the amendment as set forth in the notice of proposed rulemaking. If adopted, the amendment will go into effect upon publication in the *Pennsylvania Bulletin*.

Action:

A motion was made by Commissioner Ali and seconded by Commissioner Mascharka to adopt the amendment as set forth in the notice of proposed rulemaking. The amendment will go into effect upon publication in the *Pennsylvania Bulletin*. Motion carried.

## EXECUTIVE AND ADMINISTRATIVE OTHER MATTERS

### I. Grant to U.S. Department of Agriculture, Natural Resources Conservation Service for the Design and Permitting of Beechwood Lake Dam (PA-454) Clymer Township, Tioga County.

#### Commentary:

Beechwood Lake Dam in Clymer Township, Tioga County, is a high hazard earth-fill structure owned by the Commonwealth, constructed for flood control and also used for recreation. The U.S. Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS) (formerly the Soil Conservation Service), funded construction of the dam under the Watershed Protection and Flood Prevention Act Program, and the dam was constructed under the Commission's oversight in 1963. The facility is currently in need of rehabilitation to bring it up to current standards and dam safety regulations.

In 2014, NRCS offered the Commission a plan to design, permit and construct a dam rehabilitation project for Beechwood Lake Dam. Under the plan, NRCS funded 100% of the costs associated with an environmental evaluation of the dam and the preparation of a Supplemental Watershed Plan (Phase 1). If approved, NRCS will fund 100% of the costs associated with design and permitting (Phase 2) and will also fund 65% of the construction costs (Phase 3) with the Commission being responsible for providing a 35% non-federal match.

Phase 1 work was completed in 2018 and the NRCS notified the Commission that the House Appropriations and Agriculture Committees included provisions to fund Phase 2 costs associated with the design and permitting of the dam rehabilitation project. Phase 2 of the approved project is for \$750,000 and provides for the engineering, contracting, technical services and related programmatic oversight services for the rehabilitation design and permitting of the improvements.

To secure these funds, NRCS had to have the funds obligated or spent by September 30, 2018. To meet the deadline, NRCS will transfer the funds to the Commission, and the Commission, in turn, will grant the funds back to NRCS so it can complete Phase 2 of the project with in-house staff and a contracted engineering firm.

To complete the transfer of funds, the Commission, upon receipt of \$750,000 from NRCS, will issue a grant to NRCS in the same amount. NRCS will handle all responsibilities of the Sponsor, i.e., the Commission, during Phase 2 of this project, with an anticipated completion date of September 2021.

The transfer of these funds from NRCS to the Commission and the subsequent return of the funds via a grant agreement are necessary to ensure that the full amount of available federal funding is applied to the project.

Briefer:

Brian P. Barner, Deputy Director, Office of Administration

Recommendation:

Staff recommend that the Commission authorize a grant in the amount of \$750,000 to the U.S. Department of Agriculture, Natural Resources Conservation Service, for the design and permitting of the rehabilitation work for Beechwood Lake Dam (Phase 2) as more fully described in the Commentary.

Action:

A motion was made by Commissioner Anderson and seconded by Commissioner Mascharka to authorize a grant in the amount of \$750,000 to the U.S. Department of Agriculture, Natural Resources Conservation Service, for the design and permitting of the rehabilitation work for Beechwood Lake Dam (Phase 2) as more fully described in the Commentary. Motion carried.

J. Erie Access Improvement Program Grant to the Erie-Western Pennsylvania Port Authority, Erie County.

Commentary:

Section 2907.2 of the Fish and Boat Code, 30 Pa. C.S. §2907.2, provides that the proceeds from the sale of the special Lake Erie fishing permits and \$6 of the fees for the combination trout/salmon/Lake Erie permits are to be deposited into a restricted account within the Fish Fund and that this restricted account “shall be used to provide public fishing access or to protect or improve fish habitat on or at Lake Erie, Presque Isle Bay and their tributaries, including waters that flow into those tributaries.” The funds generated through this program are deposited into the Lake Erie restricted account where they are restricted now and into the future for their legislatively intended purposes. *Pennsylvania’s Fishing and Boating Access Strategy* ranks this watershed as the top priority for access improvement statewide.

The Erie-Western Pennsylvania Port Authority submitted a grant application to the Erie Access Improvement Program requesting funds to stabilize the streambank and to construct a 130-foot handicapped accessible fishing platform at the end of the Holland Street Pier. Several years ago, the Port Authority made improvements to the west side of the pier and constructed approximately 1,000 linear feet of public fishing access. This project removed the rip-rap along the shoreline and installed a sheet pile wall which has allowed for fishing access along the entire length. That project was completed with \$4,960,000 of Redevelopment Assistance Capitol Program funding in 2014. However, the north end of the pier remains unimproved and has large boulders to stabilize the bank but, it makes fishing access difficult.

The Port Authority worked with the SONS of Lake Erie Fishing Club to complete conceptual designs for the ADA accessible fishing platform. The conceptual designs include reinforcement of the existing rip-rap wall to support a cantilevered 130-foot-wide deck. The project also includes a concrete walkway and improvement to the existing gravel fishing circle to the east. These improvements will complement the work that was completed along the west slip side of the pier and will make this area completely accessible to fisherman including handicapped individuals. Parking is readily available as well as public transportation making the whole project available to inner city residents.

The total estimated cost for the project is \$451,410. The Erie-Western Pennsylvania Port Authority is requesting a grant in the amount of \$382,400 from the Erie Access Improvement Program to be used for the final design and construction of the 130-foot cantilevered fishing platform. The Erie-Western Pennsylvania Port Authority will provide \$27,000 towards the project to provide site amenities including a pavilion, benches and landscaping. The SONS of Lake Erie Fishing Club have already provided \$17,000 for the initial conceptual designs of the facility. The SONS of Lake Erie Fishing Club also agreed to provide an additional \$25,000 towards the final engineering for the project.

Briefer:

Brian P. Barner, Deputy Director, Office of Administration

Recommendation:

Staff recommend that the Commission authorize a grant in the amount of \$382,400 to the Erie-Western Pennsylvania Port Authority to construct a 130-foot handicapped accessible fishing platform at the end of the Holland Street Pier as more fully described in the Commentary.

Action:

A motion was made by Commissioner Mascharka and seconded by Commissioner Hussar to authorize a grant in the amount of \$382,400 to the Erie-Western Pennsylvania Port Authority to construct a 130-foot handicapped accessible fishing platform at the end of the Holland Street Pier as more fully described in the Commentary.  
Motion carried.

K. Erie Access Improvement Program Grant to the Western Pennsylvania Conservancy, Erie County.

Commentary:

Section 2907.2 of the Fish and Boat Code, 30 Pa. C.S. §2907.2, provides that the proceeds from the sale of the special Lake Erie fishing permits and \$6 of the fees for the combination trout/salmon/Lake Erie permits are to be deposited into a restricted account within the Fish Fund and that this restricted account “shall be used to provide public fishing access or to protect or improve fish habitat on or at Lake Erie, Presque Isle Bay and their tributaries, including waters that flow into those tributaries.” The funds generated through this program are deposited into the Lake Erie restricted account where they are restricted now and into the future for their legislatively intended purposes. *Pennsylvania’s Fishing and Boating Access Strategy* ranks this watershed as the top priority for access improvement statewide.

The Western Pennsylvania Conservancy submitted a grant application to the Erie Access Improvement Program requesting funds to stabilize the streambank and to construct habitat improvements on their property along Elk Creek. The project involves the installation of a stepped-stone bank bench along 600 feet of the eroding left descending bank to curtail erosion and sedimentation. Each stone of the bench will be keyed into the bank at either end of the structure, as well as in three locations along the structure. The earth will be graded to a stable slope behind the bench structure and overtop the keys and will be planted with native riparian vegetation.

Eight stone deflectors will be installed in the stream to improve habitat. The stone deflectors will be approximately 75 feet apart along the base of the stone bench and pinned with rebar. These deflectors will project into the stream at an upstream angle to deflect flow away from the bank and to realign it to the center of the channel. The stabilized bank will provide a secure platform, on which to establish a 600 feet long native riparian vegetation buffer. This project will enhance the riparian habitat and the water quality of Elk Creek by controlling runoff and regulating water temperature. In addition, the stepped stone wall will provide a safe surface for anglers fishing along this section of Elk Creek. This habitat improvement project is expected to provide holding areas for steelhead under a wide range of water levels.

The total estimated cost for the Project is \$688,300. The Western Pennsylvania Conservancy is requesting funding in the amount of \$200,000 from the Commission to finalize the engineering design and to install streambank stabilization structures and instream habitat improvements. Matching funds from the Erie County Greenways Program (\$50,000), the DEP Growing Greener Program (\$150,000), the DCED Watershed Restoration & Protection Program (\$150,000), the DCNR Community Conservation Partnership Program (\$131,600) and the WPC Stewardship Fund (6,700) will be used to complete the improvements.

Briefer:

Brian P. Barner, Deputy Director, Office of Administration

Recommendation:

Staff recommend that the Commission authorize a grant in the amount of \$200,000 to the Western Pennsylvania Conservancy to stabilize the streambank and to construct habitat improvements as more fully described in the Commentary.

Action:

A motion was made by Commissioner Gavlick and seconded by Commissioner Small to authorize a grant in the amount of \$200,000 to the Western Pennsylvania Conservancy to stabilize the streambank and to construct habitat improvements as more fully described in the Commentary. Motion carried.

L. Dates for Commission Meetings in 2019.

Commentary:

At the fall meeting each year, the Commission historically has established a schedule for regular meetings for the following year. Under the Fish and Boat Code, the Commission is required to have two meetings each year, one in January and the other in July. These meetings must be held in the Harrisburg area. Traditionally, the Commission has held two additional meetings each year in April or May and September or October.

Staff have reviewed the available dates and possible conflicts for scheduling regular Commission meetings for 2019. This review included a look at holiday, hunting and fishing seasons and other conflicting events.

Based upon this review, the following dates are proposed for regular Commission meetings in 2019:

January 14-15, 2019 (Monday and Tuesday)  
April 29-30, 2019 (Monday and Tuesday)  
July 15-16, 2019 (Monday and Tuesday)  
October 21-22, 2019 (Monday and Tuesday)

The January and July 2019 meetings will be held at the Harrisburg headquarters. The April and October 2019 meetings will be held at locations designated by the Commission for the transaction of business.

Briefer:

John A. Arway, Executive Director

Recommendation:

Staff recommend that the Commission approve the dates for the regular meetings of the Commission for 2019 as set forth in the Commentary.

Action:

A motion was made by Commissioner Mascharka and seconded by Commissioner Gavlick to approve the dates for the regular meetings of the Commission for 2019 as set forth in the Commentary. Motion carried.

**FISHERIES AND HATCHERIES**  
**PROPOSED RULEMAKING**

A. Amendment to Section 65.24 (Miscellaneous Special Regulations): Chapman Dam Reservoir, Warren County.

Commentary:

Chapman Dam Reservoir, a 67.95-acre impoundment owned by the Department of Conservation and Natural Resources, is located within Chapman State Park, Pleasant Township, Warren County, approximately six miles south of the City of Warren. This reservoir was completely dewatered during fall 2017 to remove sediment and complete control tower, dam and spillway repairs and modifications per Pennsylvania Department of Environmental Protection dam safety standards. The earth-fill dam, constructed in 1949, impounds the West Branch Tionesta Creek at river-mile 14.7 upstream from its confluence with Tionesta Creek at river-mile 40.3. Prior to the drawdown in 2017, the lake offered angling opportunities for multiple warm-water and cool-water fish species, as well as adult trout stocked by the Commission. Sediment removal and dam and spillway repairs are expected to be completed by December 2018 with re-filling initiated soon after.

The Commission plans to initiate stocking the lake beginning in spring 2018 with fingerling plants of select fish species to establish a high quality warm-water and cool-water fishery. Immediately upon refilling of the lake, staff propose to open the lake to fishing under a miscellaneous special regulation that will allow for the harvest of trout under Commonwealth Inland Waters angling regulations but allow only catch and release fishing for all other fish species. Staff believe that this approach will allow for the most rapid development of a balanced warm-water and cool-water fish community, while offering acceptable levels of recreational angling opportunities. Fisheries Management staff will monitor the fish populations as needed while they develop and make necessary modifications to the species stocked and recommend adjustments to the regulations governing fish harvest to the Board of Commissioners to continually provide high quality recreational angling opportunities at Chapman Dam Reservoir. Once the warmwater fishery has been reestablished, the lake will be recommended for removal from the miscellaneous special regulation and inclusion in one of the Commission's existing warmwater regulation programs.

Staff propose the following amendment:

§65.24. Miscellaneous special regulations.

The following waters are subject to the following miscellaneous special regulations:

<i>County</i>	<i>Name of Water</i>	<i>Special Regulations</i>
***	***	***

<u>Warren</u>	<u>Chapman Dam Reservoir</u>	<b><u>All species except trout – catch and release/no harvest; it is unlawful to take, kill or possess any fish except trout. All fish caught other than trout must be immediately returned unharmed.</u></b> <b><u>Trout – inland regulations apply. See §61.1 (relating to Commonwealth inland waters). This miscellaneous special regulation will remain in effect until further notice.</u></b>
***	***	***

Briefer:

Andrew L. Shiels, Director, Bureau of Fisheries

Recommendation:

Staff recommend the Commission approve the publication of a notice of proposed rulemaking containing the amendment described in the Commentary. If approved on final rulemaking, the amendment will go into effect upon publication in the *Pennsylvania Bulletin*.

Action:

A motion was made by Commissioner Mascharka and seconded by Commissioner Anderson to approve the publication of a notice of proposed rulemaking containing the amendment described in the Commentary. If approved on final rulemaking, the amendment will go into effect upon publication in the *Pennsylvania Bulletin*. Motion carried.

## **FISHERIES AND HATCHERIES DESIGNATIONS**

### **B. Proposed Additions to List of Class A Wild Trout Streams.**

#### Commentary:

Pursuant to 58 Pa. Code § 57.8a (relating to Class A wild trout streams), it is the Commission's policy to manage self-sustaining Class A wild trout populations as a renewable natural resource to conserve that resource and the angling it provides. Class A wild trout populations represent the best of Pennsylvania's naturally reproducing trout populations. Criteria developed for Class A Wild Trout populations are species specific. Wild Trout Biomass Class Criteria include provisions for wild Brook Trout, wild Brown Trout, mixed wild Brook and Brown Trout, wild Rainbow Trout, mixed wild Brook and Rainbow Trout and mixed wild Brown and Rainbow Trout populations.

Staff recommend the addition of ten stream sections to the Commission's list of Class A wild trout streams. These changes are the result of recent surveys conducted on these waters. Exhibit J provides information on the locations and a data summary for each of these waters.

A notice of the proposed designations was published at 48 Pa. B. 4937 (August 11, 2018) (Exhibit K). The Commission received a total of 140 public comments regarding the proposed designations: 137 support the proposed designations, one supports the designation of a specific water, one opposes the proposed designations, and one comment did not pertain to the proposed designations. Copies of all public comments were provided to the Commissioners.

#### Briefer:

Andrew L. Shiels, Director, Bureau of Fisheries

#### Recommendation:

Staff recommend that the Commission add ten sections to its Class A wild trout streams list as described in the Commentary. If approved, these additions will go into effect upon publication of a second notice in the *Pennsylvania Bulletin*.

#### Action:

A motion was made by Commissioner Mascharka and seconded by Commissioner Kauffman to add ten sections to its Class A wild trout streams list as described in the Commentary. These additions will go into effect upon publication of a second notice in the *Pennsylvania Bulletin*. Motion carried.

### C. Classification of Wild Trout Streams: Proposed Additions and Revisions.

#### Commentary:

The Department of Environmental Protection’s regulations at 25 Pa. Code § 105.1 define the term “wild trout stream” as “a stream identified as supporting naturally reproducing trout populations by the Fish and Boat Commission under 58 Pa. Code § 57.11 (relating to listing of wild trout streams).” This term has regulatory significance because wetlands that are located in or along the floodplain of the reach of a wild trout stream and the floodplain of streams tributary thereto are considered “exceptional value” and are thus entitled to the highest level of protection.

The Commission adopted a statement of policy at 58 Pa. Code § 57.11 that sets forth the basis for the classification of streams supporting the natural reproduction of trout. Under § 57.11, it is the policy of the Commission to accurately identify and classify stream sections supporting naturally reproducing populations of trout as wild trout streams. The listing of a stream section as a wild trout stream is a biological designation that does not determine how the stream is managed. The statement of policy provides that the Commission’s Fisheries Management Division will maintain the list of wild trout streams and that the Executive Director, with approval of the Commission, will from time to time publish the list of wild trout streams in the *Pennsylvania Bulletin* and solicit public comments.

Staff recommend the addition of 99 new waters to the Commission’s list of wild trout streams and revision to the section limits of four waters. These changes are the result of recent surveys conducted on these waters. Exhibit L provides information on the locations and a data summary for each of these waters. Surveying unassessed waters and documenting wild trout populations are consistent with the Commission’s Strategic Plan for Management of Trout Fisheries in Pennsylvania, the statewide Strategic Plan and the agency’s Resource First philosophy.

A notice of the proposed designations was published at 48 Pa. B. 4932 (August 11, 2018) (Exhibit M). The Commission received a total of 153 public comments regarding the proposed designations: 150 support the proposed designations, one supports the designation of a specific water, and two comments did not pertain to the proposed designations. Copies of all public comments were provided to the Commissioners.

#### Briefer:

Andrew L. Shiels, Director, Bureau of Fisheries

#### Recommendation:

Staff recommend that the Commission add 99 new waters to the Commission’s list of wild trout streams and revise the section limits of four waters as set forth in the notice of proposed designations. If approved, these additions and revisions will go into effect upon publication of a second notice in the *Pennsylvania Bulletin*.

Action:

A motion was made by Commissioner Gavlick and seconded by Commissioner Mascharka to add 99 new waters to the Commission's list of wild trout streams and revise the section limits of four waters as set forth in the notice of proposed designations. If approved, these additions and revisions will go into effect upon publication of a second notice in the *Pennsylvania Bulletin*. Motion carried.

D. Addition of Bradford City Number Two Reservoir, McKean County, to the Catch and Release Lakes program (58 Pa. Code §65.17).

Commentary:

Bradford City Number Two Reservoir, a 39.29-acre impoundment owned by the Bradford City Water Authority, is located approximately three miles west of the City of Bradford, McKean County. This reservoir was completely dewatered during late-spring 2013 to complete dam and spillway repairs and modifications per Pennsylvania Department of Environmental Protection dam safety standards. The earth-fill dam, initially constructed in 1892, impounds Gilbert Run at river-mile 0.65 upstream from its confluence with Marilla Brook at river-mile 2.64. Prior to the drawdown in 2013, the lake offered shoreline angling opportunities for multiple warm-water and cool-water fish species. Dam and spillway repairs were completed during late-spring 2017 with refilling initiated soon after. The reservoir was completely refilled in 2018.

The Commission initiated stocking the lake in 2017 with fingerling plants of select fish species to establish a high quality warm-water and cool-water fishery. During the process of re-building the fishery, staff propose to open the reservoir to fishing under the Catch and Release Lakes program on a temporary basis. Lakes managed in this program are regulated year-round as catch and release for all fish species. Staff believe that this approach will allow for the most rapid development of a balanced warm-water and cool-water fish community, while offering acceptable levels of recreational angling opportunities. Fisheries Management staff will monitor the fish populations as needed while they develop and make necessary modifications to the species stocked and recommend adjustments to the regulations governing fish harvest to the Board of Commissioners to continually provide high quality recreational angling opportunities at Bradford City Number Two Reservoir. Once the warm-water fishery has been reestablished, the lake will be recommended for removal from the Catch and Release Lakes program and inclusion in one of the Commission's existing warm-water regulation programs.

A notice of the proposed designations was published at 48 Pa. B. 5575 (September 1, 2018) (Exhibit N). The Commission did not receive any public comments regarding the proposed designation.

Briefer:

Andrew L. Shiels, Director, Bureau of Fisheries

Recommendation:

Staff recommend the Commission add Bradford City Number Two Reservoir, McKean County, to the Catch and Release Lakes program (58 Pa. Code §65.17). If approved, the designation will go into effect on January 1, 2019.

Action:

A motion was made by Commissioner Ali and seconded by Commissioner Kauffman to add Bradford City Number Two Reservoir, McKean County, to the Catch and Release Lakes program (58 Pa. Code §65.17). If approved, the designation will go into effect on January 1, 2019. Motion carried.

E. Addition of Cooks Pond, Bradford County, to the Stocked Trout Waters Open to Year-round Fishing program (58 Pa. Code §65.19).

Commentary:

Cooks Pond is a 32-acre impoundment located in Orwell Township, Bradford County. Bradford County Parks assumed ownership of Cooks Pond and the surrounding property in 2017. Beginning in 2018, the Pennsylvania Fish and Boat Commission added Cooks Pond to the Stocked Trout Waters program to provide seasonal recreational trout angling opportunities for adult hatchery-reared trout. Stocked Trout Waters are closed to all fishing from March 1<sup>st</sup> to 8:00 a.m. on the opening day of trout season and Commonwealth Inland Waters angling regulations apply for the remainder of the year.

In addition to hatchery trout, Cooks Pond supports popular warm- and cool-water fisheries for Black Crappie, Bluegill, and Yellow Perch. A designation of Stocked Trout Waters Open to Year-round Fishing would allow for trout angling on a catch-and-release basis as well as angling for resident warm- and cool-water species during the current closed period, thus substantially increasing and diversifying recreational angling opportunities. Waters with this designation are managed with Commonwealth Inland Waters angling regulations for the remainder of the year.

A notice of the proposed designation was published at 48 Pa. B. 5575 (September 1, 2018) (Exhibit N). The Commission did not receive any public comments regarding the proposed designation.

Briefer:

Andrew L. Shiels, Director, Bureau of Fisheries

Recommendation:

Staff recommend the Commission add Cooks Pond, Bradford County, to the Stocked Trout Waters Open to Year-round Fishing program (58 Pa. Code §65.19). If approved, the designation will go into effect on January 1, 2019.

Action:

A motion was made by Commissioner Anderson and seconded by Commissioner Ali to add Cooks Pond, Bradford County, to the Stocked Trout Waters Open to Year-round Fishing program (58 Pa. Code §65.19). The designation will go into effect on January 1, 2019. Motion carried.

F. Addition of the Lehigh River, Section 08, Carbon County, to the Stocked Trout Waters Open to Year-round Fishing program (58 Pa. Code §65.19).

Commentary:

The Lehigh River, Section 08, extends 3.1 river-miles from 1/3 of a mile upstream of the railroad bridge in Glen Onoko downstream to the confluence with Mauch Chunk Creek. Currently, this portion of the Lehigh River is managed as a Stocked Trout Water to provide seasonal recreational trout angling opportunities for adult hatchery-reared trout. Stocked Trout Waters are closed to all fishing from March 1<sup>st</sup> to 8:00 a.m. on the opening day of trout season and Commonwealth Inland Waters angling regulations apply for the remainder of the year.

The U. S. Army Corps of Engineers (USACE) manages Frances E. Walter Reservoir (FE Walter) and its tailwater to promote and improve both in-lake and downriver recreation including trout angling and whitewater rafting. Aside from flood control operations, water releases from FE Walter are annually negotiated among the USACE, the Pennsylvania Department of Conservation and Natural Resources, and the Pennsylvania Fish and Boat Commission to accommodate both angling and whitewater rafting. Releases intended to optimize angling opportunities occur during the spring from March through mid-May, except when flood control operations are required.

To provide trout angling opportunities during spring when angling releases occur, a 9.74-mile portion of the Lehigh River from the outlet of FE Walter downriver to the confluence with Sandy Run was added to the Stocked Trout Waters Open to Year-round Fishing program in 2017. These regulations allow for trout angling on a catch-and-release basis during the current closed period, as well as for resident warm- and cool-water species, thus substantially increasing and diversifying recreational angling opportunities. Waters with this designation are managed with Commonwealth Inland Waters angling regulations for the remainder of the year. As such, application of this program to the Lehigh River, Section 08, would further expand recreational angling opportunities associated with springtime releases from FE Walter.

A notice of proposed designations was published at 48 Pa. B. 5575 (September 1, 2018) (Exhibit N). The Commission did not receive any public comments regarding the proposed designation.

Briefer:

Andrew L. Shiels, Director, Bureau of Fisheries

Recommendation:

Staff recommend the Commission add the Lehigh River, Section 08, to the Stocked Trout Waters Open to Year-round Fishing program (58 Pa. Code §65.19). If approved, the designation will go into effect on January 1, 2019.

Action:

A motion was made by Commissioner Kauffman and seconded by Commissioner Small to add the Lehigh River, Section 08, to the Stocked Trout Waters Open to Year-round Fishing program (58 Pa. Code §65.19). If approved, the designation will go into effect on January 1, 2019. Motion carried.

G. Addition of the West Branch Susquehanna River, Section 05, Clearfield County, to the Stocked Trout Waters Open to Year-round Fishing program (58 Pa. Code §65.19).

Commentary:

The West Branch Susquehanna River, Section 05, extends 2.8 river-miles from the mouth of Anderson Creek downriver to State Road 2024 at Porters Bridge. Currently, this portion of the West Branch Susquehanna River is managed as a Stocked Trout Water to provide seasonal recreational trout angling opportunities for adult hatchery-reared trout. Stocked Trout Waters are closed to all fishing from March 1<sup>st</sup> to 8:00 a.m. on the opening day of trout season and Commonwealth Inland Waters angling regulations apply for the remainder of the year.

In addition to hatchery trout, this portion of the river supports popular warm- and cool-water fisheries for Smallmouth Bass and panfish. A designation of Stocked Trout Waters Open to Year-round Fishing would allow for trout angling on a catch-and-release basis as well as angling for resident warm- and cool-water species during the current closed period, thus substantially increasing and diversifying recreational angling opportunities. Waters with this designation are managed with Commonwealth Inland Waters angler regulations for the remainder of the year.

A notice of the proposed designations was published at 48 Pa. B. 5575 (September 1, 2018) (Exhibit N). The Commission received one public comment supporting the proposed designation. A copy of the public comment was provided to the Commissioners.

Briefer:

Andrew L. Shiels, Director, Bureau of Fisheries

Recommendation:

Staff recommend the Commission add the West Branch Susquehanna River, Section 05, to the Stocked Trout Waters Open to Year-round Fishing program (58 Pa. Code §65.19). If approved, the designation will go into effect on January 1, 2019.

Action:

A motion was made by Commissioner Small and seconded by Commissioner Ali to add the West Branch Susquehanna River, Section 05, to the Stocked Trout Waters Open to Year-round Fishing program (58 Pa. Code §65.19). The designation will go into effect on January 1, 2019. Motion carried.

H. Addition of Penns Creek, Section 05, Union County, to the Catch-and-Release Artificial Lures Only program (58 Pa. Code §65.5).

Commentary:

Penns Creek is one of the most popular wild trout streams in Pennsylvania and the eastern United States. The scenery and ability to catch large, wild trout in a wilderness-type setting makes it unique and motivates anglers to travel long distances to fish this stream. Penns Creek, Section 05, is managed to protect, conserve, and enhance the high-quality wild Brown Trout fishery while meeting landowner and angler preferences to the greatest extent possible.

During fall 2016, riparian landowners in Section 05 and anglers fishing this portion of Penns Creek requested Commission staff evaluate the current management strategy applied to this stream section and consider alternate angling regulations. To inform future management direction, staff conducted a comprehensive fishery survey during June 2017. At the time of this survey, Penns Creek, Section 05, extended 4.6 miles from 500 meters downstream of Cherry Run downstream to the White Mountain Road (T302) Bridge in Weikert, was designated as a Stocked Trout Water and managed with Commonwealth Inland Waters angling regulations. Results of the fishery survey documented a Class A wild Brown Trout population throughout the upstream and middle reaches of Section 05. Only about 2% of Pennsylvania streams qualify for Class A designation and it is truly something special, especially for a stream the size of Penns Creek, to support a high quality wild trout fishery.

Subsequently, the limits of Section 05 were adjusted to reflect the extent of the newly documented Class A population and now extend 3.8 miles from 500 meters downstream from Cherry Run downstream to the downstream extent of the island near the end of Jolly Grove Lane. Beginning July 28, 2018, the 3.8-mile reach is managed as a Class A wild trout stream section with no stocking of trout, and the trout currently stocked into this section will be reallocated to Penns Creek, Section 07, located downstream. Section 07 will extend 4.3 miles from the State Road 235 Bridge in Glen Iron downstream to Creek Road Bridge near Libby Road. These changes will result in more stocked trout allocated to Penns Creek by the Commission, more miles of stocked trout stream, and more water managed for wild trout than currently. This is an exceptional opportunity to improve both wild and stocked trout angling opportunities at the same time.

During fall 2017, riparian landowners along the 3.8-mile reach were surveyed by letter to obtain their collective preference for angling regulations to inform management direction applied to this stream section. Additionally, a public meeting was held in Mifflinburg on February 26, 2018 to obtain additional public input regarding a potential change in angling regulations at Section 05. Landowners representing 83% of Section 05 and 59% of public meeting attendees supported Catch-and-Release Artificial Lures Only angling regulations.

Based on the desires of riparian landowners and public meeting attendees, coupled with updated biological data, application of Catch-and-Release Artificial Lures Only angling

regulations to this stream section is appropriate. If implemented, these regulations would be a downstream extension of the existing Catch-and-Release Artificial Lures Only angling regulations currently applied to Section 04 located immediately upstream, thus providing for consistent management along a longer continuous reach of stream. Furthermore, at Penns Creek, sections 03 and 04 (the adjacent stream reaches located upstream from Section 05), the wild Brown Trout population improved in terms of both abundance and size structure following a stocking cessation and implementation of special regulations and has maintained desirable levels over time. The productive nature of Penns Creek provides ideal conditions to allow for a favorable response of the wild Brown Trout population to the proposed management changes and the intent of this regulation is to allow for similar improvements to the wild Brown Trout population residing in Section 05 as was observed in sections 03 and 04. Commission staff will monitor the response of the fisheries to the stocking cessation and application of special regulations through time.

A notice of the proposed designation was published at 48 Pa. B. 4367 (July 21, 2018) (Exhibit O). The Commission received a total of 549 public comments regarding the proposed designation – 368 support the proposed designation, 75 oppose the proposed designation, 71 support Catch and Release but oppose Artificial Lures Only, three had a neutral position in regard to the proposed designation, and 31 comments did not pertain to the proposed designation. An additional commenter submitted 511 signed angler letters from 2008. The Commission also received a docket of 112 signatures in opposition to the proposed designation. Copies of all public comments were provided to the Commissioners.

Briefer:

Andrew L. Shiels, Director, Bureau of Fisheries

Recommendation:

Staff recommend the Commission add Penns Creek, Section 05, to the Catch-and-Release Artificial Lures Only program (58 Pa. Code §65.5). If formally approved, the designation will go into effect on January 1, 2019.

Action:

A motion was made by Commissioner Small and seconded by Commissioner Ali to add Penns Creek, Section 05, to the Catch-and-Release Artificial Lures Only program (58 Pa. Code §65.5). The designation will go into effect on January 1, 2019. Motion carried.

I. Removal of the Little Juniata River, Section 03, Blair County, from the Delayed Harvest Artificial Lures Only program (58 Pa. Code §65.6).

Commentary:

The Little Juniata River, Section 03, extends 0.72 river-miles from the first bridge crossing U.S. Highway 220 Business northeast from the Borough of Bellwood downstream to the confluence of the first unnamed tributary entering from the west south of Fostoria. This stream section is currently managed with Delayed Harvest Artificial Lure Only (DHALO) angling regulations and is stocked annually during spring by the Pennsylvania Fish and Boat Commission (PFBC) with adult trout. Under these regulations, angling is permitted on a year-round basis. From June 15 through Labor Day, harvest is permitted with a three trout-per-day creel limit and a nine-inch minimum length limit. No harvest is permitted from the day after Labor Day until the following June 15. Terminal tackle is restricted to the use of artificial lures and flies.

Given juxtaposition of a robust Class A wild Brown Trout population and increasing wild Brown Trout abundance river-wide, the Little Juniata River, Section 03, was re-examined during June 2017 to evaluate the status of the naturally reproducing Brown Trout population to determine if this stream section warrants designation as a Class A wild Brown Trout water. Section 03 Brown Trout biomass was estimated to be 44.23 kg/ha during the June 2017 investigation, exceeding the PFBC's minimum biomass criterion of 40.00 kg/ha required for a Class A wild Brown Trout population, as outlined in 58 PA Code §57.8a., Class A Wild Trout Streams.

Pursuant to 58 PA Code §57.8a (Class A Wild Trout Streams), it is the Commission's policy to recognize self-sustaining Class A wild trout populations as renewable natural resources meriting special consideration in development of fisheries management plans and water quality and habitat protection. Class A wild trout populations represent the best of Pennsylvania's naturally reproducing trout populations. The vast majority of these stream sections are managed solely for the perpetuation of the wild trout fishery with no stocking of hatchery trout. Based on the results of the 2017 investigation, the Little Juniata River, Section 03, is proposed for addition to PFBC's list of Class A Wild Trout Streams at the October 2018 quarterly Commission meeting. DHALO angling regulations apply to waters managed with adult stocked trout, and not Class A wild trout streams.

A notice of the proposed designation was published at 48 Pa. B. 5575 (September 1, 2018) (Exhibit N). The Commission received a total of five public comments regarding the proposed designation: three support the proposed designation, one opposes the proposed designation, and one comment did not pertain to the proposed designation. Copies of all public comments were provided to the Commissioners.

Briefer:

Andrew L. Shiels, Director, Bureau of Fisheries

Recommendation:

Staff recommend the Commission remove the Little Juniata River, Section 03, Blair County, from the Delayed Harvest Artificial Lures Only program (58 Pa. Code §65.6). If approved, the designation will go into effect on January 1, 2019.

Action:

A motion was made by Commissioner Mascharka and seconded by Commissioner Anderson to remove the Little Juniata River, Section 03, Blair County, from the Delayed Harvest Artificial Lures Only program (58 Pa. Code §65.6). The designation will go into effect on January 1, 2019. Motion carried.

**LAW ENFORCEMENT  
FINAL RULEMAKING**

A. Amendment Section 65.21 (Waters Limited to Specific Purposes – Exclusive Use Fishing Areas).

Commentary:

Under Title 30 Section 2307 the Commission has the authority to promulgate regulations for Exclusive Use Fishing Areas. Those regulations are laid out in Title 58 Section 65.21. In sub-section (b) the term children is defined as a person “12 years of age or under”.

In recent discussions Commissioners and staff have questioned why the age is 12 when an individual is not required to purchase a license until they have reached 16 years of age. Staff has explored the history of the age determination and has not found an argument one way or the other. Additionally, Commissioners and staff have been looking for additional opportunities to get more youth interested in fishing. The rationale in changing the age to 15 and under for these areas would be the hope of bringing more angling opportunities to a broader range of youth.

Staff propose that section 65.21 be amended as follows:

(b) As used in this section, the term “children” means persons [12] 15 years of age or under.

A notice of proposed rulemaking was published at 48 Pa. B. 5495 (September 1, 2018) (Exhibit P). The Commission received one public comment supporting the proposal. Copies of the public comment were provided to the Commissioners.

Briefer:

Colonel Corey Britcher, Director, Bureau of Law Enforcement

Recommendation:

Staff recommend that the Commission adopt the amendments as set forth in the notice of proposed rulemaking. If adopted, the amendments will go into effect upon publication in the *Pennsylvania Bulletin*.

Action:

A motion was made by Commissioner Small and seconded by Commissioner Mascharka to adopt the amendments as set forth in the notice of proposed rulemaking. The amendments will go into effect upon publication in the *Pennsylvania Bulletin*. Motion carried.

**Other New Business**

None.

**Time and Place of January 2019 Commission Meeting**

The next meeting will be held on January 14-15, 2019 in Harrisburg.

**Adjournment**

A motion was made by Commissioner Small and seconded by Commissioner Mascharka to adjourn the meeting at approximately 11:20 a.m. Motion carried.