

**Commonwealth of Pennsylvania
Pennsylvania Fish and Boat Commission
Harrisburg, Pennsylvania**

MINUTES

157th Meeting

Volume 75

**HARRISBURG, PENNSYLVANIA
January 22, 2024**

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Commonwealth of Pennsylvania
Pennsylvania Fish and Boat Commission

Minutes¹

The 157th Meeting of the Pennsylvania Fish and Boat Commission was held on Monday, January 22, at the Pennsylvania Fish and Boat Commission headquarters, 1601 Elmerton Avenue, Harrisburg, PA 17110.

The public session for review of this agenda began on January 22, 2024, at approximately 10:05 a.m.

Call to Order

This meeting was called to order by the Commission President William Gibney. The roll was called by Chief Counsel Renae Kluk Kiehl and followed by the Pledge of Allegiance.

Roll Call

William J. Gibney, President
Daniel J. Pastore, Vice President
Donald K. Anderson
William C. Brock
Charles J. Charlesworth
Eric C. Hussar
Richard S. Kauffman
Richard Lewis
John E. Mahn, Jr.
Robert B.J. Small

All Commissioners were present.

Public Comments to Commissioners and Staff

Mike Kriner from the Pennsylvania Federation of Sportsman and Conservationists thanked everyone with the Pennsylvania Fish and Boat Commission for the continued communication, flexibility, transparency, and support.

Staff and Volunteer Recognition

Executive Director, Timothy Schaeffer recognized Waterways Conservation Officers Rachel Turner Diaz and Kyle Robinson for winning the Celebrity Honey Bee Extraction contest at the Pennsylvania Farm Show.

Executive Director, Timothy Schaeffer announced that Director of Policy, Planning and Communications Robert Caccese was recently invited to give the annual George Tseo Memorial

¹All items that have been or will be published in the Pennsylvania Bulletin are formatted in accordance with the [Pennsylvania Code & Bulletin Style Manual](#).

Lecture at Penn State Hazleton and called attention to Aquatic Invasive Species Coordinator, Sean Hartzell's publication in a scientific journal.

Colonel Clyde Warner recognized Sergeant Ronald Evancho, Waterways Conservation Officer (WCO) Erin Czech, WCO Abigail Luteri, and WCO Michael Blair for their efforts in saving lives along Commonwealth waterways.

Review and Approval of Minutes from the October 23, 2023 Meeting

A motion was made by Commissioner Anderson and seconded by Commissioner Brock to approve the October 23, 2023 minutes as written. Motion carried by unanimous vote.

Executive Director's Report

Executive Director Timothy Schaeffer discussed numerous programs and projects that staff are currently focused upon, including the acceptance of applications for the next class of Waterways Conservation Officers, the release of stocking schedules, implementation of the calendar year boat registration process, and the new notice of stocking process that began on January 1, 2024. Executive Director Schaeffer also thanked all Officers who were involved in the steelhead enforcement efforts in Erie.

Reports of Commissioner Committees

Boating Committee (Commissioner Mahn) –

The Boating Committee held a virtual meeting on January 17, 2024, where the Committee members received a preview of three final rulemaking items. The Committee members also discussed several updates from staff on a variety of topics, including the introduction of new boating bureau staff, an update on boating facility grants, a report on the progress of Senate Bill 976, a report about the 2023 recreational boating fatalities, a summary of the Commission's ongoing life jacket wear outreach efforts, and an introduction to the National Safe Boating Council Waves of Hope resources. Commissioner Mahn shared that the Boating Advisory Board is scheduled to meet on February 5, 2024, at 9:00 a.m. at the Harrisburg headquarters.

No other Committees have met since the October Board meeting.

Announcement of Executive Session

Commission President William Gibney announced that an executive session was held on January 22, 2024, at approximately 8:30 a.m. to discuss several potential property acquisitions and dispositions in the northwest, personnel issues related to incoming and departing of staff along with compensation issues, and progress in a legal action regarding natural resource damage.

Notice of Temporary Changes to Fishing Regulations

- A. Temporary change to fishing regulations to address the striped bass fishery. Please see Exhibit A. Kris Kuhn, Director of the Bureau of Fisheries provided details.
- B. Temporary change to fishing regulations at Kahle Lake, Clarion and Venango counties. Please see Exhibit B. Kris Kuhn, Director of the Bureau of Fisheries provided details.

**BOATING
FINAL RULEMAKING**

A. Amendment to 58 Pa. Code § 111.22 (Dauphin County).

Commentary:

A notice of proposed rulemaking was published at 53 Pa.B. 5507 (Saturday, September 2, 2023) (Exhibit C). Please review the “Summary of Proposal” in Exhibit C for further details. The Commission did not receive any public comments relating to this proposal.

Briefer:

Laurel L. Anders, Senior Executive Advisor

Recommendation:

Staff recommend that the Commission adopt the amendment as set forth in the notice of proposed rulemaking.

Action:

A motion was made by Commissioner Small and seconded by Commissioner Anderson to adopt the amendment as set forth in the notice of proposed rulemaking. Motion carried by unanimous vote.

BOATING
FINAL RULEMAKING

B. Amendments to 58 Pa. Code § 97.1 (Personal flotation devices), § 111.3 (Armstrong County), § 111.20 (Crawford County), § 111.24 (Elk County), § 111.26 (Fayette County), § 111.27 (Forest County), § 111.32 (Indiana County), § 111.42 (McKean County), § 111.43 (Mercer County) § 111.56 (Somerset County), § 111.62 (Warren County), and § 111.65 (Westmoreland County).

Commentary:

A notice of proposed rulemaking was published at 53 Pa.B. 5505 (Saturday, September 2, 2023) (Exhibit D). Please see the “Summary of Proposal” in Exhibit D for additional details. The Commission did not receive any public comments relating to this proposal.

Briefer:

Laurel L. Anders, Senior Executive Advisor

Recommendation:

Staff recommend that the Commission adopt the amendments as set forth in the notice of proposed rulemaking.

Action:

A motion was made by Commissioner Anderson and seconded by Commissioner Mahn to adopt the amendments as set forth in the notice of proposed rulemaking. Motion carried by unanimous vote.

BOATING
FINAL RULEMAKING

C. Amendments to § 107.1 (Horsepower restrictions) and § 107.2 (Electric motors).

Commentary:

A notice of proposed rulemaking was published at 53 Pa.B. 7604 (Saturday, December 9, 2023) (Exhibit E). Please review the “Summary of Proposal” in Exhibit E for further details. The Commission received one comment in favor of this proposal.

Briefer:

Laurel L. Anders, Senior Executive Advisor

Recommendation:

Staff recommend that the Commission adopt the amendments as set forth in the notice of proposed rulemaking.

Action:

A motion was made by Commissioner Lewis and seconded by Commissioner Charlesworth to adopt the amendments as set forth in the notice of proposed rulemaking. As part of the discussion, Commissioner Pastore inquired about the process for conversion from gas motor horsepower to electric motors and Commission staff explained the chart that is provided to Waterways Conservation Officers. Motion carried by unanimous vote.

FISHERIES
FINAL RULEMAKING

- A. Amendment to 58 Pa. Code § 75.1 (Endangered species): Add digger crayfish; remove black bullhead and threespine stickleback; Amendment to 58 Pa. Code § 75.2 (Threatened species): Add the longsolid; and Amendment to 58 Pa. Code § 75.3 (Candidate species): Remove the least brook lamprey and brook stickleback.

Commentary:

A notice of proposed rulemaking was published at 53 Pa.B. 7601 (December 9, 2023) (Exhibit F). Please review the “Summary of Proposal” in Exhibit F for further details. The Commission did not receive any public comments regarding the proposal.

Briefer:

Christopher A. Urban, Chief, Natural Diversity Section

Recommendation:

Staff recommend that the Commission adopt the amendments as set forth in the notice of proposed rulemaking.

Action:

A motion was made by Commissioner Kauffman and seconded by Commissioner Hussar to adopt the amendments as set forth in the notice of proposed rulemaking. Motion carried by unanimous vote.

FISHERIES DESIGNATIONS

A. Proposed changes to the list of Class A wild trout streams (58 Pa. Code § 57.8a).

Commentary:

Staff recommend the addition of six 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 and subsequent data review. Exhibit G provides information on the locations and a data summary for each of these waters.

A notice of proposed designations was published at 53 Pa.B. 7269 (November 18, 2023) (Exhibit H). Please review Exhibit H for further details. The Commission received a total of 91 public comments regarding the proposed designations. All support the proposed designations. Copies of all public comments were provided to the Commissioners.

Briefer:

David C. Nihart, Chief, Division of Fisheries Management

Recommendation:

Staff recommend that the Commission add six stream sections to its Class A wild trout streams list as set forth in the notice of proposed designations.

Action:

A motion was made by Commissioner Brock and seconded by Commissioner Charlesworth to add six stream sections to the Class A wild trout streams list as set forth in the notice of proposed designations. Motion carried by unanimous vote.

FISHERIES DESIGNATIONS

B. Classification of wild trout streams (58 Pa. Code § 57.11): Proposed additions and revisions.

Commentary:

Staff recommend the addition of two new waters to the Commission's list of wild trout streams and the revision of the section limits of four waters currently listed. These changes are the result of recent surveys conducted on these waters. Exhibit I 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 proposed designations was published at 53 Pa.B. 7268 (November 18, 2023) (Exhibit J). Please review Exhibit J for further details. The Commission received a total of 91 public comments regarding the proposed designations. All support the proposed designations. Copies of all public comments were provided to the Commissioners.

Briefer:

David C. Nihart, Chief, Division of Fisheries Management

Recommendation:

Staff recommend that the Commission add two new waters to the Commission's list of wild trout streams and revise the section limits of four waters currently listed as set forth in the notice of proposed designations.

Action:

A motion was made by Commissioner Small and seconded by Commissioner Kauffman to add two new waters to the Commission's list of wild trout streams and revise the section limits of four waters currently listed as set forth in the notice of proposed designations. Motion carried by unanimous vote.

FISHERIES OTHER MATTERS

- A. Proposed exemptions to 58 Pa. Code § 57.8a (Class A wild trout streams) to allow for the continued stocking of trout at Big Moores Run, Section 03, Potter County.

Commentary:

Commission staff have identified one potential exemption to 58 Pa. Code § 57.8a (Class A wild trout streams) that satisfy criteria to consider the continuance of trout stocking at one Class A stream section. The general exemption classification, stream name, stream section, and county:

Previously received a Special Activities Permit from the Commission between 2010 and present:

- Big Moores Run, Section 03, Potter County

A notice of the proposed exemption was published at 53 Pa.B. 8037 (December 23, 2023) (preliminary notice for purposes of a 30-day comment period commencement) and at 53 Pa.B. 8196 (December 30, 2023) (a more detailed notice of the proposed exemption) (Exhibit K). Please review Exhibit K for further details. The open public comment period for this proposal was ongoing when this agenda was finalized; therefore, a final comment summary is not provided here. A summary of all public comments will be communicated during the Commission meeting. Copies of all public comments were provided to the Commissioners.

Briefer:

David C. Nihart, Chief, Division of Fisheries Management

Recommendation:

Staff recommend that the Commission approve one exemption to 58 Pa. Code § 57.8a (Class A wild trout streams) to allow for the continued stocking of trout at Big Moores Run, Section 03, Potter County, as described in the Commentary.

Action:

A motion was made by Commissioner Brock and seconded by Commissioner Lewis to approve one exemption to 58 Pa. Code § 57.8a (Class A wild trout streams) to allow for the continued stocking of trout at Big Moores Run, Section 03, Potter County.

During the discussion, Commissioners requested further details about the section, its length and public access, the Special Activities Permits that were issued, the species stocked, and the applicant. Commission staff responded accordingly. Commissioners discussed the new Notice of Stocking that provides the Commission with more information about the location of stocking activities, which will help the Commission better manage these waters.

The motion was carried by a vote of eight to two. Commissioner Charlesworth and Commissioner Hussar opposed the motion.

HATCHERIES OTHER MATTERS

A. Cooperative Nursery Grant Program: Grant to Eldred Conservation Club, McKean County.

Commentary:

At the October 2021 meeting, the Pennsylvania Fish and Boat Commission (Commission) approved the removal of the annual funding limit for the Cooperative Nursery Grant Program and authorized the Executive Director to establish an annual funding level for the grant program that is based on the projected need of the program in conjunction with the annual budgeting process used to address all other agency priorities. The Commission authorized the Executive Director to approve individual grants of \$25,000 or less per cooperative nursery, per year. For grants in excess of \$25,000, staff will seek separate Commission approval.

The Eldred Conservation Club raises approximately 4,000 trout in a raceway constructed of poured concrete and cinder blocks. The nearly 60-year-old raceway needs to be replaced due to its age and current structural condition. The Eldred Conservation Club has a large-scale renovation of the nursery planned. These renovations include removing the current raceway and building a new poured concrete raceway surrounded by a sidewalk. Additionally, a roofed structure will be constructed to cover the raceway to provide protection to the trout raised in the raceway and to the nursery volunteers during inclement weather. A storage shed will be constructed next to the raceway to store feed and equipment used for raising and caring for the trout at the nursery. The total estimated cost of the project is \$41,848.29. The Eldred Conservation Club is requesting \$31,848.29 from the Commission to complete this project.

Briefer:

Brian C. Niewinski, Director, Bureau of Hatcheries

Recommendation:

Staff recommend that the Commission approve a grant not to exceed \$31,848.29 to the Eldred Conservation Club, McKean County, as detailed in the Commentary.

Action:

A motion was made by Commissioner Charlesworth and seconded by Commissioner Small to approve a grant not to exceed \$31,848.29 to the Eldred Conservation Club, McKean County.

During discussion the Commissioners inquired about the water source at the Club and the funds available for the grant program, to which they received responses. The Commissioners also noted the quality of the fish provided by the Commission's cooperative nurseries and the success of the program.

Motion carried by unanimous vote.

Other New Business

Commissioners Anderson and Charlesworth acknowledged Commission staff's efforts and requested an update on activities, such as stocking brook trout, and Commission staff responded.

Time and Place of April 2024 Commission Meeting

Announcement of the April 29, 2024, quarterly Commission Meeting in Harrisburg, Pennsylvania at the Pennsylvania Fish and Boat Commission headquarters, 1601 Elmerton Avenue, Harrisburg, PA 17110.

Adjournment

President Gibney asked for any other new business to be brought forth, and with no further business identified, the meeting adjourned.