Commonwealth of Pennsylvania  
Pennsylvania Fish and Boat Commission

Agenda

The 137th Meeting of the Pennsylvania Fish and Boat Commission will be held on Monday, April 27, remotely, via web conference.

The public session for review of this agenda will begin on April 27 at approximately 10:00 a.m.

Call to Order

Pledge of Allegiance

Roll Call

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

Review and Approval of Minutes from the January 28, 2020 Meeting

Executive Director’s Report

Announcement of Executive Session

Public Comment to Commissioners and Staff
EXECUTIVE AND ADMINISTRATIVE
PROPOSED RULEMAKING

A. Amendment to Section 51.92 (Royalty Rates).

Commentary:

Under section 503(c) of the Conservation and Natural Resources Act (71 P.S. § 1340.503(c)), the Pennsylvania Fish and Boat Commission (Commission), with the concurrence of the Department of Environmental Protection (DEP), is authorized to adjust the amount of royalty payments per ton or cubic yard of usable and/or merchantable sand or gravel, or both, extracted from Commonwealth waters.

There are four companies currently maintaining permits which allow the dredging of material from navigable waters of this Commonwealth. Historically, royalty rates were set in 1970 and involved establishing a flat rate of $0.10 per adjusted dry ton that was about 6% of the selling price. The rate was adjusted $0.05 each year from 1998 to 2001 culminating in $0.30 per dry ton. Between January 1, 2002 and December 31, 2010, a variable calculation using the change in the producer price index (PPI) for sand and gravel from the base year (2002) was used. This was an administratively burdensome process that required the carry forward calculations from 2002 with annual adjustments to make the Commission whole due to the timing of PPI rate releases.

In 2010, dredger representatives, DEP, and the Commission simplified the process into its current configuration using a straightforward calculation with a fair rate that multiplied the immediately preceding year’s published price, average value, dollars per metric ton (converted to U.S. ton) for the commodity sand and gravel in the United States Geological Survey, Mineral Commodity Summary per dry ton, provided that the rate per dry ton is not less than $0.48. This straightforward approach removed any ambiguity in the rate setting process and has been successful for the past decade.

As such, the current royalty rate schedule, which was adopted in 2011 and is set forth in the Commission's regulations at § 51.92, expires on December 31, 2020. The Commission and four representatives from the sand and gravel dredging industry have unanimously agreed to extend the previous fair and equitable process for setting royalty rates for the ten-year period of January 1, 2021 through December 31, 2030.

Staff propose the following amendment:

§ 51.92. Royalty rates.

Persons holding permits granting them nonexclusive rights and privileges of dredging, excavating, removing and carrying away merchantable sand and gravel under agreements between the permittees and the Department of Environmental Protection shall pay royalties in accordance with the following schedule:

[(1) During the period, January 1 through December 31, 2011, the greater of $1,000 or $0.48 per dry ton.]
(2) During the period, January 1, 2012, through December 31, 2015, the greater of $1,000 or 6.75% of the immediately preceding year's published price, average value, dollars per metric ton (converted to U.S. ton) for the commodity sand and gravel in the United States Geological Survey, Mineral Commodity Summary per dry ton, provided that the rate per dry ton is not less than $0.48.

(3) During the period, January 1, 2016, through December 31, 2020, the greater of $1,000 or 7.0% of the immediately preceding year's published price, average value, dollars per metric ton (converted to U.S. ton) for the commodity sand and gravel in the United States Geological Survey, Mineral Commodity Summary per dry ton, provided that the rate per dry ton is not less than $0.48.

(1) During the period, January 1, 2021, through December 31, 2030, the greater of $1,000 or 7.0% of the immediately preceding year's published price, average value, dollars per metric ton (converted to U.S. ton) for the commodity sand and gravel in the United States Geological Survey, Mineral Commodity Summary per dry ton, provided that the rate per dry ton is not less than $0.48.

Briefer:
Brian P. Barner, Deputy Director, Office of Administration

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:
EXECUTIVE AND ADMINISTRATIVE
OTHER MATTERS

B. Ratification of Temporary Changes to Fishing Regulations for Fishing in Stocked Trout Waters and Regional Opening Day of Trout Season.

Commentary:
Under 58 Pa. Code § 65.25 (relating to temporary changes to fishing regulations), the Executive Director is authorized to take immediate action to temporary modify fishing regulations when necessary and appropriate for the protection, preservation, and management of fish and fish habitat, conserve fishing opportunities and provide for the safety and health of persons who fish Commonwealth waters.

As a result of the COVID-19 virus outbreak and calls from the Center for Disease Control and Office of the Governor for citizens to take precautions, and to provide for the health and safety of persons who fish Commonwealth waters, the Executive Director took immediate action on March 16, 2020 to amend 58 Pa. Code § 63.3 (relating to fishing in stocked trout waters) and 58 Pa. Code § 65.12 (relating to regional opening day of trout season) as described in the Pennsylvania Bulletin at 50 Pa.B. 1917 (March 28, 2020). Subsequently, the Executive Director took action on April 7, 2020 to immediately open the statewide trout season in all Commonwealth waters effective at 8 a.m. CCA notice of a Temporary Change to Fishing Regulations was published in the Pennsylvania Bulletin at 50 Pa.B. 2237 (April 25, 2020). Specifically, the Executive Director amended these sections to eliminate the Regional Opening Day of Trout Season for 2020 and made it lawful to fish in stocked trout waters regulated under § 61.1 (relating to Commonwealth inland waters) and 58 Pa. Code § 69.12 (d)-(f) (relating to seasons, sizes, and creel limits- Lake Erie, Lake Erie Tributaries and Presque Isle Bay including peninsula waters) in any part of the Commonwealth effective 8 a.m. on April 7, 2020. This is a temporary change affecting only the 2020 trout season.

Pursuant to Section 65.25(b) of the Commission’s regulations, temporary modifications to regulations shall be brought to the attention of Commissioners at the next scheduled special or regular meeting of the Commission as an agenda item. This agenda item satisfies the provisions of Section 65.25(b), and requires no permanent regulation change because the statewide opening day of trout season has passed before the Commission’s regularly scheduled meeting of April 27-28, 2020.

Briefer:
Brian Barner, Deputy Director, Office of Administration

Recommendation:
Staff recommends that the Commission retroactively ratify the temporary regulation changes for 2020 that appeared in the Pennsylvania Bulletin (50 Pa.B. 1917 and 50 Pa.B. 2237) regarding the statewide opening day of trout season.

Action:
FISHERIES
PROPOSED RULEMAKING

A. Amendment to Section 61.2 (Delaware River, West Branch Delaware River, and River Estuary) to address the Striped Bass fishery.

Commentary:
The Atlantic States Marine Fisheries Commission’s (ASMFC) management plan for Striped Bass calls for management actions when the coast-wide spawning stock biomass (SSB) or fishing mortality rates reach thresholds set within the management plan. The SSB threshold is 201 million pounds, and the current SSB is 151 million pounds. At the current fishing mortality rates, there is concern that the SSB will fall further below the threshold. Also, because catch and release practices contribute substantially to overall fishing mortality, states are also required to implement mandatory circle hook requirements when fishing with bait to reduce release mortality in recreational Striped Bass fisheries. The ASFMC Striped Bass Management Board, which includes the Commonwealth as a member, has directed all coastal states to reduce fishing mortality rates by 18% beginning in 2020 and require circle hooks by 2021. This Commonwealth is taking proactive measures to implement circle hook requirements beginning in 2020 to inform anglers and facilitate compliance with this important conservation measure ahead of the ASMFC mandate for implementation beginning in 2021. The amendments to 58 Pa. Code § 61.2 are designed to meet this objective.

ASMFC has directed that the reduction in harvest be implemented no later than April 1, 2020. To meet this deadline, the Executive Director of the Fish and Boat Commission (Commission), acting under the authority of 58 Pa. Code § 65.25 (relating to temporary changes to fishing regulations), has taken immediate action to amend 58 Pa. Code § 61.2 (relating to Delaware River, West Branch Delaware River and River Estuary). Specifically, the Executive Director has amended this section to change the minimum size limit for Striped Bass to a 28 inches to less than 35 inches slot limit in the Delaware Estuary (from the Pennsylvania line upstream to Calhoun Street Bridge) and Delaware River (from the Calhoun Street Bridge upstream) during the periods January 1 through March 31 and June 1 through December 31 (one fish daily limit), and to change the slot limit during the period April 1 through May 31 to 21 inches to less than 24 inches (two fish daily limit). The Executive Director also has amended the section to require the use of non-offset (in-line) circle hooks when fishing with bait for any species of fish in the tidal Delaware Estuary, including tributaries from the mouths of the tributaries upstream to the limit of tidal influence. These actions were taken to meet the requirements of the ASMFC and a notice of a Temporary Change to Fishing Regulations appeared in the Pennsylvania Bulletin at 50 Pa.B. 1625 (March 14, 2020). The temporary changes went into effect on April 1, 2020 and will remain in effect until the Commission, by appropriate action, amends 58 Pa. Code § 61.2.

Staff propose that 58 Pa. Code § 61.2 be amended as follows:

§ 61.2. Delaware River, West Branch Delaware River, and River Estuary.
(d) It is unlawful to fish with bait for any species of fish in the tidal Delaware Estuary, including tributaries from the mouths of the tributaries upstream to the limit of tidal influence using any hook type other than non-offset (in-line) circle hooks. The definition of a non-offset (in-line) circle hook is a non-offset hook where the point is pointed perpendicularly back towards the shank. The term “non-offset” means the point and the barb are in the same plane as the shank.

[(d)] (e) The following seasons, sizes, and creel limits apply to the Delaware River, West Branch Delaware River, and Delaware Estuary and tributaries, from the mouths of the tributaries upstream to the limit of the tidal influence and the Lehigh River from its mouth upstream to the first dam in Easton, Pennsylvania:

<table>
<thead>
<tr>
<th>SPECIES</th>
<th>SEASONS</th>
<th>MINIMUM SIZE</th>
<th>DAILY LIMIT</th>
</tr>
</thead>
<tbody>
<tr>
<td>STRIPED BASS and HYBRID STRIPED BASS</td>
<td>From Pennsylvania line upstream to Calhoun Street Bridge: January 1 until March 31 and June 1 until December 31.</td>
<td>[28] 28 to less than 35 inches</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>April 1 through May 31</td>
<td>21 to [25] less than 24 inches</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>From Calhoun Street Bridge upstream: open year-round</td>
<td>[28] 28 to less than 35 inches</td>
<td>1</td>
</tr>
</tbody>
</table>

Briefer:
Andrew L. Shiels, Deputy Director of Field Operations

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:
FISHERIES
PROPOSED RULEMAKING

B. Amendment to Section 65.24 (Miscellaneous Special Regulations): Penns Creek, Section 03, Centre and Mifflin counties.

Commentary:
Penns Creek is a large, limestone-influenced stream that supports one of the most popular and renowned wild Brown Trout fisheries in Pennsylvania and the eastern United States. Its excellent insect hatches, large size, and scenic setting in the mountains of central Pennsylvania draws anglers from across the United States. Penns Creek is delineated into eight stream sections for fisheries management purposes, with sections 01-07 managed for trout. Penns Creek, Section 03, extends for 7.0 miles from the confluence with Elk Creek in Coburn downstream to 600 meters downstream of the confluence with Swift Run. Section 03 was managed as a stocked trout fishery until 1992 when it was designated by the Pennsylvania Fish and Boat Commission as a Class A wild trout stream and the stocking of hatchery trout was discontinued in favor of wild trout management.

During 1993, landowner and angler surveys were conducted on Section 03 to inform management decisions. Based on this information and biological data collected during 1991 and 1992, Miscellaneous Special Regulations (later renamed All-Tackle Trophy Trout under § 65.4a) were developed for Section 03 and implemented on January 1, 1995. Section 03 was managed with All-Tackle Trophy Trout regulations for 19 years from 1995 to 2013.

During 2012, staff conducted a review of the management of Penns Creek, Section 03. Staff solicited feedback regarding a potential regulation change from landowners and anglers via letters and a public meeting. Additionally, staff conducted an angler use, harvest, and opinion survey to help inform a regulation change. To address landowner and angler feedback, further increase the abundance of large wild Brown Trout, and provide the opportunity to use all tackle types and harvest some trout, a new Miscellaneous Special Regulation (slot limit) was established for a seven-year period from January 1, 2014 through December 31, 2020. The slot limit regulation allows for year-round fishing, use of all tackle types, and the harvest of two trout per day that are at least seven inches but less than 12 inches in length from the opening day of trout season through Labor Day, with no harvest permitted the remainder of the year.

The trout population was monitored before and after implementation of the slot limit regulation in Section 03. Results of the monitoring showed a significant increase in the electrofishing catch rates of larger (≥ 16 inches) Brown Trout during the post-slot limit regulation implementation period (2014-2019). These results suggest that the slot limit regulations likely played an important role in the increased electrofishing catch of large Brown Trout in Section 03.

In 2019, staff conducted an angler use, harvest, and opinion survey to evaluate the social aspects of the regulation change and estimate angler harvest. Results showed low harvest
of trout occurred and high angler support for continuing the slot limit regulations on Penns Creek, Section 03. Despite low angler harvest under the slot limit rule, these regulations provide the opportunity for anglers to harvest a trout if they desire, which was an important social consideration when the regulations were implemented.

Given the success of the experimental slot limit regulation program on Penns Creek, Section 03, staff recommend that the Commission continue this regulatory approach until further notice. The regulation would allow for the use of all tackle types and harvest of up to two trout per day that are at least seven inches but less than 12 inches in length from the opening day of trout season through Labor Day. No harvest would be permitted for the remainder of the year.

Staff propose the following amendment:

§ 65.24. Miscellaneous special regulations.

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

<table>
<thead>
<tr>
<th>County</th>
<th>Name of Water</th>
<th>Special Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Centre and Mifflin</td>
<td>Penns Creek, from the confluence of Elk Creek downstream 7 miles to 600 meters downstream of Swift Run</td>
<td>Open to fishing year-round. All tackle types are permitted. From 8 a.m. on the first Saturday after April 11 through Labor Day – the daily creel limit for trout is 2 (combined species). Trout must be at least 7 inches but less than 12 inches in length to be killed or possessed. From the day after Labor Day until 8 a.m. on the first Saturday after April 11, no trout may be killed or possessed. Inland regulations apply to all other species. This miscellaneous special regulation will remain in effect until further notice.</td>
</tr>
</tbody>
</table>

*Briefer: Andrew L. Shiels, Deputy Director of Field Operations*
**Recommendation:**
Staff recommend that the Commission approve the publication of a notice of proposed rulemaking containing the amendment described in the Commentary. If approved on final rulemaking, this amendment will go into effect on January 1, 2021.

**Action:**
FISHERIES
DESIGNATIONS

C. Proposed changes to the 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 33 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 A provides information on the locations and a data summary for each of these waters.

A notice of proposed designations was published at 50 Pa.B. 1199 (February 22, 2020) (Exhibit B). The Commission received a total of 611 public comments regarding the proposed designations, all supporting the proposed designations. Copies of all public comments were provided to the Commissioners.

Briefer:
Andrew L. Shiels, Deputy Director of Field Operations

Recommendation:
Staff recommend that the Commission add 33 stream 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:
D. 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 85 new waters to the Commission’s list of wild trout streams and revision of the section limits of eight waters currently listed. These changes are the result of recent surveys conducted on these waters. Exhibit C 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 50 Pa.B. 1195 (February 22, 2020) (Exhibit D). The Commission received a total of 611 public comments regarding the proposed designations, all supporting the proposed designations. Copies of all public comments were provided to the Commissioners.

Briefer:
Andrew L. Shiels, Deputy Director of Field Operations

Recommendation:
Staff recommend that the Commission add 85 new waters to the Commission’s list of wild trout streams and revise the section limits of eight waters currently listed as set forth in the notice of proposed designations. If approved, these additions will go into effect upon publication of a second notice in the Pennsylvania Bulletin.

Action:
LAW ENFORCEMENT
PROPOSED RULEMAKING

A. Amendment to Section 63.19 (Sale and Purchase of Fish).

Commentary:

The Pennsylvania Fish and Boat Commission regulates both commercial and private fish cleaning stations under 58 Pa. Code § 63.15a. This regulation allows anglers in certain circumstances to clean fish and dispose of the remains without transporting the entact catch to their home. This is important for many anglers, especially those on extended trips or visiting specific waters such as Lake Erie. Official cleaning stations also assist anglers in complying with regulations which prevent disposing of fish parts into Commonwealth waters. Fish processed at an official cleaning station allow anglers to be exempt from regulations requiring a fish to remain in-tact until reaching the place of consumption so it can be identified and measured for compliance with seasons, sizes, and creel limits.

As technologies for cleaning stations change various methods of carcass disposal are utilized. In several states, fish cleaning byproducts may be sold to other entities for further beneficial use such as fertilizer in agriculture. In Pennsylvania, cleaning stations are forced to grind the carcasses and place the byproduct into wastewater treatment or landfills.

To allow fish cleaning stations to provide a better service to Pennsylvania anglers and facilitate better use of fish cleaning byproducts, staff recommend the following amendment to Section 63.19(d):

§ 63.19. Sale and purchase of fish.

(d) This section does not prohibit the sale, purchase, offer for sale, trade or barter of any fish propagated by or from a propagator or dealer of live aquatic animals registered under 3 Pa.C.S. Chapter 42 (relating to aquacultural development), if the fish are lawfully propagated or acquired by means other than fishing from the waters of this Commonwealth in accordance with the requirements of applicable laws and regulations. This section does not prohibit the sale, purchase, offer for sale, trade or barter of any fish by or from the holder of a commercial fishing license issued under Chapter 29 of the code (relating to special licenses and permits), if the fish are lawfully caught or taken in accordance with the requirements of applicable laws and regulations. **This section does not prohibit the sale, purchase, offer for sale, trade or barter for the purpose of disposal of any non-flesh fish parts or roe that are the byproduct from any lawfully taken fish processed at a PA Fish & Boat Commission recognized fish cleaning station under Section 63.15a of Title 58.** This section does not prohibit the sale of mounted fish.

Briefer:

Colonel Corey Britcher, Director, Bureau of Law Enforcement
Recommendation:
Staff recommend that the Commission approve the publication of a notice of proposed rulemaking containing the amendment described in the Commentary. If adopted on final rulemaking, this amendment will go into effect upon publication in the Pennsylvania Bulletin.

Action:
LAW ENFORCEMENT
PROPOSED RULEMAKING

B. Amendment to Section 51 Charter Boat/Fishing Guide Operations.

Commentary:
As the Pennsylvania Fish and Boat Commission (Commission) continues to modernize its business practices, several permit application procedures have been evaluated. An internal review of the Charter Boat/Fishing Guide permit application process revealed that the customer and the Commission would benefit greatly by handling the permitting process online.

Currently, to secure or purchase a permit, a written application, payment and numerous other supporting documents must be provided to the Commission for review, approval and processing. Once received by the Commission, it generally takes about 30 days to issue a permit, which is then mailed to the permittee.

The proposed plan moving forward is to allow application for and issuance of the permit online, exclusively through the Outdoor Shop. Waterways Conservations Officers would verify applicant provided information during standard field checks. As part of this transition, the requirement to display a guide sticker on the boat would be removed. Permits would be fulfilled at the point of purchase. The 30-day wait time for a permit and the time and expense associated with preparing a paper application would be eliminated. Through the automation process, the Commission would substantially lower the cost to review and issue a permit and would eliminate the cost of producing and mailing permits, identification decals, patches, and other informational materials.

An additional change to Section 51.127 would require an individual guiding on Commonwealth Waters to have a Pennsylvania fishing license and permits. Under the current language a loophole was created that allows some nonresidents to guide on Commonwealth Waters utilizing their out of state license with a Pennsylvania Nonresident guide permit.

Staff propose the following amendment:

§ 51.123. Display of permits.

(a) Display of permit on outer garment. While operating a charter boat or fishing guide operation, charter boat operators and fishing guides shall display their permits on a hat or an outer garment in plain view. The charter boat operator and fishing guide may carry and display the permit in the same holder containing a fishing license.

(b) Officers designated to check permits. Charter boat operators and fishing guides shall present their charter boat/fishing guide permits upon the request of an officer authorized to enforce the code.

(c) Display of decal on charter boats. When a boat is used in the charter boat/fishing guide operation, the charter boat operator shall display a decal supplied by the Commission on both sides of the boat hull above the waterline and
below the gunwale near the stern of the boat or on each side window of the cockpit of the boat. While onboard a boat displaying a decal, the charter boat operator is exempt from the permit display requirements of this section provided the permit is onboard the boat. When, due to exigent circumstances, a charter boat operator must use a boat that does not display a charter boat/fishing guide decal, the charter boat operator shall display the permit on a hat or outer garment as required by this section.]

§ 51.127. Fishing license and permits.

Charter boat operators and their crewmembers and fishing guides shall possess valid Pennsylvania fishing licenses and the stamps and permits required for the waters in which they fish. Charter boat operators and fishing guides are responsible for ensuring that their employees, passengers and customers possess a valid Pennsylvania fishing license and the appropriate stamps and permits.

Briefer:
Colonel Corey Britcher, Director, Bureau of Law Enforcement

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:
NOTATIONAL VOTE MEASURES

The Commission voted on nine items by notational vote since the January 2020 meeting. Between April 7, 2020 and April 13, 2020 the Commission, in an 10-0 vote, approved the nine (9) items found in Appendix A:
APPENDIX A
A. Interagency agreement with the Department of General Services (DGS) for the transfer of jurisdiction of the National Guard Center located in West Pittston, Luzerne County, PA.

**Commentary:**

The Commonwealth of Pennsylvania (Fish and Boat Commission) owns a +3.33-acre parcel of land located at 1308 Susquehanna Avenue in West Pittston, PA. During its April 2018 quarterly meeting, the Commission authorized the Executive Director to contract with DGS for the transfer of the property. An interagency agreement for the transfer of jurisdiction of the West Pittston property was entered into between DGS and the Commission in June of 2018. A drawing depicting the property is attached as Exhibit E.

The Commission had planned to redevelop the property as a regional office. A single building on the property was used as the National Guard Center until 2016. The building consists of a 2-story concrete masonry structure with basement that has approximately 3,000 square feet of office space, 15,000 square feet of warehouse space and 5,000 square feet of incidental space.

At the time of the transfer, staff from the Commission’s Bureau of Engineering preliminarily estimated the cost of repairs and renovations to the facility at approximately $1.2 million. However, upon a more detailed inspection of the property, additional deficiencies were discovered, which increased the estimated project cost to approximately $2.2 million, making use of the existing facility cost prohibitive and impractical.

Furthermore, a feasibility study for a flood damage reduction project completed last year by West Pittston Borough has recommended construction of a levee that would span the length of the property, eliminating direct access to the Susquehanna River, which is critical to the Commission’s mission and planned use of the property.

Currently, the Federal Emergency Management Agency is revising their flood plain maps for Luzerne County, and given the property’s location, we anticipate the entirety of the property being within the expanded flood zone. This would further increase the cost for renovations and may result in additional long-term cost of maintaining the property.

Under terms of the interagency agreement, if the Commission deems the property as surplus to its needs, it shall be returned to DGS for disposition. DGS has been notified that the Commission no longer needs the property and has agreed to accept the return of the property as stipulated in the terms of the interagency agreement upon approval by the Commission.

**Briefer:**

Brian Barner, Deputy Director, Office of Administration
Recommendation:
Staff recommends that the Commission authorize the Executive Director to deem the property located at 1308 Susquehanna Avenue in West Pittston, PA as surplus to its needs and transfer jurisdiction of the property to DGS for disposition.

Action:
B. Knouse Foods Property Rights Acquisition, Butler Township, Adams County, PA.

Commentary:

Knouse Foods owns a 65-acre property located in Butler Township, Adams County, PA. The property contains a portion of Conewago Creek that is designated as a Catch and Release Fly Fishing Only section. This section of Conewago Creek is stocked by the Pennsylvania Fish and Boat Commission (Commission), the McSherrystown and Knouse Foods (Orrtanna) cooperative nurseries, and the Mummasburg Sportsman's Club. The Catch and Release Fly Fishing Only section has been managed and maintained by the Adams County Trout Unlimited Chapter and the Northern Virginia Trout Unlimited Chapter for over 30 years. Recently, Knouse Foods expressed an interest in selling the property. The Adams County Trout Unlimited Chapter, the Northern Virginia Trout Unlimited Chapter and other local interests are concerned about the future of public fishing access if the property is sold. The Trout Unlimited Chapters approached Knouse Foods and discussed the idea of a public fishing access and conservation easement on the property. Knouse Foods expressed an interest in the easement. A map depicting the subject location is attached as Exhibit F 1 of 2.

The Commission has been offered an easement on 5,340 linear feet along Conewago Creek as it flows across a parcel of property in Butler Township, Adams County for approximately $100,000. The easement will be for public fishing, boating and riparian and fishery management, and will include the stream corridor and extend at least 35 feet back from the top of bank to the extent of ownership of the seller. In addition to the fishing easement along the stream corridor, an additional easement for a parking area and a footpath from Zeigler Mill Road to Conewago Creek has been offered to ensure access to the fishing easement area. The easement area is located along Conewago Creek along Russel Tavern Road and Zeigler Mill Road in Butler Township, Adams County. A map depicting the subject parcel easement area is attached as Exhibit G 2 of 2.

The Commission will provide approximately $84,000 towards the purchase of the public fishing access and conservation easement on the property. The Adams County Trout Unlimited Chapter and other local partners will provide roughly $16,000 towards the purchase of the easement.

Conewago Creek provides significant trout fishing opportunities in the area. The Pennsylvania Fishing and Boating Access Strategy indicates a need for more access along this section of Conewago Creek. The Commission’s regional Law Enforcement and Fisheries staff have recommended that the site be acquired.

The seller and the Commission have signed an option agreement that will allow staff to perform its due diligence. The Commission’s exercise of the option agreement will be subject to meeting the due diligence and funding requirements. In addition, the seller has agreed to be responsible for all current applicable real estate and transfer taxes that are normally shared between the buyer and the seller. The Commission may, at its sole discretion, pay for the costs to obtain and record a subordination of lien for the property.
Briefer:
Brian P. Barner, Deputy Director, Office of Administration

Recommendation:
Staff recommend that the Commission authorize the acquisition of an easement along the Conewago Creek in Butler Township, Adams County, as described in the Commentary.

Action:
C. Stocker Family Property Donation along Rock Road on Spring Creek, Benner Township, Centre County, PA.

**Commentary:**
Kathryn Stocker, William Stocker, and Kelly Stocker have offered to donate a +/-2.25-acre parcel of property to the Commission. This parcel is located along Rock Road on Spring Creek in Benner Township, Centre County, as depicted on Location Map Exhibit H, 1 of 2. The property is surrounded on two sides by property currently owned by the Commission and the Pennsylvania State University as depicted on Aerial Site Map Exhibit I, 2 of 2.

This property will provide an additional +/-475 feet of stream frontage on the west bank and +/-200 feet of frontage along the east bank of Spring Creek. The property borders approximately +/-200 feet of Rock Road (T-376) and borders the existing Spring Creek - Rock Road property.

The acquisition of this property would allow the Commission to extend the same fishing opportunities that are available on the adjacent Commission owned Spring Creek - Rock Road property along Rock Road. If acquired, this property will be combined with the Commission’s existing property and enhance the existing Spring Creek - Rock Road property.

To secure the property donation from the Stocker family members, the Commission must provide documentation to the Stockers acknowledging the donation of the property for its estimated fair market value of $15,000. Staff will adhere to the Commission’s standard practices for property acquisition including meeting due diligence requirements.

**Briefer:**
Brian P. Barner, Deputy Director, Office of Administration

**Recommendation:**
Staff recommend that the Commission authorize the Executive Director to accept this property donation of 2.25 acres along Rock Road in Benner Township, Centre County, as described in the Commentary.

**Action:**
D. Lease of Minsi Lake Property, Upper Mount Bethel Township, Northampton County, PA.

**Commentary:**
The Commission owns a +/-308-acre tract of land in Upper Mount Bethel Township, Northampton County, which contains Minsi Lake, a +/-117-acre lake. The property is located +/-4 miles north of Bangor, PA. In 1975, the Commission leased the property to Northampton County for a 40-year term for use as a County Park. The 40-year lease was extended an additional five years in 2015. A drawing depicting the lease area is attached as Exhibit J.

The lease agreement between the Commission and the County expires September 1, 2020. The Commission and County wish to enter into a new lease agreement consistent with the original lease. The County is and will continue to be responsible for the routine maintenance, operation, repair and supervision of the lease area. The continuation of the County’s leasing of the property is in the best interest of the Commission.

The new lease will be for a 25-year term and require the site to remain open for public fishing and boating free of charge. Fishing and boating will take precedence over all other recreational activities, and responsibilities will remain consistent with the historical practice under a new lease.

**Briefer:**
Brian P. Barner, Deputy Director, Office of Administration

**Recommendation:**
Staff recommend that the Commission authorize the leasing of Minsi Lake to Northampton County as described in the Commentary.

**Action:**
E. Office Space Lease for Fisheries Management Area 9 at 8370 Middle Road, Fairview, Erie County, PA.

**Commentary:**

Preliminary plans are being made to renovate and add office space to the existing administration building at the Fairview State Fish Hatchery. The plans provide for the addition of office and warehouse space for the Fisheries Management staff currently housed in two dilapidated houses on the Fairview Hatchery grounds. To facilitate the renovations, Fisheries Management staff will need to be temporarily relocated until the renovations are completed.

Nancy Hornyak is offering the lease of a 3,600 square foot office/warehouse building located at 8370 Middle Road, Fairview, PA, Erie County to the Commission. The building is roughly 1-mile southwest of the Fairview Hatchery.

The Lease Area, which will be used by the Fisheries Management Area 9 staff, consists of a building, a parking lot and a small parcel of land surrounding the building as depicted on Exhibit K. The building consists of a 1,200 square foot office space, with 2,400 square feet of connected warehouse. Landscaping and mowing are included in the monthly lease fees and the property is ADA compliant.

The initial term of the lease will be for three years and will renew annually for three additional terms. The Commission may terminate the lease at the end of any term by giving Ms. Hornyak at least 90 days prior written notice. The monthly rent will be $1,625 monthly for the term lease. Ms. Hornyak shall be solely responsible for maintaining the roof, foundation and exterior of the building and all parking areas. The Commission will be responsible for all other repairs, maintenance, replacement or reconstruction to the interior portion of the building.

Staff will adhere to the Commission’s standard practices for leasing property including meeting due diligence requirements.

**Briefer:**
Brian P. Barner, Deputy Director, Office of Administration

**Recommendation:**

Staff recommend that the Commission authorize the Executive Director to enter into a lease with Nancy Hornyak for the office space at 8370 Middle Road, Fairview, PA, Erie County as described in the Commentary.

**Action:**
F. Amendment to Section 63.50 (Importation of Tautog).

Commentary:

Tautog (*Tautoga onitis*), also known as “Tog” or “Blackfish,” are an Atlantic Ocean, coastal, bottom-dwelling marine fish most commonly found around structures such as wrecks and reefs in offshore waters and jetties, piers and rocky areas in near shore waters. Tautog range from Nova Scotia to Georgia, but their core populations reside between Virginia and Massachusetts. They are stout, solidly built fish averaging between 2 and 8 pounds, with the current world record at 28 pounds. They are slow growing and can reach 35 to 40 years of age. Because they strongly relate to structure, tautog are easy for commercial and recreational anglers to locate and not difficult to catch with the right bait and tackle. Tautog are considered excellent table fare by both recreational and commercial fishers. In the mid-1980s, tautog harvests peaked at over 7 million fish but in recent years declined to approximately 500,000 fish. There was a trend towards substantial numbers of tautog being caught by “recreational” anglers without commercial licenses and sold into the commercial market. These fish are unaccounted for in distribution between recreational and commercial fishing quotas and confound fisheries management planning. Due to their commercial value and reduced population levels, the Atlantic States Marine Fisheries Commission (ASMFC) determined that additional regulatory action must take place to address illegal harvest.

The Commonwealth of Pennsylvania is a member of the ASMFC, and PFBC Executive Director Timothy D. Schaeffer is the administrative member for the Commonwealth. At its fall 2019 meeting, the ASMFC requested Pennsylvania develop regulations requiring all tautog possessed for commercial purposes or sold in this Commonwealth to be properly tagged following the ASMFC tautog tagging program guidelines. States along the Atlantic Coast with commercial tautog fisheries must issue serial numbered tags to commercial harvesters and all fish sold in these states must be tagged with a metal band on the fish’s gill cover. The Commonwealth will not be tagging tautog, but this Commonwealth is an important marketplace of commercial seafood including tautog. Providing Commission Waterways Conservation Officers with the authority to inspect for and enforce tautog tagging regulations will close a potential loophole in the ASMFC tautog tagging program and advance tautog conservation along the Atlantic Coast. The new regulation would read as follows:

§ 63.50 Importation of Tautog. - 2102(c)

It is unlawful for a person to import into this Commonwealth, sell, offer for sale, or purchase Tautog (*Tautoga onitis*) measuring less than 15 inches in length. **It is unlawful for a person to sell, offer for sale, or purchase Tautog (*Tautoga onitis*) that do not bear an official tag issued or approved by the Atlantic States Marine Fisheries Commission.**

A notice of proposed rulemaking was published at 50 Pa. B. 1247 (February 29, 2020). The Commission did not receive any public comments regarding the proposal.
Briefer:
Andrew L. Shiels, Deputy Director of Field Operations

Recommendation:
Staff recommend 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:
G. Amendment to Section 65.24 (Miscellaneous Special Regulations): Lake Pleasant, Erie County, PA.

Commentary:
Lake Pleasant, a 61-acre natural lake owned by the Commonwealth of Pennsylvania and managed by the Pennsylvania Fish and Boat Commission (Fish and Boat Commission), is located in Greene, Venango, and Waterford townships in Erie County, approximately 10.5 miles southeast of the City of Erie. The lake’s cold-water and warm-water fish populations are managed with Commonwealth Inland Waters angling regulations. The lake supports high-quality panfish and Largemouth Bass populations that are sustained through natural reproduction. To maintain a high-quality fishery for stocked trout, the lake receives annual plants of adult trout during the pre-season, in-season, and winter stocking periods which coincide with the peak periods of angler use and interest in trout angling. Recreational boating is permitted but is restricted to un-powered boats only. The Commission does not own or lease property adjacent to the lake and approximately 80% of the lake’s shoreline is owned and maintained by the Western Pennsylvania Conservancy (WPC) with the remainder owned privately.

Lake Pleasant is one of the least impacted glacial lakes in the region and its natural flora and fauna are arguably the most intact among this category of waterbodies. The shoreline is nearly undeveloped, with much of the surrounding wetlands undisturbed. The WPC owns 350 acres around the lake and the Pennsylvania Game Commission owns State Game Lands (SGL) 161 to the west and SGL 155 to the east. These collectively managed tracts of land act as a buffer for the lake. The lake is spring fed, relatively pristine, and clear. The fish community that resides in Lake Pleasant is a result of unique historic glacial events and contains at least three Pennsylvania listed species (Blackchin Shiner, Warmouth, and Iowa Darter). Two of these species, the Blackchin Shiner and Iowa Darter, are rare throughout the region due to extensive habitat degradation. The lake is difficult to survey for nongame fishes and thus has not received an intensive inventory to date; hence, it is possible that other rare species requiring pristine glacial lake habitats exist here and have yet to be documented.

Many of the lakes in northwestern Pennsylvania have experienced the release of undesirable fishes, presumably in the process of being used as bait fish. White Perch have inexplicably appeared in multiple lakes within the region. The Round Goby was recently discovered in Lake LeBeouf (French Creek watershed) and now threatens the receiving waters with ecological modification from a well-documented, aggressive, and prolific aquatic invasive species. Given the acknowledged value and history of preservation of Lake Pleasant, additional protection in the form of a new miscellaneous special regulation is warranted and herein proposed. The new regulation would prohibit the use of live or dead fish as bait (i.e., “minnows”) on Lake Pleasant; however, would allow the for use of “salted minnows” and terrestrial invertebrates as bait (i.e., worms) for angling purposes. Additionally, the regulation would prohibit the release of fish in the lake, except for those caught while angling. This prohibition aims to preserve the existing ecosystem characteristics of Lake Pleasant and protect native and at-risk species from harmful impacts that may be associated with non-native species.

Staff propose the following amendment:
§ 65.24. Miscellaneous Special Regulations.

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

<table>
<thead>
<tr>
<th>County</th>
<th>Name of Water</th>
<th>Special Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Erie</td>
<td>Lake Pleasant</td>
<td>It is unlawful to use any fish, live or dead, as bait while angling at Lake Pleasant, except for “salted minnows.” Further, it is unlawful to release any fish into Lake Pleasant, except for those caught while angling.</td>
</tr>
</tbody>
</table>

Briefed:
Andrew L. Shiels, Deputy Director of Field Operations

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 January 1, 2021.

Action:
H. Amendment to Aquatic Nuisance Species Management Plan Grants.

Commentary:

At the July 2008 Commission meeting, the Board approved the establishment of the Aquatic Nuisance Species Management Plan Grant program, which authorized the Executive Director to enter into a cooperative agreement with Pennsylvania Sea Grant, and to further authorize the Executive Director to approve future individual grants using up to $100,000 of United States Fish and Wildlife Service (USFWS) pass-through monies per grantee, per year for projects meeting the objectives of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 and/or the Pennsylvania Aquatic Invasive Species Management Plan. For grants exceeding those amounts, staff would seek separate Commission approval.

In February 2020, the Commission received a $100,000 award from Pennsylvania Sea Grant to evaluate the effects of the recently discovered non-native, parasitic copepods *Salmincola edwardsii* and *S. californiensis* on Brook Trout and Rainbow Trout, respectively, in Commonwealth inland streams and Lake Erie tributaries. The USFWS is a cooperating partner in the study and will be assisting with genetic data collection and analyses, morphometric identification, pathology and virology testing. An avenue to provide pass-through funds from Pennsylvania Sea Grant to the USFWS currently does not exist. As such, an amendment to the Aquatic Nuisance Species Management Plan Grant would allow for the pass-through of monies from other sources to grantees to occur.

Commission staff recommend amending the Aquatic Nuisance Species Management Plan Grant to allow the Executive Director to approve individual grants using up to $100,000 of pass-through monies per grantee, per year, for projects meeting the objectives of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, the Pennsylvania Aquatic Invasive Species Management Plan and/or other non-native species. Currently, only grants using USFWS pass-through monies are included in the Aquatic Nuisance Species Management Plan Grant. The amendment would allow for grants using other funding sources to be included in the Aquatic Nuisance Species Management Plan Grant.

Briefer:
Andrew L. Shiels, Deputy Director of Field Operations

Recommendation:
Staff recommend amending the Aquatic Nuisance Species Management Plan Grant program to allow the Executive Director to approve individual grants using up to $100,000 of pass-through monies per grantee, per year for projects meeting the objectives of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, the Pennsylvania Aquatic Invasive Species Management Plan and/or other non-native species. For grants exceeding those amounts, staff will seek separate Commission approval.

Action:
I. Education Grants for the Recruitment, Retention, and Reactivation of Anglers and Boaters.

Commentary:
On average, one third of the license buyers in a given year will not renew the following year. That rate is as high as 50% for some segments such as women, millennials, and those who buy a license but not a trout stamp. This means that approximately 300,000 anglers who purchase a license in 2020, will not purchase one in 2021. While some of these license buyers are aging out of the population, others are choosing other forms of recreation instead of going fishing.

New adult anglers are not being recruited into the license buying population at rates high enough to offset this loss. While a portion of the lapsed anglers can be reactivated to purchase again, there has been a net loss of license buyers in three of the past five years. The agency has been engaged in strategies to address this loss, through its recruitment, retention, and reactivation (R3) efforts.

Education programs play a role in R3 by providing experiences that increase fishing knowledge and skills, facilitate social support, and provide information on fishing opportunities close to home. Supporting partners in their efforts to deliver such programming significantly increases the number of learning opportunities provided to current, past, and potential license buyers.

The proposed R3 Education Grant Program is a competitive grant program and will provide funding to support new and expand existing education programs directly related to the recruitment, retention, and reactivation of anglers and boaters. Organizations eligible for this funding include school districts, universities and colleges, community and civic groups, sportsmen’s and conservation organizations, and local recreation departments. Existing programs will be eligible for funding only if they can demonstrate how the additional funds will be used to expand the program.

The application period for the 2020-2021 fiscal year will begin immediately and be accepted until June 30, 2020. The Bureau of Outreach, Education, and Marketing will be responsible for the grant program, and make funding recommendations to the Executive Director. The timeline for grant rounds in subsequent fiscal years will be based on the experiences and results of the grants awarded in the 2020-2021 fiscal year.

Briefer:
Amber Nabors, Director, Bureau of Outreach, Education, and Marketing

Recommendation:
Staff recommend that the Commission approve the Education Grant Program and authorize the Executive Director to approve individual grants of $25,000 or less per grantee per year to support grassroots education projects. For grants in excess of $25,000, staff will seek separate Commission approval.

Action:
Other New Business

Time and Place of July 2020 Commission Meeting

Adjournment