Commonwealth of Pennsylvania
Pennsylvania Fish and Boat Commission
Harrisburg, Pennsylvania

AGENDA

139th Meeting

Volume 71

HARRISBURG, PENNSYLVANIA
October 19-20, 2020

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Commonwealth of Pennsylvania
Pennsylvania Fish and Boat Commission

Agenda

The 139th Meeting of the Pennsylvania Fish and Boat Commission will be held on Monday, October 19, 2020 and Tuesday, October 20, 2020, remotely, via web conference.

The public session for review of this agenda will begin on both October 19 and October 20, 2020 at approximately 9:30 a.m.

Call to Order

Pledge of Allegiance

Roll Call

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

Public Comment to Commissioners and Staff

Review and Approval of Minutes from the July 20, 2020 Meeting

Executive Director's Report

Announcement of Executive Sessions

FISHERIES
FINAL RULEMAKING

A. Amendment to 58 Pa. Code § 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 below this at 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 ASMFC 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. Pennsylvania 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 ASMFC's 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 Pennsylvania 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. 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:

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

A notice of proposed rulemaking was published at 50 Pa. B. 3895 (August 1, 2020) (Exhibit A). The Commission received a total of two public comments regarding the proposal: one supports the proposal and one comment does not pertain to the proposal. Copies of all public comments were provided to the Commissioners.

Briefer:

Kristopher M. Kuhn, Director, Bureau of Fisheries

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:

B. Amendment to 58 Pa. Code § 65.24 (Miscellaneous Special Regulations): add Lake Pleasant, Erie County.

Commentary:

Lake Pleasant, a 61-acre natural lake owned by the Commonwealth of Pennsylvania and managed by the Pennsylvania Fish and Boat Commission (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 fisheries that are sustained through natural reproduction. To provide a high-quality fishery for stocked trout, the lake receives annual plants of adult trout during the preseason, 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 unpowered 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") at Lake Pleasant, but would allow the use of "salted minnows" (i.e., dead, salt preserved 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 in Lake Pleasant 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 to 58 Pa. Code § 65.24 (Miscellaneous Special Regulations).

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

County	*Name of Water*	*Special Regulations*
***	***	***
Erie	**Lake Pleasant**	**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.**
***	***	***

A notice of proposed rulemaking was published at 50 Pa. B. 3896 (August 1, 2020) (Exhibit B). The Commission received a total of six public comments regarding the proposal: all support the proposal. Copies of all public comments were provided to the Commissioners.

Briefer:

Kristopher M. Kuhn, Director, Bureau of Fisheries

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 on January 1, 2021.

Action:

C. Amendment to 58 Pa. Code § 65.24 (Miscellaneous Special Regulations): add 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 (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 58 Pa. Code § 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 substantial increase in the electrofishing catch rates of larger (greater than or equal to 16 inches in length) 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. Staff will continue to evaluate the fishery at Penns Creek, Section 03, to ensure that biological and social objectives are being met to optimize this important trout fishery to the greatest extent possible. This will include continued monitoring of the trout population and an updated landowner survey in 2021 to further evaluate regulatory acceptance of current management or potential desire for modification moving forward.

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 to 58 Pa. Code § 65.24 (Miscellaneous Special Regulations).

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

County	*Name of Water*	*Special Regulations*
***	***	***
Centre and Mifflin	**Penns Creek, from the confluence of Elk Creek downstream 7 miles to 600 meters downstream of Swift Run**	**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.**
***	***	***

A notice of proposed rulemaking was published at 50 Pa. B. 3898 (August 1, 2020) (Exhibit C). The Commission received a total of 127 public comments regarding the

proposal: 86 support the proposal, 20 oppose the proposal, and 21 comments did not pertain to the proposal. Copies of all public comments were provided to the Commissioners.

Briefer:

Kristopher M. Kuhn, Director, Bureau of Fisheries

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 on January 1, 2021.

Action:

D. Amendment to 58 Pa. Code § 65.24 (Miscellaneous Special Regulations): add Bald Eagle Creek, Centre County.

Commentary:

Bald Eagle Creek is a 52.25-mile long stream that originates near the Borough of Port Matilda and flows northeast to its confluence with the West Branch Susquehanna River near the City of Lock Haven. The stream is currently managed as six stream sections for fisheries management purposes. Sections 02-04, which total 28.5 miles in length, are currently included in the Stocked Trout Waters program.

To provide new and diverse angling opportunities for stocked trout, staff identified a portion of Bald Eagle Creek, Section 03, to implement an experimental miscellaneous special regulation designed to enhance stocked trout management. This regulation will be identical to § 65.6 (relating to delayed harvest artificial lures only areas); however, all tackle types will be permitted. As such, the regulation allows for year-round angling with all tackle types and harvest of up to three trout per day at least nine inches in length from June 15 through Labor Day, with no harvest permitted the remainder of the year. The regulation is designed to provide for an extended period of catch-and-release angling with all tackle types for stocked trout; then, as stream conditions become less favorable for trout survival due to decreased flow and elevated water temperatures, harvest is permitted under a reduced creel limit. The objectives are to reduce fishing mortality during the catch-and-release period, maintain high trout population densities to provide for high angler catch rates, recycle stocked trout to optimize their recreational benefit, provide high-quality angling opportunity for stocked trout in the absence of tackle restrictions, and to evaluate the use of bait in a delayed harvest regulatory setting.

A 0.86-mile long section of stream located in the vicinity of Julian at the Soaring Eagle Wetland, which is owned and maintained by the Wildlife for Everyone Foundation (Foundation), provides the ideal location to implement an experimental regulation as the Foundation plans to construct an ADA-compliant boardwalk, fishing platform, and other amenities that will make this reach of stream accessible to all anglers. Additionally, the recent habitat improvement projects enhanced instream habitat to provide suitable conditions to retain stocked trout in this reach throughout the spring and early summer.

The experimental regulation section will also be included in the Keystone Select Stocked Trout Waters Program (Program). In 2016, the Pennsylvania Fish and Boat Commission (Commission) launched the Program with eight stream sections. Due to its extreme popularity among trout anglers, the Program was expanded to include 23 stream sections. Under the Program, large trout 14 to 20 inches in length are stocked at a rate up to 250 trout per mile, which is comparable to the abundance of similar-sized fish residing in this Commonwealth's best wild trout waters. By including this section of Bald Eagle Creek in the Program, it will allow staff to compare angler use, catch, and preferences to other waters in the Program that are managed with the traditional artificial lures only restrictions.

Staff propose the following amendment to 58 Pa. Code § 65.24 (Miscellaneous Special Regulations).

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

County	*Name of Water*	*Special Regulations*
***	***	***
Centre	**Bald Eagle Creek, from 0.38 miles upstream of Steel Hollow Run to 0.48 miles downstream of Steel Hollow Run**	**Open to fishing year-round. All tackle types are permitted. From June 15 through Labor Day – the daily creel limit for trout is 3 (combined species). Trout must be 9 inches in length to be killed or possessed.** **From the day after Labor Day through June 14, 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.**
***	***	***

A notice of proposed rulemaking was published at 50 Pa. B. 4648 (September 12, 2020) (Exhibit D). 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:

Kristopher M. Kuhn, Director, Bureau of Fisheries

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 on January 1, 2021.

Action:

FISHERIES
PROPOSED RULEMAKING

E. Amendment to 58 Pa. Code § 57.8a (Class A Wild Trout Streams).

Commentary:

Class A wild trout streams represent the best of the Commonwealth's wild trout resources and approximately 3% of all flowing waters in Pennsylvania qualify for this designation. As of July 11, 2020, there are 1,032 Class A stream sections that comprise 2,759 stream miles in Pennsylvania. Following designation by the Board of Commissioners, Class A wild trout streams enter a process whereby the Pennsylvania Department of Environmental Protection will ultimately designate these streams sections as High Quality Cold Water Fishes under 25 Pa. Code Chapter 93. This designation provides additional water quality protection under Pennsylvania environmental laws and regulations. As such, a Class A designation is an important mechanism to properly protect, conserve, and enhance wild trout populations and the quality of their habitats.

On September 30, 2014 (effective January 1, 2015), the Statement of Policy at Section 57.8a (Class A Wild Trout Streams) was amended to require the Executive Director to obtain approval from the Pennsylvania Fish and Boat Commission (Commission) prior to granting permission to stock a Class A wild trout stream section. Following the update to Section 57.8a, staff developed internal decision-making criteria to allow continued Commission stocking of a limited number of Class A wild trout stream sections. Under these criteria, stream sections that the Commission designates as Class A wild trout streams after December 31, 2014 may remain eligible for stocking with adult and fingerling trout by the Commission to provide additional angling opportunities, provided that the following criteria conditions are met.

1. The stream section was stocked with adult trout during the year immediately prior to its designation as a Class A wild trout stream.

2. Angler use (anglers/mile of stream) in the stream section equals or exceeds the statewide 50th percentile of angler use for the opening weekend of trout season as documented by Commission staff, or the stream section is a special regulation area under 58 Pa. Code Chapter 65 (relating to special fishing regulations) that was stocked by the Commission the year immediately prior to its designation as a Class A wild trout stream.

3. The trout species to be stocked are not the same species as the primary component of the wild trout population.

4. The stocking numbers and frequency will not exceed those of the year prior to the Class A designation.

5. A stream section managed for wild Brook Trout will not be considered for stocking.

6. Prior to implementing a decision to stock a Class A wild trout stream, the Executive Director will obtain the approval of the Commission.

Subsequently, 13 stream sections suspected to support strong Class A wild Brown Trout populations were officially designated as Class A wild trout streams during the 2015-2017 timeframe following updated wild trout surveys, and stocking was continued. Staff believe there are very few additional waters in Pennsylvania that would meet the current internal decision-making criteria used to consider continued stocking of Class A wild trout streams. The 13 Class A wild trout stream sections where stocking continued are heavily fished streams in high-density human population centers of a size and character that can support a fishery featuring both stocked and wild trout components. Common to these waters are robust wild Brown Trout populations, which continue to maintain strong Class A fisheries in the presence of stocking and high angler use. The management approach for these waters includes limiting species stocked to Rainbow Trout, which are easier to catch, rarely develop into a wild population in Pennsylvania, would not genetically impact the existing wild Brown Trout population, and could serve to satisfy anglers that prefer to fish for stocked trout during the early part of trout season.

Historically, there have been very few streams where stocking of trout following Class A designation was considered and warranted. Occasionally, there may be pre-existing youth fishing derbies or clubs and/or private landowners that are not aware a stream section was designated as Class A and unknowingly continue to stock illicitly. Additionally, it is often unknown to Commission staff where private stockings have occurred. This information may become apparent only when the next private stocking is planned, and the landowner discovers a Class A designation has occurred. Therefore, there may be rare cases where a stocking exemption should be considered.

As such, staff have developed additional internal decision-making criteria to account for these types of rare circumstances to consider internal and external requests for continued stocking of newly designated Class A wild trout streams. These criteria will provide staff direction to guide decisions when unusual situations arise but would not automatically result in continued stocking when criteria are met, as the vast majority of Class A stream sections are best managed solely for wild trout with no stocking. They will offer a mechanism for transparent, timely, and consistent consideration of requests to continue the stocking of newly designated Class A wild trout streams. These criteria will be detailed in the *Operational Guidelines for the Management of Trout Fisheries in Pennsylvania Waters, 5th edition* planned for release in December 2020 and available at www.fishandboat.com. Listed below are several scenarios that may be considered for an exemption.

1. Pre-existing youth fishing derbies and special use areas that were properly permitted by the Commission and have a history of more than one past occurrence.

2. Pre-existing private stockings on private property on recently designated (i.e., within one year of posting in the *Pennsylvania Bulletin*) Class A stream sections that have been closed to public angling at the time of Class A designation and at least since

2010. Historic stockings need to be verifiable by documentation, stocking records, and a history of more than one past occurrence.

3. Stream sections stocked by the Commission, a cooperative nursery, and/or a private group or individual the year prior to Class A designation and a history of more than one past occurrence, and meet the Commission's Class A stocking criteria developed for the 13 Class A streams sections stocked by the Commission. These criteria currently guide staff consideration when making recommendations regarding the continuance of stocking a Class A wild trout stream section and were specifically developed for high-use, urban, and suburban stream sections that support robust Class A wild Brown Trout populations. Stocked species are limited to Rainbow Trout and the number stocked will remain at or below the levels stocked at the time of Class A designation. Some stream sections may be better managed solely for wild trout in the future; therefore, trout stocking may not occur in perpetuity.

4. Previously received an exemption or a Special Activities Permit from the Commission between 2010 and the present to allow for continued stocking of a Class A wild trout stream section. If the exemption was time-limited and not renewed before expiration, it will be considered a new request and a determination will be made according to current exemption criteria.

Exemptions to the prohibition of stocking hatchery trout into Class A wild trout stream sections would be granted only under rare circumstances. Consideration would only be given to requests for continued stocking in stream sections within one year of the section being designated as Class A and posted in the *Pennsylvania Bulletin*; however, entities that previously received an exemption or a Special Activities Permit from the Commission between 2010 and the present to allow for continued stocking would be eligible for consideration. Should an exemption be granted, the agency would determine the species of trout, number of trout, and frequency of stocking consistent with stocking strategies and historical stocking rates of the stream section to minimize impacts to the Class A wild trout population. No exemptions will be granted for streams where a component of the wild trout fishery is comprised of wild Brook Trout.

Staff propose that 58 Pa. Code § 57.8a be amended as follows:

§ 57.8a. Class A wild trout streams.

* * * * *

It is the policy of the Commission 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 this Commonwealth's naturally reproducing trout fisheries. With rare exceptions, these stream sections are managed solely for the perpetuation of the wild trout fishery with no stocking. However, there may be circumstances that justify stocking a Class A wild trout stream. Prior to granting permission to stock a Class A wild trout stream under § 71.4 (relating to stocking of designated waters), the Executive Director will **consult internal decision-**

making criteria set forth in the *Operational Guidelines for the Management of Trout Fisheries in Pennsylvania Waters* to consider the need for continued stocking at newly designated Class A wild trout streams and obtain the approval of the Commission. **Consideration will only be given to requests for continued stocking in stream sections within one year of the section being designated as Class A and posted in the *Pennsylvania Bulletin*; however, entities that previously received an exemption or a Special Activities Permit for continued stocking from the Commission between 2010 and the effective date of this amendment will be eligible for consideration.**

Briefer:

Kristopher M. Kuhn, 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:

FISHERIES
DESIGNATIONS

F. 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 policy of the Pennsylvania Fish and Boat Commission (Commission) 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 this Commonwealth'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 Trout and Brown Trout, wild Rainbow Trout, mixed wild Brook Trout and Rainbow Trout, and mixed wild Brown Trout and Rainbow Trout populations.

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 E 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. 4214 (August 15, 2020) (Exhibit F). The Commission received a total of 102 public comments regarding the proposed designations: 86 support the proposed designations, one supports the designation of a specific water, three oppose the proposed designations, and 12 oppose the designation of a specific water. Copies of all public comments were provided to the Commissioners.

Briefer:

Kristopher M. Kuhn, Director, Bureau of Fisheries

Recommendation:

Staff recommend that the Commission add six 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:

G. Classification of wild trout streams: proposed additions.

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 Pennsylvania Fish and Boat Commission (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 16 new waters to the Commission's list of wild trout streams. These changes are the result of recent surveys conducted on these waters. Exhibit G 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. 4213 (August 15, 2020) (Exhibit H). The Commission received a total of 83 public comments regarding the proposed designations: 82 support the proposed designations and one comment did not pertain to the proposed designations. Copies of all public comments were provided to the Commissioners.

Briefer:

Kristopher M. Kuhn, Director, Bureau of Fisheries

Recommendation:

Staff recommend that the Commission add 16 new waters to the Commission's list of wild trout streams 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:

FISHERIES
DESIGNATIONS

H. Revision to the limits of two stream sections managed with Delayed Harvest Artificial Lures Only angling regulations (58 Pa. Code § 65.6).

Commentary:

Staff identified two stream sections currently managed with Delayed Harvest Artificial Lures Only (DHALO) regulations that warrant a revision to their section limits. Public and landowner feedback received during 2020 pertaining to these sections suggests that small reaches on each of the two streams would be better managed as a standard Stocked Trout Water. These reaches are popular with anglers seeking a traditional opening day experience with easy stream access and harvest opportunities during spring. As such, it is recommended that portions of these streams be removed from the DHALO program in favor of Commonwealth Inland Water angling regulations (58 Pa. Code § 61.1) to optimize stocked trout angling opportunities while meeting the desires of landowners and anglers that fish these waters.

During 2019, the DHALO areas on Kinzua Creek, McKean County, Section 04 and Middle Creek, Snyder County, Section 04 were extended to provide additional DHALO angling opportunities as part of the Keystone Select Stocked Trout Water program. Kinzua Creek, Section 04, was extended downstream to the Westline Road bridge for the 2020 season and currently extends 5.04 river miles (RM) from the Guffey Road Bridge (Rocky Road) downstream to Westline Road bridge. However, an increase in landowner posting at the downstream portion of the stream section resulted in limited angler access near the town of Westline and less than optimal angling opportunities. Upon further review of this stream section, staff recommend reducing the limits of Section 04 by 0.27 RM to the Allegheny National Forest boundary upstream from Westline Road bridge.

Middle Creek, Section 04, extends 2.6 RM from 0.3 RM upstream from Pine Swamp Road downstream to Covered Bridge Road. Section 04 was extended downstream for the 2020 trout season to include a long pool at the downstream extent. Public feedback received during 2020 suggested that this pool was previously popular with opening day and early season trout anglers interested in fishing with all tackle types and harvesting trout. Upon further review of this stream section, staff recommend reducing the limits of Section 04 by 0.6 RM to the upstream extent of this popular pool.

A notice of the proposed designation was published at 50 Pa. B. 4822 (September 19, 2020) (Exhibit I). 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 Pennsylvania Fish and Boat Commission (Commission) meeting. Copies of all public comments were provided to the Commissioners.

Briefer:

Kristopher M. Kuhn, Director, Bureau of Fisheries

Recommendation:

Staff recommend the Commission revise the limits of two stream sections managed with DHALO angling regulations (58 Pa. Code § 65.6). If approved, these stream sections will revert to Commonwealth Inland Waters angler regulations (58 Pa. Code § 61.1) on January 1, 2021. The stream sections and proposed limit revisions are detailed below:

(1) Kinzua Creek, Section 04, McKean County, Guffey Road Bridge (Rocky Road) downstream to Allegheny National Forest boundary near Westline; and
(2) Middle Creek, Section 04, Snyder County, 0.3 RM upstream from Pine Swamp Road downstream to 0.6 RM upstream from Covered Bridge Road.

Action:

EXECUTIVE AND ADMINISTRATIVE
PUBLIC ACCESS AND REAL ESTATE MATTERS

A. Property Disposition at Appletree Access for the State Route 92 Bridge Replacement Project over Lewis Creek, Exeter Township, Luzerne County.

Commentary:

The Pennsylvania Fish and Boat Commission (Commission) owns a +/-1.4-acre tract of land in Exeter Township, Luzerne County, known as the Appletree Access (Access). The Access is located along State Route 92 (SR 92) on the westerly bank of the North Branch of the Susquehanna River, roughly five miles north of West Pittston Borough, as depicted on Exhibit J. The Access contains a paved parking lot, a concrete ramp, and is heavily used during the fishing and boating seasons.

Lewis Creek crosses under SR 92 and flows through the middle of the Access to the North Branch of the Susquehanna River. The Pennsylvania Department of Transportation (PennDOT) wishes to acquire rights from the Commission to allow it to replace the SR 92 bridge over Lewis Creek (Project). This will require a temporary road to be constructed partially on the Access to address traffic during the Project.

PennDOT's Project will require the acquisition of +/- 0.01 acres of permanent right-of-way, +/-0.01 acres of permanent slope easement, and +/- 0.39 acres of temporary construction easement to facilitate the Project, as depicted on Exhibit K. The temporary construction easement will revert back to the Commission at the conclusion of construction.

PennDOT will be required to pay fair market value for the easement rights, will allow the Access to remain open during construction, will accommodate all Commission operational needs during construction, and will mitigate for any losses or impact caused by the Project. The Project area will be restored to a condition equal to or better than its current condition at the conclusion of the Project. The Project will not have any long-term impacts on the Access.

The disposition of the listed property rights will be subject to staff performing the necessary due diligence and addressing any issues that arise during that process.

Briefer:

Brian P. Barner, Deputy Director, Office of Administration

Recommendation:

Staff recommend the Commission authorize the disposition of the subject property rights to PennDOT as more particularly described in the commentary.

Action:

B. Easement Acquisitions, Childrens Lake, South Middleton Township, Cumberland County.

Commentary:

The Pennsylvania Fish and Boat Commission (Commission) owns a +/-7-acre tract of land in the Village of Boiling Springs, South Middleton Township, Cumberland County, which contains Childrens Lake, a +/-6-acre lake, as depicted on Exhibit L. Additionally, the Commission owns a +/-0.3-acre flowage easement. A flowage easement is the right to periodically flow water on, inundate, and flood an area without liability for damages resulting from such action.

Childrens Lake dam has been classified as a Hazard Category 3, Size Class C structure, by the Pennsylvania Department of Environmental Protection (DEP). The dam structure does not meet current DEP standards for spillway capacity and embankment stability.

Design for the rehabilitation of the dam is complete, and construction is expected to begin by Spring 2021. The anticipated dam rehabilitation project will repair and replace the dam's primary and auxiliary spillways and address structural and drainage issues. The project will also allow for placement of ADA-compliant sidewalks and railings, construction of streetscape features, sediment removal, and ecological assessments.

To bring the dam into compliance with current DEP dam safety standards, the dam rehabilitation project will include raising the dam +/-1.3 feet. This will increase the overall safety of the structure but may cause the reservoir depth to temporarily increase during large precipitation events. This will require the acquisition of additional flowage easements to address the temporarily inundated areas. Additionally, the rehabilitation of the dam structure will require the acquisition of a maintenance easement on a portion of the dam structure, and on the effluent stream's southerly retaining wall, which are not located on Commission property. The maintenance easement will give the Commission the right to access, construct, repair, operate, and maintain that portion of the dam and the effluent stream's retaining wall and area adjacent to it.

The individual easements are expected to have minimal value. The Commission will pay the estimated fair market value for the easements or accept donations of the required easements. The easement areas are estimated to be approximately 0.6 acres in total and will affect approximately five (5) properties, as depicted on Exhibit M. The exact acreage and number of affected properties will be determined by document research and property surveys. The value of the easements and all associated costs are estimated to be less than $100,000.

Staff will pursue the acquisition of the required easement areas in an amicable manner and will only utilize the Commonwealth's power of eminent domain as a last resort. Additionally, staff will adhere to the Commission's standard practices for acquiring property, including meeting due diligence and funding requirements.

Briefer:

Brian P. Barner, Deputy Director, Office of Administration

Recommendation:

Staff recommend that the Commission authorize the acquisition of the flowage and maintenance easements as described in the Commentary.

Action:

EXECUTIVE AND ADMINISTRATIVE
FINAL RULEMAKING

C. 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 Pennsylvania Department of Environmental Protection (DEP), is authorized to adjust the amount of royalty payments per ton or cubic yard of usable or merchantable, or both, sand or gravel, or both, extracted from Commonwealth waters.

There are four companies currently maintaining permits allowing them to dredge material from navigable waters of this Commonwealth. Historically, royalty rates were set in 1970 and involved establishing a flat $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. Then, in January 1, 2002 through 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. Communications between the Commission, DEP, and four representatives from the sand and gravel dredging industry lead to unanimous agreement to extend the previous fair and equitable process for setting royalty rates for the 10-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.

A notice of final rulemaking was published at 50 Pa. B. 3894 (August 1, 2020) (Exhibit N).

Briefer:

Brian P. Barner, Deputy Director, Office of Administration

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:

EXECUTIVE AND ADMINISTRATIVE
OTHER MATTERS

D. Dates for Commission Meetings in 2021.

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 2021. 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 2021:

January 25-26, 2021 (Monday and Tuesday);
April 12-13, 2021 (Monday and Tuesday);
July 26-27, 2021 (Monday and Tuesday); and
October 25-26, 2021 (Monday and Tuesday).

The January and July 2021 meetings will be held at the Harrisburg headquarters. The April and October 2021 meetings will be held at locations designated by the Commission for the transaction of business.

Briefer:

Timothy D. Schaeffer, Executive Director

Recommendation:

Staff recommend that the Commission approve the dates for the regular meetings of the Commission for 2021 as set forth in the Commentary.

Action:

Other New Business

Time and Place of January 2021 Commission Meeting

Adjournment

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PROPOSED RULEMAKING

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 61]

Fishing; Seasons, Sizes and Creel Limits

[50 Pa.B. 3895]
[Saturday, August 1, 2020]

The Fish and Boat Commission (Commission) proposes to amend Chapter 61 (relating to seasons, sizes and creel limits). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). The proposed amendments update the Commission's regulations concerning Striped Bass fishing in the Delaware River and Estuary.

A. *Effective Date*

This proposed rulemaking, if approved on final-form rulemaking, will go into effect upon publication in the *Pennsylvania Bulletin*.

B. *Contact Person*

For further information on this proposed rulemaking, contact Wayne Melnick, Esq., P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rule- making is available on the Commission's web site at www.fishandboat.com.

C. *Statutory Authority*

The proposed amendments to § 61.2 (relating to Delaware River, West Branch Delaware River and River Estuary) are published under the statutory authority of 2102(b) of the code (relating to rules and regulations).

D. *Purpose and Background*

The specific purpose and background of the proposed amendments is described in more detail under the summary of proposal.

E. *Summary of Proposal*

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

EXHIBIT A

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 § 61.2 are designed to meet this objective.

The ASMFC has directed that the reduction in harvest be implemented no later than April 1, 2020. To meet this deadline, the Commission's Executive Director, acting under the authority of § 65.25 (relating to temporary changes to fishing regulations), has taken immediate action to amend § 61.2. 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 § 61.2.

The Commission proposes that § 61.2 be amended to read as set forth in Annex A.

F. *Paperwork*

This proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

G. *Fiscal Impact*

This proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions.

H. *Public Comments*

Interested persons are invited to submit written comments, objections or suggestions about this proposed rulemaking to the Executive Director, Fish and Boat Commission, P.O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

TIMOTHY D. SCHAEFFER,
Executive Director

Fiscal Note: 48A-299. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 61. SEASONS, SIZES AND CREEL LIMITS

§ 61.2. Delaware River, West Branch Delaware Riv- er and River Estuary.

* * * * *

(c) It is unlawful to take, catch or kill more than 1 day's limit of any species of fish as specified in the following chart during 1 calendar day. It is unlawful to possess more than 1 day's limit of any species of fish as specified in the following chart except under the following circumstances:

* * * * *

(5) Fish may be given to another person, but the fish shall be counted in the donor's creel limit and neither the donor nor the recipient may kill or possess (while in the act of fishing) more than the limit allowed.

(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 River 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:

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

[Pa.B. Doc. No. 20-1032. Filed for public inspection July 31, 2020, 9:00 a.m.]

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PROPOSED RULEMAKING

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 65]

Fishing; Special Fishing Regulations

[50 Pa.B. 3896]
[Saturday, August 1, 2020]

The Fish and Boat Commission (Commission) proposes to amend Chapter 65 (relating to special fishing regulations). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). The proposed amendments update the Commission's regulations for use of bait while angling at or on Lake Pleasant.

A. *Effective Date*

This proposed rulemaking, if approved on final-form rulemaking, will go into effect on January 1, 2021.

B. *Contact Person*

For further information on this proposed rulemaking, contact Wayne Melnick, Esq., P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rule- making is available on the Commission's web site at www.fishandboat.com.

C. *Statutory Authority*

The proposed amendments to § 65.24 (relating to miscellaneous special regulations) are published under the statutory authority of section 2307(a) of the code (relating to waters limited to specific purposes).

D. *Purpose and Background*

The specific purpose and background of the proposed amendments is described in more detail under the summary of proposal.

E. *Summary of Proposal*

Lake Pleasant, a 61-acre natural lake owned by the Commonwealth and managed by the 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 preseason, 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

EXHIBIT B

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 of the Commonwealth's list of 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 (that is, "minnows") on Lake Pleasant; however, would allow for the use of "salted minnows" and terrestrial invertebrates as bait (that is, 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.

The Commission proposes that § 65.24 be amended to read as set forth in Annex A.

F. *Paperwork*

This proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

G. *Fiscal Impact*

This proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions.

H. *Public Comments*

Interested persons are invited to submit written comments, objections or suggestions about this proposed rulemaking to the Executive Director, Fish and Boat Commission, P.O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

TIMOTHY D. SCHAEFFER,
Executive Director

Fiscal Note: 48A-297. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 65. SPECIAL FISHING REGULATIONS

§ 65.24. Miscellaneous special regulations.

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

County	Name of Water	Special Regulations
		* * * * *
Dauphin, Juniata, Perry	Juniata River (31.7 miles) from SR0075 bridge at Port Royal downstream to the mouth, including all tributaries to a point 1/2 mile upstream from the confluence	Bass (Smallmouth and Largemouth)—No harvest year-round—catch and immediate release only. From 12:01 a.m. the first Saturday after April 11 to 12:01 a.m. the first Saturday after June 11—No Bass tournaments. Remainder of the year—Catch-measure-immediate release tournaments only. It is unlawful for an angler to repeatedly cast into a clearly visible bass spawning nest or bed in an effort to catch or take bass. A bass caught and immediately returned unharmed to the waters from which taken will not be considered a violation of this section.
Erie	Lake Pleasant	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.
Huntingdon	Raystown Lake (includes Raystown Branch from the Raystown Dam downstream to the confluence with the Juniata River).	Trout (all species)—no closed season. Daily limit: First Saturday after April 11 until Labor Day—5 trout per day; day after Labor Day to first Saturday after April 11 of the following year—3 trout per day. Size limits: Inland rules apply. Smelt may be taken from shore or by wading by means of dip nets not to exceed 20 inches in diameter or 20 inches square. The daily limit per person is the greater of 1 gallon of smelt by volume or 200 smelt by number.
		* * * * *

[Pa.B. Doc. No. 20-1033. Filed for public inspection July 31, 2020, 9:00 a.m.]

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PROPOSED RULEMAKING

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 65]

Special Fishing Regulations

[50 Pa.B. 3898]
[Saturday, August 1, 2020]

The Fish and Boat Commission (Commission) proposes to amend Chapter 65 (relating to special fishing regulations). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). The proposed amendments update the Commission's regulations for angling on Penns Creek.

A. *Effective Date*

This proposed rulemaking, if approved on final-form rulemaking, will go into effect on January 1, 2021.

B. *Contact Person*

For further information on this proposed rulemaking, contact Wayne Melnick, Esq., P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rule- making is available on the Commission's web site at www.fishandboat.com.

C. *Statutory Authority*

The proposed amendments to § 65.24 (relating to miscellaneous special regulations) are published under the statutory authority of section 2307(a) of the code (relating to waters limited to specific purposes).

D. *Purpose and Background*

The specific purpose and background of the proposed amendments is described in more detail under the summary of proposal.

E. *Summary of Proposal*

Penns Creek is a large, limestone-influenced stream that supports one of the most popular and renowned wild Brown Trout fisheries in this Commonwealth 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 miles from the confluence with Elk Creek in Coburn, PA 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 Commission as a Class A wild trout stream and the stocking of hatchery trout was discontinued in favor of wild trout management.

EXHIBIT C

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 (relating to all-tackle trophy trout)) 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, Commission staff conducted a review of the management of Penns Creek, Section 03. Staff solicited feedback regarding a potential regulation change from landowners and anglers by means of 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, to 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 7-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 7 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 recommended 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 7 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.

The Commission proposes that § 65.24 be amended to read as set forth in Annex A.

F. *Paperwork*

This proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

G. *Fiscal Impact*

This proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions.

H. *Public Comments*

Interested persons are invited to submit written comments, objections or suggestions about this proposed rulemaking to the Executive Director, Fish and Boat Commission, P.O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

TIMOTHY D. SCHAEFFER,
Executive Director

Fiscal Note: 48A-300. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 65. SPECIAL FISHING REGULATIONS

§ 65.24. Miscellaneous special regulations.

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

County	Name of Water	Special Regulations
		* * * * *
Centre and Mifflin	Penns Creek, from the confluence of Elk Creek downstream 7 miles to 600 meters downstream of Swift Run	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 **[December 31, 2020]** **further notice**.
		* * * * *

[Pa.B. Doc. No. 20-1034. Filed for public inspection July 31, 2020, 9:00 a.m.]

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PROPOSED RULEMAKING

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 65]

Fishing; Special Fishing Regulations

[50 Pa.B. 4648]
[Saturday, September 12, 2020]

The Fish and Boat Commission (Commission) proposes to amend Chapter 65 (relating to special fishing regulations). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). The proposed amendment adds Bald Eagle Creek to the Commission's list of waters under miscellaneous special regulations.

A. *Effective Date*

This proposed rulemaking, if approved on final-form rulemaking, will go into effect on January 1, 2021.

B. *Contact Person*

For further information on this proposed rulemaking, contact Wayne Melnick, Esq., P.O. Box 67000, Harris- burg, PA 17106-7000, (717) 705-7810. This proposed rule- making is available on the Commission's web site at www.fishandboat.com.

C. *Statutory Authority*

The proposed amendment to § 65.24 (relating to miscellaneous special regulations) is published under the statutory authority of section 2307(a) of the code (relating to waters limited to specific purposes).

D. *Purpose and Background*

The specific purpose and background of the proposed amendment is described in more detail under the summary of proposal.

E. *Summary of Proposal*

Bald Eagle Creek is a 52.25-mile long stream that originates near the Borough of Port Matilda and flows northeast to its confluence with the West Branch Susquehanna River near the City of Lock Haven. The stream is currently managed as six stream sections for fisheries management purposes. Sections 02, 03 and 04, which total 28.5 miles in length, are currently included in the Stocked Trout Waters Program.

To provide new and diverse angling opportunities for stocked trout, staff identified a portion of Bald Eagle Creek, Section 03, to implement an experimental miscellaneous special regulation designed to enhance stocked trout management. This regulation will be identical to § 65.6 (relating to delayed harvest artificial lures only areas); however, all tackle types will be permitted. As such,

EXHIBIT D

the regulation allows for year-round angling with all tackle types and harvest of up to three trout per day at least 9 inches in length from June 15 through Labor Day, with no harvest permitted the remainder of the year. The regulation is designed to provide an extended period of catch and release angling with all tackle types for stocked trout; then, as stream conditions become less favorable for trout survival due to decreased flow and elevated water temperatures, harvest is permitted under a reduced creel limit. The objectives are to reduce fishing mortality during the catch and release period, maintain high trout population densities to provide for high angler catch rates, recycle stocked trout to optimize their recreational benefit, provide high-quality angling opportunity for stocked trout in the absence of tackle restrictions, and evaluate the use of bait in a delayed harvest regulatory setting.

An 0.86-mile long section of stream located in the vicinity of Julian at the Soaring Eagle Wetland, which is owned and maintained by the Wildlife for Everyone Foundation (Foundation), provides the ideal location to implement an experimental regulation as the Foundation plans to construct an ADA-compliant boardwalk, fishing platform and other amenities that make this reach of stream accessible to all anglers. Additionally, the recent habitat improvement projects enhanced instream habitat to provide suitable conditions to retain stocked trout in this reach throughout the spring and early summer.

The experimental regulation section will also be included in the Keystone Select Stocked Trout Waters Program (Program). In 2016, the Commission launched the Program with eight stream sections. Due to its extreme popularity among trout anglers, the Program was expanded to include 23 stream sections. Under the Program, large trout, 14 to 20 inches in length, are stocked at a rate up to 250 trout per mile which is comparable to the abundance of similar-sized fish residing in this Commonwealth's best wild trout waters. By including this section of Bald Eagle Creek in the Program, it will allow staff to compare angler use, catch and preferences to other waters in the Program that are managed with the traditional artificial lures only restrictions.

The Commission proposes that § 65.24 be amended to read as set forth in Annex A.

F. *Paperwork*

This proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

G. *Fiscal Impact*

This proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions.

H. *Public Comments*

Interested persons are invited to submit written comments, objections or suggestions about this proposed rulemaking to the Executive Director, Fish and Boat Commission, P.O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

TIMOTHY D. SCHAEFFER,
Executive Director

Fiscal Note: 48A-303. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 65. SPECIAL FISHING REGULATIONS

§ 65.24. Miscellaneous special regulations.

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

County	Name of Water	Special Regulations
*	*	* * *
Butler	Glade Run Lake	All species except trout—Catch and release/no harvest; it is unlawful to take, kill or possess any fist except trout. All fish caught other than trout shall be immediately returned unharmed. Trout—Inland regulations apply. See § 61.1.
Centre	**Bald Eagle Creek, from 0.38 mile upstream of Steel Hollow Run to 0.48 mile downstream of Steel Hollow Run**	**Open to fishing year-round. All tackle types are permitted. From June 15 through Labor Day—the daily creel limit for trout is three (combined species). Trout must be 9 inches in length to be killed or possessed. From the day after Labor Day through June 14, 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.**
Centre	Foster Joseph Sayers Lake	Crappie—10 fish daily creel limit of which no more than 5 fish may be greater than or equal to 9 inches in length.
*	*	* * *

[Pa.B. Doc. No. 20-1238. Filed for public inspection September 11, 2020, 9:00 a.m.]

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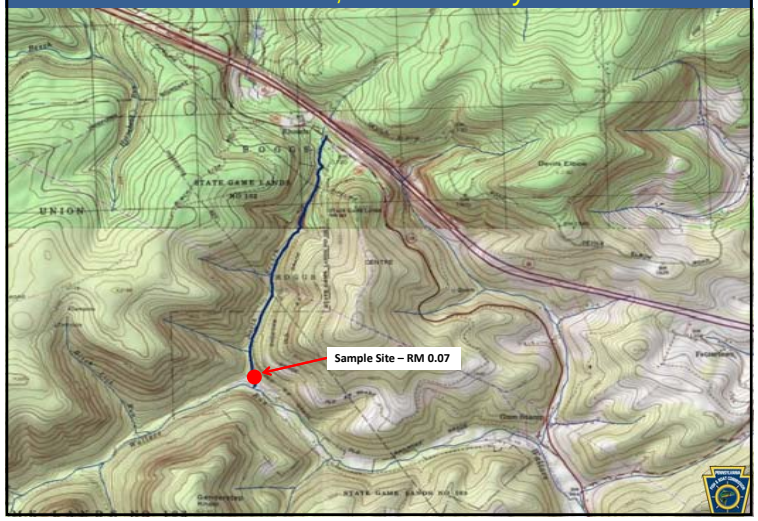
Class A Additions

- Slides 2-14

1

North Branch Wallace Run, Centre County



2

North Branch Wallace Run, Centre County

Brook Trout RM – 0.07
Site Length – 415 meters

Length Group (inches)	Catch	Estimated Kg/Ha	Estimated Number/Ha
2	142	5.32	2,165
3	88	7.99	1,341
4	1	0.21	15
5	9	3.35	137
6	7	4.39	107
7	2	1.95	30
8	3	4.23	46
9	1	2.00	15
Total	253	29.44	3,856

Brown Trout RM – 0.07
Site Length – 415 meters

Length Group (inches)	Catch	Estimated Kg/Ha	Estimated Number/Ha
1	3	0.05	46
2	123	4.76	1,875
3	33	3.21	503
4	1	0.22	15
5	5	2.00	76
6	2	1.34	30
7	3	3.07	46
8	1	1.48	15
9	1	2.06	15
10	1	2.78	15
12	1	4.63	15
Total	174	25.60	2,651

3

Medix Run, Clearfield County

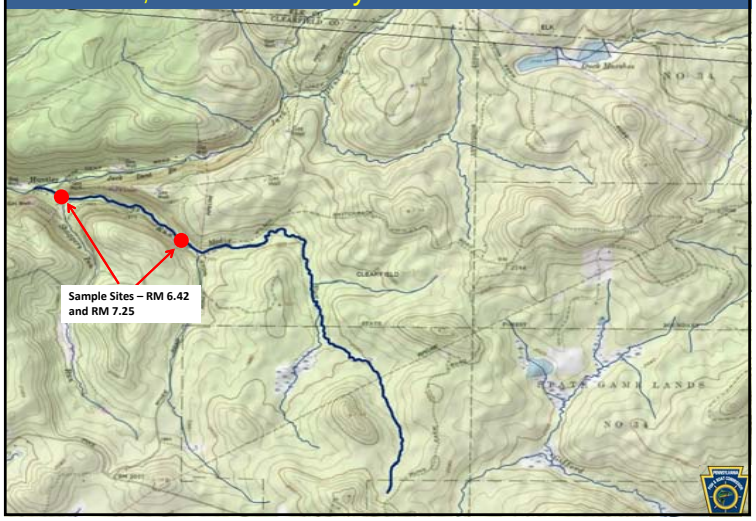


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EXHIBIT E

Medix Run, Clearfield County

Brook Trout RM – 6.42
Site Length – 320 meters

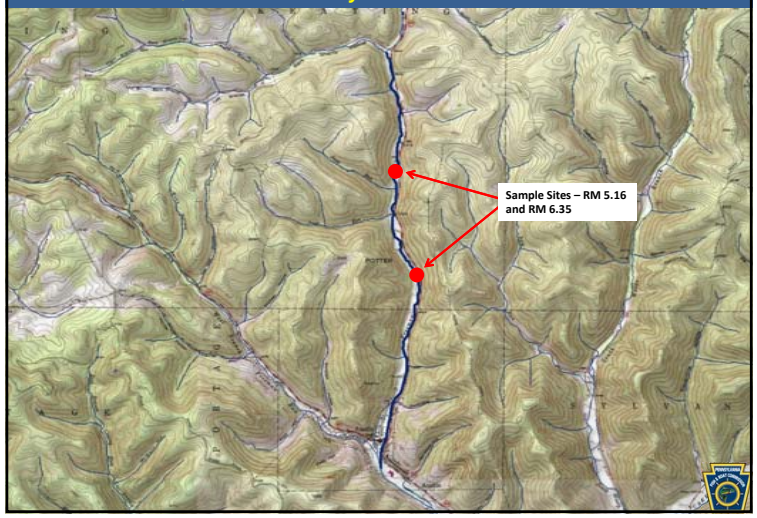
Length Group (inches)	Catch	Estimated Kg/Ha	Estimated Number/Ha
2	28	1.19	484
3	36	3.71	622
4	44	10.41	760
5	19	8.02	328
6	7	4.97	121
7	4	4.41	69
8	1	1.60	17
Total	139	34.31	2,401

Brook Trout RM – 7.25
Site Length – 280 meters

Length Group (inches)	Catch	Estimated Kg/Ha	Estimated Number/Ha
2	9	0.50	202
3	52	6.96	1,169
4	14	4.31	315
5	15	8.24	337
6	5	4.62	112
7	1	1.44	22
8	1	2.08	22
10	1	4.08	22
Total	98	32.23	2,201

5

Freeman Run, Potter County



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Freeman Run, Potter County

Brown Trout RM – 5.16
Site Length – 320 meters

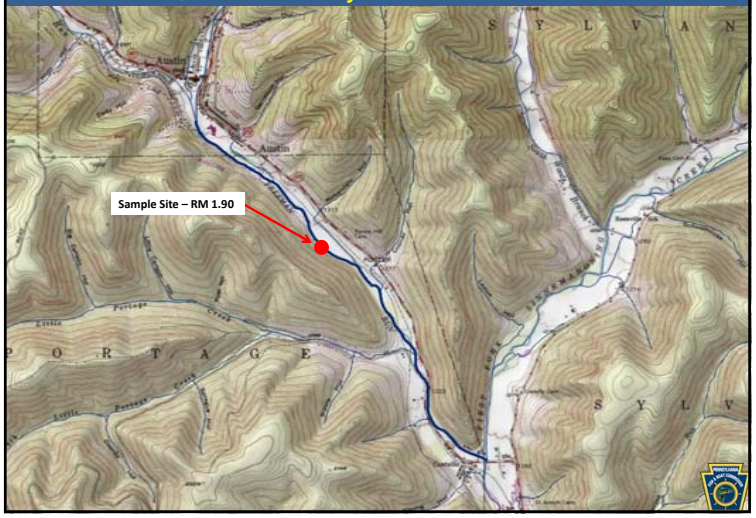
Length Group (inches)	Catch	Estimated Kg/Ha	Estimated Number/Ha
3	54	6.42	1,006
4	2	0.23	16
5	3	0.64	24
6	24	10.68	244
7	23	14.18	211
8	8	7.09	73
9	2	2.19	16
10	3	4.44	24
11	2	3.85	16
12	1	2.46	8
13	1	3.10	8
Total	123	55.28	1,646

Brown Trout RM – 6.35
Site Length – 400 meters

Length Group (inches)	Catch	Estimated Kg/Ha	Estimated Number/Ha
2	9	0.13	50
3	57	5.95	933
4	8	0.63	44
5	23	4.06	155
6	22	6.29	143
7	18	7.04	105
8	9	5.36	55
9	9	6.71	50
10	2	2.01	11
12	1	1.68	6
13	3	8.44	22
14	2	5.22	11
15	1	3.19	6
Total	164	56.71	1,591

7

Freeman Run, Potter County



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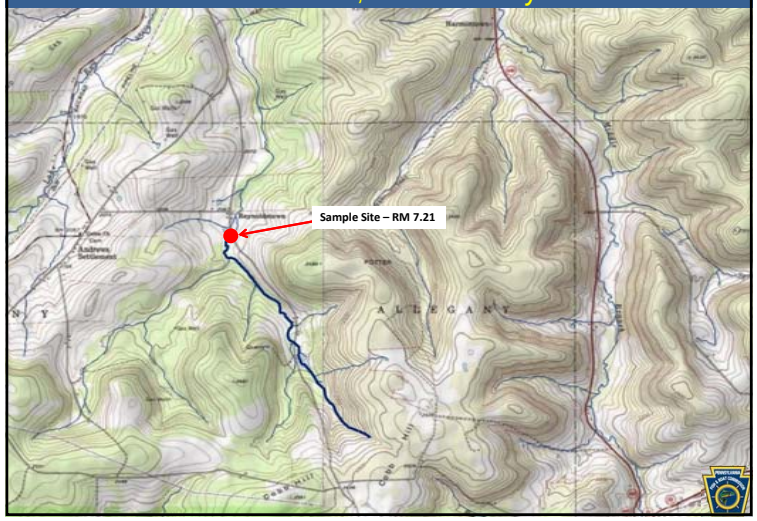
Freeman Run, Potter County

Brown Trout RM – 1.90
Site Length – 510 meters

Length Group (inches)	Catch	Estimated Kg/Ha	Estimated Number/Ha
2	4	0.03	12
3	43	2.38	374
4	1	0.04	3
5	4	0.33	12
6	13	2.05	47
7	24	6.49	97
8	13	4.84	50
9	4	2.11	16
10	15	12.50	69
11	9	8.13	34
12	3	2.84	9
13	4	5.96	16
14	3	4.42	9
15	2	3.60	6
16	2	4.34	6
18	2	6.53	6
Total	146	66.59	766

9

West Branch Genesee River, Potter County



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West Branch Genesee River, Potter County

Brook Trout RM – 7.21
Site Length – 130 meters

Length Group (inches)	Catch	Estimated Kg/Ha	Estimated Number/Ha
2	3	0.26	106
3	19	4.02	674
4	2	0.97	71
5	5	4.33	177
6	3	4.37	106
7	2	4.53	71
8	2	6.56	71
10	1	6.43	35
Total	37	31.47	1,311

Brown Trout RM – 7.21
Site Length – 130 meters

Length Group (inches)	Catch	Estimated Kg/Ha	Estimated Number/Ha
2	2	0.18	71
3	21	4.75	745
4	2	1.02	71
6	4	6.22	142
11	2	16.81	71
Total	31	28.98	1,100

11

Asaph Run, Tioga County

12

Asaph Run, Tioga County

Brook Trout RM – 1.69
Site Length – 300 meters

Length Group (inches)	Catch	Estimated Kg/Ha	Estimated Number/Ha
2	19	0.78	317
3	32	3.77	633
4	5	0.72	53
5	15	4.30	176
6	8	2.89	70
7	4	2.25	35
8	1	0.81	9
9	1	1.16	9
Total	85	16.68	1,302

Brown Trout RM – 1.69
Site Length – 300 meters

Length Group (inches)	Catch	Estimated Kg/Ha	Estimated Number/Ha
1	1	0.01	9
2	8	0.18	70
3	20	1.46	229
4	20	3.41	237
5	23	10.86	413
6	8	3.86	88
7	13	10.05	150
8	8	6.83	70
9	9	14.26	106
10	2	3.21	18
11	2	4.17	18
12	2	5.34	18
14	1	4.16	9
Total	117	67.80	1,435

13

Asaph Run, Tioga County

Brook Trout RM – 2.43
Site Length – 235 meters

Length Group (inches)	Catch	Estimated Kg/Ha	Estimated Number/Ha
2	8	0.26	104
3	24	2.78	467
4	7	1.60	117
5	17	7.61	311
6	3	1.60	39
7	3	2.49	39
8	1	1.20	13
Total	63	17.54	1,090

Brown Trout RM – 2.43
Site Length – 235 meters

Length Group (inches)	Catch	Estimated Kg/Ha	Estimated Number/Ha
2	3	0.10	39
3	3	0.25	39
4	22	5.39	376
5	18	7.15	272
6	15	10.24	233
7	9	9.59	143
8	7	10.07	104
9	7	14.02	104
10	2	4.73	26
Total	86	61.54	1,336

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NOTICES

FISH AND BOAT COMMISSION

Proposed Changes to List of Class A Wild Trout Waters; October 2020

[50 Pa.B. 4214]
[Saturday, August 15, 2020]

The Fish and Boat Commission (Commission) is considering changes to its list of Class A Wild Trout Streams. Under 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 this Commonwealth's naturally reproducing trout fisheries. With rare exceptions, the Commission manages these stream sections solely for the perpetuation of the wild trout fishery with no stocking.

Criteria developed for Class A Wild Trout fisheries are species specific. Wild Trout Biomass Class Criteria include provisions for:

(i) *Wild Brook Trout Fisheries*

(A) Total brook trout biomass of at least 30 kg/ha (26.7 lbs/acre).

(B) Total biomass of brook trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(C) Brook trout biomass must comprise at least 75% of the total trout biomass.

(ii) *Wild Brown Trout Fisheries*

(A) Total brown trout biomass of at least 40 kg/ha (35.6 lbs/acre).

(B) Total biomass of brown trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(C) Brown trout biomass must comprise at least 75% of the total trout biomass.

(iii) *Mixed Wild Brook and Brown Trout Fisheries*

(A) Combined brook and brown trout biomass of at least 40 kg/ha (35.6 lbs/acre).

(B) Total biomass of brook trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(C) Total biomass of brown trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(D) Brook trout biomass must comprise less than 75% of the total trout biomass.

(E) Brown trout biomass must comprise less than 75% of the total trout biomass.

(iv) *Wild Rainbow Trout Fisheries*

EXHIBIT F

Total biomass of rainbow trout less than 15 cm (5.9 inches) in total length of at least 2.0 kg/ha (1.78 lbs/acre).

(v) *Mixed Wild Brook and Rainbow Trout Fisheries*

(A) Combined brook and rainbow trout biomass of at least 40 kg/ha (35.6 lbs/acre).

(B) Total biomass of brook trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(C) Total biomass of rainbow trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(D) Brook trout biomass shall comprise less than 75% of the total trout biomass.

(E) Rainbow trout biomass shall comprise less than 75% of the total trout biomass.

(vi) *Mixed Wild Brown and Rainbow Trout Fisheries*

(A) Combined brown and rainbow trout biomass of at least 40 kg/ha (35.6 lbs/acre).

(B) Total biomass of brown trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(C) Total biomass of rainbow trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(D) Brown trout biomass shall comprise less than 75% of the total trout biomass.

(E) Rainbow trout biomass shall comprise less than 75% of the total trout biomass.

During recent surveys, Commission staff documented the following stream sections to have Class A wild trout populations. The Commission intends to consider adding these waters to its list of Class A Wild Trout Streams at its meeting on October 19 and 20, 2020.

County	Stream	Section	Limits	Tributary to	Mouth Lat/Lon	Brook Trout (kg/ha)	Brown Trout (kg/ha)	Rainbow Trout (kg/ha)	Length (miles)	Survey Year
Centre	North Branch Wallace Run	1	Headwaters to Mouth	Wallace Run	40.984489 77.882896	29.44	25.60	—-	1.95	2019
Clearfield	Medix Run	1	Headwaters to Jack Dent Branch	Bennett Branch Sinnemahoning Creek	41.284722 78.398056	33.25	—-	—-	3.60	2019
Potter	Freeman Run	3	Bark Shanty Hollow to West Branch Freeman Run	First Fork Sinnemahoning Creek	41.593889 78.057778	—-	55.99	—-	4.50	2018
Potter	Freeman Run	4	West Branch Freeman	First Fork Sinnemahoning Creek	41.593889 78.057778	—-	66.59	—-	2.90	2018

			Run to Mouth							
Potter	West Branch Genesee River	1	Headwaters to T-410	Genesee River	41.992222 77.869167	31.47	28.98	—-	0.80	2019
Tioga	Asaph Run	1	Confluence Left and Right Asaph runs to Mouth	Marsh Creek	41.770000 77.403610	17.11	64.66	—-	2.98	2019

Persons with comments, objections or suggestions concerning the additions are invited to submit comments in writing to the Executive Director, Fish and Boat Commission, P.O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

TIMOTHY D. SCHAEFFER,
Executive Director

[Pa.B. Doc. No. 20-1123. Filed for public inspection August 14, 2020, 9:00 a.m.]

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Bottom

Wild Trout Additions

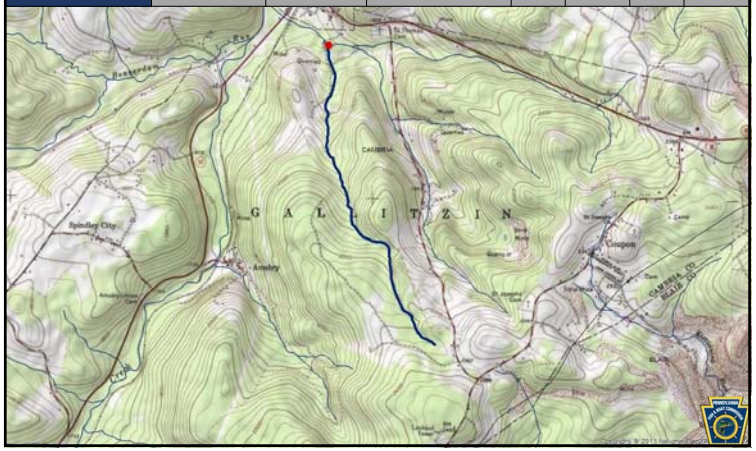
- Slides 2-17

1

County of Mouth	Stream Name	Tributary To	Wild Trout Limits	Site River-mile	Species	Catch	Length (inches)
Berks	UNT to Furnace Creek (RM 2.08)	Furnace Creek	Headwaters to Mouth	0.45	Brook	40	2-7

2

County of Mouth	Stream Name	Tributary To	Wild Trout Limits	Site River-mile	Species	Catch	Length (inches)
Cambria	UNT (RM 0.50) to UNT to Clearfield Creek (RM 62.76)	UNT to Clearfield Creek (RM 62.76)	Headwaters to Mouth	0.00	Brook	5	2-4
					Brown	18	2-5



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County of Mouth	Stream Name	Tributary To	Wild Trout Limits	Site River-mile	Species	Catch	Length (inches)
Cambria	UNT to Swartz Run (RM 1.08)	Swartz Run	Headwaters to Mouth	0.00	Brown	8	2-6

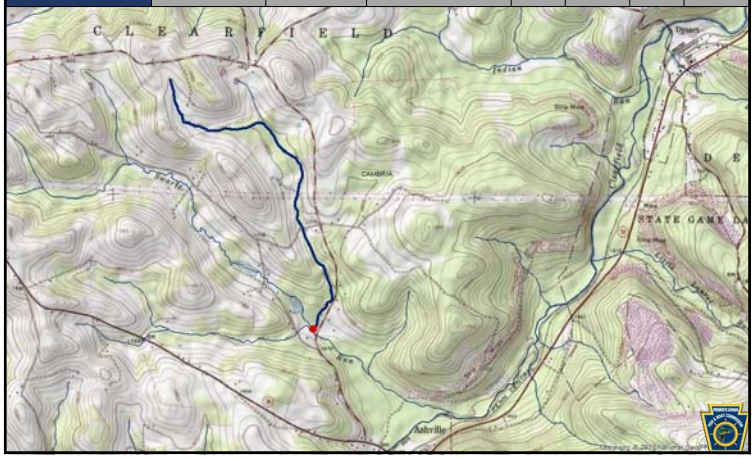

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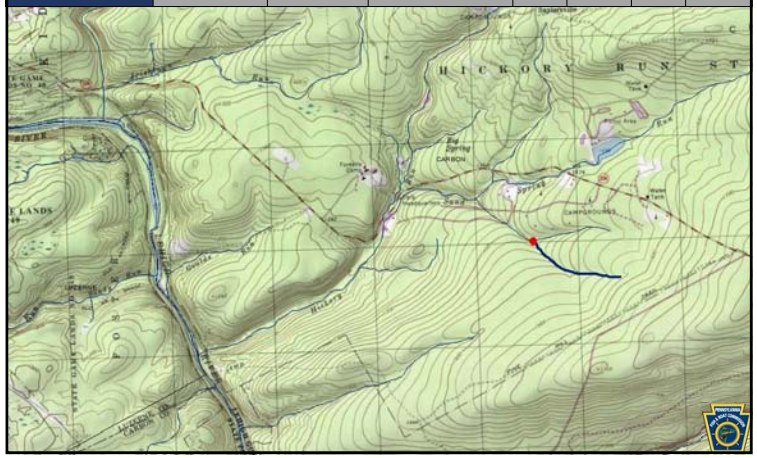
EXHIBIT G

County of Mouth	Stream Name	Tributary To	Wild Trout Limits	Site River-mile	Species	Catch	Length (inches)
Carbon	UNT (RM 0.45) to UNT to Sand Spring Run (RM 0.67)	UNT to Sand Spring Run (RM 0.67)	Headwaters to Mouth	0.00	Brook	8	1-7



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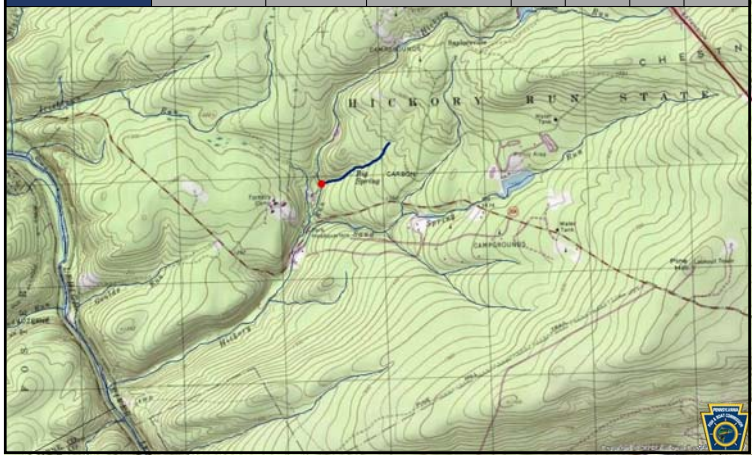
County of Mouth	Stream Name	Tributary To	Wild Trout Limits	Site River-mile	Species	Catch	Length (inches)
Carbon	UNT to Hickory Run (RM 1.98)	Hickory Run	Headwaters to Mouth	0.00	Brook	15	1-5



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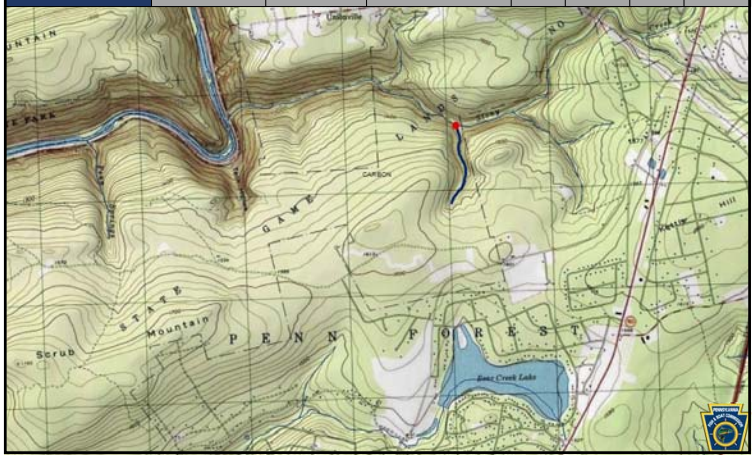
County of Mouth	Stream Name	Tributary To	Wild Trout Limits	Site River-mile	Species	Catch	Length (inches)
Carbon	UNT to Hickory Run (RM 1.17)	Hickory Run	Headwaters to Mouth	0.00	Brook	3	2-6

6

County of Mouth	Stream Name	Tributary To	Wild Trout Limits	Site River-mile	Species	Catch	Length (inches)
Carbon	UNT to Stony Creek (RM 1.56)	Stony Creek	Headwaters to Mouth	0.00	Brook	6	4-7



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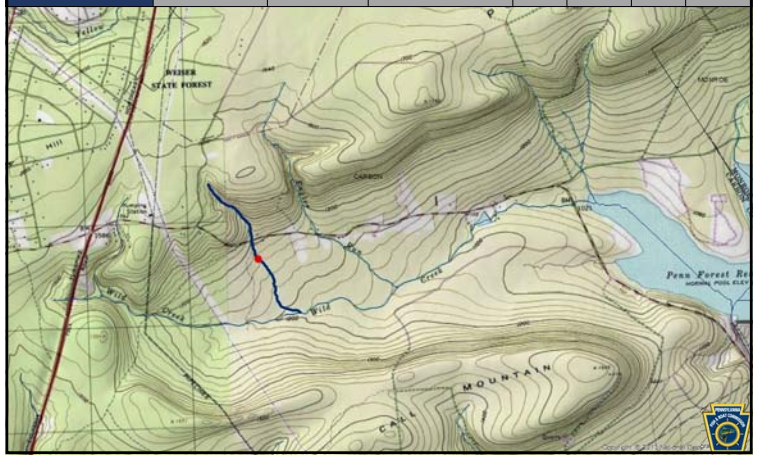
County of Mouth	Stream Name	Tributary To	Wild Trout Limits	Site River-mile	Species	Catch	Length (inches)
Carbon	UNT to Stony Creek (RM 1.93)	Stony Creek	Headwaters to Mouth	0.00	Brook	19	1-8

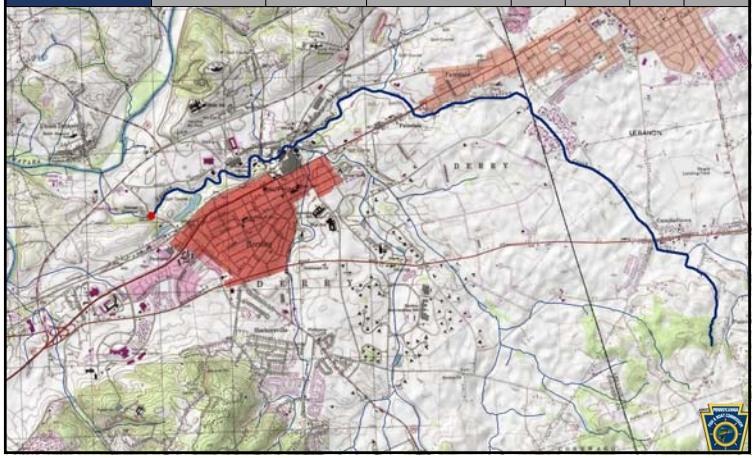
9

County of Mouth	Stream Name	Tributary To	Wild Trout Limits	Site River-mile	Species	Catch	Length (inches)
Carbon	UNT to Wild Creek (RM 8.21)	Wild Creek	Headwaters to Mouth	0.47	Brook	34	1-7



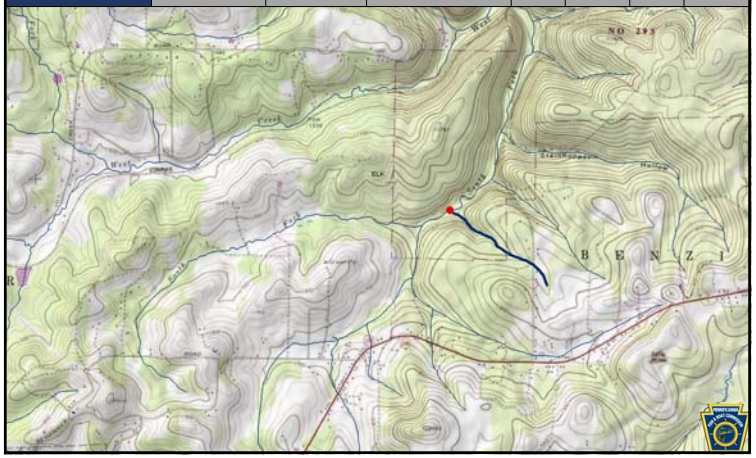
10

County of Mouth	Stream Name	Tributary To	Wild Trout Limits	Site River-mile	Species	Catch	Length (inches)
Dauphin	Spring Creek	Swatara Creek	Headwaters to Hockersville Road Bridge	0.74	Brown	16	2-16



11

County of Mouth	Stream Name	Tributary To	Wild Trout Limits	Site River-mile	Species	Catch	Length (inches)
Elk	UNT to South Fork West Creek (RM 1.73)	South Fork West Creek	Headwaters to Mouth	0.00	Brook	24	2-8

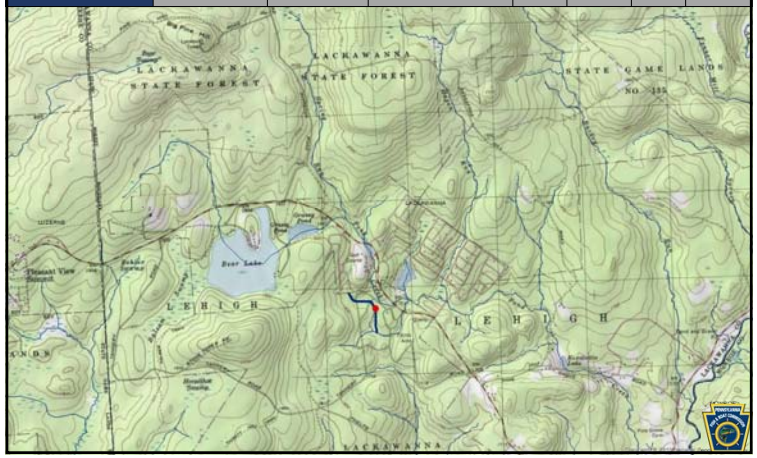


12

County of Mouth	Stream Name	Tributary To	Wild Trout Limits	Site River-mile	Species	Catch	Length (inches)
Lackawanna	UNT (RM 0.06) to UNT to Sand Spring Creek (RM 1.54)	UNT to Sand Spring Creek (RM 1.54)	Headwaters to Mouth	0.03	Brook	43	1-5

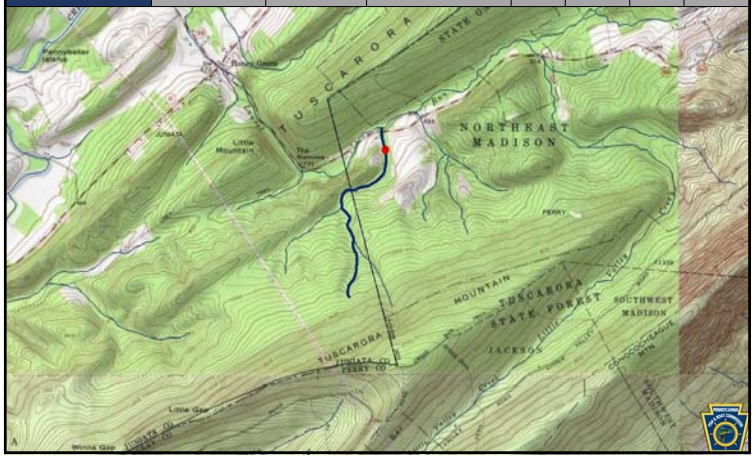
13

County of Mouth	Stream Name	Tributary To	Wild Trout Limits	Site River-mile	Species	Catch	Length (inches)
Lackawanna	UNT (RM 0.43) to UNT to Pond Creek (RM 3.24)	UNT to Pond Creek (RM 3.24)	Headwaters to Mouth	0.18	Brook	9	2-6



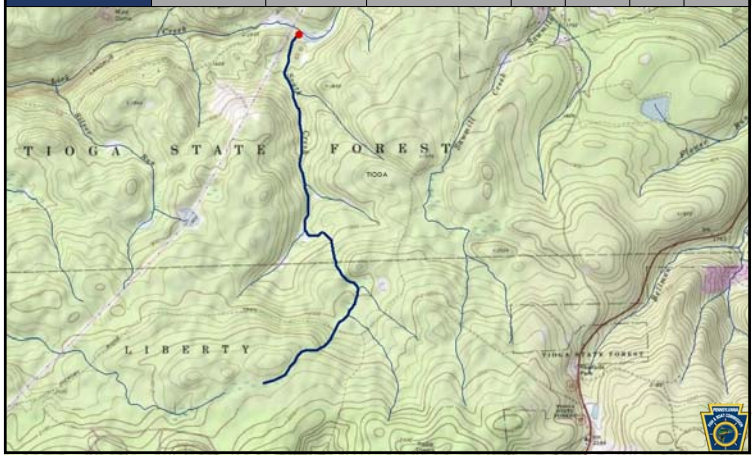
14

County of Mouth	Stream Name	Tributary To	Wild Trout Limits	Site River-mile	Species	Catch	Length (inches)
Perry	UNT to Laurel Run (RM 2.93)	Laurel Run	Headwaters to Mouth	0.13	Brook	10	1-7



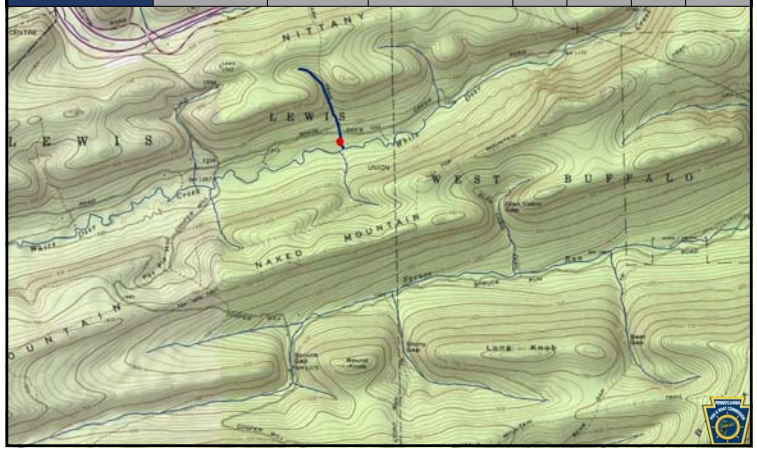
15

County of Mouth	Stream Name	Tributary To	Wild Trout Limits	Site River-mile	Species	Catch	Length (inches)
Tioga	South Creek	Lick Creek	Headwaters to Mouth	0.03	Brook	8	2-4



16

County of Mouth	Stream Name	Tributary To	Wild Trout Limits	Site River-mile	Species	Catch	Length (inches)
Union	UNT to White Deer Creek (RM 16.25)	White Deer Creek	Headwaters to Mouth	0.05	Brook	4	2-3
					Brown	3	2-3



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NOTICES

FISH AND BOAT COMMISSION

Classification of Wild Trout Streams; Proposed Additions; October 2020

[50 Pa.B. 4213]
[Saturday, August 15, 2020]

Under 58 Pa. Code § 57.11 (relating to listing of wild trout streams), it is the policy of the Fish and Boat Commission (Commission) to accurately identify and classify stream sections supporting naturally reproducing populations of trout as wild trout streams. The Commission's Fisheries Management Division maintains the list of wild trout streams. The Executive Director, with the approval of the Commission, will from time-to-time publish the list of wild trout streams in the *Pennsylvania Bulletin*. The listing of a stream section as a wild trout stream is a biological designation that does not determine how it is managed. The Commission relies upon many factors in determining the appropriate management of streams.

At the next Commission meeting on October 19 and 20, 2020, the Commission will consider changes to its list of wild trout streams. Specifically, the Commission will consider the addition of the following streams or portions of streams to the list:

County of Mouth	Stream Name	Section Limits	Tributary to	Mouth Lat/Lon
Berks	UNT to Furnace Creek (RM 2.08)	Headwaters to Mouth	Furnace Creek	40.340643 76.143710
Cambria	UNT (RM 0.50) to UNT to Clearfield Creek (RM 62.76)	Headwaters to Mouth	UNT to Clearfield Creek (RM 62.76)	40.555072 78.546551
Cambria	UNT to Swartz Run (RM 1.08)	Headwaters to Mouth	Swartz Run	40.571679 78.559842
Carbon	UNT (RM 0.45) to UNT to Sand Spring Run (RM 0.67)	Headwaters to Mouth	UNT to Sand Spring Run (RM 0.67)	41.020166 75.694597
Carbon	UNT to Hickory Run (RM 1.17)	Headwaters to Mouth	Hickory Run	41.018241 75.714908
Carbon	UNT to Hickory Run (RM 1.98)	Headwaters to Mouth	Hickory Run	41.028245 75.708454
Carbon	UNT to Stony Creek (RM 1.56)	Headwaters to Mouth	Stony Creek	40.953878 75.675739
Carbon	UNT to Stony Creek (RM 1.93)	Headwaters to Mouth	Stony Creek	40.954960 75.669199
Carbon	UNT to Wild Creek (RM 8.21)	Headwaters to Mouth	Wild Creek	40.931291 75.616265
Dauphin	Spring Creek	Headwaters to Hockersville Road Bridge	Swatara Creek	40.286773 76.679308
Elk	UNT to South Fork West	Headwaters to Mouth	South Fork West	41.456037

EXHIBIT H

	Creek (RM 1.73)		Creek	78.492805
Lackawanna	UNT (RM 0.06) to UNT to Sand Spring Creek (RM 1.54)	Headwaters to Mouth	UNT to Sand Spring Creek (RM 1.54)	41.189748 75.607393
Lackawanna	UNT (RM 0.43) to UNT to Pond Creek (RM 3.24)	Headwaters to Mouth	UNT to Pond Creek (RM 3.24)	41.205095 75.613003
Perry	UNT to Laurel Run (RM 2.93)	Headwaters to Mouth	Laurel Run	40.396637 77.533793
Tioga	South Creek	Headwaters to Mouth	Lick Creek	41.657932 77.151199
Union	UNT to White Deer Creek (RM 16.25)	Headwaters to Mouth	White Deer Creek	41.031252 77.110214

Persons with comments, objections or suggestions concerning the classification of the streams listed may submit them in writing to the Executive Director, Fish and Boat Commission, P.O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

TIMOTHY D. SCHAEFFER,
Executive Director

[Pa.B. Doc. No. 20-1122. Filed for public inspection August 14, 2020, 9:00 a.m.]

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NOTICES

FISH AND BOAT COMMISSION

Proposed Special Regulation Designations

[50 Pa.B. 4822]
[Saturday, September 19, 2020]

The Fish and Boat Commission (Commission) has approved guidelines with regard to encouraging public participation on possible changes to the designation of streams, stream sections or lakes for special regulation programs. Under 58 Pa. Code Chapter 65 (relating to special fishing regulations), the Commission designates or redesignates certain streams, stream sections and lakes as being subject to special fishing regulations. These designations and redesignations are effective after Commission approval when they are posted at the site and a notice is published in the *Pennsylvania Bulletin*. Under the Commission's guidelines, a notice concerning the proposed designation or redesignation of a stream, stream section or lake under special regulations ordinarily will be published in the *Pennsylvania Bulletin* before the matter is reviewed by the Commissioners.

At the next Commission meeting on October 19 and 20, 2020, the Commission will consider taking the following actions with respect to waters subject to special fishing regulations under 58 Pa. Code Chapter 65, effective January 1, 2021.

58 Pa. Code § 65.6. Delayed harvest artificial lures only areas

The Commission will consider extending the limits to nine stream sections managed under the delayed harvest artificial lures only area:

County	Water
McKean	Kinzua Creek, Section 04, Guffey Road Bridge (Rocky Road) downstream to Allegheny National Forest boundary near Westline
Snyder	Middle Creek, Section 04, 0.3-mile upstream from Pine Swamp Road downstream to 0.6-mile upstream Covered Bridge Road

At this time, the Commission is soliciting public input concerning the previously listed designations. Persons with comments, objections or suggestions concerning the designations are invited to submit comments in writing to the Executive Director, Fish and Boat Commission, P.O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by com- pleting the form at www.fishandboat.com/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

TIMOTHY D. SCHAEFFER,
Executive Director

[Pa.B. Doc. No. 20-1288. Filed for public inspection September 18, 2020, 9:00 a.m.]

EXHIBIT I

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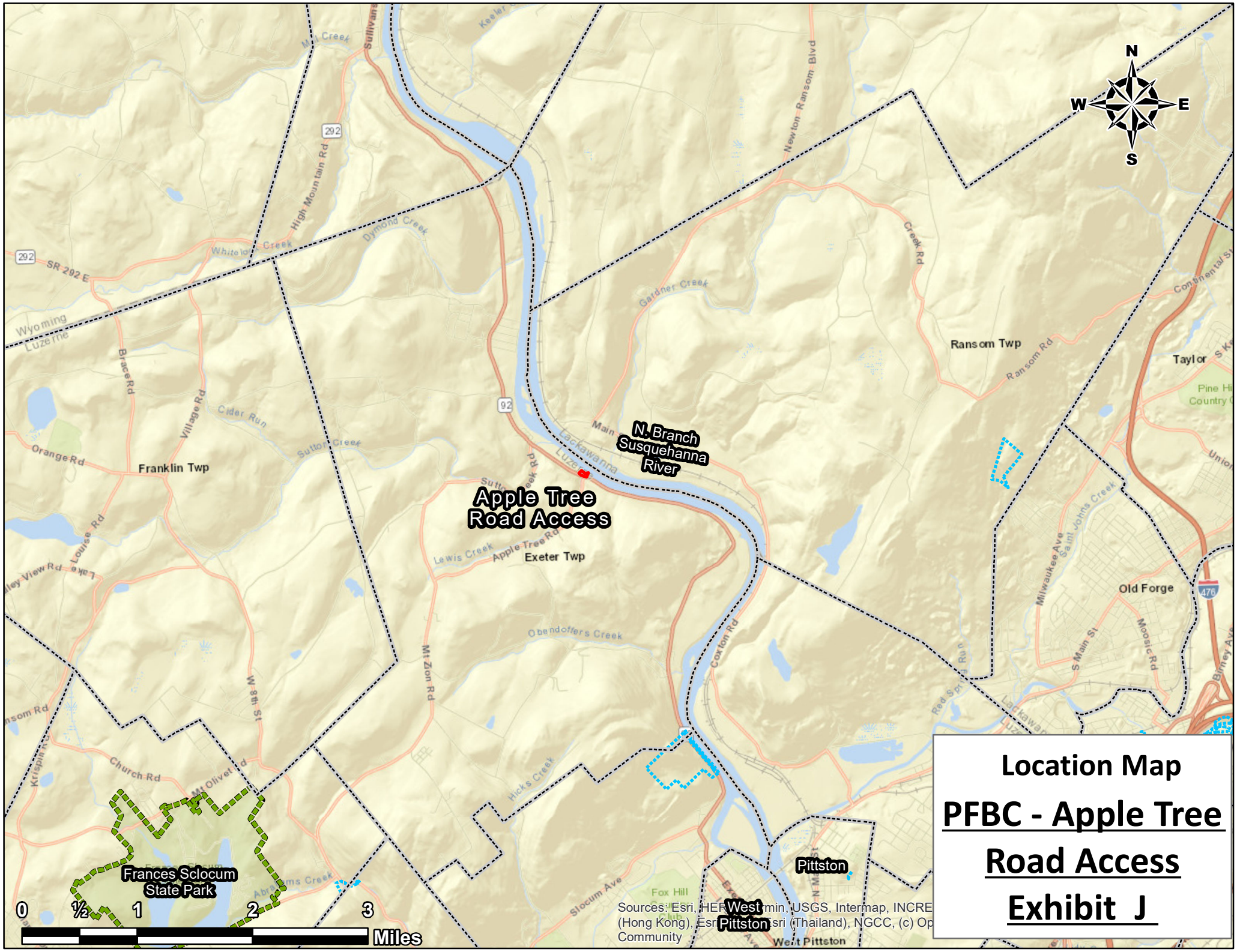
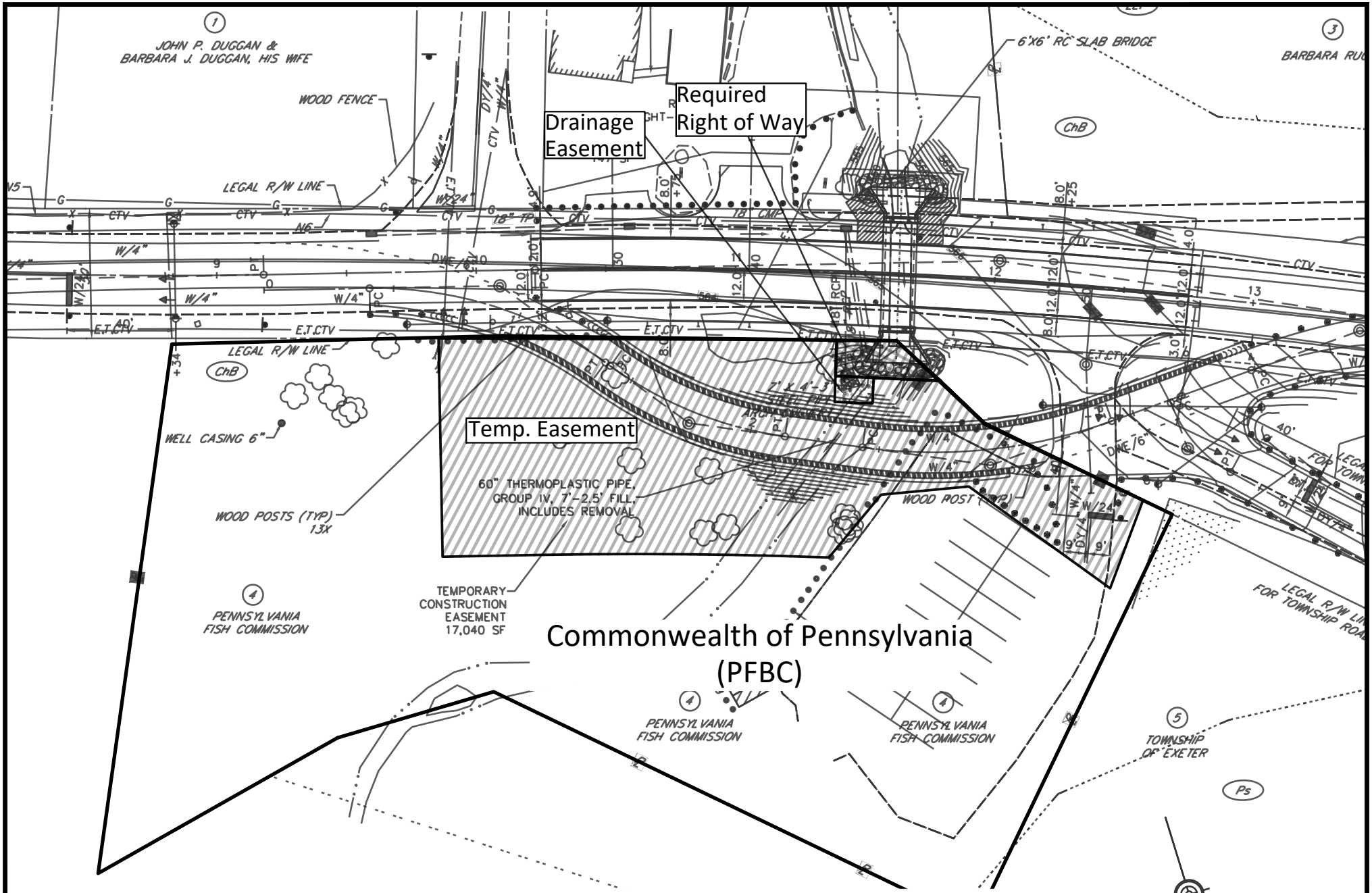


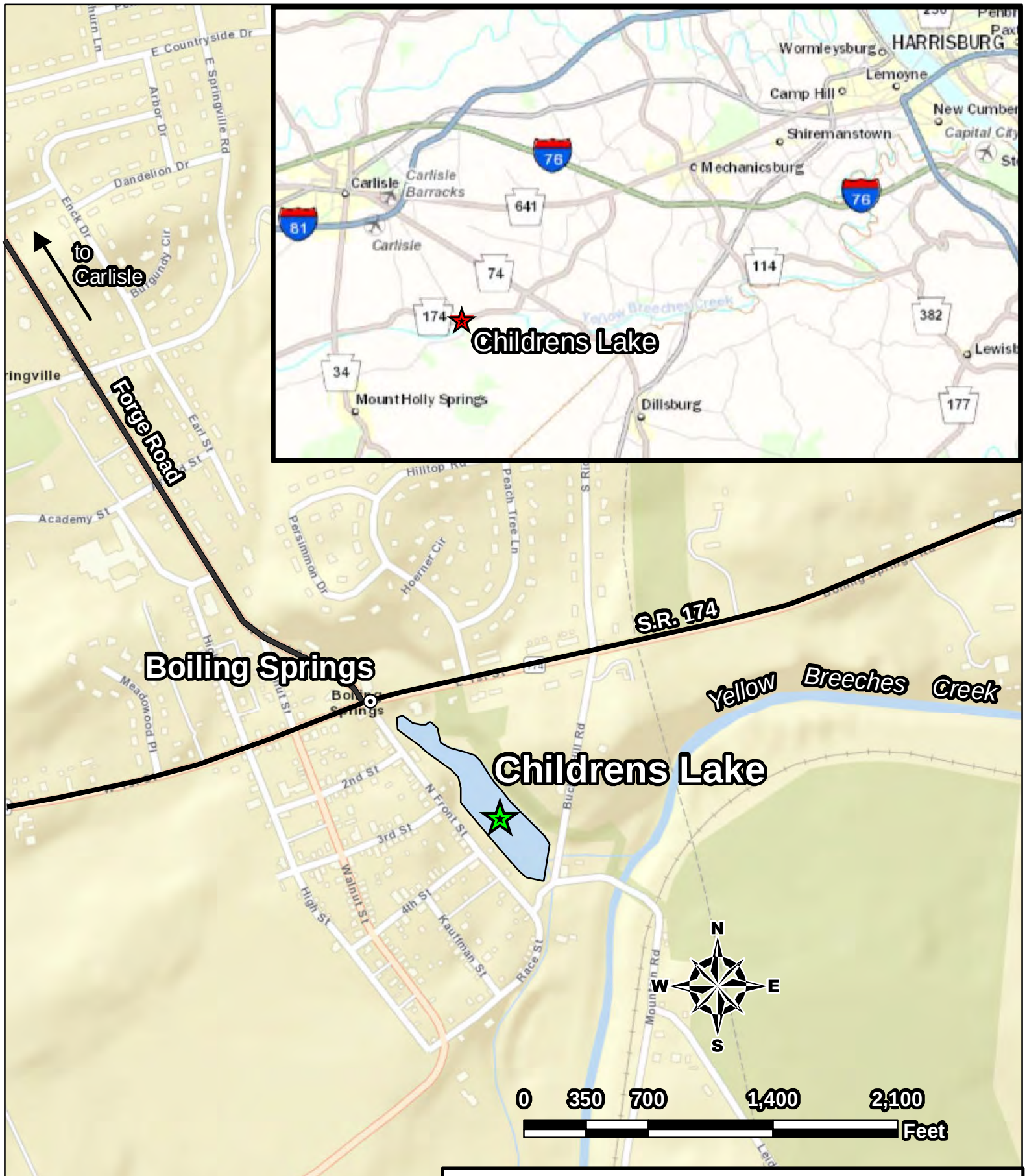
Location Map

PFBC - Apple Tree Road Access

Exhibit J

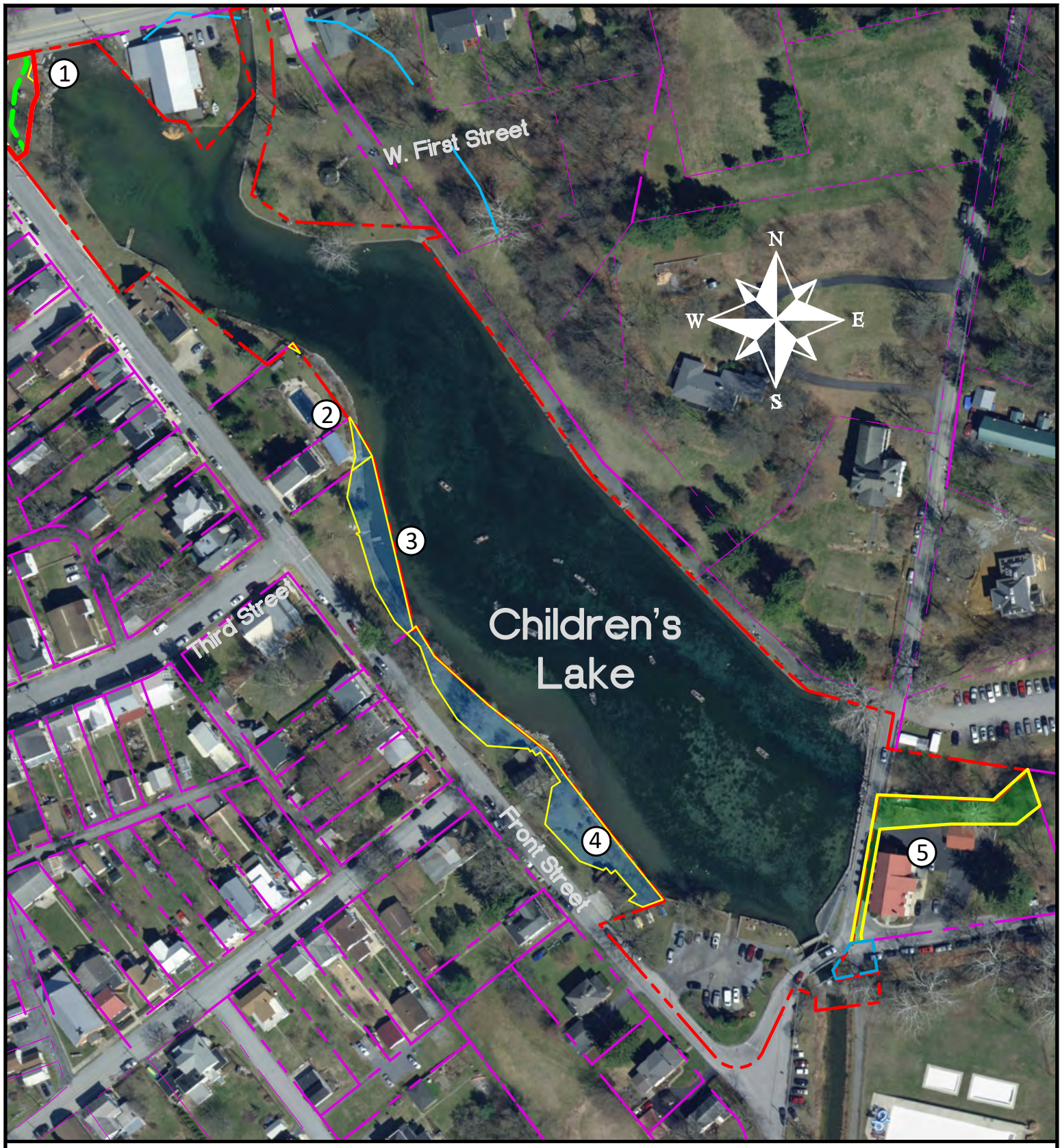


Property Disposition- Appletree Road Access
State Route 92 - Drainage Pipe Replacement
Exhibit K



Location Map - Childrens Lake

EXHIBIT L



Property Currently Owned by the PFBC

Flowage Easements Required by the PFBC

Maintenance Easement Required by the PFBC

Children's Lake Required Easements

0' 150' 300' 450'

EXHIBIT M

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PROPOSED RULEMAKING

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 51]

Administrative Provisions

[50 Pa.B. 3894]
[Saturday, August 1, 2020]

The Fish and Boat Commission (Commission) proposes to amend Chapter 51 (relating to administrative provisions). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). The proposed amendments update the Commission's regulations concerning royalty rates for sand and gravel permits.

A. *Effective Date*

This proposed rulemaking, if approved on final-form rulemaking, will go into effect upon publication in the *Pennsylvania Bulletin*.

B. *Contact Person*

For further information on this proposed rulemaking, contact Wayne Melnick, Esq., P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rule- making is available on the Commission's web site at www.fishandboat.com.

C. *Statutory Authority*

The proposed amendments to § 51.92 (relating to royalty rates) are published under the statutory authority of section 503(c) of the Conservation and Natural Resources Act (CNRA) (71 P.S. § 1340.503(c)).

D. *Purpose and Background*

The specific purpose and background of the proposed amendments is described in more detail under the summary of proposal.

E. *Summary of Proposal*

Under section 503(c) of the CNRA, the Commission, with the concurrence of the Department of Environmental Protection (Department), is authorized to adjust the amount of royalty payments per ton or cubic yard of usable or merchantable, or both, 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

EXHIBIT N

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, the Department 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 10-year period of January 1, 2021, through December 31, 2030.

The Commission proposes that § 51.92 be amended to read as set forth in Annex A.

F. *Paperwork*

This proposed rulemaking will not increase paperwork and will not create new paperwork requirements.

G. *Fiscal Impact*

This proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions.

H. *Public Comments*

Interested persons are invited to submit written comments, objections or suggestions about this proposed rulemaking to the Executive Director, Fish and Boat Commission, P.O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at www.fishandboat.com/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

TIMOTHY D. SCHAEFFER,
Executive Director

Fiscal Note: 48A-298. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart A. GENERAL PROVISIONS

CHAPTER 51. ADMINISTRATIVE PROVISIONS

Subchapter J. ROYALTIES FOR SAND AND GRAVEL PERMITS

§ 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.

[Pa.B. Doc. No. 20-1031. Filed for public inspection July 31, 2020, 9:00 a.m.]

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