

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

AGENDA

144th Meeting

Volume 72

**HARRISBURG, PENNSYLVANIA
October 25, 2021**

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Commonwealth of Pennsylvania
Pennsylvania Fish and Boat Commission

Agenda

The 144th Meeting of the Pennsylvania Fish and Boat Commission will be held on Monday, October 25 at the Pennsylvania Fish and Boat Commission headquarters, 1601 Elmerton Avenue, Harrisburg, PA 17110.

The public session for review of this agenda will begin on October 25, 2021 at approximately 10:00 a.m.

Call to Order

Pledge of Allegiance

Roll Call

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

Public Comment to Commissioners and Staff

Review and Approval of Minutes from the July 26, 2021 Meeting

Executive Director's Report

Reports of Commissioner Committees

Announcement of Executive Session

Announcement of Notational Votes

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

A. Property Acquisition at Glade Run Lake, Middlesex Township, Butler County.

Commentary:

The Pennsylvania Fish and Boat Commission (Commission) owns a +/-146-acre tract of land in Middlesex Township, Butler County, containing a 53-acre lake, known as Glade Run Lake. Glade Run Lake is located approximately 23 miles due north of Pittsburgh, as depicted on Exhibit A (Location Map).

The Glade Run Lake Conservancy (Conservancy) and the Allegheny Land Trust (Trust) have formed a partnership to identify properties of recreational and environmental importance in the Glade Run Lake watershed, with the goal of securing property rights to allow for the public use, protection, and preservation of these properties and Glade Run Lake.

The Conservancy and Trust have identified a 53-acre property (Property), currently owned by the Jones Estates Group, LLC, as a potential acquisition. The Property is located adjacent to and at the head of the Commission's Glade Run Lake property. It is bounded on the northwest by Sandy Hill Road and Glade Run flows east/west for 1,400 feet through the property, as depicted on Exhibit B (Site Map).

The Trust has entered into an agreement of sale (Agreement) with the Jones Estates Group to purchase the Property for \$344,500. The Agreement expires on December 31, 2021, but maybe extended to March 31, 2022. The sale is contingent upon approval by Trust's Board of Directors, and the Trust may terminate the Agreement within five days after all due diligence is completed if the Property is found to be unacceptable to the Trust.

The Trust has submitted a Community Conservation Partnerships Program (C2P2) grant application to the Pennsylvania Department of Conservation and Natural Resources and is investigating other funding sources to allow for the acquisition of the Property. C2P2 grants funds are awarded to successful applicants in November 2021.

Upon acquisition of the Property, the Trust would like to donate the Property to the Commission. The Commission's acceptance of the donation would be contingent on meeting due diligence and funding requirements, including but not limited to, the Trust providing good and marketable title to the Property, free and clear of all liens and judgments, and an acceptable environmental assessment.

Briefer:

Linda Adler, Chief, Division of Public Access & Property Services

Recommendation:

Staff recommend that the Commission authorize the acquisition of the 53-acre property in Middlesex Township, Butler County, as more particularly described in the Commentary.

Action:

B. Lease of Nessmuk Lake Property, Borough of Wellsboro and Township of Delmar, Tioga County.

Commentary:

The Pennsylvania Fish and Boat Commission (Commission) owns a +/-223-acre tract of land in the Borough of Wellsboro and Township of Delmar, Tioga County, which contains Nessmuk Lake, a +/-60-acre lake. The property is located 1 mile south of Wellsboro, PA on Route 287, as depicted on Exhibit C (Location Map). In 1967, the Commission leased the property to the Borough of Wellsboro and the Wellsboro Borough Municipal Authority for a 40-year term, for use as a County Park. The 40-year lease was amended and provided for a new term of 25 years in 1997. The amendment also included the placement of a life flight helicopter landing pad on the premises. The lease area and the landing pad are depicted on Exhibit D (Site Map).

The lease agreement between the Commission and the Borough and Municipal Authority expires March 3, 2022. The Commission and the Borough and Municipal Authority wish to enter into a new lease agreement consistent with the original lease. The Borough and Municipal Authority are and will continue to be responsible for the routine maintenance, operation, repair, and supervision of the lease area. The continuation of the Borough's and Municipal Authority's leasing of the property is in the best interest of the Commission.

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

Briefer:

Linda Adler, Chief, Division of Public Access & Property Services

Recommendation:

Staff recommend that the Commission authorize the leasing of Nessmuk Lake to the Borough of Wellsboro and the Wellsboro Borough Municipal Authority, as more particularly described in the Commentary.

Action:

**EXECUTIVE AND ADMINISTRATIVE
OTHER MATTERS**

A. Cooperative Nursery Grant Program.

Commentary:

At the October 1996 Board of Commissioners meeting, the Pennsylvania Fish and Boat Commission (Commission) approved the creation of the Cooperative Nursery Grant Program. The purpose of the grant program was to provide financial assistance to cooperative nurseries for projects related to the rearing of Commission-supplied fish. Many of the cooperative nurseries rely on the Cooperative Nursery Grant Program to purchase essential equipment such as aerators, raceway covers, nets, and stocking tanks. Since its inception, the annual funding level established by the Commission for the grant program has fluctuated several times with amounts ranging from \$15,000 to \$80,000. In 2020, the funding level was set by the Commission at \$60,000 per year.

The Commission annually solicits grant applications and receives between 20 to 40 per year. Due to the established funding limit of \$60,000 per year, several grant applications were not funded. Over the last eight years, 59 applications were not accepted due to the lack of funding. Removing the annual funding limit for this program would allow for flexibility from year-to-year based on the availability of funding and the needs of the Cooperative Nurseries.

Briefer:

Brian B. Wisner, Director, Bureau of Hatcheries

Recommendation:

Staff recommend that the Commission remove the annual funding limit for the Cooperative Nursery Grant Program and authorize the Executive Director to establish an annual funding level for the grant program that is based on the projected need of the program in conjunction with the annual budgeting process used to address all other agency priorities. Staff also recommend that the Commission authorize the Executive Director to approve individual grants of \$25,000 or less per cooperative nursery, per year. For grants in excess of \$25,000, staff will seek separate Commission approval.

Action:

B. Dates for Pennsylvania Fish and Boat Commission (Commission) Meetings in 2022.

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 2022. This review included a look at holidays, hunting and fishing seasons, and other conflicting events.

Based upon this review, the following dates are proposed for regular Commission meetings in 2022:

January 24-25, 2022 (Monday and Tuesday);
April 25-26, 2022 (Monday and Tuesday);
July 25-26, 2022 (Monday and Tuesday); and
October 24-25, 2022 (Monday and Tuesday).

The January and July 2022 meetings will be held at the Harrisburg headquarters. The April and October 2022 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 2022 as set forth in the Commentary.

Action:

**BOATING
FINAL RULEMAKING**

A. Amendment to 58 Pa. Code § 111.6 (Berks County).

Commentary:

Blue Marsh Lake is a 1,148-acre flood control project managed by the U.S. Army Corps of Engineers (USACOE) in Berks County. 58 Pa. Code § 111.6 states that a boat may not tow more than one water-skier (i.e., person) on Blue Marsh Lake. This regulation was promulgated shortly after the Blue Marsh Recreation Area was established to address a perceived safety issue relating to boats with multiple towlines. According to definitions contained in 58 Pa. Code § 109.4 (relating to waterskiing, aquaplaning, kite skiing, and similar activities), the term “waterski” is defined as “a device used by a person to be towed through or on water behind a boat. The term includes conventional water skis, aquaplanes, kneeboards, inner tubes, inflatable hot dogs, air mattresses, parasails, kite skis, and similar devices.” Some of these devices are designed to carry more than one person.

In the fall of 2019, the USACOE requested a change to § 111.6 citing that it does not serve the intended purpose, causes confusion among boaters, and unnecessarily limits recreational boating opportunities. Staff prepared an amendment for the Boating Advisory Board’s consideration and recommendation (June 23, 2020) and the Pennsylvania Fish and Boat Commission’s (Commission) approval as a proposed rulemaking (July 20, 2020). However, it later was discovered that the proposed amendment did not match the USACOE’s request.

The USACOE recently requested the Commission reconsider their request to amend § 111.6 with the intent to limit the number of devices towed by a boat—rather than the number of persons—to no more than one. The USACOE stated that with the popularity of inflatable towed devices designed to carry more than one person, this amendment will eliminate confusion among the boating public and increase recreational boating opportunities. It is also anticipated that the amendment will result in more effective and efficient law enforcement efforts on the lake. The number of persons being towed on a device is limited by the boat’s persons capacity.

Staff propose that § 111.6 be amended as follows:

§ 111.6. Berks County.

(a) *Blue Marsh Lake.*

* * * * *

(3) A boat may not tow more than one **[water-skier] water ski device.**

* * * * *

A notice of proposed rulemaking was published at 51 Pa.B. 5687 (September 4, 2021) (Exhibit E). The Commission received a total of 10 public comments regarding the proposal: 8 support the proposal, 0 oppose the proposal, and 2 comments did not pertain to the proposal. Copies of all public comments were provided to the Commissioners.

Briefer:

Laurel L. Anders, Director, Bureau of Boating

Recommendation:

Staff recommend that the Commission adopt the amendment as set forth in the notice of proposed rulemaking. If adopted, the amendment will go into effect January 1, 2022.

Action:

**BOATING
FINAL RULEMAKING**

B. Amendment to 58 Pa. Code § 111.43 (Mercer County).

Commentary:

Shenango River Lake is a 3,560-acre flood control project managed by the U.S. Army Corps of Engineers (USACOE) in Mercer County. This busy boating destination is regulated by Title 58 Pa. Code § 111.43(a) (relating to Shenango River Lake), which contains several specific regulations that deviate from the statewide recreational boating regulations when boating on USACOE waters. Specifically, subsection (1) states that “the use of motors in excess of 10 horsepower is prohibited in the area west of the Penn Central Railroad (Levittsburg) causeway to the Ohio line.”

Recently USACOE leadership has changed their local policy/regulation and has adopted a 20-horsepower limitation west of the causeway. They have petitioned the Pennsylvania Fish and Boat Commission (Commission) to make the same change in Title 58 so that Waterways Conservation Officers can continue to assist in enforcement.

Staff propose that § 111.43 be amended as follows:

§ 111.43. Mercer County.

(a) *Shenango River Lake.*

(1) The use of motors in excess of **[10] 20** horsepower is prohibited in the area west of the Penn Central Railroad (Levittsburg) causeway to the Ohio line.

* * * * *

A notice of proposed rulemaking was published at 51 Pa.B. 6049 (September 18, 2021) (Exhibit F). The Commission did not receive any public comments regarding the proposal.

Briefer:

Laurel L. Anders, Director, Bureau of Boating

Recommendation:

Staff recommend that the Commission adopt the amendment as set forth in the notice of proposed rulemaking. If adopted, the amendment will go into effect January 1, 2022.

Action:

LAW ENFORCEMENT PROPOSED RULEMAKING

A. Amendments to 58 Pa. Code §63.8 Long bows, crossbows, spears, and gigs.

Commentary:

Law enforcement staff has received an increasing number of complaints regarding bowfishing. Most of these complaints revolve around the intense bright lighting used to locate fish along the shoreline. In addition to the lighting, the noise created by the generators used by some to operate the lighting has also generated complaints to the Bureau. Both issues have created conflicts on and along Commonwealth Waterways with property owners and other user groups.

After receiving feedback from agency staff, property owners, anglers, fishing guides and legislators' staff have conferred and support a clarification of the regulation as listed below.

§63.8. Long bows, crossbows, spears, and gigs. – 2102(b)

(a) *General.* – Except as otherwise provided in this part, carp, suckers, catfish, may be taken with long bows and arrow, including compound bows, crossbows, spears, or gigs any hour of the day or at night if so desired, in Commonwealth waters and waters bounding and adjacent thereto.

(b) *Lake Erie.* – Scuba divers, who possess a valid fishing license and Lake Erie stamp, shall be permitted to take burbot at a depth of at least 60 feet.

(c) *Restrictions.* – Spears or gigs may not be mechanically propelled, may not have more than five barbed points and may not be used in stocked trout waters.

(d) Exceptions:

(1) It is unlawful to use bow and arrow (including compound bows and crossbows), spears, and gigs in any special regulation trout waters.

(2) It is unlawful to cast the rays of a spotlight, mounted headlight, or any other artificial light of any kind from any watercraft, upon any building, whether occupied or unoccupied, or another watercraft.

(3) It is unlawful to use generators on board a watercraft engaged in bowfishing with a noise level that exceeds 90 dB(a).

Briefer:

Colonel Clyde N. Warner, Jr, Director, Bureau of Law Enforcement

Recommendation:

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

Action:

FISHERIES FINAL RULEMAKING

A. Establish a single statewide opening day of the regular season for trout under 58 Pa. Code § 61.1 (Commonwealth Inland Waters), § 61.2 (Delaware River, West Branch Delaware River and River Estuary), § 63.3 (Fishing in Stocked Trout Waters), § 63.20 (Permits for Protection and Management of Trout and Salmon), § 65.5 (Catch and Release Artificial Lures Only), § 65.12 (Regional Opening Day of Trout Season), § 65.14 (Catch and Release Fly-Fishing Only), § 65.15 (Catch and Release All-Tackle), § 65.19 (Stocked Trout Waters Open to Year-Round Fishing), § 65.20 (Mentored Youth Fishing Day Program), § 65.24 (Miscellaneous Special Regulations), § 65.26 (Extended Trout Season), § 67.2 (Refuge Areas), and § 69.12a (Special Regulations Applicable to Lake Erie Tributary Streams).

Commentary:

Under 58 Pa. Code § 61.1 (Commonwealth inland waters), the opening day of the regular season for trout begins at 8 a.m. on the first Saturday after April 11 and continues through midnight Labor Day. This regulation was in place for all of Pennsylvania's inland waters for many years and is a well-known, much anticipated tradition. However, on January 1, 2007, a new regulation went into effect under 58 Pa. Code § 65.12 (Regional opening day of trout season). This regulation created a separate opening day for southeastern and southcentral counties where trout season opens at 8 a.m. on the first Saturday after March 28 and continues through midnight Labor Day.

In late winter 2020, the COVID-19 pandemic reached Pennsylvania and on March 16, 2020 the Commonwealth of Pennsylvania eliminated most activities that were not considered essential for health and safety. Subsequently, there was substantial concern within the Pennsylvania Fish and Boat Commission (Commission) that traditional stocking practices with large numbers of volunteers in close contact and traditional opening day crowds could lead to increased risk of virus transmission. As such, the decision was made to greatly accelerate trout stocking, eliminate the use of volunteers, deploy Commission staff from throughout the agency to perform the stockings, and announce the opening day without warning at 8 a.m. on Tuesday April 7, 2020. This unheralded opening was designed to reduce crowding, and a single, statewide opening day was employed to reduce cross-boundary travel between the statewide and regional opening day zones. In addition, public travel restrictions required more anglers to fish closer to home than they would under normal circumstances.

Planning for the 2021 trout stocking season began in early fall of 2020 in anticipation that COVID-19 restrictions and concerns about virus transmission may still be in effect. At the January 2021 quarterly Commissioners meeting, a single, statewide opening day was established for 2021.

After experiencing two consecutive years of a single, statewide opening day, staff identified an opportunity to further consider the efficacy of the current Commission regulations that provide for a regional opening day of trout season. An ad hoc committee with representatives from the bureaus of Fisheries; Hatcheries; Law Enforcement;

Outreach, Education, and Marketing; Administration; Policy and Planning; the Field Operations Deputy Executive Director; and Office of Chief Counsel was formed for review. The committee reviewed the history and summary of opening day designations for trout season. Following that review, the committee recommended the elimination of the regional opening day of trout season and a return to the more traditional single statewide opener. Staff believe that a single opening day simplifies regulations, reduces confusion among the angling public, lessens landowner issues in border counties, gives statewide anglers at least an extra week of fishing opportunity, and better allows businesses to plan for any sales surge.

The elimination of a regional opening day also requires minor amendments to various sections referencing trout season. As such, staff recommend reformatting the dates in regulations relating to trout season for clarification and simplification. Finally, consistent with Act 56 of 2020, staff recommend that any reference in the regulations to the trout/salmon permit be changed to trout permit.

A notice of proposed rulemaking was published at 51 Pa.B. 5672 (September 4, 2021) (Exhibit G). During the comment period, staff discovered the need for the following two modifications in the proposed rulemaking:

As such, the Commission adds the following language to the chart in § 61.1:

For ALL SPECIES OF TROUT AND SALMON (except landlocked Atlantic salmon) – “(see Chapter 65)” is restored to the daily limit column pertaining to the extended season.

The Commission removes the following language from the chart in § 61.1:

For ALL SPECIES OF TROUT AND SALMON (except landlocked Atlantic salmon) – “[and all waters downstream of stocked trout waters]” is removed from the seasons column pertaining to the extended season.

Staff propose that 58 Pa. Code § 61.1 be amended as follows:

§ 61.1. Commonwealth inland waters.

* * * * *

(d) Except as otherwise provided in this subpart, the following seasons, sizes, and daily limits apply to inland waters of this Commonwealth and the Youghiogheny Reservoir:

SPECIES	SEASONS	MINIMUM SIZE	DAILY LIMIT
ALL SPECIES OF TROUT AND SALMON (except landlocked Atlantic salmon)	Regular Season: 8 a.m. first Saturday [after April 11] in April to midnight Labor Day	7 inches	5 (combined species) except areas with special regulations (see Chapter 65 (relating to special fishing regulations))
	Extended Season: Stocked trout waters [and all waters downstream of stocked trout waters] 12:01 a.m. day after Labor Day to midnight [last day of February] the third Monday in February of the following year.	7 inches	3 (combined species), except Class A wild trout streams, where the daily limit is 0, and areas with special regulations (see Chapter 65)

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

§ 61.2. Delaware River, West Branch Delaware River and River Estuary.

(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
TROUT	8 a.m., [first Saturday after April 11] the opening day of the regular season for trout to midnight, October 15	North of I-84: 14 inches	North of I-84: 1 (combined species)
		South of I-84: no minimum	South of I-84: 5 (combined species)
		West Branch Delaware River: * 12 inches	West Branch Delaware River: * 2

			(combined species)
* * * * *			

* *A special no-kill artificial lures only season is in effect on the West Branch of the Delaware River from October [1] **16** to midnight on the Friday before the **[first Saturday after April 11] opening day of the regular season for trout.***
 See § 65.24

* * * * *

Staff propose that 58 Pa. Code § 63.3 be amended as follows:

§ 63.3. Fishing in stocked trout waters.

It is unlawful to fish in stocked trout waters regulated under § 61.1 (relating to Commonwealth inland waters) from 12:01 a.m. on **[March 1] the third Monday in February** to 8 a.m. on the **[first Saturday after April 11 and in stocked trout waters regulated under § 65.12 (relating to regional opening day of trout season) from 12:01 a.m. on March 1 to 8 a.m. on the first Saturday after March 28] opening day of the regular season for trout.** As used in this subpart, the term “stocked trout waters” means waters that are stocked with adult trout by the Commission. A listing of stocked trout waters is published in the Commission’s “Summary of Fishing Regulations and Laws,” which is available from the Commission at Post Office Box 67000, Harrisburg, Pennsylvania 17106-7000. The Executive Director or a designee may, from time to time, supplement or modify the list of stocked trout waters, and additions or deletions will be published in the *Pennsylvania Bulletin*.

* * * * *

Staff propose that 58 Pa. Code § 63.20 be amended as follows:

§ 63.20. Permits for the protection and management of trout **[and salmon]**.

(a) *Finding.* - The Commission finds under section 2904 of the code (relating to permits for the protection and management of particular fish) that it is necessary for the protection and management of trout **[and salmon]** in the waters of this Commonwealth that persons who fish for trout **[or salmon]** have a permit for that activity.

(b) *Permit required.* - It is unlawful for a person required by Chapter 27 of the code (relating to fishing licenses) to procure a fishing license to fish for trout **[or salmon]** unless that person has first procured a valid **[trout/salmon] trout** permit or a combination **[trout/salmon] trout** permit and Lake Erie permit.

(c) *Exceptions.*

- (1) The Commission will issue a **[trout/salmon] trout** permit without fee to disabled veterans who possess a free fishing license under section 2707 of the code (relating to disabled veterans).
 - (2) A person who is exempt from the fishing license requirements of Chapter 27 of the code or who is issued an institutional fishing license under section 2708 of the code (relating to institutional licenses) is exempt from this section.
 - (3) A person who purchased a senior resident lifetime fishing license and a **[trout/salmon] trout** permit or a combination **[trout/salmon] trout** permit and Lake Erie permit prior to January 1, 2015, shall be exempt from the requirements of this section.
 - (4) A **[trout/salmon] trout** permit is not required to fish for trout **[or salmon]** on free fishing days designated by the Commission under section 2709(d) of the code (relating to exemptions from license requirements).
 - (5) A **[trout/salmon] trout** permit is not required to fish for trout **[or salmon]** on Class A regulated fishing lakes. A **[trout/salmon] trout** permit is not required to fish for trout **[or salmon]** on designated Class B regulated fishing lakes that have the following characteristics:
 - (i) The lake is a natural pond or impoundment located wholly on private property and constructed and maintained wholly with private funds.
 - (ii) The lake is operated by a private club or organization.
 - (iii) The lake is not open for fishing by the general public[,], and fishing is restricted to members only.
 - (iv) The trout/salmon population of the lake is composed entirely of trout or salmon stocked from private resources and contains no trout or salmon stocked by the Commission, the United States Government or cooperative nurseries recognized by the Commission.
- (d) *Fish for trout or salmon.* - A person fishes for trout or salmon when one of the following applies:
- (1) The person fishes in waters under special trout regulations designated under those sections of Chapter 65 (relating to special fishing regulations) that require a **[trout/salmon] trout** permit, wilderness trout streams or their tributaries or Class A wild trout waters or their tributaries.
 - (2) The person fishes in streams or rivers that are stocked trout waters as defined in § 63.3 (relating to fishing in stocked trout waters) or their tributaries during the period from 12:01 a.m. on **[March 1] the third Monday in February** until midnight May 31.

(3) The person takes, kills, or possess, while in the act of fishing, a trout or salmon on or in waters of this Commonwealth or boundary waters.

* * * * *

Staff propose that 58 Pa. Code § 65.5 be amended as follows:

§ 65.5. Catch and release artificial lures only.

(a) The Executive Director, with the approval of the Commission, may designate waters as catch and release. The designation of waters as catch and release shall be effective when the waters are so posted after publication of a notice of designation in the *Pennsylvania Bulletin*.

(b) It is unlawful to fish in areas designated and posted catch and release except in compliance with the following requirements:

(1) Fishing may be done with artificial lures only constructed of metal, plastic, rubber, or wood or with flies and streamers constructed of natural or synthetic materials. Lures may be used with spinning or fly fishing gear. Use or possession of any other lures or substances is prohibited.

(2) No trout may be killed or had in possession.

(3) Open to fishing year-round.

(4) Wading is permitted unless otherwise posted.

(5) Taking of bait fish or fish bait is prohibited.

(6) A current [**trout/salmon**] **trout** permit is required.

(c) Notwithstanding the requirements of this section, an angler in a boat may possess bait and fish caught in compliance with the seasons, sizes and creel limits in effect for the water from which taken, provided that the boat angler floats through the catch and release area without stopping or engaging in the act of fishing or the boat angler puts in or takes out his boat at an access point within the catch and release area.

* * * * *

Staff propose that 58 Pa. Code § 65.6 be amended as follows:

§ 65.6. Delayed harvest artificial lures only areas.

(a) The Executive Director, with the approval of the Commission, may designate waters as delayed harvest, artificial lures only areas. The designation of waters as delayed harvest, artificial lures only areas shall be effective when the waters are so posted after publication of a notice of designation in the *Pennsylvania Bulletin*.

(b) It is unlawful to fish in designated and posted delayed harvest, artificial lures only areas except in compliance with the following requirements:

(1) Fishing may be done with artificial lures only constructed of metal, plastic, rubber, or wood or with flies or streamers constructed of natural or synthetic materials. Lures may be used with spinning or fly fishing gear.

(2) The use or possession of any natural bait, bait fish, fish bait, bait paste and similar substances, fish eggs (natural or molded) or any other edible substance is prohibited.

(3) Minimum size is: 9 inches, caught on, or in possession on, the waters under regulation.

(4) The daily creel limit is: three combined species except during the period after Labor Day and before June 15 when the daily limit shall be zero trout combined species, caught on or in possession on the waters under regulation.

(5) Taking of bait fish or fish bait is prohibited.

(6) A current [**trout/salmon**] **trout** permit is required.

(c) Notwithstanding the requirements of this section, an angler in a boat may possess bait and fish caught in compliance with the seasons, sizes and creel limits in effect for the water from which taken, provided that the boat angler floats through the delayed harvest artificial lures only area without stopping or engaging in the act of fishing or the boat angler puts in or takes out his boat at an access point within the delayed harvest artificial lures only area.

* * * * *

Staff propose that 58 Pa. Code § 65.12 be amended as follows:

§ 65.12. Regional opening day of trout season.

[(a)] The Executive Director, with the approval of the Commission, may designate waters in certain regions as part of the regional opening day of trout season. The designation of waters as part of the regional opening day of trout season shall be effective upon publication of a notice of designation in the *Pennsylvania Bulletin*.

[(b) It is unlawful to fish in waters designated as part of the regional opening day of trout season except in compliance with the following seasons, sizes and creel limits:

<i>SEASONS</i>	<i>MINIMUM SIZE</i>	<i>DAILY LIMIT</i>
Regular Season: 8 a.m. first Saturday after March 28 to midnight Labor Day	7 inches	5 (combined species) except areas with special regulations (see Chapter 65 (relating to special fishing regulations))
Extended Season: Stocked trout waters and all waters downstream of stocked trout waters 12:01 a.m. day after Labor Day to midnight last day of February of the following year	7 inches	3 (combined species) except Class A wild trout streams where the daily limit is 0, and areas with special regulations (see Chapter 65)

(c) It is unlawful to take, catch, kill, or possess trout except during the seasons specified in this section. It is not a violation of this section if a trout caught out of season from waters where fishing for other species is otherwise lawful is immediately returned unharmed to the waters from which it was taken.

(d) It is unlawful to take, catch, kill, or possess trout of less than the minimum size specified in this section. It is not a violation of this section if an undersized trout taken from waters where fishing is otherwise lawful is immediately returned unharmed to the waters from which it was taken.

(e) It is unlawful to take, catch or kill more than 1 day’s limit of any species of trout as specified in this section during 1 calendar day. It is unlawful to possess more than 1 day’s limit of any species of trout as specified in this section except under the following circumstances:

(1) A person may possess any number of lawfully caught trout at the person’s residence.

(2) A person who is engaged in a fishing trip away from home for 2 or more consecutive calendar days may possess, while transporting trout from the place where caught to his residence, a number of trout equal to no more than two times the daily creel limit for trout. In prosecutions for violations of this section, it shall be a rebuttable presumption that a person transporting trout from a fishing site caught all of the trout during 1 calendar day.

(3) A trout will not be considered to be caught in violation of this section if it is immediately returned unharmed to the waters from which it was taken.

(4) Any trout caught that is not to be counted in the creel limit shall be immediately released unharmed to the waters from which taken. Except as otherwise provided in §§ 53.24 or 63.40 (relating to tournament and fishing derby permits; and fishing tournaments and fishing derbies), a trout placed on a stringer

or confined by any type of container, structure or device or not returned immediately to the water will be considered as part of the daily creel or possession limits. Trout returned to the water shall be handled carefully and be returned unharmed to the waters from which taken.

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

Staff propose that 58 Pa. Code § 65.14 be amended as follows:

§ 65.14. Catch and release fly-fishing only.

(a) The Executive Director, with the approval of the Commission, may designate waters as catch and release fly-fishing only. The designation of waters as catch and release fly-fishing only shall be effective when the waters are so posted after publication of a notice of designation in the *Pennsylvania Bulletin*.

(b) It is unlawful to fish in waters designated and posted as catch and release fly-fishing only except in compliance with the following requirements:

(1) Fishing may be done with artificial flies and streamers constructed of natural or synthetic materials so long as all flies are constructed in a normal fashion with components wound on or about the hook or hooks. Use or possession of any other lures or substances is prohibited.

(2) Fishing shall be done with tackle which is limited to fly rods, fly reels and fly line with leader material or monofilament line attached. Spinning, spincast, and casting rods and reels are prohibited.

(3) No trout may be killed or had in possession.

(4) Open to fishing year-round.

(5) Taking of baitfish or fishbait is prohibited.

(6) Wading is permitted unless otherwise posted.

(7) A current [~~trout/salmon~~] **trout** permit is required.

(c) Notwithstanding the requirements of this section an angler in a boat may possess bait and fish caught in compliance with the seasons, sizes and creel limits in effect for the water from which taken, provided that the boat angler floats through the catch and release fly-fishing only area without stopping or engaging in the act of fishing or the boat angler

puts in or takes out his boat at an access point within the catch and release fly-fishing only area.

* * * * *

Staff propose that 58 Pa. Code § 65.15 be amended as follows:

§ 65.15. Catch and release all-tackle.

(a) The Executive Director, with the approval of the Commission, may designate waters as catch and release all-tackle. The designation of waters as catch and release all-tackle shall be effective when the waters are so posted after publication of a notice of designation in the *Pennsylvania Bulletin*.

(b) It is unlawful to fish in waters designated and posted catch and release all-tackle except in compliance with the following requirements:

- (1) There are no tackle restrictions.
- (2) No trout may be killed or had in possession.
- (3) Open to fishing year-round; there is no closed season.
- (4) A current **[trout/salmon] trout** permit is required.

(c) Notwithstanding the requirements of this section, an angler in a boat may possess fish caught in compliance with the seasons, sizes and creel limits in effect for the water from which taken, provided that the boat angler floats through the catch and release all-tackle area without stopping or engaging in the act of fishing or the boat angler puts in or takes out his boat at an access point within the catch and release all-tackle area.

* * * * *

Staff propose that 58 Pa. Code § 65.19 be amended as follows:

§ 65.19. Stocked trout waters open to year-round fishing

(a) The Executive Director, with the approval of the Commission, may designate waters as stocked trout waters open to year-round fishing. The designation of waters as stocked trout waters open to year-round fishing shall be effective upon publication of a notice of designation in the *Pennsylvania Bulletin*.

(b) It is unlawful to fish in waters designated as stocked trout waters open to year-round fishing except in compliance with the following seasons and size and creel limits. It is not a violation of this section if a trout is immediately returned unharmed to the waters from which it is taken.

SPECIES	SEASONS	MINIMUM SIZE	DAILY LIMIT
ALL SPECIES OF TROUT AND SALMON (except landlocked Atlantic salmon)	Regular Season: 8 a.m. [first Saturday after April 11 (or first Saturday after March 28 for waters designated as part of the regional opening day of trout season)] of the opening day of the regular season for trout to midnight Labor Day	7 inches	5 (combined species)
	Extended Season: 12:01 a.m. day after Labor Day to midnight [last day of February] the third Monday in February of the following year	7 inches	3 (combined species)
	12:01 [first day of March to first Saturday after April 11 (or first Saturday after March 28 for waters designated as part of the regional opening day of trout season.)] a.m. the third Monday in February to 8 a.m. the opening day of the regular season for trout	NO HARVEST – Catch and immediate release only	

(c) It is unlawful to fish in rivers and streams designated as stocked trout waters open to year-round fishing without a current [**trout/salmon] trout** permit. A [**trout/salmon] trout** permit is not required to fish in lakes and ponds that have been designated as stocked trout waters open to year-round fishing unless the person takes, kills or possesses, while in the act of fishing, a trout or salmon on or in these waters.

Staff propose that 58 Pa. Code § 65.20 be amended as follows:

§ 65.20. Mentored Youth Fishing Day Program.

(a) The Executive Director may annually designate Mentored Youth Fishing Days. As part of the designation, the Executive Director will identify the species, waters, dates, creel and minimum size limits and other applicable limitations. The designation will be effective upon publication of a notice in the *Pennsylvania Bulletin*.

(b) It is unlawful to fish in waters designated as part of the Mentored Youth Fishing Day Program except in compliance with the following requirements when participating in the Mentored Youth Fishing Day Program:

(1) Anglers shall adhere to the limitations as established by the Executive Director by notice in the *Pennsylvania Bulletin*.

(2) An angler 16 years of age or older shall be accompanied by a youth, less than 16 years of age, who has obtained a mentored youth permit or a voluntary youth fishing license from the Commission.

(3) A youth angler shall obtain a mentored youth permit or a voluntary youth fishing license from the Commission and be accompanied by an angler 16 years of age or older.

(4) A current **[trout/salmon] trout** permit is required for an angler 16 years of age or older when participating in a Mentored Youth Fishing Day Program that relates to trout.

(c) Notwithstanding the requirements of this section, an angler in a boat may possess fish caught in compliance with the seasons, sizes and creel limits in effect for the water from which taken, provided that the boat angler floats through the water designated as part of the Mentored Youth Fishing Day Program without stopping or engaging in the act of fishing or the boat angler puts in or takes out his boat at an access point within the water designated as part of the Mentored Youth Fishing Day Program.

* * * * *

Staff propose that 58 Pa. Code § 65.24 be amended as follows:

§ 65.24. Miscellaneous special regulations.

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

<i>County</i>	<i>Name of Water</i>	<i>Special Regulations</i>
* * * * *		
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] opening day of the regular season for trout 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] opening day of the regular season for trout , 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.

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] <u>opening day of the regular season for trout</u> until Labor Day— 5 trout per day; day after Labor Day to [first Saturday after April 11] <u>opening day of the regular season for trout</u> 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.

Luzerne	Harveys Lake	During the period from the [first Saturday after April 11 through midnight last day of] <u>opening day of the regular season for trout through midnight the third Monday in</u> February, the daily creel limit for trout (combined species) is 3, only one of which may exceed 18 inches in length. Warmwater/coolwater species, except as provided in this section—Inland regulations apply.

Somerset, Fayette, Westmoreland and Allegheny	Youghiogheny River from confluence with Casselman River downstream to the confluence with Ramcat Run Youghiogheny River from the pipeline crossing at the confluence with Lick Run downstream to the mouth of the river.	Trout (all species)—no closed season. Daily limit: [First Saturday after April 11] <u>opening day of the regular season for trout</u> until Labor Day—5 trout per day; day after Labor Day to [first Saturday after April 11] <u>opening day of the regular season for trout</u> of the following year—3 trout per day. Inland regulations apply to warmwater/coolwater species.

Warren	Allegheny River—8.75 miles downstream from the outflow of the Allegheny Reservoir to the confluence with Conewago Creek	Trout—minimum size limit—14 inches; daily creel limit—2 trout per day (combined species) from 8 a.m. on the <u>[first Saturday after April 11] opening day of the regular season for trout</u> through midnight Labor Day, except during the period from the day after Labor Day to the <u>[first Saturday after April 11] opening day of the regular season for trout</u> of the following year, when no trout may be killed or had in possession. Other inland seasons, sizes and creel limits apply.
* * * * *		
Washington	Little Chartiers Creek from Canonsburg Lake Dam approximately 1/2 mile downstream to mouth of Chartiers Creek	Fishing is prohibited from 12:01 a.m. <u>[March 1] the third Monday in February</u> to 8 a.m. the <u>[first Saturday after April 11] opening day of the regular season for trout.</u>
Wayne	West Branch Delaware River	Trout: From the Pennsylvania/New York border downstream to the confluence with the East River Branch of the Delaware River: no-harvest artificial lures only season on trout from October 16 until midnight of the Friday before the <u>[first Saturday after April 11] opening day of the regular season for trout.</u> During the no-harvest artificial lures only season: 1. Fishing may be done with artificial lures only, constructed of metal, plastic, rubber or wood, or flies or streamers constructed of natural or synthetic materials. Lures may be used with spinning or fly fishing gear. Use or possession of any other lures or substances is prohibited. 2. The daily creel limit for trout is 0.
* * * * *		

During the comment period, staff discovered several errors, omissions, or the need for modifications in the proposed rulemaking. As such, the Commission restores the following language to § 65.26:

Under item (a) *General Rule* – “ ...except Class A wild trout streams where the creel limit is 0 and areas with special regulations.”

Staff propose that 58 Pa. Code § 65.26 be amended as follows:

§ 65.26. Extended trout season.

- (a) *General rule.* – The extended trout season is in effect from the day after Labor Day until the **[last day of] third Monday in** February of the following year on stocked trout waters **[and all waters downstream of stocked trout waters]**. A creel limit of three trout per day and a minimum size limit of 7 inches apply during this season, **except Class A wild trout streams where the creel limit is 0 and areas with special regulations.**

* * * * *

Staff propose that 58 Pa. Code § 67.2 be amended as follows:

§ 67.2. Refuge areas.

* * * * *

- (b) Refuge areas are closed to public fishing except during the period from June 15 until the **[last day of] third Monday in February** of the following year.

* * * * *

Staff propose that 58 Pa. Code § 69.12a be amended as follows:

§ 69.12a. Special regulations applicable to Lake Erie tributary streams.

* * * * *

- (c) From 12:01 a.m. on the day after Labor Day, until the **[first Saturday after April 11] of the opening day of the regular season for trout** of the following year, all Lake Erie tributary streams are closed to fishing from 10 p.m. until 5 a.m. on the following day except for Walnut Creek north of Manchester Road Bridge and Elk Creek north of Route 5.

* * * * *

A notice of proposed rulemaking was published at 51 Pa.B. 5672 (September 4, 2021) (Exhibit H). The Commission received a total of 24 public comments regarding the proposal: 16 support the proposal, one opposes the proposal, and seven do 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 amendments as described in the Commentary. If adopted, the amendments will go into effect January 1, 2022.

Action:

FISHERIES FINAL RULEMAKING

B. Amendment to 58 Pa. Code § 69.12 (Seasons, sizes and creel limits—Lake Erie, Lake Erie tributaries and Presque Isle Bay including peninsula waters), Erie County.

Commentary:

The Pennsylvania Fish and Boat Commission (Commission) has identified an opportunity to simplify regulations pertaining to the Lake Erie basin while improving upon salmonid management and optimizing the fishery for that species group. A modification to regulations applied to trout and salmon to align with a proposed amendment to Commonwealth Inland Waters regulations (58 Pa. Code § 61.1), pertaining to the start of the trout season (see page 14 of the agenda), would allow anglers to more easily identify when fishing and harvest are permitted. Current regulations prohibit fishing and possession of trout and salmon from 12:01 a.m. on the Friday before the first Saturday after April 11 until 8 a.m. on the first Saturday after April 11. If the proposed amendments to Commonwealth Inland Waters regulations were to be adopted, it would result in one statewide opening day of regular season for trout on the first Saturday in April. To better align these regulations to those of the Lake Erie basin, 58 Pa. Code § 69.12 could be amended to prohibit fishing and possession of trout and salmon from 12:01 a.m. on the Friday before the first Saturday in April until 8 a.m. on the opening day of regular season for trout (e.g., first Saturday in April).

In addition to regulation simplification and alignment, a modification to the daily creel and minimum size limits for both Rainbow Trout (steelhead) and Lake Trout would potentially enhance angling opportunities for those species. Current daily creel limits allow for the harvest of five fish (only two of which may be Lake Trout) greater than or equal to nine inches in total length from 8 a.m. on the first Saturday after April 11 through Labor Day. Lake Erie and its tributaries generate hundreds of thousands of angler trips for steelhead resulting in millions of dollars of economic benefit to local economies around Lake Erie. As such, lower daily creel and increased minimum size limits would reduce the potential for overharvest and prohibit harvest of intermediate-sized Rainbow Trout and Lake Trout while further promoting the trophy component of the fishery.

Lake Trout are an important component of the Lake Erie ecosystem and recreational fishery. Through representation on the Lake Erie Committee, the Commission cooperatively manages Lake Trout with other member jurisdictions to advance restoration and optimize the recreational fishery. A reduction in the daily creel to one fish per day during the open season could potentially improve Lake Trout rehabilitation efforts by minimizing the number of spawning stock harvested. Additionally, a daily creel limit of one fish per day would align regulations pertaining to Lake Trout in the Pennsylvania waters of Lake Erie with New York.

In summary, Commission staff recommend amendments to the Lake Erie basin angling regulations pertaining to salmonids for regulatory consistency and simplicity by aligning

the trout and salmon seasons with the proposed amendment to Commonwealth Inland Waters regulations, and modifying the daily creel and minimum size limits for Rainbow Trout and Lake Trout to optimize those fisheries. It should be noted that amending the daily creel limit of Rainbow Trout from five to three and minimum size limit from nine inches to 15 inches from 8 a.m. on the opening day of the regular season for trout and salmon through Labor Day will not impact the creel or size limit for Brown Trout, a popular put-and-take fishery during the months of April and May. Additionally, a reduction to the daily creel limit of Lake Trout from two to one and increase in the minimum size from nine inches to 15 inches provides further protection to the population which is consistent with ongoing multijurisdictional rehabilitation efforts in Lake Erie.

A notice of proposed rulemaking was published at 51 Pa.B. 5685 (September 4, 2021) (Exhibit I). During the comment period, staff discovered the need for the following three additions to the chart in § 69.12:

For RAINBOW TROUT and SALMON – “(combined species)” is added to the daily limit column;

The first asterisks is updated to remove the language “[first Saturday after April 11 until the first Saturday after June 11]” and is replaced with “second Saturday in April until the second Saturday in June.”

An additional asterisk has been added to this table for clarity – “***The daily limit for all species of trout and salmon (combined) is 5 from 8 a.m. the opening day of the regular season for trout until midnight Labor Day. The daily limit for all species of trout and salmon (combined) is 3 per day from 12:01 a.m. the day after Labor Day until 12:01 a.m. on the Friday before the opening day of the regular season for trout.”

Staff propose that 58 Pa. Code § 69.12 be amended as follows:

§ 69.12. Seasons, sizes and creel limits—Lake Erie, Lake Erie tributaries and Presque Isle Bay including peninsula waters.

* * * * *

- (d) It is unlawful to fish in or along any Lake Erie tributary stream from 12:01 a.m. on the Friday before the **[first Saturday after April 11 until 8 a.m. on the first Saturday after April 11] opening day of the regular season for trout until 8 a.m. on the opening day of the regular season for trout.**
- (e) It is unlawful to possess trout or salmon in or along any Lake Erie tributary stream from 12:01 a.m. on the Friday before the **[first Saturday after April 11 until 8 a.m. on the first Saturday after April 11] opening day of the regular season for trout until 8 a.m. on the opening day of the regular season for trout.**

(f) Except as otherwise provided in subsections (d) and (e) and this subpart, the following seasons, sizes and creel limits apply to Lake Erie, Lake Erie tributaries and Presque Isle Bay, including peninsula waters:

<i>Species</i>	<i>Seasons</i>	<i>Minimum Size</i>	<i>Daily Limit</i>
* * * * *			
BASS Largemouth Smallmouth	January 1 to first Saturday after April 11 and first Saturday after June 11 until December 31.	15 inches	4 (combined species)
	First Saturday after April 11 until first Saturday after June 11.*	20 inches	1
<u>BROOK and BROWN TROUT*** [and SALMON]</u>	8 a.m. [<u>first Saturday after April 11] the opening day of the regular season for trout</u> until midnight Labor Day.	9 inches	5 (combined species [<u>only 2 of which may be lake trout</u>]).
	12:01 a.m. the day after Labor Day until 12:01 a.m. on the Friday before the [<u>first Saturday after April 11] opening day of the regular season for trout.</u>	15 inches	3 (combined species [<u>only 2 of which may be lake trout</u>]).
<u>RAINBOW TROUT and SALMON***</u>	<u>8 a.m. the opening day of the regular season for trout until 12:01 a.m. the Friday before the opening day of the regular season for trout the following year.</u>	<u>15 inches</u>	<u>3 (combined species)</u>
<u>LAKE TROUT***</u>	<u>8 a.m. the opening day of the regular season for trout until 12:01 a.m. the Friday before the opening day of the regular season for trout the following year.</u>	<u>15 inches</u>	<u>1</u>
STURGEON	No open season	ENDANGERED SPECIES	
* * * * *			

* It is unlawful to conduct or participate in a fishing tournament (as defined in § 63.40 (relating to fishing tournaments and fishing derbies)) for bass on Lake Erie, Lake Erie tributaries or Presque Isle Bay during the period from the [**first Saturday after April 11 until the first Saturday after June 11] second Saturday in April until the second Saturday in June.**

** See § 69.12b (relating to Lake Erie walleye and yellow perch adaptive management for establishing daily limits). After the Executive Director establishes the daily limit for

the year, the information will be posted on the Commission's web site and available from any Commission office.

*****The daily limit for all species of trout and salmon (combined) is 5 from 8 a.m. the opening day of the regular season for trout until midnight Labor Day. The daily limit for all species of trout and salmon (combined) is 3 per day from 12:01 a.m. the day after Labor Day until 12:01 a.m. on the Friday before the opening day of the regular season for trout.**

* * * * *

A notice of proposed rulemaking was published at 51 Pa.B. 5685 (September 4, 2021) (Exhibit J). The Commission received a total of 39 public comments regarding the proposal: three support the entire proposal, one supports the portion of the proposal pertaining to Rainbow Trout, one supports the portion of the proposal pertaining to Lake Trout, five oppose the entire proposal, one opposes the portion of the proposal pertaining to Rainbow Trout, 14 oppose the portion of the proposal pertaining to Lake Trout, and 14 do 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 amendments as described in the Commentary. If adopted, the amendments will go into effect January 1, 2022.

Action:

FISHERIES FINAL RULEMAKING

C. Establish trout slot limit programs (All-Tackle Trout Slot Limit and Artificial Lures Only Trout Slot Limit) under 58 Pa. Code Chapter 65.

Commentary:

To address landowner and angler feedback, increase the abundance of large wild Brown Trout in the population, and provide the opportunity to use all tackle types and harvest some trout, a new Miscellaneous Special Regulation (58 Pa. Code § 65.24; slot limit) was established on Penns Creek, Section 03, beginning January 1, 2014. 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 the regular season for trout through Labor Day, with no harvest permitted the remainder of the year.

Penns Creek, Section 03, provided a unique opportunity to evaluate a new special regulation on a productive limestone stream. The Penns Creek trout population was monitored before and after implementation of the slot limit regulation. Results of the monitoring revealed a substantial increase in the electrofishing catch rates of larger Brown Trout (greater than or equal to 16 inches in length) during the slot limit regulation implementation period (2014-2019). These results suggest that the slot limit regulation likely played an important role in the increased electrofishing catch of large Brown Trout in Section 03. In addition to fishery independent monitoring, staff conducted an angler use, harvest, and opinion survey to evaluate the social aspects of the regulation change and estimate angler harvest in 2019. Results documented low harvest of trout during the survey and high angler support for continuance of the slot limit regulation. Despite low angler harvest under the current slot limit regulation, this regulation provides the opportunity for anglers to harvest intermediate-sized trout if desired, which was an important social consideration when the regulation was originally implemented.

Given the success of the experimental slot limit regulation program on Penns Creek, Section 03, and potential opportunities to utilize this regulation at other suitable wild trout waters in the future, staff recommend that the Pennsylvania Fish and Boat Commission (Commission) establish a new special regulation program to be known as Trout Slot Limit. The Trout Slot Limit will have two subprograms: All-Tackle Trout Slot Limit and Artificial Lures Only Trout Slot Limit. These subprograms will provide the Commission with the ability to select the most appropriate tackle option to achieve biological and social objectives for each water considered for inclusion in the program and provide an opportunity to evaluate the effects of different terminal tackle types.

A notice of proposed rulemaking was published at 51 Pa.B. 5683 (September 4, 2021) (Exhibit K). During the comment period, staff discovered the need for the following revision in the proposed rulemaking:

Under § 65.4d. Artificial Lures Only Trout Slot Limit (b)(2), the semi-colon after “only” is removed.

Staff propose that the new sections be defined as follows:

§ 65.4c. All-Tackle Trout Slot Limit.

- (a) The Executive Director, with the approval of the Commission, may designate waters as all-tackle trout slot limit. The designation of waters as all-tackle trout slot limit shall be effective when the waters are so posted after publication of a notice of such designation in the *Pennsylvania Bulletin*.**
- (b) It is unlawful to fish in designated and posted all-tackle trout slot limit areas except in compliance with the following requirements.**
- (1) Open to fishing year-round.**
 - (2) All tackle types are permitted.**
 - (3) From 8 a.m. on the opening day of the regular season for trout through Labor Day, the daily creel limit of trout is 2 (combined species). Trout must be at least 7 inches but less than 12 inches in length to be killed or possessed.**
 - (4) From the day after Labor Day until 8 a.m. on the opening day of the regular season for trout, no trout may be killed or possessed.**
 - (5) A current trout permit is required.**
- (c) This section applies to trout only. Inland regulations apply to all other species.**

§ 65.4d. Artificial Lures Only Trout Slot Limit.

- (a) The Executive Director, with the approval of the Commission, may designate waters as artificial lures only trout slot limit. The designation of waters as artificial lures only trout slot limit shall be effective when the waters are so posted after publication of a notice of such designation in the *Pennsylvania Bulletin*.**
- (b) It is unlawful to fish in designated and posted artificial lures only trout slot limit areas except in compliance with the following requirements.**
- (1) Open to fishing year-round.**
 - (2) Fishing may be done with artificial lures only constructed of metal, plastic, rubber, or wood, or with flies and streamers constructed of natural or synthetic materials. Lures may be used with spinning or fly-fishing gear. Use or possession of other lures or substances is prohibited.**

- (3) From 8 a.m. on the opening day of the regular season for trout through Labor Day, the daily creel limit of trout is 2 (combined species). Trout must be at least 7 inches but less than 12 inches in length to be killed or possessed.**
- (4) From the day after Labor Day until 8 a.m. on the opening day of the regular season for trout, no trout may be killed or possessed.**
- (5) Taking of baitfish or fishbait is prohibited.**
- (6) A current trout permit is required.**
- (c) Notwithstanding the requirements of this section, an angler in a boat may possess bait and fish caught in compliance with the seasons, sizes, and creel limits in effect for the water from which taken, provided that the boat angler floats through the artificial lures only trout slot limit area without stopping or engaging in the act of fishing or the boat angler puts in or takes out his boat at an access point within the artificial lures only trout slot limit area.**

A notice of proposed rulemaking was published at 51 Pa.B. 5683 (September 4, 2021) (Exhibit L). The Commission received a total of five public comments regarding the proposal: three support the proposal and two do 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 that the Commission adopt the new regulations as described in the Commentary. If adopted, the new regulations will go into effect upon publication of a second notice in the *Pennsylvania Bulletin*.

Action:

FISHERIES FINAL RULEMAKING

D. Amendments to 58 Pa. Code § 61.1 (Commonwealth Inland Waters), § 61.2 (Delaware River, West Branch Delaware River and River Estuary), § 63.43 (Fishing for bass during the spring season), § 65.9 (Big Bass), § 65.24 (Miscellaneous Special Regulations), and § 69.12 (Seasons, sizes and creel limits—Lake Erie, Lake Erie tributaries and Presque Isle Bay including peninsula waters) relating to black bass angling regulations.

Commentary:

Pennsylvania Fish and Boat Commission (Commission) staff have identified an opportunity to simplify regulations pertaining to black bass (i.e., Largemouth Bass, Smallmouth Bass, and Spotted Bass) while improving upon black bass management and optimizing the fishery for that species group. A modification to black bass regulations pertaining to the start and end of seasons, creel and minimum size limits, and uniformity among resources categories (i.e., lakes, rivers, and streams) would allow anglers to interpret regulations more easily. As such, amendments to Commonwealth Inland Waters (58 Pa. Code § 61.1); Delaware River, West Branch Delaware River and River Estuary (58 Pa. Code § 61.2); Fishing for bass during the spring season (58 Pa. Code § 63.43); Big Bass (58 Pa. Code § 65.9); Miscellaneous Special Regulations (58 Pa. Code § 65.24); and Lake Erie basin regulations (58 Pa. Code § 69.12) are warranted.

Current Commonwealth Inland Waters regulations require catch and immediate release of black bass from 12:01 a.m. the first Saturday after April 11 to 12:01 a.m. the first Saturday after June 11. Black bass seasons defined in Commonwealth inland waters regulations are also incorporated in other special regulations and/or watershed-specific regulations, requiring changes to multiple regulations specific to the management of black bass throughout the Commonwealth. Additionally, black bass daily creel and minimum size limits are not consistent among lakes, rivers, and streams, which can lead to regulatory confusion by anglers.

For these reasons, Commission staff recommend amendments to Commonwealth Inland Waters regulations specific to black bass. In doing so, amendments to seasons as defined in regulations pertaining to the Delaware River, West Branch Delaware River, and River Estuary; fishing for bass during the spring season; Big Bass; Miscellaneous Special Regulations; and the Lake Erie basin are also warranted to establish regulatory consistency. This slight modification to seasons is expected to have minimal impact to both general angling for black bass as well as tournaments. Additionally, aligning black bass daily creel and minimum size limits for waters managed under Commonwealth inland waters regulations eliminates regulatory complexity, while continuing to provide adequate protection to the resource.

A notice of proposed rulemaking was published at 51 Pa.B. 5679 (September 4, 2021) (Exhibit M). During the comment period, staff discovered the need for the following three amendments to the chart in § 61.1:

The row for American Shad has been included to reflect the removal of an asterisks – “AMERICAN SHAD[*]**;”

The row for Hickory Shad has been included to reflect the removal of an asterisks – “HICKORY SHAD[*]**;” and

The row for River Herring has been included to reflect the removal of an asterisks – “RIVER HERRING (alewife and blueback herring)[*]**.”

Staff propose that 58 Pa. Code § 61.1 be amended as follows:

* * * * *

SPECIES	SEASONS	MINIMUM SIZE	DAILY LIMIT
* * * * *			
AMERICAN EEL	Open year-round	9 inches	25
[BASS- Largemouth and Smallmouth and Spotted Lakes:]	[January 1 to midnight the day before first Saturday after April 11 and November 1 to midnight December 31**]	[15 inches]	[4 (combined species from all habitats)]
	[12:01 a.m. the first Saturday after April 11 to 12:01 a.m. the first Saturday after June 11]	[NO HARVSET – Catch and immediate release only (No Tournaments Permitted)]	
	[12:01 a.m. the first Saturday after June 11 to midnight October 31]	[12 inches]	[6 (combined species)]
BASS- Largemouth and Smallmouth and Spotted [Rivers and Streams*:]	January 1 to midnight the day before the <u>[first] second</u> Saturday <u>[after] in</u> April <u>[11]</u> and October 1 to midnight December 31*[*]	15 inches	4 (combined species)
	12:01 a.m. the <u>[first] second</u> Saturday <u>[after] in</u> April <u>[11]</u> to 12:01 a.m. the <u>[first] second</u> Saturday <u>[after] in</u> June <u>[11]</u>	NO HARVSET – Catch and immediate release only (No Tournaments Permitted)	
	12:01 a.m. the <u>[first] second</u> Saturday <u>[after] in</u> June <u>[11]</u> to midnight September 30	12 inches	6 (combined species)

AMERICAN SHAD[*]**	Open year-round	No minimum	3
HICKORY SHAD[*]**	Closed year-round	No minimum	0
GIZZARD SHAD	Open year-round	No minimum	50
RIVER HERRING (alewife and blueback herring)[*]**	Open year-round	No minimum	50
* * * * *			

[* **Note:** For purposes of this subsection, power dam pools and recreational dam pools on the Susquehanna River and navigational pools in the Ohio drainage are “rivers.”]

[**] *** Note:** Stocked trout waters are closed to all fishing from [March 1 to the first Saturday after April 11 unless included in the Regional Opening Day of Trout Season Program (see §65.12 (relating to Regional Opening Day of Trout Season Program)). Waters included in the Regional Opening Day of Trout Season Program are closed to all fishing from March 1 to the first Saturday after March 28] the third Monday in February to the second Saturday in April.

[*]** **Note:** Unlawful to take, catch or kill American shad, hickory shad and river herring (alewife and blueback herring) in Susquehanna River and its tributaries. See §61.4 and 61.7 (relating to Conowingo Reservoir; Susquehanna River, West Branch Delaware River and River Estuary).

* * * * *

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

* * * * *

(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
BASS Largemouth Smallmouth	January 1 to midnight the day before the [first Saturday after April 11] <u>second Saturday in April</u> and 12:01 a.m. the [first Saturday after June 11] <u>second Saturday in June</u> to midnight December 31	12 inches	5 (combined species)
	12:01 a.m. the [first Saturday after April 11] <u>second Saturday in April</u> to 12:01 a.m. the [first Saturday after June 11] <u>second Saturday in June</u>	NO HARVEST—Catch and immediate release only	

Staff propose that 58 Pa. Code § 63.43 be amended as follows:

- (a) During the period from 12:01 a.m. on the **[first Saturday after April 11] second Saturday in April** until 12:01 a.m. on the **[first Saturday after June 11] second Saturday in June**:

Staff propose that 58 Pa. Code § 65.9 be amended as follows:

- (b) It is unlawful to take, catch, kill or possess a largemouth, smallmouth or spotted bass on or in designated “big bass” waters except in compliance with the following seasons and size and creel limits. It is not a violation of this section if the bass is immediately returned unharmed to the waters from which it was taken.

<i>Seasons</i>	<i>Size (in)</i>	<i>Creel Limit</i>
<i>Lakes:</i> January 1 to midnight the day before the [first Saturday after April 11] <u>second Saturday in April</u> and 12:01 a.m. the [first Saturday after June 11] <u>second Saturday in June</u> to midnight December 31	15	4 (combined species)
12:01 a.m. the [first Saturday after April 11] <u>second Saturday in April</u> to 12:01 a.m. the [first Saturday after June 11] <u>second Saturday in June</u>	NO HARVEST—Catch and immediate release only	
<i>Rivers and Streams:</i> January 1 to midnight the day before the [first Saturday after April 11] <u>second Saturday in April</u> and October 1 to midnight December 31	18	2 (combined species)

12:01 a.m. the [first Saturday after April 11] second Saturday in April to 12:01 a.m. the [first Saturday after June 11] second Saturday in June	NO HARVEST—Catch and immediate release only	
12:01 a.m. the [first Saturday after June 11] second Saturday in June to midnight September 30	15	4 (combined species)

* * * * *

Staff propose that 58 Pa. Code § 65.24 be amended as follows:

* * * * *

<i>County</i>	<i>Name of Water</i>	<i>Special Regulations</i>
* * * * *		
Clarion	Beaver Creek Ponds	Closed to fishing from 12:01 a.m. January 1 to 12:01 a.m. the [first Saturday after June 11] second Saturday in June of each year. Bass—15 inch minimum size limit and a 2 bass daily creel limit for the total project area. Panfish (combined species) 10 fish daily creel limit for the total project area. Other species-inland regulations apply.
* * * * *		

<p>Cumberland, Dauphin, Juniata, Lancaster, Northumberland, Perry, Snyder, York</p>	<p>Susquehanna river (98.0 miles) from the inflatable dam near Sunbury downstream to Holtwood Dam, including all tributaries to a point ½ mile upstream from the confluence</p>	<p>Bass (Smallmouth and Largemouth)— No harvest year-round—catch and immediate release only.</p> <p>From 12:01 a.m. the [<u>first Saturday after April 11</u>] <u>second Saturday in April</u> to 12:01 a.m. the [<u>first Saturday after June 11</u>] <u>second Saturday in June</u>—No Bass tournaments.</p> <p>Remainder of the year—Catch-measure-immediate release tournaments only.</p> <p>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.</p>
<p>Dauphin, Juniata, Perry</p>	<p>Juniata River (31.7 miles) from SR0075 bridge at Port Royal downstream to the mouth, including all tributaries to a point ½ mile upstream from the confluence</p>	<p>Bass (Smallmouth and Largemouth)— No harvest year-round—catch and immediate release only.</p> <p>From 12:01 a.m. the [<u>first Saturday after April 11</u>] <u>second Saturday in April</u> to 12:01 a.m. the [<u>first Saturday after June 11</u>] <u>second Saturday in June</u>—No Bass tournaments.</p> <p>Remainder of the year—Catch-measure-immediate release tournaments only.</p> <p>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.</p>
<p>* * * * *</p>		

Staff propose that 58 Pa. Code § 69.12 be amended as follows:

* * * * *

(f) Except as otherwise provided in subsection (d) and (e) and this subpart, the following seasons, sizes and creel limits apply to Lake Erie, Lake Erie tributaries and Presque Isle Bay, including peninsula waters:

<i>SPECIES</i>	<i>SEASONS</i>	<i>MINIMUM SIZE</i>	<i>DAILY LIMIT</i>
*****	*****	*****	*****
BASS Largemouth Smallmouth	January 1 to [first Saturday after April 11] second Saturday in April and [first Saturday after June 11] second Saturday in June until December 31.	15 inches	4 (combined species)
	[First Saturday after April 11] Second Saturday in April until [first Saturday after June 11] second Saturday in June .*	20 inches	1
*****	*****	*****	*****

* It is unlawful to conduct or participate in a fishing tournament (as defined in §63.40 (relating to fishing tournaments and fishing derbies)) for bass on Lake Erie, Lake Erie tributaries or Presque Isle Bay during the period from the [**first Saturday after April 11 until the first Saturday after June 11]** **second Saturday in April until the second Saturday in June**.

* * * * *

A notice of proposed rulemaking was published at 51 Pa.B. 5679 (September 4, 2021) (Exhibit N). The Commission received a total of two public comments regarding the proposal: both do 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 amendments as described in the Commentary. If adopted, the amendments will go into effect January 1, 2022.

Action:

FISHERIES FINAL RULEMAKING

E. Amendment to 58 Pa. Code § 65.24 (Miscellaneous Special Regulations): remove Leaser Lake, Lehigh County.

Commentary:

Leaser Lake, a 117-acre impoundment owned by the Commonwealth of Pennsylvania and managed by the Pennsylvania Fish and Boat Commission (Commission), is located in Lynn Township, Lehigh County, approximately 20 miles west-northwest of the City of Allentown. The dam impounds two unnamed tributaries to Ontelaunee Creek at river mile 0.38 upstream from its confluence with Ontelaunee Creek. This reservoir was completely dewatered in 2009 to complete dam and spillway repairs and modifications per Pennsylvania Department of Environmental Protection Dam Safety standards. Following completion of these repairs and modifications, refill occurred in 2013 and the Commission resumed annual adult trout stocking to provide immediate angling opportunities. Additionally, the Commission stocked the lake from 2013 through 2020 with select fish species to establish a high-quality, warm-water and cool-water fishery.

Since 2013, Leaser Lake has been managed with Miscellaneous Special Regulations (58 Pa. Code § 65.24) that allow for the harvest of trout under Commonwealth Inland Waters angling regulations but no harvest of other fish species. The intent of these temporary regulations is to facilitate rapid development of the warm-water and cool-water fish populations in the absence of harvest and once re-established, the lake would be recommended for removal from the special regulation and moved to one or more of the Commission's existing regulation programs.

The black bass and panfish populations were evaluated from 2016 through May 2021 to monitor progress towards development of a high-quality, warm-water and cool-water fishery. Sportfish abundance and population size structure have steadily improved to levels where populations can now sustain limited harvest. As such, it is recommended that Leaser Lake be removed from Miscellaneous Special Regulations in favor of management with the Commission's existing warm-water regulation programs that allow for limited harvest of warm-water and cool-water fish. Upon removal of this regulation, Leaser Lake will be proposed for designation into the Big Bass (58 Pa. Code § 65.9) and the Panfish Enhancement (58 Pa. Code § 65.11) programs. Additionally, Leaser Lake will be proposed for designation into the Stocked Trout Waters Open to Year-round Fishing program (58 Pa. Code § 65.19). To facilitate transition of Leaser Lake to the Big Bass, Panfish Enhancement, and Stocked Trout Waters Open to Year-round Fishing programs, this water must first be removed from Miscellaneous Special Regulations. All other fish species will be managed with Commonwealth Inland Waters angling regulations (58 Pa. Code § 61.1).

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:

<i>County</i>	<i>Name of Water</i>	<i>Special Regulations</i>
* * * * *		
Huntingdon	Whipple Lake	All species except trout – catch and release/no harvest; it is unlawful to take, kill or possess any fish except trout. All fish caught other than trout must be immediately returned unharmed. Trout – inland regulations apply. See §61.1. This miscellaneous special regulation will remain in effect until further notice.
[Lehigh]	[Leaser Lake]	[All species except trout—Catch and release/no harvest; it is unlawful to take, kill or possess any fish except trout. All fish caught other than trout must be immediately returned unharmed. Trout—inland regulations apply. See §61.1.]
Luzerne	Harveys Lake	During the period from the first Saturday after April 11 through midnight last day of February, the daily creel limit for trout (combined species) is 2, only one of which may exceed 18 inches in length. Warmwater/coolwater species, except as provided in this section – Inland regulations apply.
* * * * *		

A notice of proposed rulemaking was published at 51 Pa.B. 3139 (June 5, 2021) (Exhibit O). The Commission did not receive any public comments regarding the proposal.

Briefer:

David C. Nihart, Chief, Division of Fisheries Management

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 January 1, 2022.

Action:

FISHERIES DESIGNATIONS

A. Addition of Leaser Lake, Lehigh County, to the Big Bass (58 Pa. Code § 65.9), Panfish Enhancement (58 Pa. Code § 65.11), and Stocked Trout Waters Open to Year-round Fishing (58 Pa. Code § 65.19) programs.

Commentary:

Leaser Lake, a 117-acre impoundment owned by the Commonwealth of Pennsylvania and managed by the Pennsylvania Fish and Boat Commission (Commission), is located in Lynn Township, Lehigh County, approximately 20 miles west-northwest of the City of Allentown. The dam impounds two unnamed tributaries to Ontelaunee Creek at river mile 0.38 upstream from its confluence with Ontelaunee Creek. This reservoir was completely dewatered in 2009 to complete dam and spillway repairs and modifications per Pennsylvania Department of Environmental Protection Dam Safety standards. Following completion of these repairs and modifications, refill occurred in 2013 and the Commission resumed annual adult trout stocking to provide immediate angling opportunities. Additionally, the Commission stocked the lake from 2013 through 2020 with select fish species to establish a high-quality, warm-water and cool-water fishery.

Since 2013, Leaser Lake has been managed with Miscellaneous Special Regulations (58 Pa. Code § 65.24) that allow for the harvest of trout under Commonwealth Inland Waters angling regulations but no harvest of other fish species. The intent of these temporary regulations is to facilitate rapid development of the warm-water and cool-water fish populations in the absence of harvest and once re-established, the lake would be recommended for removal from the special regulation and moved to one or more of the Commission's existing regulation programs.

The black bass and panfish populations were evaluated from 2016 through May 2021 to monitor progress towards development of a high-quality, warm-water and cool-water fishery. Sportfish abundance and population size structure have steadily improved to levels where populations can now sustain limited harvest. As such, it is recommended the black bass fishery in this reservoir be managed with Big Bass angling regulations (58 Pa. Code § 65.9) and the crappie and Yellow Perch fisheries with Panfish Enhancement angling regulations (58 Pa. Code § 65.11). Big Bass regulations applied to lakes allow for the harvest of four black bass (Largemouth Bass, Smallmouth Bass, and Spotted Bass; combined species) greater than or equal to 15 inches in length from January 1 to midnight the day before the second Saturday in April, and 12:01 a.m. the second Saturday in June to midnight December 31. No harvest is permitted from 12:01 a.m. the second Saturday in April to 12:01 a.m. the second Saturday in June. Panfish Enhancement regulations allow for year-round harvest of crappies (Black Crappie and White Crappie) greater than or equal to nine inches in length and Yellow Perch greater than or equal to nine inches in length with a daily limit of 20. When Panfish Enhancement regulations apply to more than one species in the same waterway, the creel limit is 20 for each species with the total creel not to exceed 50 panfish combined. All other fish species not managed under these

special regulations will be managed with Commonwealth Inland Waters angling regulations (58 Pa. Code § 61.1).

Leaser Lake is also included in the Stocked Trout Waters (STW) program to provide seasonal opportunities for adult hatchery-reared trout. STWs are closed to all fishing from the third Monday in February to 8 a.m. on the opening day of the regular season for trout and Commonwealth Inland Waters regulations (58 Pa. Code § 61.1) apply for the remainder of the year. In addition to hatchery trout, Leaser Lake supports a popular warm-water and cool-water fisheries for crappies, Largemouth Bass, tiger muskellunge, and Yellow Perch. A designation of Stocked Trout Waters Open to Year-round Fishing would allow for trout angling on a catch-and-release basis as well as angling for resident warm-water and cool-water species during the current closed period, thus sustainably increasing and diversifying recreational angling opportunities. Waters with this designation are managed with Commonwealth Inland Waters regulations for the remainder of the year.

A notice of proposed designations was published at 51 Pa.B. 5799 (September 4, 2021) (Exhibit P). The Commission did not receive any public comments regarding the proposal.

Briefer:

David C. Nihart, Chief, Division of Fisheries Management

Recommendation:

Staff recommend the Commission add Leaser Lake, Lehigh County, to the Big Bass (58 Pa. Code § 65.9), Panfish Enhancement (58 Pa. Code § 65.11), and Stocked Trout Waters Open to Year-round Fishing (58 Pa. Code § 65.19) programs. If adopted, these designations will go into effect January 1, 2022.

Action:

FISHERIES DESIGNATIONS

B. Addition of Opossum Lake, Cumberland County, to the Stocked Trout Waters Open to Year-round Fishing program (58 Pa. Code § 65.19).

Commentary:

Opossum Lake, a 47-acre impoundment owned by the Commonwealth of Pennsylvania and managed by the Pennsylvania Fish and Boat Commission (Commission), is located in Lower Frankford Township, Cumberland County, approximately six miles west-northwest from the Borough of Carlisle. The dam impounds Opossum Creek at river mile (RM) 0.5 upstream from its confluence with Conodoguinet Creek at RM 45.5. This reservoir was completely dewatered in October 2008 to complete dam and spillway repairs and modifications per Pennsylvania Department of Environmental Protection dam safety standards. Following completion of these repairs and modifications, refill occurred during 2013, and the Commission added Opossum Lake to the Stocked Trout Water (STW) program to provide seasonal opportunities for adult hatchery-reared trout. STWs are closed to all fishing from the third Monday in February to 8 a.m. on the opening day of the regular season for trout and Commonwealth Inland Waters regulations (58 Pa. Code § 61.1) apply for the remainder of the year.

In addition to hatchery trout, Opossum Lake supports popular warm-water and cool-water fisheries for Largemouth Bass and crappies and was added to the Big Bass (58 Pa. Code § 65.9) and Panfish Enhancement (58 Pa. Code § 65.11) programs in January 2021. A designation of Stocked Trout Waters Open to Year-round Fishing would allow for trout angling on a catch-and-release basis as well as angling for resident warm-water and cool-water species during the current closed period, thus sustainably increasing and diversifying recreational angling opportunities. Waters with this designation are managed with Commonwealth Inland Waters regulations for the remainder of the year.

A notice of proposed designations was published at 51 Pa.B. 5799 (September 4, 2021) (Exhibit Q). The Commission did not receive any public comments regarding the proposal.

Briefer:

David C. Nihart, Chief, Division of Fisheries Management

Recommendation:

Staff recommend that the Commission add Opossum Lake, Cumberland County, to the Stocked Trout Waters Open to Year-round Fishing program (58 Pa. Code § 65.19). If adopted, this designation will go into on January 1, 2022.

Action:

FISHERIES DESIGNATIONS

C. Addition of Lake Perez, Huntingdon County, to the Stocked Trout Waters Open to Year-round Fishing program (58 Pa. Code § 65.19).

Commentary:

Lake Perez, a 72-acre impoundment owned by the Pennsylvania State University, is located in Barree Township, Huntingdon County, approximately three miles northeast from the Village of Neffs Mills. The dam impounds Shavers Creek at river mile (RM) 13.1 upstream from its confluence with the Juniata River at RM 101.2. This reservoir was completely dewatered in late spring 2009 to complete dam and spillway repairs and modifications per Pennsylvania Department of Environmental Protection dam safety standards. Following completion of these repairs and modifications, refill occurred during 2014, and the Pennsylvania Fish and Boat Commission (Commission) added Lake Perez to the Stocked Trout Water (STW) program to provide seasonal opportunities for adult hatchery-reared trout. STWs are closed to all fishing from the third Monday in February to 8 a.m. on the opening day of the regular season for trout and Commonwealth Inland Waters regulations (58 Pa. Code § 61.1) apply for the remainder of the year.

In addition to hatchery trout, Lake Perez supports a popular warm-water and cool-water fisheries for Largemouth Bass, Bluegill, Pumpkinseed, and Black Crappie, and this water was added to the Panfish Enhancement program (58 Pa. Code § 65.11) for sunfish and crappies in January 2021. A designation of Stocked Trout Waters Open to Year-round Fishing would allow for trout angling on a catch-and-release basis as well as angling for resident warm-water and cool-water species during the current closed period, thus sustainably increasing and diversifying recreational angling opportunities. Waters with this designation are managed with Commonwealth Inland Waters regulations for the remainder of the year.

A notice of proposed designations was published at 51 Pa.B. 5799 (September 4, 2021) (Exhibit R). The Commission did not receive any public comments regarding the proposal.

Briefer:

David C. Nihart, Chief, Division of Fisheries Management

Recommendation:

Staff recommend that the Commission add Lake Perez, Huntingdon County, to the Stocked Trout Waters Open to Year-round Fishing program (58 Pa. Code § 65.19). If adopted, this designation will go into on January 1, 2022.

Action:

FISHERIES DESIGNATIONS

D. 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 Pennsylvania Fish and Boat Commission's (Commission) policy to manage self-sustaining Class A wild trout populations as a renewable natural resource to conserve that resource and the angling it provides. Class A wild trout populations represent the best of Pennsylvania's naturally reproducing trout populations. Criteria developed for Class A wild trout populations are species specific. Wild trout biomass class criteria include provisions for wild Brook Trout, wild Brown Trout, mixed wild Brook 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 nine 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 S provides information on the locations and a data summary for each of these waters.

A notice of proposed designations was published at 51 Pa.B. 5322 (August 21, 2021) (Exhibit T). The Commission received a total of 135 public comments regarding the proposed designations: 130 support the entire proposal, one supports the designation of a specific water, one opposes the entire proposal, one opposes the designation of a specific water, and two do not pertain to the proposal. Copies of all public comments were provided to the Commissioners.

Briefer:

David C. Nihart, Chief, Division of Fisheries Management

Recommendation:

Staff recommend that the Commission add nine 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:

FISHERIES DESIGNATIONS

E. Classification of wild trout streams: proposed additions, revision, and amendment.

Commentary:

The Pennsylvania 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 (Commission) under 58 Pa. Code § 57.11 (relating to listing of wild trout streams)." This term has regulatory significance because wetlands that are located in or along the floodplain of the reach of a wild trout stream and the floodplain of streams tributary thereto are considered "exceptional value" and are thus entitled to the highest level of protection.

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

Staff recommend the addition of five new waters to the Commission's list of wild trout streams, revision to the section limits of one water currently listed, and the amendment to the name of one water currently listed. These changes are the result of recent surveys conducted on these waters. Exhibit U 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 51 Pa.B. 5321 (August 21, 2021) (Exhibit V). The Commission received a total of 123 public comments regarding the proposed designations: 121 support the proposal and two do not pertain to the proposal. Copies of all public comments were provided to the Commissioners.

Briefer:

David C. Nihart, Chief, Division of Fisheries Management

Recommendation:

Staff recommend that the Commission add five new waters to the Commission's list of wild trout streams, revise the section limits to one water currently listed, and amend the name of one water currently listed as set forth in the notice of proposed designations. If approved,

these additions will go into effect upon publication of a second notice in the *Pennsylvania Bulletin*.

Action:

FISHERIES DESIGNATIONS

F. Removal of Somerset Lake, Somerset County, from the Big Bass Program (58 Pa. Code § 65.9).

Commentary:

Somerset Lake, a 253-acre impoundment owned by the Commonwealth of Pennsylvania and managed by the Pennsylvania Fish and Boat Commission (Commission), is located in Somerset Township, Somerset County, approximately one mile northeast of the Borough of Somerset. This reservoir was completely dewatered in 2017 to complete dam and spillway repairs and modifications per Pennsylvania Department of Environmental Protection dam safety standards. The earth-fill dam impounds the East Branch Coxes Creek at river mile (RM) 4.9 upstream from its confluence with Coxes Creek at RM 6.4. Prior to the drawdown in 2017, the lake offered angling opportunities for multiple warm-water and cool-water fish species. Rehabilitation of the dam and spillway is expected to be complete during fall 2021, with re-filling initiated soon after.

The Commission plans to initiate stocking the lake beginning in late fall 2021, or as soon as refilling conditions allow, with fingerling plants of select fish species to establish a high-quality, warm-water and cool-water fishery. At the April 2021 quarterly Commission meeting, the Commission approved the addition of Somerset Lake to the Catch and Release Lakes program (58 Pa. Code § 65.17), effective January 1, 2022, to allow for the most rapid development of a balanced warm-water and cool-water fish community, while offering acceptable levels of recreational angling opportunities. Once the fish populations can sustain limited harvest, the lake will be recommended for removal from the Catch and Release Lakes program and inclusion in one or more of the Commission's existing warm-water regulation programs that accommodate appropriate fish harvest while maintaining high-quality recreational angling opportunities. To facilitate transition of Somerset Lake to temporary management under the Catch and Release Lakes program while the fish community develops, this water must be removed from the Big Bass program.

A notice of proposed designations was published at 51 Pa.B. 5799 (September 4, 2021) (Exhibit W). The Commission did not receive any public comments regarding the proposal.

Briefer:

David C. Nihart, Chief, Division of Fisheries Management

Recommendation:

Staff recommend the Commission remove Somerset Lake, Somerset County, from the Big Bass program (58 Pa. Code § 65.9). If adopted, the designation will go into effect upon publication of the second notice in the *Pennsylvania Bulletin*.

Action:

FISHERIES DESIGNATIONS

G. Removal of Raccoon Creek State Park Upper Pond (Group Camping Area Lake), Beaver County, from the Catch and Release Lakes program (58 Pa. Code § 65.17).

Commentary:

Raccoon Creek State Park Upper Pond (Group Camping Area Lake), a 7.9-acre impoundment owned by the Commonwealth of Pennsylvania and managed by the Pennsylvania Department of Natural Resources, is located in Hanover Township, Beaver County, approximately 30 miles northwest of the City of Pittsburgh. The earth-fill dam impounds Traverse Creek at river mile (RM) 5.2 upstream from its confluence with Raccoon Creek at RM 23.3. This reservoir will be completely dewatered in fall 2021 in preparation for a floodplain restoration project planned for 2022. Prior to the drawdown, the lake offered angling opportunities for multiple warm-water and cool-water fish species.

At the July 2021 quarterly meeting of the Pennsylvania Fish and Boat Commission (Commission), the Commission ratified a temporary change to fishing regulations under 58 Pa. Code § 65.25 to lift all seasons, sizes, and creel limits for all species, effective July 17, 2021. This action was taken to encourage anglers to harvest fish in advance of a complete and permanent drawdown of the impoundment prior to removal of the dam structure and subsequent habitat restoration to reclaim Traverse Creek to a free-flowing stream. As such, management of Raccoon Creek State Park Upper Pond (Group Camping Area Lake) under the Catch and Release Lakes program (58 Pa. Code § 65.17) is no longer warranted.

A notice of proposed designation was published at 51 Pa.B. 5799 (September 4, 2021) (Exhibit X). The Commission did not receive any public comments regarding the proposal.

Briefer:

David C. Nihart, Chief, Division of Fisheries Management

Recommendation:

Staff recommend the Commission remove Raccoon Creek State Park Upper Pond (Group Camping Area Lake), Beaver County, from the Catch and Release Lakes program (58 Pa. Code § 65.17). If adopted, the designation will go into effect upon publication of the second notice in the *Pennsylvania Bulletin*.

Action:

NOTATIONAL VOTE MEASURES

The Commission voted on two items by notational vote since the July 2021 meeting. Between August 10, 2021 and August 13, 2021 the Commission, in a 10-0 vote, approved the item found in Appendix A, item A. Between August 23, 2021 and August 27, 2021 the Commission, in a 9-0 vote, with one abstention, approved the item found in Appendix A, item B.

APPENDIX A

PENNSYLVANIA FISH AND BOAT COMMISSION

Notational Vote

A. Approval of Commission Reorganization.

Commentary:

The Commission's mission is to protect, conserve, and enhance the Commonwealth's aquatic resources and provide fishing and boating opportunities.

The functions of the bureaus of Boating and Outreach, Education, and Marketing are integral to the delivery and advancement of Commission strategic priorities, share numerous administrative and business type functions, and are co-located in the Commission's Harrisburg headquarters.

The reorganization as depicted in Exhibit A will implement the following changes. Exhibit A does not depict the full organizational structure; rather, it focuses on the proposed changes.

- (1) Reposition the Bureau of Boating to report to the Deputy Executive Director for Administration. This will provide a mechanism to align the administrative, financial, and programmatic functions of the bureau more closely within the Commission's Office of Administration and will allow for expanded coordination and synergies.
- (2) Reposition the Bureau of Outreach, Education, and Marketing to report to the Deputy Executive Director for Administration. This will provide a mechanism to align the administrative, financial, and programmatic functions of the bureau more closely within the Commission's Office of Administration and will allow for expanded coordination and synergies.

After approval by the Board of Commissioners, the proposed reorganization plan, including the names of the organizational units, must be approved by the Governor's Office of Administration.

Briefer:

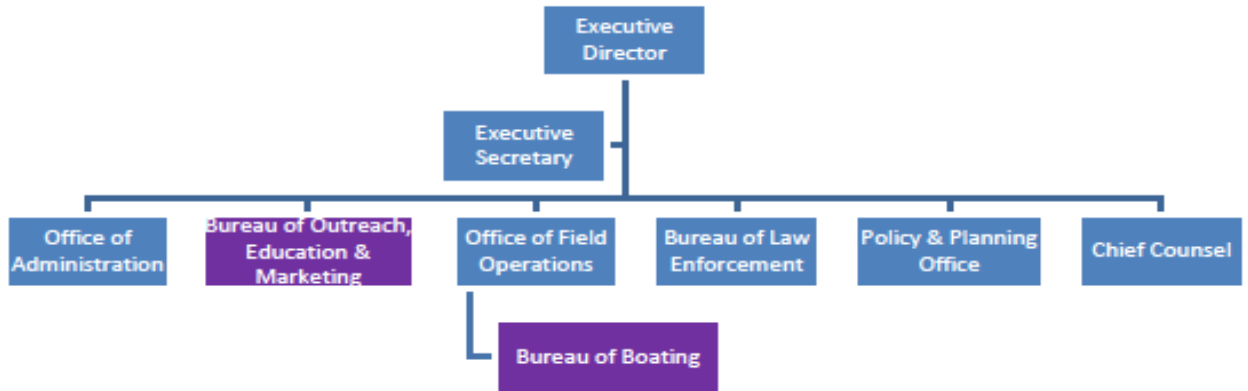
Timothy D. Schaeffer, Executive Director

Recommendation:

Staff recommend that the Commission approve the reorganization of the Commission as proposed in the Commentary.

Action:

PFBC – Current Organizational Structure



PFBC – Proposed Organizational Structure

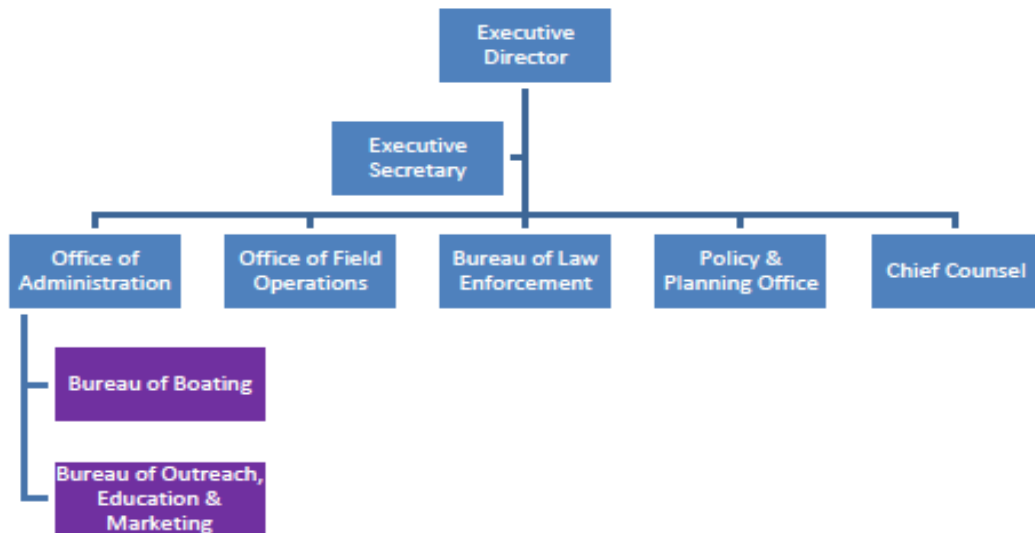


Exhibit A: Current and Proposed PFBC Organizational Structure - August 2021

PENNSYLVANIA FISH AND BOAT COMMISSION

Notational Vote

B. Evaluating the effects of parasitic copepods *Salmincola edwardsii* and *S. californiensis*: Grant to the United States Fish and Wildlife Service, Northeast Fishery Center, Clinton County.

Commentary:

In February 2020, the Pennsylvania Fish and Boat Commission (Commission) was awarded a \$100,000 grant from Pennsylvania Sea Grant to evaluate the effects of parasitic copepods *Salmincola edwardsii* and *S. californiensis* on Brook Trout and Rainbow Trout, respectively, in Pennsylvania inland streams and Lake Erie tributaries. The United States Fish and Wildlife Service (USFWS), a cooperating partner in the study, will assist with genetic data collection and analyses, morphometric identification, pathology, and virology testing.

An avenue to pass-through funds from Pennsylvania Sea Grant to the USFWS previously did not exist; however, at the April 2020 Commission meeting, the Commission approved an amendment to the Aquatic Nuisance Species Management Plan Grant to allow for the Executive Director to approve individual grants using up to \$100,000 of federal pass-through monies per grantee, per year, for projects meeting the objectives of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, the *Pennsylvania Aquatic Invasive Species Management Plan*, and/or other non-native species.

The study was scheduled to begin in February 2020 and conclude in January 2022, with the USFWS to receive \$65,520 during fiscal year (FY) 2020/2021 and \$54,990 during FY 2021/2022. In March 2020, the COVID-19 pandemic precluded the study from proceeding as planned due to lab and facility closures, social distancing, and other operational restrictions associated with the pandemic, which halted data collection and analysis. A no-cost extension request was submitted to Pennsylvania Sea Grant to extend the project expiration date through December 2022, and the Commission is awaiting approval of the extension. In the event an extension is not granted, the study period will be compressed and the total grant award to the USFWS of \$120,510 will occur during one fiscal year. Commission approval is required for grants exceeding \$100,000 per grantee, per year.

Briefer:

Timothy D. Schaeffer, Executive Director

Recommendation:

Staff recommend the Commission authorize a grant not to exceed \$120,510 to the United States Fish and Wildlife Service, Northeast Fishery Center to support the project described in the Commentary.

Action:

Other New Business

Time and Place of January 2022 Commission Meeting

Adjournment