



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

MINUTES

110th Meeting

Volume 65

**HAWLEY, PENNSYLVANIA
MAY 6, 2014**

Table of Contents

Call to Order	29
Roll Call	29
Review and Approval of Minutes from the January 23, 2014 Meeting	29
Awards and Presentations	29
Executive Director’s Report.....	31
Announcement of Executive Session	31
Reports of Commissioner Committees	31
Executive and Administrative (Commissioner Elliott) –	31
Boating (Commissioner Bachman) –.....	31
Fisheries (Commissioner Mascharka) –.....	31
Habitat and Environmental (Commissioner Ali) –	31
Law Enforcement (Commissioner Gavlick) –	31
Legislation and Public Outreach (Commissioner Sabatose) –.....	32
Public Comment to Commissioners and Staff	32
EXECUTIVE AND ADMINISTRATIVE	33
A. Flowage and Berm Easement Acquisitions, Speedwell Forge Lake, Elizabeth Township, Lancaster County.	33
B. Easement Acquisition, Nicolls Property, Spring Township, Crawford County.	35
BOATING	36
PROPOSED RULEMAKING	36
A. Amendment to Section 95.3 (Lights for Boats)	36
B. Amendment to Section 109.2 (Sailboards)	41
C. Amendment to Section 109.4 (Waterskiing, Aquaplaning, Kiteskiing and Similar Activities)	43
D. Amendments to Section 111.49 (Northumberland County).....	45
FISHERIES	47
FINAL RULEMAKING.....	47
A. Amendments to Sections 61.1 (Commonwealth Inland Waters), 61.2 (Delaware River, West Branch Delaware River and River Estuary), 61.4 (Conowingo Reservoir) and 69.12 (Seasons, Sizes and Creel Limits – Lake Erie, Lake Erie Tributaries and Presque Isle Bay Including Peninsula Waters) to Increase the Size Limit and Decrease the Creel Limit for American Eel.	47
DESIGNATIONS	49
B. Classification of Wild Trout Streams: Additions, Adjustments and Removals.	49
C. Additions to List of Class A Wild Trout Streams.	51

HABITAT AND ENVIRONMENTAL 52

 FINAL RULEMAKING..... 52

 A. Amendments to Sections 61.1, 61.2, 61.3, 61.4, 63.46, 69.12, 71.6 and 73.1 to Restrict the Sale,
 Possession, Introduction and Transportation of all Crayfish Species in Pennsylvania..... 52

Other New Business 55

Time and Place of July 2014 Commission Meeting 55

Adjournment..... 55

Commonwealth of Pennsylvania
Pennsylvania Fish and Boat Commission

Minutes

The 110th Meeting of the Pennsylvania Fish and Boat Commission was held on Monday and Tuesday, May 5 and 6, 2014, at the PPL Lake Wallenpaupack Office, 126 PPL Drive, Hawley, PA 18428.

Commission committees met on May 5 beginning at 10:10 a.m. and on May 6 beginning at 8:15 a.m. The public session for review of this agenda began at or about 9:55 a.m. on May 6.

Call to Order

The meeting was called to order by Commission President G. Warren Elliott and followed by the Pledge of Allegiance to the Flag.

Roll Call

Members Present

G. Warren Elliott, President
Norman R. Gavlick, Vice-President
Rocco S. Ali
Robert A. Bachman
Leonard L. Lichvar
Edward P. Mascharka III
William J. Sabatose
William R. Worobec

Members Not Present

Steven M. Ketterer
Glade E. Squires

Review and Approval of Minutes from the January 23, 2014 Meeting

A motion was made by Commissioner Gavlick and seconded by Commissioner Sabatose to approve the January 23, 2014 minutes as written. Motion carried.

Awards and Presentations

The 2013 Northeast Conservation Law Enforcement Chiefs Officer of the Year Award was presented to Waterways Conservation Officer (WCO) Thomas Benevento. This year's award for

the Commission is presented to WCO Benevento. WCO Benevento, age 56, is a life-long Pennsylvania resident, growing up in Lehigh County. Tom began his career with the Commission in 1995 and has spent his entire career working in the 4084 district, which is the southern half of Chester County. Unlike some WCO districts, the 4084 district is not a “destination district” that is full of famous trout streams, large, heavily used lakes, and tourist attractions to draw the public to. However, one would never know that Tom’s district is not a “destination district” when looking at his work results. Tom has always been a hard worker, and 2013 was another year where this was obvious. From the standpoint of public relations, he was involved in 22 events such as sportsmen’s club meetings and school programs during the year. He also submitted five “Notes from the Streams” articles for publication in the Commission’s *Angler & Boater* magazine. In addition, and certainly most noteworthy, is the fact that he submitted an astounding 113 fishing and boating reports for use on the Commission’s website. In addition to public relations, Tom makes law enforcement a priority. For 2013, Tom and his Deputy WCOs (DWCOs) conducted 52 days of boat patrol and made 1,064 safety checks of boats. Also during 2013, Tom and his DWCOs issued a total of 314 warnings and 272 citations for violations of the Fish and Boat Code, far above any other district in the region. Tom is known as a dependable and enthusiastic officer when help is needed on special law enforcement details, and he is the region’s “go-to” officer when the detail requires someone to conduct long range surveillance with a spotting scope. During 2013, Tom had three new DWCOs to train, quite a task for any WCO, but Tom took it all in stride and all three successfully completed their training and are now doing a great job for the Commission. It is obvious that Tom does outstanding work in the field, and that outstanding work extends to his office duties as well. He does an excellent job ensuring that his reports and other paperwork are always neat, accurate and submitted in a timely manner, which is very important in today’s fast paced world. The most important thing to point out about Tom is that he did not just have a “good year” in 2013; he has produced results like these year after year. All the examples of Tom’s hard work and dedication are what make him worthy of recognition as the Commission’s Officer of the Year for 2013.

The 2013 Top Gun Award was presented to Waterways Conservation Officer (WCO) Mark Sweppenhiser. WCO Sweppenhiser is presently assigned to the Northern Dauphin/Northumberland District 6085, encompassing an extensive portion of the lower Susquehanna River. In 2013, WCO Sweppenhiser logged 520.5 hours on recreational boating law enforcement focused on the river. His patrol scheme was comprised of 33 shifts of waterborne patrols, augmented by numerous late night shore-based compliance inspection endeavors. WCO Sweppenhiser facilitated two boating safety/boating under the influence (BUI) special enforcement details in his patrol area and actively participated in an additional three details in neighboring districts. During the 2013 recreational boating season, WCO Sweppenhiser independently apprehended and prosecuted nine individuals for BUI and assisted other officers with two additional arrests. Regarding his apprehensions, four resulted from shore-based compliance inspections, three from on the water patrols and the remaining two from investigations concurrent to a boating theft/accident and citizen complaint of public misconduct.

In addition to the award presentations, Director Arway read a letter lauding Captain Ray Bednarchik, Southeast Region, for the exceptional service which he recently provided to one of the Commission’s customers. Captain Bednarchik quickly responded to a letter from an angler and addressed each item with professionalism. Captain Bednarchik is to be commended.

Executive Director's Report

A moment of silence was held in memory of Charles "Blake" Weirich who passed away on April 30, 2014. Blake dedicated his career to the Commission and the U.S. Fish and Wildlife Service as a fisheries biologist, educator and grant administrator. Blake was a great conservation leader, and he will be missed.

Executive Director John Arway highlighted the "January – March 2014 Quarterly Report" (Exhibit A) that was provided to Commissioners and gave a review of his recent activities and upcoming events. Many thanks to Katie Lester of the PPL Lake Wallenpaupack Office for hosting our meeting and for the fine hospitality that was extended to the Commission.

Announcement of Executive Session

Commissioner Elliott announced that an executive session was held on May 5 at 8:00 a.m. to discuss personnel, real estate and litigation matters.

Reports of Commissioner Committees

Executive and Administrative (Commissioner Elliott) –

The Executive and Administrative Committee met on Monday, May 5, at approximately 10:10 a.m. Agenda items were discussed, and Tim Schaeffer provided an update on the Strategic Plan.

Boating (Commissioner Bachman) –

The Boating Committee met on Tuesday, May 6, at approximately 8:40 a.m. Agenda items were discussed.

Fisheries (Commissioner Mascharka) –

The Fisheries Committee met on Monday, May 5, at approximately 2:15 p.m. and on Tuesday, May 6, at approximately 8:15 a.m. Agenda items were discussed. Discussion items included a hatchery update on the renovations at the Reynoldsdale State Fish Hatchery, a presentation on the Pleasant Mount State Fish Hatchery, a cooperative nursery update, the Unassessed Waters and Volunteer Participation Program, Pennsylvania's best carp waters, the Upper Delaware tailwaters, the F.E. Walter tailwaters study, a Lackawanna River update and a proposal to extend the Delayed Harvest Artificial Lures Only area on Pine Creek at Slate Run. Don Baylor of the Brodhead Chapter Trout Unlimited provided a presentation on the chapter's current projects and interests.

Habitat and Environmental (Commissioner Ali) –

The Habitat and Environmental Committee met on Monday, May 5, at approximately 12:45 p.m. Agenda items were discussed. Bob Morgan provided a presentation on didymo and the New Zealand mud snail. Chris Urban provided a presentation on poaching of threatened and endangered species and rehabilitation procedures for injured species. Andy Shiels provided a presentation on the Pennsylvania Natural Diversity Inventory (PNDI) tool.

Law Enforcement (Commissioner Gavlick) –

The Law Enforcement Committee met on Monday, May 5, at approximately 11:40 a.m.

Updates were given on the Fish Kill hotline, Marcellus shale enforcement efforts, and the upcoming Waterways Conservation Officer class. Lt. Colonel Larry Furlong provided a presentation on patrol rifles.

The Committee acted upon proposed revocations. The Committee revoked the fishing privileges of one individual for a period of one year, five individuals for a period of two years, and three individuals for a period of five years. The Committee revoked the boating privileges of one individual for one year and directed him to successfully complete a classroom boating safety education course. The Committee also revoked the fishing guide permit of one individual for two years.

Legislation and Public Outreach (Commissioner Sabatose) –

The Legislation and Public Outreach Committee met on Monday, May 5, at approximately 10:50 a.m. Discussion items included the Legislative Budget and Finance Committee Merger Report, House Bill 2143 that combines the Fish Fund and the Boat Fund, and the Endangered Species Coordination Act. Tim Schaeffer provided an update on numerous funding priorities. Bernie Matscavage provided a license sales report, and Steve Kralik reported on the Pocono Raceway partnership that is underway and other marketing initiatives. Director Arway commended Leroy Young and Steve Kralik for their hard work on the Angler Thank You Campaign.

Public Comment to Commissioners and Staff

There were no comments or questions from the public.

EXECUTIVE AND ADMINISTRATIVE

A. Flowage and Berm Easement Acquisitions, Speedwell Forge Lake, Elizabeth Township, Lancaster County.

Commentary:

The Commission owns a +/-310-acre tract of land in Elizabeth Township, Lancaster County, known as Speedwell Forge Lake. The Commission also owns +/- 62 acres of flowage easements. A flowage easement is the right to periodically flow water on, flood, and inundate an area with water without the liability for damages resulting from such action.

The normal lake pool size is 106 acres. However, Speedwell Forge Lake has been drained to eliminate public safety concerns due to damage of the dam's spillway sustained during Tropical Storm Lee. Staff are currently working to rehabilitate the dam utilizing Capital Budget funds.

When the dam was originally constructed, the Commission obtained flowage easements to meet the design and regulatory standards in place at that time. Due to changes in regulatory standards, the Commission is now required to obtain flowage easements to meet the current design storm elevations.

The current method of the Pennsylvania Department of Environmental Protection (DEP) for dam and storm event analysis indicates that the proposed dam rehabilitation project will increase the maximum water elevation by approximately 7.5 feet. Thus, there will be an area between the originally purchased easement boundary and the new design flood elevation that may be inundated. This area will need to be acquired as flowage easements. The areas are expected to have minimal value. The Commission will pay the estimated fair market value of the rights or accept donations if offered. The flowage easement areas are estimated to be approximately 30 acres and will include approximately 31 parcels, as identified on Exhibit B. The exact acreage and number of claims will be determined by courthouse research and property surveys.

Additionally, there will be a berm easement or fee simple property acquisition required for the placement and maintenance of a portion of a small, earthen flood berm. The flood berm is needed to keep the storm event flood waters contained within the Speedwell Forge Lake watershed and not allow it to flow into the adjoining watershed. The flood berm is approximately 350 feet long and approximately four feet high. The majority of the flood berm will be constructed on Commission property but approximately 100 feet will extend into an adjoining property. It is anticipated that the easement or fee simple property to be acquired will be approximately 0.10 acres. The exact acreage will be determined by a property survey.

Staff will pursue the acquisition of the new easement areas and/or fee simple property in an amicable manner and only utilize the Commonwealth's power of eminent domain as a

last resort. Additionally, staff will adhere to the Commission's standard practices for acquiring property including meeting due diligence and funding requirements.

Briefer:

Mark H. Mitchell, P.L.S., Chief, Property Services Section, Division of Public Access and Property Services

Recommendation:

Staff recommend that the Commission authorize the acquisition of the subject rights described in the Commentary.

Action:

A motion was made by Commissioner Bachman and seconded by Commissioner Ali to authorize the acquisition of the subject rights described in the Commentary. Motion carried.

B. Easement Acquisition, Nicolls Property, Spring Township, Crawford County.

Commentary:

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

The Commission has been offered an easement on 4,960 linear feet of Conneaut Creek as it flows across two parcels of property in Spring Township, Crawford County, for \$65,000. The easement will be for public fishing, boating, and riparian and fishery management. It will include the stream corridor and extend at least 35 feet back from the top of the bank to the extent of the ownership of the seller. In addition, the seller has agreed to grant the Commission easements for parking and a footpath to provide access to Conneaut Creek. The easement area is located west of Route 18 along Tower Road near Conneautville. A map depicting the subject parcels is attached as Exhibit C.

Conneaut Creek provides significant steelhead and trout fishing opportunities in the area, and *Pennsylvania’s Fishing and Boating Access Strategy* indicates a need for more access on this particular section of Conneaut Creek. The Commission’s Regional Law Enforcement and Fisheries staff have recommended that the site be acquired.

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

Briefer:

Mark H. Mitchell, P.L.S., Chief, Property Services Section, Division of Public Access and Property Services

Recommendation:

Staff recommend that the Commission authorize the acquisition of an easement along Conneaut Creek in Spring Township, Crawford County, as more particularly described in the Commentary, utilizing monies in the Lake Erie restricted account.

Action:

A motion was made by Commissioner Mascharka and seconded by Commissioner Worobec to authorize the acquisition of an easement along Conneaut Creek in Spring Township, Crawford County, as more particularly described in the Commentary, utilizing monies in the Lake Erie restricted account. Motion carried.

BOATING PROPOSED RULEMAKING

A. Amendment to Section 95.3 (Lights for Boats).

Commentary:

Section 95.3 provides boaters with information on the requirements for types, configurations and locations of navigation lights on boats. These provisions are contained within the actual wording of the regulation and by reference to the Inland Navigation Rules Act of 1980 (33 U.S.C.A. §§2001-2073) and Appendix A (Lights required on boats less than 20 meters in length – Inland and International Waters) as shown in Exhibit D.

Based on a recent review of § 95.3, staff have determined that it should be amended for a number of reasons. While there is a reference in the regulation to 33 U.S.C.A. §§2001-2073, Pennsylvania courts have found there is no explicit language within the regulation that states a boater must comply with these specific federal rules. In addition, the Inland Navigation Rules are no longer set forth in 33 U.S.C.A. §§2001-2073 but were moved to 33 CFR Part 83 in 2010.

Section 95.3 also does not specifically incorporate the language of Rule 20(b) (now 33 CFR §83.20 (b)), which states that “Rules concerning lights shall be complied with from sunset to sunrise, and during such times no other lights shall be exhibited, except such lights as cannot be mistaken for the lights specified in these Rules or do not impair their visibility or distinctive character, or interfere with the keeping of a proper lookout.” Pennsylvania courts have strictly construed the language of section 95.3 and have not interpreted it to mean that a boater must refrain from using other lights or if other lights are used they may not impair the visibility or distinctive character of the required lights. The Commission’s waterways conservation officers have encountered challenges with successfully prosecuting more severe violations such as boating under the influence when lighting deficiencies have been cited as probable cause to conduct a boarding.

For these reasons, staff propose to amend § 95.3 to more closely reflect the lighting requirements in the Code of Federal Regulations and eliminate the reference to Appendix A. Staff further propose to eliminate Appendix A in its entirety and rely solely on the narrative. These amendments are not a substantive change to lighting requirements for recreational boaters.

Staff propose the following amendments to §95.3:

§ 95.3. Lights for boats.

(a) *General rule.* **[A boat from sunset to sunrise and during periods of restricted visibility shall carry and exhibit the lights prescribed by the Inland Navigation Rules Act of 1980 (33 U.S.C.A. § § 2001—2073). A boat owner may elect to carry and exhibit the lights prescribed by the International Rules in lieu of the Inland Rules but, in that event, the boat owner shall comply in all respects with those standards. See Appendix A.**

(b) *Boats less than 12 meters (39 feet 4.4 inches) in length while underway.*

(1) Motorboats and sailboats using power may use the lighting arrangement in Appendix A, Figure 1, 2 or 3.

(2) Sailboats using sail alone may use the lighting arrangement in Appendix A, Figure 4, 5 or 6.

(3) A motorboat or sailboat using power underway on the Great Lakes may use the lighting arrangement in Appendix A, Figure 7D instead of the arrangements in Appendix A, Figure 1 and 2.

(4) A sailboat using sail alone, less than 7 meters (22 feet 11.6 inches) in length if impractical to display lights in Appendix A, Figure 4, 5 or 6, may display a single white light in time to prevent a collision. See Appendix A, Figure 7C.

(c) *Boats 12 meters (39 feet 4.4 inches) but less than 20 meters (65 feet 7.4 inches) in length while underway.*

(1) Motorboats and sailboats using power may use the lighting arrangements in Appendix A, Figure 1 or 2.

(2) Sailboats using sail alone may use the lighting arrangement in Appendix A, Figure 4, 5 or 6.

(d) *Rowing or paddle boats while underway.* One hand held or permanent all-around white light shall be ready to display in time to prevent a collision. Appendix A, Figure 7, A or B.

(e) *Boat at anchor.*

(1) A boat must display anchor lights when it is anchored where other vessels normally navigate. See Appendix A, Figure 7E.

(2) Exception: Anchor lights are not required on boats anchored in special anchorage areas.

(f) *Locations of lights.* Lights shall be located and have the characteristics as shown in Appendix A.

(1) The masthead light (forward white light in Appendix A, Figures 1, 2 and 7D) shall be at least 1 meter (3 feet 3.4 inches) higher than the colored lights on a boat less than 12 meters (39 feet 4.4 inches) and at least 2.5 meters (8 feet 2.4 inches) above the gunwale on a boat 12 meters (39 feet 4.4 inches) in length but less than 20 meters (65 feet 7.4 inches) in length. The after masthead light (Appendix A, Figure 1 only), if used, shall be higher than the forward masthead light so as to be seen as a separate, distinct light at a distance of 1,000 meters (1,093 yards 1.8 feet) ahead of the boat.

(2) The all-around white lights shown in Appendix A, Figures 3 and 7D shall be 1 meter (3 feet 3.4 inches) higher than the colored lights.

(3) An anchor light shall be displayed where it can best be seen.

(g) The navigation lights requirements in this section shall be complied with in all weather and from sunset to sunrise on the waters of this Commonwealth. During such times no other lights shall be exhibited, except such lights as cannot be mistaken for the lights specified in this section or do not impair their visibility or distinctive character, or interfere with the keeping of a proper lookout. The lights prescribed by this section shall, if carried, also be exhibited from sunrise to sunset in restricted visibility and may

be exhibited in all other circumstances when it is deemed necessary. The lights specified in this section shall comply with United States Coast Guard specifications.

(b) Definitions. -- The following words and terms when used in this section have the following meanings, unless the context clearly indicates otherwise:

All-round light – A light showing an unbroken light over an arc of the horizon of 360 degrees.

Docking light -- A flood or spotlight type of light permanently installed or permanently mounted on a motorboat that is used to illuminate a boat's forward course of travel.

Flashing light -- A light flashing at regular intervals at a frequency of 120 flashes or more per minute.

Masthead light -- A white light placed over the fore and aft centerline of the boat showing an unbroken light over an arc of the horizon of 225 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on either side of the boat, except that on a boat of less than 39.4 feet (12 meters) in length, the masthead light shall be placed as nearly as practicable to the fore and aft centerline of the boat.

Restricted visibility -- Any condition in which visibility is restricted by fog, mist, falling snow, heavy rainstorms, sandstorms, or any other similar causes.

Sailboat -- Any boat under sail provided that propelling machinery, if fitted, is not being used.

Sidelights -- A green light on the starboard (right) side and a red light on the port (left) side, each showing an unbroken light over an arc of the horizon of 112.5 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on its respective side. On a boat of less than 65.6 feet (20 meters) in length, the side lights may be combined in one lantern carried on the fore and aft centerline of the boat, except that on a boat of less than 39.4 feet (12 meters) in length, the sidelights when combined in one lantern shall be placed as nearly as practicable to the fore and aft centerline of the boat.

Special flashing light -- A yellow light flashing at regular intervals at a frequency of 50 to 70 flashes per minute, placed as far forward and as nearly as practicable on the fore and aft centerline of the tow and showing an unbroken light over an arc of the horizon of not less than 180 degrees nor more than 225 degrees and so fixed as to show the light from right ahead to abeam and no more than 22.5 degrees abaft the beam on either side of the boat.

Sternlight -- A white light placed as nearly as practicable at the stern showing an unbroken light over an arc of the horizon of 135 degrees and so fixed as to show the light 67.5 degrees from right aft on each side of the boat.

Underway -- A boat that is not at anchor, or made fast to the shore, or aground.

(c) Visibility of lights. -- **The lights prescribed in this section shall have an intensity as specified by the United States Coast Guard, so as to be visible at the following minimum ranges:**

(1) In a boat of 164 feet (50 meters) or more in length: a masthead light, 6 miles; a sidelight, 3 miles; a sternlight, 3 miles; a towing light, 3 miles; a white, red, green or yellow all-round light, 3 miles; and a special flashing light, 2 miles.

(2) In a boat of 39.4 feet (12 meters) or more in length but less than 164 feet (50 meters) in length: a masthead light, 5 miles; except that where the length of the boat is less than 65.6 feet (20 meters), 3 miles; a sidelight, 2 miles; a sternlight, 2 miles; a towing light, 2 miles; a white, red, green or yellow all-round light, 2 miles; and a special flashing light, 2 miles.

(3) In a boat of less than 39.4 feet (12 meters) in length: a masthead light, 2 miles; a sidelight, 1 mile; a sternlight, 2 miles; a towing light, 2 miles; a white, red, green or yellow all-round light, 2 miles; and a special flashing light, 2 miles.

(4) In an inconspicuous, partly submerged boat or object being towed: a white all-round light, 3 miles.

(d) Motorboats underway.

(1) A motorboat underway shall exhibit:

(i) A masthead light forward;

(ii) A second masthead light abaft of and higher than the forward one. A boat of less than 164 feet (50 meters) in length shall not be required to exhibit such light but may do so;

(iii) Sidelights; and

(iv) A sternlight.

(2) An air-cushion boat when operating in the nondisplacement mode shall, in addition to the lights prescribed in paragraph (1), exhibit an all-round flashing yellow light where it can best be seen.

(3) A motorboat of less than 39.4 feet (12 meters) in length may, in lieu of the lights prescribed in paragraph (1), exhibit an all-round white light and sidelights.

(e) Sailboats underway and unpowered boats.

(1) A sailboat underway shall exhibit:

(i) Sidelights; and

(ii) A sternlight.

(2) In a sailboat of less than 65.6 feet (20 meters) in length, the lights prescribed in paragraph (1) may be combined in one lantern carried at or near the top of the mast where it can best be seen.

(3) A sailboat underway may, in addition to the lights prescribed in paragraph (1), exhibit at or near the top of the mast, where they can best be seen, two all-round lights in a vertical line, the upper being red and the lower green, but these lights shall not be exhibited in conjunction with the combined lantern permitted by paragraph (2).

(4) A sailboat of less than 23 feet (7 meters) in length shall, if practicable, exhibit the lights prescribed in paragraph (1) or (2), but if not, shall have ready at hand an electric torch or lighted lantern showing a white light that shall be exhibited in sufficient time to prevent collision.

(5) An unpowered boat may exhibit the lights prescribed above for sailboats, but if not, shall have ready at hand an electric torch or lighted lantern showing a white light that shall be exhibited in sufficient time to prevent collision.

(f) Anchored boats and boats aground.

(1) A boat at anchor shall exhibit where it can best be seen:

(i) In the fore part, an all-round white light; and

(ii) At or near the stern and at a lower level than the light prescribed in subparagraph (i), an all-round white light.

(2) A boat of less than 164 feet (50 meters) in length may exhibit an all-round white light where it can best be seen instead of the lights prescribed in paragraph (1).

(3) A boat aground shall exhibit the lights prescribed in paragraph (1) where they can best be seen.

(4) A boat of less than 65.6 feet (20 meters) in length, when at anchor in a special anchorage area designated by the United States Coast Guard, shall not be required to exhibit the anchor lights and shapes required by this subsection.

(g) Boats being towed. Where from any sufficient cause it is impracticable for a boat or object being towed to exhibit the lights prescribed in this section, all possible measures shall be taken to light the boat or object towed or at least to indicate the presence of the unlighted boat or object.

(h) Docking lights. It is unlawful for a boat operator to use docking lights while underway except when docking and the boat is traveling at slow, no wake speed and is within 100 feet of approaching a dock, a mooring buoy or the shoreline. **[For purposes of this subsection, a docking light is a flood or spotlight type of light permanently installed or permanently mounted on a motorboat that is used to illuminate a boat's forward course of travel.]**

On March 6, 2014, the Boating Advisory Board considered this proposal and recommended that the Commission approve the publication of a notice of proposed rulemaking containing the amendments.

Briefer:

Laurel L. Anders, Director, Bureau of Boating and Outreach

Recommendation:

Staff recommend that the Commission approve the publication of a notice of proposed rulemaking containing the proposed amendments described in the Commentary. If adopted on final rulemaking, these amendments will go into effect on January 1, 2015.

Action:

A motion was made by Commissioner Bachman and seconded by Commissioner Ali to approve the publication of a notice of proposed rulemaking containing the proposed amendments described in the Commentary. If adopted on final rulemaking, these amendments will go into effect on January 1, 2015. Motion carried.

B. Amendment to Section 109.2 (Sailboards).

Commentary:

In recent years, paddleboarding has been gaining popularity. Paddleboards were traditionally used to surf in the ocean but are now being used in lakes and rivers. Paddleboards resemble oversized surfboards and models are designed for use on various water conditions. Paddleboards are primarily operated by a person standing on the board using a paddle in a manner similar to a canoe.

The U.S. Coast Guard, in a decisional memo dated October 3, 2008, classified paddleboards as vessels in accordance with Title 1 United States Code, Section 3. This classification means that when used beyond the narrow limits of a swimming, surfing, or bathing area, no person may use a paddleboard unless in compliance with the Navigation Rules and applicable carriage requirements for this type of vessel. This includes a Coast Guard approved wearable life jacket for each person on board, a sound producing device, visual distress signals (if operating on Lake Erie), and proper navigation lights. An athletic coach's whistle and flashlight comply with these requirements. In addition, a Commission use permit, boat registration, or Pennsylvania State Parks launch permit or mooring permit is required if launching/retrieving a paddleboard at a Commission-owned or -controlled lake or access area or state park or forest.

In order to address safety issues and concerns, and to provide clarity for operators regarding legal requirements for paddleboards, staff propose to amend §109.2 as follows:

§ 109.2. [Sailboards] Paddleboards and sailboards.

(a) [Definition.] Paddleboards. For purposes of this subsection, a paddleboard is a boat with no freeboard propelled by a paddle, oar, pole or other device. It is unlawful for a person to operate or attempt to operate a paddleboard on waters of this Commonwealth without having a United States Coast Guard approved wearable personal flotation device on board for each person, unless otherwise required to be worn in accordance with § 97.1 (relating to personal flotation devices). This prohibition does not apply to persons operating or attempting to operate a paddleboard in designated swimming, surfing or bathing areas.

(b) Sailboards. For purposes of this subsection, [A] a sailboard is a type of single or double hulled boat equipped with an articulating mast and designed to be operated by a person standing on the board and maneuvering through the trim of the hand-held sail and distribution of body weight on the board.

[(b) Personal flotation devices.] It is unlawful for a person to operate or attempt to operate a sailboard on waters of this Commonwealth unless the person is wearing a [Type I, II, III or V] United States Coast Guard approved wearable personal flotation device. Inflatable personal flotation devices may not be used to meet this requirement.

On March 6, 2014, the Boating Advisory Board considered this proposal and recommended that the Commission approve the publication of a notice of proposed rulemaking containing the amendments.

Briefer:

Laurel L. Anders, Director, Bureau of Boating and Outreach

Recommendation:

Staff recommend that the Commission approve the publication of a notice of proposed rulemaking containing the proposed amendments described in the Commentary. If adopted on final rulemaking, these amendments will go into effect on January 1, 2015.

Action:

A motion was made by Commissioner Mascharka and seconded by Commissioner Bachman to approve the publication of a notice of proposed rulemaking containing the proposed amendments described in the Commentary. If adopted on final rulemaking, these amendments will go into effect on January 1, 2015. Motion carried.

C. Amendment to Section 109.4 (Waterskiing, Aquaplaning, Kiteskiing and Similar Activities).

Commentary:

Several hydro flying devices have been designed and available for consumer purchase and rental within recent years. These flying devices use pressurized water through jet ports to provide “lift” and allow the operator to become airborne to speeds of 30 miles per hour and heights up to 40 feet, or dive under the water’s surface, while attached to a boat that may or may not be occupied by an operator. Trade names for these products include Jetlev, Aquaboard, Aquaflyer and Flyboard®.

The Jetlev is a device which straps to the operator and is attached by a hose to an independent power source that is pulled behind and pumps water to the actual device. Pressurized water supplied by the power source is forced out of several jets on the device and propels the operator through, under or over the surface of the water. Due to the configuration of the flying device’s connection to its power source, the power source does not have the ability to be independently maneuvered. Under the Commission’s regulations at §109.4(d), the Jetlev system is prohibited on Commonwealth waters. This section reads “*Umbilical or remote controls.* A person may not operate a device which is controlled by a person connected to the power source by means of an umbilical or remote control, or both, which tows the person on or through the water.”

The Flyboard® is a similar device that straps onto the operator’s feet much like a snow board. The device is attached by a 55-foot hose to the rear of a personal watercraft (PWC) which may have an operator onboard for controlling the power. Pressurized water supplied by the PWC is forced out of two jets attached to the operator’s feet and two more handheld jets which allow for directional movement through or under the water, or in the air. The Flyboard® is offered for sale with an optional electronic management kit which allows the throttle of the PWC to be remotely controlled by the airborne operator, thereby eliminating the need for an operator to be onboard the PWC in order for the flying device to be functional. Again, due to the configuration of the flying device’s connection to its power source, the power source does not have the ability to be independently maneuvered. Under the Commission’s regulations, the Flyboard® system is considered a towed watersport and is not prohibited on Commonwealth waters when the power source is a PWC with a capacity of at least three persons with an operator and competent observer onboard. All other provisions of waterskiing and PWC operation apply to this activity.

Commission staff and boating safety professionals from across the nation have safety concerns regarding these devices. The U.S. Coast Guard has not provided a determination regarding the definition of these flying devices and has advised states to manage their use within state laws or regulations.

In order to address safety issues and concerns with these specialized devices, staff propose to amend §109.4 as follows:

§ 109.4. Waterskiing, aquaplaning, kiteskiing and similar activities.

* * *

(l) Use of Airborne Devices Prohibited. No person, while being towed by or otherwise attached to a watercraft, shall use a device except for a parasail, for the purpose of becoming airborne over the waters of this Commonwealth. No person while operating a watercraft shall tow behind or have attached to the watercraft a person using a device except for a parasail for the purpose of becoming airborne over the waters of this Commonwealth. This section does not apply to traditional aquaplaning activities where the aquaplaner momentarily leaves the water while jumping wakes or doing specialty tricks.

On March 6, 2014, the Boating Advisory Board considered this proposal and recommended that the Commission approve the publication of a notice of proposed rulemaking containing the amendment.

Briefer:

Laurel L. Anders, Director, Bureau of Boating and Outreach

Recommendation:

Staff recommend that the Commission approve the publication of a notice of proposed rulemaking containing the proposed amendment described in the Commentary. If adopted on final rulemaking, this amendment will go into effect on January 1, 2015.

Action:

A motion was made by Commissioner Ali and seconded by Commissioner Lichvar to approve the publication of a notice of proposed rulemaking containing the proposed amendment described in the Commentary. If adopted on final rulemaking, this amendment will go into effect on January 1, 2015. Motion carried.

D. Amendments to Section 111.49 (Northumberland County).

Commentary:

The Commission's regulations currently designate a slow, no wake zone on the southeastern shore of Packer's Island (incorrectly referred to in §111.49 as Packard's Island) in the Susquehanna River adjacent to Shikellamy State Park in Sunbury. The river at Sunbury is dammed by an inflatable structure controlled by the Department of Conservation and Natural Resources. The water impounded by this dam forms a 3,060-acre lake known as Lake Augusta. The lake extends several miles up both the West Branch and the main stem of the Susquehanna River and provides a variety of angling and boating opportunities. Shikellamy State Park is located on the tip of Packer's Island, which is also the location of a number of homes, cottages, campsites, a boat club and an airport.

The current slow, no wake zone is approximately 1/3 mile in length and was established by regulation in 1995 due to the number and activity of motorboats in this area and the resulting congestion problem around the State Park launch ramp and boat club. The presence of two bridges immediately upstream of the State Park launch ramp limits visibility for boaters and provided additional justification for the slow, no wake designation. Buoys mark the upper and lower limits of the control zone, and appropriate intermediate points. The lengthy nature of this control zone results in boater confusion and unnecessarily inhibits use of a significant segment of the boating pool in this area.

Staff recommend reducing the limits of the slow, no wake zone to be more easily identifiable, provide adequate protection for boaters and property owners, and reduce impediments to boating in this area. The State Park boat launch would remain the lower limit of the zone. The upper limit would be 200 feet above the Route 147 bridge, or the furthest upstream overhead power line as shown in Exhibit E. The State Park manager is supportive of this proposed change. Property owners outside of the limits of the modified slow, no wake zone may seek additional protections through the use of the Application for Permit to Install Floating Structures and Private Aids to Navigation (PFBC-277) rather than the rulemaking process to establish specific control zones.

In addition to the modification to the control zone, staff recommend correcting the name of the island referenced in the regulation.

Staff propose to amend § 111.49 as follows:

§ 111.49. Northumberland County.

Susquehanna River. Boats are limited to slow, no wake speed from the vicinity of the Shikellamy State Park boat launch on the south side of [~~Packard's~~] **Packer's** Island upriver a distance of [1/3 mile] **200 feet above the Route 147 bridge.**

On March 6, 2014, the Boating Advisory Board considered this proposal and recommended that the Commission approve the publication of a notice of proposed

rulemaking containing the amendment. Executive Director Arway indicated that staff will hold a meeting in the area to gather public input regarding the proposed amendment.

Briefer:

Laurel L. Anders, Director, Bureau of Boating and Outreach

Recommendation:

Staff recommend that the Commission approve the publication of a notice of proposed rulemaking containing the proposed amendment described in the Commentary. If adopted on final rulemaking, this amendment will go into effect on January 1, 2015.

Action:

A motion was made by Commissioner Ali and seconded by Commissioner Worobec to approve the publication of a notice of proposed rulemaking containing the proposed amendment described in the Commentary. If adopted on final rulemaking, this amendment will go into effect on January 1, 2015. Motion carried.

FISHERIES

FINAL RULEMAKING

A. Amendments to Sections 61.1 (Commonwealth Inland Waters), 61.2 (Delaware River, West Branch Delaware River and River Estuary), 61.4 (Conowingo Reservoir) and 69.12 (Seasons, Sizes and Creel Limits – Lake Erie, Lake Erie Tributaries and Presque Isle Bay Including Peninsula Waters) to Increase the Size Limit and Decrease the Creel Limit for American Eel.

Commentary:

In May 2012, the Atlantic States Marine Fisheries Commission (ASMFC) approved a coast wide stock assessment of American eel that concluded that the American eel population is depleted in U.S. waters. The stock is at or near historically low levels due to a combination of historical overfishing, habitat loss, food web alterations, predation, turbine mortality, environmental changes, toxins and contaminants, and disease. An independent panel of scientists that reviewed the stock assessment urged the ASMFC Board to examine alternative reference points to provide more protection to the spawning stock biomass.

In response to these findings, the ASMFC Board tasked the ASMFC American Eel Technical Committee with developing potential management actions which would reduce mortality on all life stages of American eel. A range of options was developed by the Technical Committee and subsequent action was taken by the Board to release certain management options for public comment. These comments were considered by the ASMFC Board when, on August 8, 2013, it approved Amendment III to the ASMFC American Eel Fisheries Management Plan. Among the requirements of this amendment is a reduction in recreational harvest of eels by way of a coast wide establishment of a creel limit of 25 fish and a size limit of 9 inches. Currently, Pennsylvania has a 50 fish creel limit for American eel coupled with an 8 inch size limit for recreational harvested eels and a 6-8 inch slot limit for eels harvested for bait. To address the coast wide regulation directed by ASMFC, the Commission proposed amending §§61.1, 61.2, 61.4 and 69.12 to increase the size limit and decrease the daily limit for American eel in Pennsylvania.

A notice of proposed rulemaking was published at 43 Pa. B. 7095 (December 7, 2013) (Exhibit F). The Commission did not receive any public comments concerning the proposal.

ASMFC requested that its member states implement the regulatory changes by January 1, 2014. Because final adoption of these amendments by January 1, 2014 was not possible, the Executive Director exercised his authority under §65.25 (relating to temporary changes to fishing regulations) to make temporary modifications. The temporary modifications went into effect on January 1, 2014 and will remain in effect until the Commission, by appropriate action, amends §§61.1, 61.2, 61.4 and 69.12.

Briefer:

Leroy M. Young, Jr., Director, Bureau of Fisheries

Recommendation:

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

Action:

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

DESIGNATIONS

B. Classification of Wild Trout Streams: Additions, Adjustments and Removals.

Commentary:

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

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

Staff recommend the addition of 18 new waters to the Commission's list of wild trout streams, adjustments to the section limits of three waters and removal of 48 waters. These changes are the result of recent surveys conducted on 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 44 Pa. B. 1293 (March 1, 2014) (Exhibit G). The Commission received one public comment supporting the proposed additions and recommending that the streams proposed for removal be reviewed by staff and prioritized for reevaluation if deemed appropriate. Copies of all public comments have been provided to the Commissioners.

Of the streams proposed for removal, Big Spring Run, Westmoreland County, was inadvertently listed. Section 01 of this stream has been documented to contain wild trout, and the limits of the section designated as a wild trout stream were adjusted in 2012. Therefore, staff do not propose that it be removed from the list.

Briefer:

Leroy M. Young, Jr., Director, Bureau of Fisheries

Recommendation:

Staff recommend that the Commission add 18 new waters to its list of wild trout streams, adjust the section limits of three waters and remove 48 waters as described in the Commentary. If approved, these changes will go into effect upon publication of a second notice in the *Pennsylvania Bulletin*.

Action:

A motion was made by Commissioner Sabatose and seconded by Commissioner Worobec to add 18 new waters to its list of wild trout streams, adjust the section limits of three waters and remove 48 waters as described in the Commentary. These changes will go into effect upon publication of a second notice in the *Pennsylvania Bulletin*. Motion carried.

C. Additions to List of Class A Wild Trout Streams.

Commentary:

Pursuant to 58 Pa. Code §57.8a (relating to Class A wild trout streams), it is the Commission's policy to recognize self-sustaining Class A wild trout populations as a renewable natural resource meriting special consideration in development of fisheries management plans and water quality/habitat protection. 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 Abundance Class Criteria at the time of the proposal included provisions for wild Brook Trout, wild Brown Trout, mixed wild Brook and Brown Trout, and wild Rainbow Trout populations. For Brook, Brown and mixed Brook/Brown Trout, all waters must have at least 0.1 kg/ha (0.089 lbs/acre) of trout of the particular species less than 15 cm (5.9 inches) in total length. Biomass minimums for wild Brown Trout, wild Brook Trout and mixed wild Brook/Brown Trout populations, where neither species comprises 75 percent or more of the biomass, are 40 kg/ha (35.6 lbs/acre), 30 kg/ha (26.8 lbs/acre), and 40 kg/ha (35.6 lbs/acre), respectively. For wild Rainbow Trout, total biomass for fish less than 15 cm (5.9 inches) in total length must be at least 2.0 kg/ha (1.78 lbs/acre).

Staff recommend the addition of four stream sections to the list of Class A wild trout streams. These changes are the result of recent surveys conducted on these waters.

A notice of proposed designations was published at 44 Pa. B. 1296 (March 1, 2014) (Exhibit H). The Commission received one public comment supporting the proposed additions. Copies of all public comments have been provided to the Commissioners.

Briefer:

Leroy M. Young, Jr., Director, Bureau of Fisheries

Recommendation:

Staff recommend adding the four stream sections to the Commission's Class A wild trout streams list as described in the Commentary. If approved, these additions will go into effect upon publication of a second notice in the *Pennsylvania Bulletin*.

Action:

A motion was made by Commissioner Worobec and seconded by Commissioner Sabatose to add the four stream sections to the Commission's Class A wild trout streams list as described in the Commentary. These additions will go into effect upon publication of a second notice in the *Pennsylvania Bulletin*. Motion carried.

HABITAT AND ENVIRONMENTAL FINAL RULEMAKING

A. Amendments to Sections 61.1, 61.2, 61.3, 61.4, 63.46, 69.12, 71.6 and 73.1 to Restrict the Sale, Possession, Introduction and Transportation of all Crayfish Species in Pennsylvania.

Commentary:

Crayfish are one of the most conspicuous and ecologically important components of aquatic communities in Pennsylvania and across the globe. They are an important forage item for fishes, mammals, birds, reptiles and amphibians and facilitate the transfer of nutrients up through the food chain to higher trophic levels. About half of North America's crayfish fauna is imperiled, and native crayfishes across the continent and in Pennsylvania are rapidly being replaced by introduced (exotic) crayfishes.

The replacement of native crayfish by introduced crayfish represents a significant threat to aquatic communities. Introduced crayfish attain densities that are exceedingly high (sometimes in excess of 200 individuals/m²), often eliminate aquatic macrophytes and suppress benthic invertebrate communities. They can have strong negative effects on amphibians, mussels and fishes.

Stopping the spread of introduced crayfish is difficult once they become widespread. Since the distributions of most introduced crayfishes in Pennsylvania are still limited, there is still time to stop the spread of exotic crayfishes and preserve the native stocks that remain.

Exotic crayfishes occur in a number of water bodies in Pennsylvania and are available from bait shops, biological warehouses, pet stores, live food vendors, and aquaculture facilities. In order to help prevent additional introductions of crayfish in Pennsylvania, stringent regulations and their enforcement is warranted.

The invasive rusty crayfish (*Orconectes rusticus*) has been tightly regulated in Pennsylvania since 2005, and live individuals cannot be possessed, sold, transported or cultured within the state. However, there are five other introduced crayfishes that occur in the Commonwealth that are currently unregulated. These exotic crayfishes can be purchased from commercial dealers or collected from invaded water bodies and released legally into the state's waters with potentially devastating effects on native communities. Additionally, although the invasive red swamp crayfish (*Procambarus clarkii*) cannot be propagated in flow-through systems or introduced into Pennsylvania waters, the species can be possessed, sold, and transported legally within the state.

Extending the *Orconectes rusticus* ban to other exotic crayfish species would be impossible to enforce because most natural resource managers and conservation officers have difficulty identifying crayfish species. For this reason, the Commission proposed restricting the sale, possession, introduction, transportation and culture of all live native and nonnative crayfishes in Pennsylvania. Similar restrictions have been passed elsewhere (e.g., Wisconsin and parts of Maryland and Canada) with broad public support.

As part of the proposal, licensed anglers will still be allowed to harvest up to 50 crayfish per day. However, the head must be immediately removed behind the eyes upon capture unless the crayfish are used as bait in the water from which they were taken. When crayfish are used as bait in the water from which they were taken, the head does not have to be removed. When crayfish are transported from the water from which they were collected, the head must be removed behind the eyes. The proposal also restricts the sale of all live native and nonnative crayfishes in Pennsylvania except when they are sold for testing and scientific purposes or restaurant consumption, adequate measures have been taken to prevent their escape, and they are accompanied by documentation stating the point of origin and the destination to which they are to be delivered. Last, the proposal restricts possession, introduction and transportation of all live native and nonnative crayfishes except (i) when they are possessed and used as bait on, in or about the water from which taken or (ii) when they are possessed or imported for testing and scientific purposes or restaurant consumption, adequate measures have been taken to prevent their escape, and they are accompanied by documentation stating the point of origin and the destination to which they are to be delivered. Except when they are used as bait as described above, the introduction of any live crayfish into Commonwealth waters will be strictly prohibited.

Although propagation was not specifically addressed by the proposed rulemaking, staff have been working with the Department of Agriculture (DOA) and registered propagators to address issues pertaining to crayfish culture. Section 71.2 of the Commission's regulations provides that the Bureau of Fisheries will maintain a list of species by watershed for which DOA may issue registrations for artificial propagation and registrations for dealers of live aquatic animals. The section further provides that the Bureau may update or modify the list of authorized species by adding species to or deleting species from the list as necessary to provide for the protection and management of fish in this Commonwealth. Therefore, concurrent with the proposed rulemaking, the Commission has proposed removing all crayfish species from the list of species approved for open-system propagation and introduction in the Commonwealth. The culture and propagation of crayfish will still be permitted in closed systems. No regulatory action is required to accomplish this change. However, Commission staff shared the proposal with DOA and registered propagators, and the Commission sought public comments regarding the restriction on crayfish propagation at the same time as it sought public comments on the proposed regulatory changes. The Commission solicited those comments by notifying the Pennsylvania Aquaculture Advisory Committee and its Aquaculture Coordinator of the notice of proposed rulemaking and publication in the *Pennsylvania Bulletin*.

A notice of proposed rulemaking, amending §§61.1, 61.2, 61.3, 61.4, 63.46, 69.12, 71.6 and 73.1 to restrict the sale, possession, introduction and transportation of all crayfish species in this Commonwealth, was published at 44 Pa. B. 901 (February 15, 2014) (Exhibit I). The Commission solicited public comments for a period of 60 days. The Commission received a total of 30 comments generally supporting the proposal and summarized in a Comment/Response Document. Copies of all public comments and the Comment/Response Document were provided to the Commissioners.

Briefer:

David Lieb, Invertebrate Zoologist/Non-game Biologist, Natural Diversity Section,
Division of Environmental Services

Recommendation:

Staff recommend that the Commission adopt the amendments as set forth in the notice of proposed rulemaking. If adopted, these amendments will go into effect on January 1, 2015.

Action:

A motion was made by Commissioner Gavlick and seconded by Commissioner Ali to adopt the amendments as set forth in the notice of proposed rulemaking. These amendments will go into effect on January 1, 2015. Motion carried.

Other New Business

Commission President Elliott thanked Katie Lester and the staff at the PPL Lake Wallenpaupack Office for serving as our local host during our stay in Hawley and praised Commission staff for the exceptional presentations provided. Commission President Elliott also reflected on his past year as president, thanked his fellow Commissioners for their passion, interest and ability to compromise in order to find solutions, and emphasized the value of taking the Commission meetings around the state.

Time and Place of July 2014 Commission Meeting

The next meeting will be held on July 14-15, 2014 in Harrisburg.

Adjournment

A motion was made by Commissioner Sabatose and seconded by Commissioner Mascharka to adjourn the meeting at approximately 10:30 a.m. Motion carried.

Guests
PENNSYLVANIA FISH AND BOAT COMMISSION
COMMISSION MEETING
May 6, 2014
HAWLEY, PENNSYLVANIA

NAME

ADDRESS
& PHONE #

AFFILIATION

I WISH TO PROVIDE
PUBLIC COMMENT
(CHECK HERE!)

None

Your home. Your neighbors. Your news.
POCONO RECORD
www.poconorecord.com

511 Lenox Street - Stroudsburg, PA 18360

(570) 421-3000

PA BOAT & FISH COMMISSION
PO BOX 67000
HARRISBUR, PA 17106
ATTN TERESA ERDMAN

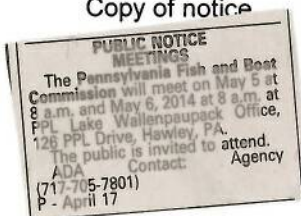
ACCOUNT# 652262

Proof of Publication Notice in the Pocono Record

Commonwealth of Pennsylvania
County of Monroe

Kelli McFall, Classified Manager of the Pocono Record having been duly sworn according to law, deposes and says the Pocono Record is a Newspaper of general circulation published at 511 Lenox Street, Stroudsburg, Monroe County, Pa. The Pocono Record was established on April 2, 1894 and has been regularly published and issued in Monroe County since that time. The printed notice attached to this affidavit is exactly the same as was printed and published in the regular editions and issues of the Pocono Record on the dates listed below the bottom of this notice. I certify that I am duly authorized to verify this statement under oath and am not interested in the subject matter of the attached notice or advertisement. All allegations in this affidavit as to time, place, and character of publication are true.

Copy of notice



Kelli McFall

Kelli M. McFall

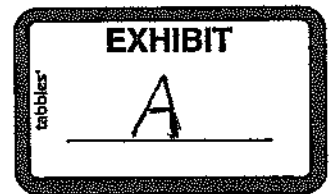
Sworn to and subscribed
to before me this day 30th
of April, 2014

COMMONWEALTH OF PA
County of MONROE

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
Janene L. Fischer-Snyder, Notary Public
Stroudsburg Boro, Monroe County
My Commission Expires March 26, 2018
MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES

Janene L. Fischer-Snyder
Janene L. Fischer-Snyder

PUBLICATION	EXPIRE DATE	AD CAPTION	#TIMES	AMOUNT
POCONO RECORD	<u>4/17/2014</u>	PUBLIC NOTICE	<u>1</u>	<u>\$20.40</u>
START DATE	<u>4/17/2014</u>	END DATE	<u>4/17/2014</u>	



January - March 2014 Quarterly Report

Strategic Plan Implementation

The following updates include the major activities or accomplishments during the quarter that further the July 2010 – June 2015 PFBC Strategic Plan. The bulleted list does not include every detail about what is being done on a particular goal, just the highlights that help to track implementation.

If there is nothing listed for a particular goal, either there was nothing major to report during the quarter, or work has yet to commence on the goal.

Overall, please also note that it is intended to be a tracking tool for the strategic plan rather than an auditing tool.

Issue 1: Escalating costs of traditional services and increasing demands for activities require the development of alternative funding sources and methods.

Strategy 1: Develop alternative funding sources and methods to offset escalating costs of traditional services and better accommodate increasing demands for activities.

Goal 1: Actively pursue innovative, as well as traditional, funding sources, compensation for services provided to all Pennsylvanians, and funding for the completion of priority infrastructure projects.

- A. Advocate for passage by July 2011 of alternative, secure, long-term funding (e.g., special fees or permits, General Fund, sales tax revenues, Renew Growing Greener) to compensate the Commission for services provided to all Pennsylvanians and the Commonwealth in general for lost natural resource values.
- Discussed funding at legislative lunches in Commissioner districts.
 - Briefed House Democratic Policy Committee on funding options.
 - Board of Commissioners approved proposed rule-making requiring senior resident lifetime license holder to purchase a trout/salmon permit annually.
 - Began offering voluntary youth fishing licenses.
- B. Advocate for a Marcellus Shale severance tax that includes dedicated conservation funding, including support for functions performed by the Commission, until such a tax is enacted.
-
- C. Advocate for passage by December 2014 of sales and marketing flexibility, including, but not limited to, multi-year licenses and group or family licenses.
-
- D. Deleted via Amendment 1

- E. Advocate for and seek capital funding to make Commission-owned high-hazard dams safe, complete state fish hatchery upgrades, and other priorities identified in the Commission's Infrastructure Plan.
- Secured the release of capital budget dollars for Colyer Lake, Glade Run Lake, and Speedwell Forge Lake.
 - Continued to advocate for the release of capital budget dollars for other high-hazard, unsafe dams, including Meadow Grounds Lake and Somerset Lake.
- F. Advocate for passage of existing and new federal legislation to protect and expand funds available to the Commission to support our mission.
- Participated in annual State Wildlife Grant (SWG) fly-in in Washington, DC.
 - Participated in Mississippi Interstate Cooperative Resource Association congressional visits.

Issue 2: Current and increasing threats to our aquatic resources demand the Commission provide better resource management and protection.

Strategy 2: Provide better resource management and protection to reduce the impacts of current and increasing threats to our aquatic resources.

Goal 2: Improve protection, conservation and enhancement of aquatic resources and habitats.

- A. By July 2010, continue implementation of the *Strategic Plan for Management of Trout Fisheries in Pennsylvania*.
- Provided review of upper Delaware thermal relief proposal by NY DEC and drafted a PFBC counterproposal
 - Directed questions, examples recommendations regarding of degree of protection provided by their 2012 Low Flow Protection Policy to SRBC
 - Participated in a multi-agency meeting with the Corps, DCNR and PFBC regarding finalization of the Section 22, Phase 2 modeling of six operational scenarios and effects on water quality in F. E. Walter Reservoir and the Lehigh River
 - The following dam removal projects are in various stages of implementation on wild trout streams: Taylor Run, Tioga Co.; Driftwood Br. Sinnemahoning Creek, Cameron Co.; Cacoosing Creek, Berks Co.; UNT to Frankstown Br. Juniata River, Blair Co; Long Run, Clinton Co.; Toms Run, Cumberland Co.; Twomile Run, McKean
 - Attended several meetings to discuss and coordinate submission of a proposal to the Sinnemahoning Creek Watershed Restoration Grant program to obtain funding to develop a wild trout and restoration monitoring program.
 - Met with representatives from the Big Spring Watershed Association to discuss future management of Big Spring Creek (07B).

- Attended a meeting with a Slate Run Sportsmen's group to assist Commissioner Worobec in addressing issues pertaining to the management of the Delayed Harvest Area on Pine Creek in Lycoming County.
 - Discussed options for extending the Delayed Harvest Area on Pine Creek.
- B. By December 2010, begin implementation of large river management plans for the Delaware, Susquehanna, and Three Rivers systems.
- Met with PADEP Staff to align effort on Susquehanna River studies.
 - Provided a presentation on the Susquehanna River Smallmouth Bass mortality issues at Wildwood Park's Winter Seminar Series at Olewine Nature Center in Harrisburg.
 - Conducted an internal discussion to improve the American shad egg viability and collection from Smithfield Beach.
 - Participated in the first Ohio River Asian Carp Coordination Meeting at the Ohio River National Wildlife Refuge in Williamstown, West Virginia.
- C. By December 2010, begin implementation of statewide action plans for the following species: Eastern pearlshell mussel, bog turtle, Eastern spadefoot toad, Eastern massasauga rattlesnake, and timber rattlesnake.
- Activities to address the congressionally required comprehensive revision of the Pennsylvania State Wildlife Action Plan (SWAP) included meetings of the joint PFBC-PGC Steering Committee and the Advisory Committee. The Advisory Committee is composed of partner conservation agencies and organizations. These committees were established to guide and assist with the revision process. The revision process is being facilitated by the PFBC Conservation Coordinator and the PGC Conservation Planning Coordinator. The comprehensive revision of the SWAP is due September 30, 2015. An approved State Wildlife Action is required for receipt of State Wildlife Grant funds.
 - *Eastern Pearlshell*-SWG inventory project initiated to assess historic distribution and gap areas in Delaware.
 - *Bog Turtle*-met with USFWS and state partners within region to assist with developing monitoring protocol used in habitat management. Also, attended bog turtle Susquehanna Recovery Unit meeting. Continued effort to gather data on individual turtles marked in PA, database the information, and start to manage surveyors in distributing their time and effort among occupied sites for long term monitoring. The bog turtle (Section 6) monitoring grant was amended to include the health assessment and another year of sampling. Data is being compiled and summarized for bog turtle trapping surveys at the sites of the first year of the PDIS project, as well as across all 5 years of trapping for the final report. Other NFWF funded bog turtle habitat restoration project activities: continue to engage bog turtle landowners for securing site access for project activities and conservation easement programs; conducted habitat assessments and presence/absence surveys, wrote habitat management plans for NRCS WRP bog turtle initiative, and aided partners (USFWS and USDA); continue conducting aerial photograph analysis resulting in potential sites identified remotely. Previously approved Tulpehocken/Quittapahilla Grant funded Bog Turtle assessment project contracting being worked on. Section 6 funded

project to assess historic and gap areas across southeast PA still under contracting phase. Continued work on Cherry Valley property acquisition.

- *Eastern Spadefoot*-reviewed annual report of Berks County preserve management plan. Consulted on several development projects, some in need of conservation and mitigation.
- *Eastern Massasauga*-Implementation of restoration plan was initiated in November 2012. Significant woody vegetation removal activities began in late December 2012, with the bulk of work done in January and February 2013. This first phase restoration 30 acres complete (trees, shrubs cleared and grubbed). Seeding will occur in spring 2014.
- *Timber Rattlesnake*-Continue to cooperate with Penn State monitoring study on State Forests concerning Marcellus/Utica shale development activity impact. Assisted with the development and implementation of habitat maintenance and/or habitat improvement programs for specific management units, targeting existing gestation sites. Implementation has begun and will broaden to include more sites in various state forests and state game lands.

D. By July 2011 and annually thereafter, facilitate or complete population inventories and home-range assessments for 10% of the state-listed endangered, threatened or candidate species identified in the State Wildlife Action Plan.

- State Wildlife Grant projects herpetofauna data compilation (PA Amphibian and Reptile Survey-PARS) project is ongoing. Data records continue to be gathered from academic and museum collections. Approximately 160,000 records have been collected from various institutions, including PFBC files. The pilot interactive website for volunteers and project participants was launched on June 1. To date, over 727 people have contributed records and over 6,000 records have been submitted since the project has started. 618 new records have been submitted in 2014.
- The Eastern Massasauga habitat restoration and monitoring project is ongoing. Winter vegetation management occurred on a 50 acre tract in Venango County. Snakes have been outfitted with radio transmitters and are being tracked as to habitat use. We also recently learned that over 400 acres of upland foraging habitat has been restored on State Game Lands in NW PA
- Ongoing work with timber rattlesnake assessment project – focus has shifted to monitoring study sites, prioritizing sites for habitat management, assessing sites in gap areas.
- The SWG grant to compile the PA fish data, quality assurance on the data, and conduct a status assessment on the darters is ongoing. The fish data contained at PFBC in electronic format was compiled from PNFI, PFBC ARDB, and PFBC Scientific Collectors Databases (along with historic museum and academic databases). This time consuming and tedious process has involved acquiring known data sources and reformatting them into a standardized table for review. Standardized fields have been developed to facilitate review and to store information about the review for future data use. To date, upwards of 100,000 records have been entered from Scientific Collectors, 275,000 from PFBC records, and 700 from PNFI records. Duplicate records have been partially addressed, but will become more of an issue

once the project moves from the data compilation stage to the record review. The initial review process has been focused the darters addressed in this grant, Bluebreast Darter, Tippecanoe Darter, Spotted Darter, and Gilt Darter. These data were then used to construct draft Documentation Forms for the delisting process. Currently the forms and summary report are being finalized. The review of species from this point forward will be in priority order based on the level of concern and status uncertainty.

- A SWG grant to focus on the status assessment on the endangered Eastern Pearlshell mussel, as well as a Section 6 funded project to study the Dwarf Wedgemussel in the Delaware River tributaries is underway. New Eastern Pearlshell occurrences have been reported near the Little Schuylkill River as well as records in the Maiden Creek watershed.
- Continued to work on numerous status assessments: Ohio Lamprey, Bowfin, Timber Rattlesnake, Redbelly turtle, Blanding's Turtle, Blackchin Shiner, Pugnose Minnow, Longear Sunfish, Black Bullhead, and Horneyhead Chub.
- Activities to address the congressionally required comprehensive revision of the Pennsylvania State Wildlife Action Plan (SWAP) included meetings of the joint PFBC-PGC Steering Committee and the Advisory Committee, composed of partner conservation agencies and organizations. These committees were established to guide and assist with the revision process. The revision process is being facilitated by the PFBC Conservation Coordinator and the PGC Conservation Planning Coordinator. The comprehensive revision of the SWAP is due September 30, 2015.

E. By December 2012, develop a PFBC sampling protocol manual to ensure consistent data collection techniques for waterways.

- By September 2010, complete documentation of PFBC-approved sampling protocols for wadeable streams.
 -
- By July 2012, complete documentation of PFBC-approved sampling protocols for large rivers.
 -
- By December 2012, complete documentation of PFBC-approved sampling protocols for lakes.
 - Completed the first draft of the Lake Sampling Protocols document.

F. By January 2013, complete the evaluation of the inclusion of additional water quality protection criteria for special protection classes of Warm Water Fishes in 25 Pa. Code Chapter 93 in collaboration with the Pennsylvania Department of Environmental Protection.

- Completed a white paper titled "*PA Aquatic Life Use-Warm Water Fishes; An Evaluation of Additional Criterion to Qualify for Special Protection.*" A workgroup of PFBC and DEP personnel was formed and six meetings were held from 2010-2013. The workgroup reviewed Pennsylvania's current water quality protection regulations and then evaluated other criteria initiatives that could potentially be added

to the list of criteria that qualifies a waterway for special protection. The initiatives that were considered included the Warm Water Index for Macroinvertebrates, Warm Water Index for Fish, Sport Fish Abundance Data, Best Waters, and Ecological Significance.

- G. By January 2014, sample at least 2,500 prioritized, un-inventoried streams with the potential to support wild trout identified by PFBC staff as most at risk from the effects of human activities and pursue partnerships and funding to augment Commission sampling efforts.
- Attended an Unassessed Water Angler Participation review meeting with staff and TU representative from the Allegheny Mountain and Susquehanna Chapters, Contract FB Hodorwicz presented an overview of the pilot program to incorporate angler information to aide identifying wild trout waters for 2014 Unassessed Waters surveys.
 - Attended the Keystone Cold Water Conference in State College and presented material on the Unassessed Waters Program
 - Attended a meeting of the Lloyd Wilson Chapter of Trout Unlimited and presented information on how sportsmen could assist in identifying Unassessed Waters.
 - Attended meetings of the Neshannock, Western Pocono, Muddy Creek and Gods Country Chapters of Trout Unlimited to present information on how sportsmen could assist in identifying Unassessed Waters.
- H. By July 2014, evaluate and improve gamefish management programs for muskellunge, walleye, channel catfish and striped bass/hybrid bass.
- Conducted the PFBC MUSKIES Inc. Coop Nursery meeting, to coordinate the program.
 - Initiated the Walleye stocking evaluation of Shawnee Lake (11C) utilizing trap nets and gill nets.
- I. By June 2015, minimize the impacts of aquatic invasive species and disease on aquatic resources.
- By July 2010, begin implementation of an education and outreach program targeted at anglers and boaters as identified in the Pennsylvania Aquatic Invasive Species Management Plan and in cooperation with partners on the Governor's Invasive Species Council of Pennsylvania.
 - The Commission continues to administer two GLRI Grants (FY11 and FY12). These grant funds provided by the U.S. Fish and Wildlife Service and U.S. EPA, are being used to address diverse issues associated with aquatic invasive species (AIS) including: monitoring, education and outreach, research, intra and inter-state coordination, and tracking through iMapInvasives <http://imapinvasives.org/paimi/map/>, associated with AIS in-and-around the Great Lakes. Funds from the FY11 grant are being used to support PFBC field staff and Fish Production Services implementation of biosecurity protocols through the acquisition of materials and supplies. In this reporting period, PFBC staff updated information into the Great Lakes. Accountability

System (GLAS), submitted the requisite annual report, and are providing administrative oversight of these grants.

- Represented PFBC at quarterly PISC meeting.
 - Reviewed several applications to PA Dept. of Ag. regarding importation of non-native species.
 - Provided a presentation at Wellsboro area joint AIS workshop (SRBC, PFBC, Tioga Cons. Dist., TU).
 - Developed a generic AIS warning sign, which will be distributed to PFBC Regional Law Enforcement offices.
- By July 2010, begin implementation of action plans, as necessary, for Didymo, Asian carp, water chestnut and golden algae as identified in the Pennsylvania Aquatic Invasive Species Management Plan and in cooperation with partners on the Governor's Invasive Species Council of Pennsylvania.
 - Worked with Conewango Watershed association to coordinate eradication of water chestnut from Akeley Swamp
 - Continued to monitor for new outbreaks of golden alga
 - Conducted research into the origins of didymo in PA waters
 - By December 2010, begin implementation of an action plan, as necessary, for viral hemorrhagic septicemia as identified in the Pennsylvania Aquatic Invasive Species Management Plan and in cooperation with partners on the Governor's Invasive Species Council of Pennsylvania.
 -
 - By April 2013, amend the Commission's regulations concerning introduction, propagation and transportation of fish in Pennsylvania's waters to minimize the spread of aquatic invasive species and disease.
 - Conducted a critical review of Chapters 71 and 73 of the Pennsylvania Fish and Boat Code pertaining to propagation and transportation of fish in Pennsylvania.
 - Hatcheries staff met with representatives from the PA Aquaculture Advisory Committee to determine potential pathogen testing requirements for fish imported into Pennsylvania.
- J. By June 2015, improve fish passage efforts on the Susquehanna and Lehigh Rivers and small streams.
- By September 2014, collaborate with other natural resource agencies in the FERC relicensing of the four Lower Susquehanna River hydroelectric projects to ensure incorporation of provisions for timely and effective upstream and downstream fish passage consistent with American shad, river herring and American eel restoration goals and resident fish needs.

-
- By June 2015, investigate the feasibility of fish passage improvements on the Lehigh River in collaboration with state and local partners.
 - A final report was completed by KCI Technologies for the Lehigh River Fish Passage Feasibility Study. PFBC is working with project partners to address follow up items associated with the public comments received.
- By June 2015, facilitate or complete at least 40 small dam removals in collaboration with state and local partners.
 - Collaborated with partners to facilitate the advancement of the following dam removal projects: Taylor Run (WT), Tioga Co.; Driftwood Br. Sinnemahoning Creek (WT/ST), Cameron Co.; Skinner Creek (WT/ST), McKean Co.; Cacoosing Creek (WT), Berks Co.; UNT to Frankstown Br. Juniata River (WT), Blair Co.; Long Run (WT), Clinton Co.; Toms Run (WT), Cumberland Co.; Twomile Run (WT), McKean Co.; Conewango Creek, Warren Co.; E Br Brandywine Creek (ST), Chester Co.; Little Cove Creek (ST), Franklin Co.; Pennypack Ck, Philadelphia Co.; Conococheague Creek, Franklin Co.; Chiques Ck (MF), Lancaster Co.; Solomons Creek, Luzerne Co.

Issue 3: The Commission needs to better understand recent generations' disconnectedness from the Commonwealth's aquatic resources and respond to anglers' and boaters' desires for excellent recreational fishing and boating opportunities.

Strategy 3: Increase the Commission's knowledge and understanding of its users to enhance recreational fishing and safe boating opportunities.

Goal 3: Improve the Commission's knowledge of its users in order to better direct Commission programs and services.

- A. By March 2013, conduct the first bi-annual, statewide survey of active and lapsed anglers and boaters to supplement the Commission's use of the 5-year *National Survey of Fishing, Hunting, and Wildlife-Associated Recreation*.
 -
- B. By June 2015, increase youth and family participation in fishing, boating and aquatic resource education programs.
 - By July 2010, continue collecting participant data for analysis of the behaviors, motivations and demographics of the users of the Commission's educational programs.

- Responsive Management (RM) continued to survey participants in 2013 PFBC Family Fishing Programs that occurred in the last quarter of 2013. This is part of RM's ongoing national study on the effectiveness of recruitment and retention programs. Post-program surveys are being completed using adult and youth participants over the age of 10. Preliminary results are expected during the second quarter of 2014.
 - Initiated analysis of participant data (for those 16 years and older) that was captured during the period January 1, 2011 to December 31, 2013. Participant data captured through the FFP on-line pre-registration system resulted in 2,940 records, and the paper registration process (used in 2013 only) resulted in 1,155 records. The PALS database will be searched for customer identification (CID) numbers for those participants providing date of birth. Of those with CID numbers, license purchasing history will be determined. This analysis is scheduled for first quarter 2014
- By July 2013, utilize information captured from participants in the Commission's educational programs to direct future fishing and safe boating programs.
 - E-mail addresses from participant database were used to send e-mails promoting the March 18 "Gear-Up for Mentored Youth Fishing Day" program. Past participants residing in neighboring zip codes were selected.
 - E-mail addresses from the participant database will be incorporated into the next scheduled PFBC e-mail blast.
 - Using information from the Trout in the Classroom database, schools near Mentored Youth Fishing Program waters were identified and were sent promotional materials.
- C. By July 2010, continue efforts to amend the Commission's boating safety regulations and/or education requirements and, as needed, pursue corresponding legislative changes to further reduce the number of recreational boating accidents and fatalities.
- Conducted a Boating Advisory Board meeting on March 6, 2014 where the following items were recommended to be advanced to the Commission as proposed rulemaking:
 - Amendment to Section 95.3 Lights for Boats to clarify and update the language of the regulation;
 - Amendment to Section 109.2 Sailboards to include a definition of paddleboards;
 - Amendment to Section 109.4 Waterskiing, Aquaplaning, Kiteskiing, Etc to prohibit the use of airborne devices;
 - Amendment to Section 111.49 Northumberland County to reduce the length of the slow, no wake zone on the West Branch Susquehanna River on the southeastern side of Packer's Island in Sunbury.

Issue 4: The public continues to identify a need for access to the Commonwealth's aquatic resources.

Strategy 4: Increase public access to the Commonwealth's aquatic resources.

Goal 4: Retain and add new access to fishing and boating opportunities.

- A. By June 2015, review existing and create new boating and fishing access programs to reflect the priorities of the Commission and its customers.
-
- B. By June 2015, complete two watershed access plans per year delineated in the PFBC Access Strategy priority list.
-
- C. By December 2014, improve public access to at least five lakes, ten Class A streams, ten Class B, C and D streams, and ten stocked streams with no wild trout reproduction.
- The Commission provided funding to the Borough of Selinsgrove to construct a new boat launch facility along the Susquehanna River. The Boat Launch facility was completed in January of 2014.
 - The Commission provided funding to the Venango County to construct a new boat launch facility on Justus Lake in Two Mile Run County Park. The Boat Launch facility was completed in January of 2014.
 - The Commission provided funding through the USFWS Boating Infrastructure Grant Program to the Urban Redevelopment Authority of Pittsburgh for the construction of transient boating facilities along the Monongahela River. The facility was completed in February of 2014.
 - The Commission acquired Public Fishing Access and Conservation Easements on five properties along Caldwell Creek in Warren County. The easements provide public fishing access to approximately three miles of stream that include the Catch and Release Fly Fishing Only section and a portion of the trout stocked section of Caldwell Creek.

Issue 5: The Commission's existing data are not well-integrated and therefore not optimally used to proactively manage the aquatic resources under our jurisdiction.

Strategy 5: Improve the Commission's utilization and integration of existing data to proactively manage the aquatic resources under its jurisdiction.

Goal 5: Optimize agency operations through integrated information systems management.

- A. By December 2010, ensure integrity of agency data through the use of GIS.
-
- B. By December 31, 2013, complete migration of the IT supported access applications used by the Bureau of Fisheries to a new modernized platform.
- i. *ARDB, Trout, Real Estate, Pathology, Warm Cool, COOP, AME/Eel, Habitat-Fish Passage, Special Activities Permit Applications:*

- Maintenance and User Support - ongoing
- ii. *Encroachment Application (ACT 13)*
 1. Maintenance and user support -ongoing
- iii. *SIR Tracking (ACT 13)*
 1. Maintenance and user support -ongoing
- iv. *Scientific Collectors (ACT 13)*
 1. Development – in progress
 2. Training-initial training session was conducted
 3. Production go-live scheduled 5/5/2014

C. By January 2012, begin integration of priority agency information systems, including the current GIS environment, as identified in the *Modernization Plan for IT Infrastructure and Software Resources*.

Issue 6: Limited financial and human resources require the Commission to more effectively manage our internal resources.

Strategy 6: Strengthen performance and operations by managing limited financial and human resources more effectively.

Goal 6: Optimize agency efficiency and ensure continuity of operations through infrastructure planning and employee development.

A. By August 2010, improve accessibility to on-going training opportunities for all staff and Commissioners.

- By July 2010, gain a better understanding of the climate of the Commission’s workforce and implement strategies for improvement.
 - Complete
- By January 2012, continue agency-wide and bureau specific implementation of climate assessment improvement items.
 - Years of Service pins were distributed to employees who were celebrating 5 year-increment anniversaries with the Commonwealth.
 - Praise for our employees continued to be received through the HR resource account. Supervisors and employees were made aware of positive feedback received from our customers so that appropriate notification and recognition could occur for those employees receiving praise.

B. By July 2012, begin implementation of a succession planning and leadership development program.

- Materials continue to be collected and developed to prepare for an internal mentoring program.

- An internal Accelerated Grievance Procedures training has been developed and will be taught in 2014. This course is now loaded into the LSO training system. Dates have yet to be determined for the course to be taught.
- An internal Hiring Process training continues to be developed and will be offered in 2014.
- An internal two-day Effective Writing course was offered to PFBC employees. All feedback received regarding this course was extremely positive. Plans are in place to continue to offer this course one time per year.
- A course on “How to Conduct a Workplace Investigation” has been developed and will be offered in 2014. This course is now loaded into the LSO training system, however specific dates for the classes to be conducted have not been determined yet.
- An internal Sexual Harassment course has been developed and will be conducted in 2014.

C. By January 2011, begin implementation of Supervisor Development Training.

- Two employees were nominated for the Commonwealth’s Emerging Leaders program. One employee was from the Bureau of Administration and one employee was from the Bureau of Hatcheries.
- One employee from the Bureau of Engineering was nominated for the Commonwealth’s Leadership Development Institute.
- HR will continue to conduct yearly classes for the four required Supervisory Courses: EPR training, Labor Relations training, and Fundamentals of Supervision training. Until we run an in-house Sexual Harassment training (in 2014), we will continue to rely on OA to teach that course.

D. By September 2011, conduct a full review of State Fish Hatcheries to identify strategies for promoting cost savings with the least adverse effects on services to the angling public.

-

E. By July 2012, begin implementation of a comprehensive multi-year Infrastructure Plan for the engineering, maintenance and development of the Commission’s hatcheries, marinas, dams, accesses and administrative buildings to ensure continuity of critical operations.

-

Issue 7: Due to the limitations of current communications systems, technologies and processes, the Commission must improve its internal and external communication methods and systems.

Strategy 7: Improve internal and external communications by strengthening the use of current communication technologies and processes.

Goal 7: Improve internal and external communications systems to develop an informed and engaged workforce and increase the public’s access to and use of Commission information.

- A. By July 2010, establish a direct line of internal and external communication with the Commission's Executive Director.
-
- B. Deleted via Amendment 1
- C. By July 2011, begin implementation of a business plan that makes the best use of the Commission's core publications and exhibits.
-
- D. By January 2012, annually evaluate, and modify as needed, employee communications strategies.
-
- E. By July 2014, complete the redesign of the Commission's website.
-

Major Activities and/or Accomplishments not Directly Connected to Strategic Plan Implementation

- Spent considerable time advocating against the Endangered Species Coordination Act (HB 1576), attempting to negotiate a compromise, and explaining the value of the pending upgrade to the PNDI Environmental Review tool.
- Delivered 2013 Annual Report to the House Game and Fisheries Committee.
- Advocated for amendments to the Recreational Use of Land and Water Act.

Bureau of Administration

PALS

- As of April 1, 2014: the total number of 2014 fishing licenses sold and vouchers redeemed and active multi-year licenses were 247,126 which is a 0.34% increase from the same time period last year; the total number of 2014 permits sold and vouchers redeemed and active multi-year permits were 213,810 which is a -0.88% decrease compared to the same period last year.

Boating

- As of April 1, 2014, the Commission's 2014 new boat registration transactions decreased 8.31% to 2,757, new titling transactions decreased 2.79% to 1,600 and boat renewals have decreased 3.23% decrease to 92,961.
- As of April 1, 2014, there were 511 (1) Year Launch Permits and 2,488 (2) Year Launch Permits sold, which is a 13.17% increase from 2013.

Multi-Year Licenses

- As of April 1, 2014, the Commission has sold 4,406 3-year multi-year licenses and 1,891 5-year multi-year licenses in the 2014 license year. The Commission has sold 3,846 3-year

multi-year permits and 1,694 5-year multi-year permits in the 2014 license year. Almost 88% of all multi-year license buyers purchased multi-year permits.

Mentored Youth Fishing Permit and Voluntary Youth Fishing License

- As of April 1, 2014, there have been a total of 1,503 Mentored Youth Fishing Permits and 910 Voluntary Youth Fishing Licenses sold.

Legal Office

- In September 2011, the Commission sued Consol Energy for civil damages resulting from the 2009 pollution incident on Dunkard Creek that caused a massive fish kill spanning nearly 30 miles of stream in West Virginia and Pennsylvania. The lawsuit sought compensatory damages for dead fish, mussels and amphibians, as well as lost fishing opportunities for Pennsylvania anglers and punitive damages to deter future pollution. The primary lawsuit was filed in West Virginia where the pollution originated. On July 12, 2013, the trial court dismissed the Commission's complaint, concluding that the Commission only has authority to bring actions for civil damages for violations of Chapter 25 of the Fish and Boat Code and has no authority to bring a cause of action under West Virginia common law. The Commission filed a notice of appeal with the West Virginia Supreme Court, and on February 20, 2014, the Court decided to hear the appeal. Oral argument before the Court took place on April 8.
- On October 16, 2013, the Commission filed an appeal of its NPDES permit for the Tylersville State Fish Hatchery with the Environmental Hearing Board (EHB). Staff from the Commission and the Department of Environmental Protection (DEP) met on two occasions to discuss possible resolution of the case, and on March 25, 2014, the EHB stayed all prehearing matters until July 15, 2014. On or before that date, the parties must file settlement documents with the EHB or a joint status report setting forth what additional matters need to be accomplished to settle the appeal. As of the date of report preparation, the parties had reached a settlement agreement in principle; however, the details of that settlement had not been memorialized in writing.
- In July 2013, the Office of Administration (OA) and counsel for the Commonwealth's insurance carrier settled a workers' compensation claim from a former hatchery worker whose estate alleged that he developed terminal cancer from exposure to chemicals at the hatchery. The estate also has a products liability claim outstanding in federal court against manufacturers of the chemicals used at the hatchery. The Commission is not a party to that lawsuit, but its records have been subpoenaed and several of its employees have been deposed.
- Christopher P. Bennett, an Ohio resident, timely applied for a nonresident Lake Erie trap net license for 2014, and Commission staff denied the application. On March 14, 2014, Bennett filed a Petition Appealing Staff Action Denying Application and Granting Renewal Licenses and a Request for Stay. The Bureau of Law Enforcement filed an

Answer. On April 3, the Commission's Executive Director denied Bennett's request for a stay because Bennett did not demonstrate good cause for a stay. The Executive Director concluded that because the laws of Ohio prohibit the issuance of a commercial fishing license to a Pennsylvania resident, the Commission is therefore prohibited from issuing a commercial fishing license to an Ohio resident, such as Bennett, under section 2903(f) of the Pennsylvania Fish and Boat Code. The Executive Director will appoint a presiding officer to hear the appeal.

- The Commission continues to work with the United States Fish and Wildlife Service (USFWS), the Pennsylvania Game Commission (PGC) and the Pennsylvania Department of Conservation and Natural Resources (DCNR) as Trustees to pursue potential claims for natural resource damages resulting from the release of hazardous substances from the Centre County Kepone Superfund Site (CCK Site) near State College. The CCK Site includes a former chemical manufacturing facility operated by the Nease Chemical Company from 1957 through 1977. Operations were eventually taken over by the Rutgers Organics Corporation. Throughout its production life, the plant produced specialty chemicals, including Kepone, an insecticide produced from 1959 to 1962, and Mirex produced in 1973 and 1974 as a fire retardant and insecticide. Releases from chemical production and storage areas have contaminated on-site soil and groundwater beneath the site, presumably to the end of production in 2003. Affected groundwater flowed into Spring Creek. Fish over the entire length of Spring Creek downstream from the site were found to contain contaminants released from the site. In September 1983, the site was placed on the United States Environmental Protection Agency's National Priorities List. From 1999 through 2011, remediation was conducted on the site that included pumping and treating contaminated groundwater, excavation and off-site disposal of contaminated soil, surface water drainage improvement, fencing, deed restrictions and monitoring. The Trustees have met to discuss recovery of natural resource damages at the site. Rutgers Organics has been notified of the potential claim and has participated in an initial meeting with the Trustees. Additional meetings with Rutgers Organics are anticipated.
- The Commission continues to work with the National Oceanic and Atmospheric Administration (NOAA), the USFWS, DEP and DCNR as Trustees to pursue potential claims for natural resource damages resulting from the release of hazardous substances from the Metal Bank Superfund Site, which is located on the western shore of the Delaware River in Philadelphia. According to available information, from 1962 to 1985, the site was used for scrap metal storage. For approximately five years, during the late 1960s and early 1970s, electrical transformer salvage operations were performed at the site. Some of the salvaged transformers contained PCBs, which were released to soils and groundwater at the site, eventually seeping into the Delaware River and contaminating river surface water and sediment. NOAA is the lead administrative trustee.

Bureau of Boating and Outreach

Education Program Results, 1/1/2014 to 3/28/2014

Boating safety education

Program/activity	Number in this quarter	Number of participants
Boating Safety Education Certificates (BSEC) Issued	1,110	n/a
Certificates issued through distance learning	809	n/a
Certificates issued through classroom courses	296	n/a
Basic Boating courses scheduled	25	309
Boating and Water Safety Awareness (in-school)	6	65

Angler education & fishing promotion

Sport Show (show days)	71
Family Ice Fishing Programs (FIFP) scheduled	8
Family Ice Fishing Programs conducted	8
Family Ice Fishing Program attendance	445

- Conducted activities related to planning, implementation, and postponement of the 2014 Mentored Youth Fishing Days. Regional staff contacted the owner/manager of the selected waters and partners providing on-site support.
- Distributed 50 youth life jackets at the Allegheny Sports, Travel and Outdoor Show. The give-away was a partnership between the Port of Pittsburgh, Cabela's (Wheeling, WV store) and the PFBC. In order to receive a jacket, youth and accompanying adult picked up a coupon at the PFBC booth and attended a presentation on life jacket fit and wear. Staff from the PFBC, USACOE, USCG Auxiliary, US Power Squadrons, and local law enforcement provided assistance.
- Scheduled two "Gear-Up for Mentored Youth Fishing Day" programs for the evenings of March 12 and March 18. The programs were designed to help promote the Mentored Youth Fishing Days and provide participants with basic trout fishing skills. The first was scheduled for March 12 in Gettysburg, however due to low registration the program was cancelled. The second occurred on March 18 and was held at North Park Lake, Allegheny County. Nearly 50 adults and children participated.
- Finalized plans for the 2014 Linesville Open House scheduled for April 5, 2013.
- Printed and produced digital editions of the Spring PLAY newsletter.
- Printed and produced digital editions (including e-zine) of the March/April and May/June *Pennsylvania Angler & Boater* magazine.
- Produced Mentored Youth Fishing Day posters and flyers, stocking truck decals and "Angler Thank You" campaign materials.
- Printed and produced the online version of the 2013 PFBC Annual Report.
- Conducted Ice Safety and Water Rescue for the First Responder courses for PFBC staff.
- Represented the Commission in the Statewide Comprehensive Outdoor Recreation Plan meetings to update the state's current plan and place greater emphasis on fishing and boating recreation activities.

- Coordinated climate-controlled storage of PFBC Water Rescue equipment, boats, and trailer at PEMA's Special Operations Center (SOC) in Harrisburg.
- Coordinated the use of vehicles, rescue and communications equipment from PEMA in addition to funding for certain travel and training costs associated with PA-HART.
- Coordinated the development of a PFBC WCO Swiftwater Strike Team Type 1. Scheduled and began providing training.
- Completed updates and editing on "*Water Rescue for the First Responder*" NFPA 1670 Awareness Level course which became available on-line in April 2014. A revenue code was established to track income distributed (per student completing the course) to the Commission by the on-line provider.
- Participated in a workgroup for FEMA-NIMS Resource Typing for Rescue Boats.
- Trained Instructor cadre for Harrisburg City Fire Dept in PA Basic Boating and completed Ice Rescue & Emergency Response training with Harrisburg City Fire Dept.
- Conducted DCNR Ranger Block Safety Training in Harrisburg during March, April & May
- Continued logistical planning PA-HART 2014 Vigilant Guard Exercise set for May 12th-14th, 2014.
- Participated in planning for the PA-HART/PFBC/USCG/PEMA joint exercise scheduled for September 2014 in Erie, PA.
- Conducted multiple PA-HART training missions, one of which was held on PFBC's Benner Spring State Fish Hatchery property.

Bureau of Fisheries

- Evaluated 17 grant proposals submitted in the Sinnemahoning Watershed Restoration Grant Program.
- Conducted a 10-year review with the National Park Service of the Valley Creek Trustee Council and restoration activities associated with the Paoli Railyard Superfund Site settlements.
- Completed a hydrogeologic study in the vicinity of the area Corry SFH in response to the newly developed Foster Well complex. It is anticipated that the additional wells will produce up to 1400 gallons of water/minute to the Corey SFH facility.
- An internal DHM and DFM meeting was conducted to better coordinate activities related to the establishment and maintenance of the PFBC's Priority Waters Lists for habitat work. A work group has been assigned the task of developing a process for screening potential priority waters with a first draft due in May 2014.
- Chaired the newly established Aquatic Habitat Initiative Partnership workgroup. This group has been established to develop a clearinghouse of the efforts and priorities of other agencies and organizations and see where we share common interests. This will reduce duplication of efforts and provide opportunities for more efficient partnerships.
- Attended the Coldwater Task Group Meeting in Buffalo, NY on February 4-5, 2014.

- Attended the Walleye Task Group meeting in Sandusky, Ohio on February 19-20. FB Hosack attended the Forage Task Group meeting in Sandusky, Ohio on February 20, 2014. Pennsylvania data was provided to the Task Group.
- Attended the 2014 BASS Classic two-day Conservation Summit in Montgomery, AL.
- Attended the Pre-Lake Erie Committee and the Lake Erie Committee Meetings to set the bi-nation harvest quotas on Yellow Perch and Walleye in Lake Erie.
- Conducted fish salvage at Nessmuk Lake, Tioga County, in response to a future dam modification and improvement project.
- Participated in the Angler Thank You campaign throughout the Commonwealth on both the regional and traditional Opening Day of Trout Season.
- Attended a follow-up meeting on Allegheny Reservoir issues with the Seneca Nation of Indians, New York Department of Environmental Conservation, US Army Corps of Engineers, US Fish and Wildlife Service and Allegheny National Forest.
- Participated with the planning and implementation of the 2014 Keystone Coldwater Conference. The 11th Keystone Coldwater Conference was held on February 21 and 22 at the Ramada Conference Center in State College. This year's conference, titled "Coldwater Resources: Current Practices in Conservation, Protection and Restoration" focused on providing attendees with current information and techniques that protect, conserve and restore our coldwater streams. Sessions focused on building partnerships, current research, and best management practices to ensure our coldwater ecosystems are protected well into the future.

Bureau of Hatcheries

- Due to the long cold winter, this was a difficult stocking season with many frozen waterways. Even so, all trout were stocked in waters as requested prior to both opening days.
- Continue to work with Union City water Authority on Land Use Agreement
- Preparing for well studies for the Corry SFH. Staff will be closely monitoring flow rates and water table levels.
- Steelhead stocking was delayed by heavy ice cover on Lake Erie tributaries. Stocking has now been completed.
- Trap netting for walleye brood is underway and spawning will commence in April.

Summary Information of Species Stocked 01/01/2014 thru 04/01/2014

<u>Species</u>	<u>Lifestage</u>	<u>Weight (lbs) Shipped</u>	<u>Number Stocked</u>
Rainbow Trout-Steelhead	YRLN	67,469	700,951

- Trout Stockings: Number of adult and fingerling trout stocked or scheduled to be stocked between January 1, 2014 and March 31, 2014.

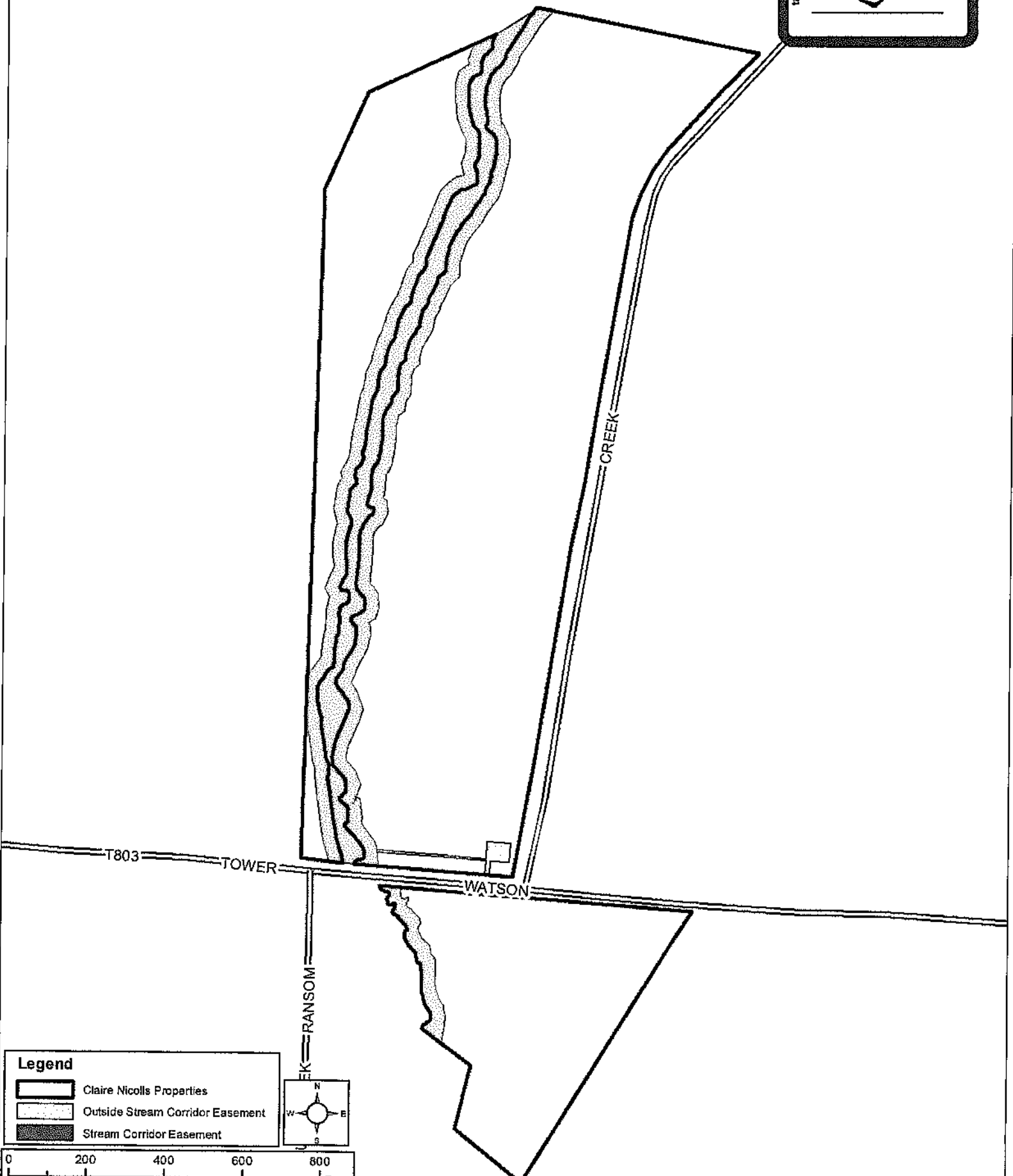
SPECIES	NUMBER STOCKED	LIFESTAGE
Brook Trout	187875	Adult
Brown Trout	210793	
Rainbow Trout	631462	
Golden Rainbow Trout	7349	
TOTAL ADULT TROUT	1037479	

Policy and Planning Office

Angler Thank You Campaign – 32 teams of PFBC employees were actively engaged in saying “thank you” to our customers during the campaign. Staff were equipped with specially made and donated hats and armed with swag bags containing items that were donated by business partners, and in all 1500 “thank you” bags were assembled and distributed. In addition, licensed anglers were given the opportunity to get a free hot beverage at one of nearly 200 locations statewide.

Clare Nicolls Properties
Conneaut Creek
Spring Township - Crawford County

tabbies
EXHIBIT
C



Legend

- Claire Nicolls Properties
- Outside Stream Corridor Easement
- Stream Corridor Easement

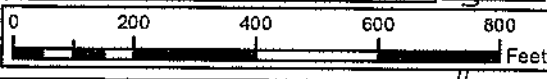
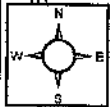
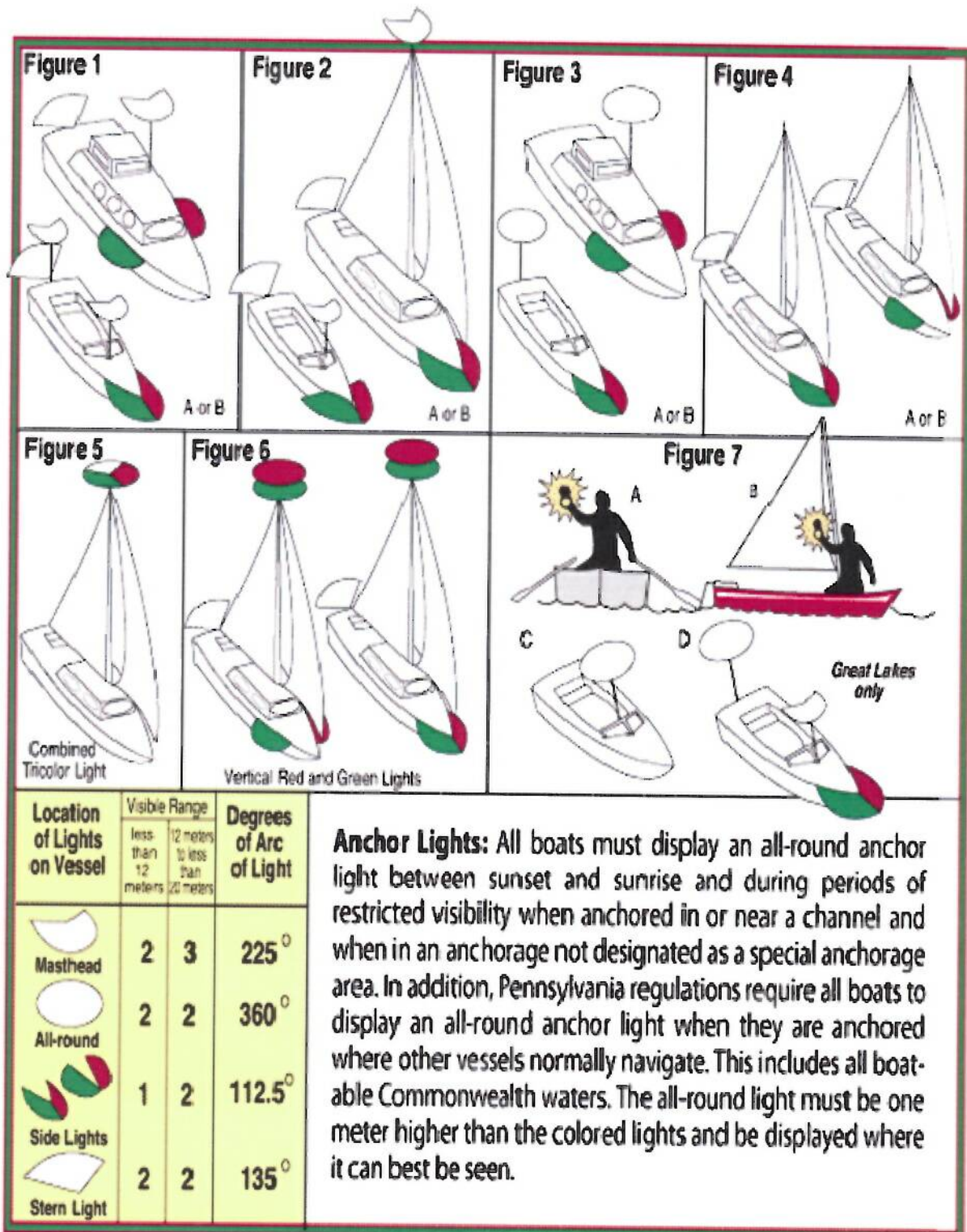
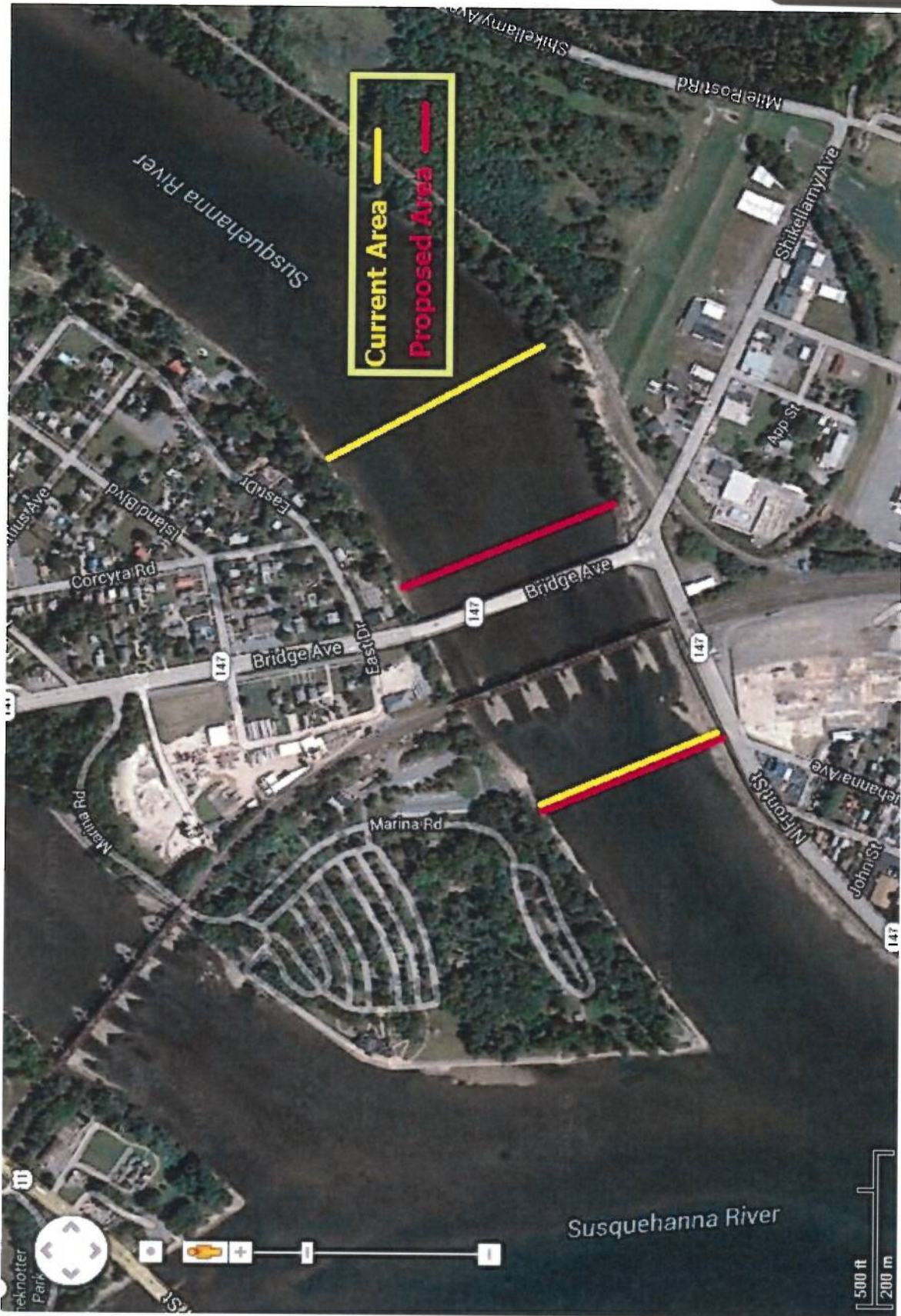


Exhibit D





PROPOSED RULEMAKING

ENVIRONMENTAL QUALITY BOARD

Acceptance of Rulemaking Petition for Study

On November 19, 2013, the Environmental Quality Board (Board) accepted a rulemaking petition for study under 25 Pa. Code Chapter 23 (relating to Environmental Quality Board policy for processing petitions—statement of policy).

The petition, submitted by Kenneth T. Kristl, Esq. on behalf of *Ashley Funk and Kids vs. Global Warming*, requests the Board promulgate a rulemaking to limit and regulate fossil fuel carbon dioxide emissions and to establish an effective emissions reduction strategy that will achieve safe atmospheric concentrations of carbon dioxide by 2100.

Under the Board's acceptance of the petition, the Department of Environmental Protection (Department) will prepare a report evaluating the petition. This report, which must be completed within 60 days from the date the petition was accepted by the Board, will include a recommendation on whether the Board should approve the action requested in the petition. If the recommendation is to change a regulation, the report will also specify the anticipated date that the Board will consider a proposed rulemaking.

The previously-referenced petition is available to the public for review by contacting the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526, and is accessible on the Department's web site at http://www.portal.state.pa.us/portal/server.pt/community/Environmental_Quality_Board/21511/EQB_Meeting_Schedule_2013/1615627 (see November 19, 2013, meeting).

E. CHRISTOPHER ABRUZZO,
Acting Chairperson

[Pa.B. Doc. No. 13-2262. Filed for public inspection December 6, 2013, 9:00 a.m.]

FISH AND BOAT COMMISSION

[58 PA. CODE CHS. 61 AND 69]
Fishing; American Eel

The Fish and Boat Commission (Commission) proposes to amend Chapters 61 and 69 (relating to seasons, sizes and creel limits; and fishing in Lake Erie and boundary lakes). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code).

A. Effective Date

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

B. Contact Person

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

C. Statutory Authority

The proposed amendments to §§ 61.1, 61.2, 61.4 and 69.12 are published under the statutory authority of section 2102(b) of the code (relating to rules and regulations).

D. Purpose and Background

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

E. Summary of Proposal

In May 2012, the **Atlantic States Marine Fisheries Commission** (ASMFC) approved a coastwide stock assessment of American eel that concluded that the American eel population is depleted in United States waters. The stock is at or near historically low levels due to a combination of historical overfishing, habitat loss, food web alterations, predation, turbine mortality, environmental changes, toxins and contaminants, and disease. An independent panel of scientists that reviewed the stock assessment urged the ASMFC Board to examine alternative reference points to provide more protection to the spawning stock biomass.

In response to these findings, the ASMFC Board tasked the ASMFC American Eel Technical Committee with developing potential management actions which would reduce mortality on all life stages of American eel. A range of options was developed by the ASMFC American Eel Technical Committee and subsequent action was taken by the ASMFC Board to release certain management options for public comment. These comments were considered by the ASMFC Board when, on August 8, 2013, it approved Amendment III to the ASMFC American Eel Fisheries Management Plan. Among the requirements of this amendment is a reduction in recreational harvest of eels by way of a coastwide establishment of a creel limit of 25 fish and a size limit of 9 inches. Currently, the Commonwealth has a 50 fish creel limit for American eel coupled with an 8-inch size limit for recreational harvested eels and a 6- to 8-inch slot limit for eels harvested for bait.

The ASMFC-directed regulatory change is to be implemented by January 1, 2014. Although final adoption of the amendment by the Commission by January 1, 2014, will not be possible, the Commission's Executive Director will exercise his authority under § 65.25 (relating to temporary changes to fishing regulations) to make a temporary modification.

To address the coastwide regulation directed by ASMFC, the Commission proposes to amend §§ 61.1, 61.2, 61.4 and 69.12 to read as set forth in Annex A.

F. Paperwork

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

G. Fiscal Impact

The proposed rulemaking will not have adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will not impose new costs on the private sector or the general public.

H. Public Comments

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

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

JOHN A. ARWAY,
Executive Director

(Editor's Note: See 43 Pa.B. 7194 (December 7, 2013) for a notice relating to this proposed rulemaking.)

Fiscal Note: 48A-254. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 61. SEASONS, SIZES AND CREEL LIMITS

§ 61.1. Commonwealth inland waters.

* * * * *

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

SPECIES	SEASONS	MINIMUM SIZE	DAILY LIMIT
* * * * *			
AMERICAN EEL	Open year-round	[8] 9 inches	[50] 25
* * * * *			
[AMERICAN EEL (as baitfish)	Open year-round	6 inches to 8 inches	50]
BAIT FISH FISH BAIT except American eel, mud bugs and mussels/clams	Open year-round	No minimum	50 (combined species)
* * * * *			

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

* * * * *

(d) 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
* * * * *			
AMERICAN EEL	Open year-round	[8] 9 inches	[50] 25
[AMERICAN EEL (as baitfish)	Open year-round	6 inches to 8 inches	50]
* * * * *			
BAIT FISH FISH BAIT, except American eel and mussels/clams	Open year-round	No minimum	50 (combined species)
* * * * *			

§ 61.4. Conowingo Reservoir.

* * * * *

(d) The following seasons, sizes and creel limits apply to the Conowingo Reservoir, which includes the Susquehanna River from the Maryland State Line upstream to Holtwood Dam:

SPECIES	SEASONS	MINIMUM SIZE	DAILY LIMIT
[EELS] AMERICAN EEL	Open year-round	[6] 9 inches	25
BAIT FISH FISH BAIT, except American eel	Open year-round	No minimum	35

CHAPTER 69. FISHING IN LAKE ERIE AND BOUNDARY LAKES
Subchapter B. SPORT FISHING AND ANGLING

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

* * * * *

(f) Subject to the provisions of subsections (d) and (e), the following seasons, sizes and creel limits apply to Lake Erie, Lake Erie tributaries and Presque Isle Bay, including peninsula waters:

SPECIES	SEASONS	MINIMUM SIZE	DAILY LIMIT
AMERICAN EEL	Open year-round	9 inches	25
BAIT FISH FISH BAIT, except American eel and mussels/clams	Open year-round	None	50 (combined species)

[Pa.B. Doc. No. 13-2263. Filed for public inspection December 6, 2013, 9:00 a.m.]

[58 PA. CODE CHS. 61 AND 65]

Fishing; Seasons, Sizes and Creel Limits; Special Fishing Regulations

The Fish and Boat Commission (Commission) proposes to amend Chapters 61 and 65 (relating to seasons, sizes and creel limits; and special fishing regulations). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code).

A. Effective Date

The proposed rulemaking, if approved on final-form rulemaking, will go into effect on January 1, 2015.

B. Contact Person

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

C. Statutory Authority

The proposed amendments to § 61.1 (relating to Commonwealth inland waters) are published under the statutory authority of section 2102(b) of the code (relating to rules and regulations). The proposed amendments to

§ 65.12 (relating to the Regional Opening Day of Trout Season Program) are published under the statutory authority of section 2102(a) of the code.

D. Purpose and Background

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

E. Summary of Proposal

Under a proposed statement of policy, the Commission proposes to amend § 57.8a (relating to Class A wild trout streams). Specifically, the Commission proposes the stocking of a limited number of Class A designated streams under certain conditions. Along with this proposed change, the Commission proposes that any Class A streams that are stocked be treated the same as other wild trout streams with respect to harvest during the extended season. Specifically, wild trout streams are closed to harvest beginning 12:01 a.m. the day after Labor Day to midnight the last day of February of the following year. Under §§ 61.1 and 65.12, approved trout waters and all waters downstream of approved trout waters are open to harvest with a three fish limit. There are currently at least 22 streams comprising 29 stream



Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, for speech and/or hearing impaired persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service (800) 654-5984 (TT).

MICHAEL WOLF,
Secretary

[Pa.B. Doc. No. 14-449. Filed for public inspection February 28, 2014, 9:00 a.m.]

Comments received within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the address or phone number listed previously, or for speech and/or hearing impaired persons V/TT (717) 783-6514, or the Pennsylvania AT&T Relay Service (800) 654-5984 (TT).

MICHAEL WOLF,
Secretary

[Pa.B. Doc. No. 14-450. Filed for public inspection February 28, 2014, 9:00 a.m.]

Long-Term Care Nursing Facilities; Request for Exception

The following long-term care nursing facilities are seeking exceptions to 28 Pa. Code § 211.9(g) (relating to pharmacy services):

Lakeside Health and Rehabilitation Center
245 Old Lake Road
Dallas, PA 18612
FAC ID # 290902

ManorCare Health Services—Sunbury
800 Court Street Circle Road
Sunbury, PA 17801
FAC ID # 123302

Peter Becker Community
800 Maple Avenue
Harleysville, PA 19438
FAC ID # 160602

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, ra-paexcept@pa.gov.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Pennsylvania Cancer Control, Prevention and Research Advisory Board Meeting

The Pennsylvania Cancer Control, Prevention and Research Advisory Board, established under section 3 of the Pennsylvania Cancer Control, Prevention and Research Act (35 P. S. § 5633), will hold its quarterly meeting on Wednesday, March 26, 2014, from 9 a.m. to 12 p.m. at the Giant Super Food Store Community Center, Second Floor, 2300 Linglestown Road, Harrisburg, PA 17110.

For additional information or for persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so, contact Sharon Sowers, Plan and Policy Section Chief, Department of Health, Comprehensive Cancer Control Section, Room 1011, Health and Welfare Building, 625 Forster Street, Harrisburg, PA, (717) 547-3249, for speech and/or hearing impaired persons V/TT (717) 783-6514, or the Pennsylvania AT&T Relay Service (800) 654-5984.

This meeting is subject to cancellation without notice.

MICHAEL WOLF,
Secretary

[Pa.B. Doc. No. 14-451. Filed for public inspection February 28, 2014, 9:00 a.m.]

FISH AND BOAT COMMISSION

Classification of Wild Trout Streams; Proposed Additions, Adjustments and Removals; May 2014

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

At the next Commission meeting on May 5 and 6, 2014, the Commission will consider changes to its list of wild trout streams. Specifically, the Commission will consider the addition of the following streams or portions of streams to the list:

County	Stream Name	Tributary To	Section Limits
Armstrong	Foundry Run	Mahoning Creek Lake	Headwaters to mouth
Carbon	Nis Hollow	Lehigh River	Headwaters to mouth
Centre	Potter Run	Sinking Creek	SR 0144 downstream to mouth
Crawford	DeWolfe Run	Marsh Run	Headwaters to mouth
Elk	Sawmill Run	Little Toby Creek	Headwaters to mouth

NOTICES

<i>County</i>	<i>Stream Name</i>	<i>Tributary To</i>	<i>Section Limits</i>
Jefferson	East Branch Mahoning Creek	Mahoning Creek	Headwaters downstream to 1.0 km downstream of Branch Road (T-622) Bridge
Lackawanna	Hagen Run	Pond Creek	Headwaters to mouth
Lycoming	Reibsan Run	Plunketts Creek	Headwaters to mouth
Northumberland	West Branch Susquehanna River	Susquehanna River	Confluence of Moss Creek downstream to confluence of Peg Run
Somerset	North Branch South Fork Bens Creek	South Fork Bens Creek	Headwaters to mouth
Sullivan	Smith Cabin Run	North Branch Mehoopany Creek	Headwaters to mouth
Susquehanna	Burdick Creek	Meshoppen Creek	Outflow of pond in headwaters to mouth
Venango	Calaboose Run	Cornplanter Run	Headwaters to mouth
Venango	UNT to Allegheny River (RM 146.96)	Allegheny River	Headwaters to mouth
Warren	Anders Run	Allegheny River	Headwaters to mouth
Warren	Patchen Run	Matthews Run	Headwaters to mouth
Warren	Waid Run	Allegheny River	Headwaters to mouth
York	Mill Creek	Codorus Creek	Headwaters downstream to confluence of first unnamed tributary downstream from the Mt. Rose Avenue (SR 0124) Bridge

The Commission also will consider the following revisions to the section limits of streams on the list:

<i>County</i>	<i>Stream Name</i>	<i>Tributary To</i>	<i>Current Limits</i>	<i>Revised Limits</i>
Centre	Beauty Run	Sandy Run	Headwaters to mouth	Headwaters to unnamed tributary to Beauty Run at river mile 1.26
Centre	Little Sandy Run	Beech Creek	Headwaters to mouth	Headwaters to unnamed tributary to Little Sandy Run at river mile 2.08
Centre	Three Rock Run	Beech Creek	Headwaters to mouth	Headwaters to river mile 1.40

The Commission also will consider the removal of the following stream or portions of streams from the list:

<i>County</i>	<i>Stream Name</i>	<i>Tributary To</i>	<i>Section Limits</i>
Cambria	Rock Run	Chest Creek	Headwaters to mouth
Cambria	Sandy Run	South Fork Little Conemaugh River	Headwaters to mouth
Cameron	Mill Run	First Fork Sinnemahoning Creek	Headwaters to mouth
Cameron	Owl Run	First Fork Sinnemahoning Creek	Headwaters to mouth
Cameron	Rattlesnake Run	First Fork Sinnemahoning Creek	Headwaters to mouth
Clinton	Big Rock Spring	Rockey Run	Headwaters to mouth
Clinton	Cole Run	Cooks Run	Headwaters to mouth
Clinton	Commissioners Run	Sinnemahoning Creek	Headwaters to mouth
Clinton	Little McCloskey Run	West Branch Susquehanna River	Headwaters to mouth
Clinton	Right Fork Greene Branch	Greene Branch	Headwaters to mouth
Fayette	Ferguson Run	Gist Run	Headwaters to mouth
Fayette	Gist Run	Dunbar Creek	Headwaters to mouth
Fayette	Laurel Run	Gist Run	Headwaters to mouth

<i>County</i>	<i>Stream Name</i>	<i>Tributary To</i>	<i>Section Limits</i>
Lycoming	Big Run (near Tivoli)	Muncy Creek	Headwaters to mouth
Lycoming	Bull Run	Pine Creek	Headwaters to mouth
Lycoming	Hilborn Run	Pine Creek	Headwaters to mouth
Lycoming	McClure Run	Pine Creek	Headwaters to mouth
Lycoming	Pond Hollow Run	Larrys Creek	Headwaters to mouth
Lycoming	Pot Lick Hollow	Larrys Creek	Headwaters to mouth
Lycoming	Schoolhouse Run	Pine Creek	Headwaters to mouth
Lycoming	Watt Hollow Run	Larrys Creek	Headwaters to mouth
Potter	Burt Hollow	Allegheny River	Headwaters to mouth
Potter	Knowlton Hollow	Allegheny River	Headwaters to mouth
Potter	Mahon Run	First Fork Sinnemahoning Creek	Headwaters to mouth
Potter	Pine Island Run	First Fork Sinnemahoning Creek	Headwaters to mouth
Somerset	Flat Run	Roaring Run	Headwaters to mouth
Somerset	Pine Run	Roaring Run	Headwaters to mouth
Somerset	Shoemaker Run	Gladdens Run	Headwaters to mouth
Sullivan	Stony Run	Loyalsock Creek	Headwaters to mouth
Tioga	Bear Run	Pine Creek	Headwaters to mouth
Tioga	Benaur Hollow	Pine Creek	Headwaters to mouth
Tioga	Big Bridge Hollow	Pine Creek	Headwaters to mouth
Tioga	Boose Hollow	Wilson Creek	Headwaters to mouth
Tioga	Burdic Run	Pine Creek	Headwaters to mouth
Tioga	Clay Mine Run	Pine Creek	Headwaters to mouth
Tioga	Dillon Hollow	Pine Creek	Headwaters to mouth
Tioga	Good Spring Hollow	Pine Creek	Headwaters to mouth
Tioga	Herrington Hollow Run	Pine Creek	Headwaters to mouth
Tioga	Hoadley Hollow	Asaph Run	Headwaters to mouth
Tioga	Horse Run	Pine Creek	Headwaters to mouth
Tioga	Ice Break Run	Pine Creek	Headwaters to mouth
Tioga	Kinney Hollow	Marsh Creek	Headwaters to mouth
Tioga	Little Fourmile Run	Pine Creek	Headwaters to mouth
Tioga	Pinafore Run	Pine Creek	Headwaters to mouth
Tioga	Rail Island Run	Pine Creek	Headwaters to mouth
Tioga	Stone Quarry Run	Pine Creek	Headwaters to mouth
Tioga	Straight Creek	Pine Creek	Headwaters to mouth
Tioga	Tumbling Run	Pine Creek	Headwaters to mouth
Westmoreland	Big Spring Run	Conemaugh River	Headwaters to mouth

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

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

JOHN A. ARWAY,
Executive Director

[Pa.B. Doc. No. 14-452. Filed for public inspection February 28, 2014, 9:00 a.m.]

Proposed Changes to List of Class A Wild Trout Waters; May 2014

The Fish and Boat Commission (Commission) is considering changes to its list of **Class A Wild Trout Streams**. Under 58 Pa. Code § 57.8a (relating to Class A wild trout streams), it is the Commission's policy to manage self-sustaining Class A wild trout populations as a renewable natural resource to conserve that resource and the angling it provides. Class A wild trout populations represent the best of this Commonwealth's naturally reproducing trout fisheries. The Commission manages these stream sections solely for the perpetuation of the wild trout fishery with no stocking.

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

(i) Wild Brook Trout Fisheries

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

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

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

(ii) Wild Brown Trout Fisheries

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

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

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

(iii) Mixed Wild Brook and Brown Trout Fisheries

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

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

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

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

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

(iv) Wild Rainbow Trout Fisheries

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

During recent surveys, Commission staff documented the following stream sections to have Class A wild trout populations. The Commission intends to consider adding these waters to its list of Class A Wild Trout Streams at its meeting on May 5 and 6, 2014.

County	Stream	Section	Limits	Brook Trout (kg/ha)	Brown Trout (kg/ha)	Rainbow Trout (kg/ha)	Length (miles)	Survey Year
Carbon	Nis Hollow	01	Headwaters to mouth	27.12	31.41	—	2.85	2012
Centre	Gap Run	01	Headwaters downstream to Sink 7-367 Bridge	231.45	—	—	2.27	2008
Clinton	Dry Run	01	Headwaters to mouth	49.84	—	—	3.90	2012
Mifflin	Swift Run	01	Headwaters to mouth	35.73	44.06	2.01	2.24	2009

Persons with comments, objections or suggestions concerning the additions are invited to submit comments in writing to Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments also may be submitted electronically by completing the form at www.fishandboat.com/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

JOHN A. ARWAY,
Executive Director

[Pa.B. Doc. No. 14-453. Filed for public inspection February 28, 2014, 9:00 a.m.]

HEALTH CARE COST CONTAINMENT COUNCIL

Meetings Scheduled

The Health Care Cost Containment Council (Council) has scheduled the following meetings: Monday, March 3, 2014—Executive Committee Meeting at 11 a.m.; Wednesday, March 5, 2014—Data Systems Committee Meeting at 10 a.m.; and Thursday, March 6, 2014—Council Meeting at 10 a.m.

The meetings will be held at the Council Office, 225 Market Street, Suite 400, Harrisburg, PA 17101. The public is invited to attend. Persons in need of accommodation due to a disability who wish to attend the meeting should contact René Greenawalt at (717) 232-6787 at least 24 hours in advance so that arrangements can be made.

JOE MARTIN,
Executive Director

[Pa.B. Doc. No. 14-454. Filed for public inspection February 28, 2014, 9:00 a.m.]



PROPOSED RULEMAKING

FISH AND BOAT COMMISSION

[58 PA. CODE CHS. 61, 63, 69, 71 AND 73]

Fishing

The Fish and Boat Commission (Commission) proposes to amend Chapters 61, 63, 69, 71 and 73. The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code).

A. Effective Date

The proposed rulemaking, if approved on final-form rulemaking, will go into effect on January 1, 2015.

B. Contact Person

For further information on the proposed rulemaking, contact Laurie E. Shepler, Esq., P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rulemaking is available on the Commission's web site at www.fish.state.pa.us.

C. Statutory Authority

The proposed amendments to §§ 61.1—61.4, 63.46, 69.12, 71.6 and 73.1 are published under the statutory authority of section 2102 of the code (relating to rules and regulations).

D. Purpose and Background

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

E. Summary of Proposal

Crayfish are one of the most conspicuous and ecologically important components of aquatic communities in this Commonwealth and across the globe. They are an important forage item for fishes, mammals, birds, reptiles and amphibians and facilitate the transfer of nutrients up through the food chain to higher trophic levels. About half of North America's crayfish fauna is imperiled, and native crayfishes across the continent and in this Commonwealth are rapidly being replaced by introduced (exotic) crayfishes.

The replacement of native crayfish by introduced crayfish represents a significant threat to aquatic communities. Introduced crayfish attain densities that are exceedingly high (sometimes in excess of 200 individuals/m²), often eliminate aquatic macrophytes and suppress benthic invertebrate communities. They can have strong negative effects on amphibians, mussels and fishes.

Stopping the spread of introduced crayfish is difficult once they become widespread. Since the distributions of most introduced crayfishes in this Commonwealth are still limited, there is still time to stop the spread of exotic crayfishes and preserve the native stocks that remain.

Exotic crayfishes occur in a number of water bodies in this Commonwealth and are available from bait shops, biological warehouses, pet stores, live food vendors and aquaculture facilities. To help prevent additional introductions of crayfish in this Commonwealth, stringent regulations and their enforcement is warranted.

The invasive rusty crayfish (*Orconectes rusticus*) has been tightly regulated in this Commonwealth since 2005, and live individuals cannot be possessed, sold, transported or cultured within this Commonwealth. However, there are five other introduced crayfishes that occur in this Commonwealth that are currently unregulated. These exotic crayfishes can be purchased from commercial dealers or collected from invaded water bodies and released legally into the Commonwealth's waters with potentially devastating effects on native communities. Additionally, although the invasive red swamp crayfish (*Procambarus clarkii*) cannot be propagated in flow-through systems or introduced into Commonwealth waters, the species can be possessed, sold and transported legally within this Commonwealth.

Extending the *Orconectes rusticus* ban to other exotic crayfish species would be impossible to enforce because most natural resource managers and conservation officers have difficulty identifying crayfish species. For this reason, the Commission proposes restricting the sale, possession, introduction, transportation and culture of all live native and nonnative crayfishes in this Commonwealth. Similar restrictions have been passed elsewhere (for example, Wisconsin and parts of Maryland and Canada) with broad public support.

As part of the proposed rulemaking, licensed anglers will still be allowed to harvest up to 50 crayfish per day. However, the head must be immediately removed behind the eyes upon capture unless the crayfish are used as bait in the water from which they were taken. When crayfish are used as bait in the water from which they were taken, the head does not have to be removed. When crayfish are transported from the water from which they were collected, the head must be removed behind the eyes. The proposed rulemaking also restricts the sale of all live native and nonnative crayfishes in this Commonwealth except when they are sold for testing and scientific purposes or restaurant consumption, adequate measures have been taken to prevent their escape and they are accompanied by documentation stating the point of origin and the destination to which they are to be delivered. The proposed rulemaking restricts possession, introduction and transportation of all live native and nonnative crayfishes except when: (i) they are possessed and used as bait on, in or about the water from which taken; or (ii) they are possessed or imported for testing and scientific purposes or restaurant consumption, adequate measures have been taken to prevent their escape and they are accompanied by documentation stating the point of origin and the destination to which they are to be delivered. Except when they are used as bait as previously described, the introduction of any live crayfish into Commonwealth waters will be strictly prohibited.

Although propagation is not specifically addressed by this proposed rulemaking, Commission staff are working with the Department of Agriculture (Department) and registered propagators to address issues pertaining to crayfish culture. Section 71.2 (relating to fish species approved for artificial propagation and introduction) provides that the Bureau of Fisheries (Bureau) will maintain a list of species by watershed for which the Department may issue registrations for artificial propagation and registrations for dealers of live aquatic animals. The section further provides that the Bureau may update or modify the list of authorized species by adding species to or deleting species from the list as necessary to provide

for the protection and management of fish in this Commonwealth. Therefore, concurrent with this proposed rulemaking, the Commission is proposing to remove all crayfish species from the list of species approved for open-system propagation and introduction in this Commonwealth. The culture and propagation of crayfish will still be permitted in closed systems. Regulatory action is not required to accomplish this change. However, Commission staff already have shared the proposal with the Department and registered propagators, and a dialogue has started. The Commission will seek public comments regarding the restriction on crayfish propagation at the same time as it seeks public comments on the proposed amendments in this proposed rulemaking. The Commission will solicit those comments by notifying the Pennsylvania Aquaculture Advisory Committee and its Aquaculture Coordinator of this proposed rulemaking and publication in the *Pennsylvania Bulletin*.

The Commission proposes to amend §§ 61.1—61.4, 63.46, 69.12, 71.6 and 73.1 to restrict the sale, possession, introduction and transportation of all crayfish species in this Commonwealth to read as set forth in Annex A.

F. Paperwork

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

G. Fiscal Impact

The proposed rulemaking will not have adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will not impose new costs on the private sector or the general public. Any fiscal impact to the private sector is expected to be nominal. Some

businesses sell crayfish as pets or bait, but the revenue generated is typically a very minor component of total sales. Other commercial uses include testing and scientific purposes and restaurant consumption. However, under the proposed rulemaking, the sale, possession and transportation of live crayfish is permitted for those purposes when adequate measures have been taken to prevent their escape and they are accompanied by documentation stating the point of origin and the destination to which they are to be delivered. Therefore, laboratories, research facilities and restaurants will not be significantly affected by the proposed rulemaking.

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000 within 60 days after publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

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

JOHN A. ARWAY,
Executive Director

Fiscal Note: 48A-256. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 61. SEASONS, SIZES AND CREEL LIMITS

§ 61.1. Commonwealth inland waters.

* * * * *

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

<i>SPECIES</i>	<i>SEASONS</i>	<i>MINIMUM SIZE</i>	<i>DAILY LIMIT</i>
	* * * * *		
BAIT FISH FISH-BAIT except mud bugs [and], mussels/clams and crayfish	Open year-round	No minimum	50 (combined species)
	* * * * *		
PADDLEFISH	Closed year-round	—	0
CRAYFISH (ALL SPECIES)	Open year-round		50. The head must be immediately removed behind the eyes upon capture unless used as bait in the water from which taken.

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

* * * * *

(d) 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
* * * * *			
BAIT FISH FISH BAIT, except mussels/clams and crayfish	Open year-round	No minimum	50 (combined species)
* * * * *			
OTHER SPECIES	Inland seasons, size and creel limits apply except for waters under special regulations (See Chapter 65). See § 61.1 (relating to Commonwealth inland waters).		
CRAYFISH (ALL SPECIES)	Open year-round		50. The head must be immediately removed behind the eyes upon capture unless used as bait in the water from which taken.

§ 61.3. Pymatuning Reservoir.

* * * * *

(c) Except as provided by special regulations, the following sizes and creel limits apply to Pymatuning Reservoir:

SPECIES	SEASONS	MINIMUM SIZE	DAILY LIMIT
* * * * *			
MUSSELS/CLAMS	Closed year-round		0
CRAYFISH (ALL SPECIES)	Open year-round		50. The head must be immediately removed behind the eyes upon capture unless used as bait in the water from which taken.

§ 61.4. Conowingo Reservoir.

* * * * *

(d) The following seasons, sizes and creel limits apply to the Conowingo Reservoir, which includes the Susquehanna River from the Maryland State Line upstream to Holtwood Dam:

SPECIES	SEASONS	MINIMUM SIZE	DAILY LIMIT
* * * * *			
BAIT FISH FISH BAIT, except mussels/clams and crayfish	Open year-round	No minimum	35
* * * * *			
BIVALVES/SHELLFISH (Mussels/Clams)	Closed (no open season)	Closed	0
CRAYFISH (ALL SPECIES)	Open year-round		50. The head must be immediately removed behind the eyes upon capture unless used as bait in the water from which taken.

CHAPTER 63. GENERAL FISHING REGULATIONS

§ 63.46. Sale, purchase or barter of injurious, nonnative species.

It is unlawful for a person to sell, purchase, offer for sale or barter the following live species in this Commonwealth:

* * * * *

(10) [Rusty crayfish (*Orconectes rusticus*).] Crayfish (all species) except when:

- (i) They are sold, purchased, offered for sale or bartered for testing and scientific purposes or restaurant consumption.
- (ii) Adequate measures have been taken to prevent their escape.
- (iii) They are accompanied by documentation stating the point of origin and the destination to which they are to be delivered.

* * * * *

PROPOSED RULEMAKING

CHAPTER 69. FISHING IN LAKE ERIE AND BOUNDARY LAKES

Subchapter B. SPORT FISHING AND ANGLING

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

* * * * *

(f) Subject to the provisions of subsections (d) and (e), the following seasons, sizes and creel limits apply to Lake Erie, Lake Erie tributaries and Presque Isle Bay, including peninsula waters:

SPECIES	SEASONS	MINIMUM SIZE	DAILY LIMIT
* * * * *			
BAIT FISH FISH BAIT, except mussels/clams and crayfish	Open year-round	None	50 (combined species)
CRAYFISH (ALL SPECIES)	Open year-round		50. The head must be immediately removed behind the eyes upon capture unless used as bait in the water from which taken.
* * * * *			

CHAPTER 71. PROPAGATION AND INTRODUCTION OF FISH INTO COMMONWEALTH WATERS

§ 71.6. Prohibited acts.

* * * * *

(d) It is unlawful to possess the following live species in this Commonwealth. It is unlawful to introduce or import the following live species into the waters of this Commonwealth:

* * * * *

(10) [Rusty crayfish (*Orconectes rusticus*)] Crayfish (all species).

(i) Except when they are either:

(A) Possessed and used as bait on, in or about the water from which taken.

(B) Possessed or imported for testing and scientific purposes or restaurant consumption, adequate measures have been taken to prevent their escape and they are accompanied by documentation stating the point of origin and the destination to which they are to be delivered.

(ii) Except when used as bait as provided in this section, introduction of live crayfish (all species) into the waters of the Commonwealth is prohibited.

* * * * *

CHAPTER 73. TRANSPORTATION OF LIVE FISH INTO THIS COMMONWEALTH

§ 73.1. Transportation.

* * * * *

(d) Transportation of the following live species in or through this Commonwealth is prohibited.

* * * * *

(10) [Rusty crayfish (*Orconectes rusticus*).] Crayfish (all species) except when they are either transported:

(i) As bait on, in or about the water from which taken.

(ii) For testing and scientific purposes or restaurant consumption, adequate measures have been taken to prevent their escape and they are accompanied by documentation stating the point of origin and the destination to which they are to be delivered.

* * * * *

[Pa.B. Doc. No. 14-316. Filed for public inspection February 14, 2014, 9:00 a.m.]