



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

MINUTES

112th Meeting

Volume 65

**FARMINGTON, PENNSYLVANIA
SEPTEMBER 30, 2014**

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Commonwealth of Pennsylvania
Pennsylvania Fish and Boat Commission

Minutes

The 112th Meeting of the Pennsylvania Fish and Boat Commission was held on Monday and Tuesday, September 29 and 30, 2014, at Nemacolin Woodlands Resort, Farmington, PA 15437.

Commission committees met on September 29 beginning at approximately 9:20 a.m. and on September 30 beginning at approximately 8:20 a.m. The public session for review of this agenda began at or about 11:15 a.m. on September 30.

Call to Order

The meeting was called to order by Commission President Norman R. Gavlick and followed by the Pledge of Allegiance to the Flag.

Roll Call

Members Present

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

Review and Approval of Minutes from the July 15, 2014 Meeting

A motion was made by Commissioner Ketterer and seconded by Commissioner Ali to approve the July 15, 2014 minutes as written. Motion carried.

Awards and Presentations

An Appreciation Award was presented to Dale Ortmann for his efforts to promote fishing to young people in his local community by fixing up and giving away old fishing rods. In almost a

year's time, he has repaired 234 rods and reels and given them to kids and some adults. Mr. Ortmann's aim is to get the fishing equipment into the hands of families that might not otherwise have the opportunity to fish. The Commission is very appreciative of his accomplishments that have helped others experience the start of a life-long enjoyment of fishing in Pennsylvania.

Executive Director's Report

Executive Director John Arway highlighted the "July – September 2014 Quarterly Report" (Exhibit A) that was provided to Commissioners and gave a review of his recent activities and upcoming events.

Announcement of Notational Votes (Exhibit B)

The Commission voted on one item by notational vote since the July 2014 meeting. The Commission approved a non-surface use oil and gas cooperative agreement with R.E. Gas Development, LLC (REX Energy) for the development of oil and natural gas at the Commission's Glade Run Lake property in Middlesex Township, Butler County. Commissioner Worobec abstained from discussion and voting because of concerns over a possible conflict of interest.

Announcement of Executive Session

Commissioner Gavlick announced that an executive session was held on September 29 at 8:00 a.m. to discuss personnel, real estate and litigation matters.

Reports of Commissioner Committees

Executive and Administrative (Commissioner Gavlick) –

The Executive and Administrative Committee met on Monday, September 29, at approximately 9:20 a.m. Agenda items were discussed. One of those items related to a fishing license fee reduction while pursuing a trout/salmon permit fee increase. The other concerned a resolution regarding Susquehanna River Smallmouth Bass.

Boating (Commissioner Ketterer) –

The Boating Committee met on Tuesday, September 30, at approximately 9:15 a.m. Agenda items were discussed, and Director Arway provided a presentation on increasing funding in the Boat Fund.

Fisheries (Commissioner Mascharka) –

The Fisheries Committee met on Monday, September 29, at approximately 1:30 p.m. A presentation was provided by Ben Bilott, State President, and Josh Giran, Vice President, PA B.A.S.S. Nation, regarding youth programs. Agenda items were discussed. Discussion items included a Cooperative Nursery Workgroup update, proposed revisions to the Commission's Delayed Harvest Artificial Lures Only (DHALO) regulations, a proposed Pine Creek re-designation, additional proposed designations for the January 2015 meeting, and the

Susquehanna River Casual Analysis/Diagnosis Decision Information System (CADDIS) initiative.

Habitat and Environmental (Commissioner Ali) –

The Habitat and Environmental Committee met on Monday, September 29, at approximately 12:40 p.m. Agenda items were discussed. Leroy Young provided an update on the status of the Division of Habitat Management priority waters work.

Law Enforcement (Commissioner Gavlick) –

The Law Enforcement Committee met on Tuesday, September 30, at approximately 8:20 a.m. Updates were given on the Fish Kill hotline, Marcellus shale enforcement efforts, and the success of Operation Dry Water. Chief Counsel, Laurie Shepler, provided an overview of the regulations simplification package. Updates on the new Waterways Conservation Officer class and the Water Rescue Program were also provided. The Committee did not act upon any proposed revocations of fishing or boating privileges.

Legislation and Public Outreach (Commissioner Squires) –

The Legislation and Public Outreach Committee met on Tuesday, September 30, at approximately 10:00 a.m. Tim Schaeffer provided a state legislative update. Public outreach items pertaining to Labor Day license sales and a 2011-2013 analysis of Pennsylvania's family programs were provided. Fish-for-Free Days in 2015 will be held on May 24 and July 4.

Public Comment to Commissioners and Staff

There were no comments or questions from the public.

EXECUTIVE AND ADMINISTRATIVE

A. Dates for Commission Meetings in 2015.

Commentary:

At the fall meeting each year, the Commission historically has established a schedule for regular meetings for the following year. Under the Fish and Boat Code, the Commission is required to have two meetings each year, one in January and the other in July. These meetings must be held in the Harrisburg area. Traditionally, the Commission has held two additional meetings each year in April or May and September or October.

Staff have reviewed the available dates and possible conflicts for scheduling regular Commission meetings for 2015. This review included a look at holidays, hunting and fishing seasons and other conflicting events. Based upon this review, the following dates are proposed for regular Commission meetings in 2015:

January 21-22, 2015 (Wednesday and Thursday)
May 4-5, 2015 (Monday and Tuesday)
July 13-14, 2015 (Monday and Tuesday)
September 28-29, 2015 (Monday and Tuesday)

The January and July 2015 meetings will be held at the Harrisburg headquarters. The April and September 2015 meetings will be held at locations designated by the Commission for the transaction of business.

Briefer:

John A. Arway, Executive Director

Recommendation:

Staff recommend that the Commission approve the dates for the regular meetings of the Commission for 2015 as set forth in the Commentary.

Action:

A motion was made by Commissioner Elliott and seconded by Commissioner Mascharka to approve the dates for the regular meetings of the Commission for 2015 as set forth in the Commentary. Motion carried.

B. Grant to Ralph W. Abele Conservation Scholarship Fund, Inc. to Research and Produce a History Publication about the Commission.

Commentary:

As briefed by staff at the July 2014 Commission meeting, at the direction of the Executive Director, research and production of a history publication about the agency by an experienced historian and author on Pennsylvania history is desired in conjunction with the Commission's upcoming 150th anniversary in 2016. The history of the Commission currently resides in an expansive volume series of Commission meeting reports, topic-specific *Pennsylvania Angler and Boater* magazine articles and a website page listing the chronology of important milestones in the agency's history. In addition to these resources maintained by the Commission, archival resources such as documents, photographs and other records reside with the Pennsylvania State Archives. The purpose of this history project is to produce a 150th anniversary written history of the Commission that takes into account and merges important information from all these separate resources and places them into a publicly-friendly format (i.e., non-academic), both as a compiled data source in book format and for excerpted use for informational and promotional purposes during and after the agency's 150th anniversary.

Since the non-profit organization's establishment, the Ralph W. Abele Conservation Scholarship Fund, Inc. has continued to recognize leaders in conservation with its Ralph W. Abele Conservation Heritage Award and provided educational grants to support future leaders in conservation through its scholarship fund. In alignment with this dedicated purpose and the understanding that Mr. Abele, former executive director of the Commission, imparted a strong command that the agency continue to look to the past and its history to address current and future conservation needs on behalf of the public, the Fund is the Commission's most credible partner to implement this history project. As recipient of this grant from the Commission, the Fund will coordinate the required project management, in counsel with assigned Commission personnel to complete this history project by March 2016.

Briefer:

John A. Arway, Executive Director

Recommendation:

Staff recommend that the Commission approve a grant of up to \$25,500 to the Ralph W. Abele Conservation Scholarship Fund, Inc. to implement the history project described in the Commentary.

Action:

A motion was made by Commissioner Mascharka and seconded by Commissioner Worobec to approve a grant of up to \$25,500 to the Ralph W. Abele Conservation Scholarship Fund, Inc. to implement the history project described in the Commentary. Motion carried.

C. Review and Approval of Submission of Fiscal Year 2015-16 Budget Request.

Commentary:

Under Commonwealth government budget procedures and in accordance with sections 522 and 532 of the Fish and Boat Code (30 Pa. C.S. §§522, 532), the Commission annually submits to the Governor's Budget Office the proposed Commission budget for the following fiscal year. The Commission's submission for Fiscal Year 2015-16 is due at the Budget Office in the early part of October.

Staff have prepared preliminary draft budget documents for submission to the Budget Office. According to the Budget Office, these documents are confidential. After the Executive Director submits the budget request, the Governor's Budget Office may make changes to the spending authority requested by the Commission. These changes are generally a result of changes in the calculations for personnel and other costs. The Governor will announce the details of the FY 2015-16 budget in February or March of 2015.

Briefer:

Brian P. Barner, Deputy Director, Office of Administration

Recommendation:

Staff recommend that the Commission authorize the Executive Director to submit a request to the Governor's Budget Office for Fiscal Year 2015-16 spending authority as more fully described in staff's preliminary draft budget documents.

Action:

A motion was made by Commissioner Worobec and seconded by Commissioner Squires to authorize the Executive Director to submit a request to the Governor's Budget Office for Fiscal Year 2015-16 spending authority as more fully described in staff's preliminary draft budget documents. Motion carried.

D. Grant to U.S. Department of Agriculture, Natural Resources Conservation Service, for Beechwood Lake Dam PA-454, Clymer Township, Tioga County.

Commentary:

Beechwood Lake Dam in Clymer Township, Tioga County, is a high hazard earth-fill structure owned by the Commonwealth, constructed for flood control and also used for recreation. The U.S. Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS) (formerly the Soil Conservation Service), funded construction of the dam under the Watershed Protection and Flood Prevention Act Program, and the dam was constructed under the Commission's oversight in 1963. The facility is currently in need of rehabilitation to bring it up to current standards and permit safety regulations.

The Commission has been offered a plan by NRCS to design, permit and construct a dam rehabilitation project for Beechwood Lake Dam. Under the proposed plan, NRCS will fund 100% of the costs associated with an environmental evaluation of the dam and the preparation of a Supplemental Watershed Plan (Phase 1) and, if approved, the costs associated with design and permitting (Phase 2). If approved, NRCS also will fund 65% of the construction costs (Phase 3), and the Commission will be responsible for providing a 35% non-federal match.

Through the 2014 Farm Bill, the House Appropriations and Agriculture Committees have included provisions to fund the costs of approved dam repair projects. One of the approved projects within this bill is \$445,000 for Phase 1 of the Beechwood Lake Dam Rehabilitation Project. In order to secure these funds, NRCS has to have the funds obligated or spent by September 30, 2014. To meet this deadline, NRCS will transfer the funds to the Commission. The Commission, in turn, will grant the funds back to NRCS so it may complete Phase 1 of the project with in-house staff.

In order to complete the transfer of funds, the Commission, upon receipt of the \$445,000 from NRCS, will issue a grant to NRCS in the same amount. NRCS will handle all responsibilities of the Sponsor, i.e., the Commission, during Phase 1 of this project, with an anticipated completion date of September 2016.

The transfer of funds from NRCS to the Commission and the subsequent return of the funds via a grant agreement are necessary to ensure that the full federal funds are applied to the project.

Briefer:

Brian P. Barner, Deputy Director, Office of Administration

Recommendation:

Staff recommend that the Commission authorize a grant in the amount of \$445,000 to the U.S. Department of Agriculture, Natural Resources Conservation Service, for an environmental evaluation and the preparation of a Supplemental Watershed Plan for Beechwood Lake Dam (Phase 1) as more fully described in the Commentary.

Action:

A motion was made by Commissioner Ali and seconded by Commissioner Worobec to authorize a grant in the amount of \$445,000 to the U.S. Department of Agriculture, Natural Resources Conservation Service, for an environmental evaluation and the preparation of a Supplemental Watershed Plan for Beechwood Lake Dam (Phase 1) as more fully described in the Commentary. Motion carried.

E. Flowage Easement Acquisitions, Colyer Lake, Potter Township, Centre County.

Commentary:

The Commission owns a +/-165-acre tract of land in Potter Township, Centre County, which contains Colyer Lake, a +/-77-acre lake. Additionally, the Commission owns three flowage easements totaling +/-1 acre. A flowage easement is the right to periodically flow water on and flood and inundate an area without the liability for damages resulting from such action.

Colyer Lake Dam is classified as a high hazard, unsafe dam by the Pennsylvania Department of Environmental Protection (DEP) and is currently drained due to concerns about the operational integrity of the spillway. Design for the rehabilitation of the dam is complete with construction anticipated to start later this fall. 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 DEP's current method for dam and storm event analysis indicates that the proposed dam rehabilitation project will increase the maximum water elevation by approximately 4.5 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 less than 1 acre and will include approximately 3 parcels, as identified on Exhibit C. The exact acreage and number of claims will be determined by document research and property surveys.

Staff will pursue the acquisition of the new easement areas 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 Elliott and seconded by Commissioner Mascharka to authorize the acquisition of the subject rights described in the Commentary. Motion carried.

F. Easement Acquisition, Lake Erie Region Conservancy Property, Borough of Wesleyville, Erie 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 approximately 1,230 linear feet on both sides of Fourmile Creek as it flows across a parcel of property in the Borough of Wesleyville, Erie County, for \$20,000. The easement will be for public fishing, boating, and riparian and fishery management, and will include the stream corridor and extend at least 35 feet back from the top of the bank. In addition, the Lake Erie Region Conservancy agreed to grant the Commission easements for parking and a footpath to provide access to Fourmile Creek. A map depicting the parcel is attached as Exhibit D.

Fourmile Creek provides significant steelhead fishing opportunities in this area. The Commission’s Regional Law Enforcement and Fisheries staff have recommended that the site be pursued and acquired if possible.

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

Briefer:

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 property rights in the Borough of Wesleyville, Erie 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 Ali to authorize the acquisition of the property rights in the Borough of Wesleyville, Erie County, as more particularly described in the Commentary, utilizing monies in the Lake Erie restricted account. Motion carried.

G. Fishing License Fee Reduction and Pursuit of a Trout/Salmon Permit Fee Increase.

Commentary:

Goal 1B.A.2. of the agency's Strategic Plan is to "develop, implement, and evaluate annual marketing campaign plans designed to increase license sales (and corresponding federal reimbursements) by 10% through the end of license year 2017."

Pursuant to 30 Pa. C.S. § 2717(a), the Commission may issue multi-year licenses and permits. Since the 2013 license year, the Commission has been offering three- and five-year resident and non-resident annual licenses and permits. As of September 9, 2014, the Commission sold 32,229 three-year and 15,070 five-year licenses. Buyers enjoy a cost savings since they only have to pay \$1.70 in transaction and issuing agent fees once for each privilege purchased. For example, a customer who buys a 5-year license with a trout/salmon permit saves \$13.60.

Pursuant to 30 Pa. C.S. § 2717(c), the Commission may also issue fishing licenses for fees that are less than the applicable fees set forth in 30 Pa. C.S. § 2715 for marketing and promotional purposes. The Commission experimented with a reduced-cost license by offering a one-day license (resident and non-resident) for \$1 that was valid on Labor Day, September 1, 2014. With transaction and issuing agent fees, the cost of each license was \$2.70. The Commission sold a total of 520 \$1 licenses (352 resident and 168 non-resident). This specially priced license was valid statewide and was promoted concurrently with a Mentioned Youth Fishing Day at 17 Panfish Enhancement Lakes that also took place on Labor Day.

As of August 31, 2014, licensed anglers are up 3.36% over the average of the most recent five-year period. While the Commission is selling roughly 850,000 licenses annually, the United States Fish and Wildlife Service's most recent 2011 *National Survey of Fishing, Hunting, and Wildlife-Associated Recreation* estimated that over 1.1 million people ages 16 and older fish in Pennsylvania each year. This 250,000 gap and the anglers who do not purchase a license every consecutive year (the churn rate) represent a segment of potential license buyers who may be lured into buying a license for a discounted rate.

Coupled with continued aggressive and creative marketing of positive fishing experiences, reducing the cost of a fishing license has the potential to provide added incentive for even more individuals to purchase fishing licenses. Additionally, promotion of fishing license vouchers during the holiday gift-buying season in recent years has yielded increased sales. Offering additional pricing incentives in advance of and during this time of year has the potential to spur increased purchasing of gift vouchers.

Goal 1B.B.1. of the agency's Strategic Plan is to "Identify, develop, and advocate for state legislative opportunities to maintain and increase agency revenues."

Like other license and permit fees, the fees for the trout/salmon permit and combination trout/salmon permit and Lake Erie permit (combination permit) are established by law. The current fees for the trout/salmon and combination permits are \$8 and \$14,

respectively. Since it was introduced in 1991 for \$5, the fee for the trout/salmon permit has only been raised once, by \$3 in 2005.

The costs of trout production continue to rise without a corresponding increase in fish production. (Fish production is limited by infrastructure capacity and corresponding permit limits from the Pennsylvania Department of Environmental Protection.) For fiscal year 2014-15, trout hatchery expenditures are an estimated \$8.2 million to produce about 3.2 million adult trout (1.9 million pounds) and supply eggs and fingerlings to cooperative nurseries, compared with the \$5.8 million expended on trout hatcheries in 1991 to produce 5.3 million adult trout (2.4 million pounds) and \$6.3 million in 2005 to produce 4.6 million adult trout (2.3 million pounds).

In 2013, the Commission sold 498,069 trout/salmon permits and 88,629 combination permits, generating \$4.7 million for the Fish Fund. This amounts to 57% of the cost to run the trout hatchery program. Adhering to the user pays/user benefits model suggests that trout anglers should bear more of the true cost of the program.

A workgroup comprised of Commissioners and staff gathered information regarding a number of options for increasing license sales through a reduction in fees and for increasing agency revenues to more fully support the trout hatchery program. As a result of those efforts, staff bring forth the following recommendations for the Board's consideration.

Briefer:

John A. Arway, Executive Director

Recommendation:

Staff recommend that the Commission reduce fishing license fees in the following ways and conduct the following analysis:

- Reduce the fee of resident and nonresident annual fishing licenses by \$1 for the 2015 license year. This reduction will be for the 2015 license year only and the fee will automatically revert to the prior year's fee unless further action is taken by the Board.
- Reduce the fee of three-year multi-year resident and nonresident licenses by \$3 during the month of December 2014.
- Reduce the fee of five-year multi-year resident and non-resident licenses by \$5 during the month of December 2014.
- Evaluate and report the sales response to these changes by the fall 2015 Commission meeting.

Staff also recommend that the Commission advocate for an increase in fees charged for the trout/salmon and combination permits.

Action:

A motion was made by Commissioner Mascharka and seconded by Commissioner Ali that the Commission reduce fishing license fees in the following ways and conduct the following analysis:

- Reduce the fee of resident and nonresident annual fishing licenses by \$1 for the 2015 license year. This reduction will be for the 2015 license year only and the fee will automatically revert to the prior year's fee unless further action is taken by the Board.
- Reduce the fee of three-year multi-year resident and nonresident licenses by \$3 during the month of December 2014.
- Reduce the fee of five-year multi-year resident and non-resident licenses by \$5 during the month of December 2014.
- Evaluate and report the sales response to these changes by the fall 2015 Commission meeting.

Furthermore, the Commission will advocate for an increase in fees charged for the trout/salmon and combination permits. Motion carried.

H. Resolution Regarding Susquehanna River Smallmouth Bass.

Commentary:

In January 2010, responding to unprecedented declines in Smallmouth Bass numbers in the Susquehanna River, the Commission unanimously passed a resolution expressing concern about the condition of the river and its Smallmouth Bass fishery and calling on the Pennsylvania Department of Environmental Protection and United States Environmental Protection Agency to expand monitoring efforts to try to identify the causes of the fishery's demise. Since January 2010, the Commission has expended considerable staff time and resources both on its own and in partnership with other agencies and organizations in pursuit of an answer to what is plaguing the river. The Commission has also been a leading voice in the call for a formal impairment designation of the river as part of Pennsylvania's Integrated Water Quality Monitoring and Assessment Report.

In furtherance of its efforts, staff recommend that the Commission adopt an updated resolution as follows that reaffirms the agency's concern for the river and expresses support for continued research and action until the Smallmouth Bass fishery is restored:

Whereas, the current strategic plan of the Pennsylvania Fish and Boat Commission (PFBC) approved by the PFBC Board of Commissioners in July 2014 calls specific attention to the declining health of the Susquehanna River; and

Whereas, the PFBC Board of Commissioners and staff continue to receive numerous complaints from anglers fishing the middle and lower reaches of the Susquehanna River and the lower reach of the Juniata River about reduced catch rates of Smallmouth Bass; and

Whereas, PFBC staff biologists have monitored black bass abundance at various locations in the Susquehanna River and its tributaries for decades and have detected a reduction in the Smallmouth Bass population in the middle and lower reaches of the Susquehanna River and the lower Juniata River as a result of limited recruitment caused in part by disease-related mortality; and

Whereas, PFBC staff biologists project that decreased adult abundance will continue until recruitment improves; and

Whereas, PFBC staff have detected opportunistic, secondary bacterial infections in juvenile Smallmouth Bass in the Susquehanna River Basin, with such infections occurring annually at the Susquehanna River and major tributaries; and

Whereas, PFBC staff and its cooperating researchers have detected other pathogens present in the Susquehanna River Basin that may also be contributing to disease outbreaks, including Largemouth Bass Virus, myxozoan parasites and trematode parasites, and the contribution of these pathogens to bacterial infections is still unknown; and

Whereas, ongoing studies have uncovered a number of water quality issues that appear to be contributing to disease outbreaks and have documented elevated pH within the affected reaches of the Susquehanna and Juniata rivers, low dissolved oxygen concentrations in young-of-the-year (YOY) Smallmouth Bass habitats, evidence of exposure to endocrine disrupting compounds, and elevated nutrient levels in soils and runoff.

Now, Therefore, Be It Resolved, the Board of Commissioners of the PFBC hereby reemphasizes concerns formally raised in its January 2010 resolution regarding the health of the Susquehanna River's Smallmouth Bass fishery and reasserts that there is evidence showing that the water quality of the Susquehanna and Juniata rivers has become increasingly impaired to the level that it is seriously impacting important elements of the Susquehanna River aquatic community, especially its nationally-reputed Smallmouth Bass fishery.

Be it Further Resolved, the Board of Commissioners recognizes the expanded efforts of the Pennsylvania Department of Environmental Protection to find the sources and causes of pollution that are contributing to the decline of the Susquehanna's Smallmouth Bass fishery; applauds the collaborative Causal Analysis/Diagnosis Decision Information System (CADDIS) initiative that is led by United States Environmental Protection Agency and includes other federal, state, and interstate agencies and researchers to formally review the situation to help identify solutions to the causes of the disease outbreaks among Smallmouth Bass in the Susquehanna River Basin; and urges a continuation of those efforts until we restore this national treasure to healthy and sustainable population levels.

Briefer:

John A. Arway, Executive Director

Recommendation:

Staff recommend that the Commission adopt the resolution set forth in the Commentary.

Action:

A motion was made by Commissioner Ali and seconded by Commissioner Worobec to adopt the resolution set forth in the Commentary. Motion carried. A formal signing of the resolution followed.

BOATING FINAL 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, by reference to the Inland Navigation Rules Act of 1980 (33 U.S.C.A. §§2001-2073) and by reference to Appendix A (Lights required on boats less than 20 meters in length – Inland and International Waters) at the end of Chapter 95. Based on a review of § 95.3, staff determined that it should be amended to more closely reflect the lighting requirements in the Code of Federal Regulations in narrative form rather than pictorial form and to eliminate Appendix A.

A notice of proposed rulemaking was published at 44 Pa. B. 4360 (July 12, 2014) (Exhibit E). The Commission did not receive any public comments concerning this proposal.

Briefer:

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

Recommendation:

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

Action:

A motion was made by Commissioner Ketterer 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.

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. The U.S. Coast Guard, in a decisional memo dated October 3, 2008, classified paddleboards as vessels in accordance with 1 U.S.C.A. § 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.

The Commission proposed to amend § 109.2 to address safety issues and concerns and to classify paddleboards as boats, thereby providing clarity for operators regarding legal requirements for paddleboards that include 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. In addition, a Commission use permit, boat registration, or Pennsylvania State Parks launch permit or mooring permit is required if launching or retrieving a paddleboard at a Commission-owned or -controlled lake or access area or state park or forest.

A notice of proposed rulemaking was published at 44 Pa. B. 4360 (July 12, 2014) (Exhibit E). The Commission did not receive any public comments concerning this proposal.

Briefer:

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

Recommendation:

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

Action:

A motion was made by Commissioner Ketterer and seconded by Commissioner Mascharka 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.

C. 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 current slow, no wake zone is approximately 1/3 mile in length, and 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. The Commission therefore proposed changing the upper limit of the slow, no wake zone to a distance of 200 feet above the Route 147 bridge.

A notice of proposed rulemaking was published at 44 Pa. B. 4360 (July 12, 2014) (Exhibit E). In addition, the Commission held a meeting at Shikellamy State Park on July 31, 2014 to gather public input regarding the proposed amendment. The Commission received six public comments before and 39 during the formal comment period that support the proposal. Copies of all public comments have been provided to the Commissioners.

On final rulemaking, staff recommend reducing the limits of the slow, no wake zone as published in the notice of proposed rulemaking with one point of clarification. Staff recommend that the downriver boundary be clarified as 250 feet downriver from the Shikellamy State Park boat launch and, as proposed, the upper limit be 200 feet above the Route 147 bridge.

Staff propose that §111.49 be amended as follows:

§ 111.49. Northumberland County.

Susquehanna River. Boats are limited to slow, no wake speed from **[the vicinity] 250 feet downriver** 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.**

Briefer:

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

Recommendation:

Staff recommend that the Commission adopt the amendment as set forth in the notice of proposed rulemaking with the additional change 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 Worobec and seconded by Commissioner Squires to adopt the amendment as set forth in the notice of proposed rulemaking with the additional change described in the Commentary. This amendment will go into effect on January 1, 2015. Motion carried.

FISHERIES

FINAL ADOPTION OF STATEMENT OF POLICY

A. Amendments to Statement of Policy at Section 57.8a (Class A Wild Trout Streams).

Commentary:

In October 2009, the Commission approved the Strategic Plan for Management of Trout Fisheries in Pennsylvania 2010-2014. The plan was developed based on input provided by a work group that consisted of Commission staff, anglers affiliated with a variety of sportsmen's organizations, and independent trout anglers that are not affiliated with an organized group. This plan has guided the direction of trout management for the agency since that time. The plan identified opportunities for improvement of trout management in Pennsylvania, issues that affected such improvements, and strategies for addressing those issues. One of the key issues addressed in the plan is the protection of Class A wild trout waters. Issue 2 of the plan states, *"There are a number of streams that may hold Class A biomass trout populations that have not been officially designated as Class A streams by the Pennsylvania Fish and Boat Commission (PFBC). This leads to inadequate water quality protection for these waters and inconsistent application of fisheries management strategies."* The identified strategy to address this specific issue is *"By 2014, sample waters identified by PFBC staff as likely to support a Class A wild trout biomass and designate appropriately."* It should be noted that this issue is separate from the identification of unassessed Class A waters, which the Commission has been addressing since adoption of the plan. The waters to which Issue 2 of the plan refers are waters for which historical data was present but which had never been officially designated as Class A.

To date, Commission staff have identified 10 potential high biomass waters per Issue 2 of the plan. These waters and relevant statistics are identified in Exhibit F. Staff have completed new inventories on these waters, and each has been sampled twice since 2010. Based on the results of the second examination, each of these waters supports Class A populations.

Currently, each of these waters is stocked. Most of them support heavy angler use for the stocked trout component of the fishery. A recent analysis of all stocked trout waters in Pennsylvania resulted in the development of three stocked trout "efficiency classes." These classes of streams were differentiated statistically relative to the angler use resulting from the numbers of trout stocked (efficiency). High human population density and/or high accessibility (number of parking places per mile of stream) were two of the variables that resulted in waters being classified into the highest efficiency classes. Others with high use were "so called" destination waters, which may have been more rural in nature but which traditionally have supported high angler use. The lowest efficiency class (Class 3) was primarily comprised of rural waters, but there are statistical outliers in this class that also have high angler use.

Of the 10 stream sections listed in Exhibit F, eight fall into the top 75th percentile of angler use for all the stocked stream sections that have been evaluated by Commission staff. Opening Day angler counts on Martins Creek in 2014 documented higher use levels than those previously seen, now falling into the 67th percentile of Opening Day angler use statewide. No counts have been made on the special regulation section on Yellow Creek, where use levels on Opening Day are not likely to reflect use on this section year-round.

To address the high angler use levels for stocked trout on certain Class A waters, the Commission proposed amendments to the Class A policy that would permit fingerling stocking and preseason-only stocking of adult trout to continue on Class A waters designated after December 31, 2013 provided that certain conditions are met. Exceptions are limited to those waters (1) that had been stocked the year preceding the Class A designation and (2) where angler use is greater than or equal to the 75th percentile of angler use (number of anglers/mile on Opening Day) for stocked trout waters in Pennsylvania. Other conditions are that the trout species to be stocked may not be the same species as the primary component of the wild trout population; a stream section designated as a Class A wild brook trout, a Class A mixed wild brook and brown trout or a Class A mixed wild brook and rainbow trout stream will not be considered for stocking; and prior to implementing a decision to stock a Class A wild trout stream, the Executive Director must obtain Board approval.

A proposed statement of policy, containing these changes and seeking public comments for a period of 90 days, was published at 43 Pa. B. 7107 (December 7, 2013) (Exhibit G). The Commission received a total of 135 public comments – 19 prior to, 106 during, and ten after the formal comment period. Copies of all public comments were provided to the Commissioners. Only two comments supported the proposal as written. There were 95 comments in opposition to any reduction in stocking. Martins Creek was specifically mentioned in 63 comments, but other streams that were named in comments opposed to preseason only stocking were Little Lehigh Creek, Monocacy Creek, Pohopoco Creek, Fishing Creek and Penns Creek. There were 23 comments in opposition to designating the waters described in the proposal as Class A. There were 22 comments in opposition to stocking in Class A waters. One commenter recommended reducing stocking gradually over a three year period.

At the July 2014 Commission meeting, staff recommended that several changes be made to address public comments. Specifically, staff recommended that the Class A policy permit Class A waters that meet the aforementioned specific criteria to be eligible for stocking at a number and frequency not to exceed the level prior to the year the water was designated as Class A and remove the reference to pre-season only stocking. In addition, due to the numerous public comments specific to Martins Creek, staff recommended that the angler use criteria to allow stocking be set at the 50th rather than the 75th percentile. This would bring Martins Creek within the criteria to allow stocking, as angler use there on the 2014 Opening Day was documented to be in the 67th percentile of use statewide but would not affect the other nine stream sections. Because Yellow Creek is a special regulation area contiguous to the high use section just upstream, staff recommended that the policy allow stocking on previously stocked special regulation areas that meet all other criteria in the policy.

When presented at the July 2014 meeting, a primary concern raised by some of the Commissioners was the change from the 75th to the 50th percentile of angler use statewide as a criterion that would permit stocking. Other Commissioners stated that they had concerns with stocking any Class A waters. The Commission ultimately “tabled” the agenda item and deferred consideration until the fall 2014 Commission meeting.

Upon further consideration, staff now propose that the current policy remain largely unchanged with two exceptions. First, staff propose that language be added requiring the Executive Director to obtain the Board’s approval prior to granting permission to stock any Class A wild trout stream. Because Board approval will be necessary regardless of whether a

water meets all of the previously proposed criteria for stocking, it is unnecessary to include these criteria in the statement of policy. Second, staff propose that the reference to “Wild Trout Abundance Class Criteria” be changed to “Biomass Class Criteria” since all of the classes described in the policy are actually biomass class criteria.

On final adoption, staff recommend that the Commission make the following changes to the statement of policy:

§ 57.8a. Class A wild trout streams.

It is the policy of the Commission to manage self-sustaining Class A wild trout populations as a renewable natural resource to conserve that resource and the angling it provides. Class A wild trout populations represent the best of this Commonwealth’s naturally reproducing trout fisheries. **[These] With rare exceptions, these** stream sections are managed solely for the perpetuation of the wild trout fishery with no stocking. **However, there may be circumstances that justify stocking a Class A wild trout stream. Prior to granting permission to stock a Class A wild trout stream under §71.4 (relating to stocking of designated waters), the Executive Director will obtain the approval of the Commission.**

* * *

(2) Wild Trout **[Abundance] Biomass** Class Criteria include provisions for:

* * *

If these changes are approved, it is the intention of staff to propose Class A designations for the 10 stream sections previously discussed at the January 2015 Commission meeting and at the same time make recommendations for stocking for consideration by the Board.

Briefer:

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

Recommendation:

Staff recommend that the Commission adopt the amended statement of policy as set forth in the Commentary. If adopted, the amended statement of policy will go into effect on January 1, 2015.

Action:

A motion was made by Commissioner Worobec and seconded by Commissioner Mascharka to adopt the amended statement of policy as set forth in the Commentary. The amended statement of policy will go into effect on January 1, 2015. Motion carried.

PROPOSED RULEMAKING

B. Amendment to Section 65.24 (Miscellaneous Special Regulations): Lake Perez (11B), Huntingdon County.

Commentary:

Lake Perez, a 72-acre impoundment owned by The Pennsylvania State University, is located in Barree Township, Huntingdon County, approximately three miles northeast from the Village of Neffs Mills. This lake was completely dewatered during late-spring 2009 to complete dam and spillway repairs and modifications per Pennsylvania Department of Environmental Protection dam safety standards. The earth-fill dam, constructed in 1959, impounds Shaver Creek at river-mile 13.6 upstream from the mouth at the Juniata River. Prior to the drawdown in 2009, access to the shoreline was primarily provided at two discrete access points as well as from numerous walking trails surrounding the lake. Approximately 80 percent of this shoreline was considered fishable. Additionally, one boat ramp provided boat access for non-powered and electric motor crafts. The lake offered angling opportunities for multiple warm and coolwater fish species and adult trout stocked by the Commission during spring, fall and winter offered seasonal angling opportunities for trout. Dam and spillway repairs were completed during early summer 2014, and the reservoir began refilling at that time.

Staff plan to stock the lake and establish a high quality warm and coolwater fishery through fingerling plants of select species. Immediately upon refilling of the lake, staff propose to open the lake to fishing under a miscellaneous special regulation that will allow for the harvest of trout under Commonwealth inland regulations but allow only catch and release fishing for all other fish species. Staff believe that this approach will allow the development of a balanced warmwater and coolwater fish community to rapidly develop while offering acceptable levels of recreational angling opportunities. Fisheries Management staff will monitor the fish populations as needed while they develop and make the necessary adjustments to the species being stocked and the regulations governing the fishery to continually provide high quality recreational angling opportunities at Lake Perez.

Staff propose the following amendment:

§65.24. Miscellaneous special regulations.

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

<i>County</i>	<i>Name of Water</i>	<i>Special Regulations</i>
* * *	* * *	* * *
<u>Huntingdon</u>	<u>Lake Perez</u>	<u>All species except trout – Catch and release/no harvest; it is unlawful to take, kill or possess any fish except trout. All fish caught other than trout must be immediately returned unharmed.</u>

<i>County</i>	<i>Name of Water</i>	<i>Special Regulations</i>
		<u>Trout – inland regulations apply. See §61.1 (relating to Commonwealth inland waters). This miscellaneous special regulation will remain in effect until June 16, 2018.</u>
* * *	* * *	* * *

Briefer:

Dave Miko, Chief, Division of Fisheries Management

Recommendation:

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

Action:

A motion was made by Commissioner Mascharka and seconded by Commissioner Squires to approve the publication of a notice of proposed rulemaking containing the amendment described in the Commentary. If approved on final rulemaking, the amendment will go into effect upon publication in the *Pennsylvania Bulletin*. Motion carried.

DESIGNATIONS

C. Classification of Wild Trout Streams: Additions and Adjustments to the List.

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 section 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 eight new waters to the Commission's list of wild trout streams and adjustments to the section limits of two 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 designation was published at 44 Pa. B. 5154 (July 26, 2014) (Exhibit H). The Commission received one public comment supporting the designations. Copies of all public comments have been provided to the Commissioners.

Briefer:

Dave Miko, Chief, Division of Fisheries Management

Recommendation:

Staff recommend that the Commission add eight new waters to its list of wild trout streams and revise the limits on two 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 Mascharka and seconded by Commissioner Ali to add eight new waters to its list of wild trout streams and revise the limits on two waters as described in the Commentary. These changes will go into effect upon publication of a second notice in the *Pennsylvania Bulletin*. Motion carried.

D. 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 the 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 include provisions for wild Brook Trout, wild Brown Trout, mixed wild Brook and Brown Trout, wild Rainbow Trout, mixed wild Brook and Rainbow Trout and mixed wild Brown and Rainbow Trout populations.

Staff recommend the addition of one stream section to the list of Class A wild trout streams. The change is the result of a recent survey conducted on this water.

A notice of proposed designation was published at 44 Pa. B. 5155 (July 26, 2014) (Exhibit I). The Commission received one public comment supporting the designation. Copies of all public comments have been provided to the Commissioners.

Briefer:

Dave Miko, Chief, Division of Fisheries Management

Recommendation:

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

Action:

A motion was made by Commissioner Mascharka and seconded by Commissioner Lichvar to add one stream section to the Commission's Class A wild trout streams list as described in the Commentary. This addition will go into effect upon publication of a second notice in the *Pennsylvania Bulletin*. Motion carried.

E. Removal of Designation of Pine Creek, Lycoming County, as a Delayed Harvest Artificial Lures Only Area and Re-designation as a Catch and Release All-Tackle Area.

Recommendation:

The Fisheries Committee recommended that the Commission seek public comment for a period of 60 days on a proposal to remove the designation of Pine Creek, Lycoming County, from the confluence of Slate Run downstream to the confluence of Bonnell Run, as a Delayed Harvest Artificial Lures Only Area and designate it as a Catch and Release All-tackle Area, effective upon publication in the *Pennsylvania Bulletin*.

Action:

At the full Commission meeting, a motion was made by Commissioner Ali and seconded by Commissioner Worobec for the Commission to seek public comment for a period of 60 days on a proposal to remove the designation of Pine Creek, Lycoming County, from the confluence of Slate Run downstream to the confluence of Bonnell Run, as a Delayed Harvest Artificial Lures Only Area and designate it as a Catch and Release All-tackle Area, effective upon publication in the *Pennsylvania Bulletin*. Motion carried.

HABITAT AND ENVIRONMENTAL PROPOSED RULEMAKING

A. Amendments to Section 75.2 (Threatened Species) to Remove Bluebreast Darter, Gilt Darter, Spotted Darter and Tippecanoe Darter.

Commentary:

(1) Bluebreast Darter (*Etheostoma camurum*): The Bluebreast Darter is a small species that inhabits rivers and large streams, preferring fast, clean riffles and runs having large gravel, rubble and boulder substrate. It occurs in the Ohio River basin from western New York to eastern Illinois, and south to the Tennessee River in Tennessee and Alabama. It is locally common but absent from large portions of its range. In this Commonwealth, it occurs throughout French Creek, the middle and lower sections of the Allegheny River and the Ohio River as well as additional tributaries to these waterways. It formerly occurred in the Shenango River as well but is now considered extirpated there.

The Bluebreast Darter has experienced a considerable range expansion since it was listed as threatened in 1999. At that time it was spottily distributed in French Creek and the middle Allegheny River. It is now known to occur throughout French Creek, from near the Erie County/New York border to its mouth in Venango County (88 river miles). It occurs in the Allegheny River from Warren to its mouth in Pittsburgh, including the lock-and-dam section (189 river miles), and has been documented in the Ohio River (40 river miles) as far downriver as the tailrace of Montgomery Lock and Dam, Beaver County. It also occurs in much of Tionesta Creek and a tributary; Big Sandy Creek, Venango County; Redbank Creek, Clarion County; Mahoning Creek, Armstrong County; Kiskiminetas River, Armstrong and Westmoreland counties; and Bull Creek, Deer Creek and Pine Creek, Allegheny County. In addition, it has experienced a similar expansion in Ohio, where it has been collected as far downriver as the Cincinnati area and was delisted in 2012 (Zimmerman 2014). It has also been collected in Oswayo Creek, Cattaraugus County, New York.

The status of this species was reviewed using the Commission's documentation and objective listing/delisting process. It exceeds criterion A.1 (Population Reduction) in that its population is significantly increasing. Since the Bluebreast Darter now occupies more than 200 river miles of waterway, it also significantly exceeds Criterion B.3 (Extent of Occupancy). In addition, it was evaluated with NatureServe's Conservation Status Assessments Rank Calculator (Criswell 2014) and received a State Conservation Rank of S4S5 – meaning it is apparently secure to secure in the Commonwealth with a fairly low to very low risk of extirpation due to its extensive range and/or many populations or occurrences. The Fishes Technical Committee of the Pennsylvania Biological Survey (PABS) reviewed this documentation and rank assignment and recommended that the Bluebreast Darter be delisted. Enough information is available to make the determination that it is secure in the state at present and to justify its removal from Pennsylvania's list of threatened fishes. Therefore, staff propose that the Bluebreast Darter be removed from the Pennsylvania list of threatened species.

(2) Gilt Darter (*Percina evides*): The Gilt Darter is a small species that inhabits clear rivers and large streams, where it prefers deeper riffles and runs with moderate to swift current over silt-free sand, gravel, cobble and rubble. It occurs in the Mississippi River basin from New

York to Minnesota and south to northern Alabama and northern Arkansas. It also occurs in the Maumee River system of the Lake Erie drainage in Ohio and Indiana. In this Commonwealth, it occurs throughout French Creek, the middle and lower sections of the Allegheny River, and the Ohio River.

The Gilt Darter has experienced a considerable range expansion since it was listed as threatened in 1999. At that time it was spottily distributed in French Creek and the middle Allegheny River. It is now known to occur throughout French Creek, from Erie County to its mouth in Venango County (88 river miles). It occurs in the Allegheny River from Warren to its mouth in Pittsburgh, including the lock-and-dam section (189 river miles), and has been documented in the Ohio River as far downriver as the tailrace of Dashields Lock and Dam, Allegheny County.

It is now common in French Creek and abundant in sections of the Allegheny River. At least seven benthic trawl events from the latter have resulted in the collection of more than 100 individuals, and two of those trawls included nearly 200 specimens.

The status of this species was reviewed using the Commission's documentation and objective listing/delisting process. It exceeds criterion A.1 (Population Reduction) in that its population is significantly increasing. Since the Gilt Darter now occupies more than 150 river miles of waterway, it also significantly exceeds Criterion B.3 (Extent of Occupancy). In addition, it was evaluated with NatureServe's Conservation Status Assessments Rank Calculator (Criswell 2014) and received a State Conservation Rank of S4 – meaning it is apparently secure in the Commonwealth with a fairly low to very low risk of extirpation due to its extensive range and/or many populations or occurrences. The Fishes Technical Committee of PABS reviewed this documentation and rank assignment and recommended that the Gilt Darter be delisted. Enough information is available to make the determination that it is secure in the state at present and to justify its removal from Pennsylvania's list of threatened fishes. Therefore, staff propose that the Gilt Darter be removed from the Pennsylvania list of threatened species.

(3) Spotted Darter (*Etheostoma maculatum*): The Spotted Darter is a small species that inhabits large streams and rivers, where it prefers the faster, deeper portions of riffles possessing gravel and rubble substrates. It occurs in the Ohio River basin from western New York and Pennsylvania to northern Indiana and south to West Virginia and Kentucky. It is extremely localized and uncommon in much of its range. In this Commonwealth, it occurs in French Creek and the Allegheny River and Ohio River.

The Spotted Darter has experienced a considerable range expansion since it was listed as threatened in 1999. At that time it was spottily distributed in French Creek and the middle Allegheny River. It is now known to occur throughout French Creek, including its West Branch, from near the Erie County/New York border to its mouth in Venango County (88 river miles). It occurs in the Allegheny River from Warren to its mouth in Pittsburgh, including the lock-and-dam section (189 river miles), and has been documented in the Ohio River as far downriver as the tailrace of Dashields Lock and Dam, Allegheny County. It also occurs in Oil Creek and South Sandy Creek.

Benthic trawls in the Allegheny River included yields of as many as 89 and 202 individuals. It is well distributed and relatively common, although not necessarily abundant, through its

Pennsylvania range. The Spotted Darter was recently considered for Federal protection under the Endangered Species Act but a review published in 2011 concluded that “threats to spotted darter are not of sufficient imminence, intensity, or magnitude that would cause substantial losses of population distribution or viability.”

The status of this species was reviewed using the Commission’s documentation and objective listing/delisting process. It exceeds criterion A.1 (Population Reduction) in that its population is significantly increasing. Since the Spotted Darter now occupies more than 200 river miles of waterway, it also significantly exceeds Criterion B.3 (Extent of Occupancy). In addition, it was evaluated with NatureServe’s Conservation Status Assessments Rank Calculator (Criswell 2014) and received a State Conservation Rank of S4 – meaning it is apparently secure in the Commonwealth with a fairly low to very low risk of extirpation due to its extensive range and/or many populations or occurrences. The Fishes Technical Committee of PABS reviewed this documentation and rank assignment and recommended that the Spotted Darter be delisted. Enough information is available to make the determination that it is secure in the state at present and to justify its removal from Pennsylvania’s list of threatened fishes. Therefore, staff propose that the Spotted Darter be removed from the Pennsylvania list of threatened species.

(4) Tippecanoe Darter (*Etheostoma tippecanoe*): The Tippecanoe Darter is a small species that inhabits rivers and large streams, where it requires clean gravel or sand/gravel substrates. It occurs in the Ohio River basin from western Pennsylvania to Indiana, and south to the Cumberland River drainage in Tennessee. It is extremely localized but locally common. In this Commonwealth, it occurs throughout French Creek, the middle and lower sections of the Allegheny River, the Ohio River and additional tributaries to these waterways.

The Tippecanoe Darter has experienced a considerable range expansion since it was listed as threatened in 1999. At that time it was spottily distributed in French Creek and the middle Allegheny River. It is now known to occur throughout French Creek, from near the Erie County/New York border to its mouth in Venango County (88 river miles). It occurs in the Allegheny River from Warren to its mouth in Pittsburgh, including the lock-and-dam section (189 river miles), and has been documented in the Ohio River as far downriver as the tailrace of Montgomery Lock and Dam, Beaver County. It also occurs in Oil Creek, Venango County; Kiskiminetas River, Armstrong and Westmoreland counties; and Bull Creek, Deer Creek and Pine Creek, Allegheny County.

Hundreds of Tippecanoe Darters were easily captured in a riffle below Lock and Dam 3 on the Allegheny River (Koryak et al. 2009), and at least 17 stations have produced 20 or more individuals. It is locally common at many locations within its Pennsylvania range.

The status of this species was reviewed using the Commission’s documentation and objective listing/delisting process. It exceeds criterion A1 (Population Reduction) in that its population is significantly increasing. Since the Tippecanoe Darter now occupies more than 150 river miles of waterway, it also significantly exceeds Criterion B3 (Extent of Occupancy). In addition, it was evaluated with NatureServe’s Conservation Status Assessments Rank Calculator (Criswell 2014) and received a State Conservation Rank of S4 – meaning it is apparently secure in the Commonwealth with a fairly low risk of extirpation due to its extensive range and/or many populations or occurrences. The Fishes Technical Committee of PABS reviewed this documentation and rank assignment and recommended that the

Tippecanoe Darter be delisted. Enough information is available to make the determination that it is secure in the state at present and to justify its removal from Pennsylvania's list of threatened fishes. Therefore, staff propose that the Tippecanoe Darter be removed from the Pennsylvania list of threatened species.

Briefer:

Chris Urban, Chief, Natural Diversity Section

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 upon publication in the *Pennsylvania Bulletin*.

Action:

A motion was made by Commissioner Ali and seconded by Commissioner Sabatose 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 upon publication in the *Pennsylvania Bulletin*. Motion carried.

Other New Business

Commission President Gavlick thanked staff for organizing this meeting, and he extended a welcome to former Commissioner Donald Anderson who attended the meeting both days. Furthermore, Commissioner William Worobec was acknowledged for his service and insight which he provided while serving on the Board since 2006.

Commissioner Lichvar expressed his appreciation to everyone for coming out to western Pennsylvania for the meeting, and a special thanks was given to Commissioner Ali, Commissioner Elliott and Executive Director Arway for their efforts in assisting with the coordination of this meeting and the special activities.

Time and Place of January 2015 Commission Meeting

The next meeting will be held on January 21-22, 2015 in Harrisburg, PA.

Adjournment

A motion was made by Commissioner Sabatose and seconded by Commissioner Mascharka to adjourn the meeting at approximately 12:10 p.m. Motion carried.

Guests
PENNSYLVANIA FISH AND BOAT COMMISSION
COMMISSION MEETING
September 30, 2014
FARMINGTON, PENNSYLVANIA

NAME

ADDRESS
& PHONE #

AFFILIATION

I WISH TO PROVIDE
PUBLIC COMMENT
(CHECK HERE!)

None

☐☐☐☐☐☐☐☐☐☐☐

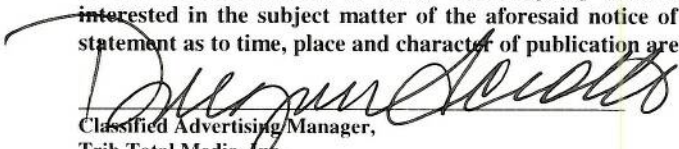
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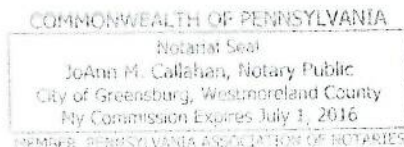

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Probating Same	\$ 0
Total	\$ 41.70

The Pennsylvania Fish and Boat Commission will meet on September 29 at 8:00 a.m. and on September 30, 2014 at 8:00 a.m. at Nemacolin Woodlands Resort, 1001 Lafayette Drive, Farmington, PA. The public is invited to attend. ADA Contact: Agency (717-705-7801) 5927291(9-19-14)

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The Trib Total Media, Inc., publisher of The Tribune-Review, a daily newspaper, hereby acknowledges a receipt of the aforesaid advertising and publication costs, and certifies the same have been fully paid.

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By _____

**COMMONWEALTH OF PENNSYLVANIA
Fish and Boat Commission
Executive Office**

DATE: July 21, 2014
SUBJECT: Possible Conflict of Interest
TO: PFBC Commissioners
FROM: Bill Worobec

Please be advised that I must abstain from discussion and voting relating to an oil and gas agreement for Glade Run Lake. The reasons for this decision are as follows:

1. Concerns about business relationships between my employer and Marcellus Shale participants.
2. My spouse and I participate in oil and gas lease agreements.
3. I am a party to a pipeline lease agreement.
4. My daughter is employed by one of the companies that participate in the Marcellus Shale.

This memorandum has been delivered to Laurie Shepler, Pennsylvania Fish and Boat Commission Counsel, for appropriate filing relative to the Public Official and Employee Ethics Act.

July - September 2014 Quarterly Report

Strategic Plan Implementation

The following updates include the major activities or accomplishments during the quarter that further the July 2014 – June 2017 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.

Funding

Goal 1A: Implement a Spending Reallocation Plan within which the Commission does not spend more than it generates in revenue each fiscal year and maintains agency administrative and support services necessary to deliver programs and services.

- A. Through June 2017, implement, review, and update the Spending Reallocation Plan (SRP) to reflect evolving fiscal realities.
- B. By July 2015, present updated SRP to the Board of Commissioners.
- C. Through June 2017, work with PFBC staff and partners to identify and implement projects using restricted revenue account funds to address settlement agreement conditions and PFBC priorities.

Goal 1B: Increase revenues.

- A. Through June 2017, implement operational decisions to increase revenues.
 - 1. Continue to grow Natural Gas and Water Access programs.
 - 2. By June 2017, develop, implement, and evaluate annual marketing campaign plans designed to increase license sales (and corresponding federal reimbursements) by 10% through the end of license year 2017.
 - Promoted \$1 Labor Day License.
 - 3. By July 2015, secure dedicated funding to support the water rescue program.
- B. Through June 2017, advocate for legislative solutions to maintain and increase revenues.
 - 1. Identify, develop, and advocate for state legislative opportunities to maintain and increase agency revenues.
 - 2. In cooperation with the Association of Fish and Wildlife Agencies (AFWA), advocate for federal legislation to maintain and increase agency revenues.
- C. Through June 2017, promulgate regulatory changes to increase revenues.

1. By January 2015, require senior resident lifetime license holders to purchase a trout/salmon permit annually to fish for trout.
 - The Board of Commissioners approved the requirement on July 15.

Conservation

Goal 2: Protect, conserve, and enhance aquatic resources and habitats.

- A. By January 2015 complete a revision to the *Strategic Plan for Management of Trout Fisheries in Pennsylvania* to include the following:
 1. Through June 2017, continue efforts to improve Pennsylvania's tailwater trout fisheries.
 - Gathered data from temperature monitors in the upper fifteen miles of the Delaware River to complete a second year of tailwater temperature evaluation.
 - Coordinated with the National Park Service to determine data available from joint baseline water quality monitoring efforts with NPS, USGS and DRBC.
 - Develop water temperature model to evaluate possible options for Beltzville releases to improve the coldwater fisheries of Pohopoco Creek and the Lehigh River while at the same time protecting the fishery of the reservoir.
 2. Immediately begin implementation of recommendations from the stocked trout efficiency study.
 3. By December 2015, design an angler survey to provide a statewide assessment of angler use, angler catch, angler opinions, and an economic contribution of trout angling on trout stocked lakes in order to make informed decisions regarding future trout stocking allocations in lakes.
 4. By December 2015, complete evaluations of all current fingerling stocking efforts and provide recommendations for future implementation of the program.
 - Assisted in stocking hatchery Rainbow Trout fingerlings on Penns Creek Section 02, Fishing Creek, Sections 13 and 14, and Bald Eagle Creek, Section 04. Fingerling trout assessments were conducted on Little Sandy Creek in Venango County, Donegal Creek C&R FFO Area, and Green Spring Creek Section 04.
- B. Through June 2017, continue implementation of river management plans for the Delaware, Susquehanna, and Three Rivers systems.
 1. Efforts specific to all three river systems will include:
 - a. Maintenance of long-term adult and young-of-year Smallmouth Bass data sets.
 - Staff conducted annual Smallmouth Bass adult and/or young-of-year sampling on the West Branch Susquehanna River, Section 08, North Branch Susquehanna River, Upper Delaware River, Lehigh River, Schuylkill River, Lower Delaware River, Juniata River, Sections 03, 04, and 06, Susquehanna River Sections 02, 03, 04, 05, 06, Ohio River, Monongahela River, and the Allegheny River.

- b. Sampling requirements specific to meeting objectives outlined in the species-specific warmwater management plans for Muskellunge, Walleye, and Catfish.
 - 2. Efforts specific to the Susquehanna River will include:
 - a. Continued participation on interagency technical committees assessing water quality of the Susquehanna River and the impacts to the Smallmouth Bass population.
 - Initial CADDIS meeting held to set course for this process. This is a joint EPA, PFBC, DEP procedure.
 - DES staff conducted crayfish surveys in YOY SMB sampling areas of Susquehanna and Juniata Rivers. Study to look for correlations between rusty crayfish density and SMB disease.
 - b. With partners, implement a fish community sampling procedure to more broadly track the condition of the fishery.
 - Assisted PADEP with a fish IBI survey at the Susquehanna River, Section 02, at Selinsgrove.
 - c. By June 2017, identify a method and criteria to determine the impairment status of the river.
 - PFBC, PSU, USGS staff collected YOY Smallmouth Bass for fish health study at Tuscarora Creek, Section 05; West Branch Mahantango Creek, Section 03; Bald Eagle Creek, Section 06; Loyalsock Creek, Section 08; and Chillisquaque Creek, Section 01.
 - PFBC, PSU, USGS staff collected YOY Smallmouth Bass for USGS/PSU fish health study at Swatara Creek, Section 05, and Conodoguinet Creek, Section 05; Penns Creek, Section 06; Pine Creek, Sections 12 and 13; and West Branch Susquehanna River, Section 07.
 - Staff conducted a YOY Smallmouth Bass re-inventory at Sherman Creek, Section 04.
 - 3. Efforts specific to the Three Rivers will include cooperation with Ohio River states to expand our knowledge regarding the expansion of Asian carp in the Ohio River system and reduce or eliminate the threat to the river's ecology.
 - Asian Carp Surveillance Surveys on the Little Chartiers Creek watershed Washington, County. Assisted USFWS in collecting eDNA samples from the Three Rivers.
 - Approved commercial fishermen, under contract to WVDNR, to conduct Asian carp surveillance sampling in the New Cumberland and Montgomery L&D pools later this fall.
 - 4. Efforts specific to Delaware River will include:
 - a. Annual monitoring of American Shad populations at historic stations.
 - b. American Shad spawning activities to support restoration efforts.
- C. By January 2015, complete the 2nd edition of the Lehigh River Fisheries Management Plan.

- D. Through June 2017, implement gamefish management plans for Muskellunge, Walleye, and Catfish.
- Channel Catfish hoop net survey on Beltzville Lake, FDR Park Lake, Sweet Arrow Lake, and the North Branch Susquehanna
- E. By June 2017, complete the development of a strategic plan for the management of black bass in Pennsylvania.
- F. By June 2017, facilitate or complete population inventories and home range assessments for Timber Rattlesnake, Blanding's Turtle, Eastern Massasauga, Bog Turtle, Eastern Mud Salamander, Rough Green Snake, Broadhead Skink, New Jersey Chorus Frog, Southern Leopard Frog, Kirtland's Snake, Northern Cricket Frog, Eastern Redbelly Turtle, Eastern Pearlshell, Dwarf Wedgemussel, Bluebreast Darter, Tippecanoe Darter, Gilt Darter, Iowa Darter, Eastern Sand Darter, Spotted Darter, Black Bullhead, Bowfin, and Horneyhead Chub.
- State Wildlife Grant projects herpetofauna data compilation (PA Amphibian and Reptile Survey-PARS) project is ongoing (www.paherpsurvey.org). 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 interactive website for volunteers and project participants was launched in June 2013. To date, 933 people have contributed records. 7,787 new records have been submitted in 2014. During this quarter, the Verification Committee verified 467 records, with an additional 1,848 disputed records pending. During this quarter, three documentations occurred of a species previously believed to have been extirpated from Pennsylvania (Eastern Smooth Earthsnake). As part of this project, focal teams worked on T&E species surveys: New Jersey Chorus Frog, Blanding's Turtle, Southern Leopard Frog, and Northern Cricket Frog.
 - 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 PNDI, PFBC ARDB, and PFBC Scientific Collectors Databases (along with historic museum and academic databases). Well over 100,000 records have been entered from Scientific Collectors, 275,000 from PFBC records, and 700 from PNDI records. The status assessment for the following four species have been completed and are in the process of being internally reviewed: Bluebreast Darter, Tippecanoe Darter, Spotted Darter, and Gilt Darter.
 - 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 ongoing. New Eastern Pearlshell occurrences have been reported in the Little Schuylkill River and Maiden Creek watershed.
 - Continued to actively 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.
- G. Through June 2017, continue implementation of statewide action plans for the following species: Eastern Pearlshell Mussel, Bog Turtle, Eastern Massasauga Rattlesnake, and Timber Rattlesnake.

- *Eastern Pearlshell*-SWG inventory project to assess historic distribution and gap areas in the Delaware River basin is ongoing. During this quarter, numerous surveys were conducted (e.g., West Branch Delaware River, East Branch White Clay Creek and Little Schuylkill River, Still Creek) were qualitatively surveyed but no Eastern Pearlshell documented). Genetic samples were collected from Eastern Pearlshell collected from the Schuylkill drainage, and the Delaware River. Dr. Curt Elderkin (The College of New Jersey) is conducting the genetic analyses. These analyses are in progress.
- *Bog Turtle*
 - National Fish and Wildlife Foundation Grant – Bog Turtle Habitat Restoration: 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. Assisted with implementation of monitoring protocols in PA. PFBC contractor the Mid-Atlantic Center for Herpetology and Conservation (MACHAC) is actively moving forward with population studies, habitat management, landowner contacts, and habitat studies of the sites identified through this effort. A Pennsylvania volunteer Bog Turtle survey effort was formally launched in April of 2014. MACHAC personnel executed NFWF Private Lands Bog Turtle Population Monitoring Protocols and refereed volunteer surveys. Approximately 110 individual Bog Turtles were captured at 13 sites, including a new site in York County. A total of 45 volunteers logged over 1,000 hours of time, and significantly contributed to field studies. Restoration planning/meetings occurred with the National Park Service and the PA Department of Conservation and Natural Resources. In-field surveys were conducted on properties belonging to the following partners: The Natural Lands Trust, The PA Department of Conservation and Natural Resources, The Nature Conservancy, The U.S. Fish and Wildlife Service, The French and Pickering Creeks Conservation Trust, the Berks County Conservancy, Exelon Corporation, and The General's Mountain Lodge. Sixty-three landowners were contacted in all Bog Turtle counties. Twenty-seven sites were either assessed for Bog Turtle habitat, or were the focus of Bog Turtle population monitoring (fourteen sites). Of the thirteen sites assessed by MACHAC, nine (in the following counties: Adams, Berks, Chester, Cumberland, Schuylkill, and York) were deemed to have Bog Turtle habitat and were the focus of rapid presence/inferred absence surveys.
 - USFWS Section 6 Grant- Bog Turtle Monitoring in SE PA. 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. As part of this monitoring effort, the grant was amended to include a disease assessment of key sites. A major Bog Turtle die-off was encountered for the second consecutive year in Monroe County. Approximately 25 Bog and Wood Turtles were found dead at a globally important Bog Turtle wetland. Handpicked volunteers and MACHAC staff coordinated surveys with the PFBC, USFWS, and The Nature Conservancy. Turtles that appeared sick or were noted to be abnormal (e.g. lesions on head, plaques in mouth, nasal discharge) were collected, isolated, and sent to the Wildlife Conservation

Society's Bronx Zoo for analysis under Dr. Bonnie Raphael. Results of these analyses are forthcoming.

- USFWS Section 6 Grant – Bog Turtle Inventory in Historic and Gap areas of SE PA. Contract finalized and assessment of historic and gap areas in Bucks, Delaware, Philadelphia, and Montgomery Counties are underway. Year 2 of the study, which will survey historic and gap areas in 4 more bog turtle counties in SE PA, was submitted for funding and recently approved by USFWS.
- Tulpehocken/Quittapahilla Grant funded Bog Turtle assessment project is underway. Aerial and photographic analysis resulted in the identification of 61 potential Bog Turtle habitats. Five landowners were contacted in southeastern Lebanon County and southwestern Berks County and habitat assessments are being conducted.
- *Eastern Massasauga*- habitat restoration SWG project is ongoing. Seeding of restoration sites was conducted during this quarter as part of the continuing restoration study. PFBC funded vegetation grubbing and seeding. Study of the subject site continued during treatment. Vegetation plots, cover-board plots, small mammal sampling transects, and photo stations were restored to exact locations after woody vegetation clearing. A total of 14 Eastern Massasaugas were implanted with transmitters and will be tracked through the active season. Six individuals moved into restoration areas in early June and remain there to date. Snakes have not been tracked to these areas in recent years, aside from snakes quickly traveling through to suitable habitats to the south (and offsite) of the study area. This development is encouraging, but time and further analysis will tell if use of newly opened areas is for critical biological functions of foraging, gestation, and parturition. Historical Massasauga sites were evaluated in Butler and Venango Counties. No potentially suitable habitat or credible accounts of recent Eastern Massasauga observations were uncovered.
- *Timber Rattlesnake*-Continue to cooperate with Penn State monitoring study on State Forests concerning Marcellus/Utica shale development activity impact. Activity funded by SWG: Meetings were held with two DCNR State Forest Districts. Habitat work was completed on two (2) projects. During this reporting period 41 new timber rattlesnake sites discovered and assessed by project participants including PFBC staff and partners, DCNR, ANF, WPC and PGC. During the reporting period PFBC staff attended the 5 organized snake hunts and processed a total of 89 timber rattlesnakes. 76 snakes had not been previously captured and were implanted with a passive integrated transponder (pit tag) and 13 snakes were recaptured that had been previously pit tagged in prior years. This equates to a recapture rate of 14.6 %. Also during the annual reporting period 6 control sites were visited by PFBC staff and project participants and a total of 65 timber rattlesnakes were captured and processed. 54 snakes had not been previously captured and were implanted with a passive integrated transponder (pit tag) and 11 snakes were recaptured that had been previously pit tagged in prior years. This equates to a recapture rate of 16.9 %. Through a cooperative agreement with the US Forest Service to locate critical den habitat in the Allegheny National Forest, PFBC staff performed 12 surgeries on timber rattlesnakes to either implant or removed a radio transmitter. These snakes containing transmitters are tracked during the active season by ANF biologists and PFBC field specialists to the previously unknown overwintering den. During this reporting period 6 transmitters were surgically implanted and 6 were surgically removed.

- H. By December 2014, research and finalize statewide action plans for the Salamander Mussel and Chesapeake Logperch. Through June 2017, implement these plans.
- I. By June 2015, work with other members of the Pennsylvania Natural Heritage Partnership to complete the upgrade to the Pennsylvania Natural Diversity Inventory environmental review tool.
- Participated in several conference calls and meetings with PA Natural Heritage Program partners (DCNR, PGC, USFWS, and WPC) regarding PNDI environmental review upgrade and worked on and completed internal review of specifications for polygons.
- J. By June 2017, assist the Pennsylvania Department of Environmental Protection and other governmental agencies with the development of policies and reservoir operation procedures that limit alteration of natural flow regimes to levels that maintain critical species, habitats, and ecological conditions.
- Reviewed SRBC Low Flow Protection Policy: A fall 2014 meeting with SRBC is planned to discuss PFBC concerns with the approach being implemented by SRBC.
- K. By September 30, 2015, together with partners, complete a new State Wildlife Action Plan.
- Revision of Pennsylvania's State Wildlife Action Plan is a collaborative effort of Pennsylvania's conservation community and is led by the PFBC and PGC. As required by Congress, State Wildlife Action Plans are to be revised no less than every 10 years. The plans are required for states to receive State and Tribal Wildlife Grant Funding.
 - The current PA State Wildlife Action Plan was developed in 2005 and the revised plan is to be submitted to the U.S. Fish and Wildlife Service by no later than 30 September, 2015. There are Eight Required Elements that must be addressed in the plan and, although all Required Elements are being addressed, during this reporting period, a key accomplishment has been development of draft lists of vertebrate species (i.e., fishes, amphibians, reptiles and mammals) that are to be included in the revised plan. These lists, part of required Element #1, were developed after a thorough review and analysis of these species, and serve as the foundation for the plan. A team of experts from Western Pennsylvania Conservancy and PFBC are evaluating invertebrates, and a draft invertebrate list is anticipated by early fall.
 - Over the past two years, a series of articles in the PA Angler and Boater has touched upon some of the features of the State Wildlife Action Plan. The most recent article provides some considerations for "Conservation Actions" that are to address threats to species and habitats.
 - A complete draft of Pennsylvania's revised State Wildlife Action Plan is scheduled to be available for public comment in Spring, 2015. In the meantime, and as portions of the revised plan are developed, they are posted to the PFBC and PGC websites.
- L. Through June 2017, continue to conduct the following permit reviews: Species Impact; Scientific Collector; Threatened and Endangered Species; Nongame Special; Venomous Snake; Amphibian and Reptile Organized Hunt; Commercial Snapping Turtle; Water Obstruction and Encroachment; Triploid Grass Carp; Mining; Drawdown; Water Allocation; FERC Hydropower; 316(a) Clean Water Act Thermal Variance; 316(b) Clean Water Act

Impingement and Entrainment; and select Algicide, Herbicide or Fish Control Chemical in Waters of the Commonwealth.

- The Division of Environmental Services conducts several hundred permit applications per month. Notable reviews for the July-September 2014 quarter include the following:
 - Sunbury Generation NPDES Permit was appealed due to failure to be protective of water temperature standards and failure to provide mitigation or compensation for fish losses by impingement and entrainment.
 - Worked with the USFWS and the Division of Fisheries Management on a project to remove Sea Lampreys from Conneaut Creek, Erie County. The purpose of the survey was to assess estimated population estimates of Sea Lamprey and to hopefully find an alternative(s) to periodic applications of fish toxicants, which have been historically known to impair indigenous fish fauna.
- M. By June 2017, sample at least 2,000 prioritized, un-inventoried streams that have been identified by Commission staff as most at risk from the effects of human activities, and continue to forge partnerships to augment Commission sampling efforts.
- 118 previously unassessed or Class A confirmation of cooperator surveyed unassessed waters were conducted.
 - The Division of Environmental Services Natural Gas Section has inventoried the streams in 15 watersheds
- N. Through June 2017, continue the development of a PFBC sampling protocol manual to ensure consistent data collection techniques for waterways.
1. By December 2014, complete documentation of PFBC-approved sampling protocols for large rivers.
 2. By December 2015, complete documentation of PFBC-approved sampling protocols for lakes.
 3. By December 2016, complete documentation of PFBC-approved sampling protocols for herptiles.
- O. Through June 2017, annually address the following habitat improvement goals:
1. Refine the stream and lake prioritization approaches to guide habitat improvement work. Work with partners to avoid duplication of efforts and maximize cooperation to address common goals.
 - The Habitat Improvement Prioritization Workgroup (HIPW) met once during this quarter, and continued to make progress evaluating several possible methods (i.e., GIS, flow chart, scoring & ranking) for prioritizing projects using both a pro-active and a reactive approach.
 - DHM staff partnered with the Spring Creek Chapter of Trout Unlimited to improve fish habitat on PFBC owned properties at Fisherman's Paradise and Rock Road along Spring Creek in Centre County.
 - Conducted constructions on the following Priority waters/watersheds: Unt to Worrier Rn, Northumberland Co; Holden Brk, Tioga Co; Lt Shamokin Ck, Northumberland Co; Thorn Ck, Butler Co; Morrison Rn, Warren Co;

Loyalhanna Ck, Westmoreland Co; Unt to Lt Shamokin Ck, Northumberland Co; Unt to Hosensack Ck, Lehigh Co; Turtle Ck, Union Co; Dunbar Ck, Fayette Co; Pine Ck, Allegheny Co;

2. Develop and implement lake habitat improvement plans into all PFBC high-hazard dam rehabilitation efforts.
 - Fish habitat improvement plans developed for Glade Run Lake, Nessmuk Lake, Colyer Lake and Speed Forge Lake. Permitting and construction to be completed before lake refill.
3. Develop a plan to prioritize dam removals and culvert passage objectives statewide and facilitate fish passage through the removal of 25 dams, improved culvert installations, or the installation of fishways.
 - Worked to collaborate with project partners and coordinate dam removal and stream restoration projects at the following locations: Bigby Dam- Bigby Creek, Somerset Co; Downing Ridge Dam – E Br Brandywine Creek, Chester Co; Solomons Creek, Luzerne Co; Heistand Sawmill Dam – Chickies Creek, Lancaster Co; Scotland Pond Dam – Conococheague Creek, Franklin Co; Skinner Creek Dams – McKean Co; Picric Dam – Driftwood Branch Sinnemahoning Creek, Cameron Co; Kladder Dam – UNT Frankstown Br Juniata River, Blair Co; Taylor Run Dams – Tioga Co; Long Run Dam – Clinton Co; Stony Run Dam – Union Co; Twomile Run Dam – McKean Co; Toms Run Dam – Franklin Co; Sun Ray Dam – Conewango Creek, Warren Co; among others.

P. By January 2016, simplify fishing regulations.

Recreation

Goal 3A: Engage in targeted education and outreach activities that address the five key elements of fishing and boating participation and engage partners to enhance the Commission's efforts through the multiplier effect at the local level.

- A. Through June 2017, develop and implement annual plans for delivering training and instructional resources to sportsmen's clubs, conservation organizations, and outdoor recreation providers for Family Fishing, SMART Angler, women's, and other effective programs at the local level.
 - WCO's continue to attend sportsmen club meetings and three school based programs annually.
 - Results and recommendations from the Responsive Management study are being reviewed, and plans formulated for adjustments to PFBC programming.
- B. Through June 2017, maintain Fishing Tackle Loaner Program to make equipment accessible for group or individual loan.
- C. Through June 2017, develop and implement annual plans to present fishing opportunities in appealing and convenient "packages" such as PA's Best Fishing Waters, Family Fishing Festivals, and mentored youth opportunities.
- D. Through June 2017, develop and implement annual plans for mentoring programs, with focused opportunities (e.g., different species or seasons) and increased outside partnership engagement.
 - 1. Increase lead-in and follow-up contacts for mentored fishing opportunities (such as promotions, partnerships, surveys, newsletters).
 - 2. Incorporate recruitment and retention elements into mentoring program promotions and partnerships.
 - 3. By July 2016, assess the overall effectiveness of the Mentored Youth Fishing Day program.
 - Conducted Mentored Youth Day on 17 Panfish Enhancement Lakes on Labor Day, September 1.
- E. Through June 2017, use increased understanding of customer demographics, current research, and customer trends to enhance recruitment and retention of anglers and boaters by identifying targeted segments for outreach and education.
 - Responsive Management (RM) provided a preliminary version of the National Recruitment and Retention Program Evaluation Report, in which the PFBC's Family Fishing Program was one of the 69 programs studied. Programs were evaluated on several factors linked to recruitment and retention. The study compared results from all programs studied, as well as providing detailed analysis of individual programs. The final report is expected to be released in September, 2014.
 - On a national level, PFBC angler education programs ranked in the top five programs in several categories.
 - The Family Fishing Program was ranked number one in increasing likelihood of adults fishing in the year after the program, and highest portion making purchases of fishing equipment that would not otherwise have made.

- Analysis of registration data from PFBC Family Fishing Programs for the period 2011-2013 continues. This data is being used to characterize program participants, and to quantify their license buying habits.
 - Preliminary analysis shows that the median age for adults participating in the program is younger than the median age for adults holding fishing license.
- Analysis of program registration data continues. GIS maps will be developed to determine locations of past participants, and used in planning locations for future programming.

Goal 3B: Conduct outreach and informational efforts designed to reduce boating-related casualties, maintain water rescue program to provide necessary training for emergency response personnel to safely and effectively respond to water-related emergencies, and pursue new public access as resources allow.

- A. Through June 2017, annually identify and implement specific strategies to reduce casualties of targeted user groups.
 - Presented the following regulatory amendments to the Commission which were approved as proposed rulemaking at the May 2014 quarterly meeting:
 - 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.
- B. By January 2015, use point-of-sale messaging to increase awareness of minimum boating safety legal requirements.
- C. Through June 2017, continue to play a leadership role in the Pennsylvania Helicopter Aquatic Rescue Team (PA-HART) program.
 - SWERT trained officers undergoing familiarization with HART operations to integrate into the program
- D. By July 2015, establish BLE swiftwater strike team as a certified Type 1 response team.
 - SWERT training continues, only ice rescue remains for final typing.
- E. Through June 2017, annually conduct Operation Dry Water, a statewide boating safety and boating under the influence saturation detail.
 - Operation Dry Water 2015 conducted last weekend in June, 983 boats boarded, 15 individuals apprehended for BUI, 137 summary citations issued.
- F. Through June 2017, administer the Floating Structure and Aids to Navigation program.

- Ongoing
- G. Through June 2017, administer Lake Erie Access Program and, as resources allow, pursue other public access opportunities consistent and Pennsylvania's Fishing and Boating Access Strategy.

Goal 3C: Ensure that fish production levels are met annually to optimize fishing opportunities.

- A. Through at least July 2015, continue to operate all 13 state fish hatcheries.
 - 1. Trout Culture: Annually produce and stock up to 3.2 million adult trout or 1.9 million pounds to stock in the Commonwealth.
 - Stocked 190,865 trout fingerlings for put-grow-take fisheries
 - a. By July 2015, evaluate the public demand and expectations for stocked trout and provide a recommendation on how many trout should be raised.
 - 2. Warm/Cool Water Culture: Annually produce warm/cool water species through in house production or acquisition to meet requests to stock species requested by Fisheries Management.
 - 8,000 Tiger Muskellunge fingerling stocked
 - 3,869 Northern Pike fingerling stocked
 - 3,250 Large Mouth Bass fingerling stocked
 - 3. Cooperative Nurseries: Annually produce fish and eggs to supply the needs of the cooperative nurseries throughout the Commonwealth.
 - Provided 418,857 trout fingerlings to cooperative nurseries
- B. Through June 2017, ensure the safe and efficient maintenance and operation of state fish hatcheries while remaining in compliance with environmental regulations and fish health guidelines.
 - 1. Annually utilize available funding for maintenance and operation of hatcheries and identify budget shortfalls which may lead to fish production decreases.
 - Effluent improvements completed at Oswayo SFH per DEP
 - Bird enclosure project completed at Pleasant Mount SFH
 - Concrete floors poured in two outside raceways at Linesville SFH
 - 2. Consistently maintain and update hatchery permits and perform water quality analysis according to permits.
 - Reviewed and commented on draft NPDES permits for the Benner Spring, Huntsdale and Pleasant Gap hatcheries.
 - Received final NPDES permits for the Bellefonte, Benner Spring and Pleasant Gap hatcheries.
 - Adjusted the water quality analyses performed based on new permits.
 - 3. Annually perform fish health inspections, provide diagnostic services, and maintain fish transfer records.
 - Performed 13 Fish Hatchery Inspections

- Handled 60 Fish Health Diagnostic Cases
- Reviewed 23 Fish Transfer Requests

C. Through July 2017, maintain and promote existing cooperative nurseries.

1. Through July 2017, increase the presence of cooperative nursery information in the *Pennsylvania Angler and Boater* magazine and the PFBC website.
 - Beginning with the September/October 2014 issue, there will be a cooperative nursery article in the Currents section of the *Pennsylvania Angler and Boater* magazine.
2. By December 2016, perform an analysis of existing cooperative nurseries and recommended production levels.
 - An evaluation of the production capabilities of existing cooperative nurseries was started in 2014.
3. By July 2016, evaluate and recommend improvements to the cooperative nursery application process.
 - Beginning in 2014, all of the Cooperative Nursery Unit's policies and procedures will be reviewed and modified when appropriate to reflect a more efficient program.

Internal Resources

Goal 4: Optimize agency efficiency through continuation of investments in information technology, employee training and development, and infrastructure planning and implementation.

A. Information Technology

2. By June 2016, redesign the Commission's website to simplify and enhance ease of navigation.
3. By June 2017, continue to plan for and support IT updates, enhancements, and maintenance of critical business applications to meet the needs and requirements of program areas.
 - a. By September 2014, identify and prioritize essential application enhancements for key business areas.
 - b. By July 2015, develop and implement annual plans for prioritized and funded application enhancements.
4. Through June 2017, continue to convert business applications to the new .NET/SQL application standard platform as necessary.
5. By July 2015, identify and begin utilizing available partnerships, infrastructure, software, data, and training to provide meaningful and useful information for managers and executive leadership to make critical programmatic, marketing, and business decisions.
6. By June 2017, develop the capability of a GIS layer containing Commission properties.
 - a. By June 2016, validate existing data, through general referencing, on Commission property holdings.
 - b. By June 2017, develop GIS layer for Commission properties.

B. Training and Development

1. Through June 2017, continue to re-invest in employee development opportunities.
 - Utilized internal expertise (Col. Corey Britcher from the Bureau of Law Enforcement) to conduct four different classes on Methamphetamine and Clandestine Drug Lab Awareness.
 - Human Resources Staff (Johnson and Hvizda) used in-house expertise to develop and conduct Accelerated Grievance Procedures training in Harrisburg for PFBC Supervisors and Managers.
 - Human Resources Staff (Hvizda, Johnson, and Craig Miller) used in-house expertise to develop Conducting Workplace Investigations training. Supervisors and managers are scheduled to take this course in the immediate future.
 - Human Resources offered information for employees to attend a Leading with Integrity class offered by OA.
 - Information Technology training was offered : HTML 5, JAVA Programming, .NET Programming, and iOS Application Development
2. By June 2016, complete the training of a new class of WCOs.

- Written exam and physical pretest conducted, formal interviews scheduled to take place in Oct 2014.
- C. Through June 2017, continue to implement a comprehensive multi-year Infrastructure Plan for the engineering, maintenance, and development of the Commission's dams, access areas, administrative buildings, hatcheries, marinas, and bridges.
1. Through June 2017, leverage funding sources to complete high-hazard dam repairs.
 2. By March 2015, prioritize access areas that the Commission manages on behalf of the Commonwealth and begin implementing repairs on an established cycle.
 3. By December 2014, complete plan for where and how to house the Commission's Centre County-based staff.
 4. By June 2016, complete plans to optimize Commission field staff into as few locations as possible to meet identified business needs.
 5. By December 2014, complete return on investment analysis of marinas managed by the Commission.
 6. By January 2015, prioritize bridges that the Commission manages on behalf of the Commonwealth and begin implementing repairs on an established cycle.
 7. By June 2017, complete a Commission-wide energy savings analysis.
 - a. By December 2015, complete an energy savings analysis for state fish hatcheries.

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

Bureau of Administration

PALS

- As of August 26, 2014: the total number of 2014 fishing licenses sold and vouchers redeemed and active multi-year licenses were 850,284 which is a 1.78% increase from the same time period last year; the total number of 2014 permits sold and vouchers redeemed and active multi-year permits were 601,384 which is a 1.26% increase compared to the same period last year.

Boating

- As of August 22, 2014, the Commission's 2014 new boat registration transactions increased 4.40% to 20,269, new titling transactions increased 0.66% to 10,353 and boat renewals have decreased 0.19% to 131,605.
- As of August 22, 2014, there were 15,054 (1) Year Launch Permits and 35,752 (2) Year Launch Permits sold, which is a 26.8% increase from 2013.

Multi-Year Licenses

- As of August 26, 2014, the Commission has sold 10,269 3-year multi-year licenses and 4,092 5-year multi-year licenses in the 2014 license year. The Commission has sold 8,015 3-year multi-year permits and 3,382 5-year multi-year permits in the 2014 license year. Almost 79.4% of multi-year license buyers in the 2014 license year purchased multi-year permits.

Annual Fishing License Button

- As of August 26, 2014, there have been a total of 6,476 fishing license buttons sold.

Mentored Youth Fishing Permit and Voluntary Youth Fishing License

- As of August 26, 2014, there have been a total of 2,461 Mentored Youth Fishing Permits and 1,712 Voluntary Youth Fishing Licenses and voucher redemptions issued.

Reduced Disabled Veteran Resident Fishing License

- As of August 26, 2014, there were zero (0) Reduced Disabled Veteran Resident Fishing Licenses sold.

Bureau of Fisheries

- Completed and submitted the Potter Run Pollution Investigation Report to the Bureau of Law Enforcement. Potter Run (6A) is located in Centre County and is a tributary to Sinking Creek. The pollution occurred when a Gromark FS vehicle lost containment of a moderate quantity of a herbicide mixture which flowed from the spill site near the intersection of SR 0144 and SR 0322 into Potter Run.

Bureau of Boating and Outreach

Boating Safety Education

Program/activity	Number in this quarter*	Number of participants*
Boating Safety Education Certificates (BSEC) Issued	4,500	n/a
Basic Boating Courses scheduled	28	500
Certificates issued through distance learning	4,300	n/a
Certificates issued through classroom courses	200	n/a

- Coordinated and provided support to Governor Corbett's kayak tour, August 16 and 17. The North Branch of the Susquehanna River in Bradford County was paddled in the first day and covered eleven miles of the river. The Schuylkill River in Montgomery County was paddled in the second day and covered ten miles of river.

Angler Education & Fishing Promotion

Program/activity	Number this quarter*	Number of participants*
Family Fishing Programs	86	450
Family Fly Fishing Programs	10	54
Fishing Tackle Loaner Sites	75	n/a
Other fishing programs: SMART Angler, other events	10	100

*estimated

- Coordinated PFBC presence at 204 programs and events during the quarter. Education staff, Waterways Conservation Officers, DWCO, and PFBC education volunteers represented the PFBC.
- Staffed an informational booth in the Fan Fair Expo at the Go Bowling 400 at Pocono Raceway from August 1-3.
- Participated in Wallyfest at PPL's Lake Wallenpaupack on August 23. Approximately 5,000 attended in the event. PFBC had a display and provided hands-on activities.
- Planned, coordinated and staffed the Bassmaster's Elite Tournament in Philadelphia, August 6-10. Staffed a booth located near the Expo, captured photographs and made numerous posts to social media in the final two days of the tournament.
- Produced July/August and September/October issues and e-zine versions of the *Pennsylvania Angler & Boater*.
- Produced Spring/Fall editions of the PLAY newsletter.
- Produced 2015 Fishing License posters and handouts for distribution to license issuing agents.
- Created Unpowered Boat Registration signs for PFBC launch ramps as reminders of registration/permitting requirements for users.
- Printed curriculum resources created for the Wildlife Leadership Academy (Pennsylvania Brookies).
- Provided photographic coverage and video production coordination for the July 14 PFBC evening event.
- Produced an updated reprint of *Pennsylvania Amphibians & Reptiles*.
- Created regulatory posters, a variety of media resources and managed social media interaction for the Mentored Youth Panfish Day and \$1 Labor Day Fishing License promotions.
- Produced the 2015 Rivers Conservation & Fly Fishing Youth Camp brochures.
- Initiated weekly fishing reports to *On The Water*.
- Conducted meeting to collect public comment on proposed rulemaking for modified slow, no wake zone in Northumberland County.
- Prepared outreach and communication plan in response to discovery of Round Goby in LeBoeuf Lake.
- Received Governor's Innovation Award for PA-HART partnership (PFBC, PEMA, PANG)
- Completed multiple PA-HART training missions with partnering agencies and supported by local emergency response personnel in Erie, York, Somerset and Westmoreland counties.
- Participated in PA Wilderness Search & Rescue Stakeholders meeting.
- Participated in PA-HART/SWERT EMAC Load Package training with Air Force.
- Conducted PGC cadet training on safe boating, boat operations and paddle skills.

Legal Office

- In September 2011, the Commission sued Consol Energy in West Virginia state court 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 seeks 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 trial judge held a conference with attorneys on July 22, 2014 to establish new discovery and procedural deadlines. A mediation session has been scheduled for December 2, 2014 at 10:00 a.m. in Morgantown, West Virginia. The mediator chosen by the parties is attorney Donald O'Dell.

- On July 18, 2014, the Commission filed an appeal with the Environmental Hearing Board of the renewal by the Department of Environmental Protection (DEP) of an NPDES permit to Sunbury Generation LP for its power plant at Shamokin Dam. The Commission is asserting that the permit's thermal limits for the wastewater discharge to the Susquehanna River are not sufficiently protective of warm water fishes. The Commission raised issues related to the methodology used by DEP and its application to the Sunbury permit. DEP's methodology makes use of average daily temperatures to calculate the permitted heat discharges, which ignores that temperatures at the instant of discharge can negatively impact fish and is inconsistent with DEP's water quality standards. In addition, DEP calculations, even when using its own methodology, are not sufficiently restrictive to protect the Susquehanna River. In addition, the Commission raised issues such as the inadequacy of DEP's research into flowage levels, Sunbury's ability to use municipal waste and fracking water in its operation, and a failure to provide compensation for fish lost through entrainment and impingement. A Board mandated settlement meeting among the parties is expected to take place on September 15.
- A waterways conservation officer grieved the denial of his request for supplementary employment as a part-time municipal police officer. The Commission denied the request for various reasons including that the employment could create an actual or apparent conflict with his Commission duties and a conflict of interest. A Joint State Committee failed to produce a settlement. On September 4, 2014, a hearing took place before an arbitrator.
- In July 2013, the Office of Administration 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.
- 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.

PENNSYLVANIA FISH AND BOAT COMMISSION
Notational Vote

Non-Surface Use Oil and Gas Cooperative Agreement, Glade Run Lake, Middlesex Township, Butler County.

Commentary:

Under section 744 of the Code, 30 Pa. C.S. §744, the Commission may dispose of, by lease, sale, or otherwise, timber, minerals, oil and gas, or rights therein, on or under lands to which it has acquired title. R.E. Gas Development, LLC (REX Energy) has presented the Commission with an offer to develop the oil and gas rights under the Commission's +/- 146.23 acre Glade Run Lake property located in Middlesex Township, Butler County. A map depicting the parcels is attached as Exhibit A.

REX Energy has offered the Commission a non-surface use agreement that includes a four-year primary term, a \$4,400 per acre up-front bonus payment of \$643,412 and a royalty rate of 19.5%. REX Energy acquired the oil and gas rights, has development plans on private lands adjacent to the Commission's property, and has the ability to unitize and produce the Commission's oil and natural gas reserves through directional drilling techniques.

The agreement will allow for the development of the Commission's oil and gas reserves without allowing well pad construction or drilling on Commission property. Oil and gas development will be regulated by the Commonwealth's oil and gas regulations and the Commission's Non-Surface Use Oil and Gas Cooperative Agreement.

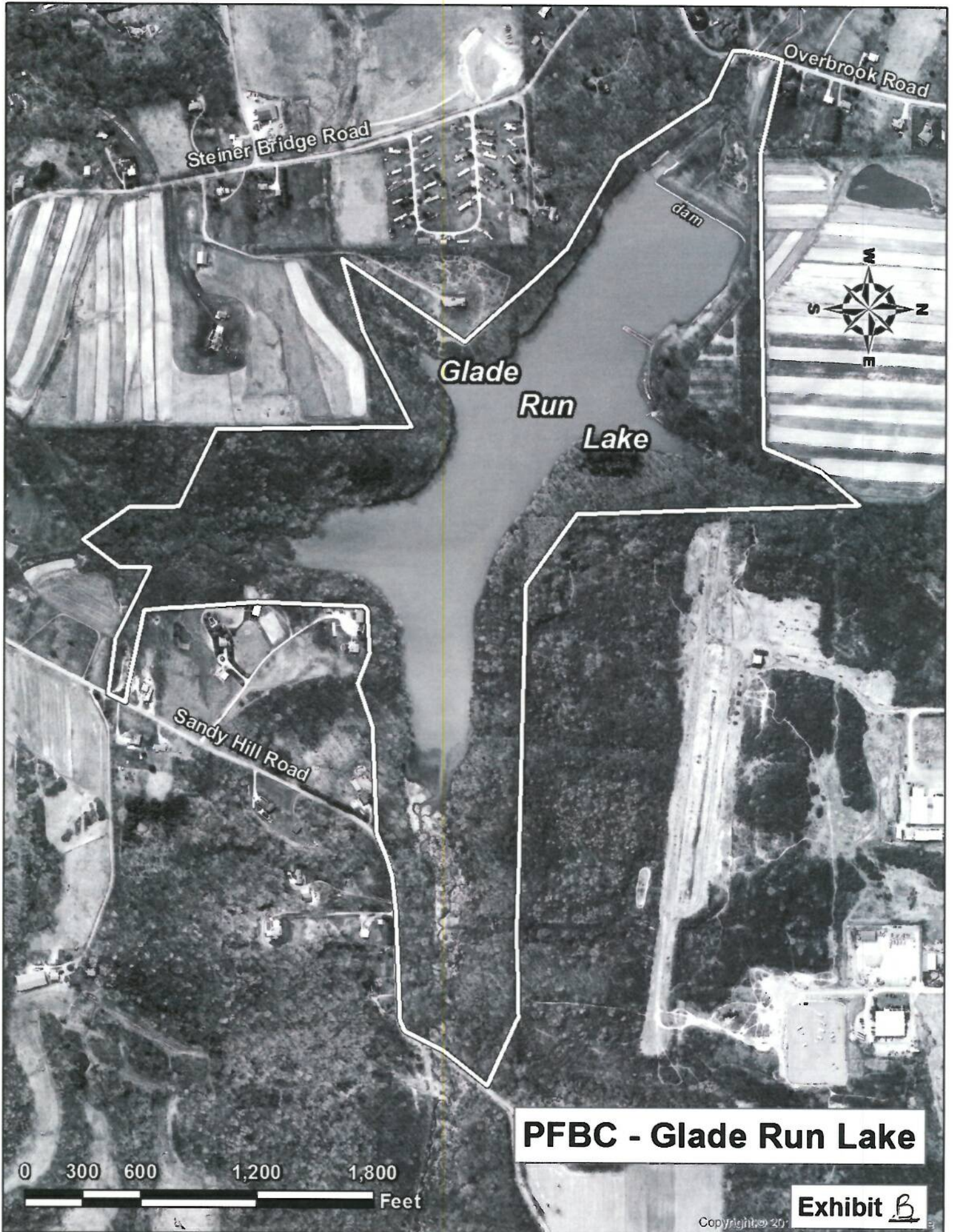
Recommendation:

Staff recommend that the Commission authorize the Executive Director to enter into a Non-Surface Use Oil and Gas Cooperative Agreement with R.E. Gas Development, LLC (REX Energy) for the development of oil and natural gas at the Commission's Glade Run Lake property in Middlesex Township, Butler County.

Action:

On July 22, 2014, the Commission authorized the Executive Director to enter into a Non-Surface Use Oil and Gas Cooperative Agreement with R.E. Gas Development, LLC (REX Energy) for the development of oil and natural gas at the Commission's Glade Run Lake property in Middlesex Township, Butler County.

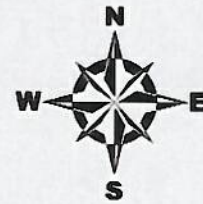
Commissioner Worobec abstained from discussion and voting because of concerns over a possible conflict of interest.



PFBC - Glade Run Lake

Exhibit B

Colyer Lake - Centre County Required Flowage Easements



Colyer Lake

1

2

3

PFBC Property

Required Flowage
Easements



0 100 200 400 600 Feet

Exhibit C

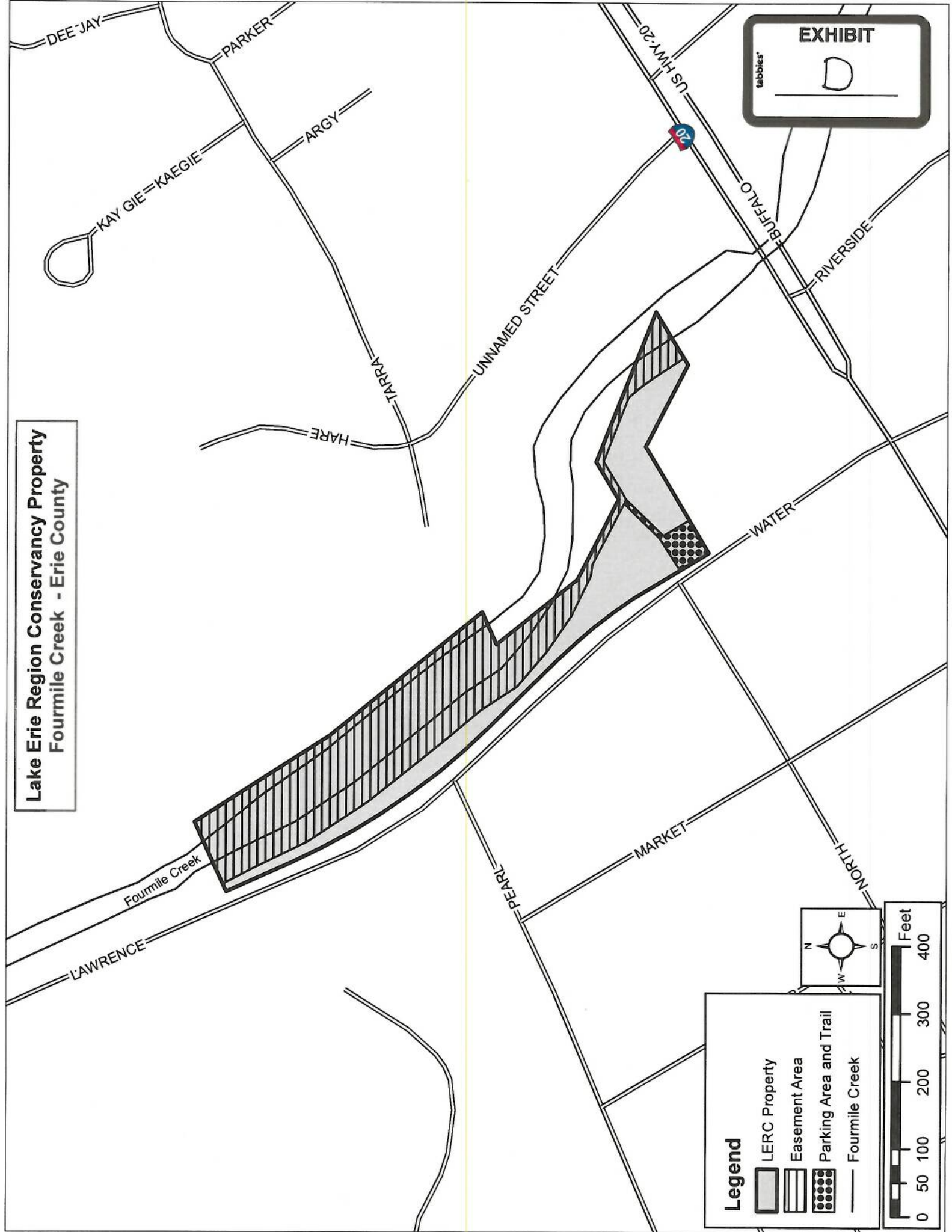
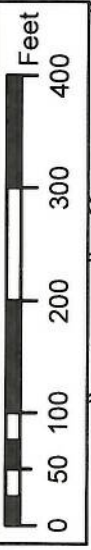
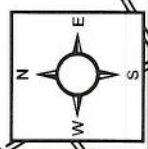
Sources: Esri, DeLorme, NAVTEQ, USG
METI, Esri China (Hong Kong), Esri (Thailand), TomTom, 2013

Lake Erie Region Conservancy Property
Fourmile Creek - Erie County

EXHIBIT
D
tabbles*

Legend

- LERC Property
- Easement Area
- Parking Area and Trail
- Fourmile Creek



PROPOSED RULEMAKING

FISH AND BOAT COMMISSION

[58 PA. CODE CHS. 95, 109, AND 111]

Boating

The Fish and Boat Commission (Commission) proposes to amend Chapters 95, 109 and 110 (relating to manufacturer installed equipment; specialty boats and waterskiing activities; and special regulations counties). 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 §§ 95.3, 109.2 and 109.4 (relating to lights for boats; paddleboards and sailboards; and waterskiing, aquaplaning, kiteskiing and similar activities) are published under the statutory authority of section 5123 of the code (relating to general boating regulations). The proposed amendment to § 111.49 (relating to Northumberland County) is published under the statutory authority of section 5124 of the code (relating to particular areas of water).

D. Purpose and Background

The proposed rulemaking is designed to improve, enhance and update the Commission's boating regulations. The specific purpose of the proposed amendments is described in more detail under the summary of proposals. On March 6, 2014, the Boating Advisory Board considered these proposals and recommended that the Commission approve the publication of a proposed rulemaking containing the proposed amendments.

E. Summary of Proposals

(1) Section 95.3 provides boaters with information on the requirements for types, configurations and locations of navigation lights on boats. These provisions are within the actual wording of the regulation and by reference to Appendix A (relating to lights required on boats less than 20 meters in length; inland and international waters) and the Inland Navigation Rules Act of 1980 (repealed).

Based on a recent review of § 95.3, the Commission determined that it should be amended for a number of reasons. While there is a reference in § 95.3 to the the Inland Navigation Rules Act of 1980, Pennsylvania courts have found there is not explicit language within the regulation that states a boater must comply with these specific Federal rules. In addition, the Inland Navigation Rules Act of 1980 was moved in 2010 to 33 CFR Part 83 (relating to rules).

Section 95.3 also does not specifically incorporate the language of 33 CFR 83.20(b) (relating to application), also referred to as Rule 20, which states:

Rules concerning lights complied with from sunset to sunrise; other lights. The 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 § 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, the Commission proposes to amend § 95.3 to more closely reflect the lighting requirements in 33 CFR Part 83 and eliminate the reference to Appendix A. The Commission further proposes to delete Appendix A and rely solely on the narrative. These amendments are not a substantive change to lighting requirements for recreational boaters.

The Commission proposes to amend § 95.3 to read as set forth in Annex A.

(2) 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 United States Coast Guard, in a decisional memo dated October 3, 2008, classified paddleboards as vessels in accordance with 1 U.S.C.A. § 3. This classification means that when used beyond the narrow limits of a swimming, surfing or bathing area, a person may not use a paddleboard unless in compliance with 33 CFR Part 83 and applicable carriage requirements for this type of vessel. This includes a United States 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 or retrieving a paddleboard at a Commission-owned or Commonwealth-controlled lake or access area, or State park or forest.

To address safety issues and concerns, and to provide clarity for operators regarding legal requirements for paddleboards, the Commission proposes to amend § 109.2 to read as set forth in Annex A.

(3) Several hydro flying devices have been designed and are 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, Aquaflayer 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 § 109.4(d), the Jetlev system is prohibited on Commonwealth waters. This subsection states that 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 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.

The Commission and boating safety professionals from across the Nation have safety concerns regarding these devices. The United States 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.

To address safety issues and concerns with these specialized devices, the Commission proposes to amend § 109.4 to read as set forth in Annex A.

(4) Section 111.49 currently designates a slow, no wake zone on the southeastern shore of Packer's Island (incorrectly referred to 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.

The Commission proposes 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. The State Park manager is supportive of this proposed amendment. 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, the Commission proposes correcting the name of the island.

The Commission proposes to amend § 111.49 to read as set forth in Annex A.

F. Paperwork

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

G. Fiscal Impact

The proposed amendments will not have adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed amendments 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

Fiscal Note: 48A-258. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart C. BOATING

CHAPTER 95. MANUFACTURER INSTALLED EQUIPMENT

§ 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) *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 pur-

poses 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.]

(a) *General rule.* The navigation lights requirements in this section shall be complied with in all weather from sunset to sunrise on the waters of this Commonwealth. During these times other lights may not be exhibited, except lights that cannot be mistaken for the lights specified in this section, lights that do not impair their visibility or distinctive character, or interfere with the keeping of a proper lookout. The lights prescribed in this section must, if carried, 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 must 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°.

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° and fixed as to show the light from right ahead to 22.5° 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 must be placed as nearly as practicable to the fore and aft centerline of the boat.

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

Sailboat—A 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° and fixed as to show the light from right ahead to 22.5° 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. On a boat of less than 39.4 feet (12 meters) in length, the sidelights when combined in one lantern must 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° nor more than 225° and fixed as to show the light from right ahead to abeam and no more than 22.5° 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° and fixed as to show the light 67.5° from right aft on each side of the boat.

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

(c) **Visibility of lights.**—The lights prescribed in this section must 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 when 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 must exhibit the following lights:

(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 may exhibit this light.

(iii) Sidelights.

(iv) A sternlight.

(2) An air-cushion boat when operating in the nondisplacement mode must, 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, instead 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 must exhibit the following lights:

(i) Sidelights.

(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. These lights may 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 must, if practicable, exhibit the lights prescribed in paragraph (1) or (2). If these lights are not exhibited, the sailboat must have ready at hand an electric torch or lighted lantern showing a white light that must be exhibited in sufficient time to prevent collision.

(5) A unpowered boat may exhibit the lights prescribed in this subsection for sailboats. If these lights are not exhibited, the unpowered boat must have ready at hand an electric torch or lighted lantern showing a white light that must be exhibited in sufficient time to prevent collision.

(f) **Anchored boats and boats aground.**

(1) A boat at anchor must exhibit an all-round white light where it can best be seen:

(i) In the fore part.

(ii) At or near the stern and at a lower level than the light prescribed in subparagraph (i).

(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 must 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, is not required to exhibit the anchor lights and shapes required under this subsection.

(g) **Boats being towed.** When, for 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.

(Editor's Note: As part of this proposed rulemaking, the Commission is proposing to delete Appendix A which appears in 58 Pa. Code page 95-8, serial page (213852).)

Appendix A. (Reserved)

CHAPTER 109. SPECIALTY BOATS AND WATERSKIING ACTIVITIES

§ 109.2. [Sailboards] Paddleboards and sailboards.

(a) [Definition. A] **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 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.

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

* * * * *

(k) **Wake surfing.** Boats engaged in the activity of wake surfing are limited to slow, no wake speed when within 200 feet of the following:

* * * * *

(8) Other marked areas.

(l) **Use of airborne devices prohibited.** A person, while being towed by or otherwise attached to a watercraft, may not use a device, except for a parasail, for the purpose of becoming airborne over the waters of this Commonwealth. While operating a watercraft, a person may not 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 subsection does not apply to traditional aquaplaning activities when the aquaplaner momentarily leaves the water while jumping wakes or doing specialty tricks.

**CHAPTER 111. SPECIAL REGULATIONS
COUNTIES**

§ 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.

[Pa.B. Doc. No. 14-1428. Filed for public inspection July 11, 2014, 9:00 a.m.]

**STATE BOARD
OF MEDICINE**

[**49 PA. CODE CHS. 16 AND 18**]

Prosthetists, Orthotists, Pedorthists and Orthotic Fitters

The State Board of Medicine (Board) proposes to amend §§ 16.11 and 16.13 (relating to licenses, certificates and registrations; and licensure, certification, examination and registration fees) and add Chapter 18, Subchapter L

(relating to prosthetists, orthotists, pedorthists and orthotic fitters) to read as set forth in Annex A.

Effective Date

The proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*.

Statutory Authority

The act of July 5, 2012 (P.L. 873, No. 90) (Act 90) amended the Medical Practice Act of 1985 (act) (63 P.S. §§ 422.1—422.51a) to require the Board to issue licenses to prosthetists, orthotists, pedorthists and orthotic fitters, to regulate the practice of these professions and to discipline licensees. Section 8 of the act (63 P.S. § 422.8) authorizes the Board to adopt regulations as are reasonably necessary to carry out the purposes of the act.

Background and Need for Amendments

Act 90 was introduced to provide licensure for and regulatory oversight of prosthetists, orthotists, pedorthists and orthotic fitters. Act 90 became effective immediately and instructed the Board to promulgate regulations within 18 months of the effective date, or by January 5, 2014. Act 90 further provided that it would become effective upon publication of the final-form rulemaking or 24 months from the effective date, whichever occurred first.

Following enactment of Act 90, a draft rulemaking was prepared. On August 14, 2012, the Board provided the draft to stakeholders, including the following: members of the regulated community and their association representatives; representatives from the University of Pittsburgh's prosthetic and orthotic educational program; representatives from the Temple University School of Podiatry, which operates a pedorthic education program; the Pennsylvania Medical Society and a physician specialty organization in orthopedics; representatives from the House Professional Licensure Committee and the Independent Regulatory Review Commission (IRRC); and the two National credentialing bodies for the profession, the American Board for Certification in Orthotics, Prosthetics & Pedorthics (ABC) and the Board of Certification/Accreditation (BOC). The Board also invited these stakeholders and interested parties to a meeting on September 10, 2012. The meeting was announced on the Board's web site to invite other interested parties.

Extensive discussions were held with the stakeholders regarding the draft rulemaking at the meeting on September 10, 2012. After making amendments to the draft based on comments received during and after that meeting, the Board provided another draft of the draft rulemaking to the stakeholders on November 27, 2012. On December 4, 2012, the Board again met with stakeholders regarding the draft rulemaking. Additional amendments were made based on input from the stakeholders. At its February 6, 2013, meeting, the Board approved the draft rulemaking for publication as proposed rulemaking.

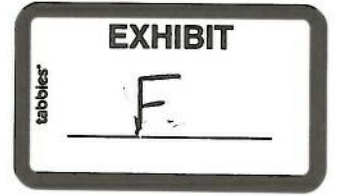
Description of Proposed Amendments

The proposed rulemaking would amend § 16.11 to add prosthetists, orthotists, pedorthists and orthotic fitters to the list of individuals licensed by the Board. In addition, the Board proposes to issue the following permits which apply to individuals who have completed their educational program but have not yet completed all requirements for full licensure (such as, residency, practice requirement or examination): graduate prosthetist permit; provisional prosthetist license; graduate orthotist permit; provisional orthotist license; temporary practice permit—pedorthist; and temporary practice permit—

Angler use on high biomass waters being considered for Class A designation

Water Name	County	Number of 8 am Anglers/Mile	Percentile Rank	Year	Stocked Trout Efficiency Class Destination (if wasn't listed as a destination it would be in the Class 3 Other subgroup)	Population Class	Section Length (km)
Fishing Creek	Clinton	44	above 75th	2011	Destination	Rural	2.4
Little Lehigh Creek	Lehigh	58	above 90th	2010	3 Other subgroup	Metro	7.9
Little Lehigh Creek	Lehigh	180	above 90th	2011	Destination/Class 2	Metro	3.3
Martins Creek	Northampton	27	67th	2014	Class 1	Suburban	7.6
Monocacy Creek	Northampton	190	above 90th	2011	Class 2	Metro	1.6
Monocacy Creek	Lehigh/Northampton	207	above 90th	2011	Class 1	Metro	3.4
Penns Creek	Centre	45	above 75th	2011	Destination (if wasn't listed as a destination it would be in the Class 3 Good Access subgroup)	Rural	13.1
Pohopoco Creek	Carbon	55	above 90th	2012	Class 3 Other	Suburban	3.0
Yellow Creek	Bedford	108	above 90th	2007	Class 3 Other	Rural	2.7
Yellow Creek	Bedford	Open to Year Round Fishing			Class 3 Other	Rural	1.5

Based on opening day angler counts on 341 stream sections from 2006-2014



FISH AND BOAT COMMISSION

[58 PA. CODE CH. 57]

Class A Wild Trout Streams

The Fish and Boat Commission (Commission) proposes to amend § 57.8a (relating to Class A wild trout streams). Although not required to publish a proposed statement of policy, the Commission is publishing the proposed amendments to § 57.8a and seeking public comments because of the heightened public interest in this issue. The Commission is publishing this proposed statement of policy under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code).

A. Effective Date

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

B. Contact Person

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

C. Statutory Authority

The proposed statement of policy is published under the statutory authority of section 321 of the code (relating to administration and enforcement) that provides that the Commission shall administer and enforce the code and other laws of the Commonwealth regarding the protection, propagation and distribution of fish.

D. Purpose and Background

In October 2009, the Commission approved the Strategic Plan for Management of Trout Fisheries in Pennsylvania 2010-2014 (plan). The plan was developed based on input provided by a work group that consisted of Commission staff, anglers affiliated with a variety of sportsmen's organizations and independent trout anglers that are not affiliated with an organized group. This plan has guided the direction of trout management for the Commission since that time.

The plan identifies opportunities for improvement of trout management in this Commonwealth, issues that affected those improvements and strategies for addressing those issues. One of the key issues addressed in the plan was the protection of Class A wild trout waters. Issue 2 of the plan states "There are a number of streams that may hold Class A biomass trout populations that have not been officially designated as Class A streams by the [Commission]. This leads to inadequate water quality protection for these waters and inconsistent application of fisheries management strategies." The identified strategy to address this specific issue is "By 2014, sample waters identified by PFBC staff as likely to support a Class A wild trout biomass and designate appropriately." It should be noted that this issue is separate from the identification of unassessed Class A waters, which the Commission has been addressing since adoption of the plan. The waters to which Issue 2 of the plan refers are waters in which historical data was present but which have not been officially designated as Class A.

To date, the Commission has identified ten potential high biomass waters per Issue 2 of the plan. The

Commission completed new inventories on these waters and each has been sampled once since 2010. A second survey is planned this year. Those that are confirmed to support Class A populations will be proposed for designation as Class A wild trout streams consistent with the plan.

Currently, each of these waters is stocked. Most of them support heavy angler use for the stocked trout component of the fishery. A recent analysis of all stocked trout waters in this Commonwealth resulted in the development of three stocked trout "efficiency classes." These classes of streams were differentiated statistically relative to the angler use resulting from the numbers of trout stocked (efficiency). High human population density or high accessibility (number of parking places per mile of stream), or both, were two of the variables that resulted in waters being classified into the highest efficiency classes. Others with high use were "so called" destination waters, which may have been more rural in nature but which traditionally have supported high angler use. The lowest efficiency class (Class 3) was primarily comprised of rural waters; there are statistical outliers in this class that also have high angler use. Of the ten stream sections identified, nine fall into the top 75th percentile of angler use for all the stocked stream sections that have been evaluated by the Commission.

E. Summary of Proposed Revisions

To address the high angler use levels for stocked trout on these waters, the Commission proposes amendments to its Class A policy. These amendments will permit stocking to continue on Class A waters that meet certain conditions. These exceptions will be limited to those waters that had been stocked the year preceding the Class A designation and where angler use is greater than or equal to the 75th percentile of angler use (number of anglers/mile on Opening Day) for stocked trout waters in this Commonwealth. Waters designated as a Class A wild brook trout, Class A mixed wild brook and brown trout or Class A mixed wild brook and rainbow trout stream will not be considered for stocking. Prior to implementing a decision to stock a Class A water, the Executive Director will obtain the approval of the Commission's Board.

The Commission proposes to amend § 57.8a to read as set forth in Annex A.

F. Paperwork

The proposed amendments to § 57.8a will not increase paperwork and will not create new paperwork requirements.

G. Fiscal Impact

The proposed statement of policy will not have adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed statement of policy 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 statement of policy to the Executive Director, Fish and Boat Commission, P.O. Box 67000, Harrisburg, PA 17106-7000 within 90 days after publication of this proposed statement of policy 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

STATEMENTS OF POLICY

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. 7097 (December 7, 2013) for a proposed rulemaking relating to this proposed statement of policy.)

Fiscal Note: 48A-255. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart A. GENERAL PROVISIONS

CHAPTER 57. STATEMENTS OF POLICY

Subchapter A. FISHERIES POLICIES

§ 57.8a. Class A wild trout streams.

It is the policy of the Commission to manage self-sustaining Class A wild trout populations as a renewable natural resource to conserve that resource and the angling it provides. Class A wild trout populations represent the best of this Commonwealth's naturally reproducing trout fisheries. [These] With rare exceptions, these stream sections are managed solely for the perpetuation of the wild trout fishery with no stocking.

* * * * *

(3) For a water to be removed from the Class A Wild Trout Streams designation, total trout biomass shall be documented below the set criteria for two consecutive stream examinations.

(4) Stream sections that the Commission designates as Class A wild trout streams after December 31, 2013, may remain eligible for fingerling stocking of trout or preseason-only stocking of adult trout by the Commission or Commission-approved preseason-only stocking of adult trout by Commission cooperative nurseries to provide additional early season angling opportunities provided the following conditions are met:

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

(ii) Angler use (anglers/mile of stream) in the stream section equals or exceeds the 75th percentile, Statewide, of angler use for the opening week-end of trout season as documented by Commission staff.

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

(5) A stream section designated as a Class A wild brook trout, Class A mixed wild brook and brown trout or Class A mixed wild brook and rainbow trout stream will not be considered for stocking.

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

[Pa.B. Doc. No. 13-2271. Filed for public inspection December 6, 2013, 9:00 a.m.]



brain injury and their families. This quarterly meeting will provide updates on the number of people served by HIP and the number of people waiting to be served by HIP. In addition, meeting participants will discuss budgetary issues and community programs relating to traumatic brain injury.

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 Julie Hohney, Division of Child and Adult Health Services at (717) 772-2762, or for speech and/or hearing impaired persons contact 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. 14-1587. Filed for public inspection July 25, 2014, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY

Uniform Construction Code Review and Advisory Council Meeting

The Uniform Construction Code Review and Advisory Council will hold a meeting on Wednesday, September 10, 2014, at 10 a.m. at the Department of Labor and Industry, Room E-100, 651 Boas Street, Harrisburg, PA 17121.

Additional information concerning the meeting may be found on the Department of Labor and Industry web site at www.dli.state.pa.us. Scroll down and click on the link for "Uniform Construction Code" then "UCC Review and Advisory Council."

Questions concerning this may be directed to Kim D. Peck at (717) 783-6304.

JULIA K. HEARTHWAY,
Secretary

[Pa.B. Doc. No. 14-1588. Filed for public inspection July 25, 2014, 9:00 a.m.]

FISH AND BOAT COMMISSION

Classification of Wild Trout Streams; Proposed Additions and Adjustments; September 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 September 29 and 30, 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
Berks	Rodges Run	Delaware River	Headwaters to mouth
Cambria	Bear Rock Run	Little Conemaugh River	Headwaters to Christie Hollow
Cambria	UNT to North Branch Little Conemaugh River (RM 1.43)	North Branch Little Conemaugh River	Headwaters to mouth
Indiana	UNT to Little Yellow Creek	Little Yellow Creek	Headwaters to mouth
Somerset	Shanks Run	Laurel Hill Creek	Headwaters to mouth
Somerset	Ware Run	Brush Creek	Headwaters to mouth
Westmoreland	Harbridge Run	McGee Run	Headwaters to 400 m upstream of T-972 (Tannery Hollow Road)
York	Mill Branch	Otter Creek	Headwaters to mouth

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

County	Stream Name	Tributary To	Current Limits	Revised Limits
Westmoreland	Shirey Run	McGee Run	Headwaters to mouth	Headwaters to Bridge on T-972 (Gray Station Road)
Westmoreland	UNT to Conemaugh River (RM 40.83)	Conemaugh River	Headwaters to mouth	Headwaters to confluence with the Sugar Run Reservoir Outflow

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. 14-1589. Filed for public inspection July 25, 2014, 9:00 a.m.]

Proposed Changes to List of Class A Wild Trout Waters

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).

(v) Mixed Wild Brook and Rainbow Trout Fisheries

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

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

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

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

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

(vi) Mixed Wild Brown and Rainbow Trout Fisheries

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

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

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

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

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

During recent surveys, Commission staff documented the following stream section to have a Class A wild trout population. The Commission intends to consider adding this water to its list of Class A Wild Trout Streams at its meeting on September 29 and 30, 2014.

County	Stream	Section	Limits	Brook Trout (kg/ha)	Brown Trout (kg/ha)	Rainbow Trout (kg/ha)	Length (miles)	Survey Year
Somerset	Ware Run	01	Headwaters to Mouth	34.68	—	—	3.61	2013

Persons with comments, objections or suggestions concerning the addition 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

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. 14-1589. Filed for public inspection July 25, 2014, 9:00 a.m.]

Proposed Changes to List of Class A Wild Trout Waters

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).

(v) Mixed Wild Brook and Rainbow Trout Fisheries

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

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

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

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

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

(vi) Mixed Wild Brown and Rainbow Trout Fisheries

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

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

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

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

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

During recent surveys, Commission staff documented the following stream section to have a Class A wild trout population. The Commission intends to consider adding this water to its list of Class A Wild Trout Streams at its meeting on September 29 and 30, 2014.

County	Stream	Section	Limits	Brook Trout (kg/ha)	Brown Trout (kg/ha)	Rainbow Trout (kg/ha)	Length (miles)	Survey Year
Somerset	Ware Run	01	Headwaters to Mouth	34.68	—	—	3.61	2013

Persons with comments, objections or suggestions concerning the addition 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. 14-1590. Filed for public inspection July 25, 2014, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Action Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10 a.m., Thursday, July 10, 2014, and announced the following:

Action Taken—Regulations Approved:

Pennsylvania Gaming Control Board #125-169: Electronic Gaming Tables and Table Games Rules of Play (amends 58 Pa. Code Chapters 605a, 639a, 641a, 643a, 647a, 653a, 655a, and 657a)

State Board of Crane Operators #16A-7102: Fees (amends 49 Pa. Code § 6.4)

Philadelphia Parking Authority #126-5: Wheelchair Accessible Vehicle Taxicabs (amends 52 Pa. Code, Chapters 1001, 1011, 1017, 1019 and 1021)

Action Taken—Regulation Disapproved: Order Not Yet Issued

* State Board of Medicine #16A-4937: Genetic Counselors

* Will advise when order is issued.

Approval Order

Public Meeting Held
July 10, 2014

Commissioners Voting: John F. Mizner, Esq., Chairperson; George D. Bedwick, Vice Chairperson; W. Russell Faber; Lawrence J. Tabas, Esq., abstained; Dennis A. Watson, Esq.

*Pennsylvania Gaming Control Board—
Electronic Gaming Tables and Table Games Rules of Play;
Regulation No. 125-169 (#3005)*

On April 15, 2013, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Gaming Control Board (Board). This rulemaking amends 58 Pa. Code Chapters 605a, 639a, 641a, 643a, 647a, 653a, 655a, and 657a. The proposed regulation was published in the April 27, 2013 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on May 28, 2014.

This final-form rulemaking adds requirements for progressive table game systems, adds Progressive Payout Wagers to several games and adds the Bad Beat Bonus Wager to Four Card Poker.

We have determined this regulation is consistent with the statutory authority of the Board (4 Pa.C.S. §§ 1202(b)(30) and 13A02(1) and (2)) and the intention of the General Assembly. Having considered all of the other

criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting Held
July 10, 2014

Commissioners Voting: John F. Mizner, Esq., Chairperson; George D. Bedwick, Vice Chairperson; W. Russell Faber; Lawrence J. Tabas, Esq.; Dennis A. Watson, Esq.

*State Board of Crane Operators—Fees;
Regulation No. 16A-7102 (#3002)*

On April 2, 2013, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Crane Operators (Board). This rulemaking amends 49 Pa. Code § 6.4. The proposed regulation was published in the April 13, 2013 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on June 5, 2014.

This final-form regulation increases the biennial renewal fee for all licensed crane operators from \$100 to \$130.

We have determined this regulation is consistent with the statutory authority of the Board (63 P.S. § 2400.701(a)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting Held
July 10, 2014

Commissioners Voting: John F. Mizner, Esq., Chairperson; George D. Bedwick, Vice Chairperson; W. Russell Faber; Lawrence J. Tabas, Esq., abstained; Dennis A. Watson, Esq.

*Philadelphia Parking Authority—
Wheelchair Accessible Vehicle Taxicabs;
Regulation No. 126-5 (#3036)*

On October 15, 2013, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Philadelphia Parking Authority (Authority). This rulemaking amends 52 Pa. Code, Chapters 1001, 1011, 1017, 1019 and 1021. The proposed regulation was published in the October 26, 2013 *Pennsylvania Bulletin* with a 30-day public comment period. On June 6, 2014, the Commission received a request from the Authority to toll consideration of this final-form regulation