

# RULES AND REGULATIONS

## Title 17—CONSERVATION AND NATURAL RESOURCES

### DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

[ 17 PA. CODE CH. 45 ]

#### Conservation of Pennsylvania Native Wild Plants

The Department of Conservation and Natural Resources (Department), under the authority of section 7(c) of the Wild Resource Conservation Act (WRCA) (32 P.S. § 5307(c)) and sections 305(a)(9) and 313(g) of the Conservation and Natural Resources Act (CNRA) (71 P.S. §§ 1340.305(a)(9) and 1340.313(g)), amends Chapter 45 (relating to conservation of Pennsylvania native wild plants) as set forth in Annex A.

#### *Purpose*

The purpose of this final-form rulemaking is to amend Chapter 45 by updating Pennsylvania native wild plant species classification lists, including certain scientific names, common names and reference sources. (32 P.S. § 5307(c) and 71 P.S. §§ 1340.305(a)(9) and 1340.313(g)).

#### *Discussion*

The WRCA (32 P.S. §§ 5301—5314), inter alia, established a procedure for protection of wild flora/plants in this Commonwealth, including imposing powers and duties on the Department of Environmental Resources to investigate, classify and provide for the conservation of Pennsylvania wild plant populations.

The CNRA (71 P.S. §§ 1340.101—1340.1103), which, inter alia, created the Department under section 301 of the CNRA (71 P.S. § 1340.301) and under section 501 of the CNRA (71 P.S. § 1340.501) renamed the Department of Environmental Resources as the Department of Environmental Protection (DEP), provided that the Department shall exercise the powers and duties conferred upon the Department of Environmental Resources by section 305(a)(9) of the WRCA, including issuing and modifying regulations under section 313(g) of the WRCA.

The Department amends the conservation of Pennsylvania native wild plants regulations to update the following Pennsylvania native wild plant species classification lists, including updating certain scientific names, common names and reference sources: Pennsylvania Extirpated (§ 45.11), Pennsylvania Endangered (§ 45.12), Pennsylvania Threatened (§ 45.13), Pennsylvania Rare (§ 45.14) and Tentatively Undetermined (§ 45.21). The updates to the Pennsylvania native wild plant species classification lists include the following: (1) adding plant species to a classification list that are currently unclassified, (2) reclassifying plant species already on a classification list to a new classification and (3) removing plant species from the classification lists altogether (declassifying them).

This final-form rulemaking includes a total of 82 substantive changes to the conservation of Pennsylvania native wild plant regulation species classification lists as follows: (1) 24 currently unclassified native wild plant species will be newly classified, (2) 28 currently classified native wild plant species will be reclassified, including 3 species whose scientific names are changing/being updated (technically these are shown as the “old” name

being unclassified and the “new” name being classified) and (3) 30 currently classified native wild plant species will be unclassified.

The amendments to the Pennsylvania native wild plant species classification lists include updates to the scientific names for three native wild plant species and the common name for one native wild plant species. As botanical taxonomists make new discoveries about species, the Department’s standard reference, Ann Fowler Rhoads and Timothy A. Block, *The Plants of Pennsylvania: An Illustrated Manual Second Edition* (2007), Philadelphia, Pennsylvania: University of Pennsylvania Press (*The Plants of Pennsylvania*), may not include the most up-to-date nomenclature. In this final-form rulemaking, when the new name is not found in the standard reference, the alternate source is provided in parentheses.

#### *Process of classifying native wild plants in this Commonwealth*

Native wild plant species are those plant species that existed in this Commonwealth prior to European settlement. There are approximately 2,800 native wild plant species that currently exist or formerly existed in this Commonwealth. The Department classifies approximately 1/5 of these species because they are a conservation concern. The other 4/5 of these species are considered secure and thus not classified.

The Department begins the process of classifying native wild plants by collecting and analyzing data on native wild plant species in this Commonwealth. The Department uses the following data to make its classification decisions: numbers of populations known in this Commonwealth; number of individuals within populations; the plant’s range (within the United States and within this Commonwealth); threats such as pests, invasive species and habitat loss; decrease or increase in population numbers; and taxonomic information. (Note, this list is not exhaustive.) The Department analyzes this data to determine the population, distribution, habitat needs, limiting factors and other biological and ecological information about each plant species.

To make classification decisions, the Department uses data referred to as “State ranks.” In this Commonwealth, each plant species receives a State rank from the Pennsylvania Natural Heritage Program (Program). The Program assigns these ranks based on a methodology created by NatureServe, an international network of natural heritage programs. The purpose of NatureServe’s methodology is to bring consistency to the biodiversity conservation efforts of individuals and organizations throughout the Western Hemisphere. This methodology is used across North America, Central America and South America. By using this standard tool, the Department ensures its evaluation methods are, at a minimum, equivalent to those of other states and countries in the western hemisphere and that its classification decisions are based on sound science.

Throughout this process, the Department also receives data, information and recommendations from the Pennsylvania Biological Survey’s Vascular Plant Technical Committee (Committee). The Committee is composed of professional botanists working throughout this Commonwealth in academic, consulting, governmental and conservation organizations. Each year, the Committee makes

classification recommendations for native wild plants based on the research and expertise of its professional botanists.

The Department assimilates and reviews all data and recommendations it collects and receives and determines the appropriate classifications for each native wild plant species under the definitions in Chapter 45. This review process occurs continuously, as botanists are continually learning more about native wild plant species populations and threats. The Department will continue to update its classification lists as needed to reflect changes to native wild plant conservation needs.

#### *Native wild plant classifications*

How plants are classified determines the “management measures necessary for their continued ability to sustain themselves successfully.” (32 P.S. § 5307(a)). Native wild plant species that are at risk of extinction in this Commonwealth need greater protection than those less susceptible to that risk. Chapter 45 designates the level of risk facing Pennsylvania’s native wild plant species by classifying them as follows:

*Pennsylvania Extirpated* (§ 45.11)—A classification of plant species believed to be extinct in this Commonwealth. If a plant species classified as Pennsylvania Extirpated is later found to exist in this Commonwealth, it will automatically be considered classified as Pennsylvania Endangered.

*Pennsylvania Endangered* (§ 45.12)—A classification of plant species that are in danger of extinction throughout most or all of their natural range in this Commonwealth, if critical habitat is not maintained or if the species is greatly exploited by man. This classification also includes populations of plant species that have been classified as Pennsylvania Extirpated, but are subsequently found to exist in this Commonwealth.

*Pennsylvania Threatened* (§ 45.13)—A classification of plant species that may become endangered throughout most or all of their natural range in this Commonwealth, if critical habitat is not maintained to prevent their further decline, or if the species is greatly exploited by man.

*Pennsylvania Rare* (§ 45.14)—A classification of plant species that are uncommon in this Commonwealth because they have low population numbers, or are only found in restricted geographic areas.

*Pennsylvania Vulnerable* (§ 45.15)—A classification of plant species that are in danger of population decline in this Commonwealth because of their beauty, economic value, use as a cultivar or other factors which indicate that persons may seek to remove these species from their native habitats.

*Special Concern Population* (§ 45.20)—A classification of plant species that the Department has determined to be a unique occurrence deserving protection. Among the factors used to classify a plant species as a Special Concern Population are the existence of unusual geographic locations, unisexual populations or extraordinarily diverse plant populations.

*Tentatively Undetermined* (§ 45.21)—A classification of plant species that are in danger of population decline, but do not meet the criteria for any other classification due to taxonomic uncertainties, limited historical records or insufficient data.

#### *Updating species nomenclature*

This final-form rulemaking updates the scientific and common names of certain native wild plant species to conform to the Department’s taxonomic source material. The Department’s reference source for the nomenclature used to identify species taxonomy in Chapter 45 is *The Plants of Pennsylvania*. When the species name is not found there, the reference source will be provided in parentheses. Additionally, this final-form rulemaking corrects minor grammatical errors and misspellings of species names.

#### *Pennsylvania Natural Diversity Inventory*

The amendments will be incorporated into the Pennsylvania Natural Diversity Inventory (PNDI). PNDI is a database that maintains the Department’s list of native wild plant classifications, as well as native rare wildlife classifications from the Game Commission, the Fish and Boat Commission and the United States Fish and Wildlife Service. PNDI provides the most current, reliable and objective scientific information about ecological resources in this Commonwealth and it is used to help inform environmental decisions in this Commonwealth. Most notably, DEP uses PNDI to inform its environmental permitting decisions.

The overwhelming majority of PNDI users use PNDI as part of the process of obtaining a DEP permit. DEP requires permit applicants to screen their land use projects through PNDI for potential impacts to threatened or endangered species to receive a DEP permit. Threatened and endangered plant species are thereby protected by DEP’s permitting process.

Although this final-form rulemaking will result in updates to the plant data in PNDI, it will not affect DEP’s permitting process. The process of obtaining a DEP permit is beyond the scope of this final-form rulemaking; instead, PNDI’s connection to this final-form rulemaking is limited to its use of the plant data that will result from the amendments made by this final-form rulemaking. A person, business, small business or organization will not be required to invest in any additional administrative procedures as a direct result of this final-form rulemaking.

Finally, because this final-form rulemaking removes more species from classifications than it adds, there may be fewer classified plant species for prospective DEP permit applicants to account for when applying for a DEP permit. Depending on the project type, location and classified plant species in question, prospective DEP permit applicants may see no change in the amount of mitigation required to address impacts to threatened and endangered species in fulfilling permit requirements.

The proposed rulemaking was published at 52 Pa.B. 5476 (August 27, 2022). The public comment period closed on September 26, 2022. The Department received no public comments or comments from the Independent Regulatory Review Commission (IRRC). On October 26, 2022, IRRC advised the Department that IRRC has reviewed the proposed regulation and has no objections, comments or recommendations regarding the same. IRRC also advised that if the Department delivers this final-form rulemaking without revisions, and the Committees do not take any action, the final-form rulemaking will be deemed approved.

#### *Summary of this Final-form Rulemaking*

Section 45.11 (relating to Pennsylvania Extirpated) is amended to update the Pennsylvania Extirpated native

wild plant species classification list, including scientific and common names, as follows.

The following Pennsylvania native wild plant species are added to the Pennsylvania Extirpated native wild plant species classification list:

Scientific Name	Common Name
<i>Acalypha deamii</i> (Weath.) Ahles	Two-Seeded Copperleaf
<i>Cuscuta coryli</i> Engelm.	Hazel Dodder
<i>Cyperus retrorsus</i> Chapm.	Retrorsed Flatsedge
<i>Gymnopogon ambiguus</i> (Michx.) Britton, Stearns & Poggenb.	Broad-Leaved Beardgrass
<i>Utricularia subulata</i> L.	Slender Bladderwort

The following Pennsylvania native wild plant species are deleted from the Pennsylvania Extirpated native wild plant species classification list:

Scientific Name	Common Name
<i>Carex alopecoidea</i> Tuckerman	Foxtail Sedge
<i>Distichlis spicata</i> (L.) Greene	Sea-Shore Salt-Grass
<i>Hypericum gymnanthum</i> Engelm. & A. Gray	Clasping-Leaved St. John's-Wort
<i>Matelea carolinensis</i> (Jacq.) Woods.	Carolina Milkvine
<i>Myrica heterophylla</i> Raf.	Evergreen Bayberry

Section 45.12 (relating to Pennsylvania Endangered) is amended to update the Pennsylvania Endangered native wild plant species classification list, including scientific and common names, as follows.

The following Pennsylvania native wild plant species are added to the Pennsylvania Endangered native wild plant species classification list:

Scientific Name	Common Name
<i>Aletris farinosa</i> L.	Colic-Root
<i>Arnoglossum reniforme</i> (Hook.) H. E. Robins.	Great Indian Plantain
<i>Asplenium bradleyi</i> D. C. Eaton	Bradley's Spleenwort
<i>Astragalus canadensis</i> L.	Canadian Milk-Vetch
<i>Bidens bidentoides</i> (Nutt.) Britton	Swamp Beggar-Ticks
<i>Camassia scilloides</i> (Raf.) Cory	Wild Hyacinth
<i>Carex lupuliformis</i> Sartwell	False Hop Sedge
<i>Carex roanensis</i> F. J. Herm (Source: Flora of the Southeastern United States, Weakley 2020)	Roan Mountain Sedge
<i>Carex schweinitzii</i> Schwein.	Schweinitz's Sedge
<i>Carex sterilis</i> Willd.	Sterile Sedge
<i>Corallorhiza wisteriana</i> Conrad	Spring Coral-Root

Scientific Name	Common Name
<i>Cypripedium reginae</i> Walter	Showy Lady's-Slipper
<i>Fraxinus quadrangulata</i> Michx. (Source: Flora of the Southeastern United States, Weakley 2020)	Blue Ash
<i>Gaylussacia brachycera</i> (Michx.) A. Gray	Box Huckleberry
<i>Gratiola aurea</i> Muhl. ex Pursh	Golden Hedge-Hyssop
<i>Hierochloa hirta</i> (Schrank) Borbás (Source: Flora of the Southeastern United States, Weakley 2020)	Common Northern Sweet Grass
<i>Hypericum gymnanthum</i> Engelm. & A. Gray	Clasping-Leaved St. John's-Wort
<i>Lysimachia hybrida</i> Michx.	Lance-Leaved Loosestrife
<i>Lythrum alatum</i> Pursh	Winged Loosestrife
<i>Marshallia pulchra</i> W. M. Knapp, D. B. Poind. & Weakley (Source: Flora of the Southeastern United States, Weakley 2020)	Beautiful Barbara's Buttons
<i>Salix candida</i> Flügge ex Willd.	Hoary Willow
<i>Spiraea corymbosa</i> Rafinesque (Source: Flora of the Southeastern United States, Weakley 2020)	Dwarf Spiraea
<i>Trifolium stoloniferum</i> Eaton (Source: Flora of the Southeastern United States, Weakley 2020)	Running Buffalo Clover
<i>Viola glaberrima</i> (Ging.) House (Source: Flora of the Southeastern United States, Weakley 2020)	Wedge-Leaved Violet

The following Pennsylvania native wild plant species are deleted from the Pennsylvania Endangered native wild plant species classification list:

Scientific Name	Common Name
<i>Carex collinsii</i> Nutt.	Collins' Sedge
<i>Carex gravida</i> Bailey	Heavy Sedge
<i>Cyperus acuminatus</i> Torr. & Hook.	Short-Pointed Flatsedge
<i>Cyperus retrorsus</i> Chapm.	Retrorsed Flatsedge
<i>Desmodium humifusum</i> (Muhl.) Beck	Trailing Tick-Trefoil
<i>Diarrhena obovata</i> ( Gleason) Brandenburg	Obovate Beakgrass
<i>Glyceria borealis</i> (Nash)	Small-Floating Mannagrass
<i>Gymnopogon ambiguus</i> (Michx.) Britton, Stearns & Poggenb.	Broad-Leaved Beardgrass
<i>Juncus longii</i> Fern.	Long's Rush

<i>Scientific Name</i>	<i>Common Name</i>
<i>Marshallia grandiflora</i> Beadle & F. E. Boynton	Large-flowered Marshallia
<i>Passiflora lutea</i> L.	Passion-Flower
<i>Thalictrum coriaceum</i> (Britton) Small	Thick-Leaved Meadow-Rue
<i>Vitis novae-angliae</i> Fernald	New England Grape

Section 45.13 (relating to Pennsylvania Threatened) is amended to update the Pennsylvania Threatened native wild plants classification list, including scientific and common names, as follows.

The following Pennsylvania native wild plant species are added to the Pennsylvania Threatened native wild plant species classification list:

<i>Scientific Name</i>	<i>Common Name</i>
<i>Ageratina aromatica</i> (L.) Spach	Small White-Snakeroot
<i>Arabis patens</i> Sull.	Spreading Rockcress
<i>Asclepias verticillata</i> L.	Whorled Milkweed
<i>Bromus kalmii</i> A. Gray	Kalm's Brome
<i>Carex collinsii</i> Nutt.	Collins' Sedge
<i>Carex longii</i> Mack.	Long's Sedge
<i>Castilleja coccinea</i> (L.) Spreng.	Eastern Paintbrush
<i>Galium latifolium</i> Michx.	Purple Bedstraw
<i>Passiflora lutea</i> L.	Passion-Flower
<i>Platanthera ciliaris</i> (L.) Lindl.	Yellow Fringed-Orchid
<i>Ranunculus ambigens</i> S. Watson	Water-Plantain Spearwort
<i>Solidago roanensis</i> Porter	Mountain Goldenrod
<i>Stellaria borealis</i> Bigelow	Northern Stitchwort
<i>Thalictrum coriaceum</i> (Britton) Small	Thick-Leaved Meadow-Rue

The following Pennsylvania native wild plant species are deleted from the Pennsylvania Threatened native wild plant species classification list:

<i>Scientific Name</i>	<i>Common Name</i>
<i>Actaea podocarpa</i> DC	American Bugbane
<i>Asplenium bradleyi</i> D. C. Eaton	Bradley's Spleenwort
<i>Bidens bidentoides</i> (Nutt.) Britt.	Swamp Beggar-Ticks
<i>Camassia scilloides</i> (Raf.) Cory	Wild Hyacinth
<i>Carex paupercula</i> Michx.	Bog Sedge
<i>Carex schweinitzii</i> Schwein.	Schweinitz's Sedge
<i>Carex sterilis</i> Willd.	Atlantic Sedge
<i>Cypripedium reginae</i> Walter	Showy Lady's-Slipper
<i>Digitaria cognatum</i> (Schultes) Pilger	Fall Witch-Grass

<i>Scientific Name</i>	<i>Common Name</i>
<i>Gaylussacia brachycera</i> (Michx.) A. Gray	Box Huckleberry
<i>Salix candida</i> Flügge ex Willd.	Hoary Willow
<i>Spiraea betulifolia</i> Pallas var. <i>corymbosa</i> (Raf.) Maxim.	Dwarf Spiraea

Section 45.14 (relating to Pennsylvania Rare) is amended to update the Pennsylvania Rare native wild plant species classification list, including scientific and common names, as follows.

The following Pennsylvania native wild plant species are added to the Pennsylvania Rare native wild plant species classification list:

<i>Scientific Name</i>	<i>Common Name</i>
<i>Actaea podocarpa</i> DC	Mountain Bugbane
<i>Andropogon gyrans</i> Ashe	Elliott's Beardgrass
<i>Asplenium pinnatifidum</i> Nutt.	Lobed Spleenwort
<i>Bartonia paniculata</i> ssp. <i>paniculata</i> (Michx.) Muhl.	Screw-Stem
<i>Carex buxbaumii</i> Wahlenb.	Brown Sedge
<i>Carex paupercula</i> Michx.	Bog Sedge
<i>Erythronium albidum</i> Nutt.	White Trout-Lily
<i>Juncus biflorus</i> Elliott	Grass-Leaved Rush
<i>Lorinseria areolata</i> (Linnaeus) C. Presl. (Source: Flora of the Southeastern United States, Weakley 2020)	Netted Chain Fern

The following Pennsylvania native wild plant species are deleted from the Pennsylvania Rare native wild plant species classification list:

<i>Scientific Name</i>	<i>Common Name</i>
<i>Aplectrum hyemale</i> (Muhl. ex Willd.) Nutt.	Puttyroot
<i>Baccharis halimifolia</i> L.	Eastern Baccharis
<i>Collinsia verna</i> Nutt.	Spring Blue-Eyed Mary
<i>Eleocharis olivacea</i> Torr.	Capitate Spike-Rush
<i>Solidago roanensis</i> Porter	Tennessee Golden-Rod
<i>Tipularia discolor</i> (Pursh) Nutt.	Cranefly Orchid

Section 45.21 (relating to Pennsylvania Tentatively Undetermined) is amended to update the Pennsylvania Tentatively Undetermined native wild plant species classification list, including scientific and common names, as follows.

The following Pennsylvania native wild plant species are deleted from the Pennsylvania Tentatively Undetermined native wild plant species classification list:

<i>Scientific Name</i>	<i>Common Name</i>
<i>Adiantum pedatum</i> L. ssp. <i>caulderi</i> Cody	Northern Maidenhair Fern

<i>Scientific Name</i>	<i>Common Name</i>
<i>Aletris farinosa</i> L.	Colic-Root
<i>Ambrosia psilostachya</i> DC.	Naked-Spiked Ambrosia
<i>Carex buxbaumii</i> Wahlenb.	Brown Sedge
<i>Carex longii</i> Mack.	Long's Sedge
<i>Carex lupuliformis</i> Sartwell	False Hop Sedge
<i>Carex mesochorea</i> Mack.	Midland Sedge
<i>Castilleja coccinea</i> (L.) Spreng.	Scarlet Indian Paintbrush
<i>Corallorrhiza wisteriana</i> Conrad	Spring Coral-Root
<i>Cuscuta corylii</i> Engelm.	Hazel Dodder
<i>Cyperus odoratus</i> L.	Rusty Flatsedge
<i>Elatine minima</i> (Nutt.) Fisch. & C. A. Mey	Small Waterwort
<i>Elymus virginicus</i> L. var. <i>submuticus</i> Hook.	Wild Rye
<i>Gratiola aurea</i> Muhl. ex Pursh	Golden Hedge-Hyssop
<i>Juncus biflorus</i> Elliott	Grass-Leaved Rush
<i>Lythrum alatum</i> Pursh	Winged Loosestrife
<i>Oxydendrum arboreum</i> (L.) DC.	Sourwood

<i>Scientific Name</i>	<i>Common Name</i>
<i>Platanthera ciliaris</i> (L.) Lindl.	Yellow Fringed Orchid
<i>Rorippa palustris</i> (L.) Besser var. <i>palustris</i> (Gleason, H. A. and Cronquist, A., <i>Manual of Vascular Plants of Northeastern United States and Adjacent Canada</i> , 1991, Second Edition)	Yellow Cress
<i>Salix petiolaris</i> Sm.	Meadow Willow
<i>Salvia reflexa</i> Hornem.	Lance-Leaved Sage
<i>Viola tripartita</i> Elliott	Three-parted Violet

Summaries of the changes to the lists of classified plants, including very brief descriptions and reasons for the changes, follow. Additional detailed information on reasons for the changes can be found in the Department's Native Wild Plant Species Accounts (2022) on the Department's Rare, Threatened and Endangered Plants web site (click on "2022 Plant Species Accounts" or copy and paste the following URL: <http://elibrary.dcnr.pa.gov/GetDocument?docId=3709763&DocName=Native%20Wild%20Plant%20Species%20Accounts%202021.pdf>).

*Newly Classified Plant Species*

<i>Scientific Name</i>	<i>Common Name</i>	<i>Previous Status</i>	<i>New Status</i>	<i>Habitat/Identification</i>	<i>Reason for Change</i>
<i>Acalypha deamii</i> (Weath.) Ahles	Two-Seeded Copperleaf	N	PX	moist woods or riparian woods; flowers and fruits late summer—fall	only one population was known and not observed since 1900s (0 populations)
<i>Ageratina aromatica</i> (L.) Spach	Small-Leaved White-Snakeroot	N	PT	dry wood, poor soils, sandy open areas, serpentine soils; blooms August—October	population decline, specialized habitat (7 populations)
<i>Andropogon gyrans</i> Ashe	Elliott's Beardgrass	N	PR	dry or moist fields, open woods; blooms September—October	limited, geographic distribution, threats to existing populations (32 populations)
<i>Arabis patens</i> Sull.	Spreading Rockcress	N	PT	moist, rocky woods; flowers April—July	globally vulnerable, population declines, sensitive habitat (10 populations)
<i>Arnoglossum reniforme</i> (Hook.) H. E. Robins.	Great Indian Plantain	N	PE	wet woods and floodplains, seepage woodlands; flowers June—September	population decline, extreme rarity (1 population)
<i>Asclepias verticillata</i> L.	Whorled Milkweed	N	PT	dry rocky, sandy soils or barrens; flowers July—August	population declines, sensitive and limited habitat (10 populations)
<i>Asplenium pinnatifidum</i> Nutt.	Lobed Spleenwort	N	PR	crevices of dry, lightly shaded cliffs of non-calcareous rocks	population declines, habitat fragmentation (27 populations)

<i>Scientific Name</i>	<i>Common Name</i>	<i>Previous Status</i>	<i>New Status</i>	<i>Habitat/Identification</i>	<i>Reason for Change</i>
<i>Astragalus canadensis</i> L.	Canadian Milk-vetch	N	PE	limestone soils and open rocky or shale-rich areas and barrens; flowers late June—early August	population declines, invasive species; limestone habitats tend to be at risk (7 populations)
<i>Bartonia paniculata</i> ssp. <i>paniculata</i> (Michx.) Muhl.	Screw-Stem	N	PR	bogs and edges of peaty wetlands; flowers August—October	small number of individuals in populations, limited to boggy open wetlands; but tolerates some disturbed habitat (63 populations)
<i>Bromus kalmii</i> A. Gray	Kalm's Brome	N	PT	rocky wooded slopes and dry to moist, woods; flowers June—July	population decline; succession, invasive plants and habitat loss (12 populations)
<i>Carex roanensis</i> F. J. Herm (Source: Flora of the Southeastern United States, Weakley 2020)	Roan Mountain Sedge	N	PE	rich, moist woods, often dominated by beech trees; fruits in early summer	globally-rare species, very few and small populations, recently found in Pennsylvania (4 populations)
<i>Erythronium albidum</i> Nutt.	White Trout-Lily	N	PR	rich wooded slopes and floodplains on calcareous soil; flowers late April	population declines, small population sizes, geographically limited; threatened by invasive plants and habitat loss (48 populations)
<i>Fraxinus quadrangulata</i> Michx. (Source: Flora of the Southeastern United States, Weakley 2020)	Blue Ash	N	PE	moist to dry calcareous woodlands and forests	extreme rarity; threatened by forest pest emerald ash borer (1 population)
<i>Galium latifolium</i> Michx.	Purple Bedstraw	N	PT	woods, rocky slopes and roadsides; flowers June—July	populations have few individuals making it more vulnerable to disturbance (23 populations)
<i>Hierochloa hirta</i> (Schrank) Borbás (Source: Flora of the Southeastern United States, Weakley 2020)	Common Northern Sweet Grass	N	PE	fens, wet meadows, pastures and marsh edges; flowers April—August	extreme rarity, habitat threatened by invasive species, and fen and wetland impacts (4 populations)
<i>Lorinseria areolata</i> (Linnaeus) C. Presl. (Source: Flora of the Southeastern United States, Weakley 2020)	Netted Chain Fern	N	PR	moist or wet woods and acidic bogs	found in low numbers in Pennsylvania, in a restricted geographic distribution, limited by habitat (37 populations)
<i>Lysimachia hybrida</i> Michx.	Lance-Leaved Loosestrife	N	PE	swamps, wet meadows, fens and pond margins; flowers June—August	small populations, habitat loss and impacts to temporary ponds (5 populations)
<i>Marshallia pulchra</i> W. M. Knapp, D. B. Poind. & Weakley (Source: Flora of the Southeastern United States, Weakley 2020)	Beautiful Barbara's Buttons	N	PE	high-energy river scour habitat; flowers mid-June—mid-July	all populations of <i>Marshallia grandiflora</i> were redetermined to be <i>Marshallia pulchra</i> , extremely limited habitat (16 populations)

<i>Scientific Name</i>	<i>Common Name</i>	<i>Previous Status</i>	<i>New Status</i>	<i>Habitat/Identification</i>	<i>Reason for Change</i>
<i>Ranunculus ambigens</i> S. Watson	Water-Plantain Spearwort	N	PT	low wet ground, swamps, and muddy ditches; flowers May through August	population declines, small populations; threatened by deer pressure, changes in hydrology and invasive plants (10 populations)
<i>Spiraea corymbosa</i> Rafinesque (Source: Flora of the Southeastern United States, Weakley 2020)	Dwarf Spiraea	N	PE	rocky, wooded slopes; flowers June	population decline due to loss of habitat; name change from <i>Spiraea betulifolia</i> Pallas var. <i>corymbosa</i> (Raf.) Maxim. to <i>Spiraea corymbosa</i> Raf. (4 populations)
<i>Stellaria borealis</i> Bigelow	Northern Stitchwort	N	PT	slopes with springs, sphagnum swamps and stream banks; flowers May—August	population decline due to habitat loss, contracting habitat range (20 populations)
<i>Trifolium stoloniferum</i> Eaton (Source: Flora of the Southeastern United States, Weakley 2020)	Running Buffalo Clover	N	PE	dry upland woodlands and prairies in southwest Pennsylvania; flowers	Federally-listed species recently discovered in Pennsylvania, very few populations and globally rare plant (5 populations)
<i>Utricularia subulata</i> L.	Slender Bladderwort	N	PX	open wet, mucky or sandy soil; flowers June—August	known only from one herbarium specimen from 1900s, but surveys have not relocated it (0 populations)
<i>Viola glaberrima</i> (Gingins) H. House (Source: Flora of the Southeastern United States, Weakley 2020)	Wedge-Leaved Violet	N	PE	rich, moist forests on lower slopes and bottomlands; flowers late April—May	extremely rare; populations of <i>Viola glaberrima</i> were previously attributed to <i>Viola tripartita</i> (2 populations)

Key: N: Currently Unclassified; PX: § 45.11 Pennsylvania Extirpated; PE: § 45.12 Pennsylvania Endangered; PT: § 45.13 Pennsylvania Threatened; PR: § 45.14 Pennsylvania Rare; PV: § 45.15 Pennsylvania Vulnerable; TU: § 45.21 Tentatively Undetermined

*Currently Classified Plants Reclassified*

<i>Scientific Name</i>	<i>Common Name</i>	<i>Previous Status</i>	<i>New Status</i>	<i>Habitat/Identification</i>	<i>Reason for Change</i>
<i>Actaea podocarpa</i> DC	Mountain Bugbane	PT	PR	rich, wet woody slopes and coves; flowers in August	more populations than previously thought, but still uncommon and geographically limited (50 populations)
<i>Aletris farinosa</i> L.	Colic-Root	TU	PE	moist clearings in southeastern Pennsylvania; flowers May—July	multiple threats to habitat, population decline, very few sites remaining with small population sizes (3 populations)
<i>Asplenium bradleyi</i> D. C. Eaton	Bradley's Spleenwort	PT	PE	crevices of dry, shaded acidic rock outcrops	population declines, habitat loss or degradation (6 populations)
<i>Bidens bidentoides</i> (Nutt.) Britton	Swamp Beggar-Ticks	PT	PE	muddy tidal areas; flowers September—October	globally uncommon, limited to special habitat, population decline (9 populations)

<i>Scientific Name</i>	<i>Common Name</i>	<i>Previous Status</i>	<i>New Status</i>	<i>Habitat/Identification</i>	<i>Reason for Change</i>
<i>Camassia scilloides</i> (Raf.) Cory	Wild Hyacinth	PT	PE	moist woods; flowers April—May	extremely rare, habitat subject to conversion and invasive species (4 populations)
<i>Carex buxbaumii</i> Wahlenb.	Brown Sedge	TU	PR	calcareous wet areas including grasslands, meadows, swales, and wet woods; fruits in summer	relatively few populations and found in a restricted geographic range, habitat fragmentation (22 populations)
<i>Carex collinsii</i> Nutt.	Collins' Sedge	PE	PT	acidic swamps and boggy woods; fruits in summer	more populations than previously thought, but still limited by habitat availability (18 populations)
<i>Carex longii</i> Mack.	Long's Sedge	TU	PT	wet, sandy soils in swamps, thickets and meadows; fruits in summer	population declines, invasion, herbivory, habitat loss (15 populations)
<i>Carex lupuliformis</i> Sartwell	False Hop Sedge	TU	PE	vernal pools and other wet areas on calcareous substrates; fruits in summer	population declines, invasive plants, succession, impact to wetlands (11 populations)
<i>Carex paupercula</i> Michx.	Bog Sedge	PT	PR	sphagnum bogs and boggy woods; fruits in summer	more populations than previously thought but still restricted by geographic range (45 populations)
<i>Carex schweinitzii</i> Schwein.	Schweinitz's Sedge	PT	PE	calcareous marshes and stream banks; fruits in summer	globally-uncommon species, very few populations, range constricted, specialized habitat (6 populations)
<i>Carex sterilis</i> Willd.	Sterile Sedge	PT	PE	calcareous swamps and fens; fruits in summer	steep population decline, small population sizes. Changing common name from Atlantic Sedge to Sterile Sedge (8 populations)
<i>Castilleja coccinea</i> (L.) Spreng.	Eastern Paintbrush	TU	PT	parasitic on the roots of other plants; moist meadows, on limestone and diabase; flowers April—June	population declines, limited by limestone or diabase soils (15 populations)
<i>Corallorhiza wisteriana</i> Conrad	Spring Coral-Root	TU	PE	rocky, wooded slopes on limestone and diabase; flowers April—June	population decline, small population sizes, orchid species vulnerable to collection (5 populations)
<i>Cuscuta coryli</i> Engelm.	Hazel Dodder	TU	PX	dry rocky woods, clearings and hillsides where it is parasitic on various shrubs and herbs; flowers June—September, fruits July—October	last observed in 1950s, field surveys failed to relocate. Also correcting minor spelling mistake (changing to "coryli") (0 populations)
<i>Cyperus retrorsus</i> Chapm.	Retrorse Flatsedge	PE	PX	dry, open, sandy areas and ballast; flowers and fruits mid-summer to early fall	not observed in 50 years after surveys; habitat destroyed (0 populations)



<i>Scientific Name</i>	<i>Common Name</i>	<i>Previous Status</i>	<i>New Status</i>	<i>Habitat/Identification</i>	<i>Reason for Change</i>
<i>Cypripedium reginae</i> Walter	Showy Lady's-Slipper	PT	PE	fens and swamps; flowers May—June	population decline; threatened by impacts to wetland habitat, deer herbivory and poaching (7 populations)
<i>Gaylussacia brachycera</i> (Michx.) A. Gray	Box Huckleberry	PT	PE	well-drained open woods; flowers May, fruits August	globally-rare, slow growing and low germination rates, extreme rarity (3 populations)
<i>Gratiola aurea</i> Muhl. ex Pursh	Golden Hedge-Hyssop	TU	PE	moist or wet soils along streams or ponds; flowers July—August	population declines, extreme rarity (3 populations)
<i>Gymnopogon ambiguus</i> (Michx.) Britton, Stearns & Poggenb.	Broad-Leaved Beardgrass	PE	PX	serpentine barrens; flowers July—early October	one historic location was known, now destroyed, not observed elsewhere (0 populations)
<i>Hypericum gymnanthum</i> Engelm. & A. Gray	Clasping-Leaved St. John's-Wort	PX	PE	muddy, wet areas; flowers July—September	globally uncommon species; thought to be extirpated but rediscovered (1 population)
<i>Juncus biflorus</i> Elliott	Grass-Leaved Rush	TU	PR	moist, open woods, boggy fields, gravel pits and ditches; flowers and fruits in summer	uncommon, with geographic limitations; populations have small numbers of individuals that are more vulnerable to disturbance (39 populations)
<i>Lythrum alatum</i> Pursh	Winged Loosestrife	TU	PE	swamps, wet meadows, marshy shores, and ditches; flowers early July—September	severe population declines, wetland habitat is threatened by degradation and invasive plants, extremely rare (1 population)
<i>Passiflora lutea</i> L.	Passion-Flower	PE	PT	moist stream bank thickets; flowers July	more populations recently observed, still uncommon Statewide and small populations (20 populations)
<i>Platanthera ciliaris</i> (L.) Lindl.	Yellow Fringed-Orchid	TU	PT	bogs, moist meadows and woods; flowers July—August	population declines, small variable populations; requires wetland soil but can tolerate some disturbance (32 populations)
<i>Salix candida</i> Flügge ex Willd.	Hoary Willow	PT	PE	wet meadows and fens on calcareous soils	extreme rarity; limited by habitat, population decline (2 populations)
<i>Solidago roanensis</i> Porter	Mountain Goldenrod	PR	PT	rocky banks, roadsides, woods and edges; flowers August—September	population decline, range constricted (10 populations)

<i>Scientific Name</i>	<i>Common Name</i>	<i>Previous Status</i>	<i>New Status</i>	<i>Habitat/Identification</i>	<i>Reason for Change</i>
<i>Thalictrum coriaceum</i> (Britton) Small	Thick-Leaved Meadow-Rue	PE	PT	rich, rocky woods, thickets and moist alluvium; blooms late May—June	more populations discovered, but still uncommon, limited by habitat availability (21 populations)

Key: PX: § 45.11 Pennsylvania Extirpated; PE: § 45.12 Pennsylvania Endangered; PT: § 45.13 Pennsylvania Threatened; PR: § 45.14 Pennsylvania Rare; PV: § 45.15 Pennsylvania Vulnerable; TU: § 45.21 Tentatively Undetermined

*Classified Plant Species Declassified*

<i>Scientific Name</i>	<i>Common Name</i>	<i>Previous Status</i>	<i>New Status</i>	<i>Habitat/Identification</i>	<i>Reason for Change</i>
<i>Adiantum pedatum</i> L. ssp. <i>caulderi</i> Cody	Northern Maidenhair Fern	TU	DC	rich, deciduous woodland; incorrectly thought to inhabit serpentine barrens	not found in Pennsylvania (0 populations)
<i>Ambrosia psilostachya</i> DC.	Naked-Spiked Ambrosia	TU	DC	sandy shores or meadows; blooms August—October	not native to Pennsylvania
<i>Aplectrum hyemale</i> (Muhl. ex Willd.) Nutt.	Puttyroot	PR	DC	moist, rich, wooded slopes and bottomlands; blooms May—August	more common than previously thought, may not be limited by habitat (at least 64 populations)
<i>Baccharis halimifolia</i> L.	Eastern Baccharis	PR	DC	native open sandy areas, marshes and beaches but adventive along roadsides where de-icing salt is used; flowers August—October	expanding habitat, utilizes roadsides influenced by de-icing salts, highly mobile species (abundant)
<i>Carex alopecoidea</i> Tuckerman	Foxtail Sedge	PX	DC	wet soils and meadows, streambanks and openings in streamside woods, particularly on calcareous soils; fruits in July	not found in Pennsylvania (0 populations)
<i>Carex gravida</i> Bailey	Heavy Sedge	PE	DC	prairies and other open areas usually on calcareous soils; fruits in summer	not found in Pennsylvania (0 populations)
<i>Carex mesochorea</i> Mack.	Midland Sedge	TU	DC	dry, open woods, fields, and roadsides; fruits in summer	more populations of this species have been found; common and not a conservation concern (abundant)
<i>Collinsia verna</i> Nutt.	Spring Blue-Eyed Mary	PR	DC	woods and scrubby areas near streams; flowers late April—May	more populations than thought, large numbers of individuals in populations; secure and not a conservation concern (at least 50 populations)
<i>Cyperus acuminatus</i> Torr. & Hook.	Short-Pointed Flatsedge	PE	DC	wet, sandy, disturbed ground; flowers and fruits mid-summer to early fall	not native to Pennsylvania

<i>Scientific Name</i>	<i>Common Name</i>	<i>Previous Status</i>	<i>New Status</i>	<i>Habitat/Identification</i>	<i>Reason for Change</i>
<i>Cyperus odoratus</i> L.	Rusty Flatsedge	TU	DC	moist meadows, wet sandy or gravelly flats, and riverbanks; flowers and fruits mid-summer to early fall	grows in disturbed habitat, expanding its range; more common than previously thought and not a conservation concern (abundant)
<i>Desmodium humifusum</i> (Muhl.) Beck	Trailing Tick-Trefoil	PE	DC	dry sandy woods; flowers August—September	hybrid of two common species, not a conservation concern
<i>Diarrhena obovata</i> (Gleason) Brandenburg	Obovate Beakgrain	PE	DC	rich woods	more common than previously thought with large populations, expanding range, not limited by habitat (abundant)
<i>Digitaria cognatum</i> (Schultes) Pilger	Fall Witch-Grass	PT	DC	sandy, moist soils; flowers July—early October	able to use disturbed areas, not limited by habitat, not in decline (abundant)
<i>Distichlis spicata</i> (L.) Greene	Sea-Shore Salt-Grass	PX	DC	waste grounds and ballast; flowers August—October	not native to Pennsylvania
<i>Elatine minima</i> (Nutt.) Fisch. & C. A. Mey	Small Waterwort	TU	DC	shorelines of ponds, lakes and impoundments; flowers July—August	more frequent and widespread than had previously been thought; not limited by habitat (abundant)
<i>Eleocharis olivacea</i> Torr.	Capitate Spike-Rush	PR	DC	bogs and wetlands with sandy-peaty soil; flower/fruits mid to late summer	more widespread and frequent than previously thought (at least 40 populations)
<i>Elymus virginicus</i> L. var. <i>submuticus</i> Hook.	Wild Rye	TU	DC	moist soils of open forests, thickets, grasslands, ditches, and disturbed ground; flowers June—August	not native to Pennsylvania
<i>Glyceria borealis</i> (Nash) Batch.	Small-Floating Mannagrass	PE	DC	shallow lakes and streams; flowers in July	more common than previously thought, not limited by habitat quality (at least 19 populations)
<i>Juncus longii</i> Fern.	Long's Rush	PE	DC	habitat attributed to this species was early successional seepages with exposed soils, but not found in Pennsylvania	not found in Pennsylvania; specimens of this species found to be another species (0 populations)
<i>Marshallia grandiflora</i> Beadle & F. E. Boynton	Large-Flowered Marshallia	PE	DC	habitat uncertain but possibly borders of swamps; flowers June—August in North Carolina	not found in Pennsylvania; all populations of <i>Marshallia grandiflora</i> were redetermined to be <i>Marshallia pulchra</i> (0 populations)
<i>Matelea carolinensis</i> (Jacq.) Woods.	Carolina Milkvine	PX	DC	habitat previously attributed to this species was moist woods, thickets, river banks, ditches and fence rows; flowers June and July	not native and does not occur in Pennsylvania (0 populations)

<i>Scientific Name</i>	<i>Common Name</i>	<i>Previous Status</i>	<i>New Status</i>	<i>Habitat/Identification</i>	<i>Reason for Change</i>
<i>Myrica heterophylla</i> Raf.	Evergreen Bayberry	PX	DC	habitat previously attributed to this species was swamps and moist, low ground on the coastal plain; flowers April or May	does not occur in Pennsylvania (0 populations)
<i>Oxydendrum arboreum</i> (L.) DC	Sourwood	TU	DC	dry woods and along slopes; blooms in August	more common than previously thought, able to utilize disturbed habitat, expanding range (at least 31 populations)
<i>Rorippa palustris</i> (L.) Besser var. <i>palustris</i> (Gleason, H. A. and A. Cronquist, <i>Manual of Vascular Plants of Northeastern United States and Adjacent Canada</i> , 1991, Second Edition)	Yellow Cress	TU	DC	wet shores and low open ground; flowers May—September	common and not in need of conservation (abundant)
<i>Salix petiolaris</i> Sm.	Meadow Willow	TU	DC	meadows and swales; flowers just before leaves emerge	more common than previously thought (at least 32 populations)
<i>Salvia reflexa</i> Hornem.	Lance-Leaved Sage	TU	DC	stream banks, old fields, roadsides, cinders, and quarry waste; flowers June—September	not native to Pennsylvania
<i>Spiraea betulifolia</i> Pallas var. <i>corymbosa</i> (Raf.) Maxim.	Dwarf Spiraea	PT	DC	rocky, wooded slopes; flowers June	name changed to <i>Spiraea corymbosa</i> Rafinesque
<i>Tipularia discolor</i> (Pursh) Nutt.	Crane-fly Orchid	PR	DC	deciduous forests and stream banks in southeast Pennsylvania; flowers July—August	more common than previously thought (at least 83 populations)
<i>Viola tripartita</i> Elliot	Three-Parted Violet	TU	DC	moist slopes and bottomland especially over calcareous substrate in southern Pennsylvania; flowers late March—May	not found in Pennsylvania, populations previously attributed to this species are <i>Viola glaberrima</i> (0 populations)
<i>Vitis novae-angliae</i> Fernald	New England Grape	PE	DC	in moist mountain woods, ravines and roadside thickets; flowers May; fruits August through November	found to be a sterile hybrid of two common species, and is a hybrid without conservation value (abundant)

Key: DC: Declassified; PX: § 45.11 Pennsylvania Extirpated; PE: § 45.12 Pennsylvania Endangered; PT: § 45.13 Pennsylvania Threatened; PR: § 45.14 Pennsylvania Rare; PV: § 45.15 Pennsylvania Vulnerable; TU: § 45.21 Tentatively Undetermined

*Plant Species Name Changes/Updates*

The names of the following native wild plant species are changed/updated:

*Spiraea betulifolia* Pallas var. *corymbosa* (Raf.) Maxim. is deleted from Pennsylvania Threatened (§ 45.13) classification and *Spiraea corymbosa* Rafinesque (Source: Flora of the Southeastern United States, Weakley 2020) is added to Pennsylvania Endangered (§ 45.12) classification. *Spiraea*

*corymbosa* is the accepted taxonomy for this species and the appropriate classification is Pennsylvania Endangered.

*Marshallia grandiflora* Beadle & F. E. Boynton is deleted from Pennsylvania Endangered (§ 45.12) classification and *Marshallia pulchra* W. M. Knapp, D. B. Poind. & Weakley (Source: Flora of the Southeastern United States, Weakley 2020) is added to Pennsylvania Endangered (§ 45.12) classification. The correct name for this

species is *Marshallia pulchra* and the correct classification is Pennsylvania Endangered.

*Viola tripartita* Elliot is deleted from Tentatively Undetermined (§ 45.21) classification and *Viola glaberrima* (Ging.) House (Source: Flora of the Southeastern United States, Weakley 2020) is added to Pennsylvania Endangered (§ 45.12) classification. The correct name for these plants is *Viola glaberrima* and the correct classification is Pennsylvania Endangered.

The common name of *Carex sterilis* Willd. is changed from Atlantic Sedge to Sterile Sedge. Both names are accepted common names. However, the Department prefers Sterile Sedge, as it is a more descriptive name.

#### *Fiscal Impact*

*Commonwealth.* This final-form rulemaking will not have a fiscal impact on this Commonwealth.

*Political subdivisions.* This final-form rulemaking will not have a fiscal impact on political subdivisions.

*Public.* This final-form rulemaking will not have a fiscal impact on the public.

#### *Benefits, Costs and Compliance*

*Benefits.* This final-form rulemaking will benefit State, county and municipal conservation planning officials, environmental regulatory agencies, landowners, conservation districts, conservation groups and other organizations concerned with the welfare of the environment, because it more accurately represents the native wild plants in this Commonwealth in need of the most protection. This final-form rulemaking also benefits the citizens of this Commonwealth by protecting this Commonwealth's natural resources, which is a constitutional right. See Pa.Const. Art. I, § 27.

Keeping up-to-date classifications of native wild plants ensures that the Department and other public and private conservation organizations are targeting the appropriate species in their conservation efforts. This will help maintain a healthy biodiversity of ecological systems in this Commonwealth.

*Costs and compliance.* This final-form rulemaking will not impose additional compliance costs.

*Paperwork requirements.* There are no additional paperwork requirements associated with this final-form rulemaking.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on August 17, 2022, the Department submitted a copy of the proposed rulemaking, published at 52 Pa.B. 5476, to IRRC and to the Chairpersons of the House and Senate Environmental Resources and Energy Committees. The Department received no public comments or comments from IRRC.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on July 12, 2023, this final-form rulemaking was deemed approved by the House and Senate Committees. As the Department delivered the final-form regulation without revisions, and the Committees did not take any action, the final-form regulation was deemed approved by IRRC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on July 13, 2023, and approved the final-form rulemaking.

#### *Effective Date*

The regulation will become effective upon final publication in the *Pennsylvania Bulletin*.

#### *Contact Person*

For an explanation of this final-form rulemaking, contact Rebecca H. Bowen, Chief, Conservation Science and Ecological Resources Division, Bureau of Forestry, Department of Conservation and Natural Resources, P.O. Box 8552, Harrisburg, PA 17105-8552, (717) 787-3444, rebbowen@pa.gov or RA-Ch45WildPlants@pa.gov.

#### *Findings*

The Department finds that:

(1) Public notice of intention to adopt the regulations has been given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), referred to as the Commonwealth Documents Law, and regulations promulgated thereunder at 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) At least a 30-day public comment period was provided as required by law and no public comments were submitted.

(3) This final-form rulemaking does not enlarge the purpose of the proposed rulemaking published at 52 Pa.B. 5476.

(4) This final-form rulemaking is necessary and appropriate for the administration and enforcement of the authorizing acts identified in this preamble.

#### *Order*

The Department, acting under the authorizing statutes, orders that:

(1) The regulations of the Department, 17 Pa. Code Chapter 45, are amended by amending §§ 45.11—45.14 and 45.21 to read as set forth in Annex A.

(2) The Department shall submit this final-form rulemaking and Annex A to the Office of Attorney General and the Office of General Counsel for approval as to legality, as required by law.

(3) The Department shall submit this final-form rulemaking and Annex A to IRRC and the House and Senate Committees, as required by law.

(4) The Department shall certify this final-form rulemaking and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(5) This final-form rulemaking shall take effect upon publication in the *Pennsylvania Bulletin*.

CINDY ADAMS DUNN,

*Secretary*

(*Editor's Note:* See 53 Pa.B. 4068 (July 29, 2023) for IRRC's approval order.)

**Fiscal Note:** Fiscal Note 7B-10 remains valid for the final adoption of the subject regulations.

#### **Annex A**

### **TITLE 17. CONSERVATION AND NATURAL RESOURCES**

#### **PART I. DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES**

##### **Subpart D. RESOURCE CONSERVATION**

#### **CHAPTER 45. CONSERVATION OF PENNSYLVANIA NATIVE WILD PLANTS**

##### **Subchapter B. CLASSIFIED PLANTS**

#### **§ 45.11. Pennsylvania Extirpated.**

Plant species classified as Pennsylvania Extirpated are as follows:

Scientific Name	Common Name
<i>Acalypha deamii</i> (Weath.) Ahles	Two-Seeded Copperleaf
<i>Aeschynomene virginica</i> (L.) Britton, Stearns & Poggenb.	Sensitive Joint-Vetch
<i>Agalinis decemloba</i> (Greene) Pennell	Blue Ridge False Foxglove
<i>Agrostis altissima</i> (Walter) Tuck.	Tall Bentgrass
<i>Arctostaphylos uva-ursi</i> (L.) Spreng.	Bearberry Manzanita
<i>Asclepias rubra</i> L.	Red Milkweed
<i>Astragalus neglectus</i> (Torr. & A. Gray) Sheldon	Cooper's Milk-Vetch
<i>Berberis canadensis</i> P. Mill.	American Barberry
<i>Buchnera americana</i> L.	Bluehearts
<i>Carex adusta</i> Boott	Crowded Sedge
<i>Carex backii</i> Boott	Rocky Mountain Sedge
<i>Carex barrattii</i> Schwein. & Torr.	Barratt's Sedge
<i>Carex chordorrhiza</i> L.f.	Creeping Sedge
<i>Carex foenea</i> Willd.	Fernald's Hay Sedge
<i>Carex hyalinolepis</i> Steud.	Shoreline Sedge
<i>Carex nigra</i> (L.) Reichard	Black Sedge
<i>Carex sartwellii</i> Dewey	Sartwell's Sedge
<i>Chamaecyparis thyoides</i> (L.) Britton, Stearns & Poggenb.	Atlantic White-Cedar
<i>Commelina erecta</i> L.	Slender Dayflower
<i>Commelina virginica</i> L.	Virginia Dayflower
<i>Coreopsis rosea</i> Nutt.	Pink Tickseed
<i>Crassula aquatica</i> (L.) Schönland	Water-Pigmyweed
<i>Crotonopsis elliptica</i> Willd.	Elliptical Rushfoil
<i>Cuscuta coryli</i> Engelm.	Hazel Dodder
<i>Cynoglossum boreale</i> Fernald	Northern Hound's Tongue
<i>Cyperus polystachyos</i> Rottb.	Many-Spiked Flatsedge
<i>Cyperus retrorsus</i> Chapm.	Retorse Flatsedge
<i>Cypripedium candidum</i> Muhl. ex Willd.	Small White Lady's-Slipper
<i>Desmodium sessilifolium</i> (Torr.) Torr. and A. Gray	Sessile-Leaved Tick Trefoil
<i>Dichantherium leibergii</i> (Vasey) Freckmann	Leiberg's Panic Grass
<i>Dichantherium spretum</i> (Schult.) Freckmann	Eaton's Witchgrass
<i>Diphasiastrum sabinifolium</i> (Willd.) Holub.	Fir Clubmoss
<i>Draba reptans</i> (Lam.) Fernald	Carolina Whitlow-Grass

Scientific Name	Common Name
<i>Echinacea laevigata</i> (C. L. Boynton & Beadle) S. F. Blake	Smooth Purple Coneflower
<i>Elatine americana</i> (Pursh) Arn.	Long-Stem Waterwort
<i>Eleocharis tricostata</i> Torr.	Three-Ribbed Spike-Rush
<i>Eleocharis tuberculosa</i> (Michx.) Roem. & Schult.	Long-Tuberclad Spike-Rush
<i>Elodea schweinitzii</i> (Planch) Casp.	Schweinitz's Waterweed
<i>Eriocaulon decangulare</i> L.	Ten-Angle Pipewort
<i>Eriocaulon parkeri</i> B. L. Rob.	Parker's Pipewort
<i>Eryngium aquaticum</i> L.	Marsh Eryngo
<i>Eupatorium album</i> L. var <i>album</i>	White Thoroughwort
<i>Eupatorium leucolepis</i> (DC) Torr. & A. Gray	White-Bracted Thoroughwort
<i>Euphorbia obtusata</i> Pursh	Blunt-Leaved Spurge
<i>Fimbristylis puberula</i> (Michx.) Vahl	Hairy Fimbry
<i>Galactia regularis</i> (L.) Britton, Stearns & Poggenb.	Eastern Milk-Pea
<i>Galactia volubilis</i> (L.) Britton	Downy Milk-Pea
<i>Gentiana catesbaei</i> Walter	Elliott's Gentian
<i>Gentianopsis virgata</i> (Raf.) Holub	Narrow-Leaved Fringed Gentian
<i>Gymnopogon ambiguus</i> (Michx.) Britton, Stearns & Poggenb.	Broad-Leaved Beardgrass
<i>Helianthus angustifolius</i> L.	Swamp Sunflower
<i>Hordeum pusillum</i> Nutt. Á Löve	Little-Barley
<i>Hottonia inflata</i> Elliott	American Featherfoil
<i>Hydrocotyle umbellata</i> L.	Many-Flowered Pennywort
<i>Hypericum adpressum</i> Raf. ex Barton	Creeping St. John's-Wort
<i>Hypericum crux-andreae</i> (L.) Crantz	St. Peter's-Wort
<i>Hypericum denticulatum</i> Walter	Coppery St. John's-Wort
<i>Ilex glabra</i> (L.) A. Gray	Inkberry
<i>Itea virginica</i> L.	Virginia-Willow
<i>Juncus greenei</i> Oakes & Tuck.	Greene's Rush
<i>Koeleria macrantha</i> (Ledeb.) Schultes	Junegrass
<i>Leiophyllum buxifolium</i> (Berg.) Elliott	Sand-Myrtle
<i>Lespedeza stuevei</i> Nutt.	Tall Bush-Clover
<i>Limosella australis</i> R. Br.	Awl-Shaped Mudwort
<i>Lobelia nuttallii</i> Roem. & Schult.	Nuttall's Lobelia

Scientific Name	Common Name
<i>Ludwigia sphaerocarpa</i> Elliott	Spherical-Fruited Seedbox
<i>Lysimachia quadriflora</i> Sims	Four-Flowered Loosestrife
<i>Micranthemum micranthemoides</i> (Nutt.) Wettst.	Nuttall's Mud-Flower
<i>Muhlenbergia capillaris</i> (Lam.) Trin.	Short Muhly
<i>Onosmodium virginianum</i> (L.) A. DC.	Virginia False Gromwell
<i>Ophioglossum vulgatum</i> L. var. <i>pyncostichum</i> Fernald	Adders Tongue
<i>Phoradendron leucarpum</i> (Raf.) Reveal & M. C. Johnst.	Christmas Mistletoe
<i>Phyllanthus caroliniensis</i> Walt.	Carolina Leaf-Flower
<i>Platanthera cristata</i> (Michx.) Lindl.	Crested Yellow Orchid
<i>Platanthera leucophaea</i> (Nutt.) Lindl.	Prairie White-Fringed Orchid
<i>Polygala lutea</i> L.	Yellow Milkwort
<i>Populus heterophylla</i> L.	Swamp Cottonwood
<i>Potamogeton alpinus</i> Balbis	Northern Pondweed
<i>Potamogeton praelongus</i> Wulfen	White-Stem Pondweed
<i>Prenanthes racemosa</i> Michx.	Glaucous Rattlesnake-Root
<i>Proserpinaca pectinata</i> Lam.	Comb-Leaved Mermaid-Weed
<i>Ranunculus hederaceus</i> L.	Long-Stalked Crowfoot
<i>Rhododendron calendulaceum</i> (Michx.) Torr.	Flame Azalea
<i>Rhynchospora fusca</i> (L.) Aiton f.	Brown Beak-Rush
<i>Rhynchospora gracilentia</i> A. Gray	Beak-Rush
<i>Ruellia caroliniensis</i> (Walter ex J. F. Gmel.) Steud.	Carolina Petunia
<i>Sabatia campanulata</i> (L.) Torr.	Slender Marsh-Pink
<i>Sabatia stellaris</i> Pursh	Sea Pink
<i>Saccharum giganteum</i> (Walter) Pers.	Sugarcane-Plumegrass
<i>Sagittaria filiformis</i> J. G. Sm.	Water Arrow-Head
<i>Schoenoplectus heterochaetus</i> Chase (Sojak)	Slender Bulrush
<i>Scutellaria serrata</i> Andr.	Showy Skullcap
<i>Sisyrinchium fuscatum</i> E. P. Bicknell	Sand Blue-Eyed Grass

Scientific Name	Common Name
<i>Smilax pseudochina</i> L.	Long-Stalked Greenbrier
<i>Sparganium natans</i> L.	Small Bur-Reed
<i>Spiraea virginiana</i> Britton	Virginia Spiraea
<i>Spiranthes magnicamporum</i> Sheviak	Ladies'-Tresses
<i>Trifolium reflexum</i> L.	Buffalo Clover
<i>Triglochin palustris</i> L.	Marsh Arrowgrass
<i>Utricularia fibrosa</i> Walt.	Fibrous Bladderwort
<i>Utricularia resupinata</i> B. D. Greene ex Bigelow	Northeastern Bladderwort
<i>Utricularia subulata</i> L.	Slender Bladderwort

#### § 45.12. Pennsylvania Endangered.

Plant species classified as Pennsylvania Endangered are as follows:

Scientific Name	Common Name
<i>Aconitum reclinatum</i> A. Gray	White Monkshood
<i>Acorus americanus</i> (Raf.) Raf.	Sweet Flag
<i>Agalinis auriculata</i> (Michx.) S. F. Blake	Eared False Foxglove
<i>Agalinis paupercula</i> (A. Gray) Britton	Small-Flowered False Foxglove
<i>Aletris farinosa</i> L.	Colic-Root
<i>Alisma triviale</i> Pursh	Broad-Leaved Water-Plantain
<i>Alnus viridis</i> (Vill.) DC	Mountain Alder
<i>Amelanchier bartramiana</i> (Tausch) M. Roem.	Oblong-Fruited Serviceberry
<i>Ammania coccinea</i> Rottb.	Scarlet Ammannia
<i>Anemone cylindrica</i> A. Gray	Long-Headed Anemone
<i>Arabis missouriensis</i> Greene	Missouri Rockcress
<i>Arethusa bulbosa</i> L.	Dragon's-Mouth
<i>Arnica acaulis</i> (Walter) Britton, Stearns & Poggenb.	Leopard's-Bane
<i>Arnoglossum reniforme</i> (Hook.) H. E. Robins.	Great Indian Plantain
<i>Artemisia campestris</i> L. ssp. <i>caudata</i> (Michx.) Hall & Clements.	Beach Wormwood
<i>Asclepias variegata</i> L.	White Milkweed
<i>Asplenium bradleyi</i> D. C. Eaton	Bradley's Spleenwort
<i>Asplenium resiliens</i> Kunze	Black-Stemmed Spleenwort
<i>Astragalus canadensis</i> L.	Canadian Milk-vetch
<i>Bidens beckii</i> (Torr. ex Spreng.) Greene	Beck's Water-Marigold
<i>Bidens bidentoides</i> (Nutt.) Britton	Swamp Beggar-Ticks

Scientific Name	Common Name
<i>Boltonia asteroides</i> (L.) L'Hér.	Aster-Like Boltonia
<i>Camassia scilloides</i> (Raf.) Cory	Wild Hyacinth
<i>Cardamine pratensis</i> L. var. <i>palustris</i> Wimm. & Grab. (Gleason, H. A. and A. Cronquist, Manual of Vascular Plants of Northeastern United States and Adjacent Canada, 1991, Second Edition)	Cuckooflower
<i>Carex atherodes</i> Spreng.	Awned Sedge
<i>Carex aurea</i> Nutt.	Golden-Fruited Sedge
<i>Carex bebbii</i> (Bailey) Fern.	Bebb's Sedge
<i>Carex bicknellii</i> Britton	Bicknell's Sedge
<i>Carex bullata</i> Willd.	Bull Sedge
<i>Carex careyana</i> Dewey	Carey's Sedge
<i>Carex crinita</i> Lam. var. <i>brevicrinis</i> Fernald	Short-Hair Sedge
<i>Carex eburnea</i> Boott	Ebony Sedge
<i>Carex formosa</i> Dewey	Handsome Sedge
<i>Carex garberi</i> Fernald	Elk Sedge
<i>Carex geyeri</i> Boott	Geyer's Sedge
<i>Carex lupuliformis</i> Sartwell	False Hop Sedge
<i>Carex mitchelliana</i> M. A. Curtis	Mitchell's Sedge
<i>Carex pauciflora</i> Lightf.	Few-Flowered Sedge
<i>Carex polymorpha</i> Muhl.	Variable Sedge
<i>Carex pseudocyperus</i> L.	Cyperus-Like Sedge
<i>Carex retrorsa</i> Schwein.	Backward Sedge
<i>Carex roanensis</i> F. J. Herm (Source: Flora of the Southeastern United States, Weakley 2020)	Roan Mountain Sedge
<i>Carex schweinitzii</i> Schwein.	Schweinitz's Sedge
<i>Carex sterilis</i> Willd.	Sterile Sedge
<i>Carex typhina</i> Michx.	Cat-Tail Sedge
<i>Carex viridula</i> Michx.	Green Sedge
<i>Cerastium velutinum</i> Raf. var. <i>villosissimum</i> (Pennell) J. K. Morton	Octoraro Creek Chickweed
<i>Chasmanthium laxum</i> (L.) H. O. Yates	Slender Wild-Oats
<i>Chenopodium foggii</i> Wahl	Fogg's Goosefoot
<i>Chrysogonum virginianum</i> L.	Green-and-Gold
<i>Cirsium horridulum</i> Michx.	Horrible Thistle
<i>Cladium mariscoides</i> (Muhl.) Torr.	Twig-Rush
<i>Clematis viorna</i> L.	Leather-Flower

Scientific Name	Common Name
<i>Clethra acuminata</i> Michx.	Mountain Pepperbush
<i>Clitoria mariana</i> L.	Butterfly Pea
<i>Coeloglossum viride</i> (L.) Hartm.	Long-Bracted Green Orchis
<i>Conioselinum chinense</i> (L.) Britton, Stearns & Poggenb.	Hemlock-Parsley
<i>Corallorhiza wisteriana</i> Conrad	Spring Coral-Root
<i>Cryptogramma stelleri</i> (Gmel.) Prantl	Slender Rockbrake
<i>Cymophyllus fraserianus</i> (Ker Gawl.) Kartesz & Gandhi	Fraser's Sedge
<i>Cyperus diandrus</i> Torr.	Umbrella Sedge
<i>Cyperus houghtonii</i> Torr.	Houghton's Flatsedge
<i>Cyperus refractus</i> Engelm.	Reflexed Flatsedge
<i>Cypripedium parviflorum</i> Salisb. var. <i>makasin</i> (Source: Flora of North America)	Northern Small Yellow Lady's-Slipper
<i>Cypripedium parviflorum</i> Salisb. var. <i>parviflorum</i> (Source: Flora of North America)	Southern Small Yellow Lady's-Slipper
<i>Cypripedium reginae</i> Walter	Show Lady's-Slipper
<i>Delphinium exaltatum</i> Aiton	Tall Larkspur
<i>Dicentra eximia</i> (Ker Gwal.) Torr.	Wild Bleeding-Heart
<i>Dichanthelium scoparium</i> (Lam.) Gould	Velvety Panic Grass
<i>Dichanthelium xanthophysum</i> (A. Gray) Freckmann	Slender Panic Grass
<i>Dodecatheon meadia</i> L.	Shooting-Star
<i>Dryopteris campyloptera</i> (Kunze) Clarkson	Mountain Wood Fern
<i>Echinochloa walteri</i> (Pursh) A. Heller	Walter's Barnyard-Grass
<i>Eleocharis caribaea</i> (Rottb.) S. F. Blake	Capitate Spike-Rush
<i>Eleocharis compressa</i> Sull.	Flat-Stemmed Spike-Rush
<i>Eleocharis elliptica</i> Kunth	Slender Spike-Rush
<i>Eleocharis obtusa</i> (Willd.) Schult. var. <i>peasei</i> Svenson	Wright's Spike-Rush
<i>Eleocharis parvula</i> (Roem. & Schult.) Link ex Buffon & Fingerh.	Dwarf Spike-Rush
<i>Eleocharis pauciflora</i> (Lightf.) Link var. <i>fernaldii</i> Swenson	Few-Flowered Spike-Rush
<i>Eleocharis quadrangulata</i> (Michx.) Roem. & Schult.	Four-Angled Spike-Rush



<i>Scientific Name</i>	<i>Common Name</i>
<i>Eleocharis rostellata</i> (Torr.) Torr.	Beaked Spike-Rush
<i>Eleocharis tenuis</i> (Willd.) Schult. var. <i>verrucosa</i> (Svenson) Svenson	Slender Spike-Rush
<i>Equisetum scirpoides</i> Michx. (Source: Flora of North America)	Dwarf Scouring-Rush
<i>Equisetum variegatum</i> Schleich.	Variiegated Scouring-Rush
<i>Eriophorum gracile</i> Koch ex Roth	Slender Cotton-Grass
<i>Eriophorum tenellum</i> Nutt.	Rough Cotton-Grass
<i>Euphorbia ipecacuanhae</i> L.	Wild Ipecac
<i>Euphorbia purpurea</i> (Raf.) Fernald	Glade Spurge
<i>Eurybia spectabilis</i> (Aiton) Nesom	Showy Aster
<i>Festuca paradoxa</i> Desv.	Cluster Fescue
<i>Fraxinus profunda</i> (Bush) Bush	Pumpkin Ash
<i>Fraxinus quadrangulata</i> Michx. (Source: Flora of the Southeastern United States, Weakley 2020)	Blue Ash
<i>Galium labradoricum</i> Wiegand	Bog Bedstraw
<i>Gaylussacia brachycera</i> (Michx.) A. Gray	Box Huckleberry
<i>Gaylussacia dumosa</i> (Andr.) Torr. & A. Gray	Dwarf Huckleberry
<i>Geranium bicknellii</i> Britton	Cranesbill
<i>Glyceria obtusa</i> (Muhl.) Trin.	Blunt Manna-Grass
<i>Goodyera tessellata</i> Lodd.	Checkered Rattlesnake-Plantain
<i>Gratiola aurea</i> Muhl. ex Pursh	Golden Hedge-Hyssop
<i>Helianthemum bicknellii</i> Fernald	Bicknell's Hoary Rockrose
<i>Heteranthera multiflora</i> (Griseb.) Horn.	Multi-Flowered Mud-Plantain
<i>Hieracium traillii</i> Greene	Maryland Hawkweed
<i>Hierochloa hirta</i> (Schränk) Borbás (Source: Flora of the Southeastern United States, Weakley 2020)	Common Northern Sweet Grass
<i>Hierochloa odorata</i> (L.) Beauv.	Vanilla Sweet-Grass
<i>Huperzia porophila</i> (F. E. Lloyd & Underw.) Holub	Sandstone-Loving Firmoss
<i>Hydrophyllum macrophyllum</i> Nutt.	Large-Leaved Water-Leaf
<i>Hypericum gymnanthum</i> Engelm. & A. Gray	Clasping-Leaved St. John's-Wort

<i>Scientific Name</i>	<i>Common Name</i>
<i>Iodanthus pinnatifidus</i> (Michx.) Steud.	Purple-Rocket
<i>Iris cristata</i> Sol. ex Aiton	Dwarf Crested Iris
<i>Iris prismatica</i> Pursh	Slender Blue Flag
<i>Iris verna</i> L.	Dwarf Iris
<i>Isotria medeoloides</i> (Pursh) Raf.	Small-Whorled Pogonia
<i>Juncus brachycarpus</i> Engelm.	Short-Fruited Rush
<i>Juncus dichotomus</i> Elliott	Forked Rush
<i>Juncus militaris</i> Bigelow	Bayonet Rush
<i>Juncus scirpoides</i> Lam.	Scirpus-Like Rush
<i>Lespedeza angustifolia</i> (Pursh) Elliott	Narrow-Leaved Bush-Clover
<i>Ligusticum canadense</i> (L.) Britton	Nondo Lovage
<i>Linum intercursum</i> E. P. Bicknell	Sandplain Wild Flax
<i>Linum sulcatum</i> Riddell	Grooved Yellow Flax
<i>Lipocarpa micrantha</i> (Vahl) G. C. Tucker	Common Hemicarpha
<i>Listera australis</i> Lindl.	Southern Twayblade
<i>Listera cordata</i> (L.) R. Br.	Heartleaf Twayblade
<i>Listera smallii</i> Wiegand	Kidney-Leaved Twayblade
<i>Lithospermum carolinense</i> (J. F. Gmel.) MacMill.	Hispid Gromwell
<i>Lithospermum latifolium</i> Michx.	American Gromwell
<i>Lobelia kalmii</i> L.	Brook Lobelia
<i>Lobelia puberula</i> Michx.	Downy Lobelia
<i>Lonicera oblongifolia</i> (Goldie) Hook.	Swamp Fly-Honeysuckle
<i>Lonicera villosa</i> (Michx.) Roem. & Schult.	Mountain Fly-Honeysuckle
<i>Ludwigia decurrens</i> Walter	Upright Primrose-Willow
<i>Ludwigia polycarpa</i> Short & Peter	False Loosestrife Seedbox
<i>Lycopodiella alopecuroides</i> (L.) Cranfill	Foxtail Bog Clubmoss
<i>Lycopodiella margueritae</i> J. G. Bruce, W. H. Wagner & Beitel	Marguerite's Clubmoss
<i>Lycopus rubellus</i> Moench.	Taper-Leaved Bugle-Weed
<i>Lyonia mariana</i> (L.) D. Don	Staggerbush
<i>Lysimachia hybrida</i> Michx.	Lance-Leaved Loosestrife
<i>Lythrum alatum</i> Pursh	Winged Loosestrife
<i>Malaxis bayardii</i> Fernald	Adder's-Mouth
<i>Marshallia pulchra</i> W. M. Knapp, D. B. Poind. & Weakley (Source: Flora of Southeastern United States, Weakley 2020)	Beautiful Barbara's Buttons

Scientific Name	Common Name
<i>Matelea obliqua</i> (Jacq.) Woodson	Oblique Milkvine
<i>Mitella nuda</i> L.	Naked Bishop's-Cap
<i>Monarda punctata</i> L.	Spotted Bee-Balm
<i>Montia chamissoi</i> (Ledeb. ex Spreng.) Greene	Chamisso's Miner's-Lettuce
<i>Muhlenbergia uniflora</i> (Muhl.) Fern.	Fall Dropseed Muhly
<i>Myriophyllum farwellii</i> Morong	Farwell's Water-Milfoil
<i>Myriophyllum sibiricum</i> Komarov	Northern Water-Milfoil
<i>Myriophyllum verticillatum</i> L.	Whorled Water-Milfoil
<i>Najas marina</i> L.	Holly-Leaved Naiad
<i>Oclemena nemoralis</i> (Aiton) E. Greene	Leafy Bog Aster
<i>Onosmodium molle</i> Michx. var. <i>hispidissimum</i> (Mack.) Cronquist	False Gromwell
<i>Ophioglossum engelmannii</i> Prantl	Limestone Adder's-Tongue
<i>Packera antennariifolia</i> (Britton) W. A. Weber & Löve	Cat's-Paw Ragwort
<i>Panicum amarum</i> Elliott var. <i>amarulum</i> (A. Hitchc. & Chase) P. G. Palmer	Beachgrass
<i>Parnassia glauca</i> Raf.	Grass-of-Parnassus
<i>Paxistima canbyi</i> A. Gray	Canby's Mountain-Lover
<i>Persicaria careyi</i> (Olney) Greene	Carey's Smartweed
<i>Persicaria setacea</i> (Baldwin) Small	Swamp Smartweed
<i>Phlox ovata</i> L.	Mountain Phlox
<i>Phlox subulata</i> L. ssp. <i>brittonii</i> (Small) Wherry	Moss Pink
<i>Piptatherum pungens</i> (Torr. ex Spreng.) Dorn	Slender Mountain Ricegrass
<i>Platanthera aquilonis</i> Sheviak, Lindleyana (Source: Flora of North America)	Northern Green Orchid
<i>Platanthera dilatata</i> (Pursh) Lindl. ex Beck	Tall White Bog-Orchid
<i>Platanthera huronensis</i> (Nutt.) Lindl.	Huron Green Orchid
<i>Poa autumnalis</i> Muhl. ex Elliott	Autumn Bluegrass
<i>Polemonium van-bruntiae</i> Britton	Jacob's-Ladder
<i>Polygala cruciata</i> L.	Cross-Leaved Milkwort
<i>Polygala curtissii</i> A. Gray	Curtis' Milkwort
<i>Polygala incarnata</i> L.	Pink Milkwort

Scientific Name	Common Name
<i>Polystichum braunii</i> (Spenn.) Fee	Braun's Holly Fern
<i>Populus balsamifera</i> L.	Balsam Poplar
<i>Potamogeton friesii</i> Rupr.	Fries' Pondweed
<i>Potamogeton gramineus</i> L.	Grassy Pondweed
<i>Potamogeton hillii</i> Morong	Hill's Pondweed
<i>Potamogeton obtusifolius</i> Mert. & Koch	Blunt-Leaved Pondweed
<i>Potamogeton pulcher</i> Tuck.	Spotted Pondweed
<i>Potamogeton strictifolius</i> A. Benn.	Narrow-Leaved Pondweed
<i>Potamogeton tennesseensis</i> Fernald	Tennessee Pondweed
<i>Potamogeton vaseyi</i> J. W. Robbins	Vasey's Pondweed
<i>Potentilla fruticosa</i> L.	Shrubby Cinquefoil
<i>Potentilla paradoxa</i> Nutt.	Bushy Cinquefoil
<i>Potentilla tridentata</i> Aiton	Three-Toothed Cinquefoil
<i>Prunus maritima</i> Marshall	Beach Plum
<i>Prunus nigra</i> Ait.	Canada Plum
<i>Ptilimnium capillaceum</i> (Michx.) Raf.	Mock Bishop-Weed
<i>Pycnanthemum torrei</i> Benth.	Torrey's Mountain-Mint
<i>Quercus falcata</i> Michx.	Southern Red Oak
<i>Quercus phellos</i> L.	Willow Oak
<i>Quercus shumardii</i> Buckley	Shumard Oak
<i>Ranunculus fascicularis</i> Muhl. ex J. M. Bigelow	Tufted Buttercup
<i>Ratibida pinnata</i> (Vent.) Barnhart	Gray-Headed Prairie Coneflower
<i>Rhamnus lanceolata</i> Pursh	Lanceolate Buckthorn
<i>Rhexia mariana</i> L.	Maryland Meadow-Beauty
<i>Rhododendron atlanticum</i> (Ashe) Rehder	Dwarf Azalea
<i>Rhynchospora capillacea</i> Torr.	Capillary Beak-Rush
<i>Ribes missouriense</i> Nutt. ex Torr. & A. Gray	Missouri Gooseberry
<i>Rubus cuneifolius</i> Pursh	Sand Blackberry
<i>Ruellia humilis</i> Nutt.	Fringed-Leaved Petunia
<i>Sagittaria calycina</i> Engelm.	Long-Lobed Arrowhead
<i>Salix candida</i> Flügge ex Willd.	Hoary Willow
<i>Scheuchzeria palustris</i> L.	Pod-Grass
<i>Schoenoplectus acutus</i> (Muhl. ex Bigel.) Löve & Löve	Hard-Stemmed Bulrush
<i>Schoenoplectus smithii</i> (A. Gray) Sojak	Smith's Bulrush

<i>Scientific Name</i>	<i>Common Name</i>
<i>Schoenoplectus torreyi</i> (Olney) Palla	Torrey's Bulrush
<i>Scirpus ancistrochaetus</i> Schuyler	Northeastern Bulrush
<i>Scleria minor</i> (Britton) Stone	Small Nut-Rush
<i>Scleria muhlenbergii</i> Steud.	Reticulated Nut-Rush
<i>Scleria verticillata</i> Muhl. ex Willd.	Whorled Nut-Rush
<i>Sedum rosea</i> (L.) Scop.	Roseroot Stonecrop
<i>Sericocarpus linifolius</i> (L.) Britton, Stearns & Poggenb.	Narrow-Leaved White-Topped Aster
<i>Shepherdia canadensis</i> (L.) Nutt.	Canada Buffalo-Berry
<i>Sida hermaphrodita</i> (L.) Rusby	Virginia Mallow
<i>Sisyrinchium atlanticum</i> E. P. Bicknell	Eastern Blue-Eyed-Grass
<i>Solidago arguta</i> Aiton var. <i>harrisii</i> (E. S. Steele) Cronquist	Harris' Goldenrod
<i>Solidago curtissii</i> Torr. & A. Gray	Curtis' Goldenrod
<i>Solidago erecta</i> Banks ex Pursh	Slender Goldenrod
<i>Solidago simplex</i> Kunth ssp. <i>randii</i> (Porter) Ringius var. <i>racemosa</i> (Greene) Ringius	Sticky Goldenrod
<i>Sorbus decora</i> (Sarg.) Schneid.	Showy Mountain-Ash
<i>Sparganium androcladum</i> (Engelm.) Morong	Branching Bur-Reed
<i>Spiraea corymbosa</i> Rafinesque (Source: Flora of the Southeastern United States, Weakley 2020)	Dwarf Spiraea
<i>Spiranthes casei</i> Catling & Cruise	Case's Ladies'-Tresses
<i>Spiranthes ovalis</i> Lindl.	October Ladies'-Tresses
<i>Spiranthes romanzoffiana</i> Cham.	Hooded Ladies'-Tresses
<i>Spiranthes vernalis</i> Engelm. & A. Gray	Spring Ladies'-Tresses
<i>Sporobolus clandestinus</i> (Biehler) A. Hitchc.	Rough Dropseed
<i>Sporobolus cryptandrus</i> (Torr.) A. Gray	Sand Dropseed
<i>Sporobolus heterolepis</i> (A. Gray) A. Gray	Prairie Dropseed
<i>Stachys nuttallii</i> Shuttlew. ex Benth.	Nuttall's Hedge-Nettle
<i>Swertia caroliniensis</i> (Walter) Kuntze	American Columbo

<i>Scientific Name</i>	<i>Common Name</i>
<i>Symphotrichum boreale</i> (Torr. & Gray) A Löve & D. Löve	Northern Bog Aster
<i>Taenidia montana</i> (Mack.) Cronquist	Mountain Pimpernel
<i>Trichostema setaceum</i> Houtt.	Narrow-Leaved Blue-Curls
<i>Trifolium stoloniferum</i> Eaton (Source: Flora of the Southeastern United States, Weakley 2020)	Running Buffalo Clover
<i>Trifolium virginicum</i> Small	Kate's-Mountain Clover
<i>Triphora trianthophora</i> (Swartz) Rydb.	Nodding Pogonia
<i>Triplasis purpurea</i> (Walter) Chapm.	Purple Sandgrass
<i>Trollius laxus</i> Salisb.	Spreading Globe-Flower
<i>Veronia glauca</i> (L.) Willd.	Tawny Ironweed
<i>Viburnum nudum</i> L.	Possum Haw Viburnum
<i>Viola brittoniana</i> Pollard	Coast Violet
<i>Viola glaberrima</i> (Ging.) House (Source: Flora of the Southeastern United States, Weakley 2020)	Wedge-Leaved Violet
<i>Vitis rupestris</i> Scheele	Sand Grape
<i>Zigadenus glaucus</i> (Nutt.) Nutt.	White Camas

#### § 45.13. Pennsylvania Threatened.

Plant species classified as Pennsylvania Threatened are as follows:

<i>Scientific Name</i>	<i>Common Name</i>
<i>Aconitum uncinatum</i> L.	Blue Monkshood
<i>Ageratina aromatica</i> (L.) Spach	Small White-Snakeroot
<i>Ammophila breviligulata</i> Fernald	American Beachgrass
<i>Arabis patens</i> Sull.	Spreading Rockcress
<i>Arceuthobium pusillum</i> Peck	Dwarf Mistletoe
<i>Aristida purpurascens</i> Poir.	Arrow-Feather Three-Awned Grass
<i>Asclepias verticillata</i> L.	Whorled Milkweed
<i>Baptisia australis</i> (L.) R. Br.	Blue False Indigo
<i>Bouteloua curtipendula</i> (Michx.) Torr.	Tall Gramma
<i>Bromus kalmii</i> A. Gray	Kalm's Brome
<i>Carex alata</i> Torr.	Broad-Winged Sedge
<i>Carex aquatilis</i> Wahlenb.	Water Sedge
<i>Carex collinsii</i> Nutt.	Collins' Sedge
<i>Carex cryptolepis</i> Mack.	Northeastern Sedge
<i>Carex diandra</i> Schrank	Lesser Panicked Sedge
<i>Carex flava</i> L.	Yellow Sedge

Scientific Name	Common Name
<i>Carex longii</i> Mack.	Long's Sedge
<i>Carex oligosperma</i> Michx.	Few-Seeded Sedge
<i>Carex prairea</i> Dewey	Prairie Sedge
<i>Carex tetanica</i> Schkuhr	Wood's Sedge
<i>Carex wiegandii</i> Mack.	Wiegand's Sedge
<i>Castilleja coccinea</i> (L.) Spreng.	Eastern Paintbrush
<i>Chamaesyce polygonifolia</i> (L.) Small	Seaside Spurge
<i>Chrysopsis mariana</i> (L.) Elliott	Maryland Golden-Aster
<i>Dodecatheon amethystinum</i> (Fassett) Fassett	Jeweled Shooting-Star
<i>Eleocharis intermedia</i> (Muhl.) Schult.	Matted Spike-Rush
<i>Eleocharis robbinsii</i> Oakes	Robbins' Spike-Rush
<i>Ellisia nyctelea</i> L.	Ellisia
<i>Erigenia bulbosa</i> (Michx.) Nutt.	Harbinger-of-Spring
<i>Eriophorum viridicarinatum</i> (Engelm.) Fernald	Thin-Leaved Cottongrass
<i>Euthamia caroliniana</i> (L.) Greene ex Porter & Britton	Grass-Leaved Goldenrod
<i>Fimbristylis annua</i> (All.) Roem. & Schult.	Annual Fimbry
<i>Galium latifolium</i> Michx.	Purple Bedstraw
<i>Hypericum densiflorum</i> Pursh	Bushy St. John's-Wort
<i>Hypericum majus</i> (A. Gray) Britton	Canadian St. John's-Wort
<i>Ilex opaca</i> Aiton	American Holly
<i>Juncus alpinoarticulatus</i> Chaix in Vill. ssp. <i>nodulosus</i> (Wahlenb.) Hämet-Ahti.	Richardson's Rush
<i>Juncus arcticus</i> Willd. var. <i>littoralis</i> (Engelm.) Boivin.	Baltic Rush
<i>Juncus brachycephalus</i> (Engelm.) L. Buch.	Small-Headed Rush
<i>Juncus torreyi</i> Coville	Torrey's Rush
<i>Lathyrus japonicus</i> Willd.	Beach Pea
<i>Lathyrus ochroleucus</i> Hook.	Wild Pea
<i>Linnaea borealis</i> L.	Twinflower
<i>Lobelia dortmanna</i> L.	Water Lobelia
<i>Lycopodiella appressa</i> (Chapm.) Cranfill	Appressed Bog Clubmoss
<i>Magnolia tripetala</i> (L.) L.	Umbrella Magnolia
<i>Magnolia virginiana</i> L.	Sweetbay Magnolia
<i>Melica nitens</i> Nutt.	Three-Flowered Melic Grass
<i>Minuartia glabra</i> (Michx.) Mattf.	Appalachian Sandwort
<i>Myrica gale</i> L.	Sweet-gale

Scientific Name	Common Name
<i>Myriophyllum tenellum</i> Bigelow	Slender Water-Milfoil
<i>Najas gracillima</i> (A. Braun) Magnus	Bushy Naiad
<i>Nymphoides cordata</i> (Elliott) Fernald	Floating-Heart
<i>Oenothera argillicola</i> Mack.	Shale-Barren Evening-Primrose
<i>Panicum tuckermanii</i> Fernald	Tuckerman's Panic-Grass
<i>Passiflora lutea</i> L.	Passion-Flower
<i>Phemeranthus teretifolius</i> (Pursh) Raf.	Round-Leaved Fameflower
<i>Platanthera ciliaris</i> (L.) Lindl.	Yellow Fringed Orchid
<i>Platanthera peramoena</i> (A. Gray) A. Gray	Purple Fringeless Orchid
<i>Poa paludigena</i> Fernald & Wiegand	Bog Bluegrass
<i>Potamogeton confervoides</i> Reichenb.	Tuckerman's Pondweed
<i>Potamogeton richardsonii</i> (Benn.) Rydb.	Red-Head Pondweed
<i>Ptelea trifoliata</i> L.	Hoptree
<i>Ranunculus ambigenus</i> S. Watson	Water-Plantain Spearwort
<i>Ranunculus longirostris</i> Godron	Eastern White Water-Crowfoot
<i>Ribes triste</i> Pallas	Wild Red Currant
<i>Ruellia strepens</i> L.	Limestone Petunia
<i>Salix serissima</i> (Bailey) Fernald	Autumn Willow
<i>Scirpus pedicellatus</i> Fernald	Stalked Bulrush
<i>Scleria pauciflora</i> Muhl. ex Willd.	Few-Flowered Nutrush
<i>Solidago roanensis</i> Porter	Mountain Goldenrod
<i>Solidago uliginosa</i> Nutt.	Bog Goldenrod
<i>Stellaria borealis</i> Bigelow	Northern Stitchwort
<i>Streptopus amplexifolius</i> (L.) DC	Twisted-Stalk
<i>Symphyotrichum depauperatum</i> (Fernald) Nesom	Serpentine Aster
<i>Symphyotrichum novi-belgii</i> (L.) Nesom var. <i>novi-belgii</i>	New York Aster
<i>Thalictrum coriaceum</i> (Britton) Small	Thick-Leaved Meadow-Rue
<i>Utricularia intermedia</i> Hayne	Flat-Leaved Bladderwort
<i>Viola appalachensis</i> L. K. Henry	Appalachian Blue Violet
<i>Vittaria appalachiana</i> Farrar & Mickel	Appalachian Grass-Fern

## § 45.14. Pennsylvania Rare.

Plant species classified as Pennsylvania Rare are as follows:

Scientific Name	Common Name
<i>Actaea podocarpa</i> DC	Mountain Bugbane
<i>Amaranthus cannabinus</i> (L.) Sauer	Water-Hemp Ragweed
<i>Andromeda polifolia</i> L.	Bog-Rosemary
<i>Andropogon gyrans</i> Ashe	Elliott's Beardgrass
<i>Asplenium pinnatifidum</i> Nutt.	Lobed Spleenwort
<i>Bartonia paniculata</i> ssp. <i>paniculata</i> (Michx.) Muhl.	Screw-Stem
<i>Cakile edentula</i> (Bigelow) Hook.	American Sea-Rocket
<i>Carex buxbaumii</i> Wahlenb.	Brown Sedge
<i>Carex disperma</i> Dewey	Soft-Leaved Sedge
<i>Carex lasiocarpa</i> Ehrh.	Many-Fruited Sedge
<i>Carex paupercula</i> Michx.	Bog Sedge
<i>Cyperus engelmannii</i> Steud.	Engelmann's Flatsedge
<i>Cyperus schweinitzii</i> Torr.	Schweinitz's Flatsedge
<i>Dichanthelium commonsianum</i> (Ashe) Freckmann var. <i>euchlamydeum</i> (Shinners) Pohl	Cloaked Panic Grass
<i>Epilobium strictum</i> Muhl.	Downy Willow-Herb
<i>Erythronium albidum</i> Nutt.	White Trout-Lily
<i>Gaultheria hispidula</i> (L.) Muhl. ex Bigelow	Creeping Snowberry
<i>Juncus biflorus</i> Elliott	Grass-Leaved Rush
<i>Juncus filiformis</i> L.	Thread Rush
<i>Ledum groenlandicum</i> Oeder	Common Labrador-Tea
<i>Lorinseria areolata</i> (Linnaeus) C. Presl. (Source: Flora of the Southeastern United States, Weakley 2020)	Netted Chain Fern
<i>Lupinus perennis</i> L.	Blue Lupine
<i>Lygodium palmatum</i> (Bernh.) Sw.	Hartford Fern
<i>Menziesia pilosa</i> (Michx.) Juss.	Minniebush
<i>Opuntia humifusa</i> (Raf.) Raf.	Eastern Prickly-Pear Cactus
<i>Orontium aquaticum</i> L.	Golden Club
<i>Packeria anonyma</i> (A. W. Wood) W. A. Weber & Á Löve	Appalachian Groundsel
<i>Potamogeton robbinsii</i> Oakes	Flat-Leaved Pondweed
<i>Potamogeton zosteriformis</i> Fernald	Flat-Stemmed Pondweed

Scientific Name	Common Name
<i>Potentilla anserina</i> L.	Silverweed
<i>Prunus pumila</i> L. var. <i>pumila</i>	Sand Cherry
<i>Pyrularia pubera</i> Michx.	Buffalo-Nut
<i>Ranunculus micranthus</i> (Gray) Nutt. ex Torr. & Gray	Small-Flowered Crowfoot
<i>Rotala ramosior</i> (L.) Koehne	Toothcup
<i>Sagittaria subulata</i> (L.) L. Buch.	Subulate Arrowhead
<i>Schizachyrium scoparium</i> (Michx.) Nash var. <i>littorale</i> (Nash) Gould	Seaside Bluestem
<i>Schoenoplectus fluviatilis</i> (Torr.) Strong	River Bulrush
<i>Sedum telephioides</i> Michx.	Allegheny Stonecrop
<i>Trillium nivale</i> Riddell	Snow Trillium
<i>Wolffiella gladiata</i> (Hegelm.) Hegelm.	Bog-Mat
<i>Xyris montana</i> Ries.	Yellow Eyed Grass
<i>Zizania aquatica</i> L.	Indian Wild Rice

## § 45.21. Tentatively Undetermined.

Plant species classified as Tentatively Undetermined are as follows:

Scientific Name	Common Name
<i>Agalinis obtusifolia</i> Raf.	False-Foxglove
<i>Amelanchier humilis</i> Wiegand	Low Serviceberry
<i>Amelanchier obovalis</i> (Michx.) Ashe	Coastal Juneberry
<i>Amelanchier sanguinea</i> (Pursh) DC.	Roundleaf Juneberry
<i>Andropogon glomeratus</i> (Walter) Britton, Stearns & Poggenb.	Bushy Bluestem
<i>Antennaria solitaria</i> Rydb.	Single-Headed Pussy-Toes
<i>Arabis hirsuta</i> (L.) Scop.	Western Hairy Rock-Cress
<i>Aristida dichotoma</i> Michx. var. <i>curtissii</i> A. Gray	Poverty Grass
<i>Aristida longespica</i> Poir. var. <i>geniculata</i> (Raf.) Fernald	Long-Spike Three-Awned Grass
<i>Aristolochia macrophylla</i> Lam.	Pipevine
<i>Carex crawfordii</i> Fernald	Crawford's Sedge
<i>Carex haydenii</i> Dewey	Cloud Sedge
<i>Carex limosa</i> L.	Mud Sedge
<i>Carex meadii</i> Dewey	Mead's Sedge
<i>Chasmanthium latifolium</i> (Michx.) H. O. Yates	Wild-Oats
<i>Chenopodium capitatum</i> (L.) Asch.	Strawberry Goosefoot

Scientific Name	Common Name
<i>Crataegus brainerdii</i> Sarg.	Brainerd's Hawthorne
<i>Crataegus mollis</i> (Torr. & A. Gray) Scheele	Downy Hawthorne
<i>Cuscuta cephalanthi</i> Engelm.	Buttonbush Dodder
<i>Cuscuta polygonorum</i> Engelm.	Smartweed Dodder
<i>Cyperus tenuifolius</i> (Steud.) Dandy	Thin-Leaved Flatsedge
<i>Cystopteris laurentiana</i> (Weath.) Blasdell	Laurentian Bladder-Fern
<i>Desmodium glabellum</i> (Michx.) Kuntze	Tall Tick-Trefoil
<i>Desmodium nuttallii</i> (Schindl.) Schub.	Nuttall's Tick-Trefoil
<i>Dichantherium annulum</i> (Ashe) LeBlond	Annulus Panic Grass
<i>Dichantherium boreale</i> (Nash) Freckmann	Northern Panic Grass
<i>Dichantherium commonsianum</i> (Ashe) Freckmann	Cloaked Panic Grass
<i>Dichantherium lucidum</i> (Ashe) LeBlond	Shining Panic Grass
<i>Dichantherium villosissimum</i> (Nash) Freckmann	Long-Haired Panic Grass
<i>Dichantherium yadkinense</i> (Ashe) Mohlenbr.	Yadkin River Panic Grass
<i>Dracocephalum parviflorum</i> Nutt.	American Dragonhead
<i>Epilobium palustre</i> L.	Marsh Willow-Herb
<i>Eupatorium rotundifolium</i> L.	Round-Leaved Thoroughwort
<i>Filipendula rubra</i> (Hill) B. L. Rob.	Queen-of-the-Prairie
<i>Gentiana alba</i> Muhl. ex Nutt.	Yellow Gentian
<i>Gentiana saponaria</i> L.	Soapwort Gentian
<i>Gentiana villosa</i> L.	Striped Gentian
<i>Glyceria acutiflora</i> Torr.	Sharp-Flowered Manna-Grass
<i>Gymnocarpium appalachianum</i> K. M. Pryer & Haufler	Appalachian Oak Fern
<i>Houstonia purpurea</i> L. var. <i>purpurea</i>	Purple Bluets
<i>Hypericum drummondii</i> (Grev. & Hook) Torr. & A. Gray	Nits-and-Lice
<i>Lathyrus palustris</i> L.	Vetchling
<i>Lemna turionifera</i> Landolt	Winter Duckweed
<i>Leucothoe racemosa</i> (L.) A. Gray	Swamp Dog-Hobble
<i>Liatrix scariosa</i> (L.) Willd.	Northern Blazing-Star

Scientific Name	Common Name
<i>Lonicera hirsuta</i> Eaton	Hairy Honeysuckle
<i>Luzula bulbosa</i> (A. W. Wood) Rybd.	Wood-Rush
<i>Malaxis monophyllos</i> (L.) Swartz var. <i>brachypoda</i> (A. Gray) F. Morris & E. A. Eames	White Adder's-Mouth
<i>Meehania cordata</i> (Nutt.) Britton	Heart-Leafed Meehania
<i>Muhlenbergia cuspidata</i> (Torr.) Rydb.	Sharp-Pointed Muhly
<i>Nuphar microphylla</i> (Pers.) Fernald	Small Yellow Pond-Lily
<i>Oenothera pilosella</i> Raf.	Evening-Primrose
<i>Oxypolis rigidior</i> (L.) Raf.	Stiff Cowbane
<i>Packera plattensis</i> (Nutt.) W. A. Weber & Á Löve	Prairie Ragwort
<i>Panicum flexile</i> (Gatt.) Scribn.	Wiry Witchgrass
<i>Panicum longifolium</i> Torr.	Long-Leaved Panic Grass
<i>Paronychia fastigiata</i> (Raf.) Fernald var. <i>nuttallii</i> (Small) Fernald	Whitlow Wort
<i>Parthenium intergrifolium</i> L.	American Fever-Few
<i>Paspalum floridanum</i> (Michx.) var. <i>glabratum</i> Engelm. ex Vasey	Florida Beadgrass
<i>Paspalum laeve</i> (Michx.) var. <i>pilosum</i> Scribn.	Field Beadgrass
<i>Paspalum setaceum</i> Michx.	Slender Beadgrass
<i>Phlox pilosa</i> L.	Downy Phlox
<i>Phyla lanceolata</i> (Michx.) Greene	Lance Fog-Fruit
<i>Physalis virginiana</i> Mill.	Virginia Ground-Cherry
<i>Platanthera hookeri</i> (Torr. ex Gray) Lindl.	Hooker's Orchid
<i>Pluchea odorata</i> (L.) Cass.	Shrubby Camphor-Weed
<i>Poa languida</i> A. Hitchc.	Drooping Bluegrass
<i>Podostemum ceratophyllum</i> Michx.	Riverweed
<i>Polygala polygama</i> Walter	Racemed Milkwort
<i>Polygonella articulata</i> (L.) Meisn.	Eastern Jointweed
<i>Polygonum amphibium</i> L. var. <i>stipulaceum</i> (Coleman) Fern.	Stipuled Water-Smartweed
<i>Polygonum ramosissimum</i> Michx.	Bushy Knotweed
<i>Potamogeton filiformis</i> Pers. var. <i>borealis</i> (Raf.) St. John	Slender Pondweed
<i>Potamogeton oakesianus</i> J. W. Robbins	Oakes' Pondweed

Scientific Name	Common Name
<i>Potamogeton perfoliatus</i> L.	Clasping-Stemmed Pondweed
<i>Pycnanthemum verticillatum</i> (Michx.) Pers. var. <i>pilosum</i> (Nutt.) Cooperr.	Hairy Mountain-Mint
<i>Ranunculus aquatilis</i> L. var. <i>diffusus</i> With.	White Water-Crowfoot
<i>Ranunculus flammula</i> L.	Lesser Spearwort
<i>Rhamnus alnifolia</i> L' Hér	Alder-Leaved Buckthorn
<i>Rhynchospora recognita</i> (Gale) Kral	Small Globe Beak-Rush
<i>Ribes lacustre</i> (Pers.) Poir.	Swamp Currant
<i>Rosa virginiana</i> P. Mill.	Virginia Rose
<i>Rubus setosus</i> Bigelow	Small Bristleberry
<i>Rumex hastatulus</i> Baldwin ex Elliott	Heart Sorrell
<i>Samolus parviflorus</i> Raf.	Pineland Pimpernel
<i>Saxifraga micranthidifolia</i> (Haw.) Steud.	Lettuce Saxifrage
<i>Scleria triglomerata</i> Michx.	Whip Nut-Rush
<i>Scutellaria saxatilis</i> Riddell	Rock Skullcap
<i>Senna marilandica</i> (L.) Link	Wild Senna
<i>Sisyrinchium albidum</i> Raf.	Blue-Eyed-Grass
<i>Solidago rigida</i> L.	Hard-Leaved Goldenrod
<i>Spiranthes tuberosa</i> Raf.	Slender Ladies'-Tresses
<i>Stachys hyssopifolia</i> Michx.	Hyssop Hedge-Nettle
<i>Stylosanthes biflora</i> (L.) Britton, Stearns & Poggenb.	Pencil-Flower
<i>Symphotrichum dumosum</i> (L.) Nesom	Bushy Aster
<i>Symphotrichum ericoides</i> (L.) Nesom	White Heath Aster
<i>Taxus canadensis</i> Marsh.	American Yew
<i>Trillium flexipes</i> Raf.	Declined Trillium
<i>Triosteum angustifolium</i> L.	Horse Gentian
<i>Tripsacum dactyloides</i> (L.) L.	Eastern Gammagrass
<i>Uvularia pudica</i> Michx.	Mountain Bellwort
<i>Viburnum trilobum</i> Marshall	Highbush-Cranberry
<i>Viola renifolia</i> A. Gray	Kidney-Leaved Violet
<i>Vitis cinerea</i> (Englem. in A. Gray) Englem. ex Millardet var. <i>baileyana</i> (Munson) Comeaux	Possum-Grape
<i>Wolffia borealis</i> (Engelm.) Landolt	Dotted Dotted Watermeal

[Pa.B. Doc. No. 23-1283. Filed for public inspection September 22, 2023, 9:00 a.m.]

## Title 58—RECREATION

### FISH AND BOAT COMMISSION

[ 58 PA. CODE CHS. 57, 63, 71, 71a AND 73 ]

#### Fishing; Propagation and Introduction of Fish into Commonwealth Waters

The Fish and Boat Commission (Commission) deletes Chapters 71 and 73. The Commission regulated the introduction and transportation of fish into this Commonwealth through Chapters 71 and 73. In addition, both chapters contained provisions concerning artificial propagation, stocking of Commission fish, prohibited species, triploid grass carp and species susceptible to viral hemorrhagic septicemia (VHS). This final-form rulemaking updates the regulations to address current conservation challenges, improve fisheries management and fish health, and simplify the chapters for consistency, flow and ease. Therefore, the addition of new provisions, such as a Notice of Stocking (NOS), retention of some existing language, and the consolidation of Chapters 71 and 73 into a single chapter accomplishes the goals set forth.

To facilitate the implementation of an NOS, fish health requirements and watercraft inspection necessities, the Commission submits this final-form rulemaking that deletes and reserves Chapters 71 and 73 and adds Chapter 71a (relating to propagation and introduction of fish into Commonwealth waters). The Commission also submits final-form rulemaking amendments for §§ 57.8a and 63.51 (relating to Class A wild trout streams; and sale of VHS-susceptible species of fish) that update the citations to align with Chapter 71a. This final-form rulemaking is set forth in Annex A.

#### A. Effective Date

Unless otherwise specified in Chapter 71a, this final-form rulemaking will go into effect January 1, 2024.

#### B. Contact Person

For further information on this final-form rulemaking, contact Renae Kluk Kiehl, Esq., P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This final-form rulemaking is available on the Commission's web site at [www.fishandboat.com](http://www.fishandboat.com).

#### C. Statutory Authority

The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). The deletion of Chapters 71 and 73, the addition of Chapter 71a and the amendments to §§ 57.8a and 63.51 are published under the statutory authority of section 2102(a) and (c) of the code (relating to rules and regulations).

#### D. Purpose and Background

In this Commonwealth, thousands of lakes, ponds and stream sections are stocked by private individuals each year. To improve the Commission's understanding of stockings occurring in this Commonwealth, protect aquatic resources and address increased risks associated with aquatic invasive species and pathogens, there is a need to collect information on non-Commission fish stockings occurring in this Commonwealth. Commission staff have undertaken an effort to improve management and oversight of fish and aquatic life transportation and stocking in this Commonwealth through the development of an NOS.

In the United States, over 30 states have requirements for tracking how and when fish are stocked in state waters. Notably, all states in the Northeast except Penn-

sylvania, require some form of documentation when individuals or entities stock fish in state waters. Section 2102 of the code allows the Commission to develop rules and regulations concerning fish and fishing in waters of this Commonwealth, and for the protection, preservation and management of fish and fish habitat. Regulations may be developed for the transport, introduction, import and export of fish, as well as inspection for disease. Section 73.1 addressed this topic; however, there is need for updated regulations to ensure adequate protection, preservation and management of aquatic resources are in place.

In conjunction with the creation of the NOS, Commission staff have also developed a fish health inspection protocol to provide additional protection to the Commonwealth's aquatic resources, prevent the introduction of serious pathogens not known to be present in this Commonwealth, and to control the spread and the prevalence of pathogens already present in this Commonwealth. The Commission recognizes that the NOS requirement, fish health inspection protocol and accompanying regulations will result in changes to the stockings undertaken by private individuals and the aquaculture industry. Implementation of an NOS and applicable fish health requirements will strike a balance of avoiding serious ecological and financial damages to this Commonwealth's aquatic resources and aquaculture industry, while still allowing interested persons to stock fish for angling purposes.

In addition to stocking and fish health necessities, watercraft inspection requirements can prevent the spread of aquatic invasive species by watercraft throughout this Commonwealth. For example, in 2021, invasive zebra mussels were discovered in Raystown Lake in Huntingdon County and were likely introduced by a watercraft. Boaters (with limited exceptions) will be required to drain live wells and bilges by removing the drain plug before transporting watercraft away from a water of this Commonwealth. Moreover, boaters will be prohibited from placing a watercraft, trailer or related equipment into a water of this Commonwealth if aquatic plants or prohibited species are present. At least 19 states have created watercraft inspection or decontamination programs.

In addition, Commission staff have created a regulatory section that prohibits the release or disposal of live bait fish into waters of this Commonwealth. An individual may continue to collect live bait fish for angling purposes, provided that a bait fish species is not transferred into another drainage the species is not already present.

Besides the creation of new regulatory provisions as outlined previously, Commission staff retained several existing sections from Chapters 71 and 73 relating to closed system propagation, introduction and transportation of VHS-susceptible species, stocking of designated waters and Commission fish, triploid grass carp requirements and prohibited species. Through the inclusion of new sections and the retention of existing language, Commission staff believe Chapter 71a provides adequate protection for this Commonwealth's aquatic resources in relation to current conservation challenges, aligns with the regulations of several neighboring states, and provides improved flow and clarity for regulatory interpretation.

A notice of proposed rulemaking was published at 52 Pa.B. 3423 (June 18, 2022). The Commission received a total of 1,073 public comments regarding the initial proposal: 88 supported the proposal, 56 supported por-

tions of the proposal, 523 opposed the proposal, 306 opposed portions of the proposal and 100 did not pertain to the proposal. Upon consideration of these comments, feedback received from numerous stakeholders and public, and further review of the proposed rulemaking brought before the Commission at the April 25, 2022, quarterly Commission meeting, the Commission conducted Fisheries and Hatcheries Committee meetings on September 28, 2022; January 4, 2023; April 5, 2023; and June 27, 2023, to further consider and refine the proposal. In addition to Commission and committee meetings, Commission staff actively pursued outreach efforts to solicit additional feedback from various stakeholders through participation and presentation at multiple meetings with the Pennsylvania Aquaculture Advisory Committee, the Department of Agriculture, Commission cooperative nurseries and private fishing clubs. Throughout this process, revised drafts of the proposal were shared with stakeholders to solicit feedback.

*E. Summary of Changes*

The broad rationale for the proposed changes is set forth previously in the Purpose and Background section. After multiple Commission Board and Committee meetings and multiple opportunities for public comment, amendments were made to this final-form rulemaking to address concerns brought forth by the public and industry. Those changes narrow the scope of the original proposed rulemaking as it was published at 52 Pa.B. 3423 and include:

*§ 71a.1. Authority and definitions*

- Definition of "ornamental pond" is added to clarify what is not subject to an NOS requirement.

*§ 71a.2. General*

- This section is updated to reflect an NOS requirement, instead of a stocking authorization.

*§ 71a.3. Fish propagation and introductions list*

- Replaces stocking authorization language with "written approval from Commission" for potential stocking of genetically modified fish because of the NOS update.

*§ 71a.5. Notice of Stocking to the Commission*

- Eliminates reference to a stocking authorization for consistency and put focus on an NOS requirement to gather stocking data.
- Eliminates language requiring a person to ensure water used to transport fish was free of injurious pathogens due to the practical challenges of testing and compliance.
- Eliminates language that a stocking authorization may be amended by the Commission because an NOS will not require approval to stock.
- Eliminates all language referring to staff review, appeals, procedure and final agency action on a stocking authorization because an NOS will not be approved or denied by staff.
- Updates the effective date of the section to make the NOS effective on January 1, 2024.
- Inserts language to clarify species approved for stocking through an NOS includes those on the Propagation and Introduction list (for example: a stray bluegill is stocked on a truck full of bass but both species can be stocked Statewide).
- Inserts a subsection that uses identical language as in deleted § 73.1 with a focus on not stocking fish species



in watersheds where they are not present, as well as reserving authority for the agency to require fish health inspections on lots of fish transported into this Commonwealth.

- Inserts a subsection clarifying an NOS does not allow individuals to stock waters with fish currently prohibited from stocking.

§ 71a.6. *Fish health certificate requirements*

- Eliminates language that prohibits fish from being stocked with visible lesions, hemorrhaging, fungi and signs of disease because aquaculture propagators currently engage in the practice of stocking healthy fish.

- Updates the effective date of the fish health protocol to January 1, 2026.

§ 71a.7. *Introduction or transportation of VHS-susceptible species of fish*

- Updates the definition of “VHS-susceptible species” to include the World Organization for Animal Health’s Aquatic Manual and species listed in the Commission’s Propagation and Introduction list.

§ 71a.11. *Prohibited species*

- Removes reference to aquatic noxious weeds in the prohibited species list because of enforcement challenges and plant identification difficulties; instead, the watercraft inspection requirements section will have the same practical effect.

- Removes New Zealand mudsnail from the prohibited species list because of organisms in trade limitations and compliance challenges.

§ 71a.13. *Bait fish importation and use*

- Replaces stocking authorization language with NOS language.

To facilitate the implementation of an NOS, fish health requirements and watercraft inspection necessities, the Commission deletes and reserves Chapters 71 and 73 and adds Chapter 71a. The Commission amends §§ 57.8a and 63.51 to update the citations to align with Chapter 71a.

F. *Paperwork*

This final-form rulemaking will increase paperwork and will create new paperwork requirements in that persons intending to stock fish in waters of this Commonwealth will submit an NOS to the Commission. In addition, persons transporting fish into this Commonwealth or stocking fish in the waters of this Commonwealth, may be required to possess a fish health certificate when conducting those activities to ensure fish are free of specific pathogens, diseases or parasites.

G. *Fiscal Impact*

This final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. This final-form rulemaking will have an estimated adverse impact of approximately \$1.3 million on the Commission. This is the cost to develop, implement and maintain the proposed NOS process and will be spread over 7 fiscal years. In addition, this final-form rulemaking will impose new costs on the private sector in that prior to fish being imported into this Commonwealth or stocked in waters of this Commonwealth, the fish or artificial propagation facility where the fish are raised will have to be tested and certified as negative for specific pathogens, diseases and parasites as determined by the Commission. Many of these requirements are already in place in neighboring states.

H. *Public Comments*

A notice of proposed rulemaking was published at 52 Pa.B. 3423. The Commission received a total of 1,073 public comments regarding the initial proposal: 88 supported the proposal, 56 supported portions of the proposal, 523 opposed the proposal, 306 opposed portions of the proposal and 100 did not pertain to the proposal.

Four themes emerged in the public comments supporting the proposed rulemaking. The first was that the unauthorized stocking of streams by individuals and clubs can be detrimental to the native populations and is vital for fisheries managers to understand what is being introduced into the waters of this Commonwealth. Second was that regulation is necessary to prevent the introduction and spread of aquatic invasive species. Third was support for the stocking authorization and the NOS as there is significant justification for requiring approval of fish being introduced to the waters of this Commonwealth by private stockings. Finally, the fourth theme was that the proposed rule would not diminish opportunities for private stockings or inhibit private hatcheries from raising and supplying fish. The Commission agrees with these four themes.

Five themes emerged in the public comments opposed to the proposed rulemaking. The first was that, as written, the proposed rule created additional barriers to those wanting to stock fish in this Commonwealth and created a situation of impossible compliance causing individuals or groups, or both, stocking fish to stop stocking or violate the regulations. The Commission addressed these concerns by removing the requirement to receive an approved stocking authorization from the Commission and replaced it with the NOS that does not require Commission approval.

The second theme in opposition was that no economic impact analysis was completed to determine the economic effect on the commercial fish farming industry, Pennsylvania fishing clubs, tourism or the general public. The Commission addressed this concern by developing a no-fee NOS that does not require approval to stock fish in waters of this Commonwealth. Furthermore, the Commission determined there would be no negative fiscal impact to the Commonwealth or political subdivisions.

The third theme in opposition was that the stocking authorization should not be included in the rulemaking. The Commission agreed.

The fourth theme in opposition was that stocking by private individuals, groups and cooperative nurseries have supplemented trout stockings for years with very little, or no, adverse effects. The Commission agrees that this Commonwealth has not yet experienced an adverse effect; however, the proposed rulemaking was designed as a proactive measure to lower the likelihood of a future adverse effect.

The fifth and final theme in opposition was that regulations already require fish being transported into this Commonwealth to be tested for diseases, parasites and aquatic invasive species, in-State hatcheries are constantly monitored for fish health, and there are regulations for which species of fish can be stocked and in which bodies of water. The Commission acknowledges that these regulations exist; however, these regulations are insufficient in regard to the protection of this Commonwealth’s aquatic resources in relation to current conservation challenges and alignment with the regulations of several neighboring states.

The Commission addressed the comments received through the revisions it made to the proposed rule-making, which are detailed previously in the Summary of Changes section, that narrowed the scope of the regulation.

Findings

The Commission finds that:

(1) Public notice of intention to adopt the amendment adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) referred to as the Commonwealth Documents Law, and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) A public comment period was provided and public comments were received.

(3) The adoption of the amendment of the Commission in the manner provided in this order is necessary and appropriate for administration and enforcement of the authorizing statutes.

Order

The Commission, acting under the authorizing statutes, orders that:

(A) The regulations of the Commission, 58 Pa. Code Chapters 57, 63, 71, 71a and 73, are amended by amending § 57.8a and 63.51, adding §§ 71a.1—71a.14 and deleting §§ 71.1—71.8 and 73.1—73.3 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(B) The Executive Director will submit this order and Annex A to the Office of Attorney General for approval as to legality and form as required by law.

(C) The Executive Director shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(D) This order shall take effect January 1, 2024, unless otherwise specified in Chapter 71a.

TIMOTHY D. SCHAEFFER, Executive Director

Fiscal Note: Fiscal Note 48A-325. Under section 612 of The Administrative Code of 1929 (71 P.S. § 232), (1) Fish Fund; (2) Implementing Year 2021-22 is \$105,000; (3) 1st Succeeding Year 2022-23 is \$160,000; 2nd Succeeding Year 2023-24 is \$203,713; 3rd Succeeding Year 2024-25 is \$206,310; 4th Succeeding Year 2025-26 is \$220,944; 5th Succeeding Year 2026-27 is \$223,736; (7) General Operations; (8) recommends adoption. The Fish Fund can absorb these costs which are significantly lower than the proposed regulation.

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. 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 § 71a.8 (relating to stocking of designated waters), the Executive Director will consult internal decision-making criteria set forth in the Operational Guidelines for the Management of Trout Fisheries in Pennsylvania Waters to consider the need for continued stocking at newly designated Class A wild trout streams and obtain the approval of the Commission. Consideration will only be given to requests for continued stocking in stream sections within 1 year of the section being designated as Class A and posted in the Pennsylvania Bulletin; however, entities that previously received an exemption or a Special Activities Permit for continued stocking from the Commission between 2010 and the effective date of this amendment will be eligible for consideration.

\* \* \* \* \*

Subpart B. FISHING

CHAPTER 63. GENERAL FISHING REGULATIONS

§ 63.51. Sale of VHS-susceptible species of fish.

\* \* \* \* \*

(d) It is unlawful to sell in this Commonwealth VHS-susceptible species of fish from a VHS-affected or VHS-at-risk region, unless the fish meet the requirements of § 71a.7 (relating to introduction or transportation of VHS-susceptible species of fish).

CHAPTER 71. [Reserved]

Sec. 71.1.—71.8. [Reserved].

CHAPTER 71a. PROPAGATION AND INTRODUCTION OF FISH INTO COMMONWEALTH WATERS

- Subchap. A. SCOPE AND ADMINISTRATIVE PROVISIONS
B. PROPAGATION OF FISH IN THIS COMMONWEALTH
C. FISH INTRODUCTION AND HEALTH MANDATES
D. PROHIBITED SPECIES, AQUATIC INVASIVE SPECIES AND VECTOR PREVENTION

Subchapter A. SCOPE AND ADMINISTRATIVE PROVISIONS

Sec. 71a.1. Authority and definitions.
71a.2. General.

§ 71a.1. Authority and definitions.

(a) Authority. Under section 2102 of the code (relating to rules and regulations), the Commission may promulgate rules and regulations to preserve, protect and enhance the fishery interests of the Commonwealth.

(b) Definitions. The following words, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise.

Department—The Department of Agriculture of this Commonwealth.

Diploid—Having two haploid sets of homologous chromosomes.

Genetically modified—An organism whose genome, chromosomal or extrachromosomal, is modified permanently and heritably, using recombinant nucleic acid techniques and includes the progeny of any genetically modified organism derived therefrom.

*Grass carp*—*Ctenophryngodon idella*, also known as white amur.

*Ornamental pond*—An outdoor pond constructed as an aesthetic landscape feature that has a closed system of water circulation with no risk of contacting the surface waters of this Commonwealth; this does not include aquaculture facilities, ponds constructed to provide fishing opportunity, or ponds used for the confinement or production of baitfish.

*Triploid*—Having three haploid sets of homologous chromosomes.

#### § 71a.2. General.

No species of fish may be introduced into waters of this Commonwealth, unless baited on a hook for angling purposes, without prior submission of a Notice of Stocking to the Commission on a form prescribed by the Commission. For the purposes of this subsection, “waters of this Commonwealth” does not include waters contained within a property or premise of a propagation or dealer facility licensed under 3 Pa.C.S. §§ 4201—4223 (relating to Aquaculture Development Law). Fish health certification requirements provided in § 71a.6 (relating to fish health certificate requirements) shall be adhered to, when applicable.

### Subchapter B. PROPAGATION OF FISH IN THIS COMMONWEALTH

Sec.

71a.3. Fish propagation and introduction list.

71a.4. Closed system propagation.

#### § 71a.3. Fish propagation and introduction list.

(a) *General.* The Bureau of Fisheries will maintain a list of species by watershed for which the Department may issue registrations for artificial propagation and registrations for dealers of live aquatic animals. The Director of the Bureau of Fisheries may update or modify the list of authorized species by adding species to, or deleting species from, the list as necessary to provide for the protection and management of fish and fishing in this Commonwealth. The Commission will provide the list to the Department on or before January 31 each year and whenever the Commission updates or modifies the list. Copies of the list of authorized species are available upon request from the Fish and Boat Commission, Bureau of Fisheries, 595 East Rolling Ridge Drive, Bellefonte, Pennsylvania 16823.

(b) *Grass carp.*

(1) It is unlawful to propagate grass carp, diploid or triploid, in this Commonwealth.

(2) The introduction or importation of grass carp into this Commonwealth or waters of this Commonwealth is prohibited, except that triploid grass carp may be introduced as provided in § 71a.10 (relating to triploid grass carp).

(c) *Genetically modified fish.* A genetically modified fish may not be propagated and introduced into waters of this Commonwealth, without prior written approval from the Commission.

#### § 71a.4. Closed system propagation.

(a) *Closed (no discharge) system.*

(1) A propagating system may be designated as a closed system only if all of the following criteria are met:

(i) There will be 100% recycling water as normal operations.

(ii) The system will be housed indoors in a structure enclosed by solid walls, floor and roof. For purposes of this subsection, a wall, floor or roof will be considered solid if it is constructed and maintained to prevent unauthorized human or animal intrusions into the closed system facility and to prevent release or escape of aquatic organisms from the closed system.

(iii) Water can be added to the system only for making up evaporative loss, cleaning and fish harvesting or to reduce toxic ammonia/nitrates by diluting.

(iv) The system does not discharge water into waters of this Commonwealth.

(v) No live fish or live fish eggs may be allowed to escape with water discharges. Accidental spillage of live fish or live fish eggs, including truck loading, and the like, will be contained within the facility in a manner that will prevent fish and fish eggs from escaping into the waters of this Commonwealth.

(vi) The system operator is registered with the Department.

(2) The Department will notify the Commission when it receives an application to register a proposed closed system, and the Commission may, within 30 days of receipt of the notice, inspect the system to ensure that it is designed and constructed in a manner to prevent escapement of live fish or live fish eggs into the waters of this Commonwealth. Closed systems registered under this subsection shall, in addition to an initial inspection, be subject to inspection at any time to ensure compliance with the requirements of this section and the Commission may issue an order to suspend operations of any closed system when an inspection discloses that it is not in compliance.

(3) The Commission will invite the Department’s Aquaculture Advisory Committee or a subcommittee thereof to draft and periodically update construction guidelines for closed system propagators to help them ensure enclosed facilities prevent escape of aquatic organisms into the waters of this Commonwealth. These guidelines will assist registered propagators in the design, construction and maintenance of closed systems and will assist the Commission in inspecting these systems.

(b) *Systems with discharges rendered incapable of containing living organisms.* A system whose discharge of water is rendered incapable of containing self-perpetuating living organisms shall be registered with the Department. The Department will notify the Commission when it receives an application to register a proposed system under this subsection, and the Commission may, within 30 days of receipt of the notice, inspect the system to ensure that it is designed and constructed so that its discharge is rendered incapable of containing live fish or live fish eggs. Systems registered under this subsection shall, in addition to an initial inspection, be subject to inspection at any time to ensure compliance with this section and the Commission may issue an order to suspend operations of any system when an inspection discloses that it is not in compliance. The registration of this system may include any species of fish with the approval of the Department.

(c) *Escape of fish into waters of this Commonwealth.* It is unlawful for an operator of any system registered under subsection (a) or subsection (b) to allow fish to escape into the waters of this Commonwealth.

(d) *Written plans for discharge.* An operator of any system registered under subsection (a) or subsection (b)

shall develop, maintain and make available for immediate inspection by the Commission and the Department upon request a written plan for containing or treating discharge in the event of a discharge system failure.

(e) *Notification in event of discharge.* An operator of any system registered under subsection (a) or subsection (b) shall notify both the Commission's Director of the Bureau of Fisheries and the Department's Aquaculture Coordinator immediately in the event of a discharge system failure that is likely to contain viable living organisms.

**Subchapter C. FISH INTRODUCTION AND HEALTH MANDATES**

- Sec.
- 71a.5. Notice of Stocking to the Commission.
- 71a.6. Fish health certificate requirements.
- 71a.7. Introduction or transportation of VHS-susceptible species of fish.
- 71a.8. Stocking of designated waters.
- 71a.9. Improper stocking of Commission fish.
- 71a.10. Triploid grass carp.

**§ 71a.5. Notice of Stocking to the Commission.**

(a) *General*

(1) No person may introduce any species of fish into waters of this Commonwealth (except baited on a hook for angling purposes) without prior submission of a Notice of Stocking to the Commission. For the purposes of this subsection, "waters of this Commonwealth" does not include waters contained within a property or premise of a propagation or dealer facility licensed under 3 Pa.C.S. §§ 4201—4223 (relating to Aquacultural Development Law). Persons who notify the Commission of an intent to stock fish through a Notice of Stocking should also ensure that fish intending to be stocked are limited to those listed on the Notice of Stocking and the Commission's Species by Watershed Approved for Open System (Flow Through) Propagation and Introductions list. An electronic or hard copy of the Notice of Stocking shall be present at the location during the time fish are stocked. In the event the person(s) who filed a Notice of Stocking is not present during the time of stocking, an entity stocking fish on behalf of the authorized person shall possess a copy of the Notice of Stocking.

(2) In addition to the Notice of Stocking requirement set forth in paragraph (1), species of fish may not be transported into this Commonwealth from another state, province or country and liberated in a watershed of this Commonwealth without previous written permission from the Commission, nor may a species of fish be transferred from waters in this Commonwealth into another drainage of this Commonwealth where this particular species is not always present without prior written consent from the Commission. Inspection for species composition or presence of disease, or both, will be required at the discretion of the Commission on all lots of fish transported into this Commonwealth. Written permission from the Commission may be obtained by sending a request to the Executive Director, P.O. Box 67000, Harrisburg, Pennsylvania 17106.

(3) The following apply:

(i) The following do not require submission of a Notice of Stocking:

(A) Fish not on a Commission prohibited species list and raised and sold for the intended uses of indoor aquaria.

(B) Fee fishing operations located on the same property as a propagation facility licensed under 3 Pa.C.S. §§ 4201—4223.

(C) Outdoor ornamental ponds not discharging into a water of this Commonwealth.

(ii) Species obtained through or originating from pet stores or tropical and ornamental fish dealers may not be released into waters of this Commonwealth.

(4) Submission of a Notice of Stocking does not authorize individuals or organizations to stock waters that are prohibited from stocking as defined in §§ 57.8a (relating to Class A wild trout streams) and 71a.8 (relating to stocking of designated waters).

(b) *Notice of Stocking Form.* A Notice of Stocking shall be made on a form prescribed by the Commission. In addition to the information required under 1 Pa. Code § 35.2 (relating to contents of applications), persons notifying the Commission of intent to stock must provide other information as may be required by the Commission to fully describe the details of the planned stocking.

(c) *Exceptions.* Exceptions from a Notice of Stocking submission will require prior written approval from the Executive Director or their designee.

(d) *Effective Date.* Beginning on January 1, 2024, the provisions of § 71a.5(a)—(c) shall be effective.

**§ 71a.6. Fish health certificate requirements.**

(a) A fish health certificate may be required, as specified in subsection (b), for fish being imported into this Commonwealth and shall certify fish intending to be introduced, place or stocked in waters of this Commonwealth are free of specific diseases, pathogens or parasites determined by the Commission to be of a risk to the fishery interests of the Commonwealth. The Commission will consult with the Department for potential testing of dangerous transmissible diseases of fish.

(b) The Commission shall develop a Fish Health Inspection Protocol for Importation into the Commonwealth and Introduction into Waters of this Commonwealth (protocol). The Commission shall determine which diseases, pathogens or parasites are required for testing for species of fish intending to be introduced into waters of this Commonwealth. The Commission will consult with the Department for potential testing of dangerous transmissible diseases of fish. Fish health certification requirements and procedures shall be modified or updated by the Commission, as necessary. When updates to the protocol occur, the Commission shall publish the protocol as a notice in the *Pennsylvania Bulletin* and notify the Department of the changes.

(c) The Commission may require testing for intrastate introduction, placement or stocking of fish, as specified in subsection (b), to prevent the introduction or spread of specific diseases, pathogens or parasites that pose a risk to the fishery interests of the Commonwealth. The Commission will consult with the Department for potential testing of dangerous transmissible diseases of fish.

(d) The following fish health requirements apply to the importation of fish into this Commonwealth:

(1) Fish and fish eggs imported into this Commonwealth must originate from sources with a copy of the fish health certification report for all applicable fish being stocked as indicated in the protocol, or a copy of the fish health certification report for the artificial propagation facility if the fish are from a facility that has been

certified as having tested negative for all applicable fish pathogens, unless the fish meet one of the following requirements:

(i) The fish are being transported through this Commonwealth, the shipping container remains bio-secure in transit, and the fish are accompanied by documentation stating the point of origin of the fish and the location outside of this Commonwealth where they are to be delivered.

(ii) The fish are being transported to facilities located within this Commonwealth for testing and scientific purposes, the persons transporting the fish have taken adequate measures to prevent escape and to disinfect discharged water and equipment used in the transportation of the fish, and the fish are accompanied in transit by documentation stating the point of origin of the fish and the destination where they are to be delivered for testing or scientific purposes.

(iii) The fish are being transported to a slaughter facility, processing plant or restaurant within this Commonwealth, and the fish are accompanied in transit by documentation stating the point of origin of the fish and the destination where they are to be delivered for slaughter, processing or consumption.

(iv) The fish are dead, recreationally caught fish that are being transported solely for the purpose of human consumption or taxidermy.

(2) Specific testing requirements may vary depending on the species of fish, geographical location of the shipping facility or source, and the final designated end use of the fish being imported into this Commonwealth. The Commission's protocol shall specify these requirements.

(3) Documentation of testing results shall remain with the fish during transport and produced upon request.

(e) The following fish health requirements apply to the introduction of fish into waters of this Commonwealth:

(1) Fish being introduced into waters of this Commonwealth must originate from sources that comply with the fish health inspection process described in the Commission's protocol.

(2) Specific testing requirements may vary depending on the species, origin and final location of where the fish are being introduced into waters of this Commonwealth. The Commission's protocol shall specify these requirements.

(3) When applicable, persons who have filed a Notice of Stocking with the Commission or their agent shall have in their possession, and present upon the request of an officer authorized to enforce the code:

(i) a copy of the fish health certification report for all applicable fish being stocked as indicated in the protocol and the Notice of Stocking; or

(ii) the Notice of Stocking and a copy of the fish health certification report for the artificial propagation facility if the fish are from a facility that has been certified as having tested negative for all applicable fish pathogens as indicated in the protocol and Notice of Stocking.

(f) The Commission grants a grace period for full implementation of the protocol through December 31, 2025. Beginning on January 1, 2026, the provisions of this section and the protocol shall be effective.

**§ 71a.7. Introduction or transportation of VHS-susceptible species of fish.**

(a) *Intrastate transportation.* It is unlawful to introduce, transport or cause the transportation of VHS-

susceptible species of fish from the portion of the Lake Erie watershed in this Commonwealth into other watersheds of this Commonwealth, except in accordance with § 69.3(b) and (d) (relating to transportation, introduction and sale of VHS-susceptible species of fish out of the Lake Erie watershed).

(b) *Interstate transportation.* It is unlawful to introduce, transport or cause the transportation into the waters of this Commonwealth VHS-susceptible species of fish from a VHS-affected or VHS-at risk region or VHS-affected or VHS-at risk state unless the fish meet the requirements one of the following requirements:

(1) The fish are from a group of fish certified as having tested negative for VHS or are from an artificial propagation facility certified as having tested negative for VHS in accordance with the testing protocols adopted by the Department and approved by the Commission. Persons transporting these fish shall have in their possession, and present upon the request of an officer authorized to enforce the code, a copy of the fish health certification reports for all VHS-susceptible fish being transported or a copy of the fish health certification report for the artificial propagation facility if the fish are from a facility that has been certified as having tested negative for VHS.

(2) The fish are being transported through this Commonwealth and the shipping container including a tank, trailer, holding vessel or other container remains bio-secure in transit and the fish are accompanied in transit by documentation stating the point of origin of the fish and the location outside of this Commonwealth to which they are to be delivered.

(3) All of the following apply:

(i) The fish are being transported to facilities located within this Commonwealth for testing and scientific purposes.

(ii) The persons transporting the fish have taken adequate measures to prevent escape and to disinfect discharged water and equipment used in the transportation of the fish.

(iii) The fish are accompanied in transit by documentation stating the point of origin of the fish and the destination to which they are to be delivered for testing or scientific purposes.

(4) The fish are being transported to a slaughter facility, processing plant or restaurant within this Commonwealth and the fish are accompanied in transit by documentation stating the point of origin of the fish and the destination to which they are to be delivered for slaughter, processing or consumption.

(5) The fish are dead, recreationally caught fish that are being transported solely for the purpose of human consumption.

(c) *International movement.*

(1) Except as provided in paragraph (2), it is unlawful to import or cause the importation of VHS-susceptible species of fish into this Commonwealth from a VHS-affected or VHS-at risk region.

(2) VHS-susceptible species of dead fish may be imported into the United States if the fish are recreationally caught and are for human consumption.

(d) *Definitions.* The following terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

*VHS-affected or VHS-at risk region*—Includes the Canadian provinces of Ontario and Quebec or other region that the Animal and Plant Inspection Services of the United States Department of Agriculture (APHIS) later designates by order, or the Commission later defines by notice in the *Pennsylvania Bulletin* as being a VHS-affected region or VHS-at risk region.

*VHS-affected or VHS-at risk state*—Includes Illinois, Indiana, Michigan, Minnesota, New York, Ohio and Wisconsin or other state that APHIS later designates by order, or the Commission later defines by notice in the *Pennsylvania Bulletin* as being a VHS-affected state or VHS-at risk state.

*VHS-susceptible species*—Those listed as a susceptible host species by the World Organization for Animal Health's Aquatic Manual and listed on the Commission's Species by Watershed Approved for Open System (Flow Through) Propagation and Introductions list or as the Commission defines by notice in the *Pennsylvania Bulletin*. The term:

(1) Includes fish that are dead or alive, preserved or unpreserved, and the parts of the fish.

(2) Does not include the eggs of these species.

**§ 71a.8. Stocking of designated waters.**

It is unlawful to introduce, place or stock fish in waters that have been designated by the Commission as catch and release, wilderness trout or wild trout management waters except with the express written consent of the Executive Director or their designee. This section does not prohibit a person from returning fish unharmed to the waters from which they were caught or taken.

**§ 71a.9. Improper stocking of Commission fish.**

When stocking fish reared or salvaged by the Commission or a cooperative nursery recognized by the Commission, the following acts are prohibited:

(1) Failure to stock fish in waters designated by Commission personnel.

(2) Diversion of fish to be stocked to waters not open or accessible to free public fishing.

(3) Mishandling or misuse of fish being stocked in a manner so as to damage or destroy the fish.

**§ 71a.10. Triploid grass carp.**

(a) *Policy.* As a limited exception to the prohibition of grass carp in this Commonwealth, it is the policy of the Commission to permit triploid grass carp, certified by the United States Fish and Wildlife Service (USFWS) and procured from a producer participating in the USFWS certification program, to be introduced into Commonwealth waters and imported and transported into this Commonwealth in accordance with this section.

(b) *Status.* The triploid grass carp is not a game fish.

(c) *Permit required.*

(1) The Commission finds, under section 2904 of the code (relating to permits for protection and management of particular fish), that permits shall be required for possessing triploid grass carp or introducing them into Commonwealth waters and for importing or transporting triploid grass carp into this Commonwealth to provide for proper protection and management of these fish and other fish in the waters of this Commonwealth. A pond owner, landowner or other person who wishes to possess triploid grass carp and introduce them into a pond or waters located on property owned, leased or otherwise

controlled by the person shall, before placing triploid grass carp in the waters, obtain from the Commission a triploid grass carp possession/introduction permit, for a fee of \$85. A person who wishes to import triploid grass carp into this Commonwealth shall, before doing so, obtain from the Commission a triploid grass carp importation/transportation permit, for a fee of \$85. Permits shall be applied for on forms supplied by the Commission. Live triploid grass carp imported and intended for introduction into waters of this Commonwealth shall be in compliance with § 71a.6 (relating to fish health certificate requirements).

(2) A person aggrieved by a Commission staff action on a permit application may appeal under Chapter 51, Subchapter E (relating to permit procedures) and 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure).

(d) *Dealers and importers.* In addition to the triploid grass carp permit required by subsection (c), dealers and importers shall obtain and maintain all licenses, permits and registrations required by the Department for the sale or transportation of fish.

(e) *Restrictions on introduction of triploid grass carp.*

(1) The Commission will not approve the stocking or release of triploid grass carp into a water body wholly or partially in this Commonwealth that is currently known to be inhabited by a species of animal or plant currently listed as status endangered, threatened, candidate or other special concern status, by a state or Federal agency with jurisdiction for the species, without prior written approval for the stocking or release by the agency or agencies which classified the species as endangered, threatened, candidate or of special concern.

(2) The Commission will not approve stocking or release of triploid grass carp into wetlands under Federal or state jurisdiction except in compliance with applicable Federal or state regulations including, when required, the written approval for the stocking or release by the involved agency or agencies.

(3) The Commission will not approve stocking or release of triploid grass carp into a body of water more than 5 acres in surface area until the applicant submits an environmental inspection report prepared by a biologist, fisheries scientist or environmental scientist acceptable to the Commission. The environmental inspection report shall include all of the following:

(i) A certification that the preparer has personally inspected the pond or body of water and that the stocking of triploid grass carp will have no adverse environmental impacts on the waters where stocked or waters upstream or downstream of the waters.

(ii) A description of the measures taken by the applicant to prevent the escape of the grass carp into waters upstream or downstream of the stocked waters.

(iii) Additional information as the Commission may require.

(4) The Commission may require an applicant for a permit to stock triploid grass carp in a pond or body of water of 5 or less acres in surface area to submit an environmental inspection report in the format described in paragraph (3) when the staff's review of the application indicates that further inspection or review of the proposed stocking is appropriate under the circumstances.

(5) The issuance of permits under this section will be subject to the public notice and comment provisions of Chapter 51, Subchapter E.

(f) *Prohibited acts.*

(1) It is unlawful to transport, import, possess or introduce triploid grass carp in this Commonwealth unless the person possessing, transporting, importing or introducing the grass carp obtains and maintains required permits, possesses a valid bill of sale or bill of origin from a producer participating in the USFWS triploid grass carp certification program and the grass carp are certified by the USFWS to be triploid grass carp. Permits shall be displayed upon request to an officer authorized to enforce the code or this part. The certification of triploid status shall be obtained from the producer at the time of purchase.

(2) Persons, organizations or companies are prohibited from giving, trading or exchanging triploid grass carp except to persons holding valid triploid grass carp possession/introduction permits.

(g) *Revocation or suspension of permits.* Failure to abide by regulations, permits and permit conditions pertinent to triploid grass carp possession, transportation and introduction may result in suspension or revocation of the applicable permits in accordance with Chapter 51, Subchapter C (relating to suspension, denial or revocation of licenses, permits, registrations or privileges). Revocation or suspension shall be in addition to other applicable penalties provided by law or regulation.

#### Subchapter D. PROHIBITED SPECIES, AQUATIC INVASIVE SPECIES AND VECTOR PREVENTION

Sec.

71a.11.	Prohibited species.
71a.12.	Watercraft requirements and prohibitions.
71a.13.	Bait fish importation and use.

#### § 71a.11. Prohibited species.

(a) It is unlawful to introduce, import, possess or transport in or through this Commonwealth, or the waters of this Commonwealth, the following species:

- (1) Snakeheads (all species).
- (2) Black carp (*Mylopharyngodon piceus*).
- (3) Bighead carp (*Hypophthalmichthys nobilis*).
- (4) Silver carp (*Hypophthalmichthys molitrix*).
- (5) Zebra mussel (*Dreissena polymorpha*).
- (6) Quagga mussel (*Dreissena rostriformis bugensis*).
- (7) Round goby (*Neogobius melanostomus*).
- (8) Freshwater tubenose goby (*Proterorhinus semilunaris*).
- (9) European rudd (*Scardinius erythrophthalmus*).
- (10) Crayfish (all live species), except when any of the following apply:
  - (i) Possessed and used as bait on, in or about the water from which taken.
  - (ii) Possessed or imported for testing and scientific purposes or restaurant consumption, adequate measures have been taken to prevent their escape, and they are accompanied by documentation stating the point of origin and the destination to which they are to be delivered.
  - (iii) Dead with the head removed or salted and dried for angling purposes.
- (11) Ruffe (*Gymnocephalus cernua*).

(b) *Exceptions.* Species in subsection (a)(1)—(4) may be possessed in this Commonwealth for the purposes of consumption or slaughter only. Other exceptions for spe-

cies in subsection (a) shall require prior written approval from the Commission's Executive Director.

#### § 71a.12. Watercraft requirements and prohibitions.

(a) *General.* No person may intentionally place or attempt to place a watercraft, trailer or water-related equipment into waters of this Commonwealth, including aquatic plant harvesting or control equipment, that has aquatic plants or prohibited species attached, in whole or in part, except as provided in this section.

##### (b) *Removal and confinement.*

(1) A waterways conservation officer may order the following:

(i) The removal of aquatic plants or prohibited species listed in § 71a.11(a) (relating to prohibited species) from a watercraft, trailer or water-related equipment before being transported or before it is placed into waters of this Commonwealth.

(ii) Confinement of the watercraft at a mooring, dock or other location until the related equipment is removed from the water.

(iii) Removal of watercraft from a water of this Commonwealth to remove prohibited invasive species if the water has not been listed by the Commission as being infected with that species.

(iv) A prohibition on placing a watercraft into a water of this Commonwealth when the watercraft has aquatic plants or prohibited invasive species attached in violation of subsection (a) or when water has not been drained or the drain plug has not been removed in violation of subsection (c).

(v) Decontamination of a watercraft, if possible, on site.

(2) An order for removal of prohibited invasive species under paragraph (1)(i) or decontamination of a watercraft under paragraph (1)(v) may include issuing a notice that specifies a time frame for completing the removal or decontamination, and re-inspection of the watercraft.

##### (c) *Persons transporting watercraft.*

(1) When leaving a water of this Commonwealth, a person must drain a watercraft holding water (including those without plugs) and live wells and bilges by removing the drain plug before transporting the watercraft. Transporting includes moving the watercraft over land between connected or unconnected waterbodies but does not include moving watercraft within the immediate area required for loading and preparing the watercraft for transport over land. A person transporting game fish as a result of a tournament for weigh-in purposes is not subject to this subsection.

(2) Drain plugs, bailers, valves or other devices used to control the draining of water from ballast tanks, bilges and live wells must be removed or opened while transporting watercraft.

(3) A person shall ensure the watercraft, trailer, motor, boating gear and conveyance used to transport the watercraft and trailer are free of aquatic organisms, including vegetation.

#### § 71a.13. Bait fish importation and use.

(a) A person may not release or dispose live bait fish into any water of this Commonwealth, except live bait fish baited on a hook for angling purposes, without prior submission of a Notice of Stocking to the Commission. A person may collect live bait fish for angling. A species of bait fish collected for use as bait may not be transferred

from waters in this Commonwealth into another drainage of this Commonwealth where this particular species does not already exist. This subsection does not apply to the Commission, or a propagation facility licensed by the Department under 3 Pa.C.S. §§ 4201—4223 (relating to Aquaculture Development Law) for the purpose of releasing bait fish into waters of this Commonwealth as food for aquaculture or fisheries management purposes.

(b) Live bait fish imported and intended for introduction into waters of this Commonwealth shall be in compliance with § 71a.6 (relating to fish health certificate requirements).

(c) This subsection does not apply to dead bait fish (salted or frozen) sold for angling purposes outside the Lake Erie watershed. The provisions of § 71a.7 (relating to introduction or transportation of VHS-susceptible species of fish) shall be adhered to for purposes of this section.

**CHAPTER 73. [ Reserved ]**

Sec.  
73.1—73.3. [Reserved].

[Pa.B. Doc. No. 23-1284. Filed for public inspection September 22, 2023, 9:00 a.m.]

**Title 58—RECREATION**

**PENNSYLVANIA GAMING CONTROL BOARD**

**[ 58 PA. CODE CHS. 623b AND 633b ]**

**Craps and Mini-Craps Side Wagers and Variations; Blackjack Side Wagers and Variations—Temporary Regulations**

The Pennsylvania Gaming Control Board (Board), under the general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers) and the specific authority in 4 Pa.C.S. § 13A02(1) and (2) (relating to regulatory authority) and § 13A03 (relating to temporary table game regulations), adopts the temporary regulations in §§ 623b.5 and 633b.16 (relating to power odds; and EZ Bust Blackjack) to read as set forth in Annex A. The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board) as part of Subpart K (relating to table games).

*Purpose of this Temporary Rulemaking*

This temporary rulemaking adds new side wagers and variations to existing games available for play in this Commonwealth.

*Explanation*

The addition to Chapter 623b (relating to Craps and Mini-Craps side wagers and variations—temporary regulations) adds Power Odds. Power Odds incorporates increased payout odds to be randomly applied to certain wagers in the game of Craps.

The addition to Chapter 633b (relating to Blackjack side wagers and variations—temporary regulations) adds EZ Bust Blackjack, a side wager. EZ Bust Blackjack allows for players to place the side wager when the dealer's hand shows a two, three, four, five or six card. The wager wins when the dealer's hand busts after drawing additional card(s) consistent with the rules for dealer's hands being dealt additional cards. Winning EZ Bust Blackjack wagers pay odds of 1 to 1.

*Fiscal Impact*

*Commonwealth.* The Board does not expect that this temporary rulemaking will have a fiscal impact on the Board or other Commonwealth agencies. Updates to Rules Submission forms and internal control procedures will be reviewed by existing Board staff.

*Political subdivisions.* This temporary rulemaking will not have a fiscal impact on political subdivisions of this Commonwealth.

*Private sector.* This temporary rulemaking will provide certificate holders with an additional table game option. If a certificate holder decides to offer any of the side wagers or variations, or both—temporary regulations within the licensed facility, the certificate holder will be required to train its dealers on the rules of play and purchase new equipment—specifically table layouts corresponding to the game and wagers offered. Costs incurred to train employees or purchase/lease equipment should be offset by the proceeds of gaming.

*General public.* This temporary rulemaking will not have fiscal impact on the general public.

*Paperwork Requirements*

If a certificate holder seeks to offer any of the side wagers or variations contained in these temporary regulations the certificate holder will be required to submit a Rules Submission form reflecting the choices in how the game will be offered and with the selected side wagers and variations identified. These forms are available on the Board's public web site and submitted to Board staff electronically.

*Effective Date*

This temporary rulemaking will become effective upon publication in the *Pennsylvania Bulletin* and will expire 3 years from the date of publication.

*Public Comments*

While this temporary rulemaking will be effective upon publication, the Board is seeking comments from the public and affected parties as to how this temporary regulation might be improved. Interested persons are invited to submit written comments, suggestions or objections regarding this temporary rulemaking within 30 days after the date of publication in the *Pennsylvania Bulletin* to Robert Wood, Assistant Chief Counsel, Pennsylvania Gaming Control Board, 303 Walnut Street, 5th Floor, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation # 125-245.

*Contact Person*

The contact person for questions about this temporary rulemaking is Robert Wood, Assistant Chief Counsel, (717) 346-8300.

*Regulatory Review*

Under 4 Pa.C.S. § 1303A, the Board is authorized to adopt temporary regulations which are not subject to the provisions of sections 201—205 of the act of July 31, 1968 (P.L. 769, No. 240), referred to as the Commonwealth Documents Law (CDL) (45 P.S. §§ 1201—1205); the Regulatory Review Act (RRA) (71 P.S. §§ 745.1—745.14); and sections 204(b) and 301(10) of the Commonwealth Attorneys Act (CAA) (71 P.S. §§ 732-204(b) and 732-301(10)). These temporary regulations expire 3 years after publication in the *Pennsylvania Bulletin*.

*Findings*

The Board finds that:



(1) Under 4 Pa.C.S. § 1303A, the temporary regulations are exempt from the requirements of the RRA, sections 201—205 of the CDL and sections 204(b) and 301(10) of the CAA.

(2) The adoption of the temporary regulations is necessary and appropriate for the administration and enforcement of 4 Pa.C.S. Part II (relating to gaming).

*Order*

The Board, acting under 4 Pa.C.S. Part II, orders that:

(1) The regulations of the Board, 58 Pa. Code Chapters 623b and 633b, are amended by adding §§ 623b.5 and 633b.16 to read as set forth in Annex A.

(2) The temporary regulations are effective September 23, 2023.

(3) The temporary regulations will be posted on the Board's web site and published in the *Pennsylvania Bulletin*.

(4) The temporary regulations shall be subject to amendment as deemed necessary by the Board.

(5) The Chairperson of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

DENISE J. SMYLER,  
*Chairperson*

**Fiscal Note:** 125-245. No fiscal impact; recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART VII. GAMING CONTROL BOARD**

**Subpart K. TABLE GAMES**

**CHAPTER 623b. CRAPS AND MINI-CRAPS SIDE WAGERS AND VARIATIONS—TEMPORARY REGULATIONS**

**§ 623b.5. Power Odds.**

(a) A certificate holder may, if specified in its Rules Submission under § 601a.2 (relating to table games Rules Submissions), offer to players Power Odds, which provides the ability to win an increased payout based upon the results of a random number generator.

(b) Craps, Mini-Craps, or variations that offer Power Odds shall be played consistent with Chapters 623a or 623b (relating to Craps and Mini-Craps; and Craps and Mini-Craps side wagers and variations—temporary regulations), unless otherwise provided under this section.

(c) After all wagers have been placed consistent with § 623a.4 (relating to making and removal of wagers), but before the dice are thrown and the results known, the random number generator shall be initiated and shall display which bet or bets have been selected for which, if any, Power Odds increased payouts.

(d) The following wagers shall be eligible for the increased Power Odds:

<i>Wager</i>	<i>Power Odds</i>
Any Craps Bet	10 to 1 or 14 to 1
Any Seven Bet	6 to 1 or 8 to 1
11 in One Roll	22 to 1 or 30 to 1
One-Three or Ace-Trey on the Hop Bet	22 to 1 or 30 to 1

<i>Wager</i>	<i>Power Odds</i>
One-Four or Ace-Four on the Hop Bet	22 to 1 or 30 to 1
One-Five or Ace-Five on the Hop Bet	22 to 1 or 30 to 1
One-Six or Ace-Six on the Hop Bet	22 to 1 or 30 to 1
Two-Three or Deuce-Trey on the Hop Bet	22 to 1 or 30 to 1
Two-Four or Deuce-Four on the Hop Bet	22 to 1 or 30 to 1
Two-Five or Deuce-Five on the Hop Bet	22 to 1 or 30 to 1
Two-Six or Deuce-Six on the Hop Bet	22 to 1 or 30 to 1
Three-Four or Trey-Four on the Hop Bet	22 to 1 or 30 to 1
Three-Five or Trey-Five on the Hop Bet	22 to 1 or 30 to 1
Three-Six or Trey-Six on the Hop Bet	22 to 1 or 30 to 1
Four-Five on the Hop Bet	22 to 1 or 30 to 1
Four-Six on the Hop Bet	22 to 1 or 30 to 1
Four the Hardway on the Hop Bet	45 to 1 or 60 to 1
Six the Hardway on the Hop Bet	45 to 1 or 60 to 1
Eight the Hardway on the Hop Bet	45 to 1 or 60 to 1
Ten the Hardway on the Hop Bet	45 to 1 or 60 to 1
Horn bet (3, 11)	22 to 1 or 30 to 1
Horn Bet (2, 12)	45 to 1 or 60 to 1
C&E (2, 3, 12)	4 to 1 or 6 to 1
C&E (11)	10 to 1 or 14 to 1
Four the Hardway Bet	10 to 1 or 14 to 1
Six the Hardway Bet	13 to 1 or 18 to 1
Eight the Hardway Bet	13 to 1 or 18 to 1
Ten the Hardway Bet	10 to 1 or 14 to 1

**CHAPTER 633b. BLACKJACK SIDE WAGERS AND VARIATIONS—TEMPORARY REGULATIONS**

**§ 633b.16. EZ Bust Blackjack.**

(a) A certificate holder may, if specified in its Rules Submission under § 601a.2 (relating to table games Rules Submissions), offer to players who have made a Blackjack Wager under § 633a.6(d) (relating to wagers) the option to place an EZ Bust Blackjack side wager.

(b) Except as provided under this section, Blackjack games which offer the EZ Bust Blackjack side wager shall follow the rules and procedures outlined in Chapter 633a (relating to Blackjack).

(c) A patron shall have the option to place an EZ Bust Blackjack wager if after dealing the initial two cards to the dealer's hand under § 633a.7(f) (relating to procedure for dealing the cards; completion of each round of play) the dealer's up card is a two, three, four, five or six.

(1) A patron shall have the option to place an EZ Bust Blackjack wager even if the patron was dealt a Blackjack.

(2) A patron shall have the option to place an additional EZ Bust Blackjack wager each time they split their hand under § 633a.11 (relating to splitting pairs).

(d) The patron may place an EZ Bust Blackjack wager up to an amount equal to their initial Blackjack wager.

(e) After the placement of any EZ Bust Blackjack wagers, the Blackjack round of play shall be completed consistent with § 633a.7.

(f) An EZ Bust Blackjack wager shall:

(1) Win if the dealer, having drawn a third card or more under § 633a.7(l)—(n), results in the dealer’s hand having a point count greater than 21—that is, busting.

(2) Lose if the dealer, having drawn a third card or more under § 633a.7(l)—(n), results in the dealer’s hand resulting in a point count less than or equal to 21.

(g) The certificate holder may, if specified in the rules submission, treat all EZ Bust Blackjack wagers as a push, if all players Blackjack wagers have resulted in a Blackjack or have busted.

(h) EZ Bust Blackjack wagers shall be settled prior to the settlement of the player’s Blackjack wager, and the removal of the player’s cards.

(i) Winning EZ Bust Blackjack wagers shall be paid at odds of 1 to 1.

[Pa.B. Doc. No. 23-1285. Filed for public inspection September 22, 2023, 9:00 a.m.]

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