

RULES AND REGULATIONS

Title 58—RECREATION

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 75]

Fishing; Endangered Species

The Fish and Boat Commission (Commission) amends Chapter 75 (relating to endangered species). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). The final-form amendment would update and further clarify language in §§ 75.1—75.3 (relating to endangered species; threatened species; and candidate species). Commission staff recommends deleting the least brook lamprey and brook stickleback.

A. Effective Date

This final-form rulemaking will go into effect upon publication in the *Pennsylvania Bulletin*.

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.

C. Statutory Authority

The amendments to §§ 75.1—75.3 are published under the statutory authority of section 2305(b) of the code (relating to threatened and endangered species).

D. Purpose and Background

The specific purpose and background of the final-form amendment is described in more detail under the summary of changes.

E. Summary of Changes

The digger crayfish *Creaserinus fodiens* is a primary burrowing crayfish that spends the majority of its time underground in burrows. Burrowing crayfish, including *Creaserinus fodiens*, usually occur within or adjacent to forested ephemeral (vernal) pools, bottomland forested floodplains, roadside ditches, small streams, seeps, reservoir shores, wet meadows and prairies, forested swamps and ponds, agricultural ditches and other wet areas where they dig burrows through moist soils to reach the underlying ground water.

Burrowing crayfish are important components of the ecosystems where they reside. They are ecosystem engineers that mix and disturb large volumes of soil, which is important in maintaining plant diversity. Burrowing crayfish provide critical habitat for the eastern massasauga rattlesnake *Sistrurus catenatus* and Kirtland's snake *Clonophis kirtlandii*, both endangered in this Commonwealth. These two species brumate (that is, hibernate) in crayfish burrows. Studies in locations elsewhere indicate that crayfish burrows also provide critical habitat for rare and endangered odonates (that is, dragonflies and damselflies), especially during summer when surface conditions are dry.

The digger crayfish is a highly variable species with a distribution covering substantial portions of the eastern United States, including Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, North Carolina, Ohio,

Oklahoma, South Carolina, Tennessee, Texas, Virginia and West Virginia, as well as Ontario, Canada. In 2014, the digger crayfish was first discovered in northwest Pennsylvania (Crawford County). Additional intensive sampling conducted in 2020 at numerous locations in northwestern Pennsylvania also detected the species in southern Erie County.

The status of this species was reviewed using the Commission's documentation and objective listing/delisting process. The range of the species (extent of occurrence) in this Commonwealth is small (7.7 square miles) and well under the less than 40 square mile criterion (B1) for endangered status in this Commonwealth. Within this range, which includes unsuitable, unoccupied habitats, the digger crayfish only occurs in a 3.5 square mile area (area of occupancy), which is under the less than 4 square mile criterion (B2) for endangered status in this Commonwealth. The digger crayfish is only known to occur in nine locations in this Commonwealth. Two of the locations are disconnected from the other seven, and all locations are disconnected from populations in other states, limiting dispersal and gene flow, which will likely negatively impact the species over the long term.

In addition, the digger crayfish was evaluated with NatureServe's Conservation Status Assessments Rank Calculator and received a State Conservation Rank of S1, meaning it is critically imperiled in this Commonwealth with a high risk of extirpation due to its restricted range and/or populations or occurrences. The Invertebrate Technical Committee of the Pennsylvania Biological Survey (PABS) concurred with this documentation and rank assignment. Enough information is available to make the determination that it is endangered within this Commonwealth at present. Therefore, based on extent of occurrence and area of occupancy, Commission staff propose that the digger crayfish be added to this Commonwealth's list of endangered species.

The black bullhead *Ameiurus melas* is a small catfish, reaching 6.5 to 9 inches in length as an adult. It can be distinguished from similar bullhead species by the presence of black pigmented membranes on its fins. It inhabits backwaters, oxbows, impoundments, lakes, ponds and sluggish streams. Large populations are known to occur in turbid and silty waterways.

The black bullhead was listed as a Commonwealth endangered species in 1999. It is native from southern Canada and Montana, south to northern Mexico and east to the Saint Lawrence River, the Appalachian Mountains and Alabama. It has been introduced elsewhere. In this Commonwealth, there are historic records from the Kiskiminetas River and the Lake Erie basin as well as from Lawrence, Mercer and Westmoreland Counties. There have been no verified reports or collections of this species since 1985. From approximately the year 2000 to the present, the rivers of the Ohio River drainage in western Pennsylvania have been intensively surveyed with electrofishing and trawling gears at hundreds of sites. Efforts have also specifically targeted the black bullhead at historic collection localities in Erie, Lawrence, Mercer and Westmoreland Counties. Despite these efforts, no black bullheads have been detected.

Since the black bullhead has not been detected in this Commonwealth in 38 years, the Commission's objective listing/delisting process could not be applied. It was,

however, evaluated with NatureServe's Conservation Status Assessments Rank Calculator and received a State Conservation Rank of SX, meaning it is considered extirpated in this Commonwealth. The Fishes Technical Committee of the PABS concurred with this documentation and rank assignment. As such, Commission staff recommend that it be deleted from the list of endangered species.

The threespine stickleback *Gasterosteus aculeatus* is a small fish with three distinct dorsal spines. The fourspine stickleback *Apeltes quadracus* also occurs within the same general historic range but can be distinguished by the additional dorsal spine and the distance between the spines. Adults are usually 1.5 to 3 inches in length.

The threespine stickleback inhabits shallow, vegetated areas of tidal pools, creeks, marshes, estuaries and inshore waters, usually in or near marine or brackish waters. It occurs widely in the Arctic and Atlantic drainages south to the Chesapeake Bay. In the Pacific drainages, it occurs from Alaska to Baja, California, and it has been widely introduced elsewhere. In this Commonwealth, it is confined to the tidal Delaware River and a few tributaries.

The threespine stickleback was listed as a Commonwealth endangered species in 1999. There are very few records for this species in Pennsylvania, and it has not been collected or verified in this Commonwealth since 1997. Despite repeated surveys during the past 15 to 20 years of waterways where this species has previously been documented, and surveys of other tidal tributaries to the Delaware River, no threespine sticklebacks have been detected. In addition, there have been no reports of this species from the Pennsylvania Scientific Collectors Permit reporting system during this period.

Due to a lack of recent records, the Commission's objective listing/delisting process could not be applied. Commission staff concluded that the threespine stickleback no longer regularly occurs in this Commonwealth. Based on Commission surveys and the historical record, Commission staff concluded that this species is an estuarine form in this Commonwealth that utilizes our inland waters on an irregular, occasional basis. As such, practically no efforts can be advanced to enhance its status in this Commonwealth. As such, Commission staff recommends that it be deleted from the list of endangered species.

The longsolid *Fusconaia subrotunda* is a freshwater mussel species currently known to occur in Alabama, Kentucky, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia and West Virginia. It is considered extirpated from Georgia, Indiana and Illinois. Historically, longsolid have been reported from the following Commonwealth streams and rivers: French Creek, Muddy Creek, Pymatuning Creek, Slippery Rock Creek, Allegheny River, Beaver River, Cheat River, Mahoning River, Monongahela River, Ohio River and Shenango River. The longsolid still occurs in the following Commonwealth streams and rivers: French Creek, Muddy Creek, Allegheny River and Shenango River. Generally, the longsolid co-occurs with other Federal-listed and State-listed mussel species.

On March 9, 2023, the United States Department of the Interior, Fish and Wildlife Service, designated longsolid as Federally threatened throughout its entire ranges.

Section 102 of the code (relating to definitions) defines "endangered species" as "[a]ll species and subspecies of fish which: (1) have been declared by the Secretary of the United States Department of the Interior to be threat-

ened with extinction and appear on the Endangered Species List or the Native Endangered Species List published in the *Federal Register*; or (2) have been declared by the Executive Director to be threatened with extinction and appear on the Pennsylvania Endangered Species List published in the *Pennsylvania Bulletin*." Because longsolid has been designated as Federally threatened throughout its range, which includes this Commonwealth, Commission staff proposed that it be added to the Commonwealth's list of threatened species.

The least brook lamprey *Lampetra aepyptera* is a small, nonparasitic lamprey. Adults are usually 3.5 to 6 inches in length. A similar species, the American brook lamprey *Lethenteron appendix*, also occurs in western Pennsylvania, but these two species have never been collected from the same stream.

The least brook lamprey inhabits generally clean, clear streams and brooks of moderate gradient. It is often found in stocked trout waters. Larvae, known as ammocoetes, generally prefer sluggish areas with deposits of mud, muck, silt, sand, detritus and coarse woody debris. This species occurs on Atlantic Slope from southeastern Pennsylvania to North Carolina, and the Mississippi River basin from western Pennsylvania to Missouri and Arkansas and south to Mississippi. It is also found in Gulf Coast drainages from Georgia to Mississippi. In western Pennsylvania, this lamprey has been reported from Allegheny, Armstrong, Beaver, Butler, Fayette, Indiana and Westmoreland Counties. It also occurs in a small area of the Susquehanna River drainage in southern Chester County.

The least brook lamprey was listed as a candidate species in 1999. Lamprey-specific field work conducted during 1996 and 2002 to 2009 confirmed that nearly all historic (pre-1995) waterways remained occupied, and additional populations were reported. The status of this species was reviewed using the Commission's documentation and objective listing/delisting process. It exceeds criterion A.2 (population reduction) in that there has been no reduction in historic distribution. Since the least brook lamprey occupies more than 150 linear miles of waterway and occurs at more than 20 locations with no known decline, it exceeds Criteria B.3 (area of occupation) and B.5 (distribution and trends). In addition, it was evaluated with NatureServe's Conservation Status Assessments Rank Calculator and received a State Conservation Rank of S4, meaning it is secure in this Commonwealth with a very low risk of extirpation due to its extensive range or many populations or occurrences. The Fishes Technical Committee of the PABS concurred with this documentation and rank assignment. Enough information exists to determine that this species is currently secure in this Commonwealth and to justify its removal from the Commonwealth's list of threatened fishes. Therefore, the Commission proposes that the least brook lamprey be deleted from the Commonwealth's list of candidate species.

The brook stickleback *Culaea inconstans* is a small fish with 4 to 6 dorsal spines. Adults are generally 1.5 to 2.5 inches long. No other stickleback is known to occur within its native range in this Commonwealth. It inhabits cool, calm waters of lakes, ponds, sluggish streams, wetlands and bogs. It prefers areas of heavy vegetation or woody debris over muck, detritus and sand. It occurs in the Arctic and Atlantic drainages in Canada, and in the Great Lakes and Mississippi drainages from Montana to New York and Pennsylvania. It occurs in the Lake Erie

and Ohio River drainages in northwestern Pennsylvania, roughly from Lawrence and Butler Counties to Potter County, as well as a few locations elsewhere in the Ohio River basin. It has been introduced into the Susquehanna River drainage.

The brook stickleback was listed as a Commonwealth candidate species in 1999. From 1990 to the present, it was determined to be rather widely distributed in northwestern Pennsylvania. It is currently known to occur in Cambria, Clarion, Crawford, Elk, Erie, McKean, Mercer, Potter, Venango and Warren Counties.

The status of this species was reviewed using the Commission's documentation and objective listing/delisting process. It exceeds criteria B.3 (extent of occupancy) and B.5 (distribution and trends) and is known to occur in excess of 20 locations. In addition, it was evaluated with NatureServe's Conservation Status Assessments Rank Calculator and received a State Conservation Rank of S4, meaning it is secure in this Commonwealth with a very low risk of extirpation due to its extensive range or many populations or occurrences. The Fishes Technical Committee of the PABS concurred with this documentation and rank assignment. Enough information exists to determine that it is currently secure in this Commonwealth. Therefore, Commission staff proposes that the brook stickleback be deleted from the Commonwealth's list of candidate species. The Commission proposes that §§ 75.1—75.3 be amended to read as set forth at 53 Pa.B. 7601 (December 9, 2023).

F. Paperwork

This final-form rulemaking will not increase paperwork and will not create new paperwork requirements.

G. Fiscal Impact

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

H. Public Comments

A notice of proposed rulemaking was published at 53 Pa.B. 7601. The Commission received no comments for this proposal.

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 no public comments were received for the proposal.

(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 Chapter 75, are amended by amending §§ 75.1—75.3 to read as set forth at 53 Pa.B. 7601, with ellipses referring to the existing text of the regulations.

(B) The Executive Director will submit this order and 53 Pa.B. 7601 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 53 Pa.B. 7601 and deposit them with the Legislative Reference Bureau as required by law.

(D) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

TIMOTHY D. SCHAEFFER,
Executive Director

Fiscal Note: Fiscal Note 48A-352 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 24-263. Filed for public inspection March 1, 2024, 9:00 a.m.]

Title 58—RECREATION

FISH AND BOAT COMMISSION

[58 PA. CODE CHS. 97 AND 111]

Boating; Operator Provided Equipment; Special Regulations Counties

The Fish and Boat Commission (Commission) amends Chapters 97 and 111 (relating to operator provided equipment; and special regulations counties). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). These amendments update the Commission's regulations relating to personal flotation devices.

A. Effective Date

This final-form rulemaking will go into effect upon publication in the *Pennsylvania Bulletin*.

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.

C. Statutory Authority

The amendment to § 97.1 (relating to personal flotation devices) is published under the statutory authority of section 5123 of the code (relating to general boating regulations). The amendments to §§ 111.3, 111.20, 111.24, 111.26, 111.27, 111.32, 111.42, 111.43, 111.56, 111.62 and 111.65 are published under the statutory authority for section 5124 of the code (relating to particular areas of water).

D. Purpose and Background

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

E. Summary of Changes

Over the past decade, paddleboarding has been gaining popularity. Paddleboards are now widely available, affordable and relatively easy to transport. Paddleboards resemble oversized surfboards, and models are designed for use on various waterways and conditions. They are primarily operated by a person standing on the board using a paddle in a manner similar to a canoe. Paddleboards are frequently used on lakes and rivers throughout this Commonwealth.

On October 3, 2008, the United States Coast Guard (USCG) issued a determination that, when beyond the narrow limits of a swimming, surfing or bathing area, the device known as a “paddleboard” is a vessel under 46 U.S.C. § 2101 (relating to general definitions). This classification means that no person may use a paddleboard unless in compliance with the Navigation Rules and applicable carriage requirements for this type of vessel. The Commission adopted the USCG’s definition of paddleboard and associated life jacket carriage requirements in § 109.2 (relating to paddleboards and sailboards), effective January 1, 2015. This section states that a wearable life jacket must be carried on board for each person, “unless otherwise required to be worn in accordance with § 97.1 (relating to personal flotation devices).” Commission staff recommends amendments to § 97.1 to provide clarification regarding life jacket wear requirements, since paddleboards are generally included with canoes and kayaks for recreational boating purposes. Commission staff also recommends amendments to incorporate paddleboards into Chapter 111 regulations for United States Army Corps of Engineers Pittsburgh District lakes where life jacket wear is required on boats less than 16 feet in length or any canoe, kayak or paddleboard.

The Commission amends §§ 97.1, 111.3, 111.20, 111.24, 111.26, 111.27, 111.32, 111.42, 111.43, 111.56, 111.62 and 111.65 to read as set forth at 53 Pa.B. 5505 (September 2, 2023).

F. Paperwork

This final-form rulemaking will not increase paperwork and will not create new paperwork requirements.

G. Fiscal Impact

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

H. Public Comments

A notice of proposed rulemaking was published at 53 Pa.B. 5505. The Commission received no comments on this proposal.

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 no 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 97 and 111, are amended by amending §§ 97.1, 111.3, 111.20, 111.24, 111.26, 111.27, 111.32, 111.42, 111.43, 111.56, 111.62 and 111.65 to read as set forth at 53 Pa.B. 5505, with ellipses referring to the existing text of the regulations.

(B) The Executive Director will submit this order and 53 Pa.B. 5505 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 53 Pa.B. 5505 and deposit them with the Legislative Reference Bureau as required by law.

(D) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

TIMOTHY D. SCHAEFFER,
Executive Director

Fiscal Note: Fiscal Note 48A-349 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 24-264. Filed for public inspection March 1, 2024, 9:00 a.m.]

Title 58—RECREATION

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 107]

Boating; Boating Restrictions

The Fish and Boat Commission (Commission) amends Chapter 107 (relating to boating restrictions). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). This amendment updates the Commission’s regulations pertaining to allowable electric motor speeds and clarifies horsepower restrictions.

A. Effective Date

This final-form rulemaking will go into effect upon publication in the *Pennsylvania Bulletin*.

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.

C. Statutory Authority

The amendments to §§ 107.1 and 107.2 (relating to horsepower restrictions; and electric motors) are published under the statutory authority of section 5124(a) of the code (relating to particular areas of water).

D. Purpose and Background

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

E. Summary of Changes

Current regulations limit boat propulsion to electric motors only on Commission-owned or Commission-controlled lakes, some State park lakes and water bodies specified in Chapter 111 (relating to special regulations counties). These regulations were originally intended to reduce noise, excessive wakes, shoreline erosion and property damage, and the risk of petroleum-based water pollution on certain water bodies. Boats powered by small electric motors (such as trolling motors) and unpowered boats are popular on Commonwealth bodies of water with electric motor-only restrictions.

Some exceptions exist for State park lakes and certain other waters specified in Chapter 111 where internal

combustion motors are permitted but with horsepower (HP) limitations. Boats propelled by small gas outboard motors and unpowered boats are popular on these waterways.

Recent technological advancements with battery-powered electric boat motors have produced a variety of higher-powered options up to 180 HP and 60 miles per hour. While these new units are currently expensive and have limited battery capacity, it is anticipated they will become more affordable and widely available in the future. Boating stakeholders, partner organizations, other State agencies and Commission staff have expressed concern that high-powered electric motors could be legally operated on waters that are currently regulated as electric motor-only waters, which is inconsistent with the original intent of this restriction. Additionally, Commission law enforcement staff have expressed concern about the complexity of enforcing HP limitations for electric motors to meet the original intent of current regulations.

Manufacturer and retailer specifications for electric motors frequently refer to kilowatt (kW) rather than HP, whereas Commission regulations refer only to HP. In enforcing HP limitations, Waterways Conservation Officers (WCO) typically rely on HP ratings that are marked on the boat's cowling (motor cover). If the HP rating is not marked on the cowling or the marking is not legible, WCOs may instead rely on documentation provided by the boat operator (such as an owner's manual), the results of an Internet search of motor make and model or, if the kW rating is known, use a conversion calculation to determine HP. The widely accepted conversion calculation is $\text{kW} \times 1.341 = \text{HP}$. For example, a 15 kW electric motor converts to approximately 20 HP, which is a common HP limitation across this Commonwealth.

To address these issues, Commission staff recommended amending Chapter 107 to limit the speed at which electric motors may be operated and clarify that horsepower restrictions apply to both electric and internal combustion motors.

On June 21, 2022, the Boating Advisory Board considered this proposal and recommended that the Commission approve the publication of a notice of proposed rulemaking containing the amendments.

On July 26, 2022, the Commission approved the publication of a notice of proposed rulemaking containing these amendments. The notice was published at 52 Pa.B. 5651 (September 3, 2022). The Commission did not receive any public comments regarding the proposal; however, during the comment period, it was discovered that other complementary changes in Chapter 107 were necessary to effect the changes in the proposal.

These additional recommended changes were incorporated into a final-form rulemaking agenda item for Commission action. These changes were not published in the *Pennsylvania Bulletin* but were made public as part of the agenda for the October 24, 2022, Commission meeting. On October 24, 2022, the Commission voted to adopt the amendments as set forth in the notice of proposed rulemaking, which did not include the necessary additional changes presented at the meeting. The final-form rulemaking was published at 52 Pa.B. 7381 (December 3, 2022) and went into effect on January 1, 2023.

The additional changes to §§ 107.1 and 107.2 were included in a proposed rulemaking published at 53 Pa.B. 7604 (December 9, 2023). In this final-form rulemaking, the Commission amends §§ 107.1 and 107.2 to read as set forth at 53 Pa.B. 7604.

F. Paperwork

This final-form rulemaking will not increase paperwork and will not create new paperwork requirements.

G. Fiscal Impact

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

H. Public Comments

A notice of proposed rulemaking was published at 53 Pa.B. 7604. The Commission received one comment in favor of this proposal.

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 one public comment was received in favor of the proposal.

(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 Chapter 107, are amended by amending §§ 107.1 and 107.2 to read as set forth at 53 Pa.B. 7604.

(B) The Executive Director will submit this order and 53 Pa.B. 7604 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 53 Pa.B. 7604 and deposit them with the Legislative Reference Bureau as required by law.

(D) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

TIMOTHY D. SCHAEFFER,
Executive Director

Fiscal Note: Fiscal Note 48A-347 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 24-265. Filed for public inspection March 1, 2024, 9:00 a.m.]

Title 58—RECREATION

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 111]

Boating; Special Regulations Counties

The Fish and Boat Commission (Commission) amends Chapter 111 (relating to special regulations counties). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). This amendment updates the Commission's

regulations pertaining to Susquehanna River, Lake Frederick, located in Dauphin County.

A. Effective Date

This final-form rulemaking will go into effect upon publication in the *Pennsylvania Bulletin*.

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.

C. Statutory Authority

This amendment to § 111.22 (relating to Dauphin County) is published under the statutory authority of section 5124 of the code (relating to particular areas of water).

D. Purpose and Background

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

E. Summary of Changes

A slow, no wake zone currently exists on a channel of the Susquehanna River downstream of Goldsboro, between Bashore Island and the west shore of the river in Dauphin County. This area was established to protect private cabins that existed on the west side of the island at the time. The island is owned by York Haven Power and the cabins were demolished in 2018-2019, so there is no need for the special slow, no wake restriction on this channel. The channel is generally shallow and weedy, which limits boating activity and speed of operation. Boats must still comply with § 103.3(a) (relating to restriction for special areas), which states that “[b]oats are limited to slow, no wake speed when within 100 feet of the shore line; docks; launching ramps; swimmers or downed skiers or other boat-towed watersports participants; persons wading in the water; anchored, moored, or drifting boats; floats, except for ski jumps and ski landing floats; or other areas so marked. This subsection does not apply in a zoned ski area or authorized ski return areas when those areas are found within the areas described in this subsection.”

The Commission amends § 111.22 to read as set forth at 53 Pa.B. 5507 (September 2, 2023).

F. Paperwork

This final-form rulemaking will not increase paperwork and will not create new paperwork requirements.

G. Fiscal Impact

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

H. Public Comments

A notice of proposed rulemaking was published at 53 Pa.B. 5507. The Commission received no comments on this proposal.

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 no 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 regulation of the Commission, 58 Pa. Code Chapter 111, is amended by amending § 111.22 to read as set forth at 53 Pa.B. 5507.

(B) The Executive Director will submit this order and 53 Pa.B. 5507 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 53 Pa.B. 5507 and deposit them with the Legislative Reference Bureau as required by law.

(D) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

TIMOTHY D. SCHAEFFER,
Executive Director

Fiscal Note: Fiscal Note 48A-348 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 24-266. Filed for public inspection March 1, 2024, 9:00 a.m.]