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NOTICES

FISH AND BOAT COMMISSION

Proposed Exemptions to Allow for the Continued Stocking of Class A Stream Sections

[52 Pa.B. 7572]

[Saturday, December 10, 2022]

The Fish and Boat Commission (Commission) intends to consider at its meeting on January 23, and 24, 2023, whether to allow trout stocking to continue on each of the Class A wild trout streams listed as follows. Under 58 Pa. Code § 57.8a (relating to Class A wild trout streams), the Executive Director will obtain approval of the Commission prior to granting permission to stock a Class A wild trout stream under 58 Pa. Code § 71.4 (relating to stocking of designated waters).

On September 30, 2014 (effective January 1, 2015), the statement of policy at 58 Pa. Code § 57.8a was amended to require the Executive Director to obtain approval from the Commission prior to granting permission to stock a Class A wild trout stream section. Following the update to 58 Pa. Code § 57.8a, Commission staff developed internal decision-making criteria to allow continued Commission stocking of a limited number of Class A wild trout stream sections. Subsequently, 13 stream sections that support strong Class A wild brown trout populations were officially designated as Class A wild trout streams during the 2015—2017 timeframe following updated wild trout surveys, and stocking was continued. Stream sections where stocking was continued are heavily fished waters, most located in high-density human population centers, of a size and character that can support a fishery featuring both stocked and wild trout components.

Historically, there have been very few streams where stocking of trout following Class A designation was considered and warranted. However, there are rare cases, beyond the current 13 stocked Class A wild trout stream sections, where a stocking exemption should be considered. To account for these rare circumstances, Commission staff developed additional decision-making criteria to consider internal and external requests for continued stocking of newly designated Class A wild trout streams. These criteria provide staff direction to guide decisions when unusual situations arise but do not automatically result in continued stocking when criteria are met, as most Class A stream sections are best managed solely for wild trout with no stocking. They offer a mechanism for transparent, timely and consistent consideration of requests to continue the stocking of newly designated Class A wild trout streams. These criteria, listed as follows, are detailed in the *Operational Guidelines for the Management of Trout Fisheries in Pennsylvania Waters, 5th Edition* available at www.fishandboat.com. Exemptions will not be granted for streams where a component of the wild trout fishery is comprised of wild brook trout.

1. Pre-existing youth fishing derbies and special use areas that were properly permitted by the Commission and have a history of more than one past occurrence.
2. Pre-existing private stockings on private property on recently designated (that is, within 1 year of posting in the *Pennsylvania Bulletin*) Class A stream sections that have been closed to public angling at the time of Class A designation and at least since 2010. Historic stockings need to be verifiable by documentation, stocking records and have a history of more than one past occurrence.

3. Stream sections stocked by the Commission, a cooperative nursery, or a private group, or both, or individual the year prior to Class A designation, have a history of more than one past occurrence, and meet the following subcriteria.

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

b) Angler use (anglers/mile of stream) in the stream section equals or exceeds the Statewide 50th percentile of angler use for the opening weekend of trout season as documented by Commission staff, or the stream section is a special regulation area under 58 Pa. Code Chapter 65 (relating to special fishing regulations) that was stocked by the Commission the year immediately prior to its designation as a Class A wild trout stream.

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

d) The stocking numbers and frequency will not exceed those of the year prior to the Class A designation.

e) Stream sections where a component of the wild trout population is comprised of wild brook trout will not be considered for stocking.

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

4. Previously received an exemption or a Special Activities Permit from the Commission between 2010 and the present to allow for continued stocking of a Class A wild trout stream section. If the exemption was time-limited and not renewed before expiration, it will be considered a new request and a determination will be made according to other exemption criteria.

Exemptions to the prohibition of stocking hatchery trout into Class A wild trout stream sections will be granted only under rare circumstances. Consideration is only 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 from the Commission between 2010 and the effective date (April 3, 2021) of the amendment to the statement of policy at 58 Pa. Code § 57.8a adopted at the January 2021 quarterly Commission meeting and published at 51 Pa.B. 1828 (April 3, 2021) will be eligible for consideration.

Should an exemption be granted, the Commission will determine the species of trout, number of trout and frequency of stocking consistent with stocking strategies and historical stocking rates of the stream section to minimize impacts to the Class A wild trout population. Stocking provisions will be communicated in writing by the Commission to the entity receiving the exemption for continued stocking on Class A designated waters. Stocking exemptions will be valid for no more than 5 years at which time the need for continuance may be evaluated.

Commission staff have identified three potential exemptions to 58 Pa. Code § 57.8a that meet the criteria to consider the continuance of trout stocking at three Class A stream sections. It should be noted that the Executive Director previously obtained approval from the Board to continue Commission stockings at two of these stream sections (Little Lehigh Creek, Sections 04 and 07); however, this request is specific to the continuance of stocking by private entities and not the annual Commission stockings. The general exemption classification, stream name, stream section, county and commissioner district are listed as follows.

Young fishing derbies

- Salt Run (Section 02), Cameron County, Commissioner District 3

Prior history of stocking and meets the subcriteria outlined under criterion 3 previously listed

- Little Lehigh Creek (Section 04), Lehigh County, Commissioner District 8
- Little Lehigh Creek (Section 07), Lehigh County, Commissioner District 8

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

TIMOTHY D. SCHAEFFER,
Executive Director

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Top

Bottom