

**FISH AND BOAT COMMISSION**

**[ 58 PA. CODE CH. 57 ]**

**Statements of Policy**

The Fish and Boat Commission (Commission) proposes to amend Chapter 57 (relating to statements of policy). The Commission is publishing this proposed statement of policy under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). The proposed amendment updates the internal policy for the Commission pertaining to the stocking of Class A wild trout streams throughout this Commonwealth.

A. *Effective Date*

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

B. *Contact Person*

For further information on this proposed statement of policy, contact Wayne Melnick, Esq., P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed statement of policy is available on the Commission's web site at [www.fishandboat.com](http://www.fishandboat.com).

C. *Statutory Authority*

The proposed amendment to § 57.8a (relating to Class A wild trout streams) is published under the statutory authority of section 2102 of the code (relating to rules and regulations).

D. *Purpose and Background*

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

E. *Summary of Proposal*

Class A wild trout streams represent the best of this Commonwealth's wild trout resources and approximately 3% of all flowing waters in this Commonwealth qualify for this designation. As of July 11, 2020, there are 1,032 Class A stream sections that comprise 2,759 stream-miles in this Commonwealth. Following designation by the Board of Commissioners, Class A wild trout streams enter a process whereby the Department of Environmental Protection will ultimately designate these stream sections as High Quality Cold Water Fishes under 25 Pa. Code Chapter 93 (relating to water quality standards). This designation provides additional water quality protection under the Commonwealth's environmental laws and regulations. As such, a Class A designation is an important mechanism to properly protect, conserve, and enhance wild trout populations and the quality of their habitats.

On September 30, 2014 (effective January 1, 2015), the Statement of Policy at § 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 § 57.8a, staff developed internal decision-making criteria to allow continued Commission stocking of a limited number of Class A wild trout stream sections. Under these criteria, stream sections that the Commission designates as Class A wild trout streams after December 31, 2014, may remain eligible

for stocking with adult and fingerling trout by the Commission to provide additional angling opportunities, provided that the following criteria conditions are met.

1. The stream section was stocked with adult trout during the year immediately prior to its designation as a Class A wild trout stream.
2. 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 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.
3. The trout species to be stocked are not the same species as the primary component of the wild trout population.
4. The stocking numbers and frequency will not exceed those of the year prior to the Class A designation.
5. A stream section managed for wild Brook Trout will not be considered for stocking.
6. Prior to implementing a decision to stock a Class A wild trout stream, the Executive Director will obtain the approval of the Commission.

Subsequently, 13 stream sections suspected to support strong Class A wild Brown Trout populations were officially designated as Class A wild trout streams during the 2015—2017 time frame following updated wild trout surveys and stocking was continued. The Commission believes there are very few additional waters in this Commonwealth that would meet the current internal decision-making criteria used to consider continued stocking of Class A wild trout streams. The 13 Class A wild trout stream sections where stocking continued are heavily fished streams in high-density human population centers of a size and character that can support a fishery featuring both stocked and wild trout components. Common to these waters are robust wild Brown Trout

populations, which continue to maintain strong Class A fisheries in the presence of stocking and high angler use. The management approach for these waters includes limiting species stocked to Rainbow Trout, which are easier to catch, rarely develop into a wild population in this Commonwealth, would not genetically impact the existing wild Brown Trout population and could serve to satisfy anglers that prefer to fish for stocked trout during the early part of trout season.

Historically, there have been very few streams where stocking of trout following Class A designation was considered and warranted. Occasionally, there may be pre-existing youth fishing derbies or clubs and/or private landowners that are not aware a stream section was designated as Class A and unknowingly continue to stock illicitly. Additionally, it is often unknown to Commission staff where private stockings have occurred. This information may become apparent only when the next private stocking is planned and the landowner discovers a Class A designation has occurred. Therefore, there may be rare cases where a stocking exemption should be considered. As such, the Commission has developed additional internal decision-making criteria to account for these types of rare circumstances to consider internal and external requests for continued stocking of newly designated Class A wild trout streams. These criteria will provide the Commission direction to guide decisions when unusual situations arise but would not automatically result in continued stocking when criteria are met, as the vast majority of Class A stream sections are best managed solely for wild trout with no stocking. They will 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 will be detailed in the *Operational Guidelines for the Management of Trout Fisheries in Pennsylvania Waters, 5th edition* planned for release in December 2020 and available at [www.fishandboat.com](http://www.fishandboat.com). Listed as follows are several scenarios that may be considered for an exemption.

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 a history of more than one past occurrence.
3. Stream sections stocked by the Commission, a cooperative nursery, and/or a private group or individual the year prior to Class A designation and a history of more than one past occurrence, and meet the Commission's Class A stocking criteria developed for the 13 Class A streams sections stocked by the Commission. These criteria currently guide staff consideration when making recommendations regarding the continuance of stocking a Class A wild trout stream section and were specifically developed for high-use, urban and suburban stream sections that support robust Class A wild Brown Trout populations. Stocked species are limited to Rainbow Trout and the number stocked will remain at or below the levels stocked at the time of Class A designation. Some stream sections may be better managed solely for wild trout in the future; therefore, trout stocking may not occur in perpetuity.
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 current exemption criteria.

Exemptions to the prohibition of stocking hatchery trout into Class A wild trout stream sections would be granted only under rare circumstances. Consideration would 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 from the Commission between 2010 and the present to allow for continued stocking would be eligible for consideration. Should an exemption be granted, the agency would 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. No exemptions will be granted for streams where a component of the wild trout fishery is comprised of wild Brook Trout.

The Commission proposes that § 57.8a be amended to read as set forth in Annex A.

F. *Paperwork*

This proposed statement of policy will not increase paperwork and will not create new paperwork requirements.

G. *Fiscal Impact*

This proposed statement of policy will have no adverse fiscal impact on the Commonwealth or its political subdivisions.

H. *Public Comments*

Interested persons are invited to submit written comments, objections or suggestions about this proposed statement of policy 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 submitted by facsimile will not be accepted.

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

TIMOTHY D. SCHAEFFER,  
*Executive Director*

**Fiscal Note:** 48A-307. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART II. FISH AND BOAT COMMISSION**

**Subpart A. GENERAL PROVISIONS**

**CHAPTER 57. STATEMENTS OF POLICY**

**Subchapter A. FISHERIES POLICIES**

**§ 57.8a. Class A wild trout streams.**

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

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