



**pennsylvania**  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



Office of Water Programs

# **Final Rulemaking - Class A Stream Redesignations (25 Pa. Code Chapter 93)**

Environmental Quality Board Meeting  
November 17, 2020

Tom Wolf, Governor

Patrick McDonnell, Secretary

# Class A Wild Trout Stream Qualifier

## § 93.4b. Qualifying as High Quality or Exceptional Value Waters.

(a)(2)(ii) *Class A wild trout stream qualifier.*

The surface water has been designated a Class A wild trout stream by the Pennsylvania Fish and Boat Commission (PFBC) following public notice and comment.

# ➤ Example Class A Wild Trout Stream Qualifier

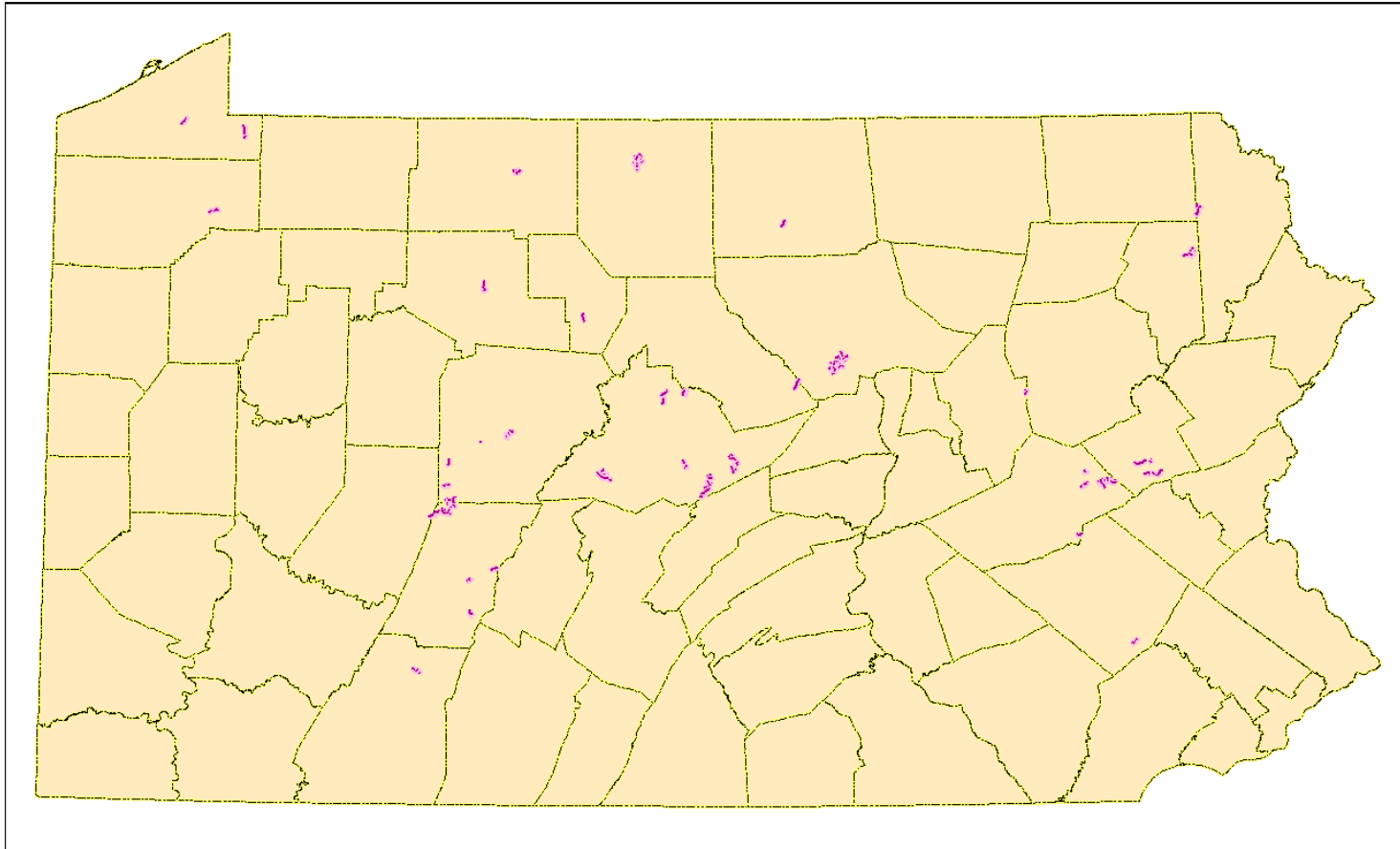
## **Class A Brook Trout Qualifying Criteria**

*(according to PFBC Class A biomass protocols)*

- a. Total wild brook trout biomass of at least 30 kg/ha (26.7 lbs/acre)
- b. Total biomass of wild brook trout less than 15 centimeters (cm) or 5.9 inches in total length of at least 0.1 kg/ha (0.089 lbs/acre)
- c. Wild brook trout biomass must comprise at least 75% of the total wild trout biomass

# Affected Counties

41 stream segments totaling 222 stream miles



# Affected Drainage Lists

## Delaware River Basin

- § 93.9d = Lehigh River Basin
- § 93.9f = Schuylkill River Basin

## Susquehanna River Basin

- § 93.9j = Lackawanna River Basin
- § 93.9k = Lackawanna River to West Branch
- § 93.9l = West Branch Susquehanna River Basin
- § 93.9m = West Branch to Juniata River

## Ohio River Basin

- § 93.9p = Allegheny River Basin, PA-NY State Border to Tunungwant Creek.
- § 93.9q = Allegheny River Basin, Tunungwant Creek to Clarion River.
- § 93.9r = Clarion River Basin
- § 93.9t = Kiskiminetas River Basin

# Implementation

## National Pollutant Discharge Elimination System (NPDES)

- Requires effluent limitations that are protective of the Designated Use
- Designated use changes should have no impact on existing discharges
- New or expanding discharges may be subject to more stringent treatment requirements to meet DU and EU

# Notifications

## **DEP provides 4 post card notifications via USPS**

- Prior to EQB meeting - proposed
- Beginning of comment period
- Prior to EQB meeting - final
- Final rule sent to IRRC/Committees

## **eNotice will be delivered at similar times**

- Announcing the rulemaking is on EQB Meeting Agenda
- Announcing public comment periods
- Announcing the EQB has adopted the rulemaking

# Notifications

## **Post cards are delivered to the following entities**

- Municipalities
- County Planning Commissions
- County Conservation Districts
- Regional Planning Commissions
- Other Agencies (PFBC, PGC)
- USEPA Region 3

**eNotice will be delivered to anyone who subscribes**

**Commenters are notified**



# Affected Parties

## Opportunities for Public Participation Prior to Rulemaking

- PFBC published notice and requested comments on the Class A classification of these streams
- DEP Notice of intent to assess the streams
- DEP Notice and 45-day comment period on draft evaluation report

# Comments on Proposed Rulemaking

- Approved by EQB on December 18, 2018
- Published in PA Bulletin on March 23, 2019 (49 Pa.B. 1367)
- Public Hearing April 26, 2019
- 45-day public comment period ended May 7, 2019
- 774 commenters were supportive (777 total commenters)

# Changes from Proposed to Final Rulemaking

| Stream Name                            | Initial Designated Use | Zone Recommended by DEP at Proposed Rulemaking for HQ-CWF       | Zone Recommended by DEP at Final Rulemaking for HQ-CWF      | Description of Change  |
|--|------------------------|---|---|--|
| UNT 03913 to Lehigh River "Nis Hollow" | CWF, MF                | Main Stem   | Basin   | Recommendation now includes the tributaries  |
| Fireline Creek                         | CWF, MF                | Main Stem, UNT 03907 to Mouth                                   | Basin, except UNT 03907.                                    | Recommendation now includes the main stem above UNT 03907 and all of the tributaries in the entire basin except UNT 03907            |
| Glen Brook                             | CWF, MF                | Main Stem, UNT 28087 to Foundryville Road                       | Basin   | Recommendation now includes the main stem above UNT 28087 and below Foundryville Road; and also adding all tributaries to Glen Brook |
| Gap Run                                | CWF, MF                | Main Stem, Source to the sink hole at 40°51'59.0"N; 77°44'4.0"W | Basin, Source to the sink hole at 40°51'59.0"N; 77°44'4.0"W | Recommendation now includes the tributaries  |
| Council Run                            | CWF, MF                | Main Stem   | Basin   | Recommendation now includes the tributaries  |
| Spencer Creek                          | CWF                    | Main Stem   | Basin   | Recommendation now includes the tributaries  |
| Benson Run                             | TSF                    | Main Stem   | Basin   | Recommendation now includes the tributaries  |

# Additional Comments

- Requesting quantification of economic/fiscal impact of the rulemaking including the added HQ-CWF stream miles
- Perceived lack of progress for four years
- Rulemaking may cause undue burden on critical infrastructure projects that benefit the public

# Process Summary

- PFBC Publicly Proposes Class A Classifications
- PFBC Commissioners Approve Class A Classifications
- PFBC Submits Fisheries Reports to DEP
- DEP Provides Notice to Assess
- DEP Develops Draft Report for Public Comment
- DEP Develops a Final Report

# Recommendation

DEP recommends the adoption of the Class A Stream Redesignations final-form rulemaking.



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Office of Water Programs

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