

EXECUTIVE SUMMARY
DESIGNATED WATER USES AND WATER QUALITY CRITERIA
Clarks Creek, et al., Proposed Rulemaking

As part of its continuing water quality management program and ongoing review of water quality standards, the Department of Environmental Protection (Department) recommends that the Environmental Quality Board (Board) adopt the following amendments to 25 Pa. Code Chapter 93, §§93.9f, 93.9j, 93.9o and 93.9r as set forth in Annex A of this proposed rulemaking and summarized in the text below and in the table on the following page.

These streams were evaluated in response to four petitions, as well as requests from the Department's Southcentral Regional Office (SCRO), the Pennsylvania Fish and Boat Commission (PFBC), and a corrective amendment by the Bureau of Water Standards and Facility Regulation (BWSFR) as follows:

Pine Creek (Schuylkill Co) - Petition: (Friends of Pine Creek)

Cacoosing Creek (Berks Co) - SCRO

Unnamed Tributary 00926 to Schuylkill River; locally Spring Mill Run (Montgomery Co) - Petition: (Steven S. Brown, Chairman; Whitmarsh Township Environmental Advisory Board)

Unnamed Tributary 28600 to Lackawanna River; locally Clarks Creek (Wayne Co) - Petition: (Glen Abello)

Unnamed Tributary 07792 to Conestoga River (Lancaster Co) - PFBC

Hammer Creek (Lebanon and Lancaster Co's) – Petition: (Heidelberg Township)

Toms Run (Clarion and Forest Co's) – Correction (BWSFR)

These regulatory changes were developed as a result of aquatic studies conducted by the Bureau of Water Standards and Facility Regulation. The physical, chemical, and biological characteristics and other information on these waterbodies were evaluated to determine the appropriateness of the current and requested designations using applicable regulatory criteria and definitions. In reviewing whether waterbodies qualify as High Quality (HQ) or Exceptional Value (EV) waters, the Department considers the criteria in § 93.4b (relating to qualifying as HQ or EV Waters). Based on these data and appropriate regulatory criteria, the Department has developed this package of stream redesignation evaluations.

In addition to these recommended revisions, the Department proposes a correction to an error that occurred in Drainage List R (Clarion River) during the 2000 Regulatory Basics Initiative Water Quality Standards (RBI WQS) Triennial Review final rulemaking that was published on November 18, 2000 (30 PaB 6059). Toms Run basin (except Little Hefren Run) was initially redesignated from CWF to EV as a result of the French Creek, et al. stream redesignations package which was published as a final rulemaking on September 5, 1998 (28 PaB 4510). Toms Run basin was incorrectly published in the RBI WQS Triennial Review final rulemaking with a designated use of CWF. The final rulemaking erroneously reverted its designated use from EV back to CWF. The Department recommends that Toms Run basin (except Little Hefren Run) be corrected to EV. Little Hefren Run basin will remain CWF.

Potentially affected municipalities were notified by letter of the stream evaluations and asked to provide any readily available data. The affected municipalities were later notified of the availability of a draft evaluation report for their review and comment.

Technical data was received from the Rush Township Environmental Council in the form of a report prepared by Skelly and Loy and excerpts from a second report prepared by Kimball and Associates, Inc concerning Pine Creek (Schuylkill Co). The Skelly and Loy report contained information on instream habitat, water chemistry, and the benthic macroinvertebrate community. The second report contained data on two water chemistry parameters; pH and CaCO₃.

Summary Table: Clarks Creek, et al. Proposed Redesignations

Stream**	County	Reach**	List	Current Designation*	Requested Designation*	Recommended Designation*
Pine Creek	Schuylkill	Basin	F	CWF, MF	EV	CWF, MF <i>(no change)</i>
Cacoosing Creek	Berks	Basin (except Little Cacoosing Creek)	F	None	---	CWF, MF
Little Cacoosing Creek	Berks	Basin	F	None	---	WWF, MF
UNT 00926 to Schuylkill River (Spring Mill Run)	Montgomery	Basin	F	WWF, MF	HQ / EV	CWF, MF
UNT 28600 to Lackawanna River (Clarks Creek)	Wayne	Basin	J	CWF, MF	HQ-CWF	EV, MF
UNT 07792 to Conestoga River	Lancaster	Basin	O	WWF, MF	CWF	CWF, MF
Hammer Creek	Lebanon	Basin, source to second Rexmont Road crossing (downstream of the two former water supply reservoirs)	O	HQ-CWF, MF	TSF	HQ-CWF, MF <i>(no change)</i>
Hammer Creek	Lebanon	Basin, second Rexmont Road crossing to but not including UNT 07678	O	HQ-CWF, MF	TSF	CWF, MF
Hammer Creek	Lancaster	Basin, from and including UNT 07678 downstream to Walnut Run	O	HQ-CWF, MF	TSF	HQ-CWF, MF <i>(no change)</i>
Walnut Run	Lancaster	Basin	O	HQ-CWF, MF	TSF	EV, MF
Hammer Creek	Lancaster	Basin, Walnut Run to inlet of Speedwell Forge Lake	O	HQ-CWF, MF	TSF	HQ-CWF, MF <i>(no change)</i>
Hammer Creek	Lancaster	Basin, Inlet of Speedwell Forge Lake to UNT 07671	O	HQ-CWF, MF	TSF	WWF, MF
UNT 07671 to Hammer Creek	Lancaster	Basin	O	HQ-CWF, MF	TSF	HQ-CWF, MF <i>(no change)</i>
Hammer Creek	Lancaster	Basin, UNT 07671 downstream to Speedwell Forge Lake Dam	O	HQ-CWF, MF	TSF	WWF, MF
Corrective Amendment						
Toms Run	Clarion / Forest	Basin (except Little Hefren Run)	R	CWF	---	EV

* WWF = Warm Water Fishes HQ = High Quality
 TSF= Trout Stocking EV = Exceptional Value
 CWF= Cold Water Fishes MF = Migratory Fishes

** UNT = Unnamed Tributary

Technical data and comments were received from David Correll of the Smithsonian Environmental Research Center concerning water chemistry data for Hammer Creek (Lebanon & Lancaster Co's). The Department received letters from the Hammer Creek Watershed Association, Heidelberg and Warwick Townships, PennEnvironment, and the Pennsylvania Chapter of the Sierra Club in opposition to the redesignation.

The Hammer Creek report and original recommendations (June 2007) to remove the HQ designation from the Hammer Creek basin and change the designated use of Speedwell Forge Lake to Warm Water Fishes (WWF) were provided to the petitioner and posted on DEP's web page for public review and comment. The Chesapeake Bay Foundation (CBF) submitted a letter opposing the Department's findings, and a report (CBF 2008) summarizing conditions of the Hammer Creek watershed.

All data and comments received in response to these notifications were considered in the determination of the Department's recommendations.

The Department recommends the designations described in the preceding table and as set forth in Annex A of the proposed rulemaking.

This proposed rulemaking is being made under the authority of Sections 5(b)(1) and 402 of The Clean Streams Law (35 P.S. §§691.5 (b)(1) and 691.402), which authorize the Board to develop and adopt rules and regulations to implement the provisions of the Clean Streams Law, and Section 1920-A of the Administrative Code of 1929 (71 P.S. §510-20), which grants to the Board the power and duty to formulate, adopt, and promulgate rules and regulations for the proper performance of the work of the Department. In addition, Section 303 of the Federal Clean Water Act (33 U.S.C. §1313) sets forth requirements for water quality standards and the federal regulation at 40 CFR §131.32 sets forth certain requirements for portions of the Commonwealth's antidegradation program. This regulation is not more stringent than the federal requirements found in the companion federal regulations.

The proposed redesignations will be implemented through the Department's permit and approval actions. For example, the National Pollutant Discharge Elimination System (NPDES) permitting program bases effluent limitations on the use designation of the stream. These permit conditions are established to assure water quality criteria are achieved and designated and existing uses are protected. Dischargers are required to provide effluent treatment according to the water quality criteria associated with existing uses and revised designated water uses.

The streams proposed for redesignation are already protected at their existing use and, therefore, the designated use changes will have no additional impact on treatment requirements. Treatment of existing discharges are unaffected by changes to the designated use of the water body. Some new or expanding discharges may be subject to more stringent treatment requirements to meet designated and existing stream uses.

The Department recommends that these revisions be adopted by the Board and published in the *Pennsylvania Bulletin* as proposed rulemaking with a 45-day public comment period. Public hearings and/or meetings will be scheduled at appropriate locations if sufficient interest is shown during the public comment period.