

Executive Summary
Water Quality Standards – Class A Stream Redesignations
25 Pa. Code Chapter 93

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 §§ 93.9d, 93.9f, 93.9j, 93.9k, 93.9l, 93.9m, 93.9p, 93.9q, 93.9r, and 93.9t to read as set forth in Annex A of this proposed rulemaking.

Purpose of the Rulemaking

Section 303(c)(1) of the Federal Clean Water Act (33 U.S.C.A. § 1313(c)) requires states to periodically review and revise, as necessary, water quality standards. The regulatory changes in this proposed rulemaking are the result of stream evaluations conducted by the Department in response to a submittal of data from the Pennsylvania Fish and Boat Commission (PFBC) under 25 Pa. Code § 93.4c (relating to implementation of antidegradation requirements). Section 93.4c(a)(1) pertains to the process for changing a designated use of a stream. In this proposal, redesignations rely on § 93.4b(a)(2)(ii) to qualify streams for High Quality designations based upon their classifications as Class A wild trout streams. A surface water that has been classified a Class A wild trout stream by the PFBC, based on species-specific biomass standards, following public notice and comment, qualifies for High Quality (HQ) designation. The PFBC published notice and requested comments on the Class A designation of these streams. The PFBC Commissioners approved these waters after public notice and comment.

Department staff conducted an independent review of the trout biomass data in the PFBC's fisheries management reports for streams throughout the Commonwealth. This review was conducted to ensure that the HQ criteria were met.

Summary of the Rulemaking

Based on these data and appropriate regulatory criteria, the Department developed this package of stream redesignations for the Board's consideration. The proposed regulations include High Quality stream redesignations in the Delaware, Susquehanna and Ohio River basins. A table of these changes can be found at the end of this executive summary.

In addition to the recommended changes to stream designations, the current and ongoing proposed rulemaking for the Triennial Review of Water Quality Standards was published in the Pennsylvania Bulletin on October 21, 2017 (47 Pa.B. 6609), with a public comment period that ended on February 16, 2018. The Triennial Review contains proposed revisions to the drainage lists, sections 93.9a to 93.9z that affect some of the same stream segments in this proposed rulemaking. Editor's notes have been inserted in Annex A to mark where drainage lists are also affected by a change in the Triennial Review. However, these changes are not substantive in nature, because they do not change any current stream designations.

The Board is proposing to consolidate and reformat portions of several drainage lists to address the continual changes and updates occurring to the National Hydrography Dataset (NHD)

flowline. The NHD flowline forms the basis of the Department's Designated and Existing Use Geographic Information System (GIS) layers. The NHD flowline is established using the United States Geological Survey (USGS) Geographic Names Information System (GNIS), which is the Federal and National standard for geographic nomenclature. The Department strives to maintain consistency with the GNIS database and the NHD flowline.

Furthermore, all river mile indexes (RMI) included in this proposed rulemaking - §§ 93.9d, 93.9f, 93.9j, 93.9k, 93.9l, 93.9m, 93.9p, 93.9q, 93.9r, and 93.9t – will be converted to (x,y) coordinates for latitude and longitude. The conversion of RMI in all of the drainage lists is not included in this proposed rulemaking. Going forward, whenever changes are proposed to Chapter 93, associated RMI will be converted to latitude and longitude. Eventually, all reference to RMI in §§ 93.9a—93.9z will be converted to latitude and longitude.

Additionally, the Department recommends correcting the spelling for Huntington Creek in §93.9k to be consistent with the NHD flowline.

Finally, the Department recommends the Board adopt proposed HQ waters by redesignating those waters described in the Summary Table, below, and as set forth in Annex A of the proposed rulemaking.

These redesignations will be implemented through the Department's permit and approval actions. For example, the National Pollutant Discharge Elimination System (NPDES) permitting program requires effluent limitations for discharges that are protective of the use designations of the stream. The streams that are proposed for redesignation are currently protected at their existing uses and, therefore, the designated use changes should have no additional impact on existing treatment requirements. Some new or expanding discharges may be subject to more stringent treatment requirements to meet designated and existing stream uses.

Affected Parties

There are approximately 10,300 facilities across the Commonwealth that hold permits issued pursuant to Chapter 92a (relating to National Pollutant Discharge Elimination System (NPDES) permitting, monitoring and compliance). This statewide number of approximately 10,300 includes NPDES permits for Concentrated Animal Feeding Operations, industrial waste, municipal separate storm sewer systems (MS4), sewage, and industrial storm water. Out of this statewide total of approximately 10,300 permits, only 19 facilities are known to hold NPDES permits within the boundaries of the watersheds of the stream segments being considered for redesignation in this proposed rulemaking. The types of NPDES discharges identified that have watershed involvement in this proposed rulemaking include industrial waste, sewage, municipal stormwater, and industrial stormwater. Discharges in existence at the time of the stream survey have been considered in the evaluation of the existing water quality of the stream and the recommendation for redesignation to special protection. Since the presence of such discharge activities did not preclude the attainment of special protection status, the discharges may continue as long as the discharge characteristics (both quality and quantity) remain the same. Thus, redesignation to special protection does not impose any additional special treatment requirements on the existing discharges from these 19 NPDES permitted entities. However, discharge activities to special protection streams do not qualify for NPDES general permits, based on 25 Pa. Code § 92a.54(a)(8) (relating to general permits), and therefore, will require

individual permits. The individual permits are necessary to track any additional or increased discharges to a special protection water.

There are thousands of general and individual NPDES permits for Stormwater Discharges Associated With Construction Activities issued under §102 that were not included in the statewide total of NPDES permits. These construction permits were not included in the permit counts because of their temporary nature. However, if the construction permit was issued as a general permit, and if the permitted activity is not completed by the expiration date on the permit and the permittee seeks to renew the permit, it must be renewed as an individual permit. Additionally, when earth disturbance activities occur within the basins of the stream segments proposed to be redesignated in this rulemaking, additional BMPs may be necessary to protect water quality under Chapter 102 (relating to erosion and sediment control).

Any person proposing a new, additional, or increased point source discharge would need to satisfy the requirements found at 25 Pa. Code § 93.4c(b)(1). Any new, additional or increased point source discharge to special protection waters must evaluate non-discharge alternatives and use an alternative that is environmentally sound and cost-effective when compared with the cost of the proposed discharge. If a nondischarge alternative is not environmentally sound and cost-effective, the permittee of a new, additional or increased discharge must use the best available combination of cost-effective treatment, land disposal, pollution prevention and wastewater reuse technologies to meet water quality standards. The permit applicant must demonstrate in the permit application that their new or expanded activities will not lower the existing water quality of special protection streams. If an applicant cannot meet nondegrading discharge requirements, a person who proposes a new, additional or increased discharge to HQ waters is given an opportunity to demonstrate a social and economic justification (SEJ) for allowing lower water quality. The demonstration must show that the discharge is necessary to accommodate important economic or social development in the area in which the waters are located and that other water uses will be supported.

Where on-lot sewage systems are planned, compliance with the sewage facilities planning and permitting regulations in Chapters 71, 72 and 73 (relating to the administration of sewage facilities planning program; administration of sewage facilities permitting program; and standards for on-lot sewage treatment facilities) will continue to satisfy § 93.4c (relating to the implementation of antidegradation requirements) in these proposed HQ Waters. Permit applicants of sewage facilities in HQ waters who demonstrate SEJ at the sewage facilities planning stage need not redemonstrate SEJ at the discharge permitting stage. The SEJ demonstration process is available to sewage and nonsewage discharge applicants.

The Department cannot accurately estimate who will be affected by these proposed stream redesignations because: (1) persons and businesses, both large and small, will not be impacted until a future activity requires a new or modified NPDES permit; (2) effluent discharges and receiving stream characteristics are unique; (3) social and economic justification may be available to modify the requirements; and (4) generic technology or cost equations are not available for purposes of comparing the costs and/or savings for local governments that are responsible for discharges.

The Department identified eleven public water supply facilities with raw water intakes within 30 stream miles downstream of the candidate stream sections for redesignation in this proposed rulemaking package. These eleven public water suppliers, which serve over 175,000 citizens, will benefit from this rulemaking package because their raw source water will be afforded a higher level of protection. This is an economic benefit because the source water treatment costs for the drinking water will be less costly to customers if less treatment is needed due to the high quality of the water in the stream.

Small businesses in the recreation industry will be positively affected by these proposed regulations. The maintenance and protection of the water quality will ensure the long-term availability of Class A wild trout fisheries.

Public Comments and Board Hearings

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. A public hearing will be scheduled during the public comment period to receive additional comments.

**Summary Table: Proposed Rulemaking
Class A Stream Redesignations Package**

<i>Stream Name</i>	<i>County</i>	<i>List</i>	<i>Zone</i>	<i>Current Designated Use</i>	<i>Recommended Designated Use</i>
Beaver Run	Carbon	D	Basin	CWF, MF	HQ-CWF, MF
Wash Creek	Schuylkill	D	Basin	CWF, MF	HQ-CWF, MF
UNT 04074 to Mahoning Creek	Schuylkill	D	Basin	CWF, MF	HQ-CWF, MF
UNT 04088 to Lehigh Canal (Weisport)	Carbon	D	Basin, Source to Phifer Ice Dam Inlet	CWF, MF	HQ-CWF, MF
UNT 03913 to Lehigh River	Carbon	D	Main Stem	CWF, MF	HQ-CWF, MF
Fireline Creek	Carbon	D	Main Stem, UNT 03907 to Mouth	CWF, MF	HQ-CWF, MF
UNT to Little Schuylkill River	Schuylkill	F	Basin	CWF, MF	HQ-CWF, MF
UNT 02248 to Little Schuylkill River "Rabbit Run"	Schuylkill	F	Basin	CWF, MF	HQ-CWF, MF
UNT 02204 to Little Schuylkill River	Schuylkill / Berks	F	Basin	CWF, MF	HQ-CWF, MF

Sixpenny Creek	Berks	F	Basin, UNT 64027 to Mouth	CWF, MF	HQ-CWF, MF
Aylesworth Creek	Lackawanna	J	Basin, Source to UNT 28567	CWF, MF	HQ-CWF, MF
Brace Brook	Susquehanna / Wayne	J	Basin	CWF, MF	HQ-CWF, MF
Glen Brook	Columbia	K	Main Stem, UNT 28087 to Foundryville Road	CWF, MF	HQ-CWF, MF
Douglas Run	Cambria / Indiana	L	Basin	CWF, MF	HQ-CWF, MF
Emeigh Run	Cambria	L	Basin	CWF, MF	HQ-CWF, MF
Beaver Run	Cambria / Clearfield	L	Basin, Source to and including UNT 27182	CWF, MF	HQ-CWF, MF
Patchin Run	Clearfield	L	Basin	CWF, MF	HQ-CWF, MF
North Run	Clearfield	L	Basin	CWF, MF	HQ-CWF, MF
UNT 26735 to West Branch Susquehanna River	Clearfield	L	Basin	CWF, MF	HQ-CWF, MF
Hogback Run	Clearfield	L	Basin	CWF, MF	HQ-CWF, MF
UNT 26562 to Bradley Run	Cambria	L	Basin	CWF, MF	HQ-CWF, MF

Little Dent Run	Cameron	L	Basin	CWF, MF	HQ-CWF, MF
Laurel Run	Centre	L	Basin, from a point at 40°49'3.5"N; 78°5'52.0"W to Mouth	CWF, MF	HQ-CWF, MF
Gap Run	Centre	L	Main Stem, Source to the sink hole located at 40°51'59"N; 77°44'4"W	CWF, MF	HQ-CWF, MF
Council Run	Centre	L	Main Stem	CWF, MF	HQ-CWF, MF
Salt Lick Run	Centre	L	Basin	CWF, MF	HQ-CWF, MF
Sand Run	Tioga	L	Basin	CWF, MF	HQ-CWF, MF
Rauchtown Creek	Lycoming / Clinton	L	Basin, Confluence of Rockey Run and Gottshall Run to Mouth	CWF, MF	HQ-CWF, MF
Mosquito Creek	Lycoming	L	Basin	CWF, MF	HQ-CWF, MF
Potter Run	Centre	M	Basin	CWF, MF	HQ-CWF, MF
Kettle Run	Centre	M	Basin	CWF, MF	HQ-CWF, MF
UNT 18312 to Penns Creek	Centre	M	Basin	CWF, MF	HQ-CWF, MF
Peet Brook	Potter	P	Basin	CWF	HQ-CWF

UNT 57738 to Blacksmith Run	McKean	P	Basin	CWF	HQ-CWF
UNT 54466 to Marsh Run	Crawford	Q	Basin	CWF	HQ-CWF
Spencer Creek	Erie	Q	Main Stem	CWF	HQ-CWF
Benson Run	Erie	Q	Main Stem	TSF	HQ-CWF
Water Tank Run	Elk	R	Basin	CWF	HQ-CWF
UNT 45591 to Stonycreek River	Somerset	T	Basin	CWF	HQ-CWF
UNT 46054 to Trout Run	Cambria	T	Basin	CWF	HQ-CWF
UNT 46033 to North Branch Little Conemaugh River	Cambria	T	Basin	CWF	HQ-CWF

CWF = cold water fishes

TSF = trout stocking

HQ = high quality

MF = migratory fishes

UNT = unnamed tributary