



pennsylvania
DEPARTMENT OF ENVIRONMENTAL PROTECTION



Office of Water Programs

Final-Form Rulemaking: Dunbar Creek et al. Stream Redesignations

Environmental Quality Board Meeting
April 11, 2023

Josh Shapiro, Governor

Richard Negrin, Acting Secretary

Stream Evaluations

Stream	County	Reason for Evaluation
Bear Run	Indiana	Petition
Cranberry Creek	Monroe	Petition
Dunbar Creek	Fayette	Request
Two Lick Creek	Indiana	Petition
Clyde Run	Elk	Routine stream monitoring
UNT 28168 to Oley Creek	Luzerne	Correction of an error in Chapter 93
UNT 08187 to S. Branch Codorus Creek	York	Routine stream monitoring

Proposed Rulemaking Summary

Stream Name	County	Zone Description	List	Designated Use		
				Current	Requested	Recommended
Cranberry Creek	Monroe	Basin, From and including UNT 04948 to Mouth	C	HQ-CWF, MF	EV (Petition requested entire Cranberry Creek basin.)	EV, MF
UNT 28168 to Oley Creek	Luzerne	Basin	K	HQ-CWF, MF	Not a request	CWF, MF
Bear Run	Indiana	Portions of Bear and Brooks Run	L	CWF, MF	HQ or EV (Petition requested entire Bear Run basin.)	EV and HQ-CWF (See map)
UNT 08187 to South Branch Codorus Creek	York	Basin	O	WWF, MF	CWF	EV, MF
Clyde Run	Elk	Basin	R	CWF, MF	Not a request	EV
Two Lick Creek	Indiana	Main Stem, Two Lick Reservoir tailrace to Yellow Creek	T	TSF	HQ-CWF (Petition requested Two Lick Creek, Two Lick Reservoir tailrace to Yellow Creek.)	CWF
Dunbar Creek	Fayette	Portions of Dunbar and Glade Run	V	HQ-CWF	EV (PFBC requested the Dunbar Creek basin, from source to Gist Run.)	EV

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

Public Notice and Participation

- **Public Participation Prior to Rulemaking**
 - DEP Notice of intent to assess the streams and request for technical data.
 - DEP Notice and minimum 30-day comment period on draft evaluation report.
- **Public Notice During Rulemaking Process**
 - 4 Postcard notifications via USPS: prior to EQB meetings (proposed and final rulemakings), beginning of public comment period, and IRRC consideration
 - eNotice delivered at same times

Comments on Proposed Rulemaking

- EQB adopted proposed regulation on April 20, 2021
- Published in the *Pennsylvania Bulletin* on July 31, 2021 (51 Pa.B. 4062)
 - 45-day public comment period ended on September 14, 2021
 - One virtual public hearing held on August 30, 2021
- Comments from 228 commentators, including:
 - U.S. Environmental Protection Agency (USEPA)
 - Testimony from 3 witnesses at the public hearing
 - IRRC letter - no objections, comments or recommendations
 - All comments and testimonies were supportive of the rulemaking

Final-Form Rulemaking

- Regulatory overview of the final-form rulemaking to the Agricultural Advisory Board on October 20, 2022.
- **One minor change:** Drainage List L is amended from the proposed rulemaking to clarify that the South Branch Bear Run basin is not included in the EV redesignation of Bear Run.

Implementation

National Pollutant Discharge Elimination System (NPDES)

- Requires effluent limitations that are protective of the Designated Use.
- Designated use changes to High Quality or Exceptional Value should have no impact on existing activities discharging under an individual NPDES permit.
- New or expanding discharges may be subject to more stringent treatment requirements to meet Designated and Existing Uses.

Affected Parties

- The Department identified only 9 facilities with active NPDES permits for discharges to the stream segments being redesignated in this final-form rulemaking.
- These 9 permits will not be affected by this final-form regulation unless the quantity or quality of the discharge changes.

Recommendation

The Department recommends the Board adopt the Dunbar Creek et al. Stream Redesignations final-form rulemaking.



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