

**PROPOSED RULEMAKING
ENVIRONMENTAL QUALITY BOARD
[25 PA. CODE CH. 93]
Water Quality Standards; Class A Stream Redesignations**

The Environmental Quality Board (Board) proposes to amend Chapter 93 (relating to water quality standards). The amendments will modify the drainage lists at §§ 93.9c, 93.9d, 93.9f, 93.9h, 93.9i, 93.9k, 93.9l, 93.9m, 93.9n, 93.9o, 93.9p, 93.9q, 93.9r, 93.9s, 93.9x, and 93.9z set forth in Annex A. The purpose of this proposed rulemaking is to update the designated uses so that the surface waters of this Commonwealth are afforded the appropriate level of protection. The proposed rulemaking fulfills the Commonwealth's obligations under State and Federal law to review and revise, as necessary, water quality standards that are protective of surface waters.

This proposed rulemaking was adopted by the Board at its meeting of **DATE**.

A. Effective Date

These proposed amendments will be effective upon final-form publication in the *Pennsylvania Bulletin*. Once approved by the United States Environmental Protection Agency (EPA), water quality standards are used to implement the Federal Clean Water Act (CWA) (33 U.S.C. §§ 1251—1389).

B. Contact Persons

For further information, contact Michael (Josh) Lookenbill, Program Manager, Water Quality Division, Bureau of Clean Water, 11th Floor, Rachel Carson State Office Building, P.O. Box 8774, 400 Market Street, Harrisburg, PA 17105-8774, (717) 787-9637 or Michelle Moses, Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P.O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the Pennsylvania Hamilton Relay Service at (800) 654-5984 (TDD-users) or (800) 654-5988 (voice users). This proposed rulemaking is available on the Department of Environmental Protection's (Department) web site at www.dep.pa.gov (select "Public Participation," then "Environmental Quality Board," then navigate to the Board meeting of **DATE**).

C. Statutory and Regulatory Authority

This proposed rulemaking is authorized under sections 5(b)(1) and 402 of The Clean Streams Law (CSL) (35 P.S. §§ 691.5(b)(1) and 691.402), which authorize the Board to develop and adopt rules and regulations to implement the CSL (35 P.S. §§ 691.1—691.1001), 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, sections 101(a)(2) and 303(c)(2)(A) of the CWA (33 U.S.C. §§ 1251(a)(2) and 1313(c)(2)(A)) set forth requirements for water quality standards.

D. Background and Purpose

The purpose of developing the water quality standards is to protect this Commonwealth's surface waters. Water quality standards are in-stream water quality goals that are implemented by imposing specific regulatory requirements (such as treatment requirements, effluent limits and

best management practices (BMPs)) on individual sources of pollution. Water quality standards include designated uses, numeric and narrative criteria to protect those uses, and antidegradation requirements for surface waters. The Commonwealth protects its surface waters for a variety of uses relating to aquatic life, water supply, recreation and fish consumption, special protection and navigation.

The continued development of water quality standards, including revisions and updates, is required by Federal and State law. Section 5 of the CSL (35 P.S. § 691.5) instructs the Department to consider water quality management and pollution control in the watershed as a whole, and the present and possible future uses of waters when adopting rules and regulations. In addition to these requirements, the Commonwealth has responsibilities under the CWA that require water quality standards to be reviewed and approved by the EPA for consistency with the mandates under that act. Section 101(a)(2) of the CWA (33 U.S.C. § 1251(a)(2)) establishes the National goal that, wherever attainable, water quality should provide for the protection and propagation of fish, shellfish and wildlife and for recreation in and on the water. Section 303(c)(2)(A) of the CWA (33 U.S.C. § 1313(c)(2)(A)) requires water quality standards to include designated uses of waters, taking into consideration their use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial and other purposes. Section 303(d)(4)(B) of the CWA (33 U.S.C. § 1313(d)(4)(B)) establishes an antidegradation policy for waters where the quality of the water equals or exceeds levels necessary to protect the designated uses for these waters. The designated uses proposed in this rulemaking are consistent with these State and Federal statutory mandates.

The Department also has an obligation to protect existing uses when data indicates that a surface water attains or has attained an existing use. Section 93.1 (relating to definitions) defines “existing uses” as “those uses actually attained in the waterbody on or after November 28, 1975, whether or not they are included in the water quality standards.” Where the existing uses are different than the designated uses for a surface water, the waterbody will receive the water quality protection identified by either the existing uses or the designated uses, whichever use is most protective.

For example, if the designated use of a stream is listed as Cold Water Fishes (CWF) but the Department’s evaluation of available existing use information indicates that the water also attains the use of High Quality Waters (HQ), the stream would be protected for this HQ-CWF existing use through Department permit or approval actions. Section 93.4c (relating to implementation of antidegradation requirements) requires the Department to make a final determination of existing use protection for a surface water as part of a final permit or approval action. During a review of a permit application and a draft permit, interested persons may provide the Department with additional information regarding existing use protection for the surface water. This additional information is included in the draft stream evaluation reports that are published on the Department’s web site for public review and comment.

In addition to existing use determinations made during a Department permit or approval process, stream use evaluations may be initiated in other ways. The Department may identify candidate streams for redesignation of uses during routine waterbody investigations. Other agencies may request use evaluations to be considered, and members of the public may submit a rulemaking petition to the Board in accordance with § 93.4d (relating to processing of petitions, evaluations and assessments to change a designated use). When an evaluation of the data

demonstrates that existing uses are incongruent with the designated uses, a stream redesignation proposal will be initiated through the rulemaking process to ensure the designated uses in the drainage lists found in §§ 93.9a—93.9z are consistent with the existing uses of the stream.

By protecting the water uses, and the quality of the water necessary to maintain the uses, benefits may be gained in a variety of ways by all residents and visitors of this Commonwealth. For example, clean water used for drinking water supplies benefits the consumers by lowering drinking water treatment costs and reducing medical costs associated with drinking-water illnesses. Clean surface waters benefit this Commonwealth by providing for increased tourism and recreational use of the waters. Clean water provides for increased wildlife habitat and more productive fisheries. Furthermore, clean water attracts businesses and industry that require a high quality of surface water for production or operation.

The purpose of this proposed rulemaking is to update the designated uses so that the surface waters of this Commonwealth are afforded the appropriate level of protection. The proposed amendments to the designated uses of streams benefit not only local residents but those persons from outside the areas affected by this rulemaking who come to enjoy the benefits and aesthetics of outdoor recreation. In addition to the recommended changes to HQ stream designations, the Board is proposing other amendments to the drainage lists in §§ 93.9o, 93.9p and 93.9q to correct errors in drainage list descriptions inadvertently introduced by the most recent triennial rulemaking, published at 50 Pa.B. 3426 (July 11, 2020), and to reformat portions of drainage lists in §§ 93.9c, 93.9d, 93.9f, 93.9h, 93.9i, 93.9k, 93.9l, 93.9m, 93.9n, 93.9s, 93.9x, and 93.9z where multiple streams within larger waterbody basins have the same designated use. These additional changes are non-substantive in nature because they do not change any current water quality designations to the drainage lists.

The proposed redesignation amendments 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 § 93.4c. The stream redesignations rely on § 93.4b(a)(2)(ii) (relating to qualifying as High Quality or Exceptional Value Waters) to qualify streams for HQ 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, and following public notice and comment, qualifies for Department evaluation of the stream for 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 the streams proposed for redesignation. This review was conducted to evaluate if the HQ criteria were met and to ensure that other, relevant data was evaluated and considered in the designated use recommendations, as appropriate.

This proposed rulemaking was developed by the Bureau of Clean Water following a comprehensive evaluation of the physical, chemical and biological characteristics and other information available on these waterbodies.

E. *Summary of Proposed Rulemaking*

Proposed Redesignations of Class A Wild Trout Waters

This proposed rulemaking redesignates 489.35 stream miles to HQ based upon their classifications as Class A wild trout streams. These streams are in the Delaware, Susquehanna, Ohio, Lake Erie and Potomac River basins.

As part of this stream redesignation process, and in accordance with § 93.4c, the Department offered opportunities for the public to provide data and other information during the review of the uses of the streams. The Department provided public notice of its intent to assess the Class A wild trout stream data and requested water quality data for these streams through publications in the *Pennsylvania Bulletin* as summarized in Table 1.

Table 1. *Pennsylvania Bulletin* publication dates for notices of stream evaluation.

Stream Name	County	Pa. Bulletin	Publication Date
Martins Creek (04680)	Northampton	48 Pa.B. 3645	June 16, 2018
UNT 03382 to Saucon Creek	Lehigh	50 Pa.B. 107	January 4, 2020
Mill Creek (03777)	Carbon	48 Pa.B. 3645	June 16, 2018
UNT 03886 to Lizard Creek (RM 11.35)	Schuylkill	48 Pa.B. 3645	June 16, 2018
UNT 03891 to Lizard Creek (RM 13.64)	Schuylkill	48 Pa.B. 3645	June 16, 2018
Pohopoco Creek (03917)	Carbon	48 Pa.B. 3645	June 16, 2018
UNT 4022 to Pohopoco Creek (RM 22.92)	Monroe	50 Pa.B. 107	January 4, 2020
Sugar Hollow Creek (04024)	Monroe	48 Pa.B. 3645	June 16, 2018
Long Run (04090)	Carbon	48 Pa.B. 3645	June 16, 2018
Mauch Chunk Creek (04094)	Carbon	50 Pa.B. 107	January 4, 2020
UNT 03336 to Lehigh Canal (RM 2.18) "Morgan Valley Run"	Northampton	48 Pa.B. 3645	June 16, 2018
UNT 03338 to Lehigh River (RM 3.45)	Northampton	48 Pa.B. 3645	June 16, 2018
Spring Creek (01878)	Berks	48 Pa.B. 3645	June 16, 2018
Bear Creek (02295)	Schuylkill	48 Pa.B. 3645	June 16, 2018
UNT 31137 to Cowanesque River "Teed Hollow"	Potter	48 Pa.B. 3645	June 16, 2018
Bellman Run (31455)	Tioga	48 Pa.B. 3645	June 16, 2018
Obendoffers Creek (28645)	Luzerne	48 Pa.B. 3645	June 16, 2018
Lick Run (27503)	Columbia	52 Pa.B. 6785	October 29, 2022
Big Wapwallopen Creek (28231)	Luzerne	50 Pa.B. 107	January 4, 2020
Mill Creek (28359)	Luzerne	48 Pa.B. 3645	June 16, 2018
Laurel Run (28360)	Luzerne	48 Pa.B. 3645	June 16, 2018
Bender Run (20955)	Lycoming	48 Pa.B. 3645	June 16, 2018
English Run (21273)	Lycoming	50 Pa.B. 107	January 4, 2020
Chatham Run (22356)	Clinton	50 Pa.B. 107	January 4, 2020
McElhattan Creek (22392)	Clinton	48 Pa.B. 3645	June 16, 2018

Stream Name	County	Pa. Bulletin	Publication Date
Fishing Creek (22416)	Clinton	48 Pa.B. 3645	June 16, 2018
UNT 22622 to Sugar Camp Run "Slide Hollow Run"	Centre	50 Pa.B. 107	January 4, 2020
Little Sandy Run (22791)	Centre	48 Pa.B. 3645	June 16, 2018
Nanny Run (24511)	Cameron	50 Pa.B. 107	January 4, 2020
Barrs Run (24558)	Cameron	50 Pa.B. 107	January 4, 2020
Johnson Run (24663)	Elk	50 Pa.B. 107	January 4, 2020
Jimmy Run (24672)	Elk	50 Pa.B. 107	January 4, 2020
Silver Mill Hollow Run (24676)	Elk	50 Pa.B. 107	January 4, 2020
Mill Run (24913)	Elk	50 Pa.B. 107	January 4, 2020
UNT 24922 to Wilson Run "Erick Hollow"	Clearfield	50 Pa.B. 107	January 4, 2020
UNT 24933 to Mountain Run (RM 1.15)	Clearfield	50 Pa.B. 107	January 4, 2020
Mountain Lick Creek (24938)	Clearfield, Elk	48 Pa.B. 3645	June 16, 2018
Grapevine Run (24943)	Clearfield, Elk	50 Pa.B. 107	January 4, 2020
Moravian Run (26011)	Clearfield	50 Pa.B. 107	January 4, 2020
Dale Run (26016)	Clearfield	48 Pa.B. 3645	June 16, 2018
UNT 26459 to Clearfield Creek (26459)	Cambria	48 Pa.B. 3645	June 16, 2018
Fallentimber Run (26464)	Cambria	50 Pa.B. 107	January 4, 2020
Bradley Run (26561)	Cambria	48 Pa.B. 3645	June 16, 2018
UNT 26658 to Anderson Creek "Roaring Run"	Clearfield	50 Pa.B. 107	January 4, 2020
Poplar Run (26739)	Clearfield	48 Pa.B. 3645	June 16, 2018
UNT 26747 to Bell Run (RM 4.62)	Clearfield	48 Pa.B. 3645	June 16, 2018
UNT 26752 to Bell Run (RM 7.6)	Clearfield	48 Pa.B. 3645	June 16, 2018
UNT 26765 to Curry Run (RM 4.78)	Clearfield	48 Pa.B. 3645	June 16, 2018
UNT 26876 to Chest Creek	Cambria	48 Pa.B. 3645	June 16, 2018
UNT 27036 to Bear Run (RM 2.92)	Clearfield, Indiana	48 Pa.B. 3645	June 16, 2018
Cush Creek (27100)	Indiana	48 Pa.B. 3645	June 16, 2018
Sawmill Run (27160)	Clearfield	48 Pa.B. 3645	June 16, 2018
Beaver Run (27172)	Clearfield	48 Pa.B. 3645	June 16, 2018
Smoke Hole Run (16742)	Dauphin	48 Pa.B. 3645	June 16, 2018
Penns Creek (17698)	Centre	48 Pa.B. 3645	June 16, 2018
UNT 17902 to North Branch Middle Creek "Schrader Gap Run"	Snyder	48 Pa.B. 3645	June 16, 2018
Moyers Mill Rn (17907)	Snyder	48 Pa.B. 3645	June 16, 2018
Boal Gap Run (18404)	Centre	48 Pa.B. 3645	June 16, 2018
Kishacoquillas Creek (12429)	Mifflin	48 Pa.B. 3645	June 16, 2018
UNT 15970 to Bells Gap Run (RM 5.63)	Blair, Cambria	48 Pa.B. 3645	June 16, 2018

Stream Name	County	Pa. Bulletin	Publication Date
Homer Gap Run (16032)	Blair	50 Pa.B. 107	January 4, 2020
Boiling Spring Run (16651)	Blair	48 Pa.B. 3645	June 16, 2018
Orson Run (07300)	York	48 Pa.B. 3645	June 16, 2018
Perry Furnace Run (11089)	Perry	50 Pa.B. 107	January 4, 2020
Allegheny River (42122)	Potter	50 Pa.B. 107	January 4, 2020
Fisk Hollow Run (58324)	Potter	48 Pa.B. 3645	June 16, 2018
Marvin Creek (57733)	McKean	50 Pa.B. 107	January 4, 2020
Sartwell Creek (58263)	McKean, Potter	50 Pa.B. 107	January 4, 2020
UNT 57377 to Allegheny River "Elm Flat Run"	Potter	48 Pa.B. 3645	June 16, 2018
UNT 57518 to Knapp Creek (RM 5.32)	McKean	50 Pa.B. 107	January 4, 2020
UNT 57521 to Knapp Creek (RM 6.06)	McKean	50 Pa.B. 107	January 4, 2020
UNT 57546 to Tram Hollow Run (RM 0.76)	McKean	50 Pa.B. 107	January 4, 2020
UNT 57672 to North Branch Cole Creek "Brooder Hollow"	McKean	48 Pa.B. 3645	June 16, 2018
UNT 57675 to North Branch Cole Creek "Bakers Hollow"	McKean	50 Pa.B. 107	January 4, 2020
UNT 58144 to Lillibridge Creek "Campbell Hollow"	McKean	48 Pa.B. 3645	June 16, 2018
UNT 58191 to Allegheny Portage Creek "Cady Hollow"	McKean	50 Pa.B. 107	January 4, 2020
UNT 58395 to Allegheny River "Pump Station Hollow"	Potter	48 Pa.B. 3645	June 16, 2018
UNT 58402 to Allegheny River "Earl Hollow"	Potter	48 Pa.B. 3645	June 16, 2018
UNT 64376 to Marvin Creek (RM 9.58)	McKean	50 Pa.B. 107	January 4, 2020
Husband Run (54210)	Venango	48 Pa.B. 3645	June 16, 2018
Snyder Run (51418)	Venango	48 Pa.B. 3645	June 16, 2018
UNT 51240 to Allegheny River (RM 107.57)	Venango	48 Pa.B. 3645	June 16, 2018
UNT 53682 to South Branch French Creek (RM 6.34)	Erie	50 Pa.B. 107	January 4, 2020
UNT 54224 to Pine Creek (RM 1.09)	Crawford	48 Pa.B. 3645	June 16, 2018
UNT 55192 to Tionesta Creek (RM 25.85)	Forest	48 Pa.B. 3645	June 16, 2018
Painter Run (50038)	Elk	50 Pa.B. 107	January 4, 2020
UNT 50461 to Elk Creek (RM 1.81)	Elk	50 Pa.B. 107	January 4, 2020
Little Sicily Run (50689)	McKean	50 Pa.B. 107	January 4, 2020
Big Run (47800)	Jefferson	48 Pa.B. 3645	June 16, 2018
UNT 48660 to Sandy Lick Creek (RM 14.57)	Jefferson	50 Pa.B. 107	January 4, 2020
Elk Creek Park Run (62492)	Erie	48 Pa.B. 3645	June 16, 2018
UNT 59767 to West Branch Conococheague Creek (RM 52.35)	Franklin	52 Pa.B. 6785	October 29, 2022

Additionally, the notices of intent to assess these streams were posted on the Department's web site. The Department directly notified affected municipalities, planning commissions, conservation districts and Commonwealth agencies of these redesignation evaluations in letters dated as summarized in Table 2.

Table 2. Letters of notification to affected governmental organizations and agencies.

Stream Name	County	Date of Letter
Martins Creek (04680)	Northampton	June 16, 2018
UNT 03382 to Saucon Creek	Lehigh	January 4, 2020
Mill Creek (03777)	Carbon	June 16, 2018
UNT 03886 to Lizard Creek (RM 11.35)	Schuylkill	June 16, 2018
UNT 03891 to Lizard Creek (RM 13.64)	Schuylkill	June 16, 2018
Pohopoco Creek (03917)	Carbon	June 16, 2018
UNT 04022 to Pohopoco Creek (rm 22.92)	Monroe	January 4, 2020
Sugar Hollow Creek (04024)	Monroe	June 16, 2018
Long Run (04090)	Carbon	June 16, 2018
Mauch Chunk Creek (04094)	Carbon	January 4, 2020
UNT 03336 to Lehigh Canal (rm 2.18) "Morgan Valley Run"	Northampton	June 16, 2018
UNT 03338 to Lehigh River (rm 3.45)	Northampton	June 16, 2018
Spring Creek (01878)	Berks	June 16, 2018
Bear Creek (02295)	Schuylkill	June 16, 2018
UNT 31137 to Cowanesque River "Teed Hollow"	Potter	June 16, 2018
Bellman Run (31455)	Tioga	June 16, 2018
Obendoffers Creek (28645)	Luzerne	June 16, 2018
Lick Run (27503)	Columbia	November 3, 2022
Big Wapwallopen Creek (28231)	Luzerne	January 4, 2020
Mill Creek (28359)	Luzerne	June 16, 2018
Laurel Run (28360)	Luzerne	June 16, 2018
Bender Run (20955)	Lycoming	June 16, 2018
English Run (21273)	Lycoming	January 4, 2020
Chatham Run (22356)	Clinton	January 4, 2020
McElhattan Creek (22392)	Clinton	June 16, 2018
Fishing Creek (22416)	Clinton	June 16, 2018
UNT 22622 to Sugar Camp Run "Slide Hollow Run"	Centre	January 4, 2020
Little Sandy Run (22791)	Centre	June 16, 2018
Nanny Run (24511)	Cameron	January 4, 2020
Barrs Run (24558)	Cameron	January 4, 2020
Johnson Run (24663)	Elk	January 4, 2020
Jimmy Run (24672)	Elk	January 4, 2020
Silver Mill Hollow Run (24776)	Elk	January 4, 2020
Mill Run (24913)	Elk	January 4, 2020
UNT 24922 to Wilson Run "Erick Hollow"	Clearfield	January 4, 2020
UNT 24933 to Mountain Run (RM 1.15)	Clearfield	January 4, 2020
Mountain Lick Creek (24938)	Clearfield, Elk	June 16, 2018

Stream Name	County	Date of Letter
Grapevine Run (24943)	Clearfield, Elk	January 4, 2020
Moravian Run (26011)	Clearfield	January 4, 2020
Dale Run (26016)	Clearfield	June 16, 2018
UNT 26459 to Clearfield Creek	Cambria	June 16, 2018
Fallentimber Run (26464)	Cambria	January 4, 2020
Bradley Run (26561)	Cambria	June 16, 2018
UNT 26658 to Anderson Creek "Roaring Run"	Clearfield	January 4, 2020
Poplar Run (26739)	Clearfield	June 16, 2018
UNT 26747 to Bell Run (RM 4.62)	Clearfield	June 16, 2018
UNT 26752 to Bell Run (RM 7.6)	Clearfield	June 16, 2018
UNT 26765 to Curry Run (RM 4.78)	Clearfield	June 16, 2018
UNT 26876 to Chest Creek	Cambria	June 16, 2018
UNT 27036 to Bear Run (RM 2.92)	Clearfield, Indiana	June 16, 2018
Cush Creek (27100)	Indiana	June 16, 2018
Sawmill Run (27160)	Clearfield	June 16, 2018
Beaver Run (27172)	Clearfield	June 16, 2018
Smoke Hole Run (16742)	Dauphin	June 16, 2018
Penns Creek (17698)	Centre	June 16, 2018
UNT 17902 to North Branch Middle Creek "Schrader Gap Run"	Snyder	June 16, 2018
Moyers Mill Rn (17907)	Snyder	June 16, 2018
Boal Gap Run (18404)	Centre	June 16, 2018
Kishacoquillas Creek (12429)	Mifflin	June 16, 2018
UNT 15970 to Bells Gap Run (rm 5.63)	Blair, Cambria	June 16, 2018
Homer Gap Run (16032)	Blair	January 4, 2020
Boiling Spring Run (16651)	Blair	June 16, 2018
Orson Run (07300)	York	June 16, 2018
Perry Furnace Run (11089)	Perry	January 4, 2020
Allegheny River (42122)	Potter	January 4, 2020
Fisk Hollow Run (58324)	Potter	June 16, 2018
Marvin Creek (57733)	McKean	January 4, 2020
Sartwell Creek (58263)	McKean, Potter	January 4, 2020
UNT 57377 to Allegheny River "Elm Flat Run"	Potter	June 16, 2018
UNT 57518 to Knapp Creek (RM 5.32)	McKean	January 4, 2020
UNT 57521 to Knapp Creek (RM 6.06)	McKean	January 4, 2020
UNT 57546 to Tram Hollow Run (RM 0.76)	McKean	January 4, 2020
UNT 57672 to North Branch Cole Creek "Brooder Hollow"	McKean	June 16, 2018
UNT 57675 to North Branch Cole Creek "Bakers Hollow"	McKean	January 4, 2020
UNT 58144 to Lillibridge Creek "Campbell Hollow"	McKean	June 16, 2018

Stream Name	County	Date of Letter
UNT 58191 to Allegheny Portage Creek "Cady Hollow"	McKean	January 4, 2020
UNT 58395 to Allegheny River "Pump Station Hollow"	Potter	June 16, 2018
UNT 58402 to Allegheny River "Earl Hollow"	Potter	June 16, 2018
UNT 64376 to Marvin Creek (RM 9.58)	McKean	January 4, 2020
Husband Run (54210)	Venango	June 16, 2018
Snyder Run (51418)	Venango	June 16, 2018
UNT 51240 to Allegheny River (RM 107.57)	Venango	June 16, 2018
UNT 53682 to South Branch French Creek (RM 6.34)	Erie	January 4, 2020
UNT 54224 to Pine Creek (rm 1.09)	Crawford	June 16, 2018
UNT 55192 to Tionesta Creek (rm 25.85)	Forest	June 16, 2018
Little Sicily Run (50689)	McKean	January 4, 2020
Painter Run (50038)	Elk	January 4, 2020
UNT 50461 to Elk Creek (RM 1.81)	Elk	January 4, 2020
Big Run (47800)	Jefferson	June 16, 2018
UNT 48660 to Sandy Lick Creek (RM 14.57)	Jefferson	January 4, 2020
Elk Creek Park Run (62492)	Erie	June 16, 2018
UNT 59767 to West Branch Conococheague Creek (RM 52.35)	Franklin	November 3, 2022

The Department provided for a robust public process to seek all appropriate data and information associated with these streams through public notices for data and public input. The results of the process helped inform the Department's evaluation of the streams, prior to initiation of this proposed rulemaking. The Department received limited feedback from these initial notices.

Following the period for data submission described in the notice of intent to assess, the Department evaluated all available water quality data and other applicable information for these streams, drafted a stream evaluation report and published the draft report on its web site for public review and comment on December 11, 2021. In addition, notice of the availability of this report was published at 51 Pa.B. 7789 (December 11, 2021). Members of the public who are interested in receiving notifications of stream evaluations, including the notices of intent to assess and draft stream evaluation reports, may subscribe to the Department's Electronic Notification System, eNotice.

The draft report was open for public comment for a 30-day period. The Department received 254 comment letters in support of the Department's redesignation recommendations in this proposed rulemaking, with none opposed. Organizations that submitted letters of support included Citizens for Pennsylvania's Future, the Delaware Riverkeeper Network, the Pennsylvania Campaign for Clean Water's Exceptional Value Workgroup and the Theodore Roosevelt Conservation Partnership. In addition to these organizations, the Department also received 229 form letters in support of the draft report. The PFBC submitted specific comments for nine streams (Martins Creek, Pohopoco Creek, Chatham Run, Fishing Creek, Bradley Run, Beaver Run, Kishacoquillas Creek, Laurel Run and Penns Creek) and provided feedback on the geographical extent of the evaluated basins.

A copy of the stream evaluation report for these waterbodies is available on the Department's web site or from the contact persons listed in section B of this preamble. Copies of the PFBC fisheries management reports for these streams and the PFBC's sampling protocols for Wadeable streams are available on the Department's web site or from the contact persons listed in section B of this preamble. The data and information collected on these waterbodies support this proposed rulemaking as set forth in Annex A.

Department staff delivered a presentation of the proposed rulemaking to the Agricultural Advisory Board (AAB) on April 17, 2024.

Table 3 summarizes the proposed HQ redesignations based on the submittal of information from the PFBC that these streams are Class A wild trout waters based on wild trout biomass.

Table 3. Summary of the proposed HQ redesignation recommendations.

Stream Name	County	Zone Description	List	Current DU	Requested DU	Recommended DU
Martins Creek	Northampton	Basin, Confluence of East Fork Martin Creek and West Fork Martins Creek to UNT 63256, Excluding UNT 64106 at 40°52'6.9"N 75°12'22.5"W	C	TSF, MF	HQ-CWF	HQ-CWF, MF
Mauch Chunk Creek	Carbon	Basin, SR 902 Bridge to Entrance to Tunnel System at 40°51'48.0"N 75°44'55.5"W	D	CWF, MF	HQ-CWF	HQ-CWF, MF
Long Run	Carbon	Basin	D	CWF, MF	HQ-CWF	HQ-CWF, MF
Sugar Hollow Creek	Monroe	Basin	D	CWF, MF	HQ-CWF	HQ-CWF, MF
UNT 04022	Monroe	Basin	D	CWF, MF	HQ-CWF	HQ-CWF, MF
Pohopoco Creek	Carbon	Basin, Outlet of Beltzville Lake to Mouth (UNT 64089 at 40°51'18.7"N 75°40'20.3"W)	D	CWF, MF	HQ-CWF	HQ-CWF, MF
UNT 03891	Schuylkill	Basin	D	TSF, MF	HQ-CWF	HQ-CWF, MF
UNT 03886	Schuylkill	Basin	D	TSF, MF	HQ-CWF	HQ-CWF, MF
Mill Creek	Carbon	Basin	D	CWF, MF	HQ-CWF	HQ-CWF, MF
UNT 03382	Lehigh	Basin	D	CWF, MF	HQ-CWF	HQ-CWF, MF

Stream Name	County	Zone Description	List	Current DU	Requested DU	Recommended DU
UNT 03338	Northampton	Basin	D	CWF, MF	HQ-CWF	HQ-CWF, MF
UNT 03336	Northampton	Basin	D	CWF, MF	HQ-CWF	HQ-CWF, MF
Bear Creek	Schuylkill	Basin, From and including UNT 02300 to UNT 02299 at 40°34'44.1"N 76°9'37.9"W	F	CWF, MF	HQ-CWF	HQ-CWF, MF
Spring Creek	Berks	Basin to Hospital Creek (excluding Furnace Run)	F	CWF, MF	HQ-CWF	HQ-CWF, MF
Spring Creek	Berks	Basin, Hospital Creek to UNT 01886 at 40°20'55.2"N 76°5'0.2"W	F	TSF, MF	HQ-CWF	HQ-CWF, MF
Bellman Run	Tioga	Basin	H	CWF, MF	HQ-CWF	HQ-CWF, MF
Teed Hollow	Potter	Basin	H	CWF, MF	HQ-CWF	HQ-CWF, MF
Obendoffers Creek	Luzerne	Basin	I	CWF, MF	HQ-CWF	HQ-CWF, MF
Mill Creek	Luzerne	Basin, Source to Gardner Creek	K	CWF, MF	HQ-CWF	HQ-CWF, MF
Laurel Run	Luzerne	Basin, Source to UNT 63002 at 41°13'21.2"N 75°49'50.6"W	K	CWF, MF	HQ-CWF	HQ-CWF, MF
Big Wapwallopen Creek	Luzerne	Basin, Outlet of Crystal Lake to Bow Creek	K	CWF, MF	HQ-CWF	HQ-CWF, MF
Bow Creek	Luzerne	Basin, Source to SR 309	K	CWF, MF	HQ-CWF	HQ-CWF, MF
Lick Run	Columbia	Basin	K	CWF, MF	HQ-CWF	HQ-CWF, MF
Beaver Run	Clearfield	Basin, UNT 27182 at 40°44'7.5"N 78°45'43.6"W to Mouth	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Sawmill Run	Clearfield	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Cush Creek	Indiana	Basin, Source to Horton Run	L	CWF, MF	HQ-CWF	HQ-CWF, MF

Stream Name	County	Zone Description	List	Current DU	Requested DU	Recommended DU
UNT 27036	Clearfield-Indiana	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
UNT 26876	Cambria	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
UNT 26765	Clearfield	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
UNT 26752	Clearfield	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
UNT 26747	Clearfield	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Poplar Run	Clearfield	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
UNT 26658	Clearfield	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Bradley Run	Cambria	Basin, UNT 26562 at 40°30'3.1"N 78°34'22.0"W to mouth	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Fallentimber Run	Cambria	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
UNT 26459	Cambria	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Moravian Run	Clearfield	Basin, Source to UNT 26020 at 40°59'24.0"N 78°15'41.9"W	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Dale Run	Clearfield	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Grapevine Run	Clearfield-Elk	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Mountain Lick Creek	Clearfield-Elk	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
UNT 24933	Clearfield	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
UNT 24922	Clearfield	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Mill Run	Elk	Basin, Source to UNT 24915 at 41°15'0.5"N 78°34'10.5"W	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Silver Mill Hollow Run	Elk	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Jimmy Run	Elk	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF

Stream Name	County	Zone Description	List	Current DU	Requested DU	Recommended DU
Johnson Run	Elk	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Barrs Run	Cameron	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Nanny Run	Cameron	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Little Sandy Run	Centre	Basin, Source to inlet of impoundment at 41°4'32.4"N 77°57'39.7"W	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Slide Hollow Run	Centre	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Fishing Creek	Clinton	Basin, Long Run to mouth	L	CWF, MF	HQ-CWF	HQ-CWF, MF
McElhattan Creek	Clinton	Basin, Keller Water Supply Intake to Mouth	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Chatham Run	Clinton	Basin, Chatham Water Company Intake to Mouth excluding Big Plum Run	L	CWF, MF	HQ-CWF	HQ-CWF, MF
English Run	Lycoming	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Bender Run	Lycoming	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Penns Creek	Centre	Basin, Penns Cave Spring to Pine Creek (excluding UNT 18423, UNT 18429, Sinking Creek, UNT 18367, UNT 18375, UNT 18360 and UNT 18312)	M	CWF, MF	HQ-CWF	HQ-CWF, MF
Boal Gap Run	Centre	Basin	M	CWF, MF	HQ-CWF	HQ-CWF, MF
Moyers Mill Rn	Snyder	Basin	M	CWF, MF	HQ-CWF	HQ-CWF, MF
UNT 17902	Snyder	Basin, Source to UNT 17906 at 40°47'59.6"N 77°12'5.8"W	M	CWF, MF	HQ-CWF	HQ-CWF, MF
Smoke Hole Run	Dauphin	Basin	M	CWF, MF	HQ-CWF	HQ-CWF, MF

Stream Name	County	Zone Description	List	Current DU	Requested DU	Recommended DU
Boiling Spring Run	Blair	Basin	N	CWF, MF	HQ-CWF	HQ-CWF, MF
Homer Gap Run	Blair	Basin, Source to first impoundment of Homer Gap Reservoir at 40°34'19.3"N 78°25'13.8"W	N	WWF, MF	HQ-CWF	HQ-CWF, MF
UNT 15970	Blair-Cambria	Basin	N	TSF, MF	HQ-CWF	HQ-CWF, MF
Kishacoquillas Creek	Mifflin	Basin, Coffee Run to Tea Creek	N	CWF, MF	HQ-CWF	HQ-CWF, MF
Kishacoquillas Creek	Mifflin	Basin, Tea Creek to Hungry Run	N	TSF, MF	HQ-CWF	HQ-CWF, MF
Perry Furnace Run	Perry	Basin	O	CWF, MF	HQ-CWF	HQ-CWF, MF
Orson Run	York	Basin, UNT 07303 at 39°48'42.0"N 76°24'15.1"W to Mouth	O	TSF, MF	HQ-CWF	HQ-CWF, MF
Allegheny River	Potter	Basin, Source to UNT 58539 at 41°49'52.2"N 77°54'35.4"W	P	CWF	HQ-CWF	HQ-CWF
Earl Hollow	Potter	Basin	P	CWF	HQ-CWF	HQ-CWF
Pump Station Hollow	Potter	Basin	P	CWF	HQ-CWF	HQ-CWF
Elm Flat Run	Potter	Basin	P	CWF	HQ-CWF	HQ-CWF
Fisk Hollow	Potter	Basin	P	CWF	HQ-CWF	HQ-CWF
Sartwell Creek	McKean-Potter	Basin, Source to Bear Creek	P	CWF	HQ-CWF	HQ-CWF
Cady Hollow	McKean	Basin	P	CWF	HQ-CWF	HQ-CWF
Campbell Hollow	McKean	Basin	P	CWF	HQ-CWF	HQ-CWF
Marvin Creek	McKean	Basin, Source to Kane Creek	P	CWF	HQ-CWF	HQ-CWF
UNT 64376	McKean	Basin	P	CWF	HQ-CWF	HQ-CWF
Baker Hollow	McKean	Basin	P	CWF	HQ-CWF	HQ-CWF
Brooder Hollow	McKean	Basin	P	CWF	HQ-CWF	HQ-CWF
UNT 57546	McKean	Basin	P	CWF	HQ-CWF	HQ-CWF
UNT 57521	McKean	Basin	P	CWF	HQ-CWF	HQ-CWF
UNT 57518	McKean	Basin	P	CWF	HQ-CWF	HQ-CWF
UNT 55192	Forest	Basin	Q	CWF	HQ-CWF	HQ-CWF

Stream Name	County	Zone Description	List	Current DU	Requested DU	Recommended DU
UNT 54224	Crawford	Basin	Q	CWF	HQ-CWF	HQ-CWF
Husband Run	Venango	Basin	Q	CWF	HQ-CWF	HQ-CWF
UNT 53682	Erie	Basin	Q	CWF	HQ-CWF	HQ-CWF
Snyder Run	Venango	Basin	Q	CWF	HQ-CWF	HQ-CWF
UNT 51240	Venango	Basin	Q	CWF	HQ-CWF	HQ-CWF
Little Sicily Run	McKean	Basin	R	CWF	HQ-CWF	HQ-CWF
UNT 50461	Elk	Basin	R	CWF	HQ-CWF	HQ-CWF
Painter Run	Elk	Basin	R	CWF	HQ-CWF	HQ-CWF
UNT 48660	Jefferson	Basin	S	CWF	HQ-CWF	HQ-CWF
Big Run	Jefferson	Basin, Source to Laurel Run	S	CWF	HQ-CWF	HQ-CWF
UNT 62492	Erie	Basin	X	CWF, MF	HQ-CWF	HQ-CWF, MF
UNT 59767	Franklin	Basin	Z	CWF, MF	HQ-CWF	HQ-CWF, MF

WWF = Warm Water Fishes

HQ = High Quality

CWF = Cold Water Fishes

EV = Exceptional Value

TSF = Trout Stocking

MF = Migratory Fishes

UNT = unnamed tributary

Proposed Corrections and Revisions to Drainage Lists

In addition to the recommended changes to stream designations, the Board is proposing other amendments to the drainage lists in §§ 93.9o, 93.9p and 93.9q to correct errors in drainage list descriptions inadvertently introduced by the most recent triennial rulemaking, published at 50 Pa.B. 3426 (July 11, 2020), and to drainage lists in §§ 93.9c, 93.9d, 93.9f, 93.9h, 93.9i, 93.9k, 93.9l, 93.9m, 93.9n, 93.9s, 93.9x, and 93.9z to reformat portions of these drainage lists where multiple streams within larger waterbody basins have the same designated use. These additional changes are non-substantive in nature because they do not change any current water quality designations to the drainage lists.

The Department routinely receives internal and external communications concerning streams that appear to be missing from Chapter 93. Often, these streams were considered unnamed at the time the drainage list was established and therefore were captured under unnamed tributaries entries. These streams currently have a designated use even though they do not appear as named entries in Chapter 93. In contrast, there are a number of named tributaries in Chapter 93 that are not currently recognized by the United States Geological Survey (USGS) and are not represented by the National Hydrography Dataset or NHDFlowline. These may be unofficial local names. Consolidation within drainage lists will greatly reduce these issues.

In many parts of the drainage lists, the current format consists of a mainstem entry for a stream, followed by unnamed tributaries to that stream, then individually named tributaries within the basin. Often, most of the tributaries, both named and unnamed, have the same designated use. In some cases, an entire basin is the same designated use except for a few streams. Large stream basins may take up several pages within a drainage list and can be difficult for individuals to navigate and understand. Reformatting large basins to consolidate portions of Chapter 93 that have the same designated use enables readers to view that entire basin within a page or two. In addition, a condensed drainage list reduces the likelihood that errors will occur in transcription of Chapter 93 during rulemaking procedures. The Department currently has several GIS mapping tools available, including eMapPA and WAVE, to assist staff, members of the public and the regulated community in locating streams in this Commonwealth, and they should be used in conjunction with the *Pennsylvania Code* to determine designated uses.

Section 93.9o. Drainage List O

The Board is proposing an amendment to drainage list O to correct an error that was identified with the Haldeman Quarries entry. The current *Pennsylvania Code* lists the Haldeman Quarries as part of the South Branch Conewago Creek basin when they are actually located within the Oil Creek basin of Codorus Creek. This correction will move the Haldeman Quarries into its correct location within drainage list O and does not change the designated uses of these waters.

Section 93.9p. Drainage List P

The Board is proposing an amendment to drainage list P to correct an error introduced by a recent rulemaking. Mill Creek basin below North Hollow was redesignated to HQ-CWF in the Class A final-form rulemaking published at 47 Pa.B. 7029 (November 18, 2017). However, the triennial review of water quality standards final-form rulemaking published at 50 Pa.B. 3426 incorrectly listed only the portion of the basin upstream of North Hollow as HQ-CWF, erroneously undoing the change codified by the Class A final-form rulemaking. The Board is restoring the correct protected water use for the entire Mill Creek basin, which is HQ-CWF.

Section 93.9q. Drainage List Q

The Board is proposing an amendment to drainage list Q to correct an error introduced by a recent rulemaking. On November 18, 2017, the Logan Run basin was redesignated to HQ-CWF in the Class A final-form rulemaking published at 47 Pa.B. 7029. However, the triennial review of water quality standards final-form rulemaking published at 50 Pa.B. 3426 incorrectly listed this basin as CWF, erroneously undoing the change codified by the Class A final-form rulemaking. The Board is restoring the correct protected water use for the Logan Run basin, which is HQ-CWF.

F. Benefits, Costs and Compliance

Benefits

Overall, this Commonwealth's residents and visitors and its natural resources will benefit from this proposed rulemaking because it provides the appropriate level of protection to preserve the integrity of existing and designated uses of surface waters in this Commonwealth. Protecting water quality provides economic value to present and future generations in the form of a clean water supply for human consumption, wildlife, irrigation and industrial use; recreational opportunities

such as fishing (also for consumption), water contact sports and boating; and aquatic life protection. It is important for the Commonwealth to ensure opportunities and activities continue in a manner that is environmentally, socially and economically sound. Protection and maintenance of water quality at appropriate levels as supported by the latest science ensures that surface waters of this Commonwealth can support all current and potential future uses. The following paragraphs describe the economic and social benefits of clean water that are protected by this proposed rulemaking.

Increased property values

A reduction in toxics found in the waterways of this Commonwealth may lead to increased property values for properties located near rivers or lakes. A 1979 study used real estate prices to determine the value of improvements in water quality in small rivers and streams in this Commonwealth. (Epp, D. J., & Al-Ani, K. S. (1979). “The effect of water quality on rural nonfarm residential property values.” *American Journal of Agricultural Economics*, 61(3), 529–534. <https://doi.org/10.2307/1239441>.) Water quality, whether measured in pH or by the owner’s perception, has a significant effect on the price of adjacent property. Their analysis showed a positive correlation between water quality and housing values. They concluded that buyers are aware of the environmental setting of a home and that differences in the quality of nearby waters affect the price paid for a residential property.

A 2010 report from the Delaware Riverkeeper Network discusses a case study from the Maine Agricultural and Forest Experiment Station which compared water-front property values based on whether the water that the homes faced was considered clean. (“River Values: The Value of a Clean and Healthy Delaware River” (<https://rucore.libraries.rutgers.edu/rutgers-lib/57797/PDF/1/play/>.) Properties located near higher quality waters had higher market value than if the waterbody was lower in water quality. It was shown in some cases that a decline in water quality can completely abate the market value premium associated with a home being a waterfront property.

A 2006 study from the Great Lakes region by Braden et al. estimated that property values were significantly depressed in two regions associated with toxic contaminants (polyaromatic hydrocarbons (PAHs), polychlorinated biphenyls (PCBs) and heavy metals). (Braden, J. B. et al. (2006). “Economic benefits of sediment remediation.” Project GL-96553601. <https://www.nemw.org/wp-content/uploads/2015/06/EconBenReport06.pdf>.) The study showed that a portion of the Buffalo River region (approximately 6 miles long) had depressed property values of between \$83 million and \$118 million for single-family homes, and between \$57 million and \$80 million for multifamily homes as a result of toxic sediments. The study estimated that a portion of the Sheboygan River (approximately 14 miles long) had depressed property values of between \$80 million and \$120 million as the result of toxics. While this study related to the economic effect of contaminated sediment in other waters in the Great Lakes region, the idea that toxic pollution depresses property values applies in this Commonwealth. A reduction in toxic pollution in this Commonwealth’s surface waters has a substantial economic benefit to property values in close proximity to waterways.

A 2022 report prepared by Perry et al. (Perry et al. (2022)) for the Our Pocono Waters organization determined “residential and commercial land value increases for properties closer to an EV or HQ stream, when compared to otherwise similar properties farther away.” (“Economic

effects of special protection stream designations in the Pocono Mountains region.”

https://ourpoconowaters.files.wordpress.com/2022/08/ourpoconowaters_report_final_web-pdf_8.11.22.pdf.) Per the analysis of the report, this increase in property value reflects willingness on the part of landowners to pay more for the better aesthetic qualities and increased recreational opportunities that can be better provided by streams afforded special protection status.

In 2018, researchers from Michigan State University and Texas A&M University published an article that reviewed 43 distinct hedonic studies in 48 publications of the effects of water quality on property values. (Nicholls, S., & Crompton, J. (2018). “A comprehensive review of the evidence of the impact of surface water quality on property values.” *Sustainability*, 10(2), 500. <https://doi.org/10.3390/su10020500>.) Nicholls and Crompton found that “the expected, statistically significant relationship between water quality and property price was demonstrated in at least one of the [numerous hedonic] models developed in all but two studies.” Nicholls and Crompton concluded that when viewed as a whole, the studies provided “convincing evidence that clean water has a positive effect on property values.” The authors found multiple sources indicating that this value homebuyers associate with water quality persists even during economic downturns. The authors also suggested the premium homebuyers are willing to pay to live in proximity to clean water only partially reflects the total benefits; this is in part because some indicators of clean water such as water clarity are readily perceivable by untrained observers, while other characteristics of water quality such as the level of dissolved oxygen are not directly visible.

In 2015, staff at the EPA’s National Center for Environmental Economics conducted what they described as “the largest hedonic analysis of water quality ever completed.” (Walsh, P. et al. (2017). “Modeling the property price impact of water quality in 14 Chesapeake Bay counties.” *Ecological Economics*, 135, 103—113. <https://doi.org/10.1016/j.ecolecon.2016.12.014>.) They evaluated over 225,000 property sales between 1996 to 2008 for single family homes and townhouses in Maryland. The properties were located within 4 kilometers of the Chesapeake Bay tidal waters and spanned across 14 counties. Using water quality data from EPA’s Chesapeake Bay Program Office and controlling for other variables that impact property prices, Walsh et al. analyzed the impact of water clarity (that is, how clear a waterbody appears to the human eye) on Chesapeake Bay property values. The authors concluded that better water clarity had a statistically significant positive impact on waterfront property prices in half of the counties. While the analysis was less clear for nonwaterfront properties, the authors still observed that water quality could affect the value of homes even when they were not located directly on the waterfront.

Maintenance of abundant and healthy fish and wildlife populations and support for outdoor recreation

Businesses requiring a high-quality source water and those in the recreation industry will be positively affected by this proposed rulemaking. The maintenance and protection of the water quality will ensure the long-term availability of recreational fisheries and other activities. The purpose of these stream redesignations is to preserve these resources for current and future sportspersons, outdoor recreators and wildlife enthusiasts so that the social and economic benefits are maintained in the local areas. As recreation demands increase in the future, the preservation of unique resources will undeniably add economic value to the local areas and, importantly, provide a valuable social function for outdoor recreation. Specific revenue-related benefits associated with outdoor recreation in this Commonwealth are outlined as follows.

A 1998 report prepared by Shafer et al. for the Center for Rural Pennsylvania examined the economic values and impacts of sport fishing, hunting, and trapping activities in this Commonwealth from 1995 to 1997. (“Economic values and impacts of sport fishing, hunting and trapping activities in Pennsylvania.” <https://www.rural.pa.gov/download.cfm?file=Resources/reports/assets/239/hunting.pdf>.) The report provides a snapshot of how much money these sporting activities bring to this Commonwealth and how they affect employment in rural areas. A major finding of the 1998 report is the total annual value of \$3.7 billion for sport fishing was almost three times the \$1.26 billion spent in travel costs to use fishing resources during the same 12-month period. The total net annual benefit to anglers was \$2.49 billion.

According to a 2005 report published jointly by the PFBC, the USGS and the Pennsylvania State University, wild trout streams provide unique angling opportunities that contribute millions of dollars annually to this Commonwealth’s economy. (Greene, R. R. et al. (2005). “Angler use, harvest and economic assessment on wild trout streams in Pennsylvania,” PFBC Files, Bellefonte, PA.) The PFBC collected information to assess the economic impact of wild trout angling in this Commonwealth during the 2004 regular trout season, which was held from April 17 through September 3. Based on the results of this study, the PFBC found that angling on wild trout streams contributed over \$7.16 million to this Commonwealth’s economy during the regular trout season in 2004.

The United States Fish and Wildlife Service periodically conducts National surveys of fishing, hunting and wildlife-associated recreation. According to a 2011 report, approximately 1.1 million anglers participated in fishing and approximately 3.6 million persons participated in wildlife watching in this Commonwealth during 2011. (United States Department of the Interior, United States Fish and Wildlife Service, and United States Department of Commerce, United States Census Bureau (2018). “2011 National survey of fishing, hunting, and wildlife—Pennsylvania.” <https://www2.census.gov/programs-surveys/fhwar/publications/2011/fhw11-pa.pdf>.) In addition, all fishing related expenditures in this Commonwealth totaled \$485 million in 2011. Expenditures include food and lodging, transportation, and other expenses (such as equipment rental, bait and cooking fuel). In 2011, wildlife watchers spent \$1.3 billion on activities in this Commonwealth. Expenditures include trip-related costs and equipment.

According to a 2017 report by the Outdoor Industry Association, this Commonwealth’s outdoor recreation generated 251,000 direct in-State jobs, \$8.6 billion in wages and salaries, and \$1.9 billion in State and local tax revenue. These figures include both tourism and outdoor recreation product manufacturing. The Outdoor Industry Association reported that 56% of Commonwealth residents participate in outdoor recreation each year.

Southwick Associates has prepared several reports for the Theodore Roosevelt Conservation Partnership that analyze the economic contribution of outdoor recreation in this Commonwealth. A 2018 report found that there were more than 390,000 jobs supported by outdoor recreation activities in this Commonwealth during 2016. (“The power of outdoor recreation spending in Pennsylvania: How hunting, fishing, and outdoor activities help support a healthy state economy.” www.trcp.org/wp-content/uploads/2018/12/TRCP-and-Southwick-PA-Economic-Analysis-12-6-18.pdf.) This was more than the number of jobs in this Commonwealth that supported the production of durable goods during the same year. The 2016 report also found outdoor recreation had an economic contribution in this Commonwealth of almost \$17 billion in salaries and wages

paid to employees and generated over \$300 million in Federal, State, and local tax revenue. An updated 2022 report revealed that economic contributions from outdoor recreation increased from nearly \$17 billion in salaries and wages paid to employees in 2016 to nearly \$20 billion in 2020. (“Estimating the economic contributions of outdoor recreation in Pennsylvania: An analysis of 2020 state-level economic contributions made by hunting, fishing, and other outdoor recreation activities.” www.trcp.org/wp-content/uploads/2022/04/TRCP-PA-Economic-Report-2020-FINAL.pdf.) The 2020 report also continued to highlight the fact that “more Pennsylvania jobs are supported by outdoor recreation than by the production of durable goods (U.S. Bureau of Labor Statistics, 2020).” The 2020 report found outdoor recreation activities supported more than 430,000 jobs, contributed more than \$32 billion to this Commonwealth’s state gross domestic product and generated over \$6.5 billion in tax revenue at the Federal, State, and local levels, which is a significant increase from the 2016 tax revenue total of over \$300 million.

The Perry et al. (2022) report for Our Pocono Waters also linked improved water quality to increased recreational spending, which leads to job creation and increased wages. Among other things, the study concluded that “improvements in water quality may lead to increases in outdoor recreation expenditures and/ or trips.” The report’s economic impact analysis found that a 2% to 8% increase in visitor spending could result in \$245 million to \$982 million in total regional output and 1,845 to 7,380 additional jobs, with increased wages of \$61 million to \$246 million in 2021 dollars.

Maintenance of the current green infrastructure along streams and the associated reduction in tax expenditures

The findings of a 2014 report by the Lehigh Valley Planning Commission demonstrates the benefits when clean water and natural areas are protected. (“Lehigh Valley return on environment” (https://greenways.delawareandlehigh.org/wp-content/uploads/sites/6/2016/05/ReturnOnEnvironment_Dec_18_2014.pdf.) Note that there are streams included in this regulation that flow in the Lehigh Valley. The report states, “the current green infrastructure along streams in the Lehigh Valley reduces tax dollars by avoiding more than \$110.3 million annually in expenditures for water supply (\$45.0 million), disturbance (flood) mitigation (\$50.6 million) and water quality (\$14.7 million).” This report describes how investing in green infrastructure to improve water quality (such as watershed conservation, forest buffers, and wetlands construction) can be much more cost effective than more traditional gray infrastructure approaches (such as pipes and treatment plants).

Savings in water treatment for downstream communities that rely on surface waters for water supplies and availability of unpolluted water for domestic, agricultural and industrial uses

The Department identified 18 public water supply facilities with raw water intakes located within the candidate stream sections for redesignation in this proposed rulemaking package. These 18 public water suppliers, which serve over 1 million citizens, will benefit from this proposed rulemaking because their raw source water will be afforded a higher level of protection. This proposed rulemaking further provides the likelihood of economic benefits to the public water supplier and the local community. By maintaining clean surface water, public water suppliers may avoid the costly capital investments that are often required for the installation of advanced water treatment processes as well as the higher annual operations and maintenance costs associated with effective operation of these processes. Safe drinking water is vital to maintaining healthy and sustainable communities. Protecting the quality of drinking water sources can reduce the incidence

of illness and reduce health care costs, help ensure a continuous supply of safe drinking water, enable communities to plan and build future capacity for economic growth and ensure their long-term sustainability for years to come. Public water suppliers' customers will benefit from reduced fees for clean drinking water.

Compliance costs

This proposed rulemaking is necessary to protect and maintain the existing water quality of the HQ waters, to protect existing water uses and to effectively control discharges of pollutants into the affected streams. These amendments to Chapter 93 will not impose any new compliance costs on persons engaged in regulated activities under existing individual permits or approvals from the Department since existing discharges are included in any determination of existing water quality when streams are redesignated to HQ. Additional compliance costs may arise when permits or approvals are necessary for new or expanded regulated activities to HQ waters. Discharges to special protection streams are not eligible for coverage under National Pollutant Discharge Elimination System (NPDES) general permits, based on § 92a.54(a)(8) (relating to general permits), and therefore, require individual permits. In addition, stormwater discharges associated with industrial activity do not qualify for conditional exclusion from a permit as stated under § 92a.32(b) (relating to stormwater discharges) if the discharges are to surface waters classified as HQ or Exceptional Value Waters (EV) under Chapter 93. Some additional cost will be incurred by facilities required to obtain an individual permit. The Department will implement stream redesignations through permit and approval actions.

Persons adding or expanding a discharge to a stream may need to provide a higher level of treatment or additional BMPs to protect the designated and existing uses of the affected streams, which could result in higher engineering, construction or operating costs. Treatment costs and BMPs are based on the specific design and operation of a facility, which also requires consideration of the size of the discharge in relation to the size of the stream and many other factors.

In the future, a person who proposes a new, additional or increased point source discharge to an HQ water would need to satisfy the antidegradation requirements in § 93.4c(b)(1). An applicant for any new, additional or increased point source discharge to special protection waters shall evaluate nondischarge alternatives, and the applicant shall use an alternative that is environmentally sound and cost effective when compared to the cost associated with achieving a nondegrading discharge. If a nondischarge alternative is not environmentally sound and cost-effective, an applicant for a new, additional or increased discharge shall utilize antidegradation best available combination of technologies (ABACT), which include cost-effective treatment, land disposal, pollution prevention and wastewater reuse technologies.

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 these nondegrading discharge requirements, a person who proposes a new, additional or increased discharge to HQ waters is given an opportunity to demonstrate there is a social or economic benefit of the project that would justify a lowering of the water quality. The social and economic justification (SEJ) 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 a lower water quality will protect all other applicable water uses for the waterbody.

There are approximately 17,850 facilities across this Commonwealth that hold permits issued under Chapter 92a (relating to National Pollutant Discharge Elimination System permitting, monitoring and compliance). This Statewide number of approximately 17,850 permits includes NPDES permits for concentrated animal feeding operations (CAFO), industrial waste, municipal separate storm sewer systems (MS4), treated sewage, groundwater remediation and stormwater associated with industrial activities. This total does not include NPDES permits for stormwater associated with construction activities, which is discussed as follows. Out of this Statewide total of approximately 17,850 permits, only 166 facilities currently hold active NPDES permits for discharges to the stream segments being considered for redesignation in this proposed rulemaking.

The types of discharges with active NPDES permits located in waters affected by this proposed rulemaking include industrial waste, treated sewage, MS4, stormwater associated with industrial activities, CAFO and pesticides. Since the presence of these discharge activities did not preclude the attainment of the HQ use, the discharges to these waters may continue as long as the discharge characteristics of both quality and quantity remain the same. Thus, redesignation to special protection does not impose any additional special treatment requirements on existing permitted discharges.

As previously stated, discharge activities to special protection streams are not eligible for coverage under NPDES general permits and, therefore, require individual permits. Individual permits are required in special protection waters because the existing quality of the water must be protected. Therefore, each discharge must be evaluated individually for each stream. Site-specific characteristics of the stream water quality are used to determine effluent limitations for discharges to a stream. The individual permits are necessary to track the quality and quantity of existing permitted discharges to ensure that additional or increased discharges to a special protection water do not occur without the Department's review in accordance with the antidegradation regulations.

There are no NPDES general permits available for discharges to special protection waters. In addition, there are no general permits available for the discharge of treated sewage effluent or industrial waste effluent, with the exception of the PAG-04 (general permit for small flow sewage treatment facilities (SFTF)). There is no cost for single residence sewage treatment plants to apply for coverage under PAG-04; the application fee for PAG-04 coverage for all other SFTFs is \$100. The application fee for a new or renewal individual permit for SFTFs is \$100 for single residences or \$250 for all other SFTFs. The application fee for a new first-time individual permit for discharges of stormwater associated with industrial activities is \$2,000 compared to \$500 for the general permit; the fee to renew the individual stormwater permit is \$1,000. The application fee for a new first-time individual permit for a CAFO is \$1,500 compared to \$500 for the general permit. The fee to renew an individual CAFO permit is \$750. These permit application fees are set by the NPDES regulations in § 92a.26 (relating to application fees).

Local governments that are MS4s will most likely have additional costs associated with MS4 permitting requirements for discharge to HQ waters. Any MS4 that discharges to an HQ water will be required to obtain an individual permit. The application fee for a new individual permit is \$5,000 compared to \$500 for the general permit (that is, PAG-13). If there is an existing MS4 permit (whether it is currently the general permit or an individual permit) to discharge into one of the proposed HQ waters, any subsequent permit application fee for an individual permit is \$2,500. The annual fee for all MS4 permits is the same, whether it is for coverage under the general permit or for an individual permit. There is a difference in cost between the initial issuance of an

individual permit and approval of coverage under the general permit due to increased staff time needed to review permit applications and implementation oversight that is associated with individual permits. An individual permit allows for the tailoring of an MS4's stormwater management program and its implementation of the minimum control measures.

Statewide, there are thousands of active earth disturbance activities requiring a permit issued under Chapter 102 (relating to erosion and sediment control). These permits for stormwater associated with construction activities were not included in the preceding permit analyses because of the short-term, temporary nature of these permitted discharges.

A person proposing a new earth disturbance activity requiring a permit under Chapter 102 with a discharge to an HQ water must obtain an individual permit and comply with the antidegradation provisions, as applicable. Where a permitted discharge existed prior to the receiving waterbody attaining an existing or designated use of HQ, those persons may continue to operate using BMPs that have been approved by the Department and implemented. Any new discharges to the waterbody would be required to comply with the antidegradation provisions, as applicable, and must undergo an antidegradation analysis. Based on the analysis, additional construction and post-construction BMPs may need to be implemented on the remaining area that will be disturbed.

The administrative filing fee for an individual permit is \$1,500 compared to \$500 for a general permit as set forth in § 102.6(b)(1) (relating to permit applications and fees). A person proposing a new earth disturbance activity requiring a permit under Chapter 102 must comply with the antidegradation provisions, as applicable. The erosion and sediment (E&S) BMPs and their ABACT rating, if applicable, are identified in the Department's Erosion and Sediment Pollution Control Program Manual, 363-2134-008 (2012), and the Department's Alternative E&S and Post Construction Stormwater Management (PCSM) BMPs list, Version 2.2 (March 18, 2022). The Department may also approve alternative BMPs that maintain and protect the existing water quality and water uses.

Where onlot sewage systems are planned, compliance with the sewage facilities planning and permitting regulations in Chapters 71—73 (relating to the administration of sewage facilities planning program; administration of sewage facilities permitting program; and standards for onlot sewage treatment facilities) will continue to satisfy § 93.4c. Permit applicants of sewage facilities with proposed discharges to HQ waters, subject to antidegradation requirements, may demonstrate SEJ at the sewage facilities planning stage and need not re-demonstrate SEJ at the discharge permitting stage. The SEJ demonstration process is available to sewage and nonsewage discharge applicants for any naturally occurring substances identified in accordance with the Department's *Water Quality Antidegradation Implementation Guidance*, 391-0300-002, (DEP 2003).

Compliance assistance plan

This proposed rulemaking will not impose any new compliance requirements on persons engaged in regulated activities under existing individual permits or approvals from the Department. When applying for permits or approvals for new, additional or increased discharges, the Department will provide compliance assistance.

Paperwork requirements

NPDES general permits are not available for discharges to HQ waters. Applications for individual permits will require additional paperwork. The individual permits are necessary to track the quality and quantity of any existing permitted discharges to ensure that additional or increased discharges to a special protection water do not occur without the Department's review in accordance with the antidegradation regulations.

This proposed rulemaking will not, however, impose any new paperwork requirements on persons engaged in regulated activities under existing individual permits or approvals from the Department. When applying for permits or approvals for new, additional or increased discharges to HQ waters, additional information may need to be submitted to the Department as part of the permit application or approval request. As discussed above, the permit applicant will complete an antidegradation analysis. The applicant will describe how the proposed activity will be conducted to maintain existing water quality. If water quality cannot be maintained and the proposed discharge will be to a HQ water, the applicant may submit an SEJ for the lowering of water quality.

G. Pollution Prevention

The Federal Pollution Prevention Act of 1990 (42 U.S.C. §§ 13101—13109) established a National policy that promotes pollution prevention as the preferred means for achieving state environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally-friendly materials, more efficient use of raw materials, and the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance.

The water quality standards and antidegradation program are major pollution prevention tools because the objective is to prevent degradation by maintaining and protecting existing water quality and existing uses. Although the antidegradation program does not prohibit new or expanding wastewater discharges, nondischarge alternatives must be implemented when environmentally sound and cost-effective. Nondischarge alternatives, when implemented, remove impacts to surface water and may reduce the overall level of pollution to the environment by remediation of the effluent through the soil. In addition, if no environmentally sound and cost-effective alternatives are available, discharges must be nondegrading except as provided in § 93.4c(b)(1)(iii) regarding SEJ in HQ waters.

H. Sunset Review

These regulations will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended.

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on **{DATE}**, the Department submitted a copy of this proposed rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the

House and Senate Environmental Resources and Energy Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed regulations within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor.

J. *Public Comments*

Interested persons are invited to submit to the Board written comments, suggestions, support or objections regarding this proposed rulemaking. Comments, suggestions, support or objections must be received by the Board by **{DATE}**.

Comments may be submitted to the Board online, by e-mail, by mail or express mail as follows. Comments submitted by facsimile will not be accepted.

Comments may be submitted to the Board by accessing eComment at <http://www.ahs.dep.pa.gov/eComment>.

Comments may be submitted to the Board by e-mail at RegComments@pa.gov. A subject heading of this proposed rulemaking and a return name and address must be included in each transmission.

If an acknowledgement of comments submitted online or by e-mail is not received by the sender within 2 working days, the comments should be retransmitted to the Board to ensure receipt.

Written comments should be mailed to the Environmental Quality Board, P.O. Box 8477, Harrisburg, PA 17105-8477. Express mail should be sent to the Environmental Quality Board, Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301.

K. *Public Hearing* **{s}**

The Board will hold **{insert number}** virtual public hearing **{s}** for the purpose of accepting comments on this proposed rulemaking. The hearing **{s}** will be held as follows:

{enter dates}

Persons wishing to present testimony at a hearing are requested to contact the Environmental Quality Board, P.O. Box 8477, Harrisburg, PA 17105-8477, (717) 783-8727, or RA-EPEQB@pa.gov, at least 1 week in advance of the hearing to reserve a time to present testimony. Language interpretation services are available upon request. Persons in need of language interpretation services must contact Casey Damicantonio at (717) 783-8727 by 5 p.m. on **{DATE}**.

Oral testimony is limited to 5 minutes for each witness. Organizations are limited to designating one witness to present testimony on their behalf at one hearing. Witnesses may provide testimony

by means of telephone or Internet connection. Video demonstrations and screen sharing by witnesses will not be permitted.

Witnesses are requested to submit written copy of their verbal testimony by email to RegComments@pa.gov after providing testimony at the hearing.

Information on how to access the virtual public hearings will be available on the Board's webpage found through the Public Participation tab on the Department's web site at www.dep.pa.gov (select "Public Participation," then "Environmental Quality Board"). Prior to a hearing, individuals are encouraged to visit the Board's webpage for the most current information for accessing the hearing.

Members of the public wishing to observe a virtual public hearing without providing testimony are also directed to access the Board's webpage.

Persons in need of accommodations as provided for in the Americans with Disabilities Act of 1990 should contact the Board at (717) 787-4526 or through the Pennsylvania Hamilton Relay Service at (800) 654-5984 (TDD) or (800) 654-5988 (voice users) to discuss how the Board may accommodate their needs.

JESSICA SHIRLEY,
Acting Chairperson