

**PROPOSED RULEMAKING
ENVIRONMENTAL QUALITY BOARD
[25 PA. CODE CH. 93]
Water Quality Standards; Chester Creek et al. Stream Redesignations**

The Environmental Quality Board (Board) proposes to amend Chapter 93 (relating to water quality standards). The amendments will modify the drainage lists in §§ 93.9d, 93.9e, 93.9f, 93.9g, 93.9n, 93.9o and 93.9w to read as set forth in Annex A. The purpose of this proposed rulemaking is to update designated uses for surface waters of this Commonwealth as required by the Federal Clean Water Act (CWA) (33 U.S.C. §§ 1251—1389). The proposed rulemaking fulfills the Commonwealth’s obligations under Federal and State 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

This proposed rulemaking 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 CWA.

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 Jennie Demjanick, Supervisory 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) website at www.pa.gov/agencies/dep (select “Public Participation,” then “Environmental Quality Board” and then navigate to the Board meeting of **DATE**).

C. Statutory 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 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 instructs the Board 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 and to be effective for purposes of implementing CWA actions. Section 101(a)(2) of the CWA 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 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 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. Section 303(c)(1) of the CWA requires states to periodically review and revise, as necessary, their water quality standards. The designated uses in this proposed rulemaking are consistent with these Federal and State statutory mandates.

Designated uses represent the water quality goals and expectations for the surface waters of this Commonwealth. Designated uses do not need to be currently attained to be designated but rather can represent the Commonwealth's current or future management goals for a waterbody. Federal regulations in 40 CFR 131.10(i) (relating to designation of uses) require states to revise their water quality standards to reflect the uses that are actually being attained (that is, existing uses), when water quality standards specify designated uses that are less protective than existing uses.

In addition to establishing appropriate designated uses, 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 "[t]hose uses actually attained in the water body on or after November 28, 1975, whether or not they are included in the water quality standards." When the existing uses are different than the designated uses for a surface water, the water body 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 High Quality Waters – Cold Water Fishes (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 review of a permit application and 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 website 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 illnesses caused or worsened by exposure to pollutants in drinking water. 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 designated uses to be consistent with the existing uses of surface waters of this Commonwealth, as required by the CWA. 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.

The proposed amendments are the result of stream evaluations conducted by the Department in response to: the EPA's partial approval of the Triennial Review of Water Quality Standards final-form rulemaking published at 50 Pa.B. 3426 (July 11, 2020) (Reynolds Run and Chester Creek); a request from The Nature Conservancy (Unnamed Tributary (UNT) 64027 to Sixpenny Creek); the Department's ongoing Statewide monitoring activities (Bermudian Creek; UNT 32599 to North Fork Dunkard Fork; and the Middle Lehigh River tributaries, which include Bear Creek (04123), Nesquehoning Creek tributaries (Jeans Run, Broad Run, Dennison Run, Bear Creek (04115), Grassy Meadow Run) and Mahoning Creek tributaries (Stewart Creek, UNT 04055 and UNT 04060)); and permit writers' requests associated with National Pollutant Discharge Elimination System (NPDES) permit renewals (UNT 03181 to Tohickon Creek, and Logan Spring Run). The stream redesignations rely on qualifications and definitions in §§ 93.3 and 93.4b(a)(2)(ii) and (b)(1)(iii), (v) and (vi) (relating to protected water uses; and qualifying as High Quality or Exceptional Value Waters). The specific qualifiers applied for each of the stream redesignation recommendations are detailed in the individual stream evaluation reports available on the Department's website.

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

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 surface water uses. The Department provided public notice of its intent to evaluate the

streams in this proposed rulemaking and requested water quality data for these streams through publications in the *Pennsylvania Bulletin* as summarized in Table 1.

Additionally, notices of the intent to evaluate these streams were posted on the Department's website. The Department directly notified affected municipalities, planning commissions, conservation districts and Commonwealth agencies of these redesignation evaluations in letters dated as summarized in Table 1.

Table 1. *Pennsylvania Bulletin* Publication Dates for Notices of Stream Evaluation and Dates of Notification Letters Sent to Affected Governmental Organizations and Agencies

<i>Stream Name</i>	<i>County</i>	<i>Pennsylvania Bulletin</i>	<i>Notification Letters</i>
Reynolds Run	Lancaster	51 Pa.B. 6320 (October 2, 2021)	October 2, 2021
Chester Creek	Chester	51 Pa.B. 6320	October 2, 2021
UNT 32599 to North Fork Dunkard Fork	Greene	52 Pa.B. 6785 (October 29, 2022)	November 3, 2022
UNT 64027 to Sixpenny Creek	Berks	46 Pa.B. 1287 (March 5, 2016)	May 27, 2016
Bermudian Creek	Adams	48 Pa.B. 3491 (June 9, 2018)	June 12, 2018
Logan Spring Run	Huntingdon Blair	48 Pa.B. 3491	June 12, 2018
UNT 03181 to Tohickon Creek	Bucks	49 Pa.B. 6626 (November 2, 2019)	October 31, 2019
Bear Creek (04123)	Carbon	48 Pa.B. 7265 (November 17, 2018)	October 19, 2018
Jeans Run	Carbon	48 Pa.B. 7265	October 19, 2018
Broad Run	Carbon	48 Pa.B. 7265	October 19, 2018
Dennison Run	Carbon	48 Pa.B. 7265	October 19, 2018
Bear Creek (04115)	Carbon	48 Pa.B. 7265	October 19, 2018
Grassy Meadow Run	Carbon	48 Pa.B. 7265	October 19, 2018
Stewart Creek	Carbon	48 Pa.B. 7265	October 19, 2018
UNT 04055 to Mahoning Creek	Carbon	48 Pa.B. 7265	October 19, 2018
UNT 04060 to Mahoning Creek	Carbon	48 Pa.B. 7265	October 19, 2018

In response to these notifications, the Department received one letter in support of the redesignation for Reynolds Run and additional fish data from the Pennsylvania Fish and Boat Commission (PFBC). One letter of support was received for UNT 64027 to Sixpenny Creek. Two letters of support were received for Logan Spring Run. Two letters of general support as well as additional information to be considered as part of the evaluation were received for UNT 03181 to Tohickon Creek. Additionally, one letter of support for UNT 32599 to North Fork Dunkard Fork was received.

Following the period for data submission described in the notices of intent to assess, the Department evaluated all available water quality data and other applicable information for these

streams, and drafted and published stream evaluation reports on the website for public review and comment. Notices of availability were published in the *Pennsylvania Bulletin*, and 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. Members of the public 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, at www.ahs.dep.pa.gov/eNOTICEWeb.

Table 2. Stream Evaluation Draft Report Publication for Public Comment

<i>Stream Name</i>	<i>Pennsylvania Bulletin</i>	<i>Notification Letters</i>
Reynolds Run	54 Pa.B. 2168 (April 20, 2024)	April 20, 2024
Chester Creek	54 Pa.B. 2168	April 20, 2024
UNT 32599 to North Fork Dunkard Fork	54 Pa.B. 2168	April 20, 2024
UNT 64027 to Sixpenny Creek	49 Pa.B. 6919 (November 16, 2019)	November 16, 2019
Bermudian Creek	49 Pa.B. 6919	November 16, 2019
Logan Spring Run	49 Pa.B. 6919	November 16, 2019
UNT 03181 to Tohickon Creek	51 Pa.B. 6704 (October 23, 2021)	October 23, 2021
Bear Creek (04123)	50 Pa.B. 6468 (November 14, 2020)	November 14, 2020; December 30, 2020
Jeans Run	50 Pa.B. 6468	November 14, 2020; December 30, 2020
Broad Run	50 Pa.B. 6468	November 14, 2020; December 30, 2020
Dennison Run	50 Pa.B. 6468	November 14, 2020; December 30, 2020
Bear Creek (04115)	50 Pa.B. 6468	November 14, 2020; December 30, 2020
Grassy Meadow Run	50 Pa.B. 6468	November 14, 2020; December 30, 2020
Stewart Creek	50 Pa.B. 6468	November 14, 2020; December 30, 2020
UNT 04055 to Mahoning Creek	50 Pa.B. 6468	November 14, 2020; December 30, 2020
UNT 04060 to Mahoning Creek	50 Pa.B. 6468	November 14, 2020; December 30, 2020

Each draft report was open for public comment for no less than a 30-day period. In response to these notifications, the Department received the following feedback.

For Reynolds Run, two comments were received in support of the redesignation recommendations. For Chester Creek, the Department received two comments in support of the redesignation recommendation. For UNT 32599 to North Fork Dunkard Fork, there were three comments in support. For Bermudian Creek, the PFBC submitted a comment with a recommended revision to extend the downstream boundary of the CWF designation based on additional fish survey data collected in May 2016, which was submitted along with the comment. The Department

agreed with the PFBC's recommendation and incorporated this recommendation in this proposed rulemaking by extending the downstream boundary to UNT 08719. No letters were received regarding UNT 64027 to Sixpenny Creek or Logan Spring Run. UNT 03181 to Tohickon Creek received support regarding the redesignation recommendation from 7 organizations and 276 citizens. The Department received additional data from the Heritage Conservancy regarding UNT 03181 to Tohickon Creek. One comment of support was received for Bear Creek (04123). Tributaries to Nesquehoning Creek (that is, Bear Creek, Jeans Run, Broad Run, Dennison Run, Grassy Meadow Run and Stewart Creek) and Mahoning Creek (UNT 04055 and UNT 04060) had approximately 471 letters of support and 1 letter requesting an extension of the formal comment period by 60 days.

Copies of the stream evaluation reports for these waterbodies are available on the Department's website or from the contact persons listed in section B of this preamble. All data and comments received in response to these notifications were considered in the review of the surface water evaluations for these streams. The data and information collected on these waterbodies support this proposed rulemaking as set forth in Annex A.

Department staff presented a summary of this proposed rulemaking to the Department's Agricultural Advisory Board on April 10, 2025.

E. Summary of Proposed Rulemaking

Proposed Redesignations of Chester Creek et al.

This proposed rulemaking updates and revises stream use designations for 16 stream basins totaling 138.47 stream miles in 7 drainage lists based on the various HQ and Exceptional Value Waters (EV) qualifiers in § 93.4b. The following is a brief summary of the Department's recommendations for each waterbody:

Section 93.9d. Drainage List D

The Department conducted evaluations on the following streams in Drainage List D as part of routine monitoring and assessment efforts. Because the indigenous aquatic community is an excellent indicator of long-term water quality conditions, biological data were collected to evaluate the water quality conditions in the surveyed basins. The Department applied its integrated benthic macroinvertebrate scoring test to each of the streams listed and compared the biological data collected in these streams to biological data collected from a reference waterbody. The reference waterbody used to evaluate each of the streams was Wild Creek in Carbon County.

Bear Creek (04123) – Bear Creek (04123) exceeded the EV qualifying criterion of 92% as defined in § 93.4b(b)(1)(v). Therefore, it is being recommended that Bear Creek (04123) be redesignated EV from source to mouth.

Jeans Run – Jeans Run meets the applicable definitions and requirements as defined in § 93.4b(b)(1)(iii) and (vi) regarding outstanding State resource waters and wilderness trout water qualifiers. Therefore, it is being recommended that Jeans Run be redesignated EV from source to mouth.

Broad Run – Broad Run exceeded the EV qualifying criterion of 92% as defined in § 93.4b(b)(1)(v). Therefore, it is being recommended that Broad Run be redesignated EV from source to mouth.

Bear Creek (04115) – Bear Creek (04115) exceeded the EV qualifying criterion of 92% as defined in § 93.4b(b)(1)(v). Therefore, it is being recommended that Bear Creek (04115) be redesignated EV from source to mouth.

Dennison Run – Dennison Run exceeded the EV qualifying criterion of 92% as defined in § 93.4b(b)(1)(v). Therefore, it is being recommended that Dennison Run (04123) be redesignated EV from source to mouth.

Grassy Meadow Run – Grassy Meadow Run exceeded the EV qualifying criterion of 92% as defined in § 93.4b(b)(1)(v). Therefore, it is being recommended that Grassy Meadow Run be redesignated EV from source to mouth.

Stewart Creek – As provided by § 93.4b(a)(2)(ii), streams designated by the PFBC as Class A wild trout streams qualify for HQ designation. Stewart Creek from the confluence with Crooked Run to its mouth was identified as being a Class A Wild Trout stream based on Wild Brown Trout biomass criteria found during the PFBC surveys conducted in 2013 showed that Stewart Creek, from the confluence with Crooked Run to the mouth, is above the minimum total brown trout biomass criteria in 58 Pa. Code § 57.8a (relating to Class A wild trout streams). The PFBC published notice that Stewart Creek would be considered for Class A listing and sought public response at 45 Pa.B. 3941 (July 18, 2015). The PFBC approved the addition of Stewart Creek as a Class A stream at the PFBC's September 29, 2015, meeting, with notice published at 45 Pa.B. 6373 (October 24, 2015). Based on this Class A designation by the PFBC, the area of Stewart Creek, from Crooked Run to the mouth qualifies as HQ. Stewart Creek from source to Crooked Run and including direct tributaries Bear Creek and Crooked Run also exceeded the EV qualifying criterion of 92% as defined in § 93.4b(b)(1)(v). Therefore, it is being recommended that Stewart Creek be redesignated EV from source to Crooked Run and including Crooked Run, with Stewart Creek, from Crooked Run to mouth recommended to be redesignated HQ.

UNT 04055 to Mahoning Creek – UNT 04055 to Mahoning Creek exceeded the EV qualifying criterion of 92% as defined in § 93.4b(b)(1)(v). Therefore, it is being recommended that UNT 04055 be redesignated EV from source to mouth.

UNT 04060 to Mahoning Creek – UNT 04060 to Mahoning Creek exceeded the EV qualifying criterion of 92% as defined in § 93.4b(b)(1)(v). Therefore, it is being recommended that UNT 04060 be redesignated EV from source to mouth.

Section 93.9e. Drainage List E

UNT 03181 to Tohickon Creek (locally Bog Run) – The Department conducted an evaluation on UNT 03181 to Tohickon Creek, locally known as Bog Run, in response to a permit writer's request associated with an NPDES permit renewal located within the basin. The Department reviewed information gathered for the Pennsylvania Natural Heritage Program and reported in the Bucks County Natural Heritage Inventory. The Bucks County Natural Heritage Inventory identified an area with Statewide ecological significance that is based upon the importance, rarity and uniqueness of the area's endemic ecological community types. The area, Quakertown Swamp, contains a Bottomland Oak – Hardwood Palustrine Forest Community, which

is a rare and endemic community type hydrologically connected to riverine surface water and therefore is water quality-dependent. The UNT 03181 to Tohickon Creek basin, which runs through Quakertown Swamp, is currently designated Trout Stocking (TSF). The Department is recommending redesignation of UNT 03181 (Bog Run) basin from its current designation of TSF to EV based on the exceptional ecological significance qualifier in § 93.4b(b)(2).

Section 93.9f. Drainage List F

UNT 64027 to Sixpenny Creek – The Nature Conservancy submitted a request that UNT 64027 to Sixpenny Creek, from its source to mouth, be considered for redesignation to EV. The stream originates within and approximately 80% of it lies within the French Creek State Park. The Department looked at physiochemical data, physical habitat data, as well as benthic macroinvertebrate samples collected at both UNT 64027 and Pine Creek (Berks County) as the reference waterbody. It is recommended that UNT 64027 be redesignated to EV based on the basin exceeding the EV qualifying criterion of 92% as defined in § 93.4b(b)(1)(v).

Section 93.9g. Drainage List G

Chester Creek – The Department conducted an evaluation of the Chester Creek basin from its source to Rocky Run in response to an EPA disapproval. In the Triennial Review of Water Quality Standards final-form rulemaking published at 50 Pa.B. 3426, the designated use of Chester Creek was changed from TSF to Warm Water Fishes (WWF) to correct errors introduced in the final-form rulemaking published at 27 Pa.B. 3050 (June 28, 1997). The EPA did not approve this change to Chester Creek because it had the appearance of a redesignation to a less restrictive use, though it was actually to correct errors. In response, the Department conducted a more detailed evaluation of the Chester Creek watershed to document the appropriate designated uses. The Department is recommending redesignation of Chester Creek from WWF to TSF. This recommendation aligns with the current EPA-approved designation for Chester Creek, which remains TSF, with respect to CWA actions.

Section 93.9n. Drainage List N

Logan Spring Run – The Department evaluated Logan Spring Run in response to a permit writer's request associated with an NPDES permit renewal located at the confluence of Logan Spring Run and the Little Juniata River. Biological data were collected to evaluate Logan Spring Run because the indigenous aquatic community is an excellent indicator of long-term water quality conditions. In addition, PFBC surveys conducted in 1993 and 2004 documented the maintenance and propagation of Salmonidae and other fish species indigenous to cold water habitat. An additional PFBC survey conducted in 2016 documented sculpin, which are also indigenous to a cold water habitat. Logan Spring Run has not been officially classified as a Class A Wild Trout Stream by the PFBC, and therefore does not meet the qualifications for HQ in § 93.4b(a)(2)(ii). Based on applicable definitions in § 93.3, the Department is recommending redesignation of the Logan Spring Run basin, from its source to the mouth, from its current designation of WWF to CWF.

Section 93.9o. Drainage List O

Reynolds Run – The Department conducted an evaluation of the Reynolds Run basin in response to an EPA disapproval of a change to the designated use. In the Triennial Review of Water Quality Standards final-form rulemaking published at 50 Pa.B. 3426, the designated use of

Reynolds Run was changed from HQ-CWF to HQ-TSF to correct an error in the final-form rulemaking published at 27 Pa.B. 3050. The EPA did not approve this change because, although it was to correct an introduced error, it had the appearance of a redesignation to a less restrictive use. The EPA provided comment and requested that the Department provide a summary of the designated use history of Reynolds Run and current available data that may include fish assemblage and macroinvertebrate data in support of the use designation corrections in the Triennial Review of Water Quality Standards final-form rulemaking published at 50 Pa.B. 3426. In response, the Department conducted a more detailed evaluation of the Reynolds Run watershed to document the appropriate designated uses. The Department is recommending redesignation of the Reynolds Run basin from HQ-TSF to HQ-CWF. This recommendation aligns with the current EPA-approved designation for Reynolds Run, which remains HQ-CWF, with respect to CWA actions.

Bermudian Creek – The Department conducted an evaluation of the Bermudian Creek basin as part of routine monitoring and assessment efforts. The Bermudian Creek basin from its source to UNT 08727 is currently listed on the PFBC’s listing of wild trout streams (that is, streams supporting naturally reproducing populations of trout) under 58 Pa. Code § 57.11 (relating to listing of wild trout streams). The Bermudian Creek basin is currently designated WWF with the exception of the Latimore Creek subbasin, which is currently designated CWF. PFBC surveys conducted in 2006 and 2016 both document the maintenance and propagation of Salmonidae and other fish species indigenous to a cold water habitat. In addition to the PFBC survey, the Department also collected biological, bacteriological and chemistry samples. Based on the results of the PFBC surveys, as well as the Department’s evaluation, and following the applicable definitions in § 93.3, the recommendations for Bermudian Creek include redesignation to CWF from its source to UNT 08719 and redesignation to TSF from and including UNT 08719 to the State Route 94 bridge.

Section 93.9w. Drainage List W

UNT 32599 to North Fork Dunkard Fork – The Department evaluated UNT 32599 to North Fork Dunkard Fork as part of routine monitoring and assessment efforts. Biological data were collected to evaluate UNT 32599 because the indigenous aquatic community is an excellent indicator of long-term water quality conditions. The biological assessment procedures referenced in § 93.4b(b)(1)(v) were applied to UNT 32599, with Limestone Run in Fayette County as the reference waterbody. The UNT 32599 basin met the 92% comparison required to qualify for EV. Therefore, the Department recommends the UNT 32599 basin be designated as EV.

F. Benefits, Costs and Compliance

Benefits

Updates to the Commonwealth’s water quality standards are in the public interest because they ensure the uses of surface waters are protected based on the latest science and available data. This Commonwealth’s residents, visitors and natural resources will benefit from this proposed rulemaking because it protects the surface waters in this Commonwealth at appropriate levels. Protecting water quality provides economic and societal value to present and future generations in the form of a clean water supply that can support all current and potential future uses, including: human consumption, wildlife, irrigation and industrial use; recreational opportunities such as fishing (also for fish consumption); water contact sports and boating; and aquatic life protection.

The following paragraphs describe four specific categories of economic and social benefits of clean water that are protected by this proposed rulemaking. More generally, Farber and Griner found that 217 households near Loyalhanna Creek and the Conemaugh River in western Pennsylvania valued water quality improvements in those streams up to \$27,179 per year. (Farber, S., & Griner, B. (2000). “Valuing watershed quality improvements using conjoint analysis.” *Ecological Economics*, 34(1), 63—76. [https://doi.org/10.1016/S0921-8009\(00\)00153-1](https://doi.org/10.1016/S0921-8009(00)00153-1)) Research estimating benefits of clean water specific to Pennsylvania is rare, but research done outside of Pennsylvania still provides concepts and findings that are translatable to this Commonwealth.

Increased property values

A substantial body of research demonstrates that improved water quality increases nearby property values.

In 2018, researchers from Michigan State University and Texas A&M University published an article that reviewed 43 distinct hedonic studies of the effects of water quality on property values, including studies from across the United States plus a handful of studies in other countries. (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” and that the value homebuyers associate with water quality persists even during economic downturns. Specific to Pennsylvania, the meta-analysis by Nicholls and Crompton included a study by Epp and Al-Ani of over 200 properties located near small rivers and streams in Pennsylvania that found a positive correlation between water quality and housing values, and 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. (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>) Also included in the meta-analysis by Nicholls and Crompton was a study conducted by staff at the EPA’s National Center for Environmental Economics, described as “the largest hedonic analysis of water quality ever completed,” which evaluated over 225,000 property sales between 1996 to 2008 for single-family homes and townhouses in Maryland, located within 4 kilometers of the Chesapeake Bay tidal waters across 14 counties. (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>) 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.

The Delaware Riverkeeper Network published a report that discusses a case study from the Maine Agricultural and Forest Experiment Station which found that properties located near higher quality waters had higher market value, and that a decline in water quality can completely abate the market value premium associated with a home being a waterfront property. (Delaware Riverkeeper Network. (2010). “River values: The value of a clean and healthy Delaware River.” <https://rucore.libraries.rutgers.edu/rutgers-lib/57797/PDF/1/play/>)

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 in river sediments. (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 depressed property values between \$57 million and \$118 million for single-family and multifamily homes in a portion of the lower Buffalo River in New York and between \$80 million and \$120 million for single family homes in the lower Sheboygan River in Ohio due to toxic contamination of river sediments.

Perry et al. of Key-Log Economics prepared a report for Our Pocono Waters that analyzed more than 240,000 residential and 5,000 commercial properties across 5 counties in northeastern Pennsylvania and determined that “residential and commercial land value increases for properties closer to an EV or HQ stream, when compared to otherwise similar properties farther away.” (Perry, A. et al. (2022). “Economic effects of special protection stream designations in the Pocono Mountains region.” Our Pocono Waters. https://ourpoconowaters.files.wordpress.com/2022/08/ourpoconowaters_report_final_web-pdf_8.11.22.pdf) (Perry et al. (2022)) The report attributed this increase in property values to 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.

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

Clean surface waters also benefit the Commonwealth by providing for increased tourism and recreational use of the waters. Clean water provides for improved wildlife habitat and more productive fisheries. This proposed regulation benefits local residents and those from outside the affected areas who come to enjoy the benefits and aesthetics associated with outdoor recreation.

Businesses, including small businesses, requiring high-quality source water and those in the recreation industry will be positively affected by this proposed rulemaking. The maintenance and protection of water quality will ensure the long-term availability of recreational fisheries and other activities. The purpose of this proposed rulemaking 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 local areas. The preservation of unique resources adds economic value to the local areas and, importantly, provides a valuable social function for outdoor recreation. One example is the proposed redesignation of UNT 03181 to Tohickon Creek due to its location within the Quakertown Swamp. The Quakertown Swamp is recognized as a significant ecological resource by the Pennsylvania Natural Diversity Inventory and provides the opportunity for nature walks and wildlife watching. The maintenance and protection of the water quality that would result from this proposed rulemaking will ensure the long-term availability of wildlife watching and other forms of outdoor recreation in the area. Specific revenue-related benefits associated with outdoor recreation and the range of economic value of the outdoor recreation industry in this Commonwealth are outlined in the following reports.

The Perry et al. (2022) report 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 2024 Outdoor Recreation Economic Statistics report from the United States Bureau of Economic Analysis documents over \$20 billion in total economic value generated in this Commonwealth from the outdoor recreation industry, including over \$9.5 billion in total compensation with 176,752 jobs in outdoor recreation in this Commonwealth. (United States Department of Commerce, United States Bureau of Economic Analysis. (2026). “Outdoor recreation economic statistics, U.S. and states, 2024.” <https://www.bea.gov/news/2026/outdoor-recreation-economic-statistics-us-and-states-2024>)

Southwick Associates has prepared several reports for the Theodore Roosevelt Conservation Partnership that analyze the economic contribution of outdoor recreation in this Commonwealth. The latest report revealed that, in 2020, the outdoor recreation industry in this Commonwealth contributed more than \$32 billion to this Commonwealth’s state gross domestic product, supporting more than 430,000 jobs (more than the number of jobs in this Commonwealth for the production of durable goods in the same year) with nearly \$20 billion in salaries and wages, and generating over \$6.5 billion in tax revenue at the Federal, State and local levels. (Southwick Associates. (2022). “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.” Theodore Roosevelt Conservation Partnership. www.trcp.org/wp-content/uploads/2018/12/TRCP-and-Southwick-PA-Economic-Analysis-12-6-18.pdf) This report includes indirect effects, like purchases made by businesses supplying goods and services for outdoor recreation activities, and induced economic effects, like household spending generated by wages paid to workers in the outdoor recreation industry.

According to a 2005 report published jointly by the PFBC, the United States Geological Survey and the Pennsylvania State University, wild trout streams provide unique angling opportunities that contributed over \$7.16 million to this Commonwealth’s economy during the regular trout season in 2004. (Greene, R. R. et al. (2005). “Angler use, harvest and economic assessment on wild trout streams in Pennsylvania.” PFBC Files, Bellefonte, PA)

The United States Fish and Wildlife Service periodically conducts National surveys of fishing, hunting and wildlife-associated recreation. According to the 2011 survey, approximately 1.1 million anglers participated in fishing and approximately 3.6 million persons participated in wildlife watching in this Commonwealth during 2011, with fishing-related expenditures totaling \$485 million (including food and lodging, transportation, and other expenses such as equipment rental, bait and cooking fuel) and wildlife-watching expenditures totaling \$1.3 billion (including trip-related costs and equipment). (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-associated recreation—Pennsylvania.” <https://www2.census.gov/programs-surveys/fhwar/publications/2011/fhw11-pa.pdf>)

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

A 2014 report by the Lehigh Valley Planning Commission demonstrates the benefits when clean water and natural areas are protected. (Lehigh Valley Planning Commission. (2014). “Lehigh Valley return on environment” (https://greenways.delawareandlehigh.org/wp-content/uploads/sites/6/2016/05/ReturnOnEnvironment_Dec_18_2014.pdf) The report states, “[t]he 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).

More recently, similar studies in Chester, Delaware, Montgomery and Northampton Counties have also found many millions of dollars in benefits from environmental services provided by natural lands, including benefits to water supplies, water quality, and flood mitigation. (Chester County Planning Commission. (2019). “Return on environment – The economic value of protected open space in Chester County, Pennsylvania.”

www.chescoplanning.org/Publications/PDF/ROE-FullDocument.pdf) (Econsult Solutions. (2022).

“Return on environment – The economic impact of protected open space in Delaware County, Pennsylvania.” Delaware County Planning Department. www.delcopa.gov/sites/default/files/2024-11/ESI-ROE_DelawareCo_2022-05-04_FINAL_Report-compressed.pdf) (Montgomery County Planning Commission. (2022). “Return on environment – The economic impact of protected open space in Montgomery County, Pennsylvania.”

www.montgomerycountypa.gov/departments/planning-commission/planning-topic/projects/return-environment) (Northampton County Parks and Recreation. (2025). “Northampton County, Pennsylvania – Return on environment and outdoor recreation economic impact.”

https://econsultsolutions.com/wp-content/uploads/2026/02/Northampton-Co-Return-on-Environment-Report-2025-11-13_LowRes.pdf)

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

Safe drinking water is vital to maintaining healthy and sustainable communities, and maintaining clean surface waters is crucial for ensuring safe drinking water supplies. Maintaining clean surface water benefits public water suppliers and their customers, enabling communities to plan and build future capacity for economic growth and setting the foundation for long-term sustainability for years to come. 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 – costs which would likely be passed on to public water system customers.

For example, in a study of 27 water suppliers, the Trust for Public Land and the American Water Works Association found that every 10% increase in forest cover in source watersheds was associated with an approximate 20% decrease in treatment and chemical costs. (Trust for Public Land, & American Water Works Association. (2004). “Protecting the source – Land conservation and the future of America’s drinking water.” www.tpl.org/wp-content/uploads/2014/03/water-protecting_the_source_final.pdf) In a review of seven cities across the United States, Postel and Thompson also documented avoided capital and operating costs ranging from hundreds of thousands of dollars to hundreds of millions of dollars annually. (Postel, S. L., & Thompson, B. H., Jr. (2005). “Watershed protection: Capturing the benefits of nature’s water supply services.” *Natural Resources Forum*. 29, 98—108. <https://doi.org/10.1111/j.1477-8947.2005.00119.x>) A similar case could be made for agricultural, industrial and other water supply uses benefiting from the availability of better source water quality. Protecting the quality of drinking water sources is also an additional safeguard to protect consumers from illnesses caused or worsened by exposure to pollutants in drinking water, and associated health care costs.

Compliance costs

These proposed 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 because existing discharges are included in any determination of the existing water quality when streams are redesignated to HQ or EV. Because the presence of these discharge activities did not preclude the attainment of the HQ or EV use and the water quality of the HQ or EV water will be maintained and protected under existing permit coverage, these discharges are considered to satisfy the antidegradation requirements in § 93.4a(c) (relating to antidegradation) so long as the discharge quality and quantity remain the same. Additional compliance costs may arise when permits or approvals are necessary for new or expanded regulated activities to a stream protected as HQ or EV.

Discharges to special protection streams are not eligible for coverage under NPDES general permits, based on § 92a.54(a)(8) (relating to 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.

In addition, stormwater discharges associated with industrial activity to surface waters classified as HQ or EV under Chapter 93 do not qualify for conditional exclusion from an NPDES permit as provided under § 92a.32(b) (relating to stormwater discharges). Some additional cost will be incurred by a facility required to obtain an individual permit. The Department will implement stream redesignations through permit and approval actions.

Table 3 compares fees associated with individual and general NPDES permits, as established in §§ 92a.26, 92a.62 and 102.6 (relating to application fees; annual fees; and permit applications and fees). The fees in Table 3 include notice of intent (NOI) fees for general permits, and application and annual fees for individual permits. For simplicity, the table does not show fees for permit amendments or transfers of coverage.

Table 3. Summary of Fees Associated with Individual and General NPDES Permits

<i>Permit Type</i>	<i>Individual Permit Application Fees</i>	<i>Individual Permit Annual Fees</i>	<i>General Permit NOI Fees*</i>
Small flow sewage treatment plants:			
Single residences	\$200	\$100	\$100 (PAG-04)
All others	\$500	\$250	\$200 (PAG-04)
Stormwater associated with industrial activity	\$3,000	\$1,500	\$2,500 (PAG-03)*
Municipal separate storm sewer system	\$5,000	\$2,500	\$2,500 (PAG-13)*
Concentrated animal feeding operations	\$500	\$500	\$2,000 (PAG-12)

<i>Permit Type</i>	<i>Individual Permit Application Fees</i>	<i>Individual Permit Annual Fees</i>	<i>General Permit NOI Fees*</i>
Application of pesticides	\$3,000	\$300	\$2,500 (PAG-15)*
Stormwater associated with construction activity	\$1,500 + \$100/acre of earth disturbance	\$500	\$500 + \$100/acre of earth disturbance (PAG-01 and PAG-02)
Industrial waste:			
Minor to major (>=250 million gallons per day)	\$3,000—\$10,000	\$1,500—\$50,000	N/A
Petroleum contaminated groundwater systems	\$3,000—\$10,000	\$3,000—\$10,000	\$2,500 (PAG-05)
Hydrostatic test water	\$3,000—\$10,000	\$3,000—\$10,000	\$2,500 (PAG-10)

* The NOI fee is paid in annual installments over the 5-year term of the permit.

The protection of HQ and EV streams does not limit economic growth and development. While a new, additional or increased discharge to a stream with a protected use of HQ or EV does require additional evaluations and may require the use of additional treatment technologies or BMPs, it does not prohibit activities. Discharge permits to surface waters with a protected use of HQ or EV may be issued if a permit applicant can sufficiently demonstrate to the Department that the activity will protect existing water quality.

In the future, 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. A person who proposes a new, additional or increased point source discharge to a stream with a protected use of EV or HQ 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 shall 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 a stream with a protected use of HQ 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. SEJ is not available for proposed discharges to streams with a protected use of EV. The water quality of streams with a protected use of EV must be maintained and protected. Due to the technology-specific and location-specific natures of this demonstration, it is not possible to estimate costs associated with new, additional or increased discharges to streams with a designated use of HQ or EV.

Costs associated with new, additional or increased discharges to surface waters may include increased consulting fees to complete the additional antidegradation analyses and permit application requirements that address antidegradation of surface water quality, along with increased engineering design fees and installation, operation and maintenance costs for additional treatment technologies or BMPs. The treatment technology or BMPs necessary for each discharge and their costs 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. It is not possible to forecast these additional costs because there is no way to predict if existing permitted facilities or activities will expand, or if new facilities or activities will apply for permits in the future.

For nonpoint source control, under § 93.4c(b)(2), cost-effective and reasonable BMPs must be achieved for pollution sources to surface waters with a protected use of HQ and EV.

When onlot sewage systems are planned, compliance with the sewage facilities planning and permitting regulations in Chapters 71—73 (relating to 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 in the waters that are proposed for redesignation to HQ or EV in this rulemaking. Permit applicants of sewage facilities with proposed discharges to surface waters with a protected use of HQ, subject to antidegradation requirements, may demonstrate SEJ at the sewage facilities planning stage and need not redemonstrate 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). This proposed rulemaking will not increase costs or trigger adverse effects on existing or planned onlot sewage systems.

Regarding permitted discharges to waters proposed for redesignation to special protection in this rulemaking, the Department identified 11 NPDES general permits (for nonpublicly owned sewage and for stormwater associated with either mining or industrial activity) and 1 “no exposure” conditional exclusion from an NPDES stormwater permit as provided under § 92a.32(b). The Department considers 4 of these 11 permits to be small businesses based on available information. For context, Statewide, approximately 17,850 facilities or activities hold NPDES permits, not including NPDES permits for stormwater associated with construction activity. Existing permitted discharges authorized under an NPDES general permit and entities that have obtained a “no exposure” conditional exclusion may be affected because point source discharges to special protection streams are not eligible for coverage under NPDES general permits or for conditional exclusion from NPDES stormwater permits, based on §§ 92a.32(b) and 92a.54(a)(8) and (e)(9), and therefore require individual permits. Additional cost may be incurred by these facilities required to obtain an individual permit.

The Department's permit evaluation did not include NPDES permits for stormwater associated with construction activities issued under Chapter 102 (relating to erosion and sediment control). These permits were not included in the permit analyses because of the short-term, temporary nature of these permitted discharges.

The permit count also does not include NPDES permits within the Reynolds Run basin. The permits within this basin are already issued with the HQ designated use recommendation in this proposed rulemaking. In other words, although § 93.9o (relating to Drainage List O) would be

updated for this basin from HQ-TSF to HQ-CWF, the current EPA-approved designated use for Reynolds Run used for CWA actions, such as NPDES permits, already includes the HQ designation, which will not change.

While an HQ or EV use does not prohibit activities, any new, additional or increased discharge to a stream with a protected use of HQ or EV requires additional evaluations to be completed by the permit applicant and may require the use of additional treatment technologies or BMPs. Discharge permits to surface waters with a protected use of HQ or EV may be issued if a permit applicant can sufficiently demonstrate to the Department that the activity will protect existing water quality. The Department identified eight individual permits for existing discharges to waters proposed for redesignation to special protection in this proposed rulemaking. These eight permits could be affected by the proposed regulation in the future if additional or increased discharges are requested by these permittees.

Broader estimates of who will be affected by the stream redesignations in this proposed rulemaking and how they will be affected would be speculative at this time because: (1) a discharger will not be impacted until a future activity requires a new or modified NPDES permit; (2) the characteristics of each receiving stream and each effluent discharge are unique; (3) SEJ may be available to modify the requirement; (4) persons currently discharging under a general permit to these waters may or may not continue with their permitted activity after the stream uses are redesignated; and (5) generic technology or cost equations are not available for purposes of comparing the costs or savings, or both, for persons who are responsible for discharges.

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 waters with a protected use of HQ or EV. 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. The additional paperwork is necessary to review applications that contain the antidegradation analysis as well as to tailor the permit conditions to the treatment or BMPs necessary to protect the existing water quality of the streams with a designated use of HQ or EV.

This proposed rulemaking will not 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, additional information may need to be submitted to the Department as part of the permit application or approval request. As discussed previously, 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

water with a protected use of HQ, the applicant may submit an SEJ demonstration 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 waters with a protected use of HQ.

H. Sunset Review

The Board is not establishing a sunset date for these regulations, because they are needed for the Department to carry out its statutory authority. The Department will continue to closely monitor these regulations for their effectiveness and recommend updates to the Board as necessary.

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (RRA) (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 (RAF) to the Independent Regulatory Review Commission (IRRC), and to the chairpersons of the Environmental Resources and Energy Committee of the Senate and the chairpersons of the Environmental and Natural Resource Protection Committee of the House of Representatives. A copy of this material is available to the public upon request.

Under section 5(g) of the RRA, IRRC may convey any comments, recommendations or objections to the proposed rulemaking 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 RRA (71 P.S. § 745.5b) which have not been met. The RRA 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

The Board will hold a virtual public hearing for the purpose of accepting comments on this proposed rulemaking. The hearing will be held at **TIME on DATE**.

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) 787-8727 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 shall contact Casey Damicantonio at (717) 787-8727 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 hearing is available on the Board's webpage found through the Public Participation link on the Department's website at www.pa.gov/agencies/dep (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) 787-8727 or through the Pennsylvania Hamilton Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Board may accommodate their needs.

JESSICA SHIRLEY,
Chairperson