

Regulatory Analysis Form (Completed by Promulgating Agency) (All Comments submitted on this regulation will appear on IRRC's website)		INDEPENDENT REGULATORY REVIEW COMMISSION	
(1) Agency Environmental Protection		IRRC Number:	
(2) Agency Number: 7 Identification Number: 592			
(3) PA Code Cite: 25 Pa. Code Chapter 93			
(4) Short Title: Water Quality Standards; Chester Creek et al. Stream Redesignations			
(5) Agency Contacts (List Telephone Number and Email Address): Primary Contact: Laura Campbell, (717) 772-5830, laurcampbe@pa.gov Secondary Contact: Lauren Imgrund, (717) 783-8727, limgrund@pa.gov			
(6) Type of Rulemaking (check applicable box): ☒ Proposed Regulation ☐ Final Regulation ☐ Final Omitted Regulation		☐ Emergency Certification Regulation ☐ Certification by the Governor ☐ Certification by the Attorney General	
(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less) The water quality standards program consists of the designated uses of the surface waters of the Commonwealth along with numerical and narrative criteria necessary to achieve and maintain those uses, and an antidegradation policy that protects the water quality of the surface waters. Water quality standards are instream water quality goals that are implemented by imposing specific requirements on individual sources of pollution. The amendments to Chapter 93 (relating to water quality standards) update and revise stream use designations for 16 stream basins totaling 138.47 stream miles in seven drainage lists based upon the various protected water use definitions in § 93.3 (relating to protected water uses) and the High Quality Waters (HQ) and Exceptional Value Waters (EV) qualifiers in § 93.4b (relating to qualifying as High Quality or Exceptional Value Waters).			
(8) State the statutory authority for the regulation. Include <u>specific</u> statutory citation. 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 Environmental Quality Board (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 of Environmental Protection (Department). In addition, sections 101(a)(2) and 303(c)(2)(A) of			

the Federal Clean Water Act (CWA) (33 U.S.C. §§ 1251(a)(2) and 1313(c)(2)(A)) set forth requirements for water quality standards.

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

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 United States Environmental Protection Agency (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.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

Water quality standards protect Pennsylvania's surface waters for a variety of uses relating to aquatic life, water supply, recreation and fish consumption, special protection and navigation. Rulemakings to update Pennsylvania'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.

Benefits

Overall, this Commonwealth's residents and visitors and its 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 five 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 such example is the proposed redesignation of Unnamed Tributary (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 Pennsylvania Fish and Boat Commission (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](https://econsultsolutions.com/wp-content/uploads/2026/02/Northampton-Co-Return-on-Environment-Report-2025-11-13_LowRes.pdf)) (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.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

No. The proposed regulations are not more stringent than federal standards.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania’s ability to compete with other states?

Other states are also required to maintain water quality standards, based on the federal mandate of the CWA as described in the Department’s response to question #9.

Therefore, the proposed amendments do not put Pennsylvania at a competitive disadvantage to other states. On the contrary, if Pennsylvania’s water quality is sufficiently better than that found in other states, it may attract industries which rely on high quality water to do business within the Commonwealth. Higher water quality may also support the Commonwealth as a preferred tourist destination for various outdoor recreational activities and related business.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No other regulations are affected by this proposed regulation.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. (“Small business” is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

These 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 (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 renewals for National Pollutant Discharge Elimination System (NPDES) permits (UNT 03181 to Tohickon Creek, and Logan Spring Run). In this proposed rulemaking, stream redesignations rely on definitions and qualifications in §§ 93.3 and 93.4b(a)(2)(ii) and (b)(1)(iii), (v) and (vi).

As part of the stream redesignation process, and in accordance with § 93.4c (relating to implementation of antidegradation requirements), 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 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 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. 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 its 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 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 and are included with this Regulatory Analysis Form. 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 the Board's proposed rulemaking as set forth in Annex A.

In addition to the public participation solicited prior to this rulemaking, the public will be afforded the opportunity to comment on this proposed rulemaking, which will include a public hearing during a 45-day public comment period.

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

The Department's Bureau of Clean Water is coordinating with the Department's Small Business Ombudsman to ensure the small business community will be notified of their opportunity to submit

comments on this proposed rulemaking during the 45-day public comment period following publication in the *Pennsylvania Bulletin*.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

Entities that will and may benefit from this rulemaking are discussed in the Department's response to question #10.

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 one "no exposure" conditional exclusion from an NPDES stormwater permit as provided under § 92a.32(b) (relating to stormwater discharges). The Department considers four 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, as explained below. 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 a conditional exclusion from NPDES stormwater permits, based on § 92a.32(b) and § 92a.54(a)(8) and (e)(9) (relating to general permits), 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 High Quality Waters – Trout Stocking (HQ-TSF) to High Quality Waters – Cold Water Fishes (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 best management practices (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) social and economic justification (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.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

Please see the Department's response to question #15.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

Please see the Department's response to question #10 for discussion of the benefits of this proposed rulemaking.

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. Since 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), 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). 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 (MS4)	\$5,000	\$2,500	\$2,500 (PAG-13)*
Concentrated animal feeding operations (CAFO)	\$500	\$500	\$2,000 (PAG-12)
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 MGD)	\$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 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(s) 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.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

Please see the Department's response to question #10 for discussion of the benefits of this proposed rulemaking and the Department's response to questions #15 and #17 for discussion about anticipated compliance obligations.

It is important for the Commonwealth to realize the benefits of clean water and to ensure that associated opportunities and activities continue and grow in a manner that is environmentally, socially and economically sound. Protection and maintenance of water quality ensures its future availability for all uses.

Perry et al. (2022) found that, overall, the economic benefits of special protection waters outweighed the costs. The report noted a positive relationship between prevalence of HQ and EV designated streams and all three measures of economic prosperity: personal income; earnings; and employment. Furthermore, this economic study did not find evidence to support the claim that HQ and EV designation harms economic development prospects.

Thus, the certain benefits of this proposed rulemaking outweigh any potential future costs for permitted activities and potential adverse impacts.

(19) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

Please see the Department's response to questions #15 and #17.

Based on the site-specific nature of the antidegradation evaluations and the variety of potential discharges, costs and/or savings to the regulated community will depend upon: technologies chosen to address new, additional or increased pollutants; effluent discharge and receiving stream characteristics; and demonstrations of SEJ for less stringent limitations.

(20) Provide a specific estimate of the costs and/or savings to the local governments associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The Department has identified two MS4 permits and two publicly-owned water treatment plants (WTP) in the watersheds proposed for redesignation in this rulemaking. A WTP with an NPDES permit to discharge industrial wastewater will not be affected by the stream redesignations in this proposed rulemaking for existing discharges. A new publicly-owned treatment works (POTW) or WTP may be impacted by this proposed rulemaking in the future if the POTW or WTP proposes to discharge to waters identified in this proposed rulemaking. For existing discharges, if a person proposes to change the quality or quantity of their permitted discharge(s) after a stream is redesignated, any subsequent permit action will take the redesignation into account when establishing permit conditions. See the Department's response to question #17 for more detailed information on antidegradation requirements, SEJ, nondegrading discharge and nondischarge alternatives.

Local governments that are MS4s will most likely have additional costs associated with MS4 permitting requirements for discharges to surface waters with a protected use of HQ or EV. Any MS4 that discharges to a stream with a protected use of HQ or EV will be required to obtain an individual permit or an individual permit waiver. Discharge activities to special protection streams are not eligible for coverage under NPDES general permits, based on § 92a.54(a)(8) and (e)(9), and therefore, require individual permits. See the Department's response to questions #15 and #17 for additional information on costs to NPDES permittees, including MS4s.

Local governments may gain or increase income from the redesignations due to potential tourism and recreational revenue. For local governments that receive income from the tourism industry, the redesignations may help maintain local revenue and employment. In addition, local land values may increase in the future as homes that are near areas of clean water and protected resources become more desirable places to live. Local governments that use these waters as a public water supply may also gain an economic benefit by reduced source water treatment requirements. See the Department's response to questions #10, #15 and #17 for additional details.

(21) Provide a specific estimate of the costs and/or savings to the state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

No costs will be imposed directly upon Commonwealth government by this proposed rulemaking. This proposed regulation will be implemented through existing Department programs, procedures and policies.

No permits have been issued to a Commonwealth agency for discharges to the 16 streams that are proposed for redesignation in this proposed rulemaking.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

Existing Department paperwork, procedures and guidance will be used to implement antidegradation requirements for discharges to the streams being considered for redesignation to HQ and EV in this proposed rulemaking. No new forms, reports or implementation procedures are necessary. As detailed in the response to question #17, a permit applicant who proposes to discharge new, additional or increased pollutants might need the assistance of a consultant to evaluate certain elements of the antidegradation requirements such as nondischarge alternatives and nondegrading treatment options or BMPs. A permit applicant for a new or renewed permit must apply for an individual permit; however, a permit renewal does not trigger antidegradation review until new, additional or increased pollutants are proposed in the permit application.

(22a) Are forms required for implementation of the regulation?

No new forms are required to implement this regulation. For a permit applicant who proposes to discharge new, additional or increased pollutants, the appropriate permit applications are needed when applying for a permit. The permit application should include an antidegradation module, if available, corresponding to the appropriate Department permitting program.

Permit application modules for discharges to special protection waters can be found at the links listed in the response to question #22b. If a permit application lacks an antidegradation module, the permit applicant must still provide the required antidegradation analyses and evaluations as required by § 93.4c(b)(1).

(22b) If forms are required for implementation of the regulation, attach copies of the forms here. If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.

The following are links to existing antidegradation permit application modules or forms that include antidegradation requirements:

Antidegradation Supplement for Mining Permits

<http://www.depgreenport.state.pa.us/elibrary/GetFolder?FolderID=3713>

Mining SEJ module

<https://greenport.pa.gov/elibrary//GetFolder?FolderID=3713>

Oil and Gas Program Erosion and Sediment Control General Permit

www.depgreenport.state.pa.us/elibrary/GetDocument?docId=56433&DocName=03 - NOTICE OF INTENT %28NOI%29.PDF

Industrial Waste Antidegradation Module (including Industrial Waste Stormwater Only Discharges)

<http://www.depgreenport.state.pa.us/elibrary/GetDocument?docId=11982&DocName=3800-PM-BCW0008g Module 4 and Module 4 Instructions.pdf>

Pesticides Permit Antidegradation Module

<http://www.depgreenport.state.pa.us/elibrary/GetFolder?FolderID=3675>

Erosion and Sediment Control Individual Permit

<https://greenport.pa.gov/elibrary/GetFolder?FolderID=105509>

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY 2026-27	FY +1 2027-28	FY +2 2028-29	FY +3 2029-30	FY +4 2030-31	FY +5 2031-32
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	Not Measurable	Not Measurable	Not Measurable	Not Measurable	Not Measurable	Not Measurable
Local Government	“	“	“	“	“	“
State Government	“	“	“	“	“	“
Total Savings	“	“	“	“	“	“
COSTS:						
Regulated Community	Not Measurable	Not Measurable	Not Measurable	Not Measurable	Not Measurable	Not Measurable
Local Government	“	“	“	“	“	“
State Government	“	“	“	“	“	“
Total Costs	“	“	“	“	“	“
REVENUE LOSSES:						
Regulated Community	Not Measurable	Not Measurable	Not Measurable	Not Measurable	Not Measurable	Not Measurable
Local Government	“	“	“	“	“	“
State Government	“	“	“	“	“	“
Total Revenue Losses	“	“	“	“	“	“

(23a) Provide the past three-year expenditure history for programs affected by the regulation.

Program	FY -3 (2022-23)	FY -2 (2023-24)	FY -1 (2024-25)	Current FY (2025-26)
160-10381 Enviro Protection Operations	\$102,719,000	\$116,450,000	\$125,881,000	\$134,693,000
161-10382 Enviro Program Management	\$35,739,000	\$39,714,000	\$42,510,000	\$45,486,000

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

(a) An identification and estimate of the number of small businesses subject to the regulation.

Persons, including small businesses, who propose to discharge new, additional or increased pollutants into surface waters of the Commonwealth must comply with the regulation. The Department considers four of the 11 NPDES-permitted facilities in waters being redesignated to special protection in this proposed rulemaking to be small businesses based on available information, and none of these existing discharges will be immediately affected when this proposed regulation goes into effect. Please also see the response to questions #15 and #17.

(b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.

Existing Department paperwork procedures and guidance will be used to implement the antidegradation requirements that apply to discharges to the streams being considered for redesignation to HQ or EV in this proposed regulation. No new forms, reports, or implementation procedures are necessary. NPDES permit application modules for discharges to surface waters with a protected use of HQ or EV can be found at the links in the response to question #22b. A permit applicant who proposes to discharge new, additional or increased pollutants might need the assistance of a consultant to evaluate certain elements of the antidegradation requirements such as nondischarge alternatives and nondegrading treatment options or BMPs.

(c) A statement of probable effect on impacted small businesses.

In general, if a person has an NPDES permit to discharge pollutants into waters of the Commonwealth, the existing permit limits will not be affected by the stream redesignations in this proposed rulemaking, and no new costs will be incurred. If, however, a person proposes to change the quality or quantity of their permitted discharge(s) after a stream is redesignated to HQ or EV, any subsequent permit action will take the redesignation into account when establishing permit conditions.

(d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

The opportunity for examination of the least costly alternative treatment method for a person or entity seeking a new, additional, or increased discharge of pollutants through the permit application process are provided in Chapter 93. This examination is performed when an applicant evaluates whether nondischarge alternatives (that is, alternatives to the discharge) exist that are cost-effective and environmentally sound; and, if not, whether a nondegrading discharge is possible. Since this proposed rulemaking involves designations of streams to HQ, Chapter 93 allows a reduction of water quality if lowering water quality is necessary to accommodate important economic or social development in the area in which the waters are located.

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

While no special provisions are included in this proposed rulemaking, it is important to note that this rulemaking will afford the protection of water quality necessary to ensure clean water for residents of and visitors to this Commonwealth.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

This proposed regulation meets the Commonwealth's obligations under the CSL and the CWA to protect water uses. The proposed regulations reflect the results of a scientific evaluation of regulatory criteria. No alternative regulatory schemes are available to achieve the correct level of protection for the waters of the Commonwealth.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

a) The establishment of less stringent compliance or reporting requirements for small businesses;

This proposed regulation does not establish or revise compliance or reporting requirements for small businesses. Those requirements would be addressed through the applicable permitting program. No alternative regulatory schemes are available to achieve the correct level of protection for the waters of the Commonwealth. The proposed regulations reflect the results of a scientific evaluation of regulatory criteria.

b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

This proposed regulation does not establish or revise schedules or deadlines for compliance or reporting requirements for small businesses. Schedules of compliance and reporting requirements are considered when permit or approval actions are taken, in accordance with Chapter 92a (relating to National Pollutant Discharge Elimination System permitting, monitoring and compliance) or other applicable permitting programs.

c) The consolidation or simplification of compliance or reporting requirements for small businesses;

This proposed regulation does not establish or revise compliance or reporting requirements for small businesses. Compliance and reporting requirements are considered when permit or approval actions are taken, in accordance with Chapter 92a or other applicable permitting programs.

d) The establishment of performance standards for small businesses to replace design or operational standards required in the regulation; and

Any evaluation of treatment technologies or BMPs for persons who discharge pollutants to streams with a protected use of HQ or EV would be speculative at this time since: (1) a discharger will not be impacted until a future activity requiring a new or modified NPDES permit is proposed; (2) the characteristics of each receiving stream and each effluent discharge are unique; (3) SEJ may be available to modify the compliance requirement; and (4) generic technology or cost equations are not available for purposes of comparing the costs and/or savings for persons who are responsible for discharges.

e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

No exemptions of small businesses are available in this case.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

These 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 (Reynolds Run and Chester Creek); a request from The Nature Conservancy (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 NPDES permit renewals (UNT 03181 to Tohickon Creek, and Logan Spring Run). The stream redesignations rely on definitions and qualifications in §§ 93.3 and 93.4b(a)(2)(ii) and (b)(1)(iii). 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.

The results of the Department's review can be found in the Department's Stream Evaluation Reports for each stream included in this proposed rulemaking and are available on the Department's website at:

Reynolds Run
[2024_Final_Stream_Evaluation_Report_Reynolds_Run.pdf](#)

Chester Creek

[2024_Final_Stream_Evaluation_Report_Chester_Creek.pdf](#)

UNT 32599 to North Fork Dunkard Fork

[2024_Final_Stream_Evaluation_Report_UNT_North_Fork_Dunkard_Fork.pdf](#)

UNT 64027 to Sixpenny Creek

[2024_Final_Stream_Evaluation_Report_UNT_Sixpenny_Creek.pdf](#)

Bermudian Creek

[2024_Final_Stream_Evaluation_Report_Bermudian_Creek.pdf](#)

Logan Spring Run

[2024_Final_Stream_Evaluation_Report_Logan_Spring_Run.pdf](#)

UNT 03181 to Tohickon Creek

[2024_Final_Stream_Evaluation_Report_UNT_03181_Tohickon_Creek_Bog_Run.pdf](#)

Middle Lehigh Tributaries (Bear Creek, Jeans Run, Broad Run, Dennison Run, Grassy Meadow Run, Stewart Creek, UNT 04055 to Mahoning Creek, and UNT 04060 to Mahoning Creek)

[2024_Final_Stream_Evaluation_Report_Middle_Lehigh.pdf](#)

(29) Include a schedule for review of the regulation including:

- | | |
|---|---|
| A. The length of the public comment period: | <u>45 days</u> |
| B. The date or dates on which any public meetings or hearings will be held: | <u>DATE</u> |
| C. The expected date of delivery of the final-form regulation: | <u>Quarter 4, 2027</u> |
| D. The expected effective date of the final-form regulation: | <u>Upon publication in <i>Pennsylvania Bulletin</i> as final-form rulemaking for CSL permit and approval actions, or as approved by the EPA for purposes of implementing the CWA.</u> |
| E. The expected date by which compliance with the final-form regulation will be required: | <u>Upon issuance or renewal of NPDES permits or other approvals of the Department – subsequent to publication of the final-form rulemaking in the <i>Pennsylvania Bulletin</i>.</u> |

F. The expected date by which required permits, licenses or other approvals must be obtained:

When permits or approvals are issued or renewed – subsequent to publication of the final-form rulemaking in the *Pennsylvania Bulletin*.

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

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

Also, since the CWA requires review and revision of water quality standards as necessary, but at least once every three years, a schedule for review is inherently established.