



**pennsylvania**  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Office of Water Programs



# **Final-Form Rulemaking – Chapter 93, Water Quality Standards Dunbar et al. Stream Redesignation**

Citizens Advisory Council

January 10, 2023

Josh Shapiro, Governor

Ramez Ziadeh, P.E., Acting Secretary

# Authority

- **Federal Clean Water Act**
  - Federal law
  - Requires states to adopt water quality standards, including designating uses, criteria to protect uses and an antidegradation policy
- **Pennsylvania Clean Streams Law**
  - State law
  - Policy is to prevent further pollution and reclaim and restore streams to an unpolluted condition
  - Regulations should consider the present and future uses of waters

# Protected Water Uses

- *Designated uses*
  - Protected uses specified in §§ 93.4(a) and 93.9a—93.9z
  - Specified for each waterbody or segment
  - Specified whether or not they are being attained

# Protected Water Uses

- Aquatic Life
  - Warm Water Fishes (WWF)
  - Trout Stocking (TSF)
  - Cold Water Fishes (CWF)
  - Migratory Fishes (MF)
- Water Supply *(all waters, except where noted)*
  - Potable Water Supply (PWS)
  - Industrial Water Supply (IWS)
  - Livestock Water Supply (LWS)
  - Wildlife Water Supply (AWS)
  - Irrigation (IRS)

# Protected Water Uses



# Protected Water Uses

- **Recreation and Fish Consumption** (*all waters, except where noted*)
  - Boating (B)
  - Fishing (F)
  - Water Contact (WC)
  - Esthetics (E)
- **Special Protection**
  - High Quality Waters (HQ)
  - Exceptional Value Waters (EV)

# Protected Water Uses



# Qualifying as High Quality Waters

## Chemistry

- Long-term water quality exceeds specific water quality criteria 99% of the time

## Biology

- High quality benthic macroinvertebrate community
- Class A Wild Trout





# Qualifying as Exceptional Value Waters

## **Biology** –

- Higher quality benthic macroinvertebrate community
- Wilderness Trout Stream

## **Locational**

- State Park or State Forest Natural Area
- National Wildlife Refuge

**Resource Management Plan** – Protected by a resources management plan

**Exceptional Ecological Significance** - areas of statewide or local ecological significance based on:

- Rarity of community types
- Connected to riverine surface waters
- Water quality dependent
- Dominated by aquatic plants

# The Redesignation Process

Evaluations are conducted when:

- A petition requesting redesignation is accepted by the Environmental Quality Board (EQB)
- A request is received by another agency (PFBC, ACOE) or regional program
- Routine aquatic life use surveys indicate that the stream may qualify for a use that is different than the designated use

*Persons may sign up for eNotice to stay informed of a stream redesignation evaluations.*

# Redesignation Process and Timeline

## Notice of Assessment

- Prepared by Department
- Submit technical data to the Department within 30 days to assist the Department with its evaluation
- Publication:
  - Pennsylvania Bulletin
  - Department's website
  - Municipalities and county planning commissions
  - Department's eNotice for stream redesignations

# Redesignation Process and Timeline

## The Report

- Department drafts stream reports based on evaluations of data received as a result of the notice of assessment and data available.
- Reports include recommendations on whether redesignation of a stream is appropriate based on qualifiers.
- Department forwards draft report to petitioner, municipal officials and county planning commissions for 30-day review and comment period.
- Draft reports are also posted on Department's website and a notice is distributed through eNotice and the Pennsylvania Bulletin

# Redesignation Process and Timeline

## Rulemaking

- Comments for each of the reports are received and reports are updated to address comments.
- Reports and recommendations are presented to the EQB through a proposed rulemaking.
- If a rulemaking is initiated, the Agricultural Advisory Board is notified.
- As part of the rulemaking process 4 notifications occur.

# Redesignation Process and Timeline

## Rulemaking Notifications

1. Prior to Proposed Rulemaking
2. Proposed Rulemaking
3. Public Meeting Notification
4. Final Rulemaking

# Dunbar et al. - Timeline

- April 20, 2021 – Env. Quality Board, Proposed
- July 31, 2021 – Public Comment Period
- August 30, 2021 – Virtual Public Meeting
- 1<sup>st</sup> Quarter 2023 – Env. Quality Board, Final

# Dunbar et al. Evaluations

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



# Regulation Summary

1. Dunbar Creek (Fayette Co.) – HQ-CWF to EV
2. Two Lick Creek (Indiana Co.) – TSF to CWF
3. Bear Run (Indiana Co.) – CWF to HQ-CWF and EV
4. Clyde Run (Elk Co.) – CWF to EV
5. UNT South Branch Codorus Creek – WWF to EV
6. Cranberry Creek (Monroe Co.) – HQ-CWF to EV
7. UNT Oley Creek (Luzerne Co.) – HQ-CWF to CWF

# Proposed Rulemaking Comments

- 228 Comments Received
- Testimony from 3 witnesses
- Independent Regulatory Review Commission (IRRC)



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**Josh Lookenbill**  
Bureau of Clean Water  
[mlookenbil@pa.gov](mailto:mlookenbil@pa.gov)