

**Executive Summary**  
**Water Quality Standards – Class A Stream Redesignations**  
**25 Pa. Code Chapter 93**

As part of its water quality management program and ongoing review of water quality standards, the Department of Environmental Protection (Department) recommends that the Environmental Quality Board (Board) adopt the following amendments to 25 Pa. Code §§ 93.9d, 93.9f, 93.9j, 93.9k, 93.9l, 93.9m, 93.9p, 93.9q, 93.9r, and 93.9t to read as set forth in Annex A of this final rulemaking.

**Purpose of the Regulation**

Section 303(c)(1) of the Federal Clean Water Act (33 U.S.C.A. § 1313(c)(1)) requires states to periodically review and revise, as necessary, water quality standards. The regulatory changes in this final rulemaking are the result of stream evaluations of protected water uses conducted by the Department in response to a submittal of data from the Pennsylvania Fish and Boat Commission (PFBC) under 25 Pa. Code § 93.4c(a)(1)(i) (relating to implementation of antidegradation requirements) and § 93.4d (relating to processing of petitions, evaluations and assessments to change a designated use). In this regulation, stream redesignations rely on § 93.4b(a)(2)(ii) to qualify streams for High Quality Waters (HQ) designation based upon their classifications as Class A wild trout streams. A surface water that has been classified a Class A wild trout stream by the PFBC, based on species-specific biomass standards in 58 Pa. Code § 57.8a (relating to Class A wild trout streams), qualifies for the Department’s evaluation HQ designation. The PFBC published notice and requested comments on the Class A classification of these streams. The PFBC Commissioners approved these waters after public notice and comment.

Department staff conducted an independent review of the trout biomass data in the PFBC’s fisheries management reports for streams throughout the Commonwealth. This review was conducted to ensure that the HQ qualifying criteria were met for each of the waters, and to consider additional information for coherent designations, as appropriate.

**Summary of the Regulation**

Based on these data and appropriate regulatory criteria, the Department developed this package of stream redesignations. These regulations include HQ stream redesignations in the Delaware, Susquehanna, and Ohio River basins. A table of these changes can be found at the end of this Executive Summary.

Changes made to the Annex of this rulemaking may be difficult to read if held next to the proposed rulemaking Annex. Between the time this rulemaking was proposed and finalized, the recent Triennial Review rulemaking was finalized (see the *Pennsylvania Bulletin* on July 11, 2020 (50 Pa.B. 3426)). The Triennial Review rulemaking did not include any substantive changes to stream redesignations. However, some of the stream drainage lists in §§ 93.9a–93.9z were consolidated in the Triennial Review rulemaking, which changed the look of those sections.

In addition to consideration of the HQ qualifier for several streams, this rulemaking consolidates and reformats portions of several drainage lists to address the continual changes and updates

occurring to the National Hydrography Dataset (NHD). The NHD forms the basis of the Department's Designated and Existing Use Geographic Information System (GIS) layers. The NHD is established using the United States Geological Survey (USGS) Geographic Names Information System (GNIS), which is the Federal and National standard for geographic nomenclature. The Department strives to maintain consistency with the GNIS database and the NHD.

Furthermore, all river mile indexes (RMI) included in this rulemaking – in §§ 93.9d, 93.9f, 93.9j, 93.9k, 93.9l, 93.9m, 93.9p, 93.9q, 93.9r, and 93.9t – will be converted to latitude and longitude coordinates. The conversion of RMI in all drainage lists is not included in this rulemaking. Going forward, whenever changes are made to the drainage lists in §§ 93.9a–93.9z, associated RMI will be converted to latitude and longitude. Eventually, all reference to RMI in §§ 93.9a–93.9z will be converted to latitude and longitude. There are three instances in this final rulemaking where changes to latitude or longitude coordinates were made from the proposed rulemaking.

Additionally, this rulemaking corrects the spelling for Huntington Creek in § 93.9k to be consistent with the NHD.

The redesignations in this rulemaking will be protected through the Department's permit and approval actions. For example, the National Pollutant Discharge Elimination System (NPDES) permitting program requires effluent limitations and best management practices for discharges that are protective of the use designations of the receiving stream. A discharge in existence at the time of a stream evaluation used to support a redesignation would be considered part of the existing condition of a stream; therefore, antidegradation requirements would only apply to new, additional, or increased discharges.

### **Public Comment**

The regulation was adopted by the Board as proposed rulemaking at its December 18, 2018 meeting, and was published in the *Pennsylvania Bulletin* on March 23, 2019 (49 Pa.B. 1367) with a 45-day public comment period that ended May 7, 2019. The Board held one public hearing, for the purpose of accepting comments on the proposed rulemaking, on April 26, 2019 at the Department's Southcentral Regional Office in Harrisburg, Pennsylvania.

The Board received comments from 777 commenters including comments from EPA Region 3, comments from the Independent Regulatory Review Commission (IRRC), and testimony from two witnesses at the public hearing. The comments received on the proposed regulation are summarized in Section E of the final Preamble and in the Comment and Response Document that accompanies this final-form rulemaking package.

The Department has considered all the public comments received on the proposed rulemaking in preparing this final rulemaking, and recommends the final-form rulemaking be revised as set forth in Annex A. The Department recommends some changes from the proposed rulemaking to this final rulemaking in response to comments received on the proposed rulemaking. In response to comments received on the proposed rulemaking, the Department recommends expanding the zones of seven streams in this final rulemaking, so that 13 additional stream miles would be redesignated to HQ-CWF. The seven zones the Department recommends for expansion are

shown in bold, red font in the table included at the end of this Executive Summary. Another comment led the Department to recommend a change from the proposed rulemaking to clarify the zone description for the basin of Quemahoning Creek between Beaverdam Creek and Roaring Run in § 93.9t. Changes the Department recommends in this final rulemaking from the proposed rulemaking are further described in the final Preamble and also in the Comment and Response Document.

### **Affected Parties**

Without including stormwater discharges associated with construction activities, there are approximately 10,300 facilities across the Commonwealth that hold permits issued pursuant to Chapter 92a (relating to National Pollutant Discharge Elimination System permitting, monitoring and compliance). This statewide number of approximately 10,300 includes NPDES permits for concentrated animal feeding operations, industrial waste, municipal separate storm sewer systems, sewage, and industrial stormwater. Out of this statewide total of approximately 10,300 permits, only 19 facilities currently hold active NPDES permits within the boundaries of the watersheds of the stream segments recommended for redesignation in this final rulemaking. Although this final rulemaking includes 13 additional stream miles, there are no additional NPDES permits that will be affected by inclusion of these additional stream miles in this final rulemaking.

The types of NPDES discharges to waters included in this final rulemaking include industrial waste, sewage, municipal stormwater, and industrial stormwater. Discharges in existence at the time of each relevant stream survey have been considered in the evaluation of the existing water quality of each relevant stream and the recommendation for redesignation to special protection. Since the presence of such discharge activities did not preclude the attainment of special protection status, the discharges may continue as long as the discharge characteristics – both quality and quantity – remain the same. Thus, redesignation to special protection does not impose any additional special treatment requirements on the existing discharges to the streams included in this final rulemaking. However, 25 Pa. Code § 92a.54(a)(8) (relating to general permits) states that discharge activities to special protection streams do not qualify for NPDES general permits, and therefore require individual permits. Individual NPDES permits are necessary for antidegradation implementation and to track any additional or increased discharges to a special protection water. Thirteen of the 19 NPDES permits for discharges to streams included in this final rulemaking will be converted from general permits to individual permits when they are reissued; two of the 19 permits are currently individual permits and will not be affected. The remaining four existing permitted discharges will not be affected unless there is a change to the quality or quantity of the permitted discharge.

There are thousands of general and individual NPDES permits for stormwater discharges associated with construction activities issued under 25 Pa. Code Chapter 102 that were not included in the preceding analysis of NPDES permits. These permits for stormwater discharges associated with construction activity were not included in the preceding permit counts because of the relatively temporary nature of these permits and permitted discharges. However, if a construction stormwater discharge permit was issued as a general permit, and if the permitted activity is not completed by the expiration date of the permit and the permittee seeks to renew the permit, then the permit must be renewed as an individual permit. Additionally, when new

stormwater discharges associated with construction activities are permitted within the basins of the stream segments recommended for redesignation to special protection in this rulemaking, additional antidegradation best management practices will be necessary to protect water quality under Chapter 102 (relating to erosion and sediment control).

Any person proposing a new, additional, or increased point source discharge to the streams recommended for redesignation to special protection in this rulemaking would need to satisfy the antidegradation requirements found at 25 Pa. Code § 93.4c(b)(1). Any new, additional, or increased point source discharge to special protection waters must evaluate non-discharge alternatives and use an alternative that is environmentally sound and cost-effective when compared with the cost of the proposed discharge. If a non-discharge alternative is not environmentally sound and cost-effective, the permittee of a new, additional, or increased discharge must use the best available combination of cost-effective treatment, land disposal, pollution prevention, and wastewater reuse technologies to meet applicable water quality standards. The permit applicant must demonstrate in the permit application that their new or expanded activities will not lower the existing water quality of special protection streams. If an applicant cannot meet non-degrading discharge requirements, a person who proposes a new, additional, or increased discharge to waters designated as HQ is given an opportunity to demonstrate a social or economic justification (SEJ) for allowing lower 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 other water uses will be supported.

Where on-lot sewage systems are planned, compliance with the sewage facilities planning and permitting regulations in 25 Pa. Code Chapters 71, 72, and 73 (relating to the administration of sewage facilities planning program; administration of sewage facilities permitting program; and standards for on-lot sewage treatment facilities) will continue to satisfy § 93.4c (relating to implementation of antidegradation requirements) in the streams recommended for redesignation to special protection in this rulemaking. Permit applicants of sewage facilities proposed to discharge to HQ waters who demonstrate SEJ at the sewage facilities planning stage need not redemonstrate SEJ at the discharge permitting stage.

The Department cannot accurately estimate or ascertain who will be affected by the stream redesignations recommended in this final rulemaking because: (1) persons and businesses, both large and small, 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 requirements; and (4) generic technology or cost equations are not available for purposes of comparing the costs and/or savings for the businesses or local governments that are responsible for discharges.

The Department identified 11 public water supply facilities with raw water intakes within 30 stream miles downstream of the stream sections recommended for redesignation in this final rulemaking. These 11 public water suppliers, which serve over 175,000 citizens, will benefit from this rulemaking package because their raw source water will be afforded a higher level of protection. This is an economic benefit because the source water treatment costs for the drinking

water will be less costly to customers if less treatment is needed due to the high quality of the water in the stream.

Small businesses in the recreation industry will also be positively affected by this final rulemaking. The maintenance and protection of the water quality that would result from this final rulemaking will ensure the long-term availability of Class A wild trout fisheries.

**Recommendation to the Board**

The Department recommends the Board adopt this final-form rulemaking.

**Summary Table: Final Rulemaking**

**Class A Stream Redesignations Package**

*Changes recommended in the final rulemaking from the proposed rulemaking are shown in **bold, red font**.*

<i>Stream Name</i>	<i>County</i>	<i>List</i>	<i>Zone</i>	<i>Current Designated Use</i>	<i>Recommended Designated Use</i>
Beaver Run	Carbon	D	Basin	CWF, MF	HQ-CWF, MF
Wash Creek	Schuylkill	D	Basin	CWF, MF	HQ-CWF, MF
UNT 04074 to Mahoning Creek	Schuylkill	D	Basin	CWF, MF	HQ-CWF, MF
UNT 04088 to Lehigh Canal (Weisport)	Carbon	D	Basin, Source to Phifer Ice Dam Inlet	CWF, MF	HQ-CWF, MF
UNT 03913 to Lehigh River	Carbon	D	<b>Basin</b>	CWF, MF	HQ-CWF, MF
Fireline Creek	Carbon	D	<b>Basin, except UNT 03907</b>	CWF, MF	HQ-CWF, MF
UNT to Little Schuylkill River	Schuylkill	F	Basin	CWF, MF	HQ-CWF, MF

<i>Stream Name</i>	<i>County</i>	<i>List</i>	<i>Zone</i>	<i>Current Designated Use</i>	<i>Recommended Designated Use</i>
UNT 02248 to Little Schuylkill River "Rabbit Run"	Schuylkill	F	Basin	CWF, MF	HQ-CWF, MF
UNT 02204 to Little Schuylkill River	Schuylkill / Berks	F	Basin	CWF, MF	HQ-CWF, MF
Sixpenny Creek	Berks	F	Basin, UNT 64027 to Mouth	CWF, MF	HQ-CWF, MF
Aylesworth Creek	Lackawanna	J	Basin, Source to UNT 28567	CWF, MF	HQ-CWF, MF
Brace Brook	Susquehanna / Wayne	J	Basin	CWF, MF	HQ-CWF, MF
Glen Brook	Columbia	K	<b>Basin</b>	CWF, MF	HQ-CWF, MF
Douglas Run	Cambria / Indiana	L	Basin	CWF, MF	HQ-CWF, MF
Emeigh Run	Cambria	L	Basin	CWF, MF	HQ-CWF, MF
Beaver Run	Cambria / Clearfield	L	Basin, Source to and including UNT 27182	CWF, MF	HQ-CWF, MF
Patchin Run	Clearfield	L	Basin	CWF, MF	HQ-CWF, MF
North Run	Clearfield	L	Basin	CWF, MF	HQ-CWF, MF

<i>Stream Name</i>	<i>County</i>	<i>List</i>	<i>Zone</i>	<i>Current Designated Use</i>	<i>Recommended Designated Use</i>
UNT 26735 to West Branch Susquehanna River	Clearfield	L	Basin	CWF, MF	HQ-CWF, MF
Hogback Run	Clearfield	L	Basin	CWF, MF	HQ-CWF, MF
UNT 26562 to Bradley Run	Cambria	L	Basin	CWF, MF	HQ-CWF, MF
Little Dent Run	Cameron	L	Basin	CWF, MF	HQ-CWF, MF
Laurel Run	Centre	L	Basin, from a point at 40°49'3.5"N; 78°5'52.0"W to Mouth	CWF, MF	HQ-CWF, MF
Gap Run	Centre	L	<b>Basin, Source to the sink hole located at 40°51'59"N; 77°44'4"W</b>	CWF, MF	HQ-CWF, MF
Council Run	Centre	L	<b>Basin</b>	CWF, MF	HQ-CWF, MF
Salt Lick Run	Centre	L	Basin	CWF, MF	HQ-CWF, MF
Sand Run	Tioga	L	Basin	CWF, MF	HQ-CWF, MF
Rauchtown Creek	Lycoming / Clinton	L	Basin, Confluence of Rockey Run and Gottshall Run to Mouth	CWF, MF	HQ-CWF, MF

<i>Stream Name</i>	<i>County</i>	<i>List</i>	<i>Zone</i>	<i>Current Designated Use</i>	<i>Recommended Designated Use</i>
Mosquito Creek	Lycoming	L	Basin	CWF, MF	HQ-CWF, MF
Potter Run	Centre	M	Basin	CWF, MF	HQ-CWF, MF
Kettle Run	Centre	M	Basin	CWF, MF	HQ-CWF, MF
UNT 18312 to Penns Creek	Centre	M	Basin	CWF, MF	HQ-CWF, MF
Peet Brook	Potter	P	Basin	CWF	HQ-CWF
UNT 57738 to Blacksmith Run	McKean	P	Basin	CWF	HQ-CWF
UNT 54466 to Marsh Run	Crawford	Q	Basin	CWF	HQ-CWF
Spencer Creek	Erie	Q	<b>Basin</b>	CWF	HQ-CWF
Benson Run	Erie	Q	<b>Basin</b>	TSF	HQ-CWF
Water Tank Run	Elk	R	Basin	CWF	HQ-CWF
UNT 45591 to Stonycreek River	Somerset	T	Basin	CWF	HQ-CWF

<i>Stream Name</i>	<i>County</i>	<i>List</i>	<i>Zone</i>	<i>Current Designated Use</i>	<i>Recommended Designated Use</i>
UNT 46054 to Trout Run	Cambria	T	Basin	CWF	HQ-CWF
UNT 46033 to North Branch Little Conemaugh River	Cambria	T	Basin	CWF	HQ-CWF

CWF = Cold Water Fishes  
 TSF = Trout Stocking

HQ = High Quality Waters  
 MF = Migratory Fishes

UNT = unnamed tributary