REVISED 12/16

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

(2) **Agency Number**: 7
Identification Number: 548

IRRC Number**:** 3226

(3) **PA Code Cite**: 25 Pa. Code Chapter 93

(4) **Short Title**:

Water Quality Standards – Class A Stream Redesignations

(5) **Agency Contacts (List Telephone Number and Email Address)**:

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(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 amendments to Chapter 93 reflect the list of recommended redesignations of streams as described in the attached Water Quality Standards Review Stream Redesignation Evaluation report. The regulation will update and revise stream use designations in 25 Pa. Code §§ 93.9d, 93.9f, 93.9j, 93.9k, 93.9l, 93.9m, 93.9p, 93.9q, 93.9r, and 93.9t. These changes will not impose any new operating requirements on existing wastewater discharges or other existing activities regulated by the Department under existing individual permits or approvals. If a new, increased, or additional discharge is proposed by a permit applicant, more stringent treatment requirements and enhanced best management practices (BMPs) may be necessary to maintain and protect the existing quality of the receiving waters. Additionally, as a result of these regulations, discharge activities to special protection streams will not qualify for National Pollutant Discharge Elimination System (NPDES) general permits, based on 25 Pa. Code § 92a.54(a)(8) (relating to general permits), and therefore will require individual permits.

(8) **State the statutory authority for the regulation. Include specific statutory citation.**

This rulemaking is being made under the authority of sections 5(b)(1) and 402 of The Clean Streams Law (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 Clean Streams Law (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 Federal Clean Water Act (CWA) (33 U.S.C.A. §§ 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.**

Water quality standards must be reviewed and approved by the U.S. Environmental Protection Agency (EPA) for consistency with the mandates under the CWA. Section 1251(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 1313(c)(2)(A) requires water quality standards to include designated uses of waters, taking into consideration their use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial and other purposes. Section 1313(d)(4)(B) establishes an antidegradation policy for waters where the quality of the water equals or exceeds levels necessary to protect the designated uses for such waters. The updated designated uses in this rulemaking are consistent with these 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.**

The purpose of developing the water quality standards is to protect Pennsylvania's surface waters. Each of Pennsylvania's surface waters have specific goals and expectations for how the waterbody is used. These goals and expectations are dependent upon water quality and they are amended through the redesignation process when they are incongruent with the designated uses as listed in 25 Pa. Code §§ 93.9a–93.9z. Pennsylvania's water quality standards program protects its surface waters for a variety of uses including: drinking water supplies for humans, livestock, and wildlife; fish consumption; irrigation for crops; aquatic life; recreation; and industrial water supplies. It is in the public interest to redesignate surface waters when appropriate so that the appropriate protections are in place to maintain the uses of the surface waters.

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 the residents of and visitors to the Commonwealth. For example, clean water used for drinking water supplies benefits the consumers by lowering drinking water treatment costs and reducing medical costs associated with drinking water illnesses. Clean surface waters also benefit the Commonwealth by providing for increased tourism and recreational use of the waters. Clean water provides for increased wildlife habitat and more productive fisheries. This regulation benefits not only local residents but those from outside the affected areas who come to enjoy the benefits and aesthetics of outdoor recreation.

(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 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 Question 9.

The amendments will therefore not put Pennsylvania at a competitive disadvantage to other states.

(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 regulation change.

(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 a submittal of data from the Pennsylvania Fish and Boat Commission (PFBC) under 25 Pa. Code § 93.4b (relating to qualifying as High Quality or Exceptional Value waters). In this rulemaking, redesignations rely on 25 Pa. Code § 93.4b(a)(2)(ii) (relating to qualifying as High Quality or Exceptional Value Waters) to qualify streams for High Quality Waters (HQ) designations based upon their classifications as Class A wild trout streams. A surface water that has been classified a Class A wild trout stream by the PFBC, based on species-specific biomass standards in 58 Pa. Code § 57.8a (relating to Class A wild trout streams), and following public notice and comment, qualifies for evaluation as HQ waters. The PFBC published notice and requested comments on the Class A designation of these streams. The Commissioners of the PFBC approved these waters after public notice and comment. Department staff conducted an independent review of the trout biomass data in the PFBC's fisheries management reports for the streams proposed for redesignation in this rulemaking. This review was conducted to ensure that the HQ criteria were met.

The Department offered opportunities for the public to provide data and information during the review of the uses of the streams. First, the Department provided public notice of its intent to assess the Class A wild trout stream data. The Department's notices requesting additional water quality data for the streams were published in the *Pennsylvania Bulletin* on January 23, 2016 (46 Pa.B. 503); March 5, 2016 (46 Pa.B. 1287); and June 25, 2016 (46 Pa.B. 3328). Additionally, the notices were posted on the Department website. The Department received no water quality data in response to these notices. The Department directly notified all affected municipalities, county planning commissions, conservation districts, and Commonwealth agencies of these redesignation evaluations in letters dated January 5, May 27 and July 8, 2016. The Department received no data or comments in response to these notices.

Once the data solicitation was completed, the Department prepared a draft streams evaluation report and made it available to all affected municipalities, county planning commissions, county conservation districts, and other Commonwealth agencies on April 26, 2017, with an initial public comment period ending 45 days later. The Department received two letters of support on the draft streams evaluation report. The Department considered these comments in drafting the final Class A Wild Trout Streams Evaluation Report. A copy of the stream evaluation report for these waterbodies is available on the Department's website or from the contact persons listed in Section B of the Preamble. Copies of the PFBC fisheries management reports for these streams and the PFBC's sampling protocols for wadeable streams are available on the Department's website or from Gary Walters, 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. The data and information collected on these waterbodies support the Board's final-form rulemaking as set forth in Annex A.

During the proposed rulemaking phase, the Department presented a summary of this rulemaking package at the August 16, 2018 Joint Meeting of the Department's Agricultural Advisory Board and the State Conservation Commission's Nutrient Management Advisory Board (under the Department of Agriculture). Additionally, the Department coordinated with the Department's Small Business Ombudsman to ensure the small business community was notified of their opportunity to submit comments on the proposed rulemaking during the 45-day public comment period following publication in the *Pennsylvania Bulletin*.

The public was afforded the opportunity to comment on the proposed rulemaking during a 45-day public comment period, beginning March 23, 2019 (49 Pa.B. 1367), closing on May 7, 2019. Comments were received from 777 commenters including testimony from two witnesses at the public hearing held on April 26, 2019 at the Department's Southcentral Regional Office in Harrisburg, Pennsylvania. Support of the rulemaking was indicated by 774 of the commenters. Two commenters indicated opposition to the rulemaking. The Independent Regulatory Review Commission (IRRC) submitted comments requesting the Board consider the recommendations submitted by the PFBC; and IRRC further requested that if changes are made to address the PFBC's concerns, then the Board should update the total stream miles affected and quantify any potential economic or fiscal impact that may result. The total stream miles affected has been updated to 222 stream miles after the Department considered the concerns raised by the PFBC. Further, in response to IRRC's comments, the Department more fully addresses the potential economic or fiscal impact of the additional 13 stream miles in its response to Comment 17 in the Comment and Response Document and in the discussion included with the responses to questions 15, 16, and 17 of this Regulatory Analysis Form.

(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?**

There are approximately 10,300 facilities across the Commonwealth that hold permits issued pursuant to 25 Pa. Code Chapter 92a (relating to National Pollutant Discharge Elimination System permitting, monitoring and compliance). This statewide number of approximately 10,300 includes National Pollutant Discharge Elimination System (NPDES) permits for concentrated animal feeding operations (CAFOs), industrial wastewater, municipal separate storm sewer systems (MS4s), 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 being considered for redesignation in this rulemaking. The types of NPDES discharges to streams affected by this rulemaking include industrial

wastewater, sewage, municipal stormwater, and industrial stormwater. The Department considers two of these 19 permitted facilities to be small businesses based on available information. 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 from these 19 NPDES permitted entities. Based on comments received from the PFBC, the Department is adding 13 stream miles in the final rulemaking to the recommended redesignations. The Department has determined that there are no additional facilities that hold NPDES permits in these added surface waters.

As mentioned above, discharge activities to special protection streams are not eligible for coverage under NPDES general permits, based on 25 Pa. Code § 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 waters must be protected and typically differs from stream to stream. Site-specific characteristics of the stream water quality are used to determine effluent limitations for discharges to a special protection stream. There are no general permits available for discharges of sewage or industrial wastewater, with the exception of the PAG-04 general permit for small flow sewage treatment facilities (SFTFs). There is no cost for single residence sewage treatment plants to apply for coverage under PAG-04; the application fee for PAG-04 coverage for all other SFTFs is $100. The application fee for a new or renewed individual permit for SFTFs is $100 for single residence sewage treatment plants or $250 for all other SFTFs. The application fee for a new first-time individual permit for discharges of stormwater associated with industrial activities is $2,000 compared to $500 for a general permit; the fee to renew the individual permit for discharges of stormwater associated with industrial activities is $1,000. The permit costs for municipal stormwater discharges are discussed in the Department's response to Question 20 on this RAF as it pertains to local government. The application fee for a new first-time individual permit for a CAFO is $1,500 compared to $500 for the general permit. The fee to renew the individual CAFO permit is $750. The individual permits are necessary to track the quality and quantity of any existing permitted discharges to ensure that any additional or increased discharges to a special protection water do not occur without the Department's review in accordance with the antidegradation regulations.

There are thousands of general and individual NPDES permits for discharges of stormwater associated with construction activities issued under 25 Pa. Code Chapter 102 (relating to erosion and sediment control) that were not included in the preceding statewide analysis of NPDES permits. These permits for stormwater discharges associated with construction activities 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, then the permit must be renewed as an individual permit. For stormwater discharges associated with construction activities, the administrative filing fee for an individual permit is $1,500 and the administrative filing fee for a general permit is $500, and both the individual permit and the general permit have an additional cost of $100/acre of disturbed land, as set forth in 25 Pa. Code § 102.6(b)(1). Additionally, when earth disturbance activities occur within the basins of the stream segments being redesignated in this rulemaking, additional BMPs may be necessary to protect water quality under Chapter 102. For stormwater discharges associated with construction activities, a person with general permit coverage (e.g., PAG-02 coverage) may continue to operate using the BMPs approved; however, if the earth disturbance activities are not completed upon renewal of coverage, then the

person would need to seek an individual permit and may need to implement additional BMPs on the remainder of the area that will be disturbed.

A person proposing a new earth disturbance activity requiring a permit under Chapter 102 (relating to erosion and sediment control) must comply with the antidegradation provisions, as applicable. In general, a person conducting earth disturbance activities that require a permit for which any receiving water is classified as HQ must evaluate nondischarge alternatives and antidegradation best available combination of technologies (ABACT) BMPs for both the construction and post construction phases of the activity. The E&S BMPs and their ABACT rating, if applicable, are identified in the Department's *Erosion and Sedimentation Pollution Control Program Manual* (www.depgreenport.state.pa.us/elibrary/GetFolder?FolderID=4680), and the Department's Alternative E&S and PCSM BMPs list (http://files.dep.state.pa.us/Water/BPNPSM/StormwaterManagement/ConstructionStormwater/Reviewed_Alternative_BMPs.pdf). Also, the Department may approve alternative BMPs that maintain and protect the existing water quality and water uses.

Any person proposing a new, additional, or increased point source discharge associated with a CAFO, industrial wastewater, MS4s, sewage, or industrial stormwater would need to satisfy the antidegradation requirements found at 25 Pa. Code § 93.4c(b)(1). An applicant for any new, additional, or increased point source discharge to special protection waters must evaluate nondischarge alternatives and the applicant must use an alternative that is environmentally sound and cost-effective when compared to the costs 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 must use the best available combination of cost-effective treatment, land disposal, pollution prevention, and wastewater reuse technologies. The permit applicant must demonstrate in the permit application that their new or expanded activities will not lower the existing water quality of special protection streams. If an applicant cannot meet these nondegrading discharge requirements, the applicant proposing a new, additional, or increased discharge to HQ waters is given an opportunity to demonstrate through a social or economic justification (SEJ) 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 other, non-special protection, water uses will be supported by the waterbody.

The SEJ demonstration process is available to sewage and non-sewage discharge applicants for any naturally occurring substances identified in the Department's Antidegradation Implementation Guidance (391-0300-002; available at www.depgreenport.state.pa.us/elibrary/GetFolder?FolderID=4664) or substances known to the Department or demonstrated to be naturally occurring. For non-sewage discharge applicants, the SEJ process occurs during the NPDES permitting stage following an evaluation of nondischarge alternatives and a nondegrading discharge.

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 onlot sewage treatment facilities) will continue to satisfy 25 Pa. Code § 93.4c (relating to implementation of antidegradation requirements) in the waters that are being considered for redesignation to HQ 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 SEJ demonstration process is available to sewage and non-sewage discharge applicants.

The Department cannot accurately estimate or ascertain who will be affected by the stream redesignations in this rulemaking 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; and (4) generic technology or cost equations are not available for purposes of comparing the costs and/or savings for local governments that are responsible for discharges.

The Department identified 11 public water supply facilities with raw water intakes located within 30 stream miles downstream of the candidate stream sections for redesignation in this final rulemaking. These 11 public water suppliers, which serve over 175,000 residents, will benefit from these redesignations because their raw source water will be afforded a higher level of protection. This is an economic benefit because the source water requires less treatment thus costs for the drinking water will be less costly to customers due to the high quality of the stream water. A similar case could generally be made for other water supply uses benefiting from the availability of better source water quality.

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.

(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.**

There are approximately 10,300 facilities across the Commonwealth that hold permits issued pursuant to 25 Pa. Code Chapter 92a (relating to National Pollutant Discharge Elimination System permitting, monitoring and compliance). This statewide number of approximately 10,300 includes NPDES permits for CAFOs, industrial wastewater, MS4s, 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 included in this final rulemaking. The types of NPDES discharges to streams affected by this rulemaking include industrial wastewater, sewage, municipal stormwater, and industrial stormwater. The Department considers two of these 19 permitted facilities to be small businesses based on available information. 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 immediate, additional special treatment requirements on the existing discharges from these 19 NPDES permitted entities. A person who applies for a new, additional, or increased point source discharge to a special protection water must comply with this regulation and must satisfy the requirements of the antidegradation regulation at 25 Pa. Code § 93.4c(b)(1). Based on the PFBC comment, the Department is adding 13 stream miles in the final rulemaking to the recommended redesignations; the Department has determined that there are no additional facilities that hold NPDES permits in these newly added surface waters.

General and individual NPDES permits for discharges of stormwater associated with construction activities issued under 25 Pa. Code Chapter 102 were not included in the preceding statewide analysis of NPDES permits. These construction permits 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 it, then the permit must be renewed as an individual permit. For stormwater discharges associated with construction activities, the administrative filing fee for an individual permit is $1,500 and the administrative filing fee for a general permit is $500, and both the individual permit and general permit have an additional fee of $100/acre of disturbed land. Additionally, when earth disturbance activities occur within the basins of the stream segments included in this final rulemaking, additional BMPs may be necessary to protect water quality under Chapter 102. See the discussion in response to Question 15 regarding BMPs.

Any approximation of the number of future activities within these watersheds that may require a new, additional or increased point source discharge, would be speculative. See the discussion in response to Question 15 for additional details.

(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.**

Financial and Economic Impacts:

The stream redesignations in this regulation will not have any financial or economic impact on those currently engaged in an activity regulated by the Department. 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, they are considered to satisfy the antidegradation requirements as long as the discharge characteristics – both quality and quantity – remain the same. Thus, redesignation to special protection does not automatically impose any additional new treatment requirements or financial impacts on NPDES permitted entities and other existing entities.

The antidegradation analysis requires any person, including individuals, small businesses, large businesses, local and state government agencies, and public or private corporations and associations, proposing a new, additional, or increased point source discharge to satisfy the requirements found at 25 Pa. Code § 93.4c(b)(1). An applicant for any new, additional, or increased point source discharge to special protection waters must evaluate nondischarge alternatives and the applicant must use an alternative that is environmentally sound and cost-effective when compared to the costs associated with achieving a nondegrading discharge. See further discussion in the response to Question 15 regarding SEJ, nondegrading and nondischarge alternatives.

The total stream miles affected has been updated to 222 stream miles after the Department considered the concerns raised by the PFBC. Overall, there will be no additional economic or fiscal impact that will result from these additional waters being redesignated to HQ-CWF. These newly added waters will be afforded the same protection as the waters that were initially recommended for HQ-CWF in the proposed rulemaking and the economic and fiscal impact will be the same for the 13 miles of newly added surface waters and the

initially recommended 209 miles of streams in the proposed rulemaking, so there is no change to the economic impact as a result of the 13 stream miles being added.

Social Impacts and Economic and Social Benefits:

Overall, the Commonwealth, its residents and visitors and its natural resources will benefit from this rulemaking because it provides the appropriate level of protection to preserve the integrity of existing and designated uses of surface waters in this Commonwealth. Protecting water quality provides economic value to present and future generations in the form of a clean water supply. Water uses in the Commonwealth include: water supplies for human consumption, wildlife, irrigation, and industrial use; recreational opportunities such as fishing (also for consumption); water contact sports and boating; and aquatic life and special protection. It is important for the Commonwealth to realize these benefits and to ensure that the associated opportunities and activities continue in a manner that is environmentally, socially, and economically sound. Protection and maintenance of water quality ensures its future availability for all uses.

With regard to the economic benefits provided by these additional waters being redesignated to HQ-CWF; these newly added waters will be afforded the same protection as the waters that were initially recommended for HQ-CWF in the proposed rulemaking and therefore the economic benefits will be the same for the 13 miles of newly added surface waters and the initially recommended 209 miles of stream in the proposed rulemaking, so there is no change to the economic benefit as a result of the 13 stream miles being added.

Increased property values are an economic and social benefit of clean water protected by this regulation. A reduction in toxics found in Pennsylvania's waterways may lead to increased property values for properties located near rivers or lakes. The study, *The Effect of Water Quality on Rural Nonfarm Residential Property Values*, (Epp and Al-Ani, American Journal of Agricultural Economics, Vol 61, No. 3 (Aug. 1979), pp. 529-534 (www.jstor.org/stable/1239441), used real estate prices to determine the value of improvements in water quality in small rivers and streams in Pennsylvania. Water quality, whether measured in pH or by the owner's perception, has a significant effect on the price of adjacent property. Their analysis showed a positive correlation between water quality and housing values. They concluded that buyers are aware of the environmental setting of a home and that differences in the quality of nearby waters affect the price paid for a residential property.

A 2010 report from the Delaware Riverkeeper Network (www.delawareriverkeeper.org/sites/default/files/River_Values_Report_0.pdf) discusses a case study from the Maine Agricultural and Forest Experiment Station which compared waterfront property values based on whether the water that the homes faced was considered clean. Properties located near higher-quality waters had higher market value than if the water body was lower in water quality. It was shown in some cases that a decline in water quality can completely abate the market value premium associated with a home being a waterfront property.

A 2006 study from the Great Lakes region estimated that property values were significantly depressed in two regions associated with toxic contaminants (PAHs, PCBs, and heavy metals). The study showed that a portion of the Buffalo River region (approximately 6 miles long) had depressed property values of between $83 million and $118 million for single-family homes, and between $57 million and $80 million for multi-family homes as a result of toxic sediments. The same study estimated that a portion of the Sheboygan River (approximately 14 miles long) had depressed property values of between $80 million and $120 million as the result of toxics. "*Economic Benefits of Sediment Remediation in the Buffalo River AOC and Sheboygan Rice*

AOC: Final Project Report," (www.nemw.org/Econ). While this study related to the economic effect of contaminated sediment in other waters in the Great Lakes region, the idea that toxic pollution depresses property values applies in Pennsylvania. A reduction in toxic pollution in Pennsylvania's waters has a substantial economic benefit to property values in close proximity to waterways.

Maintenance of abundant and healthy fish and wildlife populations and support for outdoor recreation are social and economic benefits of clean water protected by this regulation. Businesses in the recreation industry will be positively affected by these regulations. The maintenance and protection of the water quality will ensure the long-term availability of Class A wild trout fisheries. Because the focus of this regulation relates directly to the protection of fisheries, sportspersons in Pennsylvania will benefit by the preservation of the existing Class A fisheries. Protection of existing Class A wild trout streams protects self-sustaining angling opportunities and minimizes the need for the cost-intensive alternative of raising and stocking fish. The purpose of these stream redesignations is to preserve these resources for current and future sportspersons so that the social and economic benefits are maintained in the local areas. As recreation demands increase in the future, the preservation of unique resources such as Class A wild trout waters will undeniably add economic value to the local areas and, importantly, provide a valuable social function for outdoor recreation. Specific revenue-related benefits associated with outdoor trout fishing in Pennsylvania are outlined below.

The Center for Rural Pennsylvania prepared a report titled "Economic Values and Impacts of Sport Fishing, Hunting and Trapping Activities in Pennsylvania," (www.rural.palegislature.us/documents/reports/hunting.pdf) that examined such economic values and impacts between the years 1995 to 1997. The report provides a snapshot of how much money these sporting activities bring to the state and how they affect employment in rural areas. A major finding of that report is the total annual value of $3.7 billion for sport fishing was almost three times the $1.26 billion spent in travel costs to use fishing resources during the same 12-month period. The total net annual benefit to anglers was $2.49 billion.

According to the "Angler Use, Harvest and Economic Assessment on Wild Trout Streams in Pennsylvania," (R. Greene, et al. 2005) (www.fishandboat.com/Fish/Fisheries/TroutPlan/Documents/WildTroutStreamAnglerUseCatchEconomicContribution.pdf), the PFBC collected information to assess the economic impact of wild trout angling in Pennsylvania, during the 2004 regular trout season, April 17 through September 3, 2004. PFBC found, based on the results of this study, that angling on wild trout streams contributed over 7.16 million dollars to Pennsylvania's economy during the regular trout season in 2004.

According to the "2011 National Survey of Fishing, Hunting and Wildlife-Associated Recreation" (www.census.gov/prod/2012pubs/fhw11-nat.pdf) for Pennsylvania, prepared by the U.S. Fish and Wildlife Service, approximately 1,101,000 anglers, participated in fishing and 3,598,000 persons participated in wildlife watching in the year 2011. In addition, all fishing-related expenditures in Pennsylvania totaled $485 million in 2011. Such expenditures include food and lodging, transportation and other expenses (e.g., equipment rental, bait, cooking fuel). In 2011, wildlife watchers spent $1.3 billion on activities in Pennsylvania. Expenditures include trips-related costs and equipment.

According to the Outdoor Recreation Industry Association, Pennsylvania's outdoor recreation generates 251,000 direct Pennsylvania jobs, $8.6 billion in wages and salaries, and $1.9 billion in state and local tax revenue. These figures include both tourism and outdoor recreation product manufacturing. The association

reports that 56% of Pennsylvania residents participate in outdoor recreation each year. (See Outdoor Industry Association (2017), "The Outdoor Economy: Take it Outside for American Jobs and a Strong Economy" (https://outdoorindustry.org/resource/pennsylvania-outdoor-recreation-economy-report/).)

Southwick Associates prepared a report for the Theodore Roosevelt Conservation Partnership that analyzed the economic contribution of outdoor recreation in Pennsylvania. This 2018 report, "The Power of Outdoor Recreation Spending in Pennsylvania: How hunting, fishing, and outdoor activities help support a healthy state economy" (www.trcp.org/wp-content/uploads/2018/12/TRCP-and-Southwick-PA-Economic-Analysis-12-6-18.pdf), states that during 2016 there were more than 390,000 jobs supported by outdoor recreation activities in Pennsylvania, and for comparison, this is more than the number of jobs in Pennsylvania that supported the production of durable goods. Outdoor recreation had an economic contribution in Pennsylvania of almost $17 billion in salaries and wages paid to employees and over $300 million in federal, state, and local tax revenue.

Maintenance of the current green infrastructure along streams and the associated reduction in tax expenditures are social and economic benefits of clean water protected by this regulation. The findings of a 2014 Lehigh Valley Planning Commission report entitled Lehigh Valley Return on Environment demonstrates the benefits when clean water and natural areas are preserved (note that there are streams included in this regulation that flow in the Lehigh Valley). The report (www.lvpc.org/pdf/2014/ReturnOnEnvironment_Dec_18_2014.pdf) states, "the current green infrastructure along streams in the Lehigh Valley reduces tax dollars by avoiding more than $110.3 million annually in expenditures for water supply ($45.0 million), disturbance (flood) mitigation ($50.6 million) and water quality ($14.7 million)."

Savings in water filtration for downstream communities that rely on surface waters for water supplies and availability of unpolluted water for domestic, agricultural and industrial uses are benefits of clean water protected by this regulation. The Department identified 11 public water supply facilities with raw water intakes that are no further downstream than 30 stream miles of the candidate stream sections for redesignation in this final rulemaking package. These 11 public water suppliers, which serve over 175,000 residents, will benefit from this final rulemaking 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 may be less costly to customers if less treatment is needed due to the high quality of the water in the stream. By maintaining cleaner water, public water suppliers will incur the benefits of lower water treatment costs. In addition, cleaner intake water will reduce consumer costs for purchasing clean drinking water.

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

Protection of HQ waters does not automatically impose any additional special treatment requirements on NPDES permittees because their existing discharges are factored into these redesignations. Prior to rulemaking, the Department has an obligation to provide existing use protection when data indicates that a surface water attains or has attained an existing use. Information regarding the HQ waters identified in this final rulemaking have been compiled for use in Department permit or approval actions. Notice of the availability of this data is posted on the Agency's Existing Uses List Summary Table found at: www.dep.pa.gov/Business/Water/CleanWater/WaterQuality/StreamRedesignations/Pages/Statewide-Existing-Use-Classifications.aspx).

Only when an NPDES permittee proposes a new, additional, or increased discharge would it be necessary to satisfy the requirements of the antidegradation regulation at 25 Pa. Code §§ 93.4c(b)(1) and (2). Special protection designations do require additional permit application evaluations and considerations and may require the use of additional technologies or BMPs to address pollution that was not present at the time of the stream redesignation. Presently, 19 discharges with active NPDES permits are located on waters identified in this rulemaking. It is not known at this time whether these facilities will expand, or whether a new application for a discharge permit will be filed with the Department, possibly triggering compliance with the antidegradation regulation.

Discharge permits to special protection waters may be issued if a permit applicant can sufficiently demonstrate to the Department that the activity will protect existing water quality. 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 will continue to satisfy 25 Pa. Code § 93.4c (relating to implementation of antidegradation requirements) in the streams recommended for redesignation to special protection in this rulemaking. This final rulemaking will not increase costs or trigger adverse effects on existing or already-planned on-lot sewage systems.

When earth disturbance activities occur within the basins of the stream segments included for redesignation in this final rulemaking, additional BMPs may be necessary to protect water quality under 25 Pa. Code Chapter 102. It is not known at this time whether any new activities will be proposed that would require an earth disturbance permit or other approval from the Department.

Several examples of benefits to be gained by the stream redesignations include property value increases, lower treatment costs and customer delivery costs for drinking water, maintenance of abundant and healthy fish and wildlife populations, and support for outdoor recreation. These and other benefits of this rulemaking are described further in the response to Question 17.

Any evaluation of adverse effects on dischargers would be speculative at this time since: (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 requirements; and (4) generic technology or cost equations are not available for purposes of comparing the costs and/or savings for local governments that are responsible for discharges.

The stream redesignations will benefit residents of and visitors to the Commonwealth, both present and future, by maintaining and protecting water quality.

On balance, the certain benefits outweigh any potential costs 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 refer to the responses to Questions 15 and 17 for more detailed economic information.

The types of the 19 discharges with active NPDES permits authorizing discharges to streams affected by this rulemaking include industrial wastewater, sewage, municipal stormwater, and industrial stormwater.

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

Discharge activities to special protection streams do not qualify for NPDES general permits, based on 25 Pa. Code § 92a.54(a)(8), and therefore require individual permits. As described in the responses to Questions 15, 16, and 20, higher fees apply to individual permits for certain activities as compared with fees for general permits.

Costs associated with new, increased, or additional discharges to surface waters may include increased consulting fees to complete additional permit application requirements that address antidegradation of surface waters. The antidegradation analysis requires any person, including individuals, small businesses, large businesses, local and state government agencies, and public or private corporations and associations, proposing a new, additional, or increased point source discharge to satisfy the requirements found at 25 Pa. Code § 93.4c(b)(1). An applicant for any new, additional, or increased point source discharge to special protection waters must evaluate nondischarge alternatives and the applicant must use an alternative that is environmentally sound and cost-effective when compared to the costs 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 must use the best available combination of cost-effective treatment, land disposal, pollution prevention, and wastewater reuse technologies. The permit applicant must demonstrate in the permit application that their new or expanded activities will not lower the existing water quality of special protection streams. Based on the site-specific nature of these antidegradation evaluations and the variety of potential discharges, costs and 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. Generic technology and cost equations are not available for purposes of comparing the costs and/or savings.

While a discharge to a HQ water does require these additional evaluations and may require the use of additional treatment technologies or BMPs, it does not prohibit activities.

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

Local governments that are MS4s will most likely have additional costs associated with MS4 permitting requirements. Any permittees that discharge to an HQ water will be required to obtain an individual permit when the permit is up for renewal. Discharge activities to special protection streams do not qualify for NPDES general permits, based on 25 Pa. Code § 92a.54(a)(8), and therefore require individual permits. Any new first-time MS4 permits for discharges to the waters included in this rulemaking will be required to obtain individual permits. For MS4s, the application fee for a new first-time individual permit is $5,000 compared to $500 for a general permit. There is a difference in cost between the initial issuance of an individual permit and a general permit due to increased staff time needed to review permit applications and implementation oversight that is associated with individual permits. An individual permit allows for the

tailoring of an MS4's stormwater management program and its implementation of the minimum control measures.

If there is an existing permit – whether it is currently a general permit or an individual permit – on a water that has been redesignated to special protection, the application fee for an individual permit is $2,500. For MS4s, the annual fee of $500 is the same for a general permit and an individual permit.

In general, if an MS4 has an NPDES permit to discharge pollutants into waters of the Commonwealth, the existing permit will not be affected by the stream redesignations, and no new costs will be incurred. If, however, the MS4 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.

Costs associated with new, increased, or additional discharges, associated with publicly owned treatment works, may include increased consulting fees to complete additional permit application requirements that addresses antidegradation of surface waters. The antidegradation requirements in Chapter 93 require the permittee to evaluate environmentally sound and cost-effective nondischarge alternatives. If none are available, the applicant evaluates the various treatment technologies or BMPs that will maintain the existing water quality of the stream. An affordability analysis of the alternatives is also performed to determine if nondischarge alternatives are cost-effective. 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. See further discussion in the response to Question 15 regarding SEJ, nondegrading and nondischarge alternatives.

While a discharge to a HQ water does require these additional evaluations and may require the use of additional treatment technologies or BMPs, no activities are prohibited.

Any evaluation of adverse effects on dischargers would be speculative at this time since: (1) a discharger will not be impacted until a future activity requires a new or modified NPDES permit; (2) effluent discharge and receiving stream characteristics 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 local governments that are responsible for discharges.

Local governments may gain or increase an income stream from the redesignations due to potential tourism and recreational revenue. For those 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 such as trout fisheries 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 response to Question 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.**

In general, if a Commonwealth agency has a NPDES permit to discharge pollutants into waters of the Commonwealth, the costs and savings would be the same as those described in the response to Question 20 for local government.

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

One permit has been issued to a Commonwealth agency that discharges to one of the streams that is included for redesignation in this 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 HQ streams. No new forms, reports, or implementation procedures are necessary. 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 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?**

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 below 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 25 Pa. Code § 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
  www.depgreenport.state.pa.us/elibrary/GetFolder?FolderID=3713
- Mining SEJ module
  www.depgreenport.state.pa.us/elibrary/GetFolder?FolderID=3872
- Oil and Gas Program Erosion and Sediment (E&S) Control General Permit
  www.depgreenport.state.pa.us/elibrary/GetDocument?docId=11501&DocName=8000-PM-OOGM0005 NOI Intent.pdf
- Industrial Waste Antidegradation Module (including Industrial Waste (IW) Stormwater Only Discharges)
  www.depgreenport.state.pa.us/elibrary/GetDocument?docId=11982&DocName=3800-PM-BCW0008g Module 4 and Module 4 Instructions.pdf
- Pesticides Permit Antidegradation Module
  www.depgreenport.state.pa.us/elibrary/GetFolder?FolderID=3675
- E&S Control Individual Permit
  www.depgreenport.state.pa.us/elibrary/GetFolder?FolderID=105622

(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 2020/21	FY +1 2021/22	FY +2 2022/23	FY +3 2023/24	FY +4 2024/25	FY +5 2025/26
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 (2017/18)	FY -2 (2018/19)	FY -1 (2019/20)	Current FY (2020/21)
160-10381 Enviro Protection Operations	$89,215,000	$93,190,000	$84,523,000	$100,020,000
161-10382 Enviro Program Management	$29,413,000	$30,932,000	$28,420,000	$35,504,000

(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.

According to the Independent Regulatory Review Act, small businesses are defined in accordance with the size standards described by the United States Small Business Administration's Small Business Size Regulations under 13 CFR Ch. 1 Part 121 (relating to Small Business Size Regulations). The Small Business Administration defines a small business as less than 500 employees. Persons who propose to discharge new, additional, or increased pollutants into surface waters of the Commonwealth must comply with the regulation. Also, please see the response to Question 15. When this regulation goes into effect, no existing discharges will be affected. The Department considers two of the 19 NPDES-permitted facilities with discharges to streams affected by this rulemaking to be small businesses based on available information.

(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 redesignated as HQ in this rulemaking. No new forms, reports, or implementation procedures are necessary. NPDES permit application modules for discharges to HQ waters can be found at the links listed 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 and nondegrading treatment options or BMPs.

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

In general, if a person has a NPDES permit to discharge pollutants into waters of the Commonwealth, the existing permit limits will not be affected by the stream redesignations in this rulemaking, and no new costs will be incurred. If, however, the discharge changes in quality or quantity after a stream is redesignated by this rulemaking, 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 regulations in 25 Pa. Code Chapter 93 (relating to water quality standards) provide 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. This examination is performed when an applicant evaluates whether nondischarge alternatives (i.e., alternatives to the discharge) exist that are cost-effective and environmentally sound; and, if not, whether a nondegrading discharge is possible. Since this rulemaking involve redesignations 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 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 regulation will meet the Commonwealth's obligations under The Clean Streams Law and the CWA to protect water uses. The 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 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 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 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 25 Pa. Code 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 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 25 Pa. Code 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 HQ streams 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) effluent discharge and receiving stream characteristics are unique; and (3) SEJ may be available to modify the compliance requirement.

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

No such 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 <u>in detail</u> 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 a submittal of data from the PFBC under 25 Pa. Code § 93.4c (relating to implementation of antidegradation requirements). In this rulemaking, redesignations rely on § 93.4b(a)(2)(ii) (relating to qualifying as High Quality or Exceptional Value Waters) to qualify streams for HQ designations based upon their classifications as Class A wild trout streams. A surface water that has been classified a Class A wild trout stream by the PFBC, based on species-specific biomass standards in 58 Pa. Code § 57.8a (relating to Class A wild trout streams), and following public notice and comment, qualifies for HQ designation. The PFBC published notice and requested comments on the Class A designation of these streams. The Commissioners of the PFBC approved these waters after public notice and comment. Department staff conducted an independent review of the trout biomass data in the PFBC's fisheries management reports for the streams included in this final rulemaking for redesignation. This review was conducted to ensure that the HQ qualifications were met.

The results of the Department's review of the PFBC fisheries management reports are included in the Department's Stream Evaluation Report available at http://files.dep.state.pa.us/Water/Drinking%20Water%20and%20Facility%20Regulation/WaterQualityPortalFiles/Stream_Packages/ClassA3_Streams_Report.pdf.

In addition, links to all of the PFBC fisheries management reports are included in the Department's Stream Evaluation Report at the previous link, and the PFBC's sampling protocols for wadeable streams are available at http://files.dep.state.pa.us/Water/Drinking%20Water%20and%20Facility%20Regulation/WaterQualityPortalFiles/SamplingProtocols_WadeableStreams_Final.pdf.

Department staff reviewed the protocols and stream reports and found them to be scientifically sound. An addendum to the Department's Stream Evaluation Report has been created that includes basin maps of the watersheds included in this final rulemaking.

The addendum is located at http://files.dep.state.pa.us/Water/Drinking%20Water%20and%20Facility%20Regulation/WaterQualityPortalFiles/Stream_Packages/ClassA3_ADDENDUM.pdf.

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

A. The length of the public comment period:	45 days
B. The date or dates on which any public meetings or hearings will be held:	Hearing was held on April 26, 2019
C. The expected date of delivery of the final-form regulation:	Quarter 4, 2020
D. The expected effective date of the final-form regulation:	Upon publication in the *Pennsylvania Bulletin* as final-form rulemaking for CSL permit and approval actions, or as approved by EPA for purposes of implementing the CWA.
E. The expected date by which compliance with the final-form regulation will be required:	Upon issuance or renewal of NPDES permits or other approvals of the Department – subsequent to publication of the final-form rulemaking in the *Pennsylvania Bulletin*
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 final-form regulations because they are needed for the Department to carry out its statutory authority. The Department will continue to closely monitor these final-form 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.