

FINAL-FORM RULEMAKING
Title 25—ENVIRONMENTAL PROTECTION
ENVIRONMENTAL QUALITY BOARD
[25 PA. CODE CH. 93]
Water Quality Standards; Class A Stream Redesignations

The Environmental Quality Board (Board) amends Chapter 93 (relating to water quality standards). The amendments modify the drainage lists in §§ 93.9c, 93.9d, 93.9f, 93.9h, 93.9i, 93.9k, 93.9l, 93.9m, 93.9n, 93.9o, 93.9p, 93.9q, 93.9r, 93.9s, 93.9x and 93.9z to read as set forth in Annex A. The purpose of this final-form rulemaking is to update the designated uses so that the surface waters of this Commonwealth are afforded the appropriate level of protection. The final-form rulemaking fulfills the Commonwealth's obligations under Federal and State law to review and revise, as necessary, water quality standards that are protective of surface waters.

This final-form rulemaking was adopted by the Board at its meeting of **DATE**.

A. Effective Date

These amendments will be effective upon final-form publication in the *Pennsylvania Bulletin*. Once approved by the United States Environmental Protection Agency (EPA), water quality standards are used to implement the Clean Water Act (CWA) (33 U.S.C. §§ 1251—1389).

B. Contact Persons

For further information, contact Michael (Josh) Lookenbill, Program Manager, Water Quality Division, Bureau of Clean Water, 11th Floor, Rachel Carson State Office Building, P.O. Box 8774, 400 Market Street, Harrisburg, PA 17105-8774, (717) 787-9637 or Michele Moses, Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P.O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the Pennsylvania Hamilton Relay Service at (800) 654-5984 (TDD-users) or (800) 654-5988 (voice users). This final-form rulemaking is available on the Department of Environmental Protection's (Department) website at <http://www.pa.gov/agencies/dep> (select "Public Participation," then "Environmental Quality Board," then navigate to the Board meeting of **DATE**).

C. Statutory Authority

This final-form rulemaking is authorized under sections 5(b)(1) and 402 of The Clean Streams Law (CSL) (35 P.S. §§ 691.5(b)(1) and 691.402), which authorize the Board to develop and adopt rules and regulations to implement the CSL (35 P.S. §§ 691.1—691.1001), and section 1920-A of The Administrative Code of 1929 (71 P.S. § 510-20), which grants to the Board the power and duty to formulate, adopt and promulgate rules and regulations for the proper performance of the work of the Department. In addition, sections 101(a)(2) and 303(c)(2)(A) of the CWA (33 U.S.C. §§ 1251(a)(2) and 1313(c)(2)(A)) set forth requirements for water quality standards.

D. Background and Purpose

The purpose of developing the water quality standards is to protect this Commonwealth's surface waters. Water quality standards are in-stream water quality goals that are implemented by imposing specific regulatory requirements (such as treatment requirements, effluent limits and best management practices (BMPs)) on individual sources of pollution. Water quality standards include designated uses, numeric and narrative criteria to protect those uses, and antidegradation requirements for surface waters. The Commonwealth protects its surface waters for a variety of uses relating to aquatic life, water supply, recreation and fish consumption, special protection and navigation.

The continued development of water quality standards, including revisions and updates, is required by Federal and State law. Section 5 of the CSL (35 P.S. § 691.5) instructs the Department to consider water quality management and pollution control in the watershed as a whole, and the present and possible future uses of waters when adopting rules and regulations. In addition to these requirements, the Commonwealth has responsibilities under the CWA that require water quality standards to be reviewed and approved by the EPA for consistency with the mandates under that act. Section 101(a)(2) of the CWA establishes the National goal that, wherever attainable, water quality should provide for the protection and propagation of fish, shellfish and wildlife, and for recreation in and on the water. Section 303(c)(2)(A) of the CWA requires water quality standards to include designated uses of waters, taking into consideration their use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial and other purposes. Section 303(d)(4)(B) of the CWA establishes an antidegradation policy for waters where the quality of the water equals or exceeds levels necessary to protect the designated uses for these waters. The designated uses in this final-form rulemaking are consistent with these Federal and State statutory mandates.

The Department also has an obligation to protect existing uses when data indicates that a surface water attains or has attained an existing use. Section 93.1 (relating to definitions) defines "existing uses" as "[t]hose uses actually attained in the water body on or after November 28, 1975, whether or not they are included in the water quality standards." Where the existing uses are different than the designated uses for a surface water, the waterbody will receive the water quality protection identified by either the existing uses or the designated uses, whichever use is most protective.

For example, if the designated use of a stream is listed as Cold Water Fishes (CWF) but the Department's evaluation of available existing use information indicates that the water also attains the use of High Quality Waters (HQ), the stream would be protected for this HQ-CWF existing use through Department permit or approval actions. Section 93.4c (relating to implementation of antidegradation requirements) requires the Department to make a final determination of existing use protection for a surface water as part of a final permit or approval action. During a review of a permit application and a draft permit, interested persons may provide the Department with additional information regarding existing use protection for the surface water. This additional information is included in the draft stream evaluation reports that are published on the Department's website for public review and comment.

In addition to existing use determinations made during a Department permit or approval process, stream use evaluations may be initiated in other ways. The Department may identify candidate streams for redesignation of uses during routine waterbody investigations. Other agencies may request use evaluations to be considered, and members of the public may submit a rulemaking petition to the Board in accordance with § 93.4d (relating to processing of petitions, evaluations and assessments to change a designated use). When an evaluation of the data demonstrates that existing uses are incongruent with the designated uses, a stream redesignation proposal will be initiated through the rulemaking process to ensure the designated uses in the drainage lists found in §§ 93.9a—93.9z are consistent with the existing uses of the stream.

By protecting the water uses, and the quality of the water necessary to maintain the uses, benefits may be gained in a variety of ways by all residents and visitors of this Commonwealth. For example, clean water used for drinking water supplies benefits the consumers by lowering drinking water treatment costs and reducing medical costs associated with drinking-water illnesses. Clean surface waters benefit this Commonwealth by providing for increased tourism and recreational use of the waters. Clean water provides for increased wildlife habitat and more productive fisheries. Furthermore, clean water attracts businesses and industry that require a high quality of surface water for production or operation. The purpose of this final-form rulemaking is to update the designated uses so that the surface waters of this Commonwealth are afforded the appropriate level of protection. These amendments to the designated uses of streams benefit not only local residents but those persons from outside the areas affected by this final-form rulemaking who come to enjoy the benefits and aesthetics of outdoor recreation.

In addition to the recommended changes to HQ designations, the Board is amending the drainage lists in §§ 93.9o, 93.9p and 93.9q (relating to Drainage List O; Drainage List P; and Drainage List Q) to correct errors in drainage list descriptions inadvertently introduced by the triennial review of water quality standards final-form rulemaking published at 50 Pa.B. 3426 (July 11, 2020), and to reformat portions of drainage lists in §§ 93.9c, 93.9d, 93.9f, 93.9h, 93.9i, 93.9k, 93.9l, 93.9m, 93.9n, 93.9s, 93.9x and 93.9z where multiple streams within larger waterbody basins have the same designated use. These additional changes are nonsubstantive in nature because they do not change any current water quality designations in the drainage lists.

These redesignation 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 § 93.4c. The stream 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 by the PFBC as Class A wild trout streams. A surface water that the PFBC has classified as a Class A wild trout stream, based on species-specific biomass standards, and following public notice and comment, qualifies for Department evaluation of the stream for HQ designation. The PFBC published notice and requested comments on the Class A designation of these streams. The PFBC Commissioners approved these waters as Class A wild trout streams 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. This review was conducted to evaluate if the HQ criteria were met and to ensure that other, relevant data was evaluated and considered in the designated use recommendations, as appropriate.

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

Department staff presented the proposed rulemaking to the Agricultural Advisory Board (AAB) on April 17, 2024. On August 28, 2025, Department staff presented this final-form rulemaking to the AAB.

The Board adopted the proposed rulemaking at its meeting of September 10, 2024, and it was published at 55 Pa.B. 914 (February 1, 2025) with a 45-day public comment period that was open through March 18, 2025. The Board held a virtual public hearing on March 13, 2025, for the purpose of accepting testimony on the proposed rulemaking. The Board received comments from six commentators and the Independent Regulatory Review Commission (IRRC). No testimony was received during the public hearing. The EPA commended the Department on its efforts to redesignate waters to special protection uses and stated it did not have specific comments on the proposed rulemaking. The comments received on the proposed rulemaking are summarized in section F of this preamble. The Department’s responses to all comments received on the proposed rulemaking are detailed in the comment and response document accompanying this final-form rulemaking. The Board has considered all public comments received on the proposed rulemaking in preparing this final-form rulemaking.

E. Summary of Final-Form Rulemaking and Changes from Proposed to Final-Form Rulemaking

A detailed description of amendments to Chapter 93 follows the “Summary of Final-Form Rulemaking” heading in this section. In addition, changes were made to the drainage lists in §§ 93.9c, 93.9d, 93.9f, 93.9h, 93.9i, 93.9k, 93.9l, 93.9m, 93.9n, 93.9o, 93.9p, 93.9r, 93.9s and 93.9z from the proposed rulemaking to this final-form rulemaking, explained following the “Changes from Proposed to Final-Form Rulemaking” heading in this section.

Summary of Final-Form Rulemaking

Redesignations of Class A Wild Trout Waters

This final-form rulemaking amends the drainage lists in §§ 93.9c, 93.9d, 93.9f, 93.9h, 93.9i, 93.9k, 93.9l, 93.9m, 93.9n, 93.9o, 93.9p, 93.9q, 93.9r, 93.9s, 93.9x and 93.9z to update the designated uses so that these surface waters of this Commonwealth are afforded the appropriate level of protection.

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 this 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 the contact persons listed in section B of this preamble. The data and information collected on these waterbodies support this final-form rulemaking as set forth in Annex A.

The following table summarizes the HQ redesignations based on the submittal of information from the PFBC that these streams are Class A wild trout waters based on wild trout biomass. This

summary table describes only those streams and stream segments being redesignated in this final-form rulemaking. In this final-form rulemaking, Annex A reflects the amended designated uses for all streams affected by this final-form rulemaking and corrections to the listings unrelated to the uses. For example, if a portion of a stream basin is currently designated HQ and the amendments redesignate the remainder of the basin, Annex A reflects the HQ designated use for the entire basin. As such, zone descriptions may differ between the summary table and Annex A.

Summary of HQ Redesignation Recommendations

<i>Stream Name</i>	<i>County</i>	<i>Zone Description</i>	<i>List</i>	<i>Current Designated Use</i>	<i>Requested Designated Use</i>	<i>Recommended Designated Use</i>
Martins Creek	Northampton	Basin, Confluence of East Fork Martins Creek and West Fork Martins Creek to UNT 63256, Excluding Brushy Meadow Creek at 40°52'6.9"N 75°12'22.5"W	C	TSF, MF	HQ-CWF	HQ-CWF, MF
Mauch Chunk Creek	Carbon	Basin, SR 902 Bridge to Entrance to Tunnel System at 40°51'48.0"N 75°44'55.5"W	D	CWF, MF	HQ-CWF	HQ-CWF, MF
Long Run	Carbon	Basin	D	CWF, MF	HQ-CWF	HQ-CWF, MF
Sugar Hollow Creek	Monroe	Basin	D	CWF, MF	HQ-CWF	HQ-CWF, MF
UNT 04022	Monroe	Basin	D	CWF, MF	HQ-CWF	HQ-CWF, MF
Pohopoco Creek	Carbon	Basin, Outlet of Beltzville Lake to Mouth (excluding UNT 64089 at 40°48'55.7"N 75°40'21.0"W)	D	CWF, MF	HQ-CWF	HQ-CWF, MF
UNT 03891	Schuylkill	Basin	D	TSF, MF	HQ-CWF	HQ-CWF, MF
UNT 03886	Schuylkill	Basin	D	TSF, MF	HQ-CWF	HQ-CWF, MF
Mill Creek	Carbon	Basin	D	CWF, MF	HQ-CWF	HQ-CWF, MF

<i>Stream Name</i>	<i>County</i>	<i>Zone Description</i>	<i>List</i>	<i>Current Designated Use</i>	<i>Requested Designated Use</i>	<i>Recommended Designated Use</i>
Saucon Creek	Lehigh	Basin, Source to UNT 03381	D	CWF, MF	HQ-CWF	HQ-CWF, MF
UNT 03382	Lehigh	Basin	D	CWF, MF	HQ-CWF	HQ-CWF, MF
UNT 03380	Lehigh	Basin	D	CWF, MF	HQ-CWF	HQ-CWF, MF
UNT 03378	Lehigh	Basin	D	CWF, MF	HQ-CWF	HQ-CWF, MF
UNT 03338	Northampton	Basin	D	CWF, MF	HQ-CWF	HQ-CWF, MF
UNT 03336	Northampton	Basin	D	CWF, MF	HQ-CWF	HQ-CWF, MF
Bear Creek	Schuylkill	Basin, From and including UNT 02300 to UNT 02299 at 40°34'43.5"N 76°9'33.6"W	F	CWF, MF	HQ-CWF	HQ-CWF, MF
Spring Creek	Berks	Basin to Hospital Creek (excluding Furnace Run)	F	CWF, MF	HQ-CWF	HQ-CWF, MF
Spring Creek	Berks	Basin, Hospital Creek to UNT 01886 at 40°20'55.5"N 76°5'1.1"W	F	TSF, MF	HQ-CWF	HQ-CWF, MF
Bellman Run	Tioga	Basin	H	CWF, MF	HQ-CWF	HQ-CWF, MF
Teed Hollow	Potter	Basin	H	CWF, MF	HQ-CWF	HQ-CWF, MF
Obendoffers Creek	Luzerne	Basin	I	CWF, MF	HQ-CWF	HQ-CWF, MF
Mill Creek	Luzerne	Basin, Source to Gardner Creek	K	CWF, MF	HQ-CWF	HQ-CWF, MF
Laurel Run	Luzerne	Basin, Source to UNT 63002 at 41°13'21.2"N 75°49'50.6"W	K	CWF, MF	HQ-CWF	HQ-CWF, MF
Big Wapwallopen Creek	Luzerne	Basin, Outlet of Crystal Lake to Bow Creek	K	CWF, MF	HQ-CWF	HQ-CWF, MF
Bow Creek	Luzerne	Basin, Source to SR 309	K	CWF, MF	HQ-CWF	HQ-CWF, MF
Lick Run	Columbia	Basin	K	CWF, MF	HQ-CWF	HQ-CWF, MF
Beaver Run	Clearfield	Basin, UNT 27182 at 40°44'7.5"N	L	CWF, MF	HQ-CWF	HQ-CWF, MF

<i>Stream Name</i>	<i>County</i>	<i>Zone Description</i>	<i>List</i>	<i>Current Designated Use</i>	<i>Requested Designated Use</i>	<i>Recommended Designated Use</i>
		78°45'43.6"W to Mouth				
Sawmill Run	Clearfield	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Cush Creek	Indiana	Basin, Source to Horton Run	L	CWF, MF	HQ-CWF	HQ-CWF, MF
UNT 27036	Clearfield-Indiana	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
UNT 26876	Cambria	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
UNT 26765	Clearfield	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
UNT 26752	Clearfield	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
UNT 26747	Clearfield	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Poplar Run	Clearfield	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
UNT 26658	Clearfield	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Bradley Run	Cambria	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Fallentimber Run	Cambria	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
UNT 26459	Cambria	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Moravian Run	Clearfield	Basin, Source to UNT 26020 at 40°59'24.6"N 78°15'42.1"W	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Dale Run	Clearfield	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Grapevine Run	Clearfield-Elk	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Mountain Lick Creek	Clearfield-Elk	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
UNT 24933	Clearfield	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Erick Hollow	Clearfield	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Mill Run	Elk	Basin, Source to UNT 24915 at 41°15'0.2"N 78°34'10.5"W	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Silver Mill Hollow Run	Elk	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Jimmy Run	Elk	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Johnson Run	Elk	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Barrs Run	Cameron	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Nanny Run	Cameron	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Little Sandy Run	Centre	Basin, Source to inlet of impoundment	L	CWF, MF	HQ-CWF	HQ-CWF, MF

<i>Stream Name</i>	<i>County</i>	<i>Zone Description</i>	<i>List</i>	<i>Current Designated Use</i>	<i>Requested Designated Use</i>	<i>Recommended Designated Use</i>
		at 41°4'32.4"N 77°57'39.7"W				
Slide Hollow Run	Centre	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Fishing Creek	Clinton	Basin, Long Run to Mouth	L	CWF, MF	HQ-CWF	HQ-CWF, MF
McElhattan Creek	Clinton	Basin, Keller Water Supply Intake to Mouth	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Chatham Run	Clinton	Basin, Chatham Water Company Intake to Mouth excluding Big Plum Run	L	CWF, MF	HQ-CWF	HQ-CWF, MF
English Run	Lycoming	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Bender Run	Lycoming	Basin	L	CWF, MF	HQ-CWF	HQ-CWF, MF
Penns Creek	Centre	Basin, Penns Cave Spring to Pine Creek (excluding Sinking Creek)	M	CWF, MF	HQ-CWF	HQ-CWF, MF
Boal Gap Run	Centre	Basin	M	CWF, MF	HQ-CWF	HQ-CWF, MF
Moyers Mill Run	Snyder	Basin	M	CWF, MF	HQ-CWF	HQ-CWF, MF
UNT 17902	Snyder	Basin, Source to UNT 17906 at 40°48'4.4"N 77°12'6.7"W	M	CWF, MF	HQ-CWF	HQ-CWF, MF
Smoke Hole Run	Dauphin	Basin	M	CWF, MF	HQ-CWF	HQ-CWF, MF
Boiling Spring Run	Blair	Basin	N	CWF, MF	HQ-CWF	HQ-CWF, MF
Homer Gap Run	Blair	Basin, Source to first impoundment of Homer Gap Reservoir at 40°34'19.3"N 78°25'13.8"W	N	WWF, MF	HQ-CWF	HQ-CWF, MF
UNT 15970	Blair-Cambria	Basin	N	TSF, MF	HQ-CWF	HQ-CWF, MF

<i>Stream Name</i>	<i>County</i>	<i>Zone Description</i>	<i>List</i>	<i>Current Designated Use</i>	<i>Requested Designated Use</i>	<i>Recommended Designated Use</i>
Kishacoquillas Creek	Mifflin	Basin, Coffee Run to Tea Creek	N	CWF, MF	HQ-CWF	HQ-CWF, MF
Kishacoquillas Creek	Mifflin	Basin, Tea Creek to Hungry Run	N	TSF, MF	HQ-CWF	HQ-CWF, MF
Perry Furnace Run	Perry	Basin	O	CWF, MF	HQ-CWF	HQ-CWF, MF
Orson Run	York	Basin, UNT 07303 at 39°48'42.0"N 76°24'15.1"W to Mouth	O	TSF, MF	HQ-CWF	HQ-CWF, MF
Allegheny River	Potter	Basin, Source to UNT 58539 at 41°49'52.2"N 77°54'35.4"W	P	CWF	HQ-CWF	HQ-CWF
Earl Hollow	Potter	Basin	P	CWF	HQ-CWF	HQ-CWF
Pump Station Hollow	Potter	Basin	P	CWF	HQ-CWF	HQ-CWF
Elm Flat Run	Potter	Basin	P	CWF	HQ-CWF	HQ-CWF
Fisk Hollow	Potter	Basin	P	CWF	HQ-CWF	HQ-CWF
Sartwell Creek	McKean-Potter	Basin, Source to Bear Creek	P	CWF	HQ-CWF	HQ-CWF
Cady Hollow	McKean	Basin	P	CWF	HQ-CWF	HQ-CWF
Campbell Hollow	McKean	Basin	P	CWF	HQ-CWF	HQ-CWF
Marvin Creek	McKean	Basin, Source to Kane Creek	P	CWF	HQ-CWF	HQ-CWF
UNT 64376	McKean	Basin	P	CWF	HQ-CWF	HQ-CWF
Baker Hollow	McKean	Basin	P	CWF	HQ-CWF	HQ-CWF
Brooder Hollow	McKean	Basin	P	CWF	HQ-CWF	HQ-CWF
UNT 57546	McKean	Basin	P	CWF	HQ-CWF	HQ-CWF
UNT 57521	McKean	Basin	P	CWF	HQ-CWF	HQ-CWF
UNT 57518	McKean	Basin	P	CWF	HQ-CWF	HQ-CWF
UNT 55192	Forest	Basin	Q	CWF	HQ-CWF	HQ-CWF
UNT 54224	Crawford	Basin	Q	CWF	HQ-CWF	HQ-CWF
Husband Run	Venango	Basin	Q	CWF	HQ-CWF	HQ-CWF
UNT 53682	Erie	Basin	Q	CWF	HQ-CWF	HQ-CWF
Snyder Run	Venango	Basin	Q	CWF	HQ-CWF	HQ-CWF

<i>Stream Name</i>	<i>County</i>	<i>Zone Description</i>	<i>List</i>	<i>Current Designated Use</i>	<i>Requested Designated Use</i>	<i>Recommended Designated Use</i>
UNT 51240	Venango	Basin	Q	CWF	HQ-CWF	HQ-CWF
Little Sicily Run	McKean	Basin	R	CWF	HQ-CWF	HQ-CWF
UNT 50461	Elk	Basin	R	CWF	HQ-CWF	HQ-CWF
Painter Run	Elk	Basin	R	CWF	HQ-CWF	HQ-CWF
UNT 48660	Jefferson	Basin	S	CWF	HQ-CWF	HQ-CWF
Big Run	Jefferson	Basin, Source to Laurel Run	S	CWF	HQ-CWF	HQ-CWF
UNT 62492	Erie	Basin	X	CWF, MF	HQ-CWF	HQ-CWF, MF
UNT 59767	Franklin	Basin	Z	CWF, MF	HQ-CWF	HQ-CWF, MF

WWF = Warm Water Fishes

CWF = Cold Water Fishes

TSF = Trout Stocking

UNT = unnamed tributary

HQ = High Quality Waters

EV = Exceptional Value Waters

MF = Migratory Fishes

Corrections and Revisions to Drainage Lists

In addition to the amendments to stream designations, the Board is amending the drainage lists in §§ 93.9o, 93.9p and 93.9q to correct errors in the drainage list descriptions inadvertently introduced by the most recent triennial review of water quality standards rulemaking, published at 50 Pa.B. 3426, and to drainage lists in §§ 93.9c, 93.9d, 93.9f, 93.9h, 93.9i, 93.9k, 93.9l, 93.9m, 93.9n, 93.9s, 93.9x and 93.9z to reformat portions of these drainage lists where multiple streams within larger waterbody basins have the same designated use. These additional changes are nonsubstantive in nature because they do not change any current water quality designations in the drainage lists.

Section 93.9o. Drainage List O

The Board is amending drainage list O to correct an error that was identified with the Haldeman Quarries entry. The current *Pennsylvania Code* lists the Haldeman Quarries as part of the South Branch Conewago Creek basin when they are located within the Oil Creek basin of Codorus Creek. This correction moves the Haldeman Quarries into its correct location within drainage list O and does not change the designated uses of these waters.

Section 93.9p. Drainage List P

The Board is amending drainage list P to correct an error introduced by a recent rulemaking. The Mill Creek basin below North Hollow was redesignated to HQ-CWF in the Class A final-form rulemaking published at 47 Pa.B. 7029 (November 18, 2017). However, the triennial review of water quality standards final-form rulemaking published at 50 Pa.B. 3426 incorrectly listed only the portion of the basin upstream of North Hollow as HQ-CWF, erroneously undoing the change codified by that prior Class A final-form rulemaking. The Board is restoring the correct protected water use for the entire Mill Creek basin, which is HQ-CWF.

Section 93.9q. Drainage List Q

The Board is amending drainage list Q to correct an error introduced by a recent rulemaking. The Logan Run basin was redesignated to HQ-CWF in the Class A final-form rulemaking published at 47 Pa.B. 7029. However, the triennial review of water quality standards final-form rulemaking published at 50 Pa.B. 3426 incorrectly listed this basin as CWF, erroneously undoing the change codified by that prior Class A final-form rulemaking. The Board is restoring the correct protected water use for the Logan Run basin, which is HQ-CWF.

Changes from Proposed to Final-Form Rulemaking

The following changes were made between the proposed rulemaking and this final-form rulemaking.

During an evaluation of protected water uses, the Department will consider the representativeness and appropriate spatial extent of the available fisheries data. The Department also may consider the implementation of the protected water use and the supporting water quality criteria. This Commonwealth contains a high concentration of surface waters, and watersheds or basins often have many branching surface waters, both large and small, that may or may not always be documented or surveyed. Permitted activities to any surface water are required to be protective of all downstream protected water uses. Many of the smaller tributaries within a basin have a direct and immediate connection to larger downstream surface waters and permitted activities can be completely influenced by the downstream protected use due to a combination of proximity, flow and assimilative capacity. In these situations, the Department generally will include smaller tributaries in the protected use delineation for the larger downstream surface water. As explained as follows, §§ 93.9d, 93.9l and 93.9m (relating to Drainage List D; Drainage List L; and Drainage List M) were evaluated through this process and revised in this final-form rulemaking.

Section 93.9d. Drainage List D

The Department re-examined the redesignation recommendations for the headwaters of Saucon Creek in drainage list D. As a result of the Department's re-evaluation, the Saucon Creek basin from its source to unnamed tributary (UNT) 03378 is redesignated to HQ-CWF in drainage list D. The amended portions of Saucon Creek include the addition of UNT 03381, UNT 03880 and UNT 03378 to Saucon Creek.

Section 93.9l. Drainage List L

The Department re-examined the available information for drainage list L and revised the redesignation recommendation for Bradley Run. As a result of the Department's re-evaluation, the entire Bradley Run Basin is redesignated to HQ-CWF in this final-form rulemaking.

Section 93.9m. Drainage List M

The Department contacted and obtained additional information from the PFBC regarding several of the UNTs to Penns Creek in drainage list M. Following the receipt of additional information, the Department re-examined the redesignation recommendations for the Penns Creek basin from Penns Cave Spring to Pine Creek. UNT 18312 was classified as a Class A wild trout stream by the PFBC in 2016, and this UNT was redesignated to HQ-CWF in the Class A final-form rulemaking published at 51 Pa.B. 3733 (July 10, 2021). UNT 18429 was sampled in 2024 and classified as Class A wild trout stream in April 2025. As a result of the Department's re-evaluation, the Penns Creek Basin from Penns Cave Spring to Pine Creek (with the exception of Sinking Creek) is redesignated to HQ-CWF in this final-form rulemaking. The revised portions of Penns Creek include the addition of UNT 18429, UNT 18423, UNT 18375, UNT 18367 and UNT 18360 to Penns Creek.

Consolidation and clarification of drainage lists

The Department re-examined entries throughout this final-form rulemaking to ensure the accuracy and completeness of the drainage lists. As a result, the following entries are revised in this final-form rulemaking.

In § 93.9f, two entries are added for tributaries to Tulpehocken Creek to include tributaries upstream and downstream of Cacoosing Creek that were previously missed. In addition, Beaver Run is added to clarify that the designated use is EV and to format this entry consistently with other entries in the drainage lists.

In § 93.9o, entries for the Conewago Creek (West) are consolidated to reflect that the Conewago Creek (West) basin from Oppossum Creek to Bermudian Creek is designated as WWF, MF. These revisions are in conjunction with the amendments to the Haldeman Quarries entry previously explained.

In § 93.9z, six stream names are clarified by revising "unnamed tributaries" to "tributaries" so that a single entry will include both named and unnamed tributaries. As a result, eight individual entries for named tributaries are deleted.

County descriptions

The Department reviewed the drainage lists in the proposed rulemaking and corrected counties for several stream segments in §§ 93.9d, 93.9f, 93.9i, 93.9k, 93.9n, 93.9o and 93.9p to identify the correct county at the farthest downstream reach.

Stream and zone descriptions

The Department made nonsubstantive revisions to improve the clarity of stream and zone descriptions throughout §§ 93.9c, 93.9d, 93.9f, 93.9h, 93.9i, 93.9k, 93.9l, 93.9m, 93.9n, 93.9o, 93.9p, 93.9q, 93.9r, 93.9s, 93.9x and 93.9z. These revisions include correcting and adding geographic coordinates, correcting capitalization and spelling errors, refining and correcting stream names, and adding full stream names in descriptions.

F. Summary of Comments and Responses on the Proposed Rulemaking

The Board received seven comments. The EPA provided a letter commending the Department on its efforts to redesignate waters to special protection uses, but did not provide any specific comments on the proposed rulemaking. The PFBC provided comments relating to the reformatting of the stream drainage list that identified several minor errors regarding county listings, spelling and related issues. The PFBC also identified several stream redesignation recommendations for the Department to review including Bradley Run, Penns Creek and Saucon Creek. IRRC asked the Board to address or clarify the various concerns and errors raised by the PFBC. Four additional commentators submitted comments in support of the proposed redesignation recommendations. In response to the comments regarding the stream redesignation recommendations, errors and other related items, the Department made appropriate corrections and amendments to Annex A, as explained in section E of this preamble.

A detailed summary of the comments submitted to the Board and the Department's responses to those comments are available in the comment and response document that accompanies this final-form rulemaking.

G. Benefits, Costs and Compliance

Benefits

Overall, this Commonwealth's residents and visitors and its natural resources will benefit from this final-form 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 for human consumption, wildlife, irrigation and industrial use; recreational opportunities such as fishing (also for consumption), water contact sports and boating; and aquatic life protection. It is important for the Commonwealth to ensure these opportunities and activities continue and grow in a manner that is environmentally, socially and economically sound. Protection and maintenance of water quality at appropriate levels as supported by the latest science ensures that surface waters of this Commonwealth can support all current and potential future uses. The following paragraphs describe the economic and social benefits of clean water that are protected by this final-form rulemaking.

Increased property values

A reduction in toxics found in the waterways of this Commonwealth may lead to increased property values for properties located near rivers or lakes. A 1979 study used real estate prices to determine the value of improvements in water quality in small rivers and streams in this Commonwealth. (Epp, D. J., & Al-Ani, K. S. (1979). “The effect of water quality on rural nonfarm residential property values.” *American Journal of Agricultural Economics*, 61(3), 529—534. <https://doi.org/10.2307/1239441>.) 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 discusses a case study from the Maine Agricultural and Forest Experiment Station which compared water-front property values based on whether the water that the homes faced was considered clean. (“River Values: The Value of a Clean and Healthy Delaware River” (<https://rucore.libraries.rutgers.edu/rutgers-lib/57797/PDF/1/play/>)). Properties located near higher quality waters had higher market value than if the waterbody 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 by Braden et al. estimated that property values were significantly depressed in two regions associated with toxic contaminants (polyaromatic hydrocarbons (PAHs), polychlorinated biphenyls (PCBs) and heavy metals). (Braden, J. B. et al. (2006). “Economic benefits of sediment remediation.” Project GL-96553601. <https://www.nemw.org/wp-content/uploads/2015/06/EconBenReport06.pdf>.) The study showed 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 multifamily homes as a result of toxic sediments. The 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. 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 this Commonwealth. A reduction in toxic pollution in this Commonwealth’s surface waters has a substantial economic benefit to property values in close proximity to waterways.

A 2022 report prepared by Perry et al. (Perry et al. (2022)) for the Our Pocono Waters organization determined “residential and commercial land value increases for properties closer to an [Exceptional Value Waters (EV)] or HQ stream, when compared to otherwise similar properties farther away.” (“Economic effects of special protection stream designations in the Pocono Mountains region.” https://ourpoconowaters.files.wordpress.com/2022/08/ourpoconowaters_report_final_web-pdf_8.11.22.pdf.) Per the analysis of the report, this increase in property value reflects willingness on the part of landowners to pay more for the better aesthetic qualities and increased recreational opportunities that can be better provided by streams afforded special protection status.

In 2018, researchers from Michigan State University and Texas A&M University published an article that reviewed 43 distinct hedonic studies in 48 publications of the effects of water quality on property values. (Nicholls, S., & Crompton, J. (2018). “A comprehensive review of the evidence of the impact of surface water quality on property values.” *Sustainability*, 10(2), 500. <https://doi.org/10.3390/su10020500>.) Nicholls and Crompton found that “the expected, statistically significant relationship between water quality and property price was demonstrated in at least one of the [numerous hedonic] models developed in all but two studies.” Nicholls and Crompton concluded that when viewed as a whole, the studies provided “convincing evidence that clean water has a positive effect on property values.” The authors found multiple sources indicating that this value homebuyers associate with water quality persists even during economic downturns. The authors also suggested the premium homebuyers are willing to pay to live in proximity to clean water only partially reflects the total benefits; this is in part because some indicators of clean water such as water clarity are readily perceivable by untrained observers, while other characteristics of water quality such as the level of dissolved oxygen are not directly visible.

In 2015, staff at the EPA’s National Center for Environmental Economics conducted what they described as “the largest hedonic analysis of water quality ever completed.” (Walsh, P. et al. (2017). “Modeling the property price impact of water quality in 14 Chesapeake Bay counties.” *Ecological Economics*, 135, 103—113. <https://doi.org/10.1016/j.ecolecon.2016.12.014>.) They evaluated over 225,000 property sales between 1996 and 2008 for single-family homes and townhouses in Maryland. The properties were located within 4 kilometers of the Chesapeake Bay tidal waters and spanned across 14 counties. Using water quality data from EPA’s Chesapeake Bay Program Office and controlling for other variables that impact property prices, Walsh et al. analyzed the impact of water clarity (that is, how clear a waterbody appears to the human eye) on Chesapeake Bay property values. The authors concluded that better water clarity had a statistically significant positive impact on waterfront property prices in half of the counties. While the analysis was less clear for nonwaterfront properties, the authors still observed that water quality could affect the value of homes even when they were not located directly on the waterfront.

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

Businesses requiring a high-quality source water and those in the recreation industry will be positively affected by this proposed rulemaking. The maintenance and protection of the water quality will ensure the long-term availability of recreational fisheries and other activities. The purpose of these stream redesignations is to preserve these resources for current and future sportspersons, outdoor recreators and wildlife enthusiasts so that the social and economic benefits are maintained in the local areas. As recreation demands increase in the future, the preservation of unique resources will undeniably add economic value to the local areas and provide a valuable social function for outdoor recreation. Specific revenue-related benefits associated with outdoor recreation in this Commonwealth are outlined as follows.

A 1998 report prepared by Shafer et al. for the Center for Rural Pennsylvania examined the economic values and impacts of sport fishing, hunting and trapping activities in this Commonwealth from 1995 to 1997. (“Economic values and impacts of sport fishing, hunting and

trapping activities in Pennsylvania.”

<https://www.rural.pa.gov/download.cfm?file=Resources/reports/assets/239/hunting.pdf>.) The report provides a snapshot of how much money these sporting activities bring to this Commonwealth and how they affect employment in rural areas. A major finding of the 1998 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 a 2005 report published jointly by the PFBC, the USGS and the Pennsylvania State University, wild trout streams provide unique angling opportunities that contribute millions of dollars annually to this Commonwealth’s economy. (Greene, R. R. et al. (2005). “Angler use, harvest and economic assessment on wild trout streams in Pennsylvania,” PFBC Files, Bellefonte, PA.) The PFBC collected information to assess the economic impact of wild trout angling in this Commonwealth during the 2004 regular trout season, which was held from April 17 through September 3. Based on the results of this study, the PFBC found that angling on wild trout streams contributed over \$7.16 million to this Commonwealth’s economy during the regular trout season in 2004.

The United States Fish and Wildlife Service periodically conducts National surveys of fishing, hunting and wildlife-associated recreation. According to a 2011 report, approximately 1.1 million anglers participated in fishing and approximately 3.6 million persons participated in wildlife watching in this Commonwealth during 2011. (United States Department of the Interior, United States Fish and Wildlife Service, and United States Department of Commerce, United States Census Bureau (2018). “2011 National survey of fishing, hunting, and wildlife-associated recreation—Pennsylvania.” <https://www2.census.gov/programs-surveys/fhwar/publications/2011/fhw11-pa.pdf>.) In addition, all fishing-related expenditures in this Commonwealth totaled \$485 million in 2011. Expenditures include food and lodging, transportation and other expenses (such as equipment rental, bait and cooking fuel). In 2011, wildlife watchers spent \$1.3 billion on activities in this Commonwealth. Expenditures include trip-related costs and equipment.

According to a 2017 report by the Outdoor Industry Association, this Commonwealth’s outdoor recreation generated 251,000 direct in-State 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 Outdoor Industry Association reported that 56% of Commonwealth residents participate in outdoor recreation each year.

Southwick Associates has prepared several reports for the Theodore Roosevelt Conservation Partnership that analyze the economic contribution of outdoor recreation in this Commonwealth. A 2018 report found that there were more than 390,000 jobs supported by outdoor recreation activities in this Commonwealth during 2016. (“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.) This was more than the number of jobs in this Commonwealth that supported the production of durable goods during the same year. The 2016 report also found outdoor recreation had an economic contribution in this Commonwealth of almost \$17 billion in salaries and wages paid to employees and generated over \$300 million in Federal, State and local

tax revenue. An updated 2022 report revealed that economic contributions from outdoor recreation increased from nearly \$17 billion in salaries and wages paid to employees in 2016 to nearly \$20 billion in 2020. (“Estimating the economic contributions of outdoor recreation in Pennsylvania: An analysis of 2020 state-level economic contributions made by hunting, fishing, and other outdoor recreation activities.” www.trcp.org/wp-content/uploads/2022/04/TRCP-PA-Economic-Report-2020-FINAL.pdf.) The 2022 report also continued to highlight the fact that “more Pennsylvania jobs [are] supported by outdoor recreation. . . than by the production of durable goods (U.S. Bureau of Labor Statistics, 2020).” The 2022 report found that, in 2020, outdoor recreation activities supported more than 430,000 jobs, contributed more than \$32 billion to this Commonwealth’s State gross domestic product and generated over \$6.5 billion in tax revenue at the Federal, State and local levels, which is a significant increase from the 2016 tax revenue total of over \$300 million.

The Perry et al. (2022) report for Our Pocono Waters also linked improved water quality to increased recreational spending, which leads to job creation and increased wages. Among other things, the study concluded that “improvements in water quality may lead to increases in outdoor recreation expenditures and/or trips.” The report’s economic impact analysis found that a 2% to 8% increase in visitor spending could result in \$245 million to \$982 million in total regional output and 1,845 to 7,380 additional jobs, with increased wages of \$61 million to \$246 million in 2021 dollars.

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

The findings of a 2014 report by the Lehigh Valley Planning Commission demonstrates the benefits when clean water and natural areas are protected. (“Lehigh Valley return on environment” (https://greenways.delawareandlehigh.org/wp-content/uploads/sites/6/2016/05/ReturnOnEnvironment_Dec_18_2014.pdf.) The report 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).” This report describes how investing in green infrastructure to improve water quality (such as watershed conservation, forest buffers and wetlands construction) can be much more cost effective than more traditional gray infrastructure approaches (such as pipes and treatment plants).

Savings in water treatment for downstream communities that rely on surface waters for water supplies and availability of unpolluted water for domestic, agricultural and industrial uses

The Department identified 18 public water supply facilities with raw water intakes located within the candidate stream sections for redesignation in this final-form rulemaking. These 18 public water suppliers, which serve over 1 million citizens, will benefit from this final-form rulemaking because their raw source water will be afforded a higher level of protection. This final-form rulemaking further provides the likelihood of economic benefits to the public water supplier and the local community. By maintaining clean surface water, public water suppliers may be able to defer or avoid the costly capital investments that are often required for the installation of advanced water treatment processes and the higher annual operations and maintenance costs associated with effective operation of these processes. Safe drinking water is

vital to maintaining healthy and sustainable communities. Protecting the quality of drinking water sources can reduce the incidence of illness and reduce health care costs, help ensure a continuous supply of safe drinking water, enable communities to plan and build future capacity for economic growth, and ensure their long-term sustainability for years to come. Public water suppliers' customers will benefit from reduced fees for clean drinking water.

Compliance costs

This final-form rulemaking is necessary to protect and maintain the existing water quality of the streams being redesignated to HQ, to protect existing water uses and to effectively control discharges of pollutants into the affected streams. These amendments to Chapter 93 will not impose any new compliance costs on persons engaged in regulated activities under existing individual permits or approvals from the Department since existing discharges are included in any determination of existing water quality when streams are redesignated to HQ. Additional compliance costs may arise when permits or approvals are necessary for new or expanded regulated activities to a stream with a protected use of HQ. Discharges to special protection streams are not eligible for coverage under National Pollutant Discharge Elimination System (NPDES) general permits, based on § 92a.54(a)(8) and (e)(9) (relating to general permits), and require individual permits. In addition, discharges to surface waters classified in Chapter 93 as HQ or Exceptional Value Waters (EV) do not qualify for conditional exclusion from a permit under § 92a.32(b) (relating to stormwater discharges). Some additional cost will be incurred by facilities required to obtain an individual permit. The Department will implement stream redesignations through permit and approval actions.

Persons adding or expanding a discharge to a stream may need to provide a higher level of treatment or additional BMPs to protect the designated and existing uses of the affected streams, which could result in higher engineering, construction or operating costs. Treatment costs and BMPs are based on the specific design and operation of a facility, which also requires consideration of the size of the discharge in relation to the size of the stream and many other factors.

In the future, a person who proposes a new, additional or increased point source discharge to a stream with a protected use of HQ would need to satisfy the antidegradation requirements in § 93.4c(b)(1). An applicant for any new, additional or increased point source discharge to special protection waters shall evaluate nondischarge alternatives, and the applicant shall use an alternative that is environmentally sound and cost effective when compared to the cost associated with achieving a nondegrading discharge. If a nondischarge alternative is not environmentally sound and cost effective, an applicant for a new, additional or increased discharge shall utilize antidegradation best available combination of technologies (ABACT), which include cost-effective treatment, land disposal, pollution prevention and wastewater reuse technologies.

The permit applicant 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, a person who proposes a new, additional or increased discharge to a stream with a protected use of HQ is given an opportunity to demonstrate there is a social or economic benefit of the project that would justify a lowering of the water quality. The social and economic justification (SEJ) demonstration must show that

the discharge is necessary to accommodate important economic or social development in the area in which the waters are located and that a lower water quality will protect all other applicable water uses for the waterbody. Due to the technology-specific and location-specific natures of this demonstration, it is not possible to estimate costs associated with discharges to a stream with a designated or existing use of HQ.

There are approximately 17,850 facilities across this Commonwealth that hold permits issued under Chapter 92a (relating to National Pollutant Discharge Elimination System permitting, monitoring and compliance). This Statewide number of approximately 17,850 permits includes NPDES permits for concentrated animal feeding operations (CAFO), industrial waste, municipal separate storm sewer systems (MS4), treated sewage, groundwater remediation, stormwater associated with industrial activities, and other activities. This total does not include NPDES permits for stormwater associated with construction activities, which is discussed as follows. Out of this Statewide total of approximately 17,850 permits, 166 facilities currently hold active NPDES permits for discharges to the stream segments being considered for redesignation in this final-form rulemaking.

The types of discharges with active NPDES permits located in waters affected by this final-form rulemaking include industrial waste, treated sewage, MS4s, stormwater associated with industrial activities, CAFOs and application of pesticides. Since the presence of these discharge activities did not preclude the attainment of the HQ use, the discharges to these waters may continue as long as the discharge quality and quantity remain the same. Thus, redesignation to special protection does not impose any additional special treatment requirements on existing permitted discharges.

As previously stated, discharge activities to special protection streams are not eligible for coverage under NPDES general permits and require individual permits. There are annual fees for individual NPDES permits. Fees for individual NPDES permits are set by § 92a.26 (relating to application fees) and § 92a.62 (relating to annual fees). General NPDES permits do not have annual fees, but they do have notice of intent (NOI) fees. Under § 92a.26(g), NOI fees for NPDES general permits, including fees for amendments to or transfers of general permit coverage, are established in each general permit, but not to exceed \$5,000, except as provided in Chapter 102 (relating to erosion and sediment control). General permit NOI fees apply for all requests for new and amended coverage. For major amendments to individual NPDES permits, the annual fees apply.

There are no general permits available for the discharge of treated sewage effluent or industrial waste effluent to waters with a protected use of HQ, with the exception of the PAG-04 general permit for small flow sewage treatment facilities (SFTF). The NOI fee for PAG-04 coverage for single residence sewage treatment plants is \$100; the PAG-04 NOI fee for all other SFTFs is \$200. The annual fee associated with an individual permit for single residence sewage treatment plants is \$100; for all other SFTFs the individual permit annual fee is \$250. For discharges of stormwater associated with industrial activities, the individual permit annual fee is \$1,500 compared to the NOI fee of \$2,500, paid in annual installments of \$500, for the general permit (PAG-03). For CAFOs, the individual permit annual fee is \$500 compared to the NOI fee of \$2,000, paid in annual installments of \$500, for the general permit (PAG-12). For MS4s, the individual permit annual fee is \$2,500 compared to the NOI fee of \$2,500, paid in annual

installments of \$500, for the general permit (PAG-13). For application of pesticides, the individual permit annual fee is \$1,500 compared with the \$2,500 NOI fee, paid in annual installments of \$500, for the general permit (PAG-15).

Statewide, there are thousands of active earth disturbance activities requiring a permit issued under Chapter 102 (relating to erosion and sediment control). These permits for stormwater associated with construction activities were not included in the preceding permit analyses because of the short-term, temporary nature of these permitted discharges.

A person proposing a new earth disturbance activity requiring a permit under Chapter 102 with a discharge to a stream with a protected use of HQ must obtain an individual permit and comply with the antidegradation provisions, as applicable. Where a permitted discharge existed prior to the receiving waterbody attaining an existing or designated use of HQ, those persons may continue to operate using BMPs that have been approved by the Department and implemented. Any new discharges to the waterbody would be required to comply with the antidegradation provisions, as applicable, and must undergo an antidegradation analysis. Based on the analysis, additional construction and post-construction BMPs may need to be implemented on the remaining area that will be disturbed.

The administrative filing fee for a Chapter 102 individual permit is \$1,500 compared to \$500 for a general permit as set forth in § 102.6(b)(1) (relating to permit applications and fees). A person proposing a new earth disturbance activity requiring a permit under Chapter 102 must comply with the antidegradation provisions, as applicable. The erosion and sediment (E&S) BMPs and their ABACT rating, if applicable, are identified in the Department's *Erosion and Sediment Pollution Control Program Manual* (386-2134-001), and the Department's list of Alternative E&S BMPs and Post-Construction Stormwater Management (PCSM) Stormwater Control Measures (SCMs). The Department may also approve alternative BMPs that maintain and protect the existing water quality and water uses.

Where onlot sewage systems are planned, compliance with the sewage facilities planning and permitting regulations in Chapters 71—73 (relating to administration of sewage facilities planning program; administration of sewage facilities permitting program; and standards for onlot sewage treatment facilities) will continue to satisfy § 93.4c. Permit applicants of sewage facilities with proposed discharges to waters with a protected use of HQ, subject to antidegradation requirements, may demonstrate SEJ at the sewage facilities planning stage and need not redemonstrate SEJ at the discharge permitting stage. The SEJ demonstration process is available to sewage and nonsewage discharge applicants for any naturally occurring substances identified in accordance with the Department's *Water Quality Antidegradation Implementation Guidance* (391-0300-002).

Compliance assistance plan

This final-form rulemaking will not impose any new compliance requirements on persons engaged in regulated activities under existing individual permits or approvals from the Department. When applying for permits or approvals for new, additional or increased discharges, the Department will provide compliance assistance.

Paperwork requirements

NPDES general permits are not available for discharges to waters with a protected use of HQ. Applications for individual permits will require additional paperwork.

This final-form rulemaking will not impose any new paperwork requirements on persons engaged in regulated activities under existing individual permits or approvals from the Department. When applying for permits or approvals for new, additional or increased discharges, additional information may need to be submitted to the Department as part of the permit application or approval request. As discussed previously, the permit applicant will complete an antidegradation analysis. The applicant will describe how the proposed activity will be conducted to maintain existing water quality. If water quality cannot be maintained and the proposed discharge will be to a stream with a protected use of HQ, the applicant may submit an SEJ for the lowering of water quality.

H. Pollution Prevention

The Pollution Prevention Act of 1990 (42 U.S.C. §§ 13101—13109) established a National policy that promotes pollution prevention as the preferred means for achieving state environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally friendly materials, more efficient use of raw materials and the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance.

The water quality standards and antidegradation program are major pollution prevention tools because the objective is to prevent degradation by maintaining and protecting existing water quality and existing uses. Although the antidegradation program does not prohibit new or expanding wastewater discharges, nondischarge alternatives must be implemented when environmentally sound and cost effective. Nondischarge alternatives, when implemented, remove impacts to surface water and may reduce the overall level of pollution to the environment by remediation of the effluent through the soil. In addition, if no environmentally sound and cost-effective alternatives are available, discharges must be nondegrading except as provided in § 93.4c(b)(1)(iii) regarding SEJ in waters with a protected use of HQ.

I. Sunset Review

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

J. Regulatory Review

Under section 5(a) of the Regulatory Review Act (RRA) (71 P.S. § 745.5(a)), on December 17, 2024, the Department submitted a copy of the notice of proposed rulemaking, published at 55 Pa.B. 914, and a copy of the Regulatory Analysis Form (RAF) to IRRC. Under section 5(f) of

the RRA, on February 27, 2025, the Board submitted a copy of the notice of proposed rulemaking and a copy of the RAF to the chairperson of the House Environmental and Natural Resource Protection Committee and the chairperson of the Senate Environmental Resources and Energy Committee for review and comment.

Under section 5(c) of the RRA, the Board is required to submit to IRRC and the House and Senate Committees copies of the comments received during the public comment period, as well as other documents when requested. In preparing this final-form rulemaking, the Department has considered all comments from IRRC and the public.

Under section 5.1(j.2) of the RRA (71 P.S. § 745.5a(j.2)), on **DATE**, this final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on **DATE**, and approved this final-form rulemaking.

K. Findings of the Board

The Board finds that:

- (1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), referred to as the Commonwealth Documents Law, and regulations promulgated thereunder at 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).
- (2) A 45-day public comment period was provided as required by law. In addition, the Board held a virtual public hearing. All comments were considered.
- (3) This final-form rulemaking does not enlarge the purpose of the proposed rulemaking published at 55 Pa.B. 914.
- (4) These regulations are necessary and appropriate for administration and enforcement of the authorizing acts identified in section C of this order.
- (5) These regulations are reasonably necessary to maintain the Commonwealth's water quality standards and to satisfy related CWA requirements.

L. Order of the Board

The Board, acting under the authorizing statutes, orders that:

- (a) The regulations of the Department, 25 Pa. Code Chapter 93, are amended by amending §§ 93.9c, 93.9d, 93.9f, 93.9h, 93.9i, 93.9k, 93.9l, 93.9m, 93.9n, 93.9o, 93.9p, 93.9q, 93.9r, 93.9s, 93.9x and 93.9z to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.
- (b) The Chairperson of the Board shall submit this final-form rulemaking to the Office of General Counsel and the Office of Attorney General for approval and review as to legality and form, as required by law.

(c) The Chairperson shall submit this final-form rulemaking to IRRC, the Environmental Resources and Energy Committee of the Senate and the Environmental and Natural Resource Protection Committee of the House of Representatives as required by the RRA.

(d) The Chairperson of the Board shall certify this final-form rulemaking and deposit it with the Legislative Reference Bureau, as required by law.

(e) This final-form rulemaking shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

JESSICA SHIRLEY,
Chairperson