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: 583

IRRC Number**:**

(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)**:

Primary Contact: Laura Campbell, 717.783.8727, laurcampbe@pa.gov
Secondary Contact: Lauren Imgrund, 717.783.8727, limgrund@pa.gov

(6) **Type of Rulemaking (check applicable box)**:

- ☐ Proposed Regulation
- ☒ Final Regulation
- ☐ Final Omitted Regulation
- ☐ Emergency Certification Regulation
  - ☐ Certification by the Governor
  - ☐ Certification by the Attorney General

(7) **Briefly explain the regulation in clear and nontechnical language. (100 words or less)**

The water quality standards program consists of the designated uses of the surface waters of the Commonwealth along with numerical and narrative criteria necessary to achieve and maintain those uses, and an antidegradation policy that protects existing uses of the surface waters. Water quality standards, as applied, are instream water quality goals that are implemented by imposing specific requirements on individual sources of pollution. The amendments to 25 Pa. Code Chapter 93 (relating to water quality standards) update and revise stream use designations in 16 drainage lists, redesignating 530.41 stream miles as High Quality Waters (HQ) based upon their classifications as Class A wild trout streams by the Pennsylvania Fish and Boat Commission (PFBC). These streams are in the Delaware, Susquehanna, Ohio, Lake Erie, and Potomac River basins. In addition, nonsubstantive amendments correct minor errors and reformat portions of drainage lists by consolidating individual entries in large stream basins that have the same designated use.

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

This rulemaking is authorized under 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)(A) of the Federal Clean Water Act (33 U.S.C. §§ 1251(a)(2) and 1313(c)(2)(A)) set forth requirements for water quality standards.

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

Sections 101(a)(2) and 303(c)(2)(A) of the Federal Clean Water Act (CWA) (33 U.S.C. §§ 1251(a)(2) and 1313(c)(2)(A)) set forth requirements for water quality standards. States must adopt water quality standards and the standards must be reviewed and approved by the U.S. Environmental Protection Agency (EPA) to be effective for purposes of implementing CWA actions. The water quality standards must be reviewed for consistency with the mandates under the CWA. 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 such waters. When the Board adopts regulations under section 5 of The Clean Streams Law, it must consider water quality management and pollution control in the watershed as a whole and consider the present and possible future uses of particular waters. The designated uses in this final-form 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 water quality standards is to protect Pennsylvania's surface waters. Each of Pennsylvania's surface waters have specific goals for how the waterbody is used. These goals 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 surface waters, through the water quality standards program, are protected for a variety of uses relating to aquatic life, water supply, recreation and fish consumption, special protection and navigation. 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 final regulation benefits not only local residents but those from outside the affected areas who come to enjoy the benefits and aesthetics of outdoor recreation. Refer to the Department's response to question #17 for a more detailed description of the economic and social benefits provided by the final regulation.

(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 final regulations are not more stringent than federal standards.

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

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

Therefore, the final amendments do not put Pennsylvania at a competitive disadvantage to other states. On the contrary, if Pennsylvania's water quality is sufficiently better than that found in other states, it may attract industries which rely on high quality water to do business within the Commonwealth. Higher water quality may also support the Commonwealth as a preferred tourist destination for various outdoor recreational activities and related business, which are discussed more thoroughly in the response to question #17.

(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 final regulation.

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

These amendments are the result of stream evaluations conducted by the Department in response to a submittal of data from the PFBC under 25 Pa. Code § 93.4c (relating to implementation of antidegradation requirements). In this final-form 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 HQ designation based upon their classifications by the PFBC as Class A wild trout streams. A surface water that the PFBC has classified a Class A wild trout stream, 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 Department evaluation of the stream for HQ designation. The PFBC published notice and requested comments on the Class A classification of the streams in this final-form rulemaking. 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 being redesignated in this final-form rulemaking. This review was conducted to determine if the HQ criteria were met and to ensure that other relevant data were evaluated and considered in the designated use recommendations, as appropriate.

As part of the stream redesignation process, and in accordance with 25 Pa. Code § 93.4c, the Department offered opportunities for the public to provide data and other information during the review of the uses of the streams. The Department provided public notice of its intent to assess the Class A wild trout stream data for the streams in this final-form rulemaking and requested water quality data for these streams through publications in the *Pennsylvania Bulletin* as summarized in Table 1.

Table 1. *Pennsylvania Bulletin* publication dates for notices of stream evaluation.

Stream Name	County	*Pa. Bulletin*	Publication Date
Martins Creek (04680)	Northampton	48 Pa.B. 3645	June 16, 2018

UNT 03382 to Saucon Creek	Lehigh	50 Pa.B. 107	January 4, 2020
Mill Creek (03777)	Carbon	48 Pa.B. 3645	June 16, 2018
UNT 03886 to Lizard Creek (RM 11.35)	Schuylkill	48 Pa.B. 3645	June 16, 2018
UNT 03891 to Lizard Creek (RM 13.64)	Schuylkill	48 Pa.B. 3645	June 16, 2018
Pohopoco Creek (03917)	Carbon	48 Pa.B. 3645	June 16, 2018
UNT 4022 to Pohopoco Creek (RM 22.92)	Monroe	50 Pa.B. 107	January 4, 2020
Sugar Hollow Creek (04024)	Monroe	48 Pa.B. 3645	June 16, 2018
Long Run (04090)	Carbon	48 Pa.B. 3645	June 16, 2018
Mauch Chunk Creek (04094)	Carbon	50 Pa.B. 107	January 4, 2020
UNT 03336 to Lehigh Canal (RM 2.18) “Morgan Valley Run”	Northampton	48 Pa.B. 3645	June 16, 2018
UNT 03338 to Lehigh River (RM 3.45)	Northampton	48 Pa.B. 3645	June 16, 2018
Spring Creek (01878)	Berks	48 Pa.B. 3645	June 16, 2018
Bear Creek (02295)	Schuylkill	48 Pa.B. 3645	June 16, 2018
UNT 31137 to Cowanesque River “Teed Hollow”	Potter	48 Pa.B. 3645	June 16, 2018
Bellman Run (31455)	Tioga	48 Pa.B. 3645	June 16, 2018
Obendoffers Creek (28645)	Luzerne	48 Pa.B. 3645	June 16, 2018
Lick Run (27503)	Columbia	52 Pa.B. 6785	October 29, 2022
Big Wapwallopen Creek (28231)	Luzerne	50 Pa.B. 107	January 4, 2020
Mill Creek (28359)	Luzerne	48 Pa.B. 3645	June 16, 2018
Laurel Run (28360)	Luzerne	48 Pa.B. 3645	June 16, 2018
Bender Run (20955)	Lycoming	48 Pa.B. 3645	June 16, 2018
English Run (21273)	Lycoming	50 Pa.B. 107	January 4, 2020
Chatham Run (22356)	Clinton	50 Pa.B. 107	January 4, 2020
McElhattan Creek (22392)	Clinton	48 Pa.B. 3645	June 16, 2018
Fishing Creek (22416)	Clinton	48 Pa.B. 3645	June 16, 2018
UNT 22622 to Sugar Camp Run “Slide Hollow Run”	Centre	50 Pa.B. 107	January 4, 2020
Little Sandy Run (22791)	Centre	48 Pa.B. 3645	June 16, 2018
Nanny Run (24511)	Cameron	50 Pa.B. 107	January 4, 2020
Barrs Run (24558)	Cameron	50 Pa.B. 107	January 4, 2020
Johnson Run (24663)	Elk	50 Pa.B. 107	January 4, 2020
Jimmy Run (24672)	Elk	50 Pa.B. 107	January 4, 2020
Silver Mill Hollow Run (24676)	Elk	50 Pa.B. 107	January 4, 2020
Mill Run (24913)	Elk	50 Pa.B. 107	January 4, 2020
UNT 24922 to Wilson Run “Erick Hollow”	Clearfield	50 Pa.B. 107	January 4, 2020
UNT 24933 to Mountain Run (RM 1.15)	Clearfield	50 Pa.B. 107	January 4, 2020
Mountain Lick Creek (24938)	Clearfield, Elk	48 Pa.B. 3645	June 16, 2018
Grapevine Run (24943)	Clearfield, Elk	50 Pa.B. 107	January 4, 2020

Moravian Run (26011)	Clearfield	50 Pa.B. 107	January 4, 2020
Dale Run (26016)	Clearfield	48 Pa.B. 3645	June 16, 2018
UNT 26459 to Clearfield Creek (26459)	Cambria	48 Pa.B. 3645	June 16, 2018
Fallentimber Run (26464)	Cambria	50 Pa.B. 107	January 4, 2020
Bradley Run (26561)	Cambria	48 Pa.B. 3645	June 16, 2018
UNT 26658 to Anderson Creek "Roaring Run"	Clearfield	50 Pa.B. 107	January 4, 2020
Poplar Run (26739)	Clearfield	48 Pa.B. 3645	June 16, 2018
UNT 26747 to Bell Run (RM 4.62)	Clearfield	48 Pa.B. 3645	June 16, 2018
UNT 26752 to Bell Run (RM 7.6)	Clearfield	48 Pa.B. 3645	June 16, 2018
UNT 26765 to Curry Run (RM 4.78)	Clearfield	48 Pa.B. 3645	June 16, 2018
UNT 26876 to Chest Creek	Cambria	48 Pa.B. 3645	June 16, 2018
UNT 27036 to Bear Run (RM 2.92)	Clearfield, Indiana	48 Pa.B. 3645	June 16, 2018
Cush Creek (27100)	Indiana	48 Pa.B. 3645	June 16, 2018
Sawmill Run (27160)	Clearfield	48 Pa.B. 3645	June 16, 2018
Beaver Run (27172)	Clearfield	48 Pa.B. 3645	June 16, 2018
Smoke Hole Run (16742)	Dauphin	48 Pa.B. 3645	June 16, 2018
Penns Creek (17698)	Centre	48 Pa.B. 3645	June 16, 2018
UNT 17902 to North Branch Middle Creek "Schrader Gap Run"	Snyder	48 Pa.B. 3645	June 16, 2018
Moyers Mill Rn (17907)	Snyder	48 Pa.B. 3645	June 16, 2018
Boal Gap Run (18404)	Centre	48 Pa.B. 3645	June 16, 2018
Kishacoquillas Creek (12429)	Mifflin	48 Pa.B. 3645	June 16, 2018
UNT 15970 to Bells Gap Run (RM 5.63)	Blair, Cambria	48 Pa.B. 3645	June 16, 2018
Homer Gap Run (16032)	Blair	50 Pa.B. 107	January 4, 2020
Boiling Spring Run (16651)	Blair	48 Pa.B. 3645	June 16, 2018
Orson Run (07300)	York	48 Pa.B. 3645	June 16, 2018
Perry Furnace Run (11089)	Perry	50 Pa.B. 107	January 4, 2020
Allegheny River (42122)	Potter	50 Pa.B. 107	January 4, 2020
Fisk Hollow Run (58324)	Potter	48 Pa.B. 3645	June 16, 2018
Marvin Creek (57733)	McKean	50 Pa.B. 107	January 4, 2020
Sartwell Creek (58263)	McKean, Potter	50 Pa.B. 107	January 4, 2020
UNT 57377 to Allegheny River "Elm Flat Run"	Potter	48 Pa.B. 3645	June 16, 2018
UNT 57518 to Knapp Creek (RM 5.32)	McKean	50 Pa.B. 107	January 4, 2020
UNT 57521 to Knapp Creek (RM 6.06)	McKean	50 Pa.B. 107	January 4, 2020
UNT 57546 to Tram Hollow Run (RM 0.76)	McKean	50 Pa.B. 107	January 4, 2020
UNT 57672 to North Branch Cole Creek "Brooder Hollow"	McKean	48 Pa.B. 3645	June 16, 2018

UNT 57675 to North Branch Cole Creek "Bakers Hollow"	McKean	50 Pa.B. 107	January 4, 2020
UNT 58144 to Lillibridge Creek "Campbell Hollow"	McKean	48 Pa.B. 3645	June 16, 2018
UNT 58191 to Allegheny Portage Creek "Cady Hollow"	McKean	50 Pa.B. 107	January 4, 2020
UNT 58395 to Allegheny River "Pump Station Hollow"	Potter	48 Pa.B. 3645	June 16, 2018
UNT 58402 to Allegheny River "Earl Hollow"	Potter	48 Pa.B. 3645	June 16, 2018
UNT 64376 to Marvin Creek (RM 9.58)	McKean	50 Pa.B. 107	January 4, 2020
Husband Run (54210)	Venango	48 Pa.B. 3645	June 16, 2018
Snyder Run (51418)	Venango	48 Pa.B. 3645	June 16, 2018
UNT 51240 to Allegheny River (RM 107.57)	Venango	48 Pa.B. 3645	June 16, 2018
UNT 53682 to South Branch French Creek (RM 6.34)	Erie	50 Pa.B. 107	January 4, 2020
UNT 54224 to Pine Creek (RM 1.09)	Crawford	48 Pa.B. 3645	June 16, 2018
UNT 55192 to Tionesta Creek (RM 25.85)	Forest	48 Pa.B. 3645	June 16, 2018
Painter Run (50038)	Elk	50 Pa.B. 107	January 4, 2020
UNT 50461 to Elk Creek (RM 1.81)	Elk	50 Pa.B. 107	January 4, 2020
Little Sicily Run (50689)	McKean	50 Pa.B. 107	January 4, 2020
Big Run (47800)	Jefferson	48 Pa.B. 3645	June 16, 2018
UNT 48660 to Sandy Lick Creek (RM 14.57)	Jefferson	50 Pa.B. 107	January 4, 2020
Elk Creek Park Run (62492)	Erie	48 Pa.B. 3645	June 16, 2018
UNT 59767 to West Branch Conococheague Creek (RM 52.35)	Franklin	52 Pa.B. 6785	October 29, 2022

Additionally, notices of intent to assess these streams were posted on the Department's website. The Department directly notified all affected municipalities, planning commissions, conservation districts, and Commonwealth agencies of these redesignation evaluations in letters dated as summarized in Table 2.

Table 2. Letters of notification to affected governmental organizations and agencies.

Stream Name	County	Date of Letter
Martins Creek (04680)	Northampton	June 16, 2018
UNT 03382 to Saucon Creek	Lehigh	January 4, 2020
Mill Creek (03777)	Carbon	June 16, 2018
UNT 03886 to Lizard Creek (RM 11.35)	Schuylkill	June 16, 2018
UNT 03891 to Lizard Creek (RM 13.64)	Schuylkill	June 16, 2018
Pohopoco Creek (03917)	Carbon	June 16, 2018
UNT 04022 to Pohopoco Creek (rm 22.92)	Monroe	January 4, 2020
Sugar Hollow Creek (04024)	Monroe	June 16, 2018
Long Run (04090)	Carbon	June 16, 2018
Mauch Chunk Creek (04094)	Carbon	January 4, 2020
UNT 03336 to Lehigh Canal (rm 2.18) "Morgan Valley Run"	Northampton	June 16, 2018
UNT 03338 to Lehigh River (rm 3.45)	Northampton	June 16, 2018
Spring Creek (01878)	Berks	June 16, 2018

Bear Creek (02295)	Schuylkill	June 16, 2018
UNT 31137 to Cowanesque River "Teed Hollow"	Potter	June 16, 2018
Bellman Run (31455)	Tioga	June 16, 2018
Obendoffers Creek (28645)	Luzerne	June 16, 2018
Lick Run (27503)	Columbia	November 3, 2022
Big Wapwallopen Creek (28231)	Luzerne	January 4, 2020
Mill Creek (28359)	Luzerne	June 16, 2018
Laurel Run (28360)	Luzerne	June 16, 2018
Bender Run (20955)	Lycoming	June 16, 2018
English Run (21273)	Lycoming	January 4, 2020
Chatham Run (22356)	Clinton	January 4, 2020
McElhattan Creek (22392)	Clinton	June 16, 2018
Fishing Creek (22416)	Clinton	June 16, 2018
UNT 22622 to Sugar Camp Run "Slide Hollow Run"	Centre	January 4, 2020
Little Sandy Run (22791)	Centre	June 16, 2018
Nanny Run (24511)	Cameron	January 4, 2020
Barrs Run (24558)	Cameron	January 4, 2020
Johnson Run (24663)	Elk	January 4, 2020
Jimmy Run (24672)	Elk	January 4, 2020
Silver Mill Hollow Run (24776)	Elk	January 4, 2020
Mill Run (24913)	Elk	January 4, 2020
UNT 24922 to Wilson Run "Erick Hollow"	Clearfield	January 4, 2020
UNT 24933 to Mountain Run (RM 1.15)	Clearfield	January 4, 2020
Mountain Lick Creek (24938)	Clearfield, Elk	June 16, 2018
Grapevine Run (24943)	Clearfield, Elk	January 4, 2020
Moravian Run (26011)	Clearfield	January 4, 2020
Dale Run (26016)	Clearfield	June 16, 2018
UNT 26459 to Clearfield Creek	Cambria	June 16, 2018
Fallentimber Run (26464)	Cambria	January 4, 2020
Bradley Run (26561)	Cambria	June 16, 2018
UNT 26658 to Anderson Creek "Roaring Run"	Clearfield	January 4, 2020
Poplar Run (26739)	Clearfield	June 16, 2018
UNT 26747 to Bell Run (RM 4.62)	Clearfield	June 16, 2018
UNT 26752 to Bell Run (RM 7.6)	Clearfield	June 16, 2018
UNT 26765 to Curry Run (RM 4.78)	Clearfield	June 16, 2018
UNT 26876 to Chest Creek	Cambria	June 16, 2018
UNT 27036 to Bear Run (RM 2.92)	Clearfield, Indiana	June 16, 2018
Cush Creek (27100)	Indiana	June 16, 2018
Sawmill Run (27160)	Clearfield	June 16, 2018

Beaver Run (27172)	Clearfield	June 16, 2018
Smoke Hole Run (16742)	Dauphin	June 16, 2018
Penns Creek (17698)	Centre	June 16, 2018
UNT 17902 to North Branch Middle Creek "Schrader Gap Run"	Snyder	June 16, 2018
Moyers Mill Rn (17907)	Snyder	June 16, 2018
Boal Gap Run (18404)	Centre	June 16, 2018
Kishacoquillas Creek (12429)	Mifflin	June 16, 2018
UNT 15970 to Bells Gap Run (rm 5.63)	Blair, Cambria	June 16, 2018
Homer Gap Run (16032)	Blair	January 4, 2020
Boiling Spring Run (16651)	Blair	June 16, 2018
Orson Run (07300)	York	June 16, 2018
Perry Furnace Run (11089)	Perry	January 4, 2020
Allegheny River (42122)	Potter	January 4, 2020
Fisk Hollow Run (58324)	Potter	June 16, 2018
Marvin Creek (57733)	McKean	January 4, 2020
Sartwell Creek (58263)	McKean, Potter	January 4, 2020
UNT 57377 to Allegheny River "Elm Flat Run"	Potter	June 16, 2018
UNT 57518 to Knapp Creek (RM 5.32)	McKean	January 4, 2020
UNT 57521 to Knapp Creek (RM 6.06)	McKean	January 4, 2020
UNT 57546 to Tram Hollow Run (RM 0.76)	McKean	January 4, 2020
UNT 57672 to North Branch Cole Creek "Brooder Hollow"	McKean	June 16, 2018
UNT 57675 to North Branch Cole Creek "Bakers Hollow"	McKean	January 4, 2020
UNT 58144 to Lillibridge Creek "Campbell Hollow"	McKean	June 16, 2018
UNT 58191 to Allegheny Portage Creek "Cady Hollow"	McKean	January 4, 2020
UNT 58395 to Allegheny River "Pump Station Hollow"	Potter	June 16, 2018
UNT 58402 to Allegheny River "Earl Hollow"	Potter	June 16, 2018
UNT 64376 to Marvin Creek (RM 9.58)	McKean	January 4, 2020
Husband Run (54210)	Venango	June 16, 2018
Snyder Run (51418)	Venango	June 16, 2018
UNT 51240 to Allegheny River (RM 107.57)	Venango	June 16, 2018
UNT 53682 to South Branch French Creek (RM 6.34)	Erie	January 4, 2020
UNT 54224 to Pine Creek (rm 1.09)	Crawford	June 16, 2018
UNT 55192 to Tionesta Creek (rm 25.85)	Forest	June 16, 2018
Little Sicily Run (50689)	McKean	January 4, 2020
Painter Run (50038)	Elk	January 4, 2020
UNT 50461 to Elk Creek (RM 1.81)	Elk	January 4, 2020
Big Run (47800)	Jefferson	June 16, 2018
UNT 48660 to Sandy Lick Creek (RM 14.57)	Jefferson	January 4, 2020
Elk Creek Park Run (62492)	Erie	June 16, 2018

UNT 59767 to West Branch Conococheague Creek (RM 52.35)	Franklin	November 3, 2022

The Department provided for a robust public process to seek all appropriate data and information associated with these streams through public notices for data and public input. The results of the process helped inform the Department's evaluation of the streams, prior to initiation of this final-form rulemaking. The Department received limited feedback from these initial notices.

Following the period for data submission described in the notices of intent to assess, the Department evaluated all available water quality data and other applicable information for these streams, and drafted and published the Draft Stream Evaluation Report: Class A Wild Trout Streams (draft report) on its website for public review and comment on December 11, 2021. Notice of the availability of the draft report also was published at 51 Pa.B. 7789 (December 11, 2021). Members of the public interested in receiving notifications of stream evaluations, including the notices of intent to assess and draft stream evaluation reports may subscribe to the Department's Electronic Notification System, eNotice, at www.ahs.dep.pa.gov/eNOTICEWeb.

The draft report was open for public comment for a 30-day period. The Department received 254 comment letters on the draft report in support of the redesignation recommendations in this final-form rulemaking, with none opposed. Organizations that submitted letters of support on the draft report included Citizens for Pennsylvania's Future, the Delaware Riverkeeper Network, the Pennsylvania Campaign for Clean Water's Exceptional Value Workgroup and the Theodore Roosevelt Conservation Partnership. In addition to these organizations, the Department also received 229 form letters in support of the draft report. The PFBC submitted specific comments for nine streams (Martins Creek, Pohopoco Creek, Chatham Run, Fishing Creek, Bradley Run, Beaver Run, Kishacoquillas Creek, Laurel Run and Penns Creek) in its response to agency review of the draft report. All agency responses were of a technical nature in which PFBC provided feedback on the geographical extent of the evaluated basins.

A copy of the stream evaluation report for these waterbodies is available on the Department's website and is included with this regulatory analysis form. The data and information collected on these waterbodies support the Board's final-form rulemaking as set forth in Annex A.

In addition to the public participation solicited prior to publication of the proposed rulemaking, the public was afforded an opportunity to comment on the proposed rulemaking, which included a virtual public hearing during a 45-day public comment period.

The Department presented a summary of the details of the proposed rulemaking to the Department's Agriculture Advisory Board on April 17, 2024, and presented a summary of this final-form rulemaking on August 28, 2025.

The Department coordinates with the Small Business Ombudsman to ensure the small business community is notified of their opportunity to submit comments on the proposed regulation during the 45-day public comment period following publication in the *Pennsylvania Bulletin*.

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

NPDES Permittees

Only 166 facilities currently hold active, individual NPDES permits for discharges to the stream segments being considered for redesignation in this final-form rulemaking. There are approximately 17,850 facilities across the Commonwealth that hold permits issued under 25 Pa. Code Chapter 92a (relating to National Pollutant Discharge Elimination System permitting, monitoring and compliance). This statewide number of approximately 17,850 includes NPDES permits for concentrated animal feeding operations (CAFO), industrial waste, municipal separate storm sewer systems (MS4), treated sewage, groundwater remediation, and stormwater associated with industrial activities. This total does not include NPDES permits for stormwater associated with construction activities, which is discussed in the Department's response to question #16.

The types of the 166 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.

The Department considers approximately 41 of these 166 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 determination 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 the HQ use, the existing 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 additional special treatment requirements on the existing permitted discharges.

In general, if a person has an individual NPDES permit to discharge pollutants into waters of the Commonwealth, the existing permit will not be affected by the stream redesignations to HQ, 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 to HQ, any subsequent permit action will take the redesignation into account when establishing permit conditions.

Discharges to special protection streams are not eligible for coverage under NPDES general permits, based on 25 Pa. Code § 92a.54(a)(8) and (e)(9) (relating to general permits), and therefore, require individual permits. Fees for individual NPDES permits as compared to fees for general NPDES permits are described in the Department's responses to questions #17, #19 and #20.

The Department's antidegradation regulations require 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 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 if it 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 must 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 maintain and protect 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.

Costs associated with new, increased or additional discharges to surface waters may include increased consulting fees to complete the additional antidegradation analyses and permit application requirements that address antidegradation of surface waters. 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.

Any estimates of who will be affected by the stream redesignations in this final-form rulemaking and how they will be affected would be speculative at this time because: (1) a discharger will not be impacted until a future activity requires a new or modified NPDES permit; (2) the characteristics of each receiving stream and each effluent discharge are unique; (3) 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 persons who are responsible for discharges.

Please refer to the Department's response to questions #19 and #20 for more detailed economic information.

Public Water Supply Facilities

The Department identified 18 public water supply facilities with raw water intakes 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 suppliers and the local community. By maintaining clean surface water, public water suppliers may avoid the costly capital investments that are often required for the installation of advanced water treatment processes as well as the higher annual operations and maintenance costs associated with effective operation of these processes. In turn, the public water suppliers' customers will benefit from reduced fees for clean drinking water.

Recreation Industry

Small businesses in the recreation industry will also be positively affected by these final regulations. The maintenance and protection of the water quality that would result from this final-form rulemaking will ensure the long-term availability of Class A Wild Trout fisheries, wildlife watching and other forms of outdoor recreation.

(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 166 facilities currently holding active NPDES permits for discharges to the stream segments being considered for redesignation in this final-form rulemaking, which will not be impacted by this final-form rulemaking unless the discharges are increased or new discharges are added. The types of the 166 discharges

with active NPDES permits located in waters affected by this final-form rulemaking include industrial waste, sewage, MS4s, stormwater associated with industrial activities, CAFOs and application of pesticides. The Department considers approximately 41 of these 166 permitted facilities to be small businesses based on available information. A person who applies for a new, additional or increased point source discharge to a special protection water will be required to comply with this final regulation and must satisfy the requirements of the antidegradation regulation at 25 Pa. Code § 93.4c(b)(1).

Statewide, there are thousands of active earth disturbance activities requiring general or individual NPDES permits for discharges of stormwater associated with construction activities issued under 25 Pa. Code Chapter 102 (relating to erosion and sediment control). Any person proposing a new earth disturbance activity requiring a permit under Chapter 102 will be required to comply with this final regulation and the antidegradation regulations, as applicable.

Any approximation of the number of future activities within these waters that may require an NPDES permit for a new, additional or increased point source discharge would be speculative. See the discussion in the Department's response to question #19 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.**

Overall, the Commonwealth, its 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. 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 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.

Increased property values are an economic and social benefit of clean water protected by this final-form regulation.

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 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 to 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 are social and economic benefits of clean water protected by this final-form regulation.

Businesses requiring a high-quality source water and those in the recreation industry will be positively affected by this final-form 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, importantly, 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 United States Geological Survey 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—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. Such 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).) Note that there are streams included in this regulation that flow in the Lehigh Valley. 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 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 final-form regulation.

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 package. 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 avoid the costly capital investments that are often required for the installation of advanced water treatment processes as well as the higher annual operations and maintenance costs associated with effective operation of these processes. 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.

The stream redesignations in this final-form rulemaking will not have any negative financial or economic impact on those persons currently engaged in an activity that is regulated by the Department under an individual permit. Discharges in existence at the time of each relevant stream survey have been considered in the determination 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 the HQ use and the water quality of the HQ waters will be maintained and protected, they are considered to satisfy the antidegradation requirements in 25 Pa. Code § 93.4a(c) as long as the discharge characteristics of both quality and quantity remain the same. Thus, redesignation to special protection does not automatically impose additional new treatment requirements or financial impacts on NPDES permitted entities and other existing permitted discharges.

The Department's 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 Department's response to question #15 regarding SEJ, nondegrading discharge and nondischarge alternatives.

Only when a person 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). For nonpoint source control, under 25 Pa. Code § 93.4c(b)(2), cost-effective and reasonable BMPs must be achieved for pollution sources to HQ and Exceptional Value Waters (EV). Discharges to special protection waters 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. Costs associated with new, increased or additional discharges to surface waters may include increased consulting fees to complete the additional antidegradation analyses and permit application requirements that address antidegradation of surface waters as well as increased treatment and operations and maintenance expenses. Presently, 166 active NPDES permits have discharges located on waters identified in this final-form 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.

When earth disturbance activities occur within the basins of the stream segments being redesignated in this final-form rulemaking, additional construction and post-construction BMPs may be necessary to protect

water quality under 25 Pa. Code Chapter 102. It is not known at this time whether any new earth disturbance activities will be proposed that would require a Chapter 102 permit or other approval from the Department.

Where onlot sewage systems are planned, compliance with the sewage facilities planning and permitting regulations in 25 Pa. Code Chapters 71, 72 and 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 25 Pa. Code § 93.4c. This final-form rulemaking will not increase costs or trigger adverse effects on existing or planned sewage systems.

Discharge activities to special protection streams are not eligible for coverage under NPDES general permits, based on 25 Pa. Code § 92a.54(a)(8) and (e)(9), and therefore, require individual permits. Additional cost may be incurred by facilities required to obtain an individual permit.

In general, any evaluation of the financial and economic impacts of this final-form regulation on dischargers would be speculative at this time because: (1) a discharger will not be impacted until a future activity requires a new or modified NPDES permit; (2) the characteristics of each receiving stream and each effluent discharge are unique; (3) 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 persons who are responsible for discharges.

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

The stream redesignations will benefit residents of and visitors to the Commonwealth, both present and future, by maintaining and protecting water quality. Protecting water quality provides economic value to present and future generations in the form of clean water. For example, by maintaining clean surface water, public water suppliers may avoid costly capital investments associated with advanced water treatment processes and the higher annual operations and maintenance costs associated with effective operation of these processes. Additional examples of benefits to be gained by the stream redesignations include increased property values, maintenance of abundant and healthy fish and wildlife populations, and support for outdoor recreation. Restoring the water quality of a stream once it has become impaired by contaminants is often a lengthy and costly process. It is generally more cost-effective to prevent water quality degradation than to restore it after it has become degraded.

It is important for the Commonwealth to realize these benefits of clean water and to ensure that 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.

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

While a new, increased or additional discharge to a stream with a protected use of HQ does require additional evaluations and may require the use of additional treatment technologies or BMPs, it does not

prohibit activities. Discharge permits to waters with a protected use of HQ may be issued if a permit applicant can sufficiently demonstrate to the Department that the activity will protect existing water quality.

Perry et al. (2022) found that, overall, the economic benefits of special protection waters outweighed the costs. The report noted a positive relationship between prevalence of HQ and EV designated streams and all three measures of economic prosperity: personal income, earnings and employment. Furthermore, this economic study found no evidence to support the claim that combined HQ and EV stream designation harms economic development prospects.

The costs and benefits of this final-form rulemaking are described further in the Department's responses to questions #17 and #19.

On balance, the certain benefits of this final-form rulemaking 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.**

There are 166 facilities currently holding active NPDES permits for discharges to the stream segments being considered for redesignation in this final-form rulemaking. The types of the 166 discharges with active NPDES permits located in waters affected by this final-form rulemaking include industrial waste, sewage, MS4s, stormwater associated with industrial activities, CAFOs and application of pesticides. The Department considers approximately 41 of these 166 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 determination 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 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 additional special treatment requirements on the existing discharges from the 166 NPDES permitted discharges located in the waters being considered for redesignation in this final-form rulemaking.

As stated previously, discharge activities to special protection streams are not eligible for coverage under NPDES general permits, based on 25 Pa. Code § 92a.54(a)(8) and (e)(9), and therefore, 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).

Where onlot 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 in these waters that are being considered for redesignation to HQ in this final-form rulemaking. 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 re-demonstrate 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) (www.depgreenport.state.pa.us/elibrary/GetFolder?FolderID=4664).

Statewide, there are thousands of active earth disturbance activities requiring general or individual NPDES permits for discharges of stormwater associated with construction activities issued under 25 Pa. Code Chapter 102. These permits for stormwater discharges associated with construction activities were not included in the 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 25 Pa. Code Chapter 102 with a discharge to a stream with a protected use of HQ or EV must obtain an individual permit and comply with the antidegradation regulations, as applicable. Where a permitted discharge existed prior to the receiving waterbody attaining an existing or designated use of HQ or EV, those persons may continue to operate using BMPs that have been approved by the Department and implemented. Any new, increased or additional discharges to the waterbody would be required to comply with the antidegradation regulations, 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 an individual permit is $1,500 compared to $500 for a general permit as set forth in 25 Pa. Code § 102.6(b)(1) (relating to permit applications and fees). 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 (*www.depgreenport.state.pa.us/elibrary/GetFolder?FolderID=4680) and the Department's list of Alternative E&S BMPs and Post-Construction Stormwater Management Stormwater Control Measures (http://files.dep.state.pa.us/Water/BPNPSM/StormwaterManagement/ConstructionStormwater/Reviewed_Alternative_BMPs.pdf). The Department may also approve alternative BMPs that maintain and protect the existing water quality and water uses.

In addition to permitted earth disturbance activities, any person proposing a new, additional, or increased point source discharge associated with a CAFO, industrial wastewater, MS4, treated sewage or stormwater associated with industrial activities 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 if it is environmentally sound and cost-effective when compared with the cost of the proposed nondegrading discharge. See further discussion in the Department's response to question #15 regarding SEJ, nondegrading discharge and nondischarge alternatives.

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. Costs associated with new, increased or additional discharges to surface waters may include increased consulting fees to complete the additional antidegradation analyses and permit application requirements that address antidegradation of surface waters as well as increased treatment and operations and maintenance expenses. 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.

Any estimates of who will be affected by the stream redesignations in this final-form rulemaking and how they will be affected 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 requirement; (and (4) generic technology or cost equations are not available for purposes of comparing the costs and/or savings for persons who are responsible for discharges.

(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.**

A total of 37 publicly-owned treatment works (POTW), publicly-owned water treatment plant (WTP), and MS4 NPDES permits authorize discharges to the streams redesignated in this final-form rulemaking. A POTW or WTP with an NPDES permit to discharge treated sewage or industrial wastewater will not be affected by the stream redesignations in this final-form rulemaking. A new POTW or WTP may be impacted by this final-form rulemaking in the future if the POTW or WTP proposes to discharge to waters identified in this final-form rulemaking. For existing discharges, if a person proposes to change the quality or quantity of their permitted discharge(s) after a stream is redesignated, any subsequent permit action will take the redesignation into account when establishing permit conditions. See the Department's responses to questions #15 and #19 for more detailed information on antidegradation requirements, SEJ, nondegrading discharge and nondischarge alternatives.

Local governments that are MS4s will most likely have additional costs associated with MS4 permitting requirements for discharges to waters with a protected use of HQ. Any MS4 that discharges to a stream with a protected use of HQ will be required to obtain an individual permit or an individual permit waiver. Discharge activities to special protection streams are not eligible for coverage under NPDES general permits, based on 25 Pa. Code § 92a.54(a)(8) and (e)(9), and therefore, require individual permits. See the Department's response to question #19 for additional information on costs to MS4s.

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 to HQ, any subsequent permit action will take the redesignation into account when establishing permit conditions.

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 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.

Local governments may gain income 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 become more desirable places to live. Local governments that use these waters as a public water supply may also gain an economic benefit by reduced source water treatment requirements. See the Department's response to questions #17 and #19 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 an NPDES permit to discharge pollutants into waters of the Commonwealth, the costs and savings would be the same as those described in the Department's response to question #20 for local government.

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

Four NPDES permits have been issued to a Commonwealth agency that discharges to three of the streams that are being redesignated in this final-form rulemaking.

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

Existing Department paperwork, procedures and guidance will be used to implement antidegradation requirements for discharges to the streams being redesignated to HQ in this final-form rulemaking. 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 alternatives and nondegrading treatment options or BMPs. A permit applicant for a new or renewed permit must apply for an individual permit; however, a permit renewal does not trigger antidegradation review until new, additional or increased pollutants are proposed in the permit application.

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

No new forms are required to implement this final-form rulemaking. 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 Department's 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=56433&DocName=03 - NOTICE OF INTENT %28NOI%29.PDF <span style%3D"color:blue%3b">%28NEW%29

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

Chapter 102 Permit Modules
https://greenport.pa.gov/elibrary/GetFolder?FolderID=105480

(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 2025-26	FY +1 2026-27	FY +2 2027-28	FY +3 2028-29	FY +4 2029-30	FY +5 2030-31
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 (2021-22)	FY-2 (2022-23)	FY-1 (2023-24)	Current FY (2024-25)
160-10381 Enviro Protection Operations	$98,036,000	$102,719,000	$116,450,000	$117,001,000
161-10382 Enviro Program Management	$34,160,000	$35,739,000	$39,714,000	$40,195,000

(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 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 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 final regulation goes into effect, no existing discharges will be immediately affected. The Department considers approximately 41 of these 166 permitted facilities in watersheds affected by this final-form 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 being redesignated to HQ in this final regulation. No new forms, reports, or implementation procedures are necessary. NPDES permit application modules for discharges to waters with a protected use of HQ 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 alternatives and nondegrading treatment options or BMPs.

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

In general, if a person has an NPDES permit to discharge pollutants into waters of the Commonwealth, the existing permit limits will not be affected by the stream redesignations in this final regulation, and no new costs will be incurred. If, however, a person proposes to change the quality or quantity of their permitted discharge(s) after a stream is redesignated to HQ, 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 at 25 Pa. Code Chapter 93 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 (that is, alternatives to the discharge) exist that are cost effective and environmentally sound; and, if not, whether a nondegrading discharge is possible. Since the final regulations involve designations of streams to HQ, Chapter 93 allows a reduction of water quality if lowering water quality is necessary to accommodate important economic or social development in the area in which the waters are located.

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

While no special provisions are included in this final-form rulemaking, it is important to note that this final-form 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 final regulation meets the Commonwealth's obligations under The Clean Streams Law and the CWA to protect water uses. The final 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 final 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 final 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 final 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 or other applicable permitting programs.

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

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

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

No 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. In this final-form rulemaking, redesignations rely on § 93.4b(a)(2)(ii) 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 a Class A wild trout stream, based on species-specific biomass standards in 58 Pa. Code § 57.8a, 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 the streams in this final-form rulemaking. The Commissioners of the PFBC 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 being redesignated in this final-form rulemaking. This review was conducted to ensure that the Class A criteria were met and that any other available information on the

waterbodies was evaluated and considered in the designated use recommendations, as appropriate. This final regulation was developed by the Department's Bureau of Clean Water following a comprehensive evaluation of the physical, chemical and biological characteristics and other information available on these waterbodies.

The results of the Department's review can be found in the Department's Stream Evaluation Report available at https://files.dep.state.pa.us/Water/Drinking%20Water%20and%20Facility%20Regulation/WaterQualityPortalFiles/Stream_Packages/ClassA4_Draft_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 https://files.dep.state.pa.us/water/Drinking%20Water%20and%20Facility%20Regulation/WaterQualityPortalFiles/SamplingProtocols_WadeableStreams_Final.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:	March 13, 2025
C. The expected date of delivery of the final-form regulation:	Quarter 1, 2026
D. The expected effective date of the final-form regulation:	Upon publication in *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 egulation 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 regulations because they are needed for the Department to carry out its statutory authority. The Department will continue to closely monitor these final 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 3 years, a schedule for review is inherently established.