

## EXECUTIVE SUMMARY

### FINAL RULEMAKING STREAM REDESIGNATIONS (BIG BROOK, ET AL.) 25 Pa. Code, Chapter 93

As part of its continuing water quality management program and ongoing review of water quality standards, the Department of Environmental Protection (Department) recommends that the Environmental Quality Board (Board) adopt the following amendments to 25 Pa. Code Chapter 93, §§93.9b, 93.9f, 93.9g, 93.9n, 93.9o and 93.9r as set forth in Annex A of this final rulemaking and summarized below:

#### Big Brook, et al.

Stream	County	Reach	List	Current Designation*	Requested Designation*	Recommended Designation*
Big Brook	Wayne	Basin, Source to T477 (Gridline Road) Bridge Crossing in Lebanon Twp.	B	HQ-CWF, MF	EV	Basin, EV, MF
Mill Creek	Berks	Basin	F	None	---	CWF
Brooke Evans Creek	Montgomery	Basin	F	WWF	EV	WWF (no change)
Wissahickon Creek	Montgomery	Basin, Source to Route 73 Bridge	F	TSF	WWF	Basin, TSF, MF (no change, add MF)
Beaver Creek	Chester	Basin, Source to East Brandywine – Caln Township Border	G	None	---	Basin, CWF, MF
Beaver Creek	Chester	Basin, East Brandywine-Caln Township Border to Mouth	G	TSF, MF	---	
Stone Creek	Bedford	Basin, Source to Confluence with UNT 14908 at RM** 0.34	N	None	---	WWF
Unnamed Tributary (UNT) 14908 to Stone Creek	Bedford	Basin	N	None	---	CWF
Stone Creek	Bedford	Basin, UNT 14908 to Mouth	N	None	---	CWF
Furnace Run	Lancaster/Lebanon	Basin, Source to SR1026	O	TSF	HQ/EV	HQ-CWF
Clarion River	Clarion	Main Stem, Inlet of Piney Lake to Mouth	R	CWF	WWF	WWF

\* WWF = Warm Water Fishes  
TSF= Trout Stocking  
CWF= Cold Water Fishes

HQ = High Quality  
EV = Exceptional Value  
MF = Migratory Fishes

\*\* RM = River Mile

UNT = Unnamed Tributary

These streams were evaluated in response to five petitions, as well as requests from the Department's Southeast Regional Office (SERO), Southcentral Regional Office (SCRO) and the Bureau of Water Standards and Facility Regulation (BWSFR) as follows:

Big Brook - Petition: (Lebanon Twp. (Wayne Co.) Board of Supervisors)  
Mill Creek - BWSFR  
Brooke Evans Creek - Petition: (Larry Piasecki)  
Wissahickon Creek - Petition: (Upper Gwynedd Twp; Montgomery Co.)  
Beaver Creek - SERO  
Stone Creek - SCRO  
Furnace Run - Petition: (students from Conestoga Valley High School, Lancaster County)  
Clarion River - Petition: (Iron Furnace Chapter of Trout Unlimited, the Alliance for Wetlands and Wildlife, the Commissioners of Clarion County, and Reliant Energy Mid-Atlantic Power Holding LLC)

These regulatory changes were developed as a result of aquatic studies conducted by the BWSFR. The physical, chemical, and biological characteristics and other information on these waterbodies were evaluated to determine the appropriateness of the current and requested designations using applicable regulatory criteria and definitions. In reviewing whether waterbodies qualify as HQ or EV waters, the Department considers the criteria in § 93.4b (relating to qualifying as High Quality or Exceptional Value Waters). Based upon the data collected in these surveys, the Department recommends the designations described in the preceding table and as set forth in Annex A of the final rulemaking.

The Board approved the proposed rulemaking for the Big Brook, et al. package at its February 20, 2007 meeting. The proposed rulemaking was published in the *Pennsylvania Bulletin* on May 12, 2007 (37 Pa.B 2190) with provision for a 45-day public comment period that closed on June 26, 2007. Comments were received from 2 commentators including the U.S. Environmental Protection Agency (EPA), Region 3 and the Upper Gwynedd Township.

The EPA Region 3 office supported the package in general, but also requested additional clarification in the stream redesignation evaluation for the Clarion River regarding which of six factors in 40 CFR 131.10 (g) the Department is basing its decision that the CWF use is not attainable for the lower portion of the Clarion River. Subsequent discussions have satisfied the EPA that the Department's position is sufficiently supported by statements provided in the stream redesignation evaluation report which are based on provisions at § 93.4 (b), which is also equivalent to 40 CFR 131.10(g).

Upper Gwynedd Township (petitioner) commented that there is no justification to maintain the Trout-Stocking (TSF) designation in the head-waters of the Wissahickon Creek where trout do not exist. The Department maintains that while the head-waters of the Wissahickon Creek are currently impaired, the designated use (TSF, MF) can be attained through water quality improvements.

This final-form rulemaking is being made under the authority of Sections 5(b)(1) and 402 of The Clean Streams Law (35 P.S. §§691.5 (b)(1) and 691.402), which authorizes the Environmental Quality Board to develop and adopt rules and regulations to implement the provisions of the Clean Streams Law, 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, Section 303 of the Federal Clean Water Act (33 U.S.C. §1313) sets forth requirements for water quality standards, and the federal regulation at 40 CFR §131.32 sets forth certain requirements for portions of the Commonwealth's antidegradation program. This final-form regulation is not more stringent than the federal requirements found in the companion federal regulations.

The streams recommended for redesignation are already protected at their existing use and, therefore, the designated use changes will have no additional impact on treatment requirements. Existing discharges are unaffected by changes to the designated use of the water body. Some new or expanding discharges may be subject to more stringent treatment requirements to meet designated and existing stream uses.

The redesignations will be implemented through The Department's permit and approval actions. For example, the National Pollutant Discharge Elimination System (NPDES) permitting program bases effluent limitations on the use designation of the stream. These permit conditions are established to assure water quality criteria are achieved and designated and existing uses are protected. Dischargers are required to provide effluent treatment and implement best management practices according to the water quality criteria associated with existing uses and revised designated water uses.

The Department recommends that these revisions be adopted by the Board and published in the *Pennsylvania Bulletin* as final-form rulemaking.