

<h1>Regulatory Analysis Form</h1> <p>(Completed by Promulgating Agency)</p> <p>(All Comments submitted on this regulation will appear on IRRC's website)</p>		<p>INDEPENDENT REGULATORY REVIEW COMMISSION</p> <div style="border: 2px solid black; padding: 5px; text-align: center;"> <p>RECEIVED</p> <p>JUL 19 2017</p> <p>Independent Regulatory Review Commission</p> </div>	
<p>(1) Agency Environmental Protection</p>		<p>IRRC Number: 3140</p>	
<p>(2) Agency Number: Identification Number: 7-528</p>			
<p>(3) PA Code Cite: 25 Pa. Code Chapter 93</p>			
<p>(4) Short Title: Water Quality Standards – Class A Stream Redesignations</p>			
<p>(5) Agency Contacts (List Telephone Number and Email Address): Primary Contact: Laura Edinger; 717.783.8727; ledinger@pa.gov Secondary Contact: Jessica Shirley; 717.783.8727; jessshirley@pa.gov </p>			
<p>(6) Type of Rulemaking (check applicable box):</p> <p> <input type="checkbox"/> Proposed Regulation <input checked="" type="checkbox"/> Final Regulation <input type="checkbox"/> Final Omitted Regulation </p>		<p> <input type="checkbox"/> Emergency Certification Regulation <input type="checkbox"/> Certification by the Governor <input type="checkbox"/> Certification by the Attorney General </p>	
<p>(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)</p> <p>Section 303(c)(1) of the Clean Water Act (33 U.S.C. § 1313(c)(1)) requires that states periodically, but at least once every three years, review and revise as necessary, their water quality standards. Further, states are required to protect existing uses of their waters. This regulation is undertaken as part of the Department's ongoing review of Pennsylvania's water quality standards. The regulation will update and revise water quality standards that are designated uses for surface waters of the Commonwealth.</p> <p>This rulemaking modifies Chapter 93 to reflect the list of recommended redesignations of streams as embedded in the attached Water Quality Standards Review Stream Redesignation Evaluation report. The regulation will update and revise stream use designations in §§ 93.9a, 93.9c - 93.9f, 93.9h, 93.9i, 93.9k, 93.9l, 93.9n - 93.9q, and 93.9t. These changes will not impose any new requirements on existing wastewater discharges or other existing activities regulated by the Department under existing permits or approvals. These changes may, upon implementation, result in the application of more stringent treatment requirements for new and/or expanded wastewater discharges, as well as the use of best management practices (BMP) to control non-point sources of pollution, such as stormwater runoff from construction projects, to the streams in order to protect the existing and designated water uses.</p>			

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

The Pennsylvania Clean Streams Law, Act of June 22, 1937 (P.L. 1987, No. 394) as amended, 35 P.S. §§ 691.1(b)(1) and 691.402.

Section 1920-A of The Administrative Code of 1929, as amended, 71 P.S. § 510-20.

Section 303(c) of the Federal Clean Water Act, 33 U.S.C.A. § 1313(c)

(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.

Section 303(c) of the federal Clean Water Act and 40 CFR § 131.10 require states to develop water quality standards that consist of designated uses. Such standards must “protect the public health or welfare and enhance the quality of water.” In addition, such standards must take into consideration water uses including public water supplies, propagation of fish and wildlife, recreational purposes, agricultural purposes and industrial purposes.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The purpose of developing the water quality standards is to protect Pennsylvania’s surface waters. Pennsylvania’s surface waters, through the water quality standards program, are protected for a variety of uses including: drinking water supplies for humans, livestock and wildlife; fish consumption; irrigation for crops; aquatic life uses; recreation; and industrial water supplies.

By protecting the water uses, and the quality of the water necessary to maintain the uses, benefits may be gained in a variety of ways by all citizens of the Commonwealth. For example, clean water used for drinking water supplies benefits the consumers by lowering drinking water treatment costs and reducing medical costs associated with drinking water illnesses. Clean surface waters also benefit the Commonwealth by providing for increased tourism and recreational use of the waters. Clean water provides for increased wildlife habitat and more productive fisheries. This regulation benefits not only local residents but those from outside the area who come to enjoy the benefits and aesthetics of outdoor recreation and downstream users of the clean water.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

No. The regulations are not more stringent than federal standards.

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

Other states are also required to maintain water quality standards, based on the federal mandate at section 303(c) of the Clean Water Act and 40 CFR § 131.10.

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

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No other regulations are affected by this rulemaking.

(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.)

Prior to the development of the proposed rulemaking, the streams included in this rulemaking for redesignation were all evaluated in response to a submittal from the Pennsylvania Fish and Boat Commission (PFBC) under § 93.4b (relating to qualifying as High Quality or Exceptional Value waters). Section 93.4b(a)(2)(ii) pertains to the process for a stream to qualify for High Quality (HQ) designation based upon its classification as a Class A Wild Trout stream. It states that a surface water that has been designated a Class A Wild Trout stream by the PFBC, following public notice and comment, qualifies for HQ designation. The PFBC published notice and requested comments on the Class A designation of these streams. The 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 fisheries management reports for these streams. This review was conducted to ensure that the Class A Wild Trout criteria were met.

The Department provides public notice of its intent to assess the Class A stream data prior to any resulting redesignation recommendations. The Department's notice requesting additional water quality data was published in the *Pennsylvania Bulletin* on May 26, 2012 (42 Pa.B. 3027) and on the Department website. No water quality data were received. In addition, all affected municipalities, county planning commissions, conservation districts, and Commonwealth agencies were notified of this redesignation evaluation in a letter dated May 2, 2012. No data or comments were received in response to these notices.

After the Department's final draft streams evaluation report was completed, it was made available to all affected municipalities, county planning commissions, county conservation districts and other Commonwealth agencies on March 20, 2015. This final draft report was mailed to these entities and posted on the Department website, for a 45-day public comment period. Six stakeholders offered comments. The Department considered these comments in drafting the final Class A Wild Trout Streams Evaluation Report.

After this initial review period was complete, the proposed rulemaking was developed. The public was afforded the opportunity to comment on the proposed rulemaking during a 45-day public comment period, which closed on April 18, 2016. Comments were received from 308 commentators and most supported either the entire proposed rulemaking or one or more local streams in the proposed rulemaking. There were no opposing comments. The Independent Regulatory Review Commission (IRRC) also submitted

comments requesting amendments to the regulatory analysis form (RAF) when drafting the final-form rulemaking. This RAF was amended accordingly.

(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?

Over 7,000 facilities across the Commonwealth hold permits issued pursuant to Chapter 92a (relating to National Pollutant Discharge Elimination System (NPDES) permitting, monitoring and compliance). Only 39 of these facilities are known to hold NPDES permits within the stream segments redesignated in this rulemaking. The types of NPDES discharges identified include industrial waste, sewage and stormwater. Discharges in existence at the time of the stream survey have been considered in the evaluation of the existing water quality of the stream and the subsequent recommendation for redesignation to special protection. Since the presence of such discharge activities did not preclude the attainment of special protection status, the discharges may continue as long as the discharge characteristics (both quality and quantity) remain the same. Thus, redesignation to special protection does not impose any additional special requirements on the existing discharges from these 39 NPDES permitted entities.

Any person proposing a new, additional, or increased point source discharge would need to satisfy the requirements found at 25 Pa. Code § 93.4c(b)(1). Any new, additional or increased point source discharge to special protection waters must evaluate non-discharge alternatives and use an alternative that is environmentally sound and cost-effective when compared with the cost of the proposed discharge. The permit applicant must demonstrate in the permit application that their new or expanded activities will not lower the existing water quality of special protection streams. If an applicant cannot meet nondegrading discharge requirements, a person who proposes a new, additional or increased discharge to High Quality Waters is given an opportunity to demonstrate that there is a social or economic justification (SEJ) for lowering the quality of the stream, rather than maintaining the existing water quality.

Discharge activities to special protection streams typically do not qualify for general permits and, therefore, will require individual permits. Where on-lot sewage systems are planned, compliance with the sewage facilities planning and permitting regulations in Chapters 71, 72 and 73 (relating to the administration of sewage facilities planning program; administration of sewage facilities permitting program; and standards for onlot sewage treatment facilities) will continue to satisfy § 93.4c (relating to the implementation of antidegradation requirements) in these redesignated HQ Waters. Proponents of sewage facilities in HQ waters who demonstrate SEJ at the sewage facilities planning stage need not re-demonstrate SEJ at the discharge permitting stage. The SEJ demonstration process is available to sewage and non-sewage discharge applicants.

When earth disturbance activities occur within the basins of the stream segments redesignated in this rulemaking, additional BMPs may be necessary to protect water quality under Chapter 102 (relating to erosion and sediment control).

The Department cannot accurately estimate who will be affected by these stream redesignations because: (1) a discharger will not be impacted until a future activity requiring a new or modified NPDES permit is proposed; (2) effluent discharge and receiving stream characteristics are unique; (3) social and economic justification may be available to modify the compliance requirement; and (4) generic technology or cost equation are not available for purposes of comparing the costs and/or savings for local governments that are responsible for discharges.

The Department identified three public water supply facilities with raw water intakes within 16.5 stream miles downstream of the candidate stream sections for redesignation in this rulemaking package. These three public water suppliers, which serve over 115,000 citizens, will benefit from this rulemaking package because their raw source water will be afforded a higher level of protection. This is an economic benefit because the source water treatment costs for the drinking water will be less costly to customers if less treatment is needed due to the high quality of the water in the stream.

Small businesses in the recreation industry will be positively affected by these regulations. The maintenance and protection of the water quality will ensure the long-term availability of Class A Wild Trout fisheries.

(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.

Out of over 7,000 NPDES permitted facilities across the Commonwealth, only 39 of them are known to hold discharge permits within the portions of the streams that are candidates for redesignation in this rulemaking. The types of NPDES discharges identified include industrial wastewater, sewage and stormwater. These permittees will not be required to comply with any new requirements for their existing discharges. Discharges in existence at the time of the stream survey have been considered in the evaluation of the existing water quality of the stream and the subsequent recommendation for redesignation to special protection. Since the presence of such discharge activities did not preclude the attainment of special protection status, they are considered to satisfy the antidegradation requirements as long as the discharge characteristics (both quality and quantity) remain the same.

Any person proposing a new, additional, or increased point source discharge would need to satisfy the requirements of the antidegradation regulation at 25 Pa. Code § 93.4c(b)(1). In addition, any person proposing future earth disturbance activities may be required to implement additional BMPs consistent with the requirements in Chapter 102.

Since a person will not be required to comply with this regulation until a future activity requiring a new, additional or increased point source discharge, or new earth disturbance activities, any approximation of the number of persons who would need to comply would be speculative. Based on current information, the regulation might affect 39 discharge permits if expansions to these facilities are proposed.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

Financial and Economic Impacts: The stream redesignations in this regulation will not have any financial or economic impact on anyone currently engaged in an activity regulated by the Department. Discharges in existence at the time of the stream survey have been considered in the evaluation of the existing water quality of the stream and the subsequent recommendation for redesignation to special protection. Since the presence of such discharge activities did not preclude the attainment of special protection status, they are considered to satisfy the antidegradation requirements as long as the discharge characteristics (both quality and quantity) remain the same. Thus, redesignation to special protection does not automatically impose any additional new requirements or financial impacts on NPDES permitted entities and other existing entities.

Any person proposing a new, additional, or increased point source discharge would need to satisfy the requirements found at 25 Pa. Code § 93.4c(b)(1). Any new, additional or increased point source discharge to special protection waters must evaluate non-discharge alternatives and use an alternative that is environmentally sound and cost-effective when compared with the cost of the proposed discharge. The permit applicant must demonstrate in the permit application that their new or expanded activities will not lower the existing water quality of special protection streams. If an applicant cannot meet nondegrading discharge requirements, a person who proposes a new, additional or increased discharge to High Quality Waters is given an opportunity to demonstrate that there is a social or economic justification (SEJ) for lowering the quality of the stream, rather than maintaining the existing water quality.

Discharge activities to special protection streams typically do not qualify for general permits and, therefore, will require individual permits. Where on-lot sewage systems are planned, compliance with the sewage facilities planning and permitting regulations in Chapters 71, 72 and 73 (relating to the administration of sewage facilities planning program; administration of sewage facilities permitting program; and standards for onlot sewage treatment facilities) will continue to satisfy § 93.4c (relating to the implementation of antidegradation requirements) in these redesignated HQ Waters. Proponents of sewage facilities in HQ waters who demonstrate SEJ at the sewage facilities planning stage need not re-demonstrate SEJ at the discharge permitting stage. The SEJ demonstration process is available to sewage and non-sewage discharge applicants.

When earth disturbance activities occur within the basins of the stream segments redesignated in this rulemaking, additional BMPs may be necessary to protect water quality under Chapter 102 (relating to erosion and sediment control).

Social Impacts and Economic and Social Benefits:

This regulation benefits the Commonwealth by furthering the General Assembly's policy declaration for clean water, established in Section 4 of the CSL (see below). All present and future citizens of the Commonwealth, will benefit from the regulation since it will provide the appropriate level of water quality protection for all water uses.

Section 4. Declaration of Policy.

- (1) Clean, unpolluted streams are absolutely essential if Pennsylvania is to attract new manufacturing industries and to develop Pennsylvania's full share of the tourist industry;
- (2) Clean, unpolluted water is absolutely essential if Pennsylvanians are to have adequate out of door recreational facilities in the decades ahead;
- (3) It is the objective of the Clean Streams Law not only to prevent further pollution of the waters of the Commonwealth, but also to reclaim and restore to a clean, unpolluted condition every stream in Pennsylvania that is presently polluted;
- (4) The prevention and elimination of water pollution is recognized as being directly related to the economic future of the Commonwealth; and
- (5) The achievement of the objectives herein set forth requires a comprehensive program of watershed management and control.

(CSL Section 4 amended July 31, 1970, P.L.653, No. 222)

1. *Increased property values are an economic and social benefit of clean water protected by this regulation. There are many benefits to having clean water.* A reduction in toxics found in Pennsylvania's waterways may lead to increased property values for properties located near rivers or lakes. The study, *The Effect of*

Water Quality on Rural Nonfarm Residential Property Values, (Epp and Al-Ani, American Journal of Agricultural Economics, Vol 61, No. 3 (Aug. 1979)), used real estate prices to determine value of improvements in water quality in small rivers and streams in Pennsylvania. Water quality, whether measured in pH or by the owner's perception, has a significant effect on the price of adjacent property. Their analysis showed a positive correlation between water quality and housing values. They concluded that buyers are aware of the environmental setting of a home and that differences in the quality of nearby waters affect the price paid for a residential property.

A 2006 study from the Great Lakes region estimated that property values were significantly depressed in two regions associated with toxic contaminants (PAHs, PCBs, and heavy metals). The study showed that a portion of the Buffalo River region (approx. 6 miles long) had depressed property values of between \$83 million and \$118 million for single-family homes, and between \$57 million and \$80 million for multi-family homes as a result of toxic sediments. The same study estimated that a portion of the Sheboygan River (approx. 14 miles long) had depressed property values of between \$80 million and \$120 million as the result of toxics. "*Economic Benefits of Sediment Remediation in the Buffalo River AOC and Sheboygan River AOC: Final Project Report*," (<http://www.nemw.org/Econ>). While this study related to the economic effect of contaminated sediment in other waters in the Great Lakes region, the idea that toxic pollution depresses property values applies in Pennsylvania. A reduction in toxic pollution in Pennsylvania's waters has a substantial economic benefit to property values in close proximity to waterways.

2. *Maintenance of abundant and healthy fish and wildlife populations and support for outdoor recreation are benefits of clean water protected by this regulation.* Because the focus of this regulation relates directly to the protection of fisheries, sportsmen in Pennsylvania will benefit by the preservation of the existing Class A fisheries. Class A streams should be protected so that they can continue to be a self-sustaining angling opportunity as compared to the cost-intensive alternative of raising and stocking fish. The purpose of the stream redesignation is to preserve this resource for current and future sportsmen so that the social and economic benefits are maintained in the local area. As recreation demands increase in the future, the preservation of unique resources such as Class A trout waters will no doubt add economic value to the local areas and, importantly, provide a valuable social function for outdoor recreation. Specific revenue-related benefits associated with outdoor trout fishing in Pennsylvania are outlined below.

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

According to the "Angler Use, Harvest and Economic Assessment on Wild Trout Streams in Pennsylvania," (R. Greene, et al. 2005) (http://www.outdoorrecreationdata.com/Stats/PA_wildtrout_05.pdf), the Pennsylvania Fish and Boat Commission collected information to assess the economic impact of wild trout angling in Pennsylvania, during the 2004 regular trout season, April 17 through September 3, 2004. "Based on the results of this study, angling on wild trout streams contributed over 7.16 million dollars to Pennsylvania's economy during the regular trout season in 2004."

According to the "2011 National Survey of Fishing, Hunting and Wildlife-Associated Recreation" (<https://www.census.gov/prod/2012pubs/fhw11-nat.pdf>) for Pennsylvania, prepared by the U.S. Fish and

Wildlife Service, approximately 1,101,000 anglers, participated in fishing and 3,598,000 persons participated in wildlife watching in the year 2011. In addition, all fishing-related expenditures in Pennsylvania totaled \$485 million in 2011. Such expenditures include food and lodging, transportation and other expenses (equipment rental, bait and cooking fuel). In 2011, wildlife watchers spent \$1.3 billion on activities in Pennsylvania. Expenditures include trips-related costs and equipment.

According to the Outdoor Recreation Industry Association, Pennsylvania's outdoor recreation generates 219,000 direct Pennsylvania jobs, \$7.2 billion in wages and salaries, and \$1.6 billion in state and local tax revenue. These figures include both tourism and outdoor recreation product manufacturing. (See Outdoor Industry Association (2012), "The Outdoor Economy: Take it Outside for American Jobs and a Strong Economy," https://outdoorindustry.org/pdf/OIA_OutdoorRecEconomyReport2012.pdf.)

3. Savings in water filtration for downstream communities that rely on surface waters for water supplies and availability of unpolluted water for domestic, agricultural and industrial uses are benefits of clean water protected by this regulation.

By maintaining cleaner water, public water suppliers will incur the benefits of lower water treatment costs. In addition, cleaner intake water will reduce consumer costs for purchasing clean drinking water.

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

Protection of HQ waters does not automatically impose any additional special requirements on NPDES permittees; their existing discharges are factored into the redesignations. The High Quality protection afforded to waters identified in this rulemaking has been in place, representing the existing uses of these waters, since the date of evaluation for each of the candidate streams. For the existing use dates of all of the candidate streams, refer to Recommendations Table in the attached Stream Report (see Date of Evaluation). Only when a person proposes a new, additional, or increased point source discharge would they need to satisfy the requirements of the antidegradation regulation at 25 Pa. Code § 93.4c(b)(1) and (2). Special protection designations do require additional permit application evaluations and considerations and may require the use of additional technologies or BMPs to address pollution that was not present at the time of the stream redesignation. Presently, 39 NPDES discharges are located on waters identified in this rulemaking. It is not known at this time whether these facilities will expand, possibly triggering the antidegradation regulation.

Discharge permits to HQ or EV waters may be issued if an entity can sufficiently demonstrate to the Department that the activity will protect existing water quality. Compliance with the sewage facilities planning and permitting regulations in Chapters 71, 72 and 73 (relating to the administration of sewage facilities planning program; administration of sewage facilities permitting program; and standards for onlot sewage treatment facilities) will continue to satisfy § 93.4c (relating to the implementation of antidegradation requirements) in these redesignated HQ Waters. This final rulemaking will not increase costs or trigger adverse effects on existing or planned on-lot sewage systems.

When earth disturbance activities occur within the basins of the stream segments redesignated in this rulemaking, additional BMPs may be necessary to protect water quality under Chapter 102 (relating to erosion and sediment control). It is also unknown at this time if any persons will propose an activity that would require an earth disturbance permit or other approval from the Department.

Several examples of benefits to be gained include property value increases, lower treatment costs and customer delivery costs for drinking water and maintenance of abundant and healthy fish and wildlife populations and support for outdoor recreation. Benefits are described in #17, above.

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 requiring a new or modified NPDES permit is proposed; (2) effluent discharge and receiving stream characteristics are unique; (3) social and economic justification may be available to modify the compliance requirement; and (4) generic technology or cost equation are not available for purposes of comparing the costs and/or savings for local governments that are responsible for discharges.

The stream redesignations benefit all citizens of the Commonwealth, both present and future, by maintaining and protecting water. Providing this benefit is consistent with Article 1, Section 27 of the Pennsylvania Constitution which provides that the people have a right to "pure water" and to the "preservation of the natural, scenic, historic and esthetic values of the environment."

On balance, the benefits outweigh any potential costs and potential adverse impacts.

(19) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

Please refer to the response to Question 17 for more detailed information.

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

Costs associated with new, increased or additional discharges would include consulting to complete a new portion of a permit application that addresses antidegradation of surface waters. The application requires the permittee to select the various treatment technologies or BMPs that will maintain the existing water quality of the stream and then does an affordability analysis to select the best option.

While a high quality special protection designation does require these additional evaluations and may require the use of additional treatment technologies or BMPs, it does not prohibit activities. Any discharge may occur to HQ or EV waters as long as the activity will protect existing water quality.

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 requiring a new or modified NPDES permit is proposed; (2) effluent discharge and receiving stream characteristics are unique; (3) social and economic justification may be available to modify the compliance requirement; and (4) generic technology or cost equation are not available for purposes of comparing the costs and/or savings for local governments that are responsible for discharges.

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

In general, if a municipality 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 discharge changes in quality or quantity after a stream is redesignated, any permit action will take the redesignation into account when establishing permit limits.

Costs associated with new, increased or additional discharges might require the assistance of a consultant to complete a new portion of a permit application that addresses antidegradation of surface waters. The application requires the permittee to select the various treatment technologies or BMPs that will maintain the existing water quality of the stream and then does an affordability analysis to select the best option.

While a high quality special protection designation does require these additional evaluations and may require the use of additional treatment technologies or BMPs, it does not prohibit activities. Any discharge may occur to HQ or EV waters as long as the activity will protect existing water quality.

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 requiring a new or modified NPDES permit is proposed; (2) effluent discharge and receiving stream characteristics are unique; (3) social and economic justification may be available to modify the compliance requirement; and (4) generic technology or cost equation are not available for purposes of comparing the costs and/or savings for local governments that are responsible for discharges.

Local governments may gain an income stream from the redesignations due to potential tourism revenue and landowner attraction to clean water. For those local governments that receive income from this industry, the redesignations will protect the local revenue and employment from the tourism industries that are attracted to recreation associated with surface waters, such as anglers and other recreational uses. In addition, local land values may increase in the future as homes that are near areas of clean water and protected resources such as the trout fishery 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.

(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.

Currently, no Commonwealth agencies have discharges to these streams. If a new discharge by a Commonwealth agency is proposed, the costs and savings would be the same as those described in #20 for local government.

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

(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 High Quality streams. No new forms, reports, or implementation procedures are necessary. A person who proposes to discharge new, additional or increased pollutants might need the assistance of a consultant to evaluate nondischarge and nondegrading treatment options or best management practices.

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

For a person 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 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 (22b).

(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

<http://www.elibrary.dep.state.pa.us/dsweb/View/Collection-12474>

Mining SEJ module

<http://www.elibrary.dep.state.pa.us/dsweb/View/Collection-12475>

Oil and Gas program Erosion and Sediment (E&S) control general permit

<http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-99033/8000-PM-OOGM0005%20NOI%20Intent.pdf>

Industrial waste antidegradation module (including Industrial Waste (IW) stormwater only discharges)

<http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-115734/3800-PM-BCW0008g%20Module%204%20and%20Module%204%20Instructions.pdf>

Act 537 Planning checklist

<http://www.elibrary.dep.state.pa.us/dsweb/Get/Document-112901/3850-FM-BCW0003.pdf>

Pesticides permit antidegradation module

<http://www.elibrary.dep.state.pa.us/dsweb/View/Collection-10892>

E&S control individual permit

<http://www.elibrary.dep.state.pa.us/dsweb/View/Collection-9432>

(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 2016/17	FY +1 2017/18	FY +2 2018/19	FY +3 2019/20	FY +4 2020/21	FY +5 2021/22
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 (2013/14)	FY -2 (2014/15)	FY -1 (2015/16)	Current FY (2016/17)
160-10381 Enviro Protection Operations	\$75,184,000	\$84,438,000	\$87,172,000	\$89,066,000
161-10382 Enviro Program Management	\$25,733,000	\$28,517,000	\$28,277,000	\$30,025,000

(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.

Persons who propose to discharge new, additional or increased pollutants into surface waters of the Commonwealth must comply with the regulation. Also, please see response #15. When the regulation goes into effect, no existing discharges will be affected.

(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 High Quality streams. No new forms, reports, or implementation procedures are necessary. NPDES permit application modules for discharges to special protection waters can be found at the links listed in (22b). A person who proposes to discharge new, additional or increased pollutants might need the assistance of a consultant to evaluate nondischarge and nondegrading treatment options or best management practices.

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

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

(d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

The existing regulations in 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 (to the discharge) exist that are cost effective and environmentally sound; and, if not, whether a nondegrading discharge is possible. Since all of the regulations involve designations of High Quality-Cold Water Fishes, Chapter 93 allows a reduction of water quality if lowering water quality is necessary to accommodate important economic or social development in the area in which the waters are located.

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

While no special provisions are included in this rulemaking, it is important to note that this rulemaking affords the protection of water quality sources, which helps to ensure clean water for all citizens of this Commonwealth. This will positively impact affected groups such as those listed above.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

This regulation will meet the Commonwealth's obligations under the Pennsylvania Clean Streams Law and the federal Clean Water Act to protect water uses. The regulations reflect the results of a scientific evaluation of regulatory criteria. No alternative regulatory schemes are available to achieve the correct level of protection for the waters of the Commonwealth.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

a) The establishment of less stringent compliance or reporting requirements for small businesses;

This regulation does not establish or revise compliance or reporting requirements for small businesses. No alternative regulatory schemes are available to achieve the correct level of protection for the waters of the Commonwealth. The regulations reflect the results of a scientific evaluation of regulatory criteria.

b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

This regulation does not establish or revise schedules or deadlines for compliance or reporting requirements for small businesses. Schedules of compliance and reporting requirements are considered when permit or approval actions are taken, in accordance with 25 Pa. Code Chapter 92a.

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

This regulation does not establish or revise compliance or reporting requirements for small businesses. Compliance and reporting requirements are considered when permit or approval actions are taken, in accordance with 25 Pa. Code Chapter 92a.

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 best management practices for persons who discharge pollutants to High Quality streams would be speculative at this time since (1) a discharger will not be impacted until a future activity requiring a new or modified NPDES permit is proposed, (2) effluent discharge and receiving stream characteristics is unique, and (3) social and economic justification may be available to modify the compliance requirement.

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

No such exemptions of small businesses are available in this case.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail 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 Pennsylvania Fish and Boat Commission (PFBC) under § 93.4c (relating to implementation of antidegradation requirements). Section 93.4c(a)(1) pertains to the process for changing a designated use of a stream. In this Class A Wild Trout Stream Redesignations rulemaking package, all of the redesignations rely on § 93.4b(a)(2)(ii) (relating to qualifying as High Quality or Exceptional Value Waters) to qualify streams for High Quality (HQ) designations based upon their classifications as Class A Wild Trout streams. The PFBC collected data for these streams. The PFBC then determined that the data supported reclassification of these waters as Class A Wild Trout streams. A surface water that has been classified a Class A Wild Trout stream by the PFBC, based on species-specific biomass standards, and following public notice and comment, qualifies for HQ designation. Department staff conducted an independent review of the trout biomass data in the PFBC's fisheries management reports for the streams in this rulemaking in order to ensure that the HQ criteria were indeed met. The results of the Department's review of the PFBC fisheries management reports are included in the Department's Stream Evaluation Report available at http://files.dep.state.pa.us/Water/Drinking%20Water%20and%20Facility%20Regulation/WaterQualityPortalFiles/Stream_Packages/Class_A_Streams_Report.pdf. An addendum to the Department's Stream Evaluation Report has been created that includes basin maps of the candidate watersheds. The addendum is located at http://files.dep.state.pa.us/Water/Drinking%20Water%20and%20Facility%20Regulation/WaterQualityPortalFiles/Stream_Packages/Class_A2Final_ADDENDUM.pdf. In addition, electronic copies of all of the PFBC fisheries management reports are available at http://files.dep.state.pa.us/Water/Drinking%20Water%20and%20Facility%20Regulation/WaterQualityPortalFiles/Class_A_PFBC_Reports/, and the PFBC's sampling protocols for wadeable streams are available at http://files.dep.state.pa.us/Water/Drinking%20Water%20and%20Facility%20Regulation/WaterQualityPortalFiles/SamplingProtocols_WadeableStreams_Final.pdf. Department staff reviewed the protocols and stream reports and found them to be scientifically sound.

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

- | | |
|---|------------------------|
| A. The length of the public comment period: | <u>45 days</u> |
| B. The date or dates on which any public meetings or hearings will be held: | <u>N/A</u> |
| C. The expected date of delivery of the final-form regulation: | <u>Quarter 3, 2017</u> |
| D. The expected effective date of the final-form regulation: | <u>Quarter 3, 2017</u> |
| E. The expected date by which compliance with the final-form regulation will be required: | <u>Quarter 3, 2017</u> |

F. The expected date by which required permits, licenses or other approvals must be obtained:

Upon publication of the final-form rulemaking.

(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 regulations because they are needed for the Department to carry out its statutory authority. The Department will continue to closely monitor these regulations for their effectiveness and recommend updates to the Board as necessary.

Also, since the federal Clean Water Act requires review, and revision as necessary, of the Commonwealth's water quality standards at least once every three years, a schedule is inherently built in for continual review of this regulation.

ADDENDUM

TO THE

CLASS A WILD TROUT STREAMS STATEWIDE

**WATER QUALITY STANDARDS REVIEW
STREAM REDESIGNATION EVALUATION**

**Drainage Lists:
A,C,D,E,F,H,I,K,L,N,O,P,Q,T**

**WATER QUALITY MONITORING SECTION
DIVISION OF WATER QUALITY STANDARDS
BUREAU OF CLEAN WATER
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

FEBRUARY 2017

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Preface

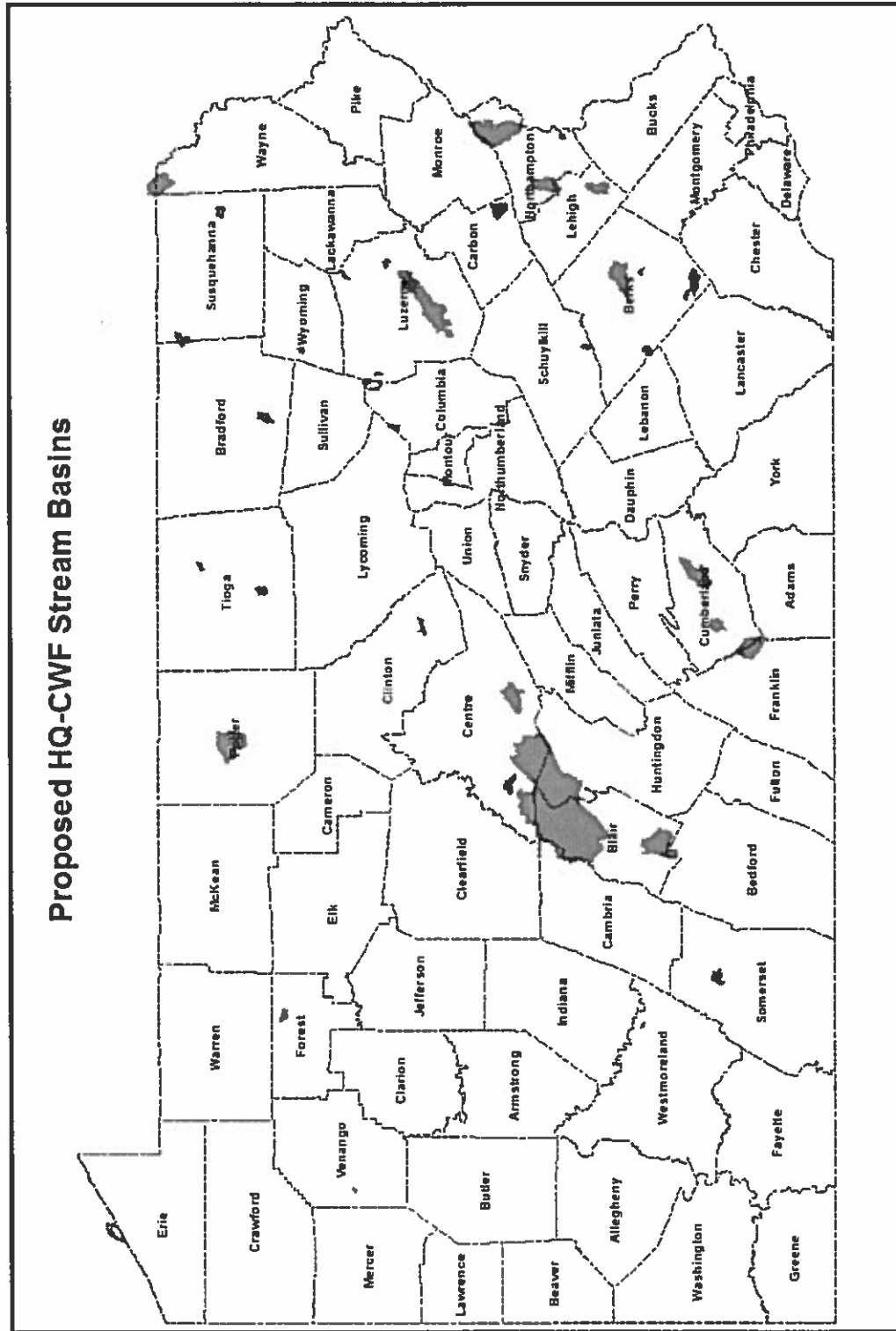
This addendum to the December 2014 Class A Wild Trout Streams Report consists of stream maps for all of the 50 streams or stream segments that are being considered for redesignation to HQ-CWF along with the Class A Stream Redesignation Rulemaking Package. All of these recommended revisions which are included in the Class A Stream Redesignation Rulemaking are the result of stream evaluations conducted by the Department in response to data submitted from the Pennsylvania Fish and Boat Commission (PFBC) under §93.4c (relating to implementation of antidegradation requirements). Section 93.4c(a)(1) pertains to the process for changing a designated use of a stream. In this rulemaking, redesignations rely on §93.4b(a)(2)(ii) (relating to qualifying as High Quality or Exceptional Value Waters) to qualify streams for High Quality (HQ) designations based upon their classifications as Class A wild trout streams. A surface water that has been classified a Class A wild trout stream by the PFBC, based on species-specific biomass standards, and following public notice and comment, and approval by the PFBC Commissioners, qualifies for HQ designation. The PFBC published notice and requested comments on the Class A designation of these streams. The Commissioners of the PFBC approved these waters after providing public notice and review of the comments received.

The Environmental Quality Board approved the proposed rulemaking for the Class A Stream Redesignation Package at its November 17, 2015 meeting. On February 23, 2016, the Department submitted a copy of the proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House Environmental Resources and Energy Committees for review and comment in accordance with Section 5(a) of the Regulatory Review Act (71 P.S. §745.5(a)). The proposed rulemaking was published in the Pennsylvania Bulletin on March 5, 2016 (46 Pa.B. 1205) with provision for a 45-day public comment period that closed on April 18, 2016.

The Department received 307 supportive comments for the proposed regulatory amendments. Commentators provided many reasons for their support of this rulemaking either for specific stream redesignations included in the rule or for all of the regulatory amendments included in the rule. Commentators highlighted the following: these streams have met the necessary qualification for High Quality; citizens support the redesignation of streams in order to protect all of their uses; redesignations help Pennsylvania meet requirements of the Clean Water Act; redesignations preserve Pennsylvanians' constitutionally protected right to "pure water"; the aquatic biota and the recreational opportunities are supported by the redesignations; economic benefit results from maintaining these resources; trout angling opportunities and the community that engages in angling will be additionally supported by the redesignations; protection of smaller streams promotes the health of the larger watershed; and redesignations protect the water supply. Further, commentators encouraged the Department to continue to be diligent in evaluating other streams that are potential candidates for redesignation and to prioritize the protection of water quality for both those within and outside of this Commonwealth.

All public comments were supportive of the proposed regulatory amendments. IRRC also submitted comments requesting amendments to the regulatory analysis form (RAF) for the final-form rulemaking. The RAF was amended accordingly and is included as part of the final-form rulemaking package. Further, IRRC requested more thorough responses and additional information be provided along with the final-form regulation submittal. This addendum was created, in part, to respond to concerns raised by IRRC. A more detailed summary of the comments submitted to the Board and the Department's responses to those comments are available in the comment and response document that also accompanies the final-form rulemaking package.

Proposed HQ-CWF Stream Basins



Legend

- Class A Stream Basins
- County Boundaries

Sherman Creek; Wayne County



Legend

----- Proposed HQ-CWF Class A Stream

Class A Stream Basin

Roads

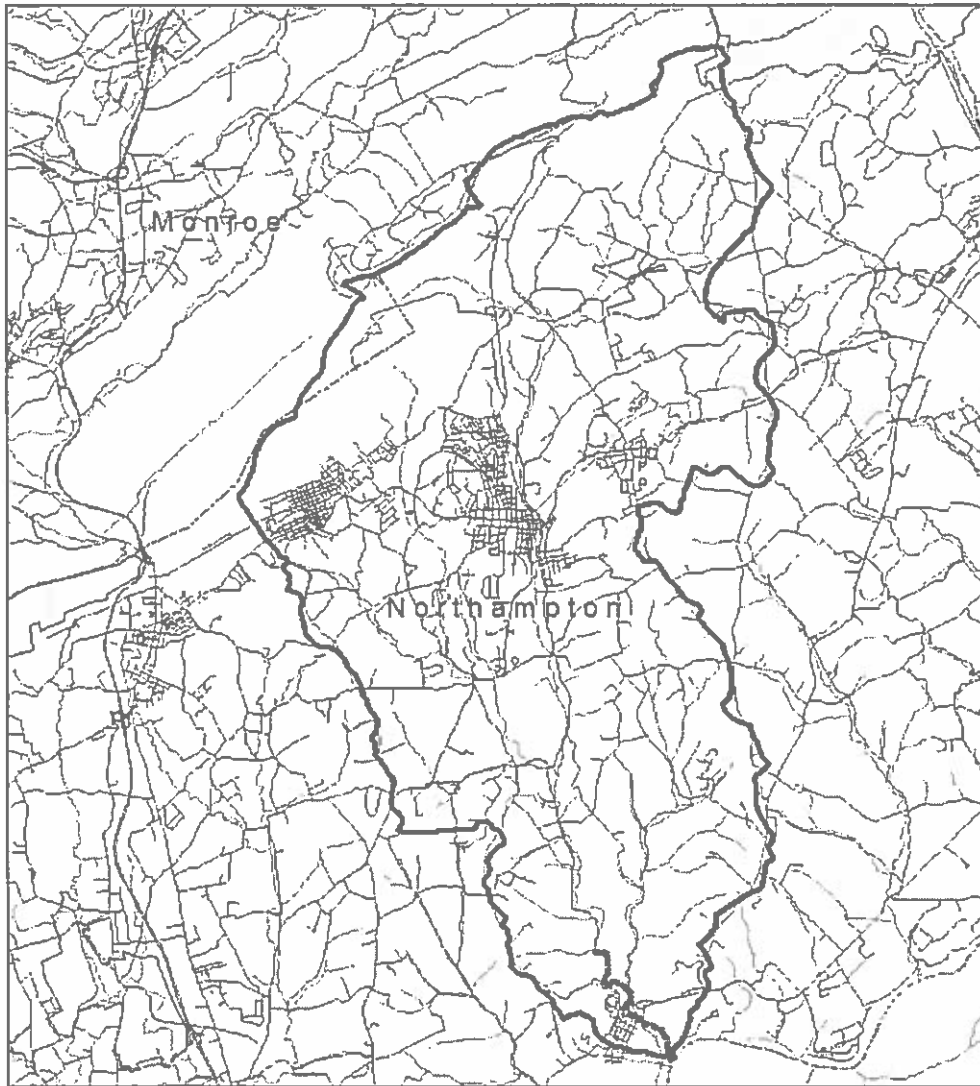
Streams

Public Lands

County Boundary

0 0.4 0.8 1.6 2.4 3.2 Miles

Martins Creek; Northampton County



Legend

----- Proposed HQ-CWF Class A Stream

 Class A Stream Basin

— Roads

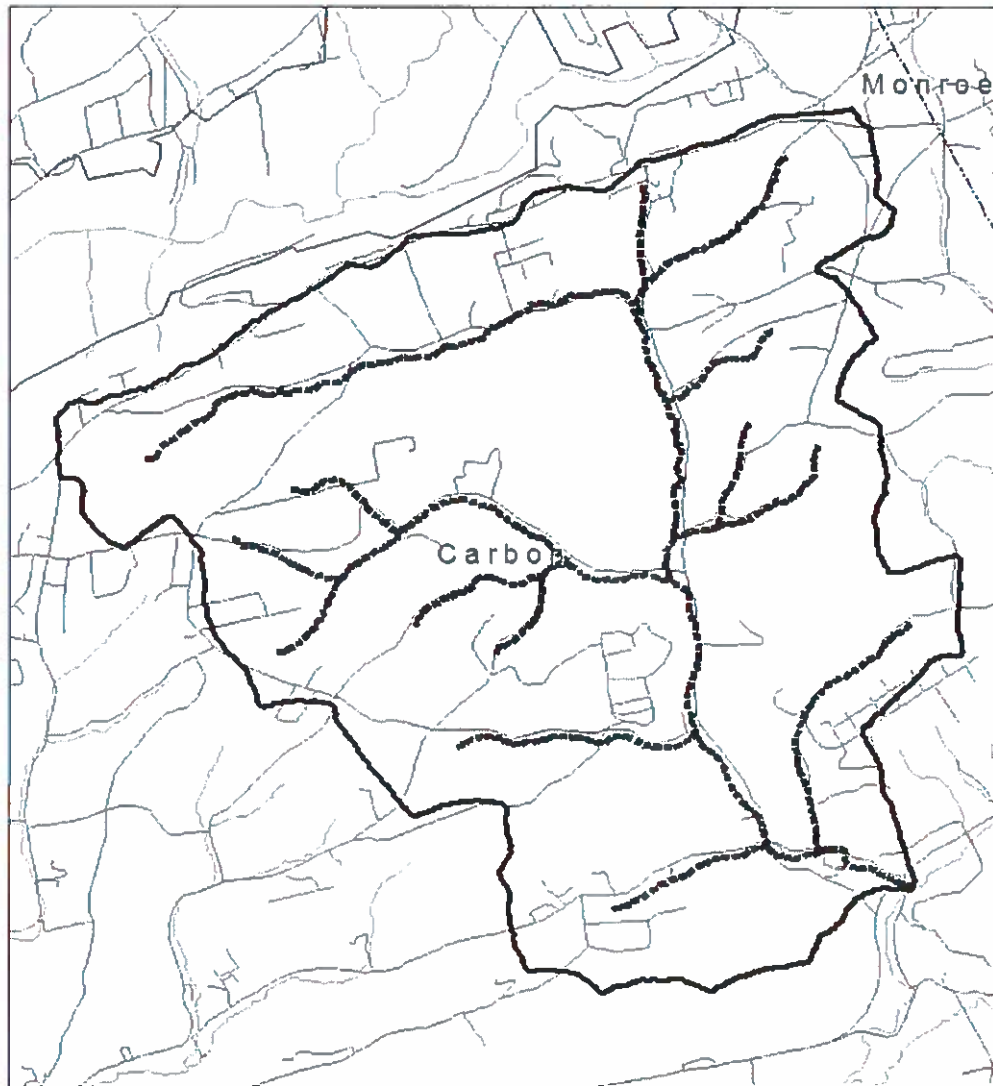
— Streams

 Public Lands

 County Boundary

 Miles
0 0.5 1 2 3 4

Hunter Creek; Carbon County



Legend

- Proposed HQ-CWF Class A Stream
- Class A Stream Basin
- Roads
- Streams
- Public Lands
- County Boundary

0 0.25 0.5 1 1.5 2 Miles

Catasauqua Creek; Lehigh County



Legend

Proposed HQ-CWF Class A Stream

Class A Stream Basin

Roads

Streams

County Boundary

0 0.5 1 2 3 4 Miles

Saucon Creek; Lehigh County



Legend

----- Proposed HQ-CWF Class A Stream

Class A Stream Basin

— Roads

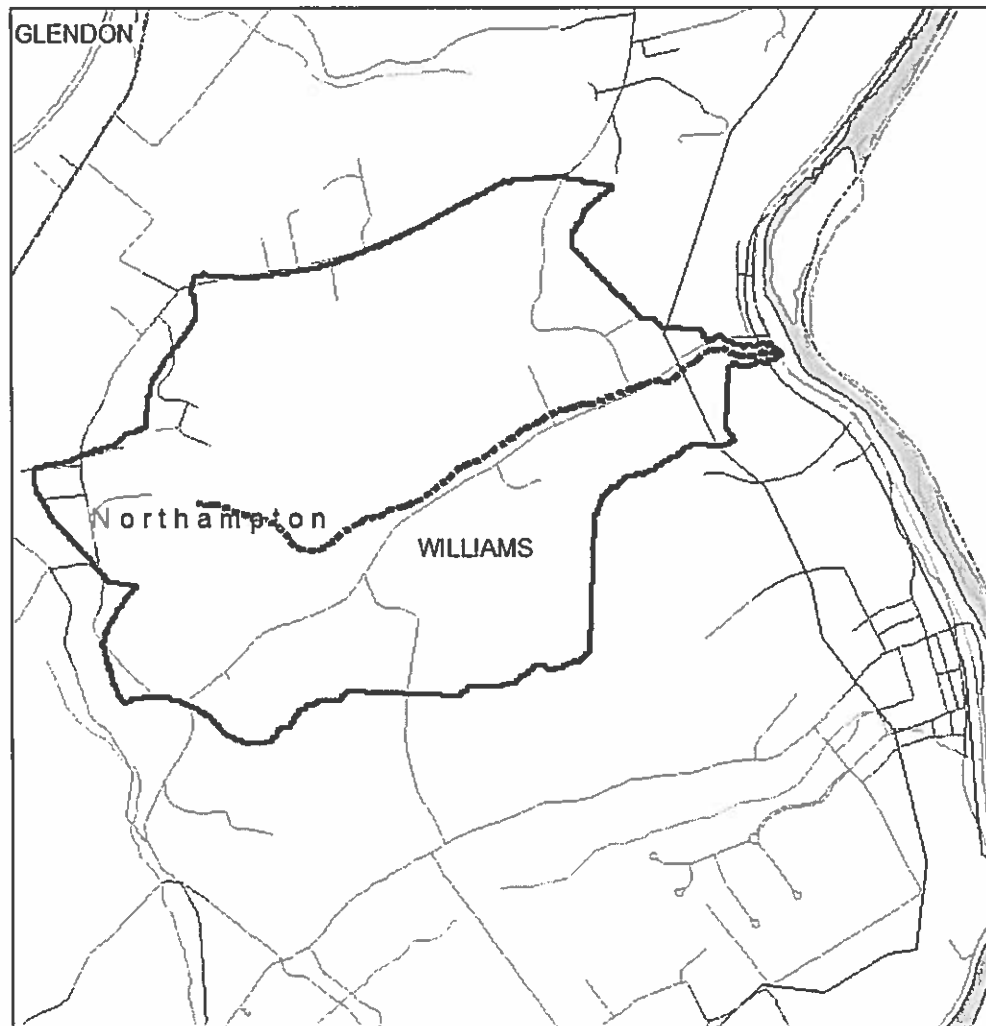
— Streams

Public Lands

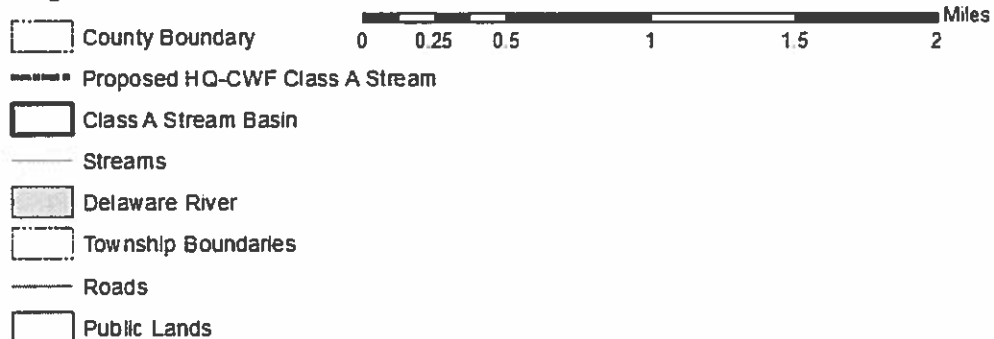
County Boundary

0 0.5 1 2 3 4 Miles

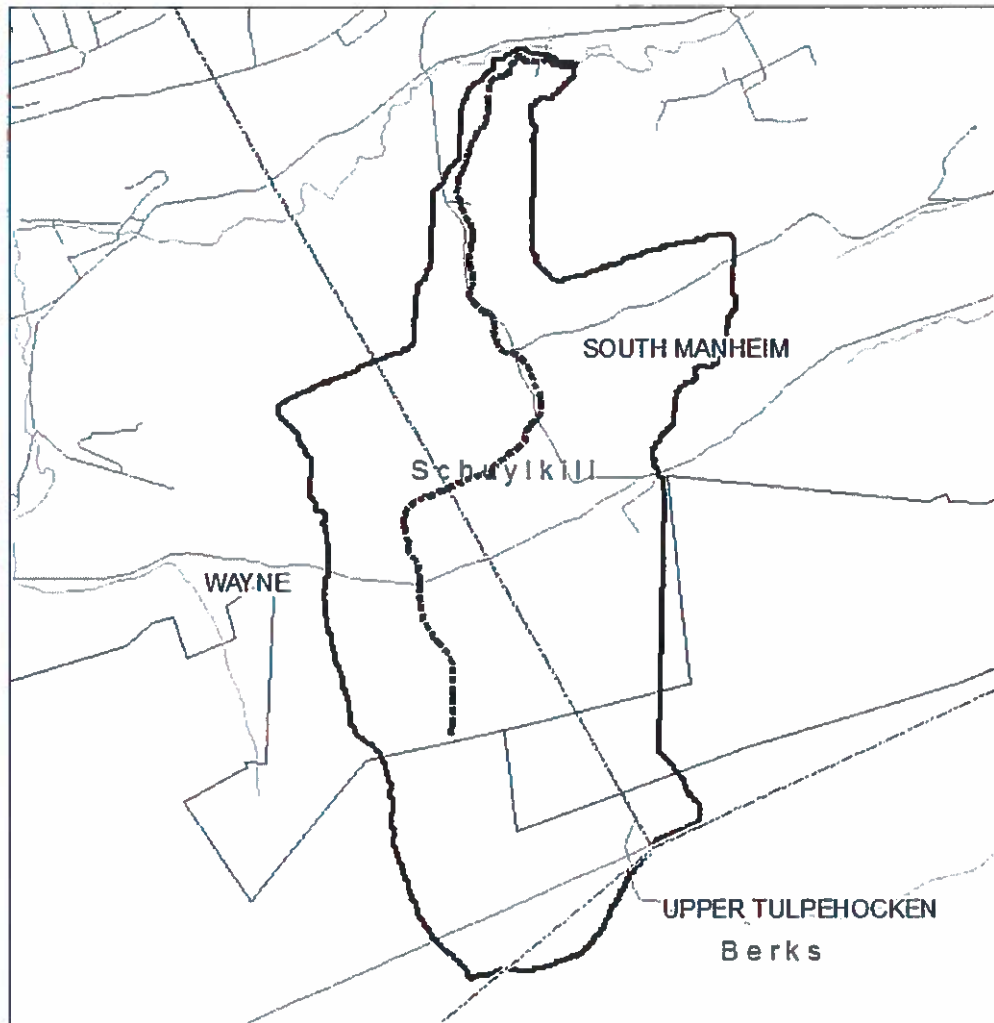
UNT 03333 to Delaware River; Northampton County










Legend



UNT 02299 to Bear Creek; Schuylkill County

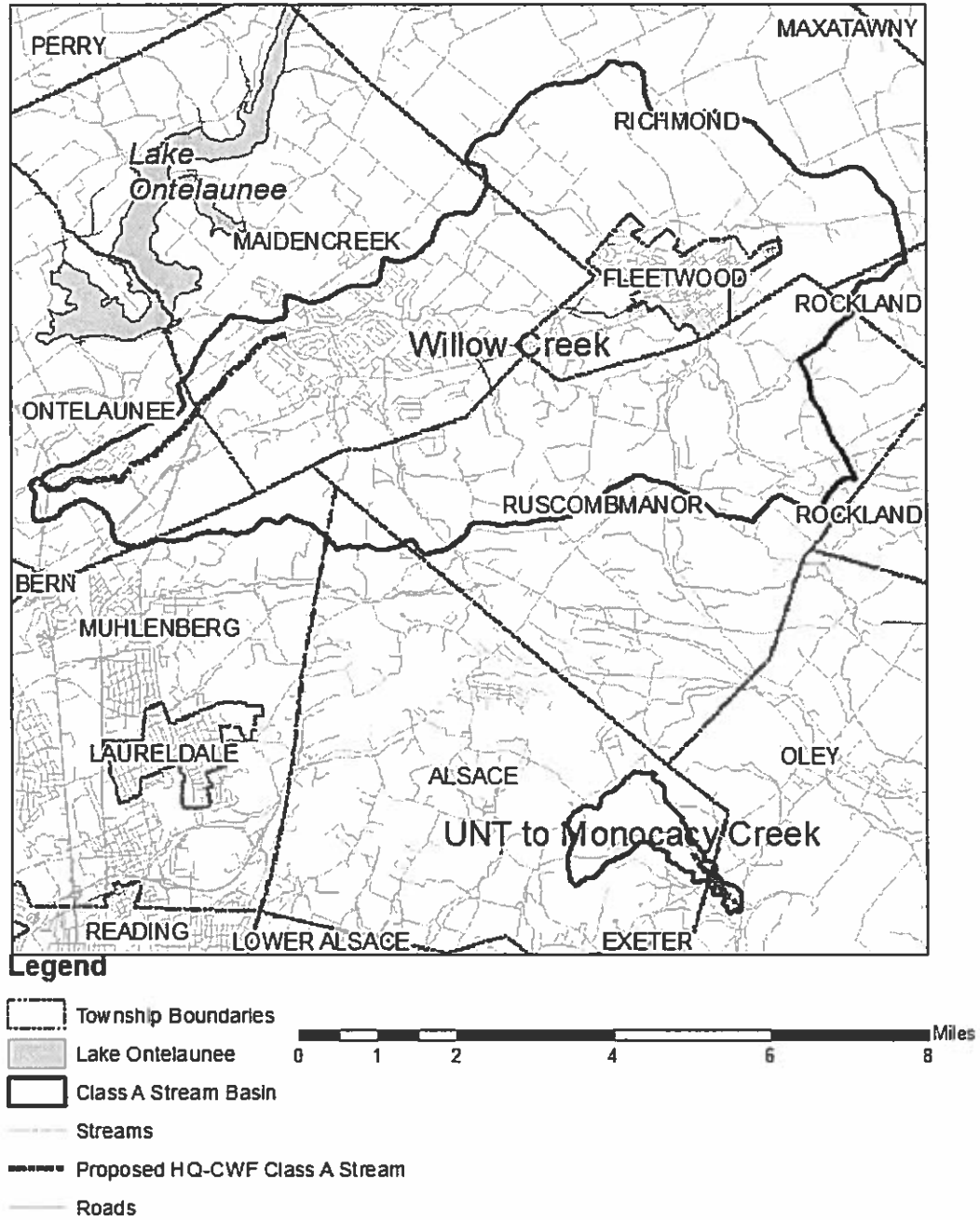


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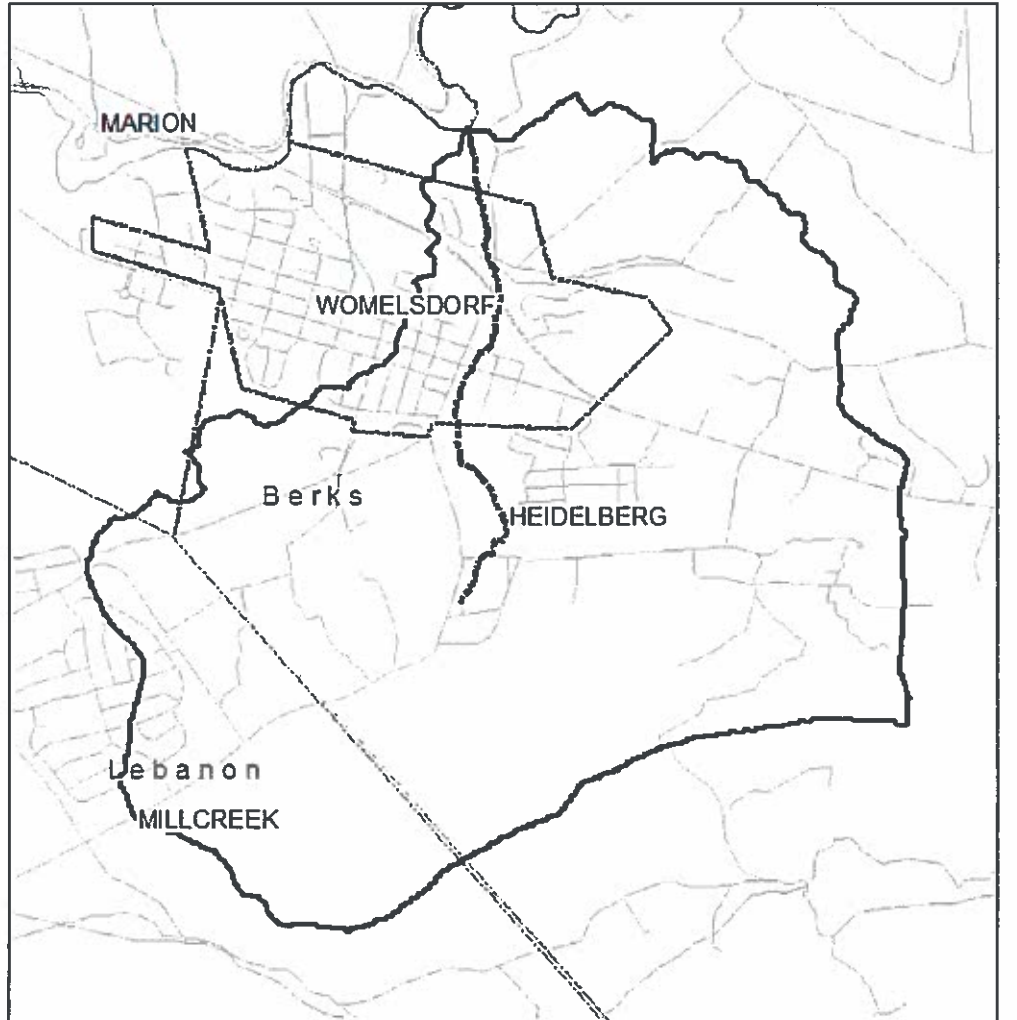
-  County Boundary
-  Township Boundaries
-  Class A Stream Basin
-  Proposed HQ-CWF Class A Stream
-  Streams
-  Roads
-  Public Lands



Willow Creek & UNT 01762 to Monocacy Creek Berks County



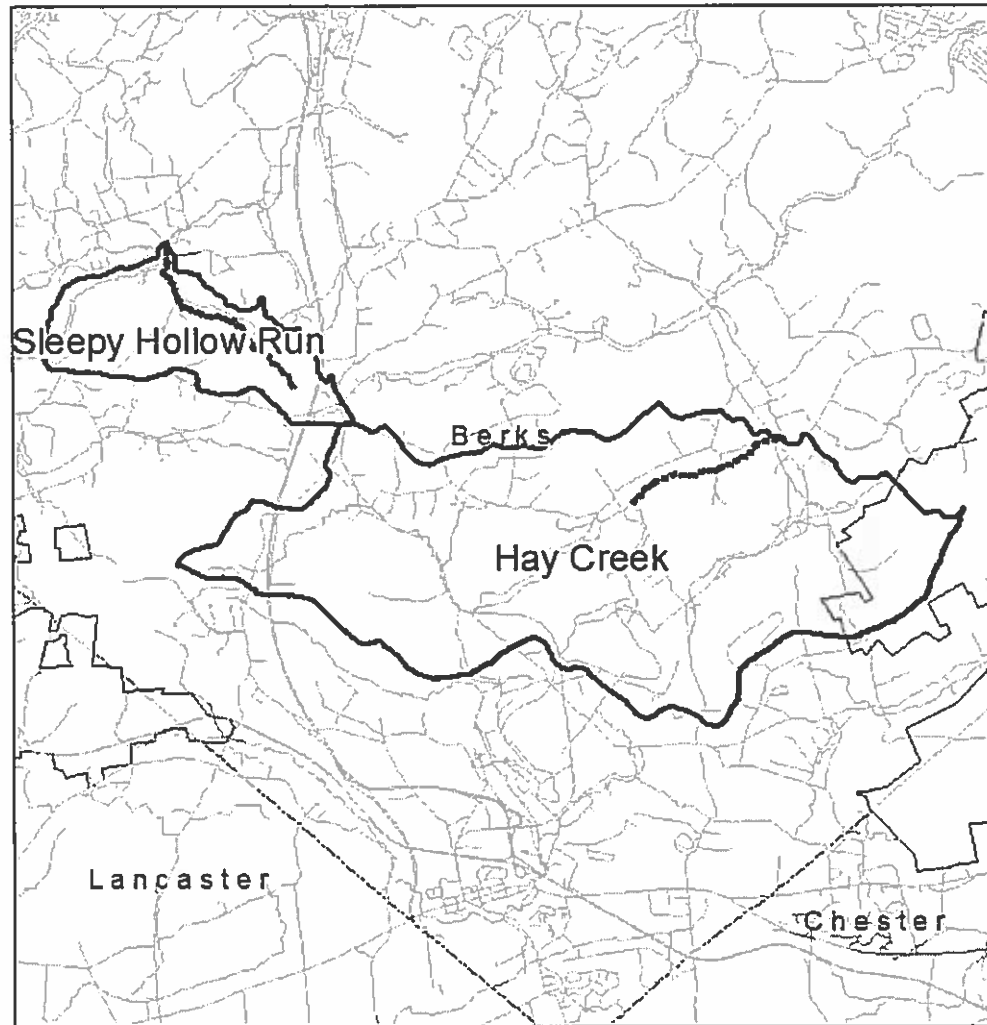
UNT 01950 to Tulpehocken Creek Berks County



Legend

- Proposed HQ-CWF Class A Stream
- Class A Stream Basin
- Roads
- Streams
- County Boundary
- Township Boundaries

Sleepy Hollow Run & Hay Creek Berks County



Legend

----- Proposed HQ-CWF Class A Stream

Class A Stream Basin

— Roads

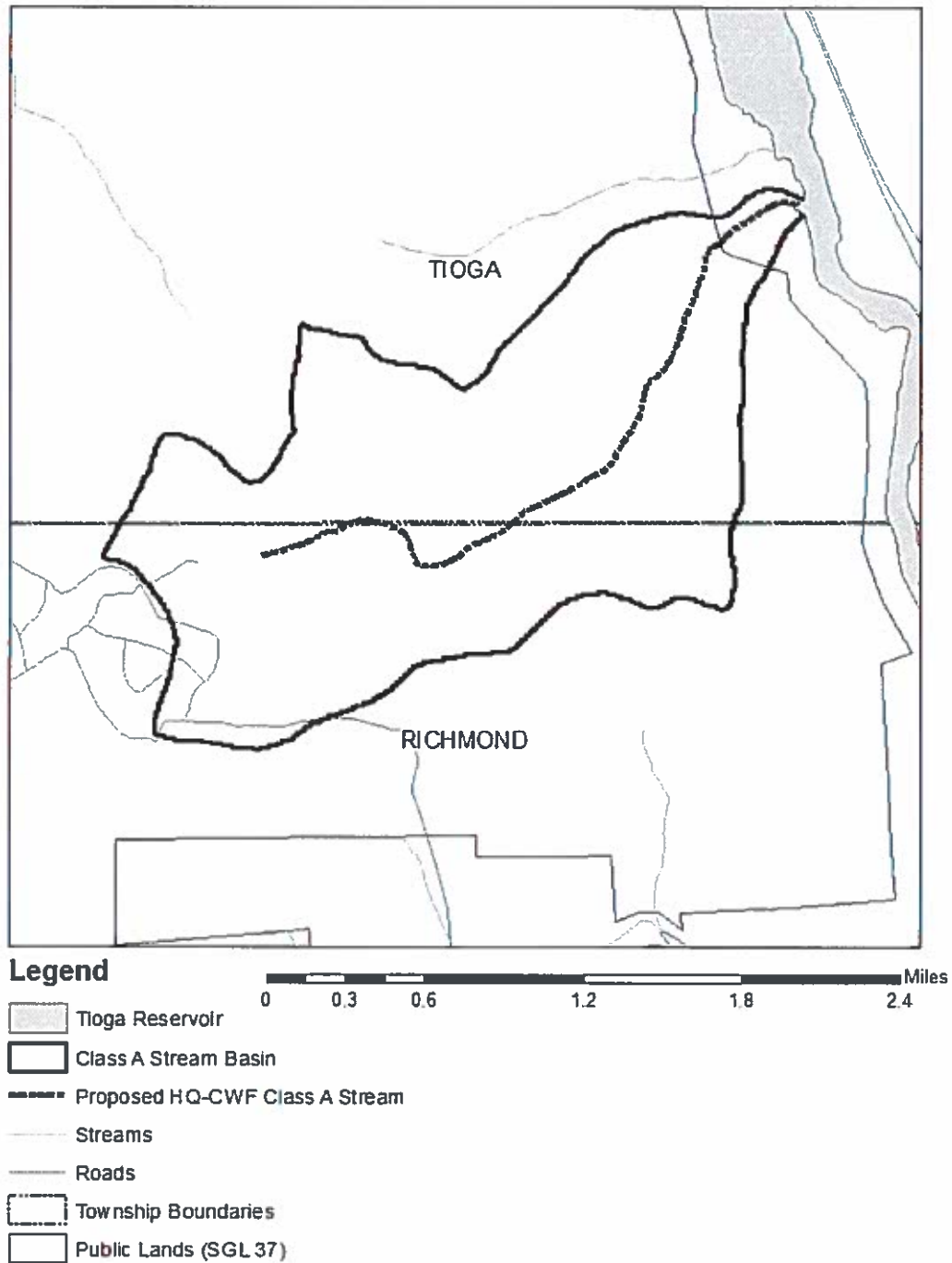
--- Streams

Public Lands

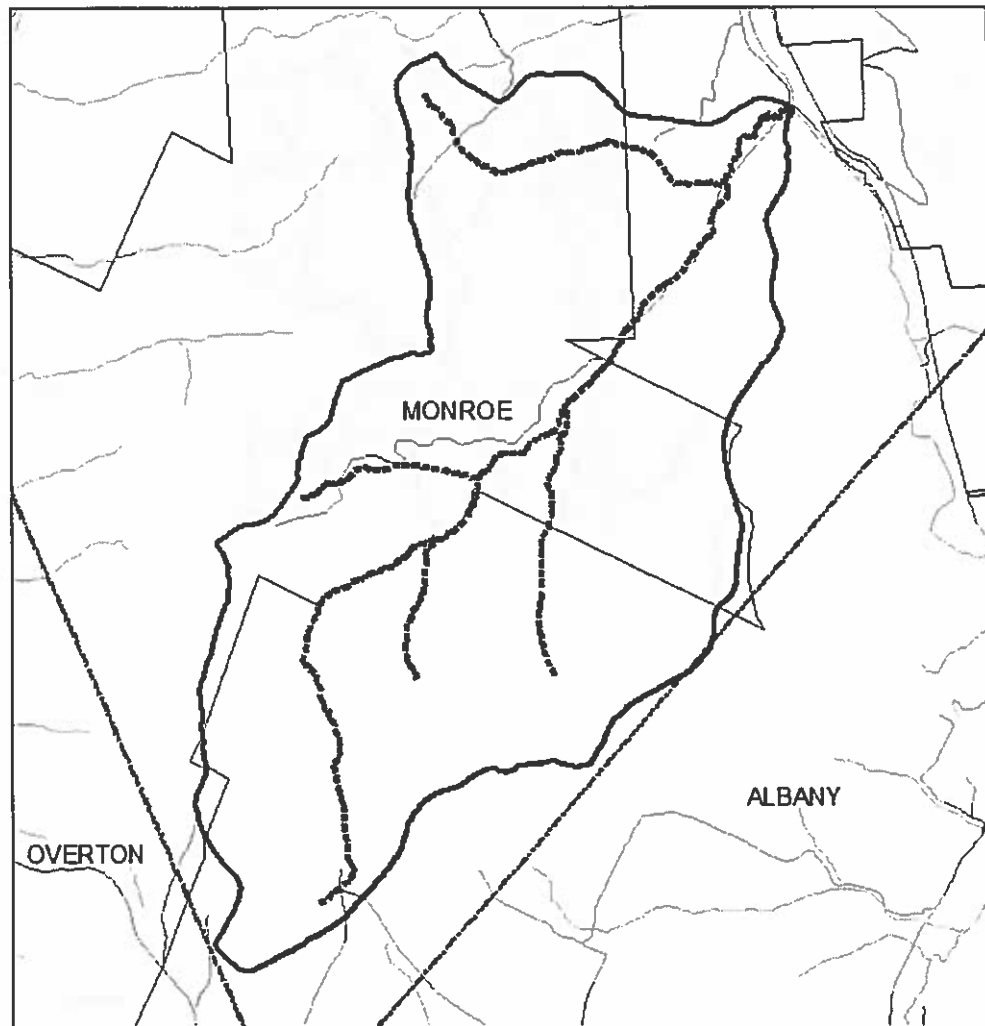
County Boundary

0 0.75 1.5 3 4.5 6 Miles







Big Rift Creek Tioga County



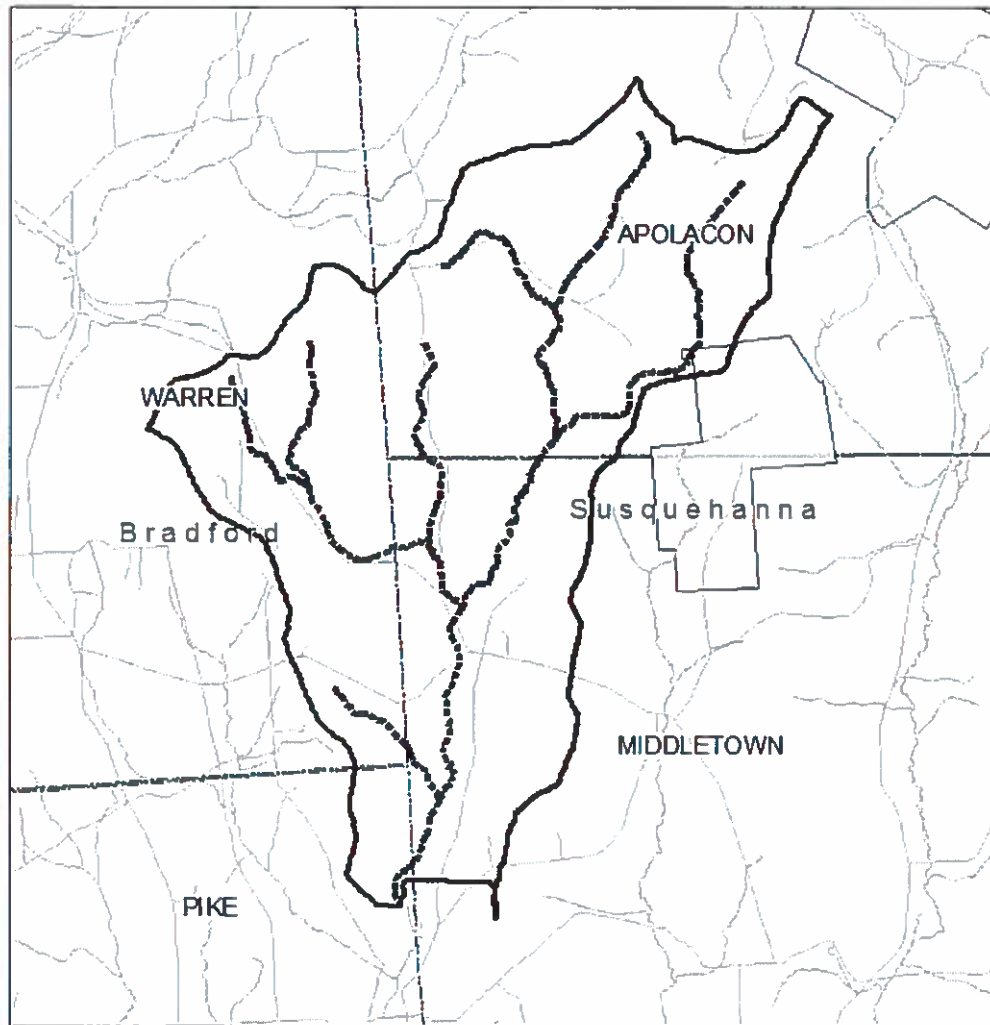
Satterlee Run Bradford County






Legend

-  Class A Stream Basin
-  Proposed HQ-CWF Class A Stream
-  Streams
-  Roads
-  Township Boundaries
-  Public Lands

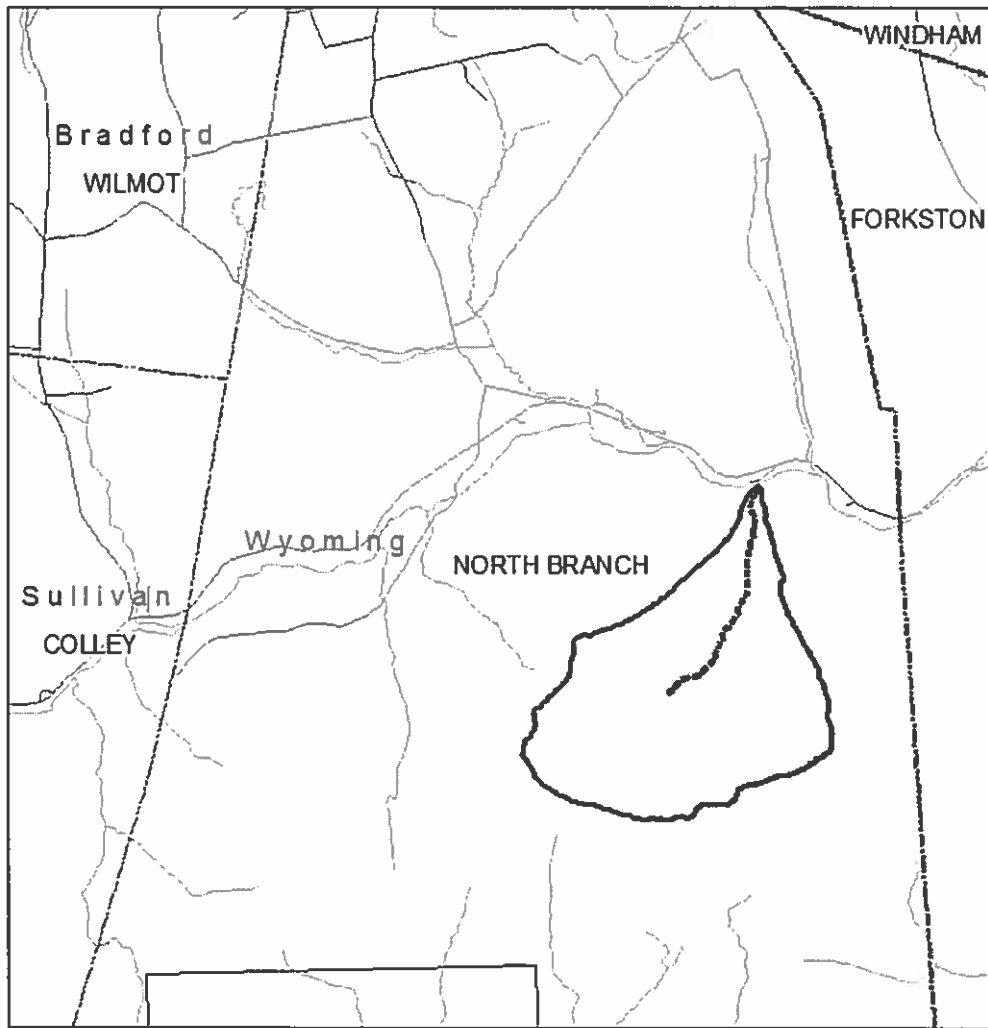
Gaylord Creek; Susquehanna County










Legend

-  Class A Stream Basin
-  Proposed HQ-CWF Class A Stream
-  Streams
-  Roads
-  Public Lands (SGL 140)
-  County Boundary
-  Township Boundaries

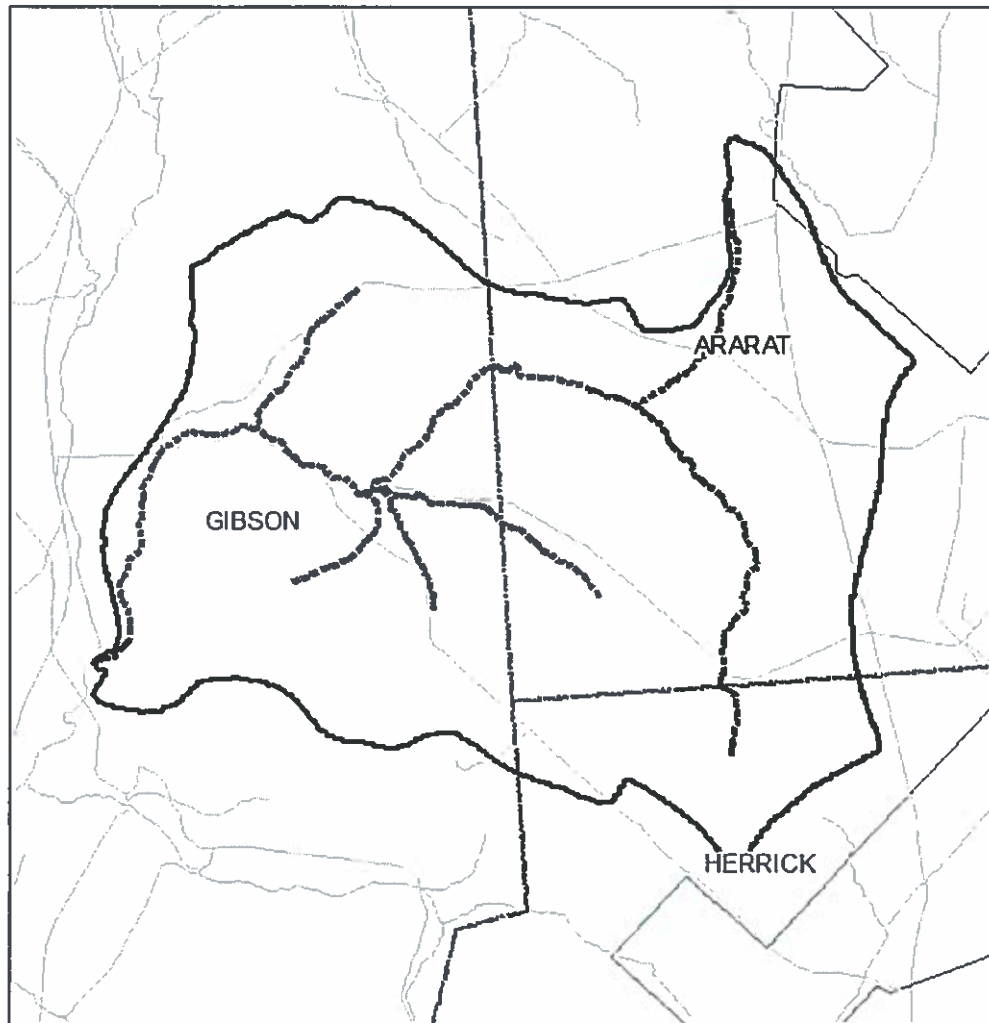
Burgess Brook; Wyoming County









Legend

-  Class A Stream Basin
-  Proposed HQ-CWF Class A Stream
-  Streams
-  Roads
-  Public Lands (SGL 13/57)
-  County Boundary
-  Township Boundaries

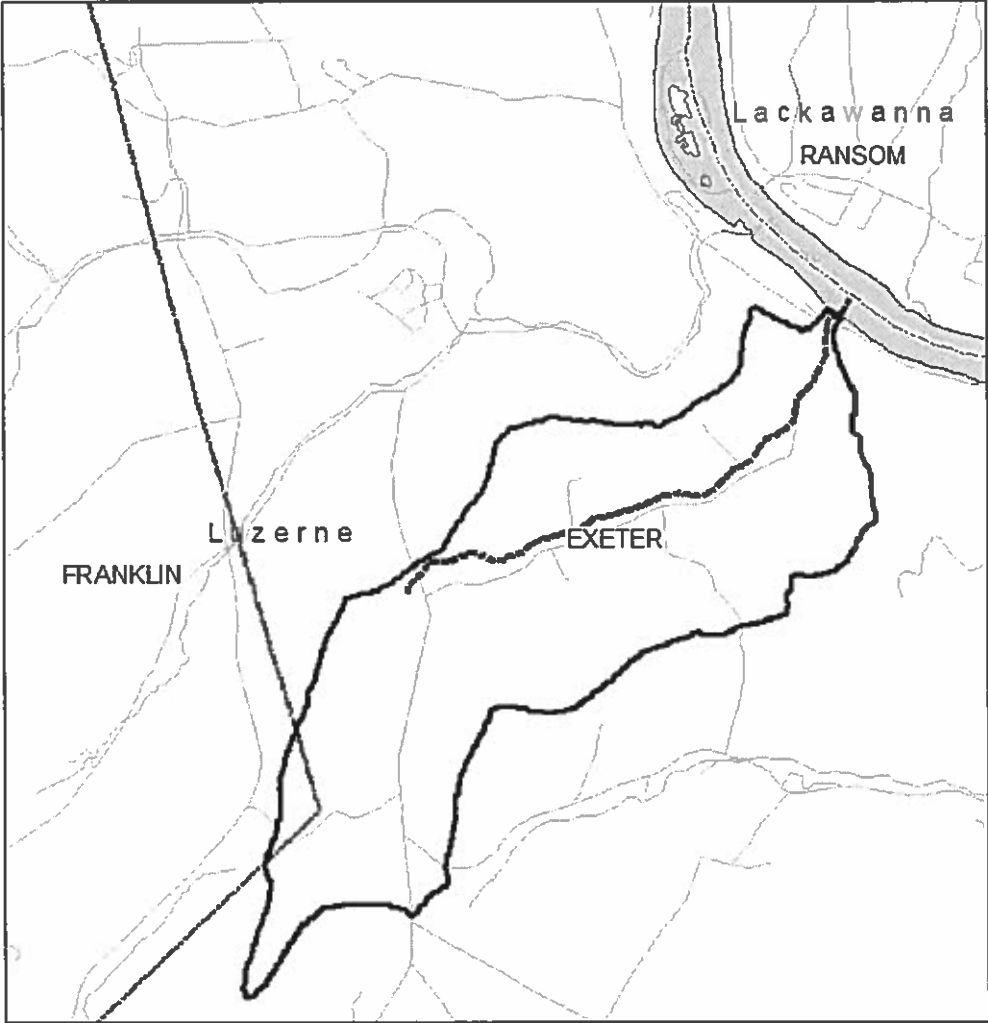
Rock Creek; Susquehanna County










Legend

-  Class A Stream Basin
-  Proposed HQ-CWF Class A Stream
-  Streams
-  Roads
-  Public Lands (SGL 236)
-  Township Boundaries

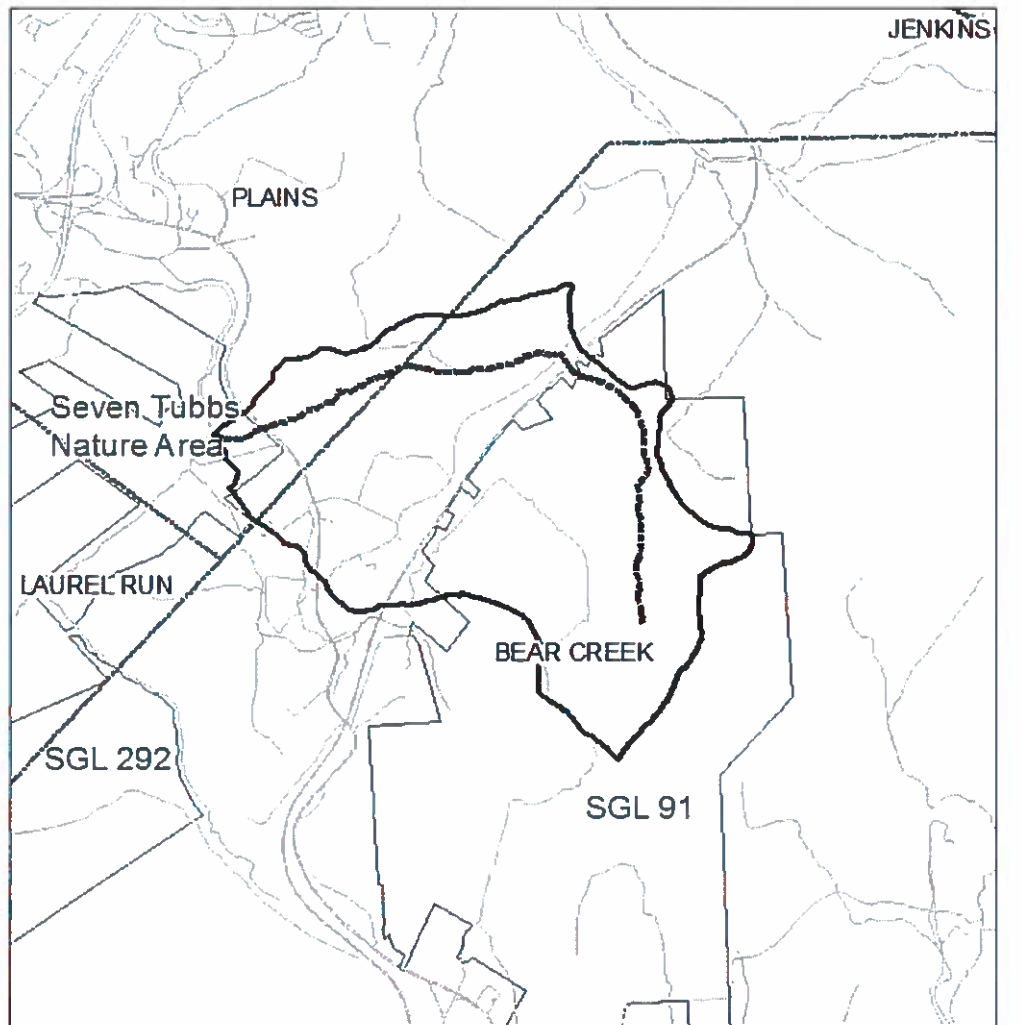
Lewis Creek; Luzerne County









Legend

-  County Boundary
 -  Township Boundaries
 -  Class A Stream Basin
 -  Proposed HQ-CWF Class A Stream
 -  Streams
 -  Susquehanna River
 -  Roads
- 0 0.35 0.7 1.4 2.1 2.8 Miles

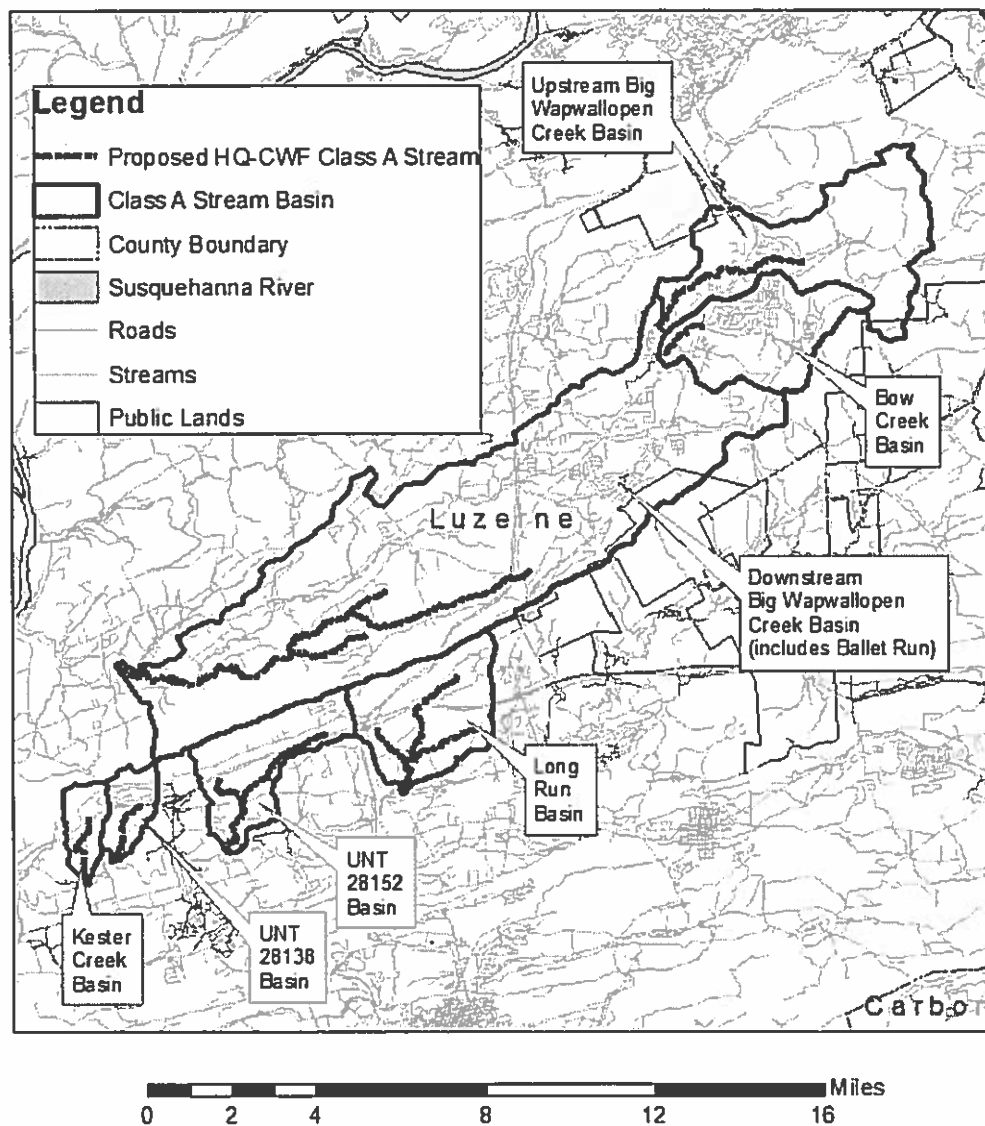
UNT 62998 to Laurel Run; Luzerne County



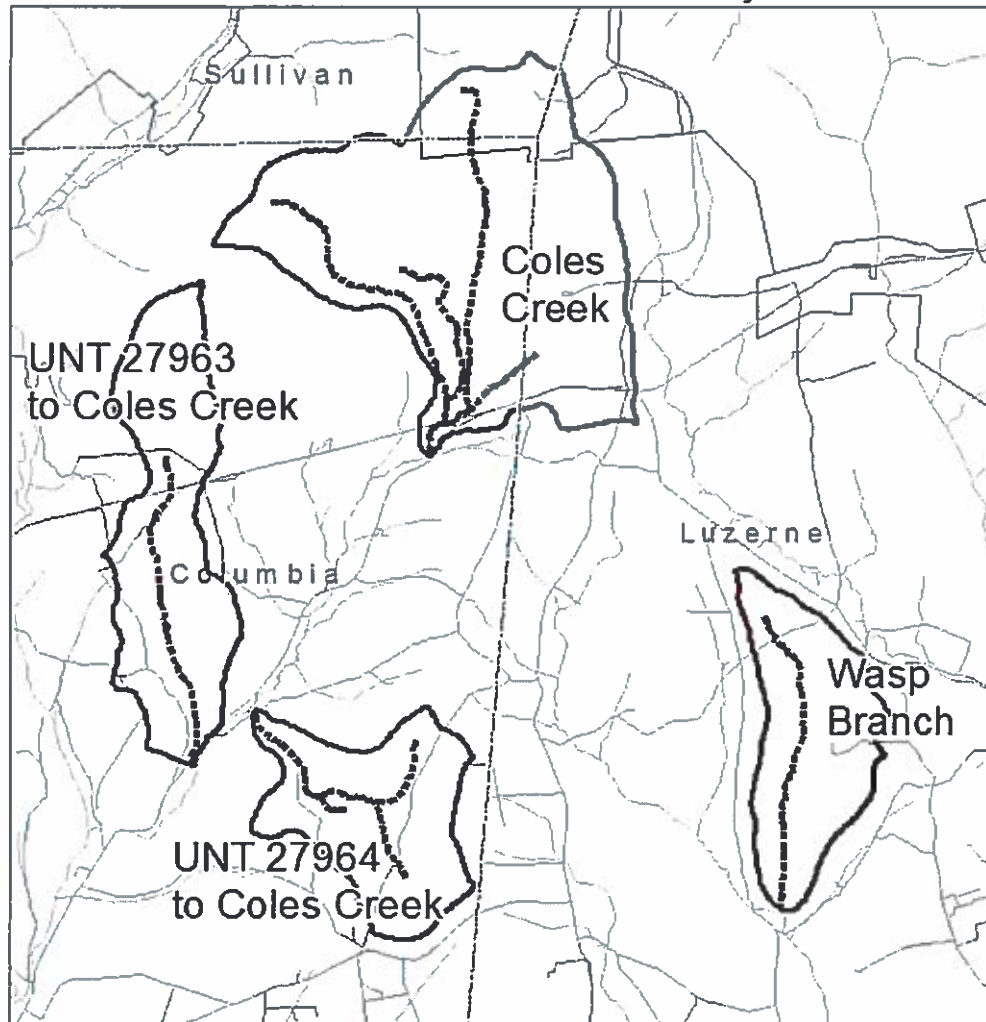
Legend

-  Class A Stream Basin
-  Proposed HQ-CWF Class A Stream
-  Streams
-  Roads
-  Township Boundaries
-  Public Lands

Big Wapwallopen Creek, Tributaries to Big Wapwallopen Creek, Tributaries to Nescopeck Creek Luzerne County



Coles Creek, Tributaries to Coles Creek, & Wasp Branch Columbia & Luzerne County



Legend

----- Proposed HQ-CWF Class A Stream

Class A Stream Basin

County Boundary

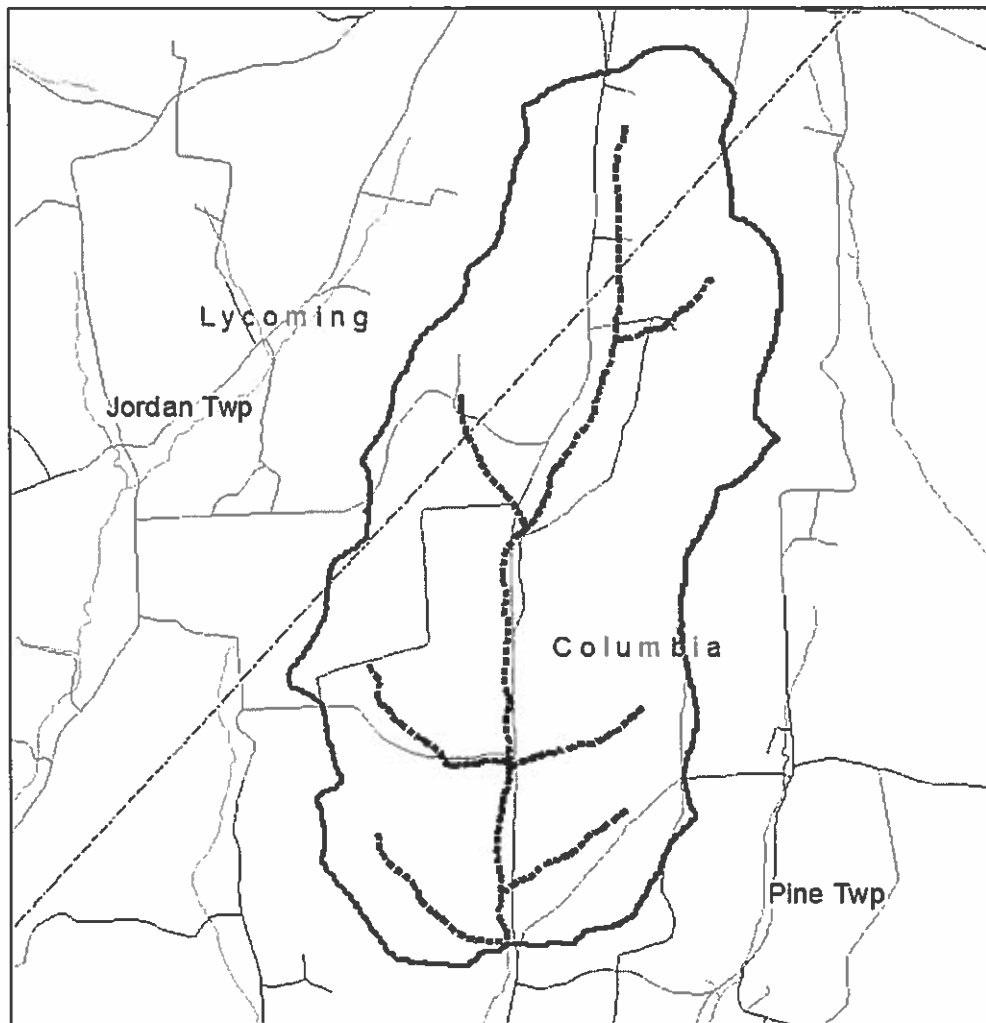
Roads

Streams

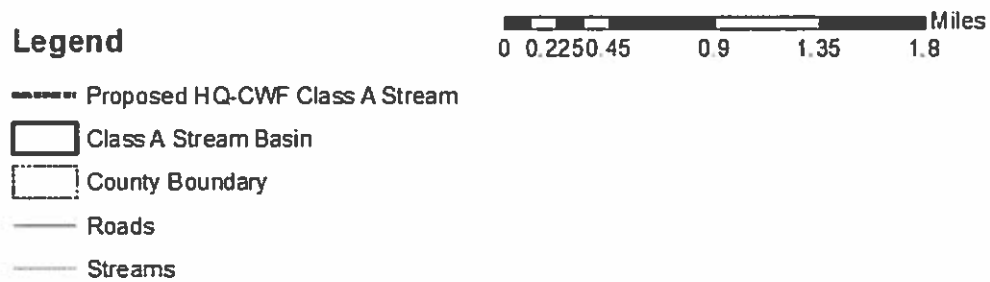
Public Lands

0 0.5 1 2 3 4 Miles

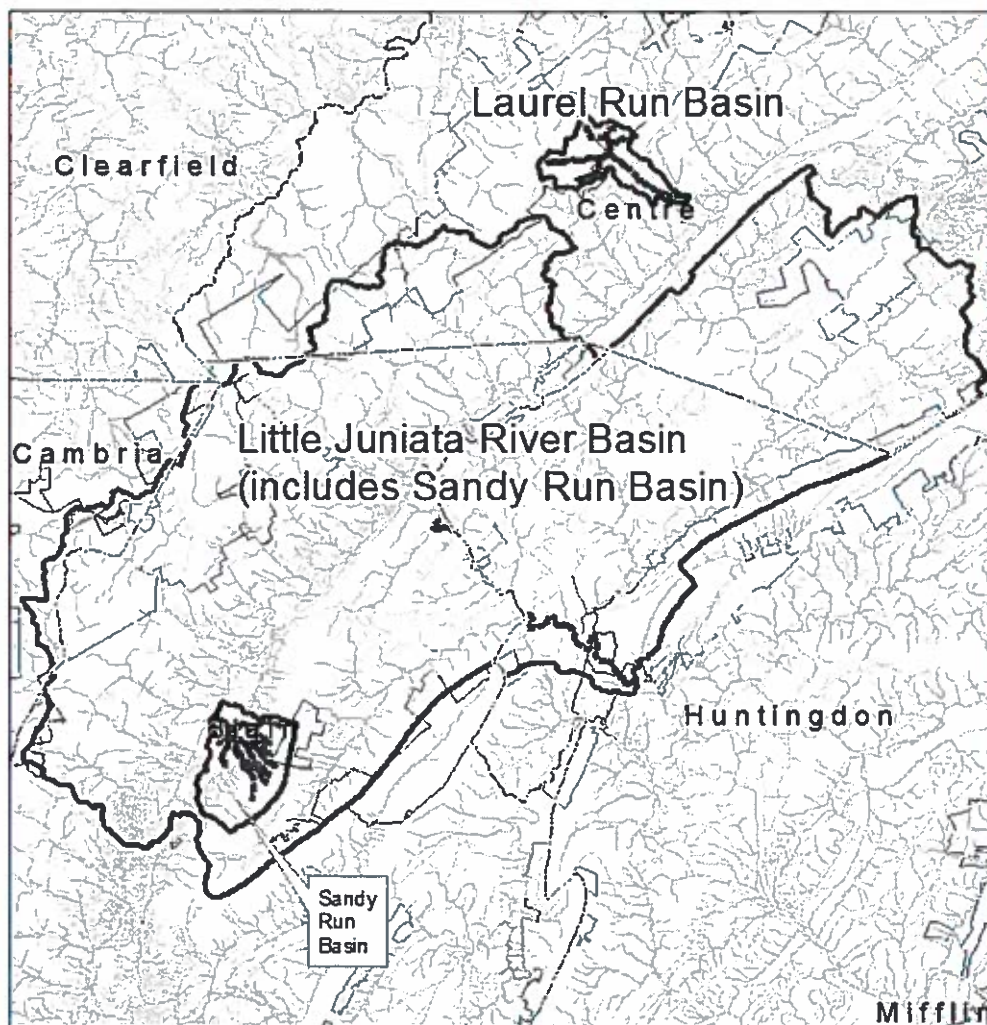
Lick Run Columbia County









Legend



Laurel Run, Sandy Run, Little Juniata River Centre, Huntingdon, Blair County

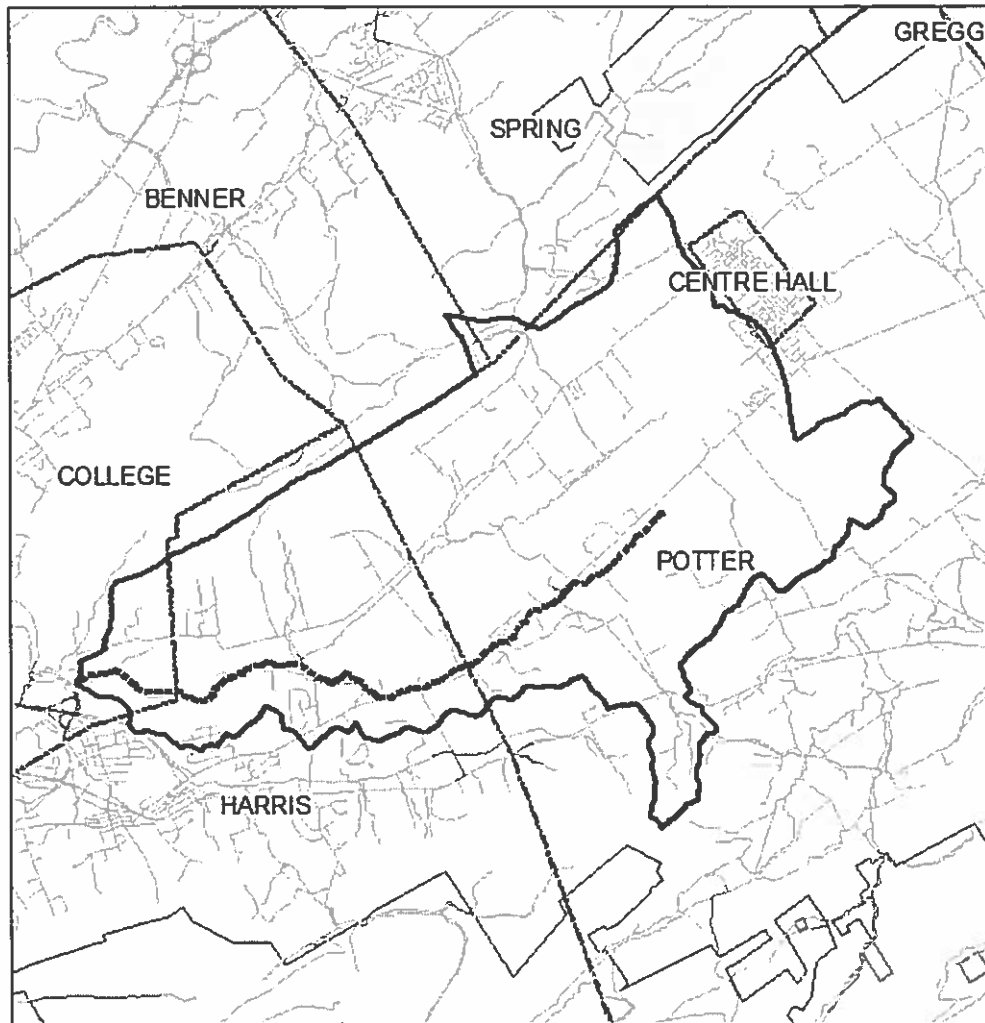


Legend







-  County Boundary
-  Class A Stream Basin
-  Proposed HQ-CWF Class A Stream
-  Streams
-  Roads
-  Public Lands



Cedar Run Centre County

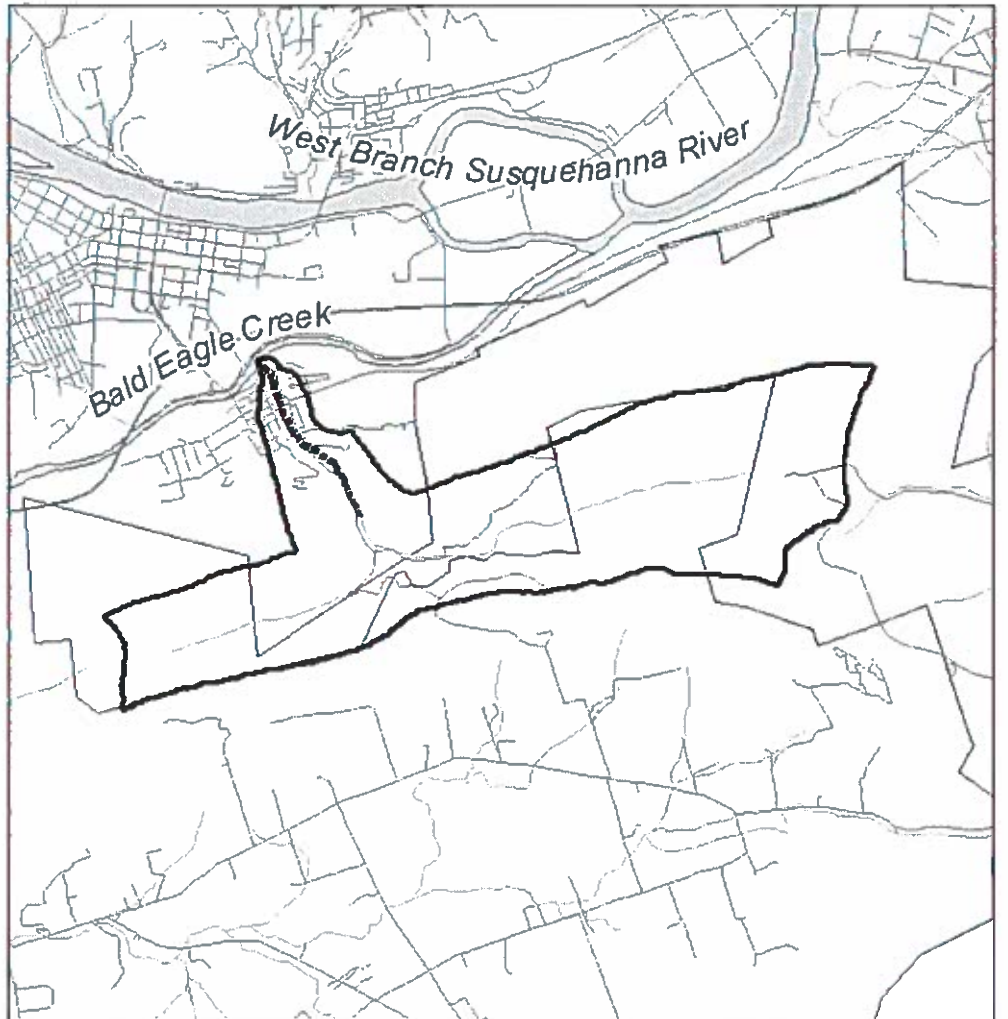


Legend

-  Class A Stream Basin
-  Proposed HQ-CWF Class A Stream
-  Streams
-  Roads
-  Township Boundaries
-  Public Lands

0 0.5 1 2 3 4 Miles

Harveys Run Clinton County



Legend

0 0.5 1 2 3 4 Miles

----- Proposed HQ-CWF Class A Stream

□ Class A Stream Basin

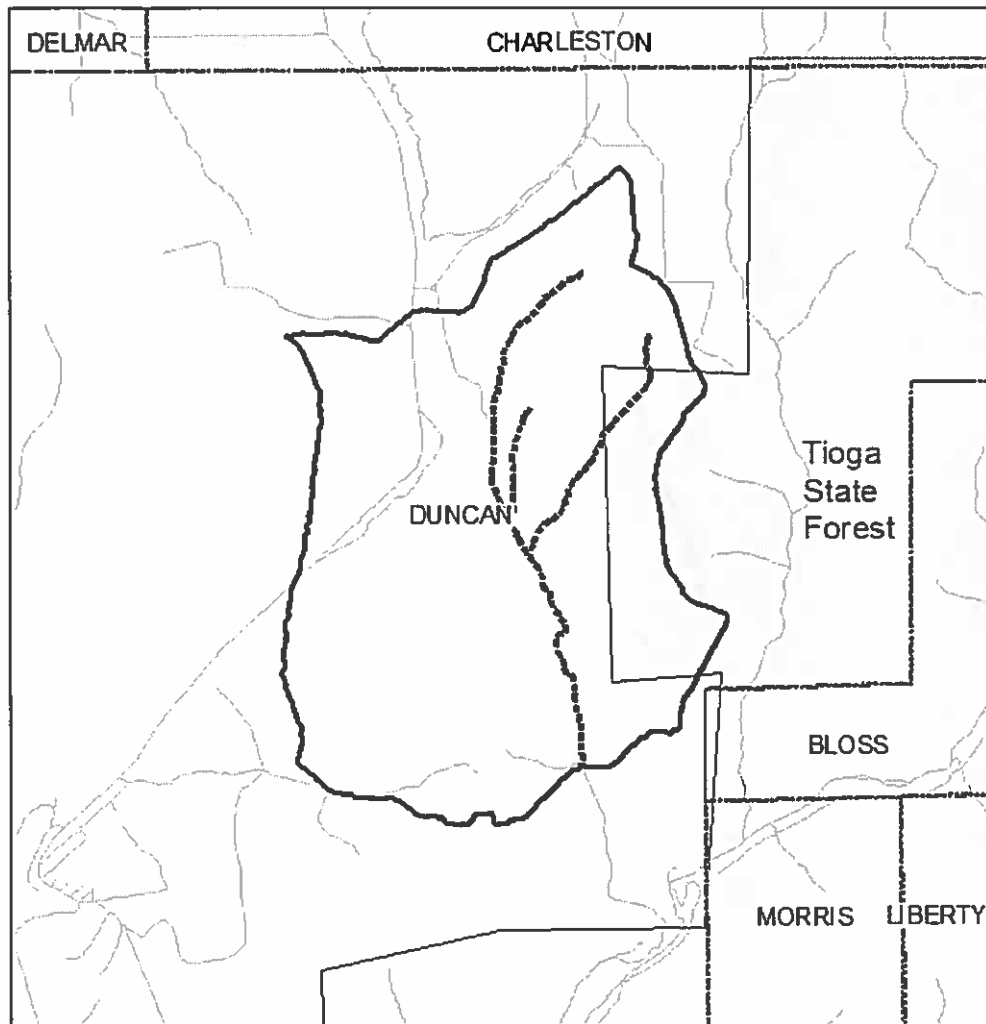
— Roads

▨ Large Rivers / Streams

— Streams

□ Public Lands

Rock Run Tioga County

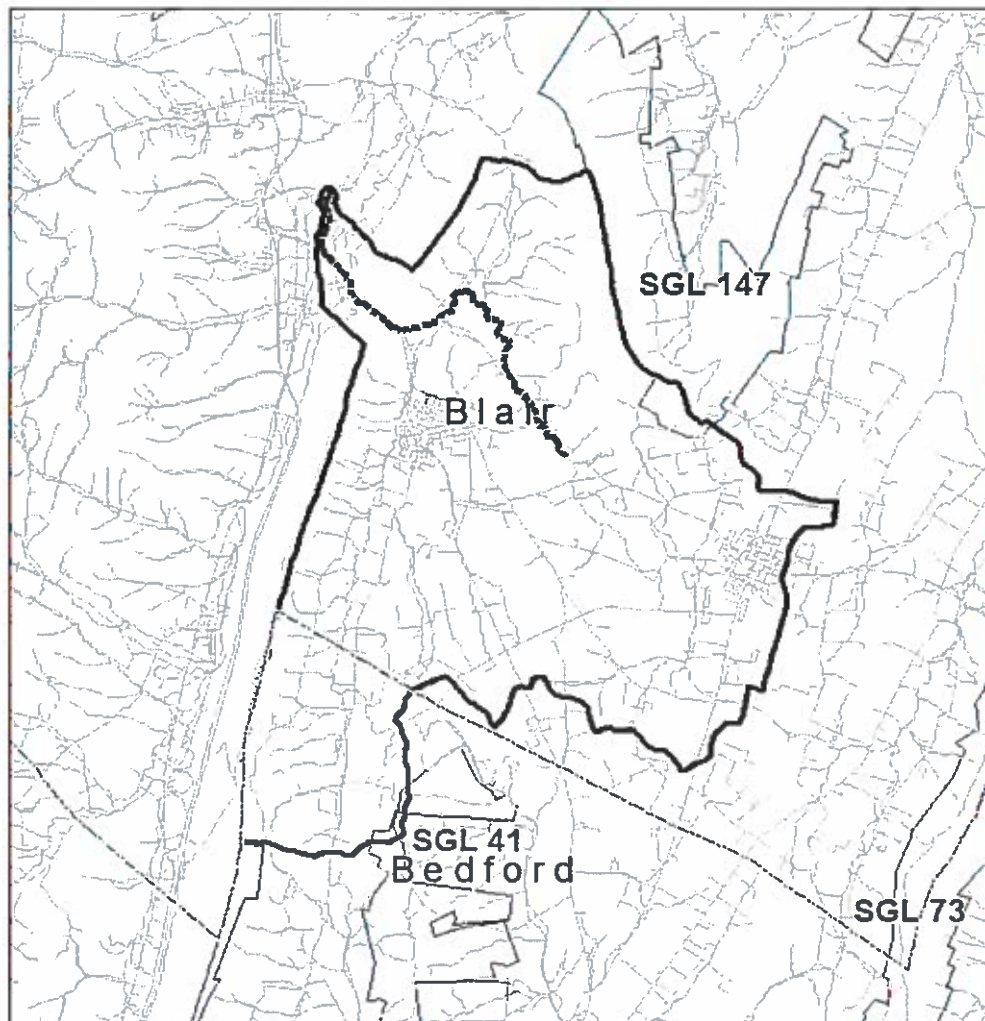


Legend







- Township Boundaries
- Class A Stream Basin
- Proposed HQ-CWF Class A Stream
- Streams
- Roads
- Public Lands

0 0.4 0.8 1.6 2.4 3.2 Miles

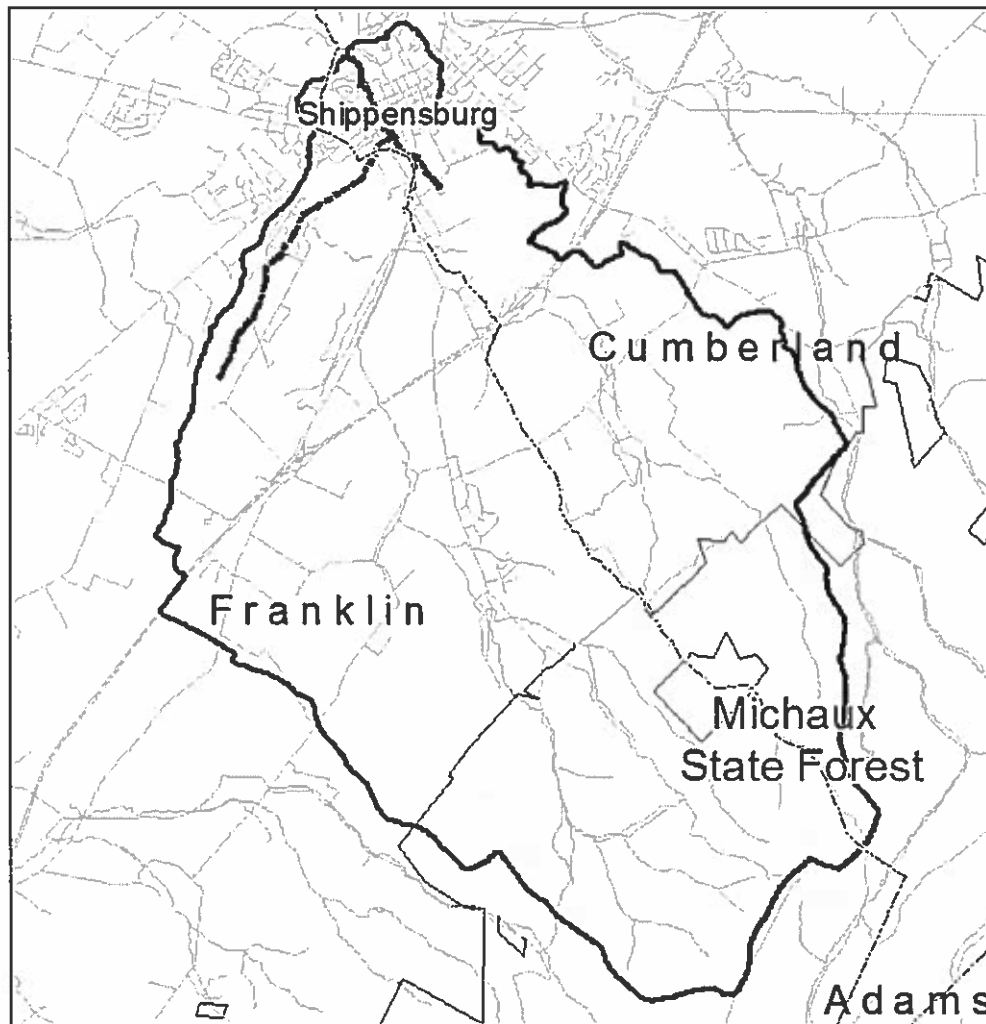
Halter Creek (includes Plum Creek) Blair County









Legend

-  County Boundary
-  Class A Stream Basin
-  Proposed HQ-CWF Class A Stream
-  Streams
-  Roads
-  Public Lands

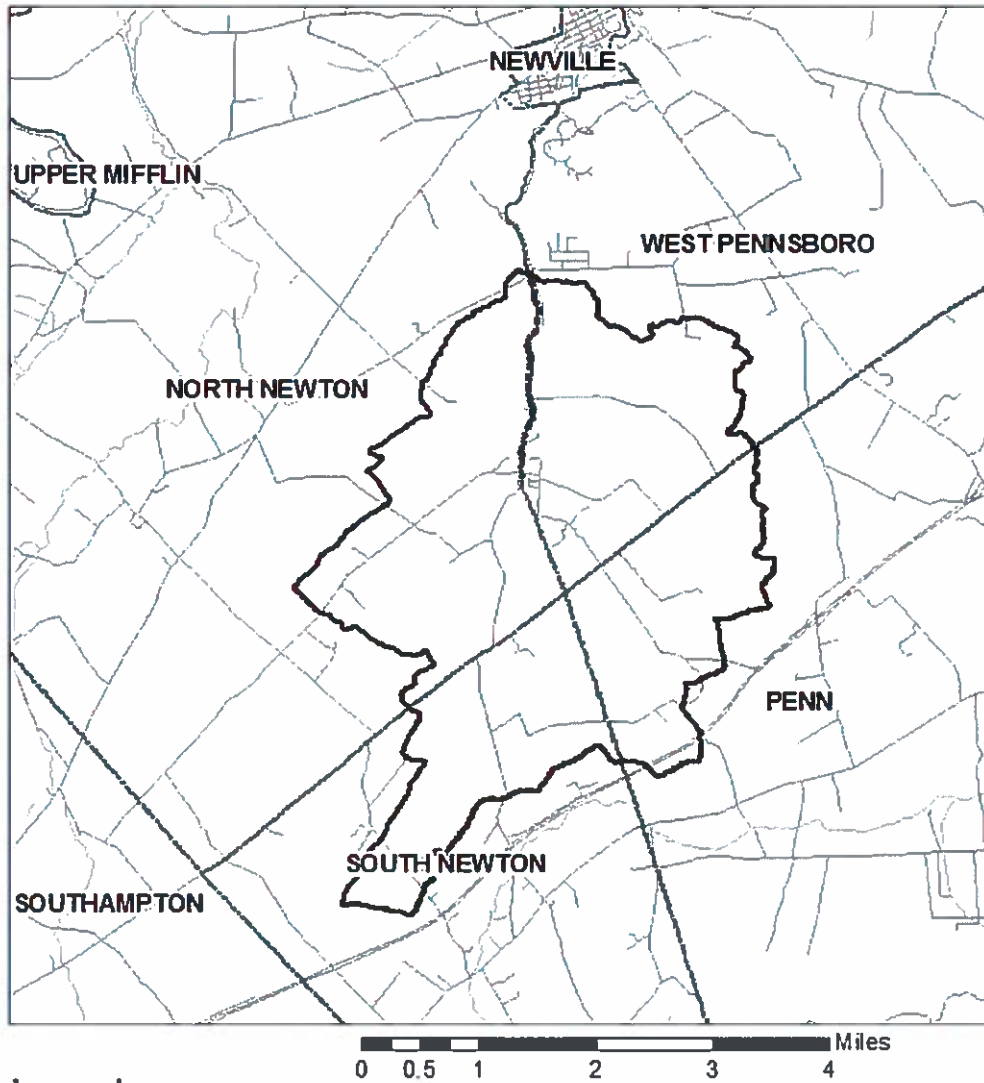
Middle Spring Creek Cumberland County








Legend

-  County Boundary
-  Proposed HQ-CWF Class A Stream
-  Class A Stream Basin
-  Streams
-  Roads
-  Public Lands

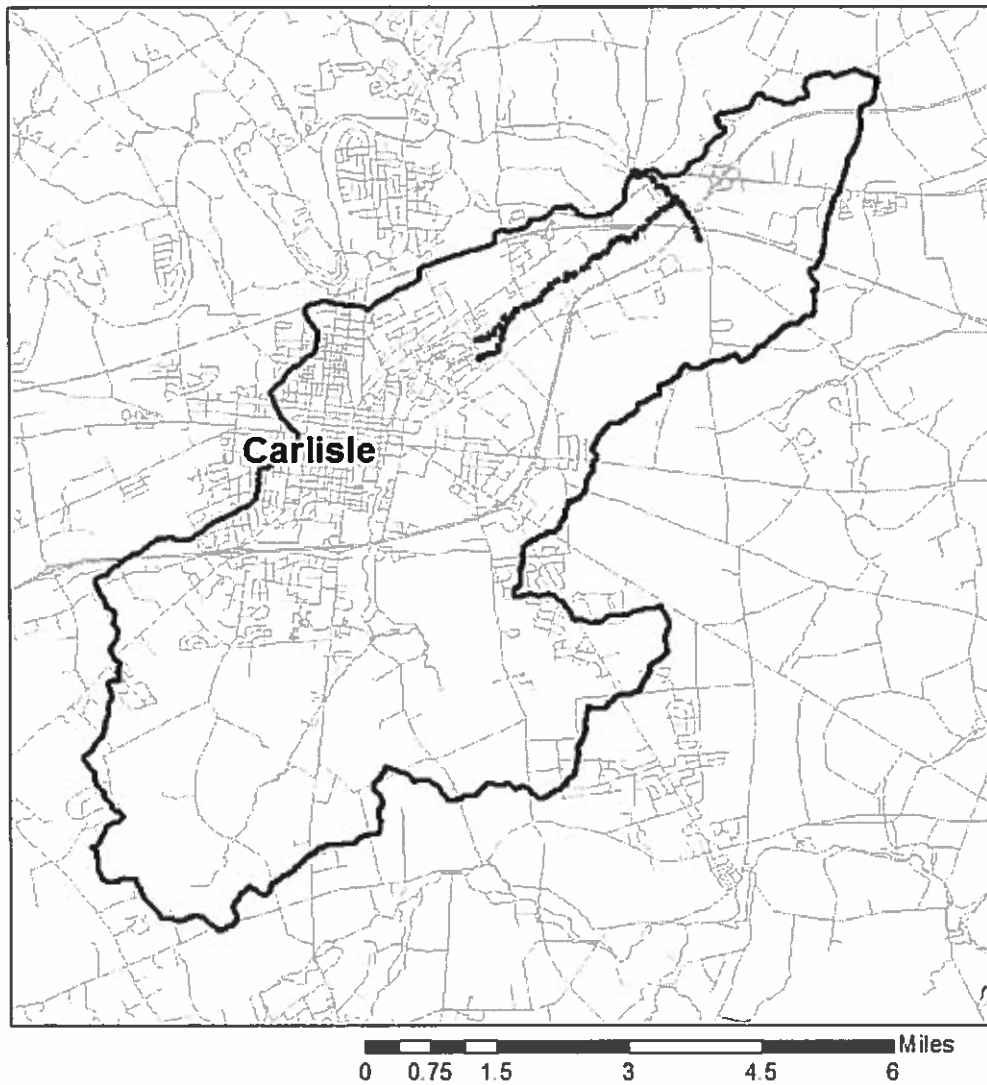
Big Spring Creek Cumberland County







Legend

-  Township Boundaries
-  Class A Stream Basin
-  Proposed HQ-CWF Class A Stream
-  Streams
-  Roads

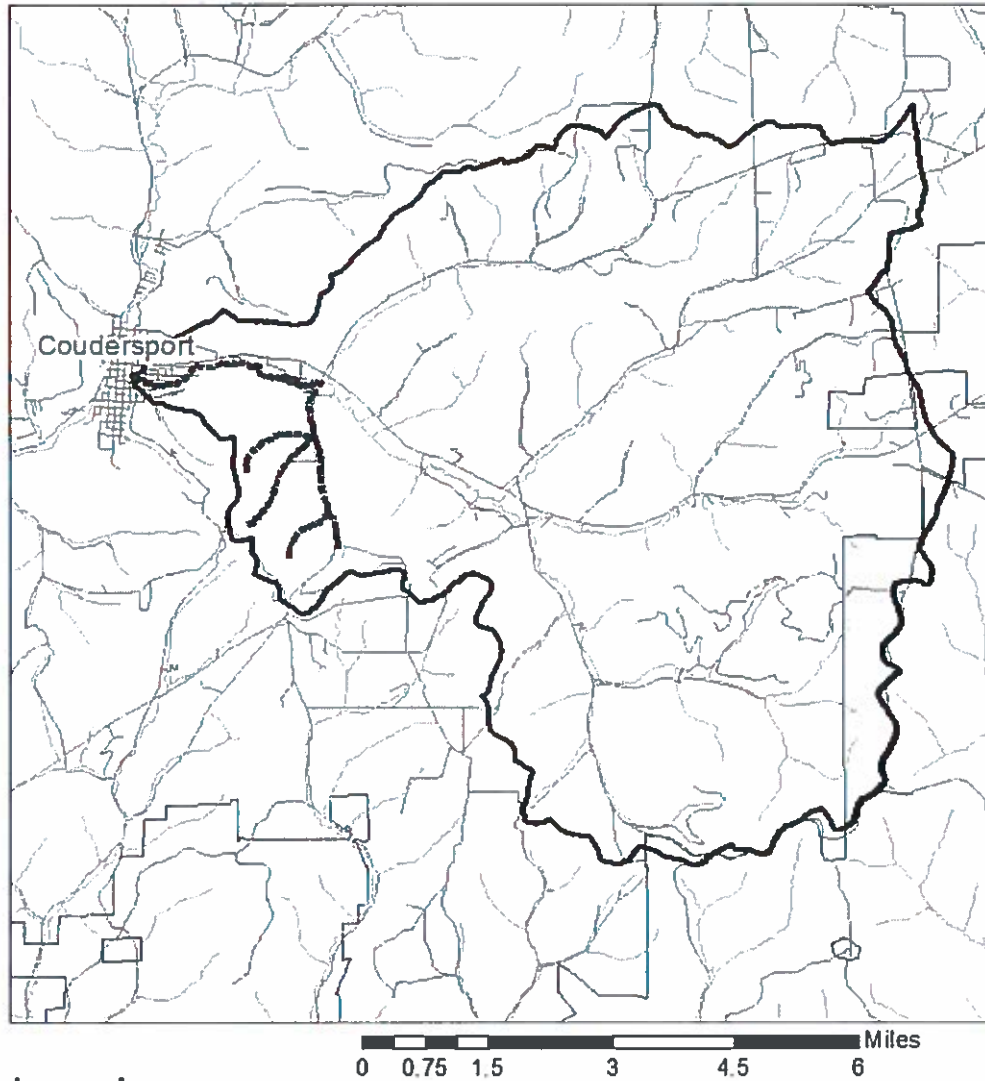
Letort Spring Run Cumberland County



Legend

-  Class A Stream Basin
-  Proposed HQ-CWF Class A Stream
-  Streams
-  Roads

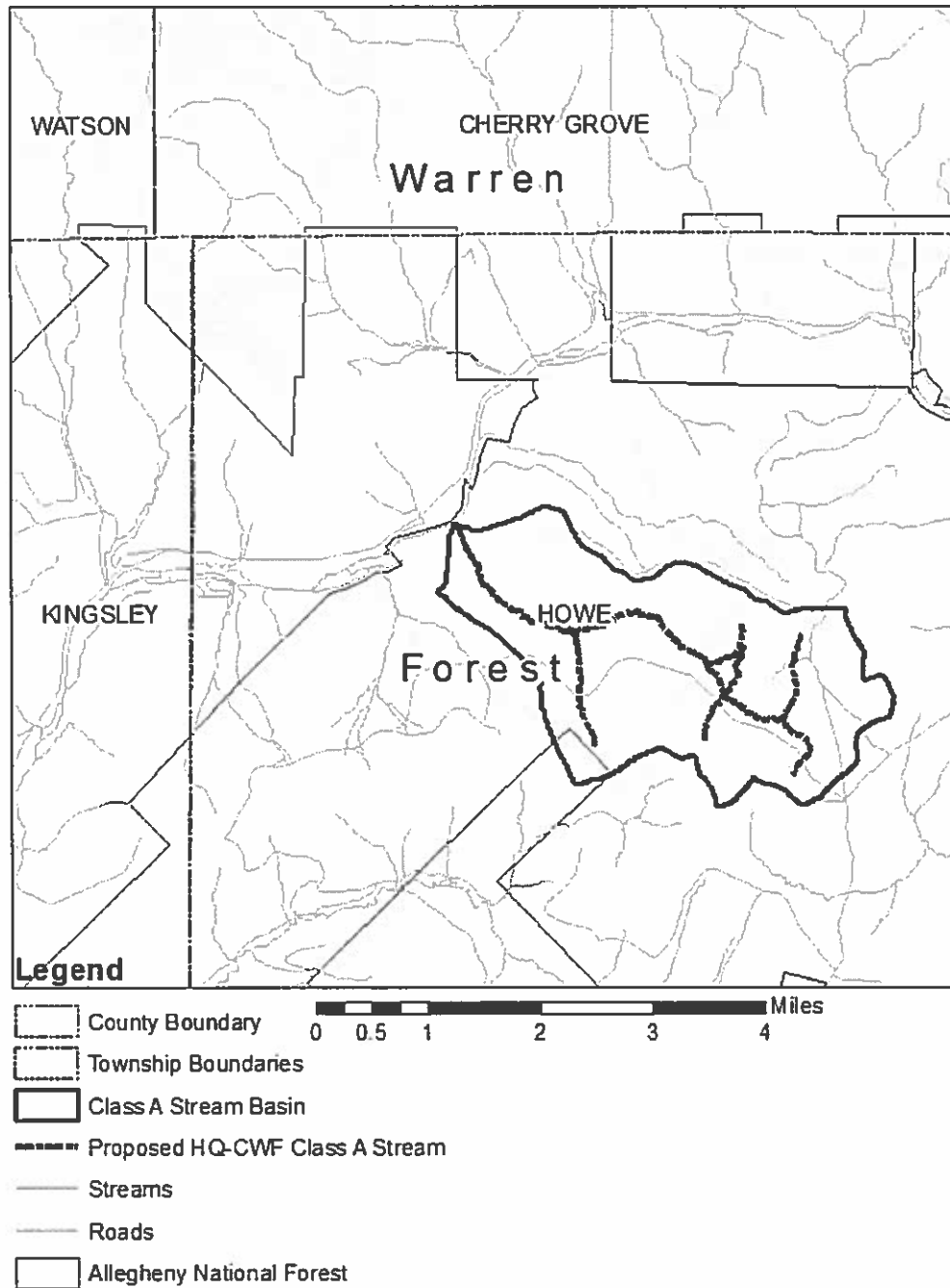
Mill Creek Potter County



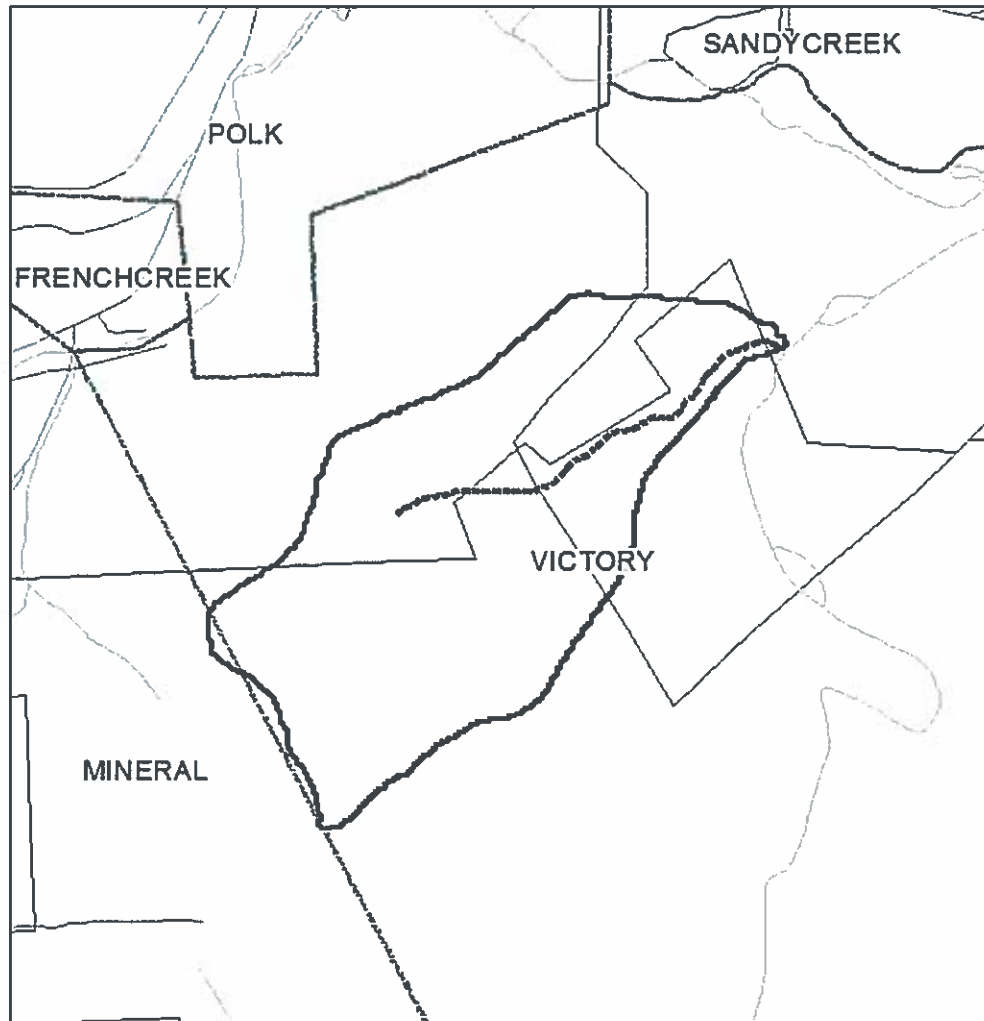
Legend

- Class A Stream Basin
- Proposed HQ-CWF Class A Stream
- Streams
- Roads
- Susquehannock State Forest







Logan Run Forest County



Bear Run Venango County

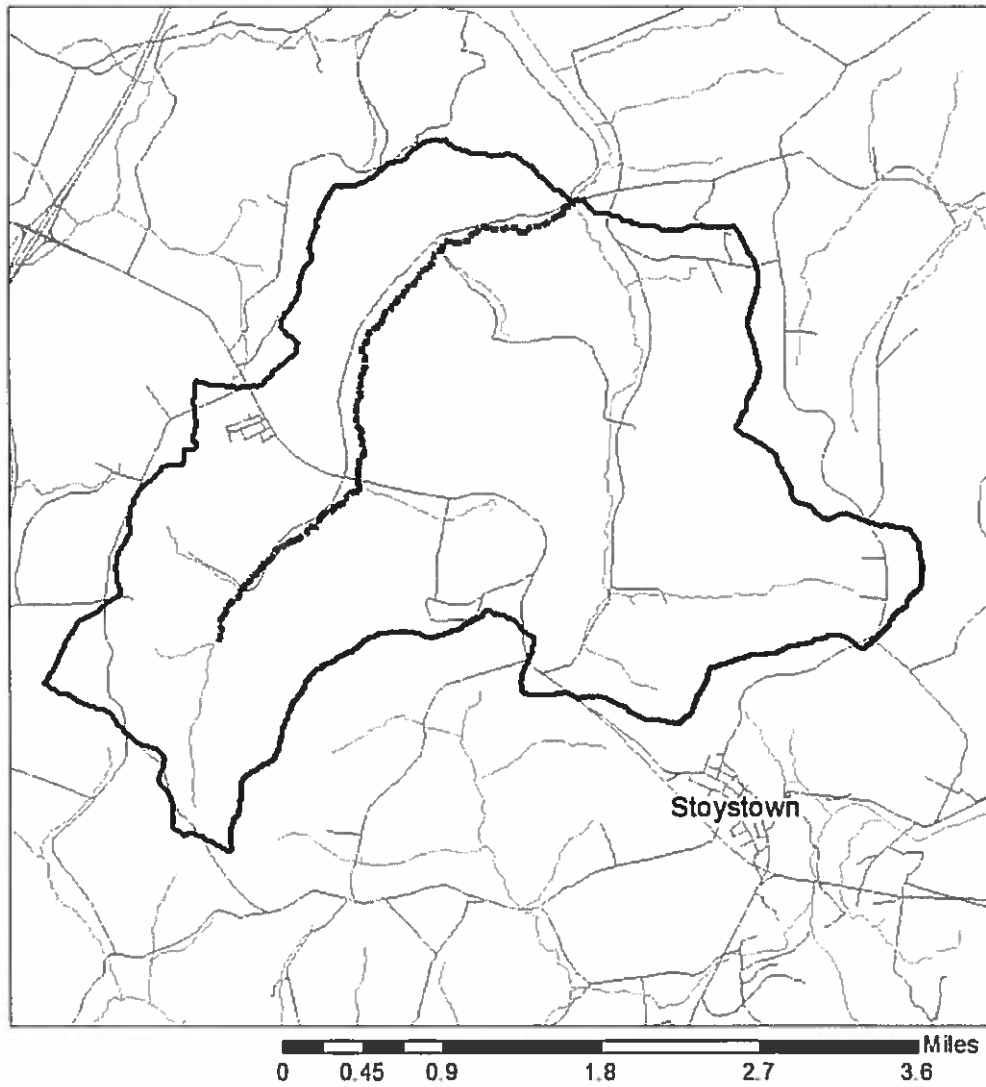


Legend





-  Township Boundaries
-  Class A Stream Basin
-  Proposed HQ-CWF Class A Stream
-  Streams
-  Roads
-  Public Lands (SGL 39)

0 0.175 0.35 0.7 1.05 1.4 Miles

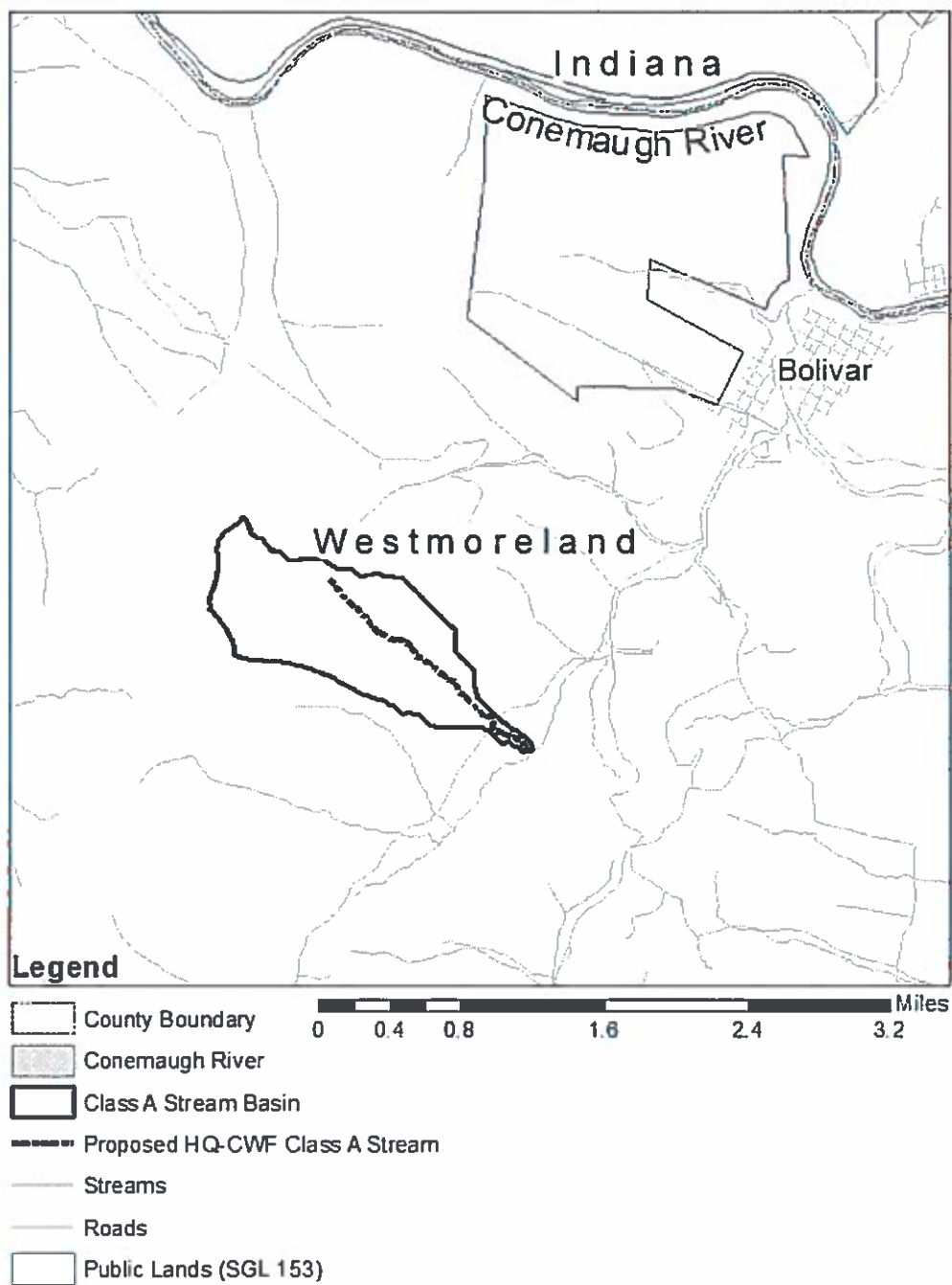
Higgins Run Somerset County



Legend

-  Class A Stream Basin
-  Proposed HQ-CWF Class A Stream
-  Streams
-  Roads

UNT 44808 to Freeman Run Westmoreland County



CLASS A WILD TROUT STREAMS

STATEWIDE

WATER QUALITY STANDARDS REVIEW STREAM REDESIGNATION EVALUATION

Drainage Lists:
A, C, D, E, F, H, I, K, L, N, O, P, Q, T

**WATER QUALITY MONITORING SECTION (MAB)
DIVISION OF WATER QUALITY STANDARDS
BUREAU OF POINT AND NON-POINT SOURCE MANAGEMENT
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

December 2014

INTRODUCTION

The Department of Environmental Protection (Department) is required by regulation, 25 Pa. Code section 93.4b(a)(2)(ii), to consider streams for High Quality (HQ) designation when the Pennsylvania Fish and Boat Commission (PFBC) submits information that a stream is a Class A Wild Trout stream based on wild trout biomass.

The PFBC surveys for trout biomass using their established protocols (Weber, Green, Miko) and compares the results to the Class A Wild Trout Stream criteria listed in Table 1. The PFBC applies the Class A classification following public notice, review of comments, and approval by their Commissioners. The PFBC then submits the reports to the Department where staff conducts an independent review of the trout biomass data in the fisheries management reports for each stream.

All fisheries management reports that support PFBCs final determinations included in this package were reviewed and the streams were found to qualify as HQ streams under 93.4b(a)(2)(ii). There are 50 entries representing 207 stream miles included in the recommendations table. The Department generally followed the PFBC requested stream reach delineations. Adjustments to reaches were made in some instances based on land use, confluence of tributaries, or considerations based on electronic mapping limitations.

PUBLIC RESPONSE AND PARTICIPATION SUMMARY

The procedure by which the PFBC designates stream segments as Class A requires a public notice process where proposed Class A sections are published in the Pennsylvania Bulletin first as proposed and secondly as final, after a review of comments received during the public comment period and approval by the PFBC Commissioners. Once the Class A sections are finalized, the PFBC then submits the fisheries management reports to the Department for its requisite independent review.

As Class A designations may ultimately result in regulatory changes to Pennsylvania's water quality standards, the Department provides public notice of its intent to assess the Class A stream data prior to any resulting redesignation recommendations. The Department's notice requesting additional water quality data was published in the Pennsylvania Bulletin on May 26, 2012 (42 PaB 3027) and also on the Department website. No water quality data was received. In addition, all affected Municipalities, County Planning Commissions, Conservation Districts, and State Agencies were notified of this

redesignation evaluation in a letter dated May 2, 2012. No data or comments were received in response to these notices.

Final Draft Notice, Comments and Response. Once the final draft was completed, it was made available to all municipalities, County Planning Commissions, County Conservation Districts and other State Agencies with effected streams on March 20, 2015 with a with an initial public comment period ending 45-days later. Six stakeholders offered comments during the comment period, three in support and three in opposition.

Table 1: PFBC Trout Biomass Estimate Classes and Criteria

Class	Criteria
A (Brook Trout)	<ul style="list-style-type: none"> a. Total wild brook trout biomass of at least 30 kg/ha (26.7 lbs/acre) b. Total biomass of wild brook trout less than 15 centimeters (cm) or 5.9 inches in total length of at least 0.1 kg/ha (0.089 lbs/acre) c. Wild brook trout biomass must comprise at least 75% of the total wild trout biomass
A (Brown Trout)	<ul style="list-style-type: none"> a. Total wild brown trout biomass of at least 40 kg/ha (35.6 lbs. acre) b. Total biomass of wild brown trout less than 15 centimeters (cm) or 5.9 inches in total length of at least 0.1 kg/ha (0.089 lbs/acre). c. Wild brown trout biomass must comprise at least 75% of the total wild trout biomass
A (Mixed Brown and Brook)	<ul style="list-style-type: none"> a. Combined wild brook and wild brown trout biomass of at least 40 kg/ha (35.6 lbs. acre) b. Total biomass of wild brook trout less than 15 centimeters (cm) or 5.9 inches in total length of at least 0.1 kg/ha (0.089 lbs/acre). c. Total biomass of wild brown trout less than 15 centimeters (cm) or 5.9 inches in total length of at least 0.1 kg/ha (0.089 lbs/acre). d. Wild brook trout biomass comprises less than 75% of total trout biomass e. Wild brown trout biomass comprises less than 75% of total trout biomass
A (Rainbow Trout)	Total biomass of wild rainbow trout less than 15 cm (5.9 inches) in total length of at least 2.0 kg/ha (1.78 lbs/acre).

RECOMMENDATIONS

The department recommends amending §93.9a, §93.9c-f, § 93.9h-i, §93.9k-l, §93.9n-q and §93.9t to reflect High Quality designations for the following stream segments.

STREAM NAME	TRIBUTARY TO	COUNTY	DRAINAGE LIST	STREAM CODE	DESIGNATED USE	PROPOSED DESIGNATED USE	PBFC CLASS A REACH	DEP ZONE RECOMMENDATION	DATE OF EVAL	AFFECTED STREAM MILES	SPECIES	BIOMASS ESTIMATE
SHERMAN CREEK	WEST BRANCH DELAWARE RIVER	WAYNE	A	6656	CWF,MF	HQ-CWF,MF	PRIVATE RD 0.5KM ABOVE LRB3098 DOWNSTREAM TO NEW YORK-PENNSYLVANIA BORDER	BASIN, STARBOARD CREEK TO PANY BORDR, INCLUDING ALL SECTIONS OF STARBOARD CREEK IN PA	9/22/2008	6.84	MIX	63.4
MARTINS CREEK	DELAWARE RIVER	NORTHAMPTON	C	4680	TSF,MF	HQ-CWF,MF	DAM 0.6KM UPS INT S MAIN ST (SR1015) & OLD FRANKLIN DOWNSTREAM TO CONFLUENCE W/DELAWARE R	MAINSTEM, FROM DAM LOCATED 0.8 Km UPSTREAM OF INTERSECTION OF OLD FRANKLIN HILL RD AND MAIN STREET TO MOUTH	1/20/2012	1.9	BROWN	348.38
HUNTER CREEK	BUCKWHA CREEK	CARBON	D	3788	CWF,MF	HQ-CWF,MF	HEADWATERS DOWNSTREAM TO MOUTH	BASIN	4/22/2011	17.021	MIX	58.17
CATASQUA CREEK	LEHIGH RIVER	LEHIGH	D	3632	CWF,MF	HQ-CWF,MF	MAINSTEM, EAST WOOD ST BRIDGE TO 40 METER DOWNSTREAM OF LEHIGH ST BRIDGE	MAINSTEM, EAST WOOD ST BRIDGE TO 40 METER DOWNSTREAM OF LEHIGH ST BRIDGE	4/22/2011	0.5	BROWN	94.9
SAUCON CREEK	LEHIGH RIVER	LEHIGH	D	3345	CWF,MF	HQ-CWF,MF	HEADWATERS DOWNSTREAM TO 0.92 KM DWS T410 BRDG	MAINSTEM, SOURCE TO 92KM DOWNSTREAM OF TOWNSHIP ROAD 410 (CHESTNUT HILL ROAD) BRIDGE	12/5/2007	3.785	BROWN	21.73
UNT TO DELAWARE RIVER	DELAWARE RIVER	NORTHAMPTON	E	3333	TSF,MF	HQ-CWF,MF	HEADWATER DOWNSTREAM TO CONFLUENCE WITH DELAWARE RIVER	BASIN, SOURCE TO MOUTH	1/20/2012	1.7	BROWN	98.26
UNT 2299 TO BEAR CREEK (WEST)	BEAR CREEK	SCHUYLKILL	F	2299	CWF,MF	HQ-CWF,MF	HEADWATERS DOWNSTREAM TO MOUTH	BASIN, SOURCE TO MOUTH	9/22/2008	2.616	BROOK	51.66
WILLOW CREEK	MAIDEN CREEK	BERKS	F	1986	CWF,MF	HQ-CWF,MF	375 M UPST T-707 BRIDGE DOWNSTREAM TO MOUTH	BASIN, FROM 375 METERS UPSTREAM OF T-707 BRIDGE CROSSING (AT RMI 0.75) TO MOUTH	3/21/2006	3.309	BROOK	58.12
UNT 01950 TO TULPEHOCKEN CREEK (WOMELSDORF)	TULPEHOCKEN CREEK	BERKS	F	1950	TSF,MF	HQ-CWF,MF	SR3002 BRIDGE AT WOMELSDORF DOWNSTREAM TO MOUTH	MAINSTEM, SR 3002 TO MOUTH	9/22/2008	1.641	BROWN	42.58
UNT 64019 TO ALLEGHENY CREEK	ALLEGHENY CREEK	BERKS	F	64019	CWF,MF	HQ-CWF,MF	HEADWATERS DOWNSTREAM TO MOUTH	MAINSTEM, SOURCE TO MOUTH	9/22/2008	1.905	BROOK	77

HAY CREEK	SCHUYLKILL RIVER	BERKS	F	1772	CWF, MF	HQ-CWF, MF	HEADWATERS DOWNSTREAM TO SR82 BRIDGE NEAR GEIGERTOWN	BASIN, FROM UNT 63982 TO THE SR 82 BRIDGE AT GEIGERTOWN AT RIVER MILE 6.75	6/15/2000	1,447	BROWN	47
UNT MONOCACY CREEK	MONOCACY CREEK	BERKS	F	1762	WWF, MF	HQ-CWF, MF	DAM LOCATED 40 METERS UPSTREAM SR 2023 CROSSING TO DOWNSTREAM TO MOUTH	BASIN, FROM 40 METERS UPSTREAM SR 2023 BRIDGE CROSSING (AT RMI 0.4) TO MOUTH	3/21/2006	0.75	BROWN	120.64
BIG RIFT CREEK	TIOGA RIVER	TIOGA	H	31316	CWF, MF	HQ-CWF	HEADWATERS DOWNSTREAM TO MOUTH	BASIN, SOURCE TO MOUTH	9/22/2008	2,184	BROOK	35.14
SATTERLEE RUN	SOUTH BRANCH TOWANDA CREEK	BRADFORD	I	30269	CWF, MF	HQ-CWF, MF	HEADWATERS DOWNSTREAM TO MOUTH	BASIN, SOURCE TO MOUTH	9/22/2008	8.39	BROOK	44.32
GAYLORD CREEK	NORTH BRANCH WYALUSING CREEK	SUSQUEHANNA	I	28706	CWF, MF	HQ-CWF, MF	HEADWATERS DOWNSTREAM TO BRAD SUSQUEHANNA CO LINE	BASIN, HEADWATER TO BRADFORD /SUSQUEHANNA COUNTY LINE	9/22/2008	12,289	BROOK	35
BURGESS BROOK	NORTH BRANCH MAHOOPANY CREEK	WYOMING	I	28259	CWF, MF	HQ-CWF	HEADWATERS DOWNSTREAM TO MOUTH	BASIN, SOURCE TO MOUTH	9/22/2008	1,227	BROOK	43.35
ROCK CREEK	TUNKHANNOCK CREEK	SUSQUEHANNA	I	29191	CWF, MF	HQ-CWF, MF	HEADWATER DOWNSTREAM TO MOUTH	BASIN, SOURCE TO MOUTH	9/22/2008	7,229	BROOK	36
LEWIS CREEK	LACKAWANNA RIVER	LUZERNE	I	28663	CWF, MF	HQ-CWF, MF	HEADWATERS DOWNSTREAM TO MOUTH	BASIN, SOURCE TO MOUTH	9/22/2008	1,936	BROOK	37.39
UNT TO LAUREL RUN "WHEELBARROW RUN"	LAUREL RUN	LUZERNE	K	62988	CWF, MF	HQ-CWF, MF	UNNAMED POND DOWNSTREAM TO MOUTH	BASIN, SOURCE TO MOUTH	1/20/2012	1.08	BROOK	32.57
BIG WAPWALLOPEN CREEK	WAPWALLOPEN CREEK	LUZERNE	K	28231	CWF, MF	HQ-CWF	CRYSTAL LAKE DOWNSTREAM TO POWERLINE CROSSING UPST NUANGOLA ROAD (SR 2042)	MAINSTEM, SR 478 TO POWERLINE CROSSING UPSTREAM OF NUANGOLA RD.	4/7/2008	6,201	MIX	97.9
BOW CREEK	BIG WAPWALLOPEN CREEK	LUZERNE	K	28248	CWF, MF	HQ-CWF	HEADWATERS ON ARBITUS PEAK DOWNSTREAM TO MOUTH	MAINSTEM, SR 308 TO CONFLUENCE WITH BIG WAPWALLOPEN CREEK	4/7/2008	1,206	MIX	57.02
BALLIET RUN	WAPWALLOPEN CREEK	LUZERNE	K	28256	CWF, MF	HQ-CWF, MF	HEADWATERS DOWNSTREAM TO CONF WAPWALLOPEN CK AND UNT	BASIN, HEADWATERS TO MOUTH	4/7/2008	10.73	BROWN	59.71
WAPWALLOPEN CREEK	SUSQUEHANNA RIVER	LUZERNE	K	28225	CWF, MF	HQ-CWF, MF	CONF BALLIET RN AND UNT	BASIN, HEADWATERS TO CONFLUENCE WITH BIG WAPWALLOPEN CREEK	4/7/2008	2,691	BROWN	49.18
BIG WAPWALLOPEN CREEK	SUSQUEHANNA RIVER	LUZERNE	K	28225	CWF, MF	HQ-CWF, MF	WAPWALLOPEN CK TO 380 M DNST ST 3012	MAINSTEM, CONFLUENCE WITH BIG WAPWALLOPEN TO 380 METERS DOWNSTREAM OF SR 3021	4/7/2008		BROWN	41.28
LONG RUN	NESCOPECK CREEK	LUZERNE	K	28156	CWF, MF	HQ-CWF, MF	HEADWATERS DOWNSTREAM TO MOUTH	BASIN, SOURCE TO MOUTH	9/22/2008	5,464	BROOK	31
UNT 28152 TO NESCOPECK CREEK	NESCOPECK CREEK	LUZERNE	K	28152	CWF, MF	HQ-CWF, MF	HEADWATERS DOWNSTREAM TO MOUTH	BASIN, SOURCE TO MOUTH	9/22/2008	4,416	BROOK	45.62

UNT 28138 TO NESCOPECK CREEK	NESCOPECK CREEK	LUZERNE	K	28138	CWF, MF	HQ-CWF, MF	HEADWATERS DOWNSTREAM TO MOUTH	BASIN, SOURCE TO MOUTH	9/22/2008	1,319	BROOK	59.73
UNT 28137 TO NESCOPECK CREEK (KESTER CK)	NESCOPECK CREEK	LUZERNE	K	28137	CWF, MF	HQ-CWF, MF	HEADWATERS DOWNSTREAM TO MOUTH	BASIN, SOURCE TO MOUTH	9/22/2008	1,476	BROOK	58.57
COLES CREEK	FISHING CREEK	COLUMBIA, LUZERNE, SULLIVAN	K	27656	CWF, MF	HQ-CWF, MF	HEADWATERS DOWNSTREAM TO MARSH RUN	BASIN, SOURCE TO CONFLUENCE WITH MARSH CREEK	4/22/2011	5,682	MIX	45.79
UNT COLES CREEK "FALLOW HOLLOW"	COLES CREEK	COLUMBIA	K	27664	CWF, MF	HQ-CWF, MF	HEADWATERS DOWNSTREAM TO MOUTH	BASIN	4/22/2011	2,113	BROOK	43.75
UNT COLES CREEK "HESS HOLLOW"	COLES CREEK	COLUMBIA	K	27663	CWF, MF	HQ-CWF, MF	HEADWATERS DOWNSTREAM TO MOUTH	BASIN	4/22/2011	1,874	MIX	42.19
WASP BRANCH	PINE CREEK	LUZERNE	K	27622	CWF, MF	HQ-CWF, MF	HEADWATER downstream to MOUTH	BASIN	3/13/2012	1.76	BROOK	43.94
LICK RUN	LITTLE FISHING CREEK	COLUMBIA	K	27725	CWF, MF	HQ-CWF, MF	HEADWATERS DOWNSTREAM TO JCT T 645 & SR 42	BASIN, SOURCE TO JCT OF T645 AND SR 42 AT RMI 2.3	9/22/2008	5,886	BROOK	45.35
LAUREL RUN (PORT MATILDA)	BALD EAGLE CREEK	CENTRE	L	23210	CWF, MF	HQ-CWF, MF	DOWNSTREAM TO VICINITY OF BLACK OAK CHURCH	BASIN, HEADWATER TO RMI 3.24	9/22/2008	8,635	MIX	52.5
CEDAR RUN	MARSH CREEK	CENTRE	L	23059	CWF, MF	HQ-CWF, MF	HEADWATERS DOWNSTREAM TO MOUTH	MAINSTEM, SOURCE TO MOUTH	3/23/2011	6,282	BROWN	259.47
HARVEY'S RUN	BALD EAGLE CREEK	CLINTON	L	22413	CWF, MF	HQ-CWF, MF	OUTFLOW OF UPPER CASTENEA RESERVOIR DOWNSTREAM TO MOUTH	BASIN, OUTFLOW FROM CASTENEA RESERVOIR TO MOUTH	1/20/2012	1.07	MIX	66.35
ROCK RUN	BABB CREEK	TIOGA	L	21758	CWF, MF	HQ-CWF, MF	HEADWATERS DOWNSTREAM TO CONFL WITH UNIT 21750	BASIN, SOURCE TO CONFLUENCE WITH TRIB 21760	9/22/2008	4.12	BROOK	36.16
PLUM CREEK	HALTER CREEK	BLAIR	N	16504	WWF, MF	HQ-CWF, MF	RT 164 BRDG DOWNSTREAM TO MOUTH	MAINSTEM, FROM SR 164 BRIDGE CROSSING (AT RMI 3.3) TO MOUTH	12/14/2007	3,867	BROWN	141
HALTER CREEK	FRANKSTOWN BRANCH JUNIATA RIVER	BLAIR	N	16503	WWF, MF	HQ-CWF, MF	CONFLUENCE OF PLUM CK DOWNSTREAM TO MOUTH	MAINSTEM, FROM CONFLUENCE WITH PLUM CREEK TO MOUTH	12/14/2007	2,239	BROWN	185.68
SANDY RUN	LITTLE JUNIATA RIVER	BLAIR	N	16016	CWF, MF	HQ-CWF, MF	ST UNNAMED TRIBUTARY ENTERING FROM THE EAST UPSTR DOWNSTREAM TO MOUTH	BASIN, UNT 16026 TO MOUTH	6/14/2007	14.3	BROWN	58
LITTLE JUNIATA RIVER	JUNIATA RIVER	BLAIR, HUNTINGDON	N	15564	CWF, MF	HQ-CWF, MF	RR BRDG AT EAST (DNS) BORDER OF IRONVILLE DOWNSTREAM TO MOUTH OF SPRUCE CREEK MOUTH OF SPRUCE CREEK DOWNSTREAM TO BARREE ROAD BRDG (SR4004)	MAINSTEM, FROM LOGAN SPRING RUN TO MCCLAIN RUN	4/22/2011	11,694	BROWN	340.3

MIDDLE SPRING CREEK	CONODOQUINET CREEK	CUMBERLAND	O	10602	CWF, MF	HQ-CWF, MF	HEADWATERS DOWNSTREAM TO AVON RD (T-303)	BASIN, CONFLUENCE OF GUM RUN AND FURNACE RUN TO T-303 (AVON RD)	11/2/2009	4.011	BROWN	76.6
BIG SPRING CREEK	CONODOQUINET CREEK	CUMBERLAND	O	10378	CWF, MF	HQ-CWF, MF	SOURCE DOWNSTREAM TO PIPER MILL DAM (OLD FISH BARRIER)	BASIN, RIVER MILE 4.54 TO NEALY RD.	9/28/2011	0.4	RAINBOW	69.05
BIG SPRING CREEK	CONODOQUINET CREEK	CUMBERLAND	O	10378	CWF, MF	HQ-CWF, MF	POST ROAD BRIDGE DOWNSTREAM TO MOUTH	BASIN, SR 3007 (T-333) AT RIVER MILE 4.84 TO RIVER MILE 4.54	3/14/2011	0.782	BROOK	165.88
LETORT SPRING RUN	CONODOQUINET CREEK	CUMBERLAND	O	10261	CWF, MF	HQ-CWF, MF	BGE AT COUNTRY CLUB DOWNSTREAM TO MOUTH	BASIN, T-7 TO BRIDGE (POST ROAD) TO MOUTH	9/22/2006	3.997	BROOK	215.67
MILL CREEK	ALLEGHENY RIVER	POTTER	P	58418	CWF AND HQ-CWF	HQ-CWF	HEADWATERS DOWNSTREAM TO MOUTH	BASIN, FROM UNIT 58423 "NORTH HOLLOW" TO MOUTH	9/22/2008	6.308	BROWN	66.33
LOGAN RUN	TONESTA CREEK	FOREST	Q	55184	CWF	HQ-CWF	HEADWATERS DOWNSTREAM TO MOUTH	BASIN, SOURCE TO MOUTH	9/22/2008	6.134	BROOK	51.48
BEAR RUN	SOUTH SANDY CREEK	VENANGO	Q	51342	CWF	HQ-CWF	HEADWATERS DOWNSTREAM TO MOUTH	BASIN	4/22/2011	0.875	BROOK	55.11
HIGGINS RUN	QUEMAHONING CREEK	SOMERSET	T	45404	CWF	HQ-CWF	UNAMED POND AT HEADWATERS DOWNSTREAM TO STONE BRIDGE BOREHOLE	MAINSTEM, UNNAMED POND IN HEADWATERS TO RMI 1.37	9/22/2008	2.907	BROWN	170.36
UNT TO FREEMAN RUN	FREEMAN RUN	WESTMORELAND	T	44808	TSF	HQ-CWF	HEADWATERS DOWNSTREAM TO MOUTH	BASIN, SOURCE TO MOUTH	1/20/2012	1.19	BROOK	52.11

REFERENCES

Weber, R., R. T. Greene, and D. Miko. 2011. Protocols for conducting biological assessments of unassessed trout waters. Pages 95-101 in D. Miko, editor. Sampling protocols for Pennsylvania's wadeable streams. Pennsylvania Fish and Boat Commission. Harrisburg, PA.

PA Fish and Boat Commission. Class A Wild Trout Fisheries Management Reports.

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE
BUREAU**

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(AGENCY)

DOCUMENT/FISCAL NOTE NO. 7-528

DATE OF ADOPTION JUNE 20, 2017

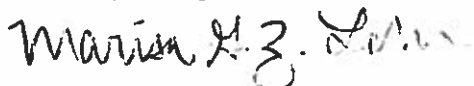
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(Deputy General Counsel)
(~~Chief Counsel - Independent Agency~~)
(Strike inapplicable title)

☒ Check if applicable. No Attorney General Approval
or objection within 30 days after submission.

NOTICE OF FINAL RULEMAKING

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
ENVIRONMENTAL QUALITY BOARD**

Water Quality Standards – Class A Stream Redesignations

25 Pa. Code, Chapter 93

**FINAL RULEMAKING
ENVIRONMENTAL QUALITY BOARD
[25 PA. CODE CH. 93]
Water Quality Standards; Class A Stream Redesignations**

The Environmental Quality Board (Board) amends §§ 93.9a, 93.9c, 93.9d, 93.9e, 93.9f, 93.9h, 93.9i, 93.9k, 93.9l, 93.9n, 93.9o, 93.9p, 93.9q and 93.9t to read as set forth in Annex A. The rulemaking fulfills the Commonwealth's obligations under State and Federal law to review and revise, as necessary, water quality standards that are protective of surface waters.

This final-form rulemaking is given under Board order at its meeting of June 20, 2017.

A. Effective Date

This final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin* as a final-form regulation.

B. Contact Persons

For further information, contact Thomas Barron, Bureau of Clean Water, 11th Floor, Rachel Carson State Office Building, P. O. Box 8774, 400 Market Street, Harrisburg, PA 17105-8774, (717) 787-9637; or Michelle Moses, Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final-form rulemaking is available on the Department of Environmental Protection's (Department) web site at www.dep.pa.gov (select "Public Participation," then "Environmental Quality Board (EQB)").

C. Statutory Authority

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 authorize the Board to develop and adopt rules and regulations to implement the provisions of 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, section 303 of the Federal Clean Water Act (33 U.S.C. § 1313) sets forth requirements for water quality standards.

D. Background and Purpose

Water quality standards are in-stream water quality goals that are implemented by imposing specific regulatory requirements (such as treatment requirements, effluent limits and best management practices (BMP)) on individual sources of pollution. Section 303(c)(1) of the Federal Clean Water Act requires states to periodically review and revise, as necessary, water quality standards. Water quality standards include designated uses, numeric and narrative

criteria, and antidegradation requirements for surface waters. These regulatory changes are the result of stream evaluations conducted by the Department.

The Department may identify candidate streams for redesignation of uses during routine waterbody investigations. Requests for consideration may also be initiated by other agencies. Members of the public may submit a rulemaking petition to the Board as well. These amendments are the result of stream evaluations conducted by the Department in response to a submittal of data from the Pennsylvania Fish and Boat Commission (PFBC) under § 93.4c (relating to implementation of antidegradation requirements). Section 93.4c(a)(1) pertains to the process for changing a designated use of a stream. In this final-form rulemaking, redesignations rely on § 93.4b(a)(2)(ii) (relating to qualifying as High Quality or Exceptional Value Waters) to qualify streams for High Quality (HQ) designations based upon their classifications as Class A wild trout streams. A surface water that has been classified a Class A wild trout stream by the PFBC, based on species-specific biomass standards, and following public notice and comment, qualifies for HQ designation. The PFBC published notice and requested comments on the Class A designation of these streams. The Commissioners of the PFBC approved these waters after public notice and comment.

The Department considers candidates for HQ or Exceptional Value (EV) Waters (collectively referred to as special protection waters) and all other designations in its ongoing review of water quality standards. In general, HQ and EV Waters must be maintained at their existing quality, and permitted activities must ensure the protection of designated and existing uses. The purpose of this rulemaking is to update the designated uses so that the surface waters of the Commonwealth are afforded the appropriate level of protection.

Existing use protection is provided when the Department determines, based on its evaluation of the best available scientific information, that a surface water attains water uses identified in § 93.3 (relating to protected water uses). Examples of water uses protected include Cold Water Fishes (CWF), Warm Water Fishes (WWF), HQ and EV. A final existing use determination is made on a surface water at the time the Department takes a permit or approval action on a request to conduct an activity that may impact surface water. If the determination demonstrates that the existing use is different than the designated use, the water body will immediately receive the best protection identified by either the attained uses or the designated uses. A stream will then be "redesignated" through the rulemaking process to match the existing uses with the designated uses. For example, if the designated use of a stream is listed as protecting WWF but the redesignation evaluation demonstrates that the water attains the use of CWF, the stream would immediately be protected for CWF prior to a rulemaking. After the Department determines the water uses attained by a surface water, the Department will recommend to the Board that the existing uses be made "designated" uses, through rulemaking, and be added to the list of uses identified in § 93.9 (relating to designated water uses and water quality criteria).

Prior to the development of the proposed rulemaking, Department staff conducted an independent review of the trout biomass data in the PFBC's fisheries management reports for streams throughout this Commonwealth. This review was conducted to ensure that the HQ criteria were met. The Department gave notice in the *Pennsylvania Bulletin* and on its website that an evaluation was to be conducted on all or portions of the subject streams to determine the proper Aquatic Life Use or Special Protection designations in the Commonwealth's Water

Quality Standards. Persons who had technical data concerning the water quality, instream habitat or biological conditions of these stream sections were encouraged to make the data available to the Department for consideration in the assessment. Potentially affected municipalities were also notified by letter of the stream evaluations and asked to provide any readily available data. No data were received in response to these notices. The affected municipalities, county planning commissions, County Conservation Districts and other State agencies were later notified of the availability of a draft stream evaluation report for their review and comment. The draft stream evaluation report was also made available on the Department's website for public review and comment. All data and comments received in response to these notifications were considered in the determination of the Department's recommendations for regulatory amendments included in this rulemaking.

Copies of the Department's stream redesignation evaluation report for these waterbodies are available on the Department's website or from the contact persons listed in Section B of this Order. Copies of the PFBC fisheries management reports for these streams and the PFBC's sampling protocols for wadeable streams are available on the Department's website or from Thomas Barron, whose address and telephone number are listed in Section B of this Order. The data and information collected on these waterbodies support the Board's final-form rulemaking as set forth in Annex A.

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

Rulemaking Summary

During the Department's review of stream data, listing errors were discovered in § 93.9. As such, the Board is correcting an error in § 93.9d (relating to Drainage List D). The current listing in § 93.9d for a very short segment of Pohopoco Creek main stem which extends from the mouth of Middle Creek to the SR 209 bridge at Kresgeville says that it is HQ-CWF, MF and it also incorrectly states that the same segment is CWF, MF. The correct designation for this portion of Pohopoco Creek is HQ-CWF, MF based on its current classification by the PFBC, and the Department's review of the data, as a Class A Wild Trout Water.

The Board is also correcting an error in § 93.9k (relating to Drainage List K). Portions of Little Nescopeck Creek (above State Route 309) and Creasy Creek were included with the data submittal from the PFBC. However, these portions of the upper Nescopeck Creek basin are already designated HQ-CWF, MF; therefore, a change is not necessary. The entire upper Nescopeck Creek basin above State Route 309 Bridge is HQ-CWF, MF according to the first entry for the Nescopeck Creek in § 93.9k. This entry designates the main stem of the Nescopeck Creek and all of its tributaries upstream of SR 309 as HQ-CWF, MF. When reviewing the drainage list, the Department discovered duplicative listings for Creasy Creek, Little Nescopeck Creek and Oley Creek which are improperly located below the SR 309 bridge in § 93.9k. The listing errors for Creasy, Little Nescopeck and Oley Creeks are amended because their mouths are geographically located upstream of the SR 309 bridge and, therefore, already have the HQ designated use.

The Board is additionally correcting some stream names as they appear in § 93.9k. The United States Geologic Survey maintains the National Hydrography Dataset (NHD) Flowline. The

stream nomenclature and the fluvial geomorphology given in the *Pennsylvania Code* are governed by the NHD Flowline. These corrections will maintain consistency between the *Pennsylvania Code* and the NHD Flowline. The NHD Flowline now recognizes some portions of the upper Wapwallopen Creek basin as Balliet Run and some of the lower portions of the Wapwallopen Creek are now Big Wapwallopen Creek.

Finally, the Board is converting all references to river mile indexes (RMI) in this final-form rulemaking to a set of coordinates (latitude and longitude), with the eventual goal to be the conversion of all RMIs in the drainage lists in §§ 93.9a—93.9z to the coordinate system. Department staff recognizes the RMI system to be antiquated. When determining the RMI, it is possible to derive differing RMIs depending on the technique used. In contrast, it is easy to consistently determine the latitude and longitude along any point of a stream or river while an individual is in the field with a hand-held GPS unit or using a GIS software application (the Department standard projected coordinate system is PA_Albers_Equal_Area_Conic; and the geographic coordinate system is North American Datum 1983 or NAD 1983). It is very difficult to determine the RMI while in the field. Referring to the latitude and longitude will make it much easier for the regulated community to apply the zone description in § 93.9 to their particular project and determine whether their project discharges within the referenced stream zone.

Changes from Proposed to Final-Form Rulemaking

One minor edit in Drainage List F is being made to the redesignations recommended in the proposed rulemaking. Department staff noted that the Annex references T 707 Bridge in the zone descriptions for both of the Willow Creek entries. This is actually the T 708 Bridge that crosses Willow Creek. Both entries for Willow Creek in Drainage List F are corrected in the final-form rulemaking.

F. Summary of Major Comments and Responses

The Environmental Quality Board approved the proposed rulemaking for the Class A Stream Redesignation Package at its November 17, 2015 meeting. On February 23, 2016, the Department submitted a copy of the proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House Environmental Resources and Energy Committees for review and comment in accordance with Section 5(a) of the Regulatory Review Act (71 P.S. §745.5(a)). The proposed rulemaking was published in the Pennsylvania Bulletin on March 5, 2016 (46 Pa.B. 1205) with provision for a 45-day public comment period that closed on April 18, 2016.

The Department received 307 supportive comments for the proposed regulatory amendments. Commentators provided many reasons for their support of this rulemaking either for specific stream redesignations included in the rule or for all of the regulatory amendments included in the rule. Commentators highlighted the following: these streams have met the necessary qualification for High Quality; citizens support the redesignation of streams in order to protect all of their uses; redesignations help Pennsylvania meet requirements of the Clean Water Act; redesignations preserve Pennsylvanians' constitutionally protected right to "pure water"; the aquatic biota and the recreational opportunities are supported by the redesignations; economic benefit results from maintaining these resources; trout angling opportunities and the community

that engages in angling will be additionally supported by the redesignations; protection of smaller streams promotes the health of the larger watershed; and redesignations protect the water supply. Further, commentators encouraged the Department to continue to be diligent in evaluating other streams that are potential candidates for redesignation and to prioritize the protection of water quality for both those within and outside of this Commonwealth.

All public comments were supportive of the proposed regulatory amendments. IRRC also submitted comments requesting amendments to the regulatory analysis form (RAF) for the final-form rulemaking. The RAF was amended accordingly and is included as part of this final-form rulemaking package. A more detailed summary of the comments submitted to the Board and the Department's responses to those comments are available in the comment and response document that also accompanies this final-form rulemaking package.

G. Benefits, Costs and Compliance

Benefits

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

The Department identified three public water supply facilities with raw water intakes that are no further downstream than 16.5 stream miles of the candidate stream sections for redesignation in this rulemaking package. These three public water suppliers, which serve over 115,000 citizens, will benefit from this rulemaking package because their raw source water will be afforded a higher level of protection. This is an economic benefit because the source water treatment costs for the drinking water may be less costly to customers if less treatment is needed due to the high quality of the water in the stream.

Businesses in the recreation industry will be positively affected by these regulations. The maintenance and protection of the water quality will ensure the long-term availability of Class A wild trout fisheries.

Compliance costs

This final-form rulemaking is necessary to maintain existing water quality and effective control of potential pollution in the stream segments being redesignated in Chapter 93 (relating to water quality standards). The amendments to Chapter 93 will not impose any new compliance costs on persons engaged in regulated activities under existing permits or approvals from the Department. Additional compliance costs may arise when permits or approvals are necessary for new or expanded regulated activities.

The Department will implement the stream redesignations through permit and approval actions. Persons adding or expanding a discharge to a stream may need to provide a higher level of treatment or additional BMPs to meet the designated and existing uses of the stream, which could result in higher engineering, construction or operating costs. Treatment costs and BMPs are site-specific and depend upon the size of the discharge in relation to the size of the stream and many other factors. The Department cannot accurately estimate such costs because of the variability associated with each discharge. The initial costs resulting from the installation of technologically advanced wastewater treatment processes and BMPs may be offset by potential savings from and increased value of improved water quality through more cost-effective and efficient treatment over time.

Over 7,000 facilities across the Commonwealth hold permits issued pursuant to Chapter 92a (relating to National Pollutant Discharge Elimination System (NPDES) permitting, monitoring and compliance). Only 39 of these facilities are known to hold NPDES permits within the stream segments redesignated in this rulemaking. The types of NPDES discharges identified include industrial waste, sewage and stormwater. Discharges in existence at the time of the stream survey have been considered in the evaluation of the existing water quality of the stream and the subsequent recommendation for redesignation to special protection. Since the presence of such discharge activities did not preclude the attainment of special protection status, the discharges may continue as long as the discharge characteristics (both quality and quantity) remain the same. Thus, redesignation to special protection does not impose any additional special requirements on the existing discharges from these 39 NPDES permitted entities.

Any person proposing a new, additional, or increased point source discharge would need to satisfy the requirements found at 25 Pa. Code § 93.4c(b)(1). Any new, additional or increased point source discharge to special protection waters must evaluate non-discharge alternatives and use an alternative that is environmentally sound and cost-effective when compared with the cost of the proposed discharge. The permit applicant must demonstrate in the permit application that their new or expanded activities will not lower the existing water quality of special protection streams. If an applicant cannot meet nondegrading discharge requirements, a person who proposes a new, additional or increased discharge to High Quality Waters is given an opportunity to demonstrate that there is a social or economic justification (SEJ) for lowering the quality of the stream, rather than maintaining the existing water quality.

Discharge activities to special protection streams typically do not qualify for general permits and, therefore, will require individual permits. Where on-lot sewage systems are planned, compliance with the sewage facilities planning and permitting regulations in Chapters 71, 72 and 73 (relating to the administration of sewage facilities planning program; administration of sewage facilities permitting program; and standards for onlot sewage treatment facilities) will continue to satisfy § 93.4c (relating to the implementation of antidegradation requirements) in these redesignated HQ Waters. Proponents of sewage facilities in HQ waters who demonstrate SEJ at the sewage facilities planning stage need not re-demonstrate SEJ at the discharge permitting stage. The SEJ demonstration process is available to sewage and non-sewage discharge applicants.

When earth disturbance activities occur within the basins of the stream segments redesignated in this rulemaking, additional BMPs may be necessary to protect water quality under Chapter 102 (relating to erosion and sediment control).

Compliance assistance plan

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

Paperwork requirements

This final-form rulemaking will not impose any new paperwork requirements on persons engaged in regulated activities under existing permits or approvals from the Department. When applying for permits or approvals for new, additional or increased discharges, additional information may need to be submitted to the Department as part of the permit application or approval request to demonstrate how the proposed activity will be conducted to maintain existing water quality. If water quality cannot be maintained, additional paperwork to provide a social and economic justification for the proposed activity would be necessary. NPDES general permits are not currently available for new or expanded discharges to these streams. Thus, an individual permit, and its associated paperwork, would be required.

H. Pollution Prevention

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

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

I. Sunset Review

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

J. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 23, 2016, the Department submitted a copy of the notice of proposed rulemaking, published at 46 Pa. B. 1205, to IRRC and to the Chairpersons of the House and Senate Environmental Resources and Energy Committees for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the House and Senate Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

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

K. Findings

The Board finds that:

- (1) Public notice of proposed rulemaking was given under Sections 201 and 202 of the Act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided as required by law, and all comments were considered.
- (3) This final-form regulation does not enlarge the purpose of the proposal published at 46 Pa.B. 1205 (March 5, 2016).
- (4) This final-form regulation is necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this order.
- (5) This final-form regulation does not contain standards or requirements that exceed requirements of the companion federal regulations.

L. Order

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

- (a) The regulations of the Department, 25 Pa. Code Chapter 93, are amended by amending §§ 93.9a, 93.9c, 93.9d, 93.9e, 93.9f, 93.9h, 93.9i, 93.9k, 93.9l, 93.9n, 93.9o, 93.9p, 93.9q and 93.9t to read as set forth in Annex A.
- (b) The Chairperson of the Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval and review as to legality and form, as required by law.

(c) The Chairperson shall submit this order and Annex A to IRRC and the Senate and House Environmental Resources and Energy Committees, as required by the Regulatory Review Act.

(d) The Chairperson shall certify this order and Annex A, as approved for legality and form, and deposit them with the Legislative Reference Bureau, as required by law.

(e) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

PATRICK McDONNELL,
Chairperson



pennsylvania
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

Water Quality Standards Class A Stream Redesignations

25 Pa. Code Chapter 93
46 Pa.B. 1205 (March 5, 2016)
Environmental Quality Board Regulation #7-528
(Independent Regulatory Review Commission #3140)

COMMENTATOR LIST

ID #	Last Name	First Name	Affiliation	City	State
1	Schott	Robert	DEP (retired), Trout Unlimited	Harrisburg	PA
2	Burtner	Philip		Philadelphia	PA
3	Wagner	Brian	Trout Unlimited	Nazareth	PA
4	Chorpenning	Robert W.		Kingston	PA
5	Stegura	John		West Pittston	PA
6	Boden	Sam		Mechanicsburg	PA
7	Loftus	William	Aquatic Research & Communication, LLC	Blakeslee	PA
8	Vierck	Robert	Spring Creek Chapter of Trout Unlimited	State College	PA
9	Beard	Mark	Tulpehocken Chapter of Trout Unlimited		PA
10	Broesicke	Erik	Monocacy Trout Unlimited	Bethlehem	PA
11	Ulmer	Ed	Wilson High School	West Lawn	PA
12	Poppich	Wayne	Private citizen	Lakewood	PA
13	Weeks	Frank	UAWA	Coudersport	PA
14	Weeks	Frank		Roulette	PA
15	Paskey	Walter		Boiling Springs	PA
16	Bear	Wilson	Gods' Country Chapter Trout Unlimited	Austib	PA
17	Ryan	Peter	Pres., God's Country Chapter Trout Unlimited	Coudersport	PA
18	Ryan	Peter		Coudersport	PA
19	Ignozzi-Shaffer	Pier		Reading	PA
20	Demalderis	Joseph		Milford	PA
21	Thrall	Russell		Stroudsburg	PA
22	Volkmar	Robert	Upper Allegheny Watershed Association	Roulette	PA
23	Cartechine	Mike	Traveling Angler	Boston	NY
24	McCoy	Thomas	Traveling Fly Fisherman	Northport	NY
25	Leonard	John		Mechanicsburg	PA
26	Antal	Art	Tiadaghton Chapter Trout Unlimited Board Member	Wellsboro	PA
27	Ciannilli	Tom		Exton	PA
28	Bixler	Allen	Concerned citizen	Sanatoga	PA
29	Schmidt-Lange	Michael		North wales	PA
30	Macdonald	Charles		Center Valley	PA
31	Weaver	David		Gettysburg	PA
32	Eckert	Bill	NWPA Chapter Trout Unlimited	Erie	PA

33	Krafjack	Emily	Mehoopany Creek Watershed Association	Mehoopany	PA
34	Lagerstedt	Patrick		Sweden	PA
35	Bianco	Marco		Cuddebackville	NY
36	Miller	Tom	Pres, Cumberland Valley Trout Unlimited	Carlisle	PA
37	Kilgour	Joanne	Sierra Club PA Chapter	Harrisburg	PA
38	Helbing	Michael	Citizens for Pennsylvania's Future (PennFuture)	Wilkes-Barre	PA
39	Salomone	Christine B.		West Chester	PA
40	Loud	Doris		Millerton	PA
41	Parowski	Carol		Richfield	PA
42	Gray	Guy		Bethlehem	PA
43	Ferry	Jane		Media	PA
44	Drummey	Robert		Collegeville	PA
45	Armstrong	Garry		West Middletown	PA
46	Seeley	Ruth		Philadelphia	PA
47	Brahler	Patty		Bethlehem	PA
48	Fiedler	David		Bensalem	PA
49	Husic	Diane		Kunkletown	PA
50	Brady Shea	Kathleen		West Chester	PA
51	Parenzan	Carol		Lewisburg	PA
52	Crawford	J. Kent		Hummelstown	PA
53	Williammee	Stewart		Elizabethtown	PA
54	Krumrine	Crystal		Hanover	PA
55	Quinn	Jen		Tamaqua	PA
56	Boden	Sam		Mechanicsburg	PA
57	Mattison	Priscilla		Bryn Mawr	PA
58	B	Regina		Philadelphia	PA
59	Hahn	John and Janice		Shohola	PA
60	Brennan	A.		Philadelphia	PA
61	Underwood	Todd		Kutztown	PA
62	Frantz	Glenn		Paoli	PA
63	Kraybill	Fred		Pittsburgh	PA
64	Bible	Lee		Abbottstown	PA
65	Abbey	Tim		Elizabethtown	PA
66	Gorsline	Dawn		Montoursville	PA
67	McSwigan	Melissa		Pittsburgh	PA
68	Cunningham	Mary Jean		Philadelphia	PA
69	Campbell	Aaron		Dallas	PA
70	Ament	Donald		Leola	PA

71	Guskin	Amy		Malvern	PA
72	Roden	Paul		Yardley	PA
73	Berl	D		Slatington	PA
74	Mozeleski	Carl		Scott Township	PA
75	Nadle	Jon		Pittsburgh	PA
76	Pfeifer	Nezka		Scranton	PA
77	Gulla	Ronald		Canonsburg	PA
78	Rosenbewrger	Donald		Three Springs	PA
79	Parowski Sr.	Paul		Richfield	PA
80	Carney	Caroline		Philadelphia	PA
81	Pena	Ricardo		Philadelphia	PA
82	Horowitz	Tina		Philadelphia	PA
83	Guttenberg	Marta		Philadelphia	PA
84	Ross	Elliot		Union Dale	PA
85	Erlbaum	Sheila		Philadelphia	PA
86	Cappello	Dan		Lawrence	PA
87	Rank	Donald		Southampton	PA
88	Detweiler	Jack		Camp Hill	PA
89	Rabbitt	Thomas		Chicora	PA
90	Faustmann	Christopher		Hughesville	PA
91	Babbitt	Susan		Philadelphia	PA
92	Metz	Richard		Erdenheim	PA
93	Alexander	Tara		Sewickley	PA
94	Miros	Peggy		Malvern	PA
95	Spiegelberg	Barbara J		Pequea	PA
96	Tonnessen	Julie		Pottstown	PA
97	Emerson	Margaret		Philadelphia	PA
98	Scriptunas	Judy		Chambersburg	PA
99	Baltz	Eileen		Mount Holly Springs	PA
100	Wiesner	Linda		Newtown	PA
101	Manning	Alexa		Downingtown	PA
102	Tonnessen	Ron		Pottstown	PA
103	Rhoads	Ann F.		Doylestown	PA
104	Grundstrom	Ann		Lewisburg	PA
105	Sayers	Lois		New Kensington	PA
106	Ash	Tracey		Enola	PA
107	Wider	Joan		Springfield	PA
108	Safer	Daniel		Philadelphia	PA
109	Verbalis	Susan		Fountain Hill	PA
110	Bergey	Ron & Nancy		New Wilmington	PA
111	Brusse	William		State College	PA

112	LaVerne	David		Dickson City	PA
113	Joas	Amanda		Allentown	PA
114	Hochheiser	Harry		Pittsburgh	PA
115	Stewart	Don B		West Reading	PA
116	Navarro	Greg		Bala Cynwyd	PA
117	Moyer	Glenn		Souderton	PA
118	Dan	Reverend		Atglen	PA
119	Knox	David		Gettysburg	PA
120	Futrick	Wendy		Shillington	PA
121	Johnson	Janis C		Pittsburgh	PA
122	Kearns	Maggie		Harrisburg	PA
123	Margerum	John		Philadelphia	PA
124	DeSantis	Krystal		Lansdale	PA
125	Adams	David		Harmony	PA
126	Turcich	Margaret		Philadelphia	PA
127	Irwin	Kelly		Lansdale	PA
128	Stewart	James and Janet		Martinsburg	PA
129	Brown	Brian		Lewisburg	PA
130	Hrobuchak	David		Harrisburg	PA
131	Baker-Smith	Gerritt and Elizabeth		East Stroudsburg	PA
132	Taylor	Arlene		Harrisburg	PA
133	Horowitz	Laura		Pittsburgh	PA
134	Coffey	James		Green Lane	PA
135	Trimarchi	Carolyn		Indiana	PA
136	Peterson	Alan		Quarryville	PA
137	Curtis	James		Port Matilda	PA
138	Petersen	Elsa		Chalfont	PA
139	Smith	David		Lititz	PA
140	Crowley	Joyce		Morton	PA
141	Gillespie	Christina		Pittsburgh	PA
142	Dodson	Ryan		Lancaster	PA
143	Gemma	Louis		Frazer	PA
144	Wood	Stephen L.		Media	PA
145	Neifeld	Joyce		Philadelphia	PA
146	Kirby	M		Philadelphia	PA
147	Brogley	Arthur		Scenery Hill	PA
148	Milone	Alexander		Brookhaven	PA
149	Holtman	Jayne		Philadelphia	PA
150	Schmidt	Robert		Easton	PA
151	Heaney	Michael		Philadelphia	PA
152	Feryok	J. Allen		Monessen	PA

153	Velson	Nathan Van		Lancaster	PA
154	Anderson	Carl		Yeadon	PA
155	Nelson	Thomas		Lansdowne	PA
156	Peluso	Cass		Scranton	PA
157	Barndt	Deborah		Montoursville	PA
158	Creany	Eugene		Ebensburg	PA
159	Rhodes, III	Robert W.		Mercersburg	PA
160	Foster	Bruce		Orwigsburg	PA
161	Forney	Dave		King of Prussia	PA
162	Gerry	Theresa		Aston	PA
163	Fritz	Lani		Beaver	PA
164	Ahrens	Jacqueline		Furlong	PA
165	Alvare	Michelle		Havertown	PA
166	Schmidmiller	Alice		Connoquenessing	PA
167	Havrilla	Robert		Pittsburgh	PA
168	Parisi	Kathleen		Media	PA
169	Goodman	W.E.		Malvern	PA
170	Smith	Anne Marie		Rose Valley	PA
171	Kalinowski	Joseph		Smithton	PA
172	Regan	Anne		Pittsburgh	PA
173	Fineran	Mary		Flourtown	PA
174	Aronson	Nancy		Pittsburgh	PA
175	Gabriel	Alannah		Williamsport	PA
176	Kimball	Adrienne		Philadelphia	PA
177	Ramble	Kirk		York	PA
178	Likovich	Andrea		Aston	PA
179	Coyne	Anna		E Fallowfield	PA
180	Jester	Leslie		Manheim	PA
181	Dunn	Charles and June		Shillington	PA
182	Loeb	David		Jenkintown	PA
183	Platt	Joel		Pittsburgh	PA
184	Mackie	Reverend Sandra		Gettysburg	PA
185	Mason	Douglas		State College	PA
186	Reba	Lynne		Susquehanna	PA
187	Department	History		Indiana	PA
188	Moyer	Margaret		Millmont	PA
189	Gibble	Ginny		Lancaster	PA
190	Blythe	Linda		Philadelphia	PA
191	Parlett	Janet		Coatesville	PA
192	Bentz	Mary Ann		Morrisville	PA
193	Opet	Robert		Luzerne	PA

194	Parzyck	Christopher		South Park	PA
195	Schott	Betsy		Lancaster	PA
196	Patel	Bharati		Philadelphia	PA
197	Faigen	Gayle		Pittsburgh	PA
198	Cleef	Marjorie Van		Wyncote	PA
199	Irwin	Christopher		N Versailles	PA
200	McNeil	Sherry		Butler	PA
201	Martinelli	Armand		East Stroudsburg	PA
202	Parana	John W.		Johnsonburg	PA
203	Lawrence	William		Pittsburgh	PA
204	Sawyer	Martha		State College	PA
205	Durante	Eric		Port Matilda	PA
206	Culp	Brinton		Lititz	PA
207	Wiles	Linda		Stroudsburg	PA
208	Budney	Stan		Cranberry Twp	PA
209	Maurer	Marilyn		Wynnewood	PA
210	Gallagher	Edward		Landenberg	PA
211	McCullough	Joe		Woodlyn	PA
212	Minnick	Michelle		Scenery Hill	PA
213	Pennell	Robert		Harrisburg	PA
214	Biehn	Mr. Alan		Philadelphia	PA
215	Kutz	Robert		Lancaster	PA
216	Fields	Damon		Elizabethtown	PA
217	Skellie	David		Erie	PA
218	Gercak	Alaina			PA
219	Family	The			PA
220	Wakely	Michael		Philadelphus	PA
221	Early	Stewart		Bethlehem	PA
222	Weber	Angela		Erie	PA
223	Friedman	Joyce		West Chester	PA
224	Kane	Misti		Pittsburgh	PA
225	Scott	Sharon L. R.		Coatesville	PA
226	Kreil	Joanne		Saylorsburg	PA
227	Dyke	Dave		Philadelphia	PA
228	Wilson	Cindy		Pittsburgh	PA
229	Algeo	James		West Chester	PA
230	Partridge	Linda		Fleetwood	PA
231	Gruver	Tom		Carlisle	PA
232	Momyer	Robert		Phoenixville	PA
233	Meals	Jordan		Butler	PA
234	Cooper	Pete		Honey Brook	PA

235	Ripple	Jeffrey		Berlin	PA
236	Valanti	Lisa		Pittsburgh	PA
237	Yuen	Andrew		Mount Pocono	PA
238	Hopkins	Steve		Rye	NY
239	Emanuele	Loretta		Pine Grove	PA
240	Juselius	Judith		Pittsburgh	PA
241	Bleam	Richard		Easton	PA
242	Murakami	Maki		Monroe	NJ
243	Wagner	Regina		Villanova	PA
244	Stone	Meredith		Philadelphia	PA
245	Blank	Rebecca		Langhorne	PA
246	Johnston	MH		Collegeville	PA
247	Forman	Sandra		Honesdale	PA
248	Pavlo	Amanda		Drexel Hill	PA
249	Rugulo	Chris		Perkasie	PA
250	Terry	Elizabeth		Mechanicsburg	PA
251	Browngoehl	Kevin		Bryn Mawr	PA
252	Laieski	Caleb		Alexandria	VA
253	Johnson	Leighta		Orefield	PA
254	Blinn	Andrea		Pittsburgh	PA
255	Doll	Garry M.		Williamsport	PA
256	Miller	Jackie		New Kensington	PA
257	Schmotzer	Michael		York	PA
258	Browngoehl	Laurie		Bryn Mawr	PA
259	Comella	John		Philadelphia	PA
260	Whitley	Kevin		Pittsburgh	PA
261	Tafari	Peter		Fleetville	PA
262	Cantens	Kaila		Stroudsburg	PA
263	Schmidt	Ruth Ann		New Kensington	PA
264	Wright	Chris		Wayne	PA
265	Keith	Michael		Lincoln Univ.	PA
266	Kiesel	Bruce		Southampton	PA
267	Forney	Andrew		Red Lion	PA
268	Nowell	Michael		Swarthmore	PA
269	McDowell	Jane		Youngstown	OH
270	Breslin	Rosalie		Narberth	PA
271	Janusko	Robert		Bethlehem	PA
272	Bartel	Carol		Greenville	PA
273	Mino	Julio Paz Y.		Havertown	PA
274	Bergman	Gary		Newmanstown	PA
275	Camp	Roberta		Philadelphia	PA

276	Brown	Neil		Allentown	PA
277	Ross	William		Honey Brook	PA
278	Lester	Lisa		Johnstown	PA
279	Fike	Kim		Franklin	PA
280	Schermerhorn	Karen		Philadelphia	PA
281	Bower	Christine		Williamsport	PA
282	Guth	Marcia		Wexford	PA
283	Brown	Sarah		Downingtown	PA
284	Towner	Erline		Milford	NH
285	Levins	Jennifer		Bethlehem	PA
286	Pistner	Rod		St. Marys	PA
287	Hamilton	Raymond		Washington Crossing	PA
288	Roeder	Cathy		Schuylkill Haven	PA
289	Zaino	Tony		Fountain Hill	PA
290	Jamieson	Patricia		Lords Valley	PA
291	Kush	Melissa		Oil City	PA
292	Schaefer	Dennis		Meadville	PA
293	Arthur	Autumn		Fairfield	PA
294	Cross	Rod		Chambersburg	PA
295	Grant	Linda		Lebanon	PA
296	Curtin	Greg			PA
297	Thompson	Jane		Bradenton	FL
298	Jaffe	Lawrence		Downingtown	PA
299	Meister	Gail		North Huntingdon	PA
300	Wuerstle	Jane		Kintnersville	PA
301	Hulboy	Diana		Philadelphia	PA
302	Shultz	Howie		State College	PA
303	Busch	Sara		Havertown	PA
304	Bashor	Robert		Chambersburg	PA
305	Rippel	Mary		Newtown Square	PA
306	Carswell	Donna		Huntingdon Vy	PA
307	Gallaway	Tina		Harrisburg	PA
308	Sumner	David	Independent Regulatory Review Commission	Harrisburg	PA



pennsylvania
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

Water Quality Standards Class A Stream Redesignations

25 Pa. Code Chapter 93

46 Pa.B. 1205 (March 5, 2016)

Environmental Quality Board Regulation #7-528
(Independent Regulatory Review Commission #3140)

COMMENT AND RESPONSE DOCUMENT

Introduction

Water Quality Standards - Class A Stream Redesignations

The Environmental Quality Board approved the proposed rulemaking for the Class A Wild Trout Stream Redesignation Package at its November 17, 2015 meeting. On February 23, 2016, the Department of Environmental Protection (DEP) submitted a copy of the proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House Environmental Resources and Energy Committees for review and comment in accordance with Section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)). The proposed rulemaking was published in the Pennsylvania Bulletin on March 5, 2016 (46 Pa.B. 1205) with provision for a 45-day public comment period that closed on April 18, 2016. Comments were received from 308 commentators and 307 of them supported either the entire proposed rulemaking; or one or more local streams in the proposed rulemaking. No opposing comments were submitted. IRRC also submitted comments requesting amendments to the regulatory analysis form (RAF) when drafting the final-form rulemaking. The RAF was amended accordingly and is included as part of this final-form rulemaking package.

Comments Supporting Proposed Stream Redesignations

1. **Comment:** DEP received 302 comments indicating strong support for the redesignation of all of the streams and stream segments in this rulemaking package to HQ-CWF. (1-11, 13,14, 17-32, 35-307)
 - ***Redesignation is appropriate:*** These streams should be redesignated because they meet the qualification for High Quality water according to Chapter 93.4b. (1)
 - ***Multiple Uses:*** These candidate waters have a variety of important uses including drinking water supplies for humans, livestock, and wildlife; fish consumption; irrigation for crops; aquatic life; recreation; and industrial water supplies. These streams deserve the strongest level of protection in order to protect all of their uses. (37)
 - ***Supports the federal Clean Water Act (CWA):*** The proposed redesignations will help Pennsylvania meet requirements of the CWA to protect the public health or welfare and enhance the quality of water. (37)
 - ***Interstate protection of water quality:*** Protecting our water, everyone's water, regardless of the state they live in, should be a top priority. Streams do not stop at state lines but each state should do everything in their power to protect the quality of the water. (45)
 - ***Supports Article 1 Section 27 of Pennsylvania Constitution:*** Stream redesignations along with other functions of DEP preserve Pennsylvanians' constitutionally protected right to "pure water". (1, 38-307)

- ***Continue with Stream Redesignations:***
 - I/We are glad that DEP is moving forward with stream redesignations. DEP should continue to redesignate streams to their appropriate designated use. (1,4,5,7,8,9,10,11,19,20,28,38-307)
 - I/We commend DEP and the EQB for beginning to eliminate the backlog of Class A Wild Trout waters that ought to be redesignated to HQ-CWF. (13,14,17,18,19,21,22)
 - The rulemaking is overdue. (25)
 - Please make sure you are not overlooking other bodies of water that might meet the same requirements and should likewise be considered for protection. (53)

- ***Protection of streams:***
 - Protect these waters. (52)
 - We need to protect this valuable resource. This rule will protect these watersheds as the land is developed. (2,10)
 - The rulemaking will give the cold water streams the protection they deserve. (25)
 - Water Quality should be a priority for every citizen and governing/regulating body! Protect these streams from degradation! (26)
 - These streams should be protected from the ill effects of drilling activities. (32)
 - We support the EQB taking action to approve this rulemaking and providing special protection to the waters that deserve it based on their excellent health and their capability of supporting diverse aquatic life. (37)
 - Pennsylvania's water resources are essential to the Commonwealth's health and economic well-being, and they should be given the strongest possible level of protection. (38 - 307)
 - Pennsylvania is blessed with many beautiful streams. They should be of high water quality too. (42)
 - As someone who lives near a high quality stream, I have seen over the years how important it is to protect our waters. (43)
 - There are many threats to our streams including pollution, climate change, development, commercial water extraction, and gas pipelines. I ask that you finalize this rulemaking to provide these special waters with the special protection they deserve. (49)
 - One needs look no further than Flint, Michigan to understand the importance of keeping our waterways as pristine as possible. (50)

- ***Protection of aquatic biota:***
 - These cold clean streams are essential for the survival of native brook trout (*Salvelinus fontinalis*). The brook trout is our state fish. (7)
 - Conservation, restoration, protection and improving wild trout and their habitat is important. (23)
 - Objective scientific data reveal that these streams are among the best of Pennsylvania's wild trout fisheries. Designating these streams "high quality" will help provide them with an additional layer of protection to ensure that they continue to serve as a viable habitat for aquatic life. (38 - 307)
 - All streams should be a viable habitat for aquatic life. (44)

- ***Recreational Opportunities:***
 - These trout streams are a good resource for anglers and other outdoor enthusiasts and should be protected. (3,5,6,7)
 - The overall quality of life in Pennsylvania is increased by the many recreational opportunities available in the state. The level of recreational activity is influenced by the quality of these streams and any improvements to the quality of these streams. (29)
- ***Provides cultural benefit:*** Protecting these wild trout streams ensures angling opportunities will continue. Trout angling is important culturally to our commonwealth. (7)
- ***Provides Economic Benefit:***
 - I visit Pennsylvania regularly for its angling opportunities. Each visit from me and thousands of other out of state visiting anglers generates revenue for Pennsylvania from license fees, road tolls, gas, food, hotels, guide services and products purchased from tackle shops. These streams need to be protected so they continue to entice anglers from out of state to visit Pennsylvania. (24)
 - Protecting water quality provides economic value to present and future generations in the form of a clean water supply. This clean water supply has many uses including clean water for human consumption, wildlife, irrigation, industrial uses and outdoor recreational opportunities. Healthy vital waterways are the source of life for our economy. (3,6,7,24)
 - Class A streams should be protected so that they can continue to be a self-sustaining (naturally reproducing) angling opportunity as compared to the cost intensive alternative of raising and stocking fish. (25)
- ***Benefits to the larger watershed:*** By protecting the smaller streams, the health of the larger watershed is promoted. (6,20)
- ***Protect the water supply:*** As human populations continue to grow, we put a heavy burden on our water supply. (40)
- ***Future Generations:***
 - Protecting our state's natural heritage for future generations is important. (7)
 - Pennsylvania DEP should continue to grant special protection status to qualifying waters (e.g. Upper Delaware River), thereby protecting their unique ecosystems for future generations. (20)
 - Protecting these waterways will assure clean water for future generations of both citizens and wildlife. (20,24)
 - The rulemaking will ensure these streams will provide fishing enjoyment for future generations. (25)
 - These streams are a valuable resource for all citizens, now and for future generations. Once lost the cost of recovery is severe; PROTECT CLEAN WATER NOW! (26)

- I've lived all over the country and still consider these waters to be the best I've ever seen. I cherish them. Please upgrade these 50 Class A trout streams to High Quality status so that we may preserve this amazing area for generations to come. (35)
- We are concerned with the conservation of Pennsylvania's surface waters for future generations. (38, 47)
- I have 3 grandchildren, ages 10 – 14. I insist that they have access to drinkable water when they grow up! These new water resources will give access to clean water in many areas of the state. (39)
- Pennsylvania is rich in natural resources many of which have been degraded by lack of care and attention from our legislative bodies in the past. Our children and our grandchildren deserve to have a regenerated natural environment and all the natural life that it brings with it. (46)
- As a mother of four and a high school science teacher, I see firsthand how nature can spark an enthusiasm for learning. Clean water and healthy fauna and flora are not something that should be questioned. Everyone should be supportive of these measures to ensure environmental health for future generations. It is our responsibility to be stewards on this Earth and be thankful for what we are provided with. How we can sit around and watch our world become so polluted and do nothing about it disgusts me. When I look into the eyes of a child I want them to know that I have done everything I could to provide them with a clean and healthy environment. I highly urge you to think about what you can do to make our world a better place. Many lives depend on our decisions. (54)

Response: DEP appreciates the commentators' support of this rulemaking. These streams and stream segments have been designated as Class A wild trout streams by the Pennsylvania Fish and Boat Commission following public notice and comment and, therefore, they all qualify as High Quality Waters in accordance with 25 Pa. Code § 93.4b. The designation of these waters to High Quality will ensure that the appropriate level of protection will be provided to maintain existing water quality and that the uses of these waters will be protected. Article 1, Section 27 of the Pennsylvania Constitution protects Pennsylvanians' right to pure water and the stream redesignations in this rulemaking help ensure that right. Pennsylvania's water quality standards program, along with the water quality standards of other states and tribes, are established under the Federal Clean Water Act and state law. The Commonwealth has authority to promulgate water quality standards for waters within the Commonwealth's borders; however, all waters of the United States are protected under the Clean Water Act.

DEP additionally appreciates the commentators' support, which highlights the importance of protecting the streams, the biota associated with the streams, and the recreational opportunities that will be maintained and enhanced by protecting the streams and their biota. DEP acknowledges that angling is not only important recreationally, but it is also an important part of the culture of Pennsylvania.

DEP also appreciates the commentators' support in describing the economic benefit of affording these streams the appropriate level of protection. Supportive comments were received which pertain to the potential benefits for the larger watershed when the existing

high quality of its smaller tributaries are protected. DEP also appreciates the commentators' support in protecting our water supply and preserving our waters for future generations.

Letort Spring Run, Big Spring Creek, Middle Spring Creek, Furnace Run, and Gum Run – Comments

2. **Comment:** I support the upgrade of these segments in Drainage List O. These streams meet the qualification for High Quality water according to Chapter 93.4b. (1)

It is important to designate these streams as Class A and HQ. I endorse the upgrade of the Letort Spring Run and Big Spring Creek to HQ status. Our CVTU Organization has strived to prevent water quality degradation in these streams. (15)

I care particularly about Letort Creek and Big Spring Creek due to their exceptional legacy as angling destinations. (31)

I strongly urge the EQB to upgrade the water quality designations of Letort Spring Run and Big Spring Creek. (36)

Response: DEP appreciates the commentators' support of the proposed redesignations. DEP encourages on-going local environmental stewardship efforts. Local efforts in the watershed are very important in protecting and promoting the stream quality and habitat, especially when combined with the redesignation of streams to the appropriate use affording these waters the proper level of protection under the Commonwealth's water quality standards program.

Cedar Run and Laurel Run –Comments

3. **Comment:** We support the upgrade of Cedar Run and Laurel Run in Centre County. Both of these streams are local to our region and deserve the protection afforded by the designation of HQ. (8)

Response: DEP appreciates the commentator's support of the proposed redesignations. DEP encourages on-going local environmental stewardship efforts. Local efforts in the watershed are very important in protecting and promoting the stream quality and habitat, especially when combined with the redesignation of streams to the appropriate use affording these waters the proper level of protection under the Commonwealth's water quality standards program.

Streams in Berks County –Comments

4. **Comment:** I support the redesignation of the five streams in the Berks County area. (9,19)

I am a Berks County resident and high school biology teacher. My students have conducted field studies under my supervision at local streams including Cacoosing Creek. We have identified wild brook trout, black-nosed dace, and cut-lips minnows. The students are very

interested in protecting and preserving the creek. I encourage you to continue your review and approval of the 5 Berks County streams in this package. (11)

Response: DEP appreciates the commentator's support of the proposed redesignations. DEP encourages on-going local environmental stewardship efforts. Local efforts in the watershed are very important in protecting and promoting the stream quality and habitat, especially when combined with the redesignation of streams to the appropriate use affording these waters the proper level of protection under the Commonwealth's water quality standards program.

(Note: Cacoosing Creek is not included in this package.)

Saucon Creek – Supportive Comments

5. **Comment:** We are pleased that a section of Saucon Creek is recommended for HQ status, given the fact that the creek flows through or close to urban and suburban landscapes, has many parks open to public use and offers a fantastic wild trout fishery. (10)

Response: DEP appreciates the commentator's support of the proposed redesignations. DEP encourages on-going local environmental stewardship efforts. Local efforts in the watershed are very important in protecting and promoting the stream quality and habitat, especially when combined with the redesignation of streams to the appropriate use affording these waters the proper level of protection under the Commonwealth's water quality standards program.

Sherman Creek – Supportive Comment

6. **Comment:** I support the redesignation of Sherman Creek to a high quality water for the following reasons: (a.) Downstream water quality is dependent upon the headwater streams (b.) This habitat for spawning wild trout and char should be protected (c.) It meets the PFBC requirements for Class A qualification. (d.) The Sherman Creek basin provides excellent food and habitat for the larger West Branch Delaware River (e.) The local economy receives millions of dollars from fishing and tourism in and along the West Branch Delaware River. (12)

Response: DEP appreciates the commentator's support of the proposed redesignations. DEP encourages on-going local environmental stewardship efforts. Local efforts in the watershed are very important in protecting and promoting the stream quality and habitat, especially when combined with the redesignation of streams to the appropriate use affording these waters the proper level of protection under the Commonwealth's water quality standards program.

(Note: the candidate section includes all portions of the Sherman Creek basin in Pennsylvania from and including Starboard Creek to the point where the mainstem of Sherman Creek crosses the state line.)

Mill Creek – Supportive Comment

7. **Comment:** I/We support the proposed redesignation to HQ-CWF for Mill Creek from its source to North Hollow. (13, 14, 16, 17, 18, 22)

The strong and abundant trout population demonstrates the excellent water quality and robust food source. (13, 14)

The high population of wild trout in this stream reflects its excellent water quality and the food web it supports. (17,22)

The density of the wild trout population as well as the diversity of macro-invertebrate life present in Mill Creek reflects its excellent water quality. (18)

This stream deserves the protection afforded by the HQ designated use. (13,14,17,18,22)

Changing designation from Class A wild trout waters to HQ-CWF would significantly provide the additional regulatory protections afforded by the HQ use designation. (16)

It is important to me and my community to see that our local streams and waterways are protected. I support the redesignation of Mill Creek's upper section. (34)

Response: DEP appreciates the commentators' support of the proposed redesignations. DEP encourages on-going local environmental stewardship efforts. Local efforts in the watershed are very important in protecting and promoting the stream quality and habitat, especially when combined with the redesignation of streams to the appropriate use affording these waters the proper level of protection under the Commonwealth's water quality standards program.

(Note: the candidate portion of Mill Creek lies downstream of North Hollow. The portion of Mill Creek basin upstream of North Hollow is currently designated HQ-CWF in §93.9P.)

Logan Run – Supportive Comment

8. **Comment:** I especially support the redesignation of Logan Run which is a small native brook trout stream that flows through a beautiful valley in the Allegheny National Forest. Logan Run should be protected from the ill effects of nearby drilling activities. (32)

Response: DEP appreciates the commentator's support of the proposed redesignations. DEP encourages on-going local environmental stewardship efforts. Local efforts in the watershed are very important in protecting and promoting the stream quality and habitat, especially when combined with the redesignation of streams to the appropriate use affording these waters the proper level of protection under the Commonwealth's water quality standards program.

Burgess Brook – Supportive Comment

9. **Comment:** The Mehoopany Creek Watershed Association (MCWA) has completed several natural stream restoration projects through Growing Greener Grants over the last several years. Our members monitor stream water quality, participate in litter pickup days, lime the South Branch at least annually, and participate in habitat improvement activities jointly with a local deer management group. We also hold an Annual Trout Day Fundraiser and assist with the North Branch Trout Derby for our area youth. Burgess Brook has been listed by the PFBC as a Class A wild trout stream and therefore qualifies for HQ designation in accordance with the PA Code. The remote, natural and unspoiled headwaters of Burgess Brook lie within State Game Land 57. I/We strongly support the redesignation of Burgess Brook to HQ-CWF, MF. (33)

Response: DEP appreciates the commentator's support of the proposed redesignations. DEP encourages on-going local environmental stewardship efforts. Local efforts in the watershed are very important in protecting and promoting the stream quality and habitat, especially when combined with the redesignation of streams to the appropriate use affording these waters the proper level of protection under the Commonwealth's water quality standards program.

Inquiries pertaining to Status of other Stream Evaluations

10. **Comment:** DEP has not evaluated any streams within our watershed in 5 years. We request that DEP schedule evaluations on Kasson Brook, Oppossum Brook and Somers Brook as these streams had sufficient data warranting another evaluation. (33)

Response: DEP collected samples from these three streams in March 2016 and the results of the evaluations are pending.

11. **Comment:** Additionally, MCWA is unaware of any evaluation completed on the North Branch Mehoopany Creek, Farr Hollow Run, or Little Mehoopany. We request that DEP conduct an evaluation of these three streams. We are quite interested in DEP evaluating these three streams. Our watershed has been affected by the legacy industries of timber, coal mining, shallow oil drilling, and presently, shale gas drilling. Information on these streams along with all streams in our watershed will greatly assist us as we strive to improve water quality. (33)

Response: DEP continually evaluates all of the streams in the Commonwealth in a rotational fashion. Often, given limited available resources and the nearly 86,000 miles of streams in Pennsylvania, evaluation efforts are necessarily focused on those streams where a particular issue is known; or those streams for which a petition has been submitted to redesignate a particular waterbody. Any person, agency, group, organization, municipality or industry may submit a rulemaking petition to the Environmental Quality Board to request a stream redesignation.

Whether the regulation is supported by acceptable data

- 12. Comment:** As part of the determination of whether a regulation is in the public interest, IRRC must consider whether the regulation is supported by acceptable data. IRRC is concerned that acceptable data was not made directly available and the supporting information does not directly establish acceptable data as required by the Regulatory Review Act. Also, one cannot discern the square miles of property affected within the drainage area from the Preamble, RAF, or Annex A. (308)

Response: These amendments are the result of stream evaluations conducted by DEP in response to a submittal of data from the Pennsylvania Fish and Boat Commission (PFBC) under § 93.4c (relating to implementation of antidegradation requirements). Section 93.4c(a)(1) pertains to the process for changing a designated use of a stream. In this Class A Wild Trout Stream Redesignations rulemaking package, all of the redesignations rely on § 93.4b(a)(2)(ii) (relating to qualifying as High Quality or Exceptional Value Waters) to qualify streams for High Quality (HQ) designations based upon their classifications as Class A Wild Trout streams. The PFBC collected data for these streams. The PFBC then determined that the data supported its qualifications for Class A Wild Trout streams, in accordance with its biomass standards. A surface water that has been classified a Class A Wild Trout stream by the PFBC, based on species-specific biomass standards, and following public notice and comment, qualifies for HQ designation.

DEP staff conducted an independent review of the trout biomass data in the PFBC's fisheries management reports for the streams in this rulemaking to ensure that the HQ criteria were indeed met. The results of DEP's review of the PFBC fisheries management reports are included in DEP's Stream Evaluation Report. This report can be found at http://files.dep.state.pa.us/Water/Drinking%20Water%20and%20Facility%20Regulation/WaterQualityPortalFiles/Stream_Packages/Class_A_Streams_Report.pdf. An addendum to this report contains basin maps for the streams in this rulemaking package, and is available at http://files.dep.state.pa.us/Water/Drinking%20Water%20and%20Facility%20Regulation/WaterQualityPortalFiles/Stream_Packages/Class_A2Final_ADDENDUM.pdf. Additionally, the Board indicated in the Preamble that the PFBC fisheries management reports were available. No additional information or data was requested, including the PFBC fisheries management reports, prior to submitting comments on the proposed rulemaking.

The aforementioned data can be found at:

- (1) electronic copies of all of the PFBC fisheries management reports
http://files.dep.state.pa.us/Water/Drinking%20Water%20and%20Facility%20Regulation/WaterQualityPortalFiles/Class_A_PFBC_Reports/, and
- (2) the PFBC's sampling protocols for wadeable streams
http://files.dep.state.pa.us/Water/Drinking%20Water%20and%20Facility%20Regulation/WaterQualityPortalFiles/SamplingProtocols_WadeableStreams_Final.pdf.

DEP staff reviewed the protocols and stream reports and found them to be scientifically sound.

A measurement of the drainage area is not representative of the affected properties because linear stream segments, rather than entire basins, are candidates for redesignation. The usual method employed to measure the land area of a drainage basin is to calculate the total area of land where all surface water converges to a single point at a lower elevation, usually the exit (mouth) of the basin. Within this rulemaking, only a smaller downstream portion of a basin is a Class A Wild Trout stream in some instances; only the main stem (no tributaries) is a Class A Wild Trout stream in other instances; or a portion of the drainage area lies in another state. DEP did include a measurement of linear stream miles with this proposal.

Addressing Economic Impact

- 13. Comment:** The Board did not sufficiently explain how the benefits of the regulation outweigh any cost and adverse effects on question 18 of the Regulatory Analysis Form ((referred to as RAF (18)). The response also references responses to RAF (15) and (17). The Board should readdress the benefits of the amendments in this regulation (e.g. how will this regulation incrementally affect the overall \$3.7 billion per year sport fishing industry or any of the other benefits presented in the RAF?).

The information given by the Board pertaining to cost is vague. Response to RAF (15) indicates that increased protection may result in higher design, engineering, construction and treatment costs and that there are 11 known pollution control facilities affected. The responses to RAF (19), (20), and (23) do not provide any dollar estimates and state either that the costs cannot be determined because they are site-specific or that there are no costs. The RAF (20) response is inconsistent. It states, "No costs will be imposed directly upon local governments," then states "certain municipalities...may be affected," then concludes that the costs would be site-specific. The Board should clarify the impact of the redesignations on existing discharges and provide estimates of costs. Additionally, the redesignations limit future land use but there is no discussion of that impact on current landowners.

A conclusion that the benefits of this specific regulation outweigh the costs and adverse effects should be based on numbers specific to this regulation. We ask the EQB to amend the RAF responses to provide information specific to this regulation. In support of its determination that benefits outweigh any cost and adverse effects, we ask the Board to provide more thorough and specific explanations of benefits, costs, and adverse effects in the RAF submitted with the final-form regulation. (308)

Response: Responses to questions included in the RAF were revised to address these comments. Please see the RAF that accompanies the final-form rulemaking.

- 14. Comment:** Both the Board's response to RAF (22) and the Preamble's Section F.4. Paperwork Requirements explain that some permits and paperwork will be required. However, the response to RAF (22) did not include the detail requested in RAF (22). We ask the EQB to provide a more thorough response to RAF (22) in the final-form regulation submittal. (308)

Response: Responses to questions included in the RAF were revised to address these comments. Please see the RAF that accompanies the final-form rulemaking.

The Regulation needs added Clarity

15. Comment: As part of our determination of whether a regulation is in the public interest, the IRRC must consider whether the regulation is written with sufficient clarity. The first sentence of the second paragraph of the Board's response to RAF (7) states, "This proposal modifies Chapter 93 to reflect the recommended redesignation of streams shown on the attached list." We did not find an attachment and are not clear regarding what this response references. (308)

Response: Responses to questions included in the RAF were revised to address these comments. Please see the RAF that accompanies the final-form rulemaking. Also, the referenced list is included in the Water Quality Standards Review Stream Redesignation Evaluation report. The report is included with the final-form rulemaking documents.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE II. WATER RESOURCES

CHAPTER 93. WATER QUALITY STANDARDS

DESIGNATED WATER USES AND WATER QUALITY CRITERIA

§ 93.9a. Drainage List A.

Delaware River Basin in Pennsylvania *Delaware River*

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
1—Delaware River				
2—West Branch Delaware River (NY)				
3—Unnamed Tributaries to West Branch Delaware River	Basins (all sections in PA)[, Source to PA-NY State Border]	Wayne	HQ-CWF, MF	None
3—Sherman Creek	Basin (all sections in PA)[, Source to Starboard Creek]	Wayne	HQ-CWF, MF	None
[4—Starboard Creek	Basin (all sections in PA)	Wayne	CWF, MF	None
3—Sherman Creek	Basin (all sections in PA), Starboard Creek to PA-NY State Border	Wayne	CWF, MF	None
3—Sherman Creek (NY)				
4—UNTs to Sherman Creek	Basins (all sections in PA), PA-NY State Border to Mouth	Wayne	CWF, MF	None]
2—West Branch Delaware River	Main Stem, PA-NY State Border to Confluence with East Branch	Wayne	CWF, MF	See DRBC regulations—Water Quality Zone 1A

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§ 93.9c. Drainage List C.

Delaware River Basin in Pennsylvania
Delaware River

Stream	Zone						Water Uses Protected	Exceptions To Specific Criteria
		*	*	*	*	*		
3—West Fork Martins Creek	Basin, Source to Confluence with East Fork				Northampton		CWF, MF	None
2—Martins Creek	Main Stem, Confluence of East and West Forks to [Mouth] UNT 63237 at 40°47'36.9"N; 75°11'32.0"W				Northampton		TSF, MF	None
3—UNTs to Martins Creek	Basins, Confluence of East and West Forks to Mouth				Northampton		TSF, MF	None
		*	*	*	*	*		
3—Waltz Creek	Basin, Greenwalk Creek to Mouth				Northampton		HQ-CWF, MF	None
2—Martins Creek	Main Stem, UNT 63237 to Mouth				Northampton		HQ-CWF, MF	None
3—Little Martins Creek	Basin				Northampton		CWF, MF	None
		*	*	*	*	*		

§ 93.9d. Drainage List D.

Delaware River Basin in Pennsylvania
Lehigh River

Stream	Zone						Water Uses Protected	Exceptions To Specific Criteria
		*	*	*	*	*		

3—Pohopoco Creek	Basin, Source to SR 3016 Bridge at Merwinsburg	Monroe	CWF, MF	None
3—Pohopoco Creek	Main Stem, SR 3016 Bridge to [SR 0209] US 209 Bridge at Kresgeville at 40°53'51.0"N; 75°30'8.8"W	Monroe	HQ-CWF, MF	None
4—Unnamed Tributaries to Pohopoco Creek	Basins, SR 3016 Bridge to [SR 0209] US 209 Bridge at Kresgeville	Monroe	CWF, MF	None
4—Sugar Hollow Creek	Basin	Monroe	CWF, MF	None
4—Weir Creek	Basin	Monroe	CWF, MF	None
4—Middle Creek	Basin, Source to [T-444] T 444 Bridge	Monroe	CWF, MF	None
4—Middle Creek	Basin, [T-444] T 444 Bridge to Mouth	Monroe	HQ-CWF, MF	None
3—Pohopoco Creek	Basin, [Middle Creek] US 209 Bridge at Kresgeville to Wild Creek	Carbon	CWF, MF	None
4—Wild Creek	Basin	Carbon	EV, MF	None
3—Pohopoco Creek	Basin, Wild Creek to Mouth	Carbon	CWF, MF	None
	* * *			
3—Aquashicola Creek	Basin, Source to Buckwha Creek	Carbon	HQ-CWF, MF	None
4—Buckwha Creek	Basin, Source to Hunter Creek	Carbon	CWF, MF	None
5—Hunter Creek	Basin	Carbon	HQ-CWF, MF	None
4—Buckwha Creek	Basin, Hunter Creek to Mouth	Carbon	CWF, MF	None
3—Aquashicola Creek	Main Stem, Buckwha Creek to Mouth	Carbon	TSF, MF	None
	* * *			
3—Coplay Creek	Basin	Lehigh	CWF, MF	None
3—Catasauqua Creek	Basin, Source to East Wood Street Bridge at 40°39'13.1"N; 75°28'0.9"W	Lehigh	CWF, MF	None
3—Catasauqua Creek	Main Stem, East Wood Street Bridge to a point	Lehigh	HQ-CWF, MF	None

	downstream of the Lehigh Street Bridge at 40°38'51.8"N; 75°28'6.1"W				
4—Tributaries to Catasauqua Creek	Basins, East Wood Street Bridge to the point downstream of the Lehigh Street Bridge	Lehigh	CWF, MF	None	
3—Catasaqua Creek	Basin, from the point downstream of the Lehigh Street Bridge to the Mouth	Lehigh	CWF, MF	None	
2—Lehigh River	Main Stem, Allentown Dam to Mouth	Northampton	WWF, MF	None	
	* * *				
3—Monocacy Creek	Basin	Northampton	HQ-CWF, MF	None	
3—Saucon Creek	[Basin, Source to Black River] Main Stem, Source to a point downstream of Chestnut Hill Road Bridge at 40°32'21.3"N; 75°26'28.1"W	[Northampton] Lehigh	[CWF] HQ-CWF, MF	None	
[4—Black River	Basin	Northampton	CWF, MF	None]	
4—Tributaries to Saucon Creek	Basins, Source to SR 412 Bridge	Lehigh-Northampton	CWF, MF	None	
3—Saucon Creek	Main Stem, from the point downstream of Chestnut Hill Road Bridge to Black River	Lehigh	CWF, MF	None	
3—Saucon Creek	Main Stem, Black River to SR 412 Bridge	Northampton	HQ-CWF, MF	None	
[4—Unnamed Tributaries to Saucon Creek	Basins, Black River to SR 412 Bridge	Northampton	CWF, MF	None]	
3—Saucon Creek	Basin, SR 412 Bridge to Mouth	Northampton	CWF, MF	None	
	* * *				

§ 93.9e. Drainage List E.

Delaware River Basin in Pennsylvania
Delaware River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
1—Delaware River	Main Stem, Lehigh River to Head of Tide	Bucks	WWF, MF	See DRBC regulations—Water Quality Zone 1E
2—Unnamed Tributaries to Delaware River (except UNT 03333 at 40°38'47.0"N; 75°12'6.6"W)	Basins, Lehigh River to Pidcock Creek	Northampton-Bucks	TSF, MF	None
2—UNT 03333 to Delaware River	Basin	Northampton	HQ-CWF, MF	None
2—Frya Run	Basin	Northampton	HQ-CWF, MF	None
	* * *	* *		

§ 93.9f. Drainage List F.

Delaware River Basin in Pennsylvania
Schuylkill River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
	* * *	* *		
3—Pine Creek	Basin	Schuylkill	CWF, MF	None
3—Bear Creek	Basin, Source to UNT 02300 at [RM 7.6] 40°34'15.5"N; 76°11'25.6"W	Schuylkill	HQ-CWF, MF	None
4—[Unnamed Tributary] UNT 02300 to Bear Creek	Basin	Schuylkill	CWF, MF	None
3—Bear Creek	Basin, UNT 02300 to [Mouth] UNT 02299 at 40°34'43.5"N; 76°9'33.6"W	Schuylkill	CWF, MF	None
4—UNT 02299 to Bear Creek	Basin	Schuylkill	HQ-CWF, MF	None

3—Bear Creek	Basin, UNT 02299 to Mouth	Schuylkill	CWF, MF	None
3—Stony Creek	Basin	Schuylkill	CWF, MF	None
	* * * * *			
3—Maiden Creek	Basin, Lake Ontelaunee Dam to Willow Creek	Berks	WWF, MF	None
4—Willow Creek	Basin, Source to a point upstream of T 707 708 Bridge at 40°25'39.2"N; 75°55'26.3"W	Berks	CWF, MF	None
4—Willow Creek	Basin, from the point at T 707 <u>UPSTREAM OF T 708</u> Bridge to Mouth	Berks	HQ-CWF, MF	None
3—Maiden Creek	Basin, Willow Creek to Mouth	Berks	WWF, MF	None
	* * * * *			
3—Tulpehocken Creek	Main Stem, T 560 to Inlet of Blue Marsh Reservoir	Berks	TSF, MF	None
4—[Unnamed] Tributaries to Tulpehocken Creek	Basins, T 560 to [Inlet of Blue Marsh Reservoir] Owl Creek	[Berks] Lebanon	TSF, MF	None
4—Owl Creek	Basin	Lebanon	WWF, MF	None
4—Tributaries to Tulpehocken Creek	Basins, Owl Creek to UNT 01950 at 40°22'23"N; 76°10'53.4"W	Lebanon-Berks	TSF, MF	None
4—UNT 01950 to Tulpehocken Creek	Basin, Source to SR 3002	Berks	TSF, MF	None
4—UNT 01950 to Tulpehocken Creek	Main Stem, SR 3002 to Mouth	Berks	HQ-CWF, MF	None
5—Tributaries to UNT 01950	Basins, SR 3002 to Mouth	Berks	TSF, MF	None
4—Tributaries to Tulpehocken Creek	Basins, UNT 01950 to Mill Creek (Stream Code 01936 at 40°25'2"N; 76°9'59.8"W)	Berks	TSF, MF	None
4—Mill Creek (Stream Code 01936 [at RM* 20.30])	Basin	Berks	CWF, MF	None
4—Tributaries to Tulpehocken Creek	Basins, Mill Creek (Stream Code 01936) to Inlet of Blue Marsh Reservoir	Berks	TSF, MF	None
3—Tulpehocken Creek	Blue Marsh Reservoir	Berks	WWF, MF	None
	* * * * *			

3—Trout Run	Basin	Berks	WWF, MF	None
3—Allegheny Creek	Basin, Source to Sleepy Hollow Run	Berks	CWF, MF	None
4—Sleepy Hollow Run	Main Stem	Berks	HQ-CWF, MF	None
5—Tributaries to Sleepy Hollow Run	Basins	Berks	CWF, MF	None
3—Allegheny Creek	Basin, Sleepy Hollow Run to Mouth	Berks	CWF, MF	None
3—Seidel Creek	Basin	Berks	WWF, MF	None
3—Antietam Creek	Basin	Berks	CWF, MF	None
3—Indian Corn Creek	Basin	Berks	CWF, MF	None
3—Heisters Creek	Basin	Berks	WWF, MF	None
3—Hay Creek	Basin, Source to [Unnamed Tributary (UNT) 63882 at River Mile 8.1] UNT 63882 at 40°12'8.5"N; 75°51'49.8"W	Berks	EV, MF	None
4—[Unnamed Tributary (63882)] UNT 63882 to Hay Creek	Basin	Berks	CWF, MF	None
3—Hay Creek	Basin, UNT 63882 to [Beaver Run] UNT 62990 at 40°12'36.7"N; 75°50'26.4"W	Berks	[CWF] HQ-CWF, MF	None
4—UNT 62990 to Hay Creek	Basin	Berks	CWF, MF	None
3—Hay Creek	Basin, UNT 62990 to Beaver Run	Berks	CWF, MF	None
4—Beaver Run	Basin	Berks	HQ-CWF, MF	None
3—Hay Creek	Basin, Beaver Run to Birdsboro Boundary at 40°15'17.5"N; 75°48'51.2"W	Berks	EV, MF	None
3—Hay Creek	Basin, Birdsboro Boundary to Berks Mouth	Berks	CWF, MF	None
3—Sixpenny Creek	Basin, Source to [Unnamed Tributary at RM 1.28] UNT 64027 at 40°14'37.2"N; 75°46'40.3"W	Berks	HQ-CWF[;], MF	None

4—[Unnamed Tributary to Sixpenny Creek at RM 1.28] UNT 64027 to Sixpenny Creek	Basin	Berks	HQ-CWF[;], MF	None
3—Sixpenny Creek	Basin, [Unnamed Tributary at RM 1.28] UNT 64027 to Mouth	Berks	CWF[;], MF	None
3—Monocacy Creek	Basin, Source to UNT 01762 at 40°22'1.3"N; 75°48'35.3"W	Berks	WWF, MF	None
4—UNT 01762 to Monocacy Creek	Basin, Source to Alsace and Oley Township border at 40°22'18.6"N; 75°48'56.7"W	Berks	WWF, MF	None
4—UNT 01762 to Monocacy Creek	Basin, Alsace and Oley Township border to Mouth	Berks	HQ-CWF, MF	None
3—Monocacy Creek	Basin, UNT 01762 to Mouth	Berks	WWF, MF	None
3—Leaf Creek	Basin	Berks	WWF, MF	None
	* * * * *			

§ 93.9h. Drainage List H.

Susquehanna River Basin in Pennsylvania *Tioga River*

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
1—Susquehanna River				
2—Tioga River	Basin, Source to [Mill Creek] Big Rift Creek	Tioga	CWF, MF	None
3—Big Rift Creek	Basin	Tioga	HQ-CWF, MF	None
2—Tioga River	Basin, Big Rift Creek to Mill Creek	Tioga	CWF, MF	None
3—Mill Creek	Basin	Tioga	TSF, MF	None
	* * * * *			

§ 93.9i. Drainage List I.

Susquehanna River Basin in Pennsylvania
Susquehanna River

Stream	Zone					Water Uses Protected	Exceptions To Specific Criteria
		*	*	*	* *		
3—French Run	Basin				Bradford	CWF, MF	None
3—South Branch Towanda Creek	Basin, Source to Satterlee Run				Bradford	CWF, MF	None
4—Satterlee Run	Basin				Bradford	HQ-CWF, MF	None
3—South Branch Towanda Creek	Basin, Satterlee Run to Mouth				Bradford	CWF, MF	None
2—Towanda Creek	Main Stem, South Branch to Mouth				Bradford	WWF, MF	None
		*	*	*	* *		
2—Wyalusing Creek	Basin, Confluence of East and Middle Branches to North Branch				Bradford	WWF, MF	None
3—North Branch Wyalusing Creek	Basin, Source to Gaylord Creek				Susquehanna	CWF, MF	None
4—Gaylord Creek	Basin, Source to Bradford-Susquehanna County line at 41°53'4.6"N; 76°8'6.4"W				Bradford-Susquehanna	HQ-CWF, MF	None
4—Gaylord Creek	Basin, Bradford-Susquehanna County line to Mouth				Susquehanna	CWF, MF	None
3—North Branch Wyalusing Creek	Basin, Gaylord Creek to Mouth				Susquehanna	CWF, MF	None
2—Wyalusing Creek	Basin, North Branch to Mouth				Bradford	WWF, MF	None
		*	*	*	* *		

2—Mehoopany Creek	Basin, Source to North Branch Mehoopany Creek	Wyoming	HQ-CWF, MF	None
3—North Branch Mehoopany Creek	Basin, Source to Burgess Brook	Wyoming	CWF, MF	None
4—Burgess Brook	Basin	Wyoming	HQ-CWF, MF	None
3—North Branch Mehoopany Creek	Basin, Burgess Brook to Mouth	Wyoming	CWF, MF	None
2—Mehoopany Creek	Basin, North Branch Mehoopany Creek to Mouth	Wyoming	CWF, MF	None
2—Taques Creek	Basin	Wyoming	CWF, MF	None
2—Tunkhannock Creek	Basin, Source to UNT 29200 at [RM 36.08] 41°48'18.8"N; 75°34'50.6"W	Susquehanna	CWF, MF	None
3—UNT 29200 to Tunkhannock Creek [at RM 36.08]	Basin	Susquehanna	EV, MF	None
2—Tunkhannock Creek	Basin, UNT 29200 to [East Branch Tunkhannock Creek] Rock Creek	Susquehanna	CWF, MF	None
3—Rock Creek	Basin	Susquehanna	HQ-CWF, MF	None
2—Tunkhannock Creek	Basin, Rock Creek to East Branch Tunkhannock Creek	Susquehanna	CWF, MF	None
3—East Branch Tunkhannock Creek	Basin, Source to Dundaff Creek	Susquehanna	CWF, MF	None
	* * *			
2—Sutton Creek	Basin	Luzerne	CWF, MF	None
2—Lewis Creek	Basin	[Lackawanna] Luzerne	[CWF] HQ-CWF, MF	None
2—Gardner Creek	Basin	[Luzerne] Lackawanna	CWF, MF	None
	* * *			

§ 93.9k. Drainage List K.

Susquehanna River Basin in Pennsylvania
Susquehanna River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
2—Abrahams Creek	Basin	Luzerne	CWF, MF	None
2—Mill Creek [(Warden Creek)]	Basin, Source to Laurel Run	Luzerne	CWF, MF	None
3—Laurel Run	Basin, Source to UNT 62998 at 41°14'14.0"N; 75°48'33.5"W	Luzerne	CWF, MF	None
4—UNT 62998 to Laurel Run	Basin	Luzerne	HQ-CWF, MF	None
3—Laurel Run	Basin, UNT 62998 to Mouth	Luzerne	CWF, MF	None
2—Mill Creek	Basin, Laurel Run to Mouth	Luzerne	CWF, MF	None
2—Toby Creek	Basin, Source to Huntsville Creek	Luzerne	CWF, MF	None
	* * *	* *		
2—Little Wapwallopen Creek	Basin	Luzerne	CWF, MF	None
2—Big Wapwallopen Creek [(Big Wapwallopen Creek)]	Basin, Source to SR 437	Luzerne	CWF, MF	None
2—Big Wapwallopen Creek	Main Stem, SR 437 to a point upstream of Nuangola Road at 41°08'58.7"N; 75°54'48.1"W	Luzerne	HQ-CWF, MF	None
3—Tributaries to Big Wapwallopen Creek	Basins, SR 437 to the point upstream of Nuangola Road	Luzerne	CWF, MF	None
2—Big Wapwallopen Creek	Basin, from the point upstream of Nuangola Road to Bow Creek	Luzerne	CWF, MF	None
3—Bow Creek	Basin, Source to SR 309	Luzerne	CWF, MF	None
3—Bow Creek	Main Stem, SR 309 to Mouth	Luzerne	HQ-CWF, MF	None

4—Tributaries to Bow Creek	Basins, SR 309 to Mouth	Luzerne	CWF, MF	None
2—Big Wapwallopen Creek	Basin, Bow Creek to Balliet Run	Luzerne	CWF, MF	None
3—Balliet Run	Basin	Luzerne	HQ-CWF, MF	None
2—Big Wapwallopen Creek	Main Stem, Balliet Run to a point downstream of SR 3012 at 41°3'42.1"N; 76°5'51.2"W	Luzerne	HQ-CWF, MF	None
3—Tributaries to Big Wapwallopen Creek	Basins, Balliet Run to the point downstream of SR 3012	Luzerne	CWF, MF	None
2—Big Wapwallopen Creek	Basin, from the point downstream of SR 3012 to Mouth	Luzerne	CWF, MF	None
2—Walker Run	Basin	Luzerne	CWF, MF	None
2—Salem Creek	Basin	Luzerne	CWF, MF	None
2—Nescopeck Creek	Basin, Source to PA 309 Bridge	Luzerne	HQ-CWF, MF	None
2—Nescopeck Creek	Main Stem, PA 309 Bridge to Mouth	Luzerne-Columbia	TSF, MF	None
3—[Unnamed] Tributaries to Nescopeck Creek	Basins, PA 309 Bridge to [Mouth] Long Run	[Luzerne-Columbia] Luzerne	CWF, MF	None
[3—Creasy Creek	Basin	Luzerne	CWF, MF	None
3—Little Nescopeck Creek	Basin	Luzerne	CWF, MF	None
3—Oley Creek	Basin, Source to farthest downstream crossing of State Game Lands No. 187 Border	Luzerne	HQ-CWF, MF	None
3—Oley Creek	Basin, Farthest downstream crossing of State Game Lands No. 187 Border to Mouth	Luzerne	CWF, MF	None]
3—Long Run	Basin	Luzerne	[CWF] HQ-CWF, MF	None
[3—Little Nescopeck Creek	Basin	Luzerne	CWF, MF	None
3—Black Creek	Basin	Luzerne	CWF, MF	None]

3—Tributaries to Nescopeck Creek	Basins, Long Run to UNT 28152 at 41°0'45.8"N; 76°3'38.1"W	Luzerne	CWF, MF	None
3—UNT 28152 to Nescopeck Creek	Basin	Luzerne	HQ-CWF, MF	None
3—Tributaries to Nescopeck Creek	Basins, UNT 28152 to UNT 28138 at 41°0'40"N; 76°6'1.7"W	Luzerne	CWF, MF	None
3—UNT 28138 to Nescopeck Creek	Basin	Luzerne	HQ-CWF, MF	None
3—Tributaries to Nescopeck Creek	Basins, UNT 28138 to Kester Creek	Luzerne	CWF, MF	None
3—Kester Creek	Basin	Luzerne	HQ-CWF, MF	None
3—Tributaries to Nescopeck Creek	Basins, Kester Creek to Mouth	Luzerne	CWF, MF	None
2—Briar Creek	Basin	Columbia	CWF, MF	None
	* * *	* *		
3—East Branch Fishing Creek	Basin, Source to Confluence with West Branch	Columbia	HQ-CWF, MF	None
2—Fishing Creek	Basin, Confluence of East and West Branches to [Huntingdon Creek] Coles Creek	Columbia	CWF, MF	None
3—Coles Creek	Basin, Source to Marsh Run	Columbia	HQ-CWF, MF	None
4—Marsh Run	Basin	Columbia	CWF, MF	None
3—Coles Creek	Basin, Marsh Run to UNT 27964 at 41°15'49.0"N; 76°20'28.1"W	Columbia	CWF, MF	None
4—UNT 27964 to Coles Creek (Fallow Hollow)	Basin	Columbia	HQ-CWF, MF	None
3—Coles Creek	Basin, UNT 27964 to UNT 27963 at 41°15'32.5"N; 76°20'50.7"W	Columbia	CWF, MF	None
4—UNT 27963 to Coles Creek (Hess Hollow)	Basin	Columbia	HQ-CWF, MF	None
3—Coles Creek	Basin, UNT 27963 to Mouth	Columbia	CWF, MF	None
2—Fishing Creek	Basin, Coles Creek to Huntingdon Creek	Columbia	CWF, MF	None

3—Huntingdon Creek	Basin, Source to Kitchen Creek	Luzerne	HQ-CWF, MF	None
4—Kitchen Creek	Basin	Luzerne	HQ-CWF, MF	None
3—Huntingdon Creek	Main Stem, Kitchen Creek to Mouth	Columbia	TSF, MF	None
4—[Unnamed] Tributaries to Huntingdon Creek	Basins, Kitchen Creek to [Mouth] Pine Creek	[Luzerne] Luzerne-Columbia	CWF, MF	None
[4—Rogers Creek	Basin	Luzerne	CWF, MF	None
4—Kingsbury Brook	Basin	Luzerne	CWF, MF	None]
4—Pine Creek	Basin, Source to Wasp Branch	Luzerne	CWF, MF	None
5—Wasp Branch	Basin	Luzerne	HQ-CWF, MF	None
4—Pine Creek	Basin, Wasp Branch to Mouth	Columbia	CWF, MF	None
4—Tributaries to Huntingdon Creek	Basins, Pine Creek to Mouth	Columbia	CWF, MF	None
2—Fishing Creek	Basin, Huntington Creek to Green Creek	Columbia	TSF, MF	None
	* * *	* *		
3—Little Fishing Creek	Basin, Source to Lick Run	Columbia	EV, MF	None
4—Lick Run	Basin, Source to UNT 27727 at 41°11'20.4"N; 76°31'18.0"W	Columbia	[CWF] HQ-CWF, MF	None
5—UNT 27727 to Lick Run	Basin	Columbia	HQ-CWF, MF	None
4—Lick Run	Basin, UNT 27727 to Mouth	Columbia	CWF, MF	None
3—Little Fishing Creek	Basin, Lick Run to Mouth	Columbia	CWF, MF	None
	* * *	* *		

§ 93.9l. Drainage List L.

Susquehanna River Basin in Pennsylvania
West Branch Susquehanna River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
3—Bald Eagle Creek	Basin, Source to Laurel Run (at Port Matilda)	Centre	CWF, MF	None
4—Laurel Run	Basin, Source to a point at 40°49'3.5"N; 78°5'52"W	Centre	[CWF] HQ-CWF, MF	None
4—Laurel Run	Basin, from the point at 40°49'3.5"N; 78°5'52"W to Mouth	Centre	CWF, MF	None
3—Bald Eagle Creek	Main Stem, Laurel Run to Nittany Creek	Centre	TSF, MF	None
	* * * *			
5—Galbraith Gap Run	Basin	Centre	HQ-CWF, MF	None
5—Cedar Run	[Basin] Main Stem	Centre	[CWF] HQ-CWF, MF	None
6—Tributaries to Cedar Run	Basins	Centre	CWF, MF	None
5—UNT 23057 [at RM 18.18] to Spring Creek at 40°47'41.2"N; 77°48'16.6"W (locally Markles Gap Run)	Basin	Centre	HQ-CWF, MF	None
5—Slab Cabin Run	Basin, Source to [PA 26 at RM 9.0] SR 26 at 40°43'46"N; 77°52'42.4"W	Centre	HQ-CWF, MF	None
5—Slab Cabin Run	Basin, [PA 26 at RM 9.0] SR 26 to UNT 23037 at 40°48'50"N; 77°50'8.9"W	Centre	CWF, MF	None
6—Unnamed Tributary 23037 (locally Thompson Run)	Basin	Centre	HQ-CWF, MF	None

			*	*	*	*	*	
4—Harveys Run	Basin[, Source to Castanea Reservoir Water Supply Intake]	Clinton	HQ-CWF, MF	None				
[4—Harveys Run	Basin, Castanea Reservoir Water Supply Intake to Mouth	Clinton	CWF, MF	None]				
3—McElhattan Creek	Basin, Source to Keller Reservoir Water Supply Intake	Clinton	HQ-CWF, MF	None				
			*	*	*	*	*	
5—Nickel Run	Basin	Tioga	EV, MF	None				
5—Rock Run	Basin, Source to UNT 21760 at 41°38'16.2"N; 77°14'34.7"W	Tioga	[CWF] HQ-CWF, MF	None				
6—UNT 21760 to Rock Run	Basin	Tioga	CWF, MF	None				
5—Rock Run	Basin, UNT 21760 to Mouth	Tioga	CWF, MF	None				
5—Long Run	Basin, Source to Custard Run	Tioga	EV, MF	None				
			*	*	*	*	*	

§ 93.9n. Drainage List N.

Susquehanna River Basin in Pennsylvania
Juniata River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
	*	*	*	*
4—McDonald Run	Basin	Blair	WWF, MF	None
4—Halter Creek	Basin, Source to Plum Creek	Blair	WWF, MF	None
5—Plum Creek	Basin, Source to SR 164	Blair	WWF, MF	None
5—Plum Creek	Main Stem, SR 164 to Mouth	Blair	HQ-CWF, MF	None

6—Tributaries to Plum Creek	Basins, SR 164 to Mouth	Blair	WWF, MF	None
4—Halter Creek	Main Stem, Plum Creek to Mouth	Blair	HQ-CWF, MF	None
5—Tributaries to Halter Creek	Basins, Plum Creek to Mouth	Blair	WWF, MF	None
3—Frankstown Branch Juniata River	Main Stem, Halter Creek to Piney Creek	Blair	WWF, MF	None
	* * * * *			
4—Homer Gap Run	Basin	Blair	WWF, MF	None
4—Sandy Run	Basin, Source to UNT 16026 at 40°32'53.2"N; 78°20'43.9"W	Blair	CWF, MF	None
5—UNT 16026 to Sandy Run	Basin	Blair	CWF, MF	None
4—Sandy Run	Basin, UNT 16026 to Mouth	Blair	HQ-CWF, MF	None
4—Riggles Gap Run	Basin	Blair	CWF, MF	None
	* * * * *			
4—Logan Spring Run	Basin	[Huntingdon] Blair	WWF, MF	None
3—Little Juniata River	Main Stem, Logan Spring Run to [Confluence with Frankstown Branch] McLain Run	Huntingdon	[CWF] HQ-CWF, MF	None
3—Little Juniata River	Main Stem, McLain Run to Confluence with Juniata River and Frankstown Branch Juniata River	Huntingdon	CWF, MF	None
4—UNTs to Little Juniata River	Basins, Logan Spring Run to Confluence with Juniata River and Frankstown Branch Juniata River	Huntingdon-Blair	WWF, MF	None
	* * * * *			

§ 93.9o. Drainage List O.

Susquehanna River Basin in Pennsylvania
Susquehanna River

Stream	Zone	County					Water Uses Protected	Exceptions To Specific Criteria
		*	*	*	*	*		
3—Muddy Run	Basin, Rowe Run to Mouth			Franklin			WWF, MF	None
3—Middle Spring Creek								
4—Furnace Run	Basin			Franklin-Cumberland			CWF, MF	None
4—Gum Run	Basin			Franklin-Cumberland			CWF, MF	None
3—Middle Spring Creek	Basin, Confluence of Furnace Run and Gum Run to T 303 (Avon Road)			Franklin-Cumberland			[CWF] HQ-CWF, MF	None
3—Middle Spring Creek	Basin, T 303 (Avon Road) to Mouth			Franklin-Cumberland			CWF, MF	None
3—Paxton Run	Basin			Cumberland			WWF, MF	None
		*	*	*	*	*		
3—Big Spring Creek	Basin, Source to SR 3007 (T 333)			Cumberland			EV, MF	None
3—Big Spring Creek	Basin, SR 3007 (T 333) to Nealy Road			Cumberland			HQ-CWF, MF	None
3—Big Spring Creek	Basin, [SR 3007 (T 333)] Nealy Road to Mouth			Cumberland			CWF, MF	None
3—Rock Run	Basin			Cumberland			WWF, MF	None
		*	*	*	*	*		
3—Letort Spring Run	Basin, PA 34 Bridge to Railroad Bridge at Letort Park			Cumberland			EV, MF	None
3—Letort Spring Run	Basin, Railroad Bridge at Letort Park to [T-710 (Post Road) Bridge] Mouth			Cumberland			HQ-CWF, MF	None
[3—Letort Spring Run	Basin, T-710 Bridge to Mouth			Cumberland			CWF, MF	None]

3—Simmons Basin Cumberland WWF, MF None
Creek

* * * * *

§ 93.9p. Drainage List P.

Ohio River Basin in Pennsylvania
Allegheny River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
		*	*	*
3—Reese Basin Hollow		Potter	CWF	None
3—Mill Creek Basin[, Source to North Hollow]		Potter	HQ-CWF	None
[3—Mill Creek Basin, North Hollow to Mouth]		Potter	CWF	None]
3—Dingman Run Main Stem		Potter	HQ-CWF	None
		*	*	*

§ 93.9q. Drainage List Q.

Ohio River Basin in Pennsylvania
Allegheny River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
	*	*	*	*
4—Blood Run Basin		Forest	HQ-CWF	None
4—Logan Run Basin		Forest	[CWF] HQ-CWF	None
4—Phelps Run Basin		Forest	CWF	None
	*	*	*	*
4—Sulphur Run Basin		Venango	WWF	None

4—Little Sandy Creek	Basin, Source to [Unnamed Tributary at RM 1.16] UNT 51398 at 41°22'39.5"N; 79°55'5"W	Venango	HQ-CWF	None
5—[Unnamed Tributary to Little Sandy Creek at RM 1.16] UNT 51398 to Little Sandy Creek	Basin	Venango	CWF	None
4—Little Sandy Creek	Basin, [Unnamed Tributary at RM 1.16] UNT 51398 to Mouth	Venango	CWF	None
4—South Sandy Creek	Basin, Source to Bear Run	Venango	CWF	None
5—Bear Run	Basin	Venango	HQ-CWF	None
4—South Sandy Creek	Basin, Bear Run to Mouth	Venango	CWF	None
4—Morrison Run	Basin	Venango	WWF	None
	* * * * *			

§ 93.9t. Drainage List T.

Ohio River Basin in Pennsylvania
Kiskiminetas River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
7—Twomile Run	Basin	Somerset	CWF	None
7—Higgins Run	Basin, Source to [RM 1.37] UNT 45416 at 40°6'45.9"N; 78°59'50.6"W	Somerset	CWF	None
8—UNT 45416 to Higgins Run	Basin	Somerset	CWF	None
7—Higgins Run	Main Stem, [RM 1.37] UNT 45416 to Mouth	Somerset	HQ-CWF	None
8—[Unnamed] Tributaries to Higgins Run	Basins, [RM 1.37 to Mouth] from UNT 45416 to Mouth (including UNTs 45406 and 45405)	Somerset	CWF	None
5—Stony Creek	Main Stem, Quemahoning Creek to Confluence with Little Conemaugh River	Cambria	WWF	None

* * * * *

5—Tubmill Creek	Basin, Source to Tubmill Reservoir Dam	Westmoreland	EV	None
5—Tubmill Creek	Basin, Tubmill Reservoir Dam to [Mouth] Freeman Run	Westmoreland	TSF	None
6—Freeman Run	Basin, Source to UNT 44808 at 40°22'14.1"N; 79°10'34.4"W	Westmoreland	TSF	None
7—UNT 44808 to Freeman Run	Basin	Westmoreland	HQ-CWF	None
6—Freeman Run	Basin, UNT 44808 to Mouth	Westmoreland	TSF	None
5—Tubmill Creek	Basin, Freeman Run to Mouth	Westmoreland	TSF	None
5—Roaring Run	Basin	Indiana	CWF	None

* * * * *

July 19, 2017

David Sumner
Executive Director
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17120

Re: Final Rulemaking: Radiological Health and Radon Certification Fees; and
Pennsylvania Radon Mitigation System Fee (#7-498)
Final Rulemaking: Water Quality Standards – Class A Stream Redesignations (#7-528)

Dear Mr. Sumner:

Pursuant to Section 5(a) of the Regulatory Review Act, please find enclosed copies of two final-form rulemakings for review and comment by the Independent Regulatory Review Commission (IRRC). The Environmental Quality Board (EQB) adopted both final-form rulemakings at its June 20, 2017 meeting.

The **Radiological Health and Radon Certification Fees; and Pennsylvania Radon Mitigation System Fee (#7-498)** final-form rulemaking amends 25 Pa. Code, Chapters 218 and 240 and adjusts the radioactive materials licensing and radon certification fees. The amendments in Chapter 218 will increase the annual fees for radioactive material licenses, with one exception, and increase the hourly rate professional fee associated with certain full-cost recovery licenses. The amendments in Chapter 240 will increase the application fees for certification of radon services and add a new requirement and fee for active mitigation systems installed or passive mitigation systems converted to active mitigation systems in this Commonwealth.

Despite substantial increases in personnel and program costs, the Chapter 218 fees, which support the licensing and inspection of radioactive materials, and the Chapter 240 fees, which support radon testing and mitigation certification, have not been revised since 2009. As a result, the Radiation Protection Fund is decreasing annually in operating reserves. Without a fee increase, the Department of Environmental Protection (DEP) would be required to curtail spending for needed equipment, infrastructure upgrades, training and hiring of qualified personnel. This rulemaking addresses these problems by increasing the Chapter 218 and 240 fees to meet Radiation Protection Act (RPA) and Radon Certification Act (RCA) requirements to adequately fund the licensing and inspection of radioactive materials and the certification of individuals who perform radon-related activities.

With two exceptions, the final-form rulemaking will increase the Chapters 218 and 240 fees by 50 percent to meet RPA and RCA requirements to adequately fund the licensing and inspection of radioactive materials and the certification of individuals who perform radon-related activities. One exception is for license category 2A(2)(c) – ‘Source Material – Metal Extraction,’ which

will be reduced by 50 percent. No one is currently licensed in the Commonwealth of Pennsylvania in this Source Material category. The second exception is for category 7B—Human Use—Broad Scope (except Teletherapy). Based on feedback from the Radiation Protection Advisory Committee (RPAC), this fee category will only be increased by 25 percent to avoid licensees in this category from downgrading their licenses to a specific license and to avoid placing additional administrative burdens on DEP.

The proposed rulemaking added subsection 240.303(a)(7) to include the serial number of the Pennsylvania Radon Mitigation System Tag as a reporting requirement. This subsection has been deleted from the final-form rulemaking due to the removal of the proposed requirement of a Pennsylvania Radon Mitigation System Tag to be placed on any newly installed or converted radon mitigation system in this Commonwealth.

The proposed rulemaking additionally included the new § 240.309 that contained the requirements for Pennsylvania Radon Mitigation System Tags to implement the new \$50 radon mitigation system fee. The EQB received several comments that raised concern over the logistical and administrative burdens that the tags would place on both DEP and the regulated community. This section has been revised in the final-form rulemaking to remove the use of a mitigation tag for payment of the \$50 fee. The final-form regulation requires payment of the fee to DEP using a form created for this purpose. DEP must receive the fee and the form within 10 business days of the end of the quarter in which an active mitigation system is installed or a passive mitigation system is converted to an active system. This change to the final-form regulation reduces the logistical and administrative burdens that would have been imposed by requiring a mitigation tag while retaining the \$50 mitigation system fee that is needed to adequately fund the radon certification program.

All Pennsylvania radioactive material licensees and certified radon testers, mitigators and laboratories will be required to comply with this rulemaking. DEP regulates approximately 850 specific and general licensees and approximately 720 radon certificate holders.

The proposed rulemaking was approved by the EQB on April 19, 2016, and published in the *Pennsylvania Bulletin* on July 2, 2016. Public comments on the proposed rulemaking were accepted through August 30, 2016. The Board received comments from 40 commentators during the public comment period and the Independent Regulatory Review Commission (IRRC). These comments were considered and are addressed in the comment and response document that accompanies this final-form rulemaking.

DEP presented the draft final-form Annex A to RPAC on November 17, 2016, and RPAC concurred with DEP's recommendation to advance the final-form rulemaking forward for EQB consideration.

The **Water Quality Standards – Class A Stream Redesignations (#7-528)** final-form rulemaking includes regulatory changes that are the result of stream evaluations conducted by DEP in response to a submittal of data from the Pennsylvania Fish and Boat Commission (PFBC) under 25 Pa. Code § 93.4c (relating to implementation of antidegradation requirements). Section 93.4c(a)(1) pertains to the process for changing a designated use of a stream. In this final-form rulemaking, redesignations rely on § 93.4b(a)(2)(ii) to qualify streams for High Quality (HQ) designations based upon their classifications as Class A wild trout streams. A surface water that has been classified a Class A wild trout stream by the PFBC, based on species-specific biomass standards, following public notice and comment, qualifies for HQ designation. The PFBC Commissioners approved these waters after public notice and comment.

DEP staff conducted an independent review of the trout biomass data in the PFBC's fisheries management reports for streams throughout the Commonwealth to ensure that the HQ criteria were met. Based on these data and appropriate regulatory criteria, DEP developed this package of stream redesignations. The regulations include HQ stream redesignations in the Delaware, Susquehanna and Ohio River basins.

During DEP's review of stream data, listing errors were discovered in § 93.9. The final-form rulemaking corrects an error in the drainage list at § 93.9d (listing for a short segment of the Pohopoco Creek main stem). This rulemaking also corrects an error in § 93.9k (portions of Little Nescopeck Creek (above State Route 309) and Creasy Creek) included with the data submittal from the PFBC. However, these portions of the upper Nescopeck Creek basin are already designated HQ-CWF, MF and therefore no change is necessary. Further, this rulemaking corrects some stream names as they appear in §93.9k. The United States Geologic Survey (USGS) maintains the National Hydrography Dataset (NHD) Flowline, and these corrections are being made to maintain consistency between the *Pennsylvania Code* and the NHD Flowline. Finally, this rulemaking includes the HQ waters redesignations, based on the Class A wild trout qualifier.

One minor edit was made to the redesignations recommended in the proposed rulemaking. DEP staff noted that, in Drainage List F, the Annex A references T 707 Bridge in the zone descriptions for both of the Willow Creek entries. This is actually the T 708 Bridge that crosses Willow Creek. Both entries for Willow Creek in Drainage List F are corrected in the final-form rulemaking.

DEP is unable to accurately estimate who will be affected by these stream redesignations because: (1) persons, businesses and small businesses will not be impacted until a future activity requiring a new or modified National Pollutant Discharge Elimination System (NPDES) permit is proposed; (2) effluent discharges and receiving stream characteristics are unique; (3) social and economic justification may be available to modify the compliance requirement; and (4) generic technology or cost equation are not available for purposes of comparing the costs and/or savings for local governments that are responsible for discharges.

However, the stream redesignations benefit all citizens of the Commonwealth, both present and future, by maintaining and protecting water. Small businesses in the recreation industry should

July 19, 2017

be positively affected by these regulations. The maintenance and protection of the water quality will ensure the long-term availability of Class A fisheries.

Further, DEP identified three public water supply facilities with raw water intakes that are no further downstream than 16.5 stream miles of the candidate stream sections for redesignation in this rulemaking package. These three public water suppliers which serve over 115,000 citizens should benefit from this regulation because their raw source water will be afforded a higher level of protection. This provides an economic benefit as the source water treatment costs for the drinking water will be less for customers if less treatment is needed due to the high quality of the water in the stream.

The proposed rulemaking was published in the Pennsylvania Bulletin on March 5, 2016 opening a 45-day public comment period that closed on April 18, 2016. Over 300 public comments were received for the proposed regulatory amendments in addition to comments from IRRC. Most comments supported the regulatory amendments. All comments were considered and are addressed in the comment and response document that accompanies this final-form rulemaking.

The Department will provide assistance as necessary to facilitate IRRC's review of the enclosed final-form rulemaking under Section 5.1(e) of the Regulatory Review Act.

Please contact me by e-mail at ledinger@pa.gov or by telephone at 717.783.8727 if you have any questions or need additional information.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Laura Edinger', written in dark ink.

Laura Edinger
Regulatory Coordinator

Enclosures

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO
THE REGULATORY REVIEW ACT**

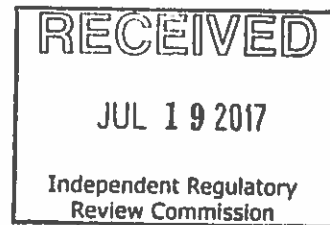
I.D. NUMBER: 7- 528

SUBJECT: Water Quality Standards - Class A Stream Redesignations

AGENCY: DEPARTMENT OF ENVIRONMENTAL PROTECTION

TYPE OF REGULATION

- ☐ Proposed Regulation
- ☒ Final Regulation
- ☐ Final Regulation with Notice of Proposed Rulemaking Omitted
- ☐ 120-day Emergency Certification of the Attorney General
- ☐ 120-day Emergency Certification of the Governor
- ☐ Delivery of Tolerated Regulation
- a. ☐ With Revisions b. ☐ Without Revisions



FILING OF REGULATION

DATE

SIGNATURE

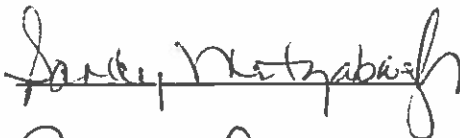
DESIGNATION

7-19-17



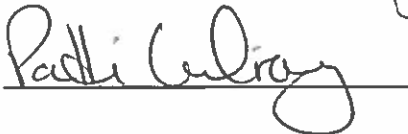
Majority Chair, HOUSE COMMITTEE ON
ENVIRONMENTAL RESOURCES & ENERGY
Representative John Maher

7-19-17



Minority Chair, HOUSE COMMITTEE ON
ENVIRONMENTAL RESOURCES & ENERGY
Representative Mike Carroll

7-19-17



Majority Chair, SENATE COMMITTEE ON
ENVIRONMENTAL RESOURCES & ENERGY
Senator Gene Yaw

7-19-17



Minority Chair, SENATE COMMITTEE ON
ENVIRONMENTAL RESOURCES & ENERGY
Senator John Hudichak

7/19/17



INDEPENDENT REGULATORY REVIEW COMMISSION
David Sumner

ATTORNEY GENERAL (for Final Omitted only)

LEGISLATIVE REFERENCE BUREAU (for Proposed only)

