

# PROPOSED RULEMAKING

## ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 86]

### Coal Mining

The Environmental Quality Board (Board) proposes to amend Chapter 86 (relating to surface and underground mining: general) to read as set forth in Annex A. The proposed rulemaking addresses the extraction of coal incidental to government-financed highway construction or reclamation projects.

This proposal was adopted by the Board at its meeting of March 19, 2002.

#### A. *Effective Date*

The proposed rulemaking will go into effect upon publication in the *Pennsylvania Bulletin* as final-form rulemaking.

#### B. *Contact Persons*

For further information contact Evan Shuster, Chief, Division of Permits, Bureau of Mining and Reclamation, P. O. Box 8461, Rachel Carson State Office Building, Harrisburg, PA 17105-8461, (717) 787-5103; or Bo Reiley, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, 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 proposed rulemaking is available electronically through the Department of Environmental Protection's (Department) website (<http://www.dep.state.pa.us>).

#### C. *Statutory Authority*

The regulation is proposed under the authority of section 4.2 of the Surface Mining Conservation and Reclamation Act (SMCRA) (52 P. S. § 1396.4b(a)) and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

#### D. *Background and Purpose*

The rulemaking proposes to add section § 86.6 (relating to extraction of coal incidental to government-financed highway construction or reclamation projects) to exclude the extraction of coal incidental to government-financed highway construction or government-financed reclamation projects from the requirements of this chapter and Chapters 87 and 88 (relating to surface mining of coal; and anthracite coal). Section 3.1 of the SMCRA (52 P. S. § 1396.3a) provides, among other things, that "surface mining activities" do not include the extraction of coal or coal refuse removal under a government-financed reclamation contract, or the extraction of coal as an incidental part of Federal, State or local government-financed highway construction under regulations promulgated by the Board. Since the Department never saw the need for these regulations, none were ever proposed for promulgation by the Board.

Recently, the Department received a request from the Department of Transportation (DOT) to amend Chapter 86 to exclude coal extraction on government-financed highway construction projects from regulation under the

coal mining regulations. DOT's specific concern is the proposed realignment and reconstruction of US Route 322 in Centre County, which will involve the excavation of coal-bearing strata in two areas that have been designated unsuitable for mining—Cold Stream Run (UFM Petition 14829901) and Black Bear Run (UFM Petition 14829902) (25 Pa. Code § 86.130(b)(2) and (4) (relating to areas designated as unsuitable for mining)). Given this request, the General Assembly's mandate as set forth in the SMCRA and the Board's statutory authority, the Department proposes to exclude coal extraction, from government-financed highway construction and government-financed reclamation projects, from the requirements of Chapters 86—88.

While the extraction of coal as an incidental part of Federal, State or local government financed highway construction is proposed to no longer be subject to the requirements of Chapters 86—88, potential environmental impacts from highway construction are still regulated under both Federal and State law. Virtually all DOT highway construction projects are funded, at least in part, by Federal tax dollars. Because of this Federal funding, DOT's projects must comply with the National Environmental Policy Act of 1970 (NEPA) (42 U.S.C.A. §§ 4321—4370(e)). The NEPA procedural requirements are very thorough and can take as long as 2 to 3 years to complete for a highway project. In general, this process requires notice to all potentially affected parties, a preliminary interagency "scoping" meeting to identify areas of concern, an environmental analysis, a determination of whether the project will have significant environmental impacts, notice and opportunity to comment on that determination and the agency responses to those comments.

In addition, whether the project is partially funded by Federal tax dollars or is 100% State funded, DOT must comply with section 2002(e) of The Administrative Code 1929 (71 P. S. § 512(e)(15)) (Act 120) which requires it to "consult with appropriate officials as designated by the chief administrative officer of the . . . Department of Environmental [Protection] . . . regarding the environmental hazards . . . conservation . . . recreation and social considerations that may arise by reason of the location, design, construction or reconstruction of any transportation or air facility."

Act 120 also requires DOT to follow the Federally mandated hearing procedures under 23 U.S.C.A. and 49 U.S.C.A. (relating to highways; and transportation) in acquiring a new right-of-way even if no Federal funds are involved. At these hearings, DOT must consider the impact of the proposed project on air, erosion, wildlife, the general ecology, noise, air and water pollution and historic landmarks. DOT may not proceed with the project unless it makes a written finding in the *Pennsylvania Bulletin* that there is no significant impact on the listed environmental elements or that there is no prudent alternative.

Given the procedural requirements under the NEPA and Act 120, the Department believes that it will receive adequate notice and opportunity to comment on any highway project that may impact the environmental resources of a particular area. In turn, the Department will recommend ways to protect those resources. Moreover, all Federal, State and local government-financed highway projects are not exempt from other Department permitting requirements like those under Chapters 92,

102 and 105 (relating to National Pollutant Discharge Elimination System permitting, monitoring and compliance; erosion and sediment control; and dam safety and waterway management).

Proposed § 86.6 also restates the SMCRA exemption for coal extraction incidental to government-financed reclamation. This provision is included in § 86.6 so that it more closely parallels the exemptions in the SMCRA. Moreover, these exclusions are consistent with the Federal Office of Surface Mining, Reclamation and Enforcement (OSM) regulations in 30 CFR Part 707 (relating to exemption for coal extraction incident to government-financed highway or other construction).

The proposed regulation was reviewed and discussed on October 25, 2001, Mining and Reclamation Advisory Board (MRAB), but was referred to the MRAB's Regulatory, Legislative and Technical Committee (Committee) for further consideration. Several MRAB members expressed concern that the unique resources, which led to areas being designated unsuitable for mining, won't be adequately protected. The Committee met on November 19, 2001, and unanimously voted to recommend approval of the proposal to the MRAB with the understanding that the Department will establish internal notification procedures to protect the unique resources in areas designated unsuitable for mining. On January 3, 2002, the MRAB supported this position.

#### E. Summary of Regulatory Requirements

Section 86.6 excludes the extraction of coal incidental to government-financed highway construction and government-financed reclamation projects from the regulatory requirements of Chapters 86—88. The statutory basis for exempting these activities is found in section 3 of the SMCRA (52 P. S. § 1396), under the definition of surface mining activities. The exemption for these activities is also consistent with OSM regulations in 30 CFR Part 707. The proposed regulation contains criteria and standards for qualifying for the exemptions that are taken from the corresponding Federal regulation, 30 CFR Part 707, and, therefore, is no more stringent than the Federal law.

#### F. Benefits, Costs and Compliance

Executive Order 1996-1, "Regulatory Review and Promulgation" requires a cost/benefit analysis of the proposed regulation.

##### *Benefits*

Government entities located in this Commonwealth's coal fields that are proposing highway construction or reclamation projects will benefit from the addition of § 86.6. These entities will be able to avoid the additional cost and time involved in complying with the coal mining regulations to remove coal as part of the project. Furthermore, when a government-financed highway construction project or reclamation project will affect an area designated unsuitable for mining, as in the example described in section D of this Preamble, the designation will not automatically prohibit excavation or removal of coal or coal refuse. The Department and the Commonwealth may also benefit through additional reclamation of abandoned mine lands if government-financed reclamation contracts involving the necessary and incidental removal of coal and coal refuse can occur in areas designated unsuitable for mining.

##### *Compliance Costs*

The proposed regulation will impose no additional compliance costs on the coal mining industry, government entities or the public.

##### *Compliance Assistance Plan*

The Department will provide written notification of the proposed regulation to DOT, the Turnpike Commission and local governments.

##### *Paperwork Requirements*

The proposed regulation will not result in the need for additional forms, reports or other paperwork.

#### G. Sunset Review

The proposed rulemaking will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulation effectively fulfills the goals for which it was intended.

#### H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), April 23, 2002, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate and House Environmental Resources and Energy Committees. In addition to submitting the proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed rulemaking, it will notify the Department within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria that have not been met by the portion of the proposed rulemaking to which an objection is made. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of objections raised.

#### I. Public Comments

*Written Comments*—Interested persons are invited to submit comments, suggestions or objections regarding the proposed regulation to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 15th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. The Board must receive comments, suggestions or objections by June 18, 2002 (within 45 days of publication in the *Pennsylvania Bulletin*). Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by June 18, 2002. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final regulation will be considered.

*Electronic Comments*—Comments may be submitted electronically to the Board at RegComments@state.pa.us and must also be received by the Board by June 18, 2002. A subject heading of the proposal and a return name and address must be included in each transmission.

DAVID E. HESS,  
Chairperson

**Fiscal Note:** 7-376. No fiscal impact; (8) recommends adoption.

**Annex A**

**PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**Subpart C. PROTECTION OF NATURAL RESOURCES**

**ARTICLE I. LAND RESOURCES**

**CHAPTER 86. SURFACE AND UNDERGROUND COAL MINING: GENERAL**

**Subchapter A. GENERAL PROVISIONS**

**§ 86.6. Extraction of coal incidental to government-financed highway construction or reclamation projects.**

(a) Extraction of coal incidental to government-financed highway construction or government-financed reclamation projects is exempt from the acts and this chapter as it relates to surface mining activities and operations, and Chapters 87 and 88 (relating to surface mining of coal; and anthracite coal) if:

(1) The extraction of coal is necessary to enable the construction or reclamation to be accomplished. Only that coal extracted from within the right-of-way, in the case of a road, or within the boundaries of the area directly affected by government-financed reclamation, may be considered incidental to that construction or reclamation.

(2) The construction or reclamation is funded by a Federal, Commonwealth, county, municipal or local unit of government, or a department, bureau, agency or office of the unit which, directly or through another unit of government, finances the construction or reclamation.

(3) The construction or reclamation is funded 50% or more by funds appropriated from the government unit's budget or obtained from general revenue bonds. Funding at less than 50% may qualify if the construction is undertaken as a Department-approved reclamation contract or project.

(b) Highway construction funded through government financing agency guarantees, insurance, loans, funds obtained through industrial revenue bonds or their equivalent or in-kind payments does not qualify as government-financed construction.

(c) A person extracting coal incidental to government-financed highway construction or reclamation who extracts more than 250 tons of coal or affects more than 2 acres shall maintain on the site of the extraction operation and make available for inspection the following:

(1) A description of the construction or reclamation project.

(2) The exact location of the construction or reclamation, right-of-way or the boundaries of the area which will be directly affected by the construction or reclamation.

(3) The government agency that is providing the financing and the kind and amount of public financing, including the percentage of the entire construction costs represented by the government financing.

[Pa.B. Doc. No. 02-792. Filed for public inspection May 3, 2002, 9:00 a.m.]

**[25 PA. CODE CH. 93]**

**Stream Redesignations; Oysterville Creek, et al.**

The Environmental Quality Board (Board) proposes to amend §§ 93.9(a), 93.9f, 93.9g, 93.9n and 93.9o to read as set forth in Annex A.

This proposal was adopted by the Board at its meeting of March 19, 2002.

*A. Effective Date*

These proposed amendments are effective upon publication in the *Pennsylvania Bulletin* as final-form rulemaking.

*B. Contact Persons*

For further information, contact Edward R. Brezina, Chief, Division of Water Quality Assessment and Standards, Bureau of Water Supply and Wastewater Management, 11th Floor, Rachel Carson State Office Building, P. O. Box 8467, (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 proposal is available electronically through the Department of Environmental Protection's (Department) website (<http://www.dep.state.pa.us>).

*C. Statutory and Regulatory Authority*

These proposed amendments are 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 provisions of The Clean Streams Law and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), which grants to the Board the power and duty to formulate, adopt and promulgate rules and regulations for the proper performance of the work of the Department. In addition, section 303 of the Federal Clean Water Act (33 U.S.C.A. § 1313) sets forth requirements for water-quality standards and the Federal regulation in 40 CFR 131.32 (relating to Pennsylvania) sets forth certain requirements for portions of this Commonwealth's antidegradation program.

*D. Background of the Amendments*

The Commonwealth's water quality standards, which are set forth, in part, in Chapter 93 (relating to water quality standards) implement the provisions of sections 5 and 402 of The Clean Streams Law and section 303 of the Federal Clean Water Act. Water quality standards are in-stream water quality goals that are implemented by imposing specific regulatory requirements (such as treatment requirements and effluent limits) on individual sources of pollution.

In addition to the stream redesignations in this proposed rulemaking, the Department proposes to add UNT (Unnamed Tributary) to the list of abbreviations in § 93.9(a) (relating to designated water uses and water quality criteria) that are used in the "Zone" column in the Drainage Lists. The addition of this abbreviation will provide clarity to the water quality standards and save space in the Drainage Lists.

The Department considers candidates for High Quality (HQ) or Exceptional Value (EV) Waters designation in its ongoing review of water quality standards. In general, HQ and EV waters shall be maintained at their existing quality. The Department may identify candidates during

routine water body investigations. Requests for consideration may also be initiated by other agencies, such as the Fish and Boat Commission (Commission). Organizations, businesses or individuals may submit a rulemaking petition to the Board.

These streams were evaluated in response to five petitions, as well as a request from the Commission as follows:

*Petitions:* Oysterville Creek (Berks County); West Branch Perkiomen Creek (Berks County); Unnamed Tributary to Chester Creek (Delaware County); Cove Creek (Bedford County); Trout Run (York County)

*Commission:* Unnamed Tributary to Rambo Run (York County)

The Department's Bureau of Water Supply and Wastewater Management conducted aquatic surveys on five of these streams. The physical, chemical and biological characteristics and other information on these waterbodies were evaluated to determine the appropriateness of the current and requested designations using applicable regulatory criteria and definitions. In reviewing whether waterbodies qualify as HQ or EV waters, the Department considers the criteria in § 93.4b (relating to qualifying as High Quality or Exceptional Value Waters).

No new field survey was conducted on Cove Creek. The recommended redesignation is the result of applying a modification of the implementation of the Percent Dominant Taxon biological metric to data previously collected. This change to implementation was published for public comment at 29 Pa.B. 3960 (July 24, 1999). All of the 18 comments received were in support of the change. Notice of the change in implementation was published at 29 Pa.B. 5149 (October 2, 1999). The impact of this change on Cove Creek is discussed as follows.

While preparing Annex A, the Department noticed that the Migratory Fishes (MF) use designation is applied to some portions of the Chester Creek basin and not to others. The Commission Area Fisheries Manager and the Department's Southeast Field Office were contacted and both indicated that there are no significant barriers to migration in the basin. The Board proposes to add the MF designated use so that it is applied to the entire Chester Creek basin.

Based upon the data collected in the field surveys and the other information noted previously, the Board recommends the designations described in this Preamble and set forth in Annex A.

Copies of the Department's stream evaluation reports for these waterbodies are available from Edward R. Brezina whose address and phone number are listed in Section B of this Preamble.

The following is a brief explanation of the recommendations for each water body:

*Oysterville Creek*—The petition from the Berks County Conservancy and the District Township Supervisors requested consideration of the stream for redesignation from Cold Water Fishes (CWF) to EV. The upper reaches of the basin (source to T-634) meet the biological test for EV designation in the antidegradation regulation and are recommended for designation as EV. The remainder of the basin (T-634 to mouth) meets the biological test for HQ-CWF designation, with the exception of Unnamed Tributary 01680, which is recommended to retain the CWF designation.

*West Branch Perkiomen Creek*—The petition submitted by the Berks County Conservancy and the District Town-

ship Supervisors requested consideration of a portion of the basin for redesignation from CWF to EV. The upper portion of the basin (source to SR 1022) is recommended to retain the CWF designation. The lower portion of the basin (SR 1022 to SR 2069) meets the biological test for EV designation in the antidegradation regulation and is recommended for redesignation.

*Unnamed Tributary to Chester Creek*—In response to a petition submitted by Frank Akutowicz, this watershed was evaluated for redesignation from Trout Stocking Fishes (TSF) designation to EV. The majority of this watershed is owned by Glen Mills School. Based on applicable regulatory criteria, the Department recommends that the Unnamed Tributary to Chester Creek basin retain the current TSF designation with the addition of Migratory Fishes (MF) based on the presence of American eel. In addition, it is recommended that the MF designation be added so that it applies to the entire Chester Creek basin.

*Cove Creek*—The recommendation for the Cove Creek basin from the T-433 bridge to the mouth is the result of a reevaluation of previously collected biological data. The original evaluation were done in response to a petition submitted by Friends of Cove Creek. Data from the lower part of the stream was reevaluated using a change to the implementation of the Percent Dominant Taxon biological metric. In the modification, if the dominant organism is pollution-sensitive the candidate receives the highest score for this metric even though the percentage would ordinarily result in a lower score. As a result of this change in implementation, lower Cove Creek scores 93% in comparison to the reference and is recommended for redesignation as EV.

*Trout Run*—The Trout Run basin is currently designated as Warm Water Fishes (WWF). The stream was evaluated for possible redesignation to EV in response to a petition from Greg McCarren and Jackie Greenfield. The upper portion of the basin (source to an unnamed tributary at RM 0.3) met the biological test for redesignation as HQ. In addition, cold-water fish species were found in the basin, so it should be designated CWF. It is recommended that the upper portion of the Trout Run basin be redesignated HQ-CWF and the remainder (unnamed tributary at RM 0.3 to mouth) be designated CWF.

*Rambo Run*—The Commission requested evaluation of an unnamed tributary to Rambo Run for possible redesignation from CWF to HQ-CWF. After consulting with the Department's Southcentral Field office, the entire Rambo Run basin was evaluated for HQ or EV designation. All stations sampled in the basin met the biological test for EV designation. The Board proposes that the entire basin be designated EV.

#### E. *Benefits, Costs and Compliance*

Executive Order 1996-1 requires a cost/benefit analysis of the proposed amendments.

1. *Benefits*—Overall, the citizens of this Commonwealth will benefit from these recommended changes because they will reflect the appropriate designated use and maintain the most appropriate degree of protection for each stream in accordance with the existing use of the stream.

2. *Compliance Costs*—Generally, the changes should have no fiscal impact on, or create additional compliance costs for the Commonwealth or its political subdivisions. The streams are already protected at their existing use, and therefore the designated use changes will have no impact on existing wastewater discharges. No costs will

be imposed directly upon local governments by this recommendation. Political subdivisions that add a new sewage treatment plant or expand an existing plant in these basins may experience changes in costs.

Persons conducting or proposing activities or projects that result in new or expanded discharges to streams shall comply with the regulatory requirements relating to designated and existing uses. These persons could be adversely affected if they expand a discharge or add a new discharge point since they may need to provide a higher level of treatment to meet the designated and existing uses of the stream. These increased costs may take the form of higher engineering, construction or operating costs for wastewater treatment facilities. Treatment costs are site-specific and depend upon the size of the discharge in relation to the size of the stream and many other factors. It is therefore not possible to precisely predict the actual change in costs. Economic impacts would primarily involve the potential for higher treatment costs for new or expanded discharges to streams that are upgraded.

3. *Compliance Assistance Plan*—The regulatory revisions have been developed as part of an established program that has been implemented by the Department since the early 1980s. The revisions are consistent with and based on existing Department regulations. The revisions extend additional protection to selected water bodies that exhibit exceptional water quality and are consistent with antidegradation requirements established by the Federal Clean Water Act and The Clean Streams Law. Surface waters in this Commonwealth are afforded a minimum level of protection through compliance with the water quality standards, which prevent pollution and protect existing water uses.

The proposed amendments will be implemented through the National Pollutant Discharge Elimination System (NPDES) permitting program since the stream use designation is a major basis for determining allowable stream discharge effluent limitations. These permit conditions are established to assure water quality criteria are achieved and designated and existing uses are protected. New and expanded discharges with water quality based effluent limitations are required to provide effluent treatment according to the water quality criteria associated with existing uses and revised designated water uses.

4. *Paperwork Requirements*—The regulatory revisions should have no direct paperwork impact on the Commonwealth, local governments and political subdivisions or the private sector. These regulatory revisions are based on existing Department regulations and simply mirror the existing use protection that is already in place for these streams. There may be some indirect paperwork requirements for new or expanding discharges to streams upgraded to HQ or EV. For example, NPDES general permits are not currently available for new or expanded discharges to these streams. Thus an individual permit, and its associated additional paperwork, would be required. Additionally, paperwork associated with demonstrating social and economic justification, and the nonfeasibility of nondischarge alternatives, may be required for new or expanded discharges to certain HQ waters.

#### F. *Pollution Prevention*

The antidegradation program is a major pollution prevention tool because its objective is to prevent degradation by maintaining and protecting existing water quality and existing uses. Although the antidegradation program

does not prohibit new or expanded wastewater discharges, nondischarge alternatives are encouraged and required when environmentally sound and cost effective. Nondischarge alternatives, when implemented, remove impacts to surface water and reduce the overall level of pollution to the environment by remediation of the effluent through the soil.

#### G. *Sunset Review*

These proposed amendments will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goal for which they were intended.

#### H. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 23, 2002, the Department submitted a copy of the proposed amendments 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 addition to the proposed amendments, IRRC and the Committees have been provided a detailed regulatory analysis form prepared by the Department, in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed amendments, it will notify the Department within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria that have not been met by that portion of the proposed amendments to which an objection is made. The Regulatory Review Act specifies detailed procedures for review by the Department, the Governor and the General Assembly before publication of the final-form regulations.

#### I. *Public Comments*

*Written Comments*—Interested persons are invited to submit comments, suggestions or objections regarding the proposed amendments to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 15th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. The Board must receive comments by June 18, 2002 (within 45 days of publication in the *Pennsylvania Bulletin*). Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by June 18, 2002. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the proposed amendments will be considered. If sufficient interest is generated as a result of this publication, a public hearing will be scheduled at an appropriate location to receive additional comments.

*Electronic Comments*—Comments may be submitted electronically to the Board at RegComments@state.pa.us. A subject heading of the proposal and return name and address must be included in each transmission. The Board must also receive comments submitted electronically by June 18, 2002.

DAVID E. HESS,  
Chairperson

**Fiscal Note:** 7-377. No fiscal impact; (8) recommends adoption.

**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  
ANTIDegradation Requirements**

**§ 93.9. Designated water uses and water quality criteria.**

(a) The tables in §§ 93.9a—93.9z display designated water uses and water quality criteria in addition to the water uses and criteria specified in Tables 2 and 3. Designated uses shall be protected in accordance with Chapters 95 and 96 (relating to wastewater treatment requirements; and water quality standards implementation) and any other applicable State and Federal laws and regulations. The tables also indicate specific excep-

tions to Tables 2 and 3 on a stream-by-stream or segment-by-segment basis by the words “add” or “delete” followed by the appropriate symbols described elsewhere in this chapter. The county column in §§ 93.9a—93.9z indicates the county in which the mouth of the stream is located. Abbreviations used in the “Zone” column are as follows:

T—Township Road

LR—Pennsylvania Legislative Route

SR—Pennsylvania State Route

FAS—Federal Aid Secondary Highway

US—United States Federal Route

I— **[ Interstate ] Interstate** Highway

RM—River Mile; river miles are used to indicate the distance from a point on the waterbody to its mouth and are based on the Department’s River Mile Index

**UNT—Unnamed Tributary**

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**§ 93.9f. Drainage List F.**

**Delaware River Basin in Pennsylvania**

***Schuylkill River***

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
	* * * * *			
4—Oysterville Creek	Basin, <b>Source to T 634 Bridge (RM 2.6)</b>	Berks	<b>[ CWF ] EV</b>	None
4—Oysterville Creek	Basin, <b>T 634 Bridge to Confluence of UNT 01680</b>	Berks	<b>HQ-CWF</b>	None
5—UNT 01680 to Oysterville Creek	Basin	Berks	<b>CWF</b>	None
4—Oysterville Creek	Basin, <b>UNT 01680 to Mouth</b>	Berks	<b>HQ-CWF</b>	None
	* * * * *			
4— <b>[ Northwest ] West Branch Perkiomen Creek</b>	Basin, <b>Source to SR 1022 Bridge (RM 12.9)</b>	<b>[ Montgomery ] Berks</b>	<b>CWF</b>	None
4— <b>West Branch Perkiomen Creek</b>	Basin, <b>SR 1022 Bridge to SR 2069 Bridge (RM 8.0)</b>	Berks	<b>EV</b>	None
4— <b>West Branch Perkiomen Creek</b>	Basin, <b>SR 2069 Bridge to Mouth</b>	Montgomery	<b>CWF</b>	None

**§ 93.9g. Drainage List G.**

**Delaware River Basin in Pennsylvania**

***Delaware River***

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
	* * * * *			
2—Chester Creek	Basin, <b>Source to East Branch Chester Creek</b>	Chester	<b>TSF, MF</b>	None
3—East Branch Chester Creek	Basin, <b>Source to [ Unnamed Tributary ] UNT at RM 0.4 (“Goose Creek”)</b>	Chester	<b>TSF, MF</b>	None

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
4—[ <b>Unnamed Tributary</b> ] UNT to East Branch Chester Creek at RM 0.4 ("Goose Creek")	Basin	Chester	WWF, MF	None
3—East Branch Chester Creek	Basin, [ <b>Unnamed Tributary</b> ] UNT at RM 0.4 to Mouth	Chester	TSF, MF	None
2—Chester Creek	Basin, East Branch Chester Creek to Rocky Run	Delaware	TSF, MF	None
3—Rocky Run	Basin	Delaware	HQ-CWF, MF	None
[ 3 ] 2—Chester Creek	Basin, Rocky Run to Confluence with West Branch	Delaware	TSF, MF	None
3—West Branch Chester Creek	Basin, Source to Green Creek	Delaware	TSF, MF	None

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§ 93.9n. Drainage List N.

**Susquehanna River Basin in Pennsylvania**  
***Juniata River***

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
	* * * * *			
4—Cove Creek	Basin[ , Source to T 433 Bridge ]	Bedford	EV	None
[ 4—Cove Creek	Basin, T 433 Bridge to Mouth	Bedford	CWF	None ]

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§ 93.9o. Drainage List O.

**Susquehanna River Basin in Pennsylvania**  
***Susquehanna River***

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
	* * * * *			
2—Codorus Creek	Main Stem, Oil Creek to Mouth	York	WWF	None
	* * * * *			
3—Trout Run	Basin, Source to UNT at RM 0.3	York	[ WWF ] HQ-CWF	None
4—UNT to Trout Run at RM 0.3	Basin	York	CWF	None
3—Trout Run	Basin, UNT at RM 0.3 to Mouth	York	CWF	None
	* * * * *			
3—North Branch Muddy Creek	Basin, Source to [ Confluence with South Branch ] Rambo Run	York	CWF	None
4—Rambo Run	Basin	York	EV	None
3—North Branch Muddy Creek	Basin, Rambo Run to Confluence with South Branch	York	CWF	None

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