

From: Theodore Smith, NMSS
To: Swm Scott Moore, NMSS
Date: Mon, Jul 23, 2001 12:08 PM
Subject: take two, EVW

C/27

Recommended definition:

Exceptional Value Waters are surface waters of high quality (chemical purity and low toxicity) which Pennsylvania has determined to have exceptional ecological significance.

The full text from Pa law is extracted below:

Title 25 Environmental Protection

Chapter 93 Water Quality Standards

GENERAL PROVISIONS

§ 93.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

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Exceptional Value Waters—Surface waters of high quality which satisfy § 93.4b(b) (relating to antidegradation).

§ 93.4b. Qualifying as High Quality or Exceptional Value Waters.

(a) Qualifying as a High Quality Water. A surface water that meets one or more of the following conditions is a High Quality Water.

(1) Chemistry.

(i) The water has long-term water quality, based on at least 1 year of data which exceeds levels necessary to support the propagation of fish, shellfish and wildlife and recreation in and on the water by being better than the water quality criteria in § 93.7, Table 3 (relating to specific water quality criteria) or otherwise authorized by § 93.8a(b) (relating to toxic substances), at least 99% of the time for the following parameters:

dissolved oxygen	aluminum
iron	dissolved nickel
dissolved copper	dissolved cadmium
temperature	pH
dissolved arsenic	ammonia nitrogen
dissolved lead	dissolved zinc

(ii) The Department may consider additional chemical and toxicity information, which characterizes or indicates the quality of a water, in making its determination.

(2) Biology. One or more of the following shall exist:

(i) Biological assessment qualifier.

(A) The surface water supports a high quality aquatic community based upon information gathered using peer-reviewed biological assessment procedures that consider physical habitat, benthic macroinvertebrates or fishes based on Rapid Bioassessment Protocols for Use in Streams and Rivers: Benthic Macroinvertebrates and Fish, Plafkin, et al., (EPA/444/4-89-001), as updated and amended. The surface water is compared to a reference stream or watershed, and an integrated benthic macroinvertebrate score of at least 83% shall be attained by the referenced stream or watershed.

(B) The surface water supports a high quality aquatic community based upon information gathered using other widely accepted and published peer-reviewed biological assessment procedures that the Department may approve to determine the condition of the aquatic community of a surface water.

(C) The Department may consider additional biological information which characterizes or indicates the quality of a water in making its determination.

(ii) Class A wild trout stream qualifier. The surface water has been designated a Class A wild trout stream by the Fish and Boat Commission following public notice and comment.

(b) Qualifying as an Exceptional Value Water. A surface water that meets one or more of the following conditions is an Exceptional Value Water:

(1) The water meets the requirements of subsection (a) and one or more of the following:

(i) The water is located in a National wildlife refuge or a State game propagation and protection area.

(ii) The water is located in a designated State park natural area or State forest natural area, National natural landmark, Federal or State wild river, Federal wilderness area or National recreational area.

(iii) The water is an outstanding National, State, regional or local resource water.

(iv) The water is a surface water of exceptional recreational significance.

(v) The water achieves a score of at least 92% (or its equivalent) using the methods and procedures described in subsection (a)(2)(i)(A) or (B).

(vi) The water is designated as a "wilderness trout stream" by the Fish and Boat Commission following public notice and comment.

(2) The water is a surface water of exceptional ecological significance.

Authority

The provisions of this § 93.4b issued under sections 5(b)(1) and 402 of The Clean Streams Law (35 P. S. § § 691.5(b)(1) and 691.402); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20).

Source

The provisions of this § 93.4b adopted July 16, 1999, effective July 17, 1999, 29 Pa.B. 3720.

Cross References

This section cited in 25 Pa. Code § 93.1 (relating to definitions); and 25 Pa. Code § 96.3 (relating to water quality protection requirements).

Chapter 96 Water Quality Standards Implementation

§ 96.3. Water quality protection requirements.

- (a) Existing and designated surface water uses shall be protected.
- (b) Antidegradation requirements in § § 93.4a—93.4d and 105.1, 105.15, 105.17, 105.18a, 105.20a and 105.451 shall apply to surface waters.
- (c) To protect existing and designated surface water uses, the water quality criteria described in Chapter 93 (relating to water quality standards), including the criteria in § § 93.7 and 93.8a(b) (relating to specific water quality criteria; and toxic substances) shall be achieved in all surface waters at least 99% of the time, unless otherwise specified in this title. The general water quality criteria in § 93.6 (relating to general water quality criteria) shall be achieved in surface waters at all times at design conditions.
- (d) As an exception to subsection (c), the water quality criteria for total dissolved solids, nitrite-nitrate nitrogen, phenolics and fluoride established for the protection of potable water supply shall be met at least 99% of the time at the point of all existing or planned surface potable water supply withdrawals unless otherwise specified in this title.
- (e) When a water quality criterion described in Chapter 93, including the criteria in § § 93.7 and 93.8a(b), cannot be attained at least 99% of the time due to natural quality, as determined by the Department under § 93.7(d) based on water quality observations in that waterbody or at one or more reference stations of similar physical characteristics to the surface water, the natural quality that is achieved at least 99% of the time shall be the applicable water quality criterion for protection of fish and aquatic life.
- (f) When the minimum flow of a stream segment is determined or estimated to be zero, applicable water quality criteria shall be achieved at least 99% of the time at the first downstream point where the stream is capable of supporting existing or designated uses.
- (g) Functions and values of wetlands shall be protected pursuant to Chapters 93 and 105 (relating to water quality standards; and dam safety and waterway management).

Cross References

This section cited in 25 Pa. Code § 92.31 (relating to effluent limitations or standards); and 25 Pa. Code § 96.4 (relating to TMDLs and WQBELs).

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