



**pennsylvania**

DEPARTMENT OF ENVIRONMENTAL PROTECTION



Office of Chief Counsel

# Petition Policy and Process Overview

Environmental Quality Board Meeting  
May 20, 2015

Kimberly Childe  
EQB Counsel  
Director, Bureau of Regulatory Counsel

Tom Wolf, Governor

John Quigley, Acting Secretary

# GENERAL AUTHORITY

- Power and duty to **formulate, adopt and promulgate** such **rules and regulations** as may be determined by the board for the proper performance of the work of the department
- Such rules and regulations when made by the board shall become the rules and regulations of the department
- **Receive and review reports** from the department and **advise** the department and its Secretary **on matters of policy**

Administrative Code of 1929, § 1920-A(b)  
(71 P.S. § 510-20(b))

# PETITIONS

**Any person may petition** the Environmental Quality Board to initiate a rule making proceeding for the **issuance, amendment or repeal of a regulation** administered and enforced by the department.

Administrative Code of 1929, § 1920-A(h)(71 P.S. § 510-20(h)

**Petition Process:** EQB has promulgated a statement of policy for handling petitions in **25 Pa. Code Chapter 23**.

# Submission of Petition

- Petitions must be submitted on forms supplied by DEP and include:
  - Petitioner's name, address and telephone number
  - Description of action requested
    - New or amended regulation - suggested regulatory language
    - Repeal of regulation - specific citation to regulation
    - Factual and legal contentions and supporting documentation for the requested action
    - Types of persons, businesses and organizations likely to be impacted

25 Pa. Code § 23.1(a)

# Petition for Stream Redesignation

- Each stream has “**designated**” uses under the **Chapter 93** regulations (25 Pa. Code § 93.9).
- A petition to redesignate a stream use must include:
  - Delineation of watershed/stream segment
  - Current and requested designated uses
  - Available technical data
  - Existing and proposed discharges
  - Information on HQ/EV qualifiers, if applicable
  - General land use and development
  - Municipalities in watershed or segment

# Threshold Review of Petition

- **Review:** DEP reviews the adequacy of the petition
  - Required information included
  - EQB has authority to take requested action
  - Action requested does not conflict with Federal law
- **Notice:** Within 30 days of receipt, DEP notifies the EQB and Petitioner of the adequacy of the petition.
- **Revision:** If the petition is deficient, DEP's notice will state the reasons and provide the Petitioner with 30 days to complete or modify the petition.

25 Pa. Code §§ 23.2 & 23.3

# Initial EQB Consideration of Petition

- **EQB Agenda:** Petition that meet the threshold requirements are scheduled for initial consideration by the EQB.
- **Presentation:** Petitioner is given an opportunity to make a 5-minute presentation to the EQB.
- **EQB Action:** The EQB decides whether to accept the petition for further evaluation.
- **Notice:** Petitions accepted by the EQB are published in the *Pennsylvania Bulletin* within 30 days.

25 Pa. Code §§ 23.4-23.6

# Initial EQB Consideration of Petition

EQB may refuse to accept a petition if one or more of the following conditions exist:

- Previously considered the issue less than 2 years ago
- Concerns matter currently in litigation
- Not appropriate due to policy or regulatory considerations
- Issue previously considered and no new or sufficiently different information is presented that was unavailable at time of the prior consideration

25 Pa. Code § 23.5

# DEP Action on Accepted Petitions

- ***Stream Redesignation Petition:*** DEP publishes notice of a petition accepted by the EQB for further study requesting technical data for use in DEP's assessment and preparation of a draft stream evaluation report.
- ***Other Petitions:*** DEP prepares report evaluating a petition accepted by the EQB within 60 days, unless it advises the EQB that more time is needed.
- ***Completed DEP Report:*** DEP will send its completed report to the Petitioner, who may then submit a written response within 30 days.

25 Pa. Code § 23.6

# EQB Action on DEP Recommendation

- ***DEP Recommendation:*** Based on its report and Petitioner's comments, DEP makes a recommendation on the petition to the EQB.
- ***Proposed Rulemaking:*** If DEP recommends regulatory amendments, DEP develops a proposed rulemaking for EQB consideration.
- ***Regular Rulemaking Process:*** The rulemaking initiated by the petition then proceeds in the same manner as a rulemaking initiated by the department.

25 Pa. Code § 23.8



**pennsylvania**  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



Office of Chief Counsel

**Kimberly Childe**  
**EQB Counsel**  
**Director, Bureau of Regulatory Counsel**  
[kchilde@pa.gov](mailto:kchilde@pa.gov)  
**717.787.7060**