

## Brief Explanation of the Stream Redesignation Process

PA DEP - Bureau of Clean Water

The stream redesignation process begins with an evaluation of the “existing uses” and the “designated uses” of a stream. “Existing uses” are water uses actually attained in the water body. When existing uses are determined, the stream is protected for those uses through permit or approval actions taken by the Department of Environmental Protection (DEP). “Designated uses” are water uses identified in regulations that protect a water body. Candidates for stream redesignation may be identified by DEP based on routine waterbody investigations, or based on requests initiated by other agencies or from the general public through a rulemaking petition to the state Environmental Quality Board (EQB).

Pennsylvania's Water Quality Standards, which are set forth in part at 25 *Pa. Code*, Chapter 93, implement the provisions of Sections 5 and 402 of the Clean Streams Law and Section 303 of the Federal Clean Water Act, 33 U.S.C.A. § 1313. Water quality standards consist of designated water uses, the specific numeric and narrative criteria necessary to achieve and maintain the water uses, and existing use protection that is commonly referred to as antidegradation requirements. Protection of existing and designated in-stream water uses is accomplished by imposing specific regulatory requirements (such as treatment requirements and effluent limits) on individual sources of pollution.

Existing use protection is provided when DEP determines, based on its evaluation of the best available scientific information, that a surface water attains water uses identified in regulations at 25 *Pa. Code* sections 93.3 and 93.4. Examples of water uses protected include the following: cold water fishes, warm water fishes, high quality and exceptional value. A final existing use determination is made on a surface water at the time DEP 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 warm water fishes but the redesignation evaluation demonstrates that the water attains the use of cold water fishes, the stream would immediately be protected for cold water fishes, prior to a rulemaking. Once DEP determines the water uses attained by a surface water, DEP will recommend to the EQB that the existing uses be made “designated” uses, through rulemaking, and be added to the list of uses identified in the regulations at 25 *Pa. Code* section 93.9.

Changes to either an existing use or a designated use may affect existing and future dischargers of wastewater and other pollution sources that may impact these streams. For example, point source dischargers planning to add new or expand existing discharges to streams may experience higher treatment costs if the redesignation evaluation demonstrates that the stream supports water uses not protected by the current designated uses. The increased costs may take the form of higher engineering, construction or operating costs for wastewater treatment facilities. It is not possible to precisely predict the actual change in costs since these are site-specific scenarios and may depend upon the size of the discharge in relation to the size of the stream and many other factors.

Once the rulemaking process is complete, the designated and existing uses will be the same for a surface water. A rulemaking for a stream redesignation will include an opportunity for public comments, and review and approval by the Environmental Quality Board and publication in the Pennsylvania Bulletin as final rulemaking.

DEP recommends that any scientific data known about a stream be provided to DEP at the earliest stage of an assessment process, rather than during the rulemaking phase.

DEP will evaluate and consider all data submitted in response to this stream redesignation notification for an existing use determination. Please refer to the back of this page for a summary of the public notice and comment opportunities that are provided during the stream assessment and redesignation process.

## Summary of Notice and Comment Opportunities During the Stream Assessment and Redesignation Process

### Notice of Assessment

- ◆ DEP publishes notice of its intent to assess a water body in the *Pennsylvania Bulletin* and on the Department's [Stream Assessment Notification](#) webpage. Notifications are also sent to affected municipal officials and county planning commissions. The notice asks that any available technical data be submitted to the Department within 30 days to assist in developing a draft stream evaluation report.

### Development of Draft Stream Evaluation Report

- ◆ DEP develops draft stream evaluation report based on its assessment of the stream and any data received as a result of the notice of assessment. The report includes a recommendation on whether redesignation of the stream is warranted. DEP forwards the draft report to the petitioner (where applicable) and to municipal officials and county planning commissions for a 30-day review and comment period.

### Rulemaking Phase

- ◆ Development of Proposed Rulemaking – If DEP recommends redesignation of a water body, the recommendation is forwarded to the EQB in the form of a proposed rulemaking. If adopted by the EQB, the proposed rulemaking is published in the *Pennsylvania Bulletin* with a public comment period of at least 45 days.
- ◆ Development of Final Rulemaking – Following the close of the public comment period, DEP develops a final rulemaking and responds to all comments received. The final rulemaking is forwarded to the EQB and, if adopted, sent to the [House Environmental Resources and Energy Committee \(EREC\)](#), the [Senate EREC](#), and the [Independent Regulatory Review Commission](#) for further consideration at which time they will accept comments from interested parties. If approved by these entities, the final rulemaking will be published in the *Pennsylvania Bulletin* and the designated use of the water body officially changed to match the existing use.