

Brief Explanation of the Stream Redesignation Process

PA DEP - Bureau of Water Standards and Facility Regulation

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 on or after November 28, 1975. When existing uses are determined, the stream is protected for those uses through permit or approval actions taken by the Department. “Designated uses” are water uses identified in regulations that protect a water body. Candidates for stream redesignation may be identified by the Department 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 the Department 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 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 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 the Department determines the water uses attained by a surface water, the Department 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.

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