

DATE: February 2, 2010

SUBJECT: February 16, 2010, Environmental Quality Board Meeting

TO: EQB Members and Alternates

FROM: Michele L. Tate
Regulatory Coordinator

The next meeting of the Environmental Quality Board (EQB) is scheduled for Tuesday, February 16, 2010, at 9:00 a.m. in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The Board will consider the following items:

1. Consideration of Proposed Rulemaking: Clarks Creek, et al Stream Redesignation (25 Pa Code, Chapter 93): As part of the Department's on-going review of water quality standards, it is proposing regulatory changes to 25 Pa Code Chapter 93 comprising the Clarks Creek, et al. stream redesignations proposed rulemaking. Studies in support of these recommendations were conducted in response to four petitions, as well as requests from the Department's Southcentral Regional Office (SCRO), the Pennsylvania Fish and Boat Commission (PFBC), and a corrective amendment by recommended by the Department (DEP), as follows:

Pine Creek (Schuylkill County) – Petition: Friends of Pine Creek
Cacoosing Creek (Berks County) – Request: SCRO
UNT 00926 to Schuylkill River; locally Spring Mill Run (Montgomery County) –
Petition: Steven S. Brown, (Chairman; Whitemarsh Twp Environmental Advisory Board)
UNT 28600 to Lackawanna River; locally Clarks Creek (Wayne County) – Petition: Glen Abello
UNT 07792 to Conestoga River (Lancaster County) – Request: PFBC
Hammer Creek (Lebanon and Lancaster Counties) – Petition: Heidelberg Township
Toms Run (Clarion and Forest Counties) – Correction: DEP

The regulatory changes proposed in this rulemaking were developed as a result of aquatic studies conducted by the Department's Bureau of Water Standards and Facility Regulation. 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 High Quality (HQ) or Exceptional Value (EV) waters, the Department considered the criteria in § 93.4b (relating to qualifying as HQ or EV Waters). Based on these data and appropriate regulatory criteria, the Department is proposing revisions to 25 Pa. Code, Sections 93.9f, 93.9j, 93.9o and 93.9r in this rulemaking.

The Department recommends the Board's approval of the proposed rulemaking, with a 45-day public comment period.

2. Consideration of Proposed Amendments: Dam Safety and Waterway Management (25 Pa Code, Chapter 105): The purpose of this proposed rulemaking is to amend the Department's Dam Safety and Waterway Management regulations to address the findings of a recent audit of the Dam Safety Program by the Auditor General's Office and to incorporate amendments to strengthen the program. The proposed amendments clarify and make the regulations easier to understand in order to assure proper planning, design, construction, operation, maintenance and monitoring of dams and reservoirs throughout the Commonwealth. Specific amendments include provisions that require an owner of a hazard potential Category 1 or Category 2 Dam to provide proof of financial responsibility as a requirement for approval of a permit. Category 1 and Category 2 Dams include those that present a substantial potential risk to life or property. Financial assurance will be required to assure that these dams are not only properly constructed, but also properly repaired, operated and maintained. In Pennsylvania, there are approximately 800 dams that are either a Category 1 or Category 2 Dam, with over half of these privately owned. The financial assurance requirements proposed in the rulemaking will provide the Commonwealth with the financial wherewithal to remove or otherwise modify an unsafe or deficient high-hazard dam that was abandoned by an owner or when an owner refuses to make the necessary safety improvements to a dam.

The proposed rulemaking was presented to the Water Resources Advisory Committee (WRAC) for review and discussion at the committee's April 2009 meeting. Comments and recommendations provided at the meeting were addressed by the Department and incorporated into a revised rulemaking, which was presented for formal action by WRAC in July 2009. WRAC approved the rulemaking and encouraged the Department to submit it to the Board for approval.

The Department recommends approval of the proposed rulemaking, with a 30-day public comment period.

I will be contacting each Board member prior to the meeting to discuss any questions or concerns you may have regarding the agenda items for the February 16, 2010, EQB meeting.

Please contact me at 783-8727 or by e-mail at mtate@state.pa.us if you have any immediate questions or concerns.

Thank you.

Attachments