

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF POINT AND NON-POINT SOURCE MANAGEMENT**

**RATIONALE
FOR RECOMMENDED IMPROVEMENT
TO THE PUBLIC NOTIFICATION METHODS
ASSOCIATED WITH THE
STREAM REDESIGNATION PROCESS**

SUMMARY

The Department recommends an improvement to the public notification methods associated with the stream redesignation process found at §93.4d. The Department will continue to publish in the *Pennsylvania Bulletin*, a notice of receipt of petition, or assessment of waters, for High Quality or Exceptional Value Waters redesignation. This notice in the *Pennsylvania Bulletin* is the primary public notification method and will always be done along with the most appropriate secondary public notification method. The Department needs to have the flexibility to be able to select the most effective secondary public notification method. Currently, the Department is required to publish these notices in a local newspaper of general circulation. There are many possible options that the Department could use as the secondary public notification method regarding the stream redesignation process (including, but not limited to posting the information on the Department's website; issuing press releases through the Department's newsroom; distributing the information via email notification and list-serve applications; correspondence delivered by the United States Postal Service; and publication in newspapers). This added flexibility will enable the Department to provide public notifications more effectively, while being judicious of the monetary expense and the amount of staff time involved with this procedure.

PREAMBLE

The Department recommends improvements to the public notification methods associated with the stream redesignation process. The Department is required by regulation found at 25 Pa Code; Section 93.4d to publish either a notice of receipt of a complete petition, which has been accepted by the EQB recommending a High Quality or Exceptional Value Waters redesignation (petition receipt notice), or a notice of the Department's intent to assess surface waters for potential redesignation as High Quality or Exceptional Value Waters (assessment notice). The Department is currently obligated to publish either the petition receipt notice or the assessment notice in both the *Pennsylvania Bulletin* and a local newspaper of general circulation. The primary public notification method is publication in the *Pennsylvania Bulletin* and the secondary public notification method is publication in local newspapers of general circulation. We are

adhering to this regulation by publishing assessment notices in the *Pennsylvania Bulletin* (primary public notification method) and in local newspapers of general circulation (secondary public notification method). These assessment notices further request submission of information concerning the water quality of the waters subject to the evaluation, or to be assessed, for use by the Department to supplement any studies which have been performed.

The Department needs to have flexibility in selecting the secondary public notification method. There are many methods that the Department could select from to use as a secondary public notification method, rather than just local newspapers, if the Department had the legal flexibility to choose. These potential secondary public notification methods include, but are not limited to posting the information on the Department's website; issuing press releases through the Department's newsroom; distributing the information via email notification and list-serve applications; correspondence delivered by the United States Postal Service; and publication in newspapers. This legal flexibility will grant the Department the ability to choose a method that best conveys the information and also allows Department staff to be more judicious of the monetary expense and the amount of staff time allocated to this procedure.

The Department is completely committed to providing notification to the public regarding its activities and encourages public involvement. As an example of this commitment, the Department has been voluntarily publishing notices in local newspapers when a proposed stream redesignation rulemaking has been published in the *Pennsylvania Bulletin* (proposed rulemaking notice) in addition to the required assessment notices. This proposed rulemaking notice announces the open period for public comment.

For comparison, the Department currently posts both assessment notices and proposed rulemaking notices on its website. Posting these notices on the Department website involves just a few minutes of staff time at no further cost, versus the hours of time involved with coordinating the publication of a newspaper notice and the additional expense. The cost to the Department for inserting these assessment and proposed rulemaking notices into local newspapers of general circulation for 2010 was \$9,673.83. Upon publication of this final rulemaking, the BWSFR will have the flexibility to display these notices on the Department's official website, rather than being obligated to place legal advertisements in local newspapers of general circulation. These notices will remain available on the website indefinitely as opposed to a single day insertion into a newspaper. The ubiquitous nature of the internet coupled with a longer period of availability ensures that the notification will be disseminated to a much larger audience than a one day notification in a local newspaper of general circulation currently provides. The audience will not be limited to those few individuals in the local distribution area of the newspaper who read the legal advertisements on any particular day. Additionally, more information and specific details can be made available on the Department website, along with links to other pertinent material. The Department recommends that § 93.4d be amended according to Annex A in order to improve public notification associated with the stream redesignation process. This added flexibility will enable the Department to select the best method to provide public notifications, while being judicious of the monetary expense and the amount of staff time involved with this procedure.

ANNEX

§ 93.4d. Processing of petitions, evaluations and assessments to change a designated use. (a) Public notice of receipt of **[evaluation] petition**, or assessment of waters, for High Quality or Exceptional Value Waters redesignation. The Department will publish in the *Pennsylvania Bulletin* and **[in a local newspaper of general circulation] by other means designed to effectively reach a wide audience**, notice of receipt of a complete **[evaluation] petition** which has been accepted by the EQB recommending a High Quality or Exceptional Value Waters redesignation, or notice of the Department's intent to assess surface waters for potential redesignation as High Quality or Exceptional Value Waters. The assessments may be undertaken in response to a petition or on the Department's own initiative. The notice will request submission of information concerning the water quality of the waters subject to the evaluation, or to be assessed, for use by the Department to supplement any studies which have been performed. The Department will send a copy of the notice to all municipalities containing waters subject to the **[evaluation] petition** or assessment.