

# PROPOSED RULEMAKING

## DEPARTMENT OF TRANSPORTATION

[ 67 PA. CODE CH. 511 ]

### Rail Freight Grants

The Department of Transportation (Department), under the authority in section 9 of the Rail Freight Preservation and Improvement Act (act) (55 P. S. § 696.9), proposes to add Chapter 511 (relating to rail freight grants) to read as set forth in Annex A.

#### *Purpose of Proposed Rulemaking*

The purpose of Chapter 511 is to establish procedures and criteria for the application for and award of grants for rail freight projects to support economic development in this Commonwealth.

#### *Summary of Significant Provisions*

Proposed § 511.1 (relating to purpose) provides the purpose of Chapter 511.

Proposed § 511.2 (relating to definitions) provides definitions of significant terms used in Chapter 511.

Proposed § 511.3 (relating to eligibility) delineates the persons and entities eligible for grants issued under Chapter 511. Further, this section provides information on the local funding match requirements for grants. This section also provides information on the types of projects eligible for grants. This section explains whether an applicant seeking funding should pursue a Rail Transportation Assistance Program (Rail TAP) or Rail Freight Assistance Program (RFAP) grant, depending on the nature of their project or the project cost, or both.

Proposed § 511.4 (relating to limits of funding) sets forth various Commonwealth funding constraints on both Rail TAP and RFAP grants. The section also makes clear that funding will be subject to approval and appropriation by the General Assembly.

Proposed § 511.5 (relating to application period and deadlines) makes clear that applications shall be filed during the prescribed application period to be considered. The section also makes clear to applicants that the open application period for both Rail TAP and RFAP grants is to be determined on an annual basis and published in the *Pennsylvania Bulletin* in January.

Proposed § 511.6 (relating to application submission procedure) delineates the Department's application submission procedure, including required criteria. The section also makes clear that grant applications shall be completed in accordance with the current policies and procedures of the Department, and that the Department may reject an application which does not conform to Department regulations or policies, or other applicable laws or regulations.

Proposed § 511.7 (relating to public records) makes clear that the Right-to-Know Law (65 P. S. §§ 67.101—67.3104) applies to submissions to the Department.

Proposed § 511.8 (relating to grant selection process and criteria) delineates the Department's grant selection process and sets forth criteria the Department will use in evaluating grant applications. The section also explains that the Department may work with an applicant to modify a proposed project, and that the collaboration may

not be construed as a commitment by the Department to offer a grant to the applicant.

Proposed § 511.9 (relating to offer and acceptance) delineates the Department's process in offering grants. It further delineates the obligations of an applicant who has been offered a grant to timely accept or decline the grant offer.

Proposed § 511.10 (relating to standards, methods, techniques, designs and special conditions) provides the Department authority to specify standards, methods, techniques, and design and dimensional criteria acceptable for projects funded by grants under Chapter 511 and to review and approve design and construction. It further provides for withdrawal of the grant funding for failure to abide by Department mandates in this regard. Finally, it makes clear that the Steel Products Procurement Act (73 P. S. §§ 1881—1887) applies to projects funded by grants awarded under Chapter 511.

Proposed § 511.11 (relating to prevailing wage) makes clear that the Pennsylvania Prevailing Wage Act (43 P. S. §§ 165.1—165.17) applies to grants awarded under Chapter 511.

Proposed § 511.12 (relating to audits and recordkeeping) delineates various audit and recordkeeping requirements that applicants who receive grants under Chapter 511 shall follow.

Proposed § 511.13 (relating to inspection) provides the Department and other Commonwealth agencies the right to inspect the project site and records regarding grants awarded under Chapter 511. This section also provides for withdrawal of grant funding and disqualification from future consideration for grants for failure to comply.

Proposed § 511.14 (relating to payment procedures) delineates procedures for payment of the grantee and its vendors and contractors, including mandating retention by the Department of 10% of each grant payment until final inspection and approval by the Department.

Proposed § 511.15 (relating to liability; forfeiture of funds; repayment) delineates the consequences of a grantee's failure to comply with the terms and conditions of a grant issued under Chapter 511. Consequences include reimbursement to the Department of grant funding awarded and disqualification from future consideration for grants issued under Chapter 511. Further, this section provides information on a grantee's right to appeal a Department decision issued under Chapter 511.

Proposed § 511.16 (relating to waiver) provides that the Department may grant waivers regarding submission of certain specific information or data under certain circumstances.

#### *Persons and Entities Affected*

This proposed rulemaking will affect an applicant that seeks Commonwealth rail grant funding under the act.

#### *Fiscal Impact*

Implementation of this proposed rulemaking will not require the expenditure of additional funds by the Commonwealth. Additional costs, fees or expenses are not anticipated by implementing this proposed rulemaking.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 14, 2014, the Department submitted a copy of this proposed rulemaking and a copy

of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Transportation Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

*Effective Date*

This proposed rulemaking will be effective upon final-form publication following appropriate evaluation of comments, suggestions or objections received during the public comment period.

*Sunset Date*

The Department is not establishing a sunset date for Chapter 511 since these regulations are needed to administer provisions required under the act. The Department, however, will continue to closely monitor these regulations for their effectiveness.

*Public Comments*

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to Toby L. Fauver, AICP, Deputy Secretary of Multimodal Transportation, Department of Transportation, 400 North Street, 8th Floor, P. O. Box 3643, Harrisburg, PA 17105-3643, tfauver@pa.gov within 30 days of the publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

*Contact Person*

The contact person for technical questions about this proposed rulemaking is Gary M. DeBerry, Planning Manager, Bureau of Rail Freight, Ports and Waterways, Department of Transportation, 400 North Street, 6th Floor, Harrisburg, PA 17120-0064, (717) 214-1922, gdeberry@pa.gov.

BARRY J. SCHOCH, PE,  
Secretary

**Fiscal Note:** 18-437. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 67. TRANSPORTATION**

**PART I. DEPARTMENT OF TRANSPORTATION**

**Subpart B. NONVEHICLE CODE PROVISIONS**

**ARTICLE VI. RAIL TRANSPORTATION**

**Chap.**

**RAIL FREIGHT GRANTS**

**511.**

**CHAPTER 511. RAIL FREIGHT GRANTS**

**Sec.**

- 511.1. Purpose.
- 511.2. Definitions.
- 511.3. Eligibility.
- 511.4. Limits of funding.
- 511.5. Application period and deadlines.
- 511.6. Application submission procedure.
- 511.7. Public records.
- 511.8. Grant selection process and criteria.
- 511.9. Offer and acceptance.
- 511.10. Standards, methods, techniques, designs and special conditions.
- 511.11. Prevailing wage.

- 511.12. Audits and recordkeeping.
- 511.13. Inspection.
- 511.14. Payment procedures.
- 511.15. Liability; forfeiture of funds; repayment.
- 511.16. Waiver.

**§ 511.1. Purpose.**

This chapter sets forth requirements and criteria regarding grants funded, in whole or in part, by the Rail Freight Preservation and Improvement Act (55 P. S. §§ 696.1—696.11).

**§ 511.2. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Bureau*—The Bureau of Rail Freight, Ports and Waterways of the Department, or a successor bureau designated by publishing a notice in the *Pennsylvania Bulletin*.

*Capital Budget*—A bill passed by the General Assembly that provides Commonwealth funding for capital projects.

*Capital project*—

(i) Acquisition of property, labor and materials for equipping, furnishing, constructing, reconstructing, rehabilitating or improving rail freight transportation systems or facilities.

(ii) The term does not include a maintenance project.

*Department*—The Department of Transportation of the Commonwealth.

*Director*—The Director of the Bureau.

*Grant*—An offer of funding assistance from the Department to an applicant for a project governed by this chapter.

*Grant recipient or grantee*—A recipient of funding assistance for a project governed by this chapter.

*Intermodal terminal*—A facility where trains stop to load or unload freight for the purpose of transferring the freight to or from another mode of transportation.

*Local government*—A political subdivision of this Commonwealth.

*Maintenance project*—A project wherein maintenance or accelerated maintenance under section 3 of the Rail Freight Preservation and Improvement Act (55 P. S. § 696.3) is performed, including the replacing of ties and other track and structural materials in quantities sufficient to restore a railroad line to the level necessary for compliance with Federal Railroad Administration Class I Track Safety Standards.

*RFAP—Rail Freight Assistance Program*—A grant program under this chapter that provides financial assistance for investment in rail freight facilities or systems, or both.

*Rail freight facilities*—Freight cars, locomotives, wires, poles and equipment for electrification of rail lines, rails, tracks, roadbeds, elevated structures, buildings, stations, terminals, loading docks, sidetracks, shelters, parking areas, tunnels or other items necessary to provide rail freight transportation services.

*Rail freight systems*—Rail lines, rail corridors or other real estate interests, including easements or other rights-of-way, necessary to provide rail freight transportation services.

*Rail freight transportation services*—Transportation of property by rail for compensation.

*Rail TAP—Rail Transportation Assistance Program*—A grant program wherein individual projects are identified specifically in a Capital Budget.

*Railroad company*—A person, firm or corporation rendering common carrier rail freight transportation services in this Commonwealth under authorization from the Pennsylvania Public Utility Commission or the Interstate Commerce Commission.

*Railroad crossing bed maintenance*—The replacement of rail, ties, ballast, welds, blacktop and surfacing materials at an at-grade crossing of a railway line with a roadway.

*Railroad user*—A person, firm or corporation that is a direct user or developer of a rail freight transportation system, facility or service in this Commonwealth.

*Transportation organization*—A municipal authority, mass transportation, port or other authority, or a combination of these entities, organized under the laws of the Commonwealth, or under an interstate compact, empowered to render rail freight transportation services or assist in rendering rail freight transportation services in this Commonwealth.

### § 511.3. Eligibility.

(a) Railroad companies, transportation organizations, municipalities, municipal authorities and railroad users are eligible grantees for grants issued under this chapter.

(b) Grants under this chapter will be matching grants requiring a local funding match of 30% of the total project costs.

(1) Projects funded through the RFAP may not use Rail TAP program funds for matching fund purposes.

(2) Projects funded through the Rail TAP may not use RFAP program funds for matching fund purposes.

(c) Types of projects eligible for grants are limited to maintenance projects and capital projects.

(1) Maintenance projects may include the replacement of ties, rails, plates, turnouts, other track materials, structural materials and additional ballast to be sufficient to functionally restore, improve or maintain an existing railroad line to the level necessary for compliance with Federal Railroad Administration Class I Track Safety Standards.

(i) Eligible maintenance projects must have an estimated useful life of at least 5 years.

(ii) Eligible maintenance projects may not include costs for the acquisition of land, rights to land, buildings or building materials to construct a new building or buildings.

(2) Eligible capital projects must have an estimated useful life of at least 5 years and may include the cost to purchase any of the following:

(i) Ties, rail, ballast, other track materials and structural materials in sufficient quantity to construct a railroad line where one does not exist, or to restore or improve a rail associated facility to a level necessary for its operation or use.

(ii) Land or rights to land or buildings.

(iii) Materials to construct new building structures if the structures are used exclusively for rail freight operations.

(d) Applicants may apply for assistance for only one project per calendar year from the RFAP.

(e) Applicants may apply for assistance for only one project per calendar year from the RailTAP.

### § 511.4. Limits of funding.

(a) *Approval and appropriation*. Funding for projects under this chapter is subject to approval and appropriation by the General Assembly.

(b) *Maximum contribution*. The maximum Commonwealth contribution for projects funded under this chapter is 70% of the total project costs.

(c) *RFAP funding limits*.

(1) RFAP maximum Commonwealth contribution will be published annually in the *Pennsylvania Bulletin* in January.

(2) No more than 15% of the total grant amount shall be used for costs associated with railroad crossing bed maintenance or reconstruction.

(d) *Rail TAP funding limits*.

(1) The maximum Commonwealth funding for a project will be determined by line item in the Capital Budget but will not exceed 70% of total project costs.

(2) No more than 50% of the grant shall be used for right-of-way acquisition costs under this chapter.

(3) No more than 5% of the total grant amount shall be used for the acquisition or refurbishment of rolling stock, which means nonmotorized wheeled vehicles that are used for the transportation of freight by rail.

(4) No more than 15% of the total grant amount shall be used for costs associated with railroad crossing bed maintenance or reconstruction.

(5) A grant will not exceed 10% of the total program appropriation in any given calendar year.

### § 511.5. Application period and deadlines.

(a) Applications shall be filed during the open application period.

(b) The open application period for RFAP will be determined by the Department on an annual basis and published in the *Pennsylvania Bulletin* in January.

(c) The open application period for Rail TAP will be determined by the Department on an annual basis and published in the *Pennsylvania Bulletin* in January.

(d) Only applications received during the open application period are considered to meet the application deadline for a particular fiscal year.

### § 511.6. Application submission procedure.

(a) RFAP and Rail TAP applications shall be filed electronically using the dotGrants web-based application or as otherwise determined by the Department.

(b) Applications shall be fully completed by the applicant upon submission and must include, among other criteria specified on the particular application:

(1) A detailed project schedule with identified milestones and completion date.

(2) Information demonstrating the applicant project's capacity to meet the following, as applicable:

(i) Track work inspection requirements.

(ii) Carloading requirements.

(iii) Standard contract provisions.

(iv) Competitive bid requirements.

(c) Applications for funding under the RFAP or Rail TAP programs shall be completed in accordance with Department grant application policies and procedures in place at the time the application period opens.

(d) The Department may reject an application which does not include the data required by the grant application, this chapter, grant program policies or other applicable laws or regulations.

**§ 511.7. Public records.**

Submissions to the Department are subject to the requirements of the Right-to-Know Law (65 P. S. §§ 67.101—67.3104) and exceptions thereto.

**§ 511.8. Grant selection process and criteria.**

(a) The Bureau will evaluate each eligible RFAP and Rail TAP project in terms of its potential to meet the goals and objections of:

- (1) The individual programs.
- (2) The Statewide rail long-range plan.
- (3) The applicant's representative metropolitan planning organization or rural planning organization, including:
  - (i) Re-establishing or creating new rail service.
  - (ii) Improving public safety.
  - (iii) Providing economic development and job growth.
  - (iv) Achieving a positive benefit/cost ratio.
  - (v) Positively affecting the environment.
  - (vi) Increasing carloadings.

(b) Unless otherwise restricted by law, the Department has discretion in the selection of projects and in the determination of funding levels, priorities, critical project selection criteria, project phasing, project design, and specifications and performance criteria.

(c) As part of the grant application evaluation process, the Department may determine that the scope or specifications of a proposed project should be modified to accommodate available funding, anticipated use or to better accommodate potential user needs.

(d) The Department may confer with an applicant to clarify the intent of, or to amend the scope or specifications of, a proposed project. The consultation may not be construed as a commitment by the Department to offer a grant under this chapter.

(e) The Department may visit the site of a proposed project to clarify the intent of, or to amend the scope or specifications of, a proposed project. The consultation may not be construed as a commitment by the Department to offer a grant under this chapter.

**§ 511.9. Offer and acceptance.**

(a) The Department will, in writing, notify each applicant who has submitted a completed application whether or not the applicant will receive a grant offer.

(b) A written grant offer issued to an applicant will describe specific grant conditions and include the conditions in the accompanying grant agreement.

(1) The grant offer will have a clearly identified date of issuance or mailing.

(2) The grant offer will contain a provision for the applicant to indicate acceptance or declination of the offer.

(c) The applicant shall, within 30 days of the date of issuance or mailing of the grant offer and by certified mail, notify the Department, on the portion of grant offer as provided in subsection (b)(2), whether the offer is accepted or declined.

(d) If the applicant fails to accept the grant offer within the time limit set in subsection (c), the offer will lapse

and become void. The Department may, at the discretion of the Director, extend the deadline for acceptance of the grant offer.

(e) If one or more offers are declined or voided in accordance with subsections (c) and (d), the Department may make a grant offer to an applicant initially notified under subsection (a) that an offer would not be made. Timely response to an offer made under this subsection shall be in accordance with subsections (c) and (d).

**§ 511.10. Standards, methods, techniques, designs and special conditions.**

(a) The Department reserves the right to specify or make determination as to the standards, methods, techniques, design and dimensional criteria acceptable in projects funded by grants under this chapter.

(b) The design and construction of an approved project are subject to the review and approval of the Department, including costs, materials, plans, specifications, design and operational details.

(c) Failure to meet special conditions, performance criteria or specifications may result in the withdrawal of the grant, disqualification from future consideration for a grant under this chapter or declaration of a grant recipient to be in default of the terms of the grant agreement.

(d) Steel products used in a project funded by a grant issued under this chapter must comply with the Steel Products Procurement Act (73 P. S. §§ 1881—1887).

**§ 511.11. Prevailing wage.**

Projects funded by grants awarded under this chapter are subject to prevailing wage requirements as required under the Pennsylvania Prevailing Wage Act (43 P. S. §§ 165.1—165.17).

**§ 511.12. Audits and recordkeeping.**

(a) *General.*

(1) An applicant receiving a grant under this chapter shall keep records as the Department may prescribe, including records which facilitate an effective audit and fully disclose:

(i) The amount and disposition by the applicant of the grant proceeds.

(ii) The total cost of the plan or program in connection for which the grant is given or used.

(iii) The amount and nature of that portion of the cost of the plan or program supplied by other sources.

(2) The Department has access to books, documents, papers and records of the grant recipient that are pertinent to a grant issued under this chapter for the purpose of audit and examination. This includes progress audits during the project.

(3) A grant recipient shall establish and maintain an adequate accounting record for an individual project which will allow the Department to determine the legitimacy of costs incurred for the project.

(4) The grant recipient shall maintain effective control over and accountability for all funds, property and other assets. Applicants shall adequately safeguard assets and ensure that assets are used solely for authorized purposes.

(5) A grant recipient shall establish procedures to minimize the time elapsing between the transfer of funds from the Department and the distribution by the applicant whenever funds are advanced by the Department.

(6) The grant recipient shall include a clause in any contract related to the grant that allows Department access to the applicant's contractor's records for purposes of accounting and audit.

(b) *Retention of records.*

(1) A grant recipient shall retain for 5 years after the date of the submission of the final Department payment documentary evidence such as invoices, cost estimates and negotiation documents regarding any items of project cost. These documents include the following:

- (i) Vendor's invoices.
- (ii) Applicable purchase orders.
- (iii) Receiving reports.
- (iv) Inventory records.
- (v) Method of pricing.
- (vi) Returns.
- (vii) Catalog cuts.
- (viii) Carloading compliance reports.
- (ix) Plans.
- (x) Inspection reports.
- (xi) Final inspection report showing acceptance for the project.
- (xii) A record of disposition or correction of unsatisfactory work.

(2) A grant recipient shall retain for 5 years after the date of the submission of the final Department payment evidence of payments for items of project costs including the following:

- (i) Vouchers.
  - (ii) Cancelled checks or warrants.
  - (iii) Receipts for cash payments.
- (3) If audit findings have not been resolved, records shall be retained until the findings have been resolved.
- (c) *Carloading reports.*

(1) The grant recipient shall submit, on a form approved by the Bureau, annual carloading reports for 5 consecutive years, beginning in the year following project completion, comparing the average guaranteed carloadings achieved against the carloading projections in the grant agreement.

(2) The Bureau will note discrepancies between the carloadings documented in the report and the projected carloadings identified in the grant agreement and will identify actions, if any, to be taken to ensure that the project will achieve the projected carloadings within 6 months.

(3) A record of the grant recipient's default may be entered into the Statewide Contractor Responsibility Program File for future consideration in any determination as to whether Commonwealth grants are to be extended to the grant recipient. The Bureau may also reclaim grant funds awarded or stop future awards if the grantee fails to meet the carloading requirements on a grant or fails to properly report the carloading data to the Bureau, or both.

(4) The carloading data submitted to the Bureau is subject to verification by Department internal auditors or by external auditors contracted by the Bureau.

**§ 511.13. Inspection.**

(a) The Department or an agency of the Commonwealth, or both, or a person designated or authorized by the Department has the absolute right to inspect the project sites, proposed project sites, records and construction materials regarding a project funded by a grant issued under this chapter.

(b) An inspection ordered by the Department or conducted under this chapter may include the following:

- (1) The reproduction and examination of records.
- (2) The taking of samples applicable to evaluation or project quality control.
- (3) The assessment of any factor relevant to the project, application or contract terms related to the grant process.

(c) A grant recipient's denial of access to records, failure to produce records or obstruction of an inspection may result in the withdrawal of the grant and disqualification from future consideration for grants issued under this chapter.

**§ 511.14. Payment procedures.**

(a) Prior to the disbursement of funds, the Department may conduct inspections, testing, review or audit records of accounts to validate, to the satisfaction of the Department, that the disbursement of funds is warranted.

(b) A grant recipient, having received payment or partial payment or reimbursement under a grant under this chapter, shall, within 7 calendar days of receipt of grant funds from the Department, make payments to vendors and contractors for services and materials properly invoiced under the project.

(c) The grant recipient shall provide proof to the Department that payment for project subcontractors has been made within 30 calendar days of receipt of grant funds.

(d) A grant recipient shall forward requests for payment to the Department on the forms provided or in a manner specified by the Department. A request must include submission of actual cost documentation consisting of approved contract estimates of work-in-place, approved invoices or other evidence of incurred costs satisfactory to the Department.

(e) Ten percent of each grant payment will be withheld by the Department as retainage until final inspection and approval of the project by the Department.

(f) Payment requests may be made for projects in progress but are limited to one request per month.

**§ 511.15. Liability; forfeiture of funds; repayment.**

(a) If a grant recipient fails to comply with the terms and conditions of a grant issued under this chapter, the following conditions apply:

(1) The grant recipient shall immediately reimburse the Department the amount demanded by the Department, up to the total amount of the grant.

(2) The Department may, at the discretion of the Director, disqualify the grant recipient from future consideration for grants issued under this chapter.

(b) A grant recipient aggrieved by a decision of the Department under this section may take an appeal under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

**§ 511.16. Waiver.**

(a) The Department may waive requirements to submit specific information or data normally required for a grant application.

(b) Waivers may be granted after written request to the Director and formal written response to the applicant by the Director prior to submission of the completed application to the Bureau.

(c) In the event of an emergency or other event deemed of critical concern to the Commonwealth, the Secretary may waive any, or all, of the requirements of this chapter otherwise not prohibited by law.

[Pa.B. Doc. No. 14-1814. Filed for public inspection August 29, 2014, 9:00 a.m.]

## ENVIRONMENTAL QUALITY BOARD

### Acceptance of Recommendation

On August 19, 2014, the Environmental Quality Board (Board) accepted the Department of Environmental Protection's (Department) recommendation not to accept a petition for rulemaking. This decision is in response to a petition submitted by Ashley Funk (petitioner) that requested the establishment of a rule in this Commonwealth to regulate fossil fuel carbon dioxide (CO<sub>2</sub>) emissions and to establish an emissions reduction strategy that proposed to further reduce atmospheric concentrations of CO<sub>2</sub> by 2100.

The decision to accept the recommendation to deny the petition was based on a report prepared by the Department and subsequent comments provided by the petitioner. The Department determined, and the Board concurred, that the Commonwealth is making a committed effort to implement a variety of initiatives to reduce greenhouse gas (GHG) emissions. The Commonwealth has implemented, and will continue to evaluate and implement, a number of cost-effective GHG reduction strategies for all major source categories. In addition, as National policies or regulations are adopted, they will be implemented by the Commonwealth. Further, adopting the measures recommended in the petition for the Commonwealth will not achieve the emissions reductions proposed in the petition and, thus, adoption of these measures is not practical at this time. The Department affirmed to the petitioner that it will continue to evaluate and implement cost-effective GHG emission reduction strategies in order to protect the health and environmental resources in this Commonwealth.

The previously-referenced recommendation is included in a report that is accessible on the Department's web site at [www.dep.state.pa.us](http://www.dep.state.pa.us) (Select "Public Participation Center"; "The Environmental Quality Board"; "EQB Meeting Schedule 2014").

E. CHRISTOPHER ABRUZZO,  
*Chairperson*

[Pa.B. Doc. No. 14-1815. Filed for public inspection August 29, 2014, 9:00 a.m.]

### Acceptance of Rulemaking Petition for Study

On August 19, 2014, the Environmental Quality Board accepted a rulemaking petition for study under 25 Pa. Code Chapter 23 (relating to Environmental Quality Board policy for processing petitions—statement of policy). The petition, submitted by the Brodhead Chapter of Trout Unlimited, requests the amendment of 25 Pa. Code § 93.9c (relating to Drainage List C) to redesignate portions of Tank Creek, Yankee Run, Devil's Hole Creek and upper Paradise Creek downstream to Lake Crawford in Monroe County from High Quality (HQ) to Exceptional Value (EV) waters.

Under 25 Pa. Code § 93.4d(a) (relating to processing of petitions, evaluations and assessments to change a designated use), the Department of Environmental Protection (Department) is required to publish a notice of intent to assess candidate waters. The Department's assessment notice for this rulemaking petition will appear in a future issue of the *Pennsylvania Bulletin*.

The previously-referenced petition is available to the public by contacting the Environmental Quality Board by means of United States mail to P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526. It is also accessible on the Department's web site at [www.dep.state.pa.us](http://www.dep.state.pa.us) (Select "Public Participation Center"; "The Environmental Quality Board"; "EQB Meeting Schedule 2014").

E. CHRISTOPHER ABRUZZO,  
*Chairperson*

[Pa.B. Doc. No. 14-1816. Filed for public inspection August 29, 2014, 9:00 a.m.]

### Acceptance of Rulemaking Petition for Study

On August 19, 2014, the Environmental Quality Board accepted a rulemaking petition for study under 25 Pa. Code Chapter 23 (relating to Environmental Quality Board policy for processing petitions—statement of policy). The petition, submitted by Schmid and Company, Inc. on behalf of the Beaver Valley Conservancy, requests the amendment of 25 Pa. Code § 93.9g (relating to Drainage List G) to redesignate the Beaver Creek basin in Delaware County.

Under 25 Pa. Code § 93.4d(a) (relating to processing of petitions, evaluations and assessments to change a designated use), the Department of Environmental Protection (Department) is required to publish a notice of intent to assess candidate waters. The Department's assessment notice for this rulemaking petition will appear in a future issue of the *Pennsylvania Bulletin*.

The previously-referenced petition is available to the public by contacting the Environmental Quality Board by means of United States mail to P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526. It is also accessible on the Department's web site at [www.dep.state.pa.us](http://www.dep.state.pa.us) (Select "Public Participation Center"; "The Environmental Quality Board"; "EQB Meeting Schedule 2014").

E. CHRISTOPHER ABRUZZO,  
*Chairperson*

[Pa.B. Doc. No. 14-1817. Filed for public inspection August 29, 2014, 9:00 a.m.]