



Reclassification of Perennial Streams

Proposed Revisions to Criteria for
Reclassification of Perennial Streams
(February 9, 2005)



Recap of Events

- Initiated by Nov. 15, 2004, Board Matter from Supervisor Smyth to amend requirements for reclassifying perennial streams.
- Follow-up discussion with Board Environmental Committee on Dec. 6, 2004.
- Request from Chairman Connolly to review existing requirement in PFM for additional studies of streams not identified as perennial by DPWES.



Issues

- Is current delegation of authority to the Director for reclassifying perennial streams legal?
- Who should approve reclassifications?
- What requirements should be met to reclassify a stream from perennial to intermittent (observational data)?
- What should the notification requirements be (BOS and public)?
- Existing requirement in the PFM for additional studies of streams not identified as perennial by DPWES may be confusing. This requirement was rendered moot by completion of the DPWES field studies and adoption of the RPA maps.



Is current delegation to the Director for reclassifying perennial streams legal?

- Yes, the County Attorney has determined that the delegation to reclassify a stream from perennial to intermittent pursuant to PFM 6-1704.4A is a legal delegation of legislative authority because it only delegates to the Director the administrative responsibility of evaluating the sufficiency of observational data that may or may not indicate that water does not flow year round in a stream that is shown as perennial on the Chesapeake Bay Preservation Areas Map.



Who Should Approve Reclassifications?

- Three options - Board, Exception Review Committee (ERC), or the Director.
 - Board – The Board can handle reclassifications as an action item with input from interested parties or with a formal public hearing.
 - ERC – Since the actions of this committee can be appealed to the Board we believe this review would only add an additional step.
 - Director – Current process with the addition of notification to the district Board Member and the adjoining property owners and changes to the technical criteria for reclassification.



What requirements should be met to reclassify a stream from perennial to intermittent (observational data)?

- Current requirement in the PFM is to provide “observational data of the absence of flow during nondrought periods.”
- This requirement must be better defined to specify what is acceptable proof to determine a stream is not perennial (observations on multiple days, define non-drought conditions, opportunity for staff to validate observational data, etc.)



What are the notification requirements?

- No notification is currently required for reclassification of perennial streams.
- Recommend notification be added for stream reclassifications. Options:
 - Notify only the district Board member.
 - Notify the district Board member and the adjoining property owners.
 - At the Environmental Committee meeting Chairman Connolly requested that the chairman also be notified.



PFM requirements for additional studies of streams.

- It was originally anticipated that the County's field studies to identify perennial streams would not be completed at the time the amended CBAY Ordinance became effective.
- As a result, provisions were included in the advertised PFM amendments for certified professionals to perform perenniality determinations for streams that had not been studied by DPWES prior to the effective date of the amended CBAY Ordinance.



PFM requirements for additional studies of streams.

- The completion of the DPWES field studies and the Board's decision to make the amendments to the Chesapeake Bay Preservation Ordinance and PFM effective only after adoption of the map of Chesapeake Bay Preservation Areas has rendered the requirement for additional studies to be performed in connection with land development projects moot.
- Existing PFM language will be revised to reflect the completion of the DPWES field studies and adoption of the map and eliminate any confusion regarding the need for additional studies of streams.



How is a stream reclassified from intermittent to perennial?

- The remapping QC/QA is complete. An updated map will be presented to the BOS in the spring. No further County-wide mapping efforts are planned.
- Future evaluations of stream designations can be accomplished as requested by a Board Member on a case by case basis.
 - Data review / field review (if necessary)
 - If streams are to be reclassified as perennial it will require a public hearing before the BOS and adoption of a new map.
 - Plans already submitted (or in process) would not be required to fully comply with new RPA limits adopted after these plans were submitted.



Proposed technical requirements for reclassification.

- Observations of Stream flow
 - Every 50 feet or less along the channel beginning a minimum of 150 feet downstream from the property line to a point 150 feet upstream the terminus of the perennial stream as depicted on the adopted map of Chesapeake Bay Preservation Areas.
 - At all control sections within the study reach, and at the nearest control section upstream and downstream from the property boundary. (A control section is a culvert or other section with a hard bottom where even minute amounts of flow would be readily visible.)



Proposed technical requirements for reclassification.

- Observations of Stream flow
 - Two sets of observations at the above locations must be made a minimum of 7 days and a maximum of 30 days apart.
 - DPWES should be notified within 2 days of completion of the first set of observations.



Proposed technical requirements for reclassification.

- Observations of Stream flow
 - Where there are small pools of water that do not appear to be moving, dye or other methods approved by the Director shall be used to determine if water is flowing from pool to pool.
 - Observations shall be made at the true channel bottom which is located below the movable bed load and channel armoring materials.



Proposed technical requirements for reclassification.

- Observations of Stream flow
 - The date, time, name of the observer, weather conditions at the time of observation, and photographs looking upstream and downstream documenting each observation.
 - Photographs shall capture the various stream features (pools, riffles, runs) along the stream.



Proposed technical requirements for reclassification.

- Meteorologic data
 - Daily precipitation, max. & min. temperature, and cloud cover from the nearest NWS weather station for a period of two weeks preceding the date observations were taken.
 - Percent of normal precipitation for one, three, and six month periods prior to date of observation.



Proposed technical requirements for reclassification.

- Meteorologic data
 - Weekly value of the Palmer Drought Index and the drought intensity specified by the U.S. Drought Monitor for a period of three months preceding the date the observations were taken.
 - The County may use meteorologic data from local rain gage stations closer to the site in evaluating the reclassification request.
- Reclassification studies must be certified by a licensed professional



Final Recommendations

- Retain the current delegation of authority to the Director to approve reclassifications of streams from perennial to intermittent.
- Add language to the PFM to define what observational data is necessary to support reclassification and define non-drought conditions.



Final Recommendations

- Revise existing PFM language to reflect the completion of the DPWES field studies, adoption of the map, and eliminate references to the need for additional field studies of streams not previously studied.
- Add requirements in the CBAY Ordinance for notification of adjoining property owners, the district Board Member, and Board Chairman that a study to reclassify a stream from perennial to intermittent has been submitted.



Closing

- The Environmental Committee directed DPWES to proceed with preparing the appropriate PFM amendments based on the final recommendation and bring them back to the Board for review.
- Proposed PFM amendments and CBAY Ordinance amendments (notification provisions) will be presented at the March 28, 2005 Environmental Committee meeting.