

PUBLIC NOTICE

WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION'S
PUBLIC INFORMATION OFFICE, 601 57TH STREET SE, CHARLESTON, WEST
VIRGINIA 25304-2345 TELEPHONE (304) 926-0443.

The West Virginia Department of Environmental Protection (DEP) is considering adding three streams to the Tier 3 list in accordance with the state's antidegradation policy and rule, 60CSR5. This proposal is based upon a nomination the DEP received on November 23, 2009, to add the entire lengths of Watkins Run (NHD Code MC-68-A-2); Fill Hollow Creek (NHD Code MC-65); and an Unnamed Tributary of Fill Hollow Creek (NHD Code MC-65-A) to the Tier 3 list. All three streams are located in the southern part of Preston County. Tier 3 waters are also known as "Outstanding National Resource Waters" and are further defined in 47CSR2, sections 2.10 and 4.1.c. They are afforded a higher level of protection than Tier 1 and Tier 2 waters.

The nomination was made by Ladd Williams on behalf of Friends of Laurel Mountain. In his nomination, Mr. Williams indicates that the streams are "abundant with aquatic insects and native brook trout." The application also cites, among other things, excellent water quality in the streams. The nomination package may be viewed by visiting the Water Quality Standards home page on the DEP's Web site: www.dep.wv.gov/wqs.

Watkins run was previously nominated and adopted as a Tier 2.5 (Waters of Special Concern) stream by the West Virginia legislature in May, 2005. EPA approved this nomination in September, 2006 and Watkins Run was the state's only Tier 2.5 stream from September, 2006 to September, 2009, at which time EPA approved the DEP's recommendation to eliminate the Tier 2.5 designation from its water quality standards rule.

The procedures for nominating streams for Tier 3 protection are outlined in 60CSR5, section 7.1. Any interested party may nominate a water to be listed as an Outstanding National Resource Water. There are eight qualification criteria to be considered in determining whether to assign an Outstanding National Resource Water designation to a stream, as follows:

- 1) Impact on private property owners
- 2) Whether the interests of all affected parties have been adequately represented during the nomination and designation process
- 3) Location of the water
- 4) Previous special designations
- 5) Existing water quality
- 6) Factors that indicate outstanding ecological value
- 7) Factors that indicate outstanding recreational or aesthetic value
- 8) Other factors determined by the Secretary, when applicable

Generally, nominations that fail to address at least three of the qualification criteria will be considered insufficient. The DEP has determined that Mr. Williams' Tier 3 nomination satisfies the minimum criteria.

Streams granted Tier 3 status are to be maintained, protected, and improved where necessary as outlined in 60CSR5, section 6.1. Any proposed new or expanded regulated activity that would degrade the water quality, other than temporarily, is prohibited. This requirement only applies to point source discharges, such as sewage treatment plant and industrial discharges. It does not apply to nonpoint source activities, such as timbering, farming, and oil and gas drilling, as long as best management practices are implemented and maintained.

The DEP is hereby notifying landowners, the public, and localities that it is proposing to add Watkins Run, Fill Hollow Creek, and an Unnamed Tributary of Fill Hollow Creek to the Tier 3 list and is providing this opportunity to submit written comments on this proposal as described further below. After considering the comments, the DEP will decide whether to identify these three streams as Tier 3.

Written comments on this proposal must be sent by U.S. mail, postmarked or hand-delivered by July 12, 2010, directed to the following person and address:

Scott Mandirola
Attention: Tier 3 Nomination
WV Department of Environmental Protection
601 57th Street, S.E.
Charleston, WV 25304

Comments may also be sent by e-mail to dep.comments@wv.gov. For further information, please contact Mike Arcuri at (304) 926-0499, Ext. 1044, or e-mail Michael.Arcuri@wv.gov.