
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1027

Session of
2001

INTRODUCED BY LYNCH, CALTAGIRONE, CORRIGAN, DALEY, GABIG,
GODSHALL, GRUCELA, HORSEY, HUTCHINSON, McILHATTAN, PETRONE,
B. SMITH, SOLOBAY, STABACK, WASHINGTON, WILT, WOJNAROSKI AND
YOUNGBLOOD, MARCH 15, 2001

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
MARCH 15, 2001

AN ACT

1 Providing for designation and conservation of exceptional value
2 waters.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Exceptional
7 Value Waters Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Department." The Department of Environmental Protection of
13 the Commonwealth.

14 "Exceptional value waters." Surface waters that are
15 designated by the Environmental Quality Board as exceptional
16 value waters in compliance with the criteria and procedures of

1 section 3.

2 "Surface waters." Include perennial and intermittent
3 streams, rivers, lakes, reservoirs, ponds, wetlands, springs,
4 natural seeps and estuaries. The term does not include water at
5 manmade facilities such as wastewater impoundments, cooling
6 water ponds or constructed wetlands used as part of a wastewater
7 treatment process.

8 Section 3. Exceptional value waters.

9 (a) Designation by board.--Following the procedures set
10 forth in this section, the Environmental Quality Board may by
11 regulation designate specific surface waters or portions of a
12 stream or watershed as exceptional value waters if the surface
13 waters meet one or more of the following criteria:

14 (1) Surface waters were classified as exceptional value
15 waters pursuant to final regulations adopted by the
16 Environmental Quality Board prior to January 1, 1999.

17 (2) The water meets the requirements established by the
18 Environmental Quality Board for high quality waters and one
19 or more of the following:

20 (i) The water is located in a national wildlife
21 refuge or a State game propagation and protection area.

22 (ii) The water is located in a designated State park
23 natural area or State forest natural area, national
24 natural landmark, Federal or State wild river, Federal
25 wilderness area or national recreational area.

26 (iii) The water is an outstanding national, State,
27 regional or local resource water.

28 (iv) The water is a surface water of exceptional
29 recreational significance.

30 (v) The water achieves a score of at least 92% or

1 its equivalent using the peer-reviewed biological
2 assessment methods and procedures described in 25 Pa.
3 Code § 93.4b(a)(2)(i)(A) or (B) (relating to Qualifying
4 as High Quality or Exceptional Value Waters).

5 (vi) The water is designated as a wilderness trout
6 stream in a rulemaking promulgated by the Pennsylvania
7 Fish and Boat Commission pursuant to the requirements of
8 the act of June 25, 1982 (P.L.633, No.181), known as the
9 Regulatory Review Act.

10 (3) The surface waters are important, unique or
11 ecologically sensitive, but the surface water quality, as
12 measured by traditional chemical, physical or biological
13 parameters, is not particularly high and cannot be adequately
14 described by such parameters.

15 (b) Report.--

16 (1) Except as provided in paragraph (2), prior to
17 Environmental Quality Board approval of a rulemaking proposal
18 designating surface waters as an exceptional value water, the
19 department shall prepare an environmental, social and
20 economic impact assessment report. Such report shall:

21 (i) Identify the area and location of the surface
22 waters to be designated.

23 (ii) Evaluate the existing water quality,
24 environmental and ecological values of the surface
25 waters.

26 (iii) Describe and evaluate the impact of the
27 exceptional value waters designation on existing and
28 proposed land uses adopted by affected municipalities in
29 comprehensive plans and zoning ordinances prepared
30 pursuant to the act of July 31, 1968 (P.L.805, No.247),

known as the Pennsylvania Municipalities Planning Code,
for land within the watershed to be designated.

(iv) Describe and assess the effect of an
exceptional value designation on existing and proposed
uses of public and private lands adjacent to or in the
watershed, including impacts upon the value of any
private lands which may be affected or restricted by such
designation. In making this assessment, the department
shall identify the immediate and long-range economic
impacts that an exceptional value designation would have
on the public and the local economy. The department shall
also demonstrate that the incremental environmental
protection that would result from an exceptional value
designation of the surface water will clearly outweigh
the potential economic and social benefits to the public
and the local economy that may result from uses of the
land for activities that would qualify for permits if the
surface water were not designated as exceptional value.

(v) Include a formal watershed conservation plan
developed pursuant to subsection (e).

(2) An environmental, social and economic impact
assessment shall not be required where the entire drainage
area for the surface waters proposed for designation is
located upon the land or lands owned by the Federal
Government, the Commonwealth, a county, municipality or
public water supply agency.

(c) Public informational meetings and public hearings.--
Prior to adopting regulations designating surface waters as
exceptional value waters, at least one public informational
meeting and at least one public hearing shall be held in the

1 county or counties where the surface waters are located. When
2 the designation involves surface waters in more than one county,
3 the meetings and hearings shall be held at a location reasonably
4 convenient to the parties notified under subsection (d)(1), (2)
5 and (3).

6 (d) Notice of meetings and hearing.--Notice of the
7 informational public meetings and notice of the public hearing
8 shall be given at least three weeks in advance in a newspaper of
9 general circulation in the county, or in the case of land
10 located in more than one county, in a newspaper of general
11 circulation in each county. Notice shall also be given three
12 weeks in advance:

13 (1) by first class mail to each county, city, borough,
14 incorporated town or township wherein is located land
15 involved in the study that is adjacent to surface waters
16 being considered for redesignation as exceptional value
17 waters by the Environmental Quality Board;

18 (2) by first class mail to each person to whom the
19 department has issued a permit authorized by this act, to
20 each person who has submitted a permit application for
21 activities regulated under this act, and to each person
22 conducting activities regulated under this act by a general
23 permit or permit-by-rule, if the regulated activity is or
24 will be conducted on watershed lands affected by the
25 exceptional value waters designation and to any applicants
26 with pending applications for discharge permits in the
27 watershed covered by the petition and any applicants with
28 pending requests for revision, amendment or supplement of
29 official plans submitted pursuant to the act of January 24,
30 1966 (1965 P.L.1535, No.537), known as the Pennsylvania

1 Sewage Facilities Act; and

2 (3) by certified mail to those owners of the watershed
3 lands, including owners of mineral rights under such
4 watershed lands, which would be affected by the exceptional
5 value waters designation.

6 (e) Watershed lands.--

7 (1) If the recommended exceptional value waters
8 designation affects surface waters that are located upon
9 watershed lands that are under private ownership or control,
10 the department shall actively engage owners of interests in
11 the affected property and persons conducting or proposing
12 activities requiring a department permit or approval which
13 may impact the surface water in a process to design a formal
14 watershed conservation plan. The purpose of the plan shall be
15 to provide for the level of protection of aquatic resources,
16 recreational uses and other uses required by the recommended
17 exceptional value waters designation while ensuring property
18 owners and residents long-range certainty about the future
19 development of their land.

20 (2) The department may not submit a plan to the
21 Environmental Quality Board unless all owners of interests in
22 the affected property and all persons conducting or proposing
23 activities requiring a department permit or approval which
24 may impact the surface waters agree with its provisions.

25 (f) Procedure.--

26 (1) Any petition filed pursuant to section 1920-A of the
27 act of April 9, 1929 (P.L.177, No.175), known as The
28 Administrative Code of 1929, requesting the Environmental
29 Quality Board to designate surface waters as exceptional
30 value waters shall be considered pursuant to the criteria and

1 the procedures set forth in this section.

2 (2) The petition shall provide the following
3 information:

4 (i) The location and area of the watershed covered
5 by the petition, including a map or maps published by the
6 United States Geological Survey, indicating the perimeter
7 of the area proposed for designation.

8 (ii) A summary and analysis of available water
9 quality information regarding in-stream water chemistry.

10 (iii) Data regarding property ownership in the
11 watershed.

12 (iv) A general description of the patterns and
13 location of existing land use and development in the
14 watershed.

15 (v) A description of land use controls or plans in
16 the watershed that have been adopted or are being
17 developed by affected municipalities pursuant to the
18 Pennsylvania Municipalities Planning Code.

19 (vi) A detailed description of existing water uses
20 in the watershed.

21 (vii) Detailed supporting evidence establishing that
22 the surface waters qualify for designation as exceptional
23 value waters under the criteria set forth in subsection
24 (a).

25 (viii) The petitioner's name, address and telephone
26 number.

27 (ix) Identification of the petitioner's interest
28 which may be affected by the proposed designation.

29 (3) Within 30 days of receipt of a petition under this
30 section, the department shall notify the petitioner by

1 certified mail whether or not the petition is complete as
2 required by this section.

3 (4) Within 30 days of receipt of a petition under this
4 section, the department shall notify by first class mail any
5 applicants with pending applications for discharge permits in
6 the surface waters covered by the petition and any applicants
7 with pending requests for revision, amendment or supplement
8 of official plans submitted pursuant to the Pennsylvania
9 Sewage Facilities Act which include surface waters covered by
10 the petition.

11 (g) Permit applications.--No petition or proposal to
12 designate surface waters as exceptional value waters or high
13 quality waters and no determination by the department that
14 surface waters are eligible for regulation as exceptional value
15 waters or as high quality waters shall have any effect or be
16 considered in the review and approval of permit applications
17 submitted under any act administered by the department unless
18 and until such designation is adopted by the Environmental
19 Quality Board as final rulemaking and published in the
20 Pennsylvania Bulletin.

21 Section 4. Effect of designation.

22 The department shall not regulate high quality waters or
23 exceptional value waters designations as uses of surface water.
24 The department may designate surface waters as high quality
25 waters to protect and manage surface water whose water quality
26 exceeds levels necessary to protect the uses specified in
27 section 101(a)(2) of the Water Pollution Control Act (62 Stat.
28 1155, 33 U.S.C. § 1251 et seq.). The board may designate surface
29 waters as exceptional value waters to maintain and protect the
30 specific surface waters set forth in section 3.

1 Section 5. Appeals.

2 Any party whose interest is adversely affected by a decision
3 to designate surface waters as exceptional value waters may
4 directly appeal the designation decision to the Environmental
5 Hearing Board.

6 Section 6. Effective date.

7 This act shall take effect immediately.