

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2474 Session of  
1990

INTRODUCED BY BIRMELIN, BATTISTO, MELIO, DIETTERICK, DISTLER,  
SEMMELE, VROON, PETRONE, COY, JOHNSON, GEIST, PHILLIPS,  
G. SNYDER, CLYMER, KENNEY, MORRIS, LEH, ALLEN, NOYE, RYBAK,  
TRELLO, ADOLPH, TELEK AND J. H. CLARK, APRIL 23, 1990

REFERRED TO COMMITTEE ON CONSERVATION, APRIL 23, 1990

AN ACT

1 Amending the act of June 22, 1937 (P.L.1987, No.394), entitled,  
2 as amended, "An act to preserve and improve the purity of the  
3 waters of the Commonwealth for the protection of public  
4 health, animal and aquatic life, and for industrial  
5 consumption, and recreation; empowering and directing the  
6 creation of indebtedness or the issuing of non-debt revenue  
7 bonds by political subdivisions to provide works to abate  
8 pollution; providing protection of water supply and water  
9 quality; providing for the jurisdiction of courts in the  
10 enforcement thereof; providing additional remedies for  
11 abating pollution of waters; imposing certain penalties;  
12 repealing certain acts; regulating discharges of sewage and  
13 industrial wastes; regulating the operation of mines and  
14 regulating the impact of mining upon water quality, supply  
15 and quantity; placing responsibilities upon landowners and  
16 land occupiers and to maintain primary jurisdiction over  
17 surface coal mining in Pennsylvania," providing for  
18 designation and conservation of exceptional value waters.

19 The General Assembly of the Commonwealth of Pennsylvania  
20 hereby enacts as follows:

21 Section 1. Section 1 of the act of June 22, 1937 (P.L.1987,  
22 No.394), known as The Clean Streams Law, is amended by adding a  
23 definition to read:

24 Section 1. Definitions.--Be it enacted, &c., That the  
25 following words or phrases, unless the context clearly indicates

1 otherwise, shall have the meanings ascribed to them in this  
2 section.

3 \* \* \*

4 "Exceptional value waters" shall be construed to include  
5 those waters and watersheds designated by the Environmental  
6 Quality Board as exceptional value waters in compliance with the  
7 criteria and procedures of section 5.1 of this act.

8 \* \* \*

9 Section 2. The act is amended by adding a section to read:

10 Section 5.1. Exceptional Value Waters.--(a) Following the  
11 procedures set forth in this section, the Environmental Quality  
12 Board may by regulation designate a specific stream or  
13 watershed, or portions of a stream or watershed, as exceptional  
14 value waters if the stream or watershed meets one or more of the  
15 following criteria:

16 (1) The stream or watershed was classified as exceptional  
17 value waters pursuant to final regulations adopted by the  
18 Environmental Quality Board prior to January 1, 1989.

19 (2) The stream or watershed is located within the corridor  
20 of a stream which has been designated as "wild" or "scenic"  
21 pursuant to the act of December 5, 1972 (P.L.1277, No.283),  
22 known as the "Pennsylvania Scenic Rivers Act" or the Wild and  
23 Scenic Rivers Act (Public Law 90-542, 16 U.S.C. § 1271 et seq.).

24 (3) The stream or watershed constitute waters flowing within  
25 or contiguous to a national, State or county park or forest,  
26 State game lands, or other lands owned by the Federal Government  
27 or the Commonwealth for conservation purposes.

28 (4) The stream or watershed constitutes a "wilderness trout  
29 stream" designated by the Pennsylvania Fish Commission.

30 (5) The stream or watershed is located in the watershed of,

1 and is important to maintaining the quality of, surface waters  
2 used by an existing unfiltered public drinking water supply.

3 (6) The Environmental Quality Board finds, after study,  
4 that:

5 (i) stream or watershed exhibits water quality meeting at  
6 least the water quality criteria for "high quality waters" as  
7 set forth in the department's regulations;

8 (ii) the stream or watershed constitutes an outstanding  
9 national, State or regional resource; and

10 (iii) no more than three per cent of the land surface area  
11 of the affected watershed is developed.

12 (b) (1) Except as provided in clause (2) of this  
13 subsection, prior to proposal of rules designating an  
14 exceptional value water, the department shall prepare an  
15 environmental, social and economic impact assessment report.  
16 Such report shall:

17 (i) Identify the area and location of the stream and  
18 watershed to be designated.

19 (ii) Evaluate the existing water quality, environmental and  
20 ecological values of the stream and watershed.

21 (iii) Describe and evaluate the impact of existing and  
22 proposed land uses with the watershed to be designated.

23 (iv) Describe and assess the effect of an exceptional value  
24 designation on existing and proposed uses of public and private  
25 lands adjacent to or in the watershed of the wetland, including  
26 impacts upon the value of any private lands which may be  
27 affected or restricted by such designation.

28 (2) An environmental, social and economic impact assessment  
29 shall not be required where at least ninety per cent of the  
30 stream or watershed 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) Prior to adopting regulations designating a stream or  
watershed as exceptional value waters, a public hearing shall be  
held in the county where the stream or watershed is located.  
Notice of the public hearing shall be given at least three weeks  
before in a newspaper of general circulation in the county. At  
least three weeks prior to such hearing, notice shall also be  
given by first class mail to any applicants with pending  
applications for discharge permits in the watershed covered by  
the petition and any applicants with pending requests for  
revision, amendment or supplement of official plans submitted  
pursuant to the act of January 24, 1966 (1965 P.L.1535, No.537),  
known as the "Pennsylvania Sewage Facilities Act."

(d) (1) Any petition filed pursuant to section 1920-A of  
the act of April 9, 1929 (P.L.177, No.175), known as "The  
Administrative Code of 1929," requesting the Environmental  
Quality Board to designate a stream or watershed as exceptional  
value waters shall be considered pursuant to the procedures set  
forth in this subsection.

(2) The petition shall provide the following information:

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

(ii) A summary and analysis of available water quality  
information regarding instream water chemistry.

(iii) Data regarding land ownership in the watershed.

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

1     (v) A description of present and proposed land use controls  
2     or plans in the watershed.

3     (vi) A detailed description of existing water uses in the  
4     watershed.

5     (vii) Detailed supporting evidence establishing that the  
6     stream or watershed qualifies for designation as exceptional  
7     value waters under the criteria set forth in subsection (a).

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

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

11    (3) Within thirty days of receipt of a petition, the  
12    department shall notify the petitioner by certified mail whether  
13    or not the petition is complete as required by this section.

14    (4) Within thirty days of receipt of a petition, the  
15    department shall notify by first class mail any applicants with  
16    pending applications for discharge permits in the watershed  
17    covered by the petition and any applicants with pending requests  
18    for revision, amendment or supplement of official plans  
19    submitted pursuant to the "Pennsylvania Sewage Facilities Act."

20    (e) No petition or proposal to designate a stream or  
21    watershed as "exceptional value waters" shall have any effect or  
22    be considered in the review and approval of permit applications  
23    submitted under any act administered by the department unless  
24    and until such designation is adopted by the Environmental  
25    Quality Board as final rulemaking.

26    Section 3. This act shall take effect immediately.