

---

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),

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

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

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

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

27 (c) Public informational meetings and public hearings.--  
28 Prior to adopting regulations designating surface waters as  
29 exceptional value waters, at least one public informational  
30 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.