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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 1969 Session of 1997

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INTRODUCED BY LYNCH, BARLEY, DeWEESE, FARGO, BAKER, BELARDI, BROWN, BUXTON, CLARK, L. I. COHEN, DeLUCA, DEMPSEY, ARMSTRONG, FEESE, FICHTER, GEIST, GODSHALL, GRUITZA, GRUPPO, HANNA, HERSHEY, HUTCHINSON, JADLOWIEC, JAMES, KREBS, LEH, MAITLAND, MCGILL, McNAUGHTON, PISTELLA, RAYMOND, SAYLOR, SEMMEL, SEYFERT, STERN, TRELLO, TRUE, TULLI, WILT, ZUG, ADOLPH, WAUGH AND S. H. SMITH, OCTOBER 29, 1997

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REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY, OCTOBER 29, 1997

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AN ACT

1 Providing for the designation of Exceptional Value Waters.

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

4 Section 1. Definitions.

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

8 "Department." The Department of Environmental Protection,  
9 the Environmental Quality Board or the Environmental Hearing  
10 Board carrying out the provisions of the act of April 9, 1929  
11 (P.L.177, No.175), known as The Administrative Code of 1929.

12 "Exceptional Value Waters." Includes surface waters of high  
13 quality which constitute an outstanding national, State,  
14 regional or local resource. Examples of surface waters which may

1 qualify for an exceptional value waters designation include  
2 waters located in national, State or county parks or forests, or  
3 waters in wildlife refuges or State game lands and other waters  
4 of exceptional recreational or ecological significance.

5 "High quality waters." Includes surface waters having  
6 quality which exceeds levels necessary to support propagation of  
7 fish, shellfish and wildlife and recreation in and on the water.  
8 Surface waters may qualify as high quality waters only if the  
9 quality of the waters is better than the water quality criteria  
10 contained in the water quality standards established by the  
11 Department of Environmental Protection for the protection of  
12 aquatic life and human health.

13 "Surface waters." Includes perennial and intermittent  
14 streams, rivers, lakes, reservoirs, ponds, wetlands, springs,  
15 natural seeps and estuaries, excluding water at man-made  
16 facilities, such as wastewater impoundments, cooling water ponds  
17 or constructed wetlands used as part of a wastewater treatment  
18 process.

## 19 Section 2. Designation of Exceptional Value Waters.

20 (a) Study.--The department shall study surface waters for  
21 potential designation as Exceptional Value Waters, conduct  
22 informational public meetings and public hearings, facilitate  
23 the development and implementation of watershed conservation  
24 plans, and from time to time submit to the Governor and to the  
25 General Assembly proposals for the designation of such waters or  
26 sections of such waters as Exceptional Value Waters as defined  
27 in this act.

28 (b) Public meeting.--The department shall conduct an  
29 informational public meeting in the county or counties where a  
30 study is to be made prior to undertaking the study. At the

1 meeting, the department shall announce the planned study,  
2 explain the rationale for the study, describe the scope of the  
3 study and the reach or extent of the surface waters to be  
4 evaluated in the study, explain the techniques and evaluation  
5 criteria to be employed in the study and explain the impacts of  
6 the Exceptional Value Waters designation on activities in the  
7 affected watershed.

8 (c) Information meeting.--Following completion of the study,  
9 the department shall conduct a second informational public  
10 meeting in the county or counties where the land that would be  
11 affected by the potential Exceptional Value Waters designation  
12 is situate. At the meeting, the department shall set forth its  
13 recommendations for the reach or extent of the surface waters  
14 identified as candidate for an Exceptional Value Waters  
15 designation and the rationale for the recommendation. The  
16 department shall also identify the watershed lands that would be  
17 affected by the recommended Exceptional Value Waters  
18 designation, explain the types of activities that are restricted  
19 by the recommended designation and how the department restricts  
20 such activities, and explain the procedures and standards  
21 employed by the department to evaluate activities on lands  
22 affected by the recommended Exceptional Value Waters watershed  
23 designation.

24 (d) Public hearing.--At the second informational public  
25 meeting, the department shall also announce the date, time and  
26 location of a public hearing on the recommended Exceptional  
27 Value Waters designation. The department shall conduct a public  
28 hearing in each county where the land that would be affected by  
29 the recommended Exceptional Value Waters designation is situate.  
30 The purpose of the public meeting shall be to receive testimony

1 on the recommended Exceptional Value Waters designation from the  
2 owners and residents of the watershed lands who will be affected  
3 by the designation.

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

11 (1) by first class mail to each county, city, borough,  
12 incorporated town or township wherein is located land  
13 involved in the study;

14 (2) by first class mail to each person to whom the  
15 department has issued a permit authorized by this act, to  
16 each person who has submitted a permit application for  
17 activities regulated under this act, and to each person  
18 conducting activities regulated under this act by a general  
19 permit or permit-by-rule, if the regulated activity is or  
20 will be conducted on watershed lands affected by the  
21 Exceptional Value Waters designation; and

22 (3) by certified mail to those owners of the watershed  
23 lands which would be affected by the Exceptional Value Waters  
24 designation, as shown on county tax assessment records.

25 (f) Watershed lands.--If the recommended Exceptional Value  
26 Waters designation affects interests in watershed lands that are  
27 under private ownership or control, the department shall  
28 actively engage all owners of interests in the affected property  
29 and all persons conducting regulated activities on the affected  
30 watershed lands in a process to design a formal watershed

1 conservation plan. The purpose of the plan shall be to provide  
2 for the level of protection of aquatic resources and  
3 recreational uses required by the recommended Exceptional Value  
4 Waters designation while ensuring property owners and residents  
5 long-range certainty about the future development of their land.

6 (g) Submission of recommendations.--Following the public  
7 hearing, or in the case of a recommendation that affects  
8 privately owned interests in property, following the formal  
9 adoption and implementation of the watershed conservation plan  
10 by all persons who participated in the development of the plan,  
11 the department may submit its recommendation for the designation  
12 of the surface waters or sections of such waters as Exceptional  
13 Value Waters to the Governor and the General Assembly. The  
14 recommendation shall include a detailed report which sets forth  
15 the reach or extent of the surface waters recommended for  
16 designation as Exceptional Value Waters, the rationale for the  
17 recommendation, the names and addresses of the owners of the  
18 watershed lands that would be affected by the recommended  
19 Exceptional Value Waters designation, a transcript of the public  
20 hearing and a copy of the watershed conservation plan.

21 (h) Action by General Assembly.--Following the receipt of  
22 the recommendation by the General Assembly, one or both of the  
23 standing committees with jurisdiction over the actions of the  
24 department may report to the Senate or the House of  
25 Representatives a concurrent resolution designating the surface  
26 waters or a segment of surface waters identified in the  
27 department's recommendation as Exceptional Value Waters. If the  
28 General Assembly adopts the concurrent resolution by majority  
29 vote in both the Senate and the House of Representatives, the  
30 concurrent resolution shall be presented to the Governor in

1 accordance with the provisions of section 9 of Article III of  
2 the Constitution of Pennsylvania. If the Governor does not  
3 return the concurrent resolution to the General Assembly within  
4 ten calendar days after it is presented, the Governor shall be  
5 deemed to have approved the concurrent resolution. If the  
6 Governor vetoes the concurrent resolution, the General Assembly  
7 may override that veto by a two-thirds vote in each house. The  
8 Senate and the House of Representatives shall each have 30  
9 calendar days or ten legislative days, whichever is longer, to  
10 override the veto. If the General Assembly fails to adopt the  
11 concurrent resolution or override the veto, the designation  
12 shall not take effect. If the Governor signs the concurrent  
13 resolution or if the General Assembly overrides the veto of the  
14 Governor, the designation shall take effect on the date that it  
15 is published in the Pennsylvania Bulletin.

16 Section 3. Cooperation.

17 The head of any department or agency of the Commonwealth  
18 which has administrative jurisdiction over any lands or  
19 interests in land that is subject to a study by the department  
20 for an Exceptional Value Waters designation shall cooperate with  
21 the department in conducting the study.

22 Section 4. Acceptance of gifts.

23 The department is hereby authorized to accept donations of  
24 land, interests in land, funds and other property for use in  
25 connection with the implementation of a designation of  
26 Exceptional Value Waters.

27 Section 5. Easements and rights-of-way.

28 The department and any other department or agency of the  
29 Commonwealth which has administrative jurisdiction over any  
30 lands or interests in land which is affected by a designation of

1 Exceptional Value Waters may grant easements and rights-of-way  
2 upon, over, under, across or through any such land to  
3 accommodate implementation of a watershed conservation plan.

4 Section 6. Implementing regulations.

5 The department shall promulgate regulations containing  
6 criteria, standards and procedures that it shall use to study  
7 and evaluate surface waters for Exceptional Value Waters  
8 designation and the procedures that shall be followed to develop  
9 and implement watershed conservation plans. Such regulations  
10 shall be promulgated within two years of the effective date of  
11 this section.

12 Section 7. Existing and pending Exceptional Value Waters  
13 designations.

14 (a) Current designations.--All surface waters currently  
15 designated by the department as Exceptional Value Waters which  
16 are on watershed lands presently under the ownership or control  
17 of a government agency or a non-profit entity whose purpose is  
18 the preservation of the watershed shall retain the designation  
19 until such time that the department studies the surface waters  
20 under the regulations promulgated pursuant to this act. Such  
21 studies shall be completed within two years of the effective  
22 date of the regulations required by this section. If the  
23 department determines that the surface waters qualify for an  
24 Exceptional Value Waters designation as defined in this act  
25 following completion of a study of the surface waters, the  
26 department may submit a recommendation for the designation of  
27 the surface waters or sections of such waters as Exceptional  
28 Value Waters to the Governor and the General Assembly pursuant  
29 to the provisions of section 2. If the department fails to  
30 submit a recommendation for surface waters that are currently

1 designated as Exceptional Value Waters within four years of the  
2 effective date of this section, the existing designation shall  
3 terminate.

4 (b) Termination of designations.--All surface waters or  
5 segments of surface waters currently designated by the  
6 department as Exceptional Value Waters which affect interests in  
7 lands that are under private ownership or control shall  
8 terminate on the effective date of this section.

9 Section 8. Effective date.

10 This act shall take effect immediately.