

Subpart D. RESOURCE CONSERVATION

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CHAPTER 41. RIVERS CONSERVATION—STATEMENT OF POLICY

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Authority

The provisions of this Chapter 41 issued under section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20); and the Pennsylvania Scenic Rivers Act (32 P. S. §§ 820.22—820.29), unless otherwise noted.

Source

The provisions of this Chapter 41 adopted May 31, 1974, effective June 1, 1974, 4 Pa.B. 1104; renumbered from 25 Pa. Code §§ 11.1—11.4, June 7, 1996, effective June 8, 1996, 26 Pa.B. 2707, unless otherwise noted. Immediately preceding text appears at serial pages (169951) to (169952) and (145085) to (145090).

§ 41.1. Eligibility for inclusion in State Scenic River System.

(a) In evaluating a river for possible inclusion in the State Scenic River System, or in determining its classification, the river and its immediate land area will be considered as a unit with primary emphasis upon the quality of the experience and overall impressions of the recreationist using the river or the adjacent river-bank. Although the river and its environment may reflect some, or substantial, evidence of man’s activity, they should be generally pleasing to the eye.

(b) In order to be eligible for inclusion in the State Scenic River System the following conditions shall be met:

- (1) A river and its environment shall possess one or more of the following values:
 - (i) Outstandingly remarkable wild features having minimal perceptible human influence.
 - (ii) Outstandingly remarkable scenic example of the grandeur of our river heritage.
 - (iii) Outstandingly remarkable recreational value particularly suitable for widest range of outdoor recreation or superlative for specific activities.
 - (iv) Outstandingly remarkable geological features significantly illustrating geologic processes.

(v) Outstandingly remarkable for the quality of its fishery, wildlife and/or vegetative cover by reason of the existing resource value or its potential.

(vi) Outstandingly remarkable historical value from events associated with the river or its environs.

(vii) Outstandingly remarkable cultural value by reason of the influence of the river on local-regional-State traditions.

(viii) Outstandingly remarkable scientific value by containing evidence that illustrates important scientific discoveries.

(2) To be included, a river shall meet State W & S River classification criteria. A river with poor quality, that is, below State water quality standards, shall be capable of improvement to acceptable State standards for consideration in the State River System. Wild, Scenic, Pastoral, Recreational or Modified Recreational rivers can be considered for future inclusion in the State Water Plan if improvement potential is evident.

Source

The provisions of this § 41.1 adopted May 31, 1974, effective June 1, 1974, 4 Pa.B. 1104; amended August 13, 1982, effective August 14, 1982, 12 Pa.B. 2683; renumbered from 25 Pa. Code § 11.1, June 7, 1996, effective June 8, 1996, 26 Pa.B. 2707. Immediately preceding text appears at serial pages (169951) to (169952).

§ 41.2. Program interpretation Pennsylvania Wild and Scenic River System.

(a) In the context of the Declaration of Policy, Definition and River Classifications found in sections 2—4 of the Pennsylvania Scenic Rivers Act (32 P. S. §§ 820.22—820.24), the following is furnished as an initial program interpretation for the involved State and local government agencies and citizens interested in the screening process.

(b) The following statements, although specifically representative of the indicated river classifications, are also, to varying degrees, interapplicable among those classifications:

(1) *Wild, scenic and pastoral river classifications.* Wild, scenic and pastoral river classifications will conform to the following:

(i) The Commonwealth, through the Department, desires to conserve and enhance, for the public aesthetic-recreational enjoyment, those river segments that remain as the most truly representative of its natural river heritage. Of primary importance is the preservation of the feeling of freedom that the wilderness, or rural, or river expanse imparts. The significance of such segments in social, scientific and educational value as a comparative frame of reference for present and future generations is beyond measure.

(ii) Adequate management capability is essential to keep these unique and relatively free-flowing, good-quality waters, their visible predominately

wild-pastoral shorelines, and indigenous flora and fauna in the same, or an improved, condition for future generations. Fulfilling the mandate section 2 of the Pennsylvania Scenic Rivers Act should benefit social, economic, cultural and environmental conditions and generate greater citizen interest in the river heritage of this Commonwealth. It is essential that the study report of each segment, recommendations, and nomination to the Governor and General Assembly delineate those population sectors that benefit or are adversely affected and define appropriate restraints and incentives for each. In-depth research of the involved resources present and potential capabilities are particularly important.

(2) *Recreation and modified recreation river classifications.* Recreation and modified recreation river classifications shall conform with the following:

(i) It is intended to develop a more coordinated utilization of those river segments that best portray outstanding aesthetic-recreational values and that are ideally suited for active or intensive recreational uses. The utilization shall, however, be maintained within the restraints imposed by the resource capability to adequately support use without degradation. The segments could combine interesting intermixtures of forests, fields and other human modifications, that notwithstanding their marked human influences, still blend into a pleasant readily accessible river-landscape of high visitor interest.

(ii) These segments will serve ever-growing numbers of users. Particularly those suitable segments that are located within or adjacent to the urban areas will be subject to extensive use. A continuing energy problem will undoubtedly give added impetus to the growth and will possibly dictate extensive and sooner than anticipated government involvement with these specific segment designations.

Source

The provisions of this § 41.2 adopted May 31, 1974, effective June 1, 1974, 4 Pa.B. 1104; amended August 13, 1982, effective August 14, 1982, 12 Pa.B. 2683; renumbered from 25 Pa. Code § 11.2, June 7, 1996, effective June 8, 1996, 26 Pa.B. 2707. Immediately preceding text appears at serial pages (169952) and (145085) to (145086).

§ 41.3. Classification of recommended rivers.

(a) If a river or river unit is eligible for inclusion in the State Scenic Rivers System, it will be classified, designated and administered as one or more of the following:

- (1) Wild river areas.
- (2) Scenic river areas.
- (3) Pastoral river areas.
- (4) Recreational rivers.
- (5) Modified recreational rivers.

(b) Although a designated river or river unit frequently will have more than one classified area, each wild, scenic, pastoral, recreational or modified recreational area must be long enough to provide a meaningful experience. The number of different classified areas within a unit should be kept to a minimum.

(c) The criteria in § 41.4 (relating to classification criteria) are not absolutes, nor can they readily be defined quantitatively. In a given river, a departure from these standards might be more than compensated for by other qualities. However, if several exceptions are necessary in order for a river to be classified as wild, it probably should be classified as scenic; if several exceptions are necessary in order for a river to be classified as scenic, it probably should be classified as pastoral; if several exceptions are necessary in order for a river to be classified as pastoral, it probably should be classified as recreational; if several exceptions are necessary in order for a river to be classified as recreational, it probably should be classified as modified recreational.

Source

The provisions of this § 41.3 adopted May 31, 1974, effective June 1, 1974, 4 Pa.B. 1104; amended August 13, 1982, effective August 14, 1982, 12 Pa.B. 2683; renumbered from 25 Pa. Code § 11.3, June 7, 1996, effective June 8, 1996, 26 Pa.B. 2707. Immediately preceding text appears at serial page (145086).

§ 41.4. Classification criteria.

(a) *Water volume.* A river preferably should have sufficient volume of water during normal years to permit, during the recreation season, full enjoyment of water-related outdoor recreational activities generally associated with comparable rivers. Flow augmentation is acceptable if water volume is inadequate for boating and additional water supply can be provided reasonably and economically without diminishing the scenic, recreation, fish and wildlife, or other values of the segment.

(b) *Length.* A river or river segment should be long enough to provide a rewarding recreational experience. Generally, in urban areas, any segment included in the river system should be at least 5 miles long. In outer urban areas, a segment should be at least 15 miles long. Rural areas should include river segments at least 25 miles in length. For either urban, outer-urban, or rural segments, a shorter stretch that possesses most of the desired outstanding qualifications and values may be considered for inclusion in the system.

(c) *Wild classifications.* Wild rivers provide free-flowing water that supports water-based recreation and fish and wildlife native to the segment. The shorelines visible from the river or its edge present a pleasing pristine view. Segment access is by foot or nonpowered watercraft or both.

(1) *Impoundments.* Free-flowing, low dams, diversion works or other structures are not permitted. Future construction within the segment will be

restricted. Upstream impoundment construction shall be contingent on environmental or other adverse impacts.

(2) *Water quality.* Water quality shall be capable of meeting minimum criteria for desired types of recreational use, especially primary contact recreation, except where the criteria would be exceeded by natural background conditions. In addition, the water presently shall be capable of supporting the propagation of aquatic life, including fish which normally would be adapted to the habitat of the stream under the most desirable natural quality conditions.

(3) *Development.* Shorelines are free of habitation and other substantial evidence of man's intrusion, including waterway modification with a direct and adverse effect on values. Watershed is natural-like in appearance. A limited amount of livestock grazing and hay production, and one or two inconspicuous dwellings are permitted. All conservation methods employed shall be in keeping with the river environment.

(4) *Accessibility.* Generally inaccessible by road. No roads or other provisions from overland motorized travel are permitted within a narrow incised river valley, or if the river valley is broad, within 1/4 mile of, and parallel to, the river bank for a distance of about one mile. The presence, however, of one or two inconspicuous roads leading to the river area is permissible.

(d) *Scenic classification.* Scenic rivers contain free-flowing water that can be or is being restored to support water-based recreation and fish and aquatic life. The view from the river or its banks is a pleasant intermixture that is still predominately wild, but contains some pastoral countryside. The segment is accessible intermittently by roads.

(1) *Impoundments.* Free-flowing stream low dams, diversion works or other structures are not permitted. Future construction within the segment is restricted. Upstream impoundment construction may be contingent on adverse impacts.

(2) *Water quality.* Water quality should be capable of meeting minimum criteria for desired types of recreation, except where the criteria would be exceeded by natural background conditions. In addition, the water should be capable of supporting propagation of aquatic life normally adapted to habitat of the stream or is capable of, and is, being restored to that quality.

(3) *Development.* Shorelines or watersheds largely primitive. Shorelines still present an overall natural character, but some agricultural land and a modest amount of waterway modification permitted. Some communities or any concentration of habitation must be limited to relatively short stretches. Watersheds with a minimum of easily discernible development. Row crops, timber harvest and other resource use permitted if accomplished without a substantially adverse effect on natural-like appearance.

(4) *Accessibility.* Accessible by roads, which may occasionally bridge river area. Short stretches of conspicuous or longer stretches of inconspicuous and well-screened roads or railroads paralleling the river area may be permitted.

(e) *Pastoral classification.* Pastoral rivers shall be free-flowing, except for historic or restored mill dams, and capable of or under restoration to supporting water-based recreation, fish and aquatic life. The view from the river or its bank shall be predominately pastoral or farming countryside. The segment may be intermittently accessible by roads.

(1) *Impoundments.* Water shall be free-flowing except for historic or restored mill dams. Diversions or withdrawals may exist to support agricultural activities such as agricultural ponds. Upstream impoundment construction shall be contingent on adverse impacts. Future construction within the segment is restricted.

(2) *Water quality.* Water quality should be capable of meeting minimum criteria for desired types of recreation except where the criteria would be exceeded by natural background conditions. In addition, the water should be capable of supporting propagation of aquatic life normally adapted to the stream habitat or in the process of being restored to that quality.

(3) *Development.* Shorelines or watersheds may support a full range of farm or farm-related activities. Small communities or any concentration of habitation should be limited to relatively short stretches. Manmade development, timber harvest, and other resource uses are permitted if accomplished without substantial adverse effects on the pastoral appearance.

(4) *Accessibility.* Water may be accessible by roads, which may occasionally bridge the water. Short stretches of conspicuous or longer stretches of inconspicuous roads or railroads paralleling the waterway may be permitted.

(f) *Recreation classification.* Recreational rivers provide interesting combinations of free-flowing with relatively short stretches of impounded water that can or are being restored to sustain suitable recreation and aquatic and fish-life. The visible shorelines, with considerable human modification, still blend into a pleasant readily accessible river landscape.

(1) *Impoundments.* Water should essentially not have characteristics of an impoundment for any significant distance, if an impoundment is present. Future construction within the segment restricted.

(2) *Water quality.* Water quality should be capable of meeting minimum criteria for desired types of recreation, except where such criteria would be exceeded by natural background conditions. In addition, the water should be capable of supporting propagation of aquatic life normally adapted to habitat of the stream or is capable of and is being restored to that quality.

(3) *Development.* Shorelines may be extensively developed. Lands may be developed for the full range of agricultural uses and could include small communities as well as dispersed or cluster residential developments.

(4) *Accessibility.* Readily accessible, with likelihood of paralleling roads or railroads along river banks, possibility of several bridge crossings and numerous river access points.

(g) *Modified recreation classification.* Modified recreational rivers offer calm water that can or is being restored to support appropriate water-based recreation and aquatic and fish-life. Visible shoreline development may be extensive provided it does not inhibit public use or detract from their enjoyment of the river.

(1) *Impoundments.* Water may have characteristics of an impoundment. Flow may be regulated by upstream control devices. Low dams are permitted if river remains in full-bank width during period of normal flow.

(2) *Water quality.* Water quality should be capable of meeting minimum criteria for desired types of recreation, except where the criteria could be exceeded by natural background conditions. In addition, the water should be capable of supporting propagation of aquatic life normally adapted to habitat of the stream or be capable of and being restored to that quality.

(3) *Development.* Shorelines may be extensively developed. Lands may be developed for the full range of agricultural uses and could include small communities as well as dispersed or clustered residential commercial-industrial development.

(4) *Accessibility.* Readily accessible with likelihood of paralleling roads or railroads along river banks, possibility of several bridge crossings and numerous river access points.

Source

The provisions of this § 41.4 adopted May 31, 1974, effective June 1, 1974, 4 Pa.B. 1104; amended August 13, 1982, effective August 14, 1982, 12 Pa.B. 2683; renumbered from 25 Pa. Code § 11.4, June 7, 1996, effective June 8, 1996, 26 Pa.B. 2707. Immediately preceding text appears at serial pages (145087) to (145090).

Cross References

This section cited in 17 Pa. Code § 41.3 (relating to classification of recommended rivers).

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