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SUMMARY

Wild, scenic, and recreational rivers

- Transfers the authority to administer the Wild, Scenic, and Recreational River Program from the Division of Parks and Watercraft to the Division of Natural Areas and Preserves (DNAP) in the Department of Natural Resources (ODNR).
- As part of the transfer, narrows the scope of authority granted under the law to DNAP by clarifying that DNAP's authority is restricted to watercourses that are designated as wild, scenic, and recreational rivers rather than wild, scenic, or recreational river *areas* as in former law.
- Clarifies that a watercourse designation does not affect private property rights or authorize the Director of Natural Resources, DNAP Chief, or any governmental agency or political subdivision to restrict the use of *private* land adjacent to a designated river.
- Also, specifies that the law does not give any right to those parties to enter on private land.
- Notwithstanding the general narrowing of authority, expands the types of watercourses that are subject to designation as a wild, scenic, or recreational river to include headwaters of those rivers.
- Alters what constitutes a wild, scenic, or recreational river to align those provisions of law to the general narrowing of authority granted to DNAP.
- Requires DNAP to perform specified duties regarding publicly owned land along a designated river, including requiring the DNAP Chief to do both of the following:
 - Adopt rules governing the use, visitation, and protection of scenic river lands and other specified publicly owned lands that are administered by DNAP and that are within the watersheds of wild, scenic, and recreational rivers; and

- Provide for the establishment of facilities and improvements within the state system of wild, scenic, and recreational rivers, scenic river lands, and other specified publicly owned lands that are necessary for their visitation, use, restoration, and protection and that do not impair their natural character.
- Clarifies that certain public entities must obtain approval from the ODNR Director or the Director's representative if specified construction activities are performed within 1,000 feet of a wild, scenic, or recreational river.
- Modifies the notification requirements when a river is designated a wild, scenic, or recreational river by requiring the Director to post the Director's intention to declare a watercourse a wild, scenic, or recreational river on DNAP's website.
- Clarifies the roles of the Director and the DNAP Chief regarding the establishment and administration of wild, scenic, and recreational rivers by stating that the Director must establish the designation and the Chief must administer the management of the designated wild, scenic, or recreational river.
- Allows the DNAP Chief to accept, receive, and spend gifts, devises, or bequests of money, land, or other properties for the Wild, Scenic, and Recreational River Program.

Boating safety

- Increases, from \$30,000 to \$60,000, the maximum annual grant that the Division of Parks and Watercraft may award to certain entities for boating safety education programs.
- Designates April as "Powerboat Safety Month" to emphasize the dangers of carbon monoxide poisoning that can occur on a powerboat.

DETAILED ANALYSIS

Wild, scenic, and recreational rivers

Introduction

The Ohio Department of Natural Resources (ODNR) administers the Wild, Scenic, and Recreational Rivers Program. The program encompasses 15 rivers that have been designated by the Director of Natural Resources as either a wild, scenic, or recreational river. The mission of the program is "to work cooperatively with local governments, businesses, landowners, nonprofit organizations, and other state and federal agencies to protect the aquatic resources and terrestrial communities dependent on healthy riparian habitats."¹

¹ [About Ohio's Scenic River Program](#), which is available on the ODNR website, ohiodnr.gov.

Transfer and clarification of authority

The act transfers the authority to administer the Wild, Scenic, and Recreational Rivers Program from the Division of Parks and Watercraft to the Division of Natural Areas and Preserves (DNAP) in ODNR.² As part of the transfer, the act narrows the scope of authority granted under the law to DNAP. Thus, the act clarifies that DNAP's authority is restricted to watercourses that are designated as wild, scenic, and recreational rivers. Under former law, the Division of Parks and Watercraft was granted authority over designated rivers *and* the areas surrounding those rivers that are designated as wild, scenic, and recreational river *areas*.³

The act further clarifies that the designation of a watercourse as a wild, scenic, or recreational river does not affect private property rights or authorize the ODNR Director, DNAP Chief, or any governmental agency or political subdivision to restrict the use of *private* land adjacent to the river or enter upon private land. Former law stated that an area designation did not authorize the Director or any governmental agency or political subdivision to restrict the use of land by the land's owner or any person acting under the landowner's authority or to enter upon land.⁴

The act removes the Director's authority to include adjacent lands to a watercourse as part of a wild, scenic, or recreational river designation. Former law allowed the Director to include land adjacent to a watercourse in the designated area. The adjacent land had to be in sufficient width to preserve, protect, and develop the natural character of the watercourse, but could not include any lands more than 1,000 feet from the normal waterlines of the watercourse unless an additional width was necessary to preserve water conservation, scenic, fish, wildlife, historic, or outdoor recreation values.⁵

Further clarifying DNAP's authority regarding land along a designated river, the act defines scenic river lands as any area of land or water within a wild, scenic, or recreational river watershed that is *owned* by the Department of Natural Resources and administered by DNAP for the purpose of protecting the natural character and water quality of a wild, scenic, or recreational river. Thus, the term "scenic river lands" does not apply to private lands.⁶

Watercourses

Notwithstanding the general narrowing of authority, the act expands the types of watercourses that are subject to designation as a wild, scenic, or recreational river. Under prior law, a watercourse was defined as a substantially natural channel with recognized banks and bottom in which a flow of water occurs, *with an average of at least ten feet mean surface water*

² R.C. 1517.02 and 1517.14 and multiple conforming cross-reference changes.

³ Multiple references throughout the act change "wild, scenic, and recreational river areas" to "wild, scenic, and recreational rivers" and "watercourses."

⁴ R.C. 1517.14(D)(1).

⁵ R.C. 1517.14(B).

⁶ R.C. 1517.01(E).

width and at least five miles of length. The act eliminates the average width criteria. According to a DNAP representative, this elimination allows the headwaters of a watercourse (which are less than ten feet wide) to be included in the designation of a wild, scenic, or recreational river.⁷

Wild, scenic, and recreational rivers

The act alters what constitutes a wild, scenic, or recreational river, as indicated in the following table. The altered definitions reflect the act's general narrowing of authority .

Wild, Scenic, and Recreational Rivers ⁸		
River type	Former law	The act
Wild River	An <i>area</i> declared a wild river area by the ODNR Director and includes those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted, representing vestiges of primitive America.	Same, except refers to wild river rather than wild river area and states that a wild river is a watercourse (thus clarifying that a wild river does not include surrounding lands) and specifies that the river must be free of impoundments <u>constructed by humans</u> .
Scenic River	An <i>area</i> declared a scenic river area by the Director and includes those rivers or sections of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads.	Same, except refers to a scenic river rather than a scenic river area, specifies that a scenic river is a watercourse (thus clarifying that a scenic river does not include surrounding lands), and requires the river to be free of impoundments <u>constructed by humans</u> for at least 75% of the length of the watercourse or section of the watercourse or requires it to be combined with another section of a watercourse that has been designated a wild river.

⁷ R.C. 1517.01(F) and 1546.01. Phone conversation with DNAP on September 20, 2023.

⁸ R.C. 1517.01 and 1546.01.

Wild, Scenic, and Recreational Rivers ⁸		
River type	Former law	The act
Recreational River	An <i>area</i> declared a recreational river area by the Director and includes those rivers or sections of rivers that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past.	Same, except refers to recreational river rather than recreational river area and states that a recreational river is a watercourse (thus clarifying that a recreational river does not include surrounding lands).

Additional changes regarding the transfer of authority

The act requires DNAP to do all of the following regarding land along a designated river:

1. Adopt rules governing the use, visitation, and protection of scenic river lands and other publicly owned lands that are administered by DNAP that are within the watersheds of wild, scenic, and recreational rivers;
2. Provide for the establishment of facilities and improvements within the state system of wild, scenic, and recreational rivers, scenic river lands, and other publicly owned lands that are necessary for their visitation, use, restoration, and protection and that do not impair their natural character;
3. Provide interpretive programs and publish and disseminate information pertaining to scenic river lands, and publicly owned lands that are administered by DNAP and are within watersheds of wild, scenic, and recreational rivers for their visitation and use;
4. Grant permits to qualified persons for scientific research and investigations within wild, scenic, and recreational rivers, scenic river lands, and other publicly owned lands within wild, scenic, and recreational river watersheds;
5. Establish an appropriate system for marking wild, scenic, and recreational rivers, scenic river lands, and other publicly owned lands within wild, scenic, and recreational river watersheds;
6. Provide for protection, restoration, habitat enhancement, and clean-up projects in wild, scenic, and recreational rivers, scenic river lands, and other publicly owned lands within wild, scenic, and recreational river watersheds;
7. In addition to uses for nature preserves, use money in the Natural Areas and Preserves Fund for acquisition of new or expanded scenic river lands, facility development in scenic river lands, special projects that include biological inventories, research grants, and production of interpretative material related to scenic river lands, and administering a system of wild, scenic, and recreational rivers, scenic river lands, and facilities or improvements associated with those rivers and lands;

8. Accept and administer state and federal assistance for the maintenance and protection of scenic river lands and for the construction of facilities on publicly owned lands within wild, scenic, and recreational river watersheds;
9. Use money in the Scenic Rivers Protection Fund for acquisition of scenic river lands and construction of facilities in scenic river lands and other publicly owned lands within wild, scenic, and recreational river watersheds.⁹

Public property along rivers

Continuing law requires a state department, state agency, or political subdivision to obtain approval from the Director or the Director's representative to do any of the following to a watercourse within a wild, scenic, or recreational river outside a municipal corporation:

1. Build or enlarge any highway, road, or structure; or
2. Modify or cause the modification of the channel of any watercourse.

The act clarifies that those public entities must obtain approval only if the above activities are performed within 1,000 feet of a wild, scenic, or recreational river. It also allows those public entities, with the Director's approval, to so build, enlarge, or modify beyond 1,000 feet on publicly owned land if necessary to preserve water conservation, scenic, fish, wildlife, historic, or outdoor recreation values.¹⁰

The act further allows the Director to enter into a lease or other agreement with a political subdivision to administer any publicly owned land that is administered by DNAP and that is within the watershed of a wild, scenic, or recreational river. Former law allowed the Director to enter into such a lease in a wild, scenic, or recreational river area.¹¹

Notification of designation

The act modifies the notification requirements when a river is designated a wild, scenic, or recreational river by requiring the Director to post the Director's intention to declare a watercourse as a wild, scenic, or recreational river on DNAP's website. The Director must complete the post on the date of the initial newspaper publication of notice required under continuing law. Any person having an interest in the proposed declaration may file written comments within 60 days of the last date of publication or dispatch of written notice. The Director must post on DNAP's website the last date by which written comments may be filed. As a result of the 60-day notice provisions, the act changes from 30 to 60 the number of days that the Director has to enter the Director's designation in the Director's Journal and to terminate a designation by entry in the Director's Journal.¹²

⁹ R.C. 1517.02(D)(6)(b) and (D)(7), (8), (9), (10), and (12); 1517.11; 1517.16(A); and 4501.24.

¹⁰ R.C. 1517.15.

¹¹ R.C. 1517.14(E).

¹² R.C. 1517.14(C).

Transitional provisions

As a result of the transfer of the Wild, Scenic, and Recreational River Program to DNAP, the act makes the following additional changes:

1. States that a wild, scenic, or recreational river that was designated by the Director under the law governing the Division of Parks and Watercraft prior to October 24, 2024, retains its designation on and after that date;
2. States that an advisory council for a wild, scenic, or recreational river that was created by the Director under the law governing the Division of Parks and Watercraft prior to October 24, 2024, continues to be the advisory council for that river on and after that date; and
3. Eliminates the Waterways Safety Council's authority to submit advice and recommendations regarding plans and programs for the acquisition, protection, construction, maintenance, and administration of wild, scenic, and recreational river areas.¹³

The act also clarifies the roles of the Director and the Chief of DNAP regarding the establishment and administration of wild, scenic, and recreational rivers. It does so by stating that the Director must establish the designation and the Chief must administer the management of the designated wild, scenic, or recreational river. Under former law, a representative of the Director could designate a wild, scenic, or recreational river area and could further administer the management of the area.¹⁴

State treasury funds

Similar to provisions in the Parks and Watercraft Law regarding acceptance of gifts, devises, and bequests, the act allows the DNAP Chief to accept, receive, and spend gifts, devises, donations, or bequests of money, land, or other properties for purposes of the Wild, Scenic, and Recreational River Program. If they are monetary, the money must be credited to the Scenic Rivers Protection Fund. The act allows DNAP to use money in the fund to finance specified costs, including habitat enhancement and clean-up projects within watersheds of wild, scenic, and recreational rivers and acquisition of scenic river lands.¹⁵

In addition to other sources of revenues, the act allows the DNAP Chief to spend money from the Natural Areas and Preserves and Waterways Safety Funds for administering the Wild, Scenic, and Recreational Rivers Program. It requires any expenditures by the DNAP Chief for wild, scenic, and recreational rivers to be made only on lands, or portions of those lands, owned by ODNR and administered by DNAP or on other lands when agreed to, in writing, by the owner

¹³ R.C. 1517.14(F), 1517.17, and 1547.73(C).

¹⁴ R.C. 1517.02 and 1517.14.

¹⁵ R.C. 1517.02(D) and (E) and 4501.24.

of the lands within the watershed of the wild, scenic, or recreational river, or a portion of a river.¹⁶

The act also requires fees and charges for conducting stream impact reviews of any planned or proposed construction, modification, renovation, or development project that may potentially impact a designated river to be credited to the Natural Areas and Preserves Fund. Former law required those fees to be credited to the State Park Fund.¹⁷

Miscellaneous

The act requires the DNAP Chief to publish and submit to the Governor and the General Assembly a biennial report of the status and condition of each wild, scenic, and recreational river and activities conducted within each river corridor.¹⁸

Continuing law requires the Division of Wildlife to prepare and maintain surveys and inventories of rare and endangered species of plants and animals and other unique natural features for storage in the Ohio Natural Heritage Database. The act requires the DNAP Chief to assist the Division of Wildlife in preparing and maintaining the surveys and inventories.¹⁹

The act changes the reference in the law governing construction and demolition debris facility siting from wild, scenic, or recreational river area to wild, scenic, and recreational river.²⁰

The act eliminates the authority of the DNAP Chief to condition any expenditures, maintenance activities, or construction of facilities on the adoption and enforcement of adequate floodplain zoning or land use rules.²¹

Boating safety

Continuing law allows the ODNR Division of Parks and Watercraft, with the ODNR Director's approval, to spend money from certain sources to assist political subdivisions, conservancy districts, state departments, or nonprofit organizations in establishing or participating in boating safety education programs. The law limits the amount that may be given to any one recipient. Former law limited that amount to \$30,000 per calendar year. The act increases that amount \$60,000.²²

¹⁶ R.C. 1517.16(A)(4) and (C) and 1547.75.

¹⁷ R.C. 1517.02(D)(6)(c) and 1546.21, not in the act.

¹⁸ R.C. 1517.02(D)(13)(b).

¹⁹ R.C. 1517.02(D)(5) and 1531.04(E).

²⁰ R.C. 3714.03(A)(3) and (C)(5).

²¹ R.C. 1517.16(A)(4).

²² R.C. 1547.68.

The act designates April as “Powerboat Safety Month” to emphasize the dangers of carbon monoxide poisoning that can occur on a powerboat. During that month, ODNR must disseminate information to the public about carbon monoxide poisoning on a powerboat.²³

HISTORY

Action	Date
Introduced	09-19-23
Reported, S. Agriculture & Natural Resources	12-13-23
Passed Senate (32-0)	01-24-24
Reported, H. Energy & Natural Resources	06-25-24
Passed House (96-1)	06-26-24
Senate concurred in House amendments (31-0)	06-26-24

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²³ R.C. 5.2321.