

Wild and Scenic River Eligibility Analysis White Paper

Helena and Lewis & Clark National Forests

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During the forest planning process whether for a revision or initial development, the Forest Service must review all streams for their potential eligibility for designation in the National Wild and Scenic Rivers System (NWSRS) as directed under section 5(d)(1) the National Wild and Scenic Rivers Act of 1968 (PL 90-542:16 USC 1271-1287, as amended).

Section 1(b) of the Act expresses Congressional policy for America's rivers:
It is hereby declared to be the policy of the United States that certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations. The Congress declares that the established national policy of dam and other construction at appropriate sections of the rivers of the United States needs to be complemented by a policy that would preserve other selected rivers or sections thereof in their free-flowing condition to protect the water quality of such rivers and to fulfill other vital conservation purposes.

In order for a segment to be eligible, it must be free flowing and possess one or more Outstandingly Remarkable Values. These values are evaluated within a region of comparison and are identified as outstandingly remarkable if the value is significant on a regional or national scale. Eligibility decisions are based solely on the values of the river. If a river segment is determined eligible, it is then assigned a tentative classification of wild, scenic, or recreational based on the level of human development in the corridor.

The eligibility analysis process includes the following steps/stages: 1) identify all free-flowing named streams, 2) identify region of comparison for each resource, 3) develop evaluation criteria to identify outstandingly remarkable values (ORVs), 4) evaluate named streams/ivers to determine if they possess ORVs, 5) review the level of development/determine classification (wild, scenic, recreational), and 6) develop forest plan management direction.

The results of each step of the eligibility analysis will be documented and made available for public review and participation. Public engagement will take place both informally and formally throughout the steps of this process. Before information is shared with the public, it will be thoroughly vetted with Forest Service personnel to ensure accuracy. ***The intent is to ensure that the process for inventory and evaluation is documented well and is transparent and accessible to the public.***

Step 1: Identify Free-flowing named Streams

The Wild and Scenic Rivers Act (WSRA) defines "free-flowing" as existing or flowing in a natural condition without impoundment, diversion, straightening, rip-rapping, or other modification of the waterway. The existence of low dams, diversion works, or other minor structures at the time any river is proposed for inclusion in the NWSRS does not automatically disqualify it for designation, but future construction of such structures is not allowed. The guidelines state, "the fact that a river segment may

flow between large impoundments will not necessarily preclude its designation. Such segments may qualify if conditions within the segment meet the eligibility criteria.”

“Free flowing” includes rivers with intermittent flows that are enough to maintain the ORV. The river doesn't have to be boatable or floatable, as long as the flow is enough to maintain the ORV.

Step 2: Identify Regions of Comparison for each Resource

The forest plan revision team shall identify the area of consideration for each ORV that will serve as the basis for meaningful comparative analysis, called the “region of comparison.”

- The region of comparison may vary for different rivers or categories of ORV.
- The region of comparison should be scaled at an appropriate level for the type of river value being evaluated. For example, the appropriate region of comparison for scenic values may be an entire national forest or grassland, while for cultural values it may be the portion of the state in which the river is located.
- Alternatively, the responsible official may conclude that a single region of comparison can encompass the evaluation of outstanding remarkable values.
- Once the region of comparison is identified, a river's values can then be analyzed in comparison with other rivers in that area. Each value may have its own region of comparison and, thus, multiple regions of comparison may be utilized to evaluate one river.

Step 3: Develop Evaluation Criteria to Identify ORVs

The Wild and Scenic Rivers Act establishes a set of categories for ORV. The Forest Service has established baseline criteria to foster greater consistency within the agency and with other Federal river-administering agencies in evaluating eligibility under Forest Service Handbook (FSH) 82.14a.

- The baseline criteria set minimum thresholds to establish outstandingly remarkable values.
- The criteria within the resource category may be modified and additional criteria may be included to make them more meaningful in the area of comparison.
- For each resource value, determine if these values/attributes are unique, rare, or exemplary within the region of comparison or analysis such as a state, physiographic province, or ecological region.
- Determine if a river may qualify for a given resource value based upon an aggregate of important values, no one of which would confer eligibility standing alone. For example, a series of unusual and distinctive river-related geologic features may together qualify a segment as exhibiting an “outstandingly remarkable geologic value” even though no one element meets the criteria alone.
- Additional criteria are not intended to create any sub-categories within the value categories established under the WSRA.
- Baseline criteria is established for scenery, recreation, geology, fish populations and habitat, wildlife populations and habitat, historic and cultural, and other values. Other values may include but are not limited to botanic, hydrologic, paleontological, scientific, and heritage.

- Evaluation criteria for each resource area will be documented and included in the Wild and Scenic River Eligibility Analysis Appendix of the Forest Plan Final Environmental Impact Statement.

Step 4: Evaluate named Streams and Determine if they possess ORVs

Outstandingly Remarkable Values (ORVs)

- All ORV's must be river-related and:
 - Be located in the river or on its immediate shore lands (generally within ¼ mile on either side of the river),
 - Contribute substantially to the functioning of the river ecosystem, and/or
 - Owe their location or existence to the presence of the river
- This evaluation considers the area within one-quarter mile of the high water marks on both sides of a river, and other features outside this corridor such as tributaries supporting rearing and spawning habitat, if their inclusion is essential for the protection of the river's ORVs.
- The determination that a river area does or does not contain one or more ORV is a professional judgment on the part the responsible official as informed by an interdisciplinary team, best available scientific information, and public participation.
- ORVs for each stream will be documented including a description of each ORV for all eligible streams. This description will be detailed enough to illustrate that the river has outstanding values worthy of protection.
- Under the WSRA, the categories of outstandingly remarkable values are “scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values” (sec.1(b)).

Step 5: Review the Level of Development along Eligible Streams and Determine their Classification

Once a watercourse has been determined eligible the level of development needs to be reviewed to determine which preliminary classification category it falls into:

- Wild
- Scenic, or
- Recreational

Potential classification should be based on the situation existing at the time of the study.

It should not anticipate expected development or other changes along the river corridor; this is an aspect of evaluating suitability

Step 6: Develop Forest Plan Management Direction

- Develop forest plan direction for interim management of eligible rivers including desired future conditions, standards and guidelines, and management area direction.
- Along with the interim management direction provided here, additional statutory, regulatory, or policy requirements may also apply if the study river is located within a wilderness area or other designated area. This direction is found in Forest Service Manual (FSM) 2354.42e.

Additional Information

The Responsible Official shall ensure that the Forest Plan Revision team documents the process used to analyze the named streams for eligibility in the national wild and scenic rivers program. The analysis documentation and maps should be released for public review with the forest plan revision Draft Environmental Impact Statement at minimum.

Water Quality

- No criteria are prescribed by the WSRA regarding water quality for scenic or recreational classifications.
- The Federal Water Pollution Control Act Amendments of 1972 made it a national goal that all waters of the United States are made fishable and swimmable.

Therefore, rivers will not be precluded from scenic or recreational classification because of poor water quality at the time of their study, provided a water quality improvement plan exists or is being developed in compliance with applicable federal and state laws.

Wilderness Act & Wild and Scenic Rivers Act

FSH 1909.12 states that any portion of a component of the national wild and scenic rivers system that is within the national wilderness preservation system, as established by or pursuant to the Wilderness Act (16 U.S.C. 1131 et seq.), shall be subject to the provisions of both the Wilderness Act and this chapter, with respect to preservation of such river and its immediate environment, and in case of conflict between the provisions of the Wilderness Act and this chapter the more restrictive provisions shall apply.