

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

HOUSE BILL

No. 714 Session of  
2021

---

INTRODUCED BY WEBSTER, SAPPEY, NEILSON, VITALI, SANCHEZ,  
MALAGARI, ISAACSON, ROZZI, CIRESI AND HOWARD, MARCH 1, 2021

---

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
MARCH 1, 2021

---

AN ACT

1 Providing for protection of existing riparian buffers, for  
2 restoration of impaired riparian buffers, for exemptions, for  
3 municipal authority, for powers and duties of Department of  
4 Environmental Protection, for property inspections, for  
5 delegation to a municipality, for municipal action appeals,  
6 for penalties, civil action and liability for costs and for  
7 effect on other Commonwealth laws or regulations and  
8 municipal ordinances.

9 TABLE OF CONTENTS

- 10 Section 1. Short title.
- 11 Section 2. Definitions.
- 12 Section 3. Protection of existing riparian buffers.
- 13 Section 4. Restoration of impaired riparian buffers.
- 14 Section 5. Exemptions.
- 15 Section 6. Municipal authority.
- 16 Section 7. Powers and duties of department.
- 17 Section 8. Property inspections.
- 18 Section 9. Delegation to a municipality.
- 19 Section 10. Municipal action appeals.
- 20 Section 11. Penalties, civil action and liability for costs.

1 Section 12. Severability.

2 Section 13. Effective date.

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 Riparian  
7 Buffer Protection 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 "Earth disturbance." A construction or other human activity  
15 that disturbs the surface of the land, including land clearing  
16 and grubbing, grading, excavations, embankments, land  
17 development, agricultural plowing or tilling, operation of  
18 animal heavy use areas, timber harvesting activities, mineral  
19 extraction and the moving, depositing, stockpiling or storing of  
20 soil, rock or earth material.

21 "Earth disturbance activity." An act that comprises,  
22 facilitates or results in earth disturbance.

23 "Exceptional value water." Surface water of exceptional  
24 value that satisfies the provisions of 25 Pa. Code § 93.4b(b)  
25 (relating to qualifying as high quality or exceptional value  
26 waters).

27 "Floodplain." A land area that:

28 (1) is susceptible to flooding; and

29 (2) has at least a 1% probability of flooding occurring  
30 in a calendar year based on the basin being fully developed

1 as shown on a current land use plan. For an area without a  
2 mapped one hundred-year floodplain, the one hundred-year  
3 floodplain is considered to extend for a horizontal distance  
4 of 50 feet from the top of the stream bank.

5 "High quality water." Surface water having quality that  
6 exceeds levels necessary to support propagation of fish,  
7 shellfish, wildlife and recreation in and on the water by  
8 satisfying the provisions of 25 Pa. Code § 93.4b(a).

9 "Impaired riparian buffer." A riparian buffer that, as a  
10 result of land development activity, contains impervious cover  
11 or is no longer a natural riparian buffer.

12 "Impervious cover." A surface that does not readily absorb  
13 precipitation and surface water. The term includes:

14 (1) A building.

15 (2) A parking area.

16 (3) A driveway.

17 (4) A road.

18 (5) A sidewalk.

19 (6) A swimming pool.

20 (7) An area in concrete, asphalt, packed stone or an  
21 equivalent surface, including a surface with a coefficient of  
22 runoff of 0.7 or higher.

23 (8) Disturbed soil with a bulk density of 95% of the  
24 value at which plant growth limitation is expected for  
25 average plant material.

26 "Land development." A land change, including clearing,  
27 grubbing, stripping, removal of vegetation, dredging, grading,  
28 excavating, transporting and filling of land, construction,  
29 subdivision, paving or other increase in impervious cover.

30 "Land development activity." An act that comprises,

1 facilitates or results in land development.

2 "Municipality." A political subdivision of this  
3 Commonwealth, including a county, city, borough, township,  
4 incorporated town or home rule municipality.

5 "Natural riparian buffer." A riparian buffer dominated by  
6 native vegetation, including trees, shrubs or herbaceous plants,  
7 and providing any of the following functions:

8 (1) maintaining the integrity of an adjacent stream  
9 channel or shoreline or helping stabilize a stream bank,  
10 including reducing erosion;

11 (2) reducing the impact of an upland source of pollution  
12 by trapping, filtering or converting sediments, nutrients or  
13 other contaminants;

14 (3) supplying food, cover, shelter, habitat or thermal  
15 protection to fish, other aquatic life or other wildlife;

16 (4) protecting or benefiting the ecological and  
17 absorptive capacity of soil, floodplain or wetland area;

18 (5) increasing storage and infiltration of floodwater  
19 and reducing floodwater velocity; or

20 (6) reducing the impact of climate change by absorbing  
21 greenhouse gases.

22 "Nonconforming use or structure." A use or structure that  
23 was legally established prior to the effective date of this  
24 section, but does not comply with the provisions of this act.

25 "Nontidal wetlands." An area not influenced by tidal  
26 fluctuations that is inundated or saturated by surface water or  
27 groundwater at a frequency and duration sufficient to support,  
28 and under normal circumstances supports a prevalence of  
29 vegetation typically adapted for life in saturated soil  
30 conditions.

1 "One hundred-year floodplain." The area of land adjacent to  
2 a stream that is subject to inundation during a storm event that  
3 has a recurrence interval of 100 years.

4 "Ordinance." An ordinance adopted by a municipality for  
5 riparian buffers.

6 "Permit." A final permit issued by a municipality for  
7 undertaking a land development activity.

8 "Person." An individual, partnership, firm, association,  
9 joint venture, public or private corporation, trust, estate,  
10 commission, board, public or private institution, utility,  
11 cooperative, city, county or other political subdivision and an  
12 interstate body or other legal entity.

13 "Pollution." Contamination of waters of this Commonwealth,  
14 including contamination by alteration of the physical, chemical  
15 or biological properties of the waters, or change in  
16 temperature, taste, color or odor of the waters, or the  
17 discharge of a liquid, gaseous, radioactive, solid or other  
18 substance into the waters that does, will or is likely to:

- 19 (1) degrade water quality;
- 20 (2) create a nuisance;
- 21 (3) render waters harmful, detrimental or injurious to:
- 22 (i) public health, safety or welfare;
- 23 (ii) domestic, municipal, commercial, industrial,  
24 agricultural, recreational or other legitimate beneficial  
25 use; or
- 26 (iii) livestock, wild animals, birds or fish or  
27 other aquatic life; or
- 28 (4) cause or contribute to the failure of a water body  
29 to meet applicable water quality standards or criteria  
30 enacted by the Commonwealth or a river basin commission of

1 which the Commonwealth is a voting member.

2 "Riparian." Belonging or related to the bank of a water  
3 body, river, stream, wetland, lake, pond or impoundment.

4 "Riparian buffer area." An area adjacent to a water body.

5 "Riparian buffer restoration." Returning an impaired  
6 riparian buffer to a natural riparian buffer dominated by native  
7 vegetation, including trees, shrubs or herbaceous plants.

8 "Sewage facility." As used in the act of January 24, 1966  
9 (1965 P.L.1535, No.537), known as the Pennsylvania Sewage  
10 Facilities Act.

11 "Stream." A perennial or intermittent watercourse with a  
12 defined channel, bed and banks.

13 "Stream bank." Sloping land that contains a stream channel  
14 and the normal flow of the stream.

15 "Stream channel." The part of a watercourse either naturally  
16 or artificially created that contains an intermittent or  
17 perennial base flow of groundwater origin. A base flow of  
18 groundwater origin may be distinguished by any of the following  
19 physical indicators:

20 (1) Hydrophytic vegetation, hydric soil or other  
21 hydrologic indicators in the area where groundwater enters  
22 the stream channel in the vicinity of the stream headwaters,  
23 channel bed or channel banks.

24 (2) Flowing water not directly related to a storm event.

25 (3) A historical record of a local high groundwater  
26 table, including a well or stream gauge record.

27 "Vernal pond." A small body of standing water that forms in  
28 the spring from meltwater and is often dry by midsummer or may  
29 be dry before the end of the spring growing season.

30 "Water body." A natural or manmade pond, lake, wetland,

1 impoundment, stream or watercourse. The term does not include a  
2 pond or facility designed and constructed solely to contain  
3 storm water.

4 "Watercourse." A channel of conveyance of surface water  
5 having a defined bed and banks, including a stream, river, brook  
6 or creek, whether natural or artificial, with perennial,  
7 intermittent or seasonal flow. The term does not include a  
8 channel or ditch designed and constructed solely to carry storm  
9 water.

10 "Watershed." The land area that drains into a particular  
11 stream, water body or watercourse.

12 Section 3. Protection of existing riparian buffers.

13 (a) Prohibition.--Except as otherwise provided in this act,  
14 land development may not be permitted within a riparian buffer  
15 area.

16 (b) Width of riparian buffer area.--Except as required under  
17 subsection (c), the width of the riparian buffer area protected  
18 under subsection (a) shall be a minimum of 100 feet on each side  
19 of the stream as measured from the top of the bank.

20 (c) Additional width requirements.--The following apply:

21 (1) If the water body is designated as high quality or  
22 exceptional value, the minimum width shall be 300 feet on  
23 each side of the water body as measured from the top of the  
24 bank.

25 (2) In the case of the presence of a nontidal wetland or  
26 vernal pond wholly or partially within the riparian buffer  
27 area, an additional 25 feet shall be added to the widths  
28 under this section from the wetland or vernal pond boundary.

29 (3) The following additional distances shall be added to  
30 the minimum widths under this section based on the following

1 formula:

- 2 (i) ten feet if slope is 10% - 15%;
- 3 (ii) twenty feet if slope 16% - 17%;
- 4 (iii) thirty feet if slope is 18% - 20%;
- 5 (iv) fifty feet if slope is 21% - 23%;
- 6 (v) sixty feet if slope is 24% - 25%; or
- 7 (vi) seventy feet if slope exceeds 25%.

8 (4) If the water body has been identified as impaired in  
9 accordance with section 303 of the Federal Water Pollution  
10 Control Act (62 Stat. 1155, 33 U.S.C. § 1313) and  
11 implementing State regulations, an additional 50 feet shall  
12 be added to the minimum 100 foot width. In the case of a  
13 water body that has been identified as impaired by the  
14 department, the developer may choose to either extend the  
15 riparian buffer area an additional 50 feet from the top of  
16 the bank beyond the other requirements or to implement the  
17 following improvements in the riparian buffer area and in the  
18 developed area adjacent to the riparian buffer area:

19 (i) The improvements to the buffer area shall be as  
20 follows:

21 (A) Fifty percent or more of trees planted in  
22 the riparian buffer area must be of two inch caliper  
23 or greater. Tree species composition shall consist of  
24 a diverse mix of native tree species planted in the  
25 proper hydrologic zone as listed in Appendix B of the  
26 Pennsylvania Stormwater Best Management Practices  
27 Manual.

28 (B) An applicant shall develop and implement an  
29 operation and maintenance plan for the riparian  
30 buffer to be approved by the department. The



1 operation and maintenance plan shall require  
2 maintenance activities for a minimum of five years,  
3 include measures to control invasive species, deer  
4 and rodent damage and require replacement of all  
5 deceased trees for a minimum of the first three  
6 years.

7 (C) An applicant shall provide permanent  
8 protection of a riparian buffer area by placing a  
9 conservation easement on the property.

10 (ii) The improvements to the adjacent area shall be  
11 as follows:

12 (A) Achieve no net increase in predevelopment to  
13 postdevelopment volume, rate, peak and concentration  
14 of pollutants in water quality using alternative site  
15 design, low impact development principles, such as  
16 limiting disturbance, infiltration best management  
17 practices and other environmentally sound storm water  
18 best management practices.

19 (B) Through deed restriction for the lots sold  
20 and as a condition of a final land development plan  
21 approval, ban the use of fertilizers, pesticides,  
22 herbicides or other chemicals on lawns and other  
23 portions of the property, except that herbicides may  
24 be used for invasive species control in riparian  
25 buffer areas if part of an operation and maintenance  
26 plan approved by the department.

27 (C) A development shall replace the trees  
28 removed during the development process with the  
29 caliper of removed trees matched by the sum of the  
30 caliper of replacement trees.

1 (d) Condition of other approvals and permits.--Full  
2 compliance with the provisions of this act shall be a condition  
3 of an approval or permit issued by a Commonwealth agency or any  
4 political subdivision, including the following:

5 (1) An approval of land development activity.

6 (2) A building permit.

7 (3) A zoning hearing board approval.

8 (4) A conditional use approval.

9 (5) A subdivision approval.

10 (6) An erosion and sediment control permit.

11 (7) A grading permit.

12 (8) An encroachment permit.

13 (9) A National Pollutant Discharge Elimination System  
14 permit.

15 (10) An approval for a planning module for a sewage  
16 facility.

17 Section 4. Restoration of impaired riparian buffers.

18 (a) General rule.--For a property with an impaired riparian  
19 buffer, riparian buffer restoration shall be a condition of a  
20 governmental approval or permit, including the following:

21 (1) An approval of land development activity.

22 (2) A building permit.

23 (3) A zoning hearing board approval.

24 (4) A conditional use approval.

25 (5) A subdivision approval.

26 (6) An erosion and sediment control permit.

27 (7) A grading permit.

28 (8) An encroachment permit.

29 (9) A National Pollutant Discharge Elimination System  
30 permit.

1 (10) An approval for a planning module for a sewage  
2 facility.

3 (b) Requirement.--Riparian buffer restoration shall conform  
4 to the width requirements set forth in section 3.

5 (c) Trees and plants.--As part of riparian buffer  
6 restoration, 50% or more of the trees planted in the riparian  
7 buffer area must be of two inch caliper or greater. Plant  
8 species composition shall consist of a diverse mix of native  
9 species planted in the proper hydrologic zone as listed in  
10 Appendix B of the Pennsylvania Stormwater Best Management  
11 Practices Manual.

12 Section 5. Exemptions.

13 (a) Land development activity.--The following land uses  
14 shall be exempt from a prohibition or requirement under section  
15 3 or 4:

16 (1) A land use existing as of the effective date of this  
17 section, except as follows:

18 (i) when the existing land use or a building or  
19 structure involved in the use is enlarged, increased or  
20 extended to occupy a greater area of land;

21 (ii) when the existing land use or a building or  
22 structure involved in the use is moved, in whole or in  
23 part, to another portion of the property; or

24 (iii) when the existing land use ceases for a period  
25 of more than one year.

26 (2) Agricultural production that is consistent with  
27 Federal and State law, the regulations promulgated by the  
28 department and best management practices established by the  
29 State Conservation Commission and the Department of  
30 Agriculture.

1           (3) Selective logging provided that the logging  
2 practices comply with the best management practices set forth  
3 by the Bureau of Forestry, provided the logging does not  
4 occur within 100 feet of a stream.

5           (4) A crossing by a transportation facility or utility  
6 line. The issuance of a permit for a use or activity under  
7 this paragraph is contingent upon the completion of:

8                 (i) A feasibility study that identifies alternative  
9 routing strategies that do not impact a riparian buffer  
10 area.

11                (ii) A mitigation plan to minimize impacts on the  
12 riparian buffer area utilizing natural channel design  
13 practices to the greatest degree possible.

14           (5) A temporary stream restoration project, stream bank  
15 restoration project or vegetation restoration project to  
16 restore the stream or riparian zone to an ecologically  
17 healthy state utilizing natural channel design practices to  
18 the greatest degree possible.

19           (6) A structure, including a United States Geological  
20 Survey gauging station, public water supply, intake structure  
21 or permitted discharge outfall that, by its nature, cannot be  
22 located anywhere except within the riparian buffer area. The  
23 structures shall provide for the minimum practicable  
24 disturbance of the riparian buffer area by minimizing size  
25 and location and by taking advantage of collocation, if  
26 possible. A storm water conveyance structure or outfall shall  
27 not be included under this paragraph and shall be located  
28 outside of the buffer area.

29           (7) A wildlife and fisheries management activity  
30 consistent with the purposes of the following:

1 (i) The act of December 5, 1972 (P.L.1277, No.283),  
2 known as the Pennsylvania Scenic Rivers Act.

3 (ii) The act of April 28, 1978 (P.L.87, No.41),  
4 known as the Pennsylvania Appalachian Trail Act.

5 (iii) The act of June 23, 1982 (P.L.597, No.170),  
6 known as the Wild Resource Conservation Act.

7 (iv) 30 Pa.C.S. (relating to fish).

8 (v) 34 Pa.C.S. (relating to game).

9 (8) Construction of a single-family residence, including  
10 the usual appurtenances, if:

11 (i) Based on the size, shape or topography of the  
12 property, as of the effective date of this section, it is  
13 not reasonably possible to construct a single-family  
14 dwelling without encroaching upon the riparian buffer  
15 area.

16 (ii) The land development conforms with all other  
17 zoning and land use regulations.

18 (iii) The dwelling is not located, in whole or part,  
19 in a one hundred-year floodplain.

20 (iv) A septic tank, septic drain field or other  
21 sewage management facility is not located within the  
22 riparian buffer area.

23 (v) To the maximum extent practicable the dwelling  
24 avoids disturbance of the riparian buffer area.

25 (vi) An encroachment into the riparian buffer area  
26 is offset by an equal amount of wider riparian buffer  
27 width elsewhere on the same property so the average width  
28 and total area of the riparian buffer meet the  
29 requirements as specified in section 3.

30 (vii) The construction, dwelling or property was not

1 originally presented for approval and following the  
2 effective date of this section, is not part of a multilot  
3 subdivision.

4 (9) Low-impact outdoor recreation facilities for public  
5 use that are water dependent, including a dock or boat  
6 launch, provided that the facility contains less than 500  
7 square feet of new impervious surface.

8 (10) Multiuse paths, access ways, trails, interpretive  
9 and educational displays or overlooks, provided that:

10 (i) Overlooks or interpretive or educational  
11 displays minimize to the greatest degree possible and,  
12 individually and collectively, result in less than 500  
13 square feet of buffer disturbance.

14 (ii) Trails shall:

15 (A) be part of a regional development plan;

16 (B) if possible, be located within the  
17 boundaries of an existing travel corridor;

18 (C) not solely serve a single residence,  
19 business or residential development;

20 (D) be constructed using nonhazardous, pervious  
21 materials with a maximum width of four feet;

22 (E) be located at least 50 feet from the edge of  
23 a bank; and

24 (F) if the trail is new and is not located  
25 within the boundaries of an existing travel corridor,  
26 be fully compensated for by additional buffer  
27 protection or restoration along the length of the  
28 trail route.

29 (11) Other uses permitted by the department under the  
30 act of June 22, 1937 (P.L.1987, No.394), known as The Clean

1 Streams Law, and the act of November 26, 1978 (P.L.1375,  
2 No.325), known as the Dam Safety and Encroachments Act.

3 (b) Requirements.--The exempted uses, structures and  
4 activities shall comply with the requirements of 25 Pa. Code Ch.  
5 102 (relating to erosion and sediment control) and the  
6 applicable best management practices and may not diminish water  
7 quality except as permitted by the department.

8 (c) Location.--The exempted uses shall be located as far  
9 from the stream bank as reasonably possible.

10 Section 6. Municipal authority.

11 (a) Authority.--A municipality may enact a local land use  
12 ordinance to protect, preserve and restore riparian buffers. A  
13 riparian buffer ordinance adopted by a municipality shall  
14 conform to this act.

15 (b) Existing ordinance.--A municipality that has enacted a  
16 riparian buffer ordinance prior to the effective date of this  
17 section may continue to enforce the ordinance until:

18 (1) the municipality revises or amends the ordinance; or

19 (2) the municipality is required by law to update a  
20 municipal ordinance necessary to implement an applicable  
21 watershed storm water management plan under the act of  
22 October 4, 1978 (P.L.864, No.167), known as the Storm Water  
23 Management Act, or fulfill a legal obligation regarding its  
24 Municipal Separate Storm Sewer Program or total maximum daily  
25 load. At this time, the municipality shall amend the  
26 ordinance to conform to the provisions of this act.

27 (c) Variances.--A municipality that enacts an ordinance  
28 under this act shall provide for the consideration of variances.  
29 The following apply:

30 (1) In granting a variance, the municipality may allow

1 the buffer width to be relaxed and the permitted buffer area  
2 to become narrower at some points as long as the average  
3 width and total area meet the requirements under section 3.  
4 The averaging of the buffer area may be used to allow for the  
5 presence of an existing structure or to recover a lost lot,  
6 however, the buffer width may not be narrowed by more than  
7 25%, and new land development activity may not take place  
8 within the one hundred-year floodplain.

9 (2) The municipality may offer credit for additional  
10 density elsewhere on the site in compensation for the loss of  
11 developable land due to the requirements of this act. The  
12 compensation may increase the total number of dwelling units  
13 on the site up to the amount permitted under the base zoning  
14 requirements.

15 (3) A municipality may grant a variance if the applicant  
16 demonstrates any of the following:

17 (i) Strict compliance would prevent all economic use  
18 of the property or constitute a legally defined taking.

19 (ii) The project would serve a public need and no  
20 feasible alternative is available.

21 (iii) The project consists of the repair and  
22 maintenance of public improvements where avoidance and  
23 minimization of adverse impacts to the riparian buffer  
24 area have been addressed.

25 (4) The following procedures apply:

26 (i) An applicant shall submit a written request for  
27 a variance to the municipality. The application shall  
28 include specific reasons justifying the variance and any  
29 other information necessary to evaluate the proposed  
30 variance request.



1           (ii) The municipality may require an alternative  
2 analysis that clearly demonstrates that no other feasible  
3 alternatives exist and that minimal impact will occur as  
4 a result of the project or development.

5           (iii) In granting a request for a variance, the  
6 municipality may require additional site design,  
7 landscape planting, fencing, the placement of signs and  
8 the establishment of water quality best management  
9 practices in order to reduce impacts on water quality,  
10 wetlands and floodplains.

11       (d) Inspections.--The municipality may conduct  
12 investigations where probable cause exists to carry out its  
13 authority as prescribed in this act. For this purpose, the  
14 municipality may enter where probable cause exists upon public  
15 or private property to investigate and inspect property that  
16 contains a riparian buffer.

17       (e) Enforcement.--The following apply:

18           (1) The zoning enforcement officer or other person  
19 designated by the governing body of a municipality shall  
20 enforce the requirements of this act in accordance with this  
21 section.

22           (2) If, upon inspection or investigation, the zoning  
23 enforcement officer or other authorized agent determines that  
24 an activity violates the requirements of this act, the  
25 activity shall be considered to be in violation of this act.

26           (3) Upon the determination of a violation, the  
27 municipality shall issue a notice of violation to the permit  
28 holder, property owner or party in charge of the activity on  
29 the property. The notice must be in writing and require the  
30 immediate stoppage of the work on the property. The notice

1 shall include:

2 (i) The name and address of the owner.

3 (ii) The address or description and location of the  
4 property where the violation occurred.

5 (iii) A description of the violation.

6 (iv) A description of the corrective actions needed  
7 to return to compliance and a time schedule to complete  
8 the corrective actions.

9 (4) Where an emergency exists, a written notice shall  
10 not be required to stop work. Written notice of the stop-work  
11 order shall be presented to the appropriate responsible  
12 parties within three business days of the emergency order.

13 Section 7. Powers and duties of department.

14 (a) General authorization.--The department shall have  
15 authority to enact regulations and take action to protect,  
16 preserve and restore riparian buffers. Riparian buffer  
17 regulations adopted by the department shall conform to the  
18 provisions of this act.

19 (b) Variance.--The department may grant a variance for a  
20 property located in a municipality that does not enact an  
21 ordinance under this act.

22 (c) Buffer area.--In granting a variance, the department may  
23 allow the buffer width to be relaxed and the permitted buffer  
24 area to become narrower at points if the average width and total  
25 area meet the requirements under section 3. The averaging of the  
26 buffer area may be used to allow for the presence of an existing  
27 structure or to recover a lost lot. The buffer width may not be  
28 narrowed by more than 25%, and new land development activity may  
29 not take place within the one hundred-year floodplain.

30 (d) Grant criteria.--The department may grant a variance if

1 an applicant for the variance demonstrates any of the following:

2 (1) Strict compliance would prevent all economic use of  
3 the property or constitute a legally defined taking.

4 (2) The project would serve a public need and a feasible  
5 alternative is not available.

6 (3) The project consists of the repair and maintenance  
7 of public improvements which addressed avoidance and  
8 minimization of adverse impacts to the riparian buffer area.

9 (e) Application requirements.--In determining whether to  
10 grant a request for a variance, the following apply:

11 (1) An applicant for a variance must submit a written  
12 request for a variance to the department. The application  
13 shall include specific reasons justifying the variance and  
14 any other information necessary to evaluate the proposed  
15 variance.

16 (2) The department shall require an analysis clearly  
17 demonstrating that feasible alternatives do not exist and  
18 that minimal impact will occur as a result of the project.

19 (3) The department shall require additional site design,  
20 landscape planting, fencing, the placement of signs and the  
21 establishment of water quality best management practices in  
22 order to reduce impacts on water quality, wetlands and  
23 floodplains.

24 Section 8. Property inspections.

25 (a) General rule.--The department may enter upon a property  
26 at a reasonable time for the purpose of inspecting property that  
27 contains riparian buffers to enforce the provisions of this act.

28 (b) Entry denial prohibited.--A person may not deny entry to  
29 any agent of the department conducting an inspection under  
30 subsection (a) or otherwise obstruct, hamper or interfere with

1 the agent while conducting the inspection.

2 (c) Violations.--If the department determines that an  
3 activity violates the requirements of this act as a result of an  
4 investigation under subsection (a), the activity shall be in  
5 violation of this act.

6 (d) Violation notice.--Except as provided in subsection (e),  
7 upon determining a violation occurred under this act, the  
8 department shall issue a written notice of the violation to the  
9 permit holder, property owner or party in charge of the activity  
10 on the property. The notice shall require the immediate stoppage  
11 of all work on the property. The notice shall include all of the  
12 following:

13 (1) The name and address of the owner.

14 (2) The address or description of the property where the  
15 violation occurred.

16 (3) A description of the violation.

17 (4) A description of the corrective actions needed to  
18 return to compliance under this act and a time schedule to  
19 complete the corrective actions.

20 (e) Emergency order.--When an emergency exists as determined  
21 by the department, the department shall issue a stop-work order  
22 and may not provide the written notice required under subsection  
23 (d). Written notice as required under subsection (d) shall not  
24 be issued later than three business days after the order.

25 Section 9. Delegation to a municipality.

26 (a) Authority to delegate.--The department may delegate to a  
27 municipality any responsibilities under this act. The  
28 municipality acting under the agreement shall have the same  
29 powers and duties otherwise vested in the department under this  
30 act.

1 (b) Supervision.--The department shall monitor the  
2 activities of a municipality that acts under an agreement under  
3 subsection (a).

4 (c) Appeals.--No later than 30 days after notice of an  
5 action by a municipality under an agreement under subsection  
6 (a), a person aggrieved by the action may appeal to the  
7 Environmental Hearing Board in accordance with the act of July  
8 13, 1988 (P.L.530, No.94), known as the Environmental Hearing  
9 Board Act.

10 Section 10. Municipal action appeals.

11 (a) General rule.--No later than 10 days after notice of an  
12 action by a municipality imposed under this act, a person  
13 aggrieved by the action may appeal in writing to the zoning  
14 hearing board. No later than 45 days after the zoning hearing  
15 board receives the appeal, the person shall receive a hearing  
16 before the zoning hearing board.

17 (b) Judicial review.--A person aggrieved by an action of a  
18 municipality imposed under this act shall have the right to  
19 appeal de novo to the court of common pleas of the county where  
20 the municipality is located.

21 Section 11. Penalties, civil action and liability for costs.

22 (a) Penalties.--The penalties that may be assessed for a  
23 violation of this act may include:

24 (1) If, through inspection, it is determined that the  
25 corrective actions specified in a stop-work order have not  
26 been completed within the specified time, the responsible  
27 party shall be deemed in violation, and in addition to other  
28 penalties, a performance bond shall be subject to forfeiture.

29 (2) A permit issued by the department or a municipality  
30 may be suspended, revoked or modified if, through inspection,

1 it is determined the corrective actions specified in a stop-  
2 work order have not been completed within the specified time.

3 (3) A person who violates a provision of this act,  
4 regulation or ordinance authorized under this act, permit  
5 condition or stop-work order and the owner of the land where  
6 the violation occurs shall be liable for a civil penalty of  
7 not less than \$1,000 and not more than \$2,000 per violation  
8 per day. Each day the violation continues shall constitute a  
9 separate offense.

10 (4) The following apply:

11 (i) If a person violates a provision of this act,  
12 regulation or ordinance authorized by this act,  
13 permitting conditions or stop-work order, the  
14 Commonwealth or municipality may issue a citation to the  
15 owner of the land where the violation occurs or other  
16 responsible person, requiring the person to appear in the  
17 appropriate court to answer charges for the violation.

18 (ii) Upon conviction, the owner of the land where  
19 the violation occurs or other responsible person shall be  
20 liable for a criminal penalty in the form of imprisonment  
21 for not more than 90 days or a fine of not less than  
22 \$1,000 and not more than \$2,000 per violation per day, or  
23 both. Every day that the violation continues will be  
24 considered a separate offense.

25 (b) Civil action for recovery of damages.--The following  
26 apply:

27 (1) In addition to any other sanction authorized under  
28 this act, a person who fails to comply with the provisions of  
29 this act or a regulation or ordinance authorized by this act  
30 shall be liable to the Commonwealth or municipality in a

1 civil action for damages equal to one and one-half times the  
2 cost of restoring the buffer.

3 (2) The damages recovered under this subsection shall be  
4 used for the restoration of buffer systems or for the  
5 administration of programs for the protection and restoration  
6 of water quality, streams, wetlands and floodplains.

7 (c) Liability for costs.--A person who violates a provision  
8 of this act or a regulation or ordinance authorized by this act  
9 may be liable for a cost or expense incurred by the Commonwealth  
10 or a municipality as a result.

11 Section 12. Severability.

12 If a provision of this act or a regulation or ordinance  
13 authorized by this act is declared invalid or unconstitutional  
14 by a court of competent jurisdiction, the validity of the  
15 remainder shall not be affected by the invalidity or  
16 unconstitutionality.

17 Section 13. Effective date.

18 This act shall take effect in 60 days.