



**Testimony Regarding HB 1275
Before House Environmental Resources & Energy Committee
From Maya K. van Rossum, the Delaware Riverkeeper, Delaware Riverkeeper Network
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Good Morning, my name is Maya van Rossum, I am the Delaware Riverkeeper, leader of the Delaware Riverkeeper Network, and founder of Green Amendments For The Generations.

Thank you for the opportunity to speak.

Article 1 Section 27 of the Pennsylvania Constitution – what I call Pennsylvania’s Green Amendment -- protects the environmental rights of all Pennsylvanians and creates an obligation on you, the government, to protect the state’s natural resources for present and future generations.

One of the best ways to honor these constitutional rights and obligations is to support HB 1275 and protect the streamside buffers that protect our communities and environment.

The USDA estimates that over 1/3 of Pennsylvania’s streams’ and rivers’ riparian areas have either been converted to some other use, or degraded.

In the Chesapeake Bay Basin alone, it is reported that as much as 60% of streamside forests have been removed or severely impaired.

These numbers are quite staggering, particularly given the many benefits forested streamside buffers provide.

Take a drive through any community and you will see how streams without meaningful forested or vegetated buffers are literally washing away the public and private lands they flow through. Homes built close to creeks and rivers, become increasingly impacted by flooding.

But, when the rain falls in areas with meaningfully sized buffers – as provided for by HB 1275 – you can see the water slow down, spread out in vegetated areas where it inflicts no harm and actually reaps the benefits of being cleansed and soaked into the soil or taken up by the vegetation. And the buffers themselves stand as beautiful enhancements for the community.

Recognizing the many irreplaceable values of forested buffers, Pennsylvania has developed programs to accomplish the goal of planting 95,000 acres of riparian forested buffers across the Commonwealth by 2025.

- This takes time, money and resources.

It makes no sense that while the state is investing in restoring forested buffers across the Commonwealth, that it is simultaneously failing

- to protect the forested buffers we still have left, or
- to ensure that new development and/or redevelopment projects are protecting and restoring forested buffers that will help avoid and mitigate the pollution, stormwater and other impacts the new development will inflict on communities; while also providing that development project the many environmental, safety and economic benefits buffers provide.

Current chapter 102 regulations include a 150 foot buffer requirement only for the ~30% of Pennsylvania waterways designated as EV or HQ.

- Most of Pennsylvania's communities and waterways are left unprotected.
- Furthermore, Act 162 allows developers to use BMPs in lieu of the 150 foot buffer. These BMPs are temporary measures used only during the construction phase, such as compost socks filled with wood chips. These practices in no way match the benefits of permanent riparian buffers, and there is no credible way to calculate their effectiveness

In Pennsylvania, there is no science-based, statewide mandate to proactively protect or restore buffers at a basic level, for all streams, and thereby to ensure all of the safety, environmental and economic benefits buffers provide.

HB 1275 would remedy that.

For land development projects requiring state or local approval, HB 1275 sets minimum requirements for riparian buffers along all waterways in the Commonwealth.

The buffers required are designed in accordance with the wealth of scientific research and data on minimum buffer widths necessary to accomplish the essential benefits healthy and forested buffers provide.

- I'm confident that the testifiers speaking after me will well demonstrate the unrivaled, and cost effective benefits, that forested riparian buffers provide when they are healthy and attain certain minimum widths.

In keeping with the science, House Bill 1275 ensures protection or restoration for minimum 100 foot riparian buffers, with appropriate native vegetation, along all streams in the Commonwealth.

- If a stream is designated high quality or exceptional value, the minimum protection is 300 feet.
- If a waterway has been identified by the state as impaired pursuant to the Clean Water Act, then the buffer requirement is 150 feet. Current regulations provide no provisions for impaired waterways.
- Protections are provided for nontidal wetland or vernal ponds located within protected buffer areas to ensure scientifically defensible protections. Current regulations do not take wetlands and vernal ponds into account at all.

The bill is carefully crafted with numerous exceptions to accommodate existing land-uses or other state priorities.

- For example, for existing land-uses, there is clearly no expectation that current property owners install forested riparian buffers or remove existing structures.
 - Only when there is some level of expansion, relocation, redevelopment or abandonment of use must buffer protections be honored,

Exemptions and modifications also exist for, among other things,

- Agriculture;
- Transportation & utility projects;
- Stream restoration projects;
- USGS gauging stations, public water supply, or permitted intake or outfall structures;
- Wildlife and fisheries management activities;
- A single family residence where the home and the buffer mandate come in to conflict because of the size, shape or topography of the property at issue;
- Public outdoor recreation facilities that are water dependent; and
- Multiuse trails and pathways or educational displays.

Other elements in the bill help to accommodate specific local conditions within a community or on a property.

- Such as allowing for buffer averaging in certain circumstances to provide some flexibility in buffer widths.
- Or offering credit for additional density elsewhere on a development site if there is a loss of developable land due to the buffer obligation.
- Variances are available to avoid concerns about taking of private property and to ensure essential public needs are still met.

Passage of HB 1275 will ensure clear, positive, and protective buffers are factored in to all applicable local and state mandates and decisionmaking.

- As a result, essential buffer protections can be proactively incorporated from the earliest stages of development design and approvals -- when it is easiest to accommodate.
- I so often hear from developers, ‘just tell me what the rules are from the get go, so I can incorporate them into my plan’.
 - It is when expectations change from one decisionmaking body to the next that there is confusion, cost, upset and difficulty for developers.
- With HB 1275, the requirements, expectations and opportunities with regards to buffers are clear from the beginning so they can be effectively, and cost effectively, included in every development effort.
- HB 1275 is unlike Act 162, where developers can forgo the buffer requirement, and are permitted to use BMPs to create the functional equivalence of a riparian buffer, which is challenging to calculate and does not provide clear expectations for developers.

The proposed legislation creates a partnership between municipalities and the state to advance essential buffer protections.

- HB 1275 allows Municipalities to take the lead in crafting and implementing essential buffer protections if they choose.
- This allows Municipalities to incorporate the specific needs, goals and qualities of their community and its landscape into the buffer requirement so long as it abides by the requirements in HB 1275.
- But, if a municipality chooses not to act, it can count on the state for essential buffer protections.

Because we have no science-based, minimum buffer protections that apply across the Commonwealth, many communities at the bottom of a stream’s watershed – often communities of color and low-income communities – are the ones suffering the brunt of the flooding, erosion, pollution and danger because their upstream neighbors chose not to ensure proper buffer protections.

This legislation will ensure all communities, upstream and down, get the benefits of buffers protected to the degree science recommends.

Whether your priority is:

- the environment,
- the health and safety of our communities, or
- jobs and economic development

This legislation is essential.

Respectfully Submitted,
Maya K. van Rossum
the Delaware Riverkeeper