
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1275 Session of
2023

INTRODUCED BY WEBSTER, MADDEN, HILL-EVANS, PROBST, SAPPEY,
SANCHEZ, BURGOS, CIRESI AND VITALI, MAY 31, 2023

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
MAY 31, 2023

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 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Short title.

12 This act shall be known and may be cited as the Riparian
13 Buffer Protection Act.

14 Section 2. Definitions.

15 The following words and phrases when used in this act shall
16 have the meanings given to them in this section unless the
17 context clearly indicates otherwise:

18 "Department." The Department of Environmental Protection of
19 the Commonwealth.

20 "Earth disturbance." A construction or other human activity

1 that disturbs the surface of the land, including tree cutting,
2 land clearing or grubbing, grading, excavations, embankments,
3 land development, agricultural plowing or tilling, operation of
4 animal heavy use areas, timber harvesting activities, mineral
5 extraction and the moving, depositing, stockpiling or storing of
6 soil, rock or earth material.

7 "Earth disturbance activity." An act that comprises,
8 facilitates or results in earth disturbance.

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

13 "Floodplain." A land area that:

14 (1) is susceptible to flooding; and

15 (2) has at least a 1% probability of flooding occurring
16 in a calendar year based on the basin being fully developed
17 as shown on a current land use plan. For an area without a
18 mapped one hundred-year floodplain, the one hundred-year
19 floodplain is considered to extend for a horizontal distance
20 of 50 feet from the top of the stream bank.

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

25 "Impaired riparian buffer." A riparian buffer that, as a
26 result of land development activity, contains impervious cover
27 or is no longer a natural riparian buffer.

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

30 (1) A building.

1 (2) A parking area.

2 (3) A driveway.

3 (4) A road.

4 (5) A sidewalk.

5 (6) A swimming pool.

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

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

12 "Land development." A land change, including clearing,
13 grubbing, stripping, removal of vegetation, tree cutting,
14 dredging, grading, excavating, transporting and filling of land,
15 construction, subdivision, paving or other increase in
16 impervious cover.

17 "Land development activity." An act that comprises,
18 facilitates or results in land development.

19 "Municipality." A political subdivision of this
20 Commonwealth, including a county, city, borough, township,
21 incorporated town or home rule municipality.

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

25 (1) maintaining the integrity of an adjacent stream
26 channel or shoreline or helping stabilize a stream bank,
27 including reducing erosion;

28 (2) reducing the impact of an upland source of pollution
29 by trapping, filtering or converting sediments, nutrients or
30 other contaminants;

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

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

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

7 (6) reducing the impact of climate change by absorbing
8 greenhouse gases.

9 "Nontidal wetlands." An area not influenced by tidal
10 fluctuations that is inundated or saturated by surface water or
11 groundwater at a frequency and duration sufficient to support,
12 and under normal circumstances supports a prevalence of
13 vegetation typically adapted for life in saturated soil
14 conditions.

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

18 "Ordinance." An ordinance adopted by a municipality for
19 riparian buffers.

20 "Permit." A final permit issued by a municipality for
21 undertaking a land development activity.

22 "Person." An individual, partnership, firm, association,
23 joint venture, public or private corporation, trust, estate,
24 commission, board, public or private institution, utility,
25 cooperative, city, county or other political subdivision and an
26 interstate body or other legal entity.

27 "Pollution." Contamination of waters of this Commonwealth,
28 including contamination by alteration of the physical, chemical
29 or biological properties of the waters, or change in
30 temperature, taste, color or odor of the waters, or the

1 discharge of a liquid, gaseous, radioactive, solid or other
2 substance into the waters that does, will or is likely to:

3 (1) degrade water quality;

4 (2) create a nuisance;

5 (3) render waters harmful, detrimental or injurious to:

6 (i) public health, safety or welfare;

7 (ii) domestic, municipal, commercial, industrial,
8 agricultural, recreational or other legitimate beneficial
9 use; or

10 (iii) livestock, wild animals, birds or fish or
11 other aquatic life; or

12 (4) cause or contribute to the failure of a water body
13 to meet applicable water quality standards or criteria
14 enacted by the Commonwealth or a river basin commission of
15 which the Commonwealth is a voting member.

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

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

19 "Riparian buffer restoration." Returning an impaired
20 riparian buffer to a natural riparian buffer dominated by native
21 vegetation, including trees, shrubs or herbaceous plants.

22 "Sewage facility." As used in the act of January 24, 1966
23 (1965 P.L.1535, No.537), known as the Pennsylvania Sewage
24 Facilities Act.

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

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

29 "Stream channel." The part of a watercourse either naturally
30 or artificially created that contains an intermittent or

1 perennial base flow of groundwater origin. A base flow of
2 groundwater origin may be distinguished by any of the following
3 physical indicators:

4 (1) Hydrophytic vegetation, hydric soil or other
5 hydrologic indicators in the area where groundwater enters
6 the stream channel in the vicinity of the stream headwaters,
7 channel bed or channel banks.

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

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

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

14 "Water body." A natural or manmade pond, lake, wetland,
15 impoundment, stream or watercourse. The term does not include a
16 pond or facility designed and constructed solely to contain
17 storm water.

18 "Watercourse." A channel of conveyance of surface water
19 having a defined bed and banks, including a stream, river, brook
20 or creek, whether natural or artificial, with perennial,
21 intermittent or seasonal flow. The term does not include a
22 channel or ditch designed and constructed solely to carry storm
23 water.

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

26 Section 3. Protection of existing riparian buffers.

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

30 (b) Width of riparian buffer area.--Except as required under

1 subsection (c), the width of the riparian buffer area protected
2 under subsection (a) shall be a minimum of 100 feet on each side
3 of the stream as measured from the top of the bank.

4 (c) Additional width requirements.--

5 (1) If the water body is designated as high quality or
6 exceptional value, the minimum width shall be 300 feet on
7 each side of the water body as measured from the top of the
8 bank.

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

13 (3) The following additional distances shall be added to
14 the minimum widths under this section based on the following
15 formula:

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

22 (4) If the water body has been identified as impaired in
23 accordance with 33 U.S.C. § 1313 (relating to water quality
24 standards and implementation plans) and implementing State
25 regulations, an additional 50 feet shall be added to the
26 minimum 100 foot width. In the case of a water body that has
27 been identified as impaired by the department, the developer
28 may choose to either extend the riparian buffer area an
29 additional 50 feet from the top of the bank beyond the other
30 requirements or to implement the following improvements in

1 the riparian buffer area and in the developed area adjacent
2 to the riparian buffer area:

3 (i) The improvements to the buffer area shall be as
4 follows:

5 (A) Fifty percent or more of trees planted in
6 the riparian buffer area must be of two inch caliper
7 or greater. Tree species composition shall consist of
8 a diverse mix of native tree species planted in the
9 proper hydrologic zone as listed in Appendix B of the
10 Pennsylvania Stormwater Best Management Practices
11 Manual.

12 (B) An applicant shall develop and implement an
13 operation and maintenance plan for the riparian
14 buffer to be approved by the department. The
15 operation and maintenance plan shall require
16 maintenance activities for a minimum of five years,
17 include measures to control invasive species, deer
18 and rodent damage and require replacement of all
19 deceased trees for a minimum of the first three
20 years.

21 (C) An applicant shall provide permanent
22 protection of a riparian buffer area by placing a
23 conservation easement on the property.

24 (ii) The improvements to the adjacent area shall be
25 as follows:

26 (A) Achieve no net increase in predevelopment to
27 postdevelopment volume, rate, peak and concentration
28 of pollutants in water quality using alternative site
29 design, low impact development principles, such as
30 limiting disturbance, infiltration best management

1 practices and other environmentally sound storm water
2 best management practices.

3 (B) Through deed restriction for the lots sold
4 and as a condition of a final land development plan
5 approval, ban the use of fertilizers, pesticides,
6 herbicides or other chemicals on lawns and other
7 portions of the property, except that herbicides may
8 be used for invasive species control in riparian
9 buffer areas if part of an operation and maintenance
10 plan approved by the department.

11 (C) A development shall replace the trees
12 removed during the development process with the
13 caliper of removed trees matched by the sum of the
14 caliper of replacement trees.

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

19 (1) An approval of land development activity.

20 (2) A building permit.

21 (3) A zoning hearing board approval.

22 (4) A conditional use approval.

23 (5) A subdivision approval.

24 (6) An erosion and sediment control permit.

25 (7) A grading permit.

26 (8) An encroachment permit.

27 (9) A National Pollutant Discharge Elimination System
28 permit.

29 (10) An approval for a planning module for a sewage
30 facility.

1 Section 4. Restoration of impaired riparian buffers.

2 (a) General rule.--For a property with an impaired riparian
3 buffer, riparian buffer restoration shall be a condition of a
4 governmental approval or permit, 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 (b) Requirement.--Riparian buffer restoration shall conform
18 to the width requirements set forth in section 3.

19 (c) Trees and plants.--As part of riparian buffer
20 restoration, 50% or more of the trees planted in the riparian
21 buffer area must be of two inch caliper or greater. Plant
22 species composition shall consist of a diverse mix of native
23 species planted in the proper hydrologic zone as listed in
24 Appendix B of the Pennsylvania Stormwater Best Management
25 Practices Manual.

26 Section 5. Exemptions.

27 (a) Land development activity.--The following land uses
28 shall be exempt from a prohibition or requirement under section
29 3 or 4:

30 (1) A land use existing as of the effective date of this

1 section, except as follows:

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

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

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

10 (2) Agricultural production that is consistent with
11 Federal and State law, the regulations promulgated by the
12 department and best management practices established by the
13 State Conservation Commission and the Department of
14 Agriculture.

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

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

22 (i) A feasibility study that identifies alternative
23 routing strategies that do not impact a riparian buffer
24 area.

25 (ii) A mitigation plan to minimize impacts on the
26 riparian buffer area utilizing natural channel design
27 practices to the greatest degree possible.

28 (5) A temporary stream restoration project, stream bank
29 restoration project or vegetation restoration project to
30 restore the stream or riparian zone to an ecologically

1 healthy state utilizing natural channel design practices to
2 the greatest degree possible.

3 (6) A structure, including a United States Geological
4 Survey gauging station, public water supply, intake structure
5 or permitted discharge outfall that, by its nature, cannot be
6 located anywhere except within the riparian buffer area. The
7 structures shall provide for the minimum practicable
8 disturbance of the riparian buffer area by minimizing size
9 and location and by taking advantage of collocation, if
10 possible. A storm water conveyance structure or outfall shall
11 not be included under this paragraph and shall be located
12 outside of the buffer area.

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

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

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

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

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

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

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

25 (i) Based on the size, shape or topography of the
26 property, as of the effective date of this section, it is
27 not reasonably possible to construct a single-family
28 dwelling without encroaching upon the riparian buffer
29 area.

30 (ii) The land development conforms with all other

1 zoning and land use regulations.

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

4 (iv) A septic tank, septic drain field or other
5 sewage management facility is not located within the
6 riparian buffer area.

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

9 (vi) An encroachment into the riparian buffer area
10 is offset by an equal amount of wider riparian buffer
11 width elsewhere on the same property so the average width
12 and total area of the riparian buffer meet the
13 requirements as specified in section 3.

14 (vii) The construction, dwelling or property was not
15 originally presented for approval and following the
16 effective date of this section, is not part of a multilot
17 subdivision.

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

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

24 (i) Overlooks or interpretive or educational
25 displays minimize to the greatest degree possible and,
26 individually and collectively, result in less than 500
27 square feet of buffer disturbance.

28 (ii) Trails shall:

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

30 (B) if possible, be located within the

1 boundaries of an existing travel corridor;
2 (C) not solely serve a single residence,
3 business or residential development;
4 (D) be constructed using nonhazardous, pervious
5 materials with a maximum width of four feet;
6 (E) be located at least 50 feet from the edge of
7 a bank; and
8 (F) if the trail is new and is not located
9 within the boundaries of an existing travel corridor,
10 be fully compensated for by additional buffer
11 protection or restoration along the length of the
12 trail route.

13 (11) Other uses permitted by the department under the
14 act of June 22, 1937 (P.L.1987, No.394), known as The Clean
15 Streams Law, and the act of November 26, 1978 (P.L.1375,
16 No.325), known as the Dam Safety and Encroachments Act.

17 (b) Requirements.--The exempted uses, structures and
18 activities shall comply with the requirements of 25 Pa. Code Ch.
19 102 (relating to erosion and sediment control) and the
20 applicable best management practices and may not diminish water
21 quality except as permitted by the department.

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

24 Section 6. Municipal authority.

25 (a) Authority.--A municipality may enact a local land use
26 ordinance to protect, preserve and restore riparian buffers. A
27 riparian buffer ordinance adopted by a municipality shall
28 conform to this act.

29 (b) Existing ordinance.--A municipality that has enacted a
30 riparian buffer ordinance prior to the effective date of this

1 section may continue to enforce the ordinance until:

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

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

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

14 (1) In granting a variance, the municipality may allow
15 the buffer width to be relaxed and the permitted buffer area
16 to become narrower at some points as long as the average
17 width and total area meet the requirements under section 3.
18 The averaging of the buffer area may be used to allow for the
19 presence of an existing structure or to recover a lost lot,
20 however, the buffer width may not be narrowed by more than
21 25%, and new land development activity may not take place
22 within the one hundred-year floodplain.

23 (2) The municipality may offer credit for additional
24 density elsewhere on the site in compensation for the loss of
25 developable land due to the requirements of this act. The
26 compensation may increase the total number of dwelling units
27 on the site up to the amount permitted under the base zoning
28 requirements.

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

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

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

5 (iii) The project consists of the repair and
6 maintenance of public improvements where avoidance and
7 minimization of adverse impacts to the riparian buffer
8 area have been addressed.

9 (4) The following procedures apply:

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

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

19 (iii) In granting a request for a variance, the
20 municipality may require additional site design,
21 landscape planting, fencing, the placement of signs and
22 the establishment of water quality best management
23 practices in order to reduce impacts on water quality,
24 wetlands and floodplains.

25 (d) Inspections.--The municipality may conduct
26 investigations where probable cause exists to carry out its
27 authority as prescribed in this act. For this purpose, the
28 municipality may enter where probable cause exists upon public
29 or private property to investigate and inspect property that
30 contains a riparian buffer.

1 (e) Enforcement.--

2 (1) The zoning enforcement officer or other person
3 designated by the governing body of a municipality shall
4 enforce the requirements of this act in accordance with this
5 section.

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

10 (3) Upon the determination of a violation, the
11 municipality shall issue a notice of violation to the permit
12 holder, property owner or party in charge of the activity on
13 the property. The notice must be in writing and require the
14 immediate stoppage of the work on the property. The notice
15 shall include:

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

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

19 (iii) A description of the violation.

20 (iv) A description of the corrective actions needed
21 to return to compliance and a time schedule to complete
22 the corrective actions.

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

27 Section 7. Powers and duties of department.

28 (a) General authorization.--The department shall have
29 authority to enact regulations and take action to protect,
30 preserve and restore riparian buffers. Riparian buffer

1 regulations adopted by the department shall conform to the
2 provisions of this act.

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

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

14 (d) Grant criteria.--The department may grant a variance if
15 an applicant for the variance demonstrates any of the following:

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

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

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

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

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

30 (2) The department shall require an analysis clearly

1 demonstrating that feasible alternatives do not exist and
2 that minimal impact will occur as a result of the project.

3 (3) The department shall require additional site design,
4 landscape planting, fencing, the placement of signs and the
5 establishment of water quality best management practices in
6 order to reduce impacts on water quality, wetlands and
7 floodplains.

8 Section 8. Property inspections.

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

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

16 (c) Violations.--If the department determines that an
17 activity violates the requirements of this act as a result of an
18 investigation under subsection (a), the activity shall be in
19 violation of this act.

20 (d) Violation notice.--Except as provided in subsection (e),
21 upon determining a violation occurred under this act, the
22 department shall issue a written notice of the violation to the
23 permit holder, property owner or party in charge of the activity
24 on the property. The notice shall require the immediate stoppage
25 of all work on the property. The notice shall include all of the
26 following:

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

28 (2) The address or description of the property where the
29 violation occurred.

30 (3) A description of the violation.

1 (4) A description of the corrective actions needed to
2 return to compliance under this act and a time schedule to
3 complete the corrective actions.

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

9 Section 9. Delegation to a municipality.

10 (a) Authority to delegate.--The department may delegate to a
11 municipality any responsibilities under this act. The
12 municipality acting under the agreement shall have the same
13 powers and duties otherwise vested in the department under this
14 act.

15 (b) Supervision.--The department shall monitor the
16 activities of a municipality that acts under an agreement under
17 subsection (a).

18 (c) Appeals.--No later than 30 days after notice of an
19 action by a municipality under an agreement under subsection
20 (a), a person aggrieved by the action may appeal to the
21 Environmental Hearing Board in accordance with the act of July
22 13, 1988 (P.L.530, No.94), known as the Environmental Hearing
23 Board Act.

24 Section 10. Municipal action appeals.

25 (a) General rule.--No later than 10 days after notice of an
26 action by a municipality imposed under this act, a person
27 aggrieved by the action may appeal in writing to the zoning
28 hearing board. No later than 45 days after the zoning hearing
29 board receives the appeal, the person shall receive a hearing
30 before the zoning hearing board.

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

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

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

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

13 (2) A permit issued by the department or a municipality
14 may be suspended, revoked or modified if, through inspection,
15 it is determined the corrective actions specified in a stop-
16 work order have not been completed within the specified time.

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

24 (4) The following apply:

25 (i) If a person violates a provision of this act,
26 regulation or ordinance authorized by this act,
27 permitting conditions or stop-work order, the
28 Commonwealth or municipality may issue a citation to the
29 owner of the land where the violation occurs or other
30 responsible person, requiring the person to appear in the

1 appropriate court to answer charges for the violation.

2 (ii) Upon conviction, the owner of the land where
3 the violation occurs or other responsible person shall be
4 liable for a criminal penalty in the form of imprisonment
5 for not more than 90 days or a fine of not less than
6 \$1,000 and not more than \$2,000 per violation per day, or
7 both. Every day that the violation continues will be
8 considered a separate offense.

9 (b) Civil action for recovery of damages.--

10 (1) In addition to any other sanction authorized under
11 this act, a person who fails to comply with the provisions of
12 this act or a regulation or ordinance authorized by this act
13 shall be liable to the Commonwealth or municipality in a
14 civil action for damages equal to one and one-half times the
15 cost of restoring the buffer.

16 (2) The damages recovered under this subsection shall be
17 used for the restoration of buffer systems or for the
18 administration of programs for the protection and restoration
19 of water quality, streams, wetlands and floodplains.

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

24 Section 12. Severability.

25 If a provision of this act or a regulation or ordinance
26 authorized by this act is declared invalid or unconstitutional
27 by a court of competent jurisdiction, the validity of the
28 remainder shall not be affected by the invalidity or
29 unconstitutionality.

30 Section 13. Effective date.

1 This act shall take effect in 60 days.