

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1565 Session of 2013

INTRODUCED BY HAHN, CAUSER, BAKER, MILLARD, MALONEY, HEFFLEY, GINGRICH, EVERETT, EVANKOVICH, SAYLOR, SANKEY, R. BROWN, CARROLL, PEIFER, SNYDER, BLOOM, SONNEY, BENNINGHOFF, CUTLER, M. K. KELLER, SWANGER, HELM, OBERLANDER, GREINER, GROVE, KAUFFMAN, LONGIETTI, MAJOR, METCALFE, DUNBAR, PYLE, ROCK, AUMENT, REESE, MCGINNIS, C. HARRIS, MAHER, REGAN, BROOKS AND SCHLEGEL CULVER, JUNE 20, 2013

SENATOR YAW, ENVIRONMENTAL RESOURCES AND ENERGY, IN SENATE, AS AMENDED, OCTOBER 6, 2014

AN ACT

1 Amending the act of June 22, 1937 (P.L.1987, No.394), entitled,  
2 as amended, "An act To preserve and improve the purity of the  
3 waters of the Commonwealth for the protection of public  
4 health, animal and aquatic life, and for industrial  
5 consumption, and recreation; empowering and directing the  
6 creation of indebtedness or the issuing of non-debt revenue  
7 bonds by political subdivisions to provide works to abate  
8 pollution; providing protection of water supply and water  
9 quality; providing for the jurisdiction of courts in the  
10 enforcement thereof; providing additional remedies for  
11 abating pollution of waters; imposing certain penalties;  
12 repealing certain acts; regulating discharges of sewage and  
13 industrial wastes; regulating the operation of mines and  
14 regulating the impact of mining upon water quality, supply  
15 and quantity; placing responsibilities upon landowners and  
16 land occupiers and to maintain primary jurisdiction over  
17 surface coal mining in Pennsylvania," further providing for  
18 potential pollution-; AND PROVIDING FOR PROTECTION OF  
19 EXISTING RIPARIAN BUFFERS, FOR RESTORATION OF IMPAIRED  
20 RIPARIAN BUFFERS, FOR EXEMPTIONS, FOR MUNICIPAL AUTHORITY,  
21 FOR POWERS AND DUTIES OF DEPARTMENT, FOR PROPERTY  
22 INSPECTIONS, FOR DELEGATION TO A MUNICIPALITY, FOR MUNICIPAL  
23 ACTION APPEALS, FOR PENALTIES, CIVIL ACTION AND LIABILITY FOR  
24 COSTS AND FOR EFFECT ON OTHER COMMONWEALTH LAWS OR  
25 REGULATIONS AND MUNICIPAL ORDINANCES.

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

3 Section 1. Section 402 of the act of June 22, 1937  
4 (P.L.1987, No.394), known as The Clean Streams Law, is amended  
5 by adding a subsection to read:

6 Section 402. Potential Pollution.--\* \* \*

7 ~~(c) (1) The use or installation of riparian buffers and <--  
8 riparian forest buffers may be used as a preferred choice or  
9 option among best management practices, design standards and  
10 alternatives to minimize the~~

11 (C) (1) FOR PERSONS PROPOSING OR CONDUCTING EARTH <--  
12 DISTURBANCE ACTIVITIES WHEN THE ACTIVITY REQUIRES A NATIONAL  
13 POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT FOR STORM WATER  
14 DISCHARGE UNDER 25 PA. CODE CH. 102 (RELATING TO EROSION AND  
15 SEDIMENT CONTROL), THE PERSON MAY USE OR INSTALL EITHER:

16 (I) A RIPARIAN BUFFER OR RIPARIAN FOREST BUFFER; OR  
17 (II) ANOTHER OPTION OR OPTIONS AMONG AVAILABLE BEST  
18 MANAGEMENT PRACTICES, DESIGN STANDARDS AND ALTERNATIVES THAT  
19 COLLECTIVELY ARE SUBSTANTIALLY EQUIVALENT TO A RIPARIAN BUFFER  
20 OR RIPARIAN FOREST BUFFER IN EFFECTIVENESS, TO MINIMIZE THE  
21 potential for accelerated erosion and sedimentation and to  
22 protect, maintain, reclaim and restore water quality and for  
23 existing and designated uses of a perennial or intermittent  
24 river, stream or creek or lake, pond or reservoir of this  
25 Commonwealth to ensure compliance with 25 Pa. Code Ch.93  
26 (relating to water quality standards).

27 (2) ~~Projects in~~ A PROJECT LOCATED IN A special protection <--  
28 ~~watersheds that propose greater than one acre of~~ WATERSHED IN A <--  
29 DRAINAGE LIST SPECIFIED IN 25 PA CODE § 93.9 (RELATING TO  
30 DESIGNATED WATER USES AND WATER QUALITY CRITERIA) THAT PROPOSES

1 ANY earth disturbance within 100 feet of a surface water shall  
2 offset any reduction in the total square footage of the buffer  
3 zone that would have been utilized as a best management  
4 practice, with a replacement buffer elsewhere ALONG SPECIAL <--  
5 PROTECTION WATERS in the same drainage basin LIST AND as close  
6 as feasible to the area of disturbance at a ratio of one-to-one.  
7 Any project incorporating such an alternative shall also include  
8 other best management practices to manage postconstruction  
9 stormwater to protect, maintain, reclaim and restore water  
10 quality and existing and designated uses of waters of this  
11 Commonwealth. Replacement planting costs shall be calculated  
12 using department guidance as specified in BMP 6.7.1: Riparian  
13 Buffer Restoration of the Pennsylvania Stormwater Best  
14 Management Practice Manual.

15 (D) (1) EXCEPT AS IN ACCORDANCE WITH SUBSECTION (G), A <--  
16 PERSON PROPOSING OR CONDUCTING AN EARTH DISTURBANCE ACTIVITY  
17 WHEN THE ACTIVITY REQUIRES A PERMIT UNDER THIS ARTICLE OR 25 PA.  
18 CODE PT. 1, SUBPT. A ART. II (RELATING TO STATEMENTS OF POLICY),  
19 MAY NOT CONDUCT EARTH DISTURBANCE ACTIVITIES WITHIN ONE HUNDRED  
20 FIFTY FEET OF A POND OR RESERVOIR OR A PERENNIAL OR INTERMITTENT  
21 LAKE, RIVER, STREAM OR CREEK WHEN THE PROJECT SITE IS LOCATED IN  
22 AN EXCEPTIONAL VALUE OR HIGH QUALITY WATERSHED ATTAINING ITS  
23 DESIGNATED USE AS LISTED BY THE DEPARTMENT AT THE TIME OF  
24 APPLICATION AND SHALL PROTECT AN EXISTING RIPARIAN BUFFER IN  
25 ACCORDANCE WITH THIS SECTION.

26 (2) EXCEPT AS IN ACCORDANCE WITH SUBSECTION (G), A PERSON  
27 PROPOSING OR CONDUCTING AN EARTH DISTURBANCE ACTIVITY WHEN THE  
28 ACTIVITY REQUIRES A PERMIT UNDER THIS ARTICLE OR 25 PA. CODE  
29 PT.1, SUBPT.1 ART. II WHERE THE PROJECT SITE IS LOCATED IN AN  
30 EXCEPTIONAL VALUE OR HIGH QUALITY WATERSHED WHERE THERE ARE

1 WATERS FAILING TO ATTAIN ONE OR MORE DESIGNATED USES AS LISTED  
2 IN CATEGORY FOUR OR FIVE ON PENNSYLVANIA'S INTEGRATED WATER  
3 QUALITY MONITORING AND ASSESSMENT REPORT AT THE TIME OF THE  
4 APPLICATION AND THE PROJECT SITE CONTAINS, IS ALONG OR WITHIN  
5 ONE HUNDRED FIFTY FEET OF A POND OR RESERVOIR OR A PERENNIAL OR  
6 INTERMITTENT LAKE, RIVER, STREAM OR CREEK SHALL, IN ACCORDANCE  
7 WITH THE REQUIREMENTS OF THIS SECTION, DO ONE OF THE FOLLOWING:

8 (I) PROTECT A RIPARIAN FOREST BUFFER;

9 (II) CONVERT A RIPARIAN BUFFER TO A RIPARIAN FOREST BUFFER;

10 OR

11 (III) ESTABLISH A RIPARIAN FOREST BUFFER.

12 (E) TO QUALIFY AS A RIPARIAN FOREST BUFFER UNDER THIS  
13 SECTION, AN EXISTING, CONVERTED OR NEWLY ESTABLISHED RIPARIAN  
14 FOREST BUFFER, WHETHER MANDATORY OR VOLUNTARY, MUST MEET THE  
15 FOLLOWING REQUIREMENTS RELATED TO COMPOSITION, WIDTH AND  
16 MANAGEMENT:

17 (1) A RIPARIAN FOREST BUFFER IS A RIPARIAN BUFFER THAT  
18 CONSISTS PREDOMINANTLY OF NATIVE TREES, SHRUBS AND FORBS THAT  
19 PROVIDE AT LEAST SIXTY PERCENT UNIFORM CANOPY COVER. A RIPARIAN  
20 FOREST BUFFER DOES NOT HAVE TO BE ALTERED TO ESTABLISH  
21 INDIVIDUAL ZONES ONE AND TWO UNDER SUBPARAGRAPH (III) AND MUST  
22 HAVE A TOTAL AGGREGATE WIDTH OF THE COMBINED ZONES UNDER  
23 PARAGRAPH (2). THE FOLLOWING APPLY:

24 (I) A RIPARIAN BUFFER THAT CONSISTS PREDOMINANTLY OF NATIVE  
25 WOODY VEGETATION THAT DOES NOT SATISFY THE COMPOSITION OF THIS  
26 PARAGRAPH OR THE WIDTH REQUIREMENTS IN PARAGRAPH (2) SHALL BE  
27 ENHANCED OR WIDENED, OR BOTH, BY ADDITIONAL PLANTINGS IN OPEN  
28 SPACES AROUND EXISTING NATIVE TREES AND SHRUBS THAT PROVIDE AT  
29 LEAST SIXTY PERCENT UNIFORM CANOPY COVER. AN EXISTING RIPARIAN  
30 FOREST BUFFER DOES NOT HAVE TO BE ALTERED TO ESTABLISH

1 INDIVIDUAL ZONES ONE AND TWO UNDER SUBPARAGRAPH (III) AND MUST  
2 BE A TOTAL AGGREGATE WIDTH OF THE COMBINED ZONES UNDER PARAGRAPH  
3 (2). A NOXIOUS WEED OR INVASIVE SPECIES SHALL BE REMOVED OR  
4 CONTROLLED TO THE EXTENT POSSIBLE.

5 (II) ON SITES WITHOUT NATIVE WOODY VEGETATION, A RIPARIAN  
6 FOREST BUFFER SHALL BE ESTABLISHED AND BE COMPOSED OF ZONES IN  
7 ACCORDANCE WITH SUBPARAGRAPH (III) AND MEET THE WIDTH  
8 REQUIREMENTS IN PARAGRAPH (2). A NOXIOUS WEED OR INVASIVE  
9 SPECIES SHALL BE REMOVED OR CONTROLLED TO THE EXTENT POSSIBLE.

10 (III) THE FOLLOWING APPLY:

11 (A) A ZONE ONE SHALL BE MAINTAINED AS FOLLOWS:

12 (I) UNDISTURBED NATIVE TREES MUST BEGIN AT THE TOP OF THE  
13 STREAMBANK OR NORMAL POOL ELEVATION OF A LAKE, POND OR RESERVOIR  
14 AND OCCUPY A STRIP OF LAND MEASURED HORIZONTALLY ON A LINE  
15 PERPENDICULAR FROM THE TOP OF STREAMBANK OR NORMAL POOL  
16 ELEVATION OF A LAKE, POND OR RESERVOIR.

17 (II) PREDOMINANT VEGETATION MUST BE COMPOSED OF A VARIETY OF  
18 NATIVE RIPARIAN TREE SPECIES.

19 (B) A ZONE TWO SHALL BE MAINTAINED AS FOLLOWS:

20 (I) MANAGED NATIVE TREES AND SHRUBS MUST BEGIN AT THE  
21 LANDWARD EDGE OF ZONE ONE AND OCCUPY AN ADDITIONAL STRIP OF LAND  
22 MEASURED HORIZONTALLY ON A LINE PERPENDICULAR FROM THE TOP OF  
23 STREAMBANK OR NORMAL POOL ELEVATION OF A LAKE, POND OR  
24 RESERVOIR.

25 (II) PREDOMINANT VEGETATION MUST BE COMPOSED OF A VARIETY OF  
26 NATIVE RIPARIAN TREE AND SHRUB SPECIES.

27 (2) THE FOLLOWING APPLY:

28 (I) A TOTAL OF ONE HUNDRED FEET, COMPRISED OF FIFTY FEET IN  
29 ZONE ONE AND FIFTY FEET IN ZONE TWO FOR A NEWLY ESTABLISHED  
30 RIPARIAN FOREST BUFFER ESTABLISHED UNDER SUBSECTION (H) (3) ALONG

1 THE RIVERS, PERENNIAL OR INTERMITTENT STREAMS, LAKES, PONDS OR  
2 RESERVOIRS.

3 (II) A TOTAL OF ONE HUNDRED FIFTY FEET, COMPRISED OF FIFTY  
4 FEET IN ZONE ONE AND ONE HUNDRED FEET IN ZONE TWO ON NEWLY  
5 ESTABLISHED RIPARIAN FOREST BUFFERS ALONG THE RIVERS, PERENNIAL  
6 OR INTERMITTENT STREAMS, LAKES, PONDS OR RESERVOIRS IN WATERS  
7 DESIGNATED HIGH QUALITY AND EXCEPTIONAL VALUE DESIGNATIONS.

8 (III) THE AVERAGE RIPARIAN FOREST BUFFER WIDTH SHALL BE  
9 CALCULATED BASED UPON THE ENTIRE LENGTH OF STREAMBANK OR  
10 SHORELINE THAT IS LOCATED WITHIN OR ALONG THE BOUNDARIES OF THE  
11 PROJECT SITE. WHEN CALCULATING THE BUFFER LENGTH, THE NATURAL  
12 STREAMBANK OR SHORELINE SHALL BE FOLLOWED.

13 (3) AN EXISTING, CONVERTED AND NEWLY ESTABLISHED RIPARIAN  
14 FOREST BUFFER SHALL BE MANAGED IN ACCORDANCE WITH A RIPARIAN  
15 FOREST BUFFER MANAGEMENT PLAN IN PARAGRAPH (4) AND WILL BE  
16 PROTECTED IN ACCORDANCE WITH SUBSECTION (J).

17 (4) THE RIPARIAN FOREST BUFFER MANAGEMENT PLAN SHALL BE A  
18 PART OF A POST-CONSTRUCTION STORMWATER MANAGEMENT PLAN AND  
19 INCLUDE THE FOLLOWING:

20 (I) A PLANTING PLAN FOR CONVERTED OR NEWLY ESTABLISHED  
21 RIPARIAN FOREST BUFFERS THAT IDENTIFIES THE NUMBER, DENSITY AND  
22 SPECIES OF NATIVE TREES AND SHRUBS APPROPRIATE TO GEOGRAPHIC  
23 LOCATION THAT WILL ACHIEVE SIXTY PERCENT UNIFORM CANOPY COVER;

24 (II) A MAINTENANCE SCHEDULE AND MEASURES FOR CONVERTED OR  
25 NEWLY ESTABLISHED RIPARIAN FOREST BUFFERS TO ENSURE SURVIVAL AND  
26 GROWTH OF PLANTINGS AND PROTECTION FROM COMPETING PLANTS AND  
27 ANIMALS, INCLUDING NOXIOUS WEEDS AND INVASIVE SPECIES OVER A  
28 FIVE-YEAR ESTABLISHMENT PERIOD, INCLUDING ACTIVITIES OR  
29 PRACTICES USED TO MAINTAIN THE RIPARIAN FOREST BUFFER, INCLUDING  
30 THE DISTURBANCE OF EXISTING VEGETATION, TREE REMOVAL, SHRUB

1 REMOVAL, CLEARING, MOWING, BURNING OR SPRAYING IN ACCORDANCE  
2 WITH LONG-TERM OPERATION AND MAINTENANCE; AND  
3 (III) AN INSPECTION SCHEDULE AND MEASURES TO ENSURE LONG-  
4 TERM MAINTENANCE AND PROPER FUNCTIONING OF A RIPARIAN FOREST  
5 BUFFER MEETING THE REQUIREMENTS UNDER PARAGRAPH (1), INCLUDING  
6 MEASURES TO REPAIR DAMAGE TO THE BUFFER FROM STORM EVENTS  
7 GREATER THAN THE TWO-YEAR, TWENTY-FOUR HOUR DESIGN STORM.

8 (F) THE FOLLOWING APPLY:

9 (1) THE DEPARTMENT SHALL PROMULGATE REGULATIONS REGARDING  
10 STORMWATER AND ACCELERATED EROSION AND SEDIMENTATION SO THAT IT  
11 IS MANAGED TO ENSURE THAT STORMWATER ENTERS THE AREA UPGRADE AND  
12 ALONG THE RIPARIAN BUFFER AS SHEET FLOW OR SHALLOW CONCENTRATED  
13 FLOW DURING STORM EVENTS UP TO AND INCLUDING THE TWO-YEAR,  
14 TWENTY-FOUR HOUR DESIGN STORM.

15 (2) WETLANDS LOCATED IN THE RIPARIAN BUFFER SHALL BE  
16 PROTECTED AND MAINTAINED CONSISTENT WITH REGULATIONS PROMULGATED  
17 BY THE DEPARTMENT.

18 (3) A RIPARIAN BUFFER MUST BE MEASURED HORIZONTALLY AND  
19 PERPENDICULARLY TO THE BANK WITH NO MORE THAN A TEN PERCENT  
20 VARIATION BELOW THE MINIMUM WIDTH FROM THE NORMAL POOL ELEVATION  
21 FOR A LAKE, POND OR RESERVOIR AND FROM THE TOP OF THE  
22 STREAMBANK.

23 (I) THE FOLLOWING APPLY:

24 (A) SUBSECTION (D) DOES NOT APPLY FOR EARTH DISTURBANCE  
25 ACTIVITIES ASSOCIATED WITH THE FOLLOWING:

26 (I) A PROJECT SITE LOCATED GREATER THAN ONE HUNDRED FIFTY  
27 FEET FROM A RIVER, STREAM, CREEK, LAKE, POND OR RESERVOIR.

28 (II) AN ACTIVITY INVOLVING LESS THAN ONE ACRE OF EARTH  
29 DISTURBANCE.

30 (III) AN ACTIVITY WHEN PERMIT COVERAGE IS NOT REQUIRED UNDER

1 THIS ARTICLE OR 25 PA. CODE PT. 1, SUBPT. A ART. II.

2 (IV) AN ACTIVITY WHEN A PERMIT OR AUTHORIZATION FOR THE  
3 EARTH DISTURBANCE ACTIVITY REQUIRED UNDER 25 PA. CODE PT. 1,  
4 SUBPT. A ART. II WAS OBTAINED OR APPLICATION SUBMITTED PRIOR TO  
5 NOVEMBER 19, 2010.

6 (V) A ROAD MAINTENANCE ACTIVITY SO LONG AS AN EXISTING  
7 RIPARIAN BUFFER IS UNDISTURBED TO THE EXTENT PRACTICABLE.

8 (VI) THE REPAIR AND MAINTENANCE OF AN EXISTING PIPELINE AND  
9 UTILITY SO LONG AS AN EXISTING RIPARIAN BUFFER IS UNDISTURBED TO  
10 THE EXTENT PRACTICABLE.

11 (VII) OIL AND GAS, TIMBER HARVESTING OR MINING ACTIVITY FOR  
12 WHICH SITE RECLAMATION OR RESTORATION IS PART OF THE PERMIT  
13 AUTHORIZATION IN 25 PA. CODE CHS. 78 (RELATING TO OIL AND GAS  
14 WELLS), 86 (RELATING TO SURFACE AND UNDERGROUND COAL MINING:  
15 GENERAL), 87 (RELATING TO SURFACE MINING OF COAL), 88 (RELATING  
16 TO ANTHRACITE COAL), 89 (RELATING TO UNDERGROUND MINING OF COAL  
17 AND COAL PREPARATION FACILITIES), 90 (RELATING TO COAL REFUSE  
18 DISPOSAL) AND 102 (RELATING TO EROSION AND SEDIMENT CONTROL) SO  
19 LONG AS AN EXISTING RIPARIAN BUFFER IS UNDISTURBED TO THE EXTENT  
20 PRACTICABLE.

21 (VIII) A SINGLE FAMILY HOME THAT IS NOT PART OF A LARGER  
22 COMMON PLAN OF DEVELOPMENT OR SALE AND THE PARCEL WAS ACQUIRED  
23 BY THE APPLICANT PRIOR TO NOVEMBER 19, 2010.

24 (IX) AN ACTIVITY AUTHORIZED BY A DEPARTMENT PERMIT UNDER A  
25 CHAPTER OF 25 PA. CODE OTHER THAN CHAPTER 102 THAT CONTAINS  
26 SETBACK REQUIREMENTS AND THE ACTIVITY COMPLIES WITH THE SETBACK  
27 REQUIREMENTS.

28 (B) FOR AN EARTH DISTURBANCE ACTIVITY ASSOCIATED WITH THE  
29 FOLLOWING, THE DEPARTMENT, OR A CONSERVATION DISTRICT AFTER  
30 CONSULTATION WITH THE DEPARTMENT, MAY GRANT A WAIVER FROM THE



1 REQUIREMENTS OF SUBSECTION (A) OR (B) UPON A DEMONSTRATION BY  
2 THE APPLICANT THAT THERE ARE REASONABLE ALTERNATIVES FOR  
3 COMPLIANCE WITH THIS SECTION, SO LONG AS AN EXISTING RIPARIAN  
4 BUFFER IS UNDISTURBED TO THE EXTENT PRACTICABLE AND THAT THE  
5 ACTIVITY WILL OTHERWISE MEET THE REQUIREMENTS OF THIS ARTICLE:

6 (I) THE PROJECT IS NECESSARY TO ABATE A SUBSTANTIAL THREAT  
7 TO THE PUBLIC HEALTH OR SAFETY.

8 (II) A LINEAR PROJECT THAT MAY INCLUDE A PIPELINE, PUBLIC  
9 ROADWAY, RAIL LINE OR UTILITY LINE.

10 (III) AN ABANDONED MINE RECLAMATION ACTIVITY THAT IS  
11 CONDUCTED UNDER DEPARTMENT AUTHORIZATION OR PERMIT.

12 (IV) A PROJECT OF A TEMPORARY NATURE WHERE THE SITE WILL BE  
13 FULLY RESTORED TO ITS PRE-EXISTING CONDITION DURING THE TERM OF  
14 THE PERMIT UNDER THIS ARTICLE.

15 (V) A REDEVELOPMENT PROJECT THAT MAY INCLUDE A BROWNFIELD OR  
16 USE OF OTHER VACANT LAND AND PROPERTY WITHIN A DEVELOPED AREA  
17 FOR FURTHER CONSTRUCTION OR DEVELOPMENT.

18 (VI) A PROJECT FOR WHICH COMPLIANCE WITH SUBSECTION (D) OR  
19 (E) IS NOT APPROPRIATE OR FEASIBLE DUE TO SITE CHARACTERISTICS,  
20 OR EXISTING STRUCTURES AT THE PROJECT SITE.

21 (C) THE APPLICANT SHALL SUBMIT A WRITTEN REQUEST FOR A  
22 WAIVER TO THE DEPARTMENT OR A CONSERVATION DISTRICT AS PART OF  
23 THE APPLICATION FOR A PERMIT UNDER THIS ARTICLE.

24 (D) AN APPLICANT REQUESTING A WAIVER MAY PROPOSE AND THE  
25 DEPARTMENT MAY ALLOW OFFSITE PROTECTION, CONVERSION OR  
26 ESTABLISHMENT OF A RIPARIAN FOREST BUFFER OR PROVIDE  
27 COMPENSATION TO FUND RIPARIAN FOREST BUFFER PROTECTION,  
28 ENHANCEMENT OR ESTABLISHMENT.

29 (E) A PROJECT QUALIFYING FOR AN EXCEPTION UNDER THIS  
30 SUBSECTION IS NOT RELIEVED FROM COMPLIANCE WITH OTHER APPLICABLE

1 REQUIREMENTS OF THIS ARTICLE OR OTHER LAWS ADMINISTERED BY THE  
2 DEPARTMENT.

3 (G) THE FOLLOWING APPLY:

4 (1) EXCEPT FOR A RIPARIAN BUFFER PROTECTED UNDER SUBSECTION  
5 (D) (1) OR (G), A RIPARIAN FOREST BUFFER MEETING THE REQUIREMENTS  
6 OF THIS SECTION SHALL PREVENT THERMAL IMPACTS AND IS A NON-  
7 DISCHARGE ALTERNATIVE. THE DEPARTMENT SHALL PROMULGATE  
8 REGULATIONS REGARDING ANTI-DEGRADATION IMPLEMENTATION  
9 REQUIREMENTS FOR AN EROSION AND SEDIMENT CONTROL PLAN OR POST  
10 CONSTRUCTION STORMWATER MANAGEMENT PLAN.

11 (2) EXCEPT FOR A RIPARIAN BUFFER PROTECTED UNDER SUBSECTION  
12 (D) (1) OR (G) WHEN PROTECTION OF AN EXISTING OR THE CONVERSION  
13 OR ESTABLISHMENT OF A RIPARIAN FOREST BUFFER THAT MEETS THE  
14 REQUIREMENTS OF THIS SECTION AND IS ABOVE BASELINE REGULATORY  
15 REQUIREMENTS, A CREDIT MAY BE AVAILABLE FOR TRADING OR OFFSETS  
16 IN ACCORDANCE WITH A PROCEDURE ESTABLISHED BY THE DEPARTMENT OR  
17 A REGULATION RELATED TO TRADING OR OFFSETTING DEVELOPED UNDER 25  
18 PA. CODE.

19 (3) A PERSON THAT PROTECTS, CONVERTS OR ESTABLISHES A NEW  
20 RIPARIAN FOREST BUFFER MEETING THE REQUIREMENTS OF THIS SECTION,  
21 MAY QUALIFY FOR BENEFITS UNDER PARAGRAPH (1) OR (2).

22 (H) THE FOLLOWING APPLY:

23 (1) THE FOLLOWING PRACTICES AND ACTIVITIES ARE PROHIBITED  
24 WITHIN THE RIPARIAN BUFFER:

25 (I) SOIL DISTURBANCE BY GRADING, STRIPPING OF TOPSOIL,  
26 PLOWING, CULTIVATING OR OTHER PRACTICES EXCEPT AS ALLOWED UNDER  
27 PARAGRAPH (3) (I).

28 (II) DRAINING BY A DITCH, UNDERDRAIN OR OTHER DRAINAGE  
29 SYSTEM.

30 (III) HOUSING, GRAZING OR OTHERWISE MAINTAINING ANIMALS FOR

1 AGRICULTURAL OR COMMERCIAL PURPOSES.

2 (IV) STORING OR STOCKPILING MATERIALS.

3 (V) OFF-ROAD VEHICULAR TRAVEL.

4 (2) WHEN AUTHORIZED BY THE DEPARTMENT, THE FOLLOWING

5 PRACTICES AND ACTIVITIES ARE ALLOWABLE IN THE RIPARIAN BUFFER:

6 (I) CONSTRUCTION OR PLACEMENT OF A ROAD, BRIDGE, TRAIL,

7 STORM DRAINAGE, UTILITY OR OTHER STRUCTURE;

8 (II) WATER OBSTRUCTION OR ENCROACHMENTS; AND

9 (III) RESTORATION PROJECTS.

10 (3) THE FOLLOWING PRACTICES AND ACTIVITIES ARE ALLOWED

11 WITHIN THE RIPARIAN BUFFER:

12 (I) ACTIVITY OR PRACTICE USED TO MAINTAIN THE RIPARIAN  
13 BUFFER INCLUDING THE DISTURBANCE OF EXISTING VEGETATION AND TREE

14 AND SHRUB REMOVAL AS NEEDED TO ALLOW FOR NATURAL SUCCESSION OF  
15 NATIVE VEGETATION AND PROTECTION OF PUBLIC HEALTH AND SAFETY;

16 (II) TIMBER HARVESTING ACTIVITY IN ACCORDANCE WITH THE  
17 RIPARIAN FOREST BUFFER MANAGEMENT PLAN AS PART OF THE POST-  
18 CONSTRUCTION STORMWATER MANAGEMENT PLAN;

19 (III) PASSIVE OR LOW-IMPACT RECREATIONAL ACTIVITY SO LONG AS  
20 THE FUNCTIONING OF THE RIPARIAN BUFFER IS MAINTAINED;

21 (IV) EMERGENCY RESPONSE AND OTHER SIMILAR ACTIVITY; AND

22 (V) RESEARCH AND DATA COLLECTION ACTIVITY THAT MAY INCLUDE  
23 WATER QUALITY MONITORING AND STREAM GAUGING.

24 (I) THE FOLLOWING APPLY:

25 (1) AN EXISTING, CONVERTED AND NEWLY ESTABLISHED RIPARIAN  
26 BUFFER INCLUDING ACCESS EASEMENTS MUST BE PROTECTED IN

27 PERPETUITY THROUGH DEED RESTRICTION, CONSERVATION EASEMENT,

28 LOCAL ORDINANCE, PERMIT CONDITIONS OR OTHER MECHANISM THAT

29 ENSURES THE LONG-TERM FUNCTIONING AND INTEGRITY OF THE RIPARIAN  
30 BUFFER.

1 (2) FOR AN EXISTING OR NEWLY ESTABLISHED RIPARIAN BUFFER,  
2 THE BOUNDARY LIMITS OF THE RIPARIAN BUFFER MUST BE IDENTIFIED  
3 AND CLEARLY MARKED.

4 (J) A PERSON WHO PROTECTS AN EXISTING RIPARIAN BUFFER OR  
5 CONVERTS OR ESTABLISHES A RIPARIAN BUFFER IN ACCORDANCE WITH  
6 THIS SECTION SHALL COMPLETE DATA FORMS PROVIDED BY THE  
7 DEPARTMENT AND SUBMIT THE FORMS TO THE DEPARTMENT OR  
8 CONSERVATION DISTRICT WITHIN ONE YEAR OF ESTABLISHMENT OR  
9 PROTECTION.

10 (K) AS USED IN THIS SECTION, THE FOLLOWING WORDS AND PHRASES  
11 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SUBSECTION UNLESS  
12 THE CONTEXT CLEARLY INDICATES OTHERWISE:

13 "ACCELERATED EROSION." THE REMOVAL OF THE SURFACE OF THE  
14 LAND THROUGH THE COMBINED ACTION OF A HUMAN ACTIVITY AND THE  
15 NATURAL PROCESS AT A RATE GREATER THAN WOULD OCCUR BECAUSE OF  
16 THE NATURAL PROCESS ALONE.

17 "ANIMAL HEAVY-USE AREA."

18 (1) A BARNYARD, FEEDLOT, LOAFING AREA, EXERCISE LOT OR  
19 OTHER SIMILAR AREA ON AN AGRICULTURAL OPERATION WHERE DUE TO  
20 THE CONCENTRATION OF ANIMALS IT IS NOT POSSIBLE TO ESTABLISH  
21 AND MAINTAIN VEGETATIVE COVER OF A DENSITY CAPABLE OF  
22 MINIMIZING ACCELERATED EROSION AND SEDIMENTATION BY USUAL  
23 PLANTING METHODS.

24 (2) THE TERM DOES NOT INCLUDE ENTRANCES, PATHWAYS AND  
25 WALKWAYS BETWEEN AREAS WHERE ANIMALS ARE HOUSED OR KEPT IN  
26 CONCENTRATION.

27 "BEST MANAGEMENT PRACTICE" OR "BMP." AN ACTIVITY, FACILITY,  
28 MEASURE, PLANNING OR PROCEDURE USED TO MINIMIZE ACCELERATED  
29 EROSION AND SEDIMENTATION AND MANAGE STORMWATER TO PROTECT,  
30 MAINTAIN, RECLAIM AND RESTORE THE QUALITY OF WATERS AND THE

1 EXISTING AND DESIGNATED USE OF WATERS WITHIN THIS COMMONWEALTH  
2 BEFORE, DURING AND AFTER EARTH DISTURBANCE ACTIVITY.

3 "CHANNEL." A NATURAL OR MANMADE WATER CONVEYANCE.

4 "CONSERVATION DISTRICT." AS DEFINED IN SECTION 3(C) OF THE  
5 ACT OF MAY 15, 1945 (P.L.547, NO.217), KNOWN AS THE CONSERVATION  
6 DISTRICT LAW AND HAS THE AUTHORITY UNDER A DELEGATION AGREEMENT  
7 EXECUTED WITH THE DEPARTMENT TO ADMINISTER AND ENFORCE ALL OR A  
8 PORTION OF THE EROSION, SEDIMENT AND STORMWATER MANAGEMENT  
9 PROGRAM IN THIS COMMONWEALTH.

10 "DEPARTMENT." THE DEPARTMENT OF ENVIRONMENTAL PROTECTION OF  
11 THE COMMONWEALTH.

12 "EARTH DISTURBANCE ACTIVITY." A CONSTRUCTION OR OTHER HUMAN  
13 ACTIVITY THAT DISTURBS THE SURFACE OF THE LAND, INCLUDING LAND  
14 CLEARING AND GRUBBING, GRADING, EXCAVATION, EMBANKMENT, LAND  
15 DEVELOPMENT, AGRICULTURAL PLOWING OR TILLING, OPERATION OF A  
16 ANIMAL HEAVY-USE AREA, TIMBER HARVESTING ACTIVITY, ROAD  
17 MAINTENANCE ACTIVITY, OIL AND GAS ACTIVITY, WELL DRILLING,  
18 MINERAL EXTRACTION AND THE MOVING, DEPOSITING, STOCKPILING OR  
19 STORING OF SOIL, ROCK OR EARTH MATERIAL.

20 "EROSION." THE NATURAL PROCESS BY WHICH THE SURFACE OF THE  
21 LAND IS WORN AWAY BY WATER, WIND OR CHEMICAL ACTION.

22 "EROSION AND SEDIMENT CONTROL PLAN." A SITE-SPECIFIC PLAN  
23 CONSISTING OF BOTH DRAWINGS AND A NARRATIVE THAT IDENTIFIES BMPS  
24 TO MINIMIZE ACCELERATED EROSION AND SEDIMENTATION BEFORE, DURING  
25 AND AFTER EARTH DISTURBANCE ACTIVITY.

26 "INTERMITTENT STREAM." A BODY OF WATER FLOWING IN A CHANNEL  
27 OR BED COMPOSED PRIMARILY OF SUBSTRATES ASSOCIATED WITH FLOWING  
28 WATER THAT DURING PERIODS OF THE YEAR IS BELOW THE LOCAL WATER  
29 TABLE AND OBTAINS ITS FLOW FROM BOTH SURFACE RUNOFF AND  
30 GROUNDWATER DISCHARGES.

1 "LONG-TERM OPERATION AND MAINTENANCE." THE ROUTINE  
2 INSPECTION, MAINTENANCE, REPAIR OR REPLACEMENT OF A BMP TO  
3 ENSURE PROPER FUNCTION FOR THE DURATION OF TIME THAT THE BMP IS  
4 NEEDED.

5 "MUNICIPALITY." A COUNTY, CITY, BOROUGH, TOWN, TOWNSHIP,  
6 SCHOOL DISTRICT, INSTITUTION OR AUTHORITY OR ANOTHER PUBLIC BODY  
7 CREATED BY OR UNDER THE LAW OF THIS COMMONWEALTH.

8 "NON-DISCHARGE ALTERNATIVE." AN ENVIRONMENTALLY SOUND AND  
9 COST-EFFECTIVE BEST MANAGEMENT PRACTICE THAT INDIVIDUALLY OR  
10 COLLECTIVELY ELIMINATES THE NET CHANGE IN STORMWATER VOLUME,  
11 RATE AND QUALITY FOR STORM EVENTS UP TO AND INCLUDING THE TWO-  
12 YEAR, TWENTY-FOUR HOUR DESIGN STORM WHEN COMPARED TO THE  
13 STORMWATER RATE, VOLUME AND QUALITY PRIOR TO THE EARTH  
14 DISTURBANCE ACTIVITIES TO MAINTAIN AND PROTECT THE EXISTING  
15 QUALITY OF THE RECEIVING SURFACE WATERS OF THIS COMMONWEALTH.

16 "NORMAL POOL ELEVATION." INCLUDES THE FOLLOWING:

17 (1) FOR BODIES OF WATER WHICH HAVE NO STRUCTURAL  
18 MEASURES TO REGULATE HEIGHT OF WATER, THE HEIGHT OF WATER AT  
19 ORDINARY STAGES OF LOW WATER UNAFFECTED BY DROUGHT.

20 (2) FOR STRUCTURALLY REGULATED BODIES OF WATER, THE  
21 ELEVATION OF THE SPILLWAY, OUTLET CONTROL OR DAM CREST WHICH  
22 MAINTAINS THE BODY OF WATER AT A SPECIFIED HEIGHT.

23 (3) THE TERM DOES NOT APPLY TO WETLANDS.

24 "OIL AND GAS ACTIVITY." AN EARTH DISTURBANCE ASSOCIATED WITH  
25 OIL AND GAS EXPLORATION, PRODUCTION, PROCESSING OR TREATMENT  
26 OPERATIONS OR TRANSMISSION FACILITIES.

27 "OPERATOR." A PERSON WHO HAS ONE OR MORE OF THE FOLLOWING:

28 (1) OVERSIGHT RESPONSIBILITY OF EARTH DISTURBANCE  
29 ACTIVITY ON A PROJECT SITE OR A PORTION THEREOF AND WHO HAS  
30 THE ABILITY TO MAKE MODIFICATIONS TO THE E&S PLAN, PCSM PLAN

1 OR SITE SPECIFICATIONS.

2 (2) DAY-TO-DAY OPERATIONAL CONTROL OVER EARTH  
3 DISTURBANCE ACTIVITY ON A PROJECT SITE OR A PORTION THEREOF  
4 TO ENSURE COMPLIANCE WITH THE E&S PLAN OR PCSM PLAN.

5 "POST-CONSTRUCTION STORMWATER MANAGEMENT PLAN." A SITE-  
6 SPECIFIC PLAN CONSISTING OF BOTH DRAWINGS AND A NARRATIVE THAT  
7 IDENTIFIES BEST MANAGEMENT PRACTICES TO MANAGE CHANGES IN  
8 STORMWATER RUNOFF VOLUME, RATE AND WATER QUALITY AFTER AN EARTH  
9 DISTURBANCE ACTIVITY HAS ENDED AND THE PROJECT SITE IS  
10 PERMANENTLY STABILIZED.

11 "PERENNIAL STREAM." A BODY OF WATER FLOWING IN A CHANNEL OR  
12 BED COMPOSED PRIMARILY OF SUBSTRATES ASSOCIATED WITH FLOWING  
13 WATERS AND CAPABLE, IN THE ABSENCE OF POLLUTION OR OTHER MANMADE  
14 STREAM DISTURBANCES, OF SUPPORTING A BENTHIC MACRO-INVERTEBRATE  
15 COMMUNITY WHICH IS COMPOSED OF TWO OR MORE RECOGNIZABLE  
16 TAXONOMIC GROUPS OF ORGANISMS WHICH ARE LARGE ENOUGH TO BE SEEN  
17 BY THE UNAIDED EYE AND CAN BE RETAINED BY A UNITED STATES  
18 STANDARD NO. 30 SIEVE (28 MESHES PER INCH, 0.595 MM OPENINGS)  
19 AND LIVE AT LEAST PART OF THEIR LIFE CYCLES WITHIN OR UPON  
20 AVAILABLE SUBSTRATES IN A BODY OF WATER OR WATER TRANSPORT  
21 SYSTEM.

22 "PERSON."

23 (1) AN OPERATOR, INDIVIDUAL, PUBLIC OR PRIVATE  
24 CORPORATION, PARTNERSHIP, ASSOCIATION, MUNICIPALITY OR  
25 POLITICAL SUBDIVISION OF THIS COMMONWEALTH, INSTITUTION,  
26 AUTHORITY, FIRM, TRUST, ESTATE, RECEIVER, GUARDIAN, PERSONAL  
27 REPRESENTATIVE, SUCCESSOR, JOINT VENTURE, JOINT STOCK COMPANY  
28 OR FIDUCIARY;

29 (2) A DEPARTMENT, AGENCY OR INSTRUMENTALITY OF FEDERAL,  
30 STATE OR LOCAL GOVERNMENT OR AN AGENT OR EMPLOYEE THEREOF; OR

1           (3) ANOTHER LEGAL ENTITY.

2           "PROJECT SITE." THE ENTIRE AREA OF ACTIVITY, DEVELOPMENT,  
3 LEASE OR SALE INCLUDING:

4           (1) THE AREA OF AN EARTH DISTURBANCE ACTIVITY.

5           (2) THE AREA PLANNED FOR AN EARTH DISTURBANCE ACTIVITY.

6           (3) ANOTHER AREA THAT IS NOT SUBJECT TO AN EARTH  
7 DISTURBANCE ACTIVITY.

8           "RIPARIAN BUFFER." A BMP THAT IS AN AREA OF PERMANENT  
9 VEGETATION ALONG SURFACE WATERS.

10          "RIPARIAN FOREST BUFFER." A TYPE OF RIPARIAN BUFFER THAT  
11 CONSISTS OF PERMANENT VEGETATION THAT IS PREDOMINANTLY NATIVE  
12 TREES, SHRUBS AND FORBS ALONG SURFACE WATERS THAT IS MAINTAINED  
13 IN A NATURAL STATE OR SUSTAINABLY MANAGED TO PROTECT AND ENHANCE  
14 WATER QUALITY, STABILIZE STREAM CHANNELS AND BANKS AND SEPARATE  
15 LAND USE ACTIVITIES FROM SURFACE WATERS.

16          "ROAD MAINTENANCE ACTIVITIES."

17          (1) AN EARTH DISTURBANCE ACTIVITY WITHIN THE EXISTING  
18 ROAD CROSS-SECTION OR RAILROAD RIGHT-OF-WAY INCLUDING THE  
19 FOLLOWING:

20           (I) SHAPING OR RESTABILIZING AN UNPAVED ROAD.

21           (II) SHOULDER GRADING.

22           (III) SLOPE STABILIZATION.

23           (IV) CUTTING OF AN EXISTING CUT SLOPE.

24           (V) INLET AND ENDWALL CLEANING.

25           (VI) RESHAPING AND CLEANING A DRAINAGE DITCH OR  
26 SWALE.

27           (VII) PIPE CLEANING.

28           (VIII) PIPE REPLACEMENT.

29           (IX) SUPPORT ACTIVITY INCIDENTAL TO RESURFACING  
30 ACTIVITY SUCH AS MINOR VERTICAL ADJUSTMENT TO MEET GRADE



1 OF RESURFACED AREA.

2 (X) BALLAST CLEANING.

3 (XI) LAYING ADDITIONAL BALLAST.

4 (XII) REPLACING BALLAST, TIES AND RAILS.

5 (XIII) OTHER SIMILAR ACTIVITIES.

6 (2) THE EXISTING ROAD CROSS-SECTION CONSISTS OF THE  
7 ORIGINAL GRADED AREA BETWEEN THE EXISTING TOE OF A FILL SLOPE  
8 AND TOP OF A CUT SLOPE ON EITHER SIDE OF THE ROAD AND AN  
9 ASSOCIATED DRAINAGE FEATURE.

10 "SEDIMENTATION." THE ACTION OR PROCESS OF FORMING OR  
11 DEPOSITING SEDIMENT IN WATERS OF THIS COMMONWEALTH.

12 "STORMWATER." RUNOFF FROM PRECIPITATION, SNOWMELT, SURFACE  
13 RUNOFF AND DRAINAGE.

14 "SURFACE WATERS." PERENNIAL AND INTERMITTENT STREAMS,  
15 RIVERS, LAKES, RESERVOIRS, PONDS, WETLANDS, SPRINGS, NATURAL  
16 SEEPS AND ESTUARIES, EXCLUDING WATER AT FACILITIES APPROVED FOR  
17 WASTEWATER TREATMENT SUCH AS WASTEWATER TREATMENT IMPOUNDMENTS,  
18 COOLING WATER PONDS AND CONSTRUCTED WETLANDS USED AS PART OF A  
19 WASTEWATER TREATMENT PROCESS.

20 "TIMBER HARVESTING ACTIVITY." AN EARTH DISTURBANCE ACTIVITY,  
21 INCLUDING THE CONSTRUCTION OF SKID TRAILS, LOGGING ROADS,  
22 LANDING AREAS AND OTHER SIMILAR LOGGING OR SILVICULTURAL  
23 PRACTICES.

24 "TOP OF STREAMBANK." FIRST SUBSTANTIAL BREAK IN SLOPE  
25 BETWEEN THE EDGE OF THE BED OF THE STREAM AND THE SURROUNDING  
26 TERRAIN. THE TERM CAN EITHER BE A NATURAL OR CONSTRUCTED  
27 FEATURE, LYING GENERALLY PARALLEL TO THE WATERCOURSE.

28 "TOWN." INCLUDES AN INCORPORATED TOWN.

29 "WATERS OF THIS COMMONWEALTH." A RIVER, STREAM, CREEK,  
30 RIVULET, IMPOUNDMENT, DITCH, WATERCOURSE, STORM SEWER, LAKE,

1 DAMMED WATER, WETLANDS, POND, SPRING OR OTHER BODY OR CHANNEL OF  
2 CONVEYANCE OF SURFACE AND UNDERGROUND WATER, OR PARTS THEREOF,  
3 WHETHER NATURAL OR ARTIFICIAL, WITHIN OR ON THE BOUNDARIES OF  
4 THIS COMMONWEALTH.

5 SECTION 2. THE ACT IS AMENDED BY ADDING AN ARTICLE TO READ:

6 ARTICLE IV-A

7 RIPARIAN BUFFER PROTECTION

8 SECTION 401-A. DEFINITIONS.

9 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ARTICLE  
10 SHALL 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 100-YEAR FLOODPLAIN, THE 100-YEAR FLOODPLAIN IS  
3 CONSIDERED TO EXTEND FOR A HORIZONTAL DISTANCE OF 50 FEET  
4 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, BUT IS NOT  
14 LIMITED TO:

15 (1) A BUILDING;

16 (2) A PARKING AREA;

17 (3) A DRIVEWAY;

18 (4) A ROAD;

19 (5) A SIDEWALK;

20 (6) A SWIMMING POOL;

21 (7) AN AREA IN CONCRETE, ASPHALT, PACKED STONE OR AN  
22 EQUIVALENT SURFACE, INCLUDING A SURFACE WITH A COEFFICIENT OF  
23 RUNOFF OF 0.7 OR HIGHER; AND

24 (8) DISTURBED SOIL WITH A BULK DENSITY OF 95% OF THE  
25 VALUE AT WHICH PLANT GROWTH LIMITATION IS EXPECTED FOR  
26 AVERAGE PLANT MATERIAL.

27 "LAND DEVELOPMENT." A LAND CHANGE, INCLUDING, BUT NOT  
28 LIMITED TO, CLEARING, GRUBBING, STRIPPING, REMOVAL OF  
29 VEGETATION, DREDGING, GRADING, EXCAVATING, TRANSPORTING AND  
30 FILLING OF LAND, CONSTRUCTION, SUBDIVISION, PAVING OR OTHER

1 INCREASE IN IMPERVIOUS COVER.

2 "LAND DEVELOPMENT ACTIVITY." AN ACT THAT COMPRISES,  
3 FACILITATES OR RESULTS IN LAND DEVELOPMENT.

4 "MUNICIPALITY." A POLITICAL SUBDIVISION OF THIS  
5 COMMONWEALTH, INCLUDING A COUNTY, CITY, BOROUGH, TOWNSHIP,  
6 INCORPORATED TOWN OR HOME RULE MUNICIPALITY.

7 "NATURAL RIPARIAN BUFFER." A RIPARIAN BUFFER DOMINATED BY  
8 NATIVE VEGETATION, INCLUDING TREES, SHRUBS OR HERBACEOUS PLANTS,  
9 AND PROVIDING ANY OF THE FOLLOWING FUNCTIONS:

10 (1) MAINTAINING THE INTEGRITY OF AN ADJACENT STREAM  
11 CHANNEL OR SHORELINE OR HELPING STABILIZE A STREAM BANK,  
12 INCLUDING REDUCING EROSION;

13 (2) REDUCING THE IMPACT OF AN UPLAND SOURCE OF POLLUTION  
14 BY TRAPPING, FILTERING OR CONVERTING SEDIMENTS, NUTRIENTS OR  
15 OTHER CONTAMINANTS;

16 (3) SUPPLYING FOOD, COVER, SHELTER, HABITAT OR THERMAL  
17 PROTECTION TO FISH, OTHER AQUATIC LIFE OR OTHER WILDLIFE;

18 (4) PROTECTING OR BENEFITING THE ECOLOGICAL AND  
19 ABSORPTIVE CAPACITY OF SOIL, FLOODPLAIN OR WETLAND AREA;

20 (5) INCREASING STORAGE AND INFILTRATION OF FLOODWATER  
21 AND REDUCING FLOODWATER VELOCITY; OR

22 (6) REDUCING THE IMPACT OF CLIMATE CHANGE BY ABSORBING  
23 GREENHOUSE GASES.

24 "NONCONFORMING USE OR STRUCTURE." A USE OR STRUCTURE THAT  
25 WAS LEGALLY ESTABLISHED PRIOR TO THE EFFECTIVE DATE OF THIS  
26 SECTION, BUT DOES NOT COMPLY WITH THE PROVISIONS OF THIS  
27 ARTICLE.

28 "NONTIDAL WETLANDS." AN AREA NOT INFLUENCED BY TIDAL  
29 FLUCTUATIONS THAT IS INUNDATED OR SATURATED BY SURFACE WATER OR  
30 GROUNDWATER AT A FREQUENCY AND DURATION SUFFICIENT TO SUPPORT,

1 AND UNDER NORMAL CIRCUMSTANCES SUPPORT A PREVALENCE OF  
2 VEGETATION TYPICALLY ADAPTED FOR LIFE IN SATURATED SOIL  
3 CONDITIONS.

4 "ONE HUNDRED-YEAR FLOODPLAIN." THE AREA OF LAND ADJACENT TO  
5 A STREAM THAT IS SUBJECT TO INUNDATION DURING A STORM EVENT THAT  
6 HAS A RECURRENCE INTERVAL OF 100 YEARS.

7 "ORDINANCE." AN ORDINANCE ADOPTED BY A MUNICIPALITY FOR  
8 RIPARIAN BUFFERS.

9 "PERMIT." A FINAL PERMIT ISSUED BY A MUNICIPALITY FOR  
10 UNDERTAKING A LAND DEVELOPMENT ACTIVITY.

11 "PERSON." AN INDIVIDUAL, PARTNERSHIP, FIRM, ASSOCIATION,  
12 JOINT VENTURE, PUBLIC OR PRIVATE CORPORATION, TRUST, ESTATE,  
13 COMMISSION, BOARD, PUBLIC OR PRIVATE INSTITUTION, UTILITY,  
14 COOPERATIVE, CITY, COUNTY OR OTHER POLITICAL SUBDIVISION AND AN  
15 INTERSTATE BODY OR OTHER LEGAL ENTITY.

16 "POLLUTION." CONTAMINATION OF WATERS OF THIS COMMONWEALTH,  
17 INCLUDING, BUT NOT LIMITED TO, CONTAMINATION BY ALTERATION OF  
18 THE PHYSICAL, CHEMICAL OR BIOLOGICAL PROPERTIES OF THE WATERS,  
19 OR CHANGE IN TEMPERATURE, TASTE, COLOR OR ODOR THEREOF, OR THE  
20 DISCHARGE OF A LIQUID, GASEOUS, RADIOACTIVE, SOLID OR OTHER  
21 SUBSTANCE INTO THE WATERS THAT DOES, WILL OR IS LIKELY TO:

22 (1) DEGRADE WATER QUALITY;

23 (2) CREATE A NUISANCE;

24 (3) RENDER WATERS HARMFUL, DETRIMENTAL OR INJURIOUS TO:

25 (I) PUBLIC HEALTH, SAFETY OR WELFARE;

26 (II) DOMESTIC, MUNICIPAL, COMMERCIAL, INDUSTRIAL,  
27 AGRICULTURAL, RECREATIONAL OR OTHER LEGITIMATE BENEFICIAL  
28 USE; OR

29 (III) LIVESTOCK, A WILD ANIMAL, A BIRD, FISH OR  
30 OTHER AQUATIC LIFE; OR

1           (4) CAUSE OR CONTRIBUTE TO THE FAILURE OF A WATER BODY  
2           TO MEET APPLICABLE WATER QUALITY STANDARDS OR CRITERIA  
3           ENACTED BY THE COMMONWEALTH OR A RIVER BASIN COMMISSION OF  
4           WHICH THE COMMONWEALTH IS A VOTING MEMBER.

5           "RIPARIAN." BELONGING OR RELATED TO THE BANK OF A WATER  
6           BODY, RIVER, STREAM, WETLAND, LAKE, POND OR IMPOUNDMENT.

7           "RIPARIAN BUFFER AREA." AN AREA ADJACENT TO A WATER BODY.

8           "RIPARIAN BUFFER RESTORATION." RETURNING AN IMPAIRED  
9           RIPARIAN BUFFER TO A NATURAL RIPARIAN BUFFER DOMINATED BY NATIVE  
10          VEGETATION, INCLUDING TREES, SHRUBS OR HERBACEOUS PLANTS.

11          "SEWAGE FACILITY." AS DEFINED IN THE ACT OF JANUARY 24, 1966  
12          (1965 P.L.1535, NO.537), KNOWN AS THE PENNSYLVANIA SEWAGE  
13          FACILITIES ACT.

14          "STREAM." A PERENNIAL OR INTERMITTENT WATERCOURSE WITH A  
15          DEFINED CHANNEL, BED AND BANKS.

16          "STREAM BANK." SLOPING LAND THAT CONTAINS A STREAM CHANNEL  
17          AND THE NORMAL FLOW OF THE STREAM.

18          "STREAM CHANNEL." THE PART OF A WATERCOURSE EITHER NATURALLY  
19          OR ARTIFICIALLY CREATED THAT CONTAINS AN INTERMITTENT OR  
20          PERENNIAL BASE FLOW OF GROUNDWATER ORIGIN. A BASE FLOW OF  
21          GROUNDWATER ORIGIN MAY BE DISTINGUISHED BY ANY OF THE FOLLOWING  
22          PHYSICAL INDICATORS:

23                (1) HYDROPHYTIC VEGETATION, HYDRIC SOIL OR OTHER  
24                HYDROLOGIC INDICATORS IN THE AREA WHERE GROUNDWATER ENTERS  
25                THE STREAM CHANNEL IN THE VICINITY OF THE STREAM HEADWATERS,  
26                CHANNEL BED OR CHANNEL BANKS.

27                (2) FLOWING WATER NOT DIRECTLY RELATED TO A STORM EVENT.

28                (3) A HISTORICAL RECORD OF A LOCAL HIGH GROUNDWATER  
29                TABLE, SUCH AS A WELL OR STREAM GAUGE RECORD.

30          "VERNAL POND." A SMALL BODY OF STANDING WATER THAT FORMS IN

1 THE SPRING FROM MELTWATER AND IS OFTEN DRY BY MIDSUMMER OR MAY  
2 BE DRY BEFORE THE END OF THE SPRING GROWING SEASON.

3 "WATER BODY." A NATURAL OR MANMADE POND, LAKE, WETLAND,  
4 IMPOUNDMENT, STREAM OR WATERCOURSE. THE TERM DOES NOT INCLUDE A  
5 POND OR FACILITY DESIGNED AND CONSTRUCTED SOLELY TO CONTAIN  
6 STORM WATER.

7 "WATERCOURSE." A CHANNEL OF CONVEYANCE OF SURFACE WATER  
8 HAVING A DEFINED BED AND BANKS, SUCH AS A STREAM, RIVER, BROOK,  
9 OR CREEK, WHETHER NATURAL OR ARTIFICIAL, WITH PERENNIAL,  
10 INTERMITTENT OR SEASONAL FLOW. THE TERM DOES NOT INCLUDE A  
11 CHANNEL OR DITCH DESIGNED AND CONSTRUCTED SOLELY TO CARRY STORM  
12 WATER.

13 "WATERSHED." THE LAND AREA THAT DRAINS INTO A PARTICULAR  
14 STREAM, WATER BODY OR WATERCOURSE.

15 SECTION 402-A. PROTECTION OF EXISTING RIPARIAN BUFFERS.

16 (A) PROHIBITION.--EXCEPT AS PROVIDED BELOW, LAND DEVELOPMENT  
17 SHALL NOT BE PERMITTED WITHIN A RIPARIAN BUFFER AREA.

18 (B) WIDTH OF RIPARIAN BUFFER AREA.--EXCEPT AS REQUIRED UNDER  
19 SUBSECTION (C), THE WIDTH OF THE RIPARIAN BUFFER AREA PROTECTED  
20 UNDER SUBSECTION (A) SHALL BE A MINIMUM OF 100 FEET ON EACH SIDE  
21 OF THE STREAM AS MEASURED FROM THE TOP OF THE BANK.

22 (C) ADDITIONAL WIDTH REQUIREMENTS.--THE FOLLOWING APPLY:

23 (1) IF THE WATER BODY IS DESIGNATED AS HIGH QUALITY OR  
24 EXCEPTIONAL VALUE, THE MINIMUM WIDTH SHALL BE 300 FEET ON  
25 EACH SIDE OF THE WATER BODY AS MEASURED FROM THE TOP OF THE  
26 BANK.

27 (2) IN THE CASE OF THE PRESENCE OF A NONTIDAL WETLAND OR  
28 VERNAL POND WHOLLY OR PARTIALLY WITHIN THE RIPARIAN BUFFER  
29 AREA, AN ADDITIONAL 25 FEET SHALL BE ADDED TO THE WIDTHS IN  
30 SUBSECTION (A) FROM THE WETLAND OR VERNAL POND BOUNDARY.

1           (3) THE FOLLOWING ADDITIONAL DISTANCES SHALL BE ADDED TO  
2 THE MINIMUM WIDTH PROVIDED ABOVE BASED ON THE FOLLOWING  
3 FORMULA:

- 4           (I) TEN FEET IF SLOPE IS 10% - 15%;
- 5           (II) TWENTY FEET IF SLOPE 16% - 17%;
- 6           (III) THIRTY FEET IF SLOPE IS 18% - 20%;
- 7           (IV) FIFTY FEET IF SLOPE IS 21% - 23%;
- 8           (V) SIXTY FEET IF SLOPE IS 24% - 25%; OR
- 9           (VI) SEVENTY FEET IF SLOPE EXCEEDS 25%.

10           (4) IF THE WATER BODY HAS BEEN IDENTIFIED AS IMPAIRED IN  
11 ACCORDANCE WITH SECTION 303 OF THE FEDERAL WATER POLLUTION  
12 CONTROL ACT (114 STAT. 870, 33 U.S.C. § 1313) AND  
13 IMPLEMENTING STATE REGULATIONS, AN ADDITIONAL 50 FEET SHALL  
14 BE ADDED TO THE MINIMUM 100 FOOT WIDTH. IN THE CASE OF A  
15 WATER BODY THAT HAS BEEN IDENTIFIED AS IMPAIRED BY THE  
16 DEPARTMENT, THE DEVELOPER MAY CHOOSE TO EITHER EXTEND THE  
17 RIPARIAN BUFFER AREA AN ADDITIONAL 50 FEET FROM THE TOP OF  
18 THE BANK BEYOND THE OTHER REQUIREMENTS OR TO IMPLEMENT THE  
19 FOLLOWING IMPROVEMENTS IN THE RIPARIAN BUFFER AREA AND IN THE  
20 DEVELOPED AREA ADJACENT TO THE RIPARIAN BUFFER AREA:

21           (I) THE IMPROVEMENTS TO THE BUFFER AREA SHALL BE AS  
22 FOLLOWS:

23           (A) FIFTY PERCENT OR MORE OF TREES PLANTED IN  
24 THE RIPARIAN BUFFER AREA MUST BE OF TWO INCH CALIPER  
25 OR GREATER. TREE SPECIES COMPOSITION SHALL CONSIST OF  
26 A DIVERSE MIX OF NATIVE TREE SPECIES PLANTED IN THE  
27 PROPER HYDROLOGIC ZONE AS LISTED IN APPENDIX B OF THE  
28 PENNSYLVANIA STORMWATER BEST MANAGEMENT PRACTICE  
29 MANUAL.

30           (B) AN APPLICANT SHALL DEVELOP AND IMPLEMENT AN



1 OPERATION AND MAINTENANCE PLAN FOR THE RIPARIAN  
2 BUFFER TO BE APPROVED BY THE DEPARTMENT. THE  
3 OPERATION AND MAINTENANCE PLAN SHALL REQUIRE  
4 MAINTENANCE ACTIVITIES FOR A MINIMUM OF FIVE YEARS,  
5 INCLUDE MEASURES TO CONTROL INVASIVE SPECIES, DEER  
6 AND RODENT DAMAGE AND REQUIRE REPLACEMENT OF ALL  
7 DECEASED TREES FOR A MINIMUM OF THE FIRST THREE  
8 YEARS.

9 (C) AN APPLICANT SHALL PROVIDE PERMANENT  
10 PROTECTION OF A RIPARIAN BUFFER AREA BY PLACING A  
11 CONSERVATION EASEMENT ON THE PROPERTY.

12 (II) THE IMPROVEMENTS TO THE ADJACENT AREA SHALL BE  
13 AS FOLLOWS:

14 (A) ACHIEVE NO NET INCREASE IN PREDEVELOPMENT TO  
15 POSTDEVELOPMENT VOLUME, RATE, PEAK AND CONCENTRATION  
16 OF POLLUTANTS IN WATER QUALITY USING ALTERNATIVE SITE  
17 DESIGN, LOW IMPACT DEVELOPMENT PRINCIPLES SUCH AS  
18 LIMITING DISTURBANCE, INFILTRATION BEST MANAGEMENT  
19 PRACTICES AND OTHER ENVIRONMENTALLY SOUND STORM WATER  
20 BEST MANAGEMENT PRACTICES.

21 (B) THROUGH DEED RESTRICTION FOR THE LOTS SOLD  
22 AND AS A CONDITION OF A FINAL LAND DEVELOPMENT PLAN  
23 APPROVAL, BAN THE USE OF FERTILIZERS, PESTICIDES,  
24 HERBICIDES OR OTHER CHEMICALS ON LAWNS AND OTHER  
25 PORTIONS OF THE PROPERTY, EXCEPT THAT HERBICIDES MAY  
26 BE USED FOR INVASIVE SPECIES CONTROL IN RIPARIAN  
27 BUFFER AREAS IF PART OF AN OPERATION AND MAINTENANCE  
28 PLAN APPROVED BY THE DEPARTMENT.

29 (C) A DEVELOPMENT SHALL REPLACE THE TREES  
30 REMOVED DURING THE DEVELOPMENT PROCESS WITH THE

1 CALIPER OF REMOVED TREES MATCHED BY THE SUM OF THE  
2 CALIPER OF REPLACEMENT TREES.

3 (D) CONDITION OF OTHER APPROVALS AND PERMITS.--FULL  
4 COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE SHALL BE A  
5 CONDITION OF AN APPROVAL OR PERMIT BY A COMMONWEALTH AGENCY OR  
6 POLITICAL SUBDIVISION, INCLUDING, BUT NOT LIMITED TO, THE  
7 FOLLOWING:

8 (1) AN APPROVAL OF LAND DEVELOPMENT ACTIVITY;

9 (2) A BUILDING PERMIT;

10 (3) A ZONING HEARING BOARD APPROVAL;

11 (4) A CONDITIONAL USE APPROVAL;

12 (5) A SUBDIVISION APPROVAL;

13 (6) AN EROSION AND SEDIMENT CONTROL PERMIT;

14 (7) A GRADING PERMIT;

15 (8) AN ENCROACHMENT PERMIT;

16 (9) A NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
17 PERMIT; OR

18 (10) AN APPROVAL FOR A PLANNING MODULE FOR A SEWAGE  
19 FACILITY.

20 SECTION 403-A. RESTORATION OF IMPAIRED RIPARIAN BUFFERS.

21 (A) GENERAL RULE.--FOR A PROPERTY WITH AN IMPAIRED RIPARIAN  
22 BUFFER, RIPARIAN BUFFER RESTORATION SHALL BE A CONDITION OF A  
23 GOVERNMENTAL APPROVAL OR PERMIT, INCLUDING, BUT NOT LIMITED TO,  
24 THE FOLLOWING:

25 (1) AN APPROVAL OF LAND DEVELOPMENT ACTIVITY;

26 (2) A BUILDING PERMIT;

27 (3) A ZONING HEARING BOARD APPROVAL;

28 (4) A CONDITIONAL USE APPROVAL;

29 (5) A SUBDIVISION APPROVAL;

30 (6) AN EROSION AND SEDIMENT CONTROL PERMIT;

1           (7) A GRADING PERMIT;  
2           (8) AN ENCROACHMENT PERMIT;  
3           (9) A NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
4           PERMIT; OR

5           (10) AN APPROVAL FOR A PLANNING MODULE FOR A SEWAGE  
6           FACILITY.

7           (B) REQUIREMENT.--RIPARIAN BUFFER RESTORATION SHALL CONFORM  
8           TO THE WIDTH REQUIREMENTS SET FORTH IN SECTION 402-A.

9           (C) TREES AND PLANTS.--AS PART OF RIPARIAN BUFFER  
10          RESTORATION, 50% OR MORE OF THE TREES PLANTED IN THE RIPARIAN  
11          BUFFER AREA MUST BE OF TWO INCH CALIPER OR GREATER. PLANT  
12          SPECIES COMPOSITION SHALL CONSIST OF A DIVERSE MIX OF NATIVE  
13          SPECIES PLANTED IN THE PROPER HYDROLOGIC ZONE AS LISTED IN  
14          APPENDIX B OF THE PENNSYLVANIA STORMWATER BEST MANAGEMENT  
15          PRACTICE MANUAL.

16          SECTION 404-A. EXEMPTIONS.

17          (A) LAND DEVELOPMENT ACTIVITY.--THE FOLLOWING LAND USES  
18          SHALL BE EXEMPT FROM A PROHIBITION OR REQUIREMENT UNDER SECTION  
19          402-A OR 403-A:

20               (1) A LAND USE EXISTING AS OF THE EFFECTIVE DATE OF THIS  
21               ARTICLE, EXCEPT AS FOLLOWS:

22                       (I) WHEN THE EXISTING LAND USE OR A BUILDING OR  
23                       STRUCTURE INVOLVED IN THE USE IS ENLARGED, INCREASED OR  
24                       EXTENDED TO OCCUPY A GREATER AREA OF LAND;

25                       (II) WHEN THE EXISTING LAND USE OR A BUILDING OR  
26                       STRUCTURE INVOLVED IN THE USE IS MOVED, IN WHOLE OR IN  
27                       PART, TO ANOTHER PORTION OF THE PROPERTY; OR

28                       (III) WHEN THE EXISTING LAND USE CEASES FOR A PERIOD  
29                       OF MORE THAN ONE YEAR.

30               (2) AGRICULTURAL PRODUCTION THAT IS CONSISTENT WITH

1 FEDERAL AND STATE LAW, THE REGULATIONS PROMULGATED BY THE  
2 DEPARTMENT AND BEST MANAGEMENT PRACTICES ESTABLISHED BY THE  
3 STATE CONSERVATION COMMISSION AND THE DEPARTMENT OF  
4 AGRICULTURE.

5 (3) SELECTIVE LOGGING PROVIDED THAT THE LOGGING  
6 PRACTICES COMPLY WITH THE BEST MANAGEMENT PRACTICES SET FORTH  
7 BY THE BUREAU OF FORESTRY, PROVIDED THE LOGGING DOES NOT  
8 OCCUR WITHIN 100 FEET OF A STREAM.

9 (4) A CROSSING BY A TRANSPORTATION FACILITY OR UTILITY  
10 LINE. THE ISSUANCE OF A PERMIT FOR A USE OR ACTIVITY UNDER  
11 THIS PARAGRAPH IS CONTINGENT UPON THE COMPLETION OF:

12 (I) A FEASIBILITY STUDY THAT IDENTIFIES ALTERNATIVE  
13 ROUTING STRATEGIES THAT DO NOT IMPACT A RIPARIAN BUFFER  
14 AREA.

15 (II) A MITIGATION PLAN TO MINIMIZE IMPACTS ON THE  
16 RIPARIAN BUFFER AREA UTILIZING NATURAL CHANNEL DESIGN  
17 PRACTICES TO THE GREATEST DEGREE POSSIBLE.

18 (5) A TEMPORARY STREAM RESTORATION PROJECT, STREAM BANK  
19 RESTORATION PROJECT OR VEGETATION RESTORATION PROJECT TO  
20 RESTORE THE STREAM OR RIPARIAN ZONE TO AN ECOLOGICALLY  
21 HEALTHY STATE UTILIZING NATURAL CHANNEL DESIGN PRACTICES TO  
22 THE GREATEST DEGREE POSSIBLE.

23 (6) A STRUCTURE THAT, BY ITS NATURE, CANNOT BE LOCATED  
24 ANYWHERE EXCEPT WITHIN THE RIPARIAN BUFFER AREA. THE  
25 STRUCTURE SHALL INCLUDE A DOCK, BOAT LAUNCH, PUBLIC WATER  
26 SUPPLY INTAKE STRUCTURE, FACILITY FOR NATURAL WATER QUALITY  
27 TREATMENT AND PURIFICATION AND PUBLIC WASTEWATER TREATMENT  
28 PLANT SEWER LINE OR OUTFALL. THE STRUCTURES SHALL PROVIDE FOR  
29 THE MINIMUM PRACTICABLE DISTURBANCE OF THE RIPARIAN BUFFER  
30 AREA BY MINIMIZING SIZE AND LOCATION AND BY TAKING ADVANTAGE

1 OF COLLOCATION, IF POSSIBLE. A STORM WATER CONVEYANCE  
2 STRUCTURE OR OUTFALL THAT IS NOT INCLUDED IN THIS GROUP AND  
3 SHALL BE LOCATED OUTSIDE OF THE BUFFER AREA.

4 (7) A WILDLIFE AND FISHERIES MANAGEMENT ACTIVITY  
5 CONSISTENT WITH THE PURPOSES OF, BUT NOT LIMITED TO:

6 (I) THE ACT OF DECEMBER 5, 1972 (P.L.1277, NO.283),  
7 KNOWN AS THE PENNSYLVANIA SCENIC RIVERS ACT.

8 (II) THE ACT OF APRIL 28, 1978 (P.L.87, NO.41),  
9 KNOWN AS THE PENNSYLVANIA APPALACHIAN TRAIL ACT.

10 (III) THE ACT OF JUNE 23, 1982 (P.L.597, NO.170),  
11 KNOWN AS THE WILD RESOURCE CONSERVATION ACT.

12 (IV) 30 PA.C.S. (RELATING TO FISH).

13 (V) 34 PA.C.S. (RELATING TO GAME).

14 (8) CONSTRUCTION OF A SINGLE-FAMILY RESIDENCE, INCLUDING  
15 THE USUAL APPURTENANCES, PROVIDED THAT:

16 (I) BASED ON THE SIZE, SHAPE OR TOPOGRAPHY OF THE  
17 PROPERTY, AS OF THE EFFECTIVE DATE OF THIS SECTION, IT IS  
18 NOT REASONABLY POSSIBLE TO CONSTRUCT A SINGLE-FAMILY  
19 DWELLING WITHOUT ENCROACHING UPON THE RIPARIAN BUFFER  
20 AREA.

21 (II) THE LAND DEVELOPMENT CONFORMS WITH ALL OTHER  
22 ZONING AND LAND USE REGULATIONS.

23 (III) THE DWELLING IS NOT LOCATED IN WHOLE OR PART  
24 IN A 100-YEAR FLOODPLAIN.

25 (IV) A SEPTIC TANK, SEPTIC DRAIN FIELD OR OTHER  
26 SEWAGE MANAGEMENT FACILITY IS NOT LOCATED WITHIN THE  
27 RIPARIAN BUFFER AREA.

28 (V) TO THE MAXIMUM EXTENT PRACTICABLE THE DWELLING  
29 AVOIDS DISTURBANCE OF THE RIPARIAN BUFFER AREA.

30 (VI) AN ENCROACHMENT INTO THE RIPARIAN BUFFER AREA

1 IS OFFSET BY AN EQUAL AMOUNT OF WIDER RIPARIAN BUFFER  
2 WIDTH ELSEWHERE ON THE SAME PROPERTY SO THE AVERAGE WIDTH  
3 AND TOTAL AREA OF THE RIPARIAN BUFFER MEET THE  
4 REQUIREMENTS AS SET FORTH IN SECTION 402-A.

5 (VII) THE CONSTRUCTION, DWELLING OR PROPERTY WAS NOT  
6 ORIGINALLY PRESENTED FOR APPROVAL AND FOLLOWING THE  
7 EFFECTIVE DATE OF THIS ARTICLE, IS NOT PART OF A MULTILOT  
8 SUBDIVISION.

9 (9) OTHER USES PERMITTED BY THE DEPARTMENT UNDER THIS  
10 ACT AND THE ACT OF NOVEMBER 26, 1978 (P.L.1375, NO.325),  
11 KNOWN AS THE DAM SAFETY AND ENCROACHMENTS ACT.

12 (B) REQUIREMENTS.--THE EXEMPTED USES, STRUCTURES AND  
13 ACTIVITIES SHALL COMPLY WITH THE REQUIREMENTS OF 25 PA. CODE CH.  
14 102 (RELATING TO EROSION AND SEDIMENT CONTROL) AND THE  
15 APPLICABLE BEST MANAGEMENT PRACTICES AND MAY NOT DIMINISH WATER  
16 QUALITY EXCEPT AS PERMITTED BY THE DEPARTMENT.

17 (C) LOCATION.--THE EXEMPTED USES SHALL BE LOCATED AS FAR  
18 FROM THE STREAM BANK AS REASONABLY POSSIBLE.

19 SECTION 405-A. MUNICIPAL AUTHORITY.

20 (A) AUTHORITY.--A MUNICIPALITY MAY ENACT A LOCAL LAND USE  
21 ORDINANCE TO PROTECT, PRESERVE AND RESTORE RIPARIAN BUFFERS. A  
22 RIPARIAN BUFFER ORDINANCE ADOPTED BY A MUNICIPALITY SHALL  
23 CONFORM TO THE PROVISIONS OF THIS ARTICLE.

24 (B) EXISTING ORDINANCE.--A MUNICIPALITY THAT HAS ENACTED A  
25 RIPARIAN BUFFER ORDINANCE PRIOR TO THE EFFECTIVE DATE OF THIS  
26 SECTION MAY CONTINUE TO ENFORCE THE ORDINANCE UNTIL:

27 (1) THE MUNICIPALITY REVISES OR AMENDS THE ORDINANCE; OR

28 (2) THE MUNICIPALITY IS REQUIRED BY LAW TO UPDATE A  
29 MUNICIPAL ORDINANCE NECESSARY TO IMPLEMENT AN APPLICABLE  
30 WATERSHED STORM WATER MANAGEMENT PLAN UNDER THE ACT OF

1 OCTOBER 4, 1978 (P.L.864, NO.167), KNOWN AS THE STORM WATER  
2 MANAGEMENT ACT, OR FULFILL A LEGAL OBLIGATION REGARDING ITS  
3 MUNICIPAL SEPARATE STORM SEWER PROGRAM OR TOTAL MAXIMUM DAILY  
4 LOAD. AT THIS TIME, THE MUNICIPALITY SHALL AMEND THE  
5 ORDINANCE TO CONFORM TO THE PROVISIONS OF THIS ARTICLE.

6 (C) VARIANCES.--A MUNICIPALITY THAT ENACTS AN ORDINANCE  
7 UNDER THIS ARTICLE SHALL PROVIDE FOR THE CONSIDERATION OF  
8 VARIANCES. THE FOLLOWING APPLY:

9 (1) IN GRANTING A VARIANCE, THE MUNICIPALITY MAY ALLOW  
10 THE BUFFER WIDTH TO BE RELAXED AND THE PERMITTED BUFFER AREA  
11 TO BECOME NARROWER AT SOME POINTS AS LONG AS THE AVERAGE  
12 WIDTH AND TOTAL AREA MEET THE REQUIREMENTS UNDER SECTION 402-  
13 A. THE AVERAGING OF THE BUFFER AREA MAY BE USED TO ALLOW FOR  
14 THE PRESENCE OF AN EXISTING STRUCTURE OR TO RECOVER A LOST  
15 LOT, HOWEVER, THE BUFFER WIDTH MAY NOT BE NARROWED BY MORE  
16 THAN 25%, AND NEW LAND DEVELOPMENT ACTIVITY MAY NOT TAKE  
17 PLACE WITHIN THE 100-YEAR FLOODPLAIN.

18 (2) THE MUNICIPALITY MAY OFFER CREDIT FOR ADDITIONAL  
19 DENSITY ELSEWHERE ON THE SITE IN COMPENSATION FOR THE LOSS OF  
20 DEVELOPABLE LAND DUE TO THE REQUIREMENTS OF THIS ARTICLE. THE  
21 COMPENSATION MAY INCREASE THE TOTAL NUMBER OF DWELLING UNITS  
22 ON THE SITE UP TO THE AMOUNT PERMITTED UNDER THE BASE ZONING  
23 REQUIREMENTS.

24 (3) A MUNICIPALITY MAY GRANT A VARIANCE IF THE APPLICANT  
25 DEMONSTRATES ANY OF THE FOLLOWING:

26 (I) STRICT COMPLIANCE WOULD PREVENT ALL ECONOMIC USE  
27 OF THE PROPERTY OR CONSTITUTE A LEGALLY DEFINED TAKING.

28 (II) THE PROJECT WOULD SERVE A PUBLIC NEED AND NO  
29 FEASIBLE ALTERNATIVE IS AVAILABLE.

30 (III) THE PROJECT CONSISTS OF THE REPAIR AND

1 MAINTENANCE OF PUBLIC IMPROVEMENTS WHERE AVOIDANCE AND  
2 MINIMIZATION OF ADVERSE IMPACTS TO THE RIPARIAN BUFFER  
3 AREA HAVE BEEN ADDRESSED.

4 (4) THE FOLLOWING PROCEDURES APPLY:

5 (I) AN APPLICANT SHALL SUBMIT A WRITTEN REQUEST FOR  
6 A VARIANCE TO THE MUNICIPALITY. THE APPLICATION SHALL  
7 INCLUDE SPECIFIC REASONS JUSTIFYING THE VARIANCE AND ANY  
8 OTHER INFORMATION NECESSARY TO EVALUATE THE PROPOSED  
9 VARIANCE REQUEST.

10 (II) THE MUNICIPALITY MAY REQUIRE AN ALTERNATIVES  
11 ANALYSIS THAT CLEARLY DEMONSTRATES THAT NO OTHER FEASIBLE  
12 ALTERNATIVES EXIST AND THAT MINIMAL IMPACT WILL OCCUR AS  
13 A RESULT OF THE PROJECT OR DEVELOPMENT.

14 (III) IN GRANTING A REQUEST FOR A VARIANCE, THE  
15 MUNICIPALITY MAY REQUIRE ADDITIONAL SITE DESIGN,  
16 LANDSCAPE PLANTING, FENCING, THE PLACEMENT OF SIGNS AND  
17 THE ESTABLISHMENT OF WATER QUALITY BEST MANAGEMENT  
18 PRACTICES IN ORDER TO REDUCE IMPACTS ON WATER QUALITY,  
19 WETLANDS AND FLOODPLAINS.

20 (D) INSPECTIONS.--THE MUNICIPALITY MAY CONDUCT  
21 INVESTIGATIONS WHERE PROBABLE CAUSE EXISTS TO CARRY OUT ITS  
22 AUTHORITY AS PRESCRIBED IN THIS ARTICLE. FOR THIS PURPOSE, THE  
23 MUNICIPALITY MAY ENTER WHERE PROBABLE CAUSE EXISTS UPON PUBLIC  
24 OR PRIVATE PROPERTY TO INVESTIGATE AND INSPECT PROPERTY THAT  
25 CONTAINS RIPARIAN BUFFERS.

26 (E) ENFORCEMENT.--THE FOLLOWING APPLY:

27 (1) THE ZONING ENFORCEMENT OFFICER OR OTHER PERSON  
28 DESIGNATED BY THE GOVERNING BODY OF A MUNICIPALITY SHALL  
29 ENFORCE THE REQUIREMENTS OF THIS ARTICLE IN ACCORDANCE WITH  
30 THIS SECTION.



1           (2) IF, UPON INSPECTION OR INVESTIGATION, THE ZONING  
2 ENFORCEMENT OFFICER OR OTHER AUTHORIZED AGENT DETERMINES THAT  
3 AN ACTIVITY VIOLATES THE REQUIREMENTS OF THIS ARTICLE, THE  
4 ACTIVITY SHALL BE CONSIDERED TO BE IN VIOLATION OF THIS  
5 ARTICLE.

6           (3) UPON THE DETERMINATION OF A VIOLATION, THE  
7 MUNICIPALITY SHALL ISSUE A NOTICE OF VIOLATION TO THE PERMIT  
8 HOLDER, PROPERTY OWNER OR PARTY IN CHARGE OF THE ACTIVITY ON  
9 THE PROPERTY. THE NOTICE MUST BE IN WRITING AND REQUIRE THE  
10 IMMEDIATE STOPPAGE OF THE WORK ON THE PROPERTY. THE NOTICE  
11 SHALL INCLUDE:

12           (I) THE NAME AND ADDRESS OF THE OWNER.

13           (II) THE ADDRESS OR DESCRIPTION AND LOCATION OF THE  
14 PROPERTY WHERE THE VIOLATION OCCURRED.

15           (III) A DESCRIPTION OF THE VIOLATION.

16           (IV) A DESCRIPTION OF THE CORRECTIVE ACTIONS NEEDED  
17 TO RETURN TO COMPLIANCE AND A TIME SCHEDULE TO COMPLETE  
18 THE CORRECTIVE ACTIONS.

19           (4) WHERE AN EMERGENCY EXISTS, A WRITTEN NOTICE SHALL  
20 NOT BE REQUIRED TO STOP WORK. WRITTEN NOTICE OF THE STOP-WORK  
21 ORDER SHALL BE PRESENTED TO THE APPROPRIATE RESPONSIBLE  
22 PARTIES WITHIN THREE BUSINESS DAYS OF THE EMERGENCY ORDER.

23 SECTION 406-A. POWERS AND DUTIES OF DEPARTMENT.

24           (A) GENERAL RULE.--THE DEPARTMENT MAY GRANT A VARIANCE FOR A  
25 PROPERTY LOCATED IN ANY MUNICIPALITY THAT DOES NOT ENACT AN  
26 ORDINANCE PURSUANT TO THIS ARTICLE.

27           (B) BUFFER AREA.--IN GRANTING A VARIANCE, THE DEPARTMENT MAY  
28 ALLOW THE BUFFER WIDTH TO BE RELAXED AND THE PERMITTED BUFFER  
29 AREA TO BECOME NARROWER AT POINTS IF THE AVERAGE WIDTH AND TOTAL  
30 AREA MEET THE REQUIREMENTS SET FORTH IN SECTION 402-A. THE

1 AVERAGING OF THE BUFFER AREA MAY BE USED TO ALLOW FOR THE  
2 PRESENCE OF AN EXISTING STRUCTURE OR TO RECOVER A LOST LOT. THE  
3 BUFFER WIDTH MAY NOT BE NARROWED BY MORE THAN 25%, AND NEW LAND  
4 DEVELOPMENT ACTIVITY MAY NOT TAKE PLACE WITHIN THE 100-YEAR  
5 FLOODPLAIN.

6 (C) GRANT CRITERIA.--THE DEPARTMENT MAY GRANT A VARIANCE IF  
7 AN APPLICANT FOR THE VARIANCE DEMONSTRATES ANY OF THE FOLLOWING:

8 (1) STRICT COMPLIANCE WOULD PREVENT ALL ECONOMIC USE OF  
9 THE PROPERTY OR CONSTITUTE A LEGALLY DEFINED TAKING.

10 (2) THE PROJECT WOULD SERVE A PUBLIC NEED AND A FEASIBLE  
11 ALTERNATIVE IS NOT AVAILABLE.

12 (3) THE PROJECT CONSISTS OF THE REPAIR AND MAINTENANCE  
13 OF PUBLIC IMPROVEMENTS WHICH ADDRESSED AVOIDANCE AND  
14 MINIMIZATION OF ADVERSE IMPACTS TO THE RIPARIAN BUFFER AREA.

15 (D) APPLICATION REQUIREMENTS.--IN DETERMINING WHETHER TO  
16 GRANT A REQUEST FOR A VARIANCE, THE FOLLOWING APPLY:

17 (1) AN APPLICANT FOR A VARIANCE MUST SUBMIT A WRITTEN  
18 REQUEST FOR A VARIANCE TO THE DEPARTMENT. THE APPLICATION  
19 SHALL INCLUDE SPECIFIC REASONS JUSTIFYING THE VARIANCE AND  
20 ANY OTHER INFORMATION NECESSARY TO EVALUATE THE PROPOSED  
21 VARIANCE.

22 (2) THE DEPARTMENT MAY REQUIRE AN ANALYSIS CLEARLY  
23 DEMONSTRATING THAT FEASIBLE ALTERNATIVES DO NOT EXIST AND  
24 THAT MINIMAL IMPACT WILL OCCUR AS A RESULT OF THE PROJECT.

25 (3) THE DEPARTMENT MAY REQUIRE ADDITIONAL SITE DESIGN,  
26 LANDSCAPE PLANTING, FENCING, THE PLACEMENT OF SIGNS AND THE  
27 ESTABLISHMENT OF WATER QUALITY BEST MANAGEMENT PRACTICES IN  
28 ORDER TO REDUCE IMPACTS ON WATER QUALITY, WETLANDS AND  
29 FLOODPLAINS.

30 SECTION 407-A. PROPERTY INSPECTIONS.

1 (A) GENERAL RULE.--THE DEPARTMENT MAY ENTER UPON A PROPERTY  
2 AT A REASONABLE TIME FOR THE PURPOSE OF INSPECTING PROPERTY THAT  
3 CONTAINS RIPARIAN BUFFERS TO ENFORCE THE PROVISIONS OF THIS  
4 ARTICLE.

5 (B) ENTRY DENIAL PROHIBITED.--A PERSON MAY NOT DENY ENTRY TO  
6 ANY AGENT OF THE DEPARTMENT CONDUCTING AN INSPECTION UNDER  
7 SUBSECTION (A) OR OTHERWISE OBSTRUCT, HAMPER OR INTERFERE WITH  
8 THE AGENT WHILE CONDUCTING THE INSPECTION.

9 (C) VIOLATIONS.--IF THE DEPARTMENT DETERMINES THAT AN  
10 ACTIVITY VIOLATES THE REQUIREMENTS OF THIS ARTICLE AS A RESULT  
11 OF AN INVESTIGATION UNDER SUBSECTION (A), THE ACTIVITY SHALL BE  
12 IN VIOLATION OF THIS ARTICLE.

13 (D) VIOLATION NOTICE.--EXCEPT AS PROVIDED IN SUBSECTION (E),  
14 UPON DETERMINING A VIOLATION OCCURRED UNDER THIS ARTICLE, THE  
15 DEPARTMENT SHALL ISSUE A WRITTEN NOTICE OF THE VIOLATION TO THE  
16 PERMIT HOLDER, PROPERTY OWNER OR PARTY IN CHARGE OF THE ACTIVITY  
17 ON THE PROPERTY. THE NOTICE SHALL REQUIRE THE IMMEDIATE STOPPAGE  
18 OF ALL WORK ON THE PROPERTY. THE NOTICE SHALL INCLUDE ALL OF  
19 FOLLOWING:

20 (1) THE NAME AND ADDRESS OF THE OWNER.

21 (2) THE ADDRESS OR DESCRIPTION OF THE PROPERTY WHERE THE  
22 VIOLATION OCCURRED.

23 (3) A DESCRIPTION OF THE VIOLATION.

24 (4) A DESCRIPTION OF THE CORRECTIVE ACTIONS NEEDED TO  
25 RETURN TO COMPLIANCE UNDER THIS ARTICLE AND A TIME SCHEDULE  
26 TO COMPLETE THE CORRECTIVE ACTIONS.

27 (E) EMERGENCY ORDER.--WHEN AN EMERGENCY EXISTS AS DETERMINED  
28 BY THE DEPARTMENT, THE DEPARTMENT SHALL ISSUE A STOP-WORK ORDER  
29 AND MAY NOT PROVIDE THE WRITTEN NOTICE REQUIRED UNDER SUBSECTION  
30 (D). WRITTEN NOTICE AS REQUIRED UNDER SUBSECTION (D) SHALL NOT

1 BE ISSUED LATER THAN THREE BUSINESS DAYS OF THE ORDER.

2 SECTION 408-A. DELEGATION TO A MUNICIPALITY.

3 (A) AUTHORITY TO DELEGATE.--THE DEPARTMENT MAY DELEGATE TO A  
4 MUNICIPALITY ANY RESPONSIBILITIES UNDER THIS ARTICLE. THE  
5 MUNICIPALITY ACTING UNDER THE AGREEMENT SHALL HAVE THE SAME  
6 POWERS AND DUTIES OTHERWISE VESTED IN THE DEPARTMENT UNDER THIS  
7 ARTICLE.

8 (B) SUPERVISION.--THE DEPARTMENT SHALL MONITOR THE  
9 ACTIVITIES OF A MUNICIPALITY THAT ACTS UNDER AN AGREEMENT UNDER  
10 SUBSECTION (A).

11 (C) APPEALS.--NO LATER THAN 30 DAYS AFTER NOTICE OF AN  
12 ACTION BY A MUNICIPALITY UNDER AN AGREEMENT UNDER SUBSECTION  
13 (A), ANY PERSON AGGRIEVED BY THE ACTION MAY APPEAL TO THE  
14 ENVIRONMENTAL HEARING BOARD IN ACCORDANCE WITH THE ACT OF JULY  
15 13, 1988 (P.L.530, NO.94), KNOWN AS THE ENVIRONMENTAL HEARING  
16 BOARD ACT.

17 SECTION 409-A. MUNICIPAL ACTION APPEALS.

18 (A) GENERAL RULE.--NO LATER THAN TEN DAYS AFTER NOTICE OF AN  
19 ACTION BY A MUNICIPALITY IMPOSED UNDER THIS ARTICLE, ANY PERSON  
20 AGGRIEVED BY THE ACTION MAY APPEAL IN WRITING TO THE ZONING  
21 HEARING BOARD. NO LATER THAN 45 DAYS AFTER THE ZONING HEARING  
22 BOARD RECEIVES THE APPEAL, THE PERSON SHALL RECEIVE A HEARING  
23 BEFORE THE ZONING HEARING BOARD.

24 (B) JUDICIAL REVIEW.--ANY PERSON AGGRIEVED BY AN ACTION OF A  
25 MUNICIPALITY IMPOSED UNDER THIS ARTICLE SHALL HAVE THE RIGHT TO  
26 APPEAL DE NOVO TO THE COURT OF COMMON PLEAS OF THE COUNTY WHERE  
27 THE MUNICIPALITY IS LOCATED.

28 SECTION 410-A. PENALTIES, CIVIL ACTION AND LIABILITY FOR COSTS.

29 (A) PENALTIES.--THE PENALTIES THAT MAY BE ASSESSED FOR A  
30 VIOLATION OF THIS ARTICLE MAY INCLUDE:

1           (1) IF, THROUGH INSPECTION, IT IS DETERMINED THAT THE  
2 CORRECTIVE ACTIONS SPECIFIED IN A STOP-WORK ORDER HAVE NOT  
3 BEEN COMPLETED WITHIN THE SPECIFIED TIME, THE RESPONSIBLE  
4 PARTY SHALL BE DEEMED IN VIOLATION, AND IN ADDITION TO OTHER  
5 PENALTIES, A PERFORMANCE BOND SHALL BE SUBJECT TO FORFEITURE.

6           (2) A PERMIT ISSUED BY THE DEPARTMENT OR A MUNICIPALITY  
7 MAY BE SUSPENDED, REVOKED OR MODIFIED IF, THROUGH INSPECTION,  
8 IT IS DETERMINED THE CORRECTIVE ACTIONS SPECIFIED IN A STOP-  
9 WORK ORDER HAVE NOT BEEN COMPLETED WITHIN THE SPECIFIED TIME.

10           (3) A PERSON WHO VIOLATES A PROVISION OF THIS ARTICLE,  
11 REGULATION OR ORDINANCE AUTHORIZED UNDER THIS ARTICLE, PERMIT  
12 CONDITION OR STOP-WORK ORDER AND THE OWNER OF THE LAND WHERE  
13 THE VIOLATION OCCURS SHALL BE LIABLE FOR A CIVIL PENALTY OF  
14 NOT LESS THAN \$1,000 AND NOT MORE THAN \$2,000 PER VIOLATION  
15 PER DAY. EACH DAY THE VIOLATION CONTINUES SHALL CONSTITUTE A  
16 SEPARATE OFFENSE.

17           (4) THE FOLLOWING APPLY:

18           (I) IF A PERSON VIOLATES A PROVISION OF THIS  
19 ARTICLE, REGULATION OR ORDINANCE AUTHORIZED BY THIS  
20 ARTICLE, PERMITTING CONDITIONS OR STOP-WORK ORDER, THE  
21 COMMONWEALTH OR MUNICIPALITY MAY ISSUE A CITATION TO THE  
22 OWNER OF THE LAND WHERE THE VIOLATION OCCURS OR OTHER  
23 RESPONSIBLE PERSON, REQUIRING THE PERSON TO APPEAR IN THE  
24 APPROPRIATE COURT TO ANSWER CHARGES FOR THE VIOLATION.

25           (II) UPON CONVICTION, THE OWNER OF THE LAND WHERE  
26 THE VIOLATION OCCURS OR OTHER RESPONSIBLE PERSON SHALL BE  
27 LIABLE FOR A CRIMINAL PENALTY IN THE FORM OF IMPRISONMENT  
28 FOR NOT MORE THAN 90 DAYS OR A FINE OF NOT LESS THAN  
29 \$1,000 AND NOT MORE THAN \$2,000 PER VIOLATION PER DAY, OR  
30 BOTH. EVERY DAY THAT THE VIOLATION CONTINUES WILL BE

1           CONSIDERED A SEPARATE OFFENSE.

2           (B) CIVIL ACTION FOR RECOVERY OF DAMAGES.--THE FOLLOWING  
3 APPLY:

4           (1) IN ADDITION TO ANY OTHER SANCTION AUTHORIZED UNDER  
5 THIS ARTICLE, A PERSON WHO FAILS TO COMPLY WITH THE  
6 PROVISIONS OF THIS ARTICLE OR A REGULATION OR ORDINANCE  
7 AUTHORIZED BY THIS ARTICLE SHALL BE LIABLE TO THE  
8 COMMONWEALTH OR MUNICIPALITY IN A CIVIL ACTION FOR DAMAGES  
9 EQUAL TO ONE AND ONE-HALF TIMES THE COST OF RESTORING THE  
10 BUFFER.

11           (2) THE DAMAGES RECOVERED UNDER THIS SUBSECTION SHALL BE  
12 USED FOR THE RESTORATION OF BUFFER SYSTEMS OR FOR THE  
13 ADMINISTRATION OF PROGRAMS FOR THE PROTECTION AND RESTORATION  
14 OF WATER QUALITY, STREAMS, WETLANDS AND FLOODPLAINS.

15           (C) LIABILITY FOR COSTS.--A PERSON WHO VIOLATES A PROVISION  
16 OF THIS ARTICLE OR OF A REGULATION OR ORDINANCE AUTHORIZED BY  
17 THIS ARTICLE MAY BE LIABLE FOR A COST OR EXPENSE INCURRED BY THE  
18 COMMONWEALTH OR A MUNICIPALITY AS A RESULT.

19 SECTION 411-A. PREEMPTION AND LIMITATION.

20           THE PROVISIONS OF 58 PA.C.S. (RELATING TO OIL AND GAS) SHALL  
21 NOT BE DEEMED TO BE PREEMPTED OR LIMITED BY THE PROVISIONS OF  
22 THIS ARTICLE.

23           SECTION 3. IF A PROVISION OF THIS ACT OR A REGULATION OR  
24 ORDINANCE AUTHORIZED BY THIS ACT IS DECLARED INVALID OR  
25 UNCONSTITUTIONAL BY A COURT OF COMPETENT JURISDICTION, THE  
26 VALIDITY OF THE REMAINDER SHALL NOT BE AFFECTED THEREBY.

27           ~~Section 2 4. Any and all regulations are abrogated to the~~ <--  
28 ~~extent of any inconsistency with this act.~~ THE REGULATION OF THE <--  
29 DEPARTMENT OF ENVIRONMENTAL PROTECTION IN 25 PA.CODE § 102.14 IS  
30 ABROGATED.

1 Section 3 5. This act shall take effect in 60 days.

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