
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 560 Session of
2015

INTRODUCED BY RAFFERTY, TEPLITZ, ALLOWAY, HUGHES, COSTA, SCHWANK
AND LEACH, FEBRUARY 25, 2015

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY,
FEBRUARY 25, 2015

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.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the Riparian
8 Buffer Protection Act.

9 Section 2. Definitions.

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

13 "Department." The Department of Environmental Protection of
14 the Commonwealth.

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

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

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

28 "Floodplain." A land area that:

29 (1) is susceptible to flooding; and

30 (2) has at least a 1% probability of flooding occurring

1 in a calendar year based on the basin being fully developed
2 as shown on a current land use plan. For an area without a
3 mapped 100-year floodplain, the 100-year floodplain is
4 considered to extend for a horizontal distance of 50 feet
5 from the top of the stream bank.

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

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

13 "Impervious cover." A surface that does not readily absorb
14 precipitation and surface water. The term includes, but is not
15 limited to:

- 16 (1) a building;
- 17 (2) a parking area;
- 18 (3) a driveway;
- 19 (4) a road;
- 20 (5) a sidewalk;
- 21 (6) a swimming pool;
- 22 (7) an area in concrete, asphalt, packed stone or an
23 equivalent surface, including a surface with a coefficient of
24 runoff of 0.7 or higher; and
- 25 (8) disturbed soil with a bulk density of 95% of the
26 value at which plant growth limitation is expected for
27 average plant material.

28 "Land development." A land change, including, but not
29 limited to, clearing, grubbing, stripping, removal of
30 vegetation, dredging, grading, excavating, transporting and

1 filling of land, construction, subdivision, paving or other
2 increase in impervious cover.

3 "Land development activity." An act that comprises,
4 facilitates or results in land development.

5 "Municipality." A political subdivision of this
6 Commonwealth, including a county, city, borough, township,
7 incorporated town or home rule municipality.

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

11 (1) maintaining the integrity of an adjacent stream
12 channel or shoreline or helping stabilize a stream bank,
13 including reducing erosion;

14 (2) reducing the impact of an upland source of pollution
15 by trapping, filtering or converting sediments, nutrients or
16 other contaminants;

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

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

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

23 (6) reducing the impact of climate change by absorbing
24 greenhouse gases.

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

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 3. 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 (62 Stat. 1155, 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 act shall be a condition
5 of an approval or permit by a Commonwealth agency or political
6 subdivision, including, but not limited to, the following:

7 (1) an approval of land development activity;

8 (2) a building permit;

9 (3) a zoning hearing board approval;

10 (4) a conditional use approval;

11 (5) a subdivision approval;

12 (6) an erosion and sediment control permit;

13 (7) a grading permit;

14 (8) an encroachment permit;

15 (9) a National Pollutant Discharge Elimination System
16 permit; or

17 (10) an approval for a planning module for a sewage
18 facility.

19 Section 4. Restoration of impaired riparian buffers.

20 (a) General rule.--For a property with an impaired riparian
21 buffer, riparian buffer restoration shall be a condition of a
22 governmental approval or permit, including, but not limited to,
23 the following:

24 (1) an approval of land development activity;

25 (2) a building permit;

26 (3) a zoning hearing board approval;

27 (4) a conditional use approval;

28 (5) a subdivision approval;

29 (6) an erosion and sediment control permit;

30 (7) a grading permit;

- 1 (8) an encroachment permit;
- 2 (9) a National Pollutant Discharge Elimination System
- 3 permit; or
- 4 (10) an approval for a planning module for a sewage
- 5 facility.

6 (b) Requirement.--Riparian buffer restoration shall conform

7 to the width requirements set forth in section 3.

8 (c) Trees and plants.--As part of riparian buffer

9 restoration, 50% or more of the trees planted in the riparian

10 buffer area must be of two inch caliper or greater. Plant

11 species composition shall consist of a diverse mix of native

12 species planted in the proper hydrologic zone as listed in

13 Appendix B of the Pennsylvania Stormwater Best Management

14 Practice Manual.

15 Section 5. Exemptions.

16 (a) Land development activity.--The following land uses

17 shall be exempt from a prohibition or requirement under section

18 3 or 4:

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

20 act, except as follows:

21 (i) when the existing land use or a building or

22 structure involved in the use is enlarged, increased or

23 extended to occupy a greater area of land;

24 (ii) when the existing land use or a building or

25 structure involved in the use is moved, in whole or in

26 part, to another portion of the property; or

27 (iii) when the existing land use ceases for a period

28 of more than one year.

29 (2) Agricultural production that is consistent with

30 Federal and State law, the regulations promulgated by the

1 department and best management practices established by the
2 State Conservation Commission and the Department of
3 Agriculture.

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

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

11 (i) A feasibility study that identifies alternative
12 routing strategies that do not impact a riparian buffer
13 area.

14 (ii) A mitigation plan to minimize impacts on the
15 riparian buffer area utilizing natural channel design
16 practices to the greatest degree possible.

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

22 (6) A structure that, by its nature, cannot be located
23 anywhere except within the riparian buffer area. The
24 structure shall include a dock, boat launch, public water
25 supply collection, treatment, storage and distribution
26 facility, facility for natural water quality treatment and
27 purification and sewage collection, conveyance, treatment and
28 disposal facility. The structures shall provide for the
29 minimum practicable disturbance of the riparian buffer area
30 by minimizing size and location and by taking advantage of

1 collocation, if possible. A storm water conveyance structure
2 or outfall that is not included in this group and shall be
3 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 3.

5 (vii) The construction, dwelling or property was not
6 originally presented for approval and following the
7 effective date of this act, is not part of a multi-lot
8 subdivision.

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

13 (b) Requirements.--The exempted uses, structures and
14 activities shall comply with the requirements of 25 Pa. Code Ch.
15 102 (relating to erosion and sediment control) and the
16 applicable best management practices and may not diminish water
17 quality except as permitted by the department.

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

20 Section 6. Municipal authority.

21 (a) Authority.--A municipality may enact a local land use
22 ordinance to protect, preserve and restore riparian buffers. A
23 riparian buffer ordinance adopted by a municipality shall
24 conform to the provisions of this act.

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

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

29 (2) the municipality is required by law to update a
30 municipal ordinance necessary to implement an applicable

1 watershed storm water management plan under the act of
2 October 4, 1978 (P.L.864, No.167), known as the Storm Water
3 Management Act, or fulfill a legal obligation regarding its
4 Municipal Separate Storm Sewer Program or total maximum daily
5 load. At this time, the municipality shall amend the
6 ordinance to conform to the provisions of this act.

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

10 (1) In granting a variance, the municipality may allow
11 the buffer width to be relaxed and the permitted buffer area
12 to become narrower at some points as long as the average
13 width and total area meet the requirements under section 3.
14 The averaging of the buffer area may be used to allow for the
15 presence of an existing structure or to recover a lost lot,
16 however, the buffer width may not be narrowed by more than
17 25%, and new land development activity may not take place
18 within the 100-year floodplain.

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

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

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

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

1 (iii) The project consists of the repair and
2 maintenance of public improvements where avoidance and
3 minimization of adverse impacts to the riparian buffer
4 area have been addressed.

5 (4) The following procedures apply:

6 (i) An applicant shall submit a written request for
7 a variance to the municipality. The application shall
8 include specific reasons justifying the variance and any
9 other information necessary to evaluate the proposed
10 variance request.

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

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

21 (d) Inspections.--The municipality may conduct
22 investigations where probable cause exists to carry out its
23 authority as prescribed in this act. For this purpose, the
24 municipality may enter where probable cause exists upon public
25 or private property to investigate and inspect property that
26 contains riparian buffers.

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

28 (1) The zoning enforcement officer or other person
29 designated by the governing body of a municipality shall
30 enforce the requirements of this act in accordance with this

1 section.

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

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 7. 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 act.

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 3. The averaging

1 of the buffer area may be used to allow for the presence of an
2 existing structure or to recover a lost lot. The buffer width
3 may not be narrowed by more than 25%, and new land development
4 activity may not take place within the 100-year floodplain.

5 (c) Grant criteria.--The department may grant a variance if
6 an applicant for the variance demonstrates any of the following:

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

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

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

14 (d) Application requirements.--In determining whether to
15 grant a request for a variance, the following apply:

16 (1) An applicant for a variance must submit a written
17 request for a variance to the department. The application
18 shall include specific reasons justifying the variance and
19 any other information necessary to evaluate the proposed
20 variance.

21 (2) The department may require an analysis clearly
22 demonstrating that feasible alternatives do not exist and
23 that minimal impact will occur as a result of the project.

24 (3) The department may require additional site design,
25 landscape planting, fencing, the placement of signs and the
26 establishment of water quality best management practices in
27 order to reduce impacts on water quality, wetlands and
28 floodplains.

29 Section 8. Property inspections.

30 (a) General rule.--The department may enter upon a property

1 at a reasonable time for the purpose of inspecting property that
2 contains riparian buffers to enforce the provisions of this act.

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

7 (c) Violations.--If the department determines that an
8 activity violates the requirements of this act as a result of an
9 investigation under subsection (a), the activity shall be in
10 violation of this act.

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

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

19 (2) The address or description of the property where the
20 violation occurred.

21 (3) A description of the violation.

22 (4) A description of the corrective actions needed to
23 return to compliance under this act and a time schedule to
24 complete the corrective actions.

25 (e) Emergency order.--When an emergency exists as determined
26 by the department, the department shall issue a stop-work order
27 and may not provide the written notice required under subsection
28 (d). Written notice as required under subsection (d) shall not
29 be issued later than three business days of the order.

30 Section 9. Delegation to a municipality.

1 (a) Authority to delegate.--The department may delegate to a
2 municipality any responsibilities under this act. The
3 municipality acting under the agreement shall have the same
4 powers and duties otherwise vested in the department under this
5 act.

6 (b) Supervision.--The department shall monitor the
7 activities of a municipality that acts under an agreement under
8 subsection (a).

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

15 Section 10. Municipal action appeals.

16 (a) General rule.--No later than 10 days after notice of an
17 action by a municipality imposed under this act, any person
18 aggrieved by the action may appeal in writing to the zoning
19 hearing board. No later than 45 days after the zoning hearing
20 board receives the appeal, the person shall receive a hearing
21 before the zoning hearing board.

22 (b) Judicial review.--Any person aggrieved by an action of a
23 municipality imposed under this act shall have the right to
24 appeal de novo to the court of common pleas of the county where
25 the municipality is located.

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

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

29 (1) If, through inspection, it is determined that the
30 corrective actions specified in a stop-work order have not

1 been completed within the specified time, the responsible
2 party shall be deemed in violation, and in addition to other
3 penalties, a performance bond shall be subject to forfeiture.

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

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

15 (4) The following apply:

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

23 (ii) Upon conviction, the owner of the land where
24 the violation occurs or other responsible person shall be
25 liable for a criminal penalty in the form of imprisonment
26 for not more than 90 days or a fine of not less than
27 \$1,000 and not more than \$2,000 per violation per day, or
28 both. Every day that the violation continues will be
29 considered a separate offense.

30 (b) Civil action for recovery of damages.--The following

1 apply:

2 (1) In addition to any other sanction authorized under
3 this act, a person who fails to comply with the provisions of
4 this act or a regulation or ordinance authorized by this act
5 shall be liable to the Commonwealth or municipality in a
6 civil action for damages equal to one and one-half times the
7 cost of restoring the buffer.

8 (2) The damages recovered under this subsection shall be
9 used for the restoration of buffer systems or for the
10 administration of programs for the protection and restoration
11 of water quality, streams, wetlands and floodplains.

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

16 Section 12. Preemption and limitation.

17 The provisions of 58 Pa.C.S. (relating to oil and gas) shall
18 not be deemed to be preempted or limited by the provisions of
19 this act.

20 Section 13. Severability.

21 If a provision of this act or a regulation or ordinance
22 authorized by this act is declared invalid or unconstitutional
23 by a court of competent jurisdiction, the validity of the
24 remainder shall not be affected by the invalidity or
25 unconstitutionality.

26 Section 14. Effective date.

27 This act shall take effect in 60 days.