

## ACTION PLAN TO IMPLEMENT RECOMMENDATIONS

### ADVOCACY & POLICY CAMPAIGNS

## Legislate Minimum Riparian Buffer Protection Regulations

*Legislate minimum riparian buffer protection regulations for municipalities (ideally at least 100 feet for all streams and 300 feet for high-quality and exceptional-value streams) where they do not already exist.*

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### Introduction

Throughout the initial stakeholder interviews conducted by DVRPC in the formation of the Municipal Technical Assistance Advisory Panel (MTAAP), legislating riparian buffer protection was a frequently cited recommendation as an important strategy for protecting water quality. Current riparian buffer legislation at the state level is insufficient for optimal water protection, in both Pennsylvania and New Jersey. Lobbying for more stringent riparian buffer requirements will serve to improve water quality by ensuring more comprehensive protection for all streams and tributaries in the Delaware River Watershed.

### Background

Between 2010 and 2014, the prevailing legislation with regard to riparian buffers in Pennsylvania was outlined in the Pennsylvania Code 102.14 general riparian buffer requirements. Under this code, riparian buffer zones were required within 150 feet of high-quality and exceptional-value streams.

This policy held until October 2014, when Act 162 was passed as an amendment to the Pennsylvania Clean Streams Law. This amendment gave developers the option to replace riparian buffers with any other best management practices (BMPs) that were considered “substantially equivalent.”

While seemingly benign at first glance, this legislation is of concern because it no longer explicitly requires the conservation of riparian buffers, which are widely regarded as the best method for protecting streams. Instead, it permits (and perhaps encourages) construction within riparian buffer zones, which may have negative impacts on stream quality, particularly as a result of stormwater runoff, bank erosion, and destruction of wildlife habitats. Unlike many other BMPs, riparian buffers not only reduce pollutant loads, but also serve to reduce thermal impacts on water bodies by offering shade, preserve wildlife habitats, slow

### Stroud Water Research Center

The Stroud Water Research Center, a member of the William Penn Foundation's Delaware River Watershed Initiative, is a venerable research organization that is focused on freshwater science. Its scientists conduct long-term research projects in the field. One such research initiative is evaluating forested riparian buffers and "zone" buffers. These field experiments hope to inform the Stroud Water Research Center's policy recommendations regarding minimum buffer width and vegetation. Results of a 15-year study support that a forested streamside buffer better protects freshwater quality, suggesting that forested stream buffers of various widths produce several benefits in addition to filtering sediment and reducing stream erosion.

floodwaters, stabilize streambanks and prevent erosion, and recharge groundwater.

On the other hand, while New Jersey legislation with regard to buffer zones is much more stringent, some regulations remain insufficient for optimal stream protection. Current regulations were defined in November 2007 under the Flood Area Hazard Regulations, requiring riparian buffers within (a) 300 feet of Category One waters, (b) 150 feet of other

### Existing Riparian Buffer Legislation, Delaware River Valley

Pennsylvania Code 102.14:

"Persons proposing or conducting earth disturbance activities when the activity requires a permit under this chapter may not conduct earth disturbance activities within 150 feet of a perennial or intermittent river, stream, or creek, or lake, pond or reservoir when the project site is located in an exceptional value or high quality watershed." — Pennsylvania Code 102.14, *General Riparian Buffer Requirements*

Act 162 (Clean Streams Law amendment):

"Act 162 allows applicants with projects within 150 feet of special protection waters flexibility in dealing with the mandatory riparian buffer requirements given... the person may use or install either: 1) a riparian buffer or riparian forest buffer; or 2) another option or options among best management practices, design standards and alternatives that collectively are substantially equivalent to a riparian buffer or riparian forest buffer in effectiveness to minimize the potential for accelerated erosion and sedimentation and to protect, maintain, reclaim and restore water quality; and for existing and designated uses of a perennial or intermittent river, stream, creek, lake pond or reservoir" — Act 162, amendment to Pennsylvania Clean Streams Law

New Jersey Flood Area Hazard Regulations:

"The regulations establish the following new regulated riparian zones: 300 feet on both sides of Category One water and upstream tributaries within the same HUC-14 watershed; (Hydrologic Unit Codes for 970 sub-watersheds), 150 feet on both sides of an upstream tributary to a trout production water not in the HUC-14 watershed; a trout maintenance water body and all upstream tributaries within one mile; any segment of water flowing through an area containing documented habitat for a threatened or endangered species of plant or animal; any segment of water flowing through an area containing acid producing soils, 50 feet along both sides of all other waters." — New Jersey Flood Area Hazard Regulations, *Riparian Zones*

sensitive water bodies (including upstream tributaries, trout maintenance water bodies, any water body flowing through the habitat of a threatened or endangered species, and any areas with acid-producing soils), and (c) 50 feet of all other water bodies.

MTAAP members recommend that state-level regulations be legislated, requiring minimum riparian buffers of at least 300 feet for all high-quality and exceptional-value streams, and 100 feet for all streams where they do not already exist.

### Potential Actors

Advocacy efforts can be coordinated on a state-by-state basis and are best led by state-wide lobbying organizations like PennEnvironment or Environment NJ and supported by expert organizations like Pennsylvania Environmental Council or Stroud Water Research Center in Pennsylvania, and Association of New Jersey Environmental Commissions in New Jersey. Advocacy efforts for new riparian buffer minimums gain strength and nuance when stakeholders from multiple sectors are engaged. Possible partners include nonprofits, conservancies, land trusts, environmental law firms, academic institutions, private developers, and citizens.

Demonstrating support from municipal governments, environmental advisory committees, and water authorities through measures like passing resolutions in favor of riparian buffer regulations at a state level will be instrumental in pushing forward new legislation. Coordinated actions directed at state legislators can help standardize a basic level of protection for streams and reduce the amount of variation in local adoption of riparian buffer ordinances.

### Anticipated Outcomes

The primary outcome of a policy campaign that reinstates or introduces 300-foot buffers is the maintenance and slow increase in vegetated stream buffers as evidenced by land cover data. A long-term outcome would be improved surface water quality as evidenced by water quality data. Secondary benefits would be the growing public awareness of water quality and the collaboration between nonprofits and advocacy groups gained by creating and executing a successful advocacy campaign.

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