Act 162 Guidance
Riparian Buffers Equivalency & Offsetting

WRAC Meeting
November 29, 2018

Tom Wolf, Governor
Patrick McDonnell, Secretary
§ 102.14 of DEP’s regulations require a 150-foot setback from High Quality/Exceptional Value (HQ/EV) waters for earth disturbance activities (unless exceptions apply).

- If HQ/EV waters are attaining designated use, protect existing riparian buffer
- If HQ/EV waters are not attaining designated use, protect/convert/establish a riparian forest buffer
Act 162, signed into law on October 22, 2014, amended the Clean Streams Law to allow, in lieu of buffers required by § 102.14:

- Other BMPs or alternatives that are substantially equivalent to a riparian buffer or riparian forest buffer in effectiveness

- Offsets (replacement buffers) in the same drainage list and as close as feasible to the site
Three interim final guidance documents were published to address DEP’s interpretation of Act 162:

- Implementation Plan (310-2135-001)
- Riparian Buffer or Riparian Forest Buffer Equivalency Demonstration (310-2135-002)
- Riparian Buffer or Riparian Forest Buffer Offsetting (310-2135-003)
• 60-day public comment periods provided
• 387 comments from over 1,100 individuals and organizations
• Biggest issue:
  – Waivers – As Act 162 is drafted, the rules of statutory construction provide that availability of waivers is eliminated
DEP plans to finalize Act 162 guidance in near future

Final guidance will:
- include more visuals;
- increase clarity on when exceptions, allowed, and allowable activities apply; and
- provide increased flexibility to meet responsibilities under § 102.14 and Act 162
Questions

Sean Furjanic, P.E.
Bureau of Clean Water

sefurjanic@pa.gov