



**pennsylvania**  
DEPARTMENT OF ENVIRONMENTAL  
PROTECTION



Bureau of Clean Water

# **Act 162 Guidance Riparian Buffers Equivalency & Offsetting**

## **WRAC Meeting**

November 29, 2018

Tom Wolf, Governor

Patrick McDonnell, Secretary

# Background

- § 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

# Background

- 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

# Interim Final Guidance

- 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)

# Interim Final Guidance

- 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

# Final Guidance

- 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](mailto:sefurjanic@pa.gov)