

# PA Campaign for Clean Water

**News**

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## *A Busy Year* By Bob Wendelgass, chair, PA Campaign for Clean Water Action

**2007** has been a very busy year for the Campaign for Clean Water as we mobilized our members' voices to protect and restore Pennsylvania's waterways.

We were presented with a number of new opportunities to strengthen protection of our rivers and streams early in the year when DEP announced plans to revise the regulations in Chapters 102 and 105. These regulations deal with stormwater management and erosion and sediment controls (Chapter 102) and with wetlands and stream encroachments (Chapter 105).

The Campaign has an ambitious agenda of changes to both Chapters that would strengthen protection of our state's waterways. The centerpiece of our proposals for Chapter 102 is a requirement of minimum 100 foot **buffer zones along all streams and rivers**. This is perhaps the single most important initiative DEP could enact to protect the health of our waterways and of our communities. Maya van Rossum's article explains more about our proposal and its rationale.

The Campaign's Stormwater Workgroup is also working to ensure that strong **stormwater regulations** are written into Chapter 102. Regulations that reflect provisions in the recently adopted Stormwater BMP Manual could change the way in which land is developed in our state. Matt Royer's article gives more details.

On Chapter 105, the Campaign's major focus is on strengthening protection for our state's **headwater streams**. As Robin Mann's article explains, DEP's current regulations waive permit requirements in Chapter 105 in watersheds of less than 100 acres. We are campaigning to eliminate this waiver, and instead to enact even stronger protection for first and second order streams.

The Campaign's long-standing work to improve protection of our Exceptional Value and High Quality streams continued in 2007 as well. We published a well-received guide to the impact of EV and HQ classification early in the year which can be downloaded from our website ([www.pacleanwatercampaign.org](http://www.pacleanwatercampaign.org)). And as Alisha Deen-Steindler's story recounts, we are pressing DEP to improve **monitoring of EV and HQ streams** to ensure that their water quality is actually protected.

And finally, the Campaign continues to coordinate efforts in Pennsylvania to **support the federal Clean Water Restoration Act**. This Act would restore Clean Water Act protection to all streams and wetlands, reversing recent initiatives by EPA and the Army Corps of Engineers to remove protection from small streams and so-called "isolated" wetlands. A number of Pennsylvania's Congresspeople have cosponsored this vital bill; details may be found later in this Newsletter.

None of this work would happen without the leadership of the Campaign's Steering Committee and the people who chair and serve on our work groups. Thanks to all of them for their dedication to our state's water resources. And thanks to all the members of the Campaign, whose support and unity helps us keep winning new victories to conserve our commonwealth's water heritage!

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# Buffers 100 – A Buffer for Every Stream

By Maya van Rossum, the Delaware Riverkeeper

A stream is not just the water that flows through a channel. A stream includes its bed, its banks, and the lands that run along its length. The land along our streams and rivers is an essential and living part of the stream ecosystem. To be healthy, a stream needs its adjacent lands to be covered with healthy, varied and native vegetation.

Vegetated buffers provide a living cushion between our upland land uses and our living streams providing important protections to both the stream and our human communities.

- Vegetated buffers help protect our communities from non-natural flooding — the soils and vegetation soak up and hold floodwaters, gently releasing them after the storm has passed. This flood protection reduces flood damages in our communities as well as minimizing the need for costly emergency response.
- Vegetated buffers filter out pollution washed from the land as well as that already in the water thereby protecting our drinking water as well as our special places for boating, swimming, fishing and birding.
- Vegetated buffers protect and improve our local economies — they increase the market value and marketability of nearby homes; they support the qualities needed to sustain a healthy ecotourism industry, and they provide the clean and fresh water needed to support a variety of industry and waterside needs.
- Vegetated buffers help encourage infiltration of rainfall and runoff helping to keep our underground aquifers flowing and available during times of drought. Vegetated buffers protect public and private lands from erosion.
- And, vegetated buffers provide essential habitat, in stream and on the land, for aquatic life, birds, wildlife, amphibians and reptiles.

When we devegetate and fill our riparian buffer areas we not only destroy their ability to provide these community benefits, but the opposite harmful reaction results — rather than flood storage we have increased flooding; rather than aquifer recharge we have increased drought; rather than healthy streamside lands and habitats we

have erosion and degraded ecosystems.

It is essential we protect our vegetated buffers for the health of our streams and our communities.

### How Much of a Buffer Should Be Protected?

In general, riparian buffers should be as wide as possible. The bigger the buffer, the more pollution it can filter, the better habitat it can provide, the more water it can absorb, hold and infiltrate.

A wealth of new science focused on buffers is now being published. These studies tell us that a minimum 100 foot buffer is best for protecting water quality, for preventing and removing pollution, and for protecting habitats in the stream and on the land. In a number of instances buffers ranging from 300 to 1000 feet are being recommended, or even required, in order to provide the greatest level of protection our natural waterways and habitats need. When focused on bird life and wildlife the buffer minimum is tending towards 300 feet or greater. In this case too, bigger is definitely better — providing better quality habitat and needed migration paths for a variety of wildlife.

Also very important to the effective functioning of a riparian buffer is the quality and mix of vegetation. Characteristics such as species diversity, vegetation type, physical condition and maturity all affect the ability of the buffer to do its job. The forested buffer which includes a mix of plants, shrubs, and trees can work on steep slopes, where other vegetation, especially grass, and other BMPs may be difficult to install and maintain.

Pennsylvania is a bit behind the eight ball when it comes to protecting buffers — they haven't done it well — at least until now. But the DEP is now considering amending regulations and including buffer protection requirements.

The PA Campaign for Clean Water is striving to take advantage of this important opportunity — to persuade the DEP to require bigger, better buffers on all of our *continued on page 3*



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Pennsylvania streams. Our goal is a minimum 100 foot buffer on all streams, with another 50 feet for first and second order streams and another 200 feet for High Quality and Exceptional Value streams, plus additional protection for already impaired streams, and for those streams with other unique characteristics and needs — such as those providing habitat for endangered or threatened species.

We hope you will join us in supporting this important endeavor, supporting our campaign for **Buffers 100 — A Buffer for Every Stream**. If your organization has not yet endorsed our *Buffers 100 Program*, do so today by emailing [bwendelgass@cleanwater.org](mailto:bwendelgass@cleanwater.org). And the next time you speak with your state legislators, talk with them about buffers, making sure they understand how critical these areas are.

## *On the Front Lines for Better Stormwater Management*

*By Matt Royer, Chesapeake Bay Foundation*

**T**he Campaign's Stormwater Workgroup continues to be on the front lines of stormwater management policy in Pennsylvania.

DEP is proposing to revise Pennsylvania's Chapter 102 regulations. These regulations are designed to protect our surface waters from excessive erosion and sedimentation resulting from earth disturbances. DEP proposes to expand the scope of Chapter 102 to include post-construction stormwater requirements that are already being implemented through the NPDES construction permitting program.

The Campaign decided to take a proactive approach by developing a comprehensive agenda for Chapter 102. The twelve-page written agenda, endorsed by fifty Campaign organizations, sets forth a broad array of recommendations to improve stormwater management and erosion control in Pennsylvania. Key elements of this agenda include:

- Require phased construction to assure appropriate placement of E&S BMPs and prevent out-of-sequence construction.
- Restrictions and special requirements for earth disturbance during the non-growing season.
- 25 acre limit on drainage area for sediment basins.
- Require minimum 100 foot forested riparian buffers for all earth disturbances associated with construction.
- Eliminate direct discharges to streams by applying buffer requirement to stormwater management facilities so that discharges are to the edge of the buffer area and are equipped with appropriate BMPs to diffuse

the discharge and prevent gullyng.

- Revise Special Protection E&S BMPs to better conform to new advances in stormwater management. Develop companion Special Protection BMPs for post-construction stormwater management.
- Incorporate current requirements for NPDES permitting and development of post-construction stormwater management plans. These requirements include key aspects set forth in the new Stormwater BMP Manual, including the volume, rate, and water quality control standards, natural features site analysis and site development design process, and disturbance minimization and low impact design requirements.
- Operation and maintenance requirements sufficient to ensure long term viability of stormwater BMPs.
- Clear authority for applying the point source antidegradation implementation regulations to stormwater discharges in HQ and EV watersheds.
- Require all NPDES permits for stormwater discharges to nutrient and sediment impaired waters to mandate "no net increase" of pollutants.
- Require public notice and opportunity to comment on NPDES general permits for stormwater discharges associated with construction activities.
- Require municipalities to adopt new model ordinance with volume and water quality control standards.
- Improved enforcement provisions.
- New provisions governing Act 167 to ensure that Act 167 plans take a comprehensive approach to storm-

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water management by requiring consistency with the new BMP Manual and current approaches to NPDES permitting.

While all elements of this agenda are important for ensuring that water resources are protected from the impacts of stormwater, perhaps the most critical and exciting proposal is *Buffers 100*, the Campaign's buffer rule. Members of the Campaign worked hard to develop a comprehensive and consensus rule, fully supported by current science, that would require new earth disturbances associated with development to maintain a minimum 100 feet of forested buffer on either side of

every stream. Minimum widths on headwater streams would be increased to 150 feet, while High Quality and Exceptional Value streams would be protected by 300 foot buffers. For more information, see the *Buffers 100* article elsewhere in this Newsletter.

The Campaign has shared its agenda with DEP, and is hopeful that many of its elements will appear in the Chapter 102 revisions. The Stormwater Workgroup will continue to follow these revisions and provide Campaign members with the opportunity to comment on draft regulations and otherwise advocate for an improved Chapter 102.

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## *Better Protection for Pennsylvania's Wetlands*

*By Robin Mann, Sierra Club*

**D**uring 2007, the Campaign for Clean Water has continued to press for stronger regulatory protection of wetlands and streams at the state level, as well as federally.

Last February, the Campaign's Wetlands Workgroup met with DEP to discuss its announced intentions

to revise the Chapter 105 regulations implementing the Dam, Safety and Encroachments Act, which regulate filling, ditching, draining and other disturbances of Pennsylvania's wetlands, streams, lakes and other waters. We followed up that meeting with a letter to DEP in April, outlining our Chapter 105 reform recommendations.

We urged the strengthening of the alternatives analysis process, so that alternatives to destroying and disturbing wetlands and other waters are given full consideration before permits are granted. We urged improved mitigation requirements to ensure replacement of wetland and stream functions to the full extent possible. And we placed special emphasis on addressing two serious weaknesses in the program: the waivers from permit requirements, especially waiver 2, which allows small streams to be filled and disturbed without a permit; and the lack of riparian buffer requirements to protect waters from nearby disturbances and mitigation projects.

In the ensuing months, the Wetlands Workgroup



developed more detailed recommendations for incorporating wetland buffer elements into the stream buffer proposal that the Campaign is promoting, for both Chapter 102 and 105 programs.

DEP was expected to issue draft Chapter 105 revisions this fall. The

timeframe has since been pushed back, however, and the Water Resource Advisory Committee, which will review DEP's proposed revisions, is not expected to see the proposal until early 2008. Campaign members Matt Royer of CBF and Robin Mann of Sierra Club were appointed to the WRAC wetlands subcommittee, which, unfortunately, is weighted in favor of the regulated community and chaired by Steve Rhoads, representing the Pennsylvania Oil and Gas Association.

The Campaign is undeterred by the stalled reform process and is redoubling its efforts to make a strong case for our reform recommendations next year, and see them through to adoption. We will be keeping Campaign members updated on the process and how they can participate in bringing the much-needed reforms into effect.

Meanwhile, efforts continue at the federal level to restore the longstanding protection for wetlands, head-

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water streams and other waters under the Clean Water Act, in the wake of the U.S. Supreme Court rulings and administration policy responses that have removed protection from many of these waters. Currently, 171 members of the House, and 20 Senators have co-sponsored, the Clean Water Restoration Act, H.R. 2421 and S. 1870, which would restore the Clean Water Act scope of protection that was in place for over 30 years.

The following Representatives have not yet been willing to cosponsor the legislation: Altmire, Carney, Dent, English, Gerlach, Holden, Tim Murphy, Murtha, Peterson, Pitts, and Shuster. Nor have Pennsylvania's two Senators thrown their support behind the Senate bill, as of yet. The Farm Bureau and its allies among property rights,

mining and developer interests, have been campaigning hard against the legislation claiming it would expand the regulatory reach of the Clean Water Act. A number of lawmakers appear to be listening to them and ignoring the obvious: that the legislation is limited to defining "waters of the United States" in the Act, incorporating its longstanding definition in the regulations; and that the legislation explicitly states that exemptions from regulations in the Act that apply to agriculture and other industries remain intact.

It is expected that action in the House could happen as early as late fall. We hope many of the members of Congress will throw their support behind clean water.

## Exceptional Value, Exceptional Workgroup

*By Alisha Deen-Steindler, Clean Water Fund*

**T**he Campaign for Clean Water's Exceptional Value (EV) Workgroup is made up of community monitoring groups, advocacy organizations and watershed associations from all around the state. The Workgroup tracks and helps communities petition to upgrade their streams to HQ and EV classification. Additionally the group does outreach to municipal officials about the value of upgrading, provides technical assistance to petitioners, and grassroots organizing when needed. This year, the group has also been extremely active improving special designation policy at the state level.

In February, the workgroup released its guide for municipal officials entitled "The Effects of Special Protection Designation". This guide served to dispel common myths about upgrades and allay fears of land use restrictions on EV and HQ stretches. Matt Royer of Chesapeake Bay Foundation and Faith Zerbe of Delaware Riverkeeper Network gave a presentation on EV upgrade petitions at the Schuylkill Watershed Congress in March, where the guide was distributed widely.

In the spring the EV Workgroup tackled a special designation issue involving the Pennsylvania Fish and Boat Commission. When the Commission designates a stream Class A Wild Trout, Pennsylvania DEP protects

the stream by designating it High Quality-Cold Water Fisheries (HQ-CWF). However, in the cases of the Sacony Creek in Berks County, Trout Creek in Lehigh County, Cold Run in Schuylkill County and Martins Creek in Northampton County, these streams already met Class A standards but were not being given the official Class A status, and were consequently, not receiving the HQ-CWF status they deserve.

The Commission did not want to give them Class A status because it wanted to keep stocking the streams with trout, rather than allow their native wild trout population to thrive. The EV Workgroup with the help of the entire PA Campaign for Clean Water membership was able to flood the Fish & Boat Commissioners mailboxes with letters urging them to grant the Class A status on these streams.

The Exceptional Value Workgroup continues to push policy recommendations to strengthen the petition process in Pennsylvania. This year members of the



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workgroup met with the head of the Special Designation Program, Rick Shertzer, Deputy Secretary for Water Cathy Myers, and DEP Secretary Kathleen McGinty to share our recommendations.

The recommendations include:

- more frequent DEP monitoring of existing HQ and EV streams in order to ensure that water quality is being protected, and DEP use of community monitoring data to supplement its own monitoring of EV and HQ streams
- generating a TMDL and impairment listing for endangered HQ and EV streams
- safeguarding against downgrade petitions for EV and HQ streams where water quality has been degraded.

Members of the EV workgroup have been tracking several petitions for upgrade. Some petitions have gotten stuck in the process within DEP, sometimes for as long

as seven years. For instance, the Little Lehigh petition was submitted in 2002, yet there are no signs of movement on this petition. We continue to push DEP to move faster in their upgrade process.

In some cases it is outside opposition to a petition that can hold up the process. For instance, the Pickering Creek upgrade was opposed by Supervisors in three Chester County townships. In these cases, our strategy is to mobilize the community. Clean Water Action was able to generate over 800 postcards to township supervisors from constituents and over 400 postcards to Deputy Secretary Cathy Myers urging approval of the petition on the Pickering. In another case, despite opposition from some officials, the upgrade petition for Swiftwater Creek and Indian Run safely made it to the EQB just this October.

#### **Our Mission:**

*The Pennsylvania Campaign for Clean Water represents 130 environmental, conservation, sportsmen and faith-based organizations united in support of strong state and federal policies that restore and protect the Commonwealth's water resources.*

#### **PA Campaign for Clean Water Steering Committee:**

Myron Arnowitt, Clean Water Action  
Barbara Benson, Sierra Club  
John Dawes, Foundation for Pennsylvania Watersheds  
Brian Glass, Penn Future  
John Hoekstra, Green Valleys Association  
Robin Mann, Sierra Club  
Deb Nardone, Pennsylvania Trout  
Matt Royer, Chesapeake Bay Foundation  
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## Join the Campaign!

If your watershed group is not yet a member of the PA Campaign for Clean Water, why not join us? More voices mean more clout...and more protection for Pennsylvania's water resources.

For more information about the Campaign, check our website at [www.pacleanwatercampaign.org](http://www.pacleanwatercampaign.org). To join us, download a membership application from our website. Fill it out and fax it to Bob Wendelgass, the chair of the Campaign, at 215-640-0930.