
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1838 Session of
1989

INTRODUCED BY COY, COLE, WAMBACH, McCALL, MORRIS, BORTNER,
YANDRISEVITS, DeWEESE, DORR, RYAN AND MELIO, JUNE 30, 1989

REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
JUNE 30, 1989

AN ACT

1 Providing for the management of nutrients on certain
2 agricultural operations to abate nonpoint source pollution;
3 providing for the assessment of other nonpoint sources of
4 nutrient pollution to the waters of this Commonwealth; and
5 making appropriations.

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

5 Section 1. Short title.

6 This act shall be known and may be cited as the Nutrient
7 Management Act.

8 Section 2. Declaration of legislative purpose.

9 The purposes of this act are to:

10 (1) Establish criteria, planning requirements and an
11 implementation schedule for the application of nutrient
12 management control measures on agricultural operations which
13 generate or utilize animal wastes.

14 (2) Provide for the development of an educational
15 program by the State Conservation Commission to provide
16 outreach to the agricultural community on the proper
17 utilization and management of nutrients on the farm to
18 prevent pollution of surface water and groundwater.

19 (3) Obligate the State Conservation Commission to
20 identify the amount of excess animal manure generated in this
21 Commonwealth, assess the adequacy of alternative uses or
22 disposal options and recommend budgetary, regulatory or
23 legislative initiatives necessary to ensure their
24 availability.

25 (4) Obligate the Department of Environmental Resources
26 to assess the extent of nonpoint source pollution from other
27 nutrient sources, determine the adequacy of existing
28 authority and programs to control those sources and recommend
29 budgetary, regulatory or legislative initiatives necessary to
30 provide for the abatement of such pollution.

1 Section 3. Definitions.

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

5 "Agricultural operations." The management and use of farming
6 resources for the production of crops, livestock or poultry.

7 "Animal equivalent unit." One thousand pounds liveweight of
8 livestock or poultry animals, regardless of the actual number of
9 individual animals comprising the unit.

10 "Commercial livestock operations." Any agricultural
11 operation which maintains domesticated mammals for the
12 commercial production of milk, meat or other economic value.

13 "Commercial poultry operations." Any agricultural operation
14 which maintains domesticated fowl for the commercial production
15 of eggs, meat or other economic value.

16 "Commission." The State Conservation Commission established
17 by the act of May 15, 1945 (P.L.547, No.217), known as the
18 Conservation District Law.

19 "Conservation district." Any county conservation district
20 established under the provisions of the act of May 15, 1945
21 (P.L.547, No.217), known as the Conservation District Law.

22 "Department." The Department of Environmental Resources of
23 the Commonwealth.

24 "High priority watershed." Any watershed of this
25 Commonwealth so designated by the Department of Environmental
26 Resources because critical nonpoint source nutrient pollution
27 has been identified or quantified.

28 "Nutrient management plan." A plan to manage nutrients for
29 agronomic crop utilization, taking into account crop rotation,
30 lime requirements, nutrient level in the soil and nutrients

1 applied, and utilizing best management practices to prevent the
2 pollution of surface water and groundwater, including measures
3 to manage fertilizers and animal wastes and to reduce soil
4 erosion.

5 Section 4. Powers and duties of commission.

6 The commission shall have the power and its duties shall be:

7 (1) Within one year after the effective date of this
8 act, to identify the amount of excess animal manure generated
9 in this Commonwealth, assess the adequacy of alternative uses
10 or disposal options and recommend the budgetary, regulatory
11 or legislative initiatives necessary to ensure their
12 availability.

13 (2) Within two years after the effective date of this
14 act, to adopt regulations, in consultation with the
15 department, establishing criteria for use by conservation
16 districts in determining the adequacy of nutrient management
17 plans submitted for approval pursuant to section 6.

18 (3) To develop and implement, in conjunction with
19 conservation districts, an educational program for the
20 agricultural community which identifies the proper methods,
21 practices and techniques for the utilization and management
22 of nutrients on the farm to prevent pollution of surface
23 water and groundwater.

24 Section 5. Powers and duties of department.

25 The department shall have the power and its duties shall be:

26 (1) Within one year after the effective date of this
27 act, to make an assessment of and report to the Environmental
28 Quality Board the extent to which malfunctioning on-lot
29 septic systems and septic system cleansers contribute to the
30 pollution of the waters of this Commonwealth, and identify

1 what regulatory initiatives, if any, the department deems
2 necessary to abate such pollution.

3 (2) Within one year after the effective date of this
4 act, to make an assessment of and report to the Environmental
5 Quality Board the extent to which improper water well
6 construction contributes to groundwater pollution due to the
7 intrusion of nutrients from the surface, and identify what
8 regulatory initiatives, if any, the department deems
9 necessary to abate such pollution.

10 (3) Within two years after the effective date of this
11 act, to make an assessment of and report to the Environmental
12 Quality Board the extent to which the residential, commercial
13 and agricultural application of chemical fertilizers
14 contributes to the pollution of the waters of this
15 Commonwealth, and identify what regulatory initiatives, if
16 any, the department deems necessary to abate such pollution.

17 (4) Within two years after the effective date of this
18 act, to make an assessment of and report to the Environmental
19 Quality Board the extent to which nutrients from storm water
20 runoff contribute to the pollution of the waters of this
21 Commonwealth, and identify what regulatory initiatives, if
22 any, the department deems necessary to abate such pollution.

23 (5) To recommend budgetary or legislative initiatives to
24 the General Assembly where program resources or statutory
25 authority is not adequate to address pollution sources
26 identified by the assessments made pursuant to paragraphs (1)
27 through (4).

28 (6) To designate high priority watersheds in this
29 Commonwealth where nutrient pollution poses the greatest risk
30 to water quality.

1 (7) To enforce the provisions of this act.

2 (8) To delegate, at its discretion, its enforcement
3 authority and responsibility under this act to any
4 conservation district deemed to have an adequate program and
5 sufficient resources to accept such a delegation.

6 Section 6. Nutrient management plans.

7 (a) Development of plan.--Within two years after the
8 adoption of criteria by the commission pursuant to section
9 (4)(2), any person conducting commercial livestock or poultry
10 operations or any person conducting agricultural operations upon
11 whose land animal manure is applied shall develop a nutrient
12 management plan consistent therewith and shall fully implement
13 the plan, including the installation of any appropriate best
14 management practices, within seven years after criteria
15 adoption.

16 (b) Submission.--Any person conducting a commercial
17 livestock operation on which the animal density exceeds two
18 animal equivalent units per acre or any person conducting a
19 commercial poultry operation on which the animal density exceeds
20 three animal equivalent units per acre shall submit the nutrient
21 management plan developed pursuant to subsection (a) to the
22 local conservation district for approval within two years after
23 the adoption of criteria by the commission.

24 (c) Review.--Conservation districts shall review all plans
25 submitted pursuant to subsection (b) and shall approve those
26 satisfying the criteria established by the commission.

27 (d) Implementation.--All nutrient management plans submitted
28 to conservation districts pursuant to subsection (b) shall be
29 fully implemented within three years after district approval in
30 areas designated as high priority watersheds by the department

1 pursuant to section 5(6). Plans in nonpriority watersheds shall
2 be fully implemented within five years after district approval.
3 Section 7. Unlawful conduct.

4 It shall be unlawful to violate any of the provisions of this
5 act or regulations adopted hereunder or any order issued
6 pursuant hereto.

7 Section 8. Civil penalties.

8 (a) General rule.--In addition to proceeding under any other
9 remedy available at law or in equity for a violation of a
10 provision of this act or a rule or regulation adopted hereunder,
11 or any order issued pursuant hereto, the department may assess a
12 civil penalty not to exceed \$500 for each offense.

13 (b) Factors for consideration.--In determining the amount of
14 the penalty, the department shall consider the gravity of the
15 violation. Whenever the department finds a violation which did
16 not cause harm to human health or unreasonable adverse effect on
17 the environment, the department may issue a warning in lieu of
18 assessing a penalty.

19 (c) Collection.--In cases of inability to collect such civil
20 penalty or failure of any person to pay all or such portion of
21 the penalty as the department may determine, the department may
22 refer the matter to the Office of Attorney General which shall
23 recover such amount by action in the appropriate court.

24 Section 9. Civil remedies.

25 In addition to any other remedies provided for in this act,
26 the Attorney General, at the request of the department, may
27 initiate in the Commonwealth Court or the court of common pleas
28 of the county in which the defendant resides or has his place of
29 business, an action in equity for an injunction to restrain any
30 and all violations of this act or the rules and regulations

1 promulgated hereunder or any order issued pursuant to this act
2 from which no timely appeal has been taken or which has been
3 sustained on appeal. In any such proceeding, the court shall,
4 upon motion of the Commonwealth, issue a preliminary injunction
5 if it finds that the defendant is engaging in unlawful conduct,
6 as defined in section 7, or is engaging in conduct which is
7 causing immediate or irreparable harm to the public. The
8 Commonwealth shall not be required to furnish bond or other
9 security in connection with such proceedings. In addition to an
10 injunction, the court, in such equity proceedings, may levy
11 civil penalties as provided in section 8.

12 Section 10. Criminal penalties.

13 (a) General rule.--Any person engaging in unlawful conduct
14 as set forth in section 7, upon conviction in a summary
15 proceeding, may be sentenced to pay a fine of not more than \$250
16 or to undergo imprisonment for a term which shall be fixed at
17 not more than 30 days, or both.

18 (b) Repeat offenders.--Any person who, within three years
19 after being convicted of an offense pursuant to subsection (a),
20 engages in similar unlawful conduct, or who violates any
21 provision of this act after such person was issued a written
22 warning by the department pursuant to the provisions of this
23 act, commits a misdemeanor of the second degree and, upon
24 conviction, may be sentenced to pay a fine of not more than
25 \$1,000 or imprisonment for a term that shall be fixed at not
26 more than six months, or both.

27 Section 11. Local ordinances.

28 Except with respect to ordinances adopted pursuant to the act
29 of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania
30 Municipalities Planning Code, which are consistent with the

1 provisions of this act or the regulations promulgated in this
2 act, all local ordinances and enactments purporting to regulate
3 nutrient management practices on commercial livestock or poultry
4 operations regulated by this act are hereby superseded.

5 Section 12. Appropriations.

6 (a) Department of Environmental Resources.--The sum of
7 \$250,000, or as much thereof as may be necessary, is hereby
8 appropriated to the Department of Environmental Resources for
9 fiscal year July 1, 1989, to June 30, 1990, to carry out the
10 provisions of this act.

11 (b) State Conservation Commission.--The sum of \$250,000, or
12 as much thereof as may be necessary, is hereby appropriated to
13 the State Conservation Commission for fiscal year July 1, 1989,
14 to June 30, 1990, to carry out the provisions of this act.

15 Section 13. Severability.

16 The provisions of this act are severable. If any provision of
17 this act or its application to any person or circumstance is
18 held invalid, the invalidity shall not affect other provisions
19 or applications of this act which can be given effect without
20 the invalid provision or application.

21 Section 14. Repeals.

22 All acts and parts of acts are repealed insofar as they are
23 inconsistent with this act.

24 Section 15. Effective date.

25 This act shall take effect in 30 days.