

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 1646 Session of  
2005

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JUNE 7, 2005

AS REPORTED FROM COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,  
HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 22, 2005

## AN ACT

1 Amending Title 3 (Agriculture) of the Pennsylvania Consolidated  
2 Statutes, ~~establishing the Office of Ordinance Review and the~~ <—  
3 ~~Agricultural Review Board~~ PROVIDING FOR A PROHIBITION AGAINST <—  
4 UNAUTHORIZED LOCAL GOVERNMENT UNIT ACTIONS; ESTABLISHING A  
5 CAUSE OF ACTION FOR UNAUTHORIZED ENACTMENT OR ENFORCEMENT OF  
6 LOCAL ORDINANCES GOVERNING NORMAL AGRICULTURAL OPERATIONS;  
7 PROVIDING FOR DUTIES OF THE ATTORNEY GENERAL AND FOR  
8 HEARINGS; consolidating the Nutrient Management Act; further  
9 providing for scope, for legislative purpose, for definitions  
10 and for administration; providing for manure application;  
11 further providing for nutrient management and odor management  
12 certification; providing for odor management plans; further  
13 providing for the Nutrient Management Advisory Board, for  
14 financial assistance, for unlawful conduct, for civil  
15 penalties and for local preemption; providing for other  
16 statutes and for regulations; and making a related repeal.

17 THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA <—  
18 DECLARES THAT THE COMMONWEALTH HAS A VESTED AND SINCERE INTEREST  
19 IN ENSURING THE LONG-TERM SUSTAINABILITY OF AGRICULTURE AND  
20 NORMAL AGRICULTURAL OPERATIONS IN A MANNER THAT IS CONSISTENT

1 WITH STATE POLICIES AND STATUTES. IN FURTHERANCE OF THIS GOAL,  
2 THE COMMONWEALTH HAS ENACTED STATUTES TO PROTECT AND PRESERVE  
3 AGRICULTURAL OPERATIONS FOR THE PRODUCTION OF FOOD AND OTHER  
4 AGRICULTURAL PRODUCTS.

5 THE COMMONWEALTH HAS ALSO EMPOWERED LOCAL GOVERNMENT UNITS TO  
6 PROTECT THE HEALTH, SAFETY AND WELFARE OF THEIR CITIZENS AND TO  
7 ENSURE THAT NORMAL AGRICULTURAL OPERATIONS DO NOT NEGATIVELY  
8 IMPACT UPON THE HEALTH, SAFETY AND WELFARE OF CITIZENS.

9 IT IS THE PURPOSE OF THIS ACT TO ENSURE THAT WHEN LOCAL  
10 GOVERNMENT UNITS EXERCISE THEIR RESPONSIBILITIES TO PROTECT THE  
11 HEALTH, SAFETY AND WELFARE OF THEIR CITIZENS IN REGULATING  
12 NORMAL AGRICULTURAL OPERATIONS, THAT ORDINANCES ARE ENACTED  
13 CONSISTENT WITH THE AUTHORITY PROVIDED TO LOCAL GOVERNMENT UNITS  
14 BY THE LAWS OF THIS COMMONWEALTH.

15 THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA  
16 FURTHER DECLARES THAT THE INTENT OF THIS ACT IS TO PROVIDE FOR  
17 THE RESOLUTION OF CONFLICTS THAT MAY ARISE FROM THE REGULATION  
18 OF NORMAL AGRICULTURAL OPERATIONS. IT IS FURTHER THE INTENT OF  
19 THIS ACT THAT THIS PROCESS:

20 (1) PROVIDES A DISPASSIONATE AND UNPREJUDICED LEGAL  
21 REVIEW OF LOCAL ORDINANCES REGULATING NORMAL AGRICULTURAL  
22 OPERATIONS TO DETERMINE WHETHER A LOCAL ORDINANCE COMPLIES  
23 WITH THE COMMONWEALTH'S EXISTING STATUTES;

24 (2) REDUCES THE COSTS ASSOCIATED WITH DETERMINING  
25 WHETHER A LOCAL ORDINANCE COMPLIES WITH THE COMMONWEALTH'S  
26 EXISTING STATUTES BY UTILIZING CURRENT STATE RESOURCES AND  
27 MECHANISMS; AND

28 (3) PROVIDES FOR A PROMPT AND FAIR RESOLUTION TO THE  
29 CONFLICT.

30 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 Section 1. Title 3 of the Pennsylvania Consolidated Statutes  
3 is amended by adding chapters to read:

4 ~~CHAPTER 3~~ <—

5 ~~AGRICULTURAL REVIEW BOARD~~

6 ~~Subchapter~~

7 ~~—A.—Preliminary Provisions~~

8 ~~—B.—Ordinance Review~~

9 ~~—C.—Miscellaneous Provisions~~

10 ~~SUBCHAPTER A~~

11 ~~PRELIMINARY PROVISIONS~~

12 ~~Sec.~~

13 ~~301.—Definitions.~~

14 ~~§ 301.—Definitions.~~

15 ~~The following words and phrases when used in this chapter~~  
16 ~~shall have the meanings given to them in this section, unless~~  
17 ~~the context clearly indicates otherwise:~~

18 ~~"Board."—The Agricultural Review Board established in~~  
19 ~~section 312 (relating to board).~~

20 ~~"Commission."—The State Conservation Commission.~~

21 ~~"Department."—The Department of Agriculture of the~~  
22 ~~Commonwealth.~~

23 ~~"Local government unit."—A political subdivision or local~~  
24 ~~authority.~~

25 ~~"Normal agricultural operation."—As defined under section 2~~  
26 ~~of the act of June 10, 1982 (P.L.454, No.133), entitled "An act~~  
27 ~~protecting agricultural operations from nuisance suits and~~  
28 ~~ordinances under certain circumstances."~~

29 ~~"Office."—The Office of Ordinance Review established in~~  
30 ~~section 313 (relating to office).~~

~~"Secretary." The Secretary of Agriculture of the  
Commonwealth.~~

~~SUBCHAPTER B~~

~~ORDINANCE REVIEW~~

~~Sec.~~

~~311.—Prohibition.~~

~~312.—Board.~~

~~313.—Office.~~

~~314.—Review of ordinances.~~

~~315.—Action by office.~~

~~316.—Board hearing.~~

~~317.—Enforcement.~~

~~318.—Advisory opinions.~~

~~§ 311.—Prohibition.~~

~~(a) Ordinance restrictions.—A local government unit may not  
adopt an ordinance which does any of the following:~~

~~(1) Prohibits or limits a normal agricultural operation  
unless the local government unit:~~

~~(i) has express or implied authority under State law  
to adopt the ordinance; and~~

~~(ii) is not prohibited or preempted under State law  
from adopting the ordinance.~~

~~(2) Restricts or limits the ownership structure of a  
normal agricultural operation.~~

~~(b) Existing ordinances.—This chapter shall apply to  
enforcement of ordinances existing upon the effective date of  
this section and to the enactment or enforcement of local  
ordinances enacted on or after the effective date of this  
section.~~

~~(c) Construction.—Nothing in this section shall limit the~~

~~powers conferred upon local government units under State law.~~

~~§ 312. Board.~~

~~(a) Establishment. There is established within the department the Agricultural Review Board.~~

~~(b) Membership. The board shall consist of the following members:~~

~~(1) The Secretary or a designee, who shall serve as Board chairman.~~

~~(2) The Secretary of Environmental Protection or a designee.~~

~~(3) The Secretary of Community and Economic Development or a designee.~~

~~(4) Two members appointed by the Governor with the advice and consent of a majority of the members of the Senate. One member shall be a dean or faculty member of a college of agricultural sciences of a State related university who is knowledgeable in issues related to animal agriculture.~~

~~(c) Terms.~~

~~(1) A member under subsection (b)(1) through (3) shall serve ex officio.~~

~~(2) Members under subsection (b)(4) shall serve two year terms. These members may be reappointed to successive terms and shall serve until their successors are appointed and qualified.~~

~~(d) Official action. Official action must be by a majority vote of the five members.~~

~~(e) Functions. The board has the following powers and duties:~~

~~(1) To administer this chapter.~~

1           ~~(2) To conduct administrative hearings under section 316~~  
2           ~~(relating to board hearing). In all proceedings brought~~  
3           ~~pursuant to this chapter, the board shall have the power to~~  
4           ~~administer oaths, subpoena witnesses and compel the~~  
5           ~~production of documents in accordance with law.~~

6           ~~(3) To appoint such hearing examiners as the board deems~~  
7           ~~necessary to conduct the hearings required by this chapter.~~

8           ~~(4) To review proposed administrative adjudications~~  
9           ~~prepared and recommended by hearing examiners.~~

10          ~~(5) To issue a final administrative adjudication and~~  
11          ~~order in a hearing under section 316.~~

12          ~~(6) To act as a resource of knowledge and expertise for~~  
13          ~~the department and provide general assistance as requested by~~  
14          ~~the secretary.~~

15          ~~(f) Compensation. Members of the board shall not receive~~  
16          ~~compensation for their services but shall be entitled to~~  
17          ~~reimbursement in accordance with Commonwealth regulations for~~  
18          ~~reasonable travel, lodging and other necessary expenses incurred~~  
19          ~~in the discharge of duties.~~

20          ~~(g) Open proceedings. Proceedings of the board shall be~~  
21          ~~conducted in accordance with the provisions of 65 Pa.C.S. Ch. 7~~  
22          ~~(relating to open meetings).~~

23          ~~(h) Legal counsel. The department shall provide the board~~  
24          ~~with legal assistance and representation. An attorney~~  
25          ~~representing the board may not advise or provide legal~~  
26          ~~assistance to the office.~~

27          ~~Section 313. Office.~~

28          ~~(a) Office established. There is established within the~~  
29          ~~commission the Office of Ordinance Review. The office shall~~  
30          ~~perform the functions described in this chapter.~~

~~(b) Director and staff. The chair of the commission shall appoint the director of the office. The commission shall provide technical, clerical and administrative staff and support services for the office.~~

~~(c) Legal counsel. The department shall provide the office with legal assistance and representation. An attorney representing the office may not advise or provide legal assistance to the board.~~

~~§ 314. Review of ordinances.~~

~~(a) Application.~~

~~(1) Any of the following may file with the office an application seeking review of an ordinance purported to violate section 311 (relating to prohibition):~~

~~(i) A local government unit.~~

~~(ii) A farm owner or operator, a landowner or resident in the local government unit in which the ordinance has been enacted.~~

~~(2) The application must be in writing and must include the following information:~~

~~(i) The name and address of the applicant.~~

~~(ii) A copy of the ordinance.~~

~~(iii) Identification of specific concerns with respect to which the review is sought.~~

~~(iv) Other information the office may require.~~

~~(3) The office shall begin accepting applications for review 90 days following the effective date of this section.~~

~~(b) Notice. Within 30 days of receiving an application, the office shall do all of the following:~~

~~(1) Provide to the applicant, by regular mail, a written notice of receipt of the application.~~

~~(2) Publish notice of receipt of the application in the Pennsylvania Bulletin and in a newspaper of general circulation within the appropriate local government unit.~~

~~(3) Provide, by certified mail, a copy of the application to the local government unit in which the ordinance was enacted. This paragraph does not apply if the applicant is the local government unit which enacted the ordinance.~~

~~(c) Response to notice.—~~

~~(1) Any of the following may respond to the application:~~

~~(i) The local government unit which enacted the ordinance.~~

~~(ii) Any farm owner or operator, landowner or resident of the local government unit which enacted the ordinance.~~

~~(2) The response must be made to the office in writing and must address any issues the responder wishes the office to consider that are relevant to the criteria established in section 316(b) (relating to board hearing).~~

~~(3) The response must be received by the office within 30 days of publication under subsection (b)(2).~~

~~§ 315. Action by office.~~

~~(a) Review. Within 60 days of the deadline for receiving responses under section 314(c)(3) (relating to review of ordinances), the office shall complete a review of an application received under section 314 to determine whether the ordinance identified in the application violates the provisions of section 311 (relating to prohibition). This review shall include the subject ordinance, responses and any other relevant supporting documentation submitted by an applicant or responder.~~

~~If the director of the office determines that a review cannot reasonably be completed within 60 days, the period for review may be extended for up to an additional 60 days, as the director determines. However, delay in completing the review beyond the additional period set by the director shall not affect the office's ability to issue an adjudication and order with respect to the application.~~

~~(b) Adjudication and order. When the office has concluded the review described in subsection (a), it shall prepare an adjudication and order with respect to the application. The office shall consult with the Deputy Secretary for Administration in the department, the Deputy Secretary for Water Management at the Department of Environmental Protection and the Executive Director of the Center for Local Government Services in the Department of Community and Economic Development in the preparation of an adjudication and order. Once issued, the adjudication and order shall not be subject to review or approval by either the commission or the Environmental Hearing Board.~~

~~(c) Notice of adjudication and order.—~~

~~(1) The office shall serve the adjudication and order described in subsection (b) upon the applicant and any person who has filed a response under section 314(c).~~

~~(2) Service shall be by certified mail or personal delivery. Notwithstanding this requirement, if a person does not accept delivery of certified mail within 20 days of the date it is mailed by the office to a mailing address provided to the department by that person, the office may serve that person by regular mail; and service shall be deemed to have occurred ten days from the date the adjudication and order~~

1       ~~are sent by regular mail.~~

2           ~~(3) The office shall, along with the adjudication and~~  
3       ~~order, provide the recipient written notice:~~

4           ~~(i) of the appeal rights described in subsection~~  
5       ~~(d); and~~

6           ~~(ii) that the adjudication and order shall become a~~  
7       ~~final adjudication and order if it is not so appealed.~~

8       ~~(d) Appeal.—~~

9           ~~(1) A person aggrieved by a decision of the office set~~  
10       ~~forth in an adjudication and order that wishes to appeal the~~  
11       ~~adjudication and order must do so by a written notice to the~~  
12       ~~office, requesting an administrative hearing before the~~  
13       ~~board. The notice must be received by the office within 20~~  
14       ~~days of service of the notice described in subsection (c).~~  
15       ~~The office shall forward a copy of the appeal notice to the~~  
16       ~~board.~~

17           ~~(2) The written appeal notice must clearly identify the~~  
18       ~~person filing the appeal and the basis for the appeal.~~

19       ~~§ 316.— Board hearing.~~

20           ~~(a) Requirement.— Within 60 days of the receipt by the~~  
21       ~~office of an appeal notice under section 315(d) (relating to~~  
22       ~~action by office), the board shall convene an administrative~~  
23       ~~hearing on an application filed under section 314 (relating to~~  
24       ~~review of ordinances). If more than one appeal is filed, the~~  
25       ~~time period under this subsection shall commence upon receipt of~~  
26       ~~the last appeal. A hearing under this section shall be de novo.~~

27           ~~(b) Scope.— At the hearing, the board shall review the~~  
28       ~~ordinance to determine whether it violates the provisions of~~  
29       ~~section 311 (relating to prohibition). The office shall~~  
30       ~~participate as a party at the hearing.~~

1       ~~(c) Notice.~~

2           ~~(1) The board shall provide written notice of the date,~~  
3       ~~time and location of the hearing to:~~

4           ~~(i) each person that filed an appeal notice under~~  
5       ~~section 315(d);~~

6           ~~(ii) the applicant;~~

7           ~~(iii) each person that filed a response to the~~  
8       ~~application under section 314(c); and~~

9           ~~(iv) the local government unit.~~

10          ~~(2) The notice must be sent by regular mail and must be~~  
11       ~~mailed at least ten days before the date of the hearing.~~

12       ~~(d) Adjudication. Within 60 days of the hearing, the board~~  
13       ~~shall issue an adjudication and order. The board shall transmit~~  
14       ~~to the Pennsylvania Bulletin for publication notice that the~~  
15       ~~adjudication and order have been issued by the board and are~~  
16       ~~available from the board upon request.~~

17       ~~(e) Administrative agency law. This section is subject to 2~~  
18       ~~Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of~~  
19       ~~Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial~~  
20       ~~review of Commonwealth agency action).~~

21       ~~(f) Right to appeal. A person aggrieved by a decision of~~  
22       ~~the board may appeal the decision under 2 Pa.C.S. Ch. 7 Subch.~~  
23       ~~A. The department shall represent the board in an appeal. The~~  
24       ~~court may supplement the record if, upon motion from a party,~~  
25       ~~the court determines that the party was not able to develop an~~  
26       ~~adequate record before the board.~~

27       ~~§ 317. Enforcement.~~

28       ~~(a) Cease and desist order. If an adjudication under~~  
29       ~~section 315(d) (relating to action by office) or 316(d)~~  
30       ~~(relating to board hearing) is that an ordinance is in violation~~

~~of the provisions of section 311 (relating to prohibition), the adjudicating body shall order the local government unit to cease and desist enforcement of the ordinance.~~

~~(b) Noncompliance.—~~

~~(1) If a local government unit fails to comply with an order under subsection (a), the secretary shall request the Attorney General to initiate appropriate legal action to obtain compliance with the order. The request shall be made within 30 days of the date the secretary becomes aware of the noncompliance.~~

~~(2) Within 60 days of receipt of a request under paragraph (1), the Attorney General shall initiate an action in a court of competent jurisdiction to declare the ordinance invalid.~~

~~§ 318. Advisory opinions.~~

~~(a) Authorization.— A person authorized to make an application under section 314(a)(1) (relating to review of ordinances) may request the office to issue an advisory opinion on a proposed ordinance in terms of compliance with the provisions of section 311 (relating to prohibition).~~

~~(b) Form of request.— The request under subsection (a) shall be in writing and in a form prescribed by the office and shall include a copy of the proposed ordinance and any other relevant documents or information.~~

~~(c) Content.— The advisory opinion may include suggestions for modifications that would bring the proposed ordinance into compliance with the provisions of section 311.~~

#### ~~SUBCHAPTER C~~

#### ~~MISCELLANEOUS PROVISIONS~~

~~Sec.~~

1 ~~331. Other statutes not affected.~~

2 ~~332. Commonwealth agencies.~~

3 ~~333. Regulations.~~

4 ~~§ 331. Other statutes not affected.~~

5 ~~This chapter shall not be construed to modify, rescind or~~  
6 ~~supersede any other statute or to regulate biosolids. This~~  
7 ~~chapter shall be construed in pari materia with other statutes.~~

8 ~~§ 332. Commonwealth agencies.~~

9 ~~Nothing in this chapter shall limit the powers and duties~~  
10 ~~conferred upon any Commonwealth agencies under statutes other~~  
11 ~~than this chapter.~~

12 ~~§ 333. Regulations.~~

13 ~~(a) Authority. The department is authorized to adopt~~  
14 ~~regulations to administer this chapter.~~

15 ~~(b) Interim regulations. Prior to the promulgation of~~  
16 ~~regulations under subsection (a), the department shall~~  
17 ~~promulgate interim regulations to administer this chapter.~~

18 ~~Regulations under this subsection:~~

19 ~~(1) are exempt from the act of July 31, 1968 (P.L.769,~~  
20 ~~No.240), referred to as the Commonwealth Documents Law;~~

21 ~~(2) are exempt from the act of October 15, 1980~~  
22 ~~(P.L.950, No.164), known as the Commonwealth Attorneys Act;~~

23 ~~(3) are exempt from the act of June 25, 1982 (P.L.633,~~  
24 ~~No.181), known as the Regulatory Review Act; and~~

25 ~~(4) shall expire two years from the effective date of~~  
26 ~~this section.~~

27 CHAPTER 3

28 LOCAL REGULATION

29 SUBCHAPTER

30 A. PRELIMINARY PROVISIONS

1 B. NORMAL AGRICULTURAL OPERATIONS

2 SUBCHAPTER A

3 PRELIMINARY PROVISIONS

4 SEC.

5 311. SCOPE.

6 312. DEFINITIONS.

7 § 311. SCOPE.

8 THIS CHAPTER DEALS WITH LOCAL REGULATION OF NORMAL  
9 AGRICULTURAL OPERATIONS.

10 § 312. DEFINITIONS.

11 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER  
12 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
13 CONTEXT CLEARLY INDICATES OTHERWISE:

14 "LOCAL GOVERNMENT UNIT." A POLITICAL SUBDIVISION OF THE  
15 COMMONWEALTH.

16 "NORMAL AGRICULTURAL OPERATION." AS DEFINED UNDER SECTION 2  
17 OF THE ACT OF JUNE 10, 1982 (P.L.454, NO.133), ENTITLED, "AN ACT  
18 PROTECTING AGRICULTURAL OPERATIONS FROM NUISANCE SUITS AND  
19 ORDINANCES UNDER CERTAIN CIRCUMSTANCES."

20 "UNAUTHORIZED LOCAL ORDINANCE." AN ORDINANCE ENACTED OR  
21 ENFORCED BY A LOCAL GOVERNMENT UNIT WHICH DOES ANY OF THE  
22 FOLLOWING:

23 (1) PROHIBITS OR LIMITS A NORMAL AGRICULTURAL OPERATION  
24 UNLESS THE LOCAL GOVERNMENT UNIT:

25 (I) HAS EXPRESSED OR IMPLIED AUTHORITY UNDER STATE  
26 LAW TO ADOPT THE ORDINANCE; AND

27 (II) IS NOT PROHIBITED OR PREEMPTED UNDER STATE LAW  
28 FROM ADOPTING THE ORDINANCE.

29 (2) RESTRICTS OR LIMITS THE OWNERSHIP STRUCTURE OF A  
30 NORMAL AGRICULTURAL OPERATION.

SUBCHAPTER B

NORMAL AGRICULTURAL OPERATIONS

SEC.

313. CERTAIN LOCAL GOVERNMENT UNIT ACTIONS PROHIBITED.

314. DUTIES OF ATTORNEY GENERAL.

315. RIGHT OF ACTION.

316. COMMONWEALTH COURT MASTERS.

317. ATTORNEY FEES AND COSTS.

318. REPORTS TO GENERAL ASSEMBLY.

§ 313. CERTAIN LOCAL GOVERNMENT UNIT ACTIONS PROHIBITED.

(A) ADOPTION AND ENFORCEMENT OF UNAUTHORIZED LOCAL ORDINANCES.--A LOCAL GOVERNMENT UNIT SHALL NOT ADOPT NOR ENFORCE AN UNAUTHORIZED LOCAL ORDINANCE.

(B) EXISTING LOCAL ORDINANCES.--THIS CHAPTER SHALL APPLY TO THE ENFORCEMENT OF LOCAL ORDINANCES EXISTING ON THE EFFECTIVE DATE OF THIS SECTION AND TO THE ENACTMENT OR ENFORCEMENT OF LOCAL ORDINANCES ENACTED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION.

(C) CONSTRUCTION.--NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, NOTHING IN THIS CHAPTER SHALL BE CONSTRUED TO DIMINISH, EXPAND OR OTHERWISE AFFECT THE LEGISLATIVE OR REGULATORY AUTHORITY OF LOCAL GOVERNMENT UNITS UNDER STATE LAW, INCLUDING THE FOLLOWING:

(1) CHAPTER 5 (RELATING TO NUTRIENT MANAGEMENT AND ODOR MANAGEMENT).

(2) THE REGULATION, CONTROL OR PERMITTING PROCEDURES FOR THE LAND APPLICATION OF CLASS A OR B BIOSOLIDS.

§ 314. DUTIES OF ATTORNEY GENERAL.

(A) REQUEST FOR REVIEW.--AN OWNER OR OPERATOR OF A NORMAL AGRICULTURAL OPERATION MAY REQUEST THE ATTORNEY GENERAL TO

1 REVIEW A LOCAL ORDINANCE BELIEVED TO BE AN UNAUTHORIZED LOCAL  
2 ORDINANCE AND TO CONSIDER WHETHER TO BRING LEGAL ACTION UNDER  
3 SECTION 315(A) (RELATING TO RIGHT OF ACTION).

4 (B) DISCRETION.--THE ATTORNEY GENERAL HAS THE DISCRETION  
5 WHETHER TO BRING AN ACTION UNDER SECTION 315(A).

6 (C) RESPONSE.--THE ATTORNEY GENERAL SHALL RESPOND TO THE  
7 PERSON THAT MADE THE REQUEST UNDER SUBSECTION (A) NOTIFYING THE  
8 PERSON OF THE ATTORNEY GENERAL'S DECISION. IF THE REQUEST UNDER  
9 SUBSECTION (A) IS IN WRITING, THE RESPONSE SHALL BE IN WRITING.  
10 § 315. RIGHT OF ACTION.

11 (A) ATTORNEY GENERAL ACTION.--THE ATTORNEY GENERAL MAY BRING  
12 AN ACTION AGAINST THE LOCAL GOVERNMENT UNIT IN COMMONWEALTH  
13 COURT TO INVALIDATE THE UNAUTHORIZED LOCAL ORDINANCE OR ENJOIN  
14 THE ENFORCEMENT OF THE UNAUTHORIZED LOCAL ORDINANCE.

15 (B) OTHER PARTY ACTION.--NOTWITHSTANDING ANY PROVISION OF 42  
16 PA.C.S. CH. 85 SUBCH. C (RELATING TO ACTIONS AGAINST LOCAL  
17 PARTIES), ANY PERSON WHO IS AGGRIEVED BY THE ENACTMENT OR  
18 ENFORCEMENT OF AN UNAUTHORIZED LOCAL ORDINANCE MAY BRING AN  
19 ACTION AGAINST THE LOCAL GOVERNMENT UNIT IN COMMONWEALTH COURT  
20 TO INVALIDATE THE UNAUTHORIZED LOCAL ORDINANCE OR ENJOIN THE  
21 ENFORCEMENT OF THE UNAUTHORIZED LOCAL ORDINANCE.

22 § 316. COMMONWEALTH COURT MASTERS.

23 (A) GENERAL RULE.--THE COMMONWEALTH COURT MAY PROMULGATE  
24 RULES FOR THE SELECTION AND APPOINTMENT OF MASTERS ON A FULL-  
25 TIME OR PART-TIME BASIS FOR ACTIONS BROUGHT UNDER SECTION 315  
26 (RELATING TO RIGHT OF ACTION). A MASTER SHALL BE A MEMBER OF THE  
27 BAR OF THIS COMMONWEALTH. THE NUMBER AND COMPENSATION OF MASTERS  
28 SHALL BE FIXED BY THE COMMONWEALTH COURT AND THEIR COMPENSATION  
29 SHALL BE PAID BY THE COMMONWEALTH.

30 (B) HEARINGS BEFORE MASTERS.--THE COMMONWEALTH COURT MAY

1 DIRECT THAT HEARINGS IN ACTIONS BROUGHT UNDER SECTION 315 BE  
2 CONDUCTED IN THE FIRST INSTANCE BY THE MASTER IN THE MANNER  
3 PROVIDED FOR IN THIS SUBCHAPTER.

4 (C) RECOMMENDATIONS OF MASTERS.--UPON THE CONCLUSION OF A  
5 HEARING BEFORE A MASTER, THE MASTER SHALL TRANSMIT WRITTEN  
6 FINDINGS AND A RECOMMENDATION FOR DISPOSITION TO THE PRESIDENT  
7 JUDGE. PROMPT WRITTEN NOTICE AND COPIES OF THE FINDINGS AND  
8 RECOMMENDATIONS SHALL BE GIVEN TO THE PARTIES TO THE PROCEEDING.

9 (D) REHEARING BEFORE PRESIDENT JUDGE.--THE FINDINGS AND  
10 RECOMMENDATIONS OF THE MASTER SHALL BECOME THE FINDINGS AND  
11 ORDER OF THE COMMONWEALTH COURT UPON WRITTEN CONFIRMATION BY THE  
12 PRESIDENT JUDGE. A REHEARING BEFORE THE PRESIDENT JUDGE MAY BE  
13 ORDERED BY THE PRESIDENT JUDGE AT ANY TIME UPON CAUSE SHOWN.

14 § 317. ATTORNEY FEES AND COSTS.

15 IN AN ACTION BROUGHT UNDER SECTION 315(B) (RELATING TO RIGHT  
16 OF ACTION), THE COURT MAY DO ANY OF THE FOLLOWING:

17 (1) IF THE COURT DETERMINES THAT THE LOCAL GOVERNMENT  
18 UNIT ENACTED OR ENFORCED AN UNAUTHORIZED LOCAL ORDINANCE WITH  
19 NEGLIGENT DISREGARD OF THE LIMITATION OF AUTHORITY  
20 ESTABLISHED UNDER STATE LAW, IT MAY ORDER THE LOCAL  
21 GOVERNMENT UNIT TO PAY THE PLAINTIFF REASONABLE ATTORNEY FEES  
22 AND OTHER LITIGATION COSTS INCURRED BY THE PLAINTIFF IN  
23 CONNECTION WITH THE ACTION.

24 (2) IF THE COURT DETERMINES THAT THE ACTION BROUGHT BY  
25 THE PLAINTIFF WAS FRIVOLOUS OR WAS BROUGHT WITHOUT  
26 SUBSTANTIAL JUSTIFICATION IN CLAIMING THAT THE LOCAL  
27 ORDINANCE IN QUESTION WAS UNAUTHORIZED, IT MAY ORDER THE  
28 PLAINTIFF TO PAY THE LOCAL GOVERNMENT UNIT REASONABLE  
29 ATTORNEY FEES AND OTHER LITIGATION COSTS INCURRED BY THE  
30 LOCAL GOVERNMENT UNIT IN DEFENDING THE ACTION.

1 § 318. REPORTS TO GENERAL ASSEMBLY.

2 THE ATTORNEY GENERAL SHALL PROVIDE TO THE CHAIRMAN AND THE  
3 MINORITY CHAIRMAN OF THE SENATE COMMITTEE ON AGRICULTURAL AND  
4 RURAL AFFAIRS AND THE CHAIRMAN AND MINORITY CHAIRMAN OF THE  
5 AGRICULTURAL AND RURAL AFFAIRS COMMITTEE OF THE HOUSE OF  
6 REPRESENTATIVES AN ANNUAL REPORT TO INCLUDE THE FOLLOWING:

7 (1) INFORMATION ON HOW MANY REVIEWS WERE REQUESTED.

8 (2) INFORMATION ON HOW MANY REVIEWS WERE CONDUCTED.

9 (3) INFORMATION ON HOW MANY LEGAL ACTIONS WERE BROUGHT  
10 BY THE ATTORNEY GENERAL.

11 (4) INFORMATION ON THE OUTCOME OF LEGAL ACTIONS BROUGHT  
12 BY THE ATTORNEY GENERAL.

13 CHAPTER 5

14 NUTRIENT MANAGEMENT AND ODOR MANAGEMENT

15 Sec.

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17 502. Declaration of legislative purpose.

18 503. Definitions.

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21 Protection.

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27 510. Nutrient Management Advisory Board.

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10 § 501. Scope.

11 This chapter relates to nutrient management and odor  
12 management.

13 § 502. Declaration of legislative purpose.

14 The purposes of this chapter are as follows:

15 (1) To establish criteria, nutrient management planning  
16 requirements and an implementation schedule for the  
17 application of nutrient management measures on certain  
18 agricultural operations which generate or utilize animal  
19 manure.

20 (2) To provide for the development of an educational  
21 program by the State Conservation Commission in conjunction  
22 with the Cooperative Extension Service of The Pennsylvania  
23 State University, the department and conservation districts  
24 to provide outreach to the agricultural community on the  
25 proper utilization and management of nutrients on farms to  
26 prevent the pollution of surface water and ground water.

27 (3) To require the State Conservation Commission, in  
28 conjunction with the Cooperative Extension Service of The  
29 Pennsylvania State University, the Department of  
30 Environmental Protection, the department and the Nutrient

1 Management Advisory Board to develop and provide technical  
2 and financial assistance for nutrient management and  
3 alternative uses of animal manure, including a manure  
4 marketing and distribution program.

5 (4) To require the Department of Environmental  
6 Protection to assess the extent of nonpoint source pollution  
7 from other nutrient sources, determine the adequacy of  
8 existing authority and programs to manage those sources and  
9 make recommendations to provide for the abatement of that  
10 pollution.

11 (5) To require the State Conservation Commission, in  
12 conjunction with the Nutrient Management Advisory Board, to  
13 develop and administer a regulatory program requiring odor  
14 management plans addressing new and expanded animal housing  
15 facilities and manure management facilities at concentrated  
16 animal operations and concentrated animal feeding operations  
17 after July 19, 1993, and to encourage the voluntary  
18 implementation of odor management plans for other  
19 agricultural operations.

20 § 503. Definitions.

21 The following words and phrases when used in this chapter  
22 shall have the meanings given to them in this section unless the  
23 context clearly indicates otherwise:

24 "AEU." Animal equivalent unit.

25 "AEU per acre." An animal equivalent unit per acre of crop  
26 land or acre of land suitable for application of animal manure.

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

29 "Animal equivalent unit." One thousand pounds live weight of  
30 livestock or poultry animals, regardless of the actual number of

1 individual animals comprising the unit.

2 "Animal housing facility." A roofed structure or facility,  
3 or any portion thereof, used for occupation by livestock or  
4 poultry.

5 "Best management practice" or "BMP." A practice or  
6 combination of practices determined by the commission to be  
7 effective and practicable (given technological, economic and  
8 institutional considerations) to manage nutrients to protect  
9 surface and ground water taking into account applicable nutrient  
10 requirements for crop utilization. The term includes, but is not  
11 limited to:

- 12 (1) Conservation tillage.
- 13 (2) Crop rotation.
- 14 (3) Soil testing.
- 15 (4) Manure testing.
- 16 (5) Diversions.
- 17 (6) Manure storage facilities.
- 18 (7) Storm water management practices.
- 19 (8) Nutrient application.

20 "Board." The Nutrient Management Advisory Board created by  
21 section 510 (relating to Nutrient Management Advisory Board).

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

25 "Concentrated animal feeding operation." An agricultural  
26 operation that meets the criteria established by the Department  
27 of Environmental Protection under authority of the act of June  
28 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law.

29 "Concentrated animal operation." Agricultural operations  
30 meeting the criteria established under this chapter.

1 "Conservation district." Any county conservation district  
2 established under the act of May 15, 1945 (P.L.547, No.217),  
3 known as the Conservation District Law.

4 "Cooperative extension." The Cooperative Extension Service  
5 of The Pennsylvania State University.

6 "Department." The Department of Agriculture of the  
7 Commonwealth.

8 "Fund." The Nutrient Management Fund.

9 "Manure management facility." A manure storage facility,  
10 including a permanent structure or facility, or a portion of a  
11 structure or facility, utilized for the primary purpose of  
12 containing manure. The term includes liquid manure structures,  
13 manure storage ponds, component reception pits and transfer  
14 pipes, containment structures built under a confinement  
15 building, permanent stacking and composting facilities and  
16 manure treatment facilities. The term does not include the  
17 animal confinement areas of poultry houses, horse stalls, free  
18 stall barns or bedded pack animal housing systems.

19 "Nutrient." A substance or recognized plant nutrient,  
20 element or compound which is used or sold for its plant  
21 nutritive content or its claimed nutritive value. The term  
22 includes, but is not limited to, livestock and poultry manures,  
23 compost as fertilizer, commercially manufactured chemical  
24 fertilizers, sewage sludge or combinations thereof.

25 "Nutrient management plan." A written site-specific plan  
26 which incorporates best management practices to manage the use  
27 of plant nutrients for crop production and water quality  
28 protection consistent with the criteria established in sections  
29 504 (relating to powers and duties of commission) and 506  
30 (relating to nutrient management plans).

1 "Nutrient management specialist." A person satisfying the  
2 certification requirements of section 508 (relating to nutrient  
3 management certification program and odor management  
4 certification program).

5 "Odor management plan." A written site-specific plan  
6 identifying the practices, technologies, standards and  
7 strategies to be implemented to manage the impact of odors  
8 generated from animal housing or manure management facilities  
9 located or to be located on the site.

10 § 504. Powers and duties of commission.

11 The commission shall have the following powers and duties:

12 (1) Before July 19, 1995, and periodically thereafter,  
13 to promulgate regulations, in consultation with the  
14 department, the Department of Environmental Protection and  
15 the board, establishing minimum criteria for nutrient  
16 management plans developed in accordance with section 506  
17 (relating to nutrient management plans) and other regulatory  
18 requirements to implement this chapter. In establishing such  
19 criteria, the commission shall consult the Manure Management  
20 for Environmental Protection Manual of the Department of  
21 Environmental Protection, the Pennsylvania Agronomy Guide,  
22 published by The Pennsylvania State University, and the  
23 Pennsylvania Technical Guide for Soil and Water Conservation,  
24 published by the United States Department of Agriculture's  
25 Soil Conservation Service. The criteria to be established  
26 pursuant to this section shall include the following:

27 (i) An identification of nutrients as defined by  
28 this chapter. Unless otherwise appropriate pursuant to  
29 specific criteria which shall be established by the  
30 commission, there shall be a presumption that nitrogen is

1 the nutrient of primary concern.

2 (ii) The establishment of procedures to determine  
3 proper application rates of nutrients to be applied to  
4 land based on conditions of soil and levels of existing  
5 nutrients in the soil and the type of agricultural,  
6 horticultural or floricultural production to be conducted  
7 on the land.

8 (iii) An identification of best management practices  
9 to be utilized for proper nutrient management.

10 (iv) The establishment of recordkeeping requirements  
11 related to land application and distribution of  
12 nutrients.

13 (v) The establishment of minimum standards of  
14 construction, location, storage capacity and operation of  
15 facilities intended to be used for storage of animal  
16 manure.

17 (vi) The establishment of conditions under which  
18 amendments to nutrient management plans are required to  
19 be made after initial development or filing.

20 (vii) The establishment of special criteria which  
21 may be utilized for manure handling in emergency  
22 situations where there is an outbreak of a contagious  
23 disease.

24 (viii) The establishment of conditions under which  
25 changes due to unforeseen circumstances render the plan  
26 amendment process set forth in section 506(e)  
27 impracticable. Where such conditions exist, the owner or  
28 operator of an agricultural operation shall follow the  
29 procedures set forth in section 506(f).

30 (1.1) Within two years following the effective date of

1 this section, and periodically thereafter, to promulgate  
2 regulations, in consultation with the department, the  
3 Department of Environmental Protection and the board,  
4 establishing practices, technologies, standards, strategies  
5 and other requirements for odor management plans developed  
6 in accordance with section 509 (relating to odor management  
7 plans). The commission shall consider the following in  
8 promulgating the regulations under this paragraph:

9 (i) Site-specific factors such as proximity to  
10 adjoining landowners, land use of the surrounding area,  
11 type of structures proposed, species of animals, local  
12 topography and direction of the prevailing winds.

13 (ii) Reasonably available technology, practices,  
14 standards and strategies to manage odor impacts,  
15 considering both the practical and economic feasibility  
16 of installation and operation and the potential impacts  
17 from the facilities. Only those technologies, practices,  
18 standards and strategies that are necessary to address  
19 the off-site impacts of odors associated with these new  
20 facilities will be required to be included in the odor  
21 management plans.

22 (2) Prior to the adoption of regulations under paragraph  
23 (1.1), to establish interim guidelines for the operations  
24 identified in section 509.

25 (3) To continually evaluate emerging practices, methods  
26 and technology for utilization as best management practices  
27 and to so identify the practices, where appropriate, pursuant  
28 to paragraph (1)(iii).

29 (4) Beginning October 1, 2002, to evaluate the criteria  
30 for concentrated animal operations in this Commonwealth and

1 to make appropriate changes in those criteria by regulation.  
2 Any such regulatory change related to concentrated animal  
3 operations shall require a two-thirds majority vote of the  
4 commission.

5 (5) Prior to the adoption of regulations under paragraph  
6 (1), to recommend, in consultation with the Department of  
7 Environmental Protection, the department and the board,  
8 interim criteria for the sole purpose of facilitating the  
9 initial development of the nutrient management certification  
10 program established by this chapter.

11 (6) Before July 19, 1995, to develop and implement, in  
12 cooperation with the department, the board, the Cooperative  
13 Extension Service and conservation districts, a program to  
14 provide education and technical assistance to the  
15 agricultural community and, to the extent funds are  
16 available, to provide financial assistance to existing  
17 agricultural operations for implementation of proper methods,  
18 practices, facilities and techniques for the utilization and  
19 management of nutrients on the farm to prevent the pollution  
20 of groundwater and surface water.

21 (7) To consult with the board as provided in section 510  
22 (relating to Nutrient Management Advisory Board).

23 (8) To issue orders and take actions as are necessary to  
24 administer and enforce this chapter.

25 (9) To delegate administration or enforcement authority,  
26 or both, under this chapter to county conservation districts  
27 that have an adequate program and sufficient resources to  
28 accept and implement this delegation.

29 § 505. Powers and duties of Department of Environmental  
30 Protection.

1 The Department of Environmental Protection shall have the  
2 following powers and duties:

3 (1) Before July 19, 1994, to make an assessment of and  
4 report to the Environmental Quality Board and the General  
5 Assembly on the extent to which malfunctioning on-lot sewage  
6 systems contribute to the pollution of waters of this  
7 Commonwealth and to identify what regulatory or legislative  
8 initiatives, if any, the Department of Environmental  
9 Protection deems necessary to abate that pollution.

10 (2) Before July 19, 1994, to make an assessment of and  
11 report to the Environmental Quality Board and the General  
12 Assembly on the extent to which improper water well  
13 construction contributes to groundwater pollution due to the  
14 intrusion of nutrients from the surface and to identify what  
15 regulatory or legislative initiatives, if any, the Department  
16 of Environmental Protection deems necessary to abate that  
17 pollution.

18 (3) Before July 19, 1995, to make an assessment of and  
19 report to the Environmental Quality Board and the General  
20 Assembly on the extent to which the application of chemical  
21 fertilizers and other plant nutrients for nonagricultural  
22 purposes contributes to the pollution of the waters of this  
23 Commonwealth and to identify what regulatory or legislative  
24 initiatives, if any, the Department of Environmental  
25 Protection deems necessary to abate that pollution.

26 (4) Before July 19, 1995, to make an assessment of and  
27 report to the Environmental Quality Board and the General  
28 Assembly on the extent to which nutrients from storm water  
29 runoff contribute to the pollution of waters of this  
30 Commonwealth and to identify what regulatory or legislative

1 initiatives, if any, the Department of Environmental  
2 Protection deems necessary to abate that pollution.

3 (5) Before July 19, 1995, to make an assessment of and  
4 report to the Environmental Quality Board and the General  
5 Assembly on the extent to which atmospheric deposition of  
6 nutrients contribute to the pollution of the waters of this  
7 Commonwealth and to identify what regulatory or legislative  
8 initiatives, if any, the Department of Environmental  
9 Protection deems necessary to abate that pollution.

10 (6) To include in the assessments in paragraphs (1)  
11 through (5), recommendations to the General Assembly for  
12 budgetary and legislative initiatives where program resources  
13 or statutory authority is not adequate to address pollution  
14 sources identified in those assessments.

15 (7) To provide technical and administrative assistance  
16 to the commission in carrying out its responsibilities under  
17 this chapter.

18 § 506. Nutrient management plans.

19 (a) Concentrated animal operations.--Concentrated animal  
20 operations are those agricultural operations where the animal  
21 density exceeds two AEU's per acre on an annualized basis.  
22 Beginning October 1, 2002, the commission, in consultation with  
23 the department, the board, the Department of Environmental  
24 Protection and the Cooperative Extension Service shall review  
25 the criteria used to identify concentrated animal operations and  
26 make appropriate changes to the definition of concentrated  
27 animal operations by regulation.

28 (b) Development of nutrient management plans.--The operator  
29 of any concentrated animal operation shall develop and implement  
30 a nutrient management plan consistent with the requirements of

1 this section.

2 (c) Certification of plans.--All plans and plan amendments  
3 shall be developed by nutrient management specialists who shall  
4 certify that the plans are in accordance with the requirements  
5 of this chapter and the regulations promulgated under this  
6 chapter.

7 (d) Review procedure.--Nutrient management plans required by  
8 this section shall be submitted for review in accordance with  
9 the following schedule:

10 (1) For a concentrated animal operation in existence on  
11 October 1, 1997, by October 1, 1998.

12 (2) For a concentrated animal operation which comes into  
13 existence after October 1, 1997, by the later of:

14 (i) January 1, 1998; or

15 (ii) commencement of operations.

16 (3) For an agricultural operation which, because of  
17 expansion, meets the criteria for a concentrated animal  
18 operation, within three months after the date of expansion.

19 (e) Plan review and approval.--Plans or plan amendments  
20 required under this chapter shall be submitted to local  
21 conservation districts for review and approval or alternatively  
22 to the commission for agricultural operations located in  
23 counties not delegated administrative authority under section  
24 504 (relating to powers and duties of commission). Any person  
25 performing the plan review must be certified in accordance with  
26 section 508 (relating to nutrient management certification  
27 program and odor management certification program). Within 90  
28 days of receipt of a nutrient management plan or plan amendment,  
29 the reviewing agency shall either approve, modify or disapprove  
30 the plan or plan amendment. Approvals shall only be granted for

1 those plans or plan amendments which satisfy the requirements of  
2 this chapter and the regulations promulgated under this chapter.  
3 Notice of determination to approve, modify or disapprove a plan  
4 or plan amendment shall be provided in writing to the person  
5 submitting same. Notice of a determination to modify or  
6 disapprove shall include an explanation specifically stating the  
7 reasons for modification or disapproval. If a plan or plan  
8 amendment is disapproved, the person submitting a plan or plan  
9 amendment for the first time shall have 90 days after receipt of  
10 notice of disapproval to resubmit a revised plan or plan  
11 amendment. An agricultural operation that submits a complete  
12 plan or plan amendment is authorized to implement the same if  
13 the reviewing agency fails to act within 90 days of submittal.  
14 Where the reviewing agency fails to so act and the plan or plan  
15 amendment is resubmitted and the reviewing agency again fails to  
16 act within 90 days of resubmittal, it shall be deemed approved.

17 (f) Amendments due to unforeseen circumstances.--Amendments  
18 to plans or to implementation of plans made after initial  
19 development or filing which satisfy the criteria established  
20 under section 504(1)(vii) shall be certified by a nutrient  
21 management specialist prior to implementation and submitted to  
22 the district within 30 days of implementation.

23 (g) Implementation.--A person required to develop a nutrient  
24 management plan pursuant to subsection (b) shall fully implement  
25 such plan within three years of the date such plan is approved,  
26 or is deemed approved, or for which implementation is otherwise  
27 authorized pursuant to subsection (e), unless extended for cause  
28 shown or by a plan amendment. The three-year implementation  
29 schedule shall be extended an additional two years for  
30 individual substantial capital improvements required under an

1 approved plan for an operation required to submit a plan under  
2 subsection (d)(1) if:

3 (1) the owner or operator demonstrates that the cost of  
4 all or part of the individual improvements for which the  
5 extension is applicable cannot be financed through available  
6 funding mechanisms; and

7 (2) a sum of \$2,000,000 or more has not been  
8 appropriated for grants and loans to the Nutrient Management  
9 Fund created under section 512 (relating to Nutrient  
10 Management Fund), above and beyond any Chesapeake Bay  
11 nonpoint source pollution abatement moneys that may be  
12 appropriated to the fund, before October 1, 1998.

13 (h) Voluntary plans.--Any agricultural operation which is  
14 not a concentrated animal operation may voluntarily develop a  
15 nutrient management plan and have it reviewed pursuant to this  
16 section. To the extent possible, the commission, the Cooperative  
17 Extension Service, the department, the Department of  
18 Environmental Protection and conservation districts shall assist  
19 and promote the development of voluntary plans.

20 (i) Financial assistance.--Any agricultural operation  
21 receiving financial assistance under the Chesapeake Bay Nonpoint  
22 Source Pollution Abatement Program or otherwise receiving  
23 financial assistance under this chapter for the development of a  
24 nutrient management plan shall agree to develop and implement a  
25 nutrient management plan as a condition for receiving this  
26 financial assistance.

27 (j) Compliance plans.--Any agricultural operation found to  
28 be in violation of the act of June 22, 1937 (P.L.1987, No.394),  
29 known as The Clean Streams Law, may be required to submit a  
30 nutrient management plan within three months of notification

1 thereof and implement the plan in order to prevent or abate such  
2 pollution.

3 (k) Transferability of plans.--A plan approved under this  
4 section shall be transferable to a subsequent owner of an  
5 agricultural operation upon notification thereof to the  
6 district, unless the transfer results in operational changes  
7 requiring plan modification pursuant to the criteria established  
8 under section 504(1)(vi).

9 (l) Construction of section.--The density criteria for  
10 concentrated animal operations as identified in subsection (a)  
11 or as it may be subsequently modified by the commission shall  
12 only be utilized to identify those agricultural operations for  
13 which the planning requirements of this section shall apply and  
14 shall not be construed to prohibit the development or expansion  
15 of agricultural operations meeting or exceeding such criteria.  
16 § 507. Manure application setbacks and buffers.

17 (a) General rule.--Unless the commission establishes a  
18 stricter requirement by regulation, no concentrated animal  
19 operation, or other agricultural operation receiving manure from  
20 a concentrated animal operation directly or indirectly through a  
21 broker or other person, may mechanically land apply manure  
22 within 100 feet of surface water, unless a vegetated buffer no  
23 less than 35 feet in width and meeting standards established by  
24 the Natural Resources Conservation Service is used to prevent  
25 manure runoff into the surface water.

26 (b) Definition.--As used in this section, the term "surface  
27 water" means a perennial or intermittent stream with a defined  
28 bed and bank, a lake or a pond.

29 § 508. Nutrient management certification program and odor  
30 management certification program.

1       (a) Requirement.--The department shall establish, in  
2 consultation with the commission, a nutrient management  
3 certification program for the purpose of certifying individuals  
4 who have demonstrated the competency necessary to develop  
5 nutrient management plans and an odor management certification  
6 program for the purpose of certifying individuals who have  
7 demonstrated the competency necessary to develop odor management  
8 plans. The department or its designee shall develop such written  
9 testing procedures, educational requirements and examinations as  
10 it deems appropriate to carry out its responsibilities under  
11 this section. The department shall by regulation establish such  
12 fees and terms and conditions of certification as it deems  
13 appropriate. The department shall establish individual,  
14 commercial and public certification categories, including a  
15 certification category for farmers to develop and certify  
16 nutrient management plans and odor management plans for their  
17 own agricultural operations.

18       (b) Interim nutrient management certification program.--  
19 Until the department develops and implements a nutrient  
20 management certification program, persons having the following  
21 qualifications shall, upon request, receive interim  
22 certification from the department.

23           (1) the person has at least two years' experience in the  
24 development of nutrient management plans;

25           (2) the person is approved to develop nutrient  
26 management plans approved under the Chesapeake Bay Nonpoint  
27 Source Pollution Abatement Program, the United States  
28 Department of Agriculture's Water Quality Improvement  
29 Projects Program or other programs requiring submission and  
30 approval of a nutrient management plan, including sludge

disposal under the act of July 7, 1980 (P.L.380, No.97),  
known as the Solid Waste Management Act; or

(3) the person is a farmer who has been provided  
training and assistance in developing and implementing  
nutrient management plans.

(c) Nutrient management specialist.--A person shall not  
certify a nutrient management plan or plan amendment unless that  
person has first satisfied the requirements of this section.

(d) Odor management specialist.--A person shall not certify  
an odor management plan or plan amendment unless that person has  
first satisfied the applicable requirements of this section.

§ 509. Odor management plans.

(a) Requirement.--

(1) The following operations shall develop and implement  
an odor management plan as described in this chapter:

(i) Existing concentrated animal operations and  
existing concentrated animal feeding operations, when  
doing any of the following:

(A) Erecting or constructing a new animal  
housing facility or a new manure management facility.  
The odor management plan required by this paragraph  
shall be developed and implemented only with respect  
to the new facility.

(B) Erecting or constructing an expansion of an  
animal housing facility or a manure management  
facility. The odor management plan required by this  
paragraph shall be developed and implemented only  
with respect to the newly erected or newly  
constructed portion of the facility.

(ii) Existing agricultural operations which, because

1 of an increase, resulting from expansion or construction,  
2 in the number of animals maintained at the operation,  
3 will become regulated as either a concentrated animal  
4 operation or a concentrated animal feeding operation. The  
5 odor management plan required by this paragraph shall be  
6 developed and implemented only with respect to the newly  
7 expanded or newly constructed portion of the operation.

8 (iii) New agricultural operations which will be  
9 regulated as either a concentrated animal operation or a  
10 concentrated animal feeding operation.

11 (2) The operations described in paragraph (1)(i) and  
12 (ii) shall obtain approval of their odor management plan  
13 prior to the earlier of erection or construction of new or  
14 expanded animal housing facilities or the construction of new  
15 or expanded manure management facilities.

16 (b) Certification of plans.-- All odor management plans and  
17 plan amendments shall be developed by odor management  
18 specialists who shall certify that the plans are in accordance  
19 with the requirements of the odor management regulations  
20 promulgated under this chapter.

21 (c) Reviewing entities.--Odor management plans or plan  
22 amendments required by this section shall be submitted to the  
23 commission for review and approval or, at the commission's  
24 discretion, to the appropriate local conservation district for  
25 review and approval.

26 (d) Plan review and approval.--Any person performing the  
27 plan review must be certified in accordance with section 508  
28 (relating to nutrient management certification program and odor  
29 management certification program). Within 90 days of receipt of  
30 an odor management plan or plan amendment, the reviewing agency

1 shall approve or disapprove the plan or plan amendment.  
2 Approvals shall only be granted for those plans or plan  
3 amendments which satisfy the requirements of the regulations  
4 promulgated under this chapter. Notice of determination to  
5 approve or disapprove a plan or plan amendment shall be provided  
6 in writing to the person submitting same. Notice of a  
7 determination to disapprove shall include an explanation  
8 specifically stating the reasons for disapproval. If a plan or  
9 plan amendment is disapproved, the person submitting a plan or  
10 plan amendment for the first time shall have 90 days after  
11 receipt of notice of disapproval to resubmit a revised plan or  
12 plan amendment. An existing or proposed concentrated animal  
13 operation or concentrated animal feeding operation that submits  
14 a complete plan or plan amendment is authorized to implement the  
15 same if the reviewing agency fails to act within 90 days of  
16 submittal.

17 (e) Implementation.--A person required to have an odor  
18 management plan under this section shall fully implement the  
19 plan prior to commencing use of the new animal housing facility  
20 or animal manure facility.

21 (f) Voluntary plans.-- Any agricultural operation which is  
22 not required to comply with subsection (a) may voluntarily  
23 develop an odor management plan and have it reviewed pursuant to  
24 this section. To the extent possible, the commission, the  
25 Cooperative Extension Service, the department, the Department of  
26 Environmental Protection and conservation districts shall assist  
27 and promote the development of voluntary plans.

28 (g) Transferability of plans.--A plan approved under this  
29 section shall be transferable to a subsequent owner of an  
30 agricultural operation upon notification thereof to the

1 district, unless the transfer results in operational changes  
2 requiring plan modification pursuant to the criteria established  
3 in this section.

4 (h) Effectiveness of the section.--The requirements of this  
5 section shall become mandatory 90 days following the effective  
6 date of the regulations promulgated under section 504(1.1)  
7 (relating to powers and duties of commission).

8 § 510. Nutrient Management Advisory Board.

9 (a) Creation.--There is created the Nutrient Management  
10 Advisory Board. The board shall consist of 16 members appointed  
11 by the chairman of the commission and approved by a two-thirds  
12 vote of the commission. The members so appointed shall consist  
13 of five active commercial farm owners or operators representing  
14 the livestock, swine, meat poultry, egg poultry and dairy  
15 industry nominated by Statewide general farm organizations, one  
16 veterinary nutrition specialist, one representative from the  
17 feed industry, one representative from the fertilizer industry,  
18 one representative of commercial agricultural lenders, one  
19 representative of local government, one representative of  
20 academia who shall be an agronomist or plant scientist faculty  
21 member of the school of agriculture of a Pennsylvania college or  
22 university, one representative of academia who shall be an  
23 animal science faculty member with an expertise in odor  
24 management from the school of agriculture of a college or  
25 university within this Commonwealth, one hydrologist, two  
26 citizen representatives who are not farmers and one  
27 environmental representative, all of whom shall have sufficient  
28 knowledge, experience or familiarity with agronomic practices,  
29 nutrient management practices or odor management practices and  
30 all of whom shall be residents of this Commonwealth.

1 (b) Compensation.--Board members shall not receive a salary  
2 but shall be reimbursed for all reasonable and necessary  
3 expenses incurred in the performance of their duties.

4 (c) Meetings.--A majority of the board shall constitute a  
5 quorum. All actions of the board shall be by a majority vote.  
6 The board shall meet upon the call of the commission, but not  
7 less than semiannually, to carry out its duties under this  
8 chapter. The board shall annually select a chairman and such  
9 other officers as it deems appropriate.

10 (d) Duties.--The board shall review and comment on all  
11 commission proposed regulations, the interim guidelines under  
12 section 504(2) (relating to powers and duties of commission) and  
13 the interim criteria under section 504(5) developed to implement  
14 the provisions of this chapter. The commission shall have no  
15 power to promulgate regulations, interim guidelines or interim  
16 criteria under this chapter until receipt of written comments on  
17 the proposed regulations, guidelines or criteria from the board  
18 or until 60 days have expired from the date when the  
19 regulations, guidelines or criteria were submitted by the  
20 commission to the board for its comments. Existing regulations,  
21 guidelines and criteria shall continue until modified,  
22 superseded or repealed by the commission.

23 (e) Term.--The term of office for each board member shall be  
24 three years except that the commission shall stagger the initial  
25 terms of the charter members such that five shall serve for one  
26 year, five shall serve for two years and six shall serve for  
27 three years. Board members may be appointed to successive terms  
28 at the discretion of the commission, provided that no member may  
29 serve more than two three-year terms.

30 § 511. Financial assistance.

1 (a) Loans, grants, etc.--The commission shall, to the extent  
2 funds are available, provide financial assistance in the form of  
3 loans, loan guarantees and grants for the implementation of  
4 nutrient management plans and of odor management plans for  
5 existing agricultural operations.

6 (b) Criteria for eligibility.--In reviewing applications for  
7 financial assistance, the commission shall consider the  
8 following:

9 (1) Whether the project will improve the health, safety  
10 or environment of the people of this Commonwealth and  
11 otherwise satisfy the purposes of this chapter.

12 (2) The cost-effectiveness of the proposed practices in  
13 comparison with other alternatives.

14 (3) The applicant's ability to operate or maintain the  
15 practices in a proper manner.

16 (c) Issuance and terms.--Subject to this section, the  
17 commission shall issue loans and set terms applicable thereto in  
18 any manner it deems appropriate. The commission may consider  
19 such factors as it deems relevant, including current market  
20 interest rates, the financial ability of the applicant to repay  
21 and the necessity to maintain the funds created hereunder in a  
22 financially sound manner. Loans may be based on the ability to  
23 repay from future revenue to be derived from the applicant's  
24 agricultural operation, by a mortgage or other security  
25 interest, or by any other fiscal manner which the commission  
26 deems appropriate. The board shall have the power to defer  
27 principal on loans for up to 12 months. The minimum rate of  
28 interest to be paid on any loan made pursuant to this section  
29 shall be 1%.

30 (d) Grants.--Grants shall be made available as follows:

1           (1) Where funds have been made available to the  
2       commission, subject to any conditions that may have  
3       accompanied the receipt of such funds.

4           (2) Where the commission, in its sole discretion,  
5       determines that the financial condition of the recipient is  
6       such that repayment of a loan is unlikely and that the  
7       recipient will be financially distressed by the  
8       implementation of practices without a grant.

9       (e) Grants and loans.--The commission shall, where it deems  
10   it appropriate and to the extent financial circumstances permit,  
11   mix grant funds with loan funds.

12   § 512. Nutrient Management Fund.

13       (a) Establishment of fund.--There is established a special  
14   nonlapsing fund in the State Treasury to be known as the  
15   Nutrient Management Fund. All fees, fines, judgments and  
16   interest collected by the commission under this chapter shall be  
17   paid into the fund. All money placed in the fund and the  
18   interest it accrues are hereby appropriated to the commission on  
19   a continuing basis for any activities necessary to meet the  
20   requirements of this chapter.

21       (b) Supplements to fund.--The Nutrient Management Fund may  
22   be supplemented by moneys received from the following sources:

23           (1) State funds appropriated to the commission.

24           (2) Federal funds appropriated to the commission.

25           (3) Proceeds from the sale of any bonds made available  
26   to the commission.

27           (4) Repayment of loan principal.

28           (5) Payment on interest loans made by the commission.

29           (6) Gifts and other contributions from public and  
30   private sources.

1 (c) Fund administration.--The commission shall have  
2 authority to adopt procedures for the use of moneys in the fund,  
3 including the creation of accounts within the fund for the  
4 purposes of administering the loan and grant programs authorized  
5 by this chapter.

6 (d) Status of fund.--The Nutrient Management Fund shall not  
7 be subject to 42 Pa.C.S. Ch. 37 Subch. C (relating to judicial  
8 computer system).

9 (e) Deposit and use of funds.--No administrative action  
10 shall prevent the deposit of moneys into the fund in the fiscal  
11 year in which they are received. The funds shall only be used  
12 for the purposes authorized by this chapter and shall not be  
13 transferred or diverted to any other purpose by administrative  
14 action.

15 § 513. Unlawful conduct.

16 It shall be unlawful to fail to comply with or to cause or  
17 assist in the violation of any order or any of the provisions of  
18 this chapter or the rules and regulations adopted under this  
19 chapter or to fail to comply with a nutrient management plan or  
20 an odor management plan.

21 § 514. Civil penalties and remedies.

22 (a) Civil penalty.--In addition to proceeding under any  
23 other remedy available at law or in equity for a violation of a  
24 provision of this chapter or a rule or regulation adopted, order  
25 issued or odor management plan or nutrient management plan  
26 approved under this chapter, the commission may assess a civil  
27 penalty of not more than \$500 for the first day of each offense  
28 and \$100 for each additional day of continuing violation. The  
29 factors for consideration in determining the amount of the  
30 penalty are:

- 1 (1) The gravity of the violation.
- 2 (2) The potential harm to the public.
- 3 (3) The potential effect on the environment.
- 4 (4) The willfulness of the violation.
- 5 (5) Previous violations.
- 6 (6) The economic benefit to the violator for failing to
- 7 comply with this chapter.

8 Whenever the commission finds that a violation did not cause  
9 harm to human health or an adverse effect on the environment,  
10 the commission may issue a warning in lieu of assessing a  
11 penalty where the owner or operator, upon notice, takes  
12 immediate action to resolve the violation and come into  
13 compliance. If the commission finds the nutrient pollution or  
14 the danger of nutrient pollution or the negative impacts from  
15 odor associated with new or expanded facilities results from  
16 conditions, activities or practices which are being or have been  
17 implemented in accordance with a nutrient management plan or  
18 odor management plan developed and approved pursuant to and  
19 consistent with this chapter and the regulations developed under  
20 this chapter and which is being or has been fully implemented  
21 and maintained, the owner or operator of the agricultural  
22 operation shall be exempt from the imposition of penalties under  
23 this chapter.

24 (b) Collection.--In cases of inability to collect the civil  
25 penalty or failure of any person to pay all or a portion of the  
26 penalty, the commission may refer the matter to the Office of  
27 General Counsel or the Office of Attorney General which shall  
28 institute an action in the appropriate court to recover the  
29 penalty. Any penalty assessed shall act as a lien on the  
30 property of the person against whom the penalty has been

1 assessed.

2 (c) Civil remedies.--In addition to any other remedies  
3 provided for in this chapter, any violation of this chapter, the  
4 rules and regulations promulgated under this chapter or any  
5 order or nutrient management plan or odor management plan  
6 approved under this chapter shall be abatable in the manner  
7 provided by law or equity for the abatement of public nuisances.  
8 In addition, in order to restrain or prevent any violation of  
9 this chapter or the rules and regulations promulgated under this  
10 chapter or any order or nutrient management plan or odor  
11 management plan approved under this chapter, suits may be  
12 instituted in equity or at law in the name of the Commonwealth  
13 upon relation of the Attorney General, the General Counsel, the  
14 district attorney of any county, the solicitor of any  
15 municipality affected or the solicitor of any conservation  
16 district, provided that the General Counsel, district attorney  
17 or solicitor shall first serve notice upon the Attorney General  
18 of the intention to so proceed. These proceedings may be  
19 prosecuted in the Commonwealth Court or in the court of common  
20 pleas of the county where the activity has taken place, the  
21 condition exists or the public is affected, and, to that end,  
22 jurisdiction is hereby conferred in law and equity upon these  
23 courts. Except in cases of emergency where, in the opinion of  
24 the court, the exigencies of the case require immediate  
25 abatement of the nuisance, the court may, in its decree, fix a  
26 reasonable time during which the person responsible for the  
27 nuisance may make provision for the abatement of same.

28 (d) Equitable relief.--In cases where the circumstances  
29 require it or the public health is endangered, a mandatory  
30 preliminary injunction, special injunction or temporary

1 restraining order may be issued upon the terms prescribed by the  
2 court, provided that notice of the application has been given to  
3 the defendant in accordance with the rules of equity practice.  
4 In any such proceeding the Attorney General, the General  
5 Counsel, the district attorney or the solicitor of any  
6 municipality or conservation district shall not be required to  
7 give bond. In any such proceeding, the court shall issue a  
8 prohibitory or mandatory preliminary injunction if it finds that  
9 the defendant is engaging in unlawful conduct as defined by this  
10 chapter or is engaged in conduct which is causing immediate and  
11 irreparable harm to the public. In addition to an injunction,  
12 the court in such equity proceeding may assess civil penalties  
13 in accordance with this section.

14 § 515. Limitation of liability.

15 If a person is fully and properly implementing a nutrient  
16 management plan or an odor management plan approved by the local  
17 conservation district or the commission and maintained under  
18 this chapter for an agricultural operation, the implementation  
19 shall be given appropriate consideration as a mitigating factor  
20 in any civil action for penalties or damages alleged to have  
21 been caused by the management or utilization of nutrients or the  
22 abatement of odor impacts pursuant to the implementation.

23 § 516. Enforcement authority; enforcement orders.

24 (a) Right of access.--A duly authorized agent of the  
25 commission or a conservation district shall have authority to  
26 enter any agricultural operation at reasonable times to conduct  
27 such investigations and to take such actions as are necessary to  
28 enforce the provisions of this chapter or any order, rule or  
29 regulation issued hereunder.

30 (b) Duty to grant access.--Any person owning or operating an

1 agricultural operation shall grant access to any duly authorized  
2 agent of the commission or a conservation district pursuant to  
3 subsection (a) and shall not hinder, obstruct, prevent or  
4 interfere with such agents in the performance of their duties,  
5 provided, however, that agents shall perform such reasonable  
6 measures and actions as directed by the owner or operator of an  
7 agricultural operation as will reasonably and substantially  
8 prevent the spread or outbreak of contagious diseases.

9 (c) Orders.--The commission or any conservation district  
10 delegated enforcement authority may issue such orders as are  
11 necessary to aid in the enforcement of the provisions of this  
12 chapter. Any order issued under this section shall take effect  
13 upon notice unless the order specifies otherwise. An appeal of  
14 the order to the Environmental Hearing Board shall not act as a  
15 supersedeas, provided that upon application for and cause shown,  
16 the Hearing Board may issue such a supersedeas under the rules  
17 established by the Hearing Board.

18 § 517. Appealable actions.

19 Any person aggrieved by an order or other administrative  
20 action of the commission issued pursuant to this chapter shall  
21 have the right, within 30 days from actual or constructive  
22 notice of the action, to appeal the action to the Environmental  
23 Hearing Board.

24 § 518. Powers reserved under existing laws.

25 Nothing in this chapter shall limit in any way whatever the  
26 powers conferred upon the commission, the department, the  
27 Department of Environmental Protection, or a conservation  
28 district under laws other than this chapter, including, but not  
29 limited to, the act of June 22, 1937 (P.L.1987, No.394), known  
30 as The Clean Streams Law, and the act of July 7, 1980 (P.L.380,

1 No.97), known as the Solid Waste Management Act, and common law.  
2 All such powers are preserved and may be freely exercised. A  
3 court exercising general equitable jurisdiction shall not be  
4 deprived of such jurisdiction even though a nuisance or  
5 condition detrimental to health is subject to regulation or  
6 other action by the board under this chapter.

7 § 519. Preemption of local ordinances.

8 (a) General.--This chapter and its provisions are of  
9 Statewide concern and occupy the whole field of regulation  
10 regarding nutrient management and odor management, to the  
11 exclusion of all local regulations.

12 (b) Nutrient management.--No ordinance or regulation of any  
13 political subdivision or home rule municipality may prohibit or  
14 in any way regulate practices related to the storage, handling  
15 or land application of animal manure or nutrients or to the  
16 construction, location or operation of facilities used for  
17 storage of animal manure or nutrients or practices otherwise  
18 regulated by this chapter if the municipal ordinance or  
19 regulation is in conflict with this chapter and the regulations  
20 or guidelines promulgated under it.

21 (c) Odor management.--No ordinance or regulation of a  
22 political subdivision or home rule municipality may regulate the  
23 management of odors generated from animal housing or manure  
24 management facilities regulated by this chapter if the municipal  
25 ordinance or regulation is in conflict with this chapter and the  
26 regulations or guidelines promulgated under it.

27 (d) Stricter requirements.--Nothing in this chapter shall  
28 prevent a political subdivision or home rule municipality from  
29 adopting and enforcing ordinances or regulations which are  
30 consistent with and no more stringent than the requirements of

1 this chapter and the regulations or guidelines promulgated under  
2 this chapter. No penalty shall be assessed under any such local  
3 ordinance or regulation under this subsection for any violation  
4 for which a penalty has been assessed under this chapter.

5 § 520. Repeals.

6 All acts and parts of acts are repealed insofar as they are  
7 inconsistent with this chapter.

8 § 521. Other statutes not affected.

9 This chapter shall not be construed as modifying, rescinding  
10 or superseding any other statute, or as regulating biosolids,  
11 and shall be read in pari materia with other statutes. Nothing  
12 in this chapter shall limit in any way whatever the powers  
13 conferred upon the department, the Department of Environmental  
14 Protection and the State Conservation Commission under statutes  
15 other than this chapter. All such powers are preserved and may  
16 be freely exercised.

17 § 522. Regulations.

18 The Department of Environmental Protection is authorized to  
19 adopt such regulations as it deems necessary to its  
20 administration and enforcement of this chapter. This includes  
21 the authority to establish, by regulation, such fees as are  
22 reasonably necessary to fund the implementation and enforcement  
23 of this chapter.

24 Section 2. (a) Except as set forth in subsection (b), the  
25 provisions of this act are severable. If any provision of this  
26 act or its application to any person or circumstance is held  
27 invalid, the invalidity shall not affect other provisions or  
28 applications of this act which can be given effect without the  
29 invalid provision or application.

30 (b) If any provision of the addition of 3 Pa.C.S. Ch. 3

~~relating to the establishment, procedures or operation of the~~  
~~Office of Ordinance Review or the Agricultural Review Board or~~  
the application of such a provision to any person or  
circumstance is held invalid, the following provisions are void:

(1) The addition of 3 Pa.C.S. Ch. 5.

(2) Section 3 of this act.

Section 3. The act of May 20, 1993 (P.L.12, No.6), known as  
the Nutrient Management Act, is repealed.

Section 4. The addition of 3 Pa.C.S. Ch. 5 is a continuation  
of the act of May 20, 1993 (P.L.12, No.6), known as the Nutrient  
Management Act. The following apply:

(1) Except as otherwise provided in 3 Pa.C.S. Ch. 5, all  
activities initiated under the Nutrient Management Act shall  
continue and remain in full force and effect and may be  
completed under 3 Pa.C.S. Ch. 5. Orders, regulations, rules  
and decisions which were made under the Nutrient Management  
Act and which are in effect on the effective date of section  
3 of this act shall remain in full force and effect until  
revoked, vacated or modified under 3 Pa.C.S. Ch. 5. Contracts  
and obligations entered into under the Nutrient Management  
Act are not affected nor impaired by the repeal of the  
Nutrient Management Act.

(2) Except as set forth in paragraph (3), any difference  
in language between 3 Pa.C.S. Ch. 5 and the Nutrient  
Management Act is intended only to conform to the style of  
the Pennsylvania Consolidated Statutes and is not intended to  
change or affect the legislative intent, judicial  
construction or administration and implementation of the  
Nutrient Management Act.

(3) Paragraph (2) does not apply to the addition of any

of the following provisions of 3 Pa.C.S.:

(i) Section 501.

(ii) Section 502(5).

(iii) The definitions of "animal housing facility," "concentrated animal feeding operation," "manure management facility" and "odor management plan" in section 503.

(iv) Section 504(1.1) and (2).

(v) Section 506.

(vi) Section 507.

(vii) Section 508.

(viii) Section 509.

(ix) Section 510(a), (d) and (e).

(x) Section 511(a).

(xi) Section 513.

(xii) Section 514(a), (c) and (d).

(xiii) Section 515.

(xiv) Section 519.

(xv) Section 521.

(xvi) Section 522.

(4) The addition of 3 Pa.C.S. Ch. 5 does not affect the terms of office of the members of the Nutrient Management Advisory Board in office on the effective date of this paragraph.

Section 5. This act shall take effect as follows:

(1) The addition of 3 Pa.C.S. § 507 shall take effect in 180 days.

(2) The addition of 3 Pa.C.S. § 519(c) shall take effect on the earlier of:

(i) the effective date of regulations promulgated

1           under 3 Pa.C.S. § 504(1.1); or  
2               (ii) the publication in the Pennsylvania Bulletin of  
3           interim guidelines under 3 Pa.C.S. § 504(2).  
4           (3) The remainder of this act shall take effect  
5           immediately.